

**Bear Lake County Commissioners' Special Meeting  
December 18, 2023  
Commissioners' Chambers – Paris, Idaho**

The Board of Bear Lake County Commissioners met for a special meeting at 9 a.m. Monday, December 18, 2023, in the Commissioners' Chambers in Paris, Idaho. Video access to the meeting also 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 and Deputy Clerk Paul Christiansen.

**PUBLIC HEARING TO CONSIDER VACATING THE EASTERLY 29 FEET OF MAIN STREET IN BERN TO THE ADJACENT LANDOWNERS, RAMONA JOHNSON AND TYSON FRY**

**MOTION:** Commissioner Olsen made a motion to go into public hearing to consider vacating to the adjacent landowners – Ramona Johnson and Tyson Fry – the easterly 29 feet of Main Street in Bern. The motion received a second from Commissioner Payne.

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

**The Board left its regular meeting and entered into public hearing at 9:13 a.m.**

Cardon Payne of Global Land Works, who had been hired by the Ramona Johnson family to perform survey duties, proposed the county vacate the easterly 29 feet of Main Street in Bern in order to match existing fence lines and utility lines. He said this vacation also will help establish proper acreage for both properties that will allow for the possibility of future building. The current deeds for the Fry, Johnson and Bear Lake County properties do not match current or historic occupation lines, and this problem has put on hold the sale of the Johnson home. The Johnson family has been unable to secure a clear title to the land on which the home is built.

Both the Fry and Johnson properties have been established and occupied for well over 70 years, with fences and other infrastructure remaining largely unchanged throughout that time, Payne said. Additionally, the right-of-way, as it stands, runs through the front 5 feet of the Johnson home and comes within 5 feet of the Fry home.

Payne said the proposed vacation allows for the proper setbacks and leaves space for a 70-foot-wide right-of-way. As it stands now, the right-of-way is 99 feet wide, and all Bern side streets are 66 feet wide. When Payne examined the lots north of the Johnson and Fry properties, he found all fence lines on the east side of the roadway exist between 70 and 75 feet from the right-of-way's westernmost edge. By narrowing the right-of-way's easterly side by 29 feet, a 70-foot-wide right-of-way will exist and make equal all allotments for adjacent properties on either side without changing any existing fence lines or boundaries in use, Payne said.

County Attorney Adam McKenzie asked if the public is using any part of the proposed vacation, to which Payne said he had observed nothing leading him to believe the public was utilizing the space.

Commissioner Jensen named those present who had marked on the public hearing sign-in sheet their support for the road vacation. These included Lynn Perkes, Tyson Fry, Lana Christiansen, Earlene Perkes and Cardon Payne.

Bear Lake County Clerk Amy Bishop asked the Board to note that notice of this public hearing had been published in The News-Examiner on November 29 and December 6. Additionally, notice of the hearing had been mailed to all property owners with property adjacent to the area affected by the right-of-way vacation, as well as to public utility companies that could be affected.

**MOTION: Commissioner Olsen made a motion to leave the public hearing session. The motion received a second from Commissioner Payne. The motion carried.**

The Board re-entered the regular meeting at 9:21 a.m.

#### **ACTION ON ROAD VACATION – ACTION ITEM**

Regarding the vacation of the easterly 29 feet of Main Street in Bern to Ramona Johnson and Tyson Fry as the adjacent landowners, County Attorney Adam McKenzie proposed Bear Lake County Resolution No. 2023-09 for adoption. McKenzie had drafted the resolution prior to the meeting and provided it to the Board for its review.

**MOTION: Commissioner Payne made a motion to adopt Bear Lake County Resolution No. 2023-09 for the vacation and abandonment of a county road. Commissioner Olsen seconded the motion. The motion carried.**

#### **CORRECT DEED 167608 ON BERN ROAD – ACTION ITEM**

County Attorney Adam McKenzie said the matter of correcting the property deed, previously recorded in the Bear Lake County Clerk's Office as Instrument No. 167608, will have to be addressed and signed by Tyson and Jaclynn Fry as the property owners and requires no Board action be taken.

This matter will be handled by McKenzie and Clerk Amy Bishop in conjunction with the Frys.

#### **GENERAL BUSINESS / ACTION ITEMS**

##### **RATIFY ROCKY MOUNTAIN POWER CONTRACT FOR FAIRGROUNDS**

The Board, at its regular meeting held December 11, had discussed the approval of a contract with Rocky Mountain Power that would see three-phase electrical service routed to and across the Bear Lake County Fairgrounds. At that time, the Board had tabled action until after its discussion on county moneys available from the Local Assistance and Tribal Consistency Fund (LATCF) and the American Rescue Plan Act (ARPA), Bear Lake County Clerk Amy Bishop said.

Because the Board had forgotten to circle back to the issue of the Rocky Mountain Power contract after

that discussion had taken place, it now needed to approve the signing of that contract, she said.

**MOTION: Commissioner Olsen made a motion to ratify the contract with Rocky Mountain Power for provision of three-phase power to the Bear Lake County Fairgrounds and across the property, in the amount of \$7,710. The motion received a second from Commissioner Payne. The motion carried.**

#### **CAT FINANCIAL GRADER LEASE RESOLUTION**

At its December 11 regular meeting, the Board had approved the lease with Caterpillar Financial Services for the acquisition of a motor grader, contingent on the county attorney's review. County Attorney Adam McKenzie, during his review, had found that Caterpillar Financial Services requires the county send them an authorizing resolution as part of the lease agreement.

