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CITY OF BURLINGTON REDISTRICTING COMMITTEE Tuesday, May 14, 2013

MINUTES

PRESENT: City Council President Shannon; Councilors Siegel and Bushor; Jim Langan, Ward 1 Representative; Japhet Els, Lluvia Mulvaney-Stanak, Ward 2 Representatives; Jim Holway, George Gamache, Ward 4 Representatives; Elisa Nelson, Ward 5 Representative; Andy Montroll, Michael Rooney, Ward 6 Representatives; Jason L'Ecuyer, Ward 7 Representative; Mannie Lionni, Ward 7 Alternate.

ABSENT: Councilor Decelles; Nancy Greenwalt, Ward 3 Representative

ALSO PRESENT: Cindy Cook, Facilitator; Assistant City Attorney Gene Bergman; Jay Appleton, Planning and Zoning; Bill Morris, BTVvotes

1. Agenda

Cindy Cook, Facilitator, outlined the agenda for the meeting.

Jim Holway, Ward 4 Representative, stated he hopes that they will leave the meeting with something concrete. There are only two more meetings on the schedule but there is a lot of work left to do. He hopes they are clear about how decisions are made. This is the third meeting, but it is the first time that they are sitting down to do actual redistricting.

Councilor Siegel made a motion to move item 7 to item 1.5. Councilor Bushor requested that there be a 10 minute time limit. Through a straw poll, the Committee agreed to move the agenda item.

Councilor Siegel stated the presenter for cumulative voting was unable to attend the meeting. She will give a brief presentation tonight and the presenter can provide more information at a future date.

1.5 (formerly item 7) Process and timeline through June 6 and next steps

Councilor Siegel stated there have been questions about the role of the facilitator and requested an explanation. Ms. Cook stated her role is to serve the Committee. It is difficult to know what direction to go until they are into the substance of Redistricting. They will be able to determine what direction to go based on the conversation and what people agree or disagree on. She understands the frustration about wanting to get into the substance of Redistricting. They could make a decision about the number of Councilors and work from there. They could also work from the goal of preserving the Old and New North Ends. There are many variables so there need to be limits on what will be discussed. Councilor Siegel requested an explanation of what the facilitator's job is. Ms. Cook stated she understands her job to be facilitating meetings and doing a limited amount of work to set up meetings. The email traffic in this Committee has been extensive. She is not a staff person, but a contractor. She had expected her role was to be making meetings run smoothly. She did not anticipate the lack of a chair would be such a dramatic issue. She is not a committee member and does not feel comfortable making substantive decisions. She understands the frustration from Committee members about not knowing what is appropriate for her to decide and what is not. Her contract was based on a limited number of hours between meetings for agenda development and meeting summarization.

City Council President Shannon stated they had discussed that Ms. Cook would spend about twice the amount of time

preparing for meetings that she would spend attending meetings. Ms. Cook stated that is what they discussed but in reality it has been more like 3-4 times the length of the meeting spent doing work outside of the meeting. She understood that there would be a need to develop a fact sheet with basic information. Committee members and members of the public seem to be upset when she does not respond to emails within a couple of hours, but she cannot respond that quickly. Going forward, it would be helpful if the Committee came together and did work on outreach.

Jason L'Ecuyer, Ward 7 Representative, stated he would like to see a vote of whether they would like a chair and come up with a framework for looking at the maps. Ms. Cook stated they have developed a matrix that lists criteria to evaluate each draft plan and make comments. She plans to put that into a larger matrix to compare and contrast. It is up to the committee to select the best map.

Councilor Bushor stated the group should decide if having a chair would be useful. She felt like there were a number of different people trying to move them forward. There is a lot of talent and many things got accomplished, but more could have been done if they had someone to check in with.

Mr. Holway stated he would like to choose someone as a chair. It is needed and process is still not solved. Mr. Holway requested a poll to determine if people would like to elect a chair.

Lluvia Mulvaney-Stanak, Ward 2 Representative, stated they should first define the role of the chair. They have a facilitator to move conversation forward, keep track of time, and to set benchmarks for each meeting. She would see the role of the Chair as providing leadership, setting the agenda, and checking in with point people from each committee. They would be able to hold people accountable to move the process forward. One person was concerned about the political nature of appointing a chair. They should select someone who will be as neutral as possible and has the interests of the Committee at heart.

Councilor Siegel stated she likes the idea of having a chair, but does not want to lose track of the process. She hopes they can decide how they will make a decision if there is not a clear answer. At the end of the night, they may be able to decide if they need to change the leadership structure.

