

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

OFFICIALS EXCUSED: Esther Montgomery

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

OTHERS PRESENT: Jeremy Thorsted, Bruce Lyon, Dale Francis, Brandon Stuart, Lani Braithwaite, Amber Jenks, Opal Jenks, Ardell Jenks, Verl Spendlove, Lawrence Gunderson, Tresa Peterson, Michael Wood, Paula Smith, Ann Davis, Stanley Kano, Dez Ragan, Doug Ayes, Lyndsay Sager, Ken Bunce, Lee Perry, Kathy Perry, Kristy Nelson, Len Nelson, Dave Putnam, Tiber Putnam, Thad Putnam, Bentley Hansen, Brandon Hansen, Carol Billings, Michelle Billings, Roger Fridal, Jason Ricey, Jared Riley, Sherry Nelson, Norman Nelson, Willetta Nelson, Steven Pettingill, David Curtis, Dianna Curtis

ITEM 1: CALL TO ORDER

Mayor Cronin called the City Council meeting to order.

A. INVOCATION

Council Member Taylor 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 Wright made a motion to approve the agenda. Council Member Taylor seconded the motion.

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

Motion Approved. 4 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. APPOINTMENTS

Mayor Cronin advised that the City has discussed over the past year about using Gary Crane as a special use Attorney for Wastewater issues. Mayor Cronin presented the appointment of Gary Crane to serve as the Perry City Attorney representative concerning Wastewater Treatment issues.

MOTION: Council Member Taylor made a motion to approve the appointment of Gary Crane as the Attorney representative regarding Wastewater Treatment issues. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
 Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

D. BUSINESS LICENSE(S) – None.

ITEM 3: PUBLIC HEARINGS AND/OR PUBLIC COMMENTS

Mayor Cronin reviewed facts regarding the land dispute between Perry City and Norman (Norm) and Willetta (Willie) Nelson and addressed some concerns that she has received regarding the issue as follows:

Mayor Cronin said that many residents have expressed concerned about why the \$400,000 amount was associated with the City law suit on the property line dispute with Norman Nelson. Mayor Cronin explained that despite the good faith efforts of the City to resolve this issue and after the Nelson family was made aware that the land survey results indicating that the land in question was titled to the City the Nelson family took large equipment on to the parcel and destroyed the vegetation and altered the topography of the land. This action brings forth an element of possible liability due to wetland issues. The \$400,000 associated with the property lawsuit is divided into two amounts:

- \$300,000 of the amount is specifically for wetlands mitigation and remediation. Mayor Cronin explained that this number was arrived at through the City legal counsel talking with environmental engineers. She stated the City had no plans of asking or stirring up any action regarding this issue, but if it was ever found that there was a wetland violation by the US Army Corp of Engineers, that bill would be upwards of \$200,000 to \$300,000. She advised that this number is just a plug number to be called upon only in the event of a wetland violation and would only be collected up to the amount needed for the remediation.
- \$100,000 has to do with bringing the land back to its condition prior to the action that disrupted the land and also to levy a penalty on any individuals who blatantly vandalized the property. She said if it is found that Norman Nelson did not damage the land, those responsible for the damage would be responsible for this amount. She said this also includes a small amount for legal fees to resolve this dispute in the legal arena as the City has tried on several occasions over the last 3 months to resolve this dispute outside of the legal arena and have asked the Nelson family what it is that they thought would be fair compensation.

Mayor Cronin noted that the City recognizes and appreciates concerns from the community in regards to this issue and for our respected residents Norm and Willie Nelson. She stated that this dispute is not about the integrity of Norm and Willie Nelson. This dispute is a legitimate property dispute that was brought to the attention of Perry City based on the survey results from a survey requested by Jerry Nelson. Mayor Cronin stated that she herself has a great deal of respect for Norm and Willie Nelson.

Mayor Cronin reported that the City continues to seek an amicable solution, if this can be obtained outside of the legal arena then that is the desire of the City. Only actual costs to bring the land back into its needed condition to put it in public use will be sought. She said there is an immediate need for resolution as the court date is quickly approaching. She stated that Perry City will continue to work with the Nelson family for resolution prior to this court date. Mayor Cronin explained that

she has reached out via phone calls and email to Norm to try to set a time to meet and work out the dispute without going to court.

Mayor Cronin advised that another question received is why now after 30 years this issue is being brought forth now. She stated that the City became aware of the fact that this land was City property after the land survey was conducted. She said she personally asked the firm that conducted the survey to go back and relook at their work to ensure that it was accurate. She said that they not only went back and relooked at the survey but also took pictures of survey markers in the ground and that have been in the ground for several years. She said once the City became aware of the survey results the City was obligated to be compliant with the deed and patent awarded that gave the City the property. She advised that in the patent it states that if the land ever comes out of public use the land will revert back to the State. She said it is not that the land can be given to anyone else; it is either the City's or the State's. Those are the only possibilities per the original land patent that was granted to the City.

Mayor Cronin said there was a question regarding who was involved in the decision to move forward with a law suit. Mayor Cronin said that the City has been talking about this issue since April. She said that because this issue is dealing with potential or imminent litigation this issue is talked about in closed executive session. She said she cannot discuss what was talked about in closed session, but she can release the motions and who went into closed session. Mayor Cronin reviewed the motions to go into closed session on the City Council Meeting of June 23, 2016 of which the full 6 member Council entered into and attended in its entirety a closed executive session to discuss strategy regarding imminent and potential litigation and the disposal of Real Property and Potential Litigation, and the City Council Meeting of July 14, 2016 of which the full 6 member Council entered into and attended in its entirety the closed session to discuss strategy regarding possible or imminent litigation.

