

MINUTES
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
February 25, 2019
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

Present: Chairman Lamont Smith, Commissioner Andy Gant (excused), Commissioner Brent Chamberlain, Attorney Rob Van Dyke, Clerk/Auditor Karla Johnson, Deputy Clerk Auditor Tanya Meeks.

Also present: Budget Officer John Livingston, GIS Lou Pratt, Care & Share Craig Hansen, HR Rhonda Gant, Roads Bert Harris, Treasurer Kevin Blomquist, Mary Reynolds and Sheriff Tracy Glover.

CALL MEETING TO ORDER: Commissioner Lamont Smith

INVOCATION: Commissioner Van Dyke

PLEDGE OF ALLEGIANCE: Commissioner Chamberlain

WELCOME: Commissioner Lamont Smith

PUBLIC COMMENT:

Commissioner Smith gave overview of how he would like the meeting to proceed.

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

Herb Alexander said our County has grown quite a bit and it seems that there has been a lot more contention, more than there ever has been. He thinks we need to go from a County Commission to a County Council. Instead of three Commissioners making all the decisions we should go to five Council men.

Commissioner Smith said that there is a governmental process that needs to be done.

Commissioner Chamberlain said the state determines what kind of governments can be had depending on the size of the county and as we are a 5th Class County he doesn't think it is allowed in a 5th Class County.

Victor Cooper said that limiting comments of 3 people for and 3 people against the night time hunting is not fair. The Commissioners are here to listen to what the people want and everyone has the right to speak. This item is important to the people. They need to be heard.

Commissioner Smith said they had received over 150 letters saying the same thing over and over. We heard it all at the Commission Meeting a year ago and the two sides were to meet together and come up with an agreement. That wasn't done and now we are back again for the same thing. We are going to have the County Attorney read the Ordinance. After you hear what the Ordinance really says and you still have concerns we would love to hear your concerns.

Kathy Parrot regarding vacation rentals: "I am a member of the Kanab Area Vacation Rental Owners Association also known as KAVROA. I live in Kane County and also have a vacation rental and a long time rental. We, the members, are paying our taxes and have licenses. And we do believe there is a need for STR regulation. We do want to weed out the ones that are doing business illegally, but we need to protect those of us that are compliant. We feel that the new ordinance is over-stepping its bounds. The owners should have the exclusive authority to determine how their private property is used. We are willing to work together with the County on trying to bring everyone into compliance with the laws." She is against the new ordinance.

Larry Erdman: "I am a short term vacation rental owner and manager of about 30 properties. One thing I want to point out is that it seems unfair that two years ago the County said we could have two vacation rentals per property, so people invested and bought property, improved their land and invested into their businesses. Now you are saying that we can only have one. It is unfair to change that after people have invested. In addition to that, a short time rental can't have more than one, but long time rentals can. There needs to be structure in place to rein in all the ones that are doing business illegally. We would like the County staff to sit down with us and have a joint meeting. Two years ago night hunting should have been voted on. Back then the majority of people were against it. If it had been voted down then we wouldn't have to be doing this again."

Commissioner Smith asked what ordinance Mr. Erdman was talking about. It was O-2019-5, short term rentals.

April Waniski: I just want to ditto what Mr. Erdman said. Together we need to come to an agreement and take care of people that are doing vacation rentals illegally but still protect the rights of those that are in compliance.

Laura Klina: I am part of the KAVROA and we do want to work with the government.

Commissioner Smith thanked everyone for their comments and had the County Attorney read O-2019-6.

Tom Carter: What I failed to hear is who will oversee this ordinance. I feel this ordinance is incomplete because it does not mention who will oversee it. So it is invalid.

Blain Albertson: I am not necessarily a night time hunter but I do support the ordinance. We need it for the protection of wild life, your dogs, cats and everything else. Mostly I would like to say that your greyhound people & the Best Friends people are well organized and come in here but they do not speak for all the residents of Kane County as a whole. We have over 7000 people in the County and we have 50 or 60 people here organized to put this down. I think it is a well drafted ordinance.

Larry Clark: First of all I am not part of any group.

We have a small Sheriff's department and how many are on duty at night? How will it be regulated? Larry said last he knew a .30-06 could travel five miles. I don't think I want those people within a mile of me.

Adam Roger: I helped draft this ordinance. There are 18 counties out of the 29 counties that have this ordinance. Most of their ordinances are half a page. We tried to make ours bullet proof.

In the state of Utah you can shoot within 600 feet of a building. We made it a mile. You are more likely to be in a car accident than a hunting accident. The last time there was a hunting accident in the state of Utah was about two years ago. It is a fairly safe sport. Hunters are smart about what they do. A big part of the County are hunters, so it is what it is. Our ordinance is three pages and we have put rules in it to make it safer.

Bart Battista: I am against the ordinance. My back ground is 20 years in the Marine Corps, four years in the Naval Academy. I am not against weapons. When I was the Natural Resource Manager on Camp Pendleton I supervised the Game Warden Section

and we ran a hunting program. I don't hunt myself, but I do understand people that like to hunt. My concern with this ordinance is that when it is authorized in the County it will be authorized on all BLM lands and SITLA lands as well. My main job is Director of Facilities at Best Friends Animal Society, a large property which bumps up to BLM and SITLA lands. We have visitors that come and walk their dogs, go hiking and camping and I would be concerned for their safety.

Donald Sprecher: I was asked to put together a committee made up of people for and against. I tried to put together that committee but received a call from a woman at Best Friends and she said she would take over. After that, I started getting threatening and harassing calls.

Adam and I helped write this ordinance under very strict guide lines and we held it to a higher standard than other counties in the state.
We just want to pass this ordinance.

Sheriff Glover: When this first came up a couple of years ago, I had some concerns about it. I did quite a lot of research of other states. I talked to other sheriffs that have a similar ordinance to this. What I have found out is that very few people engage in the Night Time Hunting. What I like is that by creating an ordinance it defines what is allowed and what is not.

We do have problems with teenagers and other people going out at night and shooting in the County. This is not Night Time Hunting.

A couple of questions I have about the ordinance are: The fee is \$10. For most other counties it is \$20. If we do have to go out and respond to calls on this the cost to the County is more. The Commission might want to consider changing that to \$20.

Other differences comparing our ordinance to other county's ordinances that I have reviewed is that our ordinance allows up to a .30 caliber weapon. Many of the other ordinances that I have reviewed allow up to a .24 caliber weapon. You might consider that change also.

Also we are a little unique because we do have gatherings, events, and races, just all kinds of different events throughout the County. It will be more work for the Sheriff's office to identify all those and make those restrictions associated with those events. We should be able to adjust the ordinance to restrict the Night Time Hunting from areas that will be holding an event.

One of the demands I had a couple of years ago when the ordinance came about was to create the one mile buffer from oiled roads, highways, subdivisions, towns and any residents. I have reviewed a lot of ordinances since then and have never seen an

ordinance that has that strict of restriction. Almost all the ordinances in Utah list the 600 ft. rule which is the state law currently.

I am wondering if maybe in the ordinance we should direct that a map or maps will be prepared that clearly defines restricted zones. And regarding events, we could give information to the hunters when they are reporting where they will hunt and when.

CONSENT AGENDA:

Check Edit Reports

Approval of the February 11, 2019 Commission Meeting Minutes.

Motion to approve February 11, 2019 Commission Minutes made by Commissioner Chamberlain and motion carried with Commissioners Smith & Gant voting in favor.

REGULAR SESSION

1. USU Extension Office Discussion of: Agriculture, 4-H, Family Consumer Science, and Goals Moving Forward / Commissioner Chamberlain

Moved from today's meeting to Commission Meeting on March 25th

2. Protect Starry Skies / Rich Csenge

Commissioner Chamberlain said that Mr. Csenge and others met here to discuss what they are proposing and I request that they bring this to this group.

