From: esthermanheimer@avlcouncil.com <esthermanheimer@avlcouncil.com>
Sent: 1/9/2019 10:22:31 AM
To: 'Jonathan Wainscott'
Cc:
Subject: RE: walk back

Jonathan â€“ thanks for your continued focus on the district issue.Â Council has not yet decided what it wants to do about the district bill.Â We had some legal advice before Robin left the city (from an elections law lawyer she was consulting with).Â The options were not entirely clear to me but, generally speaking, if one were to challenge the bill, it can be done through a lawsuit or a referendum.Â But, in any event, that would not change elections being moved to even years because that was not a charter amendment.Â I did request and I did and do support the even year amendment.Â My hope is that the move will help elect a council with more voter participation.Â And, apparently, several other cities in Buncombe County are requesting the same change during the next session of the GA.Â

Personally, I have not researched gerrymandering lawsuits based on racial gerrymandering to tell you whether Asheville has a case or not.Â I do think we meet the minimum threshold to file a claim but whether itâ€™s successful, I canâ€™t tell you.Â Interestingly, Buncombe County wasnâ€™t even one of the counties in NC subject to the Voting Rights Act.Â To me, the question is more about whether voters expect the Council to challenge the bill either by lawsuit or referendum.Â Council will have to decide.Â Weâ€™ve asked Sabrina to contact the attorney providing consultation for us and see if we can get some more information.Â This area of law is not her area of expertise and we were thinking we would wait for the permanent city attorney to manage this but that hiring process is taking a bit longer than we had hoped.

And, youâ€™re right, a challenge to the bill would likely blow any chance we have to get the GA to act on our requested tax legislation.

Finally, as of right now, I am not planning to run for Terryâ€™s seat.Â I assume the state party has some grand plan for that shuffle but I am not privy to it.Â If I were experiencing different life circumstances, I would LOVE to do it.Â But, I would hate the fundraising obligationsâ€¦.

Hope youâ€™re doing well.Â See you at the next council meeting, I am sure (was that snarky?).

Esther

From: Jonathan Wainscott <jonwainscott@gmail.com>
Sent: Tuesday, January 8, 2019 9:50 PM
To: esthermanheimer@avlcouncil.com
Subject: walk back

Dear Ms. Mayor, Esther,
I am reaching out to help you out of the corner that you and Council have painted yourselves in.Again, this is coming from a place of speaking an inconvenient truth, and I will try not to be too snarky and scolding (first sentence notwithstanding, and once in my life, for reals, I literally painted myself in the corner of a room with oil based floor paint. Really.)

Having been a part of the official conversations about the electoral structure of Asheville, by way of the candidates' forums, such as they were (especially 2017...*snarkfailsorry*) I can attest to a long list of really bad defenses against the implementation of district voting in Asheville. The size of the city was appropriate compared to other NC municipalities back in 2013 and the population has grown quite a bit since then. Cecil made the argument that the City was pretty much homogeneous, with not much difference in any place you go in town. Obviously that's not true and quite quantifiably false when looking at voter registration and election turnout data. More on that in a bit as I keep going down the list somewhat chronologically, Ester and Qwen have both made the argument that DE's haven't been expressed as need by the community, which isn't much of an argument as silence from a minority, or minorities not being able to be heard among the crowd, can indicate a need for action, but here it's used as an excuse for inaction.

Putting the issue to a referendum after only one person ever came to Council to speak on the matter as an issue of concern (me) is certainly not a reason to call for a city-wide vote, though wouldn't that be cool? It's not even denied that the referendum was a preemptive measure to manufacture a reason to challenge the impending legislation. Remember I said they'd come back and try again when Apodaca's attempt failed to launch on a technicality of timing or whatever? What happens if the City "wins" this round of Tom and Jerry?

So now you have "The Will of the People" on your side, but the people never examined the racial demographics, and how they would differ in each district in any of the previous conversations regarding DE's. This of course leads us to the current excuse of "Racial Gerrymandering", which was manufactured by Joel, given to Keith and Sheneika to respond, they ran with it and echoed what Joel had already laid out, but the data will show the exact opposite of a dilution of African-American voters below the at-large average. Run the data by anyone that understands numbers, I'm sure you already know yourself that District 2 will be close to 100% more "black" than the whole city. Unless that number falls due to gentrification, which we will also be able to track with the most current data.

Here's how to walk all this back, so that you can control conversation:
2018 was a tumultous year for Asheville, blah blah blah, with lot's of community engagement for many concerns blah blah blah, issues of race bringing forth a lot of soul searching etc., we are taking a step back to take in a new information (data), and new perspectives (Debra Campbell) , and we are also waiting have a City Attorney in place as we consider what our next step regarding S813. You can punt for a month to maybe 6 weeks until the new voter data is available, coupled with the still-new manger and not-yet-hired City Attorney. Include now that abiding by S813 is an option that is being considered so you can play the thoughtful and deliberate card

Oh, and in my conversation with Terry Van Duyn she mentioned that someone asked her to bring the amendment changing the election years to the even-numbered cycle. When I asked for clarification in an email to her a few days later as to who exactly she meant by "they asked me to bring the amendment" she never got back to me. I asked if anyone on Council made the request. Her silence makes me think she told me too much. Are you going to run for Senate?

Anyway, back to the walk-back. You can dodge question for now while waiting for the new voter data,and you can remind the People that they in fact didn't vote on a specific map, only a concept, so let's see what the map tells us.. Then there is a graceful shift which is what is required to move out of cognitive dissonance to cognitive resonance for the People to be able to say, "Hey, now that we know what the new districts do for the dwindling-by-way-of-gentirfication African-American community, we'd rather not keep the system that dilutes their vote by dispersing it among districts 1 and 3 and everyone els in the at-large system.

Keith and Sheinka can offer a bit of contrition (I know that contrition is poison in the mind of a lawyer, I get that avoiding responsibility is 90% of your craft, I get it), but all they have to say is that they were presented with incomplete data and during a time of

heightened awareness and anxiety over issues of race in the summer of '18, they didn't vet the info before responding to Joel, our success depends on how well we work for the people and focused attention on hyper local concerns will be a benefit to everyone...you know, the real reasons to change the system, with they hyper-local concern of the Central District being gentrified, while South Asheville's black community grows (at least between 2015 and 2017 registration data, so let's see if those trends are changing as again, the new data come out)

You guys can then go on to talk about how much you enjoy serving on Council and the one-year delay for the now legally-binding election will give current council time to adjust to the new system, and still run for re-election with favorable odds to keep the current Council, with Sheneika representing District 4 (though I heard she moved back to Shilo, but that's just something I heard and not from her), but VJ can run for Mayor while you run for Senate, Keith can be at-large and in charge, Brian can rep District 2 and so on.

I'm sure you know that making some kind of peace with the NCGA is necessary. Feuding with them won't help get their approval for anything we want to do. Why should any of them help Asheville by signing off on any tax increase that they need to approve, when they can stick you with raising property takes with no referendum, just a public hearing and a vote to pay for our own stuff? Yeah, the City might win on the coveted technicality, but consider the cost of victory and the value of compromise.

The Will of the People has been wrong before. It was once the Will of the People that voted in favor of session from the Union, and to defy federal law in Topeka, Kansas, and Little Rock Arkansas, and I believe Germany had a problem with the Will of Their People too.

Hope 2019 brings great, positive change to Asheville, and good luck with the Senate race.

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