

Single Board Member Redistricting Steering Public Meeting
Thursday, August 30, 2012
Start Time: 6:00 p.m.
Location: Kathleen C. Wright Board Room
600 SE Third Avenue, Fort Lauderdale, FL 33301
Michael Rajner, Chair
Marsha Ellison, Vice Chair

Agenda Items

1. Call to order

Chair Rajner called the meeting to order at 6:08 pm.

2. Pledge of Allegiance

Chair Rajner led the Pledge of Allegiance.

3. Roll Call

District 1 – Russell Chard
District 1 – Kristine Judeikis
District 2 – Barbara Jones
District 2 – Marilyn Soltanipour
District 3 – Heather Cunniff
District 4 – Latha Krishnaiyer
District 5 – Roland Foulkes
District 5 – Roosevelt Walters
District 6 – Philip Busey
District 6 – Barry Butin
District 7 – Ron Aronson
District 7 – Sheila Rose
County Wide, At-Large 8 - Marsha Ellison – Vice Chair
County Wide, At-Large 8 - Alan Ehrlich
County Wide, At-Large 9 – Mary C. Fertig
Superintendent – Michael Rajner- Chair

The following committee members were absent from the meeting:

District 3 – Paul Eichner
District 4 – Mandy Wells
County Wide, At-Large 9 – Michael De Gruccio

4. Approval of August 30, 2012 Public Meeting Agenda

Chair Rajner requested that item 9.1 under Unfinished Business be moved to 9.2 and item 9.2 moved to item 9.1. **Chair Rajner** reasoned that since there is no unfinished business, this item should be stricken without objection. The revised agenda was adopted as amended.

5. Approval of August 15, 2012 Draft Public Redistricting Meeting Minutes

There was a question regarding the motion on page 8 brought forward by **Mr. Busey**. It was unknown as to who seconded the motion. **Parliamentarian McDougle** conveyed to **Chair Rajner** that this is a non-issue. **Chair Rajner's** stated that his chief concern was the proper handling of the correction. **Mr. Ehrlich** informed the committee of his attempt to participate via telephone without success. After discussion, it was determined that **Mr. Ehrlich** should not be penalized for this absence because this result was due to staff error. The minutes were approved as amended.

6. Chair's / Vice Chair's Report

Chair Rajner reminded the committee of Attendance policy 1.7 and his plan to send a memo to the Board members regarding the attendance of the members of the Redistricting Committee with 3 or 4 absences. Preference of maintaining the existing committee throughout completion of the committee's task is of importance. There were no objections.

7. Staff Follow Up

7.1 US Census Key Dates at A Glance (attachment 7.1) Pages 19-23

Patrick Sipple- This was provided to allow us to show you what data was provided, when it was provided and at what geography it was provided.

Roosevelt Walters – Was this data provided in response to Mr. Busey's concern?

Patrick Sipple – Yes, partly in response to Mr. Busey's request.

7.2 Geographic Levels for Census Summary Tables PL94-171 and SF1 (attachment 7.2) Page 24

Ron Aronson – Voter age population is not part of PL94-171?

Patrick Sipple – No, that is incorrect, the US Census Bureau provides redistricting data in 2 main database files – PL 94-171 and two summary files - SF1 and SF2. The PL 94-171 contains total population data and voting age population data. Hispanics are comprised of one group and non-Hispanics are broken out by race. The summary file data does include Hispanics broken out by race. However, it is not available for the same level of geography that we are currently using at a voting district level. It is available at the block group level. We wanted to provide you with this information right from the Census Bureau.

Ron Aronson – Do the maps that we used take into consideration the voter age population?

Patrick Sipple – No, only total population.

Sheila Rose – Paraphrasing for **Mr. Aronson** stated there is a belief of possible double dipping.

Attachment 5

Patrick Sipple – The data is not double dipping as the total for all of the individual races is equal to the total of non-Hispanics. These questions/concerns have been specifically brought to legal counsel’s attention. It would be best to allow legal counsel to address during their presentation later in this meeting.

