**IN THE UNITED STATES DISTRICT COURT**
**FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**
**No. 1:15-cv-559**

| | | |
|---|---|---|
| THE CITY OF GREENSBORO, LEWIS A. BRANDON III, JOYCE JOHNSON, NELSON JOHNSON, RICHARD ALAN KORITZ, SANDRA SELF KORITZ, CHARLI MAE SYKES, and MAURICE WARREN II,<br><br>*Plaintiffs*,<br><br>v.<br><br>THE GUILFORD COUNTY BOARD OF ELECTIONS,<br><br>*Defendant*,<br><br>MELVIN ALSTON, JEAN BROWN, HURLEY DERRICKSON, STEPHEN GOLIMOWSKI, WAYNE GOODSON, JIM KEE, EARL JONES, SHARON KASICA, and WILLIAM CLARK PORTER,<br><br>*Defendant-Intervenors*. | ) | **INDIVIDUAL PLAINTIFFS' RESPONSE IN OPPOSITION TO TRUDY WADE'S MOTION TO QUASH** |

On May 26, 2016, Plaintiffs Lewis A. Brandon III, Joyce Johnson, Nelson Johnson, Richard Alan Koritz, Sandra Self Koritz, Charli Mae Sykes, and Maurice Warren II (hereinafter collectively "Individual Plaintiffs") served a subpoena to testify at deposition in the above-captioned matter on Sen. Trudy Wade. On June 9, 2016, Wade moved to quash the subpoena. Individual Plaintiffs submit this brief in opposition to the motion to quash. The motion should be denied because Movant vastly overstates the

effect of legislative immunity, because any applicable privilege should yield, and because there are enough indicia of improper actions in this case to justify the deposition of Movant.

## BACKGROUND

This action challenges the redistricting plan for the Greensboro, NC, city council, enacted by the General Assembly in 2015 (Session Law 2015-138), as violating the Fourteenth Amendment of the United States Constitution and Article I, Section 19 of the North Carolina Constitution. Individual Plaintiffs allege that the General Assembly's plan is unconstitutional because it creates population deviations that weight the votes of some Greensboro voters more heavily than others, for illegitimate reasons, and uses race unconstitutionally in the construction of District 2. The three Greensboro districts that are overpopulated when compared to an ideal district are all majority-minority districts. Also, by redrawing the districts, the General Assembly pits all four black incumbents on the city council against each other while white incumbents are not similarly treated.

Individual Plaintiffs served upon Sen. Wade and other Legislative Respondents subpoenas duces tecum for documents on February 22, 2016. These requests were narrowly drawn to elicit documents relevant to this Court's consideration of the claims in this case. The documents Individual Plaintiffs sought from Sen. Wade relate to circumstances surrounding the General Assembly's enactment of Session Law 2015-138, and the development of the redistricting plan challenged in this litigation. Specifically, Individual Plaintiffs sought, among other things, communications with third parties on

the topic and documents containing objective facts upon which the legislators relied. *See, e.g*., ECF No 74-1 (Subpoena *duces teucum* to Senator Wade and others).

Sen. Wade was the primary sponsor of the first Senate Bill that proposed to redistrict the Greensboro City Council. Senate Bill 36, short titled "Greensboro City Council Changes," was filed February 4, 2015, by Sen. Wade. Senate Bill 36 created a 7 single-member district plan for electing members of the Greensboro City Council. As originally filed, the bill made no mention of the ability of Greensboro, via the elected body itself or its citizens using their referendum power, to change the district lines in the future. *See*, Legislative History Page, Senate Bill 36, Filed Bill, available at http://www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015&BillID=SB36&submitButton=Go. The proviso limiting the city's authority to changes its boundaries was added in the second edition of the bill, reported out of the Senate Rules Committee on March 10, 2015. *Id.*, Bill Edition 2. The bill passed the Senate on March 12, 2015, and then moved to the House. It was assigned to the House Elections Committee, but never debated or voted upon by that committee. *Id.*

The failure of S.B. 36 to move through the House, though, was not the end of the story. On June 10, 2015, House Bill 263, entitled "City of Trinity Terms of Election," was modified via a proposed committee substitute to include the contents of S.B. 36. Up until this point, House Bill 263 contained no provisions related to the Greensboro City Council. During the June 10, 2015, meeting of the Senate Redistricting Committee, Sen. Wade, described as the bill sponsor, briefly explained how the Greensboro provisions of House Bill 263 had changed since their initial presentation in S.B. 36, which were all

minor. Beyond that, debate on House Bill 263 was extremely limited. At the June 10, 2015, meeting of the Senate Redistricting Committee, when Sen. Wade purported to explain the Greensboro redistricting proposed committee substitute to House Bill 263, no public comment was permitted during the meeting and only one member of the Senate was permitted to speak in opposition to the bill. The entire process of introducing, explaining, debating, and voting to favorably report the committee substitute to House Bill 263 lasted less than fifteen minutes. *See* Exhibit A, Transcript of 6/10/15 Senate Redistricting Committee Meeting. This version of House Bill 263 passed the Senate on June 11, 2015, and moved to the House.

The House voted not to concur with the Senate's changes to H.B. 263 on June 29, 2015. A conference committee was assembled to meet the following day to caucus on the rejected bill. Among other things, the conference committee changed the plan in order to create an 8 single-member district plan, rather than a 7 district plan. As noted in the Motion to Quash the Subpoena, Individual Plaintiffs did serve subpoenas *duces tecum* on a number of state legislators. All but one, Rep. John Blust of Greensboro, largely resisted the subpoenas, producing only documents and emails between legislators and third parties, in an apparent concenssion that such documents were not privileged. Rep. Blust, however, did not resist the document subpoena, and on March 14, 2016, produced documents relating to the legislative process surrounding H.B. 263, and specifically to the conference committee meeting in the House on June 30, 2015. Relevant documents from that production are attached as Exhibit B.

Rep. Blust was named to the House and Senate Conference Committee that was appointed to reconcile the bill after the House rejected the Senate version on Monday, June 29, 2015. The conference committee met on the afternoon of June 30, 2015, making the change to the size of the council indicated above. At the time, Rep. Blust claimed publicly that the conference report read in by the House on July 2, 2015, did not accord with the report discussed in that conference committee on June 30. Doug Clark, *The Mystery of the Fatal Changes to HB 263*, Greensboro News & Record (July 24, 2015, 8:26 AM), http://www.greensboro.com/blogs/clark_off_the_record/the-mystery-of-the-fatal-changes-to-hb/article_2e38efaa-31ff-11e5-9dc9-b332377e95a7.html. When presented with the conference committee report at 11 A.M. on July 2, the House first voted down the bill. Legislative leaders called for a session break, held a closed-door caucus meeting, and then moved to reconsider the bill 45 minutes later. At that point, several Republican legislators changed their vote, and the bill passed. Colin Campbell & Taylor Knopf, Accusations Fly as NC House Changes Course on Greensboro Redistricting, The News & Observer (July 2, 2015, 12:27 PM), http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article26047744.html. The Senate approved the new law just minutes later, and it was ratified the same day as Session Law 2015-138. *Id*.

The documents produced by Rep. Blust demonstrate two important facts relating to the very strange legislative process surrounding H.B. 263. First, Rep. Blust produced an alternative map that had, upon information and belief, been provided by Rep. Jon Hardister, also from Greensboro, to the conference committee on June 30. Expert

analysis of that map indicates that it paired one fewer African-American city council incumbent. Ex. B, at 1; *see* Exhibit C, Report of Anthony Fairfax. Second, emails produced by Rep. Blust establish that, in fact, the committee report did change from what the committee discussed on June 30 to what was presented to the House on July 2. Ex. B, at 2-3. Rep. Pat Hurley, the primary House proponent of H.B. 263, admitted to Rep. Blust that the bill had been changed from what the conference committee agreed. *Id*.

Individual Plaintiffs seek to depose Senator Wade to inquire as to a number of issues, not limited to: her non-email communications with constituents and lobbyists relating to the Greensboro bill, and where those communications fell in the timeline of the changing bill; objective data, including reports and analyses, available to her at the time of the legislative action; her understanding and analysis of the Hardister map, which paired fewer black incubments; the racial and partisan data available to her on a sub-precinct level, that might have informed the splitting of precincts in District 2; and her awareness or possession of any racially polarized voting studies of Greensboro elections that might support the construction of an additional majority-black district. On June 9, 2016, Sen. Wade filed a motion to quash the May 26, 2016, subpoena for deposition in its entirety, arguing that legislative immunity, privilege, and state confidentiality laws completely relieved her of the obligation of having to comply with the subpoena.

## ARGUMENT

### I. Sen. Wade Greatly Overstates the Scope of Legislative Immunity

Movant's recitation of the common law extension of legislative immunity to state legislators misses the point—on questions of federal common law immunity, the United

States Supreme Court is the ultimate authority, and that Court has declined to hold that legislative immunity per se bars plaintiffs from compelling state legislators to sit for deposition. Specifically, Movant's position cannot be reconciled with the Supreme Court's instructions in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), that "in some extraordinary instances the members [of the governmental body] might be called to the stand a trial to testify concerning the purpose of the official action." *Id.* at 268.

In particular, Movant's reliance on *Tenney v. Brandhove*, 341 U.S. 367 (1951), is misplaced. In *Tenney*, the Supreme Court held that state legislators are immune from civil liability for "legitimate legislative activity." *Id.* at 376. Specifically, the issue at stake in *Tenney* was immunitiy from suit, not immunity from discovery. *Id.* at 369, 378-79. Regardless, though, *Tenney* does not "stand for the poposition that state legislators are never required to supply evidence in a federal civil case where, like in the instant case, there is no threat of personal liability to any of the state legislators." *Doe v. Nebraska*, 788 F. Supp. 2d 975, 984 n. 2 (D. Neb. 2011).

Importantly, after *Tenney*, the Supreme Court also declined to recognize an absolute "evidentiary privilege for state legislators for their legislative acts." *United States v. Gillock*, 445 U.S. 360, 373 (1980). In *Gillock*, a state legislator was indicted in federal court on bribery charges, and sought to prevent prosecutors from introducing evidence of his legislative acts at trial. *Id.* at 362. The Court ruled against him. *Id.* at 373. The Court declined to extend the rationale of the Speech or Debate Clause to state legislators, and with respect to whether the logic underlying legislative immunity ought

to apply to the assertion of testimonial or evidentiary privilege, concluded "that although principles of comity command careful consideration, our cases disclose that where important federal interests are at stake…comity yields." *Id*. at 373. Indeed, the Court stated "[i]t is clear that were we to recognize an evidentiary privilege similar in scope to the Federal Speech or Debate Clause, much of the evidence at issue here would be inadmissible." *Id*. at 366.

Additionally, the 2014 decision from Judge Schroeder in another civil case in the Middle District of North Carolina, although not binding here, likewise does not support Movant's overly broad characterization of legislative immunity. *NC NAACP v. McCrory*, Case No. 1:13-cv-658 (M.D.N.C. May 15, 2014). Although that decision dealt with document subpoenas, Judge Schroeder noted "while the judicially-created doctrine of 'legislative immunity' provides individual legislators with absolute immunity from liability for their legislative acts, that immunity does not preclude all discovery in the context of this case; instead, claims of legislative immunity or privilege in the discovery context must be evaluated under a flexible approach that considers the need for the information in the context of the particular suit presented, while still protecting legislative sovereignty and minimizing any direct intrusion into the legislative process." *Id*. at *9-10.

If Movant's theory of legislative immunity were accurate, then the Court in *Arlington Heights* would not have created the opening for legislators to be deposed in

certain limited circumstances.[1] Instead, the more common judicial approach is this: "notwithstanding their immunity from suit, legislators may, at times, be called upon to produce documents or testify at depositions." *Rodriguez v. Pataki*, 280 F. Supp. 2d 89, 95-96 aff'd, 293 F. Supp. 2d 302 (S.D.N.Y. 2003) (citations omitted). Movant's claim of legislative immunity does not excuse her from complying with the subpoena in this case.

## II. Legislative Privilege is Not Absolute and Appropriately Must Yield in Some Circumstances, as in the Instant Case

"[B]ecause '[t]estimonial exclusionary rules and privileges contravene the fundamental principle that the public…has a right to every man's evidence,' any such privilege 'must be strictly construed.'" *United States v. Squillacote*, 221 F.3d 542, 560 (4th Cir. 2000) (quoting *Tramel v. United States*, 445 U.S. 40, 50 (1980)). As the Supreme Court noted in *Gillock*, "where important federal interests are at stake," state legislative privilege must yield. *Gillock*, 445 U.S. at 373; *see also, Doe v. Pittsvylania Cty.*, 842 F. Supp. 2d 906, 921 (W.D. Va. 2012) (recognizing the "very strong federal interest in the enforcement of civil rights statutes that provide remedies for violations of the Constitution" and thus rejecting lawmakers' legislative privilege claims).

As detailed extensively in Individual Plaintiffs' Motion to Compel, ECF No. 74, courts apply a well-established five factor test in determining whether legislative privilege ought to yield in a particular case, regardless of whether that privilege the

[1] The dicta from *EEOC v. Wash. Suburban Sanitary Comm'n*, 631 F.3d 174 (4th Cir. 2011) (hereinafter, "*EEOC*"), relied upon by the Movant does not change this fact. First, the Supreme Court ruling that deposing legislators would be allowable in certain circumstances is controlling. Second, in *EEOC*, testimonial privilege was not at issue, and, in fact, the Fourth Circuit ordered the production of the requested documents because they were not privileged. *Id.* at 182.

privilege being invoked is testimonial or evidentiary. *Rodriguez v. Pataki*, 280 F. Supp. 2d 89, 100 (S.D.N.Y. 2003); *see also*, *Page v. Va. State Bd. of Elections*, 15 F. Supp. 3d 657, 666 (E.D. Va. 2014).

Those factors include: (1) the relevance of the evidence sought to be protected; (2) the availability of other evidence; (iii) the seriousness of the litigation and issues involved; (3) the role of the government in the litigation; and (v) the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable. *Id.* at 101. Legislative privilege must yield here because of Individual Plaintiffs' strong showing on each of the relevant five factors.

Before detailing the showing made on each of the five factors, it is important to recognize that particularly in voting rights cases, federal courts have routinely ordered compliance with subpoenas over claims of legislative privilege. Indeed, citing the Supreme Court's holding in *Gillock*, numerous district courts in the Fourth Circuit have found a limited exception to legislative privilege in cases involving redistricting legislation. *See Bethune-Hill v. Va. State Bd. of Elections*, 114 F. Supp. 3d 323, 337 (E.D. Va. May 26, 2015); *Page v. Va. State Bd. of Elections*, 15 F. Supp. 3d at 657, 665; *Marylanders for Fair Representation v. Schaefer*, 144 F.R.D. 292, 292, 304 (D. Md. 1992). These courts have all noted, essentially, that "[l]egislative redistricting is a *sui generis* process." *Marylanders*, 144 F.R.D. at 304; *see also, Bethune-Hill*, 2015 U.S. Dist. LEXIS 68054, at *9; *Page*, 15 F. Supp. 3d at 665. In *Bethune-Hill*, the court explained the unique nature of redistricting cases by noting that they are "extraordinary" and that "the natural corrective mechanisms built into our republican system of

government offer little check upon the very real threat of "legislative self-entrenchment." *Bethune-Hill*, 2015 U.S. Dist. LEXIS 68054 at *9. Likewise, in *Page*, the court found that privilege should yield because of the *sui generis* nature of the redistricting at issue in that case. *See id.* at 665. The court there specifically held that the "significant difference [of redistricting cases] prompted the [*Marylanders*] court to require a flexible approach to resolving discovery objections based on legislative privilege." *Id.* Ultimately, based on the unique nature of redistricting cases, the *Bethune-Hill*, *Page*, and *Marylanders* courts held that a flexible, qualified privilege analysis was required with regard to legislative privilege.

Such a willingness to recognize that legislative privilege must yield at times is not limited to this circuit, nor just to redistricting cases. *See, e.g., Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections*, Case No. 11-cv-5065, 2011 U.S. Dist. LEXIS 117656, at *10 (N.D. Ill. Oct. 12, 2011) (redistricting); *Baldus v. Members of Wis. Gov't Accountability Bd.*, Case No. 11-cv-562, 2011 U.S. Dist. LEXIS 142338, at *5-9 (E.D. Wis. Dec. 8, 2011) (redistricting); *Favors v. Cuomo*, 285 F.R.D. 187, 213-14 (E.D.N.Y. Aug. 10, 2012) (redistricting); *see also, Nashville Student Organizing Comm. v. Hargett*, No. 3:15-cv-210, 123 F. Supp. 3d 967, 971 (M.D. Tenn. Aug. 12, 2015) (challenge to voter ID law). Furthermore, in at least three recent instances, federal courts have ordered state legislators to sit for depositions in voting rights matters. *Perez v. Perry*, Case No. 5:11-cv-360, ECF No. 102 (W.D. Tex. Aug. 1, 2011); *Perez v. Perry*, 2014 U.S. Dist. LEXIS 1838 (W.D. Tex. Jan. 8, 2014)**;** *Nashville Student Organizing Comm.*, 123 F. Supp. 3d at 971-72.

A three-judge panel in a 2011 Texas redistricting case rejected legislative privilege claims there, noting that "any sort of blanket protective order that would insulate witnesses from testifying would be inappropriate." *Perez*, Case No. 5:11-cv-360, ECF No. 102 , at *5. Importantly, that court noted that "[e]ven if the deponent is entitled to invoke the privilege, the application of the privilege depends on the question being posed." *Id.* The court went on to explain: "the deponents must appear and testify even if it appears likely that the privilege may be invoked in response to certain questions. The deponents may invoke the privilege in response to particular questions, but the deponent must then answer the question subject to the privilege. Those portions of the deposition transcript may then be sealed and submitted to the Court for in camera review, along with a motion to compel, if the party taking the deposition wishes to use the testimony in these proceedings." *Id.* at 5-6. That same panel again ordered legislators to sit for deposition in a later phase of that case, after the challenged plans had been amended by the legislature. *Perez*, 2014 U.S. Dist. LEXIS 1838, at *19-20.

