

1 COMMONWEALTH OF PENNSYLVANIA
2 LEGISLATIVE REAPPORTIONMENT COMMISSION

3 In re: Public Meeting of the Legislative
4 Reapportionment Commission

5 VOLUME III - Pages 150-181

6 Stenographic report of hearing held
7 in Hearing Room No. 1, North Office
8 Building, Harrisburg, Pennsylvania

9 Wednesday
10 May 26, 2021
11 4:00 p.m.

12 MARK A. NORDENBERG, CHAIRMAN

13 MEMBERS OF LEGISLATIVE REAPPORTIONMENT COMMISSION

14 Sen. Kristin Phillips-Hill, Rep. Kerry Benninghoff
15 (Deputy Commissioner for Rep. Joanna McClinton
16 Senator Kim Ward)
17 Sen. Jay Costa

18 Also Present:

19 Robert L. Byer, Esq., Chief Counsel
20 G. Reynolds Clark, Executive Director
21 Brent McClintock, Executive Director, Legislative Data
22 Processing Center
23 G. Carlton Logue, Esq. Deputy Counsel, Senate Majority Leader
24 Chad Davis, Research Analyst, Senate Republican Policy Office
25 C.J. Hafner, Esq., Chief Counsel, Senate Democratic Leader
26 Ronald N. Jumper, Esq. Deputy Chief Counsel, Senate Democratic
27 Leader
28 Lora S. Schoenberg, Director, Senate Democratic Legislative
29 Services
30 Rod Corey, Esq., Chief Counsel, House Republican Caucus
31 James Mann, Esq., Senior Deputy Chief Counsel, House
32 Republican Caucus
33 Katherine Testa, Esq., Senior Legal Counsel, House
34 Republican Caucus
35 William R. Schaller, Director, House Republican District
36 Operations

37 Reported by:
38 Ann-Marie P. Sweeney
39 Senate Chief Official Reporter

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Also Present:

Michael Schwoyer, Esq., Special Counsel, Deputy Chief of
Staff for Legislation and Policy, House Democratic Caucus
Justin Klos, Director, House Democratic Office of
Demographic Analysis
David Brogan, Esq., Director, House Democratic Legislation
and Policy
Andrew McGinley, Esq., General Counsel, House Democratic
Government Oversight Committee

1 CHAIR NORDENBERG: The official-looking clock on
2 the wall says 4 o'clock, so I think we should begin. My name
3 is Mark Nordenberg, and as the Chair of the Legislative
4 Reapportionment Commission, it is my privilege to call this
5 meeting to order.

6 I might begin with the observation that I have
7 spent many hours in this room. However, this is the first
8 time I've been able to look at it from this vantage point.
9 Typically, I have been down at a table answering rapid-fire
10 questions from Members of Appropriations Committees, like
11 Senator Costa. It feels kind of good, as well as different,
12 to be up here.

13 And as we begin this meeting, I also want to thank
14 the other Commissioners both for the warm and collegial tone
15 that has been set in our exchanges to date, and also for all
16 of the many forms of help that you have extended to me in
17 welcoming me to this new role.

18 So that those who are observing the meeting over
19 the livestream have a clear sense of who I am thanking, let me
20 acknowledge the presence of Kerry Benninghoff, the Majority
21 Leader in the House of Representatives; Jay Costa, the
22 Democratic Leader of the Pennsylvania Senate; Joanna
23 McClinton, the Democratic Leader of the House of
24 Representatives. Kim Ward, the Senate Majority Leader, could
25 not be here today, but she is ably represented by Senator

1 Kristin Phillips-Hill, and I do want to extend a warm welcome
2 to you, Senator.

3 SENATOR PHILLIPS-HILL: Thank you very much.

4 CHAIR NORDENBERG: Let me also offer a sincere
5 welcome to the citizens of Pennsylvania who are with us here
6 in the Capitol complex, as well as those who are participating
7 in this meeting through the livestream. And I want to include
8 in that welcome, in particular, members of the media who are
9 here. We know that public interest in this process has grown
10 dramatically over the course of recent years, and one message
11 consistently delivered and embraced by each Commissioner in
12 our one-to-one conversations has been that we want to do
13 everything we can to make this an open and transparent
14 process.

15 Before getting into the resolutions that will
16 occupy most of our time today, let me begin by giving others
17 on the Commission an opportunity to offer opening statements,
18 if they care to do so. And I know that Leader Benninghoff
19 indicated that he did, so why don't I start at that end of the
20 row of us.

21 REPRESENTATIVE BENNINGHOFF: Thank you, Mr.
22 Chairman.

23 I'd like to personally congratulate Chair
24 Nordenberg on his appointment. I think it was a great
25 selection, and we are looking forward to the opportunity to

1 work with him and the rest of the Commissioners to redistrict
2 the Commonwealth in order to realize the ideal of one person
3 and one vote.

4 In our first preliminary dialogue of this
5 Legislative Reapportionment Commission, we did choose to
6 utilize the vast modern technologies that we now have in order
7 for more participation. I thought even through our Chair
8 interviews that we had done prior, it worked well and we got
9 some good feedback. I think the continued use of modern
10 participation will be beneficial, and I think the continued
11 use of this is something that we will be voting on shortly in
12 our agenda, as noted, the resolution authorizing remote
13 participation in meetings. After 15 months of doing this on
14 the House floor, we're getting pretty good at it, and I think
15 it will help keep the public feeling as though they have a
16 more active voice, or at least an observation of better
17 transparency throughout this process and inclusiveness to the
18 best of our ability, and taking advantage of that better today
19 than we would have been able to do years ago.

20 The Chairman has made some great choices for
21 initial staffing on the Commission, and I am encouraged that
22 we are getting underway. We thank you for the opportunity for
23 these brief introductory comments, and I look forward to
24 getting started getting working, and basically working
25 together and sharing ideas and information. We may have

1 different ideas and information, but I think the ability to
2 share them openly, graciously, we'll have a good product at
3 the end.

4 So, Mr. Chairman, welcome aboard. I look forward
5 to serving with you.

6 CHAIR NORDENBERG: Thank you very much.

7 Senator Costa.

8 SENATOR COSTA: Thank you very much, Mr. Chairman.

9 It is also my honor to be here today with my
10 colleagues in this really incredibly important process that
11 begins today. Now that we have you as our Chairperson, we're
12 excited to get our work started in earnest. Welcome to our
13 group. I know that many of us in this building know of your
14 work in your previous capacity, as you referenced earlier, and
15 I think I can speak for many of my colleagues, both here and
16 not here today, we've always found you to be a fair and
17 inclusive and thoughtful person, and no doubt believe that you
18 will bring those traits to this process in your very important
19 role.

20 Redistricting is one of the most important things
21 we do in Pennsylvania, in this Commonwealth, every decade, and
22 it's critical because it determines much of what will get done
23 over the course of the next decade. It determines who will be
24 represented, and more importantly, by whom. In a
25 representative democracy, nothing can be more crucial. It is

1 a solemn responsibility that we have here to do the work, and
2 I'm committed to making sure that, as was mentioned by my
3 colleague, it is a fair, transparent, and inclusive process.

4 We will be streaming our meetings so the citizens
5 of the Commonwealth can monitor what we do through this
6 process. Their representation should not be determined in
7 secret. We need to have these open dialogs and conversation,
8 and I hope many folks will follow along and get the
9 opportunity to participate and provide feedback to all of us
10 through this process and help guide us through the maps that
11 will be equitable, representative, and comply with the
12 dictates of the Pennsylvania Constitution and court cases.

13 Thank you, Mr. Chairman.

14 CHAIR NORDENBERG: Thank you, Senator Costa.

15 Representative -- Leader, I should say, McClinton.

16 REPRESENTATIVE McCLINTON: Thank you, Mr.

17 Chairman, and good afternoon, everyone.

18 Mr. Chairman, we are absolutely delighted to have
19 someone with your skill, your wisdom, your work experience
20 chairing this very important process. As we think about the
21 fact that almost 13 million neighbors across the Commonwealth
22 look forward to participating and engaging in this process,
23 with you and your capable team on the helm of this, we know
24 that their voices will be heard. We've heard from individual
25 citizens, neighbors, constituencies, and large advocacy groups

1 - all of them want to see this group work collaboratively,
2 collectively to ensure that the voters choose who is their
3 voice, whether in the Pennsylvania House or the Pennsylvania
4 Senate, and that it's not the other way around.

5 And one of the things I look forward to talking
6 about this afternoon, at the appropriate moment, is how we, as
7 a collective, can also end a terrible practice that has
8 haunted this Commonwealth for far too long, and that is the
9 practice of prison gerrymandering.

10 Thank you so much, Mr. Chairman.

11 CHAIR NORDENBERG: Thank you, Leader McClinton.
12 Senator Phillips-Hill.

13 SENATOR PHILLIPS-HILL: On behalf of Majority
14 Leader Kim Ward, I want to welcome to the Commission Chairman
15 Nordenberg, and she has the utmost confidence in his ability
16 to lead this Commission in this process here in the
17 Commonwealth. We are very excited in the State Senate to see
18 this Commission be successful in assuring that the process is
19 fair and transparent and that we put forward a successful
20 product for every Pennsylvanian. Thank you very much.

21 CHAIR NORDENBERG: Thank you very much.

22 Because the other four Commissioners in their
23 leadership roles are among the busiest people in Pennsylvania,
24 it is important to keep the Commission's work moving forward,
25 that we adopt a resolution authorizing the appointment of

1 Deputies, an action that is explicitly recognized in Article
2 II, Section 17(b), of the Pennsylvania Constitution, and an
3 approach that has been authorized by past Commissions.

4 Resolution 1A in your materials is a resolution
5 authorizing the appointment of Deputies. Is there any
6 discussion of that resolution?

7 (There was no response.)

8 CHAIR NORDENBERG: If not, and for the moment, I
9 address this question to everyone but Senator Phillips-Hill,
10 can I have a motion and a second to adopt that resolution?

11 REPRESENTATIVE McCLINTON: Mr. Chairman, I make a
12 motion to adopt that resolution.

13 SENATOR COSTA: Mr. Chairman, I second that
14 motion.

15 CHAIR NORDENBERG: All in favor, please say "aye."

16 REPRESENTATIVE McCLINTON: Aye.

17 REPRESENTATIVE BENNINGHOFF: Aye.

18 SENATOR COSTA: Aye.

19 CHAIR NORDENBERG: Aye.

20 Opposed?

21 (There was no response.)

