MINUTES
ENOCH CITY COUNCIL
September 21, 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
Todd Sheeran, City Attorney
Robert Dotson, City Manager
Jackson Ames, PD Chief
Earl Gibson, PublicWorks

Public present: Michelle Pritchard, Dilworth Armstrong, Allen Hawkins and Tim Watson

1. **CALL TO ORDER OF REGULAR COUNCIL MEETING-**By Mayor Chesnut at 6:00pm.
   a. **Pledge of Allegiance-**Led by Dan Jessen
   b. **Invocation-**Audience invited to participate-Given by Council Member Harris
   c. **Inspirational thought-**Given by Mayor Chesnut
   d. **Approval of Agenda for September 21, 2016-Council Member Harris made a motion to approve the agenda. Motion was seconded by Council Member Owens and all voted in favor.**
   e. **Approval of Minutes for September 7, 2016-Council Member Harris made a motion to approve the minutes. Council Member Stoor seconded the motion and all voted in favor.**
   f. **Conflict of Interest Declaration for this agenda-**none stated

2. **APPROVE PURCHASE OF RUSH LAKE WELL WITH APURTENANT PROPERTY AND EASEMENTS**

Mayor Chesnut asked City Manager Dotson to brief the City Council and the public on this issue. City Manager Dotson said the Council has been aware and involved and we will put this on the record for the public. The Water Board met originally with Ben Jordan who offered to sell his well to the City. After extensive studies we struck an agreement with long negotiations and we will purchase the well for $600,000 cash. This includes continued negotiations with Cedar City for the use of reclaimed wastewater to his property and a few other items. He offered easements and wants ten water connections. He will install all piping. He still has to pay impact fees. As a customer of Enoch we would sell water at pumping cost plus 10% and he would get the reclaimed wastewater for10% of that. In times of a water shortage, as required by code, water connections outside of Enoch would be restricted. All of the things agreed to will take place when the water is actually in our system. Ben Jordan has agreed and signing will take place after the agreement is approved by the City Council. Our attorney has finished the document other than the actual land descriptions and the map for the agreement.

Dan said the reason the City has negotiated and given some concessions is because we are getting the well at a much lower cost and the concessions are in lieu of cash. Council Member Harris said the cost to drill a new well is far more. Mayor Chesnut asked Earl to confirm this well has the potential to outdo all of our other wells put together and Earl concurred adding this is a very good deal and very good water. City Manager Dotson said tonight will be approving the agreement. The financing will come later in a public meeting. The closing is October 20th. City

Engineer, Tim Watson commented this is currently irrigation use only and is not in the same class as culinary wells although it will be updated to culinary standards later. The financing of this will be discussed in a public meeting because we are expending public money. **Council Member Harris made a motion to approve the agreement with Ben Jordan for the purchase of the well and all appurtenant property and easements. Motion was seconded by Council Member Owens and all voted in favor.**

3. REVIEW/DISCUSS REVISED DRAFT OF THE ZONING ORDINANCE, CHAPTER 5

Mayor Chesnut asked Council Member Harris to review this for the Council and thanked him for shepherding this through the Planning Commission. Council Member Harris said he read the revised document and found a couple of little things we could improve on. The items are more to do with consistency of style and do not change the meaning. He pointed out 5-10 Approval Criteria saying subsections 1 & 2 have headings and 3 does not. City Manager Dotson said we could take off the indent and the number so it matches the structure. Council Member Johnson said on 5-13 he thought we decided to eliminate the time limit conflict. Council Member Harris agreed saying it differentiates when talking about home occupation business which is a one year period. Whereas the land use is "in perpetuity" unless a time limit is imposed. Land use stays with the land so there no real time limit on that unless the City Council sets one for some reason. That would clarify it more and it doesn't change the meaning or intent.

Council Member Lee asked about 5.4 which is referring to a fee for the application. She was told the fees are set in the fee schedule and typically are not listed in the actual ordinance as fees are changed from time to time. She pointed out a few other minor grammatical errors. She asked if it would make more sense to change 5-8 last line to "the" instead of "for". 5-10. There was a discussion of which bodies approve which actions. Council Member Harris said land use is a bigger decision so the City Council is involved. In home occupations City Staff handles most of that with the Planning Commission as the appeal authority for staff decisions. Mayor Chesnut said in 5-10, Part 1 make it clear the Planning Commission recommends and City Council approves under the same criteria. Council Member Lee had other questions about appeal authorities and City Manager Dotson explained the Land Use Appeal Authority which the City has in place per State Code. Council Member Harris said he thinks we can pass this and tonight with these small changes.

