



# Idaho's Citizen Commission for Reapportionment

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Public Meeting  
Sunday, September 04, 2011  
Capitol Auditorium, Capitol Building  
4:00 p.m.

Present were **Commissioner Esposito, Commissioner Finman, Commissioner Andersen, Commissioner Frasure, Commissioner Kane, and Commissioner Moses.** Present from the staff were **Ms. Kristin Ford, Mr. Keith Bybee, Mr. Todd Cutler, and Cyd Gaudet.**

**Chairman Frasure** called the meeting to order at 4:00 and stated that he thought they had been able to make some great progress. He then asked if there was anything that officially needed to come before the committee at that time.

**Commissioner Esposito** requested that they go to recess for an hour. He said that because of all of the great progress they had been making up north, over in the eastern part of the state, and in hearing those reports, and then also in the Treasure Valley area, he thought that if they had another hour, hopefully they would be able to come back with even bigger smiles on their faces. So he said that he would like at least the hour to see what they could get done. **Chairman Frasure** asked if there was any objection to going at ease until 5:00. He then said that by way of information, the days were starting to run together, and that **Commissioner Andersen** had handed him the gavel coming down, and they had argued who was the chair. He indicated that it was getting late in the process, and he would have sworn that he was the chair the prior day, but apparently he wasn't. Having said that, he indicated that they would go at ease until 5:00.

**Chairman Frasure** reconvened the meeting at 5:05 and said, in his humble opinion, that they probably had just had the most productive hour that they had since they started the whole process. He said that he thought that both sides were communicating very well, and they were getting some agreements worked out in all three regions. To report back, all of the subcommittees were not quite...and that the only scary portion was that they were working on three different ones, and when those three areas then collided, that was going to be real interesting to see if they could marry some of the discussions that they had been having in the regions. However, just to report, he thought that they were making great progress, and in the last hour he had been able to work on a few areas in eastern Idaho. He knew that **Commissioner Moses** and **Commissioner Esposito** were working it out in Boise, and the same way up north. So he thought they were making great progress, and unless someone wanted to make some comments, he would suggest that they go at ease for another hour. He said that he hated to have the staff sitting there on hold for another hour; however he thought that another hour would do wonders. He stated that without objection, they would go at ease until 6:00. Hearing no objection, he put the commission at ease until 6:00.

**Chairman Frasure** reconvened the commission and said that again, they had probably had the second most productive hour, and maybe it had been more productive than the first hour. He said that to report back, he thought they were making tremendous progress, and that he thought that he was speaking for the entire commission, that they planned on being there as long as they needed to be that night, because they recognized that they had Monday and Tuesday to get a whole dictionary written to explain what they did. So their intention was, unless there was something else to come before the commission, to go to recess until 8 p.m. This was to give them a two hour block, as they were finding that the one hour blocks were productive, but they thought that two hours would be more productive. He said that he wanted to compliment the entire commission for their willingness to stay late and work hard, and eventually get to a compromise that they could all live with. He asked if there was any further comment before he put them at ease until 8:00. **Commissioner Moses** said that speaking for the meetings that he had been in, that the time that he suggested was either too long or too short. By that he meant that if they were going to do an in-depth analysis of what they had, he thought it was going to take more time than that. However if he was

looking for answers that night, they didn't need two hours, so it would be his suggestion that they either adjourned until the following day, or that they came back in an hour, whichever was the commission's pleasure.

**Chairman Frasure** said that he would just as soon not break the momentum, and that speaking as the chair, he liked holding their feet to the fire a little bit, and that returning a report kind of helped. He said that if it was more comfortable coming back at 7:30, and kind of cut it in the middle. He said by the time they got back upstairs he would sure like to have an hour to stay at the computer and work on the discussions that they had been having. **Commissioner Andersen** said that he would support 7:30 as a returning time. **Chairman Frasure** said fair enough, that without objection, they would go at ease until 7:30.

