

PERRY CITY COUNCIL MEETING
PERRY CITY OFFICES
DECEMBER 9, 2010

7:00 PM

OFFICIALS PRESENT: Mayor Jerry Nelson presided and conducted the meeting.
Tom Peterson, Karen Cronin, Boyd Malan, Bill Walker

OFFICIALS ABSENT: Marci Satterthwaite

CITY STAFF PRESENT: Duncan Murray, City Administrator
Susan Obray, City Recorder
Michael Jones, Chief of Police

OTHERS PRESENT: Lani Braithwaite, David Shuster, Lorin Gardner (JUB Engineering), Randall Hunsaker, Jerrald Nelson, Rob Murray, Mike Wood, Ardell Jenks, Angie Cefalo, Carol Pickett, Aaron Nielsen, David Roberts, Randall Reeder, Waylon Pyatt, Dale Francis, Brandon C. Hansen, John E. Beirer, Mike Hankins, Jon Forsberg, Amy Forsberg, Heike Hunsaker, Monica Taylor, Stephanie Hunsaker, David Putnam, Lehi Jenks, Opal Jenks, Kim Datweiler, Tyson Knudsen (Sunrise Engineering), Scott Archibald (Sunrise Engineering), Steve Pettingill, Mark Eljay

ITEM 1: CALL TO ORDER

Mayor Nelson called the meeting to order.

A. INVOCATION

Council Member Walker offered the invocation.

B. PLEDGE OF ALLEGIANCE

Mayor Nelson led the Pledge of Allegiance.

ITEM 2: NEW BUSINESS LICENSES, PROCEDURAL ISSUES, AND APPOINTMENTS

A. CONFLICT OF INTEREST DECLARATION

No conflicts of interest.

B. NEW BUSINESS LICENSE(S)

None.

C. PASS OUT WARRANTS TO COUNCIL MEMBERS (AND POSSIBLE DISCUSSION)

Susan Obray passed out the warrants.

D. APPOINT PLANNING COMMISSION AND/OR OTHER BOARD/COMMITTEE MEMBERS

Duncan Murray advised in the last Planning Commission Meeting Harlan Brewer was elected the Vice Chair and if approved by the Council would move to Chairman at the beginning of the year. Council Member Peterson asked if Harlan Brewer accepted the position. Duncan said yes.

MOTION: Council Member Peterson moved to ratify the election of Harlan Brewer as Vice Chair of the Planning Commission. Council Member Malan seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

ITEM 3: PUBLIC COMMENTS AND/OR PUBLIC HEARINGS

A. PUBLIC HEARING FOR A GENERAL PLAN MAP AND ZONING MAP AMENDMENT, INITIATED BY PERRY CITY TO REVERT BACK FROM 1/3 ACRE (NO ANIMAL RIGHTS) ON BOTH MAPS TO RE1/2 (HALF ACRE, WITH ANIMAL RIGHTS) ON BOTH MAPS REGARDING THE “BILLINGS PROPERTY,” LOCATED NORTH OF 3000 SOUTH AND WEST OF HIGHWAY 89 (PARCEL NUMBERS 02-029-0016, 02-029-0063/02-029-0105 AND 02-029-0076)

MOTION: Council Member Cronin moved to close the regular meeting and open a public hearing for a General Plan Map and Zoning Map amendment to revert back the “Billing Property” to RE1/2 acre with animal rights. Council Member Walker seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

Mark Eljay: Mr. Eljay stated he spoke to Mrs. Billings and she was rather concerned that the City had not informed her about anything and had not given her any notice of any kind. He said that he felt if the City is going to make these types of changes the landowner should be notified first. Mayor Nelson said the developer and landowner initiates zones changes, so the landowner typically knows. Council Member Peterson said Mrs. Billings was at the Planning Commission meeting where this was discussed and said it did not matter to her either way if the land was zoned for 1/3 acre or 1/2 acre.

John Forsberg: Mr. Forsberg said he is in favor of the amendment because it gives back animal rights. He stated his land is adjacent to the property and he would encourage his neighbors to keep these rights as well.

B. PUBLIC HEARING FOR AN APPLICATION FOR A ZONE CHANGE (ZONING MAP AMENDMENT) BY NEIGHBORHOOD NONPROFIT HOUSING CORP. AND BOYD WHITE, TO CHANGE FROM RE ½ (HALF ACRE ZONING, WITH ANIMAL RIGHTS) TO R1 (1/4 ACRE ZONING, NO ANIMAL RIGHTS) FOR A 10.775 ACRE PARCEL AT APPROX. 2700 SOUTH AND 1200 WEST (NOT INCLUDING EXISTING HOUSE ON CORNER), NEAR THE SOUTHEAST CORNER OF THE INTERSECTION (PARCEL NUMBER 02-028-0121)

MOTION: Council Member Cronin moved to close the public hearing for the issues on the “ Billings Property” and open the public hearing for the zone change application by Neighborhood Nonprofit Housing Corp. and Boyd White to change from RE1/2 (half acre zoning, with animal rights) to R1 (1/4 acre, no animal rights). Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

Council Member Peterson reminded everyone to keep their comments to 3 minutes and if they would like to echo someone else's sentiments they can just say that they agree with a previous comment.

Brandon Hansen: Mr. Hansen said he brought with him a stack of documents showing houses for sale in Perry that are within the low income bracket. He said he has been a citizen of Perry for 34 years and supports the Planning Commission's decision against the zone change behind his property. He supports the communities concerns about the zone change; they have met at both the Planning Commission and City Council meetings and have submitted a signed petition including letters in full opposition. He is against the zone change for the following reasons: The organization looking to purchase the land is doing this strictly for monetary purposes and has not made contact with him or his neighbors. He purchased the home he is in because it is zoned RE1/2 with animal rights and he feels it is dishonest to change the zone after the sale was complete. He said he wants to live in low density. He stated he believes keeping the animal rights preserves Perry City's heritage. He said there is only 7% of Perry that is zoned RE1/2 with animal rights. He stated Saratoga Springs went bankrupt because they had too many high-density homes, straining resources. He said the Planning Commission was against the zone change because it does not support the general plan or the transportation master plan and is not a significant benefit to Perry City. Mr. Hansen said he is against the zone change.

Dave Roberts: Mr. Roberts stated Boyd White's family is a wonderful family and they are not against him in anyway. He said there are reasons to zone a city a certain way, it is to create an atmosphere and culture for the city. He stated the drove to a neighborhood his wife grew up in and when she lived there the homes were smaller, but pristine and as second and third homeowners have moved in they have not kept up on the homes. He said that he does agree the people who originally purchase the homes will take pride in them, but questioned if the second homebuyers will take the same pride. He said he does not feel it is fair to current residents to have these unknown factors. He said he is a vested property owner in the area; he has a concern with the concept plan and also wants to maintain animal rights. Mr. Roberts stated he is against the zone change.

Robert Murray: Mr. Murray said he is against the zone change. He is concerned that there is no benefit to the city. He said the developer is promising a small park, he feels there is enough parks and this would only be a liability to the city. He said the permit fees are not a benefit because they should be used for new infrastructure such as the sewage system. He said it takes four homes of property tax to pay for one homes municipal expenses. He said there is already low-income housing and new subsidized housing temporarily drives down home values. He said taxes will need to be raised long term if more homes are placed in the city unless we increase businesses. He said this is the wrong time to do this.

Angie Cefalo: Mrs. Cefalo said she does not live by the property, but is still against the zone change. She stated animal rights are a critical need for Perry. She stated it is sad to see that this zone change is even being considered.

Mike Wood: Mr. Wood stated he is against the zone change. His reason is to preserve the rural feel with animal rights. He said because of the local economy this is not a benefit.