Finally, in a recent voting rights challenge to a state voter ID law, a court in the Middle District of Tennessee refused to quash a deposition subpoena served on a state legislator despite claims of legislative privilege. *Nashville Student Organizing Comm. v. Hargett*, 123 F. Supp. 3d 967, 971 (M.D. Tenn. Aug. 12, 2015). Applying the five-part balancing test, the *Nashville* court found that "permitting a refusal to testify or excluding relevant evidence" would not result in "a public good transcending the normally predominant principle of utilizing all rational means for ascertaining truth." *Id.* at 970 (internal citations omitted). Rather, the court found that voting rights cases in particular

"implicate . . . the potential that a majority political party has attempted to entrench its own political power by limiting the ability of certain voters to influence . . . the election process," and permitting the plaintiffs to take legislators' depositions "creates a more thorough record for the court to evaluate." *Id.* at 971. Accordingly, the court required legislators to attend the depositions and answer the questions posed by the plaintiffs' attorneys, ordering that the transcripts be filed under seal for *in camera* review as to what testimony should be deemed admissible. *Id.*

In light of the substantial number of cases where federal courts have allowed the legislative privilege to yield to the public interest benefit of an unimpeded inquiry into legislative intent, Individual Plaintiffs now turn to their showing on each of the elements of the applicable five-factor test.

### A. The Relevance of the Evidence and Seriousness of the Issues Being Litigated

With regard to two of the five factors, Plaintiffs can readily make a very strong showing. In order to succeed on their "one person, one vote" Fourteenth Amendment claim, Individual Plaintiffs must demonstrate that it is "more probable than not that [the] deviation of less than 10% reflect[ed] the predominance of illegitimate reapportionment factors." *Raleigh Wake Citizens Ass'n v. Wake County Bd. of Elections*, Case No. No. 16-1270 (L), 2016 U.S. App. LEXIS 12136, at *10 (hereinafter, "*RWCA*") (quoting *Harris v. Ariz. Indep. Redistricting Comm'n*, 136 S. Ct. 1301, 1307 (July 1, 2016)). In order to succeed on their racial gerrymandering claim, Individual Plaintiffs must demonstrate that race predominated in the way that District 2 lines were drawn. *Ala.*

*Legislative Black Caucus v. Alabama*, 135 S. Ct. 1257, 1267 (2015). Individual Plaintiffs seek to depose Sen. Wade on topics directly relevant to the showing they must make in order to establish constitutional violations, including whether illegitimate reapportionment factors played a predominant role in the deviations among city council districts. Such illegitimate reapportionment factors could include partisan favorship an attempt to double-bunk African-American or Democratic council incumbents.

The seriousness of the issue at stake here cannot seriously be disputed. As the Fourth Circuit just recently held:

> The right to vote is fundamental, and once that right is granted to the electorate, lines may not be drawn which are inconsistent wit the Equal Protection Clause of the Fourteenth Amendment. Indeed, allowing, through unequal apportionment amongst districts, a vote to be worth more in one district than in another would run county to our fundamental ideas of democratic government.

*RWCA*, at *9. Likewise, the unjustified drawing of district lines on the basis of race is serious and not to be tolerated: "A reapportionment plan that includes in one district individuals who belong to the same race, but…who may have little in common with one another but the color of their skin, bears an uncomfortable resemblance to political apartheid." *Shaw v. Reno*, 509 U.S. 630, 647 (1993). Thus, the relevance of the evidence sought and the seriousness of the issues at stake weigh heavily in favor of enforcement of the subpoena.

### B. The Availability of Other Evidence

Because the legislative sponsors of Session Law 2015-138 are not proper subjects of Individual Plaintiffs' lawsuit, *Wright v. North Carolina*, 787 F.3d 256, 263 (4th Cir. N.C. 2015), and have not intervened to defend the law they enacted, Individual Plaintiffs have no recourse short of deposing Sen. Wade to ascertain facts and information relevant to the constitutional questions at issue here.[2]

One of the more common means of accessing information about legislative motive is essentially uninformative in the instant case. The Fourth Circuit relied upon *Arlington Heights* in stating that one method of proving discriminatory intent in Equal Protection cases is by using "contemporary statements by decisionmakers on the record or in minutes of their meetings." *Sylvia Dev. Corp. v. Calvert Cnty.*, 48 F.3d 810, 819 (4th Cir. 1995). However the legislative process here was extremely truncated, with little, and sometimes no, debate or explanation about the legislative motivations, particularly in reference to the deviations or the construction of District 2. Thus, Individual Plaintiffs cannot avail themselves of such evidence.

Finally, production of some third-party emails is not an adequate substitute for deposing Senator Wade. Many of the emails that were produced were simply forwarded documents, including no email text in explanation. *See* Ex. D (a few examples of Sen. Wade emails that were simply forwarded material with no explanation). This strongly suggests that other communication, via phone or in-person conversation, provided the

[2] Indeed, claims of legislative immunity and privilege by the members of the General Assembly have limited discovery in other similar cases as well. *See, e.g.*, *RWCA*, 2016 U.S. App. LEXIS 12136, at *7, 22.

context for the emails. Those oral communications are no more privileged than the email communications, and without a deposition, Individual Plaintiffs will not be able to fully understand the potential influence that these non-privileged third-party communications had on the legislative process.

### C. The Government's Role in the Litigation

Movant's role in this litigation—as the primary proponent of legislation to restructure the Greensboro city council—weighs heavily in favor of any applicable legislative privilege yielding. Senator Wade had a direct role in the sponsorship and passage of this unconstitutional mid-decade redistricting scheme. She and other members of the General Assembly, through its members, aides and consultants, was primarily responsible for drafting and revising the 2015 challenged plan, and it is these actions that are under scrutiny in this litigation. "[T]he decisionmaking process . . . [itself] *is* the case," *Comm. for a Fair & Balanced Map*, 2011 U.S. Dist. LEXIS 117656, at *28-29.

### D. The Information Requested Will Not Cause Future Timidity among Government Employees

Concerns that allowing the subpoena to stand might inhibit legislative deliberations during future legislative activity should weigh less heavily in favor of the privilege in voting rights cases because the intent behind passing the challenged legislation plays a different role than, for example, a civil suit seeking the legislative intent in a statutory construction case. *See Baldus*, 2011 U.S. Dist. LEXIS 142338, at *2. Moreover, policy concerns here weigh in favor of the privilege yielding in voting rights

cases. Unlike legislative privilege that "encourages the republican values it promotes" as described by the Fourth Circuit, *see EEOC*, 631 F.3d at 181, allowing legislators to completely obscure judicial inquiry in cases like this one would insulate legislators' exclusion of citizens from the democratic process.

Additionally, many of the questions that will be posed to Sen. Wade during deposition will not have anything to do with privileged deliberations or motivations, or, even more significantly, will involve areas in which the legislative privilege has been waived, such as in communications with third-parties. Thus, where the privilege does not exist, or where it has been waived, there can be no deterrent effect from allowing the deposition to proceed.

Finally, the court can require *in-camera* review before admitting the information into evidence or otherwise allowing disclosure. Just as in *Perez* and *Nashville*, this Court should allow the deposition to proceed under seal, and once the questions posed have been answered, then, with a full picture of whether the benefits of disclosure outweigh the privilege, make a ruling on whether or not to exclude the allegedly privileged information.

## III. This Is That Unique Situation Where a Legislator Should Be Forced to Sit for a Deposition

It is clear that that under federal law, the common law privilege that may at times be asserted by members of state legislatures or any other legislative body does not preclude those legislators from being deposed, particularly in voting rights cases or in cases where discriminatory intent is alleged. *Arlington Heights*, 429 U.S. at 268.

Certainly the fact that the right of Individual Plaintiffs to vote on an equal basis with other Greensboro residents alone warrants the enforcement of the deposition subpoena. But beyond that, the indicia of something awry in the legislative process also strongly weighs in favor of the subpoena.

In particular, three facts raise the spectre of improper legislative activity, and warrant further judicial inquiry: (1) on July 2, 2015, the House voted down the modified H.B. 263, and only after going into a closed-door caucus meeting did enough Republican legislators change their vote in order to secure passage of the bill; (2) the conference committee had in front of it a redistricting plan that paired fewer African-American incumbents, but instead favorably reported out a plan that paired every African-American incumbent on the city council; and (3) the conference committee report changed from what was discussed in committee to what was presented to the House. Each of these facts suggests that illegitimate factors may have been at play in the enactment of H.B. 263, and this is certainly a case in which this Court would be amply justified in ordering a legislator to be deposed.

Finally, the legislative session has ended for the year, so a common concern that legislative privilege is necessary in civil action discovery so that legislators will not have to "divert their time, energy, and attention from their legislative tasks," *Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 503 (1975), is not present here. Individual Plaintiffs would depose Sen. Wade at a time where she would not be diverted from her legislative duties in Raleigh.

## IV. State Law Does Not Prohibit the Deposition

Movant also relies on N.C. Gen. Stat. § 120-9 to argue that she is categorically exempt from having to sit for deposition. North Carolina, like most states, has a state corollary to the Federal Debate and Speech Clause, which states that: "The members shall have freedom of speech and debate in the General Assembly, and shall not be liable to impeachment or question, in any court or place out of the General Assembly, for words therein spoken." N.C.G.S. §120-9. To date, no North Carolina court has interpreted N.C.G.S. §120-9. However, legal commentators have noted that in most of the states that have interpreted analogous state constitutional or state law speech and debate clauses, those states have "narrowed their legislative privilege to deny state legislators protections that members of Congress would receive under the federal Speech or Debate Clause. Steven F. Huefner, *The Neglected Value of the Legislative Privilege in State Legislatures*, 45 WM. & MARY L. REV. 221, 225, 229 (2003).

Specifically, Ohio, Michigan and New York all have constitutional provisions that closely track the language in N.C.G.S. § 120-9,[3] and state courts in those states have not read those provisions to completely preclude testimonial evidence such as that sought here. An Ohio appellate court required state legislators to respond to interrogatories seeking to identify private individuals with whom the legislators had discussed legislation being challenged. *City of Dublin v. State*, 742 N.E.2d 232, 232-33 (Ohio Ct. App. 2000). Likewise, the Ohio Supreme Court later upheld a trial court's refusal to quash deposition subpoenas for legislative staff. *DeRolph v. State*, 747 N.E.2d 823 (Ohio 2001). In

[3] Ohio Const. art. II, § 12; Mich. Const. art. IV, § 10; N.Y. Const. art. III, § 11.

Michigan, an appeals court similarly did not read the state constitutional Speech and Debate Clause to bar the deposition of legislative staff. *Mich. Educ. Special Servs. Ass'n v. Ins. Comm'r,* 542 N.W.2d 354 (Mich. Ct. App. 1995), *dismissed as moot*, 550 N.W.2d 536 (Mich. 1996). Finally, in New York, numerous courts have refused to quash deposition subpoenas to state legislators, even with the language of the state constitution seemingly prohibiting the questioning of them, holding that the Speech and Debate Clause "is confined to freedom from suit," and that the separation of powers is "more likely to be fostered than to be hurt by compelling the testimony." *Lincoln Bldg. Assocs. v. Barr*, 147 N.Y.S.2d 178, 182 (Mun. Ct. 1995); *see also Abrams v. Richmond County S.P.C.C.*, 479 N.Y.S.2d 624 (Sup. Ct. 1984); 96 N.Y. Jur. 2d State of New York § 120 (Aug. 2003 update) (stating that despite the state constitutional Speech and Debate Clause, "a legislator may be ordered to testify in litigation to which he or she is not a party."). Thus, looking to other states' interpretations of analogous state law Speech and Debate Clauses, this Court should reject Movant's claims that she is relieved from complying with the subpoena by N.C.G.S. §120-9.

## CONCLUSION

If it would assist the Court in its decisionmaking process, Individual Plaintiffs respectfully request a joint hearing on this Motion and on Individual Plaintiffs' Motion to Compel. For all of the foregoing reasons, Individual Plaintiffs further respectfully request that the Court deny Sen. Wade's motion to quash and order her to appear for deposition.

Respectfully submitted this 5th day of July, 2016.

*/s/ Allison J. Riggs*
Allison J. Riggs
N.C. State Bar No. 40028
allison@southerncoalition.org
Anita S. Earls
N.C. State Bar No. 15597
anita@southerncoalition.org

SOUTHERN COALITION
FOR SOCIAL JUSTICE
1415 W. Highway 54, Suite 101
Durham, NC 27707
Telephone: 919-323-3380

*Counsel for Individual Plaintiffs*

## CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2016, I served the foregoing **Individual Plaintiffs' Response in Opposition to Trudy Wade's Motion to Quash** with the Clerk of Court using the CM/ECF system in case No. 1:15-cv-559, which on the same day sent notification of the filing to the following:

Mark Payne, County Attorney
GUILFORD COUNTY
ATTORNEY'S OFFICE
P.O. Box 3427
Greensboro, NC 27402
mpayne@co.guilford.nc.us

*Counsel for Defendant*

Benton G. Sawrey
NARRON, O'HALE
& WHITTINGTON PA
P.O. Box 1567
Smithfield, NC 27577
bsawrey@nowlaw.com

*Counsel for Defendant-Intervenors*

Jim W. Phillips, Jr.
jphillips@brookspierce.com
Julia C. Ambrose
jambrose@brookspierce.com
D. Bryan Starrett, Jr.
bstarrett@brookspierce.com
BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD LLP
P.O. Box 26000
Greensboro, NC 27420-6000

*Counsel for Plaintiff City of Greensboro*

Respectfully submitted,

*/s/ Allison J. Riggs*
Allison J. Riggs

*Counsel for Individual Plaintiffs*

# Exhibit A

NORTH CAROLINA GENERAL ASSEMBLY

SENATE REDISTRICTING COMMITTEE

HOUSE BILL 263

JUNE 10, 2015

Transcribed by:

Denise Myers Byrd, CSR 8340

Discovery Court Reporters and

Legal Videographers, LLC

4208 Six Forks Road

Suite 1000

Raleigh, North Carolina 27614

(919) 424-8242

denise@discoverydepo.com

CHAIRMAN RUSSO: Senator Brock makes a motion that we accept for discussion the PCS for Senate Bill 263.

All in favor, please say "Aye." I'm sorry. Correction. House Bill 263.

All in favor -- any questions or discussion?

Seeing none, all in favor, please say "Aye."

SENATORS: Aye.

CHAIRMAN RUSSO: In opposition, "Nay."

SENATORS: Nay.

CHAIRMAN RUSSO: The ayes have it. Thank you.

Okay. First part we're going to talk about is -- since we've spent a good bit of time on the Greensboro issue, we're going to talk about the issue and we're going to have Representative Hurley dealing -- excuse me -- Representative Hurley dealing with the City of Trinity terms of elections.

Will you come forward.

REPRESENTATIVE HURLEY: Thank you, Mr. Chair and Committee. I'm not in Kansas any more. I'm in the Senate. It's different over

here, and thank you for having me this morning.

My bill is a bill about the City of Trinity. And I lived in the Archdale/Trinity area for about 28 years, and I have been to many of the Trinity City Council meetings.

I did this bill because of the concern of many, many people who call me and ask me if there was anything they could do to change things in Trinity. And I called the School of Government to see what could be done. And without petitions or without going directly and they didn't want to be known, there's not much an individual can do to change it. So the only thing I could do was to try to make a difference in, maybe, the number in Trinity in their city council.

They had eight council members plus the mayor, which is nine. They only have 6500 members -- citizens in Trinity. And Ashboro, which is a city -- the county seat, there's over 25,000 people and it has only -- has only seven plus the -- seven plus the mayor. So they even have less than Trinity has. Also, Archdale has around 12,000 people and they have seven plus the mayor. The other seats --

municipalities all have five plus one.

So what I'm wanting to do is reduce it to one member per ward instead of two members per ward and then one at-large along with the mayor.

And it's not changing any redistricting. It's already in a ward system. And they started -- this city became a city again in 1997. It used to be a city when Trinity College was there which became Duke University, and then after they left, then it was not a city again, but it is a city now.

They have lost their only bank because of no growth. The census.gov says that Trinity was at zero change from 2000 to 2010. And Archdale grew by 27 percent. Ashboro grew by 16 percent. High Point grew by 22 percent, and Thomasville, which surrounds this, grew by 35 percent.

They turned down a park that they had a grant already approved for, they turned it down, for $500,000, which they had the 500,000 saved, which was a matching grant.

When this committee came in, when this group, council, came in, although it had been

approved by the previous council, they and the people voted again to have the park. They still turned it down. They have not done their Powell funds. They have about -- or they did have about a million dollars in Powell funds that they froze.

And there was an African American lady, who I sat with beside one night at their council meeting, and she said her road was muddy all the time going in and out when it rained. And so I called -- I told her to call me if the city didn't do anything, and she did.

And I had the DOT representative go out there, and he said she was -- she could have the Powell funds, she was eligible for those for her street. They still have not done anything and that has been over a year.

I don't know how much you want to know. I'll be glad to answer --

CHAIRMAN RUSSO: Representative Hurley, I think you've explained it well.

Members of the committee, any questions on this portion of the bill?

(Speaker out of microphone range.)

CHAIRMAN RUSSO: Okay. I'm sorry.

Senator Smith.

SENATOR SMITH: Thank you, Mr. Chairman.

Is there opposition to this bill other than from the council people?

REPRESENTATIVE HURLEY: Just the four council people, I think. There are a few others who are friends or ones who call me. Most people are for it because they do think it does need to be reduced to be in line with the rest of the county.

CHAIRMAN RUSSO: Okay. Any additional questions on this portion?

All right. Would you remain aside and we'll -- just in case we have some additional questions, Representative Hurley.

Senator Apodaca, you have an amendment?

SENATOR APODACA: Yes, sir. I'll send it forward.

CHAIRMAN RUSSO: Okay. We've got it before us here. We'll ask -- it's really a change of the general statutes number.

Ms. Churchill, would you explain what this amendment actually does.

MS. CHURCHILL: On Page 2, Line 5 of

the PCS, the incorrect citation is given. The statutes are corollary for county and city. Unfortunately, in the PCS, the citation was to the county statute, not the city statute.

The amendment would change it to read G.S. 160A-23 instead of 153A-22. And the statute itself is the one that requires each county and city to revisit their districts following the return of a federal decennial census.

CHAIRMAN RUSSO: All right. Just to be clear, what this means, changing the citation that is on Page 2, Line 5, it states 153A-22. That was a wrong citation. And we're changing it to just a technical correction to General Statute 160A-23.

Does everybody understand what that simple technical change is?

(Speaker out of microphone range.)

CHAIRMAN RUSSO: 160A, as in apple, 23.

Okay. All right. The motion is before you. Any questions?

All in favor, please say "Aye."

