

5.15.91

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OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 101
915 I STREET
SACRAMENTO, CA
95814-2684

May 6, 1991

916-449-5704
FAX 916-449-8618

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: CITY COUNCIL REDISTRICTING PROCESS/ORGANIZATION MEETING

SUMMARY

The purpose of the May 15, 1991 Special City Council Meeting is for the City Council to receive a general briefing on some of the key issues involved in the Redistricting Process.

The items to be addressed in this meeting will include:

1. Update on the overall process and schedule - City Manager's office.
2. Briefing from the City Attorney's Office on legal requirements.
3. Briefing from Planning and Development Department and Sacramento Area Council of Governments (SACOG) staff on the 1990 census data and population data base.
4. City Clerk to provide a briefing on how Redistricting meetings will be categorized, i.e., special meetings, work or study sessions, etc. The City Clerk will advise on the relationship between the redistricting schedule and the elections scheduled for 1992. Also, possible video taping and recording of Redistricting meetings will be discussed.
5. Review of Outline of Redistricting Kit by Planning and Development Department staff.
6. Description of Public Information/Public Noticing Efforts to Advertise Redistricting Process - Public Information Officer.
7. Review of proposed agenda for Redistricting Committee Community Outreach meetings - City Manager's Office.

BACKGROUND

At the April 16, 1991 City Council meeting, the City Council acted to have the full City Council serve as the Redistricting Committee with Mayor Rudin serving as Redistricting Chair. The schedule for redistricting was also reviewed. Attached is an updated schedule.

FINANCIAL DATA

Since the April 16, 1991 City Council meeting, a work program and scope of services has been developed and a contract signed with the Sacramento Area Council of Governments to provide the necessary data. Up to \$10,000 has been budgeted for this activity.

Staff is also developing an estimate of the costs associated with duplication and distribution of the Redistricting Kits. An oral report will be provided on the estimated cost.

POLICY CONSIDERATION

The City Council has made its first policy decision on redistricting by acting to appoint the full City Council as the Redistricting Committee and Mayor Rudin as the Redistricting Chair. As other policy issues arise and require action, they will be brought before the City Council.

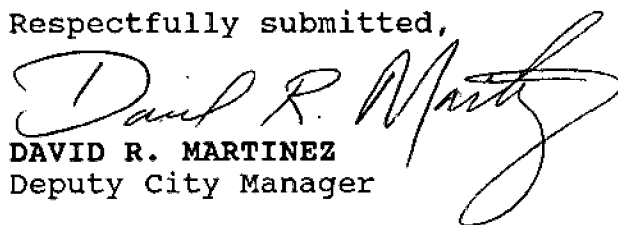
MBE/WBE EFFORTS

No goods or services beyond the data services provided by the Sacramento Area Council of Governments are anticipated at this time.

RECOMMENDATION

Review the attached materials, consider the oral staff presentation and provide direction on the contents of the Redistricting Kit and the proposed agenda for the upcoming Redistricting meetings.

Respectfully submitted,



DAVID R. MARTINEZ
Deputy City Manager

Recommendation Approved:



WALTER J. SLIPE
City Manager

Contact Person: David R. Martinez, Deputy City Manager, 449-5704
All District
May 15, 1991

**REVISION 5/2/91, Sacramento City Council Redistricting Process,
Community Meeting Schedule**

Listed below is the proposed schedule of meeting places and areas covered (all meetings are at 7:30 p.m. on Wednesdays)

| Date | * Primary Areas to be Reviewed | Location of Meeting | Council District |
|-----------|---|--|------------------|
| May 22 | Midtown, Old Land Park, Southside Park | 1231 I Street, First Floor | 1, 3, 4 |
| June 5 | Oak Park, Curtis Park, Tahoe Park | Oak Park Community Center, 3415 Martin Luther King Boulevard | 5, 6 |
| June 12 | Del Paso Heights, North Sacramento, Robla | Robertson Community Center 3525 Norwood Ave. | 2 |
| June 19 | Greenhaven, Pocket, South Land Park, Hollywood Park | Bear Flag School, 6620 Gloria Drive | 4, 5, 8 |
| July 10 | East Sacramento, College Greens, Tahoe Park, River Park, Campus Commons | Coloma Community Center, 4623 T Street | 3, 6 |
| July 17 | Airport, Meadowview Woodbine | John Still School 2250 John Still Dr | 7, 8 |
| July 24 | Laguna, Valley Hi | Valley High School 6300 Ehrhardt Ave. | 7 |
| August 14 | North Sacramento, South Natomas, Woodlake, Gardenland | Woodlake Elementary School, 700 Southgate Road | 1, 2, 3 |
| August 21 | Glen Elder, Elder Creek, Tallac Village, Fruitridge Manor, Colonial Heights | Sim Community Center, 6207 Logan Street | 5, 6 |

August 28 Summary Meeting, City Hall 7:30 p.m.

