

MINUTES
ENOCH CITY COUNCIL
May 6, 2015 at 6:00pm
City Council Chambers
City Offices, 900 E. Midvalley Road

Members present:

Mayor Robert Rasmussen
Council Member Destry Griffiths
Council Member Steve Johnson
Council Member Kirk Lovell
Council Member Gary Wilcken
Council Member Mike Olenslager

Staff present:

Julie Watson, Recorder
Dan Jessen, Treasurer
Gary Kuhlmann, City Atty.
Earl Gibson, Pub.Works
Jackson Ames, PD Chief
Robert Dotson, City Manager

Public present: Kay Ayers, David Owens, Donna & Michelle Pritchard, Dilworth Armstrong, Angela Pool-Funai, Aidan Funai, Rob Lee, Andrew Burt, Jolene Lee, Bob Gaul, Brent Taylor, Brent Gillis, Jim Allen, Pat Reed, Ray Whittier, Spencer Jones, Carolyn Olenslager and Cassie Easley

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-By Mayor Rasmussen at 6:00pm.** He welcomed the audience. Council Member Lovell was excused due to work.
2.
 - a. **Pledge of Allegiance-Led by Council Member Wilcken**
 - b. **Invocation-Audience invited to participate-Given by Chief Ames**
 - c. **Approval of Agenda for May 6, 2015-Motion to approve agenda by Council Member Wilcken. Motion seconded by Council Member Johnson and all voted in favor**
 - d. **Approval of Minutes for April 15, 2015-Motion to approve minutes by Council Member Olenslager. Motion seconded by Council Member Griffiths and all voted in favor**
 - e. **Conflict of Interest Declaration for this agenda-none stated**

2. **DISCUSS GATEWAY PREPARATORY ACADEMY 21ST CENTURY GRANT PARTNERSHIP PROPOSAL-Robyn Lee and Andrew Burt**

Mayor Rasmussen invited the Gateway representatives to tell the City Council about this. Rob Lee said he is the director of after school programs and Andrew Burt is the principal. They have an opportunity to write a grant for after school programs worth about \$150,000 to \$200,000 for a five-year period. They have been encouraged to apply by the State. It strengthens their position if they have partners so they are looking to the City. They explained they handle all of the financial side of this grant. The City is not being asked to fund anything but only to appoint a representative to be on their review board. They also ask the City to provide a back-up meeting location, such as the library in the event some emergency prevents the after school events being held at the Gateway Academy. The City may also be asked to help with information distribution such as in the newsletter. They explained more about how the grant works and that any student may use this after school program, not just students of Gateway. Mayor Rasmussen asked about the program and was told the focus is academics and also activities like STEM programs, athletics and club programs. There is a parenting and family resource center with counseling services for families. They said an issue for many families is child care while parents work. This is designed to go into the evening until 6:00pm to help with that.

Council Member Griffiths's said his concern is fairness for all. Council Member Johnson said their school has been a blessing and he cited good things they have done for the community.

Council Member Wilcken expressed concerns that families should have the responsibility of caring for and teaching their children rather than the government doing that.

It was explained this is a federal grant administered through the state. What they found in their experience is that many kids don't have parents at home after school. This program gives them a place to go and some supervision. The program also has summer activities. Council Member Johnson said it sounds good and he is glad they have other partners adding he thinks things like this should come from citizens and not government being involved in education. Robyn said without our partnership they probably will not get the grant.

3. RESOLUTION NO 2015-05-06 A RESOLUTION IN SUPPORT OF GATEWAY PREPARATORY ACADEMY 21ST CENTURY GRANT PARTNERSHIP PROPOSAL

Mayor Rasmussen asked for a motion. **Council Member Olenlager made a motion to approve Resolution No. 2015-06-06, a resolution in support of Gateway Preparatory Academy 21st Century Grant partnership proposal. Motion was seconded by Council Member Griffiths and a roll call vote was held as follows:**

Council Member Griffiths-no	Council Member Olenlager-yes
Council Member Johnson-no	Council Member Wilcken-no
Council Member Lovell-absent	Motion defeated 3 to 1

4. DISCUSS AND APPROVE 2015-2016 TENTATIVE BUDGET AND SET A PUBLIC HEARING FOR MAY 20, 2015

Mayor Rasmussen said the purpose is to approve a tentative budget to start this process. He asked if there was any further discussion on the tentative budget and there was none. Mayor Rasmussen asked for a motion. **Council Member Olenlager made a motion to approve the tentative budget and set a public hearing for May 20, 2015. Motion was seconded by Council Member Wilcken and all voted in favor.**

5. ADJOURN REGULAR MEETING AND GO INTO CDRA MEETING

Mayor Rasmussen asked for a motion to end the regular meeting and go into the CDRA meeting. **Council Member Wilcken so moved. Motion was seconded by Council Member Olenlager and all voted in favor.** The regular meeting was adjourned at 6:25pm. The Council returned to regular session at 6:36pm.

6. ORDINANCE NO. 2015-05-06 AN ORDINANCE APPROVING THE ENOCH COMMUNITY DEVELOPMENT PROJECT PLAN AREA

Mayor Rasmussen said the City Council has an ordinance to pass for the CDRA project plan area and asked for motion. **Council Member Wilcken made a motion to approve Ordinance No. 2015-06-15, an ordinance approving the Enoch Community Development Project Plan Area. Motion was seconded by Council Member Johnson and a roll call vote was held as follows:**

Council Member Griffiths-yes	Council Member Olenlager-yes
Council Member Johnson-yes	Council Member Wilcken-yes
Council Member Lovell-absent	Motion passed

7. DISCUSS NUISANCE ORDINANCE AND SET A PUBLIC HEARING

Mayor Rasmussen asked City Manager Dotson and Chief Ames to tell the City Council what they are proposing. City Manager Dotson said we have been working on this for years trying to get the ordinance workable. We have nuisance complaints come in often. We have issues with definitions and our ability to enforce the ordinance as it is currently written. City

Manager Dotson explained nuisances are addressed in several places within the Code of Revised Ordinances and they are suggesting moving most everything from Chapter 10 into Chapter 13. He referred to the packet where he has made “strikethroughs” with new text shown underlined. A good place to start is to consolidate nuisances into one chapter.

The next issue is definitions. Chief Ames said there are public nuisances and regular nuisances. Public nuisances affect more than one person. The current definitions are very broad and very subjective. Some suggested changes have been added and it is a lot of information to sort through. City Manager Dotson said basically what we have is Chapter 13 is offences against health and safety. Chapter 10 was nuisances in two different places. It fits better in Chapter 13. City Manager Dotson said the changes noted are based on our experiences. Chief Ames thought a public hearing would be good to hold although not required by law. He wants the public involved to comment with their experiences. City Manager Dotson highlighted more changes and there was discussion about the pressing need for definitions. A starting point is to get the City Council’s and the public’s thoughts on the definition of a nuisance. Also we have to be able to enforce what we have in the ordinance and it has to be realistic in regard to the resources the City has and does not have.

There was extensive discussion on weeds. Due to City resources, or lack thereof, it is not practical to try to enforce any weed mitigation other than regarding “noxious” weeds as defined by the State. There is an expectation that the City will do something about this however everyone has types of common weeds in their yards and it is not realistic to require perfection on their removal. Chief Ames said we get lots of complaints on weeds. Our ordinance currently says the City will mitigate the weeds and charge the property owner if the owner does not do it after being notified. We have never done that and don’t have the resources to do that.

Chapter 10 was left only covering abatement of dangerous buildings. City Manager Dotson cited an ongoing problem the City has had for many, many years with one property as an example of how hard this can be to deal with. When we are dealing with dangerous buildings our building inspector should be involved in tandem with the police chief because he is now trained specifically on this issue. He is certified to go anywhere in the country to aid in disasters involving condemning buildings.

There was more discussion of the new text in 13-1085 “Duty of Maintenance of Private Property” regarding the diminution in the value of property. This comes up a lot. Some say their house did not sell due to their neighbor’s property. There is an expectation the City will do something however when someone has property appraised they did not appraise based on the neighbors but only on that home and comparable homes to it. That can be substantiated. How should the City deal with that?

Chief Ames said some nuisances are an infraction, some Class C and some Class B misdemeanors. Not all nuisances are criminal; some are civil matters. Chief Ames said in civil actions we can file for a lien on property to reclaim costs and the ordinance allows for this. The PD deals with criminal actions too. If you violate, we will cite you. So there are two different structures here. He would like the Council to decide where they want to go with this in terms of going after people.

Council Member Johnson asked if we have to prove in court what we are citing people for. City Attorney Kuhlmann gave examples regarding the breadth of nuisances, such as, drug houses. Much of our language comes from State law. The Court decides many things, City Attorney Kuhlmann said. We have a process for abating buildings and weeds and that does not have to go to court to prove anything first. Offenders are given the opportunity to fix it and they can appeal and it depends on what it is. City Attorney Kuhlmann gave the example of a dangerous building that was abated in St. George. The building was not dangerous in that it was falling down, but that the homeless were living there and it was full of rodents and other pests deleterious to health. How far does the Council want to go? Civil and criminal can work hand in

hand. In criminal cases for nuisances the goal is to get compliance. Sometimes we are asking the judge to order them to fix the problem and then it is in the courts purview to get compliance. Chief Ames said as we try to enforce nuisance mitigation our goal is to work with people to get compliance. They need to see progress on the problem and they need definition in the ordinance. We need to clearly give notice in a letter of what the exact violation is and what to do to fix it including giving notice of appeals and hearing processes too.

There were other items discussed like time frames for compliance that needs to be considered. Everything goes back to definition of a nuisance. Most agreed we want the community to look good and not be junky but it is hard to quantify that. It is not clear cut like speeding violations. Right now this process is driven by complaints. Council Member Johnson said it is risky to pass laws on subjective things. Council Member Wilcken said tonight was a start to this discussion. City Manager Dotson said the content has been rearranged so it makes more sense because items that are alike are together now. They can add or subtract from the content. Mayor Rasmussen said if we involve the public we need this in a form they can read. City Manager Dotson said he would get something on the website. Before we try to narrow it down we want public input so we get a feel for what they would like Council Member Johnson said. City Manager Dotson said the City Council will decide how to go forward. He and Chief Ames have made suggestions for a logical order and some changes in language based on experience.

Chief Ames said our current law does not work. Our residents come in and tell them they are not doing their job after reading our ordinance. Chief Ames said they have no resources to abate anything as current code calls for. The PD is caught in the crosshairs and it is perceived they are being selective in enforcement so they are in a bind. Council Member Wilcken asked if they can go on property without a warrant or a judgment signed by a judge. City Attorney Kuhlmann said it depends. Criminal nuisances are different than other nuisances. Building officials can go on property to inspect without a warrant. He cited a St. George lawsuit currently in the courts where City inspectors went onto property for nuisances and are being sued. City Manager Dotson told about our City policy where employees are to knock on the door and show ID when going onto property for whatever reason. Chief Ames said we do not want to open ourselves up to lawsuits. Chief Ames said he is trying to compact and reduce this ordinance to simplify it as a starting point.

How to define a nuisance is the hard part because it is so subjective. Maybe that can't be avoided. We have to take a stand somewhere to define what is generally agreed on by the majority of people. Council Member Wilcken suggested in next meeting we hold a public hearing to get input and maybe even do that again after we get the final form of the ordinance.

There was some discussion of trying to conduct a survey but decided that maybe after more discussion when we can develop some specific questions to ask the public in survey it might be more effective. Chief Ames said there are other nuisances that fall outside of these two chapters like where it states we have a health inspector for mold and a board of health and we have none of that. That role is filled by the SW Utah Public Health Department and we should reference that in the ordinance. It was noted that when this ordinance was adopted we used a lot of what was already tested in other cities however it needs to make sense for us now.

Council Member Wilcken made a motion to set a public hearing for the next meeting. Council Member Griffiths seconded the motion and all voted in favor.

The public hearing will be noticed and City Manager Dotson will make the changes discussed tonight and post the text on the website for public review and comment.

8. PUBLIC COMMENTS-Mayor Rasmussen invited public comments.

Donna Pritchard said she want to go on record as being disappointed they voted down the Gateway grant. She was glad to hear about the Enoch Station project since first hearing talk about

it 12 years ago. She was saddened to see amount of flooding in light of the drainage project to alleviate the problem as it did not help them in the heavy rain.

Bob Graul commented on the on nuisance ordinance saying two weeks ago there was a fire in a shed near Maple Lane with high winds. If there had been any buildings closer to it they would have burned too. He commented on an abandoned trailer by Maple Lane that is an attractive nuisance inviting exploration by kids. He said it is hard to avoid hitting chickens by Minersville and Blue Sky and junk in yards does affect property values. The handling of complaints is a concern. His neighbor complained about loud music and received retaliation for the people he complained about. He said he owns property on Leigh Hill with a homeowners association. They mow weeds in unkempt property and lien the property for the cost.

Brent Gillis commented on the nuisance in a neighbor's yard where they clean outhouses in the yard. It is a sanitary problem and neighbors have witnessed pallets of chemicals being delivered there. It causes flies and it infringes on the neighbors. He is hoping we follow through with the citations this neighbor has been told he will receive if the out houses are not removed. This has been problematic for years. Enoch needs backbone to enforce nuisances that infringe on other property owners.

Kay Ayers said she was disappointed about the vote against the Gateway program which would have been good for kids. Regarding nuisances she would like to have PD officers put orange tow stickers on junk cars without having to fill out a specific complaint form to get it done.

9. CORRESPONDENCE-none

10. COUNCIL/STAFF REPORTS

Council Member Wilcken said he wanted to go on record to state something about Half Mile Road. People are upset about the mud. He confirmed the City is doing the best we can and plan to do the paving when asphalt becomes available which happens when temperatures allow. We do appreciate what folks have been through. He questioned what happened in the rainstorm last night and how the drainage system worked. City Manager Dotson said perhaps due to lack of communication the storm drain system was not meant to fix all of Enoch's problems. A lot of rain fell quickly. However we had no reports of homes damaged although there was some water in window wells that came from individual property and not the roads. The rain water coming from I-15 and Highway 91 was captured as planned into the inlet structure and none went over the road. That was huge. He gave more explanation of how it worked. We are not done with fixing drainage issues and are building up resources with the drainage enterprise fund. We will put in grated manholes when the road is fixed but not drop boxes. With the new drainage system folks have the expectation that there won't be any water running down the roads and that is not realistic. This money was for a specific project and we still have options to do more pinpointed projects. No homes were flooded but there are still challenges and improvements will come but not quickly.

Council Member Olenslager reported the PD responded to 1017 calls so far in 2015 and are handling 302 cases up so they are busy.

Mayor Rasmussen reminded everyone that beautification clean-up days are this Friday and Saturday and the City dumpsters will be available both days until 4:30pm.

David Owens of the EDC said they have work for the City Council to do now that the CDRA project area plan was passed. They have been working for several months on the architectural design plan of what we want buildings to look like in commercial zones all over Enoch. When businesses come in we give them these guidelines and requirements. The committee has spent hundreds of hours figuring this out. It will go to the Planning Commission first and they will make a recommendation to the City Council. He said the second annual Business Fair is on

Saturday May 16th at Enoch Elementary and he told about the programs being given for emergency preparedness for business and other things.

City Manager Dotson said it is time to think about the 4th of July Fun Run asking if we want Council Member Lovell to do that again. Referring to the comment about the fire by Maple Lane the owners want to clean it up and requested that the Fire Department burn it for training. They can't do that with EPA rules so they will dispose of the old barn wood hoping to find people to scavenge it for crafts and so on. He met with the owner last week and they are working through that. He said he and Dave Nelson were invited to a prairie dog meeting to go over the new rules. A federal judge has ruled in favor of PETPO in a lawsuit saying that prairie dogs are not covered under the Interstate Commerce Act because they are found only in Utah so the feds do not have jurisdiction on non-federal property The Division of Natural Resources is now in control of prairie dogs on private land and the new rules come into play on Friday May 8th. They have mapped out the habitat in Enoch and when someone wanted to build they had to apply for "take" which was limited and slowed development. Now if your property is not on mapped territory you just call DWR and tell them how many dogs you "took". He explained it will be better to work with the DWR to trap the dogs and move them so they counted towards the de-listing of the species. Chief Ames said you can legally shoot pellet guns or BB guns within city limits however moving prairie dogs is encouraged and preferred.

11. CLOSED EXECUTIVE SESSION REQUESTED-(Requires a roll call vote w 2/3 majority)
Mayor Rasmussen asked for a motion to go into executive session to discuss two items, the purchase of property and possible litigation. **Council Member Wilcken made a motion to end the regular meeting and go into executive session. Motion was seconded by Council Member Johnson and a roll call vote was held as follows:**

Council Member Griffiths-yes

Council Member Olenslager-yes

Council Member Johnson-yes

Council Member Wilcken-yes

Council Member Lovell-absent

Motion passed

The regular meeting ended at 8:15pm.

12. ACTION FROM EXECUTIVE SESSION-none

13. ADJOURN-Meeting adjourned at 8:15pm.

Julie Watson, Recorder

Date