

**MINUTES**  
**ENOCH CITY PLANNING COMMISSION**  
**March 15, 2023 at 5:30pm**  
**City Council Chambers**  
**City Offices, 900 E. Midvalley Road**

**MEMBERS PRESENT:**

Commissioner Leonard Correa  
Commissioner Andy Losee - Excused  
Commissioner Debra Ley  
Commissioner Wade Adams  
Chairman Bob Tingey

**STAFF PRESENT:**

Rob Dotson, City Manager  
Lindsay Hildebrand, City Recorder  
Hayden White, Pub. Works Dir.  
Council Member Katherine Ross

**PUBLIC PRESENT:** Tom Mitchell

1. **CALL TO ORDER OF REGULAR MEETING-By**
  - a. **Pledge of Allegiance** – Led by Commissioner Adams
  - b. **Invocation (2 min.)** –Audience invited to participate. – Given by City Manager Dotson
  - c. **Inspirational thought** – Given by Commissioner Correa
  - d. **Approval of agenda for March 14, 2023** – Commissioner Ley made a motion to approve the agenda. Commissioner Adams seconded and all voted in favor.
  - e. **Approval of minutes for February 28, 2023** – Commissioner Ley made a motion to approve the minutes. Commissioner Correa seconded and all voted in favor.
  - f. **Conflict of Interest Declaration** – None stated

2. **CONSIDER ORDINANCE NO. 2023-04-05-A AN ORDINANCE AMENDING ENOCH CITY CODE, SECTION 12.300.3001 FINAL PLAT AND SET A PUBLIC HEARING FOR MARCH 28, 2023** – Streetlights

City Manager Dotson said there has been an issue with final plat submissions. We have an agreement with Rocky Mountain Power and they requested that we have the location of street lights on the final plat. Commissioner Correa asked what the distance was from each light. Hayden White, Public Works Director, said 500 feet. Commissioner Correa asked if the distance would be smaller for PUDs. City Manager Dotson said that is something to look into in the future. He wasn't sure.

**Commissioner Ley made a motion to set a public hearing for March 28, 2023 for Ordinance No. 2023-04-05 an ordinance amending the Enoch City Code, Section 12.300.3001 Final Plat. Commissioner Adams seconded and all voted in favor.**

3. **CONSIDER ORDINANCE NO. 2023-04-05-B AN ORDINANCE AMENDING ENOCH CITY CODE, SECTION 12.1900.1908 COMMERCIAL ZONES, SPECIAL PROVISIONS AND SET A PUBLIC HEARING FOR MARCH 28, 2023** – Drainage and curb

City Manager Dotson said we have had more commercial come in. In the past, we have told applicants that they have to put in a curb and gutter. However, it is not in our code.

Subdivisions are different than commercial zones. We need to add this requirement to our code. City Manager Dotson read the proposed amendment. Commissioner Ley said the dentist's office didn't have to do it, but they are on our main street. Commissioner Ley commented about the requirement along unimproved public rights of way and asked if any street is considered a right of way. City Manager Dotson said yes.

Commissioner Correa made a motion to set a public hearing for March 28, 2023, for Ordinance No. 2023-04-05-B an ordinance amending Enoch City Code, Section 12.1+00.1908 commercial Zones, Special Provision. Commissioner Adams seconded and all voted in favor.

**4. CONSIDER ORDINANCE NO. 2023-04-05-C AN ORDINANCE  
AMENDING ENOCH CITY CODE, SECTION 12.2500.2503 MAJOR  
SUBDIVISIONS, STEP 13 B. EXEMPTIONS AND SET A PUBLIC HEARING  
FOR MARCH 28, 2023 - Multiple water rights in lieu of a water acquisition fee**

City Manager Dotson said Mr. Mitchell brought this to us. When someone comes to connect to our system, they have to bring a water right. His property is in Little Eden. He has 9 shares and is required to bring one. We also have the water acquisition fee. His shares have a priority date of 1963. Based on our code, he would be required to bring us 87% of \$20,000 in cash to cover that difference. The purpose is to save the money required to have some buy-in to the West Desert water. Mr. Mitchell suggested that he take all of his water rights worth 13% and deed them to the City to connect to our water. City Manager Dotson read the proposed amendment. That would make it fair based on the valuation. Commissioner Ley said she read through the Water Board recommendation. Even if we set a public hearing for next week, the Commissioners would still have the opportunity to evaluate everything. City Manager Dotson said the Water Board made a recommendation to send an unfavorable recommendation. However, they didn't make any changes to it. Commissioner Ley suggested reading through the minutes from the Water Board. City Manager Dotson suggested letting Mr. Mitchell speak.

Mr. Mitchell said he owned the property in Little Eden for about 30 years. The awareness that he needed to have a source of water brought this about. He approached the issue years ago and had 9 shares of water, but wasn't concerned then. Recently, he found out that the value and legitimacy of the water shares are questionable. He said there is a valuation that has been applied to his water shares. He approached City Manager Dotson and would be happy to give all 8 over to the city. He went to the Water Board meeting and they didn't care for the proposal so they sent it forward with an unfavorable recommendation. City Manager Dotson said it's the Little Eden well that we are trying to improve to convert to culinary. It just hasn't been used for more than 10 years so there are about 280-acre feet of water. If it hasn't been used for 10 years or more and there is proof of it and they can look at the place of use. We tried to move our group of water rights out of it, to another well and the State said no. That's the same situation that every other water rights owner in that well has. With the Lazarus Doctrine, we could potentially resurrect those rights. We don't ever lose the rights, but until then there is the potential for loss. According to the state engineer, those water rights are worthless. Commissioner Ley asked if all the water rights in that well have a 1960s priority date. City Manager Dotson said most are 1937 and 1963. Mr. Mitchell's water rights are in 1963 and could be curtailed in 13 years. If the groundwater management plan doesn't come into play, then we are ok to use those water rights. The City and Mr. Mitchell are all stuck. Chairman Tingey said that's why the Water Board voted negatively, because they won't be good anymore. In the Water Board meeting, Mr. Miller said there has to be some way that we can help the individual that has a piece of property. City Manager Dotson said in context, the justification to do this, is because 13 years is a long time until the Ground Water Management says their curtailed. The law says if your water right is within 10 years of curtailment we can't accept it. Chairman Tingey asked if Mr. Mitchell's water rights were guaranteed to be valid. City Manager Dotson said yes, for 13 years. Chairman Tingey asked how valuable 13 years of water was to the

city. How big of a risk is that? Commissioner Ley said once we accept those water rights, the city is responsible to supply that water even if the water rights have been curtailed. City Manager Dotson said we can make rules and fees higher. We can force conservation by charging a lot more. There is a potential law coming based on the state's new sod removal grant that a resident can get. It is \$1.50 per square foot if sod is removed. We have to have certain codes in place.

Mr. Mitchell said we are all in a tough situation. The city has put a lot of effort into assessing the value of these water rights so regardless of the decision, he has already lost. He hoped for a solution that worked to get water to his property so he can do something with it. Commissioner Correa said we have always tried to balance the needs of property owners and the needs of the city. He tends to favor property owner rights. Commissioner Adams said this could impact the city greatly. City Manager Dotson said in 15 years we could be free from a potential lawsuit. Right now it is not a valid water right. Commissioner Ley said this was part of their decision to raise the city's water rates. Commissioner Correa said he goes back to what was proposed. On the surface it makes sense. Chairman Tingey said he agreed that if he was confident of what the value would be to the city, but it sounded like we don't know what that would be. Council Member Ross said the City Council did send it to the Water Board and the Planning Commission for discussion and she thought there are positives and negatives. Mr. Mitchell said the biggest issue seemed to hear was that if this was on a small scale, then it would be a little less threatening and palpable. He thought there could be ways to modify this on a small scale. He suggested only allowing up to 10 shares or something, instead of a developer coming in with hundreds of shares. He also said he is distressed that the value has gone to 13% and realized that contains some risk. City Manager Dotson said really the valuation is zero until we make that policy change. Chairman Tingey asked if making the concept of keeping it small-scale was feasible. City Manager Dotson said there could be a potential risk, but maybe you could propose, in your motion, to assign the city staff to look at potential changes to the one person vs. the developer. Commissioner Ley suggested adding a specific number of junior shares to accept in the code. Chairman Tingey asked if that would be fair. It seemed to be the opposite of favoring a developer. Commissioner Ley said a developer can already buy into our water system. They can now take one of those shares and pay the acquisition fee. Chairman Tingey said his gut says if you do this for one you have to do it for everyone. Commissioner Correa said he favored the individual property owner rather than a developer who could buy up shares. There should be a mechanism to come up with. It would have to be in the verbiage of the ordinance. City Manager Dotson said the idea of basing it upon a certain amount of water rights is the issue. If you want to direct it to a specific type of land owner like a single connection and not multiple then you are more direct to that specific user. Chairman Tingey said he felt that it would be best to listen to the public last.

**Commissioner Ley made a motion to set a public hearing on March 28, 2023 for Ordinance 2023-04-05-C an ordinance amending Enoch City Code, Section 12.2500.2503 Major Subdivisions, Step 13 B. Exemptions. Commissioner Correa seconded. Chairman Tingey noted that his vote was contingent upon everyone giving this serious thought until the public hearing. All voted in favor.**

5. **PUBLIC COMMENTS** – There were no public comments.

#### 6. **COMMISSION/STAFF REPORTS**

Hayden White reported the pickleball court fencing is being installed at Iron Mountain Park. They are also getting ready for the roads to dry out to get ready to lay 4600 feet of pipe.

Council Member Ross reported at the last City Council meeting, during the public comments, they had an officer from Cedar City and a member of the Iron County School Board come to discuss the Canyon View High school incident. It was about an hour. It will be on the next agenda. She recapped the incident. Commissioner Correa said maybe there needs to be a gang

