

MOAB CITY COUNCIL MINUTES
REGULAR MEETING
October 26, 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 and a video recording is archived at <https://www.youtube.com/watch?v=5ELE-YxJcmo>.

Regular City Council Meeting:

Mayor Emily Niehaus called the meeting to order at 7:01 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, Finance Director and Acting Deputy Manager Ben Billingsley, Assistant Planner Cory Shurtleff, Assistant Engineer Mark Jolissant, Wastewater Reclamation Facility (WRF) Manager Obe Tejada and Recorder Sommar Johnson. Nine persons were in the audience. Mayor Niehaus led the Pledge of Allegiance.

Citizens to be Heard:

Sara Melnicoff spoke about the critical response by Moab Solutions to manage recycling at the recent Red Rocks Arts Festival. She urged Council to live up to the lofty goals of the Sustainability Plan and to make recycling mandatory for special events.

Jayne May reminded Council that October is "Domestic Violence Awareness Month" asked others to rise and stand in a moment of silence. She stated: I began my comments to you one month ago with the African Proverb, "You Cannot Heal What You Conceal," and now in returning tonight to speak, your silence and your lack of any humane outreach in response to my previous words is deafening, and yet, it speaks volumes about intention. To be essentially "ghosted" by the very leaders who should have been incensed and appalled, I am left dumbfounded to imagine what will move you to act if not the weight of accumulating victim stories and events? Whose safety and justice do you serve--the community of Moab and its victims, or Chief Edge? Now 16 months later I am still without an answer from the City to my formal complaint against Chief Edge, a complaint that earmarked every issue back in 2019 and 2020--especially regarding violence against women, but the difference is that I am alive and I can speak to the systemic failures first-hand and with documentation. I will take my chances by offering more details of events contained in my formal complaint. At the end of March 2019, then Chief Jim Winder placed my husband, our daughter, our young grandson and me in a "safe house" after I received a recorded threat to my life by a felon in this community. Chief Winder kept us there until a Protective Order could be secured for us through the courts. Even with the protective order in place, Chief Winder was reluctant to release us back to our home, but he did so with the warning to me that my life was forever changed and will never be the same again, that I needed to fully embrace this fact in order to remain safe. He promised Moab officers would remain close to this felon. Five months later, with Bret Edge now as Chief of Police, that same felon violently beat his best friend in an unprovoked event that was so severe the victim was hospitalized. The felon was placed on pre-trial release. Late on September 19, 2019, the felon left his Moab residence, and behind him, an eight-page murder/suicide note that stated, "Jayne must die. She is evil." He was armed with a 9mm semi-automatic weapon and 202 rounds of ammunition, and headed to my home to kill me--all the while, my husband and I slept unaware and without warning from authorities about this approaching danger. When Moab Police Officers located his hidden backpack after he ran off the road halfway to my home, the gun it contained held a full magazine clip and a bullet was chambered. On the morning of September 20, 2019 - just hours after the felon's arrest, Chief Edge closed my case without conducting a full investigation of the prior evening's crimes that I was still unaware had

happened. It took over a week before Chief Edge finally returned my phone calls. In our first call, he refused to reopen the case citing it was not his jurisdiction, and yet, if not his, then why could he refuse an investigation or open and close it? I remained desperate for protection and needed an investigation before my case went to trial, but Chief Edge was finished with the crimes of that night only hours after their unfolding. Does it not concern anyone at the City that your Chief was not interested, concerned, or committed to finding out where a felon acquired a gun and 200 rounds of ammunition that was intended to murder me? That this felon's violence was rapidly escalating from verbally threatening me, to a brutal beating of someone else, and then to attempting to commit the pre-meditated murder of me? The only person who was interviewed by Moab City Police Department about the attempted murder was the perpetrator himself, before Chief Edge was finished--closing my case without questioning the victim, reporting party, or others involved. In mid-October of 2019, I took my begging to Mayor Niehaus and her Administrator in hopes that she would compel her Chief to investigate this crime, before it was too late, for my case before Judge Torgerson. Nothing was done to demand Chief Edge take action on my case and we left empty-handed without an investigation. Just like Chief Edge's refusals, now some 16 months later, Moab City and its Administrator refuse to answer my formal complaint with any meaningful and fair investigation. You all are bystanders whose energies are spent protecting your Chief. What a legacy your administration has left for this precious and once peaceful community--a treasure tarnished by disinformation, inaction, and mistrust. I believe that the Mayor summed it up best when my husband asked her why Chief Edge refused to show up to a meeting with us that he was expected to attend. Her reply to Mitchell was that Edge admitted he had messed up, and she thought he was probably afraid to be confronted by us. Understanding the feelings of her Chief--at the expense of me as an endangered person, defines why Judge Torgerson was compelled to speak from the bench about justice and failures of leadership in Moab. No one is accountable when no one is responsible. Like most everyone in our community, I never dreamed of the kind of danger that has become a constant traveling companion in my life. Chief Winder was so right in his counsel that my life and what I took as a "given" here, was never going to be the same again. You cannot heal what you conceal. How many more events have to happen here before you admit the failures, and make the essential changes that restore our safety, healing, and trust?

Happy Morgan: Last month I asked how long Jayne would have to wait to have her citizen complaint resolved. That question was not rhetorical. As you know, another four weeks have passed and not one person in this room has reached out to her. There are some facts I want to clarify. After Jayne and I spoke to you last month, Ms. Castle told you that the complaint was open. Yes, of course it is open. It is unresolved and not handled in accordance with City policy and procedure. Moab City Police policy requires that the complainant will be treated courteously and in a professional manner. I do not think anyone could argue that she has been treated courteously or with professionalism in the last 16 months. It requires that the reviewer should provide the complainant with periodic updates. That has not happened. It also requires that the investigation proceed with due diligence and that has certainly not happened. All good law enforcement agencies have citizen complaint policies, which are designed to discover problems so they can be addressed and corrected, before somebody gets hurt. They are designed to keep the community safer and to promote trust between the citizens and the police, and allow citizens to know that someone is policing the police. However, to have a citizen complaint policy and not follow it and to pretend it is being followed and to mislead the citizens about that--that is despicable behavior. On June 23, 2020, Bret Edge made a presentation to the City Council during which he informed you he had an excellent citizen complaint policy and that he was actively tracking the results of that process in a spreadsheet. I was incredulous so I did a government records request to see this spreadsheet and Edge and his office manager rejected my request. Lawful compliance would have had them redact names where appropriate but still

send the spreadsheets to me as requested. One week after Edge made this statement to the Council, Jayne submitted her citizen complaint pursuant to the policy he was touting and here we are 16 months later with no response. Imagine if the City had done its due diligence in 2020 and actually addressed Jayne's complaint in a professional manner, if they took her carefully articulated list of policy violations, obvious training needs and errors, and did some type of corrective action or re-training, or actually held the Chief and others accountable for not following the policy. As it stands, we have the Chief out on leave posting mountain biking pictures to his Twitter account. We have the police department office manager also out on leave under investigation by the State Bureau of Investigations for improper actions in her capacity in the handling of documents and other items related to government records requests. The Weber County Sheriff Department is investigating two other Moab officers for policy and chest camera law violations and the Price Police Department investigating the mishandling of the August 12 matter that brought the problems into the national spotlight. Then we have emails from the City Manager's office from April and July purporting to have West Valley do the investigation of Jayne's complaint when the City Manager's office was attempting to pass Jayne's complaint to an off duty West Valley City Police Officer with a record of covering up for other officers, who has a Private Investigator business on the side to potentially create a purchased opinion at the expense of transparency and the purported goal of getting a neutral third-party opinion. Let us not overlook the June 2021 hiring of Officer Gist, in clear violation of the City Police hiring policy: "The department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards." We have now become the police department that hired someone recently fired by the State of Utah for his Facebook rantings about hating people not like him, hating people of color, hating people who immigrate here, hating Native Americans, hating people of different religions and people who do not agree with his thoughts on our previous President. The Gist matter falls under the shadows of the Mayor's June 2020 proclamation about the death of George Floyd and the City's commitment to create a race-neutral department. As Jayne said, this is your legacy. Everyone here has been on notice. The Mayor has been aware since, at the very least, September 2019. The Council has been aware, at the very least, since the summer of 2020. I know this because I personally kept you in the loop through email correspondence about these issues. I did this to create a paper trail. Also, I did this because I thought at least one of you would care enough and do the right thing. Hiding problems always makes them worse. This matter will not fix itself and it will continue to fester and get worse.

Jason Taylor spoke, commenting that the number one issue he encountered while campaigning concerns the Police Department. He spoke about Accessory Dwelling Units (ADUs) and the requirement for only one off-street parking space per unit. He asked for reconsideration and suggested one parking space for each 900 square feet of an ADU. He said that crowded streets could be dangerous for pedestrians.

Administrative Reports:

Acting City Manager Castle reported that crews were cleaning up debris from the overnight storm. She brought up a lease renewal regarding a law-enforcement shooting range. She mentioned several upcoming events, noted the election was underway, and added the City's employee health insurance plan was under review.

Finance Director and Acting Deputy Manager Billingsley presented first quarter financials.

Mayor and Council Reports:

Mayor Niehaus reported she attended a local redistricting meeting and noted the local message

to retain representation without a split of Moab along Main Street or at the County line. She said that policing and water concerns were priorities with the legislature. She mentioned the Small Business Administration “roadshow.” She said there were still loans for businesses struggling due to the pandemic. She said that Trunk or Treat would be on Saturday and traditional trick-or-treating would be on Sunday, October 31.

