

PERRY CITY COUNCIL MEETING  
PERRY CITY OFFICES  
SEPTEMBER 23, 2010

7:00 PM

OFFICIALS PRESENT: Mayor Jerry Nelson presided and conducted the meeting.  
Tom Peterson, Boyd Malan, Karen Cronin (arrived at 7:18 PM), Bill Walker, Marci Satterthwaite

CITY STAFF PRESENT: Duncan Murray, City Administrator  
Shanna Johnson, Chief Deputy Recorder

OTHERS PRESENT: Mike Fife, Lani Braithwaite, Jerry Nelson, Stephanie Nelson, Jay Newman, Boyd Hirschi, Greg Hansen, Jim Mackley (Sentinel News), Bob Thurgood

**ITEM 1: CALL TO ORDER**

Mayor Nelson called the meeting to order.

**A. INVOCATION**

Council Member Walker offered the invocation.

**B. PLEDGE OF ALLEGIANCE**

Duncan Murray led the audience in 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)**

Shanna Johnson passed out the warrants.

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

**1. JERRALD NELSON FOR PLANNING COMMISSION**

Mayor Nelson announced his appointment of Jerrald Nelson as an alternate member of the Planning Commission.

**MOTION:** Council Member Malan made a motion to approve the appointment of Jerrald Nelson as an alternate member of the Planning Commission. Council Member Walker seconded the motion.

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

**Motion Approved.** 4 Yes, 0 No.

**ITEM 3: PUBLIC COMMENTS**

**A. PUBLIC COMMENTS**

Mayor Nelson opened the meeting for public comments.

**Lani Braithwaite:** Mrs. Braithwaite reported that the west end of 3450 South becomes a lake when irrigation takes place. She requested public works to look at the area and create a ditch or something to fix the drainage in the area.

**Jay Newman:** Mr. Newman expressed concern about the dip by the corner of Perry Park, he said cars fly over that and requested some speed control in the area. Duncan Murray advised that a solution to the dip is in the works. Mr. Newman also expressed concern about 2250 South, he said this area is too narrow and does not allow for two vehicles to pass at the same time. Duncan Murray stated Johansen Construction will be coming back soon finish up work on the interceptor line and then this area can be corrected. Mr. Newman suggested a “Narrow Road” sign.

**Mike Fife:** Mr. Fife advised no streetlights were put in the last phase of the Cherry Ridge subdivision and said it is dark and very hard to see. He said many women like to walk in the early morning and this could be dangerous, he requested some lights be installed. Mayor Nelson requested Duncan Murray put this on a list of things to talk to the developer about.

**ITEM 4: LAND USE ISSUES**

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

Duncan Murray announced there will be 4 public hearings at the October 7<sup>th</sup> Planning Commission Meeting. The below topics will be discussed:

- 1. Updating Moderate Income Housing Plan
- 2. Flood Damage Prevention Ordinance - whether or not development should be restricted in Zone-A areas (Cherry Ridge pit area, top of street by Geneva Rock, and Bird Refuge)
- 3. Amendment to Ordinance to allow Storage Units in a C-Commercial Zone.
- 4. Application for Zone Change at the White Property on 2700 South

Duncan said letters were sent out to affected residents within 300 feet of affected areas. He said the zone change public hearing will take place at 8:00 PM and those residents near the area were notified.

**B. ORDINANCE 10-Q REGARDING TO AMEND PMC TITLE 43 TO ESTABLISH THE PLANNING COMMISSION AS THE FINAL LAND USE AUTHORITY FOR CONDITIONAL USES AND THE CITY STAFF AS THE LAND USE AUTHORITY FOR DESIGN REVIEW NOT INVOLVING A SITE PLAN, ETC.**

Duncan Murray reviewed changes to the Ordinance as recommended by the Planning Commission. He said the first change would allow Design Reviews not involving site plans to be approved by City staff with no approval required by the Council. Duncan said if it does involve a site plan Council approval would still be required. He said the second change would allow the Police Department to approve of temporary barriers on streets, such as when a street is blocked for a block party. Duncan reviewed changes to the Conditional Uses, stating these require Planning Commission and Special Use Board approval. He said what the board is finding is that it does not make sense to run the applicants through two processes and recommended giving the Planning Commission final approval authority. He said the Special Use Board would then act as the appeals board for those opposed to the Planning Commission’s decision.

