

Bear Lake County Commissioners' Meeting
October 10, 2023
Commissioners' Chambers – Paris, Idaho

The Board of Bear Lake County Commissioners met in its regular meeting at 9 a.m. Tuesday, October 10, 2023, in the Commissioners' Chambers in Paris, Idaho. Video access to the meeting was available via Zoom. Members present were Commission Chairman Bradley D. Jensen, Commissioner Rex L. Payne, Commissioner Wynn S. Olsen and Amy Bishop, Clerk of the Board. Also in attendance were County Attorney Adam McKenzie, Assessor Jannelle Jensen, Treasurer Tricia Poulsen, County Superintendent Todd Boehme, County Building Inspector Wayne Davidson, Deputy Clerk Paul Christiansen and various members of the public.

APPROVE AGENDA – ACTION ITEM

Commissioner Payne said Roy Bunderson – who was scheduled to come before the Board at 11 a.m. immediately following action being taken on a pending memorandum of understanding between the county and the Idaho Department of Lands – had asked to instead speak at 10:45 a.m., before the Board made any decisions. Pending approval of this request, the Board would shuffle Bunderson's allotted time to 10:45 and move its MOU action item to 11:00 a.m.

MOTION: Commissioner Payne made a motion to approve the agenda with the modification of Roy Bunderson's presentation time slot to 10:45 a.m. The motion received a second from Commissioner Olsen. The motion carried.

ELECTED OFFICIALS UPDATES

Because the county just ended Fiscal Year 2023, Bear Lake County Treasurer Tricia Poulsen provided the Board with a printout report showing the operation of county funds through September 30, 2023. Additionally, Poulsen said the report showed a breakdown of the funds found in each of the county's accounts – totaling \$10,584,135.99 in the treasurer's Statement of Cash. This statement was broken down by total funds available in checking accounts; total in investment accounts; total in savings accounts; and total found in other accounts.

Additionally, Poulsen said there is nearly \$354,000 to be added from outstanding warrants and checks.

Poulsen said this is the time of year when the county pays the landfill dues, which will make up a large chunk that will come out of that total statement of cash. Poulsen said she will pull that money from the State Pool account, as that is the location in which the funding is placed usually.

Poulsen said because of higher interest rates, the county is in a better financial position than it was a year ago. The county still has a couple of small Certificates of Deposit (CDs) making just 0.24 percent interest, but it may be best to pull these and suffer a slight penalty in order to reinvest them at a higher interest rate. Poulsen said she had recently done this with other accounts, reinvesting them at an interest rate of 4.5 percent on \$500,000.

The state has received the corrected levies from County Clerk Amy Bishop, Poulsen said. Idaho's 44 counties have to certify and have their levies all corrected before the tax drive can move forward. Poulsen hopes to get started with the tax drive the last week in October.

The Idaho Association of County Treasurers has drafted a letter to inform the public of the changes to the tax billing process. Poulsen said this letter will be published locally in The News-Examiner in order to provide information for why tax bills may be received later than usual this year.

Assessor Jannelle Jensen reported the county Department of Motor Vehicles in September had taken in \$121,826.29 from Idaho Transportation Department transactions; \$1,429 through Idaho Parks and Recreation transactions; and \$88 through registration renewals filed by mail. Going forward, there will be no money provided to the county through these mail renewals, she said.

Concerning the county's mapping Geographic Information System (GIS) procurement, Jensen said County Attorney Adam McKenzie had approved the contract with Esri and Pro-West, adding that training and transitioning will begin soon. Jensen said she had opted to enter into a cloud-based enterprise agreement with Esri. Through this agreement, access to these GIS mapping technologies will be available to any county offices who need to utilize this data – not just the Assessor's Office – with no additional license purchase necessary.

Jensen said the county occupancy roll is the Appraisal Department's focus. New construction includes 57 new homes that will be added to the occupancy roll, and Building Inspector Wayne Davidson and Appraiser Bailee Argyle have been visiting homes as construction is finished. This cooperation has allowed Argyle to stay vigilant with her additions to the roll, Jensen said.

County Clerk Amy Bishop said there were four taxing districts that required a small correction be made to the levies. This resulted in no large change, as these entities were four small cemetery districts. Bishop said she will send out a letter to let those districts know about the adjustments.

Preparation for the November 7, 2023, election has continued in the Clerk's Office, Bishop said. Ballots have been ordered through a new ballot printing vendor; however, there will be no noticeable changes for the voters.

Bishop attended the Idaho Association of Counties conference from September 25-27 in Boise and attended many good meetings. There were many resolutions going out from the body there, and there likely will be more updates at the next IAC conference in February as these resolutions get finalized to go before the Idaho Legislature, she said.

Idaho Secretary of State Phil McGrane is pushing Idaho clerks to begin using electronic poll Books, also known as "E" poll books. Bishop said she wants to familiarize the Board of County Commissioners with this process, as she believes eventually clerks will be required to run elections with "E" poll book technology. This process is just done on a laptop computer, with voters signing in electronically rather than physically at their election poll locations. This will not affect the counting of ballots and votes, and Bishop does not believe this will have any significant impact on voter experience. Still, she said, she wants people to be as comfortable with the process as possible as this moves forward.

Bear Lake County Fiscal Year 2023 closed on September 30. Bishop said that when the Board examines the claims, the commissioners will notice there is a batch in September and a second, separate batch starting October 1 that pertains to utility bills that come in at the first of the month. Bishop said she will continue finalizing the materials for Fiscal Year 2023 and will schedule the annual county audit in the near future.

The Bear Lake County Courts Office also has been busy, Bishop said. The court proceeded with one of its scheduled jury trials in September. That trial got halfway through before it was settled. That was the first jury trial held in the recently built courthouse, but a few more trials are scheduled, she said.

Additionally, Bishop said, the court is in the process of hiring a new Civil Deputy Court Clerk – who will handle civil cases, including divorces and child custody legal dealings.

COMMITTEE ASSIGNMENTS

Commissioner Olsen said the Bear Lake County Fair Board is in the process of filling two member slots. Heather Long has been chosen to preside over the vendors, but the fair board still is looking for an individual to take over the arena dealings. Once these names have been finalized, they will be presented for approval and appointment by the Board of County Commissioners.

The demolition derby event, held at the fairgrounds on September 30, successfully brought in about \$30,000 to the fair board, Commissioner Olsen said. This money will aid that board in its plans to update electrical systems at the fairgrounds. That project is in the planning stages and is believed to be implemented in four phases. Dennis Bills is working with the fair board on that project, he said, and the fair board plans to come to the November commissioners meeting to present plans for that electrical update project. Additionally, the fair board is working through construction of new buildings – including the replacement of the old dairy barn.

The second annual Fall Festival, which was held at the fairgrounds that same day, was well attended and provided space for about three times the number of vendors that were included in 2022, Commissioner Olsen said. The Montpelier Chamber of Commerce plans to turn over to the Bear Lake County Fair Board the management and organization of this event going forward for the 2024 festival.

The intersection of Highway 89 and Highway 30 is found in Montpelier. Despite recent town surveys showing these roads are to be managed by the state – in both law enforcement and road maintenance capacities – nearly all accidents that occur in the area of that intersection are reported to the Bear Lake County Sheriff's Office Dispatch Center and addressed by the Montpelier Police Department, he said. Because of this, the Idaho Transportation Department has no proper data of the traffic and the related incidents that occur in that area. Because that intersection involves pedestrian crossings and multiple lanes of traffic, it can be very dangerous. Because of this, it might be in everyone's best interest if MPD – and by proxy, the Bear Lake County Dispatch Center – relayed reports of these incidents to ITD and to the Idaho State Police so the proper parties can respond, Commissioner Olsen said.

The District VI Juvenile Detention Center, at which Bear Lake County houses its juvenile offenders, currently has one individual in custody, he said.

A meeting of the Four-County Alliance of Southeast Idaho (4-CASI) will be held at 10 a.m. on November 10 at the Bear Lake County Courthouse. Commissioner Olsen will attend, and Commissioner Jensen asked Clerk Amy Bishop to post notice stating the other commissioners may choose to attend.

Commissioner Payne said County Attorney Adam McKenzie had been working on drafting a contract between the National Oregon/California Trail Center and the Bear Lake Historical Society. Because the Historical Society wants to create a subcommittee, Commissioner Payne inquired if there is anything within that organization's bylaws to address subcommittees. McKenzie will check on this and get back to the Board with an answer.

Commissioner Jensen said he had attended meetings on the future construction of a new landfill. Securing contractors and bids is proving difficult. In addition to those meetings, he said he had attended meetings of the Bear Lake Regional Commission and the Bear Lake Valley Convention and Visitors Bureau.

GENERAL BUSINESS/ACTION ITEMS

RATIFY CLAIMS

MOTION: Commissioner Payne made a motion to ratify the claims before the Board. The motion received a second from Commissioner Olsen. The motion carried.

APPROVE MINUTES

MOTION: Commissioner Olsen made a motion to approve the minutes for the September 11, 2023, Commissioners Meeting. The motion received a second from Commissioner Payne. The motion carried.

MINI-CASSIA JUVENILE DETENTION CENTER AGREEMENT

Clerk Amy Bishop said the Board had been presented a housing agreement with the Mini-Cassia Juvenile Detention Center. This facility is used sparingly, only during times when no housing is available at the District VI Juvenile Detention Center and an overflow facility is needed. The cost associated with this facility is a per-day fee and is incurred per juvenile.

MOTION: Commissioner Payne made a motion to approve the Mini-Cassia Juvenile Detention Center Agreement, pending approval by County Attorney Adam McKenzie. Commissioner Olsen provided a second to the motion. The motion carried.

IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION AWARD CONTRACT

Clerk Amy Bishop said a contract agreement pertaining to the Idaho Public Safety Communications Commission (IPSCC) E911 grant was before the Board for approval. She reminded the Board the county had received this grant a few years before to help pay for the Bear Lake County Sheriff's Office Dispatch Center's 911 phone system, and this new agreement provides financial assistance with ongoing maintenance costs and fees associated with that equipment. This grant agreement was broken down by

year of the equipment's use – in this case, years five and six after which the original equipment was installed and operable in the dispatch center – and covers maintenance fees for the provider Solacom; maintenance fees for the equipment hub in Bonneville County; networking fees; and Bonneville center mapping costs. The total project award is \$54,600.25, she said.

Most times, grant opportunities provide one-time assistance. However, in this case, the state is aware the original agreements have ongoing costs attached and is providing funding to aid with those expenses, Bishop said. This is an opportunity for which Bear Lake County is grateful.

Commissioner Payne said these types of grants require the sheriff to submit quarterly reports. Idaho State Police and their ability to manage these types of grants helps to ensure the sheriff can supply the needed information at the required time.

Deputy County Clerk Paul Christiansen – who had written the original grant and at that time had worked in the Sheriff's Office – reminded the Board that the Bonneville center serves as a data hub for all the dispatch centers in the region who are linked with the Solacom E911 system. Having Bonneville as the central hub allows for the transmission and receipt of important data between these law enforcement entities, he said.

MOTION: Commissioner Payne made a motion to approve the contract with the Idaho Public Safety Communications Commission. The motion received a second from Commissioner Olsen. The motion carried.

CERTIFICATE OF RESIDENCY

Bishop said there was a single certificate of residency before the Board for approval. The certificate of residency was for Lauren H. Messenger. Chief Deputy Clerk Mindy Williamson had ensured this individual was a resident of Bear Lake County.

MOTION: Commissioner Payne made a motion to approve the certificate of residency for Lauren H. Messenger. The motion received a second from Commissioner Olsen. The motion carried.

AIRPORT BOARD AUTHORIZATION TO EXECUTE HANGAR RENTAL STANDARD CONTRACTS

The Bear Lake County Board of County Commissioners typically has to approve all hangar rental contracts for the Bear Lake County Airport. Whereas there are going to be so many of these contracts going forward, David Kramer – who serves as chairman for the airport board – wondered if the county Board wanted to allow the airport board to approve the signing of these contracts with the use of standardized and unchanged contract language. This could serve as a way to streamline the contracting process, Bishop said.

