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POLITICAL PROBLEMS OF EMERGING RURAL SUBDIVISIONS

IN KANE COUNTY, UTAH

by

R. C. Haycock

A thesis submitted in partial fulfillment
of the requirements for the degree

of

MASTER OF SCIENCE

in

Political Science

UTAH STATE UNIVERSITY
Logan, Utah

1969

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R. C. Haycock

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ABSTRACT

Political Problems of Emerging Rural Subdivisions

in Kane County, Utah

by

R. C. Haycock, Master of Science

Utah State University, 1969

Major Professor: Calvin W. Hiibner

Department: Political Science

The emerging seasonal subdivisions in the rural mountainous regions of Kane County was the focus of this study. A native of Kanab, county seat, the author has been in a position to witness the development of these projects. The desired purpose of the study was to ascertain the degree of involvement of local government and to indicate problems, their solutions and consequences. The problems encountered in analyzing these developments are basically those that must be faced by any new emerging community.

No individual study was discovered that dealt with the specific locality under consideration. Of very recent origin, the developments have provided little time for indepth analysis. The absence of related studies has offered the author more personal contact with involved individuals than might otherwise have been the case.

The author attempted to view the subdivisions as seen by both subdivider and governing official. Written questionnaires, personal interviews

and informal discussions, on-site inspection of subdivisions, visits to county offices, letters, and telephone interviews have provided the background material for this thesis.

The study resulted in the following observations:

1. Local government must engage in long-range planning to effectively deal with the problems of the subdivisions.
2. Failure to adequately prepare now will necessitate far greater expenditures in future county operations.
3. As the problems continue to grow, so, too, will the cost of their eradication or containment.
4. Intergovernmental cooperative studies appear to be a logical method of determining overall effect of the problems.
5. Restructuring of local government may become necessary.

(114 pages)

CHAPTER I

INTRODUCTION

The phenomenon of emerging rural, seasonal subdivision developments in the mountains of Southern Utah provides the impetus for this study. A native of Kane County, the author has been in a position to focus on these developments which are at the same time a boon and a burden to the local government. This study was undertaken so that the author and others might more clearly ascertain the consequences of these projects.

Problems encountered in rural subdivision development are those faced by any new community. Public health and safety, proper sanitation methods, water purification and prevention of pollution, road construction and maintenance, law enforcement, building code enforcement, and numerous other essential requirements combine to create the whole. In a rural county with only five permanent communities, the consideration of problems posed by more than thirty development projects is very essential. Local government has limited resources with which to furnish basic services, and the demand for governmental services continually exceeds the supply. The rising cost of materials, goods and services necessitate careful consideration before tax dollars are allocated and spent.

The difficulty in extending the requested services to rural subdivisions is basically financial, and is compounded by their being widely scattered.

Regulation of these new developments is necessary to protect the people from unscrupulous land speculators, and to insure the desired overall development and expansion within the county.

Methodology

In reviewing existing literature on subdivision development and expansion, the author was not able to discover a single source or material or study that dealt with the specific locality under consideration. Since these developments are recent in origin, the idea may still persist that there is insufficient data and information available to analyze. Not all sources the author has tapped have provided material beneficial to this study. The absence of related studies has stimulated the author to more personal contact than might otherwise have been the case. Not all attempts to obtain personal viewpoints have been successful, nevertheless, sufficient data has been collected to provide a base for this study.

Under existing conditions, the author has attempted to view the projects as seen by both subdivider and governing official. Written questionnaires, personal interviews and discussions, on-site inspection of subdivisions, visits to county offices, letters, and telephone interviews have provided the information necessary to analyze the present status of these developments, and to present viewpoints and ideas as to the future role that they may play in the county's political and economic life.

The overall contribution of this report can be ascertained only after the completion of future studies and investigations. This work is an exploratory study and seeks to provide a foundation on which future studies may be conducted.

Historical Background

Those who formulate the laws and administer them are men, and, being men, there is an enormous disparity between the simplicity of their minds and the real complexity of any large society.¹

In the world today, people are witnessing the emergence of what may be called "mass leisure." Unlike the recent past when leisure time was enjoyed only by the rich, nearly everyone is entering an era when leisure and more leisure will become commonplace.

Outdoor recreation is one area that is expanding as a result of increasing amounts of leisure time. Given a freedom of choice, it is quite evident that vast numbers of the population enjoy and take advantage of outdoor recreation facilities. Until very recently, private outdoor facilities were owned solely by the rich. Today's affluent society is rapidly changing that aspect of the relaxation-minded population.

Studies have shown that individual leisure time, since 1900, has substantially increased. In that year, after work, sleep, school, housekeeping, and personal care, a person could still consider about 26 1/2 percent of

¹Walter Lippman, The Good Society (New York: Grosset and Dunlap, 1943), p. 28.

his time in the leisure category.² By 1950, the proportion of leisure hours had increased to 34 percent, and has been projected at 38 percent by the year 2000.³

Competition for vacation facilities in federal and state camping and recreational locations, and the resulting lack of privacy within the National Parks and Monuments has influenced many people to look toward obtaining their own private vacation site. As one surveys the future, a greatly expanded demand for steadily increasing numbers of outdoor recreational areas and facilities is forecasted, both public and private.

In recent years, there has been a boom in subdivision development in the deserts and mountains of the West. As the result of greater congestion in urban regions, and more wealth and leisure time in the working classes of people, more people are using the newly acquired wealth and time to remove themselves, even temporarily, from urban living. Many of these rural developments provide second homes for families. The homes are used for vacation purposes or other special occasions but are not intended for year round occupancy.

Beginning in the 1950's, the United States Bureau of Land Management, under the Small Tract Act, leased or sold some 75,000 lots in Southern

² Marion Clawson, Land and Water for Recreation (Chicago: Rand McNally and Company, 1960), pp. 4-5.

³ Ibid.

California.⁴ Rural subdivision projects spread quickly into Arizona and Nevada, and then through the remainder of the western states. The Los Angeles office of the Bureau of Land Management alone sold or leased 50,000 lots of a size between 2 1/2 and 5 acres, and had a backlog of 25,000 applications.⁵ As public land became increasingly difficult to obtain, the citizen desiring a private building site turned to private landowners, as did the land speculators.

Zion, Bryce, and Grand Canyon National Parks and Cedar Breaks National Monoment, all within easy driving distances, lured numerous non-residents into purchasing vacation sites in the surrounding territory. During the past decade hundreds of people have selected a private vacation location in the mountains of Southern Utah.

Kane County, Utah, is only one of a great number of counties in Utah, and most surrounding states that has felt the influx of "seasonal" landowners. Bordered on the west and north by Washington and Garfield counties respectively, Lake Powell and the state of Arizona form the eastern and southern boundaries. With a land area of 4,105 square miles, Kane is populated by 2,667 permanent residents,⁶ with the population density for the entire county

⁴George H. Smeath, "Crossing the Great Subdivide" (Salt Lake City, Utah: The Division of Community and Urban Development, University of Utah, April 1968), p. 2.

⁵Ibid.

⁶1960 Census of Population, Vol. 1, "Characteristics of the Population, Part 46, Utah" (Washington, D. C. : United States Department of Commerce, Bureau of the Census), p. 11.

approximating six-tenths (.6) person per square mile. Permanent population growth is difficult to achieve in most of Utah's rural counties and Kane is no exception. The population, from the figure cited above, has since decreased an estimated 6.2 percent between the last United States census in 1960 and July 1, 1966.⁷

Ranching, farming, and tourism have provided much of the local economy throughout the region's history, and in recent years a lumber operation in nearby Fredonia, Arizona, has helped sustain the economy. Outstanding local scenic values have resulted in approximately forty motion pictures wholly or partially filmed in the immediate area. The widely varying scenery, with its resulting economic impact, is well described in the following report:

When M-G-M's "Westward the Women" was filmed, 11 different "states" were shot within a 50-mile radius of town, from Missouri and the Kansas Plains to Colorado Rockies and even a lush California Valley.

Other sections have doubled cinematically for Texas, Wyoming, Nebraska, Mexico, and those two famous historical trails, the Oregon and the Santa Fe.

The economic impact of Hollywood on this small town and its environs is both instant and evident. The average film company will spend more than \$12,000 weekly just for food and lodging. A major location lasting eight to 10 weeks will leave a quarter of a million dollars in the Kanab coffers.⁸

In the past thirty-five years, these "Westerns" and shorter versions for the

⁷ Kane County, Utah--An Economic Profile (Salt Lake City, Utah: Bureau of Economic and Business Research, University of Utah, January 1967), p. 5.

⁸ The Salt Lake Tribune, November 23, 1952, Volume 166, No. 40, p. M7.

Table 1. Population of Kane County and State of Utah, selected years 1850 to 1960, and 1961 to 1966 annually

Year	County population	Per cent change from last census	State total	County as per cent of state total
1870	1,513		86,786	1.7
1880	3,085	103.9	143,963	2.1
1890 ^a	1,685	-45.4	210,779	0.8
1900	1,811	7.5	276,749	0.7
1910	1,652	-8.8	373,351	0.4
1920	2,054	24.3	449,396	0.5
1930	2,235	8.8	507,847	0.4
1940	2,561	14.6	550,310	0.5
1950	2,299	10.2	668,862	0.3
1960	2,667	16.0	890,627	0.3
1961 (Jan. 1)	2,700	1.2 ^b	915,000	0.3
1962 (Jan. 1)	2,700		942,000	0.3
1963 (Jan. 1)	2,800	3.7 ^b	972,000	0.3
1964 (Jan. 1)	2,600	-7.1 ^b	988,000	0.3
1965 (Jan. 1)	2,600		1,003,000	0.3
1966 (July 1)	2,500	-3.8 ^b	1,015,000	0.2

^aState total includes population (2,874) of Indian reservation, especially enumerated, but not distributed by counties.

^bPer cent change from last population report or estimate.

Source: Kane County, Utah, An Economic Profile (Salt Lake City, Utah: Bureau of Economic and Business Research, University of Utah, January 1967), p. 5.

more recent TV series have provided important economic benefits at all levels of the local populace.

This celluloid windfall is shared by every able-bodied person in town. The women, young and old, work as extras, clerical help, waitresses and cooks. The men are hired as cowboys, horse wranglers, guards for heavy equipment left overnight on location, while others are watchmen for wardrobe and property tents, with one, ⁹ unique in a business of specialists, as a two-wheeled alarm clock.

An essential factor to consider in assessing the local economic picture, is the knowledge that the labor force is moving away from agricultural activities-- in fact if not in name--and is experiencing substantial growth in the fields of construction, manufacturing, retail trade and services. Whereas, in 1940, those who were employed in agriculture and forestry constituted 45.5 percent of the employed labor force of the major industry groups, by 1960, this percentage had fallen sharply to 15.2 percent. During this same period the county witnessed the labor force in manufacturing increase to equal that of agriculture, and the labor force in retail trade and services moved well ahead of agriculture. Between 1940 and 1960, the employed labor force working in agriculture declined by 51.1 percentage points whereas the construction forces increased by 147.5 percentage points, although the number actually engaged in agriculture remained larger.¹⁰

Total assessed valuation of Kane County increased from \$1,420,757

⁹ Ibid.

¹⁰ Kane County, Utah, An Economic Profile, pp. 13 and 16.

in 1940 to \$3,037,207 in 1960.¹¹ Since the latter year, it has fluctuated between \$3,591,611¹² and \$3,912,046.¹³

The Kane County Commission has approved, and the recorder filed, in excess of thirty separate subdivision developments during the past ten to twelve year period. In a 4,105 square mile county with a declining population, one might normally wonder as to the possible use of such developments. Within these projects have been laid out nearly 7,000 individual building lots.¹⁴ Most subdivisions offer building sites in size from one-half to one acre. A few developments sell areas to a size of five or more acres. Although most subdivisions contain fewer than 200 building sites, one development will eventually expand to include 1,200¹⁵ such locations, and a second recorded subdivision outlines some 4,080 spaces.¹⁶

The local topography varies greatly. Much of the eastern and southern portions of the county have an elevation averaging 5,000 feet, and these sections are extremely dry. One familiar with this terrain will quickly conclude that most developments projected for this part of the county will not materialize

¹¹Ibid. , p. 53.

¹²Ibid.

¹³Ibid.

¹⁴For a list of subdivision and building lots see Table 4, p. 12 of this thesis. Received from Kane County Recorder, February 21, 1969.

¹⁵Bryce Woodland Estates.

¹⁶See map of Kane County, Utah, page 15, this thesis.

Table 2. Number of persons employed in major industry groups, Kane County, Utah, 1940, 1950 and 1960

Industry group	Number of persons			Percent of total ^a			Percent change		
	1940	1950	1960	1940	1950	1960	1940 to 1960	1940 to 1950	1940 to 1960
	Total labor force	785	733	902	100.0	100.0	100.0	+ 14.9	- 6.6
Unemployed ^b	204	36	54	26.0	6.0	6.0	- 73.5	- 82.4	+ 50.0
Employed	581	696	848	74.0	95.0	94.0	+ 46.0	+ 19.8	+ 21.8
Agriculture, forestry, and fishing	264	232	129	45.4	33.3	15.2	- 51.1	- 12.1	- 44.4
Construction	40	80	99	6.9	11.5	11.7	+147.5	+100.0	+ 23.8
Manufacturing	21	57	128	3.6	8.2	15.1	+509.5	+171.4	+124.6
Retail trade	82	91	151	14.1	13.1	17.8	+ 84.2	+ 11.0	+ 65.9
Services	126	141	224	21.7	20.2	26.4	+ 77.8	+ 11.9	+ 58.9
Industry not reported	9	17	8	1.6	2.4	0.9	- 11.1	+ 88.9	+ 52.9

^aEmployed and unemployed are stated as a percent of total labor force. The major industry groups are stated as a percent of total employed.

^bUnemployed in 1940 includes those persons working on public works projects.

Source: Kane County, Utah, An Economic Profile (Salt Lake City, Utah: Bureau of Economic and Business Research, University of Utah, January 1967), p. 13.

Table 3. Average agricultural and non-agricultural monthly employment for Kane County 1950 to 1965

Year	Average monthly work force	Average monthly employment	Average county unemployment rate	Average non-agricultural employment	Average agricultural employment
1950	1,000	810	19.0	571	240
1951	940	800	14.9	566	230
1952	950	760	20.0	543	220
1953	960	810	15.6	589	220
1954	880	760	13.6	549	210
1955	980	860	12.2	654	210
1956	1,060	940	11.3	738	200
1957	1,330	1,230	7.5	1,041	190
1957	1,280	1,180	7.8	987	190
1959	1,040	970	6.7	790	180
1960	1,060	980	7.5	798	180
1961	1,130	1,040	8.0	868	170
1962	1,110	1,040	6.3	874	170
1963	1,190	1,100	7.6	931	160
1964	960	860	10.4	728	130
1965	980	700	8.2	792	110

Note: Figures may not total because of rounding.

