

June 11, 2013

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Dear Members of the Independent Redistricting Commission:

Any resident of Austin that viewed the meeting of this commission on June 7, 2013 justly would have been proud. Every member of this commission distinguished herself or himself. You came across as bright, thoughtful, well-spoken and very conscious of your important duty.

Since I drafted the original portion of Proposition 3 that provides for an independent redistricting commission, I thought it might be helpful if I clarified a few points.

Schedule of Commission Action. This commission has complete control over its schedule. Insofar as Proposition 3 sets certain deadlines (e.g. that the eight commissioners shall appoint the remaining six commissioners by June 30 and adopt a final plan no later than December 1, 2013)), these dates are not binding. Section 3 (B) provides “If the date of the city election is moved, then the dates in this article shall be adjusted to ensure the commission has sufficient time to draw the lines prior to the election date.” This provision was added because (1) the original deadlines in the charter amendment were set in 2011 in anticipation of May, 2014 elections and (2) once it appeared that the city council might submit a proposal to move the city elections to November (from May) the provision was needed to give this commission as much flexibility as possible. As you are aware, Proposition 1 passed and the elections have been moved to November, 2014. Taking 4-6 months to draw the districts and receive preclearance under the Voting Rights Act (i.e. the end of 2013) is about right anyway, but the deadline is not firm. Getting the redistricting right takes precedent.

Perhaps the greatest impact of this flexibility at the moment is the commission’s right to take time to get a qualified staff. The experience in other jurisdictions has consistently shown that the selection of redistricting counsel and technical staff is one of the commission’s most vital and potentially controversial decisions. Rushing to fill these slots in order to begin hearings would be a major mistake.

The commission’s hearing and redistricting process is set out based on what has worked best elsewhere. Section 3 (K) (7) divides the process into eight stages:

1. *At least* two preliminary public hearings shall be held in each of the four county commissioner precincts (8 hearings) to “solicit broad public participation.”
2. The commission shall vote on a “preliminary plan” for the city’s 10 districts.

3. Written comment on the preliminary plan shall be taken for at least 14 days.
4. *At least* one public hearing on the preliminary plan shall be held in each of the four county commissioner precincts (four hearings) and shall be geographically dispersed.
5. The commission shall vote on a proposed final plan for the city's 10 districts.
6. Two further hearings (one north and one south of Lady Bird Lake) shall be held on this proposed final plan.
7. Written comments on the proposed final plan shall be taken for at least five days.
8. The commission shall vote on a final plan and submit it for preclearance.

Experience has shown that these hearings and written comments after adoption of a preliminary plan and a proposed final plan are important to allow a meaningful response to all interest groups. Proposition 3 establishes the minimum for this process, but it leaves this commission with ultimate discretion to make the process even more extensive if necessary.

The Voting Rights Act. As most of you are aware, a case (Shelby County, Ala. v United States) challenging the constitutionality of Section 5 of the Voting Rights Act is now pending at the United States Supreme Court. A decision is expected shortly (possibly on June 17, 2013). A ruling that Section 5 is unconstitutional will affect the redistricting process in Austin, but not the requirement that the city's final redistricting plan must not discriminate against minority voters. Even if Section 5 (and its requirement for preclearance) is stuck down by the Court, Section 2 of the Voting Rights Act and the 14th and 15th amendments to the United States Constitution will remain in effect.

Staff. The commission's decision to assert itself in the decision-making at the June 7, 2013 meeting and to choose a chairwoman was by far the right thing to do. The decision sets well with the city staff assigned to this commission because it relieves them from a terrible dilemma. Now the commission needs its own staff to pick up the task of supporting this commission.

There was some discussion on June 7th about the commission hiring an attorney and demographer. Redistricting is like a medical specialty – i.e. in which most lawyers and many demographers know very little about what is required. I was appalled that the city demographer presumed to draw and then distribute a map of ten districts for the city. This action was a serious misjudgment because some persons will presume that, if this commission's final map is somewhat similar to the city demographer's map, a "fix" was in from the beginning (before public testimony) as to what this commission would adopt. I do not believe that this is the case, but some persons see a conspiracy everywhere.

Non-partisan. A recent news story suggested that the current commission consists of seven Democrats and one Republican. I am not sure of the accuracy of this identification, but it is immaterial. City of Austin elections are nonpartisan. Each member of this commission has been selected for his or her impartiality. Austinites expect such impartiality.

I am tempted to ask "Are we having fun yet?" The differences of opinion that existed among some witnesses and commissioners on June 7th are only the beginning. As I said in my last letter, your task of finding the right and fair path through conflicting testimony and opinions will be difficult, but you have the trust of the people of Austin.

I hope these thoughts are helpful. Good luck.

Sincerely

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