

MINUTES
ENOCH CITY COUNCIL
September 3, 2014 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-phone participation
Council Member Mike Olenslager
Council Member Gary Wilcken

Staff present:

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

Public present: Doug Jones, Donna & Michelle Pritchard, Paul Swapp, David Owens, Leland Freeborn, Roger & Kaci Hill, Kay Ayers, Stan & Cassie Easley, Michael O'Rourke, Rick & Wendy Bonzo, Bill Ball, Ken & Carolyn Bauer, Cathy Wentz, Jolene Lee, Krista Bulloch, Dilworth Armstrong, Tim Watson, Dennis Ayers, Clara Pickett, Gail & Will Arcularius, Kim Savage, LaRae Farmer, Jay & Trish Callaway, Steve Clarke, John Foxx, Michael Eggers, Scott & Stacy Wesdowski, Worth Grimshaw, Chad Horman and Stephen Ashworth

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Mayor Rasmussen at 6:00pm. He welcomed the audience saying two Council Members will be late arriving.
 - a. **Pledge of Allegiance-**Led by Dan Jessen
 - b. **Invocation-**Audience invited to participate-Given by Council Member Johnson
 - c. **Approval of Agenda for September 3, 2014-Motion to approve by Council Member Olenslager. Motion seconded by Council Member Wilcken and all voted in favor.**
 - d. **Approval of Minutes for August 20, 2014-Motion to approve by Council Member Johnson. Motion seconded by Council Member Wilcken and all voted in favor.**
 - e. **Conflict of Interest Declaration for this agenda-**none stated

2. **APPROVE NAMES TO WRITE VOTER INFORMATION PAMPHLET "FOR" AND "AGAINST"**

Mayor Rasmussen said the City will be printing a voter information pamphlet regarding the tax referendum on the November ballot. Individuals were asked to apply to write the arguments "for" and "against" and we received one application from each side. Arguments can be written by a group of people with up to five sponsors signing the argument, one being the applicant. Tonight the Council is approving only the names of those who applied. Written arguments of 500 words or less must be submitted to the City Recorder by 1:00pm on Friday September 12, 2014. It will then be submitted to the County Clerk. Council Member Wilcken clarified these are the only ones who submitted a request and they were not solicited. Names for the record are Brent Davis to write the" FOR" side and Worth & Glenda Grimshaw, Mike & Nina O'Rourke and Debra Ley to write the "AGAINST" side.

Mayor Rasmussen asked for a motion. **Council Member Wilcken so moved to approve the names who submitted letters of request to be the writers of the Voter Information Pamphlet. Motion seconded by Council Member Johnson and all voted in favor.**

3. **DISCUSS CREATING ENTERPRISE FUND FOR DRAINAGE AND CHANGING FEE SCHEDULE**

Mayor Rasmussen said it has been proposed to lower the sewer fee by \$2 and create new drainage fee of \$2 and set up an enterprise fund for drainage. Council Member Wilcken asked about holding a public hearing and was told it is not required. City Attorney Kuhlmann said by law this action has to be passed in a public meeting which this is however this is not a public hearing and no comments can be heard. Dan said Council Member Wilcken wanted to see the dollar impact of reducing the sewer fee and other details and that is in the packet. Council Member Wilcken recapped the discussion from last meeting saying we proposed to reduce the sewer fee by \$2 and create a new enterprise fund for drainage charging \$2 with a net impact of -0- to residents except those

in Chamberlain Subdivision (15) who are not on the sewer system. They would see an increase of \$2 for drainage. This would produce approximately \$42,000 for drainage without raising fees.

There was more discussion of the sewer fund revenue, savings and bond obligations. Council Member Olenslager said he thought we should leave the sewer enterprise fund as is and create a new revenue stream adding this is just a “band aid” fix. We should be upfront about what this really costs and fund it appropriately. There was a concern that if the sewer had an emergency we could find ourselves strapped. There was more discussion of pros and cons and the idea of a “sunset clause” was brought up however City Attorney Kuhlmann said you can’t bind a future City Council with that. Also you cannot have a fund with an end date because then you can’t borrow or bond with it should that become necessary. It was generally agreed drainage needs to be funded and we need to start somewhere. Dan said the sewer company can afford it now. If a disaster comes then who knows. Council Member Olenslager asked City Manager Dotson how this affects us if we have to borrow to fix the sewer in a disaster. He said what you actually have coming in revenue is the deciding factor on what you can borrow. There was more discussion of the actual numbers and how enterprise funds relate to the general fund. Making this change does not make it so there are more expenses than revenue or affect the debt service of the sewer fund. There is less of a buffer is all. It was noted sewer had fewer expenses than in a normal year but historically it has outpaced in revenue vs. expenditures.

Council Member Johnson said we always make adjustments to budgets and it is a mistake to say we are robbing something else. He added staff investigated this and found it to be reasonable. If a big emergency comes then we adjust. Council Member Olenslager said he is suspect of the timing with the referendum vote coming soon. This could be a move to sway voters to say we can do this without a tax increase but this is just a band aid approach. Council Member Wilcken said he brought the idea up and that is not his mindset and never was.

4. RESOLUTION NO. 2014-09-03-A A RESOLUTION CREATING AN ENTERPRISE FUND FOR DRAINAGE, ADOPTING A DRAINAGE FEE AND CHANGING THE FEE SCHEDULE

Mayor Rasmussen asked for a motion. **Council Member Johnson made a motion that we vote to pass Resolution No. 2014-09-03-A, a resolution creating an enterprise fund for drainage, adopting a drainage fee and changing the fee schedule. Motion was seconded by Council Member Wilcken and a roll call vote was held as follows:**

**Council Member Griffiths-no
Council Member Johnson-yes
Council Member Lovell-yes**

**Council Member Olenslager-no
Council Member Wilcken-yes
Motion passed 3 to 2**

Dan added next time we open the budget we will have to adjust it accordingly for this enterprise fee and change to sewer revenue. We will address a possible drainage impact fee later.

5. PUBLIC HEARING REGARDING VEHICLES OVER 35-FEET LONG PARKING ON CITY STREETS

Mayor Rasmussen asked for a motion to enter the public hearing. He asked the public to please not repeat each other’s views and only to express views that are different from what has been stated. **Motion by Council Member Wilcken to enter the public hearing regarding truck parking. Motion was seconded by Council Member Lovell and all voted in favor.**

Dennis Ayers said he is opposed to any change in the ordinance right now. It is adequate and he signed a petition opposed to this change. He said he has been a truck driver before so he understands that side but this is being done only for the convenience of the drivers. Safety is a big item and we’d all be surprised to see what is loaded in trucks. There is leakage at times including poisons that can be delivered by commercial drivers. Also of concern is truck driver’s hours which are not normal business hours. Starting trucks at night in residential areas is bad with diesel engines and exhaust. Generally speaking he sees some drivers parking on private property and they are doing so according to current law. He thinks the Council should look at what the majority wants and leave it as it.

Will Arcularius read a letter from Bruce Lee which is attached for the record. He was against changing the current law and encouraged the Council to represent all residents and not a small group to the detriment of the larger public. Will added he emailed the City Council on this adding he knows what they think in Legacy Estates. It was detrimental that there was a semi illegally parked and the PD did intervene to stop that. His neighbors had a meeting on Thursday night with 32 people there and they are against allowing the parking of trucks on city

streets. He also polled a random sampling of different neighborhoods in Enoch and talked to 80 citizens. 75 did not want commercial parking in the community. Enoch does not have much going for it but we do have a quiet residential area to raise families in safety. He moved here because of that. Referring to Bruce Lee's letter about City Council responsibility, they are expected to consider all of the community and not just a small group. It is not hard to find parking for trucks in this area like JR's Truck stop where all are welcomed. He did his homework and it is an irritation that this would even come forward without someone else doing their homework before bringing this back. He suggested they use email to set up a polling group of a representative sample of residents and when an issue comes up, poll that group.

Michael Eggers said he does not understand the problem. People love to do various things and everything comes on trucks. Where is the safety problem? Drivers know what they are doing and have safe practices and use mufflers on trucks. What about other commercial vehicles like service trucks? They are allowed. Everyone complains about trucks but there is nothing to back it up. All vehicles tear up the roads. He is trying hard to maintain and this is a touchy subject with him. Trucks get broken into at other parking spots and losses come out of their own pocket. Ones that do have security areas charge you to park. Some truckers are here twice a week. He was home every nine weeks when he drove. The public complains about trucks but there is no basis for that.

Ken Bauer said he wanted to address concerns brought up by some people. He cited rules from the Hazardous Materials Compliance book which is federal law. Fear mongering is all this is to keep trucks out of town. He did check before he moved here that he could park at his home. Then they changed the law. When Chief Ames asked him to stop parking by the school he complied immediately. He understood that and it was a compromise that should have been passed last time instead of banning trucks. He addressed more safety issues regarding children that come from any number of things in residential areas and not just trucks. In regard to destroying the streets many major cities did studies and found that it was garbage trucks and school buses not big trucks breaking the roads. He is very careful when he parks never to block a neighbor's access to anything when parked at this own home. He was responsible in the past and always checked with the PD. The complaint about trucks blocking the view really gets him. Trees do that too but you have no right to cut down trees. As far as lowering property values if he is parked on his own property or on the street what is the difference. This is fear mongering more than anything. No kids have ever been hurt here per the PD. They are not a hazard and we should let them park.

John Foxx of Marshal Trail said he is not a trucker but thinks we should change this. He apologized for the outburst last time. He understands the concern for kids but truckers are not here to be unsafe. There are more truckers than you think and this is their livelihood. Parking fills up fast at JR's Truck Stop. He recommended compromise. Parents should teach kids not to run out from behind anything. He said he sat on the front porch one day and counted many ATV drivers that were way too young to be riding ATV's unsupervised which is the law. There are more kids on ATV's around here than trucks parking and that is more of a problem. Everything comes on trucks. It is their livelihood and he is just asking for compromise.

Stacy Wesdowsky of Old Scout Trail said she is for truckers being able to park at home. She hears other noises like lawn mowers early in the morning too. She teaches her kids not to run out from behind things and it is everyone's responsibility to teach their own kids. What about big camp trailers parked on roads and no one complains about that. Let the truckers have their couple of days at home where their trucks won't be broken into.

Larae Farmer of Sunset Road said she is new to the area and did not know this was an issue here. She has no problem with the profession and respects them and what they do to bring goods to us but is against changing the ordinance because putting a 40-foot long truck on the street is like putting a house on the street. We have setbacks for homes and it is a huge distraction to have large things parked on the roads. This is not fear-mongering. Kids are easily distracted and are curious about trucks. She moved to a rural area for that feeling and they do obstruct the view of that pleasantness. She has no animus against them and some do park on their own lot which is allowed. Just don't allow it on the street.

Jay Calloway said since 1960 he has been in residential land use and development and construction in many places and nowhere do you find incorporated cities allowing truck parking in residential zones. You don't do it. They can park in other zones but not residential. That is the reason we have planning and land use is to zone residential areas for residential use which case law says is a guarantee of peace and quiet. It is a detriment to property values.

Carolyn Bauer said not only has she seen trucks without trailers parked in Enoch but she sees it in Cedar City too. Referring to the truck stop she said there is not that much parking there. They have had vandalism on their truck at JR's. There is no answer to satisfy all but there have been no issues with the PD in Enoch due to trucks.

Bill Ball said an issue occurred next door to him and although he appreciates his neighbor who is a hard working family man he parks his truck between his house and theirs and it was a noise nuisance. Also there was a water main brake in front of his house that was in line with where he parked the truck so the concern is the weight damaging water lines. That could cost the city later. Residential areas are meant to have peace and quiet and not for trucks starting all hours. He is against the change.

Steve Ashworth said he discussed the property value issue with real estate professionals who said it does devalue property to allow truck parking in residential areas.

Chad Horman said he is opposed to the change for safety reason. The streets are not that wide and when you put a big truck there then people can't see to back out and they have to pull into the middle of the road. From a personal safety standpoint as one who rides bikes he is concerned with trucks parking on streets. This does not belong in residential areas. The issue is the same with RVs and trailers on the road sides. Maybe that needs to be dealt with too. In the winter time with plowing it is a problem with extra-large vehicles parked and is an additional safety issue. There is no reason for residents to have to deal with that.

Mayor Rasmussen asked for a motion to end the public hearing. **Motion by Council Member Olenslager. Motion seconded by Council Member Johnson and all voted in favor.**

Mayor Rasmussen asked for discussion from the Council. In responding to comments there was a discussion of safety issues and noted that there has never been a PD report of any safety incidents due to trucks. Hazardous cargo is addressed in federal regulations and is not an issue. Noise could be an issue at times but Council Member Johnson said his policy is live and let live and he tries to be accommodating of his neighbors. In addressing property values as a problem he said he talked to a tax assessor and talked to an appraiser and there is no data for that conclusion. Damage to roads is against the law already and is addressed by other processes noting other types of vehicles such as garbage trucks cause damage to roads too. Vandalism is an issue for truckers and it is significantly mitigated when they can park by their own homes. Council Member Johnson added he personally has a problem with taking away rights.

Council Member Griffiths said people see a small town atmosphere and they like the independent lifestyle. People move in and love it here but then they want to change it to what they left behind. He talked about neighbors banding together to pass laws that are intolerant and that hurt minorities. It is not really a truck thing but a pattern of intolerance. We need to look out for individual rights. Council Member Olenslager agreed with doing what you want on your own property but people should have a say on public roads. This is a security issue so park by your own house. We have big lots and that can be accommodated. Council Member Lovell said we were trying to make this more accessible and then we drifted off into other issues. The concern was to be more flexible and sympathetic and we thought any other issues could be covered by the nuisance ordinance. Now we are rehashing all this again. There has to be a way to allow truckers to park for a period of time and we have compromised like no parking by schools and churches.

Council Member Johnson said school buses break the law all week by parking along the street because the school district made the determination that the street is the safest place to park. He suggested we exempt school buses from the law as they are not left unattended anyway.

Mayor Rasmussen asked if they want to proceed with a motion or suggest another proposal.

6. ORDINANCE NO. 2014-09-03-A AN ORDINANCE AMENDING THE ENOCH CODE OF REVISED ORDINANCES BY CHANGING CHAPTER 11-300, SECTION 1, TO ALLOW SEMI-TRUCK PARKING WITH CONDITIONS

Council Member Johnson made a motion to approve Ordinance No. 2014-09-03-A. An ordinance amending the Enoch Code of Revised Ordinances by changing Chapter 11-300, Section I, to allow semi-truck parking with conditions (3). Motion seconded by Council Member Wilken.

City Attorney Kuhlmann said he has one wording change; add "real and personnel property" in clause "c". Chief Ames recommended they pass version "B" not "A" which has more conditions. Council Member Johnson said he would stick with version "A".

Council Member Wilcken asked if he could withdraw his second. City Attorney Kuhlmann said they could modify the ordinance, vote against it or take it from consideration by letting it die without a second. Council Member Lovell asked if we are going to add that we exempt school buses. City Attorney Kuhlmann clarified to say there is a motion on floor. **Council Member Wilcken withdrew his second to the motion.** Mayor Rasmussen asked for another second. Council Member Olenlager suggested we rewrite the ordinance so they know what they are voting on. City Attorney Kuhlmann said to keep the record clean we should let this motion die for lack of a second. **Motion died for lack of a second.**

7. ORDINANCE NO. 2014-09-03-B AN ORDINANCE AMENDING THE ENOCH CODE OF REVISED ORDINANCES BY CHANGING CHAPTER 11-300, SECTION 1, TO ALLOW SEMI-TRUCK PARKING WITH CONDITIONS

Council Member Johnson made a motion to pass Ordinance No. 2014-09-03-B, an ordinance amending the Enoch Code of Revised Ordinances by changing Chapter 11-300, Section I, to allow semi-truck parking with conditions, to exempt schools buses and to modify the language to read “real and personnel property” in condition “c”. Motion was seconded by Council Member Wilcken and a roll call vote was held as follows:

Council Member Griffiths-yes
Council Member Johnson-yes
Council Member Lovell-yes

Council Member Olenlager-no
Council Member Wilcken-yes
Motion passed 4 to 1

8. DISCUSS CREATING AN ENTERPRISE ZONE IN EXISTING COMMERCIAL/INDUSTRIAL ZONES

Mayor Rasmussen asked City Manager Dotson to bring them up to speed on this. He said Jake Hardman came to a recent Council meeting to discuss the “recycling zone” and mostly talked about the “enterprise zone”. This allows businesses to get tax credits for hiring, purchasing new equipment and other things. He has forwarded this to the Governor’s Office of Economic Development who gave him some pointers on the language which he has used in the application. A couple of typos were noted which will be corrected. He added this is not available to larger cities and is for rural Utah so it helps us to promote Enoch. Council Member Wilcken asked what work load this will be to city employees and was told there will be none. This is thru the State and the City is required only to promote business and we do that thru our Economic Development Committee. There is no financial obligation to the City. This is a tool for businesses to keep some of their own money and bring jobs to Enoch.

9. RESOLUTION NO. 2014-09-03-B A RESOLUTION AUTHORIZING THE APPLICATION TO THE GOVERNOR’S OFFICE OF ECONOMIC DEVELOPMENT FOR THE CREATION OF AN ENTERPRISE ZONE IN ENOCH CITY

Council Member Griffiths had to leave before this vote. Mayor Rasmussen asked for a motion. **Council Member Olenlager made a motion to approve Resolution No. 2014-09-03-B, a resolution authorizing the application to the Governor’s Office of Economic Development for the creation of an “Enterprise Zone” in Enoch City, correcting typos noted in discussion. The motion was seconded by Council Member Wilcken and a roll call vote was held as follows:**

Council Member Griffiths-absent
Council Member Johnson-yes
Council Member Lovell-yes

Council Member Olenlager-yes
Council Member Wilcken-yes
Motion passed unanimously

10. PUBLIC COMMENTS-Mayor Rasmussen invited brief comments.

Leland Freeborn of 111 E. 100 N. in Parowan, UT said we pledged allegiance to the flag and a republic represents the people. He reminded the City Council that the ancient City of Enoch was preserved and saved due to righteousness. Hopefully they will sprout and mature enough to save the people of Enoch as we are about 105 days from Las Vegas being nuked at Nellis AFB. The fallout will be all over Southern Utah and he described patterns of flow controlled by the weather. He is trying to convince them that the fallout will be here and that there is almost no time to prepare. He proposed that they hang onto the iron rod and believe in God and find a way to have a community meeting for people to prepare to live thru it. He wants an answer in two weeks and will

come over to the next meeting. Mayor Rasmussen said we can't decide tonight but he will have City Manager Dotson contact him about that.

Worth Grimshaw said he was made aware during the past week that a City employee trespassed on his property and filmed things they thought were not proper and he intends to file a criminal complaint against them. There is no reason to go any farther than the water meter and privacy is important to him. The uninvited have no right to snoop around and there may be things missing from his property. He is very unhappy and wants to know who it was. Mayor Rasmussen said he does not know nor was aware of this but will check into it.

11. CORRESPONDENCE-none

12. COUNCIL/STAFF REPORTS

Council Member Lovell commented he appreciated the feedback about the proposals and that people have made an effort and been polite.

Julie Watson reported on the next agenda.

City Manager Dotson reported the NRCS project is moving ahead and pipe is being delivered. There are issues with prairie dogs which have come to a head and County Commissioner Dave Miller is working on it and meeting with DNR in Salt Lake Friday. Their letter to commence has not arrived as expected. He reminded everyone of the Iron Days Festival on September 27th and told about the various events planned encouraging all to enter to participate. Family Dollar is expected to have a grand opening around the end of month but no firm date is set.

Mayor Rasmussen said we spent two days going thru the audit last week and it went very well. The auditors will present a report and take questions in the next Council meeting. There were no problems we were made aware of. He also reported the ICCC learned today in their meeting that we don't have to fear Ebola sweeping the country as we have many more sanitary protections in place than are available in Africa.

There were no other comments.

13. ADJOURN-Motion to adjourn by Council Member Lovell. Motion was seconded by Council Member Olenslager and all voted in favor. The meeting ended at 8:25pm.

Julie Watson, Recorder **Date**