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Client-Driven. Community-Focused.

DATE: September 30, 2021
TO: Interested Parties
FROM: Margaret C. Daun, Corporation Counsel
Scott F. Brown, Deputy Corporation Counsel
SUBJECT: Redistricting – Amended (Version 2)

Milwaukee County embarked on a new process in 2021 to redraw its supervisory districts, using an independent redistricting committee (IRC) comprised of six retired judges.

Due to the delayed census, the redistricting process is time-sensitive, as well as novel. As a result, numerous questions have arisen. Given the novelty of this process, as well as the unusual delay in the census, no courts have weighed in on this particular confluence of factors. As such, this is only guidance. ***Moreover, this guidance is preliminary, non-final, and subject to revision.*** This is the second version of this guidance, and this version supersedes the prior version (issued yesterday), and all other prior written guidance on this issue.

The OCC is sharing this preliminary guidance, and will continue to provide updates and revisions, given the intensity of public interest and the immediate need for guidance expressed by decision-makers.

I. **Question:** Do municipalities require the County to definitively adopt its supervisory districts to draw their legislative districts and wards?

Answer: Yes. The County will also need to receive municipal ward maps to properly prepare for the Spring 2022 elections.

II. **Question:** Which municipalities have requested that the County draw their maps?

Answer: Brown Deer, Glendale, Fox Point, Shorewood, South Milwaukee, Wauwatosa, and Whitefish Bay requested that the County (via the IRC) draw their maps. The IRC directed SEWRPC to draw maps for those municipalities who have requested the County's assistance, and once completed, SEWRPC will transmit the maps to the OCC, and the OCC will then transmit to the municipalities. Municipalities are encouraged to speak with their legal counsel regarding timing, public hearing requirements, etc.

III. **Question:** What is the specific deadline for the County to adopt its supervisory districts?

Answer: There is none. *However*, because potential candidates must be able to collect signatures to appear on the ballot, the Milwaukee County Clerk and most municipal election officials and clerks state that *all maps*, including municipal legislative districts and wards, as well as County districts, must be formally and finally adopted by around no later than November 15.

Importantly, state statute distinguishes between the County's "tentative" and "final" map. Once the Board adopts its preferred map, this "tentative" map will be transmitted to the municipalities. After the municipalities establish their districts and wards, those municipal maps are then returned to the County. The County and municipalities must then ensure that supervisory districts consist of contiguous whole wards or municipalities. Then the County Board must adopt its "final" map.

Given that municipalities must wait for the County to adopt its map before drawing their districts and wards, and the state statutory requirement that the County meet publicly to adopt the "final" map once the municipalities transmit their wards and districts back to the County, as well as the need or desire in many municipalities for public meetings to adopt the maps, the County must adopt its "tentative" map as soon as possible.

Notably, the IRC took nearly six weeks to identify a first map to recommend to the County Board and will likely take approximately another week to redraft in light of comments today before the Judiciary Committee. If the County does not finally adopt a map until October 18 or 25, for example, that will leave municipalities with four or three weeks, respectively, to draw their maps, with no time for the County Board (or the IRC) to make final adjustments if there are legally impermissible conflicts among supervisory district boundaries and municipal ward boundaries.

IV. **Question:** What if the supervisory and local districts and wards are not formally and finally adopted in time to comply with state statutory deadlines?

Answer: Unknown, but there would be an acute risk of litigation. Claims could include violation of the Voting Rights Act, denial of due process, First Amendment claims, among others.

V. **Question:** May the County Board temporarily suspend its own Ordinances, specifically, section 3.01, given the time sensitivity?

Answer: The OCC defers to Legislative Research Director Cady. That said, based on prior discussions among the OCC and Director Cady, likely yes. If challenged, it is unlikely that a court would undo such an action since (1) the Board created the Ordinance, (2) the Board has final authority over the IRC-created maps (subject to normal County Executive

signature processes), and (3) the time-bound “emergency” facing the County and municipalities, which was caused by a serious delay in the census (i.e., not due to the County or municipal delay or neglect), among other reasons. If suspended, the County Board could instruct the Southeastern Wisconsin Regional Planning Commission (SEWRPC) directly regarding the redrawing of supervisory districts.

VI. Question: Under MGCO § 3.10, what options does the Board have when it considers maps proposed by the IRC?

Answer: MGCO § 3.10(4)(b) states that “[a]doption of the map by the county board shall be by a simple majority of the supervisors then seated. The map and any subsequent drafts proposed by IRC shall be voted on by the county board.” Subsections (4)(c)-(e) address what happens if the Board takes no action on an IRC-created map.

Taking these sections together then, the board only has two options when it considers IRC-drafted maps: either (1) vote to approve or reject the map as presented by the IRC (i.e., without amendment); or (2) take no action and wait for the time period specified in the Ordinance to expire (30 days after the first IRC-created map is submitted, 20 days after the second map is submitted, and 10 days after the third map is submitted).

VII. Question: May the County Board propose amendments to an IRC-created map?

Answer: Yes, under two circumstances.

1. If the Board suspends MGCO § 3.01, the Board (or a committee) can then immediately move to direct SEWRPC to assist Director Cady in amending the maps and drafting amendments.
2. If the Board does not suspend MGCO § 3.01, even though MGCO § 3.01 does not explicitly prohibit amendments by the Board, a court would likely infer that the Board cannot propose amendments since the ordinance contemplates only acceptance or rejection of the IRC-proposed map (or the expiration of the relevant time period, *see supra* Question V).

Thus, if the Board does not suspend MGCO § 3.01, then the Board (or committee) can direct SEWRPC to assist Director Cady in amending the maps and drafting amendments after the third map IRC-proposed map is rejected by the Board, assuming the Board does not elect to let the various time periods lapse without action.

VIII. Question: May a committee member propose an amendment to an IRC-created map?

Answer: Perhaps,¹ but given that the ordinance clearly contemplates either (1) a Board vote on the IRC-proposed map or (2) no action by the Board and the expiration of the relevant time period, *see supra* Questions VI and VII, a plain language reading of the ordinance requires that the Board vote on the IRC-proposed map without amendment.

Of course, as noted above, amendments may be submitted and considered by the committee and the Board after the Board rejects the third IRC-drafted map.

IX. Question: If the County Board does not suspend MGCO § 3.01, what is the process to formally adopt supervisory districts?

Answer: The process is laid out in MGCO § 3.01 and Wis. Stat. § 59.10. In summary, the County Board would need to convene potentially twice (including the Committee of the Whole meeting scheduled for this Friday, October 1) to vote on the IRC-drafted map and provide guidance to the IRC. After the IRC submits a third map, if the Board rejects it, the Board can then draw its own maps. Practically speaking, after a map is rejected by the Board, the IRC would then need to convene to provide directives to SEWRPC regarding how to redraw the districts. Once the County settles upon its “tentative” map, then municipalities must draw their districts and wards, submit that to the County, and the County Board must then publicly meet at least one last time to adopt the “final” map. Critically, as noted above, state statute specifies that supervisory districts should consist of contiguous whole wards or municipalities.

X. Question: If or when the Board considers file No. 21-898, would minority rules permit the file to be referred to the OCC or laid over?

Answer: Yes, under MGCO § 1.15, but the OCC respectfully advises against doing so given the extreme time sensitivity. Also, layover or referral to the OCC would not fulfill the requirement set forth expressly in the Ordinance that the County Board vote on the IRC-proposed map (or wait for the state time period to lapse, *see* Questions VI-VIII).

In addition, the OCC notes that under applicable legal precedent, the relative risk of an adverse litigation outcome can only be opined upon by the OCC in the most general and high-level sense, because the inquiries are fact intensive and evaluated under a “totality of the circumstances” standard, including past election results. *See Baldus v. Members of Wisconsin Gov't Accountability Bd.*, 849 F. Supp. 2d 840, 854-55 (E.D. Wis. 2012) (citing and discussing *Thornburg v. Gingles*, 478 U.S. 30, 48-51 (1986) (setting forth three

¹ Based upon discussions with SEWRPC and Director Cady, the OCC understands that neither Director Cady nor his staff can alter the map or prepare amendments “real time,” i.e., during the meeting. Similarly, it may difficult or impossible to provide legal guidance about the relative legal risk of different maps “real time,” since that analysis requires detailed demographic data.

requirements for a Voting Rights Act claim to succeed: (i) minority groups sufficiently large and geographically compact to create a majority-minority district; (ii) minority groups are politically cohesive in terms of voting patterns; and (iii) voting is racially polarized, such that the majority group can block a minority's candidate from winning)).

- XI. Question:** What is the relevant measure for analyzing claims of “cracking” (i.e., dilution) or “packing” (i.e., over-consolidation) under the Voting Rights Act of 1965?

Answer: Citizen voting age population. *See id.* at 854 (citing *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 429 (2006)).

- XII. Question:** What is the general holding of *Baldus* regarding “majority-minority” or “minority influence” (i.e., a significant “minority” population, but less than 50%) districts?

Answer: As noted above, any challenge to a redistricting map requires a court to engage in a fact intensive totality of the circumstances review. Moreover, the relevant measure when comparing maps or districts is *citizen voting age population*. Regarding cracking, *Baldus* generally stands for the proposition that fewer districts, with an indisputable or supermajority “minority” population, is preferable to more districts with narrow “majority-minority” or “minority influence” populations. Specifically, the court held that *under the facts at issue in that case*, two districts with “Latino” populations of 60.52% and 54.03% was a Voting Rights Act violation, when the other option was a single district with a “Latino” citizen voting age population of 70.07%. *Baldus*, 849 F. Supp. 2d 840, 854–58.

Perhaps most importantly, it is impossible to fulfill all redistricting factors equally, *see* Question XVI *infra*, and while there are some objective measures (i.e., population deviation among and between districts, *Baldus*-styled analysis), subjective judgments will inevitably be required. And as noted above, under *Baldus*, any challenge to a new map will require an intense fact inquiry under a totality of the circumstances standard.

- XIII. Question:** Is closed session available or appropriate by the Board, a committee, or the IRC?

Answer: Yes, but the OCC respectfully advises that it be used only in very narrow circumstances for very specific questions regarding relative litigation risk between two specifically-defined maps or other specific questions. The OCC can opine publicly regarding general requirements of the Voting Rights Act, other applicable law, as well as *Baldus*, *see supra*.

- XIV. Question:** Did the IRC public meetings satisfy the statutory requirements for a public hearing on the tentative map and for solicitation of suggestions from municipalities?

Answer: The OCC advises that the County/IRC has already satisfied the requirement in MGCO § 3.01(5) that the County “shall offer” redistricting services to municipalities. Separately, neither MGCO § 3.01 nor Wis. Stat. § 59.10 require “solicitation of suggestions from municipalities.” The IRC has satisfied the public meeting requirements in Chapter 3. As alluded to above, even where the County has been requested to draw maps for municipalities, the municipalities are ultimately responsible for adopting their own maps, public hearings, and processes/deadlines, etc. Given that roughly a month and a half (or slightly more) remains before hard deadlines for the maps, if requested, it is highly unlikely that a court would agree to intervene at this juncture to affirmatively draw Milwaukee County’s maps or otherwise direct the mapmaking. This risk increases as time goes on, however. It is also doubtful that County ordinances that appear to require certain public meetings by municipalities and/or reporting by municipalities to the County would be found by a court to compel those actions by municipalities.

- XV. Question:** If the Judiciary Committee permits virtual public testimony and e-comments at a hearing before the Board meets on October 1, would this satisfy the statutory requirement for a public hearing?

Answer: Yes. MGCO § 3.01(4) specifically contemplates public meetings to consider and adopt a map, as well as public comments, but does not specify number or length. The OCC therefore respectfully recommends that public comment (whether live or via e-comment) be available during follow-up committee meetings and/or during Board (or Committee of the Whole) meetings regarding the maps. However, this does not obviate the clear requirement under MGCO § 3.01 that the Board either vote on the IRC-created map or take no action for the specified time period.

