

Resolution Number 2008-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF RIO BLANCO COUNTY, COLORADO AMENDING THE RIO BLANCO COUNTY LAND USE RESOLUTION BY THE ADDITION OF ARTICLE VI SECTION 119 ESTABLISHING IMPACT FEES FOR CAPITAL FACILITIES MADE NECESSARY BY NEW DEVELOPMENT IN RIO BLANCO COUNTY.

WHEREAS, the Board of County Commissioners of Rio Blanco County, State of Colorado (hereinafter the “Board”), is authorized, pursuant to state enabling legislation including, but not limited to, C.R.S. Sections 30-28-101, et seq., to plan for and regulate the use and development of land in the unincorporated area of the County of Rio Blanco, State of Colorado (hereinafter the “County”), for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the County; and

WHEREAS, the County has broad authority to regulate growth and development under the Local Government Land Use Control Enabling Act of 1974, C.R.S. Sections 29-20-101, *et seq.*, and other applicable law; and

WHEREAS, C.R.S. Section 29-20-104.5, C.R.S., authorizes the County to impose and collect charges on land development as a condition of the approval of the development, if such charges relate to any expenditure for an improvement, facility, or piece of equipment necessitated by land development which is directly related to a local governmental service; and

WHEREAS, the County, is experiencing large scale development of oil and gas resources including numerous wells, processing facilities, experimental energy development, and transportation pipelines and associated facilities construction (“energy development” herein); and

WHEREAS, this energy development has increased both the actual population and functional population of the County with attendant demands on County services and caused other new growth and development; and

WHEREAS, the County has received and reviewed the **General Fund Administrative, Law Enforcement/Justice Facility, & Road & Bridge Capital Facilities**, Final Report dated December 2007, the **Fiscal Impact Analysis: General Fund Operations Existing Conditions & Year 2022**, Final Report dated September, 2007, the **Road & Bridge Department Impact Fee Support Study**, dated October, 2007, and the **Public Facilities Mitigation Fee Support Study**, dated September 2007, all prepared by Rural Planning Institute Consulting, Inc.(RPI) (hereinafter collectively referred to as “Impact Fee Study”) and has reviewed and considered staff reports, studies and reports regarding development impacts, study methodologies, measurement

methodologies, means of calculating amounts necessary to maintain levels of service, and oil and gas development impact materials generated by other governments, including information and examples from the Colorado Department of Local Affairs, and information and studies from La Plata County, Archuleta County, and Garfield County; and

WHEREAS, the County believes that energy development and other new growth and development results in specifically identifiable and measurable growth-related capital costs which can and should be accurately measured; and

WHEREAS, the County believes that without a mechanism requiring new development to pay a reasonable, fair, and equitable share of the costs incurred by the County to increase the capacity of the County's Road System, traffic generated by new growth will degrade the system causing it to become inefficient, inconvenient, and perhaps dangerous; and

WHEREAS, the County believes that without a mechanism requiring new development to pay a reasonable, fair, and equitable share of the costs incurred by the County to maintain current levels of service in Law Enforcement and Administration; and

WHEREAS, the County has determined if new development is not charged its reasonable, fair, and equitable share of the costs, then existing taxpayers will bear the burden of building capacity related improvements resulting in a subsidy of new growth by the taxpayers at large; and

WHEREAS, the County believes the Impact Fee established by this Resolution is a rational system for identifying growth related costs incurred by the County in providing new and expanded facilities made necessary by new growth and development, and is a fair and equitable system for charging such new development its fair share of the costs of new and expanded capital facilities; and

WHEREAS, new development should not be charged for upgrading the existing capital facilities to serve primarily existing development; and

WHEREAS, the fees enacted herein are based solely on factors that are not otherwise subject to fees, charges, or taxes so that there is no double charging; and

WHEREAS, the Rio Blanco County Planning Commission conducted public hearings on the proposed amendment of the Rio Blanco County Land Use Resolution on August 16, 2007, August 23, 2007, November 15, 2007, and April 17, 2008 upon notice duly given; and

WHEREAS, the Planning Commission voted, five for and one against, to recommend to the Board approval of this Resolution and the attached Exhibit A, Adding Article VI Section 119 as an Amendment to The Rio Blanco County Land Use Resolution; and

WHEREAS, the Board commenced a public hearing at Rangely, Colorado on May 19, 2008, and at Meeker, Colorado on May 27, 2008 upon notice duly given; and

WHEREAS, the Board has reviewed the proposed amendment to the Rio Blanco County Land Use Resolution, The Rio Blanco County Master Plan and other documents listed above, materials submitted by members of the public at the various hearings, the Planning Commission recommendations, and has conducted its own hearing on the submittal on May 19, 2008; and

WHEREAS, the Board closed the hearing, deemed the record complete; and

On the basis of the evidence produced at the aforementioned hearing the Board makes the following **LEGISLATIVE FINDINGS**:

1. New growth and development in the County is placing and is projected to place an increased demand upon the County's Administrative Capital Facilities, Law Enforcement Capital Facilities, and Transportation Capital Facilities.
2. The protection of the health, safety, and general welfare of the citizens of the County requires that these Capital Facilities be expanded to accommodate and serve this continuing growth within the County from new development.
3. The tax and other revenues generated from new development does not generate sufficient funds to provide the necessary Administrative Capital Facilities, Law Enforcement Capital Facilities, or Transportation Capital Facilities to accommodate and serve new development.
4. The adoption of an equitable Impact Fee system consistent with the requirements of the State Constitution and State Law is one of the preferred methods available to the County for regulating land development to ensure new growth and development pays a proportionate and fair share of the costs of the needed Capital Facilities, allowing the County to make the necessary Capital Facility expenditures to serve new growth and development.
5. The Impact Fee Study, based on reasonable methodologies and analyses for determining the impacts of new development on the County's Administrative Capital Facilities, Law Enforcement Capital Facilities, and Transportation Capital Facilities, quantifies the reasonable impacts of new development on these Capital Facilities, and establishes an Impact Fee no greater than is necessary to defray the projected impacts on these Capital Facilities directly related to proposed new development.
6. The Impact Fees exacted on new development in this Resolution are based on the Impact Fee Study and assumptions and level of service standards referenced in the Impact Fee Study. They are no greater than necessary to defray the projected impacts directly related to proposed new development.

7. This Resolution creates a system under which Impact Fees will not be used to remedy any deficiency in County's Administrative Capital Facilities, Law Enforcement Capital Facilities or Transportation Capital Facilities existing on the effective date of this Resolution.

8. The Board is authorized by the provisions of C.R.S. Section 30-28-116, as amended, to approve amendments to the Rio Blanco County Land Use Resolution.

9. The Board is authorized by C.R.S. Section 29-20-104.5 to impose an impact fee on new development in the unincorporated area of the County.

10. The Impact Fee Study and this proposed Amendment to the Rio Blanco Land Use Resolution comply with the requirements of C.R.S. Sections 29-20-104.5 and 29-1-803 and other applicable law.

11. This proposed Amendment is in the best interests of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of Rio Blanco County.

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF RIO BLANCO COUNTY, COLORADO:

1) The findings, projections, calculations, and conclusions contained in the Impact Fee Study are hereby incorporated herein by this reference and adopted.

2) The County hereby establishes as County standards, the assumptions and Level of Service (LOS) standards referenced in the Impact Fee Study as part of its current plans for future expansions to the County's Administrative Capital Facilities, Law Enforcement Capital Facilities and Transportation Capital Facilities.

3) The Rio Blanco County Land Use Resolution shall be and is hereby amended by the addition of Article VI Section 119 Impact Fees as fully set forth in the attached Exhibit A.

4) It is intended that this Resolution replace Rio Blanco County Resolution Number 2006-11 titled Emergency Resolution Imposing Oil And Gas Drilling Impact Fees For Capital Facilities Made Necessary By Oil And Gas Development. On the effective date of this Resolution, Rio Blanco County Resolution Number 2006-11 is terminated and all funds collected pursuant to Rio Blanco Resolution Number 2006-11 remaining in an Impact Fee Account are hereby transferred into the appropriate Department in the Impact Fee Trust Fund created pursuant to this Resolution.

5) If any section, subsection, sentence, clause, phrase or portion of this Resolution or the attached Exhibit A is for any reason held to be invalid or unconstitutional

by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Board declares that it would have adopted this Resolution and the attached Exhibit A and each section, subsection, sentence, clause, or portion herein despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions, would be declared invalid or unconstitutional.

**DULY MOVED, SECONDED, AND PASSED ON A VOTE OF _____ FOR
AND ____ AGAINST, THIS _____ DAY OF _____, 2008.**

The Board of County Commissioners of
Rio Blanco County, Colorado

ATTEST:

Nancy R. Amick
Clerk & Recorder

By: _____
Forrest F. Nelson, Chairman

Joe F. Collins, Commissioner

Kenneth C. Parsons, Commissioner