

MINUTES
ENOCH CITY COUNCIL
June 3, 2015 at 6:00pm
City Council Chambers
City Offices, 900 E. Midvalley Road

Members present:

Mayor Robert Rasmussen
Council Member Destry Griffiths
Council Member Steve Johnson
Council Member Kirk Lovell
Council Member Gary Wilcken
Council Member Mike Olenlager

Staff present:

Julie Watson, Recorder
Dan Jessen, Treasurer
Gary Kuhlmann, City Atty.-absent
Earl Gibson, Pub.Works
Jackson Ames, PD Chief
Robert Dotson, City Manager

Public present: Donna & Michelle Pritchard, Michael O'Rourke, Tim Beery, Kelli Lovell, Dilworth Armstrong, Lisa & Jared Baker, Rich & Vicki Nielsen, David & Julie Jordan, Debra Ley, Tim Watson, Angela Walker, Alan & Pam Madsen, Hilary & Rich Hollingshead, Spencer Jones, Karl Stevens, John & Lisa Brown, Denise Leavitt, Elizabeth Boucher, Ferrel & Wendy Kelsey, Brett & Leslie Brindley and Carolyn Olenlager

1. CALL TO ORDER OF REGULAR COUNCIL MEETING-By Mayor Rasmussen at 6:00pm. He welcomed the audience.

- a. **Pledge of Allegiance-**Led by Council Member Lovell
- b. **Invocation-**Audience invited to participate-Given by Mayor Rasmussen
- c. **Approval of Agenda for June 3, 2015-Council Member Lovell made a motion to change the order moving item #4 to become item #6 and approving agenda with that change. Motion was seconded by Council Member Johnson and all voted in favor.**
- d. **Approval of Minutes for May 20, 2015-Council Member Wilcken wanted to clarify in the first paragraph that the Conservancy District gave the City a \$5000 grant for the study. Council Member Wilcken made motion to approve the minutes. Motion was seconded by Council Member Lovell and all voted in favor.**
- e. **Conflict of Interest Declaration for this agenda-**none stated

2. DISCUSS FINAL PLAT OF THE RIDGE SUBDIVISION, PHASE 11B

Mayor Rasmussen asked City Manager Dotson to explain. He said there was an error on Phase 11 when approved and this lot was left out. This action tonight is adding that lot as its own phase 11B. We had already gone through the process for Phase 11 so this is a separate phase and has met all requirements.

3. RESOLUTION NO. 2015-06-03 A RESOLUTION APPROVING THE FINAL PLAT OF THE RIDGE SUBDIVISION, PHASE 11B

Council Member Wilcken made a motion to approve Resolution No. 2015-06-03, a resolution approving the final plat of The Ridge Subdivision, Phase 11B. Motion was seconded by Council Member Griffiths and a roll call vote was held as follows:

Council Member Griffiths-yes	Council Member Olenlager-yes
Council Member Johnson-yes	Council Member Wilcken-yes
Council Member Lovell-yes	Motion passed unanimously

4. DISCUSS AND TAKE ACTION ON BRINDLEY SEWER BACK UP

Mayor Rasmussen asked City Manager Dotson to tell the Council what happened. City Manager Dotson said Thursday night, May 21st Mrs. Brindley came to his door at around 10:00pm to say the sewer was backing up into their basement. He immediately called public works and went with them to check the adjacent manholes. The Brindley's called Delta Disaster Services to come out. City Manager Dotson said he called our insurance company so we could start the investigation immediately. He gave details of hiring Cedar City's technician and equipment to "camera" the sewer line the next day saying the camera will not go through if the line is full of debris which it was not. They found the expected amount of gravel in the line but no blockage. They produced a report with a video to go to the City's insurance company. City Manager Dotson said there are two options. If we are at fault then our insurance pays remediation. If there is no fault found, they pay only \$5000. The insurance company has all the information and as of tonight there is no finding so far. City Manager Dotson went on to say we produced all of our inspection reports. We check manholes each year and we clean each section of sewer line on a rotating basis every 3 to 4 years. We put this on the agenda to inform the Council that if the insurance company does not find liability they only pay \$5000. The bid to demo and clean-up is \$18,238 and some has been done already. The recovery cost bid is \$19,303 and the Brindleys could ask the City Council to cover the rest if there is no finding of fault. Their homeowners insurance will not pay for this incident.

There was a brief discussion of back flow preventers can be installed on homes to prevent sewer back-up from flowing into the home and it was noted they can fail at times if not maintained properly. There was no evidence of a backflow preventer on the home.

