

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

A Hearing of Reconsideration was held on case K-09-17-02. Present at the hearing were Chairman Al Hofer, Commissioners Bud Corbus and Wes Wootan, Civil Attorney Buzz Grant, Clerk Barbara Steele, Deputy Clerk Shelley Essl, Social Services Director Deb Marceau and Social Services Assistant Trish McCain.

Regular session resumed. The following decision was made as a result of the Executive Session:

K-09-17-02 Motion by Wootan, second by Hofer, to continue the hearing until March 2, 2018 at 11:00 a.m. due to an issue with the recording system being unable to record the hearing.

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

Motion by Hofer, second by Wootan, to approve the Ambulance District Expenses in the amount of \$211,720.95, payable to Les Schwab Tires-\$237.78, RTI-\$140.86, Verizon Wireless-\$200.40, Elmore County-\$4,726.67 and Elmore Medical Center-\$206,415.24.

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

Motion by Hofer, second by Wootan, to approve the Pest Abatement District Expenses in the amount of \$5,657.24, payable to Elmore County-\$5,192.21, Xerox Financial Services-\$114.00, Centurylink-\$107.82, Verizon Wireless-\$53.16, Office Value-\$103.54 and Mountain Home Auto Parts-\$86.51.

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

Motion by Hofer, second by Corbus, to approve the expenses in the amount of \$400,352.00.

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

Motion by Hofer, second by Corbus, to approve the payroll for January 2018 in the amount of \$548,985.02.

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

Motion by Hofer, second by Corbus, to appoint Tim Corder, Jr. to the Elmore County Fair Board.

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

Motion carried and so ordered.

Motion by Wootan, second by Hofer, to hold the Hearing of Reconsideration on case K-09-17-02 that was rescheduled earlier in the meeting as the recording system issue was resolved.

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

Motion carried and so ordered.

Motion by Hofer, second by Wootan, to go into Executive Session pursuant to I.C. 74-206(d) – 31-874 to hold a Hearing of Reconsideration on case K-09-17-02. Roll call vote was taken.

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

Motion carried and so ordered.

A Hearing of Reconsideration was held on case K-09-17-02. Present at the hearing were Chairman Al Hofer, Commissioners Bud Corbus and Wes Wootan, Civil Attorney Buzz Grant, Clerk Barbara Steele, Deputy Clerk Shelley Essl, Social Services Director Deb Marceau and Social Services Assistant Trish McCain. Questions were asked and answered and the hearing was closed.

Regular session resumed. The following decision was made as a result of the Executive Session:

K-09-17-02 Motion by Hofer, second by Wootan, to take the case under advisement.

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

Motion carried and so ordered.

Karl Spencer, Corporate Technologies, LLC appeared to discuss IT support services that his company can provide to the county.

A short recess was taken, regular session resumed.

Alexis Pickering appeared to give the board an update on the Central District Health assessment involving public and community health and to develop ways to support community health initiatives.

Motion by Hofer, second by Wootan, to approve Tax Cancellation No. 1382 Stephen P. Short-\$422.36.

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

CORBUS..... -AYE

Motion carried and so ordered.

Motion by Hofer, second by Wootan, to adjourn for lunch and a jail inspection.

HOFER..... -AYE

WOOTAN..... -AYE

CORBUS..... -AYE

Motion carried and so ordered.

Regular session resumed.

A public hearing was held for the Development Agreement between Cat Creek Energy, LLC and Elmore County pertaining to Conditional Use Permits CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06 and CUP-2015-07 for pump storage hydro electrical generating facility, PV solar electrical generating facility, wind turbine electrical generating facility, transmission lines and substation, and an ordinance adopting the same, and consideration of revisions to the master site plan for the project.

There were no disclosures by the commissioners.

Beth Bresnahan, Land Use and Building Department Director read a brief summary of the rules for the hearing.

Attorney Terry Pickens-Manweiler, representing Cat Creek Energy spoke first. The only outstanding issues is with the water provisions. She presented the board with a draft of the development agreement which included Cat Creek’s proposed water provisions. They were unable to reach an accord with Attorney Campbell last week, so she would like to work through it with the commissioners. They proposed that Cat Creek will build the infrastructure to pump water to Little Camas, but the only way the financier would cover the construction is if Cat Creek owns the infrastructure. The way she reads Attorney Campbell’s version is that Cat Creek will build the infrastructure and in turn hand it over ownership to the county, but Cat Creek simply cannot do that. She also added the provision that Cat Creek will pump the water and bill the county a cost of \$58.57 per acre foot and the actually cost of the power to pump the water. Commissioner Corbus asked if that meant that the county will be paying for the infrastructure. Ms. Pickens-Manweiler stated that over the course of forty years, yes, but essentially, the county would be paying for it by either building their own infrastructure or having Cat Creek build it and the county pay the proposed fees for pumping the water. Commissioner Corbus pointed out that if the county builds their own infrastructure then the county would own it, but by paying Cat Creek to pump the water, the county would end up paying for an infrastructure they would not own. Ms. Pickens-Manweiler stated that Cat Creek would also be responsible for maintaining and repairing the infrastructure over the years as well, which will not be an added cost to the county. She also stated that the county is in no way bound to use the infrastructure if the development agreement is approved, it will just state that the infrastructure will be available for county use and if the county does decide to use it, they will then, and

only then be charged the fees to pump the water. They are hoping to have this agreement in place very soon so they can move forward with the project.

Those in favor of the project were first to speak.

Attorney Gary Slette, representing Cat Creek Energy, reviewed water provisions that he has been working on with Attorney Campbell, with the major provision being if the county does not pump any water, they will not be charged any fees by Cat Creek. It will not be a mandatory monthly fee charged to the county regardless if they get water or not, it will be on a “pay as you go” basis, based on whether or not any water is pumped. Commissioner Corbus asked if all of the water issues were resolved in the negotiations. Attorney Slette stated that they were not, but they are still working together to get them resolved.

Those neutral to the project were next to speak.

Attorney Scott Campbell, representing the county, stated that the negotiation of the water issues has been a very difficult process. They have been working through the two versions of water provisions, trying to come to an agreement. He reviewed the approved conditions regarding provisions for water that need to be included in the development agreement, but they cannot seem to agree on these required provisions. Attorney Campbell stated that he cannot recommend the county approve the proposed water provisions from Cat Creek, as they conflict with the approved conditions.

Ted Thompson stated that if the project were to move forward, it must include the delivery of water. He has read the two versions of the water provisions. He has some concerns on how the infrastructure will be maintained and what the county’s recourse will be if it is not properly maintained.

Those opposed to the project were next to speak. No one was present.

Ms. Bresnahan reviewed a letter her office received last night from a property owner close to the project, who stated they had not received all notices regarding the Cat Creek project. Ms. Bresnahan stated that they sent out notices to all of the property owners that their office has had since the beginning. Notices were also posted on the property of the proposed project during every step of this process. The letter states that this particular owner did receive some notices, but not all. Ms. Bresnahan stated that her office uses the same mailing list for every notice they have sent out, so she is unsure of why this property owner received some but not all.

Attorney Pickens-Manweiler feels that they have worked in good faith. She and Attorney Grant made several compromises in their portion of the agreement, but the water is still an issue. She reiterated the fact that Cat Creek cannot pay the entire cost for the infrastructure to pump the water, the county needs to pay their share to get the water that they need. If the water issues cannot be resolved today, they would like to move forward with the development agreement so they can begin with the wind and solar aspects

Motion by Wootan, second by Corbus, to approve Resolution No. 652-18 Adoption of the Development Agreement in connection with the Cat Creek Energy, LLC Conditional Use Permits (CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06, CUP-2015-07).

HOFER -RECUSED

WOOTAN -AYE

CORBUS -AYE

Motion carried and so ordered.

RESOLUTION NO. 652-18

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF ELMORE COUNTY ADOPTING A DEVELOPMENT AGREEMENT IN CONECTION WITH THE CAT CREEK ENERGY, LLC CONDITIONAL USE PERMITS (CUP 2015-03, CUP 2015-04, CUP 2015-05, CUP 2015-06, CUP 2015-07)

WHEREAS, Title 67, Chapter 65 of the Idaho Code (“Local Land Use Planning Act”) and Article 12, Section 2 of the Idaho Constitution provide authority for Elmore County to adopt land use and regulation ordinances to protect the health, safety, and welfare of their citizens;

WHEREAS, the Board of Commissioners of Elmore County (the “Board”) on February 10, 2017, conditionally approved CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06, and CUP-2015-07 for Cat Creek Energy, LLC (the “Applicant”) pursuant to the Findings of Fact, Conclusions of Law and Order dated February 10, 2017 (the “Approval”);

WHEREAS, the Approval contained certain conditions, one, Condition No. 2, of which was for the Applicant and Elmore County to enter into a recorded development agreement by November 15, 2017;

WHEREAS, on or about October 20, 2017, the Applicant requested the Board, pursuant to a public hearing with notice, to extend the amount of time it had to complete the development agreement from November 15, 2017 until May 15, 2018, as such extension was permitted in Condition No. 2 of the Approval;

WHEREAS, on December 1, 2017, the Applicant came before the Board in a public meeting to request a future hearing for approval of the development agreement, which the Board granted;

WHEREAS, on December 22, 2017, the Board, pursuant to a public hearing with notice, conducted a hearing on the development agreement, which hearing was continued until January 26, 2018; and

WHEREAS, on January 26, 2018, pursuant to a public hearing with notice, the Board continued the hearing on the development agreement and following the hearing held deliberations and takes the action described below.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY A 2-0 VOTE (HOFER RECUSAL), that the Board hereby adopts and approves the Development Agreement in the form set forth on Exhibit A (the “Development Agreement”), for that real property (the “Property”) described therein, which exhibit is attached hereto and made a part hereof.

Dated this 9th day of February, 2018.

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

Motion by Wootan, second by Corbus, to approve Ordinance No 2018-01 Adoption of the Development Agreement in connection with the Cat Creek Energy, LLC Conditional Use Permits (CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06, CUP-2015-07).

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

Motion carried and so ordered.

ORDINANCE NO. 2018-01

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF ELMORE COUNTY ADOPTING A DEVELOPMENT AGREEMENT IN CONECTION WITH THE CAT CREEK ENERGY, LLC CONDITIONAL USE PERMITS (CUP 2015-03, CUP 2015-04, CUP 2015-05, CUP 2015-06, CUP 2015-07).

WHEREAS, Title 67, Chapter 65 of the Idaho Code (“Local Land Use Planning Act”) and Article 12, Section 2 of the Idaho Constitution provide authority for Elmore County to adopt land use and regulation ordinances to protect the health, safety, and welfare of their citizens;

WHEREAS, the Board of Commissioners of Elmore County (the “Board”) on February 10, 2017, conditionally approved CUP-2015-03, CUP-2015-04, CUP-2015-05, CUP-2015-06, and CUP-2015-07 for Cat Creek Energy, LLC (the “Applicant”) pursuant to the Findings of Fact, Conclusions of Law and Order dated February 10, 2017 (the “Approval”);

WHEREAS, the Approval contained certain conditions, one, Condition No. 2, of which was for the Applicant and Elmore County to enter into a recorded development agreement by November 15, 2017;

WHEREAS, on or about October 20, 2017, the Applicant requested the Board, pursuant to a public hearing with notice, to extend the amount of time it had to complete the development agreement

from November 15, 2017 until May 15, 2018, as such extension was permitted in Condition No. 2 of the Approval;

WHEREAS, on December 1, 2017, , the Applicant came before the Board in a public meeting to request a future hearing for approval of the development agreement, which the Board granted;

WHEREAS, on December 22, 2017, the Board, pursuant to a public hearing with notice, conducted a hearing on the development agreement, which hearing was continued until January 26, 2018; and

WHEREAS, on January 26, 2018, pursuant to a public hearing with notice, the Board continued the hearing on the development agreement and following the hearing held deliberations and takes the action described below.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE ELMORE COUNTY BOARD OF COMMISSIONERS BY A 2-0 VOTE (HOFER RECUSAL), THE FOLLOWING:

SECTION 1. DEVELOPMENT AGREEMENT: The Board hereby adopts and approves the Development Agreement in the form set forth on Exhibit A (the “Development Agreement”), for that real property (the “Property”) described therein, which exhibit is attached hereto and made a part hereof.

SECTION 2. REPEAL OF CONFLICTING ORDINANCES. Any ordinance of Elmore County, Idaho in conflict with the terms of this Ordinance is hereby repealed to the extent of such conflict.

SECTION 3. EFFECTIVE DATE. This Ordinance shall take effect and be in force after its passage, approval and publication as required by law. In lieu of publication of the entire Ordinance, a summary thereof in compliance with Idaho Code § 31-715A may be published.

Dated this 9th day of February, 2018.

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

The public hearing was closed.

A short recess was taken. Regular session resumed.

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

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

Motion carried and so ordered.

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

Motion by Hofer, second by Corbus, to add an update from Attorney Scott Hess regarding the Idaho Waste Systems Settlement Agreement to the agenda.

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

Motion carried and so ordered.

Motion by Hofer, second by Wootan, to approve and sign the Idaho Department of Water Resources Application for Amendment of Water Right No. 61-07731.

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

Motion carried and so ordered.

Motion by Wootan, second by Corbus, to adjourn.

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

Motion carried and so ordered.

/S/ ALBERT HOFER, Chairman
ATTEST: /S/ BARBARA STEELE, Clerk