

**Bear Lake County Commissioners' Special Meeting
January 31, 2025
Commissioners' Chambers – Paris, Idaho**

The Board of Bear Lake County Commissioners met for a special meeting at 9:00 a.m. Friday, January 31, 2025, in the Commissioners' Chambers in Paris, Idaho. Video access to the meeting also was available via Zoom. Members present were Board Chairman Rex L. Payne, Commissioner Wynn S. Olsen, Commissioner Alan P. Eborn, and Amy Bishop, Clerk of the Board. Also in attendance were County Prosecutor Adam McKenzie, Deputy Clerk Paul Christiansen and various members of the public.

Commissioner Payne explained the special meeting was being held in order to address the current prosecutor vacancy. In order comply with the requirement set by Idaho statute, the Board of County Commissioners must make a decision within 15 days from the date of notification made to the Board by the Republican Central Committee. That committee's meeting had been held at 5 p.m. on January 23, 2025, and the official notification to the Board of County Commissioners was made at 6:03 p.m. on January 25, 2025. Because the Board's next regular meeting was scheduled for 9:00 a.m. on February 10, 2025, that notification led to the 15-day requirement being pretty tight, Commissioner Payne said. In order to avoid any potential time restriction controversies, the January 31, 2025, special meeting had been scheduled so action could be taken.

APPROVAL OF AGENDA – ACTION ITEM

MOTION: Commissioner Olsen made a motion to approve the agenda for the January 31, 2025, special meeting. The motion received a second from Commissioner Eborn. The motion carried.

Commissioner Payne reported the commissioners had attended Idaho Association of Counties meeting in Boise the previous four days. He advised that in those meetings he had been told the county chairman may second motions in the event no other second has been made. Additionally, the chairman should vote on motions. Because the county may not always have done this in the past, and per the information provided by the Idaho Association of Counties director, Commissioner Payne said the chairman will follow these protocols going forward.

EXECUTIVE SESSION – IDAHO CODE 74-206(1)

MOTION: Commissioner Eborn made a motion to go into executive session according to IDAHO CODE 74-601(1) (a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general; (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; (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 Olsen.

Roll call vote. Commissioner Olsen, aye. Commissioner Eborn, aye. Commissioner Payne, aye.

The Board entered its executive session at 9:05 a.m. and exited at 9:27 a.m. It re-entered its regular meeting at 9:28 a.m.

Commissioner Payne reported the Board, during its executive session, had discussed Sections A and B of Idaho Code 74-601(1) but had found it did not need to utilize Section F as the commissioners originally had believed they would.

FILL PROSECUTOR POSITION

Commissioner Payne advised that each of the commissioners is elected to serve at the will of the people of Bear Lake County. Regarding the issue of the vacant prosecutor position and the requirements that needed to be followed in order to appropriately act, Commissioner Payne advised he had contacted attorneys, the executive director of the Idaho Association of Counties and the past president of the Idaho Republican Party; had requested information from the Idaho Attorney General's Office; and Clerk Amy Bishop had received information from the Idaho State Bar.

Additionally, Commissioner Payne reported he had received many phone calls expressing opinions about the appointment and/or contract of Bear Lake County's prosecuting attorney. Because no qualified individual filed or ran for Bear Lake County Prosecutor in the most recent General Election – which was held November 5, 2024 – the Board of County Commissioners voted to make a temporary appointment to fill the position until the process could be completed, following requirements of Idaho law to appoint or contract with a willing and qualified attorney to fill the position. In its January 13, 2025, regular meeting, the Board submitted the matter to the Republican Central Committee to follow the procedure outlined in Idaho Code 59-906.