The Brindley's came up to say their bid is \$37,542 without personal items included. That total does include Delta Mitigation & Home Repair. The total with personal items is \$49,647.11. Seven children have rooms in the basement. They lost 4 of the 5 bedrooms and all their personal possessions. All wood furniture had to be thrown out. The kids were grabbing their things to put on the beds so the sewage ruined the mattresses and everything had to be discarded. They said what is frustrating is they heard there was no fault on the City's part because routine inspections were done. The Brindleys went on to tell the Council they got a metal detector and located the nearby manholes, some of which were buried a foot under the road. They added some manhole covers were ajar and not bolted down. They have pictures. A week after their flood no one had looked for those manholes and nothing has been done yet. As a homeowner on that road Mrs. Brindley said she felt neglected on this issue. Earl explained the manholes are recessed under the dirt road so the snowplows don't hit them. He said every year they dig them out, inspect them and then bury them again so grader does not hit them. She asked where sewer gases go if manholes are buried. Earl said not all are buried so the gases work down the line until they can vent. Tim Watson, City Engineer said most manholes are exposed or have a concrete collar. When located in a dirt road they are a traffic hazard so they are put below the ground. City Manager Dotson said these manholes were inspected in January 2014. There was more discussion of how the inspection and cleaning works and the type of rock typically found in all sewer lines.

We sent our Twin D inspection reports along with Cedar City's video to the insurance company for them to determine who is at fault. City Manager Dotson said his preliminary conversation with the insurance company is that there is no fault so only \$5000 will be paid. Now they have other information they are considering. We thought there may be something else wrong to create a blockage but they never found it. Sometimes they find grease blocking sewer lines or twigs blocking them but found nothing in this case.

City Manager Dotson said fault only comes to a city when there is no maintenance done. Mr. Brindley said their personal insurance will not cover this and there was no fault with their home. It was the City line. Council Member Wilcken said his concern tonight is timing. Would it be appropriate to make a decision not knowing what the insurance company's final report will

be? City Manager Dotson said the Brindleys have their basement torn up and they need a resolution ASAP adding it might be tomorrow when we hear something. Mayor Rasmussen asked for a proposal. Council Member Wilcken said the City should pay what we should rightly cover. City Manager Dotson said he had a conversation with City Attorney Kuhlmann and he recommends we do not pay more mainly because it sets a precedent. He has talked to other city managers and they go ahead and pay for damages even though due diligence was done because this happens so rarely. Cedar City has had two claims in the last four years. Enoch has had a claim on Tomahawk which is on the same line as the Brindleys and that claim was caused by a ball of grease. Council Member Johnson said if they decide to pay for it how do they do that? City Manager Dotson said we do not have it in the budget but we have it in the sewer enterprise fund. The Council has to consider the consequences of that. Due to the new drainage enterprise fund we have \$42,000 less in the sewer enterprise fund and are on a tight budget. Council Member Olenlager said we should make these folks whole and come up with the difference. There was more discussion of the bids and what they cover.

Council Member Griffiths asked if we could call a special meeting when City Manager Dotson gets results from the insurance company so the wait is not so long for the Brindleys. City Manager Dotson said we were going to ask for a special meeting this Friday at 5:00pm in order to set a public hearing for the current budget. We could also put this item on the agenda and if the insurance company decides something the Council could discuss this issue. Council Member Wilcken said he agrees we should make it good but we need to know if there are any findings from the insurance company. He added that is why we pay into the sewer system. Council Member Lovell agreed too. Council Member Johnson said we have to consider whether or not the City can self-insure for every tragedy. Lots of people would like damages paid to them. That is what City Attorney Kuhlmann said too. It sets a precedent. We submit all claims to the insurance and they do what they do to protect us from risk. We hire out our cleaning and inspections and we pay \$30,000 a year for that. Council Member Johnson said he wants to know this investigation is done fairly. It seems like the insurance company who has to pay is conducting the investigation. Their job is to protect the City and to determine liability. Ultimately the Council has to decide.

We don't have to do a lot of what we do for maintenance of the sewer system but we do. There are always rocks and gravel in the lines in most small cities that have dirt roads and construction going on. We desire to help these people without creating a problem for the City for the future. **Council Member Wilcken made motion to set this as an agenda item to readdress this issue at the special meeting on Friday June 5th. The motion was seconded by Council Member Lovell and all voted in favor.**

5. DISCUSS ISSUES WITH HALF MILE ROAD

City Manager Dotson recapped saying the residents on Half Mile Road came to the last meeting and are here tonight. He has made a list of items they consider problems and what it would take to finance those things. Tim Watson, City Engineer put some costs together. Tim said there were concerns about the sewer line installed in Half Mile Road and with NRCS project storm drain itself. He got costs to re-excavate and re-compact both lines as both are showing some settlement in the back fill area. He contacted Precision Pipeline who did the excavation and laying of the drainage pipe. For just the sewer it would be \$77,000 to excavate, prep and re-compact with no new material being brought in. If they did same thing with storm drain it is triple in size and would be \$245,000 to prep and re-compact. Council Member Wilcken confirmed that the settling we see is the dirt on the top of the trench and that was confirmed. Tim added we had this conversation with the NRCS engineers and because the pipe is round it is hard to get compaction around the sides so we backfilled with pea gravel for better compaction. The total cost would be \$325,000 to do both trenches. Tim said they did 30 compaction tests going up the line at the different elevations and three tests did fail and did not pass in retesting. He gave more

details of the testing which can be affected by moisture in the soil. There was more discussion of the technicalities of compacting trenches and manholes. If you add water, trenches will settle. With the rain and snow Tim said he can see why it has settled on top however the pipe itself may not be settling. An 8" pipe is more than adequate for the number of residents served by it. There was more discussion of testing the sewer line with a laser and we will get the cost.

Dan said there is \$173,000 in the sewer enterprise fund savings. Paying for work on the drainage pipe is another issue because funds would have to come from the general fund or drainage fund. Council Member Wilcken said he would like to see that we verify that the sewer line is good and not settling. There was discussion of the culvert issue referenced in Council minutes from 2004. Tim said he was not able get a cost for shooting the grades and replacing the culverts. There are many factors including the existing landscaping. It was suggested that public works surveyor Monte could shoot the grades. Council Member Wilcken said we could work with residents to do a cooperative project and minimize costs to make it a "fix" and not a "band aid". If we get a big storm we could still have flooding. Some resident's landscaping actually creates places for water to puddle and that is their problem to fix. There will still be puddles where a culvert ends and can be made worse by landscaping. That is how barrow pits are designed and water won't flow unless there is a continuous culvert across all properties.

City Manager Dotson said there is no action item to decide this tonight. In 2004 we said we would move culverts. He asked if the Council wants to pursue this further financially. It will cost money. If all culverts were replaced with 18" culverts how do we pay for them. The City does not pay for culverts when people build homes. If we change out the culverts they all have to be the same. Council Member Johnson asked why the existing culverts are not low enough to move the water. City Manager Dotson said many homes were built before we inspected culverts. Some residents have moved culverts and not checked with the City to be sure they were placed correctly for good flow. The City ordinance says residents are responsible to allow free flow of water passing by their property. Water has to be able to pass by your property and not to go onto others property. It was noted that if we do for one, we must do it for all. Council Member Wilcken asked how much it would be to replace only the necessary culverts. He asked if we could realign existing culverts and not replace them.

Mayor Rasmussen said he would like more input from residents. Karl Stevens said his home was the fourth home on Half Mile Road. He watched other homes come in and understood there was to be an inspection done on the culverts. He saw one of the last culverts go in and he thought it looked really high so he called the City and asked them to check it. That culvert is only half full when his culvert is full. Half Mile fills up as a reservoir before it can cross into the pipes. Jared Baker asked more questions of Tim Watson regarding the compaction testing suggesting we fix what is shaky and not the whole line. He said laser testing right now won't show problems from settling. When soil is not disturbed under the line the pipe will hold. His concern is proper compaction above the line because if it is saturated under the pipe even compacted soil will fail. He said they have discussed options to keep costs down and are happy to work with the City and willing to help take care of their own street. They want issues that were bad to start with to be fixed. Half Mile is designated as a flood street but it was not properly designed for that use. That being said the City can limit its liability and not set a precedent because this applies only to flood streets and not all streets. They want the City Council to know they are very serious about things being done correctly and they are wiling and able to help the City with that burden. Storm water needs to move by faster and go away. It was stated that if all culverts lined up and there was free flow with no impediments like decorative rock the water would dissipate quicker.

Jared would not speak for all but said they would entertain any reasonable discussion. Tim Watson said a reasonable solution is installation of curb, gutter and sidewalk and that is significantly higher cost. He asked Jared if that has that come up or is on the table. Jared said yes they talked about that and they would love for that to happen. Council Member Wilcken said if

curb, gutter and sidewalk were an option it would be and SID and those involved would pay the cost. Not everyone in the whole City. There was more discussion on issues and solutions. Mayor Rasmussen asked where they want to go. Council Member Johnson said whatever the City has messed up we need to fix. Residents need to fix their property and should be responsible too. Council Member Wilcken said they asked for more information and this discussion needs to continue adding bids are coming from professional companies and we should hold off for that.

City Manager Dotson recapped to say we could put the culverts at the right elevation so water flows from culvert to culvert. Then we would work on compaction of the sewer line. Then we put gravel back like it was for those who had gravel. The asphalt will be put in when we can get it and we will hire professionals to do it. Council Member Wilcken confirmed the City's stated objective is to fix issues before we put asphalt down. Tim asked if he is to get numbers for culvert costs. Council Member Johnson said leave the culverts to homeowners adding we should not buy the culverts because that is not the City's fault. City Manager Dotson said the Council agreed in 2004 to do something about aligning culverts and we don't know why it did not happen. We agreed to raise or lower culverts and residents can help. That will be done.

Council Member Griffiths said Jared made a point about flood streets. He asked City Manager Dotson how many streets are specified as such. City Manager Dotson said flood streets are where the drainage goes naturally. Half Mile is the lowest point coming off the hill to the east. On some old county plats it labeled that road as a flood street.

Mayor Rasmussen summarized assignments. Tim gets costs for culverts, resetting and fixing those and compaction testing. City Manager Dotson gets costs to verify sewer pipe elevations by laser test. Council Member Lovell suggested that any money that would have been spent on these other things be given to the SID if residents decide to go that way.

City Manager Dotson said we should move the culverts first or the new road will fail too. That is simple and takes manpower. Jared said it may only be 4-5 culverts that need to be moved to get it so water flows. Culverts will be temporary but will alleviate some of the standing water to decrease the potential for failure and give time to evaluate other projects such as an SID. Tim said there is a correct order of process. We will have heavy equipment that will have to drive on the road. There has to be a sequence. He said let's start with the culverts and get the flow going. Then do the compaction testing. Asphalt would be last thing if an SID is done. The residents need to talk among themselves to determine if an SID is wanted and affordable to residents. City Manager Dotson said he has a checklist of how to do an SID. He gave that to Melanie Johnson and has more copies. If they want to go that direction it changes how we do this. If they decide they can't do it then let us know so we can go this other way. This will be discussed again at the next meeting.

6. DISCUSS NUISANCE ORDINANCE CHANGES AND SET A PUBLIC HEARING FOR JUNE 17, 2015

Council Member Wilcken made a motion to table this action until 6-17-15 to set the public hearing. Council Member Johnson seconded the motion and all voted in favor.

7. PUBLIC COMMENTS

Michael O'Rourke said his personal observation on the sewer back up is that the City can deny responsibility but these folks cannot possibly be responsible. It is not their system and morally they need restitution.

Donna Pritchard expressed condolences to the Brindleys saying she has experienced that. Fortunately her insurance helped to clean it up. She added she will not complete her basement because she does not trust the sewer system.

8. CORRESPONDENCE-none

9. COUNCIL/STAFF REPORTS

Council Member Olenslager said he is sorry these folks are going through this. It is the culmination of having to “band aid” things because we have no money in the budget and there is no end in sight.

Council Member Johnson reported at last Water Board meeting we had a presentation from the Extension Service that showed a method to encourage conservation by increasing water rates. This is being used in CA and CO. It was quite complex and no further discussion was scheduled on this topic. He added perhaps the proper role of government would dictate that we privatize the sewer company. It is easier for individuals to sue a company than to sue a municipality when damages are required.

Dan Jessen said we are required to set a public hearing for the current budget and we left it off this agenda by mistake. We only have one more meeting to meet the State deadlines and we need to hold the public hearing during that meeting before we close the current budget. If the Council can meet briefly on Friday we could set that public hearing for June 17th and meet the noticing requirements. After some discussion the Council decided to meet at 5:00pm on Friday. Phone conferencing may be necessary to get a quorum. Council Members were asked to let City Manager Dotson know how to get hold of them by phone if they could not attend. Council Member Olenslager said he would be in Salt Lake but could be on a phone conference.

Council Member Wilcken said on behalf of the City Council he wanted to express condolences to Council Member Johnson who recently lost his father.

Council Member Johnson added he thinks the Brindleys tragedy is something the people of Enoch could solve. We have 1700 homes and if 1000 donated \$50 each that would fix it. We should look after each other.

Julie Watson said she would notice the agenda for June 5th and email it out to the Council Members.

10. CLOSED EXECUTIVE SESSION REQUESTED-(Requires a roll call vote w 2/3 majority)

Council Member Wilcken asked for an executive session to get a report on property issues. **Council Member Wilcken made a motion to end the regular Council meeting and go into executive session. Motion was seconded by Council Member Olenslager and a roll call vote was held as follows:**

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|-------------------------------------|--------------------------------------|
| Council Member Griffiths-yes | Council Member Olenslager-yes |
| Council Member Johnson-yes | Council Member Wilcken-yes |
| Council Member Lovell-yes | Motion passed unanimously |

11. ACTION FROM EXECUTIVE SESSION-none

12. ADJOURN-The general session adjourned at 8:15 pm.

Julie Watson, Recorder **Date**