



NOTICE AND AGENDA OF A MEETING OF THE KANE COUNTY COMMISSION

PUBLIC NOTICE IS HEREBY GIVEN that the Commissioners of Kane County, State of Utah, will hold a **Commission Meeting** in the Commission Chambers at the Kane County Courthouse, 76 N Main St., Kanab Utah on **MONDAY AUGUST 8, 2016** at the hour of 10:00 o'clock a.m.

- CALL MEETING TO ORDER**
- WELCOME**
- PRAYER**
- PLEDGE OF ALLEGIANCE**

PUBLIC COMMENT: Three (3) Minute Time Limit per Speaker for Public Comment.

CONSENT AGENDA:

Check Edit Report approved as signed, Minutes of July 11, 2016 Meeting, and July 26, 2016 Meeting.

REGULAR SESSION:

- 1 Ordinance 2016-9 Nighttime Hunting / Commissioner Matson**
- 2 Kanab Based Wave Lottery Update / Commissioner Matson**
- 3 Increasing Rural Unimproved Subdivision Fee from \$600 to \$1,000 / LUA Shannon McBride**
- 4 Adding Definition and Use of Subdivision Signs / LUA Shannon McBride**
- 5 Zion Rim PUD Preliminary Plat / LUA Shannon McBride**
- 6 Ordinance O- 2016-4 An Ordinance Amending Portions of the Kane County Subdivision & Land Use Ordinances / Attorney Van Dyke**
- 7 BLM Planning Rule 2.0 Update / Commissioner Matson**
- 8 Appointing New Member to Resource Development Committee - Kelly Stowell / Commissioner Matson**
- 9 Ordinance O-2016-6 Amending Title 1 Chapter 8 of the Kane County Tax Sale Rules / Attorney Van Dyke**
- 10 Ordinance O-2016-7 Procurement Policy / Attorney Van Dyke**
- 11 Ordinance O-2016-8 Kane County Tax Sale Deferral Ordinance / Attorney Van Dyke**
- 12 Posting Audio Meetings on the statewide website / Clerk Auditor Johnson**
- 13 Commission Tasks and Assignments / Commissioner Matson**

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.

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Karla Johnson at (435) 644-2458.

Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate.

All items to be placed on the agenda must be submitted to the Clerk's office by noon Tuesday, prior to the meeting date.

CONSENT AGENDA

MINUTES
OF THE KANE COUNTY BOARD OF COMMISSIONERS
MEETING HELD JULY 11, 2016
IN THE
KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

Present: Commission Chairman Dirk Clayson, Commissioner James L. Matson, Commissioner Lamont Smith, Clerk Auditor Karla Johnson, Attorney Rob VanDyke and Press Representative Carol Sullivan.

CALL MEETING TO ORDER & WELCOME:

Chairman Dirk Clayson

PRAYER: Commissioner Dirk Clayson

PLEDGE OF ALLEGIANCE: Commissioner Jim Matson

CITIZEN PUBLIC INPUT:

Will Janes inquired about the county posting the audio commission record to the state wide website.

REGULAR SESSION:

1. Approve the Consent Agenda:

- Check Edit Reports
- Approval of June 13, and June 27, 2016 Commission Meeting Minutes

Motion to approve the items listed in the Consent agenda, made by Commissioner Matson and the motion carried with all Commissioners present voting in favor.

2. Extra Miler Awards / Isis Smith, Keiren Chatterley / Commissioner Clayson

Commissioner Clayson presented an Extra Miler Award to Isis Smith and Keiren Chatterley thanking them for their work above and beyond what was required.

3. Rural Utah Counties Association / Peter Stirba

Peter Stirba, representing the Rural Utah Alliance (RUA), updated the Commission regarding a recent issue that sparked an interest to start a group that is specific to Rural Counties with respect to issues that relate to multiple rural counties. He also stated that the state has appropriated \$250,000 to develop this organization.

There are multiple federal regulations that apply to counties, and this group would provide one location for all the counties to access for information. It would also provide

a resource for expert council and litigation. RUA would also take an active lobbying roll to help rural counties.

Commissioner Clayson asked what determines “rural” for the Rural Utah Alliance, and what roll would Washington County take?

Commissioner Smith asked what counties would be involved, and if the group included all counties outside of the Wasatch Front.

Mr. Stirba said that while there may be differences between a Kane County issue and a Box Elder issue, there are also issues that have commonality between them. He further said there are political divisions within Utah Association of Counties, and this group will help counties to avoid the political divisions.

Commissioner Matson asked him to define the role of RUA in comparison with FIP and PLIPCO.

Mr. Stirba responded that FIP has had some changes with a current potential to revitalize it. However, FIP is narrow in scope and RUA is broader in scope, not just limiting itself to litigation.

Attorney Van Dyke expressed concern as to what the actual product RUA would provide was. He would like to have issue-by-issue case-by-case access. He also asked for clarification as to when and issue would fall under the \$5,000 membership vs. when additional charges would apply.

Commissioner Clayson asked if it would be a common practice to take issues that apply to multiple counties as a covered resource without separate billing. He asked if the funding was needed in the 2016 or 2017 year, and if the county needed to commit by the upcoming organizing meeting.

Mr. Stirba said that he has only verbal commitments from other counties at this point.

Motion to authorize Commissioner Matson up to \$5,000 to determine what Kane County Involvement and commitment would be, made by Commissioner Smith and the Motion carried with all Commissioner voting in favor.

4. Canvass of the Elections / Election Specialist Carol Lee Hunt

Election Specialist Hunt presented the overview and Canvass of the June 28, 2016 Primary Election for the Republican Party, Democratic Party, and the Non Partisan School District races.

Commissioner Matson thanked her for a job well done.

Motion: to Approve and Adopt the Canvass of Elections for the June 28, 2016 Primary Election, made by Commissioner Matson and the Motion carried with all Commissioners present voting in favor.

5. Tax Sale properties stricken off to county acceptance or denial of strike / Commissioner Clayson

Commissioner Clayson reviewed the properties stricken off to the county during the 2016 tax sale. The 5-acre parcels in Clark Bench were divided into 1/3 acre lots in the 1980's. He recommended grouping them together through the county land use ordinance. He further reviewed the laws regarding the "striking off" of the properties.

Motion to accept the properties stricken off to the county, made by Commissioner Clayson and the motion carried with all Commissioners present voting in favor.

6. Appointment of Board Vacancy for Cedar Mountain Fire District / Commissioner Smith

Commissioner Clayson read a letter from Frank Gagliardi, explaining that when a Special District takes longer than 90 days to fill a position then the county is required to fill the position.

Attorney Van Dyke clarified the law regarding the post 90 day guidelines, he verified that the county had posted the opening, which had been completed and only one applicant, Diane Adams, applied.

Motion to Appoint Diane Adams to the Cedar Mountain Fire District Board, 12/31/2019, made by Commissioner Smith and the Motion carried with all Commissioners voting in favor.

7. Appointment to the Tax Advisory Board / Jesse Riddle / Commissioner Clayson

Camille Johnson updated the Commission regarding Jesse Riddle who is the manager of Comfort Suites hotel. The Travel Council/ Tax Advisory Board recommended him for the board position after interviewing all applicants.

Motion to Appoint Jesse Riddle to the Travel Council /Tax Advisory board made by Commissioner Clayson and the Motion carried with all Commissioners present voting in favor.

8. County Heritage Celebrations MOU / Commissioner Clayson

Attorney Van Dyke is drafting the MOU on behalf of the counties participating.

9. Kane County Procurement Code /Attorney Rob Vandyke

Attorney Van Dyke is working on consistency between the Resolution adopting Sole Source Procurement, and the currently proposed Procurement Policy. The Procurement Policy will be adopted by ordinance and codified.

10. Open Meeting Policy /Attorney Rob Vandyke

Attorney Van Dyke updated the commission regarding open meetings. Executive duties do not fall under the open meetings act; the legislative duties do fall under the open meetings act. If you are unsure then default to an open meeting. If it is required to be done in Commission meeting then the discussion should be in Commission Meeting.

If the Commissioner individually has the authority to act then it does not need to be brought to a Commission meeting. He suggested that the Commission adopt a resolution regarding the authority of Commissioners acting over their individual duties. He recommends that the Commission bolster their duties, and identify if it is a department head duty or a Commissioner duty.

Discussion of Commission duties generated discussion about having more time to evaluate items on the agendas.

