



Executive Committee Meeting Beaufort County, SC

This meeting was held both in person at Executive Conference Room, 100 Ribaut Road, Beaufort, and also virtually through Zoom.

Monday, June 7, 2021
1:00 PM

MINUTES

1. **CALL TO ORDER**

County Council Chairman Passiment called the meeting to order at 1:00 PM

PRESENT

Committee Chairman Sommerville
Council Member Passiment
Council Member Cunningham
Council Member Dawson
Council Member Hervochon
Council Member McElynn
Council Member Howard
Council Member Rodman
Council Member Lawson
Council Member Glover

2. **PLEDGE OF ALLEGIANCE**

County Council Chairman Passiment led the Pledge of Allegiance

3. **FOIA**

County Council Chairman Passiment stated public notice of this meeting had been published, posted, and distributed in compliance with the SC FOIA Act.

4. **APPROVAL OF AGENDA**

Motion: It was moved by Council Member McElynn, Seconded by Council Member Dawson to approve the agenda. Motion approved without objection.

5. **APPROVAL OF MINUTES**

Motion: It was moved by Council Member Howard, Seconded by Council Member McElynn to approve the minutes of May 3, 2021. Motion approved without objection.

6. **CITIZEN COMMENTS**

No Citizen Comments

EXECUTIVE SESSION

Motion: It was moved by Council Member Rodman, Seconded by Council Member Dawson to go into Executive Session to discuss item number 7, Pursuant to SC Code Section 30-4-70 (A)(2) Receipt of Legal Advice where the Legal Advice Relates to Pending, Threatened or Potential Claims. Motion approved without objection.

7. PURSUANT TO SC CODE SECTION 30-4-70(A)(2) RECEIPT OF LEGAL ADVICE WHERE THE LEGAL ADVICE RELATES TO PENDING, THREATENED OR POTENTIAL CLAIMS

AGENDA ITEMS

8. MATTERS ARISING OUT OF EXECUTIVE SESSION

Motion: It was moved by Council Member Howard, Seconded by Council Member Dawson to move to County Council the recommendations of the Attorney regarding the matters discussed in Executive Session, item number 9: First Reading of an Ordinance Proposing Amendments to Beaufort County Code of Ordinances: Chapter 46, Article 11, Sections 46.26 through 46.33.

Discussion:

- Moving too fast, doesn't need to go to Council on Monday
- Being that the information is public, ok to move forward

The Vote- Voting Yea: Council Member Howard, Council Member Dawson, Council Member Lawson, Council Member Rodman, Council Member Sommerville, Council Member Passiment. Voting Nay: Council Member Cunningham, Council Member Hervochon, Council Member McElynn Abstain: Council Member Glover. The motion passed 6:3 1 Abstained

11. PRESENTATION FROM FRANK RAINWATER REGARDING REDISTRICTING

To view discussion and presentation: <https://beaufortcountysc.new.swagit.com/videos/122454>

Motion: It was moved by Council Member Rodman, Seconded by Council Member Howard to move to County Council the recommendation to use the South Carolina Revenue and Fiscal affairs Offices for redistricting services. Motion approved without objection.

10. SOUTHERN CAROLINA ALLIANCE PRESENTATION AND DISCUSSION

To view discussion and presentation: <https://beaufortcountysc.new.swagit.com/videos/122454>

12. REVIEW OF BEAUFORT COUNTY RULES AND PROCEDURES HANDBOOK- PREAMBLE AND CHAPTER 1

Committee Chairman Sommerville asked that the backup material be read through and contact him with any questions

13. ADJOURNMENT

Meeting adjourned at 2:09 PM.

Ratified:



**County Council of
Beaufort County
Executive Committee
Meeting**

Chairman
PAUL SOMMERVILLE

Committee Members
ALICE HOWARD
LAWRENCE P. MCELYNN
STU RODMAN
MARK LAWSON

Interim County Administrator
ERIC GREENWAY

Clerk to Council
SARAH W. BROCK

Staff Support
ROBERT BECHTOLD

Administration Building
Beaufort County Government
Robert Smalls Complex
100 Ribaut Road

Contact
Post Office Drawer 1228
Beaufort, South Carolina 29901-1228
(843) 255-2180
www.beaufortcountysc.gov

Executive Committee Minutes

Monday, May 3, 2021, at 1:00 p.m.

[This meeting is being held virtually in accordance with Beaufort County Resolution 2020-05]

ALL OF OUR MEETINGS ARE AVAILABLE FOR VIEWING ONLINE AT WWW.BEAUFORTCOUNTYSC.GOV AND CAN ALSO BE VIEWED ON HARGRAY CHANNELS 9 AND 113, COMCAST CHANNEL 2, AND SPECTRUM CHANNEL 1304

CALL TO ORDER

Committee Chairman Sommerville called the meeting to order at 1:00 p.m.

PRESENT

Committee Chairman Sommerville
Council Member Passiment
Council Member Howard
Council Member Dawson
Council Member McElynn
Council Member Rodman
Council Member Glover
Council Member Hervochon

PLEDGE OF ALLEGIANCE

Committee Chairman Sommerville led the Pledge of Allegiance

FOIA

Committee Chairman Sommerville noted that the Public Notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

APPROVAL OF AGENDA

It was moved by Council Member Howard, seconded by Council Member Dawson to "**approve the agenda.**" 8:0 Motion carried

APPROVAL OF MINUTES: April 5, 2021

It was moved by Council Member Howard, seconded by Council Member Passiment to "**approve the minutes from April 5, 2021**". 9:0 Motion carried

CITIZEN COMMENTS

No citizen comments.

AGENDA ITEMS

A Discussion Regarding the Elements of The Rules and Procedures Handbook- Officers of Council

A brief update on how to address the elements and the revision of the handbook.

- Preamble and Chapter One; Officers, Chairs, Parliamentarian, Residency Requirements, Clerk to Council, and Ethical Principals to be discussed at next Executive Committee on June 7, 2021.

Discussion Regarding Uniform Committee Agendas

- Committee Chairs agreeing to a standard format and presenting it at the next Executive Committee on June 7, 2021.
- Committee Agenda having a Consent Agenda; no legal issues.
- Committee Agenda's purpose is to discuss items and no need for consent agenda.
- A need for consent agenda for items that do not need to be discussed.
- Uniformity of agenda: 1-6 should be standard for each committee, Agenda Items, and Executive Session.
- Purpose of the Committee is to discuss, dissect, and disagrees with a consent agenda.

Update on Boards and Commissions- Liaison Responsibilities

- Reminder of responsibilities.
- Staff liaison needs to be a source of information and Council liaison needs to develop a relationship with the Staff liaison or Department Head.
- Concerned with Board Members needing approval by the Governor and the timeframe it is taking to get approval back.
- Bring the issue up with the Legislative Delegation, having it approved at the County level instead of the State level due to the time it takes to get approval.

ADJOURNMENT

The meeting adjourned at 2:30 p.m.

