Topic: Enoch City Water Board Meeting
Time: April 14, 2022 04:30 PM Mountain Time (US and Canada)
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ENOCH CITY WATER BOARD
NOTICE AND AGENDA
April 14, 2022 at 4:30pm
City Council Chambers
City Offices, 900 E. Midvalley Road

1. **CALL TO ORDER OF REGULAR MEETING**
   a. **Pledge of Allegiance –**
   b. **Invocation –Audience invited to participate.**
   c. **Approval of agenda for April 14, 2022 –**
   d. **Approval of minutes for March 10, 2022-**
   e. **Conflict of Interest Declaration-**

2. **DISCUSS HYDRANT METER USAGE FOR VARIOUS REASONS**

3. **MAKE A RECOMMENDATION TO THE CITY COUNCIL REGARDING #1-WATER ACQUISITION, #2-TIER SYSTEM AND #3-OTHERS**

4. **PUBLIC COMMENTS**

5. **BOARD/STAFF REPORTS**

6. **ADJOURN**

In compliance with the Americans with Disabilities Act, persons needing auxiliary communicative aids and services for these meetings should call the City Offices at 586-1119, giving at least 48 hours advance notice.

CERTIFICATE OF DELIVERY

I certify that a copy of the forgoing "Notice and Agenda" was delivered to each member of the City Council, emailed to "Cedar City Daily News", posted on the Enoch City website, on the City Office door and published on the Utah Public Meeting Notice website on **4-13-22.**

Lindsay Hildebrand 4-13-22

Lindsay Hildebrand, Deputy Recorder **Date**

MINUTES
ENOCH CITY WATER BOARD
March 10, 2022 at 4:30pm
City Council Chambers
City Offices, 900 E. Midvalley Road
Meeting ID: 895 8017 2966

MEMBERS PRESENT: Chairman Coby Zobell, Doug Grimshaw, Steve Woolsey, Alan Miller, Spencer Jones
STAFF PRESENT: Mayor Geoffrey Chesnut, City Manager City Manager 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**
   a. **Pledge of Allegiance** – Led by Spencer Jones

b. **Invocation** –Audience invited to participate. Given by Doug Grimshaw

c. **Approval of agenda for March 10, 2022 – Alan made a motion to approve the agenda. Doug seconded the motion and all voted in favor.**

d. **Approval of minutes for February 10, 2022 - Alan made a motion to approve the agenda. Steve seconded the motion and all voted in favor.**

e. **Conflict of Interest Declaration-** Spencer owns new and old water rights. He also is also a developer within the City. Doug also owns water rights but there are no conflicts.

2. **DISCUSS WATER ACQUISITION – 3 PARTS**

City Manager Dotson briefly went over what is included in all three parts. He was given some ideas from Alan, which is reflected in the strike-through lines. Steve asked about item #1 in section A. City Manager Dotson said the proposal is that the developer would pay an acquisition fee in cash while transferring acceptable water rights younger than 1934 to make up the difference. He explained the concept and gave an example in multi-family units. Steve confirmed this is based upon the property acreage and expected water use. City Manager Dotson said it would be connected to the tier schedule and lot size. He then gave an example. Steve wanted to make sure there will be a conversation about the expected use with residents. He also asked whether the City is going to require anyone who will pull a building permit to supply a water right if this is approved. City Manager Dotson said yes. Steve asked how the City established the 1934 priority date. City Manager Dotson explained it. Doug said we haven't changed the requirements for one acre foot (1 AF) per door. These options are "work arounds".

Mayor Chesnut wanted to change a line in the proposed ordinance to read "...transfer acceptable rights and pay the difference depending on the priority date". He wanted to be specific in the wording because people will misconstrue or twist it to benefit themselves. There was discussion on item #1 definitions. Mayor Chesnut proposed to put the definition of "acceptable water right" at the top of the page. City Manager Dotson said the definition is in the document. There was more discussion regarding how to define what constitutes an acceptable water right. Mayor Chesnut said there is a pent up demand for the City to do something about water rights. There aren't many people in the valley who own the older water rights and they aren't selling.

Spencer recapped some options:

- provide a priority water right 1934 or older
- accept a non-priority right with cash and ear mark the money for the West Desert project, or something to do with acquiring new resource, or
- pay a flat water acquisition fee and the City will take money from non-priority water rights and pool it to buy more water, or
- pay the acquisition fee and not take the water right, which will put less demand on the old water rights, or
- bring rights and a percentage of cash based on the proposed usage as a combination of both fee and water rights and be in a lower water use tier

If people come in and pay cash, then it will devalue the current market and the City will be able to acquire more water rights. The time to buy water is when the value and demand is down. The question was asked how much support does the City have for the West Desert project and what is the reality of the West Desert project? Spencer said they are spending a lot of time on priority dates, but if the West Desert water comes then the dates are immaterial. City Manager Dotson said he has been to a lot of meetings regarding the West Desert water and it is moving ahead. There have been many times where people have come in to sell water rights, but the City doesn't have any money to buy them. These measures will help with paying for West Desert water and water acquisition.

