

MINUTES
ENOCH CITY COUNCIL
January 20, 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
Council Member Gary Wilcken

Staff present:

Julie Watson, Recorder
Dan Jessen, Treasurer
Nick Turner, City Attorney
Robert Dotson, City Manager
Earl Gibson, Public Works
Jackson Ames, PD Chief-absent

Public present: J.D. Price, Officer Mike Berg, Dilworth Armstrong, Jordan Barben, Michelle Pritchard, Michael O'Rourke, Worth Grimshaw, John Frisby, Celesta Lyman, Debra Ley and Brandon Cox

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Mayor Chesnut at 6:00pm. He welcomed the audience.
 - a. **Pledge of Allegiance-**Led by Council Member Johnson
 - b. **Invocation-**Audience invited to participate-Given by Celesta Lyman
 - c. **Inspirational thought-**Given by Mayor Chesnut
 - d. **Approval of Agenda for January 20, 2016-Council Member Stoor 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 6, 2016-**It was noted by Council Member Wilcken that there are other ways to be considered for Board positions other than filling out the application found online. Mayor Chesnut said it is not in the ordinance to go through that process. **Council Member Wilcken made a motion to accept the minutes as written. Motion was seconded by Council Member Owens and all voted in favor.**
 - f. **Conflict of Interest Declaration for this agenda-**none stated

2. **APPROVE CHANGE TO ECONOMIC DEVELOPMENT COMMITTEE MEETING SCHEDULE**

Mayor Chesnut said we approved the calendar for the yearly meetings except for the EDC who wanted to meet on the 1st and 3rd Thursdays. He asked for a motion to approve that change. Council Member Wilcken noted there is no financial outlay for the City with this change because they are an unpaid board. **Council Member Harris made a motion to approve the meeting change to the 1st and 3rd Thursdays of each month. Motion was seconded Council Member Wilcken and all voted in favor.**

3. **DISCUSS/TAKE ACTION ON ECONOMIC DEVELOPMENT COMMITTEE RECOMMENDATION TO DISCONTINUE MEMBERSHIP IN EDCUtah**

Mayor Chesnut asked Council Member Owens to explain what EDCUtah is. He said EDCUtah is a State level organization that helps to connect businesses to localities that would work for them with in the State. We pay \$1500 fee annually to be a part of that. It was noted by City Manager Dotson that he has received RFI's from businesses but typically the requests are for existing structures to locate into and we can't help them. There were more details given of what EDCUtah does but noted Enoch has very little existing infrastructure and things EDCUtah

requires. Council Member Owens said the EDC wants to use those funds to engage our local businesses at the Business Fair or perhaps start a business association. The EDC was unanimous in the decision to disengage with EDCUtah. City Manager Dotson added networking is always good but we don't always see benefit. After three years this is not of worth to us. Council Member Johnson said he applauds the EDC and is in favor of Enoch finding its own solutions. Council Member Owens told about more things the EDC is doing to find resources for our local business owners. **Council Member Harris made a motion to approve discontinuing membership in EDCUtah. Motion was seconded by Council Member Johnson and all voted in favor.** City Manager Dotson will send a letter to inform them.

4. DISCUSS ABANDONMENT OF PORTIONS OF RAVINE ROAD

Mayor Chesnut said this is the next step after holding the public hearing in a previous meeting last year. Council Member Wilcken said he is opposed to this not because he is against abandoning these portions but it should be part of a package deal regarding the outcome of the entire roadway. He said this is a City road blocked off by an individual and letters have been sent to unblock it and to treat it like N. Enoch Road per the past Council. We give up our "ammunition" when we do the abandonment. If this is the next step to open the road then that is different but he does not want to do this first.

Council Member Owens asked how this is "ammunition"? Council Member Wilcken said if we negotiate and we have something to give we have more strength. If we give it up first then we don't have it. We need to keep the option "in our court". Ultimately we want to do the abandonment. Council Member Johnson said there are multiple issues here. If we do the abandonment due to existing buildings we could leave the rest hanging and not resolve the issue. Council Member Owens said later on in this agenda we are discussing further action to be taken. He does not want to leave it hanging. The abandonment is a non-issue. To be productive lets knock this out of the way and then talk about the rest of it. Council Member Johnson asked if we do this, is it with the understanding that the road would be opened? Mayor Chesnut said this action does not preclude the City Council from taking any other action. Council Member Wilcken said he resolved this is not his fight but as a representative of the City he is concerned that we finish the project and get the road open. If we choose to abandon those three portions he is fine as long as we open the road.

Mayor Chesnut said the next agenda item is here because of that. We do our due diligence and complete the abandonment and then discuss the rest of the further action. Council Member Wilcken said the bottom line is if we are going in right direction he is supportive. Council Member Johnson said we have had endless discussions for months and talked to many people and we pretty much reached the unofficial determination. He thought it would be resolved but it did not come back in December before the Mayor and Council changed. This abandonment is an item for negotiation. If we vote away the one thing we have to negotiate with then maybe that is not so good.

Mayor Chesnut said to that point we agree no one opposes the abandonment of these three portions. He suggested it may not be such a negotiating point because everyone knows we intend to do this. Council Member Stoor asked, "who is the enemy here"? Council Member Wilcken said the issue is the City has a road that has been blocked off. This came up because of another issue on North Enoch Road. Council Member Stoor said he looked at Ravine Road and it is dirt. There was a discussion of the past history of the old road. Council Member Stoor said it has not been used for some time now. It was noted that if a road is used for ten years it is established as a road. For a number of years an individual said it was abandoned and we believed that and acted that way. No one can find that it was ever officially abandoned. Council Member Johnson clarified that the legal descriptions are only for the three spots where buildings exist

now. Mayor Chesnut said the abandonment action only remains a negotiating point if you are willing to have your bluff called.

Council Member Wilcken said he is concerned that we don't lessen the City's ability to get this worked out. This seems to favor one party. He wants to be absolutely neutral and have no more arguing. Friendships and associations have gone bad due to this issue. It was not used because it was blocked off by a person. All previously agreed it is a road. Council Member Stoor said he is talking practicality for what is there. Council Member Wilcken said we get Class C road funds for Ravine Road so there are funds for improvements. We budgeted \$3000 for that too. Another citizen came forward to say "treat me like you did him". Council Member Stoor agreed with that. We made mistakes and now this is a way to fix it.

Council Member Harris said he was part of this process in the development going in and there were no protests in public hearings when development came forward. Mayor Chesnut asked Earl about the road. Earl said we did grade it and maintain it before because we do have utilities in that road all the way through. He described where the fence was put in. Council Member Wilcken explained that letters had been sent by previous City Managers demanding the road be opened but they were ignored. Council Member Johnson said everyone wanted the Stake Center to come in. Now people say they want the road opened to get there. Council Member Harris said the Planning Commission went forward with the understanding that the road was abandoned. That was what they were told. City Attorney Turner added a point speaking as legal counsel. They do not recommend the Council try to take back the portions encroached upon. Understanding the concerns he echoes Mayor Chesnut's point. They do not counsel this and it is not a bargaining chip. This is a moot point. Take steps to clear that up then move on down the line. That is their recommendation. Mayor Chesnut said we have a solution that is palatable for these three portions but unresolved issues continue on and can't be ignored. He said take the necessary steps agreeing with City Attorney Turner.

5. ORDINANCE NO. 2016-01-20 AN ORDINANCE ABANDONING PORTIONS OF RAVINE ROAD

Council Member Owens made a motion to approve Ordinance No. 2016-01-20, an ordinance abandoning portions of Ravine Road. 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 Wilcken-No
Council Member Owens-Yes	Motion passed 4 to 1

6. DISCUSS/TAKE ACTION ON FURTHER ACTIONS ON RAVINE ROAD

Mayor Chesnut said it would be apropos to discuss the memo in the packet. City Manager Dotson gave a recap of the memo saying he and Council Member Wilcken spoke about this and discussed N. Enoch Rd. and Ravine Road. This was an opportunity to bring options forward and he read the memo. The City would offer cooperation with all to improve N. Enoch Road with cattle guards instead of a fence and the City would improve that road too. Council Member Wilcken said the only person who benefits from cattle guards is Worth Grimshaw. Council Member Wilcken said Spencer Jones offered to put in the cattle guards because he is in and out of there all the time so it benefits many going that way. Council Member Wilcken felt the City should cooperate so this is mutually beneficial to all and be done with it. There are more property owners than just the one involved on N. Enoch Road and closing the road was a hindrance to them.

City Attorney Turner said with the agenda item has not noticed anything about talking about N. Enoch Road so that should come on another agenda when it is noticed as an item for discussion. Mayor Chesnut said we should talk about what the City might do with Ravine Road

noting we will talk about N. Enoch Road another time. Council Member Wilcken said this compromise is an attempt to deal with both issues. There was a brief discussion of the cost of cattle guards which can be \$40,000 to \$70,000. Dan asked, for the record, does anyone know if Spencer's offer to pay for cattle guards is still good. City Manager Dotson said we would get answers and put it on the next agenda to discuss N. Enoch Road.

Getting back to Ravine Road Council Member Wilcken said he still sees it as a City road and it should be opened and improved. We have an obligation to abandon all of it or open it and take care of it. Council Member Stoor noted much of the road is not usable talking about Brian Johnson's place. Council Member Wilcken said someone blocked it and we have to compel them to open the road. There are no insults or accusations here. We have a road that has been blocked off and it should be opened and maintained. Council Member Wilcken said we have budgeted to make improvements to make it usable and parts would have to be rerouted to do that.

Council Member Harris said to make it a 50-foot roadway we would have to use eminent domain. He agrees we need to treat all the same and be even handed across the board but the two situations are not "apples to apples". He has an issue with opening the section between Heather Hue and Brian Johnson's house because it would create a dangerous intersection. Council Member Harris said in the recent public hearing traffic flow was cited as an issue for residents in the area. The Planning Commission deals with traffic flow when they designate types of roads. Where Ravine meets Enoch Road if that remains blocked off it becomes a long cul-de-sac and there are advantages to that although convenience is not always one of them. Where Ravine meets Enoch Road there is a separate planned road that comes from Highway 91 and continues to the west. It may be part of the county belt route. Ravine Road traffic would flow west where it meets a major collector road which is a planned road and have access to major collectors into Cedar City. In terms of traffic flow opening Ravine Road is a bad idea because we don't want traffic on residential roads. Major traffic should be on collector roads.

Council Member Wilcken asked how we resolve this. We do what is right for the City Council Member Harris said. From a planning standpoint leaving it blocked off is the better thing to do. A 20-foot wide road would be looked on as poor planning and dangerous. Strictly from the planning standpoint it is a bad idea.

Council Member Johnson said the argument is that no one wants Ravine Road open but if it is there will tons of traffic on it. Council Member Harris said there will be more development coming in the future. Council Member Johnson said most traffic now goes down Heather Hue from the Stake Center. By opening Ravine Road we are dividing the danger. Council Member Wilcken maintained we have a road. Are we going to open it or not? Council Member Johnson said we do have utilities under that road. It was noted easements would be maintained and we have access to them no matter what the outcome of the road.

Council Member Harris asked if Council Member Johnson wants to spend money to pave that road. Council Member Harris said it is a bad idea to cut a street into there and create an intersection because traffic should go to major collector roads. It is not a legal size road and it will cause traffic problems. Council Member Johnson asked how this connects to the belt route and Council Member Harris recapped again giving the points of major collector roads rather than sending traffic through neighborhoods. Council Member Harris said he is addressing concerns heard in the public hearing. Council Member Johnson said he wonders who we are representing. There was a petition signed only by those living over there. Other citizens want it open and we have budgeted funds. Historically it was a road and used until it was fenced off. Only those living there are opposed.

Council Member Wilcken said it boils down to if we have a road and if declared a road how do we say we won't open it up. An individual put up a fence. We are talking about minor improvements which are funded. Council Member Johnson said the City Council can do what it wants but our staff has put in a lot of work on this too. Multiple people came up with this plan

and we are throwing that out. City Manager Dotson said to clarify staff did not come up with this plan. He was asked to put the memo out proposing this compromise as a possible solution.

Mayor Chesnut said our duty is to the City and we should approach it that way. We should not allow a precedent for any citizen to use against another. He counseled the City Council to be mindful of that. Mayor Chesnut said there are two alternative proposals. If there is to be any further abandonment besides what we just passed it would require another public hearing. We could also have a motion to spend the money and start putting the road in. If a 20-foot roadway is put in it does not affect other property owners. Given the development existing there now it would require the City to cut existing curb, gutter and sidewalk to open the road. That is what the discussion has led to so far Mayor Chesnut recapped.

Council Member Johnson said he is a proponent of private property rights. This is a City roadway. Council Member Wilcken said both parties are doing what they believe is right. We cannot get everyone what they want. If we have to have a 50-foot roadway in the development process we require that the developers build the road to City specifications. Dan said the City does not own the property but the City declared it a road due to what State statute says.

Council Member Wilcken asked if the Council has an issue to open the road even if it is not a 50-foot road. If further development comes the developer would have to improve the road to City standards. Council Member Harris said he is uncomfortable with a road that is not to code. It is not wide enough and in terms of the intersection it is definitely not to code. Mayor Chesnut confirmed that the angle the road as it exists now is what Council Member Harris's concerns are about. Dan said Brian's house is not in a subdivision but is a parcel. If it comes to the City the City could require him to fix the intersection. Council Member Harris said there are areas of town where other mistakes have been made. We don't want to act and create a road that is out of code just because it exists elsewhere. This needs to be a correctly planned road.

City Attorney Turner said to clarify Ravine Road is prescribed by statute. You can't do anything outside that. What happened after ten years is someone attempted to block usage and that does not mean there is not a road in existence. Do you allow that road to remain closed? It is logistically closed and those are pressing issues City Attorney Turner said.

Council Member Owens suggested three things; #1-we could put Ravine Road on the next agenda to vote to abandon all of it or #2-if we want to open the road then we discuss how we do it the right way. If we abandon the whole road it is a non-issue. And # 3- we consider the memo on N. Enoch Road and look into that separately.

Mayor Chesnut summarized three proposals for action and he asked for a motion on any of those to state a specific action. City Attorney Turner said the motion should give staff specific instructions.

Council Member Johnson made a motion to restore Ravine Road how it was before the fence went in, remove the fence and grade the road so it can be driven on. Mayor Chesnut asked if that included removal of existing curb and gutter. Council Member Johnson restated his motion to restore the road to how it was and grade it for access which includes removing curb, gutter and sidewalk to make the road passable. Council Member Wilcken seconded the motion. Council Member Johnson and Council Member Wilcken voted yes. Council Member Harris, Council Member Stoor and Council Member Owens voted no so the motion did not pass.

Mayor Chesnut asked for another motion.

Council Member Wilcken made a motion to put it back on the next agenda to talk about the compromise presented in terms of trying to make parties happy with a solution for N. Enoch Road and Ravine Road. There was no second needed or voted upon because it was already stated this is going to be on an upcoming agenda. City Manager Dotson questioned the need for the City Council to try to orchestrate a compromise. City Attorney Turner said you can't force a compromise. Address the two issues that affect the City and what the City wants to do.

Your allegiance is to the City and what is best for the City. If there is a lawsuit it will be from one or the other against the City and we are protecting the interests of the City and its residents.

Mayor Chesnut asked if any there were any other motions. Council Member Owens said his thought is Enoch Road is fair to discuss but has no relevance to Ravine Road. City Attorney Turner said again this is another agenda item to talk about abandoning Ravine Road. Council Member Owens said he would like to set an agenda item to set a public hearing in regard to abandoning other sections of Ravine Road. It was noted we usually have an ordinance in advance that says what we are intending to do and then we set the public hearing on that. Mayor Chesnut said we would work on having that ready.

Earl added regarding the conversation on the intersection, it is not an illegal intersection and he explained how the road is laid out saying it would be a safe intersection. Specifications for construction of intersections are both State and Federal statutes and do not pertain to cities. When developers build a subdivision it is to our specifications. Intersections where they connect onto major roadways go by State or Federal rules. It is not out of code or illegal to build an intersection within Enoch City. No action was taken tonight.

7. DISCUSS CEDAR VALLEY (IRON COUNTY) GROUNDWATER MANAGEMENT PLAN

Mayor Chesnut asked City Manager Dotson to explain. City Manager Dotson said the State allows the State Engineer to create a groundwater management plan and he has commenced the process in this valley. This has happened elsewhere in the State already. He gave details of the Enterprise/Beryl area plan adding this is very complex. He condensed the matter to say the State Engineer has over appropriated water rights in our area 73 Cedar basin. Over the years the UGS and USGS and State Engineer said that we are over pumping the aquifer which means we take more out than is replenished by snow and rainfall. To fix it the State Engineer will not let you pump the water. Only a judge can take away water rights however water rights can be reduced. Included in this management plan are Cedar City, the Conservancy District and Enoch City.

Council Member Wilcken said he was in attendance at the Water Board meeting and the State Engineer's meeting. He clarified saying using Iron County in the name differentiates us from a place called Cedar Valley up north. This does not include all of Iron County however. City Manager Dotson gave more details on the boundary to be included in the plan. The general idea is we brought this to the Water Board for a recommendation to the Council. The meeting with the State Engineer on January 7th started the talks. "X" amount of water rights need to be disposed of, adjudicated or somehow made to no longer exist. About half of what is out there needs to be gone. The State Engineer asked for comments to be submitted by February 12th.

City Manager Dotson said he gave ideas to the Water Board about possible concessions Enoch City could make. They concluded we want to be involved in the process but they thought it would be good to hold off on giving specific details right out of the gate. City Manager Dotson told about what an "adaptive" management plan could do such as changing to crops that use less water. He explained how the dates of water rights are so important; first in time, first in right. He stressed that this is a huge deal that will impact growth and how we use our water. Dan said we are working on a new rate model to encourage conservation. If we can't agree then the State will tell us what to do. City Manager Dotson said in talking to others there are ways to solve this without getting militant about it. Those who use the water should come up with solutions. There was more discussion of how this over pumping situation occurred and it was noted mistakes were made but now it is time to correct them. Council Member Wilcken said we have ideas for the City but we should not offer those out front right now. Mayor Chesnut agreed but thinks we should be more proactive adding the distinction in this valley is we are one of the "big dogs" as a municipal water provider to a large population. City Manager Dotson said he created a position paper on this and the Water Board agreed but wanted to have a position to negotiate from. Mayor Chesnut

asked if we should have something ready for our agent to discuss. It is early in the conversation and the Water Board will stay involved and will be ready to contribute in a healthy environment when the time comes. We have more water rights than we use but with total build out it will not be enough. Council Member Wilcken said we will defend our position and work to fix it. No action was taken.

8. ADJOURN TO CDRA MEETING

Mayor Chesnut asked for a motion to go into the CDRA meeting. **Council Member Harris so moved to close the regular meeting and go into the CDRA meeting. Motion was seconded by Council Member Stoor and all voted in favor.**

9. PUBLIC COMMENTS

Worth Grimshaw said in the discussions he keeps hearing they are talking about a 20-foot road and he does not know where that comes from. Before Enoch City was incorporated it was Highway 91 and then a State Highway and then a county road. He understands that 20 feet was abandoned for Brian Johnson's yard. That leaves a 46-foot road in that area and that needs to be considered. Utility lines run under the road and if the road is modified it should be the road in the subdivision and not the original road. It could go straight through as a 46-foot road and the City should get the other 4 feet to make it 50 feet wide if that is the City's road requirement. Be aware of that and have staff check the numbers out.

10. CORRESPONDENCE-none

11. COUNCIL/STAFF REPORTS

Earl Gibson reported the crew is doing maintenance work on equipment inside while it is cold.

Mike Berg representing Chief Ames said the PD is starting a Citizens Academy which we last held in 2008. It was a very popular event and he gave the details of how it works. This training is an in depth look at a "day in the life" of a PD officer and shows how community policing works. The application will be available online soon. He said the PD is attending the funeral of slain Officer Doug Barney in Salt Lake next Monday. They have room for three others to ride with them and he invited the Council and Mayor to come with them. He said this affects everybody when an officer dies in the line of duty. He said they would leave at 6:00am and be back by 5:00pm. He asked the Council to be mindful of the risks the PD takes every day and that a "thank you" would mean a lot. Mayor Chesnut asked if they were involved with the tragic situation yesterday and Mike said he was there and approaching the door when the shot went off. He added we had a similar event in Enoch the same day and the Sheriff's department came to help us.

City Manager Dotson said he will be attending another CIB funding meeting in Salt Lake on February 3rd. He reported there was a meeting with the SUU President and with the director of the Leavitt Center intern program who is working on getting an intern for the City. The Leavitt Center pays them. We had an intern a few years ago and he did a great job of helping us.

Mayor Chesnut said he is the gatekeeper of the agenda and he wants to discuss how items can be put on the agenda when they are something other than regular business. He asked that Council Members bring up an item in the meeting and get a second to that item being put on the agenda if they have a special thing to initiate. Council Member Johnson submitted an item recently and if one other Council Member seconds the item it will be placed on the next agenda. That gives more control over the agenda for City Council members because this is their time too. City Manager Dotson said as staff we want to be helpful and when pending items are discussed and seconded Staff will give a fiscal review of the proposal and our City Attorney will give a legal opinion so the Council Members have all the facts when the item is discussed in the next meeting. Council Member Johnson added this is not only for something individuals on the Council would

like but may be something their constituents have asked to be discussed in Council meeting. He recapped his recent submission of an item regarding the need for Council Members to actually read the U.S. Constitution and the Utah Constitution they are swearing an oath to defend. He added there was a public comment regarding this very thing at the last meeting. He would like to see it in ordinance form that newly elected officials affirm publicly they have read the two constitutions before the Oath of Office is taken. **Council Member Johnson made a motion to have that item on the agenda. The motion was seconded by Council Member Wilcken.** City Attorney Turner and City Manager Dotson said they would review it and prepare a memo in advance of the next meeting.

Council Member Harris said with the City Council's concurrence he would like to direct the Planning Commission to review and redefine of some commercial zoning areas. With the recent changes to the zoning ordinance there are be some areas that may be more appropriate in zones other than where they are now. The Planning Commission can study it and bring recommendations to the Council.

Council Member Owens said the EDC will be working on creating roles for the committee members to be more productive. They wanted the approval of getting out of EDCUtah because the business fair is coming up and they want to use the funds to build networks and do other things for our local businesses. He reported he attended an LEPC meeting which is the Local Emergency Planning Committee. Questar Gas gave a presentation on their emergency plans for all to work together to restore services in the event of a natural disaster. He said there will be training in St. George at Dixie Applied Tech regarding medical management in response to bombing incidents.

Mayor Chesnut thanked the Council Members for their reports.

12. ADJOURN-Motion to adjourn by Council Member Harris. Motion was seconded by Council Member Owens and all voted in favor. The meeting ended at 8:25pm.

Julie Watson, Recorder **Date**