

Special Meeting

Tuesday, January 18, 2001
10:30 AM
Senate Rules Room
2nd Floor Legislative Building
Olympia, WA 98504

AGENDA

1. Call to order and designation of temporary Chair
2. Introduction of Commissioners and opening remarks
3. Introduction of Redistricting Project Staff and overview of project status
4. Overview of Open Public Meetings Act requirements – RCW Chapter 42.30
5. Procedure for selecting a Commission Chair: Commission discussion and action
6. Overview of agency budget
7. Scheduling of future meetings and agenda: Commission discussion and action
8. Public comment
9. Adjourn

MINUTES

All Commissioners in attendance: Slade Gorton (SG), Tom Huff (TH) Tim Ceis (TC), Dean Foster (DF).

1. Call to order and designation of temporary Chair

10:01am....DF nominates SG, all second as a unanimous decision. SG Chairs.

2. Introduction of Commissioners and opening remarks

SG: Part of redistricting in 1965 where he worked with DF. Brief overview of redistricting history, origin of Commission as a constitutional amendment and value of bipartisan Commission. Role of Chair. Census data on a precinct level will be available soon. Also worked with TC to save the Sonics.

DF: Two commitments: 1) Won't recap 10 years ago 2) Won't tell any SG stories. Background: Chief Clerk, former staff for Booth Gardner, served on Commission in 2001. Long but fair process ahead. 10th CD has raised awareness of process.

TH: Legislator from 1995-2001. Worked with DF and worked with SG in 90's campaign. Mantra: Fair, firm, frank, friendly. Since there is no tiebreaker it will take good discussions and input from all.

TC: Deputy Mayor for 8 years, previously worked for Ron Sims and Gary Locke. Didn't serve on Commission 10 years ago, but excited to be here today. Here to represent WA and respect the process. Expressed appreciation to staff for their work to date and looking forward to the process.

3. Introduction of Redistricting Project Staff and overview of project status

Data Overview: Nick Pharris (NP) and Dave Valiant (DV), Project Analysts for the Secretary of State

Work to date: Mapped General Election results from 2006-2009. Currently reformatting 2010 results. Reconstruct 2004 and 2005 data which is in hard copy format. Project evolved, they helped define the census blocks by precinct for the shapefiles this year. In this process they had to rework some of the base data (like school district boundaries). City limits are better than they were when they started. Census geography has improved and better accounts for roads and political boundaries.

SG: How is the data divided? DV: By precinct. NP: Blocks are approximated by visible features, Census used GPS where there were no visible lines.

SG: When will we receive the actual data? DV: By April 1.

SG: What do we do in the interim (until we get the official Census Data)? The maps we have are estimated by population? NP: The maps are based on OFM projections. NP and DV fit their estimates into the Census figure (total state population) and divided the margin of error equally. DV: It is a discrepancy of about 8,700 people. NP: Smaller areas are probably farther off.

DF: Will we receive population data alphabetically by state? DV: Yes, data is distributed on flow basis. NP: (Expanding the previous question) Boundaries are as of Jan 1, 2010. Therefore they are trying to reconcile previous years of election returns to these boundaries.

SG: Citing the Kirkland annexation as an example, will we have new city limits included in the boundaries? NP: For precise population counts it depends on the block.

SG: What other cities have had recent annexations? NP: Burien and Kent had annexations in late 2010. DF: It is surprising to see how many annexations have occurred around the state. NP: Yes, there was a spike in annexations due to a recent of tax incentive.

Office Space Update: Paul Campos, Staff Coordinator for the legislature (provided handout to Commissioners)

Office space is located at 1063 Capitol way, across from TVW. Wiring will be done tomorrow and they will begin moving furniture over next week. Behind where we want to be but ahead of where we need to be. Creating email accounts and will transfer server shortly. 5 parking stalls in GA building can add more spaces later if needed. Has keys and parking placards. Using

furniture from House (to save \$). GA is transferring equipment. Cost figures on form. Rent billed quarterly.

4. Overview of Open Public Meetings Act requirements – RCW Chapter 42.30

SG: Attorney from AG office is coming at 11:00am, will move on to agenda item 5 for now.

5. Procedure for selecting a Commission Chair: Commission discussion and action

SG: Need to reach consensus by the end of month. Has list of 15 names, will meet and decide shortly. Other comments? None.

