

Minutes of the Kane County Planning Commission  
& Land Use Authority Meeting  
76 North Main Street, Kanab  
November 12, 2014

CHAIRMAN: Tony Chelewski

MEMBERS PRESENT: Tony Chelewski, Roger Chamberlain, Dale Spencer,  
Dale Clarkson, Wade Heaton

MEMBERS ABSENT: Harold Hamblin, Robert Houston

EX-OFFICIO MEMBER: Commissioner Douglas Heaton (absent)

STAFF PRESENT: Shannon McBride, Land Use Administrator; Mary  
Reynolds, Administrative Asst.; Kent Burggraaf,  
Deputy County Attorney; Ryan Maddux, Building  
Official; Lou Pratt, GIS

5:30 PM Work Meeting

6:00 PM Meeting called to order Tony Chelewski

The chairman asked for a moment to honor the Veterans who were in the room. He asked them to stand up and be acknowledged. Three gentlemen stood up.

Pledge of Allegiance	Tony Chelewski
Prayer	Kent Burggraaf
Announcements	Tony Chelewski

**Motion** was made by Dale Spencer to approve the October 8, 2014 minutes. Motion was seconded by Dale Clarkson. The Chair asked for any questions or comments and there were none. Motion passed unanimously.

Wade Heaton arrived 6:03 pm.

The chairman said the only announcement he had was about Mike Kemp. Rudy is running a truck back and forth but he is cleaning up three or four lots so they won't be a fire hazard.

**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.

**Administrative/6:00 pm**  
**Public Hearing**

**Lot Joinder**  
**Greg B. Winter, Property Owner; Zion View Mountain Estates, Lots 3&4, Unit E; Submitted by New Horizon Engineering, Brent Carter**

Shannon McBride, Administrator: These are a little more complicated than usual. Utility easements need to be vacated.

Brent Carter: I don't have the termination from the Water Conservancy District on this one.

Shannon McBride: We can approve on condition we receive the Water Conservancy [letter of] approval. It has to go before the Commissioners because of the vacating of the utility easement.

Brent Carter: [It is a] 'Consent to Vacate the Easement'. None of the utilities use the easements; all of the utilities are in the roads, but because the utilities are there we can't vacate them without getting the consent of the public utility companies in the area. They are the owners of the easement.

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 Roger Chamberlain to recommend approval to the Commission for the Lot Joinder [and to vacate the utility easement], on condition of receiving the consent of the utilities for vacating the utility easement, for Greg B. Winter, Property Owners, Zion View Mountain Estates, Lots 3&4, Unit E. 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.

**Administrative/6:01 pm**  
**Public Hearing**

**Vacating Lots**  
**Newell Brent & Susan Carter, Property Owners,  
Zion View Mountain Estates, Lots 87, 88, & 89,  
Unit E; Submitted by Brent Carter**

Shannon McBride: Brent has the consent from the utilities. We can go forth with the approval at this time. He is vacating his lots out of Zion View Mountain. Estates Subdivision with the intent to create a new subdivision next month.

Brent Carter: I have a [Consent to Vacate] letter from Garkane, but not from the Water Conservancy District. Those are the two [utilities] that are in Elk Ridge.

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 Roger Chamberlain to recommend approval to the Commission for Vacating Lots of Newell Brent & Susan Carter, property owners, Zion View Mountain Estates, Lots 87, 88, & 89, Unit E, [and to vacate the utility easements] on the condition of receiving the Water Conservancy District consent to vacate the utility easement. Motion was seconded by Dale Spencer. 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.

**Administrative/6:02 pm**  
**Public Hearing**

**Lot Joinder**  
**Charles K. & Patricia F. Beckstead, Trustees of  
the “Beckstead Family Trust 11-15-13”; Elk  
Ridge Estates, Unit I, Lots 13 & 14; Submitted by  
New Horizon Engineering, Brent Carter**

Brent Carter: This one is only two lots to join together; there is a [utility] easement going down the center. The only two utilities in this area are Garkane and Elk Ridge Estates Water Company.

Shannon: We are [also] waiting for some clarification from a lien holder. The old bank hasn't released its lien. There is this condition to be taken care of.

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 recommend approval to the Commission for the Lot Joinder of Charles K. and Patricia F. Beckstead, Trustees of the "Beckstead Family Trust 11-15-13"; Elk Ridge Estates, Unit I, Lots 13 & 14, that the utility easements are vacated, and upon the condition that the lien holder is released. 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.

**Administrative/6:03 pm**  
**Public Hearing**

**Lot Line Adjustment**

**Paul O. & Lea R. Green, Trustees of the "Paul & Lea Green Revocable Trust 10-5-89"; Elk Ridge Estates, Unit 4, Phase I, Amended, Lot 97; Submitted by New Horizons Engineering, Brent Carter**

Brent/Shannon: It's all good to go. Quit claim will take place at the Records [Office]. Elk Ridge Homeowners Association has a lien on one of the lots; it has to be cleared up. It's probably past dues. Mark Jacobs hasn't been in town and we don't want to hold it up. It won't be recorded until it's taken care of.

Wade Heaton: What is our check and balance on a lien?

Shannon McBride: If we don't get consent, the bank can make the property owner vacate the amendment to the plat because they hold ownership when a lien is in place. [The lien is on Lot 98 for \$1,100]. It came up on the title report. The way to find problems with the property is during the title [search].

