

**GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
SPECIAL MEETING MINUTES
September 22, 2009**

The September 22, 2009 Gunnison County Board of County Commissioners meeting was held in the Gunnison County Board of County Commissioners' boardroom in the Gunnison County Courthouse located at 200 E. Virginia, Gunnison, Colorado. Present were:

Paula Swenson, Chairperson
Jim Starr, Vice-Chairperson
Hap Channell, Commissioner

Matthew Birnie, County Manager
Katherine Haase, Clerk to the Board
Others Present as Listed in Text

CALL TO ORDER: Chairperson Swenson called the meeting to order at 9:10 am.

BREAK: The meeting recessed from 9:10 until 10:10 in order to hold the below Public Hearing.

PUBLIC HEARING; GUNNISON COUNTY LAND USE RESOLUTION; AMENDMENT FOR RESIDENTIAL DENSITY TRANSFER: County Attorney David Baumgarten, Assistant Planning Director Neal Starkebaum and Geographic Information Services Manager Mike Pelletier were present for discussion.

1. Open Public Hearing. Chairperson Swenson opened the Public Hearing at 9:10 am.
2. Public Notice Confirmation. County Attorney Baumgarten confirmed that proper public notice had occurred.
3. Identify Ex Parte Communications. There were no ex parte communications identified.
4. Staff Presentation. Geographic Information Services Manager Pelletier presented the draft resolution for discussion. He explained that the RDT program operated by offering developers an option to reduce their open space requirements from 30% to 15%, which will allow more lots. He also explained that the developers would pay the RDT fee, which is calculated by the staff. Monies generated from this program would be placed in a fund to be used exclusively for land conservation projects. The Planning Commission approved this proposal during a meeting several months ago. Since that meeting, he and County Attorney Baumgarten have made non-substantive changes, in addition to changing the name from Transfer of Development Rights to the Residential Density Transfer Program. The Planning Commission had suggested several changes to make the program voluntary, decrease the open space requirement to 15%, and to give the option to developers to pay the fee without forfeiting land. Obtaining monies through this program's fees will allow the program to leverage against potential grant funding.
5. Applicant Presentation. This was not applicable.
6. Board Questions. Commissioner Channell noted that the program does not seem to dictate where the Planning Commission approves density; Geographic Information Services Manager Pelletier confirmed that this was true and explained that this differs from the TDR program in that it does not designate where the open space must be located.

Commissioner Starr felt that this program will allow/encourage denser populations in more remote areas of the County because this program can be used in subdivisions regardless of location. Because of this, he questioned whether or not a method could be proposed that would not encourage subdivisions to be sprawled out in the County. Geographic Information Services Manager Pelletier stated that, if the Planning Commission approves a new subdivision, adding a few lots may not affect the subdivision while those lots will allow for open space to be preserved elsewhere in the County. Assistant Planning Director Starkebaum stated that this program must be used in concert with the locational standards because this only applies to subdivisions of five or more lots.

Commissioner Channell questioned whether or not the proposed language regarding applicability was substantive. Geographic Information Services Manager Pelletier confirmed that this language is throughout the document and that the change was made at the Planning Commission level.

Commissioner Channell requested additional information related to the payment portion. Geographic Information Services Manager Pelletier explained that the applicant could choose to pay the fee with a 10% discount when the plat is recorded. Applicants would also have the option to pay as they sell each lot.

Commissioner Channell asked if this program would account for appreciation or depreciation of lot values over time and Geographic Information Services Manager Pelletier explained that the Assessor's Office provides an initial estimate that can only be adjusted if it is correct to begin with. Planning Commissioner Ramone Reed stated that the Planning Commission deliberated on this point and that, while he did not want to speak for the Planning Commission, he thought that this could be used as an incentive to use the program.

7. Public Comments. Chairperson Swenson opened the floor to public comment at 9:33 am. Marble resident Michael Preston felt that, as the County moves density around, the demand for resources in those locations should also be addressed. Assistant Planning Director Starkebaum stated that the County is not moving density around because this program will only move density to an area that should already be suitable for increased density.

Commissioner Channell requested additional information related to water requirements. Assistant Planning Director Starkebaum explained that having a physical source of water is a requirement for any new subdivision review. Mr. Preston asked whether or not ranchers are being placed in a position of not having enough available water and Assistant Planning Director Starkebaum confirmed that ranchers are not affected, only developers.

Geographic Information Services Manager Pelletier stated that, when density is added with this program, the density is added to a subdivision that can handle the increased density. Then, the County can add conservation easements in an area that should not become denser.

Mr. Preston questioned whether or not increased populations would affect agricultural operations. Chairperson Swenson stated that the ranchers legally own water rights and subdivisions have to prove that they have secured adequate water rights to serve the subdivision. Every subdivision must be submitted to the State water engineer for approval.

Resident Butch Clark questioned whether or not commercial and industrial space could be obtained with these funds. Geographic Information Services Manager Pelletier explained that funds could only be used to purchase qualified conservation easements.

Mr. Clark also stated his impression that some of the large projects within the local area will necessitate additional affordable housing, but Chairperson Swenson explained that this program is not designed to affect housing.

Mr. Clark posed that there may be a need to figure out how to address the infrastructure requirements, i.e., generate electricity, recycle water, etc., and questioned whether or not there was a way to acknowledge the capability of alternate infrastructure options. Commissioner Channell acknowledged that Mr. Clark's comments were important, but that he tends to view them as issues for other tools to use during land use processes, such as carbon-neutrality issues.

Planning Commission member Reed felt that it was important to get beyond the detail language and get to the simplicity of the proposal as he felt that this would be no more than moving the required open space in a subdivision in order to purchase larger open space in another area of the County. He also felt that a secondary benefit, included into Article 14, allows for the possibility of future incentive processes to be added to the section for issues such as affordable housing.

Mr. Preston wondered if the County would have enough money to purchase conservation easements without a program that sacrifices 15% of the open space in a subdivision. Chairperson Swenson stated that sometimes the open space within a particular subdivision is not very beneficial and it would be better to place the open space elsewhere. Mr. Preston felt that this could be accomplished by negotiating with the developers; however, Commissioner Channell stated that this funding will be used to buy land where the County wants to instead of where the developer might prefer to. Mr. Preston asked what will protect this money from being spent elsewhere and the Board explained that these funds will go into a segregated interest-bearing account.

Mr. Clark noted that one challenge related to open space within a development would be that the open space would not be accessible to the residents of that subdivision. County Attorney Baumgarten felt that walkability is only one aspect of what people want as visibility seems to be more important to residents. Commissioner Channell noted that the reason behind the 30% requirement for open space was related to quality of life issues, so he questioned whether or not the Board felt that the original intent was not as valid as previously thought. County Manager Birnie felt that many of the subdivisions include only weed lots that do not serve as recreation for the residents of the subdivision. Commissioner Starr thought that the original proposal requested 50%, but that it was later reduced to 30%.

Planning Commission member Reed informed the Board that the Planning Commission discussed the open space requirement at length. Some members wanted to eventually be able to fully define open space within a subdivision, which would improve functionality. He also noted that the focus of the policy of having subdivisions concentrated around population centers would provide shared amenities.

Chairperson Swenson closed the public comment period at 10:01 am.

Regarding applicability, Commissioner Starr stated his desire to remove the ambiguity by possibly removing the residence terminology instead of only lots since more than one residence can exist on a lot.

Regarding payments, Commissioner Starr felt that this might fall apart as the County allows people to make payments as lots are sold because subdivided land lots can sit indefinitely and the County may not see the benefit for years. He thought that the County might need to look at the balance between making this an incentive that is used and the public benefit of the program. He felt that the recreation issue in subdivisions is important and he does not feel that it should be different if the subdivision is close to the town. He felt that the County should require park and recreational amenities within subdivisions.

Commissioner Channell felt that the payment schedule could make the program more attractive to developers and he felt that it should be calculated upon the sale of the lot to encompass appreciation and depreciation. Geographic Information Services Manager Pelletier felt that requiring developers to put the money up front before lots are sold could seriously decrease the numbers of users. He noted that he struggled with how to make the calculation upon the sale of the lot, but that it did not work out for many reasons, including structuring of the agreement with the DIA and involving mortgage companies without specific amounts known. However, Commissioner Starr still felt that the County should consider appreciation.

8. Acknowledge Correspondence Received. No additional correspondence was identified.
9. Applicant Response. This was not applicable.
10. Close Public Hearing. Chairperson Swenson closed the Public Hearing at 10:10 am and immediately reconvened the Gunnison County Board of County Commissioners Meeting.

RESOLUTION; AMENDING THE GUNNISON COUNTY LAND USE RESOLUTION CONCERNING THE ADOPTION OF A VOLUNTARY RESIDENTIAL DENSITY TRANSFER SECTION TO THE RESOLUTION: County Attorney Baumgarten and Geographic Information Services Manager Pelletier were present for discussion.

Commissioner Starr stated that the County may establish the original value by mass-appraisal techniques, but that lots may eventually be sold for much higher or lower amounts. Because of this, he proposed that a percentage of the final sale be utilized. He agreed with the mass-appraisal technique for the initial valuations.

The Board agreed that the resolution was not ready for adoption during the meeting as many elements needed more thought. The Board asked staff to return at a later date with a more defined payment structure and with a determination for residences vs. lots.

TREASURER'S MONTHLY REPORT: Treasurer's representative Darrin Eicher presented the August 2009 Treasurer's Monthly Report and an Investment Report dated August 31, 2009 for discussion and acceptance. **Moved** by Commissioner Channell, seconded by Commissioner Starr to accept the Treasurer's Report for August 2009 and authorize signatures. Motion carried unanimously.

WARRANTS AND TRANSFERS: Finance Director Linda Nienhueser presented the Warrant Report dated August 18, 2009 and the Cash Transfer Authorization dated August 2009 for discussion and approval. **Moved** by Commissioner Starr, seconded by Commissioner Channell to approve the warrant report for warrants issued through 9/22/09 in the amount of \$1,694,989.73. Motion carried unanimously. **Moved** by Commissioner Channell, seconded by Commissioner Starr to approve the Cash Transfer Authorization for August 2009 in the amount of \$1,999,120.79. Motion carried unanimously.

ADJOURN: **Moved** by Commissioner Channell, seconded by Commissioner Starr to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 10:26 am.

Paula Swenson, Chairperson

Jim Starr, Vice-Chairperson

Hap Channell, Commissioner

Minutes Prepared By:

Katherine Haase, Deputy County Clerk

Attest:

Stella Dominguez, County Clerk