

House Committee on Legislative Rules & Reapportionment Subcommittee on
Reapportionment March 21, 1991 - Page

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation
marks

report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

HOUSE COMMITTEE ON LEGISLATIVE RULES AND REAPPORTIONMENT

SUBCOMMITTEE ON REAPPORTIONMENT

March 21, 1991 Room 350 8:00 a.m. Tapes 17 - 18

MEMBERS PRESENT: Rep. Greg Walden, Chair Rep. Peter Courtney,
Vice-Chair Rep. Ray Baum Rep. Bill Markham Rep. Tom Mason Rep. Randy
Miller

VISITING MEMBER: Rep. Ron Cease

EXCUSED MEMBER: Rep. Margaret Carter

STAFF PRESENT: Adrienne Sexton, Committee Administrator Carol
Wilder, Committee Assistant

MEASURES CONSIDERED: HB 2001 - PH/PWS

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statements made during this session. Only text enclosed in quotation
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proceedings, please refer to the tapes.

TAPE 17, SIDE A

006 CHAIR WALDEN: Calls the meeting to order at 8:12 a.m. (Start of
meeting was delayed due to technical problems with recorder.)

HB 2001 - PUBLIC HEARING

015 REP. GREG WALDEN, HOUSE DISTRICT 56: Submits Proposed Congressional
Redistricting Plan, entitled Walden 6.

- Designed to meet criteria which must be considered by the Oregon Legislative Assembly in development of redistricting plans. As nearly as practicable with specific concern for the voting strength of Oregon's significant minority communities, this plan is contiguous, is of equal population, uses existing geographic or political boundaries, does not divide communities of common interest, and is connected by transportation links.

- In red is existing congressional districts.

- Describes each district and why it is drawn the way it is.

- The Coastal and North Willamette Valley District in gray. Includes counties of Clatsop, Tillamook, Polk, Lincoln, Marion, Yamhill, and portions of Benton and Clackamas Counties. Has 568,466 people. Off deviation by 2 people - zero percent deviation. Primarily agriculture, timber and coastal district. Salem is largest city with 107,000 people. Timber areas on the west coast of the Cascades and coast range.

Has Oregon State University and the ports of Astoria and Newport. As you recall from public hearing in Lincoln City and from testimony received elsewhere by the subcommittee, there was a couple of concerns expressed: (1) the concept of keeping OSU in a district separate from Portland State University and the University of Oregon (this plan accommodates that concern); (2) providing for two members representing the coast of Oregon (this plan accommodates that concern by having the representative for this district having both the Port of Astoria and the Port of Newport); (3) not to divide Lincoln County, which has occurred in some legislative districts (we have maintained the county boundary at the Lane-Lincoln line).

The only county boundaries that are violated in this district are Benton County, which follows the Alsea Road over to Newport, including the community of Alsea in the 5th District. In order to accommodate the population shift, Benton County has to be divided if you put Oregon State and Corvallis into the 5th District. In Clackamas County the boundaries are violated because we tried to follow the Metropolitan Service District boundary.

- The Metropolitan Suburban District in yellow. Includes the counties of Washington, Columbia, and portions of Clackamas and Multnomah Counties. Population is 568,467. Is three people off at zero percent deviation. Major industries include electronics, light manufacturing, food processing, lumber, and retail distribution. Sixty-two miles of the Columbia River shoreline includes the Port of St. Helens and the Trojan Nuclear Plant at Rainier. The largest cities are Beaverton with 53,310, Hillsboro at 37,000, Lake Oswego at 30,576. We've included all of Washington County to prevent breaking that boundary, all of Columbia County to remain contiguous within that area, and the Metropolitan Service boundary for the most part.

We also heard testimony here and in other places where we've held hearings requesting that Multnomah County be represented by two members of Congress. This plan

accommodates that by following from Burnside up Highway 30 and the Willamette River into Columbia County. That provides adequate representation for our port areas by having a congressperson representing the Port of St. Helens and the downriver portion of the state as well as having a very distinct and continuing interest in the Port of Portland activities and Portland itself. We do not break the

Multnomah County line; we fix what we felt was an error in 1981's plan and we hold that line on the southern boundary of Multnomah County, using Burnside to go across into Washington County.

- Urban Portland-Multnomah County District is in yellow and includes most of Multnomah County. Population is 568,464, zero percent deviation. The urban Portland area includes commercial, financial, transportation, manufacturing areas of the state. The Port of Portland operates major seagoing and airport facilities there. The largest city is Portland with a population of 437,319. Portland State University and Reed College are located there, among other institutions. District includes downtown Portland core area west of the Willamette River. We are responding to the concern of having two representatives in Congress representing Multnomah County and we follow this boundary which is followed in most of the plans on the west side. We maintain communities of interest, especially minority populations.

- Eastern and Southern Oregon District is in pink. Counties include all of Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Union, Wallowa, Jefferson, Wheeler, Grant, Baker, Deschutes, Crook, Klamath, Lake, Harney, Malheur, Jackson, and a portion of Josephine County. The population for this district is 568,464, with no deviation. All of eastern Oregon east of the crest of the Cascade Mountains is preserved, from the Columbia River south to Crater Lake, all of Jackson and most of Josephine Counties in southern Oregon. This region is primarily agriculture and wood products, with emphasis on fruit, wheat, and livestock production and food processing. It includes the cities of Medford, with a population of 46,951, Bend with 20,469, Pendleton 15,126, Klamath Falls 17,737, and Grants Pass at 17,488. It includes the Port of Cascade Locks and Hood River, The Dalles, Umatilla, Arlington, all the way up the Columbia River.

- Southern Willamette Valley and Coast District is in green. Curry, Coos, Douglas, Lane, Linn, and portions of Benton and Josephine Counties are contained in this district. Population is 568,460, 4 people under what is required to be absolute with zero percent deviation. The timber areas along the west slope of the Cascade and along the southern Oregon coast are united in this district where timber and agriculture are the central interests. There is metallurgy and light manufacturing in the southern Willamette Valley. The largest city is Eugene with a population of 112,669 and is the location of the University of Oregon. The cities of Albany at 29,462 and Roseburg at 17,032 are also in this district. The Ports of Coos Bay and North Bend, Reedsport and Gold Beach are located in this district.

- We have responded to the concerns of having separate members of congress representing the three major universities in the state, to make sure that we had adequate representation for the ports and economic communities along the coast and up and down the rivers, and we followed geographic boundaries to the best of our ability. We violate four county lines. Under the 1981 current boundaries, there are seven counties that are crossed. Within those four that we crossed, two of them are mandated--Multnomah County (there's more population within this county than can fit legally within a congressional district, plus it's been requested by many people who testified before this committee), and Clackamas County because of population. We tried to follow the Metropolitan Service District line which is obviously a community of interest. It's been voted on statewide to establish that three-county area as a community of interest within the metropolitan service district. It also is the focus for projected population growth on into

the future, but we've tried to accommodate that in this plan. The other county that is broken is Benton County with Corvallis going north. The final one is Josephine County and I don't know of a plan where you would incorporate the second district and can't have full counties. This is broken along the Merlin-Galice Road. All of Grants Pass is in Josephine County.

- One of the most critical portions of redistricting after you followed geographic boundaries, have been contiguous, and responded to other concerns, and that relates to minority populations. We have tried to concentrate significant minority strength in our plan by uniting ethnic communities. 82% of African-American population lives within this area of Multnomah County. It is a significant minority community. We went into depth to find exactly where this population is and we have followed that and made sure that it was included in a congressional district as has been requested by numerous witnesses.

75% of all minorities in Washington County reside within this area outlined in red.

64.15% of minorities in Clackamas County are in this red area. This minority community should not be broken apart; instead this should be combined which is another important reason why we joined Clackamas and Washington Counties in this northern area rather than running some sort of effort down from Multnomah County because we felt it was very important not to split apart this minority population that is very distinct.

Of all minorities in Marion County 84% live in the red areas of Salem and Woodburn outlined on this map. 64% of the Hispanics in Yamhill County live in the red area. 81% of all the Hispanics in Marion County live in the red area. 90.3% of all minorities in Benton County reside in Corvallis. We have maintained a strong voice for minorities in Multnomah, Washington, and Clackamas Counties, and have tried to accommodate the minority population that's concentrated in the heart of the gray district by not splitting these boundaries in some way that would divide that specific community.

245 - 2nd Congressional District maintains the Hood River, Clackamas and other county lines.

- This is one of the main innovations that we are proposing with this plan and one that I don't think has been proposed in this state before. Our state legislative districts are coterminous with our Senate districts. That means that two House districts have to be within the boundaries of the Senate district. We're proposing this because we have zero percent deviation population in each of these five areas that the congressional lines become coterminous with the legislative lines. By that I mean the legislative districts would not cross out of a congressional district. What that does for us is build on a very popular concept that was initiated in the past few years, the thought of regional strategies. In effect, you end up with regional strategies from a political standpoint if you follow coterminous lines in these various congressional districts. What you end up with is a perfect set of House and Senate districts within these boundaries. There would be 12 House members and 6 Senators within each of these, if that can be accommodated. Then you have one member of Congress who would, in a sense, be here at the top and you would have 6 Senators and 12 House members, a very bottom-up structure and a very unifying structure that would take into account zero deviation and special communities of

interest where everybody could work together and build together. It would give strong minority concentration within these districts and strength from the bottom up, from the grassroots up.

292 REP. MASON: Coterminous implies that the northwest Portland legislative district, because it's only at about 33,000, would have to go into Washington County.

295 REP. WALDEN: We have not sat down and drawn legislative district lines. Our charge was to draw the congressional boundaries. Obviously, if that's the population that's within this area west of Highway 30 and down into the Burnside area there would be some lines that would cross.

300 REP. MASON: You've got 12.33 representative districts in Multnomah County which means that the northwest district is about 6.7 so it would have to go out into Washington County to round out the district. The northwest Portland area would not make a whole district.

307 REP. WALDEN: We anticipate that there would be some restructuring of legislative districts that naturally will occur anyway because of the enormous population growth in this region. There's plans for changes in this area.

310 REP. MASON: If the Legislature fails to draw legislative lines, it goes to the Secretary of State. The final fail safe date on the Secretary of State is when? The fail safe process on congressional is a three-judge panel of Federal District Court. How do you propose to coordinate that in the sense that if this does not occur in this body, then two completely unrelated bodies will be making decisions about the two sets of boundaries?

325 REP. WALDEN: It would be my hope that we could achieve this in this body. That's been our goal all along. I felt that this was a good starting point to make that discussion happen. The concept is worthy of debate and discussion. It will mean some changes, but this is a time when change is going to occur anyway. There is no law linking the coterminous argument from the congressional to the state. We understand that, but I think it has served us well in the state legislative process to have one Senator that two of us in the House work with. I think it's a good concept that Oregon has had on the books since the 50's. I would like to see us take a look at that kind of coterminous discussion as a goal for this operation because if you have zero deviation population in each of these districts, it could be achieved.

328 REP. MASON: I commend you on zero deviation. You've obviously put a lot of work into it. What would your desire be sometime next October, would you desire the Secretary wait for the federal court to decide the congressional boundaries or would you ask that the federal court wait for the Secretary of State to decide the legislative boundaries?

347 REP. WALDEN: I'm not going to presume failure on our part at this point in the process by hypothetically looking forward to what may or not occur. I would like to see us in discussion with this committee and the Senate trying to adopt this as a goal so we could achieve coterminous lines. In terms of benefitting the people of Oregon it's clear that you would have a stronger regional voice at the state and federal level, and that's something that we've heard over and over again in testimony--we need a strong voice to take care of our economic and minority concerns within these various areas. This plan recognizes, I think, virtually all of those concerns to the best we can do with census

blocks.

365 REP. MASON: The original agreement was that the House was going to do Congressional and the Senate was going to do the legislative. Have you at all coordinated with the Senate with the coterminous concept?

370 REP. WALDEN: Some of the Senate who have inquired are aware of what we are proposing. I don't know whether they are accepting of that or not. That will have to be seen if this plan emerges from this committee.

374 REP. MASON: Is the Senate Chair aware of the coterminous concept?

375 REP. WALDEN: I don't know that he is.

376 REP. MASON: The change in the districts seems to occur almost totally in the metropolitan area, as I read the map. Would you call it a major change in the metropolitan area?

382 REP. WALDEN: I guess the change that's represented here is reflective of the population change which has occurred in this area in the state. We have statistics here that indicate the most changed counties, for example Washington County's population changed 26.7%. Yamhill County, 18.5%. So it ends up like the third most rapidly growing county. Clackamas County is fifth at 15.3%. Deschutes and Jefferson have changed. These are the areas where the population growth has occurred and therefore the areas where we have to make change in our boundaries.

395 VICE CHAIR COURTNEY: Did you say there are 12 Representative districts in the pink area?

400 REP. WALDEN: Each congressional district on average should hold 12 House members and 6 Senators if you divide the population equally. By having zero deviation you're able to do that. In effect you could have, if you ignore local concerns that may drive the deviation.

405 VICE CHAIR COURTNEY: So you've got 12 in there right now?

407 REP. WALDEN: I believe so. We would have to overlay the districts.

409 VICE CHAIR COURTNEY: There's little or no change in terms of the State Representative District boundaries right now?

412 REP. WALDEN: We have not drawn the legislative district boundaries. I anticipate that there will be a rather dramatic change because we all know that for example District 60 needs to pick up 7,000 people. But within this district the growth that has occurred has been in this central Oregon area. That's why all that was necessary to achieve zero deviation was simply to close in Jackson County, pick up just a little bit of population change in Josephine County, then you maintain a complete congressional district.

415 VICE CHAIR COURTNEY: So your position on this is to the extent that you need to make up population among the 12 chosen ones, you're going to make a run on Bend?

418 REP. WALDEN: I think you'll find in this process that wherever the population growth has occurred and population loss has occurred,

movement will occur. The movement will occur from loss to gain.

422 VICE CHAIR COURTNEY: I'm starting to talk about State Representative Districts versus Congressional. I'm a little nervous about combining them in the sense that the focus becomes considerably different. I have not actually thought about it, Rep. Walden, but we are now going to neatly fit in the State Senate and State Representative Districts in the Congressional District boundaries because I think that adds another dimension. Who's the servant and who's the master? Maybe that's an interesting way to look at it but you and I have discussed that there are some major down numbers for four of you out there and we worked hard to try to deal with that. I was just wondering what that's going to do with those particular districts. That's not part of our task now.

437 REP. WALDEN: It's a reasonable point. I think the point is the population within this boundary now to accommodate these 12 House seats because we have created five congressional districts dividing the population in fifths; therefore, that can be divided into the 60 House districts and the 30 Senate districts and you can come out equal. When you get to the legislative level there is room within the standard set up by the courts for a little greater deviation to recognize the importance of communities of interest. That's not to say we receive zero deviation on our legislative districts.

450 VICE CHAIR COURTNEY: Using existing geographic political boundaries you're interpreting political boundaries in part to mean existing State Rep or State Senate Districts or you will consider political boundaries in terms of how you're doing this?

TAPE 18, SIDE A

005 REP. WALDEN: Not necessarily.

007 VICE CHAIR COURTNEY: So there may or may not be a political boundary for purposes of drawing congressional districts.

010 REP. WALDEN: I would want to refer that to a lawyer who could tell us what that means. My understanding is political boundaries could be legislative districts, but my hunch is the more important lines are county lines and perhaps regional lines and then legislative lines. But I will not begin to attest if there is that hierarchy. My hunch is that county lines have a privilege over lines that change every ten years.

015 REP. MILLER: It seems to me our mission is to devise boundaries that make sense to the people that are represented rather than those who currently represent the people. So if we need to shift legislative district boundaries in an effort to better represent the people I think that's entirely appropriate. I appreciate that you're trying to consider some of those that are currently in service but I think that misses the mark.

022 VICE CHAIR COURTNEY: That's not what I'm trying to do. I'm trying to insure that the focus is the focus and I have not thought about trying to help State Rep or State Senate incumbents by designing congressional districts in a certain way. To me, it's mixing avocados and bananas. I had thought we would look at the congressional districts by themselves and look at us by ourselves and in no way am I trying to say that. In fact, I'm saying something totally contrary. I think when you're trying to focus on State Rep and State Senate districts and then

you mix in the congressional question or vice versa, you have troubles because of the point Rep. Mason has made. Assuming we're not going to get the job done and we're going to send the people's lives to the Secretary of State's office and the three chosen judges, I think that in itself indicates there's a difference of how these things are finally settled. I don't know whether I'm comfortable with it or not. I hadn't thought of it before. It has nothing to do with incumbents or Democrats or Republicans. I was just trying to be sensitive to eastern Oregon and the people out there be represented properly because I'm concerned about the other Oregon that we forget about in this building.

055 REP. WALDEN: Actually if there is an area that is coterminous for the most part today, it is this district (District 2). It's pretty close to coterminous except for perhaps right there on today's legislative district lines because it follows the Cascades all the way down now. None of our House seats cross over the Cascades now. So this one probably is the best example of coterminous as it exists today. There will have to be changes within this district as there would be in other areas to accommodate population shifts. I think it's time we took a look at another step up for unity and for regional development and a regional voice. We're a small state among the states and we need to do all we can to bring together regional representation for one strong voice. We've heard that in the testimony we've received before this committee about how important it is to have a member who can speak for a specific type of area and we've tried to combine that thought process and that request of the public into this plan. It will mean some changes in legislative districts but they're going to occur anyway. What I'm suggesting is that as that change occurs, now is the opportunity to try to the best of our ability to follow the congressional boundaries so we have a unified voice.

070 REP. MASON: Since part of your plan is premised upon the 1981 reapportionment somehow being not acceptable, would you enter into the record why and how, in specific factual descriptions, that plan was inadequate?

082 REP. WALDEN: I would tell you again, referring to the breakup of the minority population down here in northern Clackamas and southern Washington County, Lake Oswego now has two or three members representing it, and that city is divided horribly. Another area I'm not comfortable with in terms of the way the boundary was drawn, and some of you who were around here then perhaps could explain this particular finger that comes down here, why was that done to accommodate perhaps a couple of members who represented different areas there. This portion was unnecessary in splitting this county and thereby splitting today certainly a very important minority population that exists in that area.

That was one of our concerns I mentioned when I was pressed on why we didn't have a plan last week. I said we were very concerned about the minority population and that we were looking very carefully to find exactly where the minority population was so when this plan, whether it's your plan, my plan, the committee's plan, or the Senate's plan, is tested in the court, which undoubtedly it will be regardless of our good faith effort, that we have not overlooked some of these concerns in our haste to bring forth a plan. Getting back to your question of 1981, in looking at it I felt for several years that the division which occurred here and the finger that went down here perhaps could have been more skillfully and artfully drawn.

112 REP. MASON: I don't think the Linn County finger's in question because both plans proposed to eliminate that. You just stated that the

inclusion of Oswego in the Third Congressional District in the 1981 plan broke up a minority population.

118 REP. WALDEN: That portion of Clackamas County.

119 REP. MASON: Which was Oswego, I believe.

120 REP. WALDEN: There was more, I believe it goes actually further than that. Part of my specific concern on Lake Oswego was not that it was necessarily pulled into here, although I disagree with that, but that the community was broken in at least two parts if not three. That could have been avoided is my point but was never tested in a court of law.

127 REP. MASON: Do you have any specifics as to the 1981 plan vis-a-vis Oswego breaking up some minorities?

130 REP. WALDEN: Not without going back and getting access to those data that some of you had access to at that time. Perhaps it didn't. I still think it amounted to a kind of gerrymandering that wasn't necessary, but two people are going to argue about whether it was necessary or not. Today there is a break of the minority population if you go down through that area when it's not necessary.

142 REP. MASON: Other than your subjective reservation about the inclusion of Oswego in the Third Congressional District, do you have any specific factual assertions to enter into the record here today?

145 REP. WALDEN: I'm not here to debate the 1981 Plan per se. What I'm saying to you is I do not feel as a citizen and member of this body that this was necessary and it does cause some breakup and confusion among the voters, something we should try to avoid. I have concern that this little jet down here maybe wasn't exactly done for census reasons. There were probably other ways that this could have been handled. I'm here more to debate the 1991 proposed plan than the 1981. What I'm saying to you is, and this is an area where you and I apparently are going to disagree, is that this is not necessary to split this area. In the 1991 plan, I can give you very factual documentation that you are splitting Hispanic minority population.

160 REP. CEASE: It seems to me whether you draw the line this way or whether you draw the line the way we considered on Tuesday that you divide that minority population. You either have it together in the plan you have there and the rest of it in the gray district or the other way. Either way you're going to divide it. You make a great deal of the southern boundary of the Metropolitan Service District. Why is that an issue when you don't make anything of that issue on the western side of the boundary that goes into Washington County?

172 REP. WALDEN: Because what we are doing here is holding a whole county full. We're not breaking a county. Therefore, when you break a county, I thought it was important to have a boundary or near proximity to a boundary that maintained a community of interest. The Metropolitan Service District boundary which we have tried to follow as close as we can, and we don't quite achieve that everywhere, made a reasonable line to define a community of interest. It's been voted on several times, both statewide and locally, so that's why. This is the most rapidly growing county. We felt if growth were going to occur in the future it will grow out this way. This whole county should be in this district.

There's a lot of commonality along through here. If we had to split a county, this one was probably the best one to split following the MSD boundary. In terms of pulling down here to pick up this population I think it's important to understand that 82% of the African-American population is here, not Hispanic. This is the whole minority community which is heavily comprised of Asian and Hispanic which naturally links here.

193 REP. CEASE: If you will recall the testimony on Tuesday, part of that testimony was an indication that Washington County's great affinity was as you move west, that is as a passageway to the coast, this connection between Clackamas and Washington, even though the urban parts are part of the Metropolitan Service District, you are there because it's urban and really because of no other reason. In making the case for the connection between Washington and Clackamas Counties, the community of interest is stronger than Washington County may be as you go west. That's an interesting case; I'm not sure you've demonstrated it.

205 REP. WALDEN: This is clearly a more urban area. There's a lot of commonality and commuting that occurs from Columbia County into here. It's port-related and river-related and concentrating minority population. Here you've got to go over the coast range and a different economy.

212 REP. CEASE: That's true, but if you look at the transportation artery, where they go is here, here, and here. And as this moves down this way, then this moves this way. The testimony would indicate that that's where it is.

215 REP. WALDEN: Doesn't I-205 connect in through here?

216 REP. CEASE: I guess it does.

217 REP. WALDEN: I commute it when I come from Hood River, coming down and catching it at I-84, and come around I-5. Just as 217 connects to the west, I-205 connects to the east, forming a crescent.

220 REP. CEASE: It's essentially a bypass. But you've got an argument. I think the other argument is stronger if you look at what traditionally has happened, but that will be a good part of the debate when it comes to that.

223 REP. WALDEN: I would suggest we're going to have some wonderful debate on this issue.

224 REP. MILLER: We had a lot of discussion with respect to 1981. I'm sure there were reasons given for the creativity of 1981. I think we can all have recollections perhaps why certain lines were drawn. Let's be candid about that. What we need to do is not necessarily wed ourselves to what probably a lot of folks would consider mistakes of the past. We need to focus on what makes sense in 1991. I think this is entirely a defensible plan. The zero deviation is an incredible accomplishment. I think this deserves a lot of support. I don't think we need to focus on 1981; our mission is to do it right in 1991.

245 VICE CHAIR COURTNEY: The 1981 plan was decided by whom?

247 REP. WALDEN: I was not part of the Assembly at that time.

247 REP. MASON: The 1981 plan was a minority report of the State and Federal Affairs Committee which at that time handled all of the election and reapportionment matters. It was a minority report over my signature so I think I can speak for the record.

253 REP. WALDEN: Could you explain what this was all about?

255 VICE CHAIR COURTNEY: The congressional lines were drawn by the Legislature last session?

257 REP. MASON: That's correct.

258 VICE CHAIR COURTNEY: Was it contested to the courts?

259 REP. MASON: No.

260 VICE CHAIR COURTNEY: The thing that I am a little confused by as you go up to your gray, of all the districts you've drawn with the exception of the pink I look at Clatsop and Tillamook which are to heck and gone to Clackamas and Marion and I wonder in terms of communities of common interest how that design in terms of gray is better serving the public, which in some way is not being served now. You're saying the public's interests are not being served now by the current districts.

277 REP. WALDEN: Certainly, because you can't wear the same suit at age 30 that you wore at age 8. You have to change clothes. That's what we're saying is that there is a difference here in that the basic population area in Douglas County occurs here, Lane County occurs here, Linn and Benton Counties occur here, Marion County occurs here, Washington County occurs here, Clackamas County occurs here. So when you draw across this way, you keep that in mind. In these counties, the population is here. What our concept is that these three counties should be kept together so you have a lot in common interests in terms of economy. More in interest in terms of agriculture, timber, and economic than perhaps downtown Portland, Beaverton, Hillsboro, or Oregon City. However, keep in mind a lot of this is rural, timber, and agrarian. So what we've done is to try to take this into account, recognizing we can't draw a perfect district for everyone because we've got to take into account the deviation in population. That necessitates making some of these shifts. This is a river county, in a sense, with the Port of St. Helens. It has a lot of interest with what happens down here. This area has a lot in common in terms of coastal type issues. We wanted to pull that together plus pull in the timber and agriculture that runs throughout this area.

302 REP. CEASE: It's fascinating to watch this dance around the Maypole, but I wouldn't make too much about the zero deviation. When you get through, if you get close to zero deviation, of course, that's desirable and required. But if you take the map and cut it in the number of ways you want to, you can come up with zero deviation. It's in terms of what you generally have in terms of the whole proposal. Frankly, regarding the comment about being candid about 1980, I would hope you would also be candid about these proposals as well as 1980. If 1980 was politics, then 1990 is politics too, so let's put that on the record.

310 REP. WALDEN: Please don't question my motives for developing this plan.

312 REP. CEASE: I'm not questioning anybody's motives. I just want to

be candid on everything.

315 REP. WALDEN: I'm being very candid that there are communities of interest. Let me suggest this to you, that no member of Congress has reviewed this plan or endorsed or objected to it. They saw one that somebody else sketched that wasn't out of my office that they objected to, which isn't this plan. My point is I feel very strongly about the public policy that has gone into this plan. We can argue politics until we are blue in the face, but I think a strong case can be made for the work that we did to identify and incorporate the minority population, the regional sorts of interests that occur here. We can't help the fact that Washington County was a booming county in population and grew by a considerable amount. As to deviation, in *Kartcher v. Daggett* a state developed a plan that was about 1% off deviation and approved that plan.

It was taken into court against a plan that held for a lower deviation and the court rejected the 1% deviation plan in favor of the lower deviation. We've talked about that in our rules in this committee and elsewhere that deviation is a very critical and integral part of what we do if we are going to be successful in that. I understand what you're saying. We could all just draw phantom lines and come to zero, but we drew the lines taking into account the best we could communities of interest, recognizing from the public testimony these various issues that have been brought to us.

340 REP. BAUM: It would be nice for the record's sake to name the counties as you point to them.

342 REP. WALDEN: I did. There are handouts showing that.

343 REP. BAUM: Being more of an attorney than a representative, I just want to make sure that whoever reviews this isn't going to have us illustrate to them what we're talking about.

350 REP. MARKHAM: I think the whole idea here on coterminous, if it's good enough for the state legislative Senate and House districts, it certainly holds good for the public as far as congressional districts. We're doing it for the benefit of the public, not we individual legislators. I've got the most convoluted uncoterminous district of the whole bunch when you look at it. It's between DeFazio, Smith, Markham and the legislators down here and Kitzhaber. For the last ten years, every election cycle I am asked to every public meeting. Why is it so screwed up when they're not the same lines and I have to spend five minutes unwinding that at every public meeting before elections. The public is what we're supposed to be doing this for, not you and I. I think a lot of people have forgotten that.

382 REP. MASON: Rep. Walden, we want to acknowledge that of the five sitting congressmen, the one who is least disturbed with your plan is the one Republican congressman.

385 REP. WALDEN: I would disagree. I don't believe the 3rd District congressperson is disrupted in Multnomah County. The boundary is precisely the same or pretty close. The 2nd District is not disrupted. I don't believe the 4th District is that much changed over what it is here.

392 REP. MASON: However, the major changes are changes in the districts of two sitting Democratic congressmen, are they not?

392 REP. WALDEN: They are, but that's also where the major population

growth changes occurred. Frankly, if you want to make that argument, if you want to get on a partisan argument, a Democrat now represents an area where a Democrat now represents. We've only shifted area from Democrat to Democrat, haven't we? That's the point, we didn't.

400 REP. MASON: In the writing of your plan, you did not have input from federal legislative authorities as to what communities of interest they wanted to represent or do represent.

406 REP. WALDEN: Let me tell you about that process. Yes, we did have input from one person. All of the members of Congress were asked in writing from this committee to participate in this process, to attend our public meetings. Most of them have sent representatives who have been silent on the public record. Only one member participated publicly and that was Congressman Bob Smith who sent a letter to this committee which is part of our public record, suggesting that we close in this area (Josephine and Jackson Counties). It made sense on your plan and ours to do that but we didn't go as far as sealing off this county because then we would have been off deviation. The other four members of Congress have not contacted this member, nor this committee officially. My understanding is the only one that they've worked with is with you or perhaps other members of your party in development of your plan. Your own testimony indicated that they had all agreed that was a good plan. That's fine if that's the procedure that they want to follow. We did not feel that it was important to get a commitment of some sort from the incumbent members of Congress before we launched forth with a plan that we thought dealt with these other issues first. They are more than welcome and we'll have public hearings on these plans again probably Tuesday and again on Thursday of next week to come comment. But we have solicited on several occasions on the record and elsewhere their public participation in this process. To my knowledge, and the committee administrator can clarify this if I've missed something, only two members have responded. Congressman DeFazio did send a letter criticizing this committee for not holding an additional field hearing in Eugene.

435 REP. MASON: I want to compliment Chairman Walden on basically a very good plan. Let me close by saying that I think there are things between the plans that perhaps we can resolve relatively quickly. Even though I might make an executive decision here on behalf of some interested parties, I think that your southern zero deviation part is probably a correct decision. I think that we can resolve that. Now exactly where the lines are going to be. In that intersection between what is now the second and the fourth, that's where the problem was in the prior count. When we get down to detail, we will probably resolve that to zero deviation ourselves. The other thing I think we need to resolve is perhaps between the parties here we can resolve that thing in the south and I think we can reach zero percent which if we resolve on the original Mason Plan so it reads zero percent. Where are we going to go on the number of voters? I'm impressed when you say we are four voters off and we can do that too but are we going to slice it that thin, down to number of bodies? Zero percent, I think, we can agree on for both plans but do we need to engage in looking for the phantom census tracts?

TAPE 17, SIDE B

060 REP. WALDEN: I think it's important and incumbent upon us, if we are to do our job right, to get as close as we can while still recognizing various boundaries, communities of interest. I feel we were

able to do that with this plan. I appreciate your comments and the debate that we've had today. It is helpful to poke at this so that we know if we've done the job or not because this is as with any legislation an amendment, in a sense, to HB 200 1, just as your plan is an amendment. We know from our other committee process, amendments sometimes need to be tweaked as well. That's why I'm interested in doing public testimony on Tuesday on this committee where both plans are up and any others that may be offered. My counsel would be to try to get as close to that zero deviation as possible.

083 VICE CHAIR COURTNEY: Both presentations were made with the courts in mind. I served on the House Judiciary three sessions and I never played to the courts the way we are in this committee. I think there are major differences between the two plans. Why don't we just agree to disagree? We'll make a record. I don't think there's any room to negotiate here. Shall we just agree that we're going to give it to the federal courts, since we're playing so much to them? We'll have a public hearing and just agree that we're going to basically send it over to the federal courts and just leave it at that.

095 REP. WALDEN: I would not be supportive of that. I think that would abrogate our responsibility to do the best we can to go through this process. You asked my opinion. That goes away from what we're doing. My point is, in almost every case these plans get tested in the courts unlike most bills that we pass. Very few of them get challenged in the courts. There are lots of interested parties out there who are apt to challenge it. My goal throughout this whole process was to make sure that all of the members understood what sort of requirements we are under by federal law and by court case and everything else as we went about our rather tedious work of drawing up a plan. That's why maybe I put too much emphasis on the record, but Rep. Mason appreciates the same point of making sure what we say and do conforms with the laws we're supposed to operate under.

110 VICE CHAIR COURTNEY: I understand that, but very few members of this committee or members of the audience are trained in law or are judges or lawyers. I think we're overbearingly allowing ourselves to be dominated by the federal court, and I think that in terms of some of these discussions if you really want us to get together so that we can reach a compromise which is part of what we're all about, the legislative process, somewhere along the line I think that atmosphere has to take over. If it's not, I think we should agree to disagree, put together as complete a record as possible for the federal courts, get the briefs ready and just send it over to federal court and just be done with it. That's where I am right now and I was just trying to get some direction from you, Mr. Chairman, as to whether you felt that even though we had differences in the two plans, that we should try to work them out and see if we can't get to some middle ground.

120 REP. WALDEN: Let me make two points. First of all, I would disagree that we don't have anybody trained in the law here. My second point would be that on virtually any committee that I have sat there is always in the back of your mind, does this violate the Constitution? I'm sure on Judiciary there are probably discussions about whether this is constitutional or not. I don't see this action any different from those and perhaps the chair of the Judiciary Committee can speak to that. Is that not the case that on the laws you are working on, whether or not they're constitutional?

135 REP. MILLER: I would say 100% of the time we are.

137 REP. WALDEN: So shouldn't we also be concerned?

139 REP. MILLER: I think I clearly agree with your direction on this, that we proceed with this. My guess is that there will be some witnesses that want to comment about this plan and they ought to be given the opportunity. I'm not sure this is a closed issue. It would be interesting to see what specific objections to this plan are developed rather than a blanket agree to disagree. Let's try to understand what specifically is your objection with respect to this proposal?

147 VICE CHAIR COURTNEY: I'm encouraged by your willingness to discuss the differences and try to seek a settlement on this. That's what I wanted to put on the record. Rep. Cease, would you like to put something else on the record?

152 REP. CEASE: Your suggestion that we just let it go to the courts at this point, I presume is referring only to the congressional side not to the state legislative side?

156 VICE CHAIR COURTNEY: That's another whole ball of wax.

158 REP. CEASE: This proposal I think is proposing essentially two new congressional districts. That does raise a very interesting question of the different interpretations or sense about what a community of interest is. Does it really suggest that the concept of community of interest is really that elusive, and what do we really mean by that?

163 VICE CHAIR COURTNEY: I think that's very well said and that's what I tried to ask about in terms of the gray area versus the area before that.

170 CHAIR WALDEN: Asks for public testimony either now or at the next public hearing on Tuesday next week.

Adjourns the meeting at 9:20 a.m.

Submitted by: Reviewed by:

Carol Wilder Adrienne Sexton Assistant Administrator

EXHIBIT LOG: A - Walden Congressional Redistricting Plan - Rep.
Greg Walden - 3 pages.