



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main Street, Kanab
August 12, 2015

CHAIRMAN: Tony Chelewski

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

MEMBERS ABSENT: Kent Burggraaf, County Attorney

EX-OFFICIO MEMBER: Commissioner Douglas Heaton

STAFF PRESENT: Shannon McBride, Land Use Administrator; Mary Reynolds, Asst. Administrator

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
Public Comment Tony Chelewski

Motion was made by Byard Kershaw to approve the **July 8, 2015** minutes. Motion was seconded by Hal Hamblin. The Chair asked for any questions or comments and there were none. Motion passed unanimously.

Announcements/Updates:

Tony Chelewski, Chairman: Mike Kemp called Rudy and all is well. I would like to thank Shannon for the call she made [on their behalf]. No workers are utilizing road. I would also like to welcome back Commissioner Heaton.

Commissioner Doug Heaton: It's fun watching public response to county policy. You can tell what kind of job you're doing by the level of angst. I attribute [the success of] that mostly to Shannon [McBride, Administrator]; I appreciate all the work she has been doing. I don't worry about it anymore; I trust you all.

Public Comment: Call to public; none was offered.

Shannon McBride explained the reasons for the request for public comment. It has to do with new improper splits being made legal and these agenda items not being set up as a public hearing. Public comment at the beginning of the meeting will allow anyone to comment at that time.

Tony Chelewski asked if anyone had heard anything on the cell tower at Five-mile Road?

Mark Foley, BLM answered: We received the final draft of the analysis this week. We will post it by the end of the week for comment. It is moving forward.

Que Johnson arrived 6:06 pm

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

Chairman Chelewski called the commission into public hearing.

Administrative

(1) Lot Joinder

Don & Jennifer Blackhurst, Trustees of the “Blackhurst Family Trust 9-9-04”, Strawberry Valley Estates, Unit 4, Lots 27 & 28, New Lot 27; Submitted by Brent Carter

Brent Carter: They have Lots 27 and 28 in Strawberry Valley Estates; the plat shows the cabin. They just want to join lots and the easement remains.

Shannon McBride: You can see my staff report; Mr. Avant [county engineer] is busy and cannot be here tonight so I am confident to approve this with the documents provided. Everything is fine except for some minor revisions, which will be corrected.

Tony Chelewski questioned the size of the easements and Brent Carter explained all the utilities were [underground] in the road (not to be vacated.)

The Chair called the Commission out of public hearing.

Robert Houston asked about clearing the title. Shannon explained we had documents clearing the lien holder.

Motion was made by Hal Hamblin to approve the application for a Lot Joinder for Don & Jennifer Blackhurst, Trustees of the “Blackhurst Family Trust 9-9-04”, Strawberry Valley Estates, Unit 4, Lots 27 & 28; new Lot 27. 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 unanimously.

Chairman Chelewski called the Commission into public hearing.

Administrative
Public Hearing

(2) Lot Joinder

Donald Jones III, Donovan Delgado & Christopher Gannon, Trustees of the “North Star Irrevocable Trust 2-1-15”, Swains Creek Pines, Unit 1, Lots 175, 176 & 177, New Lot 176; Submitted by Brent Carter

Brent Carter: These guys have three lots; two were joined previously. [Shannon explained it was not joined, per VerJean Caruso, Recorder. The owners received one tax notice for convenience.]

Shannon McBride: Everything is in order.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Robert Houston to approve the Lot Joinder of Donald Jones III, Donovan Delgado & Christopher Gannon, Trustees of the “North Star Irrevocable Trust 2-1-15”, Swains Creek Pines, Unit 1, Lots 175, 176 & 177; new Lot 176. 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 unanimously.

Chairman Chelewski called the Commission into public hearing.

Administrative
Public Hearing

(3) Rural Unimproved Subdivision

Barry & Kathleen Mower, Millett Point Estates, parcels 1-8; Submitted by Brent Carter

Brent Carter: Barry and Kathleen Mower inherited all this property [referred to plat map]; Kathleen Mower’s father bought it from Lois Smith, who subdivided it illegally. They want to donate this to the church but the church won’t accept it until it’s made legal. So they are [applying for] a Rural Unimproved Subdivision; this was on the agenda last month, but we had to pull it because there was an issue with one of the pieces on the title. Your plats probably only show 8 parcels included. The attorney has the title documentation; and taxes have been recorded. Brad Adair has seen the title report, but he was uncomfortable with one of the documents so he wanted it researched. That may or may not be an issue at this point. We have two separate situations – one [plat] has 8 parcels, one has 9 parcels. We pulled one parcel out because it was the only one affected by the title. We think we have those title issues resolved now, so we would like to go forward with all 9 parcels; instead of having to come back next month for one.

Shannon McBride: There is no staff report because we thought it was going to be postponed; however, Brent wants to go forward with it. The condition can be that all reports must be in before it goes to County Commission. It is O.K. not postponing this application contingent upon receiving

title reports. I hate to make them wait a whole month. The attorney can obtain the documents sooner than we thought.

Hal Hamblin questioned what concern Brad Adair had. Brent said it was about the previous owner (in a corporation) who felt more money was owed to him, so he recorded something against the property. The man has since died, [as well as his partners] so the name has to be cleared off.

Hal Hamblin asked if the documents must go to Shannon, Tom Avant and Kent Burggraaf. Shannon said yes and that they would need to have the documents before it was put on the Commissioners agenda.

Robert Houston asked about whether there was a dedicated right-of-way and access to the lots. Shannon said the answer was yes, and that she and Tom Avant had gone over all of them. Brent Carter said the easements were not dedicated to the public; they were just an easement. Robert Houston asked if anyone could use the road and the answer was yes, if it's been recorded.

Brent Carter: It's an easement that has been recorded across all the parcels. It's been specified [on the plat.]

Discussion continued on the size of the easements, (66 feet total); made wider because some of the area is extremely steep. They want to do all the parcels now rather than come back for one lot next month.

The Chair called the Commission out of public hearing.

Motion was made by Wade Heaton to recommend approval to the County Commission the application for a Rural Unimproved Subdivision, Barry & Kathleen Mower, Millett Point Estates, parcels 1-9, contingent upon approval by Shannon, Kent and Tom. 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 unanimously.

Chairman Chelewski called the Commission into public hearing.

Administrative
Public Hearing

(4) Subdivision & Planned Unit Development
Mark Jacobs, Elk Ridge Estates, Unit 4, Phase IV, Lots 53-54 and 73-79, preliminary plat; Submitted by Brent Carter

Shannon: We will have Tom's review tomorrow [he is extremely busy right now]. Please approve with the condition of receiving approval from the county engineer before the County Commissions meeting.

Wade Heaton added the original master plan called for 102 lots. Now they are doing it in phases. They have been doing 40 lots [at a time]; this is an additional 9. In the past, Wade has recused

himself from the vote because he was a partner in it. On this phase, he is not a partner. He stated he was comfortable doing whatever the chairman was comfortable with him doing. He would like to answer any questions people might have.

Tony Chelewski: Doesn't hurt to bring it up. So, all is OK with it? [Yes]

Jim Matson: Have future phases been identified?

Wade Heaton: Yes; this will bring the total up to 50-ish. There will be some more in the future.

Shannon McBride: The plat doesn't identify 102 [lots or parcels], only today's issue is highlighted on the plat.

Brent Carter further explained the usefulness of using units and phases in this size of project.

The chairman called the meeting out of public hearing.

Motion was made by Byard Kershaw to recommend approval to the County Commission of the preliminary plat for a Subdivision and Planned Unit Development for Mark Jacobs, Elk Ridge Estates, Unit 4, Phase IV, Lots 53-54 and 73-79, contingent upon the approval of the county engineer. 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 unanimously.

Wade Heaton recused himself from the vote.

Administrative **(5) Certificate for Land Use Approval**
Wilhelmus & Theodora Van Baal, parcel #3-5-31-1B;
Submitted by W. Van Baal

Shannon McBride: This is fairly new; we did one a few years ago, though. Rob created a new application. There is proof in the minutes they [owners] tried to do their due diligence, but it was an improper split. They want a building permit (they have had a house on the property for 20 years), but state code says it must come before the Planning & Zoning Commission.

Wade Heaton: If it goes through this process is there no [time] limit on recording?

Shannon McBride: It should have been recorded within 120 of [the signed] Record of Survey, but it wasn't done, so we are trying to fix it. We can't overlook state code even though our past ordinance allowed it. We will have a lot of these – just a warning. We must comply with state code to make them legal. The next one [on the agenda] will be completely different than this, but we will help legalize 100s of these [improperly split parcels]. It is a statewide problem; our county has 6 or 7 options to fix it.

Doug Heaton: Once again, we are on the cutting edge thanks to Shannon McBride. I am so impressed with the solutions they have come up with.

Shannon McBride: We couldn't grandfather them in, but this will make them legal.

There was a question on where the parcel was located. Shannon explained the location in the 8-mile gap area.

Wade Heaton asked about lot and parcel – How did they get a parcel number?

Shannon McBride: VerJean has to record documents by state law. It was by deed so it was recorded. It's not legally split, though. I have all the ordinances back to 1990 to check what the situation was when it happened.

Dale Clarkson: This is what we approved last month, right? [Yes.] It deals with any subdivided property prior to 2005? [Yes]

Shannon McBride: They will all be different. We have a bunch in my office right now.

Wade Heaton: So, this certificate of approval concept, is it part of the subdivision ordinance? [Shannon said state code stipulates it has to go before the P&Z and Tony (chairman) will sign them.]

Robert Houston: Do we just need to approve it?

Shannon McBride: Yes, then Tony will sign it, and I can take it to VerJean [to be recorded]; it doesn't have to go to Commission. That's why we are doing the public comment at the beginning of the meeting because these are not noticed as a public hearing.

Robert Houston: These only come to our attention when they want a building permit?

Shannon: Or try to sell property. A lot of realtors now know about it. We are making it so it is no longer a Class B misdemeanor. It will be recorded on the plat so the buyer and seller know. Most of these happened in the 80s and 90s. Lou will put them on the GIS so they will be labeled "proper".

Motion was made by Robert Houston to approve to the Certificate for Land Use Approval, for Wilhelmus & Theodora Van Baal, parcel #3-5-31-1B. 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 unanimously.

Administrative

(6) Compliance Review of Previously Divided Property Application for filing a Record of Survey (by Lanny Talbot, 4/24/2000) for Ken Hardison and Thomas Willardson, parcel #2-5-23-1B; Submitted by Ken Hardison

Shannon McBride: Mr. Hardison is present; Ken came into the office and we determined [his property] was illegally split. He went to Lanny Talbot and got a Record of Survey; I am not sure why it wasn't recorded back in 2000. We have the Record of Survey and if you approve it the plat can be taken to VerJean [to be recorded]. This property has been divided but is not in any minutes. It has to go through this process because although there is a Record of Survey, it didn't go through the Planning & Zoning Commission. Tony has to sign it (since he signs the plats as chairman). We have a lot of these that weren't recorded. The attorneys said that the fact it wasn't recorded in 2000 is not the county's issue.

Shannon cont.: We are trying to figure out a method to do 10 of these at a time (if it's legal to do en masse). If not, we'll be doing them one at a time. There are hundreds [thousands] of these out there. There is no cost to the applicant if it's an unknown buyer. If it's a developer who knew [it was an improper split], they'll have to apply for a Rural Unimproved Subdivision and pay a fee.

Robert Houston discussed property sold to his son; how it was illegally divided by the original owner. He hopes there is a remedy (one of the 7 methods) that can correct it.

Discussion continued about how many lots in Kane County were like this; it will help a lot of people in the county if this remedy works. Most have homes on them already. This process is intended to correct [the improper status]. They won't be handled all at once; it will be organized by who wants building permits, first. It changes some procedures. Working with Linda [Little] and Ryan [Maddox] we have a pretty good process in the making.

A question was asked about whether easements were a concern. Shannon explained the Record of Survey should have this information – some have homes, so they already have water and roads. She said she would have to deny an application if it didn't have designated rights-of-way and access. If there are exceptions they would be dealt with on a case by case basis. Most of the applications will be consistent. Shannon also explained the application requirements.