Mr. Holway stated he sent a suggestion for a framework for this meeting. He suggested stepping back from a leadership question and deciding how they would like to move forward at the end of the meeting.

Councilor Siegel inquired if anyone has suggestions about how to make a decision using the matrixes.

Elisa Nelson, Ward 5 Representative, stated she would like to identify two or three options that they could focus on. Reducing the number of options would help. They could then focus on the pros and cons of what is remaining. Ms. Cook stated it is difficult to figure out how to decide until they know what areas the Committee agrees and disagrees on. When that is known, that will help them make a decision.

Mr. Holway stated they can knock off several of the map options that logistically do not work. Given the shortness of the timeline, it does not make sense to do a seven ward, thirteen or fifteen councilor model, or an eight ward fifteen councilor model. He suggested getting rid of the maps with the hybrid math. Ms. Nelson stated she found those maps very interesting. Mr. Holway stated they are interesting but not practical. Councilor Bushor stated they are off topic and agreed to spend only 10 minutes on discussion of a chair. She would prefer to make that decision or move the discussion to the end of the meeting before they begin discussing the maps.

City Council President Shannon suggested deciding on this at the end of the meeting to allow people the opportunity to chat. There may be benefit to allowing that before they make a decision.

Mr. Holway stated they still do not know what they will be doing with the matrixes and how they will make a decision. Ms. Cook stated the hope is that some clarity will arise as they go through that process.

2. Brief Discussion of City Attorney's Office's Answers to Procedural and Legal Questions (to be circulated in

advance of the meeting)

Assistant City Attorney Gene Bergman stated he hopes the memo provided was self-explanatory and he can answer questions. Ms. Cook stated there was discussion about including residents who live in developments that were built post-census. She inquired if it needs to be done City-wide and not on a piecemeal basis. Assistant City Attorney Bergman stated that is correct. If they want to consider new housing at the University or in the New North End, they need to look at all new housing. Cherry picking defeats the purpose of having equal population in each district. The methodology needs to be uniform and defensible. They do have the right to redistrict more often than every ten years. That allows them to count who is living in the City at this point in time. City Council President Shannon stated they could look at building permits for projects above a certain threshold. Assistant City Attorney Bergman stated they would want to use a professional who could create a mathematical process to determine where people are living. City Council President Shannon stated they are allowed deviation. They could have their numbers be at one end of the deviation but understand that there are really more people living there. They just need to remain within the 10%. Assistant City Attorney Bergman stated there can be circumstances where deviation under 10% can be challenged. The law says that if deviation is under 10% the plan is basically constitutional. If they had a plan that was under 10% and used some new development but did not account for new development at the University, he would advise them not to do that. It is not a method that would withstand scrutiny. If they use numbers outside of the census, they will need to account for it in a way that makes sense.

Mr. Holway stated the memo references cases in 1982 and 1988. He inquired why these references were used rather than 2005 and 2011 legislation that states it is problematic to use numbers outside of the census. They have talked about what would happen if the Committee wanted to do that. There are many things they have data for, but there are a number of other things that they will not know without knocking on doors. He noted the State House and Senate use 17% deviation. There is some room to play and not just focus on 10%. Assistant City Attorney Bergman stated he looked at case law. He did not see any cases that were more modern than this. He also looked at secondary sources which were consistent with case law. Federal redistricting is more restrictive. They are looking for spot on numbers. He did not look at federal legislation, as it does not govern this process. This is a constitutional question as it relates to equal protection of districts. He can do some more research if the Committee would like him to. He cannot answer for the State. There are precedents that allow for over 10% on State Redistricting, but Courts have tended to rule closer to 10% over the years. 16.4% is what the U.S. Supreme Court has said 'approaches the outer limits of what is acceptable'. He does not have confidence telling the group that they can go over 10%. Mr. Holway stated they need to make a decision about whether they want to stick with the clear rules that are set or if they would like to consider hybrid models. He is using case law rather than following Congress and the Executive Branch with the Fairness in Redistricting Act. The name is clear about what it is relevant to. He feels the reference is too old and they should be respecting Congress and the Executive Branch. He would prefer to stick with the census numbers. Assistant City Attorney Bergman stated he recommends that the overall deviation be 10% or under. He would like them to strive for as small a deviation as possible because the purpose is to give substantial equivalents in population in each district. He also recommends they not draw lines that discriminate against people.