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 Clarkson to recommend approval to the Commission of the Lot Line Adjustment for Paul O. & Lea R. Green, Trustees of the “Paul & Lea Green Revocable Trust 10-5-89”; Elk Ridge Estates, Unit 4, Phase I, Amended, lot 97, that the utility easement be vacated, and upon condition of clearing of the lien. Motion was seconded by Dale Spencer. 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.

**Administrative/6:04 pm**  
**Public Hearing**

**Lot Joinder**  
**John & Annette McCarthy, Trustees of “Annette S. McCarthy Qualified Personal Residence Trust 6/4/08”; Elk Ridge Estates, Unit 3, Lots 26 & 27; Submitted by New Horizons Engineering, Brent Carter**

Brent/Shannon: Everything is good to go except correcting the title, amending the subdivision and the deed. We have the consent for vacating the utility [easements] and the water [storm drainage] easements. The county engineer checked the storm drainage to clear it to be vacated.

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 approval to the Commission of the Lot Joinder for John and Annette McCarthy, Trustees of “Annette S. McCarthy Qualified Personal Residence Trust 6/4/08”; Elk Ridge Estates, Unit 3, Lot 26 & 27, with the vacating of the utility and storm drainage easements, and with condition(s) of getting the amended plat on the deed, and correcting the title. 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.

**Legislative/6:05 pm**  
**Public Hearing**

**Zone Change: From Residential-1 to Agricultural**  
**Dell Timpson, Property Owner, Parcel # 120-1,**  
**1975 N. Consumer St., Church Wells, UT;**  
**Submitted by Dell Timpson**

Shannon McBride: I have pictures and we have a map on the projector to show the plat so we don't have to do a site visit. There is a petition with 47 signatures presented by Mary Lockhart in favor of the zone change [referring to the map of Church Wells shown on the projector.] This is Dell Timpson's property. This is the Grand Staircase-Escalante National Monument (South Coyote Allotment-grazing zone); this is SITLA. Mr. Timpson's property is surrounded by agriculture. Mr. Timpson's property is 22+/- acres, in line with agriculture [zoning]. This is Mr. Broderick's home; he is for the change. We also found a county road that needed fixing and Bert Harris went out and fixed it. We had a complaint the horses weren't being fed, but I took photos of the feed. [Shannon presented 360-degree view with photos of the area to show the site(s)]. This is the road going out [towards Hwy. 89]. This is a home on Dell Timpson's property; the road I showed leads to the GSENM. [Further described what was being seen through the photos and via the map, including Rocky Wright's home, the person closest to Mr. Timpson's operation, and in opposition to the zone change.]

Shannon: Lou is here to verify this is a county road.

Lou Pratt, GIS: There are two different types of roads out there. [They are] dedicated easements but not maintained by Kane County. They are [in a] subdivision with easements that are dedicated to the county and the public. If the road was brought up to standards then Kane County would maintain it.

Dale Clarkson: The corrals and horses are between Rocky Wright and Dell Timpson?

Shannon McBride: Yes. You have 47 petitioners who signed and want the horses there. Some who signed the petition showed what they own [how much acreage]. I think there are only 57 residents in the subdivision. Mr. Timpson was informed he could do a conditional use permit or a zone change. You have my recommendation letter in your packets and I have explained thoroughly why.

Wade Heaton questioned what the Broderick's owned. Shannon McBride indicated on the map what areas were his. She also pointed out what part of the acreage Rocky Wright had purchased. He asked if there were any homes in a big portion of the acreage that appeared empty [30 Lots] and the citizens in the audience said no. Shannon showed on the map which part of Church Wells was designated commercial and residential. Wade asked how many of the lots to the West had been purchased.

Janiece Broderick [A local real estate agent operating out of Page, Arizona] answered: That Golden Circle has all been sold to different people, but the lots are too small to build on. We were told we couldn't build on the lots [as small as they were.] You have to own two or three together; no one has ever built in there.

The applicant and Church Wells residents were offered a time to speak:

Dell Timpson: I am doing my trail business and keep my horses there. I board horses and train horses and possibly am going to set up a dude ranch with different activities. That's all.

Rosalynn Bell (resident): I live on 5<sup>th</sup> Ave. I would like clarification of who owns the property. I have a warranty deed that states that Home Global Property owns it.

Shannon McBride: We have an application from both Dell Timpson and Home Global International [signed]. We have two applications because the property hasn't been switched over [yet] after it was purchased.

Dell Timpson: It is currently owned by Home Global and I am their authorized representative.

Rosalynn Bell: Also, where the [horses] are, I haven't been able to run my air conditioner; I am constantly sick. I have sinus and bronchial infections; the horses make me sick.

Ms. Bell was asked to show on the map where her house was located. She said she was approximately 850 feet from where the horses were. Shannon McBride added the Sheriff was called out a number of times, though she wasn't aware of anyone being cited.

Kent Burggraaf, Atty.: As far as the complaints have gone, there hasn't been any criminal offense. People often have potential civil claims, but they don't rise to the level of being criminal. If there are smells, dust and things like that, it is not enforced by the Sheriff's Department [at this point]. It may be enforced through some civil action.

Rosalynn Bell admitted she was the person who had called the Sheriff's Office twice to complain.

