

MOAB CITY COUNCIL MINUTES
REGULAR MEETING
March 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>.

Pre-Council Workshop:

Mayor Emily Niehaus called the Pre-Council Workshop regarding mitigation of vehicular noise to order at 5:34 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 and Police Chief Bret Edge. The workshop began with Attorney Simonson reviewing initiatives and actions taken to date. City Manager Linares described additional actions such as the legislative attempt to allow curfews and a proposed trailering plan. The workshop also included a presentation by Les Blomberg of the Noise Pollution Clearing House. The workshop involved discussion among Council members and staff on topics such as amending the noise ordinance, noise and speed limit enforcement, muffler requirements, a recreation opportunity spectrum analysis, and City participation in noise mitigation efforts on public lands. Civil versus criminal offenses were considered, and guidelines for traffic checkpoints were explained. Personnel needs for enforcement were discussed. The workshop concluded at 6:59 p.m. A video recording is archived at <https://www.youtube.com/watch?v=oRpADik5IOU>.

Call to Order and Attendance: Mayor Niehaus called the Regular City Council Meeting to order at 7:05 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, Engineer Chuck Williams and Public Works Director Levi Jones. A video recording is archived at <https://www.youtube.com/watch?v=sYC9w7vPV58>.

Citizens to be Heard: Recorder Johnson reported there were 18 written comments submitted which are archived at <https://moabcity.org/151/City-Council>.

Bruce Huntington thanked Council and said he was looking forward to working together on the noise ordinance. He said that since meeting with City representatives, Off-Highway Vehicle (OHV, variously referred to as ATVs or UTVs) group members have formed a task force. He stated that members are residents who live, work and play here. He said they were not outlaws, not “ripping it up” and he hoped for a good dialogue.

Judy Powers stated she was sorry the OHV curfew did not go through. She said a paradigm shift was needed with more shuttles and fewer parking lot expansions. She said she likes the idea of more guided rides and that she has seen outrageous damage to the landscape. She supported a noise ordinance as a primary reason for law enforcement, not a secondary offense. She expressed concern about problems related to enforcement including staffing issues and dangerous conditions. She spoke about the quantity of vehicles and noted an acquaintance was

passed by 47 OHVs while biking on Spanish Valley Drive. She suggested that if businesses update machines each year, they could transition to quieter models. She supported limiting fleet sizes. She concluded by stating that no one complains about any other thing—water bottles, boots or coffee shops. She said people do complain about loud vehicles and semi-trucks running red lights.

Shane Myerstack stated he lives outside City limits and is an OHV enthusiast and rides on roads. He said his vehicle is not modified and it is still loud. He stated his concern about not being able to drive to the trailheads. He stated he always picks up garbage and is very responsible.

An unidentified citizen stated he has seen many police units going up Mill Creek. He said he found a route from the River Road where a road could be cut to Hell's Revenge, bypassing downtown Moab. He said businesses and "tons of people" were on board. He added that a parking lot could be expanded at the location of the landfill.

Mike Utley stated he is a regular visitor to Moab. He said he is an OHV owner and likes to recreate that way, and he does not want discrimination against one type of vehicle. He added that he does not like loud vehicles and concluded with a comment that he wants everyone to be able to recreate equally.

Kent Green stated the Council is very professional. He said a lot of traffic is received on Fourth East. He suggested that drivers are being directed to take the shortest routes. He noted there are no signs guiding people to Sand Flats. He said the 15 mph speed limit for OHVs on Sand Flats Road, combined with a double yellow line, was causing road rage. He stated you could not intentionally impede traffic.

Bud Breuning reiterated Mr. Green's comments. He stated he is from out of town and is the head of an OHV group. He thanked the City for its professionalism and appreciated the Mayor. He said he wants what is best for the community. He said he does not want to annoy people. He mentioned signage and suggested there could be a voluntary refrain from night driving. He said he thought the 15 mph speed limit would be a good idea. He said "bad apples" should be cited and impounded. He said his group was law-abiding and concluded by stating that he is "on your side and wants to help out."

Administrative Report: [29:33-31:10](#)

City Manager Linares mentioned the upcoming Strategic Planning retreat. He said that the legislative session ended and he is working on a report of the impacts on the City with regard to new laws. He stated budget work was continuing and charges had been filed against the alleged art vandal. He stated staff were preparing a community newsletter. He gave an update on COVID impacts and reminded Council and the public that the Treasurer's office is open for walk-in business and all other departments are by appointment due to COVID concerns.

Mayor and Council Reports: [31:25-49:40](#)

Mayor Niehaus also mentioned the conclusion of the legislative session. She said she attended meetings of the water quality board and the Southeastern Utah Association of Local Governments. She briefly mentioned the Mill Creek coalition and a plan for Power House. She said she attended a regional transportation plan meeting.

Councilmember Derasary thanked the legislative committee as well as citizens who helped track bills. She mentioned the annual trip to Washington, DC to advocate for the Uranium Mill Tailings Remediation Act (UMTRA) funding had been cancelled for this Spring, that lobbying

would instead occur from Moab, with the potential exception of a trip to DC this Fall to meet with the Department of Energy, depending on COVID. She said she had been active with the Utah League of Cities and Towns (ULCT) legislative policy committee as well as interviews for the City's new finance director. She brought up citizen concerns about the possible need for water restrictions and fireworks restrictions.

Councilmember Duncan reported the snowpack is 22 percent below normal and Kens Lake is low. He said the Moab Irrigation Company supply does not look good. He mentioned an interview he had with KUER regarding water supply in Moab and he appreciated the Moab Valley Multicultural Center's yurt open house.

Councilmember Guzman-Newton reported on a meeting of the Chamber of Commerce board. At the airport board meeting the director has requested putting all new hanger development on hold until development plans are in place. She noted the return of scheduled flights between Canyonlands Field and Salt Lake City. She mentioned a conversation with Governor Cox and the ULCT about conflicts between the legislature and local leaders. She referenced a housing crisis, stating only 2,000 homes were on the market in the state. She mentioned there will be increased funding this year for outdoor rec & state parks. She spoke about the efforts of the Colorado Association of Ski Towns (CAST) and a presentation by USU's, GNAR initiative program to consider, 'sense of place' in resort communities as they are developing and growing. She also attended the Millcreek Collaborative Meeting and wanted the Mayor to know the MCCC would like to be scheduled at a joint City and County to share findings of the work that has been conducted over the last 2 years. She concluded with a mention of a Moab Chamber dialogue between business owners and representatives of the group Make Moab Quiet Again regarding OHVs in the community.

Councilmember Jones reported on the conclusion of his work on the legislative committee. He reported on meetings of the housing task force, travel council, and the regional transportation plan stakeholder meeting. He said input on the draft plan could be submitted until April 6. He reviewed the ranked projects in the plan. He suggested he intended to draft a resolution reiterating his opposition to a bypass.

Approval of Minutes:

Motion and Vote: Councilmember Duncan moved to approve the minutes for the February 23, 2021, Regular Meeting. Councilmember Guzman-Newton seconded the motion. Councilmember Derasary stated she sent corrections to the Recorder. The motion passed 5-0 with Councilmembers Derasary, Jones, Guzman-Newton, Knuteson-Boyd, and Duncan voting aye in a roll call vote.

Old Business:

Sewer Rate Change for Institutions—Discussion

Mayor Niehaus requested feedback from the Council indicating its appetite to revise the billing schedule for institutions, which were reclassified as commercial users when sewer rates were changed in 2017. Councilmember Duncan indicated his interest. Councilmember Derasary asked how other towns billed institutions including churches and schools. City Manager Linares explained that he was not sure why the institutional class was lost although he said he thought it was an unintended error on the part of the sewer rate consultants. He added that the "church rate" had fluctuated over the decades. Discussion ensued regarding the potential lost revenue to the City (approximately \$17,000 per year) if institutions were not charged the full commercial rate; the City's sewer bond repayment schedule had been calculated with the commercial rate structure in place. Councilmember Knuteson-Boyd stated it is the City's fiduciary responsibility

for enterprise zones to pay for themselves. Councilmember Guzman-Newton suggested that, given the potential impact on the budget and other ratepayers, she would like public input on any proposal. Councilmembers asked about metering wastewater outflow for an accurate measure, since sewer rates are currently determined by winter water usage without landscaping use. Staff explained that metering outflow would be an extremely expensive proposition. Councilmember Duncan opined that the real issue is whether to bill in the most accurate way since the cost-conscious institutions were suffering because of an apparent billing mistake. Discussion ensued about the cost of recalculating the rate schedule, the wisdom of installing secondary hookups for landscape irrigation, and how often rate studies are conducted.

New Business:

MARC HVAC Bid Award—Approved

Presentation and Discussion: Public Works Director Jones briefed the Council on current conditions regarding heating failure at the Moab Arts and Recreation Center (MARC) and presented the proposed award for the 2021 MARC Heating, Ventilation, and Air Conditioning (HVAC) Bid to Eco HVAC, LLC, in the Amount of \$54,381.00. Councilmember Derasary asked about the warranty and Councilmember Jones asked about more efficient air conditioning units. Jones explained that, in the future, the City could swap for condensers that are more efficient.

Motion: Councilmember Knuteson-Boyd moved to award the 2021 MARC HVAC bid to Eco HVAC, LLC in the amount of \$54,381.00. Councilmember Guzman-Newton seconded the motion.

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

Technical Planning Assistance Program Interlocal Agreement—Failed

Presentation: City Engineer Williams described the proposed Interlocal Agreement (ILA) by and between the City of Moab and Grand County with respect to joint planning for and funding of the technical planning assistance program funds cooperative agreement. He said the City has not updated its Transportation Plan for over a decade and explained the Utah Department of Transportation (UDOT) has made funds available to assist local governments in transportation planning. He added that the County applied for and received a grant to do so and asked the City to conduct a joint plan. Williams explained the ILA commits the City to the amount of \$15,000 and if Council approves this item, the County will coordinate the hiring of qualified consultants to perform the planning effort. He emphasized the plan would be a local plan and not UDOT's plan.

Motion: Councilmember Derasary moved to table the item. There was no second and the motion to table failed.

Discussion: Councilmembers Jones and Derasary stated their concern about consideration of a bypass. Derasary said there was no room in the Valley for a bypass. Jones reiterated his interest in preparing a resolution regarding the City's opposition to a future bypass.

Motion: Councilmember Guzman-Newton moved to approve an Interlocal Agreement by and between the City of Moab and Grand County with respect to joint planning for and funding of the technical planning assistance program funds cooperative agreement. Councilmember Knuteson-Boyd seconded the motion.

Discussion: Councilmember Duncan stated he does not agree there is no room for a bypass.

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

Continuation of Local COVID-19 Emergency Proclamation—Approved

Presentation: Planner Shepard explained this motion would allow the City to allow "parklets" for outdoor dining in public space adjacent to their property under conditions previously

established by the City, referencing physical distancing requirements due to COVID-19.

Motion: Councilmember Duncan moved to approve Resolution No. 05-2021 - A Resolution Continuing the Local Emergency Proclamation Due to the Economic Impact of COVID-19 Novel Coronavirus on the City of Moab.” Councilmember Derasary seconded the motion.

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

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 \$319,428.42. Councilmember Guzman-Newton 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.

Executive Session:

Councilmember Knuteson-Boyd moved to enter an Executive Closed Session to discuss reasonably imminent and/or pending litigation. Councilmember Guzman-Newton seconded the motion. The motion passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye. Mayor Emily Niehaus convened the Executive Closed Session at 9:08 p.m. Councilmember Knuteson-Boyd moved to end the Executive Closed Session. Councilmember Derasary seconded the motion. The motion passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye. Mayor Niehaus ended the Executive Closed Session at 9:18 p.m.

Adjournment: Councilmember Guzman-Newton moved to adjourn the meeting. Councilmember Duncan seconded the motion. The motion passed unanimously and Mayor Niehaus adjourned the meeting at 9:18 p.m.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder