

OFFICIALS PRESENT: Mayor Karen Cronin presided and conducted the meeting. Toby Wright, Nathan Tueller, Esther Montgomery, James Taylor, Brady Lewis

CITY STAFF PRESENT: Greg Westfall, City Administrator
Susan Obray, City Recorder
Craig Hall, City Attorney

OTHERS PRESENT: Braden Johnson, Dave Kallas (Geneva Rock), Nelson Phillips (Box Elder News Journal), Brent Sumsion (Geneva Rock)

ITEM 1: CALL TO ORDER

Mayor Cronin called the City Council meeting to order.

A. INVOCATION

Council Member Montgomery offered the invocation.

B. PLEDGE OF ALLEGIANCE

Council Member Lewis led the audience in the Pledge of Allegiance.

C. REVIEW AND ADOPT THE AGENDA

MOTION: Council Member Wright made a motion to approve the agenda. Council Member Montgomery seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Tueller, Yes
 Council Member Montgomery, Yes Council Member Taylor, Yes
 Council Member Lewis, Yes
Motion Approved. 5 Yes, 0 No.

ITEM 2: PROCEDURAL ISSUES

A. CONFLICT OF INTEREST DECLARATION

None.

B. PASS OUT WARRANTS TO COUNCIL MEMBERS (AND POSSIBLE DISCUSSION)

Shanna Johnson passed out the warrants.

ITEM 3: PUBLIC HEARINGS AND/OR PUBLIC COMMENTS

A. PUBLIC COMMENTS

David Kallas: explained that he works with Geneva Rock which is a locally owned ready mix and aggregate company here in the State. He said their products are used throughout the Wasatch Front. He expressed that Geneva Rock has enjoyed working in Perry City. He said Geneva has had a long term plan for operating and a phased out approach with their property of which Geneva Rock feels there was an understanding. He said he feels that there has been some recent road blocks as Geneva plans to begin their next phase and he hopes that this can be worked out. He said that

Geneva Rock wants to cooperate with the City, answer questions, and hopes that the City will work with them as well as they move forward.

ITEM 4: EXECUTIVE SESSION

MOTION: Council Member Lewis made a motion to close the Public Meeting and go into an Executive Session to discuss:

- the purchase, exchange, lease, or sale of real property; and
- the character, professional competence, or physical or mental health of an individual

Council Member Taylor seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Tueller, Yes
Council Member Montgomery, Yes Council Member Taylor, Yes
Council Member Lewis, Yes

Motion Approved. 5 Yes, 0 No.

The regular meeting closed at 6:08pm.

MOTION: Council Member Wright made a motion to leave the Executive Session and reenter the Public Meeting. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Tueller, Yes
Council Member Montgomery, Yes Council Member Taylor, Yes
Council Member Lewis, Yes

Motion Approved. 5 Yes, 0 No.

The regular meeting reopened at 6:16pm.

ITEM 5: ACTION ITEMS

A. APPROVAL OF THE WARRANTS

MOTION: Council Member Lewis made a motion to approve the warrants. Council Member Taylor seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Tueller, Yes
Council Member Montgomery, Yes Council Member Taylor, Yes
Council Member Lewis, Yes

Motion Approved. 5 Yes, 0 No.

B. Ordinance 16-E Establishing a Temporary Moratorium Regarding Gravel Pit Permits

Mayor Cronin advised that this deals with putting a moratorium in place regarding gravel pit permits. She said this will allow the City to review their Gravel Pit Ordinance and make changes if needed. She said that for the period of time of which this is reviewed the City will not be approving any new permits regarding gravel pits until this item comes back to the Council. She said this issue came forth as the City was contacted by Brent Sumsion regarding Geneva Rock starting work in phase 2 of their property. She said that Brent also suggested that the City should talk with the State Department of Oil, Gas, and Mining. Mayor Cronin said that City Attorney and staff contacted them and they sent a representative to tour the pit and he provided some suggestions. She advised Greg Westfall looked into these suggestions, Craig Hall looked into our current ordinance and City Engineer, Brett Jones also weighed in and they all felt there were some things we can do to clarify our current ordinance and make it more compatible with Box Elder County has in place and other industry standards. Mayor Cronin said that this is what we would like to do and we would like to get started on this ordinance review so we can be proactive so when Geneva submits their permit application for phase 2 our ordinances are in place and clear. She said that Perry City enjoys the partnership with Geneva and this action item is in no way negative. Mayor Cronin said one of the

