

Minutes of Meeting
Public Defender
June 29, 2018
2:00 p.m.

The Kootenai County Board of Commissioners: Chairman Pro Tem Chris Fillios and Commissioner Bob Bingham met to discuss the following agenda item. Also present were Public Defender Anne Taylor, Chief Deputy Public Defender Chris Schwartz, Public Defense Commission Representative Aaron Freudenthal and Deputy Clerk Ronnie Davisson. Chairman Marc Eberlein was excused.

- A. Call to Order:** Chairman Pro Tem Chris Fillios called the meeting to order at 2:01 p.m.
- B. Introductions:** There were no introductions.
- C. Changes to the Agenda:** There were no changes to the agenda.
- D. Action:**

ACLU Discussion

Public Defender Anne Taylor requested permission from the Board to obtain outside counsel to help with a subpoena received from the ACLU. She said the ACLU was requesting a multitude of documents in preparation of a trial beginning next year, where the documents are asking for employee information and specific budgetary items. Ms. Taylor expressed that some of the information needed she did not quite understand and was unsure as to which pieces of information needed to be redacted. By doing so, she did not want to put the County at risk.

Ms. Taylor also explained that she did not want to utilize the County Civil Prosecutors, as it would open a plethora of information related to criminal cases that both the Public Defenders and Prosecutors were working on, which would cause an unfair advantage to the Prosecutor's Office.

BOCC Administrative Supervisor Nancy Jones entered the meeting at 2:06 p.m.

Chief Deputy Public Defender Chris Schwartz said that typically the County would utilize the services of Peter Erblund in a similar situation. Ms. Taylor mentioned the County had yet to be named in the lawsuit, but it could happen. Public Defense Commission (PDC) Representative Aaron Freudenthal said he attended to verify that the PDC grant could not be used to pay for outside counsel and to express the level of ethical issues that would arise from using the County Prosecutor's Office.

Mr. Schwartz said one of the claims by the ACLU was that the Public Defender's Office was not independent enough to satisfy 6th Amendment requirements and any evidence discovered that the Prosecutor's Office was in charge of how the Public Defender responds to lawsuits, will only prove their claim. He also said there would be a chance

that he or Ms. Taylor would be called as a witness in the case and witnesses cannot be responsible for compiling any documents requested for the case.

Civil Deputy Prosecutor Darrin Murphey entered the meeting at 2:15 p.m.

Civil Deputy Prosecutor Darrin Murphey discussed the case openly, stating he would suggest speaking with Prosecutor Barry McHugh in order to verify there was a conflict at hand and give his approval to seek outside counsel. He also said that because there was a clear necessity to seek outside counsel, the Board could approve it during the meeting and memorialize it a later date.

Commissioner Bingham moved to approve the hiring of outside counsel due to an internal conflict with the Prosecutor's Office to answer a subpoena sent by the ACLU and to use a \$5000 cap without needing further approval. Chairman Pro Tem Fillios seconded the motion. There being no further discussion, Deputy Clerk Davisson called the roll:

Commissioner Bingham: Aye
Chairman Pro Tem Fillios: Aye
Chairman Eberlein: Excused

The motion carried.

- E. 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. There were no public comments.

Chairman Pro Tem Fillios adjourned the meeting at 2:34 p.m.

Respectfully submitted,

JIM BRANNON, CLERK

CHRIS FILLIOS, CHAIRMAN PRO TEM

BY: _____
Ronnie Davisson, Deputy Clerk
