

MINUTES
ENOCH CITY COUNCIL
June 20, 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-absent
Council Member Katherine Ross
Council Member Shawn Stoor

Staff present:

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

Public present: Dilworth Armstrong, Jeff Dix and Scouts

1. CALL TO ORDER OF REGULAR COUNCIL MEETING-By Mayor Chesnut at 6:00pm.

- a. **Pledge of Allegiance-Led by Julie Watson**
- b. **Invocation-Audience invited to participate-Given by Council Member Harris**
- c. **Inspirational thought-Given by Council Member Stoor**
- d. **Approval of Agenda for June 20, 2018-Council Member Harris made a motion to approve the agenda. Motion was seconded by Council Member Ross and all voted in favor.**
- e. **Approval of Minutes for June 6, 2018- Council Member Harris made a motion to approve the minutes. Motion was seconded by Council Member Ross and all voted in favor.**
- f. **Conflict of Interest Declaration for this agenda-none stated**

2. RESOLUTION NO. 2018-06-20-A A RESOLUTION TO AUTHORIZE INDIVIDUALS TO MAKE TRANSACTIONS IN PTIF FUNDS

Mayor Chesnut asked Ashley to tell them about this. Ashley said the State Treasurer made this a rule that we need to have two authorized signers to make changes to the Public Treasurer's Investment Fund (PTIF) accounts. They supplied the language for the resolution. We need to do this by month end or the accounts will be frozen. **Council Member Harris made a motion to approve Resolution No. 2018-06-20-A, a resolution to authorize City Manager Dotson and Ashley Horton to make transactions in PTIF Funds. 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 Ross-Yes	Council Member Owens-absent
Council Member Lee-Yes	Motion passed

3. RESOLUTION NO. 2018-06-20-B A RESOLUTION ADOPTING THE BUDGET FOR FISCAL YEAR ENDING JUNE 30TH, 2019 AND REJECTING THE CURRENT CERTIFIED TAX RATE

Mayor Chesnut asked Ashley about his. She said we have the figures in and received the certified tax rate. The increase for what we need is 49.5%. Council Member Harris confirmed this is the first step to deal with the Truth in Taxation process. Mayor Chesnut said the County Assessor will send the notices and we will send our notice first so we are in front of this with the public. He added the City Council is unified, specified and targeted and we have a purpose.

Council Member Stoor asked what the process is after this. Mayor Chesnut said that process would require running an ad in the Iron County Today newspaper on July 18th and again on July 25th. We will set the public hearing for the August 1st meeting and after the public hearing we will pass the tax increase or not. It was noted the public would then have five (5) days to state that they intend to start the referendum process if that is the case.

Council Member Harris made motion to pass Resolution No. 2018-06-20-B, a resolution adopting the budget for fiscal year ending June 30th, 2019 and rejecting the current certified tax rate. The motion was seconded by Council Member Ross and roll call vote was held as follows:

Council Member Harris-Yes

Council Member Ross-Yes

Council Member Lee-Yes

Council Member Stoor-Yes

Council Member Owens-absent

Motion passed

4. DISCUSS AND IDENTIFY AREAS WHERE FIREWORKS ARE PROHIBITED

Mayor Chesnut said it is that time of year again adding Earl said it is drier than last year judging by the water use we are seeing. Looking at numbers we know snow pack was low and flows are low. Earl said we had alarm on the small tank this morning so people are watering. City Manager Dotson explained combining dry conditions and the change in the State Legislature to the code on fireworks our current ordinance is no longer valid regarding where we can regulate and not regulate fireworks. The dates to set off fireworks have been reduced and he read from State Code HB 38. The State Legislature said this became law on May 1st. The Code now states that the fire code official can regulate fireworks based on existing conditions or historical experiences with fires within the last two to five years. They may be prohibited in mountainous, brushy or dry grass covered areas and within the urban wildland interface area. If you decide to close an area you have to describe in detail or create a map and we did that. He showed the two maps that were created for possible use with this new resolution being presented tonight. It was noted we originally did this in Ordinance form but our City Attorney said it should be a Resolution rather than an ordinance. The red area shown on one map is where you can't do any fireworks except for the City Office and Enoch Elementary west parking lots. All other areas of the City are restricted. You can also close areas due to historical hazardous conditions if the legislative body makes a finding that hazards existed in at least two to five preceding years. He noted this had to be done before May 1st to enforce it and you have to have map by May 1st. We became aware of this information yesterday so it is too late to make a difference.

