

MINUTES
ENOCH CITY WATER BOARD
February 10, 2022 at 4:30pm
City Council Chambers
City Offices, 900 E. Midvalley Road

MEMBERS PRESENT: Doug Grimshaw, Steve Woolsey and Alan Miller. Spencer Jones was on Zoom and Coby Zobell was absent.

STAFF PRESENT: City Manager Rob Dotson, Council Member David Harris, Deputy Recorder Lindsay Hildebrand, and Public Works Director Hayden White. Julie Watson, City Recorder was on Zoom

PUBLIC PRESENT: none

- 1. CALL TO ORDER OF REGULAR MEETING-By Doug Grimshaw at 4:30 pm.**
 - a. Pledge of Allegiance –Led by Alan Miller**
 - b. Invocation –Audience invited to participate. Given by Alan Miller**
 - c. Approval of agenda for February 10, 2022 –Motion to approve the agenda by Steve Woolsey. Motion was seconded Alan Miller and all voted in favor.**
 - d. Approval of minutes for January 13, 2022-A few corrections were noted. City Manager Dotson said the minutes are “the essence” of the discussion and do not need to be word for word. Doug Grimshaw made a motion to approve the minutes. Motion was seconded by Alan Miller and all voted in favor.**
 - e. Conflict of Interest Declaration-None stated except Doug said he owns water rights. Spencer Jones said he also owns water rights and he is a developer and involved in agriculture in the area.**

2. DISCUSS NEW WATER ORDINANCES

City Manager Dotson showed the proposed ordinance from the last discussion saying we need to work out some refinements to this format of the new ordinance. Some of the challenges have to do with development and pressure from outside our City. We are trying to move more along the lines of being collaborative with other water providers. Because of the Groundwater Management Plan (GMP) we have created an atmosphere where development is almost stopped when a certain amount of water rights are used up. The challenges are so complex that we may need to look at all of them to try to come up with something different. City Manager Dotson noted a water attorney wrote this ordinance as a starting place. He explained there is safe yield in this valley which has been exceeded for some time. More water rights have been allocated than actually exist. In fifteen years the newest rights will start to be curtailed as one of the caveats of the GMP. He gave more details saying we require 1 AF per connection in Enoch and always have. A few years ago we added the requirement that the water rights given for development have to be 1934 or older. City Manager Dotson gave more details of what Cedar and others are doing currently and what changes they are looking at. This is designed to help find a way to enable development by reallocating water from those who use less and choose to relinquish some of their water right to someone else. Other details were pointed out for open space xeriscaping and ways to use less water and get a less expensive “tier” allocation for that. We are talking about limiting grass by choice with tiered reductions. He gave more details. Someone can bring in rights and the value of a 1934 is considered 100%. We could or may allow younger rights but discount them

accordingly in value as they are younger rights knowing they may be curtailed in fifteen years. With conservation, reuse, and aquifer recharge it may be possible to move those curtailment dates out into the future to take away that impending risk. We don't know if that can happen or not. City Manager Dotson gave examples of how this may work.

Alan said we should not be receiving money in lieu of younger or partial rights because there is an obligation to provide water to existing and new residents. Whether we should or not is another question, City Manager Dotson said to Alan's issue. He said money we would receive as a "buy-in" could be allocated to purchase other water access such as the West Desert water. Steve noted a fee could be charged yearly as another avenue to raise the funds needed. There was more discussion of the table valuing water rights in the ordinance and City Manager Dotson said valuations would be reviewed and updated yearly. Alan expressed his concern with having any rates or valuation tables as part of the ordinance saying they should be separate so the ordinance does not have to be amended every year to change the figures. City Manager Dotson said he was going to remove those tables from the ordinance. Continuing with water acquisition he said we assign one (1) AF to each lot. Part of this ordinance says someone who may use half of that due to their type of landscaping could segregate a portion of their water right off and sell it to someone else who needs it for building. The "unit" sold off could only be used for the same amount of use. There was more discussion of that process and the suggested tiered system of designated water usage. Lower users would be in a tier that pays less with graduating tiers for higher usage. Examples and details of various types of agreements were given. There will be penalties paid for overages. The idea behind the schedule has to be connected to the impact. The highest users don't care. They will do the same thing. We need to keep our revenue stable and this could impact that revenue so we have to figure it out by manipulating things from low users to high users. That's the foundation of this, City Manager Dotson said. City Manager Dotson told about different setups for developments of higher density that could help with this.

Doug said he is not sure of the timeline for passing this on to the other Boards but there is so much material here we need to segregate major areas to discuss separately. Conservation stands alone and then the acquisition fees and the tiered system. Unless anyone objects, Doug said he would like it that way. Alan suggested again not burying rates into this ordinance because it is about development and is a nightmare to change it when needed. Doug said he does not like all of this ordinance as written. One reason is when we started as a city we created large lots because we are rural. One AF of water as of this moment, meant "all of us-everyone" in that requirement. If we allow people to use half the water it will cause challenges. We have to regulate how much grass they plant and how do you do that? Going down the road, to allow developers with fewer rights for building and regulating what they allow to be planted in yards in their developments is a nightmare of oversight we are not able to manage. If we allow thin margins of rights they have to bring, then we have to suffer the bad actions affecting the rest of us here and he does not think we should do this. The biggest market water units will be developers and the rights for residential customers get spread thinner and thinner. Also, not all rights the City owns are older rights. There is a huge source of contention with buyers and sellers and keeping track of it. The City will be the target of onslaughts for water information regarding fractional shares and possibly lawsuits, Alan said, not to mention the accounting nightmare. Examples were given and more discussion followed with possible scenarios of noting water right fractions on deeds and disclosure to buyers who don't understand water issues. The possibility for insiders benefiting on the ignorance of buyers and others was noted. All agreed this could be a fairer system to those who do use less water and have less landscaped area by choice but there is much to be worked out. City Manager Dotson said he will not defend it. The purpose is to create conservation with a monetary benefit. Doug said he can't support this. Steve asked how we will govern the tiers. City Manager Dotson said you pay more if you use outside of your tier. If you overuse water above your tier, it will be very expensive. City Manager Dotson gave more examples of how this might

work. City Manager Dotson noted the need for revenue continuity has to be factored into anything we do. Is the order of importance conservation or revenue? On the administrative side, the concern is revenue, he added. Conservation is secondary.

Spencer said this is a good discussion. He pointed out in the proposed portion for new development the conservation tier has to be noted on the plat at the time of final plat. It is disclosed and is a deed restriction of what the conservation tier is designated so it is not a surprise to buyers or anyone. The residents will quickly learn through the billing process. For existing homes, if they are sold, what if a conservation agreement is filed with the City and recorded against the title report for disclosure. Tracking it could be a nightmare but if the software works with the tier system it would be straightforward. Spencer gave examples of communities up north who have made similar things work although it was noted no one does this as Enoch does with requiring the one AF to build. City Manager Dotson said he gets calls weekly from people wanting to buy one AF of water. Some live here and their kids want to build here so they are trying to obtain the water for that. He noted there is a way to handle the accounting issues with the software. He also noted many don't use what they have in the form of the 1 AF for water and being able to sell a portion to others could benefit all concerned. City Manager Dotson said the software was a concern and we can do this by meter size and also for commercial development. Doug asked for a report on the water rights the City owns as part of the equation on this discussion. It should include priority dates and the amount of water we pump to provide for existing residents. Alan said for an example he wants to play "devil's advocate" on what he just said. He gets it but the big difference is when the average person buys a lot and what their knowledge level is. New buyers are like "deer in the headlights" with all the details of purchasing a new home. They have no idea what this means regardless of what the title report says. They are not always given the paperwork unless they fight for it. He said in his previous employment they created forms to acknowledge that the landowner understood different things regarding their lots when they bought them. City Manager Dotson said there will be issues with understanding this, no doubt, but issues can be solved. Spencer added he hears Alan's concerns. The Utah Board of Realtors uses specific contracts and in the State of Utah, anyone can use those contracts that say the same thing. 99% of all transactions say the seller is responsible to provide a title report and the buyer can back out of the purchase agreement after receiving that if there are adverse effects, such as water for the property, in the title report. It is the seller's responsibility to provide that to the buyer.

The discussion reverted to water acquisition fees. City Manager Dotson said this structure is subject to change. We are trying to create a level playing field with other water providers who draw from this aquifer. City Manager Dotson said this is not intended for us to enable growth but to be able to obtain younger rights. City Manager Dotson said he has been approached by many with no water and they say we are cutting our own throats by keeping our current policy. We have our rules for a reason but we may be losing opportunities. This is a way to accept younger rights. We are planning to participate in the West Desert project. We would be able to use our curtailed rights as credit for that West Desert water. If we have none, that being younger rights, we have lost that opportunity. Alan said the City is gambling on the GMP. By taking younger rights we generate revenue for the purpose to buy into West Desert water. Doug said the City is assuming risk here. Cities are treated differently by the State of Utah regarding water. The State will make us whole one way or another. Fees could be earmarked for the West Desert water if that is the future. Doug said we are working on the path to acquire rights to take care of what is curtailed and also to give developers a path forward. He personally does not think this is a good idea. Steve said, right now the GMP is implemented but will not be curtailing rights for 15 years. City Manager Dotson gave more details on that part in the GMP. Doug noted the rule "First in time, first in right" has always been the watchword in regard to water. That is how they will curtail rights, by date. Spencer said he has mixed emotions and agrees with what Doug said to

make sure money is earmarked for use of the West Desert water. He thinks recharge projects are coming. We should earmark funds and have a scope of what money can be used for but we need to remember recharge, safe yield, mining numbers and total rights numbers are part of it. More details were noted and Spencer said several thousand AF of recharging annually is going on. Dates will be adjusted up if that works. There was more discussion of the treatment plant water and how things might go if we are able to work out a reuse-recharge agreement with Cedar City. All of it is part of this conversation. City Manager Dotson said he is in conversations with others regarding using the treated water and proof of beneficial use. Doug talked about xeriscaping yards and entrances to a subdivision which should be metered and all agreed. Alan said this is really open ended and when it is in an ordinance, people interpret it how they want it which can create issues.

There was some discussion of the tiered system and how it is set up. Examples were given regarding amounts of grass planted and the cost to water it. It was noted this is a decreasing rate structure for usage but is increasing in cost for overages. City Manager Dotson said as you move up in tiers you pay more for the overage amount. In the current tiered schedule you pay less for overages. Doug suggested for “new build” residents we could narrow the amount of water they are allotted and if they go over their tier it would be a heavier price to pay. He thought they should be penalized more than the old residents who paid more to build the system originally. There was discussion about the differences between old and new residents. There was more discussion of what items should not be included in the ordinance itself such as charts, rates and the acquisition fee schedule. Those should be separate. City Manager Dotson said those things are not in the actual ordinance. Those things would be tied to the ordinance in another way so the fee schedule can be changed more easily as needed. City Manager Dotson said he took the charts out of it already but it does not show in their copy. Showing the charts now is just for reviews we go through this. There was more discussion of the difficulties of policing and overseeing this type of structure for the various landscape options. It was suggested to keep it simpler like saying you get “x” amount of gallons and if you go over it costs “x” amount and so on and so on. Public education will be essential and phasing the changes in will be necessary. The motto is “use it wisely and pay your bill for what you use”. City Manager Dotson stressed the need to keep revenue stable. Hayden suggested when people have large overages we could let them know what and why that happened so they can make adjustments.

Doug said he has issues with the multi-residential development rate structures and understands it is not set in stone now. He sees issues with this per unit calculation in multi-family dwellings. There are also different issues for commercial structures. City Manager Dotson said fire flows make a difference and no water rights are required for that. What they actually require for the business will be determined by the meter size into the building. There was more discussion of things to be changed for commercial use and noted system sizing for fire flows is a separate deal from water rights and rates. Fire flow requires a two inch meter and we have been warned by our attorney that requiring them to pay for that is considered a “taking” if the actual business only requires a normal one inch meter. We don’t require that of others. There was more discussion of fire flows. City Manager Dotson said we will delve into this in more depth in another meeting. Doug asked about the timeline on this ordinance. City Manager Dotson said the WB originates it first and then it goes to the Planning Commission because it is a land use issue. They will hold public hearings as required. There is no particular deadline but this is crucial under current circumstances so we need to keep moving ahead. Doug said he would like to see this with the charts out of it and in a form that reflects some of the concerns and discussions to date. Steve asked regarding the tier schedule, what do other communities do? City Manager Dotson said Cedar City just approved something similar last night. They are phasing it in over a few years. No one else does things the way we do it, City Manager Dotson said, so it is hard to compare. For the phasing we could change our Code to phase in the acquisition of water rights section. The tiered

schedule could be phased in next. Big bills will always bring out the bad in people so education for the reasons and solutions has to be a big part of it. Doug said, we could change the overages right now and generate more income. Alan said we want to encourage less use. City Manager Dotson said for the next meeting he will get what they asked for. Doug recapped to say it may be more understandable if we segregate this into separate items for discussion to move the parts forward. Refine the tiers and separate the schedule. There should be a separate structure for the "one AF of water residents" who were here before all this came up. There should be a different structure for those who give less water if we decide to allow that. We will make the recommendations one at a time, Doug said. There was more discussion of what they wanted to see for the next meeting. All agreed significant education will be required. City Manager Dotson talked about other issues of finding other water sources. He said the Division of Water Quality wants to charge every user \$1.20 per month for their services. We would be required to pass that on to residents. They police all the water systems in the State and this is a user fee. We absorb it or charge a user fee. Most of the time, the DEQ is helping the small cities because we don't have the manpower. They make sure we are doing what we should.

In the interest of efficiency, City Manager Dotson asked the Board members to send him emails with changes, concerns or issues and he will copy the others. It is important to avoid illegal meetings that could possibly occur with emailing each other and having discussions. If we are trying to fast track this, City Manager Dotson said he can reply and comment to each member with the concerns of the others. That sounded feasible to move forward and all agreed they would comment in emails. We are breaking this into three sections within the same ordinance in the interest of clarity for the discussions in our meetings. We are a recommending body. We pass it to the Planning Commission and they then pass it to the City Council, noting concerns should the City Council decide to make other changes. This will be one document at the end of the discussions. No action was taken. Discussion will continue.

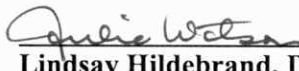
3. PUBLIC COMMENTS-none

4. BOARD/STAFF REPORTS

Hayden White reported they are working on streets and wells and he gave more details.

City Manager Dotson reported there is lots going on. The West Desert water public hearing was online today. We applied for a loan to add another tank. We received grant money from State ARPA money. They will be reviewing that on March 2nd in St. George. We are finishing up the agreement to get the Blue Bird Well.

5. ADJOURN-Motion to adjourn by Alan Miller. Motion was seconded by Steve Woolsey and all voted in favor. The meeting ended at 6:28.

 3-10-22

Lindsay Hildebrand, Deputy Recorder

Date

Meeting ID: 856 9171 3824