



# MINUTES

Kane County Planning Commission  
& Land Use Authority Meeting  
76 North Main Street, Kanab  
August 10, 2016

CHAIRMAN: Tony Chelewski

MEMBERS PRESENT: Tony Chelewski, Wade Heaton, Dale Clarkson, Danny Brown, Byard Kershaw, Robert Houston

MEMBERS ABSENT: Hal Hamblin

EX-OFFICIO MEMBER: Jim Matson

STAFF PRESENT: Shannon McBride, Land Use Administrator; Mary Reynolds, Resource Management Planner; Kaylea Crosby, Administrative Asst.; Reid Mann, Deputy County Attorney; Linda Little, County Assessor; Lou Pratt, GIS Director; Ryan Maddux, Supervisor/Building Official;

5:30 PM Work Meeting

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

## Announcements/Updates:

Tony Chelewski said he talked to Mike Kempf; there hasn't been a lot of traffic on the road and it's going okay. Tony then asked the audience if they had any questions or comments.

**Motion** was made by Byard Kershaw to approve the **July 13, 2016** minutes. Motion was seconded by Dale Clarkson. The Chair asked for any questions or comments. 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 Robert Houston. The Chair called for the question and the motion passed.

Chairman Chelewski called the commission into public hearing.

**Administrative Public Hearing**      **(1) Lot Line Adjustment – Paul Parcels & Paul Meeks**  
**Bryce Woodland Estates, Block 14, Unit 6F, Lots 13 & 14; Submitted by Paul Parcels**

Paul Parcels explained the reason for his application. The placement of his cabin is too close to the trees. He wants to be 15 feet away from the trees so that he doesn't have to cut them down.

Shannon McBride said all the conditions except one have been taken care of on the plat. She recommends conditional approval until the Quit Claim deed is received. The Kane County Engineer, Tom Avant, won't sign the Mylar until it is received.

Chairman Chelewski called the commission out of public hearing.

**Motion** was made by Danny Brown to approve the Lot Line Adjustment for Paul Parcels and Paul Meek, Bryce Woodland Estates, Block 14, Unit 6F, Lots 13 & 14, with conditions set forth in the County Engineer's review. Motion was seconded by Byard Kershaw. 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: Tony & Ruby Roe**  
**Swains Creek Pines, Unit 3, Lots 397 & 398, new Lot 398; Submitted by New Horizon**

Shannon said Brent Carter is available via phone call if necessary. Shannon recommends approval; No easements are being vacated. The Kane County engineer also recommends approval.

Chairman Chelewski called the commission out of public hearing.

**Motion** was made by Robert Houston to recommend approval of the Lot Joinder for Tony & Ruby Roe, Swains Creek Pines, Unit 3, Lots 397 & 398, new lot 398. Motion was seconded by Wade Heaton. Motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

**Legislative Public Hearing**      **(3.) Revisions Kane County Ordinance, Chapter 3, 2-3-4C**  
**Resource Development Committee, Organization, Meetings, change from meeting monthly to "as needed"; Submitted by Mary Reynolds**

Mary Reynolds said this was a minor change to the ordinance; changing the words from meeting monthly to "as needed". The revision/change has to be recommended to the County Commissioners.

Wade Heaton asked when the meetings were. Mary said "as needed" suits the purpose.

Chairman Chelewski called the commission out of public hearing.

**Motion** was made by Wade Heaton to recommend approval to the County Commission the revisions to Kane County Ordinance, Chapter 3, 2-3-4C, from meeting monthly to “as needed”. The motion was seconded by Danny Brown. The Chair called for the question and the motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

**Legislative**            **(4.) Kane County Resource Management Plan-Revisions: Add Region 2**  
**Public Hearing**        **Grand Staircase Region; Submitted by Mary Reynolds**

Mary Reynolds reminded the Planning Commission members the revisions to the Resource Management Plan were postponed from last month. The BLM was given additional time to make comments. A section was taken out, per the county’s agreement with the BLM, and re-written. It was sent out to P&Z members as the ‘new introduction to the Enhanced Grazing Plan’. The Region 2-Grand Staircase is ready to be approved as is. Additional amendments will be added as the county receives reports from consultants on: minerals, geology, pinyon-juniper, sage brush, etc. within the next 6-8 months.

Robert Houston asked what Region 2 encompassed. Mary explained the county was divided into seven regions for the sake of the Resource Management Plan update. It was originally in 14 Districts [the 1998 Plan] but that was too encumbering to deal with.