Idaho Code 59-906 states the county central committee of the same political party, if any, of the former officer whose office is vacant shall submit a list of three nominations to the Board of County Commissioners within 15 days from the date the office is vacated. The Board of County Commissioners shall fulfill the vacancy by appointment from this submitted list within 15 days. Following this procedure, should no appointment be made within 15 days, the county central committee of the political party shall designate one of the three nominees to fill the vacancy. The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the office. Upon failure of the committee to make a selection before the expiration of the additional 15-day period, the Board of County Commissioners shall within five days fill the vacancy by appointing a person having the same qualifications at the time of his appointment as those provided by law for election to the office. If the person who has vacated the office has not been affiliated with a political party, the vacancy shall be filled by the Board of County Commissioners by appointment of a person having the same qualifications at the time of his appointment as those provided by law for election to the office.

The Republican Central Committee met January 23, 2025. The committee recommended only Ardee Helm, who at the time of the meeting was not licensed to practice law in Idaho, Commissioner Payne

reported.

Idaho Code 59-907 provides the process for filling a vacancy in the office of prosecuting attorney. In the event a vacancy exists and there are three or fewer resident attorneys within the county who are willing and who are qualified to perform the functions of prosecuting attorney, the Board of County Commissioners may appoint or contract with an attorney from outside the county to perform the duties of prosecuting attorney for the balance of the unexpired term or such shorter period as the Board of County Commissioners shall determine.

Commissioner Payne advised that, after reaching out to the Idaho State Bar, it had been determined there are fewer than three resident attorneys within Bear Lake County who are willing and qualified to perform the functions of the prosecuting attorney. Because of this, and as Idaho Code 59-907 states, the Board of County Commissioners may appoint and/or contract with an attorney from outside the county to perform the duties of prosecuting attorney for the balance of the unexpired term or shorter period as the Board of County Commissioners shall determine.

The Republican Central Committee advertised to see who was interested in filling the vacancy and received three names – Adam McKenzie, Ardee Helm, Jr. and Kristian Beckett. Commissioner Payne reported the Bear Lake Board of County Commissioners received a few different opinions of our present County Attorney Adam McKenzie, and the general opinion was that he was doing a good job but some improvement would be helpful. The county's prosecuting attorney position is a part-time position, he said.

Franklin County Prosecutor Vic Pearson had proven to be helpful in answering questions and helping with short-term assignments in the past, Commissioner Payne said. Because of this record, Commissioner Payne had contacted Pearson and had asked for some input for how Bear Lake County's situation could be improved, and Pearson had suggested the addition of a deputy county prosecutor could be beneficial to Bear Lake County's circumstances.

Concerning the open county prosecutor position, Commissioner Payne reported Helm was not licensed in the State of Idaho as of the morning of January 31. Additionally, Helm had contacted the Bear Lake County Clerk's Office in the afternoon of January 30 and had spoken with Deputy Clerk Paul Christiansen.

Christiansen, who was in attendance at the special meeting, reported that Helm had contacted the Clerk's Office because he had been made aware that a special meeting had been scheduled and the Board planned to fill the vacant prosecutor position. During that conversation, Helm had indicated to Christiansen that he actively had been attempting to get in touch with the proper individuals with the Idaho State Bar who could best direct him how to get his necessary licensing reinstated.

Christiansen advised that Helm had indicated to him that he had found the process with the Idaho State Bar to be more difficult than he initially had believed it would be. Additionally, Helm had told Christiansen that he believed it likely that he would be required to retake and pass the Idaho State Bar exam – something he was not willing to do at his age and in his current retired circumstances – before his licensing would be reinstated.

At this point, Commissioner Payne turned the time over to his fellow commissioners so they could share their comments and thoughts.

Commissioner Olsen advised for the past four or five months he had observed circumstances that have divided the county rather than unite it. One group of citizens had required a lot of attention from not only the commissioners but from the other elected officials and their departments as well. While he firmly believed that group of citizens had a right to put their concerns forward and also deserved to have those concerns addressed, Commissioner Olsen said this process has absorbed much of the commissioners' time which they ought to be dedicating to other duties.

