**Commission Meeting Minutes**

The following are the minutes of the Utah Independent Redistricting Commission meeting. The meeting was held on Friday, August 27, 2021 at 2:00 p.m. in the Taylorsville State Office Building Room #1400, 4315 South 2700 West, Taylorsville, UT 84129-2128.

Note: A copy of meeting materials, and an audio recording of the meeting can be found on the Public Notice Website. The minutes may refer to the recording found on the Public Notice Website with the approximate number on the recording where an issue is being discussed.

Attendance - Commission Members

Chair, Utah Independent Redistricting Commission - Rex Facer

Commissioner Lyle Hillyard

Commissioner Jeff Baker

Commissioner Rob Bishop

Commissioner Karen Hale

Commissioner William Thorne

Attendance - Staff and Others in Attendance at Anchor Location:

Gordon Haight, UIRC Executive Director

Aly Escobar, Administrative Coordinator

Christelle Gatoro, Intern

Joey Fica, Intern

Sariah Benion, Intern

Cassidy Hansen, Intern

Beau Bayless, Intern

Matt Cannon, Legal Counsel from Ray Quinney & Nebeker

Malcolm Reid

# I. Welcome – Chair Rex Facer

Chair Facer welcomed everyone at 2:03 PM to the meeting and noted that Commissioner Durham was ill and may be joining virtually later. He also thanked the commissioners for their work creating drafted maps during the previous week.

# II. Action Item: Approval of the Minutes of August 3, 2021

Chair Facer moved to the next item and asked for any needed changes to the minutes from August 3, 2021.

With no requested changes he asked for a motion to approve the minutes.

*Commissioner Hillyard moved to approve the minutes.*

*Commissioner Hale seconded the motion.*

*Chair Facer called the motion to a vote.*

*Commissioner Hillyard, Aye*

*Commissioner Baker Aye*

*Chair Facer Aye*

*Commissioner Hale Aye*

*Commissioner Bishop Aye*

*Commissioner Thorne Aye*

*The motion carries and the minutes were approved.*

# III. Presentation: General Legal Discussion – Matt Cannon

Chair Facer moved to the next agenda item and noted that Matt Cannon had communicated he would be late to the meeting and so the item would be returned to.

# IV. Discussion of Mapping Process and Schedule time with Professor Nathaniel Persily  – Gordon Haight

Chair Facer then turned the time to Gordon Haight to discuss the mapping process.

Gordon explained that Cassidy Hansen had done some analysis of the drafted congressional maps and turned the time to Cassidy.

# V. Presentation: Map grading process – Cassidy Hansen

Cassidy handed the commissioners copies of the drafted congressional maps from each team. Please note that drafted maps can be found on our website uirc.utah.gov.

Cassidy then presented analysis based on the criteria discussed by the commissioners. Please refer to 00:02:40 in the recording to hear this presentation. The recording is posted to the Public Notice Website on the August 27, 2021, post. <https://www.utah.gov/pmn/>.

During this presentation staff and commissioners discussed how this analysis can be used to improve the drafted maps. Towards the end of the presentation Cassidy and the commissioners discussed how to examine how well current districts have been kept intact. Cassidy also explained that having multiple draft maps will be helpful to allow for averages to be calculated.

Chair Facer then turned the time to Gordon. Gordon explained that he wanted to start with the analysis to help the commissioners think about how the different criteria interact with one another. He explained that staff had posted the proposed criteria from an earlier meeting after reading a public comment and allowing Matt to present that he would like the commissioners to vote on adopting the criteria.

Gordon then read a public comment from the Utah Redistricting Coalition expressing support for the proposed standards. This comment also raised some concerns about the requirement and criteria related to preserving the core of prior districts. The comment also encouraged commissioners to strongly consider communities of interest.

# VI. Action item: Discuss and Approve Redistricting Criteria – Matt Cannon

Matt handed the commissioners a proposed final draft of criteria. Matt then presented the proposed final draft. Please refer to 22:40 in the recording to hear Matt’s presentation. The recording is posted to the Public Notice Website on the August 27, 2021, post. <https://www.utah.gov/pmn/>.

Matt noted two proposed changes to the initial proposed standards, including language on population deviation percentages as well as wording relating to the voting rights act.

During this presentation and discussion Commissioner Hillyard asked about using prior knowledge while mapping to avoid decisions that the legislature seems likely to reject. Matt responded that as long as considerations follow the proposed criteria guidelines, they likely are fine as a practical matter to encourage the legislature to adopt maps. He noted that analysis from staff on things like cores of prior districts should help with this effort. He explained the importance of not considering data that the commissioners had decided to avoid, but noted that an independent party could look at maps and give some insight on possible outcomes from a drafted map and how that may work as a practical matter in getting a map approved and adopted. He also focused on the idea that with staff and independent parties looking at maps, the commissioners can get some insight into possible outcomes without needing to view things like political data themselves.

Commissioner Hillyard also mentioned that even with the commission following legal criteria, if something like population deviation varies from the legislative redistricting committee, they may use that as a reason to reject maps.

Matt responded that in part for this reason the adopted criteria match the legislative redistricting committee as closely as possible.

Commissioner Bishop noted his overall acceptance of the proposed criteria especially as each criteria state that the commission will follow each criteria to the extent practicable. He mentioned that he was less concerned with getting the legislature to adopt their maps and more concerned with potential legal action around population deviation. He expressed that the lower the population deviation the better, and that he sees the population deviation as most important criteria.

Chair Facer asked about the courts accepting some deviation in population using other criteria as a justification.

Matt responded that the courts do recognize other criteria as justification for some deviation in population. He also noted that the deviations adopted by the legislature are within deviations that the courts have found acceptable. He noted that issues arise if a map can be presented that follows all criteria equally well with a smaller deviation. However, he explained that if a map has a smaller deviation but ignores some other criteria then it is less compelling than it would be. Matt then explained that while there are trade-offs to be had between small deviations and following other criteria such as keeping cities intact, he did recognize that much of the previous litigation had centered on population deviation. He also noted that some of the justification for having some population deviation is that the numbers used are already outdated.

Commissioner Thorn stated that he understood Commissioner Bishop’s point slightly differently, and felt that the point was more that small deviations can avoid litigation entirely.

Commissioner Bishop agreed with Commissioner Thorne’s understanding and explained that he understood Matt’s point that other criteria can be used to justify larger deviations, but that the higher the deviation the harder it will be to actually justify a map as the best choice. He stated that he understood that these deviations are technically legal, even approaching the numbers presented seem to be rather shaky ground.

Matt stated that Commissioner Bishop’s point was well taken, but did note that his legal opinion and advice is that the numbers presented shouldn’t really present any legal issues. Commissioner Thorne explained that while these numbers could win in court, smaller numbers discourage people from bringing litigation entirely. Matt responded that certainly smaller deviations could help avoid legal action, but that even with small deviations it would be possible for someone to then sue based on something like compactness.

Commissioner Hillyard stated that some of the criteria presented are subjective and some are objective. He explained that population deviation is objective and something like communities of interest are far more subjective. He also explained his understanding that the legislature had not been sued for the previous maps, even with some public complaints.

Commissioner Thorne then explained his understanding that the role of the staff is to analyze drafted maps and explain where issues arise. Chair Facer thanked Matt and the commissioners for the discussion around these criteria and expressed he would like to see a motion to adopt the proposed criteria.

*Commission Hillyard moved to adopt the proposed criteria.*

*Commissioner Thorne seconded the motion.*

*Chair Facer called the motion to a vote.*

*Commissioner Hillyard Aye*

*Commissioner Baker Aye*

*Chair Facer Aye*

*Commissioner Hale Aye*

*Commissioner Bishop Aye*

*Commissioner Thorne Aye*

*The motion carried.*

Commissioner Hillyard suggested putting the criteria on the website.

Chair Facer asked if Matt Cannon had any other legal issues in particular to discuss.

Matt responded that he had nothing else in particular but would be chiming in when needed. He also explained that Professor Nate Persily would be in Salt Lake the following week and would be coming to watch the commissioners map and act as a resource for the commissioners and staff.