Mayor Cronin said another question that has come forward is why was there only \$1,900 originally offered as compensation for the land. Mayor Cronin said the reason for this is that there are people who stopped by the City, some local farmers who also own land in the area have noted that the land being mud flats and not having access to public roads would only be worth \$500 to \$1,000. She said as Mayor she has the ability to authorize up to \$2,000. She stated that she put out to the Council that in order to try to resolve the issue without going to court, not to be a purchase price of the land, but in an effort to begin the negotiation that the City put forth an offer of \$1,900. She said that was the top of what she could offer as the Mayor without Council approval. The City Council supported that amount. She said that in the letter that went to Norm and Willie Nelson it stated that if they wanted to talk about the offer further there was a phone number listed for them to call. She said that letter requested a response of 72 hours, that was because we had been working this issue for 3 months and as the City it is important to get the land back in public use. She said the City was trying to encourage immediate attention to the matter.

Mayor Cronin said another question was why if the City owns the land, would the City request a Quit Claim Deed. She explained that a Quit Claim Deed only shows acknowledgement that they, the Nelson's, have no claim to the land. She said this is not a deed process, but acknowledges that there is no claim to the land and that they understand that. She said that the City wants that official record so that everyone knows that this land is in the City's name.

Mayor Cronin said there were questions regarding a restraining order. She explained that this restraining order was not against a person, but was to allow the City to go in and be able to have access to the land and put the land back in public use as per required of the original deed signed by Calvin Rampton. She said the City is just trying to be responsible as to the terms and requirements of the land being deeded to the City.

Mayor Cronin said another question is why if the land has been fenced off for so many years it doesn't become the land of the person who has been utilizing the ground. Mayor Cronin advised that although this may be the case on private land disputes, it is not the case in disputes on land owned by the government. Mayor Cronin reported to the public that over the last 8 months she has gone to the state 5 times and have asked if there is any way that the City can lease the land to Norm Nelson to use to graze cattle and each time the answer has been no, even as of 2:30 today. She reported that she has asked if the City can subdivide this section off and deed the land to Norm Nelson and the answer has been no. The State indicated that the whole 80 acre parcel must remain in public use or the entire parcel reverts back to the ownership of the State. She said the only two possible owners of that piece of property are the State and the City.

Mayor Cronin stated another question received is why did the City ask Norman Nelson to help with the 4th of July festivities only to then serve him with a lawsuit. Mayor Cronin said she considered the dispute as the City made the decision to ask him to announce the parade. She said the question that came to her during that time is Norm a valued member of the community. She said the answer is yes, he is a valued member of the community who is respected and loved and his participation in the 4th of July is tradition. She stated she did not want the property line dispute to become about his integrity, or involvement in community, or his respect as a community member. She said this lawsuit is not about the integrity, good will, or character of Norm and Willie. She stated this lawsuit is a simple property line dispute. She said this is not something the City wanted to do, but was required to do based off the title, original deed, and after the response from the State that the land could not be transferred to Norm Nelson. She said the reason that Norm was asked to take part in the 4th of July is because Norm and Willie Nelson are a great part of our community, a great part of our 4th of July and the City wanted them to continue in the tradition. She said if Norm did not feel comfortable in helping we would have respected this.

Mayor Cronin said she has been told by many people that Norm would like to talk with her as the Mayor and there have been some hurt feelings because she has not met with him. She explained that originally she did not get involved with this issue up front because she knew that there was some disdain with one of the family members and her, so out of respect she tried to keep herself out of the picture. She said that she has since reached out to Norm and left a message inviting him and Willie to meet. She indicated that they are currently working a time out through email.

Mayor Cronin said she has talked with the State 5 times and in another effort to try to resolve this she has reached out to Representative Lee Perry to look into this and get involved at a State level. She asked Representative Perry if he would like to talk now or after public comments.

Representative Perry addressed the group at that time stating that he reached out to Brian Cottom, Division Director of State Sovereign Lands, which is currently the agency over the deeded disputed parcel, who forwarded him an email which stated for your meeting included in this email is information from the Assistant Attorney General Fred Donaldson regarding the deeded property to Perry City now being used as a gun range which coincides with information from Laura Ault and Matt Coombs the local Bear River area Sovereign Land Coordinators, who had a meeting with the Mayor again today. He reported the email reviewed the facts as the State knows them as follows:

1. The property in question was deeded by the State to Perry City in 1973 signed by Governor Rampton;
2. The smaller parcel that seems to be causing the current dispute is within the property deeded to Perry City according to the legal description on the patent;
3. The use of the entire deeded property must be for public purposes; otherwise the property would revert to State ownership as sovereign land and the Divisions management according to the public trust doctrine.

4. The current use of the smaller parcel is not considered for public purpose thereby putting the entire patent in question.

Representative Perry continued stating the email stated that Mr. Cottom did say that his preference as Division Director is that this issue gets worked out locally and that the deeded land remains with Perry City all for public use, although the Attorney General's office may determine that this is not a legal alternative and his hands would be tied. Representative Perry explained that if the Attorney General's office gets involved and this is not resolved at a local level they may take the entire 80 acre parcel from the City of Perry and revert it back to public lands.

