

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 said he owns new and old water rights. He is also a developer within the City. Doug said he 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 earmark 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

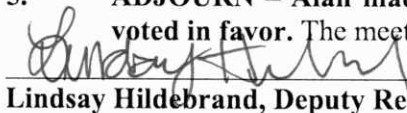
Mayor Chesnut said there is no ability to apply a moratorium to stop building. City Manager Dotson said there are residents now who water their lawns all night and are getting monthly bills of \$200 to \$300 and they don't care. Other people use 8,000 gallons a month in the hotter months and pay the 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 engineer 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 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 Chesnut 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.


Lindsay Hildebrand, Deputy Recorder

4-14-22
Date

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