

THE CITY OF RIO RANCHO CAPITAL IMPROVEMENTS PLAN CITIZEN'S ADVISORY COMMITTEE Minutes



January 25, 2010

6:30 PM
New City Hall
Council Chambers
3200 Civic Center Circle
Rio Rancho, NM 87144

CIPCAC Committee Members:

District 1: Vacant

District 2: Catherine Jabar

District 3: Robert Radosevich (Vice-chair)

District 4: Tony Popper

District 5: Vacant

ITEM 4:

District 6: Richard Costales (Chair) Business: Stephen A. Jackson

City Staff Present:

Robert McArthur, Municipal Planner, DSD

John Castillo, Director of Development

Services Department (DSD)

ITEM 1: CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:37 p.m by Vice-Chair Radosevich due to the delay of Chairman Costales because of a railway breakdown. Chairman Costales arrived shortly afterwards and assumed control of the meeting.

ITEM 2: APPROVAL OF MINUTES: The minutes for the September 28, 2009 meeting were approved unanimously without amendments.

ITEM 3: OLD BUSINESS: There was no Old Business on the agenda.

NEW BUSINESS: There were two items on the agenda for the meeting. The first was an update on construction activity in the city during 2009 by Mr. Robert McArthur, Municipal Planner with the Department of Development Services. The second was a presentation on the City's impact fee ordinance by Mr. McArthur. Mr. John Castillo, the Director of the Development Services Department, was also present to answer questions regarding impact fees.

Copies of the construction activity reports were distributed to the committee members by Mr. McArthur. The reports consisted of summaries of construction of new non-residential space and new housing starts. The housing report for new single family homes showed a total of 688 built in 2009, compared to 725 in 2008, and an all-time high of 3,084 in 2005 during the peak of the housing boom.

The 2009 figure was the lowest number of new starts in 10 years, and it was hoped that the decline in new housing starts was bottoming out. There were no multi-family units built in Rio Rancho during 2009, compared to a total of 8 units in 2008 and 136 in 2007. Mr. McArthur noted that the decline in residential construction reduced gross receipts taxes and severely impacted the City's budget.

The non-residential construction report showed a comparison of retail/commercial, office/institutional and warehouse/industrial construction activity in Rio Rancho from 2003 through 2009. The high point in non-

residential construction was in 2007, when the City added over 590,000 sq ft of retail/commercial space, 130,000 sq ft of office/institutional space, and 10,000 sq ft of warehouse/industrial space.

Mr. McArthur pointed out that in 2009 less than 7,700 sq ft of new retail/commercial space was built compared to over 600,000 sq ft of office/institutional space and no new warehouse space. The increase in office/institutional space was due to three major projects: the HP service center and UNM West buildings in City Center, and the Presbyterian Hospital in Cabezon

Commissioner Popper asked how construction activity in Rio Rancho compared with other cities in the state. Mr. McArthur replied that he did not have building statistics for other New Mexico cities, but that he would try to get the statistics for Albuquerque, Las Cruces, and Santa Fe for the next meeting, depending on what was posted on their websites. Commissioner Popper suggested that the Municipal League might be able to help with the data from the smaller cities in the state.

Chairman Costales asked if the City realized any revenue from the construction of HP, UNM West and the Presbyterian Hospital. Mr. John Castillo, the Director of the Department of Development Services addressed that question. Mr. Castillo explained that both UNM and Presbyterian paid impact fees and building permit fees, but HP was considered an economic base project and did not pay impact fees or building permit fees.

Commissioner Jabar asked about the City's impact fee waiver policy. Mr. Castillo explained that the City did not charge impact fees on economic base projects, as defined by the impact fee ordinance, or on public schools. Commissioner Radosevich asked if the 8 multi-family units built in 2008 referred to 8 buildings or 8 individual units. Mr. McArthur replied that it referred to 8 individual units, built as two fourplexes.

Chairman Costales asked if the City had done any projections of new housing starts for the upcoming year. Mr. McArthur replied that as far he knew there were none available at the present time, but the Finance Department would need to develop projections of construction activity for the FY 2011 budget. The City depended heavily on gross receipts taxes from construction to help fund its budget, and when construction activity declined so did City revenues.

