

PERRY CITY COUNCIL MEETING  
PERRY CITY OFFICES  
JULY 8, 2010

7:00 PM

OFFICIALS PRESENT: Mayor Pro-Tem Tom Peterson presided and conducted the meeting.  
Boyd Malan, Karen Cronin, Bill Walker, Marci Satterthwaite

OFFICIALS EXCUSED: Mayor Jerry Nelson

CITY STAFF PRESENT: Duncan Murray, City Administrator  
Shanna Johnson, Chief Deputy Recorder  
Mike Jones, Chief of Police  
Codey Illum, City Inspector

OTHERS PRESENT: Chet Warner, Mike Hall, Thom Hall, Lani Braithwaite, Jay Newman, Lorin Gardner (JUB Engineering), Scott Archibald (Sunrise Engineering)

**ITEM 1: CALL TO ORDER**

Mayor Pro-Tem Peterson called the meeting to order.

**A. INVOCATION**

Mayor Pro-Tem Peterson offered the invocation.

**B. PLEDGE OF ALLEGIANCE**

Council Member Malan 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. JUNE 24, 2010 REGULAR CITY COUNCIL MEETING MINUTES:

Council Member Cronin requested the below items be corrected.

- Page 5, second to last paragraph currently reads, "Council Member Cronin said that they would still need to have a minimum of 8-feet between houses." Council Member Cronin said this should read 16-feet because there are 8-feet on each set back, between houses.
- Page 8, 3<sup>rd</sup> paragraph from bottom does not state which Council Member asked for a 5-minute recess. Council Member Cronin said this was she and asked that her name be listed.

- Page 9, middle of 2<sup>nd</sup> paragraph does not state which Council Member asked if Robin would be able to use her hours before the end of June. Council Member Cronin asked her name be added, stating she was the one who asked this question.
- Council Member Cronin said she has a few grammatical errors she would get to Shanna Johnson.

**MOTION:** Council Member Cronin moved to accept the minutes as amended for the June 24, 2010 regular City Council Meeting. Council Member Malan seconded the motion.

**ROLL CALL:** Mayor Pro-Tem 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)**

1. MIKE DOPP 950 WEST 2520 SOUTH/ LAWN GOATS/ LANDSCAPING & LAWN CARE  
 Duncan Murray advised this is a landscaping and lawn care business, and said the owner is not present. Mayor Pro-Tem Peterson said he has some questions about the lawn goats. Mr. Murray advised this is just the name of the business and said they do not really use goats. Council Member Cronin said a few weeks ago there was a business license tabled because the owner was not present and asked if this should be tabled in order to be consistent. Duncan Murray explained the city ordinance does not require a business owner to be present. Council Member Malan questioned where they would store their equipment. Mr. Murray said he was not sure. Mayor Pro-Tem Peterson said maybe it should be required that the business owner be present for new business licenses. Duncan said this could be added by tradition now and in the ordinance later.

**MOTION:** Council Member Malan moved to table this item until the next meeting so that the business owner can be present to answer some questions about the business. Council Member Satterthwaite seconded the motion.

**ROLL CALL:** Mayor Pro-Tem 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. PASS OUT WARRANTS TO COUNCIL MEMBERS (AND POSSIBLE DISCUSSION)**

Shanna Johnson passed out the warrants.

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

Bob Thurgood's application was presented for appointment to the Flood Control Committee/Board.

**MOTION:** Council Member Malan moved to approve the appointments of Bob Thurgood to serve on the interim Perry City Flood Control Committee. Council Member Cronin seconded the motion.

**ROLL CALL:** Mayor Pro-Tem 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 HEARING REGARDING THE PROPOSED MERIT AND COLA INCREASE FOR CITY ADMINISTRATOR/ATTORNEY, POLICE CHIEF, CITY RECORDER, AND CITY TREASURER**

Council Member Cronin said her agenda said no public hearings and questioned if this was on the agenda. Shanna Johnson stated at the top of item three it does read that there is no public hearing but it is listed as an item on the agenda. The no public hearing statement was a typo. Council Member Cronin asked if the public hearing was properly noticed in the paper. Duncan Murray said yes. It was posted 15 days in advance and 8 days in advance.