- XVI. Question:** What directive, if any, did the IRC provide to SEWRPC regarding incumbency?

Answer: In the second meeting of the IRC, by a unanimous vote of 6-0, the IRC separately directed SEWRPC to not consider either (a) incumbent addresses; or (b) the prior district map. *See* IRC Minutes Aug. 27, 2021, attached as Exh. 1 at pp.6-7. The IRC, based on comments during the Judiciary Committee meeting of this same date, will nearly certainly review and potentially reverse one or both of these directives.

The County Board, when it adopted MGCO § 3.01, did not include incumbent addresses or prior district boundaries in the factors to be considered by the IRC. Relevant to incumbency, MGCO § 3.01(1) states only that “[T]o maintain the integrity of the redistricting process and to mitigate any conflicts of interest or claims of politicization, an independent redistricting committee (IRC) shall be ... convened.” *See also* MGCO § 3.01(2).² The County Board may add either or both of these factors to the ordinance at any time.

² MGCO § 3.01(2) states:

The IRC voted at its second meeting to establish the following factors, in this order of priority, mirroring MGCO § 3.01(2), *see* Exh. 1 at pp.4-6:

1. the Voting Rights Act, and recognition of ethnic and racial communities of interest, while noting that race is a social construct;
2. respect for municipal boundaries;³
3. equalization of population between districts, and that SEWRPC shall aspire and endeavor to make the deviation as small as possible, with the deviation for each district at no more than (+) / (-) 4 percent; and
4. compactness of districts.

XVII. Question: Do members of the IRC possess individual authority to draw maps?

Answer: Likely, no. The committee as a whole is tasked under the ordinance to draw the County district map. Regardless, the IRC voted to instruct SEWRPC to only consider information and factors as directed by a majority vote of the IRC, as publicly discussed in open session, which necessarily excluded Judge Kessler’s privately-created map, using data that may or may not correspond to the official census data used by SEWRPC, and according to a priority of factors unknown to the IRC. *See* IRC Minutes September 3, 2021, attached as Exh. 2, p.3.⁴ The IRC may review or reverse this decision based upon comments from elected officials during the Judiciary Committee of this same date.

County supervisory districts are hereafter established so as to represent as nearly as practicable an equal number of persons, but considering such other factors as communities of interest, compactness of territory and contiguity, and continuity and integrity of existing village and city lines and precincts wherever possible, and with the predominant objective of achieving an honest and good faith effort to create the greatest possible equal population distribution among all districts.

(a) Committee criteria. The IRC's redistricting plan shall comply with the following criteria:

- (1) Federal equal population mandates.
- (2) Redistricting criteria established by federal and state laws.
- (3) Maintenance of voting rights of Hispanic and African American and other citizens as guaranteed in the federal Voting Rights Act of 1965.
- (4) A map that consists of districts that take into account the integrity of existing neighborhoods and communities of interest within Milwaukee County.

³ This factor was discussed at follow-up meetings, see IRC Minutes September 15, 2021, attached as Exh. 4, p.2.

⁴ See also IRC Minutes September 10, 2021, attached as Exh. 3, p.2 (after learning that an envelope of unknown contents was dropped off at SEWRPC by a member of the IRC, the IRC discussed what its response should be to “information is improperly transmitted to [SEWRPC] without IRC approval.”).

XVIII. Question: May Supervisors participate directly in live IRC deliberations?

Answer: Yes. That said, the OCC respectfully discouraged this practice during the IRC's deliberations to create a first map to recommend to the County Board, to ensure that the independence of the IRC is preserved, as well as to ensure public confidence in the independence of the process. Many might consider elected officials' abstention from live commentary to be a best practice throughout the IRC's deliberations. In lieu of live participation, the OCC respectfully recommends that, if necessary, Supervisors participate by submitting written comments via the County Legislative Information Center e-comment feature. Should the Board or a committee reject either the first or second map submitted by the IRC, MGCO § 3.01(4)(c),(d) requires that the IRC "heed public and elected official comment." Thus, the public meetings held by the Board and/or committees may be considered by many to be a best practice and the ideal forum for elected official feedback and input. Of course, ultimately, the County Board will determine its map, subject to normal County Executive signature processes.

XIX. Question: May Supervisors individually and outside of public meetings provide direction, feedback, or information requests to SEWRPC?

Answer: Yes. That said, the OCC respectfully discourages this practice so that all directives, feedback, and information requests to SEWRPC by elected officials occur in public meetings to ensure transparency and accountability. As a best practice, the relevant bodies may decide to direct SEWRPC or to request map amendments through formal resolutions or motion practice, with a public vote.

XX. Question: Is there a conflict of interest for the OCC?

Answer: No. The OCC does not face any direct or indirect conflict of interest in its duties to advise the IRC, the County Board, the County Clerk, etc. regarding redistricting for many reasons. First, the OCC has not and will not substantively advocate for or against any particular map. Second and related, the OCC does not provide any substantive instruction regarding prioritization of facts, any map, or specific district boundaries. Third, the OCC's substantive and procedural advice will be consistent and identical among all clients. Fourth, each entity has wide latitude under MGCO § 3.01 to determine its processes. Fifth, while there are some objective substantive factors, as discussed above, *see supra* Question IV, the finalization of maps ultimately is a matter of subjective judgment for the Board, with standard legislative review by the County Executive. Sixth, the IRC is a creation of the Board. Seventh, the IRC is required to "heed" comments by the public and elected officials. Eighth, as demonstrated today, the process created in MGCO § 3.01 is non-adversarial and cooperative as among the IRC and Board. And ninth, the objective of both entities is the same, i.e., fair maps that if challenged, will be upheld by a court.

