

# CITY OF PERRY REGULAR COUNCIL MEETING

## PERRY COMMUNITY BUILDING

REGULAR CITY COUNCIL MEETING HELD ON DECEMBER 15, 2009

PRESENT: COUNCILMEMBERS THOMAS CHAPUT, MARK LANDERS, BRAD SHARLOW, GREGORY WEKWERT, TERRY WOOD, MAYOR ROSS DELAU AND DEPUTY CITY CLERK DEVIN MILLER

ABSENT: CITY CLERK JUDY GUENTHER AND COUNCILMEMBER CHRISTINE TOBIAS

ALSO PRESENT: JFM PRODUCTIONS KATHY MCGRAW, LOCC CHAIRMAN JEAN HOLLEY AND COUNTY COMMISSIONER JAIME PAVLICA

Mayor Ross DeLau called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

### READING AND APPROVAL OF THE MINUTES:

Moved by Wekwert, seconded by Landers that we suspend the rules, waive the reading and approve the minutes of the December 1, 2009 Special meeting as written. Carried, all aye.

Moved by Wekwert, seconded by Wood that we suspend the rules, waive the reading and approve the minutes of the December 1, 2009 Regular meeting as written. Carried, all aye.

### COMMITTEE REPORTS:

Jean Holley, Local Officers Compensation Committee Chairperson, gave a report saying there would be no changes to the Mayor and Council's pay.

Mark Lander's gave a Finance and Ordinance Committee report and informed Council the next meeting would be January 14<sup>th</sup> at 6:30pm.

Brad Sharlow gave a Planning Commission report and informed Council the next meeting would be January 11<sup>th</sup> at 6:30pm.

### PRESENTATION AND APPROVAL OF THE BILLS:

Moved by Wood, seconded by Landers that we approve the bills as presented and that payment be authorized. Carried, all aye.

### COMMENTS FROM THE PUBLIC:

Jaime Pavlica, County Commissioner informed Council that the 4-H Youth Budget was included in the budget, the funds for Veterans Affairs are being carefully reviewed and the County is still looking into the guidelines for Pawn Broker business.

Kathy MaGraw thanked the Department of Public Works, Dori Boertman and Girls Scouts for their great efforts helping out the Lighted Christmas Parade.

## COMMUNICATIONS:

Letter was read regarding Consumer's Energy Hope Wall.

The winners of the Christmas Lighting Contest are as follows:

- Kevin and Kimberley Kurka  
378 N. Clearwater Dr.
- Karen Carter  
305 Valley Court
- Jeffrey and Cynthia Vanvelzor  
302 White Oak Dr.

Letter was read regarding appreciation for Officers Sean Gifford and Dane Seltzer.

## OLD BUSINESS:

**Possible Acceptance of Christine Tobias Resignation-**  
Moved by Sharlow, seconded by Wekwert that we accept Christine Tobias's resignation from City Council with regret. Discussion. Carried, all aye.

**Possible Adoption of MERS Defined Benefit Program-**  
No Action Taken

**First Reading of Amended Dog Ordinance #308-**  
No Action Taken.

**First Reading of Receipt of Gifts #310-**  
Moved by Chaput, seconded by Sharlow that Ordinance No. 310, also known as the Receipt of Gifts which reads as follows, be placed on the next agenda for possible adoption:

### Receipt of Gifts

The City Ordains:

#### 1. Definitions:

*Compensation* means any money, thing of value or other compensatory or pecuniary benefit received or to be received in return for, or as reimbursement for, services rendered or to be rendered.

*Decision making* means exercising public power to adopt ordinances, regulations or standards, rendering quasi-judicial decisions, establishing executive policy, or rendering a governmental decision.

*Economic interest* means any interest valued or capable of valuation in monetary terms.

*Employee* means an individual employed by the city, whether part-time or full-time, but excludes elected officials and city contractors.

*Gift* means anything of value given without consideration or expectation of return.

*Official* means any person holding any elected office of the city or any appointed, non-employee member of any city board or

commission.

*Official duties or Official action* means a decision, recommendation, approval, disapproval, or other action or failure to act, which involves the use of discretionary authority.

*Person* means any individual, entity, corporation, partnership, firm, association, union, trust, estate, and any parent or subsidiary of any of the foregoing, whether or not operated for profit.

*Relative* means a person who is related to an official or employee as spouse or as any of the following, whether by blood or by adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister, half-brother or half-sister.

## 2. Prohibited Conduct:

(a) Gift, compensation or economic interest. No official or employee of the city shall solicit, accept or receive, directly or indirectly, any gift, compensation or anything of an economic interest, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under any circumstance in which it can reasonably be inferred that any of the foregoing is intended to influence him or her in the performance of his or her official duties or is intended as a reward for any official action on his or her part.

(b) Preferential treatment. No official or employee of the city shall use, or attempt to use, his or her position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for himself or herself, a relative or any other person.

(c) Use of information. No official or employee of the city who acquires information in the course of his or her official duties, which information by law or policy is not available at the time to the general public, shall use such information to further the private economic interests of himself or herself, a relative or any other person.

(d) Full disclosure. No official or employee of the city shall participate, as an agent or representative of the city, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she or a relative has a direct or indirect economic interest without disclosing the full nature and extent of the interest. Such a disclosure must be made before the time to perform his or her duty or concurrently with the performance of the duty. If the official or employee is a member of a decision-making or advising body, he or she must make disclosure to other members of the body on the official record. Otherwise, a disclosure will be appropriately addressed by an appointed official or employee to the city manager or by an elected official to the general public. In the case of the city manager and the city attorney, he or she shall make such a disclosure to the mayor.

No official or employee or relative shall engage in any business transaction whereby the official or employee or relative may benefit financially from confidential information which the official or employee has obtained or may obtain by reason of that position or authority.

(e) Doing business with the city. No official, employee or relative shall engage in any business with the city, directly or indirectly, without filing a complete written disclosure statement for each business activity having an economic interest to any of the foregoing. Such a disclosure shall be made on an annual basis or prior to any decision-making not previously disclosed by an annual disclosure.

(f) Use of city property. No official or employee of the city shall, directly or indirectly, use or permit a relative or other persons to use city property of any kind for his or her private economic interest or that of a relative or other person. City officials or employees shall strive to protect and conserve all city property including equipment and supplies entrusted or issued to them.

(g) Exceptions. Employees of the City of Perry Police Department shall be regulated by the City Police Department policies as approved by the City Council and are not subject to this Ordinance. Food or drink provided on City property shall be exempt from this Ordinance. This Ordinance is not intended to prevent any gift other than food or drink, with a value of less than Five Dollars (\$5.00), such as promotional items or trinkets. Food or drink provided outside of City property in conjunction with City business shall be reported to the City Council in writing within 10 days of acceptance.

In addition, this Ordinance is not intended to prevent any official or employee of the City from receiving compensation for work performed on his or her own time as a private citizen which does not involve City business, nor is it intended to apply to contributions to political campaigns which are governed by State or Federal Law.

### 3. Intention of code.

It is the overall intention of this Ordinance that City officials and employees and their relatives shall avoid any action, whether or not specifically prohibited by this Ordinance, which might result in, or create the appearance of:

- (1) Using public employment or office for his or her economic interest;
- (2) Giving or accepting preferential treatment to or from any person;
- (3) Impeding city efficiency or economy;
- (4) Losing independence or impartiality of action;
- (5) Making a city decision outside official channels;
- (6) Affecting adversely the confidence of the public or integrity of the city government; or

(7) Giving or accepting preferential treatment in the use of city property.

4. Gifts to City:

Any gifts to the City, real or personal, must be accepted by resolution of the City Council. All gifts shall be reported to the City Treasurer immediately after acceptance. Discussion. Carried, all aye.

**NEW BUSINESS:**

**Possible Approval Regarding Consumers Energy Lighting Contract-**  
Moved by Wood, seconded by Sharlow that we approve the following resolution:

RESOLVED, that it is hereby deemed advisable to authorize Consumer Energy Company to make changes in the streetlighting service as provided in the Standard Streetlighting Contract between the Company and the City of Perry dated 09/01/1977, accordance with the Authorization for Change in Standard Streetlighting Contract dated as of December 15, 2009, heretofore submitted to and considered by the Council; and

RESOLVED, further, that the Mayor and City Clerk be and are authorized to execute such authorization for change on behalf of the City. Carried, all aye.

**First Reading of Drug Paraphernalia Ordinance #309-**  
Moved by Sharlow, seconded by Landers that Ordinance No. 309, also known as Drug Paraphernalia which reads as follows, be placed on the next agenda for possible adoption:

DRUG PARAPHERNALIA

City of Perry Ordains:

1. DEFINITIONS.

The following terms, phrases, words and their derivations shall have the meaning given herein.

**CONTROLLED SUBSTANCE.** Any drug, substance, or immediate precursor in Schedules 1 through 5 of Part 72 of Michigan's Public Health Code, MCL 333.1101 et seq., amendments thereto, and the corresponding provisions of any successor statute.

**DRUG PARAPHERNALIA.**

(a) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing a controlled substance;

(b) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant, which is a controlled substance;

(c) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances;

(d) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(e) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seed from, or in otherwise cleaning or refining, marijuana;

(f) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(g) Hypodermic syringes, needles, and other objects used or intended for use in injecting controlled substances into the human body;

(h) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

2. Water pipes;

3. Carburetion tubes and devices;

4. Smoking and carburetion masks;

5. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

6. Miniature cocaine spoons, and cocaine vials;

7. Chamber pipes;

8. Carburetor pipes;

9. Electric pipes;

10. Air-driven pipes;

11. Chillums;

12. Bongs;

13. Ice pipes or chillers.

(i) In determining whether an object is *DRUG PARAPHERNALIA*, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(a) Statements by an owner or by anyone in control of the object concerning its use;

(b) The proximity of the object to controlled substances;

(c) The existence of any residue of controlled substances on the object;

## 2. POSSESSION, MANUFACTURE, AND SALE PROHIBITED; EXCEPTIONS.

### (A) *Possession, manufacture, and sale of drug paraphernalia.*

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body.

(B) *Exceptions.* To the extent of such permitted conduct only, this ordinance does not apply to any person or entity who is licensed, registered, is in possession of a valid prescription or

is otherwise permitted by law to manufacture, use, possess, prescribe, dispense, distribute, conduct research with respect to, or administer a controlled substance; including persons suffering from asthma, diabetes, or other medical conditions requiring introduction of a controlled substance into the human body.

### 3. CIVIL FORFEITURE.

Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this Ordinance shall be seized and forfeited to the City.

### 4. PENALTY.

Any person who shall be convicted of any of this offense is guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00), or by imprisonment not to exceed ninety-three (93) days, or both, in the discretion of the court. Each day a violation continues shall be considered a separate offense and may be punished accordingly. Carried, all aye.

### **Possible Approval of a License Agreement Regarding the Use of Copyrighted-**

Reluctantly moved by Landers seconded by Sharlow that we authorize the Mayor to sign the contract with ASCAP regarding the use of copyrighted music on City grounds and/or for City events and that payment will not exceed \$305.00 for the license fee required. Discussion. Landers, Sharlow, Wekwert and Chaput voted "Yes" and Wood voted "no". Motion carried.

**ANY OTHER BUSINESS THAT MAY COME BEFORE COUNCIL:**

**COUNCIL DISCUSSIONS & OBSERVATIONS:**

There will be a benefit dinner for Brad Ford's family on January 9, 2010 from 4pm to 8pm in the Perry High School Cafeteria.

**ITEMS FOR NEXT AGENDA:**

1. Capital Improvement Policy
2. Drug Paraphernalia
3. Receipt of Gifts
4. Dog Ordinance
5. PerryFest/Non-Profit

**ADJOURNMENT: 9:05 P. M.**

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Ross A. DeLau, Mayor Date

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Devin Miller, Deputy City Clerk Date