

AGENDA
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
August 25, 2014
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

The items listed under Consent Agenda will be considered as a group and acted upon by one motion with no separate discussion of said items, unless the Commission so requests. In that event, the item will be removed from the Consent Agenda for separate discussion.

The Commission meeting will begin at **10:00 am**

CALL MEETING TO ORDER:

PRAYER

PLEDGE OF ALLEGIANCE:

WELCOME:

CITIZEN PUBLIC INPUT:

CONSENT AGENDA:

Check Edit Reports:

Approval of August 11, 2014 Commission Meeting Minutes, & August 18, 2014 Work Meeting Minutes

REGULAR AGENDA:

- Adopt/Approval of Kanab City Inter-local Agreement for Legal Services/ Attorney Rob VanDyke
- Adopt Chapter 6-Residential Zones/ LUA Shannon McBride
- Kane County Care & Share/ Senior Centers Operational Updates/ Craig Hansen
- Joint Emergency Resolution Certain Roads, Rights of Ways, Routes-US Forest Service Lands/
Commissioner Matson

Other Business:

- Report
- Schedules
- Assignments

CLOSED SESSION:

- Discussing an individual's character, professional competence, or physical or mental health;
- Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property;
- Discussions regarding security personnel, devices or systems,
- Investigative proceedings regarding allegations of criminal misconduct.

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: 8-25-14

Dept. /Business Name: Attorney

Topic/Re: Adopt Inter-local Agreement for
Legal Services between Kane County
Attorney and Kanab City.

Dept. Head/Owner: Attorney Rob VanDyke

Meeting Requested by: " " "

Contact name & #: _____

KANAB CITY – KANE COUNTY
INTERLOCAL AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2014, by and between Kanab City, a municipal corporation, 76 North Main, Kanab, Utah 84741, hereinafter referred to as the “City,” and Kane County, a body politic of the state of Utah, 76 North Main, Kanab, Utah 84741, together with the Kane County Attorney’s Office, hereinafter together referred to as the “County.”

RECITALS

WHEREAS, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended, (the “Act”) permits local governmental units including cities and counties to make the most efficient use of their powers by enabling them to cooperate with other public agencies on the basis of mutual advantage and to create a legal entity to more efficiently provide governmental facilities, services and improvements to the general public; and

WHEREAS, all parties are public agencies within the meaning of §11-13-103(13) of the Act; and

WHEREAS, pursuant to §11-13-202 of the Act, the parties are empowered to engage in joint or cooperative action; provide services that they are each authorized by statute to provide; to exchange services that they are each authorized by statute to provide; or to do anything else that they are each authorized by statute to do; and

WHEREAS, this agreement does not: include an out-of-state public agency as a party; provide for either public agency to acquire or construct any new facility or improvement to real property; provide for the acquisition or transfer of title to any real property by either party; require either party to issue bonds; create an interlocal entity; and

WHEREAS, the City desires to retain the legal services of the Kane County Attorney’s Office through the County, to advise generally the Kanab City Mayor, the City Council, the City Planning Commission, and the City Manager, in their official capacities, upon the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the adequacy of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. No Interlocal Entity Created. This agreement shall not create an Interlocal Entity within the meaning of the Act. The Kanab City Manager shall act as Administrator of this agreement.
2. Termination. This Agreement may be terminated at any time by the City by written notice to the Kane County Commission and the Kane County Attorney’s Office. This Agreement may be

terminated by the County with ninety (90) days advance written notice to the Kanab City Mayor. In the event of termination, the City will be obligated to compensate the County at a daily pro rata rate up to the date of termination of the Agreement.

3. Duration. This contract shall begin as of the 1st day of September, 2014 and shall continue for an initial term of one (1) year. This Agreement will extend automatically for additional one (1) year periods upon the same terms and conditions herein provided, unless either party provides written notice of termination as set forth in paragraph 2 above. In any event, this agreement shall not extend past fifty (50) years.
4. Compensation. The City shall pay the County an annual sum of twenty five thousand dollars (\$25,000). In December of 2014, before the end of the calendar year, the City shall make a one-time payment of \$8,333.33 for the four months of services in 2014. Beginning in 2015 and for each subsequent year of this agreement, the City shall make payments to the County in four (4) equal installments of six thousand two hundred fifty dollars (\$6,250) on a quarterly basis delivered to the Kane County Clerk by the first business day of the first month of the following quarter.
5. Legal Services.
 - a. The County Attorney's Office shall provide general legal services, counsel and advisement for the Kanab City Mayor, City Council, and City Manager in their official capacities with the City.
 - b. The County Attorney shall act as the Kanab City Attorney with regard to the scope of legal services outlined herein. Any Deputy County Attorney may similarly act as an Assistant Kanab City Attorney. However, the County Attorney and his Deputies or other staff shall not be considered, in any way, employees of the City. Kane County shall be treated as a private contractor.
 - c. The County, by and through the County Attorney, shall be responsible to provide any clerical, secretarial or paralegal support that the County Attorney deems necessary for the efficient advisement of the City as outlined herein. The County shall be responsible for any office equipment, office supplies, computer programs, and any and all other items necessary to fulfill these responsibilities. The City shall not be responsible to provide any financial support to the County, except as set forth in paragraph 4, for the services required under this contract.

- d. The County shall not be responsible in any way to provide for the defense or provide funds for the defense of any liability, claim, demand, or other action that leads to a judicial or non-judicial action, petition, complaint, filing, or any other law suit. The County Attorney shall advise the city in anticipation of the above litigation or to prevent any of the above litigation.
6. Conflicts of Interest. The County represents that it has undertaken a thorough inquiry as to whether it has any conflicts that will cause or may foreseeably cause a conflict of interest which would prohibit or impair the County's ability to represent the City under this Agreement. The County assures the City that the County will undertake representation of the City in accordance with applicable Utah Code and the ethical considerations of the Utah Rules of Professional Conduct. In the event a conflict does arise, the County may make arrangements for a special conflict attorney using a qualified attorney licensed to practice law in the State of Utah, after consultation with the City. The City shall not be responsible to pay any special conflict attorney contracted under this section.
7. Ownership of Materials. It is agreed that the City shall own all files, memoranda, briefs, or other documents, which the County prepares pursuant to performance of services under this Contract. The County shall turn over to the City all such documents upon termination of services. However, the County shall be permitted to keep copies of said materials for its own office file for any use which does not deviate from the County's professional responsibility to the City or under the Utah Government Records Access and Management Act ("GRAMA") and other state laws governing the archiving of public records.
8. Confidentiality of Information. Information obtained and prepared by any Attorney or other employee of the Kane County Attorney's Office under the requirements of this agreement shall be considered to be confidential and shall not be made available to any individual or organization by the County or City without prior approval of the other party, except as required by GRAMA or other applicable federal or state law or court order.
9. Non-Assignability. The parties have entered into this agreement on the basis of the qualifications of the County Attorney's Office and the particular nature of the services to be rendered by the County. Unless otherwise provided herein, neither party may assign any right or delegate any duty arising under this agreement.
10. Entire Agreement. This document constitutes the entire agreement between the parties pertaining to the subject matter contained in this agreement. Except as provided herein, all prior and

contemporaneous contracts, representations and understandings of the parties, oral or written, are superseded by and merged in this agreement. No supplement, modification or amendment of this Contract shall be binding unless it is reduced to writing and executed by both parties.

11. Severability. If any section, clause, sentence or portion of this agreement is declared for any reason to be invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed to continue in full force and effect as if this Agreement had been executed with the invalid portions eliminated.
12. Other. A copy of this agreement shall be kept on file with the City Clerk and the County Clerk. Both parties agree to publish this agreement in accordance with Utah Code § 11-13-219.

SIGNATURES

IN WITNESS WHEREOF, the parties sign the foregoing Interlocal Agreement through appropriate and authorized representatives on the date first noted above.