**Chairman Frasure** reconvened the commission at 7:30 and asked if there were any updates or discussion from his colleagues on the left or the right. **Commissioner Esposito** said that with great reluctance he would ask that L63 be brought up on the screen, and he asked that they go to Ada County. He indicated that they had been trying to move through this process in an orderly manner, and that he believed that they had been making great progress. Then in various maps going back and forth, they ended up right back where they started with L63. He then called the commission's attention to District 18 so that people could see what that was really all about. He asked that a portion of the map be enlarged so that people could see that they had downtown Boise, basically the north end, stretching clear out to Eagle. He said that they had talked a lot about having compact districts and not gerrymandering, and that he had presented several maps, including one that was handed back to him, which was a total maintenance of the status quo. He said that he thought what they needed to do was to talk about the dirty little secret about all of this that kept going on, because here was where they were at. This was all about politics he guessed, that they had earlier maps, which for better or worse, disregarded a lot of that. However now in the closing times, they were looking at these maps, and they had gerrymandering in order to try to come up with a four district advantage in Ada County for the Democrats. He said that he would submit that you could probably get four districts out of Ada County for the Democrats, but it took the kind of gerrymandering that they were looking at in L63. He stated that it was unacceptable, and it was not going to work. He indicated that they had basically built districts, and he had presented them to **Commissioner Moses**, that kept the previous Districts 16, 17, 18, and 19 intact for him.

**Chairman Frasure** asked if it would be helpful if they put the overlay of the current districts up, and **Commissioner Esposito** said yes, please. He indicated that because of the need to add an additional approximately 10,000 people, of course those lines had changed somewhat. However they had kept to that as nearly as closely as possible, and they had put all of the Democrat incumbents in safe districts, and that was not good enough. He said that quite honestly he was really fed up with where they were at this point. He indicated that if this was the style and negotiation, where they were given a map, and then they started going back and forth, and then they got the original map thrown back into their face and say, *well you can just deal with all the rest but this is their nonnegotiable position*, then they were not going to get there. He said that he believed that they could get there, however the only way that they were going to get there was if the Democrats would start looking at what they were giving them, and then give an honest appraisal of what they were proposing. He indicated that if that was not good enough, he guessed that unfortunately they were going to end up in court, and he didn't think that anybody wanted that. He said that maybe that worked in other negotiations, but it was not going to work there. Either they come to the table in good faith and they worked through these compromises, or they were wasting their time and they might as well all go home, and quite frankly take their chances in court. He said that this was turning into a farce, and he was not going to put up with it. He was not going to waste staff's time, and everybody else's time so that they could go back and forth, and think that they had agreements, and quite frankly that was exactly what happened on the congressional maps. And if people wondered why things took a bad turn, they had an agreement on the congressional map for a vote, and then they got the old *well you know we need to do this and we need to do that*, and that was just bologna. Either you negotiate in good faith, and when you say you are going to do something keep your word, or don't say it. So if they wanted to negotiate, then come to the table and deal in good faith, or let's just go home.

**Commissioner Andersen** said that he would like to respond to the statement that they had an agreement to vote on the congressional line. He indicated that he told **Commissioner Frasure**, at least two days before he pushed for the vote, that they would not agree to a vote. They asked them not to push that, so there was never ever an agreement to vote on the congressional district, and he resented the fact that he kept saying that there was. **Commissioner Esposito** said that he went through a lot of time and trouble putting the congressional map together, and he was told by the other side that if they made those compromises, it would be something they could accept and vote on. So maybe he shouldn't have taken that for its face value, however that was what he was told, and that was how he proceeded on this. When somebody came to him and told him that they were willing to negotiate, and go back and forth, then he took that at face value, and in good faith he produced maps that could get them there. So, in all due respect to **Commissioner Andersen**, maybe he (**Commissioner Esposito**) was misled, or maybe he was misinformed, but he was clearly told that they were going to have a vote. **Commissioner Moses** said that there were a number of things to respond to, however since they were on the subject of the vote, he was party to some of those conversations, and his very clear recollection was an agreement that had two sides. On the one side, they, with some reluctance, would agree that they would find their way to support a line that they didn't especially care for, and appeared to them to be an incumbent protection line, however they would vote for it. In return, the vote for that would be delayed until they had a map of both the congressional and the legislative sides to vote on. He said that it was a very clear understanding, and that he and **Commissioner Andersen** both understood it the same way. If there was a failure to keep an agreement it did not occur on his side. As to maps, they presented map after map after map, and here recently they presented five maps, and they asked their colleagues to pick one, any one, and either move it or tell us what was wrong with it. They got a number of suggestions for improvement, none of which involved Ada County. They were then led to believe that there was not a problem in Ada County, that Ada County would have nine districts and they would be divided in a way that essentially produced a relative status quo. What he was seeing that day were maps that went back to the initial Republican proposal, to take northeast portions of Ada County and ship it off to Boise County, and south west portions of Ada County and

ship them off to Canyon County. They thought that this was settled long ago, they asked for comments long ago, and they received no comments for weeks on end. Suddenly today they were back at the start, so no, they didn't get anywhere, and they went backwards. They operated in good faith based on the record of discussions, today that record evaporated, so he agreed with **Commissioner Esposito** in this respect, if this was the way things were going to go, they were not going to get there from here.

**Commissioner Kane** said that it was late, and she did not appreciate being chastised on the public record, especially when things were not being characterized properly. However she did not want to get into tit for tat, she wanted to move forward, and if they were not going to be moving forward, then let's not accuse each other of wrongdoing. If they were going to move forward, let's move forward, and let's talk about it. But don't chastise anybody on the public record, it did not help, she could tell them that it did not help them to move forward. That was all she was saying, let's go home, get some rest, and come back in the morning, and try again in the morning.

**Chairman Frasure** asked if there was any further discussion. He then stated, just briefly from the chair, that he appreciated where **Commissioner Kane** was coming from. He thought at times they each had their selective memories, and he understood that. He said that he would have the secretary pull up the minutes of the congressional portion so that no one was speaking out of line. Those were their official minutes, and they could see what was actually on the record in regards to the congressional. He thought that was probably where they ought to keep it rather than speculating on each side. He said that it was a challenge when they had this, it did get rather heated, and in all candor, today, he was pretty excited as he thought they were getting towards some compromises as well. In L63, it kind of became the focal point because this was a point of beginning, where do you go from here, from there, and he had made everybody (a copy). He said that he and **Commissioner Andersen** had been working on L63, and that was actually a blow up of L63, and that was what was on the public record. He said as they took a look at L63, he knew that **Commissioner Esposito** was concerned in Boise, however there was L63, and he was more than happy to make public their Republican compromise for L63. All they did was try to clean it up, eliminate some county splits, and that was exactly what they had proposed based on the Democrats' position. He said that all they had done was move a handful of counties, and he thought as they took a look at it, and noted, that they would find that in the core of it, Legislative District 29. In L63 he said that he had accepted the Democrats' position, it was their plan, he made some artistic (sic), so that the boundaries went to the road in Pocatello that everyone knew where it was at, and he thought they had a deal. Then simply moving a few precincts, going from dividing Bingham County once to dividing it three times did not seem reasonable to him, and so this did divide Bingham County twice, rather than the three times, in an attempt to compromise. And what they were handed in return was the position that their compromise was, so for public disclosure, there was the Democratic compromise back, and it not only went one step further, but it reached on over and divided another county for political ends.

So to go from a position of only wanting to divide the minimum number of counties, five or six, to handling one legislative district, they were going to divide four counties now, to get the political ends of preserving Senator Bilyeu in District 31, and it was amazing to him that they could not follow the law a little closer. He said that their compromise proposed keeping Power County intact. They were willing to make that compromise, and in that compromise they were willing to go into Bingham County as the Democrats requested. However it did not make a lot of sense to divide Bingham County into three legislative districts. Since they were going to Bingham County, make it one cut, and keep all of Bingham County together in those two legislative districts. He said that he was troubled that this was the direction that they were taking, and that they also had gone from what he thought were pretty high noble causes, to now it was just flat-out hard knuckle politics, and all of the guidelines were out the window. And they were going to divide 500 counties all of a sudden, and it became a real political hay maker. Unfortunately it had broken down that night, and he did not see much hope in reviving it that evening.