22 CHAIR NORDENBERG: The resolution passes.

23 I did place this at the very beginning of the
24 agenda so that Senator Phillips-Hill could fully participate
25 through vote and voice in all of the other items to come

1 before the Commission today. And so I now welcome you in your
2 new capacity as Deputy. And I should indicate for the record
3 that Majority Leader Ward has formally designated the Senator
4 as her Deputy in correspondence to me that has been shared
5 with the stenographer.

6 We will next consider three key staff
7 appointments, beginning with Chief Legal Counsel. I might
8 begin by offering some general contextual comments. I have
9 felt a real sense of urgency in moving forward to create a
10 Commission team in large measure that is a reflection of the
11 importance of the work that we are undertaking, a
12 constitutional responsibility to be discharged within a
13 relatively compressed period of time. I also have felt a
14 sense of urgency, as I've had the chance to become exposed to
15 the committed and talented teams that have already been
16 assembled by the Caucus leaders. I certainly don't want to be
17 the person who slows anything down.

18 Particularly in recommending a Chief Legal Counsel
19 and an Executive Director, I felt that it was a big advantage
20 if I already had existing professional connections to the
21 people, because we really don't have enough time to move
22 through a getting-to-know-you stage. As you would expect, I
23 also sought individuals with established records of
24 professional accomplishment and with the character, qualities,
25 and commitment that would enable them to approach this work in

1 a fair and nonpartisan way.

2 With that as background, I am pleased to recommend
3 these individuals to you today. Beginning with Robert L.
4 Byer, who, as is captured in Resolution 1B, I have recommended
5 for service as Chief Legal Counsel. I have known Mr. Byer for
6 more than 40 years, going back to a time when he was a very
7 young lawyer and I was a very young law professor. We have
8 worked together on a range of initiatives over the years,
9 including co-authoring a book on Pennsylvania procedures some
10 25 years ago.

11 He is a partner in the Duane Morris firm, which
12 began in Philadelphia but now has offices around the world.
13 At earlier points in his career, Mr. Byer served as a judge of
14 both the Pennsylvania Commonwealth Court and the Pennsylvania
15 Court of Judicial Discipline. He was the founding Chair of
16 his firm's Appellate Practice Group, and has argued or briefed
17 more than 250 appeals in State and Federal courts around the
18 country. He has appeared frequently before the Pennsylvania
19 Supreme Court, and was named by that court to serve as its
20 Special Counsel as it dealt with a range of issues relating to
21 the suspension of a former Justice. He also is a past Chair
22 of the Pennsylvania Supreme Court's Appellate Court Procedural
23 Rules Committee. He is knowledgeable in all aspects of
24 election law, has received the Legal Intelligencer's Lifetime
25 Achievement Award, is listed in both Best Lawyers in America

1 and Super Lawyers, is a fellow of the American Academy of
2 Appellate Lawyers, and a life member of the American Law
3 Institute. And in addition to that record, I do present his
4 name to you with my highest recommendation.

5 And with that, I would invite discussion. And if
6 there is no discussion, I would invite a motion and a second.

7 REPRESENTATIVE BENNINGHOFF: Mr. Chairman, I'll
8 make a motion to accept your suggestion for legal counsel. We
9 appreciate the briefing you gave us on the name of Robert L.
10 Byer.

11 CHAIR NORDENBERG: Thank you.

12 Is there a second?

13 SENATOR PHILLIPS-HILL: I would be honored to
14 second the motion.

15 CHAIR NORDENBERG: Thank you.

16 All in favor, please say "aye."

17 REPRESENTATIVE McCLINTON: Aye.

18 REPRESENTATIVE BENNINGHOFF: Aye.

19 SENATOR COSTA: Aye.

20 SENATOR PHILLIPS-HILL: Aye.

21 CHAIR NORDENBERG: Aye.

22 Opposed?

23 (There was no response.)

24 CHAIR NORDENBERG: Moving to Resolution 1C, for
25 the position of Executive Director, I recommend G. Reynolds

1 Clark, someone I have not known as long as I have known Mr.
2 Byer, but someone with whom I have worked even more closely.
3 Mr. Clark had a 34-year career with Westinghouse, rising to
4 become Executive Director of Corporate Services and Chair of
5 the Westinghouse Foundation. In recognition of his
6 exceptional service, he was awarded the Westinghouse Order of
7 Merit, the corporation's highest honor.

8 When the company transformed its business and
9 moved its headquarters to New York City, I persuaded Mr. Clark
10 to join the leadership team at the University of Pittsburgh,
11 where over the course of 15 years he made distinctive
12 contributions from two key roles: Vice Chancellor for
13 Community and Governmental Relations, and Chief of Staff and
14 Vice Chancellor for Community Relations. In each of those
15 roles, he reported directly to me. He traveled regularly to
16 Harrisburg, and was actively involved with State government.