things that Greg brought to her attention is that our current ordinance does not require engineered drawings to be submitted with a permit application. She said it can be requested but is not currently required. She said in trying to clean up the process she suggested that engineered drawings be required at the time of the permit application. She stated that the County requires that an updated operating plan be submitted every 3 years. She said that this provides an opportunity for the City to forward any new requirements or regulations to the business. Mayor Cronin said that Brent Sumsion explained to the City that Geneva feels that when they submitted for their original permit back in 1998 they were granted operations in 2 phases. She said that in fairness to Geneva the City has researched this and back in 2004 the Planning Commission approved operations for Phase 1 which included 40 acres of the project and the Surety Bond put in place for the area was based on 40 acres. She said that this was approved by Conditional Use. She said that we are not trying to interrupt any current operations. Mayor Cronin advised that when the City Attorney, Craig Hall reviewed the original permit he felt it was clear that permission was only granted for Phase 1 and that Geneva would need to come back and apply for a Phase 2 permit. Greg Westfall said that the goal is to clean up the ordinance as quickly as possible. He said this will also help the application process. Council Member Lewis asked how long the ordinance review process will take and who will be in charge of this. Mayor Cronin answered that the moratorium will allow 6 months to review and update the ordinance. She suggested a task force review the ordinance. Craig Hall said that the City has also encouraged Geneva Rock to review and provide any feedback regarding the ordinance and to be part of the task force; this is in an effort to ensure that any changes made to the ordinance will work. He said that he anticipates having a draft complete by the end of January so this can go through the Planning Commission and City Council approval.

Mayor Cronin gave an opportunity for Geneva Rock to make comment. Dave Kallas stated that their interpretation of the permit is that it covers the entire property and there appears to be a difference of opinion regarding the permit. He advised that they have reviewed the permit and their attorneys have also reviewed it. He explained that it is typical that you bond for the phase currently being processed and that is what has been outlined in the permit but they believe the permit was granted for the entire property. He said they are questioning whether or not they need to go through the permitting process again. Mr. Kallas said that they are planning to begin work in Phase 2 in February and this could cause them delay. He said that they do not want to respond to this issue hostilely but they do want to make sure the City understands their views. Brent Sumsion added that it is typical in the mining industry to take out bonding in phases for cost savings purposes. However he said that the application was made in 1998 for the full 117 acres and it was setup in 2 phases. He said that the final build out contours were clearly marked on the drawing. He said that usually the only thing that happens before moving to the next phase of a project is a new bond. He indicated that Geneva's understanding in relation to their project was that this was already approved and he does not understand the need to go back through the application process, as this creates more work for Geneva and for Perry City.

Mayor Cronin said that staff did go back and research the meeting minutes. Greg Westfall explained that the application that was submitted by Geneva Rock was for 40 acres, the Planning Commission at that time and in the minutes it clearly states that the Planning Commission makes a motion recommending approval to the City Council for the 40 acres north of road and the wash to be permitted by Conditional Use. Mayor Cronin said that they have met numerous times with Mr. Sumsion and in each meeting Greg has indicated that he felt the next phase would require a new permit. She said that the City is trying to clean up the ordinance so that when Geneva submits their application for permit the City can process this as quickly as possible. She said that our Planning Commission takes their job very seriously and take time to review the ordinances. She said if there are any questions the process will take longer as they take time trying to figure it out and she feels that by clarifying the ordinance now it will make the process faster in the future.

Council Member Lewis asked Craig Hall to outline the item up for action tonight. Craig Hall explained that the provisions of the Land Use Statute 10-9a of the Utah Code allow City Councils to establish temporary stand down periods when they are considering the revision of ordinances. He said that this ordinance states that Perry City will not accept any new application for this type of operation after yesterday at noon when we published notice of Ordinance 16-E. He said that if this ordinance is passed tonight it allows the City to stand down and take a good review of what we have in place and see if things have changed since it was adopted, review plans for compliance and ensure that we have ordinances are fair to the landowners and the citizens of the community. He said that this gives the opportunity for time to review items and make sure that we have something that is workable for everybody. Council Member Lewis asked how long the moratorium will last. Craig said the timeframe is not to exceed 6 months. Council Member Lewis asked how the city ends the moratorium. Craig answered by passing another ordinance. Council Member Lewis said that this could be completed by the first meeting in February. Craig confirmed this to be a possibility.

Shanna Johnson said that as she researched minutes she found that in the past the City has made changes to the ordinance and requirements for rock pits. She said that this occurred in 1998, 2002, and in 2004. Shanna stated that Geneva Rock has been notified of these changes as they have occurred. She said that the action being presented is not to stop operations, but to make sure that the regulations in place are still in the best interest of all.

