



BOARD OF COMMISSIONERS WORK SESSION MEETING
117 South Main Street, Monticello, Utah 84535. Commission Chambers
August 08, 2023 at 9:00 AM

MINUTES

The public will be able to view the meeting on San Juan County's Facebook live and Youtube channel as well as viewing the meeting at <https://us02web.zoom.us/j/3125521102>. Public Participation is not allowed during County Work Sessions.

Audio: <https://www.utah.gov/pmn/files/1009983.MP3>

Video: [//www.youtube.com/watch?v=FALABatfQuw](https://www.youtube.com/watch?v=FALABatfQuw)

CALL TO ORDER

Time Stamp 0:00:06 (audio & video)

Commission Chair Adams called the meeting to order at 9:07 a.m.

ROLL CALL

Time Stamp 0:00:29 (audio & video)

AGENDA ITEMS

1. Overnight Rental Accommodations, Nightly and Short-term Rental Discussion. Mitch Maughn, County Deputy Attorney

Time Stamp 0:00:52 (audio & video)

Mitch Maughn, County Deputy Attorney, began by discussing overnight rentals in Spanish Valley. The area rentals have exploded in total numbers and in financial receipts in the past decade. The County passed the Spanish Valley Ordinance in 2011. Landmark Design created a masterplan for Spanish Valley, utilizing lot sites, shopping, open-space and overnight rentals. The Sub-Ordinance was passed in November 2019. The 2011 Ordinance allowed over-lay rentals, four of the 5 zones allowed these type of rentals. The Spanish Valley residential zone does not allow short-term overnight rentals. San Juan Estates has 10-15 Airbnb's in the subdivision. The Balanced Rock Resort is placing 300 homes in their project and most will be short term rentals.

Lynn Cresswell, County Administrative Law Judge (ALJ), researched the Overnight Rental Ordinance very carefully. He has presided over two cases in the past six months. The 1st case

researched whether the location of the Airbnb was legal and it was decided that it was not. The 2nd case was denied also. The question in zoning is: prohibited, permitted, and allowed. The 2011 Ordinance raises the question if a use is not named, or omitted, it is prohibited. Permitted uses are determined by family/dwelling homes, etc. as distinguished from bed and breakfasts. A night of lodging is equal to an overnight rental for 5-10 people. Lynn determined that short-term rentals are not allowed in the tan color part of the map. The business license requires that a business cannot run or develop a business in a prohibited area. The 2011 Zoning Code and Business License department are required to work closely and determine actual locations. The inexperience of previous county staff has created part of the problem. The county does not have a code department to enforce the zoning code. In March 2021, Deputy County Attorney, Alex Goble, issued an opinion that overnight rentals were not allowed in Spanish Valley, by the rule of exception. While the overnight rentals will continue to provide receipts and property taxes to the county; the overnight rentals in the Spanish Valley residential zone are in violation of the county zoning ordinance.

Mitch followed up with solutions (see insert)

Commissioner Vice Chair Stubbs asked several questions about the solutions handout. She asked when the Spanish Valley community was going to incorporate and no one seemed to know when it would occur. Mack stated “the practicality of creating a new city can be overwhelming to anyone or group attempting the effort.” Bart Kunz, attorney for the county, agreed with Lynn's assessment of the zoning code situation.

Commission Chair Adams spoke about the weakened position the county is in regarding declaring a moratorium for Spanish Valley overnight rentals and asked if the county could be sued. Bart indicated that it is possible, but the enforcement for the zoning codes is strongly needed as soon as possible. Most of the SV short-term rentals operating are without licenses. Mack stated there are 733 short-term rentals in the county. The majority are not paying sales tax or the correct property tax.

Commissioner Harvey asked if the county could use the online booking sites as a source for enforcement. Mack stated that Utah code does not allow counties to utilize these sites for enforcement. He is supportive of the amnesty ordinance.

James W. Tibbetts, from Spanish Valley, stated that the short-term rental situation has become out of control. The tourists stay up late, race up and down the streets in their side-by-side atv's, the noise levels have been high – night and day, even to the nuisance level. Many rentals allow parking on the lawn.

ADJOURNMENT

Commission Chair Adams excused the elected officials, staff, and public for a short break.

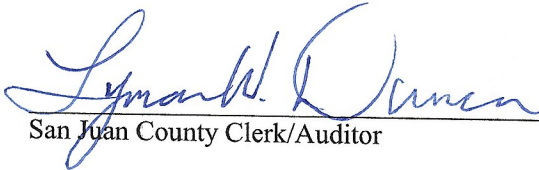
Time stamp 1:44:45 (audio & video)

The Board of San Juan County Commissioners can call a closed meeting at any time during the Regular Session if necessary, for reasons permitted under UCA 52-4-205

All agenda items shall be considered as having potential Commission action components and may be completed by an electronic method **In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for this meeting should contact the San Juan County Clerk's Office: 117 South Main, Monticello or telephone 435-587-3223, giving reasonable notice**

APPROVED: 
San Juan County Board of County Commissioners

DATE: 9-5-2023

ATTEST: 
San Juan County Clerk/Auditor

DATE: 9/6/2023