The purpose of this meeting is to summarize all information gathered in the community meetings, receive additional community-wide testimony, receive all community-drafted maps, receive up-to-date population information and to give staff direction.

September 11 Presentation Meeting, City Hall 7:30 p.m.

Presentation of plan(s) and testimony.

October 14 Decision Meeting, City Hall 7:30 p.m.

Adopt plan.

***The public can attend other meetings outside their neighborhood.**



**OFFICE OF THE
CITY ATTORNEY**

SHARON SIEDORF CARDENAS
CITY ATTORNEY

THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY

SR. DEPUTY CITY ATTORNEYS:
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO

**CITY OF SACRAMENTO
CALIFORNIA**

April 11, 1991

921 TENTH STREET
SUITE 700
SACRAMENTO, CA
95814-2717

PH. 916-449-5346
FAX 916-449-6755

DEPUTY CITY ATTORNEYS:
EVELYN M. MATTEUCCI
DIANE B. BALTER
RICHARD F. ANTOINE
TAMARA MILLIGAN-HARMON
RICHARD E. ARCHIBALD
TIMOTHY N. WASHBURN
SABRINA M. THOMPSON
JOSEPH McINERNEY
JOE ROBINSON
LESLIE R. LOPEZ

MEMORANDUM

TO: David Martinez, Deputy City Manager

FROM: Theodore H. Kobey, Jr., Assistant City Attorney

RE: **RULES GOVERNING REAPPORTIONMENT
OF COUNCIL DISTRICTS**

QUESTION PRESENTED

You have asked that we set forth the legal rules which govern Council redistricting.

BRIEF ANSWER

The applicable rule is that the City must make an honest and good faith effort to reapportion City Council districts so that they are as nearly of equal population as is practicable. Some divergences from strict population equality are constitutionally permissible so long as they are based on legitimate considerations which are incidental to the effectuation of a rational state policy. These considerations include the recognition of the integrity and continuity of legislative districts and the recognition of natural or historical boundary lines. The City will have the burden of demonstrating that any major divergence from strict population equality is justified, but minor variations will not establish a prima facie case of invalidity and hence will not require justification on the City's part. Section 24 of the City Charter requires redistricting to be accomplished within six months after the City's receipt of the census data.

David Martinez, Deputy City Manager
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DISCUSSION

1. The Basic Rule Governing City Redistricting. Since *Baker v. Carr*, 369 U.S. 186 (which established the justiciability of apportionment of voting strength), the U.S. Supreme Court has established one rule of review applicable in the reapportionment of congressional districts and another less-strict rule (stated in the answer above) applicable in the reapportionment of state legislatures. The standard for reapportionment of congressional districts is that ". . . equal representation for equal numbers of people permits only the limited population variances which are unavoidable despite a good faith effort to achieve absolute equality. . . ." *Kirkpatrick v. Preisler* (1969) 394 U.S. 526, 531, 22 L.Ed.2d 519, 525.

The court clearly enunciated this dichotomy between federal and state reapportionment in *Mahan v. Howell* (1973) 410 U.S. 315, 320, 35 L.Ed.2d 320, 328. In *Chapman v. Meier* (1975) 420 U.S. 1, 22, 42 L.Ed.2d 766, 782, the court summarized this dichotomy and its approach generally to reapportionment issues as follows:

Since *Reynolds*, we have had the opportunity to observe attempts in many state legislative reapportionment plans to achieve the goal of population equality. Although each case must be evaluated on its own facts, and a particular population deviation from the ideal may be permissible in some cases but not in others, *Swann v. Adams*, 385 U.S. 440, 445, 17 L.Ed.2d 501, 87 S.Ct. 569 (1967), certain guidelines have been developed for determining compliance with the basic goal of one person, one vote. In *Swann* we held that a variance of 25.65% in one house and 33.55% in the other was impermissible absent 'a satisfactory explanation grounded on acceptable state policy.' *Id.*, at 444, 17 L.Ed.2d 501. See also *Kilgarlin v. Hill*, 386 U.S. at 123-124, 17 L.Ed.2d 771. In *Swann*, no justification of the divergences had been attempted. Possible justifications, each requiring adequate proof, were suggested by the Court. Among these were 'such state policy considerations as the integrity of political subdivisions, the maintenance of compactness and contiguity in legislative districts or the recognition of natural or historical boundary lines.' *Swann*, 385 U.S. at 444, 17 L.Ed.2d 501. See also *Reynolds v. Sims*, 377 U.S. at 578-581, 12 L.Ed.2d 506.