Dalton Williams (resident): [He pointed on the plat map where he lived in conjunction to everything.] I have not met Dell personally. I have no objection to what they're trying to do. I am concerned they are operating what I consider a boarding operation for horses and they are running a business out of it. They keep their stock there and they take them somewhere else to put riders on them. It's a business; they aren't pets. Currently no one lives there [in the house]. The same business can be operated with a conditional use permit; they don't have to have a zone change. The prevailing winds are from the West. All the homes you see to the East are downwind of the horses. A zone change gives away the farm. You'll lose total control for what goes on outside of running a myriad of operations for commercial animals - chickens, pigs, anything you want to do in agricultural with a zone change. With a conditional use permit you have total control relative to them being a nuisance if they are.

Dalton Williams (cont.): Currently, all the horses they have are corralled in small pens in the front. They have been requested to move the fences around the water meter, so we could have access to it. Currently you have to go inside the corral to get to the meter to do anything. I was out there the day they had to change the back flow valve and we had horses pushing us trying to get to the fence. The [horses] have kicked the cover off the back flow valve because they can trample it and get to the edges of it.

Tony Chelewski questioned whether the valve was on private property or on public access and Mr. Williams told him it was on private property. Tony Chelewski said it should be moved and Mr. Williams agreed or a fence should be put around it so the horses couldn't get at it yet the Water Master could still access it.

Dalton Williams cont.: It is spot zoning and it is a downgrade for a residential area. You are taking an area that is essentially rural and turning it into a commercial operation. I am not opposed to anyone having horses out there if they are taken care of and given room to roam, and kept away from the street. The trailers parked out there are outside the fence and that is a public right of way.

Mary Lockhart [resident]: [Provided petition with 47 signatures in favor of Dell Timpson's zone change request.] I have known Dell for seven years; he's not running a business out of there and he's not going to. Yes, he has his horses there, but he doesn't have a business there. I got the petition [together] and if you look at it, it has two lines. [One shows the signature; one shows how many acres the person owns.] I don't think Dell will ever take advantage of it; I know him and his family. I am behind him 100%. I did talk to Dell and he said he would put a fence around the [water] meter.

Tony Chelewski: He just trailers his horses out of the facility to utilize them, right?

Mary/Dell: Yes. He doesn't run his business there; he trailers the horses over to the resort.

Rocky Wright [resident opposed to zone change] first addressed how the westerly winds have carried the dust to his house and caused sinus and throat problems. The 23 horses on the half-acre have eaten all the vegetation causing the dust to be worse.

Mr. Wright addressed how he believed Lou Pratt & Shannon McBride declared roads in Church Wells were county roads as of last Thursday (Nov. 6<sup>th</sup>), when they haven't been for 27 years. He said he asked Bert Harris (road department) several times to fix the roads out by his house but could never get him to come out. He will follow up on that with the road department. He referred to them as Class B and Class D roads. He said his road (adjacent to his home – the one that the weather washed out) was finally fixed by the county.

Mr. Wright read a letter he asked to have placed in the P&Z packets, which is attached to the minutes.

There was a short discussion on the availability of water for Mr. Timpson's horses. Tony Chelewski asked Mr. Timpson what water he used. Mr. Timpson answered he used city water. Tony Chelewski stated if he used it he must pay the bill as if it were

for lawn and house and not for alfalfa or hay [or planted crops]. Rocky Wright verified the Water Master said there was enough water to maintain the horses on that property, including the maintenance of cattle and stock leases outside Church Wells [which are] on an on-call basis. They keep water available for them [the people who carry the leases] because they keep in touch with the Water Master.

Kent Burggraaf: It should be noted for the commission members the water is not provided by the county but by the Church Wells Special Services District. Some of the issues that potentially came up prior, by a previous Planning Commission, may not be applicable because any future owner will have to negotiate their own agreements with the Special Services District and the county is not involved with that.

Rocky Wright: I agree. It would be the roads and the potential tax sources the county would be involved in. The Water District is an appointed board by the Kane County Commissioners and they have jurisdiction over the water use in that area. The current holding tank is 160,000 gallons; we have a draw-down of 30,000 gal. and we have to notify the Fire Department of Big Water that we're at that level. If we go below 30,000 we are in violation of rural water and fire protection and prevention. That's a different deal; you have people here who can address that.

Dale Spencer: There's 22 acres available to subdivide on Mr. Timpson's lot, right? If there was a home on each acre, wouldn't that take a lot of water?

Rocky: Yes. At present we have a deeded water right in the Church Wells area. It was established (by my wife and I) in Salt Lake [City] and we got the funding to build the storage tank. We lost some of our extra water rights a couple of years ago through (Rep.) Mike Noel and the Water Conservancy District and Ed Robbins, Attorney for the Water Conservancy District.

Dale Spencer: If this property remains as it is, and he develops some home sites, it would take a lot more water than if it was used as [Del Timpson is using it].

Rocky Wright: That is correct.

Dalton Williams: That would be excessive build out. The current build out is the existing lots. If you subdivided that into 100 lots that would be in excess of the existing lots and the capacity.

Dale Spencer: There are no water rights on that property?

Tony Chelewski: Water rights were given up to the Special Service District. Everybody out there is a customer. It's like Paria; they buy their water now.

Dale Spencer: Based on that, this property can't be developed.

Shannon McBride: It can be developed, but they would have to put in their own water system. Just like Elk Ridge [Estates] had to do.

Kent Burggraaf: The rezone doesn't have to have a bearing on water rights or usage. If the property owner is going to sell it, or whatever use they have for it, they are going to have to negotiate that. It doesn't have any bearing on the rezone issue. It doesn't have any bearing as far as [being] a burden on the county. It is up to the property owner to work out his or her [water] arrangement.

Rocky Wright referred to the past attempt to rezone. He read the back page of his letter, which is attached to minutes.

Shannon McBride pointed out the research facts from 1987 minutes. The Planning Commission recommended approval. But there was a letter with 17 signatures against the rezone. The property owner withdrew his application when he saw there were so many people against the rezone. The Commissioners subsequently voted against it.

Mary Lockhart: I checked our water out [with the Water Master] and our tank is 175,000 gallons. Last year we pumped between 11 and 13 million gallons. Dell's horses are using 11,000 gallons a month and he's paying for 15,000. [According to the Water Master] that tank was set up for 200 connections. We have 72, and 52 that are active. There's plenty of water for Dell's horses. We have two wells and two pumps. It hasn't run dry. As far as allergies, I have them too, but the wind has been so bad the last few days - we have cinder blocks set up behind our B-B-Q and it actually brought them down. You can't turn the a/c on right now, there's too much wind.

Rocky Wright: There's no question Church Wells has the capacity to water Mr. Timpson's horses. It is not an issue. It's the future that is in question. [Went to map

and discussed property and land use.] There is very little nuisance impact in the 2.5 acre tracts [because so many tracts are vacant]. I have filed complaints now because my wife and I are on the front lines. We get the brunt of the horses; we get the noise, dust, stench, feed-lot stench, flies, and all the things that go along with this kind of activity. I have called the Sheriff's Department and I have filed complaints, not because of Mr. Timpson and his operation, not because of his horses, but because of the way things have evolved, because of our proximity, and the way Mr. Timpson has taken care of his operation. It's unfortunate for him that we have to be, as Ms. McBride said "Citizens vs. Dell Timpson".

Tony Chelewski: I don't think he'll keep his [23] horses on that same site [front acreage] when he owns another 20 and a half acres. He's going to expand on that and spread out, and you guys will probably be able to stand it a little better.

Ryan Maddux, Building Official: Are you opposed to the zone change or the whole operation or both?

Rocky Wright: I sympathize with Mr. Timpson. I am not sure he has exhausted all his possibilities. There's other areas [zoned agricultural] that are available. I am not against him making a living with horses; I am against commercial/agricultural zoning in that location. I am adamant; I am definitely against it. There are other places where this should be. If this goes through, the Sheriff's Dept. knows I am not going to stop making complaints. This has had a huge impact on my life and my wife's.

Mary Lockhart: Tim Haley, lives right beside Rosalynn Bell, he signed the petition [in favor of the horses]; my sister-in-law owns a house right next to Rosalynn, and she signed the petition; so did my brother, he owns property there. All three people who live on that street where Broderick's live signed that petition. On Rocky's street there are only two people besides Rocky who live there. One of them signed [the petition] and the other said no, not because of anything other than they didn't want to get involved.

Rosalynn Bell: [Some] of the homes are vacation homes and they [owners] are there maybe four or five months out of the year. I am there all the time; it has affected me.

William Dalton: I don't have a problem with him personally; I don't have a problem with the horses. I think he ought to spread them out a little bit and get them away

from the street. He could do what he wants to do with a conditional use permit. I have great opposition to changing that to Agricultural because it gives up total control with what goes on in that area in what's been a rural bedroom community. A conditional [use permit] can be regulated.

There was a short discussion on how many horses could be on a residential piece of property and that a person could apply for a conditional use permit to allow for over ten.

Kent Burggraaf: His property could be subdivided to allow for more horses but it's a longer process.

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

Wade Heaton: I have a strong belief the rights of private property owners need to be protected. We need to keep our nose out of peoples business and let property owners do what they want to do with their property. On the other side, the reason we have zones is to protect the uses in that area. My number one concern is to protect the existing zone. This is a complicated issue. If no one had bought property in there, it would be easier. But a lot of people have bought R-1 in there and we have to protect their rights. As much as I love what Mr. Timpson's doing, I feel bound to protect the zone above all others.

Dale Clarkson: I am committed to respecting property owner's rights. They need to use their property. If it doesn't fit then the zone change is available through our county ordinances. Where this property is sitting, with open space all around it, I would think Mr. Timpson would find it convenient to move his operation back from where it is now. It seems to be the thing that's causing a lot of the aggravation and resistance. I think he would learn from the hearing that's an option for him, as the owner of the property, to make proper use and get along with his neighbors. The 22 acres does not need to stay in residential.

Dale Spencer: I think we should protect the land owners, but we have land owners on both sides. Having lived in Beryl, Utah, and seeing the wind cover the fences with sand, the only solution was to plant trees, [or raise the fences.] I hate to see conflicts; I hate to see dust coming in from an operation [or] the manure that sits there. I think we have a responsibility to protect both, and I'm not sure how to do it.

Roger Chamberlain: There's 22 acres zoned R-1. How many horses can he put on that? [10] If he split that parcel he'd still have 20 horses there. The property rights we're protecting aren't really protecting anything because he could then have 40 horses.

