



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main Street, Kanab
June 10, 2015

CHAIRMAN: Tony Chelewski

MEMBERS PRESENT: Tony Chelewski, Dale Clarkson, Wade Heaton, Byard Kershaw, Robert Houston, Hal Hamblin

MEMBERS ABSENT: Que Johnson

EX-OFFICIO MEMBER: Commissioner Douglas Heaton

STAFF PRESENT: Shannon McBride, Land Use Administrator; Mary Reynolds, Administrative Asst.; Linda Little, County Assessor/Building Official; Ryan Maddux, Building Official; Kent Burggraaf, Deputy County Attorney.

5:30 PM Work Meeting

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

Motion was made by Dale Clarkson to approve the **April 8, 2015** minutes. Motion was seconded by Wade Heaton. The Chair asked for any questions or comments and there were none. Motion passed unanimously.

Announcements/Updates:

Mary Reynolds informed Planning Commission members that some of the information packets had updated pages from the codifiers for their Land Use

Ordinance binders. The instructions on what pages to replace were [in green] and attached to their new pages.

Commissioner Doug Heaton, ex-officio member, complimented everyone for a job well done. He said Kane County was on the cutting edge of new Utah legislation and was leading the way for other counties.

Greg Metcalf, a member of the public, thanked Shannon McBride, Administrator and Mary Reynolds, Assistant Administrator, regarding notification of a computer/email virus that swept throughout the county last month. He appreciated the pro-active nature of the phone call, which kept him from infecting his own computer or inadvertently infecting others.

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

Chairman Chelewski called the commission into public hearing.

Administrative
Public Hearing

(1) 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

Philip Crenshaw: We have a Lot Joinder in Meadow View Heights. [Showed plat; and described which area they wanted to join together].

Shannon: The project is good to go; it needs to be approved by County Commission because of vacating the easements, but other than that, the county engineer has cleared the plat. Both the engineer's and staff report is in your packet.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Robert Houston to recommend approval to the County Commission for the Lot Joinder of Philip & Cinthani Crenshaw, property owners, Meadow View Heights, Plat F, Lots 333 & 334, new Lot 333 and vacating a right-of-way utility easement. Motion was seconded by Hal Hamblin. The Chair asked if

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

Kent Burggraaf, Deputy County Attorney: I suggest the wordage for your [future] motions include the recommendation of the staff report.

Chairman Chelewski called the Commission into public hearing.

Administrative

(2) Conditional Use Permit

Pinewoods Enterprise, LLC, Don Beggs, Parcel #51-119, C-1, Recreation Center and Swimming Pool

Don Beggs, Pinewood Resorts: We want to install a pool; it's hard to have a resort without a pool.

Shannon McBride, Administrator: I have spoken with the Health Department, Clint Albrecht, he has seen the plans and told me they are OK. I also talked to Ryan Maddux because this application is one of the reasons Chapter 7 [Land Use Ordinance] revisions are on the agenda tonight. I believe that pools are an accessory to the use. The plans are before you with a site plan. In this case, the Health Dept. and the Building Department will mitigate any issues that might come up.

Kent Burggraaf: You may choose to make pools an accessory. If you do agree to change the ordinance, permitted and not conditional, this action will become moot.

Robert Houston asked about fence requirements, and Shannon McBride explained it was an indoor pool so it didn't require one. Wade Heaton asked about the ordinance in Chapter 7; Shannon showed the commission where it was located and how it was worded. She indicated the matrix needed changing because [Mr. Beggs' Resort] is zoned C-1 and he shouldn't have to wait to construct a swimming pool.

The Chair called the Commission out of public hearing.

Motion was made by Hal Hamblin to approve the Conditional Use Permit for Pinewoods Enterprise, LLC, Don Beggs, parcel #51-119, C-1, for a recreation center and swimming pool, including the findings of staff. Motion was seconded by Robert Houston. 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

(3) Lot Joinder

Russell & Marilyn Armstrong, property owners, Meadow View Estates, Unit A, Lots 11 & 12, New Lot 11; Submitted by Brent Carter

Shannon McBride: Brent wanted to do a teleconference but we only need to speak with him if there is a problem. You have the staff findings and engineer's report in your packets. We don't have to terminate easements; there are already utilities in the ground. There is no way to vacate/terminate them. We can still pass this Lot Joinder, but the easements have to stay. If they [owners] ever wanted to build a garage, they would have to do so with the knowledge it could be torn down. This does not have to be recommended to the County Commission.

Kent Burggraaf: In your findings, you said the cabin has been built over the line. Did you mean the easements? [Shannon answered yes.]

Wade Heaton: We ask people to vacate easements so there aren't problems, but it isn't necessary, right? [Shannon answered in the affirmative]

The Chair called the Commission out of public hearing.

Motion was made by Wade Heaton to approve the Lot Joinder for Russell & Marilyn Armstrong, Meadow View Estates, Unit A, Lots 11 & 12, new Lot 11; including the staff recommendations, with the easement line according to staff findings. 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.

Administrative
Public Hearing

(4) Rural Unimproved Subdivision

Flourishing Hills, LLC, (Charles Knudsen, manager), Oak Ridge Estates, Parcels 1-7; Submitted by Brent Carter

Shannon McBride: You have the reports before you in your information packets. Although there were a lot of fixes [on this plat] all corrections have been completed. The plat map shows where the access is. Brent only has to change the word(s) “lot” to “parcel” and everything else is ready to go.

Doug Heaton: They are making one lot out of seven? [Shannon answered in the affirmative.]

Wade Heaton: Refresh my memory; the roads and cul-de-sac are not public roads, right? They are just easements? [Shannon answered yes.]

Shannon McBride: The plat will be recorded with the easements listed.

Discussion occurred over where the property was located – in general terms.

Hal Hamblin: When we do the Rural Unimproved Subdivision(s), can we stipulate about new fences being built before old fences are torn down? It causes a problem with ranchers who have cattle; and if they are using the neighbors pasture they cannot keep cattle on the land while the fence is torn down.

Kent Burggraaf: Our ordinance doesn't provide for that.

Shannon McBride: But in the ordinance for subdivisions it does.

Kent Burggraaf: We can [write] it as a stipulation or it could be considered a nuisance.

Robert Houston: If you remove the cattle guard then they can get to the highway. It affects all the property owners, not just the one property owner.

Shannon McBride: Chapter 21 is on July's agenda so we can address it then.

Robert Houston: These are over 10 acres, but can they qualify as a green belt?

Shannon McBride: They can apply or reapply (after creating an RUS) for green belt [status]; it is a different [process] which goes through Linda Little's office. There is nothing to stop people from applying for this, but they have to meet the qualifications set through state code.

Tony Chelewski: With regards to cattle; few people are told that if they don't want cows in their yard, they have to fence their own property. The buyer should be told at least once that is the case.

Shannon McBride: Utah is a buyer beware state; it isn't a requirement to disclose that. We wish the realtors would, though. We can only deal with it when people call the Land Use office and then we tell them about building a fence. Utah is a "fence out" state. [The property owner must protect their own land by building a fence to keep cattle out.]

Kent Burggraaf: Since we are a buyer beware state it is up to the buyer to do due diligence. It puts responsibility on the buyer. There is a civil remedy regarding the fences, though. If a fence that was previously agreed upon is taken out, and the ability to graze cows is affected, there is a civil remedy. The property owner who removed the fences would be responsible for damages/injury to cattle.

The chairman called the meeting out of public hearing.

