

**MOAB CITY COUNCIL MINUTES**  
**REGULAR MEETING**  
**September 28, 2021**

The Moab City Council held its Regular Meeting on the above date. An audio recording of the meeting is archived at [www.utah.gov/pmn/index.html](http://www.utah.gov/pmn/index.html) and a video recording is archived at [www.youtube.com/watch?v=i276kS95UcM](http://www.youtube.com/watch?v=i276kS95UcM).

***Regular City Council Meeting:***

Mayor Emily Niehaus called the meeting to order at 7:04 p.m. Councilmembers Karen Guzman-Newton, Tawny Knuteson-Boyd, Mike Duncan, Rani Derasary and Kalen Jones attended. City staff participating included Acting City Manager Carly Castle, Administrative Assistant Kelley McInerney, Engineer Chuck Williams, Finance Director and Acting Deputy Manager Ben Billingsley, Planner Nora Shepard, Human Resources Director Dani Guerrero, Assistant Police Chief Brayden Palmer, Recorder Sommar Johnson and Parks, Recreation and Trails Director Annie McVay. Twenty persons were in the audience. Mayor Niehaus led the Pledge of Allegiance.

***Citizens to be Heard:***

Charlotte Mates spoke about a letter of intent needed for federal transit funds for fiscal year 2024. She urged the City to apply for the funds.

Amy Walling stated she worked at Poison Spider bike shop and spoke in appreciation of expanded parking at Emma Boulevard. She brought up the difficulty for businesses regarding enforcement of the no parking zone on north Main Street. She said speeding vehicles create a dangerous problem and urged enforcement of traffic laws.

Jayne May: I am a 40-year resident, a survivor of life-threatening violence, and a legally protected person. An African proverb councils that “You cannot heal what you conceal.” I realize that by speaking out there may be ramifications and risks, but by remaining silent, a greater risk grows in our community—especially the risk to other victims and those marginalized citizens who are afraid to tell their stories. I am left questioning what chance we have in this system as it currently stands, where leaders remain uncertain as to whether a problem truly exists, or not? Abuse is one trauma, but being engaged with a system that purposely denies and dismisses its failure creates a whole series of traumas. In addition, it is this trauma that compounds repeatedly by inaction in the face of needed change as it further endangers victims. Chief Edge’s unwillingness to take action to investigate my life-threatening event, taking almost a week to return my calls to even discuss it, closing my case within hours of an arrest, and his refusal to reopen it for investigation even after I begged him to reconsider, was based on his mistaken position that my case was not in his jurisdiction. On July 1, 2020, I filed an Official Citizen’s Complaint per the policy of Moab City Police Department (MCPD) outlining violations to Violence Against Women, chest camera misuse, the lack of MCPD policy training, and even the public complaint policy itself. After 15 months, my complaint is uninvestigated and unanswered. City Council, Mayor, managers and attorney are each in possession of my complaint and are aware of its status. After being put off by city officials and their representatives these many months, I can only conclude that there is a concerted effort to protect Moab’s Chief of Police. This last December, I was asked by Carly Castle and Laurie Simonson to remain silent in order to have a fair investigation—to which I agreed. In April, Laurie informed my lawyer and me that they were just too busy to further investigate my complaint, and were sending it off to an outside investigator for completion.

Mayor and Council Members, you have an opportunity in tonight's executive session to take decisive action for this community and those who enter court without hope for the kind of justice and due process that Judge Torgerson addressed in remarks from the bench that MCPD lacks quality oversight. I ask each of you to finally answer my complaint by taking meaningful action regarding the leadership at MCPD. I ask that you finally acknowledge the need for true leadership and safety; we need "serve and protect," and oaths of office kept, that victims must go to court with something other than empty hands—and we especially must never be reduced to begging for protection. Thank you.

Happy Morgan: I am here to speak to the issue of the improper and illegal use of chest cameras by Moab City police officers. As you know, the presiding district court judge recently dismissed a Moab City case, and stated on the record, "The problem with failure to properly use chest cameras is specific to the Moab City police department." How much more clear does it get than that? The *Times-Independent* headline that week read "MPD body camera misuse detrimental to fair process." The judge stated that more cases would be dismissed if this were not corrected. In response to that, Chief Edge told the *Times-Independent* that he is unaware of any problems. The judge stated that this has been going on for a long time, and that it appears to stem from problems in leadership. I have filed a citizen complaint pursuant to City policy and procedure in the same case the judge was referring to when he made that statement. I am concerned the complaint will be ignored or swept under the carpet, as others have been in the past. I want to make clear that chest camera violations at MCPD are a chronic and dangerous problem and this was not an isolated incident. I work with eight law enforcement agencies currently, and this problem is only occurring at MCPD. Former Chief Jim Winder pulled the car cameras out of cars in 2017 and assigned officers chest cameras. This was a good move, as car cameras miss much of what happens on a call. However, almost immediately, problems began with the officers not properly using them. I complained in writing repeatedly to Winder starting in the summer of 2018 and throughout the rest of that year. I went so far as to pay to have a hearing transcribed (which I won because of illegal chest camera behavior) and sent to him to show what was going on with his officers violating the rules. He agreed in writing to fix this problem, but he did not, and neither did Edge who was his Assistant Chief at the time. In June of 2019, I had a case with MCPD where the body camera was improperly used (client J.L.). I wrote to Edge about it, and he agreed in writing to fix the problem. He did not. I GRAMA requested MCPD chest camera training logs for the three months after that incident and no training was done. In August of 2019, an MCPD officer arrested J.S. in Moab City; the officer improperly shut off his camera halfway through the encounter, and the recorded portions of the incident did not match the report. The case was dismissed. Edge was made aware of this. In September 2019 in the matter of the State vs. G.B., the same officer from the June 2019 incident I just mentioned did not use his camera properly in a felony domestic violence matter. After this incident, the victim (Ms. May) and I personally met with the Mayor and City Attorney in an effort to address the chest camera issue and other failures to follow policy by the police. Ms. May and I were assured in the meetings that corrective action would be taken, but no action was taken. Ms. May failed to get justice, so she filed a citizen complaint on July 1, 2020 and there has been no response. During 2020, a Moab city resident retained me to dispute a citation. The officer in that case (Chief Edge) did not activate his camera. In 2020, a Moab woman A.B. had her car illegally towed and impounded by MCPD. She received an improper citation, as she had not broken any laws. She hired me to dispute it; again, there was no chest camera activated. Again, I complained. This is just the tip of the iceberg, and now we are in the national spotlight for officers' failure to follow policy. As part of your investigation into my complaint regarding the failure to properly use chest cameras, look at the August 12 incident, because there is something missing: two officers responded that day, Pratt and Robbins. Where is Pratt's camera? Every news agency in the United States has requested it and it has not been turned over. The time for

action is now, before anyone else gets hurt.

***Canyonlands Health Care Special Service District—Presentation***

Joette Langianese, Chair of Canyonlands Health Care Special Service District, and Colette Lyman, its Facility Administrator, gave an update to Council on the state of the Care Center, its financial position, COVID impacts, demographics of residents, and recent developments.

***Southeast Utah Group of the National Park Service—Presentation***

Arches National Park Superintendent Patty Trapp, along with Amy Tendick and Kate Thomas, gave a brief presentation regarding timed entry, site-specific reservations, and other happenings at the park.

***Administrative Reports:***

Acting City Manager Castle announced the Red Rock Arts Festival would occur in the coming week. She gave an update on the City's well construction as well as impending construction on Mill Creek Drive. She noted the City had requested federal transit funds for the 2024 fiscal year. She stated Finance Director Billingsley would also serve as Acting Deputy Manager.

Assistant Police Chief Palmer thanked Ms. May and Ms. Morgan for their comments during Citizens to be Heard. He gave a presentation and demonstration of a body-worn camera and noted he had provided Councilmembers with the local camera policy and the governing state statute. He outlined daily training bulletins and noted officers are required to review and respond to training scenarios daily. He stated that his staff do not object to wearing the cameras. He explained that video footage is uploaded to a server while camera batteries recharge at the end of a shift. He spoke about retention of video in the event of citizen complaints, and the utility of the mute function and circumstances surrounding the use of it. Councilmember Derasary asked about battery life. Palmer explained officers generally work a ten-hour shift and batteries are designed for such periods but they are capable of running out of a charge so cameras are replaced. He stated grant funding has provided ample cameras. Councilmember Duncan asked if officers might not be aware their cameras are muted and Palmer explained safeguards for that, although he conceded that human error is a major factor in body-worn cameras. He said that the manufacturer invests heavily every year to develop tools to eliminate the potential for human error and his agency is dedicated to that. He added that stress inoculation training is an important topic now. Palmer also spoke about internal affairs investigations and described the utility of such investigations and briefly touched on their potential scope, and contrasted them to internal reviews. He concluded by thanking Council for their questions and concerns. He said he supports every one of his officers and stated the men and women of MCPD serve the community out of love and that is what motivates the force--they love the people that they serve, they are service-oriented and believe in the mission, which is one of action and transparency. He stated he was grateful to the dedicated City staff who continue to support the police department. Mayor Niehaus thanked Palmer for his service and clarity.

***Mayor and Council Reports:***

Mayor Niehaus praised Acting Manager Castle for her service and thanked local candidates for their interest in public office. She mentioned a meeting with the Director of Mosquito Abatement. She announced upcoming activities for Indigenous Peoples' Day and a local event regarding redistricting.