SENATORS: Aye.

CHAIRMAN RUSSO: Opposed "Nay."

The ayes have it.

All right. So what we have before us is amended of House Bill 263 PCS.

Senator Wade, would you come before us and explain the changes that you've made in the -- in the bill that was originally proposed and discussed twice, I think, in this committee and also on the floor of the senate dealing with Greensboro.

SENATOR WADE: Thank you, Mr. Chairman.

Actually, there's been three changes made to the bill that you passed before in here and then on the floor of the senate.

The first change was basically technical which was a technical correction. The mayor, who is going to only vote when there's a tie, the bill originally made that effective as soon as the bill passed. Obviously, it didn't need to take effect until the next election and the new council was seated. And we do do that correction in this PCS.

The other thing is that after the 2020 census is made, then this bill can be altered -- hopefully this law by then can be

altered and change the way the districts are set up by the city council. It just goes until the 2020 census has been turned in.

And the only other change is the filing date. Since it's taken so long for this bill, the filing date has actually been pushed back to open at 12 noon on July 27, 2015, and close at 12 noon on August 7, 2015, just to give a little extra time for filing.

CHAIRMAN RUSSO: Okay.

SENATOR WADE: That's the only changes, Mr. Chairman.

CHAIRMAN RUSSO: Ms. Churchill, do you have any other comments?

MS. CHURCHILL: Just one clarification. The change in the filing period applies to Trinity and Greensboro, so they both will have a little bit of a delayed filing period, but they would still have a two-week filing period.

CHAIRMAN RUSSO: In sufficient time to conduct their elections, correct? Okay.

All right. Members of the committee, you have the PCS before you as is amended. Are there any questions or comments?

Seeing none, I've got motion from

Senator Apodaca for a favorable report of House Bill 263 PCS as amended and unfavorable to the original bill --

SENATOR INGRAM: Mr. Chair.

CHAIRMAN RUSSO: -- and rolled into -- and rolled into a new PCS.

All right. You have the motion before you for favorable report.

Question.

SENATOR INGRAM: I have a question before we do that motion, if that's okay, Mr. Chair.

CHAIRMAN RUSSO: You have a question, Senator Ingram.

SENATOR INGRAM: Yes. Thank you for bringing this back. We've had several discussions about it so you know where I stand.

I just have a question if you would be amenable to last page, Section 3, line 25, if we could change that to December 2016 and Lines 28 and 29 commensurate with that.

Would you support an amendment?

SENATOR WADE: No, ma'am, I would be against the amendment.

CHAIRMAN RUSSO: Senator Wade, you

responded to the question?

SENATOR WADE: I did. I was against the amendment.

CHAIRMAN RUSSO: Okay. So the bill sponsor is against the amendment.

All right. Any -- do you have a question, Senator Smith? No. Okay.

And let's do this, I will -- how many -- I know Senator Robinson is not a member of the committee, but it's your district, I understand, so take a couple minutes to explain your concerns.

SENATOR ROBINSON: Thank you, Mr. Chair.

And first, you probably know what my concerns are, but the other areas that we only saw early this morning, I realize that the original bill is in the House waiting to be heard. So my question would be why Senator Wade has first added this to the Trinity Bill 263 since it's in I believe House Elections right now.

CHAIRMAN RUSSO: Senator Wade, would you respond to her question.

SENATOR WADE: Yes, Mr. Chairman.

I think this improves the bill, and I wanted to be able to make those corrections and improve it, make it a better bill, and that's why we're running it as a PCS.

SENATOR INGRAM: Follow-up, Mr. Chair.

CHAIRMAN RUSSO: Follow-up.

SENATOR INGRAM: Could that not be done in the House when it comes to Elections, Senator Wade?

CHAIRMAN RUSSO: The bill is before us here. Let's stay on the subject of this bill, please.

SENATOR INGRAM: Okay. Well, the other thing too is, Senator Wade, since you're aware that this has strong opposition from the entire community, with thousands of signatures recently published in the paper, if you're representing the citizens of Greensboro, why are you moving forward with this?

CHAIRMAN RUSSO: Senator Wade, please respond.

SENATOR WADE: Mr. Chairman, I think we've had this discussion, but I'll be glad to discuss the three changes in that respect.

There are certainly things that have

been brought up, and I was correcting them in this PCS. And certainly there was a poll done in the area and more people wanted it than were against it, and I think that was published in Weekly paper. That would be my only comment.

CHAIRMAN RUSSO: Okay.

SENATOR INGRAM: Final comment, Mr. Chair, not a question.

CHAIRMAN RUSSO: Yes, ma'am. Comment.

SENATOR INGRAM: For the record, that was a small paper. The larger papers as well as signatures across the entire Greensboro community have strongly opposed this and have asked that it be removed and I think is just an affront to the citizens of our community with this continued move forward. Plus our delegation knows nothing, did not know that this was being entertained today.

CHAIRMAN RUSSO: Thank you, Senator Robinson.

All right. Members of the committee, any additional questions or comments?

Seeing none, Senator Apodaca made a motion, and I'll repeat it. Motion for favorable report on House Bill 263 PCS as

amended, unfavorable to the original bill, and this will be rolled into a new PCS.

All right. All in favor, please say "Aye."

SENATORS: Aye.

CHAIRMAN RUSSO: All opposed, "Nay."

SENATORS: Nay.

CHAIRMAN RUSSO: The ayes have it.

This bill will be sent forward. Thank you.

--o0o--

STATE OF NORTH CAROLINA )
) C E R T I F I C A T E
COUNTY OF WAKE )

I, DENISE MYERS BYRD, Court Reporter and Notary Public, do hereby certify that the transcription of the foregoing proceeding was taken down by me to the best of my ability and thereafter transcribed under my supervision; and that the foregoing pages, inclusive, constitute a true and accurate transcription of said proceeding.

Signed this the 28th day of May 2016.

/s/ Denise Myers Byrd /s/
Denise Myers Byrd
CSR 8340, RPR, CLR 102409-02

**A**

**ability** 15:10
**able** 12:2
**accept** 2:2
**accurate** 15:13
**added** 11:20
**additional** 6:12 6:15 13:22
**affront** 13:15
**African** 5:7
**altered** 8:25 9:1
**amenable** 10:19
**amended** 8:3 9:23 10:2 14:1
**amendment** 6:17,24 7:5 10:22,24 11:3 11:5
**American** 5:7
**answer** 5:19
**Apodaca** 6:17 6:18 10:1 13:23
**apple** 7:20
**applies** 9:16
**approved** 4:21 5:1
**Archdale** 3:24 4:16
**Archdale/Trin...** 3:3
**area** 3:4 13:3
**areas** 11:16
**Ashboro** 3:19 4:16
**aside** 6:14
**asked** 13:14
**ASSEMBLY** 1:4
**at-large** 4:4
**August** 9:8
**aware** 12:14
**Aye** 2:4,9,10 7:23,24 14:4,5
**ayes** 2:13 8:1 14:8

**B**

**back** 9:6 10:16
**bank** 4:13
**basically** 8:14
**believe** 11:21
**best** 15:10
**better** 12:3
**bill** 1:6 2:3,5 3:2 3:2,6 5:23 6:4 8:3,6,12,17,18 8:24 9:5 10:2,3 11:4,18,21 12:1,3,10,11 13:25 14:1,9
**bit** 2:16 9:18
**bringing** 10:16
**Brock** 2:1
**brought** 13:1
**Byrd** 1:21 15:7 15:19,19

**C**

**C** 15:3,3
**call** 3:7 5:11 6:8
**called** 3:9 5:11
**Carolina** 1:4,23 15:3
**case** 6:15
**census** 7:10 8:24 9:3
**census.gov** 4:14
**certainly** 12:25 13:2
**certify** 15:8
**Chair** 2:24 10:4 10:12 11:14 12:5 13:8
**Chairman** 2:1 2:11,13 5:20 5:25 6:3,12,20 7:11,20,25 8:10 9:10,12 9:13,20 10:5 10:13,25 11:4 11:23,25 12:6 12:10,20,22 13:6,9,19 14:6 14:8
**change** 3:8,13 4:15 6:22 7:5 7:18 8:14 9:1,4 9:16 10:20
**changes** 8:5,11 9:11 12:24
**changing** 4:6 7:12,14
**Churchill** 6:23 6:25 9:13,15
**citation** 7:1,3,12 7:14
**citizens** 3:19 12:18 13:15
**city** 2:20 3:2,5 3:16,20 4:8,8,9 4:12,12 5:12 7:2,4,8 9:2
**clarification** 9:15
**clear** 7:12
**close** 9:7
**CLR** 15:20
**College** 4:10
**come** 2:22 8:4
**comes** 12:8
**commensurate** 10:21
**comment** 13:5,7 13:9
**comments** 9:14 9:24 13:22
**committee** 1:5 2:24 4:24 5:22 8:7 9:22 11:10 13:21
**community** 12:16 13:13,15
**concern** 3:6
**concerns** 11:12 11:16
**conduct** 9:21
**constitute** 15:13
**continued** 13:16
**corollary** 7:2
**correct** 9:21
**correcting** 13:1
**correction** 2:5 7:15 8:15,21
**corrections** 12:2
**council** 3:5,16 3:17 4:25 5:1,9 6:5,7 8:20 9:2
**county** 3:20 6:11 7:2,4,8 15:4
**couple** 11:11
**Court** 1:21 15:7
**CSR** 1:21 15:20

**D**

**date** 9:5,6
**day** 15:15
**dealing** 2:19,20 8:8
**December** 10:20
**decennial** 7:9
**delayed** 9:18
**delegation** 13:17
**Denise** 1:21 15:7 15:19,19
**denise@disco...** 1:24
**difference** 3:15
**different** 2:25
**directly** 3:11
**Discovery** 1:21
**discuss** 12:24
**discussed** 8:7
**discussion** 2:2,7 12:23
**discussions** 10:17
**district** 11:10
**districts** 7:8 9:1
**dollars** 5:5
**DOT** 5:13
**Duke** 4:10

**E**

**E** 15:3,3
**early** 11:17
**effect** 8:19
**effective** 8:18
**eight** 3:17
**election** 8:20
**elections** 2:21 9:21 11:22 12:8
**eligible** 5:15
**entertained** 13:18
**entire** 12:15 13:12
**everybody** 7:17
**excuse** 2:19
**explain** 6:23 8:5 11:11
**explained** 5:21
**extra** 9:9

**F**

**F** 15:3
**favor** 2:4,6,8 7:23 14:3
**favorable** 10:1,8 13:25
**federal** 7:9
**filing** 9:4,6,9,16 9:18,19
**Final** 13:7
**first** 2:15 8:14 11:15,20
**five** 4:1
**floor** 8:8,13
**Follow-up** 12:5 12:6
**following** 7:9
**foregoing** 15:9 15:12
**Forks** 1:22
**forward** 2:22 6:19 12:19 13:16 14:9
**four** 6:6
**friends** 6:8
**froze** 5:6
**funds** 5:4,5,15

**G**

**G.S** 7:6
**general** 1:4 6:22 7:15
**give** 9:8
**given** 7:1
**glad** 5:19 12:23
**go** 5:13
**goes** 9:2
**going** 2:15,17,18 3:11 5:10 8:16
**good** 2:16
**Government** 3:10
**grant** 4:21,23
**Greensboro** 2:17 8:9 9:17

12:18 13:12
**grew** 4:16,16,17 4:18
**group** 4:25
**growth** 4:14

**H**

**heard** 11:19
**High** 4:17
**hopefully** 8:25
**House** 1:6 2:5 8:3 10:1 11:18 11:21 12:8 13:25
**Hurley** 2:19,20 2:23 5:20 6:6 6:16

**I**

**improve** 12:3
**improves** 12:1
**inclusive** 15:12
**incorrect** 7:1
**individual** 3:13
**Ingram** 10:4,10 10:14,15 12:5 12:7,13 13:7 13:10
**issue** 2:17,18

**J**

**July** 9:7
**JUNE** 1:7

**K**

**Kansas** 2:24
**know** 5:18,18 10:17 11:9,15 13:17
**known** 3:12
**knows** 13:17

**L**

**lady** 5:7
**larger** 13:11
**law** 8:25
**left** 4:11
**Legal** 1:22
**let's** 11:8 12:11
**line** 6:10,25 7:13 10:19
**Lines** 10:20
**little** 9:9,18
**lived** 3:3
**LLC** 1:22
**long** 9:5
**lost** 4:13

**M**

**ma'am** 10:23 13:9
**matching** 4:23
**mayor** 3:18,22 3:25 4:5 8:16
**means** 7:12
**meeting** 5:9
**meetings** 3:5
**member** 4:3 11:9
**members** 3:17 3:19 4:3 5:22 9:22 13:21
**microphone** 5:24 7:19
**million** 5:5
**minutes** 11:11
**morning** 3:1 11:17
**motion** 2:2 7:21 9:25 10:7,11 13:24,24
**move** 13:16
**moving** 12:19
**muddy** 5:10
**municipalities** 4:1
**Myers** 1:21 15:7 15:19,19

**N**

**Nay** 2:11,12 7:25 14:6,7
**need** 6:10 8:19
**new** 8:20 10:6 14:2
**night** 5:8
**nine** 3:18
**noon** 9:7,8
**North** 1:4,23 15:3
**Notary** 15:8
**number** 3:15 6:22

**O**

**o0o--** 14:11
**Obviously** 8:19
**okay** 2:15 5:25 6:12,20 7:21 9:10,21 10:11 11:4,7 12:13 13:6
**ones** 6:8
**open** 9:7
**opposed** 7:25 13:13 14:6
**opposition** 2:11 6:4 12:15
**original** 10:3 11:18 14:1
**originally** 8:6,17

**P**

**page** 6:25 7:13 10:19
**pages** 15:12
**paper** 12:17 13:5,11
**papers** 13:11
**park** 4:20 5:2
**part** 2:15
**passed** 8:12,18
**PCS** 2:2 7:1,3 8:3,22 9:23 10:2,6 12:4 13:2,25 14:2
**people** 3:7,21,24 5:2 6:5,7,9 13:3
**percent** 4:16,17 4:17,19
**period** 9:16,18 9:19
**petitions** 3:11
**please** 2:4,8 7:23 12:12,20 14:3
**plus** 3:17,22,22 3:25 4:1 13:16
**Point** 4:17
**poll** 13:2
**portion** 5:23 6:13
**Powell** 5:4,5,15
**previous** 5:1
**probably** 11:15
**proceeding** 15:9 15:14
**proposed** 8:6
**Public** 15:8
**published** 12:17 13:4
**pushed** 9:6

**Q**

**question** 10:9,10 10:13,18 11:1 11:7,19,24 13:8
**questions** 2:6 5:22 6:13,16 7:22 9:24 13:22

**R**

**R** 15:3
**rained** 5:11
**Raleigh** 1:23
**range** 5:24 7:19
**read** 7:5
**realize** 11:17
**really** 6:21
**record** 13:10
**redistricting** 1:5 4:7
**reduce** 4:2
**reduced** 6:10
**remain** 6:14
**removed** 13:14
**repeat** 13:24
**report** 10:1,8 13:25
**Reporter** 15:7
**Reporters** 1:21
**representative** 2:19,20,23 5:13,20 6:6,16
**representing** 12:18
**requires** 7:7
**respect** 12:24
**respond** 11:24 12:21
**responded** 11:1
**rest** 6:11
**return** 7:9
**revisit** 7:8
**right** 6:14 7:11 7:21 8:2 9:22 10:7 11:6,22 13:21 14:3
**road** 1:22 5:9
**Robinson** 11:9 11:13 13:20
**rolled** 10:5,6 14:2
**RPR** 15:20
**running** 12:4
**RUSSO** 2:1,11 2:13 5:20,25 6:12,20 7:11 7:20,25 9:10 9:13,20 10:5 10:13,25 11:4 11:23 12:6,10 12:20 13:6,9 13:19 14:6,8

**S**

**s/** 15:19,19
**sat** 5:8
**saved** 4:23
**saw** 11:17
**says** 4:14
**School** 3:9
**seat** 3:20
**seated** 8:21
**seats** 3:25
**Section** 10:19
**see** 3:10
**Seeing** 2:8 9:25 13:23
**senate** 1:5 2:3,25 8:8,13
**Senator** 2:1 6:1 6:2,17,18 8:4 8:10 9:11 10:1 10:4,10,14,15 10:23,25 11:2 11:7,9,13,19 11:23,25 12:5 12:7,9,13,14

12:20,22 13:7 13:10,19,23
**SENATORS** 2:10,12 7:24 14:5,7
**send** 6:18
**sent** 14:9
**set** 9:2
**seven** 3:22,22,25
**signatures** 12:16 13:12
**Signed** 15:15
**simple** 7:18
**sir** 6:18
**Six** 1:22
**small** 13:11
**Smith** 6:1,2 11:7
**soon** 8:18
**sorry** 2:5 5:25
**Speaker** 5:24 7:19
**spent** 2:16
**sponsor** 11:5
**stand** 10:17
**started** 4:8
**STATE** 15:3
**states** 7:13
**statute** 7:4,4,7 7:16
**statutes** 6:22 7:2
**stay** 12:11
**street** 5:16
**strong** 12:15
**strongly** 13:13
**subject** 12:11
**sufficient** 9:20
**Suite** 1:23
**supervision** 15:11
**support** 10:22
**surrounds** 4:18
**system** 4:7

**T**

**T** 15:3,3
**take** 8:19 11:11
**taken** 9:5 15:10
**talk** 2:15,18
**technical** 7:15 7:18 8:15,15
**terms** 2:21
**thank** 2:14,23 3:1 6:2 8:10 10:15 11:13 13:19 14:9
**thing** 3:14 8:23 12:14
**things** 3:9 12:25
**think** 5:21 6:7,9 8:7 12:1,22 13:4,14
**Thomasville** 4:18
**thousands** 12:16
**three** 8:11 12:24
**tie** 8:17
**time** 2:17 5:10 9:9,20
**today** 13:18
**told** 5:11
**transcribed** 1:20 15:11
**transcription** 15:9,13
**Trinity** 2:21 3:3 3:5,9,15,19,23 4:10,14 9:17 11:20
**true** 15:13
**try** 3:14
**turned** 4:20,21 5:3 9:3
**twice** 8:7
**two** 4:3
**two-week** 9:19

**U**

**understand** 7:17 11:11
**unfavorable** 10:2 14:1
**Unfortunately** 7:3
**University** 4:11

**V**

**Videographers** 1:22
**vote** 8:16
**voted** 5:2

**W**

**Wade** 8:4,10 9:11 10:23,25 11:2,20,23,25 12:9,14,20,22
**waiting** 11:18
**WAKE** 15:4
**want** 3:12 5:18
**wanted** 12:2 13:3
**wanting** 4:2
**ward** 4:3,4,7
**way** 9:1
**we'll** 6:15,21
**we're** 2:15,17,18 7:14 12:4
**we've** 2:16 6:20 10:16 12:23
**Weekly** 13:5
**wrong** 7:14

**X**

**Y**

**year** 5:17
**years** 3:4

**Z**

**zero** 4:15

**0**

**1**

**10** 1:7
**1000** 1:23
**102409-02** 15:20
**12** 9:7,8
**12,000** 3:24
**153A-22** 7:6,13
**16** 4:17
**160A** 7:20
**160A-23** 7:6,16
**1997** 4:9

**2**

**2** 6:25 7:13
**2000** 4:15
**2010** 4:15
**2015** 1:7 9:7,8
**2016** 10:20 15:15
**2020** 8:23 9:3
**22** 4:17
**23** 7:20
**25** 10:19
**25,000** 3:21
**263** 1:6 2:3,5 8:3 10:2 11:21 13:25
**27** 4:16 9:7
**27614** 1:23
**28** 3:4 10:21
**28th** 15:15
**29** 10:21

**3**

**3** 10:19
**35** 4:19

**4**

**4208** 1:22
**424-8242** 1:24

**5**

**5** 6:25 7:13
**500,000** 4:22,22

**6**

**6500** 3:18

**7**

**7** 9:8

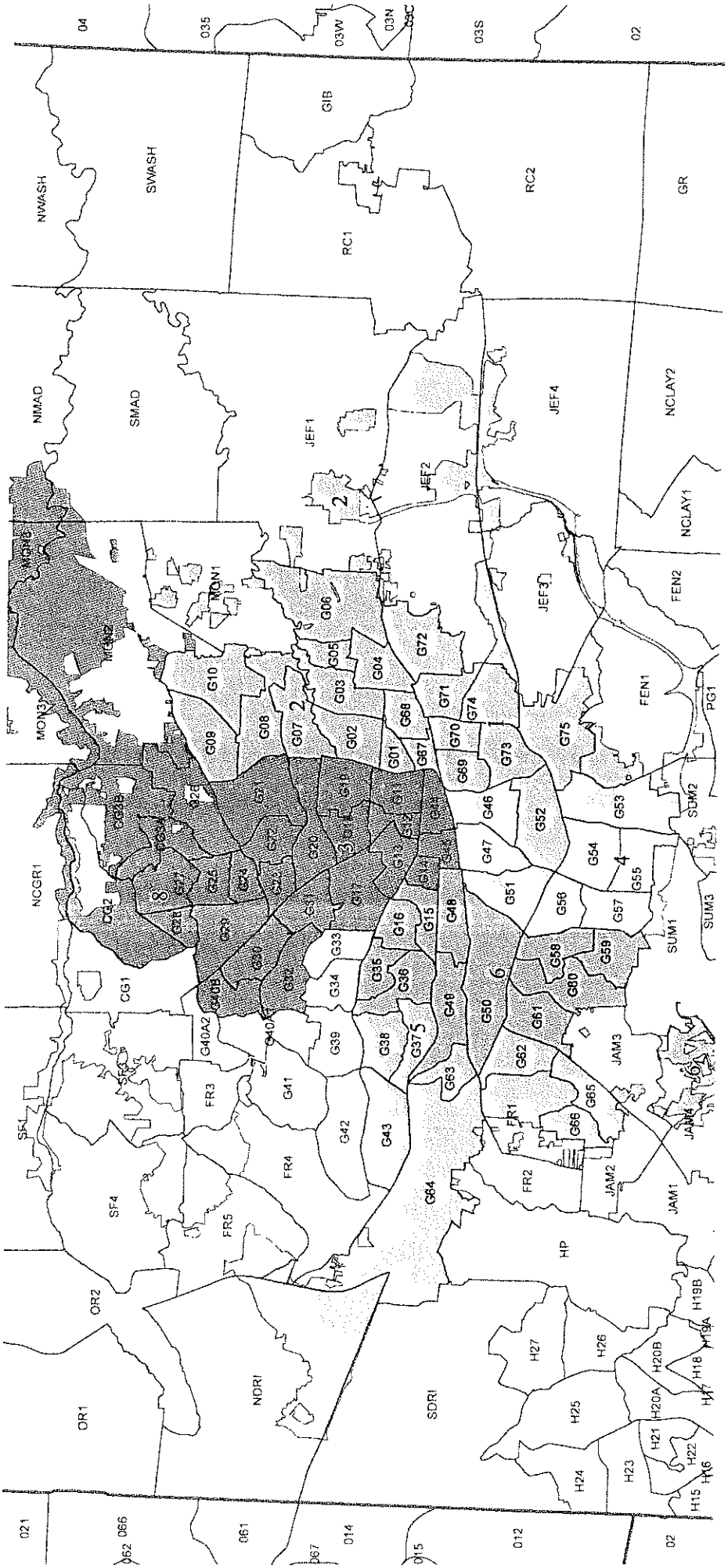
**8**

**8340** 1:21 15:20

**9**

**919** 1:24

# Exhibit B


Harnett Plan
04
035
03W
03N
03S
02
NWASH
SWASH
GIB
RC1
RC2
GR
NMAD
SMAD
JEF1
JEF2
JEF3
JEF4
NCLAY2
NCLAY1
FEN2
FEN1
PG1
MON3
MON2
MON1
G06
G05
G04
G72
G10
G08
G07
G03
G02
G01
G68
G71
G74
G09
G70
G69
G73
G75
G46
G52
G53
SUM2
G47
G54
G55
G51
G56
G57
SUM1
SUM3
NCGR1
G42
G43
G44
G45
G27
G26
G25
G24
G23
G22
G21
G17
G18
G19
G20
G16
G15
G48
G33
G34
G35
G36
G37
G49
G50
G58
G59
G60
G61
CG1
G40A2
G40A
G39
G38
G62
G63
JAM3
JAM4
JAM2
JAM1
SF1
SF4
FR3
FR4
FR5
G41
G42
G43
G64
FR1
FR2
G65
G66
HP
OR2
OR1
NDR1
SDR1
H27
H26
H25
H24
H23
H22
H21
H20B
H20A
H19B
H19A
H18
H17
H16
H15
021
062
066
061
067
014
015
012
02

## Gennie Thurlow (Rep. John M. Blust)

**From:** Rep. Pat Hurley
**Sent:** Thursday, July 30, 2015 01:43 PM
**To:** Rep. John M. Blust
**Subject:** FW: Greensboro 8 districts

Hello, John and John,
Here is the correspondence from June 30th. I did read it later that night and answered both of them. I did not realize what the exception meant. It is not written like it is in the Conference report. I wish I had sent it on to the two of you. My Legislative Assistance, Debbie Holder, will be bringing the packet to your office of how the bill changed in order. It's difficult to e-mail it because of the order.
Thanks.
Pat

---

**From:** Rep. Pat Hurley
**Sent:** Tuesday, June 30, 2015 10:26 PM
**To:** Erika Churchill (Research)
**Subject:** Re: Greensboro 8 districts

Thank you, Erika. I appreciate your assistance on this. I hope all will turn out okay.
Rep. Pat Hurley

Sent from my iPhone

On Jun 30, 2015, at 6:52 PM, Erika Churchill (Research) <Erika.Churchill@ncleg.net> wrote:

> I will get started. The conference report will be ready before session tomorrow. But I cannot guarantee a time that it will be ready as documents have to be prepared and proofed before it can be signed by the conference committee members, and we had no advance warning to keep the individuals involved in proofing after normal business hours to accomplish that task.
>
> Should the effective date remain the same for Greensboro – applicable to the 2015 election cycle?
>
> ---
>
> **From:** Brent Woodcox (Sen. Bob Rucho)
> **Sent:** Tuesday, June 30, 2015 6:34 PM
> **To:** Erika Churchill (Research)
> **Cc:** Sen. Trudy Wade; Rep. Pat Hurley
> **Subject:** RE: Greensboro 8 districts
>
> Erika,
>
> I will send you a new plan with 8 districts for the Greensboro City Council. The conferees to H263 have agreed to sign a conference report that will include the substantive provisions of the bill with this new district plan for Greensboro with one exception. The only change to the substantive provisions should be that the Greensboro City Council will be redistricted by the General Assembly following the return of the 2020 Census. The council can submit a plan for consideration by the General Assembly. The provisions regarding Trinity will remain the same.

The conferees have requested that a conference report be prepared for them to sign tomorrow morning.

Thanks,
Brent

Brent Woodcox
Redistricting Counsel
North Carolina General Assembly
919-733-2284

# Exhibit C

# Report
# of
# Anthony E. Fairfax
# on
# Population Statistics, Political Subdivision Splits, and Partisan Analysis
# of
# Greensboro, NC City Council Plans

Anthony E. Fairfax
CensusChannel LLC
4410 E. Claiborne Square
Suite 334
Hampton, VA 23666
March 25, 2016

# TABLE OF CONTENTS

1. Introduction ..... 4

2. Background & Methodology ..... 5

3. Summary of Key Findings – Population Deviation of the Current and HB263 Plans ..... 7

4. Summary of Key Findings – Political Subdivision (VTD) Splits of the Current and HB263 Plans ..... 7

5. Summary of Key Findings – City Council Incumbents within the Current, Hardister, and HB263 Plans ..... 8

6. Summary of Key Findings – Partisan Analysis of HB263 Plan ..... 14

7. Conclusions ..... 15

## Appendices

Appendix A – Anthony E. Fairfax Redistricting/Mapping Experience

Appendix B – Greensboro, NC City Council District Maps

Appendix C – Population Summary Reports

Appendix D – Political Subdivision Split Reports

Appendix E – Partisan Report on HB263 Plan

# FIGURES

Figure 5-1 – Greensboro, NC Current Plan w/Incumbents..... 9

Figure 5-2 – Greensboro, NC Hardister Plan w/Incumbents..... 9

Figure 5-3 – Greensboro, NC Hardister Plan w/Incumbents by Party ..... 10

Figure 5-4 – Greensboro, NC HB263 Plan w/Incumbents ..... 11

Figure 5-5 – Greensboro, NC HB263 Plan w/Incumbents by Party..... 11

Figure 5-6 – Greensboro, NC HB263 Plan Split VTD G35 w/Incumbents..... 13

Figure 5-7 – Greensboro, NC Current Plan Non-Split VTD G35 w/Incumbents..... 13

# TABLES

Table 3-1 – Overall Population Deviation Comparison (Current and HB263 Plans)..... 7

Table 3-2 – District Population Deviations (Current and HB263 Plans)..... 7

Table 4-1 – VTD (Precinct) Splits per District (Current and HB263 Plans)..... 8

Table 5-1 – Greensboro, NC Hardister Plan - Incumbents by Party ..... 10

Table 5-2 – Greensboro, NC HB263 Plan - Incumbents Data..... 12

Table 5-3 – Greensboro, NC City Council - Incumbents District, Race, and Party ..... 14

Table 6-1 – Greensboro, NC HB263 Plan – 2010 U.S. Senate Election w/Over & Under Population Identifiers..... 15

## 1. Introduction

I have been retained as an expert to provide an analysis of several district plans for the city council of Greensboro, NC, in order to analyze certain characteristics, including population deviation, political subdivision splits, partisan performance, and incumbent effect analysis. Currently, I am a demographic and mapping consultant and President/CEO of CensusChannel LLC. During my consulting tenure, I have developed several hundred plans during the last three redistricting cycles. For last twenty-four years, I have provided consulting services for numerous non-profit and public sector groups centering on redistricting plan development, analysis, and training.

Throughout this recent redistricting cycle, I have provided services and/or training for several notable organizations including: The Advancement Project, Congressional Black Caucus Institute, Louisiana Legislative Black Caucus (LLBC), National NAACP, the Southern Coalition for Social Justice (SCSJ), and the Alabama Democratic Conference (ADC).

In addition, I have testified twice in federal court and provided several depositions as a redistricting expert with a focus on demographic and mapping analysis. Testimony has included reviewing and analyzing Texas congressional and house district plans using traditional redistricting principles with a focus on compactness. The analysis in the Texas case also included providing demographic projections for congressional and legislative house districts. In North Carolina statewide redistricting cases, I have analyzed the compactness and demographics of congressional and state legislative districts. Additionally, I have generated maps that analyzed split precincts as well as developed a Alabama statewide senate and house redistricting plans , both submitted to the court in a recent case in Alabama.

In the course of this cycle, I was involved in several unique redistricting opportunities that were afforded to me because of my expertise. I was one of the two Project Managers for a week-long redistricting expert preparation session. The training session was sponsored by Duke University's Center for the Study of Race, Ethnicity and Gender in the Social Sciences (RGESS) and the SCSJ. In that capacity I developed and managed a section focused on preparing 18 political cartographers, with Geographic Information System (GIS) backgrounds, with the goal of them becoming redistricting demographic and mapping related experts.

Another such opportunity included performing the duties as consulting demographer and project director for the Congressional Black Caucus Institute's Redistricting Project. In that role, I provided redistricting plan development, review and analysis as well as answered various questions pertaining to the redistricting process.

The details of my redistricting/mapping background and work as an expert are covered in Appendix A.

If allowed by the Court, depending on new data that becomes available to me, this report may be revised or updated.

I am being compensated for my work on this effort at a rate of $185 per hour.

## 2. Background & Methodology

The central objective of the analysis was to review and analyze population statistics as well as political subdivision splits (specifically voting tabulation districts) of Greensboro, NC, City Council district plans. Prior to the 2015 redistricting the city of Greensboro used a plan to elect city council members that included at-large and district seats Five members of the council were elected to single member districts while three members were elected at-large. This plan will be referred to as the "Current Plan." However, the North Carolina General Assembly restructured the Greensboro City Council in 2015, creating eight single-member districts. This plan will be referred to as the "HB263 Plan." The third plan that I analyzed was a partial plan that was developed but not submitted. My understanding is that the plan was produced in discovery in this case, and was presented in conference committee by Rep. Jon Hardister. The plan was recreated from a .pdf map (see Appendix B) and will be referred to as the "Hardister Plan."

To achieve the objective, relevant data were acquired. Greensboro City Council district boundaries and incumbent residences were obtained from the Greensboro Planning Department and SCSJ staff for the designated plans in ESRI shapefile (excluding the Hardister plan). This included the city council residences for the incumbent members. The party affiliation of the incumbents were determined by the incumbents' voter registration records that were available on the website of the North Carolina State Board of Elections.

2010 Census Bureau population data, which was prepackaged with Maptitude for Redistricting, were also used in the analysis. Each plan was evaluated using Maptitude for Redistricting (Maptitude) software. Maptitude for Redistricting is one of the leading districting plan development software used by state legislatures, redistricting experts, and non-profit organizations.

With each boundary shapefile for the plans that I examined, a Maptitude redistricting plan was generated.[1] Since block assignment files were not available, shapefiles were used to recreate the district plans. In addition, using the Maptitude software, specific reports and maps were developed. Reports were used to generate summary tables that assisted with the analysis and conclusions. The reports, maps and analysis focused on:

1. Population Deviation – Overall district deviation in the Current Plan and HB263 Plans. This step also included the overall and district by district deviation of the Current and HB263 plans;

2. Split Precincts (VTDs) – Number of split precincts (VTDs) for the Current and HB263 plans;

3. Incumbent Residences – Maps that depicted the location of the incumbents' residences in relationship to the Current, Hardister, and HB263 plans.

4. Partisan Impact – Partisan results and population deviation impact of specific districts contained in the HB263 plan using the 2010 U.S. Senate election.

[1] The shapefiles for the Current plan contained some split blocks (2010 Census Blocks) and thus the population totals may deviate slightly from actual population.

## 2.1 Population Deviation

The ideal population is calculated by dividing the total county population by the number of districts. Population deviation is then determined by subtracting the specific district population from the ideal population. The population deviation "percentage" is calculated by dividing the ideal population into the population deviation amount. The overall population deviation is determined by the difference between the district with the highest population deviation value and the district with the lowest population deviation value.

Population deviation among districts was determined using Maptitude's population summary report option (see Appendix C). The generated reports presented the overall plans' population deviation as well as population deviation of each district. The plans reviewed for population deviation included the Current and HB263 plans.

## 2.2 Split Voting Districts (Precincts)

Split precinct analysis was achieved using Maptitude's Political Subdivision Split report option. This report provided political subdivision split by district (see Appendix D). Voting Districts (VTDs) were used as the primary political subdivision geographic level. VTDs are, in North Carolina, generally identical to precincts and were used throughout this report. The reports generated provided the number of voting districts that were split by two or more districts for the Current and HB263 plans.

## 2.3 Incumbent Residences

The geographic location of the city council incumbent residences in relationship to the Current, Hardister, and HB263 plans was accomplished by importing and overlaying the incumbent address locations on top of the plan maps (see Appendix B). The Hardister plan's map was not available in digital geographic format (block assignment or geographic files). Thus, the .pdf map was converted and superimposed underneath a recreated map using Maptitude. Each map generated was used to determine whether incumbents were removed or paired together inside the districts.

## 2.4 Partisan Impact

The partisan impact of the HB263 plan was accomplished by importing the election results for the 2010 U.S. Senate election. This was realized using election results obtained at the VTD level and processed using Maptitude's disaggregation/aggregation function.[2] Once the data was processed, a report was generated using Maptitude's dataview window which provided the estimated election results of each district contained within the Current and HB263 plans (see Appendix E).

[2] Maptitude's disaggregation/aggregation breaks down the voting results from voting tabulation district to the census block level which enables estimates of election results for each district configuration.

## 3. Summary of Key Findings – Population Deviation of the Current and HB263 Plans

The population deviation (absolute value and percentage) for each district contained within the Current and HB263 plan was reviewed. Table 3-1 presents and compares the population deviation of both plans. Table 3-1 shows that the overall population deviation of the Current plan is lower than the HB263 plan with the Current plan at 3.86% and the HB263 plan 8.24%.

