

**MINUTES**  
**ENOCH CITY COUNCIL**  
**April 20, 2016 at 6:00pm**  
**City Council Chambers**  
**City Offices, 900 E. Midvalley Road**

**Members present:**

Mayor Geoffrey Chesnut  
Council Member David Harris  
Council Member Steve Johnson  
Council Member Jolene Lee  
Council Member Dave Owens  
Council Member Shawn Stoor

**Staff present:**

Julie Watson, Recorder  
Dan Jessen, Treasurer  
G. Kuhlmann, City Atty.-phone  
Robert Dotson, City Manager  
Jackson Ames, PD Chief  
Earl Gibson, Public Works

**Public present:** Michelle Pritchard, Wayne Dykstra, Dilworth Armstrong, Darla Park, Betty Talbot, Debra Ley, Jerome & Tracy Heavyrunner, Ken & Carolyn Bauer, Robert & Susan Murdock, Bruce Gookin, Shane Sackett, Seth Palmer, Worth Grimshaw and Mike & Carolyn Olenslager

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Mayor Chesnut at 6:00pm. He welcomed the audience.
  - a. **Pledge of Allegiance-**Led by Council Member Stoor
  - b. **Invocation-**Audience invited to participate-Given by Carolyn Bauer
  - c. **Inspirational thought-**Given by City Manager Dotson
  - d. **Approval of Agenda for April 20, 2016- Council Member Harris made a motion to approve the agenda. Motion was seconded by Council Member Stoor and all voted in favor.**
  - e. **Approval of Minutes for April 6, 2016- Council Member Owens made a motion to approve the minutes. Motion was seconded by Council Member Harris and all voted in favor.**
  - f. **Conflict of Interest Declaration for this agenda-**none stated

2. **RECOGNIZE ECONOMIC DEVELOPMENT COMMITTEE MEMBERS LEAVING**

Mayor Chesnut said we have certificates of appreciation and are indebted to those who serve. Jay Callaway and Cam Findley have had other opportunities and have left the EDC with our thanks for a great job in their years of service. They were not here tonight. Council Member Owens said Jay brought lots of experience with corporations and contributed to networking. Cam is involved with economic development at SUU and was a help in getting the EDC going.

3. **ORDINANCE NO- 2016-04-20-A AN ORDINANCE AMENDING THE ENOCH CITY ZONING ORDINANCE, CHAPTER 2, SECTION 2-16 REGARDING MAXIMUM HEIGHT OF FENCES, WALLS AND HEDGES**

Mayor Chesnut asked Council Member Harris to explain this. He drew on the whiteboard to explain about a corner lot and the circumstance where a person may purchase more than one lot with one lot being their backyard. Our current ordinance would not allow for a six foot backyard fence. This is specific to this unusual arrangement. Council Member Owens said the only other way would be to manipulate the lot lines, which is a hassle. Council Member Johnson had questions and wanted to clarify the language so it did not imply they could have a fence higher than six feet. City Manager Dotson expounded on the details saying he is saying the same thing Council Member Johnson is saying in different words. This allows a front street side yard to

have the six foot fence and no higher. City Manager Dotson explained this is restricted in the current ordinance and this change would allow for it. We are easing the restriction. Other requirements for fences are covered in another area of the chapter. Mayor Chesnut asked for a motion.

**Council Member Harris made a motion to approve Ordinance No. 2016-04-20-A. An ordinance amending the Enoch City Subdivision Ordinance Chapter 2, Section 2-16 regarding maximum height of fences, walls and hedges. Motion was seconded by Council Member Stoor and a roll call vote was held as follows:**

<b>Council Member Harris-Yes</b>	<b>Council Member Stoor-Yes</b>
<b>Council Member Johnson-No</b>	<b>Council Member Owens-Yes</b>
<b>Council Member Lee-Yes</b>	<b>Motion passed 4 to 1</b>

**4. ORDINANCE NO-2016-04-20-C AN ORDINANCE AMENDING TITLE 3-000, PART 3-924 TO CHANGE THE SUPERVISORY AUTHORITY OF THE CITY MANAGER**

City Manager Dotson said the strike outs show the changes. Mayor Chesnut said this proposal is to change the supervisory authority because presently the supervision does not apply to the PD Chief and others and there are issues regarding accountability. Mayor Chesnut said he is not a full time mayor and is not here every day. Given that, there needs to be some accountability and streamlining of this. Day-to-day the PD requires more than a part time official can manage. This allows City Manager Dotson to supervise all the department heads. This is relating to administrative areas only. Chief Ames runs the PD and if an issue comes up he can go to the City Manager Dotson who is here full-time. Most cities have this structure and this is a good practice to mirror in this case. Chief Ames is on board and will patrol more since we are operating one short and intend to remain that way.

City Manager Dotson clarified that the Planning Commission and Appeal Authority are regulated by State Code and are not supervised by anyone. Council Member Owens said the City Attorney can be accessed directly when needed. Council Member Johnson said his concerns are the same with the other policy expansion item recently. The wording is vague and this is an expansion of authority for the City Manager. He does not like all of the authority in one person and elected officials need to be involved. Mayor Chesnut said the difference is in some cities they have a full time Mayor but we do not. The goal is to have coverage. There was a bit more discussion with most Council Members thinking that checks and balances were in place and this would be an efficiency move.

**Mayor Chesnut asked for a motion. Council Member Stoor made a motion to adopt Ordinance No. 2016-04-20-C, an ordinance amending Title 3-000, Part 3-924 to change the supervisory authority of the City Manager. The motion was seconded by Council Member Harris and a roll call vote was held as follows:**

<b>Council Member Harris-Yes</b>	<b>Council Member Stoor-Yes</b>
<b>Council Member Johnson-No</b>	<b>Council Member Owens-Yes</b>
<b>Council Member Lee-Yes</b>	<b>Motion passed 4 to 1</b>

**5. DISCUSS AND SELECT THE NEW NAME FOR THE WEST PORTION OF RAVINE ROAD**

Mayor Chesnut said Council Member Stoor initiated this action and asked him to lead off. Council Member Stoor said the main reason is for the fact that Ravine Road does not connect anymore and we wanted to clarify for EMS that the road does not go through. We thought it would be appropriate to rename the west portion of Ravine Road. It was noted we contacted the one person involved on that portion of the road and also heard from others regarding the historical value of Ravine Road. Wayne Dykstra who lives on the west end of Ravine Road read an

impassioned speech about his feelings regarding this name change which he was against. After discussion with Chief Ames it was determined that it was not a huge issue for EMS to be notified about the two portions of Ravine Road. It was decided by the Council to drop the idea of changing the name of the west portion of the road.

**6. ORDINANCE NO-2016-04-20-B AN ORDINANCE CHANGING THE NAME OF THE WEST PORTION OF RAVINE ROAD TO \_\_\_\_\_.**

Ordinance died for lack of a motion.

**7. DISCUSS AND VOTE ON A CONDITIONAL USE PERMIT FOR AN AUTO REPAIR BUSINESS FOR SHANE SACKETT AT 4244 N. DRIFTWOOD LANE**

Mayor Chesnut said they have the minutes of the Planning Commission and Council Member Harris brought the City Council up to speed. He said Mr. Sackett has been operating an auto repair business out of his home. He had a Cedar City business license for a mobile repair service but was doing work at the home also. The neighbors around are by and large not in favor of this. He was sent a letter advising him he was in violation of operating without a business license and would need to apply for a conditional use permit (CUP). It was determined by the Planning Commission after holding a public hearing that this type business is not compatible in this neighborhood and it exceeds what is practically appropriate there. Mr. Sackett wants to do this because he has a disabled son he needs to watch over and needs to work from home. The operations of the business exceed what is allowed per our nuisance ordinance and other ordinances. Mayor Chesnut asked Shane Sackett to come up for questions from the City Council.

Council Member Johnson recounted his experience with visiting Mr. Sackett's home after he saw the reports and the argument in the meetings and accusations of smells all the time and noise all the time. He went to look and talked to one resident who had no problem with Shane. They trust him and think he is wonderful. It was noted there were problems in the past but many have been mitigated now. He talked to others adamantly opposed to this. He asked one other neighbor who had no problem with it and he wanted to be fair so he went to another neighbor who was against Shane. That person said the noise at night was the only problem and he stopped that. Council Member Johnson said he is for private property rights and also believes that nuisances should be abated. Working late into the night can't be allowed but most agreed he is trying to fix the things complained about.

Other Council Members spoke about things they observed or inquired about and it was noted that Shane has made other arrangements for cars to be parked elsewhere and has moved most off of the property. Shane said he has a scrap metal pile he intends to dispose of soon as part of the clean-up. In regard to the shop he started without a building permit, he said he is working with the building inspector to get the permit. He does not want it to look like an auto repair business and he is being complemented on the clean up. He just needs more time to do that. Many allegations were made against him and many were exaggerated. He knows things got out of hand but he is moving in the right direction. He asked that he be given time to prove himself before shutting him down. He elaborated more on what he plans to do.

Mayor Chesnut said a lot of this occurred last summer and as far as administration of the nuisance ordinances, by the time someone complains it has been going on for a while and is out of hand. That is the balance we have to strike. He has rights but the neighbors do too for the enjoyment and use of their property. There have been problems and as a community we encourage entrepreneurship but the neighbor's issues count too. The City Council needs to remember that when considering this application. Shane said there will be no business signs and it will look better soon. Council Member Stoor said this is about the classification of the business as well as what the yard looks like. We often take exception to our neighbor's yards but this is a business in a residential zone. Shane said he will not increase the traffic and he made a mess of it

to start but is trying to clean it up. Council Member Stoor said the problem was a lot of vehicles in front and that is gone now. If we are talking about conditions, that would be one to consider. Council Member Stoor said there are other businesses in the residential zone with conditional use permits so this is not an unusual request.

Council Member Johnson said the nuisance things are the key. People have endured a lot in the past and a nuisance can be watched and dealt with. Shane said people talked to other people about problems but no one talked to him. Mayor Chesnut said most people do not like to be confrontational with their neighbors. The issue is they come to elected officials to ask for protection of their rights. Council Member Johnson said some think he should just go into a commercial area but our zoning laws makes that harder for a guy trying to support his family. He is obviously working from home because it is doable for him and this argues for more compassion.

Council Member Lee said she met with Shane last week and she did research too. She found out talking to neighbors that they like him and he is an excellent mechanic. She also needs to listen to the Planning Commission because they sweated over this too. We have to be careful about emotionally hoping he will clean up and do the right thing. She said this type of business is not conducive to a residential area. There has been yelling about this issue and that is counter-productive as well. Council Member Harris agreed with Council Member Lee saying the Planning Commission held two meetings and a public hearing. After looking at the ordinances and the scope of the business the Planning Commission voted unanimously to deny the CUP and he agrees with that. He commended Shane on trying to make things right but based on ordinances he supports the Planning Commission recommendation.

Council Member Owens said we need to review our ordinances because much of it is subjective however those changes would not apply to this application. Council Member Stoor asked what could have been different to make this a favorable recommendation. Council Member Harris said if Shane had come in earlier and some conditions were agreed upon before he went all out with the business it might have made a difference. If the numbers of vehicles had been smaller and a fence hiding things had been in place a lot of problems could have been prevented but that did not happen. The neighbors have expressed concern that things may not change even if conditions are imposed. Council Member Stoor said we allowed some businesses and some are ok because they have less or no impact on neighbors.

City Manager Dotson said the legal ramification of placing conditions to get a CUP is problematic in the way our ordinance is written. Based on case law if the applicant is denied and he goes to court, the way our laws are written, as subjective as they are, the judge will side with the applicant 100% of the time. Our laws say the Planning Commission and City Council can approve, deny or approve with conditions for a CUP. It does not state what the conditions can involve so it becomes very subjective. Because it is subjective, the court sides with the applicant all the time. City Attorney Kuhlmann, participating by telephone, said to clarify, recent court opinions have come down to say with CUP's if there are conditions that can be imposed that will take care of the concerns then you have to approve the application with conditions. If denied you have to say what the concerns are and state why they can't be dealt with. If the concern is too many cars then impose a condition on the number. The standard is set and can't be subjective or the court will overturn it. State the concerns and impose conditions or state why the concerns can't be dealt with. Mayor Chesnut said his thought is he discourages them from shooting from the hip on the conditions. He would not be opposed to tabling and articulating the concerns to address them and set conditions for Shane and address each concern. And we will be strict about the conditions. The neighbors came to complain for a reason. Passions are high right now.

Mayor Chesnut said he recommends each City Council Member review the notes and talk to whomever they want to and bring this back on the agenda with specific remedies. Impose conditions and address the concerns. City Manager Dotson said in the conditions there should be

a penalty if broken. Council Member Johnson said it is a Class B misdemeanor on most nuisance issues. Mayor Chesnut said they are the gate keepers on this. The Planning Commission sent an unfavorable recommendation based on the situation as it is now. Shane now understands the concerns and if he can change things to mitigate the concerns then we should allow him the chance to do that. They could have imposed conditions and we could send it back to the Planning Commission to make a recommendation on the conditions and enforcement of conditions. City Manager Dotson said he did tell the Planning Commission about the law so they did have the same input the Council received tonight. Mayor Chesnut asked Debra Ley of the Planning Commission about her concerns and she went through the nuisance ordinance saying Shane does not meet our qualifications to operate this type of business in a residential neighborhood. She also said Utah State Code says some things to consider regarding public health and safety that would have to be addressed to grant this CUP.

