

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

The Board of the Bear Lake County Commissioners met in its regular meeting at 9 a.m. Monday, July 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 Board Clerk Amy Bishop. Also in attendance were Attorney Adam McKenzie, Assessor Jannelle Jensen, Treasurer Tricia Poulsen, Sheriff Bart Heslington, 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 asked for the addition of IDAHO CODE 74-601(1)(b) under the Board's scheduled executive session. This addition allows "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."

**MOTION: Commissioner Payne made a motion to accept the meeting agenda with the addition of IDAHO CODE 74-601(1)(b) to the Board's executive session. Commissioner Olsen seconded the motion. The motion carried.**

**ELECTED OFFICIALS UPDATES / COMMITTEE ASSIGNMENTS**

Bear Lake County Treasurer Tricia Poulsen said she had been contacted by the landfill and informed resident Gary Sims for some time had been paying a garbage fee of \$210 on Bear Lake County parcel No. 594, and this property – an old, unused car wash on North 9<sup>th</sup> Street in Montpelier – had been split from an adjacent parcel with a building. The garbage fee had mistakenly been applied to the car wash parcel and now needed to be removed, she said.

**MOTION: Commissioner Payne made a motion to remove the garbage fee from Bear Lake County parcel No. 594 in the amount of \$210 annually. The motion received a second from Commissioner Olsen. The motion carried.**

Assessor Jannelle Jensen said the Motor Vehicle Department in June had collected \$146,193.66 from Idaho Transportation Department transactions; \$8,199.50 from Idaho Parks and Recreation transactions; and had been reimbursed \$208.44 from registrations conducted via mail and QR code means. The Motor Vehicle Department is especially busy now that the summer months are here, she said.

Because Bear Lake County did not get a resolution passed and provided to ITD in time to make the July 1 update, the new Assessor's Office administration fees – adopted by resolution on June 19, 2023 – will go into effect July 20, Jensen said. Dealers and financial institutions that bring titles to the Bear Lake Motor Vehicle Office have been notified of these changes.

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The 2023 Assessment Drive is almost complete, with the final Board of Equalization session scheduled later in the meeting agenda, she said. Additionally, Jensen, Chief Deputy Assessor Dale Thornock and Mapper Naaman Dolence will be attending Idaho State Tax Commission Summer School sessions before the end of July. Thornock will be completing his recertification hours, while Jensen and Dolence will take part in classes that examine legal documents and the processes for handling them.

Commissioner Payne asked Jensen if the money received through the Idaho Parks & Recreation transactions is a passthrough. The number provided in Jensen's report – \$8,199.50 – is a total her office collected for the whole month, but just \$1.50 from each transaction stays with the Bear Lake County Assessor's Office, Jensen said.

Commissioner Payne said he had received an email from the Idaho Transportation Department advising \$100 million available through federal grant opportunities. The funds are to be used for highway and street projects, and Commissioner Jensen said Bear Lake County is working with the offices of Sens. James Risch and Mike Crapo, as well as with the office of Rep. Mike Simpson, to try to secure some of that funding.

Clerk Amy Bishop said those types of grant applications are not difficult to complete but engineering is required on those types of submissions. Commissioner Jensen said Bear Lake County likely has a good chance to receive some of the funding and has lots of road projects – including improvements on East Shore Road – that it could be used for.

Commissioner Payne plans to attend a meeting with ITD at 10 a.m. on July 13 in Preston, as well as an Idaho State Lands planning committee meeting at 2 p.m. on August 7. He also reminded the Board of the upcoming Idaho District V Elected Officials Meeting, to be hosted by Bear Lake County at 1:30 p.m. on July 27 at the courthouse.

Susan Buxton, the director of the Idaho Department of Parks and Recreation, will plan to attend the Board's next regular meeting on August 14, Commissioner Payne said.

Commissioner Olsen reported he had met with the Four County Alliance of Southeast Idaho and had been very impressed with the work done by Molly Beseris, the group's executive director. Beseris and her team were able to secure \$300,000 in grant funding to aid in the startup of a childcare business in Malad, and Commissioner Olsen said he will be working with her to identify local projects that might be suitable for future grant applications.

In preparation for the upcoming summer baseball/softball tournaments, the City of Montpelier has painted the eastbound roadway and crosswalks in the Allinger Park area, Commissioner Olsen said. The roadway has received line work to designate it as a two-lane road, and portions of the parking lot have been painted for parking stalls. This effort is designed to help keep people from parking along the fence line, keep space open for emergency response access and create better crossing conditions to keep pedestrians visible.

Montpelier Mayor Ted Slivinski is requesting the Bear Lake County Sheriff's Office aid with parking enforcement during the baseball tournaments, Commissioner Olsen said.

Commissioner Olsen said the Looking Glass Academy will hold workshops on July 19-20 in Montpelier as a means of identifying ways to make the community more foot traffic-friendly.

Clerk Amy Bishop said her office is in its busy season and is actively working to get the L2's out to the county's taxing districts. The Clerk's Office also is working to complete the budget for Fiscal Year 2024, she said.

Sheriff Bart Heslington reported the Bear Lake County Sheriff's Office has been very busy this season with summer law enforcement and the challenges that come with it. Outside the increased volume of people in the county, he said the biggest challenges his department faces are the dangers associated with water recreation on Bear Lake. While the Bear Lake County Dispatch Center sends out text alerts and social media warnings that keep the public privy to stormfronts and incoming hazardous conditions, there are always those individuals who choose to ignore the warnings – even when face-to-face contact is initiated by deputies. When this occurs, a huge demand is placed on resources and manpower during efforts to get people off the water safely, he said.

Additionally, Heslington said the Sheriff's Office is responding to calls for service and investigating a bevy of criminal cases. Unfortunately, he said, summer calls often come with the added challenge of the parties involved not living in the area. In those cases, those involved parties often leave Bear Lake County before the investigation is complete. In fact, Heslington said, some incidents are not even reported until after the involved parties have vacated Bear Lake County altogether. This makes it very difficult to conduct the necessary interviews and investigation effectively.

Heslington said he is happy about the progress that has been made between Bear Lake County and the Idaho Department of Lands as both parties have worked to forge a memorandum of understanding.

#### **RATIFY THE CLAIMS**

**MOTION: Commissioner Payne made a motion to ratify the claims before the Board. Commissioner Olsen seconded the motion. The motion carried.**

#### **APPROVE THE MINUTES**

**MOTION: Commissioner Olsen made a motion to approve the minutes for the Board's June meetings, held June 12, 2023, and June 26, 2023. The motion received a second from Commissioner Payne. The motion carried.**

#### **SENIOR CENTER GRANT AGREEMENT**

Clerk Amy Bishop reminded the Board it had agreed during its May 9, 2022, meeting to sponsor the Bear Lake Senior Center through its search for grant funding opportunities. At the Board's February 21, 2023, special meeting, the commissioners had agreed to facilitate the center's application for funding through the Idaho Community Development Block Grant (ICDBG). Since that time, the senior center had received notification of an award of \$244,085 to be used for improvements to the building's kitchen and ADA access areas.

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The Bear Lake Senior Center will receive in the near future a grant agreement from ICDBG and is asking the Board to authorize Commissioner Jensen to sign that document once received, Bishop said.

Additionally, she said, the Board now had a contract before it that, if approved, will designate the Southeast Idaho Council of Governments – the entity which had been discussed to administrate this grant on the center’s behalf – as grant administrating agency.

**MOTION: Commissioner Payne made a motion to approve the grant administration contract between Bear Lake County and the Southeast Idaho Council of Governments and the Idaho Community Development Block Grant agreement when received. Commissioner Olsen seconded the motion. The motion carried.**

#### **COMPUTER ARTS CONTRACT RENEWAL**

During its May 8, 2023, regular meeting, the Board had passed a motion indicating its intent to adopt the new Computer Arts, Inc. program for its recording and financial software needs. Harris – the global software provider and acquiring company that owns Computer Arts – had since supplied the county with a new annual contract for those services, Bishop said.

The total cost to the county will be \$31,984.62 and will supply the Clerk’s Office with the financial system and imaging module; will supply the Treasurer’s Office with its financial system; will continue maintaining the existing indigent system through the year in order to allow Bear Lake County to continue collecting on some of those accounts as that program ends; will supply the county’s payroll system; and the Clerk’s Office document recording system, she said.

**MOTION: Commissioner Olsen made a motion to accept the renewal of the Computer Arts, Inc. contract with Harris. The motion received a second from Commissioner Payne. The motion carried.**

#### **MEMORANDUM OF UNDERSTANDING WITH IDAHO STATE LANDS**

Commissioner Payne said he, County Attorney Adam McKenzie and Sheriff Bart Heslington continue to work on forming a memorandum of understanding between Bear Lake County and the Idaho Department of Lands for the handling of lands within the Bear Lake State Park. Following discussions between committee members, several changes had been made to the original draft of the agreement, and he wanted to review with the Board what had been happening with the project.

Commissioner Payne said he had attended a lot of meetings in order to help move the process along. He met with Pat Brown, Idaho Department of Land Eastern Supervisory Area Manager, on May 16. Additionally, Sen. Mark Harris has been actively working on Bear Lake County’s behalf to help with the process, and a meeting with Idaho State controller Brandon Woolf was held June 30.

Commissioner Payne and Heslington had met with Susan Buxton, the director of the Idaho Department of Parks and Recreation. At that time, Bear Lake County had asked for a limitation on state park boundaries to be added into the MOU and had inquired what working conditions were expected for the sheriff’s department. Buxton – who will meet with the Board at its August 14 meeting – said the Sheriff’s



Office will be welcome to conduct patrols at any and all times. Additionally, she said she will speak to the Idaho Department of Transportation about the possibility of implementing a seasonal stop light on North Beach Road, Commissioner Payne said.

The draft MOU that was supplied to Bear Lake County allows the county to assess fees, Commissioner Payne said. At the next committee meeting, funding and fees will be discussed. The committee will take input from the public and suggestions of how funding and fees should be implemented, he said.

McKenzie said a general public meeting, held to allow the public to offer input about fees and permitting options, could be held and could prove beneficial. However, this meeting cannot replace the public hearing that will be required should the Board choose to move forward with any fee collection.

Commissioner Payne said that it is likely the county will have to hire an additional sheriff's deputy to conduct enforcement. This also will require the county to purchase some sort of off-road vehicle for the deputy to use for these enforcement efforts. These will be things that will have to be considered as the process move forward; however, he said, the committee hopes to have the MOU in place no later than September 1.

The state will direct and issue orders for what actions can and cannot be performed by the county, McKenzie said. For Bear Lake County's purposes, the MOU will waive responsibility and grant the county the ability to put into effect and enforce ordinances – whether through criminal or civil penalties – that are pertinent to that situation.

This enforcement will be on any lands below the high-water mark, he said. The county can offer access to these areas through the purchase of a permit, but there is a range of how these processes can be handled.

Commissioner Payne said the committee has discussed how to enact harmonious enforcement around the lake between Idaho and Utah, as Bear Lake is a body of water that spans both states and different statutes and ordinances apply to its different areas.

**MOTION: Commissioner Payne made a motion to hold an informational meeting about the Memorandum of Understanding between Bear Lake County and the Idaho Department of Lands for handling of lands within the Bear Lake State Park, and discuss the permitting system and funding options, at 2 p.m. on August 7, 2023, at the Bear Lake County Courthouse. The motion received a second from Commissioner Olsen. The motion carried.**

#### **PLANNING & ZONING APPOINTMENT – ERIC BOMSTA**

Commissioner Jensen said that Eric Bomsta had been asked to sit on the Planning & Zoning Committee, pending approval by the Bear Lake County Board of Commissioners. Bomsta will replace Lori Haddock, who for personal reasons has asked to be released from her duties.

**MOTION: Commissioner Payne made a motion to appoint Eric Bomsta to the Bera Lake County Planning & Zoning Committee. The motion received a second from Commissioner Olsen. The motion**

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carried.

#### **DAN GARREN – UPDATE ON IDAHO FISH & GAME & ROCKY POINTE**

Dan Garren, regional supervisor for Southeast Idaho Fish & Game out of the agency's Pocatello office, came before the Board to provide an update on Fish & Game's work throughout the Bear Lake County area. He said it is not often that he has time to come to the Bear Lake area himself, so he wanted to take the opportunity to get information to the Board and the public while his busy schedule allowed.

Fishery crews are working to complete surveys of salmon populations in the Montpelier Reservoir, and previous information has shown the abundance of those fish is low due to past drought conditions, Garren said. Additionally, those crews will be stocking the waterway with tiger trout, rainbow trout and kokanee salmon. These efforts have been proven to bring revenue into the surrounding communities.

Additionally, he said, Fish & Game is working to survey fish populations – specifically lake trout – in Bear Lake and are working with Utah agencies in this effort. To help control the population of this predatory fish, only sterile lake trout are stocked. Current surveys have shown a higher number of fertile fish than expected in Bear Lake, and Garren's team is examining the effects this is having on the lake's other species populations.

Garren said Idaho Fish & Game is working proactively with local landowners, developers and the Bear Lake County Planning & Zoning Committee to plan for and mitigate impacts on local species populations in areas that will be affected by the implementation of new construction. The planned solar farm will occupy about 4,700 acres in the Poverty Flats area of the county – an area that currently serves as natural habitat for local sage grouse, mule deer and pygmy rabbit populations.

These efforts by Fish & Game and local agencies are especially important for the continued health and safety of the sage grouse, he said. Sage grouse are on the verge of becoming an endangered species, so Idaho Fish & Game actively works to monitor those populations to help prevent that outcome.

Garren said his team works with several grazing associations and 15 private landowners in Bear Lake County to help improve properties for wildlife habitat. Fish & Game is working with these landowners for active management of their property. Through this relationship, the lands are kept as private, completely whole agricultural production areas and never turn into housing developments that will have less value for wildlife.

Idaho Fish & Game is monitoring its mule deer populations carefully. Last year, chronic wasting disease was found in some deer populations in the Lewiston area. Although these infected animals were found only in a small area, herd reduction programs were implemented as a means to contain the disease. Garren said there is no indication the illness spread, but Fish & Game will wait and monitor populations through time.

Unfortunately, the only way to positively identify a diseased animal is to check the lymph nodes and brain stem for infected tissue post mortem, Garren said. Because Idaho Fish & Game does not believe in needlessly killing healthy animals, researchers gather data by examining the bodies of roadkill, winter kill

and hunter-harvested animals. While there is no data showing a jump of this disease from deer to humans through the consumption of meat from an infected animal, Garren said he would be wary to consume the meat of an infected animal or to feed it to his own family.

Elk populations in the Bear Lake County area were affected by the tough winter conditions, he said. Fish & Game is working with landowners to reduce the loss of crops, establish fenced areas and areas for feeding these animals. These efforts will help those populations to survive future tough winters. Unfortunately, as community developments continue to reduce wildlife habitat, conflict will continue, Garren said.

Local mule deer populations suffered about a 93-percent fawn mortality rate this year, Garren said. Adult mortality in the Bear Lake Plateau area was 59 percent. Winter feeding areas were implemented to help these populations survive, and about 2,500 deer were fed. For those that survived, habitat conditions, consisting of plentiful hillside for foraging, are now ideal to help those populations rebound.

Still, mule deer hunting season will be affected as these herds recover, he said. It is likely Idaho Fish & Game will implement a rule for the 2023 hunting season that will allow for only the harvesting of bucks, Garren said.

Fish & Game Project Manager Jacob Gray updated the Board on the Rocky Pointe Highway Crossing project planned on U.S. Highway 30 with the Idaho Department of Transportation. Gray said the impact on wildlife is severe as populations – especially local mule deer – move from summer to winter range and cross that area of roadway.

That area of U.S. Highway 30 is a bottleneck, and there is heavy annual wildlife mortality in that area due to collisions with motor vehicles. The Rocky Pointe Highway Crossing project is in the design phase now and seeks to limit the impact on herds as they cross the roadway, Gray said. ITD and Idaho Fish & Game are working together on a grant application that will help secure funding for the successful execution of a wildlife pilot crossing program.

If grant funding is received, the project could be fully implemented as early as Fiscal Year 2026, he said. The project will consist of three underpasses, a span bridge and two box culverts. Funnel fencing will be installed as a means to guide deer to use these crossings so the populations can learn these are safe avenues of travel.

Garren and Gray asked the Board if it would be interested in submitting a letter of support for the project, with a deadline of July 24, 2023. Commissioner Jensen said the county would be in favor of supporting the project. Fish & Game will supply the county with a letter template.

#### **WAYNE DAVIDSON – BUILDING INSPECTOR REPORT**

County Building Inspector Wayne Davidson said he has been contacted by developers daily, with a minimum request of two or three house starts each day. In general, new housing plans are for smaller, more modest homes – about 3,000 square feet.

Davidson said he had received word of some instances when digging into the county right-of-way had

been done without a permit. Additionally, he had received reports of some business signs being placed in the right-of-way without proper permitting. He said these are just issues that come with each summer season, and he is actively working with County Superintendent Todd Boehme to address these.

Davidson told the Board he received complaints of a property owner in the Bailey Creek area who is allegedly building a commercial RV park in a residential area. The property owner already has a house there that is rented as a short-term rental, and the surrounding land consists of about 8 acres. Davidson said he has visited the site and the property owner is making flat spots where campers can be placed. However, that individual told Davidson this will only be used for personal, family use and will not involve any sort of commercial use.

Davidson informed the landowner that if he were to implement a commercial RV park, the process for approval is to go through the Bear Lake County Planning & Zoning Committee with a whole plan. This plan must address neighborhood noise; entrances and exits; emergency access and other factors. A public hearing also must be held before final approval, Davidson said.

Still, the landowner held fast to his claim the space will be only for the owner's personal use. At this point, there is not much more enforcement that needs to be done, Davidson said.

#### **TARA CONTRERAS – CASA ANNUAL REPORT**

Tara Contreras, executive director for the 6<sup>th</sup> Judicial District Court Appointed Special Advocate program, and Tracie Erickson, advocate for Bear Lake County, came before the Board to introduce themselves and offer insight on what the CASA program does.

The CASA program consists of volunteers and staff members who work together to meet with abused or neglected children, investigate their circumstances and then advocate on their behalf to a judge who can rule on changes. CASA currently works with 18 children through a total of seven cases and has two volunteers from Bear Lake County who serve with the group, Contreras said.

There currently is an open position on the CASA Board of Directors, and the advocacy group is looking for someone from one of the Southeast Idaho counties to fill that vacancy.

**The Board took a brief recess at 10:47 a.m.**

**The Board reconvened its regular session at 10:52 a.m.**

#### **PAUL SOUSA – COUNTY OPTION SUNDAY LIQUOR SALES PER IDAHO CODE 23-308 – ACTION ITEM**

Paul Sousa, who owns and operates the Fish Haven General Store, came before the Board to petition the county to allow Sunday sales of liquor by the bottle – something that currently is not allowed.

County Attorney Adam McKenzie said this is a question of selling liquor by the bottle. The issue is unique because it can be put to a countywide vote by the electorate or can be implemented by the commissioners through an approved resolution without the need for an election.

Sousa said there are only two liquor stores located in Bear Lake County – USAVE in Montpelier and the Fish Haven General Store. These stores both contract with the state for the sale of liquor, he said. About 80 percent of Sousa’s clientele is from Utah and consists of visitors to the area. These individuals – who by Utah state mandate cannot purchase alcohol in their home locations – visit the Fish Haven General Store to purchase liquor on Sundays and find that Bear Lake County does not allow for this despite Idaho lifting state restrictions and leaving it up to the counties.

Information provided to Sousa by the Idaho State Liquor Division shows the addition of Sunday liquor by the bottle sales will result in an average of \$2,000 in additional weekly revenue.

Commissioner Payne said he thinks it will be best to put the matter to a county election and leave the decision to the people. In order to get the matter on a ballot, Sousa will have to first supply a written petition signed by at least 20 percent of the registered, qualified electors in Bear Lake County. That would be roughly 600 signatures that show support for the issue being moved to an election, he said. This petition will need to be filed with the Clerk’s Office where the signatures can be verified as corresponding to registered voters.

**MOTION: Concerning the sale of liquor by the bottle on Sundays in Bear Lake County, Commissioner Payne made a motion to require Paul Sousa, under Idaho Code 23-308, to complete a petition and return it with at least 20 percent of the registered voter population expressing favor for the issue moving to an election. After the petition has been returned, the Bear Lake County Clerk’s Office will verify the signatures. The motion received a second from Commissioner Olsen. The motion carried.**

#### **CRAIG SHULER – FOSSIL CANYON PROGRESS UPDATE**

Craig Shuler – a concerned citizen who last came before the Board at its November 14, 2022, meeting – again appeared to ask for an update on the issue of the illegal posting of a “No Trespassing” sign in the public right-of-way. Shuler said that when he left the November meeting, he had been under the impression the county would post signage in the area to clarify it as a public right-of-way. As of the July 10 meeting, that had not occurred, he said.

Commissioner Jensen said this issue had been former-Commissioner Vaughn Rasmussen’s project to handle and he had planned to have gravel placed in that area. However, in the time since then-Commissioner Rasmussen left office the project might have fallen by the wayside, Jensen said.

Regardless of what action the county has or has not taken, Shuler said he believes the “No Trespassing” sign has been placed there by a party as an intimidation effort to misappropriately convey the area as a private roadway. The issue needs to be righted as soon as possible so the public knows it can access that right-of-way without consequence, he said.

County Attorney Adam McKenzie said the county needs to have a discussion with the landowner who has posted the “No Trespassing” signs. Then-Commissioner Rasmussen and McKenzie had been working together on that project, but it probably needs to be reassessed and begun again.

