

**Perry City Special Uses and Appeals Board Meeting
6:00 PM Tuesday, February 18, 2014
Perry City Offices, 3005 South 1200 West, Perry Utah**

Board Members Present: Chairman Mark Stratford, Board Member Jim Felix, Board Member Kim Barnard, and Board Member Suresh Kulkarni

Board Members excused: Board Member Boyd Hirschi, Board Member Bruce Howard and Board Member Jon Rackham

Others Present: Jack Molgard, Attorney (filling in for Molone Molgard); Susan K Obray, Minutes Clerk

1. Approx. 6:00 pm - Call to Order, Opening Ceremonies, and Public Comment

A. Call to Order and Pledge Allegiance to the U.S. Flag

Chairman Stratford called the meeting to order and asked Board Member Barnard to lead the Pledge of Allegiance.

B. Declare Conflicts of Interest, If Any

Chairman Stratford asked for conflicts of interest. There were no conflicts.

C. Review the Agenda (and Possible Motion to Change the Order of Agenda Items)

No changes to the agenda.

D. Approve Minutes for February 12, 2013

MOTION: Board Member Felix moved to approve the February 12, 2013 minutes. Board Member Kulkarni seconded the motion. All in favor.

E. No Public Hearing(s)

**2. Approx. 6:05 pm-Special Use/Business Applications
(Final Land Use/License Authority Actions)**

A. Review Special Business Licenses for 2014

Chairman Stratford stated that there is a copy of the 2014 business licenses included in their packets. He asked if anyone was aware of any businesses in Perry that have had any complaints or concerns in the last year. All board members stated "No". Board Member Kulkarni stated that he has talked to several residents and things seem to be going fine. Chairman Stratford stated that as far as the board knows the businesses in Perry are in compliant with the Perry City Ordinances. Board Member Barnard asked if Eva Jane Marsh's daughter (Kathy) was on the business license list, because she had a couple of signs out. Susan Obray stated that she has not renewed her license yet, that is why she is not on the business license list. Board Member Felix stated that he had a conversation with Susan and that there were several on the list that does not have a business license. He said they are seasonal business licenses and don't get their license until they are open for business (fruit stands). Board Member Barnard stated that Eva Jane Marsh's daughter should really have a business license because she has several signs out front her home advertising. Susan said that Robin does the business licenses and she would follow up with her regarding this license. Board Member Kulkarni stated that there are about 18 businesses in Perry that need to be reminded that their business license is up for renewal. Susan stated that there will be a reminder that will be sent out in the Perry newsletter to remind business owners to

renew their licenses. Susan assured that Robin would follow-up on the business owners that have not renewed their licenses. Board Member Kulkarni stated that this is a great chart and should help the city to do their data research more, for example, have businesses grown from last year to this year? He asked how many home businesses have we had from this year compared to last year, because it might help the economic development group to focus on things that would bring in more businesses that are more rewarding to us, rather than continuing going after more home businesses. Board Member Kulkarni asked how do we use this chart to steer our economic development committee to more business growth and where should we be focusing. Susan reported that the city uses Caselle Clarity for their financial software. She said that they are looking at an additional module that will be specific to business licensing. Susan said the module will create the business license forms; send letters to business owners when they need to renewal or if they are out of compliance. She said it will also flag businesses that need to be brought into compliance. Susan stated that reports will be generated to show the business license data. She reported that she is going to send Robin to some Caselle training with regards to the business license module to see how it works or if this is something that would be good for our city to implement.

MOTION: Board Member Barnard moved to approve the 2014 Business Licenses as listed for Perry City. Board Member Felix seconded the motion. Roll Call Vote.

Board Member Felix	yes	Board Member Kulkarni	yes
Board Member Barnard	yes	Chairman Stratford	yes

Motion Approved: 4 yes 0 no

3. Approx. 6:15pm-Training

A. Business License Training

Attorney Jack Molgard (filling in for Malone Molgard), presented some business license training. Mr. Molgard stated that before 1997, Utah municipality had the authority to license businesses for both revenue and regulatory purposes. The revenue purpose was for raising money for the general fund of the city. He said for regulatory purpose is the control of where, when, and how a business operates. Mr. Molgard stated that various business licensing schemes were adopted by Utah municipalities including flat fees by class of business, fees based on the number of employees, fees based on the size of the business, and fees based on the gross receipts of the business. He said since the municipality had authority to license for both revenue and regulation, there were no required nexus between the services supplied by the municipality to the business or the burden created by the business on the municipality. Mr. Molgard stated that in 1996 a few municipalities had adopted a gross receipts business licensing scheme that appeared and was applied like a sales tax. He said that Moab City was the most aggressive in this approach. The revenue from its business license was sufficient for the city to not have a local property tax levy. Mr. Molgard stated that as a result of this the Utah Tax Payers Association and others became angry. He said once the Legislature became aware of the municipalities broad power and discretion in business licenses, it determined to take the power and discretion away. He stated that the state law specifically allows licensing for revenue purposes to certain parking services businesses, to a public assembly facility, to a business that causes a disproportionate cost of municipal services, to a business for which a city provides enhanced

levels of services, to certain energy utility companies, to telephone utility companies, and hotel/motels. He stated that each of these allowed revenue sources has its own special rules and definitions. Mr. Molgard stated that if a city or town is going to license for revenue purposes for enhanced level of services, the ordinance must define what the base level of service is and what amounts are reasonably related to the cost of providing the business for the enhanced level of services. He said both the disproportionate costs and enhanced services ordinance require a study to generate the information to support the need and amount of the revenue to be raised by these ordinances. He stated that if a city or town enacts these ordinances without supporting data, it will not survive a court challenge. Mr. Molgard ended by saying that a city or town may still have business licenses for regulation purpose only. These licenses must be uniform as to class of business, and the fee amount must be rationally related to the actual cost of regulating the business. These costs may include things such as paper work cost of processing the license and safety and fire inspection. These types of regulatory licenses should not be a profit for the municipality and, if they are, would be subject to challenge.

4. Approx. 6:40 pm-Questions and Adjourn

A. Questions by Special Uses and Appeals Board Members

There were no questions by the board.

B. Motion to Adjourn

MOTION: Chairman Stratford moved to adjourn. Board Member Felix seconded the motion. All in favor.