



ALASKA REDISTRICTING BOARD

DRAFT

Alaska Redistricting Board Meeting February 16, 2022 | 11:00 a.m. Virtual Meeting on Zoom

The Alaska Redistricting Board met on February 16, 2022. Present participants are below:

John Binkley	Chair of the Board
Melanie Bahnke	Board Member
Bethany Marcum	Board Member
Budd Simpson	Board Member
Nicole Borrromeo	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

Call to Order

Chairman Binkley called the meeting to order at 11:00 a.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

Member Borrromeo moved to approve the December 15, 2021 board meeting minutes. Ms. Bahnke seconded the motion.

The motion passed unanimously.

Review of Superior Court Decision



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Matt Singer updated the board on the following regarding litigation:

- There were 5 legal challenges summarized as the following:
 - Anchorage plaintiffs challenged some Senate pairings in Anchorage
 - The Matanuska-Susitna Borough challenged that the districts in the borough were overpopulated and did not meet constitutional requirements.
 - The City of Valdez challenged District 29 stating that it was not socioeconomically integrated, along with other procedural challenges.
 - The Calista Corporation challenged Districts 37, 38, and 39 with a focus on the location of the villages of Hooper Bay and Scammon Bay, and villages in the Lower Kuskokwim.
 - The City of Skagway challenged the placement of the combination of communities within Districts 3 and 4; Skagway preferred to be paired with Downtown Juneau.
- The court rejected the challenges of the Matanuska-Susitna Borough, the City of Valdez, and the Calista Corporation; these three cases are resolved in favor of the board. The plaintiffs all have a right to appeal.
- The court ruled in favor of East Anchorage and Skagway; the Proclamation to the board for further instruction.
- The board will decide today whether to appeal the Trial Court's decision. As such, legal counsel will recommend that the board enter executive session to discuss the litigation and receive legal advice.
- The following are note-worthy items from the Trial Court's decision:
 - The notion that in-person public verbal testimony has a higher value than written testimony is new and not an idea found in past cases. If the Supreme Court were to affirm it, this may change the process moving forward and may encourage interest groups to spend more effort on rallying people to testify on issues important to them.
 - Regarding Skagway, the court states that public comment from a small group of people is potentially more important than the board's decision to focus on the most compact district. Matt Singer noted that this is interesting because compactness is a constitutional criterion. The court held that the board's districts were compact, contiguous, and socio-economically integrated, yet it was arbitrary to adopt them.
 - The trial procedure was unusual as it required an expedited process that involved prefiling testimony and the board, as a result, was precluded from giving direct testimony live at a trial. Also, no board members were asked to testify.
- The appeal process will be handled in an expedited manner over the next few weeks and expected to be resolved by April 1st, if not earlier. Typically, a court order is issued and then a more detailed explanation is issued later.

Matt Singer recommended that the board enter executive session briefly to explore more specific legal advice about next steps for litigation.

Executive Session

Member Simpson moved to enter executive session under AS 44.62.330 C3 for matters which may by law, municipal charter, or ordinance are required to be confidential, specifically in this instance to discuss legal strategy about the ongoing legal challenges to the Proclamation including to discuss



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advice about whether or not to appeal any aspect of the decision. Member Marcum seconded the motion.

The board entered executive session at 11:19 AM.

The board exited executive session at 12:30 PM.

Possible Board Action Regarding Litigation Matters

Member Bahnke moved for the Redistricting Board not to appeal the judge's decision regarding Skagway and Eagle River. Member Borromeo seconded the motion and proposed to hold a discussion prior to voting.

The following discussion on the motion took place:

- Member Borromeo expressed that it is in the best interest of Alaskans not to appeal the judge's decision on Skagway and the Senate pairings. Instead, the board could handle this matter in meeting to give some certainty as to the Senate candidates who want to run in those districts. Doing so would also save the state time and money.
- Member Bahnke agreed with Member Borromeo's comments. Member Bahnke has a proposed map that could be adopted for the Senate pairings and the fix to Juneau would be simple.
- Member Simpson expressed opposition to the motion as the board owes it to Alaskans to take it to the Supreme Court to receive a definitive ruling on the correctness on the judge's decision.
- Member Borromeo also has Senate pairings to suggest to the Board for consideration. Board Map v.4 could also serve as a quick fix to Skagway.
- Chairman Binkley agreed with Member Simpson's comment and expressed the importance of the Supreme Court opinion. If the board drew new Senate districts, those districts could be subject to new challenges which could also delay the timing.

The board took a roll call vote:

- Member Bahnke – Yes
- Member Borromeo – Yes
- Member Marcum – No
- Member Simpson – No
- Member Binkley – No

The motion failed 2 to 3.

Member Borromeo moved that that the board does not appeal the Senate ruling but appeal the Skagway decision. Member Bahnke seconded.

Member Marcum noted that for the reasons previously cited regarding the novel concepts and about setting precedent concerns, it is important to get clarity on all the issues raised in the judge's ruling.



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Member Marcum expressed opposition for the motion.

The board took a roll call vote:

- Member Simpson – No
- Member Marcum – No
- Member Borromeo – Yes
- Member Bahnke – Yes
- Member Binkley – No

The motion failed 2 to 3.

Member Simpson moved to bifurcate the two rulings and appeal the Skagway rulings. Ms. Marcum seconded the motion.

Ms. Borromeo proposed that the board vote on a motion tomorrow, February 17th, to give more time on making the decision. Member Simpson declined the proposal noting that appeals are due on February 17th.

The board took a roll call vote:

- Member Simpson – Yes
- Member Marcum – Yes
- Member Borromeo – No
- Member Bahnke – No
- Member Binkley – Yes

The motion passed 3 to 2.

Ms. Marcum moved that the board appeal the Senate pairings decision by the judge. Member Simpson seconded the motion.

Member Marcum noted the importance to the public and future boards to have clarity on the process moving forward.

Member Borromeo referred the board back to the points she raised at the November 10, 2021 Redistricting Board meeting and to the judge's opinion drawing attention to the reasons for the Senate pairings being made to give other districts more representation.

Member Marcum expressed concern about the mischaracterization for the intentions behind Senate pairings.

The board took a roll call vote:

- Member Simpson – Yes



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- Member Marcum – Yes
- Member Borromeo – No
- Member Bahnke – No
- Member Binkley – Yes

The motion passed 3 to 2.

Member Simpson moved to authorize legal counsel to take the necessary steps to oppose the appeals for other non-prevailing parties at the Superior Court level. Member Bahnke seconded the motion and called the question.

The board took a roll call vote:

- Member Bahnke – Yes
- Member Borromeo – Yes
- Member Marcum – Yes
- Member Simpson – Yes
- Member Binkley – Yes

The motion passed unanimously.

Adjournment

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

The board adjourned at 12:55 p.m.