

MINUTES
ENOCH CITY COUNCIL
February 3, 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 Dave Owens
Council Member Shawn Stoor

Staff present:

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

Public present: Spencer Jones, Jordan Barben, Dilworth Armstrong, David Benkert, Sr., Michael O'Rourke, Worth Grimshaw, Brian Johnson, Michelle Pritchard, Tad Tuttle, Officer Mike Berg, John & Tammy Banks and Robert Jenson

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Mayor Chesnut at 6:00pm. Mayor Chesnut was participating in the meeting electronically.
 - a. **Pledge of Allegiance-**Led by Council Member Stoor
 - b. **Invocation-**Audience invited to participate-Given by Council Member Harris
 - c. **Inspirational thought-**Given by Mayor Chesnut
 - d. **Approval of Agenda for February 3, 2016-Council Member Owens made a motion to approve the agenda. Motion was seconded by Council Member Harris and all voted in favor**
 - e. **Approval of Minutes for January 20, 2016-Council Member Stoor made a motion to approve the minutes. Motion was seconded by Council Member Johnson and all voted in favor.**
 - f. **Conflict of Interest Declaration for this agenda-**none stated

2. **DISCUSS/APPOINT PLANNING COMMISSION MEMBER**

Mayor Chesnut referred to the applications submitted which are in the packet saying for the Planning Commission he recommends Debra Ley. He gave her qualifications including running for City Council. As there were no concerns voiced he asked for a motion to appoint Debra Ley to the Planning Commission. **Council Member Owens made a motion to appoint Debra Ley to the Planning Commission. Motion was seconded by Council Member Harris and all voted in favor.**

3. **DISCUSS/APPOINT ECONOMIC DEVELOPMENT COMMITTEE MEMBER**

Mayor Chesnut proposed to appoint Tad Tuttle to the Economic Development Committee. City Manager Dotson introduced Tad and Council Member Owens said as the liaison for the EDC he wanted to note that Tad was recommended by EDC member Jordan Barben. Mayor Chesnut asked for a motion. **Council Member Harris made motion to appoint Tad Tuttle to the EDC. Motion was seconded by Council Member Stoor and all voted in favor.**

4. **ORDINANCE NO. 2016-02-03 AN ORDINANCE TO READ AND AFFIRM THE CONSTITUTIONS**

Mayor Chesnut referred to the memo from staff and our City Attorney on the fiscal and legal implications of this ordinance and he asked for discussion. Council Member Johnson said this is his proposal he wanted to repeat that when the newly elected officials were being sworn

into office it is stated that they are upholding and defending the U.S. Constitution and the Utah Constitution. He said he read them before being sworn in himself and it occurred to him that if we take an oath to support and defend the Constitutions it is meaningless unless we are familiar with them. He proposed an ordinance that we affirm publicly that we have read the two Constitutions within a year of being sworn in. City Attorney Kuhlmann said, regarding his memo, he doesn't disagree with the premise but from a legal standpoint cities are creatures of the State and derive their power from the State. There are no constitutional caveats that require this action. That is reserved to the legislature who sets election procedures. Nowhere is there any local authority to require this action although encouraging it is absolutely acceptable. It could be a resolution but not an ordinance which is a law.

Council Member Harris agreed with the premise saying a resolution would be better. An ordinance is a law and as such would have a penalty. We all agree this is a wonderful idea but passing a law is too much. Council Member Johnson supported his point more by saying in the ULCT handbook it says we could not pass anything unless authorized by the legislature. He cited the reference and read from it saying we have the authority to act if it is not prohibited or unconstitutional. It does not matter that we are not specifically authorized to do this. Council Member Harris suggested again this could be a resolution instead of an ordinance. City Attorney Kuhlmann said his concern is you can't make any one read something. He said in the Hutchinson case that Council Member Johnson referred to it is not a "carte blanche" situation and is not absolute. Election authority lies with the legislature. Imposing this as a condition of taking a seat on the City Council is something a local body can't do. You are trying to impose an additional condition on being elected and local municipalities do not have that authority. There was more discussion between Council Member Johnson and City Attorney Kuhlmann with the City Council being willing to consider this as a resolution. Council Member Harris suggested we could even post a declaration on the wall in the Council Room they would sign saying they had read the constitutions. City Attorney Kuhlmann still expressed fundamental problems with doing that but agreed it is better to encourage elected or appointed officials to read the material but not in the form of a law. It would be acceptable to post notice of the affirmation they have read this. Council Member Johnson agreed that would be ok. City Attorney Kuhlmann said when reviewing any documents they always say "I have read or had it read to me". That will serve to cover all exceptions Mayor Chesnut said adding we will have a resolution for the next agenda. Mayor Chesnut asked for a motion for this ordinance and there was no action taken.

