

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

CITY STAFF PRESENT: Greg Westfall, City Administrator
Shanna Johnson, Chief Deputy Recorder
Craig Hall, Attorney
Melani Nish, City Employee

OTHERS PRESENT: Nefi Garcia, Stuart Grover, Terry Hoyt, Vicki Call, Joe Drago, Jason Watterson, Paul Glauser, Colton Glauser

ITEM 1: CALL TO ORDER

Mayor Cronin called the City Council meeting to order.

A. INVOCATION

Mayor Cronin offered the invocation.

B. PLEDGE OF ALLEGIANCE

City Administrator Greg Westfall led the audience in the Pledge of Allegiance.

C. REVIEW AND ADOPT THE AGENDA

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

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

C. BUSINESS LICENSE(S)

- **TN Hoyt Driving LLC** – This business consists of driving dealership cars from one dealership to another, which is known as a *dealer trade*. It will be a business run from home and will have no visiting clientele. There will be no trailer or vehicles parked on the street in front of the owner’s home.

MOTION: Council Member Lewis made a motion to approve the business license for TN Hoyt Driving LLC. Council Member Montgomery seconded the motion.

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

Council Member Taylor, Yes
Council Member Montgomery, Yes

ITEM 3: PRESENTATION FOR TRUST ACCOUNTABILITY PROGRAM AWARD

A. UTAH'S LOCAL GOVERNMENT TRUST (ULGT)

Mayor Cronin introduced Jason Watterson from Utah Local Government Trust which is Perry City's insurance company. The ULGT is recognizing Perry City for its excellent work. Perry City has been with ULGT for 31 years. Jason Watterson reviewed the Trust Accountability Program (TAP) which was created a few years ago and designed to reduce risk. He explained accountability is the essential key throughout all ULGT's associations. He informed, from a liability standpoint, the most common loss accrued is due to automobile liability, the second most common loss accrued is due to sewer backups. It is these type of things which are used when ascertaining the TAP award recipients. The recipients receive benefits for their efforts in loss prevention, such as, a portion of their liability premium back. Jason presented the award to Perry City and announced they received a check for their returned liability premium, which amounted to \$3,028.75. Perry City will also receive a discount on their Workers Compensation Premiums (up to 4%) if Perry City continues to meet the following TAP requirements:

- a. Ensure all drivers have a valid Driver's License, as well as a good driving record.
- b. Inspect every sewer manhole so that the City is aware of their conditions.
- c. Help injured employees return to work as quickly as possible.
- d. Continue having a safety committee meeting on a regular basis to review and find solutions to incidents, near incidents, and concerns.

Mayor Cronin thanked the safety committee and Shanna Johnson, who facilitated the TAP program, for their efforts.

ITEM 4: PUBLIC HEARING AND/OR PUBLIC COMMENTS

Mayor Cronin recognized attending public member Colton Glauser, a Boy Scout working to obtain his Communications Badge. Mayor Cronin awarded him with an Official Perry City Pin.

A. PUBLIC COMMENTS

Vicki Call: Revealed she is a member of the Planning Commission and is against the Verizon Telecommunications Tower Application as it is currently presented. She explained the Planning Commission vote was split and she would like to personally represent her vote to the Council. She explained she had a few main points to support her vote:

- i. She related in the beginning of the Perry City Ordinance regarding Telecommunication Towers it states the intent of the ordinances written are to protect the residential areas and land usage for the potential adverse effects of telecommunication towers.
- ii. She further expressed the ordinance says by not allowing a Telecommunication Tower in a residential area it will encourage the placement of such towers in nonresidential areas.
- iii. She also disclosed in the Land Use Chart it states Telecommunication Towers are allowed in manufacturing and industrial areas but are not permitted in any residential area. The area designated for Verizon's Telecommunication Tower is in a residential area.

Vicki stated there is another line in Perry City Codes which has caused the split vote, it reads, "Whenever possible the preferred location for any tower or wireless communication device shall be upon property owned by the City." She recognized that usually residential areas are not owned by

the City but in this case they are. She alleged that even though there are conflicting codes the City should protect the residential areas. She further revealed that City Attorney, Craig Hall advised the Planning Commission—since towers are allowed by code on city land and those words are written in text format in the ordinance, they supersede the words written on the Land Use Chart. However, she believes the intent is to protect our residential areas and that the wordage should not be held in higher esteem than the intent of the ordinance.

Terry Hoyt: Explained he lives on 1000 West which is a dirt road with two exit points up to Highway 89. His concern is that it hardly ever gets plowed and the garbage truck will not come down it due to this. He and his family have had a difficult time traveling on it and would greatly appreciate if it could be plowed in the future. He recognizes it has been an unusual winter with the excessive amounts of snow.

ITEM 5: ACTION ITEMS

A. APPROVAL OF THE WARRANTS

MOTION: Council Member Taylor made a motion to approve the warrants as presented. Council Member Tueller seconded the motion.

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

B. APPLICATION FOR VERIZON WIRELESS TELECOMMUNICATION TOWER

Mayor Cronin explained the Land Use Chart is a summary, meaning it strives to include the most common issues, but does not include extenuating circumstances. The case of the Verizon Telecommunication Tower is an extenuating circumstance, therefore, the answer must be found in the detailed ordinance. Mayor Cronin said this is what was advised in the letter written by City Attorney, Craig Hall, regarding the placement of a telecommunication tower issue. The detail in the ordinance which states, when possible, a Telecommunication Tower should be placed on city owned property supersedes the Land Use Chart summary of such towers not being placed in residential areas. She further expounded there have been two public hearings for those who neighbor the designated area for this tower. Mayor Cronin reported there was no public comment in either hearing.

Mayor Cronin revealed in the last General Plan, government zones and civic zones were supposed to be put in place. However, it was never followed through to put these zones in place on City owned areas. Mayor Cronin explained she had a conversation with Planning Commissioner Ostler who said he would feel comfortable in allowing the tower, however, the City had the obligation to put in these government zones. She added he believed these two projects could be done concurrently. This would resolve the conflicting codes in the Land Use Chart and the ordinance.

City Administrator, Greg Westfall interjected in the Permitted Use Section of the ordinance it clearly states towers will be permitted on government property, as long as a public hearing has been held. Mayor Cronin explained if the Council denies the application they must give a valid, legal reason as to why they are denying it.

Council Member Montgomery questioned whether all the City owned property would be government zoned, and whether approving this application would mean one could build a tower on any city owned/government zoned property. City Administrator, Greg Westfall answered it would still be in the power of the property owner (Perry City) to accept or decline future applications for towers. Mayor Cronin stated Perry City is in the process of updating their General Plan and it is an

advantageous time to decide what areas in the City will or will not be government zoned. She reminded the Council this action is simply deciding based upon the current ordinances if it's allowable to build this tower or not.

City Attorney, Craig Hall was asked by the Council if he had anything else to add. He stated we essentially need to clean up Perry City's books and readjust the General Plan, especially in regards to the government or public zoning. He felt public zone to be a more appropriate term than government zone.

Council Member Lewis desired to share his opinion on the matter. He expressed having the tower would be a positive step for Perry City, however, he doubts whether Perry City is ready for such a step with the current state of conflicting codes. He believed legally the Council could approve the application but he does not think they should. He continued it would be better to first fix the state of Perry City's books before making the decision to accept or decline the current Verizon application.

Mayor Cronin explained if the Council denies the application without a standard to stand on, they open the City to liability. She agreed the books need to be adjusted, however, the current books legally allow this application as Council Member Lewis stated. Council Member Lewis rephrased his former statement and said he believes due to the two contradictory codes the Council cannot legally pass this application until the codes are aligned to match one another.

Council Member Wright interjected that those who have submitted this application have done everything they were asked to do. If Perry City denies this application it is at the liability of Perry City. He continued Perry City already has Telecommunication Towers and that this Verizon tower is both an asset and need in the City.

MOTION: Council Member Montgomery made a motion to approve the application for the Verizon Wireless Telecommunications Tower. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
 Council Member Tueller, Yes Council Member Montgomery, Yes
 Council Member Lewis, No
Motion Approved. 4 Yes, 1 No.

ITEM 6: DISCUSSION ITEMS

A. RECOMMENDATION FROM CODE ENFORCEMENT TASK FORCE (CETF)

Mayor Cronin explained in the current Perry City Code it is a Class B Misdemeanor for noncompliance issues. She stated a common example of this would be a resident/landowner not shoveling the adjacent sidewalk to their property. Perry City has received many calls dealing with sidewalks not being shoveled in neighborhoods. The current code would allow the City to charge violators with a Class B Misdemeanor which is an extreme punishment for a minimal infraction.

Mayor Cronin revealed at this time, if the City were to enforce this ordinance it would be sending numerous residents to court. She stated the proposed Code Enforcement concept suggests having a civil pathway, the criminal avenue would still be in place, however, the proposed concept from CETF would give Perry City Officials a choice of enforcement. She reviewed the civil pathway for a noncompliance issue would be as follows:

1. Attempt for personal contact, at least two times. If successful and the item is taken care of no more action is required. If the item is not taken care of the City will move to step 2.
2. If personal contact is achieved but no action taken by the resident/landowner or if personal contact was unsuccessful, the city will send a written notice and give them ten days to

respond to the noncompliance issue. If the resident/landowner takes care of issue no more action is required. If the resident/landowner cannot realistically achieve compliance within 10 days, they can speak with city officials to set up a course of action agreed upon by both parties to achieve compliance in a timely manner.

3. If the resident/landowner is still noncompliant after 10 days and has not set up a Course of Action with the City they will be charged a \$100.00 fee each day they are out of compliance. If resident/landowner does not achieve compliance within the course of action agreed upon between them and the City the same fee will apply. (Mayor Cronin explained the fee amount is not set at \$100.00 a day, it is the amount suggested by the CETF based on their research of neighboring cities fees for noncompliance).
4. If noncompliance goes past a certain amount of days the City could send a contractor to resolve the issue. (Mayor Cronin explained, for liability reasons, it would be better to use a contractor for this matter versus a City employee). The resident/land owner will be billed for the contractor cost, if they refuse payment it will be attached to a property lien on the County Records. If the resident/landowner achieves compliance before a contractor is sent, their fee could be dropped by petition to the Council to \$1200.00.
5. If a resident/landowner is out of town for an extended amount of time and can prove this absence to the Council, their fee can be reduced or waived. If the City decides to waive fee, the resident/landowner has 10 days to achieve compliance or set up a course of action with the City to achieve compliance.
6. If the resident/landowner disagrees that they are noncompliant with the City ordinances they have the right to an Administrative Enforcement Hearing. Perry City would partner with another city/cities to have one of their city officials come and be the Enforcement Officer and vice versa. It would need to be agreed upon by resident/landowner and Perry City that whatever the Enforcement Officer concluded both parties would abide by.
7. If there is an imminent danger in a noncompliance issue the City has the authority to take immediate action to resolve the issue.
8. In a case of some issues such as snow removal being hindered by street parked cars or other items needing timely resolution due to health and safety issues, i.e. The City will take the following course of action:
 - a. Personal contact with owner of the car with the request to move vehicle.
 - b. A warning ticket will be placed on vehicle stating it must be moved within 24 hours or it will be cited/impounded.
 - c. Vehicle owner is cited or vehicle is impounded.

Mayor Cronin reiterated this is the unanimous recommendation of the CETF to give Perry City a civil option to handle noncompliance issues.

Council Member Lewis inquired if the City currently has anyone in line for the position of the Hearing Officer/ Enforcement Officer. Mayor Cronin explained it would be something we would write into the ordinance by position not name. Council Member Lewis also asked whether we had an individual/individuals in place to be the Code Enforcement Officers. Mayor Cronin answered, at this time it would fall to Perry City Police Officers and possibly Perry City Staff. She suggested using the police officers as they have an already set up system to track incidents. She also explained in the draft it states the Code Enforcement Officer would be as appointed by the Mayor. She hopes at some point to have additional funding to be able to make the Code Enforcement Officer an official

Perry City position. She reminded at this point the Council needed to decide if they are comfortable with the City using this recommended civil pathway.

Council Member Lewis further questioned who would decide if the price was reduced to \$1,200.00 for those who exceeded 12 days of noncompliance. It was agreed upon that those who exceed \$2,000.00 can petition the Council for this option.

Council Member Lewis felt another step should be put in place between the 10 days of noncompliance and being charged the \$100.00 each day fee. Council Member Taylor agreed with this, stating the City needs to have some kind of grace period. Council Member Montgomery interjected the written letter can include when the 10 days will expire, when the fee will begin to be charged, the amount of the fee to be charged, and the frequency of the fee to be charged. She also made the point when a resident/landowner receives a bill they are going to respond.

Council Member Tueller reiterated there is no certain way to prove or disprove if an individual has received the letter. Council Member Lewis expressed his concern for someone being out of town for an extended time and only being allowed to lower their bill down to \$1,200.00. Mayor Cronin replied this plan is geared towards those who are refusing to comply with the ordinance. This ordinance protects the City and those who are in compliance with the ordinance from those who are refusing to comply.

Council Member Tueller made the point that this type of ordinance is found in various cities. He has personally worked with this type of ordinance in cities, such as Farmington; the city worked with him, yet, he also paid the appropriate fee. City Administrator, Greg Westfall interjected the City has to be careful with being arbitrary. He agrees it would be appropriate to reduce a fee if someone can prove they were out of town for an extended period of time. Upon conferring with the resident the City could then say, you have now received your notice and have 10 days to achieve compliance or work out a course of action with the City. However, he explained, if you leave the ordinance open ended it makes it so the enforcing entity can enforce or not enforce based upon personal preferences, which could be perceived as arbitrary.

Council Member Taylor expressed some reservations as to the \$100.00 a day fee. He feels that is a steep price, especially for those who may be unable to shovel their sidewalk or unable to pay \$100.00 a day. Mayor Cronin replied this is something which could be resolved by letting the community know about this upcoming ordinance. Giving them the incentive to assist their neighbors and community so such cases do not happen. City Administrator, Greg Westfall, agreed stating Perry City residents are amazing and they want to make their community the best it can be. If the City gives them the information they will respond positively. Mayor Cronin stated she let the CETF know once this ordinance was drafted she would have them read through it and then it would be sent to the Council for review and action.

ITEM 7: MINUTES & COUNCIL/MAYOR REPORTS

A. APPROVAL OF CONSENT ITEMS

MOTION: Council Member Montgomery made a motion to approve the December, 20th 2016 City Council Meeting Minutes as amended. Council Member Taylor seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes

Council Member Tueller, Yes
Council Member Lewis, Yes
Motion Approved. 5 Yes, 0 No.

Council Member Montgomery, Yes

- B. MAYOR'S REPORT:** Mayor Cronin reported the land for sale (City Center Subdivision) by Perry City has been posted on our webpage as well as Facebook. She stated everyone has access to the same information and there has already been interest shown.

She explained the Legislative Session started this week and each Monday she will go for the Legislative Policy Committee meetings. Those attending this committee vote on their City's position and items they desire the ULCT team members to lobby in behalf of those positions and items.

She reported there was a meeting on January 13th which was attended by UTA Officials as well as elected officials of this area. The main subject of discussion was the present and future of transportation in this area, it was a very productive meeting.

Mayor Cronin relayed the Council retreat is a week from today (February 2nd) it will be held at the USU Brigham Campus from 11am- 4pm. Lunch will be served and will be cold cut sandwiches and cookies.

Mayor Cronin stated the Newsletter is coming out and will center on snow removal.

- C. COUNCIL REPORTS:** Council Member Taylor expressed his gratitude for Perry City Staff, especially those working on snow removal. The City Council appreciates their time and hard work in taking care of the City. Council Member Lewis agreed with Council Member Taylor's sentiments.

Council Member Wright inquired if there had been any feedback on the canal staying cleared. City Administrator, Greg Westfall replied he had called and had not heard back as of yet on the matter. Council Member Tueller added the Task Force efforts in regards to gravel pits has been moving along well.

- B. STAFF COMMENTS:** City Administrator, Greg Westfall stated Greg Braegger has enough in the budget to order one large load of sand. This will be enough to cover one large snow storm. The Council needs to be aware of this budget. He revealed man hours have been worked out well, but the sand could possibly be a budget issue per weather conditions.

C. ITEMS FOR NEXT NEWSLETTER:

- a. Snow Removal
- b. Reaching out to Neighbors regarding snow removal
- c. Land for Sale

ITEM 8: EXECUTIVE SESSION:

MOTION: Council Member Montgomery made a motion to close the Public Meeting and go into an Executive Session to discuss purchase, exchange, lease, or sale of real property and the deployment of security personnel, devices, or systems. Council Member Taylor seconded the motion.

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

Council Member Taylor, Yes
Council Member Montgomery, Yes

The regular meeting closed at 8:28pm.

MOTION: Council Member Wright made a motion to close the Executive Session and reopen the Public Meeting. Council Member Montgomery seconded the motion.

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

Council Member Taylor, Yes
Council Member Montgomery, Yes

The Executive Session opened at 8:45pm.

ITEM 9: ADJOURNMENT

MOTION: Council Member Wright made a motion to adjourn the council meeting. Council Member Montgomery seconded the motion.

Motion Approved. All Council Members were in favor.

The meeting adjourned at 8:45pm.

Susan Obray, City Recorder

Karen Cronin, Mayor

Shanna Johnson, Chief Deputy Recorder