

**MINUTES**  
**ENOCH CITY COUNCIL**  
**July 1, 2015 at 6:00pm**  
**City Council Chambers**  
**City Offices, 900 E. Midvalley Road**

**Members present:**

Mayor Robert Rasmussen  
Council Member Destry Griffiths  
Council Member Steve Johnson  
Council Member Kirk Lovell  
Council Member Gary Wilcken  
Council Member Mike Olenslager

**Staff present:**

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

**Public present:** Michelle & Donna Pritchard, David Owens, Tim Beery, Bill & Pat Oor, Cassie Easley, Dilworth & Cheryl Armstrong, Wendy & Ferrell Kelsey, David Harris, Jared & Lisa Baker, Courtney Villanueva, Karl Stevens, Marie Fisher, Michael O'Rourke, Elizabeth Boucher, Angela Walker, Ryan & Melanie Johnson, Bob Graul, Carolyn Olenslager, Alan & Pam Madsen, Cameron Henrie, Hillary & Richard Hollingshead, Jared & Jenny Roundy, Worth Grimshaw and Geoffry Chesnut,

**1. CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Mayor Rasmussen at 6:00pm. He welcomed the audience.

- a. **Pledge of Allegiance-**Led by Dan Jessen
- b. **Invocation-**Audience invited to participate-Given by David Owens
- c. **Inspirational thought on Freedom-**Given by Council Member Olenslager
- d. **Approval of Agenda for July 1, 2015-Council Member Olenslager made a motion to approve the agenda. Motion was seconded by Council Member Wilcken and all voted in favor**
- e. **Approval of Minutes for June 17, 2015-Council Member Johnson made a motion to approve the minutes. Motion was seconded by Council Member Griffiths and all voted in favor**
- f. **Conflict of Interest Declaration for this agenda-**none stated

**2. MOTION TO AUTHORIZE CITY TREASURER TO MAKE MINOR YEAR-END ADJUSTMENTS TO 2014-2015 BUDGET**

Mayor Rasmussen said this is a traditional action we take each year. Dan said we left this out of the motion in the last meeting. He said typically this is for handling the final invoices that come in resulting in the need to make small adjustments within departments. He wanted it to be clear that this permission was granted since the budget is not open now after passing the resolution to adopt it in the last meeting. **Council Member Olenslager made a motion to authorize the City Treasurer to make minor year-end adjustments to the 2014-2015 budget. Motion was seconded by Council Member Lovell and all voted in favor.**

**3. DISCUSS AND SET A PUBLIC HEARING ON NUISANCE ORDINANCE**

Mayor Rasmussen asked for discussion on the nuisance ordinance. Council Member Wilcken directed the discussion to condensed definitions referring to dangerous buildings declared to be a public nuisance. He suggested saying "may" rather than "will be". City Attorney Kuhlmann said that is the language they use in the International Building Code. Council Member

Wilcken said he just wanted to confirm the building inspector has the latitude and discretion to deal with the issue. There was a discussion of the reference to “three or more persons” instigating a nuisance complaint and the discussion reflected it would be better stated as “three or more property owners” since three persons could be in one family. There were a few other items discussed with the result being that enforcement officers will have the discretion and latitude to deal with situations as they deem appropriate based on the severity of the offence. Council Member Wilcken said he applauds the effort to condense and clarify the old ordinance. Council Member Olenslager asked if any of this is covered in State code and if we could just refer to that. City Manager Dotson said State law covers much more than we need to cover. We are only defining “public nuisances” and that is what three or more property owners deem to be a nuisance to life, property, safety and so on. Council Member Wilcken confirmed that we are defining things other than just an “annoyance” which is subjective. This is what we think we can reasonably enforce.

