

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

CITY STAFF PRESENT: Susan Obray, City Recorder
Greg Westfall, City Administrator
James Tracy, Temporary City Attorney

OTHERS PRESENT: Josh Felix, Ian Felix, Sharmila Felix, Madeleine Felix, Nelson Phillips, Lamar Johnson, John Baxter, Suresh Kulkarni, Nicole Butler, Devin Miles, Joseph Bach, Mike Young, Georgia Heines, Kurtis Quayle, Richard Allen, Lori Allen, Todd Wallis, Addy Wilkinson, Joey Wilkinson, and Diane Kulkarni

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 Tueller led the audience in the Pledge of Allegiance.

C. REVIEW AND ADOPT THE AGENDA

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

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

Mayor Cronin noted the absence of City Attorney Craig Hall and the presence of his associate, James Tracy who is standing in as the temporary City Attorney.

ITEM 2: PROCEDURAL ISSUES

A. CONFLICT OF INTEREST DECLARATION

None.

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

Susan Obray passed out the warrants.

C. BUSINESS LICENSE(S)

None.

ITEM 3: CITY HIGHLIGHTS

A. Perry City Fourth of July Celebration

Mayor Cronin reviewed the success of Perry City's Fourth of July Celebration. She recognized and thanked the Council and all those who assisted in this celebration and made it possible. She recognized all those who protect and serve the City and the United States of America.

ITEM 4: PUBLIC HEARING AND/ OR PUBLIC COMMENT

A. Public Hearing Regarding Ordinance 17-G approving Pay Changes for Statutory Officers

Mayor Cronin explained the Statuary Officers for the City are the Recorder, Chief of Police, and Treasurer.

MOTION: Council Member Montgomery made a motion to open the public hearing for Ordinance 17-G. Council Member Taylor seconded the motion.

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

No public comment was given.

B. Public Hearing Regarding Ordinance 17-H updating the Consolidated Fee Schedule with new Code Enforcement Penalties

Mayor Cronin explained Ordinance 17-H allows the City to enforce the Code Enforcement Fee Schedule for noncompliant residents. She explained in the old City Codes the City could only enforce compliance criminally and now it can enforce compliance both civilly and criminally.

MOTION: Council Member Lewis made a motion to close the public hearing for 17-G and open the public hearing for Ordinance 17-H. Council Member Taylor seconded the motion.

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

Todd Wallis inquired if this Ordinance is in effect currently or is it still in process.

Mayor Cronin explained the Code Enforcement was put into place but Ordinance 17-H regards the Fee Schedule in the Code Enforcement.

Mr. Wallis inquired when this will be enforced and by whom.

MOTION: Council Member Lewis made a motion to close the public hearing for 17-H and open the public comment. Council Member Montgomery seconded the motion.

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

C. Public Comment

Suresh Kulkarni explained he lives at 2595 S 1200 W in Perry. He stated he is going to explain an incident which occurred on July 5th. He explained he is representing a group of residents who live in his area and were affected by this incident.

Mr. Kulkarni explained aerial fireworks were ignited from the Three Mile Creek Elementary School parking lot on the 5th of July. He stated the debris from these aerial fireworks affected a large area around the elementary school. He explained that evening there was a strong wind which blew the debris further out. He stated embers from the fireworks fell into the field west of 1200 W and his daughter and son-in-law spent the night putting out the embers with a water hose. He explained he has provided video and photos to the Mayor and City of this incident.

Lamar Johnson stated he lives at 490 W 1700 S in Perry. He explained he lives on a dirt road and in the past the City has sprayed Dustguard on that road to control the dust. He stated he discovered it was decided this year that the City would no longer be providing this service. He requests the City keep spraying this road because the dust is terrible.

Richard Allen stated lives at 1140 W 2650 S in Perry. He has a vacant field next to him which the fireworks were falling into and he spent the night with his hose ready to put out embers. He stated the fence which separates his yard from the school's property has terrible weeds. He stated he believes the City used to maintain this area but have not maintained it for the last few years. He requests the City maintain this area better.

Curtis Quayle stated he lives at 2630 S 1200 W in Perry. He explained he leases 10 acres of property in this area as well. He explained if this area had been ignited by the fireworks it would have been a disaster. He also noted his support of have the sidewalk on 2340 fixed and maintained better by the City.

Joey Wilkinson stated these fireworks were directly behind his house and it was a bad situation.

Addy Wilkinson supported Mr. Wilkinson's statement.

Georgia Heines stated she is concerned with the firework usage this year. She supports the statement regarding the weeds along the school fence line.

Josh Felix stated he lives at 2585 S 1200 W in Perry. He said the aerial fireworks which were lit on July 5th were lit in 15-20 mile per hour winds. He stated his wife has videos of the embers hitting the bushes in their yard and they had to go around and put them out before they caught fire. He desired more enforcement at the City level regarding the use of fireworks, especially aerial fireworks.

Sharmila Felix seconded her husband's comments. She made the following recommendations to the City regarding the use of fireworks in the City. They are as follows: expand the current restrictions on fireworks to both east and west of Highway 89, use a safe zone for people to light off fireworks like Perry City Park, expand restriction of fireworks being lit at schools to 400 feet around the schools, have the City post on social media, online, and in the newsletter that fireworks are restricted from being lit at schools, ban fireworks from vacant lots, fields, and wooded areas, and have a swift punishment for those who disregard the firework restrictions.

Madeline Felix supported her parent's statements and reiterated the idea of having a safe zone for fireworks to be lit off. She said it was terrifying to have the firework debris falling into the house of their goats and into the dry bushes.

Sharmila Felix inquired if the City could have an action made before the 24th of July to prevent this incident from occurring again.

ITEM 5: ACTION ITEMS

A. APPROVAL OF THE WARRANTS

Council Member Tueller inquired about the Homes USA warrant.

Mayor Cronin explained it is the last payment on the Range House.

Council Member Lewis inquired about the Spillman warrant.

Chief Arbon explained it was the system the Police use for all their cases.

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

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

B. ORDINANCE 17-G APPROVING PAY CHANGES FOR STATUTORY OFFICERS

Mayor Cronin explained the performance reviews have been done. She stated by law the Council must pass the raises for the three statutory Officers of the City.

Council Member Tueller inquired why the Council had not received these pay changes earlier.

Mayor Cronin explained some of the reviews were not done until this morning, though she requested they be done by the 20th of June.

MOTION: Council Member Lewis made a motion to table this action item. Council Member Tueller seconded.

Council Member Montgomery did not feel the Council needed to table it as they knew it was coming in advance.

Mr. Westfall stated all the pay changes fall within the amounts agreed upon by the Council in the budget.

ROLL CALL: Council Member Wright, No Council Member Lewis, Yes
 Council Member Taylor, No Council Member Tueller, Yes
 Council Member Montgomery, No
Motion Failed. 2 Yes, 3 No.

MOTION FAILED.

MOTION: Council Member Montgomery made a motion to approve Ordinance 17-G pay changes for the statutory officers. Council Member Taylor seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Lewis, No
 Council Member Taylor, Yes Council Member Tueller, No
 Council Member Montgomery, Yes
Motion Approved. 3 Yes, 2 No.

Council Member Tueller requested getting these action items to the Council earlier for review in the future.

C. ORDINANCE 17-H UPDATING THE CONSOLIDATED FEE SCHEDULE WITH NEW CODE ENFORCEMENT PENALTIES

Mayor Cronin explained the Code has been in place as of the June 23rd meeting. She reviewed the process of this code to address the earlier public comment regarding this matter. She explained tonight the Council will be voting on the fee amount for those out of compliance, which is \$100.00 per day out of compliance for land owners and \$500.00 per day for gravel pit noncompliance.

Mayor Cronin explained that if there are residents who have concerns they need to call into the City with those concerns. She expounded the City will then react to those concerns through either the City Administration or the City Police (depending on the concern).

MOTION: Council Member Taylor made a motion to approve Ordinance 17-H, the consolidated fee schedule with new Code Enforcement Penalties as listed. Council Member Tueller seconded the motion.

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

D. ACTION REGARDING THE BLACK POWDER CARTRIDGE RIFLE STATE MATCH

Mayor Cronin explained this item regards the NRA State Match which will take place on the last week of August at the Three Mile Creek Shooting Sports Complex. She explained the NRA National Match has changed their date to being a week before the NRA State Match. She stated last year the gun range had 43 applicants at this time, this year they have 7. She inquired if the Council would like to change this date so that it does not conflict with the National Match. She stated it has been recommended by the Chief Range Safety Officer to cancel the State Match this year and schedule it later (in the first week of October) next year.

MOTION: Council Member Taylor made a motion to cancel the NRA State Match this year and move it to the first week of October next year. Council Member Wright seconded the motion.

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

ITEM 6: DISCUSSION ITEMS

A. TOUR OF UTAH

Mayor Cronin stated it is expected the cyclists will be passing through Perry August 1st at 12:09 pm. She explained the County has given the City some funds to celebrate this event. She invited any of those Council Members available to come and assist the City with this celebration.

B. NATIONAL NIGHT OUT AGAINST CRIME

Chief Arbon stated this event will be August 1st from 6-8 pm. There will be food trucks, monster trucks, personal military equipment, and many more fun things. He stated last year they had around 300 people come and they are hoping for more this year. He said it would be at Perry Park. He stated the UTA command bus would be stopping there this year.

Council Member Tueller inquired if they needed any assistance with it.

Chief Arbon stated they had everything covered and thanked Council Member Tueller for his offer.

C. DISCUSSION REGARDING REQUEST FOR FIREWORKS BAN THROUGHOUT PERRY CITY

Mayor Cronin explained Chief Arbon has been investigating the aerial fireworks which were lit off from Three Mile Creek Elementary Parking Lot. She explained because it was on School District property versus City property the City's ability to enforce the matter is less. She thanked Suresh Kulkarni for contacting the School District regarding the incident.

Mayor Cronin stated the gentleman who lit the fireworks did purchase them from a local stand, so by law they were legal unless the City sets more firework restriction. She continued an ordinance needs to be put in place if the City would like to make a change on the firework restrictions. She expounded, currently the City has no real enforcement power on this issue because the fireworks were legally bought and shot in a firework approved zone by the City.

Susan Obray played the videos provided by the public members.

Fire Chief Bach confirmed by law citizens can shoot aerial fireworks up to 150 ft. He stated because it was on school property it is up to the Box Elder School District to enforce the matter. He said there are certain state laws which could be enforced regarding this incident and turned the time over to Fire Marshall Mike Young.

Fire Marshall Young explained for the person to light fireworks from school property, per State Code, they would need to have a permit.

Fire Chief Bach recommended the City banning aerial fireworks Citywide. He also recommended not allowing fireworks to be lit on City property without a special permit. He explained having fireworks lit from City property creates a lot of liability for the City.

Mayor Cronin requested the Councils input.

Council Member Lewis inquired if Brigham City has a policy in place which has allowed them to avoid situations like this.

Fire Chief Bach said he has passed on an ordinance and an event permit to the Mayor which Brigham uses that could help Perry avoid further incidents like this one.

Mayor Cronin stated Perry does have an event permit in place for those who use City Property for events which include the community.

Fire Chief Bach read two paragraphs from Brigham City's codes regarding fireworks to the Council for their review. The paragraphs outlined the event permit which Brigham uses for use of fireworks on City owned property and what is allowed regarding fires and fireworks on City owned property.

Council Member Wright inquired if there is a defined safety distance which is required for aerial fireworks.

Fire Chief Bach stated there are and that is why commercial businesses that put on firework shows set up safety zones. However, he continued, those private citizens who lit their own fireworks don't necessarily know or adhere to those distance requirements.

Council Member Tueller inquired if the City would be liable for this situation if a fire were to ignite.

City Attorney, James Tracy said from the details he has heard this evening there is no liability on the City.

Council Member Tueller clarified the liability would be on the person igniting the fireworks and not the City.

This was confirmed by Mr. Tracy and Fire Chief Bach.

Mayor Cronin stated it has been brought to her attention that currently the City has invited those who cannot light fireworks east of Highway 89 to light them at Perry City Park, which has created a liability issue for the City. She explained if anything were to get out of hand the liability would be on the City. She stated the City needs to address this issue, whether that be a permit or a ban from using City property.

Mr. Tracy stated the City needs to find its balance between the safety of the residents and the freedom of the citizens. He stated he is concerned about the use of the City Park as a place where multiple groups can come and light fireworks.

Council Member Lewis stated he empathized with the community on this issue and felt the City needs to have something in place before the 24th of July. He felt for a long term ordinance there needs to be much discussion regarding the various perspectives of this issue, and for short-term something needs to be in place to prevent this situation from occurring over the 24th of July.

