

MINUTES
ENOCH CITY COUNCIL
October 7, 2020 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 West Harris
Council Member Katherine Ross
Council Member Shawn Stoor

Staff present:

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

Public present: Leonard Correa, Brad Green, Aaron Rasmussen, Ken & Carolyn Bauer, Jeff Green, Joey Buckles, Steve Johnson, Liz Stephens, Richard & Jule Denser, Colin Clark, B. Fawson, Andy Funderburk, Austin Strine, Lynn Nielson, Debra Ley, Bruce Lee, Kaleigh Bronson-Cook, Tamisha Barber and Westor Bradshaw

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-By Mayor Chesnut at 6:00 pm.**
 - a. **Pledge of Allegiance-Led by Council Member West Harris**
 - b. **Invocation-Audience invited to participate-Given by Steve Johnson**
 - c. **Inspirational thought-Given by Council Member Stoor**
 - d. **Approval of Agenda for October 7, 2020-Council Member David 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 September 16, 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. Ratification of Expenditures-none
 - g. **Conflict of Interest Declaration for this agenda-none stated**
2. **PUBLIC COMMENTS-none**
3. **CONSIDER ACCESSORY BUILDINGS IN RESIDENTIAL ZONES TO GIVE DIRECTION TO THE PLANNING COMMISSION-The City Council will consider the need for more clarification in the Zoning Ordinance, Chapter 2, and give instructions to the Planning Commission for consideration.**

Mayor Chesnut said we are here to reconsider this issue after passing an amendment to the Zoning Ordinance Chapter 2. He said it has been the policy of this City Council to hold regulations to a minimum while protecting all residents with laws that reflect what is needed for the greater good of all living together as a community. The Zoning Ordinance in its previous form was in conflict with itself. Now, with the recent amendment, a property owner can build an accessory building covering no more than 10% of the total lot square footage. Section, 2.1 referring to 25% of the lot was removed from the old ordinance. Since this is a land use issue it started in Planning Commission and went through the required processes of State law including a public hearing advertised per State law on the Public Notice Website, Iron County Today newspaper and on the office door. The City Council still had some concerns about other issues in

the ordinance and wanted this back on the agenda to give direction to the Planning Commission so they could address the concerns. Council Member Stoor said in retrospect the discussion was about allowing either 25% or 10% of the entire lot. He said as he thought about it he feels when somebody buys property they should do what they want with it. If they want a big building, fine as long as it is built to Code. Council Member West Harris said he does not believe the Code prevents what it is meant to prevent. Council Member Ross said there should be a limit to the size of buildings but she thinks the limit we have is too small for 18,000 SF lots. A larger building is fine but there should be a limit. Council Member David Harris said he leans towards letting people do what they want. Having set-backs is fine with the slant on not many other regulations. We could send it back to Planning Commission for re-discussion City Attorney Wayment said this was not about what should be amended. We have the ordinance allowing 10% of the whole lot or 20% of whole lot for 1 acre, 2 acre and 5 acre lots. The old ordinance was conflicting and we defined it. The 25% clause was removed. The size depends on entire size of the lot. He gave examples saying it was only meant to standardize the Code. That is why we are here tonight to discuss it further to direct the Planning Commission regarding what the Council is thinking. The Code is clear for now and we are revisiting the ordinance to see if we need it at all. The size allowed could be changed or the recommendation could be to do away with it entirely. Mayor Chesnut said the Planning Commission has to do that because it is a land use issue and they will send it back to the City Council with their recommendation. We will give the Planning Commission our concerns and let them go through the process again, including holding a public hearing before making another recommendation. Mayor Chesnut invited comments from the public noting this is not an official public hearing. As Mayor he likes to let people speak.

Austin Strine said he rents a home in Enoch and has lived here for six years. They have been in a rental the whole time. There are sheds for the owners stuff, but not for the renters stuff. He would like to build another shed for their yard stuff. The owners have three storage spaces in the yard already. The owner's are storing their stuff in the home he pays to rent. He wants to have his own shed for his stuff. He wants to clean up the property and get his yard equipment out of sight in a shed. He thinks the new ordinance will not allow him to do that. **Mayor Chesnut said that is what happened when they changed the ordinance to say you can build a shed using 10% of the total property If the other sheds already cover 10% (or more) of the total property then another shed could not be added.** Austin said he would like to see the Planning Commission get rid of the limits altogether.