Ratified by Committee:



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
First Reading of an Ordinance Proposing Amendments to Beaufort County Code of Ordinances: Chapter 46, Article II, Sections 46.26 through 46.33
MEETING NAME AND DATE:
Executive Committee June 7, 2021
PRESENTER INFORMATION:
Thomas J. Keaveny, II Deputy County Attorney Laura J. Evans, Esquire Shumaker Loop & Kendrick (Charleston Office)
ITEM BACKGROUND:
Beaufort County's Ordinance regarding Beaufort Memorial Hospital has been in effect without revision for approximately 40 years (since at least 1982). The Ordinance needs to be updated.
PROJECT / ITEM NARRATIVE:
Staff recently had reason to review Beaufort County's Ordinance which relates to Beaufort Memorial Hospital. The County retained Laura Evans, managing partner of the Charleston office of Shumaker Loop & Kendrick to assist in that review. Ms. Evans limits her practice primarily to health care law, and health care administration law. Ms. Evans recommends Beaufort County update its Ordinance in a number of important particulars all as set forth in the proposed amended Ordinance which is attached.
FISCAL IMPACT:
None
STAFF RECOMMENDATIONS TO COUNCIL:
Amend the Ordinance as recommended by Ms. Evans.
OPTIONS FOR COUNCIL MOTION:
◇ Allow the existing ordinance to remain as it is; ◇ Amend the existing ordinance as recommended by Ms. Evans; ◇ Amend the existing ordinance incorporating some of the recommendations of Ms. Evans.
Next step: County Council June 14, 2021 to review Committee recommendations. First reading of an Ordinance to amend existing ordinance.

ORDINANCE 2021/ _____

**TEXT AMENDMENTS TO BEAUFORT COUNTY CODE OF ORDINANCES:
CHAPTER 46, ARTICLE II, SECTIONS 46.26 THROUGH 46.33.**

WHEREAS deleted text is stricken through; added text is underlined.

Adopted this _____ day of _____, 202____.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Joseph Passiment, Chairman

ATTEST:

Sarah w. Brock, JD, Clerk to Council

First Reading:

Second Reading:

Third reading:

~~ARTICLE II.— BEAUFORT COUNTY MEMORIAL HOSPITAL BOARD OF TRUSTEES~~ Sec. 46-26. - Purpose; ~~agency created~~form.

The ~~board of regents~~ Beaufort County Council ("County Council") is charged with enacting ordinances necessary and proper for preserving the health of Beaufort County residents. The Board of Trustees of Beaufort County Memorial Hospital (~~referred to as the~~ "board") is constituted ~~an agency as a board~~ of the county council in order to equip, maintain and operate Beaufort County Memorial Hospital and such other ancillary facilities and services as ~~the board~~ may ~~find~~be necessary to serve the health care needs of the citizens of the county. The board shall be known as the Beaufort County Memorial Hospital Board of Trustees. The board shall adopt an official seal and shall keep minutes of all meetings and records of all transactions in accordance with applicable law.

Sec. 46-27. - Membership; organization; terms of office.

- (a) ~~The initial board of trustees shall be composed of the existing nine members of the Beaufort Memorial Hospital Boards of Regents. The initial board members shall complete their terms as defined at the time of their most recent appointment. Hereafter, vacancies in the board of trustees of Beaufort County Memorial Hospital shall be filled by the county council from nominees submitted by the board. Section 2-193 shall not govern the number of voting members of the board, which shall be determined by the board, provided that the board is comprised of a minimum of seven voting members. The board shall have a total of thirteen (13) members as follows, all of whom must be residents of Beaufort County and be registered to vote therein: (i) eleven (11) members appointed by County Council; (ii) the hospital's medical staff chief; and (iii) the Beaufort Memorial Hospital Foundation chairperson. At least one member of County Council shall act as an advisory member, with no voting rights. Vacancies on the board shall be filled by the county council from nominees based upon selection criteria outlined in Sec. 2-193(d). Each county district shall have at least one board member representing the district.~~
- (b) The members of the board ~~of trustees~~ shall elect a chairman and such other officers as the board ~~of trustees~~ may deem necessary. ~~Subsection 2-193(g) shall not govern officers' eligibility for reelection, which shall be determined by the board.~~
- (c) Board members shall serve three (3) year terms and may serve more than one (1) term, all subject to the provisions of Sec. 2-193(b).

Sec. 46-28. - Powers and duties.

The board ~~of trustees of Beaufort County Memorial Hospital~~ shall have the following powers and duties:

- (1) Adopt and use a corporate seal;
- (2) Adopt such bylaws, rules and regulations for the conduct of its business and expenditure of its funds as it may deem advisable, including the development and implementation of a procurement policy;
- (3) Acquire, by gift, purchase, lease or otherwise, all kinds and descriptions of real and personal property;
- (4) Accept gifts, grants, donations, devises and bequests;
- (5) Enlarge and improve any hospital building that it may acquire or construct, subject to budgetary constraints and the authorization of the County Council;
- (6) Adequately staff and equip any ~~hospital~~health care facility that it may operate;
- (7) Employ a competent administrator or contract for management services to execute policies established by the board for the operation of the facilities maintained by the board, except that any contract for management services must be authorized by the County Council;
- (8) Provide and operate outpatient departments;

- (9) Establish and operate such clinics as the board may deem necessary to the health of the residents of the county;
- (10) Employ such personnel as it may deem necessary for the efficient operation of the several facilities maintained by the board;
- (11) Establish and promulgate reasonable rates for the use of the services and facilities afforded by the board;
- (12) Provide reasonable regulations concerning the use of the facilities maintained by the board, including reasonable rules governing the conduct of physicians, nurses and technicians while on duty or practicing their professions in the facilities maintained by the board;
- (13) Define eligibility requirements for patients for charity services, operate and maintain necessary services for such patients, contract with third parties for reimbursement for the cost of services rendered to such patients, and collect partial payment from patients unable to pay the rates established by the board;
- (14) Arrange with proper authorities of any adjoining county, upon such financial terms as are agreeable to each, to admit and care for charity cases from adjoining counties, provided that patients may be admitted to the hospital from any place whatsoever;
- (15) Expend the proceeds derived from the charges made for the use of the services and facilities of the hospital for the operation and maintenance thereof;
- (16) Expend any funds received in any manner, including the proceeds derived from the issue of bonds, to defray any costs incident to establishing, constructing, equipping and maintaining any hospital;
- (17) Apply to the federal government and any other governmental agency for a grant of monies to aid in the construction and equipment of any hospital;
- (18) Dispose by sale, lease, or otherwise of any property, real or personal, ~~that it may possess, provided that the county council and the board of trustees shall, from time to time, inform each other of their plans to dispose of real property so that mutual needs can be assessed~~ so long as the disposal does not interfere with the maintenance of Beaufort Memorial Hospital.;
- (19) Borrow funds for use in constructing, equipping, operating and maintaining the facilities afforded by the board, provided that the board shall have no authority to create any financial obligation on the county except as may be approved by the council;
- (20) Enter into contracts for hospital care with any association or agency of the federal government having a hospital care program; and
- (21) ~~Exercise~~ With the authorization of the County Council, exercise the power of eminent domain in the manner provided by the general laws of the state for procedure by any county, municipality or authority created by or organized under the laws of this state or by the state highway department or by railroad corporations.
- (22) Equip, maintain, and operate Beaufort Memorial Hospital and any ancillary facilities or services in accordance with applicable law and in a manner to protect and maintain its tax-exempt status.

Sec. 46-29. - Indigent care.

The board ~~of trustees of Beaufort County Memorial Hospital~~ shall be charged with the responsibility of providing health care for the county's indigent ~~county~~ citizens. The county shall provide monies, in amounts deemed appropriate through the county's budgetary process, to contribute toward the cost of indigent care provided by the hospital and/or its ancillary facilities and services.

~~Sec. 46-30. — Management and control.~~

~~The board of trustees of Beaufort County Memorial Hospital shall manage and control the hospital and its financial affairs. The board shall be exempt from section 2-193, provided that the board shall maintain written personnel and purchasing procedures.~~

Sec. 46-31. - Additional capital funding; Loans.

- (a) The ~~county council~~County Council and the board ~~of trustees of Beaufort County Memorial Hospital~~ recognize and acknowledge that it will be necessary, from time to time, to secure funds for expansion or improvement of the hospital and related ancillary facilities or services. The council and the board pledge their cooperation in formulating and executing programs designed to fund necessary ~~long-term~~long-term capital improvements of facilities maintained by the board.
- (b) The board may borrow money and obtain loans from, and issue notes to, banks or other lending institutions or other governmental entities in amounts up to Five Hundred Thousand and No/100 Dollars (\$500,000.00) and secure such loans with a pledge of hospital revenues and assets, including mortgaging or granting security interests in real and personal property of Beaufort Memorial Hospital, provided such loans: (i) shall be authorized by a resolution of the board, without the necessity of obtaining consents or approvals from any other party or entity; (ii) shall be under such terms and conditions as established by the board; and (iii) shall not require a public bid from such banks or other lending institutions or other governmental entities. In addition to these requirements, any borrowing or loans in excess of Five Hundred Thousand and No/100 Dollars (\$500,000.00) must be authorized by County Council.
- (c) The board shall have no authority to create any financial obligation or debt on the county without the County Council's authorization.
- (d) Bonds of the hospital, for whatever purpose, shall be issued only by the council and only or by third-parties with the council's authorization. Funds received from such issues shall be deposited with the county treasurer.

Sec. 46-32. ~~—~~ Audit; Budget Requests; Regular Reports; Records.

The board ~~of trustees of Beaufort County Memorial Hospital~~ shall file a copy of an annual audit of the financial operations of the hospital with the county administrator. During April of each year, the board shall furnish the council with its budget requests for the succeeding fiscal year. On a quarterly basis, the board shall supply County Council with the following information: (1) copies of minutes of all regular, special, and emergency board meetings, as well as all board committee meetings; (2) income statement summary, balance sheet, and cash flow statements from each month in the quarter, including any data regarding any physician network; (3) days of cash on hand for each month in the quarter; (4) maximum debt service coverage for each month in the quarter; and (5) debt to capitalization report for each month in the quarter. Records relating to the hospital and its ancillary facilities and services shall at all times be available for inspection by County Council or its authorized representative.


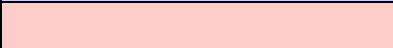
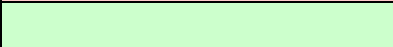
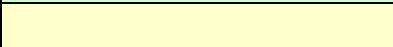

~~Sec. 46-33.— Amendments.~~

~~This article shall not be amended, nor shall the agency's relationship created by this article be modified or terminated without the express mutual consent and approval of the council and the board of trustees of Beaufort County Memorial Hospital.~~

~~Secs. 46-34 — 46-90.— Reserved.~~

Document comparison by Workshare 9.5 on Tuesday, June 1, 2021 1:51:17 PM

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Description	#15305021v1<iManage> - Original Ordinance
Document 2 ID	interwovenSite://DMS/iManage/15145309/1
Description	#15145309v1<iManage> - redlined ordinance
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	33
Deletions	32
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	65

CENSUS AND REDISTRICTING

Presented To



Beaufort County Council Executive Committee June 7, 2021

by

Frank A. Rainwater and Victor Frontroth

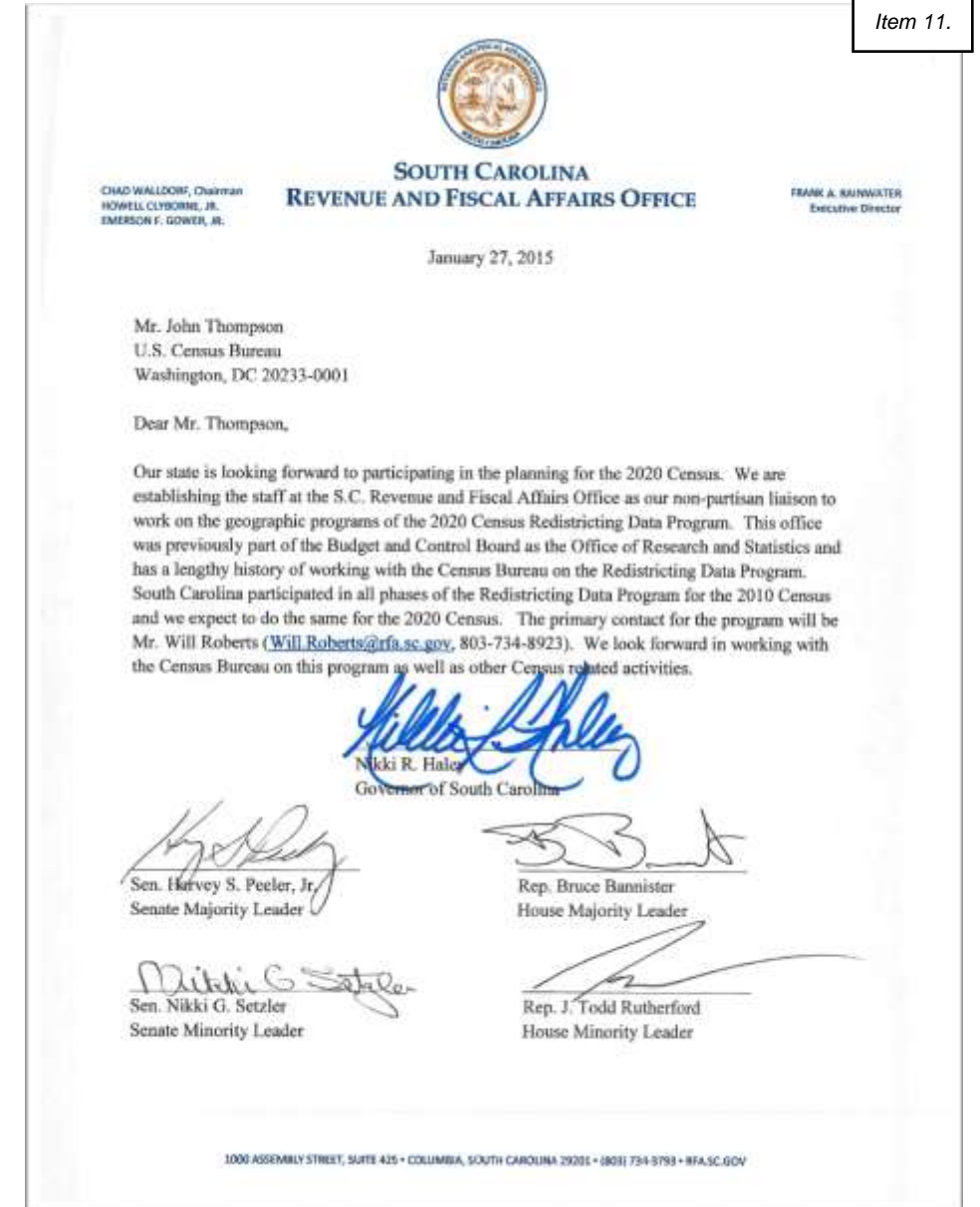


South Carolina Revenue and Fiscal Affairs Office
1000 Assembly Street
Rembert Dennis Building, Suite 421
Columbia, SC 29201
(803) 734-2265
www.rfa.sc.gov

SC Revenue and Fiscal Affairs Office

- Official State Contact with Census
- Maintain official precinct maps (SC Code of Laws §7-7-30 et seq.)
- Coordination with other mapping programs
 - Jury Areas (SC Code of Laws §22-2-30)
 - Transportation Network Company (SC Code of Laws §58-23-1610)
 - Incorporation (SC Code of Regs 113-200(A))
- Prep Work
 - Local Update of Census Addresses (LUCA)
 - Boundary and Annexation Program
- Served as technical advisors to the Federal Courts
- Redistricting Services
 - Provide redistricting services in accordance with redistricting law and principles
 - RFA is not providing legal advice

Item 11.



Responsibility for Redistricting

Basic Responsibilities for Redistricting

Entity: County Council

Why: Meet Constitutional requirement of one person, one vote

Who: Drawn by council (Home Rule)

How: Follow constitutional and statutory principals, and traditional redistricting principles;
Requires three readings with map and/or description passed by ordinance

When: Before next general election (§4-9-90)

UPDATE – Data release set for September 30, 2021

Tools, Laws, and Principles

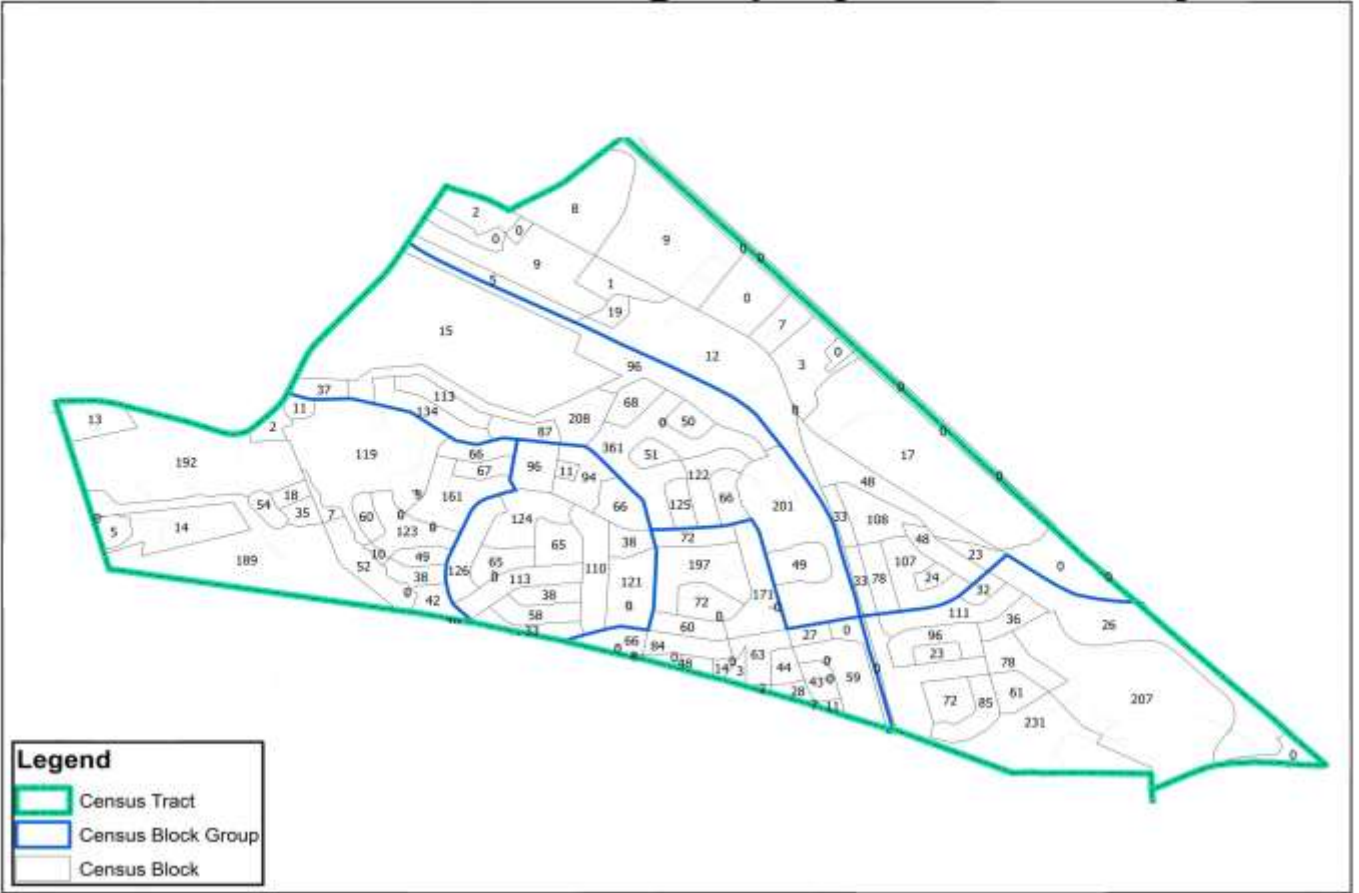
Tools - The Census

The Revenue and Fiscal Affairs Office has adopted the redistricting racial field guidelines as stated by the U.S. Justice Department in the Federal Register Vol.66, No. 12., Thursday, January 18, 2001, reaffirmed in 2011 by the USDOJ Listed are the adopted guidelines.

Field	Details	Formula
Hispanic_O	Hispanic	
NH_WHT	Non-Hispanic White	
NH_DOJ_BLK	Non-Hispanic Black	Non-Hispanic Black + Non-Hispanic WhiteBlack
NH_DOJ_IND	Non-Hispanic American Indian and Alaska Native	Non-Hispanic Indian + Non-Hispanic WhiteIndian
NH_DOJ_ASN	Non-Hispanic Asian	Non-Hispanic Asian + Non-Hispanic WhiteAsian
NH_DOJ_HWN	Non-Hispanic Native Hawaiian and Other Pacific Islander	Non-Hispanic Hawaiian + Non-Hispanic WhiteHawaiian
NH_DOJ_OTH	Non-Hispanic Some Other Race	Non-Hispanic Other + Non-Hispanic WhiteOther
NH_DOJ_OMR	Non-Hispanic Other Multiple Race	Non-Hispanic Multiple Race-NH_WhiteBlack-NH_WhiteIndian-NH_WhiteAsian-NH_WhiteHawaiian-NH_WhiteOther

Tools - Census Tract, Block Group, and Block

Census Geography Hierarchy



Key Principles - One Person, One Vote

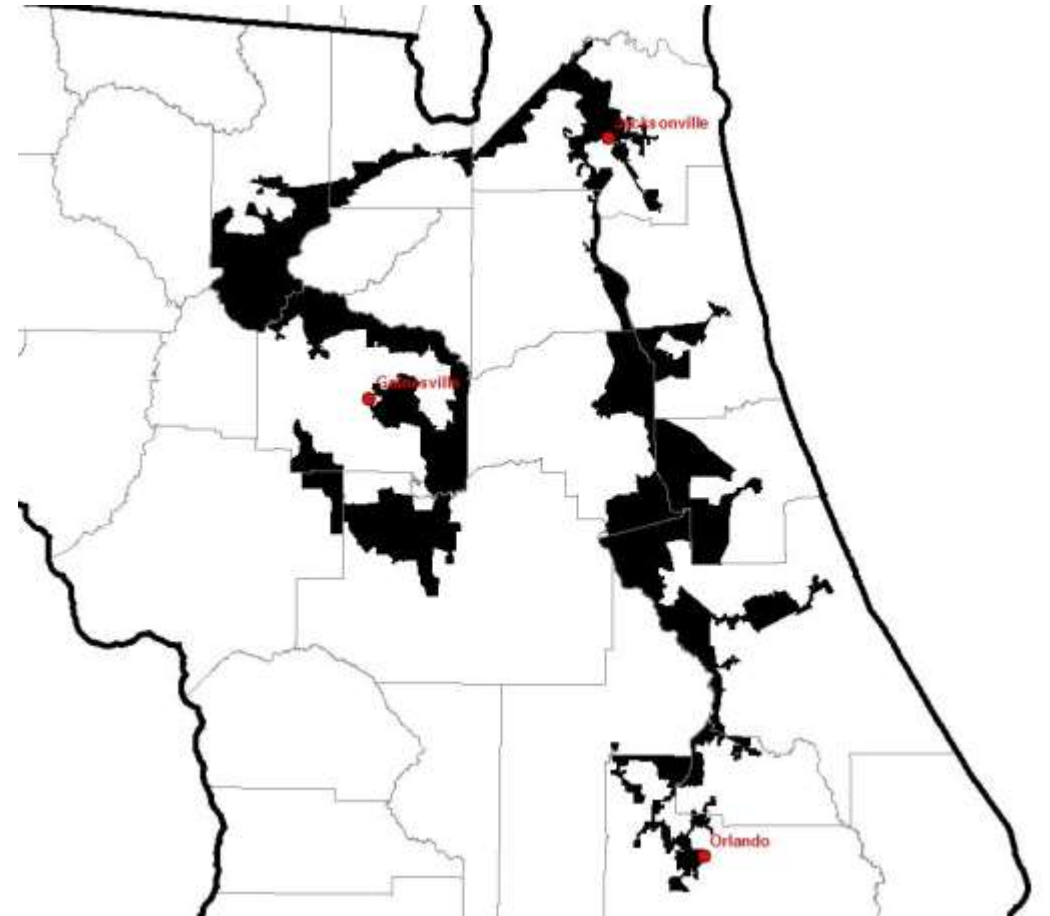
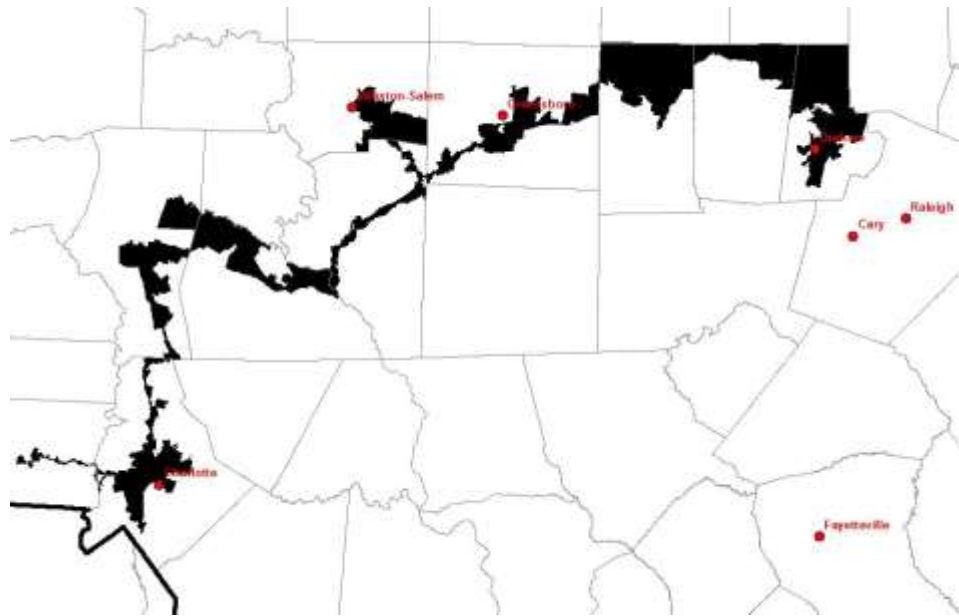
- 14th Amendment U.S. Constitution – Equal Protection
- Race cannot be used as the predominate factor
- Evenwel v. Abbott (2016) - Total population can be used for satisfying one person, one vote criteria.

Key Issues – Racial Gerrymandering



- Shaw v. Reno (1993) – First racial gerrymandering case to reach the Supreme Court. Court ruled racial gerrymandering was a violation of Equal Protection.
- Bush v. Vera (1996) – Race should not be a predominate factor in drawing plans. Race can be a factor, but must be subordinate to traditional redistricting principles. If redistricting principles were subordinate to race, then strict scrutiny can apply to a redistricting plan by the court.
- Strict scrutiny of a plan requires court to determine if the state had a compelling interest in creating a district with race as predominate factor.
- Alabama Legislative Black Caucus v. Alabama (2015) – “A racial gerrymandering claim, however, applies to the boundaries of individual districts.”

Examples of Racial Gerrymandering



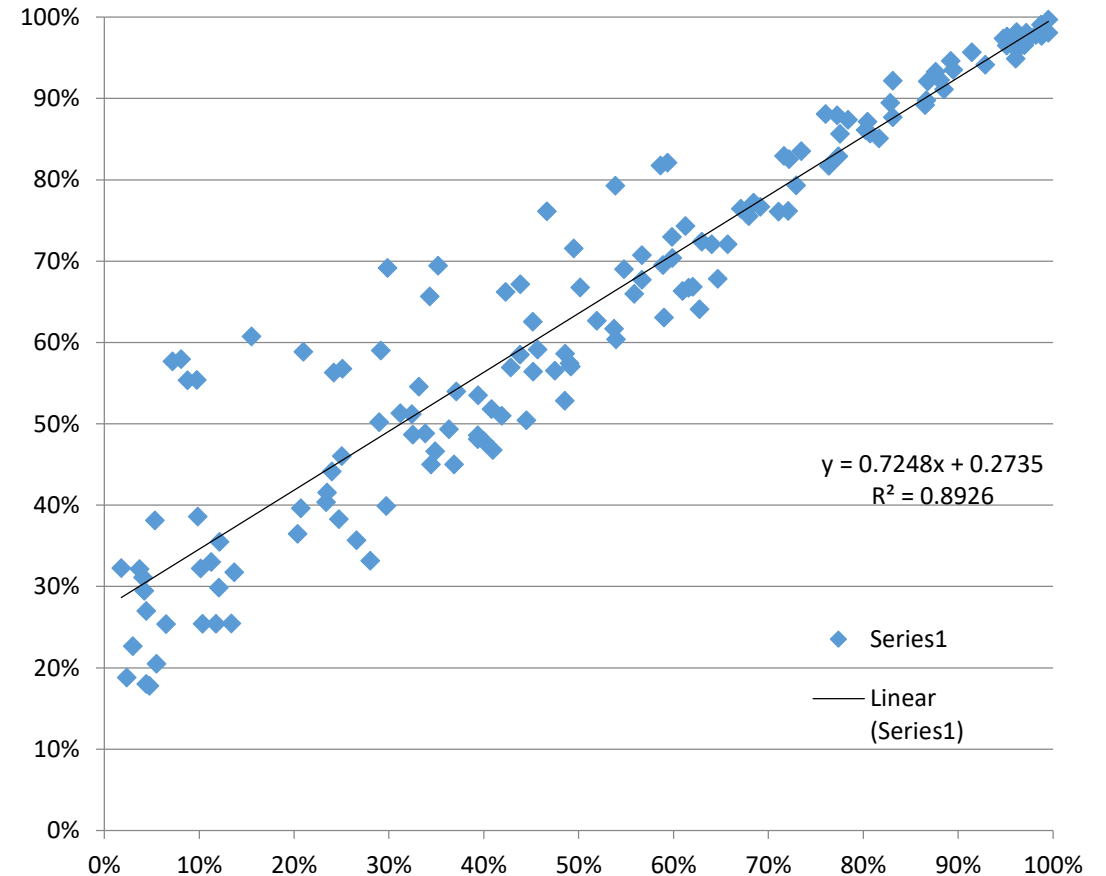
Key Issues - Voting Rights Act, Section 2



- Section 2 - protects the interest of the racial minority population.
- City of Mobile v. Bolden (1980) – while the plan did not have the intent of discrimination it had the effect.
- Section 2 amendment in 1982 by Congress.
- Typically, applies to multi-member district plans and at-large voting plans, but can also apply to single member district plans.
- Burden of proof of a Section 2 claim on plaintiffs not on defendants
- “Totality of circumstances” must be used in a deciding a Section 2 violation. 52 USC 10301(b)

Voting Rights Act – 3-Prong Test

- Thornburg v. Gingles (1986) – 3 prong test for vote dilution claim.
 - Minority group must be large and geographically compact to draw a majority-minority district. Minority district must be able to be drawn at +50% minority VAP – Bartlett v. Strickland.
 - The minority group must be “politically cohesive”.
 - Block voting by the majority usually defeats the minority’s candidate of choice.



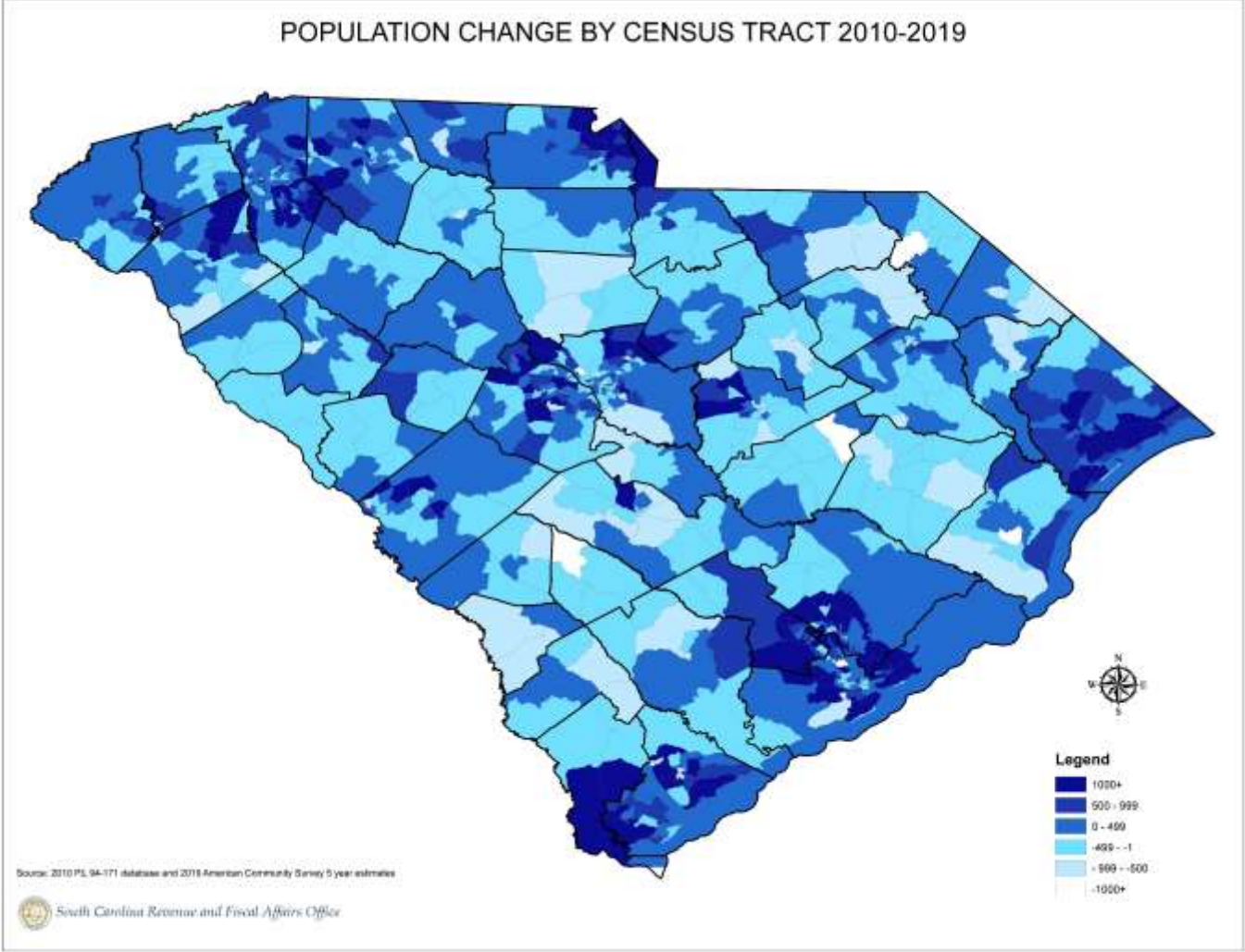
Key Issues - Voting Rights Act, Section 5

- Administrative or Judicial review of plans
 - Any change in election law must be precleared by the U.S. Department of Justice or through a declaratory judgement filed in the United States District Court for the District of Columbia.
- Applied to 9 states as a whole and parts of 6 other states.
- USDOJ would analyze the plan to ensure the plan did not dilute minorities opportunity to elect candidates of choice.
- Shelby v. Holder (2013) - U.S. Supreme Court ruled Section 4(b) of 1965 VRA was unconstitutional. This is the formula for which jurisdictions fall under Section 5 of the 1965 VRA. South Carolina is no longer under the provision of Section 5. Section 5 itself was not ruled upon.
- Shelby does not apply to jurisdictions covered by Section 3(C) of the VRA.

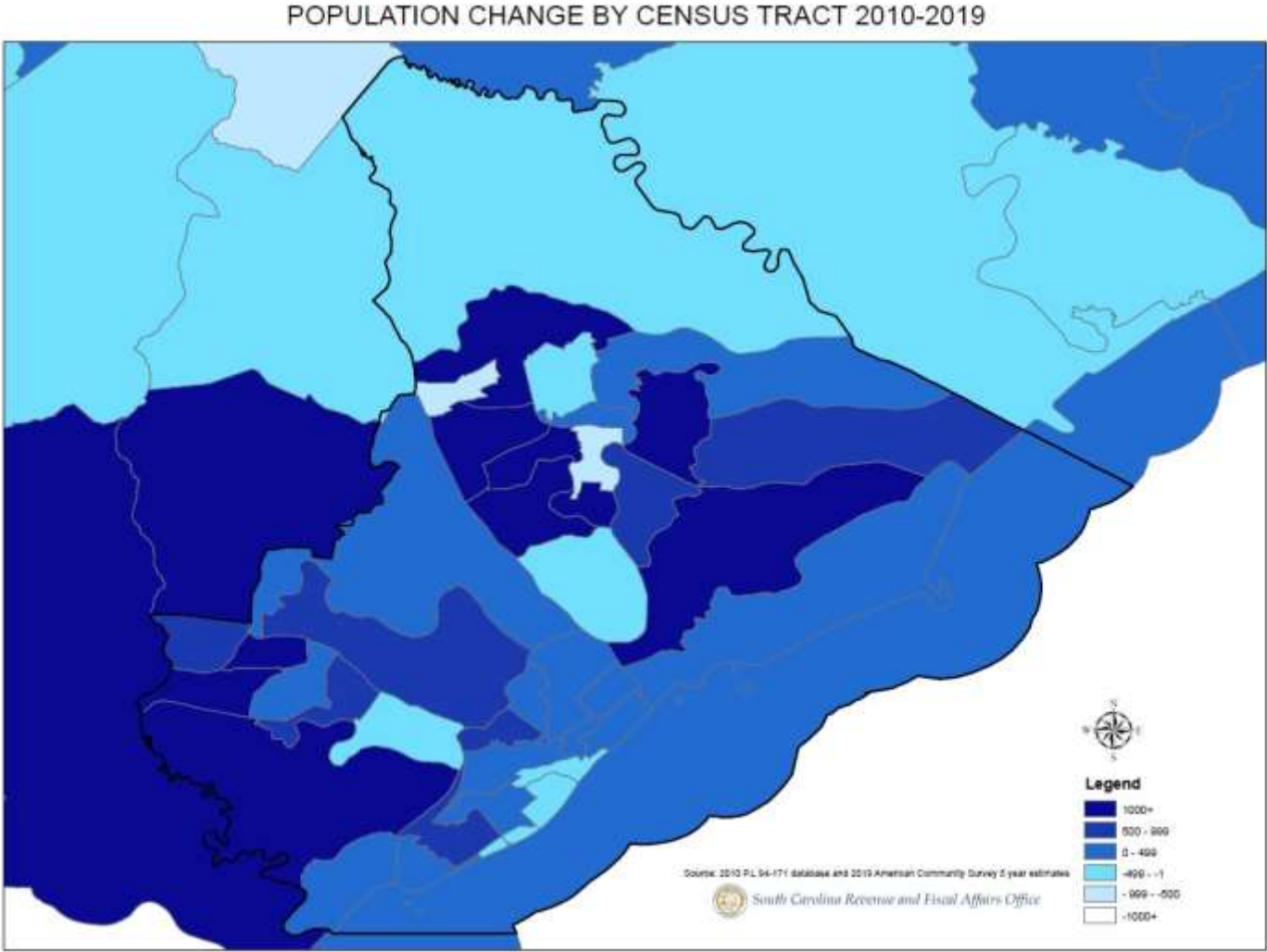
Traditional Redistricting Principles

- Contiguousness – All parts of the districts must be touching. Point contiguity is acceptable.
- Compactness – Districts should be able to pass an “eye” test as well as can be measured by statistical models.
- Constituent Consistency – Preserving the core of existing districts and respecting incumbents.
- Communities of Interest – Examples are school districts or attendance zones, neighborhoods.
- Voting Precincts – Avoid splitting precincts. General Assembly has the authority to redraw voting precincts. Precincts are typically redrawn after redistricting has occurred or a large population change in one geographic area. RFA is responsible for maintaining office maps for voting precincts (§1-11-360).

South Carolina – Estimated Population Change by Census Tract



Beaufort County – Estimated Population Change by Census Tract



Key Steps

- Educate and prepare as soon as possible
- Look at timeline between release of data and next election and consider all the logistics (data release, drafting a plan, meeting schedule, public hearing, updating voter registration, filing periods) – **RELEASE SCHEDULED FOR SEPTEMBER 30, 2021**
- Contact our office or other professional for assistance
- Help verify record of local boundary and election districts
- Notify other affected entities of process and timeline
 - County Elections Office (needs time to process changes)
 - School Board or other entities that may follow same district lines
- Draft necessary ordinances, help with scheduling timeline
- **Hold Public Hearing**
- Ensure proper documentation and retention of records
- Consider pending annexations

Key Goals – Resolutions

- Adhere to the court ordered constitutional requirement of one person, one vote
 - County Councils must adhere to a state law of population variance under 10%
- Adherence to the 1965 Voting Rights Act as amended and by controlling court decisions
 - A redistricting plan should not have either the purpose or the effect of diluting minority voting strength and should otherwise comply with the Voting Rights Act, the Fourteenth and Fifteenth Amendments to the U.S. Constitution, and the decisions of the U.S. Supreme Court.
- Ensure that parts of the districts are contiguous
 - All districts will be composed of contiguous geography. Contiguity by water is acceptable . Point-to-point contiguity is acceptable so long as adjacent districts do not use the same vertex as points of transversal.
- Attempt to keep compact districts.
- Attempt to maintain constituent consistency
 - Efforts will be made to preserve cores of existing districts.
- Respect Communities of Interest
 - Where practical, districts should attempt to preserve communities of interest.
- Avoid splitting voting precincts
- Solicit public input

Final Thoughts

- Proactive vs Reactive
- Transparent



Questions?

Thank You!

For Further Information, Contact –

Victor Frontroth
803-734-0969
victor.frontroth@rfa.sc.gov

Frank Rainwater
803-734-3786
frank.rainwater@rfa.sc.gov

Relevant Laws and Court Decisions

- U.S. Constitution art. I, §2 – Sets apportionment of Congressional seats based on decennial census numbers.
- S.C. Code §5-3-90 – Annexation information must be provided to 3 state agencies; DOT, Secretary of State, and DPS.
- Act #88 of 2015 - RFA must be notified of annexations 30 days after an ordinance is passed.
- U.S. Constitution art. I, §2, Clause 3 – Calls for Census in 1790 and every ten years thereafter.
- Home Rule Act of 1975, Act #282, 1975 – Gave counties and municipalities “Home Rule” authority of self-governance. It requires County Council redistricting after decennial census.
- 14th Amendment to the U.S. Constitution – Equal Protection.
- Evenwel v. Abbott 578 U.S. 54 (2016) – Total population can be used for satisfying one person, one vote criteria.
- Wesberry v. Sanders, 376 U.S. 1 (1964) – Congressional districts must be drawn as nearly equal in population as practicable.
- Reynolds v. Sims, 377 U.S. 533 (1964) – Allows more population variance in legislative redistricting than congressional redistricting.
- Gaffney v. Cummings, 412 U.S. 735 (1973) – The 10% population variance is not a safe haven for a one person, one vote claim.
- Fraser v. Jasper County School District, Civil Action No.9:14-cv-2578-SB – South Carolina example of one person, one vote lawsuit.
- 1965 Voting Rights Act Section 5 – requires jurisdictions covered under the VRA to submit to the U.S. Department of Justice any changes in law impacting voting.
- Dukes v. Redmond, 357 S.C. 454 (2004) – a person’s residence is the part of his property on which the dwelling is actually located.
- Application of Davy, 281 A.D. 137 (1952) – a persons domicile is where a person carries on the main activities of the home.
- Op. Atty. Gen. dated July 27, 1987 – in close cases the location of the sleeping accommodations in the residence is used to determine where one resides.

Relevant Laws and Court Decisions

- **Shelby v. Holder (2013) – 570 U.S. 529 (2013)** – South Carolina is no longer under Section 5 of the VRA according to the historical formula requiring compliance
- **1965 Voting Rights Act Section 4(b)** – formula for covering jurisdictions under Section 5 DOJ submission requirement.
- **1965 Voting Rights Act Section 2** – Prohibits implementing voting practices or procedures that discriminate against a person on the basis of race, color, or language.
- **Thornburg v. Gingles 478 U.S. 30 (1986)** – 3 prong test for vote dilution claim.
- **U.S. v Georgetown County School District Civil Action No. 2:08-889 DCN,** – South Carolina example of Section 2 lawsuit in South Carolina.
- **Shaw v. Reno, 509 U.S. 630 (1993)**– First racial gerrymandering case to reach the Supreme Court. Racial gerrymandering is a violation of Equal Protection.
- **Bush v. Vera, 517 U.S. 952 (1996)** – Strict scrutiny of redistricting plan if determined race was the predominate factor of redistricting.
- **Alabama Legislative Black Caucus v. Alabama 135 S. Ct. 1257, 1263 (2015)** – “A racial gerrymandering claim, however, applies to the boundaries of individual districts.” Alabama’s criteria to try to maintain benchmark minority percentages in minority majority districts was an incorrect interpretation of retrogression under Section 5.
- **Calvin v. Jefferson County Board of Commissioners, Case No.4:15vc131-MW/CAS (2015)**– prison population must have a “representational nexus” with the community to be included in a redistricting plan.
- **Rucho et al. v Common Cause et al. 139 S. Ct. 2484 (2019)** - Partisan gerrymandering presents political questions beyond the reach of the federal courts