Source: Kane County, Utah, An Economic Profile (Salt Lake City, Utah: Bureau of Economic and Business Research, University of Utah, January 1967), p. 16.

Table 4. List of subdivisions and building lots, Kane County

Subdivision	Total lots	Sold	Acres	1968 Valuation
Clark Bench Acres	20	9	56.5	5940
Canyon Country Estates	64	2	300	14650
Church Wells Subdivision	154	13	16	4200
Abel Acres	59	--	15	750
Movie Ranch Subdivision	127	98	49.13	35290
Navajo Hills Subdivision	96	8	35?	2200
Golden Circle Heights	47	12	50	1170
Glen Canyon Heights	44	33	11.03	1100
Settlers Cove	16	3	26.54	13880
Maxwell-Towery Subdivision	98	2	21.5	1180
Wahweap (56)	10	2	1.7	
Wahweap (67)	10	4	1.7	1060
Wahweap (94)	19	4	5.18	
Round Valley Subdivision	4080	20	640	600
*Zion View Mt. Estates	243	96	84.8	25580
*Zion View Mt. Estates	57	11	52.81	11100
*Fly-in "L-D" Ranch Subdivision	142	6	280	7069
*Sky Haven Mountain Retreat	59	12	29.76	4690
*Timberlost Subdivision	68	9	34.26	1920
*Bear Springs Estates	17	4	11.65	1120
*Ponderosa Villa Subdivision	75	14	36.13	9310
Vermillion Cliff Estates	229	10	517.47	10960
*Spencer Cliffs Estates	43	1	54	1680
*Little Ponderosa Ranch Sub.	279	19	213.56	5400
*Bryce Woodland Estates	43	5	31.6	7390
*Strawberry Valley Estates	53	4	25	4500
*Swains Creek	76	2	42.16	8400
*Movie Ranch South Estates	100	5	61	440
*Meadow View Heights	75	3	37	6120
*Cougar Canyon Subdivision	108	10	48.08	7260
*Outlot A of Cougar Canyon Sub.	3	3	15	580
*Bryce Woodland Estates, Unit 2	40	4	21.67	4350
*Bryce Woodland Estates, Unit 3	37	1	--	----
*Strawberry Valley Estates, Unit 2	62	7	--	----
*Wonderland Vista Estates Sub.	73	2	--	----
*Bryce Woodland Estates	86	--	--	----
Total	6811	438	1134.49	199,880

*Mountain subdivisions under analysis.

Source: Kane County Recorder, February 21, 1969.

Table 5. Assessed valuation of Kane County, Utah by specified categories, selected years 1940 to 1965

Year	Real estate	Improvements lots and acreage	Livestock	Other personal and assessed property	Total assessed valuation
1940	\$ 738,409	\$ 305,651	\$113,514	\$ 263,183	\$1,420,757
1945	793,744	344,115	269,670	270,739	1,678,268
1950	726,237	470,821	222,380	449,926	1,731,900
1954	751,413	1,494,899	222,062	675,483	2,379,176
1960	796,214	1,010,522	92,657	1,137,814	3,037,207
1961	1,046,296	1,042,817	155,665	1,346,833	3,591,611
1962	1,122,709	1,111,015	138,976	1,296,872	3,669,572
1963	1,247,083	1,140,402	115,828	1,408,733	3,912,046
1964	1,197,611	1,134,728	98,907	1,186,701	3,617,947
1965	1,243,122	1,082,483	100,961	1,415,377	3,841,943

Source: Kane County, Utah, An Economic Profile (Salt Lake City, Utah: Bureau of Economic and Business Research, University of Utah, January 1967), p. 53.

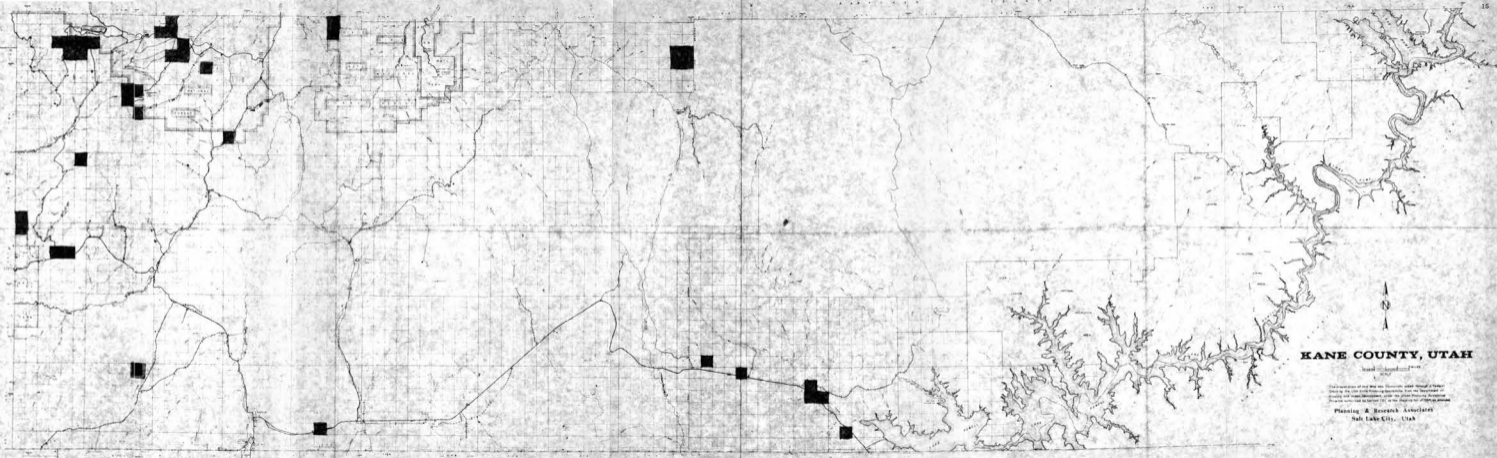
within the foreseeable future.¹⁷ Located in areas which would allow year-round residency, these developments are virtually dormant as a result of poor, sandy soil and the almost total lack of water.

Subdivision development of current importance to the local government is rapidly expanding in the northern and western sections of the county. The elevation here varies from the 6,000 feet level in the valleys to 9,000-10,000 feet atop the Markagunt and Paunsaugunt Plateaus. The emerging developments of this area are already playing an important role in the economic structure of Kane County. Seasonal, summer-home type projects, these subdivisions are not located nor planned so as to provide permanent, year-round living. Formerly used for summer grazing range for cattle and sheep, the mountainous land undergoing change experiences severe winter weather that precludes twelve month residency.

As a consequence of their quite recent emergence, the author has been unable to uncover any completed studies that would indicate the extent to which these developments are affecting or will affect the local political or economic affairs. Local officials have not ignored the developments, and are increasingly aware of certain problems that do exist and that will increase in scope and number as land within these projects come under individual ownership. The summer-home type developments, numbering approximately twenty at the outset of this study,¹⁸ are those in need of present study and regulation

¹⁷See map of Kane County, Utah, page 15 of this thesis.

¹⁸See list of subdivisions, page 12, of this thesis.



KANE COUNTY, UTAH

Scale 1:50,000
1967

The Corporation of the Wasatch-Cache National Monument
has acquired the 100,000-acre area shown on this map from the Department of
Interior and has transferred, under the 100th Anniversary Reclamation
Program authorized by Section 101 of the Reclamation Act of 1939, to the
Planning & Research Associates
Salt Lake City, Utah

in order to minimize present and future problems, and to protect the private citizens who are investing in land purchase. Subdivision expansion will continue so long as it is profitable for the developer. Regulatory measures must be prescribed at the local level to preclude unreasonable future demands being made on county agencies.

CHAPTER II

PRESENT AND FUTURE PROBLEMS

When a developer puts a woods into the name, or a vale, heights, forest, creek, or stream, he is not conserving; he is memorializing. Subdivisions are named for that which they are about to destroy.¹

The subdivision problem is actually a myriad of lesser problems. Most of these result from insufficient pre-planning and the lack of the resultant knowledge. These complexities will remain so long as do their cause, and as subdivisions continue to expand in size and increase in number so too will the perplexing situations they initiate.

The problems of the developments are similar to those that face any new emerging community. The fact that these projects provide seasonal occupancy simplifies some situations but compounds others. Of major concern is the great expense the county government will incur in furnishing services to emerging developments. Not only are the individual subdivisions located substantial distances from Kanab, the seat of county governmental operations, but many are widely scattered from the others. It is necessary to examine evident perplexing situations to determine the nature of the problem, its consequences, and correctional action taken or programmed.

¹William H. Whyte, The Last Landscape (Garden City, New York: Doubleday and Company, Inc., 1968), p. 202.

Roads

Subdivisions demand access. Roads leading to, and within existing developments, are even now a major point of conflict between developers and county officials. At present the Kane County road department is charged with maintaining approximately 550 miles of roads. This they must do on an annual budget of \$60,000.² According to county officials, this road budget does not allow for any consideration of subdivision roads. This situation becomes more complex when one realizes that subdivisions are located immediately adjacent to state highways, county roads, private roads, and roads owned by the United States Forest Service.

Requirements for roadways are explicitly stated in the Kane County Subdivision Ordinance:

The width and alignment of all primary, secondary, and local streets shall conform to the width and alignment of those streets already existing in the County adjacent to the subdivision and to the requirements of the Commission in conformity therewith or subsidiary thereto, . . . The minimum width between property lines shall be maintained in accordance with county street standards on all streets unless it can be definitely shown that topography or other local conditions will not permit such a width or that a lesser width is more suitable. Said standards shall be as follows:

Freeway	200 feet and up
Major Highway	100-200 feet
Secondary Highway	80-88 feet
Collector Street	60-66 feet
Local Street	50-60 feet

. . . All mountainous highways which form a part of a primary, secondary or local traffic route shall have a minimum width of

² Figures obtained from the Kane County Clerk's Office.

forty (40) feet between property lines, with a graded width of twenty-six (26) feet.³

Regarding streets, the ordinance concludes:

Every street, alley, or other public place shown on any subdivision map of land within the County shall be dedicated to the County when such dedication is deemed necessary by the County Commission for public use, but this shall not be construed as an acceptance of any such dedication until such dedication is formally accepted by resolution of the County Commission . . .⁴

Whereas the county legally acquires street and roadway ownership on acceptance of a subdivision, or approval of its plat, no streets have yet been accepted by resolution in the subdivisions under discussion. As a result, no county maintenance is performed on any development roads. The land developer is charged with initial road construction and he must carry the burden of keeping his streets in a passable condition until they have been accepted by the county commission. Complaints have arisen from the subdividers as a result of the county ordinance specifying graded roads of a specific width when the main access road to the subdivision, which may be locally or federally owned, is said to be considerably more narrow. During rainy weather, many hillside roads are said to turn into "rivers of mud" because they are wider than necessary.

The county road department foreman has indicated that he is continually

³John C. Willie, Land Use Planning Agent, Kane County Subdivision Ordinance (Logan, Utah: Utah State University, Extension Service), pp. 14-15.

⁴Ibid., p. 18.

approached, during the summer months, with requests from subdivision landowners to build, repair, smooth, or otherwise improve roads to or within existing developments.⁵ Local government officials acknowledge the inevitability of the county's eventual involvement in performing maintenance on access and interior roads. Even though these officials agree that the county is presently benefiting from subdivision development and expansion, they further concur that local government is in no financial position to assume road or street obligations in connection with these developments. Not only is the road department beset by requests to maintain private roads, but the U. S. Forest Service has also requested such service on their roads which are used by private landowners. At present, the Forest Service is not willing to turn such roads over to county ownership.

Refuse Disposal

Refuse disposal is currently a menace to both health and scenery. Present practices can lead only to an increasingly worse situation. Garbage collection and disposal is very basic to protection of the health of local residents and visitors alike, and this problem will intensify as additional landowners make use of their property. This situation originated as a result of the failure of county regulations to specify the method of refuse disposal.

Subdividers, and their employees, have reacted differently to this situation. One real-estate agent suggested that the U. S. Forest Service develop

⁵Kane County Road Foreman, Doyle Franklin, Personal interview, July 1968.

garbage dump sites in the immediate vicinity of his and surrounding developments. These should be on Forest Service land. This particular individual indicated that the people in the immediate area now drive through nearby U. S. Forest Service campgrounds and picnic areas and deposit their refuse in garbage containers located at those points.⁶ A second developer has included garbage disposal sites within the development itself, but stated he currently transports all subdivision litter to a small town dump located ten or eleven miles from his project.⁷ Other speculators said nothing of refuse disposal, and it can be assumed that they are leaving to the individual landowner the necessity of determining a method for disposal.

Sewage Disposal

No area should be of greater concern to local officials than that of sanitation and public health. The Kane County Subdivision Ordinance specifies:

In hillside mountainous, or desert areas and in other areas approved by the county commission, septic tanks, sewage ponds, or other means of sewage disposal may be approved, provided that the disposal system is constructed in a manner satisfactory to the State Department of Public Health and the planning commission . . .⁸

The Utah State Division of Health must approve plans and specifications for construction only in the case of a

⁶ Oliver LaFevre, Ponderosa Villa, Personal interview, September 1968.

⁷ Eric Bretthauer, Bryce Woodland Estates, Personal interview, September 1968.

⁸ John C. Willie, Land Use Planning Agent, January 17, 1969.

public water system or public sewage disposal system . . . Sewage disposal facilities provided for individual homes in areas not served by public sewers must not be in conflict with the Code of Waste Disposal Regulations (Part IV, Individual Waste Water Disposal Systems) but enforcement of these regulations rests at local level, and plans for individual installations need not have prior approval by the State Division of Health . . .⁹

It is obvious that whereas county regulations may be deemed sufficient in this subject area it is vital to the welfare of those directly concerned that the county adequately verify the existence of lawful sewage disposal facilities.

Policing

The emerging subdivisions have already posed policing problems which cannot be ignored. Each incident serves as an indication of the complexity involved in protecting life and property in a rural environment.

The Kane County Sheriff's Department is composed of one man, the sheriff. There have been incidents in the past when the department has been expanded to include a deputy sheriff.¹⁰ When analyzing police functions within the county, one must not use population as the only criteria. Though the county

⁹ Utah State Division of Health, General Information Regarding Housing Subdivision, Revised 1968, p. 1.