# VII. Action Item: Discuss and Approve Draft Maps for Hearings – Gordon Haight

Gordon then asked for input from the commissioners to improve the mapping process.

Commissioner Thorne asked for some differentiation when looking at city splits and noting when a city has a few blocks split compared to when a city is split in half.

Commissioner Baker noted that when splitting only a handful of people from a city, the county would have to create a voting precinct of only a few. He suggested that splits should be somewhat larger than that.

Commissioner Thorne explained that he would like to see some sort of numerical representation of how much of a city is split.

Matt explained that Professor Persily would have some experience and suggestions on how to measure things like city splits. He also noted that other groups such as the Princeton group could contribute as well.

Commissioner Hillyard thanked Commissioner Baker for his input and explained that it was helpful to try to consider the big picture impact that might have for people like County Clerks.

Gordon explained that staff had met with the state election office and that the state election office would have some discussion with the counties and provide feedback. He also mentioned that staff would ask school district superintendents to look at school board maps. He asked for any other questions regarding how to improve the mapping process.

Commissioner Baker asked about a recent email from ESRI regarding some data fixes. Gordon explained that staff did not have all the details but to his knowledge all data was correct. Commissioner Baker and staff briefly discussed what sort of data was adjusted and the scope of that adjustment.

Gordon also explained that he saw all the drafted maps as evolving and that it might be wise to even leave some room for improvement to easily apply comments heard in public hearings. He also explained that Professor Persily would be meeting with each mapping group and staff next week.

Commissioner Thorne explained that he appreciated staff and volunteers in the way they had been helping in the mapping process and explaining options to the commissioners.

# VIII. Presentation: Public Hearing Format and Logistics – Gordon Haight

Gordon mentioned that staff was working with some media outlets to get the word out for public hearings.

Gordon then stated he wanted to briefly discuss maps. He stated that staff had started to analyze drafts and explained his vision that as the process moved forward eventually the maps will shift from being worked on by only one team to owned by the full commission and was looking forward to input for that process. He then explained that he would hope for the commissioners to tell staff what maps they would be comfortable with presenting to the public during public hearings.

Commissioner Hale expressed that she would like to have at least one or more Congressional, State Senate, and State School Board ready to show the public for the upcoming hearings.

Commissioner Hillyard explained that it would be helpful for drafted maps to include county lines.

Commissioner Baker asked about the logistics of meetings and asked if there would be large screens to present maps. Gordon explained his vision that there would always be a map up so that staff can help show what areas are being discussed in a comment.

Chair Facer then asked how the commissioners wanted to decide what maps to show.

Commissioner Thorne suggested that more maps would be better than less, to help the public understand that the commissioners are considering different options and different ideas. Chair Facer explained his understanding that once a team finished a map and gave it to the commission as a whole that map could then be presented as an option. Commissioner Baker, Commissioner Thorne, and Commissioner Bishop all expressed approval for the idea of essentially presented all drafted maps as options.

Commissioner Hale, Commissioner Thorne, and Chair Facer discussed the importance of also showing the existing maps and explaining how drafted maps might impact people in the areas visited. Gordon explained that staff was working on a presentation for the start of the meeting and that ideally local government officials would present on their area as part of the meeting. He also explained his plan to start each meeting with a sort of open house to educate the public.

Commissioner Thorne stated that it would be important to provide numbers during the open house to help the public understand what changes would need to occur in their area.

Commissioner Hillyard also suggested having several staff members doing the same sort of presentation concurrently. Gordon explained his understanding that any maps the commissioner could complete in their teams in the next week would be made available for the public to view.

Gordon also explained the logistics of travelling to the public hearings as far as cars and hotels and schedule.

Commissioners and staff discussed the details of the travel schedule.

# IX. Presentation: Map review State Election Commission/State School Board – Gordon Haight

# X. Public Comment

Malcolm Reid addressed the commissioners. His comments focused on the importance of the commissioners remaining independent and the importance of representing public input.

Commissioner Hale motioned to adjourn the meeting.

*The meeting was adjourned at 5:35 PM*