



# Montana Districting and Apportionment Commission

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## MINUTES

May 7, 2009

Room 102, State Capitol  
Helena, Montana

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 the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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### **COMMITTEE MEMBERS PRESENT**

Jon Bennion  
Linda Vaughey  
Joe Lamson, via teleconference  
Pat Smith, via teleconference

### **STAFF PRESENT**

Susan Byorth Fox, Executive Director, Legislative Services Division (LSD)  
Rachel Weiss, Research Analyst, LSD  
Lisa Mecklenberg Jackson, Staff Attorney, LSD  
Dawn Field, Commission Secretary, LSD

### **Visitors' List**

Visitors' list, Attachment #1.

## **COMMITTEE ACTION**

The Districting and Apportionment Commission:

- rejected the nomination of Dr. Jeff Greene as commission chair on a tie vote;
- rejected the nomination of Ms. Holly Kaleczyc as commission chair on a tie vote;
- rejected the nomination of Dr. Jim Lopach as commission chair on a tie vote;
- rejected reconsideration of Ms. Holly Kaleczyc as commission chair on a tie vote;
- rejected the nomination of Mr. Joe Roberts as commission chair on a tie vote;
- rejected the nomination of Dr. Craig Wilson as commission chair on a tie vote;
- rejected the nomination of Mr. Bob Person as commission chair on a tie vote;
- rejected reconsideration of Ms. Holly Kaleczyc as commission chair on a tie vote; and
- rejected reconsideration of Mr. Bob Person as commission chair on a tie vote.

## **CALL TO ORDER AND ROLL CALL**

- 00:03:03      **Susan Fox, Executive Director, Legislative Services Division (LSD)**, introduced herself and asked Commission members, LSD staff, and others present in the room to introduce themselves: Rachel Weiss, Research Analyst, Lisa Jackson Mecklenberg, Staff Attorney, Dawn Field, Secretary, Karin Dyness, Associated Press; Mike Dennison, Lee Newspapers; Kay Rossi, CBS News; Bob Person; and a representative from the American Civil Liberties Union (ACLU)].
- 00:03:47      **Commissioner Jon Bennion** notified the Commission members that Scott Wykmann withdrew his name from consideration for presiding officer. Commissioner Bennion **moved** to select Dr. Jeff Greene as the chair. He said that Dr. Greene has a strong knowledge and background, and would be fairminded. **Commissioner Linda Vaughey** agreed. She said that the nonpartisan element is most important.
- 00:05:43      **Commissioner Joe Lamson** said that he interviewed Dr. Greene. He agreed that Dr. Greene is very knowledgeable but said that a chair with experience and a trust level with commission members is what is most needed. He said the Democrat's choice of Holly Kaleczyc is still the strongest candidate.
- 00:07:34      A roll call vote was taken. The **motion failed** on a tie vote with Commissioners Lamson and Smith voting no.
- 00:08:18      **Commissioner Pat Smith moved** to select Holly Kaleczyc as commission chair. He said Ms. Kaleczyc has demonstrated her ability to bring together people of all persuasions and he noted that she learned much from her work with Mike Mansfield. He said she is a fair person who could work with everyone in a collaborative way.
- 00:09:17      Commissioner Vaughey said that she knows Ms. Kaleczyc well and has great respect for her and her work but pointed out that her collaborative efforts have not typically taken place in the political arena. She said that Ms. Kaleczyc was likely the most partisan candidate on the list and that she has consistently provided significant support to Democratic candidates. Commissioner Vaughey said that her opinion is that the fifth Commission member must be nonpartisan and that none of the names submitted by herself and Commissioner Bennion were meant

to provide any type of political advantage. She said that the nomination of Ms. Kaleczyc gives the appearance of an attempt to gain a partisan advantage.

- 00:11:45 Commissioner Bennion agreed with Commissioner Vaughey's statement. He said that the last districting and apportionment process was one of the most partisan the state has ever seen. He said that while Ms. Kaleczyc does great things for the community, she has never worked in a nonpartisan capacity in politics. For that reason, Commission Bennion said, he doesn't feel she meets the criteria. He said he could understand why Commissioners Lamson and Smith would like to have a Democrat as the commission chair, but that the playing field needs to be level, for the benefit of all citizens. He said Ms. Kaleczyc could not provide that.
- 00:13:14 Commissioner Lamson said that he would like to clear up any misconceptions about Ms. Kaleczyc's background. He said that she would be able to work in a nonpartisan role outside of community projects and noted that she served as Chief of Staff for former Superintendent of Schools, Nancy Keenan. He said that Ms. Kaleczyc, in that role, worked on many bills with legislators of both parties. Regarding comments about the previous districting and apportionment process, Commissioner Lamson said it was a contentious process but that was partly due to the behavior of Republican commissioners. He said he did not feel it was as contentious as it was made out to be and that the end result was fair and evenly divided, and has even stood up to court challenges. He referred to the 1990 Districting and Apportionment Commission and said it was chaired by one of the fiercest of partisans, Jean Barrett. He said the issue of Ms. Kaleczyc not being able to act in a fair and nonpartisan manner was a "red herring" issue.
- 00:16:05 Commissioner Bennion said that there is a difference between policy and political matters. He said the districting and apportionment process can become very political and that is not what he wants. He said it is apparent that there are huge disagreements regarding the end results of the last commission and that it was a very partisan process. He said he and Commissioner Vaughey could not support Ms. Kaleczyc as the fifth member of the commission.
- 00:18:03 A roll call vote was taken. The **motion failed** on a tie vote with Commissioners Bennion and Vaughey voting no.
- 00:18:25 Commissioner Bennion **moved** to select Dr. Jim Lopach as commission chair. He said that Dr. Lopach was very well respected in political science circles and the media. He said that Dr. Lopach would conduct himself in a superb manner and make certain that everyone participated equally in the process. Commissioner Vaughey agreed.
- 00:19:22 Commissioner Smith said that he interviewed Dr. Lopach and agreed that he has good experience, particularly with constitutional issues. He emphasized that this is not about experience and stated that Ms. Kaleczyc is still his first choice.
- 00:20:33 A roll call vote was taken. The **motion failed** on a tie vote, with Commissioners Lamson and Smith voting no.

- 00:20:52 Commissioner Lamson **moved to reconsider** Ms. Kaleczyc as commission chair. Commissioner Bennion said he was very disappointed that Commissioner Lamson and Commissioner Smith brought forth only one candidate and that he thought there had to be more than one person that they would find acceptable.
- 00:22:28 A roll call vote was taken. The **motion failed** on a tie vote, with Commissioners Bennion and Vaughey voting no.
- 00:22:44 Commissioner Bennion **moved** to select Joe Roberts as commission chair. He said that Mr. Roberts is experienced in Montana politics but that he typically takes a position on middle ground, supports people above politics, and is well-respected by the commission members, as well as community members. He said Mr. Roberts meets the criteria set out by the Democratic commission members and would make a great chair.
- 00:25:18 Commissioner Smith said that he interviewed Mr. Roberts and that he has known him for many years. He agreed that Mr. Roberts has a good background but that an additional attorney is not needed and that Ms. Kaleczyc is still a superior candidate.
- 00:26:20 A roll call vote was taken. The **motion failed** on a tie vote, with Commissioners Lamson and Smith voting no.
- 00:26:39 Commissioner Bennion **moved** to select Dr. Craig Wilson as commission chair. He said Dr. Wilson has a great background and is nonpartisan. He said Dr. Wilson would not give either side an edge and would insist on everyone working together.
- 00:27:21 Commissioner Lamson said that he interviewed Dr. Wilson and that they had an interesting discussion of many subjects relating to the districting and apportionment process. He said that he appreciated Dr. Wilson's insights but that Ms. Kaleczyc's people skills are still stronger.
- 00:28:35 A roll call vote was taken. The **motion failed** on a tie vote, with Commissioners Lamson and Smith voting no.
- 00:28:53 Commissioner Bennion **moved** to select Bob Person as commission chair. He noted that Mr. Person independently offered his services and was not nominated by commission members. He said he interviewed Mr. Person and spoke with many people who have worked with Mr. Person, and said that he was very impressed by what he heard. Commissioner Bennion said that Mr. Person meets all criteria: knowledge, experience, respected by both parties, and a commitment to an open and transparent process.
- 00:30:21 Commissioner Vaughey agreed that Mr. Person was a very qualified candidate and discussed his experience in dealing with legislators of both parties. She said that she, too, had discussed Mr. Person's strengths and abilities with many others and that she had not heard a single criticism. She said his "stellar reputation" indicates his willingness to work with both sides and facilitate compromise.

Commissioner Vaughey said it was most fortunate that Mr. Person stepped forward.

00:32:37 Commissioner Smith said that he interviewed Mr. Person and didn't think that adding another attorney to the commission was a good idea. He said that Ms. Kaleczyc has the same strong collaboration and compromise skills and that she is still his first preference.

00:33:27 A roll call vote was taken. The **motion failed** on a tie vote, with Commissioners Lamson and Smith voting no.

00:33:47 Commissioner Lamson **moved to reconsider** Holly Kaleczyc as commission chair. He said he had hoped that Commissioners Bennion and Vaughey would have talked to people about her because they would have realized that she has all of the skills needed.

00:34:26 A roll call vote was taken. The **motion failed** on a tie vote, with Commissioners Bennion and Vaughey voting no.

00:34:48 Commissioner Vaughey **moved to reconsider** Bob Person as commission chair. She said Mr. Person's qualifications are stellar and that he has already proven that he can work effectively with partisan people. She said that is a major difference between Mr. Person and Ms. Kaleczyc in terms of demonstrated ability to work with partisan people. She thanked Mr. Person once again for offering his services and said that she could not think of a better person for the job.

00:36:50 Commissioner Bennion clarified that Mr. Person is not an attorney.

00:37:45 A roll call vote was taken. The **motion failed** on a tie vote, with Commissioners Lamson and Smith voting no.

00:38:02 Commissioner Bennion said that he and Commissioner Vaughey offered five qualified candidates and that Commissioners Lamson and Smith offered only one. He said he was concerned about the tone that may be being set for the process and that he and Commissioner Vaughey had tried to meet Commissioners Lamson and Smith halfway by providing five nonpartisan candidates. He said that their goal was to begin the process with a level playing field with neither side having a political advantage, and that it appeared that the decision will now rest with the Supreme Court. Commissioner Bennion emphasized that there have been no closed door meetings or communications with the Court to date and that all discussion and communication would be made available to the public. Commissioner Lamson said he and Commissioner Smith agreed and would do the same.

00:40:19 Commissioner Lamson commented that historically, both sides have visited with the Court and that it has been an open process.

- 00:40:58 Commissioner Bennion clarified that written communications should be made public but that private discussions could remain private. He said that any communication from the Court should be open and public.
- 00:41:36 Ms. Fox said that she would prepare the letter to the Supreme Court and would take care of getting all of the needed signatures.
- 00:42:09 Commissioner Lamson asked if any of the media representatives present had questions for him or Commissioner Smith. He provided his cellular telephone number: (406) 202-2636. Commissioner Smith provided his telephone number: (406) 721-1070.
- 00:43:07 The meeting was adjourned.

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