

The Board of Bear Lake County Commissioners met for a public hearing regarding the petition for judicial confirmation on Wednesday, December 13, 2017 in the School District Board Room at 7:00 p.m. Members present were Commissioners Vaughn N. Rasmussen, Chairman, Bradley D. Jensen, Rex L. Payne, and Cindy Garner, Clerk of the Board.

Also in attendance were Sheriff Bart Heslington, Attorney Steve Fuller, Architect Jerry Myers and Daniel Bishop, Reporter for The News-Examiner. All others in audience will be listed as they speak or from their names on the sign-up sheets.

Commissioner Jensen made a motion to start the public hearing to discuss the filing of a petition for judicial confirmation, seconded by Commissioner Payne, motion carried.

Commissioner Rasmussen thanked everyone for coming, made introductions and gave instructions on how the public hearing for the petition of the judicial confirmation would proceed. Commissioner Rasmussen made the introductions, Commissioner Vaughn Rasmussen, Chairman, Commissioner Brad Jensen, Commissioner Rex Payne, Clerk Cindy Garner, Attorney Steve Fuller, hired for this judicial confirmation process and Architect Jerry Myers. The Commissioners are required to make a decision regarding the petition and whether to go forward with the judicial confirmation after the public hearing in no less than 15 days. The Commissioners set the date for their decision on December 29, 2017 at 9:00 a.m., meeting in the School District #33 Board Room in Paris, Idaho.

Attorney Fuller gave information regarding what judicial confirmation is and pursuant to Idaho Code it needs to be determined whether a new courthouse is an ordinary and necessary expense and with all the information presented to a judge, who would be appointed after the Commissioners make a decision, then the judge will have a hearing prior to making a decision. The ADA representative, Dean Nielsen came through to assess the building and in his statement showed that it was the most egregious offense of the ADA requirements that they have seen, just to mention a few violations, no one in a wheelchair can get into the building to conduct any county business, bathroom access, width of doorways, height of counters and they did find more violations than he had ever seen. These violations need to be fixed, the county is sitting on a time bomb. There was an earthquake analysis done through the state and the Bear Lake County courthouse was not adequate to withstand a bigger earthquake. The building houses all of the county records, they are extremely important, but it houses people most importantly and there is no safety. There is no fire suppression throughout the building, the safety and security are minimal. The facility design does not make it possible to make it secure. Attorney Fuller emphasized this judicial process is a way to get this done and the cost keeps going up and it will continue to go up. He also stated the U.S. Department of Justice sent down the Assistant United States Attorney who is strictly over ADA requirements, Christine Gealy England, who went through the building with himself, Commissioner Rasmussen and Building Inspector Wayne Davidson. Ms. England sent her letter stating that she sees the county is attempting to do something, but do need to act and if the county doesn't move forward, the Department of Justice will take civil action against the county for monetary damages.

Architect Jerry Myers gave information on the structural and historic information on the building stating a lot of the same items that Attorney Fuller discussed. Myers did mention the possibility of a new or renovated courthouse was brought to Myers and Andersen in 1997 and they have looked over the years of ways to come into compliance with the ADA codes, however, the more they looked into it, the more that needed to be done. The current building has great historical aspects, a significant building, but

functionally is not acceptable as a courthouse or judicial center. The potential for future expansion is there, but the flexibility on the inside is not there. They did look at building on and renovating which was about sixes on cost, however, the flexibility was not there with the different offices and working together for a county. Security is critical, the lack of safety is not acceptable, not just protecting a judge, but all who work or enter the building, managing growth, uniformity of process, flexibility of staff, all who use the building need to have safety and protection when entering the building. There is a big liability when you have victims and their violators being brought in the same hallway or holding area. Myers asked "Which compromises do you accept and which values do you emphasize?". As far as the seismic report Attorney Fuller mentioned, Bear Lake County rated 1.9, which is below the safe rate of 2. It is not a building that should be condemned, but it's also not a building that is conducive to the services we're talking about providing for a courthouse. Myers showed the drawings and stated that this is classified as an essential building and has to comply with higher standards. First building design was about 18,000 sq. ft. and now just under 22,000, adding a public defender office and sheriff's offices, also used spaces for multiple functions, the Commissioners have not done a grandiose project, but have kept it simple but functional. Cost for the second bond was \$198 sq.ft, which didn't include site work at that point, now with the numbers today, the cost would be approximately \$190 to \$230 sq. ft. with the current costs, which does include site work, etc. Commissioner Rasmussen stated that when the Assistant U.S. Attorney, Christine England came to assess the courthouse, she showed them more violations than they had previously recognized with the Treasurer's, Assessor's and Clerk's offices, and possibly the bearing wall would have to be moved. Roy Bunderson asked about the projected budget amount, and that was addressed by Commissioner Rasmussen as being corrected, not adding an elevator or a full basement, therefore lowering the amount to the published amount of \$5,063,278.00.

