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MEMORANDUM

TO: Cindy A. Laquidara, General Counsel

FROM: Margaret M. Sidman, Chief, Council Legislative Affairs
Jason R. Gabriel, Assistant General Counsel

RE: Reapportionment Committee Inquiries from the April 27, 2011 Meeting

DATE: May 9, 2011

On April 27, 2011, the City Council Reapportionment Committee met and posed the below questions to the Office of General Counsel. Each question is followed by its respective answer.

I. Reapportionment Plan Timeline.

Question. Based on Chapter 18, *Ordinance Code* and §5.02 and §13.02, *City Charter*, what is the latest timeline of when events may occur (ie, required public meetings, plan completion dates, introduction at Council, referral to the Rules Committee, etc.)?

Answer. As you know, the Council is comprised of fourteen district council members and five at-large council members with residency requirements. Article 5, §5.02, *City Charter*, entitled *Reapportionment of council districts and residence areas*, requires that the council shall apportion the fourteen council districts and five at-large residence areas within eight months of the publication of the official federal census data. The Planning Department has confirmed that such publication occurred on March 18, 2011, thus obligating the Council to reapportion these districts and residence areas on or before November 18, 2011.¹

¹ It is worth noting that §18.104, *Ordinance Code*, titled *Preparation of plan*, requires that the Reapportionment Committee submit a reapportionment plan to the Council within one hundred and fifty (150) after the final census certification. The general timeline for events set forth in the *Ordinance Code* fits within, but does not necessarily align up directly with the timeline for approval of the reapportionment plan under the *City Charter*. Accordingly, the ultimate deadline which must be met for purposes of approval of the reapportionment plan is as set forth in the Charter, though the dates within which certain events are to take place are set forth in the *Ordinance Code*.

An outline of those tentative key dates are included in the following table:

Code Sec.	Date	Day	Note
	3/18/2011	Friday	Receipt of Certified Census Bureau Data
§18.104	8/15/2011	Monday	(Latest) 150 days Reapportionment Committee shall submit to Council Secretary the plan (who immediately <i>refers</i> to Rules Committee)
§18.107(a)	8/23/2011	Tuesday	Ordinance amending Charter must be introduced at the next Council meeting
§18.107(b)	9/29/2011	Thursday	Rules Committee holds at least 3 public hearings at 3 separate places (after 5 pm, not on Sunday) not more than 45 days after Plan "referred" to Rules
§18.107(c)	10/14/2011	Friday	(No sooner than) 15 days after the last Rules public hearing, Rules Committee shall report the Ordinance to Council
	10/25/2011	Tuesday	Council Meeting
§18.107(c)	11/6/2011	Sunday	All additional public hearings shall be completed not later than 75 days after the Ordinance is "referred" to Rules
	11/8/2011	Tuesday	Council Meeting
§5.02 Charter	11/18/2011	Friday	Within 8 months after publication of census, Council enacts the Reapportionment Plan

*Dates triggered when Reapportionment Committee refers the plan to Council

II. Effective Date and Application Date of Ordinance.

Question. When is the *effective* date of the ordinance approving the reapportionment plan?

Answer. The *effective* date of the ordinance approving the redistricting plan is the date upon which the Mayor signs the ordinance, or the ordinance becomes law without the Mayor's signature.²

Question. When is the *application* date of the enacted Ordinance approving the reapportionment plan with respect to future elections for both the School Board and the City Council, and with respect to special elections?

Answer. Pursuant to §18.108, *Ordinance Code*, the reapportioned districts shall not become effective for the purpose of electing members of the Council until the next general Consolidated Government election which occurs at least nine months after the enactment of the ordinance. According to Supervisor of Election data, the next scheduled Consolidated Government

² Article 6, §6.05, *City Charter*, states that an ordinance becomes effective on the date provided on such ordinance, unless it is vetoed by the Mayor and returned to the Council at or prior to the next regular meeting of the Council occurring 10 days or more after the date when the ordinance was delivered to the Mayor's office for consideration.

election is set for May 19, 2015 with the first election being March 24, 2015, to which the subject reapportionment plan would apply.

Pursuant to §18.110, *Ordinance Code*, the reapportioned School Board districts shall not affect any term of office in existence at the time the reapportionment becomes effective, but shall be applicable at the next School Board election which occurs at least nine months after the reapportionment. Accordingly, if for example, the ordinance approving the reapportionment plan is enacted as of November 18, 2011 (the latest possible date to approve the plan under the *City Charter*), then it would apply to any election which occurs after August 18, 2012. According to Supervisor of Election data, the next scheduled School Board election is set for August 28, 2012, with a run-off scheduled for November 6, 2012. Accordingly, even if a reapportionment plan were to be enacted by the outermost date of November 18, 2011, it would still apply to a School Board election that took place over nine months later (ie, any election after August 18, 2012).³

III. Criteria Applicable to the Reapportionment Plan.

Question. What criteria should be considered in developing the redistricting plan?

Answer.

City Regulations. Pursuant to §18.101(b) and (c), *Ordinance Code*, the Council has several considerations that must be incorporated in the reapportionment of districts. Specifically, the Council is obligated to insure that all districts: (i) are *as nearly equal in population*, and (ii) are *arranged in as logical and compact a geographical pattern as possible* to achieve and to insure that all federal and state constitutions, laws and requirements are complied with. These similar concepts are also set forth in §5.02, *City Charter*.

Furthermore, while the Council districts are based upon population with respect to their size, the geographical arrangement and territorial boundaries of the districts must take into consideration other factors, particularly *compactness and contiguity*, in order to take into account and adequately represent on the Council, the varied economic, social and ethnic interests and objectives of the City.

No further directions on the substantive issues affecting the reapportionment are addressed in either the *Ordinance Code* or the *City Charter*.

State Law. Under Florida law, counties must draw districts *contiguously* with *as equal population as practicable*. Art. VIII §1(e), Fla. Const. No direction is given that the districts must be compact, however, and thus, counties are under no state direction to have compact districts. Over time, case law has defined typical allowable redistricting considerations to include the following:

- major physical boundaries, such as a bridges;
- political subdivision boundaries;
- schools;
- notable major structures;
- existing incumbencies, as they represent communities of interest;
- political affiliation.⁴

³ Application of the Redistricting Plan on a Special Election will be addressed under a separate memorandum.

⁴ Recent Florida Constitutional amendments amending these considerations for state and congressional redistricting by expressly prohibiting certain considerations are inapplicable to county reapportionment. See Art. III Sections 20 and 21.

Issues that cannot be the predominant reason for drawing district lines:

- race – while reapportionment authorities must be cognizant of the racial composition of a block of residents, district lines must not be drawn so as to dilute or enhance the vote of a racial minority. The deft interplay of the Voting Rights Act and the Equal Protection Clause required to be considered by the Council is addressed in further detail in the Legal Analysis Section of the January 31, 2011 Memorandum;
- sex;
- economic status (Florida constitutional analysis only).

The Reapportionment Committee is charged with reviewing the census data and applying the above factors in redrawing the district lines as necessary.

IV. State of Florida Redistricting Amendments.

Question. Whether the State of Florida redistricting amendments adopted by voter referendum in 2010 are applicable to the local redistricting process?

Answer. Recent Florida constitutional amendments adopted in 2010 by voter referendum -- Amendment 5 which added Section 21 to Article III of the Florida Constitution with respect to legislative / State districting, and Amendment 6 which added Section 20 to Article III of the Florida Constitution with respect to congressional districting, requiring that districts be drawn as contiguously and compactly as possible, without regard to race, language, or political affiliation, while adhering to state and federal laws -- are not applicable to the City's reapportionment process.

We trust that this memo answers the inquiries offered at the April 27, 2011 Reapportionment Committee meeting. Please let us know of any other questions or concerns.