City Manager Dotson listed some options. The Council could leave things as they are and people will do what they want anyway; we could try to enforce code with one officer on duty however our current ordinance does not comply with State Code so any citations would not hold up in court unless a fire is actually started. Another option is to change to a new resolution with a map. The resolution is for this year only. Doing nothing is an option. Council Member Harris said this discussion came up because he called and wanted to do a traditional get together with fireworks in their cul-de-sac and have never had a problem in the past. They did not do it last year because of the ordinance we passed but wanted to do it this year. City Manager Dotson said he had a conversation with Chief Phillips, Paul Bitteman from Cedar City and the Fire Code Official, Mike Shurtz who is the Fire Marshall. He read a recommendation letter that said it may be appropriate to regulate fireworks to prevent fires in the dry conditions. They all agreed we are experiencing bad conditions. He noted he got that letter today. The Cedar City fireworks ordinance recommends that fireworks only be used in large open spaces and recommends locations such as paved parking lots. Anyone starting a fire is liable for the cost of suppressing that fire. He noted that some on the Cedar City Council thought it is a "God given right" to do fireworks even though it is dry everywhere. Parowan passed a resolution saying fireworks are not allowed anywhere because their outside irrigation is still damaged from the Brian Head fire last

year and is not operable. City Attorney Wayment said their Fire Chief recommended that no fireworks be allowed except at the fairgrounds but the Parowan Council said no fireworks would be allowed anywhere. Lawns are burning up there because they have no irrigation water.

Mayor Chesnut said one option is to do nothing and people will do what they want. State Code trumps last year's ordinance that we passed in an emergency meeting. City Attorney Wayment said his issue is it does no good to pass a resolution that does not match State law and the time frame has passed for that. Those are the options. Do nothing and it falls to State Code which allows people to do what they want with Class C fireworks which are legal. We could pass a resolution but that does not comply with Code because we did not have the map in a timely manner. He added the State Code is not well written and is confusing. Council Member Harris said we have not had a history of fires in past years. We could encourage people to use judgment and be aware of hazards Council Member Harris said. If anyone causes destruction they are responsible. Mayor Chesnut said it is his position that people are fairly responsible. Many did go to the school last year but residents by the school had issues with all the fireworks being set off by their homes. If we do nothing we should message responsibility to the public. State Code now supersedes and guts what we have done in the past. City Manager Dotson asked about repealing the ordinance we have tonight but noted it is not an agenda item so we really can't do that. Mayor Chesnut said as a matter of course he would entertain a motion on the resolution.

5. RESOLUTION NO. 2018-06-20-C AN RESOLUTION ADOPTING RESTRICTIONS ON THE USE OF FIREWORKS WITHIN THE MUNICIPALITY

There was no motion so the resolution died.

6. UPDATE AND DISCUSSION OF NUISANCE ORDINANCE

City Attorney Wayment said he got our nuisance ordinance draft and wanted to talk about it. The way it is set up it is in a civil arena and not a criminal arena. He recommended not having nuisance violations as a civil issue. If it is a criminal matter the county attorney takes care of it. He would never advise going on property without a court order first. If you are in the wrong you have all kinds of damages that can be brought against the City. That does not include emergency mitigations for life threatening conditions. There was more discussion that there would be a process where mitigating a nuisance would start with a letter to correct the problem in a set timeframe. There would be steps for City Administrative Staff to meet with individuals and hear their side of the matter as well as hearings with other governing bodies if need be. The last ditch effort would be a citation and/or going to the county attorney to get a court order. City staff should not go onto private property without a court order. Mayor Chesnut said if notices don't work we have a citation given for something like an infraction with a nominal fine and clean up. We did not want this to be dealt with as a criminal issue but the benefit of triggering that mechanism of court involvement protects the City from liability. It would have more teeth legally than what we proposed initially.

Council Member Lee said as the committee was going about this they considered the comments of the other Council Members who did not want to bring this into the criminal arena. That is why they considered other civil ways for dealing with a nuisance. We tried to take that off the table but now this is different. We need to define nuisances and we picked five which was hard to do. There were two parts of it; how we decide to abate and what it is we actually do to abate. She asked if City Attorney Wayment has a problem with our definitions. No, he said. He was fine with most if it and added some others that are in State Code like drug houses. If a renter is convicted of dealing drugs from a rental property the landlord has to get them out and not allow the drug house. This mitigates slum lords. He redacted inoperative unregistered cars or dismantled parts including recreational vehicles like ATV's. Many don't register that type of

vehicle. For the most part he did not change the definitions. The concern was more on the criminal side of it as that saves the City being involved in legal fees because the county attorney handles it. We could make nuisances an infraction. That is like a speeding ticket and is not reported on a criminal history. There is no jail time just a fine. Mayor Chesnut said what is a nuisance is not the issue as much as how to abate things so it was not criminal. Now we can forgo that and make it an infraction and hand it over to the proper authorities. Mayor Chesnut explained if they don't comply then the county attorney goes to the judge and gets the court order to fix it and due process is met. Cost wise there is nothing for us.

Council Member Lee asked about the abatement plan and does it mean we don't need that. City Attorney Wayment said you would do that but would state that if a person is found guilty and the City cleans it up then the cost is covered by a lien on the property. Or a tax lien is could be used instead. Mayor Chesnut said we were trying to do same thing but avoid criminality. Now our attorney says there is an easier and a safer way to get to the same outcome. Council Member Stoor said we have to do something as a City and he was ok with this. His question is time frames on how long they have. Council Member Lee said we are working on procedure. A letter goes out and ten days latter something happens. Mayor Chesnut said they would have approximately six weeks to correct problems and part of that is talking with City Staff. They have plenty of opportunity to remedy before there is any police involvement. Talking with City Manager Dotson is part of a hearing and City Attorney Wayment was ok with that. If it is a serious nuisance that needs addressing immediately then we could cite them and go through the process. Human hazards are one that needs a quick remedy. If the party creating the nuisance agrees and are making progress, then that is good. There is no problem with that. Just don't go on property without a court order.

Council Member Lee said financially we need an abatement fund because they spend time on this. City Manager Dotson said the majority of that would be hands on abatement not the paperwork. That is the part we could lien the property for. Penalties can go up for non-compliance but you have tie to it directly to what you do and keep records to justify the expense. The cost has to tie to reality, City Attorney Wayment said. There was more discussion of the issue of old unregistered cars parked in view of the street and others who like to work on old cars and have old parts sitting around looking unsightly. Where do we draw the line? That is the biggest dilemma everywhere City Manager Dotson said. If there is a complaint then communication goes out from administration so all in this potential nuisance find out what the person is doing. We can ask them to make it less unsightly by putting it inside of a fenced area. We start with a conversation with the person on the impact before we go to abatement. Council Member Stoor talked about weeds against a wood fence and then the fence burns down and we have no way to address that. City Attorney Wayment said the County addresses weed abatement for fire risks and weeds are the worst. Mayor Chesnut said with weeds that is a specific targeted problem outside of the nuisance the ordinance. We can adopt something else on that. Weeds are a health risk for lots of reasons. Noxious weeds are covered in State Code. Council Member Lee asked are we headed in the right direction. We are at the legal review process Mayor Chesnut said. We are close. Criminality of an infraction is an acceptable level to keep the City from civil liability. The Council had a consensus that they were feeling good about the state of the progress on the nuisance ordinance and the direction it was going. We will keep working Mayor Chesnut said. We will make revisions and we are close. Council Member Lee said we should draw up a scenario and see how it would go through the process. Council Member Lee said if we don't do anything this is all a waste of time and we need to do something and we will. We needed insight on the legalities of it. No action was taken.

7. Public Comments-none

8. COUNCIL/STAFF REPORT

Earl Gibson reported they are working on the animal shelter and will pour footings and stem walls soon. We passed the compaction test. We will start shooting the elevations for the storm drain pond in Iron Mountain Park and dig that soon. The crew is doing the regular mowing and clean up for 4th. On the new well we are waiting on water rights to be transferred into it which could take up to a year. We can get a temporary permit so we can pump it. Hopefully within the week it will be going.

Dilworth Armstrong said the Water Board met and we talked about surface rights and how to use them. He had concerns about the surface water we took and replaced it with underground water for a subdivision. He said we did not set a limit on the amount of underground water that could be taken for the subdivision. The ratio of trade is 2 AF of underground water for 1 right of surface water. We did not put that we limit the use of underground water to indoor culinary use and surface water for use outside for irrigation. We need to add that to the ordinance. He told about other parts of the discussion of ways to trap and use the surface water such as ponds and he gave more details. He said he talked to Worth Grimshaw about getting an easement by his easement to his meadow for running a pipe for aquifer recharge. He said he would give permission for us to run a pipe out there. City Manager Dotson added we need to create a Master Plan for irrigation water because the area to the south will be developed and we have issues to use that water. We need to change the ordinance to require the developers to create a secondary irrigation system in their subdivision. It has to be gravity flow into the system so we are not pumping it. He is working on those changes. We used to have that in our code. He gave more details on some secondary systems. The intention was for that water to be put in the tank and put into the secondary system that exists. We changed that because we had no policy to obtain secondary water and now need a plan to use it. Council Member Lee asked if we are limiting growth because it is prohibitive to development. City Attorney Wayment said he and Brent Hunter put in a secondary system in their subdivision and it was cost prohibitive and made the lots \$6,000 more. They determined there is no way the small lots would sell at those prices. They put secondary water in the common areas and it increased the lots by \$2,800 per lot. He suggested we bring surface water to the parks and schools because they use a lot and leave the small subdivisions alone. City Manager Dotson said we would require secondary water be used in the subdivisions that have surface water and it could be in ditches in those subdivisions. That is our direction for good use of the surface water we obtain.

Ashley Horton said she is working on the budget to wrap up the end of the fiscal year and working on the audit scheduled for August 27th through the 29th. She will be out of the office next week.

City Manager Dotson reported he applied for CIB funding for the water impact facilities plan and they approved. The application then the CIB people sent it to the Division of Drinking Water and they can just fund this right now and not do it through CIB and wait to October to get funding. They will fund the 50% match. We got their application and he and Ashley have been filling out paperwork for that. The NRCS fund for drainage is almost done. We need our engineer to get some data which is due July 20th. The federal money is appropriated. The Groundwater Management Plan committee met Tuesday with the State Engineer. He proposed new policies that in our drainage basin in our valley there is a subjective arbitrary line that is Hwy. 56 for our prefix 73 water rights. The State Engineer thought he would think about removing that line and that created interesting challenges for this valley. If the line goes away then those to the south lose money because they pay more for water rights on the south side of Hwy. 56. They wanted to move the line to Iron Springs Road because above Hwy. 56 it is still heavily pumped. There is farming there and Cedar City has a well there too. Then they came up with an Enoch restricted zone and they wanted a policy that water rights could not be transferred into this zone unless they take the place of a junior right. He gave more details of the water right dates involved. There are

only so many rights around us and that is an arbitrary line. He had a conversation with Spencer Jones and Paul Monroe of the Conservancy District about this and went to the meeting to see what they were thinking. He explained the challenge with that we have a big bowl and you can't take any more water out of it. If we wanted to expand our water resources based on where you pump it from we would have to go outside that boundary to pump out of there. Our water comes from east to west. Cedar put a well there and pumps what we pump out of all five of our wells and that is legal. He told them they are excluding an area impacted outside of it then the water never gets to that area so the problem is worse instead of taking water from the treatment plant and other places and conserving water. After that discussion they took that off the table. It would have caused water rights in Enoch to skyrocket in price so there would be no building here. It is not a problem scientifically but it has the potential to hurt Enoch. We need to limit pumping and raise the aquifer. So the Enoch restricted zone went away in the context of everything that is going on. This is all one basin. It would have created a whole artificial issue that you can't balance and they took it off the table. If it came back up could we could sue the State Engineer and City Attorney Wayment confirmed we could do that adding he does not think it would happen. City Manager Dotson said yes they can as part of the Groundwater Management Plan and State law says it is ok. That is very dangerous City Attorney Wayment said. He speculated on what would happen and the devaluation of property and added costs. City Manager Dotson told about our protest and that we have to prove Cedar City is impacting our wells and we can't without isotope tests. City Manager Dotson said we do isotope tests on some of our wells and that needs to continue but we need help financially to do that to track where water comes from. Mayor Chesnut said the 1934 date we passed on water rights is already becoming an issue to find the water for a price they can pay to develop in Enoch. Council Member Lee said we only want development if it is good for Enoch. Mayor Chesnut said it makes development difficult because there are only so many rights available with the priority dates we require. City Manager Dotson added the State may allow municipalities to lease water rights.

City Manager Dotson reported Debbie is leaving to care for her elderly parents so we are hiring a new police secretary and are restructuring some duties in the office. We will need to do interviews next week and we have received applications. Council Member Harris is over the PD so was asked if he could help on the interview committee. He and Mayor Chesnut will check their schedules and get back to City manager Dotson to set a date to interview candidates.

City Manager Dotson said there is one other thing to talk about regarding Parkview Subdivision on the part that is final platted. There are some people who want to purchase the lots from the County. We have declared Parkview unbuildable but we will need to review that and determine if some is buildable. We have an ordinance in place but we don't know for sure where the fissure affects the land. It is a fissure and not a fault line and we don't know how to resolve that. Enoch City has a Geographical Hazard Zone and it is vague but for a reason. We need scientific data. He thinks there may be economic things pushing it. Some want to develop an industrial area on the west side and that would be fine. On the east side is where the graben is and it is sinking is where the danger is. How do we decide? We need more information.

Cameron Greenhalgh has been tasked with chartering a scout troop because the LDS Church is out of the scouting program now. The LDS Church leaders asked him to set up the scouts but it needs to be chartered. Cameron is going to come to the City Council to ask the City to be a sponsor for the charter. He is getting details. There is no financial commitment. Council Member Stoor said the Church paid for chartering before. Others may be able to help with that. That is coming and would be like a partnership.

Julie Watson said we will cancel the regular meeting for July 4th.

Mayor Chesnut said he ordered \$200 worth of hot sauces and he has money for the cash prize. He got notice that we have an additional sponsor matching his money so the cash prize is now \$1500. There will be other prizes too. Charlie's will donate the wings. They may have to limit applicants

by a lottery draw. He is narrowing down the rules. There will be a waiver in place in order to participate. He gave details of how he wants it to go on the rules. He said you can see this on YouTube for an example. Participants must be 18 or older. The City Council cooks free hot dogs every year. There will be live music. We plan to start later in day so families can go to other celebrations in Cedar City or wherever. We are renting a foam machine and will have races and games for the kids with a watermelon eating contest. We will transition to the "Wings of Death" event and soon after that the fireworks will be set off. We will focus it into a handful of hours and build from there in other years. We are working hard to start with a bang and will be marketing the events. Ashley said she has someone to do the races and she will handle the foam machine. City Manager Dotson noted there is one glitch. We don't have a certified person to set off the fireworks. Chief Phillips is working to try to find someone to do it for us but it is not certain right now.

Council Member Ross said as stated we talked about surface water that is coming to the City and we need to decide what to do with it. She offered to help with the 4th.

Council Member Lee said she missed the last City Council meeting but went to the Dog Park opening and was really impressed with the Friends of the Festival Country K 9s. Their money is really where their mouth is and she gives them a lot of credit and praise for their work. She reported she went on a field trip with City Manager Dotson, Shelly and Earl and after the 4th she will work on roads more.

9. CLOSED MEETING REQUESTED TO DISCUSS PERSONNEL MATTERS, IMMINENT LITIGATION OR REAL ESTATE TRANSACTIONS-(Requires a roll call vote w 2/3 majority)

Council Member Harris made motion to close the regular meeting go into a closed session for the discussion of pending litigation and property purchase.

Motion was seconded Council Member Ross and a roll call vote was held as follows:

Council Member Harris-Yes

Council Member Stoor-Yes

Council Member Ross-Yes

Council Member Owens-absent

Council Member Lee-Yes

Motion passed

10. ACTION FROM CLOSED MEETING-Discussion and approval of purchase of real estate issues and property acquisition.

11. ADJOURN-The regular meeting ended at 8:03pm.


Julie Watson, Recorder

7-18-18
Date