



Montana Districting and Apportionment Commission

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MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

NORTHEAST REGION PUBLIC HEARING COMMUNITY ROOM VALLEY COUNTY COURTHOUSE - GLASGOW JANUARY 17, 2002

COMMITTEE MEMBERS PRESENT

Janine Pease Pretty On Top, Presiding Officer
Joe Lamson
Jack D. Rehberg
Sheila Rice
Gregory Barkus

STAFF PRESENT

Susan Byorth Fox, Research Analyst
John MacMaster, Attorney
Lois O'Connor, Secretary

VISITORS

Visitors' list (ATTACHMENT #1)

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Commissioner Pretty On Top, Chair, at 1:00 p.m. Attendance was noted, all Commissioners were present. (ATTACHMENT #2)

Susan Fox, Research Analyst, Legislative Services Division provided an overview of the functions of Commission. (See Ms. Fox's overview of the functions of the Commission in the January 16, 2002, Public Hearing minutes -- Havre.)

John MacMaster, Staff Attorney, Legislative Services Division, provided an overview of the Commission's criteria and operational guidelines for legislative redistricting. (See EXHIBIT #1 of the January 16, 2002, Public Hearing minutes -- Havre)

Ms. Fox briefly reviewed the Northcentral Region Plans #100, #200, #300, and #400 and provided an overview of the Northeast Region Plans #100, #200, #300 revised, and #500. (See Exhibits #2 and #3 and Ms. Fox's explanation of both Plans in the January 16, 2002, Executive Session Minutes -- Havre)

Paul Tihista, Glasgow: How did this Commission come about? Did Governor Martz appoint it?

Ms. Fox: The Commission members were appointed in 1999. It is always the Legislative Session previous to the decennial census. Because redistricting is traditionally a legislative function, it is the majority and minority leaders of the House and the Senate that each select one Commissioner. The four Commissioners attempt to elect a fifth member who serves as presiding officer. This Commission was unable to come to a consensus on that. Therefore, it went to the Supreme Court who appointed Commissioner Pretty On Top. Governor Martz did not appoint the Commission because the Executive Branch has nothing to do with redistricting.

A public participant asked why the four Commissioners could not agree on a chairman and how many Democrats sat on the Commission?

Ms. Fox: I do not know why they could not come to agreement on a chairman.

Commissioner Lamson: Our friends would not agree with us and there are two Democrats on the Commission.

Ms. Fox: Two Commissioners were appointed by Democratic Leadership and two were appointed by Republican Leadership. Commissioner Pretty On Top was appointed by the entire Supreme Court.

Richard Kern, Fort Peck Tribal Executive Board: The first thing we have to address for the record is that this meeting was held off the Fort Peck Reservation instead of on the Reservation for people who do not have the opportunity to be here because of the distance. One of the obligations that we have is to hear from all community members and give them the opportunity to hear this discussion and also be a part of it. Our community of interest is both the Fort Belknap and Fort Peck Reservations because members have ties that extend beyond reservation boundaries. Both reservations share in-laws, relatives, tribal tradition, attend traditional events together. As tribal members, they share interest at the political level, such as issues related to education, transportation, tribal government, and child welfare issues among other numerous issues. The total community needs to be part of this process. What is the Commission's plans for a meeting on the Fort Peck Reservation or closer to a localized area in our area of involvement? What is the Commission's plans for hearings and dates that would possibly be in this area? We would like to discuss the Commission's needs for Indians to be represented at that level. More than ever tribal members are addressing voting rights issues. Montana is currently in litigation addressing the past redistricting that did not address the concerns of the Indian communities. What is the current Commission doing to address the concerns raised in Old Person v. Cooney? Has the

Commission received information related to drawing larger Indian districts that will address the interests of those living on or near the reservation?

Ms. Fox: The Old Person v. Cooney case has not resolved to date. There was a trial held on November 5, and we are still waiting the Judge's decision in that case. However, earlier in the spring, the Attorney General approached the Commission in attempts to help resolve the issue in the Old Person v. Cooney case. The Commission declined joining into the lawsuit at the time but adopted a resolution by a three to two vote that was in support of the concepts in the Old Person v. Cooney case. This is one of the reasons why the Commission decided to start redistricting in the Glacier County area of the Northcentral Region. All four of the proposed plans join portions of the Flathead Reservation with portions of the Blackfeet Reservation. In addition to the one majority Indian district that exists in Glacier County, represented by Carol Juneau, to join with parts of the Flathead Reservation to create a second Indian majority House district. Those two districts would be able to be joined into a majority Indian Senate district. The Commission will adopt both the Northcentral and Northeast Region plans at its March meeting. Its March Executive Session is scheduled for Billings. We expect the Judge's ruling in the Old Person v. Cooney case sometime before the Commission makes its final decision.

Commissioner Pretty On Top: We are also having two hearings each month all the way through to perhaps November. There is the possibility that we could hold a sub-hearing if one or two Commissioners might be willing to go to Poplar.

Don Hedges, Representative, HD 97: Of the plans, my preference would go toward Plan 200. I would like to see Culbertson and Bainville brought back into proposed district 23 because we live by a natural boundary system, the Missouri River being one, the county lines, school districts, conservation districts, the Fort Peck water system being others. If you are going to be an effective representative for a group of people and if you can have a natural boundary system to work with, it makes it so much easier. The future representatives in proposed district 23 would be attending a conservation meeting in Roosevelt County and have to hop across the Missouri River and attend a conservation meeting in Sidney or Richland County. If you drop the boundary down to the River, you would make the representation job much easier.

Commissioner Barkus: Did you happen to look at Plan 100 because I think it includes Bainville and Culbertson? Would Plan 100 address your concerns?

Rep. Hedges: In terms of that area, Plan 100 does address my concerns.

Commissioner Rehberg: So you actually prefer Plan 100?

Rep. Hedges: The difference between Plans 100 and 200 is the representative district that is currently represented by Representative Frank Smith in terms of the Fort Peck water system. He would be half in and half out of that water district.

Representative Jeff Pattison, HD 95, provided written testimony from Brenda Rummel, Malta, one of his constituents and written testimony from himself both in support of Plan 200 because it best follows the criteria for legislative redistricting. (EXHIBITS #1 and #2 respectively)

Carol Kienenberger, Phillips County Commissioner, and Chairman, MACo District #1 (Daniels, Phillips, Valley, Sheridan, and Roosevelt Counties): As a MACo District, we met to discuss the plans for the Northeast Region. We, as a group, reached consensus in support of Plan 200 with the understanding that the boundaries are moving targets. Our recommendations for adjustment would have the Culbertson-Bainville area moved back into proposed district 23. This district currently as it is in Plan 200 is under the population limitation. Suggestions also include adjusting the boundary between proposed districts #20 and #23. On the Northeast Region map showing Glasgow, we suggest an adjustment of the boundary to come Highway 24 until it reaches the Milk River and come along the River to where it joins the Missouri River and put this area into proposed district 20. This also skews the population in proposed district 20 somewhat, but there are places for adjustment. The community of Opheim's frequently goes east to Scobey for activities and shopping. We also talked to the Blaine and Hill County Commissioners who are also in support of Plan 200. After reading the newspaper article in the Great Fall Tribune and talking to the Commissioners in those counties, the headline was misleading. It said that the majority of the people of the meeting favored Plan 300 but the people who live in the area identified with and preferred Plan 200. As a District, we did not favor Plan 300. We believe our proposal meets with your mandatory criteria. The house districts would be compact and contiguous. Under the discretionary criteria, they would encompass areas of similar interest of the people who reside in those areas, as far as trade areas, communication, rural interest, economic interest, and occupation. It would also be identified by geographic boundaries, the River, and communities of interest.

Commissioner Lamson: These are regional hearings and they involve people from all areas. There was a large contingency, particularly from Pondera County, that came over and where very supportive of Plan 300. Most of the people who spoke favored Plan 300.

Ms. Kienenberger: Who makes the final determination on the districts, what process will it go through after you have you 12 meetings, and will there be more hearings later in process?

Ms. Fox: After the 12 public hearings that we hold around the state, there will be a hearing on the Senate pairings in November. In December, we will hold the final statutorily required public hearing at the State Capitol. The plan goes to Legislature who then has 30 days to comment on the plan. The Legislature returns the plan to the Commission after that time, and the Commission has 30 days to finalize the plan. The Commission has the final authority on the plan, and as soon as it files the plan with the Secretary of State, it becomes law and the Commission is dissolved.

Commissioner Rehberg: Could you identify the group that you are representing?

Ms. Kienenberger: It is the Montana Association of Counties that is split into 12 districts. District #1 is the Northeast corner to the state, and I am Chairperson of that District. Phillips County supports Plan

#200 because it does not split county communities of interest. I would also like to speak to you as a Phillips County Commissioner. Phillips County is also in favor of Plan 200. It is not in the people of the County's best interest to split the counties as identified in Plans 100 and 300. We believe that because of our interests and the communities that work together, Phillips County usually goes east for many of our meetings and shopping. It provides a basis for our community interests and holds up together. Looking at Plan 300, I think that splitting our County in a north-south direction that the people of the County or the entire district would not be well served. Looking at the size of the district and putting proposed districts 18 and 22 together for a senate district, we do not believe that it is a serviceable area for a Senator to be in good contact with his or her constituents just because of the length of it. Senators travel on their own time and money. It would be very difficult for a Senator to reach the people from the east end to the west end of the district. Phillips County believes that Plan 200 serves the best interests of its people.

Commissioner Barkus: You indicated Plan 100 and 300 did not serve the people's best interest or did you mean Plans 300 and 500?

Ms. Kienenberger: Plans 300 and 500 are so similar that I felt that if we spoke not in favor of Plan 300, we would also not be in favor of Plan 500. Plan 100 splits our County in a north-south direction. I do not feel that it would serve the people's best interests either.

Commissioner Pretty On Top: I would like to comment that last evening in Havre, we had some people who came all the way from Conrad to give a second testimony. They testified in Browning also. It actually pertains to the Northcentral Region plans.

Commissioner Rice: When plans are heard at the Montana House of Representatives as well as the Senate, it will also be a public hearing opportunity.

Stacie Rhoads, Valley County Republican Central Committee, provided written testimony in support of Plan 200. (EXHIBIT #3)

Daryl Toews, former Senator from Phillips, Valley, and Daniels: From a personal stand point, I would like to see Plans 300 or 500. But when you look beyond the personal thing and go into what makes sense, you have to go with Plan 200. I served this area and it is an awful long ways to go. Highway 2 goes east and west, but all our connecting roads are north-south. The way we divide up, we divide north-south which is why we have to go across the Hi-Line that way because that is the natural geographic way we do things and that is the way we think. This is where our commerce operates. When you go east and west and try to communicate with your with constituents, you have seven or eight different radio stations and paper that you have to communicate with. When you go north and south, like Plan 200, it cuts the amount and cost of communication with your constituents. When you get into a Senate district, there is virtually no way for a person to show up at community meeting or events to communicate with your people. So you have to use the radio stations and the newspapers extensively. Also, Plans 300 and 500 are blatantly racist ways to draw the lines and we need to be

honest and up front about it. I serve in Frazer and represented them and the reservation in the Legislature. I had a lot of dealings with them and this is not a direction that we need to go. Indian people have done very well. When they put candidates up for election, to my knowledge, they have always been elected. Their success ratio is extremely high when they put qualified people up for election. To draw lines like Plans 300 and 500 flies in the face of what is trying to be done with redistricting.

Commissioner Lamson: Would you agree that proposed district 22 in Plan 300 is very similar to the existing Fort Peck Reservation district that was drawn by the previous Commission?

Mr. Toews: Yes, but when you go into the green part (proposed district 18), that is what messes you up. You can build the argument in the blue areas (proposed district 22) but when you get to the green area (proposed district 18), it is significantly different. That is where my concern is.

Representative Carl Waitschies, HD 96: HD 96 is eastern Valley County and Daniels County. I would like to thank you for looking at doubling the size of my district. It will increase substantially, but I know that it is due to numbers. I speak favorably of either Plans 100 or 200 as being a good plan by the constraints given the Commission which are mandatory and those that are elective on your part. Plans 500 and 300 do not meet those criteria. By cutting the two Counties in one-half, you are basically destroying any continuity you have of communications. All of our infrastructure is set up to go north and south. I would challenge you, in Plans 300 or 500, to find a way to drive east and west across that district. You cannot do it. To go from Fort Peck to the western part, there is no road and you must go outside of district to get from one place to the other. It is not contiguous; it is not common interest; and it would not serve the interests of the people in that region. Also, I would be in favor of including Bainville and Culbertson in proposed district 23 under Plan 200 because they are areas of like interest.

Willy Zeller, Mayor, Glasgow and Director, Montana League of Cities and Towns, District #3: District #3 includes areas from Dodson to the North Dakota border and from the Canadian border to the Missouri River. I support Plan 200 with the exception of Bainville and Culbertson being included in proposed district 23 because it is the natural boundary. Also Highway 24 to be the boundary, on Plan 200, to include all of the city of Glasgow or the outlying area just outside the city limits to the north and east.

Troy Blunt, Phillips County Commissioner: I support Plan 200 with the noted exception that Bainville and Culbertson be included in proposed district 23.

Dean Harmon, Roosevelt County Commissioner: I might suggest that in the decade of the 1980s, I was a part of the Richland County House District. Now, as this proposal is, it would even be worse because the old plan did not include the town of Sidney, this one does. We would feel that we would be disenfranchised because Sidney would dominate us that are north of the Missouri River. We more closely identify west and north. I regret that this process started more in the center of the state and work towards us because the only place we have to adjust is Saskatchewan or North Dakota.

Roosevelt County has a long history of community and of working with the Fort Peck Tribes. We also have probably the only 911 jointly operated system in the state. We have a law enforcement agreement from state down, signed by the Attorney General down to the Mayors of Poplar, Wolf Point, Tribal Chairman, and the County Commissioners. Community is very important, and you do not gain community by stretching things out or deviating from conventional, natural boundaries. Roosevelt County would favor Plan 200.

Dave Reinhardt, Valley County Commissioner: Valley County also supports Plan 200 with the exception of using the Missouri River as a natural boundary. We also oppose Plans 300 or 500 because: (1) it does not fit the community of interest criteria by the creation of proposed district 18; (2) it is not compact; and (3) it may be a preliminary to form east-west Senate districts in the future and we would prefer to see the districts aligned in a north-south manner as it has been in the past.

Bill Tande, Daniels County Commissioner: Daniels County supports Plan 200 with the minor tweaking that Bainville and Culbertson be included in proposed district 22. Daniels County has been like a dog that no body wanted but we have gotten back to where we were at in the past. Before, our Senate district went all the way from Whitetail, MT to the Fred Robinson Bridge which is a very long area. Under Plans 300 and 500 and making a Senate district that long and far, the Senator would have to very rich and very retired to take care of it. Daniels County strongly supports Plan 200.

Marlene Erickson, Valley County Commissioner: Carol mentioned that we were tweaking Plan 200 to move Culbertson and Bainville, but we would also like the town of Fort Peck moved into proposed district 20 in Plan 200.

Ted Kelly, Malta: I believe that these plans are designed to be least disruptive of our communities, and splitting these Counties the way Plans 300 and 500 do would make it hard on our communities. I belong to the Phillips County Stockgrowers. We have a meeting in Malta and our representatives comes. Quite soon, we will have two representatives. I believe that Plan 200 would be the least disruptive for Blaine and Phillips Counties and the Northeast region.

Bill Nyby, Sheridan County Commissioner, provided written comments from Senator Linda Nelson, Senate District 49, Medicine Lake, in support of Plan 300 with the caveat that proposed House districts 21 and 22 be combined to make a Senate district. (EXHIBIT #4) As for Sheridan County, we concur with our MACo District #1 members and support Plan 200 with the realignment of the boundaries so that we include Culbertson and Bainville in proposed district 23 and make some alignment on the boundary at Fort Peck on the east-west boundary line of proposed districts 20 and 23.

Betty Stone, Glasgow: Regarding Plan 200, I would like to see the boundary east of Glasgow be Highway 24 for inclusion in proposed district 20. It keeps better with the Commission's guideline of

keeping communities of interest in tack. I live in that area between here and Highway 24 that should be in proposed district 20.

Bill Whitehead, Fort Peck Reservation: I have a concern along with our Roosevelt County Commission in terms of being neglected. The theme should be inclusion. Indians have just as much right and responsibility to be involved as anyone being dual citizens. I would also appreciate it if you not put Culbertson and Bainville south of the Missouri River. We covered that 10 years ago when we able to persuade the Commissioner to include the Fort Peck Reservation on the east. In this day and age and we begin looking at being inclusive in terms of spreading our Reservation to the west, we hope that some of you would be sympathetic and include Bainville and Culbertson in proposed district 20 and include the Fort Peck Reservation in the west. That is the type of compromise we should be talking about. When we talk about communities of interest, we too have relatives and in-laws at the Fort Belknap and Fort Peck Reservations as Assiniboine people. We have interests of sovereignty, treat rights, jurisdiction issues, compacts, and taxes. The agreements must be both ways. He was unsure about Plan 200 because it did not include the Fort Peck Reservation in the east. If adjustments could be made to include Culbertson and Bainville, I think we can come to an agreement. We have to be players in Montana. We are not hindrances or liabilities and many Tribes in this state are assets. I would support Plans 100 or 200 if the lines are extend, otherwise, I support Plan 300.

Commissioner Rehberg: Extend the lines to where?

Mr. Whitehead: If you look at Plan 200, it just goes by Frazer and does not include all of the way to the Fort Peck Reservation lines on the west. Plan 100 goes a little bit further to Nashua.

Jerry Macdonald, Roosevelt County Commissioner: The Roosevelt County Commissioner could support Mr. Whitehead's proposal of moving proposed district 22 to the Fort Peck Reservation line on the Porcupine Creek all the way to Nashua.

Burt Johnston, Business Owner in the Communities of Fort Peck and Wolf Point: In trying to be politically active, I have been chasing around two different Senators and two different Representatives. I like Plan 200 with the exception that Nashua and the town of Fort Peck move into proposed district 24 using the boundaries of the Milk River and Highway 24 and that Culbertson and Bainville be moved into proposed district 23 to keep with their natural boundaries. It is also more compact in regards to travel. Nashua and Fort Peck are a lot closer to Wolf Point as opposed to going to Glasgow. It also keeps the Reservation vote in proposed district 24 together by extending the boundaries at least to the Porcupine Creek by Nashua.

Stan Ozark, KLTZ Radio, Glasgow: Is it true that Senate districts are made of two House districts that have to be contiguous and compact?

Commissioner Pretty On Top: Yes.

Mr. Ozark: If we were to go with Plan 200 for a Senate district, proposed districts 23 and 24 would be one Senate District and proposed districts 8 and 20 would be a Senate district. I think Plan 200 is a

better plan. Plan 300, no. When talking commonality, we would have a Senate district that would stretch from the Rocky Boy Reservation all the way to Glasgow. We will have a couple small House Districts or one large Senate District. In Plan 300, we could put proposed district 18 and 22 to be a Native American Senate District and you could combine proposed district 17 and 21. I trust, as you put Plan 300 together, that is what your plan was in connecting the two Indian districts. Am I correct?

Commissioner Pretty On Top: We get to the Senate pairings in November after we have completed the proposed House Districts. There are certainly some people who have spoken to that at our previous hearings.

Mr. Ozark: As we look ahead and personally, Plan 200 looks like the best as far as the Senate district. I am not so sure when talking commonality that a Senate district stretching from the Rocky Boy Reservation all the way to Glasgow and Opheim is in the best interest of the folks in eastern Montana.

Carol Kienenberger, Phillips County Commissioner: Looking at the distance from the Rocky Boy Reservation to Glasgow, proposed districts 8 and 20 would be a livable area in Plan 200. If you look at Plan 300 Revised, proposed districts 17 and 21 together would be larger than proposed districts 8 and 20. Phillips County is greatly impacted by Plan 300. If you look at the population in Phillips County, Malta is our County Seat and it is on Highway 2 about in the center of the County. Southern Phillips which would be a separate district from northern Phillips County, we do have small communities along the Hi Line toward Canada. Southern Phillips County is an open area which include the communities of Landusky and Zortman. But, most all of the activities take place in the community of Malta which is the hub of the County as a whole. Splitting our County north and south would really impact our County as we look at it as a community. I would appreciate it if you would consider that.

Commissioner Rehberg: How did Dodson get your county fair?

Ms. Kienenberger: Dodson used to be a community as viable as Malta when Phillips County was first born. They were fighting over who got the County Seat and who got the County Fair and it was a trade off. Dodson got the County Fair and Malta got the County Seat.

Representative Frank Smith, HD 98: I liked Plan 300 until I saw proposed district 21 going into Richland County. Richland County does not want Bainville. I agree with Valley County that the community of Fort Peck should be in proposed district 24. I get along good with Fort Peck. Running Fort Peck up to Nashua should be considered and under Plan 200 Culbertson and Bainville should be kept together in proposed district 23.

Gary Macdonald, Roosevelt County Commissioner: If proposed districts 17 and 21 were combined in Plan 300 Revised, there are only three bridges allowing the Senator from the district to get to the Richland County side to attend a meeting. It will mean an awful lot of traveling.

Commissioner Pretty On Top: For three more weeks (February 8, 2002), the record for this hearing will be open and you may correspond with our staff or any member of the Commission.

There being no further testimony, the public hearing adjourned at 2:30 p.m.

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