

MOAB CITY COUNCIL MINUTES
REGULAR MEETING
February 9, 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>.

Call to Order and Attendance: Mayor Niehaus called the Regular City Council Meeting to order at 7:05 p.m. Participating remotely were Councilmembers Karen Guzman-Newton, Tawny Knuteson-Boyd, Rani Derasary, Mike Duncan and Kalen Jones. City staff participating remotely were Manager Joel Linares, Assistant Manager Carly Castle, Attorney Laurie Simonson, Recorder Sommar Johnson, Police Chief Bret Edge, Assistant Planner Cory Shurtleff, Engineer Chuck Williams and Communication Director Lisa Church. A video recording is archived at <https://www.youtube.com/watch?v=Bv-mQd4kiOw>.

Citizens to be Heard: Written comments may be viewed at <https://moabcity.org/151/City-Council>.

Chloe Hedden stated she was born and raised in Moab and had never seen people so upset and unified about an issue. The UTV (Utility Terrain Vehicle or All-Terrain Vehicle) noise in Moab during the high season is unbearable. She said she lives on a formerly quiet residential street that now sees constant UTV traffic. She said her windows actually shake from the noise dozens of times a day as convoys up to 30 vehicles long drive by, many at high speeds. She said constant noise is a health risk and the noise is driving us crazy and driving us away. She added many people who have lived here for decades and greatly contributed to this community are leaving. She said we must do something about this issue and noted the moratorium is good. She requested that Council not allow expansion of local rental fleets during this time while the specifics of the land use code are discussed. She said there are plenty of UTVs on our streets as it is and existing businesses will be making money hand over fist as soon as Spring returns with existing fleets. She implored Council to say no, that enough is enough, if not now, then when.

Kent Green said he was a business owner and he had invested his retirement and hoped to sell his business one day to have a better retirement. He said the moratorium in place is very restrictive and is unfair. He said he understands the need but local businesses are being punished and sought out to be the bogeyman. He said local outfitters are good stewards and understand neighborhoods and they drive slow and pick routes through town to minimize impacts. He said it was an unfair moratorium because one company might have 60 rigs and another might have ten rigs so how are you going to make that fair? He asked if Council would regulate Jeeps, Hummers and mountain biking companies that also have four-wheel drive vehicles and use public streets. He said outfitters try to minimize as much impact as possible and they do pick routes and they try to limit noise. He said people thank him for going slowly through town and reducing the noise. He reiterated it was an unfair moratorium and you can't discriminate against one business over another. He stated he received a call asking how many rigs he had and he refused to answer because he didn't want to be restricted. He encouraged the City to take a look at this and they could all come to a happy medium.

Dorica Brewer from Moab Tour Company said her ancestors helped settle Moab. She said Moab

was a big enough place and there is enough room for all of us. She said she wanted a lot of the people that she calls the haters out there [to understand] we do rent machines and do guided tours, but we also take the time to try to tell each person that they need to follow the rules that the City has in place for driving on the street. She said it is a privilege to be able to drive to the trail back and forth and a lot of us do pay attention and we do follow these guidelines. She asked why can't we all work together and stated the 15 mile per hour speed limit was already causing road rage. She stated people that day were throwing a big fit and she had four calls that day. She said if the moratorium goes into place, the present great-paying jobs, which in Moab are rare if they are year-round, would result in a lot of us without jobs. She said she cares about Moab just as much as everybody else does and why can't we come to agreement and if we have to drive certain routes so we are not impacting certain neighborhoods, why can't we figure something out?

Travis Clark spoke and said he was both a UTV business owner and a local law enforcement officer so he saw a lot of side-by-sides throughout his travels. He said he rents six units and if the City stifles him how can he keep up with the other people? He said the moratorium is unfair for someone like him who has put a lot of his retirement and a lot of money invested in what he is trying to do, and now you are going to stop him, and it's really unfair. He said that as he patrols the streets of Moab, tour companies are not the issue. He added that [the moratorium] takes away the only people who are educating people about what is right and what is wrong. He said the Bureau of Land Management (BLM) has figured out the rental companies are the stewards of the land. He said it is other people coming in that are the issue. He said there are other things that we can do rather than just shut it down and make it impossible for people to make a living.

Miriam Graham stated she had lived in town for 23 years in a walk-in neighborhood, which was meant to be quiet, but unfortunately part of it borders on Mill Creek Drive, which is the route up to Sand Flats. She said the noise is terrible and she could not open windows if she wanted to sleep at night due to noise. She said it was really important to try to limit the noise in the neighborhoods. She thanked Council for everything they had done so far, and she does support limiting fleet sizes to give the moratorium some teeth.

Sue Sternberg stated she has lived here since 2009 and urged Council to limit fleet sizes. She said she put out a notice of the pending legislation to the 6,000 Facebook friends of her dog business from across the United States and she heard back from hundreds, who said they were no longer coming to Moab due to the noise and the motorized travel. She said people are horrified to come here.

Mark Moore stated he owns a UTV tour and rental company in its fifth season. He said it takes five years of operation to make a living and he is turning the corner. He said if you limit the machines he has, it is not doing anybody any good. He said he has six employees supporting six households in Moab and contributes thousands of dollars in sales tax. He said he is a lifetime resident. He said there are ways of doing things and he said the City should have put everyone in a room to figure this out; now, he said, we have people divided. He stated Moab is the four-wheel drive capitol of the world, and the mountain bike capitol of the world. He said we can all get along and understand this and stated he has no problem using certain routes. He said his guys have a certain route and they do not differ from it. He said he does not like noise and he understands so many decibels cause issues with your health, and we are here to help. He said he just ordered ten new machines and he can't pay \$140,000 and not use [them]. He said this is how he makes his living, and, referring to the person who suggested he was making money "hand over fist," he said he has a very high insurance cost. He says he only operates nine months

a year and regulating fleet size will not stop the problem. He stated the tour operators are here to educate. He suggested he could start a nonprofit to educate UTV visitors to Moab. He said he stops people all the time who are doing stupid stuff. He stated the operators will do anything they can to help.

Jeremy Rowan stated he owns Outlaw Adventures and added UTVs to his fleet and he does Jeep tours, as well. He reiterated that businesses are not the problem here and businesses are trying to help. He said they try to educate people and many times have called the BLM [Bureau of Land Management] officer out on trails and last year had five persons arrested after a single call due to unlawful behavior on the trails. He reiterated that tour operators are the people trying to help. He said that new special recreation permits issued by BLM now limit group size to five client vehicles per trip. He said limiting business use is not the answer and it will not stop people from coming to Moab; he said that is how everyone is paid, through tax dollars from visitors. He said we need to educate users, to help the City and the citizens of Moab.

Steven Allred from Moab Tour Company reiterated that if the moratorium does happen, layoffs at the local companies are going to be a major thing. He suggested it would really mess up incomes, families and lives, and hoped the City would consider that before doing anything else. He said vehicles with modified mufflers are the problem. He stated removing UTVs from the roads altogether is not a fix either, since requiring trailering opens a whole can of worms. He said that would result in people parking in the middle of the road and blocking driveways, and entire trailheads being packed full. He recognized the tough situation the City was in, and said it was not so much the tour companies causing the issue but rather individuals who bring their own modified machines.

Jason Taylor from Canyonlands Jeep Adventures said he had been in business since 2004 and mentioned the moratorium might incorporate the Jeep businesses because of the way the state code reads. He said Jeeps are quieter, but they have bigger tires and small lift kits and so are considered modified vehicles subject to the moratorium. He reiterated that outfitters are stewards of the land and he takes it all very personally. He said he has been in Moab for close to 30 years. He said going after tour operators is the low-hanging fruit yet [they are] the greatest advocates. He said that if we can get more people to take guided trips or renting from people in town, it could eliminate the noise and trail degradation. He added we can all combat those people who do come in with the super-modified machines, working together to make it a better place.

Anthony Charles stated he had had an extraordinarily tough last year when he moved into his house. He said he was diagnosed with MS and found that noise the engines emit is damaging to the brain, and he has documentation. He said the greatest advocates will tell people to stop driving on the sidewalks and stated he cannot count the times he has seen UTVs, Jeeps and motorcycles driving on the sidewalks. He recounted an event in front of his home when 14 UTVs were scattered around the intersection and he was blocked in his driveway for fifteen minutes when he was trying to go to a doctor's appointment and he was late; he said the UTVs took his freedoms and his rights. He said he was not exaggerating to prove a point and he shares his videos of UTV transgressions on his YouTube channel, including footage of rentals running the stop sign. He said he would like to be involved with the City and the State and he has ideas to share. He suggested there could be warehouses near trailheads where vendors could store their vehicles and thereby avoid driving through town.

Kaki Hunter said she lives down the street from a rental company and has counted as many as ten vehicles in a row. She said it is extremely loud and "we cannot hear each other speak." She

said the noise is intolerable and it has completely changed the quality of her life in Moab. She added she is one of five generations living on the same street and noted the last couple of years town has been inundated by rentals plus the barrage of other vehicles. She said she understands the desire and that it is a great business for a lot of people but asked, "At what expense to all the other people who live here?" She said 3,300 petitioners asked the City to do something about the noise issue as well as the detrimental effects, and these citizens outnumber the twelve rental companies, and she pointed out the ratio is 275:1. She stated she loves her community and has known Dan Mick for years and believes the problem has been caused by the state legislature making something street legal that is not designed for streets. She suggested the machines need to be located at or towed to trailheads. She said she would like to get the state legislature to rescind the law and go back to the way it was in 2008. She added there is absolutely no reason to drive the UTVs through town. She agreed with the point of the moratorium and acknowledged it was for a limited amount of time.

