

**MOAB CITY COUNCIL MINUTES--DRAFT
SPECIAL COUNCIL MEETING
December 2, 2019**

The Moab City Council held its regular meeting on the above date in the Council Chambers at the Moab City Center, located at 217 East Center Street. An audio recording of the evening meeting is archived at: <https://www.utah.gov/pmn/index.html> and a video recording is archived at: <https://www.youtube.com/watch?v=Jh7sDj059vQ>.

Special Meeting—Attendance:

The meeting began at 6:03 PM. In attendance were Mayor Emily Niehaus and Councilmembers Rani Derasary, Mike Duncan, Tawny Knuteson-Boyd and Kalen Jones. Councilmember Karen Guzman-Newton arrived at 6:21 PM. Staff in attendance were City Manager Joel Linares, Assistant City Manager Carly Castle, City Attorney Laurie Simonsen, Planner Nora Shepard, Assistant Planner Cory Shurtleff, City Recorder Sommar Johnson and Deputy City Recorder Joey Allred. Nine members of the public and media were present.

Proposed Ordinance 2019-30: An Ordinance Amending the City of Moab Municipal Code, Sections 17.31 RC Commercial Zone to Allow New Overnight Accommodations, Subject to Revised Development Standards:

Continued discussion and review of Planning Commission recommendation:

Planner Shepard reported that she had amended the draft code so that it only modifies the RC zone at this time. She clarified items in the code such as the water catchment system, transportation requirements, building height and the additional story. She also researched other communities who meter overnight accommodations and found that the city of Santa Cruz, NM does so, but it is for Air B&B's only and it's first come first served. Charleston, SC also does metering. They had a moratorium for a while and settled on changing the zoning in some areas and then rezoning them back when they need more properties for overnight accommodations. While she found many communities, who are grappling with overnight accommodations, no one has figured out how to meter it yet. In talking with both the Council and the Commission it sounded like they need to talk about using renewable energy, such as Blue-Sky credits

Mayor Niehaus said that they should start by discussing metering. Councilmembers gave examples of the communities that they had researched that have tried some sort of metering. Councilmember Derasary said that Alta, UT monitors by water hookups. Shepard said that the concern is that metering can get very complicated and you have to have a rational nexus. Linares said that they had looked at this issue as staff to figure out how these RC zones are going to work. They talked about just using the requirements that are being put into place and use those as a form of metering to start with and see if those restrictions are tailoring enough of a hurdle for people to apply for their hotel permit and see if that will work. If not, they can bring it back and look at it again later. He recommended holding off on metering until they see how the tailored requirement affects applications. If the tailoring cuts back on the applications, they won't need metering. The problem with the metering program is the money that will go into setting one up properly and the lack of staff to oversee the program. He used Tahoe, CA as an example, stating that the metering program there is a full-time job. Mayor Niehaus noted that there are not a lot of parcels left in the RC zone for overnight accommodation, but a few are fairly large. She recommended that if the City does meter, that they do it by zone because they are introducing by zone and she believes that would be a cleaner way of going about it. However,

she believes that stricter standards can be a form of metering in a cleaner way that gives developers a clearer understanding of what they can and can't do. Shepard is feeling cautious about moving forward with something that they really don't understand, like metering, with the legal issues that have presented themselves with the assured housing ordinance. Councilmember Duncan would like to see metering with strict buildout limits. He said that they need to eliminate some variables to be able to get anything done. It is possible that Moab will end up being subject to traffic congestion no matter what they do. He asked for counsel from the City Attorney. Simonsen said that the City is in uncharted territory and that is when you are in greater risk. She said that if Moab was one of the first communities to start metering, the City will assume more risk. She believes that developers and builders should be consulted as they move forward with standards. Mayor Niehaus stated that if having stiff standards with things like parking, transportation and water, and the standards fit what the Council is trying to mitigate, perhaps they are getting close to encouraging building that they want to see rather than just saying "no" to overnight accommodation. There was discussion regarding greywater use for commercial development. Mayor Niehaus said that the City should consider hosting a presentation on greywater and invite Orion Rogers with the Southeast Utah Health Department to give a presentation. Simonsen said that there are tools that can be used other than metering, such as a Transportation Demand Management Development Plan where the developer comes up with a plan of how they are going to mitigate the traffic impacts of the development. Some things are harder to implement in some circumstances. Extensive discussion followed regarding hotels offering some sort of transportation, allowing employees to shower at work, composting etc.

The discussion moved on to energy efficiency. Mayor Niehaus conceded on requiring 80% on site renewable energy. She said that as long as it's 100% net renewable in some way, it reaches the goal. If they do that on site or get something like Subscriber Solar through Rocky Mountain Power that is their choice. Councilmember Derasary feels that with the City's commitments, with VCAP and with the Mountain Towns Climate Change Conference, they all know how intense the situation is and she is hesitant to reduce standards. She would like to have a recommendation on RECS (Renewable Energy Certificates). She said that the constituents that she represents want metering and she doesn't see how they can move ahead without some kind of metering cap. Councilmember Jones said that he couldn't find examples of metering but did find overlays that had been sent back for sloppy legislative solutions. For parcels with less developable land in RC, he's fine with standards. However, he wants something else for the other zones. He said that anything that imposes an economic cost is an effective form of metering. Mayor Niehaus asked if the Council was comfortable with Councilmember Jones's recommendation. They agreed that they were. Shepard stated that she had not been in favor of overlay zones because it can be very subjective and get messy. However, it could be a way for the City to control the numbers, but it is challenging. Mayor Niehaus asked how Council felt on the matter. Councilmember Derasary was still uncomfortable moving forward without metering and would like data on what a full build out would look like and how many more units they may be looking at. Mayor Niehaus said that may be an impossible question to answer. Councilmember Jones thought that they should be able to come up with an estimate. Shepard said that she would need guidance on what to base standards on from Council. Councilmember Guzman-Newton was concerned about just letting overnight accommodation continue to grow due its effects on infrastructure and she would like some kind of metering through water or sewer or something similar. Councilmember Knuteson-Boyd said that she wants to be able to "tie what happens with the infrastructure that we have." She needs something measurable to refer back to and asked if they were keeping with the historic style of Moab and keep the development to the size of the Apache Motel or something else? She would like to have more information on what they can tie it to. Councilmember Derasary was curious to look at Alta's model again in case it is

relevant. Castle said that Alta's limit on what they can build there isn't based on zoning. It's based on a water contract that they have with Salt Lake City, so it's a completely different mechanism and Salt Lake City has capped it at a 1991 level. Salt Lake City has a lot of control as a contracting entity and has been sued constantly over that for the past 30 years. Mayor Niehaus said that they need to make a decision so that they could move forward. She pulled the Council's recommendations together and stated that they needed to come up with standards, get the number of buildouts estimate and maybe find a place where they can amend the ordinance to allow overnight accommodation, or not, or close the door on it. Councilmember Guzman-Newton was concerned about the properties that could subdivide and Linares said that was where the square footage restriction would come in. Councilmember Jones thought they should talk about more specific standards based on information that is going to be generated and circle back at the end of the meeting. Councilmember Duncan asked if they could legally meter the vested projects. He said that he doesn't think that those projects in the pipeline can be held to the metering after the fact. Commission member Brown told Council what the Planning Commission had discussed. She suggested that they could hold off on metering, but they could move ahead with development standards. One of the Commissions suggestions was that no new development should be allowed to move ahead. There was discussion regarding the legality of that. Mayor Niehaus said that to decide very clearly, they needed to know if they set a certain number of rooms per year as a limit, would it be legal, and would it be enforceable? Linares said that it would be fairly easy to enforce, but they would have to show a rationale relation to the restriction that they were using against the development for it to be legal. There was extensive discussion regarding possible rationale and the studies, and the cost of those studies, that would need to be done to support that rationale.

Council moved on to energy standards. Councilmember Jones feels like the 80% is achievable, but the need for documentation needs to be firmed up. If they are not going to ask for certification, perhaps they should have better pre-building permit documentation requirements. That documentation could include energy modeling, overall site energy use and their solar system at design and then have a post occupancy evaluation and if they are below 80% at that time, then they would need to get RECS to make up the difference. He is concerned about mandating that the developers use RECS, and specifically the Community Renewable Energy Act provisions as it is explicit and has an opt out provision. He wants 80% renewable energy on-site (subscriber solar would be sufficient). Councilmember Duncan said he had asked someone in building how easy it would be to try to build to 80% renewable energy, but they really won't be able to see what has been used until after the first year and asked Councilmember Jones what they would do if they came in at under the 80%? Councilmember Jones said that they could submit a pre-building permit and submit energy-modeling and if they come in at under 80% at the end of the year, they have to buy RECS to make up the difference. EN thinks that it will limit the size of what gets built. It was agreed to move forward with 80% on-site renewable energy with 100% required and they can buy it if they can't produce it. That ties back to the conservation goal of their overnight accommodation standards.

