

PERRY CITY COUNCIL MEETING
PERRY CITY OFFICES
SEPTEMBER 9, 2010

7:00 PM

OFFICIALS PRESENT: Mayor Jerry Nelson presided and conducted the meeting.
Tom Peterson, Boyd Malan, Karen Cronin, Bill Walker, Marci Satterthwaite (arrived at approximately 7:04 PM)

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

OTHERS PRESENT: John E. Bierer, Mike Hankins, Lani Braithwaite, Carol Pickett, Kassi Capener, Randy Capener, Ardell Jenks, Levi Jenks, Brandon Hansen, Carol Billings, Gaylin Jenks, Jon Forsberg, Amy Forsberg, Karen Rustan, Dave Schuster, Douglas Evans, Brandon Nelson, Marissa Nelson, Rob Murray, David Roberts, Heiki Hunsaker, Randall Hunsaker, Jerry Nelson, Vicki Nelson, Opal Jenks, Morani Jenks, Jerry Capener, Kendall Reeder, Ed Tugaw, Kim Datwyler (Neighborhood Non-Profit), Carol Quayle, Reese Quayle, Kurt Quayle, Harlan Brewer, Steve Pettingill, Tyson Knudsen (Sunrise Engineering), Brian Nelson, Van Mund, John Rackham, Mitch Hancock, Shirlene Peck

ITEM 1: CALL TO ORDER

Mayor Nelson called the meeting to order.

A. INVOCATION

Mayor Nelson offered the invocation.

B. PLEDGE OF ALLEGIANCE

Council Member Peterson led the audience in the Pledge of Allegiance.

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

A. CONFLICT OF INTEREST DECLARATION

No conflicts of interest.

B. APPROVAL OF MINUTES FOR:

1. AUGUST 26, 2010 RDA MEETING

Council Member Cronin reported there was one Board Member listed as Council Member and she requested this be changed to Board Member. She said she called and gave a few grammatical changes to Shanna Johnson earlier.

2. AUGUST 26, 2010 REGULAR CITY COUNCIL MEETING MINUTES:

Council Member Malan said the minutes for the field trip make reference that the council met with Kim Datwyler, but they did not meet with Kim they met with Karen Rushton, he requested this be changed.

Council Member Malan requested the cost of park lights in the council reports be changed from \$450.00 to \$750.00.

Council Member Cronin requested the minutes be amended to reflect the following statement made in the meeting: "Council Member Cronin stated for the record she thought the costs should be given to the residents and the public should be able to vote on whether or not fluoride should be added to the water."

MOTION: Council Member Cronin moved to approve the minutes for the August 26, 2010 RDA meeting and the August 26, 2010 City Council meeting as amended. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

C. NEW BUSINESS LICENSE(S)

None.

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

Susan Obray passed out the warrants.

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

Mayor Nelson stated there is no new board or committee members at this time to appoint and encouraged the public to volunteer. He said they are in need of help on the Planning Commission. Mayor Nelson advised there is a Brigham City/Perry City Joint Advisory Board, which works on issues that affect the border of Brigham and Perry (1100 South). He said the board members are usually made up of 3 people from the Planning Commission; the three commissioners who have volunteered to serve on the Joint Advisory Board at this time are Commissioner Martin Hinkley, Commissioner Dave Curtis, and Commissioner Dave Walker. Mayor Nelson requested the Council make a motion to approve and support their commissioners in this extra assignment.

MOTION: Council Member Cronin made a motion to support and approve Martin Hinkley, Dave Curtis and Dave Walker to serve on the 1100 South Joint Advisory Board and to express the City Council's appreciation for their service on the board. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

ITEM 3: PUBLIC COMMENTS

A. PUBLIC COMMENTS

Mayor Nelson expressed his appreciation to the residents in attendance. He said he wanted to address a few comments that he was made aware of. One comment was that the City Council was trying to approve the zone change (Item 4B) under the radar. Mayor Nelson said he wanted the public to know that if that was the case, the Council would have approved this last meeting. He advised the item was tabled so that

everyone had a chance to give comment on the issue. Mayor Nelson said the second misconception he wanted to address was that Planning Commission votes on land use issues. He explained the Planning Commission is an appointed group and they do not have voting rights on policy, they can only represent land use ordinances and make recommendations to the Council. Mayor Nelson stated whether or not the land use application is recommended for approval by the Planning Commission, the petitioners by law have the right to address and have their application reviewed by the City Council. He said this does not mean they will overturn the Planning Commission's recommendation or that they won't overturn this. It means the process outlined by the law must be followed. Mayor Nelson advised the only issue being voted on tonight, in reference to agenda item 4B, is whether or not to change the zone. He said the Council can approve this, decline it or send it back to the Planning Commission. Duncan Murray advised if there is a legal technicality, this would have to go back to the Planning Commission and stated in his legal opinion there is. Duncan said when public notice was sent out for the public hearing the landowner was missed. He said the landowner can waive his right to notice, but the landowner feels it is best to send this back through the correct process; because of this the land use application will need to be sent back to the Planning Commission and another public hearing will need to take place. Mayor Nelson agreed with Duncan's recommendation. Council Member Peterson recommended those in attendance to make comments on the zone change wait for the next public hearing on this issue. He stated this will be sent back to the Planning Commission, a public hearing will take place and this is where comments from the public on this issue will have the most impact. Council Member Malan said there is a public comment session at every meeting and the public can make comments during any of these sessions. Council Member Cronin agreed with Council Member Malan and stated she did not want to discourage anyone from making comment.

Mayor Nelson opened the meeting for public comment.

Harlan Brewer read a letter his wife Deanna Brewer wrote (see attached). The letter stated the Planning Commission minutes show Mrs. Brewer as not opposed to the zone change. She said she was only in favor of the property owner's rights as long as it did not adversely affect the city. She has since read comments made by her neighbors and since reading these comments she is opposed to the zone change.

Brandon Hansen gave a letter to the council (see attached) and read portions of the letter to the attendees. He expressed his opposition to the zone change, stating he bought his home with the understanding that he was buying a home in an area zoned ½ acre with animal rights and would not be a part of a high density neighborhood. He said 45 days later he received notice of the application for the zone change. Mr. Hansen said he chose to purchase his home due to low density and animal rights and does not want to be forced out of these rights in the future. He said high density does strain on city resources. He advised the zone change will reduce the value of the surrounding properties, stating all surrounding lots are 1/3 acre or bigger.

Dave Roberts said he served on the Planning Commission and quit because he got frustrated. He said the frustration came from people coming with limited foresight and not understanding the work that is involved in planning a city. He said it was also frustrating when a decision was made and sent to the Council, then overturned due to what they personally thought was best. He said when he makes a recommendation he wants to know that it holds some weight. Mr. Robert's stated he has heard indirectly that the Council thinks the only reason people show up to comment is because it is in their back yards. He said that is true, and that is how it should be because they will be most impacted by the decision. He said less than 5% of Perry City is zoned for RE½ acre (½ acre with animal rights) and questioned why, if this is the only area in Perry with this zoning, the City would want to change this. He said a zone change

should only be considered if there is a significant benefit to the city. He said the decisions made effect not only today, but also the future and that is the reason for the master plan. He said if the zone is approved, the Council no longer will have control of what is built there.

Robert Murray expressed his opposition for a zone change. He said a zone should only be changed if there is a benefit to the citizens of Perry. He said the following benefits have been brought up and gave the below reasons why these are not adequate:

- Perry City will get a ¼ acre park: He said this is not a benefit, but a liability because this will need to be maintained by the city.
- Perry City will get permit fees: He stated these are one-time fees and it takes four homes in property taxes to pay for three. He said we need businesses to support our growth.
- Additional people can afford homes in the area: He said we already have this. There are already homes and lots in the area being sold at low cost.

Mr. Murray said this development will raise costs and will result in a property tax increase. He said it will keep more properties on the market and will reduce fair market value in the area. He reported that Neighborhood Non-Profit built North 40 subdivision in Brigham City; there was 34 homes built and 7 homes are in foreclosure. He said this was not mentioned by the organization.

Carol Billings said she agrees with everything that has been said and she is opposed to the zone change ¼ acres.

Jerry Nelson said he is opposed to the zone change to ¼ acre.

John Bierer said he emailed a letter to council in reference to his opposition to the zone change. He stated the community has been accused of discrimination against low-income housing and that is not true. There are several opportunities for low-income families in Perry. He said that because this is government subsidized they will line item the impact fees and come back with fees that do not apply to them. There will not be a lot of money made off of the development. He said another issue he wanted to address was impact fees; they need to be reviewed because they are too high. He said Brigham City charges \$7,001 for impact fees and Perry City is charging \$17,000. He said that is the reason there is no building taking place in the City. He said he is opposed to the zone change due to density.

