

BEAR LAKE COUNTY COMMISSIONERS' MEETING

JUNE 24, 2019

SCHOOL DISTRICT #33 BOARD ROOM

The Board of Bear Lake County Commissioners met for a Board of Equalization and special meeting at 4:00 p.m., prior to the public hearing for the Brian Hirschi Rezone Application and Conditions on Monday, June 24, 2019 at 6:00 p.m. in the School District #33 Board Room in Paris, Idaho. Members present were Commissioners' Vaughn N. Rasmussen, Chairman, Bradley D. Jensen, Rex L. Payne and Clerk of the Board, Cindy Garner.

Others present were Assessor Heber Dunford, Deputy Appraiser Paul Day and Danny McClendon, Airport Board President.

BOARD OF EQUALIZATION

Assessor Dunford and Deputy Appraiser Day presented Lewis Pope's parcel #843.00 on the Boyer property and parcel #388.01 on his home as he appealed both. Assessor Dunford will contact him to let him present his information.

Assessor Dunford presented Lynda Stewart, Trustee's parcel #24165.00 and stated the evidence did show the owner was eligible for the homeowner's exemption. Assessor Dunford will make that adjustment.

CELL TOWER LOCATION – AIRPORT

Danny McClendon, Airport Board President, came to inquire about the cell tower that had been approved. Commissioner Rasmussen stated the Planning and Zoning Board had approved the cell tower, but assured McClendon there would be no building until the proper permitting had been taken care of with the county and the FAA. McClendon mentioned a position that needed to be filled and would be advertising in the local paper and the commission encouraged a couple of other publications also.

SURPLUS PROPERTY

Clerk Garner presented the list of surplus property.

MOTION: Commissioner Payne made a motion to publish the surplus property in the paper, seconded by Commissioner Jensen, motion carried.

EXECUTIVE SESSION

MOTION: Commissioner Jensen made a motion to leave the regular meeting and go into an executive session pursuant to Idaho Code #74-206 (1) (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", seconded by Commissioner Payne.

A roll call vote was taken, Commissioner Jensen – Yes, Commissioner Payne – Yes, Commissioner Rasmussen – Yes. Let the minutes show that Prosecutor McKenzie and Clerk Garner were also present.

Board out of executive.

PUBLIC HEARING

MOTION: Commissioner Jensen made a motion to leave the regular meeting and go into a public hearing for the Brian Hirschi Rezone Application and Conditions, seconded by Commissioner Payne, motion carried.

Those present were the Board of Bear Lake County Commissioners' Vaughn N. Rasmussen, Chairman, Bradley D. Jensen, Rex L. Payne and Clerk of the Board, Cindy Garner.

Others attending were Prosecutor Adam McKenzie, Planning and Zoning Administrator, Mitch Poulsen, applicant Brian Hirschi, his attorney Dylan Lawrence and numerous other interested parties both in favor and against, which can be identified on the sign-up sheets attached hereto.

Commissioner Rasmussen informed the audience of the protocol for the public hearing, each being respectful of one another and hearing all the information. Commissioner Rasmussen turned some time over to Planning and Zoning Administrator, Mitch Poulsen to give some background. Poulsen presented a preview of the application, mentioning there had been several Planning and Zoning public hearings and meetings prior to presenting the boards' recommendation to the Bear Lake County Commission. The recommendation to the commission was an approval of the rezone, with a list of conditions, for Brian Hirschi on the one (1) acre lot he purchased on the East shore to reopen his watercraft recreational rental business. Hirschi's lease on the property, previously known as Bear Lake Hot Springs, ended with the sale and current ownership.

Brian Hirschi, 1910 E. 3025 N., North Logan, Utah, gave his statement in support of the rezone, emphasizing that the rezoning application met the parameters of the Bear Lake County Land Use Ordinance as well as the Comprehensive Plan for the development of the Bear Lake shoreline.

Dylan Lawrence, 2838 S. Portside, Boise, Idaho 83706, attorney representing Mr. Hirschi, spoke in support of the rezone and cited the Local Land Use Planning Act of Idaho, ID Code Section 67-6511.

Commissioner Payne asked Hirschi to clarify dimensions on the property map showing proposed parking provided by Mr. Hirschi, as he had a concern for adequate parking. Hirschi responded he was not a professional draftsman and prepared the map on his computer but predicted the business would never use more than one-third of the parking they have available.

Commissioner Rasmussen opened the hearing for public comments, starting with those in favor of the rezoning. Those speaking in favor were as follows: Tiffany Rinne, 21 Kent St., Brookline, Massachusetts, Colleen Widmer, 1118 Deer Ridge Trail, St. Charles, Idaho, Chuck Stocking, 30 W. Tamarind, Garden City, Utah, Joey Stocking, 649 S. Maple Dr., Garden City, Utah, Brent Hirschi, 590 S. Maple Dr., Garden City, Utah, Curtis Merrill, 10 W. 1st N., Bloomington, Idaho, Russell Chase, 190 N. 100 W., Bloomington, Idaho, Randy Bauer, 1153 W. 1220 N., Laketown, Utah 84038, Kirk Bassett, 195 N. 100 W., St. Charles, Idaho, Loran Hirschi, 1499 Ellendale, Logan, Utah, Jaime Hirschi, 1910 E. 3025 N., North Logan, Utah and John Thompson, 1917 N. Hwy 89, Fish Haven, Idaho.

Those speaking against were as follows: Steve Harrison, 377 E. Shore Rd., St. Charles, Idaho, Denise Jones, 1119 Roueche Lane, Kaysville, Utah, Todd Jones, 1119 Roueche Lane, Kaysville, Utah, **Exhibit 'A' Map**, Greg Critchfield, 2999 East Shore Rd, St. Charles, Idaho, 83272, Steve Hardy, 132 Bush Dr., Fish

Haven, Idaho, 83287, *(T.J. Budge)* J.R. Hoggan, 682 Trial Circle, Logan, Utah, 84321, Thomas House, 1651 E. Shore Rd., St. Charles, Idaho, Jamece McLeish, 8909 Silk Bonnet Court, Las Vegas, Nevada, Doti Herd, 1633 E. Shore Rd., St. Charles, Idaho, Dave Hollingsworth, 2007 E. Shore Rd., St. Charles, Idaho, Claudia Cottle, 4544 Hwy. 89, Fish Haven, Idaho, Carolyn N. Rasmussen, 1170 East Shore Rd., St Charles, Idaho, Jim Blackwell, 4920 U.S. Hwy. 89, Fish Haven, Idaho, Craig Forsberg, 934 Washington, Montpelier, Idaho, **Exhibit 'C' & 'D' Hirschi's Hot Springs Location Pictures** , DonRey Secrist, 3987 East Shore Rd., St. Charles, Idaho, Jim Peters, 3121 E. Shore Rd., St. Charles, Brady Long, 2967 E. Shore Rd., St. Charles, Idaho, Bryant White, 1075 E. Shore Rd., St. Charles, Idaho.

T.J. Budge, Racine Olson, 201 E. Center St., Pocatello, 83202, Idaho, attorney for Todd Jones, argued on behalf of his clients in opposition to the rezone and presented, **Exhibit 'B' Hirschi Zone Change Application**.

Fire Chief Mark Parker, 4159 Lanark Rd., Ovid, Idaho, is in agreement of the need for more access and is grateful that a committee is being formed to help with that in a professional, controlled manner. Parker would encourage the Commission to let this play out with the committee prior to issuing permits or zoning. Parker's more urgent concern was the lack of infrastructure, the lack of fire hydrants and emergency services, as they need to grow with the increased public.

Sheriff Bart Heslington, 50 N. Main, Paris, Idaho, echoed what Fire Chief Parker said and felt the law enforcement end is already limited. Sheriff Heslington spoke in opposition to the rezone.

Clerk Cindy Garner read letters and emails both in favor and against, which will be submitted for the record. Names of comments being read 'In Favor' were: Mark Hirschi, Rachel McCracken, Cathy Penning, Jeff Hirschi, Jeff Stoker, Greg Hirschi, James S. Penning, Dr. Jared D. Crowther, Cameron Cable, Travis and Christine Crowther, Brooklynn Loveless, Taylor Cooper, Amelia Johnson, Jason Peisley, Esmeralda McCracken and Daniel McCracken. Names of comments being read 'Against' were: Cindy Jones, Ted D. Jones, Tom House, Dorthea Herd, Jamece and Conner McLeish, Attorney Brett Chambers, representing Jeffrey Hoggan, emailed letter submitted as **Exhibit 'E' Letter**, Attorney T.J. Budge, representing Ted Jones and Tod Jones, emailed letter submitted as **Exhibit 'F' Letter and Conditions**, Noall and Jolene Bennett, Jeff Hodlmair with East Shore HOA, Kristee and Gordon Martell, Sidney D. Winters, Abby House, Jamece McLeish's non-excluded portions of her email to gephartdt@kutv.tv.

Copies of each submitted written comment, either in person, mail or via email, are attached hereto.

Brian Hirschi gave his rebuttal and closing remarks, and presented **Exhibit 'I', an Encroachment Permit**.

Commissioner Rasmussen had five questions, which he directed to Mr. Hirschi. Commissioner Jensen asked questions of Mr. Hirschi.

Attorney Lawrence readdressed the Commissioner and presented **Exhibit 'J', his Legal Analysis**.

Commissioner Rasmussen reminded the public that no more comments can be accepted after the close of the hearing. The hearing closed at 10:02 p.m.

MOTION: Commissioner Payne made a motion to close the public hearing and go back to the regular meeting, seconded by Commissioner Jensen, motion carried.

Commissioner Rasmussen stated the commission had lots of information to review and take under advisement and in order to have time would need to schedule another meeting.

MOTION: Commissioner Payne made a motion to hold a meeting on Monday, July 1, 2019 at 3:00 p.m. in the School District #33 Board Room, seconded by Commissioner Jensen, motion carried.

MOTION: Commissioner Jensen made a motion to leave the regular meeting and go into an executive session pursuant to Idaho Code #74-206 (1) (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', seconded by Commissioner Payne.

Roll call vote: Commissioner Jensen – Yes, Commissioner Payne – Yes, Commissioner Rasmussen – Yes. Let the minutes show that Prosecutor Adam McKenzie and Clerk Cindy Garner were also present.

Board out of executive.

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

Meeting adjourned at 10:40 p.m.