The Commission instructed the Clerk to prepare agendas by Wednesday at 5:00 PM. Replacing the previous instructions for preparing the agenda by Friday at 5:00 PM.

11. Special Districts

Commissioner Clayson requested more information about the Districts.

- East Zion Special Service District /Commissioner Dirk Clayson

Tabled until August.

The information that Commissioner Clayson would like is as follows:

- Who is on the Board
- Term Limits; Generally
- Board Positions
- Who Interviews and Appoints
- What Type of Entity Local or SSD? Who has Liability? And what is the County's level of liability
- Who audits and what type of audit is prepared.
- Compensation for board members
- If commission seat is required what voting or ex official or by agreement

- Supporting documents, charters, By Laws, and Key Meeting Minutes.
- County Direct Responsibility

- Canyon Land Improvement District (Commissioner Dirk Clayson)

Tabled until August

Closed Session:

Motion to enter closed session for pending or reasonably imminent litigation, made by Commissioner Matson and the Motion carried with all Commissioners present voting in favor.

Present: Commission Chair Dirk Clayson, Commissioner James L. Matson, Commissioner Lamont Smith, Attorney Rob Van Dyke, Clerk/Auditor Karla Johnson

Meeting Resumed and Adjourned

Commission Chair / Dirk Clayson

Clerk-Auditor / Karla Johnson

MINUTES
OF THE KANE COUNTY BOARD OF COMMISSIONERS
MEETING HELD JULY 26, 2016
IN THE
KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

Present: Chairman Dirk Clayson, Commissioner James L. Matson, Commissioner Lamont Smith, Attorney Rob Van Dyke, and Clerk/Auditor Karla Johnson

CALL MEETING TO ORDER & WELCOME:

Chairman Dirk Clayson

PRAYER: Senior Co-Ordinator Craig Hansen.

PLEDGE OF ALLEGIANCE: Commissioner Lamont Smith

CITIZEN PUBLIC INPUT: None

REGULAR SESSION:

1. Review of 2015 Audit Report, Kimball & Roberts / Commissioner Clayson

Commissioner Clayson updated the Commission regarding the misappropriation of County Fund, and his responsibility to certify the audit report on the state website.

Gabe Miller and Rick Roberts of Kimball and Roberts, presented the audit report of the 2015 financial year and the Financial Statements for December 31, 2015.

They discussed the process for auditing and why they may or may not uncover fraud. The total amount of materiality was greater than the actual theft on a yearly basis.

Commissioner Clayson would like to have someone come in that is more fraud oriented. Commissioner Clayson also asked about the law regarding certifying the audit report to the state.

Attorney Van Dyke explained that the law requires it certified but it is malfeasance if you certify it and it is incorrect.

Motion to accept the Kane County Financial Statements of December 31, 2015 prepared by Kimball & Roberts, made by Commissioner Smith and the Motion carried with all Commissioners present voting in favor.

WHEREUPON MEETING ADJOURNED

Commissioner Matson, Acting Chairperson

Karla Johnson Clerk/Auditor

REGULAR AGENDA

ITEM #1

ITEM #2

ITEM # 3

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: August 08, 2016

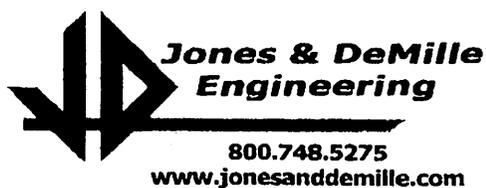
Dept. /Business Name: Land Use Authority

Topic/Re: Increasing Rural Unimproved Subdivision Fee
from \$600 to \$1000.

Dept. Head/Owner: Shannon McBride

Meeting Requested by: Planning Commission/Shannon

Contact name & #: Shannon McBride 644-4966



Professional Services Invoice

Shannon McBride
Kane Co Land Use Authority
180 West 300 North
Kanab, UT 84741

March 15, 2016
Project No: 1602-201.00
Invoice No: 0114329

Kane County Land Use Authority - Nature
Conservancy RUS
Project Manager: Warren Monroe

Total this Invoice: \$613.75

Please remit payment to 1535 South 100 West, Richfield, UT 84701.

Credit card payments accepted over the phone (transactions over \$2,000 will be subject to a 3% processing fee).

Professional Services from February 01, 2016 to March 15, 2016

Phase	90	Plat Review			
Plat Review					
Professional Personnel					
			Hours	Rate	Amount
Senior Project & Field Manager			5.50	95.00	570.00
Office Technician			.25	55.00	13.75
Totals			5.75		583.75
Total Labor					583.75
Unit Billing					
Plotting			1.0 Plot @ 30.00		30.00
Total Units					30.00
					30.00
				Total this Phase	\$613.75
				Total this Invoice	<u>\$613.75</u>

Billings to Date

	Current	Prior	Total	Received	A/R Balance
Labor	583.75	0.00	583.75		
Unit	30.00	0.00	30.00		
Totals	613.75	0.00	613.75	0.00	613.75

Thank you - we appreciate your business!

TERMS: NET 30 DAYS, 1.5% Finance Charge per Month on Past Due Invoices.

TC Engineering

PO Box 55
460 E 300 S
Kanab, UT 84741

Invoice

Date	Invoice #
5/31/2016	6975

Amount Due:	\$633.75
Amount Enclosed:\$	_____

Please make checks payable to TC Engineering and include your project and/or invoice number in to memo field of your check

Kane County Planning Commission
180 West 300 North
Kanab, UT 84741

Due Date	Project		Rep
6/15/2016	16007-LVES BM 1_2-Munson		T

Date	Item	Description	Qty	Rate	Amount
3/8/2016	Tom	County Reviews	3.5	97.50	341.25
3/9/2016	Tom	County Reviews	2.5	97.50	243.75
3/14/2016	Tom	Plat Review	0.5	97.50	48.75

<p>The purchaser agrees to pay for the above services at Kanab, Utah within 30 days of this invoice. If not paid, a FINANCE CHARGE OF 2% PER MONTH (annual percentage rate 24%) will be charged on all overdue accounts. Client also agrees to pay all costs of collection, including court costs, collection agency fees and reasonable attorney fees whether or not a suit is filed. An additional 4% surcharge will be added to all credit card payments.</p>	Total	\$633.75
	Payments/Credits	\$0.00
	Balance Due	\$633.75

E-mail	Thank you for allowing us to serve you!!	Fax #	Phone #
loric@tc-eng.com		435-644-2969	435-644-2031

ITEM # 4

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: August 08, 2016

Dept. /Business Name: Land Use Authority

Topic/Re: Revisions to Kane County Land Use Ordinance-Sign Regulations
Adding definition and use of subdivision signs.

Dept. Head/Owner: Shannon McBride

Meeting Requested by: Planning Commission/Shannon

Contact name & #: Shannon McBride 644-4966



STAFF REPORT

DATE: 07/15/2016

PROJECT: Recommendations for changes to the Kane County Land Use Ordinance, (KLUO) Sign Regulations, in particular the following subsections: 9-16-3-Definitions and 9-16-5:

Definition: a sign that is placed at the entrance of a subdivision or other residential or commercial project as part of a distinct architectural or landscape feature that identifies the project and displays the project name. Regulations of Signs by Zone: all zones, submitted by Shannon McBride Land Use Administrator, suggesting the addition of subdivision signs into the use matrix for all zones and the definitions section. Subdivision signs must be permitted through the building department and Land Use Administrator.

Kane County Land Use Administrator recommends adding subdivision signs definition and use to the KCLUO as stated above.

FINDINGS: The above suggestions for changes to Chapter 16-Sign Regulations complies with State Code sections unannotated §17-27a-205, §17-27a-502-503 and §17-27a-601-602 and 603-604. The above suggestions would add clarity and be in compliance with previous changes to the sign regulations and in line with Utah State Code requirements for sign regulations.

All notices are in conformance to all standards and notice requirements of §17-27a-202 and §17-27a-205. A notice was posted that was visible to the public for 10 days prior in three different public places and posted in the local newspaper and the Utah State web site.

STAFF RECOMMENDATION: Kane County Land Use Administrator, Shannon McBride recommends approval of the above stated changes to the KCLUO-Sign Regulations Chapter 16.

A motion needs to be made to recommend approval of the suggested changes to Chapter 16, Sign Regulations, to the Kane County Commissioners.

ITEM # 5

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: August 08, 2016

Dept. /Business Name: Land Use Authority

Topic/Re: Zion Rim PUD Preliminary Plat

Dept. Head/Owner: Shannon McBride

Meeting Requested by: Shannon McBride/Planning Commission

Contact name & #: Shannon McBride 644-4966



STAFF REPORT

DATE: 07/13/2016

PROJECT: A semi-complete application for the Zion Rim, Planned Unit Development, (P.U.D), on behalf of Zion Mountain Development, LLC, Property Owners, for parcel# 1-9-16-1, has been submitted by Tom Avant, Iron Rock Engineering who holds 'Power of Attorney' for this project. The application is missing the solid waste disposal report at this time.

FINDINGS: The Zion Rim, P.U.D. application complies with State Code unannotated §17-27a-601, 603, 604, 604.5, 606, 607, The Zion Rim, P.U.D complies with Kane County Land Use Ordinance, Title 9, Chapter 20, (1-7) and Chapter 21C and D-Subdivision Regulations. All requirements for rights-of-way and easements (66 feet) conform to the standards in the Kane County Land Use Ordinance requirements and the "Kane County Standards Specifications and Drawing Details for Design and Construction". All notices are in conformance to all standards and notice requirements of 17-27a-201 & 202. A notice was posted in three public places; notices were mailed out to all owners within 500 feet of the project and posted in the local newspaper and the Utah State web site.

STAFF RECOMMENDATION: Kane County alternate, engineer, Warren Monroe, of Jones and Demille, recommends conditional approval of this project due to the preliminary plat not having all necessary corrections being addressed and a complete packet not being received. Kane County Land Use Administrator, Shannon McBride recommends approval at this time with the condition that the solid waste (garbage) letter is submitted. Administrator McBride recommends approving the preliminary plat to the Kane County Commissioners. The engineering review is enclosed in the Kane County Planning Commission's packet for reference.

Motion: A motion needs to be made to recommend a conditional approval upon receiving the solid waste disposal report and corrections to the Preliminary Plat to the Kane County Commission of the Preliminary Plat for the Zion Rim, Planned Unit Development, (P.U.D), on behalf of Zion Mountain Development, LLC, Property Owners, for parcel #1-9-16-1.

Application for Subdivision & Planned Unit Development Revised July 2015

Application Date 3/28/16 sm 1
Fee: \$3,500.00 3/23/16
✓ 100%

Name of Subdivision/Planned Unit Development:
Zion Rim PUD Phase 1

Location (Legal Description) Parcel Number 1-9-16-1

Owner Utah State Lands Silla C/O: Development Group Ph () _____
Address 675 E 500 S STE 500 Fax: _____
City Salt Lake City State Utah Zip 84102-2812
E-Mail _____

Applicant Zion Mountain Development Ph () _____
Address P.O. Box 5548 Fax _____
City Mt. Carmel State Utah Zip 84755 E-Mail _____

Registered Engineer or Surveyor Tom Avant, TC Engineering
Address 460 E 300 S Fax _____
City Kanab State Utah Zip 84741
Email tom@tc-eng.com

Existing Zone _____ Zone Change Require Y N
Number of Lots 23 Lots Total Acreage 181.16 Acres
Minimum Lot Size 2.30 Acres Open Space Acres 99.64 Acres
Overall Density _____ % Open Space 55%

Additional Comments: _____

I HEREBY CERTIFY THE ABOVE INFORMATION TO BE TRUE AND ACCURATE

Printed Name: Louisa Brown
Signature: [Handwritten Signature]

*It is highly recommended that the applicant or their authorized agent be present at the Land Use meeting that the Subdivision & Planned Unit is an Agenda Item. Electronic appearance is acceptable if prior arrangements are made.

ITEM # 6

KANE COUNTY ORDINANCE NO. O 2016 - 4

**AN ORDINANCE AMENDING PORTIONS OF THE KANE COUNTY SUBDIVISION
AND LAND USE ORDINANCES**

WHEREAS, the Kane County Planning Commission after a duly noticed public hearing voted to recommend several minor changes to the Kane County Subdivision and Land Use Ordinances;

AND WHEREAS, The Kane County Commission desires to implement the recommended changes in part and with modifications in part;

**NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY,
STATE OF UTAH ORDAINS AS FOLLOWS:**

Kane County Code Title Nine, Chapter 21 is amended as set forth herein. Additions are indicated with an underline and deletions are indicated with a strike-through. Instructions to the codifiers are italicized in parenthesis.

9-21B-4: BUILDING PERMITS:

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C. No building permit shall be granted for the construction or alteration of any residential or commercial building or structure on any parcel of land unless:

1. The parcel, notwithstanding previous approval for division under the subdivision ordinance, has a recorded means of access of at least twenty eight feet (28') in width (this section shall not be interpreted to reduce any right-of-way width requirement set forth in any other section of the Land Use or Subdivision Ordinance);

2. ~~The applicant submits proof of, and provides on site verification of, an adequate, approved water supply as follows:~~

~~a. Valid, legal right to hook up to an approved public or nonpublic water system;~~

~~b. Valid, legal, private on site parcel with well right and well, approved for domestic use;~~

~~c. In existing, recorded "dry subdivisions" only, water hauling will be allowed for a single recreational property that is seasonal in nature. A two thousand (2,000) gallon tank that is certified for domestic use must be provided along with satisfactory proof of a water hauling contract or delivery system from a source approved for domestic use;~~

~~3. If the structure is not connected to a public or private sewer system, septic system approval will have to be obtained from the Southwest Utah public health department;~~

4. 2. The parcel and proposed improvements comply with all other provisions of the Kane County land use and subdivision ordinances;

5. 3. The applicant acknowledges that the access to the parcel will not be maintained by Kane County unless the access has been dedicated to, and accepted by, Kane County;

~~6. 4.~~ The applicant acknowledges that no fire protection is provided or guaranteed by Kane County;

~~7. All wildland urban interface requirements are met.~~

//

9-21D-2: REQUIRED GENERAL SUBMISSION ITEMS; ADMINISTRATIVE:

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~~C. Wildland urban interface code subdivision fees.~~

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(The remaining subsections shall be renumbered beginning with C)

9-21D-5: LAND USE AUTHORITY APPROVAL:

A. The Kane County land use ~~authority administrator~~ shall review all completed applications for preliminary plat approval and shall forward to the Land Use Authority ~~approve~~ only those preliminary plats which it finds have been developed in accordance with the standards and criteria specified in this chapter and all other ordinances and laws of Kane County and the state of Utah; including, but not limited to, land use ordinances, general plan and transportation plan.

B. At a public meeting the land use authority may ~~approve~~ recommend approval to the County Commission, approve with conditions recommend approval to the County Commission with conditions, table until additional information has been provided or disapprove the preliminary plat. In the event that the Kane County land use authority disapproves a preliminary plat, it shall state, in writing, within thirty (30) days to the developer/subdivider the reason for disapproval via certified mail, return receipt requested.

C. If recommended for approval to the County Commission, the County Commission shall review the application for approval, approval with conditions, or denial at the next regularly scheduled County Commission meeting.

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9-21E-4: REQUIRED GENERAL SUBMISSION ITEMS:

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B. Drawing requirements:

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33. Culinary Water Authority Signature Block

34. Sanitary Sewer Authority Signature Block

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9-21G-8: EXTERIOR PERIMETERS:

~~All exterior perimeters of subdivisions shall be fenced with a livestock fence appropriate for the area. If fencing, gates or cattle guards exist they must remain in place. However, they may be moved to conform to new lot lines.~~

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9-21K-2: RURAL UNIMPROVED SUBDIVISION APPLICATION:

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B. The proposed subdivision:

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8. Provides each newly created lot parcel with: a) ~~a vesting legal recorded access to~~ of the utility and access easements and other rights of access that the parent parcel holds at the time of the subdivision application; b) ~~a fifty foot (50')~~ a recorded public access and public utility easement(s) with a minimum of sixty-six foot (66') wide recorded public access and public width utility easement(s) across the parent parcel that is necessary to connect the new parcel to any public right of way to which the parent parcel has access for any roads that provide access beyond the development or are planned to provide access beyond the development or a minimum of fifty foot (50') width for roads that terminate within the development to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcels. Roads that terminate within the development may be recorded as private easements rather than a public easement at the discretion of the applicant; ~~to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcels;~~ and c) a recorded utility easement across the parent parcel necessary to allow each newly created lot parcel access to the same utilities currently available to the parent parcel ~~or~~ and planned, future access for power, water, and other utilities, ~~at the time of the proposed subdivision,~~ to be available to ~~the parent parcel~~ all the new parcel(s) in the future; and (Ord. 2014-18, 9-22-2014) (d) to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcel(s) to any public right-of-way. If a recorded access does not exist at the time of the application, the width of the newly created access across private property shall be as listed in subsection C.