Councilmember Duncan mentioned activities related to affordable housing.

Councilmember Derasary stated she reviewed bids for the Visioning consultants and reported on a meeting of the Emergency Medical Services board. She said call volume was up twenty

percent over 2020. She thanked the hosts of the science festival and noted she would like to attend the upcoming meeting of the Colorado Association of Ski Towns (CAST), which discusses topics germane to Moab's tourist economy.

Councilmember Knuteson-Boyd reported on a meeting of the Museum Board. She announced a week with Katsina doll carvers in mid-October. She reported on a meeting of the Canyonlands Health Care Special Services District and noted the *Deseret News* had interviewed her.

Councilmember Guzman-Newton reported on an in-person luncheon of the Chamber of Commerce, at which a representative of the National Park Service participated. She said the next Chamber board meeting would discuss Ranked-Choice Voting. She noted there was an open seat on the Chamber Board and the annual Business of the Year and Citizen of the Year awards were being planned. She stated she toured the Walnut Lane project with Councilmember Derasary.

Councilmember Jones reported on a meeting of the solid waste district, at which a hazardous waste reclamation event was planned, and commingled recyclables were also discussed.

#### ***Approval of Minutes:***

***Motion and Vote:*** Councilmember Derasary moved to approve the minutes for the September 14, 2021 Regular Meeting. Councilmember Duncan seconded the motion. Councilmember Derasary stated she sent edits to the Recorder. The motion passed 5-0 with Councilmembers Derasary, Jones, Guzman-Newton, Knuteson-Boyd, and Duncan voting aye.

#### ***Special Event Permit for Trunk-or-Treat—Approved***

***Presentation:*** Administrative Assistant McInerney stated 1,000 to 1,500 participants and 40 vehicles were expected to attend the event at Swanny Park. Participant parking would be accommodated at the elementary school and nearby churches, with a crossing guard. She also added that portable toilets would be provided. Councilmember Jones requested that participating vehicles be parked on pavement against the curb to avoid damage to the turf, and Councilmembers Guzman-Newton and Derasary concurred with his request. Event organizers agreed to the terms, and noted one street would be closed to through traffic, allowing for pedestrian safety and emergency vehicles.

***Motion and Vote:*** Councilmember Guzman-Newton moved to approve a Special Event License for the 2021 Trunk-or-Treat event to be held in the City of Moab at Swanny Park with an amendment to restrict parking to the pavement. Councilmember Knuteson-Boyd seconded the motion. The motion passed 5-0 aye, with Councilmembers Knuteson-Boyd, Derasary, Duncan, Guzman-Newton and Jones voting in favor.

#### ***Old Business:***

##### ***Dispersed Parking Cooperative Agreement—Approved***

***Motion:*** Councilmember Jones moved to approve the Dispersed Parking Cooperative Agreement with the Utah Department of Transportation (UDOT) and authorize the Mayor to sign it. Councilmember Guzman-Newton seconded the motion.

***Discussion:*** Councilmember Derasary brought up discussion of the item at the August 24 meeting, at which time she asked the City Manager for clarity because it was discussed in terms of budgetary impacts and she recalled that the \$400,000 item garnered a low priority from Council for paving Emma Boulevard and Minnie Lee Street. She said it was her expectation that the topic would again be discussed in view of available capital improvement funds. Other Councilmembers agreed that, by passing the budget, the expenditures for the project were also approved de facto. Councilmember Derasary stated that the issue had a long history, with the loss of parking for nearby businesses and the paving of Emma Boulevard, and she said she

understood the benefits to the businesses that lost parking but she emphasized the \$400,000 cost. She said that, either way, there are winners and losers. Councilmember Jones asked whether fees for additional design were included and Engineer Williams stated he would present the added scope at the next Council meeting.

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

### ***Transit Pilot Cooperative Agreement—Approved***

**Motion and Vote:** Councilmember Duncan moved to approve the Transit Pilot Cooperative Agreement with UDOT and authorize the Mayor to sign it. Councilmember Guzman-Newton seconded the motion. The motion passed 5-0 aye, with Councilmembers Knuteson-Boyd, Derasary, Duncan, Guzman-Newton and Jones voting in favor.

### ***New Business:***

#### ***Lot Line Adjustment of Properties Located at 374 & 396 W 200 S—Approved***

**Motion and Vote:** Councilmember Derasary moved to approve **Resolution #30-2021** – A Resolution Approving the Lot Line Adjustment of property located at 374 W 200 S, and 396 W 200 S, Moab UT. Councilmember Jones seconded the motion. The motion passed 5-0 aye, with Councilmembers Knuteson-Boyd, Derasary, Duncan, Guzman-Newton and Jones voting aye.

#### ***Brewpubs, Breweries and Distilleries Code Amendments—Approved***

**Presentation and Discussion:** Planner Shepard mentioned the C-2 zone was brought up in the Planning Commission meeting. Discussion ensued regarding removing the C-2 zone in the proposed ordinance. Further deliberation considered adding the C-5 zone to the ordinance. Councilmember Derasary asked for clarification about definitions of micro-distilleries and distilleries, and the Shepard stated she would make the language consistent. Councilmembers agreed the proposed use would not be consistent with either C-2 or C-5 zones.

**Motion and Vote:** Councilmember Derasary moved to adopt **Ordinance #2021-12**, An Ordinance Amending the Text of the Moab Municipal Code (MMC) to Add Regulation for Brewpubs, Breweries and Distilleries by Amending Sections 17.06 Definitions, 17.24.020 C-3 Central Commercial Zone, 17.27.020 C-4 General Commercial Zone, 17.31.020 RC Resort Commercial Zone and 17.36.020 Industrial Zone. Councilmember Guzman-Newton seconded the motion. The motion passed 5-0 aye, with Councilmembers Knuteson-Boyd, Derasary, Duncan, Guzman-Newton and Jones voting in favor.

#### ***Purchasing Procedures Amendment—Approved***

**Presentation and Discussion:** Finance Director and Acting Deputy Manager Billingsley stated it is typical to allow for exceptions for professional service contracts because of immediate need and single source providers. He said that when very specific services are sought, the amendment would allow the City to use judgment to contract with the best service provider available. He added that, in the case of legal services, is it understandable why that is extremely important, due to expediency and technical knowledge. Billingsley added that many other municipalities provide for procurement exceptions. Councilmember Duncan asked if this type of procurement exception has resulted in examples of corruption. Billingsley noted the proposed amendment would not override any budgetary spending authority so the exposure for the City would be minimal. Councilmember Derasary also asked about the prospect of exceeding budgetary constraints if large law firms were engaged for multiple specialties to assist the City. Acting Manager Castle provided further clarification about controls on spending. Derasary also asked about whether it was considered best practice to switch legal counsel with regularity.

**Motion and Vote:** Councilmember Jones moved to adopt **Ordinance #17-2021** amending the City Purchasing Policy to allow an exception for legal service contracts. Councilmember

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

***City Attorney Replacement—Discussion***

Acting Manager Castle brought up Councilmember Duncan’s query regarding the possibility of retaining legal counsel on a contract basis into the future, rather than hiring for an in-house position. Based on an economic and management analysis of the two choices, the recommendation was to proceed with a hiring process for an in-house attorney. Council agreed with that strategy.

***City Manager recruitment process—Discussion***

Mayor Niehaus stated that, due to the proximity of the election for a new Mayor and two new Councilmembers, she recommended posting the City Manager position and receiving applications, with a closing date after the election. She suggested convening a hiring committee that includes the continuing Councilmembers plus the newly elected Mayor and Councilmembers, after the election and, for timeliness, before they are sworn to office. She said this would create a collaborative effort between the continuing and incoming Council. She wanted to express the stability and assurance to staff that there is progress toward the goal of hiring a new City Manager. Human Resources Director Guerrero explained timeframe for reviewing the job description, gathering feedback from staff regarding the job description, posting the position and interviewing candidates. Councilmember Jones brought up the media focus on Moab at the present time and pondered whether to delay the posting of the job. Engaging a recruiting firm and keeping the job open until filled were also discussed.

***Approval of Bills Against the City of Moab:***

***Motion and vote:*** Councilmember Knuteson-Boyd stated that an invoice was missed in the last batch of bills. She moved to approve the bills against the City of Moab in the amount of \$1,582,228.69. Councilmember Derasary seconded the motion. The motion passed 5-0 with Councilmembers Jones, Duncan, Guzman-Newton, Derasary, and Knuteson-Boyd voting aye.

***Executive (Closed) Session:***

***Motions and Votes:*** Councilmember Knuteson-Boyd moved to enter an Executive Session to Discuss the Character, Professional Competence, or Physical or Mental Health of an Individual or Individuals. Councilmember Duncan seconded the motion. The motion passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye. Mayor Niehaus convened the Executive Session at 10:10 p.m. Councilmember Derasary moved to end the Executive Session. Councilmember Knuteson-Boyd 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 Session at 11:16 p.m.

***Adjournment:*** Councilmember moved to adjourn the meeting. Councilmember Knuteson-Boyd seconded the motion. The motion passed unanimously and Mayor Niehaus adjourned the meeting at 11:17 p.m.

APPROVED: \_\_\_\_\_  
Emily S. Niehaus, Mayor

ATTEST: \_\_\_\_\_  
Sommar Johnson, City Recorder