

**MOAB CITY COUNCIL MINUTES
SPECIAL MEETING
MAY 8, 2020**

The Moab City Council held its Special City Council Meeting on the above date. Per Executive Order 2020-5 issued by Governor Gary R. Herbert on March 18, 2020, this meeting was conducted electronically. An anchor location was not provided. An audio recording of the meeting is archived at <http://www.utah.gov/pmnl/index.html>. A video recording is archived at <https://www.youtube.com/channel/UCI00z0Zgdmz4y1FoI0l7CJA>.

Special Meeting—Call to Order and Attendance: Mayor Niehaus called the Special City Council Meeting to order at 9:06 a.m. Participating remotely were Councilmembers Mike Duncan, Tawny Knuteson-Boyd, Rani Derasary, Kalen Jones, and Karen Guzman-Newton. City staff participating remotely were City Manager Joel Linares, Assistant City Manager Carly Castle, City Attorney Laurie Simonson, Finance Director Klint York, Water Superintendent Levi Jones, and City Recorder Sommar Johnson. Also participating remotely was Moab Country Club Board Member Ross Tabberer with the Moab Golf Course.

Resolution 29 -2020: A Resolution Continuing the Declaration of Local Emergency Due to COVID-19 Novel Coronavirus – Approved

Discussion: Councilmember Guzman-Newton asked how long we expect to extend the emergency declaration. City Manager Linares said it is ultimately up to the City Council to decide. He said the emergency management act states that once a state of emergency is declared it has to be renewed every 30 days. He believes it needs to remain in place until COVID-19 has peaked in our area.

Councilmember Duncan asked Mayor Niehaus about questions she has received from business owners about the order. Mayor Niehaus said communications from City Hall are consistent with those from the Southeast Utah Health Department, Moab Regional Hospital, and other related agencies. City Manager Linares clarified that this order gives the City Manager and administration emergency management powers to make decisions in real-time. He said this order is separate from the Health Department and does not contain the same health directives regarding facial coverings or closures. Councilmember Derasary said her understanding of this emergency order is that it enables us to apply for federal and state funding.

Councilmember Guzman-Newton asked if the order allows the City Manager to close city departments. She said there is discussion in the community that the MRAC cannot open because it has not come before the City Council. City Manager Linares said he has the authority to open, close, and restructure departments outside of the order. He explained that some of the problems with opening the MRAC include staffing and the associated costs as well as providing a clean and safe environment. He said the MRAC has separate health and safety issues covered under the current health order and said the cost to allow a limited number of individuals to enter is astronomical.

Councilmember Derasary said it was her understanding that there is overlap with health department orders and under COVID-19, the Health Department has the authority to determine use of the pools. City Manager Linares confirmed that under the current health order private pools are not allowed to open but the Health Department has given authority for municipal pools and gyms to open. However, he said, there are other things to consider when deciding to open the MRAC, including the COVID-19 peak in our area.

Motion: Councilmember Knuteson-Boyd moved to approve Resolution 29-2020, A Resolution Continuing the Declaration of Local Emergency Due to COVID-19 Novel Coronavirus. Councilmember Guzman-Newton seconded the motion.

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

Resolution 28-2020: A Resolution Approving the Golf Course Lease Agreement - Approved

Discussion: Councilmember Jones asked why the parking lot and clubhouse were excluded from the legal description in the contract and then discovered those parcels are owned by the Moab Country Club. Councilmember Duncan asked if a fee can be assessed on profits from the clubhouse if it is not included in the legal description. City Attorney Simonson said the contract does not exclude profits from the clubhouse.

City Attorney Simonson highlighted some of the changes requested by City Council that were made to the Golf Course Lease Agreement including reformatting the legal description and mapping it to be included as “Exhibit A” to the contract, reporting deadlines, updates, defining profit, and requiring an independent financial review.

City Attorney Simonson also noted a couple of changes requested by the Golf Course including updated reporting deadlines and the independent financial review requirement. She said in her discussions with Ross Tabberer with the Moab Golf Course, they requested a change to the reporting deadline to February 15. She explained their board meeting occurs on the last Monday in January and this change will allow their board to review and approve the financial statements before they are presented to the City Council. She also explained that the contract currently calls for an independent financial review each year of the Golf Course’s financial statements. She said in her discussions with Mr. Tabberer, the Golf Course has an accounting firm that prepares their financial statements and requested that an independent financial review be requested instead of required due to additional costs involved.

Mayor Niehaus asked City Attorney Simonson if she would like to ask those questions of the City Council. Councilmembers agreed to change the reporting deadline to February 15 and agreed that an independent financial review could be requested instead of required.

Councilmember Guzman-Newton said she is not interested in making a judgement on their green fees and said considering that they are non-profit she asked if there is a reason for review of the fees. City Attorney Simonson said it is simply part of their reporting. City Manager Linares said that was part of the original 1959 agreement but does not see a reason to continue, especially since they are not-for-profit and responsible for their own bottom line.

Councilmember Derasary asked if there is a legal advantage to leaving a review of green fees in the agreement. City Attorney Simonson said there is no harm in leaving the review of the green fees as part of their reporting requirement and if City Council does not feel that is working, they can modify the contract. Councilmember Duncan said he feels the Golf Course would set green fees at a reasonable, competitive level and would not expect City Council to act on it.

Councilmember Knuteson-Boyd said she thinks it is worth leaving in because it gives the City Council an idea of what is being charged. She said there have been several meetings where we hear our fees are the lowest in the state and it can be a point to watch.

Councilmember Derasary asked about the requirement for 365 days' notice for termination and asked if there were scenarios where a year would be too much. City Attorney Simonson said she did not think there were any and said the discussion about a years' notice was fair for both the city and golf course. City Manager Linares said the only scenario for early or immediate termination would be if they cause problems for the watershed protection area and that clause is included in the contract. He said any other reason will require enough notice to terminate the agreement.

Councilmember Derasary wondered if there was value in asking the water board if there is anything else the City Council should monitor or consider. City Manager Linares said that it would not hurt to ask but he did not think the agreement should be held up because of it. He said Ross and Rob from the Golf Course have provided them with everything they have requested, and they are just as much concerned about protecting the watershed as the City.

Councilmember Duncan said the County differentiates between irrigation water and culinary water that comes out of Ken's Lake and said the latter is much more expensive. He said if the Golf Course gets irrigation water out of Ken's Lake, it is unlikely they will buy any water from the City at the commercial rate.

Councilmember Jones thanked staff for changes and thanked Moab Country Club for providing this service to our community.

Motion: Councilmember Guzman Newton moved to approve Resolution 28-2020 approving the Golf Course Lease Agreement with the changing the dates for reporting from January 31 to February 15 and grammatical corrections in the document. Councilmember Derasary seconded the motion.

City Attorney Simonson asked if the motion should include the discussion regarding the independent financial review at the discretion of the City Council rather than automatically.

Councilmember Guzman-Newton amended her motion to include an independent financial review at the discretion of the City Council. Councilmember Derasary seconded the amended motion.

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

Budget Update: Mayor Niehaus clarified for the City Council and members of the public that because this is a special meeting, the budget update will be brief, and a more detailed update would take place during the regular meeting. Finance Director York stated he is reviewing the tentative budget and crunching numbers and said it looks like there is a 20-30% loss of revenue.

Councilmember Derasary said she received questions from the community regarding recreation and the aquatic center and asked if there would be more discussion on Tuesday. Finance Director York said that would be discussed in detail during the regular meeting.

Councilmember Derasary asked about agenda summaries for the public hearings. City Manager Linares said the packet would be updated to include agenda summaries. Councilmember Derasary asked if the public hearing would be handled the same way as Citizens to be Heard. Mayor Niehaus confirmed the process would be the same.

Councilmember Knuteson-Boyd thanked staff for all the work they have put into the budget.

Adjournment: Councilmember Duncan moved to adjourn the meeting. Councilmember Knuteson-Boyd seconded the motion. The motion passed unanimously. Mayor Niehaus adjourned the meeting at 9:47 a.m.

APPROVED: _____
Emily S. Niehaus, Mayor

ATTEST: _____
Sommar Johnson, City Recorder