He cautioned the committee that it would be difficult to predict future residential construction in the City since much depends on the economy and on the actions of the federal government. Therefore, it would be wise to adopt a conservative set of assumptions so the City did not overestimate its revenues from construction activity. Mr. McArthur told the committee that he would try to bring a set of projections to the next meeting in April.

Commissioner Jackson asked about the significance of the construction activity report and how this data would be used. Mr. McArthur explained that the data was useful in tracking the City's population increases based on household size and the revenues that construction generated. He explained that the type of housing that was built helped to determine household size.

Commissioner Jackson wanted to know the purpose of the committee. Mr. McArthur replied that CIPCAC was an advisory committee that reviews and makes recommendations on impact fees to the Governing Body. The committee's influence depends on the recommendations that it makes and on the response of the Governing Body. Mr. McArthur cautioned that there was no guarantee that the Governing Body would adopt the committee's recommendations. In the past, the Governing Body listened respectfully to CIPCAC and in some cases made changes based on their recommendations.

However, before the committee could make recommendations on impact fees, it had to familiarize itself with the provisions of the impact fee ordinance. Mr. McArthur did not know if the City was planning to conduct a full scale impact fee study this year. He suspected that the City Manager and Governing Body might be taking a wait and see approach based on the economy before making a decision on the study.

Chairman Costales asked if there were any measures being considered to stimulate development in the City. Mr. Castillo replied that there had been a great deal of discussion of possible measures to increase housing and retail development in the City. The mayor had conducted a public forum on retail development, and City staff had posted a Development Process Manual (DPM) on the City's website in order to improve the City's development procedures.

Mr. Castillo noted that it was difficult to predict how the economy was going to impact the City, especially in the retail and housing markets. He was not sure if the decline in the City's housing starts during the second half of 2009 was affected by Albuquerque's decision to reduce their impact fees. As far as he knew, there had been no discussion of reducing Rio Rancho's impact fees in a public forum such as the Governing Body meetings.

Commissioner Radosevich asked if the small independent builders were still complaining that Development Services was giving preferential treatment to large developers. Mr. Castillo answered that he was not aware of preferential treatment being given to large developers by City staff. However, it was possible to process subdivisions more efficiently than single homes based on the larger number of units being serviced at one time.

Commissioner Jackson repeated his question about the purpose of CIPCAC to Mr. Castillo. Mr. Castillo replied that CIPCAC was created by ordinance as a forum for members of the public to review the City's impact fees and provide comments and recommendations to the Governing Body. Commissioner Popper added that CIPCAC was mandated by the state for that purpose, whereas the other City boards and commissions were optional.

In the discussion that followed, it was pointed out that the committee did not have decision making powers regarding impact fees. However, the scope of its advisory powers could be expanded, depending on what the Mayor and Governing Body asked the committee to do. Having concerned residents serve on the committee was important because voters in Rio Rancho, like most cities, tended to be apathetic about the problems of the City and only attended public meetings when their interests were affected.

Commissioner Radosevich added that over the past few years the committee's functions had been reduced by the City to focus on impact fees. If the City

decided to increase or decrease impact fees, it would need a recommendation from CIPCAC on the issue. CIPCAC's role would be to advise the Governing Body on whether or not the change would be beneficial to the City. At that point, there would be an increase in public interest in the committee, especially from developers. But the final decision on impact fees would be made by the Governing Body, not the committee.

Mr. Castillo agreed that the committee's function was advisory, and there was no guarantee that the Governing Body would take their advice. CIPCAC provides another public forum for impact fees, and it makes a recommendation to the Governing Body based on the research and discussion that it performed in reviewing impact fee issues.

Chairman Costales thanked the committee members and Mr. Castillo for the discussion and moved on to the next item on the agenda. Mr. McArthur began his presentation to the committee on the Rio Rancho impact fee ordinance. He explained that he wanted to give an overview of the ordinance and summarize its main points, rather than go through it section by section. The floor would be opened to questions and discussion after he finished.

The impact fee ordinance was actually a subchapter of Chapter 150, General Provisions for planning and land use. The subchapter was numbered Sections 150.20-150.99 in the table of contents for the chapter, with blank sections left for future expansion. Impact fees were based on three essential documents: the land use assumptions (LUA), the impact fee capital improvements plan (IFCIP), and the impact fee ordinance or subchapter.

The land use assumptions (LUA) projected the future population growth and land uses for the City over the next five years. The City has worked closely with the Mid-Region Council of Governments (MRCOG) in the past to develop population, housing, and employment data forecasts that are used in the land use assumptions. The LUA forecasts are used to help plan the different land uses that the City will require over the next five years to support future growth and development.

The Impact Fee Capital Improvements Plan (IFCIP) is a highly specialized capital improvements plan that applied only to system-level or major capital improvements that are required by new growth and development. The IFCIP projects qualify for impact fee funding. The IFCIP should not be confused with the Infrastructure Capital Improvements Plan (ICIP), which is a more general annual plan that includes projects that are not eligible for impact fee funding as well as impact fee funded projects.

The Rio Rancho impact fees ordinance is based on the New Mexico Development Fees Act, which was passed in 1995. Rio Rancho is a home rule city, which means that it can adopt local ordinances that are more specific and detailed than the state enabling legislation, as long as they meet the basic legal requirements of the legislation. The City's first impact fee study and ordinance was adopted in 1995, which means that the City has had impact fees for almost 15 years.

The main difference between the state enabling legislation and the City ordinance is that the City ordinance has adopted level of service (LOS) standards for system-level improvements. The City has several categories of

system-level improvements: roads, bikeways and trails, parks, public safety, drainage, and water and sewer utilities. Each category of system-level improvements must be built according to the LOS standards in the ordinance. For example, system-level roads such as collectors and arterials must be built at a two to one ratio of Vehicle Miles of Capacity (VMC) to Vehicle Miles of Travel (VMT). This means that the roadway must be built with plenty of capacity for the anticipated number of average weekday trips that will be carried along that section of the road network.

Much of the transportation modeling and data collection work for the road network is done by MRCOG. MRCOG does a data survey of Rio Rancho's major streets once every three years. The minor streets are the streets that are typically found in subdivisions with houses fronting on them, or the small streets inside a business park that provide access to office buildings.

The LOS for bikeways and trails is based on the VMT in the major street system. The LOS for parks is based on approximately 3 acres of developed park land per 1,000 new residents. The LOS for public safety is based on square feet of public safety facilities for police, fire, and emergency vehicles based on the functional (or daytime) population of the City. The LOS for water and sewer utilities are based on single family equivalent (SFE) measures of usage. The LOS for drainage is limited to new development on obsolete or antiquated platting that was not subdivided under the City's subdivision ordinance and does not have modern drainage improvements.

In response to a previous question by Commissioner Jabar, Mr. McArthur pointed out that Paragraph L in Section 150.23 granted economic base development, the Rio Rancho public schools, and the City of Rio Rancho impact fee waivers for their projects and facilities. Commissioner Jabar also asked if the City was tracking the economic benefits generated by economic base projects. Mr. McArthur said that he would check into it.

Commissioner Jackson observed that the use of the term economic base development in the ordinance was rather general in nature. Mr. McArthur explained to Commissioner Jackson that the definition of economic base development in Section 150.25 was intended to give the broadest possible meaning to the term, since economic base firms typically employed many people and generated substantial economic benefits for the City.

Mr. McArthur also explained that the Governing Body had the option of cutting impact fees across the board if it chose to do so. The current impact fees were adopted at the maximum levels permitted by the 2005 study. Therefore, impact fees could be reduced on a temporary basis, but the Governing Body was also obligated to revisit the LUA and IFCIP every five years and conduct a new study if it wanted to raise the impact fees.

Chairman Costales asked if the committee could request annual reports on impact fee revenues. Mr. McArthur replied that the Finance Department should be able to provide this information, but added that Mr. Don Martinez has given the committee members copies of the FY 10 ICIP which contained estimates of the projected impact fee revenues for the fiscal year as part of the breakdown of funding sources for the City's capital improvements plan.

However, the actual impact fee revenues tended to be small compared to the value of the impact fee credits issued for developer dedications of system-level improvements. Chairman Costales asked if a report on impact fee credits was available. Mr. Castillo replied that City staff was working on a report to summarize these credits, which he hoped to have ready later in the year. At present, the information was scattered through a series of development agreements, some of which dated back 15 years.

Returning to the presentation, Mr. McArthur pointed out that there was a schedule of impact fees at the back of the ordinance. The impact fees were adopted in 2005, but phased in over a two or three year period, depending on the category of fees. The full cost of development impact fees for roads, bikeways and trails, parks and public safety for a single family home was \$4,326. This cost assumed that the house was built in a modern subdivision with drainage improvements.

Water and sewer utilities at full cost for a 5/8" meter added another \$3,264 and \$2,298 respectively for a total of \$9,888, assuming that the house was built in a modern subdivision with water and sewer utilities. However, if the house was not connected to City water and sewer, the builder would have to drill a residential well and install a septic system instead. If the house was built in a modern subdivision with drainage improvements drainage impact fees would not be charged. If not, another \$4,465 had to be added for drainage impact fees for a grand total of \$14,353.

An important point about the administration of impact fees was that Rio Rancho was single service area, unlike Albuquerque, which had a minimum of two and a maximum of six service areas for impact fees. The Finance Department set up a separate account for each category of impact fee. Impact fees are assessed for the service units in new development, such as the number of single family and multi-family housing units, and for 1,000's of square feet of non-residential space for retail/commercial, office/institutional, and warehouse/industrial land uses.

Impact fees are assessed separately from subdivision improvements required by the City's subdivision ordinance. Subdivision improvements were considered project level improvements, not system-level improvements capable of serving more than one project or development. For example, a subdivision typically contains residential and local streets to serve the access needs of that development. If the developer is required to provide a system-level street such as a collector as part of the project, he has a choice of paying impact fees or building the improvement for impact fee credits under the terms of a development agreement.

Mr. McArthur noted that most developers prefer to build system-level improvements because the improvements are built in conjunction with their projects, and because it is often cheaper for them to build the improvements themselves instead of paying out-of-pocket impact fees. But before a developer can build system-level improvements, he must have a development agreement for those improvements approved by the City.

The impact fee credits that are issued for the improvements are usually based on the actual costs of the improvements. Excess credits are credits over and above the amount of impact fees required for the development. These excess

credits can be applied to future phases of the same development, to other developments, or sold to other developers since they are the personal property of the developer.

Mr. McArthur repeated the previously stated provisions of the ordinance regarding impact fee exemptions and waivers for economic base projects and public schools. He also explained that impact fees could be refunded if the fees were not spent or the infrastructure was not made available in seven years. However, to the best of his knowledge, this had never happened.

As for impact fee reporting requirements, the Finance Department was responsible for tracking impact fee revenues in a separate account for each category of impact fees. The Development Services Department is supposed to track impact fee credits, waivers, and refunds.

Chairman Costales asked who in the City was responsible for approving development agreements. Mr. McArthur explained that Development Services worked with Public Works in drafting the agreement, which was a contractual agreement between the City and the developer. The agreement was reviewed by the Development Services Director and sometimes by the City Attorney, and then signed by the City Manager and the developer.

The agreement contained an itemized list of system-level improvements that the developer agreed to build with cost estimates for those improvements. These costs estimates were compared to the amount of impact fees that otherwise would be owed for the project that was being built. In a multiphase project that extended over several years, the developer typically builds much of the required infrastructure at the beginning of the project and accrues excess credits that can be applied to later phases of the project.

Mr. McArthur noted that one of the problems with the older development agreements was the lack of detailed documentation regarding impact fee credits. He explained that a development agreement usually consisted of three parts: the legal text of the agreement that summarized the improvements, a map or plat of the proposed development, and the exhibits containing the detailed list of system-level improvements that would be built, along with their phasing and cost estimates.

These cost estimates were the basis of calculating the impact fee credits until the actual costs of the improvements were available. In some cases, developers were issued excess credits based on inflation in construction costs, especially during the recent building boom before it went bust. In recent years, the City has witnessed deflation in construction costs due to the downturn in construction activity.

Chairman Costales asked Mr. Castillo about the status of the goal to develop a clear policy regarding the issuance of impact fee credits to provide benefits to the City. He had discussed this policy with the committee at the previous CIPCAC meeting in September. Mr. Castillo replied that this policy was still being developed and that it had to undergo internal review before it could be presented to the public. He agreed to bring it forward to the committee when it was ready.

ITEM 5:	There were no members of the public present and no public forum was held.	
ITEM 6:	ADJOURNMENT:	
	The meeting adjourned at 8:00 pm.	
	Richard Costales, Chairman, CIPCAC	Date