

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

**Members present:**

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

**Staff present:**

Julie Watson, Recorder  
Dan Jessen, Treasurer  
Nick Turner, City Atty.  
Robert Dotson, City Mgr.  
Earl Gibson, Pub.Works  
Jackson Ames, PD Chief-absent

**Public present:** Doug Jones, David Owens, Dilworth Armstrong, Carolyn Olenlager, Michelle & Donna Pritchard, Officer Mike Berg, Toni & Mike Brayley, Bruce & Jolene Lee, Stan & Cassie Easley, Weslie Graham, Cathy Wentz, Christine Spencer and Vern Grimshaw

**1. CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Council Member Wilcken who asked to be made Mayor Pro-Tem for tonight's meeting in the Mayor's absence. **So moved by Council Member Lovell. Motion seconded by Council Member Olenlager and all voted in favor.**

**a. Pledge of Allegiance-**Led by Council Member Johnson

**b. Invocation-**Audience invited to participate-Given by Council Member Lovell

**c. Approval of Agenda for August 6, 2014-**Council Member Olenlager said Ryan Coleman is not able to be here tonight so remove item #2 from the agenda. The PD will take care of the recognition. **Council Member Johnson moved to approve the agenda with that amendment. Motion was seconded by Council Member Lovell and all voted in favor.**

**d. Approval of Minutes for July 16, 2014-**Motion to approve by Council Member Olenlager. **Motion seconded by Council Member Johnson and all voted in favor.**

**e. Conflict of Interest Declaration for this agenda-**none stated

**2. RECOGNITION OF OFFICER RYAN COLEMAN**

Item was removed from agenda.

**3. VALLEY VIEW MEDICAL CENTER UPDATE AND REPORT-Jason Wilson**

Item moved to later in agenda if Mr. Wilson comes in.

**4. RESOLUTION NO. 2014-08-06 CONSTITUTIONAL JURISDICTION**

Mayor Pro-Tem Wilcken asked for discussion. Council Member Johnson said cities pass resolutions that have no "teeth" and no meaning. We should make this an ordinance because the constitution is the basis for all government and an ordinance would make it more binding. Council Member Olenlager said he wants to know why we are even considering this. City Manager Dotson said it originated with the County and Parowan City passed it also. Mayor Rasmussen heard about it in an Iron County Coordinating Council meeting and wanted it on the agenda for consideration. There was more discussion of items listed in the resolution and what bearing they have on Enoch, i.e. wild horse/burro management, prairie dog management and road closures. Council Member Lovell said it has more to do with the attitude of concurring with other communities and protesting the strong handed federal government. We support the State having

control of that type of thing. Nick said the “whereas” statements set the stage for why you are passing the resolution. Mayor Pro-Tem Wilcken said he would like to hear from the original author of the resolution on what the original intent was. Council Member Griffiths said it is to show support for local control. Council Member Johnson said prairie dogs, wild horses and road closures are all things where the federal government has overstepped their bounds. There was brief discussion of what local government can do in response to federal actions.

Mayor Pro-Tem Wilcken asked what the Council wants to do. Council Member Olenslager said lets clean it up and clarify what it means adding does this mean we stop the feds from enforcing current laws like protecting prairie dogs. He does not see how we can do that. Council Member Johnson said we have to uphold constitutional federal laws. He is talking about unconstitutional laws and we should bring this back as an ordinance. We should specify what it means to infringe on inalienable rights and list those rights. The federal government has enumerated powers and we should list those too. Make it more specific.

Council Member Griffiths said if we want to pass this as written we are showing support for the other entities and later we could come back with an ordinance if they feel that should happen. Mayor Pro-Tem Wilcken asked, if we are acting on the resolution do they want to change it? Council Member Olenslager said there has to be a healthy balance of power to reduce the risk of tyranny adding he does not want to set the City up for lawsuits that could be filed by the various groups in favor of what the government is doing.

Mayor Pro-Tem Wilcken asked for a motion. **Council Member Johnson made a motion to pass Resolution No. 2014 08-06, Constitutional Jurisdiction. Council Member Olenslager asked for more time to consider it and wondered how the public would feel about this if allowed to comment. Motion died for lack of a second.**

Mayor Pro-Tem Wilcken asked for a motion to table and bring this item back on the next agenda. **Council Member Olenslager made a motion to table Resolution No. 2014-08-06 until August 20<sup>th</sup>. Motion was seconded by Council Member Lovell and all voted in favor.**

**5. DISCUSS AND SET A PUBLIC HEARING ON VACATING A ROAD RIGHT-OF-WAY EASEMENT FOR BRAYLEY’S ON VETERANS MEMORIAL DRIVE**

Mayor Pro-Tem Wilcken asked City Manager Dotson to tell the Council what this is about. He said in 2002 the Brayley’s gave the City an easement on the north side of their property intended to be used as a driveway to access a parking lot for Old Enoch Park. That easement has never been used because there is access to the parking lot from the east side of the park and the easement is not needed. The Brayley’s asked to get the easement back and were told the procedure which they have complied with. They can make better use of their property with the easement restored to them. City Manager Dotson reviewed the steps to vacate the easement per State law. He noted the only adjacent owner is Jeff Lewis who has signed off on the procedure. The Council is required to hold a public hearing to determine if this action materially hurts any parties. After the City vacates the easement by ordinance it is recorded and the easement is deleted from the Brayley’s property legal description. Mayor Pro-Tem Wilcken asked for a motion to set a public hearing for 8-20-14. **Council Member Johnson made a motion to set a public hearing for August 20, 2014. Motion was seconded by Council Member Lovell and all voted in favor.**

