



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main Street, Kanab
April 8, 2015

CHAIRMAN: Tony Chelewski

MEMBERS PRESENT: Tony Chelewski, Dale Clarkson, Wade Heaton, Byard Kershaw, Que Johnson

MEMBERS ABSENT: Robert Houston, Harold Hamblin

EX-OFFICIO MEMBER: Commissioner Douglas Heaton (absent)

STAFF PRESENT: Shannon McBride, Land Use Administrator; Mary Reynolds, Administrative Asst.; Ryan Maddux, Building Official; Kent Burggraaf, Deputy County Attorney; Tom Avant, County Engineer.

5:30 PM Work Meeting

6:00 PM Meeting called to order by Tony Chelewski
Pledge of Allegiance Tony Chelewski
Prayer Wade Heaton
Announcements Tony Chelewski

Motion was made by Byard Kershaw to approve the **March 11, 2015** minutes. Motion was seconded by Dale Clarkson. The Chair asked for any questions or comments and there were none. Motion passed unanimously.

Motion was made by Wade Heaton to go in and out of public hearing at the call of the Chair. Motion was seconded by Byard Kershaw. The Chair called for the question and the motion passed unanimously.

Announcements/Updates:

Tony Chelewski: I called Mike Kemp; He said Rudy is using the road quite a bit now, and his guys are coming through with big equipment. I told him it was probably time Shannon gave him a call to see how things were going.

Shannon McBride: Yes, I will do that and check on the 'Taco Stand' at the same time.

Chairman Chelewski called the commission into public hearing.

Administrative Public Hearing

(1) Lot Joinder

Arthur & Julie Cocks, Cocks Family Trust, Property Owner, Swains Creek Pines, Unit 3, Lots 526 & 527, New Lot 526; Vacating a right-of-way/utility easement; Submitted by Steve B. Woolsey, Pro-value Engineering, Inc.

Steve Woolsey: Good evening. We have a Lot Joinder/Subdivision amendment; Lots 526 & 527 in the Swains Creek Pines Subdivision. We've gone through and submitted [an] application; all the fees have been paid, [and] all the reports have been submitted. Three utility companies require [vacation of easements] and we have those letters. We should have everything [you need].

Shannon McBride, Administrator: Tom Avant [County Engineer] is looking at the plat [map] right now to make sure there isn't anything else you will need to come back for.

Steve Woolsey: Did you get my email? [Directed to Tom Avant] I sent an email update of the changes.

Shannon McBride: While Tom looks at the Mylar, you can look at the staff report and see there are a few conditions. [Tom Avant indicated the conditions were met.] Then we are good to go. It has to go to [County] Commission because of the vacation of the easements.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Wade Heaton to recommend approval to the County Commission for the Lot Joinder of Arthur & Julie Cocks, Cocks Family Trust, Property Owner, Swains Creek Pines, Unit 3, Lots 526 & 527, New Lot 526 and vacating of the public right-of-way/utility easement. Motion was seconded by Dale Clarkson. The Chair asked if there were comments or questions. The Chair called for the question; and the motion passed.

Chairman Chelewski called the Commission into public hearing.

Shannon McBride: Regarding Agenda Item Number 2 – I recommend we move it to the last item on the agenda in anticipation that the Crenshaw’s will be joining the meeting.

Tony Chelewski: So agreed.

Administrative **(3) Vacating or Amending a Subdivision Plat (and Lot Joinder)**

Public Hearing **Rocky & Nancy Wright, Property Owners, Block E, Church Wells Subdivision, Plat B, Lots 130-139 & 151-154, and vacate a 16 ft. right-of-way utility easement, vacate a 50 ft. turnaround cul-de-sac, vacate a 40 ft. road and vacate a 16 ft. walkway; Submitted by Brent Carter**

Shannon McBride: Mary Reynolds [Administrative Assistant] went out to the property and took photos. I will quickly show you what these pictures are and then Brent [Carter] will explain [the rest]. The complicated part of this is Rocky Wright has already fenced off the parts he wants to vacate – the 50 ft. cul-de-sac [turnaround], the 16 ft. walkway, the 40 ft. road, and the utility easement.

[In this photo] this particular walking easement goes from north to south and several property owners called about this. The walking easement [being vacated] goes east to west on Rocky’s property and as you can see it is fenced off [and cannot be accessed by anyone].

Tony Chelewski: So he has his property completely fenced off on the west side? [Yes, it’s been fenced off for years with no public outcry.]

Brent Carter: Lot 135 was joined earlier on a previous Joinder. Now he wants to join everything he owns together, and vacate 6th Avenue, the cul-de-sac, [and] the walkway, so he has one big piece of property. He owns [Lot] 150 but doesn't want it included. There is an existing water line that runs down 6th Avenue. [Q: Is that the one the fire hydrant is hooked to?] I'm not sure if the fire hydrant is hooked to the north line or the west line. That [water] line comes out from the south and stops; and there's one that comes from the east to the other fire hydrant and dead ends. There's a line that goes through 6th Avenue to loop their system.

