

MINUTES
ENOCH CITY COUNCIL
March 18, 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
Nick Turner, City Atty.
Earl Gibson, Pub.Works
Jackson Ames, PD Chief
Robert Dotson, City Manager

Public present: Kay Ayers, Michelle Pritchard, Officer Shawn Higgins, Dilworth Armstrong, David Owens, Brent Carter, Cassie Easley, Marie & Laurie Fisher, Scott Leavitt, Lyle Goulding, Carolyn Olenlager and Ray Whittier

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

- a. **Pledge of Allegiance-**Led by City Manager Dotson
- b. **Invocation-**Audience invited to participate-Given by Council Member Griffiths
- c. **Approval of Agenda for March 18, 2015-Motion to approve agenda by Council Member Wilcken. Motion seconded by Council Member Lovell and all voted in favor.**
- d. **Approval of Minutes for March 4, 2015-Motion to approve minutes by Council Member Wilcken. Motion seconded by Council Member Johnson and all voted in favor.**
- e. **Conflict of Interest Declaration for this agenda-**Council Member Lovell and Council Member Griffiths cited a conflict on item #3. No others stated.

2. CONSIDER A REVOTE ON PLANNING COMMISSION APPOINTMENT FROM MARCH 4, 2015 COUNCIL MEETING

Mayor Rasmussen asked if we need a motion to reconsider the vote. Council Member Wilcken clarified what happened in the last meeting saying we had a motion and second. Two votes were cast in favor, with one abstention and two against. Council Member Wilcken said he asked to reconsider their vote and that meant the revote was two in favor and three abstentions. What do we need to learn from that?

City Attorney Nick Turner asked why anyone would abstain. When you vote there are two options, for or against. You only abstain if you have a basis for that abstention such as missing a meeting or not having the needed information to decide on an issue. The law clearly says vote yes or no.

There was more discussion of the confusion in the process at the last meeting. City Attorney Turner clarified the Mayor appoints people to boards with the advice and consent of the City Council. If a Council Member asks to reconsider the vote then it is up to Mayor Rasmussen to decide if he will allow that. The instance in the last meeting with one abstention, two no's and two yes's created a tie which the Mayor could have broken with his vote. He granted the request to withdraw the vote and he did not have to. If someone moves to bring this back up it is a new motion. You can bring up the same person or another person to fill the position.

City Attorney Turner reiterated again to the Council that an abstention is only to be used for lack of information. It is not a political ploy to stop an action. Addressing the Council he said it is your job to make the hard calls. City Manager Dotson said when talking to City Attorney Kuhlmann, that when Council Member Wilcken asked for a revote it was not moved and seconded and that is where the discrepancy in the process came into play. We loosely follow Roberts Rules of Order and to be transparent and consistent actions have to be by motion and second to the motion and that was not done. Council Member Wilcken clarified if three abstained, the motion died. City Attorney Turner said it died because Mayor Rasmussen allowed you to withdraw your vote and go from no to abstention. A new motion needs to be made if they want to reconsider this person. City Attorney Turner said again the law says the options are to vote either yes or no. Council Member Wilcken said in League training he heard Attorney David Church say if a person is present and they abstain that is a no vote. City Attorney Turner said that is fine if it does not contribute to a tie. City Attorney Turner read from Utah Code 10-3-506 regarding voting.

Mayor Rasmussen asked if someone wants to make a motion to reconsider the Planning Commission appointment from the last meeting. Council Member Wilcken said we took a vote then Mayor Rasmussen broke the tie asking which vote we are reconsidering. City Attorney Turner said they were allowed to withdraw the vote so no action was taken. Council Member Wilcken asked do we consider that the board appointment is open. Council Member Wilcken said he voted no and immediately he said he intended to abstain. We had moved on to the next item and then City Manager Dotson said that he thought was an illegal vote so there was a tie to break. Mayor Rasmussen voted after we were told it was illegal.

Council Member Wilcken said to be clear we are going to reconsider the initial vote to reappoint or not to reappoint. There was not three yes's so the motion did not carry. Mayor Rasmussen asked for motion to reconsider the vote. **Council Member Wilcken made a motion to reconsider and revote on appointing Spencer Jones to the Planning Commission. Motion was seconded by Council Member Lovell to appoint Spencer Jones.** Mayor Rasmussen asked if he could call for raise of hands to vote. City Attorney Turner said yes. Mayor Rasmussen recapped that there is a motion to appoint Spencer Jones to the Planning Commission by Council Member Wilcken. Motion was seconded by Council Member Lovell and **Mayor Rasmussen asked for hands to be raised as follows:**

3 for-

1 against-

1 abstentions to vote to revote.

Council Member Wilcken asked if items on the agenda can be revisited. City Attorney Turner said only if Mayor Rasmussen allows it. Mayor Rasmussen has to entertain a motion at his discretion. Any action needs a motion and a second to be valid. Council Member Wilcken asked if it is legal to go back if you have already moved on past the item. City Attorney Turner said the request should be in the form of a motion and then it is up to Mayor Rasmussen.

3. DISCUSS AND VOTE ON APPOINTMENT OF PLANNING COMMISSION MEMBER

Mayor Rasmussen proposed to appoint Paul Hardy to serve on the Planning Commission. Council Member Wilcken said Paul served before and he would be willing to serve again.

Council Member Wilcken made a motion to appoint Paul Hardy to serve a two-year term on the Planning Commission. Council Member Lovell seconded the motion and with a show of hands vote, five were in favor.

4. RESOLUTION NO. 2015-03-18-A A RESOLUTION PROCLAIMING APRIL 25, 2015 AS ARBOR DAY

Mayor Rasmussen asked for a motion. Council Member Wilcken explained that to fill a requirement for the Tree City USA designation we need to have a proclamation setting the date for Arbor Day. **Council Member Wilcken made a motion to approve Resolution No. 2015-03-18-B, a resolution proclaiming April 25, 2015 as Arbor Day. Motion was seconded by Council Member Lovell and a roll call vote was held as follows:**

Council Member Griffiths-yes	Council Member Olenslager-yes
Council Member Johnson-no	Council Member Wilcken-yes
Council Member Lovell-yes	Motion passed 4 to 1

5. DISCUSS RECOMMENDATION FROM PLANNING COMMISSION REGARDING ENOCH STATION MINOR LOT SUBDIVISION

Mayor Rasmussen asked if there was discussion asking City Manager Dotson to go over this. He said a minor lot subdivision is four lots or less. The owner has asked to divide his property into two parcels approximately the same size each. The Planning Commission went through the design review and it fits the code for a minor lot subdivision so they made a favorable recommendation. Council Member Wilcken confirmed this is the SW corner of Midvalley Road and Minersville Highway.

6. RESOLUTION NO. 2015-03-18-B A RESOLUTION APPROVING THE MINOR LOT SUBDIVISION OF ENOCH STATION

Mayor Rasmussen asked for a motion. **Council Member Wilcken made a motion to approve Resolution No. 2015-03-18-B, a resolution approving the minor lot subdivision of Enoch Station. Council Member Lovell seconded the motion and roll call vote was held as follows:**

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

7. ADJOURN REGULAR MEETING AND GO INTO CDRA MEETING-
(See separate agenda)

Mayor Rasmussen asked for a motion to enter into a CDRA meeting. **Council Member Lovell so moved. Motion seconded by Council Member Wilcken and all voted in favor.**

8. PUBLIC COMMENTS

Mayor Rasmussen invited those wanting to comment to come to the podium.

Marie Fisher on Pioneer Drive thanked the Council for the work done on drainage. She asked when the road would be paved and about other repairs to damaged culverts. *City Manager Dotson said when the batch plants open so we can get asphalt we will double chip seal and then oil the road. It will be a couple of months because temperatures have to warm up or it won't stick. We hope to get asphalt late in May.*

Cassie Easley on Maple Lane asked the Council about when they would make a response to the letter the City received regarding second amendment rights. She cited two Enoch laws that are in contradiction to the second amendment and read some material from State Code to the Council. She was critical of the City Attorney for the length of time it has taken to address this issue. *Mayor Rasmussen said we will look into it and get it on an agenda soon.*

9. CORRESPONDENCE-none

10. COUNCIL/STAFF REPORTS

City Attorney Turner reminded the Council and the public that public comment item is not a time for a Q&A session. It is for the public to make statements and there should be no discussion or back and forth in public comments. The public should call the office with their questions.

Council Member Griffiths asked about the issue with the cow and was told the owner of cow took it away. We will clean ditches to prepare for runoff.

Council Member Johnson said the new well is coming along and pumped 600 gpm in the test pumping. There are new technologies to get more water and Earl is looking into that. In the budget process we may need to wiggle some money for the well to maximize it so we can keep good water in Enoch. He added he is grateful for public comments and for citizens to remind us.

Earl Gibson reported they are starting to lay the 60” pipe going north to finish the NRCS project. They will be cleaning up and installing the rip-rap around the catch basin. We have 600 feet of pipe and the water will go where it historically has always gone out to the north.

Dan Jessen said he went to the URS-PEHP conference yesterday and wants to remind the Council that this year there is a new requirement from the governing body that dictates accounting practices. We have to start reporting the liability of our retirement system. This shows as a liability on the balance sheet and any retirement paid out is an asset. It is not anything different but has to be shown in a different way than in the past so it looks alarming when you don't understand what it means.

City Manager Dotson said on Friday April 10th there is a modified CERT training course for 4 hours for family preparedness. It is at the Cedar City Visitors Center. He said he forwarded a letter from a resident who is asking to have the \$50 water service fee waived due to medical hardship. He said no action can be taken tonight because it is not on the agenda however he needs to know if they want it on an agenda. Council Member Wilcken said he would pay for that out of his pocket because the City should not be doing charity work as a City function. City Attorney Turner reminded the Council that service fees are meant to be deterrent. Dan said less than 1% go into shut off and compared with other types of bills that is a very low rate. If we were more lenient it would climb fast and we are very lenient at 45 days late for shut off.

Mayor Rasmussen reminded the Council to meet with their department heads for April 1st budget talks.

11. ADJOURN-Motion to adjourn by Council Member Lovell. Motion seconded by Council Member Wilcken and all voted in favor. The meeting ended at 7:06pm.

Julie Watson, Recorder **Date**