Nena Barlow stated she was an outfitter. She agreed that definitions regarding UTV requirements are a struggle. She pointed out that Jeeps are street-legal and concurred that noise is the problem. She stated that outfitters are the only line of defense with the public and acknowledged that some are better educators than others are. She pointed out that electric vehicles would be a potential noise solution.

Dave Hellman from the Moab Reservation Center and Xtreme 4x4 Tours said that the problem is people coming from out of town with after-market exhausts. He stated that tour companies are done by 30 minutes after sundown and they don't run late at night. He said that building [a home] on a busy intersection was [a mistake]. He stated some tour operators lead up to eight vehicles but he said he promotes a limit of five. He said that noise is the problem and asserted that no rentals have after-market exhausts. He said he does not rent vehicles and only leads guided tours, and will travel at the recommended speed. He criticized the limit to fleet growth because he said he only had ten machines while other companies have more than 128 machines, and he needs to feed his family. He stated it was his ninth year in business, and business has been good due to COVID. He reiterated that it is not the tour companies causing the noise problems; it is out-of-town machines with after-market exhaust. He recommended enforcing an ordinance requiring vehicles with after-market exhaust to be towed to trailheads.

Lori McFarland stated that if she stayed silent, Council would think that she agrees, and she does not. She said there are a very few people in the community that City and County Councils are listening to, and added that it is unfortunate that the rest do not have a voice. She said businesses are not the enemy, and they are trying to find cooperation in the community, and the timing is very poor. She said the local community was coming through the pandemic and fleet sizes are definitely not what they have been. She asked why the City would target a business community because "we don't like them." She said that kind of discrimination does not feel right and she just had to let Council know that "you're better than that."

Scott McFarland stated the UTV future is bright and there is change very close on the horizon. He suggested that any new legislation should embrace and incentivize new technology involving quieter and more environmentally-friendly vehicles. He added that, rather than a constant no, he encourages incentivizing positive change for our environment and for our community.

Administrative Reports: [44:25 - 1:07:47](#)

City Manager Linares stated Finance Director Klint York had left the staff. He discussed with Council the dates of the annual Council retreat, planned for March 10 and 11.

Communication Director Church, Assistant Manager Castle and Mayor Niehaus discussed a draft public engagement plan for potential upcoming water ordinances, focused on time and type of watering and shifting away from turf lawns and changing to drip irrigation. Also discussed were potential grants, water catchment legislation and a comprehensive outreach plan.

Linares said there would be information on the next agenda about the City's COVID grant program.

Utah 100 Communities Update: Castle reported on the Rocky Mountain Power 100 percent renewable electric program and an upcoming meeting was discussed.

Mayor and Council Reports: [1:07:48 - 1:36:20](#)

Mayor Niehaus reported she attended a Water Quality board meeting as well as a meeting of the Southeastern Utah Association of Local Governments (SEUALG) with County Commissioner Gabe Woytek. She commented on the busy schedule of the League of Cities and Towns legislative activity regarding housing bills. She gave an overview of pending state legislation.

Councilmember Derasary reported on her work regarding the legislative policy committee and noted she spoke at the committee hearing for Representative Albrecht's bill to support the County. She also noted she had an EMS Evaluation Committee meeting to prepare for the annual evaluation for the EMS director.

Councilmember Duncan reported on local discussions regarding sound-measuring techniques for UTVs. He stated his belief that after-market exhausts would be caught. He thanked Councilmember Derasary for her testimony at the legislature. He clarified his interest in focusing on noise issues and not businesses.

Councilmember Knuteson-Boyd reported on a radio interview she participated in regarding UTVs.

Councilmember Guzman-Newton reported on her recent attendance at the meeting of the Colorado Association of Ski Towns (CAST). She stated her amazement at the similarities with resort towns. She said the meeting was full of tools and information regarding affordable housing, including using deed restrictions as a more affordable solution than new construction. She spoke of a "bed cap" as a mean to determine and limit growth. She mentioned special event fatigue as well as migration due to remote work environments. She mentioned a Growth in Utah series that is focused on housing, transportation and economic development. She mentioned she also attended an airport board meeting and noted several constituents had requested the Council return to in-person meetings.

Councilmember Jones reported he also attended the CAST meeting and noted Whistler's approach to managing growth. He said he attended a noise-measuring demonstration, and meetings of the Housing Authority and Travel Council, along with his work on the legislative committee. He brought up pending legislation regarding electronic billboards. He said he had received questions about the Recreation, Arts and Parks (RAP) tax, and he noted his interest in earlier meeting times for Council.

Public Hearing on Proposed Zoning Map Amendment:

Mayor Niehaus opened a public hearing at 8:35 p.m. on Proposed Ordinance 2021-01: an ordinance approving a zoning map amendment for property located at 478 Mill Creek Drive,

amending the subject parcel zone from R-2 Single-Household and Two-Household Residential Zone, to C-5 Neighborhood Commercial Zone.

Applicant Ashley Korenblat thanked the City for the effort and noted her development plans included a business facelift and space reorganization. She said the location was very loud and not conducive to residential development and added the site plan would utilize the building as a noise buffer. She said keeping her business in its present location would minimize sprawl.

Recorder Johnson stated there was one written comment in support of the application.

With no further comments, Councilmember Knuteson-Boyd moved to close the public hearing. Councilmember Jones seconded the motion. The motion passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye. Mayor Niehaus closed the public hearing at 8:39 p.m.

Approval of Minutes:

Motion and Vote: Councilmember Derasary moved to approve the minutes for the January 26, 2021, Regular Meeting. Councilmember Duncan seconded the motion. The motion passed 5-0 with Councilmembers Derasary, Jones, Guzman-Newton, Knuteson-Boyd, and Duncan voting aye in a roll call vote.

Old Business:

Proposed Ordinance 2021-02 relating to All-Terrain Vehicles—Tabled

Discussion: Mayor Niehaus pointed out there was an existing business license moratorium in place. Councilmember Jones noted a curfew bill was pending in the state legislature and wanted to ensure success of that bill before continuing with consideration of Ordinance 2021-02.

Motion and Vote: Councilmember Jones moved to table 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.

Councilmember Guzman-Newton seconded the motion. The motion passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye.

New Business:

Declaring Surplus Property—Approved

Presentation: Police Chief Edge answered questions about police department items that are either expired, non-functional, or no longer useful.

Motion and Vote: Councilmember Knuteson-Boyd moved to approve Resolution 02-2021 declaring City property as surplus. Councilmember Duncan seconded the motion. The motion passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye.

Zoning Map Amendment at 478 Mill Creek Drive—Approved

Presentation: City Manager Linares, Assistant Planner Shurtleff and Engineer Williams answered questions regarding the proposed rezone of the Western Spirit property.

Motion: Councilmember Jones moved to approve Proposed Ordinance 2021-01: An Ordinance Approving a Zoning Map Amendment for property located at 478 Mill Creek Drive, Moab UT 84532, amending the subject parcel zone from R-2 Single-Household and Two-Household Residential Zone, to C-5 Neighborhood Commercial Zone. Councilmember Knuteson-Boyd seconded the motion.

Discussion: Discussion ensued regarding sewer lines. Potential future C-5 development on the south side of Mill Creek Drive was brought up. Other zoning options were asked about, and Councilmember Jones asked for increased specificity regarding defined uses. He noted professional offices could have less impact than residential units. A potential small area plan was suggested. Councilmember Duncan asked if the C-5 zone was not supposed to be visitor-oriented. Ms. Korenblat explained that her clients rarely visited the business site and the property served mainly as a professional office. Mayor Niehaus noted she once worked there and said she was glad about more professional offices in town. Congestion on Mill Creek Drive was discussed. The need was expressed to further clarify the C-5 zone.

Vote: The motion passed 3-2 aye with Councilmembers Jones, Derasary and Knuteson-Boyd voting aye and Councilmembers Duncan and Guzman-Newton voting nay.

Land Use Code Changes—Discussion

Manager Linares discussed the need to provide direction to staff regarding proposed changes to the land use code to move the noise code from Chapter 17 – Zoning, to Chapter 8 – Health and Safety. Councilmember Jones suggested noise concerns were outside the purview of the Planning Commission and agreed noise code should be moved to Chapter 8. Councilmember Derasary thanked Councilmember Jones for his efforts. Councilmember Knuteson-Boyd stated the change made sense and Councilmember Guzman-Newton concurred. Councilmember Duncan stated his interest in a draft code for UTV noise checkpoints.

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 \$271,518.87. 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 Guzman-Newton moved to adjourn the meeting. Councilmember Jones seconded the motion. The motion passed unanimously and Mayor Niehaus adjourned the meeting at 9:22 p.m.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder