

MINUTES
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
June 22, 2021
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

Present: Chairman Andy Gant, Commissioner Brent Chamberlain, Commissioner Wade Heaton, Attorney Rob Van Dyke (telephonically), Sheriff Glover, Clerk/Auditor Karla Johnson and, Deputy Clerk/Auditor Candice Brown

Also Present: Rhonda Gant, Kresta Blomquist, Bert Harris, Jerica Bauer, Bert Harris, Shannon McBride, Taylor Glover, Clayton Cutler, Kelly Stowell

CLOSED SESSION: (9:30)

- Discussion and strategy session regarding pending or reasonably imminent litigation

Motion to go in and out of closed session at the discretion of the chair for potential litigation made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

CALL MEETING TO ORDER: Commissioner Gant

INVOCATION: Commissioner Heaton

PLEDGE OF ALLEGIANCE: Commissioner Gant

WELCOME: Commissioner Gant

PUBLIC COMMENT:

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

Raquel Bettencourt: I live in Johnson Canyon and I am here to talk about item #9. I am here to ask the Commission to continue the ordinance that was put in place last year, which is limiting the growth of Cannabis to certain areas of the County.

Matthew Fisher: He suggests that maybe if the meetings were held at 6:30 they might get a little more representation from people in the County. He also said that he hopes when the golf course comes up that it will go to a ballot question and we allow the citizens of the County to actually decide how to spend the money and also the water resource.

Judy Wooley: Judy hopes that everyone gets to vote on the golf course. She also wanted to talk about item #13 on the Kane County Constitutional Defense Council. She has not seen a copy of it so she hopes that they included some civilian in it.

Rocky Teele: Also a resident of Johnson Canyon, he said that he is pitched between Johnson Canyon and where the hemp is going to be grown. He doesn't see a reason in bringing this in to our community where we will segregate our children to smoking it thinking that they can control it, and he really doesn't want people running through his property to access this stuff to get high.

Ralph Morrison: Ralph said that HB 171 was an authority grab and now they realize that the counties still have authority so they are coming and trying to get counties to surrender the authority that they have. We are asking you to not give up the authority and allow us to be free.

Jay Riggs: Jay owns property on the west side of Kanab. He said that hemp is a legal product and anyone should be able to grow it.

Dusty Reese: Dusty is with Kane County Farm Bureau and knows that there is a lot of emotional things on this issue with Industrial Hemp. She thinks that we are consistently combining hemp with marijuana and they are not the same. Dusty asks that the County follow the State regulations on the legalization for the growing of hemp. She said that this House Bill was written to protect farmers, because across the country and the state agriculture is an easy target and they are taken out first. She said that they are asking for the ability to make their own choices on their farms and ranches and to be able to grow a legal product.

No further Comments

Commissioner Gant closed the Public Comment Period

CONSENT AGENDA:

Check Edit Report:

Approval of: Commission Meeting Minutes for June 8, 2021

Motion to approve the Consent Agenda including the Commission Meeting Minutes for June 8, 2021 made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

REGULAR SESSION:

Motion to allow the chair to change the order of the agenda at his prerogative made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

1. Public Hearing Regarding Appointing New Board Member to KCWCD/Commissioner Heaton

Motion to go in and out of public hearing at the call of the chair made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

Commissioner Gant declared us in public hearing.

Dusty Reese: Do you have a list of potential nominees?

Commissioner Gant said that the two applicants are Clay Hansen and Delynn Crofts.

Dusty Reese: I would ask that we have someone that is involved in agriculture. Water is huge and so terrible right now. Clay is a farmer and that is his job right now to control water management. He is also a really young guy and could give a lot of life to the board. I would ask you to choose Clay Hansen, he is a good kid, hard worker, and has a vested interest in what happens to the water in this County.

Kresta stated that this particular position required that they have irrigation rights and used those for their livelihood.

Commissioner Gant said that Clay is immanently qualified, he's done water projects for years, he's currently involved in agriculture, and comes highly recommended. He said that he recommends to the Commission that we approve Clay Hansen as the new Water Conservancy Board Member.

Commissioner Gant took us out of public hearing.

2. Kane County Resolution No. R-2021-18 a Resolution Appointing a New Board Member to KCWCD/Commissioner Heaton

Motion to approve Kane County Resolution No. R-2021-18 a Resolution appointing a Clayton Hansen to the Kane County Water Conservancy Board made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

3. Kane County Resolution No. R-2021-19 a Resolution Appointing Aaron Bonham as a new Board Member for the Planning & Zoning Commission Board/Commissioner Heaton

Commissioner Heaton said we did have a vacancy in Planning and Zoning. One of our members, Mrs. Pam Hill served wonderfully in this County for a long time. Her cancer came back and she ended up losing that battle recently, a great loss to this County. He said that she can't be replaced but we will try to appoint somebody to Planning and

Zoning and good luck to them to try and fill those shoes. Commissioner Heaton said that he recommends Aaron Bonham to fill the seat.

Motion to approve Kane County Resolution No. R-2021-19 a Resolution appointing Aaron Bonham to the Kane County Planning and Zoning Commission made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

4. Kelvin Smith, Civil Science Engineering-Shannon McBride/Commissioner Heaton

Shannon introduced Kelvin Smith to the Commission. She said that they have been keeping him very busy lately and that he's been doing a great job.

Commissioner Heaton said that we really appreciate Civil Science and Kelvin for stepping in. We recognize that there is a lot going on right now and they have bent over backwards to make it work for us.

5. Discussion and Approval Kane County Ordinance No O 2021-19 An Ordinance Vacating a Portion of County Road K6140-Shannon McBride/Commissioner Heaton

Taylor Glover handed out a map and stated that SITLA approached us and asked us to vacate part of road 6140 but it is really just a connection between roads 6120 to 6140. He said that since the picture was taken there has been two houses built over the road, so the road doesn't exist in a couple of spots where there has been houses built. To be in compliance they wanted to vacate that section of road.

Shannon said that they had a public hearing and had a couple people that called and emailed in. When they understood and knew what we were trying to accomplish they were totally for the project.

Motion to approve Kane County Ordinance No. O-2021-19 an Ordinance Vacating a Portion of County Road K6140 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

6. Amending a Subdivision: Torres-Shannon McBride/Commissioner Heaton

Tom Avant said that this one is at North Fork Estates. They are extending the subdivision, joining lots, and then vacating a portion of the road. He said the Ballard's property manager found out what they were doing and he is all for it, he is in favor of combining as many lots out there that they can.

Commissioner Heaton said that this doesn't negatively impact any of the neighbors. They had a public hearing and P&Z is recommending for approval.

Motion to approve the amended and extended subdivision North Fork Estates Unit 2 as presented made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

7. Approval of Subdivision Final Plat: Sunflower Valley Estates-Shannon McBride/Commissioner Heaton

Tom said that this is for Colt Henderson and Jacob Cluff. He said that you will come in off highway entrance come down the road and then there will be cul-d-sacs going each way. The road will be asphalted so that there is no dust issues and then they will be tying in the water line to Palomar. There are 69 lots, there was some clay found so they worked with the Health Department and they will require an alternative septic system which is noted on the plat. Tom said that Taylor will be identifying those in the GIS so when you pull it up on the County website you will notice that those have special soil considerations.

Shannon said that this is for final plat so Kelvin with Civil Science has approved the letter of credit that they needed.

Motion to approve the final plat for Sunflower Valley Estates Subdivision made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

8. Approval of Subdivision Final Plat: Crimson Cliffs Estates Phase 2-Shannon McBride/Commissioner Heaton

Tom said this one is on the old highway Chinle Dr. A couple months ago we did phase 1 which was 8 (5) acre lots now we are coming back and doing 9 (5) acre lots and the remaining are 2 acre. They are going to solid surface the road, utilities will be looped around with the water and power. They did the onsite septic, some were slower but they all passed with the standard septic system.

Shannon said on this one they phased the subdivision and on our ordinance it specifically states that before they can do another phase they have to have the infrastructure 100% complete and inspected. We have come and asked them to do a development agreement that they will be able to start phase 3 of Crimson Estates before this phase is completed. The reason they would like to do that is because there subcontractors are out in the area and can put all the piping and infrastructure in at once to save time and money. The development agreement in this particular subdivision is very important because we are varying from our ordinance through the development agreement.

Attorney Van Dyke said that it is good to go from his prospective, the only issue is they still need to make minor changes on the bond and they have that language to get it taken care of. He said that they have agreed to complete the infrastructure in one year instead of two and the County is agreeing that they can begin the application for phase 3 prior to completing phase 2 which normally you have to have all the infrastructure done, completed, and signed off before you can even apply for the next phase.

Motion to approve the final plat for Crimson Estates phase 2 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

9. Discussion on Kane County Land Use Ordinance 9-10-19: Industrial Hemp, as a Result of HB 171-Shannon Heaton/Commissioner Heaton

Commissioner Heaton said this issue was brought up in P&Z about 18 months ago with a lot of input from the public on both sides. He said with the new House Bill 171 it renewed some interest and we were asked by members of the community to bring it back. He said that when we crafted the ordinance it was an attempt to do whatever we could do to ban the growing of hemp in the county. there were areas in the County that you could grow it but very few. There were several growers that brought this back up to see if things had changed. We brought it back to P&Z and they had discussion on it, they unanimously recommended to the Commission that the ordinance stays the same and doesn't get modified. Commissioner said that if we do tweak the ordinance then it will open us up to the HB 171.

Attorney Van Dyke said that we are good to keep going, if that is what the Commission wants to do. If they do change the ordinance now they will not be able to change it back in the future.

Commissioner said that he can see both sides of the issue and sympathize. He said we have property rights and the ability to grow any legal product we want to grow vs. the concern over a crop. There are two sides to this and both are very valid principles that need to be upheld.

Commissioner Chamberlain said that this is a very difficult situation for him because the property rights issue on one hand and valid concerns on legalizing marijuana use as recreational use.

Commissioner Gant said that private property rights are first and foremost and at the risk of getting a little sideways with the Farm Bureau one of the first things we do is protect agriculture. He said P&Z does have authority to decide limitations on certain activities in our areas, and it would be chaos if there wasn't some kind of planning or zoning.

Commissioner Heaton said if we do nothing we still have some control but if we change the ordinance we do lose that control and become subject to HB 171.

Motion to approve Planning and Zonings recommendation and leave our ordinance the same made by commissioner Heaton and motion carried with all Commissioners present voting in favor.

10. Approval to Dispose of Kane County Travel Council Surplus Equipment-Camille Taylor/Commissioner Chamberlain

Commissioner Chamberlain said there are a couple items to approve for disposal because they no longer need or use them. There is a bus, couple sets of furniture, and two old golf carts.

Sheriff Glover said that list is an addition to a list that was brought a couple of meetings ago.

Motion to approve the disposal of the Kane County Travel Council surplus list as described made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

11. Review and Approve Kane County Certified Tax Rates for 2021 -Karla Johnson/Commissioner Chamberlain

Karla updated the Commission regarding the challenges of implementing the East Zion CRA and Red Hollow CRA this year. The County had an 85 million increase in new growth. The certified rates become the County's proposed rate unless there is a decrease or increase to the rates and as neither of those apply this year; the rates are as follows:

County General Fund	.002995
Local A&C	.000464
Multi County A&C	.000012
County Library	.000039
County Health	<u>.000000</u>
	.003510

Motion to approve the Kane County Certified Tax Rates for 2021 as presented by our Clerk Karla Johnson made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

12. Review and Approve the Kane County Fraud Risk Assessment-Karla Johnson/Commissioner Chamberlain

Karla said that this is now an annual requirement, it due to be uploaded to the State by the end of June so it will come to the Commissioners annually. She said that we don't have a standard policy in place for who fills it out so it was the Commissioner that's over the financial with us, we had tried to set up a finance team meeting to do it but didn't work out. The Commissioners might want to consider how they want it done another year and do something in policy.

Motion to approve the Kane County Fraud Risk Assessment as proposed made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

13. Discussion and Approval of Kane County Ordinance No. O 2021-23 An Ordinance Establishing the Kane County Constitutional Defense Council / Commissioner Heaton

Commissioner Heaton said that they have been working on 2nd Amendment ordinances and resolutions. The concept came up of creating a County Constitutional Defense Council. He said that they think there is some real value in it, with regard to 2nd Amendment as well as everything else in the Constitution and the Bill of Rights. Commissioner Heaton said that he thinks it is a step in the right direction. Our County Attorney has crafted up an ordinance that will basically create this council.

Attorney Van Dyke said that this ordinance would create a local Kane County Constitutional Defense Council. The way he has drafted it is that it is a seven-member board, which includes all three County Commissioners, County Sheriff, County Attorney, and then it gives the County Commission the ability to appoint two additional members from the public. The concept and idea is that this Commission can review any State or Federal law, executive order, or agency action to determine what affect it has on the County and also to request an opinion from the county attorney on whether that state or federal action is legal or constitutional. If there is a determination that it is illegal or unconstitutional he would give a strong recommendation that any local official should not

inforce it. It also sets up a process where the County Commission determines if there is further local action that should be taken on that specific rule, executive order, or law.

Commissioner Heaton said that we need to be cautious with this. He said that as Rob and him have worked through a lot of this Rob has educated him as to some of the downsides of the sanctuary ideas, at a State level or a County level and to him this is the solution. It does not take away the authority of the Sheriff to make decisions and have discretion.

Commissioner Chamberlain said that this is the first time that this ordinance has been out there for the public to see the language in it. He said he doesn't know if this should be something we would want to let circulate for a couple of weeks before we actually take action on it.

Attorney Van Dyke said that it is a great idea to take time and make sure it is exactly what they want and that they have plenty of public input on it.

14. Discussion and Approval of Kane County Resolution No. R 2021-15 A Resolution Amending the Kane County Employee Handbook Regarding the Kane County Pilot Car / Commissioner Chamberlain

Commissioner Chamberlain said our Fleet Manager was able to find a better vehicle for the airport so they swapped vehicles then the question came down to our handbook not allowing us to do that. With a minor revision, that Rob has proposed the handbook would allow the County to assume liability or responsibility for that. Commissioner Chamberlain said that he recommends that we modify the Kane County Handbook just to allow for this as Rob is suggesting.

Sheriff Glover said that he would propose that we label the car "The Pilot Courtesy Car". He said that when they notified the people at the airport of the change they were not happy about it until they got the vehicle over there and thought it was a great trade.

Rhonda said that as it sits right now if it is approved it will be strict county, but as long as we have a policy that covers it then UCIP will cover the use of it.

Motion to approve Kane County Resolution No. R-2021-15 a Resolution Amending the Kane County Employee Handbook Regarding the Kane County Airport Courtesy Car

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

15. Discussion and Approval of Kane County Resolution No. R 2021-16 A Resolution Approving the Kane County Pilot Car Release of Liability Form / Commissioner Chamberlain

Motion to approve Kane County Resolution No. R-2021-16 a Resolution Approving the Kane County Airport Courtesy Car Release of Liability Form made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

16. Discussion and Approval of Kane County Resolution No. R 2021-17 A Resolution Recognizing and Establishing June 19th as Juneteenth National Independence Day and as a Federal and Local Holiday / Rhonda Gant

Rhonda said that she appreciates Rob staying on top of this stuff, he is the one that brought it to my attention that congress had passed this. She said the resolution that Rob put together is very well worded and gives the whole history of why we are looking at having this declared a County policy.

Commissioner Gant said that this is one thing that he totally supports, the Republican Party put their heart and soul into freeing the slaves and making all this happen with the opposition of the democrats to an untold degree. He said the history of what the Republican Party has done is phenomenal and recognizing what our party did is worthwhile.

Heaton said this is something to celebrate and is not a political thing. He said that he 100% supports exactly what Rhonda outlined.

Motion to approve Kane County Resolution No. R-2021-17 a Resolution Recognizing and Establishing June 19th as Juneteenth National Independence Day in Kane County and recognizing it as a Federal and Local Holiday made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

17. An Outdoor Recreation Grant for Mountain Bike Trails with the BLM in the Chocolate Cliffs Located East of Kanab-Kelly Stowell/Commissioner Chamberlain

Kelly said that the Utah Office of Outdoor Recreation has a grant program that comes around every year and we've had applications in ever since it started. He said working with the Kanab Field Office BLM and with local user groups, there is a proposal to do about 40 miles of mountain bike trails east of Kanab in the Chocolate Cliffs. The grant is for around 20 miles. Kelly said that all the matching funds are in place and Utah has agreed to pay for half of it, which amounts to \$65,000. He is looking to get an approval for the contract with the state. He said NEPA is happening now through the fall so potentially the trail could be built this fall but most likely it will be in the spring of next year.

Motion to approve the Recreation Grant between Kane County and the State for the development of the bike trails in the Chocolate Cliffs area made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

Reports:

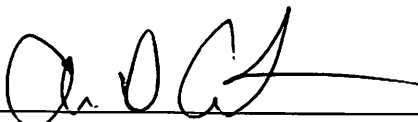
County Commissioners-Commissioner Heaton said that they were going to move forward with idea on the burn pit. Commissioner Chamberlain said that things are progressing on East Zion. He said that Kevin is concerned that when it goes out for bids on its architect/engineer for the completion of the project the County will cheapen it in some way. Kevin wants to make sure that we end up with the Visitor's Center as he envisioned before he turns the land over. Commissioner Chamberlain had a meeting with Kirk Heaton and one point he brings out is that Grand County did a water hydrology study which pointed out they had less water than they thought and with all the growth that is going on in Kane County we should probably look into doing a study.

County Clerk Auditor – Karla said that we are starting the ballots for the primary, they have gone to the creation process. Karla is teaching Mandy about budgeting and having her help put together financial statement. We are starting on getting disclosure notices for tax rates.

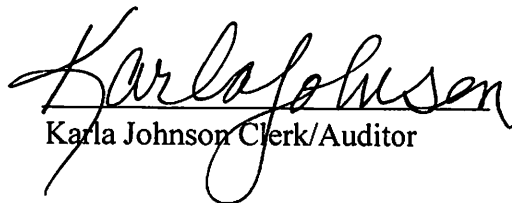
Road Supervisor –Bert said that the guy who put stop signs up at Zion View took them down and is waiting for approval or disapproval to put them back up. He said they have an issue with compliance to our disturbance permit. Bert said the road department got called out on the fire east of Lamb Springs.

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

WHERE UPON MEETING WAS ADJOURNED



Andy Gant Chairman



Karla Johnson Clerk/Auditor