Bear Lake County Resolution No. 2023-10, authorizing Bear Lake County to enter into a lease agreement with Caterpillar Financial Services Corporation, had been prepared and was now presented to the Board, Clerk Amy Bishop said.

**MOTION: Commissioner Payne made a motion to adopt Bear Lake County Resolution No. 2023-10, which authorizes Bear Lake County to enter into a lease agreement with Caterpillar Financial Services Corporation for the leasing of a new 2023 Caterpillar 150-15AWD Motor Grader. The motion received a second from Commissioner Olsen. The motion carried.**

#### **APPROVE INDIGENT DEFENSE FINANCIAL REPORT**

Clerk Amy Bishop presented a summary of the county's expenditures on indigent defense in Fiscal Year 2023, which totaled \$101,503.65. Much of that amount had been paid to conflict attorneys in child protection action cases. Bishop said the Idaho Association of County Recorders and Clerks the previous week had discussed the transition from the current system – with indigent defense administered by individual counties for their needs – to the new system at the end of the county's Fiscal Year 2024, on September 30. At that point, the state will take on these defense responsibilities and will manage all public defense.

At the time of the transition, the state will take over all Idaho counties' individual defense contracts, effectively keeping existing public defenders in place and rolling them over to the start of the next fiscal year, Bishop said. Despite this new way of handling defense needs, she said she does not anticipate massive changes to how things are handled in Idaho's smaller counties.

Commissioner Payne said he is concerned that when the new system of public defense is being implemented, Bear Lake County and other Idaho counties located at the state's outlying edges might receive inexperienced public defenders rather than those individuals who have been tested and show adequate skill.

Sixth Judicial District Magistrate Court Judge R. Todd Garbett has advised her there is a shortage of attorneys throughout Idaho. This predicament likely is caused by private sector wages being so much higher than what can be paid in the public sector. Unfortunately, he said, he foresees no change to

those circumstances.

Bishop said the legislation that mandates the state to take over public defense duties does not include the portion of those cases that are considered child protection cases. Bear Lake County will be mandated to fund that effort and provide for the defenders needed for those types of cases, she said. The total amount appointed for this type of council is about \$20,000 – a sizeable amount the county had believed would go to the state for public defense but actually will remain with the county for child protection defense needs.

**MOTION: Commissioner Payne made a motion to approve the Fiscal Year 2023 Indigent Defense Expenditure Report. The motion received a second from Commissioner Olsen. The motion carried.**

#### **AUDIT ENGAGEMENT LETTER**

Clerk Amy Bishop said the county had engaged Certified Public Accountant Gary Teuscher to conduct the county's annual financial audit. Teuscher had provided for Board approval a letter outlining the timeline for the audit and an estimation of when he will conduct his review.

Because Teuscher will be retiring, he no longer will conduct audits after this year. The county will have to explore other audit options going forward. Some of the surrounding counties have some good options that can be looked into, she said.

**MOTION: Commissioner Payne made a motion to sign the letter of audit engagement, approving Gary Teuscher to conduct Fiscal Year 2023 financial audit for Bear Lake County. Commissioner Olsen seconded the motion. The motion carried.**

#### **APPROVE AIRPORT HANGAR LEASE AGREEMENT WITH TENNIS FREAKS, LLC**

Commissioner Payne said that before the Board for approval was a lease agreement for hangar No. 5, owned by Scott Livingston, at the Bear Lake County Airport. The hangar had been sold to Garin Hess, doing business as Tennis Freaks LLC, with a lease agreement of \$0.05 per square foot. The annual lease total cost had reduced slightly – from \$280 to \$252 – due to lot sizes being reduced in order to accommodate the airport's new hangar addition. All the airport hangars, with the exception of two, are owned by Bear Lake County, he said.

Hess had signed the lease agreement and had paid the annual lease installment, Clerk Amy Bishop said.

**MOTION: Commissioner Payne made a motion to approve the Bear Lake County Airport lease agreement with Tennis Freaks LLC. The motion received a second from Commissioner Olsen. The motion carried.**

The Board took a brief recess at 9:48 a.m. It reconvened its regular meeting at 9:52 a.m.

#### **INTRODUCE NEW DISTRICT JUDGE CODY BROWER**

Cody Brower, district judge to the Sixth Judicial District introduced himself to the Board and said he was looking forward to working with them and the people of Bear Lake County. He now will preside over district cases in Bear Lake, Caribou and Franklin Counties –

Cody Brower – the son of Judge O. Lynn Brower, the former and longtime magistrate court judge for the Sixth Judicial District in Idaho – said he had grown up in Liberty, gained his primary and secondary educations in the Bear Lake School District and considers the Bear Lake Valley his true home.

Most of Judge Brower’s law career has been spent as a prosecuting attorney. Prior to his judicial appointment, he served nearly eight years as the Oneida county attorney. Prior to his time with Oneida, Judge Brower worked as a deputy prosecuting attorney for Bingham County, he said.

He said he is happy to meet with the Board as often as he is able and hopes to keep that line of communication and connection open. Judge Brower will work in Bear Lake County two days a week but will reside permanently in Caribou County.

He replaced former Sixth District Judge Mitchell Brown, who retired in September.

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

The meeting adjourned at 9:59 a.m.

  
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BRADLEY D. JENSEN, Chairman

1-9-24  
Date Approved

ATTEST:   
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