Wade asked about input from BLM; Mary said we received some input.

Chairman Chelewski called the commission out of public hearing.

**Motion** was made by Byard Kershaw to recommend approval to the County Commission the revisions to the Kane County Resource Management Plan, adding Region 2-Grand Staircase. The 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**        **(5.) Conditional Use Permit: Glen Canyon East A & B**  
**Public Meeting**        **GC East A Solar Power Plant on SITLA Land, Sections 4,5,6 T43S, R2E, SLB&M 585 Acres; Submitted by Glen Canyon Solar A, LLC; and GC East B Solar Power Plant on SITLA Land, Sections 5,6,7,8, T43S, R2W, SLB&M, 770 Acres; Submitted by Glen Canyon Solar B, LLC**

Shannon explained the CUP packets were emailed out last week for review. The packets contain details and project descriptions to follow along with sPower’s presentation.

Garret Bean, sPower representative showed a PowerPoint presentation and introduced the company, project, and himself. He said there were 150 projects throughout the U.S.; they were based out of Salt Lake City, UT. Kane County's sPower Plant is the largest project that they are planning to move forward with. Design, approach, and process are in the early stages of development; he went into details about transmission and capacity on the grid 'to and from' the sites. Their solar projects will supply power to approx. 130,000 homes outside of Kane County.

Garret said they had to work with SITLA [on leases for land] and contracts [with utility companies] on grid capacities. He showed the design and what to expect when [the array was] constructed. He said sPower is committed to providing minimum 50-foot buffer/setbacks from property lines and increased setbacks near potential development. Kane County Ordinances require certain setbacks, noise mitigation and glare, and minimal environmental impacts. Garret said there would be limited water consumption, and they would coordinate with Utah Dept. of Natural Resources in respect to species, and sensitivity to the environment. They will also create a Transportation Management Plan and coordinate with the State; and UDOT for selection of site access points for safety.

Danny and Lane Little (ranchers with grazing lease agreements on the SITLA parcels for Projects West A, B, & C) were in the audience and asked questions about their grazing allotments. They think SITLA has given away their allotments/leases. Grazers say GC West A, B, C, are completely located on their allotments.

Garret said that he had been talking to Lou Brown about the grazers.

Danny and Lane Little said that Lou has not mentioned anything to them, and the only reason they had found out about the Projects is that their water funding got shut down.

Garret said sPower didn't have any contracts or agreements to do with water.

Tony asked if the properties could be moved to the South.

Garret said it was not as simple as that; they are limited to the area working with SITLA.

Robert asked about the Lake Powell Pipeline. He also said that SITLA and the Projects need to be in contact with the people down there that control the pipeline.

Danny Brown asked if it would be sPower's responsibility or the states responsibility to inform and talk with ranchers, grazers, pipeline, residents, etc.

Shannon said that she was told that they have had meetings with the ranchers; also brought up the conditions that sPower and SITLA comply to meet.

Wade said SITLA was in charge of lands under their jurisdiction and will have the final say; it is not public land. No matter if they have a grazing lease, it is still SITLA's land and they can choose what to do with the land.

Shannon said that sPower does understand about the agricultural grazing and how important it is to Kane County and it is in the conditions. Shannon said working with the grazers is one of the conditions sPower has to comply with in the CUP. Kane County Ordinance protects ranching. She explained that the Grazing Zone, Chapter 27, is listed in the conditions and that sPower is aware of the Ordinance. CUP reinforcement is unique to this project because the enforcement will come through the building department. The reason the CUP is being applied for first is due to investors and funding to start the project. SITLA doesn't usually have to come through the county, they have asked sPower to go to the county. State code says that SITLA does not have to go to the county.

Robert said that SITLA has the right [to grant a lease] regardless of what the county's ordinance's are.

Rancher Lane Little said SITLA turned things over to a bidding system and they are getting outbid.

Robert said legislation was going to take away land from the ranchers because it did not profit SITLA and SITLA needs to make money and control things.

Dennis Barnes (property owner in Church Wells) said he didn't get a notice until 20 minutes before this P&Z meeting. He said he wasn't computer savvy enough to access public notices through the county website.