Representative Perry indicated that he received a follow up email from Assistant Attorney General Donaldson that stated that they are still working on this and are currently drafting a letter regarding the land dispute and the substance of the letter will be his opinion that there is no possible legal channel by which an adjacent landowner could have obtained ownership of any part of the land deeded to Perry City from the Division, this is because the land was acquired from the Federal Government by virtue of the equal footing doctrine and is considered sovereign or submerged land which is subject to the public trust doctrine which has been interpreted by the United States Supreme Court to preclude that delineation of the land for private benefit (the email includes two court cases supporting his opinion: Illinois Central vs. Illinois in 1892, and Colman vs. Utah State Land Board in 1990). Mr. Donaldson's email added that it is his belief that the City was without authority to convey any patented land due to the reversion clause in the patent. Representative Perry said that is the information he has gathered and provided for the citizens of Perry, and was able to get from the Director of the Division that is responsible for that land.

Mayor Cronin said the City has now reached out to the State 6 times asking if there is anyway the City can allow the Nelson's to continue to use it and the answer as Representative Perry has just read from Brian Cottom's email or letter and from Fred Donaldson of the Attorney General's office is there no way; it goes to the State or it goes to the City. She said right now it is in the City's title and must remain in public use.

A. PUBLIC COMMENTS

Mayor Cronin opened the meeting to public comment:

Carol Billings: expressed respect for the Council and indicated that she was on the City Council for 16 years. She stated that she does not like the way the City has treated the Nelson family. She said that she remembers the land exchange between Perry City and Norman Nelson, which occurred the year prior to her being on the City Council, but she was on the Flood Control and was in the audience. She said she remembers another family that claimed to own the land and they wanted a lot of money for the property (needed for the road to the Sewer Lagoons, now used for the gun range) and remembered thinking isn't that like Norm and Willie to just give the property to the City. She said the document that the Nelson's have is not recorded from what she understands but back then a hand shake was your bond and she believes the City was responsible to record any land exchange that took place. She said that there was intent and was document on Box Elder County Letterhead and shows the intent to exchange the ½ acre of land. She asked how can the road be given and nothing be given in return. She expressed she did not understand why the land cannot be given back to Norm. She said she does not agree with tax dollars paying for lawyers on things that can be figured out and worked out ourselves. She stated you could write a book about the service that has been given by Norm and Willie Nelson, and she respects them. She also expressed opposition to giving citations for nit-picky things.

Brandon Hansen: stated that a great injustice has been done to one of the City's finest citizens Norman Nelson. He said that as he has listened to the majority of their questions, one thing still is being withheld. He said the as far as he is concerned the State does not have a timeframe for this

matter, they are concerned, but have not given him a timeframe. He said that he has spoken to State representatives and they did not state that time was of the essence. He asked why he was told by the Mayor not to contact the State to do his own fact finding. He said that the Mayor should allow the citizens to do their own fact finding. He said this should be an open government where there are no secrets from the citizens. He stated practicing transparency enlists trust. He said because of this, he hopes that the City Council will be more diligent in doing their own fact finding before engaging in another dispute of this magnitude. He asked why professional mediation was not used. He stated he does not want to ever see again this City prosecute a citizen in the way that Norman Nelson was treated. He expressed that he felt that every City Council member must agree prior to lawyers being used at this level. He said he believes that we as a City must use professional mediation prior to taking a citizen to court. He said that by suing a citizen and now seeing code enforcement on the agenda he is concerned that it is our government's main objective to prosecute its own citizens. He said that the elected positions that the Mayor and Council hold should not be about imposing fines and drumming up lawsuits, but instead to help citizens of Perry with City related matters, to provide City services, and provide resources, and not stapling notices on citizens doors or imposing fines. He said that just because other cities do business this way, does not mean that Perry City has to. He asked how much tax payer money has been spent on the lawsuit against Norman Nelson. He stated he feels the Mayor and or City Council has received bad advice from hired attorneys. He encouraged the Council, stating short of drawing a petition for their resignation, to drop the law suit against Norman Nelson and family today and find an alternative amicable solution. He stated he voted for everyone serving. He stated he has heard that this is very stressful position and it can be taxing, he offered suggestions hoping that if used correctly their burdens may be eased. He expressed his appreciation for the Mayor and Council's service but urged the City to stop prosecuting its citizens.

Dave Putnam: said he is a little concerned that the cause for the agenda item regarding code enforcement was caused by him dumping dirt in the road without a permit. He asked if there was a permit for dumping in the road and there was not. He suggested a permit and fee be put in place for dumping in the road that would cover any costs to the City to educate the proper way of doing this.

Brandon Stuart: agreed with comments made by Brandon Hansen.

Jeremy Thorsted: stated that Norman Nelson is a veteran and a man who served our Country should not be treated this way. He said it is very distressing to see what is going on.

Paula Smith: said she knows when the State politics get involved it is a whole different ball game then when it is local. She encouraged the council members to put their heads together and come up with a solution to satisfy all. She said she does not know what the City has planned for the property but its use right now seems to be perfect.

Kristy Nelson: said she would like the Mayor to start telling full truths instead of half truths. She demanded the Mayor to stop telling the City Council Members to not to talk to the citizens and telling them they must go through the City lawyer. She said that the Council Members should have the full right to talk to the citizens.