Relevant Laws and Court Decisions

- **Act 283 of 1975** – Home Rule Act
 - County Council must redistrict to population of less than 10% deviation.
 - Change of government triggered by petition of registered voters (15% municipality, 10% County) or ordinance of council. Must go through referendum.
- **Elliott v. Richland County 472 S.E.2d 256 (1996)** – one shot at redistricting per decade.
- **Moye v. Caughman 217 S.E.2d 36 (1975)** – Legislature has authority over redistricting of school districts. School districts are creatures of the General Assembly.
- **Vander Linden v. Hodges 193 F.3d 268 (1999)** – Weighted voting for legislative delegation.
- **S.C. Code §1-11-360** – RFA has authority over precinct maps. RFA is responsible for coordinating precinct changes with members of the General Assembly.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
REVIEW OF BEAUFORT COUNTY RULES AND PROCEDURES HANDBOOK – PREAMBLE AND CHAPTER 1
MEETING NAME AND DATE:
Executive Committee, Monday, June 7 th
PRESENTER INFORMATION
<i>Committee Chair Paul Sommerville 15 minutes</i>
ITEM BACKGROUND:
<i>This item was brought before the Rules and Procedures Committee with recommendation to go to full Council</i>
PROJECT / ITEM NARRATIVE:
FISCAL IMPACT:
STAFF RECOMMENDATIONS TO COUNCIL:
OPTIONS FOR COUNCIL MOTION:

PREAMBLE

These Rules shall apply to all meetings of County Council, including committee meetings. As used in these Rules, the term "Meeting" means the convening of a quorum of the membership of County Council to discuss or act upon a matter over which county council has supervision, control, jurisdiction or advisory power; the term "Quorum" means a simple majority of the voting membership of County Council, or majority of the assigned members of a committee of County Council. A quorum must be established for the transaction of any official business. These Rules were adopted as guidelines to assist County Council and its committees, in conducting orderly and productive meetings. Any deviation from or waiver of these Rules, when a quorum is present, shall not affect or void any action taken by County Council. Furthermore, such deviation or waiver does not convey any right or cause of action to third parties not otherwise imposed by law.

County council will refer to these Rules, as the primary resource in determining the intent and meaning of these Rules. Further reference may be had to the South Carolina Association of County's Model Rules (3rd Edition or a current edition) "comment" sections for guidance on application of these rules. In all cases not covered by these Rules, county council shall be governed by such rules as are set out in the most recent edition of Robert's Rules of Order Newly Revised (RONR). Provided, however, that state and federal law shall take precedence over these Rules in all cases. Whenever possible, these Rules should be interpreted to conform to state and federal law; if an irreconcilable difference occurs, only the portion of the Rule or Rules directly in conflict with state or federal law is to be overruled, the remaining portions surviving.

Ethical Principles

The Code of Ethics for Beaufort County Officials has been created by and for elected officials. However, these principles apply to the day-to-day conduct of both elected and appointed officials and employees of this County government.

The ethical County official shall:

Properly administer the affairs of Beaufort County; Promote decisions which only benefit the public interest; Actively promote public confidence in County government; Keep all funds and other properties of Beaufort County safe; Conduct and perform the duties of the office diligently, and promptly dispose of the business of the County; Maintain a positive image to pass constant public scrutiny; Evaluate all decisions so, the best service or product is obtained at a minimal cost without sacrificing quality fiscal responsibility; Inject the prestige of the office into everyday dealings with the public, employees and associates; Maintain a respectful attitude toward employees, other public officials, colleagues and associates; Effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interests of the County; Faithfully comply with all laws and regulations applicable to the County and impartially apply them to everyone; and Respect and comply with the standards of the Council-Administrator form of government adopted in Beaufort County.

The ethical Beaufort County official should not:

Engage in outside interests that are not compatible with the impartial and objective performance of his or her duties; Improperly influence, or attempt to influence, other officials to act in his or her own benefit; and Accept anything of value from any source which is offered to influence his or her action as a public official.

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CHAPTER 1

ROLE OF A COUNCIL MEMBER

County council is a policy-making, legislative body. It provides a vision for the county and provides guidelines to county administration regarding how the county is to be run. County Council members have authority only when acting together, speaking with one voice, and have no individual authority over county operations. (Wilson v. Preston, 378 S.C. 348 (2008)).

1.1 Officers

Council shall elect one of its members to serve as Chair for a two-year term on the first business day in January following each County General Election. Nominations for Chair must be made by a council member. Six votes shall be required to elect the Chair. On the first business day in January following each County General Election, Council also shall select one of its members to serve as Vice Chair for a two-year term. The election of Vice Chair shall be in the same manner as set forth above for the election of Chair.

Chair: The Chair shall preside at all meetings of the council, and may execute on behalf of the council all official instruments or documents unless otherwise directed by a majority vote of council. The Chair or Chair's designee shall read the title of all Ordinances and Resolutions (other than those appearing on the consent portion of the agenda), and other matters, as they come up during the course of the meeting for council consideration and action. The Chair shall preserve order and decorum at all meetings, and shall state every question coming before the council, announce the decision of the council, and decide questions of order. Any council member may appeal the decision of the Chair on a question of order, and two-thirds of those members present shall conclusively determine such question of order. The Chair shall have the authority and responsibility for formatting, reformatting, setting, amending and overseeing the agenda and the council's order of business of regular and special meetings of the council. The Chair shall serve as an *ex-officio* member of each standing committee of council and shall be entitled to vote at committee meetings.

Vice-Chair: In the event that the Chair is absent or unable to serve, the Vice-Chair shall serve as Chair. In the event the office of Chair is vacated, the Vice-Chair shall serve as Chair until such time as the vacancy of Chair is filled through the appointment by the governor, reinstatement by the governor, in the next general election, or by special election if the vacancy occurs one hundred eighty (180) days or more prior to the next general election. The term "vacated" means

that the Chair's office has been vacated either by resignation, suspension from office, or death. In the event the office of Chair is vacated or the Chair remains absent for an extended period of time, the council may elect a "successor Vice-Chair," who shall serve in the place of the vice-Chair who is serving in the Chair's position. The successor Vice-Chair shall serve until the Vice-Chair resumes the office of Vice-Chair or the successor Vice-Chair's term is terminated by the council. When the Chair is absent from a regular or special meeting of the council, or unavailable at the time execution of documents on behalf of the council is necessary, the Vice-Chair shall execute on behalf of the council all official instruments or documents, unless otherwise directed by a majority vote of council.

Item 12.

1.2 Parliamentary

The Chair may appoint a Parliamentarian. Absent an appointed parliamentarian, the Chair shall determine all parliamentary questions subject to appeal by any member of the body. The Chair shall approve reimbursing the appointed Parliamentarian for reasonable amounts relative to training and resources for advancing parliamentary skills. The role of the Parliamentarian is to interpret these rules and the application of these rules, including the application of Robert's Rules of Order to any regular or special meeting of County Council. The parliamentarian may rule on matters of procedure only and without regard to the substance of any particular matter. Decisions of the appointed Parliamentarian are final and may only be overturned by a 2/3 vote of Council upon motion, and second, to appeal the decision of the Parliamentarian.

1.3 Residency Requirements

Section 4-9-90 of the *Code of Laws of South Carolina*, 1976, as amended, provides generally for the election of members of County Council and for the replacement of members who do not serve a full term. Section 4-9-610, which is the provision for the Council-Administrator form of government, further provides that a County Council member must be a qualified elector of the County.

1.4 Clerk to Council

Council shall appoint a person, not a member of Council, to serve as Clerk for an indefinite term. The Clerk to Council shall keep a journal in which shall be recorded the minutes of Council's proceedings, which shall be open to public inspection. (Section 4-9-110 of the *Code of Laws of South Carolina*, 1976, as amended.)