Randy Hunsaker said he agrees with the comments that have been made. He said as he has read the City's mission statement and he does not feel this zone change builds upon the rich heritage of the community.

Carol Quayle said she is opposed to rezoning the area to ¼ acre.

Kim Datwyler of Neighborhood Non-Profit said some outright lies have been given tonight. She encouraged the residents who have questions about the organization to contact them instead of getting information through gossip. She stated that no water shares have been sold to family members and they are still owned by Neighborhood Non-Profit. She advised that Neighborhood Non-Profit did not build the North 40 subdivision, they bought lots from the developer and none of the homes built by Neighborhood Non-Profit in the subdivision have had foreclosures. Mrs. Datwyler said they are not a government agency, but a non-profit agency and they would not be petitioning the city to waive any of the impact fees. She said they have families who have tried to own homes in Perry, but cannot afford it and have come to their organization requesting a development in the city. She said they have access to no interest loans that help them to afford the homes, along with the sweat equity that the families provide. She said her organization is more than willing to sign a development agreement requiring them to build to certain specifications in the area. She said the values will not decrease in the area because the appraisals are comparable to surrounding homes; the affordability comes from the interest savings.

ITEM 4: LAND USE ISSUES

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

No comments.

B. ORDINANCE 10-O REGARDING A ZONE CHANGE (ZONING MAP AMENDMENT) TO 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 1200 WEST (NOT INCLUDING EXISTING HOUSE ON CORNER), NEAR THE INTERSECTION (PARCEL NUMBER 02-028-0121)

Council Member Malan said one reason this item was table is to get more information and the Council is honestly looking at what is best for the city.

MOTION: Council Member Peterson made a motion to send Ordinance 10-O Regarding a Zone Change from RE1/2 to R1 back to the Planning Commission due to the land owner not receiving proper notice of the public hearing. Council Member Walker seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

C. MOTION TO WAIVE 2 WEEK WAITING PERIOD TO ACT ON ITEM 4D & 4E (INCLUDES RECOMMENDATION FROM THE PLANNING COMMISSION DATED SEPTEMBER 2nd)

MOTION: Council Member Cronin made a motion to waive the 2 week waiting period to take action on Item 4D & 4E as recommended from Planning Commission on September 2nd. Council Member Malan seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

D. ORDINANCE 10-N REGARDING FLOOD DAMAGE PREVENTION

Duncan Murray said this has been reviewed in the last few meetings. He said the ordinance was reviewed by the Planning Commission, they did not make any changes and recommended passing the ordinance at this time so continued flood protection is maintained. He said they are considering adding a 3-line provision to limit development in the Flood-A zones. If they choose to do this the ordinance can be amended later. Council Member Cronin said the ordinance calls out for an administrator and asked if this is a new position. Duncan explained this is the City Planner and since the city currently does not have a Planner, he would act as the administrator. Mayor Nelson asked if once the Flood Control Board was in place, could this position be shifted to the board. Duncan said yes.

MOTION: Council Member Cronin made a motion to approve Ordinance 10-N Regarding Flood Damage Prevention. 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. 5 Yes, 0 No.

Council Member Satterthwaite, Yes

E. MOTION TO APPROVE A SUBDIVISION APPLICATION BY KASSIE CAPENER FOR CAPENER SUBDIVISION, A 1-LOT SUBDIVISION FOR A NEW SINGLE FAMILY DWELLING WITH A REMAINDER PARCEL SUBDIVISION LOCATED ON NORTH SIDE OF 2000 SOUTH STREET AT APPROXIMATELY 100 WEST IN PERRY

Randy Capener addressed the Council. He said they have been working with Perry City staff and the Planning Commission and have obtained preliminary approval for the subdivision. He said they hope to gain approval from the Council so they begin building their home.

Mayor Nelson asked if this land was part of the 2000 South road project that was just completed. Duncan Murray said it is east of this, but does dedicate an additional portion of the street to the City. Duncan advised there is a deferral agreement that states that further improvements will not be placed in the area until further development takes place. Mayor Nelson questioned how big the area is between the completed street improvements and where they are planning to build. Council Member Malan said it appears to be 300 feet and questioned if the Capeners plan to use the existing access. Randy Capener said yes.

MOTION: Council Member Cronin made a motion to approve the Capener Subdivision, 1-lot for a new single family dwelling, with 1 remainder parcel. Council Member Satterthwaite seconded the motion.

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

Motion Approved. 5 Yes, 0 No.

F. DEVELOPMENT AGREEMENT FOR THE 1200 SOUTH STREET PROJECT (BETWEEN COMMERCE WAY AND 450 WEST STREET)

Duncan Murray advised this is a four party agreement with Brigham City, Perry City, Shirlene Peck (with Lancer B L.C. & Lancer C. L.L.C.) and Byron Hansen (with Mountain View Land). The reason for the development agreement is to help administer the escrow between the two cities. The agreement spells out what portions of the escrow each developer is responsible for. Duncan explained that Brigham City is listed as the lead agency and responsible for administering the escrow, but requires the building officials of both cities to release the escrow. He said Brigham City has reviewed and have made their changes, Shirlene Peck has reviewed approved the agreement, and they are awaiting Byron Hansen's agreement on the final document. Council Member Cronin asked if Byron Hansen has been a part of the drafting of the agreement. Duncan said yes. Shirlene Peck advised this project will take the road the entire way from 1200 South to 450 West.

MOTION: Council Member Peterson moved to approve the Development Agreement for the 1200 South Project giving the Mayor the authorization to approve of any minor changes to the document. Council Member Walker seconded the motion.

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

Motion Approved. 5 Yes, 0 No.

ITEM 5: FINANCIAL, PUBLIC UTILITIES AND TECHNOLOGY ISSUES

A. APPROVAL OF WARRANTS

Council Member Peterson questioned the new copier and whether or not a lease was considered. Council Member Walker said they did look at this and did send this out to bid.

MOTION: Council Member Malan made a motion to approve the warrants as presented. Council Member Walker seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

B. REPORTS AND/OR CHANGE ORDERS REGARDING THE WASTEWATER FACILITY

Duncan Murray advised Sunrise Engineering is requesting a release of all claims on the Clarifiers at the Wastewater Treatment Facility. He said he was advised by Willard City that they are not going to approve the release of claims. Duncan said this is in reference to cracks in the Clarifiers; they had to re-grout them and place water to help them cure. He said there has not been an independent inspector review on the work at this time and he would not recommend approving the release of claims. Steve Pettingill, Wastewater Treatment Facility Board Chairman, said Tyson had reported to Willard City that this is not a release of claims, but a release of funds from the insurance company to pay for this. Mayor Nelson said the document needs to be corrected to state this. Steve said Willard City also had these concerns and sent this back to Sunrise Engineering to reword and correct the document.

MOTION: Council Member Cronin made a motion to decline the change order regarding the release of claims and request Sunrise Engineering come back with a reworded document. Council Member Satterthwaite seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

C. OPTION REGARDING PROPOSED NEW PERRY FLOOD CONTROL BOARD

Duncan Murray presented a timeline of action taken by the County over the last ten years and advised the County is working on a new Resolution with the intention of giving Perry City control over the flood district to be administered by a Flood Control Board. He explained the Resolution will not be up for action by the Council, but the County Commission has given it to the City Council to make recommendations. Duncan said the Council has some options for this board, such as the number of members and whether or not these members are appointed or elected. He said the County has made it clear that they do not require a County representative sit on the board.

ITEM 6: PUBLIC SAFETY ISSUES

A. REPORT FROM FIRST RESPONDERS

First Responder Chief Van Mund reported 3 First Responder members are going through the EMT class in Brigham City, which starts this Thursday and will run through December 18th. He said they will be starting an Intermediate EMT class in Willard City in February. All Basic EMTs will be able to participate. Van said this will increase the treatments and medications they will be able to administer. He

stated the next step is to bring the Perry City First Responders to an intermediate quick response status; the group is currently operating under the Ambulance and County EMS. He said once the designation is given a boundary adjustment will be submitted to the State so the Perry First Responders will be able to join up with the Willard First Responders, at that time all equipment and supplies can be carried on the First Responder Truck. Van said they are currently taking a survey from the First Responders to get their input and how they feel about the changes. He said the current budget supports the department's current and future efforts. Council Member Walker asked how daytime coverage is going. Van said it is going good, they are partnering with the Willard First Responders to ensure coverage. Van reported that they have received the Life Pack equipment and will be putting it in use. Council Member Malan questioned who is qualified to use the equipment. Van said that all Basic EMTs can use this. He advised this equipment puts the First Responders in a position for a grant that they have applied for, and if awarded will provide a \$8,000 piece of equipment that can be attached to the Life Pack and can transmit patient information directly to the hospital so that quicker treatment can be administered.

B. CONSIDER CHANGING OCTOBER 14th MEETING TO TUESDAY, OCTOBER 12th AT 5:00 to 7:00 PM AT THE SOUTH OGDEN OFFICES FOR EMERGENCY MANAGEMENT TRAINING

Mayor Nelson advised the Council and Mayor must be trained in Emergency Incident Management and they have been invited by South Ogden City to take part in an Incident Management Training for administrative and elected officials. Council Member Peterson asked if there any agenda items that this will interfere with. Mayor Nelson said there is not. Council Member Peterson suggested seeing if everyone would be able to attend. Council Members Peterson, Cronin and Malan said they would be able to attend. Council Members Satterthwaite and Walker said they would have to see if they could make it. Duncan Murray advised there is some staff members will need to attend. Mayor Nelson asked how many staff members. Susan Obray said Shanna Johnson, Duncan Murray and Dale Weese would be attending.

MOTION: Council Member Cronin made a motion to change the regular October 14th meeting to Tuesday, October 12th at 5:00 to 7:00 PM for and ICS Training meeting sponsored by South Ogden. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

ITEM 7: PERSONNEL ISSUE

A. ORDINANCE 10-P REGARDING STATUTORY OFFICES

Mayor Nelson said the employment contract for the City Administrator was approved last meeting and this needs to be ratified in Ordinance 10-P.

MOTION: Council Member Peterson made a motion to approve Ordinance 10-P Regarding Statutory Offices. Council Member Walker seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

ITEM8: CITY COUNCIL & MAYOR REPORTS

A. BOYD MALAN: gave an update on the lighting at the parks. He said he previously got pricing on poles, he is now getting pricing on the second option, lighting and power in the bowery and lighting

on top of the bowery to light up problem areas. He reported that he walked the Maddox Lane for flood control purposes and all is well. Council Member Malan said he is continuing to work on bids for clearing out the control structure at Mathius Canyon.

- B. MARCI SATTERTHWAITE:** None.
- C. KAREN CRONIN:** reported the Perry City float will be in the Peach Days parade. She advised there is a Youth Council meeting scheduled for September 23rd.
- D. BILL WALKER:** expressed his appreciation for the First Responders. He said there will be delays at the sewer plant due to discharge permit issues with the State. He advised they are looking at the fleet vehicles and getting rid of those that the City is not using.
- E. TOM PETERSON:** reported good participation at the last Planning Commission meeting and said they are doing a good job. He responded to comments that were made during the public hearing stating the City Council has to make decision in the best interest of not only those who are closely affected, but for the entire community. He said he feels the Council does do a good job with following Planning Commission recommendations. He reported the Centennial Committee is doing well, a historical tour will take Place September 27-28 and he encouraged the City Council to attend.
- F. MAYOR NELSON:** said there are some legal issues being worked on in reference to the Wastewater Treatment Plant and stated he will get information to the public soon. He addressed comments made earlier stating the current council, more than any other council he has worked with, does a great job at making sure they follow the law and requested they continue in these efforts.
- G. ITEMS FOR NEXT CITY NEWSLETTER:**
 - Council Member Peterson suggested a picture of the float be placed in the next newsletter.

ITEM 9: UPCOMING MEETINGS AND ADJOURNMENT (SEPTEMBER 23, 2010 7:00 PM, FOR THE NEXT REGULAR CITY COUNCIL MEETING)

A. MOTION TO ADJOURN

MOTION: Council Member Cronin moved to dismiss. Council Member Peterson seconded the motion.

ROLL CALL: Council Member Peterson, Yes Council Member Malan, Yes
 Council Member Cronin, Yes Council Member Satterthwaite, Yes
 Council Member Walker, Yes
Motion Approved. 5 Yes, 0 No.

The meeting adjourned at 9:06 PM.

Susan Obray, City Recorder

Jerry Nelson, Mayor

Shanna Johnson, Chief Deputy Recorder