

PERRY CITY COUNCIL
MEETING PERRY CITY OFFICES
JANUARY 13, 2022

7:03 PM

OFFICIALS PRESENT: Mayor Kevin Jeppsen presided and conducted the meeting. Council Member Nathan Tueller, Council Member Toby Wright, Council Member Blake Ostler, Council Member Dave Walker and Council Member Ashley Young.

OFFICIALS ABSENT: None

CITY STAFF PRESENT: Robert Barnhill, City Administrator
Shanna Johnson, City Recorder
William Morris, City Attorney
Scott Hancey, Chief of Police
Tyler Wagstaff, Public Works Director

OTHERS PRESENT: Nelson Phillips, Chuck Palmer, Tambi Tueller, Johnathan Ward, Melanie Barnhill, Jim Flint, Jason Burningham, and Marv Neff

ITEM 1: CALL TO ORDER

Mayor Jeppsen called the electronic City Council meeting to order.

ITEM 2: PROCEDURAL ISSUES

A. Conflict of Interest Declaration

Council Member Ostler declared a conflict of interest on #4b. There were no other conflicts declared.

Mayor Jeppsen requested to address Item #4e first and then go back to Item #3a and then follow the agenda in order.

ITEM 3: PRESENTATION

A. Fiscal Year 2021 Financial Statement and Audit Report

Shanna Johnson introduced Chuck Palmer from Christensen, Palmer and Ambrose.

Mr. Palmer gave a presentation on the FY2021 financial statement and audit report. He said they audited the financial statements and determined them to be materially correct. They did not find any irregularities or material in the statements that need to be disclosed. He discussed the report showing the differences between this year and last year. He reviewed the cash balance and assets being strong. He also reviewed the liabilities, bonds, and the net position. He discussed expenses, governmental activities, and fund balances. The revenue side is looking good and utility funds are up. Another thing that helped this year was the pension fund changing which decreased the benefit expense, increasing the revenue by approximately \$200,000. He also suggested creating an RDA fund (which already exists but does not collect anything currently, all funds have been used for the debt service on the Special Improvement bond paid off during Fiscal Year 2021). All departments were within budget. He discussed internal controls and there were no issues. State legal compliance had no findings as well.

Council Member Ostler said on page 13 there is an amount of \$7,449 showing as a revenue bond payable due in 13 or more months under governmental activities and wondered what that debt was for. Ms. Johnson said she thinks it had to do with the debt service fund. Mr. Palmer said it is paid off

and he will have to look into that and get back to him. Council Member Ostler also wanted to know what the deferred inflows related to debt service fund for \$730,000 was for. Mr. Palmer said it is all related to the Pointe Perry area and the SID payments and the way the reports were set up from Lewis, Robertson and Burningham (which will come back with the sale of the property). Ms. Johnson said they can look into it and see if it needs to be consolidated with the rest of the property.

Ms. Johnson added that if they read the management discussion and analysis, it tells a really good story and shows increases to all activities as well as a reduction in long term debt. Everyone in charge of financials has done a great job in making sure there they are gaining the income needed to take care of the city, making sure we are balancing out, as well as paying off debt.

ITEM 4: ACTION ITEMS

A. Motion Accepting the Fiscal year 2021 Financial Statement and Audit Report

Council Member Walker wanted to know if there is an error on the report (that Council Member Ostler pointed out on the debt) are they able to amend that later. Ms. Johnson said that this report has already been submitted to the state as it is due in December. If they find an error, they will submit an amended report to the state.

Council Member Ostler pointed out that on page 14, the mass transit tax has been separated from sales tax and both are available to look at on the report. The Council discussed the mass transit tax and how long they have been contributing to that. Council Member Ostler said his point in bringing it up is just to keep it in front of them. He also discussed on page 26, the flood control board is part of the audit report, and they are sitting on about a half a million dollars. He said they should put that money to use and not keep it idling. Tyler Wagstaff explained that they do have a great big project they are working on but they are waiting on the state for that to move forward. The project is in Mathias canyon. Ms. Johnson said that the flood control board is a special service district and is created by a community. The City created this district along with the County and that is why they are included on the report. Council Member Ostler then discussed Utopia and a statement that says they are not solvent. He said that Shanna has noted that she can reach out to Utopia and ask them to report to the City on where they stand financially.

