

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF BELTRAMI

NINTH JUDICIAL DISTRICT

CASE TYPE: Writ of Mandamus/Civil Other

James Lucachick, Robert Wallner,  
Mary Morton, Eric Boysen, Ken Stone,  
Julia Thomson, Willis J. Beer,  
Debbie L. Beer, Mark Lindy,  
Elizabeth Lindy, John A. Freise,  
Dan Holmes, Vicki Holmes,  
Stephen Hanson, John Magnuson,  
Lanny Cyr, Robert Naylor,  
John M. Gilbertson, Michael J. Naylor,  
Robert Melchior, Mary Melchior,  
Ernest Rall, Elizabeth Kuryla,  
Eugene Teigland, Paul Stennes,  
Marjorie Marie Iraci, Margaret Batchelder,  
David Smith, Richard L Stennes, MD,  
Daryle Russell, and Dean Eggebraaten,

Court File No.

**VERIFIED COMPLAINT AND PETITION  
FOR ALTERNATIVE  
WRIT OF MANDAMUS**

Plaintiffs-Petitioners,

vs.

Beltrami County Board of Commissioners,

Defendant-Respondent.

Plaintiffs-Petitioners, for their Verified Complaint and Petition for an Alternative Writ of Mandamus against Defendant-Respondent Beltrami County Board of Commissioners (the “County Board”), state and allege:

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiffs-Petitioners are qualified voters within the meaning of Minn. Stat. § 375.025, subd. 2.
2. The County Board was formed and operates under the laws of the State of Minnesota.

3. This Court has jurisdiction over the action pursuant to Minn. Stat. § 375.025, subd. 2 and Minn. Stat. § 586.11.

4. Venue is vested in this Court pursuant to, *inter alia*, Minn. Stat. § 375.025, subd. 2, since this action is an exercise of voter rights in Beltrami County.

5. This action seeks remedies related to the County Board's adoption (by a divided 3-2 vote) of a county commissioner redistricting plan that violates Minnesota law. Specifically, the divided County Board adopted a redistricting plan that fails to comply with the mandatory, fixed requirements of Minn. Stat. § 375.025, *et seq.* Among other things, the redistricting plan adopted by the County Board:

1) fails to comply with the statutory requirement (expressly stated in Minn. Stat. § 375.025, subd. 1) that each district “ shall be as nearly equal in population as possible”;

2) relocates over one-quarter of Beltrami County residents (a full 12,400 citizens, representing 27% of the County's total population) to a different county commissioner district, an amount over 300% greater than the minimal relocation that would have resulted from other available plans;

3) requires a new election in each of the five commissioner districts (literally the only plan, among those presented to the County Board, that would have done so);

4) compels thirteen changes in Townships and City wards, over twice the amount of other plans presented to the County Board;

5) provided minimal (at best) opportunity for citizens to be heard, even for those who attended County Board meetings for that purpose;

6) was based upon considerations that are not among the standards required by the Minnesota legislature for county commissioner redistricting (as evidenced by on-the-record comments of Commissioners who voted in the majority);

7) violates the directions provided by the County Board to the Redistricting Committee;

8) partially consolidates the districts of the two Commissioners who voted against the plan, thus eventually removing at least one Commissioner who was elected by popular vote of Beltrami County citizens; and

9) was adopted without any written findings, conclusions, explanations, or rationale by the County Board.

### **FACTS**

6. As a result of the Federal 2020 census, the County Board began the process required to redistrict county commissioner districts. By law, redistricting can take the form of: 1) reestablishing existing county commissioner districts, if the districts currently meet all legal requirements; or 2) drawing new county commissioner districts to conform to those fixed and mandatory legal requirements.

7. The County Board formed a Redistricting Committee, comprised of the Beltrami County Administrator, Auditor-Treasurer, and GIS Director, to formulate options for potential redistricting.

8. The County Board provided the following specific directions to the Redistricting Committee: 1) “Make minimal changes”; 2) “Make districts more compact & even in population”; 3) “Ignore Commissioner residences”; 4) “Do not gerrymander”; and 5) develop scenarios that distributed City wards between 2 to 4 districts. *See Exhibit A hereto, at 6.* As addressed below, the 3-2 majority nevertheless adopted a redistricting plan that violated and failed to achieve the County Board’s own directions.

9. The Redistricting Committee initially developed three potential redistricting plans and added an additional three plans after feedback and questions. The plans are depicted in Maps

1-6. Each Map is set forth in Exhibit A hereto.

10. No discussion or public comment took place regarding the alternative redistricting plans, until the County Board's April 5, 2022 meeting. During the April 5 meeting, Commissioners Olson and Anderson expressed the opinion that rural populations should not be in the same commissioner district as City wards and that citizens with supposedly like concerns and similar needs should be in the same district. These opinions are not among the required standards for county commissioner redistricting in the governing statute, Minn. Stat. § 375.025, subd. 1.11. During the April 5 meeting, Commissioners Gaasvig and Lucachick stated that Map 2 did not meet the legislature's requirements for redistricting and expressed support for Maps 1, 3, 5 or 6. However, Map 6 was rendered obsolete when the City of Bemidji completed its own redistricting plan. Therefore, the County Board requested that the Redistricting Committee prepare an alternative plan, Map 7. Map 7 is also set forth in Exhibit A hereto.

12. The relevant criteria and statistics for each alternative redistricting Map are as follows:

#### Commissioner Districts by Proposed Maps

<i>Map Numbers</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>7</i>
District 1 population	9181	9151	9181	10139	9181	9541
District 2 population	9294	9390	9202	9390	9294	9294
District 3 population	10130	9597	9689	9005	9076	9076
District 4 population	9156	8382	9689	9063	9156	9270
District 5 population	8467	9708	8467	8631	9521	9047
<b>Total Population</b>	<b>46228</b>	<b>46228</b>	<b>46228</b>	<b>46228</b>	<b>46228</b>	<b>46228</b>
Average population per District	9246	9246	9246	9246	9246	9246
<i>Population spread from highest to lowest</i>	1663	1326	1222	1508	445	494
As a % of average population	18%	14%	13%	16%	5%	5%
Average deviation between populations	373	383	355	415	130	147
As a % of average population	4.0%	4.1%	3.8%	4.5%	1.4%	1.6%
Population shift	2927	12400	5570	20793	3981	3981

13. The County Board set a work session for April 12, 2022 to discuss Maps 1, 2, 3, 4, 5, and 7. The April 12 work session was scheduled to last two hours.

14. During the April 12 work session, the County Board Chair nevertheless did not open the floor for public comment, despite the fact that a significant number of citizens were present. Commissioner Olson offered no substantive discussion of the alternative Maps and stated that he would bring a prepared statement to the April 19 County Board meeting. Commissioners Anderson and Sumner similarly stated that they would indicate which Map they supported at the April 19 meeting. Commissioners Gaasvig and Lucachick again noted that Map 2 did not comply with redistricting requirements set by law.

15. The April 12 work session, scheduled to last two hours, concluded after only 22 minutes—without any public comments or substantive discussion of the alternative redistricting Maps by the full County Board. The minutes of the April 12 work session state that the Maps were included “with the understanding that other proposals or new proposals could be presented and discussed.” *See Exhibit B hereto.* Nevertheless, the minutes further confirm that “Commissioners Olson, Anderson, and Sumner did not present an opinion.” *Id.*

16. During the County Board’s April 19, 2022 meeting, Commissioners Olson, Anderson, and Sumner voted to adopt the redistricting plan set forth in Map 2. Commissioners Olson and Anderson had already prepared separate statements—before any debate, public comment, or formal vote by the County Board. Commissioners Gaasvig and Lucachick voted against Map 2.

17. Specifically, Commissioner Olson stated that county commissioner redistricting should reflect “common communities” and avoid “mixing” Beltrami County citizens who lived in rural areas from fellow citizens who lived in urban areas. In other words, he advocated “breaking them up into like groups.”

18. None of these opinions, nor those expressed by others in the 3-2 majority, are listed among the legal standards for county commissioner redistricting. To the contrary, redistricting designed to align alleged “common” interests and avoid “mixing” citizens with supposedly differing views or needs is the prototypical definition of gerrymandering under Minnesota and Federal law—the precise result that the County Board directed the Redistricting Committee to avoid.

## COUNT I

### WRIT OF MANDAMUS

19. Plaintiffs-Petitioners restate and reallege the preceding paragraphs as though fully set forth herein.

20. The County Board had a fixed legal obligation to comply with the standards for county commissioner redistricting set forth in Minn. Stat. § 375.025, *et seq.*

21. The divided County Board violated Minnesota law when it adopted a county commissioner redistricting plan that failed to comply with those standards. The redistricting plan adopted by the County Board failed to comply with: 1) the mandatory obligation that each district “shall be as nearly equal in population as possible”; 2) the similarly mandatory obligation that each district shall “be as regular and compact in form as practicable”; 3) the County Board’s own direction to “make minimal changes”; and 4) the County Board’s direction to “not gerrymander.”

22. To make an unlawful act even worse, the divided County Board adopted the plan with minimal public input, minimal or no debate from the three Commissioners who voted for the plan, a work session that lasted a bare 22 minutes, and without written findings, conclusions, or supporting rationale. In the process, Commissioners who voted for the plan made public comments that citizens with supposedly like interests should not be in the same district as

neighbors and fellow citizens with supposedly different interests—the legal definition of gerrymandering, despite the County Board’s own explicit directions to supposedly avoid that same result.

23. In addition to the County Board’s outright violations of law and procedure, Map 2 reflects that the least populated district (District 4, with only 8,382 residents) was 90.60 % of the average total population per district—a scant 0.61% above the minimum percentage required by law.

24. All of the foregoing violations, defects, and irregularities occurred despite the fact that the Redistricting Committee presented the County Board with multiple, other plans that fully complied with the law and better served the County Board’s own directions. The divided County Board has never explained, much less documented, why it failed to adopt any of those legally compliant redistricting plans.

25. In the process, the County Board violated the mandatory dictates of Minnesota law, including Minn. Stat. § 375.025. Accordingly, Plaintiffs-Petitioners request the issuance of a writ of mandamus to compel the County Board to revise the redistricting plan. If the County Board fails to do so, or otherwise fails to act with sufficient diligence, Plaintiff-Petitioners further request that the Court appoint a redistricting commission, as provided by Minn. Stat. § 375.025, subs. 2, 3.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs-Petitioners request that the Court issue an Order as follows:

1. Requiring the Beltrami County Board of Commissioners to revise the redistricting plan adopted on April 19, 2022 in a manner that complies with the law, serves Beltami County residents, and achieves the directions given by the County Board to the Redistricting Committee;

2. Issuing a writ of mandamus to compel the Beltrami County Board of Commissioners to fulfill the foregoing requirements;
3. Awarding Plaintiffs-Petitioners their costs, disbursements, and attorneys' fees; and
4. For such other and further relief as the Court deems just and equitable.

HELLMUTH & JOHNSON, PLLC

Dated: May 9, 2022

By: /s/ John J. Steffenhagen  
John J. Steffenhagen, ID #195947  
8050 West 78th Street  
Edina, Minnesota 55439  
Telephone: (952) 941-4005  
Email: [jsteffenhagen@hjlawfirm.com](mailto:jsteffenhagen@hjlawfirm.com)

ATTORNEYS FOR PLAINTIFFS-  
PETITIONERS

### **ACKNOWLEDGMENT**

Plaintiffs-Petitioners acknowledge that costs, disbursements, and reasonable attorneys' and witness fees may be awarded to the opposing party pursuant to Minnesota Statutes Section 549.211, Subdivision 2.

/s/ John J. Steffenhagen  
John J. Steffenhagen, ID #195947



**VERIFICATION**

STATE OF MINNESOTA    )  
  ) SS  
COUNTY OF BELTRAMI    )