The OCC endeavors to provide independent, objective advice, specifically including how a court would likely analyze certain processes, maps, etc., if challenged. As explained by Caleb Cushing, Attorney General under President Franklin Pierce: government attorneys are “public officer[s], acting judicially, under all the solemn responsibilities of conscience and legal obligation.” 6 Op. Atty Gen. 326, 334 (1854). Certainly, the Board could amend MGCO § 3.01 to require separate counsel for the IRC and the Board,⁵ though the OCC respectfully suggests that this is not required, even when clients have divergent interests or viewpoints. Advising clients with differing interests and/or viewpoints is *de rigueur* for government attorneys. Specifically, as explained in the American Bar Association’s Scope 18, cited in ABA Comment 9 to Supreme Court Rule 10:1.13, government “lawyers under the supervision of [elected] officers [such as the OCC] may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients.”

A government lawyer must provide the same advice to the same questions, no matter which client may be asking, with objectivity and independence, without allegiance to any individual client or branch or other political interest. Since January of 2017, this has been the motivating philosophy of the OCC. And this opinion is a prime example of that philosophy in action. Finally, as noted at the outset, the OCC merely provides advice, which our clients can follow or disregard as they see fit.

⁵ Also, going forward, we note that the OCC could provide separate counsel to both clients, by assigning a different individual lawyer from the OCC to each client, and establishing a firewall to isolate each counsel and ensure no coordination or consultation takes place.



Milwaukee County

Meeting Minutes - Final Milwaukee County Independent Redistricting Committee

The Honorable Jean A. DiMotto – Chairperson
The Honorable James A. Gramling, Jr., Vice-Chairperson

The Honorable Charles N. Clevert, Jr.
The Honorable Charles F. Kahn, Jr.
The Honorable Frederick P. Kessler
The Honorable Mary M. Kuhnmuench

Committee Coordinator: Allyson R. Smith
Research and Policy Analyst: Emily Petersen

Friday, August 27, 2021

1:00 PM

County Legislative Information Center

VIRTUAL MEETING

This meeting was live-streamed on the County Legislative Information Center:
<https://milwaukeecounty.legistar.com/Calendar.aspx>

Call To Order

Roll Call at 1:05 p.m.

Present: 5 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, and DiMotto

Excused: 1 - Kuhnmuench

Honorable Judge Kuhnmuench was not present at the time the roll was called, but appeared virtually shortly thereafter.

- 1 [HRA21-326](#) Approval of minutes from the August 16, 2021, meeting of the Milwaukee County Independent Redistricting Committee.

(ACTION ITEM)

Attachments: [HRA21-326 IRC DRAFT MINUTES \(08/16/21\)](#)

[HRA 21-326 IRC FINAL MINUTES \(08/16/21\)](#)

There were no appearances for Item 1.

A motion was made by Honorable Judge Gramling, Jr., and seconded by Honorable Judge Clevert, Jr., that the draft minutes from the August 16, 2021, meeting of the Milwaukee County Independent Redistricting Committee be APPROVED. The motion PREVAILED by the following vote:

Ayes: 6 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, Kuhnmuench and DiMotto

- 2 [HRA21-328](#) Update from Corporation Counsel, Office of Corporation Counsel, regarding the Professional Services Agreement with Southeastern Wisconsin Regional Planning Commission.

(INFORMATION ONLY)

Attachments: [HRA21-328 SEWRPC PROFESSIONAL SERVICES AGREEMENT](#)

APPEARANCE:

Margaret C. Daun, Corporation Counsel, Office of Corporation Counsel

Item 2 was DISCUSSED WITH NO ACTION TAKEN.

Items 3 and 6 were considered together.

- 3 [HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.

(ACTION MAY BE TAKEN BY THE COMMITTEE)

Attachments: [HRA21-333 2010 Map of Supervisory Districts](#)

[HRA21-333 Supervisory District Population by Race/Hispanic Ethnicity 2010](#)

[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)

[HRA21-333 Supervisory District Population Comparison by Race 2010 to 2020](#)

APPEARANCES:

Margaret C. Daun, Corporation Counsel, Office of Corporation Counsel

Rob Hullum, Communications Specialist, Communications Division, Office of the County Clerk

Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

The following people appeared virtually, and spoke for information only regarding this item:

Cheryl Maranto, Co-Director, Northshore Fair Maps

Sachin Chheda, Director, Fair Elections Project

Kevin J. Muhs, Executive Director, Southeastern Wisconsin Regional Planning Commission (SEWRPC)

Items 3 and 6 were considered together.

A motion was made by Honorable Judge Gramling, Jr., and seconded by Honorable Judge Kahn, Jr., that a proposed redistricting map from Honorable Judge Kessler be submitted to SEWRPC for review. The motion FAILED by the following vote:

Ayes: 2 - Gramling Jr. and Kessler

Noes: 4 - Clevert Jr., Kahn Jr., Kuhnmuensch and DiMotto

PRIORITIES

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.
(ACTION MAY BE TAKEN BY THE COMMITTEE)

Attachments: [HRA21-333 2010 Map of Supervisory Districts](#)
[HRA21-333 Supervisory District Population by Race/Hispanic Ethnicity 2010](#)
[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)
[HRA21-333 Supervisory District Population Comparison by Race 2010 to 2020](#)

A motion was made by Honorable Judge Clevert, Jr., and seconded by Honorable Judge Gramling, Jr., that the priorities in the development of redistricting maps be: the Voting Rights Act; equal population; compact and contiguous districts; and respect for community interests.

Honorable Judges Clevert, Jr., and Gramling, Jr., later withdrew the motion, therefore a vote was not taken.

1st PRIORITY

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.
(ACTION MAY BE TAKEN BY THE COMMITTEE)

Attachments: [HRA21-333 2010 Map of Supervisory Districts](#)
[HRA21-333 Supervisory District Population by Race/Hispanic Ethnicity 2010](#)
[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)
[HRA21-333 Supervisory District Population Comparison by Race 2010 to 2020](#)

A motion was made by Honorable Judge Clevert, Jr., and seconded by Honorable Judge Kuhnmuensch, that the first priority in the development of a redistricting map be: the Voting Rights Act.

Honorable Judges Clevert, Jr., and Kuhnmuensch later withdrew the motion, therefore a vote was not taken.