Motion was made by Hal Hamblin to recommend approval to the County Commission for the Rural Unimproved Subdivision for Flourishing Hills, LLC, (Charles Knudsen, manager), Oak Ridge Estates, parcels #1-7, including the findings of staff. Motion was seconded by Robert Houston. 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

(5) Rural Unimproved Subdivision
Barry & Kathleen Mower, property owners, Millett Point Estates, Parcels 1-9; Submitted by Brent Carter

Shannon McBride: This item needs to be postponed. The title report is showing a lien holder by the previous owners who have passed away. It will take awhile to clear the title. We aren't sure how long probate will take.

There was a short discussion on whether the item should be postponed or tabled. Attorney Burggraaf indicated that tabling the item was the appropriate course of action.

Motion was made by Wade Heaton to table the Rural Unimproved Subdivision application of Barry & Kathleen Mower, property owners, Millett Point Estates, Parcels 1-9. Motion was seconded by Hal Hamblin. 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

(6) Kane County Land Use Ordinance-Chapter 7
Revisions to Chapter 7, specifically adding swimming pools, helipad and private airstrip to the use matrix; Submitted by Shannon McBride

Shannon McBride: The reason we are looking at this is because we had problems with the use matrix [regarding swimming pools]. In addition, Amangiri Resort (who has planes landing on the road) wants to build a helipad; we would like to add it to the use matrix to help them in case they go forward in building a helipad. Neither item - airport or private airstrip - is addressed in this zone [C-1]. We can do each one of these in C-1 or C-2, as conditional or permitted.

Hal Hamblin indicated the matrix should indicate conditional for the items.

Shannon McBride: [I have researched] the helipad. Hurricane has one and there is an emergency response helipad [at the hospital]; but a [private] helipad only needs to be a small one. It needs to be fenced to keep people away. Life Flight is different than a tourist helipad.

Byard Kershaw: The comment you made about an emergency response helipad – we have one at the Kanab Airport, too. Can a helicopter land on an airstrip?

Kent Burggraaf: The FAA regulates most of it; what we are putting forth is when you have a defined location of use. We are just regulating the private aspect of it.

Shannon McBride: You want conditional use on both? [The Planning Commission answered in the affirmative.] For the pool; it isn't in the use matrix. Kent recommends we list it under hotel/motel and have it permitted. Amangiri didn't come in for a CUP for their pool – it was just permitted.

Charlie Saba, member of the public: In pertaining to swimming pools; some consideration must be made for the water source. You might want conditions on it.

Shannon McBride: I think the [Kane County] Water Conservancy District [regulates] that. They don't come to us for permits.

Kent Burggraaf: The water supplier would put appropriate controls on that; not the county.

Tony Chelewski: What about the new motels? Does the city have the capability to supply that quantity of water? Is it through the city or water conservancy? Is it available?

Robert Houston: A pool doesn't use that much water once you fill it.

Shannon McBride: We [Land Use Authority] have a development meeting when developers are first setting up things like this. That is when everyone finds out it is part of the plan.

Wade Heaton: It makes sense to have it connected to other developments, but shouldn't it be other places, too? It could be a separate line item.

Ryan Maddux, Building Official: We already have accessory uses connected to the primary use. The administrator should be able to apply it to where she thinks it should go. Where is the need to put conditions on something that is already an accessory? Why clutter up the matrix with incidental uses?

Shannon McBride: I think we just need to change the wordage.

Kent Burggraaf: Because pool is separated out [in the use matrix], it gives the perception that pools aren't included as an accessory use. If we go that route, we need to include it in the definitions, too.

Shannon McBride: Could we just add it to the matrix?

Kent Burggraaf: Yes, but what Ryan is saying [is true], it is technically an accessory use.

Linda Little, Assessor/Building Official: Is the caution that if it isn't listed [in the use matrix], it isn't allowed?

Kent Burggraaf: Not necessarily. We already have an accessory use definition in Chapter One.

Ryan Maddux: A pool can still be a primary use and therefore listed, but then you need to consider traffic flows, etc.

Kent Burggraaf: A lot of items a pool needs are obtained through permits; we can ask what we need to address beyond the building permit process.

Wade Heaton: The only thing I can think of is [traffic] parties, hours of operation, etc.

Kent Burggraaf: Those are the conditions you can put on it. We can list in the definition to include hours of operation and measures approved for traffic flow.

Shannon McBride: So [do you want it] as an accessory use?

Kent Burggraaf: It won't matter if you say they are permitted; if you go the conditional [use] route, you can set [limits]. These are basically two different environments [we are talking about] - a hotel/motel, or a stand-alone [pool]; you may want conditions on the stand alone.

Discussion continued about clarifying what the environmental conditions are. An example of the listing in the use matrix could be: swimming pool, not accessory use.

Charlie Saba added he would like the use matrix (and ordinance) to read with consistency. Example: the word accessory – versus using the term incidental. Go with one or the other.

Motion was made by Wade Heaton to recommend approval to the County Commission the revisions to Kane County's Land Use Ordinance, Chapter 7, specifically, adding swimming pools, helipad and private airstrip to the use matrix. Motion was seconded by Hal Hamblin. 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

(6) Kane County Resource Management Plan
Revisions to Kane County's Resource Management Plan;
Submitted by Shannon McBride and Mary Reynolds

Shannon McBride explained the new legislation affecting the county - HB323. She explained why and how it affected Kane County. It requires the addition of three core elements to the Resource Management Plan - water, energy and air. It also calls for addressing 27 elements, which Kane County already has throughout the Plan.

The state office overseeing the legislation has received Kane County's new outline to simplify the process, and has accepted the format. Shannon called Five Counties and they were too busy to make any revisions for us and she checked with a private consultant to find out how much it would cost to have it done for us. It was decided that Mary Reynolds, Shannon's assistant, will do the revisions and update the data so Kane County can receive reimbursement funds [up to] \$50,000, which HB323 has allowed for. The state-required Plan is due July, 2016.

Mary Reynolds discussed how the Resource Management Plan was going to change and grow to comply with HB 323. She discussed the addition of "Section Two – Regional Resources," which would address the three core elements required by the state. She explained how the county would be divided into seven (7) distinct regions that closely resembled Kane County's zoning map. Each region will have science and data that pertains to the resources found there. She informed planning commission members they would see portions of the revised plan for the next year until it was ready to be turned in to the state. She also stated the Resource Management Plan will need to be cited, have an index created and [possibly] a glossary or definition page.

Chairman Chelewski called the Commission into public hearing.

Administrative
Public Hearing

(7) Kane County General Plan
Revisions to Kane County's General Plan (annual
update); Submitted by Mary Reynolds

Chairman Chelewski called the Commission into public hearing.

Mary Reynolds explained the General Plan had to be updated annually so the pages they were seeing were from the beginning section. The changes were substantive, and not just edits, so they would need to be approved by the Planning Commission and the County Commission. Mary explained that the data used in the General Plan (and the Resource Management Plan) had not been cited, so all the data and dates need to be verified. Some of the reports used in the Plan(s) are only available every three years, some every five years, and one (like the Census Report) every ten years. Some of the updated reports are available now, and the new data needs to be plugged into the Plan(s) to reflect today's conditions. The General Plan will also need an index page created as well as a glossary and/or definitions page.

There was discussion on the percentages used for describing the ownership of land mass in the county and changing the wordage to reflect a more accurate depiction of land ownership in Kane County.

Motion was made by Byard Kershaw to recommend approval to the County Commission the revisions to Kane County's General Plan, subject to updates Mary Reynolds has identified [data] for the Planning Commission. Motion was seconded by Robert Houston. The Chair asked if there were comments or questions. The Chair called for the question; and the motion passed.

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

The meeting adjourned at 7:33p.m.

Land Use Authority Chairman,
Tony Chelewski

Land Use Administrative Assistant,
Mary Reynolds