3. Brief Presentation on Cumulative Voting

Councilor Siegel stated cumulative voting is only relevant if they use a four ward model with three representatives from each ward. She read a statement explaining that with cumulative voting, voters have as many votes as there are seats to be filled. Voters could express a strong preference for their favorite candidate. If a political minority were to concentrate their votes on one candidate, it allows them to win representation. A candidate can win one seat with the support of about 25% of voters. They would have a City Council election one year, a School Board election the next, and the Mayor in the third. Staggering elections will ensure turnout. She explained free cumulative voting as allowing a voter to vote for the same person three times, three different candidates one time, or two votes for one candidate and one vote for a different candidate. She explained equal and even cumulative voting as allowing someone to vote as many times as they want and their votes are then divvied up. If a person voted once, it would count for three votes. If they voted six times, each vote would count for half a vote. In total, each person would have three votes.

Mr. Rooney inquired how this issue of voting fits into their work. They are discussing districts, but the voting method

would have to be approved separately. Councilor Siegel stated she is unsure if it would have to be approved separately. She feels it is relevant because she would not support a four ward plan unless they did cumulative voting. Large wards would make it difficult for minorities to be elected. Mr. Rooney inquired if having cumulative voting would open her up to more options. Councilor Siegel stated it would open her up to the four ward model. Mr. Rooney stated he is unsure if they can just say that. Councilor Siegel stated they could present this to the Council however they would like and they will then vote it up or down.

Ms. Nelson stated that based on what has happened in the City in the past, cumulative voting would be opening up a major can of worms and would sidetrack them. She would prefer to focus on just redistricting.

City Council President Shannon stated Redistricting requires a Charter Change as would the voting method. There are other issues that could come up in terms of how they vote. Many things will need to change if they do not have fourteen Councilors anymore. All of that is within the charge of this Committee.

Councilor Siegel stated this used successfully in other cities.

Mr. Holway stated he would prefer to stay as narrow as they can. There are a lot of interesting ideas and he loves creativity, but he hopes they can stay focused.

4. Working Session to Explore Redistricting Options

This will be the primary focus of the meeting. We will have five work stations w/ computers and people who are knowledgeable about the workings of BTV Votes. Committee members will have an opportunity to look at, consider, and modify redistricting plans based on the following themes that were identified at the 4/16 meeting:

- a. 8 Wards w/ a ward centered around UVM (and perhaps also Champlain)**
- b. 4 Wards**
- c. 15 Councilors**
- d. 7 Wards, 13 Councilors**
- e. Other**

Bill Morris, BTVvotes, explained the setup of the computers for the workshop. Ms. Cook explained there is an evaluation matrix at each computer to evaluate the plans. This will allow people to express their opinions and for the group to see where opinions lie. Mr. Holway requested that members of the audience be allowed to view the plans. Ms. Cook stated she would like to give preference to Committee members but audience members may also look.

Mr. Rooney inquired how he would introduce a new plan. Mr. Morris stated they he can pull it up on the computer and share it with others. Ms. Cook stated the list they are using is not final and they are open to new ideas.

A member of the audience inquired which plan would be called a UVM/Champlain ward. George Gamache, Ward 4 Representative, stated he has designed an eight ward plan with a ward containing UVM and Champlain. Mr. Appleton stated that UVM and Champlain cannot be lumped into one ward in the four ward model because they ward would be too small. Mr. Morris stated the software is not equipped to break census blocks. Some people have been interested in doing that but they will not be able to get numbers in the software.

The Committee conducted their workshop.

Ms. Cook asked the Committee if there was anything the group found noteworthy.

City Council President Shannon stated one of the challenges has been to keep the Old and New North Ends distinct. One idea that has come up is to have a two councilor ward and a one councilor ward in the New North End. There are times when people seek help from both councilors in her ward. Having just one Councilor does not feel like fair representation. Seeing them combined into one, three councilor ward seems more fair.

Councilor Bushor stated she could have used more time. She looked at two eight ward scenarios, but the deviations were not acceptable. She looked at the eight ward model with the UVM ward, but would need more time to study and understand this proposal. There has been a reluctance to go to a three councilor ward in the New North End and they have heard people do not want to lose representation. They feel that they are the ward with the most voters and families and therefore should have this representation. It is important for people to be aware of those comments.

Andy Montroll, Ward 6 Representative, stated that shrinking the New North End by removing the residents of Lakeview Terrace makes it fit perfectly into a three member ward or two wards with one and a two members. The primary guiding principle is keeping neighborhoods intact. The New North End is intact until they start bringing in people from other neighborhoods to beef up the numbers. Doing that tears neighborhoods apart and is contrary to their primary goal. Considering having the New North End as a cohesive area helps to balance the numbers.