Mr. Csenge said that he and Von Del Chamberlain are here to bring a project to your attention that I and other residents have been working on since the summer of 2018. We would like to have the support of the Kane County Commission to help us accomplish it and that is to build and operate a Non-profit Educational Astronomical Observatory in Kanab. As for our tourism it is growing fast in Utah, and Kane County is perfectly positioned to benefit from it. So we would like to earn your support for this effort and also ask you to consider ways to protect the exceptional natural darkness of our County. Kanab City already adopted a Night Sky Friendly Outdoor Lighting Ordinance in the fall of 2017.

What we would like to do is set up an informal work meeting with the Commission or somebody at the County level to explore and allow us to explain our project and discuss ways that the County could support us. We would also ask the County to

consider extending the City's lighting ordinance to the entire County. There is an economical benefit for Kane County in doing it.

Von Del Chamberlain said he grew up here in Kanab: I went away for a long time but am back. My field is astronomy, mostly in planetariums and museums experience. I can't explain why, but it just warms my heart to think about having a public observatory, not a research facility, and it would be for the public enjoyment and viewing of our beautiful night skies.

Patricia Paterson: New hotels are coming up with all the parking lot lighting. We need to consider their lights.

Commissioner Smith said when they built the new jail the lights were all pointed down.

Commissioner Chamberlain said he was on the City Council when they passed that ordinance. There was much debate and about two years of discussion. With the new ordinance all new construction have to have the new lighting, and old ones have a time frame to comply.

Commissioner Chamberlain said there has been talk about constructing an observatory out by Jackson Flat Reservoir and they have some land available. Funding is a whole other matter and I don't know where that is going to come from.

You can't build a very good observatory in St. George or Cedar City but you could in Kanab. In my ongoing discussions with the Universities in the area that are trying to have a bigger presence in Kane County, this would be an opportunity for them to reach out and build some programs around an observatory that would provide good night time vision. I think it is worth supporting this effort.

Commissioner Chamberlain said he would be willing to work with them in a committee setting.

3. Night Time Hunting Ordinance / Don Sprecher

Per the request of the Sheriff that the fee be changed to \$20 and the change to the caliber: We have no objections. The County Attorney may want to look into where the fees go because after administration fees are paid, my understanding is the remainder goes back into the bounty fund.

Sheriff Glover clarified that any proceeds from this program go back into that program with the exception for us to pull out the cost associated with administrating the program.

Don said he knows this has been a continuous proposal to bring to the community but as he stated before there has not been any issues with this in the State.

This ordinance makes our hunters hold themselves to higher standards than anywhere in the state.

With this said I don't see why this ordinance shouldn't be passed.

Commissioner Chamberlain asked Sheriff Glover that one of the questions raised was about enforcement. Could you address use on how you would enforce this ordinance if it were passed?

Sheriff Glover: We do have a limited number of Sheriff's deputies, and we have about 4000 sq. miles to cover in the County. We'll just have to adjust our help and schedules, but other counties' sheriffs that I have contacted have not had any problems with this program.

Attorney Van Dyke asked how many calls they get now because it is illegal.

Sheriff Glover: We only get several calls a year. It is not so much about night time hunting as just night time shooting. Also something I have found is that some sheriffs restrict how many permits can be issued at one time. That could be very useful to our man-power needs.

When we contacted some of the other sheriffs from other counties asking about how many permits were allowed some of the sheriffs didn't even know they had an ordinance. The hunters usually use a lower caliber because they don't want to ruin the pelt.

Commissioner Chamberlain said that he has done some research. It turns out that about 40 of the states allow hunting of predators. Of the 40 or so states that allow predator hunting there were 7 or 8 that did not allow night time hunting of predators. Most people are worried about the safety so as long as the safety has been addressed adequately I have no problem with hunting and neither does the state of Utah.

Van Dyke: So the changes that we want to change are: \$20 permit fee instead of \$10 and that the Sheriff can limit the hunters; and the caliber of the gun needs to be .24 caliber or lower.

There were a couple of questions about hunting on SITLA parcels and BLM properties. It was said that it was ok as long as the property didn't have a private lease on it. Then it would be treated as private property.

Victor Cooper asked how much damage is caused by predators.

