

Kootenai County
Optional Forms of Government
Study Commission

Meeting Minutes

April 6, 2022

5:30 p.m.

451 N. Government Way

Administration Building, 1st Floor Room 1A/B

Commission Members Present: Tamara Bateson, Kurt Andersen, Phil Ward, Bob Fish, Dave Botting, Bryant Bushling, Brian Cleary, Joan Genter, David Levine and alternate Bruce Mattare. Alternate Cheri Zao was not present.

I. Call to Order

Chair Botting called the meeting to order at 5:30 p.m. He notified the study commission that Kristen Wing has submitted her resignation. According to the bylaws, with this resignation, Joan Genter will replace her as a full commission member.

II. Pledge of Allegiance

Tamara Bateson led the meeting participants in the Pledge of Allegiance.

III. Approval of / Changes to the Agenda

Brian Cleary requested that agenda item V should be removed in light of Chair Botting's announcement because no action needs to be taken. Chair Botting agreed. Mr. Cleary wanted to make sure that Joan Genter has an opportunity to review the report and provide any comments based on that review. Mr. Cleary believes the study commission should reconsider the recommendation because Ms. Genter has not exercised her opportunity to vote on it. Since the majority will need to sign the final report, Mr. Cleary believes the study commission needs to reconsider the current recommendation prior to acting on the other agenda items. Chair Botting stated that the county legal department was given quotes out of the statute and decided they did not want to refute that information. Based on that, we will continue with the plain reading of the statute that indicates Kristen Wing was a valid member of the study commission at the meeting on April 4, 2022. In responding to a question, Chair Botting stated that Ms. Wing moved at the beginning of April. He added that according to the plain reading of the statute, Ms. Wing's term runs from the appointment until 30 days after the submission of the report. Brian Cleary summarized what he thought he understood from Chair Botting's statement that Ms. Wing voted on the initial recommendation while she was a resident of Kootenai County; therefore, her vote stands. Chair Botting said that Kristen Wing was a resident of the county through the end of March 2022, and therefore, her vote on the recommendation would stand. Chair Botting added that she was a member of the study commission per Idaho statute 31-5103 which states: *The term of office of a commission member initiates upon his appointment and concludes thirty (30) days after the issuance of the commission's final report.* Chair Botting said there is nothing in the statute concerning this situation but there are provisions pertaining to county commissioners or other elected officials. The plain reading of the statute would be that Kristen Wing was a member of the commission and we will move forward with the decisions made at Monday's meeting.

Brian Cleary moved to amend the agenda to add an item to reconsider the recommendation given the change in the commission membership. That motion was seconded by Bryant Bushling. Prior to the vote a question was asked if this was an action item. Brian Cleary disagreed that this is an action item. Kurt Andersen proposed that if we are going to reconsider the recommendation then that item could be handled at next week's meeting. Kurt Andersen suggested tabling the agenda completely and reconsidering the motion next week. That would satisfy the notice requirements.

A motion to table the agenda was made by Kurt Andersen and seconded by Brian Cleary. The vote was taken; Commissioners Andersen, Cleary, Bateson and Bushling voted in favor. The motion failed.

A motion to approve the agenda was made by Phil Ward and seconded by Bob Fish. The vote was taken; Commissioners Ward, Fish, Genter, Botting and Levine voted in favor. The motion passed.

IV. Announcements

None

V. Discussion of Kristen Wing's resignation and appointment of Joan Genter as member

Covered under the call to order agenda item.

VI. Review, modify and accept changes to Draft Final Report of the 2021-2022 Kootenai County Study Commission Regarding Optional Forms of County Government

Kurt Andersen presented the report and highlighted all the changes made based on the changes approved at the April 4, 2022 meeting. Chair Botting asked if the modifications to the report are acceptable to everyone and if any of the changes were incorrectly represented. No additional comments or suggestions were offered.

VII. Declare Draft Final Report of the 2021-2022 Kootenai County Study Commission Regarding Optional Forms of County Government to be "Final Report of the 2021-2022 Kootenai County Study Commission Regarding Optional Forms of County Government"

Chair Botting declared the just reviewed document as the Draft Final Report.

Bob Fish made a motion to accept the document reviewed tonight as the final document. The motion was seconded by Phil Ward. Chair Botting called for discussion.

Phil Ward said the final report does nothing other than declare what the study commission did over the last 10 months and the process we used to get to this point. Nothing in the report says that everyone agrees with the report. Mr. Ward thinks the report is an accurate account of what has happened. Bryant Bushling said it may have reflected what the study commission has done, but he is not sure whether or not it reflects the majority opinion. Kurt Andersen agrees with that concern. Chair Botting said that in talking about the vote that was taken in January there was not a question concerning Kristen Wing's eligibility as a full member of the study group, so that vote stands. Bryant Bushling said the signature page is not correct and Chair Botting said that will be updated.

