

Motion by Hofer, second by Corbus, to approve the payment to Gina Gregerson of the excess funds from the sale of a tax deed property.

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

Motion carried and so ordered.

Motion by Hofer, second by Wootan, approve and sign the County Fuel Contract with Hiler Brothers Co.

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

Motion carried and so ordered.

Motion by Corbus, second by Wootan, to approve the Ambulance District Expenses in the amount of \$14.07, payable to Office Value Meridian.

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

Motion carried and so ordered.

Motion by Hofer, second by Corbus, to approve and sign the catering permit for Stew’s Place for the Mountain Home Country Music Festival.

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

Motion carried and so ordered.

Motion by Hofer, second by Wootan, to suspend the reading of Resolution No. 594-16 and refer to it in title only.

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

Motion carried and so ordered.

Motion by Hofer, second by Wootan, to approve Resolution No. 594-16 Solid Waste Fee Increase

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

Motion carried and so ordered.

RESOLUTION NO 594-16

AT A MEETING OF THE BOARD OF ELMORE COUNTY COMMISSIONERS, STATE OF IDAHO, ON THE 13th DAY OF MAY, 2016, THE FOLLOWING RESOLUTION WAS ADOPTED, TO WIT:

WHEREAS, Elmore County, acting through its Board of County Commissioners, pursuant to I.C. §31-601 and §31-604 has the authority to effectively carry out the duties imposed by the provisions of the Idaho Code and Constitution; and

WHEREAS, Elmore County has established and continues to maintain and operate a solid waste disposal system pursuant to I.C. §31-4401 *et seq*; and

WHEREAS, I.C. §31-4404 permits the County to impose a fee on users of said solid waste disposal system; and

WHEREAS, the Board of County Commissioners recognizes that the current solid waste fees are not sufficient to support the cost of operating, maintaining and/or improving the Elmore County solid waste disposal system; and

NOW, THEREFORE, BE IT RESOLVED by the Elmore County Board of County Commissioners in lawful assembled meeting as follows:

The Board authorizes an increase in the solid waste fees as follows: each solid waste fee assessed by the County is increased by an amount of 5%. The schedule of fees is available for review in the Elmore County Assessor’s Office.

IT IS FURTHER ORDERED that the fee increase shall be effective immediately.

DATED this 13th day of May, 2016.

ELMORE COUNTY COMMISSIONERS

- /S/ FRANKLIN L. CORBUS, Chairman**
- /S/ WESLEY R. WOOTAN, Commissioner**
- /S/ ALBERT HOFER, Commissioner**
- ATTEST: /S/ BARBARA STEELE, Clerk**

Motion by Corbus, second by Hofer, to approve the Certificate of Residency application for Heather R. Dockstader.

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

Motion by Corbus, second by Hofer, to approve and sign the letter of support for Elmore Ambulance Service for state EMS grant funding.

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

Motion by Hofer, second by Wootan, to approve the minutes for April 29, 2016.

CORBUS -**AYE**

WOOTAN..... -**AYE**

HOFER -**AYE**

Motion carried and so ordered.

The board opened and reviewed one request for bid packet for repairs to the building at the Bennett Road Landfill, which was received from Ytuarte Concrete Inc.

Motion by Hofer, second by Corbus, to accept the bid proposal and award the contract to Ytuarte Concrete Inc. for repairs to the building at the Bennett Road Landfill in the amount of \$72,656.00.

CORBUS -**AYE**

WOOTAN..... -**AYE**

HOFER -**AYE**

Motion carried and so ordered.

Motion by Corbus, second by Hofer, to go into Executive Session pursuant to I.C. 74-206(f) to discuss pending litigation. Roll call vote was taken.

CORBUS -**AYE**

WOOTAN..... -**AYE**

HOFER -**AYE**

Motion carried and so ordered.

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

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

CORBUS -**AYE**

WOOTAN..... -**AYE**

HOFER -**AYE**

Motion carried and so ordered.

Regular session resumed.

Motion by Corbus, second by Wootan, to approve the expenses for two employees to attend the ICADD training conference.

HOFER -**AYE**

CORBUS -**AYE**

WOOTAN..... -**AYE**

Motion carried and so ordered.

Motion by Wootan, second by Hofer, to take Tax Deed on parcel #RP05S06E063010A, owned by Alliance Funding, RP001620010060A, owned by Adam L. Galliano and Shawna Galliano, RPB0070035011AA, owned by Jimmie W. Heffley, RPA00390010190A, owned by Johnson Properties LLC, RP03S06E152040A, owned by Alene Lish c/o Elsie R. Smith and RPB0099015011AA, owned by Lottie Sarafin

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

Motion carried and so ordered.

Motion by Corbus, second by Hofer, to approve Tax Cancellation No. 1323 Johnson Properties, LLC- \$150.00.

CORBUS -AYE
WOOTAN -AYE
HOFER -AYE

Motion carried and so ordered.

A short recess was taken. Regular session resumed.

A continuation of a reconsideration 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 Bud Corbus, Commissioners Wes Wootan 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 Corbus called the meeting to order. Roll call vote was taken and the public hearing was opened.

Commissioner Wootan made a disclosure statement for the record, stating that on April 6, 2016 he contacted the Idaho Department of Water Resources for information on trust water.

Chairman Corbus stated that anyone wishing to submit any additional written testimony needed to hand it to the Deputy Clerk at this time to be entered into the record. Several pieces of written testimony were handed in and copies of the documents were made for the board. Chairman Corbus asked if anyone else had any other written testimony they would like to submit for the record and no one else came forward.

Mr. Christy reviewed a summary of the rules for the public hearing. He reminded the audience that testimony will be limited to only testimony regarding water rights for the proposed subdivision. He also reminded the audience that those who will be testifying will have a time limit and asked that once the timer goes off for them to please end their testimony. He also stressed that the audience members be courteous and quiet while others are testifying.

Chairman Corbus stated that the board wants everyone to have an opportunity to speak and that sign in sheets were available for those that wished to speak.

Mr. Christy gave a brief summary of the staff report which included a background of the procedures used in the history of the project and the board was provided copies of the staff report for their review. The board was also provided with a supplemental staff report which included additional information that was received from the Idaho Department of Water Resources (IDWR). On April 8, 2016 the board conducted

deliberations of the reconsideration hearing and determined that more information was required regarding water rights for the property, so the board decided to re-open the hearing and only accept testimony in regards to the water right for the property. Mr. Christy requested the additional information from Attorney Scott Campbell, water attorney for the county, and attached a memo regarding his findings to the staff report. Some limited information regarding the water right provided by the Idaho Department of Water Resources was also attached to the staff report.

Attorney Scott Campbell addressed the questions Mr. Christy presented to him regarding the water right. Attorney Campbell explained that Water Right No. 61-12303 is a valid water permit, which would allow the owner of the permit to proceed to develop a water right but is subject to all of the conditions of approval contained in the permit. The most significant limitation is that this water right is subject to the “trust water” designation. Condition 10 of the permit states that this water permit will be re-evaluated in ten years, which is somewhat problematic in terms of having an assurance that this water right will be in place in five plus years. The “trust water” designation also limits the exercise of this water right to any period of time when the Swan Falls minimum stream flows are not being violated. Historically, the minimum stream flows during the summer months have not been violated, but there have been occasions during drought where the director of the IDWR has sent out letters stating that the water right could be subject to curtailment if the minimum flows do not come back, so this could pose a danger of future water to those individuals who purchase homes in the subdivision. Also, if the conditions of approval for this water permit or potential license are violated, IDWR can enforce the violations against the homeowners and subject them to fines, in addition to revoking the water permit or license.

Attorney Fred Shoemaker representing the appellant Jim Carrie was first to testify. He discussed the water permit that Mr. Carrie acquired for the proposed subdivision and stated that the permit helped Mr. Carrie’s case by demonstrating that there is water available for fifty three wells to be dug. Also, the water consumption will be limited to 13,000 gallons per day and irrigation limited to ½ acre, so the availability of the quantity of the water does apply. Attorney Shoemaker also stated that Mr. Carrie does not intent to build a community water system, which has become a contentious issue between the county and Mr. Carrie. He feels that the county asked the wrong questions of Attorney Campbell and IDWR in the context of the permit. Mr. Carrie intends to only utilize the permit for the information regarding the quantity of the water. So, instead of relying on the permit to develop this subdivision, the plan is to utilize a provision of the Idaho statute that states “domestic water use is excepted from needing a water permit”. Mr. Carrie will not be utilizing the water permit for a community water system, but will be relying upon the statute that states he does not need a permit. Mr. Carrie is not seeking to build a community water system because the permitting process through DEQ takes in excess for five years and that is longer than the water permit is guaranteed to be good for. He does not want someone to buy a lot only to have no water available. Attorney Shoemaker stated that by requiring a community water system, Mr. Carrie is losing his right to develop the property. He also feels that the wrong ordinance was referenced regarding the comprehensive plan and how it relates to Mr. Carrie’s subdivision and the requirement for a community water system.

Chairman Corbus stated that testimony would now be heard from those in favor of the reconsideration of the appeal. There were no others wanting to testify in favor of the reconsideration.

Chairman Corbus stated that testimony would now be heard from those neutral of the reconsideration of the appeal. There were no others wanting to testify as neutral of the reconsideration.

Chairman Corbus stated that testimony would now be heard from those opposed to the reconsideration of the appeal.

Jeffrey Hobbs was first to testify. Mr. Hobbs feels that Mr. Carrie needs to comply with the conditions. Regarding the water right and a test well done by Mr. Carrie's engineer, he questioned how deep the test well was dug. Everyone in his subdivision has had to install flow meters on their wells due to high coliform and e-coli and he would like to know if Mr. Carrie will require expensive chlorine pumps in wells on the lots purchased in his proposed subdivision. Mr. Hobbs stated that the subdivision where he lives has fifty eight homes on twenty eight acres. He feels that the rise in nitrate levels in his subdivision is due to the high density of homes and that the same thing will happen in the proposed subdivision in the future.

Connie Guyer was next to testify. She asked Attorney Campbell if individual wells are harder to monitor versus a community water system. Attorney Campbell stated that in his experience regarding domestic wells, IDWR does no monitoring, requires no measuring devices and does no regulation of those wells unless it becomes obvious that everyone with domestic wells are exceeding the ½ acre irrigation rule. She also asked if the trust water levels go below what is allowed, will that have an effect on the ability to get water in the proposed subdivision. Chairman Corbus stated that if the levels are low it will have a direct impact on the well water in the subdivision.

Nathan Stotesbery was next to testify. He wanted clarification on how many lots are going to be in the proposed subdivision. He thought it was decided that there will be twenty six lots in the subdivision and today he keeps hearing discussion of fifty three lots. Chairman Corbus stated that the commissioners discussed twenty three lots in an earlier deliberation and that today's discussion is about water rights only.

Richard McMahon was next to testify. His main reason for protesting the subdivision is water. He has submitted paperwork at previous hearings regarding static levels of his well, which drop yearly. He feels that fifty three news wells is too much and will just drain neighboring wells. He agrees that everyone has the right to have a domestic well, but the line needs to be drawn somewhere. He does not want to have to pay an expensive bill to deepen his well.

There was no others wanting to testify.

Attorney Shoemaker gave a rebuttal and final comments. In response to comments made by residents in the neighboring subdivision regarding water concerns, Attorney Shoemaker stated that the residents should be applauding Mr. Carrie for his willingness to dig individual wells four hundred feet or more past the perched aquifer that feeds the neighboring subdivision. He understands their concerns over the dropping levels of their wells and that they may have to drill their wells deeper someday, but that will not be caused by Mr. Carrie's subdivision, it will be because of other uses such as agricultural users taking surface water that cannot recharge quick enough. He feels that these are the uses that cause the perched water levels to drop. He believes that the board has the power to state that Mr. Carrie's individual wells shall have monitoring mechanisms to provide the limitation on water usage. Attorney Shoemaker also feels that maybe a little regulation is needed to ensure that the water rights of the neighboring property owners are protected to the extent possible. He stated that Mr. Carrie is willing to recognize his obligation to protect the property interests of others and the water interests of others, but he would also like the ability to develop his property.

The hearing was closed.

The board will take the matter under advisement. Deliberations will be on Friday, May 20th at 3:00pm.

Landfill issues were discussed.

Motion by Corbus, second by Hofer, continue the meeting at the new county building on American Legion Boulevard to conduct a walk through and then adjourn.

CORBUS..... -AYE

WOOTAN..... -AYE

HOFER -AYE

Motion carried and so ordered.

/S/ FRANKLIN L. CORBUS, Chairman

ATTEST: /S/ BARBARA STEELE, Clerk