Council Member Taylor asked the representatives from Geneva Rock how soon they planned to be operating in phase 2. Mr. Sumsion stated that they planned to begin producing from Phase 2 in February. Council Member Lewis asked how long it takes to set up the infrastructure needed. Mr. Sumsion said about 30 days.

Mayor Cronin said that one of the things that the City Engineer has concern about is that phase 2 has an active well site. Greg Westfall clarified that there is an active well site close and there is also City Springs in the area. Mayor Cronin said they would also be taking material from the south side of the property on conveyer belt over the access road to Perry Canyon to the north side of the property and the City Engineer wants to review this process for the safety of those who may use the road.

Council Member Lewis asked what types of items are being looked at for possible revision in the ordinance. Greg Westfall said the City would like to require that with each permit there is a good set of plans to ensure we are protecting City water sources, easements, utilities, etc. He said that this helps in the reclamation process as well. He said that anything else will be looked at in the approach of benefiting all parties.

Council Member Lewis asked how much production is still available in phase 1. Mr. Kallas said that will be job or project based. He said that their judgment is that they need to be set up by February. He said that by the time they set up they will most likely be out of stock piled product.

Mayor Cronin said that according to research completed there is only been a permit issued for phase 1 and in moving to phase 2 we need to either roll out on this with the current ordinance or be proactive and put things clearly in place so that Geneva can move to phase 2.

Council Member Taylor asked if the timeframe of the ordinance can be reduced. Craig said that this could be moved to 90 days, but there is a possibility that this may need to be extended. Mayor Cronin cautioned against tying the hands of staff and the Planning Commission. She recommended leaving the time frame with the mindset that we will work this as expeditiously as possible. Council Member Montgomery stated when acting as a Planning Commissioner if you have all the information needed and everything has been addressed it makes land use decision very easy. She

said that our Planning Commissioners are very thorough and they will not pass a permit if they feel that there are items not addressed. She said that this is a very proactive approach.

Council Member Tueller stated he understands that there is a difference of opinion on what phases have been approved but the Council has to base their decision off the minutes and what we have on record. He loves business and the fact that we have local product on the freeway, but he also understands that we have concerned residents. Council Member Montgomery stated that we have to go off the permit and if not all phases were authorized we need to follow our permitting process. She said that this is the cities opportunity to review the ordinance and ensure it is in the best interest of all.

Craig Hall said that last thing he wants to do is to get into some sort of litigation with Geneva Rock, because frankly if that happens Geneva will not be digging this year. He said litigation is not going to resolve the issue; we need to resolve it by considering revisions to the ordinance to allow for Geneva to get through the permitting process quickly. He said that if there is a motion to approve Ordinance 16-E tonight he would like the following added to paragraph 3:

"...for a period of time not to exceed 6 months"

He said that this is already stated in paragraph 2, but this will clarify the timeframe.

Council Member Lewis agreed with Craig Hall that we want to avoid litigation at all costs and in no way does he want to hold up their operations. He said he wants Geneva to know that there are members of the City Council that are in business and want to get this process completed and not hold up their production.

Brent Sumsion said that even if this process is completed quickly, Geneva is still looking at a 6 month process for the permitting process. Greg stated that this may be true for a larger City, but in Perry City this is not the case. Mayor Cronin stated especially if we get the ordinance cleaned up. She said without clarifying the ordinance she feels that Geneva could be looking at a year long process. She said that she is trying to be business oriented.

MOTION: Council Member Wright made a motion to approve Ordinance 16-E Establishing a Temporary Moratorium Regarding Gravel Pit Permits, for a period of time not to exceed 6 months and including the additional language in paragraph 3 as stated by Attorney Craig Hall. Council Member Montgomery seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Tueller, Yes
Council Member Montgomery, Yes Council Member Taylor, Yes
Council Member Lewis, Yes
Motion Approved. 5 Yes, 0 No.

Mayor Cronin said she will get the task force put together and asked the Council Members to let her know if they would like to participate.

ITEM 6: COUNCIL/MAYOR REPORTS

A. MAYOR'S REPORT: None.

B. COUNCIL REPORTS: Council Member Tueller asked for monthly progress updates regarding the Gravel Pit Moratorium and ordinance clean up. Greg stated that this can be done through the Mayor's report.

ITEM 7: ADJOURNMENT

MOTION: Council Member Montgomery made a motion to adjourn the council meeting.
Motion Approved. All Council Members were in favor.

The meeting adjourned at 6:56pm.

Susan O Bray, City Recorder

Karen Cronin, Mayor

Shanna Johnson, Chief Deputy Recorder