Doug said they are all on board with the concept. The legalities can be hashed out. City Manager Dotson asked if they would be more accepting of #3, which describes paying an acquisition fee by transferring acceptable water rights, or acceptable units **or** #4, which describes that the developer would pay an acquisition fee and transfer a partial right (Enoch City Water Units) committing to a property water usage amount in the conservation tier. Regarding #4 (b) Steve wanted to know what an "acceptable unit" is and how it's determined. City Manager Dotson said it's determined by what the City would have to have to provide water for a particular lot in that particular conservation tier. Steve proposed that a sub-section be added to explain this.

Alan gave an example of a developer purchasing water rights for a subdivision and then years later canvassing those same homes trying to buy partial water rights for building a new subdivision. There was discussion of this concept. Spencer said you have a statute of limitation based upon several things. Most people won't spend that much time to consummate a deal like that. Doug said if this passes they could just write a check and skip all that. City Manager Dotson said the City is not reselling anything. The homeowner purchased the property and inherent there is the "dollar amount" worth of water right. Alan said you are essentially creating something people may think they can buy and sell on the open market and in fact the City owns it, not the landowner. Mayor Chesnut said they are buying and selling their restriction of the use of their water. Just paying an acquisition fee is short sighted. Chairman Zobell said we need to be careful when talking in terms of "rights". Mayor Chesnut said maybe it should be in terms of "conservation units". Alan mentioned there would also be real estate agents who would buy pieces of water rights because they are involved in the process. There was discussion on incentivizing and contracting for conservation. The City could enforce it with a significant tier increase. Chairman Zobell wanted to make sure the amount of water units is properly disclosed to a new home owner at the time the property is purchased. Issues of concern from the Water Board Members were:

- the water transfer agreement.
- the City taking unused water rights that have been banked and now letting people use it

- the water units are not truly a means of conservation
- the water acquisition fee and tier program as a way to make money
- the billing software can bill clients at different rates
- a lot owner subdividing property and creating landscaping that changes the assigned tier
- violating a deed restriction that has an assigned conservation tier

Mayor Chesnut said there is no ability to apply a moratorium to stop building. City Manager Dotson said there are residents now who water their lawns all night and are getting monthly bills of $200 to $300 and they don't care. Other people use 8,000 gallons a month in the hotter months and pay the full price as if they were using 30,000 gallons and they are not. Alan said if it's not immaculately managed it could get to a point where the City is over pumping our water rights. There was more discussion on penalties and fees for over-usage. Steve asked if the City is contemplating a pure acquisition fee for water units. Mayor Chesnut said if you allow people to just pay a fee, then it won't work. Steve wanted to know what our spare water right situation is. They had talked about acquiring new water, but realizing that when the State starts to suspend the water, it could go into litigation. If we allow the pure acquisition fee, how far could that get us with development and the water we currently supply a consumer? City Manager Dotson said for pre-1934 we have about 60-70% that would survive the first haircut or suspension.

Spencer said the developer has an idea of what the property will look like. At that point a note goes on the plat as a deed restriction. As a builder comes in later to get a building permit it would be in the City's system and that's all the water that would be allowed and assigned to that lot. Steve said he thought it would be good to have anyone who wants to purchase water in the form of a fee from the City disclose what they plan on doing with the yard. Spencer said they would sit down with City staff or engineers and decide how much water would be allowed for use and plan accordingly. It was noted this is where the Conservation Agreement could play a part. City Manager Dotson interpreted a spreadsheet based on tiers and explained this concept. He wanted to know from the Water Board what direction to go.

Spencer said he thinks they should send a recommendation to the City Council by voting on each item in the next meeting. City Manager Dotson recapped the concepts and wanted to know who agrees with each item and who doesn't. He also mentioned processes to transfer water rights and issues that could come from the State Division of Water Rights. He referenced sub-section (d) which states if the Division has not made a decision when a developer is ready to move forward then the developer posts a cash bond. He added the City doesn't accept a bond but the District does. Spencer wanted to add a "letter of credit" as another method. City Manager Dotson said the last item is Exemptions. Nominal irrigation has a value to it and we need to quantify what that means. Doug said if a developer is bringing in a specific plan, he needs to know how much water he will be using for it. If an engineer can calculate that as minimal use then we shouldn't exempt it. Spencer suggested including this would be a calculation by an expert based on GPM.