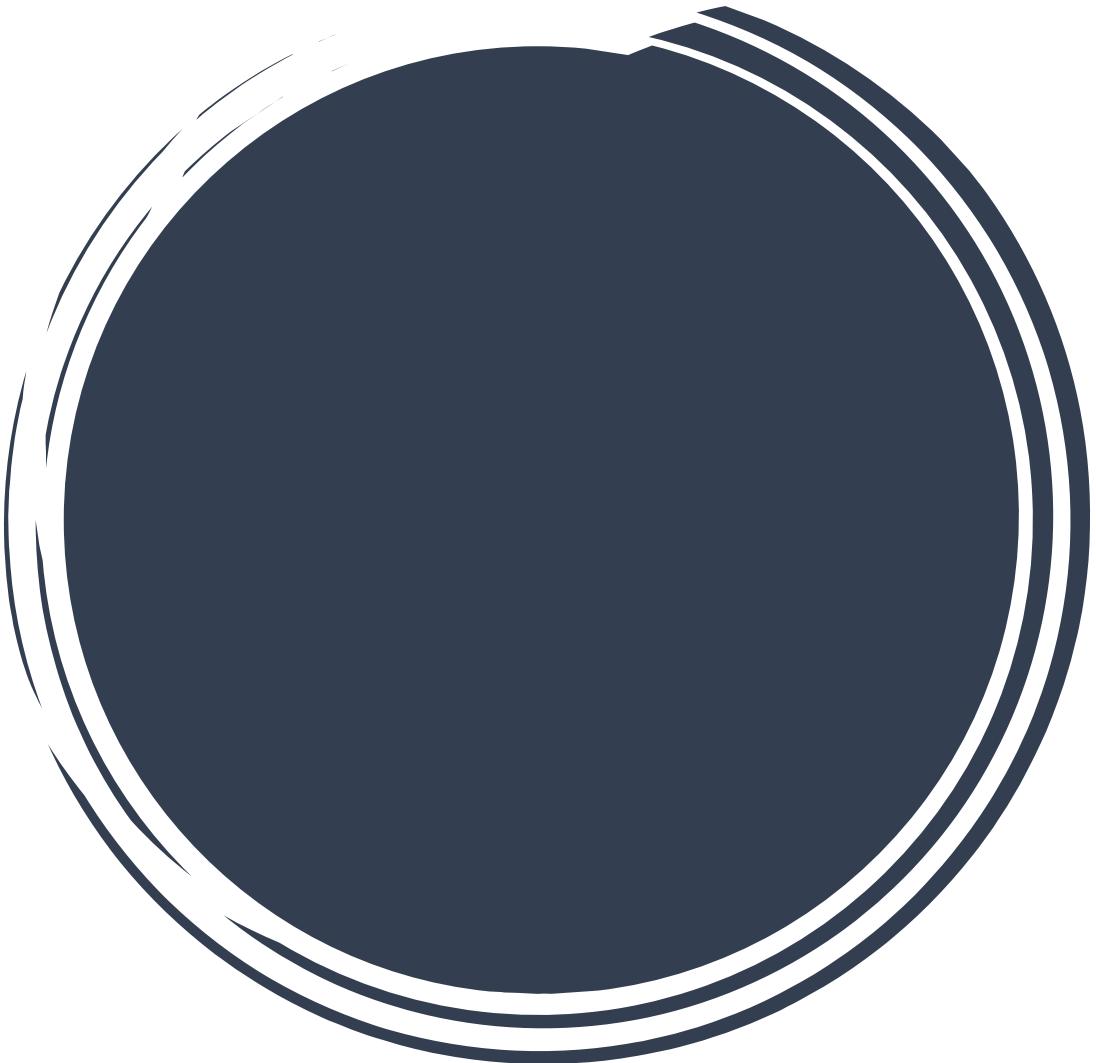
James Lucachick, being first duly sworn on oath, hereby states as follows: I have read the contents of the above Verified Complaint and Alternative Petition for Writ of Mandamus and based on my personal knowledge, the facts stated therein, including the attached exhibits, are true excepting those facts which are stated upon information and belief. Based upon reliable information, I believe that the facts stated upon information and belief are true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 9, 2022

/s/ James Lucachick  
James Lucachick

***Revised: April 6, 2022***



**EXHIBIT A**

# Beltrami County Redistricting

## Redistricting Committee:

- 3/4 Tom Barry, Administrator
- 3/4 JoDee Treat, Auditor-Treasurer
- 3/4 Kevin Trappe, GIS Director

## Redistricting Plan:

- 3/4 Options provided to Commissioners
- 3/4 Publish & allow comment at Board Meeting/Redistricting Hearing
- 3/4 Commissioners review & adopt Commissioner Redistricting Plan
- 3/4 Commissioners review & adopt Unorganized Township Plan

~~7%~~

# Redistricting Schedule

- Sept. 30, 2021 Census data released (Detailed block population)
- <sup>3</sup>/<sub>4</sub> Jan. 2022 Legislative session begins
- <sup>3</sup>/<sub>4</sub> Feb 15, 2022 Congressional and legislative plans completed
- <sup>3</sup>/<sub>4</sub> March 29, 2022 Precinct & City redistricting deadline
- <sup>3</sup>/<sub>4</sub> April 26, 2022\* County commissioner and other redistricting deadline
- <sup>3</sup>/<sub>4</sub> May 17, 2022 Filings open for state/county elect
- <sup>3</sup>/<sub>4</sub> Aug. 9, 2022 State Primary
- <sup>3</sup>/<sub>4</sub> Nov. 8, 2022 State General Election

*Lawsuits can be brought if redistricting has not occurred.*

*Courts have drawn district lines themselves when the legislature was unable to do so after a court order.*

***\*Three week public notice and hearing required\****

**7%**

# Activity Timeline

8/19/2021	Beltrami County Redistricting Committee Created
3rd Qtr 2021	Beltrami County Newsletter Article explaining the overall redistricting process
11/16/2021	Beltrami County Board Presentation explaining the overall redistricting process
2/15/2022	State Redistricting Plan Released to Public
2/16/2022	State Plan and Instructions released to Beltrami County Townships and Cities from Beltrami County Auditor's Office
1st Qtr 2022	Beltrami County Newsletter Article providing an update on the State process and outlining the next steps
3/1/2022	Beltrami County Board Discussion covering preliminary information, guiding principles and statutory requirements for County Commissioner redistricting
3/9/2022	Published Notice of Redistricting Public Hearing for County Commissioner Districts to be held on 4/5/2022
3/15/2022	Beltrami County Board Discussion covering initial preliminary redistricting options developed by the Redistricting Committee and update on the status of Municipal redistricting
3/15/2022	Resolution of Unorganized Township Precincts and Polling Places
3/17/2022	Posted County Redistricting Plan on Beltrami County Website
3/23/2022	Published Notice of Special Redistricting Work Session to be held on 4/12/2022
4/5/2022	Beltrami County Redistricting Public Hearing
4/12/2022	Beltrami County Board Special Redistricting Work Session
4/19/2022	County Board takes action on adopting new Commissioner Districts (tentative)

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# Unorganized Voting Precincts

Summary: No Changes to current map.

**EXHIBIT A**

# Rules & Guidance



## Statutory Requirements

- x Adjust election district boundaries following each federal census
- x Create districts that are as equal in population as practical
- x Create election districts of compact, contiguous territory
- x Must contain as many Districts as Commissioners
- x Districts bounded by precinct lines
- x Contiguous territory
- x Regular and compact
- x Cannot vary by more than 10%
- x Election schedule to ensure staggered terms

## County Board Directives

- x Make minimal changes
- x Make Districts more compact & even in population
- x Ignore Commissioner residences
- x Do not gerrymander
- x Develop 3 Scenarios
  - x All City Wards distributed among 2 Districts
  - x All City Wards distributed among 3 Districts
  - x All City Wards distributed among 4 Districts

### 10% Rule

- x *District populations cannot vary more than ten percent from the average for all districts in the county, unless the result forces a voting precinct to be split.*

### 5% Rule

- x *Any district representative whose district has a total population shift (total population shift = a population shift in plus a population shift out of the district) of greater than 5% of the average Countywide population (462) would have to rerun regardless of the year of their normal election.*

~~10%~~ 7%

# Population Changes

## 2020 Census Numbers:

$\frac{3}{4}$  2020 Population: 46,228

$\frac{3}{4}$  Population Change (2010-2020): 1,786

$\frac{3}{4}$  2020 Average Population by District: 9,246

$\frac{3}{4}$  2020 Lowest District Population: 8,321

$\frac{3}{4}$  2020 Highest District Population: 10,171

### Note:

*City of Bemidji has not finalized their maps. Their Target Ward Population is 3,089. If the City deviates from that target population, that may impact our district boundaries as well.*

**EXHIBIT A**



# Current County District Map

Current District Map

- x Average Population by District in 2010 = 8,888
- x Compact & Contiguous
- x All City Wards Represented by 3 Commissioner Districts

**EXHIBIT A**

# Voting Precincts with 2020 Census Populations

Summary: The population of each Voting Precinct  
as a result of the 2020 Census

# Proposal 1

Summary: All City Wards represented  
by 3 Commissioner Districts.

$\frac{3}{4}$  Shift Population: 2,927

$\frac{3}{4}$  Township/Ward Changes: 5

$\frac{3}{4}$  Bemidji City Wards: Split 3 Ways

$\frac{3}{4}$  Elections Required by Redistricting:

$\frac{3}{4}$  District 2

$\frac{3}{4}$  District 3

$\frac{3}{4}$  District 5

# Proposal 2

Summary: All City Wards represented by 2 Commissioner Districts.

$\frac{3}{4}$  Shift Population: 12,400

$\frac{3}{4}$  Township/Ward Changes: 13

$\frac{3}{4}$  Bemidji City Wards: Split 2 Ways

$\frac{3}{4}$  Elections Required by Redistricting:  
 $\frac{3}{4}$  All Districts

**EXHIBIT A**

# Proposal 3

Summary: All City Wards represented by 4 Commissioner Districts.

$\frac{3}{4}$  Shift Population: 5,570

$\frac{3}{4}$  Township/Ward Changes: 10

$\frac{3}{4}$  Bemidji City Wards: Split 4 Ways

$\frac{3}{4}$  Elections Required by Redistricting:

$\frac{3}{4}$  District 2

$\frac{3}{4}$  District 3

$\frac{3}{4}$  District 4

$\frac{3}{4}$  District 5

**EXHIBIT A**

# Elections Required

## Current Normal Rotation:

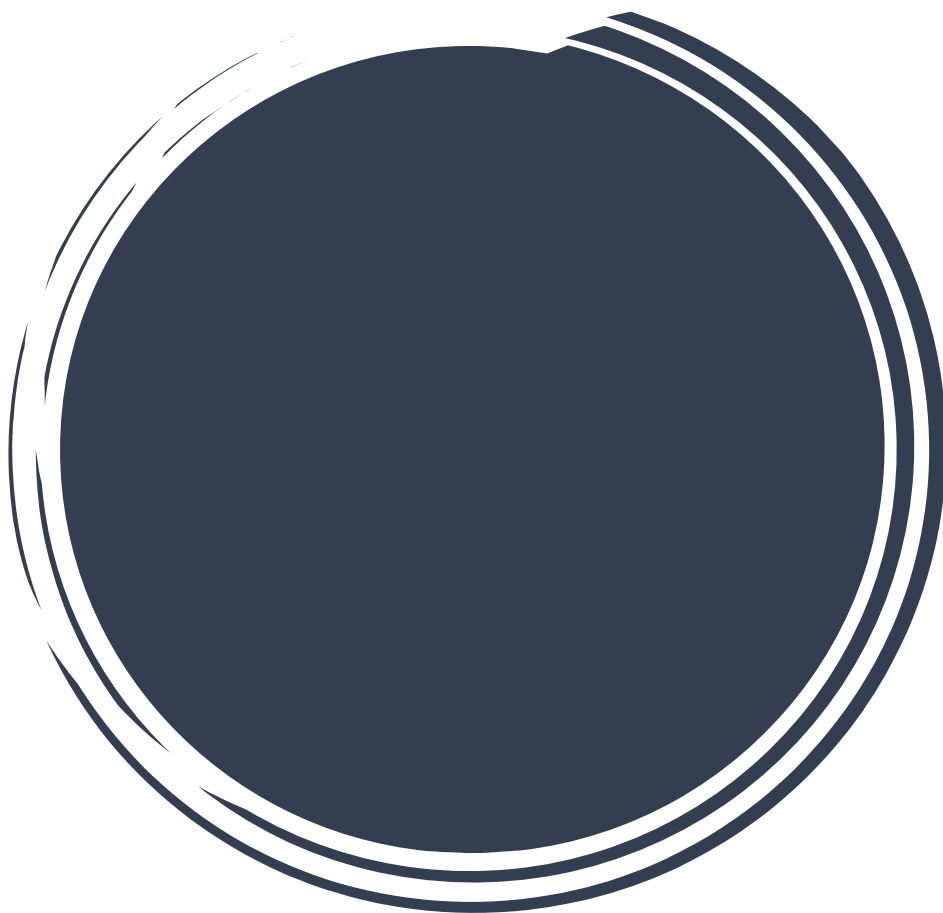
If the seat's normal 4 year term is up in 2022:

- X District 1
- X District 3

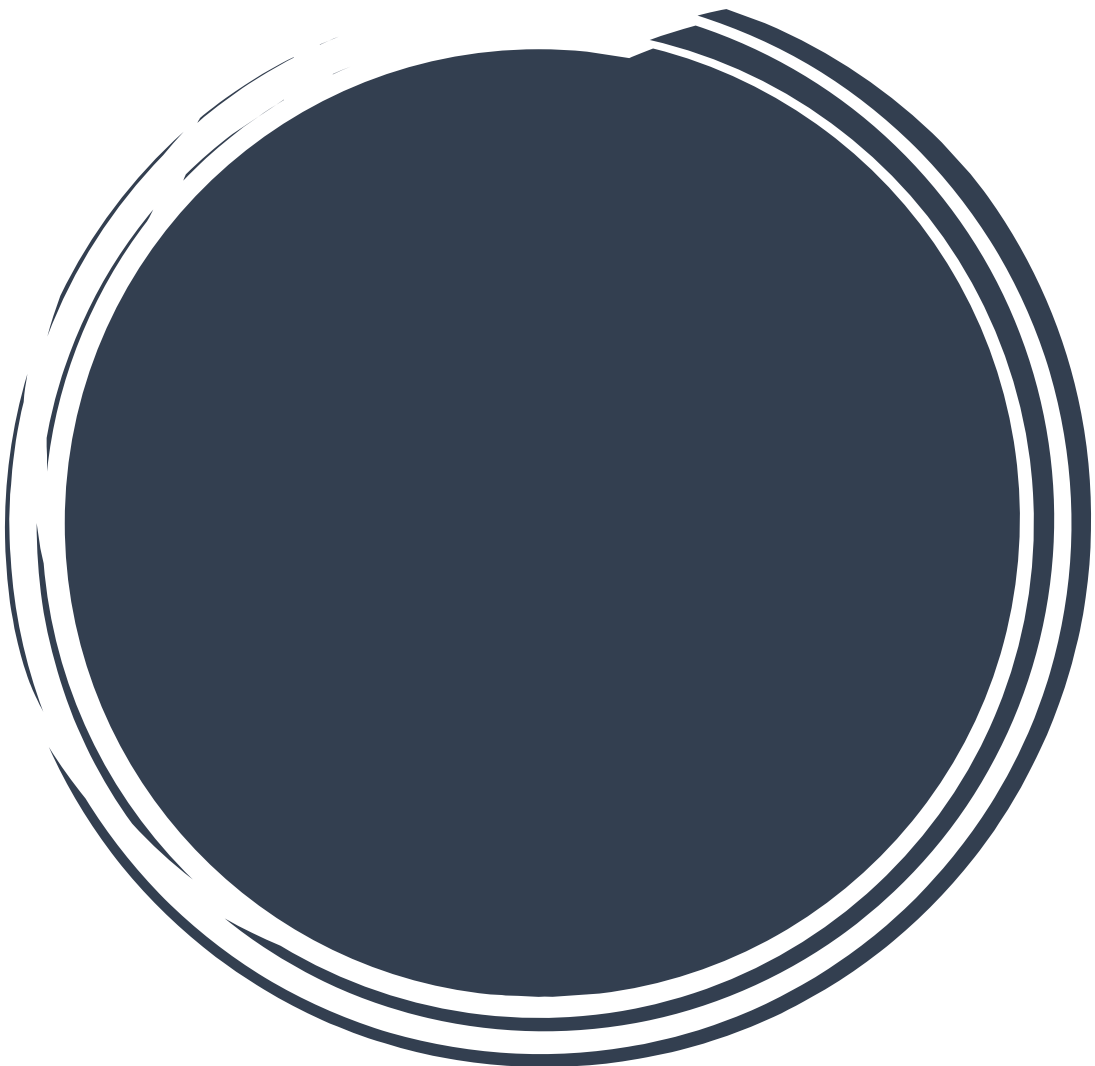
## As a Result of Redistricting:

If the commissioner's district has had a change greater than the 5% Rule

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**EXHIBIT A**



**EXHIBIT A**



## **Additional Maps:**

After the Redistricting Committee released the initial 3 map proposals, comments and questions received resulted in the generation of additional maps, which follow.

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# Proposal 4

Summary: Based on Proposal 2 where all city wards are split by 2 commissioner districts but does not require a commissioner to have to run in an election against another commissioner. In addition to D1 and D3 having to run their normal rotation election, this proposal would require an election in D2 and D5.

- $\frac{3}{4}$  Shift Population: 20,793
- $\frac{3}{4}$  Township/Ward Changes: 18
- $\frac{3}{4}$  Bemidji City Wards: Split 2 Ways
- $\frac{3}{4}$  Elections Required by Redistricting:
  - $\frac{3}{4}$  District 1
  - $\frac{3}{4}$  District 2
  - $\frac{3}{4}$  District 3
  - $\frac{3}{4}$  District 5

**EXHIBIT A**

# Proposal 5

Summary: Based on Proposal 1 where all city wards are split 3 ways but equalizes the high and low populations. In addition to D1 and D3 having to run their normal rotation election, this proposal would require an election in D2 and D5.

$\frac{3}{4}$  Shift Population: 3,981

$\frac{3}{4}$  Township/Ward Changes: 8

$\frac{3}{4}$  Bemidji City Wards: Split 3 Ways

$\frac{3}{4}$  Elections Required by Redistricting:

$\frac{3}{4}$  District 2

$\frac{3}{4}$  District 3

$\frac{3}{4}$  District 5

**EXHIBIT A**

# Proposal 6

## No Longer Compliant

Summary: Based on Proposal 1 but minimizes the number of Districts having to run as a result of redistricting. This proposal would require an election in D2.

- $\frac{3}{4}$  Shift Population: 3,040
- $\frac{3}{4}$  Township/Ward Changes: 6
- $\frac{3}{4}$  Bemidji City Wards: Split 3 Ways
- $\frac{3}{4}$  Elections Required by Redistricting:
  - $\frac{3}{4}$  District 2
  - $\frac{3}{4}$  District 3

$\frac{3}{4}$  **Note:** The District 5 population total is 20 persons short of the minimum population requirement due to the City of Bemidji's preliminary approved Redistricting Plan

## **Additional Map:**

At the April 5<sup>th</sup>, 2022 County Board Meeting the Commission directed staff to develop an additional map called Proposal 7. It follows.

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# Proposal 7

Summary: This map brings back into compliance Proposal 6 by incorporating Liberty Township into District 5 and moves Alaska Township into District 4.

$\frac{3}{4}$  Shift Population: 3,981

$\frac{3}{4}$  Township/Ward Changes: 8

$\frac{3}{4}$  Bemidji City Wards: Split 3 Ways

$\frac{3}{4}$  Elections Required by Redistricting:

$\frac{3}{4}$  District 2

$\frac{3}{4}$  District 3

$\frac{3}{4}$  District 4

$\frac{3}{4}$  District 5

**RECOMMENDED AMENDMENT  
TO THE BELTRAMI COUNTY BOARD OF COMMISSIONERS  
May 3, 2022 AGENDA**

The Consent Agenda Item **7a. Approval of the Minutes** did not include the approval of the minutes of the Special Work Session on April 12, 2022.

We propose amending the Consent Agenda Item 7A to include the following text in red:

**7a. Approval of the Minutes.** Minutes of the Board of Commissioners Regular Meeting held April 19, 2022 as presented. Minutes of the Board of Commissioners Work Meeting held on April 19, 2022, as presented. **Minutes of the Special Work Session held on April 12, 2022, as attached.**

Attached are the minutes of the Special Work Session of April, 12, 2022.

## WORK MEETING MINUTES

### Beltrami County Board of Commissioners

April 12, 2022

3:00 pm

Meeting to be held in the County Board Room  
County Administration Building, 701 Minnesota Avenue NW  
Bemidji, MN

**A link to the [livestream](#) will be available on the Board Meeting Agendas and Minutes page of the County Website.**

Present: Commissioner Craig Gaasvig, Commissioner Jim Lucachick, Commissioner Tim Sumner, Commissioner Richard Anderson, Commissioner Reed Olson.

#### 1. Call to Order

Tim Sumner called the meeting to order at 3:00 pm

#### 2. Countywide Redistricting

Auditor/Treasurer, JoDee Treat opened the discussion with a review of the redistricting maps, including the addition a Proposal 7 map as requested at the April 5 Board Meeting.

The Maps reviewed at this meeting included Proposals 1, 2, 5 and 7 with the understanding that other Proposals or new proposals could be presented and discussed.

Commissioners Gaasvig and Lucachick reviewed their opinions on several of the Proposal options. Commissioners Olson, Anderson and Sumner did not present an opinion.

Ms. Treat reminded the Board that it is the goal and intent to vote on a new Beltrami County Commissioner District Map at the April 19, 2022 regular Board meeting to meet the State deadline for compliance.

#### 11. Adjourn

The Work Session was adjourned at 3:22 p.m.