Kent Burggraaf: You have two limitations on numbers of large animals. One of them is square footage; the other is a limit of up to ten per parcel. He could have one large animal per 6, 250 sq/ ft.; [you have a square footage limitation], or up to ten per parcel. You're probably [actually] getting five or six [per one acre].

Rocky Wright approached Shannon McBride from behind and tried to speak with her after the Commission Planners had gone out of public hearing. Shannon instructed Mr. Wright she could not speak with him during this time and told him to remove himself from the table. Mr. Wright momentarily argued with the accuracy of the numbers to quantify animals on square footage then he sat back down.

Kent Burggraaf continued to discuss the limitations on numbers of large animals: Like I said, you have the square footage limitation and up to ten per parcel – currently we're dealing with one parcel in one zone. If it's not rezoned then there are some other options to get the number of horses allowed through a conditional use permit, which keeps the lot as is. Or you could go through a subdivision process to get it down to how many number of lots desired so that a number of horses could be accommodated. There are a number of other options than just a rezone, it's just the one proposed with staff support because of what [zoned acreage] surrounds it. You're not spot zoning the scenario as much as you are moving the current boundary of the R-1 zone.

Shannon McBride: If you will all open up your packets you will see the [definitions] of both the agricultural and residential zones – the exact wording. The exact ordinance language is in there. Look at the use matrixes in both chapters and the differences.

Kent Burggraaf: What's important to consider are future land owners; are you comfortable with this one lot having any of those uses or additional uses that are currently in that chapter if you either permit it [zone change] or offer a conditional use permit application.

Discussion continued on how the land could be used should the zone be changed, or what the possibilities were if Mr. Timpson was given a conditional use permit, including having to come back to the Commission to establish that. They established [if the acreage was subdivided], that the multiplication [and square footage stated in the ordinance] would allow 6.9 horses per acre. That would work out to 6.9 horses multiplied by 22.

Shannon McBride: If this is changed, I regulate it according to the zone, chapter 5; or if it's a conditional use, I regulate it according to the conditional use.

Tony Chelewski: We have the water situation which is Church Wells' fault; we have people who don't like the dust; your horses will eventually eat every inch of straw on the 22 acres. You'll have to move them around. No matter how we vote, everyone will have to put up with some of it. I've been through this. We can only recommend to the Commissioners how we think this should go. But you still have to get along.

Wade Heaton: I think we're complicating this. This is about a zone change, only, and its uses. It's not about water, dust or allergies. It's Ag on two sides already, but R-1 on the other. Our number one responsibility is to protect the zone.

Wade Heaton asked if they could resolve the conflict with a conditional use permit. The chair replied they were there to either change the zone or keep it the same. A conditional use permit would have to be applied for at a different time [meeting]. That is not what they are voting on.

**MOTION** was made by Dale Clarkson to recommend approval to the Commission of the Zone Change for Dell Timpson, Property Owner, Parcel # 120-1, 1975 N. Consumer St., Church Wells, UT, from Residential-1 to Agricultural. Motion was seconded by Dale Spencer. The Chair asked if there were comments or questions and Wade Heaton asked to make an unfriendly motion to disapprove the zone change, but there was no second. The Chair called for the question and Tony Chelewski, Dale Spencer and Dale Clarkson were ayes; Wade Heaton, and Roger Chamberlain were nays. The motion passed.

The Chairman called for a 10 minute break at 7:45 pm.

The Chairman called the meeting back into session at 7:54 pm

Chairman Chelewski called the Commission into public hearing.

**Administrative/6:10 pm**  
**Public Hearing**

**Amending a Subdivision Plat**  
**Duck Creek Partners, LLC, Stewart Duck Creek**  
**Subdivision, containing 16 Lots and 24.4 Acres;**  
**Submitted by Atty. Edward Robbins**

Ed Robbins: [This is] the famous one with the fence by the trees. The last time the Commission recommended approval, Tom and I talked and we saw a bearing on the plat that was wrong. We went back to the engineer [to question it] and discovered it was indeed wrong; it was something they had missed. It was important because it allows the road to be moved without moving the large transformer. Even though it seemed like a small change, it allows the cable to be changed quite a bit. The latest communication between the engineers is that all has been reconciled, except one distance. But since Tom has been sick he hasn't been able to do what he wanted to do on that point. It's down to one distance on the plat.

There was a short discussion on distances, fences, and how they went about correcting the plat. At this point, it only needs Tom's approval [for that one distance which is in question.]

Kent Burggraaf: I agree; it looks like it is one distance. The verbiage of the motion is to recommend approval subject to that one distance being 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 approval to the Commission for Amending a Subdivision Plat for Duck Creek Partners, LLC, Stewart Duck Creek Subdivision, containing 16 Lots and 24.4 acres, conditioned upon the correction of one distance on the plat [as approved by Tom Avant, County Engineer]. 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.

**Administrative/6:12 pm**  
**Public Hearing**

**Rural Unimproved Subdivision**

**Larry Barnes, Property Owner, Jump Up Canyon Subdivision, Parcel #9-6-30-6A; Submitted by TC Engineering, Tom Avant**

Shannon McBride: Tom isn't going to be here for the rural unimproved [subdivision]. This is above the KOA [Campground]. They are just making four lots. [According to Warren Monroe, Engineer] everything is good to go.

There was minimal discussion on where the accesses were. Shannon showed them on the plat map, indicating the road was maintained by the county.

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 Clarkson to recommend approval to the Commission of the Rural Unimproved Subdivision for Larry Barnes, Property Owner, Jump Up Canyon Subdivision, Parcel #9-6-30-6A. Motion was seconded by Dale Spencer. 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.

**Administrative/6:14 pm**  
**Public Hearing**

**Lot Joinder**

**Michael E. & Thesalynn Peterson, Property Owners, Ponderosa Villa, Plat C, Lots 57 & 58; Submitted by TC Engineering, Tom Avant**

Shannon McBride: Everything is good to go and it doesn't have to go to the Commission. There are no utility easements.

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 approve the Lot Joinder for Michael E. and Thesalynn Peterson, property owners, Ponderosa Village, Plat C, Lots 57 & 58. 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.

**Legislative/6:15 pm**  
**Public Hearing**

**Kane County Land Use Ordinance**  
**Proposed Changes to Chapters 1, 5, 6 & 7**

Shannon McBride: [In chapter 1] we have to add/revise a definition that keeps coming up. We need to add 'Recreation Camp'. I've had two people come in the last two months wanting to do a campground. Then they call it a Recreational Camp, so it has been difficult to decide which one they should be under. I decided to add an extra [definition] for Recreation Camp to help me choose between the two. The parcels [in question] are zoned Ag. In talking to Kent, Recreation Camp is broad – it usually means something like a scout camp - so I thought we could put the definition in to help.

A discussion ensued on the wordage of the definition. Questions included – could it be a tent or an RV? Also discussed differences and usages; how to distinguish between one or the other; whether commercial uses are allowed; if overlap will be allowed, etc. The difference between the two definitions right now is there are sports activities listed under Recreation Camp, whereas under Campground there are no activities listed. A campground falls under state regulations. It is in the matrix, but there is no definition to go with it.

There was discussion about the difference between an RV Park and a Recreational Camp. Shannon stated there was a [full] definition for RV Park, not Recreational Camp. Another distinction is a Recreation Camp is not necessarily permanent. A campground is permanent.

Shannon McBride: The gentlemen who want a campground in Johnson Canyon and east of Zion both want a KOA-type of thing, with campground, gift shop, [etc.]. They intend to have campsites, cabins, and RV sites. A campground is not allowed in Ag right now.

| Shannon McBride showed the Commissioners where state code was listed, (specifically, the regulations for public notices) indicating there were a lot of calls [on the current zone change request] about whether office staff had followed the

correct procedure for notifying the public of the hearing (i.e. mailing out public notices to those within 500 ft of the property and posting a sign.) Shannon did both. Planning & Zoning applications have the 500 ft. notice.

Kent Burggraaf: Originally we had a paragraph that summarized what was required in state code; this is a clean-up job of that. Shannon did the 500 ft. [notification of property owners] because it is on the application, but under the current ordinance she doesn't have to. It is a discretionary thing currently; it's more up to you [Planning Commission] [whether, by ordinance] to give notice beyond those who are directly affected, or whether you require notification [to more property owners]. [The notification costs are] charged to the applicant to cover that expense. Kanab City doesn't notify anyone except the adjacent property owner. It's discretionary for staff to make those notices; it's not a state code provision.

Shannon McBride: We've done it as long as I've been here. State code says and/or so I do both. Just to let you know - coming soon - we have to [re]zone the whole forest on Cedar Mountain and this will affect that. It's going to be huge just like our Grand Staircase-Escalante National Monument was. To do that we had to have other departments assist because it was beyond the capability of my office. That one will be too, but if you inform the public they don't think you're doing things behind their back.

Tony Chelewski: I have a question for Ryan. Would 600 ft. make a difference? That would be 200 yards.

Shannon McBride: Lou is the one who prepares it [the list] for me. He prepares a radius. That's a cost to the applicant; \$10 a piece.

Kent Burggraaf: This specific section deals with amendments to the Land Use Ordinance, which would include rezones or boundary changes; but when it comes to Lot Joinders, this wouldn't [apply].

Ryan Maddux: I know you want certain notices for certain things- like a 1,000 feet on certain things. You could do a table.

Kent: Yes; these are minimum standards for land use or rezone by state code, but you can add to it. You can outline where you want certain things to be or have

certain notices [mailed]. [In regards to Lot Joinders] State code says [notify] affected owners.

Wade Heaton: We could make Shannon's job easier for Lot Joinders and the bigger one's [handle them different]. Make it bigger on one end and smaller on the other.

Shannon McBride: We put [the notices] in the paper, post it in three [public] places, and upload it to the state and county web sites.

Ryan Maddux: [If you handle them different] you need to have a good reason for delineating between the two. What may be a big issue to you may not be to somebody else. One might wonder why they didn't get noticed if the issue was important to them when [their neighbor was notified]. That [600-foot] range sets the [stage].

Kent Burggraaf: I would just interject it's up to staff, but forms can be changed. She has discretion in notifying them more than is required [by our ordinance]. That's just something you need to be aware of.

Shannon McBride: Are you O.K. with that then? Chapter 5 – Would you want campgrounds on 10-acre pieces? I have two – one in Johnson Canyon and one in East Zion – which are both Ag pieces. They are both campgrounds; if you don't put it in they will have to go through a zone change to commercial. If you think it is an Ag use or a commercial use – they do have the zone change option. Both are waiting on what happens in Commission meeting. This is in Ag – it is already in commercial [it is proposed to be added]. In Kane County, most pieces are Ag. We do not have a lot of ten-acre commercial pieces, but it can happen. You're always bringing the subject up about spot zoning. Would you like the East Zion [property] to spot zone for a 30-acre piece; would you allow that to be commercial? The commercial [zone] in Kane County is usually butting up to [Highway] 89.