He then referred to L63 on the screen, and said that they could see that in southeast Idaho it went up, and that was their point in the beginning, and he went ahead and accepted that, and all he did was simply move those precincts in District 29. He said that in District 29 he accepted it as it was, other than a slight adjustment. All he did was clean the southeast corner of District 29 up to follow a road, and it affected 73 people. He completely capitulated on the districts and said that he would give it to them, other than the 73 people. He said that it did not seem reasonable to him to go over and divide Power County and Bingham County for the sake of reaching over and getting the handful of Democrats that lived in American Falls to put them in with that legislative district, and that was exactly what that did. All the compromise proposed was putting Bingham County into two districts, so taking that Pingree/Sterling area that the Democrats were willing to ship off south, and simply leaving it in Bingham County in with Fort Hall. That was the compromise, literally moving four precincts, and the return was that, no we are going to stay exactly that to get the number to work, and then they were going to peel out more people, and we're going to divide another county, Cassia County, in order to compensate for that 73 person change that he made in Pocatello. To him, if they were going down that route, obviously they were wasting staff's time, and the State of Idaho a whole lot of money, and he was afraid that they would be wasting a whole lot more because if this was the art of compromise, they were not there.

**Commissioner Andersen** said that he appreciated his explanation of the maps; however he would like to point out that L63 was a compromise on drawing the line between Bonneville County and Caribou County. And when that line was drawn it required additional cuts that went up into Bingham County on the west side. He said that was their proposal and that was rejected, and it came back then putting Bingham County in with Fort Hall and in with Chubbuck. Again, the Democrats offered a counter proposal to that, and **Commissioner Frasure** had obviously taken that as a personal affront, and he apologized for that, and he thought that maybe was a part of the negotiation process. Obviously **Commissioner Frasure** had his mind made up that it was going to be my way or the highway, and actually they did use the highway. So he resented the fact that he was trying to portray them as obstructionists to this process, when again all they were doing, and all he was doing, was offering a counter proposal, a different approach, to trying to solve the problem in District, which was 31. This was based on the testimony that everyone kept referring to about the complaint about going up into Bonneville County. They had decided to address that issue, they agreed to that line across there, and it did create additional pressures towards the west when they did

that. Again they offered a counter proposal to it, and if he was going to take that and turn it into a political football, then he guessed that was what they were going to have to do. But he agreed that he did not think they were going to get anywhere that night.

**Chairman Frasure** said that he appreciated that. The beginning point was their plan, L63, and all they simply did was clean up some two county splits, actually three county splits, in their counter offer. They had started with two county splits and now they added a third one. All they did was move four precincts, a grand total of four precincts, and the partial of another, and they were willing to accept 90% of what they offered. All they did was clean up three totally unnecessary county splits, which was all they did there. He said that he totally took District 29 in good faith, saying how close he could come, and he even asked if he could move a precinct, and that didn't seem to be a problem. So he moved it, and the numbers worked, but it was extremely tight deviations. But to go from eliminating three county splits, where the mantra was minimum county splits, and they eliminated three of them there by simply moving four precincts. That was clearly following the statutes and their requirements, and was much more defensible. He did not see how in the world they could even approach, based upon the position that they had held the entire time of minimum county splits, to settle one legislative district, to divide now four counties to accomplish that, to him did not seem like much of a compromise.

**Commissioner Moses** said that unless he was missing something real important, he believed that they were at the stage where they were generating a lot more heat than light. He believed that they would benefit from some time to think this over and revisit it with a fresh face. So, with that in mind, he would like to move for adjournment. **Chairman Frasure** said that he could make that motion, however he had interrupted him, so if he could just finish. **Commissioner Moses** apologized. **Chairman Frasure** said that the whole point was that he did not think it was productive either, and he had to totally agree that was where they were headed, however he was just trying to cast some light on it. He knew that it was getting late, and perhaps people were getting tired, but he thought that they needed to keep in mind the guidelines that they had, and he didn't think that by throwing multiple additional county splits was the direction. He said that the only reason that he had brought that forward was by way of example, that they could not negotiate like that. When they started getting close to blow up it was unfortunate on both sides, and again, he did agree with **Commissioner Kane**, that it was probably good for a good night's rest. He then said if **Commissioner Moses** would like to make a motion to adjourn he would certainly recognize it. **Commissioner Moses** so moved. **Chairman Frasure** said that they did have a motion to adjourn until 10:00 the following morning. As all agreed, **Chairman Frasure** said that they would stand adjourned until 10:00 a.m. the following morning.

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Co-Chairman Andersen

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Co-Chairman Frasure