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.

(ACTION MAY BE TAKEN BY THE COMMITTEE)

Attachments: [HRA21-333 2010 Map of Supervisory Districts](#)

[HRA21-333 Supervisory District Population by Race/Hispanic
Ethnicity 2010](#)

[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)

[HRA21-333 Supervisory District Population Comparison by Race 2010
to 2020](#)

A motion was made by Honorable Judge Kahn, Jr., and seconded by Honorable Judge Kuhnmuensch, that the first priority in redistricting is honoring the intent of the Voting Rights Act, and recognition of ethnic and racial communities of interest, while noting that race is a social construct.

Honorable Judge Clevert, Jr., called for the previous question. There being no objections by the Honorable Judges, the roll was called on the first priority.

The motion PREVAILED by the following vote:

Ayes: 6 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, Kuhnmuensch and DiMotto

2nd PRIORITY

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.

(ACTION MAY BE TAKEN BY THE COMMITTEE)

Attachments: [HRA21-333 2010 Map of Supervisory Districts](#)

[HRA21-333 Supervisory District Population by Race/Hispanic
Ethnicity 2010](#)

[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)

[HRA21-333 Supervisory District Population Comparison by Race 2010
to 2020](#)

A motion was made by Honorable Judge Kessler, and seconded by Honorable Judge Gramling, Jr., that the second priority in the development of a redistricting map be: equal population - no greater than (+) / (-) 2 percent deviation [4 percent variation].

Honorable Judges Kessler, and Gramling, Jr., later withdrew the motion, therefore a vote was not taken.

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.
(ACTION MAY BE TAKEN BY THE COMMITTEE)

Attachments: [HRA21-333 2010 Map of Supervisory Districts](#)
[HRA21-333 Supervisory District Population by Race/Hispanic Ethnicity 2010](#)
[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)
[HRA21-333 Supervisory District Population Comparison by Race 2010 to 2020](#)

A motion was made by Honorable Judge Kahn, Jr., and seconded by Honorable Judge Clevert, Jr., that the second priority in the development of a redistricting map be: respect for municipal boundaries.

The motion PREVAILED by the following vote:

Ayes: 5 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler and Kuhnmuench

Noes: 1 - DiMotto

3rd PRIORITY

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.
(ACTION MAY BE TAKEN BY THE COMMITTEE)

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[HRA21-333 Supervisory District Population by Race/Hispanic Ethnicity 2010](#)
[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)
[HRA21-333 Supervisory District Population Comparison by Race 2010 to 2020](#)

A motion was made by Honorable Judge Clevert, Jr., and seconded by Honorable Judge Gramling, Jr., that the third priority shall be equalization of population between districts, and that SEWRPC shall aspire and endeavor to make the deviation as small as possible, with the deviation for each district at no more than (+) / (-) 4 percent.

The motion PREVAILED by the following vote:

Ayes: 5 - Gramling Jr., Clevert Jr., Kahn Jr., Kuhnmuench and DiMotto

Noes: 1 - Kessler

4th PRIORITY

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.

(ACTION MAY BE TAKEN BY THE COMMITTEE)

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[HRA21-333 Supervisory District Population by Race/Hispanic
Ethnicity 2010](#)

[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)

[HRA21-333 Supervisory District Population Comparison by Race 2010
to 2020](#)

A motion was made by Honorable Judge Gramling, Jr., and seconded by Honorable Judge Kuhnmuensch, that the fourth priority in the development of a redistricting map be: compactness of districts.

The motion PREVAILED by the following vote:

Ayes: 6 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, Kuhnmuensch and DiMotto

NON-PRIORITIES

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.

(ACTION MAY BE TAKEN BY THE COMMITTEE)

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Ethnicity 2010](#)

[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)

[HRA21-333 Supervisory District Population Comparison by Race 2010
to 2020](#)

A motion was made by Honorable Judge Kuhnmuensch, and seconded by Honorable Judge Clevert, Jr., that the addresses of incumbents SHALL NOT be a factor in the development of a redistricting map.

The motion PREVAILED by the following vote:

Ayes: 6 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, Kuhnmuensch and DiMotto

[HRA21-333](#) Update from the Southeastern Wisconsin Regional Planning Commission regarding the redistricting process.
(ACTION MAY BE TAKEN BY THE COMMITTEE)

Attachments: [HRA21-333 2010 Map of Supervisory Districts](#)
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[HRA21-333 Supervisory District Comparison between 2010 and 2020](#)
[HRA21-333 Supervisory District Population Comparison by Race 2010 to 2020](#)

A motion was made by Honorable Judge Kahn, Jr., and seconded by Honorable Judge Kuhmuench, that existing County Supervisory districts lines SHALL NOT be considered in the redistricting process, and redistricting shall begin with a "clean slate."

The motion PREVAILED by the following vote:

Ayes: 6 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, Kuhnmuensch and DiMotto

4 [HRA21-329](#) Proposals on public notification and involvement in the redistricting process.
(INFORMATION ONLY)

Attachments: [HRA21-329 PRESS RELEASE DISTRIBUTION LIST](#)
[HRA21-329 PRESS RELEASE FROM 08/24/21](#)

APPEARANCES:

Rob Hullum, Communications Specialist, Communications Division, Office of the County Clerk
Margaret C. Daun, Corporation Counsel, Office of Corporation Counsel
Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

Kevin J. Muhs, Executive Director, Southeastern Wisconsin Regional Planning Commission (SEWRPC), appeared virtually, and spoke for information only, regarding this item.

The Committee plans to hold a virtual Public Hearing on the proposed redistricting maps from SEWRPC on WEDNESDAY, September 15, 2021, at 7:00 p.m.

Item 4 was DISCUSSED WITH NO ACTION TAKEN.

5 [HRA21-332](#) Proposed agenda items for the next Milwaukee County Independent Redistricting Committee meeting.
(INFORMATION ONLY)

There were no appearances for Item 5.

Item 5 was DISCUSSED WITH NO ACTION TAKEN.

