

**Kootenai County
Optional Forms of Government
Study Commission**

Meeting Minutes

April 12, 2022

7:00 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 7:00 p.m.

II. Pledge of Allegiance

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

III. Approval of / Changes to the Agenda

Brian Cleary asked for clarification of two items on the agenda. First, he wanted to confirm that agenda item IX (Discussion and change of recommendation of optional form of government) is an action item which includes a vote of the change of recommendation. Chair Botting confirmed a vote would be included as part of that agenda item. Mr. Cleary also wanted to verify that agenda item XII (Vote to submit Final Report of the 2021-2022 Kootenai County Study Commission regarding Optional Forms of County Government to Board of County Commissioners) will include the action item of signing the document. Chair Botting said it does and the signing of the document can occur either under this agenda item or at the conclusion of the meeting.

A motion to approve the agenda was made by Kurt Andersen and seconded by Brian Cleary. The vote was taken; the motion passed.

IV. Approval of the April 4, 2022 and April 6, 2022 meeting minutes

Bryant Bushling asked for a statement to be added to the end of the second paragraph on page 2 to reflect that Chair Botting indicated during that discussion that the county attorney did not offer an opinion. The minutes will be amended to include such a statement.

A motion to approve the amended meeting minutes for April 4, 2022 was made by Tamara Bateson and seconded by Bryant Bushling. The vote was taken; the motion passed.

Brian Cleary believes the minutes need to be edited since the study commission never completed agenda item 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"). Mr. Cleary explained that the motion to accept the document reviewed that evening as the final document was included incorrectly in agenda item 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). Agenda item VIII was tabled. Mr. Cleary suggested moving the motion section under agenda item VIII to agenda item VII. Kurt Andersen agreed and added that all the text under VIII should be moved under agenda item VII and the minutes need to also reflect that agenda items

VIII and VIX were tabled. Those changes were approved and the minutes will be amended to reflect those decisions.

A motion to approve the amended meeting minutes for April 6, 2022 was made by Bryant Bushling and seconded by Tamara Bateson. The vote was taken; the motion passed.

V. Announcements

Brian Cleary indicated that at the April 6th meeting, the study commission held discussions around Kristen Wing's resignation and particularly as to when she was no longer a resident of Kootenai County. Chair Botting indicated her residency ended in the county at the end of March or April. Mr. Cleary said since that meeting, he has received a copy of the "Voting Registration Acknowledgement Notice," dated April, 7, 2022, that was sent to Ms. Wing by the Pennington County Auditor in South Dakota. That notice acknowledges Ms. Wing registered to vote there on March 2, 2022, with a residence address listed in town in South Dakota. Mr. Cleary shared a redacted copy of that document with the study commission members to preserve Ms. Wing's privacy.

Mr. Cleary requested that the "Voter Registration Acknowledgment Notice" for Ms. Wing be made part of our commission record and that the minutes of this meeting reflect that Ms. Wing was no longer a resident of Kootenai County, Idaho as of March 2, 2022. He added that to put that date in context, March 2nd was one week before Ms. Wing appeared in-person at our March 9th meeting and cast four tie-breaking votes during the commission finalizing the then-draft final report, approving the final report, and signing that report. Chair Botting said he has heard no objection to adding the information to the commission records.

VI. Vote to remove Chair

Kurt Andersen made a motion to remove Chair Botting from the position of chair of the study commission. The motion was seconded by Brian Cleary. Chair Botting opened the floor to discussion.

Joan Genter said since this discussion is so late in the process, it may behoove the study commission to retain our current chair. She wanted to make it clear that she has not approved the lack of diplomacy and the way the current chair has handled the meetings. Ms. Genter added that she is a little conflicted as to what the right answer is.

Bryant Bushling said he would tend to agree with Ms. Genter, but he does not think we can move this agenda item to later in the meeting. Mr. Bushling proceeded to offer his remarks regarding removing Mr. Botting from his office. He began by saying nothing he says tonight is directed against Mr. Botting. He noted that he is used to dealing with facts as they appear and what we can learn from them. That is how he approached this discussion tonight. Mr. Bushling stated that the reasoning he used starts with the Article VI Section 1e of the Bylaws which states: *The Chair shall ensure that all responsibilities of the Commission are properly discharged.* Mr. Bushling said that both common sense and the Bylaws imply that the Chair shall be forthcoming and transparent. He added that transparent means that it does not appear that there is obfuscation. Clearly, many members of this community do not trust this process. Much, if not the majority of what the study commission has heard at public hearings, or through public comments indicated the public thinks the outcome of the commission was directed and engineered from the beginning. Mr. Bushling came to this assignment with an open mind and he believes his colleagues did also. He is used to dealing with facts as they appear and what they mean. At the January 26th meeting, Mr. Bushling noted that this community commission lacks credibility and he believes Mr. Botting's behavior contributed to that perception. As he was leaving to attend this meeting, he read a recent email from a member of the public that essentially recapped the same perceptions that Mr. Bushling has presented tonight. That email basically indicated that Mr. Botting's conduct has inspired a real lack

of faith in the process the commission used to reach its conclusions. The comment on lacking credibility on January 26th occurred about five weeks before the March 9th meeting. Kristen Wing attended the March 9th meeting and we learned tonight that she was registered to vote in another state. Mr. Bushling said that without her vote the commission may have approved a different recommendation. He thought that Mr. Botting was in a real hurry to get to the end of the process and he wondered why the commission was rushing to complete their work. At that time, Brian Cleary identified several areas about which he thought it would have been wise to gather additional information to make sure the study commission understood the impact of moving the budget function. Mr. Bushling said Mr. Botting seemed to just want to move on and not consider additional meetings. Mr. Bushling talked to members of the public afterwards and those individuals thought that Mr. Botting might have some ulterior motive about not delaying the process. Mr. Bushling could not figure out why that was. Now, he believes a lot of people think the decision against delaying the process was because of the eligibility issue of one commission member that we have discussed tonight. Mr. Bushling does not know for a fact that Mr. Botting knew when Ms. Wing moved. At the March 9th meeting, three commissioners believed there was an open meeting law violation and Mr. Cleary recommended a simple fix which was to reconvene in a week to cure any violation. This caused Mr. Bushling to question why people were opposed to coming back a week later to cure any potential open meeting law violation. He added that the Chair was aware of an open meeting law violation allegation that could have been cured easily, but the study commission rushed to conclude on March 9th. Mr. Bushling believes that decision is a violation of the responsibility the Chair has to ensure that commission duties are properly discharged. The March 9th meeting ended the study commission's work and then suddenly the study group was told that an additional meeting would be held on April 4th to cure the open meeting law violations. Mr. Bushling said that when we attended the April 4th meeting, the study commission was never advised of the reason the meeting was required. He believes the Chair had some duty to explain why the meeting was called. Such clarification could have helped the commission complete its tasks. Mr. Bushling asked by what authority did the original report get returned to this commission. He is unaware of any statute that authorizes that and asked if the decision was made by Mr. Botting or the BOCC. Mr. Bushling said at the meeting on April 4th, which was 32 days after Ms. Wing registered to vote in another state, Mr. Botting stated that the county attorney offered an opinion that there was nothing that prevented Ms. Wing from participating as a member of the study commission. Mr. Botting stated later that the county attorney did not provide an opinion. That statement seems to contradict the earlier assertion that the county attorney had indicated that there was nothing to prevent Ms. Wing from participating. He believes that Mr. Botting is someone who says what he thinks, is articulate and highly intelligent. Mr. Bushling could not understand why Mr. Botting could not see the contradiction and questions why Mr. Botting has problems with transparency. At the same meeting, Mr. Cleary asked that the report include an analysis of what duties would be delegated to the commission manager and that motion failed while Ms. Wing was still participating in the voting. Mr. Bushling believes the record he outlined supports the concerns of the community, i.e., that this commission is not operating openly, honestly and in good faith. On April 6th we were advised that Ms. Wing had resigned and were not advised for the reason for that decision. At that meeting, Mr. Botting was asked when Ms. Wing moved and he answered late March or early April. Based on what he learned tonight that information was not correct. Mr. Bushling said that many people are suspicious since the study group was not told when Mr. Botting learned of Ms. Wing's relocation. He added that this is another example of a lack of transparency. Mr. Bushling supports removing the Chair for two reasons. The community believes that this commission recommendation has been engineered. He believes since we work for the community it is in everyone's interest to convey to the community that the system is honest. He also believes it is important the community understand that their government is of them, by them and for them. In this country right now, there are a lot of people who believe there is a ruling class that govern against them and Mr. Bushling believes we cannot allow that sort of attitude to permeate this county. The other reason is we have a duty to ourselves. To not remove the Chair is to ratify the behavior that has brought the study commission to this point. These proceedings become a part of Kootenai County history. When future generations look back at this commission, he said, what will they think if we don't remove the Chair.

