

GARFIELD COUNTY COMMISSION MEETING
JUNE 24, 2019 AT 10:00 A.M.

Present: Commissioner Leland Pollock, Commissioner Jerry Taylor, Commissioner David Tebbs, County Clerk Camille Moore, Attorney Barry Huntington.

Commissioner Leland Pollock called the meeting to order.

Commissioner Tebbs made a MOTION to adopt the agenda. Seconded by Commissioner Taylor. MOTION carried. Voting unanimous.

Commissioner Taylor made a MOTION to approve the minutes of the June 10, 2019 meeting. Seconded by Commissioner Tebbs. MOTION carried. Voting unanimous.

BOARD REPORTS

Commissioner Tebbs attended the UDOT public meeting regarding the repairs on Highway 12 and the pull off and parking at Mossy Cave. He reported on the recent planning commission. He and Commissioner Taylor attended the State Prevention Coalition training held at Ruby's Inn. Mammoth Creek is working with 5 County to develop a community fire plan. He added Fire Nuisance Letter to the next agenda for discussion. He recommended reviewing the county nuisance ordinance.

Commissioner Taylor reported that he gave the opening comments at the State Prevention Coalition training. He complimented Melissa Veater for her work with the Prevention Coalition. He reported on Southwest Behavioral Health, Public Health and Five County Steering Committee this past week. He reported on his work with the Bristlecone Board. He has been meeting with our Congressmen and Senators on the Escalante Science Center. He reminded the other Commissioner about the Congressional Staff Fly-In in August.

Commissioner Pollock reported on the Joint Jail Committee Meeting. He reported on progress with the Forest Service with the clean-up of the bug trees in the county. Local ranchers are hiring a helicopter to locate ferrell cattle on the monument. The State Department of Agriculture plans to assist the ranchers.

PUBLIC WORKS BUSINESS

Mossy Cave Parking Area: Brian Bremner, County Engineer, is working with Bryce Canyon National Park and UDOT to expand the parking at Mossy Cove. After discussion, Brian was given authority to help with the earth work and haul gravel for the project.

US 89 and SR 143: UDOT plans to pave areas of US 89 and SR 143 within the County. UDOT has a program to install lights on state road and the county will pay be responsible for the ongoing costs of the lights. Brian will review the need for lights and the cost.

Panguitch City Garbage Disposal: Mayor Kim Soper and Lori Talbot, City Manager, came to address the dumpster site west of Panguitch. There have contracted with Hughes Waste Hauler to provide roll off dumpsters at the site. They are exploring options to help pay for the collection. The Commission will look at options to help the city, possible providing roll offs.

Hughes Waste Hauler: Chuck Hughes provided pictures of the current roll offs. He asked that he be considered in the review.

PLANNING DEPARTMENT BUSINESS

Tim Tebbs Minor Lot Subdivision and Zone Change Amendment: Kaden Figgins, Planner, explained the mistake that was made in the zone change in 2018. He recommended amending to zone change Residential Estates to Residential (R-20). It was approved correctly by the Planning Commission. After review, Commissioner Taylor made a MOTION to approve the correction of the zone on the Tim Tebbs property to Residential (R-20). Seconded by Commissioner Pollock. Motion carried. Voting: Taylor - Aye, Pollock - Aye, Tebbs - Abstained.

Conditional Use Permits for Short Term Rentals:

Kaden explained that he has applications for four conditional use permits for short term rentals. The businesses are currently operating without business licenses or conditional use permits. The Planning Commission has reviewed the applications and recommend that the four conditional use permits for short term rentals be issued.

Rylene Johnson's property is located in old town Hatch. Commissioner Tebbs made a MOTION to issued a conditional use permit to Rylene Johnson to be renewed annually. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

William Rigg's property is located in old town Hatch. Commissioner Tebbs made a MOTION to issued a conditional use permit to William Riggs to be renewed annually. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

Gloria Wright's property is in Mammoth Valley Estates Subdivision. Commissioner Tebbs made a MOTION to issued a conditional use permit to Gloria Wright to be renewed annually. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

Jared Munk, doing business as Horse Valley Fish Camp, is in the Panguitch Lake Falls Subdivision. Commissioner Tebbs made a MOTION to issued a conditional use permit to Jared Munk to be renewed annually. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

Commissioner Taylor made a MOTION to enter Public Hearing. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

PUBLIC HEARING - SPOTLIGHTING ORDINANCE AMENDMENT

Present: Sheriff Perkins, Kaden Figgins, Peg Smith, Clay Wagstaff, Byron Ellis, Denise Olson, Vincent Hannah, Kevin Moore, Dave Mitchley, Rochelle Mitchley, Mark Boshell, Tye Ramsay, Jesse Fabula, Laurel Miller

Sheriff Perkins explained the reasons for the amendment to the ordinance. The amendment excludes cultivated property and subdivisions. Current permit holders must renew the permit with the Sheriff's Office.

Vince Hannah stated that he opposes the amendments.

Laurel Miller supports the amendments.

Commissioner Taylor made a MOTION to return to general session. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

Commissioner Tebbs feels that the 600 feet distance should be extended to between ¼ mile to a halfmile. After discussion, Commissioner Taylor made a MOTION to approve the amendments to the Spotlighting ordinance. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

Commissioner Taylor made a MOTION to enter Public Hearing. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

PUBLIC HEARING - MINOR LOT SUBDIVISION - CLAY WAGSTAFF

Present: Sheriff Perkins, Kaden Figgins, Peg Smith, Clay Wagstaff, Byron Ellis, Denise Olson, Vincent Hannah, Kevin Moore, Dave Mitchley, Rochelle Mitchley, Mark Boshell, Tye Ramsay, Jesse Fabula, Laurel Miller

Clay Wagstaff has applied for a minor lot subdivision on his property south of Henrieville. The property is zoned agricultural. Kaden reported that the Planning Commission has reviewed the application and recommends it be granted.

There were no public comments.

Commissioner Tebbs made a MOTION to return to general session. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

Commissioner Tebbs made a MOTION to approve the Clay Wagstaff minor lot subdivision. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

Commissioner Taylor made a MOTION to enter Public Hearing. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

PUBLIC HEARING - VACATION OF TICABOO SUBDIVISION PLAT VII

Present: Sheriff Perkins, Kaden Figgins, Peg Smith, Clay Wagstaff, Byron Ellis, Denise Olson, Vincent Hannah, Kevin Moore, Dave Mitchley, Rochelle Mitchley, Mark Boshell, Tye Ramsay, Jesse Fabula, Laurel Miller

Kaden explained that the purpose of the amendment is to vacate lots 1-10, 153, Parcels A and B of the Subdivision, as well as the public right-of-way known as Lake Court. The Planning Commission has reviewed and recommends approving the vacation of the subdivision and right-of-way.

There were no public comments.

Commissioner Taylor made a MOTION to return to general session. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

After discussion, Commissioner Tebbs made a MOTION to approve the vacation of Ticaboo Subdivision Plat VII and the public right-of-way known a Lake Court. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

Commissioner Taylor made a MOTION to enter Public Hearing. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

PUBLIC HEARING -ACCEPTABLE USE POLICY

Present: Sheriff Perkins, Kaden Figgins, Peg Smith, Clay Wagstaff, Byron Ellis, Denise Olson, Vincent Hannah, Kevin Moore, Dave Mitchley, Rochelle Mitchley, Mark Boshell, Tye Ramsay, Jesse Fabula, Laurel Miller

Attorney Huntington explained to need for the Acceptable Use Policy.

There were no public comments.

Commissioner Taylor made a MOTION to return to general session. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

After discussion, Commissioner Tebbs made a MOTION to adopt Resolution 2019-7 Public Property Acceptable Use Policy. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

GARFIELD COUNTY RESOLUTION 2019 - 7

PUBLIC PROPERTY ACCEPTABLE USE POLICY

WHEREAS, on or about March 25, 2019 Governor Herbert signed HB 163; and

WHEREAS, on HB 163 takes effect on July 1, 2019; and

WHEREAS, HB 163 establishes provisions such that a county elected official, an appointed official, a judge, consultant, independent contractor, or employee, (collectively, public servant)

who uses public property in more than an incidental manner for personal use or for use of another, may meet the elements of having committed a felony under Utah Code 76-8-402; and

WHEREAS, a felony is “a serious crime punishable for more than one year or by death” Black’s Law Dictionary; and

WHEREAS, under Utah Code Title 76, a third-degree felony is punishable by a term of imprisonment of not more than five years and a \$5,000 fine; and

WHEREAS, Utah Code 76-8-402 allows for a public servant to use public property in a accordance with a written policy of the county; and

WHEREAS, the Garfield County Commission believes that HB 163 as drafted makes it possible that public servants who are efficiently performing their duties in good faith may unwittingly be committing felonies; and

WHEREAS, the Garfield County Commission desires to create guidelines that will ensure public servants are not at risk of unwittingly committing felonies in their use of public property while ensuring public servants are using county property in a responsible manner; and

WHEREAS, the Garfield County Commission believes the best way to accomplish this is the establish guidelines for use of Public Property, to create a mechanism for warning Public Servants if they are using the Public Property in a manner contrary to those guidelines, and only after continued intentional use contrary to the guidelines, after receiving appropriate warnings, are they considered to be misusing Public Property;

NOW, THEREFORE, be it resolved by the Board of the County Commissioners of Garfield County, State of Utah as follows:

1) DEFINITIONS

- a) “Consumable Public Property” means:
 - i) real or personal property that are not durable and appreciably lose function or basic value with repeated use;
 - ii) Examples of Consumable Public Property or goods include: papers, pens, ink cartridges, paint and other items that are reasonably disposable.

- b) “Non-Consumable Public Property” means:

- (1) real or personal property that are durable and do not appreciably lose function or basic value with each repeated use;
- 2) tools, furniture, computers, and other items that are not disposable after only few uses are Non-Consumable Public Property.

c) "Public officer" means:

- i) an elected official of a public entity;
- ii) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;
- iii) a judge of a court of record or not of record, including justice court judges; or
- iv) a member of the Board of Pardons and Parole.

d) "Public Servant" means:

- i) a public officer;
- ii) an appointed official, employee, consultant, or independent contractor of a public entity; or
- iii) a person hired or paid by a public entity to perform a government function.
- iv) public servant includes a person described in Subsection (14)(a) upon the person's election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.

e) "Public property" means:

- i) real or personal property that is owned, held, or managed by a public entity.
- ii) real or personal property that is owned, held, or managed by a public entity after the real or personal property is transferred by the public entity to an independent contractor of the public entity.
- iii) public property remains public property while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

2) POLICY

a) This PUBLIC PROPERTY ACCEPTABLE USE POLICY constitutes Garfield County's "written policy of the public servant's entity" for purposes of Utah Code 76-8-402(1)(b)(iii).

b) Public Servants are authorized to use Garfield County's Public Property for personal use in accordance with this and other applicable policies.

- c) Public Servants should use Garfield County's Public Property in a manner that:
 - i) does not damage the property;
 - ii) does not cost the county more than incidental amounts, which may vary according to historic use, custom, and what is considered normal personal use of employer property in the community;
 - iii) does not interfere with use of the property as intended for the public use; and
 - iv) allows employees who have been authorized to use county equipment for extensive personal use to do so without fear of being prosecuted.

- d) If the Department Head or the Garfield County Commission finds that a Public Servant is using Public Property in a manner contrary to this policy, the Department Head or the Garfield County Commission shall give the employee a verbal or a written statement that specifically instructs the Public Servant of perceived violations and proper use of Garfield County's Public Property.

- e) The Public Servant may appeal the verbal or written statement to the Garfield County Commission if they believe their use of Public Property is in accordance with this policy. The appeal must be in writing and delivered to the Department Head or Human Resources Officer within 14 calendar days of actual receipt of the verbal/written instruction. Within 60 days of the written appeal, the Garfield County Commission shall with reasonable diligence hear the person who made the verbal/written instruction and the Public Servant, and shall make a decision on whether the use of the Public Property was in conformity with Garfield County's policies, and shall inform those involved.

- f) A Public Servant may be found in violation of County policy and subject to discipline if the Public Servant:
 - i) receives two or more verbal/written instructional statements in any calendar year; and
 - ii) the instructional statement is not appealed; or
 - iii) the instructional statement is upheld by the Garfield County Commission.

3) NON-CONSUMABLE PUBLIC PROPERTY

- a) Personal use of non-consumable public property shall be deemed to be incidental if:
 - i) the use is known or approved by the Department Head or County Commission;
 - ii) the non-consumable public property is returned in equal or better condition, minus customary and expected wear & tear;

- iii) personal use does not unreasonably impact Garfield County operations; and
- iv) the Public Servant does not receive monetary compensation contracted primarily for personal use of the public property.

- b) Personal use of motorized non-consumable public property shall only be allowed:
 - i) with prior Department Head consent;
 - ii) when similar private property is not reasonably available;
 - iii) if, upon return, all fluid levels meet or exceed acceptable levels that existed prior to personal use;
 - iv) the Public Servant reimburses Garfield County for any repairs for deficiencies that result from the personal use;
 - v) the Public Servant does not receive compensation (other than customary snacks/food) for personal use of the public property; and
 - vi) the public property is operated by a qualified individual, preferably the Public Servant; or
 - vii) in the case of emergency with notice to the Department Head at the earliest reasonable time.

4) CONSUMABLE PUBLIC PROPERTY

- a) Personal use of consumable public property shall be deemed to be incidental if:
 - i) the use is known and approved by the Department Head or County Commission;
 - ii) customary and expected wear & tear and expense for the consumable public property is reimbursed by the Public Servant;
 - iii) personal use does not unreasonably impact Garfield County operations; and
 - iv) the Public Servant does not receive any compensation for personal use of the public property.

5) USE OF PHONES AND ELECTRONIC DEVICES

- a) Personal use of phones and electronic devices shall be deemed to be incidental if:
 - i) the use is known and approved by the Department Head or County Commission;
 - ii) customary and expected wear & tear and expense for use of the public property is quantifiable and reimbursed by the Public Servant;
 - iii) the phone or electronic device is owned or under contract to the Public Servant;
 - iv) personal use does not unreasonably impact Garfield County operations;

- v) the Public Servant does not receive any compensation for use of the public property by others; or
- vi) use of public property is in compliance with Garfield County Resolution 2003-5.

6) USE OF VEHICLES

- a) Personal use of vehicles shall be deemed to be incidental if:
 - i) the use is known and approved by the Department Head or County Commission;
 - ii) the use is directed by the Department Head or County Commission;
 - iii) quantifiable expenses for incidental use of the public property is reimbursed by the Public Servant;
 - iv) the vehicle is owned or under contract to the Public Servant;
 - v) personal use does not unreasonably impact Garfield County operations; or
 - vi) the Public Servant's use is in compliance with Garfield County Resolution 2004-6 does not receive any compensation for use of the public property by others.

7) MEMBER BENEFITS

- a) Cash back and banking credits accrued from use of a County issued credit/debit card are deemed Garfield County receipts and shall accrue to the County.
 - i) The Garfield County Clerk/Auditor shall manage cash back credits associated with use of County credit/debit cards.
 - ii) Garfield County employees that have been issued a credit/debit card in the County's name or are authorized to use a Garfield County credit/debit card shall do so in a manner that optimizes financial benefit to the public.
 - iii) Garfield County employees shall not manipulate County or personal credit/debit card use for Garfield County business in a manner that:
 - (1) provides inappropriate financial benefit to the employee; or
 - (2) results in financial disadvantages to the County.
 - iv) Department heads shall establish departmental policies when merited by department specific situations.
- b) Points, travel miles and other member benefits shall accrue to:
 - i) Garfield County when the membership is in Garfield County's name or tax ID number; or

- ii) The individual employee when the membership is in the employees, name, email or tax ID number.