Wade Heaton: That's why I wanted to change the name of the zone "Ag". The zone "Ag" doesn't have anything to do with agriculture, it's just a name. We have a lot of commercial activity that is already listed on the matrix. Construction equipment and trailer supply are a lot more commercial than having a campground. The zone Ag has always been one of our least restrictive zones, and we're allowing electrical substations in there. A campground fits in that nicely.

Roger Chamberlain: That's not much different than a Dude Ranch. What is the difference?

Shannon McBride: A Dude Ranch is where you get horse rides, a cowboy chuck wagon dinner; and a campground is a KOA and you can have tents.

Kent Burggraaf: There's a cowboy ranch at the Paria River; I don't know if it's actually a Dude Ranch, but they do allow camping there as well.

Dale Clarkson: Is that what we're voting on; to change the matrix to add campgrounds to Agriculture? [Yes.]

Discussion continued on what is allowed under campgrounds; including primitive camping and commercial ventures on agriculturally zoned land. The zone doesn't dictate the commercial venture.

A member of the public [Dalton Williams, Church Wells] added his opposition to the changes to the definition of Chapter 5 because of the [current] case in Church Wells, it would allow more things a property owner could do in the midst of a residential area. He stated this was a commercial activity; and you don't go in there and camp for free. You don't raise 23 horses behind a fence for pets; it's a business.

Shannon McBride: Chapter 6 is up to Kent.

Kent Burggraaf: The first change in the use table is just a duplication of what we have elsewhere. [Kent briefly went over what had already been changed and/or deleted.] Going on to 9-C6-1, where intent was spelled out again, [Kent went over the wordage and definitions and use charts.] These are minor changes.

Shannon McBride: [Took over on "RV" Ordinance.] On this I am having struggles. It is very difficult to regulate. If somebody calls and reports [someone living in] an RV on a property, I log it in from that date and I give them six months [to remove it]. If they don't remove the RV after six months I have no way of knowing if they occupied it. [The question is] do I really want to regulate that? I have been telling people they do have to take the RV off. But [as in] people from Las Vegas, they usually [remove it], but there are people with canopies and they plan on storing them under there [on Cedar Mountain]. When I explain to these property owners, if you go back to the 1970s, RV use was never allowed. We have actually made an

ordinance that allows them now so they can legally do what they have been getting away with anyway. I haven't had one [owner] get mad at me once I have explained that - yet. The problem with trying to regulate this is [determining] when they started living there.

Shannon explained the situation in Vermilion Cliffs where a woman has an RV [like a park model]. A property owner made a complaint. If it isn't removed there will be unhappy property owners. Enforcement is the issue.

Kent Burggraaf: They can live in it for 6 months, and then they can just store it in accordance with Section 4. Hypothetically, you could have a person with two RV's; they can store one and move into another [for another 6 months]. How this [ordinance] is worded isn't sufficient to fix it. Under this one, if it's been occupied, after six months it must be removed. But it's unclear whether that's for a week or two, or for the full six months; there is no way to [keep track].

Discussion continued on why Planning & Zoning regulating RV's. It is personal property like an ATV. The Health Department isn't regulating them; there are gray water and septic issues. Shannon said there are 20 on the books right now. Currently, the ordinance allows [people] to live in their RV for 6 months. P&Z mitigated the use by allowing it for 6 months. It was suggested a zone should be created that allowed for primitive living [in an RV] but Ag already allows for that. P&Z is dealing with it because neighbors have called in complaints. [Permanent] RV's are lowering the value of their property. Complaints come in from all over the county. People can still get a Temporary Use Permit, while they are getting a building permit, to live in the RV longer.

Kent Burggraaf: Some municipalities have the requirement if you're living in an [RV] you have to remove it from the lot after a certain number of days. As far as other counties go, I don't know. The easiest way to enforce it is to see that it [the RV] is removed.

Shannon McBride: The best example is the Ray Well's situation. It is six miles east of town. [The woman] moved in what looked like a park model [next door]; she didn't have it hooked up to the septic. When Ray called, I went out. [Subsequently,] the Health Dept. made her hook it to the septic. Ray was upset because it was an eyesore. We told her she had six months [and then she had to move it], and Ray was satisfied. But now the six months is over, and I have a young lady who works for

Best Friends, she is from Arizona, paying no taxes, she only went to the Motor Vehicle [Dept.] and licensed it – do I want to protect property rights on property that isn't hers, or Ray Well's, a business and land owner, who pays property taxes in Kane County. Who am I really trying to protect here? Half of the people on Cedar Mountain take their [RV's] home because they can't take the snow load – they take them back to Nevada.

There was a brief discussion on RV's abandoned on various lots after the snow load has crushed them. The discussion continued to the question of why personal property [like an RV] was being regulated at all. There was a suggestion that maybe the list [of uses] should just be extended. There was concern about not doing anything at all, which would cause a bigger problem in the future. Limitation of [RV's] on private property would contain [not necessarily eliminate] what is already getting out of hand in various areas. People are taking advantage of this kind of [primitive living] in a lot of remote places in Kane County, with no septic or electricity.