Tony Chelewski asked if people adjoined to BLM have to go through the permit process. Shannon told him it was possible, but it is unknown at this time. Discussion on how to handle multiple applications continued.

Motion was made by Hal Hamblin to approve the Application for Compliance Review of Previously Divided Property for filing a Record of Survey (by Lanny Talbot, 4/24/2000) for Ken Hardison and Thomas Willardson, parcel #2-5-23-1B. Motion was seconded by Robert Houston. The Chair asked if there were comments or questions. There was a brief discussion about the zone these were in [Ag]. Wade Heaton asked about parcel approval and this was clarified.

The Chair called for the question; and the motion passed unanimously.

The chairman called the meeting into public hearing.

Discussion on Compliance Review Planning Commission quorum for holding special meetings:

Shannon McBride explained the reason we might need to call a special meeting (and need a quorum) is because we have three more applications waiting for building permits. The word is out; everything is ready once we have the application. She doesn't want them to have to wait a whole month. It's a hardship. We can hold a special meeting, but we need a quorum. The meeting can be held in the administration building. It's up to the Planning Commission to make it easier for the public.

Shannon said if it's not an option, she doesn't want to suggest it to the public. We must have two Planning Commission members physically here [for a legal meeting]. It also has to be an open meeting. Discussion ensued about having an electronic meeting – by conference call. Shannon will ask the attorney's if this will suffice. Planning & Zoning Commission members said it was fine with them. Just call the list of P&Z members and see who is available. It will only occur if a regular P&Z meeting is over three weeks away. The (regular meeting) schedule is set up via a 10-day public notice, and the agenda has to be posted for 24 hours. Land Use Authority will work with P&Z member's schedule. Will stop at 4 (quorum).

Doug Heaton: Suggested "Zoom" meetings; free sign up for under 25 people. It connects through your computer screen. You can use a computer or IPAD and it's a good deal. It works on all platforms – PC and Mac.

**Administrative
Public Hearing**

**(7) Kane County Resource Management Plan-Rev.
Revisions to the KCRMP; add "Glen Canyon Region" to
"Section Two: Regional Resources"; Submitted by
Shannon McBride and Mary Reynolds.**

Mary Reynolds, Assistant Administrator, explained the addition of the "Glen Canyon Region" material to Section Two: Regional Resources of Kane County's Resource Management Plan. These additions are to begin compliance with HB 323; and cover the three core subjects of Water, Air and Energy. The material submitted was the *introduction (laws pertaining to water)* and *surface water* within the Glen Canyon Region, which included water resources from the Colorado River and Lake Powell. The next categories will include *Groundwater – aquifers; Air quality and fire management; Energy – minerals, and natural resources*. It was further explained how the material would be continuously presented to the P&Z members over the next year since the Resource management Plan is a growing document.

Shannon McBride explained the state PLPCO office staff (Redge Johnson) approved of the material (and the direction we were going) in a conference call. He made a few suggestions (to add material) which have been completed.

Byard Kershaw discussed some minor editing fixes.

The chairman called the meeting out of public hearing.

Motion was made by Wade Heaton to recommend approval to the County Commission for the revisions to the Kane County Resource Management Plan; adding “Glen Canyon Region” to “Section Two: Regional Resources” with changes. 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 unanimously.

Shannon McBride discussed the BLM Livestock Grazing newsletter. She also talked about the upcoming two- day workshop on vegetation restoration (Aug. 18-19). The first day will be held at the Kanab Library, and the 2nd day will be in the field on Grand Staircase Escalante National Monument.

Byard Kershaw: Commissioner Matson asked me to send the information [about the workshop] to the steering committee and the resource development committee. I highlighted some things in yellow, and will email the information to the Planning Commission members and anyone else interested.

Jim Matson: It is being presented primarily by the Monument [office] but the field office is also involved. It was organized by Monument staff. See the list of names on the panel of the newsletter.

Shannon McBride told the group that she and Lou Pratt were going to Stewart Duck Creek to do a final inspection.

Motion was made by Robert Houston to adjourn the meeting. The motion was seconded by Wade Heaton.

Meeting was adjourned at: 7:24 pm

Land Use Authority Chairman,
Tony Chelewski

Land Use Assistant Administrator,
Mary Reynolds