

Regular session resumed. No decision was made as a result of the Executive Session.

Motion by Hofer, second by Corbus, to approve the minutes for August 14, 2015, August 21, 2015, August 26, 2015, August 28, 2015, August 31, 2015 and September 4, 2015.

WOOTAN..... -AYE
CORBUS..... -AYE
HOFER -AYE

Motion carried and so ordered.

Matthew Shapiro, Gridflex Energy, LLC, appeared to discuss a pump storage project. Attorney Grant informed Mr. Shapiro that he needs to keep his presentation very general, in the event his project has to come before the commissioners as a Planning and Zoning matter in the future. Mr. Shapiro stated that his company, Gridflex Energy LLC is a Boise based early-stage developer specializing in pumped storage hydropower. They have begun to study the feasibility of developing a pump storage hydroelectric project at the Anderson Ranch Reservoir and Dam. He reviewed the concept overview for the project and how the proposed project would pump water at the reservoir.

Motion by Wootan, second by Corbus, to approve the Pest Abatement District Expenses in the amount of \$1,551.45, payable to Cycle City of Mountain Home-\$224.96, Express Services Inc.-\$825.50, Carr’s Home Lumber-\$61.28, Mountain Home Auto Parts-\$29.88, Paul’s Market-\$329.09 and Office Value-\$80.74.

WOOTAN..... -AYE
CORBUS..... -AYE
HOFER -AYE

Motion carried and so ordered.

The board opened and reviewed a bid packet which was received from Western Idaho Freightliner for a new extrication vehicle. Attorney Grant stated that under the bid specifications, the board has thirty days to review the bid packet and award the bid. Alan Roberts, Extrication Department and Dorie Kimble, Western Idaho Freightliner appeared to answer any questions the board may have had regarding the bid packet.

Motion by Wootan, second by Corbus, to approve Ordinance No. 2015-02 Payment of Taxes before Splitting a Lot.

WOOTAN..... -AYE
CORBUS..... -AYE
HOFER -AYE

Motion carried and so ordered.

ORDINANCE NO. 2015 - 02

AT A MEETING OF THE BOARD OF THE ELMORE COUNTY COMMISSIONERS, STATE OF IDAHO, HELD ON THE 9TH DAY OF OCTOBER, 2015, AN ORDINANCE PROVIDING THAT PAYMENT OF ALL PRIOR YEARS' AND CURRENT BILLED TAXES BE PAID IN FULL ON ANY SPLIT, DIVISION OR COMBINED REAL PROPERTY PARCELS, AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has determined upon advice of the County Treasurer/Tax Collector and the County Assessor and after its own review, that all real property taxes should be paid in full on all prior years' and current billed taxes on any split, division or combined real property parcels; and

WHEREAS, based upon information provided to the Board of County Commissioners, the Board has determined that collection of all real property taxes on all prior years, as well as the currently billed taxes is a power and duty of the County; and

WHEREAS, based upon information provided to the Board of County Commissioners, the Board has determined that collection of such taxes is necessary and proper to provide for prosperity of the County and its inhabitants; and

WHEREAS, based upon information provided to the Board of County Commissioners, the Board has determined that collection of such taxes will protect the property involved in splits and combinations from liens for nonpayment of taxes and will protect the interests of subsequent purchasers from such liens; and

WHEREAS, Idaho Code Section 31-717 provides that "[t]he board of county commissioners may pass all ordinances ... not repugnant to law, necessary for carrying in to effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for ... prosperity, improve the morals, peace and good order ... of the county and the inhabitants thereof, and for the protection of property therein"

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of Elmore County,

Idaho:

1. That all prior years' and current billed taxes assessed on any splits, divisions or combined real property parcels must be paid in full, before the Elmore County Assessor's Office will create and issue a new RP number/Tax Number for the split, division or combination.
2. All property splits, divisions or combined real property parcels shall comply with the Elmore County Zoning and Development Ordinance, adopted March 21, 2012, as amended on September 19, 2012 and July 23, 2014.
3. That if any provision of this ordinance is held to be invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this ordinance are declared to be severable.
4. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

APPROVED AND ADOPTED this 9th day of October, 2015.

ELMORE COUNTY COMMISSIONERS
/S/ WESLEY R. WOOTAN, Chairman
/S/ FRANKLIN L. CORBUS, Commissioner
/S/ ALBERT HOFER, Commissioner
ATTEST: /S/ BARBARA STEELE, Clerk

Monica Forbes, Executive Director of the Peer Wellness Center, appeared to review a grant proposal and request a letter of support. Peer is a recovery support service and the goal is to establish one local, community driven Recovery Community Center in Ada, Canyon, Gem and Latah counties. They would also like to provide a satellite peer-based recovery support center in Elmore County. With a recovery community center, people seeking recovery from addiction or mental health issues can work, free of charge, with peers who volunteer to share their recovery experience. They can establish a support system critical to their maintenance of long term recovery, and have a place to go or contact when they feel the need additional support. Ms. Forbes requested support from the board to add Elmore County to this year's Millennium Fund grant proposal to get funding to provide the satellite services.

Motion by Wootan, second by Corbus, to approve and sign the letter of support for Peer Wellness Center to support the Millennium Fund grant for a satellite support center in Elmore County.

WOOTAN..... -AYE

CORBUS..... -AYE

HOFER..... -AYE

Motion carried and so ordered.

Rich Sykes, Mountain Home Chamber of Commerce, appeared to discuss the Light the Night and Fund the Forest projects. In the past, the Chamber has done Christmas displays in Railroad Park, with the annual Christmas parade ending at the park where Mayor Rist would light the Christmas tree. This year they plan on lighting up Carl Miller Park from December 4th to January 4th. The goal is to draw the community and visitors to the park during the holiday season. Mr. Sykes reviewed the plan for decorating and lighting up the live trees in Carl Miller Park. They also plan on adding fake lighted trees to the display as well. The Chamber is asking for sponsors to donate a lighted tree to the display. For each tree donated, the sponsor will be recognized with a sign underneath their tree advertising their business or organization. The cost of the trees are based on the color, as some colors are more expensive to produce than others. The board agreed to donate \$1,000.00 to the project.

Jennifer Smith, Human Resources Manager, appeared to review the Family Medical Leave Act procedure.

Motion by Wootan, second by Hofer, to go into Executive Session pursuant to I.C. 74-206(d) to discuss exempt records. Roll call vote was taken.

WOOTAN..... -AYE

CORBUS..... -AYE

HOFER..... -AYE

Motion carried and so ordered.

Regular session resumed. No decision was made as a result of the Executive Session.

Motion by Hofer, second by Wootan, to adjourn for lunch.

WOOTAN..... -AYE

CORBUS..... -AYE

HOFER..... -AYE

Motion carried and so ordered.

Regular session resumed.

Motion by Wootan, second by Hofer, to approve the expenses in the amount of \$478,933.69.

WOOTAN..... -AYE

CORBUS..... -AYE

HOFER..... -AYE

Motion carried and so ordered.

The board continued the meeting at the American Legion Hall to hold a public hearing for an appeal for CUP-2015-09.

An appeal hearing was held regarding an approved Conditional Use Permit by Jim Carrie dba Intermountain Development Inc. CUP-2015-09. Present at the hearing were Chairman Wes Wootan, Commissioners Bud Corbus and Al Hofer, Civil Attorney Buzz Grant, Clerk Barbara Steele, Deputy Clerk Shelley Essl and Land Use and Building Department Director Alan Christy. Several residents from the surround area of the proposed subdivision were present in the audience. Chairman Wootan called the meeting to order. Roll call vote was taken and the public hearing was opened.

Commissioner Corbus made a disclosure statement for the record, stating that he did have a few conversations with Jim Carrie regarding his subdivision, but the majority of the conversations were regarding the requirements for fire protection, as Commissioner Corbus owns a subdivision and has knowledge of fire protection requirements for such subdivisions.

Mr. Christy stated that written rules for the public hearing were available for members of the audience and that testimony would be subject to a time limit.

Mr. Christy read the following from the staff report into the record:

The Elmore County Planning and Zoning Commission (“Commission”), on July 15, 2015 issued its Findings of Fact, Conclusions of Law and Order and upon a 4-0 vote, denied a conditional use permit application, CUP-2015-09, for Jim Carrie, doing business as Intermountain Development, Inc. (“Applicant”), to subdivide an existing five (5) lot subdivision, recorded as Frontage Road Estates Subdivision, into a fifty-three (53) lot residential subdivision named Blue Sage Subdivision.

The Commission denied the conditional use permit application to expand the Frontage Road Estates Subdivision from five (5) lots to fifty-three (53) lots because the application was not consistent and harmonious with surrounding subdivisions due to lot sizes and utilization of a community water system.

The Applicant seeks to overturn the Commission’s decision denying the conditional use permit application to expand the Frontage Road Estates Subdivision from five (5) lots to fifty-three (53) lots. Grounds for appeal include, but are not limited to, the following:

The Applicant believes the decision by the Commission to deny the application violated constitutional rights to due process, exceeded the commission’s statutory authority, was made upon unlawful procedure, was not supported by substantial evidence on the record as a whole and was arbitrary, capricious and an abuse of its discretion.

Furthermore, the Applicant believes since the property is within the Mountain Home Area of City Impact that the Commission should have used the Comprehensive Plan and Zoning Ordinance of the City of Mountain Home and not Elmore County. The Applicant’s representative has provided supplemental

information that the correct ordinance to use is the ordinance for Elmore County for evaluating the Conditional Use Permit. The Applicant believes the use of a community water system is not required to make the application more harmonious with the surrounding area.

The site is located in portion of the W1/2 NE1/4, Section 15, Township 3 South, Range 6 East, B.M. A common way of locating property is from Sunset Strip turn onto Frontage Road. The site is located approximately one (1) mile on the right.

The Appeal Application was submitted and all fees paid by July 23, 2015. The application was deemed complete on July 30, 2015. Notice of public hearing was sent to neighboring property owners within 1000 feet and agencies on September 14, 2015. Notice was published in the Mountain Home Newspaper on September 23, 2015. Notice of the public hearing was posted on the property on September 28, 2015.

The property is currently zoned Agriculture, and is located in the Area of City Impact for Mountain Home. The site is located in the Mountain Home Rural Volunteer Fire District.

The applicant is proposing to re-plat Frontage Road Estate Subdivision, a 5-lot subdivision, to Blue Sage Subdivision, a 53-lot subdivision. The applicant is proposing each lot will have individual septic systems and individual wells. The project is proposed to have 3 phases. The road is proposed to be public and meet the Mountain Home Highway District standards.

Mr. Christy stated that he provided an analysis of the zoning ordinance and comprehensive plan in the staff report. In summary, the zoning ordinance to be utilized in making a decision on this application is the zoning ordinance of Elmore County and the comprehensive plan to be utilized in making a decision on this application is the comprehensive plan for the City of Mountain Home. He stated staff has prepared supplemental findings in addition to the findings of the P&Z Commission.

Mr. Christy read the following summary which was included in the staff report: There may be potential conflicts with the development as proposed and future requirements under the applicable subdivision ordinance of the City of Mountain Home. If approved, these potential conflicts may be addressed at the time of the preliminary plat submittal. The applicant may also apply for a waiver from certain subdivision requirements at the time of preliminary plat submittal. Any future waiver would require a public hearing with the Planning and Zoning Commission. As a reminder to the Board, the decision before the Board is whether or not to overturn a planning and zoning commission decision and approve a conditional use permit to subdivide land. Staff recommends the Board open the public hearing and receive testimony. Staff has also prepared a list of condition of approval to consider if the Board decides to overturn the Planning and Zoning Commission decision.

Attorney Tom Lakey, representing the appellant, was the first to testify and provided written testimony to the board. Attorney Lakey feels that the decision by the P&Z Commission was incorrectly based on the Elmore County comprehensive plan and zoning ordinance and he believes that the comprehensive plan and zoning ordinance for the City of Mountain Home should have been used. He feels that the decision

was not supported by substantial evidence and the location of the subdivision in the impact area brings in the applicability of the city's comprehensive plan. Attorney Lakey stated that Mr. Carrie has done numerous other projects, particularly in this area and has shown himself to be a responsible and high quality developer and this project is consistent with the other projects in the area. Attorney Lakey reviewed a power point presentation depicting an overall aerial view of the proposed subdivision and comparable subdivisions immediately adjacent to the proposed subdivision. He also reviewed the three phase building process of the subdivision. Water, sewer and future annexation into the city were also reviewed. Attorney Lakey stated that this subdivision would provide easy access to the air force base and the interstate. It would also provide variety for those who do not want city sized lots. He stated that Mr. Carrie has taken the time and the expense to research this project. A nutrient-pathogen study was done by Geo Engineers, along with test hole drilling and review of other studies that had been conducted in the area, and their findings support development of the property. The study that was done resulted in a maximum of fifty three lots in the subdivision. Attorney Lakey reviewed groundwater levels for the aquifer in the area, and locations for wells and septic on each proposed lot.

Robert Walker was the next person to testify in support of the appeal. Mr. Walker provided written testimony for the record, which was a power point presentation depicting the groundwater level change maps for the Cinder Cone critical ground water area for the fall season between the years 1981 and 1991, 1991 and 2001, 2001 and 2011 and 1981 and 2011. Mr. Walker stated that in 2012 the Idaho Department of Water Resources did a study of the Mountain Home ground water management area, which also included the Cinder Cone critical ground water area. He reviewed the map, explaining that the groundwater flows from northeast to southwest, with the recharge coming from the higher plateau areas. The aquifer that is located near the proposed subdivision shows that there is ample water available for the proposed subdivision. Commissioner Corbus asked if there is any studies more recent than the 2011 study, showing the current water levels. Mr. Walker stated that this is the most current study, which was performed by the Department of Water Resources in 2012.

Jason Poulsen, Geo Engineers, was next to testify in support of the appeal. Mr. Poulsen discussed the nutrient-pathogen assessment that was done at the site. The purpose of the assessment is to assess the potential impacts to the groundwater quality from the proposed sewage disposals that are planned, which was produced in accordance with Department of Environmental Quality (DEQ) and Central District Health standards. In the assessment they reviewed geological conditions, and perched and regional aquifer conditions. The data compiled tells the location of where each septic system will be placed and how many septic systems the site can handle, based on the soil conditions.

Jim Carrie, was next to testify. He wanted to clarify that the septic tank areas are dictated by Central District Health and they are required to have a reserve area on each lot in case a septic tank fails. He also wanted to inform the board that he had several discussion with Mayor Rist regarding the city's area of impact and the ordinance requiring improvements to city standards. When his site was included in the

impact area, it was agreed that those improvements would not be required. He stated that Mayor Rist told him that the city has no interest in requiring the improvements to his site.

Gary Bermensolo was next to testify in support of the appeal. Mr. Bermensolo owns several properties in the county and the city. He stated that small builders have succumb to the larger home building companies and that the county should embrace anyone willing to risk their capital to develop in the county because these big businesses do not want to come from Boise to develop in Elmore County.

Ms. Essl asked if there was anyone else who would like to testify in support of the appeal. There were no others wanting to testify in support.

Ms. Essl stated that testimony would now be heard from those opposed to the appeal.

Jennifer Hamilton was the first to testify. Ms. Hamilton has lived near the proposed subdivision for six years. She stated that she is worried about the water situation. She recently paid \$3,000.00 to have her well lower and she does not want to have to worry about running out of water or having to pay to lower her well again.

Bob Peace was next to testify. Mr. Peace lives in the subdivision directly connected to the proposed subdivision. He is also a water tester for the two wells that provide water to the thirty three homes in his subdivision. He stated that they previously submitted reports for the record from DEQ regarding the water tests in their subdivision, which shows the static water level is decreasing.

Dave Dopps was next to testify. Mr. Dopps questioned the information presented regarding the aquifer levels. He stated that he has lived in his home since 1990 and he had to have his well lowered and a new pump put in. Since that work was done, his static level has dropped another forty five feet. He feels that with water being drawn to the city and farming irrigation in the area, they will be out of water very soon.

Jan Costanzo was next to testify. Ms. Costanzo stated that Mr. Carrie started out having five acre parcels in the subdivision and now wants one acre parcels instead. She asked if he could compromise and have two and a half acre parcels instead because she, like everyone else is concerned with the water levels.

Ben Costanzo was next to testify. Mr. Costanzo asked how the water runoff will be handled. The proposed site is higher ground than where he lives and in the past, after snow or heavy rain, if the site got too full, the extra water would runoff and flood his property. He would like to know what they are going to do about the issue once they build houses and there is a major runoff issue.

Connie Guyer was next to testify. Ms. Guyer is also concerned with water levels. She said that the area has been a critical groundwater area for several years and is concerned with how there will be enough water once so many new homes are added to the area. She moved to this area to have country living, not

to have fifty houses built in her front yard. Ms. Guyer is concerned with the impact of traffic on Frontage Road, with the possibility of one hundred cars traveling the road once fifty houses are built. She also stated that there are three houses on Frontage Road that were built sometime in 2004 and sat empty for several years, just recently selling, so she is concerned with what will happen to her property value when there are new lots and houses that may sit empty for years.

Anthony Klazura was next to testify. Mr. Klazura has an agricultural crop across the street from his house. When irrigation season starts, his well pressure drops and sucks air. He is concerned that when new houses are built, he will lose all of the water in his well and may have to dig another well. He stated that there are retirees that live near him that may not be able to afford to lower their wells or dig new ones if they lose their water as well.

Phyllis Whipple was next to testify. Ms. Whipple stated she is also concerned with the water situation. They own irrigated property, but were only allowed to irrigate until mid-June. They have let a lot of their lawn go as they have been trying to conserve water. She is concerned that adding fifty more houses with automatic sprinklers going all the time will deplete the water. She has had neighbors that have already had to lower their wells due to the water issues so they are already having to keep an eye on their water usage. Increased traffic on Frontage Road is also a concern for her.

Chuck Whipple was next to testify. Mr. Whipple has concerns with the increased traffic on Frontage Road. He travels the road daily and he feels that it can be quite dangerous. The side of the road slopes and is covered with very slippery gravel. If your tire leaves the pavement and gets caught in the gravel, it may result in an accident.

Rich McMahon was next to testify. Mr. McMahon also expressed his concern about the water levels. He feels that the Department of Water Resources can't be certain of how much water is in the ground. Chlorination systems, nitrate levels and septic systems are a major concern. He also feels that the traffic impact on Canyon Creek Road will be an issue. He had also heard that the site of the proposed subdivision was a sanitary landfill in the 1970's.

Jeffrey Hobbs was next to testify. Mr. Hobbs was the former president of the water association and stated that he submitted reports to P&Z regarding well testing in the subdivision. Hiddleston Drilling tested the water levels for their subdivision which showed that the water levels in their well has dropped seventy feet in the last ten years. Analytical Labs also did testing which showed nitrate levels for the last ten years. He feels that if the subdivision is approved and all of those additional wells are dug, all of the wells in the area will be drawing from each other until there is no water left and Mountain Home will be left a ghost town.

Charles Nichelson was next to testify. Mr. Nichelson stated that he has heard that well water from other Jim Carrie developments has become contaminated. He feels that Mr. Carrie just wants to sell lots and

does not care how they are developed. Mr. Nicholson lives on Frontage Road and has witnessed several accidents on that road over the years and increased traffic is a major concern.

Ms. Essl asked if there was anyone else who would like to testify in opposition of the appeal. There were no others wanting to testify in opposition.

Chairman Wootan asked if anyone had any further written testimony to submit into the record. None was submitted.

The board gave the applicant five minutes to prepare for rebuttal.

Attorney Lakey stated that he has worked with Mr. Carrie for nine years and that he is a quality developer who has done high quality upper end projects. Attorney Lakey reiterated that the studies support the individual wells and that Mr. Carrie will have the wells drilled before the lots are sold. He stated that the board has the ability to condition the approval on the utilization of a community water system. Mr. Carrie has been through a very long and time consuming process getting each aspect approved and is willing to work to make a compromise on the water issue. They are requesting a conditional approval and Mr. Carrie is willing to be subject to a requirement that a community water system be utilized on phase 2 and phase 3. He will use individual wells on phase 1 and if the community well system is approved before phase 1 is built out, he will put the remaining lots onto the community water system. Attorney Lakey stated that the Department of Water Resources has done their study and there hasn't been any significant change since then, but a community water system can help with the water issue. Instead of fifty three wells being dug, the community well can be dug on the northern most part of the property. Attorney Lakey feels that overall, the project is consistent with other subdivisions that have already been built in the area and Covenants, Conditions & Restrictions will be in place to insure that the quality of the homes and properties will be maintained.

Commissioner Hofer asked if both sides have ever met to come up with a compromise regarding the proposed subdivision. Mr. Carrie stated that he is flexible and would be willing to compromise, but has not been able to have any successful discussion with anyone regarding his project. Commissioner Hofer stated that he has heard several times from each side that they would be willing to compromise. Attorney Grant suggested continuing the hearing to a later date so the groups can get together to discuss any possible compromises.

The hearing was continued to October 23, 2015 at 5:00 pm in the Commissioners Room.

Motion by Wootan, second by Corbus, to adjourn.

WOOTAN..... -AYE

CORBUS -**AYE**
HOFER -**AYE**

Motion carried and so ordered.

WESLEY R. WOOTAN, Chairman

ATTEST:

BARBARA STEELE, Clerk