Council moved onto Water. Mayor Niehaus stated that there is a maximum amount of water that you can capture and store of rainwater catchment for landscaping, but they could also require greywater and it hadn't been mentioned. Councilmember Knuteson-Boyd wanted to know what the Council would do with any greywater that they don't use. Councilmember Guzman-Newton wanted to talk to Greg Fosse to see if the new hotels use greywater for landscaping, would it affect the sewer plant and the water needed for it? Council agreed on recommending that rainwater catchment for landscaping and that implementation of some kind of greywater standard be included. This would also tie to conservation efforts.

The landscaping efforts need to be updated.

Councilmember Jones started with transportation. He read out “the alternative overall overnight accommodation development could be required to provide a narrative and transportation solution that will reduce the projected vehicle trips below the ITE trip generation manual by 20%.” He said that would mean that new developments would add 80% of their trips generated and he felt that needed to be tightened up. Mayor Niehaus stated that that meant that each new development would be required to reduce their projected vehicle trips to and from town by 20% that it should be subject to local trips. Councilmember Jones asked if that standard could be made higher? Some of that may be reduced once the regional transportation plan gets worked out. Linares stated that to require a motel to provide a shuttle, the City must be able to rationally show how this development will add to traffic congestion (exaction). It could be possible to provide incentives to provide shuttles (negotiation). A Transportation Demand Management Plan provided by a developer could be required. Simonson said that in that way, developers may be able to find more options or creative ways to help the community deal with traffic congestion. It was further suggested that electric vehicle charging stations could also be included as a requirement. Council would like the covered, lockable bike storage to include the word “enclosed,” so, it would read “covered, lockable, enclosed bike storage.”

Councilmember Jones is still against mandating oversize parking and that they should be mandating less parking. Mayor Niehaus asked if anyone else agreed with him? No one agreed.

Mixed Use in the RC could be to give commercial use options of what developers can choose to do as incentives for them to be able to add another story or get additional square footage. Planning Commission member Becnel thinks that mixed use could be most challenging and what might affect the community the most. She urged Council to look at this very carefully. As it is written, it calls for full flexibility. Can they make it more specific? She said that the consensus is that they can't make that area feel more of an extension of Main street. Councilmember Knuteson-Boyd feels like they should keep it flexible to allow the developers to show their creative side and be able to come up with some really great ideas. Mayor Niehaus said that she needed direction on the commercial aspect. Council would like to see more than just hotels out there in the RC zone, and that would include other commercial use on the ground floor. There was discussion of commercial space as part of the development and fee in lieu. Council is willing to assign some percentage to the commercial, but that space must be open to the public and Council would like to be specific on the allowable uses within said commercial space. Councilmember Duncan suggested a sub-committee to flesh out the allowable uses. Mayor Niehaus said that timing would be difficult, but they might be able to get one meeting in. There was extensive discussion regarding the size of the commercial space that would be required, how much commercial space could get the developer the incentive of additional space for overnight accommodation and what the maximum building and project sizes should be. Council decided on a 5% minimum commercial space and then the developer can build it larger if they would like to. Building size would be limited to 20,000 square feet and a total project size of 40,000 square feet with an additional square foot offered for overnight accommodation for each square foot of commercial space supplied over and above the mandatory 5%, up to a maximum 60,000 square feet total project size.

Shepard wondered if a sub-committee would be sufficient to work out site configuration and design standards.

Council decided to add this to next week's agenda to go through design standards. They will meet from 12:00 PM to 1:30 PM on Tuesday, December 10, 2019.

Adjournment: Councilmember Jones moved to adjourn the meeting. Councilmember Knuteson-Boyd seconded the motion. The motion carried 5-0 aye, with Councilmembers Derasary, Jones, Knuteson-Boyd, Duncan and Guzman-Newton voting aye. Mayor Niehaus adjourned the meeting at 9:02 PM.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder