

Bear Lake County Commissioners' Special Meeting
May 23, 2024
Commissioners' Chambers – Paris, Idaho

The Board of Bear Lake County Commissioners met for a special meeting at 9 a.m. Thursday, May 23, 2024, in the Commissioners' Chambers in Paris, Idaho. Video access to the meeting also was available via Zoom. Members present were Board Chairman Bradley D. Jensen, Commissioner Rex L. Payne and Amy Bishop, Clerk of the Board. Bear Lake County Attorney Adam McKenzie, Planning and Zoning Administrator Mitch Poulsen, County Superintendent Todd Boehme and Deputy Clerk Paul Christiansen also were in attendance.

Commissioner Wynn S. Olsen was excused to attend and represent Bear Lake County at a meeting of the Southeastern Idaho Public Health Board in Pocatello.

APPROVAL OF AGENDA – ACTION ITEM

MOTION: Commissioner Payne made a motion to approve the meeting agenda. The motion received a second from Commissioner Jensen. The motion carried.

COREY LYMAN – OPEN BIDS FOR PARIS CANYON BRIDGE STRUCTURE

Corey Lyman of the United States Forest Service and Bear Lake County Superintendent Todd Boehme appeared before the Board in order to be present for the opening of structure bids for the two-pronged Paris Canyon Bridge Crossings project that both entities have partnered on.

Lyman reminded the Board that this project will involve two crossings west of Paris and located up Paris Canyon. These two crossings will address issues located on Forest Service land – located between the National Forest boundary and the Paris Springs Campground – and the county's portion, which is located below the USFS boundary and proceeds to the Joan Hulme property. The bids that were set to be opened were for the structures located in both areas, he said.

The project timeframe is not definitive, he said, but the USFS hopes to get the work started before the end of 2024 – with an anticipated start date sometime in September. Because the structures will be made of precast concrete, Lyman said, once the bid is awarded, he will have a better idea if the tentative September projection can be met. The legal notice did put forward a delivery date of September 5, 2024, he said.

The work will require a road closure in the upper segment of the project, which will span about two and a half weeks. Once the structure bid has been awarded and a construction timeframe has been firmly set, Lyman will know where that road closure will take place. He said he will keep in close contact with Boehme to make sure the county is apprised of the schedule.

Clerk Amy Bishop reported only one bid had been received for the structure project. The bid – submitted by Oldcastle Infrastructure of Hyde Park, Utah – included a bid for the structures themselves

and an alternate bridge option. The bid totaled \$244,919.26; however, because the contractor is based in Utah, it remains to be seen if the project will be eligible for tax exemption – something that will see a reduction of \$12,301.10 off the original cost, bringing the total to \$232,618.16.

Bishop suggested that, in the event the Board approved the bid, it did so for the full amount. She said that the ability to reduce the total to reflect the tax exemption depended if the contracting company had an Idaho branch. The contractor's corporate structure also affects the possibility of tax exemption, she said.

Oldcastle Infrastructure's bid provided the concrete structure would be a two-piece assembly and would not be gated. The alternate bridge option, if chosen, would be a one-piece structure. The choice to opt for the alternate option – bid at \$192,416.64 – largely will depend on an evaluation of the total cost, Lyman said.

If the bids submitted by Oldcastle end up being the only bids received, the bid would be approved depending upon the amount of available funding. While the bridge alternate does fit better with the overall project budget, Lyman said he hoped the issue could be tabled so he could attempt to find more funding so the original bid can be accepted.

MOTION: Commissioner Payne made a motion to table the evaluation and approval of bids in order to give Corey Lyman time to gather more information and to seek out additional funding options. The motion received a second from Commissioner Jensen. The motion carried.

Lyman said that, collectively, the project cost is going to be over some thresholds and, for that reason, there will have to be a second bidding process. He said he will regroup with the engineering staff and determine what the next option will be.

HOGES REQUEST FOR RECONSIDERATION ON REZONE

Ephraim and Tiffany Hoge came before the Board to present a case for the reconsideration of their rezone request – something the Board had previously denied at its regular April 8 meeting. Prior to the May 23 special meeting, the Hoges had submitted to the Board a written packet outlining their appeal.

Ephraim Hoge said the couple had purchased about 14 acres of land, located east of the stockyards by the Bear River and adjacent to Highway 89, about two years ago. At the time of the purchase, the process had been extensive and included a lot of effort to determine if that area was livable and buildable. After speaking with Bear Lake County Planning and Zoning Administrator Mitch Poulsen, Hoge said he contacted an engineer in order to have soil tests conducted to determine the history of the water table in that area. Hoge said the engineer advised him that, while tests may or may not provide the history of the water table, perhaps a better option would be to speak to eye witnesses and consider their accounts.

At that point, Hoge said, he spoke with Gary Teuscher, who serves as secretary to the stockyards and has been affiliated with that organization for many years. Teuscher reported the stockyards were built in the 1970s and in the time since he never has seen water on the surface ground at the stockyards or on

the property located to the east. Because the properties are at the same elevation, Teuscher assured the Hoges they should be able to build on the property without any trouble.

At that time, the Hoges had planned to build on that property for their personal use. However, in the time since, they had chosen to move forward with a subdivision development plan.

Hoge said he also had contacted local Idaho Transportation Department Foreman DeLoy Romrell, who monitors the Bear River bridge crossing on Highway 89 and the waterflow that passes underneath. Romrell reportedly told Hoge that for the past 20 years he had monitored the Bear River flow in that area of Bear Lake County and in that time had never viewed any issues involving water on the ground surface or in the borrow pit. While Romrell said he had seen plenty of issues concerning other bridges along public highways, he could not recollect any having been identified on the Hoge property.

Following these reports from Teuscher and Romrell, Hoge said he purchased the property. During winter 2022-23, the Idaho Department of Health and Welfare requested the Hoges dig holes and install pipes so percolation testing – which measures how quickly water absorbs into soil – could be conducted weekly during the wettest months of the year. Following this process, and because the lowest spot was found within 3 feet of the water table, the health department had approved the Hoge property for the installation of septic systems, Hoge said. Additionally, he said, that department had been informed of the Hoges' desire to develop a subdivision.

While some of the homes will be approved for standard septic system installation and use, Tiffany Hoge reported that others will be approved for complex septic systems.

Commissioner Jensen asked if, during the winter months when the percolation tests were conducted, the water from the Bear River is diverted to Bear Lake.

Ephraim Hoge said he had previously contacted the Camp Stewart Dam manager and had been told that, since 1916, no water has been allowed to divert from the Bear River into the original channel. Any water in that river is from runoff and, because of this, the dam has no right to send it down Bear River. All the water flows directly to the lake, he said.

Commissioner Payne said that many landowners with property around the Bear River had just a couple years ago received a notice that there was intention to open the Camp Stewart Dam, but the notice had said the waterflow would not be diverted.

Hoge said he had met with the Bear Lake County Planning and Zoning Board and a public hearing had been held. Planning & Zoning had approved the Hoges' rezone request, and this approval had been partially because the Hoge request had addressed many issues – including proper access to the subdivision and flooding concerns. Hoge said that body had been hesitant to approve the request but, because there was no code or ordinance that would prevent the request, the board had determined it had to begrudgingly vote to approve.

Hoge said another issue that had been brought up in relation to the denial of his rezone request had involved adjacent agricultural uses. The Board of County Commissioners had expressed concern that

those who will live in the subdivision will need and expect to be protected from sights, sounds, smells, dust exposure and other factors that are caused by or are associated with the stockyards. As Hoge had said earlier in the meeting, the stockyards had been constructed in the 1970s and predated this proposed subdivision by decades. Because of this, he said, those who will live in the subdivision will have to abide by the conditions that have long existed. To mitigate potential issues, Hoge said all subdivision residents will have to sign an agreement that fully informs them of the conditions associated with living next to the stockyards and will essentially ensure residents are aware of the conditions and therefore forfeit their right to bring related grievances.

Hoge said this proposed agreement had not been brought to P&Z because an agreement document had not been drafted before that board heard the rezone request.

Because the access to the subdivision would be located so near to the river crossing bridge on Highway 89, Commissioner Payne asked if the Hoges had spoken to ITD about concern over potential traffic backup that this may cause.

The current access has been deemed a commercial multiuse access, Hoge said, and ITD has advised there should not be any problem with the continued use of that access by residents of the subdivision. Additionally, he said, the ITD engineer has informed the Hoges that a secondary access on the opposite side of the subdivision land does exist and, if necessary, can be relocated.

Following the Hoges' comments, Poulsen told the Board that he did not have anything to add on the behalf of Planning and Zoning, beyond the recommendation that already had been made to the Board at the April 8 meeting.

Commissioner Payne recommended County Attorney Adam McKenzie review the information presented by the Hoges and return with a written answer concerning the legal standing.

McKenzie said he will take this all under advisement and have a written notification issued by the second Monday in June – the date of the next regular meeting of the Bear Lake Board of County Commissioners. At this point, and following McKenzie's evaluation, the commissioners will consider the Hoges' argument made for reconsideration of the Board's original decision to deny the rezone request.

MOTION: Commissioner Payne made a motion to issue a decision on the reconsideration of the Hoge rezone request on June 10, 2024. The motion received a second from Commissioner Jensen. The motion carried.

SHAW ZONING APPEAL

Bear Lake County citizens Roy Bunderson, Kathi Izatt and Bill Stock – the first of Bloomington and the other two of Fish Haven, respectively – came before the Board to appeal action that had been taken and which they believed put the county in significant, or potentially significant, jeopardy because it does something in violation of Idaho State statute. The appellants were allotted 15 minutes to present information relevant to their appeal and were encouraged to narrow the focus of their remarks to items and information not already addressed in their written appeal.

Bunderson said the improper action will open the county to litigation and establish precedent that will be abused.

The action in question – approval of a variance request made by Scott and Rozanna Shaw for a property located in Bennington – was taken by the Bear Lake County Planning and Zoning Board, at its February 21 meeting. The Shaws, in their application and discussions before the P&Z Board had said they want to build a new house on top of the area where an older house exists. The older home's location had been found to lie too close to the county right-of-way setbacks, and Shaw had been unaware of the setbacks. The Bennington Townsite originally had been platted with 132-foot-wide streets and Bear Lake County Ordinance requires construction be done an additional 30 feet from that setback, or 95 feet from the center of the roadway.

The Shaw request continued, stating Bear Lake County only requires a 60-foot distance from the center of the road in other areas, but Bennington is a platted township. The Shaw house currently is about 73 feet from the center of the road, and there are other buildings on the Shaw property and neighboring property that are closer to the roadway than where the current house lies. The new house, when constructed, is planned to have a garage attached, and a portion of that garage would be built 4 feet closer than where the existing house is located – or about 69 feet from the center of the road. Due to this, Shaw's proposal would still be more than 60 feet from the center of the roadway and would meet county requirements in other areas of the county.

A variance, on its face, allows for exclusive use of a county right-of-way, Bunderson said. Additionally, Bunderson said that essential elements – including transcribable records of the P&Z Board's deliberations following the closure of the February 21 public hearing regarding the Shaw request – were unavailable at the appellants' request. Bunderson said he had learned from County Clerk Amy Bishop that only public hearings are recorded by the P&Z Board; however, he said, the written meeting minutes do not provide enough detail to fully understand the intricacies of the P&Z Board deliberation.

Bunderson said the appellants do not believe the Shaw request qualifies as a variance, adding the appellants had multiple discussions with Planning and Zoning Administrator Mitch Poulsen about the abuse and misuse of variances in the county that were granted contrary to Idaho State statute and the Bear Lake County Land Use Ordinance. Per these decrees, only the Board of County Commissioners can take action to vacate a county right-of-way. The Shaw variance never was brought to the Board for approval and instead had been inappropriately approved by P&Z.

Stock – who spent several years as a member of the P&Z Board – said this issue was first discovered when the Shaws applied for a Bear Lake County building permit and the application was denied. He reported the house in which the Shaw family resides was built in 1952, and an ordinance that addressed construction in rights-of-way was put into place in 2004. Prior to the adoption of that ordinance, he said, the house's existence in the right-of-way had been grandfathered in and there was no issue, but any additional construction that encroached on the right-of-way after 2004 would be a violation.

As it stands, the Shaws have other structures that lie in the right of way. Stock said the appellants likely should have asked P&Z to have a survey conducted in order to determine where the true property line

is, but a survey could cost more than it will cost the Shaws to build a new house.

All indications are that the Shaws are not eligible for a variance, he said, because there is the issue of a nonconforming line. Generally, in these types of situations, a measurement from the middle of the roadway can be taken in order to find where the property line begins. In this case it is hard to determine where the center mark is on the gravel road, Stock said. In the case of where the Shaw property falls, a measurement of 95 feet from the road's center to the actual easement would determine this, but it is difficult to know exactly where this point is, he said.

Following public hearing, the P&Z Board had deliberated before approval of the variance Stock said, but there had been little clarification on what variance the members approved and what the conditions of said approval were.

If the Shaws build a new house where the old house is located, the new garage will intrude into the county right-of-way 4 feet past where the housefront had existed, Stock said. Once the existing house has been removed, any future construction in that area will not conform with the law as established. Whereas at the time of the existing home's construction there had not been zoning laws requiring a specific setback, the current laws call for a 30-foot setback and the new construction will have to be in compliance with those mandates, he said.

Stock said there are no physical features on the Shaw lot that qualify it for a variance application because the concerned attributes have been purposely built or placed in the right-of-way by the Shaws or by the previous property owners.

Commissioner Jensen asked Stock if he believed this variance instead should have been an application for a road vacation. Stock said that was perhaps the way the issue should have been handled. The P&Z Board does not have the authority to let the Shaws build in the right-of-way. Only the Board of County Commissioners has that right, and it appears that P&Z mishandled this, he said.

To summarize Stock's statements, Bunderson said the appellants' chief issue is a belief that the Shaw variance does not meet the qualifications necessary for a variance, and it appears in the past the P&Z Board has improperly approved several variances. Because of this, and based on Idaho Code and Bear Lake County Ordinance, it is imperative that the Shaw variance be rescinded, or at least returned back to P&Z for reconsideration, he said.

Bunderson said Izatt, the third appellant, had conducted much case law research as related to this issue.

Izatt said that, per Idaho Code 67-6535(2), "a failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of same, on appeal."

Izatt continued, saying that a transcribable record must be available for public hearings, and written minutes do not constitute a transcription. The P&Z Board is required to keep the record and relevant portion of these decisions, and statute indicates that is not only the case with the hearing itself but with

the debate and deliberation that follows. The Bear Lake County Planning and Zoning Board – assured it conducts itself properly by its legal counsel, Stephanie Bonney – only records the public hearings themselves and does not record the deliberation as follows, which is done in that body’s regular meeting, Izatt said.

Instead, she said, P&Z must keep a recording – the transcribable record – of the whole meeting and not just the hearing. Without the whole record, no one can determine the information related to the debate.

Izatt went on to cite several Idaho law cases – including *Love v. Board of County Commissioners of Bingham County*; *Jasso v. Camas County*; and *Citizens Against Linscott v. Bonner County Board of Commissioners* – to uphold the group’s appeal and, in particular, her belief that the P&Z board needs to record full public meeting deliberations and not only the public hearings.

County Attorney Adam McKenzie asked Izatt to speak about the appellants’ standing for bringing their appeal before the Board.

Izatt said that an attempt made by McKenzie to find the appeal ineligible based on a technicality of improper standing – and any recommendation he could potentially make to the Board to deny the appeal – would be a grievous error for Bear Lake County. A decision of the Board to take no action to fix this problem would be a mistake because of the precedence it will set going forward, she said. Additionally, Izatt said she had confirmed with the Bear Lake County Assessor’s Office that the Shaws were not being taxed for their use of and building within the county right-of-way.

Izatt said the appellants had standing to bring the appeal because they had the right to take this case to court. While the case is not in court and the appellants do not intend to take this issue to court, Izatt said that does not mean they do not have standing.

McKenzie asked Izatt if the statute providing the appellants can take this to court is a separate ruling than that which allows them to bring the appeal, adding that, if that was the appellants’ belief, he would like to know the legal authority they have cited. No response was given to this question other than the appellants maintained they have legal standing because they are Bear Lake County taxpayers.

Poulsen next was allowed to present on the behalf of Planning and Zoning and provide information regarding the appeal and the action taken by the P&Z Board. He said he welcomes this kind of civil engagement because it is helpful to him as the P&Z administrator. Too often individuals tell the P&Z board that it cannot do something, but to actually have case law presented helps the members understand exactly why and what they need to do to correct the issue, he said.

When a variance application is received, Poulsen said, he tries to make sure it falls in line with the county ordinance. However, many times he hears the term “variance” used in place of something else at the time of submission. If the Shaws wish to build a garage and this action is not an expansion of a nonconforming use, Poulsen said he believes that is and should be classified as a variance.

Poulsen presented to the Board a map that he had received from the Shaws at the time of their

application submission. The Shaws had received the map from Naaman Dolence, the Bear Lake County mapper with the Assessor's Office, he said, and the map outlined the location of the existing house, the Shaws' property line and the presumed property line. Utility companies usually are careful about the placement of utilities to align with the property line itself, he said.

Commissioner Jensen asked if the map and the coinciding property lines were accurate to the property description, or if they were merely guidelines to assist the viewer with understanding the general layout.

Poulsen said the maps shows a general depiction of the property line locations. While placement of the utility line will generally serve the purpose of identifying the property line, the only true way to determine 100-percent accuracy is to have a property survey conducted, he said.

Variances are unique things, Poulsen said. Idaho statute indicates that a variance shall not be considered a right or a special privilege but will be granted to an applicant upon the showing of undue hardship. In the case of the Shaw property and the characteristics associated with it, and because the variance does not conflict with the ability of public services such as emergency responders, Poulsen said he believed the situation was handled correctly.

Whenever a variance request has been heard by P&Z, Poulsen said he has sent letters to various county agencies to inform them of the details of the request. However, he said, it is rare that any agency responds to those letters.

Poulsen said he felt the appellants made several good points in their arguments. Keeping P&Z members from speaking over one another during meeting deliberations is something Poulsen said he plans to work on as P&Z administrator. He said he will work to ensure all communications between appellants and those who come before the P&Z board is directed through the P&Z chairman.

Commissioner Jensen asked if a hardship would be created if the home is built within the right-of-way or if the home was located too close to the right-of-way.

County Attorney Adam McKenzie said he believed an undue hardship is a factual matter, adding there is a large volume of case law and lawsuits that lends itself to that determination. An undue hardship being established due to the property line being found at the front porch of the home is something that is dependent on many factors, and that is why written findings and factors are taken into consideration during a determination.

In order to familiarize himself with this matter, Commissioner Payne reported he had visited the Shaw property in Bennington. He said he, too, had wondered if P&Z had acted within the scope of its authority when it granted this variance.