17 Mr. Clark also served two terms as the mayor of
18 Franklin Park, Pennsylvania, a suburban community north of
19 Pittsburgh. Perhaps even more impressively, he served
20 Franklin Park for 18 years as the chief of its volunteer fire
21 department. More recently, he served for three years as
22 Interim Director of the State's Intergovernmental Cooperation
23 Authority, which exercised oversight over the finances of the
24 City of Pittsburgh. Among many other forms of ongoing public
25 service, he continues to Chair the Board of the Regional

1 Industrial Development Corporation of Southwestern
2 Pennsylvania. And again, I offer my highest personal
3 recommendation for Mr. Clark, based upon our years of working
4 together.

5 Is there any discussion of this nomination?

6 (There was no response.)

7 CHAIR NORDENBERG: If not, may I have a motion and
8 a second?

9 SENATOR COSTA: Mr. Chairman, I move that we
10 accept G. Reynolds Clark as the Executive Director, based upon
11 your recommendation.

12 CHAIR NORDENBERG: Thank you.

13 Is there a second?

14 REPRESENTATIVE McCLINTON: Second.

15 CHAIR NORDENBERG: Thank you.

16 All in favor, please say "aye."

17 REPRESENTATIVE McCLINTON: Aye.

18 REPRESENTATIVE BENNINGHOFF: Aye.

19 SENATOR COSTA: Aye.

20 SENATOR PHILLIPS-HILL: Aye.

21 CHAIR NORDENBERG: Aye.

22 Any opposed?

23 (There was no response.)

24 CHAIR NORDENBERG: Thank you.

25 Ann-Marie Sweeney, who serves as the Chief

1 Official Reporter of the Pennsylvania Senate, which is a
2 reflection of the high level of respect her work has earned,
3 is being recommended to serve as the Commission stenographer,
4 as is captured in Resolution 1D. Ms. Sweeney also served in
5 this role supporting the Commissions in 1991, 2001, and 2011,
6 so as incredible as it may seem, this will be the fourth time
7 she has served in this position. What that means is that in
8 addition to her exceptional professional skills, she will be
9 bringing a wealth of institutional knowledge to the
10 Commission.

11 We have just started to get to know each other,
12 but I already have come to view Ms. Sweeney as an exemplar of
13 good government, a person who takes her responsibilities
14 seriously, and takes great pride in doing her work well. I
15 have enjoyed getting to know her and look forward not only to
16 working with her but to learning from her. Because she has
17 worked in both the House and the Senate, I suspect that there
18 are others at the table who know her even better, and I would
19 invite, first, any discussion of this nomination.

20 SENATOR COSTA: Mr. Chairman, I certainly know Ms.
21 Sweeney my 25 years here in the Senate, and I can tell you, no
22 disrespect to Judge Byer and Renny, this is your best
23 selection yet. So, thank you.

24 REPRESENTATIVE BENNINGHOFF: Mr. Chairman, I would
25 echo the comments of the Minority Leader of the Senate, and

1 other than her choice to go from the House to the Senate, she
2 is a wonderful person who will lead us well, and I think it's
3 a great complement. It's a good selection on your part, and I
4 would even take the extent to offer a nomination at the proper
5 time.

6 CHAIR NORDENBERG: I had a chance conversation
7 with the House Parliamentarian today, an old friend who sought
8 me out knowing that I was in the Capitol complex. He took
9 credit for recommending Ms. Sweeney for the Senate, at that
10 point she had left the House and was no longer employed in
11 government, and to support the comments that have already been
12 made, I was told that the House Parliamentarian regularly
13 hears that this was the best hire the Senate ever made. So it
14 is wonderful to have you as a part of this team, assuming I
15 can get a motion, a second, and a favorable vote.

16 Jo.

17 REPRESENTATIVE McCLINTON: Yes. Mr. Chairman, as
18 a former Senate staffer, it's with great honor and distinction
19 that I make this motion that Ann-Marie Sweeney be appointed
20 the stenographer for the Commission. Thank you.

21 CHAIR NORDENBERG: Thank you, Leader McClinton.

22 Is there a second?

23 SENATOR PHILLIPS-HILL: And if I may?

24 CHAIR NORDENBERG: Oh, I'm sorry.

25 SENATOR PHILLIPS-HILL: Having been a former House

1 Member and now a Senator, I am very honored to second the
2 Minority Leader's motion.

3 CHAIR NORDENBERG: I'm learning in the sidebars up
4 here of some of your other talents, and if I had known of them
5 earlier, I would have worked them into my remarks.

6 Is there any further discussion? And if not,
7 could I have a motion and a second, please.

8 REPRESENTATIVE BENNINGHOFF: There's a motion and
9 a second on the table, sir.

10 CHAIR NORDENBERG: Okay.

11 All in favor, please say "aye."

12 REPRESENTATIVE McCLINTON: Aye.

13 REPRESENTATIVE BENNINGHOFF: Aye.

14 SENATOR COSTA: Aye.

15 SENATOR PHILLIPS-HILL: Aye.

16 CHAIR NORDENBERG: Aye.

17 And I'll say for the record, so it doesn't seem as
18 if you're counting the votes, it was unanimous and no dissent.

19 There is no action to take today with respect to
20 agenda item no. 6 dealing with future staff appointments.

21 Instead, I wanted to offer a few comments and invite
22 discussion from within the group, if there is any. As a
23 starting point, I think it is interesting to note that as we
24 meet on May 26, we are still within the period that the
25 Supreme Court could have used to appoint the Chair. Instead,

1 the Supreme Court acted as expeditiously as it could have,
2 receiving the letter from the four Commissioners on a Friday
3 and entering the order making its appointment on Monday. And
4 we have been trying to replicate that effort by making good
5 use of the time that was provided.

