

**Minutes of Meeting**  
**Fairgrounds**  
**March 29, 2016**  
**3:00 p.m.**

The Kootenai County Board of Commissioners: Chairman Dan Green, Commissioner Marc Eberlein, and Commissioner David Stewart met to discuss the following agenda items. Also present were Clerk Jim Brannon, Staff Accountant Melissa Merrifield, Chief Deputy Prosecutor Barry Black, Buildings & Grounds Director Shawn Riley and Deputy Clerk Cecilia Sweet. Also present were Kootenai County Fairgrounds Manager Dane Dugan, Fair Board Chairman Jerry Johnson, Vice Chair Zach Bane, and Fair Board members Dave Fair, Karleen Meyer, Dave Nussear, Linda Rider and citizen Tina Kunishige.

- A. Call to Order:** Chairman Dan Green called the meeting to order at 3:03 p.m.
- B. Introductions:** There were no introductions.
- C. Changes to the Agenda:** There were no changes to the agenda.
- D. New Business:**

**Review of Statutes Related to the Fair**

Chairman Green stated that the Board of County Commissioners, the Fair Board and staff had submitted questions regarding the Kootenai County Fairgrounds for Legal review. He added that Chief Deputy Prosecutor Barry Black had prepared the written legal response. Chairman Green said that since this legal review was prepared by the County's legal department for the Board of County Commissioners, this would be considered Attorney/Client Privileged Information, and the Board would have to waive their Attorney/Client rights before sharing this information in an open meeting.

Chairman Green asked his fellow Commissioners if there were any objections to sharing the legal review. Commissioner David Stewart and Commissioner Marc Eberlein stated that they had no objections to waiving their Attorney/Client privilege.

Commissioner Stewart moved to waive the Board's Attorney/Client Privileged Information rights regarding the written legal opinion for Kootenai County Fairgrounds dated March 24, 2016. Commissioner Marc Eberlein seconded the motion. There being no further discussion, Deputy Clerk Sweet called the roll:

Commissioner Stewart:           Aye  
Commissioner Eberlein:         Aye  
Chairman Green:                 Aye  
The motion carried.

Chairman Green read into the record the following submitted questions, which included:

- Is the Fair subject to the bidding/procurement processes that the County must adhere to?
- What are the legal foundations regarding conflicts of interest, when the applications approved by the BOCC for Fair Board appointments cite the issues which could require recusal (i.e. Mr. Johnson & Mr. Bane's expertise doing facility improvements), and when Dane Dugan is both the North Idaho Fair and Rodeo Foundation Executive Director and the General Manager of the North Idaho Fair?
- Is the County or Fair Board responsible for the facilities maintenance?
- The Fair Board currently has an assigned BOCC liaison. Should that person be a Fair Board member? Alternately, should one of the sitting Fair Board members be assigned to control financials & report details regularly to the County (BOCC)?
- If the County is financially accountable for the Fair, but they do not use our accounting system (Logos) or follow County systems, policies and procedures, how can we meet our legal responsibilities (lacking control over such items as pay grades, credit cards, fund balances, investments, et al)?
- Does statute reference any financial guidelines related to the fair (e.g. required fund balances)?
- Should the Fair staff be part of the County benefits pool?
- Is there a specific levy for the Fairgrounds operations (and, if yes, how is it determined)? Is there a specific range or amount?

Chief Deputy Prosecutor Barry Black stated for the record, that this was an area of County law that had not been well-litigated; however, there were Statutes and Resolutions which gave guidance and historical information. He said that the legal opinions and responses were advisory and informational only, and were not intended as opinion regarding policies or procedures.

Chairman Green read directly from the *Opinion of Counsel* dated March 24, 2016, regarding the history of the County Fair Board, which was as follows:

“The origins of a County Fair Board stems from the provisions of Title 22 of the Idaho Code in which, if after hearing and considering objections, the Board of County Commissioners deems it in the best interests of the County that a County Fair be conducted by the County, the Board shall create a County Fair Board. I.C. 22-202. County Fair Boards may be created for the purpose of conducting County Fairs. I.C. 22-201. The Kootenai County Board of County Commissioners established the County Fair Board in 1937. The Idaho Supreme Court has held that once a County Fair Board is created it becomes an administrative division of the County. See Dep't of Employment v. Ada Cty. Fair Bd., 96 Idaho 591 (1974).”

“On July 17, 1968, the Kootenai County BOCC passed a resolution proclaiming the County Fairgrounds as property ‘not necessary for public use or needed by

the public excepting for, and exclusive of, one (1) month each calendar year... during which the County Fair is prepared for, conducted for approximately three (3) days, and disbanded, and during which all activities in conjunction with, and necessary to the operation and success of, the Kootenai County Fair shall be conducted by County of Kootenai through its duly elected, qualified and acting Board of Commissioners, with the cooperation and assistance of the Kootenai County Fair Board.' The stated purposes of this Resolution included that the BOCC has exclusion jurisdiction over the Fairgrounds, exclusive of one month per year during which the Kootenai County Fair is prepared, conducted and disbanded. The Resolution reflects that the County Fair Board has an administrative function for one month each year, and more of an advisory function for the rest of the year."

"Being an administrative and advisory component of the County, the County Fair Board is subject to the procurement provisions of Idaho Code Title 67, Chapter 28, except that contracts for concessions or services extending for a period of less than twelve days in a calendar year may be awarded without bid. I.C.22-204."

Chairman Green stated that after reading the origins of the County Fair Board he believed that this was out-dated information which needed to be revised. He added that as written in the Resolution the County Fair Board's function was primarily advisory eleven months a year. He said that this Board could update the Resolution from 1968 to better reflect the role of the Fair Board today since the Fairgrounds was used 365 days a year. Chairman Green said it was clear that the Fairgrounds were subject to the same bidding and procurement standards as Kootenai County.

Commissioner Stewart asked if the 1968 Resolution was still considered valid.

Mr. Black said that the Resolution had not been rescinded or overruled, so technically, it was the current valid Resolution regarding the County Fair Board. He stated that the Fair Board belonged to the Board of County Commissioners. He added that the Fair Board still maintained "*cooperation and assistance*" to the Board of County Commissioners, so the BOCC would need to define those terms as a matter of policy and procedure. He noted that a new Resolution needed to reflect the County Fair was in the month of August instead of September.

Chairman Green shared that in his opinion a "conflict of interest" was personal or financial gain because of a position, and this would apply to the Fair Board as agents of the County. He said that it was important to evoke trust and transparency while conducting County business.

Fair Board Vice-Chair Zach Bane said in response to the submitted question that he did not have a personal financial gain by being a Fair Board member.

Clerk Jim Brannon stated that when a Fair Board member listed their qualifications as having "facility improvements expertise" that might give an impression of personal financial gain due to the position. Clerk Brannon added that since the BOCC approved

the Fair Board appointments the BOCC could also choose members who had construction expertise so as to bypass outside procurement rules.

Buildings & Grounds Director Shawn Riley shared that a \$44,500 permit was in the name of a Fair Board member, rather than the County, for a fairgrounds project. Mr. Riley noted that upon further research, he discovered that volunteer labor was used and there was no financial gain to the Fair Board member, but the initial appearance of impropriety was not ideal.

Commissioner Eberlein added that all of the permits were part of public record, so this process needed to be changed. He asked how the Fair Board members could better handle project permits.

Mr. Riley replied that the permits could be listed in the name of the "Fairgrounds."

Chairman Green said that the BOCC looked for advisory board members who had expertise benefitting the advisory board for which they applied.

He added that he would not be opposed to Fair Board applicants having a facility/construction background, as he considered it comparable to pilots comprising most of the applicants of the Airport Advisory Board. He stated that if there was a Fair Board controversial issue, full disclosure of a potential conflict of interest should be given to the BOCC.

Mr. Black said that the Fair Board was more of an advisory board and all other functions of the fairgrounds were subject to the use and decisions associated with County property. He added that whether written or verbal, there had been an understanding that when the BOCC funded the Fairgrounds, there was an expectation that maintenance would be done on the County's fairgrounds property.

Fair Board member Linda Rider said that the Fair Board had received direction from this and previous Commissioners to be more financially self-supporting. She added that for the Fair Board to accomplish this there needed to be improvements to the buildings and property to bring in more year-round events and increase revenues.

Commissioner Eberlein said that the County's Director of Buildings & Grounds would be the appropriate oversight of the Fairgrounds facilities. Commissioner Stewart agreed.

Mr. Riley affirmed that he appreciated the clarity and direction of the County's responsibility on the fairgrounds. He added that he expected the County would be the primary fairgrounds facilities administrator. He said that he would give an update of the needed projects with assistance from the Fair Board.

Fair Board member Dave Fair stated that restroom renovations were a top priority to comply with the Americans with Disabilities Act (ADA).

Fair Board member Dave Nussear said that when a fair project was not completed, it was due to insufficient funds to maintain its approximately 80 acres, not because the Fair Board ignored the recommended improvements.

Clerk Brannon said that the Fair was a *component unit of government* reported on the County's budget, and as such was dependent on the County's facilities and funding. He noted that there was no direct liaison to the Fair Board, equivalent to Commissioner Eberlein being the liaison to the Joint Powers Board of the Kootenai County Emergency Medical Services System (EMS).

Commissioner Eberlein responded that EMS operated as an individual unit and received County approval for the EMS budget, but maintained their finances separate from the County's budget. He reported that EMS chose the levy amounts with BOCC approval. Commissioner Eberlein noted that any EMS accounting issues would not be a County responsibility.

Chairman Green said that the Fair Board was responsible for the financial accountability of the Fair including publishing all of the payables and receivables in the newspaper within 90 days of the Fair. He added that the Fair Board, according to the Resolution, would not have to participate in the County's accounting system (Logos).

Mr. Black reported that there were advisory and administrative components to the fairgrounds financial responsibility. He added that whether all year-round events were *for the benefit of the County Fair*, or whether the County Fair was the primary administrative function needed to be determined. He said that the Fair Board would not have to participate in the County's Logos system, but they could choose to do so with BOCC direction.

Citizen Tina Kunishige exited the meeting at 3:53 p.m.

Commissioner Stewart added that since the County was ultimately liable, the Fair Board using the County's Logos financial system would be a good idea. He inquired if statute directed the Fair Board to maintain a Fund Balance on the gross annual revenue.

Mr. Black replied that the Fair Board had no statutory requirements to have a Fund Balance.

Chairman Green mentioned that the County had no Fund Balance policy prior to 2012, so this might be an opportunity to develop a Fund Balance policy for the Fair Board.

Mr. Black noted that the Fair Board had inquired about obtaining County benefits but this would be for policy consideration rather than a legal opinion. He added that there were other Counties where the fairgrounds had County staff.

Chairman Green said that this was a policy consideration; but as he remembered, the decision was made because the Fair Board was not County staff, and the County would not provide benefits to an advisory board member.

Mr. Black mentioned that he found a statute stating after a County reached a population of 200,000, the BOCC could assume all of the administrative powers and through an ordinance designate the Fair Board as an advisory board.

**Discussion of Fairgrounds Processes & Procedures**

Chairman Green suggested that the Board meet and discuss developing updated policies and procedures for the Fairgrounds. He opined that the Board needed to address the County's Buildings & Grounds Director's role at the fairgrounds as well.

Fair Board Chairman Jerry Johnson said that the Fair Board would inform and work with Mr. Riley on all fairgrounds projects.

Commissioner Eberlein responded that since this was the first meeting to discuss the fairgrounds with Legal review, he recommended to reconvene in two weeks so all parties could review and develop suggestions.

Clerk Brannon asked whether the Idaho Counties Risk Management Program (ICRMP) reimbursement checks went to the Fairgrounds or the County.

Kootenai County Fairgrounds Manager Dane Dugan replied that the majority of claims and reimbursements went to the County with the exception of personal property damage and those reimbursements went to individuals.

Mr. Riley confirmed that the ICRMP paid the vendors' bills directly.

Chairman Green suggested the development of a concept resolution. He requested that Mr. Riley attend the next Fair Board meeting.

- 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 Green adjourned the meeting at 4:26 p.m.

Respectfully submitted,

JIM BRANNON, CLERK

DANIEL H. GREEN, CHAIRMAN

BY: \_\_\_\_\_  
Cecilia M. Sweet, Deputy Clerk

\_\_\_\_\_