¹⁰ During the 1950's, Kane County added a deputy sheriff as a result of the large increase in county population as a result of the construction of Glen Canyon Dam near the Utah-Arizona border. Located approximately eighty miles from the dam site, Kanab served as a base of operations for the general contractors and most of their workers until facilities could be provided closer to the construction area. On completion of temporary housing facilities, and later the dam itself, most construction workers moved to other projects. The deputy was released since the reason for his original hiring no longer existed.

has a relatively small population there is more than one man can do to oversee all activity in an area of 4,105 square miles. There are policing problems created within the subdivisions resulting from this particular type of development. People who buy land within these summer type developments come to these areas for recreation and relaxation. Too much regulation is neither wanted nor desirable. Numerous families who have purchased land and built a cabin or placed a house trailer on it are permanent residents of southern Nevada or southern California. Many such families will drive to their property for a weekend. Since the parents must return home to resume their weekly jobs, many parents will leave their children at the subdivision during the week. Most subdivision lots are less than one acre in size but the children do not confine their recreational pursuits or other movements to their own property. Problems result when these youngsters party, carelessly shoot off firearms or steal the property of others. A majority of subdivision dwellers spend one to three weeks of each year on their property and it is otherwise abandoned. Many of these people leave valuable possessions locked in their cabins or trailers--guns, skis, old relics and other valuables which can easily be stolen and sometimes are.

Drinking, fighting and family squabbles are problems that occur each summer and must be handled by local authorities. When the sheriff's office receives a complaint or request for assistance from someone within a subdivision, the sheriff must travel between thirty and sixty miles and in some cases greater distances before any type of action can be taken or assistance given. An additional problem is encountered here by the sheriff. He can

quickly determine a specific development but on his arrival there he will likely experience difficulty locating any particular building site, house or trailer. Subdivisions are not laid out nearly in straight lines. To do so would destroy their appeal. To the author's knowledge none offer directions within the subdivisions other than to point the way to the real-estate agents location. Consequently, even in the case of an extreme emergency, the sheriff may have to attempt to locate a specific lot by any method possible. Time consuming and frustrating during the daylight hours, it could prove tragically impossible at night.

Water

Water is liquid gold in southern Utah. For each subdivision to have its own public water source and development is not feasible. Water is a premium item throughout southern Utah but in many areas it simply does not exist. Even should water become readily available in all developmental areas, severe winter conditions in the higher elevations would make water line installation impractical. The expenditure for water development and annual maintenance would be prohibitive when compared with the time that most people are in residence. As to existing state regulations governing water, approval of the Utah State Division of Health is necessary only in the case of public water systems.¹¹ The Kane County Subdivision Ordinance states:

¹¹Utah State Division of Health, pp. 1-3.

The water to be supplied for a subdivision shall be obtained from a source free of pollution or from a source adequately purified by natural agencies or by artificial treatment. The source shall be reasonably adequate to provide a continuous supply that is wholesome, potable and in no way harmful or dangerous to health, and is developed in a manner satisfactory to the State Department of Public Health and the planning commission.¹²

Known surface water sources have been filed on for years and state regulations preclude the indiscriminate drilling of wells for private use.

Taxes

The authority of the county to tax property is seldom questioned by anyone. Seldom does everyone agree, however, that property taxes are assessed equitably. In the rural developments this viewpoint is shared by subdividers and individual lot owners alike. The principal complaint of the developers is the practice of taxing the entire subdivision at a residential tax rate as soon as it has been accepted by the county commission. Many of the emerging subdivisions were former grazing areas and had been taxed on a grazing use tax base. Developers do not feel this change in tax classification is justified. They already bear the burden of development costs and expensive preliminary activities must be performed before actual sales can take place. It is further asserted that by initiating this change in the tax rate the county is working against itself. The county wishes orderly subdivision development but by changing the tax base from that of grazing to that of residential the

¹²John Willie, Land Use Planning Agent, January 17, 1969.

county is forcing some developers to sell their land by legal description rather than through the more orderly form of subdividing. The selling of land by "metes and bounds" shifts the burden of additional taxes away from the developer and to the new landowner. Whether or not the claim is legitimate it is a fact that the county office recording the property sold by legal description has to expend more time in writing each land transaction. A related concern is the method of assessing individual locations within a subdivision. In the opinion of the developers, subdivision lots are assessed according to size or area with no consideration given to their location or real worth. Developers approached on this matter by individual lot owners have found it impossible to explain to one building site owner why his tax assessment is double that of a second landowner when the second owner paid twice the amount for his land than that paid by the first owner.

Indepth studies prior to a subdivision's approval could provide solutions to problems before they actually develop. Many of the emerging projects are surrounded by or adjacent to property under the administration of the United States Forest Service. Within these Forest Service areas are many campgrounds and recreation facilities supervised by forest service personnel. It can be assumed that they are very much aware of the problems in the surrounding subdivisions. Also located in the immediate vicinity are headwaters of streams and lakes which are annually stocked with fish by the Utah State Fish and Game Commission, and under the protection and management of this same commission are large numbers of game animals which inhabit the area.

It is surprising that no studies have been undertaken or programmed by federal, state or local agencies to ascertain present or long range effects from the developing projects. Funding such a study would prove burdensome if carried on by the local government alone. However, joint efforts would seem a logical step in ascertaining the problems that will arise as a result of these projects.

Kane County is understandably anxious to increase its tax base as much as possible and as rapidly as possible. The emerging subdivisions have undoubtedly helped the county to that end. Indeed the recreational homes in Kane County now generate as much revenue for tax purposes as all communities in the county with the exception of Kanab City.¹³ The subdivision developments are probably the only area in the county showing substantial growth. County officials have not always been aware of all avenues open to them in dealing with these developments and they have not always made the proper decisions. These officials are well aware of the fact that tax monies cannot continue indefinitely to flow from the subdivisions to the county without return of services to the developments. This fact was acknowledged when a county official said that in the long run developing municipalities cost money. They do not put a surplus into the county treasury.¹⁴ The shortage of available

¹³Reo Heaton, Kane County Assessor, "Master Plan" meeting, June 27, 1968.

¹⁴Merrill MacDonald, Kane County Commission Chairman, Informal Interview, July 19, 1968.

resources will continue to plague local government throughout the foreseeable future. Indepth studies would provide county officials with specific dollars and cents data to plot what local governmental costs are likely to be in the future. Such studies whether conducted in behalf of all levels of government or just the local level should prove their worth many times over in future savings to the county. The Utah State Fish and Game Commission Regional Office in Cedar City, Utah which oversees fish and game activities in Kane County admitted that the emerging subdivisions could definitely develop into problem areas. However, this office was not aware of any studies undertaken or planned concerning water pollution problems or game management or control problems as a result of the subdivisions.¹⁵

The Kane County Planning Commission and County Commission should thoroughly study the boundaries and legal description of all subdivision applications. Future problems have been inadvertently created due to the county's approval of subdivisions in which one lot legally described overlaps the boundary of a second lot. Also in at least one situation two separate subdivisions legally overlap one another. It is easily seen that costly problems concerning clear title could develop in the future. Had either the Planning Commission or the County Commission rejected the tentative subdivision map and returned it to the developer such potential problems could have easily been rectified by the subdivider.

¹⁵ Mr. Saunders Clark, Supervisor, Utah State Fish and Game Regional Office, Personal interview, July 18, 1968.

Scenic Values

Kane County and Utah as a whole depend heavily on scenic values to lure in tourist dollars. It should be important that the emerging developments do not dissuade the tourist from entering or returning to Southern Utah. Economically, tourists have provided a substantial boon to the county's economy. For example, in 1954, 34 retail businesses in Kane County accumulated gross sales of \$1,622,000 to which the category of service stations contributed \$370,000. In 1963, service stations grossed sales of \$1,218,000. Whereas business sales as a whole increased 74 percent between 1954 and 1963, service station sales jumped 221 percent.¹⁶ Though some increase can be attributed to increased costs and use by local residents, it can be assumed that the bulk of this increase came from tourist and other vacationers. There can be no question as to the current tax benefits the county has derived from the developing subdivisions, but uncontrolled development of mountainous areas with total disregard of the possible impact they could have on various other sources of local income might prove very unwise. There are people who would argue that some visiting tourists obtain lots in the rural subdivision areas, and this is true. However those who do purchase land are a very small minority of the area's total visitors. In this situation, too, a thorough study might be meaningful in obtaining desirable and pertinent information.

A final problem but certainly not the least important is that of the

¹⁶Kane County, Utah, An Economic Profile, p. 34.

proper orientation on the part of the temporary residents. Since most land-owners are from California or Nevada, they travel Interstate-15 and highway US 91 in their approach to their vacation site in Utah. The highways mentioned above lead the landowners into Cedar City, the largest community in the area but located in Iron County. Due to Cedar City's relative position and size most subdivision dwellers maintain a mailing address there and most of their shopping activities are also carried on in that city. A very necessary goal will be to reorient these temporary residents toward Kane County. This is especially important for functions of local governmental activity or service such as law enforcement, building permits, and property taxation. The problems as outlined are well recognized by county officials who realize that such problems can no longer be ignored or taken lightly. Now is the time that the county must plan for the future and governing officials are well aware of the consequences of further procrastination. Attempts have been made to eliminate certain problems but many other problems still remain. Local officials in problem solving capacities are aware that solutions to problems that work well on paper do not always work well in reality as evidenced by the Kane County Subdivision Ordinance. Even though the subdivision ordinance clearly outlines many practices and procedures, the inability of the county to hire sufficient personnel to oversee the regulations precludes their effective implementation.

CHAPTER III

THE IMPORTANCE OF PLANNING

State Statutes

The State of Utah is generous in its delegation of authority to individual county governments. Enabling acts provide local officials with sufficient power to develop their districts in any reasonable and constitutional manner. This study of Kane County deals with such areas and, therefore, it is important to ascertain the legality of the actions and the obligations of elected county officers.

The Boards of County Commissioners of the respective counties within the State are authorized and empowered to provide for the physical development of the unincorporated territory which is in the county and for the zoning of all or any part of such unincorporated territory hereinafter provided.¹

In analyzing the emergence of subdivisions, one normally visualizes the orderly development of well-planned housing projects. This perception is not founded in fact. Legally the definition of a subdivision in Utah:

means the division of a tract or lot or parcel of land into three or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of sale or building development . . .²

¹A. Wayne Guernsey, Editor-in-chief. Utah Code Annotated, 1953, Replacement Volume 2. Indianapolis, Indiana: The Allen Smith Company, Publishers, 1954), (17-27-1), p. 721.

²Ibid., (17-27-27), p. 739.

While the developments of this study meet the legal definition of subdivisions, they bear no resemblance to the above mentioned housing projects. The projects studied here are emerging on private plots varying in size from under 10 acres to in excess of 200 acres.³ Located for the most part in the higher elevations of Kane County, the developments provide a surveyor's nightmare. The author believes it extremely unlikely that any two subdivisions would show many similarities as a result of the rugged geographic settings and widely varying dimensions.

Subdivision regulations are an exercise of the police power of state and local units of government. Their scope and geographic coverage are usually governed by the authority under which they are enacted. To a local planning commission, subdivision regulations or ordinances should be important in allowing the commission to coordinate the otherwise unrelated plans of a number of individual developers. This coordination will become more meaningful to Kane County as subdivision developments continue to multiply on previously open land. Ordinances also allow the control of internal design of each new development so that its streets, lots or other facilities will be safe, pleasant and economical to maintain. To the individual home site buyer, subdivision regulations are an assurance that his investment in land is not a wholly speculative nature. Since the developer has had to abide by certain ordinances the buyer feels more secure in his purchase.

³See list on p. 12.

County Regulations

Ownership of land involves duties to the county as well as rights in the individual owner. The conscientious subdivider is well aware of this and willingly accepts his responsibility. He further realizes that county subdivision control is beneficial to his efforts. By demanding that the subdivider comply with specific regulations the county laws protect the honest developer from the fly-by-night operator. Such laws are also to protect against substandard competitors who might be inclined to destroy the value of a carefully planned development with a shoddy one nearby.

The Kane County subdivision ordinance requires, and the developer expects, a considerable amount of preliminary work of planning to precede an application for approval of a new subdivision. Before official approval is extended, county officials should undertake investigations of their own to verify data contained on the application. Here should be emphasized the importance of the planning commission. Too often a planning commission, if indeed one exists at all, is a seldom used or completely non-functioning unit. What recommendations are made are done so on the basis of who is making the request not the validity of the request.

The Kane County Planning Commission was appointed in July 1968. Prior to this date the county commission undertook the responsibility and activity of the planning commission. Utah state statutes clearly define the counties latitude in the establishment of a county planning commission.

The board of county commission of any county within the state is hereby authorized and empowered to appoint an unpaid commission of 7 members to be known as a county planning commission provided that in the counties of the state having a population of 15,000 or less desiring to establish a commission as herein provided the board of county commissioners may constitute the commission. . . .⁴

State statutes not only outline the structure of the planning commission at the county level but specify its function, the assistance available to it, and other requirements.

It shall be the function of a county planning commission to make and adopt a master plan for the physical development of the unincorporated territory of the county . . . The master plan of a county, with the accompanying maps, plats, charts, and descriptive and explanatory material, shall show the county planning commissioners recommendations for the development of the territory covered by the plan. . . .⁵

. . . the county planning commission is directed to make use of the expert advice and information which may be furnished by appropriate federal, state, county and municipal officials, departments and agencies, and in particular by the state planning commission of the state of Utah, without additional cost to the county or municipality. . . .⁶

A planning commission is functioning in the capacity of a public decision-making body, and the decisions it renders should be based on the most effective programs to achieve the goals the public desires. The "ideal" type of operation and activity requires extensive knowledge of the desired goals of the public and a thorough knowledge of the subject matter under consideration. The scope of the

⁴Guernsey, (17-27-2), p. 722.

⁵Ibid., (17-27-4), p. 723.

⁶Ibid., (17-27-3), pp. 723-724.

public interest in emerging rural areas is very broad and very important. The public interest or, stated another way, the health, safety and general welfare of the people can only be protected by the actions of elected or appointed county officials. Ordinances and regulations provide the primary means of controlling most types of objectionable activities--providing such regulatory measures are adequately enforced. As most lawyers will admit, it is virtually impossible to enact regulations to cover every situation and not have potential loopholes. Subdivision regulations are no different than any others in this respect. Subdivisions require substantial investments from a developer in planning and money. So long as they require such investments there will be efforts on the part of fly-by-night developers to identify and utilize such loopholes. A major loophole found in many subdivision regulations comes from the fact that enabling acts are set up for the regulation of the use of plats instead of regulating the subdivision of land. Such acts do not make it illegal to subdivide land without approval. Instead they make it illegal to transfer or sell land:

By reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by the planning commission and recorded or filed in the office of the appropriate county recorder.⁷

Since many state enabling acts are similar to the Standard City Planning Enabling Act, this means that such state subdivision regulations have little

⁷William I. Goodman, Editor. Principles and Practice of Urban Planning (Washington, D. C.: International City Managers' Association, Publisher, 1968), p. 467.

effect on the land owner who sells his land by "metes and bounds" deed. Not only does the county encounter additional work recording land sold by "metes and bounds," but the potential is present for extremely expensive services which the county might be obligated to provide in widely scattered sections of its territory. Utah statutes stipulate that:

All plans of streets or highways for public use, and all plans and plats of land laid out in subdivision or building lots, . . . shall be submitted to the county planning commission, if one has been created, and approved by such commission before they shall be recorded. It shall not be lawful to record any such plan or plat at the office of the county recorder unless the same shall bear thereon by endorsement or otherwise the approval of such commission. . . .

From and after the time when a county planning commission has been appointed no land located within a subdivision as defined in this act shall be sold until and unless a subdivision plat shall have been approved by the planning commission and recorded in the office of the county recorder, except that in subdivisions of less than 10 lots, land may be sold by metes and bounds without necessity of recording a plat. . . .⁸

Analysis of the county subdivision ordinance reveals that a legal loophole of the kind described above does exist.

It is unlawful for any person, firm, corporation, partnership, or association, as principal, agent or otherwise, to divide or subdivide for lease or sale into ten (10) or more parcels of land or to lease, sell, convey quitclaim, agree to sell, or transfer, by contract, deed, or otherwise, or after such division or subdivision to offer for sale or lease, any land or any part thereof whether improved or unimproved, in Kane County, unless and until all other requirements hereinafter provided in relation thereto shall have been complied with.⁹

⁸ Guernsey, (17-27-21), pp. 736-737.

⁹ John C. Willie, Land Use Planning Agent, February 17, 1969.

The county can substantially benefit in the long run should such potential problems be eliminated through corrective regulations in the new master plan.

Planning

Planning as defined for purposes of this study does not refer to operations occurring now or within the next six months. The kind of study that will be of most benefit to the county will require a substantial investment of time and money to determine county needs and requirements in respect to the subdivisions and what the long range needs to be. It requires determined foresight in order to plan for possible, and in this case probable, eventualities ten to twenty years in the future. Nevertheless it is planning on this scale that is now necessary to provide the services that the county will soon be obligated to furnish. Indepth planning would seem to be one of the best investments the county could make at this time. The Kane County master plan is a logical step in long-range planning and should prove highly beneficial if realistically written and faithfully executed.

There is no question in the minds of the county officials but what the time will come shortly when some county services must be extended to the subdivisions. Such services as road maintenance and police surveillance, once undertaken, almost certainly will have to be continued. One familiar with governmental operations of this type realizes the futility of attempting to eliminate such services once they are initially undertaken. Proper planning

will provide county officials with the knowledge of what services must be undertaken and what the cost will be. In considering the services that will be required, county officials must keep in mind the pocketbook of local citizens. Officers should consider each new development in relation to possible tax revenues. Will a certain project become a blighted area due to its unfavorable location and fail to help pay its way? The sensible way to deal with such areas is to prevent them in the first place. An "active" county commission and planning commission can accomplish the desired results.

There can be no question in studying the subdivisions' needs such as roads, fire protection, health and safety, or policing, but what the major emphasis of this study must focus on planning. There would appear no other feasible method of effectively coping with existing and future problems. It is quite apparent that failure to anticipate demands that will be made on the county, while they will not be fatal, are of such magnitude as to warrant careful preparation. Actual planning should consider short, mid-range and long-range objectives. All too often action is geared to catching up operations or in meeting day-to-day situations. This type of governmental operation, regardless of level, is no longer adequate. Modern technology is rapidly pushing changes upon all aspects of living and will continue to do so at an increasing rate whether people are prepared or not.

"The fact is," says Alvin Toffler in Horizon in the summer of 1965, "--and simple observation of one's own friends and associates will confirm it--that even the most educated people today operate on the assumption that society is relatively static. At best they attempt to plan by making simple straight-line

projections of present trends. The result is unreadiness to meet the future when it arrives."¹⁰

A statement attributed to Louis J. Halle would seem to add more urgency

. . . in a world increasingly rushed to death, the long-range waits on the immediate. What is urgent takes priority over what is merely important, so that what is important will be attended to only when it becomes urgent, which may be too late.¹¹

Planning that looks to the future is absolutely necessary and to be effective such planning should include alternative courses of action and probable results of each course.

Short-range planning

Short-range planning is desirable in covering a multitude of immediate actions by the county commission or county planning commission. Zoning administration, probable work projects, and subdivision control need reviewing and updating. New projects and subdivisions must be approved following a complete study of conformity to county regulations.

Mid-range planning

Mid-range studies should cover activities planned for two to ten years in the future. It would appear that very few governmental units attempt to establish goals this far in advance. This failing is common at all levels of government but that fact does not in any way mean that it should be tolerated

¹⁰ Kaiser Aluminum News, Volume 24, Number 1, Oakland, California, 1966, p. 5.

¹¹ Smeath, p. 8.

or accepted. Capital improvement programming, indepth zoning studies, periodic evaluation and revision of existing subdivision standards and regulations all fit into mid-range programs.

Long-range planning

Long-range projects should include data collection, mapping and analysis, as well as the review and updating of the comprehensive or master plan. Such planning necessitates the ability to look ahead 15 to 50 years. Granted, it is difficult to envision what things will be like at that distant date. However, the poor record in dealing with problems on a wait-and-see basis has proven to be totally inadequate and unacceptable. It is time that local units of government began to participate in state and regional planning concerning long-range goals.¹²

It is difficult for most people to become excited or interested in the idea of thorough professional planning. A little forethought may be desirable, they agree, but few people--and this includes many local governmental officials--want to go so far as to use tax dollars for planning purposes. County officials are charged with responsible government but too often the majority of the people equate good government with the cheapest kind, responsible or not. In the short run this may seem desirable but will prove totally unrealistic in meeting the demands of the future. County regulations are extremely important for effective and efficient local government. Ordinances need to be clear

¹²Goodman, p. 547.

and well developed whether they govern subdivisions or other operations and projects. That this is not always the case can be seen in the following statement:

Legislative parties at every level of government normally "act" in a series of "reactions" to particular problems which have been called to their attention. A child is bitten, so the city council enacts an ordinance forbidding dogs to run at large. There is a smallpox epidemic, so the state legislature enacts a compulsory vaccination law. Seldom does a legislative body first examine existing laws to see whether a new law is needed or, if so, how best it might fit into the existing regulatory pattern. Because of this modus operandi, it is never difficult to make an accurate demonstration that the laws in any given area are a patchwork of uncoordinated regulations.¹³

It is fortunate that Kane County has been able to experience the growth of its subdivision with no more problems than have existed. Although a few developments in the eastern portion of the country came into existence during the mid-to-late 1950's, the bulk of the mountain projects have emerged since 1960. Once the latter type began they have rapidly expanded in number. With the rapid proliferation of rural subdivisions came additional and enlarged problems not only for Kane County but for several of its bordering counties experiencing similar developments.

Five southwest Utah counties--Kane, Garfield, Washington, Iron, and Beaver--joined in 1956 into the 5-County Organization.¹⁴ One obvious reason was their common desire to benefit from the experiences of the other

¹³ Ibid., p. 468.

¹⁴ Letter from Kane County Clerk, March 12, 1969, p. 2.

member counties. A problem faced by four and probably the fifth of these counties has been the emergence of rural, mountain-type, seasonal subdivision developments.

The Utah State Extension Service outlined to the 5-County Organization the benefits that could accrue through the efforts of a land use planning agent. As a result Mr. John Willie arrived in St. George on March 12, 1966.¹⁵ He was hired to assist each county or town individually as it saw fit to use his talents. Iron County did not join with the other counties in his use and has not done so in the three years he has been in the vicinity. Other cooperating counties and their towns rely heavily on his services. Mr. Willie was hired by the State Extension Service and his salary is paid by that state agency. Each participating county contributes a per capita fee to pay his office and operating expenses.¹⁶

Kane County has been fortunate to have had the services since 1966 of a professional land use planning agent. Most of the improvements made by the counties in subdivision regulation and control have resulted directly from the recommendations of John Willie. The county, like other sparsely settled rural regions, has few citizens with the knowledge, time, or desire to thoroughly study local government operations, its needs and solutions. Kane County has relied heavily on Mr. Willie in matters of land use. He is "highly regarded"

¹⁵ Letter from John Willie, Utah State University Extension Service, Land Use Planning Agent, February 17, 1969, p. 1.

¹⁶ Letter from Kane County Clerk, March 12, 1969, p. 2.

and does a "good job."¹⁷ In utilizing the experience of land use planners, in this case as in all others, it is necessary to adapt experience and training to existing circumstances. Due to the fact that the emerging developments in Kane County are currently of a seasonal nature, livability in this particular setting may not be so vital now as is efficiency in the overall land use pattern. However, as more people develop their land and as its use is possibly extended into later fall and winter months, the livability of the area may become increasingly important. The reason this is true is that with more landowners in the area, "the actions of individuals or families, in search of more satisfying living conditions, have a random but cumulative effect of altering the land use problem"¹⁸

Professional planners generally conduct studies of land use in combination with density or the desired population capacity of a land area. While it would seem absurd at this point to contemplate density studies in connection with Kane County's subdivision projects, the recognition of this concept by the local governing body now may well alleviate major future requirements and commitments. The more tightly people are grouped together in any given space, the more conflicts that develop. According to Mr. Willie,

Certainly the subdivision activity in the entire 5-County area, the problems arising from this activity and becoming a major concern with the County Commission, add a definite bearing on their

¹⁷ Ibid., p. 2.

¹⁸ F. Stuart Chapin, Jr., Urban Land Use Planning (Urbana, Illinois: University of Illinois Press, 1965), pp. 39-40.

interest in bringing planning consultants into this area. It is not uncommon for public officials to conduct "crisis" planning. The subdivision activity in some parts of the 5-County, including Kane County, had reached critical proportions.¹⁹

Here is a good example of a governing body acting as a reaction to particular problems brought to their attention. Even though many subdivision plats had previously been approved by the Kane County Commission, it was not until September 1966, with the assistance of Mr. Willie, that a county subdivision ordinance was adopted. The developments approved prior to the enactment of this ordinance, with the problems they contain, are virtually exempt from regulation under the county ordinance as outlined in Article 1, Section 4:00.

The provisions of this Ordinance shall not apply to any lot or lots forming a part of the subdivision created and recorded prior to the effective date of this Ordinance unless said lots are hereafter proposed for further divisions or subdivision. Nor is it intended by this Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or with private restrictions placed upon property by deed, covenant, or other private agreements, or with restrictive covenants running with the land to which the County is a party. Where this Ordinance imposes a greater restriction upon land than is imposed or required by such existing provisions of law, Ordinance, contract or deed, the provisions of this Ordinance shall control where the final map is not recorded before the expiration date of the existing tentative map.²⁰

The developments in Kane County are of a permanent, though seasonal, nature. The combination of an ever increasing population and the outlook for more leisure time for recreational pursuits would seem to indicate an increasing

¹⁹ John Willie, Land Use Planning Agent, February 17, 1969.

²⁰ Ibid.

demand for the type of project emerging in the region. Reviewing the activity in this area over the past three to five year period leads one to believe that the summer, second-home type developments will have tremendous growth in the future so long as the people have more time and money on their hands. The fact that these projects are permanent means the problems they pose are also permanent so long as they remain unsolved. A few problems may be eradicated through proper planning and execution of the plan. Other problems, such as road maintenance, water pollution, policing, sewage and refuse disposal, will multiply as new developments are approved and as more demands for county services result from increased land sales. There would seem to be no escape from, nor substitute for, proper planning.

The experienced government official will realistically acknowledge the inevitability of incurring expenses when projects such as these are locating within the confines of a geographic area under his jurisdiction. Local officials can no longer afford to ignore the fact that the time will come when the demands of the landowners--already being heard--will increase to such proportions that they must be acted on. The time is past when the county could benefit as much as possible from prior planning, but lack of sound planning now, for future operations, could prove so expensive so as to be beyond the ability of local governments to respond. It is the duty of the county officials to plan ahead for the time when the local government must use tax monies for services within subdivision areas.

Many professional planners would advocate, as does George H.

Smeath, A. I. P. ,²¹ the idea of encouraging the bulk of the subdivision activity to be carried on in existing cities and towns where services and public facilities already exist. The argument here is that:

When the location or design of the subdivision is a hazard to the watershed in which it is created, or when the project causes erosion with its losses of soil and muddying of streams, or when the home sites spill sewage effluent into surface or underground water, or when the program scatters a few part-time residents over mountain meadows and along canyon streams and thus destroys the high mountains and valleys for the hundreds of thousands of the public--when these are the costs of subdivision activity the economy loses much more than it gains.²²

The argument further stipulates that such developments, if carried on within existing towns--and this seems self-evident--could greatly reduce the demand for the extension of costly governmental services. In the case of Kane County, however, the development of new projects in existing towns would serve no constructive purpose whatever. The subdivisions exist and will continue to expand because they provide the landowner the opportunity to get away from the confines of urban living.

County regulations have specified many improvements to be made within the individual subdivisions but there are many landowners who desire as few improvements as possible, and this desire does not stem from the costs involved. These people are not interested in wide paved streets or curbs and gutters and sidewalks. They purchased their summer home sites to get away from the

²¹Smeath, p. 7.

²²Ibid., p. 4.

so-called asphalt jungle.

Zoning

Closely associated and often confused with planning is zoning. One authority indicates that most of the confusion surrounding the differentiation between "planning" and "zoning" has resulted from the practice of adopting "zoning ordinances before embarking on full-scale planning."²³ Regrettably, Utah still allows such practices. "A county planning commission has the authority to pass a valid zoning ordinance prior to the adoption of a master plan."²⁴ Zoning is perhaps the single most commonly used device available for implementing the land use plan of a governing body. Primarily used as a means for providing stable and enduring property values, zoning ordinances are playing an ever increasing role in protecting the public health, morals or general welfare of a particular locality's citizenry.²⁵ To be legally sound, the zoning regulations must "bear a reasonable and substantial relationship to these ends or . . . be found in violation of the 'due process' clauses of state and federal constitutions . . ."²⁶

²³ Goodman, p. 405.

²⁴ Guernsey, (17-27-1-(2)), p. 721.

²⁵ Whyte, p. 36.

²⁶ Goodman, p. 404.

Perhaps the major distinction between a county's zoning ordinance and a subdivision ordinance, is that the former varies from area to area whereas the latter is uniform throughout the entire country. By enabling acts, various states transfer the power to zone to either the local, county or regional level. Occasionally states authorize all three types of zoning whereas other states restrict the power to the local level depending on the nature of development within the state and the system of land use control that would appear to be appropriate. Since effective zoning regulations must be consistent with other planning and regulatory measures, many of the newer state enabling acts allow or require the local planning committee to frame the initial zoning ordinance. Such is the case in Utah as seen in the following state statute:

The county planning commission of any county may, and upon order of the board of county commissioners in any county having a county planning commission, shall make a zoning plan or plans for zoning all or any part of the unincorporated territory within such county, including both the full text of the zoning resolution or resolutions and the maps, and representing the recommendations of the commission for the regulation by districts or zones of the location, heights, bulk, and size of buildings or other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities or other purposes, and the uses of land for trade, industry, recreation, or other purposes.²⁷

In pursuing its authority to zone a county, a county commission is performing a legislative function and has wide discretion. The action of the zoning authority is endowed with a presumption of validity and the courts will not interfere with a commission action

²⁷ Guernsey, (17-27-9), p. 727.

unless it clearly appears to be beyond its power or is unconstitutional.²⁸

Zoning, as a tool of government, controls future private development and is not retroactive in nature. Therefore, it has little effect on already existing conditions.

Kane County may have little need at present to become overly concerned with the idea of strict zoning. However, the rural nature of the county and its sparse population may mistakenly provide the impression that a vast area of good open country still exists. The false impression is common knowledge to the local county officers who must cope with such problems.

A seven member county zoning committee was appointed July 8, 1957.²⁹ The County Commission that same day adopted and signed "Resolution No. 2" concerning "temporary zoning regulations," in which reference is made to a "county planning commission for the purpose of preparing, among other things, a zoning plan . . ."³⁰ The adoption of a comprehensive zoning resolution took place in January 1958.³¹ Both the temporary regulations and comprehensive resolutions resulted from the influx of people and activities linked with the construction of the Glen Canyon Dam near the county's southeastern boundary. Zoned areas included established communities and several proposed business

²⁸Ibid. , (17-27-1-(1)), p. 721.

²⁹Kane County Commission, Minutes of the meeting of the Kane County Commissioners, July 8, 1957.

³⁰Resolution No. 2. Temporary Zoning Regulations. Adopted by the Board of County Commissioners of Kane County, Utah, This 8 day of July, 1957.

³¹Kane County Clerk, March 12, 1969.

and community plots in the territory near the dam site. Mountain subdivisions had not yet begun to make their appearance and thus no attempt was made to zone such locations. In fact, in checking the original copy of the adopted resolution with its accompanying map, there are no indications of any changes ever having been made. Zoning is vital and one of the important concepts that needs thorough coverage in the county master plan.

The county, being rural in nature, must be concerned with preventing undesirable development and possible strain on law enforcement and health agencies. It must also be concerned with the encouragement of tourism as an industry. Many natural endowments of the county lend themselves to tourist appeal.

That not all writers are convinced that zoning laws have been used effectively is evidenced by the following statement of William Whyte:

In principle zoning is invoked to protect the public's health, safety, morals, and general welfare, and under this rubric there would appear to be no limit to the forms of beneficial land control we could with invention contrive. In practice, zoning has so far been used principally for the protection of property interests. . . . Zoning is a tool that always seems on the brink of better days. Planners, who have a slant on zoning somewhat different from that of property owners, have been constantly pressing for a broader, more public-oriented application of zoning and with some success have been strengthening other variance of the police power such as the official map and the regulation of new development. New forms of zoning are constantly being invented, and in time, conceivably, they could be orchestrated into a regional design of considerable force but the prospect is doubtful. . . . In most communities, suburbs especially, it is an elaborate mechanism for insuring a satisfactory status quo or a future reasonably similar.³²

³²Whyte, p. 36.

Perhaps even more vindictive is the slashing remark of Richard Babcock:

Stripped of all planning jargon, zoning administration is exposed as a process under which isolated social and political units engage in highly emotional altercations over the use of land, most of which are settled by crude tribal adaptations of medieval trial by fire, and a few of which are concluded by confused ad hoc injunctions of bewildered courts.³³

In spite of such attacks, many different authors are expressing their views as to the positive side of zoning. In his book The Citizens Guide to Zoning, Herbert H. Smith quotes the Honorable Donald M. Waesche, Judge of the Superior Court of New Jersey:

Zoning ordinances, therefore, provide the only means by which the right to full enjoyment of property use can be protected against the prejudicial influences of other uses which do not constitute a nuisance. Consequently, valid zoning gives to a property owner, a right which did not exist before, that is, the right to prevent use which is forbidden in the ordinance. In other words, valid zoning ordinances create valuable property rights that did not exist prior to their adoption. . . .³⁴

In relating zoning to planning Smith notes that though zoning ordinances have frequently been passed without benefit of planning, current thinking recognizes

that good zoning is the effectuating tool of good planning and that a comprehensive plan should precede the zoning map and ordinance. It is also recognized that they have separate and distinct purposes. Neither one will be able to truly achieve its objective and purpose without the other.³⁵

³³Richard Babcock, The Zoning Game (Madison, Wisconsin: The University of Wisconsin, 1966), p. 154.

³⁴Herbert H. Smith, The Citizen's Guide to Zoning (West Trenton, New Jersey: Chandler-Davis Publishing Company, Hermitage Press, 1965), pp. 18-19.

³⁵Ibid., p. 11.

When the subject of zoning arises the easy way out is to find a so-called model ordinance or an ordinance which is in existence in another community near enough to what is needed to be copied. Obviously there is no such thing as a model zoning ordinance. No zoning ordinance could ever be written which would be applicable to all situations. A well written good sounding ordinance may have been highly effective in curbing problems in one locality. Difficulties have arisen when this "solution" is passed off as being universally applicable. In order to obtain a workable solution each problem requires research related to that specific area alone. Kane County undoubtedly has problems common to surrounding counties. In addition, it has problems peculiar to its particular region. Regulations must include a thorough study of such peculiarities in order to best assist the implementation of any plan.

Zoning, in order to be effective, must be adaptive to meet each locality's problems. An ordinance which has not been individually prepared cannot do this. This does not say that model provisions cannot be provided or that some of the basic principles cannot be set forth in a prototype of model fashion. It is well known that zoning is the means of achieving a logical pattern of land use development. Without zoning, land use development will be haphazard and hodgepodge. Zoning determines land patterns and thus land values. The real estate property tax base plays a vital role in providing the revenue to support services. As these land patterns are organized, either sensibly or insensibly, they will in turn affect land values.

Master Plan

It is hoped that the master plan for Kane County will include a realistic enumeration of this county's problems and an equally realistic proposition as to the best solution. A vital key to the control of these new developments will be the implementation of the master plan once it is completed. It is well recognized that many problems exist with regards to the present subdivisions but utilization of professional planning for all future operations will hopefully minimize the carry-over of problems from one subdivision to another. It must be understood that any master plan may not be the answer to all problems. Stuart Chapin states,

. . . It is startling to note how many master plans are developed without reference to the locality's financial ability for carrying them out. Master plans that are not carefully scaled to long-range estimates of local revenues, expenditures, and the debt structure of the community have limited utility, and their land development proposals tend to become ineffectual control mechanisms.³⁶

The fact is there are those who view the whole planning system with alarm. One critic is Professor John Reps who spoke at the National Planning Conference of the American Society of Planning Officials in Houston, Texas, April 3, 1967. He said,

Nowhere in this country can one find a major city or a major sector of a major city which in the present era has been developed as planned. It is not a case of an occasional departure from an officially adopted plan. It is not even a situation where a majority of cities do not grow as planned. It is, rather, a record of complete and consistent failure. There is obviously something wrong

³⁶ Chapin, pp. 58-59.

with a planning system which never works as we say it should. We are being dishonest with ourselves and our clients--the community at large--when we think, talk, or write otherwise.³⁷

J. E. Beuscher, however, speaks more favorably about planning as he quotes:

"A survey of 144 planned communities undertaken by the Urganism Committee to the National Resources Committee . . . indicates the unmistakable success of planning."³⁸ In many respects the period following the introduction of the Kane County master plan will be at least as important as the planning phase itself. "No matter how well done the master plan may be it will only be as good as the people of the county acting through their duly elected officials make it."³⁹

Kane County's current planning commission was established July 25, 1968. The new board was appointed to deal with subdivisions and to allow the county to qualify for federal grant-in-aid funds to be used in the preparation of a county master plan. This grant was obtained through the Utah State Planning Coordinator from the Department of Housing and Urban Development, with federal participation totalling \$22,740.⁴⁰ It can be hoped that a good plan and active implementation will work toward solving many existing and emerging county problems and further hoped that since the federal funds were obtained

³⁷ William R. Ewald, Jr. (Ed.). Environment and Change--The Next Fifty Years (Bloomington, Indiana: Indiana University Press, 1968), p. 218.

³⁸ J. E. Beuscher, Land Use Controls--Cases and Materials, Third Edition (Madison, Wisconsin: The College Printing and Typing Company, 1964), p. 155.

³⁹ Letter from John C. Willie, January 17, 1969, p. 4.

⁴⁰ Kane County Clerk, March 12, 1969.

the county planning commission will not now become a do-nothing agency.

The county is not allowed to possess a master plan detrimental to other governmental districts. Nevertheless local governments have substantial authority through Utah enabling acts.

Before finally adopting and certifying any plan, either master or zoning, the planning commission, regional, county or district, making such plan, shall submit such plan to the state planning commission for advice and recommendations. The state planning commission shall, within 30 days after such submission, present its advices and criticisms in respect to such plan. Such advices and criticisms shall be advisory only and the commission submitting such plan shall not be bound thereby. If such advices and criticisms have not been presented within such period of 30 days, the approval of such plan by the state planning commission shall be presumed.⁴¹

It can be hoped that the state planning commission will thoroughly study the master plan in case regulations omitted or incorrect were not brought to the attention of county government officials.

Population Projections

In attempting to analyze the needs of the county and prepare for them, the county commission, county planning commission and the professional planners preparing the master plan, should take into consideration the current and projected population of the county. Fortunately a recent study provides these groups with much of this information.⁴² Data about the county's probable population is essential in making plans and setting up programs for the total

⁴¹Guernsey, (17-27-20), p. 736.

⁴²Therel R. Black, Jewell J. Rasmussen, and Frank C. Hachman, Population Projections--Utah and Utah's Counties. (Salt Lake City, Utah: Bureau of Economic and Business Research, University of Utah, December 1967).

development of the county. The population study actually contains two projections for Kane County. Regardless of which is being analyzed, it should be noted here that projections are not predictions. There is, of course, a substantial difference. The projections shown below "are estimates of likely populations under specified and reasonable assumptions about past trends and future developments."⁴³

In projecting the population of Kane County from 1970 to the year 2020, the authors of the study extended these figures:

<u>Year</u>	<u>Projected Population</u> ⁴⁴
1970	2,700
1975	3,000
1980	11,000
2000	12,000
2020	13,000

The figures for the years 1980, 2000, and 2020 are based on the assumption that the Kaiparowitz Plateau coal project is "well underway," and half of the resultant new population resides in Kane County. Should the Kaiparowitz coal development not develop as anticipated, the projected population would be:

<u>Year</u>	<u>Projected Population</u> ⁴⁵
1980	3,300
2000	4,000
2020	5,000

The need for extensive planning, it would seem, is very self-evident as a result of these projected figures.

⁴³ Ibid., p. 3.

⁴⁴ Ibid., p. 47.

⁴⁵ Ibid.

The possibility exists that Kane County will experience a growth in population of more than 265 percent within a five year period of time. Should this great influx occur, it will do so during the next decade. To assume that problems could possibly be handled as they developed during a time of growth of this magnitude is sheer fantasy, or at best totally unrealistic. The possibility exists that such an influx will not take place, but the present chances are equally good one way as they are the other. The point to be made clear is that the county government will likely pay a very heavy price should it fail to plan and prepare for the future. The emerging subdivisions of this study should be of vital importance to the officials of the county, granted, but these developments are not the sole reason a master plan will be of great value in the proper expansion of the county. The need for a county wide plan has become very apparent during the past decade as a result of considerable interest shown in Kane County's vast coal resources.

Kaiparowitz Coal

Since the Kaiparowitz Coal Project will greatly affect the entire county, it demands consideration at this time. Not only will the local economy be stimulated by this undertaking, but the subdivision developments under analysis in this study will feel expanded pressure as a result of the expected influx of permanent residents should the present schedule be followed. This coal project is an excellent example of the potential of Kane County and surrounding areas.

It is the largest coalfield in southwestern Utah, with the greatest coal reserves covering portions of central Kane and southwestern Garfield Counties. With individual coal seams varying from "5 1/2 feet to 15 1/2 feet" in thickness, it has proven difficult to assess the coal reserves of the Kaiparowitz Field due to the "large area of the field and the lack of geologic control data on the number, thickness, extent, and quality of the coal seams."⁴⁶ More thorough studies may reveal even greater reserves, however, one estimate has placed them at three billion tons of bituminous coal--in this field alone.⁴⁷

Also with future possibilities in the Kanab Coalfield covering some 200 square miles in Northwestern Kane County. Although this coalfield has not lately received the interest given the Kaiparowitz Plateau, it is of interest because it contains "at least 1,772 million tons of Sub-bituminous B, Sub-bituminous A, and high-volatile Bituminous C coal. . . ." Further,

The topography of the Kanab Field is relatively flat. The leased lands extend from the coal outcrops to points where the overburden is approximately 100 feet in thickness. Convenient areas for spoil piles are present and the coal seams are thick and of good quality. It appears that no excess water will be present in the pits. The coal will require hauling only a short distance to an excellent power plant site and it is unlikely that a coal-washing plant will be required. Physical conditions indicate near ideal stripping.⁴⁸

⁴⁶ Frank C. Hachman, Craig Bigler, Douglas C. W. Kirk, and Rodger Weaver. Utah Coal--Market Potential and Economic Impact (Salt Lake City, Utah: Bureau of Economic and Business Research, University of Utah, September, 1968), pp. 13 and 16.

⁴⁷ Ibid., p. 17.

⁴⁸ Ibid.

There is an estimated 300 million short tons of strippable coal present in Utah, the majority of which occurs in this deposit.⁴⁹

. . . Although the coal is well suited for use in a steam electrical generating plant, there is not sufficient surface water in the area for mine-mouth generation unless a dry cooling tower is used. It is claimed, however, that there is enough water available for coal movement out by a pipeline slurry.⁵⁰

The Kaiparowitz enterprise is a coal-fired electrical generation project, and, if developed, will have a large economic impact on the entire state and vast gross benefits for the Kane County economy. This proposed project is a joint venture by the Resources Company, Associated Southern Investment Company and New Albion Resources Company, all of which are wholly-owned subsidiaries of Arizona and California utility companies.

As a result of the burgeoning population of the Southwestern United States, it is little wonder that new power sources are being sought. Nationwide production of electricity has doubled every ten years for several decades. "In the next 10 years utilities will install as much generating capacity as had been installed from the first commercial plant in 1880 to the present time."⁵¹ Southern California Edison Company, servicing part of the locality to which Kaiparowitz power would go, claims it needs to double its capacity every eight years.⁵²

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid., p. 50.

⁵² Ibid., p. 54.

The Kaiparowitz complex, should it develop on schedule, would require the mining of more than fourteen and a half million tons of coal annually. Between 1,750 and 2,300 workers would be employed in coal production alone, and the electrical generation on the shores of Lake Powell would require approximately 150 additional employees. Over a 15 year period, the construction payroll is estimated at \$95 million, and the yearly payroll to the generation and production workers has been estimated at \$20 million.

These are only the basic impacts on employment and income, and when the indirect and induced income and employment effects are projected for servicing the basic industry, the population and household income impacts on Kane County are phenomenal.⁵³

This project has been stalled for many months due to the Interior Department's failure to act on an application for the allocation of Colorado River water for the generating plant. The water in question was part of the Colorado River water granted to Utah by the Upper Colorado River Compact, and had been allocated to the project by the state water engineer in 1965. In an attempt to "prod" the Department of Interior into activity, Utah Republican Senator Wallace F. Bennett recently chastised the department for its lack of action. A Washington news release stated:

The Interior Department was blamed by Senator Wallace F. Bennett (R-Utah) Wednesday for the lack of progress on the proposed 660-million dollar coal mining operation and Kaiparowitz Power Plant for Utah's Kane County.

⁵³ibid., p. 136.

In a letter to Interior Secretary Stewart L. Udall, the Utah Republican asked the department to "reassess" its stand on the negotiations with the Resources Company, composed of three Southwest private utilities, which he said has been deadlocked for nearly three years.

"Basically the question resolves itself as to whether Utah or the federal government has the right to say what our state will do with its share of its Colorado River water. I believe the federal government stand is presumptuous in asserting authority over our water use.

"I am dismayed that, despite assurances from the Interior Department as early as 1965 and as late as this spring, that negotiations would be resolved speedily, the water right control is still being negotiated in the field, with major roadblocks yet to be hurdled.

"The water in question is 102,000 acre-feet officially allocated to the Kaiparowitz Power Project by the Utah state Engineer in September, 1965. Under terms of the agreement with the state, the three-company combination participating in the project must get this by 1970 or lose the contract with Utah for the water."

The senator said . . . the daily cost in mining and prospecting the coal is estimated at \$239,000 of which \$6,000 would be in wages and salaries.⁵⁴

Concerning this vital aspect of local development, and in response to a recent letter from the editor of the Southern Utah News, Kane County's weekly newspaper, Mr. Elton H. Buell, vice president of Resources Company, indicated that approximately one million dollars had already been expended on the exploratory program covering the Kaiparowitz Plateau reserves held jointly by the three participating companies. Mr. Buell further added:

In order to justify the construction of power generating facilities of the magnitude which the indicated reserves might support, the participants must first prove not only that the necessary amount of coal can be obtained from the deposit over the lifetime of the power facilities but must also be able to provide a

⁵⁴The Salt Lake Tribune, Volume 197, No. 95, July 18, 1968, Section B, p. 10.

considerable degree of assurance as to the cost in terms of cents per million btu of fuel value delivered to the prospective power plant for the lifetime of the operation. . . .

The additional work and studies required for such proof are fairly costly. Since an adequate supply of cooling water is essential to the economics of the proposed power plant, the participating companies cannot justify proceeding with the necessary additional effort until an adequate supply of cooling water has been assured.

Negotiations are nearly completed on a water contract between the project participants and the U. S. Bureau of Reclamation. This contract will provide for withdrawal from the Lake Powell facility of the water which was allocated by the Utah State Engineer in his decision of September 3, 1965. When this contract is completed, the way will be clear for Kaiparowitz project participants to proceed with the necessary exploration and analyses required to define the over-all economics of the project. . . .⁵⁵

The extensive coverage of this proposed project was included to give insight into the complex problems that may well face Kane County officials and citizens in the next decade, and to serve as an example as to why short, medium and long-range planning is such an important aspect of local government. It is very evident that such planning is becoming increasingly important as a means whereby local government can cope with its mushrooming problems.

Evidence of the importance the state government places on this complex development is House Joint Resolution Number 23 sponsored in the 1969 session of the Utah Legislature by Representatives Atkin and Mitchell.⁵⁶ The joint resolution called on "The President of the United States, the Secretary of the Interior, and the Congress of the United States to promote and facilitate the Kaiparowitz Coal Project and Lake Powell Development." It further stated

⁵⁵ Southern Utah News, Volume 37, No. 48, March 6, 1969, p. 9.

⁵⁶ Appendix A.

that "private enterprise has signed contracts and is ready to develop the area as soon as the Federal Government and the Secretary of the Interior in particular permit," This resolution called on the President, the Interior Secretary, and the Congress "to honor past commitments made, to take a positive view toward the future, and to further and to assist in the development of this potentially rich, economically depressed areas."⁵⁷

In the final analysis, three principal types of factors will determine whether or not this specific coal deposit will be developed: the characteristics of the coal itself, the characteristics of the deposit, dictating mining methods; and the location of the deposit with respect to the destination.

⁵⁷ Ibid.

CHAPTER IV

PROBLEMS--VIEWPOINTS AND SOLUTIONS

Substantial data for this study was obtained during the summer of 1968 as a result of the author's working in the close vicinity of the emerging developments. Attempts to obtain sufficient additional information and opinion from selected officials by mail during the fall and winter proved only partially successful. The author had discussed subdivision problems with several developers at their subdivision projects in September 1968, but efforts by mail to obtain the opinions and viewpoints of other selected subdividers produced little response.¹

Due to the lack of written responses, the author traveled to Southern Utah in mid-December 1968 to interview various county officials. In conjunction to personal interviews, the author requested county officials to respond to a written questionnaire.² Pertinent responses are referred to through the remainder of this chapter.

The November 1968 elections had resulted in the defeat of two incumbent county commissioners. The one newly designated commissioner this author personally contacted felt any response at that time would be premature. The

¹See Appendix B.

²See Appendix C.

commissioner not running for re-election was visited and agreed to fill out and return a questionnaire left by the author. For some unknown reason this questionnaire was not returned, and a later request by mail brought no response, however the commissioner had previously discussed the subdivisions with the author and a telephone interview recently provided additional material.³

It is unfortunate that the personal interviews were conducted during the "off season" or winter months. During this period of time, the seasonal-type developments are deserted and the problems appear somewhat remote and removed when compared to the activity during the summer months. The restructuring of the county commission during the last election, hopefully, will result in more active planning in order to better cope with present and future issues.

The written comments by some county officers would indicate a desire on their part to more closely regulate subdivision activity. One such official, responding to a written questionnaire, indicated the need for public awareness of the good and bad aspects of the projects and subsequent support for "the proper development of this activity."⁴ No definition is given as to what "proper" development entails. A second respondent indicated a preference for a full time professional person to study each emerging area and assist in future decisions. His feeling was that members of committees "are really

³ Merrill MacDonald, Telephone interview, April 5, 1969.

⁴ Kane County Assessor, Questionnaire, p. 1.

not acquainted with the situation."⁵ The "interest" of the subdivider and more careful "on-site" evaluation was stressed as a means of weeding out those who are subdividing for speculation purposes only.⁶

As analyzed by the author, the above statements and others contained in the questionnaires completed and returned by county representatives would signify a growing awareness of the enormity of the accumulated problems presented by the emerging developments. Regarding the over-all development of subdivisions in the county, the responses of the county officials seemed to indicate a favorable attitude.

Emphasis was placed on the higher elevation developments, by one elected official, as providing current benefits to the county. He felt the subdivisions in the eastern part of the county were primarily speculative in nature with little or no "potential in the next ten to twenty years."⁷ More enthusiastic was the response of the county assessor who declared: "This phase of recreational development is the biggest potential for substantial and worthwhile growth that Kane County has at the present time."⁸

There seemed little enthusiasm on the part of respondents to a question regarding the desirability of joint studies with either or both state and federal

⁵ Kane County Sheriff, Questionnaire, p. 1.

⁶ Kane County Clerk, Questionnaire, p. 1.

⁷ Ibid.

⁸ Kane County Assessor, Questionnaire, p. 1.

agencies. The United States Forest Service and Utah State Fish and Game Commission are logical partners, with the county, in pertinent studies. Water pollution and refuse disposal would seem likely areas of common concern. Reaction to the proposal of joint research was varied. The idea was offered that there is as yet insufficient development to cause state and federal agencies much concern. A second opinion, based on past experience, notes that when mutual undertakings are attempted, the other levels of government tend to dictate the entire program. Perhaps efforts would prove more fruitful if broader interest groups participated.

There has been no attempt to place a priority on the following problems and their coverage. What would seem most relevant to one person might well be relegated to a lesser position by another. Therefore the order of appearance and depth of coverage are not intended to do more than indicate the seriousness and complexity of the many problems currently facing the political leaders of Kane County.

The author has included as much material as he was able to discover. Such was his intention, and his efforts were well spent if he has been able to include new or additional information to those who are becoming increasingly concerned with the problems arising as a result of the emergence of rural subdivisions.

Taxes and Services

Kane County's subdivisions are numerous and widespread. At present

they constitute a growing source of additional tax dollars. But how long can the one directional dollar flow from the subdivision taxpayer to the county treasury be maintained?

In reality, the emergence of rural subdivisions and their problems often began very innocently. A local farmer or rancher sold a few acres of his land. This legal transaction might well happen every day. As these few acres began to sprout scattered developments, however, local government found most of these areas extraordinarily expensive to service. To take care of this additional burden, the local taxes had to be raised, and this in turn prompted landowners to sell more lots. What started out innocently enough had now become a vicious cycle.

Where the land being subdivided is good agricultural or grazing land, the farmer or rancher is understandably opposed to residential development--even of a seasonal nature. Subdivisions require land that might otherwise be used for raising food or fiber. The landowner is mindful of the money he might possibly gain by selling off his land for development purposes, but he usually prefers to continue farming or ranching.

Owners of land usually have a price. He feels he is paying an unfair proportion of local taxes, and that if the assessors continue raising the valuation of the land to match its rising market price, he will be forced to sell. "If you want me to help keep the countryside," he says, "you are going to have to help me get a tax break." This argument has some recognizable holes in it. The landowner is not against the rising market price of his land, only

assessments that recognize it, and his tax-reform proposals do not include any restrictions on his selling out when it suits him.⁹

That the county has thus far benefited from these developments can be easily seen. At the end of 1968, thirty-four¹⁰ specific subdivisions covered 1,134.49 acres in various parts of the county.¹¹ Had these areas been assessed (for taxing purposes) as grazing land, their combined assessed valuation would not have exceeded \$3,500.¹² As a result of their having been approved for subdivision activity, and the tax base changed from grazing to residential, these same widely scattered acres, at the end of 1968, carried an assessed valuation of \$199,880!¹³

It is interesting to note the following statement of one author concerning services and taxes:

Contrary to opinion, what most people demand in the way of services as citizens is generally dissociated from their attitude as tax payers. In a formal sense an improvement, a service, or a control can easily be voted in, yet, even when price tags are attached, for example in general obligation bond issues, few people associate the desired change with needed compensatory advances in the tax rate. We cannot overlook the fact that few people connect

⁹ Whyte, p. 23.

¹⁰ These thirty-four projects constitute, most, but not all, subdivisions approved by the county commission.

¹¹ See Table 4, page 12.

¹² This figure roughly approximates an assessed valuation tax rate of \$3 per acre although the author was informed the average for grazing would be nearer \$2 per acre.

¹³ See Table 4, page 12.

their demands for governmental actions with the costs involved.¹⁴

Fiscal capabilities of any governmental unit limit the extent to which controls are employed in any locality. This is very obvious in Kane County when consideration is given to the actual supervision and inspection of regulations and requirements as outlined within the county subdivision ordinance. Few counties have a full complement of field investigators required for the enforcement of such regulatory measures as building codes, fire, housing, sanitation, and zoning ordinances. Accordingly budgetary appropriations affect the locality's ability to enforce regulatory measures and thus the extent of control exercised.

It may not appear financially feasible to employ sufficient personnel at this level to personally oversee every activity. The fact remains that certain operations left unsupervised will require greater county participation and control in the future due to the cumulative nature of the operation. Water pollution, and sewage and refuse disposal will all directly affect the future of the subdivisions. When considering fiscal matters, the balance sheet is important, but so too is the public interest. That is the main reason so much stress has been placed on planning by knowledgeable county leaders. These leaders must decide on the public temperament and the future level support such temperament will demand.

Safety and Health

Safety and health requirements are very often linked together. Regulations covering housing, building codes, sanitation and health provide basic

descriptive definitions as to the public interest. Such regulations usually provide strong individual restraints to prevent conditions injurious or hazardous to the entire development.

Inasmuch as county fiscal resources are extremely limited, the county commission has the delicate operation of portioning out available resources to those departments where they feel the money will be best used. Limitation on the ability of local government to finance all desirable controls necessitates limiting the budgets of many departments. All too often these limits are made in just such departments as supervision and inspection of health and safety activities. If no major health problem exists, it seems much easier to "trim the budget" in the health agency than, say, in the road department where there is never sufficient financial support.

It would appear that Kane County must undertake immediate programs to properly oversee the safety and health problems of emerging subdivisions. Such programs are necessary for each problem area to have proper supervision and to be aware of situations that could rapidly deteriorate. In planning for the health and safety of all of its citizenry, county officials should be aware of two relatively new ideas. First, not only is the physical health and safety of major concern, but increasing emphasis is being placed on mental and emotional well-being. Secondly, considerable attention is given to improved health and safety by planning and constructing it into the physical environment. "In other words, contemporary thinking centers more on what is optimum or desirable than what is minimum or adequate in the interest of health and

safety."¹⁵

The Utah State Division of Health requires prior approval of plans and specifications--at the state level--only when a subdivision contains public water or public sewage disposal systems. As has been previously pointed out, many emerging developments have neither of these. Individual home sewage disposal facilities must meet certain state specifications, "but enforcement of these regulations rests at local level, and plans for individual installation need not have prior approval by the State Division of Health. Such prior approval may be required locally."¹⁶ The unsettling part of the State health regulations is the delegation of enforcement to the local governmental units which, all too often, have neither the personnel nor the finances to properly oversee such activities. In projects such as are developing in Kane County, on-site inspection of each house or mobile-home is essential to enforce the regulations on sewage disposal. This type inspection is no small nor inexpensive undertaking considering the widely scattered developments.

Land use planning agent, John Willie has indicated his belief that,

One of the biggest weaknesses in the present ordinance administration is the area of water and waste disposal . . . We are continually looking for better methods of waste disposal and particularly in areas where water is scarce, waste disposal in a sanitary manner becomes more difficult. This is another area where much yet remains to do even though the present ordinance gives the latitude

¹⁵ ibid., p. 41.

¹⁶ Utah State Division of Health, General Information Regarding Housing Subdivision, Revised 1968, p. 1.

to require stringent measures, good conscience on the part of the commissioners . . .¹⁷

precludes the commissioners from over reacting.

Mr. Willie further indicated that water and wastewater development problems are apt to get worse before they get better. The need is obvious, depending on soil types and building density, for additional regulation of waste disposal in hillside subdivisions--with numerous developments in Kane County in this category. In densely populated areas, landslides and soil erosion are of major concern along with concern for health. In fact, sewage disposal by means other than septic tank is required in such thickly populated areas.¹⁸

Roads and Policing

Road maintenance and policing are two areas in which county officials will soon feel the obligation to actively participate. Local officials tend to agree that county participation is inevitable but differ in their approach to the problem or degree to which they now feel obligated. Insofar as the road foreman is concerned, it is just a matter of time before the county will "be obligated and pressured into upgrading and improve" subdivision roads.¹⁹ He feels the county is lucky to have escaped road maintenance thus far, and feels that when it is begun on one development it will be expected and deserved

¹⁷ Letter from John Willie, January 17, 1969, p. 2.

¹⁸ Goodman, p. 476.

¹⁹ Letter from Kane County Road Foreman, February 8, 1959, p. 1.

by the others. Realizing these are his opinions and not those of the county commission, whose orders he must follow, the foreman feels the master plan will answer many questions relating to road activity.²⁰ The Kane County Subdivision Ordinance road requirements are designed to provide roads of such standard that they will be eligible for state class "B" support funds when they are accepted by the county.

County officials felt taxpayers' money should not be used to improve an area for speculation merely because it was designated a subdivision. Lack of county funds prevents current participation on the part of the county, and, in fact, the opinion was expressed that all of the county road budget could be spent within the existing developments.²¹ Planning for the future, an action seemingly little used at any level of government, was expressed as the means to be used in alleviating problems, "and not merely wait until it is forced upon us."²²

The need for property protection will continue as long as the developments exist. An additional county law officer, exclusively for subdivision patrol, would be of great value during the months when the projects are accessible. Several months of each year, however, such patrol activity would be unnecessary. There would undoubtedly be local opposition to the idea of expending county dollars for the benefit of such a small segment of the county landowners who leave their property deserted for long periods of time.

²⁰Ibid., p. 1.

²¹Kane County Clerk, Questionnaire, p. 2.

²²Ibid.

Nevertheless, the need does exist for property protection. Perhaps the present answer lies in some type of self-protection. An example of this would be the employing of a full time watchman by the property owners of several neighboring developments. A watchman could make regular inspections of the property owned by his employers. In case of damage or obvious theft, the county sheriff and the property owner could be notified immediately. It is probable that some cases of theft currently go undetected for several months. Up to the point the watchman would be over extended, and thus not effective, the more property owners that participated, the less the individual cost should be for such a program. In a rural county such as Kane, a program of this type would seem very realistic. This author believes there would be no lack of honest, competent, year-round residents that could be employed for this responsible position.

A local resident, as comparable to a subdivision landowner, would seem logical for several reasons. First, he would be available on a full time basis. The winter snows would normally provide natural protection from November or December through April or May, but a man employed from a nearby community could be on the scene whenever the weather allows. Second, in connection with the idea above, very few subdivision landowners spend more than two to four weeks in residence, and, therefore, would be unavailable for such activity. Few landowners appear prior to June and even those who would spend the summer at the development would likely depart by late September or early October. Those who tow in a mobile home for the summer months will

most likely take their trailer when they depart in the fall.

Both mobile homes and permanent dwellings are vulnerable to pilferage or malicious damage while left vacant during the summer months, but permanent houses currently are also convenient for thievery one or two months before and two to three months after most any landowner would be in residence. There are undoubtedly cases each year, within the unwatched subdivisions, where thefts that have occurred in the fall are not discovered until the following summer.

In case of trouble of any sort, a "local" watchman would know the fastest method of contacting the proper authorities. This is important for investigation purposes and it is beneficial to the property owner to have his losses verified by local law enforcement officers. The county sheriff indicated to this author that he is contacted by insurance companies each summer and requested to verify reports of thefts of which the sheriff's office has had no prior knowledge.²³

Another valuable aid to local enforcement authorities would be some method of quickly locating individual building lots in each development. At present, the county has a record of only those landowners who have paid for land purchased from a subdivider. Land purchased on a contract basis, of course, remains deeded to the individual subdivision until paid for; therefore no record is acquired by the county of these transactions. A substantial

²³Kane County Sheriff, Personal interview, December 10, 1968.

majority of landholders would fall in the latter category.

As previously mentioned, even in cases of extreme emergency, the sheriff has difficulty locating an individual or family in many of the already existing projects. Whether the development has forty building lots scattered over 20 acres²⁴ or 279 parcels covering 213 acres,²⁵ the lots are generally scattered on tree covered hillsides. Many homeowners will further secrete themselves by placing their house, cabin or trailer so as to insure their greatest privacy. In other words, they attempt to conceal themselves in the trees so as to be out of sight of a passerby.

Previous experience indicates the frustrating and time consuming experience this can prove to be when attempts are made to locate or contact someone. A solution to this particular problem, promulgated by the county sheriff, would be to require each subdivider to provide a central location in his development to serve as headquarters. The set-up would not need be extensive nor elaborate. All that would really be needed would be a weather protected map of the development showing the individual landowner and his lot number. The lot number is very significant since virtually all projects list their spaces by number. The over-all map is necessary due to the type of topography, and the inability of uniformly laying out the developments.

All landowners, whether purchasing land on contract or not, would have to be listed to make effective use of such a scheme. Such a system could

²⁴ Bryce Woodland Estates, Unit 2.

²⁵ Little Ponderosa Ranch.

easily be constructed so as to allow landowners, should they desire, to indicate helpful information such as departure time when they exit the development, their proposed destination--if known--and estimated time of return. The beneficial aspects of such information are quite apparent.

In a city where streets are laid out in numerical sequence, there is little trouble locating a particular place. However, once a person has wasted minutes or hours attempting to locate an individual in a mountain subdivision, even though successful, he would readily agree to the feasibility of a system similar to the one described here.

Actually, the county could provide an inexpensive, useful service now by strategically placing a few signs showing the best route to follow to gain entrance to a specific project. Many developments are located off county or United States Forest Service roads and have a single entrance and exit.

The author is well aware of the efforts expended by relatives or friends as they have attempted to locate a person or party in the area under discussion. During the summers of 1966, 1967 and 1968, the author worked in a family store located in the mountains of Northern Kane County, in the midst of the rural development activity. He has many times personally assisted travelers trying to locate a particular person, party, area, or subdivision.

Water

There can be no question but what the development of additional water supplies would, in almost all cases, expedite the sale of land parcels to individuals. However, hundreds of home-sites have been sold that are "dry" in the

respect that there is no public water supply and no such water was promised nor guaranteed by the developer.

As has been pointed out previously, it would seem to this author to be totally unrealistic to require running water to be piped into each home or building site. The extreme cold winters would necessitate draining water lines each fall. The county may have already thought of its possible involvement in such activity. The fact is that when most of the land within the subdivisions has been sold, the majority of the subdividers will probably move to other areas. Past experience indicates that whereas most landholders now request county services or other services through the developers, once they are gone the property owners will turn to the county with their demands. As Mr. John Willie has stated:

After the land is subdivided the responsibility would, of necessity, fall on the county to drain these lines in the fall, charge them in the spring and maintain them in a usable condition throughout the summer. This becomes an urban service which rural counties such as Kane are ill equipped and financially unable to provide.²⁶

It can easily be seen that, while water is a vitally necessary element of every day life, it can become very expensive to develop and maintain even in many cases where it is readily available.

There have been two studies conducted pertaining to Western Kane County's water availability. Water-Resources Bulletins 5 (1964)²⁷ and 8

²⁶ Letter from John Willie, February 17, 1969, p. 2.

²⁷ Harry D. Goode, Water-Resources Bulletin 5 (1964). Reconnaissance

(1966)²⁸ by Harry D. Goode,²⁹ provide indepth examinations of much of the western portion of the county. A small slice of land, eastward from the western county line, and extending the height of the county, was not included in either study, and many existing developments are located in the section not studied.

For the purpose of this paper, however, the available data probably provide sufficient material. The examinations completed by Dr. Goode indicate little surface water available. Almost without exception, the existing springs and wells, on private property, have long been filed on by early livestock raisers. A limited number of these water sources have passed from the ranchers to the developers with the transfer of land.

Dr. Goode indicated that proper development of existing seeps and springs could likely result in a substantial amount of additional water.³⁰ However, in assessing the production and demand on the East Fork of the Virgin River, whose headwaters and downstream bed are located in the western part of the county, Goode indicated that existing water rights granted

of Water of a Part of Western Kane County, Utah (Salt Lake City, Utah: Utah Geological and Minerological Survey, and Utah Water and Power Board, 1964.

²⁸ Harry D. Goode, Water-Resources Bulletin 8(1966). Second Reconnaissance of Water Resources in Western Kane County, Utah (Salt Lake City, Utah: Utah Geological and Minerological Survey, and Utah Water and Power Board, 1966).

²⁹ Ph. D., Professor of Geology, University of Utah, Salt Lake City, Utah.

³⁰ Goode, Water-Resources Bulletin 5 (1964), p. 53.

to landowners between the initial source and Mt. Carmel (Utah) Irrigation Company allow the withdrawal of about 12,600 acre-feet of water annually. These rights should permit irrigation of some 1,700 acres of land, over a streambed distance of approximately 25 miles.

Goode further pointed to the fact that the River Commissioner's Report for 1962 showed that during the year's irrigation season (approximately April-November 1) all available water was presumably delivered, but totalled only 6,648.5 of the 12,600 acre-feet allocated.³¹

Therefore, even should there be substantial improvement in the water available in this drainage area, the developing projects would not likely be able to file on it. Even should water from this source be readily obtainable, it would necessitate piping uphill distances of 15-20 miles before it could be utilized by most subdivisions.

Refuse Disposal

Refuse disposal is increasingly important in view of the rapid growth in the number of people using the summer developments. Litter quickly diminishes the desirability of any locality. This scenic area is no exception.

It is the author's opinion that the county should stipulate that an acceptable garbage disposal system be located within the boundaries of each development, or a group of neighboring subdivisions might join in the use of

³¹Ibid., pp. 36-37.

a common disposal site. It is possible that a site could be located or chosen which was not at all suitable for a building lot. There would be few mountain-type developments that did not contain some land that could well be used for such an important function. Inasmuch as no provisions are found in the county subdivision regulations, efforts should be undertaken to insure their inclusion in the county master plan.

In the long run the developer is the one who will gain most from the subdivision. Therefore the burden of a disposal system should rest there. If the developer must provide and develop refuse disposal sites, the costs will be met by him personally or, more likely, will be passed to the land buyer. Either would prove more equitable than placing the burden on the county.

Sewage Disposal

This author feels there is a serious flaw in the Kane County subdivision ordinance and State Division of Health regulations on the control of sewage disposal. The subdivision ordinance stipulates that sanitary sewers

. . . shall be provided for in a manner satisfactory to the State Department of Public Health and the Planning Commission . . . In hillside, mountainous or desert areas and in other areas approved by the County Commission, septic tanks, sewage ponds, or other means of sewage disposal may be approved . . .³²

subject to county and state approval. A study of the Utah Health Department regulations included the Code of Waste Disposal Regulations in the following

³² John C. Willie, Land Use Planning Agent, January 17, 1969.

parts:³³

- Part I Definitions and General Requirements
- Part II Standards of Quality for Waters of the State
- Part III Sewers and Wastewater Treatment Works
- Part IV Individual Wastewater Disposal Systems
- Part V Small Underground Wastewater Disposal Systems

Part IV, above, outlines subdivision requirements, and covers items such as percolation tests, absorption systems and septic tanks. Also included are "general" requirements.

The defect in both state and local rule, insofar as the subdivisions are concerned, is the absence of regulation of chemical sewage facilities. Lack of available water prevents a vast majority of landowners from developing public or private water-type disposal systems. For obvious health reasons, other means of sewage disposal is necessary, but is neither mentioned nor regulated by state or county government.

The potential health hazard becomes increasingly apparent with the realization that thousands of individuals frequent these developing areas during each summer. A few such people undoubtedly carry small individual waste disposal systems in trailers and campers, and portable types are also available. Many more temporary residents do not have such equipment, and indiscriminate waste disposal practices could well jeopardize the health of all. County officers would do well to see that the forthcoming master plan provides health protection from this source.

³³ Code of Waste Disposal Regulations, obtained by the author from the Utah State Division of Health, Division of Environmental Health, 44 Medical Drive, Salt Lake City, Utah 84113.

Computers

Signaling a new era in professional planning for future development and expansion is the statement of 33-year old Gerald A. Finkle, head of Chicago-based Computer Management Consultants, Inc., who says:

"It is now possible to forecast accurately such urban factors as population growth, land use, transportation requirements and community services such as schools, medical facilities and law enforcement."

Finkle doesn't discount man's decision-making power, he merely maintains that if society is going to solve some of its critical problems it must cast aside the buggy-whip mentally and adopt appropriate modes of logical thinking.³⁴

A statement in the April 1967 issue of Nation's Cities illustrates how thoroughly some misapprehend the power of computers. It says, "Computers can now predict quickly and quite correctly all the effects of changed planning, zoning, transit and highways."

. . . The computer can't choose the alternatives; it can only show consequences that the model can interpret from the available data.³⁵

There is no need for local government to rush into the computer age. Computers are very expensive, and current methods of operations appear to place a rather heavy burden on available resources. The need appears great to utilize conventional planning methods to more closely examine the rural subdivisions of this study, but it may be that county officials must provide the necessary force to initiate the investigations. The author recently talked

³⁴ Generation, "Uncommon Men," I, No. 5 (February 1969), p. 7.

³⁵ System Development Corporation Magazine, X, No. 10 (October 1967), p. 19.

with Mr. Darrell French, Assistant Utah State Planning Coordinator.³⁶ To his knowledge, no state-level studies are programmed to delve into the puxxles created by rural subdivision development.

County commissioner Merrill MacDonald informed the author that the county master plan should be forthcoming during the summer of 1969. Mr. MacDonald is in charge of county roads, and his intention is to study the coverage provided by the master plan and then program the necessary activities. He noted the absence of county regulation of utilities and easements in the subdivision ordinance, and indicated that the most recently approved plats provided some regulation of these areas. Inasmuch as the professional planning agency preparing the master plan held citizen committee meetings during the summer of 1968 (two of which the author attended) Commissioner MacDonald believes the local problems outlined by citizens in committee meetings will receive adequate coverage.³⁷

Recent telephone interviews with two "new" commissioners added little relevant information. Commissioner Bernell Lewis indicated he has developed no specific ideas on subdivision activity, and further informed the author that most agencies dealing with subdivisions were directed by the other new member.³⁸ Commissioner Dale Brinkerhoff stated the commission

³⁶ Darrell French, Telephone interview, March 23, 1969.

³⁷ Merrill MacDonald, Telephone interview, April 5, 1969.

³⁸ Bernell Lewis, Telephone interview, April 3, 1969.

continues to rely heavily on planning agent John C. Willie. There has been no subdivision activity this spring due to heavier than usual winter snows remaining in the mountains.³⁹ Mr. MacDonald stated his last contact with Mr. Buell of the Resources Company, several months previous, produced the response that the company would proceed with the Kaiparowitz Coal project as soon as federal sources approved their application for water.⁴⁰

³⁹ Dale Brinkerhoff, Telephone interview, April 3, 1969.

⁴⁰ Merrill MacDonald, Telephone interview, April 5, 1969.

CHAPTER V

SUMMARY AND OBSERVATIONS

Summary

There is no question in the mind of the author but what some subdivision problems are reaching serious proportions. The degree of seriousness is subject to debate, but the existence of problems is acknowledged both by local officials and by subdividers.

The problems of sewage and refuse disposal demand immediate attention. Local officials must specify, in both areas, means of disposal applicable to the surrounding conditions. Neither health problem has received sufficient attention in subdivision regulations passed to date. Chemical sewage disposal facilities would seem a minimum requirement that should be imposed to protect health. In disposing of refuse, the county may find the best solution one whereby the local government provides a central disposal site and where the county may need go so far as to provide a vehicle for collection purposes. The cost could then be levied against the subdivision property owners.

Participation in the problems of property protection and road maintenance is needed now. Whether police functions are carried on privately or through county financed programs, the local government has an obligation here that has been neglected too long. Road maintenance, as indicated by the county commission chairman, is a major problem the county must act on within the

next year or two. The benefit of adequate planning and preparation appears very clear in this instance, or so it would seem to the author. When one views all subdivisions together, he realizes that when road maintenance is undertaken in one development, demands for such service will immediately be received from other projects. The county cannot, of course, begin maintenance of every subdivision road at the same time. The author sees no alternative to studies that will indicate how best the county government may cope with these problems. One method of acting on the problems of roads or refuse disposal may be through special districts.

Special Improvement Districts

County officials have specified minimum standards to which roads must be constructed before they will be officially accepted by the county and maintained by the local governmental unit. Rough roads are provided through each subdivision--at the developer's expense. No developer has demonstrated the willingness--or ability--to provide roads of the quality demanded by the county.

Improvement districts usually are of no interest to all of the citizens of a county as a whole. Only those directly concerned need be involved. Some states allow such groups of interested petitioners to establish special districts.

The functions performed by such districts might theoretically be accomplished by the creation of special assessment districts under the control of the county or other larger unit, but very often there were legal or constitutional obstacles to such procedures.¹

¹Lane W. Lancaster, Government in Rural America (New York: D. Van Nostrand Company, Inc., 1952), p. 28.

Most districts are service rather than regulatory agencies. As single purpose units, districts lack the power to undertake integrated planning, and sometimes lack financial resources and legal authority to perform even their directly assigned task. Districts are organized in many ways and vary greatly in their operation. Less extensively used in rural areas,

John C. Bollens, the foremost scholar on the subject, finds special districts in about one-fourth of all metropolitan areas, and in about three-quarters of the largest metropolitan areas.²

Should sufficient interest be generated within a subdivision, the landowners could petition the county government to establish an improvement district to provide better roads. Utah State statutes indicate this would be the method to use.

The board of county commissioners of any county may on its own initiative by resolution create improvement districts within the unincorporated portion of any such county, order improvements made within any such district, and assess the cost thereof against the real property specially benefited thereby. Improvement districts may be created to establish, grade, pave, repave, extend and widen any street, road or alley and improve, repair, light, curb, gutter, sewer and drain the same: . . .³

Even though special districts may not be the answer to most of the problems now appearing to plague these emerging projects, they should warrant careful consideration for road development. The county commissioner in charge of county roads recently indicated his belief that some project roads likely meet

² Duane Lockard, The Politics of State and Local Government (New York: The Macmillan Company, 1963), p. 519.

³ Guernsey, (17-7-11), p. 625.

the necessary criteria.⁴

At present, the author sees little need for major concern over the lack of water in the developments. It no doubt is surprising to most readers to discover the widespread development that has occurred with so little water available. Actually, this writer feels a more urgent need for water to be used in waste-water facilities than for culinary purposes. Should sufficient demand eventually develop, a water conservancy district might be formed as some future date.

There is no question in the mind of this writer but what state statutes need be enacted outlining general guidelines for developing areas such as those studied here. Should local governmental units fail to "adequately" plan for the extension of necessary services into subdivision developments, they may be absolutely unable to do so when such services are pushed on to them. State regulations should require county governments to prepare for the demands which will inevitably fall on them. The author is not in favor of relieving local units of government of their present powers, but he feels they have neither the financial resources nor the manpower to adequately cope with all the problems covered in this study.

Observations

The investigation necessary in producing this study has provided the

⁴Telephone interview, Merrill MacDonald, April 5, 1969.

author with a far greater appreciation of the responsibility that rests on the officials at the county level. They are obligated to provide basic services to the county's citizens, and are expected to do so with a minimum of expense. Along with this appreciation, the author has developed the following observations:

1. The county government must conduct studies that will enable local government to ascertain the services, and related costs, that the governmental unit will be obligated to provide emerging rural subdivisions.

2. Failure to adequately prepare for these demands now will result in greatly increased expenditures when the time comes that the county must provide such services. Long-range planning is a necessity the county can no longer afford to ignore.

3. Costs encountered now will prove much less than those that will result from participation at a later date. As the problems continue to grow, so too will the cost of their eradication or containment.

4. Intergovernmental cooperation will be a necessary part of the activity necessary to control subdivision problems. Even should the county desire to cope with all aspects of subdivision growth, without assistance from state or federal agencies, it is doubtful that sufficient revenue will ever be available to allow this independence. State and federal agencies that might logically be included in joint studies and action programs would include:

State

Division of Public Health

Utah State Planning Coordinator

Utah State Fish and Game Commission

Utah State Park and Recreation Service

Utah Tourist Council

Federal

U. S. Forest Service

Bureau of Land Management

U. S. Public Health Service

U. S. Park Service

U. S. Soil Conservation Service

U. S. Fish and Wildlife Service

Bureau of Reclamation

5. The possibility exists that restructuring of local government should be examined to determine whether or not operations could be improved by this means.

In conclusion, the basic question no longer is whether or not county government will extend services to the rural projects, but rather the source of revenue necessary to finance such operations. The growing need for action in every problem area would indicate the urgency with which county officials should seek solutions to existing problems.

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APPENDICES

Appendix ADevelopment at Lake Powell and the Kaiparowitz Coal Project

Referred to Committee _____ Reported Out _____

3rd Reading Vote, Yes _____ No _____ Date _____

To Senate _____ Senate Vote, Yes _____ No _____

Signed by Speaker _____ President _____ Governor _____

STATE OF UTAH 1969 REGULAR SESSION

H. J. R. No. 23

By Messrs. Atkin and Mitchell

1 A JOINT RESOLUTION OF THE HOUSE OF REPRESENTA-
 2 TIVES AND THE SENATE OF THE STATE OF UTAH MEM-
 3 ORIALIZING THE PRESIDENT OF THE UNITED STATES,
 4 THE SECRETARY OF THE INTERIOR, AND THE CON-
 5 GRESS OF THE UNITED STATES TO PROMOTE AND FA-
 6 CILITATE THE KAIPAROWITS COAL PROJECT AND LAKE
 7 POWELL DEVELOPMENT.

Be it resolved by the Legislature of the State of Utah:

1 WHEREAS, the development of the Kaiparowits Coal Project
 2 and the Lake Powell Recreation Area are important elements in the
 3 economic growth of Utah and Southern Utah in particular; and
 4 WHEREAS, the counties of Southern Utah directly affected by
 5 these developments have been declared by the Federal Government to
 6 be economically depressed areas; and

7 WHEREAS, The Federal Government has already studied the
8 feasibility of full development in this area and found it economically
9 sound; and

10 WHEREAS, private enterprise has signed contracts and is ready
11 to develop the area as soon as the Federal Government and the Secre-
12 tary of the Interior in particular permit; and

13 WHEREAS, in the past numerous promises have been given re-
14 garding federal permission and assistance in the development of
15 these two areas of Southern Utah.

16 NOW, THEREFORE, BE IT RESOLVED, by the Legislature of
17 the State of Utah that we call upon the President of the United States,
18 the Secretary of the Interior, and the Congress of the United States to
19 honor past commitments made, to take a positive view toward the
1 future, and to further and to assist in the development of this potenti-
2 ally rich, economically depressed area.

3 BE IT FURTHER RESOLVED that the Legislature of the State
4 of Utah calls upon the Congressional Delegation from the State of
5 Utah to work avidly for the implementation of this Resolution.

6 BE IT FURTHER RESOLVED that the Secretary of State of
7 Utah, be, and is hereby directed, to send copies of this Resolution to
8 the President of the United States, the Secretary of the Interior, to the
9 Senate and House of Representatives of the United States and to the
10 Senators and Congressmen representing the state of Utah in Congress.

No Budget Report Needed

Appendix BList of Questions Posed to Selected Subdividers

Following is a list of questions posed to selected subdividers:

1. Have Kane County officials been of assistance to you in your subdivision development?
2. Is the Kane County Subdivision Ordinance effective? Is it too restrictive?
3. Do you see problems arising now in your subdivision due to the county's lack of activity? What problems, and how would you handle them?
4. Do you see the need for county concern or activity in any of the following areas?

Sewage disposal

Police protection

Water--culinary

Building code inspection

Watershed drainage

Zoning enforcement

Roads

Fire protection

Refuse collection

Special Improvement Districts

5. What are your views on the tax situation? What are other problem areas?

Appendix CList of Questions Posed to County Officials

1. How can you see that subdivision developments in Kane County should be changed?
2. Do you feel that the Kane County Subdivision Ordinance has been effective in controlling the emergence of the present subdivisions? Has it been enforced?
3. What are your views concerning the overall development of subdivisions in this county?
4. In your estimation, do the emerging subdivisions pose a threat to our watershed? To our scenery and tourist trade? To our towns?
5. Should the County make provisions for grading subdivision roads and policing these same areas?
6. Do you feel the County should limit new subdivisions to a specific locality, i. e. , out of agricultural areas?
7. Will subdivisions arise to the point that cattle grazing and other agricultural activities will be adversely affected in future years? This in regards to taking over the now productive grass lands, and siphoning off existing surface waters.
8. The actively growing subdivisions are, for the most part, for summer recreational purposes only. If the emphasis changes to winter type activities such as skiing, these same developments will be involved. Therefore, do you feel it would be worthwhile to attempt to persuade potential land buyers to buy in existing towns are well established as to roads, municipal services and other utilities?
9. Are there problems now existing in connection with subdivisions which you feel are the responsibility of the County government?
10. Do you feel the county has been helpful in establishing the existing developments?
11. Do you feel it would be worthwhile for Kane County to employ a full time expert, trained in subdivision growth and development, to analyze the existing situation and make recommendations as to future developments of this type?

12. The Utah Fish and Game Commission and U. S. Forest Service have indicated they have not conducted studies concerning the emerging subdivisions as to soil erosion, plant or wildlife ecology or water pollution. No studies are planned for the future. Since many subdivisions are located near to or are surrounded by Forest Service lands, do you think the county should join with either or both of these agencies in conducting studies pertaining to the developments?
13. Should Kane County impose a road tax on land owners for construction of and maintenance of subdivision roads?
14. What other areas must be studied and considered in connection with our subdivisions?
15. Should the County pursue the idea of special improvement districts for subdivision improvement or should the subdivision developer take this responsibility?

VITA

Richard Carl Haycock

Candidate for the Degree of

Master of Science

Thesis: Political Problems of Emerging Rural Subdivisions in Kane County,
Utah

Major Field: Political Science

Biographical Information:

Personal Data: Born at Kanab, Kane County, Utah, March 17, 1935, son of Melvin Swapp and Louise Hamblin Haycock; married Margaret Budge September 8, 1961; three children, Julie Lyn 6, Richard Lance 5, Louise 4.

Education: Attended elementary school in Kanab, Utah; graduated from Kanab High School, Kanab, Utah, in 1953; attended University of Utah 1953, Brigham Young University 1959, received an Associate Degree from College of Southern Utah, Cedar City, Utah, with a major in political science in 1960; received certificate of completion of Utah Highway Patrol Police Academy, Camp Williams, Utah, 1961; received a Bachelor of Science degree from Utah State University, Logan, Utah, with a major in political science and a minor in business in 1967; completed course requirements for the Master of Science degree in political science at Utah State University in 1969.

Professional Experience: July 1961 to September 1964, trooper, Utah Highway Patrol, residing in Brigham City, Utah; September 1967 to June 1968, graduate assistant, Department of Political Science, Utah State University, Logan, Utah; September 1968 to June 1969, head graduate assistant, Department of Political Science, Utah State University.

Military Experience: United States Army, August 1954 to May 1956; rank, E-5; tour of duty, Korea, 1955-1956.

Professional Memberships and Awards: Salt Lake Rotary Scholarship, University of Utah, 1953; Pi Sigma Alpha, Political Science honorary fraternity; member, American Political Science Association; member, Western Political Science Association.