

MOAB CITY COUNCIL MINUTES
REGULAR MEETING
April 27, 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 a proposed noise control ordinance to order at 6:03 p.m. Participating were Councilmembers Karen Guzman-Newton, Tawny Knuteson-Boyd, Rani Derasary, Mike Duncan and Kalen Jones. City staff participating were Manager Joel Linares, Assistant Manager Carly Castle, Attorney Laurie Simonson and Recorder Sommar Johnson. A video recording is archived at <https://www.youtube.com/watch?v=S3jFYkOxEeo>.

Attorney Simonson introduced guest Les Blomberg and explained some proposed edits to the noise ordinance. She also described some particulars of the ordinance recently enacted by Grand County, including differences and similarities to the proposed City ordinance. Simonson presented facts about Environmental Protection Agency (EPA) stickers regarding motorcycles and described certain misinformation that Councilmembers had received as feedback from constituents and business owners. She explained there is only one stock vehicle on the market that won't pass the noise threshold as proposed. She also noted a citizen petition with more than 3,500 signatures requesting Council to adopt a noise ordinance with decibel A (dBA) levels set as low as possible. Discussion ensued regarding stationary versus pass-by tests, exemptions for special events, and how the City's proposed noise-restricted hours coincide with the recently-approved County hours. Councilmember Guzman-Newton asked for clarification regarding proposed construction and maintenance noise rules, general noise, and vehicular noise. Construction noise hours were proposed as 7:00 a.m. to 6:00 p.m., and Councilmember Knuteson-Boyd suggested Saturday hours from 8:00 a.m. to 6:00 p.m. Councilmember Derasary added a stipulation for Sunday at 9:00 a.m. to 6:00 p.m. Derasary also proposed vehicular noise restricted hours as 8:00 p.m. to 7:00 a.m. and Councilmember Jones concurred. Mayor Niehaus closed the Pre-Council Workshop at 7:00 p.m.

Regular Meeting Call to Order and Attendance: Mayor Niehaus called the Regular City Council Meeting to order at 7:07 p.m. Participating were Councilmembers Guzman-Newton, Knuteson-Boyd, Derasary, Duncan and Jones. City staff participating were Manager Linares, Assistant Manager Castle, Attorney Simonson, Recorder Johnson, Police Chief Bret Edge, Engineer Chuck Williams, Finance Director Ben Billingsley and Communication Director Lisa Church. A video recording is archived at <https://www.youtube.com/watch?v=U55cyC11AJA>.

Citizens to be Heard: Recorder Johnson stated there were 16 written comments which are archived at <https://moabcity.org/151/City-Council>.

Trish Hawkins spoke about the proposed noise ordinance. She requested the lowest possible dBA and noted that the proposed level is too high. She stated the inconvenience to Utility Terrain Vehicle (UTV) operators is nothing compared to the inconvenience to residents.

Kent Green stated he is a UTV business owner and he hoped Council would vote on a reasonable noise level. He stated the UTV lobby was asking for a limit of 96 dBA. He suggested that if the State determines the noise level, Councilmembers will not like it. He mentioned that there is not enough parking for trailered vehicles, the new speed limit appears to be working at reducing noise and pointed out to Council that altered mufflers are not legal.

Randall Fox stated he is an E-bike advocate. He said a 15 miles per hour speed limit is common in municipalities. He suggested Class 2 E-bikes could be allowed on pathways.

Pete Gross made a tongue-in-cheek suggestion that keeping noise levels in Moab very high could solve affordable housing problems because residents would flood the market with homes for sale as they flee to find a quieter place to live, thereby reducing home prices to an affordable level.

Mike Vallantine spoke in support of E-bikes. He stated that Class 3 E-bikes should be ruled out and Class-1 pedal-assist bikes are good. He stated that Class 2 E-bikes could perhaps be allowed.

Clif Koontz of Ride with Respect referred to a ten-page letter he sent to Council. He asked that perfect not be the enemy of the good. He said a group known as American Motorcyclists submitted 330 letters to County Commission and City Council.

Administrative Reports:

Communication Director Church presented public information efforts to educate the public regarding burning restrictions and fireworks regulations. She fielded a question from Councilmember Derasary regarding outdoor charcoal smokers and Councilmember Derasary also raised a concern regarding the City and Council role regarding protection of the City's watershed from fire and official response to a catastrophic fire in the watershed. Church concluded by noting the City's webpage has links to fire restrictions as well as UTVs on City streets.

Finance Director Billingsley presented his Citizen's Guide to the City's budget.

City Manager Linares said the new Parks, Recreation and Trails Director would start in June and he noted that more than 50 percent of Moab adults had been vaccinated against COVID-19. He mentioned Grand County was in a state of High Transmission and brought up the mask mandate in place until mid-June. Mayor Niehaus asked for Council feedback regarding resuming in-person meetings. Discussion followed about case count progress, the example the Council sets, and the likelihood that the high positive COVID rate is due to visitors. Grand County's relatively low vaccination rate, when compared to Carbon and Emery Counties, was mentioned. It was determined there would be at least one more virtual meeting of the Council.

Mayor and Council Reports:

Mayor Niehaus reported on a mid-year board meeting of the Utah League of Cities and Towns (ULCT), at which she attended the women's luncheon with Councilmember Knuteson-Boyd and also participated in a panel discussion regarding communicating with state legislators. She mentioned a keynote address on Leading with Love. She remarked on a meeting of the rural resort hub caucus, which seeks to find legislative commonalities and she noted her involvement with Students of the Month and the upcoming soft-launch of the Moab app. She concluded with recognition of Mike Huts, who retired after 22 years with the City.

Councilmember Derasary reported on her participation in the quarterly Uranium Mill Tailings

Remedial Action (UMTRA) Moab Tailings Project Steering Committee meeting. She said the project was on track to move one million tons of tailings this year. She noted the train had added cars to haul additional material and the site had experienced more than 1,700 days without a lost-time accident. She touched on site covering methods, bids for closing the site and local collaboration regarding native revegetation of the site.

Councilmember Duncan reported on a meeting with Engineer Williams, consultant Ken Kolm and Regional Engineer Mark Stilson from the Utah Division of Water Rights at which reconciling different estimates of safe yield was discussed. He mentioned that over-commitment to subdivisions regarding water supply had more grave consequences than a recent example of over-allocation of water in Iron County. Councilmember Duncan also presented his portable noise sensor. He stated it could assist with measuring the effectiveness of the noise ordinance and how noise levels may change. He stated he was in search of a manufacturer. He concluded with a mention that Sam Cunningham is chair of the Castlelands Resource Conservation and Development Council.

Councilmember Knuteson-Boyd reported on the Housing Authority and stated facilities are 100 percent full with extensive wait-lists. She reported on Wingate Village and Arroyo Crossing progress and noted the Housing Authority of Southeast Utah had assumed oversight of the high-density housing ordinance. She mentioned the museum would have a soft opening in June. She concluded with a mention of the ULCT keynote by Dr. Brooks who opined that we can hold different opinions and still be friends.

Councilmember Guzman-Newton disclosed she had missed the last meeting due to a death in her family.

Councilmember Jones mentioned the ULCT midyear meeting. He stated his interest in engaging all stakeholders and his interest in exploring future scenarios and a range of future options rather than dwelling on the past. He spoke about the importance of defining the core values of the community and then consistently communicating those values. He concluded with a mention of the ongoing details regarding merging the operations of Monument Waste with the Solid Waste Special Service District.

Approval of Minutes:

Motion and Vote: Councilmember Duncan moved to approve the minutes for the April 13, 2021, Regular Meeting and the April 20, 2021 Special Meeting. Councilmember Jones seconded the motion. The motion passed 5-0 with Councilmembers Derasary, Jones, Guzman-Newton, Knuteson-Boyd and Duncan voting aye.

Old Business:

Noise Control Ordinance—Approved

Motion: Councilmember Duncan moved to approve Proposed Ordinance 2021-07: An Ordinance Repealing and Replacing Moab Municipal Code Chapter 8, adopting Option 3 to match the County's hours including seasonal adjustments and construction noise. There was no second so the motion failed.

Motion: Councilmember Knuteson-Boyd moved to approve Proposed Ordinance 2021-07: An Ordinance Repealing and Replacing Moab Municipal Code Chapter 8, with amendments specifying allowable construction and maintenance noise hours from 7:00 a.m. to 6:00 p.m. Monday to Friday, 8:00 a.m. to 6:00 p.m. Saturday and 9:00 a.m. to 6:00 p.m. Sunday; to curtail general noise from 10:00 p.m. to 7:00 a.m. Monday to Saturday and 10:00 p.m. to 9:00 a.m. Sunday and to restrict vehicular noise from 10:00 p.m. to 7:00 a.m. seven days per week,

with exemptions for permitted special events. There was no second so the motion failed.

Motion: Councilmember Derasary moved to approve Proposed Ordinance 2021-07: An Ordinance Repealing and Replacing Moab Municipal Code Chapter 8, with amendments setting allowable construction and maintenance noise hours from 7:00 a.m. to 6:00 p.m. Monday to Friday, 8:00 a.m. to 6:00 p.m. Saturday and 9:00 a.m. to 6:00 p.m. Sunday; to curtail general noise from 10:00 p.m. to 7:00 a.m. Monday to Saturday and 10:00 p.m. to 9:00 a.m. Sunday and to restrict vehicular noise dBAs from 8:00 p.m. to 7:00 a.m. seven days per week year-round, with exemptions for permitted special events. Councilmember Knuteson-Boyd seconded the motion.

Discussion: Councilmember Guzman-Newton clarified that the vehicular noise limit was 92 dBA and during restricted hours the limit was 85 dBA. It was explained that only one Kawasaki model on the market does not meet the limitations. Mayor Niehaus wanted UTV advocates to understand the City is not eliminating UTVs but rather is setting limits. Councilmember Knuteson-Boyd stated the ordinance is not perfect but it shows the City worked for a long time in good faith showing the legislature that the City is exercising its authority, as requested by legislators. She mentioned recent vandalism to local public art, the closure and vandalism of the wetlands preserve, and vandalism to archaeological sites that all demonstrate visitors are not respecting our community. She stated the Council works for its constituents not outsiders, and she welcomed visitors, yet asked visitors to respect our residents and town. Councilmember Jones stated he has been involved in efforts to ameliorate noise pollution since he joined the Council. He said education and outreach programs were attempted, and yet not enough progress had taken place. He said this next step is important but is very much a compromise. He stated it was a good first step. Mayor Niehaus reminded listeners that City Council has legislated speed limits and now noise, and has not limited rental fleet sizes nor business licenses.

Councilmember Derasary brought up the common complaint from constituents regarding loud parties and was concerned about sufficient protection in the proposed ordinance, which exempted the unamplified human voice. After discussion, Councilmember Derasary amended her motion to eliminate the exemption for unamplified human voices during general noise restricted hours.

Also discussed were concerns about domestic animals as a cause of repeated loud noises, exemptions for golf course maintenance, and limiting idling vehicles to five minutes. Attorney Simonson clarified that this proposed noise ordinance would supersede the existing twenty-minute idling ordinance to a new limit of five minutes for idling vehicles.

Councilmember Derasary brought up a question regarding requirements for public hearings and legislative versus administrative decisions. Councilmember Guzman-Newton also brought up barking dogs and ice cream trucks. It was suggested that, in order to comply with the new ordinance, ice cream truck vendors could turn down the volume or apply for an exception.

Vote: The motion passed 4-1 aye with Councilmembers Jones, Derasary, Knuteson-Boyd and Guzman-Newton voting aye and Councilmember Duncan voting nay.

Alternative Voting Methods Pilot Project—Approved

Motion: Councilmember Jones moved to adopt Resolution 20-2021: A Resolution Requesting Inclusion of the City of Moab, Utah in the Municipal Alternative Voting Methods Pilot Project, and, to direct staff to clarify in the Interlocal Agreement (ILA) and Scope of Work with Utah County that Utah County will receive mailed ballots directly and verify signatures and input into VISTA daily Monday to Friday, and Moab City will operate ballot boxes until Utah County has onsite staff, and will overnight ship ballots to Utah County for processing each Tuesday and Thursday. Councilmember Derasary seconded the motion.