6 Because the Census data will be received even
7 later than usual, we're going to face some time pressures down
8 the road, and we ought to be using this time effectively to
9 prepare for the decisions that will need to be made later. As
10 is obvious from the materials in front of you, there is more
11 work to be done on the staffing front. Given the heightened
12 interest in reapportionment, I expect that we will receive not
13 only a higher volume of traditional correspondence this year,
14 but will also receive a much higher volume of maps that are
15 being submitted by citizens who believe they have ideas that
16 would benefit from consideration by the Commission. So I do
17 expect to be back with further recommendations relating both
18 to office staff and to technical expertise.

19 I also should say I have made at least modest
20 progress in trying to understand the systems that exist
21 relating to such basic human resources activities as
22 recruitment and compensation that will permit me to continue
23 recruiting staff, to propose appropriate compensation, and to
24 pull together an initial budget. So I am saying today is
25 chapter 1, but there will be at least a chapter 2, and

1 additional recommendations for staff may be spread out over a
2 couple more meetings.

3 Item 7 on the agenda involves four administrative
4 resolutions. Let's just take them in order. Resolution 1E
5 provides for the adoption of the current Financial Operating
6 Rules of the Senate, and notes in particular that these rules
7 will govern expenses, personnel policies, and other
8 administrative matters. This is a resolution that seems to
9 have been adopted by all previous Commissions, and I did meet
10 with the Chief Clerk of the Senate earlier today to begin
11 establishing the communications links that will permit us to
12 operate effectively within that set of rules.

13 Does anyone have any comments or questions about
14 this resolution?

15 REPRESENTATIVE BENNINGHOFF: Mr. Chair, if I may?

16 CHAIR NORDENBERG: Please.

17 REPRESENTATIVE BENNINGHOFF: A quick question.
18 We're adopting the rules of the Senate. The actual physical
19 distribution of funds to pay our personnel, will that also
20 occur through the payroll or, pardon me, the payment
21 controller or whomever in the Senate who actually is going to
22 be doing that? Just for clarity.

23 CHAIR NORDENBERG: Yes, it is my understanding
24 that that will come through the Office of the Clerk of the
25 Senate.

1 REPRESENTATIVE BENNINGHOFF: Thank you for that
2 clarification.

3 CHAIR NORDENBERG: Any other questions or
4 comments?

5 If not, may I have a motion and a second?

6 SENATOR COSTA: So moved, Mr. Chair.

7 REPRESENTATIVE BENNINGHOFF: Second.

8 CHAIR NORDENBERG: All in favor, please say "aye."

9 REPRESENTATIVE McCLINTON: Aye.

10 REPRESENTATIVE BENNINGHOFF: Aye.

11 SENATOR COSTA: Aye.

12 SENATOR PHILLIPS-HILL: Aye.

13 CHAIR NORDENBERG: Aye.

14 Any opposed?

15 (There was no response.)

16 CHAIR NORDENBERG: Resolution 1F declares that the
17 Legislative Reapportionment Commission is subject to the
18 Right-to-Know Law and provides that until we have hired a
19 staff member to discharge those responsibilities, the Open
20 Records Officer for the Legislative Data Processing Center
21 will serve in that role. I want to thank Brent McClintock,
22 the Director of the Legislative Data Processing Center, not
23 only for his help on this, but for the countless other forms
24 of assistance he already has provided to me. He is quickly
25 becoming my new best friend in Harrisburg.

1 The 2011 Commission did rely on the Legislative
2 Data Processing Center for open records work throughout the
3 process. However, in conversations with Director McClintock,
4 we believe that there will be a higher volume of such work
5 this time and that we probably should prepare to handle that
6 work within the staff of the Commission. So in a way, there
7 is a permanent part to this resolution, that is the
8 declaration that we are subject to the Right-to-Know Law, and
9 then a more temporary provision, that is providing for
10 coverage through the Legislative Data Processing Center.

11 Any discussion?

12 (There was no response.)

13 CHAIR NORDENBERG: If not, may I have a motion and
14 a second?

15 REPRESENTATIVE McCLINTON: So moved, Mr. Chairman.

16 CHAIR NORDENBERG: Thank you.

17 SENATOR PHILLIPS-HILL: And I second.

18 CHAIR NORDENBERG: Thank you very much.

19 All in favor, please say "aye."

20 REPRESENTATIVE McCLINTON: Aye.

21 REPRESENTATIVE BENNINGHOFF: Aye.

22 SENATOR COSTA: Aye.

23 SENATOR PHILLIPS-HILL: Aye.

24 CHAIR NORDENBERG: Aye.

25 Any opposed?

1 (There was no response.)