City Manager Dotson said he would put together a Google survey and send it to everyone on the Board individually. He will compile the results and restructure the document. There was a discussion about multi-residential development issues and how they are managed. There was some question as to whether people should pay an additional overage acquisition fee or increase the water rights to address the overage use. Mayor Chesnut said we already know when people use more water. We take two consecutive years of data in the highest use months and see where they would need to pay the fee or acquire more water. We can also differentiate from an anomaly like a big leak. There was discussion of costs that will shift from issue to issue regarding type of water, such as, secondary or culinary. Mayor Chestnut said this proposed ordinance is encouraging the expansion of secondary irrigation and xeriscaping. No action was taken.

3. **PUBLIC COMMENTS** – There were no public comments
4. **BOARD/STAFF REPORTS** – There were no staff reports
5. **ADJOURN – Alan made a motion to adjourn. Doug seconded the motion and all voted in favor.** The meeting ended at 7:10 pm.

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Lindsay Hildebrand, Deputy Recorder **Date** **Meeting ID: 895 8017 2966**

Item #1 – Water Acquisition

A. **Water Acquisition Fee**. A Developer seeking approval of a development application for single family dwelling units, and to secure new rights to use the Enoch City water system, must ~~pay a Water Acquisition Fee~~ provide water right(s), based upon the property acreage and expected water use. A Developer may pay the Water Acquisition Fee in cash~~, or by~~ while transferring acceptable water rights, or by transferring Enoch City Water ~~Blocks~~ Unit(s), or a combination of ~~all three~~ both. The Water Acquisition Fee does not fulfill the requirement nor obviate the need to otherwise pay water connection fees. The Developer shall submit a Subdivision Water Schedule, with each Subdivision Application, designating the selected Conservation Tier for each lot, which determines the Water Acquisition Fee and resulting water rates for each lot.

1. **Cash**. Developers paying the Fee in cash will pay the amount corresponding to the desired water use as per the Acquisition Fee Schedule, which values the water based upon a percentage of the appraised value of a one (1) acre-foot Priority Water Right in the Cedar City Valley Drainage on the north side of Highway 56 with a water right prefix of 73, and a priority date ~~no younger than~~ equal or prior to July 25, 1934 ("Priority Water Right").

    a. As often as deemed prudent by Enoch City Staff, but at least annually, and typically every six months, Enoch City will contract for and obtain an appraisal of the current fair market value of a Priority Water Right~~s~~ as described in this subsection. These appraisals assist the City in its own purchase of acceptable water rights and are the basis for the Water Acquisition Fees levied by the City.

2. **Water Right Transfer**. Developers paying the Fee by transfer of water rights shall do so with proof of use~~,~~ and proof of ownership through a chain of title, and will pay all costs incurred for deeding and transferring the water. When deeding water rights to Enoch City, the water right must be in the Cedar City Valley Drainage on the north side of Highway 56 with a water right prefix of 73. The water right must conform with one of the following:

    a. A priority date equal to or prior to July 25, 1934 ("Priority Water Right"); or

    b. A priority date after July 25, 1934, which at the time of transfer to Enoch City must have at least 10 years before ~~extinguishment~~ suspension under the State Engineer's Water Management Plan for the Cedar City Valley Aquifer.

3. For purposes of payment of the Water Acquisition Fee, these post-July 25, 1934 water rights are deemed to have a fair market value equal to 1% of a subsection 2(a) Priority Water Right (priority before July 25, 1934) for each full year remaining at the time of delivery to and acceptance by Enoch City before ~~extinguishment~~ suspension under the State Engineer's Water Management Plan for the Cedar City Valley Aquifer. The ~~following~~ Water Right Valuation Schedule illustrates the value of each water right as of 2022, quantified as a percentage of a Priority Water Right.

4. **Enoch City Water Units Transfer**. A Developer may pay the Water Acquisition Fee by transferring Enoch City Water Units, each of which is deemed to have a value equal to the right to use the corresponding amount of water, according to the designated Conservation Tier, transferred therewith. Enoch City Water Units represent the right to use the Enoch City water system and are either acquired (a) in exchange for the payment of a Water Acquisition Fee, or (b) by purchasing them from another lot owner, ~~pursuant to Enoch City Ordinances~~, and pursuant to a properly completed Water Transfer Agreement and Water Conservation Agreement, which are obtained from, approved by, executed by, and placed on file with Enoch City.