Jeff Green said he has lived here all his life. He owns Southwest Plumbing Supply and owns several homes in Enoch. He may be the reason so many people are here tonight. He showed a picture of a building he built way out by Three Peaks last May for storage of equipment. He tried to buy the lot next to him and he was able to buy it finally. He stores his equipment for business in an accessory building with no power or water there. He wants that type building next to his home and bought a lot for that purpose. He came to Lynn Nielson, the Building Inspector and tried to get a permit to do this building for the lot he bought. Lynn had to say no because of the size and the amount of land it occupied. He is limited now by the 10%. Jeff said he talked to Dave Nelson, former Enoch Building Inspector and Dave said build what you want. What will the City do? Jeff said he does not want to fight or break the law. When he heard from Council Member West Harris about this change to the ordinance he had to come to say these things. He wants a 3200 SF building because the lot will have no house on it. It was noted by someone that if he builds that big building it will limit any house in the future. He said wants to build on the front of this property also. The arguing went on about his building. **Mayor Chesnut clarified as long as there is no house you can use 10% of back yard. There is no backyard if there is no house, City Attorney Wayment said.** Jeff said it would have worked when 25% of the lot was allowed. **Mayor Chesnut said he did the math and his building is too big. Mayor Chesnut said the point is the City Council is going that way of sending it back to Planning Commission for more**

consideration. Mayor Chesnut made the assertion that under the old ordinance he could do what he wants. City Attorney Wayment said every house is different in size and therein lies the problem. It should be a percentage of the total lot. City Attorney Wayment went on to say, a month ago a fire hit that went through three homes because buildings were so close together with sheds and so on. You need set-backs so fires don't jump from house to house. When a City sets set-backs we allow for such a size for safety. The City Council decides on that. In this situation it is a fictitious argument with no home on the lot. We will allow an accessory building of 10% of the total lot size and it becomes set and everybody knows it. You buy a lot that allows for what you want to do. Jeff said the City should make it a less restrictive ordinance. Jeff said give people the freedom to do what they want. *Mayor Chesnut said we have a City Council that wants to address this because they agree with the premise but we have to have a set amount in an ordinance to give order and continuity to the City.*

Brad Green said he represents "Advocates for a Prosperous Community". It is their group's opinion the City can make regulations on buildings and it is also the opinion they shouldn't. They support the City Council that errs on the side of freedom. Less is better. Set-backs, ingress/egress for safety vehicles is all fine. As long as there is no public safety issue it is good to regulate but other than that, no. As the City Council they are to protect the citizens so property rights are not restricted. Sometimes it does not look like tyranny but can be. Odd shaped lots that can't be built on it should have concessions. He understands it has to go to the Planning Commission. He asks that they consider repeal of this ordinance because it is overly restrictive and doesn't need to be in place at all.

Steve Johnson said at the start it was heartwarming to hear the comments on freedom which is near and dear to him. He said he has heard a lot of contention. Steve said he wants to convince them of something and he read from a prepared statement. (See attached) The bottom line endorses getting rid of this code totally.

Eric Courser said he agrees with Steve and Council Member Stoor.

Richard Jensen said he is in support of what hears. Remove any percentage entirely and let people do what they want or increase the percentage. Let people do what they want with their property.

Leonard Correa said he has been to the Planning Commission meetings through this process. He loves this town. His concern at the time was what prevents us from being bad neighbors to others. Like by building a big building and blocking the view of your neighbors. That is not fair either. He understands that it is their property and their right and he has no problem with that idea. Where is that line between being a good neighbor or not. Maybe greater set-backs would solve issues on some buildings.

Debra Ley said she would love to have it back to the Planning Commission with this information. If you love your neighbor do what is right. She also knows of some that want to build storage that is two stories high on each side of her.

City Attorney Wayment said he would encourage them to go look at his lawn. He spent \$7,000 twice to replace it because his neighbor has lot full of weeds he refuses to control. If he would keep the seeds on his property, fine. But that doesn't work and has ruined his lawn a second time. When you say I can do anything on my property I want, you have to consider if it harms others. You want freedom that should be what is good for the community as a whole. Give all an opportunity to have a reasonable area. It has to be uniform. The constitution permits governments to set laws for the good of the community as a whole because individuals can't act alone. He agrees with freedom. The fact is he is not saying it shouldn't be adjusted. We need a reasonable balance and the Planning Commission will try to find that. It is a legislative issue. To say you do what you want is fine until it affects other people. There has to be balance and it is short sighted to say do whatever you want to on your property.

Mayor Chesnut said we have had this discussion before in City Council. We have had people come and say they should do whatever they want and then they show up when the neighbor

wants to change the zone or something they don't like. Then they want to not let others do what they want with their property. That is the point. The high minded attitude is not a bad thing. But when someone else wants to do something you freak out. What we want in a community like ours is as much freedom as possible. It takes quite a bit to change things on the books. Not everybody agrees and what we are doing tonight is going through the process. He wants Jeff to think about what his neighbors are thinking about this. Jeff added he still thinks we should err on the side of freedom. City Attorney Wayment agreed saying we can come together as a community and we are glad people are out tonight to comment.

Andy Funderburk is here because he is not fully informed on code. He heard we were changing rules on outbuildings. He is for doing what you want on your land. He is glad however that a car wash can't be built next door to his home in a residential zone. He wants freedom and space but also a courteous neighbor and that does not come naturally. Some rules are good. Have your freedom but do right by your neighbors. The question is how do we move forward to address this? *City Attorney Wayment said that is why we are here. We agree we want to do something else and part of the process is to give direction to the Planning Commission to reconsider what the Council is thinking.*

Bruce Lee said he has lived here longer than almost anyone. He was the mayor 35 years ago. Land uses ordinances were tougher then than they are today. There is not a patrician class as someone referred to. They have loosened ordinances a lot and it is good. As we look at this and Jeff's plan he does not know the answer to that but if it were next to him he may have concerns. He asks that freedom be the best choice. Responsibility goes with freedom and it is hard to legislate responsibility. He counseled, as you work on this, find the balance. Do not infringe on your neighbor's property.

Steve Johnson added he does not say you should do anything you want with your property. If there is a nuisance and it causes damages to others then there should be an outlet. He was referring to the times before incorporation of the city.

Council Member West Harris clarified what could be built asking the Building Inspector, Lynn Nielson. Lynn answered, the existing ordinance just passed does not prevent a big ugly structure it only regulates the size it may occupy on a lot which is 10% of the entire lot.

Council Member Ross asked Lynn how this is figured. Lynn said this is just for the accessory building and the house does not count; just the lot size. Lynn said he hopes for clarity. There were two codes and the dilemma was which did he follow? That brought this up. One part said both 25% and another part said 10% for how big you can build. He had to know what to tell people so the Planning Commission looked at both and debated what code to follow. It came down to making it equal with 10% of whole lot being the choice. We can look again and change it but it has to be uniform. He appreciated the input and that is how this came about.

Mayor Chesnut thanked the audience for coming to participate. A quote was read about perceptible injury to others vs. property rights.

Council Member David Harris made a motion to send this to the Planning Commission for more discussion of other considerations such as size of the building in relation to the lot. The motion was seconded by Council Member Ross and all voted in favor.

- 4. RESOLUTION NO. 2020-10-07 A RESOLUTION ADOPTING THE 2020 AFFORDABLE HOUSING PLAN-** City Mgr. Dotson-The City Council will consider a resolution to adopt the 2020 Affordable Housing Plan.

Mayor Chesnut explained that due to another emergency he asks that this item be tabled until the next meeting.

Council Member David Harris made a motion to table Resolution No. 2020-10-07 until the next meeting on October 21, 2020. The motion was seconded by Council Member Ross and all voted in favor.

5. PRESENTATION ON DOMESTIC VIOLENCE MONTH- Kaleigh Bronson-Cook of Canyon Creek Services will give a presentation for support of Domestic Violence Month

Kaleigh Bronson-Cook came up to show a power point. She explained each slide. She said Canyon Creek Services sponsors Domestic Violence Month to bring attention to a very large problem in our community and many others. This is to prevent violence in our community. One thing that is helpful in addressing violence is community connectedness. She acknowledged the Enoch PD as being incredible and thanked them for all they do. She went through the presentation. They serve all people of any background or gender. Their services include an emergency shelter and many other things such as counseling. They want to be known for prevention as well as what they provide to help those in need. It starts with us for prevention which is preferable to intervention in a situation escalating out of control. Intervention can be done by others such as the PD. They want to address the root causes of violence. They want to prevent perpetrators from becoming perpetrators. We want communities without that going on. Prevention is their goal. How can each member of the community to get involved in domestic violence in Enoch. You can join the coalition as community stakeholders. Proclamations increase community awareness. She thanked the City Council for their time.

6. ENOCH CITY PROCLAMATION OF OCTOBER 7, 2020 IN SUPPORT OF DOMESTIC VIOLENCE AWARENESS MONTH-The City Council will consider a proclamation in support of Domestic Violence Month


Council Member David Harris made a motion to approve the Proclamation of October 7, 2020 in support of Domestic Violence Awareness Month. 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

7. COUNCIL/STAFF REPORT

Mayor Chesnut reported back in May we had a well that went down due to a high nitrate levels. He explained that and what nitrates can do. Nitrates are good for grass but not for people. We did a test and we turned the well back on and it is now off again as of 10-5-20 because it went high in nitrates again. Our system can flush that out in 24 hours. Working with DEQ in meetings we are working to be sure the water is safe. We have to mitigate a situation in one neighborhood on Wagon Wheel Drive north of Midvalley Road. For most of us there is no real risk. However infants and nursing mothers can be affected by high nitrates. We need to end this meeting early so the City Council Members can go door-to-door to inform residents. We are flushing the systems to be sure and safe. Those affected will all get a \$10 credit on their water bill. They will all be notified in person. The rest of Enoch is fine. We are being overly cautious. The risk is to a small group and we will inform them for their safety.

8. ADJOURN- Council Member David Harris made a motion to end the City Council meeting. The motion was seconded Council Member West Harris and all voted in favor. The meeting ended at 8:00 pm.



Julie Watson, Recorder **Date** 10-21-20

Good evening, I am grateful to be able to stand here before this auspicious assembly. I would like to thank you for keeping Enoch running. Since retiring from the council, I have largely left Enoch politics to you. Occasionally, I hear of something that matters to me. Today is such an occasion. I understand that certain friends of mine may be here with an opposite viewpoint. I still love them and look forward to hearing their points.

It seems that issues are cyclical, and I'm sure Rob could tell us how certain issues return to this body on a reoccurring basis. One of these seems to be property rights.

I understand that the ordinances read that an out building or shed could be no larger than 25% of the property behind the house, and that it could be no larger than 10% of the entire property. If I am mistaken in something I just said, please forgive me, for it is, in the end, trivial. Recently, the council repealed the 25% part, keeping the 10%, representing that it was the restriction most supportive of freedom. Clearly, being a percentage, it is still very relative. A ½ acre or smaller lot cannot have a very large shed!

It is difficult to construct an ordinance that is fair to all. Classically, that is the reason such ordinances were not promoted. However, there has been for some time in Enoch a building elitist mentality which wants Enoch to pass from its freedom- live and let live- past to a more egalitarian existence governed by the patricians who have moved in over the years. These people feel they have a right to an environment which meets their aesthetic requirements, and that might makes right, so get ordinances passed, forcing all others to meet their expectations.

However,:

- A visual view can not be legislated.
- We are all different.
- It is our property, not yours.
- Unless the matter is a legitimate nuisance, your opinion doesn't matter.

I was pleased to read that this council entertained discussion on simply repealing the entire section of code limiting outbuilding size. I commend the council for this. I heartily endorse this action. We all have different goals and dreams. Yours may be town sprawl with plants, ours may be a useful workspace. Let us be individuals!

It has been said by property rights experts that it is a sad fact that a property owner's neighbors- and by this I mean all residents of Enoch- have more to say over the use of property that its owner. Can we not see the malfeasance of this?

Having spoken of us being individuals, my mind is inextricably drawn to the recent conference many of you may have watched, in which we were urged to establish unity, the unity of a culture we brought from a previous existence. Since unity cannot be achieved in physical preference, it must be achieved in the allowance of individual agency.

We were also urged to renounce prejudice, granting equal rights and acceptance to all people regardless of race, sex, and other things. We should extend this plea to renouncing prejudice against other life styles, such as use of property. We seldom understand their situations, trials, capacities, and aspirations. A shed will not keep you out of heaven, but restricting agency may.

I urge this council not to grant an exception to Mr. Green, but to normalize his types of projects, as you are doing for roof pitches (of which I could say much more). Please remove these restrictions and restore the rights of private property to the citizens of Enoch.