The property is for sale, Shuler said, and it would be beneficial to have clarifying signs in place to indicate the public access so the new owner will understand the presence of the public right-of-way.

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Additionally, the post, upon which public right-of-way signage had been located in previous years, is now empty and appears to have been placed improperly. Shuler said it needs to be relocated to the northside of the roadway.

Commissioner Olsen echoed Shuler's statement and said he had personally verified the sign post is on the private roadway and not on the county road. Additionally, there is no sign on it now, although there had been one in the past.

Commissioner Payne said it is important the county look back and determine what agreements were entered into with the landowner before any action is taken.

McKenzie encouraged the Board to make no decision at this time. Instead, McKenzie said he will follow-up and determine what progress had been made. He will bring his findings to the Board before any further action is taken.

The Board will again discuss this issue and take in updated information at its next regular meeting on August 14, 2023.

#### **BUDGET REVIEW – ACTION ITEM**

Bear Lake County Clerk Amy Bishop said she did not have much more to add to the budget for Fiscal year 2024. However, she is waiting for the salary study to be returned from Boost HR & Recruiting. At its June 12, 2023, meeting the Board had chosen to hire the firm to complete a wage study for Bear Lake County, but the data had not been returned to Bishop's office before the July 10 meeting.

The Board previously had discussed adding into its budget some funding to help the Montpelier City Parks & Recreation program. Commissioner Olsen said the Board had requested Montpelier supply the commissioners with more detailed financial information other than the details of the program director's salary. However, that information has not been provided yet, Commissioner Olsen said.

Bishop said she will follow-up with the City of Montpelier so more information can be supplied before the Board makes a decision.

Additionally, the Board had previously discussed its needs from the Pictometry program. This program supplies the county departments with aerial views of properties throughout Bear Lake County. Bishop said the Board has the opportunity to move to a schedule that will see new aerial photos supplied to the county every two years. It currently utilizes a schedule that supplies new aerial images every three years, she said.

The cost to the county for these imaging services amounts to about \$30,000 annually. The Board asked Bishop to get a contract breakdown from Pictometry so the differences in services can be examined.

Commissioner Payne again said the memorandum of understanding between Bear Lake County and the Idaho Department of Lands will greatly impact what budgeting will be needed in order to hire additional law enforcement and supply them with the needed vehicles and equipment.



The Board set a special budget workshop meeting for 12 p.m. on July 27, 2023. This meeting will be held prior to the District V Elected Officials Meeting, scheduled to begin that day at 1:30 p.m.

## **PUBLIC COMMENT**

No one took part in public comment during this section of the meeting.

## **TODD BOEHME – COUNTY SUPERINTENDENT**

County Superintendent Todd Boehme said the design phase for the Paris Park Bridge will begin before July's end. Work on the Jericho Loop Bridge over Saint Charles Creek still is not finished due to the high water. Additionally, it is projected Bear Lake County will have to pay an increased amount upon completion of the project, but it is not uncommon to see a slight increase to costs at the end of a project, he said.

Boehme said he is working to relocate radar signs throughout the county to aid with traffic and speed enforcement efforts. However, he does not have access to the supply that would be available normally due to some unforeseen technical issues and damages resulting from motor vehicle collisions with the equipment.

Direct Communications is continuing work on the East Shore Road fiber optic trunk expansion project, and the Williams Corporation has begun routing power from Pegram to the area pump station. Additionally, Avangrid Power – the company over the Bear Lake Solar project in the Poverty Flats area – will be installing a power line in the county right-of-way. This line in the right-of-way will guide power down a transmission line to a divider already in place to route power to its destination, Boehme said.

Boehme said he and Commissioner Payne plan to attend a Five-County Coalition meeting on July 13 in Preston.

## **MILL FARM ROAD PROPOSAL – ACTION ITEM**

During its regular meeting on June 12, 2023, Boehme had given the Board information about a proposed improvement agreement for Mill Farm Road. This proposal concerns Bear Lake County and Liberty Rock, LLC, a private entity that uses the roadway to access an existing gravel pit and has only thus far used the materials for private purposes. However, Liberty Rock does hope that, with the adoption of an agreement, it can begin to provide commercial services.

At the June 12 meeting, the Board had requested the Planning & Zoning Committee provide feedback about the proposal to the Board. In that time, it had been determined that Planning & Zoning had given Aaron Stafford and Eric Bomsta – heads of the Liberty Rock, LLC – some conditions, Boehme said. The proposal will see Liberty Rock provide base gravel and topper gravel for the roadway. Additionally, the company will install a culvert in Mill Canyon. This installation will run from the existing mill canyon approach on the LLC's property and will proceed to the oiled roadway where Mill Farm Road meets Lanark Rd.

The road, in its current state, features a 14-foot cattle guard. That existing guard meets standard requirements but does need to be moved and put in a better location, Boehme said. If the proposal is accepted, and whereas the proposed improvements will make the roadway wide enough to allow two cars to pass, a 14-foot guard will not be sufficient for the roadway's needs.

County policy is that the individual or individuals who want the cattle guard to be put in place have to purchase it at their own cost. However, the county will install it for them, Boehme said. In this case, the Cattlemen's Association will be responsible for purchasing the cattle guard.

Stafford told the Board he and Bomsta hoped to reopen the old Archie Parker gravel pit property and had presented to Planning & Zoning at its June meeting. The business partners want to get an agreement with Bear Lake County on the roadway size and requirements in order to get the roadway up to standard. The men also want to get a road maintenance plan in place between all parties.

Bomsta said the roadway already is maintained all year long, so no increased effort will be required with the proposed improvements. The group already had met with several stakeholders in the area – including Ryan Larsen of the Bear Lake County snowmobile program and Mark Parker with Bear Lake County Fire – and plan to relocate the existing culvert to above the snowmobile parking lot so as to make that area most accessible to the public's need.

County Attorney Adam McKenzie said that, if directed by the board, he can put together a contract between the parties, supply it to both the county and Liberty Rock and bring it to the Board for approval.

**MOTION: Commissioner Payne made a motion to have County Attorney Adam McKenzie draft a contract between Liberty Rock, LLC and Bear Lake County. The contract will be brought before the Board for approval at its next regular meeting on August 14, 2023. The motion received a second from Commissioner Olsen. The motion carried.**

#### **INSPECTION FEE INCREASE PROPOSAL – ACTION ITEM**

Boehme said he was proposing an inspection fee increase on encroachment permits that impact the county right-of-way. If implemented, this fee increase will see the cost rise from \$50 to \$150. Boehme said it is getting more expensive to get out to building sites that require encroachment permits, and each project entails multiple trips to and from the site.

McKenzie said a fee increase of this size will require a public hearing be held before action can be taken. He recommended placing that hearing as part of the annual budget hearing, once it is scheduled. Any time there is a fee, it has to correspond with cost and cannot simply help generate revenue, he said.

McKenzie advised Boehme evaluate and present the corresponding fee numbers as they relate to the cost associated with the inspection service. When notice of a public hearing is posted, this information can be included. However, once that information is advertised, McKenzie said, it has to stay that way and cannot be altered.

Commissioner Olsen said it would be better for the county to collect a flat fee with each encroachment

permit issued rather than try to collect an individual fee per visit.

#### **EMERGENCY DECLARATION RENEWAL**

At its June 12 meeting, the Board had extended the county's emergency declaration – first adopted at the April 10, 2023, meeting and renewed in the Board's regular subsequent monthly meetings since – and had planned to re-evaluate the situation during the July 2023 meeting.

Boehme told the Board the county appears to have progressed out of the conditions that required the declaration be put in place. Because the renewal had been set to expire on July 10, 2023, the Board need not take action.

#### **TODD BOEHME – EMERGENCY SERVICES**

Bear Lake County Emergency Management Coordinator Todd Boehme reported he had attended a pipeline emergency response training during the week prior to the July 10 meeting and will attend a state earthquake hazard mitigation planning meeting to be held at 7 p.m. on July 17 at Montpelier City Hall.

#### **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; (d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code; (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 Jensen, Aye. Commissioner Payne, Aye.**

The Board entered executive session at 12:42 p.m. and left executive session at 1:12 p.m.

From 12:45 p.m. to 12:55 p.m., the Board conferred with legal counsel.

From 12:55 p.m. to 1:01 p.m., the Board discussed a personnel issue.

From 1:01 to 1:02 p.m., the Board discussed records exempt from public disclosure.

From 1:02 p.m. to 1:12 p.m., the Board again conferred with legal counsel.

The Board left executive session at 1:12 p.m. and re-entered its regular meeting at 1:18 p.m.

## **BOARD OF EQUALIZATION**

**MOTION: Commissioner Payne made a motion to enter into the Board of Equalization. The motion received a second from Commissioner Olsen.**

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

The Board of Equalization entered its meeting at 1:19 p.m.

### **FIRST APPEAL – DEMAR ROMRELL PROPERTY**

Due to a conflict of interest, Commissioner Payne said he would abstain from comment and action concerning the DeMar Romrell property. Romrell is Commissioner Payne's father-in-law.

DeMar Romrell appeared before the Board of Equalization to appeal the assessed value placed upon his property, designated as Bear Lake County parcel No. 03185.00 / RP12S44E225450. Romrell said he had owned the property, located along U.S. Highway 30, for the past 31 years and had purchased it for the purpose of housing equipment in a personal farm repair and storage building. Because of the building's use, he said he felt the property should be categorized as an agricultural building; however, it had been assessed as a commercial building.

Additionally, Romrell said, the land on which the building rests had been categorized as irrigated agricultural land. However, the land is not irrigated and only dry crops are grown on it, he said. These include alfalfa hay and grain.

Romrell currently uses the main floor of the building to store farming chemicals and a ton baler. The upstairs portion of the building has some area for horse saddle storage and workspace; a cabinet where old equipment repair manuals are stored; equipment tires; and an exercise machine.

Two wells are located on the property, with one being used for the building. The building also has sewer and water utilities and is hooked up to a city line, he said.

Kevin Franck, the commercial appraiser who has contracted with Bear Lake County, said the discussions he has had with Romrell basically reflect on the classification of the building itself.

The building and the surrounding acre – which includes a driveway and fenced storage yard – have been designated as a commercial site. The remaining 20 acres has for years been considered Category 1 agricultural land – also known as irrigated ag land. However, with the information Romrell presented, there are other categories that can be looked at to more accurately designate the property, Franck said.

Many commercial properties in Bear Lake County are used for personal use, Franck said. The Romrell building is not a residential property or an industrial property, but it seems to always have been considered as commercial property. There is the option to classify the building under the "Other" category, which would probably suffice in this case. However, Franck said he did not necessarily agree with that course of action.

If the building in question was placed in the “Other” category, it is possible some properties throughout Bear Lake County that may be running a commercial business out of an agricultural building have been miscategorized. Those property owners may try to appeal the categorization of their own property. As Bear Lake County goes through these types of properties and recategorizes a portion as commercial, Franck believes they all eventually will be categorized as such.

Bear Lake County Assessor Jannelle Jensen said she and Romrell had not previously discussed the irrigation classification placed on his land. She said they had only discussed the building itself. Franck said the land would be better categorized as a Category 3 non-irrigated agricultural land.

Romrell said he has to travel about half an hour to and from his home when tending to work at the farm equipment building.

**MOTION: Commissioner Olsen made a motion to change the categorization of Bear Lake County parcel No. 03185.00 / RP12S44E225450 from Category 1 Irrigated Ag Land to Category 3 Non-Irrigated Ag Land. The motion received a second from Commissioner Jensen. The motion carried, with Commissioner Payne abstaining.**

#### **SECOND APPEAL – DVL PROPERTIES / DAVID LONGFELLOW PROPERTY**

Clerk Amy Bishop told the Board of Equalization that DVL Properties, represented by David Longfellow, had withdrawn its appeal for parcel No. 05382.03 / RP15S43E280800 after discussions with the Bear Lake County Assessor.

#### **THIRD APPEAL – NOLE & KATHERINE SCHAEFER PROPERTY**

Nole Schaefer appeared before the Board via Zoom and said this was the second year that he has come to BOE. He said he originally purchased his property – designated as Bear Lake County parcel No. 05988.00 / RP16S43E280800 and located in the Spring Hollow Ranches area of Fish Haven – in February 2021 for \$170,000. He said he would never have believed his property value would more than double in the two years since.

In 2021, the BOE had agreed the property values in Spring Hollow were off and had set the value of Schaefer’s property at \$165,000. In 2022, Schaefer had spoken to then-Assessor Heber Dunford, and that lower value had been upheld. In 2023, the property’s assessed value now comes in at \$391,713. The issues with the properties in Spring Hollow do not just relate to accessibility, Schaefer said.

The Schaefer property is only able to be accessed seasonally, during the summer months. There is no county roadway and thus the property does not benefit from the related services. At the 2021 BOE meeting, discussion on buildability in the area was had and at that time Schaefer felt he had made it clear that building construction would be very difficult on the property. Additionally, he said, electricity implementation was and still is an issue; there is no proper well on the property; and septic services would be difficult to implement.

Schaefer said he has not been able to develop on that property at all, and accessibility to the property has not changed and definitely has not improved.

Schaefer provided in his written appeal several comparable property sales, ranging from \$100,000 to \$162,000 and including many of the same issues present on the Schaefer property. Schaefer said he believes his property's value is justified in a range between \$145,000 and \$165,000.

Bear Lake County Assessor Jannelle Jensen said property values in the Spring Hollow area had been lowered by the BOE in 2021 due to accessibility issues. That lower value had been carried over in 2022 by the previous Bear Lake County Assessor. However, the value of \$180,000 that had been placed on the property by the BOE in 2021 was based off 2020 market values. Because of that, the property value has increased significantly in the two years since.

Jensen said her office had attempted to conduct a physical inspection of the property, but gates at both ends of the roadway access were locked and featured signs indicating "No Trespassing." However, Jensen said she was able to get pictures showing development in the area. The parcel next to Schaefer's has a newly built 50-foot-by-50-foot garage.

Jensen said no site value is available for the Schaefer property, so it is being valued on acreage alone. Other nearby and undeveloped lakeside property lots reflect difficult access and other inhibiting conditions.

Jensen said the comparables supplied by Schaefer are for older sales and none are from 2022. Additionally, none of his comparables were lakeview lots, with most located in Paris or Dingle. Contrasting that, the Assessor's comparables all are from 2022 sales, are in lakeview areas of Fish Haven and are from undeveloped properties.

Other lakeview properties are selling at an average of \$44,445 per acre. The Spring Hollow lot is being valued by the Assessor at \$19,595.45 per acre. The assessed value reflects the market while also giving a lower value per acre than other surrounding properties, thus allowing for those issues with access. Because of these reasons, Jensen said the Assessor's value of \$391,713 is fair and should be upheld.

Shaeffer said even in 2021 the property value had been discounted about 50 percent. It now seems each year the Assessor tries to bring the property value back up to what it was valued at only to find there must be something wrong with the property that should result in a heavy discount.

Commissioner Payne said that in the last BOE meeting, it was established the Assessor's values are set using comparables from that same area and are not an individual comparison. The Assessor has taken a large swath of comparables and pulled out examples from those that best reflect the property that is being examined.

**MOTION: Commissioner Payne made a motion to uphold the Bear Lake County Assessor's value for Bear Lake County parcel No. 05988.00 / RP16S43E280800. The motion received a second from Commissioner Olsen. The motion carried.**

#### **FOURTH APPEAL – SCOTT CAMPBELL PROPERTY**

Scott Campbell appeared before the Board of Equalization via Zoom to appeal the Bear Lake County



Assessor's value for parcel No. 45009.00 / RP090000020090. He prefaced his presentation by saying he had been given advance notice by past BOE participants that these appeals often do not go the way of the appellants, and he doubted his case would be any different.

Commissioner Jensen assured Campbell the Board of Equalization was there to listen to his case and judge it in an unbiased means as a quasi-judicial entity. Nearly every year – including 2023 – for the past 10 years appeals have been approved.

Campbell said in his personal examination of this case he had looked at 2022 sales in the area. These included 10 sales from the Reserve and two from Canyon Estates – both lakeview areas of Fish Haven. In general, he said, it seems those properties in those areas increase a set amount annually, and it appears to be built in.

People have the right to buy property throughout Bear Lake County – in this case, in the Fish Haven area – based on the amenities and features they want, Campbell said. Some people want paved roads and swimming pools, and other people do not require those things. Campbell said The Reserve is commonly thought of as the standout property in Bear Lake County, and in the lakeview area. Canyon Estates – where his property is located – is different entirely.

Campbell said to use comparables from sales in The Reserve to value his property in Canyon Estates is inappropriate, or at the very least hard to compare adequately. These are two different markets that appeal to two different types of buyers, and assessing an across-the-board market value increase of 55 percent is arbitrary – assuming all properties, regardless of market, were undervalued equally. Just in terms of sheer demand for high-end amenities, a fully gated community and paved roads, The Reserve differentiates itself and this is reflected quite dramatically in sales numbers and pricing, Campbell said.

Even within Canyon Estates, there are two different markets. One is above the gate that protects the properties from being accessed by residents of The Reserve that access Fish Haven Canyon via Canyon Estates Drive. The Pointe sits below the Canyon Estates gate and does not benefit from such protection. Recently, a rutted trail was improved to a road and runs alongside Campbell's lot to provide access to a parcel below his property.

Additionally, a neighbor's lot is valued at the exact same price as Campbell's property despite being about 20 percent larger at 3.22 acres compared to Campbell's 2.69 acres, he said.

Deputy Assessor Bailee Argyle said Campbell's property is Canyon Estates – designated as Lot No. 9 and below the gate – was valued on a mass appraisal system. This system was used to assess all property in Bear Lake County based on different comparables within the areas properties are located.

To appraise Fish Haven properties, the Assessor's Office examined 76 comparable sales in the Fish Haven area. However, Argyle said, it is important to remember a value for a lot in The Reserve is not the same value assigned to a lot of the same size that is located in a different subdivision. When examining these 76 sales from 2022, 21 of these sales were in the Fish Haven

Lakeview area. This data showed on average these properties were 55 percent below the market value.

Additionally, Campbell valued his property at \$182,920 – well below the \$190,000 he paid for it 14 years ago, Argyle said. The market in that time has shown an upward trajectory as a whole.

The Assessor's Office does not value subdivisions on acre value. Instead, it uses a site value – also known as a value per lot, Argyle said. Because of this, comparables differ in acreage, and a per-acre value is not appropriate for the Assessor's Office valuation.

Commissioner Olsen said that even though the Assessor uses a site value, it had fairly determined that lakeview property values were terribly low compared to the market value.

Campbell said it still sounded arbitrary to him, but that is probably the reality of valuating tax assessments. Still, it's a highly variable market that maybe needs to be examined more closely.

**MOTION: Commissioner Olsen made a motion to accept the Bear Lake County Assessor's value for the Scott Campbell property, designated as parcel No. 45009.00 / RP090000020090. The motion received a second from Commissioner Payne. The motion carried.**

#### **FIFTH APPEAL – LIGHTHOUSE INVESTMENT PROPERTIES, LLC / BRYAN SMITH PROPERTY**

Lighthouse Investment Properties – represented by Bryan Smith – had purchased Bear Lake County parcel No. 44252.00 / RP713000082030. in September 2022 for \$179,000. The property consists of 0.51 acres.

Smith said he had expected to get a tax assessment reflecting an amount in alignment with what had been paid, as the purchase of the property was made late in the 2022 year. Instead, he said, he received an assessed value of \$194,646 on a property that is a bare piece of ground with no improvements.

Smith said the Bear Lake County Assessor had supplied him with information for three other parcels, taken from sales verifications, that sold in The Reserve. These properties were nearby – on the same street, in fact – where the Lighthouse Investment Properties parcel is located. One of these comparable properties sold in May 2022 for \$159,000 and is 0.5 acres in size; the second comparable sold in June 2022 for \$196,000 and is 0.59 acres; the third comparable sold in September 2022 – the same month Lighthouse Investment Properties purchased its parcel – for \$169,000.

Smith said that, unlike for the previous two comparable parcels, the assessor had not provided the size information for this third comparable on the spreadsheet data supplied to him. Instead, he said, he had been forced to procure the information independently and had found that lot sold for \$10,000 below what Lighthouse Investment Properties had paid, with the size of this third comparable lot measuring 0.84 acres.

Smith said no one can find better evidence of what a fair market value is than what two people – a willing buyer and a willing seller – are willing to agree upon. Smith reminded the Board this case concerned a property that had been bought years ago; rather, he said, this property had just been purchased last fall. When the price of the lots is broken down per square foot, Lighthouse Investment Properties paid \$8.06 per square foot for its property. However, the first two comparable properties were purchased at a cost of \$7.63 per square foot and \$7.30 per square foot, respectively. The third example had sold for \$5.60 per square foot, Smith said.

Smith conceded that view, location and other factors impact purchase prices. However, he said, the \$8.06 Lighthouse paid per acre was higher than any other property on that street and was the second highest price paid in The Reserve throughout 2022. Smith said the Bear Lake County Assessor now wants to add more costs, increasing the total paid by Lighthouse to \$8.76 per square foot. The Assessor can adjust that value but not without objective evidence. Without that evidence, it is just arbitrary and capricious, Smith said.

Smith said he requested the Assessor provide him with the information that had been used to set a value on his property. However, Smith said he never received that information even after he made a public records request that specifically asked for information on all the lots Assessor Janelle Jensen had used to set value to Lighthouse Investment Properties' parcel, resulting in an adjustment about 9 percent higher than original purchase price.

Smith warned the Board that if the Assessor in her presentation brought forth comparable lots in Bear Lake County other than those Smith already had discussed, he planned to object. This objection would be made on the basis the Assessor had failed to comply with his public records request.

In 2022, Smith said, there were a total of four sales on Lavender Lane – the street on which parcel No. 44252.00 lies. Based on the other three lots' prices per square foot, Smith calculated he should have paid somewhere between \$156,000 and \$165,000 for the parcel in question. A strong argument can be made that too much was paid for the property to begin with, he said.

Smith said he asks and expects the Bear Lake County Assessor to assess his property for what was actually paid for it during the last quarter of the year – the time when the Assessor is supposed to determine the proper assessed value. If that is not the case, the Assessor needs to show some objective, similar sales. The only sales Smith received were those in The Reserve, despite his request for the Assessor to provide others examples.

Gary McKee, a local real estate agent and witness that had been called by Smith to present testimony on his behalf, said he was not there to serve in an adversarial role. Because he has been one of the developers of Aspen Creek, Aspen Creek Meadows, Canyon Estates and The Reserve subdivisions, McKee said he wanted to just add clarification to what already had been stated

McKee said he feels The Reserve had been heavy-laden with assessment increases. As a broker who has worked in the Bear Lake area for the past 30 years, McKee said lot size really does matter. For example, a 0.7-acre lot consistently will sell for far less than a 1.5-acre lot, especially in The Reserve. McKee said he had compiled data for all sales made in The Reserve during 2022 and had found that any lot that was 0.7 acres or less had sold for \$153,000 or below when he added in properties from The Reserve's phases 6, 7 and 8. Where Smith's property lies is in the north end of The Reserve, which has a diamond view of the lake and property values are different. However, when all lots were figured into the sales, the average sale price was just more than \$153,000.

Additionally, McKee said, The Reserve does have an architectural control committee that tries to maintain building efforts to allow each lot to have a view of the lake. Some views will be better than others, but consistently the committee works to ensure each property has a view.

Jace Cundick, a consulting appraiser with the Idaho Tax Commission, told the Board he works with Bear Lake County and others in the southeast corner of the state. He said he would take just a moment of the Assessor's allotted time to comment on the mass appraisal technique that Idaho's county assessors use.

Cundick said when he came to the Bear Lake area to perform his study on behalf of the state, he had determined vacant land sales were low for Bear Lake County. Further analysis showed the lakeview area was the main cause of this discrepancy and was approximately 50 percent low. Cundick said it had been mentioned previously that it is vital to use true comparable data in these evaluations and he and the Bear Lake County Assessor both recognize that each subdivision has its own unique properties. This is addressed through the use of differing site values in different subdivisions. Within each subdivision, if there are factors such as lake view or topography that affect the values, these are recognized as well, he said.

From the mass appraisal approach that has to be taken, Jensen and Cundick recognized lots in The Reserve, Canyon Estates and the various other lakeview subdivisions were approximately 50 percent low. While the same percentage increase was applied to all properties within these areas, there is a value difference still. For example, he said, 50 percent of the value of a property in The Reserve is going to result in a higher dollar amount than 50 percent of a lot value in a different location.

Jensen said that Smith, in his written appeal, had stated that Lot 170 – located at 93 Lavender Lane – had not been included. However, that was not the case. It had been provided, and it appeared now on page 23 of Smith's appeal packet, she said. Concerning Lots 161 and 194, which Smith had indicated the acreage and size had not been provided on the Assessor-supplied sales verification, the sizing information had been provided and was present in the legal description for the properties. This information also appeared in Smith's appeal packet, Jensen said.

There had been a typo on the spreadsheet originally provided to Smith, she said. On page 17 of

Smith's appeal packet, Jensen had typed "\$159,000" but the correct amount for that sales verification was "\$154,494." That is the value that was used in Bear Lake County's ratio study. The spreadsheet, as she said, did have an incorrect value but Smith had been supplied with the correct amount on the sales verification information provided to him.

This parcel is a vacant lot in The Reserve subdivision, consisting of 0.51 acres, Jensen said. Bear Lake County ran a ratio study of the sales from 2022 with assistance from Cundick. The vacant land study identified 76 vacant land sales in the county. Of those sales, 66 were in lakeside subdivisions in the Fish Haven area. The Reserve, Canyon Estates, Aspen Creek Meadows, Aspen Creek Estates – all phases and all plats – were found to be similar based on location and desirability, and made up 21 of the 66 sales in the Fish Haven area, she said.

These subdivisions are different as it pertains to amenities, types of homes (short-term rentals vs. regular housing), types of roadways (paved vs. unpaved), etc. These differences account for why different site values and site ratings are used specifically for each subdivision and within the subdivision itself, Jensen said. None of these subdivisions are valued by the Bear Lake County Assessor's Office on a basis of acreage or square footage. Only site values are used.

Only two sales were assessed close to the price of the Lighthouse Investment Properties lot, resulting in 19 sales – six of which had been previously assessed at just 50 percent of market value – being nowhere near that figure. All site values were brought up by roughly 57 percent to bring all site values into correspondence with market value.

Mass appraisal results in the Assessor treating all like areas the same, Jensen said. The same percent adjustment was made across the subdivisions. The ratio study showed the average price of a lakeview lot was \$231,632. The median sale price of a lakeview lot was shown to be \$205,000. Of lots in The Reserve, the average sale price was found to be \$234,599. The median sale price was \$220,000.

In her written presentation packet, Jensen also provided information for three sales that had not been included in the ratio study. These properties' sales verifications were not provided to the Bear Lake County Assessor's Office until after the ratio study had been completed, she said. However, these properties were sold in 2022 and helped to uphold the assessed value of \$194,646 that was placed on Smith's property.

These sales were in The Reserve, and, if included in figures for only The Reserve, the average sale price was \$229,381, with the median sale price moving to \$212,500. These added sales values decrease the median value and average value slightly, Jensen said, but these are still well above the 2023 assessed value. Jensen said her office did not receive a sales verification from Smith, so that information had not been included in the ratio study.

In all three cases, the assessed value for Smith's property of \$194,646 is below what the market is showing, according to the median market sale price, Jensen said. While the assessed value placed on this property is below market, it complies with the Idaho requirement to be valued

between 90 percent and 110 percent of market value. For these reasons, Jensen said the Assessor's value should be upheld by the Board of Equalization.

Commissioner Payne asked County Attorney Adam McKenzie, who said he had responded to Smith's records request, if he had done so in the required time limit. McKenzie said he had.

Smith said he had sent his records request to the Assessor on June 7, 2023, and Idaho Code requires an answer to that request be made within 10 business days. Smith said McKenzie had sent him a response letter on Jun 21, 2023, but did not provide the documents that had been requested.

What Smith was conveying to the Board was incorrect, McKenzie said. Sales verifications had been provided, and all information that Bear Lake County was permitted to provide was given.

Smith said he had specifically asked for documents identifying all land sales in The Reserve, as well as documents identifying all land sales located outside The Reserve that had been used by the Assessor to establish 2022 assessment values. Smith argued McKenzie was implying that because Bear Lake County gets its value information through MLS, it has signed a confidentiality agreement that it cannot disclose that information.

McKenzie said that is not necessarily the case. However, Smith said he would not use his time to argue with the county attorney. Smith alleged what had been provided to him by the attorney was only the actual sales verifications from The Reserve. No verifications were provided from any other properties in the county, which Smith said would not be subject to the MLS restrictions.

Smith said he objected to the Board being able to render a decision on his case, based on the fact he was not provided the pertinent information he asked for through his public records request. Smith said he is being discriminated against because he is not able to look at that information.

Additionally, Smith argued the clear sizing information for Lot 161 had not been provided, despite the information being found in the legal description. He said no layman could determine the lot size from that information without hiring a surveyor to decode it.

Smith said the Idaho Tax Commission will have to examine the record and determine if it is due process for the Bear Lake County Board of Equalization to rule on what the Assessor presented, when Smith had asked for that information in a public records request and was not provided it.

McKenzie said he wanted to make a point of clarification. The document, concerning Lot 161, that had been provided to Smith and had been presented in his appeal did clearly identify the lot size as 0.85 acres on the sales verification that had been provided to him in the county's response to his records request.



Commissioner Payne said the Board is not made up of attorneys. It relies on the legal knowledge of McKenzie and the Assessor's knowledge as it weighs its decisions. He said he believes those two individuals had conducted themselves properly and satisfied the legal requirements.

Commissioner Jensen said the burden of proof is upon Smith to show that something has been incorrectly done, and he personally could not see that anything negligent or wrong had taken place.

Commissioner Olsen said it has been shown the Assessor has a process she has to follow, and he believed the job had been done properly.

**MOTION: Commissioner Payne made a motion to accept the Assessor's value placed on Bear Lake County parcel No. 44252.00 / RP713000082030. The motion was seconded by Commissioner Olsen. The motion carried.**

#### **CASUALTY LOSS EXEMPTIONS**

Assessor Jannelle Jensen told the Board of Equalization her office had received two additional applications for casualty loss exemptions since the Board met the morning of June 26, 2023, and before the deadline at end of business that same day. One of these applications was for a collapsed building and the other was for home damage due to flooding.

The first application was for the Dallas H Arnell Ranch property – designated as parcel No. 02091.02 / RPS7900005000A – and was for an exemption of \$1,519 due to a collapsed building, placing the new value prorated from the date the damage occurred as \$2,889. The second application was for the property of Radmilo and Zana Jokic – designated as parcel No. 23001.00 / RP077600000010 – and was for an exemption of \$8,790 due to flooding damage. The new value for this property prorated from the date of the damage is set at \$201,695.

**MOTION: Commissioner Olsen made a motion to accept the casualty loss exemption for the Dallas H Arnell Ranch property, designated as parcel No. 02091.02 / RPS7900005000A. The motion received a second from Commissioner Payne. The motion carried.**

**MOTION: Commissioner Olsen made a motion to accept the casualty loss exemption for the Radmilo and Zana Jokic property, designated as parcel No. 23001.00 / RP077600000010. The motion received a second from Commissioner Payne. The motion carried.**

#### **ASSESSOR'S RECOMMENDATIONS**

After receiving information – concerning building costs and land use – from the property owner, Assessor Jannelle Jensen said she was recommending a change in valuation of parcel No. 5382.03 / RP15S43E140440, owned by DVL Properties. The property, currently valued at \$340,260, was recommended to be revalued at \$246,187.

Commercial Appraiser Kevin Franck said the new construction costs were off from the manual he had used to assign value to the property.

**MOTION: Commissioner Payne made a motion to approve the new value of \$246,187 for parcel No. 5382.03 / RP15S43E140440, owned by DVL Properties. The motion received a second from Commissioner Olsen. The motion carried.**

Jensen said DirecTV and AT&T Mobility LLC had split in 2021. The Assessor's Office had received letters showing the companies are completely separate now. It was her recommendation to split the personal property of DirecTV and AT&T so both companies can receive their proper tax exemptions.

**MOTION: Commissioner Olsen made a motion to accept the Assessor's recommendation to split the personal property parcels of DirecTV – designated as parcels PP71251.00, PP71252.00, PP71255.00, PP71459.00, PP71679.00, PP71680.00, PP71683.00 and PP71684.00 – and AT&T Mobility LLC – consisting of parcels PP71302.00, PP71548.00 and PP71565.00 – and allow the companies to each utilize the appropriate tax exemptions. Commissioner Payne seconded the motion. The motion carried.**

**MOTION: Commissioner Payne made a motion to close the 2023 Board of Equalization. The motion received a second from Commissioner Olsen. The motion carried.**

The Board of Equalization was closed at 3:08 p.m.

The Board of County Commissioners re-entered its regular meeting at 3:09 p.m.

#### **JAYSON LOWER – IDAWY UPDATE**

Jayson Lower, the executive director for IDAWY Solid Waste District, reported he and IDAWY are working on their budget for Fiscal Year 2024. As they work through that process, they are finishing up one of the most difficult years that has seen the company impacted by a winter of heavy snowfall, water flow in the spring and ongoing equipment issues.

Lower provided the Board with a copy of the IDAWY budget for Bear Lake County. While it had not been finalized and officially adopted, it would be by month's end at an IDAWY Board meeting, he said.

Lower said waste volume has increased, and IDAWY is working to deal with that growth. IDAWY also has increased the tire disposal budget, as there was a significant increase in need for this service in FY2023. Looking to the future and the development of a new landfill, Lower said engineering on that project is nearly complete.

Commissioner Payne asked what the process is for acquiring a large 300-gallon dumpster for the Bear Lake County Extension Office building and its various uses. Lower said IDAWY is always available and eagerly working to serve the county, and he advised Commissioner Payne contact TJ Thomas at the local landfill to request that dumpster be brought. It is a very simple process and IDAWY is eager to comply, Lower said.

**MONTPELIER MOBILE PANTRY FOOD BANK**

Micah Jensen and Fredlyn Hymas of the Montpelier Mobile Pantry Food Bank told the Board the food bank services the community the third Thursday of each month. Data the organization uses shows that about 80 percent of Bear Lake County’s residents live below the poverty level, so the organization is vital to help many families and individuals.

Jensen said the food bank has recently run into conflict with an employee at the Bear Lake County Extension Office. That office has for some time allowed the food bank to park their distribution truck in its parking lot on that one day a month when the organization provides food to community members, but recently the employee in question has been against the idea of the food bank being on the premises and has even threatened to have them removed by law enforcement, Jensen said.

The mobile pantry now just wants some clarification and continuity to know if it has the support of the commissioners to continue using the Extension Office’s parking lot, Jensen said.

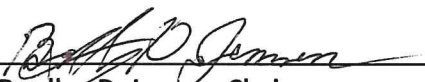
Commissioner Payne said he was aware there had been issues with that Extension Office employee and he is actively working to gather information about the situation. He will be attending a meeting with the Extension Office in the near future, he said.

Jensen said the pantry is hoping the county will be willing to help find a permanent, brick-and-mortar location where a home base for the food bank can be established. This would be a better means for the organization to effectively get food to the public.


Commissioner Payne asked Clerk Amy Bishop to get this item on the District V meeting agenda so it can be discussed with other counties’ commissioners. This will help Bear Lake County to determine what course of action it can take that will be most beneficial, he said.

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

The meeting adjourned at 3:50 p.m.

  
Bradley D. Jensen, Chairman

8-14-2023  
Date Approved

ATTEST:   
Amy Bishop, Clerk