Russell Chard – Census Bureau provided the information but at finer level?

Patrick Sipple – Incorrect, actually at a coarser level which is larger, it is at the block group level. You would have to look at the hierarchy of geography level reflected in the handouts provided for a better understanding; beginning with the state level to the county level downward to the smaller areas. They are not the same areas that we are working with. They are of a much bigger area of geography.

7.3 2010 and 2000 Broward County US Census Population (attachment 7.3) Pages 25-26

Philip Busey – Can we get this from the Census Bureau?

Jill Young – We’ve provided the documents to you with a web link for that document located on the top of page 7.

Philip Busey – My question is can we find explicitly where the Census Bureau states that they do not provide Hispanics by ethnicity?

Patrick Sipple – Yes, the document on screen shows the notation referring to SF1. Our review supports the notation on the document. We followed up with a phone call to the Census Bureau Technical Helpline where it was confirmed that the data is not available for voter tabulated districts. The data is only available with census tract and block group levels of which both are different. The data is available, but not for voter tabulated districts.

Philip Busey - It appears you’ve done all to find that data and it’s not available; appears so obvious that there is an inconsistency within the Census Bureau.

Patrick Sipple – Yes, exactly.

Philip Busey – I’m satisfied.

Chair Rajner – This is a big issue and I wanted to make sure that is was addressed properly.

7.4 Final Orange County School District, Palm Beach County School District and Broward County Commission Recommended Maps and Data Pages 27-32

Patrick Sipple – We provided this to show how other large counties and districts provided their final recommended maps and data to the Department of Justice.

**No questions*

7.5 US Census Voter Age Population and race data at the precinct level for each of the 12 maps (see 9.1) Pages 33-44

Patrick Sipple- Voting age population data has now been provided to you in the 12 maps and on the web map viewer. As you can see some areas have less people being represented in areas such as district 3, which runs along the coast, as many of these people no longer have children less than 18 years of age.

Ron Aronson – Patrick what is approximate percentage differences?

Patrick Sipple – I would have to go back individually to each map to provide requested information.

Vice Chair Ellison – Questioned page 33.

Patrick Sipple – The tables on page 33 exhibit the voting age population, which is very similar to the total population table, with the exception of two main differences: the grey background and the total of 18 years and older. Additionally, page 33 and subsequent pages illustrate the 12 alternative maps as they would have for voting age population.

Philip Busey – Basically, any maps submitted previously are out of whack?

Jill Young – Not necessarily, we've provided the voting age population. We can go into this further with legal counsel, although, we have provided what was requested without further analysis.

Chair Rajner – The consensus of our last meeting was for staff to plug numbers without modification based on the voting age population.

7.6 Data update in Web Tool To Compare Map Alternatives (*VAP to become available in tool next week*)

(This application supports Microsoft Internet Explorer 9.0+, Google Chrome 21+, Mozilla Firefox 14+ and Apple Safari 5+)

<http://www.broward.k12.fl.us/redistricting/apps/CompareAlternatives/>

Chair Rajner – When will the tool be ready?

Patrick Sipple – It is up and running as of yesterday, August 29, 2012. The tool is available and running.

Chair Rajner – This concludes the Staff Follow up, we will now move onto the Legal presentation/discussion.

8. Presentation/discussion on Redistricting Legal Concerns by J. Paul Carland and Suzanne D'Agresta

Paul Carland – We'll answer the questions in the order received.

Q-6 Do committee members have to provide their name on the map evaluation form?

Paul Carland – According to the Florida Sunshine Law, any board acting in the Sunshine may not use any secret ballots. Additionally, the Board has been very clear of their goal of total transparency during this process as well. Thus, our recommendation is that the committee members identify themselves on any of these evaluation forms.

Mary Fertig – Can we complete the forms at home or must we complete here at the meeting?