Council Member Taylor expressed his confusion of not allowing fireworks on the east side and allowing them on the west side which has far more open fields. He felt the City needs more restrictions if they are going to allow residents to shoot off fireworks from the park.

Fire Chief Bach recommended keeping current restrictions in place and adding two new restrictions moving forward: no fireworks on city owned property and no aerial fireworks. He explained these restrictions would be for the temporary restrictions this year; and then the City can put together a task force for the long term ordinance.

Chief Arbon explained the enforcement side of this is going to be difficult, as there are often residents who light fireworks east of Highway 89 and only one officer will be on duty to enforce the noncompliance.

The Council agreed to have a special meeting specifically regarding this matter.

The Mayor and Council thanked Chief Bach, Fire Marshall Young, and Chief Arbon for all their assistance in this matter.

Mayor Cronin asked the public if they had any other inquiries concerning this issue.

Georgia Heines inquired if the City could enforce not allowing the fireworks being lit from schools.

Mayor Cronin stated they could not but they could put out a notice to inform residents it is illegal to do so.

Josh Felix stated he felt that banning east of Highway 89 and then banning the use of City Parks will make this issue worse. He explained there are many open fields on this side and having half the population coming to this side to light fireworks anywhere but on City owned property is going to make the issue worse. He said the Council should be less concerned with their liability and more concerned with their responsibility to protect the City.

Mayor Cronin explained she was only asking for questions not further public comment.

A public member clarified Mr. Felix's questions as: Does the Council care more about its residents or more about the City's liability.

Rich Allen inquired what kind of rights does a resident have in going over to someone lighting off fireworks next to their property and getting them to stop.

Mayor Cronin closed public questions then turned the time over to City Administrator, Greg Westfall

Greg Westfall commented in regards to Mr. Allen's question, he felt it was great when residents handled issues in a rational manner. He encouraged them to do so on every complaint they have with another resident before taking it the City.

Suresh Kulkarni requested the City look at what Cottonwood Heights has done with their firework issues and use that as a guide to Perry's firework restrictions.

ITEM 7: MINUTES & COUNCIL/MAYOR REPORTS

A. APPROVAL OF CONSENT ITEMS

- **June 8, 2017 City Council Meeting Minutes**

MOTION: Council Member Montgomery made a motion to approve the June 8, 2017 City Council Meeting Minutes. Council Member Wright seconded the motion.

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

Motion Approved. 5 Yes, 0 No.

Council Member Wright thanked the Minutes Clerk, Melani Nish for her efforts on the meeting minutes.

- **June 22, 2017 City Council Meeting Minutes**

Tabled.

B. MAYOR'S REPORT

Mayor Cronin reported on Monday there is a tour put on by the Governor for an initiative for 25,000 jobs in rural Utah. She stated there will be family friendly activities and items for dinner. She explained it would be at the USU Brigham City Campus from 11am-2pm.

C. COUNCIL REPORTS

Council Member Tueller reported that he is spending time with the departments in the City to gain a better understanding of budget needs.

D. STAFF COMMENTS

Greg Westfall stated he is still following up with the meeting with the Deputy Director (of SITLA) and they are still working towards having that meeting.

Devin Miles reviewed with the Council the ordinances the Planning Commission is currently working on: the Conservation Subdivision Ordinance, Civic and Recreation Zones, and Business License Processes. He then summarized each proposed ordinance with the Council.

Mayor Cronin asked Mr. Miles to pass on her appreciation to the Planning Commission for their efforts.

E. ITEMS FOR NEXT CITY NEWSLETTER

1. Tour of Utah
2. National Night Out

ITEM 8: EXECUTIVE SESSION: DISCUSSION OF THE PURCHASE, EXCHANGE, LEASE, OR SALE OF REAL PROPERTY AND STRATEGY SESSION REGARDING PENDING, OR RESONABLY IMMINENT LITIGATION

None.

ITEM 9: ADJOURNMENT

MOTION: Council Member Montgomery made a motion to adjourn the City Council Meeting.

Motion Approved. All Council Members were in favor.

The meeting adjourned at 8:54 PM.

Susan Obray, City Recorder

Karen Cronin, Mayor

Shanna Johnson, Chief Deputy Recorder