Minutes of the Kane County Planning Commission
and Land Use Authority Meeting
76 North Main Street, Kanab
October 8, 2014

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| CHAIRMAN: | Tony Chelewski |
| MEMBERS PRESENT: | Tony Chelewski, Wade Heaton, Robert Houston, Dale Spencer, Harold Hamblin, Dale Clarkson |
| MEMBERS ABSENT: | Roger Chamberlain, Commissioner Douglas Heaton |
| EX-OFFICIO MEMBER: | Commissioner Douglas Heaton |
| STAFF PRESENT: | Shannon McBride, Land Use Administrator; Mary Reynolds, Administrative Asst.; Kent Burggraaf, Deputy County Attorney; Ryan Maddox, Deputy Building Official; Tom Avant, Kane County Engineer; Lou Pratt, GIS |
| 5:30 PM | Work Meeting |

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

**MOTION** was made by Robert Houston to amend the September 10, 2014 motion for the Lot Joinder for Ence Cabin LLC, Karen E. Smith, Manager, Bear Springs Estates as follows: to approve the Lot Joinder of Ence Cabin LLC, Karen E. Smith, Manager, Bear Springs Estates Unit 1, Lots 11, 12, & 13. Motion was seconded by Dale Spencer. The Chair asked for any questions or comments and there were none. Motion passed unanimously.

**Motion** was made by Dale Spencer to approve the September 10, 2014 minutes. Motion was seconded by Harold Hamblin. The Chair asked for any questions or comments and there were none. Motion passed unanimously.

Tony Chelewski gave a report on Mike Kemp's road: He is doing great; people are utilizing the road in his business, they are driving nicely and not making a mess and he is thrilled to death. So that's working out. In another month we should probably call Rudy and say thanks for keeping the dust down. [A letter is attached to the minutes.]

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

Chairman Chelewski called the commission into public hearing.

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| **Administrative/6:01 pm** | **Lot Joinder** |
| **Public Hearing** | **Robert E. Kirby II & Lauren B. Pratt-Kirby, Property Owners; Swains Creek Pines, Unit 2, Lots 257 & 258; Submitted by TC Engineering, Tom Avant** |

Tom Avant, Engineer: [These are a] huge savings for second home owners in the county. This is in Swains Creek Pines, Unit 2. It's right on the very south edge of Unit 2. They are joining 257 and 258; 257 apparently is vacant, you have a house, a garage and a shed on 258 and they are just combining them together.

Shannon McBride, Land Use Administrator indicated there was only one small correction so Warren [Monroe] recommended conditional approval pending the completion [of the correction]. As of the meeting, the correction had been made, but Planning & Zoning had not received the corrected plat, yet.

Tom Avant said: I made the correction on the Mylar and I will go and get it; I have already had the Kirby's sign it.

Shannon McBride said the Planning Commission members could accept [the situation] as such, and still vote. She vouched for it.

Harold Hamblin asked about the lien holder issue related to the property.

Tom Avant answered: It took three months to clear; but it was a trustee, not a lien holder. It took us three months to get the trustee to sign the consent. We got all that resolved before we submitted it.

The Chair asked if there were any comments or recommendations and there were none. The Chair called the Commission out of public hearing.

**MOTION** was made by Robert Houston to approve the Lot Joinder of Robert E. Kirby II & Lauren B. Pratt-Kirby, Property Owners, Swains Creek Pines, Unit 2, Lot(s) 257 & 258. Motion was seconded by Dale Clarkson. The Chair asked if there were comments or questions and there were none. The Chair called for the question and the motion passed unanimously.

Chairman Chelewski called the Commission into public hearing.

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| **Administrative/6:02 pm** | **Lot Joinder** |
| **Public Hearing** | **Russell, Gregory C., Property Owner, Swains Creek Pines, Unit 1, Lots 19, 20 & 21; Submitted by New Horizons Engineering, Brent Carter** |

Tom Avant sat in for Brent Carter. Shannon McBride said the application was ready to be submitted. Tony Chelewski asked about new documentation and Shannon McBride said the file was in order and all paperwork was before the Planning Commission.

The Chair asked if there were any comments or recommendations and there were none. The Chair called the Commission out of public hearing.

**MOTION** was made by Harold Hamblin to approve the Lot Joinder of Gregory C. Russell, Property Owner, Swains Creek Pines, Unit 1, Lot(s) 19, 20 & 21. Motion was seconded by Wade Heaton. The Chair asked if there were comments or questions and there were none. The Chair called for the question and the motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

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| **<u>Administrative/6:03 pm</u>** | **<u>Amending a Subdivision Plat</u>** |
| **Public Hearing** | **Duck Creek Partners, LLC, Stewart Duck Creek Subdivision, Containing 16 Lots & 24 Acres; Submitted by Atty. Edward Robbins** |

Atty. Ed Robbins said: When we were here last month and got approval Tom [Avant] mentioned to me there was a detail on the drawing that was inconsistent with something we had worked on – that was the famous Mitchell fence; we had a stipulation to move part of it and that new bearing was not showing on the plat. That prompted a call by me to the engineer [asking] is this something you have worked out another way? The bottom line was that it was an overlooked detail by the engineer. Because it actually changes the dimensions of one of the lots, my thought was we could just move it south and keep the north boundary and have it a little bit wider here [referring to the map]. But since it does actually change the dimensions of one of the lots, Tom said we needed to have a new round [with Planning & Zoning].

Tom Avant, Engineer: It changes the boundary of the subdivision. That's the reason.

Atty. Robbins: The Engineer has been slow in returning us the [information]. That's why we are back; it's frustrating, disappointing, and we are hoping to get it done next month.

There was a brief discussion on how and when to make a motion to postpone this agenda item until the next Planning & Zoning meeting.

6:16 pm Ex-Officio member Douglas Heaton arrived at the meeting.

The Chair asked if there were any comments or recommendations and there were none. The Chair called the Commission out of public hearing.

**MOTION** was made by Wade Heaton to postpone the agenda item amending the subdivision plat for Duck Creek Partners, until the November 12th meeting. Motion was seconded by Robert Houston. The Chair asked if there were comments or questions and there were none. The Chair called for the question and the motion passed unanimously.

Chairman Chelewski called the Commission into public hearing.

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| **<u>Legislative/6:010 pm</u>** | **<u>Kane County Resource Management Plan</u>** |
| **Public Hearing** | **Proposed revisions; submitted by Shannon McBride, Land Use Administrator, assisted by Byard Kershaw, North Rim Consulting, LLC** |

Shannon McBride: The reason [we] are revising this is because they [BLM] are drafting a Grazing EIS [Environmental Impact Survey] for the Monument. We are having coordination meetings - Hal, Byard and Commissioner Heaton have been a part of that. When we receive documents, we need to get them into the Resource [Management] Plan because the BLM coordinates with us, now. They have to look at [what we have]. [For instance,] they are looking at the suggestions we gave them from Chapter 27. The reason we are looking at this again is Dr. Gil Miller did an economic report, and it's quite surprising how much the grazing adds to our economy. We need that report – the full version – in the Plan. In Sections 1, 2, & 3 we went back and revised it, making sure it was correct and [readable] document. We found a lot of editing issues.

Shannon McBride cont.: In Section 2, we added federal regulations that we want them to know we are aware of. We put WSAs (wilderness study areas) in Chapter 27 so we needed them [reflected] in Section 2; and in Section 3, we placed the economic report. We are only going to go over Sections 1, 2 and 3 tonight, as well as Section 6, which contains Lamar Smith's grazing management guidelines. We want BLM to look at that (and it is quite lengthy) but we didn't edit the rest of the Section. We will complete that next month. When we receive different documents, we need to get them into here [the Plan]. We are actually trying to slow the train down right now because the State Planning Department is involved, and we feel they [those pushing the lawsuit] are trying to get this through during the Obama administration. We don't want them to rush it.

Shannon McBride cont.: The rush [for us] is that the next coordination meeting with the State and BLM is Dec. 8$^{th}$. The Commission has to accept this and it isn't ratified until 15 days after. We need to have these guidelines in place for our December meeting. We are editing it better this time around.

Dale Spencer: I read through this and am really impressed. I am ready to approve it now.

Shannon McBride: We updated some names; this document didn't have a Table of Contents so it was added; and the page numbers will change. At the end you can do a motion to add some of the edits. [There was a suggestion to add Jill Phillips at the end of the Table of Contents].

Shannon McBride: We edited out a lot of unnecessary words; we emphasized "values" and "objects", "custom" and "culture"; chose which paragraphs stayed (see material attached to minutes). We edited paragraphs for flow and kept the paragraphs that emphasized how grazing was a main part of our custom and culture. We tried to eliminate repetition, so with that in mind, we'd like to know if you want to keep this paragraph (highlighted paragraph in Section 1). It is a repeat of paragraph 5, but I like the wording. I want to see if you felt it should be eliminated or we should keep it in. You have read it, Dale; we were trying to reduce [wordage] and paragraphs. What did you think?

Dale Spencer: I felt it should stay there.

Shannon McBride: The rest of this is just re-wording. The paragraph on recreation was moved further down because we are focusing on grazing. The sentence regarding [reduction of] recreational use was changed because it wasn't strongly worded. Some of the sentences were changed because they were out of context. Do you have anything to add onto Section 1?

Byard Kershaw: Why was the paragraph about the reduction of recreational use there?

Shannon McBride: You would have to tell me; it was already there, we didn't change anything, we just edited it.

Byard Kershaw: The only thing I can think of is for possible limitations [of] ATV use.

Robert Houston: All the 2477 roads were recreational [use] roads.

Byard Kershaw: The reason I asked the question is because a lot of recreational users are hikers [and ATV users].

Shannon McBride: Section 2 is the legal authority and all we did was switched things around. Byard added information about Visual Resource Classes which is referenced by the BLM. Information is spelled out. Italics were explained because they are referencing laws. Citations are not italicized.

Atty. Kent Burggraaf: We need to add Utah Code to some citations for correct reference. Consistency is important. The grammatical stuff that doesn't change the substance shouldn't have to be brought before you, but if it changes the substance, it does.