Council Member Johnson said as a City Council member he has to say how he feels about this. He has studied about the proper role of government. We do many things he feels are not the proper role in Enoch and that intrudes on the freedom of citizens. He said he does not like to use what other cities have done. We need to decide what is right for us here adding he wrote his preference for the ordinance. Enoch should recognize our inalienable rights spelled out in the ordinance. People have a right to accept informed risk and make their own decisions rather than depending upon the government to tell them everything. Ownership entails control over that which one owns. Property values cannot be guaranteed by Enoch City. He went on to read what he had prepared as an alternative to the staff proposal. (Attached to these minutes)

Council Member Griffiths said, as a PD officer who enforces nuisance ordinances, one thing he found is that a man will fight harder for his interests than his rights. He thinks we need to be cautious in this ordinance and referred to the penalties some of which are listed as Class B misdemeanors. He thinks that should be reduced to Class C or infractions. Council Member Lovell agreed. City Attorney Kuhlmann said it depends on the circumstances. Class B is used in some instances where maintaining a nuisance continues after warnings and citations. Also violations of an order by a court results in the higher penalty when it is a violation of an order. He added we have some leverage with State law which grants municipalities the right to enforce however we can change it to suit our circumstances. We can change the penalties too. City Manager Dotson clarified saying this is the version of the ordinance the Council agreed upon. Council Member Johnson has a different ordinance he wants instead of this. Council Member Wilcken asked if we have to have only one document or can we put up both. The consensus was that both documents would be allowed.

City Attorney Kuhlmann said he wants to weigh in on Council Member Johnson’s proposal adding he has grave concerns. The biggest is the violation of the First Amendment of separation of church and state and based on the language referring to holy writ. This is a violation that invalidates the entire ordinance. He went on to say quoting scripture and referring to “covenant societies” is not acceptable language. With regard to unalienable rights some were listed but not all. City Attorney Kuhlmann said if we say “violation of unalienable rights” what is that? Currently same sex marriage is an unalienable right. Belief and judgment have nothing to do with nuisances. He added the wording “proposed nuisances” also creates a problem. You can’t enforce what “might” happen. Due process is violated by this wording because it does not allow for hearings. City Attorney Kuhlmann said on the second page reference to the “law of witnesses” is religious doctrine and is again a First Amendment issue. Council Member Wilcken asked City Attorney Kuhlmann if he could provide a list of concerns to Council Member Johnson so he can rework his document. City Attorney Kuhlmann said he could get it to him next week. Mayor Rasmussen recapped saying for the next meeting we will have two versions of the nuisance

ordinance for the public to review and we will set the public hearing date at that meeting. No other action was taken.

#### **4. UPDATE AND TAKE ACTION ON HALF MILE ROAD ISSUES**

Mayor Rasmussen asked City Manager Dotson to recap. City Manager Dotson said basically there are four issues we are dealing with. We have to finish the NRCS project which includes putting the road back to asphalt. We have bids now and the paving company can come anytime. They will do the prep work and use a “lay down” machine for the asphalt. In this case the cheapest bid is the best one at \$1.95 square foot for 31,000 SF. That is \$60,000 to get the road done. That completes the NRCS project and in the fall we will chip seal the whole road. He went on to say in the last meeting the Council by motion assigned staff to change the culvert elevations of those who needed changing. They determined an optimal elevation and in some cases this affected other things like landscaping. Some culverts were moved a little and some stayed the same so now this creates a flow line instead of places where water stops and pools. They have moved all of the culverts except for one because the homeowner would not allow it. His is a culvert that is inverted and blocking water. We are talking to the resident about this so our due diligence is done on that assignment. Dan gave more details about the optimal flow line including that some homeowners did not want to do the extra landscaping work to enable the very best flow line so we created a less optimal line but we now have a downward flow in all cases. There are still gaps between culverts however most residents have cooperated with the realignment.

City Manager Dotson went on to say the other issue is the sewer compaction. Our engineer did more testing and Council Members Olenlager and Wilcken were there for the tests as was Jared Baker. Council Member Wilcken said the process was started at ground level and they got several compaction tests right down to the pipe zone. City Manager Dotson gave the results saying all but two tests were at 90% or better compaction. There was considerably more discussion about the tests and results with much explanation and technical detail given. Tim Watson, City Engineer, said in the original testing it was a representative snapshot at that time. He explained representative sampling and talked about moisture in the soil and factors that can cause different test results. It was noted that this sewer line is not much different from sewer lines throughout Enoch. They did look at the sewer pipe from one end to the other and the pipe is sound and has not moved. City Manager Dotson said this is not underneath a road and that is important to note. Pipes laid under the road take much more pressure and the requirements are different.

Mayor Rasmussen asked City Manager Dotson to recap the other options. He said one option is to do nothing. We compacted the manholes that showed issues. We tried to get more compaction and it was already at the required compaction. Another option is to pick areas where there are signs of settling and dig down to the pipe zone. We could re-compact the trench with the same fill to get 95% test results. Multiple engineers have been consulted and say there is no problem with the sewer line as it is. It is up to the City Council to decide what they assign staff to do and to pay the cost. There was more discussion of the various test results. Council Member Wilcken reminded the City Council that this pipeline will always be the City’s problem and if it fails we have to deal with it. As we address this we need to consider that lots of factors can cause a problem with the pipe line. Council Member Lovell expressed concerns that water comes off the road and settles into where the line is. He does not want problems five years from now adding he wants the proper compaction done now. City Manager Dotson said it was done properly and to say it was not is not fair. City Manager Dotson said this work was done with the best intent and all signed off on it. Council Member Johnson said this is a difficult issue because we want to listen to residents but nothing bad has happened and problems that could occur are just speculation. Three engineers have given opinions and they think it is ok. There was more discussion of the actual process of digging the trench in the winter and issues with freezing and

thawing dirt. Earl said the sewer line is five feet off the bottom of the bar ditch so storm water does not go right over the top of it unless we have a huge storm.

Mayor Rasmussen asked Tim Watson for a recommendation. He said he likes the approach of taking areas of concern and redoing them. Using other fill material is an option and would be a good bet. Identify problem areas, take out soil and re-compact. That is what he recommends.

City Manager Dotson said the City Council has to decide what to do. That leads to the next discussion about curb and gutter which is also a solution. The City's issue is we have to get this road done as soon as possible. We believe that we can re-compact the trench with the asphalt installed because it is far enough away from the edge of the road. The question for the Council is do you want us to re-compact and where. Council Member Griffiths asked how long it would take to re-compact the problem areas. Earl said he does not see any problem areas. We already did some re-compacting where we tested. City Manager Dotson said we need to hire the professionals and pay to get the problem areas redone. This will come out of sewer funds. Or City staff can do the work to re-compact. Our standard is to test every two hundred feet. City Manager Dotson said he is not comfortable picking the areas because of so many divergent opinions of what the problem is. It will cost material, manpower and equipment. If City staff does the work then other City maintenance goes wanting while we do this job. Council Member Wilcken confirmed we will re-compact all of the sewer line between Midvalley Road and Half Mile and hiring it out would be a wiser move based on public concerns. Council Member Johnson said he would like to hear from Jared Baker.

Jared said he applauds the efforts by the City and for discussing this problem with them. He said he took issue with the tests and did his own testing using a third party lab. He gave much detailed information on his findings which were different from the City Engineer's findings. Jared said the tests he saw failed. They should have been over 90% with 85% in the pipe zone so that shows the density was not there in the first place. He said he is not placing blame and the Council needs to come to their own conclusions. Jared added he is not just talking about retests. Based on samples tested by a third party lab moisture is a detriment. A failure rate of this magnitude is evidence alone so the Council needs to know before the decision is made. He said the culverts that have been realigned look like water will flow better now and will move faster so as not to saturate the ground so much. Council Member Johnson asked Jared if he believes the pipeline is straight right now and he said he does. His concern is it will fail in the future with the settlement they can see right now. Council Member Wilcken asked if it just that first block where Jared sees problems and Jared said he did not see anything past Homestead. When water sits and pools then it can soak in and will undermine the pipeline.

Mayor Rasmussen said our own engineer needs to be able to speak to this matter too. Tim Watson said Jared did a great job of explaining things. Council Member Lovell asked if Tim has different numbers and why the discrepancy. This is "very variable", Tim said. There can be differences in the areas the sample was taken from. From lab to lab there is a standard deviation and there are ranges of what is considered good. These are not different practices because there is a standard but there are many elements that come into play. One may have more sand or gravel and that affects the outcome. Tim said he has no issues with Jared's conclusions. Council Member Johnson asked if these discrepancies will be fine or not as the pipe test was good. Tim said there is a certain point where soils are undisturbed like native soils down many feet are undisturbed. They re-compacted only the excavated soil. Could there be failure? Sure there could but that could happen from a leak or other things. That even happens when sewer lines are under roadways.

Council Member Johnson said he is trying to get to what may or may not be adequately compacted. He asked if a year goes by with rains and winter weather and the pipe is still fine would that suggest the pipe is fine from then on. Tim said engineers try to reduce the potential for

risk. After a year risk is reduced but not eliminated. Council Member Johnson asked if it is possible to occasionally monitor the line with a mirror test. Tim said we do have maintenance requirements from the insurance company anyway so we would do that as part of regular maintenance. Council Member Griffiths asked about Jared's lab results and that he got more failures. Tim said they took 5 tests in one location and 4 or 5 in another location. 3 of 5 passed and that is reasonable based upon the material collected. Differences are expected Tim said.

Council Member Wilcken said the challenge is the way the test is taken giving more details about the process. A small rock could alter a test. Mayor Rasmussen asked the City Council what they want to direct staff to do. Council Member Olenlager said now that the culverts are reset we should get the asphalt done while we can and then work on compaction problems after that. Council Member Johnson said where we have had no problems we should just monitor it closely. City Manager Dotson recapped the culverts are all done except one. We are ready to go on the road paving. The last issue is to talk about an SID for curb, gutter and with asphalt to the gutter. Sidewalks are another matter. That solution resolves the water seeping into the soil because it would be covered by asphalt.

City Manager Dotson asked if the City Council is willing to fund curb, gutter, more asphalt and engineering. The Council can instruct staff to look for funding to do this as a City or the other option is not to fund the whole thing. The City Council unanimously said no when polled vocally. Half Mile resident Melanie Johnson asked if the City would try to get grant money to fund this on their behalf and get all City residents to help pay for it. Council Member Wilcken said we have an obligation to restore the road to what it was and no more than that. City Manager Dotson said an SID is a Special Improvement District. There are different ways to create it and he gave the details. This could be funded by a general obligation bond which is a loan paid back with lower interest and could be just for Half Mile residents or all residents to pay to improve one street. He gave more details for different kinds of funding mechanisms. Another option is just do it and pay for it out of the roads budget and charge a monthly fee to the residents of Half Mile Road. City Manager Dotson gave the example of Village Green subdivision where the City installed the improvements to protect the water source from contamination by septic tanks. When a building permit is applied for in Village Green a special fee is charged for those improvements. The Council also needs to consider to what level we design this; 25-year flood, 100-year flood. You plan for a certain event in a certain place. The question was asked about what the standards are for a "flood street". City Manager Dotson said he has talked to engineers from St. George, Iron County, our engineer and the county planner. The term "flood street" was seen on old plat maps but how do you designate that. It is what you say it is. We generally plan for a 25-year event. It was noted that all streets in Enoch have storm water running in heavy storms. The advantage of curb and gutter is to speed up water moving past. In some cases the curb could be higher than the existing landscaping behind it. If a storm event goes over the curb that could cause other problems. We have to engineer it first and pay for that too. City Manager Dotson explained what CIB funds are. We are working on a CIB grant for the new well now. CIB funds come from mineral royalties, which is State money. They will not give a full grant to a non-producing county. We may be able to get a 50% grant/loan at 1½ % interest rate. This is a road project so that is also an option to get funding. Mayor Rasmussen said the down side is that process takes time. City Manager Dotson said we could apply in October adding this is for additional asphalt and curb and gutter. We would not have to take out the asphalt we put down now. Another option is to invert the road. Every engineer he spoke to said they do not recommend that because it is a maintenance nightmare. He explained how that type of road works.

Half Mile resident Melanie Johnson said we need to wait to put down asphalt. City Manager Dotson asked again if the City Council is willing to pay for this including engineering. We have to move in a direction. If the Council says no to paying for it the residents would have to

pay for it. Would that be all residents or just those that live there? This City Council has to make those decisions. Mayor Rasmussen asked for a motion to put the action steps in place. If residents decide to create an SID they could apply for the CIB loan themselves with Enoch City as a sponsor which is a requirement to apply. The CIB Board meets three times a year. Applications made in October are granted in December and funded in February. This process takes time.

Council Member Griffiths confirmed we need to decide if we re-compact the sewer line and move on with what we originally needed to do. The residents need to be put on the next agenda so they can formally tell us what they want to do. Council Member Wilcken said we want to continue to get the culverts where they need to be. He suggested we get the asphalt back in place now and move on that in spite of what may take place. Compaction of the sewer line is a separate issue and can be done after the asphalt is laid. Council Member Wilcken said he would like to have some figures for the cost of re-compaction including if we hire it done or do it ourselves. City Manager Dotson said we have a cost of \$77,000 to hire out the re-compaction of the line entire however we don't need to do the whole line. Half of the line would be \$38,000. Council Member Wilcken said if we are talking \$40,000 to re-compact that entire block they could have the sewer company transfer funds to the general fund for that.

Melanie Johnson said their street needs to meet and talk about the options so they agree before any work is done. Jenny Vossler said she feels there are more issues than just the stability of the sewer line. Restoring things to what they were is not acceptable because they have always been flooded and that is not acceptable. Water comes from all areas of town so why do Half Mile residents have to be financially responsible to divert water. Someone in the City approved the way homes were built. Poor planning is not ok with the full cost being passed to Half Mile Road homeowners. Mayor Rasmussen asked City Manager Dotson what he needs. City Manager Dotson said we need direction from the Council on where to go now.

**Council Member Johnson made a motion that we let the Half Mile residents discuss this further, deal with the asphalt later and monitor the sewer line to see if it is ok or not. There was no second to the motion so it died.**

**Council Member Griffiths made a motion to finish moving the culverts by dealing with the one person refusing and re-compact one block of sewer line with City staff and monitor the line. The motion was seconded by Council Member Lovell. City Manager Dotson asked what if this one person does not let us move their culvert? The motion is to re-compact the first block with City staff and monitor the sewer line for problems. The motion was seconded by Council Member Lovell and all voted in favor.**

## **5. PUBLIC COMMENTS**

Karl Stevens said he would address two scenarios. If the completion of the project is to put the road back then the sewer line will remain in the ditch. He said the manholes were underwater when it rained recently. Water will run into the 8" sewer line and that has to be prevented. He was assured the manholes will be raised above highest level of flowing water. In front of his house he covered the manhole with a tarp. He insisted those covers have to be elevated. If they go with curb and gutter then the road improvements benefit more people than just the residents on that road so the cost should be paid by all. If that choice is made the sewer line would be protected and the city would have less liability for sewer back-ups. Half Mile residents should not be only ones to bear this expense. Spread over all residents the cost would be substantially smaller. All residents suffer if the city has to pay out money to cover sewer back-ups. It is not fair for one street to bear the burden for rushing water that comes to them from uphill.

Ryan Johnson thanked the City Council for discussing this and taking it seriously. They hear only complaints and anger about this issue. Ryan said residents will be helpful in trying to find the solution. The neighbors have discussed this extensively and they will cooperate.

6. **CORRESPONDENCE**-none

7. **COUNCIL/STAFF REPORTS**

Dan Jessen reported the auditors are scheduled for fall. And audit will be longer than normal due to the NRCS project. Also this is the first year doing the audit with new accounting software. He said things look fine from a balancing perspective.

City Manager Dotson said Council Member Griffiths wanted to talk about the sign ordinance in relation to campaign signs on the next agenda. He reported a PD officer was assaulted two nights ago in a domestic violence call. He was hit in the head with a baseball bat and still managed to cuff the perpetrator. He is off work until his next doctor appointment and has reported he is doing well. Also another employee's wife gave birth to twins and one is not doing well at all and is in intensive care on life support.

Julie Watson reported on the next agenda asking the residents to let her know if they are ready to be on the agenda no later than Friday July 10<sup>th</sup> in the morning.

Council Member Johnson said he thinks balance would be fine but it is sad we can't mention God in any document.

Mayor Rasmussen announced we had a committee made up of City Manager Dotson, Chief Ames, Dan Jessen and himself to hire the replacement for Susan Carter. We had 27 applicants for the job and interviewed nine people. They would like to hire Susan Lewis. She will be able to start in two weeks.

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

Mayor Rasmussen said we need an executive session to discuss litigation and asked for a motion. **Council Member Lovell made a motion to end the regular meeting and go into an executive session to discuss litigation. The motion was seconded by Council Member Wilcken and a roll call vote was held as follows:**

<b>Council Member Griffiths-yes</b>	<b>Council Member Olenslager-yes</b>
<b>Council Member Johnson-yes</b>	<b>Council Member Wilcken-yes</b>
<b>Council Member Lovell-yes</b>	<b>Motion passed unanimously</b>

9. **ACTION FROM EXECUTIVE SESSION**-none

10. **ADJOURN**-The meeting ended at 8:38 pm.

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**Julie Watson, Recorder**

**Date**