

STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

RESOLUTION NO. 96-059

A RESOLUTION PROVIDING FOR THE ESTABLISHMENT OF THE ROUTT COUNTY PURCHASE OF DEVELOPMENT RIGHTS FUND (THE "FUND") CONCERNING THE PURCHASE OF VOLUNTARILY OFFERED DEVELOPMENT RIGHTS OF RANCH AND AGRICULTURAL LANDS AND NATURAL AREAS IN ROUTT COUNTY; PROVIDING FOR THE APPOINTMENT OF A CITIZENS ADVISORY BOARD TO ADMINISTER THE FUND; CALLING FOR AN ELECTION BY THE VOTERS TO AUTHORIZE THE IMPOSITION OF A COUNTYWIDE PROPERTY TAX OF 1 MILL (.001); PROVIDING FOR THE DEPOSIT AND EXPENDITURE OF THE REVENUES DERIVED FROM SAID TAX; AND PROVIDING OTHER DETAILS RELATING TO SUCH TAX

WHEREAS, Section 20, Article X of the Colorado Constitution and Sections 29-1-302(3), 30-11-107 (d) and 39-1-111, Colorado Revised Statutes ("C.R.S."), authorize counties to levy a property tax upon the approval of a majority of the registered electors of the county voting on such proposal; and

WHEREAS, there is a critical need to conserve and protect ranch and agricultural lands and natural areas to ensure the quality of life of the citizens of Routt County; and

WHEREAS, agriculture and ranching are important local industries which directly and indirectly provide jobs and revenue, and it is in the best interests of the present and future citizens of Routt County to encourage landowners to make a long-term commitment to agriculture and ranching by offering financial incentives and security of land use; and

WHEREAS, the purchase of development rights from willing landowners will help to manage growth and ensure that the ranches, rural heritage, wildlife, and open spaces of Routt County are preserved for future generations; and

WHEREAS, the conservation of ranch and agricultural lands and natural areas reduces the need for major urban infrastructure improvements, and the resulting expenditure of public funds for such improvements; and

WHEREAS, the non-profit Citizens for P. D. R., Inc. was created by agricultural, conservation, citizen and business members of the community for the purpose of encouraging the funding of a Purchase of Development Rights ("PDR") program and the Citizens for P.D.R., Inc. recommended to the Board of County Commissioners of Routt County (the "Board") the adoption of an increase in the property tax rate for the purchase of development rights; and

WHEREAS, it is the policy of the Board to protect, preserve and enhance ranch and agricultural lands and natural areas as evidenced by Resolutions 95-032 (Statement of Policy Regarding the Importance of Agricultural Lands, Natural Areas, and Open Land Resources to the Citizens of Routt County), Resolution 95-033 (Statement of Policy Regarding the Importance of

Agriculture to the Citizens of Routt County), the Routt County Open Lands Plan, and the Routt County Master Plan; and

WHEREAS, the Board held public meetings on August 19, 1996 and September 9, 1996, to determine the public interest and response to the proposed increase in the property tax and the proposed expenditure of revenue for the preservation of ranch and agricultural lands and natural areas; and

WHEREAS, the Board has determined that it is appropriate and in the best interests of the citizens of Routt County that the question of the imposition of a mill levy for the funding of a Purchase Development Rights program be submitted to the electors of Routt County.

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. Ballot Issue

Pursuant to Section 20, Article X of the Colorado Constitution, the following issue (the "Ballot Issue") shall be submitted to the registered electors of Routt County at the election to be held on Tuesday, November 5, 1996:

SHALL ROUTT COUNTY TAXES BE INCREASED UP TO \$360,000 ANNUALLY (FOR TAX YEAR 1997) TO BE USED SOLELY FOR CONSERVING RANCH AND AGRICULTURAL LANDS AND NATURAL AREAS THROUGH THE PURCHASE OF DEVELOPMENT RIGHTS, IN ACCORDANCE WITH BOARD OF COUNTY COMMISSIONER RESOLUTION NO. 96-059 FILED WITH THE CLERK AND RECORDER OF ROUTT COUNTY ON SEPTEMBER 9, 1996, BY INSTITUTING A COUNTY PURCHASE OF DEVELOPMENT RIGHTS FUND MILL LEVY OF 1 MILL (.001) FOR 10 YEARS COMMENCING WITH THE TAX YEAR 1997 AND ENDING WITH TAX YEAR 2006; AND, IN CONNECTION THEREWITH SHALL ROUTT COUNTY BE ENTITLED TO COLLECT AND SPEND ALL REVENUES FROM SUCH TAX REGARDLESS OF WHETHER THE ANNUAL REVENUES FROM SUCH TAX IN ANY YEAR AFTER THE FIRST FULL YEAR IN WHICH IT IS IN EFFECT EXCEED THE ESTIMATED DOLLAR AMOUNT STATED ABOVE, AND WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY ROUTT COUNTY UNDER ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 2. Definitions

The terms set forth below shall, for the purposes of this Resolution, have the definitions set forth below:

- 2.1. "Ballot Issue" means the ballot issue whose text is set forth in Section 1 of this Resolution.
- 2.2. "Board" means the Board of County Commissioners of Routt County, Colorado.

- 2.3. "Citizens Advisory Board" means the committee established pursuant to this Resolution (see Section 6).
- 2.4. "Conservation Easement" means a legal agreement between a Qualified Conservation Easement Holder and an Owner made in perpetuity to preserve the conservation values of property by restricting the type and amount of future development that may take place. Each easement's restrictions shall be tailored to a particular property and to the interests of the Owner. At a minimum, a Conservation Easement must meet the requirements for the establishment of conservation easements set forth in Colorado Revised Statutes, Sections 38-30.5-101 through 111.
- 2.5. "County" means Routt County, Colorado.
- 2.6. "Development" means an activity which materially alters or effects the existing conditions or use of any land.
- 2.7. "Development Rights" means an interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to ranching, agriculture and open space.
- 2.8. "Eligible Land" means Ranch or Agricultural Lands and Natural Areas, as defined in this Resolution, which are substantially undeveloped except as open ranch or farmland and as to which the purchase of "Conservation Easements" with tax funds is authorized pursuant to this Resolution. Eligible Lands shall have one or more of the following values: ranch or agricultural use, natural areas, wildlife habitat and corridors, fragile ecosystems, scenic vistas, geologic landmarks, and urban buffers.
- 2.9. "Fund" means the Purchase of Development Rights Fund to be established pursuant to Section 3 of this Resolution.
- 2.10. "Natural Areas" means lands in a natural, undeveloped state.
- 2.11. "Non-profit Land Conservation Organization" means a non-profit organization dedicated to land conservation purposes recognized by the Internal Revenue Service as a tax-exempt organization under the Internal Revenue Code.
- 2.12. "Owner" means the party or parties owning the fee simple surface interest in real property.
- 2.13. "Qualified Conservation Easement Holder" means the organization selected by the Owner to act as the holder of the Conservation Easement. Only a Non-profit Land Conservation Organization or other organization meeting the definition of a "qualified organization" as set forth in Internal Revenue Code Section 170 (h)(3) may be a Qualified Conservation Easement Holder.
- 2.14. "Ranch or Agricultural Land" means substantially open land devoted to the production of plants or animals.
- 2.15. "Value of Development Rights" means the difference between the existing fair market value of the land and the fair market value of the land as restricted by the Conservation Easement.

Section 3. Establishment of Routt County Purchase of Development Rights Fund

In the event that the Ballot Issue receives approval by a majority of the electors voting with respect to it in the November 5, 1996, election, the Routt County Purchase of Development Rights Fund ("Fund") shall automatically be established immediately thereafter. The Fund shall be administered and used to purchase Development Rights from willing Owners in accordance

with the remaining provisions of this Resolution. The purpose of the Board in establishing the Fund is to promote and encourage the conservation of Ranch or Agricultural Lands and Natural Areas which are Eligible Lands in the County by means which are voluntary rather than regulatory.

