

1. 11-21-2022 TDAC Public Notice

Documents:

[11-21-22 DIST ADVISORY COMM.PDF](#)

2. 11-21-2022 TDAC Agenda

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[11-21-22 TDAC.PDF](#)

3. Meeting Minutes

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[TDAC 11.21.2022 KL PDF TRANSCRIPT.PDF](#)



## **PUBLIC NOTICE**

**PLEASE TAKE NOTICE THAT THE  
TEMPORARY DISTRICTING ADVISORY COMMISSION**

**FOR THE**

**THE NASSAU COUNTY LEGISLATURE**

**WILL HOLD A VOTE ON THE SUBMITTED MAPS  
PUBLIC IS WELCOME TO ATTEND  
NO PUBLIC COMMENT  
ON**

**MONDAY, NOVEMBER 21, 2022**

**6:00 PM UNTIL 8:00PM  
IN**

**THE PETER J. SCHMITT MEMORIAL LEGISLATIVE CHAMBER  
THEODORE ROOSEVELT EXECUTIVE AND LEGISLATIVE BUILDING  
1550 FRANKLIN AVENUE  
MINEOLA, NEW YORK 11501**

**PLEASE CHECK WEBSITE AT LEAST 24 HOURS BEFORE MEETING FOR  
ANY CHANGES, POSTPONEMENTS OR CANCELLATIONS FOR  
UPCOMING MEETINGS. IF A MEETING IS CANCELLED OR POSTPONED A  
NEW PUBLIC NOTICE WILL BE POSTED**

**FRANCIS X. MORONEY  
CHAIRPERSON**

**DATED: November 14, 2022  
Mineola, NY**

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**Majority Appointees**

Peter Bee  
John L. Reinhardt  
Maureen Fitzgerald  
Christopher Devane  
Eric Mallette



**Minority Appointees**

David Mejias  
Jared Kasschau  
Andrena Wyatt  
James Magin, Jr.  
Michael Pernick

**Francis X. Moroney, Chair**  
**Temporary Districting Advisory Commission**

Nassau County Legislature  
1550 Franklin Ave  
Mineola, New York 11501

**Agenda – Monday, November 21, 2022 at 6pm**

1. Open meeting – Pledge to the Flag
2. Statement by Minority Commissioners on its submitted map
3. Statement by Majority Commissioners on its submitted map
4. Vote on the submitted maps
5. Closing remarks by Chairman
6. Other Business

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NASSAU COUNTY  
TEMPORARY DISTRICTING  
ADVISORY COMMISSION

\*\*\*\*\*

MEETING XI

\*\*\*\*\*

FRANCIS X. MORONEY

CHAIR

\*\*\*\*\*

Held at  
Nassau County Legislature  
1550 Franklin Avenue  
Mineola, New York

\*\*\*\*\*

Monday, November 21, 2022

6:05 p.m.

TAKEN BY: KAREN LORENZO, OFFICIAL COURT REPORTER

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A P P E A R A N C E S :

COMMISSIONERS :

FRANCIS X. MORONEY, CHAIRMAN

PETER BEE

JOHN J. REINHARDT

MAUREEN FITZGERALD

CHRISTOPHER DEVANE

ERIC MALLETT

\*\*\*

DAVID MEJIAS, VICE CHAIR

JARED KASSCHAU

ANDRENA WYATT (6:13 p.m.)

JAMES MAGIN, JR. (VIA TEAMS)

MICHAEL PERNICK

\*\*\*

EXECUTIVE DIRECTORS :

ELISABETTA COSCHIGNANO

RACHEL WHITMORE

\*\*\*

BOARD ATTORNEYS :

VINCENT MESSINA, ESQ.

PETER CLINES, ESQ.

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A L S O A P P E A R E D :

DAVID SCHAEFER (VIA TEAMS)

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AGENDA

1. Open meeting - Pledge of Allegiance
2. Statement by Minority Commissioners on its submitted map.
3. Statement by Minority Commissioners on its submitted map
4. Vote on submitted maps
5. Closing remarks by Chairman
5. Other Business

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CHAIRMAN MORONEY: Ladies and gentlemen, if you could please rise and join me with the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance is recited.)

CHAIRMAN MORONEY: The chair has no opening statement. I think everybody here has been here before and are tired of listening to me.

With that, if you could call the roll, Mr. Clerk?

CLERK PULITZER: Thank you. Chairman.

Commissioner Peter Bee?

COMMISSIONER BEE: Present.

CLERK PULITZER: Commissioner John J. Reinhardt.

COMMISSIONER REINHARDT: Present.

CLERK PULITZER: Commissioner Maureen Fitzgerald?

COMMISSIONER FITZGERALD: Present.

CLERK PULITZER: Commissioner Christopher Devane?

COMMISSIONER DEVANE: Present.

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CLERK PULITZER: Commissioner Eric Mallette?

COMMISSIONER MALLETTE: Present.

CLERK PULITZER: Commissioner David Mejias?

COMMISSIONER MEJIAS: Here.

CLERK PULITZER: Commissioner Jared Kasschau?

COMMISSIONER KASSCHAU: Here.

CLERK PULITZER: Commissioner Andrena Wyatt?

(Whereupon, no verbal response.)

CLERK PULITZER: Not present.

Commissioner James Magin, Jr.

COMMISSIONER MAGIN: Present (via Teams).

CLERK PULITZER: Commissioner Michael Pernick?

COMMISSIONER PERNICK: Present.

CLERK PULITZER: Chairman Francis Moroney.

CHAIRMAN MORONEY: Present.