On the other hand, we have acknowledged that some leeway in the equal-population requirement should be afforded states in devising their legislative reapportionment plans, as contrasted with congressional districting, where population equality appears now to be

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the preeminent, if not the sole, criterion on which to adjudge constitutionality. (Citations omitted.) For example, in *Gaffney v. Cummings*, 412 U.S. 735, 37 L.Ed.2d 298, 93 S.Ct. 2321 (1973), we permitted a deviation of 7.83% with no showing of invidious discrimination. In *White v. Regester, supra*, a variation of 9.9% was likewise permitted.

The treatment of the reapportionment plan in *Mahan v. Howell, supra*, is illustrative of our approach in this area. There, the Virginia Legislature had fashioned a plan providing a total population variance of 16.4% among house districts. This disparity was of sufficient magnitude to require an analysis of the state policies asserted in justification. We found that the deviations from the average were caused by the attempt of the legislature to fulfill the rational state policy of refraining from splitting political subdivisions between house districts, and we accepted the policy as legitimate notwithstanding the fact that subdivision splits were permitted in senatorial districts. Since the population divergences in the Virginia plan were 'based on legitimate considerations incident to the effectuation of a rational state policy,' *Reynolds v. Sims*, 377 U.S. at 579, 12 L.Ed.2d 506, we held that the plan met constitutional standards. (Emphasis added.)

In accord: *Gaffney v. Cummings*, 412 U.S. 735, 37 L.Ed.2d 298 (1973); *White v. Regester*, 412 U.S. 755, 37 L.Ed.2d 314 (1973); *NYC Board of Estimate v. Morris*, 489 U.S. _____, 103 L.Ed.2d 717, 727 (1989); *Brown v. Thompson*, 462 U.S. 835, 841, 77 L.Ed.2d 214, 221-222 (1983).

The rule applicable to local redistricting is that which is applicable to state legislative reapportionment. In *Abate v. Mundt*, 403 U.S. 182, 185, 29 L.Ed.2d 399, 402 (1971), a case which upheld the validity of a county legislative plan under which there was an 11.9% divergence¹ from population equality, the court stated:

¹"Divergence" as used in this context means the difference between the district most under-represented and the district most over-represented. In *Abate v. Mundt*, there was a 7.1% under-representation in one district and 4.8% over-representation in another.

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In assessing the constitutionality of various apportionment plans, we have observed that viable local governments may need considerable flexibility in municipal arrangements if they are to meet changing societal needs, *Sailors v. Board of Education*, 387 U.S. 105, 110-111, 18 L.Ed.2d 650, 654, 655, 87 S.Ct. 1549 (1967), and that a desire to preserve the integrity of political subdivisions may justify an apportionment plan which departs from numerical equality. *Reynolds v. Sims*, *supra*, at 578, 12 L.Ed.2d at 536. These observations, along with the facts that local legislative bodies frequently have fewer representatives than do their state and national counterparts and that some local legislative districts may have a much smaller population than do congressional and state legislative districts, lend support to the argument that slightly greater percentage deviations may be tolerable for local government apportionment schemes, cf. *ibid.* Of course, this Court has never suggested that certain geographic areas or political interests are entitled to disproportionate representation. Rather, our statements have reflected the view that the particular circumstances and needs of a local community as a whole may sometimes justify departures from strict equality.

See also *NYC Board of Estimate v. Morris*, *supra*, 103 L.Ed.2d 727.

The California Supreme Court, in *Calderon v. City of Los Angeles* (1971) 4 Cal.3d 251, followed the strict rule of review in striking down the Los Angeles charter provisions which expressly permitted a 10% deviation from mathematical equality in each council district. However, this opinion is of questionable authority for the proposition that the strict rule is applicable in reviewing a local redistricting plan because it was decided before the *Abate*, *Mahan*, *Gaffney*, and *White v. Regester* cases were decided by the U.S. Supreme Court. The California Supreme Court in *Calderon* considered itself constrained ". . . to follow decisions of the [U.S.] Supreme Court on matters of constitutional interpretation. . . ." *Calderon*, *supra*, 4 Cal.3d 258. In view of this, there seems little question that the California courts would now follow the more recent U.S. Supreme Court cases and apply their somewhat less stringent standards.

