

**MOAB CITY COUNCIL MINUTES
REGULAR MEETING
JULY 28, 2020**

The Moab City Council held its Regular Meeting on the above date. Per Executive Order 2020-5 issued by Governor Gary R. Herbert on March 18, 2020, this meeting was conducted electronically. An anchor location was not provided. An audio recording of the meeting is archived at <http://www.utah.gov/pmn/index.html>. A video recording is archived at <https://www.youtube.com/watch?v=h7Zz45aavLE>.

REGULAR CITY COUNCIL MEETING 7:00 P.M.

Regular Meeting—Call to Order and Attendance: Mayor Niehaus called the Regular City Council Meeting to order at 7:01 p.m. Participating remotely were Councilmembers Karen Guzman-Newton, Tawny Knuteson-Boyd, Rani Derasary, Mike Duncan, and Kalen Jones. City staff participating remotely were City Manager Joel Linares, Assistant City Manager Carly Castle, City Attorney Laurie Simonson, and City Recorder Sommar Johnson. City Engineer Williams joined the meeting at 7:52 p.m. Planning Director Nora Shepard and Assistant Planner Cory Shurtleff joined the meeting at 8:05 p.m.

COVID-19 Update:

Mayor Niehaus invited Erica Gaddis, Water Quality Board Executive Director, to provide an update on sewer epidemiology but she was unable to attend. Mayor Niehaus reported on her behalf stating that Moab's COVID-19 data jumped in the last two weeks and there was a presence of coronavirus detected in the sewer based on the sewer epidemiology data.

Approval of Minutes: July 14, 2020, Regular Meeting

Motion: Councilmember Guzman-Newton moved to approve the minutes of July 14, 2020. Councilmember Duncan seconded the motion.

Discussion: Councilmember Derasary mentioned three corrections that were already made.

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

Mayor and Council Reports:

Mayor Niehaus reported attending a Grand County Economic Development Committee meeting, GOED's State and Local Resource Committee meeting, and a Water Quality Board meeting. She reported working with V-school, a coding school partnered with UVU, to implement a coding program and working with other mayors to distribute scholarships throughout the state. She also reported on the Market on Center and thanked Councilmember Duncan for attending.

Councilmember Derasary reported attending a System of Care Regional Advisory Council meeting on July 15, an EMS Board meeting on July 20, and a UMTRA Moab Tailings Pile Steering Committee meeting on July 28.

Councilmember Duncan reported attending a Moab Area Watershed Partnership meeting and planned to attend an Arches Hotspot Region Coordinating Committee meeting in a few days.

Councilmember Knuteson-Boyd reported attending a HASU meeting and a Museum Board meeting.

Councilmember Guzman-Newton reported attending a Chamber Board meeting, Advanced Demand Management and Resort Towns and Communities webinar, a ULCT Town Hall, and an Economic Response Task Force Town Hall.

Councilmember Jones reported that he had no committee or board meetings in the last two weeks.

Administrative Reports

City Manager Linares reported that the School District's construction on the new middle school requires relocation of the pathway and they are preparing to start the realignment. He said they hope to keep the path open, but it may be closed for a few weeks to a couple of months because there is a limited amount of space for the construction. He reported that Walnut Lane is progressing, and he is working to acquire additional real property in the area. He reported that the bike skills park ground-breaking is scheduled for August 10 and six trees will be removed before then. He reported the MRAC has been open for just over a month and hoped to provide an update on costs versus expenses versus revenues as the next meeting, and reported the highway widening project is still on schedule.

City Attorney Simonson reported on the Lionsback litigation and said the developer is not interested in pursuing the changes they were seeking in the zoning status agreement and plans to move forward with their original land use approvals granted in 2009. Councilmembers had several questions about the history, overall size, and previous approvals for the development, and City Manager Linares said a more detailed Lionsback project update could be provided at the next meeting.

Citizens to be Heard:

Mayor Niehaus summarized the process for submitting Citizens to be Heard comments and said that four comments were received for this meeting.

Katherine Hunter said, "Regarding the Bike Skills Park phase 1, 2 & 3 proposal of the Pedestrian Bike Parkway. I have read the grant proposal by Trail Mix for the development of the Parkway into a tourist attraction that the Travel Council intends to advertise worldwide. Transportation and Trails Director Maggie Logowitz denied any comments that the Bike Skills Park would encourage the use of the Parkway as a tourist attraction nor did she offer any information concerning Phase 2 & 3 that intend to develop additional bike recreation sites throughout the parkway including an upgraded Anonymous Park. Yet Trail Mix's Grant Proposal specifies marketing the Parkway to tourists. Ms. Gizler's Travel Council's letter of support corroborate the intention to advertise the Parkway as a feature in their marketing of Moab. Marketing the Bike/Pedestrian Parkway as a tourist attraction during a pandemic seems counter intuitive. Do we really want to invite more tourists to occupy the few green spaces the community has in town? Please don't sell us out to the industrial tourism complex. Zachariah Levine's letter of support suggested the Bike Skills improvements will raise adjacent property values; that is a curious statement to make from someone who owns a triplex within 60 feet of the entrance to the proposed bike skills park. If the benefits are so great why weren't the other adjacent property owners invited to comment? Dave Everett was given free rein to give Trail Mix's proposal the thumbs up but it was the City that gave him that power. Has the City reconsidered the \$50,000 cap allocated to the City Administrator to spend without public comment? That \$50,000 choice was made by the City. The City spent several hundred thousand on design plans for a parking structure that got canned due to public opposition. Please consider the opposition to Trail Mix's 1,2,3, Phase for the Parkway with as much merit. Mayor Niehaus's letter of support suggested that the Bike Skills Park could have an alternate location. Let's start over with a public review

that shares the complete grant proposal that Trail Mix has outlined for the Parkway. Kaki Hunter.”

Sara Melnicoff said, “I have no real expectation of this being read, and because I have never once received a reply to any comment, especially regarding the killing of wildlife, I don't feel this will be considered, but I will try nonetheless. Given all the information that has come out about the overall plan for our parkway, (which was not presented as a "concept" to the grantor), please halt construction of the BSP at the 100 East location and move it to Anonymous Park, where it was slated to be placed years ago. All ages use Anonymous, peacefully and happily. I see it daily. Others who live nearby report the same. While the sidewalk on 500 West is ADA compliant (a minor hardening of a dirt area is all that is needed to create an accessible entrance to a BSP), the 100 East site isn't ADA compliant in the park area. We were told by the grant writer that that would be addressed later. Imagine that you HAD to move this. Say an archaeological or other reason forced a change. What would you do then? Open up your thinking to creative solutions to this issue that is tearing the community apart. Emily's letter of 2/14/2019 to the grantor says the if the site isn't suitable, it will be placed at another city owned or managed property. The site is NOT suitable. A very large segment of the population is heartbroken about this. Beyond heartbroken. Many are seniors who are feeling the squeeze to make room for more playgrounds in areas not meant for playgrounds. We are losing the last quiet place we can walk in peace. 2% of land in the west is riparian, and those areas suffer greatly from development like this. Has anyone noticed we are living on a dying planet? And that we are killing it bit by bit thought actions like this BSP? Mike Duncan's comments in the Moab Sun News are right on: Duncan thinks that the discrepancies between the grant application version of the park and the version most recently presented to the council could potentially be grounds for the city to consider revoking their permission to use the Parkway location. It is not too late to right a grievous wrong and avoid permanent damage to this beloved area of the parkway.”

Marc Thomas said. “Good afternoon, city council and mayor. Today, I want to reiterate my support for the pocket bike skills park adjacent to the Mill Creek parkway. Please remember this pocket park is to teach beginner skills. It is unlikely anyone coming to Moab will spend \$100 a day on rental bikes to ride a short track with no advanced features. Most likely, the park will be used 99% by local kids. It is a centralized location within the community, and can be safely accessed from all schools by bike lanes or separated bike paths. According to the park's FAQ online page, a 2019 survey with over 550 responses identified cares about traffic and safety as the main barriers to people biking instead of driving to Moab destinations. This location, more so than any other, makes bicycling a safe option for the greatest number of families and kids. Parking should not be an issue. While there is parking on 100 E, St, it is more likely that families and their kids will use the excellent access provided by the parkway to bike there. The park planners were responsive to the archaeology report by cutting back its northern boundary and working with the manufacturer to reconfigure the ramps to fit the smaller space. As previously noted, the issue with piggybacking onto Anonymous Park is cost, for a variety of reasons, including making the site ADA-compliant. Furthermore, Anonymous lacks advantages germane to the parkway site: a needed bathroom, a family-friendly area near other family attractions, close to schools, easy access, and isolation from motorized traffic. I still can't figure out why the parkway is to be protected as "riparian" by 100E, but is somehow not "riparian" at Anonymous. It's the same creek flowing near both sites. The individuals losing out if this project isn't built are those voiceless when it comes to political power - the children. It certainly puts me in mind of the venerable Cat Stevens song, “Where Do The Children Play?” I sure wish I'd had a pocket park like this when I was a kid going from home to school and back.”

Paul Spencer said, “To: Moab City Council Citizens to be Heard July 28, 2020 Council - there

has been a lot of negative press about the kid's bike skills park recently. Unfortunately, many people are still under the mistaken impression that Grand County Trail Mix is somehow involved, or that we have plans to take over the entire Parkway. I would just like to assure the Council and residents of Moab and Grand County that: - the skills park is not, and never has been, a Trail Mix project. While we lend our full support, it has always been a collaborative effort between Grand County and the City of Moab. - this is a 2019 project, and was fully approved and funded in 2019. Costs to the City are minimal (since the majority of the project is funded by a grant, and the rest by Grand County). - the project was never planned for any other location. Certainly, multiple locations were considered; but the best location has always been the current spot on the Parkway. - Trail Mix did not design this project merely to get a bathroom installed on the Parkway. We did not design this project at all; and our group is involved in trails for non-motorized recreation, not restrooms. - Trail Mix is not trying to boost tourism with this project. First, as noted above, we were not involved in the planning or design or advocacy of it; and secondly, this is not a tourist destination. It is aimed at beginner-level kids; if you are involved enough in mountain biking to own your own bike, and to travel to Moab to ride, then this park will be far too small and far too easy for you. - we are not involved in, or have any knowledge of, any future projects along the Parkway of any kind. From everything we know, this is not a "first phase" of anything - it is a complete stand-alone project that is not a stepping stone to future expansion. Thank you for the opportunity to present these points. We are still in full support of the project as approved, and we (along with many kids, and many others) are anxiously awaiting it's completion in the near future. Paul Spencer Chair, Grand County Trail Mix.”

New Business:

Approval of Change Orders for and Briefing on North Sewer Line Project Construction - Briefing and possible action - Approved

Discussion: City Engineer Williams explained that this was the closeout on the north sewer trunk line project and was completed at approximately 4 percent less than budgeted. He said upon completion of the project, two large RV parks connected to the sewer line and disconnected from septic systems which were good from an environmental standpoint and it also allowed the City to collect impact fees to help pay for the project. Councilmember Derasary asked about replacing vented manhole covers with non-vented manhole covers and City Engineer Williams said they should help reduce fumes. Councilmember Duncan asked about properties where eminent domain was filed, and City Engineer Williams said one property owner came around, so the eminent domain was withdrawn, and no one has been able to locate or contact the second property owner.

Motion and Vote: Councilmember Guzman-Newton moved to approve the deduct change orders for the north sewer line project for Hank Williams, Inc., and the contract reduction amount of \$69,874.96. Councilmember Knuteson-Boyd seconded the motion. The motion passed 5-0 with Councilmembers Jones, Derasary, Duncan, Knuteson-Boyd, and Guzman-Newton voting aye in a roll call vote.

Improving ADA Accessibility to Downtown Recreation Facilities Project Construction Contract - Approved

Discussion: City Engineer Williams explained that we applied for a CDBG grant last year and received \$75,000 to install a wheelchair lift system to allow ADA access from the ground floor to the basement and gym levels of the Center Street Gym with a \$50,000 cost-share approved by City Council. He said the low bid from Sage Construction was \$103,114.51 and felt it was a responsive bid. He said if the City Council awards the contract then construction will begin and take approximately 60-90 days to complete the improvements. City Manager Linares noted that he, City Engineer Williams, and Finance Director York worked through the budget based on the current financial situation and felt it was in the City's best interest to complete the

improvements for ADA compliance and also keep grant funding lines open going forward into the future.

Motion and Vote: Councilmember Derasary moved to approve the construction contract with Sage Construction Group, LLC, for the construction of the improving ADA accessibility to downtown recreation facilities project in the amount of \$103,114.51. Councilmember Knuteson-Boyd seconded the motion. The motion passed 5-0 with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan, and Guzman-Newton voting aye in a roll call vote.

Proposed Ordinance 2020-12: An Ordinance Approving a Zoning Map Amendment for property owned by James Nelson, located at 191 Walnut Lane Moab UT 84532, amending the split zoned parcel from R-2 Single-Household and Two-Household Residential Zone and R-4 Manufactured Housing Residential Zone, to Only R-4 Manufactured Housing Residential Zone; and Amending the City of Moab Official Zoning Map - Briefing and possible action - Approved

Discussion: Assistant Planner Shurtleff provided a short presentation covering the details of the rezoning application. Councilmember Knuteson-Boyd asked if this property should have been included when the City rezoned their parcel. City Manager Linares explained that unless we are looking at a larger-scale rezoning of property, it is typically up to individual property owners to apply for a rezone.

Motion and Vote: Councilmember Jones moved to approve Ordinance 2020-12 based on the findings required by Moab Municipal Code 17.04.060, Map amendment approval criteria. Councilmember Duncan seconded the motion. The motion passed 5-0 with Councilmembers Derasary, Duncan, Jones, Guzman-Newton, and Knuteson-Boyd voting aye in a roll call vote.

Discussion and Direction - Temporary Outdoor dining due to COVID 19

Planning Director Shepard provided a short presentation about temporary outdoor dining options. She said based on previous discussions with City Council and some internal discussions with staff, they propose having City Manager Linares issue an emergency order due to COVID-19 and economic hardship to stay some of the land use provisions for outdoor dining. She indicated that she would like to make it an administrative option to allow it to move forward quickly but said there were four items that she needed feedback on from City Council. Those items were hours and days of operation, areas where applications will be accepted, notification, and expiration.

Hours/days of operation - Councilmembers generally agreed not to limit the days and hours of operation as long as there were no health or safety issues and businesses were responsible for keeping the areas clean and items left outside were properly anchored to maintain safety and prevent damage.

Areas where we will accept applications - Councilmembers generally agreed that applications should be reviewed and evaluated on a case-by-case basis and not specifying individual streets as areas where applications would be accepted.

Notification - Councilmembers also generally agreed that staff could provide the radius of adjacent businesses and the applicant would be responsible for contacting those businesses and notifying them of their application to use the right-of-way.

Expiration – Councilmembers agreed to a November 30, 2020 expiration date.

Councilmember Derasary expressed some additional concerns about fencing, lighting, inspections, noise, and notification to first responders.

Request for City Council direction on establishment of City administrative procedures for a change in use of City real property in non-emergency situations
Discussion and request for direction

City Attorney Simonson explained that staff has some threshold questions to create the

framework for a process to change the use of City real property in non-emergency situations. The first question was whether a “change in use” is defined as permanent or does it include temporary changes. Councilmembers generally agreed that it should include temporary changes if it exceeds a certain amount of time. The second question was defining “change in use”. Councilmembers discussed a “change in use” to be a change in patterned behavior or changing a space from one use to another or a use in which someone is making money using City property. They also discussed size thresholds and whether changes in use for public health, safety, welfare, or critical services should be exempt. Mayor Niehaus suggested simplifying the process and said in the event that someone wants to use city property, they have to submit a plan and there has to be a public hearing. City Manager Linares explained that the goal of creating this process is to make sure the public is informed, has a say, and knows what is happening. Councilmembers generally agreed that the process should apply to all city-owned property and instead of holding a public hearing, the City Council should hold a town hall meeting to allow two-way communication with the public. City Attorney Simonson stated she would take the feedback from the discussion and work on creating a document for Council review.

Approval of Bills Against the City of Moab

Motion: Councilmember Knuteson-Boyd moved to approve the bills against the City of Moab in the amount of \$64,315.17. Councilmember Guzman-Newton seconded the motion.

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

Adjournment: Councilmember moved to adjourn the meeting. Councilmember seconded the motion. The motion passed unanimously. Mayor Niehaus adjourned the meeting at 9:38 p.m.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder