

PERRY CITY COUNCIL
MEETING PERRY CITY OFFICES
July 27, 2023

7:00 PM

OFFICIALS PRESENT: Mayor Kevin Jepps presided and conducted the meeting. Council Member Nathan Tueller (on-line), Council Member Blake Ostler (on-line), Council Member Toby Wright (on-line), and Council Member Ashley Young.

OFFICIALS ABSENT: Council Member Dave Walker

CITY STAFF PRESENT: Robert Barnhill, City Administrator
Bill Morris, City Attorney (On-line)
Dave Freeze, Sergeant
Shanna Johnson, City Recorder

OTHERS PRESENT: Daniel Stephens, Mike Jensen (Hansen & Assoc.), Chris Breinholt (Jones & Assoc.), and Dave Whitaker (POI Corp.)

ON-LINE: Collin, Todd Eskelsen, Joni Loveless, and Nelson Phillips (BENJ)

ITEM 1: CALL TO ORDER

Mayor Jepps welcomed everyone and called the City Council meeting to order.

ITEM 2: PROCEDURAL ISSUES

A. Conflict of Interest Declaration

None

ITEM 3: ACTION ITEMS (Roll Call Vote)

A. Final Acceptance for Mount Pleasant Estates Phases 1, 2, and 3

Mr. Barnhill explained that this action item was for Mount Pleasant Estates, which was located on the east side of 2000 South road. He said that they had constructed all their infrastructure, roadways, utilities, and curbs with gutters. This final approval will be our acceptance that they are complete as a developer and the city will take over the ownership of their improvements. He recounted that a year ago the Public Works Department and the City Engineers inspected the development and improvements and found it satisfactory, so they issued a conditional acceptance. After this approval, in case of incidentals, for a year the city held onto 10% of their escrow funds. Over the year, there have been a few items that needed to be corrected but have since been resolved and received follow-up inspections. He referred to a packet showing memos and other paperwork with the recommendation to release the balance of the escrow fund. He said at this point the developers are ready for this action and he gave his own approval of final acceptance.

Mayor asked if there was funding for rock chipping available for the next twelve months and Mr. Barnhill responded that it was paid up front. He expounded that the rock seal payment was required at the time they recorded the plat and funded the escrow. Council Member Wright wanted

to know why this estate was done in phases. Mr. Barnhill explained that the first phase was to subdivide the house from the land, and they were granted a deferral agreement, this then allowed them to do all the improvement in the second phase. He said the third phase was done with a separate application at a later time and after the purchase of more land. He noted that the memo from Jones and Associates contained all the phases. Council Member Ostler pointed out that the Phase 3 – Conditional Acceptance memo title should have been written as Final Acceptance. He then mentioned that this part of the process was an administrative item and recommended it to be moved from the council to an administrative item. He said if there were some legislative components to this then perhaps the folks effected by these improvements (property owners and developers) get a notification and the city holds a public hearing for them to express any views they have on any inefficacy. Mr. Barnhill remarked that he will reach out to Mr. Morris on a possible code amendment to see if this may be a change to be an administrative function.

MOTION: Council Member Young made a motion to pass the Final Acceptance for Mount Pleasant Estates Phases 1, 2, and 3. Council Member Tueller seconded the motion.

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

Motion Approved. 4 Yes, 0 No

B. Site Plan Application: Heritage Chrysler Dodge, Ram, Jeep; located at approximately 1155 S 1600 W; Parcel #03-236-0041; Applicant: Dave Whitaker

Mr. Barnhill showed the area where the site plan was to be built and said the owners were only going to develop about six acres on the north side of this property. He reported that utilities and roadway was already installed in the area. He said the paperwork in the packet showed a Staff Report with site maps that he will discuss. He noted that the Planning Commission reviewed the application and said they recognized some corrections that need to be made but felt they could move this site plan forward to the City Council. The city has specific design specifications for the finishes on new builds, but he feels the façade on this site plan exceeds the intent of the city's standards. He showed and discussed the design plans along with how it will appear when it is complete.

He mentioned that the updated drawings he received in response to the punch list corrections had not been reviewed by the city engineer. The engineer had previously given the applicant a list of concerns, which contained fifteen items. Mr. Barnhill pointed out that there were only two small items, such as labeling the type of pipe and the outlet size in the storm drain box that had not yet been addressed. He then went through the punch list corrections and showed on the site plan drawings where the developer corrected them. As he was reviewing the plans, he noticed that on the south side the curb and gutter does not reach the edge of the property line and will need to be adjusted. Council Member Tueller commented that perhaps the developer will subdivide the property or was just designating the plot where the construction may be built, and Mr. Barnhill responded that this was one property.

Council Member Wright pointed out that the Staff Report said that this was an administrative item. Mr. Barnhill commented it simply stated, being an administrative item, which the Council as a land use authority was to make sure this request meets code. He said like the prior action items perhaps this also could be considered for a code amendment. If approved this could be approved at an administrative staff level and it would make it more efficient for the applicant and allow the council to handle the legislative items.

Council Member Ostler said this looks like a really neat project and indicated that the motion should contain the conditions of a final review from the engineer and updating the landscape plan to meet code. He commented that the trees on the east side of the property might block the view to the dealership and Mr. Barnhill responded that he talked to the applicants' landscape architect about that concern. He then noted that the city does not require trees in that area but per code for a site of this size it does require several trees on the property.

MOTION: Council Member Wright made a motion to approve the Site Plan Application: Heritage Chrysler Dodge, Ram, Jeep facility with the contingency of Brett Jones' (city engineer) final review and the corrections of last couple of items that Mr. Barnhill mentioned being taken care of (landscaping, storm water and extending the sidewalk, curb and gutter). Council Member Tueller seconded the motion.

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

Motion Approved. 4 Yes, 0 No

**C. Resolution 2023-18 Interlocal Agreement Between Perry City and Willard City
Regarding a Sewer Line**

Mr. Barnhill explained this resolution was for a local agreement with Willard City to have the developer install a sewer line on the south end of Perry City and extend it into Willard City. He mentioned that there was an applicant that was looking to develop the utilities in this area for a future housing development and he presented this idea. To explain the proposed utility plan, he first showed a map of the south end of the city and where the current sewer lines exist. He noted that the north and south sides of 3600 South and the north side of 1200 West streets have sewer services. He pointed out that the gap in the sewer lines happened when they installed a dry line under the 1200 South street improvements and it is not connected to the sewer plant. He added that at the time of the road project they had to make a guess on where to put the low point and how to run the sewer to the main line. He said they knew the line could not go north so a property owner, Daniel Stephens, worked with the city and allowed them to put a stub on their property. This owner granted the city a utility easement on their property so the city may be able to someday run the utility line through his property. The west run line would then cross the railroad track and match up to the main sewer line that eventually goes directly south to the sewer plant.

He said the applicant for this proposed development approached several Perry City landowners nearby who were not willing to allow him to put a sewer line through their property. Not being successful with these utility options in Perry City the developers decided to approach Willard City

and their landowners to get the sewer line connected. He said they have worked several months on this plan and found an option through Willard City that works for them. This option will require an interlocal agreement because the sewer will be collected in Perry City but will go through Willard. The proposal is to install a flow meter on the south end of the development on the Perry and Willard cities boundary. This meter will track the flow count for this Perry City subdivision, which will need to be deducted from Willard City's total flow count. In addition, Perry City will collect a wheeling fee to forward onto Willard City for the use to maintain this sewer line.

He voiced that he and the city engineer have worked on this project and both of them felt if this was the best route the developer could find and as long as the city has an interlocal agreement it was adequate. He pointed out that the agreement stated that only homes within the development are to connect to this sewer line, which might cause issues in future developments. He noted he appreciated how well Willard and Perry worked together as neighboring cities but in the future, there might be political friction between them, and this sewer line might hinder other development. In closing, he thanked Council Member Ostler who gave him good feedback on typos and language clarification in this interlocal agreement.

Council Member Ostler said the agreement refers to exhibits and attachments, but they were not included with this packet and Mr. Stevens (the applicant) commented that he had emailed them to the City. He also questioned the necessity of the command form of "shall allow" in section 1 C. He suggested it be written as "should White Rock Partners elect to construct a sewer line". He reviewed language in section 1 E, G, H and I (master meter, collecting wheeling fees, reporting, and recordkeeping) noting that this might create extra ordinary additional costs to the sewer utility. This cost for Perry City occurs through billing, reporting, budgeting, and meter maintenance which are all outside the typical connection to the sewer system. He was concerned how the sewer utility fund would recover the additional costs and gave the suggestion that the residents in this area have a Perry City sewer utility administration fee on their bill. Regarding section 1 F, he said, it should say to the effect of this new interlocal agreement, with respect to the sewer line, does not modify, amend, or extend the existing interlocal agreement related to the administration of the Perry-Willard Wastewater Treatment Plant. Council Member Oster referenced the wheeling fees mentioned in section 1 G and asked if the development will have multi-family housing units and if there will be only one sewer connection for the whole building or multiple connections. He reviewed the wheeling fees and the language that requires a (15) day remitting timeline, he recommended it be worded differently. He said that Perry City should only be responsible to pay Willard for the fees they collect and not guarantee payment amounts that are not collected. Council Member Ostler's final concern was the contradiction in section 2 C (vi) of "No separate legal entity is created by the terms of this Agreement and no facility or improvement will be jointly acquired, jointly owned, or jointly operated" while the resolution stated that Perry City and Willard are to build a joint sewer line.

Mr. Morris said he has reviewed the agreement and did not have any concerns with it. He said Council Member Ostler's concerns were valid and recommended they send these suggested to Willard to see if they will accept them. Council Member Tueller said they should have this agreement changed and cleaned up first and for now they should table the motion. He explained that even though he was not against the plan there were too many conditional items that would need to be listed in the motion if passed at this time. Council Member Ostler agreed to allow Mr. Barnhill to circulate the red-line marked copy of the interlocal agreement he emailed to him (and were mentioned by him above).

Council Member Tueller asked about the dry line that was installed (under 1200 South) and if they will use it with future development. Mr. Barnhill responded that he does not have a perfect answer, they might have changes in the way the sewer is routed or maybe it will never be used. Council Member Tueller reiterated that this interlocal agreement was required because landowners did not want to allow a city utility to go through their property and this was the best solution presented by the developer.

Council Member Wright expressed his concerns with the metered sewer line hook-up. He asked if this line will only be used for this subdivision and about the potential developments in the surrounding area that will need to attach to a sewer line. He noted that he was concerned that these special rates might eventually get passed on to the rest of the city. Mr. Barnhill suggested they propose a map in this agreement that outlines the area and the future development potential. Then when future development comes in the area, they may refer back to the map for the sewer connection and may keep track of the flow count.

Mr. Barnhill pointed out that the houses on 3600 South should already have a sewer connection and the homes on the west of the development are in Willard and will be downstream of the meter line. He mentioned the homes on Hargis Hill Road all have septic tanks and if they develop the area the sewer meter would capture the flow of this area.

Mayor Jeppsen said there were several areas in the interlocal agreement that the language needs to be addressed and would like to table it.

The Willard City engineer, Mr. Chris Breinholt, from Jones & Associates said if they try to collect sewer from too many areas (sewage flow added to the line) in the Willard City collection area they will get push back from Willard City. He noted that this proposed agreement was what (Willard) could serve. Mr. Barnhill mentioned that Perry City should propose a map to Willard City that tentatively included sewer connections along this line for the residents living on Hargis Hill Road and the Jensen property. He also noted that Willard City had this action item on their City Council agenda but had to table it because they did not have a quorum.

Mayor Jeppsen tabled the action with no objection from council members.

Motion Tabled.

ITEM 4: DISCUSSION ITEM

A. FY2023 Budget Update

Ms. Johnson said they are required to do quarterly budget updates and this preliminary budget update was as of the end of June. She said this update was for the end of the fiscal year but because some things come in on a lag it will probably not be finalized until September. During the audit process adjustments will need to be made. She said a preliminary look shows we have collected 98% of the city revenues and more will come in. For example, the tax revenue was at \$3.2 million and was trending at \$3.4 million. She said even though the revenue projection is less than anticipated the projections are handling the expenses well. She explained that the General Fund

Interest had collected more than expected but portions of this will be moved into the utility and sewer funds. The sewer fund reimbursements from Willard were lagging from the prior year, which resulted in higher-than-expected revenue in the current year. She pointed out that the general fund year-end expenditure trend is projected to be \$4.8 million, which results in revenues being \$350k better than our expenditures; these funds will roll into our unrestricted fund balance (or savings). The General Fund expenditures are 87% spent, however, there will be some revolving account payments that still need to be paid. The utility fund expenditures are 90% spent and trending shows there will be a few accounts that will go over budget. She mentioned that originally, she projected the utility fund budget would have a \$30k loss and that was why they have watched the utility rates. She said instead this loss was trending around \$14k. She said the sewer fund expenditures were doing great and revenue will be around \$313k better than the expenditures. Sale tax was presently collected at 5.3% higher than the same time last year but coming in lower than in the past. She said the sales tax does come in on a lag and annual projections show year-end sale tax ending 3% higher than the prior year, while in the past, the year over year increase has been 18% to 19% indicating that we may have hit a peak. To recap the budget, she said the general funds expenses were trending to end the year in budget and in compliance, and the city should add \$350k to fund balance. She noted that the utility fund expenses were trending higher than budget, but that was fine because it was an enterprise fund. She advised that the council would receive an in-depth and final budget update for the Fiscal Year in December along with the annual financial statement and audit.

ITEM 5: MINUTES & COUNCIL/MAYOR REPORTS (INCLUDING COUNCIL ASSIGNMENTS)

A. Approval of Consent Items

- June 08, 2023 City Council Work Session Minutes
- June 08, 2023 City Council Meeting Minutes
- June 22, 2023 City Council Meeting Minutes
- June 22, 2023 RDA Meeting Minutes

Council Member Ostler said “Attorney” needs to be stricken from line 12 of the June 08 Work Session Minutes. He asked for a review of lines 175-177 in the June 08 City Council Meeting Minutes. He explained that he did not speak to Republic Services but was only repeating what he heard Republic Services say in a prior meeting. For clarify he also requested for line 177 to be reworded to contain a more complete description of his comment. He explained that what he meant was that Republic Services probably did not want to do an agreement with Perry City for less than five years because they were investing in a truck, and they needed to have a sufficient contract length to recoup their investment.

Motion Tabled. All Council Members were in favor.

B. Mayor’s Reports

None.

C. Council Reports

Council Member Tueller said they appreciate the staff and all the work they do and not to be discouraged when they table things. He commented on the amazing job that administration and staff do. He appreciates the progress the city has made along with the direction the city was headed.

D. Staff Comments

Ms. Johnson noted that at the quarterly employee recognition meeting, Anita Nicholas, received the quarterly excellent award for her friendly disposition, customer service, and willingness to help. She reminded the council members that the (work session) for planning the city hall open house will be on Tuesday, August 1, at 6:00 pm.

E. Planning Commission Report

None.

ITEM 5: EXECUTIVE SESSION

None needed.

ITEM 6: ADJOURNMENT

MOTION: Council Member Wright proposed to adjourn the meeting.

Motion Approved. All Council Members were in favor.

The meeting adjourned at 8:20 p.m.

Shanna Johnson, City Recorder

Kevin Jeppsen, Mayor

Anita Nicholas, Deputy Recorder