Lindsay Sager: stated that she is working on putting together a food truck rally. She said she tried to work with Brigham City on something similar and they were not willing to work with her on this however Perry City has been really good to work with. She said that she has had public interest in this event. She said that there would be a maximum of 5 trucks and fund raising events can be done in conjunction with this. She stated she may also have someone interested in providing a bouncy house as well. She explained that this would take place every other Monday night at Perry Park from mid August thru October.

Michael Wood: thanked the Mayor and Council for their service and thanked Norman Nelson for his service. He said he has close relationships on both sides of this issue and standing back watching this issue from a distance is like watching two good friends that he would love to see just make amends. He stated that he volunteers at the gun range and thinks it is wonderful. He said he would shoot out there before any of that was built and wanted to commend the former and current administration for their support of the facility. He encouraged its use and would love to see this continue. He said he has seen disdain from both sides of the issue. He pleaded for the City and the Nelsons to take a step back, put pride aside, and work this out.

Ann Davis: agreed with the comments made by Michael Wood.

Amber Jenks: agreed with Brandon Hansen.

Jared Riley: agreed with the Food Truck lady.

Ardel Jenks: stated he believes back when this land exchange took place employees of the City thought this deal could be made but found they could not. He said he believes Norm should be compensated for the land he donated in an equitable way or the City should find land to replace this with.

Norman Nelson: stated that this law suit is being pushed through for a purpose. He claimed that the City wants to use the land in question for a camping area east of the gun range.

Mayor Cronin asked if there were any other comments of which there were not. She closed the public comment period and asked the City Attorney, Craig Hall to provide additional information regarding the land dispute.

Craig Hall (Perry City Attorney): said this is a simple property boundary issue. He said he does not know if land was to be exchanged in 1985, but based off of comments made by Representative Perry and based on his conversation with the Deputy Attorney General and the State Lands and Forestry Department, if the City deeded this ground back in 1985 to the Nelson it would have been null and void transaction due to Federal rules. He explained that he has met with the Nelsons on 4 different occasions, 3 here at the City and 1 time in their home. He said these were amicable discussions and the City tried to seek resolution; we gave many ideas and asked for response back from Norman Nelson and his sons, but the response back were not forthcoming. He said the City was getting nowhere, thus the City Council authorized him to draft a letter that was delivered to the Nelsons in the first part of July. There is no ill will that he has seen from the Council or the Mayor; they want to resolve the property issue. He said as for the road, in fairness this needs to be addressed, but although the State has indicated to Mr. Hansen that there is no urgency, they told the City very clearly that we must resolve this issue. He stated that it was his counsel to the Mayor and City Council that the time to act is now. He took responsibility for the amount issued on the law suit (\$400,000) which was based on his experience in dealing and working with wetlands and his call to an environmental engineer and asked if there was a little over an acre of damaged wetlands what the cost would be to remediate it, his response was that this would cost \$250,000 to \$300,000. He said he hopes that this is not wetlands and the cost related to this land is only a few thousand dollars, but he is not confident that this will be the case. He said the City will continue to make inquiries and wants to resolve this title issue. He said that the Nelsons retained legal counsel today, which is a good sign. Craig stated that the City did offer to use mediation in an effort to resolve the issue outside of court, but yet again there was no response from the Nelsons. He stated the City merely wants to resolve the title issue and does not want to lose the 80 acre parcel, which is a real possibility unfortunately.

The Mayor responded to a public comment made alleging that she told Council Members not to talk to the public. She stated she has never told any Council Members not to talk to the public. She said she talked to one Council Member who asked a question, she told him that she was forwarding the question to the City Attorney and that the City Attorney would respond to him as soon as he could. She never had told the Council Members that they cannot talk to the public.

Mayor Cronin responded to the comment made regarding the dumping of dirt on the road. She stated that this is a State regulation from the Storm Water Management Program Plan (SWMPP) that the City is not to allow debris to contaminate the storm water. She said that this is regulated by the State and is not something the City is in control of.

Mayor Cronin stated that the State has not placed a time limit on this land dispute, but has indicated that this land must be kept in public use or it reverts back to State Land. She said the City is trying to comply with the State and show that once we became aware there may be a question of public use on a small portion of the land, we did what was needed to correct this. She said the City just needs the Nelsons to come to the table and work the issue. The Council did not feel that this was happening and felt it was important to move to the next step.

B. PUBLIC HEARING REGARDING RESOLUTION 16-14 DECLARING SURPLUS PROPERTY IN THE EVANS CANYON 1-LOT SUBDIVISION

Mayor Cronin explained that this is a 1 lot subdivision that was formerly a detention basin. She said that a few months ago the Council was approached about taking several smaller detention basins and replacing them with a larger regional detention basin. She indicated this piece of land that was then a detention basin was turned in to a buildable lot. She stated that the residents in the area requested codes, covenants, and restrictions (CCRs) be implemented for the lot. The City asked the citizens for a copy of the CCRs in their subdivisions and had the City Engineer reviewed these to ensure that the CCRs could be put in place for this parcel. She advised that the Engineer agreed with the majority of the CCRs with a few exceptions. Mayor Cronin said that the exceptions have been discussed as a Council and included things like not allowing clothes lines, the pitch of the roofs having to be 8/12'. She explained this was reduced to a pitch of 6/12' to allow for a better price on roofing. She said that the City took into consideration the Engineer's comments and put out a document that lists all requirements that whoever purchased the lot would need to agree to and abide by as they build. She stated this would ensure that whatever type of home that is constructed on the lot is similar to those adjacent and would maintain property values. She advised that the action being considered tonight will be to take this lot and declare it as surplus so that it can be sold if the City chooses.

MOTION: Council Member Lewis made a motion to open a public hearing regarding Resolution 16-14 Declaring Surplus Property in the Evans Canyon 1-Lot Subdivision. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

No public comments were made.

MOTION: Council Member Wright made a motion to close the public hearing. Council Member Taylor seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

ITEM 4: PRESENTATIONS

A. CITY HIGHLIGHTS

Mayor Cronin reported that Wal-Mart has been remodeling and they will be having their re-grand opening on August 5th at 8:00am and invited the council members to attend. She expressed her appreciation for Wal-Mart and their continuing to invest in our community.

Mayor Cronin reported that prior to the regular City Council meeting Geneva Rock was here for a work session. They are working with Utah Department of Transit on the I-15 Expansion project and part of this includes the need of early operating hours. She said this is to help with safety issues surrounding lane closures and also needed in order to meet the required ambient temperatures needed for pouring of cement and asphalt. She said during the project there have been many requests for night and early morning pours. She advised that there have been many concerns from residents and this work session provided an opportunity for residents to meet with Geneva and express their concerns. Geneva was responsive and said they will see what they can do to help alleviate the early morning starts of the Perry Geneva Plant which has caused inconvenience to residents.

B. HARASSMENT AND DISCRIMINATION PREVENTION TRAINING

Craig Hall presented training on Harassment and Discrimination Prevention (See attached).

Shanna Johnson also advised that in the Perry City Policy it notes the protected classes as outlined by the the Civil Rights Act 1964 and asked the Council to review these protected classes as they make decisions (on Businesses, Land Use, Citizen Issues, etc.) and asked that they make these decision based off the rules and/or legislation set by the Council and not on the characteristics of an individual.

ITEM 5: ACTION ITEMS

A. APPROVAL OF THE WARRANTS

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

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

Motion Approved. 4 Yes, 0 No.

B. RESOLUTION 16-14 DECLARING SURPLUS PROPERTY IN THE EVANS CANYON 1-LOT SUBDIVISION

Mayor Cronin referred to CCRs as edited by the City Engineer that were sent to the City Council. She said this document takes the proposed CCRs (from Ansley Subdivision) which were cumbersome and condenses them down to 13 requirements. She reviewed the proposed CCRs and modifications as follows:

- The City stayed with the same square footage (1,650 s.f. rambler or 2,400 s.f. two-story)
- The roof pitch was changed from 8/12' to 6/12'
- The types of home were maintained
- The type of roof and exterior materials to be used remained the same
- The time of commencement and construction was kept the same
- The landscaping requirements remained the same
- The restriction that the residence has no business or commercial use was in the original CCRs and is currently maintained in the document. Mayor Cronin said if this is something the Council would like to change this they could strike this. Greg Westfall clarified that the

document does allow for a home business if the home met all the City requirements and lists some specific parking requirements.

- No livestock of any kind is to be allowed and no dangerous nuisance animals are allowed
- Not allowing items in storage to be visible to neighbors, which is listed in the proposed CCRs.
- No transient lodging uses allowed is a restriction that was maintained.
- Trees in the park strip was a requirement was excluded
- Mailbox type requirements were excluded

Council Member Lewis said he has been in contact with the adjacent property owners regarding this lot and the presented CCRs address most of what they desired with the exception of a fence restriction for wire. Greg apologized stating that this was missed but they could add this restriction. Mayor Cronin stated this will be added as Item 14.

MOTION: Council Member Taylor made a motion to approve Resolution 16-14 Declaring Surplus Property in the Evans Canyon 1-Lot Subdivision and adopt the 14 Codes, Conditions, and Restrictions as discussed. Council Member Wright seconded the motion.

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

Motion Approved. 4 Yes, 0 No.

C. BENEFIT EXCEPTION REQUESTS

Shanna Johnson explained that the requests were sent separately to the Council. She explained that the City has had some transition in the Police Department and because there has not been adequate coverage for time off, some of the officers have some time that is remaining that they would like to carry over into the next year and use it instead of losing the time. Council Member Taylor asked Shanna's opinion on the requests. Shanna stated she felt this was a legitimate request. She advised of some staffing issues, with an officer that left to work for the County, a transition of Chiefs, and a part-time officer that left. She said we were three men down and in their providing 24/7 coverage and protection to the community, she thinks they did an excellent job. She added they worked overtime and was not able to take time off, she felt it was a valid request and that they would honor the use of the time in the next year. Shanna reported that they just hired a new Police Officer, Ryan Blind, who is currently in training and will be out patrolling soon. Council Member Taylor asked if there are any concerns with a precedence being sent. Shanna responded that similar requests have been received and reviewed in the past individually, and they have been granted based on the situation. She added that there has to be extenuating circumstances in relation to the request and she believes that has been established here. Council Member Tueller said that one officer was okay with being paid out those hours. Mayor Cronin said that is not a precedence that has been set in the past. Shanna confirmed that we have never paid out hours but have allowed for them to be carried over and that is her recommendation with these requests. She said a request for benefit time pay out was received last year and this was denied, but the time was allowed to be carried over so that they could use with a sunset period of 3 years. She explained that this employee had a lot more time to be carried over that had been accumulated over a much longer period. She recommended 1 year for the current requests. Council Member Tueller asked if staffing levels now allow for time off. Shanna said yes as we also hired the Chief so we now have 2 new officers. Mayor Cronin clarified that there is enough coverage now for time off as we now have a working Chief.

MOTION: Council Member Taylor made a motion to approve the Benefit Exceptions as presented allowing benefit time to be carried over for 1 year. Council Member Lewis seconded the motion.

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

Motion Approved. 4 Yes, 0 No.

ITEM 6: DISCUSSION ITEMS

A. EMERGENCY OPERATIONS PLAN

Monica Taylor Reviewed the Emergency Operations Plan with the City Council and provided them an opportunity for any questions or corrections.

Mayor Cronin referred the City Council to a graph on page 40 of the plan stating this provides a flow chart to follow in the event of an emergency. She also noted that page 52 is helpful as it lists the agencies that would be primary and necessary for response based on situations.

Council Member Wright asked that changes be made to page 12 so that all hospital names and locations are listed:

- Brigham City Hospital
- Ogden Regional Hospital
- McKay Dee Hospital
- Bear River Valley Hospital

Council Member Wright said this will provide options other than just Brigham City hospital, as it would be hard for Brigham City Hospital to service everyone. Mayor Cronin and Monica liked this suggestion.

Council Member Wright asked that page 19 include where checklists should be kept. Mayor Cronin noted this and said this will be added.

Council Member Wright and Council Member Tueller had questions on who would be considered Police Officers. Mayor Cronin said she believes the intent here is that we are utilizing police officers certified through the Police Officer Standard Training (P.O.S.T.). Chief Arbon said there are different levels of P.O.S.T. certification (Special Function Officer-SFO and Law Enforcement Officer-LEO). He said when an individual graduates from P.O.S.T. they are certifiable, but a City has to hire the officer and give them credentials to make the officer fully certified. He said then an officer must complete a certain number of hours of training in order to maintain certification.

Council Member Tueller requested the elementary school name be corrected from Perry Elementary to Three Mile Creek Elementary on page 20.

Mayor Cronin advised that she has some clerical and grammatical changes that she would forward to Monica.

Council Member Tueller asked how revisions to the plan will take place. Monica said that revisions do not require the entire City Council to make a revision, however it does require the Mayor and the Emergency Manager to discuss and agree upon the change, and once agreed upon the changes will be reported to the Council as a whole. Mayor Cronin said this will come to the Council as a note and not as an action. Council Member Tueller asked if it needs to come forth as an action. Shanna Johnson asked when the Emergency Operation Plan is adopted will it be adopted as an Ordinance or Resolution or will it be adopted Just as a plan. Mayor Cronin said as a plan. Council Member Lewis expressed this would be more administrative then. Greg Westfall stated that when reported to the council it will provide the opportunity for dialogue and therefore has a similar process to its original adoption.

Mayor Cronin advised that upon the completion of this document, Monica will be providing a lot of training in the near future to the Council on Incident Management. She said this in an effort to become certified and attend Emmetsburg, Maryland for City Emergency Incident Management training.

Monica encouraged this training stating the next step is going through the National Incident Management System (NIMS) courses. She stated these can be completed online or in person and she asked the Council's preference. The Council expressed that they prefer in person training that will take place prior to Council Meetings as Work Sessions.

B. CODE ENFORCEMENT

Mayor Cronin advised that examples of code enforcement have been sent to the City Council from other cities. She reflected on comments made by Council Member Lewis in the last City Council Meeting that if we put something in place and we start to see a lot of issues with it, it will highlight Ordinances that may need to be changed or taken off the books. Mayor Cronin said it does not make a lot of sense to have Ordinances on the books and not have the ability to enforce them. She stated that she has worked with Planning Commission members and the process proposed is as follows:

- First – A certified letter will be sent letting people know they are not in compliance with a particular Ordinance or City Code, and give 10 days to bring the issue into compliance or come to the City and develop a plan for compliance. She said that the plan would need to include compliance within a 30 day period.
- Second – The City will then remediate the violation by sending City agents to take care of the violation and then bill the land owner for the cost of the remediation.
- Third – If the land owner does not pay for remediation after a certain number of days, the bill will be placed as a tax lien on the property.

Mayor Cronin asked Chief Arbon to discuss his experience with code enforcement. Chief Arbon explained that he used to own a landscaping business and he was hired by North Ogden to go in and clean up weeds. He stated that he would bill the City for the cost to remove the weeds and they were paid. He said their policy was that they gave these jobs to contractors within their community. Chief Arbon said that in Clearfield code enforcement staff is managed by a Lieutenant in their Police Department and their program is very effective. They initially try to make contact with the land owner and give warning, then a written letter, then if no action a fine was issued, and if still no action taken there was something that would allow items to be taken by the City or if applicable City workers would go in and clean up issues, and then this would be billed to the land owner. He said that codes are needed but the City needs to be able to enforce them. This keeps the things that are not wanted out of the City and it also addresses health and safety.

Mayor Cronin expressed that in her conversations with Planning Commissioners they felt if they are volunteering their time and creating land use codes, they want them to be able to be enforced otherwise there is no value in their efforts.

Greg Westfall stated the staff can currently talk with land owners, and if no response letters are sent, but after that the staff has no authority for further enforcement.