However, we would strongly recommend against the adoption of any approach which automatically allows a fixed numerical departure from population equality. In the first place, ". . . an honest and good faith effort to construct districts . . . as nearly of equal population as is practicable" is still the yardstick. *Mahan v. Howell*, *supra*, 410 U.S. 324-325, 35 L.Ed.2d 330. The use of a preset mathematical deviation has the appearance of arbitrariness which might invite critical court scrutiny.

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In *Kirkpatrick v. Preisler*, the court in striking down a three percent (3%) variation stated:

We see no nonarbitrary way to pick a cutoff point at which population variances suddenly become de minimis. Moreover, to consider a certain range of variances de minimis would encourage legislators to strive for that range rather than for equality as nearly as practicable. The District Court found, for example, that at least one leading Missouri legislator deemed it proper to attempt to achieve a 2% level of variance rather than to seek population equality. 394 U.S. 526, 531, 22 L.Ed.2d 525.

The *Kirkpatrick* case involved congressional redistricting, but in *Abate v. Mundt, supra*, which involved a local legislative plan, the court stated:

Deviations from population equality must be justified by legitimate state considerations. *Swann v. Adams*, 385 U.S. 440, 444, 17 L.Ed.2d 501, 504, 87 S.Ct. 569 (1967). Because voting rights require highly sensitive safeguards, this Court has carefully scrutinized state interests offered to justify deviations from population equality. (29 L.Ed.2d 402.)

As mentioned earlier, in *Calderon v. City of Los Angeles, supra*, the California Supreme Court struck down a Los Angeles City Council redistricting plan which expressly allowed a ten percent (10%) variance. The Court's reasons closely followed those given by the U.S. Supreme Court in *Kirkpatrick, supra*, and seem as cogent now as then:

The reasons for eschewing such formulae are not far to seek. First, it is practically impossible, without being arbitrary, to choose a cutoff point at which population deviations suddenly become de minimis. Second, use of such yardsticks encourages drafters of apportionment plans to employ the 'acceptable' variations as a starting point, instead of striving for equality.

2. The Burden of Proving Invalidity of City Redistricting. The present rule is stated in *Gaffney v. Cummings*, 412 U.S. 735, 744, 37 L.Ed.2d 298, 307 (1973):

On the other hand, as *Mahan v. Howell* demonstrates, population deviations among districts may be sufficiently large to require justification but nonetheless be justifiable and legally sustainable. It

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is now time to recognize, in the context of the eminently reasonable approach of *Reynolds v. Sims*, that minor deviations from mathematical equality among state legislative districts are insufficient to make out a prima facie case of invidious discrimination under the Fourteenth Amendment so as to require justification by the State.

Gaffney validated the Connecticut State Legislature redistricting wherein the population of the smallest State Senate district was 1.81% smaller than the largest, and the population of the smallest House district was 7.83% smaller than the largest.


Section 23 of the City Charter provides as follows:

District standards.

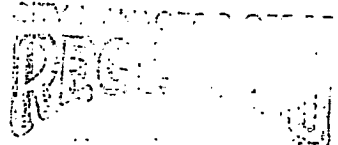
Council districts shall be as nearly equal in population as required under the federal and state constitutions. In establishing or changing the boundaries of districts, consideration shall be given to the following factors: topography, geography, cohesiveness, continuity, integrity and compactness of territory, community of interests of the districts, existing neighborhoods and community boundaries.

The Charter thus requires adherence to the rule stated above. In addition, it appears to require consideration of criteria other than strict population equality similar to those which have been suggested by cases such as *Swann v. Adams, supra*, 385 U.S. 444, 17 L.Ed.2d 504 (integrity of political subdivisions, the maintenance of compactness and continuity in legislative districts, and the recognition of natural or historical boundary lines).

