

MINUTES
ENOCH CITY COUNCIL
February 21, 2018 at 6:00pm
City Council Chambers
City Offices, 900 E. Midvalley Road

Members present:

Mayor Geoffrey Chesnut
Council Member David Harris
Council Member Jolene Lee
Council Member Dave Owens
Council Member Katherine Ross
Council Member Shawn Stoor

Staff present:

Julie Watson, Recorder
Ashley Horton, Treasurer
Justin Wayment, Atty.-absent
Robert Dotson, City Mgr.
Jackson Ames, PD Chief
Earl Gibson, PW Dir.

Public present: Brent Carter, Dilworth Armstrong, Wayne Johnson, Kent Brown, Paul Hardy and Franklin Tilley

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-By Mayor Chesnut at 6:00 pm.**
 - a. **Pledge of Allegiance-Led by Council Member Harris**
 - b. **Invocation-Audience invited to participate-Given by Council Member Lee**
 - c. **Inspirational thought-Given by Council Member Owens**
 - d. **Approval of Agenda for February 21, 2018-Council Member Harris a made motion to approve the agenda. Motion was seconded by Council Member Ross and all voted in favor.**
 - e. **Approval of Minutes for February 7, 2018-Motion to approve the minutes by Council Member Harris. Motion was seconded by Council Member Owens and all voted in favor.**
 - f. **Conflict of Interest Declaration for this agenda-none stated**

2. **ORDINANCE NO. 2018-02-21 AN ORDINANCE TO CHANGE THE ADDRESS OF 4132 MORGAN DRIVE TO 4137 MORGAN DRIVE TO CORRECT THE IRON COUNTY PLAT WHICH IS INCORRECT**

Council Member Harris made a motion to approve Ordinance No. 2018-02-21, an ordinance to change the address of 4132 Morgan Drive to 4137 Morgan Drive to correct the Iron County Plat which is incorrect. Motion was seconded by Council Member Owens and a roll call vote was held as follows:

Council Member Harris-Yes	Council Member Stoor-Absent
Council Member Ross-Yes	Council Member Owens-Yes
Council Member Lee-Yes	Motion passed

3. **CERTIFICATION OF PETITION FOR ANNEXATION OF PROPERTY OWNED BY MP RANCH, LLC & HARDIN FAMILY TRUST-New Horizon Engineering**

Brent Carter came up to say he is with New Horizon Engineering and represents the owners. He said the Hardin's want to annex into Enoch. There is nothing planned for now however they want to be able to build there later. Mayor Chesnut asked if an annexation agreement is in the works. City Manager Dotson said yes it is and there are no staff concerns with compliance. City Manager Dotson added some property owners are being annexed in because the Hardin's own over 51% of the land mass area. They basically force those folks to annex in order to avoid creating islands or peninsulas. Those property owners will be notified by certified letter. Julie Watson, City Recorder said this will begin the three week noticing period in the newspaper. The City Council will set a public hearing on March 7th to be held on March 21st and will have an ordinance to pass the annexation.

4. **DISCUSSION OF CURRENT NUISANCE ORDINANCE PASSED IN 2015**

Mayor Chesnut asked City Manager Dotson to kick this off adding it is not a favorite issue. City Manager Dotson said he and Council Member Lee have discussed this in detail recently and at many times in the past.

Council Member Lee said she wrote down her feelings to specify where she is going with this. She read her thoughts saying, "I have been concerned about the "vagueness" in the Enoch City Code of Ordinances in regard to nuisances for many years. I am also frustrated with the lack of procedures for abating nuisance violations. I think it is time to define more specifically what our codes to this issue are, to "tighten up" many of the codes, and to decide if we as a City have the will to enforce these." Her goal is for more definition and to tighten many codes, deciding if we have the will to enforce changes we make. That involves money and desire. She said she knows bringing up this topic causes angst but it has been avoided for a long time. She did research extensively what other cities are doing and that is why she wanted it on agenda. City Manager Dotson said he and Council Member Lee talked about how to approach this in a positive light, being productive and coming to good conclusions to benefit the public and the private owner. There has been the perception in the past that this is heavy handed government imposing its will on private property owners. This requires conclusions that all can manage rather than a negative approach and confrontational way that will create problems.

There was considerable discussion that Enoch's Code is vague and in need of definitions regarding what constitutes a nuisance. City Manager Dotson reminded the Council that whatever is decided it has to be written in plain language anyone can understand and we can only enforce what is in writing. The current code says if three or more persons are insecure of life and use of property they may file a complaint. It was noted Utah code left it to the cities to define nuisances and it established a way to abate a nuisance. Some of the comments and concerns stated by the City Council were as follows:

- Mayor Chesnut said there is not a definition of what each violation means and did not disagree it is vague. He is curious to know what the underlying policy motivation is to incorporate into the code. Is it "I don't like the way my neighbor keeps their yard". What is the definition of a public nuisance?
- Council Member Lee said she studied Cedar City codes and found they are easy to understand. It defines everything considering the public good with property rights being in the middle. There would be individual rights as opposed to public rights. She wants something in the middle. As a City we have not decided whether to act or not. She remembers in the past when things were enforced more and people took better care of their property. She told about her experience with approaching the City Council to act and was told to try to improve her own neighborhood. She did that with the Garden Park project which was a great success but did not change behavior when it came to people caring about the appearance of their property. She wants to do more and stop kicking the can.
- City Manager Dotson went back to the orientation meeting where they talked about political decisions and sustainability. He said you as the City Council make decisions that are political. The sustainability part is where the staff has to go about administering those choices. He gave more details of that discussion including if mitigation is done by staff or hired out and the costs involved. Social equity is a factor. Things like equal rights and individual vs. community or public rights. All factors come into every decision they make as politicians. He noted the previous City Council was more of the bent that if you own property you should to do whatever you want unless it harms others physically. We haven't had the manpower or the will to go through a process to cite people and take people to court. How do we force someone to do what we want? Because the City Council was elected they get to figure it out. As staff we have to have the tools do to the job.
- There was more discussion of Cedar City's code and that Enoch is different. We could take ideas from other cities but we need to customize them to our situation in Enoch. There is a lot of high minded language but when the "rubber hits the road" law enforcement has to be involved. We are all for a nicer community. The meat of the issue how do you enforce it. The debate is the enforcement part. There was a discussion HOA's and how heavy handed and ineffective they can be. Mayor Chesnut said he particularly despises them. He likes local government to collaborate and fix things being careful we use caution with actual police powers.
- Council Member Harris said he has felt frustrated when people come to him with legitimate concerns and we could do nothing for them. The government has power to do these things as a representative government. When people come to demand action we have no power with the current ordinance. He said he is fine with basing our conversation on another city's code and going from there to customize it to Enoch. He is trying to set the table for discussion with the understanding that when we are talking

about nuisances, we must consider is it so onerous on the rest of us that it is worth potentially incarcerating someone for it. If we pass it we have to enforce it and there will be costs. He said no one wants to make this something people are thrown in jail for. Council Member Harris added there has been little to no enforcement and if we go to an extreme that will likely have a detrimental effect.

- Council Member Owens agreed saying he looked at other ordinances and agrees we are vague. The State requires us to be more precise but we still have to be very careful on what we decide is a nuisance and what is not. This is emotional and we could cause someone to be affected adversely. He thinks to a certain extent that the descriptions have to be broad but enforceable. He agrees with City Manager Dotson in the spirit of helping people solve problems rather than be the “hammer”.
- There was discussion about what happened when a previous Council made a tax decision that resulted in a referendum and it bore fruit at the ballot box. They were ousted. Council Member Harris said, for the record, he will try to do the right thing and not think about it politically.
- Mayor Chesnut said it is not just cost to the budget. This is a foundational principle. When you are going to level criminal penalties that is really important. We need to wield it smartly, effectively and as little as possible. We are looking to review a change that is less than three years old. If you make a change and the enforcement is too draconian too quickly it may have the reverse effect. If we are looking for long term change it has to be long term cooperating.
- Council Member Lee said many residents have been holding back their frustration on this and she wants to be a voice for them. She is saying let’s look at it. We may need to add to the PD and some other code enforcement duties which needs to be in the discussion.
- Council Member Stoor said the key is we need to start with what we have and try to enforce what we can and help people who have real concerns in the neighborhood. There could be monetary penalties and not criminal penalties. Placing a lien on property for clean-up costs means we may not see the money until the property is sold but we are trying to get cooperation.
- Council Member Harris said he is not sure where to begin on the language but he is fine to start talking. We have to look at the larger picture in that what solves one problem can create more problems. Some people come in to complain about every little thing. In terms of defining nuisances if three or more decide something is a nuisance that is one thing. Then we have the person who thinks everything is the nuisance. It was noted that Cedar City has a list of nuisances and code enforcement people who drive around looking for problems. Our code enforcement would not be looking for violations but responding to complaints. If the neighbors are fine with it and we say it is a problem, code would require us to enforce it.
- Council Member Stoor said let’s think about why we are having this discussion. What do we want our City to look like? We need to start with a purpose and that is what he campaigned on when he ran for office. His platform was to spruce up the City. Cutting weeds and getting rid of trash is a start. That is a way to abate conflict with neighbors. He said this is so subjective how do you define it? Right now it is not a problem unless the neighbors have a problem and file a complaint. We all have property rights and some take offense at what they see. If we get complaints then we should have some legal enforcement to abate.
- City Manager Dotson reminded the Council that State Code requires that our laws be in plain language and written down in order to enforce it. If something is not on a list than we can’t enforce it. Residents have to know what the rules are; not whether three or more neighbors like it or not.
- Council Member Lee said what if you can show it devalues the property of others. Mayor Chesnut said that is dangerous. Until you have adjudication by a judge with expert witness testimony that can’t be proven. He does not disagree there are problems. How do we enforce this without exhaustive lists?
- Council Member Stoor confirmed that State law says it has to be a specific list. City Manager Dotson confirmed it does. Council Member Harris suggested we come up with an exhaustive list but only enforce it when there are complaints. We ignore it if no complaints come in. He is more concerned with incurring legal problems for the City if we go on private property to mitigate nuisances.

- Mayor Chesnut said this ordinance will be administered by the PD or Building Department for code violations. Some things would defer to City Manager Dotson for most of this type of thing. It starts with the finding of a nuisance. We want voluntary compliance but we will prosecute.
- Council Member Harris said we should take steps to improve enforcement by small steps; no extremes on enforcement. We should look at trying to deal with the most extreme cases first and he is prepared to do that. We should make allowances for the City to have a budget to do that and the code to do it. This will evolve over time. We should come up with a list of what we are willing to enforce.
- Mayor Chesnut said we could make the ordinance take effect at a future date and let the public know that it is coming. He is fine with using other city's lists to start with.
- Council Member Harris said what is important to us to is to enforce it and he would like to stick to a monetary penalty even as a last resort. Voluntary compliance is tantamount. Finding resources to help solve a problem if a homeowner can't comply should be an option.
- Council Member Owens said if one person is not penalized for a violation then his neighbor will say why should I change my behavior? Either we enforce it or not. He likes the idea that if neighbors have a complaint we should look at it. We don't want someone going around hunting down nuisances if there is not conflict between neighbors. If there is no conflict don't create one. Be fair. We need base language to start with and decide what is important to us in Enoch.
- Mayor Chesnut said we should make our own list. He is always leery of government turning the PD loose especially when talking about something that does not harm an individual. That is his concern. We can have discussion and find a resolution. We have to do something we can all live by.
- Council Member Stoor said when we are talking about a real hazard like weeds so high they start a fire that should be mitigated first. It is a danger to all the neighbors for fire. Hazards should have more urgency.
- Council Member Ross said her neighborhood is so different she has not come across these issues. She understands why we need change although she has not experienced much of what has been an issue.

Mayor Chesnut said he would like to form a rotating working group on this. We will start by finding similar cities to us and using their ordinance as a basis to start the discussion of the list. The first group will consist of Council Member Lee, Council Member Ross, himself, City Manager Dotson and Chief Ames. He would like them to convene very soon. He would also like the Building Inspector to educate the group on what he already has the power to do when it comes to derelict buildings. The idea is to do something that is "Enoch born and raised". Can we incentivize people to change? Do we use the carrot or the stick? Mayor Chesnut said that will be a good start. He asked those assigned to the working group to email City Manager Dotson to set a time to meet hopefully for next week.

5. PUBLIC COMMENTS-Mayor Chesnut invited public comments.

Wayne Johnson of 4580 Half Mile Road said as he moved in he found the ordinance says you can only have a four foot high fence from the front of the house to the street. The neighbor's junk is piled eight feet high. He wants to block it out. The junk just keeps growing day after day and is eight feet high all the way to the road. Why can't he have a fence that high? He proposes if we allow that junk to accumulate they need to allow neighbors to have counter measures to block it. He passed out a letter from another neighbor unable to attend tonight. He added he said he is not here to bash his neighbor. He likes it here in Enoch but wants the same rights to have a view and if not cleaned up he should be allowed to build an eight foot fence to the road. This problem just keeps growing and as a resident he is concerned about it being not only unsightly but dangerous should it catch fire.

6. COUNCIL/STAFF REPORT

Earl Gibson reported he talked to the electrician today and the well house should be all wired as soon as Rocky Mountain Power hooks up the lines. We are anxious to get water from the new well. We received approval for the prairie dog clearance to build the road to the shelter. We will start when weather permits. He met with the dog park people again and showed them how we want to do the plot plan for the shelter and dog park and they gave some input. We are also seeking approval from DEQ to run the water line with the road.