Commissioner Payne said some boards are not allowed to take on this authority in conjunction with state statute. This will need to be researched.

MOTION: Commissioner Payne made a motion to approve the Bear Lake County Airport Board to approve the signing of hangar rental contracts, pending review by the county attorney. The motion

received a second from Commissioner Olsen. The motion carried.

County Attorney Adam McKenzie – who was not in attendance at the time this motion was made – later said, at the very least, all hangar contracts need to be approved by the Board and it would be unwise to abdicate that authority. If the Board chooses to have someone sign a pre-written and pre-approved contract, the Board still will need to ratify that signing. If a form lease agreement is approved for all renters across the board, at some level the airport board will need to submit a notice to the commissioners, he said.

The Board will retain its authority to approve the signing of all Bear Lake County Airport hangar contracts, Commissioner Jensen said.

STATE AIRPORT GRANT AGREEMENT

Bishop said the Idaho Airport Aid Program, as provided by the Idaho Division of Aeronautics through the Idaho Transportation Department, will pick up the funds match of \$9,610.39 on a federal grant to be used for the design of a taxiway at the Bear Lake County Airport.

MOTION: Commissioner Payne made a motion to approve the Idaho Transportation Department and Idaho Division of Aeronautics Idaho Airport Aid Program grant agreement for State Fiscal Year 2024. The motion received a second from Commissioner Olsen. The motion carried.

COVID LEAVE POLICY

Chief Deputy Clerk Mindy Williamson came before the commissioners to educate them on the current county COVID leave policy and to determine what action, if any, should be taken going forward.

As the policy stands, Williamson said, employees have to show her proof of a positive COVID test result in order to use the allotted leave. Following recovery, these individuals have to provide her with a written doctor's release that states they are fit to return to work before they resume duties.

Commissioner Payne said he is aware of at least one county resident who currently is recovering from an especially long-term COVID strain. This shows there is a need for this type of leave to be made available, he said.

Commissioner Olsen said it is possible if the leave policy is not continued, many employees who are sick with COVID might decide to go to work rather than use their personal sick leave. These individuals might be contagious and could put at risk other employees who are perhaps more susceptible to the illness.

Williamson said she does not believe the policy has been abused in the time since its enactment.

MOTION: Commissioner Payne made a motion to continue the existing COVID leave policy the Board had previously instated and require affected individuals show proof of positive result before using this leave. Employees also will be required to provide a written doctor's release that states they are able to return to work before being permitted to do so. The motion received a second from Commissioner Olsen. The motion carried.

RATIFY ROCKY MOUNTAIN POWER CONTRACT FOR CONNECTING GOLF CART BARN

When Rocky Mountain Power visited the Montpelier Golf Course to view the hookup area for the new golf cart barn, the servicer found the old hookup was not adequately sized to supply power to the building. Because of this, Rocky Mountain Power required the golf course pay a fee of \$4,166.00 to get connected properly. Bishop said this fee will be paid from the Montpelier Golf Course's donation account.

MOTION: Commissioner Payne made a motion to ratify the contract with Rocky Mountain Power to provide electricity hookup to the Montpelier Golf Course cart building. The motion received a second from Commissioner Olsen. The motion carried.

DISCUSS SNOWPLOWING CANYON ESTATES CEMETERY ROAD – ACTION ITEM

Mark Scadden, a member of the Canyon Estates Homeowners Association, came before the Board via Zoom to relay the group's concern with the lack of full winter maintenance in the area. He said the HOA was asking the Board to provide a secondary access in and out of Canyon Estates. Because no regular winter maintenance is conducted, property owners in Canyon Estates are left with only one egress down Fish Haven Canyon. In recent years, there have been vehicle accidents and an incident during which a construction worker had been stranded in cold winter temperatures and needed to be rescued by first responders.

Full- and part-time residents alike are concerned there is no proper emergency access or secondary exit to be utilized in those scenarios, Scadden said. To mitigate those concerns, the property owners in Canyon Estates were now asking the county to plow Fish Haven Cemetery Road – which connects to another Canyon Estates access – in order to ensure there is a secondary entrance and exit from the area. Scadden said the group understands that during heavy storms, it will be difficult to address this area. However, he said, the group requests the Bear Lake County Road and Bridge Department keep the roadway open whenever possible during the winter months.

Commissioner Olsen said maintaining that area adds an additional 3 or 4 miles to the already heavy-laden plow routes. While that may not sound like a significant addition, the cemetery loop could add as much as an hour or more of plow time. Because of this, he said he would discourage plowing that area on days of storms because there are other, more traveled areas and those that are inhabited by more full-time residents that will need to be made priorities.

There are several developments on the west side of the county – many located in the Fish Haven lakeside area – that have only one entrance and exit point, Commissioner Olsen said. This is not an issue that affects only Canyon Estates. There also is concern that if the Fish Haven Cemetery Road is opened, it will likely be plagued by drifting issues. Heavy drifting can be harder than regular snowfall to traverse, he said.

Road Superintendent Todd Boehme said there have been other property owners who have requested the county purposefully not plow Fish Haven Cemetery Road. In the case of an RV park located in that area, the owners have requested plowing not take place in order to prevent vandalism and trespassing

during the winter months.

Michael Groat – who owns a house in Canyon Estates and who was in attendance at the meeting – said his closest access point to the area is the north entrance that meets with Fish Haven Cemetery Road. He recalled two incidents that led to Fish Haven Canyon Road having to be temporarily closed. This resulted in no means of exit for those within the Canyon Estates area – something that during an emergency could have been disastrous for both residents and emergency responders, he said.

County Attorney Adam McKenzie said plowing throughout the entirety of Bear Lake County is impacted by several issues – including limited equipment resources, limited personnel and limited time to address the need. In a county as large as Bear Lake, certain roads are prioritized and others are not. The reason some roads do not receive regular winter maintenance could be as simple as nobody lives in the area during the winter, so the county tends to address areas where full-time residents are located. In winters such as that of 2022-23, when heavy snowfall is abundant, the struggles get compounded.

Groat asked if the members of the Canyon Estates HOA have the right to hire someone to plow the road at the residents' discretion. This is a possibility, Commissioner Jensen said, but the group will be required to get a permit through the Road and Bridge Department.

Additionally, Groat said, both Fish Haven Canyon and Cemetery Road are in derelict condition and received very little maintenance during the summer months.

Commissioner Jensen said winter 2022-23 was especially hard on county roadways. The wet, short summer and wet fall have only contributed to the decline – especially on gravel roadways such as the two Groat was speaking of.

Boehme said several county roads were washed out last spring due to the amount of moisture on them. Because of that, the Road and Bridge Department is implementing fixes. Unfortunately, there is limited time to get the county road oil projects completed, but the department plans to get Fish Haven Canyon and Fish Haven Cemetery Road graded before winter.

The county also is short on working graders, Commissioner Jensen said. The Road and Bridge Department has had three new graders on order for more than two years and only just received one machine recently. The supply chain has been affected and it is causing frustration for everyone – county officials, county workers and county residents alike.

MOTION: Commissioner Olsen made a motion to table further discussion on snowplowing in the Fish Haven Cemetery Road and Canyon Estates areas until further investigation could be conducted. The motion received a second from Commissioner Payne. The motion carried.

Scadden supplied the Board with photos of the road damages he has identified on Fish Haven Canyon Road and along Fish Haven Cemetery Road. He said he is concerned that, because the areas of damage are located mostly on one side, drivers who try to avoid the potholes and washout spots by moving to the opposite side of the roadway may cause collisions with other vehicles. The areas' many blind corners contribute to this danger, he said.

Scadden said there also is an area at the intersection of Canyon Estates Drive and Fish Haven Canyon that is deeply impacted by washout, and it would be appreciated if the county could install a culvert to mitigate this water flow.

Commissioner Jensen said he will have Boehme look into that issue. If a culvert is needed, the county will follow suit and implement one.

WAYNE DAVIDSON – BUILDING INSPECTOR REORT

Bear Lake County Building Inspector Wayne Davidson reported construction on 57 new residences began in 2023. This has led to more houses being built in areas where roadways existed but saw little use. Other homes are including construction of new roads altogether. Going forward, this will impact the Road and Bridge Department as more work will need to be done to maintain these routes, but there does not seem to be any plan in place to add additional workers.

Although new construction throughout the county has grown, building permit request are beginning to slow as the regular construction season comes to an end, Davidson said. On average, one permit is being provided a week instead of the several per day that had been common during the summer months.

More commercial development is moving to the area, and several local businesses have begun implementing their own improvements, he said.

The time when Pictometry – the county’s chosen aerial photography and visual intelligence system provider – will conduct its regular flyover and capturing process will come due in 2024. These flyovers take place every two years, and Davidson said it would be good for the county to get on the company’s schedule for June 2024. This will shave between \$12,000 and \$15,000 from the total cost. Each flight costs about \$75,000, and that total includes the cost of the software and data provision.

Clerk Amy Bishop said the money for this service already had been appropriated in the Fiscal Year 2024 budget. Davidson said he will get in contact with Pictometry and schedule the flight.

CLARK STOCK – FISH HAVEN CEMETERY DISTRICT EAST SHORE BURIALS – ACTION ITEM

Clark Stock, who serves as the chairman of the Fish Haven Cemetery District, reported to the Board the Fish Haven Cemetery is beginning to run out of burial space, due in part to the community expansion in recent years. Additionally, he said, the east side of the lake falls within the boundary of this cemetery district, despite being a large distance from the cemetery itself.

When the cemetery district was established years ago, that might have not been a concern, Stock said. However, it may be time for the east side area to form its own cemetery district. Alternatively, it may be better to adjust the boundaries and include this area within the boundary of the St. Charles Cemetery District – which is located much closer. Stock said he has spoken to parties with the St. Charles Cemetery District but has not consulted anyone living on the east side of Bear Lake.

Another option would be to form a second cemetery within the Fish Haven Cemetery District but located on the east side of the lake, Commissioner Payne said. Whatever the case, there is a process to

be followed by the taxing district.

Clerk Amy Bishop said Idaho Code § 27-112 deals with the annexation or exclusion of territory from a district and outlines the procedure. She encouraged Stock to read through this information in order to best understand what will need to be done and what all the options are.

Fish Haven resident Ed Izatt said, in the event of a district territory exclusion or boundary alteration, there may be some concern from those individuals who have for years been paying taxes toward the Fish Haven Cemetery District and may no longer be included within the district's boundaries. This would result in individuals – who once found their property within the district boundary – being forced to pay a higher rate in order to be buried within the Fish Haven Cemetery.

ROY BUNDERSON – CONCERNS OVER RELICTED LANDS, STATE LAND BOARD ORDER AND PENDING MOU

Roy Bunderson, who lives in Bloomington, said he had requested to address the Board so he could share information he had gained over the past few months and simultaneously request additional information from the Board itself. Bunderson said there is a lot of concern about an order affecting Bear Lake – including questions of how the order got to its final stage prior to signing and how it will impact Bear Lake County residents once enforced. The order was issued by the Idaho State Board of Land Commissioners and signed into effect by Gov. Brad Little on July 19, 2023.

Bunderson said he had contacted some members of the state land board – including Idaho Attorney General Raúl Labrador and Idaho State Controller Brandon Woolf – to inquire how the order came to be. Allegedly, Labrador and Woolf said they had not had involvement with the order and would be open to consider changing it if there was an issue.

Bunderson said he believed the order should enact a standard for the entirety of Bear Lake – both Utah and Idaho sides – and should have been a collaborative effort. Utah's public lands, which surround its section of the lake, are regulated by a 200-plus-page document that took two years to formulate, while Idaho's order for public lands management around Bear Lake consisted of only two short pages. Bunderson said this seems like the process for forming the order was not considered enough, adding he was skeptical of how much public opinion was considered during its formation.

Commissioner Payne, who sits on the Bear Lake County Public Lands Committee, said the state land board had supplied Bear Lake County with the pending memorandum of understanding that establishes a means of order enforcement by the Bear Lake County Sheriff's Office below the original high-water mark (OHWM) on public lands around Bear Lake. In its drafting of the order, the state land board had taken input from the local public lands committee, he said.