6. Overview of agency budget

Tom Hoemann (TH), Secretary of the Senate (provided handout to Commissioners and audience)

Commission budget not reflected on first pages, other resources given to SOS (like payroll for NP and DV's data work for the last few years). Statutory framework: since 1983 SOS received preliminary data and created maps (discussed above). Once Commission becomes a legislative agency funding will be approved by legislature. Was in budget for last year, management to date has fallen to the House and Senate. Funding for Commission activities between now and June is \$592,000. Half is dedicated to the Commission (staff, travel, technology, agency operations) and half is for legislative support (caucus staff, etc). Most of \$ is still left. Commission account has been run through OFM small agency accounting. Assumptions made in budget based historical practices and experience from 1991 and 2001 (ie assuming 7 full time staff people at peak). He is happy to provide more details if needed. Current budget covers half of their total work. Next appropriation is \$1.1 million, again split in half between the Commission and the caucuses (for legislative support). There is also a little money for closing down the office after January. By law Commission dissolves by June 30, 2012. Compared to 2001 cycle, budget is comparable. (Reference to handouts) HB 2921 governs approval for certain expenses (ie filling vacancy, must seek approval from Secretary of Senate and Chief Clerk House). They probably won't encounter these but need to be aware. He can provide more information if necessary.

SG: How are NP and DV being paid? TH: Since July 1, 2011 NP and DV have been on the legislative payroll.

SG: When Commission is full (ie the Chair is appointed) how does the budget allow us to staff the Commission? TH: Practice last two cycles is the Chair is managerial and the Executive Director handles administrative and staff oversight, day to day activities, etc.

SG: Break for audience intro

Caucus staff, AP, News Tribune, Tim Ford (AG), TH, PC, DV, NP. (There was a sign-in sheet provided at the front of the room upon entry, please see this sheet for list of attendees.)

4. Overview of Open Public Meetings Act requirements – RCW Chapter 42.30

SG: Back to agenda item 4.

Tim Ford, AG Office (provided two handouts and business cars to the Commissioners)

SG: Are you assigned to the Commission specifically or just with the AG's office? The latter, call for compliance purposes, answer questions and provide training to agencies.

TC: Can you speak to the Commission's ethical restraints? TF: No but will provide an information sheet.

TC: Can you cover any specific restraint for interaction with the legislature and members of Congress? TF: OPA does apply.

Open Public Meetings Act

TF: Frequently asked questions...

Subcommittee acting on the Commission's behalf falls under OPA. Minutes must be taken: date, time, place, agenda, summary, final actions and vote history. Public can attend and record audio and video. Email: OPA applies whenever an action is taken (discussion or deliberation, votes, consensus). Example given of email forwarded, not properly noticed as a public meeting. Staff can forward email without falling under OPA. Action among Commissioners falls under OPA.

SG: So SG and TC can exchange email but what happens when it is forwarded to DF or TH? TF: *Wood v. Battleground* precedent, a school district deliberated about employee termination over email, employee wanted remedy for her termination because email exchange was found as a serial meeting. She won.

SG: So the violation caused a voided action? TF: Not exactly, settlement vs voided action. Another example, *Clark v. City of Lakewood*. Advisory committee was created for adult business. Court found ordinance should not be voided because City Council held and approved ordinance in public (not fruit from poisonous tree). But in some cases the action can be voided.

SG: Does drawing maps constitute an action? TF: Action is not limited to this, it also includes discussion and review of maps.

TC: What about personnel issues? TF: It applies to any official business the Commission conducts.

DF: Does it apply to agency email as well? TF: Agency email is best practice for disclosure purposes, helps agency response to public record requests.

DF: Can home email can be subject to public records? TF: If relates to official conduct then yes. Forward it to Commission email instead. TC: Always use official email (forward and respond to using agency account). TF: Case in Shoreline where a City Councilwoman received personal email regarding a zoning decision and referenced the email in Council proceedings. Had to forward personal email to city in order to respond to a records request.

TF: Returning to frequently asked questions... Is public comment required at meeting? Not

required but advisable. Can the Commission conduct a closed meeting? No, unless expressly authorized, he provided list of specific topics (national security, real estate, contract bids, some personnel issues, etc).

SG to DF: How did you do it in 2001? DF: Each Commissioner put out a plan publically, creating four plans which were published so Commissioners could discuss the plans openly and move toward consensus.

TH: When did you create the plans? DF: Sometime over the summer. Had hearings after official Census data is released then created draft plans (to test the ability to make maps, put together a plan and test blocks, and create starting point for Commissioner discussion). This is only one model, but also model for 1991. TF: Checked this morning to see if there was an exception for closed meeting in creating boundaries and maps? He couldn't find one.

TF: Returning to frequently asked questions... How/ when to provide notice of meetings? "Regular meetings:" reoccurring, scheduled with Code Reviser, publish revised schedule 20 days prior if the schedule needs to be revised. "Special meetings:" non-recurring, 24 hours notice to members of Commission or members of local media that have a request on file.

