



April 10, 2019
Kane County Planning Commission
Land Use Authority
Commission Chambers, Kane County Courthouse
76 North Main Street, Kanab, Utah

Agenda

Facilitator: Chairman, Tony Chelewski

Attendees: Planning Commission, County Staff, Interested Citizens

5:30 PM Work Meeting

6:00 PM Pledge of Allegiance

Prayer

Approval of Minutes

Chairman, Tony Chelewski

Announcements

Chairman, Tony Chelewski

Public Comment

Chairman, Tony Chelewski

**Administrative
Public Hearing**

(1.) Lot Joinder: Richard N. & Rozanne D. Smith

An application for Vacating and Amending a Subdivision Plat for a lot joinder on behalf of Rozanne D. Smith & Richard N. Smith, Trustees of the 1996 Living Trust, Color Country Subdivision, Plat "E" lots 60 & 61 becoming new lot 61, has been submitted by Tom Avant, Iron Rock Engineering (holding power of Attorney).

**Legislative
Public Hearing**

(2.) Kane County Land Use Ordinance: O-2019-7

Kane County Land Use Ordinance (No. O-2019-7); (9-1-7) Chapter 1, General Provisions, Section 7, Definitions, modify definition of bed and breakfast; (9-6A-4H) Chapter 6, Residential Zones, Article A. Residential Zoning Districts (R-1/2, R-1, R-2, R-5), Section 4, Modifying Regulations, sub-section H, revision to allow second single family dwelling as a nightly/short term rental; (9-6D-(1-8)) Chapter 6, Residential Zones, Article D. Short Term Rental regulations within residential zones, Sections 1 through 8, creating an article containing the rules and regulations pertaining to short term rental use of a single family dwelling within residential zones in Kane County. Submitted by Ade' Nelson, Zoning Administrator.

Land Use Ordinances: kane.utah.gov; government; ordinances; title 9

Information Packets: kane.utah.gov; government; departments; planning commission; documents; general

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

Planning Commission Meetings Statutory Authority, Rules & Procedures can be found online at kane.utah.gov; Departments; Planning Commission; General; Land Use Ordinance 9-2-1 through 10.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Shannon McBride at (435) 644-4966 or Wendy Allan at (435)644-4364.

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

Definitions:

“Public Hearing” means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing. “Public Meeting” means a meeting that is required to be open to the public pursuant to the requirements of Title 52, Chapter 4 Open and Public Meetings; the public may or may not be invited to participate. “Legislative” means an action taken by the County Commission or Land Use Authority; amending ordinances, adopting general plan, annexations, zoning and rezoning; a reasonable debatable action that could promote the general welfare of the community. “Administrative” means an action taken by the Land Use Authority Commission, staff, County Commission interpreting ordinances and regulations, conditional uses, approving subdivision site plans, issuing building permits; an administrative decision must satisfy the requirements prescribed under state law or the County Land Use Code (LUC), whichever is stricter.



DRAFT STAFF REPORT

DATE: 03/27/2019

PROJECT: A complete application for Vacating and Amending a Subdivision Plat for a lot joinder on behalf of Rozanne D. Smith & Richard N. Smith, Trustees of the 1996 Living Trust, Color Country Subdivision, Plat "E" lots 60 & 61 becoming new lot 61, both lots are zoned R-1/2, has been submitted by Tom Avant, Iron Rock Engineering (holding power of Attorney).

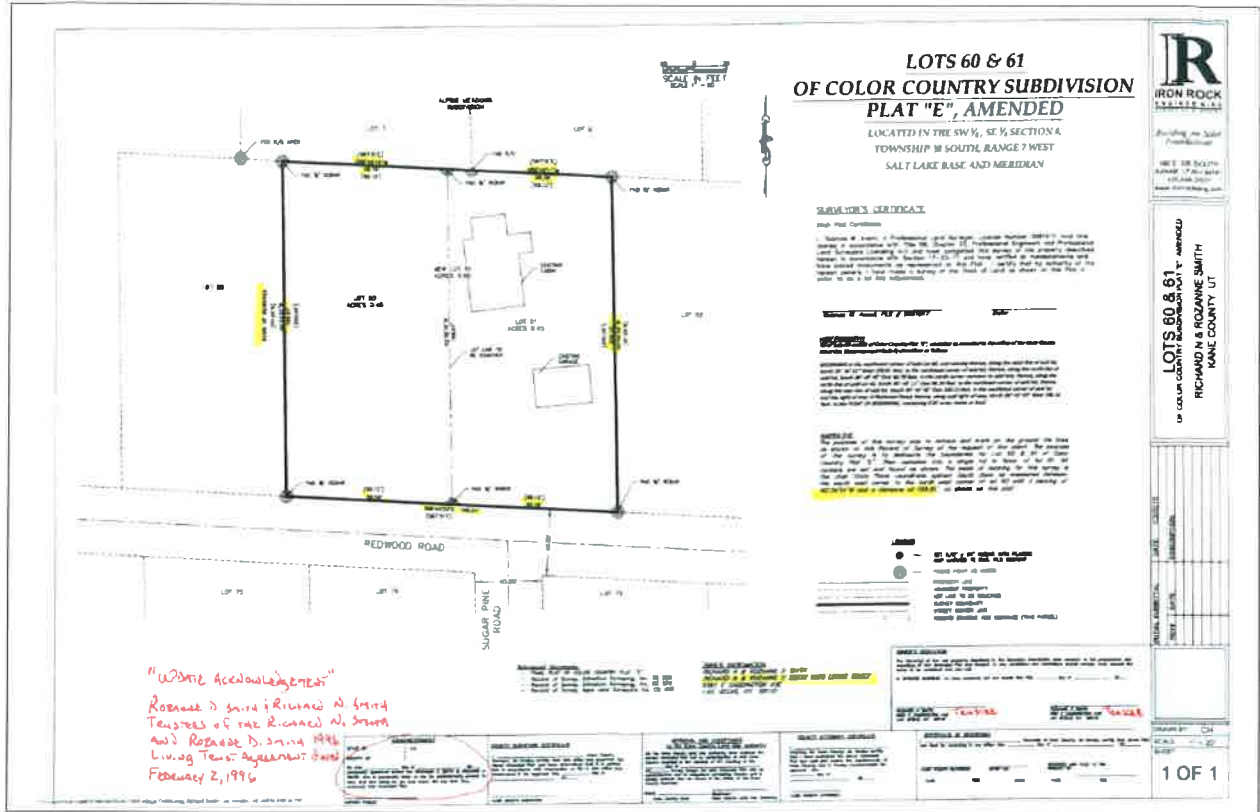
The reason for the lot joinder request is the owners want to save on taxes and add onto their existing cabin.

FINDINGS: Amending a subdivision plat (lot joinder) conforms to the standards in the Kane County Land Use Ordinance, 9-21E-9, A-F. Utah Code Sections §17-27a-201, 202, 206, 208 & §17-27a-608 & 609 requirements have all been met. The project has been posted in two public places, noticed in the local newspaper, and on the county and state websites. Notices were mailed out to all property owners within 500 feet of the project. Good cause exists for amending the plat and joining these two lots together; neither the public interest nor any person will be materially injured by the proposed amendment. Amending the plat is in compliance with all state and local ordinances.

STAFF RECOMMENDATIONS: Kane County Engineer, Civil Science, Travis Sanders, PLS, has reviewed this project and recommends approval. Kane County Land Use Administrator, Shannon McBride, recommends approval.

This project does NOT go to the Commissioners.

MOTION: I _____ make a motion to recommend approval for Vacating and Amending a Subdivision Plat for a lot joinder on behalf of Rozanne D. Smith & Richard N. Smith, Trustees of the 1996 Living Trust, Color Country Subdivision, Plat "E" lots 60 & 61 becoming new lot 61, based on the findings documented in the staff report.



Thank you.



Land Use Authority

76 North Main Street
Kanab, Utah 84741
Phone (435) 644-4966
planning@kane.utah.gov

#19006

Date Received: 3/6/19
Check Number: [REDACTED]
Received By: W. Allan

REQUEST FOR LOT JOINDER WITHIN A SUBDIVISION PLAT

Property Owner's Name: Richard N and Rozanne D Smith

Date: 12/10/2018 Address: [REDACTED]

Phone: [REDACTED] Cell Phone: [REDACTED] Fax: /

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Location and Legal Description of Subdivision Plat:

Lots 60 and 61 of Color Country Subdivision Plat "E"

Reason for Lot Joinder Request:

To be able to ad on to the existing cabin and to save on Property Tax

I (We) certify that the proposed subdivision plat will conform to the Kane County Subdivision Ordinance and that no changes will be made without prior approval.

Signature of Owner / Trustee: [REDACTED]

Signature of Owner / Trustee: [REDACTED]

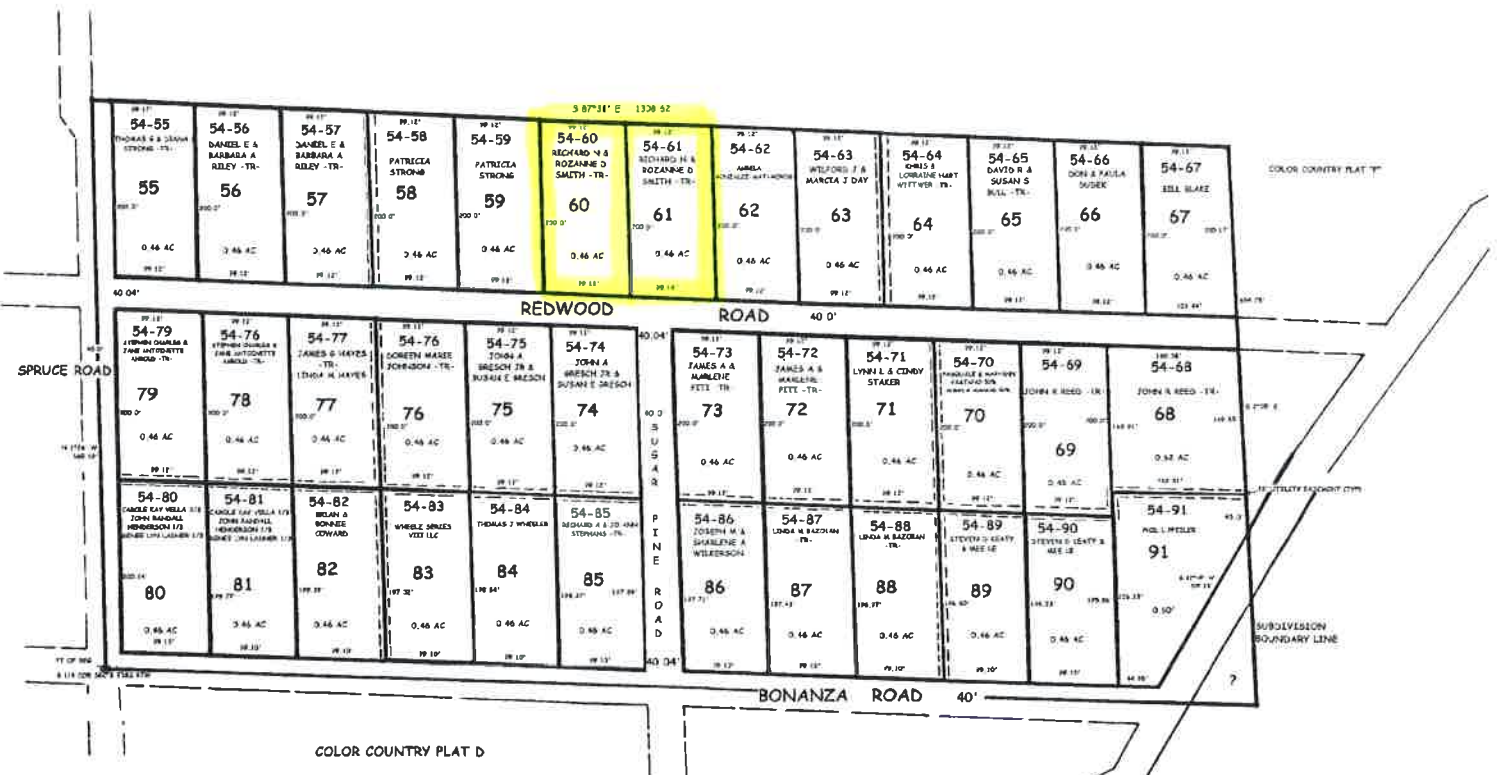
Note: Once lots are joined they may not be subdivided again.