Discussion: Recorder Johnson explained it would cost \$6,750 for Utah County to administer the election and approximately \$15,000 for Grand County to administer the election if there was no primary; she stated it would cost more if there was a primary. She clarified that the Lieutenant Governor has deemed this program a pilot program only, and fifteen cities have already opted in. She explained that, if approved, the filing deadline would be approximately August 10 through 17, 2021.

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

New Business:

Consent Agenda—Approved

Motion and Vote: Councilmember Knuteson-Boyd moved to approve the consent agenda. Councilmember Jones seconded the motion. The motion passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye.

COVID-19 Emergency Proclamation: Proposed Resolution 18-2021 consents to A Resolution Continuing and/or Renewing the Local Emergency Proclamation due to the Economic Impact of Covid-19 Novel Coronavirus on the City of Moab.

Adoption of Tentative Budget: Proposed Resolution 19-2021 consents to A Resolution by the Moab City Council to Adopt the City of Moab Tentative Budget for Fiscal Year 2021-2022 and Setting a Public Hearing for Review of the Final Budget on May 11, 2021, at 7:00 PM.

Special Event and Street Performer Permits: Proposed Ordinance 2021-10 consents to A Text Amendment to Moab Municipal Code Title 4 "Special Event and Street Performer Permits" Creating 4.21.010 and a Text Amendment to Moab Municipal Code Section 12.20.040.

Transit Service Alternatives—Tabled

Presentation: Jon Nepsted and Jeff Sanders from the Utah Department of Transportation (UDOT) and Jason Miller from the consulting firm of Fehr and Peers joined the meeting to present and discuss UDOT's Proposed Moab Transit Service Alternatives. Councilmember Guzman-Newton asked for a brief overview of the three options and requested updated traffic counts. Miller presented the options and associated costs. Mayor Niehaus and Councilmember Duncan also asked questions about proposed routes and the range of service. It was explained the program would involve a third-party vendor providing a "turnkey" service, so employees would not be hired by the City. Shuttles that stop at hotels, "flag stops," the need for crosswalks and vehicles with bike carriers were all discussed. Councilmember Jones asked about eligibility for federal grants and he contemplated whether there would be competition with taxi services. Mr. Sanders pointed out that Option 1 has the potential to reduce congestion, which is the intention of the Hotspot funding program.

Motion: Councilmember Jones moved to table recommendation of an alternative to the Transportation Commission. Councilmember Guzman-Newton seconded the motion.

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

Definitions of Motorized Vehicles and E-bikes—Tabled

Motion: Councilmember Knuteson-Boyd moved to table Ordinance No. 2021-09 - Text Amendments to Moab Municipal Code §12.20.005 Modifying the Definition of Motorized Vehicle and Adding a Definition for E-Bikes. Councilmember Derasary seconded the motion.

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

Bird Scooter Pilot Program—Tabled

Presentation: Mike Butler from Bird Scooters briefly presented a proposal for a 75-vehicle pilot program and a temporary operating agreement. Mr. Butler presented information about the dockless electric scooters and explained how the scooters could be rendered inoperable if a rider attempted to take it on or near Main Street. He stated the company would work with a local operator to provide the service.

Motion: Councilmember Derasary moved to table the discussion and possible action regarding a temporary operating agreement with Bird Scooters. Councilmember Knuteson-Boyd seconded the motion.

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

Capital Improvement Project List—Approved

Motion: Councilmember Knuteson-Boyd moved to approve Proposed Resolution #21-2021 – Adopting the 2021-2025 Capital Improvement Project List. Councilmember Duncan seconded the motion.

Discussion: Councilmember Guzman-Newton asked if urgent yet lower cost projects could be moved up in the priority list. Engineer Williams explained that certain projects including the Birch Avenue and 200 South sewer projects were higher in priority within their respective funds. Williams was asked if the City had shovel-ready projects that might qualify for the infrastructure bill currently being considered by Congress. He stated he did have two projects that would qualify.

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 \$235,480.04. Councilmember Derasary 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 Knuteson-Boyd moved to adjourn the meeting. Councilmember Duncan seconded the motion. The motion passed unanimously and Mayor Niehaus adjourned the meeting at 10:20 p.m.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder