

MINUTES
ENOCH CITY COUNCIL
April 2, 2014 at 6:00pm
City Council Chambers
City Offices, 900 E. Midvalley Road

Members present:

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

Staff present:

Julie Watson, Recorder
Dan Jessen, Treasurer
City Attorney Gary Kuhlmann
Robert Dotson, City Manager
Earl Gibson, Dir. Public Works
Jackson Ames, Police Chief

Public present: Donna & Michelle Pritchard, Mike O'Rourke, Joy Meyer, Krista Bulloch, Carol Rohrer, Dilworth Armstrong, Tim Watson, Anne Zufelt, Jolene Lee, Clara Pickett, Cathy Wentz, Bruce Gookin, Carolyn & Ken Bauer, Christine Spencer, Bob Graul, Jorden Barben, Ashley Langston, Adam Hahn, John Banks and David Owens

1. CALL TO ORDER OF REGULAR COUNCIL MEETING-By Mayor Rasmussen at 6:00pm. He welcomed the audience.

- a. **Pledge of Allegiance-Led by Earl Gibson**
- b. **Invocation-Audience invited to participate-Given by Carolyn Bauer**
- c. **Approval of Agenda for April 2, 2014-Motion to approve agenda by Council Member Lovell. Motion seconded by Council Member Johnson and all voted in favor.**
- d. **Approval of Minutes for March 19, 2014-Motion to approve minutes by Council Member Olenslager. Motion seconded by Council Member Wilcken and all voted in favor.**
- e. **Conflict of Interest Declaration for this agenda-none stated**

2. OPEN 2013-2014 BUDGET

Mayor Rasmussen explained this action is so we can make adjustments between line items within departments as they near budget limits. Council Member Wilcken clarified this is a procedural thing we do each year and Dan concurred it is standard procedure. We don't make changes to the budget only adjustments within departments. Mayor Rasmussen said there will also be a public hearing before approving and closing this budget. **Council Member Olenslager made a motion to open the 2013-2014 budget. Motion was seconded by Council Member Lovell and all voted in favor.**

3. SET A PUBLIC HEARING FOR 2013-2014 BUDGET FOR MAY 7, 2014

Treasurer Dan Jessen said he needs time to make the adjustments and then it will be posted for two weeks for public viewing before the public hearing. Also the City Council will be emailed the adjusted budget for review. We will discuss it in the next meeting when it is posted. **Council Member Wilcken made a motion to set the public hearing for the 2014-2014 budget for May 7, 2014. Motion was seconded by Council Member Johnson and all voted in favor.**

4. DISCUSS CHANGES TO PERSONNEL POLICY, SECTION II-RETIREMENT

After the Utah Retirement audit last month we became aware of some new language that needs to be added to our Personnel Policy Manual due to the ACA regarding who is eligible for

benefits. This is standard language to be added in order to become compliant with State and Federal law.

5. RESOLUTION NO. 2014-04-02 A RESOLUTION TO APPROVE AND ADOPT CHANGES TO THE PERSONNEL POLICY REGARDING SECTION II-RETIREMENT

Mayor Rasmussen asked for a motion. **Council Member Johnson made a motion to approve Resolution No. 2014-04-02, a resolution to approve and adopt changes to the Personnel Policy Manual regarding Section 11-Retirement. Motion was seconded by Council Member Wilcken and a roll call vote was held as follows:**

Council Member Griffiths-absent	Council Member Olenslager-yes
Council Member Johnson-yes	Council Member Wilcken-yes
Council Member Lovell-yes	Motion passed unanimously

Mayor Rasmussen excused Council Member Griffiths who was absent due to work obligations.

6. REVIEW AND APPROVE AMENDED SALZANO ANNEXATION

Mayor Rasmussen said we discussed this at the last meeting and this is the final draft. Council Member Wilcken asked City Attorney Kuhlmann to explain his changes. He said he added some clarification to designate between platting and selling and separating that out as to what would occur when. The time period now is 30 days after sale of property payment will be received and prorated for the acreage sold. The intention is to allow Mr. Salzano to pay when he sells land instead of paying whole thing at once. This is in reference to two separate parcels with the sale of one pending. There was a brief discussion of water and it was stated they will have to drill a well or do something else as they are too far away from City waterlines to tap in. There was a discussion of how water rights are tracked. It is part of our process and is well documented City Manager Dotson said. Mayor Rasmussen asked for a motion to approve the amended agreement. **Council Member Lovell so moved. Motion was seconded by Council Member Olenslager and all voted in favor.**

7. SET CIB PUBLIC HEARING FOR APRIL 16, 2014

Mayor Rasmussen asked City Manager Dotson about this. He said in order to even be able to apply for CIB (Community Impact Board) funding it is a requirement to hold a public hearing. Currently pending is a new well and also we have to do another impact fee analysis to get into compliance with State law, both of which are the types of projects CIB will consider funding. They require we hold a public hearing so the public can weigh in on how we finance these projects. Whether you apply or not is another thing but we have to hold the public hearing to keep our options open. Mayor Rasmussen asked for a motion. **Council Member Olenslager made a motion to set the CIB public hearing for April 16, 2014. The motion was seconded by Council Member Lovell and all voted in favor.**

8. CONSIDER REFERENDUM VOTE FOR THE 2014 BALLOT

Council Member Olenslager said he wanted this on agenda. He said as he talks to people the issue is up in the air and we know people want to vote on it. Delaying the decision only creates more angst and problems in the budget process and we need to get this done. Council Member Lovell agreed. Council Member Johnson had a question saying the referendum was for 2015 and those who signed were thinking they would vote in 2015. He asked City Attorney Kuhlmann to comment. City Attorney Kuhlmann said the law says it goes on next municipal election unless a special election is set. It has to be on a general election. This is based on State law and is a default date but the City Council can change that if they want to. The next

“municipal” election is in 2015 but in 2014 there is a regular election which qualifies. State code says it has to be in November not in June as special elections typically are. Council Member Wilcken said we voted in an earlier meeting to take this action the first meeting in May and he sees no reason to change and vote tonight as there is little doubt this will go on the 2014 election.

There was a discussion of the recent legislative session where the law concerning municipal tax referendums was changed. The changes addressed the timing of referendum votes requiring that they be voted on in the next general election and the requirements for a voter information pamphlet changed. The changes for referendums only apply to property tax issues. The new law says it is not a requirement to produce a voter information pamphlet due to tight time frames in many cases and City Attorney Kuhlmann said he has a call into the Lt. Governor’s office questioning that change as our referendum process started last year. Even though it may not be required that does not mean you can’t do it. If timing allows it is always a good idea to have an educated electorate. The legislative intent was to make this process quicker for cities.

Council Member Wilcken said let’s wait until May to vote on it so we will know the answers from the Lt. Governor’s office. Council Member Lovell asked, what is the question we are concerned about that is causing this delay? The wording of the ballot title is still an issue Council Member Johnson said. They are checking on the procedure and they think a step or two was overlooked. City Attorney Kuhlmann said there is absolutely no doubt that the sponsors got the ballot title and had the opportunity to comment in the designated timeframe. He said the ballot title was taken from Orem City’s ballot title which the Supreme Court upheld. He said he copied it so we would not have an issue. The Supreme Court has ruled but it can be challenged. Council Member Johnson said the ballot title was not sent by mail so they think they still have the opportunity to adjust the wording. City Attorney Kuhlmann said if this is challenged he has to defend it. There is no basis to object as the language was not challenged within the time frame. It does not matter if a step was missed as that is a harmless error; i.e. no harm no foul. Even if they had gotten it in the mail there were no objections to the wording. Council Member Wilcken said no one is against putting it on the ballot in 2014. Council Member Lovell said if we set the date now we can start sooner on the voter information pamphlet and both sides have the opportunity to take whatever means they want to educate the populace. Voting now expands the time frame. It does not harm anyone to decide today instead of in May and we don’t need to spend another month discussing it. City Attorney Kuhlmann asked if there is any intent to file a lawsuit with the Supreme Court and there was no answer.

There was a discussion of the process for writing the voter information pamphlet and who does that. City Attorney Kuhlmann said the City Council selects someone to write their side and the sponsors select someone to write their side. The City has to pay the cost of publishing and mailing the pamphlet. He said he would look up time frame for preparing the voter pamphlet and get back to the Council with that information. Council Member Wilcken said since we did not like the wording we have the pamphlet to have another chance to clarify the issue. We want an educated vote either way. Council Member Johnson said we should delay a little longer as there are two sides; those who want to increase the tax and those who don’t. People spoke on the petitions and by electing two new people to the City Council. The other side is working on some things that are fair and honest. Council Member Lovell spoke up saying he takes exception to “fair and honest”. Mayor Rasmussen said we have been on this for over a year and the ballot title won’t change so what is the problem.

