

Strategy of planning: Who speaks for El Dorado County?

"We are really tired of having to sue our own county to get you to do the right thing."

– Sue Taylor, Save Our County, public comment at the Feb. 23, 2016, El Dorado County Board of Supervisors meeting

By Joann Eisenbrandt

PLACERVILLE – El Dorado County is not the only place where the final solution for solving disagreements, large and small, is the filing of a lawsuit. But when the opposing parties in those lawsuits are elected officials and the citizens they represent, a different dynamic is created.

The El Dorado County Board of Supervisors is the ultimate decision-making body for the county. Groups in the county not happy with its recent decisions on the development of county land have entered into litigation to alter or reverse those decisions.

How the Strategic Plan fits in

At its March 21, meeting, the board gave final approval to a five-year Strategic Plan which is intended to serve as a roadmap to guide the board in its future decision-making. This plan took two years to complete, and it sets goals and implementation measures to meet those goals in five areas: Public Safety, Healthy Communities, Infrastructure, Economic Development and Good Governance.

As part of the development of the Strategic Plan, the board conducted a Citizen Engagement Survey. The survey, with more than 2,200 respondents, had its own goals which included

gathering demographic information from county residents, learning what their preferences and concerns were and finding out where and how well they were actively engaging with the government that represents them.

Right now, some of that citizen/government engagement is taking place in a courtroom.

The survey not only asked about residents' priorities and their views and knowledge of county services, but also asked survey respondents to rate the Board of Supervisors and county staff on a list of important qualities and values directly related to Good Governance.

In the process, the survey, prepared by consultant Kiely Group, noted some key discoveries. Among them were:

- Respondents are concerned with preserving the rural nature of El Dorado County.
- Citizens are not aware of what all El Dorado County government does. A public education/communication program could be a key strategy moving forward.
- Citizens also request more transparency and honesty from El Dorado County staff and elected officials. There is particular concern about the relationship of developers and the county.

While survey respondents expressed a strong desire to keep the county rural, they also put measured growth and economic development high on their list. How to balance the two is where the disagreements arise—how much and what types of residential and commercial development are needed to create a strong economic base without destroying the county's rural character. The survey concluded that, "The people appear to be accepting of some growth as long as it is done in alignment with the resources and values of the county."

The Strategic Plan defines the goal of Good Governance as: Achieving the best possible process for making and implementing decisions; characterized by honesty, integrity, accountability, transparency, responsiveness, equitability, inclusion, effectiveness, efficiency and following the rule of law.”

At the March 21, board meeting, Don Semon, county Child Support Services department head and co-chairperson of the Good Governance goal-setting team, brought up the issue of the “trust index” for elected officials. The Citizen Engagement Survey asked respondents to grade the county’s elected officials on “good governance” qualities, and gave them generally low marks across the board.

Vocal minority or silent majority

Some community groups like Save Our County and Rural Communities United believe the county is growing at the expense of its rural heritage, that residents’ input is not listened to and that the board puts developers’ interests first in their decision-making. Feeling their voice has not been heard in the planning review process, they view lawsuits as their last line of defense.

But what percentage of county residents do those speaking out against board decisions and eventually filing lawsuits actually represent?

“I’m not sure there is a good answer to why all the lawsuits are happening,” District Five Supervisor Sue Novasel told *Lake Tahoe News*. “I really feel the board and the county in general is doing what the citizens asked them to come up with in the General Plan and that the majority of the county has agreed that this is where they want to go.” Novasel added, “There is a minority that don’t want growth and have negativism toward what the county is trying to do to provide economic growth while preserving our rural communities.”

District One Supervisor Ron Mikulaco insists, "It's usually a small, loud, vocal group. It's hard to get feedback from John Doe citizen ... how do we get the true pulse ... it's not the 'attaboys,' it's the 'oh nos,' we hear ... we get a lot of consistent complaints from the same place."

District Three Supervisor Brian Veerkamp agrees, telling *Lake Tahoe News*, "There is a very small group of people who say they represent many people in the county, but they don't. They are upset with the decisions we have made ... in my 3½ years on the board, we haven't approved one subdivision and we are working diligently to update the General Plan as we are required by law to do. I am attempting to respect the rural nature of the county. My family has been here since 1852."

The reason no new subdivisions have yet been built, opposition groups say, is precisely because of their vocal outcries.

The board has accepted the Citizen Engagement Survey results as valid and has used them in refining the framework of the Strategic Plan. From that, it is clear there are genuine concerns with the decision making of the county's elected officials and that the need to balance preserving the rural lifestyle with economic development is a priority for respondents. But the survey also showed a lack of engagement by residents with the county, a lack of awareness of all it provides and how county decisions affect their lives. District Two Supervisor Shiva Frentzen noted at an earlier Strategic Plan meeting that, "95 percent of the people I talk to don't even know what district they live in."