2 CHAIR NORDENBERG: Resolution 1G authorizes the
3 Executive Director to prepare the official minutes of the
4 Commission, which then are to be formally ratified at the next
5 meeting of the Commission. This too appears to be a standard
6 resolution, and I think we need to move forward with it, even
7 though it probably is less important in some senses than it
8 was in earlier times. Just so that the context is clear, we
9 posted the agenda for today's meeting on the Commission's
10 website. The meeting itself, as you all can see, is being
11 livestreamed. As soon as the meeting is concluded, the
12 resolutions approved and biographical overviews of the staff
13 members selected also will be posted on the website. And
14 tomorrow in the morning, I anticipate a video of this meeting
15 also will be posted to our official website.

16 In short, there will be more complete information
17 almost immediately available than the official minutes likely
18 will provide after they are ratified at a subsequent meeting
19 of the Commission. Nonetheless, we should have official
20 minutes, and so I would urge the adoption of Resolution 1G.

21 SENATOR PHILLIPS-HILL: So moved, Mr. Chairman.

22 CHAIR NORDENBERG: Thank you.

23 SENATOR COSTA: Second, Mr. Chairman.

24 CHAIR NORDENBERG: Any discussion?

25 (There was no response.)

1 CHAIR NORDENBERG: If not, all in favor, please
2 say "aye."

3 REPRESENTATIVE McCLINTON: Aye.

4 REPRESENTATIVE BENNINGHOFF: Aye.

5 SENATOR COSTA: Aye.

6 SENATOR PHILLIPS-HILL: Aye.

7 CHAIR NORDENBERG: Aye.

8 Opposed?

9 (There was no response.)

10 CHAIR NORDENBERG: Resolution 1H is extremely
11 important as a practical matter because as Leader Benninghoff
12 already has indicated, it provides for remote hearings, remote
13 meetings to deal with administrative matters, and remote
14 participation in meetings. As Leader Benninghoff also
15 indicated, the use of the technologies that permit us to meet
16 remotely have become a standard part of most of our
17 professional lives over the course of the last 14 months, and
18 that technology will remain important even as the pandemic
19 recedes.

20 With respect to hearings, technology can make
21 things easier not only for the Commission Members, but also
22 for those who desire to express their opinions to the
23 Commission. It eliminates the need for citizens to drive long
24 distances and to wait for their turn to offer testimony. And
25 so we do intend to use that technology in ways that are

1 effective, and it already was used effectively--again, to
2 underscore earlier comments--by the Commission as it moved
3 through the process of interviewing candidates who had applied
4 for the position of Chair. It also is essential that we be
5 able to pull the Commission together to deal with
6 administrative matters that do not require all of us to be in
7 the same place and dealing with each other face-to-face.

8 It should be noted though that decisionmaking
9 meetings that relate not to administrative matters but to the
10 substance of the Commission's work, that is, the
11 reapportionment of the Commonwealth in light of the new Census
12 data, cannot be held remotely under this resolution.

13 Is there any discussion of this resolution?

14 (There was no response.)

15 CHAIR NORDENBERG: If not, may I ask for a motion
16 and a second?

17 REPRESENTATIVE BENNINGHOFF: I was just going to
18 say, Mr. Chairman, I think you outlined that very well and the
19 effectiveness in utilization for the future, and I would make
20 the motion that we accept this resolution as stated, and I
21 make that motion to adopt it.

22 SENATOR COSTA: I second that motion.

23 CHAIR NORDENBERG: Thank you.

24 All in favor, please say "aye."

25 REPRESENTATIVE McCLINTON: Aye.

1 REPRESENTATIVE BENNINGHOFF: Aye.

2 SENATOR COSTA: Aye.

3 SENATOR PHILLIPS-HILL: Aye.

4 CHAIR NORDENBERG: Aye.

5 Any opposed?

6 (There was no response.)

7 CHAIR NORDENBERG: In the time that is left to us,
8 I want to open the floor for Commission discussion. As I
9 indicated in an early morning message to all of you, I had an
10 afternoon discussion yesterday with Leader McClinton and
11 members of her team. We discussed an issue that also has been
12 raised in correspondence to the Commission, the issue that has
13 been labeled in that correspondence and earlier in this
14 meeting by Leader McClinton as prison gerrymandering. I told
15 Leader McClinton and her team, and they agreed, that with so
16 little notice, it would not be appropriate to raise this issue
17 for substantive discussion or for decisionmaking today, but
18 that she could take advantage of this opportunity to raise the
19 issue and to let you all know that she does intend to present
20 it for more serious discussion at a later time. She had
21 prepared a draft resolution that I also shared with each of
22 you in my early morning email message.

23 So, Leader McClinton, let me begin by giving you a
24 chance to speak.

25 REPRESENTATIVE McCLINTON: Thank you so very much,

1 Mr. Chairman, for this opportunity. I do have a draft
2 resolution for all of the Commission Members, in case you do
3 not have a copy in front of you. I know that we're not able
4 to consider this or vote on it this afternoon, but certainly
5 as we begin this very significant work, I thought what better
6 time than our first formal meeting to bring up this serious
7 challenge to our Commonwealth having true and fair
8 representation. That challenge is a practice called prison
9 gerrymandering.

