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CITY OF SANTA FE
INDEPENDENT CITIZENS' REDISTRICTING COMMISSION

Tuesday, February 03, 2015

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MINUTES OF THE
INDEPENDENT CITIZENS' REDISTRICTING COMMISSION

SANTA FE, NEW MEXICO

Tuesday, February 03, 2015

A scheduled meeting of the Independent Citizens' Redistricting Commission was called to order by Mr. Zachary Shandler in lieu of a chair, on this date at approximately 3:10 p.m. the City Council Chambers, 1st floor, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

1. PROCEDURES:

a) Roll call indicated a quorum as follows:

Members Present:
Roderick E. Thompson
Elizabeth West
Erin McSherry
Lillian J. Montoya
Karen Heldmeyer
Steven M. Bassett
William E. Beardsley

Members Absent:

All alternates were present as indicated by roll call.

Staff Present:
Zachary Shandler, Assistant City Attorney
Yolanda Vigil, City Clerk

Others Present:
Alternates: Neva G. Van Peski, Jody Larson, Peggy Vasquez and Suzanne Ronneau
Brian Sanderoff, Research & Polling, Inc.
Michael Sharp, Research & Polling, Inc.
Charmaine Clair, Stenographer

Mr. Shandler explained that staff provided a proposed agenda for the Commission.

b) Approval of Agenda

Ms. Montoya moved to approve the agenda as presented. Ms. McSherry seconded the motion and the motion passed unanimously by voice vote.

c) Introduction of Members

Mr. Beardsley said he lives in Vista Privera recently annexed into the city. He joined after seeing an article in the newspaper about the Commission.

Ms. McSherry said she moved to Pueblo Alegre this summer in District 3 and wants to be more involved locally. She said she was fascinated by the redistricting case at the Supreme Court and the testimony from consultants. She has a personal interest and wants to learn more about the redistricting process.

Ms. Montoya said she is in District 4, but lived in El Dorado about 24 years. She thought this would be a nice way to get re-involved with city activities. She helped with economic development in the past and brings a history of working with the city and city staff over the years. She also has a deep interest in some of the issues of other districts. She is currently with Christus St. Vincent.

Chair Heldmeyer said she is a former City Councilor who worked on the 2002 redistricting. She is also a member of the League of Women Voters who brought forth the Charter Amendment to redistrict and helped write the current ordinance.

Mr. Thompson said he is an attorney and has lived in Santa Fe for nine years and has a deep interest in local politics.

Ms. West in District 2 said she came to Santa Fe in 1966 and worked at the public library for over 25 years. She said it is her pleasure to be on the Commission and she looks forward to learning more about the city and helping as much as possible.

Mr. Bassett said he is a geographer/cartographer for a nonprofit. He is interested in how the city works.

Mr. Shandler thanked everyone. He said even though alternates do not count for quorum the public would see their faces a lot. He asked that each alternate briefly introduce themselves.

Ms. Van Peski, alternate for District 1 said she wants to be sure the process proceeds in a good way.

Barbara Larson known as Jody is the alternate for District 2 and has been in Santa Fe since 1966 when she also joined the League of Women Voters. She has an interest in good government in general and redistricting in particular.

Margaret Vasquez alternate for District 3 is known as Peggy. She said she lives in Tierra Contenta and works for the Tierra Contenta Corporation now under the umbrella of the Housing Trust.

Suzanne Ronneau alternate for District 4 said she was pressed into this by Ms. Heldmeyer, but thought this very valuable. She thanked everyone for their willingness to participate.

2. INTRODUCTION AND ORGANIZATION

a) Discussion and Election of Chairperson and Vice-Chairperson

Mr. Shandler said City Council decided that the chair and vice chair shall be elected by members of the Commission rather than appointed by the Mayor. He asked for nominations for chairperson.

Mr. Thompson nominated Ms. Heldmeyer as chairperson for the Independent Citizen's Redistricting Commission. Ms. West seconded the nomination.

Commissioner Heldmeyer accepted the nomination.

Ms. Montoya nominated Mr. Thompson.

Mr. Thompson respectfully declined the nomination. There were no further nominations.

The motion to elect Ms. Heldmeyer as chairperson was approved by unanimous voice vote.

Mr. Shandler turned the Commission over to Chair Heldmeyer as the new chair.

Chair Heldmeyer asked if there were nominations for the vice chair position.

Ms. West nominated Ms. Montoya as vice chair of the Commission. Mr. Thompson seconded the nomination.

Ms. Montoya accepted the nomination.

The motion was approved by unanimous voice vote.

b) Introduction of Independent Consultant & Staff

Mr. Brian Sanderoff with Research & Polling said he is very happy to assist the Commission in this process. He introduced Michael Sharp the demographer/geographer/cartographer. He said the firm was selected through a competitive process to provide professional, technical services to the Commission.

He explained his firm specializes in public opinion polling, market research and demographic analysis and redistricting is one of their specialties. He said his firm has been through this process 150 times for cities, counties, schools, hospitals, water boards, the legislature, the PRC (Public Regulation Commission), etc.

Mr. Michael Sharp said he has been with the firm since 1991 and has gone through almost all of the 150 projects. He said he is happy to share his knowledge and to help with the redistricting process.

c) Discussion on Commission's Role, Powers and Timelines

Mr. Shandler said voters decided to create this independent commission in March and the city's constitution was amended. He provided an overview of the important points in Ordinance # 2014-37 as follows:

- 18.1- Voters amend the city constitution.
- 18.2- The independent districting consultant will report to the Commission. The consultant and the city attorney's job would be to ensure districting plans comply with state, federal and local laws.
- 18.3- The powers and duties of the Commission; the Commission should focus on keeping the existing four districts, not less or more.
- 18.3- D. The law and case law that should be considered in order of priority.
- 18.3-E. Items the Commission *may* assign appropriate weight to.
- 18.3-F. Number of public hearings; a minimum of one to provide instructions to the consultants for the development of a preliminary districting plan(s); four public hearings to receive public comment on the plans. (Staff recommends meetings similar to the City Charter Commission who took their meetings for public comment to four different council meetings in libraries, etc.). And a minimum of one public hearing to vote and adopt the final redistricting plan.

Mr. Shandler pointed out the Commission does not have to go before City Council and the final decision belongs to the Commission. The districting plans by the consultants shall be immediately available for public review on the city website. He added that a dedicated webpage for the public is being prepared.

- 18.3 I. and J. are about open and transparent public hearings according to the New Mexico Open Meetings Act. The Act states that a public body must make public decisions in front of the public; particularly a quorum of members, which is four in the Commission's case.

Mr. Shandler gave examples of a violation of the Open Meetings Act; four of the members (a quorum) that get together in person or electronically. He suggested having a separate folder for email documents regarding matters of the Commission because the Commissioners' emails are subject to the Public Records Act and can be read; even if a private account.

Mr. Shandler explained this is a quasi judicial hearing. People cannot communicate to the Commission directly regarding redistricting and she be asked to comment at the meeting where all Commissioners will hear their comments; or to put comments in writing with the city attorney's office so everyone operates from the same knowledge.

Mr. Shandler said if a Commissioner receives an email regarding an issue they should forward the email to him as the staff liaison. People who call or leave phone messages on issues should be referred to him and told to put their comments in writing to the city attorney's office.

- 18.5- the Commissioner qualifications and selection of a chairperson and vice chair. All Commissioners have attested to and signed the required document and a chairperson and vice chair has been decided.
  18-5 E.- the goal is to finalize the redistricting plan no later than June 1, 2015. The city clerk will start the process for the next city election by September, 2015 and prepare election resolutions that state the boundaries for the districts. The city wants to provide potential candidates with as much information as possible about the districts to make their decision about running. Time has been allowed for an emergency hearing should it be needed.

  Members of the Commission will serve until they make their final vote unless a court calls them back together. Commissioners agreed in writing not to run for a city office for the next two years.

  Subparagraph (5) under C. states alternates are to be selected in addition to commission members. Alternates will fill the seat of a commissioner only if a member resigns in writing prior to the end of the commission term.

Chair Heldmeyer thought the word *participate* ambiguous. She said the alternates are members of the public and she assumes alternates can speak if called on by the chair.

Mr. Shandler said alternates are subject to the same requirements of a member and are required to attend commission meetings. He said this is so they are prepared and there is no disruption in service should a member of the commission resign. He read: "*an alternate shall not be allowed to participate in the meetings unless they are called upon to fill the term of a vacant member position.*" An alternate cannot vote unless

someone resigns. Mr. Shandler said he will leave it up to the chairperson how they want to interpret the verb '*participates*'.

Chair Heldmeyer said alternates will come to every meeting and will know as much of the process as the Commissioners. She said alternates might have interesting and important things to say and she is inclined as chair, to let them. She asked if other Commissioners were comfortable with that.

Ms. West and Mr. Thompson agreed.

Ms. McSherry asked for clarification. She asked if alternates participate as public members, should they be communicating with the Commissioners. She thought that could be a point of confusion. She said generally the public cannot approach a Commissioner unless in a public meeting and the same would apply to the alternates. She said alternates are acting as members of the public currently if they participate in Public Comment and they have a dual role.

Mr. Shandler said the Commissioners as well as alternates should treat themselves like judges and for purposes of the Open Meetings Act and Public Records Act and alternates should be treated accordingly. He said if alternates treat themselves as quasi adjudicatory members in terms of communication outside the meeting that would be the best way to eliminate negative scrutiny. He added they will work through these issues as they come up.

Mr. Shandler continued his review of the ordinance and pointed out the five main principles under 9-1.4 A. He said he added articles for the Commissioners to read and staff is available to do research.

Chair Heldmeyer said some terms have developed specific definitions for parameters under case law. She asked if staff could provide a memo that looks at some of those parameters.

Ms. McSherry said she was struck by 'short as possible' district boundary lines and if that and #1 means the "absolute least"; or if they look at that in light of some of the other terms. She said that might limit the Commission if they have to do the shortest possible boundary line with odd shape city parameters. She wasn't sure if she should read that "in light of factors or as a standalone binding element".

Mr. Shandler said this is from the city constitution and adopted ordinance, which states: '*shall consider the following principles in the following order of priority*'. Ms. McSherry replied that only criteria numbers one and four seem to have the absolutes in them. She thought # 4 would supersede #2 and #3 because it said 'whenever possible'. She said analysis is requested.

Chair Heldmeyer agreed. She said there are additional suggestions in the ordinance thrown in by the City Council that may or may not be possible. She said these are constitutionally mandated and in the charter and the ordinance. She asked Mr. Shandler to provide them with a legal memo on that at the next meeting.

She asked members if there were other requests of staff before the next meeting.

Chair Heldmeyer said 'everyone's comments can be heard during the Public Comment" portion. She said she is inclined, if alternates have something to say as the Commission discusses issues; to let them speak at that time and not have them wait until the end [of the agenda].

Ms. Van Peski asked Mr. Shandler about section 6-18.2 in the last sentence. She said it seems to be an absolute prohibition against splitting precincts. She said later when listing the desirability it states that the Commission may assign appropriate weight to minimize the splitting of precincts. She said an *absolute prohibition* is not the same as the desirability of minimizing. She asked which governs.

Mr. Shandler said C. *the creation of districts shall be done in such a way as to avoid splitting precincts* seems to be a mandatory "shall" language. The following page (3) *the Commission may assign appropriate weights to: minimize the splitting of precincts* is permissive language. He said they have a consultant who can talk about how that has been done before and how to deal with this kind of issue.

He offered to give that additional thought. He was sure either he or the consultant could provide more guidance on that at the next meeting.

3. OTHER BOARD MATTERS

a)Discussion and Possible Action--Setting Next Meeting Date(s) and Locations

Chair Heldmeyer asked what kind of action the Commissioners wanted to take at the next meeting when they give direction to the consultants. She asked if other things should be discussed at the meeting.

Ms. Montoya said she would like Mr. Sanderoff to bring scenarios or options of models he has entered into with other communities that have gone through redistricting. She said a menu of options could help to determine the best overlay to see the data and the most appropriate way to phase information so the Commission can layer the data themselves.

Ms. McSherry suggested the consultant provide options now and the Commission can put together information for the next meeting.

Chair Heldmeyer asked Mr. Sanderoff to outline the manner in which he has done that in the past.

Mr. Sanderoff said part of this is set in their new rules and regulations. The charter and amendment state that part of the consultant's role is to bring plans to the Commission once they give him instruction on the criteria. He said the Commission will give him guidance at the next meeting of what is most important to them.

He offered to provide comment on today's discussion regarding the principles. He said there is tension among the principles as noted. He explained that if a plan is developed that has exact population equality among the districts they might violate something as it relates to communities of interest; a plan with the shortest boundary might not enforce the precinct plan. He said all of the principles have tension and conflicts within them.

Mr. Sanderoff said as Mr. Shandler pointed out these follow a certain order of priority; for instance '*each district shall contain as nearly as substantially the same'* does not say <u>as nearly as possible</u> the same population. He said there is case law about what *substantial* means.

He said he could speak with the Commission about all of the issues to help them decide what is most important and as it relates to the communities of interest, population, compactness, contiguity and the like.

Mr. Sanderoff said as to how the model usually works, he can explain all of the principles and the Commission will prioritize their principles from that. He will then draw plans from what the Commission prioritized.

Mr. Sanderoff said the charter sets out that the consultant will present at least three plans to the Commission with different concepts. The plans will give all of the critical population data to comply with the law: total population within each district; the percent of Hispanic, African American and Native American and non-Spanish white; and the total deviation in the population within the districts; what the Commission should look at in terms of total population and what to look for among the adult population.

He said case law is different when it comes to population among the districts, which looks at total population. For issues of protecting minority voting rights, case law looks at adult population. He and the city attorney will point those out along the way. He said he will draw as many plans as needed to make the Commission feel comfortable.

Chair Heldmeyer asked how much time Mr. Sanderoff would need to do the initial numbers for adult population etc., precinct by precinct.

Mr. Sanderoff said he is ready. His firm has already done this and by case law the most recent census must be used. He said Mr. Sharp has been working on integrating the annexed areas and there will be little lag time between the direction from the Commission and the drawing of the maps.

Ms. Montoya asked since census data is relied on, if possible to bring forward demographic shift. She said it is not just about where the city will grow next, but who will be living in that part of the city.

Mr. Sanderoff said they can show maps 10 years prior with the districts at the time and the parts of the community that did not keep pace. He said Santa Fe and the State of New Mexico are in an unusual situation; more people are leaving the state than coming. He said they can show trends.

Chair Heldmeyer asked Mr. Shandler how much time he needs to answer the legal questions raised today and get a memo out in time for them to review before the next meeting.

Mr. Shandler said all matters dealing with elections are top priority and two weeks would be fine. He said he would defer his answer until Ms. Vigil could tell them the next room availability.

Ms. Montoya asked what Mr. Sanderoff would suggest the Commission discuss. She thought it important to get broad context about what the Commission will be getting into before they look at the numbers.

Mr. Sanderoff said it was up to the Commission as to what was most comfortable.

Chair Heldmeyer said some of the broad areas will be operational by Mr. Shandler's memo. She said that would save time if the second meeting is held in the context of that memo. She said the point of the second meeting is to discuss the broad issues, but all of the issues have to be looked at first in terms of the five criteria.

Ms. Montoya said the timeframe is relatively short to make some big decisions. She thought Mr. Sanderoff could benefit from the Commission's conversation or the legal memo, which could define the context of what might be presented.

Mr. Shandler said Mr. Sanderoff is an excellent resource and after the meeting he would coordinate with him. They will work to find the best way possible to deliver the information.

Ms. Montoya explained her interest is in the tension among the principles and what the consultant has seen before among the principles and the tension. She said the Commission might look at the data differently and could bias them if they see the data first.

Chair Heldmeyer said discussing the concepts would be enough for one meeting. She said in the findings of that conversation they could look at the numbers. She said it appears that people want to talk about the broad issues and tensions in the next meeting that will result in direction to the consultant.

Mr. Beardsley asked if possible to get a map showing the current four districts and the annexation and the population.

Ms. McSherry said she is a numeric person and some of the instruction to the consultant might depend on the numbers and variations and what the Commission would like. She said having baseline numbers might be helpful.

Chair Heldmeyer asked if the material generated before the redistricting would be helpful. The annexation could be requested as an addendum. She said the City Council process and the questions and issues brought up for the last redistricting could be useful.

Mr. Sanderoff said he could provide maps of the current boundaries that show the population deviations; an overlay of the annexed areas placed in the district they are currently adjacent to and the population deviation resulting from the annexation.

The consensus of the Commissioners was to receive that information before the next meeting.

Ms. Vigil reviewed availability for meetings. Meeting dates were confirmed as Thursday, February 19 from 3 to 5 p.m. for the next meeting. March through June the meetings will be scheduled on the second Thursday of each month and special meetings can be scheduled as needed.

Ms. Vigil's assistant Ms. Melissa Byers provided redistricting maps to all of the Commissioners. Ms. Vigil pointed out that the map is on the city website and can be accessed through the computer.

Mr. Shandler said he would provide the Commission with the materials for the next meeting by the 12th of February or earlier. The information will be public and printed for the Commission packets.

Ms. West thanked Mr. Sanderoff and Mr. Sharp for being "at the ready".

4. PUBLIC COMMENT

Jody Larson asked the amount of the budget for the Independent Citizen Review Commission.

Mr. Shandler said $25k-$30k has been approved. The bulk of the money is for the independent consultant and stenographer services.

Ms. Larson said her recommendations are in accordance with the way in which the Charter meetings were conducted and comments were solicited. She recommended the Commission consider having the Public Comment period before the action item(s). People who are concerned about an action item would then have the opportunity to comment before the Commission votes.

She suggested they have electronic comments or other ways that the public could submit their comments if unable to attend a meeting.

Chair Heldmeyer asked Mr. Shandler if the Commission could have their own email address.

Mr. Shandler said comments should be sent to his email address. He provided his contact information.

Chair Heldmeyer thanked everyone for their willingness to do the work in a reasonably short period of time. She acknowledged staff's excellent work and thanked the consultants.

She said her hope is to come up with something over the next five months that is not only helpful and a good representation to the city, but a process that can serve as a model for the rest of the state. She noted that Santa Fe is the first city in the state doing an independent redistricting commission. She said this could be a model for other cities; even the state itself.

5. ADJOURNMENT:

Having completed the agenda and with no further business, the meeting adjourned at 4:15 p.m.

Approved by:

_____

Karen Heldmeyer, Chair

Submitted by:

Charmaine Clair

Charmaine Clair, Stenographer