- a. A public right-of-way shall be any right-of-way claimed by UDOT, the County, or a municipality as a Class B,C, or D road which is established or claimed through a recorded deed easement, or RS-2477 assertion, or Title V easement on BLM lands recorded access across State Trust Lands, recorded access across Forest Service Lands, or a public prescriptive easement as determined by the Kane County GIS Department.
- b. The recorded legal access may be any of the following:
 - 1) On BLM Lands: Access across public lands shall be accepted in the form of any valid, private, public or county Title V or RS-2477 rights of way. RS 2477 right of way or Title V access across land managed by the Bureau of land Management (BLM) with any width approved by the BLM being deemed acceptable.

2) On Private Lands: Existing recorded legal access easement with a minimum of twenty-eight (28) feet. Prescriptive easements do not satisfy the access requirements of this section. The subservient land owner must sign a recordable document acknowledging the easement and allow use for all of the new lots in the proposed subdivision as a public or private easement as outlined in Section 8 of this ordinance.

c. Width of a newly created easement may be any of the following:

1) Any new recorded easement across private land, with a minimum width of sixty-six feet (66') or fifty feet (50') as outlined in Section 8 of this ordinance; and

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ADOPTED this 8th day of August, 2016.

ATTEST:

KARLA JOHNSON
Kane County Clerk

Dirk Clayson, Chair
Board of Commissioners
Kane County

Commissioner Clayson voted _____
Commissioner Matson voted _____
Commissioner Smith voted _____

ITEM # 7

ITEM # 8

KANE COUNTY COMMISSION AGENDA REQUEST:

Date of Regular/Work Meeting Requested: August 8, 2016

Dept. /Business Name: Resource Development Committee

Topic/Re: Appointing new member to Resource Development Committee.

Kelly Stowell

Dept. Head/Owner: Appointed by Commissioner Matson

Meeting Requested by: Mary Reynolds/Commissioner Matson

Contact name & #: Mary Reynolds Res. Management Planner (435)644-4951

ITEM # 9

KANE COUNTY ORDINANCE NO. O 2016 - 6

**AN ORDINANCE AMENDING TITLE 1 CHAPTER 8
OF THE KANE COUNTY TAX SALE RULES**

WHEREAS, the Kane County Board of Commissions desire to make changes to Title 1 Chapter 8 of the Kane County Tax Sale Rules.

WHEREAS, the purpose of this ordinance is to update the Kane County procedures regarding excess funds from a tax sale and Utah Code Section 59-2-1351.1(2)(b) gives the Kane County Commission authority to establish a tax sale procedure by ordinance upon recommendation by the Kane County Clerk/Auditor; and

WHEREAS, Utah State Tax Commission Publication R884-24P-55 requires that Kane County establish an ordinance for tax sale procedures and include in the ordinance criteria for rejecting bids, sale ratification procedures, and payment methods and procedures; and Kane County desires to establish an equitable procedure for the distribution of the excess proceeds; and

WHEREAS, the procedure proposed below gives all parties with a recorded interest in the property an opportunity to claim the excess funds and an opportunity to resolve conflicting claims prior to the matter being turned over the Sixth District Court; and

WHEREAS, Kane County shall in no way profit from the procedure outlined below, but it shall assess appropriate fees to cover the costs imposed on taxpayers for distributing the excess funds; and

WHEREAS, given that under Kane County's current ordinance there is no clear procedure for paying out excess proceeds to parties with a recorded interest in a property other than the previous recorded owner, it is in the best interest of the citizens of Kane County and of individuals and entities with some claim to the excess proceeds that the procedure for paying out excess funds be updated.

WHEREAS, The statutory authority for enacting this ordinance is Utah Code Sections 59-2-1351.1(2)(b), 59-2-1351.1(7), 67-4a-201(1)(b), 67-4a-301(3), 17-53-223, 17-53-208.

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH, ORDAINS AS FOLLOWS:

Title 1 Chapter 8 of the Kane County Tax Sale Rules is amended as set forth in the following pages. Additions to the Ordinance are indicated with an underline, and deletions from the ordinance are indicated with a strike-through. Instructions to the codifiers are italicized and inside parenthesis.

This Ordinance shall take effect fifteen days from the date signed below.

A copy of this ordinance shall be deposited in the Office of the County Clerk.

The County Clerk is directed to publish a short summary of the ordinance with the name of the members voting for and against the ordinance, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law

**TITLE 1
ADMINISTRATION**

**Chapter 8
TAX SALE RULES**

1-8-1: METHOD OF SALE:

The board of county commissioners of Kane County has determined the following method of sale best meets the objectives of protecting the financial interests of the delinquent property owners and collecting delinquent property taxes due:

The parcel will be sold to the bidder with the highest bid amount for the entire parcel of property. However, a bid may not be accepted for an amount which is insufficient to pay the taxes, penalties, interest and administrative costs. Any amount received in excess of the taxes due to all local governments and any administrative costs by the county shall be treated in accordance with section 1-8-3: Excess Payment, of this chapter. ~~as surplus property and paid to the state treasurer.~~ (Ord. O-2015-1, 5-23-2015)

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1-8-2: TAX SALE RULES ENUMERATED:

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R. Properties not purchased at the tax sale shall be struck off to the county by the auditor, becoming property of Kane County, subject to approval and acceptance of the board of county commissioners. If a successful bidder fails to tender payment as required, the property may, at the discretion of the board of county commissioners, be struck off to the county. Properties struck off to the county may only be sold for fair market value at a rate which allows the sale of the property within six months of being stricken to the county. All proceeds from the sale of property that had been stricken to the county shall be deposited in the general fund for the general use of Kane County. ~~, not the amount of the tax arrearages, the excess sale proceeds being treated according to state law and unclaimed property requirements.~~

//

1-8-3: EXCESS PAYMENT:

The following procedure applies when a purchase amount received is in excess of the taxes, interest, penalties and administrative fee.

- A. The County shall notify those with a recorded interest in the property of the excess funds. Notification shall be made by first class and/or certified mail. For purposes of this subsection, those with a recorded interest in the property are those previously identified as having a recorded interest in the property and previously notified of the tax sale by the Clerk/Auditor. The recipients shall have 90 days from the date the notice is mailed to submit a written claim for a specified amount of the excess proceeds and brief legal justification for the claim.
- B. If only one claim is submitted within the specified time limit, the County shall pay the amount of the claim or all of the excess funds, whichever is less, to the claimant.
- C. If multiple claims are submitted within the specified time limit and the total amount claimed by all claimants is less than or equal to the total amount of the excess funds, then the County shall pay the excess funds to the claimants.
- D. If no claims are submitted within the specified time limit or the claims submitted are less than the total excess funds, then the County shall deposit the remaining excess funds with the State of Utah as unclaimed property in the name of the previous recorded owner.
- E. If multiple claims are submitted within the specified time limit and the total amount claimed by all claimants is greater than the excess proceeds, then the County shall notify each claimant of the other claims and include the name, contact information, amount of claim, and brief description of the legal justification for each claimant. The claimants shall be invited to resolve how the excess funds should be divided amongst themselves. A time limit of 90 days shall be placed on these negotiations. If a resolution is reached and the county is notified of the resolution by all of the claimants according to the resolution.
- F. If there are inadequate funds and the multiple claimants are unable to reach an agreement as to the distribution of the excess funds, then the County shall file an action with the Sixth District Court of Utah which will allow the claimants to plead their case to the court. The excess funds shall be distributed as ordered by the court. Alternatively, the County may make an independent determination of how the excess funds should be distributed if the County determines that it is clear which claimants have recorded priority in their claims.
- G. The County shall determine appropriate fees to cover its costs in distributing excess funds and this fee - as established by the Kane County Commission – shall be deducted from the funds prior to distribution.

H. The County may set a minimum amount before the above provisions apply. If the excess funds are less than the minimum amount, then the County may notify only the previous owner of record of the property and pay the funds to that owner if a claim for the funds is made. If no claim is made, the funds shall be deposited with the State of Utah as unclaimed property in the name of the previous owner of record.

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----- End of Ordinance -----

ADOPTED this 8th day of August, 2016.