Wade Heaton: Under [Section 2, under Federal Land and Natural Resource Planning…first sentence] it says "…federal land *owners*.." Do we want to call them owners? What about managers?

Shannon McBride: Continuing with Section 2, under 'f" the National Environmental Policy Act (NEPA). It refers to a 'no-action alternative.' I thought we might need clarification on that, if that was what we wanted in the Plan.

Byard Kershaw: That is what the current management situation is [for BLM]. [It means no grazing, so leave it alone.]

Shannon McBride cont.: Byard recommended some thorough insertions from BLM regulations from their manual 6100 [and other manuals].

Byard Kershaw: I took pertinent sections that applied to Livestock Grazing, WSAs, etc., so we could see what their policy statements are. If not, we can delete them. I feel obligated to say this: The Proclamation states the Secretary shall promulgate regulations and that's never been done. My thought is regulations are an important part between the law and how things are done. Regulations have been left out of the whole process. It's gone from Proclamation [from President Clinton] to policy statements. These are statements of how the BLM would propose to manage within a National Landscape Conservation System (NLCS).

Shannon McBride: Most of the Monument is under WSAs, we have put that in our Chapter 27; and we have the Commissioners telling Congress we need action. We need to have the WSA [information] in here because there are some grandfathered uses in there dealing with grazing.

Atty. Burggraaf: We repeat a lot of this [information] from BLM manuals and other sources but we never make the statement it is our policy or why we are including it. We don't take a stance; in some of these sections we need to add an affirmative statement. If I turn to this section I have no idea why it is added here. When we do final legal review, we need authority to add affirmative statements.

Lengthy discussion took place about what the value of the BLM policy directives were to the Resource Management Plan. Atty. Burggraaf stressed they didn't belong in our Plan as something we endorsed.

Atty. Burggraaf: We don't want to give the BLM a misperception because we cited their policy. What I propose is to delete [the BLM material from this section and put it [elsewhere].

The decision was made to omit the BLM policy statements from the BLM manuals.

Shannon McBride continued to the next section: Section 3 [Economic] corrections were implemented mostly for flow; and we added Dr. Miller's [economic] report. It talks about a survey they had Kevin Heaton help with sent to all the ranchers. 35-40% participated and that's where Dr. Miller got his information from. I hope you read it because it is interesting.

Hal Hamblin: Basically it says for every (AUM) allotment it generates 90-some odd dollars. The Field Office got a directive, according to one of the ranchers, to reinstate as many suspended AUMs (animal unit month) as they could. I can't help but think that's coming about because of our government agencies getting [a little bit of pressure.] We'll see if it happens. [Mine will] be taken from 35 head to 100.

Atty. Burggraaf: They [the BLM] have praised [Dr.] Gil Miller in the preparing to draft the EIS, [for the data collection and analysis], and that was good. They look like they are going to implement some of this stuff.

Shannon McBride: When the numbers went into the millions [on the economic report] you could see some jaws drop at that [BLM coordination] meeting. He goes into how much money we have to put into tourism and recreation to replace grazing and you see it can't be done.

Shannon McBride showed paragraphs that could be redundant.

Dale Spencer: Keep it in. It is a summary of what we have gone over.

Others concurred, with some wordage change.

Shannon McBride: In Section 6, we put in Lamar Smith's grazing report. We did not edit around the report. Best placement; we called it the 'Kane County Grazing Management Guidelines'. If you don't like it, change it. This man is very knowledgeable. This is a shortened version of the presentation. He talks about adaptive management and what that is. Clarified more wordage (foot square vs square foot), descriptions and editing.

Atty. Burggraaf: Suggested they change the title to Kane County [Grazing] Management Guidelines. [The change was implemented.]

Hal Hamblin: Asked if grassland banks were ineffective? [The answer was yes, according to Lamar Smith's report.]

Shannon McBride: This completed the report in Section 6. We didn't want to put too much information in the final Plan so we created an Appendix. Dr. Miller's justification (Revenue Models) were placed in Appendix F, and his IMPLAN Models are in Appendix G. Those are the revisions for this time around. In the next meeting we will be reviewing [Sections] 4, 5, and 6. We may not have reports to go in, and if there are only editing issues, maybe we don't have to bring that to the Commission? Kent?

Atty. Burggraaf: Make that a part of your Motion [to allow for editing issues to be corrected].

The Chair asked if there were any comments or recommendations and there were none. The Chair called the Commission out of public hearing.

**MOTION** was made by Dale Spencer to recommend to the County Commission the approval of the changes to the Kane County Resource Management Plan as revised, subject to legal review, [including the addition of language relating to the Proclamation and NLCS]; that additions, edits and grammatical formatting that is not substantive, does not have to come before the Commission. Motion was seconded by Robert Houston. The Chair asked if there were comments or questions

and there were none. The Chair called for the question and the motion passed unanimously.

**MOTION** was made by Dale Spencer to adjourn the meeting. Motion was seconded by Dale Clarkson. Motion passed unanimously. The meeting adjourned at 7:35 p.m.

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| Land Use Authority Chairman,<br>Tony Chelewski | Land Use Administrative Assistant,<br>Mary Reynolds |