Chair Rajner – We discussed at our last meeting that members would have the time to evaluate, complete and return before our next meeting.

Paul Carland – We aren't aware of any prohibition of completing the form outside of the meetings while on committee member personal time. It is a public record that must be retained as part of documentation for the committee. We are also recommending that you identify yourselves.

Q-7 If we are going to say that all Hispanics are all of one race or we are not going to pay attention to that then I think we should ask the attorney if the School Board is allowed to ignore the race of Hispanics. Personally I think that is an unequal treatment to consider the race of non-Hispanics. Would it be possible to keep the census race the way it is except make sure any Hispanics are redistributed in the race category so when you see a Hispanic person they appear in both the Hispanic column and if they are Black Hispanic they appear in the Black column?

Suzanne D'Agresta – If I understand the question 7 correctly, it seems as though there is an assumption that data of a particular race is being ignored? My understanding from listening to a previous meeting is that there aren't any classifications being ignored. Instead, there appears to be a struggle with the presentation of the data was given from the Census Bureau.

Philip Busey – Yes, you understood correctly. Thanks for answering the question.

Suzanne D'Agresta – We do not believe that any classification is being ignored, we are simply working with the data that we were given.

Philip Busey –Thanks for answering the question.

Q-8 I would appreciate clarification to Question #5 of your 8/15 memo. I interpret the response to effectively say "If you're going to use voting age population figures, the Census data is a more legally defensible source than is the Supervisor of Elections Office." Is it also intended to mean that even if using Census data as a sole source, that using voting age population figures to draw "as equal as possible" district boundaries is more legally defensible to using total population figures?

Attachment 5

Paul Carland – Lead in from August 15th memo where question 5 asked should the committee utilize the US Census voting age population when addressing minority rights or data on eligible voters from the Supervisor of Elections? Our response to that specific question was to use the Census data. We assumed that this question was asked in regard to compliance.

Chair Rajner – This question was condensed from a larger email sent. The concern is when we review the maps, which are we to use the total population or voting age population?

Paul Carland – We have to start with the general requirement which is to draw the districts with population being equal as much as is practicable.

Chair Rajner – How is that achieved, total population or total voting population?

Paul Carland – The initial task would be to draw the maps with the total population data, as that is the specific charge in the statute; maps drawn with regard to population without qualification. Once you have the districts selected to put under serious consideration, an analysis will be made on a much finer level and would look at the voting age data in regards to compliance to the voting rights act. Suzanne is that about right?

Suzanne D'Agresta – Yes, your initial analysis starts with your total population which is divided among voting districts and this yields your benchmark. While analyzing, you want to look at the voting age population and court cases that also look at voting age population. Basically, begin with the total population, analyzing finer using the voting age population data.

Roosevelt Walters – Do we have to be consistent with drawing all the maps?

Chair Rajner – I believe we have the latitude with the +/- 5%.

Paul Carland – As **Ms. D'Agresta** stated you will use both with a two-step process. Yes, it would be consistent and yes, you would be using both total and voting age population data.

Suzanne D'Agresta – Yes, it is accurate, nothing to add.

Philip Busey - Practical consideration would like to get them equal to avoid coming to the end and finding a lot of districts are out of compliance.

Patrick Sipple – Software used will provide viewers with both total population and voting age population.

Paul Carland – Does not foresee any legal problem with viewing both simultaneously. Two areas of concern are: 1. Equality based upon total population and; 2. Are we compliant.

Barry Butin – It is not realistic that we can draw a perfect map. We are and will continue to do the best that we can, but there isn't a perfect map.

Attachment 5

Ron Aronson – With Broward County currently experiencing a shift westward, will it throw the map makers off with the eastward districts using VAP and vice versa?

Paul Carland – Your goal is not to balance voters, rather your goal is to balance districts. The process of begins by drawing the voter districts as equal as possible with the second step looking at VAP.