MOTION: Council Member Wright made a motion to accept the Fiscal Year 2021 Financial Statement and Audit report so long as if an error is found, it will be corrected and submitted. Council Member Walker seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

B. Resolution 2022-01 Authorizing the Mayor to Execute a Contract for Financial Advisor Services Related to a Real Estate Purchase

Ms. Johnson said the City is looking at a real estate property, and they would like the Council to choose which way they get financing. She explained the options available. They can go through the process themselves (like they did with the wastewater treatment refinance). She said they can have financial advisors help with that (with more knowledge on the law and other

assistance they can provide with the process such as looking at all funding options and ensuring compliance) and who they have gotten quotes from as follows:

- Lewis, Young, Robertson and Burningham (minimum fees and type of bond)
 - General obligation bond \$7500
 - Sales Tax Revenue bond \$8500
 - Lease Revenue bond \$9500
- Zions Public Finance
 - \$15,000
- Stifle Finance
 - \$45,000

Ms. Johnson said they could also bid it themselves (costing only the closing costs and associated fees), but they may not have the knowledge and expertise without the help from a financial consultant. Council Member Wright clarified that this resolution is not the Council choosing someone for the bid but giving Mayor Jeppsen the authority to make the decision. Mayor Jeppsen further clarified that it is giving him the authority to sign for it after they as a Council make the decision together.

Jason Burningham said they have been the financial advisor for the City on many other transactions. He discussed how using them as a financial advisor in this type of bond issuance would be helpful to the City and the knowledge they have that can assist them. He discussed the fees they presented as being minimum fees; however their fees are based on the type of funding and the amount, so long as the amount financed remains the same the fees represented would not increase. He also reviewed how they can help facilitate the process.

Johnathan Ward from Zions Public Finance explained that their methods are intended to be open and transparent and how they try to reduce the cost of financing any way possible (by reducing the interest rate over time).

Mayor Jeppsen asked Bill Morris, City Attorney, if these proposals can be discussed in depth in an executive session. Mr. Morris said they can. Mayor Jeppsen said if the Council would like to have that discussion in an executive session before voting on this he would be open to that, or if they feel ready to approve this now and discuss later he would be fine with that option as well.

The Council said they would like to discuss it further in an executive session.

Council Member Walker asked the bid applicants what their approach is to determine how they get the best interest rate. Mr. Ward said the process involves competition, which is what drives interest rates lower. They will use request for bids or a competitively offered transaction in the public bond market. Additionally, they will explore all avenues. Mr. Burningham said it is traditional to evaluate all options available and what the financial options are. They take an active approach in reaching out to the investment community, they also put together a very specific finance term sheet that gives an overview of the project with a detailed description of what the security for the transaction would be. He discussed working with the city staff and components related to a transaction. He feels there is a certain competitive opportunity having Zions remain as a potential purchaser for the bond if that type of purchase is determined the best (as Lewis, Robertson and Burningham are private and not able to be a purchaser).

Mr. Morris reminded the Mayor that in a closed session they are only discussing the professional competency of the individuals, they are not making any decision or voting on this in a closed session.

The Council discussed having the executive session before making the motion.

(After the executive session at approx. 10:30P.M.)

Council Member Walker expressed that he would like to select a financial advisor. He stated he felt that it reduces liability, gives the city a competitive advantage, and reduces work for staff.

Council Member Wright agreed and said the city has used Lewis, Young, Robertson and Burningham in the past and they are a good option. He also noted that many cities use Zions Public Finance so either choice is sufficient, but he would lean toward using Lewis, Young, Robertson and Burningham. Council Member Young stated she would support that.

Mayor Jeppsen stated that Lewis, Young, Robertson and Burningham would be his choice as well.

MOTION: Council Member Walker made a motion to approve Resolution 2022-01 Authorizing the Mayor to Execute a Contract for Financial Advisor Services Related to a Real Estate Purchase with Lewis, Young, Robertson and Burningham. Council Member Wright seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Walker, Yes
Council Member Young, Yes
Council Member Ostler, Abstained (due to declaring a conflict)

Motion Approved. 4 Yes, 1 Abstain.

C. Ordinance 21-R Amending the Density Map and Associated Regulations

Robert Barnhill explained that Planning Commission had some thoughts on the density map having numbers being too high. He explained the proposed options they came up with to address their concerns briefly as follows:

- The land use authority can determine the location/layout of multi-family units in a proposed development.
- Outside of neighborhood commercial and mixed use zones, allowing only 4 multi-family units, allowing 4 more with each additional 10 single family homes per development.
- If a development spans multiple allotment districts, the developer would only be able to use one of the allotments instead of all of them. (They could possibly negotiate more through a development agreement)

Council Member Walker found a typo in the wording in this provision that should say subsequently develop instead of development which will need to be corrected if adopted.

- Multi-family dwellings may include no more than 4 units in a single structure in the neighborhood commercial and mixed zones. In all other zones multi-family structures may only allow 2 units in a single structure (duplex).

Council Member Tueller said ultimately they want to have guiding things that hopefully help developers. He feels that although there are certain points in this, there may be a simpler way to do this without feeling like they are regulating too much. He feels this may be overreaching in some ways and wants to find a simpler way to do this like applying a percentage (or proration) instead. He likes the 4 units per building. Council Member Ostler added that this provision also only allows 2 units (in other zones) and he feels that is too small. Council Member Walker asked if something happened that prompted this. Mr. Barnhill explained that it originated from the proposed Perry Landing subdivision going in next to Pheasant Hollow. There were a portion of the proposed multi-family dwellings that backed up to existing single family homes. Council Member Tueller said that he feels in this case the 4-plex and a proration could have been helpful. Council Member Young said she agrees with most of what has been said but feels that the developer (from Perry Landing) took advantage of the density map in this case and took both sections (where his development crossed over the density map allotments and he took both). Council Member Walker discussed liking the idea of prorating the area (that Council Member Tueller suggested), but he would like them to not limit to duplexes in the non-neighborhood commercial and mixed zones.

Ms. Johnson added that in this subdivision, there are 20 multi-family units and 34 single family homes that are being proposed. There were many people upset due to number of multi-family units coming into one subdivision and wanted to clarify that is where the Planning Commission came up with trying to limit the number of units allowed per development. Council Member Young agreed (as this is her neighborhood) and said she is not opposed to multi-family housing but wondered how it will be once this is done (with so many multi-family units being allowed in one area) as well as future developments going forward.

Mr. Barnhill discussed how they might implement proration and asked them to consider how that could be put in code. He added that they can set a strict box and then negotiate with a development agreement. Council Member Tueller discussed the guiding document they put in place last year being helpful and that whatever they pass needs to be simple and easy to understand without overregulating it. He is ok with the 4-plex or less and possibly smaller quadrants but does not feel like the whole thing should be implemented.

The Council discussed tabling this as they do not feel comfortable passing it as is. Mr. Barnhill asked for direction on what they would like to do if tabled. He asked if the items they would like addressed are the language limiting to 4-plex being the largest building and dialogue for properties that span more than one district on the grid, (if it could be prorated). Council Member Ostler said he agrees those are the two issues and added if there is a way to give guiding principles on the locations of multi-family within a subdivision. He asked if the other Council Members are in favor of the 4 to 10 ratio or having some kind of proportion of multi-family per single family homes. Council Member Tueller clarified that is what he meant with adding some kind of proration but would like something simple and possibly something regarding location but without overreach. Council Member Walker asked if that meant adding some guiding principles in saying when they would have to move their multi-family housing. Council Member Ostler discussed the language determining control of where the multi-family housing are located does not sit right with him when trying to look at it from a developers standpoint but may be ok with some guiding principles.

MOTION: Council Member Wright made a motion to table this item to come back with the changes mentioned. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

D. Ordinance 21-S Creating an Overlay Zone for Development Agreements

Mr. Barnhill discussed that a development agreement can be used for many things and gave some examples that may be used. Because they are open for negotiation, they can be abused or go too far. This is why they would be required to be tied to zone change and approved legislatively (which the state requires). He discussed some clean up items and adding another zoning district named as development overlay or DO zone. He added that it would have to be recorded on the property so that would help track it. He also reviewed some of the minimum requirements that would have to be included and the process of obtaining a development agreement. If there was non-compliance the development agreement would be void.

The Council discussed that they did not have any issues with the ordinance. Council Member Ostler said he feels this can be a valuable tool for the city and expressed appreciation to those that put it together. He would like to know if Mr. Barnhill or Mr. Morris have any examples or cautions of ways this could be abused (wanting to make sure that the city is protected). He added that he has seen some beautiful communities and subdivisions created with development agreements. Mr. Barnhill said that some of the best developments could come through this avenue, the caution is that by nature a developer may come in and request a proposal that is hard to say no to but not be something the City wants. Mr. Morris said that if a developer comes in and is not willing to negotiate, tell them no and to go away. The City has all the cards with development agreements and if someone is difficult to work with, it is not going to work and to turn it down. He added that they also need to make sure that the infrastructure is sufficient and to not approve something that the City could be liable for (referring to a case in Tooele that their city is having to pay for). The development agreement has to be written in an Ordinance and has to be complete at the time of approval, if there are changes beyond typos, they would need to come back for approval.

Council Member Walker asked how often development agreements get used and if that disempowers the Planning Commission. Mr. Morris said they have to be reviewed through the Planning Commission and then go to City Council (in their final form), so that would not disempower them. Where they don't have to be in their final form is a site improvement agreement (which are administrative and not legislative). Council Member Tueller added that he likes that it slows the process a little bit in terms of the detail that is required.

Mayor Jeppsen said it seems to him that they are taking a step back in a way because every developer wants to give a sales pitch to the City Council so this puts the burden back to the Council (where they tried to make the land use authority the place to have the public hearing). He feels that all developers will pick this way, he understand the benefits as well, but thinks they may be opening themselves back up to a lot.

MOTION: Council Member Walker made a motion to approve Ordinance 21-S Creating an Overlay Zone for Development Agreements as it stands. Council Member Wright seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

Council Member Ostler encouraged some process or procedure to be in place that nothing comes to a deciding body without an explicit statement from the engineer stating that the infrastructure is available or the developer will pay for it, to ensure the City is protected.

E. Ordinance 21-T Zone Change from AL to R1 located at approximately 2250 S 1200 W Parcel#03-157-0017 Applicant: Brinton Neff

Robert Barnhill discussed the zone change request. This was on the agenda at the last council meeting (December 9, 2021) and was tabled. He reminded the Council that they had discussion at the last meeting of wanting to encourage conservation subdivisions by granting R1/2 or R1/3 to get the density the applicant wants but still provide open space. Mr. Barnhill said he had spoken with the applicant and their intent was simply to obtain R1 zoning and move forward with the proposed subdivision layout. They were not looking at conservation subdivisions or other options. They would prefer to move forward with the R1 zoning. If they are only granted one of the other options, they will look at possible solutions. Mr. Barnhill said the applicant made a point that there is a lot of park acreage at Dale Young Nature Park (in the same area) that the City already has and does not necessarily take care of and wondered if the City wants to take on more open space to take care of or if they wouldn't just prefer to take the impact fees from the proposed development and take care of the park space that is already there. Mr. Barnhill suggested there may be other options they could come up with in a development agreement as well.

Council Member Walker wanted to know what the future land use map shows this property zoned as (as well as the surrounding areas). Mr. Barnhill said the future land use map shows it as residential and surrounding zones are RE1/2, Agricultural and R1.

Mayor Jeppsen mentioned tabling this item if they don't feel comfortable moving forward where the applicant is not present at the meeting.

Council Member Wright asked what they would need to know from the applicant to make any changes. Council Member Walker said that from what he remembers, they were fine granting them residential but tabled it because they wanted the applicant to look at doing a conservation subdivision or other options and expressed disappointment that the applicant did not want to do that. Council Member Tueller said he thinks the challenge that current zoning has with a conservation subdivision is that there is nothing that enforces them to consider doing the conservation subdivision, so outside of approving a zone that has a little less density, there is not a mechanism in place to enforce it. He is fine to table it where the applicant is not here to discuss it as well.

The applicant then joined online.

Council Member Walker asked what densities would be allowed in the different zones. Mr. Barnhill explained that in the current zoning of Agriculture Limited it is a 2 acre minimum. The applicant is requesting the R1 zone which is 10,000 square feet minimum, R1/3 is 15,000 square feet and R1/2 is 20,000 square feet (in the standard zones). If you go to conservation subdivisions, the R1 zoning district with 15% of the land set aside for open space, they can go as small as 6500 square feet with 8500 square feet needing to be the average. They would be profiting off of 15% less but they may be able to make up that difference in the end depending on the layout they choose for the subdivision (being able to pick up more lots as well as possible less expense of developing road and utilities).

Marv Neff, the applicant, said that they fit all the requirements of R1 and they were approved from Planning Commission to go forward without any issues. He said they feel they are in line with what is being proposed (and the surrounding lots). His thought with the open space is that east of the property is the park and riding arena with the nature park next to it. He said he has watched that property over the last 10 years as he goes and irrigates on the property being discussed and said it is full of weeds and is apparent that the City is not able to take care of it. He said it doesn't make sense to him to try and get more of that kind of open space on their property if it is not going to be taken care of. He feels they are in compliance with their request.

Mayor Jeppsen asked who is responsible for the waterway that goes through that property. Mr. Barnhill said he is not sure if anyone takes water from that or not, he thinks it is just a natural water way. Mr. Neff said that the water way (irrigation ditch) in the middle is only an overflow that comes out of the Dale Young Nature Park when there is high water. There is no one that owns that. Mayor Jeppsen asked if the developer is taking care of that overflow and if that will affect anything. Mr. Barnhill said that may have to be looked at from the engineer and does not come into play with the decision tonight.

Council Member Tueller said that the request is for R1 but his issue is more with the density and would feel more inclined to go with R1/3 instead of the smaller plots of R1.

MOTION: Council Member Wright made a motion to approve Ordinance 21-T Zone Change from AL to R1/3 for parcel #03-157-0017. Council Member Walker seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

The Council then went to the presentation on the financial statement and audit report.

F. Ordinance 21-U Amendments to Title 14 and 15 Regarding Subdivisions

Due to time this item will be pushed to the next meeting. Item was tabled.

ITEM 5: DISCUSSION ITEMS

A. Council Retreat Planning

Ms. Johnson said that the retreat is scheduled for February 5, 2022. They will discuss this item at next meeting due to time.

ITEM 6: MINUTES & COUNCIL/MAYOR REPORTS (INCLUDING COUNCIL ASSIGNMENTS)

A. Approval of Consent Items

- December 9, 2021 Work Session Minutes
- December 9, 2021 City Council Meeting Minutes
- December 9, 2021 Redevelopment Agency Meeting Minutes

MOTION: Council Member Wright made a motion to approve the consent items. Council Member Tueller seconded the motion.

ROLL CALL: All in favor.

Motion Approved.

B. Mayor's Reports

Mayor Jeppsen said the oath ceremony was the other night, he has been reflecting on what has been accomplished in the past and what he would like to accomplish in the future. He said they are a great group to work with.

C. Council Reports

None.

D. Staff Comments

Mr. Morris said they will need to do their annual open meeting act training. Ms. Johnson said she has them scheduled to be done in February and that Planning Commission already did their open meeting training.

E. Planning Commission Report

None.

MOTION: Council Member Tueller made a motion to extend the public meeting tonight until 10:30 p.m. Council Member Wright seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

ITEM 7: EXECUTIVE SESSION

MOTION: Council Member Tueller made a motion to close the public meeting and open the executive session to discuss the purchase, exchange, lease, or sale of real property, when public discussion would disclose the value of the property or prevent the authority from completing the transaction of the best possible terms. Council Member Walker seconded the motion.

ROLL CALL: Council Member Wright, Yes

Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

MOTION: Council Member Wright made a motion to close the executive session and go back into the regular meeting at 10:26 p.m. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

MOTION: Council Member Tueller made a motion to extend the public meeting tonight until 10:45 p.m. Council Member Walker seconded the motion.

ROLL CALL: Council Member Wright, Yes
Council Member Tueller, Yes
Council Member Ostler, Yes
Council Member Walker, Yes
Council Member Young, Yes

Motion Approved. 5 Yes, 0 No.

(See action on item 4B which took place after the executive session)

ITEM 7: ADJOURNMENT

MOTION: Council Member Wright proposed to adjourn the meeting. Council Member Walker seconded the motion.

Motion Approved. All Council Members were in favor.

The meeting adjourned at 10:34 p.m.

Shanna Johnson, City Recorder

Kevin Jeppsen, Mayor

Tyra Bischoff, Deputy Recorder