Section 4. Deposit and Expenditure of Revenue

All taxes collected from the mill levy approved by the Ballot Issue shall be deposited in the Fund and allocated and expended only in the following amounts, and for the following purposes:

- 4.1. Expenditures from the Fund shall be approved by the County only for the purpose of purchasing Conservation Easements on Eligible Lands and for payment of costs as permitted in Sections 4.4 and 8 of this Resolution. The Conservation Easement must be granted by the Owner to a Qualified Conservation Easement Holder acceptable to the Board.
- 4.2. Interest earned on amounts held in the Fund shall be retained in the Fund and used for the purposes set forth in this Resolution.
- 4.3. The Board shall budget no more than three percent (3%) of the revenues anticipated to be received in the relevant budget year from the property tax authorized by the Ballot Issue for the County's costs of administration, auditing, consulting and for reimbursement of expenses to members of the Citizens Advisory Board and planning of expenditures from the Fund. This limitation shall not apply to transaction costs listed in Section 8 of this Resolution.
- 4.4. No Conservation Easement purchased in whole or in part through expenditures from the Fund shall be acquired through the exercise of condemnation (power of eminent domain).
- 4.5. Applications for expenditures from the Fund must be sponsored or submitted by a Qualified Conservation Easement Holder.
- 4.6. The portion of the purchase price paid from the Fund for a Conservation Easement may not exceed, but may be less than the Value of Development Rights. Nothing contained herein shall be construed to prohibit the payment, by third parties, of additional amounts in connection with the purchase of a Conservation Easement funded in part from the Fund.
- 4.7. The Value of Development Rights shall be established only by one or more appraisal made by Colorado State Certified Appraisers.
- 4.8. The Qualified Conservation Easement Holder acting as such in connection with a Conservation Easement purchased in whole or in part through expenditures from the Fund shall not have the right to exercise the Development Rights terminated by the Conservation Easement.

Section 5. Retained Residential Development Rights

To preserve and promote the open character of properties which have become subject to a Conservation Easement purchased in whole or in part with expenditures from the Fund, such properties must remain substantially undeveloped except as Ranch or Agricultural Lands. However, it is recognized that some limited residential Development Rights may be retained by the Owner pursuant to the Conservation Easement.

Section 6. Citizens Advisory Board

- 6.1. A seven-member Citizens Advisory Board shall be appointed by the Board within ninety (90) days following approval of the Ballot Issue by the voters.
- 6.2. The Citizens Advisory Board shall consist of residents of the County. Two members shall reside in each Routt County Commissioner district and one member shall be appointed at-large.
- 6.3. The composition of the Citizens Advisory Board ideally should have equitable representation from the agricultural, conservation and business communities.
- 6.4. The Board may also appoint ex-officio members who shall be residents of the County.
- 6.5. Members shall serve three-year terms, except that the initial term of three members, that is one from each of the Routt County Commissioner districts, shall be two years and the terms of the other four members shall be three years. The Board shall identify the term of each member at the time of appointment. Members may be reappointed to successive terms but the Citizens Advisory Board shall terminate upon exhaustion of the Fund.
- 6.6. Members shall serve at the pleasure of the Board.
- 6.7. Members shall not be compensated for their services but may be reimbursed for expenses actually incurred in the performance of their duties in accordance with County policy.
- 6.8. The Citizens Advisory Board shall provide a recommendation to the Board for each expenditure from the Fund. The Board shall not take final action regarding expenditures pursuant to this Resolution without requesting a recommendation from the Citizens Advisory Board sufficiently in advance of the Board's action so as to permit the Citizens Advisory Board to meet and make such recommendation.
- 6.9. Members of the Citizens Advisory Board shall be subject to state law relating to conflicts of interests of public bodies, and in addition, a member shall be prohibited from voting on or participating in applications for purchase of Conservation Easements on land adjacent to property in which he or she has an ownership interest. Said conflict must be disclosed by the member in the application for expenditure of funds or as soon as the member becomes aware of the potential conflict.
- 6.10. The Citizens Advisory Board shall convene a minimum of twice a year for the purpose of reviewing applications, making recommendations to the Board concerning expenditures from the Fund and for performing its other functions under this Resolution.
- 6.11. Promptly after its appointment, the Citizens Advisory Board shall recommend to the Board, for the Board's adoption, criteria to prioritize the selection of Eligible Lands. Criteria for prioritization shall include but not be limited to: quality of the resource, property size large enough to protect conservation values, contiguity to existing or likely to be protected properties, vulnerability to development, percentage of Value of Development Rights donated by Owner, leveraging of other funds, cost of Conservation Easement.
- 6.12. The Citizens Advisory Board shall comply with all requirements of the Open Public Meetings Act (C.R.S. § 24-6-401 et seq.), applicable to "local public bodies" as defined in that Act, as well as any applicable resolutions of the Board.

Section 7. Duration, Transfer and Disposition of Acquired Interests

- 7.1 Conservation Easements acquired pursuant to this Resolution shall be held in perpetuity. However, if it is mutually determined by the holder of the Conservation Easement and the Owner that the land can no longer be reasonably used for its intended purposes as described in the Conservation Easement, such easement may be extinguished in whole or part according to the provisions of the Conservation Easement and pursuant to applicable law. A Conservation Easement purchased in whole or in part with expenditures from the Fund may not be extinguished except with the approval of the Board. Additionally, a Conservation Easement purchased in whole or in part with expenditures from the Fund may not be extinguished unless and until the Owner of the land subject to the Conservation Easement has paid an amount equal to the greater of: (a) the amount originally paid for the Conservation Easement; or (b) the Value of Development Rights, at the time of the release, for the Development Rights being released from the Conservation Easement. If not all of the amount originally paid for the Conservation Easement was paid from the Fund, then the amount paid by the Owner shall be allocated prorata among the parties which contributed funds to buy the Conservation Easement. Any amount due the County shall be deposited in the Fund if it still is in existence. If the Fund is no longer in existence then the County's share of the proceeds shall be delivered to the then acting holder of the Conservation Easement for disposition in accordance with the provisions of the Conservation Easement.
- 7.2 A Conservation Easement purchased in whole or in part by expenditures from the Fund may only be transferred by the holder to another Qualified Conservation Easement Holder and only with the prior approval of the Board.

Section 8. Related Transaction Costs

The holder of a Conservation Easement purchased in whole or in part with expenditures from the Fund may be reimbursed from the Fund for the costs of appraisal, surveying, legal and other services such as easement documentation, baseline documentation and environmental reports, incurred incident to the acquisition of approved Conservation Easements up to a maximum of thirteen thousand dollars (\$13,000.00). Costs in excess of this limitation may be reimbursed with the prior approval of the Citizens Advisory Board and the Board. This request may be made prior to the formal submittal of the application to the Citizens Advisory Board. The County shall not be responsible for expenses incurred by the Owner incident to the purchase of a Conservation Easement. The maximum amount may be adjusted according to the provisions of the Annual Review as described in Section 9 of this Resolution.

Section 9. Annual Review

- 9.1. The Board shall conduct annual reviews with Citizens Advisory Board participation, of all expenditures of the Fund made for the preceding year, and of the proposed expenditures to be made during the next year, with a view to establishing priorities for expenditures and protecting the public trust. This is not to preclude additional audits as required by law.

- 9.2 During the Annual Review, the Board and the Citizens Advisory Board shall also review such monitoring reports prepared by the Qualified Conservation Easement Holders acting as holders of Conservation Easements acquired in whole or in part with expenditures from the Fund concerning those Conservation Easements as have been filed with the Board at the request of the Board.
- 9.2. During the Annual Review, the Board and Citizens Advisory Board shall determine whether the then existing cap on acquisition costs described in Section 8 Related Transaction Costs is to be adjusted.

Section 10. Effective Date-Expiration Date

The property tax provided for in the PDR Ballot Issue shall expire at midnight on December 31, 2006. Notwithstanding said expiration, all moneys remaining in the Fund shall be retained in the Fund and shall continue to be expended only pursuant to and for the purposes set forth in this Resolution until completely exhausted.

Section 11. Miscellaneous

- 11.1. If the Ballot Issue is approved at the election to be held on November 5, 1996, its provisions shall not be repealed or amended except by a majority vote of the registered electors of the County.
- 11.2. The officers and employees of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.
- 11.3. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED at a regular meeting of the Board of County Commissioners of the County of Routt, Colorado, this 9th day of September, 1996.

ATTEST:

Kay Weinland
 Kay Weinland, County Clerk

BY THE BOARD OF COUNTY COMMISSIONERS

Daniel R. Ellison
 Daniel R. Ellison, Chairman

RESOLUTION VOTE:

Ben S. Beall:	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
Nancy J. Stahoviak:	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent
Daniel R. Ellison:	<input checked="" type="radio"/> Aye	Nay	Abstain	Absent

