



JANUARY 26, 2021
REGULAR MEETING 7:00 P.M.

Consistent with provisions of the Utah Open and Public Meetings Act, Utah Code Ann. § 54-2-207(4), the Moab City Council Chair has issued written determinations supporting the decision to convene electronic meetings of the Council without a physical anchor location. Due to the health and safety risks related to the ongoing COVID-19 pandemic and considering public health orders limiting in-person gatherings, the Moab City Council will continue to hold meetings by electronic means. The public is invited and encouraged to view and participate in the Council's electronic meetings by viewing the City's YouTube channel: <https://www.youtube.com/MoabCityGovernment>

1. Regular City Council Meeting - 7:00 p.m.

1.1. Call to Order and Roll Call Attendance

2. Citizens to Be Heard

We are receiving public comments by phone and online through Zoom. Citizens are limited to two (2) minutes for comments.

Dial: 669-900-9128 Meeting ID: 851 9396 6356 Passcode (if needed): 215138

Link: <https://us02web.zoom.us/j/85193966356?pwd=q2dov20wqlzmvdnrm0pemvhxsjhvzz09>

Please note that when joining the meeting, you will be placed in a waiting room and will be added to the meeting by the moderator. Your comments will be recorded and on YouTube.

To have your written comments considered for the Citizens to Be Heard portion of the electronic meeting, please fill out the form found here: <http://bit.ly/publiccommentform>

You must submit your comments by 7:00 PM on January 26, 2021. Please limit your comments to 400 words.

3. Administrative Reports

3.1. COVID-19 Updates

3.2. Finance Department Update

3.3. Police Department Update

3.4. Buy Local Bucks Update

4. Mayor and Council Reports

5. Presentations

5.1. Grand County School District Update (10 minutes)

5.2. USU Extension - Dr. Ros McCann (10 minutes)

6. Approval of Minutes

6.1. Minutes: January 12, 2021, Regular Meeting

Documents:

min-cc-2021-01-12 draft.pdf

7. Proclamations

7.1. Moab City Law Enforcement Appreciation Day Proclamation

Documents:

moab city law enforcement appreciation day 2021.pdf

8. Old Business

8.1. Proposed Ordinance 2021-02: An Ordinance Enacting a Temporary Land Use Regulation Prohibiting, for a period of 180 days, the New Development or Expansion of Vehicle Sales, Rentals or Leasing, Commercial Outdoor Recreational Uses, Commercial and Recreational Tour Companies, Outfitters, and Guide Services as they pertain to All Terrain Vehicles, as defined by and defined Under Utah Code §§ 41-6a-102 and 41-22-2

Briefing and possible action

Documents:

cc summary report ordinance 2021-02.pdf
exhibit 1 ordinance 2021-02.pdf

9. New Business

9.1. Award of the 2020/2021 Water Meter Purchase to Meterworks Incorporated in an Amount not to Exceed \$140,000

Briefing and possible action

Documents:

water meter purchase agenda summary.pdf
sole source letter.pdf

9.2. Culinary Water Resources Policy and Conservation Measures

Briefing and possible action

Documents:

water resources council agenda summary 1-26-21.pdf
sample time of day watering ordinance.pdf
sample water contingency ordinance.pdf

10. Approval of Bills Against the City of Moab

11. Executive (Closed) Session

11.1. Strategy Session to Discuss Reasonably Imminent and/or Pending Litigation

12. Adjournment

Special Accommodations:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify the Recorder's Office at 217 East Center Street, Moab, Utah 84532; or phone (435) 259-5121 at least three (3) working days prior to the meeting.

Check our website for updates at: www.moabcity.org

MOAB CITY COUNCIL MINUTES--DRAFT
REGULAR MEETING
January 12, 2021

The Moab City Council held its Regular Meeting on the above date. Consistent with provisions of the Utah Open and Public Meetings Act, Utah Code Ann. § 54-2-207(4), the Moab City Council Chair has issued written determinations supporting the decision to convene electronic meetings of the Council without a physical anchor location. Due to the health and safety risks related to the ongoing COVID-19 pandemic and considering public health orders limiting in-person gatherings, the Moab City Council will continue to hold meetings by electronic means. An audio recording of the meeting is archived at <http://www.utah.gov/pmn/index.html>.

PRE-COUNCIL WORKSHOP

Mayor Emily Niehaus called the Workshop to order at 6:33 p.m. and explained the reasons related to COVID-19 for holding the meeting remotely. Participating were Councilmembers Rani Derasary, Mike Duncan, Karen Guzman-Newton, Tawny Knuteson-Boyd and Kalen Jones. City staff participating were Manager Joel Linares, Assistant Manager Carly Castle, Attorney Laurie Simonson, Recorder Sommar Johnson and guest Elaine Gizler of the Moab Area Travel Council. A video recording is archived at <https://www.youtube.com/watch?v=7mY9gcA-5aw>.

Moab Area Travel Council Update:

Travel Council (TC) Director Gizler presented an update regarding the County's Economic Development and TC websites including promotion of businesses open in the winter. She explained that advertising is a tiny part of TC duties. She stated that TC answers all Moab Information Center calls and said advertising artwork is done in-house. Gizler explained the TC role in ensuring code compliance of all County nightly accommodations, as well as its role regarding special events. She emphasized sustainability messaging along with diversity messaging. Councilmember Guzman-Newton asked for clarification about the TC role regarding the permitting of special events and Gizler explained the care taken with scheduling events for overlap, public safety concerns and other matters. Councilmember Derasary commended Gizler for her work on the community calendar and overnight accommodation enforcement. Councilmember Duncan asked about access to the TC website in addition to discovermoab.com, which is at <https://grandcountyutah.net/214/Travel-Council>.

REGULAR CITY COUNCIL MEETING

Regular Meeting—Call to Order and Attendance: Mayor Niehaus called the Regular City Council Meeting to order at 7:02 p.m. Participating remotely were Councilmembers Guzman-Newton, Knuteson-Boyd, Derasary, Duncan and Jones. City staff participating remotely were Manager Linares, Assistant Manager Castle, Attorney Simonson, Recorder Johnson, Senior Projects Manager Kaitlin Myer, Planner Nora Shepard, Public Works Director Levi Jones, Engineer Chuck Williams, Communication Director Lisa Church and Finance Director Clint York. A video recording is archived at <https://www.youtube.com/watch?v=FoG4ieiJtRc>.

COVID-19 Update:

Mayor Niehaus introduced Bradon Bradford of the Southeast Utah Health Department (SEUHD), who spoke about the vaccination schedule for healthcare workers, first responders, educators and persons over 70 years of age. He said there was not enough vaccine to go around and SEUHD was able to vaccinate one to two thousand persons per week. Councilmember Guzman-Newton brought up issues with the Test Utah program and Bradford recounted issues regarding a lack of communication with the State's mobile testing unit. He said Test Utah visits were announced on the SEUHD Facebook page: <https://www.facebook.com/SEUHD/>.

Citizens to be Heard: There were no Citizens to be heard. Several written comments submitted online may be viewed at <https://moabcity.org/151/City-Council>.

Administrative Updates:

Senior Projects Manager Myer gave an update on the Walnut Lane affordable housing project. She stated that a contract for eight duplex units was awarded to indieDwell and the first phase should be ready for occupancy in June. Myer said the preliminary site plan for the 80-unit planned area development (PAD) was in process. Mayor Niehaus brought up the need to begin work on Phase Two.

Communication Manager Church and Recorder Johnson reported on the Buy Local Bucks program, funded by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Church stated 38 percent of the fund had been expended to date. Councilmember Jones asked about the community grants element of the CARES funding. Church and City Manager Linares explained it was posted on the City's website under the heading of "City of Moab Grant Program" and was separate from the Community Contributions program. Councilmember Duncan asked where to find it online. It was explained there was a January 29 deadline to apply and could be found at <https://moabcity.org/568/City-of-Moab-Grant-Program>.

Finance Director York provided an update on the City's finances. He presented the General Fund mid-year update and explained that, in part due to the CARES funding, the City's revenues were at 125 percent of the prior year. He said the City was \$400,000 in the black. He said spending was \$1 million under budget. He was asked about the recreation fund and he explained that spending was down due to COVID and it is staying below budget. York went on to describe the condition of the water and sewer funds. He said because the rates were raised due to the City's bonding needs, revenues are up and spending is currently under budget; he said the funds were healthier than in the past two years. Councilmember Duncan noted the auditor's prior concern about having too much balance in the water fund.

Mayor Niehaus praised the Moab Arts and Recreation Center (MARC) as an example of the staff making do with reduced revenues by improvising with offered services and obtaining grants.

Public Works Director Jones reported on his employees working through the holidays, plowing roads after snowstorms and remedying frozen water meters, a hydrant leak and similar urgent assignments. He said the posting of new Off-Highway Vehicle (OHV) signage was 80 percent complete. Mayor Niehaus thanked the crews for plowing the streets after the snowstorms.

City Engineer Williams updated Council on the Highway 191 widening project, which is scheduled to be completed in the Spring, and the Utah State University-Moab (USU) campus construction, which has a December, 2021 completion date. He stated work on Lionsback continues with construction of a water delivery booster and sewer lift station. Williams mentioned the Transportation Plan and progress on the City's new water well. He briefly mentioned an issue with the swimming pool walls peeling and noted the Bike Skills Park would have a bathroom delivered in March. Mayor Niehaus asked if the restroom would be year-round and Williams stated it was possible and that it was a decision of the Parks Department.

Mayor and Council Reports:

Mayor Niehaus reported on her continuing Student of the Month awards, and mentioned various meetings she attended, including the Grand County Economic Development board, Utah League of Cities and Towns (LCT), and she emphasized work being done on rural affordable

housing and potential OHV legislation. She brought up the impending session of the State Legislature and the bill-tracking work of the LCT Legislative Policy Committee (LPC).

Councilmember Derasary reported Dr. Steve Hawks was replaced on the Grand County Emergency Medical Services Special Service District Board by Jim Webster. She stated EMS staff vaccinations were ongoing. She spoke about remote access to the upcoming legislative session by the LPC. She brought up pending bills of concern regarding electronic billboards, firearms, utility regulations, accessory dwelling units and property inspections.

Councilmember Duncan reported he made a presentation to the Grand County Planning Commission regarding the local water supply. He mentioned the City should expect a request for a cost share from Marc Stilson, the regional engineer from the Utah Division of Water Rights, regarding research on water conditions in the wetlands. Duncan also remarked on a proposal to locate pickle ball courts near the high school tennis courts. He shared his concern with legislation regarding electronic billboards and stated he had contacted Representative Carl Albrecht, who indicated he doesn't like the proposal either.

Councilmember Knuteson-Boyd reported she was interviewed by a graduate student from the University of Utah on behalf of the Friends of Arches and Canyonlands, regarding challenges and opportunities related to visitation.

Councilmember Guzman-Newton reported on meetings she attended, including the Chamber of Commerce. She mentioned Justin Lee from Senator Mike Lee's office announced a new round of small business grants provided as part of a COVID relief package. She brought up an Airport Board meeting and noted it had been the busiest year ever for airport businesses with Skydive Moab being busiest.

Councilmember Jones reported on a Housing Task Force meeting at which the year's priorities were discussed. He indicated a lack of attendance by Task Force members and suggested that Planning Commission members could be effective participants. Councilmember Jones also cited a Solid Waste District end-of-year budget meeting and mentioned the successful holiday tree collection program. Jones concluded with a comment on a Travel Council meeting at which a University of Utah professor made a presentation on sustainable tourism.

Approval of Minutes

Motion: Councilmember Guzman-Newton moved to approve the minutes for the December 8, 2020, Regular Meeting and the December 16 and 18, 2020 Special Meetings. Councilmember Derasary seconded the motion.

Discussion: Councilmember Derasary noted she and Councilmember Duncan had sent corrections to the Recorder.

Vote: The motion passed 5-0 with Councilmembers Derasary, Jones, Guzman-Newton, Knuteson-Boyd, and Duncan voting aye in a roll call vote.

Grand County School District Update—Presentation

Mayor Niehaus announced the school district cancelled the scheduled presentation.

Proclamation of January 18, 2021 as Martin Luther King Jr. Day

Mayor Niehaus read the proclamation signifying January 18, 2021 as Martin Luther King Jr. day.

Old Business:

Land Use Provisions relating to All-Terrain Vehicles—Discussion

Planner Shepard made a presentation regarding possible code amendments regarding Off-Road Vehicles (OHVs) and asked for direction from the Council. She asked for specific guidance on the temporary ban on new OHV businesses as approved in Resolution 41-2020. She mentioned the need for consistency across various parts of the code and noted questions related to business licensing. Questions about inclusion of different OHV classes, changes in size or nature of existing OHV-related businesses and potential prohibition of new businesses were discussed. In a straw poll, all councilmembers indicated they were in favor of exploring an extension of the temporary moratorium. Councilmembers discussed issues regarding private property rights, limiting just one type of local business, the central factor of noise, and the County Attorney's reported finding that state rules against discriminating against OHVs on City Streets had changed. Councilmember Derasary noted there were comments from the community overwhelmingly in favor of limiting growth beyond the current number of businesses. City Attorney Simonson clarified that pending legislation applies to new businesses and Councilmembers Jones, Duncan and Derasary expressed interest in limiting existing fleet sizes. It was noted the County was working on fleet sizes and revenue concerns, and Councilmember Guzman-Newton brought up special concerns regarding operators with "dirt lot" rental sites. Councilmember Derasary noted the importance of communicating progress on the issue with the community.

New Business:

Letter Supporting Bears Ears National Monument – Approved

Presentation: Mayor Niehaus introduced a letter from the Moab City Council in support of President-Elect Biden prioritizing an action to restore the Bears Ears National Monument to its original size as created by President Obama's administration in Proclamation 9558 in 2016.

Motion and Vote: Councilmember Jones moved to approve the letter. Councilmember Knuteson-Boyd seconded the motion. The motion passed 5-0 with Councilmembers Derasary, Guzman-Newton, Knuteson-Boyd, Duncan and Jones voting aye in a roll call vote.

Letter Supporting San Juan County's denial of 2021 Rally on the Rocks Tradeshow—Approved

Presentation: Mayor Niehaus introduced the letter and Councilmember Jones pointed out it was a lease request which was denied by the San Juan County commission, not a special event permit.

Motion: Councilmember Derasary moved to approve the letter as amended. Councilmember Duncan seconded the motion.

Discussion: Councilmember Guzman-Newton noted her discomfort with the purpose of the letter. Councilmember Duncan pointed out the denial was germane to residents of the City as it impacts residents' quality of life. Councilmember Jones pointed out the actions in Spanish Valley impact three jurisdictions and their residents.

Vote: The motion passed 5-0 with Councilmembers Derasary, Guzman-Newton, Knuteson-Boyd, Duncan and Jones voting aye in a roll call vote.

Proposed Resolution 01-2021: A Resolution Memorializing the Designation of Councilmembers and Staff as Liaisons to Various Community Boards and Organizations—Approved

Presentation: The proposed slate of board assignments was reviewed. Mayor Niehaus requested that Grand County's appointed commissioner be listed as an alternate for the Southeast Utah Association of Local Governments meetings. The City of Moab's legislative committee was revised to include City Manager Linares, Mayor Niehaus, Councilmembers

Derasary and Jones, Assistant Manager Castle and Attorney Simonson.

Motion and Vote: Councilmember Knuteson-Boyd moved to approve the slate as amended. The motion passed 5-0 with Councilmembers Derasary, Guzman-Newton, Knuteson-Boyd, Duncan and Jones voting aye in a roll call vote.

Appointment of the Mayor Pro Tem

Mayor Niehaus appointed Councilmember Knuteson-Boyd to serve as Mayor Pro Tem.

Appointment of the Council Member Responsible for Reviewing the City's Bills

Mayor Niehaus appointed Councilmember Knuteson-Boyd to serve as the Council Member Responsible for Reviewing the City's Bills in 2021.

Approval of Bills Against the City of Moab:

Motion and vote: Councilmember Knuteson-Boyd moved to approve the bills against the City of Moab in the amount of \$498,337.65. Councilmember Jones seconded the motion. The motion passed 5-0 with Councilmembers Jones, Duncan, Guzman-Newton, Derasary, and Knuteson-Boyd voting aye in a roll call vote.

Adjournment: Councilmember Jones moved to adjourn the meeting. Councilmember Duncan seconded the motion. The motion passed unanimously and Mayor Niehaus adjourned the meeting at 9:41 p.m.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder

PROCLAMATION

WHEREAS, the City of Moab Police Department employs approximately 24 employees and is composed of brave men and women who continuously summon the courage to fulfill their solemn oath to protect and serve, and pride themselves on delivering compassionate service with professionalism in some of life's most difficult circumstances; and

WHEREAS, in 2020, the City of Moab Police Department responded to numerous calls for service ranging from citizen requests for assistance with changing flat tires to "in progress" violent felonies; and

WHEREAS, in 2019, 135 officers were killed in the line of duty throughout the United States while according to the FBI's *Uniform Crime Report* 2018 LEOKA report, there were 58,866 assaults against law enforcement officers in 2018, resulting in 18,005 injuries; and

WHEREAS, Federal, State, local, and Tribal police officers, sheriffs, and other law enforcement officers across the United States serve with valor, dignity, and integrity; and

WHEREAS, law enforcement officers are charged with pursuing justice for all individuals. Performing the duties of a law enforcement officer with fidelity to the constitutional and civil rights of the public the officers serve; and

WHEREAS, law enforcement officers swear an oath to uphold the public trust even though, through the performance of the duties of a law enforcement officer, the officers may become targets for senseless acts of violence; and

WHEREAS, the mission of the City of Moab Police Department is to work with the citizens of the City of Moab to preserve life, maintain human rights, protect property, and to promote; individual responsibility and community commitment. The success of the Department and the City as a whole depends on the integrity in everything we do, pride in our work, dedication to our citizens and being the best we can be; and

WHEREAS, the Mayor and the City Council express their gratitude to the dedicated members of the City of Moab Police Department and for their contributions and sacrifices they have made and continue to make on a daily basis to the security and wellbeing of our community.

NOW, THEREFORE, I, Emily Niehaus, Mayor of the City of Moab and the Moab City Council, Utah, do hereby proclaim January 27, 2021, as

MOAB CITY LAW ENFORCEMENT APPRECIATION DAY

in the City of Moab and call upon all citizens to observe this day by taking the time to recognize and acknowledge the impact the City of Moab Police Department makes in our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of the City of Moab, Utah this 26th day of January 2021.

Emily Niehaus, City of Moab Mayor

Sommar Johnson, Recorder

Moab City Council Agenda Item

Meeting Date: January 26, 2021

Title: Ordinance 2021-02: AN ORDINANCE ENACTING A TEMPORARY LAND USE REGULATION PROHIBITING, FOR A PERIOD OF 180 DAYS, THE DEVELOPMENT AND EXPANSION OF VEHICLE SALES, RENTALS OR LEASING, COMMERCIAL OUTDOOR RECREATIONAL USES, COMMERCIAL AND RECREATIONAL TOUR COMPANIES, OUTFITTERS AND GUIDE SERVICES AS THEY PERTAIN TO ALL TERRAIN VEHICLES, AS DEFINED BY UTAH CODE §§ 41-6a-102 AND 41-22-2

Disposition: Discussion and possible approval

Staff Presenter: Nora Shepard, Planning Director

Attachment(s):

Attachment 1: Proposed Ordinance 2021-02

Recommended Motion:

I move to adopt Ordinance 2021-02 enacting a temporary land use regulation prohibiting, for a period of 180 days, the development and expansion of new vehicle sales, rentals or leasing, commercial outdoor recreational uses, commercial and recreational tour companies, outfitters, and guide services as they pertain to All Terrain Vehicles (ATVs) as defined by Utah State Code §§ 41-6a-102 and 41-22-2.

Background/Summary:

Based on the City Council Discussion on ATVs held on January 12, 2021, a Temporary Zoning Regulation has been prepared for your consideration and possible approval. This action is permitted pursuant to Utah Code Annotated ("U.C.A.") §10-9a-504, a municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:

- (i) the legislative body makes a finding of compelling, countervailing public interest; or
- (ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed six months;

The intent of the ordinance is to allow the City 180 days to develop new regulations to better address ATVs in Moab. This is part of a larger effort that includes addressing impacts created by increased ATV use.

Ordinance Language:

The proposed Ordinance consists of supporting statements (the Whereas statements) that explain why such an action is necessary at this time. Many of the items were taken from the Joint Resolution approved by the City Council and the County Commission. They have been modified to apply to the City only. References to Grand County have been deleted. These statements support the need for this action.

The specific direction to enact the ordinance is similar to the language the City Council adopted as a part of the Temporary Zoning Regulation on Overnight Accommodations, modified to address ATVs.

CITY OF MOAB ORDINANCE NO. 2021-02

AN ORDINANCE ENACTING A TEMPORARY LAND USE REGULATION PROHIBITING, FOR A PERIOD OF 180 DAYS, THE NEW DEVELOPMENT OR EXPANSION OF VEHICLE SALES, RENTALS OR LEASING, COMMERCIAL OUTDOOR RECREATIONAL USES, COMMERCIAL AND RECREATIONAL TOUR COMPANIES, OUTFITTERS AND GUIDE SERVICES AS THEY PERTAIN TO ALL TERRAIN VEHICLES, AS DEFINED BY AND DEFINED UNDER UTAH CODE §§ 41-6a-102 AND 41-22-2

WHEREAS, pursuant to Utah Code Annotated (“U.C.A.”) §10-9a-504, a municipal legislative body may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the municipality if:

- (i) the legislative body makes a finding of compelling, countervailing public interest; or
- (ii) the area is unregulated.

(b) A temporary land use regulation under Subsection (1)(a) may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.

(c) A temporary land use regulation under Subsection (1)(a) may not impose an impact fee or other financial requirement on building or development.

(2) The municipal legislative body shall establish a period of limited effect for the ordinance not to exceed six months;

WHEREAS, Utah Code § 41-6a-1509 permits the operation of street-legal all-terrain vehicles on County roads and City streets (subject to certain requirements);

WHEREAS, Chapter 9a of Title 10 of the Utah Code authorizes the City of Moab to enact ordinances, resolutions, and rules and to enter into other forms of land use controls and development agreements that the City consider necessary or appropriate for the use and development of land within the City of Moab, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing: uses; density; open spaces; structures; buildings; energy-efficiency; light and air; air quality; transportation and public or alternative transportation; infrastructure; street and building orientation and width requirements; public facilities; fundamental fairness in land use regulation; and considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections;

WHEREAS, Chapter 9a of Title 10 of the Utah Code requires the City of Moab to provide for the health, safety, and welfare of its residents; improve the peace and good order, comfort, convenience, and aesthetics of the City; protect the tax base; foster the state’s agricultural and other industries; promote the orderly development of urban and nonurban development; provide fundamental fairness in land use regulation; and facilitate orderly growth and allow growth in a variety of housing types;

WHEREAS, the Moab City Council (“City Council”) adopted the City of Moab General Plan Update on July 11, 2017 with Resolution No. 28 (2017) and adopted the General Ordinances of Moab, Utah in 1958, as amended (“City Code”);

WHEREAS, from time to time, the City adopts ordinances to modify the LUC and City Code to further the purposes of the respective Land Use, Development, and Management Acts and align the same with changing community conditions and state law;

WHEREAS, while the City General Plans acknowledge the important contribution of tourism to the local economy, it also states that business development shall be ecologically responsible, fit the community and the needs and preferences of the residents, and be designed to avoid damaging natural amenities and resources. The General Plan also prioritizes a balance between economic sectors and recreational users to enhance the local recreational, scenic, and cultural amenities to attract and accommodate visitors;

WHEREAS, the City Code currently permits “vehicle sales and rentals,” “outdoor recreational uses, commercial,” and “recreational tour companies, outfitters and guide services” in Sections 17.21.20(A)(18), 17.24.20(A)(26), 17.27.20(A)(38), 17.31.20(A)(13) and (14), and 17.32.20(A)(4)(h);

WHEREAS, as provided in Utah Code §§ 10-1-203, the City adopted ordinances which provide for the licensing of businesses within their jurisdictions for the purpose of regulation and includes the power to deny, revoke, or suspend such licenses, as codified in Chapter 5 of the City Municipal Code;

WHEREAS, the rapid growth of ATV rentals and tours in the City has resulted in a sharp increase in noise impacts to the residents of the City during all hours of the day and night;

WHEREAS, numerous studies have found: noise pollution increases anxiety, depression, high blood pressure, heart disease, and stroke; small increases in unwanted ambient sound have significant health effects; and noise aggravates health conditions by inducing higher levels of stress;¹

¹ Floud, *Medication use in relation to noise from aircraft and road traffic in six European countries: results of the HYENA study*, <https://pubmed.ncbi.nlm.nih.gov/21084328/>; Schmidt, *Effect of nighttime aircraft noise exposure on endothelial function and stress hormone release in healthy adults* <https://academic.oup.com/eurheartj/article/34/45/3508/435199>; Hahad, *Annoyance to Different Noise Sources is Associated With Atrial Fibrillation*, [https://www.internationaljournalofcardiology.com/article/S0167-5273\(17\)37174-7/fulltext](https://www.internationaljournalofcardiology.com/article/S0167-5273(17)37174-7/fulltext);

WHEREAS, at least one additional study has found that people living in areas with more road traffic noise were 25 percent more likely than those living in quieter neighborhoods to have symptoms of depression;²

WHEREAS, studies have shown that continuous noise in excess of 30 dB disturbs sleep, which is well documented to be a prerequisite for good physiologic and mental functioning in healthy individuals,³ and the U.S. Environmental Protection Agency sound guidance for the protection of human health and welfare in rural areas is 55 dB;⁴

WHEREAS, during operation on streets and roads, most All-Terrain Vehicles in the state of Utah (not built to California noise standards) produce decibel levels louder than 70 dBA and often between 85 and 100 dBA;⁵

WHEREAS, the Moab valley is narrow and surrounded by sandstone cliffs which cause noise generated by ATV rentals and tours to reverberate valley-wide, which increases the impact of ATV rentals and tours on residents and visitors;

WHEREAS, several popular ATV trails are accessed through residential neighborhoods in the City, which increases the impact of ATV rentals and tours on residents and visitors;

WHEREAS, market conditions and the boom in ATV rentals and tours have impacted other recreational user groups and associated economic activity, including mountain biking, hiking, rafting, and climbing, which economic sectors thrive in natural quiet;

WHEREAS, in the Fall of 2020, the City received a historic number of public comments objecting to noise impacts from ATV rentals and tours (and related special events), which public comments are included in the record for the joint meeting of the City and County on October 20, 2020;

WHEREAS, under Utah law, the City may exercise powers and perform functions that are reasonably related to the safety, health, morals, and welfare of its inhabitants; and

WHEREAS, for the reasons articulated above and under the authority set forth herein, the Moab City Council finds that compelling, countervailing public interests justify the temporary prohibition of new or expanded sale, rental, or leasing of All-Terrain Vehicles and ATV outfitting, guiding, and touring,

² Orban, *Residential Road Traffic Noise and High Depressive Symptoms after Five Years of Follow-up: Results from the Heinz Nixdorf Recall Study*, <https://ehp.niehs.nih.gov/doi/10.1289/ehp.1409400>

³ Jariwala, *Noise Pollution and Human Health: A Review*, https://www.researchgate.net/publication/319329633_Noise_Pollution_Human_Health_A_Review

⁴ Harrison, *Rock Creek Enduro Sound Tests*, Eldorado National Forest, USDA Forest Service Special Report, May 1994.

NOW, THEREFORE BE IT RESOLVED that the Moab City Council does hereby enact a temporary prohibition of new or expanded uses for the sale, rental, or leasing of All-Terrain Vehicles and ATV outfitting, guiding, and touring as follows:

Section 1: Definitions:

A. “All-Terrain Vehicles (ATVs or ATV)” shall mean all-terrain Type I, II, and III vehicles as defined under Utah Code §§ 41-6a-102 and 41-22-2;

B. “Outfitting, Guiding, and Touring” shall mean accompanying customers and guests in an ATV, and/or outfitting a customer or guest with an ATV, whether driving the vehicle or not, whether or not monetary compensation is exchanged; and

C. “Sale, Rental, and Leasing” shall include the business use of All-Terrain Vehicles for customers, guests, or vendors or any other commercial activity involving an All-Terrain Vehicles whether or not monetary compensation is exchanged.

Section 2: Temporary Regulation and Duration.

The City hereby enacts a temporary land use regulation prohibiting, for a period of 180 days, the development of new and expanded vehicle sales, rentals and leasing, outdoor recreational uses, commercial and recreational tour companies, outfitters and guide services as they pertain to All Terrain Vehicles, as defined under Utah Code §§ 41-6a-102 and 41-22-2.

Section 3: Direction to Staff.

Staff is directed to engage in further study and development of policy recommendations to the City Council to implement ordinance changes consistent with this ordinance.

Section 4: Enforcement.

The City may enforce this ordinance in a civil action to obtain injunctive or declaratory relief. In any such proceeding, the City need only prove the existence of a violation of the ordinance to obtain the injunction. Injunctive relief shall be granted without a requirement of the posting of a bond or other security.

Section 4: Severability.

If any provision of this ordinance shall be found to be invalid by any court with jurisdiction, the provision shall be severed and the remainder of the ordinance shall be enforced without the severed provision.

Section 5: Effective Date.

This ordinance shall take effect immediately upon passage by the City Council, regardless of the date of publication. The City shall promptly publish same.

Approved and adopted upon the vote of a majority of the City Council, this 26 day of January, 2021.

Mayor Emily S. Niehaus

Date

Attest:

By: Sommar Johnson, Clerk/Recorder

Date

Moab City Council Agenda Item
Meeting Date: January 26, 2021

Title: Award of the 2020/2021 Water Meter purchase to Meterworks Incorporated in an Amount not to Exceed \$140,000

Disposition: Discussion and possible action

Staff Presenter: Levi Jones, Public Works Director

Attachment(s):

- Attachment 1: Submitted Sole Source Letter

Recommended Motion:

I move to award the 2020/2021 Water Meter Purchase to Meterworks Incorporated in an amount not to exceed \$140,000

Background/Summary:

The City needs to purchase new water meters for replacement of any existing City meters that fail throughout 2021. The City's system supports only Neptune meters (any other brand would require system changes). **The City received a Single Source letter from Meterworks Inc. of Centerville, Utah, indicating that they are the only Neptune meter distributor in Utah. Based on staff's research, Meterworks is the only Neptune Meter distributor in Utah.**

Moab Municipal Code Section 2.28.110(C) allows the purchasing agent to waive proposal or bid requirements for procurements where there is only a single source available for a particular purchase. Based upon staff's research, Meterworks is the single source available for Neptune meters in Utah. If the City contacted a distributor outside of Utah for the purchase of these meters, the distributor would not sell to the City as there is a Neptune distributor in Utah.

The money for this project was approved in the 2020/2021 budget and will be used to purchase several different sized Neptune meters, radios and repair parts.

It is staff's recommendation that we accept the Sole Source Letter from Meterworks Inc. and purchase the budgeted \$140,000 meters for 2020/2021.

METERWORKS

SUPERIOR SERVICE – SUPERIOR SUPPORT – SUPERIOR PERFORMANCE

MeterWorks Inc.
1199 W. 850 N.
Centerville, UT 84014
(801) 292-7900

To Whom It May Concern,

I am writing this letter to confirm that MeterWorks Inc. is the only distributor in Utah, that sales Neptune Meters. We sale to over 50 different cities and water districts in Utah. All of these cities and districts buy from us as a Sole Source. We just make sure we take care of the customers and support them with anything they need. We never charge for our services to come out and help trouble shoot, set up software (whether for a new version or a computer crash), training for new personnel, or any other reason we would need to come to the city, to make sure the Neptune System is running smoothly. I hope this answers any questions you might have, but if you have any more questions, please feel free to contact me.

Thanks,



Ken Sheffield
(801) 309-6612

Moab City Council Agenda Item
Meeting Date: January 26th, 2021

Title: Culinary Water Resources Policy and Conservation Measures

Disposition: Discussion and Possible Action

Staff Presenter: Carly Castle, Deputy City Manager
Chuck Williams, City Engineer

Attachment(s):

- SAMPLE Time-of-Day Watering Ordinance
- SAMPLE Water Shortage Contingency Ordinance

Recommended Motion:

“I move to direct staff to develop a Draft Water Shortage Contingency Ordinance and a corresponding Water Shortage Contingency Plan, and Time-of-Day/Day-of-the-Week Water Resource Management Ordinance.”

Background/Summary:

As the City grows and develops, there is an urgent need for continued and intensified management of our water resources. Combined with the deleterious effects of climate change, sharing an aquifer with multiple users, a mandate from the State of Utah to reduce the City’s per capita water use by 20 percent by 2030, an bleak water year, and the state of our aging infrastructure, there is a need to proactively manage the City’s water resources with additional ordinances and regulations.

At a December 16th, 2020 City Council Work session, staff presented:

1. A status report regarding culinary water availability within the Moab/Spanish Valley aquifers;
2. An outline of approved future capital and maintenance improvements to the City’s culinary water system;
3. An overview of the need for and framework for potential water resources policies and programs; and
4. An overview of the benefits and efficacy of certain water conservation measures.

Following the December 16th meeting with Council, staff has conducted further research regarding action items that target items #3 and #4 above. Specifically, staff recommends the development of a Water Shortage Contingency Ordinance and Water Shortage Contingency Plan, and Water Resource Management Ordinance to be developed and implemented ahead of the 2021 irrigation season. The purpose of the agenda item is to discuss these action items at the conceptual level, and for Council to provide general policy direction so that staff may begin developing the policies and ordinances for review by Council and the public. The attached ordinances and planning documents are included as *samples only*. The draft ordinances and planning documents to be prepared by staff for future Council consideration will be tailored to Moab’s local conditions and specific needs. A public engagement plan is being prepared to operate in concert with the development of these ordinances, and will include a website,

opportunity for public comment, involvement by the City's Water Conservation and Drought Management Advisory Board, and public hearings.

Water Shortage Contingency Ordinance and Plan

Staff recommends that the City develop and enact a Water Shortage Contingency Ordinance, which will empower the City Manager to maintain a Water Shortage Contingency Plan in the event of a drought or loss of water supply. The plan would likely contain several stages of action and would allow the City, based on water supply data, to enact water conservation measures based on mild to critical conditions.

Time of Day/Day of the Week Water Resource Management Ordinance

Under a Time of the Day/Day of the Week Water Resource Management Ordinance, watering limitations are designed to ensure the efficient use of water for lawn and landscape irrigation. The management framework will allow enough water to maintain healthy landscapes year-round, while specifying the time when watering may occur and the days when water may occur for residential and non-residential locations. This ordinance will be tailored to Moab's local conditions and will contain exceptions, which will be developed and vetted as part of a public engagement effort in the coming months. For example, activities such as drip irrigation or gray water systems are typically exempt from a time of day/day of the week management regimes. Implementation of this ordinance will correspond to a robust public education effort to inform residents about the new requirements, and education will be the ordinance's primary enforcement mechanism.

Timeline

January 26, 2021: Council gives direction on proposals

February 9, 2021: Staff presents Council with preliminary draft ordinances

February 10, 2021: Staff presents the City's Water Board with preliminary draft ordinances

February-March 2021: Further workshopping and refining of ordinances with Council, Water Board, and with feedback received from public engagement

April 2021: Public hearings

May 2021: Adoption of ordinances

Staff recommends the Motion as outlined above.

Time-of-Day Watering Ordinance

_____ City
A Municipal Corporation

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE MUNICIPAL CODE TO PROMOTE WATER USE EFFICIENCY IN AMENITY LANDSCAPE IRRIGATION.

Section 1. Preamble

- A. WHEREAS, [the City] desires to promote efficient sprinkler irrigation practices for all lawns and landscapes; and
- B. WHEREAS, research has shown that irrigating landscapes only during the hours of 6:00 p.m. to 10:00 a.m. significantly increases irrigation efficiency; and
- C. WHEREAS, conservation of water through more efficient use is in the public interest and enhances the community's economic, environmental, recreational and aesthetic resources; and
- D. WHEREAS, [the City] has the authority to adopt this ordinance pursuant to Utah Code Annotated 10-3-702, and hereby exercises its legislative powers in doing so;

Section 2. Ordaining Clause

NOW THEREFORE, be it ordained by [the City] that the following ordinance be enacted.

Section 3. Time-of-Day Watering Parameters

Sprinkler irrigation of all lawns and landscapes is prohibited between the hours of 10:00 a.m. and 6:00 p.m.

Section 4. Applicability of Time-of-Day Watering Ordinance

The provisions of this ordinance shall apply to all landscapes within the city. This ordinance does not apply in the following situations:

- a. New lawns that require frequent irrigation for establishment purposes within 90 days of planting.

b. Short cycles required for testing, inspecting and maintaining irrigation systems.

c. Other situations as permitted by the city.

Section 6. Penalty

[A section may be added to describe the penalty for violation of this ordinance.]

Section 7. Effective Date

This ordinance shall be effective as of _____ 20____.

SALT LAKE CITY ORDINANCE

No. ____ of 2003

(Enacting new Sections 17.16.092 and 17.16.792, relating to a Water Shortage Contingency Plan, and related civil fines.)

AN ORDINANCE ENACTING NEW SECTIONS 17.16.092 AND 17.16.792, RELATING TO THE PREPARATION AND IMPLEMENTATION OF A WATER SHORTAGE CONTINGENCY PLAN AND RELATED CIVIL FINES.

Be it ordained by the City Council of Salt Lake City, Utah:

SECTION 1. Section 17.16.092 of the Salt Lake City Code is hereby enacted, to read as follows:

17.16.092 Water Shortage Management

A. Declaration of Policy. Given the prevailing semi-arid climate of the region, the limited water resources available to Salt Lake City, and the vitally important role an adequate supply of municipal and industrial (M&I) water plays in maintaining a healthy and safe environment in the community, it is hereby declared to be the policy of Salt Lake City that, during times of water shortage caused by drought, facilities failure, or any other condition or event, M&I water usage within the City's water service area shall be managed, regulated, prioritized, and restricted in such a manner as to prevent the wasteful or unreasonable use of water, and to preserve at all times an adequate supply of M&I water for essential uses.

B. Water Shortage Contingency Plan. The Director of the Department of Public Utilities shall cause to be prepared and implemented a Water Shortage Contingency Plan (the “Plan”). Such Plan may be included as part of, or prepared separately from, the Water Conservation Master Plan provided for in Section 78-10-32, Utah Code Annotated, and shall be revised from time to time as conditions and circumstances warrant. The Plan shall, among other things (i) establish graduated stages of water shortage severity, and (ii) establish appropriate M&I water use restriction response measures for each stage. The Plan shall include guidelines and criteria for determining the appropriate stage to be implemented under various water supply, delivery, and demand conditions. Each Plan stage of water shortage, and the accompanying use restrictions, shall be implemented by declaration of the Mayor, upon the advice and recommendation of the Director pursuant to the Plan guidelines.

C. Compliance. Compliance with the water use restriction response measures called for under any applicable Plan stage may be either recommended or mandatory, as specified in the Plan. The Plan may not provide for mandatory restrictions on residential or commercial customers until either (i) the projected water supply from all sources is sixty (60) percent or less of the average annual water supply, or (ii) the Director otherwise determines that, in the exercise of his or her best professional judgment, the City is unable to meet anticipated essential water needs without implementing such mandatory measures.

D. Enforcement. The Director shall enforce compliance with all mandatory response measures set forth in the Plan through the imposition and collection of civil fines, as provided in Section 17.16.792 of this Code. Any customer who fails to promptly pay any civil fine imposed by the Director shall be subject to having the water supply to the premises of such customer shut

off. Water service shall be restored only upon full payment of the civil fine imposed, any penalty provided for in Section 17.16.790, and the turn-on fee provided in Section 17.16.660. In addition, the Director may install flow restrictors in appropriate circumstances.

E. Plan Non-Exclusive. The creation and implementation of the Plan shall be in addition to, and not exclusive of, any other steps taken by the City from time to time to conserve water or manage limited water supplies, including Mayoral proclamations issued pursuant to Section 17.16.080.

SECTION 2. Section 17.16.792 of the Salt Lake City Code is hereby enacted, to read as follows:

17.16.792 Water Shortage Contingency Plan-Civil Fines

A. Any customer of the City’s municipal and industrial water system found to be in violation of any mandatory water use restriction in effect from time to time under the Water Shortage Contingency Plan established under Section 17.16.092, shall be subject to the following maximum civil fines, and to water service shut-off, as follows:

| | |
|---------------------------------|------------------------------------|
| First violation: | \$100 |
| Second violation: | \$250 |
| Third violation: | \$500 |
| Fourth violation: | \$1,000 |
| Fifth violation and thereafter: | \$1,000 and water service shut-off |

The violation level shall be based on violation history for the preceding 12 months. A civil fine for a customer’s first violation shall be imposed only after the issuance of a written warning to such customer. Any civil fine based on a violation susceptible to

corrective action shall be imposed only after failure by the customer to take such corrective action within a reasonable period of time, as determined by the Director, taking into account the nature of the action needed and the anticipated cost. “Customer” for purposes of this Section 17.16.792 and Section 17.16.092 of the Salt lake City Code, shall mean and include any person responsible, whether by ordinance or by contract between the city and such person, to pay the water charges on any account for use of water from the city’s municipal and industrial water treatment and distribution system, whether the location at which such water is used is situated within or outside of the corporate limits of the city. It is the intent of the city that compliance with the provisions of Section 17.16.092, as enforced pursuant to this Section, by customers situated outside of the corporate limits of the city shall be a contractual condition of continued water service.

B. Any customer subject to a civil fine under this Section shall be notified by the Director, in writing, of the date, nature, and circumstances of the violation, which notification shall be delivered by posting such notice at a conspicuous location on the property, and by mailing notice, by certified mail, no more than 15 calendar days after the date of occurrence of the violation. The notice shall advise the customer of his/her right to protest the fine to a hearing officer, which shall be the Director or his or her designee, within ten business days after receipt of the notice. The hearing officer shall have the authority to adjust the fine to take into account any extenuating circumstances. Any determination by the hearing officer may be appealed to a three (3) member Water Shortage Appeals Panel. The City Council shall designate three (3) members of the Public Utilities Advisory Committee to serve on

the Panel, provided, however, that the Director may designate other members of the PUAC to serve as alternates as needed. All decisions of the Water Shortage Appeals Panel shall be final.

C. All fines collected pursuant to this Section shall be set aside in a segregated fund within the Public Utilities Enterprise Fund, and used exclusively for paying all or a portion of the costs and expenses incurred by the City in connection with the implementation and administration of the Plan and other elements of the City's water conservation program.

SECTION 4. This ordinance shall take effect immediately upon the date of its first publication.

Passed by the City Council of Salt Lake City, Utah this ____ day of _____, 2003.

CHAIRPERSON

ATTEST:

CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____Approved. _____Vetoed.

MAYOR

CHIEF DEPUTY CITY RECORDER

(SEAL)

Bill No. _____ of 2003.

Published: _____.

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