

DUCHESNE COUNTY PLANNING COMMISSION MINUTES
Duchesne County Administration Building, Commission Chambers
May 1, 2024 at 5:00 PM

Attending

Planning Commission: Connie Sweat, Chairman; Annette Miller, Vice Chair; Thomas Winterton, Member; Terry Nelson, Member; Kelsey Carter, Member.

Staff: Mike Hyde, Director of Community Development; Mike Gottfredson, Deputy Director of Community Development; Becky Broadhead, Community Development Secretary

Visitors:

Fred Goodrich; Hobart Willis; Jenny Adams; Sandee Pummell; Levi Olsen; Jeff Chugg; Shawn Welch; Glen Karren; Zack Garner; Brandon Bench; Bruce Thomas; Mandie Crozier; Randy Hanberg; Rikki Hrenko Browning; Valorie McLean; Cody Ivie; Bruce Hamilton; Greg Garff; Greg Simms; Jason Young; Jeff Crozier; Susan Hamilton; Dana Shepard; Lex Fabrizio; Lisa Mahoney; Richard Mahoney; Sandra Wilde; Scott Duncan – online; Sarah Axelrod – online

Connie Sweat opened the meeting by reading the Rules of Order for a Public Hearing which asks if there are any members of the commission who wish to announce pre-hearing contacts, site visits or conflicts of interest. Kelsey Carter recused himself on Item C.

- Thomas Winterton stated that he’s personally made site visits six times, not contacting anybody, but just to monitor the noise and vibration of the flaring.
- Terry Nelson stated he was at the meeting with Caruso and Commissioner Killian along with Hobart Willis and Fred Goodrich concerning the noise caused by the flaring.
- Kelsey Carter stated that he didn’t have any biases or conflicts, generally, but due to what he does for a living and who I’ll be representing there, I feel like I do need to recuse myself for Item C, the airport overlay.

Public Hearing

Mike Hyde presented:

A. Recommendation to the County Commissioners regarding [proposed amendments to the text of the Duchesne County Zoning Ordinance to identify zoning districts in which flare gas power generation facilities are allowed and establish standards to mitigate the impacts of such facilities.

Findings of Fact (Which can be found on file with the Community Development Department).

- Mike Hyde stated the county has received some complaints about a flare gas power generation facility in the county that is existing and is creating noise and vibration issues for some folks in the neighborhood.

- The staff has prepared a proposed ordinance to try to regulate those facilities in a manner that would mitigate those impacts on neighboring property owners. There's a conditional use permit in the commercial industrial A10 and A5 zoning districts and would prohibit them in the A2.5, R1, and R1.5 zoning districts. We also need to comply with the Duchesne County noise ordinance, which considers noise after 9:30pm in the evening or before 7am in the morning to be a nuisance when it's generated by a mechanical device. The proposed ordinance would establish some setback requirements also from these facilities to primary or secondary residences or buildings that are open to the public, like schools or stores. It requires some vibration isolators, other type of vibration isolators, or some other type of vibration reduction technology. The ordinance has been out for review for a week or two.

We've received a number of requests for additional time to review the ordinance and also some requests for amendments of the ordinance. The staff would recommend the planning commission go ahead and open the public hearing and hear from those here this evening who have concerns about the ordinance and then recess the public hearing to a certain date. The earliest date would be your next meeting on June 5, 2024 to allow some additional time for the staff to work with the concerned parties to try to iron out an ordinance language that will hopefully work for all concerned. We are not ready to move forward tonight. That's a staff recommendation.

- Terry Nelson asked the question, that when we were in the last commission meeting, we had set some dates and had also discussed having some stakeholder meetings which would involve three planning commission board members. To date that has not happened. That was one of the concerns that has been expressed to me is what we agreed upon as a commission did not move forward. This has kind of put us behind because I think it was June 26, 2024 that we had decided to come up with a preliminary proposal.
 - Mike Hyde responded that at the direction of the planning committee we broke the issue down into three ordinances.
The third ordinance associated with the subcommittee you're talking about was recessed to June 26, 2024 and has not yet been approved by the county commissioner's for release. These other two ordinances, the labor camp and the flare gas ordinance we're trying to move forward with.
- There was a brief discussion regarding the intent of the Planning Commission to bring all three ordinances back on the June 26, 2024 meeting.
- Mike Gottfredson asked if he could bring up the request by staff or the recommendation to recess until a date certain? Any member of the planning commission can make a motion to recess until the June 26, 2024 meeting. Then we can all move forward now with the understanding that we're going to be reviewing these three on June 26, 2024
- Thomas Winterton stated he'd hate to deny anybody the opportunity to come tonight to be able to have their voice be heard. If we recess it, will that deny them the opportunity to do that?

- Mike Hyde replied that the planning commission could recess it to whatever date they want. It could be June 5, 2024 or it could be June 26, 2024, or some other date.
- Mike Gottfredson added we advertised for the public hearing tonight. Just like last time, we would recommend that we take public comment tonight from those present.
- Thomas Winterton stated he didn't want to do anything to deny individuals the opportunity to come and share with us. I would like to pass a motion that we clarify that we move all three items that were on that original amendment to the same timeline, which is that we would have a status update on the June 5, 2024 meeting with the intention to act at the June 26, 2024 meeting.
- Mike Hyde replied a motion would be appropriate after the folks that are here tonight who want to talk about the flare gas ordinance have a chance to do that. Then a motion to recess to June 26, 2024 would be appropriate at that time.
- Thomas Winterton replied then he'd wait.

As there were no additional questions of staff, Commissioner Sweat called for persons in favor of the proposed ordinance to speak.

- Hobart Willis came to the podium. He stated that he had read through the proposed ordinances. Mr. Goodrich and I are the only people in this room that live within 2,640-feet of a flare gas generating level of frequency generation in here.

The planning commission needs to establish a hertz level, currently, with the hash pad. The first thing I would like to point out is that there is no specific level of frequency generation in here. It only says something about isolating the bases with vibration isolating mechanisms. The planning commission needs to establish a hertz level. Currently, when the hash pad is at full operation, I can tell you it reaches 50 hertz, which is what it operates at most of the time and is too high. We've done some research on what the CDC says and what some other organizations say. Generally speaking, when they want to torture people and get them to confess, they use 40 hertz. It also causes a very unpleasant sensation in your inner ear. The second thing I would like the planning commission to be aware of is the decibel levels. It says in the proposals, noise emitted from the facility site shall not create an increase in the ambient noise level above 60 decibels. At 60 decibels is about 20 decibels higher than is considered healthy for constant exposure. At 40 decibels would be like standing next to a diesel semi-engine truck running 24-7 right next to you all the time. That's too many decibels! My recommendation would be that anything over 35 hertz, pushing it to 40 hertz on your vibrations, should be the maximum at any time during the day.

I met with people from Caruso at my home. None of their engineers and not one of their employees have ever been on my property in the middle of the night. The pad that was

put in there was not put there after any kind of geological survey. There was no survey of the geologic substrate or no environmental impact done. This site was originally going to be a booster station for gas. It ended up that they decided to put a flare gas power generated hash pad on that site. Their aim is to have the setback between 2,640 feet and 1,320-feet. 1,320-feet is a quarter of a mile. 2, 640-feet is a half a mile. My home is 2,640-feet from the outside corner of that hash pad. This is way too close! I am very concerned other zones will become part of the plan for Duchesne County to increase the number of flare gas power generating hash pads to expand to. I would say 4,000 feet should be the minimum setback. I would also recommend that the county consider further setbacks, change the ordinance to make the decibel and the vibration hertz specific and low enough that they don't have a negative impact on people's health and sanity, and a geological survey done to the substrate and geological formations.

- Thomas Winterton asked Hobart Willis if he found in his time of living at his residence if there are times of day, or patterns when it gets worse than others?
 - Hobart Willis replied, yes. The vibrations and the sound levels increase usually around 10:15pm at night.
- Thomas Winterton asked Hobart Willis if it continues through the night?
 - Hobart Willis replied it does and it will even get a lot more vibratory around 2am. It usually is about the time the sun comes up early in the morning, about 7am when it goes back down. Sometimes it ramps down earlier, and sometimes it ramps up earlier.
- Connie Sweat asked Hobart Willis if they had done something because it isn't as bad in the day?
 - Hobart Willis replied that since they had their discussion, something has happened to make it better.
- Annette Miller asked Hobart Willis if it runs 24/7?
 - Hobart Willis answered yes. There is never a stop unless they shut it down, which they have on occasion. In a recent email that I received from the co-founder and CEO of this corporate entity, he said that they are going to pull out the two end compressor modules, and replace them with what they refer to as insulated or covered modules that should be a great deal less noisy as well as create less vibration. There is also a tarp that was put up on the south end of the hash pad, which is between the power generating compressors and our homes, and this barrier consists essentially of a couple of tarps with some batting between. It doesn't go high enough to cover the emission stacks. The emission stacks stick up at least 10 feet higher than the sound barrier. This is why I brought up the geological survey.
- Annette Miller asked Hobart Willis when that sound barrier was installed?
 - Hobart Willis replied at the first of this year. They began building the pad about a year ago at this time. They applied for a permit to build it just about two weeks

ago. Actually, they applied for the permit to do it within about a couple hours of the first time that Mr. Goodrich and I testified before the county commission. They came in and applied for the permit before because the only permit that had been permitted was the compressor station that was to go in on that site.

- Annette Miller asked Hobart Willis if he'd been in contact with them about their noise complaints since?
 - Hobart Willis answered that they would like to put in soundproof windows into our homes, and they said they would pay the cost to do it. They would also like to strip our homes and put a heavy layer of stucco around the outside, and air conditioning so that we'll be less impacted by the sound, but that doesn't remedy the problem when we want to enjoy the outdoors at our home.
- Guy Taylor came to the podium. He stated, we live way closer than Mr. Willis does to a flare. Apparently, it's a different company, but I have something here I want the planning commission to hear (He played the noise they hear at their house 24/7.) from the flare.
- Connie Sweat asked Guy Taylor that what he was having the planning commission listen to was the actual flare? Do you have one of those generator-type things there, or do you just have the flare?
 - Guy Taylor replied that they have the pump station right there by their house which is about 1,400-feet away from his house. We are measuring sound levels between 94 and 96 decibels.
- Connie Sweat asked Guy Taylor from the flare or from a generator?
 - Guy Taylor answered from the noise the flare was making. When the flare is going it makes that noise. It's a whistling noise.
- Connie Sweat replied to Guy Taylor that what he was sharing with the planning commission was something different. She continued by saying that what we're discussing is an ordinance to regulate the use of the generators. The flare runs the generator that runs the Bitcoin traders. That's what this ordinance is about.
 - Those engines do the same thing. Our shop is about 600 feet from it. It drives everybody crazy. It makes your ears go nuts. It definitely needs some kind of noise wall like they do on the freeway in Salt Lake City. I'm not opposed to oil production. They have to do what they do. However, they need to be under some guidelines to take a little better care of that issue. In our neighborhood, we have nine families within a quarter mile of this noise.
- Connie Sweat asked if there were any opponents who would like to address the planning commission.
- Shawn Welch approached the podium and introduced himself as the attorney with

Holland and Hart in Salt Lake City, and I also represent Crusoe Energy Systems LLC which is the company that has the flare gas generator systems that were discussed by Mr. Willis, who I've not met. Crusoe Energy has appreciated the time the commission members have spent meeting with members of Crusoe. He stated he was aware that members of Crusoe had met with Mr. Willis and Mr. Goodrich to discuss issues. As you just heard, things were done, and the sound changed.

Maybe right now it's not what is acceptable for Mr. Goodrich and Mr. Willis. Maybe it's not acceptable for the county to have that level of sound. The underlying problem is noise, and Crusoe recognizes that it needs to mitigate noise to be a good neighbor in Duchesne County.

The concern is how does an ordinance go about mitigating the noise when you set firm footage setbacks from a power gas generation facility to an open public meeting, which was the version of the ordinance that was being considered now, which is now being deferred. Crusoe does have a problem with that fixed setback because noise is the issue.

I understand there's the issues of vibration as well. Crusoe's looking into whether that is geologic or acoustic. Would it be the distinction between the hertz that Mr. Willis discussed as the vibration versus being something that comes through the ground or through the noise waves in the air. Mitigation of that, be it noise or vibration, is the issue.

