

Why I Changed My Mind on Districts

Council Member Vijay Kapoor

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The past year and a half that I have spent on Council has been an incredible and humbling experience. Though I thought that I knew what to expect going in, nothing quite prepares you for transitioning from a candidate to the person who actually has to cast the votes. You become privy to more information, meet many passionate people with different ideas, and see issues from new perspectives. Sometimes, as a result, you change your mind. That has happened to me regarding districts for City Council elections and I want to explain why.

As a candidate, I opposed districts. Having now spent over a year and a half in this role, I am convinced that districts will help Council members more effectively represent Asheville residents and neighborhoods by: making us more accountable to the average resident; making our workload more manageable and therefore allowing us to provide better constituent service; and ensuring that residents and neighborhoods in all parts of the City feel as if they have representation on Council. In short, I believe that the blend of the at-large and district seats, where each voter can elect three of the seven Council members, is in the best interests of the City as a whole. I'll also explain why I don't think the district plan due to go into effect in 2020 in Asheville is a gerrymander, which is why I don't support a lawsuit to fight it. In this article, I refer to the map set to go into effect in 2020 as the 2020 District Map.¹

¹ As a reminder, beginning with elections in 2020, the City will be divided into five council districts (a west, central, north, east and south numbered in the legislation as District 1, 2, 3, 4, and 5 respectively) with the Mayor and one Council member being elected by all the voters in the City (at-large). To stagger implementation, there will be elections for the west, central and at-large seats in 2020 and elections in 2022 for the north, east, south and mayoral seats. **This is a different district map than the one voters disapproved of in the 2016 referendum.** That map had six districts, split the downtown in half, and did not have an at-large seat.

Council Member Accountability

Let's start with Council member accountability to residents and neighborhoods. There's an old saying that if everyone is responsible, then no one is responsible. Under the current at-large system, every Council member is "effectively" responsible for all parts of Asheville meaning that members of the public don't have a specifically identified individual they can go to with problems.

If your neighborhood has an issue now, and you don't have a relationship with a particular Council member, who do you contact? You may look online and find an email address (ashevillencouncil@asheville.gov) which will go to each one of us as well as the City Manager. At that point, sometimes individual Council members will respond or sometimes we won't. Having a dedicated Council member for a specific part of the City makes it more likely that they will respond because they are expected to be primarily responsible for their district. Under the current system, since everyone is technically responsible, there is no such pressure. Districts will require Council members (including me) to take more ownership over the day-to-day problems occurring in parts of the City that may seem mundane to some, but are the primary responsibilities of local government such as crime, noise, sidewalks, traffic and development. We will be more familiar with the issues happening in a smaller geographical area and members of the public will expect a specific Council member to address them. Right now, that doesn't happen.

When I ran for Council, I was concerned that breaking the City into districts would pit parts of the City against each other in a competition for resources. Having now served in this role, I don't see that happening. My experience has been that City staff and Council members consider the needs of all parts of the City when developing budget requests and plans.

Furthermore, with the addition of the at-large seat, there will be three Council members (the Mayor, the at-large member, and a district member) who will have a clear incentive to make sure that no one part of the City is neglected. In the initial district map, there wasn't an at-large Council seat.

On Council, we don't talk much about the day-to-day quality of life issues impacting our neighborhoods such as crime, traffic, development, noise and sidewalks and I think that is in part tied to the current at-large system that favors well-organized groups with narrow subject matter interests. For example, we've seen escalating gun violence in parts of Asheville, but since my time on Council we haven't had a public briefing on crime and very few Council members have attended the private CompStat meetings that the police department invites us to attend. If we had districts, Council members would be very concerned about crime happening in their district (and if they aren't, they'll voted out pretty quickly). I also think that the fact that we have the poorest rated roads in the state and the huge backlog of sidewalk and other capital projects is in part tied to the current at-large system. Under the current at-large system, candidates can win if they cobble together the endorsements of several single-issue groups which isn't in the long-term best interests of the City.

Council Member Workload and Constituent Service

In addition to districts improving Council member accountability, implementing districts will also make our workload more manageable and therefore allow us to provide better constituent service – just as is the case with state representatives. Council members are part-time, which means that unless we are retired or independently wealthy, we need to have other jobs to support ourselves and our families. In addition to Council meetings, we also participate on Council committees, attend related meetings, serve as liaisons to City boards and receive

many emails daily from City staff and constituents. Council members don't have their own staff and only recently got administrative assistance. Having Council members primarily responsible for an area smaller than the entire City will make it more likely that we can attend important events like neighborhood meetings. Right now, for the level of community involvement this City expects of its elected officials, we just can't be in every location.

Representation for All Parts of the City

Finally, implementing districts will ensure that residents and neighborhoods in all parts of the City feel that they have a representative on Council who has primary responsibility for their neighborhood. To be honest, when this same argument was raised during the campaign, I didn't think much of it, but that's changed since being elected. What I have seen on Council is very well-organized groups having significant influence over the issues that we discuss and actions that we take – often to the exclusion of more mundane, but critically important neighborhood quality-of-life issues. Those who are well-organized will always have the ears of Council members and I don't fault those groups for their efforts, but everybody needs effective access to representation and districts would ensure that.

The 2020 District Map is Not a Gerrymander

Those are my substantive arguments for why I think we should allow the 2020 District Map to be implemented. Now let's ask a question that hasn't been analyzed yet with any actual data – is the 2020 District Map really a gerrymander? This question is critical since it would form the basis for a legal challenge and the suggestion as I understand it from other Council members is that the 2020 District Map would hurt progressive candidates. As I will show using data from the 2017 City Council election, the 2020 District Map is not a gerrymander but rather

is politically balanced and shows no evidence of any political group or ideology having an unfair advantage over another.

Let's start with a definition of "gerrymander." The common definition of a gerrymander is a situation where districts are drawn to give one group an unfair advantage over another. Applied to Asheville's Council district situation, evidence of a gerrymander would show that an election under the 2020 District Map would provide a substantially different result than under our at-large system.² As you'll see in a moment, that doesn't happen.

While we obviously can't run a controlled experiment under the two different systems, we can look at the last City Council general election which was held in 2017 and see what differences, if any, there would have been. In my analysis, I superimposed the 2020 District Map on the election results by looking at the voting results by precinct. I compared the results under the at-large system with the results by precinct, grouping the precinct results into the districts set forth in the 2020 District Map.³

Most of the arguments I have heard about a "gerrymander" involves the creation of a South Asheville district (where I live) which tends to be more moderate than Asheville as a whole. I agree this is true. But stopping the analysis here ignores the other districts created – namely the West and Central - that most knowledgeable people would agree (and the data

² I believe that has clearly happened with the state legislative and congressional boundaries in North Carolina and I hope that the U.S. Supreme Court upholds the Middle District of North Carolina's decision in Common Cause vs. Rucho finding an unconstitutional partisan gerrymander in North Carolina. But that's not what we are analyzing here – we're analyzing the 2020 District Map for the City of Asheville.

³ One issue that I believe does need to be fixed with the 2020 District Map, is that Precinct 8.3 is almost split in half between the South and East districts. Precinct 8.3 should either be fully in the South or in the East district. The good news is the South and East seats are not up for election until 2022 at which point we'll have new districts anyway due to the 2020 Census and the map drawers can remedy this issue at that time. In my analysis, I split the voting results in 8.3 equally between the East and South districts.

shows) are *more liberal* than Asheville as a whole. In fact, my analysis of the 2017 City Council election under the 2020 District Map shows two politically moderate districts (the North and the South), two politically liberal districts (the West and the Central), one district that nearly mirrors the at-large vote (the East) and the two at-large seats (including the Mayor). The 2020 District Map is actually politically balanced and shows no evidence of any political group having an unfair advantage over another.

Let's first start with the at-large results which follow in the table below. Each voter could vote for up to three candidates with the top three vote-getters (represented by asterisks and in green) being elected. There were 16,696 individuals who cast a vote in the election. The last column represents an estimate of the percentage of the total voters who cast a vote for the particular candidate. This is calculated by dividing the total votes for the candidate by the total number of people who cast a vote. Because they were so few, I did not include the write-in candidate vote totals in my analysis. I've included my source data at the end of the document.

2017 Asheville City Council General Election Results At-Large

Candidate	Total Votes	% of Total Voters Who Voted for Candidate
Vijay Kapoor*	10,531	63.1%
Sheneika Smith*	9,209	55.2%
Gwen Wisler*	8,420	50.4%
Kim Roney	6,834	40.9%
Rich Lee	6,298	37.7%
Dee Williams	4,691	28.1%

I want to point out a couple of relevant items that will be important to the district analysis later. First, this was not a close election. The difference between Gwen Wisler's total in third place and Kim Roney's total in fourth place was 1,586 which is significant when the top vote-

getter received 10,531 votes. I think most people would agree that Ms. Wisler and Ms. Roney are two very different people who present two very different choices as candidates with Ms. Wisler likely being considered a moderate and Ms. Roney very liberal. Second, I was the top vote-getter with almost two out of every three voters casting one of their votes for me and my vote total was 1,322 votes more than Ms. Smith and 3,697 votes more than Ms. Roney (I'm not picking on either Ms. Smith or Ms. Roney – you'll see why I use these comparisons in a moment). I think that it's also fair to categorize Ms. Smith and Ms. Roney as more to the political left than Ms. Wisler and I.

Let's now look at the rankings by district if we apply the 2020 District Map and remember under the district system, only the top vote-getter will be elected. I'll present the vote totals by district in a moment:

At-Large	East	North	South	Central	West
Kapoor*	Kapoor*	Kapoor*	Kapoor*	Smith*	Roney
Smith*	Smith*	Wisler*	Wisler*	Roney	Smith*
Wisler*	Wisler*	Smith*	Smith*	Kapoor*	Kapoor*
Roney	Lee	Lee	Lee	Wisler*	Lee
Lee	Roney	Roney	Williams	Williams	Wisler*
Williams	Williams	Williams	Roney	Lee	Williams

The first thing that strikes me is that the same candidates who were the top three in the at-large vote were the top three for the East, North and South districts albeit with Ms. Smith and Ms. Wisler switching places in the North and South compared to the at-large. However, **in the Central and West, there is a different result from the at-large vote and one that would suggest a benefit for more progressive candidates.** Ms. Roney – who finished well-behind Ms. Wisler and me in the at-large election - beat us both handily in the Central and West districts and even topped Ms. Smith in the West district. In both the Central and West districts, I finished

third and Ms. Wisler finished fourth and fifth respectively. Therefore, despite me winning the at-large election by a significant margin, under the 2020 District Map, I wouldn't have come close to winning the Central or West districts. It is very hard for me (and I would also assume for a judge) to look at this data and conclude that the 2020 District Map is a political gerrymander that would somehow hurt progressive candidates – in fact, it may actually help them.

Let's now take a deeper dive by using the methodology to look at the individual districts. In this analysis, I provide tables that show the total votes received by the candidate in the district, the percentage of the total voters who voted in that district who cast a vote for the candidate, the percentage of the total voters who voted at-large who cast a vote for the candidate, and the difference between the percentages to develop a sense of whether the candidate overperformed or underperformed in the district relative to the at-large vote. Positive numbers in the difference column and the color green means that the candidate did better in the district relative to the at-large. Negative numbers and the color red means that the candidate did worse in the district relative to the at-large and the color grey means that the candidate performed about the same in the district and at-large which I defined as being within plus or minus 3%.

West (District 1)

The table on the next page analyzes the vote in the West District. As I alluded to earlier, Ms. Roney and Ms. Smith both overperformed in this district relative to the at-large vote with Ms. Roney doing much better. Both Ms. Wisler and I significantly underperformed with Mr. Lee and Ms. Williams performing roughly the same. Despite winning the at-large vote, and having nearly two out of three voters voting for me, I would have finished third in the West

District and Ms. Wisler would have finished fifth. There were 2,861 total voters. Based on this data, I think it's fair to consider the West District to be *more progressive or liberal* than the City as a whole.

Candidate	Votes in District	% of Total Voters Who Voted for Candidate (District)	% of Total Voters Who Voted for Candidate (At-Large)	Difference in % of Total Voters Who Voted for Candidate (District Minus At-Large)
Roney	1,797	62.8%	40.9%	+ 21.9%
Smith*	1,746	61.0%	55.2%	+ 5.8%
Kapoor*	1,450	50.7%	63.1%	- 12.4%
Lee	1,136	39.7%	37.7%	+ 2.0%
Wisler*	1,068	37.3%	50.4%	- 13.1%
Williams	791	27.6%	28.1%	-0.5%

Central (District 2)

We see a similar story in the Central District. Again, Ms. Smith and Ms. Roney overperform relative to the at-large vote by 13.8% and 15.9% respectively while Ms. Wisler and I underperform by close to or more than in the West District. Despite winning the at-large vote, I would have finished third in the Central District and Ms. Wisler fourth. There were 3,467 total voters. Based on this data, I think it's also fair to consider the Central District to be *more progressive or liberal* than the City as a whole.

Candidate	Votes in District	% of Total Voters Who Voted for Candidate (District)	% of Total Voters Who Voted for Candidate (At-Large)	Difference in % of Total Voters Who Voted for Candidate (District Minus At-Large)
Smith*	2,393	69.0%	55.2%	+ 13.8%
Roney	1,968	56.8%	40.9%	+ 15.9%
Kapoor*	1,569	45.3%	63.1%	- 17.8%
Wisler*	1,316	38.0%	50.4%	- 12.4%
Williams	1,238	35.7%	28.1%	+ 7.6%
Lee	1,198	34.6%	37.7%	- 3.1%

North (District 3)

We see a different story in the North District. Here, Ms. Wisler and I overperform relative to the at-large vote and Ms. Roney and Ms. Smith underperform. However, recall that the top three vote-getters in the North District were the same as in the at-large election. There were 4,624 total voters. Based on this data, I think it’s fair to consider the Central District to be *more moderate* than the City as a whole.

Candidate	Votes in District	% of Total Voters Who Voted for Candidate (District)	% of Total Voters Who Voted for Candidate (At-Large)	Difference in % of Total Voters Who Voted for Candidate (District Minus At-Large)
Kapoor*	3,270	70.7%	63.1%	+ 7.6%
Wisler*	2,865	62.0%	50.4%	+ 11.6%
Smith*	2,229	48.2%	55.2%	- 7.0%
Lee	1,874	40.5%	37.7%	+ 2.8%
Roney	1,468	31.7%	40.9%	- 9.2%
Williams	1,073	23.2%	28.1%	- 4.9%

South (District 5)

The South District is similar to the North District’s situation. Here, Ms. Wisler and I overperform relative to the at-large vote, with me doing very well in my “home” district, and Ms. Roney and Ms. Smith underperforming. Again, the top three vote-getters in the South District were the same as in the at-large election. There were 2,667 total voters. Based on this data, I think it’s fair to consider the South District to be *more moderate* than the City as a whole.

Candidate	Votes in District	% of Total Voters Who Voted for Candidate (District)	% of Total Voters Who Voted for Candidate (At-Large)	Difference in % of Total Voters Who Voted for Candidate (District Minus At-Large)
Kapoor*	2,211	82.9%	62.8%	+ 20.1%
Wisler*	1,595	59.8%	50.2%	+ 9.6%
Smith*	1,143	42.9%	54.9%	- 12.0%
Lee	771	28.9%	37.6%	- 8.7%
Williams	710	26.6%	27.9%	- 1.3%
Roney	550	20.6%	40.7%	- 20.1%

East (District 4)

While I don’t think that the analysis of the other four districts comes as a surprise to folks who know Asheville politics well, things get very interesting when we get to the East District. At this point, we have two moderate districts and two progressive districts relative to the at-large vote. With the East District, vote results here are very consistent with the at-large totals. Ms. Smith, Ms. Wisler and I all finish in the same order that we did in the at-large vote and our percentages are extremely close and very representative of the at-large vote. There were a total

of 3,077 voters. Based on this data, I think it's fair to consider the East District to be representative of the at-large vote and the City as a whole.