Commissioner Payne said he had indirectly spoken to Sen. Geoff Schroeder about this issue. During his career, Senator Schroeder has worked as an attorney for several Idaho cities, and he advised that unincorporated towns follow what is established through county ordinances, not through plat maps. In the case of the Bennington Township, the plat map establishes 132-foot-wide roadways, but the actual roads are only 90 feet wide. The matter gets more complicated, Commissioner Payne said, through state

statute, which establishes rights-of-way shall not be less than 50 feet wide, except in exceptional cases. County law decrees rights-of-way shall not be less than 60 feet wide. Because of the conflicting nature of the different levels of enforcement that have been put into place, the county has to determine what takes precedence. He said the county's answer on this matter needs to be submitted in writing and, if possible, by the Board's next regular meeting, scheduled for June 10.

Regarding which set of enforcement regulations takes precedence, Poulsen said he had consulted the P&Z Board's attorney. Poulsen had been told that cities had been platted original for organizational purposes because there were no ordinances in place that established such guidance. Because of this, cities all over Idaho are working through issues with platted rights-of-way. This will be no easy or quick process, because it will require many applicants to have their property surveyed – something that will likely lead to requests for abandonment of sections of roadway, Poulsen said.

The appellants were allotted five minutes in which to present a rebuttal and closing remarks. Bunderson said he wished to clarify a point. Concerning the regulatory power of state statutes, he said, Bear Lake County can adopt more restrictive ordinances but cannot put into place anything that will be less restrictive than what state statute dictates.

Bunderson reiterated that Idaho statute provides a variance shall not be considered a right but may be granted in relation to an undue hardship that has not been created by the property. In the case of the Shaw property and variance request, Bunderson said, the fact that construction had been conducted within the public right-of-way is something that should have been discovered by the property owners through their own due diligence.

Through discussions and research performed with the help of the Bear Lake County Assessor's Office, Bunderson said he found frequent occurrences of property owners having built houses in county rights-of-way. The appellants believe the only way to correct this issue and prevent it from happening in the future is for the county to require a survey of each property before construction can begin. The benefit would be twofold, Bunderson said, as this will solve the issues of construction in county rights-of-way while also providing an increased amount of available survey work, which will lower the cost of that work over time.

Bunderson added that he had not heard Poulsen indicate he was either in favor of or against the Shaw variance. Instead, Poulsen had merely indicated there are a number of items that deserve some consideration with this case, Bunderson said.

McKenzie asked Bunderson what he felt the basis of the appellants' standing was for bringing this appeal. Bunderson said the appellants' standing was the same as that of any county property taxpayer and they merely were asking their elected officials to hear their concerns, They hoped the commissioners would make decisions that are beneficial to the county through a practice that involves the use of common sense and removes litigious nature, he said.

As someone who lives in an unincorporated section of Bear Lake County, Stock added that anything that occurs in another unincorporated part of the county can impact him. If the Board allows this variance to go forward and it eventually sets a negative precedence that is taken to court, he as a county taxpayer

will be forced to pay a portion of that monetary cost as a consequence of someone else's mistake.

MOTION: Commissioner Payne made a motion to take the remarks of the appellants and the Bear Lake County Planning and Zoning administrator into consideration as the Board makes its decision. Furthermore, the Board will address this issue through written form by June 10, 2024. The motion received a second from Commissioner Jensen. The motion carried.

Bunderson asked if there are any circumstances that preclude the appellants, the property owners, the Planning and Zoning administrator and the commissioners from sitting down, establishing a dialogue and resolving this this issue through the use of common sense.

If the appellants' intent was to deal with this issue through an informal means, their submission of a formal appeal heightened that issue past the ability for this to be handled through discussion and hand-in-hand work, McKenzie said. The county now is under an obligation to return with a written answer and to address the legal aspects of this situation.

CANVAS MAY 21, 2024, PRIMARY ELECTION RESULTS

Clerk Amy Bishop presented to the Board a copy of the May 21, 2024, Primary Election Results for canvassing. Additionally, she said, pollbooks and tally books were available for the Board's review.

Bishop reported there was one issue she wanted to make the Board aware of. On election night, as poll workers count results, they traditionally track them using tally marks. Afterward, the Bear Lake County Clerk's Office checks those tallies and ensure the results were counted correctly. During the post-election check, the Clerk's Office discovered the tallies counted in the Bennington precinct had been totaled incorrectly by an order of 10 for the precinct committeeman race, she said.

The Clerk's Office staff had corrected this issue on Wednesday, May 22. It was an easy mistake that has been common in the past, and this is one of the many reasons results are checked following poll worker counts, she said.

Bishop reported that on election night, most operations had gone smoothly. The Idaho Secretary of State has implemented a newly formatted canvass spreadsheet, she said, and opinions are varied among Idaho's many county clerks.

Lastly, Bishop thanked all the participating poll workers and those who helped keep Bear Lake County's democratic system running smoothly.

MOTION: Commissioner Payne made a motion to accept the May 21, 2024, Primary Election results as posted. The motion received a second from Commissioner Jensen. The motion carried.

The Board adjourned for a short break at 10:37 a.m.

The Board reconvened its regular meeting at 10: 42 a.m.

SHAW ZONING APPEAL (CONTINUED)

Concerning the Shaw Zoning Appeal the Board had heard earlier in the meeting, County Attorney Adam McKenzie reported Appellant Bill Stock had provided him with additional survey material that had been conducted in Bennington. In conjunction with that survey material, Appellant Kathi Izatt had told him she wished to provide additional written material.

Depending on what that material entails, McKenzie said, it could be better for the Board to deliver its written decision at a later June special meeting or at its July regular meeting rather than at the June 10 regular meeting.

The provision of an additional survey will help the county to answer some of the questions the commissioners have regarding the possibility of a road vacation, he said. If the vacation of the roadway moves forward, that action will render the appeal moot.

MOTION: Commissioner Payne made a motion to accept the additional materials provided by the appellants in relation to the Shaw variance appeal and to schedule a special meeting for June 17, 2024, at which the Board's written response will be delivered. The motion received a second from Commissioner Jensen. The motion carried.

ROAD AND BRIDGE CAT 150 MOTOR GRADER LEASE

Bear Lake County Superintendent Todd Boehme said the Road and Bridge Department had been utilizing a leased a motor grader, and he had considered re-leasing a second. However, as with most equipment, the motor grader cost increased since he had originally looked at options for bettering the Road and Bridge fleet.

Boehme said the department's current in-use motor grader includes the option to obtain the equipment if and when Road and Bridge decides to opt out of the contract. At that point, the county will inherit no warranty and all repair costs will become its responsibility, Boehme said.

County Attorney Adam McKenzie, after reading through the lease contract, said there was some language missing that he felt needed to be included in the agreement. He found no language regarding yearly funding, nor did he find a clause which would allow the county to opt out of the agreement – language that is required to be there in order to be in compliance with Idaho Code and the constitution, he said.

Because of these findings, McKenzie advised the Board not approve the lease agreement at that time.

Clerk Amy Bishop said the cost of the new motor grader lease will be slightly higher – about \$16,000 more – than what had been originally budgeted, but the county usually allows a degree of malleability with these types of agreements. If necessary, she said, the county has enough in its reserve that it can put into the Road and Bridge fund in order to cover this need.

The Board decided to address this request at its next regular meeting – scheduled for June 10 – in order for any proper language updates and necessary contract changes to be made.

MOTION: Commissioner Payne made a motion to table the issue of the Road and Bridge Department’s pending CAT 150 motor grader lease until the Board’s regular meeting on June 10, 2024. The motion received a second from Commissioner Jensen. The motion carried.

KARI URE – EXTENSION OFFICE HOURS

Kari Ure, the University of Idaho extension educator for Bear Lake and Caribou Counties, came before the Board to ask for guidance about office hours and the level to which the local office needs to be kept open during regular weekday business hours.