**Table 3-1 – Overall Population Deviation Comparison (Current and HB263 Plans)**

| | Current Plan | HB263 Plan |
|---|---|---|
| Overall Deviation% | 3.86% | 8.24% |

Source: Maptitude's Current Plan and HB263 Plan Population Summary Reports

**Table 3-2 – District Population Deviations (Current and HB263 Plans)**

| | Current Plan | | HB263 Plan | |
|---|---|---|---|---|
| District | Pop Deviation | Pop Deviation% | Pop Deviation | Pop Deviation% |
| 1 | 1,260 | 2.34 | 1,471 | 4.37 |
| 2 | -216 | -0.40 | -1,236 | -3.68 |
| 3 | -159 | -0.29 | -1,020 | -3.03 |
| 4 | -824 | -1.53 | 965 | 2.87 |
| 5 | -407 | -0.75 | -31 | -0.09 |
| 6 | | | 1,536 | 4.57 |
| 7 | | | -1,197 | -3.56 |
| 8 | | | -492 | -1.46 |

Source: Maptitude's Current and HB263 Plan's Population Summary Reports

## 4. Summary of Key Findings – Political Subdivision (VTD) Splits of the Current and HB263 Plans

The numbers of split VTDs (precincts) were obtained and analyzed for the Current and HB263 plans. Because many of the precincts were split by the jurisdiction boundaries of Greensboro, only split precincts that were split between two or more city council districts were recorded.[3]

Table 4-1 presents the VTD splits for the Current and HB263 plans (see Appendix C). The table indicates a total number of VTDs that are not wholly contained within the district (i.e., split by the district). The table's "Total VTD Splits by District" row presents the sum of all of the VTDs

[3] The political subdivision reports indicate "unassigned" for the VTDs that were split by the jurisdiction of Greensboro.

that are not wholly contained within a district. The "Total VTD Splits" row only sums the number of VTDs that are split, regardless of the number of districts that split the VTD (usually half the number of VTDs splits by district.

**Table 4-1 – VTD (Precinct) Splits per District**
**(Current and HB263 Plans)**

| District | Current Plan | HB263 Plan |
|---|---|---|
| 1 | 1 | 1 |
| 2 | 0 | 2 |
| 3 | 0 | 1 |
| 4 | 0 | 1 |
| 5 | 1 | 4 |
| 6 | | 1 |
| 7 | | 4 |
| 8 | | 2 |
| Total VTD Splits by District | 2 | 16 |
| Total VTD Splits | 1 | 8 |

Source: Maptitude's Current and HB263 Plan's Political Subdivision Split Reports

The table above shows that the Current plan only contains one split VTD while the HB263 plan splits eight VTDs.

In the HB263 plan, there is one split VTD that is particularly notable. The VTD G35 is split between district 3 and district 7. The split VTD occurs with no obvious reason other than the rationale put forth in Section 5 below.

## 5. Summary of Key Findings – City Council Incumbents within the Current, Hardister, and HB263 Plans

The location of incumbent residences were analyzed and compared to each district contained in the Current, Hardister, and HB263 plans. Figure 5-1 displays a map of the Current plan with the location of the residences of city council incumbents overlaid on top of the Current plan. The names of the incumbents are added as labels, with notes identifying the incumbents in the Current plan who are elected at-large.

Figure 5-2 displays a map of the recreated Hardister plan with the location of the residence of city council incumbents overlaid on top of the recreated map along with the original .pdf map's color background (see Appendix B). The recreated map is superimposed on top of the original Hardister map. The names of the incumbents are added as labels. Figure 5-3 displays a similar map of the recreated Hardister plan with the party affiliations of the incumbents added as labels.

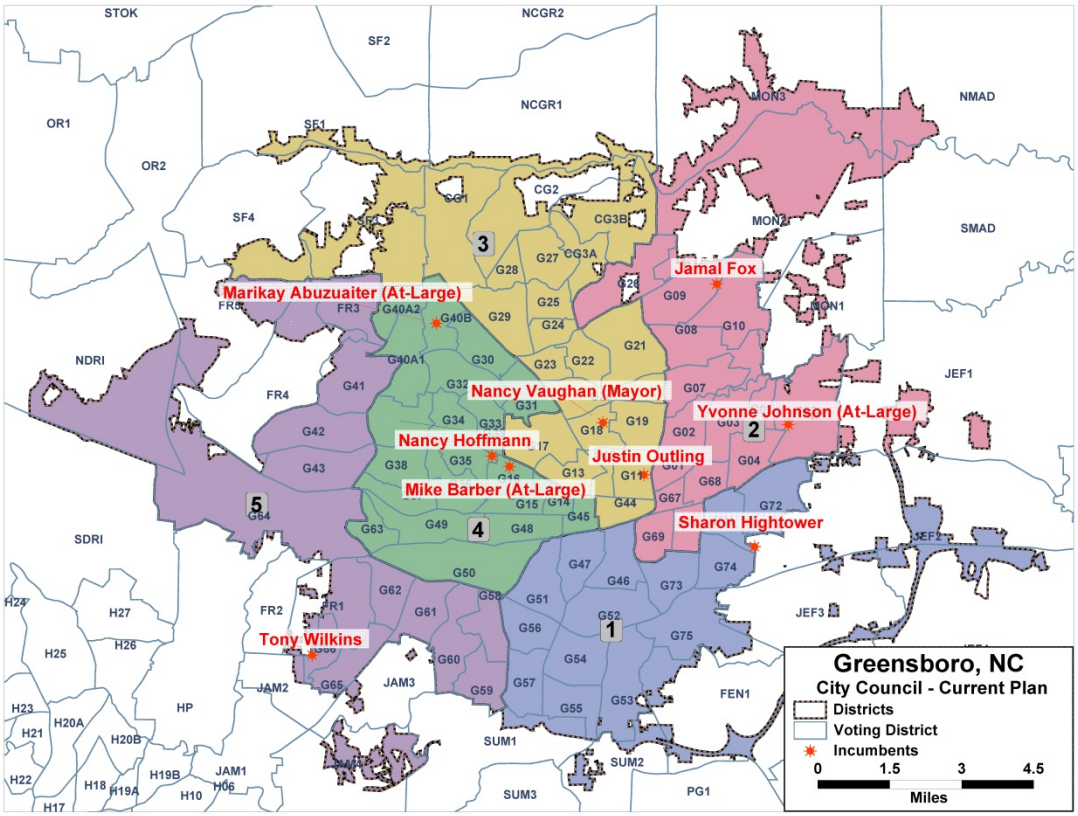



Figure 5-1 – Greensboro, NC Current Plan w/Incumbents

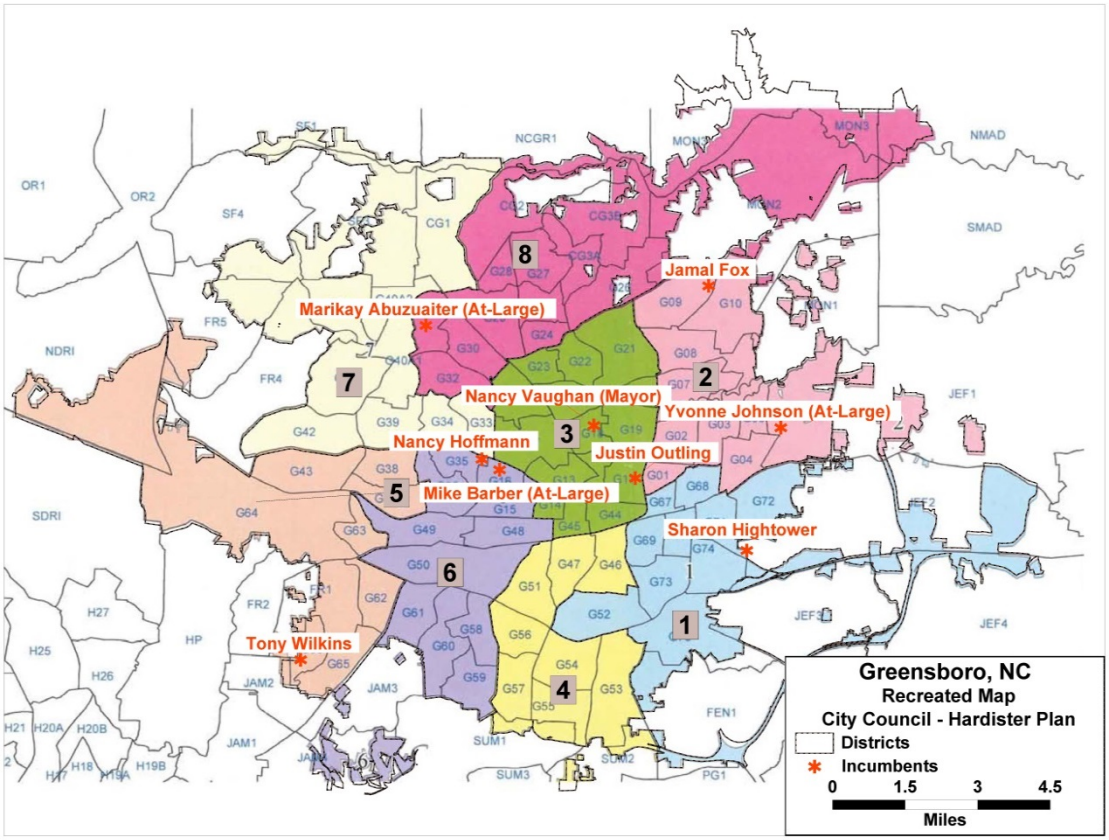



Figure 5-2 – Greensboro, NC Hardister Plan w/Incumbents

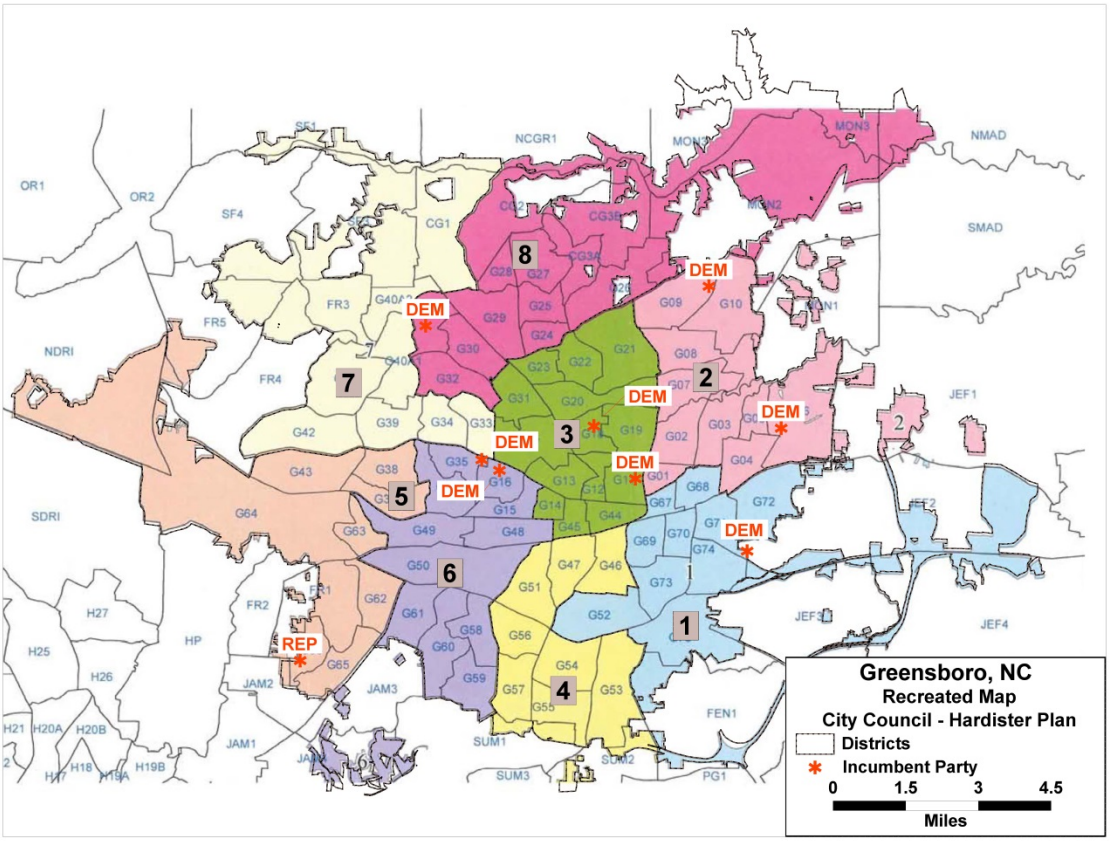



Figure 5-3 – Greensboro, NC Hardister Plan w/Incumbents by Party

Table 5-1 summarizes each district along with the associated incumbent's party. There are two districts that include multiple incumbents. District 2 contains two Democrats (Jamal Fox and Yvonne Johnson). District 3 contains one Democrat incumbent (Justin Outling) along with the Mayor, Nancy Vaughan. District 6 contains two Democrats (Mike Barber and Nancy Hoffmann). Districts 4 and District 7 contain no incumbents.

**Table 5-1 – Greensboro, NC Hardister Plan - Incumbents by Party**

| District | Incumbents w/o Mayor | Incumbent Party Included |
|---|---|---|
| District 1 | 1 | 1 Democrat |
| District 2 | 2 | 2 Democrats |
| District 3 | 1 | 1 Democrat (contains at-large Democrat Mayor) |
| District 4 | 0 | No Incumbent |
| District 5 | 1 | 1 Republican |
| District 6 | 2 | 2 Democrats |
| District 7 | 0 | No Incumbent |
| District 8 | 1 | 1 Democrat |

Source: Maptitude's Greensboro, NC Hardister Plan's Incumbents by Party Map

Figure 5-4 displays a map of the HB263 plan with the location of the residences of city council incumbents overlaid on top of the plan. The names of the incumbents are added as labels. Figure 5-5 displays a similar map to Figure 5-4 with party affiliation of the incumbents added as labels.

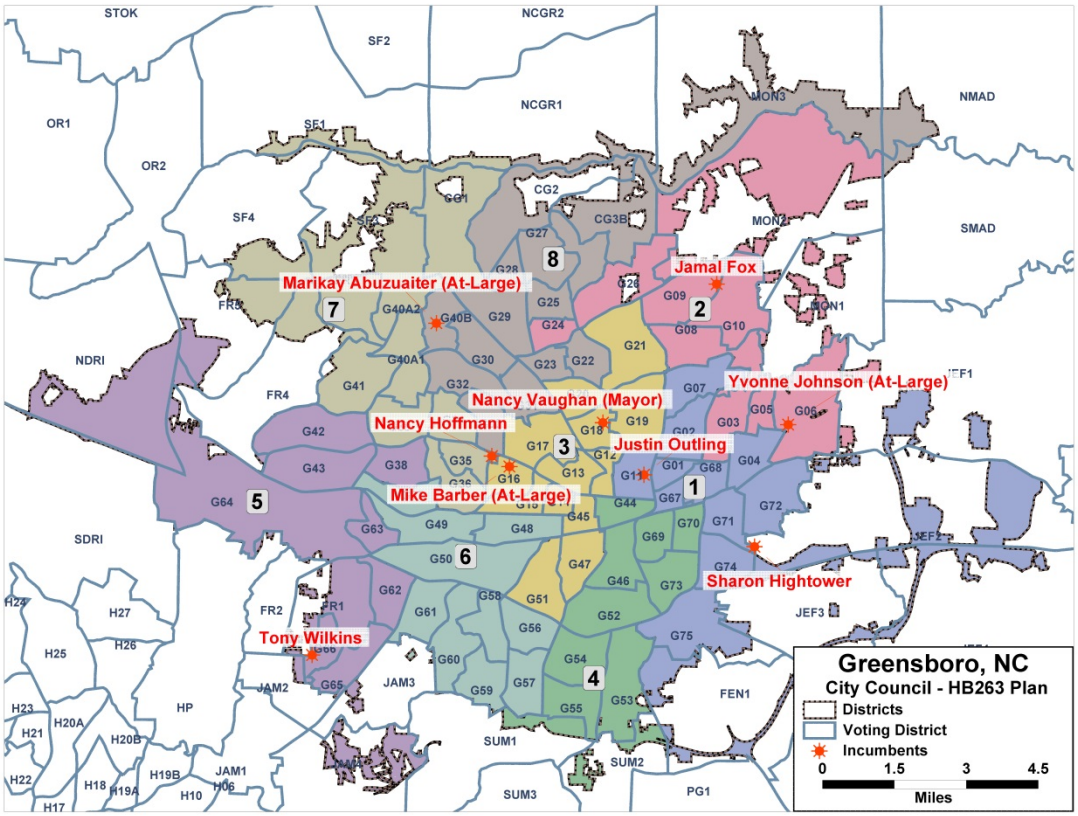



Figure 5-4 – Greensboro, NC HB263 Plan w/Incumbents

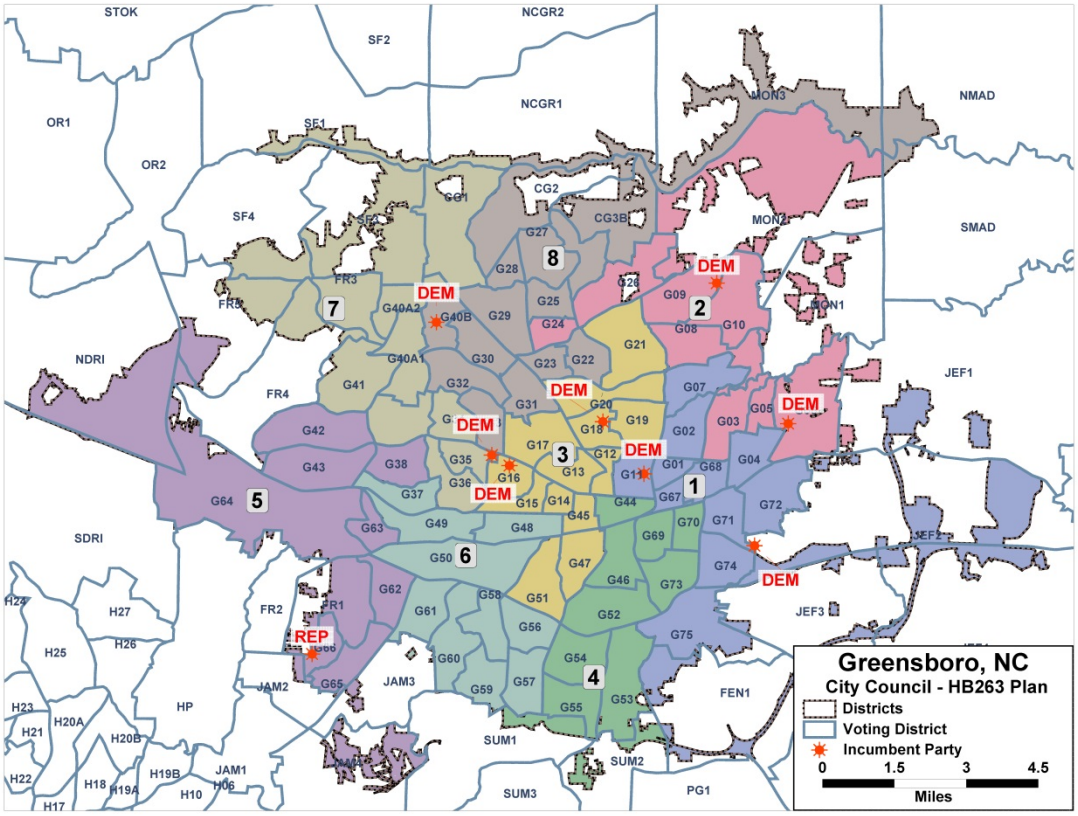



Figure 5-5 – Greensboro, NC HB263 Plan w/Incumbents by Party

Table 5-2 summarizes each district along with the associated incumbents' party. There are three districts that include multiple incumbents. District 1 contains two Democrats (Sharon Hightower and Justin Outling), District 2 contains two Democrats (Jamal Fox and Yvonne Johnson), and District 3 contains two residences of incumbent Democrats (Mike Barber and Nancy Hoffmann), in addition to the Mayor Nancy Vaughan).