Candidate	Votes in District	% of Total Voters Who Voted for Candidate (District)	% of Total Voters Who Voted for Candidate (At-Large)	Difference in % of Total Voters Who Voted for Candidate (District Minus At-Large)
Kapoor*	2,022	65.7%	63.1%	+ 2.6%
Smith*	1,693	55.0%	55.2%	- 0.2%
Wisler*	1,568	51.0%	50.4%	+ 0.6%
Lee	1,319	42.9%	37.7%	+ 5.2%
Roney	1,049	34.1%	40.9%	- 6.8%
Williams	873	28.4%	28.1%	+ 0.3%

This is obviously quite a bit of data, so let's summarize it. Rather than gerrymandering the City, the 2020 District Map actually creates districts that reflect an at-large vote by creating two seats that will likely go to candidates with a moderate political bent, two seats that will likely go to candidates with a progressive political bent, and one "toss-up" that very closely reflects the at-large vote. When you couple this system with a Council member who will be elected at-large as well as the Mayor who will be elected at-large, you have a system that fairly represents the entire City – and will likely seat a council that looks a lot like the current one.

I also want to briefly address the issue of challenging the 2020 District Map by arguing that it creates a racial gerrymander. I'm limited here as to what I can say, as I'm not going to reveal attorney-client communications, but I would note two things. First, any voter in the City of Asheville who believes that their vote is being disenfranchised by a racial gerrymander has standing to bring a lawsuit themselves and there are many excellent non-profit groups (some of whom I happily support financially) who are taking on voter rights cases. That hasn't happened

here. Second, I and every other member of Council takes their duty to protect the rights of all Asheville residents very seriously especially as it relates to voting. As I said earlier, I believe that gerrymandering occurred in the drawing of North Carolina state legislative and congressional districts and want to see that fixed. If I saw evidence that the 2020 District Map for Asheville racially gerrymandered the City, I would have no hesitation challenging it.

An issue that I do have with the legislation that created the 2020 District Map is that it also eliminated primaries for Council races in favor of a plurality approach. This means that rather than winnowing down a potentially large field of candidates in a primary and then voting from that group in the general election, we would just have one election with the highest vote-getter winning the seat. A plurality approach may be appropriate for small municipalities where there is little interest in elections, but not for a place like Asheville where interest and participation is high. I absolutely support City Council acting to change our Charter to reinstate primaries for Council elections.

Having now reviewed this data, you can understand why I don't support pursuing litigation. It's not enough to say to a judge that we "feel" that the 2020 District Map is a gerrymander – we need facts and evidence and I would very much like to see that from those who are asserting it is as we haven't seen it. Additionally, it's important to know that even if we were to be successful in arguing that there is a gerrymander, the court's remedy would not be to eliminate districts – rather it would be that the districts would need to be redrawn. **In either scenario, we still would have a district system.**

I certainly understand the desire to push back against the General Assembly. I think that Asheville has been treated unfairly and that we've been rebuffed even when we make reasonable requests for legislative changes that would improve the quality of life for our residents and

businesses. But for the reasons I outlined earlier, I think that the 2020 District Map will benefit Asheville in the long-term and is not a gerrymander. Let us move forward to address the issues that Asheville is facing and not get bogged down in a lawsuit that has little chance of succeeding.

