

# CLINTON COUNTY APPORTIONMENT COMMISSION

## Meeting Minutes October 5, 2021

DATE 10/05/2021 CALL TO ORDER	The Clinton County Apportionment Commission met on Tuesday, October 5, 2021 at 7:00 p.m. with Chairperson Spagnuolo calling the meeting to order pursuant to MCL 46.403(1).
PLEDGE OF ALLEGIANCE AND ROLL CALL	<p>The pledge of allegiance was given to the flag of the United States of America. Roll was called and a quorum reported.</p> <p>Clerk Zuker introduced the members present: Tina Ward, County Treasurer Diane Zuker, County Clerk Tony Spagnuolo, Prosecuting Attorney Jenell Leonard, Republican Party Chairperson Eric Schlenkerman, Democratic Party Chairperson</p>
OTHERS PRESENT	Adam Stacey, Zach Rudat and Dawn Levey
APPROVAL OF AGENDA	<p>The agenda was reviewed.</p> <p><b>ACTION:</b> Member Ward moved, seconded by Member Leonard to approve the agenda as printed. Motion carried.</p>
APPROVAL OF MINUTES	<p>The September 27, 2021 meeting minutes were presented for review and approval.</p> <p><b>ACTION:</b> Member Leonard moved, seconded by Member Ward to approve the minutes as printed. Motion carried.</p>
PUBLIC COMMENTS	<p>Chairperson Spagnuolo called for public comments.</p> <ul style="list-style-type: none"><li>Adam Stacey offered his thoughts regarding apportioning the Commissioner Districts; He stated that he has served as a County Commissioner for 16 years and is cognizant of process for redistricting and what it is designed to do; He spoke regarding the legislature's intent when they enacted the law; He specifically spoke regarding MCL 46.404, the guidelines for apportioning commissioner districts emphasizing the order of importance; He expressed his support for Map #3 presented by Republican Party Chair, Jenell Leonard with the lowest deviation of 4.55% with 4 Township splits; He stated that there may be a need in the near future for a few of the local jurisdictions to modify their precincts by adding an additional precinct or moving the boundary lines of existing precincts to make them more balanced; 425 agreements have cause some areas to not be of square shape in the southern end of the county; Ultimately, Mr. Stacey believes Map #3 is the preferred map based on legislative intent.</li></ul>
LEGAL OPINIONS/DISCUSSION	<p>Chairperson Spagnuolo introduced discussion regarding a recommendation the Commission received from legal counsel related to proceeding with the adoption of a plan. Clerk Zuker provided a summary of the options provided by legal counsel for the benefit of the public in attendance.</p> <p>Option #1 outlined below is the least risky option for the Commission, therefore Attorney Cody Mott of Foster, Swift, Collins &amp; Smith P.C. recommends that the Commission consider taking action to authorize his firm to Petition the Court of Appeals for an extension on behalf of the Commission.</p> <p>Options provided by Legal Counsel:</p>

1. **Petition for an Extension:** The commission could direct Foster, Swift, Collins & Smith P.C. to petition the court of appeals for an extension. Courts have been consistently granting extensions and waiving the applicable court fees. This would give the commission clarity over the deadline and give it the best chance of adopting a plan within the timeframe described in MCL 46.407. If the commission opts to Petition the Court of Appeals, it will be necessary to pass a Resolution tonight directing legal counsel to file such petition. Although courts have been granting such petitions quickly, legal counsel recommends noticing a meeting for October 11<sup>th</sup> before the close of business to submit a plan in the event the court does not grant the extension before then.
2. **Submit a Plan.** Legal counsel believes the proper commencement date was August 12, which obligates the commission to submit its plan by October 11, 2021. Should a court disagree and determine the proper commencement date was September 16, the commission would have improperly adopted a plan too early (plans must be adopted more than 30 but less than 60 days after the commencement date). A court could then nullify the commission's map and require it to choose from the maps submitted by registered electors.
  - a. If the nullification is *before* November 15 (i.e. 60 days after Sept. 16), the commission could simply re-adopt the plan at a new meeting before November 15 but after October 16.
  - b. If the nullification is *after* November 15, the adopted plan would likely be nullified unless the commission adopted a plan at a meeting between October 16 and November 15. Per legal counsel, it is unclear if the commission has the power to adopt a plan during that timeframe if we also adopted a plan at tonight's meeting.

Attorney Mott stated that Option 1 provides greater certainty and would give the commission additional time to consider the maps.

**ACTION:** Member Ward moved, seconded by Member Leonard to adopt the Resolution authorizing Attorney Cody Mott of Foster, Swift, Collins and Smith P.C. to file a Petition of behalf of the Clinton County Apportionment Commission with the Court of Appeals to extend the deadline for completion of the Apportionment Plan. Motion carried unanimously.

PLANS, ETC.

Chairperson Spagnuolo called for submission of any additional plans. There were none.

