

RESOLUTION NO. 2010-87
Authorization to Hire Peter Erbland
as Outside Counsel

WHEREAS, *Idaho Code* § 31-2604 requires the prosecuting attorney to give advice to the Board of County Commissioners, and other public officers of his county, when requested in all public matters arising in the conduct of the public business entrusted to the care of such officers; and,

WHEREAS, *Idaho Code* § 31-2607, requires the prosecuting attorney to attend the meetings of the Board of County Commissioners, when required, and to attend and oppose all claims and accounts against the county when he deems them unjust or illegal; and,

WHEREAS, the Kootenai County Airport is owned by, and operated under the direction of the Kootenai County Board of Commissioners, and as such, receives legal advice from the prosecuting attorney, and or his deputies, concerning all civil or criminal matters involving the airport which may arise and require legal guidance; and,

WHEREAS, a Complaint for breach of contract was filed with the Kootenai County District Court on September 30, 2008, by John F. Magnuson, Attorney at Law, on behalf of Bernard and Sheila Gurstein, husband and wife, and Russell Gurstein, naming Kootenai County as a defendant, said case being identified as Kootenai County Case No. CV-08-7852; and,

WHEREAS, since the onset of the litigation referenced above, Darrin L. Murphey, Civil Deputy Prosecutor, has been the Civil Deputy Prosecutor assigned to handle the defense of Kootenai County in said litigation and has been providing legal counsel and defending the County concerning the issues raised by the Gursteins; and,

WHEREAS, a situation has arisen in the defense of Kootenai County in the Gurstein litigation which may result in a conflict of interest, thereby precluding Darrin L. Murphey from performing his legal duties as lead legal counsel on behalf of Kootenai County; and,

WHEREAS, due to the apparent conflict of interest, the Kootenai County Board of Commissioners believe that the interests of Kootenai County would best be served by the retention of outside counsel to represent the interests of Kootenai County in the above-referenced pending litigation.

NOW THEREFORE, it is hereby resolved that Peter Erbland, of the firm of Paine, Hamblen, Coffin, Brooke & Miller, 701 Front Avenue, Suite 101, Coeur d' Alene, Idaho, 83814, be hired as counsel of record on behalf of Kootenai County to defend against the

allegations of the Gursteins and attempt to resolve the issues raised in the pending litigation.

Upon a motion to adopt the text of the foregoing Resolution made by Commissioner _____, seconded by Commissioner _____, the following vote was recorded:

Commissioner Tondee: Aye
Commissioner Piazza: Aye
Chairman Currie: Aye

Upon said roll call, the text of the foregoing was duly enacted as a Resolution of the Board of Commissioners of Kootenai County, Idaho, on the 5th day of October, 2010.

DATED this 5th day of October, 2010.

**KOOTENAI COUNTY
BOARD OF COMMISSIONERS**

**ATTEST:
DANIEL J. ENGLISH, CLERK**

Elmer R. Currie, Chairman

By: _____
Deputy Clerk

Richard Piazza, Commissioner

W. Todd Tondee, Commissioner