Data Pull as of 6-9-19
 Voting results from Board of Elections Website
 Total Voters from 2017 Voter History Data File

District	Precinct	Precinct Name	Total Voters	Vijay Kapoor	Sheneika E. Smith	Gwen Wisler	Kim Roney	Rich Lee	Dee Williams	Write-Ins
1	13.1	Calvary Baptist	617	244	409	169	458	235	223	5
1	15.1	Vance Elementary	738	409	445	299	458	294	178	6
1	16.2	West Avl. Library	681	315	426	230	466	281	197	8
1	24.1	Crossroads Assembly	309	198	158	162	139	124	74	2
1	26.1	Asheville School	360	176	219	125	223	141	92	3
1	43.2	Johnston School	1	0	1	0	1	0	1	0
1	44.1	Heaven's Cloud	151	106	86	81	52	61	26	1
1	45.1	Enka Middle	4	2	2	2	0	0	0	0
		TOTAL	2861	1450	1746	1068	1797	1136	791	25
		% of Total Who Voted for Cand.		50.7%	61.0%	37.3%	62.8%	39.7%	27.6%	0.9%
2	1.1	Stephen's Lee	460	231	283	199	185	167	190	6
2	2.1	Montford	976	547	655	417	489	337	305	9
2	10.1	Wesley Grant	360	124	304	105	174	97	185	4
2	11.1	Asheville Senior	304	114	212	123	158	86	131	5
2	12.1	Hall Fletcher	702	303	457	269	464	303	196	4
2	14.2	Westwood Baptist	499	173	372	146	395	163	159	6
2	14.3	Land of Sky Regional Council	166	77	110	57	103	45	72	3
		TOTAL	3467	1569	2393	1316	1968	1198	1238	37
		% of Total Who Voted for Cand.		45.3%	69.0%	38.0%	56.8%	34.6%	35.7%	1.1%
3	3.1	St. Marks Lutheran	758	423	480	326	405	266	242	3
3	4.1	N. Asheville Community Center	543	389	259	359	166	223	112	2
3	5.1	St. Eugene's Church	948	736	356	665	195	440	194	24
3	17.1	Unitarian Church	589	418	261	366	165	264	106	18
3	20.1	First Congregational	261	181	143	152	106	96	67	1
3	22.2	Ira B Jones	945	734	436	668	218	361	200	8
3	28.1	Covenant Reformed Presby	537	348	277	296	208	206	144	8
3	70.1	Woodfin Community Center	2	1	2	0	1	1	1	0
3	71.1		41	40	15	33	4	17	7	0
		TOTAL	4624	3270	2229	2865	1468	1874	1073	64
		% of Total Who Voted for Cand.		70.7%	48.2%	62.0%	31.7%	40.5%	23.2%	1.4%
4	6.1	Trinity Presbyterian	392	275	214	220	108	201	98	1
4	7.1	Kenilworth	597	419	350	288	216	241	176	10
4	9.1	Oakley	587	317	361	231	258	247	195	7
4	21.1	Haw Creek Elementary	594	418	300	340	150	283	156	16
4	23.2	Tried Stone Missionary	9	8	4	7	1	1	3	0
4	23.3	Evergreen Charter	304	245	113	205	76	132	62	9
4	25.1	Charles C Bell School	409	261	217	218	157	152	100	4
4	62.1	Grassy Branch Baptist	24	12	12	13	13	7	2	3
4	8.3	Appledorn	160	67	122	46	70	55	81	1
		TOTAL	3076	2022	1693	1568	1049	1319	873	51
		% of Total Who Voted for Cand.		65.7%	55.0%	51.0%	34.1%	42.9%	28.4%	1.7%
5	8.2	Shiloh	419	235	258	165	162	117	211	3
5	18.2	TC Roberson	1194	1,131	399	836	164	341	210	17
5	19.1	Skyland Fire	151	131	65	83	33	46	44	0
5	29.2	New Hope Presby	714	638	283	469	111	208	157	11
5	54.2	Lutheran Church	19	9	13	2	10	1	11	0
5	55.1	Glen Arden	10	9	8	2	2	3	2	0
5	8.3	Appledorn	160	67	122	46	70	55	81	1
		TOTAL	2667	2220	1148	1603	552	771	716	32
		% of Total Who Voted for Cand.		83.2%	43.0%	60.1%	20.7%	28.9%	26.8%	1.2%
		AT LARGE TOTALS	16695	10531	9209	8420	6834	6298	4691	209
		% of Total Who Voted for Cand.		63.1%	55.2%	50.4%	40.9%	37.7%	28.1%	1.3%