

Minutes of Meeting
Judicial Confirmation Determination
June 4, 2014
11:00 a.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 Prosecutor Barry McHugh, Sheriff Ben Wolfinger, Major Neal Robertson, Captain Kim Edmondson, Clerk Jim Brannon, Major Dan Mattos, Civil Deputy Prosecuting Attorney Darrin Murphey, and Deputy Clerk Brandie Bradley.

A. Call to Order: Chairman Tondee called the meeting to order at 11:07 a.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 advised that the required fourteen (14) day waiting period has been completed and a determination needs to be made in regard to moving forward with Judicial Confirmation. The attendees reviewed the resolution that was drafted by Moore Smith Buxton and Turke Attorney Stephanie Bonney. Civil Deputy Prosecuting Attorney Darrin Murphey stated that the Board has three (3) options: move forward with Judicial Confirmation, move forward without Judicial Confirmation, or to not move forward. Mr. Murphey explained that moving forward with pursuing a Judicial Confirmation does not bind the County in any way, but if the Board decides to pursue Judicial Confirmation they are statutorily required to adopt the Resolution. Mr. Murphey advised that if the Board decides to move forward with obtaining Judicial Confirmation that an agreement between Kootenai County (Board of County Commissioners) and Financial Advisors should be drafted to indemnify and hold the County harmless for any attorney fees that may result due to a successful challenge of the confirmation.

Commissioner Nelson informed the attendees that she had concerns that she would like added to the record which included:

- Inability to locate the Rocky Mountain Correction Letter of Intent that was approved by Chairman Tondee and Commissioner Green on March 18, 2014.
- The decision to change Board direction from pursuing Declaratory Judgment to Judicial Confirmation.
- Lack of legal opinion in regard to the Letter of Engagement with Ms. Bonney that was signed by Chairman Tondee March 31, 2014.
- The limited amount of public comment that will be submitted from the Public Hearing to the Judge for consideration.
- The various numbers of proposals and lack of supporting data and figures.

- Real and potential cost factors that have not been addressed for the Work Release Center, cost for utilities at the existing jail, planned use of the existing jail and Work Release Center, maintenance costs of the new facility, transportation costs, and the requirement for additional liability insurance on the new facility.
- Lack of communication between Rocky Mountain Corrections and the full Board of Commissioners.
- Lack of defined plans for the existing jail.
- The language in the proposed resolution, which appears to authorize more than just the filing for Judicial Confirmation.
- The potential liability in the proposal for an aggregate amount beyond the one (1) year rental agreement.
- Potential liability to the County in Section 12.02 Remedies on Default.
- Numerous errors, missing information and pending language in the draft Rental Agreement.
- Financial concerns.
- Location of the proposed facility.
- Public transparency regarding this project.
- What would become of the new facility should the County decide to vacate.
- Potential cause and effect on the area.

Commissioner Nelson advised the attendees that she did not support pursuing the Judicial Confirmation, adopting the Resolution, or continuing to explore the public-private partnership for the jail facility as the benefits do not outweigh the potential risks and costs. Commissioner Nelson also stated that based on her numerous concerns she strongly believes that not placing this issue on the ballot would be a violation of the will of the people and an attempt to circumvent the Constitution. Commissioner Nelson recommended that the Board's next steps should include conducting a feasibility study of the needs of the jail and obtaining at least three (3) options.

Chairman Tondee responded to Commissioner Nelson by stating that he shares some of her concerns, but pursuing Judicial Confirmation is the next step in determining the potential liability to the County should they enter into the Rental Agreement with Rocky Mountain Correction. Chairman Tondee stated that moving forward with obtaining the Judicial Confirmation does not obligate the County to move forward with the proposed jail facility or rental agreement.

Commissioner Green advised that he supports moving forward with this part of the process and believes that the Board is making prudent long term decisions. Commissioner Green stated that he does not see a need for a feasibility study as the needs are apparent. Commissioner Green was in favor moving forward with pursuing the Judicial Confirmation.

Commissioner Green moved to adopt the Resolution, authorizing pursuit of Judicial Confirmation as the statutory required waiting period of fourteen (14) days from the Public Hearing has been met.

Chairman Tondee seconded the motion. There being no further discussion, Deputy Clerk Bradley called the roll:

Commissioner Nelson: Nay

Commissioner Green: Aye

Chairman Tondee: Aye

The motion carried.

Commissioner Green moved to direct staff to draft an agreement with Financial Advisors which indemnifies and holds the County harmless should a successful challenge be made against the Judicial Confirmation. Chairman Tondee seconded the motion. There being no further discussion, Deputy Clerk Bradley called the roll:

Commissioner Nelson: Nay

Commissioner Green: Aye

Chairman Tondee: Aye

The motion carried.

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 11:56 p.m.

Respectfully submitted,

JIM BRANNON, CLERK

TODD TONDEE, CHAIRMAN

BY: _____
Brandie Bradley, Deputy Clerk