We ask the commission to propose and develop an ordinance that allows both circumstances to coexist. Mr. Willis, Mr. Goodrich and their peace and enjoyment in their homes and the flare gas power generation. We believe they can exist together, and that it is a matter of looking at how to situate facilities, how to mitigate the noise, put up screening that reduces the noise. Maybe there's more screening needed. That's all we're asking the commission to do.

I submitted written comments on behalf of Crusoe yesterday. I delivered them to the members, and I believe everybody received them.

I was unsure whether I should stand up as an opponent today because it's not so much being an opponent of an ordinance, it's the ordinance that has been proposed. When the staff made the recommendation to spend another amount of time to study the text of the ordinance, I was a proponent of that part.

A big issue here is the 2,640-foot setback. That is such a large buffer, and it does not accommodate something that Mr. Willis mentioned earlier in his testimony, which is a difference in topography, and differences in natural barriers. What's located near the facility. A 2,640-foot setback as a fixed amount is really one of the most egregious things in the proposed ordinance. We ask that the commission and the staff look into changing that. Perhaps a setback is right, but if all noise is mitigated, then what's the purpose of the setback?

- It's really dealing with the noise impacts. As Mr. Willis mentioned, after meeting with people, even just now going forward in the next few weeks, Crusoe will be reconfiguring things at the XCL site near Mr. Willis and Mr. Goodrich's homes. They're working to

reduce the noise.

The issue with the air conditioning was more so that there would not be the nighttime noise that Mr. Willis has discussed. Then from what I understand are the window units. There could be the mini splits or the ductless air conditioning systems, new insulated windows, and maybe a different coating on the outside of the home would eliminate the noise issues that Mr. Willis is discussing. Then perhaps more screening closer to the hash pad site would address the noise. Once again, we want to focus over the next few weeks on mitigating the noise and being a little bit adaptable to the specific setbacks. Mr. Willis mention wildlife impacts and fracking and the hertz. We're not sure if the basis exists for that impact from the flare gas power generation. With that I do support the commission or the staff recommendation to defer to a later date.

I'm here for the technical side, the legal side of the ordinance as done. Mr. Willis and Mr. Goodrich will still be in touch with the Crusoe personnel who know what's going on at the site to try and continue to address the issue. If the noise is mitigated, if there's an ordinance to come out, the ordinance that does come out will be more adaptable to the business. I will certainly answer any questions that I can.

- Thomas Winterton stated that Mr. Welch may or may not be familiar, but if you are, you mentioned that a sound study was done in setting this up. Can you speak to how it was conducted? Did you hire a company that specializes in that?

There's a great deal of range when we're talking about sound and you get down to the infrasonic. A lot of decibel meters are limited in the range that they will monitor. I'd be interested in the type of equipment that was used during that sound study to see if it incorporated the appropriate ranges.

We've heard some very specific frequencies that are being monitored. If you look at a lot of these decibel meters I'd be interested to see how that was conducted and the equipment that was used. Do you have access to that? Is that something the company's willing to divulge?

- Shawn Welch replied that he wished he would have asked them about that. I'm pretty sure it is something that should be divulged. I don't see that being a confidential item I am familiar with on the study. It was an engineering firm who conducted it with quite an extensive array of microphones, and it was well above my head, even technical. I do know the decibel levels were far lower than some of the numbers that were represented today.

Here and there, there can be spikes, but just throughout today in measuring, it was fairly consistent, and it was below what has been proposed by the existing ordinance.

- Terry Nelson stated when he was at the meeting with Commissioner Killian and they gave us a copy of their study that I can share with you all.
 - Shawn Welch replied that he could speak openly now. The ANC study is the one I'm referring to. I thought I was coming here to keep working forward, and I was not

positive that the study would come out. I don't think that's been shared with staff as well. This explains the methodology, the analysis, the decibel range, the timing, and what happened. It even has a map of the zones where the decibel decreases from the facility. Let's look at the noise and dealing with the noise and with that the vibration, if that's noise-related or geologic through the ground. They're really not sure if that could happen given the geology under the hash pad site that affects Mr. Willis and Mr. Goodrich. Yes, there's a study, so you'll have a copy of it before you go home tonight.

- Thomas Winterton thanked Mr. Welch and stated in his other work-related activities, they do a log with sound, especially that propagates sound through the ground. Infrasonic. Definitely the topology, geology, can greatly influence the outcome.

- Mike Gottfredson noted that we also have a representative online from Crusoe Energy, Sarah Axelrod.

- Sarah Axelrod from Crusoe Energy, from on-line, apologized for not being able to be there in the room today. I have a two-year-old, so it was one of those days. We are extremely focused in taking this very seriously. As Shawn pointed out, we are trying very hard to work with the Willis's and the Goodrich's. We met with them in person last week.

They provided comments to the ordinance itself. I think trying to take into some of this flexibility in topography, site positioning, all of the above into account in the ordinance. With that being said, I'm happy to answer any questions from the Crusoe perspective that I can.

- Thomas Winterton stated that that he believes what everyone is trying to do is not only fix this one, but any future sites.

I'm curious, is this something we can expect to see in other places? Is this a one-time, one-site location? I would have a hard time imagining that Crusoe would want to stucco every house and put windows in every house of every site they go to.

We're trying to find a solution here that can not only mitigate this specific site, but sites moving forward.

- Sarah Axelrod agreed and said Crusoe Energy does not have plans to expand in the county. That is not to say we do not want to. I want to be respectful and thoughtful about this ordinance going into place and really working together to find win-win solutions where we can continue to invest in the county in a way that supports the community and makes sense for its residents.

- Rikki Hrenko Browning from the Utah Petroleum Association stated that she thinks it's important to set expectations up front that our role in representing the industry here in the state of Utah is to be a good neighbor, a good community member and a good partner. We are also not opposed to an ordinance that sets out reasonable limitations on sound, on noise, on vibration, and is addressing the issues that need to be addressed.

I think that we have some very specific comments and concerns with some of the language in this ordinance and some questions and comments about process and how we could possibly move forward in a little bit more of a collaborative and transparent way. On this ordinance in specifics, there are a few things that I do want to flag here. I think there's a question as to what the scope of the facilities are we are trying to address.

I'm hearing a lot about hash pads and flare gas for use in Bitcoin mining. There are a lot of other uses of so-called flare gas to power generation that have nothing to do with the types of facilities we're talking about today. The title of the ordinance itself, this term that we are defining itself, would seem to imply that we are talking about a much broader scope of installations and physical equipment than what it sounds like is the intent. We've heard some mixed messages as we've talked with different folks in the county as to what the actual intent is to be covered here. In clarification of the definition and the terms that we're using in the title of this ordinance to make sure that it is abundantly clear what types of facilities this would apply to would be incredibly helpful and something we've provided feedback on in our red lines as well.

The other concern we have that you did hear about is the 2,640-foot setback. The reality of a setback that large, when coupled with a well site setback of 300 to 600 feet, means you are effectively going to make these types of installations for any other facilities that are using produced gas to provide power that might be included in this ordinance ineffective for the most part. The distance and the cost associated with that large of a setback would most likely mean that these are ineffective. One issue that creates is this area of the basin, it is widely known, has gas off-take constraints.

There is not enough pipeline capacity for the amount of natural gas that is generated through our operations, even when we're primarily targeting oil production. This is part of the reason that you are seeing these sorts of facilities and the fact that they're using produced gas on site. If the setbacks are set to such a significant distance it is not effective to use that gas on site. The result is going to be one of two things. It's either going to be an increase in the amount of flaring, which is problematic for a number of different reasons. It also creates neighbor and community challenges. It's an air quality challenge.

We in no way, shape, or form can support anything that would increase flaring. We have producers here in the basin that have zero flare commitments where under no circumstance will they flare. If they don't have anywhere to put this excess gas and there is not adequate pipeline capacity, they will shut in their well. That will reduce production growth and it is a harm to the company, to the mineral interest owner, the county, and to the state. I don't believe that is anything we are trying to do. We have a number of other issues that we raised in our red lines that we hope would be considered.

It would be very helpful if we could have a process that's perhaps more similar to some of the other rulemaking processes we engage in with different organizations. Thank you for taking the additional time to work through this process.

- Hobbart Willis addressed the planning commission again by adding the issue of the setback has been raised or opposed by the two entities because it is in Duchesne County. If this flare gas power generating hash pad was put 2,640-feet behind their houses, I guarantee you they would have a different opinion. If you do not make a setback in the ordinance, then the facility will go in and do the same thing on other properties.

When the sound study was done by ANC on March 15, 2024, there were two sound-gathering devices put out, and they will tell you this in the report, one at the hash pad and one directly behind Mr. Goodrich's house. During the time that the audio data was gathered, it was our distinct impression that the hash pad noise was greatly reduced by intention. We believe it was powered down to a point so it would not produce the same level of sound that it had been producing. It was our distinct impression from the fact that within a few hours of the sound-gathering equipment being used and taken back to Colorado, the noise increased again.

Please don't misinterpret this. I support it and this is a great way to utilize flare gas and create economic growth in the oil industry. However, I believe there needs to be some changes in the future.

- Thomas Winterton made a motion to go ahead and recess this, and have a status update on June 5, 2024. We will then re-open the public hearing on June 26, 2024. Annette Miller seconded the motion. The motion passed 6-0.

Mike Hyde presented Item B on the agenda.

B. Recommendation to the County Commissioners regarding proposed amendments to the text of the Duchesne County Zoning Ordinance to change the zoning districts in which labor camps are either permitted conditionally or prohibited.

Findings of Fact (Which can be found on file with the Community Development Department).

- Mike Hyde stated we have heard no issues with the rest of the ordinance. It merely requires a conditional use permit in the commercial and industrial zones. That is the only change.
- Thomas Winterton stated that his concern was he felt like we were crystal clear that we were going to take this up in June, and if we pass this ordinance tonight it will catch somebody unaware that it would impact.
 - Mike Hyde replied that the ordinance had been circulated widely to all of the stakeholders that were at the meeting we had in April. The only issue we had was people didn't understand the definition of a labor camp. Rikki helped distribute the ordinance to members of her association.
- Rikki Hrenko Browning came to the podium and wanted to confirm what was said. We have reviewed, and we've distributed to UPA members. We did ask for clarification to

the reference in the definition. With that, we are supportive.

- Scott Duncan with XCL Resources (on-line) commented that they've been through this process a few different times. The only issue we would bring up is under the labor camp, any prolonged stay at a specific labor camp. Any prolonged stay at a specific labor camp, which is regulated by the state regulations will have some conflict with the Tri-County Health Department in being able to stay there for much longer than about a year. If anyone's looking at doing that. We've been through the process in three or four different situations, and we don't see any real issues with it.
- Glen Karren stated he has labor camps on his property. He said he hasn't seen anything. He said he bought his shop and he doesn't know if that applies to him or not?
- Mike Hyde replied to Mr. Karren and told him his properties are zoned industrial in the county, therefore, when they were established, we did not require a conditional use permit. You only had to have your TriCounty Health Department approval. If you do any more on your property that's zoned industrial under this ordinance, you would not only need your TriCounty Health Department approval, but also the planning commission approval. Possibly one additional step if you do any more of them. Your existing ones are fine.

Commissioner Sweat closed the Public Hearing.

- Annette Miller stated she had a question for Mr. Hyde. Is there any reason that this ordinance needs to be passed tonight? Would it be detrimental if we pass this ordinance tonight?
 - Mike Hyde replied the chances of another labor camp application coming in on commercial and industrial zone property is pretty slim between now and then. If you act tonight, we can send it to the county commissioners, or you can postpone it if you wish. The Commissioners have their hearing scheduled for Monday, May 13, 2024 at 1pm. If you don't send a recommendation, then they'll be forced to recess it to a meeting after the planning commission makes their recommendation.
- Thomas Winterton stated that he came here tonight thinking that we should table all three, but if the industry has signed up on this and we don't have opposition, then I'm not opposed to making a motion to go ahead and approve the recommendation of the staff with the amendment on line seven to make sure it doesn't affect labor camps located on well pads.

Mr. Winterton made a motion to go ahead and recommend to go with the planning commission's recommendation of approving this, provided that it includes line number seven so that this does not affect any of the labor housing on the well pads. Terry Nelson seconded the motion. The motion passed 6-0.

Connie Sweat opened the Public Hearing for agenda Item C.

Mike Hyde Presented:

C. Recommendation to the County Commissioners regarding proposed amendments to the text of the Duchesne County Zoning Ordinance to establish an airport overlay zoning district to protect the Duchesne Municipal Airport from incompatible uses.

Findings of Fact (Which can be found on file with the Community Development Department).

- Mike Hyde ended his presentation saying this ordinance does not apply to properties inside the city. They'll have to adopt their own ordinance. We've had a lot of requests for more time to review the ordinance. He continued by saying he knew there was a lot here. There is a lot of people who are wondering what it's going to do to them. I think that's a fair request to ask for more time. Mr. Hyde recommended that the commission open the hearing and hear from those here tonight that want to comment or ask questions, and then go ahead and recess it to a date certain. He mentioned that our June 26, 2024 meeting is shaping up to be a real busy meeting. He suggested that the planning commission choose another date to recess this ordinance to. He mentioned they had already canceled the planning commission meeting in July, so August 7, 2024 would be one possibility.
- Terry Nelson asked Mr. Hyde if under Zone 4, the last sentence says only low-density residential uses are allowed. So in Zone 4, it's a one acre, and then Zone 5 is none residential, and then in Zone 6 we go back to the one acre?
 - Mike Hyde replied that is the way it currently reads and it worked out that way. It's based on Iron County's ordinance. That's one thing that the state has in place and the state folks and the airport planners seem to think that's wise, but it could change.
- Thomas Winterton asked how much latitude do we have as a planning commission in this amendment and still satisfy the state requirements?
 - Mike Hyde replied that he believes we have quite a bit of latitude. Any changes that we make, we will run through the state aeronautics folks as well as Duchesne City as it is their airport. We'll run it through their airport master planning consultant and FAA to see if we have made a number of changes and we haven't gone too far.
- Thomas Winterton asked if the state statute requires they sign off on it in order to be in accordance with the state law? How is the state law structured? Is it just saying to pass something or did they give guidelines, we want you to pass certain criteria.?
 - Mike Hyde answered no. He said it's more like they want us to pass an airport overlay zone, but they didn't really give us any direction beyond that, therefore, that's why we reached out to the state to get us some help and the city's planning consultants as well.

- Mike Gottfredson stated the main driver from the consultant side is compliance with the FAA, Federal Aeronautics Administration. The reason is that a large driver of revenue or funding for some of our rural airports comes from the FAA. To qualify for grants, to qualify for funding, you have to comply with certain things. One thing that we'll continue to make certain is that we don't want to be detrimental to our airport. We want to be good partners while still trying to make this a Duchesne County flavor of requirements for an airport.
- Thomas Winterton asked if it was his anticipation that whatever's passed for Duchesne is going to be the template for Roosevelt, or is that a different circumstance?
 - Mike Gottfredson stated he didn't anticipate it to be the template for all of Utah, and explained that is why we are holding these meetings. There is only one other template in the Cedar City area, this is really open. Roosevelt City Airport is unique in and of itself. It has its own goals, its own master plan. It's very different from Duchesne's Airport. There are similar things. They have similar overlays and similar zones. However, the Roosevelt Airport is quite different from the Duchesne Airport.

Connie Sweat asked if there were any opponents who would like to come to the podium?

- Glen Karren came to the podium. He began by stating this affects him probably as much as anybody. He continued by stating he has four 7-acre lots on Highway 87 in the Blue Zone. I've got a 20-acre lot just east of there in the Blue Zone. I've got about a 40-acre lot just southeast of there in the Green Zone. I have another 10-acre parcel in the Blue Zone, and some more in the Orange Zone. Just for the record, there hasn't been one airplane fly in and out of Duchesne today.

This is not Cedar City, Heber, Roosevelt, or Vernal. According to this ordinance, I won't be able to develop my property on Highway 87.

My shipping yard is in this Blue Zone. I've been there for nearly 20 years. I am very concerned how this will affect me. I've got another 7-acre lot just north of the airport. I'm currently in the process of selling to Moon Lake Electric for a new shop yard and office. The paperwork's done, but the money hasn't changed hands yet. Will this new ordinance affect this sale? The fair market value in this letter for that sale is \$22,500 an acre that Moon Lake is prepared to pay me.

My question is why can't we set an ordinance for Duchesne City according to the amount of aircraft we have flying in and out of here with the four or five aircrafts a month? Are we willing to shut down potential businesses and industrial areas such as mine for maybe an airplane a week?

Is Duchesne City going to buy these properties that I can't develop? What's going to happen to my current shop, business and yard? Is somebody going to come in and condemn these properties?

Duchesne City is limited in the ways it can grow. To the West is the Ute Tribal Land. To the East is Highway 40 and farm ground. Highway 87 is the only potential that Duchesne City or County has to grow for future businesses.

- Annette Miller responded saying she thinks we're all on the same page. She recommended that we recess this hearing and get more information to make it so it's feasible for Duchesne.
 - Glen Karren stated he agreed with Ms. Miller. Mr. Karren stated that the seven acre lot next door would be subject to not be developed or sold for future business.
 - Mike Hyde answered that was not quite right. If you're in that zone one, airport uses and activities would be allowed.
 - Glen Karren asked Mr. Hyde if it had to go to the city for airport uses, but not for a mechanic shop, a tire shop, a welding shop or anything in that nature?
 - Mike Hyde replied under the current ordinance, it would have to be an airport related use or activity. This ordinance hasn't been passed yet. It's just a draft. It can be amended. We anticipate it will be amended substantially.
 - Annette Miller stated that she believes that's everyone's goal to make it fit Duchesne and not Cedar City or Heber.
- Thomas Winterton asked for clarification if when that day comes and we've changed it and improved it, will we have another public hearing on that specific ordinance?
- Mike Hyde replied, yes. We'll recess the hearing.
 - Thomas Winterton asked if there will be another public hearing that will address whatever changes have been made?
 - Mike Hyde stated, yes.
- Brandon Bench representing the Duchesne County School District stated they have already purchased some ground that lays within the dotted line and already built some ball fields up near the airport. We don't have a master plan, but in our master idea for our property, we would want to reserve the rest of that property for future building. That would lie within this area as well.

The dotted line actually takes out our elementary school we had plans to build in the future. We would definitely ask for some help there. The property lies without all the other areas for the school and whatnot, but it does fall within that dotted line, which I think is huge. It just doesn't seem like planes fly in that big of a swath from the map that was prepared. You have to have those clearing paths going north and south. The jail and half the county buildings fall within that blue area, and that's kind of comical that the county would propose something where they're already illegal.

- Mike Hyde replied that any existing things are not illegal. They're grandfathered in.
 - Brandon Bench stated that was convenient.
- Mr. Hyde stated that when he spoke with Dee Miles with the Duchesne County School District, they acquired some property up there northwest of the jail to put in a new ball

field. Since then there's ball games going on there with a lot of people. A lot of the times there will be nobody there, so that's probably not a big problem. If they were to build a new school up there, then that would run counter to the proposed ordinance. Putting too many people that close to the airport is a big problem.

- Thomas Winterton stated there's a big difference between dropping a Cessna on the runway and a 787. Does the FAA take that in to consideration? Do they have different size setbacks for different size airports?
 - Mike Gottfredson replied, yes.
- Mike Hyde stated that the Duchesne City Airport Master Plan is what established these zones.
- Mike Gottfredson added that the Master Plan had those specific aircraft that are being used now and what they anticipated to be used over the next 20 years. For Duchesne City's Master Plan, it doesn't change much over the next 20 years, however, for Roosevelt City's Airport, it does.
- Connie Sweat asked Mr. Gottfredson if he had a map he could show everyone with the actual pictures of buildings?
- Mike Gottfredson pulled up the visual map and asked Connie Sweat what she'd like to see?
 - Connie Sweat asked Mr. Gottfredson to show her where the jail is located. She continued by saying she understood what Mr. Hyde was saying with the ball diamond and there'll only be a lot of people there a couple times a week. However, there's upwards of 300 people on a daily 24-7 at the jail. She continued by saying she knew it would be grandfathered in but, that is the jail and the court house. There's the buildings and grounds building, the EOC Salt Shed. It doesn't show the new County Weeds Building.
 - Mr. Hyde stated that a lot of the things that are up around the airport now would not have been allowed if this ordinance had been in effect at the time that they were proposed.
 - Connie Sweat stated that most of the things that are up there are there in case the dam falls. That area is considered the "safe zone". That is why most of the county things were placed there.
 - Terry Nelson stated that we have a contradiction in safety.
- Guy Taylor came to the podium and stated that he was on the airport planning zone, or planning committee, and years ago when his dad, who was instrumental in getting the original airport going, the FAA came in at that time, a guy named Bobby . He was the head guy. They made that runway as long as it is now with the potential of going longer. We would go into Mr. Karren's place if it went any longer to the north. It was designed so

they could have an emergency landing strip for commercial airplanes. To my knowledge, there's only been one time that it was ever used for an emergency landing strip, and that was a military airplane.

So if a 767 needed to land, you have enough ground to land. You just do not have enough ground to take off. That is what they ran into with the military airplane that landed there. They actually had to put rocket engines under it to get it to take off after they repaired it. If you had a big commercial airplane come in and overshoot the runway, you'd be right in Mr. Karren's property or you'd be right on top of the county jail. If you go up to the airport and look at it, you'll see where we're going to put in a helipad. There is some growth going to happen there.

- Bruce Thomas came to the podium. He stated that he doesn't like the idea of having all the planes coming over his part of the area. He continued saying that when he first got his property, the first thing that came to his mind was it would open up for the county or even somebody else to fly their drones over his place and anybody else's place up there and invade their privacy. I just want to know if that's going to happen or not? I'm in Zone 4.
- Thomas Winterton replied that in 2017, the Utah State Legislature incorporated drone laws in with the trespassing laws. I do know it's illegal for people fly their drones over your private property unless they have permission. Now, if you're talking about drones that are landing on a runway?
 - Bruce Thomas replied no, these are flying over the properties.
 - Thomas Winterton asked if these are private drones?
 - Bruce Thomas replied, yes.
 - Thomas Winterton asked if it was little private drones?
 - Bruce Thomas answered, no they're county drones. I know a guy right now that got a letter sent to him with pictures of him at eye level working on a vehicle. It was a drone that was from the county. To me, that's invasion of privacy.
 - Thomas Winterton replied that government drones are excluded from that law.
- Mike Gottfredson stated that he could speak to the Planning and Zoning Department. The only drones that I know for the county that are being used are out of the Assessor's Office and our office.

The Assessor's Office and the Planning and Zoning Office have a drone. We have not used it because no one's registered or qualified. We have been instructed not to fly the drone without permission. We are not to go onto private property. This is the only time that we've ever used the drone. It was a flyover for a potential trail, over here by the event center and with the intention to follow up with reclamation efforts for sand mines and surface mining. That's with permission from the property owner. The county commissioners are extremely sensitive to privacy and drones.

- Bruce Thomas asked if anyone could explain the 43,000-feet on the permits on page 8?

- Mike Hyde replied that 43,200-feet is there on page 8, Item D. It talks about whether or not permits are required for a tree or a structure less than 75 feet of building height. The approach zones move away from the runway, and they go up at an angle.

The intent there is within a certain defined area. Within those approach zones or within the 43,200 feet from the end of the runway, you would not need a permit for a tree or a structure less than 75 feet in height. Except if it would extend above the height limits prescribed for the approach zone. Let's say you wanted to put a tower on your property to generate some wind power, for example. If you applied to the county for a permit to do that, we would send your request to the city. They would send it to their airport master planning consultants and the FAA.

- Bruce Thomas asked if they would look to see whether or not your tower encroaches into that approach zone or not? If not, then you get your building permit then? From the end of the runway to my place, there's a substation. They would need to get above it.

I was thinking about getting a windmill and putting it up. Like the one BYU has on their property. As long as it's under 75 feet, I don't have to worry about it?

- Mike Hyde replied that Mr. Thomas would need to submit his plans to the county. Since you are in that blue zone, you're within the approach to the airport. We would have the city and the FAA and their consultant look at it, regardless of the height, just to make sure that's not going to be a problem.
 - Bruce Thomas asked what is it going to do if someone has 10 acres and you want to subdivide that property? Will it need to go through the county and into the city afterwards?
 - Mike Hyde said in the Zone 4 we allow low density residential. You can have up to one dwelling unit per acre. If you want to divide your property you can go through the normal subdivision process and show that you have adequate water and wastewater facilities.
 - Bruce Thomas replied, it's city water.
 - Mike Hyde stated this would allow 10 dwelling units on a 10 acre parcel.
- Kelsey Carter came to the podium and stated that he is representing Javelin Energy Partners. You received our letter. I appreciate the idea to recess this for further discussion. We'll definitely be involved in that and making some suggestions to some language within that latitude that was discussed.

I personally would like to learn how government works when it comes to these types of proposals and ideas. Would it have been possible in this instance alone to have polled or provided questionnaires to the public to know how to better mitigate this instead of throwing an ordinance at us from another county that has no correlation or comparisons with us? Would that have been a better use of time and is that possible within county statutes?

- Mike Hyde answered, sure. We sent out notices of the hearing to 382 different

property owners. We did what was required by the law. In hindsight, we could have developed some kind of a survey to ask people's opinions. However, this is just the first draft and we put it out there for review and comment. This is the purpose of the hearing; the planning commission is to listen to the folks that come in person or in writing with issues. I think we're going to get there through the comment process.

- Mike Gottfredson added there are several issues I have with House Bill 206 which is requiring these ordinances. It just hasn't been getting traction with other communities or counties as far as they're concerned. One is the top-down regulation coming from the state, and two is, this is an unfunded mandate. In our opposition to this bill, before it was passed, we wrote in our letter that there's costs associated with the county hiring a consultant to go out and craft a custom ordinance for our own purposes. This is upwards of \$30,000.00 per airport. It was passed anyway. In trying to navigate a way forward, we found that we could work, without cost to the county, with our partners that we've been working with on the Duchesne City Airport Master Plan and the Roosevelt City Airport Master Plan. They were willing, without charging us, to review and to provide guidance.

As soon as we received feedback, and as soon as we got a thumbs-up from Duchesne City, we put this on the docket so that we could get it out to the community. You bring up a good point. In an ideal situation, we want to build coalition. We survey the property owners and have those kinds of meetings. We are going to be recessing this ordinance. We are going to try to revise this into something that is much more of a design for Duchesne City, Duchesne County and the area around.

- Kelsey Carter replied that's great information. Kelsey stated out of total curiosity, when did you guys receive this from the state to be put into effect so that it could therefore be provided to the public? Because as of the beginning of May, we have until the end of the year, correct?
- Mike Hyde explained that House Bill 206 was passed by the 2023 legislative session. It probably came into law in May of 2023. Counties have about a year and a half to get their act together. I don't know if any of the other counties are moving forward with this yet. I think they're dreading it. December 31, 2024 is the deadline.

For the reasons I'm seeing here tonight, nobody wants it. Thanks to the legislature, we've got to do something.

We've had it a while. It took a little while to get the maps from the airport consultant and to fill in some of the blanks on the draft ordinance. Then it took a little while for Duchesne City to look at it.

Roosevelt City is still looking at theirs. It will have to come sometime in the next few months. We felt we were ready to move forward and see what happens. It's clear now that based on the amount of traffic in and out of the Duchesne Airport, the size of the

aircraft, perhaps this is a little too restrictive and we need to take the concerns that we've heard tonight and go back and try to make it the right size for the Duchesne Airport.

- Kelsey Carter replied that was a great summary, and he thanked Mr. Hyde.

- Mike Gottfredson replied to Kelsey Carter in Javelin's situation, we appreciate the response that we got from your organization, from EPA and from all those that have provided comment. You have plans in place, maybe not structures already built. You have plans in place to develop in some of the most restricted areas as is proposed in this ordinance. Is that correct?
 - Kelsey Carter responded that is correct. I think one of the things that we will work with you and all others is trying to see cumulative impact of putting these kinds of things in place, and trying to have a feedback loop with our legislators. I think a lot of people didn't think that this was going to be that impactful. We want to make sure they know that, especially with some of our bread and butter issues.

- Annette Miller asked if the state gives us stipulations at all, or did you say you have to have an ordinance in place by December?
 - Mike Hyde responded correct. We have to have an overlay zone in place by the end of this year, or those three things that I covered at the start would take its place, which would be very problematic for property owners. It just has to be based on the airport master plan map that you see. It's our choice how we regulate development within those zones, try to make it work for this airport. This is a proposal based on one that's been approved previously.
 - Annette Miller asked if we had to incorporate all of those zones, but maybe not that size?
 - Mike Hyde stated we have to have the zones, and they need to be that size. The types of land use that's allowed in those zones, we have some flexibility to a certain degree. The city has to agree to it, FAA, and state aeronautics will weigh in on it. We have to be reasonable and try to thread that needle between protecting the airport and still allowing private property rights.

- Thomas Winterton asked out of curiosity if any Duchesne City Council members were here?
 - Connie Sweat replied there are three here tonight.
 - Thomas Winterton asked if he could ask them a question?
 - The Duchesne City Council members responded, yes.
 - Thomas Winterton stated he thought this was probably unpopular, but has the city thought about doing any kind of study to see if the economic benefits of the airport outweigh the economic liabilities of something like this? As I look at this map, it could stand to cause a lot of loss in economic development. Does the airport add that much value to the area that it justifies that loss? Has that been discussed? Has it been looked at as an option?

- Cody Ivie came to the podium and answered, not yet. He stated that the airport is not economically viable without help from the FAA, and I don't think any rural airport can function without that funding. We did crack repairs that was \$107,000.00. It came as a grant from the FAA. We had to buy snow removal equipment, and that was another \$150,000.00.
 - Thomas Winterton asked if the FAA has to subsidize the airport, do you all see any kind of economic benefits from having it?
 - Cody Ivie replied he didn't know. We haven't looked at that option. We don't have a lot of commercial flights going in and out of there. One of the things that has been very beneficial for us is Forest Service and fighting fires. They base a lot out of Duchesne City Airport. That doesn't necessarily bring economic benefit to our area, but does it bring benefit to our area! I guess that is something we need to weigh out.
 - Thomas Winterton responded they might just recommend that Duchesne City look at that option. Sometimes it's not popular, but if it's such a cost to the community that it's not worth keeping or maybe down the road looking at relocating it. I know Williston, North Dakota had their airport right in the middle of town. And they've since moved it outside of town. I would take a hard look and see if the benefits outweigh the costs.
 - Cody Ivie stated that he thought one of the big things would be ever reopening an airport here. The cost to do that would be huge. To relocate this airport, it would be massive costs to do something like that, especially with property values the way they are today. We figured we'd let the county take the arrows first in figuring this out. I do have one quick question on this for you guys. Is there any consideration for negative elevation from the airport runway? I know the school is significantly lower. A lot of the zones, and again, I know the city doesn't have to adapt the same zones, but a lot of our development will be in some of these zones, but they're all negative elevation.
 - Mike Hyde responded that it comes to things like towers and trees, the elevation of the base of a tower or tree compared to the elevation of the approach zones is going to be factored in. What it doesn't factor in is the high concentrations of people at an elementary school. That could still get hit regardless of how high or low it sits in relation to the airport elevation.
- Rickki Hrenko Browning from Utah Petroleum Association addressed the planning commission. She began by stating she probably had more questions than answers, but some of the things I think would be helpful would be to get a better understanding of what are the specific requirements that are set out by the FAA? What are the specific requirements that are set out by the state? What are the requirements that are at the discretion of the county? I mean in terms of operations, overlay zones, sizes of those zones, etc. It would be very helpful to have an understanding where the approval step is to know whether it's worth it to take on that fight or not. Being that it sounds like there's quite a bit of flexibility in the state law, I was going to ask if maybe it was worthwhile to talk with the Utah Association of Counties, with the League of Cities and Towns? UPA would certainly be willing to engage in support about some reconsideration legislatively?

I admit it sounds like there's quite a bit of flex in the state law, if that's the case, maybe it's not an effort that's worth undertaking? Until we understand who's putting what requirements, that's maybe a question mark still for consideration? It would also be very helpful to have a better understanding of how grandfathering would work in this case. One question is on existing facilities that are already there? What about the operation of those facilities? Are there restrictions about egress, access to hours of operation, limitations or constrictions on operations, as opposed to just the fact that the facilities are already there so they're allowed to be there? I don't know the answer to it, but I think it's an important question that everybody should be asking. The other question, I have would be has there been any discussion with impacted landowners or those that have a financial impact in this to understand how they would view those three options that you set out that come into effect if the county does not move forward with this, right? So they would have to grant the avigation easement. Would this be preferential to the group or not?

You're certainly not going to get a consensus, but maybe there's a majority opinion there. I don't know. It sounds like there are alternatives to moving forward with this immediately.

We do have one member, as has already been discussed, that is definitely impacted by this ordinance. I just found out about it very late Thursday evening, so I've not had the opportunity to poll the rest of our membership, but there's clearly oil and gas resources there. Therefore, the question is beyond just the known impact of known plans, what is the economic impact of that to the county, to individuals, to those royalty owners, or whomever? There are very real impacts here that are probably not yet fully defined. As I look at the ordinance itself, I did have a number of questions about what is the procedure for requesting a variance? It was a little confusing to me and kind of which comes first the chicken or the egg, who you go to first, what is the document package, and who makes that approval and kind of step-wise how that would work.

It was also unclear, there's a term in there that's, "effect not retroactive" and has some language and stipulations around it, and that looked pretty confusing to me to understand what was trying to be conveyed there.

- Mike Gottfredson said he was sorry the term was effect not retroactive and it is covered in the letter.
 - Rikki Hrenko Browning replied that all of those had been provided in our comment letter to you.
- Bruce Thomas came to the podium and asked if Duchesne County ever considered taking over the airport from Duchesne City or working together as a group instead of having two different entities that when people apply for a permit, you've got to go to the county and then you've got to go to Duchesne City. Could we make it one deal?
- Mike Hyde stated they tried that in Uintah County with the Vernal Airport, and then the county ended up giving it back to the city because it's a money loser. I doubt the commissioners would go for that.
 - Bruce Thomas stated that the county's got more money than Duchesne City.

- Mike Gottfredson answered Mr. Thomas was correct, but we definitely see it as an asset. We've been very grateful to be engaged in the last two master plan conversations between Duchesne City and Roosevelt City and the airport. We have in our conditional use permits stipulated requirements so that the airports aren't affected by certain activities because we want these facilities to be successful. We felt that so far, it's been working out pretty well, and we want to be supportive.
- Terry Nelson responded to Mike Gottfredson if the state of Utah passed this law, and it's an FAA requirement, is there some way we could pull some data from other states to see how they dealt with this instead of just Cedar City? There is a population density difference between Duchesne and Cedar City.
 - Mike Gottfredson answered absolutely. The vast majority of other airports are operated as airport authorities. That means they have land use authorities, and they are essentially another government entity that you have to work with and a lot of this is dealt with there. Utah is unique because we're not wanting to go there. We don't want to add that other level. They are playing with some other options to try to help these airports be FAA compliant, as well as safe. We're just getting in, we're just cutting into it from the top right now. There are definitely other examples. It comes back to exactly the most appropriate for our county.

Commissioner Sweat asked if there were any other proponents, opponents, comments or questions? There were none.

Ms. Sweat asked to entertain a motion.

- Terry Nelson made a motion that we recess this public hearing and give the opportunity for more public comment, at a public hearing on August 7, 2024. Annette Miller seconded the motion. The motion passed 5-0.

Connie Sweat moved on to the next agenda item.

D. Request by Mathew Lish for a conditional use permit to operate a commercial campground on Lot 3, Phase 4, Ranches at Pinion Ridge Subdivision, located between Duchesne and Fruitland.

- Mike Gottfredson stated that we have a request by Mr. Lish. They wish for a conditional use permit to operate a commercial campground in Fruitland. However, in conversations this last week, he asked that we recommend a recess so they can get some other information to us. This commercial campground would have yurts and platforms, etc. and would need to go through extensive reviews by TriCounty Health and even perhaps the Utah Department of Environmental Quality. Therefore, because of that, he wanted to circle back after I met with him to recess this request to our June 5, 2024 meeting.
- Annette Miller made a motion to recess the Mr. Lish CUP until June, 5, 2024. Terry Nelson seconded the motion. The motion passed 6-0.

Minutes

April 3, 2024 Meeting – Due to using ChatGPT for the first time on these minutes and seeing the inaccuracies it created, it was decided that we will address these minutes after they are redone for approval on June 5, 2024.

Information Only Items

A. Report on discussions between Duchesne County and oil and gas producers regarding infrastructure impacts. Some questions ensued and were discussed.

B. Next meeting date: June 5, 2024

The meeting adjournment at 7:50pm.