Planning Commission Action: Approve _____ Deny _____

Comments:

Planning Commission Chairman _____ Date : _____

COLOR COUNTRY PLAT "E"



BOUNDARY DESCRIPTION:
 CORNER AT THE S 1/4 COR SEC 8 T38S R7W SUBM T4 AS
 FOLLOWS:
 N 1°24' W 660.19'
 S 87°31' E 1308.62'
 S 2°09' E 659.75' TO SECTION LINE
 N 87°44' W 1319.75' ALONG SEC LINE TO THE PT OF 866

NOTE: ALL POINTS ARE PERMANENT STEEL PINS
 SCALE: 1" = 100'
 RECORDED: 7-27-72

54: COLOR COUNTRY PLAT E



KANE COUNTY LAND USE AUTHORITY

ADE' NELSON
LAND USE AUTHORITY
ZONING ADMINISTRATOR

DRAFT Staff Report

DATE: 03/28/2019

To: Planning Commission
From: Ade' Nelson, Zoning Administrator
Subject: **Ordinance O-2019-7**
KCLUO Chapter 6, Residential Zones, Article D. Short Term Rental Ordinance

HEARING NOTICE: This item has been noticed on the Utah public notice website, the Kane County Planning Commission webpage, and in the Southern Utah Newspaper.

REQUEST: Review, revise, and approve the addition of Article D. Short Term Rentals to the Kane County Land Use Ordinance Chapter 6 Residential Zones for recommendation to the Kane County Commissioners.

BACKGROUND: In the recent years short term rentals have become extremely popular, and continue to increase in quantity each year. As Kane County's Land Use Ordinance is currently written, there is very little regulation pertaining to short term rentals.

Current requirements are;

1. Current Kane County business license
2. Maximum occupancy less than 15 individuals.

The land use office has received various complaints from neighbors in all areas of Kane County in regards to short term rentals, specifically the lack of regulation.

DEVELOPMENT HISTORY:

- On February 13, 2019 the Planning and Zoning Commission voted to recommend a previously drafted STR ordinance (O-2019-5).
- Ordinance O-2019-5 was presented to the Kane County Commissioners on February 25, 2019 for approval. The ordinance was "postponed" and rescheduled to be presented to the Commissioners at the upcoming Commission Meeting March 11, 2019.
- Ordinance O-2019-5 was re-presented to the Kane County Commissioners on March 11, 2019 for approval. The ordinance was "tabled" and the Commissioners requested that it be sent back to the Planning Commission for additional public comment and revisions.

FACTS AND FINDINGS: Kane County’s vision statement outlines below reasons for support of the development of regulations for short term rentals;

- Kane County desires to keep the scope of county government in harmony with our nation’s founding principles by providing adequate protection without unduly restricting the liberties of residents and visitors. (2018 Amended KCGP pg.2)
- The General Plan will assure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. (2018 Amended KCGP pg.3)
- The development of ordinance O-2019-5 (previously proposed draft), did not receive any public comment when it was originally accepted and recommended by the Planning and Zoning Commission to the Kane County Commissioners.
- Public comments and concerns were made during the presentation of O-2019-5 at the Kane County Commission Meetings. At the March 11, 2019 County Commission meeting, the Commissioners made the decision to send the ordinance back to the Planning and Zoning Commission for further revision.
- O-2019-7 was drafted to address concerns voiced by the public, input voiced by other county departments, comments provided by Planning Commission members, and research conducted by land use staff, including the cooperation with the local health department.

CONCLUSION:

The development of the short term rental article will provide the land use authority the ability to mitigate health, safety, and welfare concerns directly generated by short term rentals. It is the intent of the Land Use Authority to develop short term rental regulations that are harmonious with the General plan. The STR article will establish the rules and regulations for STR’s within residential zones. This article will provide protections to surrounding property owners, while simultaneously continuing to preserve private property rights.

After receiving a wide variety of opinions from residents of Kane County, O-2019-7 was drafted as an alternative to O-2019-5; the STR Ordinance that was previously recommended by the Planning Commission to the County Commissioners.

O-2019-7 better represents the needs and the wants of all residents of Kane County at this time.

MOTION: I, _____ make a motion to recommend approval of Ordinance O-2019-7 to the Kane County Commissioners, based on the facts and findings as documented in the Staff Report.

KANE COUNTY ORDINANCE NO. O 2019 - 07

**AN ORDINANCE AMENDING TITLE 9 CHAPTERS 1 and 6
OF THE KANE COUNTY LAND USE ORDINANCE**

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners desire to make recommended changes to specific sections of Chapters 1 and 6 of the Kane County Land Use Ordinance; and

WHEREAS, the purposes of amending these chapters are as follows: (9-1-7) Chapter 1, General Provisions, Section 7, Definitions, modify definition of bed and breakfast; (9-6A-4H) Chapter 6, Residential Zones, Article A. Residential Zoning Districts (R-1/2, R-1, R-2, R-5), Section 4, Modifying Regulations, sub-section H, revision to allow second single family dwelling as a nightly/short term rental; (9-6D-(1-8)) Chapter 6, Residential Zones, Article D. Short Term Rental regulations within residential zones, Sections 1 through 8, creating an article containing the rules and regulations pertaining to short term rental use of a single family dwelling within residential zones in Kane County; and

WHEREAS, the Kane County Planning Commission, after a duly noticed public hearing, recommended for approval amendments to the following Chapters: (9-1-7) Chapter 1, Definitions; (9-6A-4H) Chapter 6, Residential Zones, Article A.; (9-6D-(1-8)) Chapter 6, Residential Zones, Article D.; and

WHEREAS, the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended amendments for the sections listed below for Chapters 1 and 6 of the Kane County Land Use Ordinance; and desires to enact the recommendations; and

WHEREAS, the Kane County Board of Commissioners find that the recommended changes are consistent with the 2018 Amended Kane County General plan; as stated in the vision statement within the General Plan, Kane County desires to keep the scope of county government in harmony with our nation's founding principles by providing adequate protection without unduly restricting the liberties of residents and visitors. (2018 Amended KCGP pg.2) and The General Plan will assure that present and future residents and visitors to Kane County will be housed under safe, sanitary, and attractive conditions. (2018 Amended KCGP pg.3)

WHEREAS, the purpose of this ordinance is to update the Kane County Land Use Ordinance under the authority granted in Utah State Code, §17-27a-205, §17-27a-301-302, §17-27a-501-503, §17-27a-505.5 and § 17-27a-601-604.5, which authorizes the Kane County Commission to enact and amend land use ordinances upon recommendation by the Kane County Planning Commission;

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

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.

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**Title 9
Land Use
Chapter 1
GENERAL PROVISIONS**

9-1-7: DEFINITIONS:

BED AND BREAKFAST: A building of residential design, in which the property owner or manager personally resides on premises, in which ~~no fewer than two (2)~~ one (1) or more rooms but not more than five (5) rooms are rented out by the day, for not more than four (4) guests per room, and may offer meal services to overnight guests only.

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**Title 9
Land Use
Chapter 6
RESIDENTIAL ZONES
ARTICLE A. RESIDENTIAL ZONING DISTRICTS (R-1/2, R-1, R-2, R-5)**

9-6A-4: MODIFYING REGULATIONS:

H. Short Term Or Vacation Rental: In the event that there is more than one dwelling on a single lot that may be considered a short term rental or vacation rental as defined in section 9-1-7 of this title only one renting of those dwellings may be used as a short term rental or vacation rental, except in the R-2 and R-5 Zones where a conditional use permit can be applied for to allow a second ~~renting as a bed and breakfast~~ nightly/short term rental.

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**Title 9
Land Use
Chapter 6
RESIDENTIAL ZONES
ARTICLE D. SHORT TERM RENTAL REGULATIONS WITHIN RESIDENTIAL ZONES**

(Article D currently marked "RESERVED" shall be replaced with entire new Article D below; "Short Term Rentals, sections 1 through 8)

9-6D-1: DEFINITIONS:

The following definitions shall apply to this article:

NIGHTLY/SHORT TERM RENTAL: A detached single-family dwelling unit used as a transient lodging facility occupied at any time by less than fifteen (15) individuals of a single group on a temporary basis for less than thirty (30) days as an alternative to a hotel or motel.

OWNER: The recorded property owner of the residence being used as a short term rental. The owner may be a person or any form of business entity recognized by the state of Utah. If the owner

is a business entity, the business shall maintain current registration with the Utah Department of Commerce.

PROPERTY MANAGEMENT COMPANY: The owner's agent for renting and/or managing the property, if any.

9-6D-2: SCOPE:

This article shall apply only to short term rentals located within a residential zone.

9-6D-3: TERMS OF USE:

Short term rental use of a single family dwelling shall be permitted in residential zones if the following terms are complied with:

- A. Short term rental unit shall maintain a current Kane County Business License.
- B. Owner shall maintain active registration with the State of Utah and remit all taxes deemed necessary by the Utah State Tax Commission.
- C. Short term rental unit shall comply with all applicable rules and regulations set forth by the local health department including SWUPHD non-public drinking water system regulations (ch.6.0 – water hauling), the county building department, and Kane County Land Use Authority.
- D. Short term rental property shall comply with all HOA/ or CC&R rules and restrictions.
- E. Short term rentals are a permitted use in all zones limited to one (1) short term unit per property, unless permitted as a conditional use by zone.
- F. Short term rental shall not exceed the maximum occupancy of fourteen (14) individuals at a time.
- G. Short term rental shall provide a minimum of two (2) off street parking spaces.

9-6D-4: MAINTENANCE STANDARDS: All short term rental units shall conform to maintenance standards as defined in the Kane County Nuisance Ordinance. (4-3-3B)

9-6D-5: PREVENTION OF NOISE, TRESPASS, PROHIBITED ACTIVITIES: The owner/ property manager of a short term rental property shall be responsible to ensure that guests or occupants of the short term rental property comply with all noise, trespass, and safety conditions as defined in the Kane County Nuisance Ordinance. (4-3-3)

9-6D-6: REQUIRED POSTING: The following information must be posted in clear and prominent area near the primary entrance of the short term rental unit.

- A. Business License: A copy of the Kane County Business License;
- B. Owner, Property Manager Information: The name, address, and phone number of the owner or property manager;
- C. Maximum occupancy: Maximum occupancy: Total occupants of the dwelling shall not exceed fourteen (14) individuals.

9-6D-7: TAX RESPONSIBILITIES: The owner of any dwelling licensed as a short term rental property shall be required to collect and remit transient room tax and any other tax deemed necessary by the State Tax Commission. Failure to do so may result in civil or criminal penalties, or both, under county and/or state code.

9-6D-8: ENFORCEMENT: All violations of this chapter shall constitute a Class C misdemeanor and shall be enforced in compliance with Title 9, Chapter 1, subsection 9. (9-1-9)

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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 _____ 2019.

ATTEST:
Kane County

KARLA JOHNSON
Kane County Clerk

Lamont Smith, Chair
Board of Commissioners

Commissioner Smith voted _____
Commissioner Gant voted _____
Commissioner Chamberlain voted _____