

**Minutes of Meeting
Commissioners' Status Update
October 3, 2023
10:00 a.m.**

The Kootenai County Board of Commissioners: Chair Leslie Duncan, Commissioner Bruce Mattare and Commissioner Bill Brooks met to discuss the following agenda items. Also present were KCSO Sheriff Robert Norris, KCSO Undersheriff Brett Nelson, KCSO Lieutenant William Klinkefus, Prosecutor Stanley Mortensen, Civil Deputy Prosecuting Attorney R. David Ferguson, Human Resources (HR) Director Sylvia Proud, Clerk Jennifer Locke, Chief Deputy Clerk Grace Blomgren, Finance Director Brandi Falcon, Deputy Finance Director Keith Taylor, Staff Accountants – Grants Rae Ann Fritsche and Julina Hildreth, Assessor Bela Kovacs, Chief Deputy Assessor Ben Crotinger, Resource Management Office (RMO) Director Jody Bieze, BOCC Executive Assistant Sara Masters, BOCC Communications Coordinator Jonathan Gillham and Deputy Clerk Tina Ginorio. Also present were Kootenai County Residents Charity Joy and Corey Smith. Mr. Kovacs was present via teleconference.

A. Call to Order: Chair Leslie Duncan called the meeting to order at 10:01 a.m.

B. Changes to the Agenda (Action):

Chair Duncan said that item 10 would be handled second and item 2 would be done last.

No objections were voiced.

C. Business:

Community Action Partnership Public Official Designee (Discussion)

Kootenai County Resident Corey Smith stated that the County had the right to have a representative on the North Idaho Community Action Partnership Board. He said the group included all the counties north of Idaho County and accepted funds from Avista and the different power companies to perform services such as weatherization and energy assistance for low income or poverty level individuals and supported community food banks. He reported that they received between \$8 million and \$9 million each year in grants and had a Board made up of ten people from the public sector and ten people from the private sector.

Mr. Smith said his term had lapsed and he needed a public official to reappoint him. He remarked that he was acquainted with Commissioner Bill Brooks and felt that the BOCC would be an appropriate entity to ask for help. He said he had served for several years and had been the Treasurer of their Board of Directors. In response to a question from Commissioner Bruce Mattare, he stated that the appointment did not have to come specifically from a BOCC member, just a public official.

Chair Duncan said that, since there were no bylaws or statutes requiring official action from the BOCC, that Commissioner Brooks could take the necessary action on his own.

No objections were voiced to her suggestion. Commissioner Brooks said he would be willing to sign the documents.

NaCo (National Association of Counties) Operation Green Light for Veterans (Discussion)

BOCC Communications Coordinator Jonathan Gillham explained that this proposal asked for people to show their support for veterans by installing green bulbs in their light fixtures.

Commissioner Brooks indicated that he did not see a tangible benefit to veterans from the proposal, so he was not interested.

Chair Duncan stated that the bulbs were supposed to be displayed from November 6 through November 12, 2023, for the celebration of Veteran's Day.

Commissioner Mattare said that if the County did this for one group, they would be obligated to do it for others, so he felt they should decline.

It was generally agreed that the County would not participate.

Mr. Smith exited the meeting at 10:10 a.m.

Northern Idaho Crisis Center (NICC) Board Position (Action)

Commissioner Brooks reported that he had received a letter from the Mayor of Coeur d'Alene, Jim Hammond, asking if he was willing to accept this position.

Chair Duncan moved that the Board appoint Bill Brooks for the Northern Idaho Crisis Center Board position. Commissioner Brooks seconded the motion. There being no further discussion, Deputy Clerk Ginorio called the roll:

Commissioner Brooks: Aye
Commissioner Mattare: Aye
Chair Duncan: Aye

The motion carried.

ICRMP (Idaho Counties Risk Management Program) Coverage Availability (Discussion)

Commissioner Brooks asked if there were options other than ICRMP (Idaho Counties Risk Management Program) to handle the County's liability coverage.

Chair Duncan replied that the County had received bids from other entities in the past but that ICRMP had offered the best deal.

Commissioner Brooks stated that he had been contacted by a person who sold this type of insurance and that the person had wanted to know why ICRMP always got the contract.

Chair Duncan stated that the individual could seek the support of two Commissioners to have a presentation to the Board scheduled. She said she did not have any complaints

herself about ICRMP; she felt their performance was suitable to the County's needs, but she would be willing to have them present.

Civil Deputy Prosecuting Attorneys Darrin Murphey and Pat Braden entered the meeting at 10:13 a.m.

Commissioner Mattare said that he would be willing to receive a quote from another group.

Commissioner Brooks said this person had claimed that ICRMP just settled cases and then increased rates the next year to cover the cost. He remarked that he himself did not know if this was actually the case, but that was what the person claimed.

Chair Duncan remarked that in many cases settling a case was the most appropriate action; ICRMP understood the risk involved in bringing something to a jury trial.

Commissioner Brooks commented that this gave the message, "Sue the County and they'll settle."

Chair Duncan said ICRMP balanced both sides and tried to choose, based on the merits of the individual case, which action would be the most advantageous to their client.

Commissioner Brooks said he wanted the person to be given the chance to present.

Chair Duncan noted that the person would have to get a great deal of information, which would involve substantial work for Human Resources staff.

Commissioner Mattare said that he would agree to the request, if the other company wished to proceed.

Assessor Litigation (Action)

Commissioner Mattare stated that the budget that had been allocated for this litigation was intended to be all-inclusive. He reported that emails had been sent asking whether the dollar amount included various items and he wanted to confirm that the budget as stated included all expenses.

Assessor Bela Kovacs acknowledged the clarification and said it had come up in his discussions with attorneys. He asked if the budget amount could be divulged to the attorneys, considering that the discussion happened with the Board and the Prosecuting Attorney's Office in the context of an Executive Session.

Commissioner Mattare remarked that, if he told an attorney, the information would be protected under attorney-client privilege, so he was pretty sure it would be ok.

Chair Duncan said she agreed that he could divulge the set budget amount to his attorney.

Assessor Kovacs asked if the Board would take exception to him divulging it, because it was covered in Executive Session.

Commissioner Mattare said he would not take exception to it because it would be in pursuit of what they had agreed would be done.

Chair Duncan agreed. She affirmed that the BOCC was in agreement that he could share that budget information with his attorney.

Assessor Kovacs stated he had just sent an email to the Commissioners related to a 1993 Idaho Attorney General Opinion, #93-8 (Do county commissioners have the ability to retain civil counsel outside the county prosecutor's office on a long-term or continuous basis?), asking if documenting the need in a public manner was necessary. He said he did not know if it was appropriate to ask about it during a Status Update meeting, but he wanted to alert the Board to the new question. He said he had submitted the question to legal counsel moments before this meeting began at 10 a.m. and wanted to be sure the Board was aware.

Civil Deputy Prosecuting Attorney Darrin Murphey stated that there was no issue.

Chair Duncan confirmed that there was no issue, that the Board had done everything they needed to do in addressing the item.

Assessor Kovacs asked that the Prosecuting Attorney's Office respond to the email he sent.

Prosecutor Stanley Mortensen remarked that the email had been sent to his office ten minutes before this meeting began and asked that Assessor Kovacs allow an appropriate amount of time for a response.

No further action was taken on this item at this time.

IAC (Idaho Association of Counties) Conference Update (Discussion)

Commissioner Mattare listed legislative issues that had been of particular interest to him during the IAC (Idaho Association of Counties) Conference.

- Whether the cap limit on property taxes should be tied to the CPI (Consumer Price Index) rather than having a hard limit of 3%.
- Proposals related to wind farms and federal land, and whether more control was needed at the local level.
- Fentanyl's lack of the same mandatory minimum sentencing requirements that were present for other controlled substances.
- Management of growth in Kootenai County, particularly in respect to the needs of law enforcement.

Commissioner Mattare announced that KCSO had received one transfer from Coeur d'Alene (CdA) Police Department since the County's new matrix had gone into effect and eight more potential lateral transfers had come in for testing on one day.

KCSO Sheriff Robert Norris confirmed this news. He said the transfer from CdA was actually a person returning to KCSO.

Commissioner Mattare pointed out that if all of these people were hired, with their pre-existing training and experience, it would result in a savings of about \$950,000 in recruiting and training costs for the County.

Sheriff Norris confirmed this statement.

Chair Duncan remarked that the IAC meetings were excellent opportunities for the Commissioners to discuss different struggles all the Counties experienced and share different solutions.

Commissioner Brooks commented regretfully that he was unable to attend IAC conferences, due to his mobility limitations.

Treasurer Steve Matheson entered the meeting at 10:22 a.m.

Impact Fees – Parks & Waterways (Discussion)

Commissioner Mattare reported that he had discussed the result of removing impact fees for Parks & Waterways (P&W) with TischlerBise (Galena Consulting) Representative Anne Wescott. He stated it would wipe out about 80 to 90% of the fees they would capture, since most of the growth occurred in the cities. He said this would be brought up in the Mayors Meeting scheduled for tomorrow. He said he would suggest that they defer implementing an impact fee for P&W until there was some acceptance from the cities. He explained that the fees would be used largely for the boat launches, which the city residents did use.

There was general agreement expressed for this suggestion.

Justice Center (Discussion)

Commissioner Mattare expressed deep concern regarding the three important projects the County has undertaken: the Justice Center Expansion, completion of the Jail Pods and the movement of a substantial part of the Sheriff's Office to a new location. He pointed out that these projects were all depending, to one extent or another, upon the use of money from the County's Fund Balance. He stated that during each meeting in which the Justice Center project had been discussed, the cost and the dates changed. He said he felt that the Board had been forced to make decisions based on incomplete or incorrect information and that the process the Board was following was broken.

Commissioner Mattare said that there was an additional \$3.5 million which had been added to the projected cost of the Justice Center project which had not been discussed in a meaningful way. He stated that the money was listed as being for "soft costs" in the construction process and for furniture.

Chair Duncan stated that the total cost of the project, \$38 million, had been announced in the Board meeting on June 26, 2023 and had included this expense.

Commissioner Mattare remarked that the Board's decisions related to use of Fund Balance in March of 2023 were based on what turned out to be construction costs only and had not included these soft costs and that more transparency was needed. He directed attention to the chart he had provided which showed the following:

- February 2022 – BOCC receives cost estimate of \$22 million for the Justice Center Expansion.
- June 2022 – BOCC allocated \$22 million in ARPA funds to the project.
- December 13, 2023 – BOCC passes a Resolution to allocate an additional \$4,376,021 in ARPA funds to the building pre-construction and construction expenses, giving a total of \$26,376,021.
- March 16, 2023 – BOCC meeting titled "Current Project Cost Estimate." The documents for Bouten Construction list the cost as \$35,273,649.

Commissioner Mattare pointed out that he was not made aware of the additional \$3.5 million in soft costs at that time; they had not been brought up in the March 16 meeting. He added that the implication was that all the expenses were included in the price given, since the meeting had been titled "Current Project Cost Estimate," not "Current Construction Cost Estimate." He stated that during the March 21, 2023 meeting to allocate Fund Balance he had asked when the final numbers for this project would be available and he had been told it would be in August.

Commissioner Mattare said that Chair Duncan had suggested in that meeting that, if the County's Reserve Fund was reduced to 2.5 months, they could add \$4.6 million to the \$11 million of extra reserve fund balance and it could be applied to all the projects. He quoted her as saying, "If you do \$6 million for the building and \$6 million for the Jail Pods, you still have some stuff left over." He said they agreed to move forward and he made the motion as followed: "I move that we proceed with using fund balance for the Justice Center Expansion and that our final decision will be when we get the final numbers for the cost of this business, which will be by August of this year." He added that all three Commissioners agreed.

Commissioner Mattare stressed that the additional \$3.5 million was never discussed. He commented that they must have been discussed by someone at some point because it was included in the LCA (Lombard Conrad Architects) contract as needed for soft costs and furniture.

Commissioner Mattare stated that he was "not sure if we can properly proceed with this construction project because we never followed up in August like we said we would. I don't know if we are even in compliance at this point." He said that, in the September 21, 2023 ARPA – CSLFRF – LATCF meeting, he had asked what the total cost of the building would be, specifying that he did not mean just the construction, but the full cost. He stated that he had been told \$38,000 by a Department Head but that Chair Duncan had corrected this and said it would be \$38 million. At this point, he stated that "A subordinate corrected her and said the cost was \$34.8 million for construction and the

Department Head suggested that LCA's piece would be more. However the subordinate said she believed that the \$34.8 million included this cost."

Commissioner Mattare reported that, the next day, that Department Head had sent an email to the Finance Director stating that the all-in project cost was \$38,329,405, with the \$3.5 million amount listed in the extra expenses. He stated that this email was not circulated to the Commissioners and indicated that he believed this showed that they were not being kept informed about major financial decisions. He remarked that even the Finance Director had been surprised because she had not been apprised of the \$3.5 million or its source until that Friday.

Commissioner Mattare stated that the Jail Pods also had to be completed. He said the County was facing serious liability issues because the Jail's population had exceeded the proper limit every day for the past year. He said there was no backup plan to manage the number of inmates, although he had been told in March that this would be explored.

Based on all these facts, Commissioner Mattare said he could no longer support the building project unless the following conditions were met:

- The Budget Director would be included in all of the Working Group meetings and would receive notice of all projects that fell through within one week. She would also be involved with validating every quarterly ARPA report.
- The Board would also review and approve all quarterly reports before they were submitted.
- That he be shown where the funds would come from to complete the Jail Pods, the Sheriff's Office move and the Justice Center, in that order.
- That he be shown the absolute maximum amount of Fund Balance that would be spent to complete these projects and how much would be left over for other necessities, such as the purchase of vehicles, emergency funds for unexpected repairs and other unplanned expenses that might occur.
- That there be a Public Meeting held in which all of this information would be shared and the taxpayers given the opportunity to offer input on whether the Board should proceed to draw the Fund Balance down to the point of operating without a meaningful financial cushion.

Commissioner Brooks said he could not have expressed things better himself. He said he felt they were going to reach \$65 million before this was over.

Chair Duncan said she was sorry he felt he was not provided with the correct information and that she thought his requirements for going forward were absolutely necessary and workable. She assured him that the corrections would be made. She noted that the Board now received weekly updates on all ARPA projects as part of the Business Meeting's Pending Status List. She stated that any time one of the documents in the shared drive was updated email notifications should be sent to the Auditor's Office and all Commissioners.

Commissioner Mattare added that they would have to decide whether they would have to cut plans for a top floor on the Justice Center soon.

Chair Duncan agreed and said she would work with the Auditor's Office on the Fund Balance.

Finance Director Brandi Falcon stated that she would also like to begin reviewing the LATCF (Local Assistance and Tribal Consistency Fund) compliance reporting, since those dollars were also allocated to the Justice Building. She reported that she had not been notified when the Rubrik project fell through and that, while she had heard allusions to the HVAC project going over budget, no one had spoken to her about it since the meeting on September 21, 2023. She stressed that she needed to be included immediately when projects fell through.

Chair Duncan agreed.

Ms. Falcon remarked that it had not been apparent at the start of Commissioner Mattare's term in office that the Jail Pods were a priority. She said she had been tracking Fund Balance to be sure there was enough money for that project also. She voiced her concern that Work Package #02 for the Justice Center had come in so much lower than its original estimate because that meant Work Package #03 would be much larger. She added that she wanted to discuss the Fund Balance with all three Commissioners present.

Chair Duncan stated that they could put that on the agenda for the next week's Business Meeting. In response to Ms. Falcon's concern about Work Package #02 and #03, she said that Bouten representatives would be present at the Business Meeting this afternoon and would be able to provide more information.

Commissioner Mattare stated he felt they should not have any discussions about the Justice Center project without having a document provided that included every cost and snapshots of the last two costs that had been presented to the Board. He declared that, if they did not have enough money to complete all three projects, they should not approve anything more on the Justice Center until they came up with a solution.

There followed additional discussion about the objections Commissioner Mattare had raised, the information made available to the Board, and the money available for the three planned projects.

Jail Pods (Discussion)

Commissioner Mattare commented that this item had been included in the previous discussion.

Chair Duncan announced that the Board would open RFP (Request for Proposal) submissions for design work today, but that she would like the Commissioners to consider whether design-bid-build, CMGC (Construction Manager General Contractor) or design-build would be the optimum choice. She said she would suggest that the Board consider moving to the CMGC process after they acknowledged receipt of the RFPs because she felt it would reduce costs. She reminded those present that they already had most of the design work completed.

Commissioner Mattare said he would support whichever plan would save the taxpayers the most money and lead to the quickest completion of the Pods. He suggested that the Sheriff's Office be given responsibility for the project and that any County resources that could be used to support it should be marshalled.

D. Public Comment: This section is reserved for citizens wishing to address the Board regarding a County related issue. Idaho Law prohibits Board action on items brought under this section except in an emergency circumstance. Comments related to future public hearings should be held for that public hearing.

Kootenai County Resident Charity Joy reported that there had been concern expressed that ICRMP was playing political games in relation to their coverage of the Community Library Network. She said that the Network had been told that their coverage for employees would be dropped and they would be receiving increased premiums on their other coverages which had caused them some difficulty. Upon looking into the problem further, she said she had learned that the Mayor of Pocatello was a member of the ICRMP Board and might have behaved punitively toward the group in opposition to members who actively expressed reservations about content being delivered to minors. She remarked that this looked bad.

Chair Duncan replied that she had been on the ICRMP Board herself since January and was aware of the background of this issue. She explained that the ICRMP staff had vetted a potential personnel claim for this taxing district. ICRMP had offered assistance and the group had rejected it, so ICRMP had to weigh their potential risk and took the action Ms. Joy had questioned. She stated that the library district was aware of the actual reason.

Ms. Joy asked if this constituted public information subject to a FOI (Freedom of Information) request.

Chair Duncan said that it was not.

Ms. Joy said information presented today by Commissioner Mattare about the Justice Center Expansion would be very interesting to the public. She remarked that she had faith that the Commissioners would work together to resolve the problem.

Ms. Joy also asked that future agendas include background documents as attachments to help people better understand each issue.

Chair Duncan said that the Business Meeting agendas had such attachments; the backup documents were available by links through the County website.

Commissioner Mattare moved that the Board enter into Executive Session pursuant to Idaho Code §74-206(1)(d). Commissioner Brooks seconded the motion. There being no further discussion, Deputy Clerk Ginorio called the roll:

Commissioner Brooks: Aye
Commissioner Mattare: Aye
Chair Duncan: Aye

The motion carried.

Chair Duncan confirmed that Prosecutor Stanley Mortensen and Civil Deputy Prosecuting Attorneys R. David Ferguson, Pat Braden and Darrin Murphey would remain for the Executive Session.

The Board entered into Executive Session at 10:57 a.m.

KCSO (Kootenai County Sheriff's Office) Move to Kootenai North Building

Executive Session pursuant to Idaho Code §74-206(1)(d) to consider records that are exempt from disclosure as provided in Chapter 1, Title 74, Idaho Code. – BOCC Division (Closed Session – Discussion)

Decisions/Direction (Open Meeting – Action)

The Board exited Executive Session at 11:20 a.m.

Commissioner Mattare moved that the Board exit Executive Session (1)(d) with staff to proceed as discussed. Commissioner Brooks seconded the motion. There being no further discussion, Deputy Clerk Ginorio called the roll:

Commissioner Brooks: Aye
Commissioner Mattare: Aye
Chair Duncan: Aye

The motion carried.

E. Adjournment (Action): Chair Duncan adjourned the meeting at 11:21 a.m.

Respectfully submitted,

JENNIFER LOCKE, CLERK

BOCC SIGNATURE

BY: _____
Tina Ginorio, Deputy Clerk