Tony Chelewski: Doesn't he have to leave access for the water company?

Shannon McBride: Yes. That is the part we have to review carefully. You will see [on the plat] a 16 foot utility easement, but Church Wells Special Services District has actually said a 30 ft. utility easement will be created.

Brent Carter: Yes; I made that change on my map, but it wouldn't be on yours [yet]. Even though they only have 16 feet [on the map], they are requiring a 30-foot utility easement in order to give their consent to vacate 6th Avenue. So we are giving them that; it will be on the deed when it is recorded.

Tony Chelewski: So essentially, that can be fenced and gated unless they need to do maintenance work and the work crew can go through those fences and access it, but nobody else can?

Brent Carter: Right; it will be a utility easement only.

Tom Avant: You have that as a public utility easement or is it a water easement?

Brent Carter: It's just a utility easement.

Byard Kershaw: Would you say that again; you said a utility easement verses a water easement? There's a difference? Does that mean they could run electricity through there? Or telephone?

Tom Avant: Any registered public utility. If it's a water easement then it is for a water line only.

Brent Carter: With that being said, we probably would want to change that to a water easement only. We can just change that on the map.

Tom Avant: The utilities already signed a consent-to-vacate; they don't have an interest in it, so if you restrict it just to a water line I don't see an issue.

Kent Burggraaf: Then we are technically vacating a utility easement and establishing a water easement. When you make a motion you'll want to include that caveat.

Brent Carter: The utility easement hasn't been created, yet.

Kent Burggraaf: Wasn't there an existing utility easement? [No, there wasn't.] Where was the water line? [It went down the road.] Then it was a public easement.

Tony Chelewski: That water line was probably placed there when they thought those lots would be subdivided and utilized and they could attach themselves to the line rather than go out to the road.

Kent Burggraaf: Does the plat show it goes to the end of the road or beyond the cul-de-sac? Then technically it is a public utility easement and it should be noted on the plat.

Discussion continued between Brent Carter, Tom Avant and Kent Burggraaf on how the utility easement would be identified on the plat map.

Wade Heaton: [Question for Shannon] Were other owners notified? [Yes; extra signs were put up.] Just for clarification, we changed it [policy/ordinance] so every property owner within 500 feet were notified? [Yes.]

The Chair called the Commission out of public hearing.

Motion was made by Wade Heaton to recommend approval to the County Commission for Vacating or Amending a subdivision plat and a Lot Joinder for Rocky & Nancy Wright, Property Owners, Block E, Church Wells Subdivision, Plat B, Lots 130-139 and 151-154; vacate a 16 foot utility easement and create a 30 foot water easement; and vacate a 50 foot turnaround cul-de-sac, a 40 foot road and a 16 foot walkway. Motion was seconded by Byard Kershaw. The Chair asked if there

were comments or questions. The Chair called for the question; and the motion passed.

Chairman Chelewski called the Commission into public hearing.

Administrative
Public Hearing

(4) Vacate a Cemetery

**Dalco, LC, Brent & Bruce Williams, Managing Members,
Paunsaugunt Ranch, Parcel #8-6-23-8, Lots 1, 2, & 4;
Vacating all rights-of-ways, utility easements, and roads;
Submitted by Brent Carter**

Shannon McBride: There were over 1,000 plots on the cemetery. I did not receive one phone call on this and we have signs on the property. Mary Craven took photos of it [so you can see it is undeveloped]. It was [also] noticed for three weeks [in the newspaper].

Tony Chelewski: I have a question; how long ago did they start this? 20 years? 30 years?

Shannon McBride: Mary [Reynolds] went back through the minutes; it was recorded in 1981, but it started in 1979.

Mary Reynolds: On July 5, 1979 a Conditional Use Permit was issued to the California Lutheran Youth Camp to create the cemetery on 40 acres.

Shannon McBride: A year later, when they were supposed to [give a] report, they were not in compliance with the conditions, so it never got off the ground.

Kent Burggraaf: The fact it went through a county tax sale...

Tony Chelewski asked if Luther Wood was involved with the cemetery. A few of the Planning Commission members thought so. The three names associated with the conditional use permit were Christensen, Pederson and Reed.

Shannon McBride: You have my recommendations; Tom [Avant] didn't feel he needed to review it.

The chairman called the meeting out of public hearing.

Motion was made by Byard Kershaw to recommend approval to the County Commission to Vacate the Cemetery, for Dalco, LC, Brent & Bruce Williams, Managing Members, Paunsaugunt Ranch, Parcel #8-6-23-8, Lots 1, 2 & 4, also known as Lone Pine Cemetery. Motion was seconded by Wade Heaton. The Chair asked if there were comments or questions. The Chair called for the question; and the motion passed.

Chairman Chelewski called the Commission into public hearing.

Administrative **(5) Rural Unimproved Subdivision**
Public Hearing **Dalco, LC, Brent & Bruce Williams, Managing Members,**
Oak Hill Estates, Parcel #8-6-23-6; Submitted by Brent
Carter

Brent Carter: This is in the same area as the cemetery and the Paunsaugunt Ranches. We want to create six lots.

Tom Avant: There are a few minor items that need to be addressed, but I feel comfortable recommending approval pending completion of those items.

Wade Heaton: What are we doing with that road to the southeast? Will it be a dedicated right-of-way? [It will still be an easement.]

Tom Avant: It is a recorded easement, now; before it was a prescriptive right. People actually have better protection now than they did before.

There was a discussion about the overlapping of the parent parcels and the quarters.

Mary Craven (Member of Public): This subdivision - is it on the same property as the other? [No; just near it. It is adjacent to it.]

Shannon McBride: In the past we had situations where [developers] named [the subdivisions] the same name but with a Phase 1 & 2. One of the requirements [now] is that they have to give [the subdivision] a distinct name. When Brent [Carter] put his application through, instead of Paunsaugunt Ranch, he had to come up with a completely different name so there wasn't any confusion with which development he was working with.

The chairman called the meeting out of public hearing.

Motion was made by Wade Heaton to recommend approval to the County Commission of the Rural Unimproved Subdivision for Dalco, LC, Brent & Bruce Williams, Managing Members, Oak Hill Estates, Parcel #8-6-23-6. Motion was seconded by Dale Clarkson. The Chair asked if there were comments or questions. The Chair called for the question; and the motion passed.

The chairman called the meeting back into public hearing.

Administrative
Public Hearing

(2) Lot Joinder

Philip & Cinthani Crenshaw, Property Owners, Meadow View Heights, Plat F, Lots 333 & 334, New Lot 333; Vacating a right-of-way/utility easement; Submitted by Platt & Platt

Shannon McBride: I am going to have Tom [Avant] come to the table and explain what is going on with this project and why it has been postponed [continuously]. It looks like the Crenshaws are a no-show.

Tom Avant: Meadow View Heights, Plat F, Lots 333 & 334 has been ongoing from last year. In reviewing the plat I became very suspicious based on what was there [whether] he [surveyor from Platt & Platt] actually had done the survey on the ground. And, in questioning the surveyor, he said he had not surveyed it on the ground like we require. I have subsequently got two other plats showing different from-monuments because he didn't have any ties to actual monuments where you can establish a basis of bearing. I questioned him on that and he sent me another plat that showed another couple monuments that were found before but not found now; he said he didn't find any corners.

One of my guys was up there the other day, and I asked him to see if he could find some corners; when he stepped out of the truck he about tripped over one of them. I called [the surveyor] back and questioned him again and said I know there are corners up there that are tied, and you need to tie into [them]. I will not accept the survey until you actually physically survey on the ground, find the original monuments and do a proper survey by law. By law, if there are original corners on

the ground, wherever they are set, that's where they are, regardless if they are in or out five feet, that's where it's at.

Tom continued to explain controls used to measure and survey property; and the importance of having on-the-ground proof of survey for mapping. He stressed you have to find the original monument on the ground to get a correct measurement. [The surveyor] said he tied to the original monuments 100th from a 1978 survey of the mountain, which Tom indicated wasn't possible from a 1978 survey. So, until the surveyor does an actual survey on the ground, Tom will not accept it because it is a violation of statute and case law. He will not recommend approval until he receives one.

Discussion ensued on whether to postpone the project for another month or have the surveyor reschedule when he had all the documents ready. The county attorney recommended the Planning Commission make a decision to approve or deny the application tonight based on the findings of staff and the engineer. The taxes are paid, and the application is complete. There has been no contact with the owners; only the builder has contacted Shannon regarding when he could begin building a garage on the property. Tom has communicated with the surveyor only as a courtesy. If the application is postponed, it does not have to be re-noticed; if the application is denied, the entire packet will have to be re-noticed if they re-apply.

Chairman Chelewski called the commission out of public hearing.

Dale Clarkson: Are we thinking it's still proper to approve with subject to the review and approval of the county engineer?

Tom Avant: I would not at this time; you do not have enough information to make an informed decision. So I would not recommend approval.

Kent Burggraaf: Adopting the findings of the engineer and staff would be the appropriate basis [of making a decision].

Motion was made by Wade Heaton to deny the Lot Joinder for Philip & Cinthanie Crenshaw, Property Owners, Meadow View Heights, Plat F, Lots 333 & 334, New Lot 333; based upon Kane County Engineers findings that the physical survey was not properly done and is not complete. Motion was seconded by Dale Clarkson. The

Chair asked if there were comments or questions. The Chair called for the question; and the motion passed.

Motion was made by Que Johnson to adjourn the meeting. The motion was seconded by Dale Clarkson. The Chair asked if there were comments or questions. The Chair called for the question; and the motion passed.

The meeting adjourned at 6:42 p.m.

Land Use Authority Chairman,
Tony Chelewski

Land Use Administrative Assistant,
Mary Reynolds