Planning Commissioner Gunderson said that he is a property owner and the process outlined by the Mayor is what he has experienced as a property owner with property in other cities. He said that it is important that the City notify landowners that if code violations are not corrected, then the City will take care of and bill the landowner. Mayor Cronin asked as a landowner if he is offended when

notified of code violations. He said no, most property owners want to take care of an issue if they know about it.

Council Member Tueller expressed that he liked the idea of contacting the owner personally prior to sending a letter.

Council Member Lewis said in light of his previous comments in support of code enforcement, in Perry we have a unique situation where there are very nice neighborhoods with high CCRs and a couple blocks away with orchards or frequent weeds. He said in his neighborhood weeds would need enforcement but maybe not so much on farm land. He said we need to be careful with these scenarios as we move forward.

Greg said he feels that there is some common sense as we work with code enforcement. We do have agricultural areas that will have weeds, but there is still a fire safety issue that we need to ensure we address. He said the State has a noxious weed program that does not only apply to residential but also agricultural land. He said that if the City can see that a farmer can see that a farmer has cut down weeds as best he can, this will be taken into consideration and it is understood that a farmer is not going to have groomed grass between trees in an orchard. Now if there is a fire hazard the city would address this even on farm land as directed by the fire marshal.

Council Member Lewis said is it a good idea to put in place this enforcement when we know there are holes in our law and should these be addressed prior to putting an enforcement mechanism in place.

Council Member Tueller expressed concern with the extent of the enforcement, and citizen reaction.

Greg said we need to start somewhere, he referred to the home on Peach Street that has a weed and maintenance issue, and residents have complained stating that people have moved out because of the home, it is affecting home values in the area, is a safety issue, and reports that a transient has been living in the home. The city has a responsibility, but no ability to fulfill the responsibility. Council Member Lewis clarified that what Greg is saying is using common sense, but having the ability to address issues when needed.

Mayor Cronin went back to how passionate the Council was regarding the CCRs just passed, and said that having a log cabin was against the CCRs passed and in this situation the residents are living next to an abandoned home with overgrown sage brush and rodents, and then we should be as passionate about protecting the residents affected in this area.

Chief Arbon said that in order for this to be effective there should also be a person dedicated specifically the code enforcement.

Commissioner Gunderson said that there are many homes that are abandoned in the City but have not been complained about. Mayor Cronin said that brings up the issue as to whether the City wants to be proactive or reactive.

Mayor Cronin said that one of the things that brought his to the forefront for her is that she has received concern from Brigham City Fire Department and officials who we contract fire services with. She said again we do not have the ability to do more than send a letter. She said that if we want to keep our fire contract at a low rate, we need to show that we are proactive in code enforcement.

Council Member Tueller said he agreed with what has been said, but did not want to pass a blanket enforcement ordinance. He expressed his desire to have a diplomatic approach, where the City contacts residents and works to resolve the issue.

Commissioner Gunderson said that code enforcement efforts can be seen as punitive. Council Member Wright said there is already one citizen that has mentioned this. He said he also understands that there are laws and if someone violates the law i.e. goes over the speed limit, they are responsible for the consequences.

Council Member Tueller agreed with when a complaint is received the process of contacting the owner, sending a letter, then if not compliant, leveling the weeds and billing them. He said this is as proactive as having an individual driving around identifying violations. Council Member Wright agreed.

Craig Hall asked the Council how invested they are in code enforcement, how politically committed is the Mayor and Council to sending out the notices, etc. He said the second issue is if the Council authorizes the City to go on the property and abate the condition, how much money is the Council willing to put in the budget to do this, because the return on the money is not going to happen very quick. He said that Midvale increased their code enforcement efforts and quickly realized that they needed to budget money annually to address these issues. He said that he thinks it is very important that a letter never be sent until the City has tried to contact the property owner. Chief Arbon said that if the Police were involved in this process it would become part of a police report and attempts to contact property owners could be documented.

Shanna Johnson said that within the information sent to the City Council there were some flyers created by Brigham City [that provided education to property owners in relation to code violations and explained the reason for a need of correction]. She said she was not sure how difficult it would be to recreate these for Perry, but felt they would be a good tool. Craig Hall said he has some forms that could be used.

Craig Hall said there is a State code that may already be able to address the home on Peach Street called the Abatement of Dangerous Buildings, this has to do with Building Code.

Mayor Cronin said that the gentleman that was present at the meeting in full dress whites (military uniform) comes to the City weekly and speaks to her every Sunday regarding code violations. She said that some people may think that the City is going to come down hard, but that is not the intent, the City is trying to protect the rights of others. If there is an ordinance on the books then people have the right to expect that these codes will be followed.

Council Member Lewis asked if we are hiring someone for code enforcement. Mayor Cronin stated that it is not in the budget this year, but as budget allows someone may be hired.

Council Member Taylor asked who currently enforces cars that are not moved off the street on snow days. Mayor Cronin answered that this is currently being addressed by Police. Chief Arbon said that if they are in the middle of the road or in an intersection they can be impounded. Mayor Cronin said that the Police try going to the home and knocking on the door, prior to any citations.

Council Member Lewis said he does think that we need a code enforcement mechanism to give our laws validity but he does not feel that he can support adding a budget line item for a code enforcement employee at the City. He said he does not think the City has enough issues to justify this.

Council Member Wright agreed with Council Member Lewis.

Mayor Cronin asked if the Council wanted to go ahead and have Craig start drafting a code enforcement ordinance.

Council Member Lewis asked how much of this is already in place. Craig Hall stated that about half of what is needed is already in code; the important part regarding the abatement of a nuisance and charging for this is not currently in the code.

Council Member Tueller said we need to somehow finish the code enforcement process but pull the reins back as we try to determine what this process looks like.

Council Member Taylor said he understands the need but he is not politically committed at this time. He said he understands the need but would hope it would be taken care of on a one on one basis. He said that the City would not accept this at this time.

Mayor Cronin said she is getting the feeling that maybe we are not ready for a code enforcement law at this time.

Council Member Lewis said he feels like the City can do this without making everyone mad. He said we do not need an employee or a budget line item for this.

Mayor Cronin stated we do not need an employee but we do need city code that allows the City to abate an issue and bill the costs to the property owner, and if not paid charge the amount as a tax lien. She said as it seems that the City would have something in code to allow abatement already we don't. Council Member Taylor said it sounds like we might have something. Craig said we have building code, but if it is not a building issue there is nothing. Craig suggested looking at passing an abatement process so if all efforts fail we have something.

Council Member Taylor and Lewis suggested drafting code for abatement only. Greg asked that they clarify abatement. He said this needs to be defined as nuisances that would deal with fire, health, and safety hazards. He stated he does feel like there are further conversations that should be had to address the other issues.

Council Member Lewis said he is not stating we do nothing about code enforcement; he is just giving suggestions regarding how we execute this. Mayor Cronin stated that there are people contacting the City daily and weekly. Council Member Lewis asked the Mayor to have them call him because he has only had complaints about this issue. Mayor Cronin stated we need to be as passionate about helping those residents who bring code violations as we were about helping the people who wanted CCRs to protect their property values.

Council Member Taylor said that if there is not an option for abatement of health and safety issues we need one, but he is not in support enforcing signage, etc. Council Member Tueller agreed that an abatement ordinance is needed, but asked that this includes the City cleaning up the issue and billing the property owner.

Council Member Lewis expressed concern that this will be a public relations nightmare. He said we have a lot of issues right now and suggested to go through this very carefully and cautiously.

Mayor Cronin stated she likes Craig Hall's suggestion that the City put together a plan so we can help the people now and not have a redress system. She supported communicating the laws to people and she would like to have this law to be a cost savings to the public and not have increase

contract fees for fire. She said the intent is to give the people confidence in the ordinances on the books, respect the time the planning commission has put into helping us with recommendations. She pleaded with the Council to give staff a way to enforce the ordinances. She said if we do not want to enforce the ordinances the Council needs to take them off the books.

C. PROPOSAL FROM FIRST SOLUTIONS

Mayor Cronin said that First Solution has a contract with the City that was put in place in 2013 to put up a communication tower in two locations of the City to provide Utopia Services wirelessly. She said they were to help to get internet connections in the City and in return the City was going to let them utilize City land for the towers without a rental fee. She said they were to have the towers up and provide access to internet services. Mayor Cronin said that when she took office in 2014 the paperwork was not signed so she signed this. She said that Verizon wireless would like to lease City land to put up another tower, but part of the contract is a non-compete clause for 3 years. Mayor Cronin said that First Solutions wants to place towers at this time. She said that they have provided an offer of which can be reviewed in close session. She said that they want a tower here behind the City building and one near Evans Canyon. She said that the City will be considering the proposal.

ITEM 7: MINUTES & COUNCIL/MAYOR REPORTS

A. APPROVAL OF CONSENT ITEMS

- **June 9, 2016 City Council Meeting Minutes**
- **June 23, 2016 City Council Meeting Minutes**

MOTION: Council Member Wright made a motion to approve the June 9, 2016 and June 23, 2016 City Council Meeting minutes. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

B. MAYOR'S REPORT: Mayor Cronin reported that we are finalizing Fourth of July thank you letters to chairman and sponsors. She said for the first time we have outsourced the mailing of the utility bills and newsletters. Greg reported that this will result in a cost savings. He said in the past the City was doing this in house and now it is being outsourced to Freedom Mailing Services.

C. COUNCIL REPORTS: None.

D. STAFF COMMENTS: None.

E. ITEMS FOR NEXT NEWSLETTER: None.

ITEM 8: EXECUTIVE SESSION

MOTION: Council Member Lewis made a motion to extend the City Council meeting to 10:30pm and to recess the Public Meeting and go into an Executive Session to discuss strategy regarding pending or imminent litigation and strategies related to the acquisition and disposition of real property. Council Member Taylor seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

The regular meeting closed at 9:56pm.

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

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
 Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

The regular meeting reopened at 10:30pm.

MOTION: Council Member Lewis made a motion to extend the City Council meeting to 11:00pm Council Member Wright seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
 Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

MOTION: Council Member Lewis made a motion to recess the Public Meeting and open an Executive Session to discuss strategy regarding pending or imminent litigation. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
 Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

The regular meeting closed at 10:32pm.

MOTION: Council Member Wright made a motion to come out of the Executive Session and reopen the Public Meeting. Council Member Tueller seconded the motion.

ROLL CALL: Council Member Wright, Yes Council Member Taylor, Yes
 Council Member Lewis, Yes Council Member Tueller, Yes
Motion Approved. 4 Yes, 0 No.

The regular meeting reopened at 11:02pm.

ITEM 9: ADJOURNMENT

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

The meeting adjourned at 11:02pm.

Susan Obray, City Recorder

Karen Cronin, Mayor

Shanna Johnson, Chief Deputy Recorder