County Attorney Adam McKenzie said the original order had been drafted by the Idaho Department of Lands.

Bunderson said both Woolf and Labrador had told him it is their belief that the order did not come from the state. Additionally, Bunderson said he believes the order takes public trust lands and essentially privatizes them. It gives preference to those with adjoining property rather than equally serving the

entire populace.

Bunderson asked how the Bear Lake County Public Lands Committee was formed originally.

That body is made up of volunteers and welcomed anyone at the time of its formation, Commissioner Payne said. In fact, Bunderson once sat as a member of the committee for a short period, he said.

Bunderson recalled his time on the committee, adding that the body had taken no action at the time and had decided to wait for more state input and cooperation. He wondered if the committee had taken any input from people throughout the county, or if it had only taken input from special interest groups. Bunderson said the first public meeting he had heard about was held August 7, 2023. By that time, the order had been prepared and signed by Governor Little – seemingly without public input.

Commissioner Payne reiterated that all meetings of the Bear Lake County Public Lands Committee had been held as public meetings with attendance welcomed. In fact, there had been members of the public who came briefly to at least one of those meetings, he said. The August 7 meeting had been advertised specifically as a means to educate the public and gain input on the permitting and funding processes.

From the information he has been able to glean, some members of the state land board have said the order and MOU were requested by Bear Lake County, Bunderson said. He also added he had spoken to Pat Brown with the Idaho Department of Lands, who had echoed these statements.

At this point McKenzie interjected in order to clarify the differences between the original order and the MOU itself. The order, issued by the Idaho Department of Lands, sets in place some rules and regulations for public lands surrounding the Idaho portion of Bear Lake that is located below the OHWM. That order already was put into place and signed by Gov. Little.

This order addresses things such as lateral movement of motorized vehicles parallel to the shoreline along public lands below the OHWM; parking motorized vehicles within 100 feet of the water's edge as it exists on the day of travel; overnight parking and camping; depositing of garbage and litter; unauthorized digging or removal of soil and sand, or the deposit of foreign materials; use of tractors or heavy equipment for common reed control that is not in line with best management practices; and the construction of fences and buildings.

However, because the department of lands has no ability to enforce these regulations, it has conferred with Bear Lake County and has presented the MOU to the county. That document, if adopted, will allow the Bear Lake County Sheriff's Office to enforce this order on these public lands on the state's behalf.

Bunderson said it remains to be seen if this order and corresponding MOU will be good for Bear Lake County. To determine the impact, it is his opinion more investigation needs to take place. As it stands, these regulations will not satisfy the need of relicted lands or the parties impacted by these decisions. There would be merit in reconvening the committee and being more open to public discussion of the problems and potential remedies before moving forward, he said.

As it appears, Bunderson said, the order came down as an unfunded mandate, and the MOU places the burden of enforcement – and the associated costs – onto the residents of Bear Lake County. Sen. Mark

Harris had said he was going to seek out state funding for the enforcement, but Bunderson said he had not heard any updates on that possibility.

All in all, the decision to adopt or reject the pending MOU should reflect the attitudes of the local constituency, he said. Simply holding a public hearing will likely prove to Bear Lake County whether the public support for the MOU is there.

STATE LANDS MOU OPTIONS – ACTION ITEM

If Bear Lake County adopts the memorandum of understanding – as provided by the Idaho State Board of Land Commissioners – and begins to enforce the regulations outlined within, then the county essentially accepts the original order itself, County Attorney Adam McKenzie said. However, if the county does not like the contents of the order it should not adopt the MOU.

McKenzie said the state land board had followed the proper procedure and held a public hearing – as attended by Bear Lake County Sheriff Bart Heslington and Commissioner Payne, as well as Dave and Claudia Cottle of the Bear Lake Watch – in order to get input on the order from the attending citizenry who wished to offer comment.

Commissioner Payne said the state land board has made clear what it wants done with the land it administers. After the order was signed into effect by Gov. Brad Little on July 19, the Bear Lake County Public Lands Committee received the MOU. However, the MOU has not been adopted by the county. Commissioner Payne said he has received several phone calls and heard a lot of public comment that makes clear two major concerns – the funding of enforcement, if and when the MOU is adopted; and constraint of access to and use of these public lands due to a restriction on vehicular movement that is parallel to the shoreline.

Concerning enforcement funding, Sen. Mark Harris has drafted a bill – new subsection 16 for Idaho Code § 58-104 – which reads:

“To impose a use fee for recreation by the public on the beds and banks of Bear Lake. The amount of said fee shall be established at a regular meeting of the board and may be increased at future meetings, as deemed appropriate by the board. Said fee may be collected and utilized to pay for enforcement of recreation use restrictions by Bear Lake County, pursuant to an agreement for cooperation in control and administration of state lands, as authorized by Idaho Code § 58-134.”

This bill essentially creates a statewide recreation tax to be used on Bear Lake and removes the burden from Bear Lake County property owners, Commissioner Payne said. Senator Harris has experienced a little pushback from certain individuals at the state level, but that is being worked through.

Commissioner Payne said he had worked with McKenzie to identify the county’s options. First, the county can return the MOU, unsigned, to the state land board and include a letter stating the county’s concerns with the MOU and order. This will essentially begin the process over.

A second option, McKenzie said, is for the county to sign the MOU with the addition stating its adoption is subject to state funding being secured. While this could very well be a good option, this sends the

MOU back to the state land board and governor for renewed approval. This also will require a public hearing, McKenzie said.

Another option is for the county to just do nothing. Without adoption of the MOU, and without a means of enforcement of state regulations, the situation will essentially remain the same as it has in the past, he said.

Lastly, the county can opt to sign the MOU with the expectation that it will expire on April 30, 2024, as outlined by the language of the written agreement. At that time, there will be an option to extend or modify the MOU. However, because the order does not include an expiration date, it will still remain in place even with the expiration of the MOU, McKenzie said.

Commissioner Jensen said he firmly believes the Idaho Department of Parks and Recreation needs to be involved in these discussions and should likely contribute to funding. The issues that come with tourism and recreation at Bear Lake – including vehicle collisions, lost children and medical emergencies – already require Bear Lake County resources during response. This in turn takes those resources away from other parts of the county, he said.

The contents of this order, as written, are nearly identical to the order put into place on August 30, 1991, McKenzie said. This 2023 order revokes the original 1991 order. If the county signs the MOU, it will essentially commit to adopting ordinances that will allow the county to enforce the regulations. Whereas funding is a major concern, McKenzie said the Board could choose to table any action on the MOU until the legislature determines what will be done with Senator Harris' bill.

The Board also could choose to adopt the MOU contingent upon the passing of state funding by the legislature, he added.

Dave Cottle, who serves on the Bear Lake County Public Lands Committee, said the state land board has been working on its order for years, and it now has two options. The state land board could have put in a regulation stating there will be no driving of any kind below the ordinary high-water mark but instead provided Bear Lake County with the option of perpendicular movement below that mark. Cottle said he does not like everything contained within either the MOU or the Order, but the state manages Idaho's bodies of water and the surrounding lands have to be subject to rules as part of this management.

If Bear Lake County chooses to do nothing, the state land board will think there is no problem around Bear Lake. That simply is not the case, he said.

Commissioner Olsen said he does not support the MOU as it is written now. He said he did not wish to see the county commit with the hope enforcement will receive state funding, only to find the county itself has to pay for it.

The purpose of the order and the corresponding MOU is to protect the resource that is Bear Lake and to protect the people who use and live near it, Commissioner Payne said. The public seems to want the issues of lateral movement and funding addressed, and he too is concerned about these items.

MOTION: Commissioner Olsen made a motion to table any further discussion or action on the pending

memorandum of understanding between Bear Lake County and the Idaho State Board of Land Commissioners. The motion received a second from Commissioner Payne. The motion carried.

RANDY BUDGE – SPONSORSHIP FOR FISH HAVEN CITIZENS COMMITTEE APPLICATION FOR ITD READER SIGNS – ACTION ITEM

Randy Budge, an owner of property in Fish Haven and a spokesman for a group of citizens in the Fish Haven Area, came before the Board to request the commissioners either sign or authorize County Clerk Amy Bishop to sign on their behalf an application for an Idaho Transportation Department permit to allow encroachment on U.S. Highway 89 in Fish Haven. The group wishes to install flashing electronic speed-reader signs on the north and south ends of Fish Haven along U.S. Highway 89 in an attempt to address longstanding speeding problems found in that area, Budge said.

As it stands, travel via Highway 89 into Fish Haven from the north sees a speed of 65 miles per hour (mph) drop, in a relatively short distance, to 45 mph. Within a short distance, the speed drops again to 35 mph. These sudden changes are often not observed by recreational traffic enroute to Bear Lake and tourist traffic on its way to destinations such as Jackson Hole, Wyoming, Budge said, but the community group has decided to not just sit back and complain. Instead, the community has chosen to examine solutions and move forward with reaching those goals, he said.

The first step is for the group to work with ITD to install these speed-reader signs, Budge said. Additionally, the group will work with ITD in order to change the locations of those speed limit adjustment signs. However, this will require some speed studies. The community will work with ITD to ensure these studies are completed, but, fortunately, the speed-reader signs will provide a lot of the observational data needed. Additionally, he said, the group will encourage law enforcement – at both the county and state levels – to be more active in this area of concern, especially during the traffic-heavy summer months.

Because these reader signs will be placed on a state highway, and because Fish Haven is an unincorporated community, Bear Lake County is best suited to sign the contract agreement with ITD as a sponsor of the group's efforts, Budge said.

The initial cost of procuring and installing the reader signs is estimated at \$20,000, but there will be no cost to the county, he said. Instead, donations to the cause have either been received from or committed to e provided by members of the Fish Haven community. Budge said the group has procured 100 percent of the funding itself. However, ITD encouraged the group to ask the county to supply sign posts for the readers.

In the event the Board approved the community group's request, Commissioner Jensen encouraged Budge to speak with County Road Superintendent Todd Boehme regarding the supply of sign posts.

Budge said following Board approval, a permit will be issued by ITD to the group within two to three weeks. The group plans to install and erect the reader signs sometime in April or May 2024.

County Attorney Adam McKenzie said if the group and the citizens are willing to sign an agreement with the county that provides that citizen group will provide the funding for this project, there should be no

issue with the county sponsoring this project and submitting the application to ITD on behalf of the group.

MOTION: Commissioner Payne made a motion to approve and sign on behalf of the Fish Haven community group an application to the Idaho Transportation Department providing a right-of-way encroachment and permit, subject to the signing of a written agreement stating the citizen group will be responsible for the total funding of the operation. The motion received a second from Commissioner Olsen. The motion carried.

JUSTIN HATCH – UNIVERSITY EXTENSION ANNUAL AGREEMENT AND JOB DESCRIPTION/WAGE CHANGES – ACTION ITEMS

Justin Hatch, the University of Idaho extension educator for Bear Lake County, said he had come before the Board to provide details on the county's cooperative agreement with the university's extension programs. Hatch said there have not been any major changes in the past year. However, Kari Ure has recently been added as the extension agent for the center and has plans to bring a lot of good programming to Caribou and Bear Lake Counties.

MOTION: Commissioner Payne made a motion to approve Bear Lake County's annual agreement with the University of Idaho Extension Service. The motion received a second from Commissioner Olsen. The motion carried.

Hatch said he wanted to propose wage changes for two Extension Office employees. He asked the Board to approve a pay raise for Jennifer Matthews, bumping her from her current wage of \$18.36 per hour to \$19 per hour. Additionally, Hatch asked the Board to approve a wage increase for Cheyanne Mast, who currently is working in her introductory probationary period. The proposed increase would see Mast's base wage raised from \$17.50 per hour to \$18.50 per hour after the conclusion of the probationary period.

Commissioner Olsen said he hopes to see a memorandum of understanding put in place between the Bear Lake County Fair Board and the Extension Office, bolstering cooperation and interaction for the betterment of the county's citizens and provided programming.