If these small, vocal groups don't speak for the majority of El Dorado County residents, then how do we know what "John Doe citizen," really wants? Supervisor Novasel answered, "We know that from our elections. They have certified what the General Plan should be."

Getting information out

But does the “silent majority” know where to find information they need about issues being decided by the Board of Supervisors, and is this information available in time for them to have meaningful input? District Four Supervisor Michael Ranalli pointed out at the March 21 board meeting that very few residents even know that Legistar exists. Legistar is the system on the county’s website that contains all the information on meetings, agenda items and their attached documents, minutes and videos for board and Planning Commission meetings and for other county boards and commissions. He pointed out that there is also an extensive email notification service available on the county’s webpage where residents can get email updates on issues and upcoming meetings, but not many are aware of that either.

The board discussed the suggestion made in the Citizen Engagement Survey that the county should employ a public information office. Responses were mixed. Novasel told *Lake Tahoe News*, “We need somebody who has the time to get information out to our community. The city (of South Lake Tahoe) has a good PIO and two-way communication. You can ask questions about the information provided. The county has the software, but nobody dedicated to doing that work. When we have big-ticket items come up, some people feel they only find out when they get a notice. We need to engage people sooner. As we found out from the survey, people don’t understand what those items are.”

Ranalli noted that some might see a PIO as a “spin doctor,” but added this isn’t the intent. “We need to be more proactive and look six months out, long before a NOP (notice of preparation for a project) gets prepared ... this can’t just be a duty-assigned position. We have to have an individual with the skills to help us get information out, especially if it is technical information.”

“I’m not that warm to the idea of a PIO,” Mikulaco told *Lake Tahoe News*. “If you’re doing a good job, you don’t need to put

that out there. We have a good, ethical board of people. We publicly talk about these things. There are no back room deals. We go out there and do the people's work. We tried it (using a PIO) before, and it didn't work."

Interim CAO Larry Combs told the board, "I don't want people to get their hopes up. I've worked in counties with PIOs. I feel the public already has great access, but still people will feel they don't get information. Even with a PIO this will happen."

The land use planning puzzle: Why should people care?

Finding additional avenues of information for residents about what the county is doing is important. But it won't accomplish anything unless they see the value of becoming more involved. Why should county residents even care about the planning decisions the board is making, especially if the projects are not near where they live?

The short answer is that land use planning decisions—what residential and commercial and agricultural uses are allowed and where—ultimately determine the physical, economic and social character of El Dorado County. As Sue Taylor of Save Our County put it, "Land use planning is dull until you hear the bulldozer at your own front gate."

Unfortunately, planning can be complex and technical—based on pages and pages of goals, policies and regulations laid out in the county's General Plan and Zoning Ordinance. This is not light reading. For proposed projects, there are different types of environmental documents that need to be prepared to identify potential impacts to the environment, to public services like water and roads, to residents and businesses located adjacent to the proposed project. The California Environmental Quality Act (CEQA) lays out the guidelines for examining these impacts and how they can be mitigated.

Basically, the less likely a planning project is to create

serious impacts, the less complex the process to approve it. Some requests are approved by the Planning Department at staff level and others require full environmental impact reports (EIRs). An EIR is required when a project will create significant environmental impacts, some of which can be fully mitigated and some of which cannot.

It's like assembling a giant jigsaw puzzle. Land use planning decisions cut and shape the puzzle pieces and then put them together to make the completed puzzle that is El Dorado County. The goal is for the puzzle to create one harmonious image. In El Dorado County, an important part of the puzzle-making process is the high priority put by residents on keeping the county rural. The problem comes that not everyone defines rural in the same way. The Citizen Engagement Survey included results from a focus group specifically tasked with defining rural. It defined "rurality" as characterized by: country roads, natural setting, low density, privacy, commercial and residential agriculture. Still, a resident in El Dorado Hills might find their lifestyle rural when compared to the Bay Area from which they came and a rancher outside Coloma might see the same Highway 50 corridor as urban.

The planning process in action: Georgetown Dollar General project

The proposed construction of a Dollar General store on Main Street in downtown Georgetown, while a private project on private land, still illustrates how conflicts between rural lifestyle and economic development can play out in the planning process. It has not reached lawsuit status, but may be well on its way there.

Dollar General, a national chain of reduced-price, mixed merchandise box stores, wants to construct a 9,100-square-foot store in downtown Georgetown fronting on Main Street. Georgetown is a small, rural historic former mining community located between Placerville and Auburn in District Four. The

project was submitted to County Planning staff for a design review. They reviewed the application and prepared a mitigated negative declaration, saying in effect that the larger, more intense environmental review required by a full EIR was not necessary and that what impacts had been found could be mitigated into "insignificance."

This staff-level approval was appealed by Georgetown resident Dennis Smith to the Planning Commission, which is made up of members from each of the five supervisorial districts, appointed by that district's supervisor. At its second meeting on the appeal, on Feb. 25, the Planning Commission denied it by a vote of 4-1, with Commissioner James Williams of District Four voting no. This Planning Commission decision was then appealed by Georgetown resident Dave Souza and the Georgetown Preservation League to the Board of Supervisors. The hearing on that appeal is set for the April 5.

Conflicting viewpoints

The appeal focuses on two allegations: what is termed a "conflict of interest" on the part of District 5 Planning Commissioner Brian Shinault because he helped the project applicant refine part of their building design, but then did not recuse himself from voting on the appeal. Shinault, who lives in South Lake Tahoe, is an architect. Second is the failure of the mitigated negative declaration to fully address environmental impacts including the adequacy of the septic system, the filling in of a wetlands, potential stormwater and drainage issues, and traffic and public safety. Not specifically mentioned in the appeal is the feeling by many that even though the property is zoned commercial-design community, the location of such a large box store in the middle of historic Georgetown is inappropriate.

The Dollar General project is located within the Georgetown Rural Center. New buildings in historic communities such as Georgetown should, "generally conform to the types of

architecture prevalent in the gold mining areas of California during the period of 1850 to 1910.” The board has adopted El Dorado County Historic Design Guidelines (HDG) that outline what this conformity means in terms of look, height, style, lighting, and building materials. “The project, as designed and conditioned,” the Dec. 10, 2015, planning department staff report concluded, “has been determined to substantially conform to the HDG and would be compatible with the surrounding residential, community park, and commercial uses within the Georgetown Main Street commercial area.”

Not everyone agrees.

Dave Souza, who filed the latest appeal, told the commissioners, “(Property owner Denton) Beam has the right to sell his land, but to have that (Dollar General) on those three parcels is a gigantic hernia to Main Street.”

In a conversation with *Lake Tahoe News*, Souza said, “I want a full EIR. Most people in Georgetown are against it. I told the Planning Commission that Denton has every right to sell this property, but we don’t want a Dollar General in downtown Georgetown. (El Dorado County Chamber CEO) Laurel (Brent-Bumb) said it will bring jobs to Georgetown. No, it won’t.”

Commissioners were told by project proponents on Feb. 25 that there would be eight to 10 jobs created, but the representative declined to say how many jobs were full time.

Not everyone agrees with the completeness of the environmental review either. Ed Hawkins of Georgetown told the Planning Commission at its Feb. 25 meeting that he had written to them in December 2015 about the stormwater drainage system he believes is inadequate. “(County planning) staff,” he told the Commissioners, “has an annoying habit of trying to get to yes by using a mitigated negative declaration. This site calls out for a full EIR.”

Hawkins expanded on his concerns when he told *Lake Tahoe News*,

"I believe this is an environmentally sensitive area. You are putting a large project in the middle of a historic district. The county needs to consider the impact of this project on the historic downtown, and it isn't ... the county has decided that our history and Georgetown is not worth preserving."

Dennis Smith, a retired U.S. Forest Service mineral specialist, pointed to concerns at the February Planning Commission meeting regarding an open mine shaft on the property filled with water, the possibility of aquatic species in the wetlands being affected, and concerns with traffic and lack of adequate crosswalks. He told the commission, "I request you deny this project until at least an EIR is done to address these concerns."

Smith and his wife, Barbara, later told *Lake Tahoe News*, "We are not against development. This is a historically designated area. We want to retain the history of the area on Main Street, but it's commercial property and there needs to be something on Main Street that is viable. We also have commercial land and if someone said we couldn't do what we wanted to do, we wouldn't like it. It's more that they need to meet all the environmental issues like traffic."

District Four Planning Commissioner James Williams was the lone vote on Feb. 25 opposing denial of the appeal. Williams explained to *Lake Tahoe News* why he voted that way. "This was the wrong place (for the project) from Day 1. The applicant chose a very challenged property and it needs more study and due diligence." Williams went on, "I asked about how many jobs and they refused to answer that for us. We absolutely need jobs here, but we need living-wage jobs. We don't need minimum wage part-time jobs. A lot of people have the perception that instead of helping the people and protecting the community, (the county) is just saying yes to projects; that staff is just there to help the applicant get their project through instead of helping the community."

With regard to the possibility that this project might lead to a lawsuit, Williams noted, "Developers have come to staff for many years and threatened lawsuits and lawyers started overthinking things worrying about these lawsuits and a pattern potentially develops where (the county) is sued by developers. So now, instead, they are being sued by citizens."

Supervisor Ranalli has followed the Dollar General project for some time since it is in his district. He told *Lake Tahoe News*, "This is a very challenging issue for me because I am conflicted on so many levels. As a policymaker duty bound to follow the law, I don't want to position the county for a lawsuit. If Dollar General appeals, then taxpayer dollars go to that fight. If the public is unsatisfied, they could potentially sue and we're also talking about thousands of dollars. I have heard from Georgetown residents who are both for and against the project. The community is divided."

As to the rural lifestyle versus economic development question, the supervisor explained, "I don't believe when people say they want to be rural that they also want to be poor."

Ranalli noted that unlike in other communities, there is no longer an active Design Review Committee for Georgetown. Members of these supervisor-appointed committees only act in an advisory capacity, but he believes they facilitate a better exchange of information between communities and the county.

For stores proposed for other small town locations, Dollar General does not usually modify its original design. In the case of Georgetown, however, Dollar General has revised their architectural plans "at least six times" Ranalli noted, attempting to make it blend in better. One of the concerns addressed in the appeal is that Commissioner Shinault helped Dollar General with a redesign of building "elevations." At the Feb. 25, commission meeting, Shinault noted, "After the last meeting they approached me and they sent me the

elevations and I talked to them on the phone, helping them make it not look like one large building. We went through three or four elevations and colors and this is what they came up with and I think it meets the intent of what we are trying to do. I need to be upfront that, yes, I did help them.”

Lake Tahoe News reached out to Commissioner Shinault for comments on several occasions but received no response.

Outside agency requirements

Totally independent from the county planning approval process, but related to some of the same environmental issues are permits that need to be approved by other agencies. The county referenced these in its Initial Study, but it is the responsibility of the project proponent to finalize these requirements with the appropriate agencies. One is a Storm Water Prevention Plan through the Central Valley Regional Water Quality Control Board and a certification from them that the project will uphold state water quality standards. Another is a requirement by the U.S. Army Corps of Engineers (ACOE) for a permit under the federal Clean Water Act Section 404 regarding the discharge of fill or dredge materials into “the waters of the United States,” over which they have jurisdiction. The Dollar General project would fill in wetlands on the subject property. These wetlands drain into Empire Creek, which then drains into the American River.

Lake Tahoe News learned that a private citizen had contacted the EPA’s National Tips Database regarding the Dollar General project and contacted EPA to see what, if any, impact that would have on the ongoing county approval process. The EPA administers the federal Clean Water Act. Michele Huitric of the Office of Public Affairs for the Environmental Protection Agency, Region 9, confirmed the citizen’s report in an email to Lake Tahoe News. The EPA then contacted the Army Corps of Engineers to, “find out more about the Clean Water Act Section 404 permit request.” The ACOE invited EPA to visit the site,

“subject to the property owner’s consent.” The property owner declined.

Subsequent to this, the (ACOE) did receive permission from the property owner for a site visit. Peck Ha, project manager for the U.S. Army Corps of Engineers, Regulatory Division, South Branch, told *Lake Tahoe News* that they received the permit request from the project proponent around six months ago and it is currently being reviewed. The ACOE team visited the property on March 21, and Ha was in Georgetown again on March 24. When asked if this would in any way impact the timeline for the ongoing county review process, he stressed that, “The Army Corps in this process is independent and non-biased. We are not for or against the development. We process the permit based on the regulations and guidelines.” These two processes will continue on their individual timelines. Ha could not estimate how long the ACOE process will take or whether additional site visits will be required. For the project to go forward, this permit is required.

What’s next?

If the board denies the Dollar General appeal on April 5, the next potential step would be the filing of a lawsuit. As the Dollar General project shows, land use planning can be a slow and complex process. Unfortunately, there isn’t a bright yellow “Land Use Planning for Dummies” manual out there for concerned citizens to refer to. The Strategic Plan process has highlighted the need for better communication and transparency between county government and its residents and nowhere is it more important than when decisions that could alter the character of the county are involved. One mechanism, the creation of a public information officer, will be considered by the Board during upcoming budget hearings.

El Dorado County is obviously growing, but views on whether it is growing in a way that preserves its historic heritage while enhancing economic viability differ widely. The Strategic Plan

process is intended to provide an overall framework for county decision-making over the next five years, but whether it is actually implemented won't be known right away. Asked by *Lake Tahoe News* why it won't join other such efforts as dusty volumes on a shelf, Supervisor Veerkamp responded, "The most important elements are the objectives and an action plan. Those action plans have timelines and accountability reports tied to them. We as the board put the timelines on staff to report back on their action plans and accomplish the goals. That follow-up and feedback and reporting are what was missing from prior strategic plans."