

(Draft - Awaiting Formal Approval)

**MINUTES OF THE
HOUSE MANAGEMENT COMMITTEE**

Tuesday, January 18, 2011 – 1:00 p.m. – Room 415 State Capitol

Members Present:

Speaker-elect Rebecca D. Lockhart, Chair
Rep. Brad L. Dee
Rep. Gregory H. Hughes
Rep. Brian S. King
Rep. David Litvack
Rep. Ronda Rudd Menlove
Rep. Jennifer M. Seelig
Rep. Christine F. Watkins

Staff Present:

Mr. Michael E. Christensen, Director
Mr. John L. Fellows, General Counsel
Ms. Phalin L. Flowers, Administrative Assistant

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Lockhart called the meeting to order at 1:10 p.m.

2. Discussion of Representation for House District 57

Mr. John Fellows, General Counsel, and Mr. John Cannon, Managing Policy Analyst, Office of Legislative Research and General Counsel, distributed and discussed a presentation outlining sections of the Utah Constitution and state statutes pertaining to the redistricting process, legislative residency requirements, and the Legislature's authority relative to these issues. Mr. Fellows concluded that a review of the legal boundaries of Utah House District 57 contained in the official maps enacted by the Legislature in 2001 establishes that Craig Frank does not live within the boundaries of House District 57. He stated if that is the case then Utah Constitution, Article VI, Section 5 applies: "[a] person elected or appointed to the office of senator or representative may not continue to serve in that office after ceasing to be a resident of the district from which elected or for which appointed."

Representative Craig Frank testified that he believes he is the representative of House District 57 and that denying him this seat would disenfranchise the voters in the affected area. He stated that the ballot provided to those voters in the area of dispute shows Jason Chaffetz's name, representing U.S. House District 3, then his own name, so the state has been perpetuating the error. Unless they are re-enfranchised, the representative who will be representing them at the Capitol is not someone they had the opportunity to vote for. He said that as good as Representative Dougall and Senator Stephenson are, their names were not on that ballot, and to thrust voters into that area is improper and illegal. He said he hopes that the Committee will look at the re-enfranchisement of the affected people as an urgent and proper procedure within the first few days of the 2011 General Session. He stated that it would only take the Legislature, who has the authority and the power, to pass a bill by two-thirds vote of both houses and a gubernatorial signature to re-enfranchise the people.

Mr. Bryan Thompson, Utah County Clerk, said that based upon legal precedent and what was adopted under the authority of the legislative redistricting process that took place in 2001, and because that boundary line has not been amended by the Legislature, that line is where it stands on the official maps.

Ms. LauraLyn Eberting, Chair of Pleasant Grove Precinct 14, stated that the right to vote and be represented is a bedrock principle, and that if Representative Craig Frank is not seated, the people in

District 57 are not represented. She asked if the Committee or the Legislature wanted to refuse to take action that will result in depriving citizens of their right to vote, or if they wanted to do the right thing and reaffirm and recognize their right to representation. She asked that the northern boundary of Cedar Hills be made the district boundary line for House District 57.

Mr. Shayne Pierce, Chair of Pleasant Grove Precinct 1, stated that when he went to his caucus and precinct meetings, and then to the polls to vote it never once occurred to him to look at a map. He stated that he was told where to go and whom he could vote for. He pointed out that the ballots were printed to show they were in the right place to vote for the right person. He also said the best way to solve this issue is to move the arbitrary line so that the people's votes would count and their representation would be sure.

Ms. Karen Herd, Chair of Cedar Hills Precinct 1, stated that her husband is an active duty military member and is scheduled to deploy in about 30 days. She said if he is not going to Afghanistan to protect her right to vote, then she does not know what he is going for. She asked that the Legislature not take away her right to vote. She pointed out that the state represented to her that she was in House District 57, Senate District 14, and Congressional District 3, and for the state to say that because of a map error she does not, is wrong. She asked the Committee to recognize the boundaries that have been in place, and urged the Committee to respect the people's right to vote and to protect that right.

Mr. Morgan Philpot, private citizen, stated that he wanted to speak about four things: clarity, intent, agency, and fault. He stated that it has been represented by some that this issue is clear, but it is by no means clear. He pointed out that the Legislature's intent in this issue was communicated by its actions and that it wanted Craig Frank to run in the neighborhood where he lives. He said agency was given by the Legislature to the county to act and they have acted in the Legislature's behalf to carry out its will; therefore, it is the Legislature's fault and it has the responsibility to fix the problem. He stated that it is an easy fix: re-enfranchise the voters.

Mr. John Benson, Utah County Delegate, stated he agrees with what has already been said by other witnesses and urged the Committee to change the official boundaries for House District 57.

Ms. Marisa Wright, Cedar Hills City Council, stated that she is here representing the mayor and the council. She stated that there are principles we hold dear: no taxation without representation and government by the people, for the people. She said that is what is at stake here today. She pointed out that as a member of the city council, above all, she tries to do the will of the people, and she urged legislators today to listen to the will of the people.

Mr. Kraig Thorne, Vice Chair of Pleasant Grove Precinct 6, agreed with previous witnesses.

Dr. Mark Bezzant, Chair of Pleasant Grove Precinct 13, said the people and Rep. Frank acted in good faith when they voted in this and previous elections and that he hopes the Committee will respect that. He said that almost 80 percent of the people in House District 57 said they wanted Craig Frank to represent them. He pointed out that when Craig Frank moved, he went to the county and consulted the maps to see if his home was in his district. He acted in good faith. He and his neighbors were told they were in House District 57. They acted in good faith. He urged the legislature to respect their actions.

Mr. Gary Crofts, BYU student and Utah State Delegate, said he walked the area in dispute all day last Thursday. He said the people are upset and frustrated but can't be here to testify, so he is here in their place. He said he hopes the Legislature will do the right thing.

MOTION: Rep. Dee moved that the House Management Committee find that Craig Frank is not currently a resident of House District 57 based upon the official district boundaries contained in the official maps enacted by the state legislature. The motion passed unanimously.

MOTION: Rep. Hughes moved that the House Management Committee present a resolution of their finding to the House of Representatives. The motion passed unanimously.

3. Other Items / Adjourn

MOTION: Rep. Litvack moved to adjourn. The motion passed unanimously.

Chair Lockhart adjourned the meeting at 3:37 p.m.