

**MINUTES OF MORGAN CITY
COUNCIL HYBRID MEETING**

AUGUST 10, 2021; 6:11 P.M.

**MAYOR AND COUNCILMEMBERS
PRESENT IN-PERSON:**

**Mayor Ray W. Little, Tony London, Eric Turner,
Jeffery Richins, and Dave Alexander**

STAFF PRESENT IN-PERSON:

**Ty Bailey, City Manager; Gary Crane, City Attorney;
Lance Prescott, Street Supervisor; and Denise Woods**

EXCUSED:

Jeff Wardell

OTHERS PRESENT:

Jon Cannon, Greg Harsha

This public meeting was held in a ‘hybrid’ in person / electronic format in accordance with House Bill 5002, Open and Public Meetings Act Amendments, signed into law on June 25, 2020. In-person attendance was allowed in the Morgan City Council Room at 90 West Young Street, Morgan, Utah. In consideration of the COVID-19 pandemic and to accommodate social distancing, attendance was monitored and limited to 12 individuals. Public participation was allowed via ZOOM and the meeting was streamed live on YouTube and available for viewing on the City’s website – morgancityut.org.

This meeting was called to order by Mayor Ray W. Little.

The pledge of allegiance was led by Ty Bailey, City Manager.

The opening ceremony was presented by Councilmember London.

MINUTES AND WARRANTS

MOTION: Councilmember Alexander moved to approve the following:
Minutes of the City Council Special Hybrid Meeting – June 10, 2021;
Minutes of the City Council Hybrid Meeting – June 22, 2021;
Minutes of the City Council Hybrid Meeting – July 13, 2021; and
Warrants.

SECOND: Councilmember Richins

The vote was unanimous to approve the minutes as written and one set of warrants; Councilmember Wardell was absent

CITIZEN COMMENTS

No request for citizen comments was received.

NEW BUSINESS

PETITION TO MORGAN CITY COUNCIL FOR EXTRATERRITORIAL WATER SERVICE – JON CANNON

Jon Cannon stated he had spoken with Dave Rich, Morgan County Fire Department, and Chad Kramer, Morgan City Water Senior Operator. He stated Dave mentioned it would be very helpful for fire protection if a fire hydrant was installed at the end of the waterline and Chad said a fire hydrant would provide a way to blow out the waterline. Jon explained the current waterline had provided water to an existing residence for a long time but needed to be moved because it ran through his property. There was a discussion regarding the meter and the lateral to the home. He said the meter was on his property and the lateral ran across his property. He stated when he piped the irrigation ditch the waterline needed to be moved. He explained if the petition wasn't approved, they would go forward with the project and dig wells, but the City's waterline still needed to be moved off his property. He stated it didn't make sense for him to move the City's waterline, record an easement and install a new lateral to the existing home and then drill two or three wells on the property. He didn't like the idea of drilling a well when City water was currently in the area.

Gary Crane, City Attorney, said the major concern was the City needed to determine the City's policy for extending extraterritorial services going forward. There used to be a provision in state law which stated all urban development should take place in cities while rural development should remain in the counties. He stated it was the purpose of the City to provide urban services such as water and sewer. He strongly encouraged annexation prior to extending City services. He stated the purpose of annexation was so anyone who wanted to subdivide property for the purpose of building homes would all be under the same rules and requirements and would be required to comply with City ordinances. He stated in the past when a well went dry the City had extended services to those homes and it was the decision of the City Council. But when you had new development coming in which wanted to connect to water service outside the City boundary what were the rules. He stated the City needed to have the same rules for development within the City as they did for developments outside the City, i.e., same size of street, same quality of utilities, etc. He stated if those rules were compromised for somebody wanting to build outside of the City and just connect onto certain utilities, eventually somebody needed to pay to bring it up to the City's standard, and usually it would be the City who would pay. He said when the sewer became available in the area it needed to be connected to the homes and it would go under a road. If the development was within the City boundaries the developer would be required to build and connect to the sewer now. He said if the City agreed to allow for connection to water service now and connection to sewer later, the question was once the homes were inhabited who was going to pay to put the necessary infrastructure in when they want to be annexed into the City. The City would pay for those connections.

Gary explained it was the decision of the City Council whether or not the extraterritorial extension of services was permitted. He strongly suggested the City needed a general policy as to whether or not development should occur outside the City with extension of services or wait until the home(s) are annexed into the City. He explained annexation was the City's strongest point because the City could ask for the installation of the infrastructure for all utility services. Annexation was the City's opportunity to get everything our citizens would have to otherwise pay for.

Mayor referenced a letter dated August 29, 1983, which stated the only residents outside the City limits to be served with City utilities would be in accordance with state law. He asked if there was a current state code which allowed connections to City utilities.

Gary said the exception was the law allowed the City to extend services outside the City limits and charge more for those services.

Jon stated the petition outlined the costs and they would be paying more for those services than a City resident paid. He stated from a cost perspective it wasn't saving him any money to connect to City water versus digging wells. He mentioned the housing shortage and especially the affordable housing shortage. He stated there was a housing crisis in the State of Utah and especially in Morgan. He stated there were unique situations outside the City boundary and a 'one shoe fits all' policy wouldn't benefit those individual situations. He stated if the Council denied the petition, they would still be able to meet the requirements and build the homes. He stated the waterline needed to be dealt with and he wouldn't make the City deal with moving the line.

There was a discussion regarding the waterline being a private line. From the meter back would be the City's portion of the line, but both the meter and the line were on Jon's property.

A map was displayed showing the location of the City boundary, the water meter, and the portion of the City's line extending outside the City boundary. The waterline also serviced a couple of homes outside the City boundary along the other side of State Street.

Councilmember London asked if the City annexed property into the City, was it the City's responsibility to provide the infrastructure for the utility services available to the property.

Gary said annexation was the strongest point so the responsibility to provide the infrastructure could be required of the developer when they petitioned the City for annexation, but once the property was annexed into the City the City had the obligation to provide the services. There should be an annexation agreement between the developer and the City which outlined the requirements of the developer in order to annex into the City boundary. He suggested the Council create a policy regarding handling new development wanting to be annexed and also providing service to existing homes outside the City boundary.

Jon asked Gary what the City's obligation was to the current waterline to the existing home.

Gary stated recent changes in state rules didn't provide protection for cities behind the meter anymore. The new state rule change was that a public water provider had to make sure they could provide water all the way to the actual use even if it was behind the meter. He stated the City was responsible for their water system and whoever it serviced by making sure the water was safe to drink.

Jon stated the petition stated they would stub out the sewer lines so if sewer became available through a subdivision across the street it wouldn't be a burden upon the homeowner to connect. He stated his concern was the issue with the waterline had to be resolved, the City needed to be a part of that, and he was going to help and do their part. He stated the waterline needed to be improved and moved and there needed to be an easement so the City would have access to their waterline. He felt there should be some circumstances where exceptions to certain rules were made to allow for affordable housing. He asked if his petition was denied would the City be willing to participate in improving/moving the waterline.

Discussion regarding septic tanks and the requirements of Weber Morgan Health Department and who would be responsible should a tank fail if the water was being provided by a city. The City would ultimately be responsible.

Jon stated he was petitioning for water service because the waterline was already on the property.

Ty Bailey, City Manager, stated the reason why we have this problem was because the City had provided water to homes outside the City limits and outside of annexation. He said it was unfortunate that Jon had to deal with the waterline because it was on his property, but Jon also didn't need to develop right now. He

said it was a timing question for him. At the point of annexation was when it mattered most. He said the City needed to resolve existing issues without creating future ones. He said the City needed a policy outlining when the City would extend service and he suggested it be when property was annexed into the City properly.

Jon summarized his position with the following points:

- Not going to leave the waterline for the City to deal with;
- Not going to turn off water; and
- Would work with the City to resolve the issue with the current waterline regardless of the decision made by Council.

Councilmember London asked if the Council allowed this petition would it essentially set the City's policy for future similar petitions.

Gary stated the best example was what was currently on the property today. The City allowed one connection and now they're coming in and saying the City already allowed one so next time it could be for three, or six. He said the City didn't need to live with things which they had done in the past, whether right or wrong. The City needed to look towards the future and develop a policy which was best for the City.

