

**MINUTES OF MORGAN CITY
COUNCIL HYBRID MEETING**

OCTOBER 12, 2021; 6:01 P.M.

MAYOR AND COUNCILMEMBERS

PRESENT IN-PERSON:

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

STAFF PRESENT IN-PERSON:

**Ty Bailey, City Manager; Gary Crane, City Attorney;
and Denise Woods**

OTHERS PRESENT:

**Jordache Wardell and Moroni Wardell, Wardell
Brothers Construction**

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 Councilmember Wardell.

The opening ceremony was presented by Councilmember London.

MINUTES AND WARRANTS

MOTION: Councilmember London moved to approve the following:
Minutes of the City Council Hybrid Meeting – September 14, 2021;
Minutes of the City Council Hybrid Meeting – September 28, 2021; and
Warrants.

SECOND: Councilmember Alexander

The vote was unanimous to approve the minutes as written and one set of warrants.

CITIZEN COMMENTS

No citizen comments were given.

NEW BUSINESS

PUBLIC HEARINGS

- a. Rezone Request from Single-Family Residential (R-1-8) to Multi-Family Residential (RM-15);
Property Located at approximately 759 East 525 North – Ordinance 21-09

- b. General Plan Amendment from Low Density Residential to Medium Density Residential; Property Located at Approximately 759 East 525 North – Ordinance 21-10

MOTION: Councilmember Richins moved to open the public hearing at 6:05 p.m. to discuss the General Plan amendment and rezone of property located at approximately 759 East 525 North.

SECOND: Councilmember London

Discussion on the Motion: None

Vote was 5 ayes; Motion passed unanimously to open the public hearing to discuss the General Plan amendment and rezone of property located at approximately 759 East 525 North.

Public Comments: None.

MOTION: Councilmember Richins moved to close the public hearing at 6:08 p.m. regarding the General Plan amendment and rezone of property located at approximately 759 East 525 North.

SECOND: Councilmember Wardell

Discussion on the Motion: None

Vote was 5 ayes; Motion passed unanimously to close the public hearing regarding the General Plan amendment and rezone of property located at approximately 759 East 525 North.

GENERAL PLAN AMENDMENT FROM LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL; PROPERTY LOCATED AT APPROXIMATELY 759 EAST 525 NORTH – ORDINANCE 21-10

REZONE REQUEST FROM SINGLE-FAMILY RESIDENTIAL (R-1-8) TO MULTI-FAMILY RESIDENTIAL (RM-15); PROPERTY LOCATED AT APPROXIMATELY 759 EAST 525 NORTH – ORDINANCE 21-09

Mayor explained item b, General Plan Amendment from low density residential to medium density residential, would be discussed first. He said the property involved was located at approximately 759 East 525 North, and the property was owned by Barbara Anderson. He said on the current General Plan the property was listed as low density residential and the designation of the property on the zoning map was R-1-8, single family residential. The applicant, Wardell Brothers Construction, had requested an amendment to the General Plan to medium density residential for the property, which allowed for RM-15, Multi-Family Residential.

Councilmember Richins asked if changing one required the other to be changed, i.e., General Plan change didn't automatically require the zoning designation change. The amendment to the General Plan needed to take place before the zone amendment but didn't require the Council amend the zoning.

Mayor said that was correct, but if the General Plan was amended to medium density there would be a discussion regarding what was allowed in medium density. If the amendment to the General Plan didn't pass, the property would stay as low density or single family residential.

Councilmember London asked regarding the access between the properties owned by Harding and Giles. He stated the access couldn't be built out to the standard sixty-foot (60') street. He asked how wide the access could be without encroaching on their properties.

Mayor stated a fifty-foot (50') wide roadway could be put there without encroaching on the resident's property.

Jordache Wardell, Wardell Brothers Construction, said the sixty-foot (60') right-of-way for the standard City road would encroach on the two lower properties which front 700 East. He explained they initially looked at developing the property which was already zoned RM-15, but then if one or two homes were built on the other parcel it would require a full width standard road. By changing the zoning of the other parcel to RM-15, a smaller road could be constructed and not encroach on those two properties. He referenced the map and stated if the Hardy property, which was zoned RM-15, was developed, only a twenty-foot (20') wide road would be required to build five units on the property but it would shut off access to the Anderson piece of property, which was zoned R-1-8. He said as they had studied this project, they felt the two pieces needed to go together in one development.

Councilmember London asked who owned the property (roadway) between the two parcels.

Jordache stated the title search referred to it as a City street so they assumed the City owned the property between the two properties.

Councilmember London asked if they built the development as proposed would the access become a City street.

Jordache clarified the discussion was regarding only the Anderson piece of property because the Hardy property was already zoned RM-15. He stated there were three options for the properties. Below is what he read from staffing notes from the City Planner:

- Build a private lane – this would require the City to give up the right-of-way, or a portion of it, to the applicant. Doing this, however, would raise the question of how the Anderson property would then have access in the future. Not only would the access be owned by the applicant, but City regulations stipulate that a private lane can serve no more than five units, which would all be allocated on the Hardy property. The only way for the Anderson property to have access rights, then, would be to allocate another private lane in the right-of-way.
- Build out 525 North as a public street, but with a narrower fifty-foot (50') width that would be allowed because this is in the Sensitive Lands overlay area (this still entails substantial excavation and disruption of the corner home). This street would then be public and would be maintained by the City, essentially for the benefit of two properties.
- Build out 525 North as a private street, which would still have to be built to City standards, but then would be privately owned and maintained. The City would have to give up ownership of the right-of-way.

The applicant and the Planning Commission both felt the third option (private street) was the best option. The applicant would need to purchase the property from the City or have a development agreement with the City to ensure the road was built to City standards and it would be maintained by the owner of the property.

Jordache explained a private street could be built to a fifty-foot (50') right-of-way and not encroach on the property below but would allow both properties to keep access. It would provide access to the five units on the Hardy property but also allow access to the Anderson property.

Ty Bailey, City Manager, stated the Planning Commission gave a favorable recommendation pending access being available to the properties. He said Wardell's title company did some homework and both the Hardy and Anderson property descriptions reference frontage on a City street. When the property was surveyed it was identified as a City street, but it was never recorded or given a parcel number. He stated after further research the Federal Government granted the property to the mayor at the time so by default the City owned everything which didn't have a parcel number. He stated the City had reasonable assurance at this point the whole purpose of the strip of property was for a City road. The property was sixty-six feet (66') wide and the property descriptions referenced it as a City road.

Councilmember London asked if the property on 525 North was City property, and it ended up being a private street, would the property be deemed surplus property or would the City's intentions need to be publicized in order to be transparent about the sale or conveyance of the property.

Gary Crane, City Attorney, stated if it was a developable parcel of property it needed to go through the Planning Commission and the Planning Commission authorizing the sale of the property and then go out to bid. He said if it was considered a remnant parcel or an unbuildable parcel it was treated differently and didn't require going through the Planning Commission and the Council could approve it as long as it was designated an unbuildable piece of property or remnant parcel of property. He said as far as the value of the property it could be appraised or the Council could determine what fair market value was and then allow anyone interested in purchasing the property to do so. He said the owners of the property behind the current residents would be the logical interested parties to acquire the road/property. He explained the City could also keep an easement over the property similar to the one in Doug Brown's development and have a license agreement between the City and the developer outlining the use and maintenance of the property, the City didn't need to sale the property.

Ty stated the question of access was answered in that there was sufficient access.

Gary asked for clarification regarding the property. Was it currently sixty-six feet (66') wide and was it encroaching on the lots on either side of the street.

Ty stated there was sixty-six feet (66') but one of the home's fence encroached into the street.

Mayor approached the map and pointed out the home which was built almost along the property line and the fence which encroached on the street. He also mentioned the issue with the steep slope above the properties and that it was too steep for a road to meet City standards. He also pointed out the natural gas pipeline in the area. He stated even though the City owned the road up above the properties it was too steep to be used as a road. He stated if the Council decided to sale the property, the integrity of the access to the two properties should be maintained. He said the property was meant for an access to those properties.

Ty said the title search indicated the property was a City street and it established ownership and also intent. He said the work required to establish and transfer ownership would actually happen during the development process.

Gary said the access was an issue, but the Wardell's had done some research, and it did show it as a right-of-way to the City. The City didn't know how it was originally received except that it was received from the Federal Government. He stated there was an access from 700 East to the properties either by bequeathment from the Federal Government to the City or by some other means and the City needed to decide what to give the Wardell's in order to be able to access and develop their properties. He reiterated the City's options – demonstrate ownership by the City and surplus the property and sell it or if the City can't with certainty show ownership of the property, we go by what is on the County Recorder's recorders, which shows it as a City right-of-way and enter into a license agreement with the developer to own, maintain

and use the City's property. He said the Council could move forward with the amendment to the General Plan and zone change because the City could work out the details of the street once the developer finalized their development.

Councilmember Alexander asked for clarification regarding the two options mentioned. He asked if either option required Council approval, i.e., selling the property or license agreement between City and developer.

Gary stated both would require approval from the Council. He explained Section 1.28.020 – Significant Parcel of Real Property of the Morgan Municipal Code outlined the procedure to sell property. The City needed to term the parcel of property as an insignificant parcel or property and then surplus it and sell it. He wasn't sure if the City could get a clear title to sell the property and that would be up to the title company to establish. He stated it would be better to enter into the license agreement with the developer because it didn't raise any issues if the Federal Government were to dispute ownership. There wasn't any record of any deed showing how the City received the property. He explained the City would maintain whatever interest we had on the property by entering into a license agreement. He stated neither scenario required a public hearing.

Councilmember Alexander asked if the right-of-way issue should be worked out before approving the ordinances.

Gary explained if the Council didn't approve the General Plan amendment and the zone change tonight the property would remain the way it was, and the developer couldn't do the maximum number of units on the property without the access issue being resolved. The developer could, however, still move forward with the minor subdivision (five units) on the one parcel of property. He stated even with the RM-15 zoning the developer couldn't develop the other parcel without the access.

Mayor stated the access existed and it was a matter of ownership and how the City transferred ownership. The Council wasn't making a decision as to whether or not to provide access – it was already there.

Jordache referenced the staff notes from the Planning Commission which stated:

The Anderson property was, at one time, zoned RM-15, but at some point, in the recent past was rezoned to R-1-8.

Jordache stated there was access and they could development the property per the current zoning.

Councilmember Turner stated there wasn't access since the City owned the property which would be needed for the access road.

Jordache stated the legal descriptions for the properties referenced they had access to a public road.

Gary stated the descriptions might mention access to a public road, but the deeds didn't convey property for the access.

Mayor and Councilmember Turner mentioned the two pieces of property would be landlocked without the City's piece of property.

Councilmember London asked if 825 East was a City road and if it could be used as an access to the property.

Mayor said it was a City road, but the City didn't maintain it. He stated the property was too steep to access the properties being discussed.

Councilmember London mentioned the home at 590 East sat on the property line.

Discussion regarding selling the property for fair market value and rectifying the issue regarding the home at 590 East being on the property line, i.e., deed a portion of the City's property to the owner of 590 East. There was enough property owned by the City to allow a private drive and give some property to the owner of 590 East.

Gary stated the license agreement would also allow the owner of 590 East to use the City's property.

Councilmember London stated he didn't want to turn a piece of property over to a developer just to do what they wanted.

Councilmember Turner referenced the map and the property above which was zoned RM-15 and it seemed like the Hardy parcel had been spot zoned. He asked how it happened.

Ty explained how the Hardy property ended up being zoned RM-15. It was during the development of the patio homes along 700 East. At one time the zone was contiguous.

Councilmember Turner expressed his concern as to whether the RM-15 zone fit into the area. He had spoken to some neighbors and they expressed their concern about how fast Morgan was growing.

Mayor stated in order for the City to impose a moratorium on building it needed to meet the criteria of whether or not one of the utilities couldn't handle the current growth and the City also had to have plans in place to fix the utility. He stated people had rights to do with their property as they wished. If it was zoned a certain way, they had the right to develop it as that zone.

Ty stated at the public hearing during Planning Commission traffic was the issue mentioned not the density of the property.

Councilmember London said if Wardell's put in a private lane to the property zoned RM-15 the Anderson property would be landlocked.

Ty stated either property developed independently of the other caused a negative impact. He said it was unique that both properties were for sale at the exact same time and have a chance to develop both sides of the street at the same time. He stated the City tried to minimize negative impacts to properties if possible.

Councilmember Alexander stated from the discussion tonight and from the Planning Commission recommendation the changes are consistent with the existing use and zoning of the property.

MOTION: Councilmember Alexander moved to adopt Ordinance 21-10 – An ordinance amending the General Plan for Morgan City by amending the land use element of the General Plan for the area located at approximately 759 East 525 North from low density residential to medium density residential; providing for repealer; providing for severability; and providing for an effective date.

SECOND: Councilmember Richins

Discussion on the Motion: Councilmember London stated on the record he was okay with the General Plan amendment and rezone but wanted to make sure the City was very transparent with what they were doing with the property for the access.

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

Vote was 4 ayes and 1 nay; Motion passed to adopt Ordinance 21-10 – An ordinance amending the General Plan for Morgan City by amending the land use element of the General Plan for the area located at approximately 759 East 525 North from low density residential to medium density residential; providing for repealer; providing for severability; and providing for an effective date.

Mayor stated the next item was Ordinance 21-09, which was a zone change to the Anderson property to RM-15.

MOTION: Councilmember Alexander moved to adopt Ordinance 21-09 – An ordinance amending the zoning designation of a portion of property located at approximately 759 East 529 North by changing the zoning designation thereof from single-family residential (R-1-8) to multi-family residential (RM-15); providing for the amendment to the zoning map; providing for repealer, providing for severability; and providing for an effective date.

SECOND: Councilmember Richins

Discussion on the Motion: None

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

Vote was 4 ayes and 1 nay; Motion passed to adopt Ordinance 21-09 – An ordinance amending the zoning designation of a portion of property located at approximately 759 East 529 North by changing the zoning designation thereof from single-family residential (R-1-8) to multi-family residential (RM-15); providing for the amendment to the zoning map; providing for repealer, providing for severability; and providing for an effective date

SPECIAL REPORTS

CITY REPORTS AND BUSINESS

Mayor mentioned the state redistricting meeting to be held on Friday, October 15, 2021, at 6:00 p.m. in Layton, Utah, for the redistricting of the state legislature.

Mayor reminded the Council there was still time to give input regarding the new General Plan Amendment for the City/County. He stated after the new General Plan was adopted the City Planning Commission and City Council would determine how the City wanted to implement the new General Plan.

Mutual Aid Agreement with Rocky Mountain Power – Ty updated the Council regarding the Mutual Aid Agreement which had been signed.

FEMA – Ty stated the City was finishing the process of submitting the final documents to FEMA for reimbursement for the wind event from September 2020. The City consolidated everything into two projects.

Councilmember Turner stated historically, the Recreation Board consisted of representatives from the School District, County and City combined. The County became the agent for the funds collected through the RAMP tax and a Director was hired and she had become a County employee. In attendance at the last Recreation Board meeting was, legal counsel, their secretary, and three County Council members and they proceeded to inform everyone else at the meeting that it was now a County program, and the current contract was null and void, so the three remaining members of the Recreation Board left the meeting. He said officially now there was a Morgan County Recreation Department.

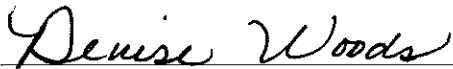
Councilmember London said while doing his campaign several items were brought to his attention.

- Residents on equal pay who develop a leak wouldn't see the increase of water usage on their bill for a while because they're not looking at their bill, but eventually they needed to pay the overage amount. He had been asked if the City could monitor the billings and notify property owners when they had an overage in their usage. Ty stated the City's system was a manual system so it would be difficult to do. He said the City had been monitoring the larger usage amounts. Staff had been helping the residents to find and repair the leaks.
- Law enforcement for Morgan City. He explained the contract the City had with the County and one officer was dedicated to the City. He had been contacted about the lack of law enforcement in the City, particularly on Island Road regarding the speeding. He asked if the City had an accounting from the Sheriff of what the officer did while patrolling the City.

Ty stated he spoke with the officers and Sheriff regularly and had asked that an officer be monitoring the crosswalk next week after school because of near misses, etc. He asked the Council if they heard of safety concerns please let him know so he could communicate any issues to the County.

The business trunk-or-treat will be held on October 30th from 4:00 p.m. to 6:00 p.m. Hometown Christmas would be held on December 4th from 2:00 p.m. to 6:00 p.m.

This meeting was adjourned at 7:40 p.m.


Denise Woods, City Recorder

These minutes were approved at the November 9, 2021 meeting.