At the time of his election, Commissioner Olsen had planned to work on some very specific issues impacting Bear Lake County – most notably the matter of short-term rentals (STRs) within the area. The impact of these STRs has been felt all over Idaho, but the repercussions especially have been felt in Bear Lake County. Additionally, several counties in Idaho also are being overrun by population growth, he said.

Unfortunately, Commissioner Olsen said recently he had been unable to dedicate himself to those concerns which he had been elected to address. Because other ongoing matters have pulled his focus, he said he has felt he is letting down those who elected him and the county overall.

This ongoing division within the county is not without its reasons, he said, adding that he feels sympathy for people on both sides. From the county's perspective, some elected officials have been under such high degrees of scrutiny that their families have been impacted – much like families on the other side of the aisle, he said. Commissioner Olsen said these matters have led to many sleepless nights in his own home as he has pondered the best courses of action that will return the county to unity.

In any case, the county needs to find a way to come back together and to move forward in a positive direction, he said. This will allow the commissioners and other elected officials to dedicate time to the issues that are important to the county at large.

Commissioner Eborn reminded those gathered that he only had taken office 19 days prior to the January 31 special meeting. In that period, he had heard a lot of rumors around the county that were altogether not true or were only partial truths. He advised he is not a person who deals in rumors but seeks to find what the facts are.

The people of Bear Lake County elected the commissioners as their representatives, he said. While the three commissioners have a diverse background and do seem like a good cross section of the valley's citizenry, they are far from perfect. Still, Commissioner Eborn said he had received the same kinds of calls from citizens regarding the Board's action to fill the vacant prosecutor position. He said he was confident that each of the commissioners received calls from the same individuals. Those people are good people, he said, and he has known many of them for years and has a deep respect for them and their opinions. However, as an elected commissioner, he wondered how best to separate those people with different opinions from his own and still be able to understand their points of view.

As county officials, one of the worst things the commissioners can do is lose the trust of the people, he said. As of 8 a.m. on January 31, Commissioner Eborn did not know how he would vote on the matter at

hand. However, given that each of the commissioners is elected by the people and for the people, they must do the best they can, he said. After the vote has been cast, the county must come together and move forward with intent to improve, looking at the future and not the past, Commissioner Eborn added.

MOTION: Commissioner Olsen made a motion to appoint Adam McKenzie to serve as the Bear Lake County Prosecuting Attorney and to complete the remainder of the four-year term of office, ending the second Monday of January 2029; assuming all responsibility, salary and conditions of the Prosecuting Attorney; and to permit him to contract with a qualified attorney to serve as deputy prosecutor, upon approval by the Bear Lake Board of County Commissioners.

Commissioner Eborn seconded the motion with the amendment that the deputy prosecutor specialize in criminal law. Commissioner Olsen seconded the amendment.

The motion carried.

MOTION: Commissioner Olsen made a motion to adjourn the Bear Lake Board of County Commissioners Special Meeting. The motion received a second from Commissioner Eborn. The motion carried.

The commissioners' meeting adjourned at 9:52 a.m.

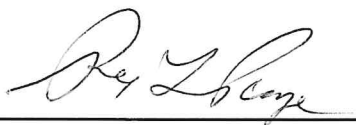
After the meeting adjourned, Commissioner Payne realized Adam McKenzie needed to be sworn in as Bear Lake County Prosecutor. He asked for a motion for the commissioners to go back into session in order to conduct this business.

MOTION: Commissioner Olsen made a motion for the Board to go back into session for the swearing in of the Bear Lake County Prosecutor. The motion received a second from Commissioner Eborn. The motion carried.

Adam McKenzie took the oath of office and was sworn in as Bear Lake County Prosecutor by Clerk Amy Bishop.

MOTION: Commissioner Olsen made a motion to adjourn the Bear Lake Board of County Commissioners Special Meeting. The motion received a second from Commissioner Eborn. The motion carried.

The meeting adjourned at 9:53 a.m.



Rex L. Payne, Chairman

2/10/25

Date Approved



ATTEST:



Amy Bishop, Clerk