**MOTION:** Council Member Walker made a motion to adopt the Ordinance 10-Q to amend PMC Title 43 as recommended by the Planning Commission. 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. ORDINANCE 10-R REGARDING PUBLIC NOTICE AND PUBLIC HEARINGS**

Duncan Murray said the issue is there are some things that our City Ordinance requires a public hearing on, but State Law does not, or the City decides to hold a public hearing on an issue. This Ordinance identifies what the minimum required notice would be for those situations not identified in State Law. He stated the ordinance will require public notices be published in the Box Elder News Journal at least once, 8 days in advance; be place on the meeting agendas and posted in multiple locations; be mailed to residents within 300 feet, 10 days in advance. Duncan said these notices will also be posted on the State Public Meeting Notice website as well as on the City website.

**MOTION:** Council Member Peterson made a motion to approve Ordinance 10-R Regarding Public Notice and Public Hearings. 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.

**D. ORDINANCE 10-S REGARDING HEIGHT REQUIREMENTS FOR FENCES IN RESIDENTIAL ZONES**

Duncan Murray explained this ordinance came up because one requirement is that fences be no higher than 6 feet and another requirement states that fences around pools or other hazardous areas be a minimum of 6 feet. The Planning Commission questioned what if you have a swimming pool on the edge of your yard, how can a fence be less than and more than 6 feet. He said the Planning Commission felt the fence height should be changed to exactly 6 feet. Duncan said the time and standards for building these fences are also identified in the ordinance. He said a fence application for safety reasons must be granted. The second part of the ordinance states a taller fence may be allowed for a tennis courts to prevent intrusion to another property. Duncan advised the considerations that will be reviewed by the Planning Commission will be ensuring all laws and codes are followed, reviewing the opposition of adjacent neighbors, and reviewing whether or not the fence will stop the intrusion. Council Member Cronin questioned if adjacent landowners would be notified that the fence is being considered. Duncan said yes, it would require a public hearing.

**MOTION:** Council Member Cronin made a motion to approve Ordinance 10-S Regarding Height Requirements for Fences in Residential Zones as proposed by 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 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 Malan questioned the check to Utah Local Government Trust for Workers Compensation in the amount of \$63,000. Shanna Johnson advised the payment is for not only workers compensation, but also for liability insurance. She explained a full description was not placed on the warrants. Council Member Peterson questioned what the tools from Great Western Supply were for. Shanna advised the tools are for the Wastewater Treatment Plant.

**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**

Mayor Nelson advised the open house for the Wastewater Treatment Facility was yesterday and it was very successful. He said the employees from both cities were there, outside agencies toured the site, representatives from the State were there, and residents also had the opportunity to tour the plant.

**C. OPTIONS REGARDING PROPOSED NEW PERRY FLOOD CONTROL BOARD**

Duncan Murray gave a Power Point Presentation on Options Regarding the New Perry Flood Control Board (see attached).

Council Member Peterson asked if the board members are compensated and if the budget comes from the County. Duncan stated usually a small amount of compensation is given, but not required. He said there is a budget for Flood Control with the County that comes from Property Taxes. Duncan reported approximately \$70,000 in revenues are generated each year and the Perry Flood Control Board Budget currently has a positive fund balance of about \$200,000. Council Member Peterson suggested a work session to discuss the Flood Control Board, and then a recommendation be made. Mayor Nelson said he would like to see the control come back to Perry City, but there will be new members and he could see keeping the financial control with the County for now, moving it to Perry in the future. Council Member Malan said he would like the County to turn the reigns over to Perry so that projects can be completed, but still have a yearly budget review conducted by the County. Mayor Nelson and Council Member Malan both said they would like to see members be appointed. Council Member Cronin asked if a public hearing could take place to get comment on the proposed board members. Mayor Nelson said yes and requested a public hearing and a work session be set for October 28, 2010. He requested the Flood Control Committee be invited. He requested any information on the board including the presentation on the proposed board options be emailed to the Flood Control Committee. Mayor Nelson asked the Flood Control Committee members give their email addresses to Duncan so that information can be sent to them.

Council Member Malan requested the Flood Control Committee members in the audience stand. Bob Thurgood, Greg Hansen, Boyd Hirschi and Mike Fife introduced themselves. Council Member Malan said the 5<sup>th</sup> member is Maurice Roche.

