

**Minutes of Meeting**  
**Animal Control Citation Hearing**  
**October 21, 2013**  
**1:00 p.m.**

The Kootenai County Board of Commissioners: Chairman Todd Tondee, Commissioner Dan Green and Commissioner Jai Nelson met to discuss the following agenda items. Also present were Sergeant Thomas Knight, Appellant Kellie Dalton, Civil Deputy Prosecuting Attorneys R. David Ferguson and Darrin Murphey, and Deputy Clerk Nancy Jones.

**A. Call to Order:** Chairman Tondee called the meeting to order at 1:07 p.m.

**B. Introductions:** There were no introductions made.

**C. Changes to the Agenda:** There were no changes made to the agenda.

**D. Old Business:** There was no old business discussed.

**E. New Business:**

Chairman Tondee stated that the Board was convening to hear testimony regarding Citation No. AC2066. Chairman Tondee noted that Kootenai County Sheriff's Office (KCSO) Sergeant Thomas Knight and Appellant Kellie Dalton were present, and both parties were sworn in by Deputy Clerk Jones.

Chairman Tondee explained to the attendees that the scope of the hearing was to determine whether or not the Appellant had responded to the citation within the time frame permitted by law and/or if any extenuating circumstances should be considered if that deadline was not met. Further, Chairman Tondee explained that, in accordance with that scope, the facts of the citation would not be argued during these proceedings. The outcome of the hearing would determine whether the appeal would go forward and the facts of the case would be presented to the KCSO. Civil Deputy Prosecuting Attorney Darrin Murphey noted that the scope of the hearing was outlined on Exhibit M of the hearing documentation provided, and that copies of these documents were mailed to Ms. Dalton for review prior to this meeting. Commissioner Green stated that, prior to the scheduling of this hearing, Ms. Dalton had called the Commissioner's Office to ask questions regarding the situation, and that he had spoken with her at that time. Commissioner Green expressed confidence that, despite this ex parte conversation, he could make an objective decision and would not need to recuse himself from this hearing. Ms. Dalton explained that her intent in requesting the hearing was not to address the timing of her response. Chairman Tondee explained that, in order to protect the integrity of the process, the scope of this hearing could only be to discuss the timing of the response, and that any further action and testimony would be handled directly by the KCSO.

Ms. Dalton was provided the opportunity to provide her facts to the Board. Ms. Dalton explained that on August 8, 2013, a Sheriff's Deputy issued her two (2) animal control citations. Ms. Dalton noted that, since that time, she was informed that only one (1) citation should have been issued. On August 12, 2013, Ms. Dalton called the court to deny the charges. Ms. Dalton was informed that she would receive documentation in the mail, which would provide her with a court date. Ms. Dalton stated that, at that time, she did not recognize that this information did not cover both tickets that had been issued, and that the representative she spoke with did not realize that Ms. Dalton was calling on both matters.

On August 23, 2013, Ms. Dalton wrote a letter to KCSO to request a status report, as she had not received a response on the second ticket. She received a response from KCSO Sergeant Thomas Knight, stating that she had not responded within the ten (10) day written response period. Upon receipt of the letter, Ms. Dalton called Sergeant Knight to explain that she had called within the ten (10) day period. Ms. Dalton acknowledged to the Board that she had since realized that the bottom of the citation included instructions to respond in writing. At that time, Ms. Dalton was informed by Sergeant Knight that she would need to contact the Board of County Commissioners (BOCC), which she understood to mean that she could argue the charges with the BOCC.

Sergeant Knight was then provided the opportunity to state his facts to the Board. Sergeant Knight stated that, as the KCSO Civil Sergeant, it is his responsibility to act as the appeals hearing officer for any animal control citations. When the letter (dated August 23, 2013) was received by the Civil Division, it was date-stamped with the date of receipt, which was August 27, 2013, and it was then forwarded it to him with copies of the case documentation. He compared the date of the citation issuance to the response date, and found that the response was completed outside of the allowable ten (10) day time frame. Sergeant Knight stated that his review of the case included only the KCSO citation and the date of the response, not the facts surrounding the case or the secondary ticket that was to be addressed by the court. He responded by letter, informing Ms. Dalton of his finding. Upon receipt of that letter, Ms. Dalton called Sergeant Knight to explain that she had called within the ten (10) day response period. Sergeant Knight explained that he was only able to consider the information directly related to the KCSO citation, and he referenced the last portion of the County ordinance, which stated that the decision could be appealed directly to the BOCC. Sergeant Knight stated that he did not go into further detail regarding the process, as he is new to the position and unfamiliar with the process, which is not often appealed. Further, Sergeant Knight noted that he did not discuss the details of the case with Ms. Dalton, but only stated that the response was not filed in a timely manner and that his decision was made according to statute.

Ms. Dalton asked the Board to review the dates associated with the District Court citation, and consider those as proof that she had called to address the ticket. Ms. Dalton explained that she did not understand (until she received a date regarding only one (1) citation) that her call did not address both tickets, at which time she then contacted KCSO.

Chairman Tondee explained that following the defined public process is important, because consistency is key to maintaining the integrity of the process, as a whole. The Board moved into deliberations to consider the facts that were presented. The Board acknowledged that the issuance of the two (2) separate citations may have created confusion. Chairman Tondee opined that this could be considered an extenuating factor that would allow for the appeal to progress. He also noted that the ten (10) day notice was included on the citation and was not adhered to, per the written instructions. Commissioner Green referred to Ms. Dalton's own statement that the instruction to reply in writing was included on the citation, and that her husband had not noticed that or brought it to her attention. Commissioner Green stated that he might be willing to forgive the \$25 fine, if that was within the Board's authority, due to the confusing aspects related to the issuance of two (2) different types of summons. However, Commissioner Green stated that he felt the ordinance itself was clear; that the response did not meet the guidelines as provided within statute and that the appeal, therefore, should not be allowed to move forward with KCSO. Commissioner Nelson suggested that the reason legal matters are handled in writing is to enhance clarity, and she noted that the citation was clear in twice stating the ten (10) day requirement, as well as referencing the supporting statute. Commissioner Nelson acknowledged the confusing aspect regarding the issuance of citations from two (2) separate entities (KCSO and District Court), but she felt that the instructions were clearly stated on the citation.

Commissioner Green moved to deny the Ms. Kellie Dalton’s request to allow her appeal of Citation No. AC2066. Commissioner Nelson seconded the motion. There being no further discussion, Deputy Clerk Jones called the roll:

Commissioner Nelson: Aye

Commissioner Green: Aye

Chairman Tondee: Nay

The motion carried.

Chairman Tondee explained to Ms. Dalton that the decision of the Board was to uphold the decision of the KCSO. Chairman Tondee stated that the Board had determined that ten (10) day filing requirement was not met, that the matter will not be heard (as the appeal was not timely), that the \$25 fine will stand, and that no further appeal is available. Ms. Dalton stated that she would continue to research the issue, as she believed she had a right to have the facts of her case heard. Mr. Murphey stated to the Board that this hearing is the end of the due process with regard to any County action.

**F. Staff Reports:** There were no staff reports.

**G. Public Comment:** This section is reserved for citizens wishing to address the Board regarding a County related issue. There was no public comment.

The meeting was adjourned at 1:33 p.m.

Respectfully submitted,

CLIFFORD T. HAYES, CLERK

BY: \_\_\_\_\_  
Nancy A. Jones, Deputy Clerk