Mayor Chesnut said the question for this specific application is can concerns be remedied and how will we enforce conditions on an administrative basis. Mayor Chesnut said Shane will know we are adamant on enforcement and this is striking a balance for all parties. It was recommended that the conditions should state clearly what would constitute a violation and it should be measurable. Council Member Johnson said in regard to nuisances that it has to be harming someone and not just that they don't like it. Council Member Harris said he suggests we direct the Planning Commission to compile a list of restrictions for the business and to address each concern with a condition and a penalty if the condition is violated. Mayor Chesnut assured the audience that we are not deciding this tonight. He suggested again we send this back to the Planning Commission after which our City Attorney will review it and then it will come back to the City Council. City Manager Dotson said Shane can continue right now as this goes through due process because he applied per City ordinance and has rights. **Council Member Harris made a motion to table the discussion on a CUP for an auto repair business for Shane Sackett in a residential neighborhood and send it back to the Planning Commission for them to send a recommendation on conditions and enforcement to the Council for the May 18, 2016 meeting. Council Member Owens seconded the motion and all voted in favor.**

## **8. DISCUSS TENTATIVE 2016-2017 BUDGET**

Mayor Chesnut said this is not for approval tonight however we have to approve a tentative budget at the next meeting to meet State requirements. Dan went through the budget and highlighted some things we talked about before adding most is self-explanatory and he will hit on the larger items. He said this is not complete or balanced yet as the City Council has to give him some direction. Dan said he spent a lot of time looking at historical factors and contributing factors before adjusting the forecast. The other factor is what is needed and has been requested by the departments, Having done that we decreased some expenses and some went up. Combined with a majority of projected revenues we are in a favorable situation. He said most enterprise funds are in a budget surplus status. We projected more revenues than expenses and he balanced those budgets. The extra will go in the bank so we are not operating as close to the required minimum as we have been. The general fund is in a positive range and that is good thing. We are not allowed to go below 5% in savings and are getting back into safer territory. The sewer fund is not in balance right now until we correct it with savings or a change to the revenue stream. It is in the negative now because we took \$2 in revenue from it to create the drainage fund. Now we have had to pay more to Cedar City for the treatment plant and we are in trouble. The refuse fund is out of balance because we are buying new trash cans. Our old cans have met their warranty and are failing in large numbers. Mayor Chesnut clarified we have a capital purchase line item and it shows on the budget to expend the money however we do not have the source of revenue yet to cover it. We can pull from savings or increase the revenue stream. The sewer fund is different and shows a negative \$27,400 which is a concern because it is an operating loss and not a one-time

expense. Also recurring expenses are going up. We will pay an additional amount to Cedar City for the treatment plant and that is one of the costs going up. The sewer company was fairly healthy and then we took \$2 out of the revenue stream. Now costs went up so it is showing a loss. Dan said that is his main concern right now. He added one item we still do not know is for the inter-local fire cost. He guessed \$15,000. City Manager Dotson said some of the cost is the wild land fire legislation implemented by the State Legislature. He gave details of that saying we can pay part of our assessed cost by mitigating fire hazards. Unknowns still exist on the details. Dan highlighted more changes he adjusted and explained some needs that have come in from department heads as follows:

Public Works needs a new vehicle which may be a better deal as a lease instead of buying an older used vehicle.

Class C road funds coming in will allow us to repave more miles of roads.

Public Works requested a part-time seasonal person with no benefits to help with parks.

The PD needs a new evidence locker system and \$4,000 is grant money.

PD computer support cost went up.

Fuel costs dropped and some of that will go towards the creation of the VIPS program for volunteers to aid the PD.

The PD went from a five man department to a four man department which could cause more over-time costs.

A sales tax increase has been predicted on the revenue side.

The storm drain enterprise fund will have some employee costs moved to it and after the drainage study is done there may be some infrastructure costs.

The new animal shelter will be started with funds saved and possible grants.

Dan pointed out some other minor adjustments saying he tried to implement the City Council's goals in this budget. He told about other funding we intend to apply for such as a wellness grant that will be tied to trail development. Getting the grants will determine if projects are done or not. We are under budget and we reduced expenses but are out of balance in the sewer fund as a result of the \$2 move to create the storm drainage fund and increased cost for the treatment plant. Mayor Chesnut said we accomplished most of our goals. Dan said the new well will take money as will storm drainage improvements. We have the money saved for that but we may need to pull from savings to balance the sewer fund this year. The responsible thing is to ask do we expect anything to change. If we do not see a way out that may increase revenues then we have to cut expenses or increase revenues. Mayor Chesnut thanked Dan for his hard work on the budget saying no action is necessary tonight. At the next meeting we will approve the tentative budget and set a public hearing for May 18<sup>th</sup>.

## 9. PUBLIC COMMENTS

Betty Talbot said she does not want to repeat what has been said again but some things said tonight were not true. They live next door to Shane and they have always abided by the laws of Enoch. The situation brought up earlier is a nuisance to them and there are smells to where they can't have windows opened. It is exacerbating their health problems. She appreciates the Council deliberating on this. They recognize this is a residential area with growth however we should not let people have any businesses in a residential area. They like Shane and his handicapped child has nothing to do with this. Shane promised things but he will not do what he says and they have experience with that. Shane can move his business in a commercial area and they will support him there because he is a good mechanic. ***Mayor Chesnut asked her to come to PC for the discussion on conditions. She should state her exact concerns so we can consider restrictions on him to address the concerns.***

Darla Park said in Chapter 5-9 #6 in City ordinance it says "this does not include vehicle repair businesses". She bought in a residential neighborhood and they are upset about other businesses

in the neighborhood too. They moved out here and chose to do that even though it meant commuting into Cedar to do other things. She would like a third party to inspect the building as it is not legal. He is still working on the building and doing business illegally and never had a license since 2014. We should not pat him on the back for breaking laws and even with conditions it is wrong.

Ken Bauer commented on the fence change saying they have to be real specific so future councils will understand what they meant. *It was noted by Mayor Chesnut this is a tiny section that was changed and the rest of the fencing regulations are stated in other areas.* Ken said his point is they should spell it out.

Carolyn Bauer asked about the changes on the PD Chief administrative duties and about giving them to City Manager Dotson. Why did we make the change? *Mayor Chesnut said it is not that it is too burdensome but that the supervision and accountability of the Chief needs to be more direct than a part time mayor can provide. The City Manager serves at the behest of the City Council. He has to balance all that in supervising the department heads so they work together. We have had issues because of the part time mayor status not allowed for proper supervision. We are trying to prevent problems Mayor Chesnut said.*

#### 10. CORRESPONDENCE-none

#### 11. COUNCIL/STAFF REPORTS

Chief Ames said our two new officers are up at POST training and started last Monday. They have 16 weeks ahead of them. He and Jeremy are handling the shifts with Ryan still riding with them. He is getting up to speed and will be on his own soon. They are having Taser training in the near future and need volunteers.

Earl Gibson reported Twin D is flushing sewer lines. We rotate every third year through the whole City. They are also flushing some water lines and fire hydrants because the FD likes that done routinely. This year they are planning on maintenance projects only. The Public Works crew is attending road school this week. They had to upgrade the flagger training to stay certified.

Dan Jessen asked the City Council to get back to him over the next two weeks with their budget ideas and he will email any changes.

Mayor Chesnut asked Dilworth if he would consider being the Grand Marshal of the 4<sup>th</sup> of July parade. The committee suggested him because we want to honor those who have served the community in so many ways over the years. Dilworth said he would do that. Mayor Chesnut said we need an executive session to discuss the purchase of property.

Council Member Owens reported he attended LEPC today and it was good.

Council Member Lee said Arbor Day is the 23<sup>rd</sup> from 10:00am to 2:00pm. We have tulips for those that attend. Public works has been good to get things ready at Garden Park. The address for the Arbor Day event is 646 E. Blue Sky South and she invited everyone to attend.

#### 12. CLOSED EXECUTIVE SESSION REQUESTED-(Requires a roll call vote w 2/3 majority)

Mayor Chesnut asked for a motion to go into executive session for the discussion of a property purchase. **Council Member Harris made a motion to end the regular meeting and go into executive session for the discussion of a property purchase. Motion was seconded by Council Member Owens and a roll call vote was held as follows:**

<b>Council Member Harris-Yes</b>	<b>Council Member Stoor-Yes</b>
<b>Council Member Johnson-Yes</b>	<b>Council Member Owens-Yes</b>
<b>Council Member Lee-Yes</b>	<b>Motion passed unanimously</b>

The regular meeting ended at 8:55pm.

**13. ACTION FROM EXECUTIVE SESSION**

The Council returned from executive session at 9:27pm and Mayor Chesnut recalled the regular meeting to order. **Council Member Harris made a motion to direct staff to continue to make offers and negotiate for the purchase of real property. Motion was seconded by Council Member Owens and all voted in favor.**

**14. ADJOURN-** Council Member Harris made a motion to adjourn the regular meeting. **Motion was seconded by Council Member Johnson and all voted in favor.** The meeting ended at 9:30pm.

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**Julie Watson, Recorder**                      **Date**