Items 3 and 6 were considered together.

- 6** [HRA21-300](#) eComments submitted to the Milwaukee County Independent Redistricting Committee via the County Legislative Information Center (CLIC).
(INFORMATION ONLY)

*The Office of the County Clerk collects eComments submitted via CLIC, and appends these official public records to HRA File No. 21-300 at the conclusion of each meeting.

APPEARANCES:

Margaret C. Daun, Corporation Counsel, Office of Corporation Counsel
Rob Hullum, Communications Specialist, Communications Division, Office of the County Clerk
Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

The following people appeared virtually, and spoke for information only regarding this item:

Cheryl Maranto, Co-Director, Northshore Fair Maps
Sachin Chheda, Director, Fair Elections Project
Kevin J. Muhs, Executive Director, Southeastern Wisconsin Regional Planning Commission

Items 3 and 6 were considered together.

The August 27, 2021, record of eComments is attached to the file as "HRA21-300 Public Comment (08/27/21)."

The August 27, 2021, record of eComments was DISCUSSED WITH NO ACTION TAKEN.

The foregoing items were not considered in agenda order.

Length of Meeting: 1:05 p.m. to 4:21 p.m.

Adjourned,

**Allyson R. Smith
Committee Coordinator
Legislative Services Division, Office of the County Clerk
Milwaukee County Independent Redistricting Committee**

Next Meeting:

The next meeting of the Milwaukee County Redistricting Committee is Friday,
September 3, 2021, at 1:00 p.m.



Milwaukee County

Meeting Minutes - Final Milwaukee County Independent Redistricting Committee

The Honorable Jean A. DiMotto – Chairperson
The Honorable James A. Gramling, Jr., Vice-Chairperson

The Honorable Charles N. Clevert, Jr.
The Honorable Charles F. Kahn, Jr.
The Honorable Frederick P. Kessler
The Honorable Mary M. Kuhnmuench

Committee Coordinator: Allyson R. Smith
Research and Policy Analyst: Emily Petersen

Friday, September 3, 2021

1:00 PM

County Legislative Information Center

VIRTUAL MEETING

This meeting was live-streamed on the County Legislative Information Center (CLIC):
<https://milwaukeecounty.legistar.com/Calendar.aspx>

Call To Order

Roll Call at 1:25 p.m.

Present: 6 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, Kuhnmuench, and DiMotto

- 1 [HRA21-345](#) Approval of minutes from the August 27, 2021, meeting of the Milwaukee County Redistricting Committee.
(ACTION ITEM)

Attachments: [HRA21-345 IRC DRAFT MINUTES \(08/27/21\)](#)
 [HRA21-345 FINAL IRC MINUTES \(08/27/21\)](#)

APPEARANCE:

Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

Chairwoman DiMotto requested that Item 4 on the draft minutes from the August 27, 2021, meeting of the Milwaukee County Independent Redistricting Committee (IRC) be AMENDED to include the virtual Public Hearing scheduled for WEDNESDAY, September 15, 2021, at 7:00 p.m. There being no objections from Committee members, it was so ordered by the Chairwoman.

A motion was made by Honorable Judge Clevert, Jr., and seconded by Honorable Judge Kuhnmuench that the draft minutes from the August 27, 2021, meeting of the IRC be APPROVED. The motion prevailed by the following vote:

Ayes: 6 - Gramling Jr., Clevert Jr., Kahn Jr., Kessler, Kuhnmuench and DiMotto

MOTION 1

- 2 [HRA21-346](#) From the Southeastern Wisconsin Regional Planning Commission, providing an update, and a proposed redistricting map.
(ACTION ITEM)

Attachments: [HRA21-346 POWERPOINT \(received on 09/03/21\)](#)
[HRA21-346 SEWRPC INTERACTIVE DISTRICT MAPS \(received 09/03/21\)](#)
[HRA21-346 VERSION A REDISTRICTING MAP \(09/03/21\)](#)
[HRA21-346 VERSION B REDISTRICTING MAP \(09/03/21\)](#)
[HRA21-346 VERSION C REDISTRICTING MAP \(09/03/21\)](#)

APPEARANCES:

Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

Margaret C. Daun, Corporation Counsel, Office of Corporation Counsel

Supervisor John F. Weishan, Jr., District 16

Brian Rothgery, Communications Director, Communications Division, Office of the County Clerk

Kevin J. Muhs, Executive Director, Southeastern Wisconsin Regional Planning Commission (SEWRPC) appeared virtually, and spoke regarding this item.

Mr. Muhs, provided Committee members with an overview of proposed Redistricting Maps, which are attached to this file as follows:

HRA21-346 VERSION A REDISTRICTING MAP (09/03/21)

HRA21-346 VERSION B REDISTRICTING MAP (09/03/21)

HRA21-346 VERSION C REDISTRICTING MAP (09/03/21)

A motion was made Honorable Judge Clevert, Jr., and seconded by Honorable Judge Kuhnmuench that Map C as presented by SEWRPC be the basis upon which direction to SEWRPC be based. The motion PREVAILED by the following vote:

Ayes: 4 - Gramling Jr., Clevert Jr., Kuhnmuench and DiMotto

Abstentions: 2 - Kahn Jr. and Kessler

MOTION 2

[HRA21-346](#) From the Southeastern Wisconsin Regional Planning Commission, providing an update, and a proposed redistricting map.

(ACTION ITEM)

Attachments: [HRA21-346 POWERPOINT \(received on 09/03/21\)](#)
[HRA21-346 SEWRPC INTERACTIVE DISTRICT MAPS \(received 09/03/21\)](#)
[HRA21-346 VERSION A REDISTRICTING MAP \(09/03/21\)](#)
[HRA21-346 VERSION B REDISTRICTING MAP \(09/03/21\)](#)
[HRA21-346 VERSION C REDISTRICTING MAP \(09/03/21\)](#)

Honorable Judge Kuhnmuensch was not present at the time the roll was called on the second motion regarding this item, but was subsequently recorded as voting in the affirmative.