Shannon stated for the record sPower did not have the correct distances (setbacks) from the subdivisions on the West A, B and C power projects. She revised the staff report indicating the correct distances verified through GIS by Lou Pratt, (Garret Bean confirmed that he knew these setbacks were incorrect in the Project descriptions). Due to the incorrect distances, Administrator McBride recommended that Projects West A, B, and C, be postponed to next month in order to hold a public hearing to give the residents of Church Wells and the other affected subdivisions an opportunity to address the new development. A Public Notice has to go into the paper ten days before the meeting. Shannon is recommending approval on Project D and the Substation because it is within the (correct setbacks) per ordinance. Shannon informed the public and the P&Z members the construction of the project is at least 2 years out, but right now they are trying to get approval so sPower can show the investors the project is viable.

Connie Kirk, (resident in Church Wells) said she is worried about hazardous material, noise, cattelman, and the scenery change.

Shannon brought up the map for the ranchers and the nearby residences that were concerned about their lands. She explained the grazing zone and was told that sPower had held a meeting with the ranchers, to protect the grazing. Shannon redirected the presentation to Garret and asked if he

could focus on Project East A and B, mainly due to time and the fact that the projects were organized in this order.

Garret explained the sPower systems were quiet and there were requirements on the noise drop off that was above ground. Traffic needs to have an approved plan; if need be, they would provide flaggers to mitigate extra traffic on the highway. They will need UDOT permits for site access and safety, and follow state regulations for traffic trips, distances, and visibility. UDOT attended a development meeting and provided information on permits that needed to be obtained. Garret said sPower would provide an Emergency Response Plan to protect their workers.

There are steel and silicon wafers in the sPower Plant, but it doesn't present a hazard to the environment. The transformer uses biodegradable oil (mineral oil). The fire department needs to be protected as well as sPower employees. There is minimal glare coming off the panels – there is a tracking system that follows the sun so the glare bounces back towards the sun.

Tony asked if there were going to be any vertical (visual) barriers and Garret said no; the arrays would be set back 50 feet and would be visible from the road.

Garret continued his presentation saying the Projects would create new job opportunities with over 200 temporary construction jobs (short term employment of 12 months). The majority of work is in construction and sPower only needs 2 full time people to operate the Plant thereafter. A SCADA system will monitor the panels 24/7 from offsite.

Danny Brown asked Garrett about sPower competing against other energy sources, coal for example, and Garret said they weren't displacing other energy sources, they were just looking at how they can supplement them. He didn't feel there were any competitor issues).

Ward Jeff (representing Del Timpson, a resident in Church Wells) asked about the protocol for visual sites from the street and sky view for the night skies; he also wanted to know if there was any impact on cell phone service for local people?

Garret said part of the glare analysis will become publicly available through the process. The Projects will not help with cell phone service or affect it in a negative way; there will be no interference.

Connie Kirk asked if the electricity was going to be [used] locally or going to California.

Garret said the corporation (sPower) will sell the electricity to the utility companies. Whoever purchases it within the community or other facilities then sell it to their customers.

Mary Lockhart, (Church Wells resident) stated that construction and the Solar Power Plant was very ugly and [the area] didn't need any more traffic. She asked how big the towers would be once they were built?

Shannon said nothing can be built over 35 feet without another condition use permit). Plus, there were no towers in any of these projects.

Lane Little asked if the Lake Powell pipeline would be interrupted. What type of fencing is going to be used?

Garret said they would use 6-foot chain link fence with three strands; and UDOT is part of the planning. He also said there would be no towers on any of these projects.

Linda Little asked what the real dollar benefit for the county was and why Kane County should do this project?

Garret said wages and tax revenue (Sales and Use tax as well as Property tax) were the biggest tax benefits. He hadn't identified what the total tax would be. sPower would invest \$250-300 million into the county per facility; it was a billion dollar deal.

Connie Kirk asked what the worse possible scenario would be due to hazardous waste.

Garret said the biodegradable oil, but it would not be hazardous because they have a backup system that catches it if they have a spill or leak from the oil; the SITLA lease has standards on hazardous material.

Mary Lockhart asked what the total acreage for sPower Plant would be?

Garret said roughly 4500 acres; Garret said that it is going to get refined down and they will be flexible but have to comply with the conditions.

Dennis Barnes said he would like to see growth with more of the dirt roads turning into paved roads; he would benefit from the sPower Plant. He asked how much water the Projects would be using. He also asked where the labor force would come from.

Garret said the Projects would use around 25 acre feet a year, but during construction they would use around 700 acre feet. There are no water rights in the CUP. He said that sPower will figure out the labor force as they go along.

Chairman Chelewski called the commission out of public hearing.

Robert asked if they could revoke sPower Plant Plan.

Shannon said that sPower is aware that if the CUP is revoked or they fail to meet the 45 conditions they would have to return within a year and reapply,

Garret said it's not a viable project yet, but may be in the far future.

Robert thinks grazing needs to be added onto the use of land next to 'vacant'.

Shannon said SITLA can raise the prices or terminate leases on their land; the county cannot tell SITLA what to do. Shannon went over the staff recommendations.

Tony asked who was going to remove equipment and construction debris if sPower were to fail in any way.

Garret said if sPower were to go bankrupt (or fail for whatever reason) – the subsidiaries [the individual LLC's] would have the responsibility to recondition and restore the land back to original.

Wade suggested the P&Z step back and look at the big picture – what and who the P&Z is trying to protect - this is like a private land project, and it should be looked at that way. He asked if the board was going to safeguard for the property owner; if they don't protect private owners then they are severely dropping the ball.

Robert said that they are considering the conditions. He wants the land owners to give their two cents and have the opportunity to look at the Projects.

Shannon said that this public meeting was like a public hearing. sPower didn't mitigate some of the conditions, so the CUP needs to mitigate the permitted use.

Reid Mann, (Deputy County Attorney), said that SITLA has it's restrictions but we cannot change it to make it less restrictive with theirs.

Shannon referred to a Utah Code which is in the staff reports.

Byard said that SITLA wanted to sell a piece of land to make money to provide funds for lands set aside – government entities; SITLA has a specific mission to make money off the land.

Wade said he is all for protecting rights of residents and ranchers but they have to be reasonable – a line needs to be drawn, and they do not get to dictate on shutting projects down. He said they cannot make a decision for SITLA on what projects they accept or reject. He said that this is a big advantage but the real key is what it is going to do to the neighbors.

Shannon read some of the 45 conditions that she had given to sPower. For now, she was only referring to Glen Canyon East A & B, and these have been mitigated.

Reid said that every one of those 45 conditions can be tied to an ordinance.

Robert asked what about the Resource Management Plan?

Shannon reminded the P&Z they can't enforce the SITLA lease.

**Motion** was made by Dale Clarkson to recommend approval of the Conditional Use Permit for Glen Canyon East A on Section 4, 5, 6, T43S, R2E, SLB&M, 585 Acres, and Glen Canyon East B, Sections 7, 8, R2W, SLB&M 770 Acres, in Kane County, Utah. The motion was seconded by Wade Heaton. The Chair called for the question and the motion passed.

Opposed by Robert Houston.

Chairman Chelewski called for a five minute break at 8:10 pm.

Meeting resumed at 8:22 pm.

Chairman Chelewski called the commission into public hearing.

**Administrative Public Meeting**      **(6.) Conditional Use Permit: Glen Canyon West A, B, & C**  
**Glen Canyon West A Solar Power Plant on SITLA Land, Sections 3 & 10, T43S, R1E, 912 Acres; Submitted by Glen Canyon Solar C, LLC; Glen Canyon West B, Solar Power Plant on SITLA Land, Sections 4 & 5, T43S, R1E, 810 Acres; Submitted by Glen Canyon Solar D, LLC; Glen Canyon West C, Solar Power Plant on SITLA Land, Sections 5, 6, 8, T43S, R1E, 900 Acres; Submitted by Glen Canyon Solar E, LLC**

Shannon said that sPower was sent 45 conditions for the conditional use permit. [At the end of last week – Aug. 5<sup>th</sup>] she checked with GIS (Lou Pratt) to confirm the distances from the neighboring communities. The ordinance says there needs to be 1,200 feet between the project and any platted subdivision. Mitigating issues involved the fencing, glare, noise, hazardous waste, etc. Shannon said that the county did not need to hold a public hearing on a conditional use permit. However, when she discovered the distances were closer than the paperwork disclosed, she decided to postpone the vote (on West A, B, & C) until a public meeting could be held.

Garrett responded, saying he understood the company was allowed to build in a zone as long as they complied with the conditions of the CUP. He said they recognized the conditions [setbacks] and would meet them as the company moved forward with the project.

Byard asked how far would sPower have to go out to meet the setback requirements?

Garret drew a 1,200 foot buffer on the map, and said the company would not build into the 1,200 foot buffer zone on the final design.

Wade asked if West C was within the 1,200 foot zone.

Shannon said it was 1,080 feet from the residential area, and that it would need to be mitigated or postponed. [Garret’s drawing severely miscalculated the placement of the buffer zone; which would not have mitigated the setback that was required.]

Garret assured everyone sPower would stay outside the 1,200 foot buffer.

Shannon asked everyone to pull out exhibit C from their packets.

Wade said he would be more comfortable with a public meeting to receive input from ranchers, residents, and grazers.

Shannon said the Land Use Authority office would send notice of public meeting letters to all property owners of Church Wells, Powell, Glen and Clark Bench, etc; as well as forward the concerns to Garret.

Chairman Chelewski called the commission out of public hearing.

**Motion** was made by Wade Heaton to postpone the Conditional Use Permit(s) for Glen Canyon West A, on Sections 3 & 10, T43S, R1E, 912 Acres, Glen Canyon West B, Sections 4 & 5, T43S, R1E, 810 Acres, and Glen Canyon West C, Sections 5, 6, 8, T43S, R1E, 900 Acres in Kane County, Utah, to the September meeting. The motion was seconded by Danny Brown. The Chair called for the question and the motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

**Administrative**      **(7.) Conditional Use Permit: Glen Canyon West D & Substation**  
**Public Meeting**    **Glen Canyon West D Solar Power Plant on SITLA Land, Sections 8 & 17, T43S, R1E, 730 Acres; Submitted by Glen Canyon Solar F, LLC; Substation Solar Power Plant on SITLA Land, Section 29, T43S, R1E, 22 Acres; Submitted by Glen Canyon Solar F, LLC**

Shannon said she combined the Projects of Glen Canyon West D and the Substation together [to expedite matters.] All conditions for these Projects have been mitigated so she would like the board to move forward with these projects.

Chairman Chelewski called the commission out of public hearing.

Robert said to go ahead with West D and the Substation Projects.

**Motion** was made by Byard Kershaw to approve the Conditional Use Permit for Glen Canyon West D, Sections 8 & 17, T43S, R1E, SLB&M, 730 Acres, and the Substation, Sections 29, T43S, R1E, SLB&M, 22 Acres, in Kane County, Utah. The motion was seconded by Dale Clarkson. The Chair called for the question and the motion passed.

Opposed by Robert Houston.

Chairman Chelewski called the commission into public hearing.

Vice Chairman Wade Heaton called for the final three items on the agenda to be postponed to the September, 2016 Planning & Zoning meeting.

Chairman Chelewski called the commission out of public hearing.

**Legislative**            **(8.) Revision to Land Use Ordinance: 9-1-7 & 9-6A-6 Tiny Homes**  
**Public Hearing**       **Add definition & Tiny Homes to use matrix; postponed from July meeting.**

**Motion** was made by Wade Heaton to postpone the revisions to Kane County Ordinance 9-1-7 and 9-6A-6. The motion was seconded by Robert Houston. The Chair called for the question and the motion passed unanimously.

**Administrative**       **(9.) Lot Joinder: Karl & Cherole Pils**  
**Public Hearing**       **Zion View Mountain Estates, Unit A, Lots 197 & 199, new lot 199; postponed from July meeting.**

**Motion** was made by Wade Heaton to postpone the Lot Joinder for Karl and Cherole Pils, Zion View Mountain Estates, Unit A, lots 197 & 199, new lot 199 to a future meeting until the remaining documents are received. The motion was seconded by Robert Houston. The Chair called for the question and the motion passed unanimously.

**Legislative**            **(10.) Revisions to Land Use Ordinance 9-21K(1-3) RUS**  
**Public Hearing**       **Regarding changes from 8-6-16 Commission Meeting.**

**Motion** was made by Wade Heaton to postpone the revisions to Land Use Ordinance 9-21K (1-3) Rural Unimproved Subdivisions. The motion was seconded by Robert Houston. The Chair called for the question and the motion passed unanimously.

**Motion** was made by Danny Brown to adjourn the meeting. Motion was seconded by Wade Heaton. The Chair called for the question and the motion passed unanimously.

Meeting was adjourned at: 8:47 pm

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Land Use Authority Chairman,  
Tony Chelewski

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Land Use Authority, Administrative Assistant,  
Kaylea Crosby