Tamara Bateson wanted to piggyback on the comments made by Bryant Bushling by addressing one of the main issues that she has focused on from the beginning: transparency. She added that being upfront and honest is important and she has always tried to do that. Ms. Bateson said there has been a lack of transparency of which the public may not even be aware. She believes that things were done to try to prevent tonight's meeting and the subsequent vote and this is a problem. Ms. Bateson said, according to Robert's Rules, if at any time the Chair acts improperly, and that includes making comments that could resemble an insult, they should step down. She, along with other commissioners, has borne the brunt of those insults and she said she was willing to accept that because getting the information out to the public is a fight worth fighting for. Ms. Bateson said it does not speak well to the integrity of this commission to allow this lack of transparency and bullying to occur. She believes some of Chair Botting's behavior is due to a passionate belief system. Ms. Bateson is equally passionate about her beliefs. Sometimes that may come across in ways that are not appropriate, but that cannot be an excuse for our behavior and allowing things to continue. Ms. Bateson said the public deserves the right to know what is going on and transparency is a huge issue and is included in our code of ethics and honor system regarding how the commission members should conduct themselves. This includes the commission's behavior during meetings and how we communicate via emails. She does not believe that was done in many ways. Ms. Bateson believes this is unfortunate since we had an opportunity to delve into things that could have been useful to the county. She added that a lot of opportunities that came before the commission were forcefully overruled and, in some part, as commissioners, we let it happen. Ms. Bateson believes at some point we have to take a stand even if it is at the end of the commission's work. It is never a bad time to do the right thing. She ended by saying this is the right thing.

Brian Cleary started his comments by saying that Chair Botting is one of the smartest individuals he's ever met and he is good at what he does. However, in terms of the residency question, Mr. Cleary has concerns that he was not getting transparent answers about Chair Botting's dialogue with the prosecutor's office and when Ms. Wing actually moved. That lack of information caused Mr. Cleary to search for the answers by tracking down voter records in South Dakota. Mr. Cleary also thought he had the same concerns as those expressed tonight by Mr. Bushling regarding the push to conclude the commission's meetings. He could not understand the reason to push the process along so fast. Mr. Cleary said that it did not make sense to him at first, but maybe the upcoming election may have been the reason Chair Botting wanted to conclude the commission's work. Since he is the Treasurer for Commissioner Fillios's campaign, perhaps Chair Botting wanted to avoid the appearance of a conflict of interest. Mr. Cleary added that he then became aware of Ms. Wing's residency issue and when he reflected on that, he started to think about statute 31-5105 which states: *The report shall be signed by a majority of the commission members.* Mr. Cleary stated that does not mean just the people who voted in favor of the final report. He added that the final report could be signed by people who supported the recommendation but also those who were opposed. The statute just requires a majority which means five commissioners. Mr. Cleary recalled when Kurt Andersen offered to be on the writing committee, Chair Botting made it clear that Mr. Andersen would have to sign the report if he wanted to be a member of the writing committee. At that time, Mr. Cleary thought that was unfair, but then he began to think about that in context with statute 31-5105 and the residency question. Mr. Cleary said if there was a problem with Ms. Wing's eligibility to be a member of the commission, then it could have cast doubt on the ability to have a majority approve the recommendation. Based on these facts, it made sense to Mr. Cleary that Chair Botting wanted Mr. Andersen to agree to sign the final report in order to have five signatures on the final report. The people signing the report do not all have to support the recommendation per statute 31-5105. Mr. Cleary does not know if that was the reason Chair Botting did what he did. The Chair is someone who the commission members should be able to trust and have knowledge of the rules governing the commission's work. The Chair should not use that knowledge to the detriment of those who may not be aware of the rules. Mr. Cleary does not know if those things are true, but he has a feeling that things are not right and he has lost his confidence in Chair Botting's leadership. Mr. Cleary added that if all the things discussed tonight are true, the circumstances start to line up a certain way, and he starts to lose confidence. He did not address those concerns previously because he respects the position of the Chair. When commission members failed to address the

open meeting law violations and the residency concerns were not researched, Mr. Cleary lost confidence in Chair Botting's leadership. Mr. Cleary reiterated what Mr. Bushling said about this commission's impact on the community's opinion: that the process could not be trusted. He believes it is incumbent upon the commission to appear transparent. Mr. Cleary said we have commission members on other county boards and the reflection from this advisory commission transfers to other commissions. He believes we need to clear the air and that is why Mr. Cleary favors this motion to remove Chair Botting from his position.

Chair Botting asked if anyone else would like to speak. When no additional comments were offered, Chair Botting asked for a vote on the motion made by Kurt Andersen to remove Chair Botting from the position of chair of the study commission. The motion was seconded by Brian Cleary. The vote was taken by polling each commission member. Commissioners Cleary, Andersen, Bushling, Bateson and Genter voted in favor. Commissioners Ward, Fish, Botting and Levine were opposed. The motion failed. Per Article IV Section 4 of the Bylaws a two-thirds vote of the commission to remove an officer from their position is required.

VII. Appointment of new Chair

The item agenda was no longer applicable.

VIII. Vote to reconsider recommendation to change the form of county government to a commission manager form of government with a five-member board of county commissioners and a professional manager appointed by the Board of County Commissioners

Kurt Andersen moved to rescind the prior recommendation to change the form of county government to a commission-manager form of government with a five-member board of county commissioners and a professional manager appointed by the Board of County Commissioners and to reconsider the recommendation. The motion was seconded by Tamara Bateson.

Chair Botting asked for discussion. Phil Ward said the actual decision on the recommendation to have five county commissioners and a county manager was made back in November. He added at that time there was no question about the eligibility of all study commission members to vote on motions. Mr. Ward believes a reconsideration requires the motion to be made by someone on the affirmative side of the prior motion. Kurt Andersen responded that this is not a motion to reconsider but rescind. Mr. Ward then said if it is a rescind, then we would have to show that something was done improperly at the time the original motion was made. Mr. Andersen said this motion is being made due to the change in the composition of the study commission, necessitated by the resignation of one member.

No additional discussion was offered and a vote was taken. Commissioners Cleary, Andersen, Bushling, Bateson and Genter voted in favor. The motion passed.

IX. Discussion and change of recommendation of optional form of government

Kurt Andersen moved that the recommendation of the study commission is no change to the current form of government. The motion was seconded by Tamara Bateson. The vote was taken; Commissioners Cleary, Andersen, Bushling, Bateson and Genter voted in favor. The motion passed.

X. Modify Draft Final Report of the 2021-2022 Kootenai County Study Commission Regarding Optional Forms of County Government to change recommendation of optional form of government

Kurt Andersen said the writing committee anticipated that the recommendation would change and drafted a one-page statement that was distributed to each commission member. The document was offered as a draft for consideration. Brian Cleary also drafted a document for the commission to consider which is similar to the one drafted by the writing committee. Mr. Cleary made sure the document he prepared used the exact language required by statute.

Kurt Andersen read the draft document prepared by the writing committee into the record:

Having investigated the current and statutorily authorized alternate forms of county government, the majority of the Kootenai County Optional Forms of Government study commission has been unable to find any basis in fact to recommend a change in form of county government. The study commission did find compelling arguments against a change, including, but not limited to the lack of any legal and procedural precedent and support within Idaho, uncertainty which would attend any change, and clear increases in costs with ambiguous potential offsets for some of those costs.

The study commission would encourage the Kootenai County Board of Commissioners to explore non-statutory options to reduce the administrative burden on the commissioners and to improve the efficiency of the departments which report to the BOCC.

The Study Commission recommends no changes in the form of county government.

Brian Cleary read the draft document that he prepared:

On May 11, 2021, the Kootenai County Board of Commissioners passed Resolution #2021-56, authorizing a nine-member citizens' commission to "study the existing form of county government, compare it to other optional forms and submit a report and any recommendations for change to the board." The statute further indicates that any recommended change may be submitted by the Board of County Commissioners at the next succeeding general election for the voters of Kootenai County to decide whether to retain the current form of county government or approve the proposed optional form of county government.

The Citizens' Study Commission met most weeks from May 17, 2021, through the end of January 2022. During this time, the commission collected information from interviews, research literature, government websites, officials in counties across the US that had successfully implemented other county government structures and content experts in city-county government options. Two public meetings were held to get input from Kootenai County residents.

After reviewing and discussing this information, the Study Commission recommends no changes in the county government.

This report reflects the recommendation of the majority of the Study Commission.

The commissioners discussed which form to use, including the signature page. Tamara Bateson suggested since there is pertinent information in both documents could we combine the forms. The commissioners discussed how best to combine the information and Kurt Andersen agreed to provide the commissioners with a revised version to consider when the meeting reconvenes after a short break.

Joan Genter made a motion to take a fifteen-minute break and it was seconded by Brian Cleary. A vote was taken and the motion passed.

After the break, Kurt Andersen read the draft final reports into the record:

On May 11, 2021, the Kootenai County Board of Commissioners passed Resolution #2021-56, authorizing a nine-member citizens' commission to "study the existing form of county government, compare it to other optional forms and submit a report and any recommendations for change to the board." The statute further indicates that any recommended change may be submitted by the Board of County Commissioners at the next succeeding general election for the voters of Kootenai County to decide whether to retain the current form of county government or approve the proposed optional form of county government.

The Citizens' Study Commission met most weeks from May 17, 2021, through the end of January 2022. During this time, the commission collected information from interviews, research literature, government websites, officials in counties across the US that had successfully implemented other county government structures and content experts in city-county government options. Two public meetings were held to get input from Kootenai County residents.

*Having investigated the current and statutorily authorized alternate forms of county government, the majority of the Kootenai County Optional Forms of Government study commission has been unable to find any basis in fact to recommend a change in form of county government. The study commission **did** find compelling arguments **against** a change, including, but not limited to the lack of any legal and procedural precedent and support within Idaho, uncertainty which would attend any change, and clear increases in costs with ambiguous potential offsets for some of those costs.*

The study commission would encourage the Kootenai County Board of Commissioners to explore non-statutory options to reduce the administrative burden on the commissioners and to improve the efficiency of the departments which report to the BOCC.

*The Study Commission recommends **no changes** in the form of county government.*

This report reflects the recommendation of the majority of the Study Commission.

Brian Cleary wanted to clarify that signing the signature page in the left column signifies support for no change to the current form of government. Those who sign in the right column do not support the recommendation for no change to the current form of government. Kurt Andersen confirmed that was the case.

Kurt Andersen moved to accept as the draft final report of the Study Commission the document recommending no change in government presented to the commission at today's meeting. This was seconded by Bryant Bushling. The vote was taken; Commissioners Cleary, Andersen, Bushling, Bateson and Genter voted in favor. The motion passed.

XI. 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"

Kurt Andersen moved to promote the draft final report recommending no change to government to be the Final Report of the 2021-2022 Kootenai County Study Commission. The motion was seconded by Brian Cleary. The vote was taken; Commissioners Cleary, Andersen, Bushling, Bateson and Genter voted in favor. The motion passed.

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

Kurt Andersen moved to submit the Final Report of the 2021-2022 Kootenai County Study Commission Regarding Optional Forms of County Government to the Board of County Commissioners and for said report to be signed by a majority of the members as required by I.C. 31-5105. The motion was seconded by Brian Cleary. The vote was taken; Commissioners Cleary, Andersen, Bushling, Bateson and Genter voted in favor. The motion passed.

Signing of April 2022 Final Report:

- Commissioners Cleary, Anderson, Bateson, Bushling, and Genter signed the April 2022 Final Report indicating that they supported the recommendation stated in that report.
- Commissioners Levine, Fish, and Ward signed the April 2022 Final Report to indicate their opposition to the recommendation stated in that report.
- Commissioner Botting did not sign the April 2022 Final Report.

XIII. Assign members to committee to approve meeting minutes of April 12, 2022

Chair Botting asked for volunteers for the committee to approve the final meeting minutes. Brian Cleary and Bryant Bushling were appointed as members of the subcommittee.

XIV. Discussion of agenda items for next meeting

The item agenda was no longer applicable.

XV. 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 8:22 p.m.

Respectfully submitted,

David Levine, Clerk/Secretary

Approved by the Final Minutes Subcommittee members Brian Cleary and Bryant Bushling on April 21, 2022