
Proposal for Development
Agreement Amendment
Coyote Springs, Nevada

Staff Recommendation
January 4th, 2010

Planning review thus far

- Planning Commission supports the project concept
- Planning Commission met on December 10th and voted to continue to special meeting if fees were paid (to get outside consultant review) Fees would have provided County resources to have outside review and protect its interests
- County policies have stated the burden of large development projects is on applicants not county taxpayers

Development Agreement Overview

- A negotiated contract between developer and County
- DA's were introduced to the County by CSI

- Pro's for County-
 - may request contributions to ensure project is fiscally sound.
 - eg (interim funding, off site improvements, guaranteed revenues stream (payment in lieu of revenue) Financial benefits to County beyond normal planning process

- Pro's for owner
 - Ensure rules do not change over time
 - (large jurisdictions amend ordinances monthly, not Lincoln County)
 - Ability to finance long term projects

Development Agreements (continued)

Cons for County-

1. Assumes base regulations are in place and County is prepared for project (no planning staff until 2006)
2. Must have ability to negotiate effectively- DA's are a specialized area of law.
3. County must be aware of its public service (fiscal) needs prior to agreeing to long term deal. (County study just completed for current land uses, not future projects)
4. Change in elected officials (only 2 of 5 current commissioners were involved in original agreement from 2004.)

Proposed Change to DA

1. Would allow use to go from 4500 acres to 22,000 acres
2. Language in DA does not address concerns of a utility scale energy project, no county code section for energy reviews
3. Would allow project to be permitted without further review or conditions (building permit only)
4. Does not reduce density (112,000 units)
5. **County proposed language must be added to DA**

Risks to County

1. Agreement not designed for proposed project.
2. Interim impacts to County services and finances (startup costs)
3. Opportunity Costs- property tax abatements will reduce revenue to County by 75 % when compared to other projects
4. Proposed project is 22,000 acres (40% County's tax base)
5. **Fiscal note from Taxation regarding abatements and impacts/benefits to County will come after amendment.**
6. No guarantee of revenue stream built into agreement
7. Possible loss of guaranteed sales tax revenue \$1.8 M (state receives it's full tax 2%) (County goes from 5.1% to .25% after abatements) 10 % rule

Benefits to County

1. Unspecified revenue stream from property taxes (estimated at \$1-2 million per year)
2. Limited provision of services required by County
3. Could help County weather recession
4. Provides an opportunity for owner to develop other portions of project
5. Long term revenue stream from energy development for county provides opportunity for fiscal planning
6. Project would be locally assessed not centrally assessed

Fiscal report to County

- Lack of details on fiscal benefits. Page 19 of report states that calculating net fiscal impact is challenging (Net fiscal impacts are not provided)
- Assumes County will allow for planned community after life of solar project (beyond the 35 years remaining)
- Assumes construction and operations employees will reside in Coyote Springs (Lincoln County?)
- Assumes economic benefits to Lincoln County (associated land uses do not exist in area)
- Does not outline the impacts of sales tax abatements in early years on lost revenue from construction materials

Limitations of current DA

1. Does not address land use issues of large scale utility project
2. Triggers for law enforcement funding are triggered by residential permits not utility projects
3. Assumed GID would perform functions typically held by local government
4. No land use plan provided- Maximum flexibility for developer and limited control by County
5. No professional review by county of agreement

Proposed language changes to DA

- Law enforcement
- Applicable rules
- Special Use Permit
- Property tax provisions
- Acreage and density
- Approval of 3rd party finances by County
- Project Impact fees
- Future amendment to agreement

Necessary language to add to DA

Law enforcement needs during construction

Section 4.02 (C) reads “upon issuance of first residential building permit”

Strike “residential”

Section 4.02 (b) add (iv) Upon the first ground disturbance activities the owner shall provide \$80,000 per year in monthly installments for the first two years of the project”

Interim funding for project startup

Applicable rules

- Under section 1.01 (b) Definitions add subsection (vii) and Title 12, Title 13 and the “Orange Book” as adopted by Lincoln County.

Submit to special use permit

- Electric Generation Station is now listed in Title 15 as a permitted use.
- Section 3.05 (a) add section “vii” to state a “special use permit” will be required for any electric generation station use pursuant to Title 13.”

Tax Guarantee

Add to section 12 of agreement “CSI agrees to pay property taxes as determined from the amount assessed and agreed to for the 2006-07 tax year until such time that values increase due to new development. Any further reductions or challenges to the assessed value will require the owner to pay an amount in lieu of taxes that would be lost to any successful appeal to the Nevada Tax Commission.” This amount would include any costs incurred by the County to challenge any appeal and would be payable within 90 days of any final tax ruling”

Amend applicant's request

Limit to 9,000 acres

- Notwithstanding the foregoing sentence, and in addition to the four thousand-five hundred (4,500) net acres described in the foregoing sentence, Owner may elect to develop an **“additional 4500 acres”** of the Planned Community (or any portion thereof as Owner may elect) for Electric Generation, Station (as defined in the CSPUD Code) use.

Acreage and Density

- Add Section 3.05 (a) (ii) (1) “ Any non-residential or development above 9,000 acres approved through any land use application or permitted outright will result in the reduction of overall density at a rate of 5 units per acre for each acre developed”

County review and consent of any third party leases and financial info

12.04 Assignment (e)

In Connection with Financing Transactions. Owner **and County** has full discretion and authority to transfer, assign or encumber the Planned Community or portions thereof in connection with financing transactions, without limitation on the size or nature of any such transaction, the amount of land involved or the use of the proceeds therefrom, and may enter into such transactions at any time and from time to time **“only and after full disclosure of financial statements to County and County approval of transfer is granted”** without permission of or notice to County.

Future amendment

- All costs to be paid by Owner including outside consultant deposits
- The owner will be the applicant
- Issues will include:
 - County personnel costs for interim period to facilitate project and its processing in a timely manner
 - Public facility contributions for any projects
 - Other issues identified in 2007 negotiations

Staff Recommendation

- Approval only with proposed language added to DA (cooperation) and future review of other outstanding issues at applicants full cost within one year.

Timeline

- Original Development Agreement approved 2-1-2005
- Contract review and amendment for double taxation in 2007 Owner agreed to renegotiate agreement for county concerns
- June of 2009, County staff met with Bright Source
- Sept 2009 Coyote Springs initiated code changes for energy facilities
- Nov. 20th applicant requests a December 3rd hearing with Planning Commission without application or fees
- November 23rd Planning Director provides letter to applicant with timelines and fees for proposed development agreement amendment
- December 7th 2009 application submitted without full fees
- December 7th 2009 Introduction of ordinance for amendment- set item for public hearing for January 4th
- December 10th 2009 first review by PC- continuance granted
- January 4th Public Hearing