Ty stated the deciding factors for the Council's decision shouldn't be what terms and conditions there should be before extending water service, but whether or not it should be done outside of annexation or not. He said if the Council desired to create a policy outlining conditions for extending water service the City needed more time to determine what those special circumstances may or may not be, so it was clear and consistent going into the future. He stated his own personal opinion was at the point of annexation so the City could make the most efficient use of all the utilities.

Mayor asked for clarification as to who was responsible for the waterline. The City didn't have a right-of-way through the properties which would allow the City to move the waterline.

Ty stated the City wasn't responsible for moving the waterline because they weren't the one causing the change. The City's responsibility was to continue to provide water to the home it was currently servicing.

Gary stated if the City allowed them on the City's water system and the water was not clean, the Health Department would look to the City (or whoever was providing the water) to fix the problem if the property owner could not afford to fix the issue. He stated when the City allowed something like this, they would ultimately end up paying for it. He stated if a waterline needed to be moved the homeowner was responsible for moving the waterline. He said whenever the City provided water to someone the City took on the responsibility of fixing it and then charging the homeowner afterwards. There was a difference from having to keep the water clean and owning the system. The City took on the responsibility when they provided the water to make sure the homeowner received quality water, but the City wasn't responsible for moving the waterline if needed.

Jon said the current waterline was old and needed to be fixed and replaced.

Gary clarified it wasn't the City's responsibility to fix and replace the waterline. He stated since Jon wanted to put a home on the property, he was responsible for moving the waterline. The City's responsibility was to make sure the water was potable.

MOTION: Councilmember Turner moved to table the Petition for Extraterritorial Water Service submitted by Jon Cannon until August 24, 2021 and to have a work session for discussion of the matter.

SECOND: No second – Motion died for lack of a second.

MOTION: Councilmember Richins moved to deny the Petition for Extraterritorial Water Service submitted by Jon Cannon.

SECOND: Councilmember London

Discussion on the Motion: Ty asked if the motion failed again would there be a timeframe when you could bring the item back to Council.

Gary stated the petitioner could reapply to the City and there wasn't a timeframe for doing so.

ROLL CALL VOTE: Dave Alexander – nay
Jeffery Richins – aye
Jeff Wardell – absent
Tony London – aye
Eric Turner – nay

Mayor – nay

Vote was 2 ayes and 2 nays; Mayor voted nay to break the tie; Motion failed to deny the Petition to Morgan City Council for Extraterritorial Water Service submitted by Jon Cannon.

The motion to table the petition failed and the motion to deny the petition failed so no action was taken.

Gary clarified Jon could request the petition be brought back at a future date. He said as of today it wasn't denied, but it wasn't approved, and this was the type of motion which had to be affirmatively approved in order for Jon to move forward. He stated because all motions failed it could be considered essentially the equivalent of being denied.

Discussion regarding not approving the petition but having a discussion on the matter and possibly working something out regarding the waterline. The City needed a clean break and put an end to allowing these types of connections without annexation.

Jon expressed his appreciation to the Council.

SPECIAL REPORTS

CITY MANAGER

Residential Chickens / Small Farm Animals – Ty asked for general comments from the Council. He stated his concern wasn't the total number of chickens allowed, but the nuisance they caused. Some of the comments from the Council were:

- Wanted to keep the rural atmosphere of Morgan;
- No roosters allowed because hard to train not to be vocal;
- Maximum of six small animals (chickens, rabbits, ducks, etc.);
- Chickens required to be caged to keep them on the property;
- Lot size determined the number of animals (chickens, rabbits, ducks, etc.) allowed;
- Distance from neighboring properties;

- Not a nuisance; and
- Conduct an opinion poll of citizens.

Proposed Street Maintenance Project and Standards – Ty stated a waterline project was completed last year and there had been discussion regarding curb, gutter, and sidewalk in the area. He said the City had received a sidewalk grant and was going to start in the spring.

Lance Prescott, Street Supervisor, stated he had worked with Matt Hartvigsen, City Engineer, on a new concept for curb and gutter. A drawing showing the new concept was displayed. He said the City planned to do an overlay and a level course after the waterline project, but then the City received the sidewalk grant and there had been discussion on how to finish the street off. Last year, Mark Schmid, Ty and Lance went to Grantsville to look at areas with low impact water systems. He stated there wasn't a storm drain in the area and it would be nearly impossible get the water out to do curb and gutter. He stated curb and gutter would be extremely expensive and could possibly involve pumping which wasn't practical. The new concept was an 18-inch-wide concrete mow-strip along the edge of the road. He stated the concrete mow-strip would protect the edge of the asphalt and help the road to hold up better and this concept could be used to finish off streets in the older area of town. He explained the concept as an 18-inch sloped curve with a slight swale and the sidewalk would actually be approximately 6-inches above the curb. He explained a 6-foot, or 6 ½-foot swale would give some water storage and during a big rainstorm it would contain the water on the street. The area was so flat that pipes under driveways wouldn't run anywhere. He stated the drawing showed an average passenger car would clear the swale and it would be a little deeper than the average drive approach but would also be wider. He displayed an aerial drawing showing the project and the City hoped to put the project out to bid in January.

Councilmember Alexander asked if Lance had seen this type of concept in other cities and if the City Engineer agreed with this concept.

Lance said he hadn't seen this exact concept, but the City Engineer was comfortable with the concept and that it would work. He said there would be some sumps added at the ends because there was a very slight amount of fall in the area. He stated during the winter they would plow right up to the concrete curb and there would be snow storage between the sidewalk and the street in the swale.

Councilmember Turner expressed concern about the grass swale during the drought.

Lance said the swale didn't necessarily need to be grass. The main point was to make sure the area drained.

Councilmember London asked if the homeowner would be required to maintain the area.

Lance said it would be handled like the standard park strips within the City. The homeowner would be responsible for maintenance. He stated if this concept was adopted as a new standard it may not be allowed in a new development because the developer was required to install infrastructure to handle storm water. This was mainly a concept to retrofit some of the older areas within the City.

Mayor stated he liked the concept but expressed a couple of concerns. He stated parking in the swale and using four-wheelers for snow removal could reduce the slope of the swale. He asked if it was necessary for the sidewalk to be that much higher than the concrete mow strip.

Lance stated 100 North didn't have the width for parking on the side of the street. He was concerned about a couple of homes because they didn't have off-street parking and wondered where they would park their cars. He said he pictured cobble rock in the swale area.

Water Update – Ty updated the Council regarding water concerns during the drought. The City was collecting data and trying to validate the data collected. He stated they hadn't noticed a continual drop in the spring flow. He said it was less flow but not necessarily dropped. He stated there was a small spike after the last rainstorm, but we still had work to do to conserve water.

Councilmember Alexander asked if the big outflows had been handled.

Ty stated staff had fixed quite a few leaks and with two of the largest ones fixed, it saved over four million gallons a year. He stated the rate increase went into effect on July 15th and the billing cycle ended on August 15th. The increase for overage would show on the residents September billing statement. He stated they hoped the increase in the overage amounts would inspire residents to look for leaks and get them repaired. He stated the City's intent was to work with the residents and get the leaks repaired.

Discussion regarding future meetings and whether to continue offering the meetings through ZOOM and streaming on YouTube. Discussed the delta variant and the increase in cases. Premature to cancel ZOOM at this point. Mayor pointed out the numbers in Morgan. Morgan's average was 1.7 and hadn't hit the spike like other areas had. Consensus was to continue with both ZOOM and streaming through YouTube.

CLOSED SESSION

MOTION: Councilmember Turner moved to go into a closed session at 8:38 p.m. for the purpose of discussing the purchase, exchange, or lease of real property.

SECOND: Councilmember London

Vote: 4 ayes; Motion passed to go into closed session.

PRESENT: Mayor, City Manager, City Attorney, Recorder, Councilmembers Turner, London, Alexander and Richins

MOTION: Councilmember Richins moved to close the executive session at 9:57 p.m.

SECOND: Councilmember London

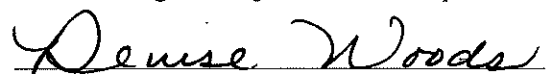
Vote: 4 ayes; Motion passed to close the executive session.

MOTION: Councilmember London moved to open the regular meeting at 9:58 p.m.

SECOND: Councilmember Turner

Vote: 4 ayes; Motion passed to open the regular meeting.

This meeting was adjourned at 9:58 p.m.


Denise Woods, City Recorder

These minutes were approved at the September 14, 2021 meeting.