



## ALASKA REDISTRICTING BOARD

### Alaska Redistricting Board Meeting December 15, 2021 | 2:30 p.m. By Teleconference

The Alaska Redistricting Board met on December 15, 2021. Present participants were:

John Binkley	Chair of the Board
Melanie Bahnke	Board Member
Bethany Marcum	Board Member
Budd Simpson	Board Member
Nicole Borromeo	Board Member
Peter Torkelson	Executive Director
TJ Presley	Deputy Director
Matt Singer	Legal Counsel

#### **Agenda**

- Call to Order & Establish Quorum
- Adoption of Agenda
- Adoption of Minutes
- Adoption of Minutes from Previous Board Meetings
- Litigation Review in Executive Session with Legal Counsel
- Litigation Management Discussion
- Adjournment

#### **Call to Order**

Chairman Binkley called the meeting to order at 2:30 p.m. With all board members present, a quorum was established.

#### **Adoption of Agenda**

Member Bahnke moved approve the agenda as presented. Ms. Marcum seconded the motion.

The motion passed unanimously.

#### **Adoption of Minutes**

Peter Torkelson stated that a third party was contracted to develop meeting minutes from recordings of past board meetings; these sets of minutes were included in the board meeting packet. Upon approval, the meeting minutes will be uploaded to the Alaska Redistricting Board website. Member Bahnke stated that in the November 8, 2021 meeting following the motion to adopt Senate pairings, there was a motion to reconsider the motion which may be missing from the minutes. Member Bahnke requested that staff review the audio and incorporate any missing motions.



## ALASKA REDISTRICTING BOARD

Chairman Binkley stated that the minutes could be adopted with the caveat to ensure that the minutes are a true reflection of the above referenced action.

Matt Singer noted that the board can amend the minutes even after adoption of the minutes, if needed. Member Bahnke agreed to propose amendments to the minutes after staff have reviewed the transcript of the meetings.

Member Marcum moved to approve the packet of minutes presented to the board. Ms. Bahnke seconded the motion.

The motion passed unanimously.

### **Litigation Review in Executive Session with Legal Counsel**

Matt Singer updated the board on the following regarding litigation:

- The board has now performed its obligations under Section 10 of Article 6 of the Alaska Constitution by adopting a final redistricting plan within 90 days after the official reporting of the US Census.
- The next phase of the redistricting process under Section 11 of Article 6 of the Alaska Constitution allows any qualified voter to apply with the Superior Court to compel the board to perform its duties or to correct any error in redistricting. The court conducts expedited litigation to review the redistricting plan and any decision by the Superior Court is then subjected to review by the Alaska Supreme Court. If the court determines that the board has made an error, then the matter will be returned to the board for correction and development of a new plan.
- Five legal challenges were submitted:
  - The Matanuska-Susitna Borough challenges the overpopulation of the Mat-Su House districts and seeks for the court to invalidate the House plan as a result.
  - The City of Valdez challenges the House district in which it finds itself in and has stated a preference to be paired with Richardson Highway communities.
  - The City of Skagway challenges the House district in which it finds itself in and has stated a preference to be paired with Downtown Juneau rather than the Mendenhall Valley.
  - Felisa Wilson and two other Anchorage residents challenge a Senate district pairing in Anchorage.
  - Calista Corporation and two of its directors challenge Hooper Bay and Scammon Bay not being in the same House district with Bethel.
  - The Doyon Coalition has filed a motion to intervene in the Mat-Su lawsuit.
- Judge Morse has issued an order to consolidate all cases into one and directing that the cases be heard in Anchorage.
- Documents pertaining to each legal challenge have been posted on the Alaska Redistricting Board website.

Member Marcum moved to enter executive session for the purpose of obtaining confidential



## ALASKA REDISTRICTING BOARD

attorney-client legal advice about pending legal challenges and management of litigation. This motion is brought in pursuance to Alaska Statute (AS) 44.62.310 (c)(1), (AS) 44.62.310(c)(3), and (AS) 44.62.310(c)(4) involving matters of immediate knowledge which would clearly have an adverse effect upon the finances of the public entity, matters by law, municipal charter, or ordinance are required to be confidential, and matters involving consideration of government records that by law are not subject to public disclosure.

