

MINUTES
ENOCH CITY COUNCIL
July 15, 2020 at 6:00pm
City Council Chambers
City Offices, 900 E. Midvalley Road

Members present:

Mayor Geoffrey Chesnut-Zoom
Council Member David Harris
Council Member Jolene Lee
Council Member West Harris
Council Member Katherine Ross
Council Member Shawn Stoor

Staff present:

Julie Watson, Recorder
Ashley Horton, Treasurer
Justin Wayment, Atty.
Hayden White, PW Dir.
Robert Dotson, City Mgr.
Jackson Ames, PD Chief

Public present: Ailene Overly, Mary Gillespie, Hyrum Taylor, Neal Nowland, Dennis & Misty Cheek, Richard Wilcox, Camille Sorenson, Brad Kidman, Monte Rugebrect, Jeff Okeson, Nick Van Dormolen, Derek Nelson, Tyler Glover, George Lutterman, Debra Ley, Allison Lewis and Trino Valladolid

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Mayor Chesnut on Zoom and in the Council Room. Council Member Stoor conducted the preliminaries.
 - a. **Pledge of Allegiance-**Led By Council Member Ross
 - b. **Invocation-**Audience invited to participate-Given by Council Member Lee
 - c. **Inspirational thought-**not given
 - d. **Approval of Agenda for July 15, 2020-Council Member David Harris made a motion to approve the agenda. Motion was seconded by Council Member West Harris and all voted in favor.**
 - e. **Approval of Minutes for July 1, 2020-Council Member David 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. **PUBLIC COMMENTS-**

Trino Valladolid of 604 Midvalley Road said recently a sewer line was dug in on the sewer easement by his home and it damaged his trees so they are falling over. He wants to put a fence there and wants it eight (8) feet high instead of the allowed six (6) feet. He said the digging raised the elevation of his property line so he needs a higher fence. Our ordinance allows the City Council to make that exception. The eight (8) foot fence will be from the front of his house to the end of his back yard. He understands any fencing in front can't be higher than four (4) feet. The Council approved the request verbally and a resolution will be brought to the next agenda on August 5, 2020 to make it formal.

3. **UPDATE ON "WREATHS ACROSS AMERICA" PROGRAM-Daughters of the American Revolution (DAR) reps.**

Mary Gillespie of the DAR presented a plaque to Council Member Ross as a Certificate of Appreciation for supporting the "Wreaths Across America" program last year. They thanked Council Member Ross and the committee. She said this year the theme is "Be an America Worth Fighting For" which is appropriate with everything going on these days. She showed the new poster. They are doing the wreath program in Cedar City, Enoch, Summit and Parowan. They already have donations. They were able to cover many of the wreath orders for the graves right

after the program last year when the company who makes the wreaths had a “buy one get one free” program and they had funds left over to do that. They need to continue raising money for that cause. The ceremony will be held on December 19th at noon this year. The original committee has agreed to participate again. Council Member Ross will run it. They will be meeting soon. Alene said their fund raising comes from the sale of t-shirts and she gave details about that. She asked if we could say something in the newsletter about the t-shirt sale. The t-shirt sales help cover administrative costs and purchase of wreaths.

4. DISCUSS REQUEST TO CHANGE THE NAME OF LIBERTY PARK-Jeff Okeson

Jeff and Nick of Public Works came up. They read a statement to propose to change the name of Liberty Park to Boebert Park. Shelly worked in the City parks for 16 years and she recently passed away. She designed and built the park and it was her favorite park. All of the parks have a little bit of “Shelly” in them. They feel this is least we could do to honor her memory. They told about the sign they planned and the costs and showed pictures. They asked the City Council to allow for the sign to be built at the park and to approve of the name change. They want to remember her and honor her. She asked for no recognition for anything and was a major factor in making the City beautiful. They said Public Works will donate their time to make and install the sign. Council Member Stoor said that sounds like a great idea and he respects the Public Works Department for thinking of Shelly and going beyond their regular duties. Council Member Lee said she supports it and would like to see the City fund this. Council Member David Harris said he supports it also. She left an impression on the City and this would honor her. City Manager Dotson said we will have a resolution for the next agenda to rename the park. We just called it Liberty Park but never had a sign made for it. There was a consensus by the Council to do this. A memorial for Shelly will be held there on Friday at 6:00 pm and all are invited.

5. DISCUSS VACATING PROPERTY IN PARKVIEW SUBDIVISION, PHASE 3 INCLUDING THE ROADWAYS AND SET A PUBLIC HEARING FOR AUGUST 5, 2020.

City Manager Dotson showed the map in Parkview of Phase 3A. The owner of the property has applied to vacate this land and roads out of Parkview. City Manager Dotson explained George Lutterman is the owner. Parkview is the bankrupt subdivision with the fissure in that area. The county ended up with most of the lots and George bought them. This was on the County surplus property list and this portion went through that process. He wants to vacate that phase and vacate the roads leaving the utility easements in place. In State Code because the roads are public property we are required to hold a public hearing. He is the only owner. The City will not maintain the area except for the easements. Enoch and a few other individuals own the adjacent property so there will be noticing sent out. Access is available and the utilities are under the street but are not live.

Council Member David Harris made motion to set a public hearing for 8-5-20 on the roads in Parkview Subdivision, Phase 3A. The motion was seconded by Council Member Ross and all voted in favor.

6. ORDINANCE NO. 2020-07-15 AN ORDINANCE TO APPROVE VACATING PROPERTY OWNED BY DENNIS & MISTY CHEEK FROM VILLAGE GREEN SUBDIVISION

Mayor Chesnut asked City Manager Dotson about this adding the petition is in the packet. The owners, Dennis & Misty Cheek, have listed the reasons for the request to vacate. Dennis Cheek said they want to vacate out of Village Green due to a major change in the C C&R’s that no one was notified of. In the past the CC&R’s were very innocuous and you could do what you wanted to with your property. He went into a great deal of detail about the

developer's actions and what Dennis believed to be the illegal way in which he went about it. The main point is the developer did not have the majority vote of the property owners to take that action. It is invalid. He changed the CC&R's to make them very unlivable and invasive. Dennis said they did their due diligence before they bought the property and this changed it all. City Attorney Wayment said vacating will not release them from the CC&R's. Dennis said their attorney said it would. Dennis noted they have two lawyers and are suing the developer. City Attorney Wayment said he does not think it releases them from the CCR's even if done illegally. He said the City is not involved in any way with CC&R's. They can approve the action to vacate but the CC&R's have no relevance to the City unless it violates ordinances. The City is neutral. The Council Members had a brief discussion of the issues noting that since the Cheek's property is on the edge of the subdivision that makes it more reasonable to vacate. Property owners living in the middle of the subdivision could not do that. It was also noted that the developer recently vacated an area out of Village Green to create the Canyon Park Minor Subdivision and that was approved by the City Council. There was more discussion of the Cheek's plans for their property which they cannot do now with the new CC&R's in place. He said they talked to the State Property Rights Ombudsman and they agreed it is legal. It is detrimental to all, Dennis said, because it is so restrictive. He took all their rights and he never notified anyone. There was more discussion of the previous CC&R's for comparison. City Attorney Wayment said this is not relative to the City. He added if the Council doesn't object they can vacate it. Council Member David Harris said he does not see how this advances their goals. It is not relevant to the City. It was noted again anyone else wanting to vacate would have to be contiguous to the Cheek's so no one in the middle of the subdivision can apply to vacate. This process would work for the Cheeks but no one else. City Attorney Wayment asked if this hurts the City or is it neutral? That is the City Council's decision. City Manager Dotson showed the record of survey. According to code, City Manager Dotson said, they can do it by parcel description with an ordinance. There are no easements involved. City Attorney Wayment said he has no problem with it. CC&R's are a contract between the buyer and the developer of the subdivision. If they didn't do it right the court will throw it out. City Attorney Wayment stressed the City is not involved in the CC&R's. City Attorney Wayment said the City can do this by ordinance. Council Member Stoor asked what ramifications this has on the City. If it changes nothing and is not detrimental, then why not? Council Member Lee asked if someone else wants to do it then what? If they are in the middle of the subdivision they can't do it. There is no burden on the City. Council Member Ross said she is ok with this because they are on the outer edge of the subdivision. Council Member Stoor said we like to allow people to do what they want with their property. If it has no impact we should consider it. City Attorney Wayment said they can table it or decide now. Council Member David Harris said he wanted to think about it. He leans towards letting property owners do what they want with their property but he wants to think about it and consider it more. Council Member Lee agreed. Mayor Chesnut said we don't have the power to do anything about it as far as the CC&R's. Developers can legally do this and we can't do anything about it. The courts have said the people buying have a choice. Mayor Chesnut agreed about HOA's and the concerns they bring but as a governmental body we have no power. The state dictates the rules on CC&R's. Mayor Chesnut said our ability to act is limited and we can't override HOA's decisions. Dennis said originally it was set up for a majority vote and the developer did not allow for that. He acted unilaterally and with no notification. Council Member David Harris said the item before this one about vacating out of Parkview Subdivision is completely different. Now they are being asked to vacate two lots in a subdivision that is built. He wants to see what precedent that sets. He wants to think about it for two weeks. All he cares about is what it means for the City. Dennis said you just did this same action for the developer on Canyon Park Subdivision. Their property is on an existing road with improvements there so there is no impact on the City. Council Member Lee said she wants to think about it also. Mayor Chesnut asked for a motion.

Council Member David Harris made a motion to table this item until the next meeting on 8-5-20. The motion was seconded by Council Member Lee and a roll call vote was held as follows:

Council Member David Harris-Yes	Council Member Stoor-Yes
Council Member Ross-No	Council Member West Harris-Yes
Council Member Lee-Yes	Motion passed 4 to 1

7. RESOLUTION NO. 2020-07-15 A RESOLUTION TO APPROVE THE CARES ACT GRANT PROGRAM INTERLOCAL AGREEMENT BETWEEN ENOCH CITY AND IRON COUNTY

Mayor Chesnut asked City Manager Dotson about this. City Manager Dotson said we are getting \$642,000 from the Cares Act to use for Covid-19 related things. There are tight limitations about what it can be spent on. It has to be spent by the end of November. The dilemma is what to do with the money. He listed the solutions we have done already; a camera and mics for Zoom meetings, closed in the front office, some computer equipment for working at home and for the City Council. The funds go back if not used. One aspect is it can be used to help small businesses in communities that were impacted because of shut down or reduction of business. The county has implemented a process by which money can be granted to local businesses in our jurisdictions based on impact from Covid. They have written this interlocal agreement to provide for a committee made up of representatives from each city and the county to work together and get applications from businesses and get the money out to them. They have a formula they can use. The next item is to approve Council Member David Harris to be on the committee. This is the interlocal agreement. City Attorney Wayment said it is not complete yet. He added we need to approve this tonight because applications start on the 20th. When we get a clean version of this the Mayor can sign it. The formula is complex. The committee will decide what each business gets and each city will reimburse the County for their businesses. Things have to be worked through quickly. There was more discussion of details and how businesses would be notified. We have a brochure and Council Member David Harris said he would be on the radio tomorrow. The EDC committee will hold three meetings so business owners can get help filling out applications.

Council Member David Harris made a motion to approve Resolution No. 2020-07-15, A resolution to approve the Cares Act Grant Program Interlocal Agreement between Enoch City and Iron County with corrections and approval by legal counsel. The motion was seconded by Council Member Stoor and a roll call vote was held as follows:

Council Member David Harris-Yes	Council Member Stoor-Yes
Council Member Ross-Yes	Council Member West Harris-Yes
Council Member Lee-Yes	Motion passed unanimously

8. APPOINT COUNCIL MEMBER COUNCIL MEMBER DAVID HARRIS TO THE IRON COUNTY CARES ACT SMALL BUSINESS GRANT PROGRAM COMMITTEE

Mayor Chesnut said with Council Member David Harris background and financial profession he is perfect for this assignment.

Council Member Ross made a motion to appoint Council Member David Harris to the Iron County Cares Act Small Business Grant Program committee. The motion was seconded by Council Member Lee and all voted in favor.

9. DISCUSS WATER RIGHTS ACQUISITION POLICY

Mayor Chesnut said this came back after our last meeting. City Manager Dotson clarified that this is basically a discussion about our water rights acquisition policy. We are missing a component; that being a policy which may help us resolve other issues. City Manager Dotson told how we want to approach this. He said we have a Subdivision Ordinance in which we require one AF of water for each door. The water right must be 1934 or older to be given to the City by the developer or property owner who wants to build a home. Those things cover when there is development or home building occurring. We do not have anything in place for when we acquire water rights for other things as a City. Those are the extra rights that are not assigned to specific properties. They can be assigned to certain lots at will by the City. Questions came up that we need to look at the water rights we own listed by year and the amounts. Our list was taken from the State Engineers website. The Groundwater Management Plan's (GMP) first date of curtailing water rights is January 1, 2035. In 15 years Enoch City will have curtailed 249.56 AF if nothing changes in regard to aquifer recharge. We hired a company called Willowstick to find us some water and they have been working on that. He noted the GMP is not approved yet. We are using none of these rights at this time. We need to create an acquisition policy because we do have people offer water rights to us. If nothing is in place you just buy them. Council Member Lee asked Mayor Chesnut what he is thinking. He said the current statute does not address if we want to acquire water proactively to have extra on hand. We have other water needs we need to facilitate and we have no policy to address that need. If we leave it open ended people can bank water with us. Mayor Chesnut said we need something to clarify when we want to acquire water for ourselves. People sometimes offer to sell rights to us. We have other needs for water that would ultimately be retired before we would give up needs for homes. If we get additional years that are good for 50 years we can clarify in the acquisition or leave it open ended. City Attorney Wayment said we adopt a policy now but take into account that it could change in a few months. If the constitutional amendment on the upcoming ballot passes then we would have that policy and then we could refine it and get a better policy. We took a first step with the priority date. This is the next step in having a more precise water policy and understanding what is banked with whom. These will all dovetail together but we need to act on this now. City Manager Dotson said things could change if the constitutional amendment regarding water is passed. If so, we would add information from the GMP and the new constitutional change. Mayor Chesnut said he is fine with getting a policy now then readdressing it later. Council Member David Harris said he likes the control it gives the City. We are talking about buying water for other things. We need a policy in the best interest of the City. We could leave it open ended until clarified. Mayor Chesnut said there is nothing on the books now. The only policy is if someone wants to connect they have to bring the 1934 water right. Council Member David Harris said he would like a written policy so all know what it means. No action was taken. They will write something up and wanted the City Council to know this is coming.

10. DISCUSS FRAUD RISK ASSESSMENT

Ashley said the auditors wanted us to discuss this before our audit. It is from the State Auditor to determine how high we are on the risk of fraud. Ashley read through each item and explained some things we could do better. We have good separation of duties and that is harder in small cities. We are at 285 points in the moderate range. We will add some things we are missing. The auditors when they come will talk to us about it. Fixing a few things would get 40 more points and would put us into low risk.

11. COUNCIL/STAFF REPORT

Chief Ames reported they did their Taser recertification this week. Things are generally quiet. Council Member Lee asked about the nuisance on Magnolia Avenue. City Manager Dotson noted the 30 day grace period is up this week and then we will take action.

Hayden White asked the Council to let him amend the budget. He has found a few things he needs to purchase. They got the street sweeper up and running. They are working on water issues with such high usage drawing down the tanks.

City Manager Dotson reported the Iron Mountain Park drainage is almost done. We have had challenges with dryness and the wind and dirt blowing. Residents are not happy. We have had the sod pledged to us from the developer but we don't want to plant now due to water issues. We budgeted \$68,000 for improvements but we are not ready to do that yet. The Rec Committee is meeting tomorrow. He told about different items we have used the Cares Act funds to purchase. One thing we can get is communication devices and we are talking to YESCO Signs about some road marquees we can post from a computer in the office. We having been talking about a permanent marquee at the office and getting one for the other side of town for those who don't come this way in their travels. He showed some signs we could use and figured best places to put them. Water use is really high. We posted on Facebook to ask residents to cut back on watering. Every day we are running a foot lower and not recovering. We called the school and churches to cut down and they are cooperating. We need more water source. The permitting processes for wells are an arduous process. We need to talk to our neighbors. Education is a big part of it.

Mayor Chesnut said we need a closed meeting the discuss exchange, or lease of real property, including any water rights or water shares.

Council Member Ross said the Planning Commission had a direct question on the PUD ordinance referred to them. They want to know if this is something the City Council wants in Enoch City if they are going to take the time to work through it and then the Council decided to through it out. The Council said they wanted them to work through it for their consideration.

12. **CLOSED SESSION TO DISCUSS ONE OR MORE OF THE FOLLOWING: THE CHARACTER, PROFESSIONAL COMPETENCE OR PHYSICAL OR MENTAL HEALTH OF AN INDIVIDUAL, COLLECTIVE BARGAINING; PENDING OR REASONABLY IMMINENT LITIGATION, THE PURCHASE, EXCHANGE, OR LEASE OF REAL PROPERTY, INCLUDING ANY FORM OF WATER RIGHTS OR WATER SHARES; DEPLOYMENT OF SECURITY PERSONNEL, DEVICES OR SYSTEMS; INVESTIGATIVE PROCEEDINGS REGARDING ALLEGATIONS OF CRIMINAL MISCONDUCT. (Requires a roll call vote with 2/3 majority)**

Council Member David Harris made a motion to close the regular meeting and go to closed a session to discuss the purchase, exchange, or lease of real property, including any water rights or water shares. The motion was seconded by Council Member Ross and a roll call vote was held as follows:

Council Member David Harris-Yes	Council Member Stoor-Yes
Council Member Ross-Yes	Council Member West Harris-Yes
Council Member Lee-Yes	Motion passed unanimously

13. **ACTION FROM CLOSED MEETING**-Staff was assigned to keep on working on the purchase of wells.

14. **ADJOURN**-The regular meeting ended at 8:55 pm.

 8-5-20
Julie Watson, Recorder Date