

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: City Administrator Robert Barnhill; City Recorder Shanna Johnson; Chief of Police Scott Hancey; City Attorney Bill Morris

OTHERS PRESENT: Roger Timmerman (Utopia Fiber), Danny Henriquez, Daniel Stephens (Black Pine), Jason Roberts, Gene Stephens

ON-LINE: Marc Fletcher, Nelson Phillips, Andy McCrady, Nate Mueller, and Melanie Barnhill

#### **ITEM 1: CALL TO ORDER**

Mayor Jeppsen called the City Council meeting to order.

#### **ITEM 2: PROCEDURAL ISSUES**

##### **A. Conflict of Interest Declaration**

None.

#### **ITEM 3: PRESENTATION**

##### **A. UTOPIA Update**

Roger Timmerman of UTOPIA said it has been several years since he has given an update to Perry City. He mentioned that Jason Roberts is their CFO, who lives in Perry, and perhaps he can give more frequent updates. He gave a short history of UTOPIA, which started in 2004, and created for cities that committed a financial obligation to get a reliable fiber optic cable Internet line. He said they are an inter-local entity made up of cities that founded them with board representatives selected from these cities. He explained how the system works for citizens through the state and then mentioned a few awards the company had received. He said in 2008, several phases of infrastructure were refinanced, which created an \$185,000,000 33-year bond with a 2 percent annual increase to sales tax pledges that these cities owe. He recognized that UTOPIA had a bad implementation which created several financial and legal issues. Council Member Ostler and Tueller both commented on the financial planning of this project. Mr. Timmerman said the next generation UTOPIA wants to solve the problems that happened in the first phases. Their solution was to create a new program and the Utah Infrastructure Agency (UIA) was developed. The following description of UIA is from the Utopia website:

Utah Infrastructure Agency (UIA) is a political subdivision of the state of Utah and was created in June of 2010 by nine Utah cities. The UIA network is connected to the Utah Telecommunications Open Infrastructure Agency (UTOPIA) fiber optic network pursuant to an Indefeasible Right of Use Agreement between UIA and UTOPIA, which grants UIA access to certain facilities of and capacity in the UTOPIA network. The UTOPIA network provides telecommunications services, support and management services as well as crucial infrastructure for the UIA network.

Mr. Timmerman said that Utopia still owes the bond money but UIA is making revenue. Since they are sister entities UIA board members, in good faith, have agreed to help pay back some of original UTOPIA debt. Ms. Johnson questioned the debt and revenue in regards to the UTOPIA/UIA ownership. Mr. Timmerman said that Perry City took on the risk and has ownership of UTOPIA but UIA is the program which they are trying to grow and expand. He expressed that with this growth they plan to help more on the bond debt obligation. He mentioned a few new applications that UTOPIA/UIA offers. Then he pointed out that they now have 50,000 subscribers and that just under 900 subscribers are in Perry.

Council Member Ostler asked if they knew the total of the construction cost incurred to put the infrastructure in Perry City. Mr. Timmerman said he didn't know but he did know it was a higher cost because of the rock on the benches of Perry. Council Member Ostler ask if he knew when the UTOPIA will be profitable and what was the profitability problem. They discussed the possibilities but came to the conclusion that it would be when the bond was paid.

Mr. Timmerman explained the plan they have to accomplish paying the UTOPIA debt and the positive future of the program. He said they are doing a lot of marketing and he asked city staff members to always recommend UTOPIA to their citizens. Council Member Ostler then inquired if UTOPIA had plans to refinance the bond payment and Mr. Timmerman responded they are looking at different options. Ms. Johnson commented that while the payments to UTOPIA have been frustrating in the past, she appreciates this service to the community.

#### **ITEM 4: ACTION ITEMS (Roll Call Vote)**

##### **A. Ordinance 22-L Zone Change for Black Pine LLC from NC3 to R1/3, located at 1025 W 3700 S, Parcel #02-038-00010; Applicant Benjamin Neff**

Mr. Barnhill noted that this zone change is a group of multiple individuals and partners and for the record, the applicant updated to White Pine Rocks LLC with Gene Stephens. He gave an overview of the proposed area for this zone change with a summary of the staff report. He pointed out that this request is for about a 6 acres area. He noted that there are 50 more acres zoned R1/3 that are involved in the potential development, but are not part of this zone change request. He said that previously the applicant worked with Planning Commission on a Development Overlay Zone, but shifted to request the R1/3 zone. He mentioned that the city has adopted a policy of not granting the R1/3 and R1 zones in order to encourage higher density through development agreements or creative development. He said the city general plan does show this area as residential and after review that the Planning Commission approved this request.

Council Member Walker asked if the housing along the highway still have direct access to the highway. Mr. Barnhill and Council Member Tueller responded that UDOT doesn't allow that anymore so the houses will use the established 3600 South or Hargis Hill Road to access the highway. They discussed fences for the residential homes being built along the highway. They then asked if a new plan for the development was available for review. Mr. Barnhill said they did submit a preliminary plan to the Planning Commission and received a contingent approval. Council Member Tueller asked if they are requesting more house allotments and if the lots will be 1/3 acres. Mr. Barnhill responded that the developers are going to follow the standard residential zone requirements. Council Member Ostler researched and read the following from section 15.18.050 Design Standards of the municipal code.

HIGHWAY 89, SOUTH OF 3000 SOUTH. Development adjacent to Highway 89 in this area should utilize frontage roads as much as possible rather than direct access to the highway. This area is envisioned to be predominately residential. Adjacent to the highway a significant landscape buffer with wide sidewalks shall be implemented. Landscaping shall be the predominant aesthetic feature when developments are viewed from the Highway. Development in this area should not interfere or create conflicts with the highway as a high speed and efficient vehicular corridor.

Council Member Tueller continued the research and read the application for this design standard code.

APPLICABILITY. This chapter applies to all commercial, industrial, multi-family dwelling, and apartment developments; this includes, but is not limited to churches, schools, and other permanent site developments. This chapter does not typically apply to single family residential development or agricultural operations unless explicitly stated.

Council Member Walker is concerned that there isn't a standard guide (throughout the city) for how they want the sides of the highway to look. Council Member Wright asked why the Planning Commission approved this request. Mr. Barnhill said he was not sure but gave his thoughts from the meeting. He recounted that it was to match the existing zone of the neighboring property and they focused on the city general plan for that area. Council Member Young commented that the plans showed a better layout for Hargis Hill Road but that doesn't pertain to the zone change request. They continued to discuss the look and amenity of the finished lots along the highway. Mr. Barnhill reminded them that what is written in code now is what the developer will be responsible to do. Council Member Tueller indicated that since the application had been submitted the council can't change the requirements to request specific landscaping designs along the highway lots.

Council Member Walker said he wants to see the development go forward but wants some type of development agreement giving controls on how it will look along the highway. Council Member Tueller asked City Attorney, Bill Morris about the legality of their decision with this zone change and a request for a specific design standard. Mr. Morris said they have raised some valid concerns

on the city design standards for residential housing along the highway. He commented that to some extent the Legislature has taken the ability away from the city to do design standards. He said their option is to negotiate with the developer in a development agreement.

One of the applicants, Daniel Stephens, commented that UDOT has setbacks and other requirements for any building along the highway. He also pointed out that these highway lots will be the front door to their development so they will make them appealing. Council Member Tueller, Council Member Walker and the developers discussed the UDOT setback requirements. Mr. Barnhill mentioned that there is approximately 780 feet of frontage along the highway. Council Member Walker asked the developer why they abandoned perusing the previous development agreement. Mr. Stephens responded that it was not cost effective when it became apparent that the Planning Commission didn't want the density to support the amenities they asked for. They then discussed in greater detail the UDOT setbacks, park strips, sidewalk widths, and other requirements. This discussion helped the council members with their concerns for the look of the lots from the highway and the added safety with the deceleration lanes.

**MOTION:** Council Member Walker motioned to approve Ordinance 22-L Zone Change for Black Pine LLC from NC3 to R1/3, located at 1025 W 3700 S. Council Member Tueller seconded the motion.

**DISCUSSION:** Council Member Wright asked for verification of the name of the partners for this zone change. Mr. Stephens said Black Pine is one of the partners and White Rock the owner of the property. Council Member Walker accepted the verification and Council Member Tueller said the second stands.

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

**Motion Approved. 5 Yes, 0 No**

**B. Ordinance 22-M Zone Change for Promontory Crossing LLC from IC to Industrial, located at 950 S 1600 W, Parcel #'s 03-236-0027; 03-236-0026, Applicant Marc Fletcher**  
Mr. Barnhill explained this application which includes two adjacent parcels totaling about 4.5 acres. In these two parcels there is 2.268 acres that the applicant wants to change to the manufacturing and industrial zone. He said the surrounding zone is Interstate Commercial and there are Federal lands to the west, Brigham City boundary to the east, with the I-15 corridor on the other sides. He recounted that last year this property received a zone change with a condition that they follow the site plan. He said this application had a time limit on obtaining building permits but the time limit lapsed. Then since that time the city had adopted the over lay zone and the new process for development agreements. The applicant wants the parcel property zoned for Industrial as outlined (in the Land Use Chart). Council Member Ostler asked for clarification on the zone requested because the uses are different between the MI (Manufacturing Industrial) and MIL (Manufacturing

Industrial Limited). Mr. Barnhill said that his computer was being serviced and he didn't have access to research this question right now but that he will verify with the applicant. For example, he showed a few uses in MI and MIL of the Land Use Chart. He then read from the staff report the following:

The general plan shows this area to be commercial and states, "Primarily commercial, these areas may have retail, service, office, and business uses in general. Light manufacturing may also be allowed in these areas. Multifamily residential uses should be selectively allowed in these areas." The General Plan also states the following about Manufacturing and Industrial areas. "Manufacturing and industrial zoning should be located in the south west area of the City along the freeway."

He pointed out that this is a legislative item and that Planning Commission did hold a public hearing then recommended approval.

Council Member Walker said he recalls this from last year and the applicant was planning on putting in storage units with a wall between the storage units and the front shopping/business area. This year if approved they will not be able to require the applicant build this dividing wall. Council Member Ostler pointed out that as is they have many other uses the applicant may do. Council Member Walker said if approved as requested it opens the door for different uses other than originally planned. Council Member Tueller said they have talked about the value of the land to the community and the present zone is what's in the master plan. He commented that if storage units are the plans for this area he doesn't feel that this is the best use of the property.

**MOTION:** Council Member Wright motioned to approve Ordinance 22-M Zone Change for Promontory Crossing LLC from IC to Industrial. Council Member Tueller seconded the motion.

Council Member Ostler asked for the clarification on the request from IC to MI or MIL zone. The applicant, Marc Fletcher commented that they were previously approved and a year isn't very long for the scope and complexity of this project. He said they have a commercial real estate team looking at bringing in 18,000 square feet of retail tenants. He mentioned the property isn't very great for retail and they are trying to work with the city on a project that provides a tax base of businesses into the community. He said the land previously was a wetland site and the water table is very low and the cost to bring in fill is high. They've tried to come up with a plan that can provide a benefit to the city while still providing something that works with the characteristic of the property.

**ROLL CALL:** Council Member Young, No  
Council Member Walker, No  
Council Member Ostler, No  
Council Member Wright, No  
Council Member Tueller, No

**Motion Failed. 0 Yes, 5 No**

**C. Ordinance 22-K Amending Swimming Pool Setbacks**

Mr. Barnhill said this ordinance amendment had been reviewed by Planning Commission and they held a public hearing on it. The amendment came because it was suggested by a citizen that was looking to place a swimming pool on his property. This person felt the setback to be restrictive especially on smaller lots and asked if there was flexibility with the ordinance. It then became a review project for Planning Commission and this were their suggestions. Mr. Barnhill read the changes requested in this ordinance as follows:

A residential/family swimming pool shall be permitted in the rear or side of a dwelling

The location of such family swimming pool or accessory machinery shall be ~~not less than thirty-five feet (35') from any dwelling on an adjoining lot and not less than ten feet (10') from any interior property line facing on a street shall not be less than~~ the required ~~side yard~~ setbacks for and accessory building in that zone.

He mentioned that in most residential zones the accessory building setback is five feet. He said in the (Planning Commission) meeting the main concern with a change was safety. He noted the ordinance does require fencing around swimming pools. They then discussed the setbacks and types of fencing requirements.

**MOTION:** Council Member Wright motioned to approve Ordinance 22-K Amending Swimming Pool Setbacks. Council Member Young seconded the motion.

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

**Motion Approved. 5 Yes, 0 No**

**D. Resolution 2022-17 Personnel Policy Update Regarding Tier 2 Retirement for Appointed Officials**

Ms. Johnson said that this resolution is changing the language regarding Tier 2 appointed officials. She explained that Utah Retirement Systems (URS) requires certain language in the city's policy regarding Tier 2 elected and appointed officials. In the recent audit it was discovered they need to have a sentence stating that appointed officers are eligible for retirement. She said the amended sentence will read as the following:

Tier 2 appointed officers and employees are eligible for retirement if they work a minimum twenty-five (25) hours or more per week.

**MOTION:** Council Member Wright motioned to approve Resolution 2022-17 Personnel Policy Update Regarding Tier 2 Retirement for Appointed Officials. Council Member Walker seconded the motion.

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

**Motion Approved. 5 Yes, 0 No**

## **ITEM 5: DISCUSSION ITEMS**

### **A. Development Update**

Mr. Barnhill said Box Elder School came to him to discuss development progress within the city. He did some research for them and will also present his findings with the council. He gave an overview of the recent Perry City developments as follows:

Mount Pleasant Estates; 21 single family lots  
Perry Landing; 34 single family, 20 multi-family  
Davis Creek Estate; 31 single family  
Harmony Cove; 2 single family, 20 multi-family  
The Mark at Lake Pointe; 18 multi-family  
Orchard Hill; 1 each 7-plex multi-family  
Perry Canyon; 2 each 8-plex

He said for a total of 104 multi-family and 88 single family. He expressed that in all 192 total family units are built or being built since the mid-2020. He mentioned that there are roughly 1,700 utility connection currently in the city. He then presented pending developments, which some might not be done or may have several phases built over the next ten years.

Bear River Mountain Apartment  
Pointe Perry Apartments  
Vintage Farms Townhomes; 15 multi-family  
Perry View Townhomes; 22 multi-family  
West Meadows; 87 single family, 8 multi-family  
Apple Ridge; 57 single family  
Olsen Orchards; 103 single family, 44 multi-family

He said it's interesting how the developments are naturally spread out throughout the city. He summarized the total pending developments as 237 apartments, 89 multi-family and 247 single family with an overall total of 573 pending units. He thought it was an interesting snapshot of the multi to single family ratio that building is moving towards. He said the census shows over three people per house hold. Based on this number the calculation comes out to almost 2,300 new people

in our community, which is a 40 percent population increase. He noted that there might be other developments coming but this is a current snapshot of developments in Perry City.

The Council Members commented on the hard work Mr. Barnhill, the Planning Commission and others have done to create the city grid, which spreads housing growth throughout the city. They also mentioned they don't feel pressure to develop but they understand there is a need for affordable housing.

Mayor Jeppsen asked if the 40 percent increase brings the city to a halfway mark of a full build out. Council Member Tueller said he thought, according to the studies, the full build out was around 13,000 - 15,000.

### **B. Fiscal Year 2023 Budget Update**

Ms. Johnson stated in compliance with state law she is presenting a first quarter Fiscal Year 2023 budget update. She pointed out the notes on the bottom of the budget that show revenue and expenditures from Fiscal Year 2022 are still included in the totals presented. She said as they prepare the financial statement for the year-end audit, adjustments will be made to remove the revenue and expenditures associated with Fiscal Year 2022. She explained that usually in January the City receives property tax revenue, which will increase revenues in the General Fund considerably.

Shanna Johnson reported that this budget update is through the end of September and we are currently 25% through the budget year. Shanna advised that the City has collected 21% in general fund revenues. The Utility fund has collected 26% of planned revenues, the Sewer Fund collected 26% of projected revenues, and Utility Fund Non-Operating Revenue is showing 41% collected due to higher than expected building fees.

Ms. Johnson advised that General Fund Expenses are at 22% of budget. The Utility fund has expended 30.6% of the budget and is trending high due to unexpected water leaks; a budget amendment may be needed to address this. Ms. Johnson noted that the Sewer fund has spent 19.1% of their budget.

Council Member Walker asked about audit adjustments and impact fees. Ms. Johnson said the things that will be impacted are things like sales tax that comes in on a two-month lag. She noted that impact fees are collected at the moment so they are going to stay. Council Member Walker made this comment because the budget shows the city is at nearly 50 percent of projected revenue in the first quarter. Ms. Johnson said this is similar to last year and is due to the growth in the city. She continued explaining there are one time charges or seasonal expenditures in this quarter budget and some expenses that will be pulled back to Fiscal Year 2022 (which now shows higher percentages on these accounts). She mentioned that because of the many water leaks this past summer she is concerned about the Utility Fund account.

Ms. Johnson finished the budget review by stating the city as collected 7.81% more sales tax than the prior year at this time. She advised that a detailed budget update was sent to the council in email.



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

### **A. Approval of Consent Items**

- October 13, 2022 Council Meeting Minutes

Council Member Walker said that the language on Line 173 should be update to say, "They should develop a five year plan and from that they derive a metric that they can use to assess their progress."

**MOTION:** Council Member Walker made a motion to approve consent items with the correction mentioned. Council Member Wright seconded the motion.

**Motion Approved. All Council Members were in favor.**

### **B. Mayor's Reports**

Mayor Jeppsen said they had the fourth quarter employee recognition luncheon. He mentioned that Chief Hancey received the Quarterly Excellent Award for the great job he's been doing. They gave out tenure awards to John Oyler for 30 years and Jason Schmidt for 5 years of work at Perry City.

Council Member Wright asked for them to expound on why Chief Hancey received this award. Ms. Johnson who nominated him said he demonstrates great leadership in the police department, works hard to get grant money, has a good rapport with his guys (team), and has brought in applicants to Perry from outside agencies. They all thanked Chief Hancey for his efforts and service.

### **C. Council Reports**

All Council Members said they had nothing to report.

### **D. Staff Comments**

Mr. Barnhill gave an update on the Lodge building. He said the designer indicated that the second week in November they should go out for bid that has a tentative contractor completion date for the end of May. He mentioned that things may change but for now he has detailed remodel plans of the Lodge available to view. Next, he remarked that during the Utopia meeting someone mentioned a city member should be on the board. So he suggested if any of the council members are interested in being on the Utopia board they may talk to the mayor. They noted that Todd Christensen has been on the board for a long time and perhaps a change is due.

Ms. Johnson apologized for the zoom connection error that occurred earlier.

Chief Hancey reported that he added a crime update in the November city newsletter for the community to view. He pointed out that his officers have documented 176 times that they've gone into the elementary schools (for goodwill). He said (to have police presence and get good rapport) he requires the officer on shift to go into the two schools twice a day.

### **E. Planning Commission Report**

None.

Mr. Morris congratulated Chief Hancey. He then said he received a call from the Attorney General Office of Regulatory Relief. They called because Perry City participates in Brigham City's towing contract. He said Brigham City changed the contract and now the state is saying they need us to follow through with the amendment to include Perry City. He explained that council will received a resolution with a towing agreement. He expressed if we don't like it then the city will have to get their own towing contract. He said the Brigham City contract looked good and if we want (the service) we'll need to sign up with them on this contract.

**ITEM 7: ADJOURNMENT**

**MOTION:** Council Member Tueller proposed to adjourn the meeting.

**Motion Approved. All Council Members were in favor.**

The meeting adjourned at 9:32 p.m.

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Shanna Johnson, City Recorder

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Kevin Jeppsen, Mayor

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Anita Nicholas, Deputy Recorder