Dale Francis: Mr. Francis stated he agrees with the comments made and is against the zone change. He said low-density housing will be tomorrow's ghetto.

Randy Hunsaker: Mr. Hunsaker agreed with Dave Robert's comments and stated he is against the zone change.

Kendall Reeder: Mr. Reeder said he against the zone change. He grew up in this neighborhood and worries what the affect of this development will bring in the future.

Annie Forsberg: Mrs. Forsberg said she is against the zone change and agrees with all comments that have been made.

Dave Putnam: Mr. Putnam said he personally has no problem with Neighborhood Non-Profit. He is against the zone change because he feels it does not fit with the current zoning and is not appropriate in the area.

Jerry Nelson: Mr. Nelson said he against the zone change. He agrees with all comments made. He said his main concern is the animal rights. He does not have a problem with low-income housing, but would like to see it more spread out. He said he is disappointed with Neighborhood Nonprofit because he asked for addresses of some of their current homes so he could see and speak with some of the residents, and they did not provide him the information.

Kim Datweiler: Mrs. Datweiler apologized for not getting information to Mr. Nelson stating she did not know of this request. She said she has submitted letters from two city managers in reference to their developments and would like these letters to speak of the strength of the community long term. She said the average homebuyer moves every 3-5 years. Their homeowners stay in their homes for an average of 12-15 years, so if you want stability, this program provides this. She said a benefit to the City is the opportunity for their kids to live in the City is Energy Star homes. These are benefits some of the older homes cannot provide. She said they tried to make the concept as similar to the development across the street as they could. There are some 1/4 acre, 1/3 acre, and 1/2 acre lots. They can give a small park if the City would like this, but it is not required. She said she grew up in an agricultural area and supports them. There is just not a lot that can be done with a 1/2 acre piece of land. She said they try to put their developments close to transportation and this is only two blocks from the highway. She said they are trying to do the right thing. She said the buyers of these homes would be informed of their agricultural surroundings and would be informed that they are not to complain about the area. She said she is in support of the zone change.

John Forsberg: Mr. Forsberg said he is against the zone change because he wants to preserve the animal rights. He said he grew up in a neighborhood like what is being proposed and has seen the fighting between neighbors about animals. There are complaints about the smell, about the animals eating plants on their property next to the fence lines. He said he does not want to fight with neighbors he wants to work with them.

Monica Taylor: Mrs. Taylor said she is against the zone change. She advised of what you can do with a 1/2 acre. She said she by herself with her 1/2 acre lot did 80 quarts of stewed tomatoes, 150 quarts of peaches, 30 quarts of apple pie filling, 50 quarts of salsa, 25 quarts of tomatillo salsa, 20 quarts of beets, 15 quarts of okra, 30 quarts of corn. She said she does not have animal rights, but would love it if she did. She said her neighbors do have animal rights and she loves the farm feeling that 1/2 acre and animal rights provides.

John Beirer: Mr. Beirer agrees with comments made and he is against the zone change. He said some may feel they are doing something wrong to the poor by not approving this, but they are not. There are many protected classes, but there is not a protected class for financial purposes. He does not agree with grouping low income in one cluster. He believes everyone deserves housing, but not everyone deserves a house unless they can afford to pay for it.

Mike Hankins: Mr. Hankins said he is against the zone change because he loves the rural setting.

MOTION: Council Member Cronin moved to close the public hearing and reopen the regular meeting. Council Member Malan seconded the motion.

ROLL CALL: Council Member Peterson, Yes
Council Member Cronin, Yes
Motion Approved. 4 Yes, 0 No.

Council Member Malan, Yes
Council Member Walker, Yes

C. PUBLIC COMMENTS

Mayor Nelson opened the meeting for public comments.

No comments.

Mayor Nelson closed the public comments.