Suzanne D’Agresta – We start with trying to obtain 7 districts as equal as you can get. Secondly, we would go to our 2nd tier of information, the voting age population. Balanced or not, who should be where? The VAP provides more nuance and analysis of who is in the district.

Ron Aronson – We have +/- 5% wiggle room although our concern would be in the event that we go over.

Paul Carland – The +/- 5% is in the tier 1 analysis in the total population. It is only when it goes over will an investigation take place.

Suzanne D’Agresta – This makes us ask, “Why did you go over 5% in the total population?” It is not necessarily bad when you over. There may be a justifiable reason, such as not diminishing voting rights.

Paul Carland – The court will presume that you are legally compliant as long as you remain within the range. The goal is to be completely equal, but the law recognizes that there are “realistic” reasons that you may not reach the goal. There is no magic bullet to absolve of any liability.

Sheila Rose – Total population is tier 1 analysis and all other guiding principles we’ve discussed are on a second tier. Is VAP more prominent than compactness, diversity etc?

Paul Carland – It is a balancing act that the analysis can be done simultaneously. Your first goal is to balance; if changes are needed then you can work to see what works best.

Suzanne D’Agresta – I agree, you do the best to balance.

Mary Fertig – My understanding is that we begin with using +/- 5% total population and from there we work with the VAP using compactness, diversity and etc.

Paul Carland – If your goal is trying for zero deviation and presuming all districts are equal, you will take that first analysis. Once you have an alternative/ idea to work from than you will look within the district for concerns that would not meet the requirements of the law.

Mary Fertig – Would like to make sure that we are using actual voting population when we begin to break down from total population. I understand that it does not have to be in +/- 5% as long as there is a rationale to prove its use.

Attachment 5

Paul Carland – As long as within the +/- 5% there is a little “safe harbor” of law, there isn’t a perfect number. Once you go outside of the guidelines you become more susceptible and actions appear suspect until proven.

Suzanne D’Agresta agreed with being within 5%. In the case you have a minority majority district, you may want or need to exceed the 5%. The legal risk is we would open ourselves up to a challenge that we have not equally divided the districts.

Marsha Ellison – agreed with Mary Fertig. Glad we are looking at VAP.

Chair Rajner – ACLU documents those that have the right to vote.

Russell Chard – We have 12 maps that comply with 5%. Now when we look at the VAP there are maps out of compliance. If the first threshold was met, can we still consider those maps or should we shoot for compliance with total population and voting age population?

Paul Carland – You are not trying to balance VAP. You use that data to evaluate the other factors and key principals, but not to balance VAP. Once you have alternatives, then look at any concerns you may have in other areas.

Suzanne D’Agresta – Agreed. With VAP, you look at the diversity classifications to drill down and see what the district looks like.

Russell Chard – We have to come up with districts that satisfy the law, but where do the other criteria fit in?

Paul Carland – They would have to take a back seat after total population is balanced.

Chair Rajner – Certain populations experience not having their rights – do we handy cap their numbers a little differently? We are a heavy immigrant community here. Do they actually have the right to vote?

Suzanne D’Agresta – You have to work with the census data. DOJ will look at voting district. No matter how it claims the objectives are to be analyzed, we are told the census data is what will be used.

Philip Busey – If this committee were to decide to reopen the maps to be made in compliance in total population and voting age population, are we opening ourselves up to some legal challenges? The Board laid out the schedule of when the work was to be performed, but legally are you still in line with the Board’s timeline?

Motion - **Sheila Rose** made a motion to give map makers a week to redraw maps. **Latha Krishnaiyer** seconded.

Ron Aronson – Are we able to back out if non-citizens are here that can’t vote?

Philip Busey- As an enumerator, we were not allowed to collect citizenship information.

Ron Aronson – So this was not a consideration in our maps?

Chair Rajner –If 60% are Black, are we saying they are eligible to vote or do we have to pad it higher to ensure we protect minority communities?

Roland Foulkes - We are not qualified to do this. In District 5 there are many young people that have lost their rights to vote and we do not have control over this, but we do know the total population. Even if they have the right to vote they don't vote.

Kristine Judeikis – Just stick with total population and VAP, and not whether or not they lost their right to vote.

Mary Fertig – If we can't have the proper data before the September 12th meeting then we can move the meeting.

Motion – **Mary Fertig** made the motion for staff to contact the 12 map makers and allow them time to come in to make modifications to their maps. **Latha Krishnaiyer** seconded. After debate the motion was adopted.

Marilyn Soltanipour supports the motion.

Mary Fertig asked that all maps be revised by September 20th where they could be presented.

Motion- **Mary Fertig** made the motion to have a new meeting on September 27th where the revised maps would be presented and that the meetings on September 12th and 20th be cancelled. **Roland Foulkes** seconded. After debate, which follows, the motion was adopted.

Mary Fertig – As far as moving ahead, I would like to take the time to do it right. A couple of the map makers are also submitting boundary proposals.

Roland Foulkes – In trying to be fair to everybody, we need to have the revisions by October 1st. If we allow time to pass, there won't be time to complete the revisions by the election. Any revised map must be submitted by Oct 1st and we already have a meeting scheduled on October 11th.

Chair Rajner would like the maps to be circulated to the communities.

Russell Chard - I will not edit my map. After the November elections we may be deliberating with new committee members. I am shockingly frustrated. We should have been talking about this early on.

Kristine Judeikis thinks that an October timeline is way too long. I would like us get it done on or before the September 15th.

Marilyn Soltanipour –I know and understand the frustration, and have been at the public end and the committee end.

Heather Cunniff – I think everyone has put in a lot of work, but if we put in a little extra time, then that is okay.

Latha Krishnaiyer – Staff has a lot on their hands and need to give the public this opportunity. Trust is a big factor.

Leslie Brown –To clarify...The map makers would come back.

Ron Aronson – Why don't we let staff add in the criteria?

Chair Rajner doesn't think the public would like this (the staff to change the public's maps or criteria considered when making the map).

Barry Butin - They will just create their map more favorable to their own district.

Chair Rajner – I wouldn't characterize their maps in that way.

Philip Busey – I think we can give them time to alter their maps.

Roosevelt Walters – How many would be willing to come back?

Roland Foulkes – I would be willing to come back and sit with staff. It's only fair we alert all the map makers through a letter from the Chair that there is a new opportunity to create new maps.

Leslie Brown – I appreciate the work that has been done on the maps. My challenge within my own mind is the state statute, and we use that as the beginning work. As we go through the additional analysis, we would be fine tuning. If something needed to be changed, then we would need to tweak the 5% based on the VAP. Not every single district that has been drawn has to meet +/- 5% VAP or get close to it. I would like legal to clarify.

Mary Fertig – Once we overlay the VAP, we may notice we may not have a minority access. Time should be made for the maps to be looked at.

Paul Carland- The School Board tasked the committee to determine how you want to bring maps to the Board. Legally the maps do not have to go back to the map makers to look at the overlay of the VAP, but it's up to the committee as to how it wants to perform its work.

Patrick Sipple – There would be the potential that opening up redrawing of the maps would lead to entirely new maps. Would they be scrapping their initial maps or submit only the new maps.

Chair Rajner – Only modified. I think the only fair way is to allow those map makers time to make revisions.

Paul Carland noted that questions nine and ten were answered though discussion.

Q11-Scenario #1: We are striving for district population variances of +/- 5% because we are being told that “five percent” is the legally defensible threshold. Does that mean that any population threshold of LESS than five percent has equal legal defensibility? For example, consider one scenario in which each of seven districts has a population variation of +/- TWO percent versus a similar scenario in which each of seven districts has a population variation of +/- FOUR percent. Is the two percent district more legally defensible than the four percent districts? Or are both equal in a “pass/fail” scenario?