CLERK PULITZER: We have a quorum,

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sir.

CHAIRMAN MORONEY: The first item of business is a resolution that the Democratic Commissioners has put forth.

When I got the e-mail today, I said well, we'll deal with this at the very beginning. With that I'll turn the microphone over to Mr. Mejias or his designee.

CLERK PULITZER: Thank you, chairman.

Our resolution in regard to the fact that this will be a final vote regarding the transmission of redistricting recommendations to the County Legislature. During this public meeting, this will be the final opportunity for the public to express views to the commission and the public setting regarding the electoral maps that are proposed by the Democratic and Republican Delegations and that it is important that the Commission maximize the opportunity to receive public input prior to the

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final vote on on these maps, especially since we only had really one meeting where we can have public comment on these particular maps. So the resolution is to allow public comment at this meeting.

CHAIRMAN MORONEY: Do we have a motion?

COMMISSIONER MEJIAS: So moved.

COMMISSIONER KASSCHAU: Second.

CHAIRMAN MORONEY: You want to roll call?

COMMISSIONER BEE: Mr. Chairman, may I just briefly speak to the motion?

I will be voting against the motion. We have had now nine, is it or 10 public hearings? I believe we've received substantial public comment, the result of which is now ultimately going to hopefully be transmitted to the County Legislature when the commissioners unanimously vote to support the Republican proposal. But at this point I think the maps are done and I don't feel that further public comment to this

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Advisory Commission is necessary. There will of course be still public comment opportunities before the Nassau County Legislature.

CHAIRMAN MORONEY: Any other comment?

(Whereupon, no verbal response.)

CHAIRMAN MORONEY: Call the roll.

CLERK PULITZER: Thank you.

Chairman.

Commissioner Peter Bee?

COMMISSIONER BEE: No.

CLERK PULITZER: Commissioner John J. Reinhardt?

COMMISSIONER REINHARDT: No.

CLERK PULITZER: Commissioner Maureen Fitzgerald?

COMMISSIONER FITZGERALD: No.

CLERK PULITZER: Commissioner Christopher Devane?

COMMISSIONER DEVANE: No.

CLERK PULITZER: Commissioner Eric Mallette?

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COMMISSIONER MALLETTE: No.

CLERK PULITZER: Commissioner David  
Mejias?

COMMISSIONER MEJIAS: Yes.

CLERK PULITZER: Commissioner Jared  
Kasschau?

COMMISSIONER KASSCHAU: Yes.

CLERK PULITZER: Commissioner  
Andrena Wyatt?

(Whereupon, no verbal  
response.)

CLERK PULITZER: Commissioner James  
Magin, Jr.?

COMMISSIONER MAGIN: Yes.

CLERK PULITZER: Commissioner  
Michael Pernick?

COMMISSIONER PERNICK: Yes..

CLERK PULITZER: Okay. By a vote,  
there are five no and four yes.

CHAIRMAN MORONEY: The resolution  
fails.

On the item here is a statement by  
the Minority Commissioners on its  
submitted map or how they choose to use

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that time to deal with that.

COMMISSIONER MEJIAS: Yes. We do have some comments. Thank you. Thank you, Chairman.

Today is the culmination of this process and we have repeatedly raised concerns throughout with the manner which the chairman and Republican Delegation conducted this process. The Democratic Delegation has conducted our process with great seriousness from the outset. We have gone to great lengths to ensure that new maps we propose met all Federal, State and Local laws. We have retained nonpartisan experts, both highly credential Phds in their respective fields, to create maps and analyze the current map, the proposed maps by each delegation for compliance with legal prohibition on partisan gerrymandering.

Most concerning the Republican Delegation's refusal to abide by the requirements of the Municipal Home Rule Law and their attempt to distort the law

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to serve partisan purposes. The obvious intent is to perpetuate biases and gerrymandering for political expediency at the expense of the people.

Nassau County has a long history steeped in segregation and racial discrimination. The redistricting process is fundamental. It ensures the public that they all have an equal vote in selecting candidates of their choice. The republican delegation is proposed maps that dilute the minority vote and violate legal duties and responsibilities of this Commission.

This is a very serious process. It determines who will be your representatives in government or the next 10 years. Our map proposes five districts in which voters of color can elect candidates of their choice. This is precedent setting, but it's also very necessary for many reasons.

First, is the historical and moral reason why we should have five such

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districts, but most importantly, is that the law requires us to. Anything less than that, would be illegal and not follow the law. The current map that that's been proposed by the Republican Delegation has extreme racial partisan gerrymandering, does not have any contiguity, the districts are not compact.

We are really treading on very, very shaky ground here. Most certainly, if the legislature adopts anything close to what the Republican Delegation's map is, we will most certainly be inviting litigation -- and just for the record. Commissioner Andrena Wyatt is here as well -- and because of the prevailing party provisions of the law, this is going to cost the County millions and millions of dollars.

So we should get it right and get it right the first time. As we say, measure twice, cut once. And we're going to be measuring a lot in remeasuring and

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remeasuring and ultimately have a judge decide on what the measurements should be and it shouldn't be that way.

So with that I'd like to turn it over to Commissioner Pernick.

COMMISSIONER PERNICK: Thank you, Commissioner Mejias. Just a few brief comments on the Democratic proposal and the contrast between this proposal and Republican proposal.

