





**HOFER ..... -AYE** **Motion carried and so ordered.**

Christy Acord, Glens Ferry Economic Development Director, appeared to discuss funding from the Idaho Department of Commerce that is used to cover a portion of her salary along with funding from the county, the City of Glens Ferry and the Glens Ferry Chamber of Commerce.

Motion by Wootan, second by Hofer, to approve and sign the letter of support for Christy Acord to the Idaho Department of Commerce approving the county funds in the amount of \$10,000.

**WOOTAN ..... -AYE**  
**CORBUS ..... -ABSENT**  
**HOFER ..... -AYE** **Motion carried and so ordered.**

Snake River Rubbish appeared to discuss the Glens Ferry Landfill agreement and the Trash Hauling agreement.

Heather Reynolds, Traci Colton and Christy Acord appeared to discuss grant funding opportunities. They found a grant through AARP that they would like to apply for to purchase a handicap van to transport members of the community to appointments. The grant will fully fund the service for three to five years. Ms. Colton is working with the mountain Home Auto Ranch to get a van with a ramp. Ms. Reynolds stated that the senior center is willing to handle all of the scheduling. They would like to work with volunteer drivers. They need to work a lot of the details out, but they feel there is a need in the community. Attorney Grant has concerns regarding the criteria an individual would need to be able to use the service. They will do more research into specifics of setting up the program. They are also looking into other grants to help fund other county projects.

Motion by Wootan, second by Hofer, to authorize the filing of the AARP grant application for a van transportation program and that the commissioners support the operation of the program.

**WOOTAN ..... -AYE**  
**CORBUS ..... -ABSENT**  
**HOFER ..... -AYE** **Motion carried and so ordered.**

The board also discussed Ms. Colton taking over purchasing services for all county offices.

Motion by Wootan, second by Hofer, to approve the letter of support for the Orchard Training Center Simco East Training Area Project.

**WOOTAN ..... -AYE**  
**CORBUS ..... -ABSENT**  
**HOFER ..... -AYE** **Motion carried and so ordered.**

Treasurer Amber Sloan appeared to discuss a hardship tax cancellation application for Tom and Marlena Vallard.

Motion by Hofer, second by Wootan, to add the hardship tax cancellation application for Tom and Marlena Vallard to the agenda due to the timing of the county taking tax deed this afternoon.

**WOOTAN..... -AYE**  
**CORBUS..... -ABSENT**  
**HOFER ..... -AYE** **Motion carried and so ordered.**

Motion by Hofer, second by Wootan, to approve the hardship tax cancellation for Tom and Marlena Vallard, parcel no. RP00061012001BA in the amount of \$968.12 in late charge and interest and apply the remaining cost of \$458.79 to the 2015 taxes.

**WOOTAN..... -AYE**  
**CORBUS..... -ABSENT**  
**HOFER ..... -AYE** **Motion carried and so ordered.**

Motion by Wootan, second by Hofer, to approve the nomination of Steve Damele to the District #2 Animal Damage Control Board.

**WOOTAN..... -AYE**  
**CORBUS..... -ABSENT**  
**HOFER ..... -AYE** **Motion carried and so ordered.**

A short recess was taken, regular session resumed.

The county tax deed hearing was held. Treasurer Amber Sloan reviewed the tax deed properties. There are five parcels currently delinquent. Treasurer Sloan has followed the appropriate guidelines to contact the owners regarding the delinquent taxes. The six parcels are as follows:

- Owner: American Acres Inc                    RP04S04E115010A
- Owner: Phyllis A. Gomez                    RP00087008016AA
- Owner: Lloyd Sanders Trust                RP001630010080A
- Owner: Marjorie Streeter                    RPA00530020030A
- Owner: Maria Fe Wolske                    RP04S06E158210A

The hearing was closed.



amendments to the CUP's, the Development Agreement and the Findings of Fact Conclusion of Law and Order.

Chairman Wootan called the meeting to order. He asked that anyone wishing to submitted written testimony give it to the clerk at this time. Chairman Hofer asked if the board had any disclosures they would like to make. Commissioner Corbus stated that he received some emails from an individual that stated they would not vote for him in regards to the outcome of this issue. Chairman Wootan had no disclosures. Commissioner Hofer will again be recusing himself from participating in the public hearing.

Attorney Merlin Clark and Attorney Justin Cranney, representing S Bar Ranch, was first to speak. Attorney Clark stated that he will not be repeating everything that was stated in the first reconsideration hearing, but he wants it known that just because he will not be addressing those issues does not mean that they are waiving those issues. Today, they will be addressing the issues that they have not put into the record in the past and feel that should be in the record now. First, there was a question of no notice being received by S Bar Ranch for the initial Planning and Zoning (P&Z) hearing, but there is another defect in the notices that had gone out. Under I.C. 67-6512, if a variance or CUP is required for the height of the towers, then the location and height of the towers needs to be included in the notice, but none of the notices have included this information. Attorney Clark showed pictures of the current scenic view from the S Bar Ranch property and another picture with the wind towers superimposed into the view, showing how the view would be impacted by the addition of the wind towers. This is one of the big reasons for their objection to the project, because they don't want their scenic view destroyed by the towers. He raised a question as to whether S Bar Ranch has the right to protest any other CUP's but the wind towers, because a memo from the county attorneys states that S Bar Ranch is not an affected party. He pointed out that the P&Z staff report stated that the project would adversely affect recreation resources and the scenic and aesthetic character of the recreation experience. He feels that they have presented and argued to the commissioners that this project is in conflict with the county comprehensive plan and P&Z found that it is in conflict, but then the commissioners found that it is not in conflict. He feels that the decision is going to be an issue down the road as to who is correct about the impact of this project. P&Z found that putting in a 100,000 acre foot reservoir changes the landscape and character of the vicinity that is currently high desert as described in the staff report. P&Z also found that this project is not harmonious with the character of the vicinity and that existing windmills in Elmore County are on entirely different landscapes with entirely different environmental circumstances. That said, he feels that S Bar Ranch is an affected party, based on all of the CUP's. He pointed out that in early findings it was stated that all of the CUP's are unified and can't be separated, based on what was represented by Cat Creek. Now, that has been changed due to the commissioners allowing Cat Creek to delay construction of the project. As far as the issue of whether S Bar Ranch filed their objection in a timely manner, the county takes the position that in February 2016 the CUP's were approved. But, then they were modified in 2018. According Idaho Supreme Court case "Johnson v. Blaine County", until the applicant can permanently alter the land, anyone objecting to it cannot appeal the decision or have it reviewed. What the court said in that case is, the time to appeal or protest does not arise until the commissioners have taken the final action required to

allow the applicant to permanently do something to the ground. It is his position that time to protest did not start until the commissioners approved the development agreement and the amendments in March 2018, allowing the applicant to permanently alter the land, so he feels that makes the filing of the request from S Bar Ranch timely. It was pointed out in the request for reconsideration that the value of the ranch property will be materially reduced if these towers and this project is allowed to go forward. S Bar Ranch received a preliminary MAI appraisal report, with an estimated value loss of \$330,000.00 on the property if the project is completed. He feels that the modifications, conditions and CUP's violated the Idaho statute under LLUPA and the county ordinance as well, which basically states that if the CUP's are changed, the applicant has to go back and apply for the change, and that wasn't done. He understands that the county took the position that they held four public hearings, but the first one was deferred, at the second meeting there were over a thousand differences in the development agreement that neither side could agree on, at the third meeting no conclusion was reached and at the fourth meeting a conclusion was reached, but there was no notice given about what was going to be done at the fourth meeting. He understands that the county takes the position that they notified people that there would be that fourth meeting where people could have attended and spoke up, but he feels that the law requires that the county give notice of what they are going to do at the meeting, which they didn't do. When the commissioners changed the CUP to allow the applicant to differ the development of the hydro project, they did not give advanced notice of the change, which he feels is a fatal defect in the process. He also feels there is a disagreement as to the meaning of the language "expanded and refined" in condition number two. As near as he can tell there were ten different changes made in the CUP's and the development agreement in reliance on that provision and he feels that being allowed to "expand and refine" does not allow them to make changes "carte blanche". The site plan was also changed, but according to the county ordinance, any modification requiring a new master site plan shall require a new conditional use approval, which was not done. He stated that the county attorneys are recommending that the commissioners hold a public hearing regarding this second request for reconsideration. He assumes that the hearing will be to try and correct the mistakes that have been pointed out in the requests and give the public another chance to present their views on the project, but he feels that it isn't going to change the fact that this project conflicts with the county comprehensive plan. Commissioner Corbus asked for some clarification on the S Bar Ranch property in question. According to the preliminary appraisal submitted by S Bar Ranch, , there is 80 acres and Commissioner Corbus asked if the property had an airplane hangar and a runway on it, just to clarify that he had the correct property in mind. Attorney Clark stated that there is a runway on the property, but he is not sure there is an airplane hangar, and there is approximately 3,000 acres total. Commissioner Corbus stated that the appraisal states there are only 80 acres. Attorney Clark said that the appraiser was only looking at the portion that would be affected by the view of the tower placement. He stated that there are places that S Bar Ranch would not object to the placement of the towers, but the current proposed location will cause an adverse effect on the 80 acres.

Those in favor of the reconsideration spoke.

Kim Thompson stated that she and her husband own 713 acres directly across the road from the proposed wind towers, which drastically reduces their real estate value and their view. They both live, vote, work and trade in Elmore County, their dollars are spent in Elmore County. They urge the commissioners to grant the second request for reconsideration to give everyone a level playing field for notice of all hearings, and to let everyone give their opinions.

Allen Thompson stated that one of the things he is curious about is, with such a big complex, there has to be some big transmission line included in this project, but he has never seen a map and has no idea where the transmission lines will go. The reason it is important to him is that, as his wife stated, they own 700 acres right across the road from the project, so where will the lines run? Will they run through his property, or will they go over the hill toward Pine, or maybe 40 miles away down to Mountain Home? He asked if the commissioners have ever seen a map delineating the transmission lines or if they have an idea of where they will go. The commissioners stated they have not seen any maps. Mr. Thompson feels that there are two factions in the room today, one who is in favor of Cat Creek Energy development and the other who is opposed to the development. He asked for those in the audience, who are voters who live in Elmore County, to raise their hand if they are in favor of the project. Then he asked for those, who are voters who live in Elmore County, to raise their hand if they are against the project. The results show him that no one who lives in Elmore County, or votes in Elmore County is in favor of the project, and fourteen people raised their hand as against the project. He feels that the wants and needs of these people are not being considered by the commissioners. He feels that down the road, the approval of this project is going to become a series of costly legal challenges for the county, but there is a chance to turn that around with the reconsideration. He feels that if this project goes forward, it will turn a really nice area into an eyesore.

Harry Taggart stated that families like to drive through that area to enjoy the scenery, but can you imagine the heartbreak when they take their kids out there only to see the skyline that is being planned here. People drive up there at night to see a pristine star filled sky, away from the light pollution from Boise and Mountain Home. That all goes away with the flashing red lights from the towers. He feels that the commissioners are the stewards of the resources in Elmore County, and he feels that if they readdress their decision, they will come to a better conclusion.

Mary Abrahamson stated lives in and owns property in Mountain Home, and also owns a property in Pine, so she not only lives in this county, but pays taxes here too. She is 100% against the Cat Creek Project. Once, while she was traveling out of state, they passed by a windmill farm and it made her sick to think that one day, Elmore County may look like that. She has grandchildren that will be using the property in Pine long after she is gone. Her parents bought the property for their children and grandchildren, and she is doing the same. She asked that the commissioners not ruin Elmore County just so someone can make a few extra dollars.



Ted Thompson stated that the site plan has materially changed from what was originally presented. He feels that the project deserves reconsideration because now, more people are affected and they apparently were not afforded the opportunity to give their input, and they should be afforded that opportunity.

Scott Bodle is asking for the reconsideration as a sportsman, as he is a member of the Idaho State Bowhunters. He attended the November 2016 public hearings and spoke with some people from Fish & Game about concerns they had with migration corridors and Sage Grouse habitats. He camps, hunts and fishes every day that he can in that area, so he is concerned as to how the project will affect the wildlife and his hunting and fishing opportunities, especially big game, with all of the deer and elk that migrate down through there. He hunts an average of eighteen days in November when a lot of deer and elk move through that area. He feels if the migration pushes them into an area where is doesn't get to hunt, that will make a difference in his ability to hunt.

Albert Devoy stated that he has concerns because this is a raptor area and the project will be putting up towers that will slice up the birds. He asked if impact studies were done regarding those issues.

Those neutral to the reconsideration spoke.

Attorney Buzz Grant, representing Elmore County, spoke to the comment that was made regarding there being two factions in the room today. He stated that there are actually three factions in this room, those in favor of the project, those against the project and then the county's view, which is to insure a fair and equitable process for the residence of Elmore County. The second request for reconsideration is, to some degree, is a restatement of the first request for reconsideration and that matter has been decided and is not subject to review. There have been some adjustments and further arguments to those points, and the county has responded to those. He will differ the county's position to the excellent memorandum that was prepared by Attorney Scott Hess that was given to the commissioners, which addresses in extensive detail the various arguments pertaining to the request for reconsideration. S Bar Ranch has pointed out several notice deficiencies. The county has come to a consensus that there are some deficiencies in some of those notices. There has been extensive notice in connection with this project, and notwithstanding some technical deficiencies in a notice, S Bar Ranch's due process rights have not been deprived from that. If they are here and are presenting written materials to the commissioners, he doesn't understand how they can claim the notice was defective, when they have actual notice and are appearing before the commissioners. The county and Cat Creek took recommendations made by S Bar Ranch legal counsel, adjusted and revised the development agreement based upon those recommendations, and then subsequently approved the agreement, so for them to say the county didn't give them proper notice does not make sense. He wanted to point out that the "preliminary" appraisal is just that, it was someone's opinion, not based on any comparable sales, etc. and asked the commissioners to keep that in mind. In regards to the comment from Attorney Clark that S Bar Ranch's position is that it the project can't be approved until the water provisions in the development agreement have been finalized, Attorney Grant feels that this is not the case. That is one condition of many associated with the CUP. If every condition had to be satisfied before the project could be started, that wouldn't work. For example, one of the

conditions is security fencing, which wouldn't be done until the project is built. So again, if the condition is not met, the permit goes away. The county's position is that this was finally decided on February 10, 2017, the appeal period for that expired on February 24, 2017, and the base approval of the CUP's has taken place so the appeal period for that has expired as well. As a part of the development agreement, the county amended the CUP and held four public hearings, following notice in connection with those. That is a proper subject for review by the commissioners, and is a proper subject for request for reconsideration by S Bar Ranch, and in part, that is what they are doing, but they are asking for it to be sent all the way back to P&Z, and the county does not feel that that is a necessary process. The county does recommend, in spite of the fact that it firmly believes no due process rights were violated, that the commissioners conduct one more hearing in connection with the CUP amendments, to allow S Bar Ranch to come forward and address those changes that were made, and to give Cat Creek Energy a chance to respond. There was a reference made in regards to the site plan change. Yes, the change was made, the CUP was amended according to state law, and that was just part of the amendment to the CUP. It is the county's belief that a new CUP application is not required just to change a site plan, that an amendment to the CUP would be an effective change for the site plan. In conclusion, the county recommends that commissioners conduct one additional hearing on the amendment of the CUP's.

Those opposed to the reconsideration spoke.

Attorney Shannon Pierson, representing Cat Creek Energy, stated that Cat Creek is in opposition to the second request for reconsideration, due to the timeline to appeal was not timely and, as was stated earlier, that the attorney for S Bar Ranch provided correspondence, which was taken into consideration by Cat Creek, who then modified the development agreement based upon that correspondence. The time and opportunity to be heard and make any claims has passed, so there is no basis to have this matter reconsidered. They agree with everything recommended by the county in their memorandum, except for opening it up to another public hearing. The county stated in their memorandum that they followed all laws and statutes and all notice requirements were met, so there is no need to hold another hearing, allowing it opened up to not only S bar Ranch to be heard, but everyone to bring all of their issues forth once again. Everything, including the visual aesthetics have been addressed in prior hearings, so there is no need to readdress it at another hearing.

Attorney Gary Sletty, representing Cat Creek Energy, feels that the county should deny the second request for reconsideration. The county's memorandum states that the county has met the minimum requirements for processing all aspects of the application, as the law focuses on "did you meet the minimum requirements", the county is not required to go above and beyond to give S Bar Ranch, or anyone else, additional opportunities to provide further testimony. If the county does more than is required, he is concerned that down the road it will lead to a third attempt at another reconsideration and another judicial review. In reference to the testimony regarding "Johnson vs. Blaine County", that case involved the approval of a preliminary subdivision planned unit development plat and there is a distinction to be made, in that case, to a "preliminary" plat and a final plat. Did the preliminary plat allow the ground to be

disturbed, if so it was appealable, if not then it was not appealable. But that does not equate to the CUP's that the commissioners approved. In regard to the "hand count" that was taken earlier, he found it improvident, as part of the reconsideration, to have someone turn around to the audience and ask who lived here and voted here and who is opposed to the project. But to be honest, the population of Elmore County, according to the 2010 census was 29,130 people. So take away the fourteen people that are here today standing in opposition, and that would leave 29,116 people who either support the project, or are unable to attend today. He asked the commissioners to look at the minimum requirements that they have met and then some, and deny the request.

Jack Faulkner is in favor of the project. He understands that it is the gateway to the forest, but it is also private property and he believes in private property rights. He feels that this will be a great project which will generate renewable energy and a large property tax increase for Elmore County. He asked that the request be denied.

Attorney Clark gave his rebuttal. He feels that the county's memorandum was well done and that the commissioners should follow the advices, which would mean to give notice and hold another hearing. The way he understood the memorandum was that the county had not met all of the statutory requirements and had not met minimum requirements for notice and hearing and that is why legal counsel is recommending that the commissioners do so. What he has already pointed out is that the commissioners can do that, go back and correct the mistakes that were made, but that doesn't change the fact that they are not in compliance with the comprehensive plan if they approve the project.

The commissioner took the case under advisement and asked legal counsel to draft findings for their review based on today's hearing. The commissioners will deliberate the matter on May 18, 2018 at 11:00 a.m. The hearing was closed.

Motion by Hofer, second by Wootan, to adjourn.

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

**Motion carried and so ordered.**

**/S/ WESLEY R. WOOTAN, Chairman**  
**ATTEST: /S/ BARBARA STEELE, Clerk**