



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main Street, Kanab
October 12, 2016

CHAIRMAN: Tony Chelewski

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

MEMBERS ABSENT: N/A

EX-OFFICIO MEMBER: Jim Matson

STAFF PRESENT: Shannon McBride, Land Use Administrator; Mary Reynolds, Resource Management Planner; Kaylea Crosby, Administrative Asst; Ryan Maddux, Building Supervisor/Chief Deputy Assessor; Rob Van Dyke, 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

Announcements/Updates:

Tony Chelewski said the last month's meeting went well.

Robert Houston thanked Shannon McBride and Mary Reynolds for the article in the newspaper.

Everyone thanked each other for last month's meeting and how smoothly it went.

Motion was made by Byard Kershaw to approve the **September 14, 2016** minutes. Motion was seconded by Wade Heaton. 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 Danny Brown. The Chair called for the question and the motion passed.

allows two Tiny Homes per lot/parcel of land; and one guest home is allowed with an existing home.

Tony said it is a big trend but he is worried about trailers (i.e. pop-up trailers, 18-foot trailers); he asked if Kane County can get rid of the Tiny Homes or request their removal if owners still have them ten years down the road.

Shannon said they have taken care of that in the ordinance in the R.V. section in Chapter 6. She said they do not allow park models in any residential areas in Kane County but do allow them in Agriculture (zone). She said they need to create a specific definition for Tiny Homes, decide if they want to allow them at all, or just keep them under the definition of a dwelling.

Danny asked what the square footage minimum was on a permanent foundation.

Ryan said there were no size limitations, but the structure required a kitchen, water, and a toilet to be a certain distance from the sink in the bathroom. He said he did a lot of reading and there were no specific definitions on a "Tiny Home". He said if a trailer was over 400 square feet, then it needs to be a manufactured home.

Tony asked about septic tanks and sewer hookups. He asked where and how water and waste got dumped.

Ryan said proof of water and waste disposal is required. He said owners need to go through the Health Department to get those permits.

Robert asked if their task was just to define Tiny Homes or to allow Tiny Homes. He asked why they would want to allow Tiny Homes in Kane County. He wanted to know if it was cheap.

Shannon said they needed a specific definition and they also needed to decide if the board members wanted Tiny Homes in Kane County. She said Tiny Homes are cheap and people wanted to put them on permanent foundations. She stated the kits can be ordered from Home Depot. She asked the members if they wanted vacation rentals next to them.

Danny thought it would be a money maker. However, he said he cares about Kane County, and Tiny Homes could devalue the area.

Ryan said the reason they are popular is because the homes are eco-friendly, affordable, and they provide people the ability to rent short term instead of owning. He said if people meet all the building permit requirements they are allowed.

Wade said it is just a small home and he is concerned about dictating the size of people's homes. He asked why we care that they live in a certain amount of square feet per home. He said he agrees with Ryan as long as it is on a permanent foundation. He cares about protecting private property rights.

Ryan said Tiny Homes are still storage shed-type homes which people take advantage of; there needs to be a specific definition to refer to so there are no loop holes. He said if the homes are put on the ground (on a permanent foundation) they must meet building code requirements.

Mary Craven asked about taxes, if they have to pay differently for recreational vehicles or permanent homes. She said it is a lot of money for the county to receive if the homes are being taxed.

Ryan said travel trailers are taxed through DMV and permanent homes are taxed through the County.

Charlie Saba said he is concerned about where they are located within the area. He said there is limited access with parking and roads.

Ryan said only two dwellings are allowed in a Residential Zone. Even with a Planned Unit Development on smaller lots they still have to be approved by Planning & Zoning Commission members.

Hal Hamblin asked if an application for a Tiny Home was submitted could they deny it? He also wanted to know if they allow it in a zone, can they tax them accordingly.

Rob Van Dyke said if they're modular we will not be able to change the difference in tax. He said with vacation rentals they are already paying or should be paying business and TRT taxes. He said people are claiming certain things that are different; people are trying to find loop holes. He said Shannon wants to define or clarify the definition so any existing loop holes are closed. He said additional rights and matrixes need to be defined.

Shannon said people are allowed to have a guest home and rent it. She said Commissioner Dirk Clayson suggested only allowing one rental per property. She said parking and number of people on the premises need to be regulated.

Byard Kershaw asked about the septic and sewer tanks. He said it could be a health issue (i.e. grey water).

Shannon said the regulations are under the building permit requirements and the R.V. section of the Kane County LUO; she has already given red tags on those in violation, and the health department has been involved.

Wade said they just need to spell it out and come up with a definition.

(Shannon read Ryan's suggestions.)

Tony asked if the owners are taking care of their renters and asked if the homes with wheels cannot be rented. Shannon explained that R.V.'s cannot be rented out unless they are in an R.V. Park.

Robert asked if someone wants to put a cabin on private land and the owners want to use it as a hotel (room rentals) – multiple rooms/cabins.

Shannon said that cannot be done in a residential zone; it has to be in a commercial zone.

Danny asked how hard it would be to change zoning on your own land.

Shannon said it is very difficult to do, but possible (via the zone change application process).

Definition - Tiny Homes: A dwelling on a permanent foundation, less than 400 square feet.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Wade Heaton to recommend approval of the Kane County Land Use Ordinance: 9-1-7 & 9-6A-6 “Tiny Homes”, add definition & Tiny Homes to use matrix to the Kane County Commission. Motion was seconded by Danny Brown. Motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

Legislative Public Hearing **(3.) Kane County Land Use Ordinance: 9-21K (1-3) Rev. RUS**
Regarding changes made in previous meeting; Submitted by Dirk Clayson

Wade said there was no compromise at all by Commissioner Clayson (regarding changes from the previous Commission meeting). He said he believes it still has to be a recorded easement. He said that on any roads that are traveled roads there should be a portion of the road that wouldn't need a recorded easement.

Rob said the Commission passed it. He said the issue about perpetual prescriptive easements being recorded needs to be between two private property owners. He said it is like the county is interjecting. He asked if they thought the County should interject between private property owners.

Wade said everyone drives on roads and are going over multiple private property owners' lands. He sees the problem where the property owners are having to obtain perpetual prescriptive easements. He said we are limiting property owner rights and we have to balance it out.

Robert said it is the same both ways and about 90 percent of it is not a problem.

Hal used examples of two property owners and how owner A needed to go onto owner B's property to get to their house. Hal said you take owner A's rights away too.

Byard also used examples with three owners (A, B, and C) and he believes it is between property owners and they need a recorded easement. He said property owners have to work with each other.

Shannon said that these (examples) demonstrated the situation out by Tod's Junction right now. She said in order for the county to accept and dedicate the roads for maintenance the road has to be asphalted or the county does not have to accept it.

Danny said he has someone using his property to get to their house (on an adjacent property); if the situation arises where that person cannot get to their property (because of the condition of the road), it will not be his responsibility to fix it. It will be the other property owner's responsibility. Danny has that agreement with the owner of the property that drives through Danny's land right now. He said the discussion was the width of the road, and asked what the affect is with the wider easement requirements.

Shannon said Dirk wants [widths of] easements to be consistent throughout the ordinance.

Wade said regardless of what they [P&Z] think about it, it will have little effect on the Commission [Dirk specifically], so he would like to take a straw poll to see where the P&Z members stand. He would like to say he is not comfortable with where it stands, but it is okay for now.

Danny said he would like Dirk Clayson to come in and explain himself.

Tony said people are land-locked because there are no ways to access their properties without going through someone else's property.

Wade said he would like to send this statement to the Commission; I ask the commission to vote on an advisory statement: The Planning & Zoning Commission members do not like the decision of the County Commission regarding the recording of Rural Unimproved Subdivision prescriptive easements, but due to the current climate, the P&Z is willing to let it lie for now. (Robert Houston disagreed)

Byard said he would like a recorded easement.

Shannon said it is good for the members of the Planning and Zoning Commission as well as the Commissioners to keep a good line of communication open.

Tony asked the amount of time they would have to come up with a decision.

Shannon said Dirk offered it out of courtesy to them to keep the communication open and the P&Z informed. A motion does not need to be made so there is no time limit.

Shannon said she would discuss the Planning Commission's position on the RUS without having to take an action.

Legislative Public Hearing **(4.)Kane County Land Use Ordinance: 9-5-1-5**
Agriculture Density & Definition for Lodges; Submitted by Shannon McBride

Shannon said there is no definition for "Lodges" in the Kane County LUO. She said it is a temporary residence for hunting season, summer cottage, house or cottage, as in a park or on an estate, and must be occupied by a gatekeeper or caretaker like at a resort, motel, etc.

Ryan said he read through the original paragraph (the document is in the info packets) and he tried to break it down into different parts to separate it because it seemed confusing.

Wade said he was confused about where a "Lodge" was placed in the definitions and under what category.

Shannon said a Lodge is already in the matrix. She said she needs a definition so everyone who approaches her is treated the same and there are no loop holes. She said it needs to be black and white. Lodges is found in the AG matrix in Chapter 5 of the Kane County LUO.

Robert said this is a legal situation. He asked Shannon for help on what to say in the definition.

Mary Craven suggested it should say "one building" under Lodges in the definition.

Rob described Lodge as a large cabin with many people staying in it. He said part of the problem is about regulation - what is allowed and not allowed. Rob said there is not a definition. He said Lodges are under commercial.

Shannon said it was listed in commercial (zone) under Lodges. She said there needs to be a definition if it is listed in the use matrix.

Rob said there are 22 definitions for a Lodge in the Dictionary, and they just need to create one in the use matrix.

Byard asked if they could eliminate Lodges altogether.

Wade said a resort is not in the definitions as well.

Rob asked if a Lodge is any different from a motel or hotel. He said the hotel needs parking, whereas, a Lodge does not need parking.

Shannon recommended postponing the definition for Lodges until next month to move onto the discussion of Vacation Rentals because Rob brought up a good point about needing to limit numbers of people in lodges and vacation rentals.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Hal Hamblin to recommend postponing the Kane County Land Use Ordinance: 9-5-1-5, Agriculture Density & Definition for Lodges until the November, 2016 meeting. The 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.

Legislative **(5.) Kane County Land Use Ordinance: 9-1-9 & 9-6A-6**
Public Hearing **Adding Definition of Vacation Rentals; Submitted by Shannon McBride**

Joann Rondo Moon (member of the public) said she would urge the P&Z members to find a solution to the Vacation Rental problem. She asked if they could regulate rentals for the county. She said there is a place where the owners are renting out a home in Vermillion Cliffs next to her and the rental sleeps 22 people. She said they don't have a business license, and are not paying [TRT] taxes. Joann said the owners live in American Fork and are not from Kanab. She said there have been noise, fire, and parking complaints. They have also built a garage with a loft and she overheard that the owners were going to rent out both and have two vacation rentals. She said it is beyond what the area can hold. She said she talked to the renters last July when they were setting off fireworks, and they were unaware of the red flag warnings for fireworks. She said it is a danger, a problem, and would like the owners to register as a business.

Shannon said she does not want to take rights away. She said she likes Commissioner Clayson's idea of only renting out one dwelling (per property). She said a Vacation Rental is renting a furnished apartment, house, or professionally managed complex. It requires the entire place to be rented out and not the individual rooms of the house to separate individuals. She said in Residential Zones, an R-1/2 designation allows one structure to be used as a vacation rental. In R-1, R-2, and R-5 zones the primary residence and guest home can both be used. However, a business license and the paying of the TRT taxes are required.

Tony said neighbors need to be notified of the rentals and the rentals need to be regulated.

Wade said there are a lot of people paying the TRT taxes. He said vacation rentals are not a bad thing and it helps pay for expenses and as long as the County is getting the taxes and not impacting the neighbors then he does not see a problem with it.

Shannon said there is a process set up between individual departments to help the businesses comply with regulations.

Jim Matson asked Ryan if they could access it differently via taxes.

Ryan said you cannot convert it and a dwelling is still a dwelling.

Rob said they are talking about two things – (1) owner occupied or; (2) non-owner occupied. He said Vacation Rentals can fit into owner occupation, home occupation, permitted Ag and Residential (25%) and there is no possible way to regulate it like a Bed and Breakfast. He said his recommendation would be to beef up the Bed and Breakfast definition and make a specific Lodges and Vacation Rentals definition.

Robert said the problem is about protecting residential zones. He said people are buying homes to rent them out and they need to figure out whether the rentals belong in a commercial zone and how to control it. He said someone has to be responsible; they need to obtain their business licenses and pay the TRT Tax.

Wade said this comes back to size issues.

Ryan asked what are the matrixes and conditions.

Rob said they need to be providing guidelines and his office will help with those.

Robert asked what the problems with vacation rentals were.

Shannon reiterated what Joann said: the noise, fire pits, parking, and disruption to the residential area.

Wade asked who they were trying to protect and what from. He said there needs to be limitations, restrictions and/or regulations.

Dale asked what the differences between short-term versus long term were.

Rob defined Vacation Rentals as 30 days or less.

Byard said there are no long-term rental homes on the market right now and that is where most of the problems arise.

Mary Craven suggested the board's decisions be consistent, that way they do not run into any problems and they would be telling the same thing to each owner.

Chairman Chelewski called the commission out of public hearing.

Rob asked if the members would go over zones: Ag – permitted for both types, Commercial C-1 C-2 permitted for both, dwellings residential zones – (regulate) number of people and more, lodge (one large dwelling). He suggested if they want to do a set number of people.

Shannon asked what happens to the people already operating under the old rules.

Rob said they would be grandfathered in.

Motion was made by Danny Brown to recommend postponing the Kane County Land Use Ordinance: 9-1-7 & 9-6A-6, adding Definition of Vacation Rentals until the November, 2016 meeting. The motion was seconded by Wade Heaton. The Chair called for the question and the motion passed.

Motion was made by Robert Houston to adjourn the meeting. Motion was seconded by Hal Hamblin. The Chair called for the question and the motion passed unanimously.

Meeting was adjourned at 8:10 pm

Land Use Authority Chairman,
Tony Chelewski

Administrative Assistant,
Kaylea Crosby