5. **Process to Transfer Water Rights.** The following process shall be followed for a person developing land within the City to transfer water rights to Enoch City:

    a. The Developer proposing the transfer shall submit a title report showing the type of water right, ownership of the right, and any liens or encumbrances. The Developer shall also provide a title insurance policy in a sum adequate to cover the appraised value of the water rights the policy is covering.

    b. A change application with the Utah State Engineer shall be completed at the expense of the party developing the land. Information to be included in the change application will be provided by Enoch City, including the new points of diversion. The change application must be approved by the State Engineer prior to ~~transferring water rights to~~ the City ~~on the books of the State of Utah Division of Water Rights~~ acceptance for development. ~~This transfer may also be conditioned on approval of the subdivision application pending before the City that caused the Developer to transfer the water rights.~~

    c. A deed transferring the water rights to Enoch City shall be completed and held prior to the subdivision application approval. The deed transferring ownership may be held either by the City or in an escrow account paid for by the Developer. Once the subdivision application and change application receive approval, the deed will be recorded.

d. If the Division of Water Rights has not made a final decision on the change application prior to the subdivision approval, then the Developer shall post a cash bond with the City in the amount of the water acquisition fee based on the Priority Water Right value at the time of said cash bond..

e. If at any point in this process, the change application is denied by the Division of Water Rights then the Developer can pay the water acquisition fee in lieu of providing water rights. However, if a denial is based on the Developer's failure to timely provide information or payments to the Division of Water Rights during the change application process, then the Developer cannot pay the water acquisition fee in lieu of providing water rights.

~~f. If the water rights proposed to be transferred are supplemental, recharge/recovery, recovery or something other than from a primary underground source, then prior to completing the subdivision application the Developer shall obtain a change application with a complete determination through the State of Utah Division of Water Rights so that the scope and characteristics of the water right is determined.~~

B. **Exemptions.** The following are exempt from the Water Acquisition Fee.

1. Nominally Irrigated Areas. In an effort to encourage xeriscape and other forms of landscaping or natural areas requiring nominal water and irrigation, such will not be subject to the requirements of this Ordinance ~~or require a Water Acquisition Fee~~. Nominal Irrigation means irrigation that requires less than (X) ACFT per acre irrigated. Nominally Irrigated Areas shall include trees, shrubs, and may include other plants, or xeriscape landscaping using only nominal water systems such as limited bubbler or drip systems. For purposes of the Water Acquisition Fee, the landscaping being measured is primarily grass or sod, and not Nominally Irrigated Areas, and other areas as reasonably determined by Enoch City.

2. Open space exemptions. If at the time of final plat approval, or pulling of a building permit, land is deeded to Enoch City as a ~~dedicated street~~ right-of-way or for permanent undeveloped open space, parks and recreation, or placed in a conservation easement that complies with the provisions of Title 57, Chapter 18, Sections 1 through 7, Utah Code Annotated, 1953 as amended, then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights or payment of fees. Additionally, if land in a subdivision is to be held as common area and is undeveloped, unirrigated, or only nominally irrigated, then that land is not subject to the requirements of this ordinance that mandate the payment of Water Acquisition Fees.

3. Public lands exemption. If at the time of annexation, the annexed property is owned by the Bureau of Land Management or the U.S. Forest Service then that

acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights. This exception only applies to annexation and not when the property is platted as a residential subdivision or receives a building permit.

City Exemption. Enoch City is not required to ~~deed water or~~ pay a fee if the City develops land. A purchaser of property from the City will have to ~~pay the Water Acquisition Fee to the City~~ act consistent with this ordinance.

(Chart kept separately)

Water Rights Acquisition Fee Chart 2022		
Water Priority Date	Suspension Date	% Value
Jan 10, 1966 - Dec 31, 1957	January 1, 2035	13%
Dec 30, 1957 - Dec 31, 1954	January 1, 2050	28%
Dec 30, 1954 - Dec 31, 1951	January 1, 2060	38%
Dec 30, 1951 - Dec 31, 1935	January 1, 2070	48%
Dec 30, 1935 - Jul 25, 1934	January 1, 2080	58%
July 25, 1934 - & Earlier	Not Suspended	100%

Item #2 – Tier System

C. **Water Acquisition Fee Schedule and Tier System.** A Developer seeking approval of a single-family lot development must first designate a Conservation Tier and pay the corresponding Water Acquisition Fee for each single-family lot. The selected Conservation Tier, will establish the lot owner's expected water use, and the corresponding Water Acquisition Fee, and the resulting water rates.

1. The Water Acquisition Fee Schedule indicates the Water Acquisition Fee for each Conservation Tier that could be selected, as a percentage of a full, one-acre-foot, Priority Water Right, and the corresponding water use.

2. The Conservation Tier Schedule indicates the lot owner's expected water use and resulting water rate. The rates and penalties set forth in the Conservation Tier Schedule are for illustration purposes only; Enoch City will, from time to time, change such water rates and penalties for each Tier.

Tier Schedule NOT a part of ordinance. Approved by resolution when changed.

Tier	~~Typical Lot Size~~	~~Total Max Yard Size~~	Gallons/Month	~~Acquisition Fee~~
1	~~0.25~~	~~1,700 Sq/Ft~~	12,600	~~60%~~
2	~~0.33~~	~~2,300 Sq/Ft~~	14,200	~~65%~~
3	~~0.5~~	~~3,500 Sq/Ft~~	17,400	~~75%~~
4	~~0.75~~	~~5,300 Sq/Ft~~	22,000	~~90%~~
5	~~1~~	~~7,000 Sq/Ft~~	27,000	~~100%~~
6	~~1.25~~	~~8,800 Sq/Ft~~	31,800	~~125%~~
7	~~1.5~~	~~10,600 Sq/Ft~~	36,600	~~150%~~
8	~~1.75~~	~~12,400 Sq/Ft~~	41,400	~~175%~~
9	~~2~~	~~14,100 Sq/Ft~~	46,200	~~200%~~
CUL	~~NA~~	~~NA (indoor use)~~	8,000	~~30%~~
SEC	~~NA~~	~~7,000 Sq/Ft~~	19,000	~~70%~~
MFD	~~#AF Purchased~~	~~7,000 Sq/Ft/**AF**~~	27,000/**AF**	~~100%~~
COM	~~#AF Purchased~~	~~7,000 Sq/Ft/**AF**~~	27,000/**AF**	~~100%~~
INST	~~#AF Purchased~~	~~7,000 Sq/Ft/**AF**~~	27,000/**AF**	~~100%~~

Tier	~~Maximum Grass Sq/Ft~~	Gal/Month	Rate	Penalty
1	~~1,700 Sq/Ft~~	12,600	0.07¢/Gal	0.50¢/Gal
2	~~2,300 Sq/Ft~~	14,200	0.08¢/Gal	0.49¢/Gal
3	~~3,500 Sq/Ft~~	17,400	0.09¢/Gal	0.48¢/Gal
4	~~5,300 Sq/Ft~~	22,200	0.10¢/Gal	0.46¢/Gal
5	~~7,000 Sq/Ft~~	27,000	0.11¢/Gal	0.44¢/Gal
6	~~8,800 Sq/Ft~~	31,800	0.12¢/Gal	0.42¢/Gal
7	~~10,600 Sq/Ft~~	36,600	0.13¢/Gal	0.40¢/Gal
8	~~12,400 Sq/Ft~~	41,400	0.14¢/Gal	0.40¢/Gal
9	~~14,100 Sq/Ft~~	46,200	0.15¢/Gal	0.40¢/Gal
CUL	~~NA (indoor use)~~	8,000	0.07¢/Gal	0.51¢/Gal
SEC	~~7,000 Sq/Ft~~	19,000	0.11¢/Gal	0.44¢/Gal
MFD	~~7,000 Sq/Ft/**AF**~~	27,000/**AF**	0.07¢/Gal	0.50¢/Gal
COM	~~7,000 Sq/Ft/**AF**~~	27,000/**AF**	0.11¢/Gal	0.44¢/Gal
INST	~~7,000 Sq/Ft/**AF**~~	27,000/**AF**	0.11¢/Gal	0.44¢/Gal

Item #3 – Others

A. **Properties with Both Culinary & Secondary Water**. Developers seeking to approve properties, with a single-family unit, and with both Culinary and Secondary water meters are subject to the following: The Water Acquisition Fee for a new water connection on such properties shall be equal to the value of a full, one (1) AF, Priority Water Right and shall follow the same policy as found in section A of this ordinance. However, the Enoch City Water Units assigned to such a property shall be as follows:

Three-tenths (.3) AF of Enoch City Water Units, corresponding to the culinary water, which are not transferable and shall remain with the property, and seven-tenths (.7) AF of Enoch City Water Units, corresponding to the Secondary Water, which are not transferable and shall remain ~~with~~ assigned to the property. The Conservation Tier Schedule for such properties shall be permanently assigned as follows: The three-tenths (.3) AF of Culinary water shall be set at the Conservation Tier of "CUL," and subject to the corresponding "CUL" water rates. The Secondary water shall be set at the Conservation Tier of "SEC," and shall be subject to the corresponding SEC water rates. ~~Properties in Enoch City with both a Culinary water meter and a Secondary water meter, will receive an Enoch City water bill separately designating the rates for each water meter.~~

B. **Multi-Residential Developments**. Developers seeking approval of a Multi-Residential Development must provide an engineered Annual Water Estimate, illustrating the total annual, acre feet of water estimated to be used by the Development ("Annual Water Estimate"), to be reviewed and approved by Enoch City staff for accuracy. The initial Water Acquisition Fee and the subsequent water rate will be calculated based on ~~this determination~~ the approved Annual Water Estimate. For purposes of this Annual Water Estimate, the number of Multi-Residential Units should be multiplied by .3 acre-feet of water, and each sq/ft of proposed grass should be divided by 10,057, to derive the Development's Annual Water Estimate, in terms of Acre Feet (ie: a twenty-unit subdivision (20 units x .3 = 6AF) with 10,000 square feet of grass (10,000 sq/ft grass / 10,057 = .994AF) would have a 6.994AF Annual Water Estimate). The Water Acquisition ~~Fee~~ requirement will be determined by multiplying the Annual Water Estimate by the priority Water Right Value (ie: a Development with a 6.994AF Annual Water Estimate will pay 6.995 multiplied by the Conservation MFD Tier, which is 100% of the appraisal Priority Water Right). The Development would subsequently pay for water at a rate of 6.994AF multiplied by the Tier 1 Rate (ie: a MRD that is estimated to use 6.994AF of water annually, will pay 6.994 times the Tier 1 Rate).

The Water Units assigned to a Multi-Family Development will be assigned under the "MFD" Conservation Tier. These Water Units are not transferable and must remain with the Development.

If any Multi-Family Development is ever found to use more water ~~or have more square footage of grass~~ than the Annual Water Estimate, that property will be required to ~~pay an additional Water Acquisition Fee~~ increase the water rights to address the extra water used.

C. **Commercial, Industrial, and Manufacturing Developments**. Developers seeking approval for commercial, industrial, or manufacturing developments must provide an engineered Annual Water Estimate, illustrating the total, annual, acre feet of water estimated to be used for each lot, to be reviewed and approved by Enoch City. The initial Water Acquisition Fee and the subsequent water rate will be calculated based on this ~~determination~~ estimate. For purposes of this Annual Water Estimate, the engineer must determine the various uses and estimate the amount of water to be used for the property, including the proposed square footage of grass, which ~~should~~ shall be divided by 10,057, to derive the total annual, number of acre feet of water used for grass areas. The Water Acquisition ~~Fee~~ requirement will be determined by multiplying the Annual Water Estimate by the appraised Priority Water Right. The subsequent water rate will likewise be ~~determined by multiplying the Annual Water Estimate by the Tier 1 Rate~~ the commercial rate as approved by resolution.

The Water Units assigned to a Commercial, Industrial, or Manufacturing lot will be assigned under the "Com" Conservation Tier. These Water Units are not transferable and must remain with the property.

If any Commercial, Industrial, or Manufacturing property is ever found to use more water ~~or have more square footage of grass~~ than the Annual Water Estimate, that property will be required to ~~pay an additional Water Acquisition Fee~~ increase the water rights to address the extra water used.

D. **Institutional Properties**. Developers seeking approval of Institutional Developments, including schools, religious buildings, and other properties of nonprofit organizations, must present an engineered Annual Water Estimate, illustrating the total, annual acre feet of water estimated to be used for such property, to be reviewed and approved by Enoch City. The initial Water Acquisition Fee and the subsequent water rate will be based upon this determination. For purposes of this Annual Water Estimate, the engineer must determine the various uses and estimate the amount of water to be used for the property, including the proposed square footage of grass, which should be divided by 10,057, to derive the total annual, number of acre feet of water used for grass areas. The Water Acquisition ~~Fee~~ requirement will be determined by multiplying the Annual Water Estimate by the appraised Priority Water Right. The subsequent water rate will likewise be ~~determined by multiplying the Annual Water Estimate by the Tier 1 Rate~~ the commercial rate as approved by resolution.

The Water Units assigned to an Institutional property will be assigned under "INS" Conservation Tier. These Water Units are not transferable and must remain with the property.

If any Institutional property is ever found to use more water or have more square footage of grass than the Annual Water Estimate, that property will be required to ~~pay an additional Water Acquisition Fee~~ increase the water rights to address the extra water used.

From Board Member Doug Grimshaw:

I do not like the proposed Water Transfer Agreement (WTA) and Water Conservation Agreement (WCA) as would be applied to existing Lots/Parcels in Enoch City. That said, in order for the overall plan of Water Acquisition and Water Rate Tiers to work going forward, their does need to be some type of rate tiers that can be applied both to existing lots/parcels and to the new developments/subdivisions that allow less than 1 AF of water per lot.

Thoughts in no particular order:

• As currently proposed, these WTA and WCA agreements would provide no financial benefit to EC. Any of these type transfers would be 3rd party transactions between 2 individuals or entities with none of the $ going to EC.

• These agreements would be the opposite of water conservation as they would allow portions of a lots water (water unit) not being used to be transferred to someone else who does intend to use it. This proposal would use more water, would not conserve water and would provide income only to the lot seller.

• Not all of the water rights owned by EC are senior water rights. By allowing WTA's, EC would stretch or dilute their overall water rights and in light of the proposal to accept Junior Water Rights with the Fee Acquisition Schedule, they would be again stretching or diluting their overall water right portfolio and taking on additional risk because of the Cedar Valley suspension deadlines. To stretch and/or dilute both new and existing EC water rights twice seems unwise.

• Because of the small amounts of individual lot/parcel water units available and the considerable time, and effort to identify them and then negotiate their purchase, it is unlikely that Developers would use the WTA method to find Units of water for their proposed projects/developments if the Water Acquisition Fee route is available.

• Not only will EC not benefit financially from these agreements, there will be additional costs to administer and police these agreements.

• Even if billing and administration of this program is billed to the Water Enterprise Fund, there will be instances of disgruntled users by phone and at the front desk dealing with EC staff paid by the general fund. This time could be significant where new lot/parcel owners don't understand the system and/or think that EC is unfair or out of line. Bottom line is that this program will cost money to administer when there is no financial reward or revenue to do so.

• If EC is trying to generate revenue for West Desert or other source projects, it would make more sense to stretch/dilute their overall water units by Acquisition Fee revenue than to dilute/spread their existing water rights by WTA's that bring no significant revenue.

• This looks like an administration nightmare. I suspect that user accounts are all user name based and not based on lot/parcel. That means each time a new user comes into the system, some research will have to be done by staff to determine what lot/parcel they own and what agreements are in place, what tier they are in and, etc. I understand that EC staff already has to deal with disgruntled residents for many and various reasons so cannot see why we should add to their work load with this proposal which has no revenue stream to cover those added costs.

• Unless the WTA and WCA agreements are filed with the county recorder so that they become a matter of public record, I can see no path that will make new owners aware of any WCA by which they are legally bound when purchasing a lot/parcel. Even when new owners are made aware of a WCA it is unlikely that they will fully understand what that WTA and WTC means. Looks to me like a lose lose situation for both the new owners of old lots/parcels and EC were these agreements allowed.

- Until recently EC has mandated that all new lots be at least an R1-18 with 1 AF of water right. New owners of these older/original large lots should not have to buy additional water rights to get back to how the large lots were originally intended to be used with that 1 AF water right. To allow a current owner to take a onetime financial benefit that permanently reduces the future use of these large lots would seem to be completely opposite of the historic use of those lots/parcels.
- I think original lot/parcel owners whose property contributed 1 AF of water to EC should be treated very much differently from new projects/developments that bring less than 1 AF. Tiers can be applied to original lots/parcels by allowing those with less use to select a lower tier and larger users a higher tier. Those lots/parcels should be able to change tiers once per year if their water use changes significantly due to new areas of irrigation by those owners or new owners. Also, their overage charge should be less than what is charged to new projects/developments that bring less water.
- New projects/developments that bring less than 1 AF per dwelling must be held to a different standard than existing 1 AF lots/parcels. Approvals by EC, in whatever form, must be such that there are recorded documents that will be found/discovered and disclosed when properties change hands. Those projects would not be able to change tiers and increase use except by providing additional water rights. Their overage charge should be much greater than what is charged to older lots/parcels who contributed the full water right.

From Board member Allen Miller:

With Regards to the Proposed Water Acquisition Ordinance 3-16-22

An addendum to the survey...

A. Water Acquisition Fee:

A1. I do not support a 'fee only' buy-in; except in one potential case.

Reasons I do not support this:

The City is assuming all risk to be able to obtain, and secure, adequate water rights to supply a development. In this scenario the developer has successfully transferred this portion of their risk to the City. Which the City should not absorb.

Exception where I can see support;

The person who owns a parcel, and is attempting to secure one water connection. In this case the City is absorbing a limited amount of risk, which may be manageable. Even in this situation the City must place a limit on how many total times this can be used: such as individually, only once. And overall perhaps as a percentage of the unused senior rights.

Regardless of my support, should the City choose to accept this form of water right management, the cost should reflect current high market value of a senior right, as well as a realistic number of hours cost for an attorney to complete the transfer from the future right holder to the City. And the monies MUST be held in a separate dedicated account for the sole purpose of obtaining secure long term water rights.

A2. I can support, with limitations, a fee with junior rights supplied scenario.

Limitations are to be established in two areas:

One is the number of junior rights accepted to a development, can be expressed as a not to exceed percentage, or as a number of equivalent residences (ERs).

The other limitation as a not to exceed percentage of junior rights held by the City as a whole.

A3. I do not support the 'Conservation Units' approach; again except in one potential case

Reasons I do not support this:

Although I appreciate its creative aspects, I believe detractors such as

1. Stated intent to severely impact the property when they exceed an agreed upon water limitation.
2. The potential for abuse of property owners' knowledge and understanding by those whose motivations are not in the owners' best interest. Let me be clear, this isn't a namby pamby attempt to protect the ignorant, but I don't believe the City should be a party in assisting wrongly motivated individuals in taking advantage of citizens.
3. There is no spirit or intent of conservation in this. This is about taking something, albeit with their authorization, from someone and giving it to another to put it to use where it likely was not being used before. The result is increased use, not conservation.

Exception where I can see support;

The person who owns a parcel, or two connected parcels and is willing to split their existing right of use so as to enable development of a second, connected, or half of the original parcel.

A4. For obvious reasons I fully support the City accepting a deeded senior, or priority, water right for development. The City is fully protected and others complete the necessary tasks to enable their development of land. As it should be.

B. Exemptions:

B1. Nominally Irrigated: Support with limitations of quantity gallons per established period of time (IE monthly, irrigation season, annually). And limits as to flow rate (which affects the City's instantaneous demand) All water must be metered and paid for.

B2. Open Space: Support with limitations of anticipated water use and area (square footage) of use in addition to limitations listed for nominally irrigated space.

B3. Public Lands: Support with same limitations as Open Space. And caveat that conversion from public to private ownership eliminates exemption.

B4. City Developed Land: I can potentially support this if the land use can be reasonably and realistically shown to benefit the community as a whole. This would need to be defined. My view would be limited to small parks, community buildings, libraries. In addition I believe a water quantity and flow rate (instantaneous flow) limitation should be applied.

I cannot support this when it is applied to any and every thing the City may attach its name to. The City should demonstrate leadership, not exemption from.

C. Properties and Developments where Secondary water is available:

I would support a scenario where the same limitations as provided in section A applied. With the following conditions;

If the City were to accept a 0.3 ac foot for culinary or indoor use, this must be reviewed on a determined frequency and a defined and agreed upon set of actions taken if the 0.3 is exceeded.

The 0.7 AF of secondary could be accepted with the same limitations listed above as well as a written agreement its use would be curtailed first in any situation where the City was forced to curtail water use secondary or culinary.

D. Multi-Residential:

I would support a scenario where the same limitations as provided in section A and/or C applied. Again with roughly the same conditions as item C above.

If the City were to accept a 0.3 ac foot for culinary or indoor use, this must be reviewed on a determined frequency and a defined and agreed upon set of actions taken if the 0.3 is exceeded.

If the City were to accept an estimated ac foot for secondary or outdoor use, this must be reviewed on a determined frequency and a defined and agreed upon set of actions taken if the estimated water use is exceeded.

E. Commercial/Industrial/Manufacturing:

This one is a bit unique. When a residence or a multi-residence building is developed one is fairly certain of its water use. When a commercial type building is constructed one can estimate the use of the original user fairly accurately. But the facility, building, will remain for many Decades, and its use may change many times.
In many cases the water use will be very low, but what does the City do when that changes?

Other than the challenges provided above, I believe similar treatment could be applied as for Institutional type development.

F. Institutional:

I would support a scenario where the same limitations as provided in section A and/or C applied. With the same conditions as for section D.

Additional, unsolicited, view point.
If the City ultimately establishes a methodology where properties are penalized for exceeding an agreed upon total use, as it relates to acre feet and the City's requirement to obtain acre feet for each parcels development, then such penalty should apply to every parcel. IE if my parcel deeded/donated one acre foot of water for its development into a residential parcel, and my, or subsequent owners, usage exceeds one acre foot, then I should have to comply with the same penalty as someone else. Perhaps this method should have one, only one, get out of jail free card (with the condition that this is a singular and not an on-going(past or future) event), and perhaps it should be evaluated annually but measured and enacted on a biannual (every two year period). It should also be evaluated, measured and enacted every time a home is sold, so a new owner starts with a clean slate.
This is related to a water rate schedule only in that the water is measured and charged routinely through the water rate schedule. This water use, and any subsequent penalty, is solely related to the original quantity of water provided to the city. It is independent of, and severed from, the water rate schedule.

In this case, and in the cases above where monies are contributed to the City in liue of senior, priority, deeded water rights, all revenues must go to a dedicated fund which could only be used to purchase/obtain water of adequate seniority/priority so as to be used for the City's ability to supply all existing developed parcels within the City.

Two questions:

1. Does the City depend on growth to provide the fuel to run the City?
2. When a new water connection is purchased, does the purchaser pay a 'buy-in' for the existing infrastructure value? IE: how do they pay for their share of the existing system.