

MINUTES
ENOCH CITY COUNCIL
December 6, 2017 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
Ashley Horton, Treasurer
Gary Kuhlmann, Atty-absent
Robert Dotson, City Mgr.
Jackson Ames, PD Chief
Earl Gibson, Pub. Works-absent

Public present: Dilworth Armstrong, Crystal Trujillo, Justin Wayment and Christian Jones

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-By Mayor Chesnut at 6:00pm.**
 - a. **Pledge of Allegiance-Led by Julie Watson**
 - b. **Invocation-Audience invited to participate-Given by Crystal Trujillo**
 - c. **Inspirational thought-Given by Council Member Owens**
 - d. **Approval of Agenda for December 6, 2017-Council Member Harris made a motion to approve the amended agenda. Motion was seconded by Council Member Stoor and all voted in favor.**
 - e. **Approval of Minutes for November 15, 2017-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. APPOINT CAM FINDLAY TO THE RECREATION ADVISORY BOARD

Mayor Chesnut said in the packet there is application from Cam Findlay to volunteer to help on this board replacing Andy Funderburk. **Council Member Stoor made a motion to approve Cam Findlay to serve on the Recreation Advisory Board. Motion was seconded by Council Member Harris and all voted in favor.**

3. DISCUSS/TAKE ACTION ON PUBLIC IMPROVEMENT REIMBURSEMENT AGREEMENT

Mayor Chesnut asked City Manager Dotson to explain this for the Council adding we have talked to the Trujillo's in previous meetings regarding improvements they put in when they built their home in 2006. City Manager Dotson said they got all the invoices for the infrastructure additions and he created a spread sheet with all items purchased. He gave some of the financial details saying that since this home was built two other residents have hooked into the lines the Trujillo's paid to have installed. At the time they were told by the past City Manager that if anyone hooked onto the lines they would be reimbursed for that portion of the cost. There was no written agreement made. It was just a verbal agreement. City Manager Dotson said normally an agreement of this type would be made at the time and would be in effect for ten years requiring those hooking onto improvements to pay a fee which would be reimbursed to the person installing the improvements. This is in addition to the regular impact fees which are not a part of this issue.

He gave more details of the materials and labor costs and who has hooked on since the lines were installed. It was noted they also installed a fire hydrant which was used to fight last summer's fire on the yellow hill. The landowners also bought other items like manholes and have no documentation of that. We can't make agreements on what may have taken place and was not documented. Now, after the fact, the City could make an agreement that when someone connects to this line, they will be charged a fee and the Trujillo's will be reimbursed. This agreement would probably only affect one or two lots that are left in this area. Due to the high cost to reimburse, any buyer may choose to wait out the ten year time frame of the agreement or not buy and build at all. Usually these agreements have an expiration date of ten years. Since the other two homes hooked on, one additional house was built and they connected too. It is too late to charge them and if an agreement is made for the last lots in the area that would have to be publicized so any buyer would be made aware of the extra costs required to build. A similar agreement is in place for lots in Village Green Subdivision and those costs are known up front for buyers.

Mayor Chesnut said he and City Manager Dotson met with the Trujillo's and had a discussion regarding options on how to handle this given the fact that there were representations made by the City and the Trujillo's relied on that. The Council can decide to do nothing, calculate what that amount would have been for a connection and have an agreement going forward for ten years for any buyer to pay that fee. Or another option is we could pay a lump sum settlement of \$5, 000 now, which the Trujillo's agreed with, and be done. Mayor Chesnut said, speaking as an attorney, we don't have to do anything and would most likely prevail in a lawsuit. That, however, would take time and money to defend in legal fees. The Trujillo's spent a lot of money and we understand they would like to have an agreement moving forward or a settlement of \$5,000. They have laid this all out for the City Council to decide what happens.

Council Member Stoor clarified in an agreement the ten year period would start now and anyone hooking on would pay this. City Manager Dotson said this would add nearly \$15,000 per connection and could kill a sale. This would only affect one or two landowners who would be liable to pay on this agreement. This adds a lot to their cost which is over and above the impact fees and building permit fees. Crystal noted the Chamberlains hooked onto the line and the other new home the Taintor's are building is hooked on. Mayor Chesnut said this would impact new connections only. Council Member Stoor asked if the Council agrees to pay the \$5,000 what funds would it come from. Ashley said since we are closing the budget tonight we would have to wait and open the budget again. It would probably come from the sewer and water enterprise funds.

Council Member Johnson said the \$5,000 settlement is far simpler and agreed it is reasonable and better for all he thought. Council Member Harris agreed he is fine with the \$5,000 settlement. Council Member Lee asked there are lessons to learn on both sides. If this comes up again we would do this in advance. City Manager Dotson said this would be rare. It is not often promises are made and not formalized. We have a situation of a verbal agreement not carried through so that is a factor. Council Member Owens said he agrees with the \$5,000 settlement. City Manager Dotson said he talked to those employees previously involved and they remembered this verbal agreement. The Trujillo's are fortunate that this City Council has been cleaning up things like this that were left over from the past.

Mayor Chesnut asked for a motion on the action. **Council Member Harris made a motion to approve the settlement agreement of \$5,000 to the Trujillo's for public improvements. Motion was seconded by Council Member Johnson and all voted in favor.** City Manager Dotson said we will draft an agreement and get them a check.

4. PUBLIC HEARING ON 2017-2018 REVISED BUDGET

Council Member Harris made a motion to close the regular meeting and open the public hearing on the revised 2017-2018 budget. Motion was seconded by Council Member Owens and all voted in favor.

Mayor Chesnut asked for public comments. There were no public comments.

Council Member Harris made a motion to close the public hearing and reopen the regular meeting. Motion was seconded by Council Member Owens and all voted in favor.

5. RESOLUTION NO. 2017-12-06-A A RESOLUTION APPROVING THE REVISED 2017-2018 BUDGET AND CLOSING THE BUDGET

Mayor Chesnut asked Treasurer Ashley Horton if all the numbers were adjusted since the last discussion and she confirmed they were. **Council Member Owens made a motion to approve Resolution No. 2017-12-06-A, a resolution approving the revised 2017-2018 budget and closing the budget. Motion was seconded by Council Member Harris a roll call vote was held as follows:**

Council Member Harris-Yes	Council Member Stoor-yes
Council Member Johnson-Yes	Council Member Owens-Yes
Council Member Lee-Yes	Motion passed unanimously

6. DISCUSS INTERLOCAL FIRE PROTECTION AGREEMENT

Mayor Chesnut said this item is back from previous discussions and a presentation from Chief Phillips regarding the changes to the agreement that make it more equitable. Cedar City's attorney and our City Attorney Gary Kuhlmann discussed the agreement and some changes were made. Council Member Harris asked if there were any concerns. Mayor Chesnut said they met with Chief Phillips and the long term concerns will be addressed with this new agreement as opposed to the old agreement. Council Member Stoor said page 4 refers to a four year time period and wondered about that. City Manager Dotson said our increase is nominal in relation to what the County will be required to pay so that clause is mostly to ease the burden for the County. Their payment will go up about \$250,000. Ours is about \$1,900 more for this year over the last agreement. Council Member Johnson said he does not like that this has taken the form of a property tax but that is how it is. Mayor Chesnut added this agreement is easier than changing property tax and is more equitable for services received from the Fire Department.

7. RESOLUTION NO. 2017-12-06-B A RESOLUTION TO APPROVE THE INTERLOCAL FIRE PROTECTION AGREEMENT

Council Member Harris made a motion to approve Resolution No.2017-12-06-B, a resolution to approve the Interlocal Fire Protection Agreement. Motion was seconded by Council Member Stoor and a roll call vote was held as follows:

Council Member Harris-Yes	Council Member Stoor-yes
Council Member Johnson-Yes	Council Member Owens-Yes
Council Member Lee-Yes	Motion passed unanimously

8. DISCUSS PLANNING COMISSION RECOMMENDATION REGARDING ORDINANCE TO PUT A SIX (6) MONTH SUSPENSION ON CONDITIONAL USE PERMITS

Mayor Chesnut asked Council Member Harris to tell the Council about this. Council Member Harris said in our Zoning Ordinance there is a list of different things permitted, not permitted or conditionally permitted in commercial zones. If we wanted to make a use conditional we would

have to have written conditions in our ordinance. Currently we set conditions on a case-by-case basis which is arbitrary and subjective. We have created conditions when people come to us. Now State law says you have to list those conditions in your ordinance. On the list in the Zoning Ordinance we have a lot of things that might be approved in certain zones if conditions could negate any impacts. The Planning Commission is going through each item and making it permitted, not permitted or conditional with the conditions that will be written in the ordinance. Looking at each possible use and redoing that whole thing will take some time. We don't want someone to come now with an application for a conditional use while we are in the process of making these changes. Per State law we want put a "hold" on conditional use permits for six months to get the work done. There are 92 items on the current list and some will require a lot of discussion. City Manager Dotson said this will all come to the City Council for approval when a final product is ready. Mayor Chesnut clarified in the interim we will not take any conditional use permit applications. This is known as a temporary land use ordinance. Council Member Harris asked for questions. Council Member Owens said this is a sticky thing and the wording has to make sense to most normal people and be in writing. We have to have conditions written in the ordinance or the use is automatically approved. We have made some changes already like not allowing auto repair shops in residential neighborhoods.

9. ORDINANCE NO. 2017-12-06 A TEMPORARY LAND USE ORDINANCE ESTABLISHING SUSPENSION OF APPLICATIONS FOR CONDITIONAL USE PERMITS FOR A PERIOD OF SIX (6) MONTHS

Mayor Chesnut asked for a motion. **Council Member Harris made motion to approve Ordinance No.2017-12-06, a temporary land use ordinance establishing suspension of applications for conditional use permits for a period of six (6) months. Motion was seconded by Council Member Owens and a roll call vote was held as follows:**

Council Member Harris-Yes	Council Member Stoor-yes
Council Member Johnson-Yes	Council Member Owens-Yes
Council Member Lee-Yes	Motion passed unanimously

10. DISCUSS AND SET A PUBLIC HEARING FOR DECEMBER 20, 2017 FOR THE ONE-YEAR AND FIVE-YEAR CAPITAL IMPROVEMENTS LIST

Mayor Chesnut asked City Manager Dotson to explain referring to the lists in the packet. City Manager Dotson said we are required to hold a public hearing on the one and five year plans. City Manager Dotson told about priority levels in the numbering. The animal shelter is off the list as we are moving on that. Recently the water tanks for sale came up and are on the list. We are meeting with NRCS next year to apply for the grant for storm drainage control on the other side of I-15. We store one fire truck to help with ISO ratings and need a heated building for that. We want to add on to the sewer building to store the fire truck. The CFP update item is for water like we recently did for the sewer and storm water drainage. The PD building is on the 2 to 5 year plan for expansion. The Capital Facilities Plan is not for a new building but for existing additions and improvements. With a new CFP we might be able to use impact fees for the expansion. We keep moving these things forward on the lists until they become needed. Council Member Harris said we covered storm water and sewer in these lists. More discussion is needed on cleaning Treatment Plant water for reuse to bring it to Enoch or other places. City Manager Dotson said and RFP is being done now for that by Cedar City and we are giving input. He said this is for CIB or CDBG funding and they require these two lists. If we want to apply we have to have held a public hearing. That is why we are setting it for December 20th although we may not apply for this money. Mayor Chesnut asked for motion.

Council Member Harris made a motion to set a public hearing for December 20, 2017. Motion was seconded by Council Member Stoor and all voted in favor.

11. DISCUSS AND APPOINT LEGAL COUNCIL TO REPRESENT ENOCH CITY

Mayor Chesnut said we have our new law firm here tonight. We have met with them because they responded to our request for providers. He introduced Mr. Justin Wayment and Mr. Christian Jones. We interviewed them and discussed this with them to represent us now that current counsel is on hospice and no longer able to do our work. Gary Kuhlmann has been with the City for many years and urged us to get this done right away. We have discussed the engagement and the City Council needs to approve this hiring. For the record, no one else applied. We are fortunate that they did apply with their extensive experience and broad municipal knowledge. Also they are local which is a plus. Only one concern raised was raised by Mr. Wayment. We asked for a three million dollar insurance policy. He was willing to look at his costs to do that and we would pay it in the long run. He is one of the only firms that carry malpractice insurance as it is not required by law. We decided we would accommodate that and reduce it to one million. Mayor Chesnut asked for questions adding they are great attorneys and he has done a lot of work with them. Council Member Harris asked if we were at odds with another public entity that they represent would they have a conflict. Mr. Wayment said the only other client we might conflict with would be the Water Conservancy District and that is not likely. They would recuse themselves if necessary and we would get outside legal counsel if there was a conflict. Their schedule is such that they can attend meetings when needed. Mayor Chesnut asked for a motion to appoint Wayment and Associates as legal counsel adding we will finalize a contract. **Council Member Harris made a motion to appoint Wayment and Associates as Enoch City legal counsel. Motion was seconded by Council Member Johnson and all voted in favor.**

12. PUBLIC COMMENTS-none

13. COUNCIL/STAFF REPORT-

Chief Ames reported they are busy. They have “Shop with a Cop” on Saturday which is always a worthwhile experience. The last “Tip a Cop” dinner will be at Lupitas Friday if anyone wants to donate to the cause.

City Manager Dotson reported our Building Inspector is now certified to do commercial inspections. The Utah OSHA representative will be here January 18th for a safety inspection. Each employee does a safety audit each month to look at all facilities and parks, etc. The consulting and the compliance division have changed. They can come and hammer cities if they want to. When we ask a consultant to come and help with safety audits and put together our manual the compliance people stay away. We have two certified OSHA employees. We hired a new laborer for the position that was open. He gave two week notices to his current employer. He lives in Enoch.

Ashley Horton said one thing the auditors suggested was that we look into refinancing our water bond that has 5% interest rate. We have been talking with Zions Bank and to State Bank and they can help refinance that. Their interest rate will gradually increase but we can pay off the bond five years sooner and save about \$90,000. She asked if the City Council is good with refinancing. If so, at the next meeting we will adopt a resolution with parameters for the City Manager to go forward with negotiations. This has to be closed by the end of January to get the lower rate. We may need to have bond council for this from a water attorney in Richfield.

Mayor Chesnut said we need a closed session to discuss litigation.

Council Member Stoor reported the Recreation Advisory Board is making plans for the park in Iron Mountain Subdivision. He thanked City Manager Dotson for getting the

engineering on the retention pond that will be in that park adding there are some good ideas coming up. Council Member Lee asked if they discussed putting a trail to that park and hopes be able to do that.

Council Member Harris said they got the run down on what the Planning Commission is working on and they will continue with that. He said he miss their next meeting.

Council Member Lee said she, City Manager Dotson and Katherine Ross attended the newly elected officials training and it was very helpful.

Council Member Owens said the EDC is meeting tomorrow. They have two interested investors coming in to discuss opportunities in Enoch.

Mayor Chesnut said the Council assignments have been restructured for 2018 and a list has been distributed so the Council Members know what they will be over next year.

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

Council Member Harris made a motion to adjourn the regular meeting and go into a closed meeting for the purpose of discussing litigation. Motion was seconded by Council Member Owens and a roll call vote was held as follows:

Council Member Harris-Yes

Council Member Stoor-yes

Council Member Johnson-Yes

Council Member Owens-Yes

Council Member Lee-Yes

Motion passed unanimously

15. ACTION FROM EXECUTIVE SESSION-none

16. ADJOURN-The regular meeting ended at 7:10 pm.

Julie Watson, Recorder

Date