It is very significant. Out of a herd of 5,000 deer 40% of the fawn crop is killed. They also take small calves.

Motion to approve Ordinance O-2019-6 Night Time Predator Hunting made by Commissioner Chamberlain and motion carried with a roll call vote.

Commissioner Gant	Excused
Commissioner Smith	Aye
Commissioner Chamberlain	Aye

4. Approve Process of Sale of Land / Karla Johnson

We have talked a little bit about how we sell properties. We have a request to sell a piece of property #8-9-13-2A. There was a discussion on a parcel of property and how to process a sale of County Land.

Karla handed out some information and said it would be sold by a sealed bid. The first page is the notice and then the second page is the guide lines and the third page needs to have the bid amount and signature and then how they would like to take title.

5. Appointment of Commissioner Gant as Resource Committee Chairman / Mary Reynolds

Motion to appoint Andy Gant as Resource Committee Chairman made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

6. Appointment of three Resource Committee Members: Pam Hill, Bart Battista and Jim Matson / Mary Reynolds

Commissioner Smith said he has read their resumes and they are all excellent additions.

Motion to approve Pam Hill, Bart Battista and Jim Matson as Resource Committee Members made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

7. Presentation for American Stewards of Liberty / Margaret Byfield (Resource Consultant)

Tomorrow there is a Coordination meeting with the Forest Service. That is why I am here to help you go through that meeting with the Forest Service. I am here today to see if you have any questions about the Coordination process and to give you an overview of

Coordination and what to expect and a little guidance and how to run that type of a meeting with the agency.

Commissioner Smith said that Commissioner Gant had asked him to set in for him at this meeting because he is in Washington D.C.

Coordination - there is a lot of mystic and a lot of misunderstanding and I have read things as different counties have implemented it. So what I want to do is clarify it from our prospective the way we believe the law requires Coordination be carried out both from the local government and the federal government. Coordination is just a process, so it is a way that Congress directed the federal agencies in two particular acts: the Federal Land Policy Management Act which governs the BLM and then the Forest Service which is the National Forest Management Act which we are going to focus on tomorrow. They have been instructed to work with local governments and that is the Coordination process for the purpose of reaching consistency. Now what is key is that it doesn't mean as a county we can go in and say, "This is our plan and this is how it must be and you have to comply with this" because that would, of course, violate the Supremacy Clause. The purpose of Coordination: what Congress did was recognized that the federal government obviously has planning authority. They have certain laws that they have to implement on the federal lands but local governments were here first. Local governments have a different responsibility and that is to protect the health and welfare of the people. That isn't the purpose of the Forest Service or the BLM. Their purpose is to manage the federal lands. So Congress recognized that local governments are planning authorities. Through Coordination the federal & local government will work together to have consistency.

Commissioner Chamberlain said so opposed to a cooperating agency this roll then is to/.... it's different we have a bit more say, we don't have to agree to the outcome. We don't have to agree to things we don't agree with.

If we don't agree and we can't come to a consensus on something then what happens?

Margaret said there is a little difference in the language that's in FLPMA for the BLM than with the Forest Service. FLPMA has very clear consistency language that their intent is to reach consistency and if they can't reach that consistency they need to document and explain in the documents why they can't reach that consistency. And they will go through The National Forest Management Act. FLPMA goes through and delineates. There are the five things you have to do in the statute to coordinate and one of those is to reach that consistency. The National Forest Management Act simply directs them to coordinate, to develop, maintain and revise a plan. So that means it does not explain what they mean by that coordination duty. That has allowed the Forest Service to take some rather unusual positions. One of which is, they only have to coordinate when they revise and they don't have to reach an agreement with you. They don't have to really work for consistency; they just have to consider what you have said which mean they come and listen, take notes and then say thank you very much and then go back and do what they want to do.

So for the Forest Service this has really been a hurdle. With BLM they have become much more cognizant of their legal responsibility to coordinate and have done a better job at really trying to achieve that, though they aren't quite there yet, but they have done a better job. The Forest Service continues to resist that coordination aspect which is one of the reasons why Kane County is very instrumental in developing a document by Norm James which you guys have. We really wanted to substantiate what that role was for Forest Service under the National Forest Management Act.