#### **D. MONTHLY FINANCIAL AND BUDGET REPORT**

Shanna Johnson gave a Budget Update as of August 2010. She advised the figures being presented may change as year-end adjustments for Fiscal Year 2010 are made, explaining some revenues and expenditures in the report were from June services or funds and will be transferred to the previous fiscal year. She stated the current report shows 17% of the year has elapsed, the General Fund has received 11% of planned revenues, 18% of revenues have been received by the Utility Fund, 13% of revenues have been received by the Sewer Fund and current figures show 6.81% of non-operating revenues have been collected. She reported 22.2% of the General fund budget has been expended, explaining that First Responders show higher expenses than expected due to lifeline equipment being purchased. Shanna said the streets budget shows 67.9% spent due to the 2000 South project being complete. She advised Fire shows expenses of \$10,285.66 due to the \$10,000 fire contract fee paid to Brigham City. Shanna stated the Utility Fund has spent 13.7% of their budget and 5.2% of the Sewer budget has been expended. Shanna reported that Sales Tax revenues continue to drop due to the economy, this will need to be watched and proper adjustments will need to be made to the budget if this trend continues. She said the City is making good progress on the Fiscal Year 2010 audit. She has been working with the City accountant to get year-end adjustments complete and a trial balance sent to the Auditor. The auditor has already begun working and we will hopefully have a completed financial report by the beginning of November.

#### **E. RESOLUTION 10-18 TO APPROVE OF INTERLOCAL STORM WATER SERVICE AGREEMENT WITH BRIGHAM CITY**

Duncan Murray advised the agreement is for the 1100 South area. He said there is a lot of storm water that generates in Perry and goes to Brigham and Brigham City is requesting reimbursement for the cost of detaining that water. Duncan said in the agreement Perry City would agree to a 50/50 split on storm water money collected from residents in that area and a 75/25 split for commercial in that area. Duncan presented a map that outlined the affected area. Lorin Gardner, City Engineer, reviewed the map with the Council and the boundary described in the agreement. Lorin said he has questions on how this will affect impact fees and who will have control on setting and collecting these fees. Council Member Peterson questioned if the impact fees will only be shared in areas that cause drainage into Brigham City detention ponds. Lorin Gardner said it could be structured this way. Council Member Walker questioned if storm water can be re-routed to remain in Perry City. Lorin said it is not designed that way, but water can always be pumped back. Lorin said there may be some changes to this drainage as 1200 West comes through. Council Member Peterson advised a storm drain can be placed during this project. Lorin agreed. Council Member Cronin asked if impact fees could be adjusted for these areas to allow for the costs due to Brigham. Duncan said this could be possible. Council Member Peterson asked if any action was required. Duncan said this was just up for discussion at this time.

#### **ITEM 6: PUBLIC SAFETY ISSUES**

##### **A. NOTICE THAT THE OCTOBER 14<sup>th</sup> MEETING HAS BEEN CHANGED TO TUESDAY, OCTOBER 12<sup>th</sup> AT 5:00 TO 7:00 PM AT THE SOUTH OGDEN OFFICES FOR EMERGENCY MANAGEMENT TRAINING**

Mayor Nelson advised of the Emergency Management Training to take place in South Ogden.

**ITEM 7: PERSONNEL ISSUE**

**A. MOTION TO APPROVE PERRY CITY’S UPDATED EQUAL EMPLOYMENT OPPORTUNITY PLAN**

Shanna Johnson advised this is an annual review of the City’s Equal Employment Opportunity (EEO) Plan. She advised the plan compares our employee make up with City and County Census data and analyzes the data to see if we are being equal in our employment and staffing. Council Member Peterson asked what the purpose of the plan is. Shanna Johnson advised what you want is your workforce to match the make up of the population. If you do not achieve this you are not in trouble, but you have to have a plan to attain this. She said the City is showing an underutilization of women by 29.3% and Hispanics by 2.2%, these are areas the City wants to focus on improving. Council Member Peterson asked if a person matching an area of which there is an underutilization in our workforce applies to work for the City, are they considered more favorably. Shanna stated qualifications are still looked at. She said if there were two people of equal qualifications, a person fitting into your EEO plan would weigh in on your decision for hire. Council Member Peterson questioned if there was government enforcement or requirements to have the plan. He also questioned if there was any penalties or rewards. Shanna said the government only requires that the plan is in place; there are no rewards or penalties unless you do not have the plan. Council Member Peterson asked how you attract the workers. Shanna said by using unbiased recruiting sources and being equal in your opportunities. Shanna reviewed the specific steps included in the plan: posting jobs through division of workforce services, evaluating the selection process, ensuring that women and minorities as members of selection committees, and ensuring there is no harassment in the workforce. Shanna stated it is required to have an EEO Plan due to receiving funds from the State that originated from Federal Funding. Council Member Peterson stated this seems takes a lot of time and taxpayer money to put together. Shanna Johnson said one way to look at it is that although it does take time and money to put together there is people out there that appreciate us having a plan and will want to work for the City because of it.

**MOTION:** Council Member Peterson moved to approve Perry City’s Updated Equal Employment Opportunity Plan. 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 8: TRAINING**

**A. TRAINING REGARDING LAND USE LAW, INCLUDING ZONE CHANGES**

Duncan Murray provided training to the Council on Land Use Laws specifically on Zone Changes.

Council Member Cronin questioned when the last time the general plan map was reviewed. Mayor Nelson said approximately 3-4 years ago. Council Member Peterson said it would be a good time to review this while building is slow. Mayor Nelson recommended the Planning Commission begin reviewing this.

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

**A. APPROVAL OF THE SEPTEMBER 9, 2010 REGULAR MEETING MINUTES**

Mayor Nelson asked if the Council likes the minute approval being moved to the end of the meeting. Council Member Malan said it needs to be removed from the Item 2 heading.

Council Member Cronin requested line item 31 on page 3 is changed to read “...he was buying a home in an area zoned ½ acre with animal rights...” She said there were a few grammatical errors she would give to Shanna. Council Member Malan said he likes the line numbers being on the page.

**MOTION:** Council Member Peterson moved to approve the minutes for the September 9, 2010 City Council Meeting as amended. Council Member Cronin 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. BOYD MALAN:** Council Member Malan said he received three bids on the Mathius Canyon structure clean up and the work will hopefully be completed in the next three weeks. He said there was a soccer park meeting on Wednesday and the hydro-seed process will be started next week. Mayor Nelson questioned when the parking lot would be leveled. Shanna Johnson said that Clyde Companies is waiting on transport for a Bull Dozer. Council Member Malan said he is working on a monument for the new soccer park.

**C. MARCI SATTERTHWAITE:** None.

**D. KAREN CRONIN:** Council Member Cronin said the Parade Float season has ended, the city received the Peach Day's most Peachy Award. She wanted to thank those who helped with the float. She said a Youth City Council Meeting was held that night at 5:00pm and the Mayor and Council Members were selected. Mayor Nelson asked her to have them come and introduce themselves to the City Council. Council Member Cronin said the next Youth Council activity planned is to go and tour a mortuary and the Council plans to request people to bring food to be donated to the food pantry. She said the group has decided to have meetings on Thursday's from 5:00-6:00 PM.

**E. BILL WALKER:** Council Member Walker said Public Works has almost completed converting all water meters to radio read. He said Public Works will start working on correcting the dip at 900 West.

**F. TOM PETERSON:** Council Member Peterson said the Centennial Committee will be hosting the historic tours next Monday and Tuesday, September 27-28. He requested a thank you be sent out to Orson Boyce and Nola Young for their efforts with the Centennial Committee. Council Member Peterson announced in October there will be a pumpkin contest at the Three Mile Creek Elementary school and more information will be sent out. He reported that he spoke to Eric Blanchard from the Bank of Utah; they are interested in supporting the Centennial Events. Council Member Peterson said he is not sure how much will be donated to the events and will decide what to do with the funds after he hears back from Bank of Utah. He said he has a personal interest in the Peach Days Car Show, this year there were 1,065 entries in the free car show, which made this the largest car show ever to take place in the State of Utah and the largest free car show in the Western United States.

**G. MAYOR NELSON:** None.

**H. ITEMS FOR NEXT CITY NEWSLETTER:**

- No items suggested.

**ITEM 10: EXECUTIVE (CLOSED) SESSION**

**MOTION:** Council Member Cronin made a motion to close the regular meeting and go to an Executive Session to discuss possible litigation items. 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.**

The regular meeting closed at approximately 9:19 PM.

**MOTION:** Council Member Cronin made a motion to close the Executive Session and reopen the public meeting. 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.

The regular meeting resumed at approximately 9:47 PM.

**MOTION:** Council Member Malan made a motion to authorize City Attorney, Duncan Murray to contact the City's insurance carrier and request assistance on a possible litigation. 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 11: UPCOMING MEETINGS AND ADJOURNMENT (TUESDAY, OCTOBER 12, 2010 5:00 to 7:00 PM, FOR THE NEXT SPECIALLY SCHEDULED CITY COUNCIL MEETING)**

Duncan Murray advised there will be two public hearings on the 28<sup>th</sup> of October. He said there will also be a work sessions at 6:30 PM on the Flood Control Board and a RDA meeting at 6:15 PM for a financial report on Point Perry.

**A. MOTION TO ADJOURN**

**MOTION:** Council Member Peterson moved to dismiss. 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.

The meeting adjourned at 9:49 PM.

---

Susan Obray, City Recorder

---

Jerry Nelson, Mayor

---

Shanna Johnson, Chief Deputy Recorder