SG to DF how did you do it in 2001? DF: Both ways, set up regular meetings then supplemented with special meetings.

TC: How to provide notice for executive session? TF: Part of agenda for regular or special meeting. Make announcement regarding the nature of the executive session (ie staff or personnel decision), can discuss the issue but any action needs to be done in public.

SG: Can we go into executive session for a discussion about the Chair? TF: You can evaluate qualifications for applicant appointed to public employment. TC: Then we can discuss the qualifications in private? TF: I believe so.

TC: Regarding the notice for public meetings, does the 20 day notice apply to the agenda? TF: Special meetings require notice of business to be transacted. Regular meetings do not (since you adopt the schedule so far in advance) but it is a good idea to publish the agenda when you are ready. Executive session: If you are planning to invoke, needs to be placed on agenda. Votes must be public. If not, the action is voided.

Open Public Meetings Act

TF: Top 15 tips....

Public record is any writing related to conducted of governments and used by the agency. Disclosure is the rule, withholding is the exemption. Sometimes a small part of a record can be exempt. No general exemptions like privacy. When agency is challenged burden of proof is on agency. Remedy is a court challenge, if the person bringing suit wins he/she can recover attorney fees, other costs and a reasonable amount for each day withheld. Must respond within 5 business days to a request (can be with the record, an indication you are searching for it, a reasonable estimate for when it can be provided, asking for clarification, or denial based in statute). Agencies and employees are immune when records are released in good faith. Ask AG

office if you have any questions or SOS. When in doubt give it out.

TC: What is the deliberative process exemption, after Chair and ED is on board? TF: RCW 42.56.280? Policy work, interoffice memos and drafts are temporarily exempt. But once a decision is finalized then the exemption disappears. Raw statistical data is not exempt. Much of draft subject is analysis and actual boundaries. There is a case that applied a four part test to invoking the deliberative process. One criteria is applies if disclosure would injure the deliberative process (not all draft documents are exempt).

TC: Public disclosure request does not need to be identified as such and can take other forms? TF: Yes. It depends on if is a request for information or a public records request. The Commission must still respond even if they don't use the appropriate phrasing.

SG: Can we call Executive Session today? TF: Disclosure that he is not Commission counsel, but his interpretation is yes (can evaluate qualifications for applicants). TF will call AG and ask if they have an assigned counsel.

DF: Do we need to file a personnel disclosure of finances (form F-1)? TH: Yes, must file within two weeks of today (date sworn in).

7. Scheduling of future meetings and agenda: Commission discussion and action

SG to DF: What should the process look like? DF: Regular meetings. Need discussion of staffing levels, may need to approve a budget. SG: Can defer to Chair and ED on these matters.

SG: Should we set up regular, monthly meetings (can always cancel later)? DF: Yes.

SG to DF: What your experience of public hearings last time? DF: There were a number of statewide hearings before/ after publishing maps. May be able to set up electronic meetings. Difficult to have meetings in nearly every county (or CD).

SG to DF: How many meetings were there in 2001? DF: A dozen or so.

SG: Can we split up these meetings to cover more ground? TC: He is not comfortable with splitting the Commission, each Commissioner has a constituency they were appointed by to represent. Can use technology to conduct town halls online to supplement physical hearings for broader outreach.

TH to DF: What was attendance of each hearing? DF: 10-100 people. Some people push maps, others just show up to comment on a particular geographic interest (example of Yakima annexation).

SG: 100-150 people, not everyone can comment? DF: Not everyone does, some come just to observe. In his view they were less partisan and more local interest.

TC: Back to the original question, will the Commission hold regular meetings and/ or set

additional special meetings? SG: Agrees with this approach. DF: Establish special meeting and regular meeting for February. TH: Is there a motion? (Commissioners get out schedules). SG: Is either TC or DF going to DC for Redistricting Conference? No, only SG is going the others are not. SG will be gone until January 27th, suggesting Friday the 28th or Monday the 31st? TC and DF: The earlier the better. TH: Motion for meeting on 28th. TC: To be held at the Redistricting office? TC: At 10:30am? DF: Yes, staff will notify press. TC: And another for January 31st, same time, same place if needed. SG: No regular meetings set for now.

8. Public comment

None.

Follow-up about Redistricting Counsel.

TC: No assigned council yet, called Nancy Krier, assigned counsel for 10 years ago, TC is confident that Executive Session can happen now. Inform public when come out of executive session. SG: Called into special session until 12:30. TC: Will staff be present? SG: No.

Executive session begins at 11:52am. Executive session ends at 12:18pm.

SG: Confirm meeting for next week, confident they are able to pick a Chair.

9. Adjourn

Meeting is adjourned at 12:20pm.