

Vermillion Cliffs Special Service District FAQ

The Kane County Commission is in the process of considering providing fire protection services to portions of the unincorporated areas east of Kanab through a Special Service District. Specifically, the Commission is going through the process to expand the existing Vermillion Cliffs District and adding the service of Fire Protection. A Town Hall Meeting is scheduled for Dec. 6 at 6p.m. at the Kanab Center to provide information, to hear concerns, and to answer questions. Below are answers to some of the Frequently Asked Questions that the County has been receiving about this process.

1. Why is the County considering adding fire protection services?

Kane County provides wildland fire protection services to all areas of Kane County through the County Sheriff and with cooperative agreements with the State of Utah. The County does not provide structural fire protection services but instead directs individuals who wish to have this service to live within the boundaries of a municipality. In many of the unincorporated areas of Kane County residents have previously desired to have fire protection services for structural fires and have worked with the County to receive these services through the creation of a Special Service District or by adding this service to an existing Special Service District. The Cedar Mountain Fire Protection District and the Church Wells Special Service District are examples. The area east of Kanab, including the Vermillion Cliffs subdivision and other areas, have not had official structural fire protection services but instead have relied on Kanab City to provide fire protection services for many years and have received this service without having to pay for it. Kanab City and Kane County have been in discussions for the past two years and have received significant input from residents of the area that a permanent solution is needed. The proposal to annex area into an existing Special Service District that serves Vermillion Cliffs and to add the service of fire protection is the current proposal to solve this problem.

2. What is the difference between the current District in the Vermillion Cliffs area and the proposed Vermillion Cliffs Special Service District?

The current District, which is called the “Special Improvement District No. 2005-1 (Vermillion Cliffs Estates) of Kane County, Utah,” was created in 2005 in order to chip seal the roads in the Vermillion Cliffs Estates Subdivision. Constructing and maintaining roads is the only service that this District is authorized to do. The proposed Vermillion Cliffs Special Service District will annex additional areas east of Kanab so that all private property along Highway 89 up to mile marker 37 and all private property along the first nine miles of the Johnson Canyon road will be included in the District. It will also add the service of fire protection. The name will be changed to the Vermillion Cliffs Special Service District. A “Special Improvement District” and a “Special Service District” or “SSD” are not different types of legal entities. With Districts, the main difference is the types of services they are allowed to provide, whether they have an elected or appointed board, and whether they are governed by Utah Code Title 17B "Special Districts" (which used to be called Local Districts) or if they are governed by Utah Code Title 17D which are more often referred to as a “Special Service Districts.” In this circumstance there is no functional/operational difference between the current District and the proposed changes except for the boundaries, adding the service of fire protection, and the new name. The current district is governed by Title 17D and if the proposed changes are approved, it will continue to be governed by Title 17D. Although the District has in its name the term "Special Improvement District," it is the functional legal equivalent of the type of District that we now refer to as an SSD. This is similar to the Long Valley Sewer Improvement District, which is an SSD under

Title 17D. Currently the County Commission serves as the governing body of the District. If and when the proposed changes to the District are approved and finalized it is likely that the County Commission will appoint board members to serve as the administrative control board instead of having the County Commission serve as the governing body. It is also likely that the County will work to have the District's finances separated instead of have them housed internally like they are currently. The County currently has the ability to establish an administrative control board and separate the finances, but there is no reason to do that at this time.

3. Can an "Improvement District" operate like a "Special Service District" and provide fire protection services?

The current District is not a separate type of legal entity from a "Special Service District." The current District is governed by Utah Code Title 17D and these types of Districts are often referred to as Special Service District. Once the proposed changes are approved it will continue to operate as a Special Service District under Utah Code Title 17D. The process that the Commission is considering to annex additional areas, add the service of fire protection, and change the name, once complete, will allow the new District to provide fire services to the annexed area.

4. Will the proposed new District continue to have the ability or obligation to construct and maintain roads? How will this affect the county roads within the proposed annexed area?

The County owns all county roads within the current boundaries of the District and has the responsibility for maintaining county roads. This will be the same for the annexed area if the County Commission approves the annexation. The County Commission will have the discretion to expand the ability of the District to provide maintenance of county roads throughout the new District boundaries or to keep this ability within only the original boundaries of the District. Any service that the District provides regarding roads would be in addition to service provided by the County. The District will not be required to maintain any roads.

5. How will the proposed new District be managed? Will there be a board? Will the board be elected or appointed? When will this take place?

Currently the County Commission operates as the governing body of the District. At any point, either now or after the annexation is completed, they can establish an administrative control board. It is likely to happen at the conclusion of the current annexation process. The board will be appointment not election. The County Commission could convert it to an elected board at a later date if this is desired.

6. The existing District hasn't done anything since originally chip sealing the roads in Vermillion Cliffs, isn't it effectively a defunct district?

