

MINUTES
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
November 22, 2022
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH

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

Also Present: Rhonda Gant, Shannon McBride, Heather Narramore

CALL MEETING TO ORDER: Commissioner Gant

INVOCATION: Commissioner Chamberlain

PLEDGE OF ALLEGIANCE: Candice Brown

WELCOME: Commissioner Gant

CONSENT AGENDA:

Check Edit Report:

Motion to approve the Check Edit and Commission Meeting Minutes for October 25, 2022, October 27, 2022 Town Hall and November 10, 2022 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

REGULAR SESSION:

1. **November 8, 2022 Election Canvas-Heather Narramore/Commissioner Chamberlain**

Heather Narramore presented the election results. She started off by saying that they do a Logic and Accuracy (L&A) every election. This is where they test the machines to make sure they are counting right and then once they upload the results they compare them to make sure that the vote is being counted how the ballot was cast. Heather said that she starts with zero reports and then run the results and compares them to what is printed out and what is cast on the ballots. She also does a zero report after she clears the L&A results, then uploads the elections, and prints off a zero report.

Heather said that they ran around 3,458 and out of that, she had to adjudicate 1,883. This was from write-ins, over votes, and unclear marks. She had to duplicate five ballots this election. One was because the timing marks were messed with and the other four was because the machine didn't want to count it, so they had to be duplicated to make them count. Heather said that in the process of all of this that they have a cured list. They called and sent letters to 236 most of them were because the signatures didn't match. She said the they did 59 Provisionals and out of the 59 there were three that she couldn't count because they didn't provide her with proof of residency. Out of the 236 ballots there was 26 that did not get cured.

Heather said that they also keep logs on the five ballot boxes that we now have. They have to be checked by two people, so there are ballot logs for the two that go check them and then logs for the two people who receive them. There are ballot logs for signing out the ballot box keys. Everything is counted four times. When she sends people out to check the ballot boxes, they fill out there part, count them and then seal the bag. When it comes back, the seal on the bag has to be the same one that was written down. This is verified when they are received in the office. There is also a log for the vault because it has to be sealed every night. Two people put the seal on at night and two people open it in the morning. There is a lot of safety precautions covered.

Heather said that after the election they do an audit. She sends her batches to the Lieutenant Governor's Office and fifteen minutes before the audit they send us a list on what to audit. This is done with every election. Heather also mentioned that this was the first year she had poll watchers, which she feels is a good thing. That way there is no question on the security of our election.

Commissioner Heaton said that he has received quite a few texts, emails, and phone calls of people encouraging them, as the board of canvassers that if they have concerns over the election to raise red flags and not to approve the canvas. He says that he does not have any concerns. Kane County has been doing such a good job on elections for so long that if all counties and states did it the way our clerk's office does it then there would not be any concerns over mail in ballots.

Motion to certify the November 8, 2022 Election Canvas made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

2. Church Wells Special Service District Request for Additional Service to their District/Commissioner Gant

Commissioner Gant said that Church Wells is working on a water project, doing some upgrades and they are considering some road maintenance while this project is taking place. They are wondering about adding it as a district service.

Dalton Williams said that the water project they have going is replacing a large number of pipes in their system. They are extending their 10-inch line from the tanks all the way out to End Ave. to give them a better distribution of pressure for flow. They are also having a new 300K gallon tank added to the storage. During this process, the setting of the new lines is going to require relocating a lot of meters and because their roads are eroded away, some are impassable when it is wet, which makes it difficult for emergency vehicles, school busses, etc. to get through. From a service standpoint that is a reason to make some improvements, but as far as the water installation the elevation of the roads will effect where the pipes go and the meters go. Because the roads are so eroded away it is going to place them in a position that if they were to get fixed they would have to move them again. There issue is getting enough cash together to at least provide the proper fill to bring the roads up to grade. They have been dealing with Cody Christensen on the possibility of getting a CIB or CDBG grant to pay for it, but they are not an entity that can receive a grant or apply for a grant because they do not have roads in their charter. If they could get their charter to have roads in it then they could go forward with the grant process and try to get this in place before or around the same time as the installation of the facilities.

Attorney Van Dyke stated that there are a couple of options to move forward. He would want to look at whatever grant funding or loan funding they are looking at to

see if it requires them to own the roads, because that would be something significantly different between their district owning the roads as opposed to having the authority to provide maintenance services on roads owned by the County.

Attorney Van Dyke said that we currently have the Recreation and Transportation Special Service District. It is countywide and their ability to provide transportation services is what allows them to expend funds on road projects, so constructing roads or improvements to roads. They have the authority to fund that but it is still the County that owns the roads, so they work together with us on those projects. He said they also do trails and things like that but it is some other entity that owns the trail, they just provide the funding and are authorized to go out and get grants and things for the funding as well. It depends on what their need is, if they just need to have the authority to provide the service that is much easier but if they need to be able to own the roads that is a much different discussion with the Commission.

Dalton said that the intent is not to assume ownership, the intent is to provide the grade to improve the water system.

Commissioner Gant said that we could have the Recreation and Transportation District help them out on this first project if they want to expedite. They are in a position right now to help them do the grant and it could come through them as a pass through, which is what we do with a lot of our road stuff.

Commissioner Heaton stated that he understands what they are trying to do. He asked if their intent was to continue to maintain them, as they need it.

Dalton said no, because once the grade is corrected, the ultimate desire for an overall plan is to get them brought up to where they could be chip sealed. That is not something they are targeting right now, they are just trying to do a quick improvement on the grade.

There was further talk on this and what route they should go. Commissioner Heaton said that their best and quickest route would be to work through one of the already existing entities that has authority over roads, Rec & Trans SSD or the County, and then work through and get their construction and things up to grade. If the SSD board then decides that they want to keep being able to do drainage improvements, chip seal and bring in some road base then they should pursue the 3-4 month process of getting this service added.

Dalton stated that they would go to the Transportation SSD and see if they can't get something going there. He said their issue at this point is timing, because they have the water project going.

3. 2023 Cooperative Agreement for Utah State University Extension Services-Kane County/Commissioner Chamberlain

Commissioner Chamberlain said that this is our annual cooperative agreement with Utah State University for the programs that are provided. He said that they have through it and the difference in this year's budget from the previous is the cost of living.

Elizabeth said that there is an additional \$95 to make her numbers even in programming. She said that the MOU hasn't changed from last year she just updated the dates and it specifies certain details.

Motion to approve the 2023 Cooperative Agreement for USU Extension Services made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

4. Kane County Conservation District Partnership/Commissioner Heaton

Commissioner Heaton said that this was on the agenda last Commission meeting and that they had the chair and staff from the Kane County Conservation District come in and present what they do. Their request was that they would like to partner with us. He said that most rural counties are partners with their local conservation district. Commissioner Heaton suggested that we do partner with them and contribute \$5,000 a year. This is already included in the 2023 budget but he would also like to contribute \$5,000 this year to help them with their no-till drill.

Karla said that there was sufficient funding in the account to be able to do the \$5,000 this year.

Motion for Kane County to officially partner with the Kane County Conservation Special Service District, established by the State of Utah, in an ongoing partnership

and that we provide \$5,000 in funding to their budget each year. In addition, that we provide a \$5,000 one-time contribution for 2022 to be used to purchase a rangeland drill made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

5. Kane County Resolution No. R-2022-29 a Resolution Authorizing the Zion Mountain Local Service District to Provide Recreation Services Outside District Boundaries/Commissioner Chamberlain

Commissioner Chamberlain said that we went through the process of adding a service to Zion Mountain Local Service District for Recreation, which allowed for the construction of the visitor's center, it also allows for transportation, shuttle service between points. The problem is that for a shuttle system to do anything there it has to be able to go to the new visitor's center (that will be constructed) to the existing visitor's center in the park. With this action, we allow them to step outside of their local district with transportation as part of that service.

Commissioner Heaton asked if the resolution described how far outside they can go or does it authorize them that they can participate outside their district boundary.

Attorney Van Dyke said that the resolution authorizes them to provide the recreation services for a courtesy shuttle inside Zion National Park and in the East Zion area.

Motion to approve Kane County Resolution No. R-2022-29 a Resolution Authorizing the Zion Mountain Local Service District to Provide Recreation Services outside District Boundaries made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

6. Kane County Resolution No. R-2022-30 a Resolution Requesting the Recertification of the Kane County Justice Court/Commissioner Gant

Karla said that the Commission just needs to approve the recertification. This happens every four years.

Attorney Van Dyke said that the Commission needs to have a legal opinion, which he had Jeff Stott work on that. Jeff has certified everything that they need. This is just the request to the judicial council that our court be recertified for the next four years.

Motion to approve Kane County Resolution No. R-2022-30 a Resolution Requesting the Recertification of the Kane County Justice Court made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

7. Kanab City: Proposed Annexation of Unincorporated Areas Around the Airport/Commissioner Gant

Commission Gant said that with this they are basically voting in support of the council to go ahead annex the pieces that are surrounding the airport. He said that he does not see any reason to not support the city in the annexation.

Attorney Van Dyke said that if the County decides to make an official recommendation for annexation, then it would essentially get rid of the protest period for the city, and makes it a little bit easier for them. He said that it is up for discussion today but if they want to move forward then he would recommend that we hold a public hearing and he will draft a resolution for their consideration to make the official recommendation of the annexation to Kanab City.

Commissioner Chamberlain asked if it would be the County or the City that has the public hearing.

Attorney Van Dyke said that the City does the public hearing and then there is a protest period, but if the County makes the recommendation then the property owners cannot protest and if there is adequate protest then they can prevent the annexation. Kanab City is pursuing the annexation, they would like us to consider making the recommendation but regardless of what the County does, they are going to move forward.

Motion to direct the County Attorney to draft a resolution of request for the proposed annexation around the airport and that we schedule a public hearing made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

**8. Consideration for Adoption of Kane County Resolution No. R-2022-31 a
Resolution of the County Commission of Kane County, Utah, Authorizing and
Approving the Execution of an Annually Renewable Master Lease Agreement,
By and Between the County and the Municipal Building Authority of Kane
County, Utah and a Ground Lease Agreement; Authorizing the Issuance and
Sale by the Authority of its Lease Revenue Bonds, Series 2022, in the Aggregate
Principal Amount of Not to Exceed \$3,500,000 and Related
Matters/Commissioner Chamberlain**

Commissioner Chamberlain said that we took this action in the MBA and now need to do it in Commission. He said that we passed a parameters resolution previously but the dollar amount now is looking like it has exceeded the amount that we had previously approved. This is to extend that to cover what the expected costs are going to be.

Motion to approve Kane County Resolution No. R-2022-31 made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

9. Lot Joinder: Gann-Shannon McBride/Commissioner Heaton

Shannon said that this is a lot joinder and the reason the Commission has to vote on it is because they are vacating (2) 7.5 foot utility easements. Everything is in order.

Motion to approve Lot Joinder for Gann in the Mirror Lake Subdivision as presented made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

10. Lot Joinder: Cook-Shannon McBride/Commissioner Heaton

This Lot Joinder is vacating (2) 7.5 foot utility easements in the Meadow View Subdivision.

Motion to approve the Lot Joinder for Cook in the Meadow View Estates Subdivision made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

11. Amended Plat/Ordinance 2022-58: Harris-Shannon McBride/Commissioner Heaton

Shannon said that the Commission approved vacating out of a subdivision. She said that sometimes when they do a lot joinder it can be in a different subdivision and that is what happened with this one. State code requires an ordinance and they had missed that step, so they have gone back and written up this ordinance. This involved the Color Country Subdivision, Plat I, and the Movie Ranch South Estates.

Motion to approve the Kane County Ordinance O-2022-58 Amending and Extending two plats for Color Country Subdivision and Movie Ranch South Estates Subdivision made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

12. Amended Plat/Ordinance 2022-59: Morely/Bean-Shannon McBride/Commissioner Heaton

Shannon said that with this one there are a few things that Iron Rock needs to get on this, but they decided they would recommend approval and then Iron Rock will get us those few items before it can be recorded. One involves a Platted Unimproved

Subdivision and a Rural Unimproved Subdivision. One of the owners wants to be able to divide their property again and so they needed more properties. Out of the Johnson Canyon Estates and the Square One, they did three different lot line adjustments for the other property owner in the Rural Unimproved to have enough acreage to do that. This involves two different subdivisions so it has an ordinance that has to be approved. P&Z recommended approval.

Motion to approve Ordinance 2022-59 amending and extending two plats, Johnson Canyon Estates Platted Unimproved and the Square One Rural Unimproved Subdivisions made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

**13. Zone Change/Ordinance 2022-53: Gateway Land Holdings LLC-Shannon
McBride/Commissioner Heaton**

Kevin said that this first one was zoned C-1 around 10 months ago, which would have accommodated the lodge but then the ordinance changed so he is wanting to rezone from Commercial 1 to Commercial 2.

Motion to approve Ordinance 2022-53 for Gateway Land Holding LLC changing the parcel from C-1 to C-2 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

**14. Zone Change/Ordinance 2022-54: Zion High Ground LLC-Shannon
McBride/Commissioner Heaton**

Shannon said that this is zoned Residential 5. She said that she started working back in about 2013 with Kevin. He had an idea to do a PUD with golf carts but it never got recorded, this is why it is Residential 5.

Kevin stated that this is part of the CRA financial model that was included in the Zions Bank study as well as the Kim Gardener study, as an area where some TRT would be generated through an “eco-resort development” style. This used to be state land but they purchased it around 2005. Kevin said in May of 2005 it was going to be auctioned, open market, and who know where it would have went as an area. At that point, in time they were operating to keep the east Zion area going down a decent path where they could have a well-planned community. They got in there and got it off the auction with SITLA, with a development lease. The development lease called for 100 home sites to be developed, and that is what it took to get them to pull it off the auction. Kevin said that for thirteen years, they paid on the development lease and it got up to around \$30,000 a year and it wasn’t ever a development. They worked on it but it wasn’t one they ever felt like was the best way to utilize the property so they offered to purchase it out from SITLA 3-4 years ago. Kevin said they are wanting to go from R-5 to C-2, but it would be nice if there were not having to go to C-2. They would rather P&Z develop a Resort Zone or something that better fits, because when you do a C-2 zone a lot of the people are fearful of all the uses that are available in C-2. To mitigate that they had proposed deed restrictions that strip off around 160 uses. Kevin stated that subsequent to the P&Z approving it they did get the deed restrictions recorded.

Commissioner Gant stated that we have a problem in the County with this Commercial zoning issue. He wants to be able to help our applicants and our policy at the County by making something more defined.

Commissioner Heaton stated that we had everything in huge clumps with significant gaps in between each zone, and so we have tried to bridge some of those gaps but he does think there is a zone out there that they should work on, that could fit better here.

Motion to approve Ordinance 2022-54/Zone Change rezoning parcel 1-9-16-1 from R-5 to C-2 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

15. Zone Change/Ordinance 2022-55: Chamberlain Ranch Holdings LLC & The Ranch at Zion LLC-Shannon McBride/Commissioner Heaton

Kevin said that this is a mountain bike little cabin project. He said that a lot of the acreage is contained in the ravine but it is just part of the parcel. He said that they are manifest, low-density people and so they have that credibility. This is going to be a 40-cabin project with a little ravine. They also put the deed restrictions on this one too.

Commissioner Gant mentioned that these are imperative that this happens or TIF is not going to be generated in east Zion and this whole thing will fall apart.

Motion to approve Ordinance 2022-55 for Chamberlain Ranch Holding LLC zone change from AG to C-2 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

16. Zone Change/Ordinance 2022-56: The Ranch at Zion LLC-Shannon McBride/Commissioner Heaton

Kevin said that this one has been operating in the AG zone. They are wanting to go from AG to C-2. This parcel has the same deed restrictions. He said that they really are trying to limit options, which is why he takes away development rights. Kevin said that it is important to recognize that this is the Clear Creek and it has been for decades.

Motion to approve Ordinance 2022-56/Zone Change for The Ranch at Zion from AG to C-2 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Gant-Aye

Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

17. Ordinance 2022-60: Revising KCLUO Chapters 1, 6, 7 & 15-Shannon McBride/Commission Heaton

Shannon said that we had to change our short-term rentals. We allowed less than 15, but with the building code, if they have over 10 then they have to put sprinklers in their homes. She said that we need to match the IBC code so that we are not leading people into that problem area.

In Chapter 6 they had unattended consequences in one chapter when they said that they couldn't do guest homes in R-1/2, that is all it's clarifying. It is not a change it is just making sure that it says it consistently throughout the ordinance.

In Chapter 7, they changed the purpose of the Commercial 1 zone to say that it is to provide for the sale of goods and the performance of services and other activities for which the market extends beyond the immediate area, because it had for residential areas to protect and that is not what the Commercial 1 zone was about.