ATTEST:

KARLA JOHNSON
Kane County Clerk

Dirk Clayson, Chair
Board of Commissioners
Kane County

Commissioner Clayson voted ____
Commissioner Matson voted ____
Commissioner Smith voted ____

ITEM # 10

KANE COUNTY ORDINANCE NO. O 2016 - 7

**AN ORDINANCE ESTABLISHING
THE KANE COUNTY PROCUREMENT CODE**

WHEREAS, Utah State Code contains a procurement code that the County is required to comply with unless it adopts its own procurement policies;

AND WHEREAS, The State Procurement Code is unnecessarily burdensome and difficult to comply with for a county the size of Kane County;

AND WHEREAS, Kane County desires to implement a local procurement code in order to provide clarity and uniformity in the County's procedures for the procurement of goods and services; efficiency, effectiveness and economy in the County's procurement activities; fair and equitable treatment of all people or parties who do, or wish to, provide goods or services to the County; and effective, broad based competition with recognition of the need to support the local economy;

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH ORDAINS AS FOLLOWS:

- I. **PURPOSE AND INTENT.** Kane County has adopted this procurement code setting out the procedures for the County's procurement of goods and services with the intent to provide for:
 - A. Clarity and uniformity in the County's procedures for the procurement of goods and services;
 - B. Efficiency, effectiveness and economy in the County's procurement activities;
 - C. Fair and equitable treatment of all people or parties who do, or wish to, provide goods or services to the County; and
 - D. Effective, broad based competition with recognition of the need to support the local economy.
- II. **TITLE:** This Ordinance shall be known as the Kane County Procurement Code.
- III. **REPEAL OF PREVIOUS RESOLUTIONS AND ORDINANCES:** All previous ordinances or resolutions establishing, implementing or amending any process or procedure regarding procurement are hereby repealed and replaced with this ordinance.

IV. EXEMPTION FROM STATE PROCUREMENT CODE. By adoption of this procurement code by ordinance, Kane County has exempted itself from the definition of Local Government Procurement Unit under U.C.A § 63G-6a-13(a) with the intent to exempt the County from the provisions of the Utah Procurement Code to the greatest extent permitted by law.

V. DEFINITIONS. For purpose of this policy, the following words and phrases have the meanings given under this section.

- A. “Artificially Divided” means intentionally or knowingly dividing a procurement by making multiple procurements or dividing an invoice or purchase order into one or more smaller procurements to limit the requirements of a procurement under this code, but does not include dividing purchases to allow for storage capabilities, freshness of product, shipping/delivery costs or other reasonable considerations of size and scope of a procurement, or to allow for options that accommodate vendor expertise and cost effectiveness or to break apart to allow for local bidding.
- B. “Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, limited liability company, or any other private legal entity.
- C. “Contract” means any agreement the County enters into for the procurement or disposal of supplies, services or construction.
- D. “Electronic Bid” means any bid that was obtained by electronic means including but not limited to email communication from a business or other vendor, other electronic communication that results in a bid for a procurement item, or viewing a procurement item on the website of a business or other vendor.
- E. “Emergency Event” means an eminent threat to the public’s health, welfare, or safety or an event which has caused or is likely to cause significant damage to property, which requires immediate action to protect against such threat.
- F. “Person” means any individual, business, union, committee, club, other organization or legal entity, or group of individuals.
- G. “Procure”, “Procurement” means buying, purchasing, renting leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.
- H. “Procurement Item” means a supply, a service, construction or technology.

- I. "Procurement Officer" means the Kane County Budget Officer or his/her designee.
- J. "Request For Proposals" or "RFP" means all documents, whether attached or incorporated by reference, used for soliciting proposals.
- K. "Request For Qualifications" or "RFQ" means all documents, whether attached or incorporated by reference, used to solicit information on the qualifications of potential bidders.
- L. "Small Purchase" means a procurement of \$5,000 or less.
- M. "Sole-Source Provider" means there is only one source for the procurement item; or the award to a specific supplier, service provider or contractor is a condition of a donation that will fund the full cost of the supply, service or construction item; or the procurement item is needed for trial use or testing to determine whether the procurement item will benefit the County.
- N. "Specifications" means all descriptions or documents, whether attached or incorporated by reference, used to describe the supplies, services or construction to be purchased.
- O. "Threshold Amount" means the maximum amount for a procurement established pursuant to Section IX and Section X of this Code.

VI. AUTHORITY.

- A. Only the County Commission has authority to expend County funds for procurement or to enter into any contract for procurement, except to the extent they have delegated that authority. Elected Officials and Department Heads are hereby delegated such authority as set forth herein. Employees, agents or other representatives of the county shall not expend funds, solicit proposals or bids, respond to solicitations or in any other way obligate the county to expend funds without the authority of the county governing body or the appropriate Elected Official or Department Head.
- B. ELECTED OFFICIALS. By adoption of an annual budget, the County Commission delegates to each Elected Official the authority to expend funds for procurement as they are presented in the approved budget for the Elected Official's office or as the Elected Official is authorized to transfer money from one line item to another within a budget as set forth in the Interdepartmental Line Item Transfer Ordinance. All procurements made under this delegated authority shall be made in compliance with all other provisions of this Code.
- C. DEPARTMENT HEADS. Any Elected Official may delegate their

authority to expend funds or a portion of their authority to expend funds for procurement as the Elected Official sees fit to a Department Head. All decisions regarding procurement made by an authorized Department Head shall be made in compliance with all other provisions of this Code.

VII. EXEMPTIONS FROM POLICY.

- A. **FEDERAL OR STATE FUNDS.** When procurement involves the expenditure of federal or state assistance funds, the County shall make exceptions to the procedures required under this code to the extent necessary to comply with applicable federal and state law and regulations related to the use of those funds.
- B. **GRANTS, GIFTS AND BEQUESTS.** The County may make exceptions to the procedures required under this code to the extent necessary to comply with the terms and conditions of any grant, gift or request, that are otherwise consistent with law.
- C. **EMERGENCY PROCUREMENTS.** The County may make exceptions to the procedures required by this code to the extent necessary for the timely procurement of goods and services during an Emergency Event, and for goods and services of an immediate nature to manage an Emergency Event.
- D. **COOPERATIVE PURCHASING CONTRACTS.** The County may make procurement decisions without complying with this code when utilizing one of the following methods:
 - 1. Procurements under a contract administered by the Utah Division of Purchasing;
 - 2. Procurements administered under an Interlocal Cooperation Agreement that the County participates in;
 - 3. Procurements under a contract administered by the Utah Association of Counties or the National Association of Counties; or
 - 4. Direct comparison to a procurement item that could be purchased under sections one through three above which results in an equal to or greater monetary benefit to the county.
- E. **ADVERTISING.** Advertising by its very nature is dependent on the source of the advertising and is not conducive to formal procurement policies. If using any procurement process described herein may add benefit to the County the appropriate official may utilize that process. Otherwise, procurement items for advertising shall be considered a sole-source and direct negotiations may be used. This section does not exempt the County from procurement processes required to select an entity that

will provide services in developing an overall scheme, method or approach for advertising.

VIII. **CATEGORIES OF PROCUREMENTS.** The County procures a wide variety of goods and services at varying intervals in support of the many departments and programs administered by County. The following categories of purchases will be utilized in recognition that a single process for all procurements would not be an efficient or effective policy for the County.

- A. **Basic Supplies and Equipment**
- B. **Operational Services**
- C. **Capital Expense Equipment**
- D. **Professional Services**
- E. **Pass Through Services**
- F. **Architect-Engineer Services**
- G. **Construction and Repair Contracts**
- H. **Sole-Source Provider**
- I. **Fleet Management Purchases**
- J. **Other Procurements**

IX. **PROCUREMENT PROCEDURES.**

- A. **SPECIFICATIONS.** Written specifications shall be developed for all procurements with the exception of:
 - 1. **Basic Supplies and Equipment;**
 - 2. **Operational Services of less than \$5,000; or**
 - 3. **Purchases made utilizing Cooperative Purchasing Contracts in compliance with Section V(D).**
- B. **ALL SPECIFICATIONS REQUIRED BY THIS CODE SHALL:**
 - 1. **Be as detailed as necessary to assure the County procures goods and services which best meet the needs of the county;**
 - 2. **Provide flexibility in requirements to the extent possible to allow for options in a procurement which still meets the needs of the County;**
 - 3. **Be provided as a part of any Request for Proposal, Invitation to Bid, or Request for Qualifications.**
- C. **ALL CONTRACTS SHALL INCLUDE:**
 - 1. **Contractual terms and conditions required under Section XX.**
 - 2. **Bond requirements as required under Section XV.**

X. **BUDGETED NOMINAL COST PROCUREMENT.** The County may procure

goods and services without the use of Electronic or Telephonic Bids, Sealed Bids, RFPs, RFQs or Direct Negotiations when:

- A. The cost of the procurement is a small purchase (\$5,000 or less);
- B. The procurement is for goods and services other than Professional Services or Architect-Engineer Services; and
- C. The cost of the procurement has been budgeted.

XI. **ELECTRONIC OR TELEPHONIC BIDS.** Procurements may be made without the use of Sealed Bids, RFPs, RFQs or Direct Negotiations by using electronic or telephonic bids when:

- A. The cost of the procurement is greater than \$5,000, but less than \$50,000, or the cost of the procurement is \$100,000 or less and is a fleet vehicle or construction equipment purchased under a lease with a guaranteed buy back provision;
- B. The procurement is for goods and services other than Professional Services or Architect-Engineering Services;
- C. A reasonable attempt has been made to compare the cost of the procurement with three or more providers through Electronic or Telephonic Bids; and
- D. The Electronic or Telephonic Bids are documented as part of the procurement process.

XII. **FORMAL PROCUREMENT.** Procurement of items over \$50,000.00, procurement of professional services, or procurement of architect-engineering services, which do not otherwise qualify for an exemption under this code, shall use a Sealed Bid, Request for Proposals, or Request for Qualifications process as set forth herein. The County may use one or more of these processes in its sole discretion.

XIII. **SEALED BIDS.** Any procurement made utilizing a Sealed Bid shall be conducted under the following procedures:

- A. An invitation to Bid shall be advertized at least ten (10) days prior to the date the Sealed Bids are required to be delivered and shall include;
 - 1. Specifications related to the procurement;
 - 2. The date and time the Sealed Bid is required to be received by the office of the County Budget Officer;
 - 3. The date and time of the opening of the Sealed Bids; and
 - 4. Bonding and Insurance requirements.

- B. All Sealed Bids shall be received by the office of the Kane County Budget Officer by the date and time set forth in the Invitation to Bid to be considered a valid Sealed Bid;
- C. Sealed Bids shall be opened publicly in a properly noticed meeting of the governing body of the County and in the presence of one or more witnesses at the time and place designated in the Invitation to bid; and
- D. A record of the name or each bidder, the amount of each bid and any other relevant information shall be made and shall be open to public inspection.
- E. The successful bidder shall be required to enter into a written contract with the County.

XIV. REQUEST FOR QUALIFICATIONS (RFQ). The County may utilize a Request for Qualifications procedure when the qualifications of the provider are of significant importance in the procurement to identify providers qualified to provide specialized services prior to issuing a Request For Proposal for the procurement of Operational Services, Professional Services, Architect-Engineering Services or other specialized goods or services, or when determining a Sole Source Provider circumstance.

XV. REQUEST FOR PROPOSALS (RFP). The County may utilize a Request for Proposals procedure when the potential options for goods and services which would meet the needs of the County are extensive enough to make review of proposals more effective than development of detailed Specifications and shall include notice of the bonding and insurance requirements of this policy. A Request for Qualifications may be utilized in conjunction with a Request for Proposals to pre-qualify those providers from whom the County will accept Proposals.

XVI. SOLE-SOURCE AND DIRECT NEGOTIATION.

- A. The County may enter into negotiations with a provider without utilizing any other form of procurement provided for under this section when procuring goods or services from a Sole-Source Provider.
- B. The County Commission shall determine when Direct Negotiation or Sole-Source Procurement is appropriate. Applications to the Commission to use direct negotiation and sole-source procurement shall be accompanied by an explanation as to why no other source will be suitable or acceptable to meet the need.
- C. Direct negotiation or sole-source procurement shall be used only if an offer is reasonably available from a single supplier. A requirement for a particular proprietary item does not justify sole source procurement if there is more than one potential offeror for that item. Circumstances

which might allow sole-source procurement and direct negotiation include: 1) where the need for professional services is the paramount consideration; 2) a test or pilot is being conducted; 3) when time restrictions are paramount and would prohibit a full procurement process; or 4) the award to a specific supplier, service provider or contractor is a condition of a donation that will fund the full cost of the supply, service or construction item. In cases of reasonable doubt, sole-source procurement and direct negotiation will not be authorized.

- D. Public Notice shall be given for sole-source procurements exceeding \$20,000. The notice shall be published on the Utah Public Notice Website at least five working days in advance procuring the item. The notice shall contain a brief statement of the proposed procurement, the proposed sole source provider and the justification for the sole source procurement.
- E. When using a sole-source provider negotiation shall be used to achieve the best use of tax dollars.

XVII. BONDS.

- A. The type and amount of any bond(s) required should be included in the Specifications provided as part of any Invitation to Bid or Request for Proposal released by the County. In addition to any bond(s) required under federal, state or local law or rule, the County should consider requiring Performance Bonds as part of contracts for Operational Services, Professional Services and Architect-Engineer Services. The County should consider requiring the following bonds in amounts determined by the County to properly protect the County:
 - 1. A Bid Bond in an amount commensurate with the cost to the County if a bidder withdraws a bid after opening of bids up to the full amount of the bid for all Sealed Bids for construction or repair contracts and Capital Equipment purchases.
 - 2. A Performance Bond up to the full cost of the contract for all construction and repair contracts.
 - 3. A Payment Bond commensurate with the payments to be made to all subcontractors at all levels, vendors and providers up to the full amount of the contract for all construction and repair contracts.
- B. The County may at its sole discretion accept other forms of protection in place of bonds such as letters of credit, escrow accounts or collateral agreements.
- C. The County may at its sole discretion waive the requirement of a bid, performance or payment bond for circumstances in which the procurement

officer considers any or all of the bonds to be unnecessary to protect the procurement item.

XVIII. CORRECTION OF ERRORS. The County may at its sole discretion allow for correction of inadvertent mistakes prior to award of a contract or bid:

- A. To responses to Request for Qualifications prior to award of final contract.
- B. To proposals made in response to a Request for Proposal prior to award of final contract.
- C. To a Sealed Bid after delivery of a timely Sealed Bid to the County but prior to the opening of the Sealed Bids.
- D. To a Sealed Bid after opening of the bids if the correction is to information provided in the bid that does not change any term or condition of the Sealed Bid that effects the cost, quality, quantity or delivery of the product or service.
- E. The County may reject any correction it deems is beyond the scope of correction of an inadvertent mistake.

XIX. SELECTION AND AWARD. The County shall use reasonable diligence in awarding a contract or processing a purchase with the selected provider in a timely manner after the following determinations have been made;

- A. Providers which did not meet the requirements or criteria of this policy;
- B. Providers which did not meet the minimum requirements of a Request for Qualifications;
- C. Proposals or bids which did not meet the specifications or requirements set forth in an Invitation for Bid or Request for Proposal;
- D. Any bid which the County Commission does not consider a responsible bid; and
- E. The provider, proposal or bid which best meets the County's long term needs and value, as determined by the County.

XX. APPEAL PROCEDURES. Any actual or prospective bidder, proposer, offeror or contractor who is aggrieved in connection with the solicitation or award of a contract or procurement may submit an appeal in writing to the County Budget Officer within five (5) working days after the aggrieved party knows or should have known of the facts, but in no case later than ten (10) working days after the award has been made. The County Budget Officer or his/her designee shall promptly issue a decision regarding any appeal in writing to the aggrieved party filing the appeal. The decision shall state the reasons for the action taken and the aggrieved party's right to appeal to the County Commission. If a

written decision is not issued by the County Budget Officer within thirty (30) days, the aggrieved party may appeal directly to the County Commission. The County Commission shall be the final appeal on the county level.

XXI. PREFERENCE IN SELECTION PROCESS. LOCAL VENDORS. In County's attempt to attain the greatest long-term value, County may show preference to local vendors even though their bid or proposal may not be the lowest bid. In showing such preference, County shall justify this by determining that such decision will result in equal to or greater long-term value of such procurement for certain reasons such as better and/or more convenient service, maintenance, warranty, support of the local economy, etc.

XXII. CONTRACTS

- A. **COUNTY ATTORNEY APPROVAL OF CONTRACTS.** All contracts entered into for any procurement under this policy must be approved as to form and compliance by the county attorney's office prior to execution.
- B. **CLAUSES TO BE INCLUDED IN CONTRACTS.** The following clauses shall be included in each contract for any procurement under this policy, unless specifically waived by the County Commission after review with the county attorney:
 - 1. The unilateral right of County to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
 - 2. Variations occurring between estimated quantities of work in a contract and actual quantities.
 - 3. The right of the County to suspend work.
 - 4. Vendor compliance with all federal, state and local laws, ordinances, rules and regulations.
 - 5. Bonding requirements
 - 6. Proof of individuals/businesses properly licensed with appropriate state or local authority.
 - 7. Contract Providers or Vendors agreement to indemnify County.
 - 8. Contract Providers or Vendors retention or product liability/manufacturers liability.
 - 9. Insurance required of Contract Providers or Vendors.
 - 10. Anti-discrimination language.
 - 11. Terms for Change Orders and other changes or additions to work.

XXIII. CANCELLATION AND REJECTION OF PROPOSALS OR BIDS. The County

may cancel any invitation, request or other solicitation, or may reject any or all bids or proposals when such cancellation or rejection is in the best interest of the County as determined at the sole discretion of the county. This Cancellation and Rejection provision should be included in all RFQ's and RFP's.

XXIV. PROHIBITED METHODS OF PROCUREMENT. Procurements shall not be made pursuant to or in response to telephone or telemarketing solicitations to County employees.

XXV. UNLAWFUL CONDUCT AND PENALTIES

- A. **ARTIFICIALLY DIVIDING PROCUREMENTS.** It is unlawful for a person to intentionally or knowingly divide a procurement into one or more smaller procurements with the intent to make a procurement qualify as a small purchase or other less restrictive threshold amount, if, before dividing the procurement, it would not have qualified as a small purchase or other less restrictive threshold amount.
- B. **GRATUITIES OR KICKBACKS.** For purposes of this subsection, the terms “gratuity” and “kickback” shall have the same meanings as defined in Utah Code §63G-6a-2402 as amended. It is unlawful for a person who knowingly engages in the following conduct:
 - 1. For a person who is seeking a contract with or a grant from the County knowingly to give or offer, promise or pledge to give, a gratuity or kickback to the County, or any person delegated authority to expend funds for procurement.
 - 2. For any person delegated authority to expend funds for procurement, knowingly to receive or accept, offer or agree to receive or accept, or ask for a promise or pledge of, a gratuity or kickback from a person who has or is seeking a contract or a grant from the County.
- C. **PENALTIES.** For enforcement of this subsection, Kane County hereby adopts by reference the penalty provisions of Utah Code §63G- 6a-2401 et.al.(2016) as amended.

XXVI. SEVERABILITY. If any section, part, or provision of this Procurement Code is held by a court of competent jurisdiction to be invalid or unenforceable such invalidity or unenforceability shall not affect any other section, part, or provision of this Policy, and all sections, parts and provisions of this Policy shall be severable.

End of Ordinance

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below.

The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this ___ day of _____, 2016.

ATTEST:

KARLA JOHNSON
Kane County Clerk

Dirk Clayson, Chair
Board of Commissioners
Kane County

Commissioner Clayson voted ____
Commissioner Matson voted ____
Commissioner Smith voted ____

ITEM # 11

KANE COUNTY ORDINANCE NO. O 2016 - 8

KANE COUNTY TAX SALE DEFERRAL ORDINANCE

WHEREAS, each property located within the boundaries of Kane County is assessed a property tax each year;

AND WHEREAS, after five years of delinquency the County may sell the property at a tax sale to collect the delinquent taxes;

AND WHEREAS, Kane County desires to collect property taxes in a fair, efficient and compassionate manner, especially when a taxpayer's home or livelihood is in jeopardy;

AND WHEREAS, the property owner may request and be given a one year deferral from the tax sale due to reasons of financial hardship;

AND WHEREAS, Kane County implemented and standardized the procedure and forms for a tax sale deferral application under Kane County Resolution No. 2012-6 which was later amended under Kane County Resolution No. 2014-8;

AND WHEREAS, Kane County desires to further amend and codify the application process to ensure compliance with the process in future years, to move all of the application process to the Treasurer's Office, and to require all applications to be approved by the Commission;

NOW THEREFORE, THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH ORDAINS AS FOLLOWS:

1. Title: This Ordinance shall be known as the Kane County Tax Sale Deferral Ordinance.
2. Repeal of previous Ordinances and Resolutions: All previous ordinances or resolutions establishing, implementing or amending any process or procedure regarding deferrals of property from the tax sale, including but not limited to Kane County Resolutions No. 2012-6 and 2014-8 are hereby repealed and replaced with this ordinance.
3. Form of Application: The following forms, which may be changed from time to time by resolution of the county commission, shall constitute the official Kane County Tax Sale Deferral Application and shall be kept on file in the County Treasurer's Office:
 - a. Kane County Application for Deferral of Delinquent Property Tax (Utah State Tax Commission Form PT-33)

- b. Agreement of Lien Holder For Deferral of Delinquent Taxes (Utah State Tax Commission Form PT-33A)
 - c. Proposed Payment Plan Form
4. Submitting an Application: The taxpayer desiring a deferral of their property from the tax sale shall submit a completed application to the County Treasurer's Office before 5:00 p.m. April 1st in the same year as the tax sale at which the property will be sold. Late applications may be submitted up to five business days in advance of the tax sale if the applicant pays an additional fifty dollar late fee at the time of submitting the application. An application is not considered complete unless each form is completely filled out and is accompanied by all required supporting or supplemental documentation.
 5. Treasurer review: The County Treasurer shall review the application to ensure completion of all required forms, supplements, and supporting documentation and to ensure accuracy of tax and taxpayer information. If the application is incomplete or inaccurate the County Treasurer shall notify the applicant as soon as practicable and allow the applicant to complete or correct the application so long as it is completed or corrected within the original deadline. The County Treasurer shall reject all incomplete applications and all late applications that are not accompanied by a fifty dollar late fee.
 6. County Commission review: The Treasurer shall forward all accepted applications to the County Commission to hear at their next regularly scheduled commission meeting. The County Commissioners may review the application individually before the meeting but shall not review the application collectively or discuss the application with other commissioners before the meeting. The applicant or the applicant's authorized agent shall appear at the County Commission meeting or shall waive their appearance with the County Treasurer. The County Commission shall review the application at the meeting and allow the applicant to be heard. The County Commission shall then hear the recommendations, if any, of the County Treasurer.
 7. Approval criteria: Before approving the application, the County Commission shall weight the following factors: whether the applicant has established a financial hardship that prevents full payment of taxes, whether the applicant has established that the loss of the property would substantially affect the applicant's primary residence or principle income

source, and whether the applicant has established that approving the application is in the interest of the county taxpayers.

8. Closed Session: The Commission, after reviewing the application and hearing the applicant may close the meeting for administrative decision making and then reopen the meeting to approve or deny the application.
9. Approval: The application shall be approved by a majority vote of the Commission. If approved the Commission Chair shall sign the application for approval and shall forward the application to the County Treasurer. The County Treasurer shall notify the taxpayer of the outcome if they waived their appearance.
10. Effect of Approval: An approved application grants the taxpayer a one year deferral from the current year tax sale. Nothing in this ordinance or any application submitted under this ordinance shall be construed as a reduction, abatement or waiver of any current or future taxes, penalties, fees or interest. The taxpayer shall strictly comply with the payment plan submitted with the application and shall pay the current year taxes on time.
11. Severability: If any section of this Ordinance is deemed invalid, it shall only apply to that section and shall not affect the validity of the Ordinance as a whole or any part not deemed invalid.

--End of Ordinance--

This Ordinance shall be deposited in the Office of the County Clerk, and shall take effect fifteen (15) days after the date signed below. The County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

ADOPTED this 8th day of August, 2016.

ATTEST:

KARLA JOHNSON
Kane County Clerk

Dirk Clayson, Chair
Board of Commissioners
Kane County

Commissioner Clayson voted _____
Commissioner Matson voted _____
Commissioner Smith voted _____

Kane County Application for Deferral of Delinquent Property Tax

UCA §59-2-1109 & 1347
Form PT-33
PT-033-1.ai Rev. 11/00

This form should be used in conjunction with Form PT-33A "Agreement of Lien Holder For Deferral of Delinquent Taxes". One Form PT-33A should be attached for each lien holder. A deferral may not be granted without the written consent of the holder of any mortgage or trust deed outstanding on the property.

Property Owner Information

Property owner name	Home phone number	Work phone number
Property owner address		
City	State	Zip

Property Information

Parcel, serial, or account number	Type of property (e.g., commercial, primary residential, etc.)
Location or address	
Legal description (including acreage)	

Property Value and Tax Information

Year(s) of Delinquency (May go back five years)	Taxes	Penalty	Interest	Total
Total				

Current year market value of property (Attach copy of most recent valuation/tax notice)	\$	
Amount received from home owner/mobile home owner (circuit breaker) tax credits	\$	
Amount owner offers in settlement (Attach proposed payment schedule)	\$	
Amount to be deferred	\$	

I/we have exhausted efforts to obtain funds to pay the delinquent taxes. I/we have contacted the lending institutions and other potential sources of funds, such as friends and relatives, identified below:

1. _____
2. _____
3. _____

Attach the following:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Owner's statement of circumstances and request for relief. 2. Most recent valuation/tax notice. 3. Proposed payment schedule. 4. Financial Summary (back of this form) | <ol style="list-style-type: none"> 5. Copies of last 5 years' filings with I.R.S. 6. Form PT-33A, "Agreement of Lien Holder for Deferral or Settlement of Delinquent Taxes". 7. Other documentation as required. |
|--|---|

Signature

I certify to the best of my knowledge and understanding, that this information is true, correct, and complete.

Signature of property owner(s)	Date
X	
X	

Financial Summary

Form PT-33 – Page 2
PT-033-2.ai Rev. 11/00

Income From Previous Five Years

Sources of Income	Year:	Year:	Year:	Year:	Year:
Salary	\$	\$	\$	\$	\$
Social security					
Dividends and interest					
Real estate income					
Business income					
Any assets transferred to relatives					
Total	\$	\$	\$	\$	\$

Current Year Assets		Current Year Liabilities	
Bank accounts and cash on hand		Notes payable to banks, relatives and others	
Name of institution	Amount	Description	Monthly Pymt
	\$		\$
Cash on hand			
Total	\$	Total	\$
Other real estate (exclude subject property)		Real estate mortgage payable	
Parcel no./acreage/description	Market Value	Lender/type/maturity/property identification	Monthly Pymt
	\$		\$
Total	\$	Total	\$
Stocks, bonds and securities		Unpaid medical expenses	
Description	Market Value	Medical facility/patient/illness	Monthly Pymt
	\$		\$
Total	\$	Total	\$
Other assets (vehicles, accounts receivable, etc.)		Other debts (credit cards, utility payments, etc.)	
Description	Market Value	Description	Monthly Pymt
	\$		\$
Total	\$	Total	\$
Total Assets		Total Liabilities	
	\$		\$

**Agreement of Lien Holder
For Deferral of Delinquent Taxes**

UCA §59-2-1347
Form PT-33A
PT-033a.ai Rev. 4/00

General Information

Lien Holder (company or individual)

Contact person

Daytime phone number

Property owner/borrower name

Amount of lien

\$

Parcel, serial, or account number

Type of property (e.g., commercial, primary residential, etc.)

Property location or address

We, as lien holder, have been notified that there are delinquent taxes on this property that will cause this property to be sold for taxes unless all delinquent taxes, penalties, and interest are paid by the date of the final tax sale. We have been notified by the property owner/borrower that he/she is applying for a deferral of the delinquent property taxes under UCA §59-2-1347, and we have no objections to the application. We also agree to establish and maintain an escrow account to provide for the timely payment of current and future taxes.

We also request that in the event the deferral is not granted, we be immediately notified so that we can take action to protect our interest in the property.

Signature

I give consent to allow a deferral to be granted at the discretion of the county legislative body.

Name of holder of any mortgage or trust deed outstanding on the property

Authorized signature

X

Kane County Application for One Year Deferral of Delinquent Property Tax

Proposed Payment Plan & Acceptance/Denial

This form should be used in conjunction with Form PT-33 "Application for Deferral of Delinquent Property Tax" and Form PT-33A "Agreement of Lien Holder For Deferral of Delinquent Taxes". If approved this application grants a **one year** deferral from the tax sale. All penalties, fines, fees, and interest will still accrue. All payments must be paid as outlined below.

Property Owner Information

Property owner name	Home phone number	Work phone number
Property owner address		
City	State	Zip

Proposed Payment Plan

Indicate dates/amounts of proposed payments		For Office Use:		
Date of Payment	Amount	Date Paid	Receipt #	Amount Paid
Total				

Signature.

I agree to make payments as set forth above and to pay the current year taxes on time. I understand that if this application is approved it will only result in a **one year** deferral from the tax sale. I understand that all penalties, fines, fees, and interest will continue to accrue.

Signature of property owner(s)	Date
X	
X	

Approved - Denied.

Signature of Commission Chair	Date
X	

ITEM # 12

Karla Johnson

m: Glen Fairclough Jr [gfairclough@utah.gov]
Sent: Wednesday, July 13, 2016 6:01 PM
To: clerkkj@kane.utah.gov
Cc: Patricia Smith-Mansfield
Subject: Re: Uploading audio meeting records to the public notice website
Attachments: Post spreadsheet.xlsx

Karla,

A 2013 amendment to the Open and Public Meetings Act implemented the requirement that a "state public body" post audio recordings (or a link) on the Utah Public Notice Website. (See Laws of Utah 2013, Chapter 63). These new provisions went into effect May 14, 2013.

A blog post (24 April 2013) announced the change (see

<https://recordskeepers.wordpress.com/2013/04/24/2013-public-notice-website-changes-explained/>).

The statute makes a distinction among multiple governmental entities (Utah Code [54-2-203](#); see subsections (4)(e), (4)(f) and (4)(g)):

1. state public body (defined as "an administrative, advisory, executive, or legislative body of the state") (see Utah Code [54-2-203](#); see subsection (4)(e))
2. specified local public body (defined as "a legislative body of a county, city, or town") (see Utah Code [54-2-203](#); see subsection (4)(f))
3. a public body that is not a state public body or a specified local public body (see Utah Code [54-2-203](#); see subsection (4)(g))

Only a state public body (the first type mentioned) is required to post audio recordings (or a link). Please refer to [What is public information and what am I required to post on the Utah Public Notice Website?](#)

The accompanying tables are particularly helpful. The attached version includes applicable citations from the Utah Code.

Notwithstanding, all agencies (even those which are not statutorily required to do so) are welcome to attach audio recordings and other public materials to notices published on UPNW.

I hope this answers your question satisfactorily.

Glen Fairclough
Utah Public Notice Website Administrator
Utah State Archives and Records Service
346 South Rio Grande Street
Salt Lake City, Utah 84101-1106
801-531-3841
upnw@utah.gov (UPNW related)
gfairclough@utah.gov (Archives)

On Wed, Jul 13, 2016 at 5:23 PM, Patricia Smith-Mansfield <pmansfie@utah.gov> wrote:

Glen,
Would you please respond to this?

Tricia.

Utah Public Notice Website Posts

Post Public Information on the Utah Public Notice Website	<u>Notices</u>	<u>Pending Minutes</u>	<u>Approved Minutes</u>	<u>Public materials distributed at the meeting</u>	<u>Audio Recordings</u>
State Public Body (Utah Code 52-4-203(4)(e))	X	NA	X	X	X
Specified Local Public Body (Utah Code 52-4-203(4)(f))	X	NA	X	X	NA
Fifth Class City or Town (Utah Code 52-4-203(4)(f))	X	NA	Required 01/01/15	Required 01/01/15	NA
A public body that is not a state public body or a specified local public body (Utah Code 52-4-203(4)(g))	X	NA	NA	NA	NA
Make Public Information Available at Agency Office	<u>Notices</u>	<u>Pending Minutes</u>	<u>Approved Minutes</u>	<u>Public materials distributed at the meeting</u>	<u>Audio Recordings</u>
State Public Body (Utah Code 52-4-203(4)(e))	X	X	X	X	X
Specified Local Public Body (Utah Code 52-4-203(4)(f))	X	X	X	X	X
Fifth Class City or Town (Utah Code 52-4-203(4)(f))	X	X	X	X	X
A public body that is not a state public body or a specified local public body (Utah Code 52-4-203(4)(g))	X	X	X	NA	X

ITEM # 13