**Table 5-2 – Greensboro, NC HB263 Plan - Incumbents Data**

| District | Incumbents | Incumbent Party Included |
|---|---|---|
| District 1 | 2 | 2 Democrats |
| District 2 | 2 | 2 Democrats |
| District 3 | 2 | 2 Democrats (and at-large Democrat w/Mayor) |
| District 4 | 0 | No Incumbent |
| District 5 | 1 | 1 Republican |
| District 6 | 0 | No Incumbent |
| District 7 | 0 | No Incumbent |
| District 8 | 1 | 1 Democrat |

Source: Maptitude's Greensboro, NC HB263 Plan's Incumbents by Party Map

As previously mentioned in Section 4, it was discovered that a split VTD in the HB263 plan is divided between District 3 and District 7. Figure 5-6 displays a zoom map of the split VTD, G35, along with the residences of two Democratic city council incumbents (Nancy Hoffmann and Mike Barber) overlaid on top of the plan. The party affiliations of the incumbents are added as labels.

The split does not exist in the Current plan or the Hardister plan (see Appendix B). Figure 5-7 displays the same precinct, G35, which is not split in the Current plan. It was also noticed that there is no incumbent residing in district 7 of the HB263 plan. In addition, District 3 contains two Democratic incumbents (and the incumbent Mayor Nancy Vaughan).

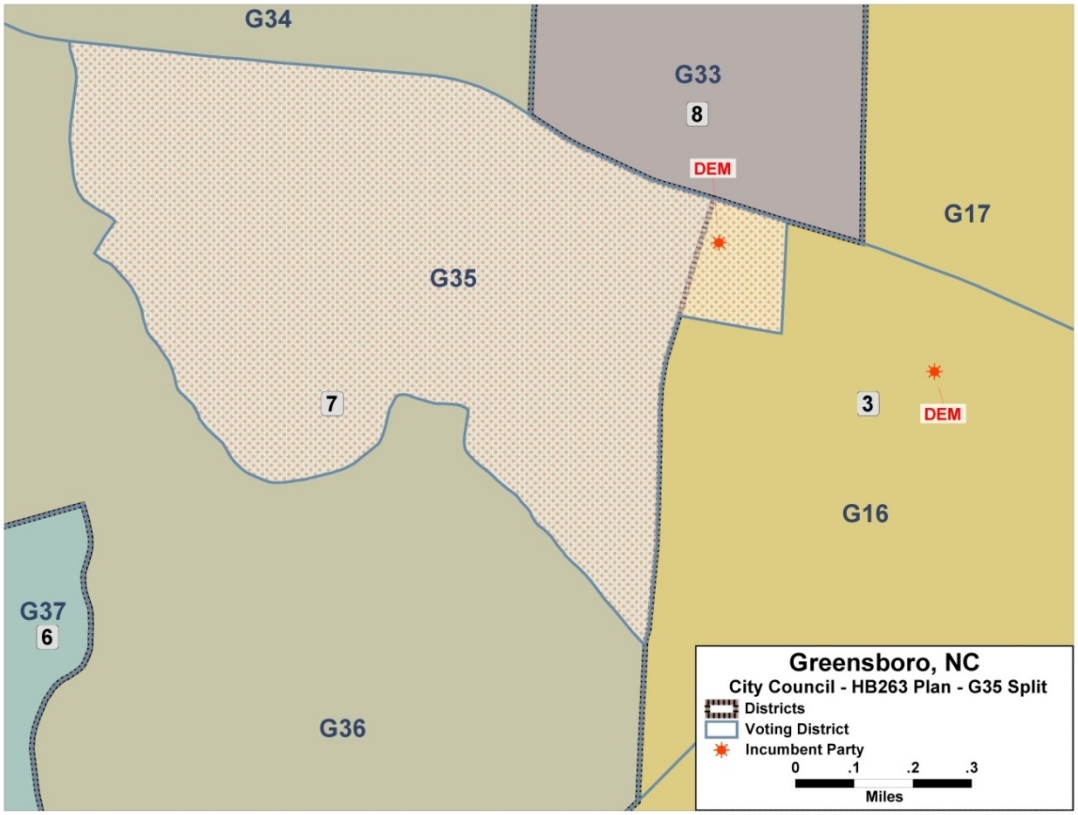



Figure 5-6 – Greensboro, NC HB263 Plan Split VTD G35 w/Incumbents

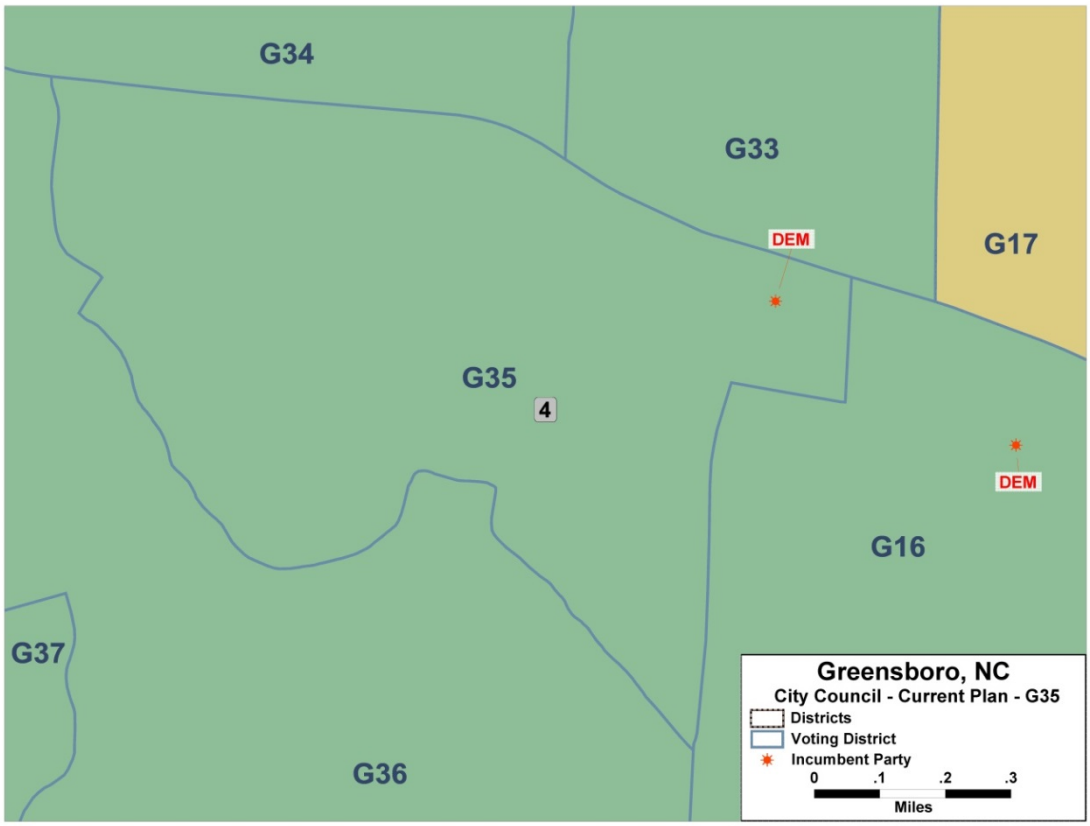



Figure 5-7 – Greensboro, NC Current Plan Non-Split VTD G35 w/Incumbents

As shown in Table 5-3, the HB263 plan pairs six of the seven Democrat incumbents together. Also, all Black incumbents have been paired together. The sole Republican incumbent resides in district in which he is not paired with another incumbent, and is a Republican-performing district. The sole Democrat who is not paired resides in a district that is Republican-performing (according to the 2010 Senate election).

**Table 5-3 – Greensboro, NC City Council - Incumbents District, Race, and Party**

| District | Race | Party | Elected in District | New District |
|---|---|---|---|---|
| Sharon Hightower | Black | Dem | 1 | 1 |
| Justin Outling | Black | Dem | 3 (Appointed) | 1 |
| Jamal Fox | Black | Dem | 2 | 2 |
| Yvonne Johnson | Black | Dem | At-Large | 2 |
| Nancy Hoffmann | White | Dem | 4 | 3 |
| Mike Barber | White | Dem | At-Large | 3 |
| Tony Wilkins | White | Rep | 5 | 5 |
| Marikay Abuzuaiter | White | Dem | At-Large | 8 |
| Nancy Vaughan | White | Dem | At-Large | Mayor |

Source: Greensboro, NC HB263 Plan & Incumbent Data

## 6. Summary of Key Findings – Partisan Analysis of HB263 Plan

Partisan results from the 2010 U.S. Senate election were analyzed for the HB263 plan. Table 6-1 presents the results using the election for each district in the plan. The report shows that the Democratic candidate won four districts (districts 1, 2, 4, & 6). The Republican candidate won four districts as well (districts 3, 5, 7, & 8).

Additional analysis occurs by appending whether the district is populated over or under the ideal population size. Thus, Table 6-1 also contains columns with a "Y" that indicates whether the district is overpopulated or underpopulated. The table reveals that all overpopulated districts are Democrat-performing districts, as measured by the 2010 Senate election. Similarly, all districts that were underpopulated were Republican-performing districts, as measured by the 2010 Senate election, with the exception of District 2.

**Table 6-1 – Greensboro, NC HB263 Plan – 2010 U.S. Senate Election w/Overpopulation & Underpopulation Identifiers**

| District | % Marshall 2010 | % Burr 2010 | Populated Over Ideal Deviation | Populated Under Ideal Deviation |
|---|---|---|---|---|
| 1 | **80.9%** | 17.5% | Y | |
| 2 | 76.2% | 22.4% | | Y |
| 3 | 47.4% | **50.5%** | | Y |
| 4 | **86.9%** | 11.9% | Y | |
| 5 | 48.1% | **50.0%** | | Y |
| 6 | **68.5%** | 29.4% | Y | |
| 7 | 37.8% | **60.0%** | | Y |
| 8 | 38.3% | **59.4%** | | Y |

Source: Maptitude's HB263 Plan Partisan Dataview Reports & Table 3-2

## 7. Conclusions

After reviewing the data and performing the analyses, I reached several conclusions:

### 7.1 Population Deviation

Review of the population deviation tables shows that the HB263 plan has a significantly higher and unnecessary overall population deviation when compared to the Current plan. The Current plan has an overall deviation of 3.86% versus 8.24% for HB263. Even though, the Current plan's ideal population is higher than HB263 (53,933 versus 33,631, respectively), the overall deviation was lower (2,084 versus 2,772, respectively).

Conclusion: The HB263 plan could have been developed with significantly lower population deviations.

### 7.2 Split VTDs

The HB263 plan splits a total of eight VTDs (precincts). The Current plan only splits one VTD. The plan could have easily split one less VTD, G35. If G35 remained unsplit, the HB263 plan would have split one less VTD and would have unpaired an incumbent (a Democrat) from a district that already contained an incumbent (a Democrat). In addition, it would have placed an incumbent in a district that contains no incumbent in the HB263 plan.

Conclusion: The HB263 plan could have been developed with significantly fewer VTD splits. Additionally, because of the specific location of the split for the VTD, I conclude that the split occurred in order to place an incumbent Democrat, Nancy Hoffmann, in the same district as another incumbent Democrat, Mike Barber.

## 7.3 Incumbent Residences

When analyzing the city council incumbents, the Hardister plan contains two districts with incumbent parings. The HB263 plan contains three districts with incumbent parings.

HB263's District 1 contains two Democrats (Sharon Hightower and Justin Outling), District 2 contains two Democrats (Jamal Fox and Yvonne Johnson), and District 3 contains two Democrats (Mike Barber, Nancy Hoffmann).

The seventh Democrat on the Council, Marikay Abuzaiter, is placed in District 8. District 8 is a Republican performing district according to the 2010 Senate election. Thus, the pairing places the Democrat at a significant disadvantage.

The HB263 plan pairs six of the seven Democrat incumbents together. Also, all Black incumbents have been paired together. The sole Republican incumbent exists in a Republican-performing district and is not paired with another incumbent.

Conclusion: The HB263 plan pairs Democrats in three different districts. The HB263 plan pairs all African-American incumbents. Additionally, the only plausible explanation for one VTD split is to pair Democrat Nancy Hoffmann with Democrat, Mike Barber.. Without the splitting of this VTD, the two would reside in different districts with the plan having one less split VTD.

## 7.4 Partisan Analysis

All three districts in the HB263 plan that were populated over the ideal population size were in Democratic performing districts according to 2010 U.S. Senate election. Similarly, all districts that were under the ideal population were in Republican performing districts, except for District 2.

Conclusion: There was a pattern of over population in Democratic-performing districts, and under population in Republican-performing districts.

# Exhibit D

## Robbie Perkins

**From:** Trudy Wade <twade2@triad.rr.com>
**Sent:** Monday, February 02, 2015 8:04 AM
**To:** Robbie Perkins
**Subject:** Redistricting - Greensboro City Council
**Attachments:** Memo1983Redistricting.pdf

FYI.

Office of the City Attorney
City of Greensboro

GREENSBORO

Friday, January 30, 2015

**TO:** Mayor and Member of Council

**FROM:** Tom Carruthers, City Attorney

**SUBJECT:** Change in Greensboro's Electoral Districts

A question was raised in the local press as to whether the Greensboro City Council was authorized in 1983 to adopt an ordinance amending the City Charter from an at-large election of all its city council members to a five district, three at-large, one mayor elected at-large system, a 5-3-1 system. It is clear the North Carolina General Statutes provide this authority. Action by the General Assembly was not required.

Any suggestion that in 1973 the North Carolina Legislature modified the enabling legislation cited below to prevent the City from revising its method of election is spurious. There is no support in the record for this concern.

Pursuant to North Carolina General Statutes § 160A-101, any city may change its form of government, including the mode of election of the council. G.S. 160A-102 provides the method City Council must utilize to effect this change.

My review of the official minutes of City Council reveals the following: On October 14, 1982, the City Council passed a "Resolution of Intent" to pass an ordinance providing for a change in the mode of election of the council from at-large to the 5-3-1 system of election. Attached as Exhibit 1 is the City Council minutes from this meeting. In accordance with the requirements of § 160A-102, City Council then held a public hearing on the merits of this the proposed 5-3-1 system. (See Exhibit 2) On December 16, 1982, the City Council adopted an ordinance amending the Greensboro Charter from an at-large election of all its City Council members to the 5-3-1 system. (Exhibit 3) Finally on February 7, 1983, the City Council adopted other necessary Charter revisions to fully implement the 5-3-1 method of election adopted on December 1982. (Exhibit 4) This final action was in accordance with G.S. 160A-106.

All resolutions and ordinances were adopted by unanimous vote. The record also notes the intent of the Council was to adopt this Charter revision by ordinance rather than referendum.

On December 16th, Mayor John Forbis was noted in the record, "by this action history has been made today; that government is only as good as the people elected to manage it; and that government is not made of districts or at-large formats, but of warm-blooded, free people."

The Council action was in accordance with the State enabling statute and legal in all respects.

If you have further questions, please let me know.

Exhibit -1-

The Council reconvened at 3:50 with all members present except Mayor Forbis who had been excused early in the meeting.

.....

Charles Fairley, 1409 Marboro Street, representing the Greensboro Branch of the NAACP, requested Earl Jones to present the Association's resolution adopted on October 5, 1982. Earl Jones, 719 Glenhaven Drive, stated that he had been directed by the Local Chapter to present the Council with a resolution expressed support of a 5-3-1 (5 council members selected from districts and 3 elected at-large with the mayor elected at-large) system of district representation for the City of Greensboro and that the system be enacted by ordinance. (The entire text of resolution is filed in Exhibit Drawer G, as Exhibit Number 20 and is hereby referred to and made a part of these minutes.)

For information, the City Attorney advised that, based upon regular meeting schedule, the Council could today commence legal procedures to change the form of government, either by ordinance or by referendum. He stated that if it were the Council desire, a resolution of intent to consider an ordinance to change the form of government could be adopted which would contain the form to be considered, and the date, time and place for a public hearing, and would provide the two options available--by ordinance or by referendum. For illustrative purposes only, the Attorney advised that should the resolution of intent be adopted today, the hearing must be held no more than 45 days afterwards--November 11 or November 15 and then no later than 60 days following the hearing (with possible dates of December 16, December 21, December 31, or January 4, 1983), the Council may adopt an ordinance containing the specific plan decided upon or at the same time can submit the plan to a referendum for March 15, 1983.

James Johnson, member of the Human Relations Commission, spoke in support of the 5-3-1 plan and reviewed for Council the process undertaken by the Commission in arriving at this decision. He urged the Council to support the plan and that it be implemented by ordinance as opposed to referendum since the matter had been defeated each time it had been voted upon. Councilmember Bardolph stated that she did not feel that the 5-3-1 plan took into account the socio-economic groupings in the city and the human relation concern.

At this point, the City Attorney read the title of the resolution under consideration: RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF GREENSBORO TO PROVIDE FOR A CHANGE IN THE FORM OF CITY GOVERNMENT TO INCREASE THE NUMBER OF COUNCIL MEMBERS FROM SIX TO EIGHT: TO PROVIDE FOR THE NOMINATION AND ELECTION OF FIVE COUNCIL MEMBERS BY THE QUALIFIED VOTERS OF EACH OF FIVE SINGLE-MEMBER ELECTORAL DISTRICTS, RESPECTIVELY; TO PROVIDE FOR THE NOMINATION AND ELECTION OF THREE COUNCIL MEMBERS AND A MAYOR BY ALL OF THE QUALIFIED VOTERS OF THE CITY; AND FURTHER SETTING THE DATE FOR A PUBLIC HEARING THEREON.

Sol Jacobs urged the Council to consider a 6-2-1 plan which had been suggested by Citizens for Representative Government and endorsed by the NAACP and other groups. Mr. Jacobs spoke to past City Council elections and referendums on the change in form of government. He commented that he did not want to see the citizens have to vote again on a plan which had been imposed upon them by the Council; he recalled the defeat of the 4-2-1 plan.

Mr. Jones stated that whether the plan decided was the 6-2-1 or the 5-3-1, the Blacks would get two representatives on the Council.

William Burckley stated that he was not speaking for against any form of government, but commented that he did not think that a representative from the southwest section of the city was present when this matter was discussed before the Human Relations Commission

Charles Fairley stated that the southwest area of the city had been represented when these discussions were held by the Dialogue Task Force. He noted that if some other form of government formula is desired, that this could be accomplished by presenting to the Council a petition for a referendum.

ntende* *After discussion, Councilmember Bardolph indicated that she favored considering a
ended six-district form of government.
e Page 377,
-28-82 Councilmember Cooke moved adoption of the resolution of intent to consider an ordinance
eting amending the Charter of the City of Greensboro to provide for a change in the form of government to increase the number of council members from six to eight; to provide for the nomination and election of five council members by the qualified voters of each of five single-member electoral districts, respectively; to provide for the nomination and election of three council members and a mayor by all of the qualified voters of the city; and furthr setting the date for a public hearing hereon. The motion was seconded by Councilmember Bowie. Thereupon Councilmember Cooke moved that the date of the hearing be set for 15 November 1982, at 7:30 p.m. in the Council Chamber. The motion was seconded by Councilmember Bowie and adopted unanimously. The resolution of intent as moved and seconded was adopted on the following roll call vote: Ayes: Bardolph, Bowie, Cooke, Gelyon, Kirkpatrick, and McManus. Noes: None.

RESOLUTION OF INTENT TO CONSIDER AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF GREENSBORO TO PROVIDE FOR A CHANGE IN THE FORM OF CITY GOVERNMENT TO INCREASE THE NUMBER OF COUNCIL MEMBERS FROM SIX TO EIGHT; TO PROVIDE FOR THE NOMINATION AND ELECTION OF FIVE COUNCIL MEMBERS BY THE QUALIFIED VOTERS OF EACH OF FIVE SINGLE-MEMBER ELECTORAL DISTRICTS, RESPECTIVELY; TO PROVIDE FOR THE NOMINATION AND ELECTION OF THREE COUNCIL MEMBERS AND A MAYOR BY ALL OF THE QUALIFIED VOTERS OF THE CITY; AND FURTHER SETTING THE DATE FOR A PUBLIC HEARING THEREON 121-82

WHEREAS, pursuant to Chapter 160A, Article 5, Part 4 of the General Statutes of North Carolina (more specifically G.S. 160A-101 and 160A-102), the City Council of the City of Greensboro may adopt an ordinance to amend the Charter of the City of Greensboro to implement any of the optional forms set out in G.S. 160A-101; such change can be accomplished either by direct ordinance or by a called special election;

WHEREAS, G.S. 160A-102 requires that the proposed Charter amendments first be submitted to a public hearing and that due notice thereof be published not less than ten days prior to the date fixed for the public hearing;

WHEREAS, the proposed Charter amendments shall be briefly contained in an ordinance, which ordinance is set forth herein as follows:

AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF GREENSBORO, AS SET FORTH IN CHAPTER 1137, 1959 SESSION LAWS OF NORTH CAROLINA, AND AS AMENDED, TO PROVIDE FOR A CHANGE IN THE FORM OF CITY GOVERNMENT

WHEREAS, pursuant to Chapter 160A, Article 5, Part 4 of the General Statutes of North Carolina, entitled "Modification of Form of Government", the City Council has authority to adopt an ordinance amending the Charter of the City of Greensboro to provide for a change in the form of city government in accordance with the particulars of G.S. 160A-101;

WHEREAS, in order to effectuate a change or modification from the existing form of city government to a different form of city government as hereinafter set forth, it is necessary that the City Council adopt an ordinance in the manner prescribed in said act; and

WHEREAS, on October 14, 1982, this ordinance was introduced at a regular meeting of the City Council by reference to such ordinance in the "Resolution of Intent" for the purpose of commencing the initiative by the City Council to either adopt such an ordinance implementing the change directly or otherwise to call for a special election on the ordinance as hereinafter generally set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. That the Charter of the City of Greensboro, as set forth in Chapter 1137, 1959 Session Laws of North Carolina, and as amended, is hereby amended by repealing those applicable provisions in Chapters 2 and 3 of said Greensboro City Charter concerning nominations, elections, composition and voting requirements of the Mayor and members of the City Council, which provisions are in conflict with and contrary to a proposed modification or change in the form of city government as set forth below, and by substituting in lieu thereof new provisions in said Chapters 2 and 3 of the Greensboro City Charter to accomplish and effectuate the following modification or change in the form of government:

1. The city council shall consist of eight members who shall serve for a term of two years.

2. Mode of election: The city shall be divided into five single-member electoral districts with one member of the city council elected from each district. These five members of the city council shall be apportioned to the five districts so that each member represents, as nearly as possible, the same number of persons. The qualified voters of each district shall nominate and elect a candidate who resides in the district for the seat apportioned to that district.

There shall be three members of the city council apportioned to the city at large. All the qualified voters of the city shall nominate and elect candidates for the three seats apportioned to the city at large.

3. There shall be a mayor who shall be elected separately and at large by all the qualified voters of the city for a term of two years. He shall have a vote on all council matters.



Case 1:15-cv-00559-CCE-JLW Document 86-4 Filed 07/05/16 Page 5 of 20

Section 2. That if a change in the form of city government as set out above is finally approved, either by direct ordinance or a special election called by the city council, the city council shall, pursuant to G.S. 160A-106, proceed to comply with all requirements for the nomination and election of officers first to be elected under the revised form of city government so adopted, and shall further amend specific provisions of Chapters 2 and 3 of the Greensboro City Charter to conform with and implement said revised form of government.

Section 3. That if a change in form of city government as set out above is finally approved, either by direct ordinance or a special election called by the city council, all laws and clauses of laws in conflict with the provisions of this ordinance shall be repealed by the city council prior to the next succeeding municipal election for city council; provided, however, that if a change in the form of city government is not approved this ordinance shall become null and void.

---

WHEREAS, it is deemed in the best interest of the City to hold a public hearing in accordance with the above mentioned law;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

1. That the City Council hereby intends to consider an ordinance amending the Charter of the City of Greensboro as set forth above and as authorized by G.S. 160A-102.

2. That November 15, 1982 at 7:30 p.m. be fixed as the time and the Council Chamber in the Municipal Office Building as the place for the public hearing on the proposed ordinance as hereinabove set forth.

3. That following a public hearing called hereby, the City Council shall consider either (1) the adoption of such an ordinance to fully implement said change in the form of city government without a special election or (2) calling a special election thereon, said consideration to be acted upon no sooner than at its next regular meeting following the public hearing and no later than sixty days following such public hearing.

4. That this resolution be published one time in a newspaper with general circulation in the city as notice of the public hearing scheduled herein, said publication to be not less than ten days prior to the date fixed for the public hearing.

(Signed) R. Cameron Cooke

.....

At this point, Councilmember Bardolph moved the adoption of a resolution of intent to consider a 6-2-1 form of government. The motion died for lack of second.

.....

REGULAR MEETING: 28 October 1982

The City Council of the City of Greensboro met in regular session at 1:00 p.m. on the above date in the Council Chamber of the Melvin Municipal Office Building with the following members present: Mayor John W. Forbis, presiding; Councilmembers Dorothy C. Bardolph, Joanne W. Bowie, R. Cameron Cooke, J. Douglas Gelyan, James F. Kirkpatrick, Jr., and Lois H. McManus. Absent: None. Also present were James B. Baugh, Assistant City Manager; Jesse L. Warren, City Attorney; and Nancy J. McPeak, City Clerk.

The meeting was opened with a moment of silent prayer.

Mayor Forbis called for a motion to approve the minutes of the regular meetings held 14 October and 18 October 1982. Councilmember Bardolph corrected the minutes of 14 October concerning the discussion on form of government with respect to her opinion as to the formula to be considered at a public hearing by adding the words: "in addition to the 5-3-1 form" to the statement: "After discussion, Councilmember Bardolph indicated that she favored considering a six-district form of government." The motion was seconded by Councilmember Kirkpatrick and the minutes of the 14 October meeting, as corrected, and the minutes of the 18 October meeting were unanimously approved.

Exhibit -2-

Councilmember McManus moved that the Council adjourn this session to 7:30 p.m. tonight for a public hearing to consider an ordinance amending the Charter of the City of Greensboro to provide for a change in the form of government to a 5-3-1 district form. Motion was seconded by Councilmember Galyon and adopted unanimously.

THE COUNCIL ADJOURNED AT 2:30 p.m.

NORMA H. BODSFORD
DEPUTY CITY CLERK

JOHN W. FORBIS
MAYOR

ADJOURNED SESSION: 15 November 1982

Pursuant to motion made at regular session on this date, the City Council of the City of Greensboro met in adjourned session at 7:30 p.m. in the Melvin Municipal Office Building with the following members present: Mayor John W. Forbis, presiding; Councilmembers Dorothy C. Gardolph, Joanne W. Bowie, R. Cameron Cooke, J. Douglas Galyon, James F. Kirkpatrick, Jr., and Lois M. McManus. Absent: None. Also present were T. Z. Osborne, City Manager; Jesse L. Warren, City Attorney; and Nancy J. McPeak, City Clerk.

Mayor Forbis stated that in accordance with resolution of intent to consider an ordinance amending the Charter of the City of Greensboro to provide for a change in the form of City Government adopted on 14 October 1982, and as set out in the published notice, the City Council would at this time receive those desiring to be heard on the matter. The Mayor advised that the proposed amendment would increase the number of council members from six to eight; provide for the nomination and election of five council members by the qualified voters of each of five single-member electoral district, respectively; and provide for the nomination and election of three council members and a mayor by all the qualified voters of the city.

Mayor Forbis explained the order by which the Council would receive the speakers and commented that this would be a time for the Council to listen.

The following persons spoke in favor of the 5-3-1 plan for form of government with the majority of speakers urging the Council to implement the system by adopting an ordinance as opposed to calling a referendum on the matter: Richard E. Moore, 2514 Dunnhill Drive, member of the Human Relations Commission; Beatriz Manduley, 2304 Dulsire Road, member of the Dialogue Task Force; Roger Anthony, member of the Dialogue Task Force; Charles Byrd; Earl Jones, 719-G Greenhaven Drive, representing the NAACP; Mike Fleming, member of the Dialogue Task Force; Reverend Jim Miller, Pastor, Church of the Cross; William L. Hemphill, member of the Dialogue Task Force; Jack Elam, 1110 South Park Drive, employed with Cone Mills Corporation, 1201 Maple Street; Charle W. Phillips, Jr.; Herb Reese, 1963 Ontario Drive, W. E. Phillips, 1134 Jefferson Road; Donald E. Gillespie, Jr., 2317 Fernwood Drive; Bobby Teague, 1207 Ashe Street; Ann Nicholson, 1009 Cranbrook Street; James C. Johnson, member of the Human Relations Commission; Gary Farlow; Herman C. Gist, 442 Gorrell Street; Bill Buckley; Charles W. Fairley, 1409 Marboro Drive; E. S. (Jim) Melvin; member of the Dialogue Task Force; and Dorothy Morton, Gateway Plaza.

It was the consensus of those speaking in support of the 5-3-1 plan that while it was a not a cure-all, it would capture the best of both worlds (at-large and district systems); would be a point from which the community could build; and would provide Black citizens in the community with representation on the Council. Several expressed concern that too much energy and time by the community had been expended on this issue--when concerns such as housing, education, employment, etc., should be addressed--urged the Council to assume its leadership role and enact this form of government by ordinance, commenting that this action would not only assure its implementation, but would provide for smooth transition at less expense to the taxpayers.

Mr. Elam stated that he would prefer that the Council size remain at seven because some fear had been expressed that the larger body may divide into factors, and that he was concerned that the plan proposed would guarantee for a long time into the future that there would be only two Blacks on the Council.

Edward L. Kay, 709 Mayflower Drive, and David G. O'Steen spoke in favor of the present, at-large system.

Bill Martin, Ervin L. Brisbon, of 1914-C Evans Drive, representing concerns of low-income citizens and housing and the Black United Front; Ed Whitfield, Chairman of Greensboro Black United Front; and Bob Smith, spoke in opposition to the 5-3-1 plan. Mr. Martin urged the Council to consider a six-district plan because he felt there were more citizens supporting a six-district formula than a five, but that they were endorsing the 5-3-1 plan out of fear or frustration that nothing else would be considered. Mr. Brisbon spoke to discrimination in jobs, housing, and education and commented that the reason that those persons who formerly opposed the district system were not supporting the 5-3-1 plan was due to the city's recent annexation concern and a need to increase the tax base. He stated that he was opposed to the 5-3-1 plan because it would assure control of the council by the northwest secion of the city and that he further felt this plan was a "sell out." Mr. Whitfield also spoke to the "sudden change of heart" to those formerly opposing a district plan. He further indicated that there was more opposition to the 5-3-1 plan than was evidenced by those present at this meeting. Mr. Smith commented that the Dialogue Task Force membership was not representative of the community because it did not involve low-income whites, citizens from all parts of the city, citizens concerned with housing, etc.

The City Attorney outlined for the Council the following schedule for addressing this issue. He advised that under the law there were three options now open to the Council following the hearing held tonight: 1) no sooner than the next regular meeting of the Council--December 6, 1982--and not later than 60 days--January 13, 1983--the Council may proceed to adopt the plan by ordinance; 2) at the same time that it may affirmatively act on the ordinance, the Council may, at its description, call for a referendum which would have to be held within 90 days from the action that the Council would take on the ordinance; and 3) at some point in time between December 6, 1982 and January 13, 1983, the Council could vote down the plan or not take action within the 60 day limitation period. The Attorney advised the Council that action must be taken within this 60 day period or this plan would fail by the wayside.

Councilmember Bardolph stated that in addition to those who spoke tonight, she would invite her supporters to telephone or write her concerning the adopting of this plan by ordinance, because she had pledged in her campaign that she would not do this by ordinance.

Mayor Forbis echoed this concern on behalf of the entire Council and urged the citizenry to contact members of the Council concerning their feelings on this issue.

Council reviewed with the City Attorney the time period upon which this action must be taken. The Attorney advised that action could be taken at any one of the regular scheduled Council meetings between December 6, 1982 and January 13, 1983, and these dates were: December 6, 16, 21, and 31, 1982, and January 4 and 13, 1983. The Mayor acknowledged that the Council could at the December 6 meeting decide when the matter would be addressed by the Council, possibly, December 16.

15 November 1982
2 December 1982
6 December 1982

Councilmember McManus moved that the Council adjourn. The motion was seconded by Councilmember Bowie and adopted unanimously.

THE COUNCIL ADJOURNED AT 9:30 p.m.

JOHN W. FORBIS
MAYOR

NANCY O. McPEAK
CITY CLERK

Exhibit -3-

REGULAR MEETING: 16 December 1982

The City Council of the City of Greensboro met in regular session at 1:00 p.m. on the above date in the Council Chamber of the Melvin Municipal Office Building with the following members present: Mayor John W. Forbis, presiding; Councilmembers Dorothy C. Bardolph, Joanne W. Bowie, R. Cameron Cooke, J. Douglas Galyon, James F. Kirkpatrick, Jr., and Lois M. McManus. Absent: None. Also present were T. Z. Osborne, City Manager; Jesse L. Warren, City Attorney; and Nancy J. McPeak, City Clerk.

The meeting was opened with a moment of silent prayer.

Upon motion of Councilmember Kirkpatrick, seconded by Councilmember Cooke, the minutes of the regular meetings held 2 December and 6 December 1982, were approved as written.

The Manager recognized Steve Hill, Telecommunicator in the Public Safety Department, who served as courier for the meeting.

.....

Mayor Forbis announced that the Council would at this time consider an ordinance amending the City Charter to provide for a change in the form of city government (5-3-1 plan). The Mayor stated that in accordance with law a public hearing had been held on this matter at which input was received from the citizens and, as stated earlier, this matter would not be debated further at this time but was the time set aside for the Council to discuss among themselves their feelings regarding this proposal. Ms. Virginia D. Bell, 208 Country Club Drive, and George B. Campbell, 5712 South Lake Drive, urged the Council to honor their campaign promises not to implement a change in the form of government by adopting an ordinance. The Mayor suggested that Mr. Campbell delay questions concerning clarification of the suggested district lines for the area proposed for annexation until such time as the matter had been considered by the Council. He was advised that there would be ample time for input into this matter also.

Each member of the Council stated his or her sincere, personal feelings concerning this issue and commended the citizens for their input over the last months, for their hard work, and for coming forward with their ideas. Appreciation was also expressed to the Dialogue Task Force for their recommendation. Council expressed the following feelings: 1) that the matter needed to be resolved so that more important issues could be addressed; 2) that the 5-3-1 plan at this time and place was fair and right for Greensboro; 3) fear, as voiced by the citizens, that another referendum on the subject would cause more divisiveness within the community; and 4) that the plan speaks to no change in the council/manager form of government nor in the city staff. Concern was expressed by the Council as to their responsibilities as elected leaders and changing circumstances (since the 1981 election campaign) that had influenced their decision concerning this important matter. The Council unanimously supported the 5-3-1 plan and its implementation by ordinance.