Ure said that, in her former employment experience in a similar position in Utah, extension offices had followed the office hours designated by the counties in which they resided. Additionally, those extension offices only would close for specific reasons – including a lunch hour for the office manager and for approved items that occurred twice a year.

The University of Idaho Extension in Bear Lake County is staffed by county employees and consists of 2.5 positions. These positions include a single 19.5-hour part-time employee and two 37.5-hour full-time employees. Additionally, and not included in the 2.5 positions, two extension office educators who cover duties in Bear Lake and Caribou counties also work at the office, Ure said.

Through a cooperative agreement between the university and the county, staffing has been deemed a county responsibility for 94.5 staffed hours per week. As it stands, the office is open from 8:30 a.m. to 5 p.m., with no closure – equating to the office being open 45 hours each week, Ure said. Last fall, the office manager work hours alternated between full- and part-time hours, and the office was closed at times with a sign posted on the door when staffing needs were not meant or during certain situations when the office needed to be closed for various reasons.

Ure said there are only four times a year when all extension staff need to be out of the office. These rare instances include the twice-yearly Eastern Idaho District meetings and during the Bear Lake County Fair. Unfortunately, in the past, a staff member has often had to miss those district meetings in order to keep the office open. During the fair, Ure said, the extension staff often are just on the fairgrounds and are available to assist those who need extension-related assistance. However, she said, she is unsure what the requirements are for closing the office during fair week.

With only three employees – one of which follows a part-time schedule – covering the 94.5 hours that have been laid out in the agreement between the university and the county, there are times when it is difficult for all duties to be covered, Ure said. If, for instance, one of the two full-time employees is out sick or on vacation, the other educator is put in a tough position to manage all the responsibilities. Additionally, on days when there is only one full-time employee in the office, workers try to ensure the office is open during peak lunchtime hours – by rescheduling lunch hours, by reducing their length or by not taking them at all – so county residents who wish to visit the office at this time can do so.

Commissioner Payne said he was somewhat surprised to learn of the extension's random office closures. This issue previously had been discussed and the agreement between the university and county outlines that this office needs to be open from 8:30 a.m. to 5 p.m. each weekday. This expectation is the same as that required of all other county offices, he said.

Clerk Amy Bishop said the Board needs to determine how it wants the extension employees to handle those days when staffing is minimal and when there are not enough employees on hand to keep the office open during lunch hours.

Ure said the office has started logging days when staffing is minimal and also tracking times when adjustments need to be made in order to keep the office operative. Eventually she hopes to analyze the findings and bring them before the Board for its input and action, she said.

If the office is closed during the fair, Commissioner Payne said, the office could implement a means by which residents can be told extension employees are available on the fairgrounds.

So the extension office manager and agricultural educator can attend at least two days of each of the two district conferences scheduled annually, Ure asked if the Board if it wanted her to try to fill those positions with temporary substitutes – the extension program has 42 volunteers on its program roster, she said – or if it would be better to increase the workhours of the part-time employee during those weeks.

Commissioner Payne asked what the county's options were for hiring temporary or part-time help to cover the extension office during those conference days.

If the county were to use the same individuals repeatedly, there would be options to get those workers trained, Ure said. Additionally, an intern could help cover phone calls and answer general questions.

The extension recently transitioned to using the same phone system as the Bear Lake County Courthouse, Bishop said. Because of this, incoming calls to the extension could be forwarded to the Bear Lake County Clerk's Office during those conference closure days.

Ure said those extension employees who attend the conference also will have cell phone service and will be able to return phone calls to those who try to reach them.

Through discussion, Ure was directed to follow the established agreement and to keep the extension office open from 8:30 a.m. to 5 p.m. On the rare occasion when the office needs to close, Ure and the extension employees will work with the Bear Lake County Clerk's Office to make sure notice is posted and calls are routed as necessary.

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

The meeting adjourned at 11:12 a.m.

Bradley D. Jensen
BRADLEY D. JENSEN, Chairman

6/10/24
Date Approved

ATTEST: Amy Basy