MOTION: Commissioner Payne made a motion to approve the pay increase for Jennifer Matthews – from \$18.36 per hour to \$19 per hour – and to raise Cheyanne Mast's base pay from \$17.50 per hour to \$18.50 per hour following the end of her introductory work probation period. The motion received a second from Commissioner Olsen. The motion carried.

PUBLIC COMMENT

Kathy Izatt, a resident of Fish Haven and a reporter for the News-Examiner newspaper, asked the commissioners if they felt there had been enough public input on the pending memorandum of understanding with the Idaho State Board of Land Commissioners.

Commissioner Olsen said he believes at least one additional public hearing needs to take place before the Board takes any sort of action. Commissioner Jensen echoed that statement, adding he wants to get

more information on the order, MOU and how these things will impact the people of Bear Lake County.

Commissioner Payne said the Board needs to get better answers on the issues of lateral vehicular movement below the original high-water mark and funding of order enforcement.

Paul Sousa of Bloomington said he does not believe the Idaho Department of Lands has effectively involved the people in the local community during the decision-making process for its order and the related MOU. The fact that board held its public hearing in Boise and not in Bear Lake County, where the impacted lands are located, seems like a backwards decision, Sousa said.

Sousa said he would like to see more involvement from the community, as the lake and the surrounding lands deeply impact business, personal recreation, traffic and the general populace in the area. It is important the Board of County Commissioners and the Department of State Lands take into consideration how the people will be impacted by these agreements, he said.

Michelle Fillion, who serves as director of the Bear Lake West Property Owners Association, conferenced in to the public comment session via Zoom. Fillion said that the Bear Lake West area also is plagued by speeding issues, largely due to what she considers to be very few patrols conducted in the area by Bear Lake County Sheriff's Office. She said the implementation of speed-reader signs, such as those being erected along U.S. Highway 89 at the north and south ends of Fish Haven, would do a lot of good in Bear Lake West. She asked the Board if the county would help implement these signs for the Bear Lake West POA.

Bear Lake County Road Superintendent Todd Boehme said he will look into adding this request to the 2024 road sign addition project. New solar-powered signs will replace the in-service battery-operated signs.

Fillion said she will check with Boehme in the spring to see what his inventory availability is at that time.

EXECUTIVE SESSION – IDAHO CODE 74-206(1)

MOTION: Commissioner Olsen made a motion to go into executive session according to IDAHO CODE 74-601(1) (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public-school student; (c) To acquire an interest in real property not owned by a public agency; (f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement.

The motion was seconded by Commissioner Payne.

Roll Call Vote. Commissioner Olsen, Aye. Commissioner Payne, Aye. Commissioner Jensen, Aye.

The Board entered executive session at 12:06 p.m. and left executive session at 1:05 p.m.

From 12:10 p.m. to 12:17 p.m., the Board conferred with legal counsel.

From 12:21 p.m. to 12:40 p.m., the Board discussed employee matters.

From 12:41 p.m. to 12:54 p.m., the Board discussed acquiring interest in real property not owned by a public agency.

From 12:55 p.m. to 1:04 p.m., the Board again conferred with legal counsel.

The Board left executive session at 1:05 p.m. It reconvened its regular meeting at 1:09 p.m.

MITCH POULSEN – PLANNING & ZONING

Bear Lake County Planning and Zoning Administrator Mitch Poulsen conferenced into the meeting via Zoom in order to present two action items to the Board for approval.

Poulsen presented 122 acres in Geneva, owned by Wade Ferguson, that are currently zoned as agriculture land. Ferguson has applied for a rezoning and is asking the Board to approve this area to be rezoned for rural community land use. This request has the recommended approval of the Planning and Zoning Board, Poulsen said.

MOTION: Commissioner Payne made a motion to accept the rezone, as proposed by Bear Lake County Planning and Zoning for Wade Ferguson, from agricultural land use to rural community land use. The motion received a second from Commissioner Olsen. The motion carried.

Poulsen said subdivision developer Krista Klein has requested an amendment to the final plat of the Sage Hill Subdivision be approved. The amendment will add an easement that grants access from the subdivision to the lake front. The amendment also addresses some lot, footprint and building envelope changes. The Planning and Zoning Board has not had a chance to look over this amendment, but it also does not have a specified plat amendment process in place, he said.

MOTION: Commissioner Payne made a motion to approve the plat amendment request for the Sage Hill Subdivision. The motion received a second from Commissioner Olsen. The motion carried.

Poulsen said the amended plat will include updated covenants, conditions and restrictions and will receive a new recording number from the Bear Lake County Clerk's Office. This will show a change has been made and will indicate this is not the original plat.

DEMAR ROMRELL – REQUEST FOR COUNTY TO ABANDON PEGRAM LOT SPLIT – ACTION ITEM

DeMar Romrell appeared before the Board to speak on a thin strip of land sandwiched between two of his properties, found in the Pegram area of Bear Lake County. Romrell said he bought his lots in the early 1960s but did not realize until recently that this small piece of land was separate from what he owned.

Romrell said he would like to avoid having a survey conducted, as that will add a lot of expense. Bear Lake County had vacated a roadway, located to the east of his lots, in 2012, and Romrell now wondered if the county could do the same with this small strip of land.

County Attorney Adam McKenzie said this action will likely require a quiet title action through the court. This can clarify the ownership of the given property, do away with any additional and conflicting title to the land, and can grant the land ownership to Romrell. McKenzie said there is no action the county can take directly. It cannot vacate the area because this is not a county road or a right-of-way issue; rather, this is a discrepancy that has stemmed from the drafting and mapping of the related legal descriptions.

McKenzie again encourage Romrell to speak with an attorney and file this quiet title action with the court.

TIM AND GLEN TRANSTRUM – REQUEST TO MOVE CATTLE GUARD IN JACOBS CANYON – ACTION ITEM

As representatives of the Bear Lake Cattle Association, Tim and Glen Transtrum said the association is working to mitigate the spread of unsupervised cattle from the Jacobs Canyon area onto Highway 89 during the nighttime hours. An existing cattleguard lies on the border between the transition to land operated by the Bureau of Land Management (BLM) and was originally placed there to protect private grazing ground. That area has since been sold and is not being used for grazing, Tim Transtrum said, and the cattle guard can be removed.