Prior to public comments, Commissioner Rasmussen asked the other two Commissioners if they had any comments, Commissioner Jensen stated times have changed, it was quite adequate, but the public defender office needs to be added, the need for security, moving the sheriff's offices helps fix their problem as they are not compliant. Commissioner Payne mentioned the current courthouse has served us well, but now how would you hire someone who has a handicap, it is the law to not discriminate, or even employees who have surgery, they can't get in to do their job. It is a great concern and a liability. Lawsuits are inevitable if we do nothing and cost is always going up and a concern for all taxpayers. Commissioner Rasmussen also asked Sheriff Bart Heslington if he would like to comment. Sheriff Heslington stated on a personal and professional level that he is in support of moving forward with a new building. As far as his professional opinion, he loses sleep over the security of the building and the day to day activities. We do not have the ability to maintain prisoners in a secure area, we do not have the ability to preserve the integrity of a juror pool and a jury that is sitting on an active case. As mentioned there is not ability to maintain victims' rights and not be in a confrontational situation with the suspects. They deal with a lot of emotion which is always a potential for problems. Access into the building, not only with staff, attorneys, but for prisoners is a big issue. In order to transport prisoners securely and safely, we have to have them restrained. Picture yourself in belly chains, handcuffs and leg shackles and try to maneuver those stairs up and down. Those restrained prisoners climbing stairs is difficult and a liability as some have fallen and ADA applies to all who enter the building. We have some court participants who have crawled up and down the stairs, deputies have paired up and carried some. We have had some health issues in the courtroom where the EMT's have had to carry a patient on a gurney down the stairs, also the sheriff's office is not ADA compliant and they have had to carry customers in and out of the building to get the services they need. No one in our community should

have to be subjected to that kind of situation. As from the Sheriff's standpoint, this is something that is a must.

Commissioner Rasmussen stated that they would change the time from the three minutes shown on the sign-up sheet and allow from three to five minutes, and please do not go over that five minutes and asked each one wishing to comment to come to the front, state their name and address prior to commenting.

There was one written comment from Jerry Erkelens, Clerk Garner read the letter and mostly his concerns were about keeping and restoring the old courthouse, rather than demolishing. Commissioner Rasmussen stated there has not been a decision to demolish the building. Attorney Fuller stated this public hearing was for discussing whether to have the Commissioners file a petition for judicial confirmation to build a new courthouse. When that decision has been made, then the old courthouse would be discussed further, however the building would still need to function till the other was built and ready to move into. He also stated they probably would need public input on that and that decision would be made at a later date.

Bill Stock, 1917 US Hwy 89, Fish Haven, ID, stated that he is a handicapped individual, he is in favor of building a new courthouse and he has definite concerns as it gets harder for him to get into the building each time he needs to utilize the services which should be provided for everyone. He could never get upstairs to the courtroom now. He stated it is very difficult to file an ADA complaint, as he has considered it several times.

Roy Bunderson, 165 S. Main, Bloomington, ID, stated you would not find a stronger advocate for the new courthouse, mentioned the bonds that failed, encouraged the Commissioners to move forward with the judicial confirmation, frustrated as doing nothing has cost in one year over \$900,000.00 and would like some assurance that the \$5,063,278.00 will not be exceeded and the Commissioners be fiscally responsible and will get on with construction. Bunderson does not find anywhere in the statutes that obligates taxpayers to keep an old building around. If preservation people can make that happen, that would be great, however, not have money coming from the taxpayers. He heard about a veterans' memorial and has respect for those veterans, but we need to trim in all places. With no disregard to the Sheriff, but wondered about doing a couple of ramps and widening doorways saving a large amount of money. Commissioner Rasmussen apologized for taking so long and also the amount of \$5,063,278.00 cannot be exceeded, however we can find ways to come in under that. Bunderson stated that he would request to not delay anymore. Commissioner Rasmussen did state that by Idaho statute they cannot take action less than fifteen days, just to clarify.

Spencer Rich, PO Box 92, Paris, ID, stated that Jerry Erkelens, whose letter was read, is a disabled Vietnam veteran and may not have all the information. Rich stated they are in the process of getting bylaws, articles of incorporations, but they are an organization wanting to restore the historical preservation of the arts in the area. He feels like he is seeing lots of money being wasted and through the grapevine, heard that the sheriff's office will be torn down. Rich does want a new courthouse, but would like to preserve the old courthouse for tourism. Commissioner Rasmussen stated there have been no decisions on that. Rich felt the Commissioners needed to communicate more fully on the cost. Feels people on commissions and boards are spending and feel there should be ways to cut costs, but many not wanting to make the hard decisions. Commissioner Rasmussen stated they have held eight

meetings and have stated if there was a group or an organization that could come in and restore the courthouse to the old original building, they would look at it, but not using taxpayers money to do it.

Laurie Rich, PO Box 92, Paris, ID, representing Friends United for Bear Lake, we are a non-profit organization and while the new building is being built, they will be trying to raise money for restoring the old courthouse. Next summer they are having a meeting, but will discuss it with them at another meeting.

Mayor Brent Lewis, 160 N. 1<sup>st</sup> W., Paris, ID, has been in politics for the city of Paris for twenty-two years, has been in the courthouse building from the bottom to the top, careful where to step as to not end up in the clerk's office, and the downstairs with all the extra steps just to get to the restroom. For his private business, he is a disability advocate and those that need to use the building can't get in. We need a new courthouse, something that will serve the county, including the handicapped and as Mayor of Paris, along with his council, they do not want a derelict building falling down in their city. He also stated he hates flat roofs. Personally, he hates to see the old courthouse go, but we need a new building and would hate to see the county get sued when someone falls if they do nothing.

Mike Derricott, 4706 Hwy 36, Sharon, ID, stated he has voted no on the courthouse for the reason of the expense, he is for the new building as we are in violation, and asked about building on to the east and not use the courtroom. Commissioners stated it is not just the upstairs, it is every other office as nothing is accessible. Architect Myers stated a ramp would be about seventy-two feet long and clear out in the parking lot. Derricott is a contractor and would be willing to donate time to help with landscaping and is sure other contractors would be willing to help to help cut costs. Commissioner Rasmussen stated they have committed to doing that if they move forward with the judicial confirmation.

Dr Earl Monical, 222 S. 9<sup>th</sup>, Montpelier, ID, stated he is for the building, and heard the talk about a ramp, they have a blind daughter and ramps are difficult for them, they need sure footing. Inflation will not stop, it will cost less in the long run, would like to have the Commissioners go forward.

Merial Monical, 222 S. 9<sup>th</sup>, Montpelier, ID, stated she was thankful to be there to see those that were there and the wonderful things being said.

Doug Carlsen, 72 W. 2<sup>nd</sup> N., Paris, ID, stated his concerns were already answered.

Judge Todd R. Garbett, 101 Canyon Rd., Montpelier, ID, stated that he works there on the top floor of the courthouse every day and from a public opinion standpoint wanted to talk about the bonds and the vote, they all did pass by a majority so the public is saying yes. The public asks him when are they starting to build and he has to tell them it is the two-thirds, 66.67% needed and it was not passed. Think about the county employees, our friends and loved ones who are trying to get in to work there, cannot go to the restroom on the main floor, have to climb upstairs or downstairs, think about if they have issues like surgery or just age, they would not be able to get in to work. At one time this was a tribute to the pioneer spirit of Bear Lake County and the picture of the old original building looks great, but there is nothing historical about the courtroom other than the 1970's. He mentioned the man with a prosthetic leg, who had taken it off and crawled up and stated he made it, they didn't know he was doing that or they would have helped, but he really did not want the help as a matter of pride. That is not right for the public or the county employees, it's time to do the right thing.

Jeff Forsberg, 775 S. Main, Paris, ID, stated it has been interesting to hear the comments and it's obvious we need a new courthouse, we are way past that. We have failed in the three votes, but wondered if the county failed to educate the public on any preparation on working toward budgeting the money for this project that was coming in the future. Commissioner Rasmussen stated they had eight meetings and only had a handful of people at each one and even went to social media, had sent out a couple of flyers to each household, not sure what else to do. Commissioner Jensen asked if is legal for the county to tax for extra money. Attorney Fuller stated it is difficult but can set some money aside. Commissioner Rasmussen stated fifteen years ago, the county was spending more money than they were bringing in, over the time, good management has brought it back. Forsberg stated he was definitely for the courthouse and need to get this thing done and appreciate the service that is being done.

Lowell Howlett, 461 Cold Springs Dr., Fish Haven, ID, asked about two items, the building regarding offices and has checked the population and it is dropping, so it seems that the need for future offices are not needed, keep it lean and mean. Paris is the County seat, but most of the population is in Montpelier, wondered if it would serve the public better moving it there. Commissioner Rasmussen stated it has been looked at, however as you have to keep funds separate, city and county, you would only save one half of a wall. The south end of the valley which is very busy in the summer months brings in more than 60% of the taxes.

Dr. Earl Monical mentioned also the need to have the signs also in braille.

Mayor Brent Lewis mentioned about cost and how projects go up so much, they know in sixteen years how much they go up from city experience.

Roy Bunderson mentioned one clarification on the last remodel, it was in 1978, 1979, not 1965 as thought.

Commissioner Rasmussen mentioned the three bond elections, stating to not quote, but the first was about 54%, the second was 66.64% and the third was 58%, the second just needing a handful of votes. As Judge Garbett stated, they were all over 50%, so feel the public has spoken in favor.

Spencer Rich asked where the county goes from here, Commissioner Rasmussen stated the attorney would summarize that.

Mike Derricott directed a comment to the architect that if there is a flat roof, if it leaks, they pay the bill.

Doug Carlsen asked about whether the money covers land purchases, Commissioner Rasmussen stated that the land is all county owned, they did make a trade with the City of Paris for the property adjoining in which they may have noticed the new equipment shed going up.

Spencer Rich asked if the Sheriff's building is torn down, will it be a parking lot. Commissioner Rasmussen stated it may be used with some renovation for the Emergency Preparedness and Veteran's offices.

Architect Jerry Myer stated they would enhance the existing parking lot.

Attorney Steve Fuller mentioned what happens next, this meeting will close, have to wait no less than the fifteen days, which the Commissioners have chosen December 29, 2017 at 9:00 a.m. here in this

School District #33 Board Room in Paris, where they will make their decision whether to go forward with the petition to be filed for judicial confirmation. If the motion is yes, he will draft the petition and other necessary paperwork to be filed with the court, a judge will be assigned possibly from the 6<sup>th</sup> or 7<sup>th</sup> District and then they will set a time for another hearing in the court in which comment can be made of why the new courthouse should be built. If the judge makes the decision to build, then they will go forward with all the necessary financing paperwork. After judge makes decision it will be filed, posted for thirty days, there is a timeframe on the cost and the architects have to get their final drawings complete. After the hearing with the court, then a meeting will be held with contractors and they need to get it out for bid as soon as they can or building won't start till next year.

Commissioner Jensen asked what if there are no bidders, the sum is fixed. Attorney Fuller stated we would just have to tackle that if it happens, however it has to be built within the said cost.

Roy Bunderson felt Myers and Andersen have done a good job.

Commissioner Payne appreciated everyone that attended and their opinions as they as Commissioners represent the public.

Architect Jerry Myers stated that for a day care for the hospital, there were no local bidders. He would recommend to get the word out to all the builders.

Commissioner Rasmussen stated they would bring contractors together. He also appreciated those who attended, but they were hoping for so many, they would have had to move to the gym. Remember, when this meeting is closed, please do not contact them, as Commissioners, they cannot take any more comments.

Spencer Rich wondered about non-profit corporations and they usually get a general contractor.

Mayor Brent Lewis thanked the Commissioners, Attorney Fuller and Architect Jerry Myers for having the hearing and being there, also wished there would have been more of the public there.

Others attending, but not making a comment were Mark Parker, Ed Lyon, Elaine Porter, Jordon Garbett, Whitney Miles, Michelle Higley and Scott Nelson.

Commissioner Payne made a motion to close the public hearing to consider the petition for the judicial confirmation, seconded by Commissioner Jensen, motion carried. Public hearing adjourned at 9:00 p.m.