



MEMORANDUM

October 21, 2011

TO: Mayor and Board of Directors

FROM: Ray Gosack, City Administrator

SUBJECT: Ward Reapportionment

After a census count, the city must examine the population totals in its 4 wards to ensure there's equal representation for each ward. Attached is a letter from the legal staff which explains when ward reapportionment must occur.

Based on 2010 census figures, the city isn't required to re-draw its ward boundaries to achieve population balance. However, the board may find it desirable to do so. There's a nearly 12% population difference between ward 2 (20,775 persons) and ward 3 (23,204 persons). Below is a discussion of the advantages of each option and considerations should the board decide to re-draw ward boundaries.

- Leaving ward boundaries unchanged means that no precinct has to be moved from one ward to another. This results in no confusion that changes in ward boundaries might create.
- Fort Smith's continued growth to the south and southeast will worsen the imbalance between wards 2 and 3. The population imbalance among wards has been increasing over the last 20 years as shown on an attached spreadsheet. If the imbalance isn't addressed now, the changes needed after the 2020 census will likely be more substantial.
- If ward boundaries are re-drawn, they should be done so that each ward is as **geographically compact** as possible, **follows voting precinct boundaries** so that precincts aren't divided into multiple wards, involves **moving as few precincts** between wards as possible, and achieves the **greatest equity in population distribution**.

If the board desires to leave ward boundaries unchanged, it will need to pass a resolution confirming that the current ward boundaries will continue in effect. If the board desires to adjust ward boundaries, the staff has prepared a map (attached) which meets the criteria discussed above. This map keeps the population of all 4 wards within 2% of the average population per ward and reduces the largest variance between wards from 11.7% to 3.1%. It results in moving only 3 voting precincts from one ward to another.

Any changes in ward boundaries don't require a public hearing. However, the board may find it desirable to allow for a period of public comment before any ward map is considered for adoption.

The staff recommends that a ward reapportionment occur as shown on the attached map and spreadsheet. The disparity in populations between wards has increased over the last 20 years, and will continue to become more disparate as Fort Smith grows to the south and southeast. A reapportionment made now will also avoid the need for a more extensive ward reapportionment when the 2020 census is taken. If there's any questions or a need for more information, please contact Sherri Gard or me.

Ray

Attachments

cc: Jerry Huff, Sebastian County Election Coordinator

NOTE: Sebastian County was required to re-draw precinct boundaries to comply with the state's legislative re-districting which occurred earlier this year. The city's re-districting of wards is based on these new precinct boundaries. These new precinct boundaries have some slight variations from the previous ones.

**City of Fort Smith
Ward Reapportionment 2011
Based on 2010 Census**

	<u>Ward 1</u>	<u>Ward 2</u>	<u>Ward 3</u>	<u>Ward 4</u>	<u>Total</u>	<u>Average Population Per Ward</u>
Current Population	20,781	20,775	23,204	21,449	86,209	21,552
<u>Adjustments</u>						
Precinct 1B	(938)	938				
Precinct 4C	1,467			(1,467)		
Precinct 3C			(1,939)	1,939		
Reapportioned Population	21,310	21,713	21,265	21,921	86,209	
% Difference from Average	-1.12%	0.75%	-1.33%	1.71%		
 Largest Variance Between Wards						
Before Reapportionment		11.69%	(wards 2 and 3)			
After Reapportionment		3.08%	(wards 3 and 4)			

City of Fort Smith Population by Ward 1990-2010

	% Diff. from Average			% Diff. from Average			% Diff. from Average		
	<u>Ward 1</u>	<u>Ward 2</u>	<u>Ward 3</u>	<u>Ward 4</u>	<u>Ward 1</u>	<u>Ward 2</u>	<u>Ward 3</u>	<u>Ward 4</u>	<u>Average</u>
1990 Census	18,139	18,225	18,065	18,369	-0.14%	0.33%	0.74%	-0.92%	18,200
2000 Census	20,333	19,197	19,939	20,799	4.53%	-1.31%	0.64%	-3.52%	20,067
2010 Census	20,781	20,775	23,204	21,449	3.74%	3.71%	-7.12%	0.48%	21,552

Largest Variance Between Wards

1990	1.68% (wards 3 and 4)
2000	8.35% (wards 2 and 4)
2010	11.69% (wards 2 and 3)

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March 29, 2011

Mr. Ray Gosack
City Administrator
623 Garrison Avenue
Fort Smith, AR 72901

Re: Apportionment Among the Wards

Dear Mr. Gosack:

As you are aware, the federal census has just been completed. A.C.A. § 14-48-107(c)(1) (Repl. 1998) provides:

The board of directors of the city under the city administrator form of government shall review the apportionment among the wards after each federal census in the city or in the event there is an imbalance in population among the wards in excess of fifteen percent (15%).

(Emphasis added.) The statute goes on to note that, “[t]he board of directors may reapportion the wards to maintain substantially equal population in each ward whenever they deem necessary.” Id. at (c)(2)(A) (emphasis added).

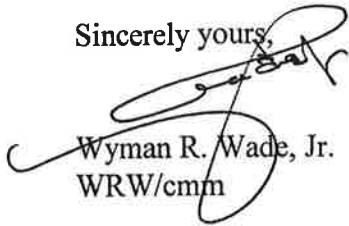
In Abate v. Mundt, 403 U.S. 182 (1971), the United States Supreme Court acknowledged that “[i]n assessing the constitutionality of various apportionment plans, . . . [the US Supreme Court has] observed that viable local governments may need considerable flexibility in municipal arrangements if they are to meet changing societal needs . . . and that a desire to preserve that integrity of political subdivisions may justify an apportionment plan which departs from numerical equality.” 403 U.S. at 185 (citation omitted). In so stating, the Supreme Court recognized that the particular circumstances and needs of a local community as a whole may sometimes justify departures from strict population equality. Id. In Abate, supra, the U.S. Supreme Court found that, though the reapportionment plan involved in that case did show a total deviation from equality of 11.9%, the plan did not contain a built-in bias tending to favor particular political interests or geographic areas and that the circumstances before the Court did not indicate the reapportionment plan violates the Constitution.

The recent federal census reveals variations of less than 10% among several Fort Smith wards, with

the greatest deviation being 11.6% vis-à-vis wards 2 and 3. Where, as here, the increase in population in ward 3 seems to be attributable to recent housing development in that area of the City, and thus the resulting deviation not attributable to built-in bias favoring particular political interests or geographic areas, it is our opinion that the ultimate question of redistricting at this time becomes a policy matter for the Board of Directors. We believe that were a court to review the existing deviation between wards 2 and 3, it would find that the present deviation of 11.6% is not violative of equal protection. As a caveat, however, it is to be noted that, if population growth continues in any one or more wards as compared to other wards, the issue of redistricting should be revisited.

If you have questions about this opinion, let us know and we will attempt to respond further.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Wyman R. Wade, Jr.", is written over the typed name. The signature is stylized with a large, looping initial 'W' and a trailing flourish.

Wyman R. Wade, Jr.
WRW/cmm