The District was originally funded through a ten year special tax assessment to pay for chip sealing the roads within the District. The District has been collecting the original assessment since its origin. Due to delinquent taxes and the lengthy process to put delinquent properties on the tax sale, the County has just recently stopped receiving additional funds for the District. The small amount of remaining funds held on behalf of the District have been used on road improvements and maintenance for the last few years. The District has continued to operate functionally since it was originally created.

7. How will the proposed District be funded? Will the County contribute funds, assets or in kind services to the District?

The District was originally funded through a ten year special tax assessment to chip seal the roads in the Vermillion Cliffs subdivision. Once the changes are approved by the Commission and an administrative control board is established, the new board will have the ability to impose fees on properties in the District but will not have the ability to impose a tax assessment. Any property taxes would have to be approved by the County Commission. The fees will be listed as fees from the District on your annual property tax bill. There are not any current plans for the County to contribute any funds to the District other than any remaining funds that exist from the original tax collection and delinquent taxes. The County does have the ability to provide funds and to work cooperatively with the District to provide staff support or other in kind support and it is possible that this could happen in the future. While the new District is becoming established the County is likely to provide significant administrative support.

8. If I disagree with the proposed changes to the District what can I do? How do I protest?

If you disagree with the proposed annexation, addition of fire protection services, and/or the name change to the District you can voice your concerns to the County Commission at the public hearing on Dec. 6 or contact them through phone or email at any time. You can also submit a formal protest. There will not be a vote on these proposed actions.

Registered voters and property owners within the proposed new boundaries of the District may submit a protest against the annexation, name change and/or addition of fire suppression services. This is governed by Utah Code 17D-1-206. Protests must be submitting in writing to the Commission any time from now until sixty days after the public hearing on Dec. 6th. Because this day falls on a Sunday, the last day to submit a protest is Monday Feb. 5th, 2024. The protest must state the specific action or actions that is being challenged (the annexation, the addition of fire protection services, or the name change) and the reasons why you are filing the protest. You must list your legal name and the address of your residence or the address of the property you own in the proposed new boundaries. The Commission will give full consideration to all protests prior to making a decision. Any person that files a protest also has the ability to withdraw their protest and subsequently cancel the withdrawal of their protest before the end of the sixty day period. The Commission will receive their protests through the County Clerk at 76 North Main Kanab, Utah 84741.

9. What is the effect of protesting the new District?

The County Commission will first consider each protest and could determine not to move forward based on the protests. If the Commission desires to move forward after considering the protests they also cannot proceed if “adequate protests” have been submitted.

First, the County Commission will count all valid protests. They will rely on the support of the County Clerk, County Assessor, County Attorney and other county personnel to review the protests for sufficiency and adequacy. A protest is only counted as valid if it is submitted in writing to the Commission by February 5th 2024, by a property owner or registered voter within the new proposed boundaries of the District, if it explains why the person is protesting, and if it is clear about which of the three actions it is protesting. A protest can protest more than one of the actions as long as it is clear.

Second, the County Commission will determine if the valid protests amount to “Adequate protest” (defined in Utah Code 17D-1-102(1)). There are three ways to establish or satisfy “adequate protest.” The three methods are counting land area, land value, and number of registered voters. Land area - The first way to satisfy “adequate protest” is if enough land owners file protests so that the total amount of their land is 25% or more of the total land area of the proposed new district boundaries. For example, if the total land acreage was 10,000 acres, protests filed by land owners totaling 2,500 acres or more would satisfy the adequate protest. This could be 250 land owners who own ten acres each or 500 land owners who own five acres each, or any other combination of land owners to reach 25%. Land value - The second way to satisfy “adequate protests” is if enough land owners file a protest so that their combined total value of land is at least 15% of the total value of the land within the proposed new boundaries. This works similarly with the acreage question. If the total value of the land within proposed new boundaries was \$100,000,000, the combined value of the land contained in the protests submitted by land owners would need to be \$15,000,000 or more. Number of Registered Voters - The third way to satisfy “adequate protests” is if enough registered voters within the proposed boundaries submit a protest to amount to 25% or more of the number of votes cast from this same area in the last presidential election. It is also important to point out that a person who owns land but is not a registered voter at that location can only count toward the first two options. And on the other hand a person who is a registered voter at their residence within the boundaries but does not own the property and is a renter or simply a resident by other means, would only count under the third option.

Only one of the three ways to calculate an “adequate protest” need to be satisfied, not all three. If one of the methods are met then the Commission will not be able to proceed on the relevant protested action. The Commission can also use their discretion not to proceed even if there are insufficient protests.

10. Who is allowed to protest? What if I own commercial property?

Protests can be submitted by registered voters who are a resident within the proposed new boundaries and are registered to vote at that residence. Protests can also be submitted by a property owner. If a property is a commercial property or if no one lives on the property, the protest would need to be submitted by the specific owner of the property, not by the owner of the business or an agent or employee of the property owner.