

**GRAND COUNTY CHANGE IN FORM OF GOVERNMENT
STUDY COMMITTEE
REGULAR MEETING**

**Grand County Council Chambers
125 East Center Street, Moab, Utah**

**MINUTES
October 18, 2019**

Call to Order

The Grand County Change in Form of Government Study Committee ("Study Committee") met in Regular Session on the above date in the County Council Chambers. The meeting was called to order by Chairperson Stocks at 12:05 p.m. with a quorum present. In attendance at the call to order were Study Committee Members Judy Carmichael, Cricket Green, Bob Greenberg, and Marcy Till. Also in attendance was County Council Administrator Ruth Dillon to take minutes and, later, Attorney Gavin Anderson. Absent at the call to order were Committee Members Walt Dabney and Jeramy Day; Jeramy arrived a few minutes later.

Pledge of Allegiance

The Pledge of Allegiance to the Flag was led by Cricket.

Approval of Minutes

A. September 27, 2019 (Study Committee Regular Meeting)

Chairperson Stocks requested any changes or corrections to the minutes. Bob led the discussion on changes as follows:

Page 2, add "districts and" and delete the last part of the sentence which reads, "since they have not been updated as population has grown" to instead read, "Further, she said that Grand County's districts and precincts have not been updated since 1992 and appear to be illegal."

Page 3, change "violate the Constitution to delegate the districting powers" to "delegate powers enumerated in the Constitution by implication" to instead read, "County Attorney Sloan reiterated that one cannot delegate powers enumerated in the Constitution by implication."

Page 6, replace "rejected" with "found to be out of compliance with the State Constitution and Utah Code" to instead read, "Chairperson Stocks suggested replacing and revising, essentially starting over, remarking that the draft Optional Plan which has been submitted has been found to be out of compliance with the State Constitution and Utah Code."

MOTION:

Motion by Bob to approve the minutes of the September 27, 2019 meeting as amended, seconded by Judy carried 5-0.

General Reports

B. Report on State Legislative Committee Meeting schedule

MOTION:

Motion by Judy to table Item B, "Report on State Legislative Committee Meeting schedule," until after Attorney Anderson arrives. The motion was seconded by Bob and carried 5-0.

Citizens to Be Heard – there were none.

General Business- Action Items- Discussion and Consideration of:

C. Approving a process for issuing an amended Optional Plan

Chairperson Stocks suggested focusing on the issues that have already been presented to the Study Committee and to address other issues as they arise. He further suggested that such other items should be brought up by at least two Committee Members; there appeared to be general agreement with this idea.

Jeremy arrived at 12:13 p.m.

County Council Administrator Dillon reported on having prepared the future draft agendas as a result of motions made at the last meeting. She reported that County Attorney Sloan has indicated that her supplemental written report cannot be ready in time for the October 25th meeting slated for correcting the "Council district boundaries" section of the submitted Optional Plan. County Council Administrator Dillon requested to know the Study Committee's opinion about having County Attorney Sloan present her supplemental report in person; Committee Members indicated that this would not be necessary as long as a written report is provided. County Council Administrator Dillon reviewed aloud the four questions that County Attorney Sloan had determined from the last meeting and had provided by email in late September to the Study Committee and to Attorney Anderson, County Clerk/Auditor Baird, and County Council Administrator Dillon, as follow:

- 1) Does 17-52a-504(b) imply that district boundaries must be included in the optional plan?
- 2) Does 17-52a-504(b) give the voters the power to draw districts?
- 3) Are district boundaries a necessary implementing provision under 17-52a-403(4)(b)?
- 4) How does the County legislative body integrate the Districts into the optional plan, if at all?

County Council Administrator Dillon reported that County Clerk/Auditor Baird had provided his initial responses as had Attorney Anderson, reminding Committee Members that they had each been copied on such responses.

County Council Administrator Dillon handed out the various draft agendas to Committee Members for further discussion regarding the process to issue an amended Optional Plan.

MOTION:

Motion by Judy to transfer the districting agenda item from the October 25th meeting to November 15th. Discussion was held, and then **Cricket seconded the motion.** Study Committee Members discussed the possibility of reinstating the November 1st meeting following a request by Bob. Chairperson Stocks stated his idea for a goal of having at least six Members in attendance at each meeting, and he further stated that he is now available to attend on November 1st. Marcy indicated her interest in holding weekly meetings to maintain momentum. Bob suggested that Chairperson Stocks could determine when specific agenda items could be placed on any given agenda. **Judy withdrew her motion.**

MOTION:

Motion by Bob to reinstate the November 1st meeting was seconded by Judy and carried 6-0.

Attorney Anderson arrived at 12:26 p.m.

D. Correcting the "Council interference with the executive" section of the submitted Optional Plan titled "Section 2.12 – Prohibitions"

Attorney Anderson reviewed his proposed amendments of Section 2.12 – Prohibitions stating that the amendments make the language more clear and addresses the County Attorney's concerns. He specifically addressed subparagraph 5 which outlines three subsections that he stated are clearly in the legislative's authority during a properly convened meeting.

Chairperson Stocks inquired as to whether subsection 5. b) applies to the entire Section 2.12. Attorney Anderson reviewed it and replied that it only applies to subsection 5.

Chairperson Stocks inquired about the numbering system utilized under subsection 5. b) and suggested utilizing i, ii, and iii instead of 1), 2), and 3).

MOTION:

Motion by Bob to amend Section 2.12 - Prohibitions of the submitted Optional Plan to include the language proposed in writing by Attorney Anderson and that 5. b) be retitled from 1), 2), and 3) to i, ii, and iii. The motion was seconded by Judy and carried 6-0.

E. Correcting the "Election date" section of the submitted Optional Plan titled "Section 5.02 – Adoption Vote"

Attorney Anderson stated there are three options to make the correction: To delete the entire subparagraph; delete the referral to any date; or change the date to November 2, 2020. Chairperson Stocks and others suggested using replacement language of "at the earliest date permitted by State Statute."

MOTION:

Motion by Bob to amend the language of Section 5.02 - Adoption Vote of the submitted Optional Plan to read, "at the earliest date permitted by State Statute" in place of the date. The motion was seconded by Cricket and carried 6-0.

F. Correcting the "Removal from office" section of the submitted Optional Plan titled "Section 5.04 – Prior Optional Plan"

Attorney Anderson stated that subparagraph 2 may not be necessary, that it is a provision from HB224 that no county can have a plan with nonpartisan elections, recall from office, or term limits. He stated that he thought it was valuable to include it but that the County Attorney focused on Election Code in the Statute that allows removal of county officers by mental illness. Attorney Anderson stated that he believes State Statute is probably unconstitutional but that the Study Committee could completely remove subparagraph 2 or remove the word "judicial". Bob suggested that the date of January 6, 2021 in subparagraph 1 also needs to be removed.

MOTION:

Motion by Bob to adopt Section 5.04 – Prior Optional Plan of the submitted Optional Plan with the change in subparagraph 1 to read without an effective date, "Upon this Plan becoming effective, the former optional plan of Grand County government, adopted in 1992, is repealed and has no further legal force or effect" and further to strike subparagraph 2. The motion was seconded by Cricket and carried 6-0.

Attorney Anderson suggested the need to go through the Optional Plan to remove the dates elsewhere. He also brought up the subject for a future agenda of staggering the terms.

MOTION:

Motion by Jeramy to take Item B off the table was seconded by Bob and carried 6-0.

B. General Reports

Report on State Legislative Committee Meeting schedule

Attorney Anderson reported that there have been two Interim Committee meetings held, including a committee on Political Subdivisions with discussion about HB224 issues. He reported that a presentation was made by Utah Association of Counties (UAC), at the request of an Interim Committee, which focused in general terms on a number of problems with HB224. Attorney Anderson reported on a second meeting held

by UAC's Legislative Policy Committee in which Attorney Anderson was invited to speak about HB224; he said there was recognition of problems primarily related to the confusing process to change a form of government. He stated that UAC had received instructions by the Interim Committee to make the process simpler, and that this may possibly include one process for smaller counties that could be a different process for larger counties. Attorney Anderson reported that he had explained the problems that Grand County is experiencing in terms of whether the current legislative body is to be involved in the change of form of government, and he stated his opinion to the Study Committee that HB224 provides an obvious intent for an "arm's length" distance between the existing legislative body and the Study Committee. He further reported that Lincoln Shurtz, UAC lobbyist, indicated that he had not realized that there was an issue regarding who sets the district boundaries and that Mr. Shurtz has indicated that he may include this matter in UAC's position statement, depending upon the final proposal. Attorney Anderson reported that UAC appeared interested in making the process simpler as well as clarifying the relationship between existing county government and the Study Committee, although he stated that the "advisory" role of a Study Committee was not broached. Attorney Anderson stated his belief, which he indicated is in opposition of the County Attorney's stated belief, that the State Legislature could expressly delegate districting powers to study committees. He expressed his confidence that there will be a clarification of the relationship between existing legislative bodies and study committees.

Attorney Anderson reported that he talked with the County Attorney from Morgan County who has indicated that he agrees with County Attorney Sloan regarding the matter of delegating districting powers as being unconstitutional. Attorney Anderson further reported that Morgan County only submitted a Recommendation and Report—for an Expanded Commission with five commissioners to be elected by districts—and did not submit an Optional Plan. Further, he reported that Morgan County asked their existing County Council to create the districts by way of their Recommendation and Report. Also, Attorney Anderson reported that the County Attorney from Morgan County claimed to have had no involvement in their change of government process.

Attorney Anderson reported that there will be an Interim Committee meeting in November, which he stated is usually the 2nd or 3rd Wednesday; he indicated that there may not be a meeting in December but will find out and let the Study Committee know.

Attorney Anderson reported that the UAC Legislative Policy Committee meeting will ask for a group of people to work on changes to HB224 in order to have a bill prepared this year. Attorney Anderson further remarked that whether he will be involved will be up to his supervisor.

Marcy inquired about the best way for the Study Committee to formally share recommendations for a proposed bill. Attorney Anderson replied briefly that recommendations could be made to him to then be provided to UAC and to the State Legislature. Chairperson Stocks remarked that this matter could be more fully discussed under Item G.

- G. Discussion on policy decision and approving changes to proposed summary of recommended Legislative action to ultimately be sent to members of the State Legislature regarding 2018 House Bill 224 as it relates to the State-mandated change in Grand County's form of government

Attorney Anderson stated that he has begun working on some of the HB224 problems as outlined in the packet draft document titled, "The Grand County Experience – Changing the Form of Government: Proposed amendments to Chapter 17-52a – The Grand County Form of Government Study Committee." He stated that there are major policy issues to first be discussed before approving changes to the document. Chairperson Stocks suggested options of 1) communicating with the interim group who is working with State Legislators; 2) providing suggestions to Attorney Anderson; 3) sending a few Study Committee Members to Capitol Hill; and/or 4) writing letters. Chairperson Stocks encouraged Committee Members to review paragraph IX, "Clarify the role of the County Attorney" of Attorney Anderson's document. Attorney Anderson stated that a

complex bill will need to be ready in November. Chairperson Stocks suggested having this matter on the October 25th agenda.

MOTION:

Motion by Bob to postpone Item G to October 25th as an action item. Motion was seconded by Jeramy. Bob stated that paragraph III, "There are inconsistencies with the State Election Code," is the County Clerk/Auditor's issue who can deal with this matter separately. Attorney Anderson replied that this is a major policy decision. After discussion, Study Committee Members agreed to tentatively replace paragraph III with a section on election dates for electing the new officers. Chairperson Stocks requested that Committee Members send their ideas to Attorney Anderson between now and next week.

Marcy stated that there is no one to champion the Optional Plan in the fall of 2020 if the Study Committee dissolves in March 2020. Bob suggested that clarification is needed as to whether the Study Committee must dissolve after one year from the first meeting. Attorney Anderson stated that further outreach by the Study Committee is not mandatory after the one-year period of existence but is "strongly recommended" by Statute for the Study Committee to be the voice for the public. Cricket inquired as to whether the Study Committee would automatically be dissolved once the Optional Plan is voted up or down, to which there appeared to be agreement.

Bob remarked that the County Attorney's role is clear in HB224, referring to paragraph IX, "Clarify the role of the County Attorney." He remarked on problems in that the County Attorney is part of UAC and also that Attorney Anderson's office would have to choose the County Attorney's advice over his own advice.

Chairperson Stocks remarked that the contracted attorney's role becomes subservient to the County Attorney's role. Attorney Anderson suggested that clarity is needed regarding the involvement of existing government, of which the County Attorney is a part, in changing the form of government. He suggested a need for clarity regarding the contracted attorney role following the County Attorney review of the Optional Plan, and he suggested that the County Attorney's responsibility could be, in an amended law, to generate the final revised Optional Plan. Marcy expressed that this, however, could be problematic, because it would place a lot of decision-making in the County Attorney's hands where there could be a strong feeling one way or the other about a particular form of government.

Jeramy stated that the Study Committee does not have an option to challenge the County Attorney's ruling, but that the Legislature could write such an option into law.

County Council Administrator Dillon brought up her understanding of the County Clerk/Auditor's desire to include items in the list of HB224 issues as several matters conflict with Election Code; she suggested that the Study Committee, therefore, consider leaving in paragraph III, "There are inconsistencies with the State Election Code."

Motion to postpone carried 6-0.

Attorney Anderson brought up the attorney-client privilege to make sure the Study Committee has no issue with Attorney Anderson working with UAC on the Study Committee's position regarding HB224. There appeared to be general agreement that there is no issue. Marcy expressed her belief that this Committee has the most "boots on the ground experience" with HB224. Jeramy stated that UAC is aware of the issues.

Future Considerations

Committee Members determined that the amended report (Optional Plan) will be referred to as the report (Optional Plan), excluding the word "amended," and it will be distinguished from the original report (Optional Plan) by the fact that it will have a new date.

Chairperson Stocks reviewed some approaching matters, as follow:

- Revising the Recommendation and Report, scheduled for November 8th;

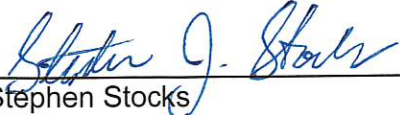
- Contact with the State Legislature on HB224 as discussed through Item G; and
- Study Committee to outline a publicity campaign for 2020 to champion the Optional Plan. Marcy suggested working on this as a Study Committee so as to have a plan in place for getting the word out in 2020, with a suggestion to then meet in groups of three.

Bob raised the question about how to dissolve the Study Committee.


Marcy inquired about a budget request for 2020 for presentation of the Optional Plan to the community. There was general agreement that a budget will be needed for this.

Adjournment

The meeting was adjourned at 1:19 p.m. by motion that carried unanimously.



Stephen Stocks
Chairperson



Marcy Till
Secretary