Mr. L'Ecuyer stated he has an open mind. When he looked at that map, it looked as if Wards 4 and 7 would be broken up. The issues on each side of North Avenue are very different. Combining the wards would clump issues together.

Mannie Lionni, Ward 7 Alternate, stated he does not feel they should over-prioritize any criteria. Lakeview Terrace has been very well served. He feels like it has been okay and if it helps them meet other criteria, it warrants a conversation.

Mr. Holway stated they should not treat the New North End as if it is an island unto itself. The growth rate on top of the hill has been out of proportion with the rest of the City. The New North End has also grown, just at a lower rate. If they look at the numbers as if UVM and Champlain College had not done their new construction, they then have a total population which would remain within the deviations of the existing wards. Ms. Cook stated that is not what they are dealing with. Mr. Holway stated that the reason there is animosity in the New North End is because there are differences between Wards 4 and 7. He wants them to understand that there is no problem child. The numbers do not work unless they use an eight ward model. They should look at what changed in Burlington, which is where the population changed.

Councilor Siegel stated that keeping the New and Old North Ends separate feels valuable and worthwhile. There were two maps that did that well. One was the eight ward, sixteen councilor map. The other was a seven or six ward thirteen councilor model. She is open to either of these models so long as it pleases the members of the New North End. That does seem distasteful to those in the New North End, but the numbers work and it is logical. Councilors are also available to help people who do not live in their ward.

Mr. Rooney stated it would be difficult to have a university ward. Students are not there all year long and remain on campus only part time. Most students do not remain on campus after their sophomore year. New freshman do not yet know what is going on. Sophomores then leave and move to an apartment which would no longer be in their ward. It would be difficult to do. The numbers are what they are and they need to remain within 10% deviation. Whether they like it or not, the people that live in Wards 4 and 7 are going to amount to three councilors. It is up to them whether they would like to be one ward or two wards. Doing it differently does not work for the rest of the City.

Mr. Gamache stated that the eight ward scenario works well if they take a portion of the Old North End that is currently in Ward 7 and move it where it belongs. He developed his model by taking the four ward plan and cutting it in half. They could also have a total of twelve Councilors by having eight wards elect one Councilors and then using the four ward model to elect four more councilors. Every section of the City would have an equal number of representatives. Wards 4 and 7 are some of the most diverse parts of the City. They have some of the highest priced real estate, some of the largest apartment complexes, a mobile home park, and an abundance of median priced housing. They hope to maintain equal representation.

Ms. Mulvaney-Stanak stated she leans towards the six or seven ward scenario with thirteen councilors. Looking at the numbers and the preservation of neighborhoods, it makes sense. She has talked with people at UVM and found out that 80% of students move off campus after their sophomore year. She cautioned the group against basing an 8th ward around UVM. It could create a mess.

Japhet Els, Ward 2 Representative, stated other college towns have not created a separate ward or district for students because of their transient nature. They can all argue about the diversity of their wards or how the math works out, but it can work in a number of ways.

Mr. Rooney stated they need to work to refine some of the plans.

Mr. Montroll stated it would be helpful to narrow down their options before the next meeting. He hears support for six or seven wards with thirteen councilors, as well as the eight ward sixteen councilor model. He has not heard interest in any other plan. He suggested they continue looking at those plans. If there are other interests that have not been articulated, they can consider them.

Mr. Els stated it would be helpful to have a steering committee determine an assignment for the next meeting. They can determine what their preferred plans are and have that information ready for the next meeting.

Councilor Bushor stated she would like to look further at the eight ward scenarios to make them fit within the deviations. They do need to start narrowing down options that they are interested in. She would like more details about whether they meet the deviations and to understand boundaries better. She hopes Committee members can give guidance about what does and does not work.

Mr. Holway made a motion to create a steering committee to discuss tasks to be completed for the next meeting and assign others to do them. Ms. Cook accepted names of volunteers to form the steering committee and continue working on each model.

Mr. Morris stated he will set up the plans that they are considering as templates.

Mr. Holway stated it may be helpful to have a maps committee so they can look at all of the maps together.

Ms. Mulvaney-Stanak stated she hopes people will attend the next meeting with an idea in mind about which maps they are leaning towards. Part of their role as Committee members is to take an active role and they are running out of time to make a decision. She also requested they set up a listserv to make sure no one is getting left off of emails.

5. Review and Approve April 16 Meeting Minutes

Councilors Bushor and Siegel made a motion to approve the April 16 minutes. The motion passed unanimously.

6. Public Forum

No one spoke on this item.

8. Adjourn

The meeting was adjourned at 9:15 pm.