In Chapter 15 Shannon had asked if they would be willing to let the Land Use Administrator approve all Residential Conditional Use Permits because they had five on their agenda. Conditional Uses are a permitted use with conditions and in Residential, it is pretty easy. If Shannon would have had the authority she could have just approved them and had it done instead of making them wait a whole month, because with residential uses there is not a lot in the ordinance that would stop them from getting a Conditional Use Permit. P&Z voted unanimously on all these ordinance changes.

Commissioner Heaton said that there was one inconsistency on this ordinance. He said that almost everywhere, it says less than 10 but the building code says no more than 10. There needs to be consistency with it.

There was further talk on this and they decided to make it say 10 or less.

Motion to approve Ordinance 2022-60 Revising Land Use Ordinance in Chapters 1, 6, 7 and 15 with the Corrections of Putting the Short-term Rental Maximum at 10

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

Commissioner Gant-Aye
Commissioner Chamberlain-Aye
Commissioner Heaton-Aye

18. Approval of Application for LATCL Grant for 2022 & 2023-Karla Johnson/Commissioner Chamberlain

Karla said that this is the Local Assistance and Tribal Consistency Fund and that our amount is under \$10M so we take it as a loss in revenue. It is for all of the counties that have Payment in Lieu of Taxes, which we do. She said that specifically, recipients could use these funds on any governmental purpose other than a lobbying activity.

Commissioner Heaton said that this is two-time money. It is for this year and next year and then it goes away.

Karla said that we have a lot of building projects going so she would recommend that we use this to help mitigate the payments and bonds on those buildings so we lower our debt on our people.

Motion to approve having Karla apply for this grant made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

19. 2023 Utah Association of Counties Representative/Commissioner Heaton

Karla said that this is for next year's representative. She said that it does not have to be a commissioner but it does have to be an elected official.

Motion to appoint Kane County Attorney Rob Van Dyke as Kane Counties Representative to UAC for 2023 made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

20. County Consent for Early Dissolution of the Big Water Justice Court/Commissioner Gant

Attorney Van Dyke said that Big Water City Council voted to dissolve their justice court. They would like that to happen January 1, 2023. This coincides with the retirement of their judge, who did not put in to be re-elected. Attorney Van Dyke said that he got an email from the Administrative Office of the Courts that showed their caseload.

Judge Johnson does not think there caseload is enough that it would require them to make adjustments to staffing. His biggest concern is the lack of service for the people in the community. There is a number of things we can do by WebEx service online but as far as trial settings/anything with a jury, would have to be done here and require them to travel.

Motion to give our consent for the early dissolution of the Big Water Justice Court made by Commissioner Chamberlain and motion carried with all Commissioners present voting in favor.

21. Discussion on Fire Districts/Commissioner Gant

Commissioner Heaton said that Pat Moffitt and others from out east had a wonderful property owners meeting. He said that the discussions that we have had is that we feel like we are at a little bit of an impasse. Commissioner Heaton thinks there would be some wisdom in having the folks out east that have been in the trenches on this sit down with two commissioners and see if we can help them craft a path forward.

Pat Moffitt said that they had a great turnout compared to prior attempts to get the community to get together and discuss the issues. She said that despite how much this has been on the commissions agenda and how much discussion has occurred in the past, it was surprising to see how many people showed up and didn't know anything about this. Pat said that it is pretty evenly split on people who want it and people who don't. She does think that having a smaller group brainstorming meeting with commissioners and some key people that are working on this is probably the way to take the next step and decide where to go from there.

Commissioner Gant said that we can build a fire station out there. We will include it in Kanab 600.

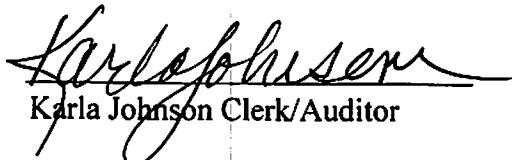
Commissioner Heaton said that he feels that their role as County Commission, when citizens that are doing their best and get bogged down he thinks it is the Commissions role to step in and try to help find a path forward. He suggests scheduling a meeting and getting a few of them sit down to see what they can figure out.

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

WHERE UPON MEETING WAS ADJOURNED



Andy Gant Chairman



Karla Johnson Clerk/Auditor