10 Now, some of you might not have spent years in the
11 courtroom as a public defender like myself back home, and so
12 you may not be familiar with the fact that we have nearly
13 40,000 constituents from all across the Commonwealth who are
14 not counted at their home addresses, and the majority of these
15 women and men actually will be getting out during the next
16 10-year period of which we're drawing these maps for. And
17 that being said, we don't want there to be any communities
18 that suffer, that lose resources as a result of this miscount.
19 And what happens is we have places like, for instance, Forest
20 County, which 31 percent of the population in Forest County
21 includes inmates at a State Correctional Institution. So what
22 better time to address this than for the Legislative
23 Reapportionment Commission to take this up as we begin this
24 business.

25 That being said, we hope, and certainly I am

1 hopeful, that the injustice in prison gerrymandering does not
2 in fact only affect the incarcerated, but it affects the
3 people who live in the districts that the incarcerated are
4 from, because they suffer lost population, and most
5 importantly, lost representation. For those I've had the
6 familiarity to work with for the last couple of Sessions know
7 that I've actually had a bill on this issue over and over and
8 over again. And while here I find myself at a very fortunate
9 moment in time to be able to actually participate for my
10 Caucus on this Reapportionment Commission, we can actually
11 deal with this administratively.

12 We believe that this practice in fact is contrary
13 to law within the Commonwealth of Pennsylvania, which simply
14 states: "...no individual who is confined in a penal
15 institution shall be deemed a resident of the election
16 district where the institution is located. The individual
17 shall be deemed to reside where the individual was last
18 registered before being confined...." And in fact, for the
19 first time, the Census Bureau will supply correctional
20 population data, and the Department of Corrections of the
21 Commonwealth of Pennsylvania will also be able to provide
22 anonymous population data and figures. Court and legal
23 precedent have given States a wide amount of leeway in how we
24 choose to use the Census data in redistricting. In 1971,
25 Federal courts allowed Pennsylvania to decide where to count

1 students, inmates at prisons, military personnel, so on and so
2 forth.

3 So that being said, I hope that your Counsel and
4 that this body have the opportunity in the coming days to
5 review my proposed resolution so that we might be able to
6 discuss it fully and vote on it at the appropriate time.

7 Thank you, Mr. Chairman.

8 CHAIR NORDENBERG: Senator Costa.

9 SENATOR COSTA: Thank you very much, Mr. Chairman.

10 I want to thank the gentlewoman from Philadelphia
11 for bringing this to our attention. I think it is something
12 that's very worthy certainly of our consideration, and I would
13 certainly try to encourage my colleagues to support this
14 resolution. I think the Leader has eloquently laid out some
15 of the issues and some of the facts related to prison
16 gerrymandering, and it's a practice that needs to end here in
17 Pennsylvania, and as indicated, we have an opportunity to do
18 that on this Commission, and I'm hopeful that once the General
19 Counsel, I suspect, has an opportunity to review this, that we
20 will come back here and have a thorough discussion about how
21 we need to end this practice. And I strongly support the
22 words of my colleague from Philadelphia.

23 Thank you, Mr. Chairman.

24 CHAIR NORDENBERG: Without addressing the merits
25 of the resolution today, perhaps it would be helpful for me to

1 offer a couple of process comments. First, I am grateful to
2 Leader McClinton for raising the issue, because I do think it
3 is an example of the type of issue with which we can
4 effectively deal before there is Census data. In fact, it is
5 the type of issue that we should deal with before we have the
6 Census data which may be reported to us in a different way,
7 depending upon how we resolve the matter. And when you look
8 at the time that lies ahead of us, we've got about two and a
9 half months, I would say, before we begin to get even
10 preliminary Census data, so that if there are issues of law or
11 policy that should properly be considered by the Commission,
12 this would be an appropriate time to do so.

13 Let me also say that I think with respect to these
14 important issues, we ought to move forward in a fair,
15 deliberative process. We ought to have a chance to review the
16 materials pro and con, if there are any con, so that we can
17 have an informed discussion and arrive at the best possible
18 decision. And so again, I do think it's very constructive
19 that this issue was presented as it was today, because it's a
20 reminder of the types of things that might come before the
21 Commission, including things that can effectively be
22 considered and dealt with before we're under the crush of
23 dealing with the Census data.

24 Are there any other issues, matters, comments,
25 questions that any Commissioners would like to raise today?

1 (There was no response.)

2 CHAIR NORDENBERG: I will just say that in my
3 individual discussions with the Commissioners, there has been
4 a strong agreement that we should make good, effective use of
5 the weeks of summer, that some part of our work during the
6 summer should include hearings, and that hearings may take
7 different forms, whether those differences are reflected in
8 technology employed or those invited to participate in the
9 discussions. So, for example, we may have a desire to hear
10 from people who have developed positions with respect to
11 particular issues, especially if there are competing
12 viewpoints.

13 And so I would say for myself that I do intend to
14 be reaching out again to each of you to get your individual
15 ideas as to how we might make the best use of this period of
16 time, with the expectation that I will try to pull together
17 those ideas into a cohesive package that we can then discuss
18 and decide whether or not to move forward or to modify.

19 It really has been heartening to me, and I do want
20 to make this statement, how constructive all of the
21 conversations that I have had with each and every Commissioner
22 to this point have been, and they have been constructive
23 because there obviously already has been a lot of thought
24 given to these matters, and they have been constructive
25 because there has been a clear expression of commitment not

1 only to doing this, but to doing it well.