There was more discussion about voting tonight rather than in May as was previously set including that Council Member Griffiths had voted for the decision to be made in May and he is not here tonight to have his say. Council Member Lovell said we were told you wanted more budget information before deciding and that is not the reason. You are looking for a loophole in order to change the ballot title. Council Member Wilcken said not true. Council Member Johnson said it is a dangerous precedent to put things right back on the agenda when we don’t get our way.

We all voted to hold it until May and that should stand. Council Member Wilcken said it is not his intention to put this off past 2014. He wants the healing to begin and wants people to say what they want. May is two months before the County Clerk has to know so that is plenty of time.

Council Member Lovell said again he thought it was a budget problem and that is not what it is about now. Council Member Wilcken said he wants to do more research regarding if the tax could be retroactive or not. He wants that cleared up first. Council Member Lovell said that is even more of an argument to get it done this year. Council Member Johnson referred to the new budget being presented tonight and that it includes another tax increase being proposed. Mayor Rasmussen said if we go forward with a new tax increase there would only be that one tax increase for 55% and the other one would be over and done and not a part of the discussion. Council Member Lovell said we should end the first process before starting the second process.

City Manager Dotson read the ballot title saying it is very clear. You are “for” the increase or “against” the increase. That wording stands unless some takes it to the Supreme Court. Council Member Lovell asked what they found offensive in that wording. Council Member Johnson said there were a lot of people who were not involved in the process and some think it is not clear wording making it easy to vote “for” the increase. Council Member Lovell said you want to empower the voter but you are saying the voter is not smart enough to decide from this wording. **Council Member Olenslager made a motion to place the referendum on the ballot in 2014. The motion was seconded by Council Member Lovell. Mayor Rasmussen said we have a motion and a second and will hold a roll call vote.**

Council Member Wilcken-no

Council Member Lovell-yes

Council Member Olenslager-yes

Council Member Johnson-no

2 for and 2 against

Mayor Rasmussen voted yes to break the tie

Mayor Rasmussen said now we can get started on the voter information pamphlet and we will do one anyway required by law or not. City Manager Dotson clarified saying that if the referendum were to be passed in November then immediately the State Tax Commission would send out the notices with that tax increase reflected and it would not be retroactive to 2013 when the resolution was originally passed by the Council.

9. MAYOR RASMUSSEN’S 2014-2015 BUDGET

Mayor Rasmussen said his intent is to have a starting point for the discussion. He asked for questions adding this is not a public hearing although one will be held at a later date. Council Member Johnson clarified this budget requires a 55% tax increase to balance it. Council Member Lovell said if we move forward with it we will go thru Truth in Taxation again. It was noted there has been some growth and that was a small factor in some revenue lines being adjusted upwards. We were very conservative in doing that Dan said and he elaborated on impact fees which are an indicator of growth adding it is not a driving factor in this proposed budget. There was a brief discussion with Chief Ames about the budget for dispatch being reduced. He explained the complex formula used to figure what each user will pay for the service and we budgeted a bit less this year. Council Member Johnson asked about fuel going up \$4000 for more patrol and traffic shifts. Chief Ames said we are trying to expand our coverage through the night to provide better service.

Dan clarified some questions about the revenue and expense sides of the budget saying he explained all the changes in the executive summary. Council Member Wilcken thanked Dan for the explanation saying it was very helpful adding his concern is he wants to know if it is ok to differ on opinion. This is a compromise and he appreciates that but in watching the federal government over the years we compromise by growing government. He suggested a compromise reducing the level of service to hold the line. Any tax increase goes against his core values

although he sees the need. His core values say if we can cut the fat then cut more and after that cut the meat. That is where he comes from.