For the City:

ATTEST:

Kanab City Mayor

Kanab City Recorder

Approved as to Form and Legal Content:

Kanab City Attorney

For the County:

ATTEST:

Kane County Commission Chair

Kane County Clerk

Agreed to and Approved as to Form and Legal Content:

Kane County Attorney

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: Aug. 25, 2014

Dept. /Business Name: LUA

Topic/Re: Adopt Chapter 6-Residential
Zones

Dept. Head/Owner: Shannon McBride

Meeting Requested by: " "

Contact name & #: _____

(* Kent will send Ordinance in a separate email.)

Linda Millett

From: Shannon McBride [smcbride@kane.utah.gov]
Sent: Thursday, August 14, 2014 9:21 AM
To: ldmillett@kane.utah.gov; Doug Heaton; Dirk Clayson; 'James Matson'; bhaycock@kane.utah.gov
Cc: Kent Burggraaf; Robert VanDyke; Karla Johnson
Subject: Chapter 6 recommendations
Attachments: Chapter 6- Residential Zones 7-28-14 Elderly Disabled and Group Faciliti....docx

Linda,

Good morning! Please place Chapter 6 –Residential Zones on the next available work meeting agenda. The recommended changes are in red. The final version will be placed on the regular agenda after review from the Commissioners with any additional changes. Kent will have the resolution to pass the final changes at that time. Thank you and have a super day. ☺

Regards,

Shannon McBride,
Kane County Planning Administrator
smcbride@kane.utah.gov
1-435-644-4966
180 West 300 North
Kanab, Utah 84741

"In every civilized society property rights must be carefully safeguarded; ordinarily and in the great majority of cases, human rights and property rights are fundamentally and in the long run, identical."
-Theodore Roosevelt-

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: 8-25-14

Dept. /Business Name: Care & Share / SR. CITIZENS

Topic/Re: Kane County Care & Share / Senior Citizen Centers Operational Updates

Dept. Head/Owner: Craig Hansen

Meeting Requested by: " "

Contact name & #: _____

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: 8-25-2014

Dept. /Business Name: Commission

Topic/Re: Joint Emergency Resolution Certain
Roads Rights of Ways, Routes - US Forest
Service Lands.

Dept. Head/Owner: Commissioner Matson

Meeting Requested by: “ “

Contact name & #: _____

**JOINT EMERGENCY RESOLUTION OF GARFIELD, IRON, KANE & WASHINGTON
COUNTIES DECLARING AUTHORITY OF SAID COUNTIES OVER CERTAIN
ROADS, RIGHTS-OF-WAY AND ROUTES TRAVELED WITHIN THE BOUNDARIES
OF SAID COUNTIES AND LOCATED ON LANDS MANAGED BY THE UNITED
STATES FOREST SERVICE**

Whereas, the continued use of historic roads in Garfield, Kane, Iron, and Washington Counties is essential to the protection of health, safety, welfare, prosperity, custom, culture, and commercial opportunities of all people within Said Counties; and

Whereas, the continued use of public roads, routes of travel and rights-of-way in Garfield, Kane, Iron, and Washington Counties is essential for the use of emergency medical personnel, law enforcement personnel, search and rescue personnel, firefighting activities, commerce, solid waste management, and other public functions tied to the health safety and welfare of the county; and

Whereas, the continued use of public roads, routes of travel and rights-of-way within Garfield, Kane, Iron, and Washington Counties is essential for the preservation and protection of: a) traditional recreation resource values; b) traditional cultural values, interests, resources and activities; c) agricultural livestock and forest products industries; d) movement across public lands, e) commerce, f) conservation/protection of natural resources, and g) other activities vital to the custom, culture and well-being in the area; and

Whereas, Garfield, Kane, Iron, and Washington Counties have a compelling interest in protecting natural resources, managing consumptive and non-consumptive uses, and the wise and productive use of lands within their respective counties; and

Whereas, federal law requires land management agencies to conduct activities in full coordination, cooperation and consistency with local and state plans and policies; and

Whereas, the Forest Service has not conduct road related activities in full coordination, cooperation and consistency with local and state plans and in compliance with federal law; and

Whereas, UCA 63J-8-105.9 designates a State transportation plan for Dixie National Forest; and

Whereas, undocumented development of County roads across federal lands was allowed by federal law until as late as October 20, 1976; and

Whereas, roads on Forest Service lands in Garfield, Iron, Kane, and Washington Counties have never been formally adjudicated; and

Whereas, the continued use of public roads, routes of travel and rights-of-way which are essential for access to the resources and uses listed above has been encumbered and impeded by obstructions placed in various locations by non-County agencies; and

Whereas, Utah State law prohibits the obstructions of public roads without authorization; and

Whereas, such obstructions create potentially dangerous impediments to continued use of roads, routes of travel and rights-of-way, and pose a clear threat to the health, safety, welfare and economic well-being of Garfield, Kane, Iron, and Washington Counties and their citizens; and

Whereas, UCA 63J-8-105.9 declares road closures and other denials of public access implemented through the motorized travel plan of the Dixie National Forest constitute direct threats to the resources and values cited above; and

Whereas, UCA 63J-8-105.9 directs Forest Service officials to fully cooperate and coordinate the development, amendment and implementation of transportation plans with state and county officials in a manner that achieves consistency to the maximum extent allowed by law; and

Whereas, Forest Service officials have failed to comply with the consistency, coordination and cooperation provisions of UCA 63J-8-105.9; and

Whereas, emergency situations require immediate response for the protection of health, safety and welfare of the public; and

Whereas, Garfield, Kane, Iron, and Washington Counties are the only entities within their respective counties that are currently capable of immediate response to emergency situations regarding access and road maintenance; and

Whereas, UCA 11-51-103 authorizes the chief executive officer of political subdivisions and/or County Sheriffs to exercise jurisdiction over federally managed land if federal action or inaction threatens to affect the health, safety or welfare of the people of the political subdivision; and

Whereas, Utah State Law and this resolution declare there is a threat to the health, safety and welfare of the citizens of the respective counties;

Now therefore hereby be it resolved, that the Board of County Commissioners of Garfield, Iron, Kane and Washington Counties hereby assert their inherent right to control and manage roads, rights-of-way and routes of travel located within United States Forest Service land located within the boundaries of their respective Counties; and

Be it further resolved, that the Board of County Commissioners of Garfield, Iron, Kane and Washington Counties hereby demand the U.S. Forest Service immediately cease any and all implementation of the Dixie National Forest Transportation Management Plan until federal and state coordination, cooperation and consistency requirements are met to the maximum extent allowed by law; and

Be it further resolved, that placing or maintaining any physical obstruction, sign, gate or other impediment to the use of public roads, routes of travel or rights-of-way as shown on the State of Utah Transportation Plan for the Dixie National Forest is hereby prohibited unless such is authorized and permitted in writing by the County Commission where the transportation facility is located; and

Be it further resolved, that any existing, unauthorized physical obstructions, signs, gates or other impediments on any roads, rights-of-way or routes of travel located on National Forest Service Land as shown on the State of Utah Transportation Plan for the Dixie National Forest shall be immediately removed. The County Sheriffs of Garfield, Iron, Kane and Washington Counties are directed to ensure the removal of such obstructions or to execute such removal at the expense of the persons or agencies responsible for their placement and/or maintenance. Placing or maintaining any unauthorized physical obstruction, gate or other impediment on or in or around any road, route of travel or right-of-way in Garfield, Iron, Kane and Washington Counties as described herein, so as to prevent or impede the use of that road, route of travel or right-of-way is hereby designated as a class B misdemeanor and punishable pursuant to UCA 72-7-102; and

Be it further resolved, by order of the Board of County Commissioners of Garfield, Iron, Kane and Washington Counties that all said public roads, rights-of-way and routes of travel in Said Counties are to remain open to the free use of the public and for such other purposes as set forth herein; and

Be it further resolved, the provisions of UCA 11-51 – 103 and UCA 11-51-104 be implemented; and

Be it further resolved, that a copy of this resolution be immediately sent to the impacted Forest Supervisors.

Passed, approved and adopted this _____ day of _____, 2014.

Clare M. Ramsey
Garfield County Commission Chair

David Miller
Iron County Commission Chair

Douglas K. Heaton
Kane County Commission Chair

James J. Eardley
Washington County Commission Chair