**Review of Plans:**

Members reviewed and discussed the proposed plans in detail. However, because the Commission desires to seek an extension from the Court of Appeals by adopting the Resolution to Petition the Court, the Commission will not adopt a plan at tonight's meeting.

**425 Agreements:**

Members also discussed at length the 425 Agreements in the southern end of the county between Bath Township, DeWitt Township and the City of East Lansing. The 425 Agreements have created "islands" for both Bath Township and DeWitt Township. Depending on the way district lines are drawn for the plans, these "islands" may result in more precinct splits. Clerk Zuker reached out to legal counsel regarding these "islands" which are often unavoidable and can be problematic when drawing new districts. Additionally, Clerk Zuker has been communicating with Bath Township, DeWitt Township as well as the State regarding an issue with one areas of annexed property under a 425 agreement not correctly reflected in some of the maps resulting in some boundary lines that should be Bath Township still showing as DeWitt Township. *Per Legal Counsel, "when drawing district boundaries, the district lines must be "contiguous." That means it must be a single, unbroken shape. For those precincts that are parts of the annexed "islands," they will have to be drawn in with the precincts immediately adjacent to them, even if they are not part of the same city/town/village."*

It was noted that the area of Bath Township, still being reflected as DeWitt Township impacts each proposed plan presented by creating an additional split in Precinct in Bath Township, Precinct #5.

Petition to extend deadline if not granted/meeting to be held:

Provided the Petition to extend is granted by the Court of Appeals and an Order issued by the Court, the Commission will have more time to digest the proposed plans. However, in the event the Commission does not hear back from the Court of Appeals by Monday, October 11<sup>th</sup> as a safeguard the Commission will need to meet on or before October 11<sup>th</sup> to approve and submit a plan to the County Clerk before the close of business.

Statutory research/publications regarding guidelines:

Member Ward shared information she found in her research regarding the statute, particularly the guidelines under MCL 46.404. Since enactment of the law, there has been caselaw particularly addressing this section of the statute. Pursuant to a recent Michigan Association of Counties newsletter, as well as the published Guide to Michigan County Government, 5<sup>th</sup> Edition, Chapter 2, she highlighted the following information contained in the publication:

*With each succeeding court case, other standards have taken on new meaning and relevance in relationship to the principle of equality of population between districts. In 1982, the Michigan Supreme Court dramatically reversed a Court of Appeals decision. The justices held that commissioner district lines must follow township, city, village, and precinct boundaries if it could be done without violating the current federal standards:*

- *A maximum population difference of 11.9% between districts.*
  - *Being achieved "at the least cost to the federal principle of equal population between election districts consistent with the maximum preservation of such lines."*
- Where two or more alternate plans meet the standard, the court held that "compactness and squareness in shape to the extent practicable shall govern."*

[In re Appeal of Apportionment of Wayne County, 413 Mich. 224; 321, N.W.2d 615 (1982)]

Member Schlenkerman spoke regarding his understanding of the guidelines as well; The deviation is a target and that divisions shall only be made to meet the deviation standard; If there are equal splits, then the small deviation is used, but creating more splits to meet the deviation standard should not be done when drawing a plan.

Member Ward shared one additional document she created with the members and the public which she referred to as her checklist to outline the applicable standards and substantiate her decision when it comes to approving a plan; her checklist considers compactness as well as all the standards outlined in the law under MCL 46.404. She noted that none of the Cities or Townships have a population of a size that they can stand alone and be represented by a single commissioner district.

Members discussed the township splits as well as precinct splits in detail.

## NEXT MEETINGS

In view of the recent legal counsel recommendation, the Commission will meet on Monday, October 11, 2021 at 3:00 p.m. in the Clinton County Board of Commissioner's room. This will allow the Commission to adopt a plan and submit/file with the County Clerk prior to 5:00 p.m. NOTE: This meeting will be cancelled if the Commission receives a ruling from the Court of Appeals on the extension prior to the scheduled meeting time.

If the Apportionment Commission is granted in extension and cancels the October 11<sup>th</sup> meeting, the members have set their next meeting for October 18, 2021 @ 7:00 p.m. in the Clinton County Board of Commissioner's meeting room.

ADDITIONAL PUBLIC  
COMMENTS

Chairperson Spagnuolo called for additional public comments.

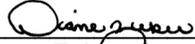
- Adam Stacey noted that his earlier comments were specific to the Legislative intent and not any court rulings; he pointed out a couple clarifications on the checklist document shared by Member Ward.

OTHER BUSINESS

Chairperson Spagnuolo called for any other business. There was none.

ADJOURNMENT

**ACTION:** With no further business to come before the Commission, Member Zuker moved, seconded by Member Leonard to adjourn at 8:15 p.m. Motion carried.



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Diane Zuker, County Clerk

NOTE: These minutes are subject to approval at the next meeting of the Commission.