Shanna Johnson advised any wage changes for appointed employees requires approval from the Council. She said the wage changes being presented are for a cost of living allowance (COLA) to help cover a change in benefits. She explained the city used to pay 100% of medical benefits and now is only paying 90%, the employee will now pay 10%. The COLA if approved will be given this year only. The other portion of the increase being reviewed is for a performance increase based off the employee's performance review conducted by their manager and the performance rating given. Shanna advised the employees being reviewed are Duncan Murray-City Attorney/Attorney, Mike Jones-Chief of Police, Susan Obray-City Recorder, and Jolene Eddington-City Treasurer. Shanna presented a wage history for the employees going back to Fiscal Year 2008. She pointed out that the last increase given was in Fiscal Year 2009, with the exception of the Police Chief who was promoted in Fiscal Year 2010. Duncan Murray advised the other employees are getting these same types of changes; the only difference is a public hearing is not required.

**MOTION:** Council Member Cronin moved to close the regular meeting and open the public hearing regarding the Proposed Merit and COLA Increase for City Administrator/Attorney, City Police Chief, City Recorder and City Treasurer. Council Member Satterthwaite seconded the motion.

**ROLL CALL:** Mayor Pro-Tem Peterson, Yes                      Council Member Malan, Yes  
                         Council Member Cronin, Yes                      Council Member Satterthwaite, Yes  
                         Council Member Walker, Yes  
**Motion Approved.** 5 Yes, 0 No.

Mayor Pro-Tem Peterson opened the hearing for public comment.

**Jay Newman:** Mr. Newman said he does not understand how a man can be a police officer for \$25.00 per hour; he said the Chief and the Officers should get a lot more money than that.

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

**ROLL CALL:** Mayor Pro-Tem 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. PUBLIC COMMENTS**

Mayor Pro-Tem Peterson opened the meeting for public comments.

**Chet Warner:** Mr. Warner said he knows of two people in Perry who are pleased with the way the Council handled the Utopia project, and thanked the Council.

**Jay Newman:** Mr. Newman wanted to thank whoever put together the Fourth of July. He thought it went really well and requested that someone get with Scott Nelson and thank him for the great job he did on the Centennial Float. Mr. Newman said he received an invitation to a Stop Utopia Rally and Barbecue. He said it is to take place in Orem on July 13<sup>th</sup> from 5:00-7:00pm. He forwarded the invitation to the Council.

## **ITEM 4: FINANCIAL AND TECHNOLOGY ISSUES**

### **A. APPROVAL OF WARRANTS**

Council Member Malan questioned what the legal fees for Froerer and Associates were for. Shanna Johnson advised the fees are for collection work on an issue the city is having with a developer who is not paying assessment fees at Pointe Perry. She said they are researching and working to get the SID assessment fees paid and up to date. Duncan Murray advised these fees will be passed along to the delinquent developer. Council Member Malan questioned the escrow release to Shirlene Peck and asked if this closes out her account. Duncan Murray said no there would be a little left in retainage. Council Member Cronin questioned what development this was for. Duncan said this is for Chateau and Nielson Estates. Council Member Cronin questioned what the action was taken on the letter received from Robert Tingey in reference to damage caused by the development to an irrigation line that he had to repair at his cost. Codey Illum, City Inspector said the line has been fixed. Council Member Cronin asked who should be responsible to pay for this. Codey said he believes the developer but would need to look further into this. Codey said he had not seen the letter, and requested a copy. Shanna Johnson made a copy and gave this to Codey Illum. Council Member Walker said there is a lot that is not cleaned up and recommended holding the escrow money until it is cleaned up. Codey said they did weed eat the mow strip but there is still debris on the lot. Mayor Pro-Tem Peterson asked if holding the escrow was legal. Council Member Malan said the escrow money is for specific items to be completed in the development and once they are completed must be paid. He said the city could send a crew to clean up the lot and bill the developer for the costs. Duncan said there is remaining funds in the escrow that may be used to address this. Council Member Cronin questioned how much escrow money is left in retainage. Duncan said he believed there was approximately \$9,000-\$10,000. Codey said there are streetlights left to be placed in the development. Council Member Cronin asked how much the streetlights would cost. Duncan stated this should cost about \$7,000. Council Member Cronin asked what will be done to help Robert Tingey. Mayor Pro-Tem Peterson said this is an issue between Mr. Tingey and the developer and the City should not be involved. Council Member Cronin said Mr. Tingey, Nathan Karr and Roger Ellis state that they all were told by officials of the City that the City would help him. Mayor Pro-Tem Peterson said there is only so much that the City can do; this is a personal civil situation. Codey Illum said he did offer his help as a medium between the landowner and the developer, but this is a civil matter. Council Member Cronin said so if a developer damages something during the construction it is not the cities responsibility. Duncan Murray said it depends. If it is infrastructure that will be turned over to the city than it would be a city issue, but if it is private property then it is a civil issue. Duncan said the city staff will follow up on this issue.