ITEM 4: LAND USE ISSUES

A. DISCUSSION REGARDING THE DECEMBER 2, 2010 PLANNING COMMISSION MEETING

Council Member Peterson said the two public hearing items were discussed and made on the zone change to 1/2 acre on the Boyd White property. The recommendation was not to make the change. The Commission wanted more information on the Billings property before they make a recommendation. Council Member Peterson recommended not acting on this item until we get the recommendation from the Planning Commission. Council Member Cronin wanted to thank Commissioner Hinkley for his service on the Planning Commission; she heard he was going to resign. Mayor Nelson stated he wanted to recognize him at the next Council Meeting.

B. ORDINANCE 10-X A GENERAL PLAN MAP AND ZONING MAP AMENDMENT, INITIATED BY PERRY CITY, TO REVERT BACK FROM 1/3 ACRE (NO ANIMAL RIGHTS) ON BOTH MAPS TO RE1/2 (HALF ACRE, WITH ANIMAL RIGHTS) ON BOTH MAPS, REGARDING THE “BILLINGS PROPERTY” LOCATED NORTH OF 3000 SOUTH AND WEST OF HIGHWAY 89 (PARCEL NUMBERS 02-029-0016, 02-029-0063/02-029-0105 AND 02-029-0076)

MOTION: Council Member Peterson made a motion to table any action on Ordinance 10-X until the Planning Commission makes a recommendation. Council Member Cronin seconded the motion.

ROLL CALL: Council Member Peterson, Yes
Council Member Cronin, Yes
Council Member Malan, Yes
Council Member Walker, Yes
Motion Approved. 4 Yes, 0 No.

C. ORDINANCE 10-Y AN APPLICATION FOR A ZONE CHANGE FROM RE1/2 (HALF ACRE ZONING, WITH ANIMAL RIGHTS) TO R1 (1/4 ACRE ZONING, NO ANIMAL RIGHTS) FOR A 10.775 ACRE PARCEL AT APPROX. 2700 SOUTH AND 1200 WEST (NOT INCLUDING EXISTING HOUSE ON CORNER), NEAR THE SOUTHEAST CORNER OF THE INTERSECTION (PARCEL 02-028-0121), INCLUDING A DEVELOPMENT AGREEMENT BETWEEN PERRY CITY AND NNHC

Mayor Nelson said if anyone believes that the City is considering this for a revenue source they are wrong, it is not a revenue source. He said it provides some one-time monies, but the average home only pays for 80% of the services it uses. He said it would help pay for the sewer, but only their specific connection. Mayor Nelson said impact fees can only be spent on specific things and every dollar that was

collected for water and sewer has been put toward water and sewer. He said the only question he can see that needs to be addressed is does the City want to remove or keep animal rights in the area. He stated he believes the animal rights should be left in place. Council Member Cronin said what she looks at when considering a zone change is if it is a benefit to the city. She said the small park has been offered, but a 1/4-acre park does not fit within the Master Plan. The next thing she said she looks at is the General Plan and it lists the area staying 1/2 acre with animal rights. She said the third issue to review is if there is an overwhelming desire by the community for the zone change. She said she does not see that the community has this desire. She said the Planning Commission has recommended twice to deny the rezone and the City needs to take all of this information into consideration. Council Member Cronin said she has read the letters from Nibley City and Smithfield, she also called them; she said they have nothing but praise for Neighborhood Nonprofit Housing Corporation. She said she felt there was already many 1/4 acre lots open in the City and would welcome the organization in an area currently zoned for 1/4 acre. Council Member Walker agrees with the development, but there are many residents here who do not. He asked Kim Datweiler where the money is coming from for the loans. She answered the USDA. Council Member Walker disagreed that this is low income stating if this is low income then the VA and FHA is also low income. He said he does not believe this. He stated he does believe in animal rights and supports preserving the animal rights. He said he would like to see a development by Neighborhood Nonprofit in the city, he does not know if this is the right location. Council Member Malan stated the benefit he sees in the community is the families that will in the homes. He said he has researched the development he has went to Corrine and other developments and the areas he has seen and people he has spoke with state it is a great program and they have built a greater sense of community in their neighborhoods. He said his fear is that this development will cause more conflict in this area. He said he would like to see a development by this group in the community and if there was space behind his home he would gladly allow the development and be in favor of it. Council Member Malan said every home depreciates. He said there was comment that you have built your custom homes, well these homes will be their custom homes. He said it saddens him to deprive anyone this opportunity if they are willing to work for it. Council Member Peterson said his feeling is that this is a proposed zone change and nothing to do with the development that is planned. He said what is being looked at is whether or not to change from 1/2 acre with animal rights to 1/4 acre with no animal rights. He said Perry is still a rural community and he would like to see it stay this way. He said he supports animal rights and wants to preserve them as part of the community

MOTION: Council Member Peterson moved to deny the zone change from 1/2 acre to 1/4 acre. Council Member Cronin seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, No
 Council Member Cronin, Yes Council Member Walker, No
 Mayor Nelson, Yes
Motion Approved. 3 Yes, 2 No.

ITEM 5: FINANCIAL, PUBLIC UTILITIES AND TECHNOLOGY ISSUES
A. APPROVAL OF WARRANTS

Council Member Cronin questioned if we are still holding Sunrise Engineering bills. Council Member Walker stated all Sunrise Engineering bills should be held until all issues have been settled. Council Member Cronin question what issues. Mayor Nelson said some legal issues. Mayor Nelson questioned if these monthly bills from Sunrise were within the contract amounts or if they are additional and if so is the

State going to reimburse the City for the expense. Duncan Murray said the bills are within the contract amounts and reviewed by both Shanna Johnson and the State. Duncan Murray said the City could require that a line item break down be given to the Council prior to any funds being released.

MOTION: Council Member Walker made a motion to approve the warrants with exception to the Sunrise Engineering bills from September, October and November, until they provide a line item break down of the costs. Council Member Malan seconded the motion.

Council Member Malan questioned because the warrants are limited to bills \$2000 and over has there been any payments made to Sunrise under the \$2000 threshold. Duncan Murray said that all Sunrise Engineering bills have been presented to the Council. Council Member Cronin questioned if the Spindler bill includes retainage. Duncan Murray said no.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

Mayor Nelson asked the Council if they have any question on the financial report that was included in the packet. Duncan Murray said sales tax numbers look better at only 8% lower than the year before for the month of November. Council Member Cronin requested some detailed information on sales tax revenues from Maverik and whether or not it is taking away from the other gas stations. Mayor Nelson said Utah State University is planning to expand in Brigham City and will bring more businesses to our area and more living facilities.

At approximately 8:40pm Mayor Nelson requested a 3-4 minute recess in order to speak to the Wastewater Treatment Plant Board Chair.

MOTION: Council Member Cronin made a motion to take a 5-minute recess. Council Member Malan seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

Approx. 8:45pm.

Mayor Nelson reopened the meeting.

**B. REPORTS AND/OR ACTION REGARDING THE WASTEWATER FACILITY,
INCLUDING POTENTIAL RELEASE OF RETAINAGE TO SPINDLER CONSTRUCTION**

Approx. 9:21pm.

Duncan Murray explained there is a letter of substantial completion that the Council will need to authorize Jeff Hollingsworth to sign for work done by Spindler Construction is in the packet. Mayor Nelson said there is a final list of items to be completed before full retainage is released. Duncan said the list is in the packet. He said \$236,000 is left in retainage, Sunrise Engineering identified \$80,000 in work remaining and Jeff Hollingsworth has identified some additional work that needs to be done on the digester. Duncan recommended holding 150% of any amount needed to complete work at the plant. Tyson Knudsen (Sunrise Engineering) reviewed the items left to complete, advised they took a worst-case approach when estimating the cost to complete the work. Tyson expressed concern with a sub-contractor Kraykar and whether or not there was a lien release, Spindler states there is not any issue, but Tyson

recommended holding some funds just in case there is a problem. Tyson explained that when a pump was pulled from the digester they found some ground water, he said they believe that this is ground water, but there is the possibility that they could be leaking. Tyson said these are warranty items. He said because of this issue some circuit boards got wet. Mayor Nelson question how long do we have before the warranty does not take care of this, he said if the amount of retainage held is not impacting the contractor, they may never do the work and he wants to ensure that this is corrected. Scott Archibald said there is not a timeframe set on the work, but they could ask for a timeline. Scott said the contractor is asking for a portion of the retainage to be released and he feels they have earned that, due to 98% of the plant being operational. Mayor Nelson requested target dates for each uncompleted line item. Steve Pettingill said there is a leak; water is coming in at ½ gallon a minute, he said the water covered some two valves next to the vault and some conduit. He said damage is currently being evaluated. Tyson recommended holding an additional \$10,000 to cover any damages.

MOTION: Council Member Cronin made a motion to release 61% of \$140,000 in retainage to Spindler Construction and retain approximately \$96,000 to cover unfinished work. Council Member Walker seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes
Motion Approved. 4 Yes, 0 No.

MOTION: Council Member Walker made a motion authorizing Jeff Hollingsworth to sign a community acceptance letter for work done by Spindler Construction to be sent to the Division of Water Quality. Council Member Malan seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes
Motion Approved. 4 Yes, 0 No.

Duncan Murray advised there is one other issue regarding Sunrise Engineering’s proposed amendment to their contract. Mayor Nelson said during a meeting with the Water Quality Board, the board requested Sunrise Engineering complete some additional work for phosphorus removal. The Mayor explained the Division of Water Quality agreed to reimburse the City for these costs. He recommended the Council approve these contract amendments as long as they meet the requirements for payment from the State to Sunrise Engineering. Scott Archibald said the contract must be initiated by the City then approved by the State before the work will be completed.

MOTION: Council Member Walker made a motion to approve the scope and compensation of the Sunrise Engineering contract amendment as long as it meets the criteria needed in order to be paid by the Utah State Division of Water Quality Board, through Perry City to Sunrise Engineering. Council Member Cronin seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes
Motion Approved. 4 Yes, 0 No.

Tyson Knudsen delivered to the Council, Operation and Maintenance (O&M) manuals and submittal binders, which includes all testing data for contracted work on the plant. He said there are 7 sets of submittal binders. Tyson said there is information that can be found in the submittal binders that you may not find in the O&M manuals. He said the plant operator will use this information and has his own set of binders. Tyson also provided a disc with pdf files of all of the information in the binders and CAD

drawings of the plant. He said as part of the Sunrise Engineering contract they were required to provide a citywide photo in 2-foot contours and ½ foot pixel resolution. Tyson said this data was taken and put into plantometrics; this is when they draw in the detail such as curb and gutter, buildings etc. and create a view of what the city looks like from above. He explained this is very helpful when working on engineering in the city. Tyson said in January they will have more deliverables including the Wastewater Treatment Plant As-builds and GIS exhibit boards with maps of the plant and the surrounding sewer system. He said this will not include the Johansen line work until the work is complete. Mayor Nelson advised the Division of Water Quality contacted him; they are putting together a steering committee to study the spur and have asked that he provide a city representative to be on the committee. He said he will need to meet with Steve Pettingill and the Engineers to discuss who the representative should be.

ITEM 6: PUBLIC SAFETY ISSUES

A. RESOLUTION 10-20 TO AMEND PMC CHAPTER 99.43 (PHYSICAL FITNESS TESTING FOR POLICE OFFICERS)

Approx. 8:47pm.

