



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.**

First Meeting of Interim
Room 317B, State Capitol
November 16, 2000

COMMISSION MEMBERS PRESENT

Joe Lamson
Jack D. Rehberg
Sheila Rice
Elaine Sliter

COMMISSION MEMBERS EXCUSED

Janine Pease Pretty On Top, Presiding Officer

STAFF PRESENT

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

VISITORS

Visitors' list (ATTACHMENT #1)

COMMITTEE ACTION

- Adopted Population Equality as mandatory criteria for Congressional districts
- Adopted Population equality and maximum population deviation; Compact and contiguous districts; Protection of minority voting rights and compliance with the Voting Rights Act; and Race cannot be the predominant factor to which the traditional discretionary criteria are subordinated as mandatory criteria for legislative districts

- Adopted Following the lines of political units and Keeping communities of interest intact as discretionary criteria for legislative districts
- Adopted Following geographic boundaries as amended as discretionary criteria for legislative districts
- Rejected Preservation of existing district lines as discretionary criteria for legislative districts
- Adopted Following the lines of political units; Following geographic boundaries; and Keeping communities of interest intact as discretionary criteria for Congressional districts
- Postponed until the next meeting the decision of using the adjusted or unadjusted population figures to the Director of the Bureau of the Census or of using the unadjusted data set regardless of whether it is produced as the P.L. 94-171 data set or the P.L. 105-119 data set
- Adopted the operational guidelines based on the OMB Bulletin No. 00-02 as an initial approach with which to analyze the data when it is received by April 1, 2001, through subsection (2)
- Postponed choosing a starting point and a geographical direction to proceed until the next meeting
- Postponed setting a public hearing date on the congressional plan
- Tentatively approved a meeting in March of 2000

CALL TO ORDER AND ROLL CALL

Because of inclement weather, Ms. Pretty on Top was unable to attend the meeting. However, for the purposes of this meeting, a fax that included her votes on the Draft Guidelines and Criteria for Congressional and Legislative Redistricting Commission Worksheet was sent by Ms. Pretty On Top to Commission staff. (EXHIBIT #1)

The meeting was called to order by Joe Lamson, Acting Presiding Officer, at 1:15 p.m. Roll call was noted; Ms. Pretty On Top was excused. (ATTACHMENT #2)

MANDATORY AND DISCRETIONARY CRITERIA FOR REDISTRICTING

Susan Fox, Research Analyst, Legislative Services Division, provided a map of the Census 2000 final response rates. (EXHIBIT #2) Ms. Fox said that Montana had a 68% response rate and felt that Montana may have a 50-50 chance of regaining a second Congressional seat.

Mr. Rehberg asked when the Commission could expect a notice if Montana regained a Congressional seat. Ms. Fox said that the U.S. Department of Commerce must provide state population counts to the President by December 31, 2000, and then President has 15 days to inform the United States House of Representatives of the apportionments. The Secretary of the House will then transfer a notice to Montana and it should know by mid to late January 2001 as to whether it regained a second seat. However, Montana will not have the actual census data until mid-February to April 1, 2001.

John MacMaster, Staff Attorney, Legislative Services Division, provided an overview of the report Mandatory and Discretionary Criteria For Redistricting. (EXHIBIT #3)

Mr. Rehberg asked if the donut-effect of redistricting in the Lewistown area fit the redistricting criteria. Ms. Fox said yes, but added that her concern would be in the area of the "compact and contiguous districts" argument. She said that many states use the donut-effect for redistricting and some discretionary criteria helps because Montanans use them as a community interest tool for urban and rural citizens.

Sarah Bond, Assistant Attorney General, Civil Services Bureau, Department of Justice, said that while she believed that the donut-effect of redistricting surrounding Lewistown would likely be considered "compact and contiguous", there are a number of different tests that Courts use to establish a lay definition of "compact and contiguous"--each part of a district is touching some part of another part of a district. Another definition of "compact and contiguous" is a geometric calculation based on circumference and area. Under the latter definition, the most physically possible compact district would be located in a round circle.