Tony Chelewski spoke about when he took down license plates of people coming and going around Church Wells and Big Water, who had Arizona license plates but were living in Utah. He turned the information over to the Sheriff. He described other instances of people obtaining water from Forest Service campgrounds [or BLM], dumping illegally, and getting around ordinances. The point was if you don't stop them someday, you'll never stop them.

Kent Burggraaf: Based on your observations [speaking to Tony Chelewski] Shannon could more easily enforce that. Where Shannon's issue is, where it's most observable, it is easier to have it removed. If it isn't observable, who can keep track? If someone is an eye witness, they could be made to sign an affidavit to that effect, which is something that could be implemented.

Ryan Maddux: My struggle is trying to take this extra step; you are never going to stop some people from trying to get away with things. They will always try to get around the rules. We won't be able to cover every [scenario]. I have issues that we are now saying that just because you used it [the RV] you are giving up your right to store it, when a neighbor can store it. Then you have another enforcement issue; say the guy uses it, and you make him remove it, and he moves it for six months and brings it back onto his property, and the neighbors start complaining again. Say he doesn't visit for two years; are we saying [determining] he's using it or not using it?

Shannon McBride: At this point I recommend you O.K. Chapters 1 and 5 and postpone Chapters 6 & 7 so we can get to the Resource Management Plan. It is essential we get to it. The season may dictate some of the problems I am having with RV's.

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 Roger Chamberlain to recommend approval to the Commission of the revisions to the Kane County Land Use Ordinance Chapters 1 and 5. Motion was seconded by Dale Spencer. 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 Wade Heaton to postpone the proposed changes to Chapters 6 & 7 to the December meeting. Motion was seconded by Dale Spencer. 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.

**Legislative/6:15 pm**  
**Public Hearing**

**Kane County Resource Management Plan**  
**Proposed revisions to Sections 1-8**

Shannon McBride: In Section 1, we did some more edits as far as grammar; we did change the order some. Section 1 is very easy. The most important section is Section 4. It was very wordy; it had a lot of science they had us put in and report. We will look at the version without the track changes. The reports are shortened up and condensed so they make more sense. The science is going to be removed to an appendix in the back and we kept in the information that pertained more to [current day] Kane County. We rearranged some of the topics for flow, and we updated some of the information via Internet research. We fixed some of the problems in the Section, like doubled photos. Commissioner Matson gave us the mandate to make it "easy enough that a 5<sup>th</sup> grader could understand it." It's as close as it is going to get.

Shannon said she will take over the [details] for the Resource Committee to get the minutes posted, the website operating, etc. They are too busy with meetings and we

are already posting notices, uploading minutes, etc. It says in the Resource Management Plan that from time to time the Planning Commission can recommend changes, so we've taken that, and are revising [text] to shorten it up. We need to have this for the Dec. 8<sup>th</sup> coordination meeting and we will also be initiating coordination on the forest up at Cedar Mountain. A lot of counties are looking at our Plans now, so it is important we get it to a more "professional" state. That's why the P&Z is being asked to [approve it]; it has the means and the resources.

Kent Burggraaf: And you have the statutory authority. The Resource Management Plan falls under the General Plan provisions. Most of the components, if you have them now, if you are going to have a Resource Management Plan, can be incorporated into your General Plan. You have statutory authority. Anything that will go to the County Commission related to this would have to go through you for recommendation.

Wade Heaton: It makes sense to shorten it up and put a lot of it in the appendix.

There was a request that future Sections be sent without track changes [or one of each version] so it is easier to read. Shannon explained the process; the Commission sees both [with and without changes], Kent finalizes it and then adds a resolution to pass. Shannon told board members they would receive one complete copy of the Resource Management Plan at the end. The coordination meeting attendees need a copy and there are 28 people. She encouraged all members to attend the Dec. 8<sup>th</sup> coordination meeting because it pertains to over a million acres, and over \$23 million for Kane and Garfield Counties.

Dale Spencer: There are things I saw that could be changed. Why do we need to do this? You could do this; you could take care of most of the edits if you didn't change the meaning. In this case, you weren't changing the meaning, you were just condensing it. Why do we have to approve what you're doing and not bring it back to us for a vote.

Kent Burggraaf: [Doable?] Yes. It would be appropriate to pass [through] this draft. It's somewhat drastic to move things around, [like she has] and then not pass it on to the Commission. So yes and no; when we get through this, she could go back through and do minor [edits] to make it flow. I will fix the Table of Contents; the changes threw it out of whack.

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 approval to the Commission the revisions to the Kane County Resource Management Plan Sections 1-4. Motion was seconded by Roger Chamberlain. 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.

Tony Chelewski: Dale Spencer is leaving us next month and I want you to know it has been a pleasure to serve with him. I appreciate your input.

It was unclear at this time whether Roger Chamberlain was going to vacate his seat. He said he would keep everyone apprised; he is hoping to go on an LDS Mission if his health is good. But, it was stated the P&Z would advertise for two positions on the board via the newspaper.

**MOTION** was made by Wade Heaton to adjourn the meeting. Motion was seconded by Dale Clarkson. Motion passed unanimously.

The meeting adjourned at 9:24 p.m.

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Land Use Authority Chairman,  
Tony Chelewski

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Land Use Administrative Assistant,  
Mary Reynolds