Paul Carland - No percentage of population is more preferred/defensible than another when it is within 10% of the average.

Q12- Assume that the School Board adopts new district boundaries that perfectly balance the population levels of all seven districts. In ten years, the U.S. Census provides new data that show that the School Board Districts are still within the +/- range of five percent. Is the School Board legally required to undergo a redistricting process even though the district parameters are still within the legally defensible range or would the School Board have to undergo redistricting no matter what?

Paul Carland - The School Board will have to take a look at the district numbers and the law again at the time of the next census to determine what is required.

Q13 - What is the committee’s responsibility concerning minority language groups as it pertains to the voting right act?

Regarding the question of language minority data availability:

Patrick Sipple spoke with Joe Baugh in the U.S. Census Bureau Customer Service regarding the availability of language minority data. He stated that it is not in the 2010 redistricting data (PL-171 or the two Summary Files), but can be found in the American Community Survey data, which are 1, 3, and 5 year estimates published in 2010. Mr. Baugh went on to state that “language minority” is what the Census Bureau collects as “language spoken at home.” The data is available for Broward County, Florida at the Census Tract level only for the 5 year estimates. Patrick Sipple confirmed this by using the American Fact Finder on the Census Bureau Web site (the process recommended by Mr. Baugh). He also confirmed that “language spoken at home” was not in the 2010 redistricting data (PL-171 and the two Summary Files) by searching for the word “language” in every cell of every field within the above mentioned databases.

Language spoken at home data is collected as follows:

1. English Only
2. Language Other than English
 - Speak English less than “very well”
3. Spanish
 - Speak English less than “very well”
4. Other Indo-European Language

- Speak English less than “very well”
- 5. Asian or Pacific Islander
 - Speak English less than “very well”
- 6. Some Other Language
 - Speak English less than “very well”

9. New Business

9.2 Discussion of Russell Chard’s memo on Map Alternative Pages 141-155

Russell Chard- I Did a lot of research on the maps that were going to be submitted and wanted to save a lot of people the time by passing along these notes to be helpful. I set a threshold as to the perfect submission.

Alan Ehrlich – I agree that this is great.

Philip Busey hopes he will keep evaluating this and the IZone data.

Mary Fertig – I think we have 12 viable maps. I just don’t want anyone to be thinking we were speaking ill of their maps tonight. With this added time we might have some better maps.

Chair Rajner - Turn to page 141 on the evaluation form. Looking at VAP, do we need to expand and add another category or use this form as is? We added this in last time.

Mary Fertig- I would like the word equal taken out and practicable added.

Sheila Rose –Total VAP should be considered. In regards to the evaluation form, “A” should be the criteria, then “B” through “H” as considerations.

Roosevelt Walters – How can I know what someone is considering?

Paul Carland -What the committee is doing is looking at the maps and how far off the difference in population is. The charge by the law is to draw districts nearly equal to in total population.

Philip Busey thinks the motion is fine. If the motion helps to establish that, it’s fine. I have a problem with the application. Not comfortable with just adding up points but we need some flexibility to make judgments.

Motion- **Alan Ehrlich** moved that the Total Voting Age Population shall be considered. Sheila Rose seconded. The motion failed.

Chair Rajner- We will look at the data and discuss it on September 27th.

Try the worksheet as it is as practice and then find out if it doesn’t work.

Attachment 5

We can come back to this at our next meeting as a working document and finalize it at our next meeting.

9.3 Discuss committee activities for the months of September and October

Latha Krishnaiyer - Can I just ask the minutes and the maps be sent to us?

10. Unfinished Business

11. Public Comment

Rose Waters- Voting age numbers will change from year to year. Moving the lines for the voting age population is not accurate. The numbers will change by the time the election comes around.

12. Committee Input on Agenda Items for September 12, 2012 Redistricting Public Meeting
Staff will find a location for the September 27th meeting.

Adjourn

The meeting was adjourned at 8:58 pm.