**MOTION:** Council Member Walker moved to approve the warrants. Council Member Satterthwaite seconded the motion.

**ROLL CALL:** Mayor Pro-Tem Peterson, Yes                      Council Member Malan, Yes  
                    Council Member Cronin, Yes                      Council Member Satterthwaite, Yes  
                    Council Member Walker, Yes  
**Motion Approved. 5 Yes, 0 No.**

(Approx 7:30PM) Duncan Murray requested that item 5A be moved up on the agenda and be covered at this time, Codey Illum is present to give input on this item, but has another meeting he must attend. Mayor Pro-Tem Peterson asked if there was any objection. No Council Members objected the change.

**B. (APPROX. 7:38PM) FINANCIAL APPEAL FROM JOHN REESE REGARDING RESOLUTION OF LAND ISSUES**

Thom Hall who is a lessee of the Fairview C Barr property was present and acting as the representative for John Reese. Mr. Hall advised the property is located where the Perry City pipeline went through for the new wastewater treatment facility. He said during the course of the project damage was done that has affected their ability to graze cattle and has not been restored yet to the conditions prior to the project taking place. He said the appeal is for the loss of revenue during the project. Mayor Pro-Tem Peterson asked the size of the property and the percentage damaged. Mr. Hall said the total property is 59 acres and 18 acres were damaged. Council Member Malan asked if 18 acres needs to be reseeded. Mr. Hall said a survey would need to be completed in order to give an accurate number but the rough estimate is 18 acres. Mayor Pro-Tem Peterson questioned the dimensions of the damaged property. Mr. Hall stated he does not have exact numbers, but would estimate 4,000 feet long and the width vary between 5-25 feet throughout the property. Council Member Malan stated not only is the property used for cattle grazing, but it also is used for seed harvesting. Mr. Hall said this portion of the property is used specifically for grazing. Council Member Malan asked if 200 cattle were run on the property at the beginning of the project. Mr. Hall said yes. Council Member Cronin asked how they came up with the dollar amount being requested. He said in the fall of 2009 there would have been 200 head of cattle at \$13.00 per animal unit, which is what they charge monthly for grazing. Due to the project no grazing took place. He said in the Spring-Fall of 2010 they were able to graze the cattle in the area but only for two weeks instead of 4 weeks and they could only allow 100 animals on the property. Mr. Hall said they have rotational management for the cattle and if they cannot be placed on this land, they have to go to other land, which affects the grazing that area. He said the last request is for the spring of 2011 and their inability to graze animals in the area. Council Member Malan asked if they could graze 100 head of cattle there. Mr. Hall said yes, and this number may need to be reduced because of this. Council Member Cronin said you are able to graze 100 animals for a reduced amount of time. Mr. Hall said that is correct. Mayor Pro-Tem Peterson said the request is for 200 head of animals. Mr. Hall said yes, the numbers may be off, but the amount should be correct. Council Member Malan said his email states that they have lost and will continue to loose 50% of grazing ability. Mr. Hall said yes, it is still bare dirt and has not yet been restored. Mayor Pro-Tem Peterson said if there is 59 acres and only 18 acres is being affected this is not 50%, the numbers do not jive with the request. He recommended that this item be tabled and investigate the issue further. Council Member Walker asked if Mr. Hall had contacted the contractor. Mr. Hall said he had and that Johansen Construction has sent them a check in the amount of \$1,600 to reseed the damage area and offered 10 hours of tractor time to facilitate the reseeded. He said there is a 23-acre

area on the west side of the freeway under seed production for that. He said their plan is to seed this fall and begin grazing cattle one year after planting. Council Member Walker asked if Johansen Construction set an amount that they would pay, or did they advise Mr. Hall to fix the area and then send them the bill. Mr. Hall said there is a mixed message on that. Council Member Malan said the financial appeal being presented to the city includes seeding, if Johansen Construction has already paid for the reseeding this should not be included in the financial appeal. Mr. Hall said this is an older email and the numbers are not accurate. Mayor Pro-Tem Peterson stated they need updated numbers and this item should be tabled.