2 So let me end where I began, by repeating that I
3 am looking forward to working with all of you. This is an
4 important undertaking, and I think that we can do good things
5 together. For this afternoon though, this meeting is
6 adjourned, and I thank you all, and thank those who attended.

7 (Whereupon, the proceedings were concluded at 4:48
8 p.m.)

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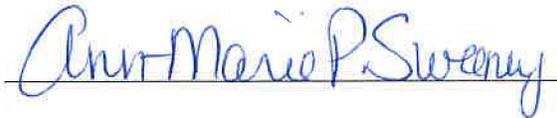
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1
2 I hereby certify that the proceedings and
3 evidence are contained fully and accurately in the notes taken
4 by me during the hearing of the within cause, and that this is
5 a true and correct transcript of same.

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11 ANN-MARIE P. SWEENEY
12 Chief Official Reporter
13 Senate of Pennsylvania

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17 REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT
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Majority Leader



Senate of Pennsylvania

COMMITTEES

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May 26, 2021

Chairman Mark Nordenberg
Legislative Reapportionment Commission
Main Capitol Building
Harrisburg, PA 17120

Dear Chairman Nordenberg:

Pursuant to Article II, Section 17(b) of the Pennsylvania Constitution, I hereby appoint Senator Kristin Phillips-Hill to serve as my deputy at the meeting of the Legislative Reapportionment Commission to be held on May 26, 2021 at 4 p.m. Senator Phillips-Hill may vote on all matters that come before the Commission on my behalf.

Kim Ward
Senate Majority Leader
Legislative Reapportionment Commission, Member

A handwritten signature in blue ink, appearing to read "Kim Ward".

Agenda
Organizational Meeting
Pennsylvania Legislative Reapportionment Commission

May 26, 2021
4:00 – 5:00 p.m.
Senate Hearing Room #1
North Office Building

1. Call to Order and Welcome
2. Resolution Regarding Appointment of Deputies
3. Selection of Chief Legal Counsel
4. Selection of Executive Director
5. Selection of Stenographer
6. Future Staff Appointments
7. Administrative Resolutions
 - a. Resolution Adopting the Financial Operating Rules of the Senate
 - b. Resolution Regarding Right-to-Know Law
 - c. Resolution Regarding Official Minutes
 - d. Resolution Authorizing Remote Participation in Meetings
8. New Business / Discussion
9. Adjournment

Resolutions
2021 Legislative Reapportionment Commission
May 26, 2021

Resolution Regarding Appointment of Deputies
Resolution #1A

It is hereby resolved that Commission Members shall be authorized, pursuant to Article II, Section 17 (b) of the Pennsylvania Constitution, to deputize another Member of the House or Senate to participate and vote in their stead when necessary; however, no individual other than a Member of the Pennsylvania Legislature shall be authorized to serve as a Deputy with voting privileges. The Chairman of the Commission shall in no instance be authorized to deputize an individual to vote in his stead.

Selection of Chief Legal Counsel
Resolution #1B

It is hereby resolved that Robert L. Byer is appointed Chief Legal Counsel for the Commission.

Selection of Executive Director
Resolution #1C

It is hereby resolved that G. Reynolds Clark be appointed Executive Director of the Commission.

Selection of Stenographer
Resolution #1D

It is hereby resolved that Ann-Marie Sweeney be appointed stenographer for the Commission.

**Resolution Adopting the Financial Operating Rules of the Senate
Resolution #1E**

It is hereby resolved that the Commission shall adopt in full the current Financial Operating Rules of the Senate to govern expenses, personnel policies and other administrative matters.

**Resolution Regarding Right-to-Know Law
Resolution #1F**

It is hereby resolved that the Legislative Reapportionment Commission is subject to the Right-to-Know Law as a legislative agency. It is further resolved that, until such time as the Commission has hired a staff member to fill this role, the open-records officer for the Legislative Data Processing Center shall serve as the open-records officer for the Commission.

**Resolution Regarding Official Minutes
Resolution #1G**

It is hereby resolved that the Executive Director shall be authorized to prepare Official Minutes on behalf of the Commission, which Minutes shall be ratified, with appropriate amendments, at the next public meeting of the Commission. Copies of such official minutes shall be made available to the public, after ratification, in accordance with the Right-to-Know Law.

**Resolution Regarding Remote Meetings and Remote Participation in Meetings
Resolution #1H**

It is hereby resolved that the 2021 Legislative Reapportionment Commission shall be authorized to conduct in-person, remote and hybrid hearings and Members of the Commission or their designated Deputies shall be authorized to participate remotely in any such hearings; and

It is further resolved that the 2021 Legislative Reapportionment Commission shall be authorized to conduct remote meetings for the purpose of discussion and to make decisions on administrative matters, such as matters relating to scheduling, personnel and budget and that Members of the Commission or their authorized Deputies shall be authorized to participate remotely in any such Commission meetings; and

It is further resolved that, for purposes of this resolution, the terms “remote” and “remote participation” shall be defined in ways that are consistent with the Rules of the Pennsylvania Senate as of the date of the adoption of this resolution.