

**COMMISSION MEETING
MEETING
PACKET**

DATE:

August 27, 2019



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 **Tuesday August 27, 2019** at the hour of **10:00 am**

CALL MEETING TO ORDER
WELCOME
INVOCATION
PLEDGE OF ALLEGIANCE

PUBLIC COMMENT:

Three (3) Minute Time Limit per Speaker for Public Comments

CONSENT AGENDA:

Check Edit Report:

Approval of: Commission Minutes for August 13, 2019

REGULAR SESSION

1. Recognition of Retiring P & Z Board member, Dale Clarkson / Shannon McBride
2. Approval of Ordinance O-2019-19 an Ordinance for vacating two (2) 7.5 foot Utility Easements, on behalf of Milton & Kim R. Theodore, in the Mirror Lake Subdivision, Plat A Lots 35 & 36, becoming New Lot 36 / Shannon McBride
3. Approval of Resolution R-2019-16 for Proposed revisions to the Conditional Use Permit Application Fee and Zone Change Application fee / Shannon McBride
4. Update for Zion Mountain Local Service District / Commissioner Chamberlain
5. ITS General Update and Security Plan / Dave Owens

6. Approval of Hiring of a Building Inspector to fill a Vacating position / Ryan Maddox
7. Creation of Budget Fund/Line item for the Transportation System for East Zion Initiative / Commissioner Chamberlain

Other Business:

- Reports
- Schedules
- Assignments
- Financial Policy and Internal Controls

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 Thursday, prior to the meeting.

CONSENT AGENDA

Minutes of:

Commission Meeting August 13, 2019

MINUTES
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
Aug 13, 2019
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

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

Also Present: Budget Officer John Livingston, Care & Share Craig Hansen, GIS Lou Pratt, Commissioner Assistant Kresta Blomquist, P&Z Shannon McBride, Sheriff Glover, Roads Bert Harris.

CALL MEETING TO ORDER: Commissioner Lamont Smith

INVOCATION: Commissioner Gant

PLEDGE OF ALLEGIANCE: Commission Chamberlain

WELCOME: Commissioner Lamont Smith

PUBLIC COMMENT:

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

Glen Parrent asked if there was going to be a MBA meeting discussing the Kanab Center.

Commissioner Smith said that the meeting has been canceled because some of the people that are involved were not going to be able to attend. There will be a closed session but we will only be talking about it.

CONSENT AGENDA:

Check Edit Reports: Approval of the Commission Minutes for July 23, 2019

Motion to approve the Check Edit Report and the Commission Meeting Minutes for July 23, 2019 made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

REGULAR SESSION

1. Appointing a member to the Kane County Tourism Tax Advisory Board Seat/
Camille Taylor

Ashley Dove was on the Board but she has taken a job in St. George and so she has vacated her role. According to statute we are supposed to have four out of the seven on the Board be TRT, or TRC collectors but when we had Brooks join the Board it was just as a tourist attraction. So we were not counting him as a TRT collector from Best Friends but now that he is, we were able to select other options and what I was hoping for is someone that is a Guide and outfitter or someone representing the vacation rentals association.

We had four applicants. Commissioner Chamberlain and I interviewed two out of the four yesterday and we have selected Kyle Walker, who is a local guide and outfitter, to join our Board. Kyle understands tourism from a big picture. He has been involved with consumer shows, trade shows, and he understands how to work with tour operators internationally and how to bring more tourist here.

So I would recommend that he be appointed to the Travel Council.

Motion to appoint Kyle Walker to fill the vacancy on the Tourism Tax Advisory Board for the remainder of the term made by Commissioner Chamberlain and motion carried with all Commissioners voting in favor.

2. Hiring of an Election Specialist for Training / Karla Johnson

Karla came forward and said she was asking for approval to hire an Election Specialist to replace Carol Lee when she retires next year. Rhonda and Karla met and they determined the amount she would need to hire this October. Karla said she has it in her budget to do this, she just needs the approval of the Commission.

The reason she is asking for this new hire so soon is because it takes a lot of time to train a new election specialist and this is an area in our government where we can't make mistakes.

Motion to approve a new employee and approve the budget for line items for this hire made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

3. Temporary Hot Plant located into Big Water/

No one came to present this item so it was stricken from the agenda.

4. Appointment of Conflict Appeal Authority/ Attorney Van Dyke

So the County has an Appeal Authority for Land Use decisions. His name is Bruce Jenkins, an attorney out of St. George. He takes applications for variances and any appeal of decision from the Land Use Authority. We had on Friday two entities that submitted appeals regarding a conditional use permit for Southern Red Sands. One of them was Best Friends Animal Sanctuary and the Sanctuary Ranch LLC property up North Fork.

Attorney Van Dyke said he would be handling those appeals on behalf of the Land Use Authority. The issue is that Bruce Jenkins from time to time does legal work as local council for Best Friends so he has recused himself from being the Appeals Authority in this case. Therefore, the Commission needs to pick another Conflict Appeal Authority and he did make some recommendations. Attorney Van Dyke reached out to Greg Hardman who is an attorney in St. George. He used to work with Kanab City as their attorney. He has agreed to accept and he was going to get Van Dyke a proposal before today's meeting but he hasn't as of yet. He has come with good recommendations.

Commissioner Gant ask if he should excuse himself from the vote because of his interest in Southern Red Sands.

Attorney Van Dyke said that Commissioner Gant should declare that he has an interest in SRS and the appeal is for their conditional use permit but nothing requires him to excuse himself.

Motion to appoint Greg Hardman to the Conflict Appeal Authority made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

Other Business:

- Reports

Bert Harris reported that he got an email from Jamison Christensen from Jones and Demille with a temporary abutment design. They will need to drill down to bedrock and see how far that is down and then they can design how much material they need. So that is where we are right now. It looks like it is moving forward.

Commissioner Gant said the engineer will be submitting a plan. We still won't be able to put a time on the completion. Everyone that is involved in using that road understands the hold ups. We are hoping to have it completed before the weather turns bad.

Commissioner Chamberlain commented that because of the absence of part of the people that would be giving us an update on the Kanab Center, the MBA meeting today would be canceled. We will have a discussion in closed session.

Also the RDA will be announcing a public hearing on September 10th; they will have a map of the area. They will talk about the budget, anticipation of the growth and impact in the area. They will discuss the estimated cost of the new Visitor Center and possible plans for the shuttle service location.

Commissioner Chamberlain also brought up possible places for the car charging stations. We are trying to get some numbers together on what it will cost. They should have something by Sept 10.

Karla has done research on whether we can use TIF (Tax Increment Financing) money or not. She started with the State Auditor's office and they gave her information on what we need to do but she said she wanted it in writing and then she would let her attorney look at it before we would have any confidence in what they are saying.

Also we have been working with the State Tax Commission. We want everything done right in the beginning.

We had Congressman Stewart here last week and he was impressed and supportive. Senator Romney was not able to be here but his office said that he will do whatever he can to find moneys for the shuttle service. This project seems to have a lot of support.

Commissioner Smith said that the people up at Bryce Canyon are very excited about the shuttle service maybe including them. This could even work to include all the parks in our area.

Commissioner Chamberlain said this would be great if we could get this to be a regional service.

Commissioner Smith: I don't know if the people around here know that the Five & Six Counties AOGs work together to bring down a congressional briefing staff. Every year they bring our Congressman from Washington and show them a different part they have not seen of our area. This year the main topic was to bring the Democratic people that are on committees and the Republican people that are on committees and show them the disasters we have had such as fire, water, and horse & burros that are way over populated in Millard and Beaver area and then to take them to where they are being housed.. It is a congressional briefing tour and it started last week coming down from Salt Lake. Because I have been gone so much, Commissioner Chamberlain has taken over and has brought them down into Kane County and taken them to Zion Park. Chamberlain will be on the bus tomorrow. He will speaking to them along with Dirk Clayson talking about the roads and what we have to deal with here in the west and many things they have never heard of. They will show them the beetle kill, and the fire devastation. We have sixty coming or round about. It is great that we can show the people back in Washington what we are going through out here and let them know how vast we are.