A motion was made by Honorable Judge Clevert, Jr., and seconded by Honorable Judge Gramling, Jr., that SEWRPC only consider matters that have been publicly presented in open session and discussed.

The motion **PREVAILED** by the following vote:

Ayes: 5 - Gramling Jr., Clevert Jr., Kahn Jr., Kuhnmuensch and DiMotto

Absent: 1 - Kessler

CLOSED SESSION: ITEM 3

The Committee may adjourn into closed session under the provisions of Section 19.85(1)(g), Wisconsin State Statutes (State Statutes) for the purpose of the Committee receiving oral or written advice from legal counsel concerning strategy to be adopted with respect to pending or possible litigation with regard to the following matter(s).

At the conclusion of the closed session, the Committee may reconvene in open session to take whatever actions it may deem necessary.

A motion was made by Honorable Judge Gramling Jr., and seconded by Honorable Judge Clevert, Jr., that the Committee adjourn into closed session under the provisions of Section 19.85(1)(g), State Statutes, for the purpose of the Committee receiving oral or written advice from legal counsel concerning strategy to be adopted with respect to pending or possible litigation with regard to Item 3.

Honorable Judge Kessler objected to the motion to adjourn into closed session.

The motion to ADJOURN into Closed Session PREVAILED by the following vote:

Ayes: 5 - Gramling Jr., Clevert Jr., Kahn Jr., Kuhnmuensch and DiMotto

Noes: 1 - Kessler

3

[HRA21-347](#)

Consideration of the request to submit a redistricting map to the Southeastern Wisconsin Regional Planning Commission for review and comparison.

(ACTION ITEM)

APPEARANCES:

Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

Margaret C. Daun, Corporation Counsel, Office of Corporation Counsel

Item 3 was discussed in both Open and Closed Sessions.

Item 3 was DISCUSSED WITH NO ACTION TAKEN.

The Committee was in closed session from 3:58 p.m. to 5:16 p.m. The Committee reconvened at 5:16 p.m. Upon reconvening at 5:16 p.m, a roll was taken and four members were present.

Roll Call at 5:16 p.m.

Present: 4 - Gramling Jr., Clevert Jr., Kahn Jr., and DiMotto

Absent: 2 - Kessler, and Kuhnmuench

Honorable Judge Kuhnmuench was not present at the time the roll was called, but appeared virtually shortly thereafter.

- 4 [HRA21-300](#) eComments submitted to the Milwaukee County Independent Redistricting Committee via the County Legislative Information Center (CLIC).
(INFORMATION ONLY)

*The Office of the County Clerk collects eComments submitted via CLIC, and appends these official public records to HRA File No. 21-300 at the conclusion of each meeting.

APPEARANCE:

Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

eComments were kept open for an additional two hours after the meeting adjourned.

There were no eComments submitted for the September 3, 2021, meeting.

The September 3, 2021, record of eComments was **DISCUSSED WITH NO ACTION TAKEN.**

The foregoing items were not considered in agenda order.

Length of Meeting: 1:25 p.m. to 5:24 p.m.

Adjourned,

**Allyson R. Smith
Committee Coordinator
Legislative Services Division, Office of the County Clerk
Milwaukee County Independent Redistricting Committee**

Next Meeting:

The next meeting of the Milwaukee County Independent Redistricting Committee is
Friday, September 10, 2021, at 12:30 p.m.



Milwaukee County

Meeting Minutes - Final Milwaukee County Independent Redistricting Committee

*The Honorable Jean A. DiMotto – Chairperson
The Honorable James A. Gramling, Jr., Vice-Chairperson*

*The Honorable Charles N. Clevert, Jr.
The Honorable Charles F. Kahn, Jr.
The Honorable Frederick P. Kessler
The Honorable Mary M. Kuhnmuench*

*Committee Coordinator: Allyson R. Smith
Research and Policy Analyst: Emily Petersen*

Friday, September 10, 2021

12:30 PM

County Legislative Information Center

VIRTUAL MEETING

This meeting was live-streamed on the County Legislative Information Center:
<https://milwaukeecounty.legistar.com/Calendar.aspx>

Call To Order

Roll Call at 12:31 p.m.

Present: 5 - Gramling Jr., Clevert Jr., Kahn Jr., Kuhnmuench, and DiMotto

Absent: 1 - Kessler

Honorable Judge Kessler was not present at the time the roll was called, but appeared virtually later in the meeting.

- 1 [HRA21-361](#) Approval of minutes from the September 3, 2021, meeting of the Milwaukee County Independent Redistricting Committee.

(ACTION ITEM)

Attachments: [HRA21-361 IRC DRAFT MINUTES \(09/03/21\)](#)
 [HRA21-361 IRC FINAL MINUTES \(09/03/21\)](#)

A motion was made by Honorable Judge Clevert, Jr., and seconded by Honorable Judge Gramling, Jr., that the draft minutes from the September 3, 2021, meeting of the Milwaukee County Independent Redistricting Committee be APPROVED. The motion PREVAILED by the following vote:

Ayes: 4 - Gramling Jr., Clevert Jr., Kuhnmuench and DiMotto

Absent: 1 - Kessler

Abstentions: 1 - Kahn Jr.

CLOSED SESSION: ITEM 2

The Committee may adjourn into closed session under the provisions of Section 19.85(1)(g), Wisconsin State Statutes, for the purpose of the Committee receiving oral or written advice from legal counsel concerning strategy to be adopted with respect to pending or possible litigation with regard to the following matter(s).

At the conclusion of the closed session, the Committee may reconvene in open session to take whatever actions it may deem necessary.

The Committee did not adjourn into closed session to discuss Item 2.

- 2 [HRA21-365](#) Milwaukee County Independent Redistricting Committee (IRC) directives and response when information is improperly transmitted to the Southeastern Wisconsin Regional Planning Commission without IRC approval.

(ACTION MAY BE TAKEN BY THE COMMITTEE)

There were no appearances for Item 2.

Item 2 was temporarily laid over until later in the meeting by unanimous consent of Committee members.

The Committee did not adjourn into closed session to discuss Item 2.

Item 2 was DISCUSSED WITH NO ACTION TAKEN.

- 3 [HRA21-362](#) Consideration of revised redistricting maps from the Southeastern Wisconsin Regional Planning Commission.

(ACTION ITEM)

Attachments: [HRA21-362 POWERPOINT \(09/10/21\)](#)

[HRA21-362 VERSION D DETAILED MAP \(09/10/21\)](#)

APPEARANCE:

Margaret C. Daun, Corporation Counsel, Office of Corporation Counsel
Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

Kevin J. Muhs, Executive Director, Southeastern Wisconsin Regional Planning Commission (SEWRPC), appeared virtually, and spoke regarding this item.

A motion was made by Honorable Judge Gramling, Jr., and seconded by Honorable Judge Clevert, Jr., to direct SEWRPC to revise Version D Map in an effort to increase the Hispanic population where necessary to accomplish a higher percentage rate in those districts be APPROVED. The motion PREVAILED by the following vote:

Ayes: 4 - Gramling Jr., Clevert Jr., Kuhnmuensch and DiMotto

Abstentions: 2 - Kahn Jr. and Kessler

- 4 [HRA21-300](#) eComments submitted to the Milwaukee County Independent Redistricting Committee via the County Legislative Information Center (CLIC).
(INFORMATION ONLY)

*The Office of the County Clerk collects eComments submitted via CLIC, and appends these official public records to HRA File No. 21-300 at the conclusion of each meeting.

APPEARANCES:

Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

Rob Hullum, Communications Specialist, Communications Division. Office of the County Clerk

The September 10, 2021, record of eComments is attached to this file as "HRA21-300 eComments (09/10/21)"

The September 10, 2021, record of eComments was DISCUSSED WITH NO ACTION TAKEN.

Length of Meeting: 12:31 p.m. to 2:03 p.m.

Adjourned,

**Allyson R. Smith
Committee Coordinator
Legislative Services Division, Office of the County Clerk
Milwaukee County Independent Redistricting Committee**

Next Meeting:

The Milwaukee County Independent Redistricting Committee will hold a Virtual Public Hearing on Wednesday, September 15, 2021, at 7:00 p.m.



Milwaukee County

Meeting Minutes - Final Milwaukee County Independent Redistricting Committee

The Honorable Jean A. DiMotto – Chairperson
The Honorable James A. Gramling, Jr., Vice-Chairperson

The Honorable Charles N. Clevert, Jr.
The Honorable Charles F. Kahn, Jr.
The Honorable Frederick P. Kessler
The Honorable Mary M. Kuhnmuench

Committee Coordinator: Allyson R. Smith
Research and Policy Analyst: Emily Petersen

Friday, September 17, 2021

1:00 PM

County Legislative Information Center (CLIC)

VIRTUAL MEETING

This meeting was live-streamed on the County Legislative Information Center:
<https://milwaukeecounty.legistar.com/Calendar.aspx>

Call To Order

Roll Call at 1:02 p.m.

Present: 4 - Gramling Jr., Clevert Jr., Kessler, and DiMotto

Absent: 2 - Kahn Jr., and Kuhnmuench

Honorable Judges Kahn, Jr., and Kuhnmuench were not present at the time the roll was called, but appeared virtually shortly thereafter.

- 1 [HRA21-369](#) Approval of minutes from the September 15, 2021, Virtual Public Hearing of the Milwaukee County Independent Redistricting Committee.

(ACTION ITEM)

Attachments: [HRA21-369 IRC DRAFT MINUTES \(09/15/21\)](#)
 [HRA21-369 IRC FINAL MINUTES \(09/15/21\)](#)

There were no appearances for Item 1

A motion was made by Honorable Judge Gramling, Jr., and seconded by Honorable Judge Kessler, that the draft minutes from the September 15, 2021, Virtual Public Hearing be APPROVED. The motion PREVAILED by the following vote:

Ayes: 4 - Gramling Jr., Clevert Jr., Kessler and DiMotto

Absent: 1 - Kuhnmuench

Abstentions: 1 - Kahn Jr.

- 2 [HRA21-371](#) Discussion about the municipality redistricting directive given to the Southeastern Wisconsin Regional Planning Commission and how to transmit.

(INFORMATION ONLY)

The following people appeared virtually and spoke regarding this Informational Item.

Steve Taylor

Kevin Muhs, Executive Director, Southeastern Wisconsin Regional Planning Commission

Item 2 was DISCUSSED WITH NO ACTION TAKEN.

- 3 [HRA21-372](#) Discussion of the Southeastern Wisconsin's Regional Planning Commission's proposed timeline, dated August 11, 2021.

(INFORMATION ONLY)

Attachments: [HRA21-372 PROPOSED TIMELINE](#)

There were no appearances for this item.

The Milwaukee County Independent Redistricting Committee determined the next Virtual Public Hearing date to be Thursday, September 23, 2021, at 7:00 p.m.

Item 3 was DISCUSSED WITH NO ACTION TAKEN.

- 4 [HRA21-300](#) eComments submitted to the Milwaukee County Independent Redistricting Committee via the County Legislative Information Center (CLIC).

(INFORMATION ONLY)

*The Office of the County Clerk collects eComments submitted via CLIC, and appends these official public records to HRA File No. 21-300 at the conclusion of each meeting.

APPEARANCE:

Allyson R. Smith, Committee Coordinator, Legislative Services Division, Office of the County Clerk

There were no eComments submitted for the September 17, 2021, meeting.

The September 17, 2021, record of eComments was DISCUSSED WITH NO ACTION TAKEN.

Length of Meeting: 1:02 p.m. to 1:40 p.m.

Adjourned,

**Allyson R. Smith
Committee Coordinator
Legislative Services Division, Office of the County Clerk
Milwaukee County Independent Redistricting Committee**

Next Meeting:

The Milwaukee County Independent Redistricting Committee will hold a Virtual Public Hearing on Thursday, September 23, 2021, at 7:00 p.m.