SHARON SIEDORF CARDENAS,
City Attorney


THEODORE H. KOBAY, JR.,
Assistant City Attorney

THK/jms



OFFICE OF THE
CITY CLERK

VALERIE A. BURROWES, CMC/AAE
CITY CLERK

ADMINISTRATION
916-449-5799


FAX 916-449-8672

CITY OF SACRAMENTO
CALIFORNIA
M E M O R A N D U M

CITY HALL
ROOM 304
915 I STREET
SACRAMENTO, CA
95814-2671

OPERATIONAL SERVICES
916-449-5426

SPECIALIZED SERVICES
916-449-8200

TO: Walt Slipe, City Manager
FROM: Val Burrowes, City Clerk 
DATE: March 20, 1991
RE: REDRAWING CITY COUNCIL DISTRICT BOUNDARIES

Chartered Cities - Members elected by District

Section 35150 of the Elections Code, General Provisions pertains to the requirements for members of the governing body of a chartered city being nominated or elected "by districts" or "from districts"; after the initial establishment of such districts, the districts shall continue to be as nearly equal in population as may be, according to the latest federal decennial census or, if authorized by the charter of the city, according to the federal mid-decade census.

The boundaries of the councilmanic districts are to be adjusted by the council before the first day of November of the year following the year in which each decennial federal census is taken. Numbers should be those based on the Federal census as validated by the Population Research Unit of the Department of Finance.

I have taken the liberty of polling four chartered cities who elect by districts. In addition I gathered information from the Sacramento Registrar of Voters on their plans for the Sacramento Board of Supervisors. In almost all cases the design is going as follows:

- ... Task Force appointed (4-5 members)
 - Chairman (differs [city manager, mayor; registrar of voters])
 - Office of City Attorney
 - Office of City Clerk [Clerk of the Board]
 - Department of Data Management
 - Department of Planning (two cities only)

Walt Slipe
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- ... Workshop (public hearing design) [most have already been held]
 - to review resources available and establish/review design of process
- ... Workshops (public hearing design) [May and June]
 - to continue update on design; review figures
- ... District Public Hearings
 - one only scheduled in each district for months of August/September
- ... Public Hearing (Final) in month of October
 - present final map and alternatives

Most are planning to present two or more alternative plans which will be developed from the district hearings as well as the workshops held.

As a note of information, SACOG will be holding an open forum this Friday, March 22nd 9 a.m. to 1 p.m. in the Board of Supervisors Chamber. The forum is on census and, so I'm told, one can learn "everything you ever wanted to know about the subject matter".

I trust you will let me know if there are questions on the above or if I can be of further assistance.

cc: David Martinez, Deputy City Manager

CCO:91053

OUTLINE
REDISTRICTING KIT

I. INTRODUCTION

A. PURPOSE

1. LEGAL MANDATE
2. ENCOURAGE CITIZEN PARTICIPATION

B. DESCRIPTION OF THE REDISTRICTING PROCESS

1. THE COMPOSITION OF THE REDISTRICTING COMMITTEE
2. THE HEARING PROCESS
3. HOW PROPOSALS CAN BE SUBMITTED
4. REVIEW OF PROPOSALS
5. ADOPTION OF REDISTRICTING PLAN

II. DESCRIPTION OF THE REDISTRICTING KIT

A. REDISTRICTING GUIDELINES

1. LEGAL CRITERIA
2. POPULATION TARGETS
 - a. Table showing existing Council district population levels and target population.

B. HOW TO SUBMIT A PROPOSAL

1. OPTION A - GENERAL CRITERIA

This option will allow people to suggest which criteria should be used when changing district boundaries. The kit will include a form which provides a check list of redistricting criteria. People can then identify those criteria which are most important to them. This form can be submitted anytime between May 22nd and August 28th.

2. OPTION B - SPECIFIC BOUNDARY PROPOSALS

This alternative will allow people or community groups to submit a detailed boundary proposal.

In order to use this option, people will be required to ask SACOG for Census block maps and to delineate the proposed boundaries on these maps. Also, population characteristics must be calculated for each Council District. People can use hardcopy block statistics provided in the kit or use a computer program available at SACOG. The computer program and data will cost about \$400 and it can be used on personal computers. Specific boundary proposals must be submitted by August 28th, and the proposals must include boundaries delineated on the block maps and summary population statistics listed on a form contained in the kit.

III. APPENDIX

A. FORMS

- 1. CRITERIA CHECKOFF LIST**
- 2. SUMMARY OF DISTRICT POPULATION CHARACTERISTICS**

B. EXISTING COUNCIL DISTRICT POPULATION CHARACTERISTICS BY CENSUS TRACT AND BLOCKS

C. SUMMARY OF 1980 POPULATION CHARACTERISTICS

D. COMPUTER EQUIPMENT AND SOFTWARE NEEDED TO USE SACOG'S COMPUTER DATA

SACOG:

3000 S Street Suite 300
Sacramento, CA 95816
Phone: 457-2264
Contact Person: Bob Faseler