8) CONFLICTING POLICIES

a) All county policies adopted prior to May 15, 2019 conflicting with Garfield County's Public Property Acceptable Use Policy are hereby repealed and replaced to the limited extent that they contradict or interfere with this Policy. Federal contracts or laws, State contracts or laws, or contracts with third parties the County has entered into regarding the use of certain Public Property are not superseded by this Resolution.

Be It Further Resolved: This Resolution shall be adopted as Garfield County employment policy at the earliest possible date.

ADOPTED AND APPROVED in regular session of the Garfield County Commission this 24th day of June, 2019.

Leland F. Pollock
Commission Chair

David B. Tebbs
Commissioner

Jerry Taylor
Commissioner

BRYCE CANYON AIRPORT BUSINESS

Ty Ramsay, Airport Manager, and Jesse Fabula, Armstrong Consultants, explained the \$5,000,000 grant funding for the Bryce Canyon Airport runway reconstruction. The design process will be paid with the yearly grant funds.

ESCALANTE CITY:

Senior Center and Share: Mayor Torgersen explained the problems with the polished concrete floor in the new kitchen. The plan is to install an epoxy finish. The carpet in the city office has been damaged by the County Care and Share. After discussion, Commissioner Taylor made a

MOTION to purchase new carpet for the city office, \$8,518.00, the city will provide the installation. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

Turning Lane: Mayor Torgersen asked for help to provide a turning lane at the clinic and the hardware high school. Mayor Torgerson will work with Brian Bremner.

HORSE SHOE PITS

Benj Rains and Dave Harris reported on the horse shoe competition that was held Saturday. The road department employees were a big help. The basic pits are complete. A request has been made for additional funding for the horse shoe pits. The project was funded for \$10,000.00 originally. After discussion, Commissioner Taylor made a MOTION to approve an additional \$5,000.00 in funding. Seconded by Commissioner Tebbs. Motion carried. Voting unanimous.

PANGUITCH LIONS CLUB

Dean Sheffer, Panguitch Lions Club President, stated that Panguitch Lions Club is celebrating their 90th birthday.

BUSINESS LICENSE - TIGHT LINE FISHING SERVICE

Application have been received from Brian Head Outdoor Adventures, Panguitch Lake Resort, Ivo's Bed and Breakfast Espresso, Bear Paw Fishing Resort. After discussion, Commissioner Tebbs made a MOTION to issue business licenses to Brian Head Outdoor Adventures, Panguitch Lake Resort, Ivo's Bed and Breakfast Espresso, Bear Paw Fishing Resort. Seconded by Commissioner Taylor. Motion carried. Voting unanimous.

2019 TAX RATES

After review, Commissioner Tebbs made a MOTION to adopt the property tax rates for 2019.

General Operations:	0.001013
Multicounty Assessing & Collecting:	0.000009
County Assessing & Collecting:	0.000477

3. That I do hereby affirm that the sole purpose for closing the meeting was to discuss the character, professional competence, or physical or mental health of an individual and pending litigation.

DATED this 24th day of June, 2019.

Commission Chairman

SUBSCRIBED and SWORN to before me this day of , 2019.

NOTARY PUBLIC

Commissioner Taylor made a MOTION to return to General Session. Motion carried. Voting: Pollock - Aye, Taylor - Aye, Tebbs - Aye.

ACCOUNTS PAYABLE

The accounts payable list was reviewed and signed by the Commission.

The meeting was adjourned at 3:45 p.m.

Commission Chair

Clerk/Auditor