- Financial Policy and Internal Controls

John reported on the finances and he also talked about insurance coverage for married plus dependent or single and how to budget the departments for their employees. John also discussed the 2020 Budget preparation schedule.

Discussed Indigent Defense council: it is a \$5000 contract. If we sign the contract, pay the state then all our appeals are covered by the State. It is like a prepaid insurance policy.

Karla brought up a discussion about the Commissioners' schedules for the last week in September. They need to be aware of the BOE.

There also was a discussion about South West Health and the 2019 services and now we need to think about next year's costs and services.

Van Dyke said that it should be made clear to the Health Department that we are on a time line for the budget this year. They need to present their purposed budget. They need to come to their meeting with you and you are going to work with them in submitting their requested budget.

Commissioner Chamberlain said we talked about employing the auditor through Zions Bank for the East Zion.

Kane County School District requested \$5,000 as in the contract for their auditor, and I am signing it to pay their auditor as in the contract.

Talked about the work and grant for the Jackson Flat Reservoir fund and finishing up the work out there.

Van Dyke said that Ray Brothers started construction on the Children's Justice Center and we are in the 3rd Week. We will be doing a change order because we have a power line that is too low. Also there will be a change order for a 4 ft. retaining wall for drainage.

Motion to go into recess for one hour and then come back for a Closed Session for litigation made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

Closed Session:

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

WHERE UPON MEETING WAS ADJOURNED

Lamont Smith Chairman

Karla Johnson Clerk/Auditor

AGENDA ITEMS

ITEM # 1

Recognition of Retiring P & Z Board Member, Dale
Clarkson
Shannon McBride

ITEM # 2

Approval of Ordinance O-2019-19 an Ordinance for
Vacating two (2) 7.5 foot Utility Easements, on behalf of
Milton & Kim R. Theodore, in the Mirror Lake Subdivision
Shannon McBride

KANE COUNTY ORDINANCE NO. O 2019 - 19

**AN ORDINANCE VACATING TWO SEVEN AND A HALF FOOT PUBLIC UTILITY
EASEMENTS IN MIRROR LAKE SUBDIVISION PLAT "A", LOTS 35 & 36,
BECOMING NEW LOT 36**

WHEREAS, the Kane County Planning Commission and Kane County Board of Commissioners have reviewed the vacating of two 7.5 foot utility easements, on behalf of Milton & Kim R. Theodore, in the Mirror Lake Subdivision, Plat A, making 2 lots into 1, consisting of lots 35 & 36, and vacating lot 35, becoming new lot 36;

AND WHEREAS, the private property owners have two dedicated public utility easements and two termination agreements from local utility providers which allows for utilities to be vacated;

AND WHEREAS, the Kane County Board of Commissioners desires to implement the recommended vacating of the utility easements on and between lots 35 & 36; and the Kane County Board of Commissioners, in a duly noticed public meeting, received the recommended amendments for the vacation;

AND WHEREAS, the Kane County Board of Commissioners desires to vacate and abandon the two utility easements on and between lots 35 & 36;

AND WHEREAS, the purpose of this ordinance is to vacate two 7.5 foot utility easements on and between lots 35 & 36 as set forth in Utah State Code Unannotated, §17-27a-108, 608 (3) and 609.5 (1-5), which authorizes the Kane County Commission to vacate a street, right-of-way, or easement upon recommendation by the Kane County Planning Commission;

AND WHEREAS, a public hearing was held on August 14, 2019 at 5:00 p.m. in the Kane County Commission chambers located at 76 North Main Street, Kanab, UT.

AND WHEREAS, the County Commission finds that good cause exists for the vacation and neither the public interest nor any person will be materially injured by the proposed vacation.

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

Vacating two 7.5 foot public utility easement described as a 7.5 feet along both sides of the lot line between lots 35 & 36, in the Mirror Lake Subdivision, Plat "A", lots 35 & 36. These public utility easements are hereby vacated between the above stated lots.

The vacating of the above two utility easements are set forth more fully on the maps attached as a plat map.

---- 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 four publications 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:

KARLA JOHNSON
Kane County Clerk

Lamont Smith, Chair
Board of Commissioners
Kane County

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



STAFF REPORT

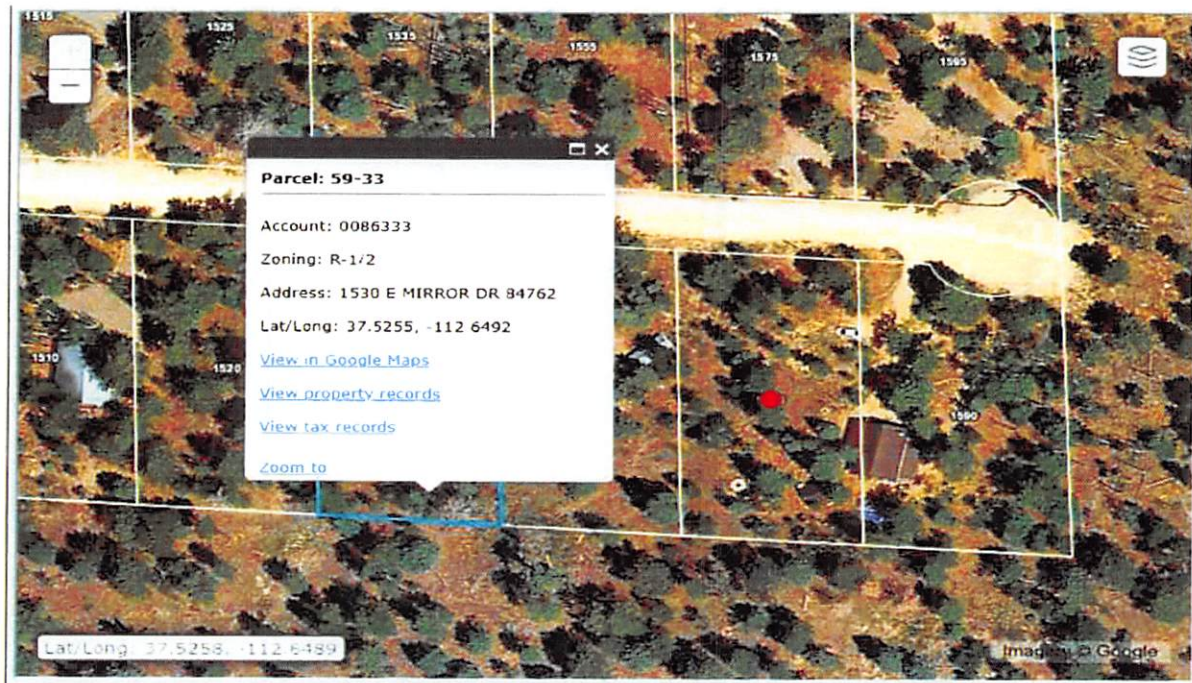
DATE: 07/18/2019

PROJECT: A complete application for Amending a Subdivision Plat for a Lot Joinder, and vacating two (2) 7.5 foot utility easements, on behalf of Milton & Kim R. Theodore, in the Mirror Lake Subdivision, Plat A, consisting of lots 35 & 36, becoming new lot 36, within in the NW ¼ Section 8, T38S, R7W SLB & M. Submitted by Brent Carter with New Horizon Engineering (holding power of Attorney).

The reason for the lot joinder request is the owners want to save on taxes and the home is built over the property line.

FINDINGS: Amending (joining) the above stated lots 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 and §17-27a-608, 609 and 609.5. All requirements have 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. A sign was posted on or near the easements in a manner that is calculated to alert the public. Good cause exists for vacating the utility easements and combining these lots; neither the public interest nor any person will be materially injured by the proposed vacation. The lot will retain the Residential ½ zoning (R-1/2). Combining these lots and vacating the utility easements is in compliance with all state and local ordinances. Termination agreements are in place from Garkane, South Central and the Kane County Water Conservancy District. Utah State Code §17-27a-609.5: “ (3) The legislative body may adopt an ordinance granting a petition to vacate some or all of the public street, right-of-way, or easement if the legislative body finds that: (a) good cause exists for the vacation; and (b) neither the public interest nor any person will be materially injured by the vacation”.

STAFF DETERMINATIONS: Kane County Alternate Engineer, Cody Howick, has reviewed this project and recommends approval. Kane County Land Use Administrator, Shannon McBride, has reviewed the application and supporting documents and recommends approval. The project complies with County and State Ordinances requirements.



76 North Main Street, Kanab, Utah 84741



MOTION: I move to **recommend** approval, to the Kane County Commission, for Vacating and Amending a Subdivision Plat for a Lot Joinder, and vacating two (2) utility easements on behalf Milton & Kim R. Theodore, in the Mirror Lake Subdivision, Plat A, consisting of lots 35 & 36, becoming new lot 36, and approving Ordinance O-2019-19, based on the findings documented in the staff report.

MOTION: I _____ move to **deny** approval, to the Kane County Commission, for Vacating and Amending a Subdivision Plat for a Lot Joinder, and vacating six (2) utility easements on behalf Milton & Kim R. Theodore, in the Mirror Lake Subdivision, Plat A, consisting of lots 35 & 36, becoming new lot 36, and approving Ordinance O-2019-19.

THANK YOU.

#19017



Land Use Authority

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

Date Received: 6/13/19
Check Number: [REDACTED]
Received By: [REDACTED]

REQUEST FOR LOT JOINDER WITHIN A SUBDIVISION PLAT

Property Owner's Name: MILTON & KIM R. THEODORE

Date: 1/21/19 Address: [REDACTED]

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

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

Location and Legal Description of Subdivision Plat:

LOTS 35 & 36, MIRROR LAKE ESTATES, PLAT A.

Reason for Lot Joinder Request:

JOIN 2 LOTS TO SAVE ON TAXES

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:

X [REDACTED] owner

X [REDACTED] owner

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

Planning Commission Action: Approve _____ Deny _____

Comments:

Planning Commission Chairman _____ Date: _____

ITEM # 3

Approval of Resolution R-2019-16 for Proposed revisions
to the Conditional Use Permit Application Fee and Zone
Change Application fee
Shannon McBride

KANE COUNTY RESOLUTION NO. ^{R-}2019 - 16

**A RESOLUTION ESTABLISHING THE INCREASE FOR AN “AGRICULTURAL AND
COMMERCIAL CONDITIONAL USE PERMIT APPLICATION” AND THE “ZONE
CHANGE APPLICATION” FEES**

WHEREAS, State and local laws refer to the collection of various types of fees for county services and delegate the authority to set these fee amounts to the County Commission: and;

WHEREAS, Kane County Planning Commission and Kane County Board of Commissioners desire to make recommended changes to the Conditional Use Permit Application Fee, increasing the fee from \$500 to \$1000 for Agricultural, Commercial-1 and Commercial-2 and Zone Change applications, increasing the fee from \$250 to \$350, eliminating the \$10 per mailer fee;

WHEREAS, the Kane County Planning Commission, after a duly noticed public hearing recommended to the County Commission for approval the change of Conditional Use Permit and Zone Change Application fees as set forth in this Resolution;

NOW THEREFORE, BE IT RESOLVED BY THE KANE COUNTY BOARD OF COMMISSIONERS, IN AND FOR KANE COUNTY, STATE OF UTAH, AS FOLLOWS:

The following is the applicable fee for a Conditional Use Permit and Zone Change Application under the Land Use Authority of the County. This schedule is in effect as of the date signed below and shall continue until amended by subsequent written resolution of the Kane County Commission.

Commercial and Agricultural Conditional Use Permit Application Fee: \$500 to Actual Cost
\$1000 deposit

Zone Change Application Fee: \$250 ~~with a \$10 mailing~~ to \$350

ADOPTED this ____ day of _____, 2019.

ATTEST:

Lamont Smith, Chair
Board of Commissioners
Kane County

KARLA JOHNSON
Kane County Clerk

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

ITEM # 4

Update for Zion Mountain Local Service District
Commissioner Chamberlain

ITEM # 5

ITS General Update and Security Plan
Dave Owens

ITEM # 6

Approval of Hiring of a Building Inspector to fill a
Vacating Position

Ryan Maddux

ITEM # 7

Creation of Budget Fund/Line item for the Transportation
System for East Zion Initiative
Commissioner Chamberlain