

Ouray County Study Group

Minutes

July 16, 2008

4:00PM

Land Use Office

Those present included Ted Collin, Heidi Albritton, Ken Lipton, Don Batchelder, Keith Meinert, Sara Coulter, Lynn Padget, Mary Degenhart, Karen Risch

Minutes of July 9, 2008

Because the minutes were sent so late, it was decided that comments on the minutes would be sent to Heidi via Ken. She will make any necessary changes. Lynn inquired about the Farmland study and Don's white paper. Sara and Ken explained the discussion from the prior meeting. Don's was the only paper that had been handed out; the Farmland information was in Andy Seidl's report. Don mentioned that there were some requests for changes to his white paper, and he still planned to make those changes and redistribute it.

Review Action Items From 7/9/08 Meeting:

Discussion of Impact Fees

Ken asked Mary to describe what sort of impact fees the County can or cannot implement, as the group had experienced some confusion on the topic at the prior meeting. The impact fees currently go into a capitol improvements fund specific to roads; those funds are then transferred into the R&B fund for capitol only. The money cannot be utilized for maintenance. Mary clarified that that is always the case with impact fees. They must be quantified by 'reasonable impacts', and must have a relationship/nexus between the amount and the impact. She stated that if you can establish that nexus, then a fee can be created. An impact fee specific to a certain zone would be a possibility. Ted asked if the capitol improvements would cover equipment as well as roads, and she answered yes. Any expenditure for an improvement, facility or development can be covered. An increase in use can trigger a new impact fee.

Heidi discussed the long-term maintenance on improved roads, and the fact that impact fees cannot be used for the long-term maintenance. The county can assess a fee for the initial impact and improvements, but cannot continue to charge for ongoing maintenance. Mary stated that there really is no way for the county to receive money for maintenance under the current State law. The county will continue to receive property tax revenues, but nothing above and beyond to maintain an improvement. The funds are audited annually. There is no authority to establish a road maintenance impact fee.

Don discussed doing a fee-based charge. This would be a use-based, fee per mile situation, and if it were to be passed by the voters, that would alleviate the concern of a court challenge. This fee would essentially be a new tax, like a municipality charging a fee for water or sewer, based on usage. It is not a traditional 'use' tax. No one has ever done something like this. There are some substantial administrative challenges; the County's GIS system would have to be utilized to implement such a thing. Those in the municipalities would presumably 'escape' this fee, but would have the right to vote on it. Don pointed out that there could still be a charge for 0 miles to 1 mile, to cover all voters, or not. We cannot exclude the municipalities from this vote. Mary

would need to research whether or not something like this could be placed on the ballot by the BOCC. Keith was concerned about one segment of the County being able to vote a tax in, even if they are not in a position to pay the tax themselves.

Lynn pointed out that there are two types of users of county roads, County residents and visitors. Keith discussed the sales tax option, and the fact that the sales tax is the most 'fair' way to recapture revenues from the visitor population. Karen pointed out that there is an ATV operator in the City of Ouray that are renting ATV's, but do not pay the County or the City right now. Keith pointed out that they are breaking the law, and the County needs to crack down on that. A special use permit would be needed to operate such a business. The issue of the collection of sales tax is a huge one, and there is a big push for local jurisdictions to be able to collect their own instead of the State doing it for them. It is very labor-intensive to find out who is or is not paying their sales tax.

Ted inquired about the maximums, and Mary clarified that there are no 'maximums' per se, however it all goes back to the establishment of the nexus. The County adopted a resolution which dictates a dollar amount that the County can raise the impact fee according to the Denver/Boulder CPI.

Discussion on clustering

Ted would like to see the county do a better job at addressing some of the growth and funding issues facing the county. He did a presentation on some of his thoughts:

'Clustering Scenario'- Major Considerations

- Private Property Rights should be preserved
- Preferables
 - Open Space
 - Wildlife; Ecological Concerns
 - Water; Natural Resources (xeriscape, water-wise program)
 - General Overall Growth

Ted spent the morning in a Tri-County water meeting, where xeriscape was discussed and he thought that the BOCC would be contacted regarding implementation of such a program. There is a huge push on the Eastern Slope to ship in water, and the Western Slope is far behind in thinking about water efficiencies. Ted is concerned that we have not done enough to protect our interests. He is hopeful we can implement some water conservation programs, and felt that we could be leaders in the push to protect our water rights. Lynn discussed some of the strategies discussed at some of the round tables. The 'use it or lose it' concept was discussed. Tri-County water is a conservancy district that covers most of Ouray County, the Eastern part of Montrose County, and the West part of Delta County. It is a taxing district, and also manages the Ridgway Reservoir, and provides domestic water to all of those areas. The water comes through the Gunnison Tunnel and is an exchange contract with the Uncompaghre Users association. The water is pumped up the valley. There is an effort to put a treatment plant at the Ridgway Reservoir. There are huge risks in the program now, as there are no redundancies in the system, if there is an issue with the Gunnison Tunnel, than that will affect the whole system.

The other areas of concern have to do with the overall growth. Our current projections are based on the current code. Ted and Sara both questioned whether or not Theobald was accurate in the assumption that clustering would result in more units.

Ted's clustering scenario attached two 'incentive' lots, which included a conservation easement, as well as a water attachment. He discussed the economics of the cluster vs. 35-acre scenarios. The 1-½ density component would change the scenario dramatically. He suggested that a compromise that would allow for additional density in exchange for the water attachment and conservation easement. The development agreement doesn't allow for additional density, but it does allow for clustering. What can be done on the conservation piece is a topic for some in depth discussion. Ted also discussed the fact that while 35-acre development can continue to come back to the County for regulatory issues, the cluster scenario would be complete at build out, with no further 'process needs'. Sara brought up the fact that the clustering can create more premium lots that overlook open space, and thus dispense with the need for increased density. Ted discussed bio-septic systems, which would free up the limitations of sewer systems. Ted brought up the concept of commercial clustering, and asked whether or not it could enable jobs and businesses to remain within the County. Food for thought.

He also presented a chart which compares the clustering vs. 35-acre scenarios. Clustering is clearly a more favorable strategy. The regulatory process currently in effect was discussed at length. Don discussed the money/staff needed to implement some more rigorous standards which guarantees the conservation standards desired. The Development Agreement, because it is more flexible, allows for such situations to occur without the concern of predictability or process. Lynn pointed out that just because something is a cluster development that does not mean that it will result in the desired 'preservation' components truly being preserved. The quality of the clustering is very important. Ted stressed the benefits, and felt that there should be a process for smaller-sized properties. He felt that there were missed opportunities with these smaller-sized parcels. The development agreement precludes dealing with smaller lots. Ted encouraged the use of density incentives to encourage people to go that route. Ted stressed the need to be proactive, and to look at simple code changes that could make a major impact for the better. He cautioned the group not to do what Summit County, Utah has done, as they are now dealing with a major mess in the Park City area.

Discussion of revised scenarios

Sara went over Theobald's revisions. Everyone glazed over. Sara tried to get us all back on track. Theobald tends to double the density when you want clustering; Sara is trying to work with him on this. Keith discussed specifics in the clustering scenario that Theobald produced which illustrate that he has a different vision of the clustering scenario than the group is discussing. Sara will continue to work with him, but it appears as though he is assuming a significant density bonus with the clustering scenarios. The second item was to distinguish between the clustered and non-clustered scenarios on his maps. Sara stressed to Theobald the need for us to visually examine the effect of the clustering. We still need the rest of his maps, and the rest of his work to complete his piece of this. Theobald is working with 2006 data, this is creating some of the number shifts in the study. Keith and Sara discussed these differences, and Keith was not clear on Theobald's methodology. The numbers did not seem to be consistent with the parameters being discussed. Keith had understood that the numbers were to represent build out scenarios, and not tied to the growth rate or other factors. Sara agreed that there are dramatic differences in

the numbers. Don pointed out that these new numbers reflect the addition of the mining claims. Lynn shared Keith's concerns over the presentation of the data. She could not find in any of the documents, the differences in the scenarios. She was also confused about where the scenarios are different, she can't find where the data for the tables came from, and doesn't feel 100% sure about. Sara pointed out that the VMT's have been changed as we had requested.

Discussion on potential reduction on Level of County Services
Ken passed out Don's white paper on the sales tax question that the BOCC is discussing. The BOCC will also be looking at decreasing level of service possibilities, while considering looking for additional funding. Ken felt that the group might be in a position to help the BOCC on this issue. The funding issues are significant, and the reduction in HUTF funds, rise in fuel costs and other factors are going to have a huge impact on County services. The BOCC has tasked the R&B superintendent to draft recommendations regarding potential cuts in his department.

Public Comment

New Action Items

- Sara and Lynn will Draft specific questions to Theobald regarding the study, data and maps
- The group will discuss the potential reduction on level of County services at the next meeting

Next Meeting August 6th

NOTE: If anyone has additional agenda items please let me know prior to the meeting.