5. DISCUSS/TAKE ACTION ON N. ENOCH ROAD IMPROVEMENTS AND ON RAVINE ROAD IMPROVEMENTS

Mayor Chesnut said this was placed on the agenda due to prior discussion at the last meeting. We did abandon three portions of Ravine Road and this discussion is to consider improvements to the roads in questions. He noted Gary Wilcken had asked for a more holistic solution to this because the City has been placed between two parties in a personal dispute. He invited any discussion of improvements on either road.

Council Member Johnson said at the last meeting the compromise approach suggested by the memo was not the best way to handle this. It was decided we should separate the two situations and deal with each component. He asked the question, is it ok for a person to close off a City road?

Council Member Owens said we are talking about improving that road for public traffic. Council Member Stoor said Ravine Road would have to have considerable work done to make it passable and he thinks we could use the City's money better elsewhere. Referring to the map in the packet he said there could be more areas on Ravine Road for possible abandonment. Mayor Chesnut said that is the next agenda item so let's hold that discussion until then. Mayor Chesnut redirected the discussion to take action on any proposed improvements. Council Member Johnson

asked again should people be allowed to block off a road. Council Member Owens said we have a Planning Commission who makes decisions about roads and the designations of roads and how they connect together in the subdivision process. Council Member Stoor said it depends on the road and Ravine Road is a dirt road passable only on an ATV at this time.

Council Member Harris said maybe we could have done things differently but generally speaking people should not block off a road. Council Member Owens said cities change roads all the time but individuals do not. Council Member Harris said as the general plan of roads goes Ravine Road is best accessed from Enoch Road. As future development comes up the Planning Commission will designate the traffic flow which should go to Enoch Road and to other future major collector roads to the west that are planned roads. He said this road would not be in compliance and would be dangerous so we are better off to use the road plan already developed.

Council Member Johnson warned the past City Council had set a precedent. If we allow one road to be closed by an individual then others can close roads too. Council Member Harris disagreed saying each situation is different and precedence does not matter. Is it the right plan for Enoch City? Doing one does not force the other to be the same. Traffic should go to the west and go into planned major collector roads. There is not any need for Ravine Road to be a connector road. Council Member Johnson asked even when that future east/west road is open will some still want to use Ravine Road. There was more discussion of the hazards like the intersection. Council Member Harris said he would rather require the use of major collector roads. Council Member Johnson brought up road width. Council Member Harris said the entire easement is still not in compliance with our current road standards. City Manager Dotson said we require developers to build 50 foot or 66 foot wide roads depending on location. Council Member Harris said there are things all over the City that don't meet current standards however we should stick with current standards and not make a lot of exceptions. Council Member Johnson said it was an historical road and people want to use it. No one living at the bottom end thinks there will be lots of traffic on this road. Council Member Harris asked with little traffic expected should we spend City funds to open this road. Council Member Johnson said some residents have to drive an extra distance to go to church and that is why they want it open adding again this is an historical road with precedent. Council Member Harris respectfully disagreed with that.

Council Member Johnson talked about the Utah founders and their layout of roadways throughout the State saying he wants to follow that example adding it is preferable to connect rather than to divide and isolate. Council Member Stoor said if it was important to keep this road open we would not have allowed development and it is not an important road now. This road is not utilized and other roads serve the needs of residents.

Mayor Chesnut asked if there are any improvement proposals on N. Enoch Road. Council Member Owens said in the last meeting we decided we need to keep these two discussions separate. He does not object to discussing this but it has nothing to do with opening Ravine Road or not. Council Member Owens said in regard to N. Enoch Road installing cattle guards came up. He questioned if the City is responsible for this or is the owner responsible to control his livestock on the roadway. Our ordinance states we do not permit open range grazing in City limits and fences are meant to control livestock. The cost of a cattle guard would not benefit the residents of Enoch overall. Animals can't be allowed on the roadway so a fence is needed to keep them off. Council Member Owens said the Council received a letter from a property owner about their concerns that pedestrians could be involved with cattle which is a safety issue. The landowner needs to ensure animals do not impede access to other owner's property. It was clarified we are addressing open range grazing and not livestock being on the roadways when they are being moved from one pasture to another which is allowed. Council Member Stoor said he is confused about why we are even talking about N. Enoch Road improvements because keeping livestock there is the animal owner's problem and not the City's problem. Council Member Johnson said as a City Council we are trying to satisfy the parties in this dispute and this

