

**OFFICIALS PRESENT:** Mayor Kevin Jeppsen presided and conducted the meeting. Council Member Nathan Tueller, Council Member Blake Ostler, Council Member Toby Wright, Council Member Andrew Watkins and Council Member Esther Montgomery.

**OFFICIALS ABSENT:** None

**CITY STAFF PRESENT:** Robert Barnhill, City Administrator  
Shanna Johnson, City Recorder  
Dave Freeze, Police Sergeant  
Tyler Wagstaff, Public Works Director

**OTHERS PRESENT:** Nelson Phillips, Julie Jones (Planning Commission), Ashley Young, Andy McCrany, Marc Fletcher, and David Walker

**ITEM 1: CALL TO ORDER**

Mayor Jeppsen called the electronic City Council meeting to order.

**ITEM 2: PROCEDURAL ISSUES**

**A. Conflict of Interest Declaration**

None.

**ITEM 3: ACTION ITEMS**

**A. Approval of Warrants**

The Council reviewed the warrants.

**MOTION:** Council Member Wright made a motion to approve the warrants. Council Member Tueller seconded the motion.

**ROLL CALL:** Council Member Montgomery, Yes    Council Member Tueller, Yes  
Council Member Ostler, Yes                      Council Member Wright, Yes  
Council Member Watkins, Yes

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

**B. Ordinance 21-J Zone Change from IC (Interstate Commercial) to M/IL (Light Manufacturing & Industrial) Location: 950 S 1600 W, Parcels: 03-236-0026 & 03-236-0027; Applicant Marc Fletcher.**

Robert Barnhill discussed the zone change application in detail. This is two adjacent properties in the Pointe Perry area in the IC zone. They total 4.5 acres. The surrounding properties include areas zoned IC, the bird refuge and I-15. The intent of the request includes a retail component, which is already compliant with current zoning, but also includes storage units and RV storage, which are not currently allowed with the zoning. Mr. Barnhill discussed the general plan (regarding the area) that does not directly support the zone change request. Planning Commission supported the application with the following contingencies: the retail component be developed before the storage

units are begun, that an 8 foot wall (that separates the storage units behind the retail) be constructed as a solid masonry wall, and the RV storage would only be accepted if the easement (drainage and utility) were reviewed with the City Engineer. Mr. Barnhill said he did review this with the City Engineer and they don't know a lot about it (the easement), but it seems clear that it was implemented as part of the wetland mitigation requirements for environmental purposes. The Engineer did not recommend storing vehicles there. It may be possible if the water could be contained with a hydrodynamic separator installed but he is not sure.) Mr. Barnhill explained that if they did approve this zone change, they could tie these requirements to it with a timeline of completion for these recommendations.

Council Member Montgomery said she agrees with the Planning Commission's recommendations and wondered if a time frame had been included. She asked if one year would be sufficient. Council Member Tueller said he is not sure if one year is sufficient for what is being proposed.

Council Member Ostler said that the big question in his mind is the proposed use of the property. Storage units were not included as being desirable in the plans (general plan and zoning), unless something has changed to compel them to approve it. Mr. Barnhill said that in his time here, there have been multiple proposals for storage units that have been rebuffed in the past. Council Member Watkins said that developers are limited the closer they get to the wetlands. Mr. Barnhill said that any zoning they want to permit, the wetlands would not come into play besides the easement that is in place.

Council Member Wright said that considering a zone change sets the precedence that the council is ok to change a zone whenever it is suggested. He also values property owners having invested their time and money, and feels they are entitled to do what they want to do, as long as it fits within the standards that are in place. They want retail out there, this does provide retail. Storage units are not wanted in every corner of the entire city. He said it may be intriguing to consider this zone change since it does have the retail front proposed. He stated he does not like zone changes and zoning is established in the city for a specific reason, but he also understands that things change.

Council Member Watkins agreed with Council Member Wright. He feels the zones and general plan are in place for a reason. He feels most of the zone changes they have approved have been slight and considering the surrounding areas. It is in the back of their minds to consider future recommendations and needs.

Mayor Jeppsen asked Mr. Barnhill if the applicant would also be the developer. The applicant said yes. Mayor Jeppsen asked if the applicant has purchased the property. Mr. Barnhill said that his understanding is the applicant has made an offer to purchase pending this zone change request. Mayor Jeppsen said they could discuss any questions they have regarding the zone change and if the Council is in agreement, then he would give the applicant 3 minutes to discuss his request. Council Member Tueller asked if there were no storage units behind this development, would the retail development be approved. Mr. Barnhill said yes. Council Member Tueller said that he understands the zoning portion and wondered if there is a way to work with the applicant since the storage units is what is holding it up. He thinks it is a creative idea to place the storage units behind the retail. He understands they are not discussing the development, just the zoning change. Mr. Barnhill said that Bill Morris, City Attorney, explained that the zone change can be approved with the development attached so that only the submitted plan is approved. Mayor Jeppsen then said he would like to retract his earlier comment (allowing the applicant 3 minutes) and just focus on the zoning change request with the Council. He asked if they want to have storage bays out there or if

they do not. Council Member Montgomery added that if there were not retail store front out there with it, they would not consider this at all.

Council Member Tueller asked if the Planning Commission unanimously passed this with the stipulations. Mr. Barnhill said they did. This is a new group (Planning Commission) and they may be approaching it differently than they have in the past. They felt that with the submitted plan, it would be reasonable. Commissioner Julie Jones stated that the reason the Planning Commission considered approving the storage unit idea this time was because of the retail front and the approved apartment complex in that area (which they felt would be useful for that). The concerns that they had in considering not approving it were that it is so close to the bird refuge and leakage from vehicles causing issues.

Council Member Watkins said that if a hardware store ever came there, it may also need storage as well as the apartment complex. The Council discussed the storage units and retail space including what may hypothetically happen if approved, as well as possible stipulations for future storage unit requests. Mayor Jeppsen questioned if they are setting a precedent that they are still only sticking to retail space, but if there is an isolated area that becomes unusable for retail space, that they would consider a zone change. Mr. Barnhill said that any future zone change applications that come to the council would still have the ability to be approved or denied. He added that it is good practice to be consistent.

Council Member Ostler said that he does not think that this concept is the only thing that can fit on 4.5 acres out there. He feels there are other concepts that could work out there. He does not feel that he can support this.

The applicant asked for a public comment period. Mayor Jeppsen said he could have 3 minutes. Marc Fletcher, the applicant, said that this is the highest and best use for this property. He stated it would bring a \$5 million dollar project to the city of Perry. He said that it is a great opportunity to provide jobs, restaurant space, office space, and mixed use space. He discussed the design and landscape in detail as well as the use of two mis-shaped lots. He discussed the general plan and the apartment complex that was approved. He also discussed a particle separator and water purifier so that any water that is generated in these areas, does not contaminate the bird refuge.

Dave Walker, a Perry citizen, applauded the developer for the design. He said his caution is that once you make one change, you are then opening the door for others to request changes. He suggested that if they do approve it, to make it very tailored as to why they are making the change. A representative of the land owner said he has met with the army corps of engineers on this project for 4-5 years. He has had a lot of proposals on this area, this is the most ambitious one he has had yet. He discussed having advertised this commercial property and not getting much interest due to the number of rooftops in the area. It is beautiful property but nothing is happening.

The Council discussed what kind of stipulations and time frame would be necessary if approved. The stipulations recommended from Planning Commission were that the plan be attached to the zone change specifically including:

- 8 foot solid wall separating the retail from storage units
- Retail component to be completed before the storage units
- RV storage contingent on review of the easement to see if it is acceptable

Mr. Barnhill wanted to be clear that nothing on this plan would supersede what is in the code.

Council Member Montgomery asked what the time frame stipulation should be. Mr. Barnhill said that Planning Commission did not make a recommendation, but it is something he would recommend doing. Mr. Barnhill said that site plans still come through City Council, so the retail site plan could be approved before the storage unit site plan. It would be up to staff to not approve a building permit for the storage unit plan before the retail portion is complete. Marc Fletcher explained the time frame he thinks would be needed is 5 years.

**MOTION:** Council Member Nate Tueller made a motion to approve Ordinance 21-J Zone Change from IC to M/IL based on the stipulations outlined and that the permit be obtained within one year (or the zoning will revert back to IC). Council Member Toby Wright seconded the motion.

**DISCUSSION:** Council Member Montgomery said she is comfortable with the motion up to the time frame, which was not specified. She feels like 5 years is too long. Council Member Ostler said he is confused about the time frame, is it a time frame to construct or the time frame at which point a building permit is pulled before the zone change would revert back? Mr. Barnhill said that obtaining the building permit would be a good point in time because once someone gets a building permit and starts constructing, you don't want to pull approval of zoning out from under them. He said it was also suggested that extensions be allowed but to keep in mind that if extensions are allowed, they are usually used. Council Member Montgomery suggested allowing 3 years for obtaining a building permit and Council Member Wright said that is too long for a building permit. Council Member Watkins said that if they add a timeline, this becomes too ambiguous and focuses less on zoning and would make him more inclined to vote no. Council Member Montgomery said adding a timeline gives a sense of urgency and keeps the city from being in a position of becoming the bank. Council Member Wright said he wants to make it clear that we are not desperate and this is valuable land. Council Member Tueller amended the motion to have the permits pulled within one year. Mr. Barnhill asked for clarification because one of the stipulations says the retail be completed before the storage units, so would that be one year to have the building permit for the retail (since the retail and storage units can't be completed at the same time). Council Member Tueller clarified that it would be for the retail, the one year time frame would not apply to the storage units.

**ROLL CALL:** Council Member Montgomery, Yes    Council Member Tueller, Yes  
                  Council Member Ostler, No            Council Member Wright, Yes  
                  Council Member Watkins, Yes

**Motion Approved.** 4 Yes, 1 No.

**C. Resolution 2021-12 Adopting an Amended and Restated Perry City Section 125 Premium Only Plan for Benefit Year Beginning July 1, 2021.**

Shanna Johnson said certain pre-tax benefits are offered to employees and explained those in detail. The internal revenue code requires that a section 125 premium only plan be in place to offer that pre-tax benefit. The last one was passed in 2013. This has an amendment adding HSA accounts because those were not offered in the past. Council Member Wright asked if there is a cost increase with it and Ms. Johnson explained that there is not. She further explained that this would renew every year, but they like it to be revisited every 5 years. She added that this has been reviewed by Bill Morris, City Attorney, and he said he was in favor and had no concern in accepting this plan.

**MOTION:** Council Member Wright made a motion to approve Resolution 2021-12 Adopting an Amended and Restated Perry City Section 125 Premium Only Plan for Benefit Year Beginning July 1, 2021. Council Member Montgomery seconded the motion.

**ROLL CALL:** Council Member Montgomery, Yes    Council Member Tueller, Yes  
Council Member Ostler, Yes                      Council Member Wright, Yes  
Council Member Watkins, Yes

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

**D. Resolution 2021-14 Adopting an Inter local Agreement with Brigham City for Medical Control Physician and Medication Supply.**

Mayor Jeppsen explained that the situation with Brigham City Fire Department for a medical control physician, which has changed. They changed doctors and now there is a cost involved which requires us to enter into an inter-local agreement with Brigham City for this service. The cost is 150/month or 1800/year. The cost is acceptable, it is just a resolution that the Council needs to acknowledge that we are entering into an inter-local agreement.

Council Member Wright asked if they are entering into the agreement with Brigham City because the physician is hired with Brigham City as well; why is the city not contracting with the physician directly. Mayor Jeppsen said that he has been hired by Brigham City and therefore covers ours as well. He added that this has always been the case but it was an informal situation previous to this because there was no cost involved. When the new physician was hired, his liability insurance would not extend to anything that he was volunteering for and he had to be a paid participant. The other agreement is just for fire protection and ambulance. This is for a medical control physician, which accounts for the prescription drugs that the first responders have to purchase and stock, and they are working under the medical controlled physician.

**MOTION:** Council Member Montgomery made a motion to approve Resolution 2021-14 Adopting an Inter local Agreement with Brigham City for Medical Control Physician and Medication Supply. Council Member Wright seconded the motion.

**ROLL CALL:** Council Member Montgomery, Yes    Council Member Tueller, Yes  
Council Member Ostler, Yes                      Council Member Wright, Yes  
Council Member Watkins, Yes

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

**ITEM 4: MINUTES & COUNCIL/MAYOR REPORTS (INCLUDING COUNCIL ASSIGNMENTS)**

**A. Approval of Consent Items**

- **June 10, 2021 RDA Meeting Minutes**
- **June 24, 2021 City Council Meeting Minutes**
- **July 08, 2021 City Council Meeting Minutes**

**MOTION:** Council Member Montgomery made a motion to approve the consent items. Council Member Tueller seconded the motion.

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

**B. Mayor's Reports**

None.

**C. Council Reports**

Council Member Montgomery said she appreciates the information that Ms. Johnson sent out and she looks forward to the discussion on Title 2.

**D. Staff Comments**

Ms. Johnson wanted to point out that at the next meeting they will be having the Truth in Taxation meeting at 7:00 p.m. right before council meeting where they will include a tax hearing and help the Council to decide on the tax rate they want to adopt. She said if they have any changes they want made on any budget items to let her know prior to that meeting and passing of final budget. She added that there will be some minor changes she will be sending out regarding the public works budget.

**E. Planning Commission Report**

Commissioner Jones said the only thing besides what has been previously discussed is the approval of the Bear River Landing project.

**ITEM 7: EXECUTIVE SESSION**

None.

**ITEM 8: ADJOURNMENT**

**MOTION:** Council Member Montgomery made a motion to adjourn.

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

The meeting adjourned at 8:18 p.m.

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Shanna Johnson, City Recorder

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Kevin Jeppsen, Mayor

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Tyra Bischoff, Deputy Recorder