Mayor Rasmussen said that means we may need to dismiss staff. We can nickel and dime other things but if we don't increase revenues we can't keep up. We are as bare bones as it can get already. Our wages and salaries are lower than any other community. We have to make the philosophical decision on the direction the City will go. Council Member Wilcken said he wrestles with this and he is willing to do without the level of service we have developed over the years. A vote of the people would tell him which way to go. Mayor Rasmussen said he does not feel like we are growing government. We have done no hiring or anything although we need to. Council Member Wilcken said he hopes for an open discussion without losing friends. He does not want to go back to tepees or go backwards and destroy Enoch City.

There was a discussion of how budgets are calculated based on past revenues and costs. We have data from this year to use to forecast the trend. When the actual costs come in we have to make adjustments within line items in departments. Last year we over-budgeted some items and this year reflects more closely the actual costs. The budget is a "best guess". Mayor Rasmussen said our task is to decide the philosophy of the City. We are working with very realistic figures in this budget and feel like we know what we need. Instead of taking each line item tonight we have to settle on our philosophy first. Can this Council support any revenue increases? If so then we have to decide what we will ask for.

Mayor Rasmussen asked City Attorney Kuhlmann if we could take a straw vote and he said yes. City Manager Dotson reminded the Council they have to have a tentative budget by the first meeting of May, set a public hearing and then have a final budget for the State as required by law by June 18th or so. As Council Member Griffiths is not present tonight we need to think about this and take a vote on our direction at the next meeting. Mayor Rasmussen said developing the budget is very time consuming and we can't keep rewriting it. City Attorney Kuhlmann said it is fine to take a straw poll to get an indication when all City Council Members are here and it should be done in a public meeting.

There was more discussion of philosophical differences among the Council Members. Staff will hold off on reworking the budget until the Council decides on their direction. City Manager Dotson said if the Council Members have any ideas or individually have concerns or questions or don't understand things please call staff and talk to us. Clear things up in advance and get an understanding. If you have better ideas let us know.

Council Member Olenlager asked if we have enough money in savings so we don't have to decimate the City between now and the vote on the tax referendum. Dan said we need to know how much of a shortfall there will be and he could try to forecast that. We used to project going over by \$300,000 but never actually ever had to use that much from savings. We are close to the end of the budget year now and he thinks we may spend less to balance but we won't know until we get closer to the end of the year as some of the bigger invoices come in then. Some things are planned on happening and a big thing is the \$60,000 for drainage that won't be spent and is a bite out of the shortfall. A few other things if not spent would get us closer to breaking even. Council Member Wilcken cited the example of snow plowing costs saying it all depends on the winter weather and it is just a guess. This proposed budget is our best guess right now. Some items can be debated like \$60,000 for drainage next year. The shortfall as of right now is about \$150,000 next year in this proposed budget. Council Member Olenlager asked again would we have enough in savings to cover that and Dan said he thought we would. If the referendum passes in November, Council Member Wilcken asked, when does that actually come to the taxpayer? City Manager Dotson referred to changes to State Code that just passed and it does say and spells out that once a referendum is voted for it takes effect immediately. The State Tax Commission will send out the notices that reflect the vote and you will get a new tax notice right away. This is not

retroactive to 2013. As it stands now assessments have changed also and the amount the City will get will be a different percentage anyway. There was no action taken.

10. PUBLIC COMMENTS-

Mike O'Rourke thanked Council Member Wilcken for his oratory and the courage to say it. Mike said he was one of the sponsors and he promoted the referendum day and night. The ballot title situation was tied to emails and that locked it in. It isn't reasonable. If you took 113% and put it on the ballot it would not pass and this language does not say it that way.

Adam Hahn asked if there is a way for the public to get a look at the budget right now with the 55% increase. It is not a public document yet City Attorney Kuhlmann said. It has to be a tentative budget with the public hearing set before the public can review it. Council Member Wilcken asked if they can they share this information. City Attorney Kuhlmann said he would not say but added that it is not a criminal action as far as he knows. Adam added he also appreciates the City Council for doing what they elected them to do and for being the voice of dissention.

Bob Graul said he works for private industry in Iron County. When he moved there they had 300 employees and today they have less than half that because of economic conditions and increasing costs. As a private company they do not have the luxury of raising prices to keep people employed. They survived by doing more with less, attrition, and modest price increases. When people leave they spread the work load out. **Mayor Rasmussen said we have done that already.** Our wage increases have averaged less than 2% in the last five years. It is important that business management is kept in mind when managing the public's money.

Donna Pritchard said she and her daughter moved here 11 years ago when there was one PD Officer. She has seen it progress and regress because of the economy. When the flood occurred they got sewage in their basement and it is still not put back together but they keep going along. She is retired and on a fixed income and she budgets for taxes and now pays twice as much as in CA because her income was protected by Proposition 13. We have good services here however. If the Council finds they need to tear the City down and get rid of people then she will sell her house and move on but no one would want to buy it. Please work together and come to a decision. There has to be some increase to keep things up. Gasoline and everything goes up. It happens. Be friendly and let these bad feelings go away.

Wayne Grimshaw said we are called the weedy city and he has gone thru the regulations and if you build a building less than 10x12 there is no building permit required. No where does it say anything about private greenhouses. It should be added to exempt greenhouse from the building permit requirement no matter what the size when used for growing things. No one lives in it. If they did not have to get a building permit for greenhouses there would be less weeds. He said he saw City Manager Dotson on TV the other night referring to the news report on the fissures. The reason the land is sinking is historically the runoff from Coal Creek ran out there and when Cedar did their flood control project they dammed it off and now the water runs south so our water to recharge the aquifer is gone and now we have the fissures forming. He does not know if we can do anything about that but that is the reason we are sinking.

Clara Pickett said she has a letter from Celesta Lyman that she requested be read to the City Council and audience. She read the letter. A copy is attached at the end of these minutes for the record. She thanked them for putting the referendum on the ballot tonight so they can vote on it. She also thanked staff, the PD and animal control who give so much for little pay.

Ken Bauer asked about Family Dollar and if it is a done deal. **They should start any day now** **Mayor Rasmussen said.** He asked who here goes to JD Price the barber adding he knows Council Member Johnson does. We need to support local businesses and he does not know of anyone from the City who gets their hair cut there. If no one supports businesses we have now how good will we support any new businesses that come in. As far as budget cuts go free hot dogs are not a proper role of government.

Adam Hahn said he wanted to issue a rebuttal for the letter that was read. He appreciates services rendered but if compensation is not sufficient move on and someone else will step in. Maybe the Council was elected by a set group and they should serve the majority but the other side will continue to speak too. **Mayor Rasmussen said the referendum vote will bring that to a head this year.** He appreciates what the City provides but that may need to go. He appreciates the City has conservative values with government small and limited. He thanked Council Member Wilcken for his core beliefs. Do more with less. He owns a business and he does that.

11. CORRESPONDENCE-Mayor Rasmussen said someone hacked into his email and numerous individuals received an email from him that is fraudulent. Erase it and don't open it.

12. COUNCIL/STAFF REPORTS

Council Member Wilcken asked how we are doing with posting the recordings of the meetings. City Manager Dotson said we are still trying to get it to work and we will keep trying. We may need to rebuild the website. Council Member Wilcken said he wanted to thank everyone. He does not want to fire anyone due to core values.

Council Member Olenslager gave a report from the PD on their activities. They responded to 115 calls, made 44 reports and gave 27 citations. Chief Ames compiled response times and the longest was 3 minutes and 39 seconds. Domestic, burglaries and 911 hang ups comprise most of the type of calls received.

Council Member Lovell said he is in the process of compiling things for 4th of July run. City Manager Dotson said they postponed the business fair due to so many other events going on that day. Jordan Barben of the Economic Development Committee said they are talking about it tomorrow night in the meeting and it looks like it will be the middle of May for the fair.

City Manager Dotson said the TV news interviewed him about the fissures and subsidence. The investigation is completed now and was presented to the Conservancy District which sparked the news reports. The UGS report is available online if anyone wants to see it. Not a lot has changed since 2009-10. There was some question as to the veracity of the markers they used but the accuracy has been determined to be sound. The worst area is in Parkview Subdivision. He detailed more of the technology used. As we have discussed before we need to protect those fissures from open water flowing into them which could pollute our groundwater. Some say the fissures were always there but are evident now with development.

Dan Jessen said his door is open if there are budget questions.

Mayor Rasmussen said he is glad to work with Dan and although he has been here a short time he is doing a great job.

13. ADJOURN

Mayor Rasmussen asked for a motion to adjourn. **Council Member Olenslager made a motion to adjourn. Council Member Wilcken seconded the motion and all voted in favor.** The meeting ended at 7:48pm.

Julie Watson, Recorder **Date**