was an effort to please both sides. Council Member Harris said the other property owners on N. Enoch Road need to be considered too. Council Member Stoor said we should do only what is best for whole City when we spend resources. Council Member Harris suggested the owner fence the sides of the road to keep his animals contained. Mayor Chesnut asked for any action they would like to instruct the City staff to take on either issue. There were no motions.

6. DISCUSS FURTHER ABANDONMENT OF PORTIONS OF RAVINE ROAD AND SET A PUBLIC HEARING

Mayor Chesnut said Council Member Owens proposed further abandonment of portions of Ravine Road and included setting a public hearing. He referred to the map in the packet and Council Member Owens was asked to state his proposal. He said what was discussed and what he proposes is we abandon a small section that follows the road line and is basically where an open road would be placed. If abandoned, the Fislars and other property owners have complete access to their property. Mayor Chesnut clarified the City has a right-of-way for the utilities in the roadway that would not be impacted by this or any action.

Council Member Harris said in the previous abandonment by the Stake Center we only abandoned half of the road in that portion. City Manager Dotson concurred we abandoned only half of the road and it is meaningless to keep other half open. Mayor Chesnut said the engineering and legal descriptions would take some time and are required to be available when noticing is done for the public hearing. Council Member Owens said whether we abandon it or not if there is half a road it does not make sense to open just that portion. He said he would prefer to clean it all up in this action however there will be engineering involved. Council Member Harris agreed loose ends should be handled adding no one drives on that road now and no one needs that road. Council Member Stoor said if we are talking about the whole thing from the NE corner of the Stake Center property to Blueberry Road that part has been subdivided already. Manager Dotson said that part is in Village Green Subdivision. Village Green Road runs to Highway 91 and that is good access. Council Member Stoor said if we make these changes on Ravine Road perhaps we should consider renaming it then emergency services could be notified and be able to find their way. Council Member Owens agreed we should have this conversation with emergency services. City Manager Dotson clarified that this is Pomeroy Road in the Village Green Subdivision. Council Member Owens said he indicated where he wanted to abandon and asked if the Council has any problem. There was more discussion of the location of the proposed abandonment sections. City Manager Dotson said Council Member Owens has requested for abandonment the corner piece of .37 acres and .09 acres to the right and below it where it connects to the parcel A840- 13-1 as shown on the previous map consisting of two different legal descriptions. Council Member Stoor confirmed the City would maintain our easement through there. Council Member Owens stated we are adding the western point and continuing it to NE side of the Stake Center as Council Member Harris suggested. Mayor Chesnut said what we are talking about is a different road and it is not in this discussion tonight to consider the Pomeroy Road area. Mayor Chesnut also clarified this action is to request more legal work. Council Member Owens asked how much time the City Engineer would need to get this together for the noticing. City Manager Dotson thought it would not take that long.

Council Member Stoor made a motion to set a public hearing for March 2, 2016 to consider further abandonment of Ravine Road for a portion by the Fislars property as well as a section on a lot and the other half of Ravine Road adjacent to the Stake Center parking lot and the NE boundary of the Stake Center out to Blueberry Road and instruct the City Engineer to get the legal descriptions and maintain City easements. Motion was seconded by Council Member Harris and all voted in favor. City Attorney City Attorney Kuhlmann said it is always good to expressly reserve the easements.

7. DISCUSS ISSUES WITH REQUIRING SOCIAL SECURITY NUMBERS ON ENOCH UTILITY APPLICATION-Allen Johnson

Mayor Chesnut said an agenda request was submitted by a resident, Mr. Allen Johnson. City Manager Dotson said Mr. Johnson is not present tonight but he will recap the issue for the Council anyway. He said Mr. Allen did not want to give his social security number on our utility application to get credit for his services from the City. Mr. Allen submitted a two page long argument with suggestions for changes. Staff discussed this extensively and noted the main reason we ask for the social security number is in case we have to turn the account over to collections if the customer skips out. We called the collection agency and they said in some cases they can find people without having a social security number. City Manager Dotson said he also talked to other cities and most require a social security number but some do not. Since we very rarely have to turn people over to collections we found that it would be an acceptable option to change the application to require either the social security number or "other valid government issued photo ID". This handles the issue for those who are concerned and will now have another avenue. It was noted this is not in any ordinance but is only a policy. We changed it and emailed the complainant however he did not respond. There was more discussion of policy and our means of recourse to collect and noted we have the option of placing a lien on the property but do not do that because the amounts due don't warrant the process. We also want to make clear to the public and the City Council that our files are secure and not out in the open. We follow FBI standards for protecting information. Council Member Johnson said he is in favor of offering the option for alternative ID. Mayor Chesnut agreed, saying with identity theft issues abounding lately it could be costly if we have a breach. City Manager Dotson said we recently went through an FBI audit and made better internal policies. Council Member Harris suggested we publish that on the website to reassure the public. All agreed the alternative method was a better way. No action was required or taken.

8. DISCUSS/TAKE ACTION ON SAGEBRUSH DRIVE

Mayor Chesnut referred to the memo in the packet and asked City Manager Dotson to tell the Council about this. City Manager Dotson said there has been no action taken so far but only the threat of action to block Sagebrush Drive. Chief Ames said they have been patrolling that area to keep an eye on it and if this resident tries to block the road we will remove the barrier. City Manager Dotson said the intention is to get money from the City however State code requires if you block a road you have to give 72 hours written notice. This man said he blocked the road in 2005 when he built his house and he contends he owns the roadway. City manager Dotson said he and Chief Ames have been in discussion with this person and he is not belligerent but sees a way out of his financial troubles with this action. We will not allow this threatened road blockage to happen. This is a chip sealed road built before 2004 which has been continually used by the public for more than ten years. The road is also over the top of our sewer easement. Another landowner on Sagebrush has expressed concerns about this blockade. This is defined clearly by State law and Chief Ames will remove any blockade if need be. Chief Ames recounted what this person told him saying he intended to post the road "no trespassing" and expects the PD to cite anyone driving on it. There are other motives for why he is doing this. City Manager Dotson recounted the night of the water line break that resulted in people being flooded which may bring a lawsuit. Mayor Chesnut recapped to say Chief Ames is on it and will monitor the road and no action is required from the Council.

9. PUBLIC COMMENTS

Mike O'Rourke said he wants to go on the record to thank Earl and the crew for working in the bad snowstorm and doing a great job.

Spencer Jones said he wants to say the same thing. The Public Works crew did impressive work and spent many hours trying to clear the roads in the huge storm.

David Benkert Sr. read from a newspaper article about the Iron County Democrats gathering for a caucus in March 2014. It referred to Geoffrey Chesnut who said it is important to have democrats run for office. At that time he said he was moving to Washington State. Mr. Benkert questioned why he ran for Mayor if he was moving away. He said he feels tricked asking what kind of Mayor we really have. He would like the City Council to make a law that you can't apply for work with Enoch or do business with the city if you are moving away.

Brian Johnson asked why we don't have a crosswalk or flashing lights on Midvalley Road by the school. He said we should have flashing lights and a 20 mph zone adding people speed through there all the time. He asked the City Council to consider that. He added it is ok for City officials to work out of town for their job occasionally referring to Mayor Chesnut being out of town and attending this meeting electronically.

10. CORRESPONDENCE-Mayor Chesnut noted the 7th Day Adventist Church sent a letter expressing their concerns about livestock being free to roam on N. Enoch Road where they also own land. He said we received another letter and unfortunately Council Member Wilcken resigned on Monday in a letter to the City Council. We were shocked and sad to lose his knowledgeable voice and will be discussing the procedure to replace him. Council Member Harris said the Council got an email from Mike O'Rourke regarding Ravine Road and he read the email.

11. COUNCIL/STAFF REPORTS

Council Member Stoor reported the Tree Committee met and are in need of two people for vacancies on that committee. He said there is money available through grants for tree planting. He said Shelly has gone through some training and does a great job in the parks. He credits the survival of the City's trees largely due to her. He also said this is the 50th anniversary of Enoch becoming a City and he would like to do something to celebrate. Maybe that could be an agenda item to discuss and appoint a committee to celebrate that event. Council Member Harris seconded the suggestion for an agenda item.

Council Member Harris said the Planning Commission is considering a zone change request on commercial property to be changed to M-R-2 and also a conditional use permit that will come to the City Council perhaps on the next agenda. Council Member Harris added his appreciation to staff and the PD in dealing with the big snow storm. He also expressed thanks to Gary Wilcken for his contribution to the City and regrets his decision to leave.

Council Member Owens said he has been assigned by Mayor Chesnut to be over the 4th of July celebration. He would like to work on putting together community volunteers to head certain activities so we can bring this back to be a big community event. We have no budget to do this so we would have to rely on sponsorships and other things to bring in funding. He said he had the opportunity to attend the funeral of Officer Doug Barney who was shot in the line of duty. He gave details about that event saying our officers knew him and trained with him. He reported he also went to Local Official's Day at the legislature and gave some high points. He reported the EDC has set the date for the Business Fair for March 26th at 10:00am. They also intend to hold a networking night for business owners that will be on February 25th at 6:00pm at The Hub.

Earl Gibson had no comments and Mayor Chesnut thanked him again for the plowing work.

Chief Ames said he also wants to thank Earl and the crew for their hard work plowing. He also extended kudos to residents because there were no serious accidents. He added details about going to the funeral for Officer Barney saying the PD often deals with a lot of negativity and people at their worst so it was awesome to see thousands lining the sidewalks with flags and signs to express gratitude and appreciation. He said he is ready to download the new PD policy manual

onto the Council's flash drives so they can begin to review it for adoption in the near future. He also wanted to make them aware that Officer Dustin Roy turned in his resignation and his last day will be February 12th. He will be addressing that replacement soon.

City Manager Dotson said we applied for and were approved for the CIB grant for the drainage study. He has to go to Salt Lake for the funding meeting tomorrow morning. We had talked about applying for a grant to complete the new well however he was notified the CIB has decided not to give grants to non-producing counties. We need to go through the budget process if we want to get a loan or to figure out how the Council wants to pay for the well house and equipment. He added we have the money in the budget already but had hoped for some other revenue to cover it. On Thursday the 11th at 10am there will be a webinar by ULGT, our insurance company, on land use and "takings" and the Council is invited to attend. The webinar will be recorded. He informed the Council that we received a petition not to plow a road. Two people on that road were not happy about that and said they were left out of the petition. These things come up sometimes and are an administrative issue. He asked the City Council if they want to see these type things or would prefer to have staff handle it. He noted this is a cul-de-sac and the snowplowing blocks their driveways which they object to. Council Member Stoor asked if this would present a safety issue for emergency vehicles not being able to get in there. Chief Ames said if there had there been a PD emergency in this last storm, they would not have been able to get in there nor would an ambulance. It is not good policy to not plow although he understands the complaint. City Manager Dotson said Staff has to deal with requests like this and would like direction. Moving on he said the Council discussed having more extensive training because we did not have time to deal with everything in the last day long training session. He requested we do this on a Saturday in March. Mayor Chesnut agreed saying he wanted the Council Members to get familiar with their assigned roles and now we need to set goals as a City Council. Also we will have a new member coming on soon and that would be helpful for that person. After discussing conflicting schedules March 12th was chosen. City Manager Dotson said the budget has to be decided by the first meeting in May so we have two months to do that. He noted this is a public meeting and will be noticed like all others.

Mayor Chesnut said he wants to discuss the process to fill the vacancy on the Council. City Manager Dotson recapped the State statute which requires we give public notice of the vacancy and state the person, date and time to be contacted for interested persons to give notice they want to be considered for the Council seat. This is a two week noticing requirement and those interested need only to give their contact information. The persons who state interest will be interviewed in a public City Council meeting on March 2nd. The City Council will vote on one of them to replace Gary Wilcken. In his letter of resignation Gary requested that consideration be given to those who like he, had a focus on limiting government. In that way he said he is able to honor those who elected him. City Manager Dotson said, addressing the Council Members, whether you do that or not is your own personal decision. He proposes that we have the City Recorder be the contact person for those interested to submit their contact information. In that application they do not have to state any qualifications. The City Council will determine qualifications in their questioning of applicants. This notice will be placed tomorrow in the regular places and those interested must respond by February 24th at 4:30pm.

12. ADJOURN-Mayor Chesnut asked for motion to adjourn. Council Member Owens made a motion to adjourn. Motion was seconded by Council Member Harris and all voted in favor. Mayor Chesnut thanked them for accommodating him on the video while he is out of town on business. The meeting ended at 8:15pm.

Julie Watson, Recorder

Date

Enoch City Council Meeting
February 3, 2016