Member Bahnke seconded the motion.

The board entered executive session to receive confidential attorney-client legal advice about the lawsuits and legal strategy at 2:57 p.m.

The board exited executive session at 4:02 p.m.

### **Litigation Management Discussion**

Member Marcum moved to establish a Litigation Subcommittee consisting of two members to work with the board's legal counsel and Executive Director to oversee the pending litigation. In coordination with legal counsel and staff, the subcommittee shall be delegated responsibility for routine day-to-day litigation strategy. Any final decision that would directly impact the proclamation plan is reserved for decision by the full board.

Member Bahnke seconded the motion.

The motion passed unanimously.

Member Marcum moved to appoint Member Simpson and Member Binkley to the Litigation Subcommittee.

Member Binkley seconded the motion.

Member Bahnke stated that previously Member Simpson and Member Borromeo were appointed to review the RFP's that were released for legal counsel selection as they are both licensed attorneys in the State of Alaska. Member Bahnke objects the motion and intends to propose a motion to reconsider the motion if it passes.

Member Borromeo spoke in support of Member Bahnke's suggestion. A subcommittee was formed to review the legal RFP's and Members Borromeo and Simpson were suggested to serve on the board as the duties pertained to legal matters. Both members did their due diligence, brought recommendations to the board, and kept the board apprised of their actions during this time. Member Borromeo suggested that she and Member Simpson continue to work together. Member Borromeo expressed opposition to Member Binkley serving as the Board Chair and a member of the Litigation Subcommittee and suggested that if Member Binkley feels strongly about being on the Litigation Subcommittee, he should step down as Board Chair and appoint someone new.

Member Marcum noted that both Members Binkley and Simpson spoke in favor of the House plan



## ALASKA REDISTRICTING BOARD

and Senate pairings; this is not true for Members Bahnke, Borromeo, and Marcum. For this reason, Members Simpson and Binkley are the most logical choices to be appointed to the Litigation Subcommittee. Additionally, it is appropriate for Member Binkley, as the Board Chair, to be involved in the day-to-day litigation process.

Member Borromeo spoke in opposition of prior voting decisions impacting whether she can provide the board with guidance on legal matters and asked the board to place its subject matter experts where they can best be used.

Member Bahnke expressed that it feels punitive to exclude certain board members from subcommittees in which they have professional experience in doing so. Having two licensed attorneys on the board serving on the Litigation Subcommittee makes the most sense.

Member Borromeo pointed out that if the board is using prior voting decisions to determine who serves on a subcommittee, it should be taken into consideration that Member Binkley voted against the Anchorage map.

Member Simpson pointed out that Member Binkley did vote against the Anchorage map, but voted in favor of the House districts.

Member Bahnke spoke in opposition of using prior voting decisions as criteria to determine who subject matter experts are and who can serve best on a subcommittee. Professional expertise should be used as criteria.

Member Borromeo suggested that if the board cannot settle on an agreement on the subcommittee, the board should not have a Litigation Subcommittee and as an alternative, all litigation matters can come the full board.

Member Binkley expressed support for the motion and as Board Chair, there is a compelling reason to be involved in the litigation process.

The motion passed 3 to 2 with members Bahnke and Borromeo opposed.

Member Bahnke moved to reconsider the motion. Member Binkley stated that under Robert's Rules of Orders, a board member must be on the prevailing side of a vote to propose a motion to reconsider. Member Bahnke withdrew the motion.

Member Borromeo stated that she expects to be updated with litigation matters and will be watching any delays from the board during the litigation process.

Member Borromeo moved to adjourn the meeting. Member Bahnke seconded the motion.

### **Adjournment**

Member Marcum moved to adjourn the meeting. Member Simpson seconded the motion. The board adjourned at 4:25 p.m.