



CANYON COUNTY PLANNING & ZONING COMMISSION
MINUTES OF REGULAR MEETING HELD
Wednesday, June 29, 2022
6:30 P.M.

1ST FLOOR PUBLIC MEETING ROOM SUITE 130, CANYON COUNTY ADMINISTRATION BUILDING

Commissioners Present : Robert Sturgill, Chairman
 Patrick Williamson, Vice Chairman
 Brian Sheets, Commissioner
 Ron Amarel, Commissioner
 Harold Nevill, Commissioner
 Miguel Villafana, Commissioner

Staff Members Present: Steve Fultz, Director of Development Services
 Dan Lister, Planning Official
 County Attorney, Zach Wesley
 Juli McCoy, Planner
 Bonnie Puleo, Recording Secretary

Chairman Robert Sturgill, called the meeting to order at 6:30 p.m.

Commissioner Sheets, read the testimony guidelines and proceeded to the business item on the agenda.

- **Case No. OR2022-0001/Amendment of Comprehensive Plan:** Proposed Amendment of Canyon County 2020 Comprehensive Plan, adoption of the Canyon Highway District No. 4 Capital Improvements Plan for the Mid-Star Service Area, Intergovernmental Agreement with Canyon Highway District No. 4, establishing a new Canyon Highway District Development Impact Fee for the Mid-Star Service Area, and Adoption of the Canyon Highway District No. 4 Mid-Star Development Impact Fee Ordinance.

Planner Juli McCoy, reviewed the Staff report for the record including one late exhibit.

Chairman Robert Sturgill, entered the late exhibit into the record and affirmed the witness to testify.

Testimony:

Chris Hopper – Applicant (Representative) – IN FAVOR – 15435 Highway 44 Caldwell ID 83607

Mr. Hopper is the district engineer from Canyon Highway District #4. He thanked the Commission for convening this hearing on their behalf. The Commission is being asked by the Highway District and in part, by the cities of Middleton and Star to amend the Comprehensive Plan to adopt this capital improvement plan. Both the cities of Star and Middleton have adopted the capital improvement plan and enacted the same impact fees. He walked through the list of questions that arose from the Commission's discussion with staff about the impact fees and the capital improvement plan. While he didn't find the specific reference in state law about impact fees, it is prohibited for them to use development impact fees to correct what were identified as existing deficiencies under their capital improvement plan. Mr. Hopper

listed a list of intersections and roads in areas that will need to be funded through other means. He said this rule or law was established so they couldn't tax new growth to pay for problems that were neglected or created due to old growth. That is part of the reason that some of the Highway District's comments on development applications have suggested that maybe that development will need to wait until those deficiencies are corrected. In some instances, Mr. Hopper said they are working with the City of Middleton and some developers on a few specific deficiencies to correct. He said they have made initial conditions to one developer that they will need to contribute significantly to improve the Lansing Lane and Highway 44 intersection in order to correct those deficiencies. He said they will continue to use a similar methodology to make exactions to developers within reasonable bounds established by the regulatory Takings Act to ensure those developers are paying their fair share to fix those existing problems as well as using funding from the Highway District's own budget. He also addressed the issue of additions and remodels: those would be exempt from the newly enacted impact fees. The Highway District's definition of a service unit is defined by state law and is the way they measure growth. For the Highway District's study, they used 'vehicle mile traveled'; how many vehicle miles in the peak hour does a particular type of development contribute. For a single house, that is considered to be two vehicle miles traveled: one trip in the peak hour. He said that is their definition of a service unit. Mr. Hopper said they don't differentiate between a house with one bedroom or a house with six bedrooms. A remodel that adds several bedrooms doesn't trigger the fee. There might be a percentage of increase that would add service units/vehicle miles. His understanding is that the County would have the ability to make other exemptions available provided they weren't in conflict with state law. Mr. Hopper listed exemptions including a reconstruction a building destroyed by fire or other catastrophe and repair or remodel that doesn't increase the number of service units. Mr. Hopper said since they don't make a distinction between a five bedroom house and a three bedroom house, adding more bedrooms to an existing house doesn't necessarily increase the number of services units. These numbers are taken on an average basis. He thought the City of Star had a provision for a percentage of building size increase. Replacing a residential structure does not trigger the fee either, even if only a foundation exists. He listed some other exemptions. He said adding another residential structure that increases the number of service units would be exempt but it can become more of a sticky issue because it can add to service units unless it was created to care for a relative that doesn't drive. If that property is split in the future, a new impact fee could apply if it identified as a new residence. Accessory uses like clubhouses and shops are exempt. Mr. Hopper discussed how the impact fees are developed and calculated. In the CIP, there is detailed explanation of how those fees are calculated. It is directed by state law and they also use the Ada County Highway District's impact fee program as a model. They calculated first what the existing baseline traffic conditions were by doing a traffic analysis of all the major intersections and roadway corridors to determine where the existing deficiencies were. They determined what was operating below 'level of service D' and added 117% of new growth to the traffic demand model. From that, they developed a list of projects they would need to complete to keep the level of service satisfactory over the next 20 years. He said they still have a lot of remaining capacity; there is still plenty of room to absorb new growth. He stated there are 30 intersections and 17 roadway corridors which need to be improved, costing a total of \$87 million. From that list, they determined what percentage of those costs would be eligible for the application of impact fees. He said bike lanes, sidewalks, landscaping and streetlights are not included and are not eligible for impact fee funding so those costs are removed from the projects. From the remaining amount, they determine what each vehicle mile traveled costs. The impact fee amount for each development is their projected number of vehicle miles traveled (service unit) multiplied by that cost. He believes that other methodologies are less accurate and less fair. He believes the Ada County methodology has been generally accepted by the development community so they adopted the same methodology to develop their impact fee model. It is generally considered to be the most 'fair'. By going through all that work (analysis), they have a good handle on what projects they are going to need to work on. He said there is a process to address a business that doesn't fit any specific category or anyone who doesn't feel their project is being treated fairly or is