Mr. MacMaster added that the compactness standard is derived from the Montana Constitution and it was his opinion that no Montana Court would throw it out. Compactness must also be reviewed if there is a violation of section 2 of the Voting Rights Act.

Ms. Fox said that it is difficult to discuss a particular criteria at this point because population equality and community of interest are the other concerns that must be reviewed. In the last Census, the "hole" of the donut, which is Lewistown, had to be enlarged which forced the Commission to take the community of Belt out of the Cascade County district. Although she suspected that population was lost on the inside of the donut, at some point, the Commission must consider community of interest and consider a new configuration.

Mr. Rehberg asked how the Commission could avoid the criticism of voting blocks where districts had a majority of Native Americans, such as with the Ninth Circuit Court's unanimous decision in Old Person v. Cooney. (EXHIBIT #4) Ms. Bond said that the Ninth Circuit Court upheld the District Court's finding that there was no discriminatory intent on the Commission's part and it did not rule improper any district boundaries drawn. However, it found that the District Court had erred in its analysis as it applied to block voting which had to do with election results, not the district boundaries drawn. The Ninth Circuit of Appeals also overruled the proportionality analysis (Was there a proportional number of minority districts relatively proportional to the minority population?) It went on to state that it could not tell how the District Court's erroneous decision of proportionality affected the totality test and it remanded that the District Court conduct another analysis of the totality factors, one of which is proportionality.

Mr. Rehberg asked what the Commission had to keep in mind regarding this issue as it proceeds. Ms. Fox said that the Commission should keep in the mind whether the minority is sufficiently large and geographically compact to constitute a majority, whether a minority is politically cohesive, and whether the majority voting block can easily defeat a minority candidate.

Ms. Bond added that legal standards are very vague and the Commission has the obligation to protect minority voting rights in order to avoid legal challenges. It should keep in mind all mandatory criteria and cautioned the Commission to also keep discretionary criteria discretionary. She said that there was a possibility that an imposed solution could be required of the state for the 2002 election in an area that might be considered a gerrymandered district, such as the Blackfeet area and the Flathead. If the District Court finds on the basis of totality--that the totality factors are in favor of the plaintiffs--the Court could order a minority district drawn in that area. It is possible that the Commission will review political boundaries that have been imposed upon the state by the federal court. The Commission must consider how heavily it is going to honor existing political boundaries.

Mr. Lamson asked if the Court rules in favor of the plaintiff, would the state and the plaintiffs submit plans to remedy the situation and would the Court then pick which remedy it wanted? Ms. Bond said no, that the current jurisdiction of the Court is based solely on the 1990 redistricting plan and it does not effect what the current Commission does. The only impact on the current Commission would be if it adopts discretionary criteria regarding the use of existing political boundaries. The Commission must be aware that some of the boundaries might be imposed boundaries. It should articulate in its reasons for accepting one district over another that a particular district line means something different to the Commission because it did not evolve over time by a decision of the populous but rather a Court.

Ms. Rice said that the negative of adopting discretionary criteria is that the Commission could be taken to court based upon its own discretionary guidelines. She asked about the efficacy of adopting the mandatory criteria only and not speak to the discretionary criteria. Ms. Bond said that if the Commission disregards discretionary criteria and remains with traditional redistricting criteria, the question will be whether the criteria was applied correctly. She added that it may be wise to not adopt discretionary criteria, but since they are traditional redistricting criteria and to the extent that the Commission does not follow them, it is always best to articulate a rational reason why they were not followed.

Mr. MacMaster said that federal courts have developed the principle that when they invalidate a state's redistricting plan, the state entity responsible by state law to redistrict must come up with a new redistricting plan. The federal court steps in if the responsible party does not come up with a new plan, if

it does not like the new plan, or if it thinks that the responsible party is taking too much time to come up with a new plan. He said that it may well be that the federal District Court may say: (1) that it will not impose a plan on the responsible party but it must come up with a new plan in a timely fashion, such as by the 2002 election; (2) it may say that the whole district is moot so make sure that the responsible party's next plan does not discriminate against Native Americans; or (3) it may say that the responsible party does not have enough time to come up with a new plan so the federal District Court will come up with a new plan on its own.

Ms. Bond said that the current Commission does not have jurisdiction over the 1990 Redistricting and Apportionment Commission. Going back to who is responsible for drawing the district boundaries should a remedy be imposed, she said that typically, the federal District Court will order the responsible party to draw the district differently. It will then determine which is the better proposal to accomplish the remedy. The parties in Old Person v. Cooney are the Secretary of State and the Governor, both of whom are about to change hands. She was unsure just exactly who would be drawing the district boundaries but she did not believe it would be the current Commission.

Mr. MacMaster said that the federal District Court could say that the 1990 Commission broke federal law. Since federal law overrides state law, the federal District Court has the authority to order the current Commission to redevelop the district boundaries. Ms. Bond and Ms. Fox did not believe that the federal District Court would do that. Ms. Fox said that throughout Old Person v. Cooney, certain 1990 Commission members were deposed and testified because the 1990 Commission was dissolved. On the other hand, Commission staff was required to support the work of the 1990 Commission. The likelihood would be that the defendants (the Secretary of State and the Governor) would ask the Attorney General's Office to continue to participate and would ask Commission staff, who has been involved in the lawsuit, to help. As a result, the current Commission would be separate and apart from involvement in the lawsuit.

Mr. Rehberg said that it would be essential to pass discretionary criteria at some point if for no other reason than to give Commission staff an opportunity to determine how to use the new geographic information (GIS) system. Ms. Fox agreed, adding that there needed to be some basis for the district lines and some guidelines for Commission staff to follow. Mr. MacMaster added that he would prefer that the Commission not rank the discretionary criteria and that any motion pertaining to the adoption of the discretionary criteria begin with the language "The Commission will consider".

OPERATIONAL GUIDELINES FOR CONGRESSIONAL AND LEGISLATIVE REDISTRICTING

Ms. Fox presented an overview of the report Operational Guidelines for Congressional and Legislative Redistricting. (EXHIBIT #4)

PUBLIC COMMENT

Ms. Bond said that materials show that the unadjusted data undercounts minorities. Should the Commission choose to not defer to the Director of the Census who makes the final determination regarding the methodology to be used in calculating the tabulations of population reported to states and uses the unadjusted data regardless, the Attorney General's Office expects it to be a potential problem.

Mr. Lamson said that the 1990 census undercounted Montana's Native American population by 10% or more. If there is better information to avoid that problem, a legal argument could be made that the current Commission was negligent in not using the data that the Director of the Census said was better information. Although Ms. Bond said that Mr. Lamson's statement was stronger than what she would make, she also believed that his argument would, none the less, be made. The arguments that she anticipates being made are: (1) if the Commission chooses to use data regardless of what the Director of the Census says, the Commission is on notice that the minorities are being undercounted, that it is ignoring them, and it could lead to potential problems; or (2) efforts have been made in the 2000 census round that have overcome the minority undercount and there is no reason to believe that with those extra efforts that the undercount was impeded. Either argument will depend on whether the adjusted data is more accurate than the unadjusted data or whether the 2000 census ensured that the traditionally undercounted groups were correctly counted. She added that if the Director of the Census decides that it is not feasible to use the adjusted count, the only data that the states will receive will be unadjusted.

Allan Cox, Program Manager, Census and Economic Information Center and the Governor's Liaison to Census 2000, said that in mid-February of 2001, a committee of senior statisticians and officials in the Census Bureau will determine whether the adjusted data more accurately represents the true minority count. If the adjusted data meets the statistical guidelines, the Director of the Census has the option of adopting them. The timeline will be in mid- to late-February and the data must be delivered to the states by April 1, 2001. The actual unadjusted state counts from Census 2000 will be received at the end of December 2000.

Bob Ream, Chairman, Montana Democratic Party, asked if an adjustment would be made since Montana received only 68% of its census mail-back responses rather than 100%. Mr. Cox said that no state would ever receive a 100% exact count. The followup survey coupled with the mail-back responses and the on-site enumerations provide the basis to understand what the undercount was. Mr. Cox said that

he was unsure what principles and methods were applied but he could provide the documentation at the Commission's request. He added that the Census Bureau feels that between the on-site visits and the mail backs, it could possibly get into the 90% range.

Mr. Lamson added that followup responses are also determined by the different types of communities. Some efforts work very well in certain types of community with certain demographics. However, there are also very inherent characteristics based upon the economic standing and the racial makeup of particular neighborhoods that makes followup more difficult.

Mr. Ream asked if adjustments would be made to the unadjusted data because of not reaching the statistical "sampling" or because of undercounting. Mr. Lamson said that the Census Bureau develops a model that take into account community types. In his past experience areas, such as Gallatin County and Kalispell that were experiencing increases in growth, argued that they were undercounted because census takers did not know where new subdivisions were, for example. Mr. Cox added that the Census Bureau takes into account location, population density, and community account when they adopt the states' plans. He also clarified that the unadjusted numbers are just that--unadjusted--and there is no adjustment made to the unadjusted numbers.

Mr. Ream asked if adjusted data is provided, can the Commission make the decision whether to use either the adjusted or unadjusted data. Ms. Fox said that the unadjusted data will be used to determine the number of congressional representatives, but the Commission can use either the adjusted or unadjusted data in the actual redistricting process.

Mr. Rehberg preferred postponing the decision to use the adjusted or unadjusted figures until such time that the Commission receives more information and knows what the figures are.

ADOPTION OF GUIDELINES AND CRITERIA

Ms. Fox provided a copy of Draft Guidelines and Criteria for Congressional and Legislative Redistricting Commission Worksheet. (EXHIBIT \$5)

Mandatory Criteria for Congressional Districts

Ms. Sliter **moved** to adopt Population Equality as mandatory criteria for Congressional districts. Motion passed unanimously.

Mr. Rehberg asked if the Commission would receive less criticism from the public if it used some of the discretionary criteria for Congressional districts even though it has not officially adopted them. Mr. MacMaster said yes, adding that the Commission would only have to draw one North-to-South line. It would also be helpful if the Commission stated that it would do its best to not break county lines, communities of interest, or divide a city, if possible.

Following a brief discussion, the Commission was hesitant to make "compact and contiguous" criteria for Congressional districts mandatory and preferred that it be used as discretionary criteria. Ms. Fox said that whether the Commission chooses to adopt "compact and contiguous" criteria or not, she would take it into consideration when drawing the district line.

Mandatory Criteria for Legislative Districts

Mr. Rehberg **moved** to adopt Population equality and maximum population deviation; Compact and contiguous districts; Protection of minority voting rights and compliance with the Voting Rights Act; and Race cannot be the predominant factor to which the traditional discretionary criteria are subordinated as mandatory criteria for legislative districts. Motion passed unanimously.

Discretionary Criteria for Legislative Districts

Regarding Criteria #2--Following geographic boundaries, the question was asked if the language could be amended to state that "The Commission will consider drawing district lines. . ." rather than "District lines will be drawn. . ." Ms. Fox said that there are numerous voting precincts that do not follow geographic lines. Although not impossible to do, a voting precinct that does not follow geographic lines causes some technical difficulties within the Legislative Services Division's new geographical information system (GIS) which follows the TIGER/Line files of the U.S. Bureau of Census.

Ms. Rice asked about striking the language "geographic boundaries" and stating "District lines will be drawn to follow the TIGER/Line files. . ." Ms. Fox said that the TIGER/Line files allow for the smallest geographic unit that the U.S. Bureau of Census uses to report populations.

Mr. Cox said that the TIGER/Line files have many geographic entities represented. Some of the entities can be used for reference and some cannot be used because they do not form the boundary of a polygon or a census block. If the Commission chooses to be specific, it should use the boundaries of the census blocks, which is the smallest unit of geography for which the census takers collect numbers. When a plan is made, the census blocks are aggregated. However, there will be many geographic features, such as a dead end road or the head of a stream, that is a geographic feature, that does not form a census block.

Therefore, an enumeration unit cannot be formed and it cannot be aggregated to a district. Mr. Cox added that there are also other geographic features that exist that will not be in the TIGER/Line files. If the Commission chooses to split a census block and there are 100 people associated with the block, questions arise, such as, do fifty people go on each side of the block or 75 on one side and 25 on the other side of the block?

Mr. Rehberg asked if the language "geographic boundaries will be respected to the extent possible" would give Commission staff the latitude to use the TIGER/Line files appropriately. Ms. Bond said that it may protect the Commission if it made a reference to the technology used to draw district boundaries because in the areas where other discretionary criteria can be used, Commission staff is literally bound by the technology that is being used, which is the TIGER/Line files.

Ms. Fox said that the language could state "The Commission will use the TIGER/Line files to draw district boundaries and geographic boundaries will be respected to the extent possible".

Ms. Rice was concerned that the language "geographic boundaries will be respected to the extent possible" would override any other discretionary criteria. She **moved** to amend #2 Following geographic boundaries as discretionary criteria for legislative districts in the following manner:

- Following geographic boundaries census blocks. District lines will be drawn to follow geographic boundaries as provided in the TIGER/Line files of the U.S. Bureau of the Census.

Mr. Lamson asked if the motion gave the Commission enough flexibility in the event that it had to split a census block. Ms. Fox said that technologically speaking, it is possible to split a census block but she was unsure whether the Commission wanted to do that.

Ms. Bond said that the discretionary criteria is written in such a way that gives the Commission a lot of latitude. As a practical matter, the Commission would consider the discretionary criteria anyway. She felt that the less said, the better.

Mr. MacMaster asked if the TIGER/Line files were only partially based on geography. Ms. Fox said yes, adding that the TIGER/Line files cannot tell the Commission where to set a geographic boundary or which boundary to use. As a result, all of the other discretionary criteria will become more important when they begin to place the boundary lines.

Mr. Cox said that by the very nature of the census block boundaries, they are visible, geographic features, such as roads, powerlines, rivers, and streams, etc. If census block boundaries are used, the Commission will, in effect, be recognizing visible, geographic features.

Ms. Rice's motion passed unanimously.

Ms. Rice **moved** to adopt Following the lines of political units and Keeping communities of interest intact as amended by striking "will" after Commission and inserting "may" in both criteria.

Mr. MacMaster said that in the most recent Court cases, the Courts reviewed whether Commissions applied all discretionary criteria to each district to the extent possible. It was his opinion that if the language is amended to state "may", it implies that the Commission need not consider that particular discretionary criteria. He felt that the language should remain "will" because all it mandates to the Commission is that it review the discretionary criteria with respect to redistricting.

Ms. Rice withdrew her motion.

Mr. Rehberg **moved** the approval of Following the lines of political units and Keeping communities of interest intact as discretionary criteria for legislative districts as written. Motion passed unanimously.

Ms. Sliter **moved** the approval of Preservation of existing district lines as discretionary criteria for legislative districts.

PLEASE NOTE: By request, the following discussion regarding Ms. Sliter's motion was to be transcribed verbatim. However, because of Capital Restoration, the tapes were inaudible in places.

Ms. Rice: The district lines, as drawn for the 1990 census, are in Court and they may be redrawn by the time the current Commission draws theirs. I am unsure what "existing district lines" means. There has also been tons of growth in some spots that are really going to make it difficult to even look at district lines in both directions. This is a criteria that does not seem to fit the reality that the Commission is faced with, both the Court case and the existence of how populations are moving.

Ms. Sliter: In looking at it, you are right, we may have some lines that change, but many of the lines will not change. I think that Counties will appreciate it as much as anything because they have the confidence that the Commission is not going to move boundary lines around 180 degrees.

Mr. Rehberg asked for more clarification on Ms. Rice's argument.

Ms. Rice: The Commission does not know what the existing lines are going to be after the Court case is settled. Although not every district line will be moved, some will be. I think it adds confusion in terms of what is being reviewed. Secondly, I am concerned, Lewistown is a good example, that if one of the Commission's discretionary criteria is "existing district lines", it will have to peel more of the donut off resulting in a thinner and thinner donut. Then we have to expand it in other directions. It does not seem like an easy thing for me to do. Thirdly, I have been approached repeatedly in Cascade County by people who are drawn into other districts. Lewistown is again an example. A constituent from Belt called her and said that he does not like being a part of the Lewistown district. When we get to "Choosing a starting point", I will advocate that the Commission start in the central part of the state and also advocate that Cascade County be that starting point.

Mr. Rehberg: It is just a guideline and the Commission will make that decision one by one when we go through the districts anyway. I do not know how your argument affects having Preservation of existing district lines as a criteria.

Ms. Sliter: I realize that preserving district lines has been a tradition but the language "will consider" means that the Commission is not tied to using them only that they be considered, which makes it all okay in my mind.

Ms. Fox: I may have created a problem because I have blended the 1990 Commission's criteria with a concern that I had, and the language "Preservation" of existing district lines may be problematic. If the Commission does not at least adopt "using existing lines as a starting point from which to determine variance in population", I am not exactly sure how I am suppose to figure that out. It can be made clear that "using existing district lines" is the only reason for which you are using it as a starting point. Preserving existing district lines may have, perhaps, been mislabeled, but I do need a place to figure out where in the state a variance in population exists and requires more redistricting.

Mr. MacMaster: Two things, the Commission is going to get a lot of pressure from existing legislators who want their districts as intact as possible, and they are not going to want the district lines changed or the Commission will get pressure from those who want to keep the district lines intact but they want a bulge here or there. I have found over the last two rounds of reapportionment that I have often thought that the Commission should never have adopted looking at existing district lines because of the pressure that it receives. On the other hand, the Commission must understand that these people have the right to

have their say in the process. I like Ms. Fox's idea of deleting "Preservation" from the language and then we may be able to water the criteria down to state "Existing district lines. The Commission will look at existing district lines as a starting point from which to determine new district lines and variance in population. . .".

Mr. Rehberg: Going back again 10 years, the criteria language stated "whenever practical, consideration would be given to existing legislative district lines" and; for political fairness, it used the language "districts may not be drawn for the purpose of favoring a political party or to beat an incumbent legislator". Nevertheless, they worked and they have passed the test of time.

Mr. Lamson: One thing I am concerned about is that the language "Preservation of existing district lines" seems to be an area that we seem to be getting into some legal problems. For a variety of reasons, I think that this is as difficult a problem to resolve as it is because in reality, different members of the Commission are going to say : "Susan, can you draw some districts that represent these things. I imagine the way that this is is that because I am speaking for the House Democrats and Sheila is for the Senate Democrats and around the table those starting points will be requested there. I also think that in Montana because of the people's statement on term limits, they have devalued the value of incumbency and existing districts. They are saying that regardless of who the individual is, four terms and you are out in the House and two in the Senate. I think that we have some direction from the people of Montana that they do not place as high a priority on this nature of incumbency and existing districts as members of the Legislature would. I would prefer to just not have this particular criteria and go with the other three, and I am sure that through the process, we will hear from every legislator. Those districts were not drawn in a vacuum. They were drawn by the previous Commission who said that there were some communities of interest in these particular areas, there were some trade centers, and I think that they can be incorporated in that.

Mr. Rehberg: In the last census, did we have many legislators who insisted that existing district lines be left as they were?

Ms. Fox: Not as many as we anticipated.

Mr. Rehberg: It was very minimal and the Commission accepted the criteria and made every effort to do it.

Ms. Sliter's motion failed on a 3 to 2 vote with Mr. Lamson, Ms. Rice, and Ms. Pretty On Top voting no.

Ms. Bond: Susan needs to know where to put the cursor to begin allocating population for purposes of determining one person, one vote. Historically, she has started with the existing district lines as a matter of convenience because she has those numbers. Since the criteria Preservation of existing district boundaries was rejected, she may need direction from the Commission, not where to start geographically in the state necessarily, but what units to begin with so that we can get population by County, by census block, or whatever.

Mr. Lamson: I think that as this process comes, most of the legislators will look at their districts to figure those types of things out and we will start to move off of that as we go through the project. There is the additional question about adjusted versus nonadjusted numbers and how that may impact this. I can see certain cases where it would be substantial, especially in the minority communities.

Ms. Sliter: My understanding is that by us rejecting this criteria, Susan does not have any place to plug those numbers in to for us. I can probably ask you the population of the current existing district. But it is not guided in here so we can't see how we need to adjust a district one way or the other. For you, it would be easiest to have the districts, but what other units or counties would work best for you.

Ms. Fox: Counties would be logical, where you find out the population of each county and then I could do a comparative ideal population. You are right, for all practical purposes, at least knowing what the population is in each existing district would be helpful for you to determine that it appears that there is sufficient population or there is not sufficient population. What is your preference on where the district lines are drawn?

Mr. Lamson: That is exactly the point. Elaine, I think that you as a Commission member would very likely request that information and start to go from there. Any member of the Commission can ask for that type of information. I did not want to elevate it one notch up to this discretionary criteria because it may have to be legally defended--we were paying attention to it here, but we decided that it was not as important there.

Ms. Fox: To respect the vote that failed, could some direction of that nature to staff as an operational guideline be to present the population variance of existing 1990 districts to the Commission?

Mr. Lamson: One of us would just request that. I am sure that we will be requesting all kinds of things.

Ms. Fox: As long as I know that, I will do that and still respect the wishes of the Commission.

Mr. MacMaster: I suggest that the whole conversation on this particular criteria be put verbatim into the minutes because I like what has happened. The Commission has decided not to adopt it as discretionary criteria but it also indicated to Susan that for purposes of her starting point ,when she does her job, look at the district lines to see if that works out. The conversation has made it clear that the Commission, itself, when it makes it decisions and adopts a plan, is not going to consider district lines.

(End of verbatim transcription)

Discretionary Criteria for Congressional Districts

Ms. Rice **moved** the approval of Following the lines of political units, Following geographic boundaries, and Keeping communities of interest intact as adopted for legislative districts as discretionary criteria for Congressional districts. Motion passed unanimously by Commission members present.

GUIDELINES

Mr. Rehberg **moved** to postpone the decision on guidelines 1.a. or 1.b. until such time that the adjusted or unadjusted population figures are known. Motion passed unanimously by Commission members present. Motion passed unanimously.

Ms. Fox said that she has received offers from the Bureau of the Census if the Commission felt that it needed a presentation on the adjusted or unadjusted population figures. There will also be another redistricting conference held in January 2001 in Dallas TX similar to the one held in Savannah GA.

Mr. Rehberg asked if there would be a cost to the state to attend the conference or to have the outside presentation. Ms. Fox said that it may or may not. Mr. Cox added that as the Governor's liaison, he would ask a Census Bureau representative to come to Montana at his or her own expense.

Ms. Fox said that she would like to use the OMB Bulletin No. 00-02 as an initial approach with which to analyze the racial data. She requested that the Commission approve her use of the OMB Bulletin No. 00-02 to develop a matrix based upon the racial principles for Commission review at a later date. The matrix will be based upon the actual data and it will not contaminate or change the database in the computer system.

Mr. Rehberg **moved** the approval of No. 2 under GUIDELINES through subsection (2)--operational guideline based on the OMB Bulletin No. 00-02 as an initial approach with which to analyze the data. Motion passed unanimously.

No consideration will be given to the last paragraph of No. 2 under GUIDELINES until the Commission considers the initial approach.

Mr. Rehberg felt that the Commission should start redistricting in the same place that it did in the 1990 redistricting because there were very large districts with very few people. He **moved** that the Commission start redistricting in the northwest corner of the state--the Kalispell area.

Ms. Rice was an advocate for central Montana. She made a **substitute motion** to start redistricting in Cascade County.

Ms. Rice's substitute motion failed on a 2-to-2 vote with Mr. Rehberg and Ms. Sliter voting no and Mr. Rehberg's motion failed on a 2-to-2 vote with Mr. Lamson and Ms. Rice voting no. The choice of a starting point and a geographical direction for redistricting was postponed until the next meeting.

Number 4 under GUIDELINES--tentatively setting a public hearing date on the congressional plan--will be postponed until the next meeting.

There being no further business, the meeting adjourned at 4:15 p.m.

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