Councilmember Derasary reported she attended the redistricting meeting and noted input from local residents was needed. She brought up the allocation of \$50 million in American Rescue Plan Act of 2021 (ARPA) to the State, with \$1 billion in requests. She stated the Utah League of Cities and Towns discussed water and emphasized the need for local control. Derasary reported on the meeting of the Emergency Medical Services (EMS) board and noted communications issues were discussed. She brought up a potential funding request from EMS to the City and said September call numbers were up and EMS hoped to move into their new quarters soon and that wage increases were under discussion. Derasary reported on the Colorado Association of Ski Towns (CAST) meeting where climate was discussed and the Park City resident and business advocate was introduced. She noted topics of discussion included sustainable tourism, equity, inclusion and Park City’s visioning process. She announced the Uranium Mill Tailings Remediation Act (UMTRA) Moab site had moved 75 percent of the material.

Councilmember Duncan reported the Moab City Water Conservation and Drought Management Advisory Board was drafting a letter to the new council regarding goals and activities for next year. Duncan also noted he was joining the board of the Moab Charter School.

Councilmember Knuteson-Boyd reported on the Housing Authority and announced the first nine homes in Arroyo Crossing were completing closing documents. She also said that several new units in Wingate Village were occupied. She reported on meetings of the Museum Board and the Canyonlands Health Care Special Service District, and noted the latter has openings on its board.

Councilmember Guzman-Newton reported on the CAST meeting and requested an Executive Session to discuss comments made at Citizens To Be Heard. She also requested that the Sustainability Director work with Moab Solutions on recycling matters.

Councilmember Jones reported on a meeting of the Solid Waste District and noted the work of the Sustainability Director on the draft Sustainability Plan. He recapped a recent meeting of the Community Renewable Energy board and touched on the CAST meeting.

Approval of Minutes:

Councilmember Knuteson-Boyd moved to approve the minutes of the October 12, 2021 Special and Regular Meetings. Councilmember Duncan seconded the motion. Councilmember Derasary said she submitted changes to the Recorder. The motion passed 5-0 with Councilmembers Derasary, Jones, Guzman-Newton, Knuteson-Boyd, and Duncan voting aye.

Old Business:

Accessory Dwelling Units in Residential Zones—Tabled

Presentation and Discussion: Assistant Planner Shurtleff briefed Council on updates to proposed code amendments to allow Accessory Dwelling Units (ADUs) in all residential zones, and answered questions from Councilmembers. Several topics were covered, including setbacks and height restrictions, off-street parking requirements, building size and density. Owner occupancy and state code regarding owner occupancy were brought up. Mayor Niehaus requested a workshop to further discuss the proposed Ordinance.

Motion and Vote: Councilmember Derasary moved to table **Ordinance 2021-16** an Ordinance Amending the Text of the Moab Municipal Code (MMC) to Allow Accessory Dwelling Units (ADUs) in all Residential Zone Districts and to Revise Section 17.70 ADUs and Section 17.06.020 Definitions. Councilmember Knuteson-Boyd seconded the motion. The motion to table passed 5-0 aye with Councilmembers Jones, Derasary, Knuteson-Boyd, Duncan and Guzman-Newton voting aye.

Municipal Sewer Rates—Discussion

Susie Becker and Aaron Montgomery from Zions Bank and Keith Larson from Bowen Collins and Associates participated remotely. Assistant Engineer Jolissant and WRF Manager Tejada attended to answer Council questions. Councilmembers Guzman-Newton and Derasary brought up septage income. Mayor Niehaus mentioned the need to find revenue sources for the sewer bond repayment. Finance Director and Acting Deputy Manager Billingsley briefed Council on the seasonality of sewer and tax revenues as well as a timeline for sewer rate increases. He presented strategy options for repayment of the bond. Guzman-Newton asked about community hardship funding and the cost of the original sewer study. Mayor Niehaus directed staff to prepare for Council action.

New Business:

Lawrence Minor Subdivision—Approved

Motion and Vote: Councilmember Jones moved to approve **Proposed Resolution 31-2021:** A Resolution Conditionally Approving the Lawrence Minor Subdivision 2021 of Property Located at 479 Bowen Circle Moab, Utah subject to the following conditions: 1. The existing structure located on Lot 2 of the Lawrence Minor Subdivision 2021 must be removed or relocated in compliance with property setbacks within Lot 2 of the Lawrence Minor Subdivision 2021 before final recording of the Plat. 2. All Engineering Comments shall be addressed to the satisfaction of the City Engineer prior to City Approval by the City Engineer on the Final Plat, including: a. Bearing S 88° 59' 02 " E 60.01 feet divides west property line 90.076 feet to 69.924 feet. Labels shown are incorrect (Plat dated 10/23/2019). b. The white fence in front of the property is in the City right-of-way and may need to be removed. c. Does the existing structure (ADU) located on Lot 2 have its own water and sewer connection. Confirm the locations of the utility service lines. 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.

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 \$421,598.82. Councilmember Jones seconded the motion. The motion passed 5-0 with Councilmembers Jones, Duncan, Guzman-Newton, Derasary, and Knuteson-Boyd voting aye.

Adjournment: Councilmember Jones moved to adjourn the meeting. Councilmember Knuteson-Boyd seconded the motion. The motion passed unanimously and Mayor Niehaus adjourned the meeting at 931 p.m.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder