

**Kootenai County**  
**Optional Forms of Government**  
**Study Commission**  
Meeting Minutes  
February 2, 2022  
5:30 p.m.  
451 N. Government Way  
Administration Building, 1<sup>st</sup> Floor Room 1B

**Commission Members Present:** Tamara Bateson, Kurt Andersen, Phil Ward, Bob Fish, Dave Botting and alternates Bruce Mattare and Joan Genter. Bryant Bushling, Brian Cleary, Kristen Wing, David Levine and alternate Cheri Zao attended remotely.

**I. Call to Order**

Chair Botting called the meeting to order at 5:30 p.m.

**II. Pledge of Allegiance**

Kurt Andersen led the meeting participants in the Pledge of Allegiance.

**III. Approval of / Changes to the Agenda**

A motion to approve the agenda as submitted was made by Phil Ward and seconded by Kurt Andersen. The vote was taken; the motion passed.

**IV. Announcements**

None

**V. Approval of Minutes -January 26, 2022**

A motion to approve the meeting minutes as submitted for January 26, 2022 was made by Bob Fish and seconded by Phil Ward. The vote was taken; the motion passed.

**VI. Reports**

This item was not required for this meeting.

**VII. Old Business**

This item was not required for this meeting.

**VIII. New Business**

A. Discussion of Questions

Chair Botting opened the discussion by indicating that this agenda item was intended for developing a list of questions that could be sent to the County to gather additional information that could be useful in drafting the final report. He asked the commissioners to provide their written comments to Jonathan Gillham so he can distribute them to the

commission. Commissioners attending the meeting remotely were asked to email their questions to the study commission.

Kurt Andersen agreed that such a process would be good for distributing the questions, but wanted to know if the study commission was also going to discuss the questions. He would like to hear what questions others have come up with. Chair Botting asked commissioners to start the dialogue. Mr. Andersen said that we did receive an opinion from the County Legal Department regarding the scope of the commission manager's hiring and firing authority. That authority is limited to the departments reporting to the Board. He asked if anyone had a different understanding.

Tamara Bateson indicated that the information from legal does not specifically state commission manager but rather indicates county manager. She believes those are two different positions. Chair Botting responded that we have been misusing the term commission manager which is a form of government that the county manager position operates. The county manager is the person and therefore not stipulated in the statute. Kurt Andersen said if the study commission needed to ask the County Legal Department questions, we could hold an executive session for a privileged discussion. Tamara Bateson and Chair Botting provided different views on the need to ask legal for clarification. Kurt Andersen and Tamara Bateson both expressed a concern that questions were submitted to legal without a review by the commissioners. They believed that was not the process that was approved. David Levine suggested that since we will have additional questions for legal, we could ask them to confirm that their answer was relevant to the commission form of government consistent with the recommendation.

Kurt Andersen wanted legal to clarify whether or not the constraints of the manager's (as used in the statute) authority pertains also to advisory boards and committees. He also wanted to ask which of the 79 duties assigned to the BOCC under Title 31, Section 8 would be considered the administrative duties assumed by the manager.

Phil Ward said one of the optional forms of government provides for a manager. This is not a unique concept since many cities have managers, including five or six within Kootenai County. He stated that quibbling over the term manager or commission manager does not change the fact that the recommendation is to hire a professional manager that will meet some certain criteria. If the voters endorse the recommendation to hire a manager, the county commissioners will decide what authority they want to extend to the position. Mr. Ward does not believe we need to ask legal every time someone has a question. The County Attorney clearly stated that the only authority the county manager would have extends only to the current authority the county commissioners have, which excludes the six elected officials. That means the manager would only have hiring and firing authority over the employees under the BOCC. Mr. Ward added that we are talking only about the administrative function and that the BOCC maintains legislative authority.

Brian Cleary indicated that earlier in the day he sent over a question to Nancy Plouffe requesting clarification from legal if they intended to say in their response commission manager rather than county manager. He also requested a definition of what county personnel means since he has not been able to determine that because there is no statutory reference to that term. Kristen Wing said regarding commission manager or county manager, NACO states that there are 115 different names/titles around the country that are used to describe this position. She believes that we are spending a lot of

time quibbling over a title that has not been determined yet. The form of government recommended is commission “dash” manager. The title most likely to be used will be county manager.

Chair Botting clarified that the timing of the question being sent to the County Legal Department was prior to last week’s meeting. The question was if the county manager would have the authority to hire and fire employees outside of the BOCC authority or did it cross over into the elected silos. He believes the response clearly indicated that the manager only has authority over BOCC personnel. However, since there are some concerns with the answer, we will go back to legal and ask them to confirm their position. Chair Botting asked if anyone else had questions to submit to the county.

Tamara Bateson wanted to ask, “Does the Commission Manager's authority to appoint, supervise, suspend and remove county personnel have any effect on HR? If so, in what manner?” She explained that HR currently reports to the Prosecuting Attorney’s office. If the commission manager’s authority includes hiring and firing employees and the ability to make appointments, would that necessitate moving HR? Ms. Bateson had several questions she would like to submit to the Clerk’s Office:

- How many people in the Auditor's department work on the budget?
- Approximately how much time is spent working on the budget?
- Would these positions in the Auditor's department be moved to the BOCC under the Commission Manager form?
- Currently, two elected officials, the Clerk and the Treasurer, sign county checks. Under the Commission Manager form, who will be signing county checks?
- Is there any statutory confusion created with the Treasurer's office having a Commission Manager becoming the chief budget officer?

David Levine said he wanted to respond to one of the questions that Tamara Bateson proposed. He also had a question about the moving the budget role, but asked the question in a different way. His question was, “Please provide the actual tasks that are required to prepare and submit the annual budget. While some of the work may be done by several people, the tasks listed should be directly associated with the budget coordination role.” The question was phrased in a way to try to obtain a step-by-step recap that may provide a more detailed response. Mr. Levine offered a few other questions:

- Can the BOCC determine which BOCC departments the manager would be responsible for?
- Can the manager only have hiring/firing authority over the departments he/she oversees?
- Is the hiring/firing authority limited to only those directly reporting to the manager and not the front-line employees?
- Does the BOCC have the ability to limit the boards and committees the manager would be responsible for?
- Can the BOCC overrule any decisions made by the manager regarding boards and committees?

Phil Ward indicated that he did submit a question because there is so much talk about the budget and that this work is some huge function. What does the statute say the budget officer's responsibilities are? Mr. Ward read a portion of 31-1610 which stated that: *The county budget officer shall notify, in writing, each county official, elective or appointive, in charge of any office, department, service, agency, or institution of the county to file with such budget officer...* Each department prepares their own report. He has worked in government for a county manager and they prepared departmental level budget assumptions and budgets and submitted that document to the budget officer. The budget officer will review the information and integrate the proposed budget into a document that will be presented to the BOCC for their approval. A professional manager may be able to find ways to improve the process or reduce costs since they are looking at the overall county information. The duty of the county manager is strictly administrative and, in this case, a procedural function. Mr. Ward also added that he believes we are worrying about who is hired or fired, but looking at the county record that does not occur very often.

Tamara Bateson said the statute also says the budget officer is responsible for the ongoing financial condition and needs of the county. She views the work to be more than a yearly budget and requires ongoing oversight. She supported how David Levine framed the question about the tasks associated with the budget officer's workload. Chair Botting said Title 31 Chapter 16 details the responsibilities of the budget officer. He read the following section of the code:

*On or before the first Monday in May of each year, the county budget officer shall notify, in writing, each county official, elective or appointive, in charge of any office, department, service, agency, or institution of the county to file with such budget officer, on or before the third Monday in May thereafter, an itemized estimate showing both the probable revenues from sources other than taxation that will accrue to his office, department, service, agency, or institution during the fiscal year, to which the budget is intended to apply, and all expenditures required by such office, department, service, agency, or institution...*

Tamara Bateson and others believe it would be helpful to confirm the impact of the movement of the work outlined in Title 31 Chapter 16. Brian Cleary asked what the practical effect of the commission manager becoming the budget officer might be. He understands that the Clerk Office still retains the auditor function but he wonders if we would lose some synergies and have overlap and duplication if the budget work moves to the commission manager. David Levine responded that separating those functions is actually a good idea. He has never worked in an organization where the people auditing his work were in the same organization. Kristen Wing added she also agrees with the separation of the work. This change would actually increase transparency and the checks and balances that people say they want. Brian Cleary has heard that response before, but he has a different view of the implications of who does what work based on the IT system's known software limitations. His concern is that the Clerk's Office is coordinating their work well with the IT limitations in place and if the work is divided some problems could result. Kristen Wing responded that if both functions are performed in one office today and since they are using the same system means other departments will have access to the system to do their work. The problem is not that the system is not available to people but rather that it has known limitations.

Brian Cleary had a question on Idaho Code which states the *commission manager shall exercise the executive authority to the county to make nominations and appointments to advisory boards and committees can be subject to the advice and consent of the board of commissioners*. He would like clarification of this section since similar language is included in other sections of the code. It is clear that if the commission manager appoints officers, the BOCC would have to provide advice and consent. However, similar language is not included in the statute for nominations and appointments to advisory boards and committees. David Levine said he has submitted a similar question and he agrees on the need to clarify the commission manager's authority when it comes to boards and committees.

David Levine said the study commission has talked about the possible cost of severance should the commission manager be terminated. He reached out to Sylvia Proud who responded that *all Kootenai County employees (non-elected) are classified as at will except the employees of the Sheriff's Office. The only employees at the Sheriff's Office that are at will are Captains and the Undersheriff*. Mr. Levine added that while this does not eliminate the possibility that severance could be paid, it does reduce the risk of severance.

Phil Ward said the commission manager may be able to hire and fire and that makes the job a powerful position. When it comes to boards and committees, the important word is nominate which is also included. If the commission manager nominates someone, it must be to the county commissioners. So that means, the commission manager gets approval to appoint individuals to boards and committees. He is unaware of any place where that is not the process. He believes the concerns he has heard are unwarranted, but verifying the answer may be helpful. Chair Botting believes we should consult with legal to understand the county manager's scope of authority.

Kurt Andersen said another topic we discussed was identifying the problem that we were endeavoring to solve with the recommendation. He did not know if that area would fall under questions or the next agenda item. Chair Botting believed we did discuss this topic when we reviewed the strengths and weaknesses. Mr. Andersen said he was having difficulty discerning a cogent set of problems or a clear problem statement. Brian Cleary indicated that last week's presentation included themes that could be included in the outline of the final report. He was not expecting someone in the county government to be able to address these questions, but it may be good to include in the final report.

Tamara Bateson wanted to discuss following up with the Departmental Leaders who may be willing to come and talk to the study commission. She believes it would be helpful to hear from them regarding the commission manager form of government. Chair Botting said they are free to have input by putting their thoughts in writing but at this point he did not think we needed to reopen the interviews. David Levine wanted to try to clarify the process we used to determine who should be interviewed. Nancy Jones developed a comprehensive list that included a lot of people the study commission discussed interviewing. At each meeting, the study commission reviewed the report and determined which people on the list to schedule for interviews. While we originally had all the Departmental Leaders on the list, we only asked Nancy Jones on August 3, 2021 to set up interviews with Community Development Director David Callahan and Airport Director Steven Kjergaad. In subsequent meetings we continued to review the list and scheduled interviews. Brian Cleary asked about some interest in interviewing the Ada

County commissioner regarding their COO position. David Levine said that the list did include Ada County commissioners but the decision to interview one or more of them was never made. Kurt Andersen indicated that the commission did reserve the right to request additional interviews if necessary.

Brian Cleary asked that since the manager will have general supervision of administrative functions it would be good to know which of the 79 functions would be assigned to the commission manager. Chair Botting said that we already discussed that and agreed to try to get an answer to the scope of the manager's authority. David Levine and Kristen Wing indicated that when you have a change in an organization's structure, you don't know all the answers regarding movement of work. Kristen Wing added that when you make changes there are always challenges but that is how progress is made and her experience is that results are positive.

Bob Fish said we have made a decision and this commission will move forward with the recommendation to part-time five county commissioners with a professional executive. The five people in favor of the recommendation should go out and promote it, but if we are not able to adequately answer some of the questions discussed, it would make it difficult to do so. Mr. Fish said we need to document what we did and how we did it as best we can. The study commission is just making a recommendation and the voters will decide to approve it or not. Tamara Bateson clarified that the commission cannot stipulate part- or full-time status in the recommendation.

Chair Botting confirmed that no one had any additional questions and moved to the next agenda item.

## B. Writing Committee

Chair Botting suggested that the writing committee members should include Kristen Wing and David Levine. Chair Botting as commission chair is an ad-hoc member of the committee. David Levine believed the commission would be best served if the writing committee included someone who was opposed to the recommendation. The report is for the members of the public and having different perspectives in helping to draft the final report would be beneficial. Brian Cleary confirmed that he would not be interested in serving in this capacity. Mr. Levine asked if Tamara Bateson, Bryant Bushling or Kurt Andersen would be willing to serve as a member of the writing committee. Chair Botting added that all members on the writing committee had to be willing to sign the final report. He went on to say that signing the final report does not mean approval of the final recommendation. Kurt Andersen indicated that he was willing to serve under those conditions. He indicated that he is willing to approve the report from a clarity of how the points are expressed but he reiterated that he is not willing to endorse the recommendation.

Brian Cleary recommended that the writing committee first come up with an outline that can be reviewed by the commission for their feedback. Chair Botting said the outline is dictated by the statute. Mr. Cleary agreed but did not think limiting the report to those components would best serve the public or would provide answers to some of the questions we have been discussing.

Phil Ward believed the writing committee should start to draft the report. If they have questions or need clarification on some items, they can come back to the commission to get their feedback. He asked if people who are on the writing committee later decide not to support the report, does that mean the commission could not go forward with the report? The final recommendation cannot be sent to the BOCC without the final report. His concern is that Mr. Andersen would not agree to sign the final report. Chair Botting said the report will be submitted by the writing committee. The report will be approved based on the vote of the commissioners and adopted if approved by a majority of those voting. He added that it would require a majority of the commissioners to sign the report to make it official. He believed that everyone on the writing committee should be going into this effort with the understanding that they would be willing to support the information in the report. Kristen Wing asked Kurt Andersen if he would be willing to serve in a similar capacity when he supported the initial writing committee. Based on this discussion, Mr. Andersen agreed to be a member of the committee. Kristen Wing will be the chair of the writing committee.

## **IX. Items of Next Meeting Agenda**

### **a. Confirming Scheduling Following Meetings**

1. February 9
2. February 16

Chair Botting indicated that we will be submitting questions to the county. Since we are unsure how quickly they will respond, it makes sense not to schedule additional meetings at this time.

## **X. Adjournment**

A motion to adjourn the meeting was made by Tamara Bateson and seconded by Kurt Andersen. A vote was taken and the motion passed. Meeting adjourned at 6:59 p.m.

Respectfully submitted,

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David Levine, Clerk/Secretary