4. ORDINANCE NO 2016-09-07-A AN ORDINANCE AMENDING THE ENOCH CITY ZONING ORDINANCE, CHAPTER 5, REGARDING LAND USE CONDITIONAL USES AND HOME OCCUPATION CONDITIONAL USES

Council Member Harris made a motion to adopt Ordinance No. 2016-09-07-A an ordinance amending the Enoch City Zoning Ordinance, Chapter 5, regarding land use conditional uses and home occupation conditional uses with the changes as discussed. The motion was seconded by Council Member Owens and a roll call vote was held a follows:

Council Member Harris-Yes	**Council Member Stoor-yes**
Council Member Johnson-Yes	**Council Member Owens-Yes**
Council Member Lee-Yes	**Motion passed**

5. DISCUSS WATER BOARD RECOMMENDATION REGARDING CHANGES TO WATER RIGHTS BEING DEEDED IN THE ENOCH CODE OF REVISED ORDINANCES AND PART 14-134 REGARDING SCARCITY OF WATER

Mayor Chesnut asked Council Member Lee to update the City Council on this. She said the Water Board met and she is impressed with the smart water people we have. She said City Manager Dotson brought the changes to the Water Board and they discussed it and made a

recommendation with a couple of changes. City Manager Dotson gave background saying for a long time we have discussed issues that come up over and over again with water. There are two ordinances we are looking at changing. One is here tonight for review and the other, in the Subdivision Ordinance, will go to the Planning Commission and they will recommend to the City Council. There are two parts that address what happens with water. If someone has a parcel in Enoch and they want to hook onto our water system this tells the procedure. In the current ordinance our application is included and we want to take the application out of the ordinance so it can be adapted as needed without having to amend the Code. Also there is nothing in our ordinance that requires them to give the City an acre foot of water and this change adds that and that they pay the fees to transfer the water right. Section 14-134 is to limit the use of water in case of scarcity and is by proclamation now and has to be done every year. The good thing to do, which is more in line with the State and what most cities do, is to add the actual rule about watering restrictions from April through October for no watering between 10am and 6pm to the ordinance. We are adding penalties which give some teeth to the law and will involve the PD.

There was a long discussion about the criminal penalties and who is actually the responsible party. Many examples were given of situations where someone other than the property owner could be at fault however the penalty, as written here, comes back on the owner to be fined or jailed. Mayor Chesnut suggested adding "entities" to the clause listing responsible parties adding his concern is do we hold the abusers responsible or the owner. Council Member Johnson asked if this is better for the City or for residents adding he prefers not to have a water gestapo. City Manager Dotson said this is about water owned by all water users in an effort to stop waste that hurts everyone. Mayor Chesnut said this seems tedious but it is an important principle that if we invoke criminal penalties for deterrence we want to deter the bad actors and in some cases that is not the owner. There was considerably more discussion with many possible scenarios being described. City Manager Dotson said this is based on watering between 10am and 6pm which is the worst possible time to water a lawn. It is about accountability. We don't have anyone to call but the owner who is our customer of record.

Council Member Stoor said we need to remember this came about as a result of scarcity. Council Member Harris said this is an attempt to put teeth into enforcement. He asked how big a problem has this really been? City Manager Dotson said this sets the standard and tells how we notify violators. We may send out 5-10 letters a year and we knock on doors to talk to people first. If we say it is illegal to waste water then we have to have a penalty. City Attorney Sheeran said he thinks the criminal penalty is harsh and suggested we have a higher monetary penalty. Council Member Lee asked Mayor Chesnut if he believes there should not be a deterrent. He said it should be a deterrent that will be effective. Council Member Lee said we haven't talked about the value of water. Mayor Chesnut maintained the restriction of liberty by criminal prosecution is a dicey thing.

Chief Ames said he perceives that Mayor Chesnut's issue is with who is culpable and he has a simple fix. Obviously we are going to work with the landowner and inform them about the issues with wasting water. We will also inform them they MAY be subject to the following penalties but there is always discretion and room for common sense. Council Member Harris said his idea for penalties regarding water is good old fashioned free market principles. When you use a lot of water you pay more and that is a deterrent in itself. It is easy to enforce because it is metered. The buck stops with the property owner who has responsibility to monitor what goes on with their property. It was noted waste is confined to use between 10am and 6pm and is not about the cost of the water bill. Chief Ames added we are talking about "knowingly" wasting water. Council Member Harris said this is a rare occurrence. Mayor Chesnut said if it is so rare take it out. Council Member Harris said he is fine to take out the criminal part. Council Member Stoor said we need to define scarcity of water and normal use of water. There was much more discussion of various scenarios and how the penalties could possibly be applied and the issues

with discerning the responsible party for the violation. Mayor Chesnut said remove the criminal element and all would be good. It was noted there could be other reasons for a scarcity of water which could also be the capacity of our water system to serve our residents and not just drought conditions affecting the aquifer. If a dire emergency occurred we could do more to restrict water use. There was more discussion of wording. Council Member Johnson suggested under 14-135 remove word remove the word "needless". Council Member Lee said the very first paragraph was left out of the ordinance. Julie confirmed it was an oversight and needs to be included. Council Member Lee said in the Water Board discussion they removed the 1944 date on water rights and it is an important point of why they did not want to include that.

A discussion of the new Groundwater Management Plan for the Cedar Valley took place. City Manager Dotson told the City Council that at the last ICCC meeting of mayors and county officials it was decided that a committee would be formed to work on the plan. If the stakeholders don't do it then the State Engineer will impose his plan on us. There is much useful information available from the Beryl/ Enterprise management plan. Our situation is different because we have fewer farms and more residences but much we could still learn from their experiences. One offshoot of the plan will be that there are more water rights out there then there is water in the aquifer and some rights will cease to exist; the older the date, the better the water right. Mayor Chesnut clarified that currently developers can bring any water rights in our 73 drainage regardless of date. At some point rights newer than 1944 could stand a chance of being disallowed. That is a projected cutoff for the Groundwater Management Plan. We don't want to take new water if we will lose it.

Council Member Lee asked, as the governing body, do we have a responsibility to add that date back in to protect our rights. All water rights do not have the same value. Maybe the City Council should consider that again on the 1944 date. More discussion took place regarding issues with Enoch City taking a position on the date of water rights. It would affect the free market pricing and also could slow development. Dan Jessen added currently we incentivize subdividers to give us their newest water rights so they are rid of them. There was more discussion of the price of water rights and effects on the market. Mayor Chesnut said, the issue is, there is a finite number of older water rights. If we impose a date all will follow suit, the market will skyrocket and it will stop development. Tim Watson said other jurisdictions require water rights or a fee "in lieu" of. Council Member Johnson suggested some language like water rights must be before whatever cut-off date is established by the Groundwater Management Plan. Council Member Lee said it is on public record already and she thinks we have a responsibility to do it. Mayor Chesnut said this decision will have a ripple effect across all municipalities dealing with water in Iron County.

City Manager Dotson said the Water Board decided against it because they want more time to consider options. City Manager Dotson said one member was in favor of protecting the City this way. They did agree to bring it back again for discussion. Mayor Chesnut said it is not a free market when we make a decision to do this. We impact the free market. Dilworth Armstrong of the Water Board said if you take newer rights and State takes them away how will Enoch provide water for the City? You have to set a guideline to protect citizens. If you don't you will get lawsuits and go broke. Water is the most important thing you can keep for the people. We could change things after the Groundwater Management Plan is approved if needed but set it now to protect residents.

Mayor Chesnut said we should not rush into this. With the information we have currently are we really willing to tip the market that way. City Manager Dotson said we may have 42 homes coming in now. Mayor Chesnut said caution is the word and acting now will have implications. Not acting may or may not have an impact. Maybe stopping development is good if it means we have water for current residents. Mayor Chesnut said we may have to do it at some point. Dan said growth needs to be responsible. Tim Watson said water will govern the market

but so will people wanting to buy water. The other thing is Enoch is not the only one dealing with this issue. The CICWCD and Cedar City are in the same aquifer. We could also consider cash in lieu of or fees in lieu of, then we have a reserve if we have to buy water. City Manager Dotson said we want to be adaptive and collaborative as we work together on the Groundwater Management Plan. If Cedar City sets a date then we are a target for dumping of new water rights. Caution is not ignoring this but do we decide based on fear.

Council Member Stoor proposed we move on and have more discussion on coming agendas. Council Member Lee asked how we move this forward. City Manager Dotson said he will bring information as it comes regarding the ICCC moving forward with creating the plan. Tim Watson said he sits on the CICWCD as does Rick Bonzo and Spencer Jones. He said they got $100,000 from the State for aquifer recharge programs and he told about them. As a board they have discussed this issue and it is on top of their list. He suggested the Council visit with Paul Monroe or Spencer and Rick to share information and give perspective. Council Member Harris said he is ok to go two weeks to get more information.

6. ORDINANCE NO 2016-09-21 AN ORDINANCE AMENDING THE ENOCH CODE OF REVISED ORDINANCES BY CHANGING TITLE 14-000. UTILITIES, CHAPTER 14-100. WATER

Council Member Harris made motion to table Ordinance No. 2016-09-21, an ordinance amending the Enoch Code of Revised Ordinances by changing Title 14,000, Utilities, Chapter 14-100 for review of revisions on the next agenda. Council Member Stoor seconded the motion and all voted in favor.

7. PUBLIC COMMENTS

Allen Hawkins of Civil Science Engineering said you should charge admission to meetings. This was very interesting.

8. COUNCIL/STAFF REPORT

Earl Gibson reminded everyone flush coating of the chip sealed roads will be next Tuesday the 27th. They will put up signs on the affected roads.
Council Member Harris said the Planning Commission will meet on the 27th.
Council Member Lee said she went to the ULCT conference and it was awesome.
Council Member Owens said Iron Days was awesome. The EDC is changing course and will not hold a meeting this week. He will report back soon.

11. ADJOURN-Motion to adjourn by Council Member Harris. Motion was seconded by Council Member Stoor and all voted in favor. The meeting ended at 8:25pm.

Julie Watson 10-5-16

Julie Watson, Recorder Date