Thereupon, Councilmember Cooke moved the adoption of the ordinance amending the Charter of the City of Greensboro, as set forth in Chapter 1137, 1959 Session Laws of North Carolina, and as amended, to provide for a change in the form of city government. The motion was seconded by Councilmember Kirkpatrick; the ordinance was adopted on the following roll call vote: Ayes: Bardolph, Bowie, Cooke, Forbis, Galyon, Kirkpatrick, and McManus. Noes: None.

82-113

AN ORDINANCE AMENDING THE CHARTER OF THE CITY OF GREENSBORO, AS SET FORTH IN CHAPTER 1137, 1959 SESSION LAWS OF NORTH CAROLINA, AND AS AMENDED, TO PROVIDE FOR A CHANGE IN THE FORM OF CITY GOVERNMENT

WHEREAS, pursuant to Chapter 160A, Article 5, Part 4 of the General Statutes of North Carolina, entitled "Modification of Form of Government", the City Council has authority to adopt an ordinance amending the Charter of the City of Greensboro to provide for a change in the form of city government in accordance with the particulars of G.S. 160A-101;

WHEREAS, In order to effectuate a change or modification from the existing form of city government to a different form of city government as hereinafter set forth, it is necessary that the City Council adopt an ordinance in the manner prescribed in said act; and

WHEREAS, on October 14, 1982, this ordinance was introduced at a regular meeting of the City Council by reference to such ordinance in the "Resolution of Intent" for the purpose of commencing the initiative by the City Council to either adopt such an ordinance implementing the change directly or otherwise to call for a special election on the ordinance as hereinafter generally set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. That the Charter of the City of Greensboro, as set forth in Chapter 1137, 1959 Session Laws of North Carolina, and as amended, is hereby amended by repealing those applicable provisions in Chapters 2 and 3 of said Greensboro City Charter concerning nominations, elections, composition and voting requirements of the Mayor and members of the City Council, which provisions are in conflict with and contrary to a proposed modification or change in the form of city government as set forth below, and by substituting in lieu thereof new provisions in said Chapters 2 and 3 of the Greensboro City Charter to accomplish and effectuate the following modification or change in the form of government:

1. The City Council shall consist of eight members who shall serve for a term of two years.

2. Mode of election: The city shall be divided into five single-member electoral districts with one member of the City Council elected from each district. These five members of the City Council shall be apportioned to the five districts so that each member represents, as nearly as possible, the same number of persons. The qualified voters of each district shall nominate and elect a candidate who resides in the district for the seat apportioned to that district.

There shall be three members of the City Council apportioned to the city at large. All the qualified voters of the city shall nominate and elect candidates for the three seats apportioned to the city at large.

3. There shall be a mayor who shall be elected separately and at large by all the qualified voters of the city for a term of two years. He shall have a vote on all council matters.

Section 2. That if a change in the form of city government as set out above is finally approved, either by direct ordinance or a special election called by the City Council, the City Council shall, pursuant to G.S. 160A-105, proceed to comply with all requirements for the nomination and election of officers first to be elected under the revised form of city government so adopted, and shall further amend specific provisions of Chapters 2 and 3 of the Greensboro City Charter to conform with and implement said revised form of government.



Case 1:15-cv-00559-CCE-JLW Document 86-4 Filed 07/05/16 Page 12 of 20

Section 3. That if a change in form of city government as set out above is finally approved, either by direct ordinance or a special election called by the City Council, all laws and clauses of laws in conflict with the provisions of this ordinance shall be repealed by the City Council prior to the next succeeding municipal election for City Council; provided, however, that if a change in the form of city government is not approved this ordinance shall become null and void.

(Signed) R. Cameron Cooke

.....

Mayor Forbis stated that by this action history had been made today; that government is only as good as the people elected to manage it; and that government is not made of districts or at-large formats, but of warm-blooded, free people.

.....

Upon motion of Councilmember Cooke, seconded by Councilmember Galyon, the City Manager was instructed to submit the maps outlining the suggested districts together with all pertinent demographic data to the Institute of Government for their review, comments, and suggestions for a district plan that would meet the voting rights laws and constitutional requirements. The motion was adopted unanimously. (Copies of maps submitted are filed in Exhibit Drawer G as Exhibit Number 22 and are hereby referred to and made a part of these minutes.)

.....

?-114

0-82

Exhibit -4-

.....

Mayor Forbis stated that consideration would be given at this time to an ordinance amending certain sections of the City Charter to implement changes in the form of city government and to establish electorial districts.

Al Hodges stated that he thought it "immoral" and "unfair" for the Council to adopt these district maps without a public hearing at night to allow the public to comment on them. He also stated that he did not think the City should even consider Map B until annexation was definite.

Councilmember McManus commented that the Council did hold a night meeting of the 5-3-1 system, and the citizens have had several opportunities to comment on these maps. City Manager Osborne stated that as far as he knew, there had been very little response from the citizens since the maps were distributed.

Upon a question from Councilmember Bardolph, City Attorney Warren replied that the City Council could alter the district boundaries in the future, but the changes would still need to be approved by the Justice Department. Mr. Warren also stated that these maps had been approved by the Institute of Government and would now be sent to the Justice Department to determine if they comply with the Voter's Rights Act. In response to Mr. Hodges' statement regreding Map B, City Attorney Warren advised that to meet legal requirements, the City needed to provide two maps.

After a brief discussion, Councilmember McManusd moved adoption of the ordinance. Motion was seconded by Councilmember Galyon, and the ordinance adopted on the following roll call vote: Ayes: Bardolph, Bowie, Cooke, Forbis, Galyon, Kirkpatrick, and McManus. Noes: None.

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE CITY CHARTER AS SET FORTH IN CHAPTER 1137, 1959 SESSION LAWS OF NORTH CAROLINA, AND AS AMENDED, TO IMPLEMENT CHANGES IN THE FORM OF CITY GOVERNMENT AND TO ESTABLISH ELECTORAL DISTRICTS 83-7

WHEREAS, pursuant to Chapter 160A, Article 5, Part 4 of the General Statutes of North Carolina, entitled "Modification of Form of Government", the City Council has authority to adopt an ordinance amending the Charter of the City of Greensboro to provide for a change in the form of city government in accordance with the particulars of G. S. 160A-101;

WHEREAS, on 16 December 1982, the City Council duly adopted an ordinance providing for a change in the form of city government as set out below;

WHEREAS, pursuant to G. S. 160A-106 and 108, and in order to implement the change in the form of city government, the amendments to the City Charter hereinafter set out are required to be adopted;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. That Section 2.41 of the City Charter as set forth in Chapter 1137, 1959 Session Laws, as amended, is hereby further amended by repealing said section in its entirety and by substituting a new Section 2.41 to read as follows:

"Section 2.41. Time of regular municipal elections and mode of election.

Municipal non-partisan primaries and elections for mayor and city council shall be held biennially and at such times as prescribed by North Carolina General Statute G. S. 163-279.

1. The City Council shall consist of eight members who shall serve for a term of two years.

2. Mode of election: The city shall be divided into five single-member electoral districts with one member of the City Council elected from each district. These five members of the City Council shall be apportioned to the five districts so that each member represents, as nearly as possible, the same number of persons. The qualified voters of each district shall nominate and elect a candidate who resides in the district for the seat apportioned to that district.

There shall be three members of the City Council apportioned to the city at large. All the qualified voters of the city shall nominate and elect candidates for the three seats apportioned to the city at large.

3. There shall be a mayor who shall be elected separately and at large by all the qualified voters of the city for a term of two years. He shall have a vote on all council matters."

Section 2. That Section 2.43 of the City Charter as set forth in Chapter 1137, 1959 Session Laws, and as repealed by Chapter 213, 1973 Session Laws, is hereby amended by substituting a new Section 2.43 to read as follows:

"Section 2.43. Establishment of electoral districts.

(a) Adoption of official electoral district boundary map. Pursuant to Article 4 and Article 5 of Chapter 160A of the General Statutes of North Carolina, the City of Greensboro is hereby divided into five electoral districts to be known by numbers 1, 2, 3, 4 and 5. Such districts shall be drawn on an official "Electoral District Boundary Map" which shall be retained permanently in the Office of the City Clerk. The boundaries of each district under the present corporate limits as it exists on 7 February 1983 are hereby established

as shown on said official map dated 7 February 1983 and which map is hereby adopted and incorporated herein by reference and made a part hereof. The boundaries of each district under the proposed corporate limits pursuant to annexation ordinances adopted by the City Council on 16 November 1981 are hereby established as shown on said official map dated 7 February 1983, which map shall immediately supersede the aforementioned boundary map at such time that said annexations become effective and which map is hereby adopted and incorporated herein by reference and made a part hereof. A separate metes and bounds description shall not be deemed to be required or necessary in establishing the original electoral district boundaries or any amendments thereto.

(b) Amendments to district lines. Pursuant to G.S. 160A-23, the City Council shall have authority to revise, change, alter or amend the electoral district boundaries from time to time in a reasonable manner and as it deems to be in the best interest of the city. In the event that the corporate limits are extended, the nearest electoral district shall be automatically enlarged to include the annexed area therein. However, if in the opinion of the City Council, the district lines should be adjusted in some other manner to include the annexed area, it may make such reasonable adjustments as deemed necessary. In addition, from time to time in order to correct population imbalances, the City Council shall adjust district lines in such reasonable manner as it deems appropriate and necessary and shall cause the Board of Elections to be duly notified so that the Board may take appropriate action including any adjustments in precinct boundaries.

(c) Procedure for amendment and official entries on map. All amendments to electoral district boundaries as approved by motion or resolution of the City Council at a duly authorized meeting thereof, shall be codified by appropriate entries (including the date of amendment) upon the official district boundary map. Such entries shall be made by or under the direction of the City Manager and shall be permanently retained in the office of the City Clerk."

Section 3. That Section 3.01 of the City Charter as set forth in Chapter 1137, 1959 Session Laws, as amended, is hereby further amended by rewriting the first sentence thereof to read as follows:

"The City Council shall consist of eight members who shall be elected for a term of two years in the manner provided by Chapter II."

Section 4. That Section 3.02 of the City Charter as set forth in Chapter 1137, 1959 Session Laws, as amended, is hereby further amended by rewriting Subsection (b) to read as follows:

"(b) No person shall be eligible to be nominated or elected to the City Council from an electoral district or to continue to serve thereon unless he is a qualified voter and resident of the city and the district which he represents. No person shall be eligible to be nominated or elected to the City Council at large or to continue to serve thereon unless he is a qualified voter and resident of the city. In addition, no person shall be eligible to be nominated or elected to the office of mayor or to continue to serve as mayor unless he is a qualified voter and resident of the city."

Section 5. That Section 3.23 of the City Charter as set forth in Chapter 1137, 1959 Session Laws, as amended, is hereby further amended by rewriting the fourth sentence as contained in Subsection (b) to read as follows:

"All other matters voted upon shall be by majority vote of the Council members present but no ordinance shall be adopted on the same day it is introduced unless six affirmative votes are received in favor of it."

Section 6. That Section 2-6 of the Greensboro Code of Ordinances is hereby amended by deleting the word and figure "four (4)" in Subsection (c) and by substituting in lieu thereof the word and figure "five (5)".

Section 7. That all laws and clauses of laws in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 8. That this ordinance shall become effective immediately upon publication thereof as provided by Section 3.42 (c) of the City Charter and the provisions and amendments made hereunder shall be applicable beginning with the next ensuing municipal election for mayor and city council.

(Signed) Lois H. McManus

(Copy of Map A, Electoral District Boundary Map (Present City Limits) and Map B, Electoral District Boundary Map (Present City Limits including annexations adopted 16 November 1981) are filed in Exhibit Drawer G, Exhibit No. 26, and are hereby referred to and made a part of these minutes.)

.....

Councilmember Cooke added the name of Frank P. Rakestraw to the list of prospective board and commission members list, for possible service on either the Planning Board, Zoning Commission, Housing Authority, or Housing Development Clearinghouse Commission.

.....

Mayor Forbis moved that the Council adjourn to meet in Executive Session to consider a personnel matter. Motion was seconded by Councilmember Galyon and adopted unanimously.

THE COUNCIL ADJOURNED at 4:35 p.m.

Norma H. Bodsford
NORMA H. BODSFORD
DEPUTY CITY CLERK

John W. Forbis
JOHN W. FORBIS
MAYOR

| | |
|---|---|
| **From:** | Sen. Trudy Wade <NCGA/EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/RECIPIENTS/SEN. TRUDY WADECA4> |
| **Sent:** | 2/5/2015 4:40:02 PM +0000 |
| **To:** | Tony Wilkins <tony@tonywilkins.com> |
| **Subject:** | Greensboro City Council Changes |
| **Attachments:** | DRS25019-ST-8.pdf; Greensboro Council 2014 Boundary 11x17.pdf |

---

| | |
|---|---|
| **Message Headers:** | User-Agent: Microsoft-MacOutlook/14.0.0.100825<br>Date: Thu, 5 Feb 2015 11:39:52 -0500<br>Subject: Greensboro City Council Changes<br>From: Trudy Wade <Trudy.Wade@ncleg.net><br>To: Tony Wilkins <tony@tonywilkins.com><br>Message-ID: <D0F90707.3325D%Trudy.Wade@ncleg.net><br>Thread-Topic: Greensboro City Council Changes<br>MIME-Version: 1.0<br>Content-Type: multipart/mixed; boundary="B_3505981192_2875525" |
| **@AfterMailServer:** | http://archivemanager.ncga.state.nc.us |
| **@Attachments:** | <?xml version="1.0" encoding="utf-8"?><br><aftermail xmlns:xsd="http://www.w3.org/2001/XMLSchema" xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"><br><attachment checksum="49310d62-5495-d354-3913-8111e14064ec" displayname="DRS25019-ST-8.pdf" filename="DRS25019-ST-8.pdf" pathname="" position="-1" type="1" flags="0" number="0" size="42104" hidden="false" /><br><attachment checksum="d381e80f-5fac-686d-c468-5f9c6f4628ae" displayname="Greensboro Council 2014 Boundary 11x17.pdf" filename="Greensboro Council 2014 Boundary 11x17.pdf" pathname="" position="-1" type="1" flags="0" number="1" size="1723298" hidden="false" /><br></aftermail> |
| **@Message:** | <?xml version="1.0"?><br><aftermail xmlns:xsd="http://www.w3.org/2001/XMLSchema" xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"><br><message checksum="070bf689-8294-7fef-b9f4-95de769bc5a8" type="3" /><br></aftermail> |
| **@OriginalMessageClass:** | IPM.Note |
| **@CheckSum:** | 070bf689-8294-7fef-b9f4-95de769bc5a8 |
| **@OriginalClientSubmitTime:** | 2/5/2015 4:40:02 PM +0000 |
| **@MessagePolicyAction:** | strip |

| | |
|---|---|
| **From:** | "Kathy Hartsell (Sen. Trudy Wade)" <NCGA/EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/RECIPIENTS/SEN. TRUDY WADE'S OFFICE939> |
| **Sent:** | 2/4/2015 8:06:10 PM +0000 |
| **To:** | john@rhinotimes.com |
| **Subject:** | Greensboro City Council Changes |
| **Attachments:** | DRS25019-ST-8.pdf |

---

**@AfterMailServer:** http://archivemanager.ncga.state.nc.us

**@Attachments:**
<?xml version="1.0" encoding="utf-8"?>
<aftermail xmlns:xsd="http://www.w3.org/2001/XMLSchema" xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance">
<attachment checksum="49310d62-5495-d354-3913-8111e14064ec" displayname="DRS25019-ST-8.pdf" filename="DRS25019-ST-8.pdf" pathname="" position="-1" type="1" flags="0" number="0" size="45642" hidden="false">
<encoding />
</attachment>
</aftermail>

**@CheckSum:** 38014c27-0899-a1f5-552b-432c1346949f

**@OriginalClientSubmitTime:** 2/4/2015 8:06:10 PM +0000

**@Message:**
<?xml version="1.0"?>
<aftermail xmlns:xsd="http://www.w3.org/2001/XMLSchema" xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance">
<message checksum="38014c27-0899-a1f5-552b-432c1346949f" type="3" />
</aftermail>

**@OriginalMessageClass:** IPM.Note

**@MessagePolicyAction:** strip

| | |
|---|---|
| **From:** | Sen. Trudy Wade <NCGA/EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/RECIPIENTS/SEN. TRUDY WADECA4> |
| **Sent:** | 2/5/2015 4:45:08 PM +0000 |
| **To:** | skip@alstonrealtygroup.com |
| **Subject:** | Greensboro City Council Stats |
| **Attachments:** | Greensboro Council Districts - Senate DR25019-ST-8-Stats.pdf |

---

| | |
|---|---|
| **Message Headers:** | User-Agent: Microsoft-MacOutlook/14.0.0.100825<br>Date: Thu, 5 Feb 2015 11:45:24 -0500<br>Subject: Greensboro City Council Stats<br>From: Trudy Wade <Trudy.Wade@ncleg.net><br>To: "skip@alstonrealtygroup.com" <skip@alstonrealtygroup.com><br>Message-ID: <D0F90853.33268%Trudy.Wade@ncleg.net><br>Thread-Topic: Greensboro City Council Stats<br>MIME-Version: 1.0<br>Content-Type: multipart/mixed; boundary="B_3505981524_2952961" |
| **@AfterMailServer:** | http://archivemanager.ncga.state.nc.us |
| **@Attachments:** | <?xml version="1.0" encoding="utf-8"?><br><aftermail xmlns:xsd="http://www.w3.org/2001/XMLSchema" xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"><br><attachment checksum="9e1d11cb-b973-714e-9f17-9e25a14ec52a" displayname="Greensboro Council Districts - Senate DR25019-ST-8-Stats.pdf" filename="Greensboro Council Districts - Senate DR25019-ST-8-Stats.pdf" pathname="" position="-1" type="1" flags="0" number="0" size="245919" hidden="false" /><br></aftermail> |
| **@Message:** | <?xml version="1.0"?><br><aftermail xmlns:xsd="http://www.w3.org/2001/XMLSchema" xmlns:xsi="http://www.w3.org/2001/XMLSchema-instance"><br><message checksum="ec522c3b-36a1-f637-eb0c-92d979507a31" type="3" /><br></aftermail> |
| **@OriginalMessageClass:** | IPM.Note |
| **@CheckSum:** | ec522c3b-36a1-f637-eb0c-92d979507a31 |
| **@OriginalClientSubmitTime:** | 2/5/2015 4:45:08 PM +0000 |
| **@MessagePolicyAction:** | strip |