The Bear Lake Cattle Association is willing to dedicate a few acres of pasture and corrals at the bottom of Jacobs Canyon Road that will be more conducive for loading and unloading cattle to allow them access to lands that fall under the BLM, he said. The cattle also will have access to a water supply.

As the area stands now, fenced BLM land is on one side of the existing guard. As animals move past the existing filled-in cattle guard, they now enter an area that is not fenced at all. To mitigate this issue, the proposal will see the implementation of a consolidated area that will be fenced, have water access and will allow removal and unloading of cattle at the discretion of the cattlemen.

County Road Superintendent Todd Boehme said he found no problems with this proposal and believes the idea will be very beneficial to all parties. If this proposal is approved, the Bear Lake County Road and Bridge Department will address the removal.

Tim Transtrum also asked if the county has any funds available for range improvements. County Clerk Amy Bishop said that, unfortunately, those improvement funds are limited and do not even pay the full cost of the animal damage board requirement the county pays for each fiscal year.

MOTION: Commissioner Payne made a motion to accept the proposal to move the cattleguard in Jacobs Canyon. The motion received a second from Commissioner Olsen. The motion carried.

TODD BOEHME COUNTY SUPERINTENDENT

4-WHEEL DRIVE PLOW TRUCK BIDS/PURCHASE – ACTION ITEM

County Superintendent Todd Boehme reported the county had received three different proposals for the purchase of All-Wheel Drive (AWD) snowplow trucks. However, only one vendor – Kenworth Sales Company, Inc. of Pocatello – provided concrete pricing numbers for AWD Kenworth snowplow

equipment. That vendor is a Sourcewell product follower and this follows the same format the county used when it last purchased a dump truck, he said.

Sourcewell bundles together government equipment bid requests and sends them out to vendors across the country who may be able to offer solution through a cooperative purchasing process, County Clerk Amy Bishop said. Because the county had used this bidding process for the procurement of the road and bridge's dump truck, it can piggyback off that for the snowplow bidding process.

Boehme said he was asking the Board for approval of one or two snowplows. March 1, 2024, is the first-available build date. While that does not offer Bear Lake County any additional new equipment for the upcoming snow season of winter 2023-24, the county will be prepared for the following year without question.

No new AWD trucks are available on the market at this time, and used equipment is scarce. These new snowplow trucks, if approved by the Board, will be purchased using money awarded to the county through the Local Assistance and Tribal Consistency Fund (LATCF) by the U.S. Department of the Treasury, Boehme said.

The proposed vehicles are described as six-wheel, bobtail trucks with front-wheel assist. The county has two of these types of vehicles in its fleet already. The in-use trucks are International brand trucks, whereas the new equipment will be Kenworth brand. The new Kenworth trucks will feature two-way plows and attached sanding systems. These units will be positioned in the Bear Lake West and Bailey Creek areas. The trucks that currently service those areas will be brought closer to the Road and Bridge shop and used to service the nearby areas, Boehme said.

The total cost of these new 2025 Kenworth T480 snowplow trucks will be \$261,194.00 apiece, or a combined total of \$522,788.00.

MOTION: Commissioner Payne made a motion to approve the provided bid from Kenworth Sales Company, Inc., for two new Kenworth T480 snowplow trucks, subject to review by County Attorney Adam McKenzie. The motion received a second from Commissioner Olsen. The motion carried.

COUNTY SUPERINTENDENT REPORT

Boehme said in conjunction with the Bunn Lake culvert project at the Bear Lake National Wildlife Refuge, the county road in that area has been repaved and is in working order. Poleline Road also is on the to-do list and will receive some attention soon.

Boehme said he has located a company in the area that has some gravel for sale. The old state gravel pit, located west of Georgetown, has between 4,000 and 5,000 tons of gravel it is willing to sell to the county at a cost of \$8.00 per ton. That amount of gravel can be used to service about two miles of roadway; however, Boehme said he had only budgeted \$20,000 for gravel for Fiscal Year 2024. This unexpected offer would extend beyond that, he said.

Commissioner Olsen said it could be cost effective to purchase this gravel and apply it to areas that would usually need DustGard application. By doing this it would vastly reduce or eliminate altogether

the need to purchase DustGard, effectively eliminating the cost of the product and the additional costs associated with applying it, he said.

The Jericho Loop Bridge project is ongoing, Boehme said. There are a couple of issues with fencing that are being addressed, he said.

An asphalt apron – rather than the gravel apron that was used – should have been placed on either side of the Jericho Loop Bridge, Commissioner Olsen said. If plow drivers are not careful, they could possibly hook the edge of the bridge.

Boehme said he is working on a five-year plan for county projects. He will soon meet with Keller, the county’s chosen civil engineering firm, in an attempt to get some county projects shovel-ready, he said.

Boehme asked County Attorney Adam McKenzie if there is any way to hold liable the transporters of large loads – for instance, the transport of houses and large equipment – for any damage incurred by county roads during the moving of these loads. McKenzie said he will look into this issue and see what needs to be done.

EMERGENCY SERVICES REPORT

Bear Lake County Emergency Management Coordinator Todd Boehme said the county’s backup generators are being serviced in preparation for winter weather conditions.

Boehme will attend a state emergency training in Boise later this month, from October 23-27.

The county’s emergency plan needs to be updated, he said. Part of that plan is the Bear Lake County Resilience Plan, which has been worked on by the Idaho Office of Emergency Management and currently is being reviewed by Boehme and Deputy Clerk Paul Christiansen. The draft copy provided by the state has compiled data that is a result of recently gathered earthquake resiliency survey data for the Bear Lake County area. This will not be the final draft, Boehme said.

MOTION: Commissioner Olsen made a motion to adjourn the meeting. The motion was seconded by Commissioner Payne. The motion carried.

The meeting adjourned at 2:10 p.m.


Bradley D. Jensen, Chairman

11/13/2023
Date Approved

ATTEST: 
Amy Bishop, Clerk