What both of our proposals are designed to do is to remedy clear flaws in the current map. The current map, exhibits all the hallmarks of an extreme partisan gerrymander. The current map violates Section two of the Voting Rights Act. The current map violates the John R. Lewis Voting Rights Act of New York. The current map is discriminatory against communities of color by packing Black and Latino voters into too few districts and denying Black and Latino voters an opportunity to elect candidates of their choice in five districts. Our map is

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designed to remedy those issues and  
designed to do so in a non-partisan way.

The map proposed by my Republican  
colleagues perpetuates and in some ways  
aggravates those very issues by  
presenting a map that has all the  
hallmarks of a partisan gerrymander, an  
extreme partisan gerrymander. All the  
hallmarks of a racial gerrymander. All  
the hallmarks of racial vote delusion  
that pack and crack communities of color  
across our county.

You know in commentary about this  
process and for folks who observe the  
redistricting processes, you may see a  
map from the Republican side, a map from  
the Democratic side, and think oh well,  
the map from the Republican side. Well,  
that might help in a little bit more. The  
map from the Democratic side might help  
Democrats a little bit more. That's not  
the situation here. The maps that we have  
proposed on our end are non-partisan  
they're not Democratic maps, they're not

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Republican maps. They're non-partisan maps and we know that because we did the analysis, we ran our maps through the same partisan gerrymandering analysis that we used to assess the current map. The same partisan gerrymandering analysis that we used to assess the Republican proposal. And what we found from our expert, Dr. Magleby, is quite clear: That our map does not exhibit any bias in favour of Democrats or Republicans.

I'll quote from his analysis. He says, "the analysis shows that the Democratic proposal is largely consistent with patterns evident in 10,000 and neutral maps of Nassau County's legislative districts". And that makes sense because we tried to do it the right way. We tried to do it without looking at partisan data, without trying to advantage one political party over the other. We did it looking towards racial justice and ensuring communities of color have an equal opportunity to elect

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candidates of their choice.

So on the one hand, what we're presenting and what I believe we'll be moving to have a vote on now, is a fair map that complies with the law, that does not exhibit bias for or against voters of either party. And it couldn't be a clearer contrast with the republican proposal, which we know is an extreme partisan gerrymander, is more extreme than the vast majority of 10,000 simulated maps.

So I do hope that we have persuaded some of my colleagues on the Republican side. I'm not optimistic, but but I do hope that we have persuaded some of my colleagues to support a map that we know complies with the law and that will ensure that communities of color are fairly represented moving forward.

COMMISSIONER MEJIAS: Mr. Kasschau, do you have anything you'd like to say?

COMMISSIONER KASSCHAU: I think Mr.

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Pernick and yourself have covered everything, Dave. Thanks.

COMMISSIONER MEJIAS: Ms. Wyatt?

COMMISSIONER WYATT: I agree with Commissioner Kasschau. I think everything was covered, and I support our position. Thank you.

COMMISSIONER MEJIAS: And we can't hear Commissioner Magin anyway.

CHAIRMAN MORONEY: I think that's a thumbs up.

COMMISSIONER MEJIAS: There's one more thing I do want to say, and that is, you know, in assessing the state of affairs of politics. You can disagree without being disagreeable. You don't have to make it personal.

I was discussing with my Republican colleagues how difficult it is to find candidates to run for office, to get young people involved in politics and have anybody run for any office whatsoever. And the state of affairs in politics today is so divisive and so

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personal, with so much acrimony and animosity that it's very difficult for people to even hear each other. I want to thank my Republican colleagues for at least listening to us and hearing us.

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And while you disagree with us on everything, you were not disagreeable and I think that this Commission was conducted in a manner that I think our kids will be proud of and I think we set an example for other bipartisan committees, organizations, governments to move forward while disagreeing, but doing so in a respectful manner.

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I want to thank my Republican colleagues and Chairman Moroney for making this process go as smoothly as it possibly could given the fact that we do not agree on anything.

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COMMISSIONER BEE: I'd just like to join in those comments.

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You are correct that just before these proceedings began, we had that conversation and both agreed that unless

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that, unless and until we restore some respect for elected officials and learn to disagree with positions rather than people, it's going to be very tough to recruit competent and qualified young people to run for office. And I think, looking back in the main, I think that we have thrown rocks at each other's maps, but we have not been throwing rocks at each other's persons. I respect that that is the way the process ought to run and I appreciate your comments.

COMMISSIONER MEJIAS: Thank you.

CHAIRMAN MORONEY: Yes, we have a couple of things that Mr. Bee is going to speak to at this juncture.

COMMISSIONER BEE: Mr Chairman, I know that the report of Dr. Gimpel captioned Fall 2022 has already been shared with our Democratic colleagues, and I think that a copy of that should be made a part of the record, and I asked that it be done so. Is that agreeable?

COMMISSIONER PERNICK: Will Dr.

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Gimpel be speaking, testifying before the

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Commission? Will we have an opportunity

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to hear from him directly or ask him

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questions, like we've done for all of the

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consultants and experts whom we have

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brought to speak before this Commission?

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COMMISSIONER BEE: No.

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COMMISSIONER PERNICK: Why not?

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COMMISSIONER BEE: A number of

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people have sent in comments in writing

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that have not personally appeared for

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cross-examination. We've retained a

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consultant to review our map. He's

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produced a report for us. We've shared a

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copy of that report with you and we've

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also previously taken the position that

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any document that anyone submits to this

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Commission, that document would be made a

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part of the record. So I'm simply asking

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that we abide by that consensus that we

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have had up to this point in time and

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submit this report into the record.

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COMMISSIONER PERNICK: With respect,

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Commissioner Bee, our consensus and

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operations thus far is that every report submitted by somebody retained by this Commission has been brought before this Commission so that we would have an opportunity to hear from them and ask them questions and understand from the individual what it is they're presenting.

I haven't had a chance to read this. This copy was handed to me about 30 seconds before we began this hearing. I did not know that it was coming. I don't think any of the democratic commissioners knew that this was coming, so we've had literally zero notice as to this document, and I would ask that we have an opportunity to hear from this Dr. Gimpel, just like we've had from every other expert or consultant retained from this Commission who has provided information into the record. This seems like a deviation from that process.

COMMISSIONER BEE: Mr Chairman, I was under the impression this report had been shared earlier in the day.

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COMMISSIONER PERNICK: It had not. I have not seen it until 30 seconds before this began.

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Anything else, Mr. Bee?

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COMMISSIONER BEE: No. I think it might be worth reading. For the benefit of those watching the proceedings, Mr. Chairman. Dr. Gimble did reach the conclusion, which I think is a fairly well reasoned conclusion that, "every redistricting map involves tradeoffs among both complimentary and competing values. Redistricting plans have to satisfy many goals, and they always do this imperfectly, because the goals are not perfectly congruent in what they demand.

In turn, there are reasonable

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arguments for emphasizing each of the goals. The Nassau County Temporary Redistricting Committee has put forward a plan -- referring to the Republican Delegation -- that restores equality while seeking continuity in representation and complying with other mandates of State and national districting law".

Additionally, the Democratic Delegation has previously been the recipient of David Schaefer's report on what he referred to as the "Redistricting Plan 5" and the map that accompanied that. This evening we are presenting a map which has minor modifications, and this was done for a number of reasons. In our original plan, caption "Plan Five", we had 61 whole villages, one whole city and 34 whole census-designated places. We also had two districts that contained multiple incumbent members.

Our revised plan now has 61 whole villages and two whole cities and 38

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whole census-designated places.

We moved a small village to avoid one of the member pairings. None of these changes changed the original demographics, compactness or contiguity of any district in any significant way. We still strictly follow all of the requirements of the Municipal Home Rule Law and Federal Law.

We made several very small changes, mainly involved zero population blocks that made certain census-designated places whole. The largest was moving Stewart Manor Village into District Eight. We looked to see if incumbent pairings could easily be undone from the original map without reducing our adherence to all aspects of the Municipal Home Rule Law. This was easily done by moving Stewart Manor into District Eight and balancing its population with portions of Franklin Square.

The result of these changes is insignificant to the original report of

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David Schaefer. Total population

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deviation is slightly lower.

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Majority/minority districts are still in

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compliance with the Municipal Home Rule

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Law and the Voting Rights Act. We

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maintain adherence to compactness,

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contiguity and adherence to the cores of

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existing district. All as required by

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the municipal law.

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So with that in mind, I understand

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that the revised maps with these minor

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changes have also previously been

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circulated to the Democratic Delegation

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and therefore made a part of the record

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this evening.

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COMMISSIONER MEJIAS: If I may, Mr.

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Chairman. Considering that this memo and

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when it was retained and there were some

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changes to the map based on this report

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which we haven't read yet, can we just

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take a 10 minute recess so we can read

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the report, because we've never read it?

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So I can't read the report while I'm

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listening to the Commissioner.

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CHAIRMAN MORONEY: Sure.

(Whereupon, recess is taken  
from 6:26 p.m. to 6:43 p.m.)

CHAIRMAN MORONEY: Mr. Pernick, do  
you have something to say?

COMMISSIONER PERNICK: Thank you.  
Will we have an opportunity to question  
Mr. Schaefer again? Is that something  
that we can do at this hearing?

COMMISSIONER BEE: Again, I think  
we've submitted our consultant for  
questions before. I see that was before  
on the Zoom screen. I don't see him right  
now, but any questions you have if you'd  
like to -- There he is. He's back.

If you'd like further questions that  
you have for the Republican Delegation,  
and we may wind up choosing to consult  
with our consultant again, but he's not  
available in direct questioning. He's  
available for our Delegation to consult.

COMMISSIONER PERNICK: One question  
that I would have for Mr. Schaefer is to  
explain the motivation behind swapping

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Franklin Square and Stewart Manor. I want to make sure I understand it properly. Is that something that I can direct towards him or is that something one of you would like to address.

COMMISSIONER BEE: Sure. That is something that I think our Delegation is prepared to refer to Mr. Schaefer and we would ask him to respond.

MR. SCHAEFER: With regard to Franklin and Stewart Manor, I was asked by the commissioners to look for areas to clean up our map. The most obvious place was, with some of the small changes that we made that different splinters of CDPs could be put together to make whole CDPs. They asked me to take a look at to see if anything else could be done to make the map look better and still adhere to our ideas of following the law.

In District 14 we had paired three members. We felt that it would tend to harm an incumbent, at least two incumbents to do that. We also in the

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southern part of the county paired two members. I looked at both of those to see if there was an easy solution that could be done, swapping small amounts of population to unpair members without changing the ideals of the map. That was was one example. An entire village of about 2,000 people 1992 exactly, could easily be put into District Eight. Franklin Square was right next door to that village. It had the population that could be put back into 14 to adjust it, and now instead of three members all being in District 14, there's two. District Eight now has one and the pairing in the south is still apparent.

COMMISSIONER PERNICK: Who are the three members?

COMMISSIONER BEE: David, please answer if you have that information.

MR. SCHAEFER: Bynoe, Schaefer and Giuffre was the one that was put into District Eight.

COMMISSIONER PERNICK: Giuffre was

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put into District Eight. And the party affiliation of Giuffre?

MR. SCHAEFER: I don't have that.

COMMISSIONER BEE: David was not given that information and I don't think he researched it, but if you have something to comment on that, please feel free to do so.

COMMISSIONER PERNICK: Could you share the party affiliation of that individual who was moved? Do you know?

CHAIRMAN MORONEY: I believe he is Republican.

COMMISSIONER PERNICK: Thank you and the other two individuals who were still in the district?

COMMISSION ATTORNEY CLINES: Schaefer and Byno.

COMMISSIONER PERNICK: And the party affiliation?

MR. SCHAEFER: I explained. I don't have party filiation.

CHAIRMAN MORONEY: I'll give you that. Schafer is a Republican and Bynoe

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is a Democrat.

COMMISSIONER PERNICK: Were you specifically asked to make a move to accommodate these one of these individuals to reduce the pairing of incumbents?

COMMISSIONER BEE: Go ahead, David.

MR. SCHAEFER: To reduce pairing. Nothing specific. They didn't ask me to unpair a specific member. The asked me to see if we could unpair members without affecting our original plan.

COMMISSIONER PERNICK: Thank you for that. This updated map, is it in any part based on public testimony?

MR. SCHAEFER: I presume it is. The Commission asked for these CDPs to made whole and unpairings --

COMMISSIONER BEE: David, is it fair to say that your changes were made at the request of the Republican Delegation, and the republican delegation took the input of the public?

MR. SCHAEFER: That is what I'm

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trying to say. Yes. It's in my report that way.

COMMISSIONER PERNICK: Okay.

I just have a few comments about these reports. I received this report from Mr. Schaefer late this afternoon that explain some changes. We haven't had an opportunity to verify, to understand the implication of these changes. We just got it this afternoon. So it is concerning that we're being asked to vote on a map with these changes today.

This analysis raises some serious red flags. First, as Mr. Schaefer just explained, and as we learned, it seems that what's happened here is the Republicans have made their plan, made adjustments to their plan, to advantage a particular republican incumbent. There was a district that they have drawn, which I take Mr. Schaefer at his word, that he did not consider incumbent addresses when he drew his initial map. And apparently it raised some concerns

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because that map, which did not take legislator addresses into account, paired three incumbents. So the only change of substance that was made was to move one of those incumbents to move out. To move out a Republican incumbent into another district that we know is a Republican district, protecting that incumbent and leaving a pairing between a Republican and a Democrat in a Republican district. So this map clearly took steps to protect Republican incumbents. I Don't think that there's any way around that. That's obvious based on these changes.

As we know, the Municipal Home Rule Law clearly prohibits making changes for the purpose of protecting particular incumbents. So that is another item we could add to the list of violations in the Republican proposal.

I want to take a few minutes to go through this report from Professor Gimpel that we just received about five minutes, not even 30 seconds, before the hearing

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began. I know members of the public, I don't believe, have access to this report. I don't believe it's been put on the website. Is that incorrect?

COMMISSIONER BEE: It will be it. So it has not been put on the website. Members of the public have not had an opportunity to see this report. What I'm holding here is, I don't know, 10 and 15 pages of CV from an individual named James G. Gimpel from the University of Maryland, and a four and a half page document, double space, single-sided that seems like it was typed in Microsoft Word, and that's what we received. And I had an opportunity during this break to quickly flip through it and make a few initial observations. Haven't had time to do any serious, comprehensive review or discussed with any other experts. But at an initial first review, it raises such significant concerns that I would caution anybody on this Commission from placing any reliance on this report for any

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purpose whatsoever.

Let me go through a few of the issues and I'll try and explain and read from the report for the benefit of members of the public who don't have it.

First, the report claims that the Republican plan is in compliance with the Voting rights Act solely because it creates one majority/minority majority Black district. This is objectively false. And how do we know it's objectively false? Well, there's a lot of reasons, but first and foremost there was no racially polarized voting analyses done. These are bold assertions with zero support, zero support. We have done racially polarized voting analyses. We know that it's possible to draw a majority/minority, Black Latino coalition districts. We know it's possible to draw five of them. And what they're claiming, what this expert is claiming with no support, no basis, is all you really are required to draw is one and it has to be

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majority Black. That's wrong. It's objectively wrong. We've put in the analysis and there's nothing in here that rebuts that.

Number two, this report claims that District One was not cracked or packed because it has a black voting age population of 51.9%. This is objectively false. It was absolutely packed, absolutely packed and it has all the hallmarks of an illegal racial gerrymander. And it's concerning that Dr. Gimpel doesn't seem to know the basic hallmarks of racial gerrymander. There's a leading Supreme Court case that lays out what happened and what a racial gerrymander is. It's Cooper v Harris and in Cooper v Harris, the, which concerned North Carolina's congressional maps. The state of North Carolina packed two districts. They packed one district of black voting age population from 48.6% up to 52.7%, they packed another district from 43.8% up to 50.7%. So we're not

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talking districts that are 70-80, 90%. We're talking the movement of a few percentage points was found to be a racial gerrymander. Why? Because there was a use of race and there was zero justification for using race, based on the Voting Rights Act.

We have the same situation here. The Republican mapmaker and the Republican Delegation used race to increase the black population in District One. They have zero support for that decision, zero support in the Voting Rights Act. This expert boldly asserts, boldly claims that you need to do this to comply with the Voting Rights Act. Well, no, in order to evaluate compliance with the Voting Rights Act, you have to do what's called a racially polarized voting analysis, something that he did not do.

So again. Item number two, I would throw major red flags relying on this baseless claim that doesn't seem to understand basic constitutional law.

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Next, the report claims that the Republican plan maintains contiguity and compactness standards to the extent the patterns of population settlement and the County's unique geography permit it. Again, this is objectively false.

First of all, on contiguity, the New York Court of Appeals has in evaluating contiguity has said that one of the things that they'll consider is whether you're able to drive from one part of the district to another part of the district without crossing into a different district. That's something that you evaluate when evaluating whether you comply with contiguity. The Republican plan fails that in at least two, maybe three districts. I don't know if it fails in three because again we just got their plan earlier today, so we haven't had a chance to evaluate. But it fails that that standard in at least two districts. So here this expert's claiming its contiguous without any basis.

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Even more concerning compactness. He blames the Long Island coast line, for the map's complete disregard for for compactness. And that's laughable. The Republican proposals have some of the least compact districts we've ever seen. In fact, we measured the compactness of their districts across the objective numeric standards and eight of their districts are less compact than the least compact district in our plan, than the least compact district in our plan on at least one of the objective measures. So this notion that the, that you can excuse the compactness because we happen to be along a coast line, that's absurd. It is straightforward to draw more compact districts. We've done it in two maps and it wasn't hard to do.

Next, this individual, this Dr. Gimpel, claims, and I quote, "partisan preferences have been known to change dramatically in Long Island -- He says in Long Island, not on Long Island -- change

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2 dramatically in Long Island elections  
3 across short span of time". And he goes  
4 on to claim, "use of party data or  
5 election data in redistricting is  
6 controversial from a legal standpoint.  
7 Courts, including the United States  
8 Supreme Court, have questioned whether  
9 consideration of partisan balance  
10 implicates any justiciable and cognizable  
11 rights." This is objectively false. The  
12 only source that he cites for these  
13 assertions, claiming that partisan  
14 gerrymandering is okay, is a Supreme  
15 Court case, *Rucho v Common Cause*, which I  
16 happened to have been involved in that  
17 case. I wrote one of the briefs that was  
18 relied on in the minority opinion in that  
19 case. So I know that case well. I know  
20 that he is wrong when he relies on *Rucho*  
21 to say that you can't have partisan  
22 gerrymandering in New York State.

23 Because he ignores another case,  
24 *Harkenrider v Hochul*, which makes very  
25 clear that it's the law of New York

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State, that you cannot draw a map to advantage one party over the other. He doesn't cite it, he doesn't reference it, he pretends it doesn't exist. He ignores the facts, the fact that the Republican plan is an extreme partisan gerrymander based on objective analyses from an expert Dr. Magleby, who testified at our last hearing. He doesn't engage with it. He just ignores it, pretends it doesn't exist.

And most significantly, his report, it does violence to 70 years of political science that shows that partisanship is the most important factor in determining vote choice. We know how people are going to vote, we can predict it with high degree of accuracy. This expert pretends that doesn't exist and fails to cite a single academic source, a single journal article, a single peer reviewed or any other article for his bold assertions that that partisan gerrymandering doesn't exist.

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Next, he claims that the difference between the plans when it comes to maintaining communities of interest are, "minimal". This is absurd. We went through a PowerPoint demonstration last time around. I'll flag some of the highlights that show that the differences are not minimal. They are absolutely extreme and significant.

The Republican plan cracks Asian communities in North Hempstead. We unify them. The Republican plan cracks the Village of Hempstead into two districts. We unify it into one district. The Republican plan splits the Five Towns into four districts. We unify Five Towns in a single district. The Republican plan splits Freeport into four districts. We unify Freeport into just two districts. The Republican plan split South Hempstead into three districts. We unify South Hempstead into a single district. The Republican plan splits Uniondale into three districts. We unify Uniondale in a

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single district. The Republican plan cracks Woodbury/Syosset down the middle into two districts. We unify Woodbury/Syosset in a single district. The Republican plan cracks Old Bethpage and Plainview view into two different districts. If you include Bethpage, it cracks into three different districts. We unify Plainview, Old Bethpage into a single district. The Republican plan cracks a community of interest in Westbury and Newcastle into two districts. We unify Westbury and Newcastle into a single district.

And I don't believe, even though I've only had moments to look at it, I don't believe the updated proposal correct any of those issues, any of those issues, that I just walked through. There's only one thing this report does get right. He admits that the Democratic plan achieves higher compactness scores in the Republican plan. That's the only thing that this report gets right. And

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it's because of that admission that everything else he says comes tumbling down, because compactness is far more important than the other considerations under the Municipal Home Rule Law that the Republican plan prioritizes and, most importantly, the cores.

The republican plan prioritizes maintaining the cores above compactness and there's no objective way to measure maintaining the cores. This expert doesn't offer it, there's no accepted methodological standard for maintaining the cores, and that one criteria is prioritized over everything else. And what's most concerning is that they're maintaining the cores of a plan that we know is illegal, of a plan that we know is an extreme partisan gerrymander, of a plan that we know cracks and packs and divides communities of color.

So at the end of the day, I wish that we had more time with this. I wish that we had an opportunity to ask

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questions directly to Dr. Gimpel. It's  
it's concerning that we don't, but it's  
even more concerning if we place any  
reliance on this 11th hour report without  
having an opportunity to hear from the  
purported expert himself.

Commissioner, Kasschau, do you have  
anything --

COMMISSIONER MEJIAS: As to Dr.  
Gimpel himself, in the Rucho case that  
Mr. Pernick cites to in North Carolina,  
in the case of League of Women Voters and  
Common Cause versus the state of North  
Caroline, Mr. Gimbel was hired to opposed  
the League of Women Voters.

In a case in Maryland, the Maryland  
State Attorney General in a submission to  
the Court, said that Dr. James Gimpel  
should not be appointed to serve as a  
consultant to this court because his  
apparent partizan bias may be seen to  
deprive him of the impartiality essential  
for a judicial appointee. His  
participation in this case as a court

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consultant would not promote but instead would potentially diminish the public confidence in the independence integrity and impartiality of the judiciary.

In a case the League of Women Voters of Pennsylvania versus the Commonwealth of Pennsylvania. The League of Women Voters submitted an application to exclude the expert report of Dr. Gimpel and compel production of underlying information based primarily on his partisan bias. He has been hired as an expert who is seemingly an expert in putting one thing and one thing only forward, and that would be the reliance on the fact that incumbency above all else should be the priority. Whether it's in the cases he's been involved in Pennsylvania or North Carolina or Maryland, Dr. Gimpel believes that incumbency should be prioritized above everything else.

The difference is in New York state that is against the law. So Dr. Gimple's

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bias, both pointed out by the League of Women Voters and the Attorney General of Maryland, here in the state of New York, his bias towards protecting incumbency is illegal. Anything that Dr. Gimpel says on the matter should be completely disregarded because clearly he doesn't know the law. That was only with a five minute Google search. Give me little bit more time and I'm sure we can come up with more examples of Dr. Gimpel ad on is bias on a variety of other matters by the way.

Mr. Kasschau?

COMMISSIONER KASSCHAU: Thank you, Commissioner Mejias.

Just to dovetail on what you were just talking about and Professor Gimpel's bias towards maintaining incumbency. Not only is it based on what you've just read and examples you found in the very limited that we've had to review this report -- it's concerning me that we were provided this at the last minute. We

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would have and certainly the constituents in Nassau County would have benefited by a more thorough analysis of this report.

In this report itself there are explicit references to trying to maintain income, and it's mentioned at least three times. It's also referenced as a goal, if you will, in the conclusion of the report. Let me just read some portions of this report for you:

It says, the Democratic plan achieves higher compactness scores, but does so at the cost of dismissing established district boundaries that we've already demonstrated are illegal, based on expert statistical analysis and shifting large constituencies into unfamiliar districts in which their office holders will be unknown. Meaning: They want to maintain incumbency. They want to have the same folks representing the same districts. That is favoring incumbency, and that is illegal under the Municipal Home Rule Law. In fact, there

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is a whole section titled, "Maintaining Relationships Between Voters and Legislators" in this report.

Then it refers to the Republican plan on page four, the second to last paragraph. In Plan Five by contrast, the vast majority of all constituents remain in familiar districts. Again, they're looking to favor the incumbent legislator in districts without doing the statistical analysis that they're required to do.

Finally, in the conclusion, it says the Nassau County Temporary Redistricting Committee has put forward a plan that restores -- and they're referring to the Republican plan restores equality while seeking continuity in representation. That means they're favoring incumbents, folks. That's what it means in black and white, all throughout this report that we had two minutes to look at.

COMMISSIONER MEJIAS: This just in from Twitter: The Baltimore County for

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Fair Maps twitter site "@BaltCountyFair",  
tweeted: In their ongoing state  
redistricting case the state of Maryland  
and Circuit Court have rejected the input  
of Dr. James Gimpel because of his clear  
biases and affiliations with hate groups.  
So I think that's all we need to know  
about Dr. Gimpel. We're done.

COMMISSIONER BEE: While your  
rhetoric is colorful, we do not share its  
confidence in its accuracy. You've  
described that you can now predict with  
great accuracy the outcome of an  
election. We would rather leave the  
election results to the voters.

And we feel that, unlike the  
Democratic map, we are guided by the  
current State Law written by a Majority  
Assembly, Democratic Senate, Democratic  
and Governor Democratic, all of which  
have directed under law that we must  
consider maintenance of the cores of  
existing districts. Your people have  
testified that they did not consider that

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to be a criteria for the drawing of their maps. So, for better or for worse, we have, and these are the maps we've come up with. Thank you.

CHAIRMAN MORONEY: Anything else? Shall we call for -- do you have more to say?

COMMISSIONER MEJIAS: I always have more to say, but not tonight, no at this very moment.

COMMISSIONER BEE: Mr Chairman, at this time I make a motion that the commission unanimously adopt the map put forward by the Republican Delegation.

CHAIRMAN MORONEY: Is there a second?

COMMISSIONER REINHARDT: Second.

COMMISSIONER PERNICK: I'd like to ask for a roll call on each of these. Is that is that acceptable, Mr. Chairman.

CHAIRMAN MORONEY: It's more than acceptable. I was going to do it anyway.

Mr. Pulitzer, would you pole the Board, please?

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CLERK PULITZER: Yes, sir.

Commissioner Peter Bee?

We are going to have the roll call  
of the commissioners.

COMMISSIONER BEE: I vote yes.

CLERK PULITZER: Commissioner John  
J. Reinhardt?

COMMISSIONER REINHARDT: Yes.

CLERK PULITZER: Commissioner  
Maureen Fitzgerald?

COMMISSIONER FITZGERALD: Yes.

CLERK PULITZER: Commissioner  
Christopher Devane?

COMMISSIONER DEVANE: Yes.

CLERK PULITZER: Commissioner Eric  
Malette?

COMMISSIONER MALLETTE: Yes.

CLERK PULITZER: Commissioner David  
Mejias?

COMMISSIONER MEJIAS: No.

CLERK PULITZER: Commissioner Jared  
Kasschau?

COMMISSIONER KASSCHAU: No.

CLERK PULITZER: Commissioner

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Andrena Wyatt?

COMMISSIONER WYATT: No.

CLERK PULITZER: Commissioner James  
Magin, Jr.?

COMMISSIONER MAGIN: No.

CLERK PULITZER: Commissioner  
Michael Pernick?

COMMISSIONER PERNICK: No.

CLERK PULITZER: Okay. It is a  
five/five tie.

CHAIRMAN MORONEY: The application  
to adopt that map is declined.

Is there a motion on the side of the  
Democratic?

COMMISSIONER MEJIAS: Mr. Pernick  
has a motion.

COMMISSIONER PERNICK: We have  
presented two maps. They are very  
similar. We would like to present both of  
our maps to the Legislature for  
consideration, so at this time we'll make  
a motion to present both of our two  
proposals to the Legislature.

COMMISSIONER MEJIAS: Second.

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CHAIRMAN MORONEY: Call the roll.

CLERK PULITZER: Commissioner Peter  
Bee?

COMMISSIONER BEE: No.

CLERK PULITZER: Commissioner John  
J. Reinhardt?

COMMISSIONER REINHARDT: No.

CLERK PULITZER: Commissioner  
Maureen Fitzgerald?

COMMISSIONER FITZGERALD: No.

CLERK PULITZER: Commissioner  
Christopher Devane?

COMMISSIONER DEVANE: No.

CLERK PULITZER: Commissioner Eric  
Malette?

COMMISSIONER MALLETTE: No.

CLERK PULITZER: Commissioner David  
Mejias?

COMMISSIONER MEJIAS: Yes.

CLERK PULITZER: Commissioner Jared  
Kasschau.

COMMISSIONER KASSCHAU: Yes.

CLERK PULITZER: Commissioner  
Andrena Wyatt.

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COMMISSIONER WYATT: Yes.

CLERK PULITZER: Commissioner James  
Magin, Jr.?

COMMISSIONER MAGIN: Yes.

CLERK PULITZER: Commissioner  
Michael Pernick?

COMMISSIONER PERNICK: Yes.

CLERK PULITZER: Once again,  
Chairman Moroney, we have five and five.

CHAIRMAN MORONEY: The application  
is declined.

Anything further?

COMMISSIONER MEJIAS: Just for the  
record, in order to move the maps to the  
Legislature, that would require six votes  
or a majority of the voting  
commissioners, correct?

COMMISSIONER BEE: That is my  
understanding, but I believe that,  
notwithstanding the Commission's failure  
to, by a majority vote, recommend maps to  
the Legislature, the entire record and  
all exhibits that have been submitted to  
this Body will be transferred to the

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Legislature for whatever action they deem appropriate.

COMMISSIONER MEJIAS: And you read my mind, that was my next point. And the record will be kept open until December 1st?

CHAIRMAN MORONEY: Correct.

COMMISSIONER MEJIAS: And all submissions up until and including December 1st will be transmitted to the Legislature?

CHAIRMAN MORONEY: Correct. I believe, also said that, nonetheless, if something comes in afterwards, that would likewise be place not in the record, but be given to the legislators who will be operating under that Charter.

COMMISSIONER MEJIAS: Thank you, Mr. Chairman.

CHAIRMAN MORONEY: If I may, before adjourn for the evening. This is the last meeting of this Commission. That doesn't mean we can't be called for other things, but it is the last that we have.

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I first want to thank all the commissioners, both Republican and Democrat, for their devotion, for their ability to come up with ideas that are at least interesting, if not offensive to others, but at least that's the way we do business.

The business of map making, like it or not, is subject to the numbers. Six votes requires to be required by the law in order to move something. It did not occur in this particular matter.

But I also want to thank the people. There were many, many people who came and they spoke and others who came and watched. Some were happy. Some were not. But I think that the participation level at this particular commission was well, well received and I think it helped for a better outcome.

As Mr. Bee pointed out, all these items are in the record, they'll be handed over to the Legislature. I'm sure that the comments of the public, like

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them or not, will be looked at.

With that I will entertain a motion to adjourn.

COMMISSIONER MEJIAS: I do want to thank the staff, our court reporter, our sign language interpreters, Mr. Pulitzer, our respective staffs who did a wonderful job working with each other as much as possible to do everything. Mr. Long, thank you very much for your help with the difficulty in the tech.

And I want to think literally hundreds of people that came down to testify. Suffolk County had 18 people testify. We had almost 60 at the last meeting alone. So I want to thank the people of Nassau County for their robust interest in this process and participation in this. It's been a very, very interesting and educational journey. So thank you to everybody. I really do appreciate it.

CHAIRMAN MORONEY: And allow me to go back on your thank you.

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COMMISSIONER BEE: Motion to  
adjourn.

CHAIRMAN MORONEY: Second?

COMMISSIONER MEJIAS: Third  
(laughter).

CHAIRMAN MORONEY: All in favor?

(Whereupon, all members  
respond in favor.)

CHAIRMAN MORONEY: Opposed.

(Whereupon, no verbal  
response.)

CHAIRMAN MORONEY: Thank you very  
much. Get home safe.

(Whereupon, above matter  
concludes, 7:15 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK            )  
  :  SS.:  
COUNTY OF NASSAU            )

I, KAREN LORENZO, a Notary Public for and  
within the State of New York, do hereby  
certify:

That the above is a correct transcription  
of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 21st day of November, 2022.

Karen Lorenzo

KAREN LORENZO

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