



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

December 21, 1982

A. D. Ward, Esquire
Ward, Ward, Willey & Ward
P. O. Drawer 1428
New Bern, North Carolina 28560

Dear Mr. Ward:

This is in reference to the June 16, 1982, annexation of 1,064 acres to the City of New Bern in Craven County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. Your submission was completed on October 22, 1982.

We have considered carefully the information you have provided, data obtained from 1980 Census reports, as well as information provided by other interested parties. At the outset, we note that, with but a single exception, no black (of the several who have run for office) has ever won election to the New Bern Board of Aldermen, which appears to be a result of a general pattern of racially polarized voting occurring in the context of New Bern's at-large election system with its residency and the majority vote requirements. Furthermore, our analysis of available data indicates that this annexation will reduce the city's minority population percentage by about 1.4 percent and, thus, will enhance the ability of the white majority to control the election of all members of the Board.

While the percentage decrease in the black population of the city is admittedly small, it is not without significance where, as is the case in New Bern, the minority community currently represents over 43 percent of the total population and with the proposed annexation its political strength would be reduced to just over 41 percent. City of Richmond v. United States, 422 U.S. 358 (1975); City of Rome v. United States, 446 U.S. 156 (1980).

If this were the city's only annexation, there would be cause for less concern. However, we are advised that the prospect of annexing additional areas adjacent to the city is a real one, and that such annexations could well have an additional impact on minority population percentages. In these circumstances, we find problematic the dilutive effect that the proposed annexation will have on minority voting strength in the City of New Bern, and we therefore remain of the view that Section 5 preclearance cannot obtain under the city's present at-large electoral system.

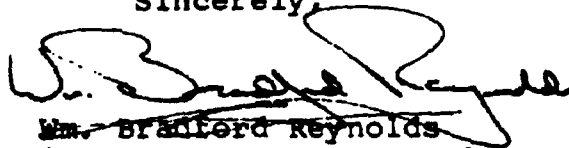
In interposing this objection on behalf of the Attorney General, I have taken into consideration several factors that bear special mention. First, the objection does not prohibit the city from providing city services to the annexed areas. In addition, it does not prohibit those citizens living in the area from enjoying all the benefits of annexation, other than participation in the electoral process -- and as to this last advantage, the next scheduled elections are some months away.

It is my understanding that well before those elections take place, the city board of aldermen is to consider a recommended change in the existing electoral system. We are advised that a special committee appointed last summer by the mayor has endorsed a single-member district plan. In addition an at-large, plurality vote system has been suggested. Should the city adopt a different electoral system that would afford minorities a more realistic opportunity to elect candidates of their choice, such a determination would respond to our present concerns and in all likelihood permit the Attorney General to withdraw the objection. We also note that Section 5 preclearance of future annexations, if any, will be enhanced if the city's method of election is one which fairly recognizes minority voting strength though additional voters be added to the city.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that this change is entitled to Section 5 preclearance. In addition, the Procedures for the Administration of Section 5 (28 C.F.R. 51.44) permit you to request the Attorney General to reconsider the objection. However, until the objection is withdrawn or the judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the submitted annexation legally unenforceable. See also 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action the City of New Bern plans to take with respect to this matter. If you have any questions concerning this letter, please feel free to call Carl W. Gabel (202-724-8388), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradford Reynolds", written over a horizontal line.

~~Mr. Bradford Reynolds~~
Assistant Attorney General
Civil Rights Division