



MINUTES

Kane County Planning Commission
& Land Use Authority Meeting
76 North Main Street, Kanab
January 11, 2017

CHAIRMAN: Tony Chelewski

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

MEMBERS ABSENT: Dale Clarkson

EX-OFFICIO MEMBER: Jim Matson

STAFF PRESENT: Shannon McBride, Land Use Administrator; Kaylea Crosby, Administrative Asst.; Reid Mann, Deputy County Attorney; Linda Little, County Assessor/Building Official; Lou Pratt, GIS Director; Tom Avant, County Engineer

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 welcomed Kanab High School (Girls State) students. He said he called Mr. Kemp and they are plowing all the snow on the roads and the 'friend' up there is not causing any problems.

Motion was made by Byard Kershaw to approve the **December 14, 2016** minutes. Motion was seconded by Hal Hamblin. The Chair asked for any questions or comments. Motion passed unanimously.

Motion was made by Hal Hamblin 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.

Chairman Chelewski called the commission into public hearing.

Administrative Public Hearing **(1) Nomination of Officers for 2017-Chairman and Vice-Chairman**

Chairman Chelewski called the commission out of public hearing.

Hal Hamblin nominated Tony Chelewski as (continuing) chairman for 2017.

Motion was made by Hal Hamblin to accept the nomination of Tony Chelewski as chairman of the Planning & Zoning commission for 2017. Motion was seconded by Danny Brown. The Chair called for the question and the motion passed unanimously.

Hal Hamblin nominated Danny Brown for vice-chairman for 2017.

Motion was made by Hal Hamblin to accept the nomination of Danny Brown as vice-chairman of the Planning & Zoning commission for 2017. 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 Public Hearing **(2.) Vacating a Road: County Road 3270 & 3250**
Abandonment of Kane County Road 3270 & 3250, (look to packets for legal description); submitted by Louis Pratt

Lou Pratt said they have a request from the property owner who would like to move the road to the property line. The quit claim deeds have already been recorded. They have replaced the rights-of-way and the road exits at the same point on the BLM's portion of the road. Not many people use the whole road and it has already been replaced by a newer road. There will be deeded right-of-ways for 66 feet and [they are] giving up a prescriptive easement. The road will be adjusted from one property line, to the other property line. He said they are moving the road to where people are already using it.

Administrator McBride recommends approval.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Danny Brown to recommend approval to the Kane County Commissioners for vacating Kane County roads 3250 & 3270. Motion was seconded by Hal Hamblin. Motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

Administrative **(3.) Rural Unimproved Subdivision: North Fork Junction**

Public Hearing **Stacy P. McLaws, Manager of Chamberlain Ranch Holdings, LLC, parcel # 1-9-15-1; submitted by Tom Avant, (Iron Rock Engineering) holding, “Power of Attorney”**

Shannon said this project needs to be postponed, until next month (Feb. 8th); Shannon, Warren, Lou and Reid need to discuss Kane County Land Use Ordinance interpretation with Tom Avant.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Byard Kershaw to recommend postponing the Rural Unimproved Subdivision, North Fork Junction, Stacy P. McLaws, Manager of Chamberlain Ranch Holdings, LLC, parcel # 1-9-15-1, for the February 8th Planning & Zoning 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 **(4.) Lot Joinder: Gendron & Somers**
Public Hearing **Thomas Gendron, Shane & Esperanza Somers, New Paria Subdivision, lots 33B, 34, 43, & 44, becoming new lots 33B & 44; submitted by Tom Avant, (Iron Rock Eng.) holding “Power of Attorney”**

Tom Avant said this is for two different owners, who used the same plat to save on costs.

Shannon said this does not need to go to commission and she recommends (conditional) approval, due to revisions not being completed on the plat. There are still seven items on the engineering review that need to be addressed and corrected on the plat.

Hal Hamblin asked if there were any easements being vacated.

Tom said no easements were being vacated.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Robert Houston to recommend conditional approval of the Lot Joinder for Shane & Esperanza Somers, New Paria Subdivision, lots 33B & 34, becoming new lot 33B. The motion was seconded by Danny Brown. The Chair called for the question and the motion passed unanimously.

Motion was made by Hal Hamblin to recommend conditional approval of the Lot Joinder for Thomas Gendron, New Paria Subdivision, lots 43 & 44, becoming new lot 44. 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 Public Hearing **(5) Lot Joinder/Lot Line Adjustment: Sawatzky, Redd, & Hardy**
Duck Creek Pines, Phase 1, lots 35, 36, & 38, becoming new lots 36 & 38; submitted by Brent Carter, (New Horizon Engineering) holding “Power of Attorney”

Shannon said there are three owners with three lots: Brent & Geraldine Hardy (lot 38), John & Beatriz Redd (lot 36), and Trevor & Sheri Sawatzky (lot 35). The middle lot is going to disappear and be absorbed by two owners. There are two 16 feet drainage easements that need to be vacated. Shannon said, that Rob VanDyke told her as long as they receive the utility termination, they do not have to send the easement vacations to the county commissioners. This project needs a conditional approval.

Reid Mann said this does not have to go to commission because the drainage easements are not accessed by the public.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Hal Hamblin to recommend final approval after the final revisions have been made by Tom Avant of the Lot Joinder/Lot Line Adjustment for Sawatzky, Redd, & Hardy, Duck Creek Pines, Phase 1, lots 35, 36, & 38, becoming new lots 36 & 38, (and eliminating lot 35). 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 Public Hearing **(6.) Lot Joinder: Dennis Marshall**
Swains Creek Pines, Unit 1, Block 3, lots 22 & 23, becoming new lot 22; submitted by Platt & Platt, Inc. Civil Engineers & Surveyors

Administrator McBride said this project is ready to go and she recommends approval. She said there are no easements being vacated so it does not need to go to commission.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Hal Hamblin to recommend approval of the Lot Joinder for Dennis Marshall, Swains Creek Pines, Unit 1, Block 3, lots 22 & 23, becoming new lot 22. 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 **(7.) Land Use Ordinance 9-24-3 “Solar Power Plant”**

**Public Hearing Adding limitations to the Solar Power Plant Ordinance; submitted by
Danny Brown**

Shannon McBride said she recommends changing the order and replacing K into L (suggestion). She said Danny Brown discovered with his research that solar power plants don't mitigate clean up when they go belly up. She said Garkane is looking at building a solar power plant also. She suggested a limitation of 15,000 acres just as a starting point.

Hal asked Reid if they can hold them to 15,000 acres in an ordinance (even on SITLA land).

Reid Mann said when you put a limit on something then it needs a justification for that limit. Counties are free to create ordinances. The issue is, if it becomes arbitrary, such as, if the language isn't biased towards a specific group, then it is not a problem but if it targets a certain group it becomes arbitrary. He believes there needs to be some research put into it. If the land is in Kane County but it is the Trust's land, then he believes limitations are a good idea for future projects; he thinks they need to look a little bit closer to see if this is doable.

Shannon explained the Planning Commission was trying to find a way to protect the scenery, community, and other resources. Protecting the scenery was already in the ordinance. The scenery cannot be replaced. (I.e. Robert Houston suggested a scenic corridor years ago to protect scenery from too many cell towers.)

Reid said it probably would be okay with limitations on acreage. He said you would be setting parameters to protect the resources of the county.

Shannon asked Reid if they would benefit by giving examples of other solar power plants that had gone bankrupt in order to set these limitations.

Reid said we would have to back up the examples and research it.

Jim Matson suggested setting a limit and when it becomes a problem then deal with it.

Wade asked Danny if they have bonds or funds set aside for the solar power plants. Danny said if anything is government subsidized they don't have bonds.

Byard said they need to consider acreage that would be suitable for solar power plants. He believes they should hold a cash bond.

Shannon said SITLA required a bond with sPower as a backup.

Tom Avant said resources need to be protected – scenery, communities, etc.

Shannon said the limitations were mainly for scenery and visual impact; these could be conditions to have a bond, but they cannot make a scenery corridor after an application is filed.

Jim asked if they can't go after the applicant, then can they go after the owner of the land for the cash bond.

Danny said he found that if one company comes in (example: SITLA, sPower) and builds a power plant, then other companies will come in and look at the land, and then they flood the market. He said rather than let them do that, make it first come, first serve.

Shannon said they could place the requirement on private property to add a bond in (E). She feels like they would need to do more research.

Hal asked if there was any way to get power plants away from the communities. He would like to see them further away from the communities.

Shannon said sPower with SITLA did require setbacks, but only 1,200 feet. The setback from communities has been changed to half a mile as of now. The next power plant that wants to come in will not be allowed within half of a mile from a platted subdivision boundary.

Linda Little said the applicant looking at building a power plant near Vermillion Cliffs thought he/she wasn't subject to the 5 year roll back and wanted to know how to go about getting away with putting a power plant in Ag zone without paying rollback taxes. She said they would have to have cows or some sort of Agriculture use out there.

Wade asked Danny what other reasons he found other than going belly up for adding these limitations on private property rights?

Danny said being in Kanab and enjoying the area, he said in protecting the county, he would like the land to be used for other offers rather than just power plants.

Wade said our scenery needs to be protected, but they need to protect private property rights at the same time. They need to consider it all, because they would be stripping rights of private property owners.

Shannon said about 6 years ago – she created a no nuclear waste site ordinance for Kane County so the County does have some restrictions for certain uses in the County. There are circumstances where we need to protect the property values and Kane County. As planning commissioners they need to decide what direction they want the county to go.

Byard said the monument has taken care of a lot of this problem.

Wade said the commission is to look out for the county and the rights of the citizens of the county. They were appointed by elected officials to make the decisions in behalf of the citizens.

Robert said the cost to produce this is unreal; he doesn't think they have a big problem and like Byard said the monument controls a lot of the land.

Danny said if the power plant project plans keep happening they are going to have another Church Wells and sPower situation all over again. In response to Wade's comment, Danny explained the citizens attended that meeting because they were upset and by creating this ordinance it would show the citizens we are listening to them and their needs, not that we are smarter than them.

Wade said this is like putting a cap on how much cattle you can have in Kane County. The majority doesn't rule; they are 100 percent stripping private property rights. They need to be careful how they are going to protect every single property right.

Shannon said this is not stripping rights away, but looking at what direction to possibly take in order to save the counties resources and community. She stated, this public hearing was noticed in 3 different places, posted on the county and state websites, and only two people showed up to voice their opinion on limitations for the Solar Power Plant Ordinance.

Hal asked Danny if California limited their solar power plants. He said they don't have very much private property. Danny asked what Wade thinks the limitation should be. Wade said the principal of a number is what he disagrees with.

Hal asked if they could do performance bonds.

Byard said it would be a cash bond with 10 percent on top. Wade said they need to put a few limitations then.

Reid asked Jim if the County Commission was governed by any type of bylaws. He asked who the duty would be to.

Jim said state statute, but they also have their own county statutes. They are accountable to the citizens and people.

Shannon asked if they could postpone this to the March 8th Planning & Zoning meeting.

Danny said he would try and write it all up after talking to Shannon and Reid first; excluding what has already been done.

Chairman Chelewski called the commission out of public hearing.

Motion was made by Danny Brown to recommend postponing to the March 8th meeting the revision of the Kane County Land Use Ordinance 9-24-3 "Solar Power Plant", adding limitations to the Solar Power Plant Ordinance. The motion was seconded by Hal Hamblin. The Chair called for the question and the motion passed unanimously.

Chairman Chelewski called the commission into public hearing.

Legislative **(8.) Land Use Ordinance 9-1-7, 9-5-5, & 9-27-A-2: Open Range**
Public Hearing **Adding definition Open Range, Agriculture Zone, adding into Section E,**
 adding definition to 9-27-A-2; submitted by Harold Hamblin

Chairman Chelewski called the commission out of public hearing.

Motion was made by Hal Hamblin to recommend postponing Kane County Land Use Ordinance 9-1-7, 9-5-5, & 9-27-A-2: Open Range to the February 8th Planning & Zoning meeting. The motion was seconded by Wade Heaton. The Chair called for the question and the motion passed unanimously.

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

Meeting was adjourned at 7:20 pm

Land Use Authority Chairman,
Tony Chelewski

Administrative Assistant,
Kaylea Crosby