Chief Mike Jones advised there is a current policy in place for physical fitness. When implemented it was mirrored from Ogden City. He said Perry City is not as large as Ogden City and the policy is creating an issue, because if an officer does not pass the testing after so many attempts they are listed as not fit for duty and should not work. Because of our size they would need to work and it opens a lot doors for legal issues. Chief Jones said he wants to amend the policy to give the officer a year to work toward passing the test. The officer can exercise during duty as long as calls allow in an attempt to achieve this. If they do not pass the physical fitness testing the first time they are given 3 additional months to pass. If they do not pass they second test they will loose the benefit of being able to exercise on duty and from that point forward they can retest, but they have to on their own time. Council Member Cronin asked when the policy was first implemented. Chief Jones said 1 year ago. Council Member Walker said he likes the suggested amendments. Council Member Cronin said we are reducing the requirements and questioned if we need the officers to be in shape, why are making this more lenient. Chief Jones said because the currently policy would require us to remove the officer from the street if they do not pass and then we will not be able to service the City. Chief Jones said we are not reducing the requirement and there is still mandatory participation, this just places more responsibility back on the employee. He also stated that progress will need to be shown. He said he does not feel that the standard is being reduced. Council Member Peterson questioned what the incentive is for them to achieve the fitness goal. Chief Jones said the results will be reflected upon their yearly performance evaluation and would affect pay increases. Duncan Murray also advised this would be prerequisite to any promotional opportunities. Mayor Nelson questioned how many employees have passed. Chief Jones said only 2 officers have passed. He said the police force is short handed at this time due to one being on FMLA and another being injured. He said that the policy needs to be redefined to encourage positive results without creating staffing issues for the department. Council Member Peterson said the way the current policy is written if the officer does not pass the city could become liable if they are allowed to continue in their duties. Chief Jones said yes. Council Member Peterson questioned if Duncan Murray has reviewed the policy. Duncan said Shanna Johnson has reviewed the policy. Duncan Murray said a separate policy will be up for review in the future on fitness for duty standards. Council Member Cronin said she is concerned with allowing a year long process and the potential of having officers from other department coming here without being physically fit. Chief Jones said all new hires have to pass the test prior to being hired and then will be

tested annually. Mayor Nelson said if they do not pass then they get three more months to pass, he questioned what happens next. Chief Jones said then they lose the benefit of exercising and testing on duty. He said if the problem is continuous then it will be reflected on their reviews and if the problem remains over a few years they can face write ups and termination. Duncan said in the future a separate policy will be up for approval on Fitness for Duty.

MOTION: Council Member Malan made a motion to approve Resolution 10-20 to amend PMC Chapter 99.43 Physical Fitness Testing for Police Officers. Council Member Walker seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

B. MOTION TO ADOPT A PROCLAMATION PROMOTING A CHILD-SAFE COMMUNITY STANDARD

Mayor Nelson reviewed the proclamation advising it states that the city is a protected place for children and promotes a child-safe community. It is against any public display of inappropriate or sexual content. Duncan Murray said many of the current City ordinances already support the proclamation. Council Member Peterson said it is pretty vague. Council Member Cronin said some cities ask businesses to cover questionable magazines. Duncan Murray advised many City ordinances cover the various standards the proclamation details, including the recently passed Spice ordinance.

MOTION: Council Member Cronin made a motion to adopt a Proclamation Promoting a Child-Safe Community Standard. Council Member Walker seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

ITEM 7: PERSONNEL ISSUE

A. APPROVE PAY RATES FOR TEMPORARY/SEASONAL PART-TIME EMPLOYEES (SNOW REMOVAL)

MOTION: Council Member Cronin made a motion to approve the pay rate of \$10.50 per hour for temporary/seasonal part-time snow removal employees. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

B. APPROVE PAY RATE FOR TEMPORARY PART-TIME POLICE OFFICER(S)

MOTION: Council Member Cronin made a motion to approve the pay rate of \$14.64 per hour for temporary part-time police officers. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

ITEM 8: TRAINING

A. TRAINING REGARDING PARLIAMENTARY PROCEDURE

None.

ITEM 9: APPROVAL OF MINUTES, CITY COUNCIL & MAYOR REPORTS

A. APPROVAL OF MINUTES FOR:

- 2. NOVEMBER 18, 2010 WORK SESSION
- 3. NOVEMBER 18, 2010 REGULAR MEETING MINUTES

Approx. 9:57pm.

Council Member Walker said the minutes reflect in the motion to release retainage for Johansen Construction that the State must hold the city harmless for any issues that occur outside of the warranty period as a result of them holding up the start up of the plant. He said he feels we are holding the contractor responsible for this and recommended a new motion be passed to release retainage with no stipulation on warranty period. Duncan Murray said the motion could be reconsidered after the minutes have been reviewed and approved. Council Member Cronin recommended an amendment to page 4, item C. She said during the discussion she had made comment and would like it included in the minutes that on infill lots there would need to be an R included on the plat and you could not have two infill lots adjacent to each other. Council Member Cronin said Page 5, line item 6 reads 'Council Member questioned why this would be a city expense' and stated the minutes do not list the name. She said she was the Council Member to make this comment and recommended this be changed to Council Member Cronin. Council Member Cronin recommended the word they on Page, 7 line item 38 be changed to the.

MOTION: Council Member Cronin made a motion to accept the November 18, 2010 Work Session and Regular City Council meeting minutes as amended. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Abstain
 Council Member Cronin, Abstain Council Member Walker, Yes

Motion Failed. 2 Yes, 2 Abstain.

MOTION: Council Member Cronin made a motion to accept the November 18, 2010 Regular City Council meeting minutes as amended. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Abstain
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 3 Yes, 1 Abstain.

MOTION: Council Member Malan made a motion to accept the November 18, 2010 Work Session minutes. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Abstain Council Member Walker, Yes

Motion Approved. 3 Yes, 1 Abstain.

B. BOYD MALAN: None.

C. MARCI SATTERTHWAITE: Absent.

D. KAREN CRONIN: Council Member Cronin reported that the Youth City Council helped with the Shop with a Cop service project and it went very well.

E. BILL WALKER: Council Member Walker said the State has agreed to put in some lights from 3000 South to Hargis Hill Road to help with the deer problem, the only issue is the City would need to be willing to pay for the power to run the lights and questioned if the Council is in support of this. Council Member Cronin questioned what this cost would be. Mayor Nelson said it would cost

approximately \$300.00 more a month. Council Member Cronin said there are lights by Walker Cinema and there is still deer being hit. Council Member Peterson was not sure that the lights would help. Mayor Nelson requested this be listed as an agenda item at the next meeting.

F. TOM PETERSON: None.

G. MAYOR NELSON: None.

H. ITEMS FOR NEXT CITY NEWSLETTER:

- No items suggested.

I. SELECT DATE/TIME FOR A “MINI RETREAT” FOR WORK ON THE BUDGET

Duncan Murray said this has been set for January 15, 2011 and seemed to meet everyone’s schedule. Council Member Cronin stated this falls on a three-day weekend and she was concerned with this. Mayor Nelson, Council Member Peterson and Council Member Walker said they could still make that date. Council Member Cronin said she may not be able to attend.

Approx. 10:08pm.

MOTION: Council Member Walker made a motion to reconsider the motion to allow the Mayor to sign a substantial completion letter for work completed by Johansen Construction striking reference to the warranty period. Council Member Malan seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

**ITEM 10: UPCOMING MEETINGS AND ADJOURNMENT (THURSDAY, JANUARY 13, 2011
7:00 PM, FOR THE NEXT REGULAR CITY COUNCIL MEETING)**

A. MOTION TO ADJOURN

MOTION: Council Member Cronin made a motion to adjourn. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Walker, Yes

Motion Approved. 4 Yes, 0 No.

The meeting adjourned at 10:12 PM.

Susan Obrey, City Recorder

Jerry Nelson, Mayor

Shanna Johnson, Chief Deputy Recorder