**6. DISCUSS AND TAKE ACTION ON NRCS DRAINAGE PROJECT EASEMENT ISSUE**

City Manager Dotson gave a presentation updating the Council on the NRCS drainage project. He reminded them of the flood on August 17, 2012 and that this came about because we got 2½ inches of rain in a few minutes that caused major flooding in Enoch. 100 homes were damaged. We applied for assistance from many agencies and NRCS came thru with funds

requiring a match that would help us handle this type of event in this location. It is very unusual they would award this money as they usually only work with flooding issues caused by bodies of water. He showed the plan they have come up with and told about various plans that were scrapped because of cost. He gave more details of the various plans saying the one we have settled on, Disposal Conduit 2, has encountered two issues. One is prairie dogs and the other is a landowner who is reluctant to release an easement. He gave more details of the pipe to be used, existing shared easements and the need to acquire 15 feet from a private landowner who has expressed his reluctance to cooperate because the City has never done anything meaningful to acquire funding to handle drainage issues referring to it as “myopic planning”. He was referring to charging a drainage fee on the utility bill which has been discussed many times but never acted upon. Dan added that the family would be more cooperative if they felt we were trying to manage storm drainage. They don’t want to foot the bill when the City does nothing. Also if they granted the easement it would make it so they could not use that easement should they want to develop their land in the future. The option of eminent domain is available but that does require paying fair market value for the land and we have not budgeted for that expense nor do we have any idea of current value.

City Manager Dotson went on to describe changes that could possibly be made to the project to exclude the need for this easement saying it will be discussed in next Monday’s meeting with NRCS. One option is to not build the outlet structure and just have a ditch that would take water out to where it naturally goes now. Also not building the outlet structure does not tear up as much land. He said he wanted the Council to be aware of the challenges and to give him direction on what they would like to do to mitigate issues. There was more discussion of the LDS Church property to the north where prairie dogs have taken over and where the drainage would ultimately end up. He told about the new low effect HCP for mitigating prairie dogs and that there are possibilities for mitigation for this drainage project and we will be working with the County. NRCS has people who work specifically on mitigation and they are doing a biological study now and will determine costs.

Mayor Pro-Tem Wilcken asked what he needs from the City Council tonight. City Manager Dotson said he needs to be able to tell the family who owns the easement in question if the Council will consider a drainage fee program or tell them if the Council wants to go thru any process to buy the easement. We would then have to determine costs for the land. If the Council does not want to do that we will look at other options to change the project and eliminate the need for the easement. The prairie dog issues will be solved in the process.

Council Member Lovell said he is not in favor of adding to the cost agreed to by the previous City Council. Mayor Pro-Tem Wilcken added condemnation not an option. Assistant City Attorney Nick Turner said this is an example of the type of item that can be discussed in executive session because it affects negotiations. The Council was generally in favor of continuing with plans not to encroach on private property or purchase it. Mayor Pro-Tem Wilcken said this was a 500-year storm event. Chances are low it will happen again and we are only talking about one section of the City being directly benefited. We don’t want to spend more money and we may have to make the project smaller. Also we can consider changing the fee schedule to establish a drainage fee to build up funds.

City Manager Dotson said he would proceed in that direction in the Monday NRCS meeting and report back to the Council.

**7. PUBLIC COMMENTS-** Mayor Pro-Tem Wilcken reminded the audience that the purpose of public comments is to hear comments from residents and not to debate with the Council or for the Council to give rebuttals.

Christine Spencer suggested perhaps it would help if the drainage pipes could be like a sieve so water would be dissipated as it runs through the pipe. ***City Manager Dotson said he would be glad to address her questions and concerns at a later time.***

Vern Grimshaw said he understands we are drilling a well on the east bench and his concern is the City is drilling a well for convenience near the water tanks and not where water can be found. He said he has drilled a lot on the east bench and there is no water there. He gave more details of Cedar City's well drilling experiences nearby. He said he has been drilling wells for over 30 years and he does not understand why they chose that location. ***He was informed this is a test hole only and was invited to be on the Water Board agenda to voice his concerns.*** He said in regard to flooding issues if all developers had followed the ordinances all homes would be built 18" above the crown of the road and we would not have flooding problems.

**8. CORRESPONDENCE**-none

**9. COUNCIL/STAFF REPORTS**

Council Member Johnson said in order to keep a promise he would like to readdress the truck parking ban and have the three original options brought back on the next agenda for reconsideration.

City Manager Dotson said there is a group of 15-20 SUU students coming on Saturday August 23<sup>rd</sup> to weed the community orchard.

Julie Watson reported on the next agenda.

Mayor Pro-Tem Wilcken asked City Manager Dotson to invite Commissioner Dave Miller to come to the next Council meeting to tell them what he was thinking on the constitutional resolution passed by the County and by Parowan. He also reviewed the dates for submitting a letter of interest to be a writer of the voter information pamphlet. The date to submit letters is 8-28-14 for interested parties to write on either side of the issue.

Officer Mike Berg said they started a conversation with Rep. Evan Vickers on the spay/neuter fee accounting dilemma created by the legislature and he will be working to help remedy the issues. There were no other reports from Council Members or staff.

**12. ADJOURN-Motion to adjourn by Council Member Johnson. Motion seconded by Council Member Lovell and all voted in favor. The meeting ended at 7:25pm.**

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