Brian Cleary takes issue with the conclusions reached by Chair Botting. He stated that Chair Botting is talking about a process that has been tainted for a while now. Mr. Cleary stated the different ways he believed Kristen Wing's eligibility was questionable, including the timing of some transactions over the last 5 months. Mr. Cleary said Ms. Wing was a swing vote and demonstrated that in the last meeting on four different votes. Mr. Cleary believes this was an engineered outcome. He added that we need to reconsider the recommendation since Joan Genter has just been added as a full member of the commission. He believes this request is entirely appropriate.

Addressing Chair Botting, Mr. Cleary said at the last meeting you had the obligation as the Chair to advise the study commission clearly what communication you had with the county attorney's office. He added that Chair Botting began the discussion by indicating the legal department was perfectly ok with Ms. Wing staying on the commission, which he believes was misleading. Mr. Cleary said that Chair Botting told the commission members that the county attorney did not render an opinion. Individual study commission members cannot request a legal opinion. That request has to be made by the Chair. Chair Botting responded that he actually cannot go to the county attorney to request a legal opinion. Brian Cleary reiterated that the study commission relies on the Chair to communicate accurately and transparently any information received from the county. Mr. Cleary does not think Chair Botting met that obligation. He went on to say that Chair Botting ignored a prior concern expressed by two study commission members who have many years of legal expertise. Apparently, the county attorney had similar concerns and that is why the study commission had these additional meetings. Mr. Cleary said, based on these two items, he does not think Chair Botting should occupy the position of Chair. He does not believe Chair Botting represents the way other county advisory board chairs operate. He believes this board has not been run in a transparent, fair or open way. Brian Cleary said Chair Botting should step down from the position of chair. Mr. Cleary said that Chair Botting has disqualified himself as a matter of law by violating the law twice with respect to open meeting laws violations, as well as the residency question.

Tamara Bateson made a motion for Dave Botting to step down as chair. The motion was seconded by Bryant Bushling. David Levine asked if this motion was appropriate at this time since it was an action item. Tamara Bateson said this is an emergency issue due to the issues discussed tonight. Nanci Plouffe said that action items cannot be added to the agenda. Kurt Andersen said there is a mechanism for emergency items like this. Brian Cleary added that this is in the nature of an injunction so that Chair Botting stops violating the law. Brian Cleary repeated the reasons he believes Chair Botting should step down. Chair Botting said he will not step down. Kurt Andersen thinks this item is a procedural one that would take precedence over consideration of the final report. Nanci Plouffe does not see any harm with delaying this item until next week's meeting. She added that the study commission would still have the same issue.

Kurt Andersen made a motion to table the remaining agenda items pending the study commission's ability to consider an agenda item regarding the status of the chair. The motion was seconded by Brian Cleary.

Phil Ward stated that he totally disagrees with what he has heard tonight. He believes Dave Botting has done a good job and has allowed everyone to speak. He added that coming now and trying to distort the entire situation and delaying the process is disgraceful. Brian Cleary disagreed and refrained from speaking up about Chair Botting's behavior out of his respect for the position of Chair. Mr. Cleary recapped his concerns again.

A vote was taken after the discussion period ended; Commissioners Bateson, Bushling, Genter, Cleary and Andersen voted in favor. The motion passed.

VIII. Vote to submit Final Report of the 2021-2022 Kootenai County Study Commission Regarding Optional Forms of County Government to Board of County Commissioners

This item was tabled.

IX. Assign members to committee to approve meeting minutes of April 4, 2022 and April 6, 2022 meetings

This item was tabled.

X. Adjournment

Kurk Andersen asked for clarification about next week's agenda. The topics to be added to the agenda include:

1. Status of the Chair
2. Reconsideration of the recommendation
3. Depending on the results of the vote for reconsideration of the recommendation, either resume with the agenda items from tonight's meeting or develop a plan for the final report.

Chair Botting asked for the justification for reconsidering the recommendation since there is no question that all members were valid at the time the recommendation was approved in January 2022. Tamara Bateson responded that the study commission has a new member who has not been able to vote on the recommendation. Ms. Bateson said that her name is going to be added to the signature page of the final report, but she has not had the ability to vote. Chair Botting responded that we are not reconsidering the recommendation. It was approved in an open meeting. Bryant Bushling indicated that if five members of the commission want to reconsider the recommendation then it can be reconsidered.

A motion to adjourn the meeting was made by Kurt Andersen and seconded by Bryant Bushling. A vote was taken and the motion passed. Meeting adjourned at 5:58 p.m.

Respectfully submitted,

David Levine, Clerk/Secretary