

MINUTES
ENOCH CITY COUNCIL
May 18, 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 Jolene Lee
Council Member Dave Owens
Council Member Shawn Stoor

Staff present:

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

Public present: Michelle Pritchard, J.D. Price, Parker Wallin, Dilworth Armstrong, Laramie Allred, Lindsey Roper, Lynne Brown, Kim Ritz, Courtney Sullivan, Bruce & Diane Gil, John Horstdaniel, Chris Johnson, Jordan Barben, Dave Clarke, Ryan Brindley, Betty Talbot, Darla Park, Sasha Turner, Connie Hurley, Susie Hubbard, Shane Sackett, Connie Hurley, Debra Ley, Amanda Rye and James Ansell

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 Stoor
 - b. **Invocation-**Audience invited to participate-Given by Parker Wallin
 - c. **Inspirational thought-**Given by Mayor Chesnut
 - d. **Approval of Agenda for May 18, 2016-**Motion to approve agenda by Council Member Owens. Motion seconded by Council Member Stoor and all voted in favor.
 - e. **Approval of Minutes for May 4, 2016-**Motion to approve the minutes by Council Member Owens. Motion seconded by Council Member Lee and all voted in favor.
 - f. **Conflict of Interest Declaration for this agenda-**none stated

2. **APPOINT TWO NEW MEMBERS TO THE ECONOMIC DEVELOPMENT COMMITTEE**

Mayor Chesnut said two applications were submitted for the Economic Development Committee. Richard Topham and Paul Yoder both come with excellent qualifications. Mayor Chesnut submitted the names for approval. **Council Member Owens made a motion to approve Richard Topham and Paul Yoder to serve on the Economic Development Committee. Motion was seconded by Council Member Lee and all voted in favor except Council Member Johnson who abstained.**

3. **DOG PARK PROPOSAL-Diane Gil, Pres., Friends of Festival Country K-9's**

Mayor Chesnut invited Diane to tell the City Council about the proposal. She said their group has been trying to secure property to have a dog park for several years now. She said Courtney Sullivan did her SUU Edge Project as a quest to get a dog park in Cedar City. She did lots of community outreach and told about her efforts with Cedar City. Due to various factors they lost their land there so have they have come to Enoch to try to secure the land for the park. Their grants applications are on hold until they get the land. They are hoping to get property for a dog park next to the new animal shelter and they need about three acres of land. Diane and Courtney told the City Council about the benefits of having a dog park that includes education of

animal owners and socialization of shelter dogs so that they can be adopted out. They showed a power point with a layout for the dog park saying it would be very low maintenance and completely fenced. There group helps with shelters and responsible dog ownership and training opportunities. The benefit of a dog park is to provide a safe place for people to exercise their dogs. That makes for good neighbors and socialized animals. They would need a commitment for the land in order to be able to apply for the grants that will pay for the building of the park and its amenities. They have had contractors volunteering to help them. It would also depend on community volunteerism. Scouts could be recruited to help with projects such as benches. Very positive events are held at dog parks that provide a great benefit to the community.

Council Member Lee asked what Animal Control Officer Chris Johnson thinks. She said this is a great idea and they want a park here. She told more about the grants adding it will be low maintenance if they can just get the commitment for the land. It will show we are pro animal in our community. Council Member Lee asked if the north end of Enoch is not too far away. Chris said currently people go to St. George for the dog parks.

Council Member Owens asked if they are proposing the City donate the land. Mayor Chesnut said that has yet to be worked out. This would be the Enoch City Dog Park. City Manager Dotson said he met with them and discussed it. We relayed the challenges Enoch has in regard to volunteerism. A lot of promises fall through. We have to work on the premise that the City will maintain the park. We can work with them as staff to create an area that is low maintenance that the City crew can care for. If we have volunteers that would be great but we can't depend on it. The new shelter will be built on property recently purchased by the City and it is away from homes. This would be great for Enoch but it must be clear this is an Enoch City park and we are in control. Mayor Chesnut thanked them for presentation saying we will discuss this on the next agenda when we will have some legal and fiscal information available.

4. PUBLIC HEARING ON 2016-2017 BUDGET

Mayor Chesnut asked for a motion to enter the public hearing. Council Member Lee had a statement prior to the motion. She said she wanted to propose a change in the fee structure talked about in the last meeting. The \$1 sewer fee increase is not enough to cover the shortfall and she wants to propose a \$2 fee increase to cover the fund. **Council Member Lee made a motion to go into the public hearing on the 2016-2017 budget. Motion was seconded by Council Member Owens and all voted in favor.**

Mayor Chesnut invited public comments asking residents to state name and address for the record. He added this is one of the most important things we do for accountability for our resident's money.

John Horstdaniel of 5459 N. Enoch Road said hearing about Council Member Lee's idea it is great and \$2 is not too much. He talked to City Manager Dotson when we ran short and did not have the fireworks. If we put it out to the people for a small increase most folks will have no problem. He agrees we should cover this deficit and building up the fund is a very important thing so the City crew has good equipment to work with.

Darla Park of 4279 Morgan Drive said she said on a fixed income even a small amount is a big deal. We are equal or higher than other cities for utilities. She hopes we could get it another way like from property taxes. It is easier if added into taxes than by the month. Many are in the same boat as she is with a fixed income.

Shane Sackett of 4244 Driftwood said a lot of people don't realize that our utilities are very reasonable in cost. He has no problem with the \$2 increase. Most cities are much higher. We want to see our City prosper.

Debra Ley of 1887 Midvalley Road said you keep raising taxes and we do not need to do that. We need to look at increases and deal with them the best way we can to cut back.

There were no other comments. Mayor Chesnut thanked those commenting.

Mayor Chesnut asked for motion to end the public hearing. **Council Member Harris made a motion to close the public hearing and return to the regular meeting. Motion was seconded by Council Member Johnson and all voted in favor.**

5. RESOLUTION NO- 2016-05-18-A A RESOLUTION ADOPTING A CERTIFIED TAX RATE AND BUDGET FOR THE FISCAL YEAR ENDING JUNE 30th, 2017

Mayor Chesnut read the resolution. Treasurer Dan Jessen clarified to say this is one of the things that are hard to understand. This is to adopt the budget and the certified tax rate except we don't know the actual rate at this time. By State statute we have to adopt the tax rate or raise taxes if we don't accept the rate. The certified tax rate we are accepting is a rate that keeps things at the status quo. Dan said the tax rate floats and is done by formula. We know what we need to get in taxes and they tell us what we will receive based on assessed value of the land. We receive a constant flow of revenue. As we grow we get more tax dollars with new homes.

Mayor Chesnut thanked Dan saying the fee schedule is part of this budget but is a separate item on the agenda. In this budget we have a \$1 raise figured in. The proposed \$2 rate increase changes it now. Council Member Lee added the \$1 increase did not quite raise enough revenue to balance the budget. Dan elaborated on some wiggling in payroll and other things. Council Member Harris said we knew we needed the \$2 back when we took for the drainage enterprise fund. His thinking was a \$1 increase this year and \$1 next year might be more palatable to residents. Council Member Lee proposed again that we do a \$2 increase now. Council Member Owens said in talking with Dan and City Manager Dotson this is a business and needs to run at a profit. It is better for the people for the enterprise fund to be efficient. A \$1 raise now and \$1 next year takes too long. He talked about the sewer treatment plant that serves us all and the increases we had from their upgrade. If we have any issues come up we will be short again.

Council Member Johnson said we discussed the needs for the sewer company and we decided to make the raise of \$1 and do other adjustments. We have extra in other areas to adjust and so he sees no need to raise it more this year. He does not like to raise fees based on worst case scenarios. If needed, we can raise it whenever we want to. He said he prefers to stay with the \$1 as planned. There was more brief discussion about the pending pay increases, equipment age and reliability and best practices in enterprise funds which are businesses. Council Member Lee said there is more to survival than bare minimum funding. What we need is to improve. Let's use the right size bandage to fix the problem. We don't have enough in the sewer fund to be solvent. Let's not just "get by". Council Member Johnson said "survive" means we balance the budget and we should not be pessimistic and search for the worst case that may happen or not.

Mayor Chesnut said he does not disagree with the underlying premise but if we make a \$2 increase should wait for a justification to do so. He clarified the issue is the timing of the increases. Council Member Lee said her interpretation of needs is different. Employees need a raise. Council Member Johnson said he realizes it is good to give a raise. He does not believe in cost of living increases and said we should not compare Enoch with other cities. Council Member Johnson said the City employees should make what others in Enoch make. He is ok with a modest raise. He would do it based on average income of residents here. Council Member Harris cited issues with the solvency of an enterprise fund saying if run properly it has to have a surplus. Council Member Lee clarified she wants to change the budget before it is adopted. We need \$2 to make it healthy. Council Member Harris said he thinks we either prepare in advance or react to a problem later. We are trying to be prepared for the future. It is a better practice to deal with it now than to react when we have an emergency. He is not opposed to doing it all at once knowing that was the need from the start. Council Member Stoor asked if we can approve the budget with that change tonight and was told we could do that.

City Manager Dotson said the staff perspective is that this is a business. We talk about profit and loss, not politics. The City Council looks at it as elected officials. They are the board of the company. We have \$170,000 in depreciation. That number says the quality of the product is less valuable now. Are you funding that? We are short in breakeven terms. Does a business just breakeven? No, good business practices dictate that we have savings to expand the business. Mayor Chesnut said this is an example of when a business does not cover itself then the general fund would prop it up and that practice is not sustainable. Wages are a component of this. Part of the issue is we see attrition in the City because our employees can go to Cedar to work for more money. We need to compete better but not match them. The Council has to decide in a public meeting how to cover this. Council Member Stoor said if equipment breaks, then we go into debt if we are not profitable. City Manager Dotson explained as a small town we allocate the salaries to various companies where employees split their work time. He explained how that works and there was a discussion of how equipment is paid for by the various companies who share vehicles and equipment.

Dan clarified what we are talking about is the budget and voting on revenue for that budget which is also the next agenda item. Council Member Johnson said he supports enabling the companies to be independent. At the last meeting we said \$1 was sufficient. Mayor Chesnut said it was proposed last meeting but can be changed. Council Member Johnson thinks the company should support itself however we don't hear from the public on this. Council Member Lee said she made the proposal before the public hearing. Mayor Chesnut said we did hear from the public on that \$2 increase.

Council Member Stoor made a motion to approve Resolution No. 2016-05-18-A, a resolution adopting a certified tax rate and budget for the fiscal year ending June 30, 2017 with the condition of a \$2 fee increase to the wastewater enterprise fund. The motion was seconded by Council Member Harris and a roll call vote was held as follows:

Council Member Harris-Yes	Council Member Stoor-Yes
Council Member Johnson-Yes	Council Member Owens-Yes
Council Member Lee-Yes	Motion passed unanimously

6. RESOLUTION NO- 2016-05-18-B A RESOLUTION TO APPROVE AND ADOPT CHANGES TO THE ENOCH CITY FEE SCHEDULE

Mayor Chesnut said we talked this through in the last item and he asked for a motion. **Council Member Harris made a motion to adopt Resolution No. 2016-05-18-B, a resolution to approve and adopt changes to the Enoch City fee schedule with the amendment for a \$2 increase to the wastewater fee. Motion was seconded by Council Member Owens and a roll call vote was held as follows:**

Council Member Harris-Yes	Council Member Stoor-Yes
Council Member Johnson-Yes	Council Member Owens-Yes
Council Member Lee-Yes	Motion passed unanimously

7. DISCUSS AND TAKE ACTION ON A CONDITIONAL USE PERMIT FOR SHANE SACKETT TO OPERATE AN AUTO REPAIR BUSINESS IN A RESIDENTIAL ZONE

Mayor Chesnut said the packet included minutes from the Planning Commission who determined some conditions that could be made in relation to this Conditional Use Permit (CUP) per the assignment from the City Council. City Manager Dotson asked Mayor Chesnut to give him a few minutes to clarify some things. City Manager Dotson said conditional uses in State Code require that if someone applies for a CUP and you can mitigate the problems with conditions you SHALL approve with conditions. The Planning Commission found things that could be measured and enforced. One of the challenges is our conditional use ordinance does not

comply with State code. The State code says if you put a condition on something you have to put it in writing so it is an administrative function. In our code it reads:

5-3 PERMIT REQUIRED.

- (1) A Conditional Use Permit shall be required for a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

The problem is some uses are considered not compatible such as an auto repair business in a residential zone and yet that is not what is stated in our code. Other issues with this application are that no building permit or business license can be issued until the CUP is granted. This process is challenging as both a home occupation and a land use. We made an error in our interpretation of the ordinance. City Attorney Kuhlmann concurred he also made an error on advising us on proper procedure and he apologized.

Mayor Chesnut said this means that the City Council is the appeal authority in this case and the Planning Commission is the decision making body as to whether this CUP is approved. They have done what we asked them to do by setting reasonable conditions however that is not in compliance with the code as it is now written. What needs to happen is a motion by the City Council to send it back to the Planning Commission for a final decision. And if they decide not to recommend it or if granted with conditions then it is granted and final unless an appeal is made by the applicant. The Planning Commission did what they were charged with however the City Council being the final approval body was a procedural error that we now have to correct.

They complied with State code and their work was not in vain Council Member Harris said. City Attorney Kuhlmann said the Planning Commission did an excellent job in discussing and setting the conditions. He recommends this be sent back to the Planning Commission for a final decision. He also recommends they should approve the CUP with conditions. This action is to correct the technical error in procedure. Council Member Harris said he apologizes to the public that this matter has taken so long to sort out. **Council Member Harris made a motion to send the Conditional Use permit application back to the Planning Commission for a final decision. The motion was seconded by Council Member Owens and all voted in favor.**

8. DISCUSS ZONE CHANGE FROM RURAL RESIDENTIAL (R-R-1) TO COMMUNITY COMMERCIAL (C-C) FOR TRENT SNOW AND RYAN AND BRETT BRINDLEY FOR THREE (3) PARCELS LOCATED ON MIDVALLEY ROAD

Mayor Chesnut said this recommendation came from the Planning Commission who held a public hearing on May 10, 2016. The minutes from that meeting and the recommendation from the Planning Commission are in the Council packet. They gave an unfavorable recommendation on the zone change. Mayor Chesnut noted the applicants are in attendance tonight and asked if the Council has any questions for the applicants. Dave Clarke, the surveyor on the zone change and Ryan Brindley, one of the owners came up and stated their request. Dave Clarke said Trent Snow contacted him to make this change and the Brindley's joined in with the process. They feel this zone change to Community Commercial (C-C) is near a major intersection in Enoch and is a good place for commercial development. It was noted the property across the street was Regional Commercial (R-C) until a recent zone change made it a residential zone.

In the public hearing three residents came in to speak against it. Mayor Chesnut said we received an unfavorable recommendation from the Planning Commission and their opinion carries a lot of weight. Ryan Brindley said the proposed use is for storage units on his lot. One resident who was opposed owns land next to his brother's lot and folks mentioned they don't want this business in a residential area. He added they have other storage units in Cedar City and if

done to standard it would not look like an industrial park. He said they do fit into residential areas and he is willing to put up a wall so people would feel more favorable about the storage units. They bought these lots knowing it was surrounded by residential. He added this would bring in tax money and he would work with City Manager Dotson to set it up as nice storage units so the look of it would not be offensive to the community.

Mayor Chesnut said some Planning Commission members are here tonight and he asked Debra Ley to recount the discussion from the Planning Commission meeting. She said she has a conflict and another Commission member is also an adjacent property owner. They bought their property knowing this was a residential area. In other areas of the City where storage units are located the residential homes went in after the storage units were in place so the buyers knew what they were buying into. This application plops commercial development into the middle of residential and that is not acceptable in the residential zone.

John Horstdaniel, Planning Commission member said he feels the storage units would be detrimental. As a retired burglary detective he has seen that one of the biggest areas for burglaries are storage units. No matter the cameras and all the surveillance, that type of business draw thefts. He described how the crime is typically committed. He said he has a problem due to that. Also lighting at nighttime could be an issue for residents. The residents were there first and have the right to have it remain a residential area.

There was more discussion of the road access and the requirement for a solid wall between residential and commercial zones. City Manager Dotson said the Snow property has not determined any plans for its use. The owners went together in this application because the lots were adjacent. Council Member Lee said the general long term plan is to extend trails and the walking path up to Highway 91 and across to the Rec Complex. This is residential now and she has a conflict with it becoming a commercial area. This is also a rural area and this decision affects the future so she is looking at it that way also. We do need more commercial business but this is not the right place for it in the middle of a residential area. Council Member Johnson said he looked at it and this has been empty for a long time. He is for private property rights and thinks we need consistency in our decisions. People bought in a residential area and they think they trust the City officials to be consistent however that is not necessarily true. Councils can and do change things in the best interest of the City. He said he has a problem with zoning period and would like to see public pressure govern here. If we have zoning people should be able to count on it. Council Member Stoor said as discussed this is residential and there might be a better place for commercial elsewhere.

9. ORDINANCE NO. 2016-05-18 AN ORDINANCE AMENDING THE GENERAL PLAN LAND USE MAP AND THE ENOCH CITY ZONING ORDINANCE ZONING MAP BY CHANGING THE ZONING FROM RURAL RESIDENTIAL (R-R-1) TO COMMUNITY COMMERCIAL (C-C) FOR THREE (3) PARCELS LOCATED ON EAST MIDVALLEY ROAD

Mayor Chesnut asked for a motion. **Council Member Johnson made a motion to approve Ordinance No. 2016-0518, an ordinance amending the General Plan Land Use map and the Enoch City Zoning map by changing the zoning from Rural Residential (R-R-1) to Community Commercial (C-C) for three (3) parcels located on East Midvalley Road.**

There was no second to the motion so motion failed.

10. PUBLIC COMMENTS- Mayor Chesnut invited public comments. John Horstdaniel said he wants to thank the City Council on the \$2 increase. He said he is retired PD and we just lost three really good officers who went elsewhere for better pay. A little pay raise may have kept them here.

Betty Talbot said she lives on Driftwood next door to Shane Sackett. She has ill feelings about this process. The residents came to say why they did not want this business in the residential area. She does not understand all the codes and laws and this seems to go against what we have in the ordinance. They chose to live here and live by the laws and that is not being done by others. It was said if you vote it down the lawyers will sue you. The code says that an auto mechanic should not be allowed in the residential area and she does not understand why the City Council does not follow the code. The residents have been to four meetings and she is disappointed in Enoch City. She is also not against Shane but they disagree with it. This is affecting their health. Nothing has changed over there but Shane has lowered the volume so this went through. ***Mayor Chesnut explained that the instruction we were given was not correct at the time. The City Council sent this back to the Planning Commission because we understood we have to grant the CUP if conditions can be set to mitigate problems. The Planning Commission can deny a CUP but they have to make the decision. We have to do the process rights so this is going back to the Planning Commission. If Shane is unhappy he can appeal to the City Council. Tonight we are trying to correct the mistake and the community needs to know we are trying to fix this and do it right. City Manager Dotson explained the law in more detail saying, if they find conditions that can be measured that satisfies the issues then they SHALL put those conditions on the business. If there is non-compliance then the CUP can be pulled and the license revoked and then the law allows us to shut it down. If they can mitigate issues they must do so per the law.*** Betty said she has to live next to this and it is not right.

Connie Hurley and she lives here and owns several residences for rentals in Enoch for lower income residents. One rental is across the street from Shane and her concerns are this is a family neighborhood and there are children all over and this business brings in people that don't belong in the neighborhood. There are commercial areas in other places and this should not be allowed near homes.

Darla Park said she understands this error and it is a learning tool. As Betty stated there is not any conditions that could make this business acceptable. He should not have been allowed to apply as he already broke the law he should not be granted this permit. He has built over the easement without a building permit. ***City Manager Dotson said we made a mistake in that we did not take care of it two years ago but it was not a mistake to let him apply. Mayor Chesnut concurred this has been very emotional and that is one reason we want to do it right so it will be airtight for everyone.*** Darla said people should not break the law and run a business unlicensed and build a building without a permit. They deal with noise and the illegal building and he was still allowed to apply for the conditional use permit.

Shane Sackett said his business license was with Cedar City. He is aware of what is going on with the easement and there are no utilities on his building site. This is his dream to use his garage and he is sorry this has taken so long. He said let the Lord's will be done and he has a right to do this. Now that he understands their issues he is trying to fix it.

11. COUNCIL/STAFF REPORT

Earl Gibson reported they are test pumping the new well and will know what it will produce soon.

Dan Jessen said he is glad to move ahead with the budget for next fiscal year.

City Manager Dotson said we have had a request from a resident for the City to abandon a five foot walkway between her property and another property. That will come to the Council on the next agenda. He reported on June 11th there will be land use training in St. George from 9:00am to noon and all invited to go to that. He noted that many municipalities have inconsistencies with their conditional use permits. The ULCT and property rights ombudsman are working to help recommend changes to get codes in line with State law. He reported the 4th of July the race path is on the website and the running club site. There will be a parade and we are seeking float entries. The cars in the car show will be in the parade that ends at Old Enoch Park. Hot dogs will be

donated by Smiths and the City Council traditionally cooks them. There were two sponsors for the fireworks and a resident chipped in too. We also have several sponsors for the car show and 5-K race.

Julie Watson said she would amend the Planning Commission agenda for the CUP.

Council Member Stoor said the Tree Committee would like to recognize two yards of the month instead of one. They would like to pick water conscious yards.

Council Member Lee reported the Garden Park summer lunch program begins on Thursday.

Council Member Owens said some Council Members and City staff went to the Arbinger training and it was really good. City Manager Dotson was the trainer and did a great job of bringing staff and administration together and to help each other.

14. ADJOURN- Council Member Harris made a motion to adjourn. Motion was seconded Council Member Owens and all voted in favor. The meeting ended at 8:35pm.

Julie Watson, Recorder

Date