correct. Mr. Hopper said their assumptions were made in 2019/2020 and were assuming a 4% growth rate. That rate is far below the growth that is occurring now. He thought that Middleton was seeing a 10-13% growth and Star might be growing faster than that. He said the plan will be updated with new growth estimates and they will continue to identify new projects to fund with the impact fees. This is the first plan they have developed for this area and it may take several iterations to really make it as good as it can be. They are obligated under state law to update the plan not less than once every five years but he is planning to update the plan in 2023 coinciding with COMPASS's update to their plan model and after that, it will be every 4 years. He said there is a significant opportunity cost if they don't pass this fee. After looking at all the options, he feels this is the fairest and most equitable way to assess cost of new transportation infrastructure to new units of growth. Every delay in enacting this means that must less revenue captured because they are seeing new growth just piling in. If this doesn't pass, his recommendation to his Board is to enact a moratorium on development until they can find a means to pay for improvement.

Commissioner Sheets asked how something goes from not deficient to deficient? Mr. Hopper replied it has to do with the level of service. He referred to a table in the capital improvement plan and the peak hour number of trips or the number of cars through the intersection and the length of time or delay in crossing that intersection. He said by adopting this plan, it freezes the level of deficiency they have identified right now. He felt they have caught this before it really got out of hand. Mr. Hopper quoted Idaho state statute 67.82.10 paragraph 2 to explain why new impact fees can't fund existing deficiencies. Commissioner Sheets felt that explanation in state law was to prevent impact fees from paying for Commissioner salaries or fund festivals. He wondered if anyone had challenged that. Mr. Hopper stated the advice he received from Ada County Highway District, their Highway District's attorney and the consulting firm they used, as well as his understanding of the intent and letter of the law is that they can't use these impact fees to pay for existing deficiencies they have identified as part of their capital improvement plan. Commissioner Sheets disagreed. Mr. Hopper said they will create a trust fund, held by the Highway District for the purpose of funding the capital projects identified in their plan for this service area. There are no limitations on what projects they have to do first; they only have to expend the funds within 8 years of receipt. Projects will be done on a first in, first out basis. It is possible for impact fees collected for development in one area to pay for a capital project in another. Project priority will be based on existing demand and anticipated demand and also through negotiations with the cities of Star and Middleton. Canyon Highway District #4 plans on funding sidewalks and bike paths through other means. They will be included but will have to be funded through other means as there isn't a demonstrated need for them. Commissioner Nevill asked if this doesn't make it into law and they ask for a moratorium, it is correct to think of this impact fee as a way to account for a cumulative effect. Mr. Hopper said yes. It's the best method to account for the drip, drip, drip of growth and treat everybody the same. Commissioner Nevill asked if there is anything that allows pressure on development to dedicate land for acceleration or deceleration lanes? Are acceleration and deceleration lanes part of what this can help cover? Mr. Hopper said that this plan would cover some of those instances if it is part of the capital improvement plan. If someone builds a new road onto Highway 30, this plan would not cover those types of lanes unless there was a required traffic impact study that showed their development necessitates a left hand or right turn lane to serve that development.

Commissioner Williamson asked if impact fees can pay for new public roads? Mr. Hopper replied that it can and there are new public roadways proposed by their plan. The plan includes some "system improvements" which is a component of the transportation system identified by the study which needs improvements to satisfy anticipated new growth. He provided a couple of examples of new roads that are in the plan. Mr. Hopper said if the new road isn't listed in the plan, it is up to the developer to construct the road improvements to serve his property. Commissioner Amarel asked, considering how this plan connects to other highways and other roads in other cities and counties, is anyone thinking about the future planning? Mr. Hopper said the impact fee law limits them to a 20 year planning horizon, which he felt isn't long enough. He said they are a third of the way through a similar study covering the rest of

Canyon Highway District #4. They will develop a similar plan for that area. They are looking at a longer (30 year) growth horizon but will have to scale that back to comply with state law for the impact fee portion. He felt they really need to look at beltways connecting Highway 16 to I-84 and around the cities. They don't really have the ability to plan long range like that because they don't can't fund any decisions they make. Commissioner Villafana asked if developers and businesses are discouraged by impact fee programs. Mr. Hopper said most of the development community is supportive. They met with the Snake River Building Contractors Association which try to fight these types of programs. They met with them and gave them the capital improvement plan and impact fees. The Building Contractors Association passed them onto their consultant. The consultant didn't raise any red flags regarding the plan and no one has shown up at their meetings to speak against the impact fee plan. He said they have not seen a lot of opposition from the larger development community.

Commissioner Williamson asked why would Idaho Transportation Department not do an impact fee? Mr. Hopper replied that they aren't able to do that because of state code. It would be nice if Idaho Transportation Department could because the Canyon Highway District had to exclude a portion of the projects on the state highway system from the fees.

MOTION: Commissioner Nevill moved to close public testimony on Case OR2022-0001, seconded by Commissioner Williamson. Voice vote, motion carried.

DELIBERATION:

Commissioner Sheets stated thanked everyone for their efforts in this. He understands the scope of what they are doing today. He likes impact fees and likes the way they are put together. The mechanisms are good and it will be a benefit to the community. He said whenever we hear testimony from the community, it's always about traffic. It's bad for people here and it has changed a lot. Public perception is that things aren't going well. His issue is with the Capital Improvement Plan Exhibit 3. Specifically, it is his understanding that the most critical things that need to be addressed, can't be addressed because they aren't in the plan. He likes the mechanism, but he doesn't like the capital improvement plan. He said it prioritizes the wrong things at the wrong time. It's too narrow in scope in what can and can't be funded. Commissioner Sheets also doesn't like that specific projects aren't being earmarked for its funding. He thinks there are some gaps in it. In answer to a question by the Chairman, Commissioner Sheets felt he couldn't be on board with amending the Comprehensive Plan with this capital improvement plan. If it takes some kind of revision to get a capital improvement plan that works for the community, he would wait for it. He reiterated that he likes the mechanism and the ordinance is great, but the capital improvement plan needs work. Development is coming in but the things that need improvement aren't being improved.

Commissioner Williamson asked Commissioner Sheets; if development comes to Purple Sage but improvement is on Lansing Lane, is that your problem? They talked about 'extraordinary impact': capital improvements are prioritized but the impact fee may go somewhere else. Commissioner Sheets stated he would prefer the developers pay for their direct impacts or have a percentage of those fees go directly to a specific project rather than into the general fund. He said when we have people come into hearings and tell us 'that (development) is really going to mess up our intersection', it's hard to tell someone that intersection isn't going to be improved until 2035. Those are the kind of things that concern him and makes it hard for him to get on board with this.

Commissioner Williamson said they have seen developers trying to leap frog and go to the outer edge of areas and their development wouldn't be enough to fund enough improvements needed for all the intersections. It's half or a quarter funded, eight years comes up and because they don't have all the funding to improve the immediately impacted intersections and roadways, those funds are no longer utilized. He wondered if there was a tool for the Highway District to bring that development back in

closer so they don't have to develop the longer stretches of road that go through the rural parts of the county.

Commissioner Amarel said we have to trust the Highway District to use the money in the best way place possible. Commissioner Sheets said that's true but this won't fix that because that's an existing deficiency and you can't use the money on it. Commissioner Sheets said his problem was we have these big projects and we can't fix them with this proposal. Commissioner Nevill said he understands Commissioner Sheets concern completely but testimony from Mr. Hopper indicates this is a mechanism which will take cumulative effects into account and that has been a concern of this Commission for a long time. At this point, Commissioner Nevill would rather get something going than nothing. He has a concern that they are talking about changing (State of) Idaho code and other things in order to make it perfect. He would rather get something in place now and work on the 'perfect' going into the future. He is prepared to support it. Commissioner Williamson asked Commissioner Nevill: you said you were in favor of a possible moratorium by the Highway District. Is that a change based on this being a reduction in cumulative impact? Commissioner Nevill would prefer Canyon County stop development until several of these questions are answered, however based on the testimony they have received tonight, he is prepared to support this so the Highway District has a tool now. He doesn't think we are going to get a moratorium any time soon from any of the controlling entities.

Chairman Sturgill is sympathetic both to the desire to enact something quickly because of significant need and to the idea that this isn't a perfect proposal. He believed that the bylaws allow the Commission to appoint a working group or subcommittee on particular topics. If the commission is interested, they could establish a working group, having passed this ordinance, to provide a proposal for the Board of County Commissioners for what the 2023 update should look like. Commissioner Amarel thought a committee might be a good idea. He said we need it now but let's not act wrong.

Commissioner Villafana said he agrees with Commissioner Nevill. He agrees this is not perfect and it would be ideal, when a subdivision goes way out (in the County), to have the fees go directly to fix the areas where the traffic stops in one direction but not the other. He understands that you want to put the money where the highest priority is. He would be sold 100% now if the money could go to existing deficiencies but he also sees the opportunity loss if we don't pass it. That's a large amount of revenue that is not collected, the longer this goes without passing. If we could find a way to pass it now and have a revision within 12 months to address the issues, that would be best. Commissioner Villafana is more in favor of starting to collect the fees now because one of the bigger concerns of people who come and give testimony is that the roads aren't wide enough, the bridges aren't wide enough and intersections are dangerous. Commissioner Sheets reiterated his vote on the whole package would be based on the fact that he thinks the reading of the prohibition on using funds for existing deficiencies is too narrow. He thinks it is clear that existing deficiencies that get additional growth on them is still growth. He believes the prohibition is related to using impact fees for amusement park rides or funding new salaries for public commissioners. Unless he sees something different, he relies on his interpretation and the scope is too narrow and the capital improvement plan prioritization leaves something to be desired.

MOTION: Commissioner Williamson moved to approve Case OR2022-0001, including the Findings of Facts, Conclusions of Law and conditions of approval, forwarding the recommendation to the Board of Canyon County Commissioners. Motion seconded by Commissioner Nevill. Roll call vote 4 in favor, 2 opposed, motion passed.

DIRECTOR, PLANNER, COMMISSION COMMENTS:

No comments from the Director.

ADJOURNMENT:

MOTION: Commissioner Williamson moved to adjourn, seconded by Commissioner Amarel. Voice vote; motion carried. Hearing adjourned at 8:10 pm.

An audio recording is on file in the Development Services Departments' office.

Approved this 21st day of July, 2022

A handwritten signature in blue ink, appearing to read "Robert Sturgill", is written over a horizontal line.

Robert Sturgill, Chairman

ATTEST

A handwritten signature in blue ink, appearing to read "Bonnie Puleo", is written over a horizontal line.

Bonnie Puleo, Recording Secretary