The one thing that the Forest Service has to do is to demonstrate that they are working hard to coordinate and come to agreement and they have to give you a good reason that they can't reach that agreement. That is the key and it has to be documented. It is important for you to understand that they do have an obligation to coordinate with you; they do have an obligation to consider the local plans and work to incorporate those into their plans to the extent that is allowable under the law.

One of the points I would really like you to focus on and think about is to continue to ask of the agencies in regards to whatever issue is in your plan, "Why can't you resolve this? What is preventing you from doing this?" Force them to give you a good reason why they can't coordinate other than "We'll need to talk to our boss" or "We'll take a look at it and we'll talk about it next time." On your part, always make clear what harm can come to the County if this policy isn't fulfilled. That will put the responsibility back on the agency.

Hope for tomorrow is that we have a good meeting. We want to go into this meeting with the intent to resolve issues and work together.

Commissioner Smith will open the agenda. It is to be an official meeting, just like this meeting.

8. Approval of Ordinance O-2019-4 Ordinance Changes for Chapters 1,2,3,6,7,10,11,14,21 & 22 of the Kane County Land Use Ordinance /Shannon McBride.

Shannon is just cleaning up to comply with state code which changes every year and making sure we are in compliance.

All changes have been approved in Planning and Zoning.

Motion to approve Ordinance O-2019-4 changes made in Chapters 1,2,3,6,7,10,11,14,21 & 22 of the Kane County Land Use Ordinance made by Commissioner Chamberlain and motion carried with a roll call vote.

Commissioner Gant

Excused

Commissioner Smith Aye
Commissioner Chamberlain Aye

9. Approval of Ordinance 0-2019-5 Kane County Land Use Ordinance / Ade' Nelson

Tabled until next meeting

10. Approval of Resolution R-2019-3 A Resolution Establishing Fees for the Short Term Rental Special Use Permit / Attorney Van Dyke

Tabled until next meeting

11. Interlocal Cooperative Agreement Between Kane County, Town of Orderville and the North Event Center / Alan Alldredge

There has been maintenance for the County through the Sheriff's office. We feel we need to have NEC with us also, but the cleaning of the Senior Center with Orderville will be the same.

Talking with the Sheriff, Orderville is not in favor of the snow removal.

Just letting you know we are working on it.

Once we work out the snow removal it will be ready to go. Just need to give Lamont the authority to sign when it is updated.

Motion to approve the Agreement Between Kane County, Town of Orderville and the North Event Center and giving authority to sign to Commissioner Smith was made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

Other Business:

- Reports

Karla had a report on Vacation Rentals. And she gave status on the rentals.

We are tracking them. We get all tax #'s and will not okay a business license until they get the TRT number. We are working with other departments to make sure that the rentals are legal.

John gave an update on audits. New maintenance will receive some funds for the NEC. Also Camille has money for maintenance on her buildings. Money should be there to add for 2019.

John talked about 4-H items.

Commissioner Smith said he had a letter that came to Commissioner Clayson dated February 12, 2019 from the Administration Offices of the Courts, it said that all standards of operations were being met as sorts and the Kane County Justice Court was recertified for a four year term.

Commissioner Smith also received a letter from the Federal Energy Committee Utah Board of Water Resources.

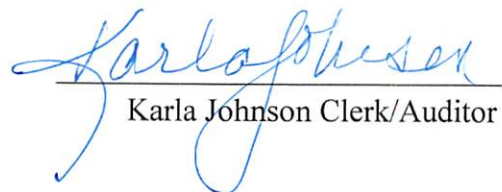
Motion to go into Closed Session made by Chamberlain and motion carried with all Commissioners present voting in favor.

Closed Session

Motion to adjourn made by Commissioner Chamberlain motion carried with all Commissioners present voting in favor.

WHERE UPON MEETING WAS ADJOURNED


Lamont Smith Chairman


Karla Johnson Clerk/Auditor