

Minutes of Meeting
Auditor/Human Resources
April 28, 2016
1:00 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, Chief Deputy Clerk Pat Raffee, Finance Director Dena Darrow, Accounting Manager Grace Blomgren, Payroll Technician Kathy von Kienast, Human Resources (HR) Director Skye Reynolds, HR Generalist-Benefits & Compensation Dorothy Cross, Assessor Mike McDowell, Chief Deputy Assessor Richard Houser, and Deputy Clerk Alicia Lynch. Also present was Mercer Health & Benefits, LLC Principal Craig Culbertson.

- A. Call to Order:** Chairman Dan Green called the meeting to order at 1:00 p.m.
- B. Changes to the Agenda:** There were no changes to the agenda.
- C. Old Business:** There was no old business discussed.
- D. New Business:**

Voluntary Deductions

Clerk Jim Brannon explained that approximately a year and a half ago his department had begun working with HR to explore various payroll deductions, and found that there were no records of signed contracts for several vendors and there was no assurances that non-County endorsed insurance vendors were meeting pre-taxation requirements. He said that Mercer Principal Craig Culbertson was asked to examine pre-tax deductions; Clerk Brannon explained that should the County be found to be out of compliance there was the potential risk that the County would have to restate all of their employee tax statements going back five years.

Chairman Green asked if the County could remove liability by having employees sign a waiver stating that the employee was responsible to check the tax status of their deductions. Mr. Culbertson replied that the proposed solution would not absolve the County of all liability because it only addressed part of the problem.

Treasurer Steve Matheson entered the meeting at 1:05 p.m.

Mr. Culbertson said that the County did not have the means to verify each personal insurance policy or to validate the policies' pre-tax qualifications. He explained that if even one contract did not meet the pre-tax qualifications the County's primary contract that allows for pre-tax contributions for medical, dental, and vision, would be invalidated. He said that this worst case scenario would authorize the Internal Revenue Service (IRS) and the Department of Labor to require the County to retroactively restate the employee W2s for five years.

Commissioner Marc Eberlein asked Mr. Culbertson for his recommendation to solve the County's liability risk. Mr. Culbertson recommended the County disallow pre-tax employee deductions of any insurance the County could not verify.

Civil Deputy Prosecuting Attorney Darrin Murphey entered the meeting at 1:10 p.m.

Mr. Culbertson cautioned the Board to beware of endorsement or the perception of endorsement of insurance. He explained that any action beyond offering a payroll convenience would make the County liable under federal laws, Consolidated Omnibus Budget Reconciliation Act (COBRA), and the Health Insurance Portability and Accountability Act (HIPAA).

Clerk Brannon said that there was risk to the County by allowing individual plans, such as Voya Retirement Insurance, because there was no contract with the County, and it was not an individual plan but a deferred compensation plan through the County. Chairman Green asked if the County was the Voya plan's administrator. HR Generalist-Benefits & Compensation Dorothy Cross reported that she had requested a copy of the contract from Voya and was told by the vendor that there was no record of a contract and that the services had been provided going back to the 1970s or 1980s when written contracts were less common. She said that she received a quarterly statement from Voya after her inquiry, the first statement she had received from Voya in her tenure with the County. She confirmed that the County was the administrator and that the account held approximately \$933,000. Clerk Brannon said the Board would need to determine which deductions they would allow and if the County would offer pre-tax deductions. Commissioner Stewart asked if the Voya Retirement Insurance account needed to be stated in the regular County reporting, and Clerk Brannon confirmed that the County should be reporting this number.

HR Director Skye Reynolds said she had spoken with Mercer Principal Chris Codd regarding retirement accounts because those regulations differed from insurance. She explained that even though the retirement accounts weren't County endorsed or funded, the County did have obligations to be informed on plan investments, fee structures, and costs to the employee. She said that she had been advised by Mr. Codd that the best course of action would be freezing future enrollment in the non-County endorsed retirement plans and bringing each plan up to current regulation.

Clerk Brannon emphasized that the goal was not to take anything away from employees but to ensure that the County was in proper pre-tax compliance. Commissioner Stewart inquired how the County could disallow some plans but not others. Ms. Reynolds explained that the County could not prohibit retirement plans but the County could disallow pre-tax deduction of non-County endorsed insurance policies. Chairman Green asked if removing the pre-tax option would eliminate the County's liability. Mr. Culbertson replied that removing any insurance plan from pre-tax deductions that the County could not verify as having met the pre-taxing regulations would negate the risk.

Clerk Brannon and Ms. Reynolds clarified that both Public Employee Retirement System of Idaho (PERSI) and Lifemap were properly vetted by the County and were not included in the recommendations to be removed from pre-tax deductions. Clerk Brannon

restated that the County would not ask employees to drop their plans, but he advised the Board to disallow pre-tax deduction from employee wages to reduce liability to the County.

Mr. Culbertson advised removing all non-County endorsed plans from the pre-tax deductions until those plans could be audited. He cautioned that each employee had their own contract; Aflac alone had over two hundred contracts with County employees. Chief Deputy Clerk Pat Raffee said that the Internal Audit team's cash handling audits had found several contracts from the 1990s which were not signed by the County Commissioners but instead were signed by individual Elected Officials. Ms. Cross confirmed that in her research she was able to find Resolutions signed by the Board but was unable to find contracts. Mr. Culbertson added that he had reviewed the County's General Account Information form for Aflac and it did not meet pre-tax regulations.

Mr. Culbertson suggested that the County do an analysis of the policies and determine what would be allowed. He recommended that staff be trained on the new standard and either move all non-approved policies to a post-tax status or remove the deductions altogether.

No vote was taken.

- 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 1:36 a.m.

Respectfully submitted,

JIM BRANNON, CLERK

DANIEL H. GREEN, CHAIRMAN

BY: _____
Alicia Lynch, Deputy Clerk