**MOTION:** Council Member Walker moved to table the item until further information can be obtained. Council Member Satterthwaite seconded the motion.

**ROLL CALL:** Mayor Pro-Tem Peterson, Yes                      Council Member Malan, Yes  
                         Council Member Cronin, No                      Council Member Satterthwaite, Yes  
                         Council Member Walker, Yes  
**Motion Approved.** 4 Yes, 1 No.

Council Member Cronin asked Mr. Hall if there is anything the city can do to help alleviate his situation other than pay the bill. Mr. Hall said there was not a proper plan in place to restore property when the project began and asked that the city look at this closer on future projects. Mike Hall said if one area of the property is affected for grazing, the grazing has to take place on another portion of the property so it affects the whole property. He said there are other issues as well, irrigation issues, land leveling, debris, land movement, and poor planning. He said he is not yet sure when the project will be complete in his area. Mike Hall said this project should have taken no longer than two months. Mayor Pro-Tem Peterson said the council understands the situation but more accurate information is needed before it can be resolved. Council Member Walker said the landowner was paid for damages on the property and the contractor is willing to restore the property. He said that he does not feel that the city should be involved in the situation. Council Member Cronin said the city just needs to make sure it gets done. Mayor Pro-Tem Peterson said the city needs to help determine who is responsible to rectify the situation.

**C. REPORTS AND/OR CHANGE ORDERS REGARDING THE WASTEWATER FACILITY**

Scott Archibald of Sunrise Engineering presented Change Order # 12 for the Spindler Construction; he explained this is for additional \$24,741.25 to purchase a flow meter and auto sampler being required by the State of Utah for auto sampling. This is a new requirement set by the state.

Mr. Archibald also presented Change Order #4 for Westech Engineering Inc. This is an increase of \$2,595 to pay for housing on an electrical panel that the contractor did not include in their original quote. Council Member Malan stated he felt that the costs were high on the items and fees. Council Member Cronin asked if this is covered by grant monies. Scott Archibald stated yes. Mayor Pro-Tem Peterson agreed that the change order fee looked high and asked if it was negotiable. Scott Archibald said they have not asked for a lower fee, but they could, he said they may reduce it a little but is probably not worth the effort to get this lowered. He said more money would be spent fighting it then what would be gained. Council Member Malan questioned the Westech change order. Scott Archibald said the original housing for the electrical panel was for use inside and needs to be for outside use. He said this is for the new housing and for switching the equipment out. Scott Archibald said this equipment was purchased directly by the cities so there is no mark up or change order fees. Council Member Cronin asked that Scott Archibald take the message back to Spindler Construction that just because they can charge 15% for a change order fee, does not mean they always should. She said when minimal work is required by the contractor the fee should be lower.

**MOTION:** Council Member Malan moved to approve Change Order #12 for Spindler Construction in the amount of \$24,741.25 and Change Order #4 for Westech in the amount of \$2,595. Council Member Satterthwaite seconded the motion.

**ROLL CALL:** Mayor Pro-Tem 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: LAND USE ISSUES**

**A. (APPROX 7:30PM) ORDINANCE 10-K AMENDING BUILDING SET BACKS AND AREA REQUIREMENTS**

Council Member Malan questioned if accessory buildings can be 6 feet from the main building. Codey Illum said the Council sets this. He advised the NFPA has not set a regulation for accessory buildings. Council Member Cronin said there was some research that was to be done by Mayor Nelson or Duncan Murray on the parking regulations of recreational vehicles; she asked if this has been done. Duncan said he has reviewed this and the city can make the set backs a requirement for any vehicles simply by adding a footnote to the ordinance. Council Member Cronin asked if this would also address storage pods. Codey Illum said that a separate ordinance is being worked on by the Planning Commission to address storage pods. Council Member Malan said other ordinances already address the parking of recreational vehicles and he did not feel that this ordinance needed to address this. Council Member Cronin asked if our set backs allow for access of any required equipment in the event of a fire. Codey said yes, the side and front set backs address this.

**MOTION:** Council Member Cronin moved to approve Ordinance 10-K Amending Building Set Backs and Area Requirements with the addition of the footnote suggested by Duncan Murray. Council Member Satterthwaite seconded the motion.

**ROLL CALL:** Mayor Pro-Tem Peterson, Yes                      Council Member Malan, Yes  
                    Council Member Cronin, Yes                      Council Member Satterthwaite, Yes  
                    Council Member Walker, No  
**Motion Approved.** 4 Yes, 1 No.

**B. (APPROX 8:21PM) DISCUSSION REGARDING THE JUNE 3, 2010 PLANNING COMMISSION MEETING**

Mayor Pro-Tem Peterson said he was present and the Commission spent most of the meeting discussing storage pods, there was no final decisions made on this topic. Duncan Murray advised there will be a special Planning Commission meeting on July 15, 2010 at 6:00pm to discuss a conditional use permit for someone who wants to build a home in the NC2 zone.

**ITEM 6: PERSONNEL ISSUES**

**A. ORDINANCE 10-M TO RESTRUCTURE THE PAY AND BENEFITS OF CERTAIN STATUTORY OFFICES, INCLUDING CITY ADMINISTRATOR/ATTORNEY, POLICE CHIEF, CITY RECORDER, AND CITY TREASURER**

Council Member Malan said he has some questions but is not sure if they should be asked in the open meeting or if an Executive Session would be more appropriate. Mayor Pro-Tem Peterson said the changes are based on performance and the COLA and asked if his question was in reference to performance. Council Member Malan asked if the Council should have reviewed the performance



Mayor Pro-Tem Peterson said the car show was wonderful and he got a lot of good praise from the people. He said he more raffle gifts than entries and they were all received through donations. He said the park looked great and showed no wear from the movie that took place before. He said he only received two complaints and it was on the breakfast they said they did not get much for their money.

Council Member Walker said the First Responders were worried that they would not have enough and they ended up with extra eggs. He said he will forward the comments to the group.

Mayor Pro-Tem recommended two pancakes, more eggs and ham instead of bacon.

Shanna Johnson requested that all receipts from the celebration expenses be turned in the next week so she can complete a financial report that must be turned in for their tourism grant. The report is due 30 days after the completion of the event.

Council Member Walker wanted to say thank you to Maurice Roche who donated the use of his truck trailer for a movie screen.

Council Member Cronin said Ogden City has invited Perry to have their float in their 24<sup>th</sup> parade. They are not sure they will have the staff to man it so they are not sure if they will be in it or not.

Council Member Satterthwaite said Council Member Walker did a great job on the T-shirts.

## **B. REPORT FROM CENTENNIAL COMMITTEE**

Mayor Pro-Tem Peterson said a meeting was to take place on Wednesday but did not take place. Most members of the committee forgot it was scheduled. He said the centennial booth that was at the Fourth of July celebration went well. There were a lot of bumper stickers handed out. He said the schedule of events has been prepared and should be distributed. Shanna Johnson said she will put this in the newsletter. Mayor Pro-Tem Peterson said the next event will be the Dutch Oven Cook Off. It will take place at the Nature Park. He said that an entry fee has been authorized to be charged and it will toward prizes for the event. He said he thinks he can get briquettes donated for the event. He requested more details be placed in the newsletter. Council Member Malan said he did not see a Perry Elementary Reunion on the schedule of events. Mayor Pro-Tem Peterson said this could be added.

## **ITEM 7: CITY COUNCIL & MAYOR REPORTS**

**A. BOYD MALAN:** None.

**B. MARCI SATTERTHWAITE:** None.

**C. KAREN CRONIN:** None.

**D. BILL WALKER:** None.

**E. TOM PETERSEN:** None.

**F. MAYOR NELSON:** Absent.

### **G. ITEMS FOR NEXT CITY NEWSLETTER:**

- Mayor Pro-Tem Peterson requested details about the Centennial Dutch Oven Cook Off are in the next newsletter, as well as the Centennial schedule of events.

## **ITEM 8: UPCOMING MEETINGS AND ADJOURNMENT (JULY 22, 2010 7:00 PM, FOR THE NEXT REGULAR CITY COUNCIL MEETING)**

### **A. MOTION TO ADJOURN**

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

**ROLL CALL:** Mayor Pro-Tem 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 8:50PM.

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Susan Obrey, City Recorder

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Tom Peterson, Mayor Pro-Tem

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Shanna Johnson, Chief Deputy Recorder