

**CITY OF PERRY REGULAR COUNCIL MEETING**  
**PERRY COMMUNITY BUILDING**

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REGULAR CITY COUNCIL MEETING HELD IN COUNCIL CHAMBERS ON  
OCTOBER 21, 2021

INVOCATION PRESENTED BY SUE HAMMOND

PRESENT: COUNCILMEMBERS, RANDY COFFEY, MINDY GALBAVI,  
LARRY LAMBERT, BOB PORTER AND STEVE WALLACE;  
MAYOR, SUSAN HAMMOND AND CITY CLERK, DEVIN MILLER

ABSENT: COUNCILMEMBER, MIKE CONNELL

ALSO PRESENT: STUDIO 130, ALEX MALLOY

Mayor called the meeting to order at 6:59 p.m.  
Mayor led the Pledge of Allegiance.

**APPROVAL OF AGENDA:**

10-21-21-01

Moved by Galbavi, seconded by Lambert that the agenda be adopted  
as printed. Carried, all yes.

**READING AND APPROVAL OF THE MINUTES:**

10-21-21-02

Moved by Wallace, seconded by Porter that we suspend the rules,  
waive the reading and approve the minutes from the October 7,  
2021 regular meeting. Carried, all yes.

**PRE-APPROVED REPORT/PRESENTATIONS:**

Coffey's reported his October picks for "Mayor Ross De Lau  
Perry's Pride" winner Kraig & Ann Elliott 308 N. Madison St. and  
"Put Your Best Face Forward" winner Joyful Sole.

**COMMENTS FROM THE PUBLIC:**

None.

**COMMUNICATIONS:**

Letter of resignation was read from Mike Tobias regarding LOCC.

**MAYOR REPORTS:**

Mayor shared a flyer created for Charitable Donations.  
Clerk gave a brief report regarding the renewal of liability and  
property insurance.

## COMMITTEE REPORTS:

Lambert reported BA&T committee is now in phase 3 for the website revisions.

Lambert reported F&O committee is working on the following:

- A reminder notification is being created regarding changes to the sign ordinance.
- Working on possible amendments to ORV Ordinance.
- Reviewed the Ballot Proposal I.

Porter reported that he is looking into repairing the veteran's memorial near the fire station.

## PRESENTATION AND APPROVAL OF THE BILLS:

10-21-21-03

Moved by Lambert, seconded by Porter that we approve the bills as presented and that payment be authorized. Carried, all yes.

## OLD BUSINESS:

## NEW BUSINESS:

### Possible Approval of Catering Dinner for Employee, Appointed and Elected Officials

10-21-21-04

Moved by Porter, seconded by Coffey that we approve the catering for the December 3rd annual employee appreciation Christmas party by Glen Brier for an amount not to exceed \$1728.00. Carried, all yes.

### Possible Approval for 2013 Public Act 270 Compliance

10-21-21-05

Moved by Wallace, seconded by Porter that we accept and adopt the following resolution:

WHEREAS, the "Publicly Funded Health Insurance Contribution Act" also known as Senate Bill No. 7, was passed by the Michigan Legislature and signed by Governor Snyder on September 27, 2011; and

WHEREAS, although the law imposes a maximum that public employers may contribute to employee health care costs, it also provides a mechanism for City's and other "local units of government" to OPT OUT of the Act's requirements for a one (1) year period by a two-thirds vote of the City Council, allowing the City to determine, on its own, how much it contributes to employee health insurance without reference to hard caps or the 80/20 plan in the Act. A new two-thirds vote would be required to extend the exemption in each subsequent year.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Perry Council shall OPT OUT of the requirements of the "Publicly Funded Health Insurance Contribution Act" also known as Senate Bill No. 7.

2. All Resolutions and parts of Resolutions, insofar as they conflict with the provisions of this Resolution be and they, hereby, are rescinded. Carried, all yes.

#### **Possible Approval of Fireworks**

Discussion.

10-21-21-06

Moved by Galbavi, seconded by Wallace that we approve the permit application for Fireworks Display from Ace Pyro, LLC contingent upon them providing the City with all necessary plans, procedures, insurance certifications and other items which prove compliance of our City Code No. 692, and that all documentation and approvals be completed by December 1, 2021. Carried, all yes.

#### **Possible Adoption of Zoning Ord. Amend. No. 356 Re: Updating Title**

10-21-21-07

Moved by Lambert, seconded by Porter that Zoning Ordinance amendment No. 356 regarding updating title, and which was read at the October 7, 2021 Council meeting, be adopted. Carried, all yes.

#### **Possible First Reading of Ord. Amend. No 357 Re: Ordinance Enforcement**

10-21-21-08

Moved by Lambert, seconded by Galbavi that Ord. Amend. No. 357 regarding ordinance enforcement and which reads as follows be placed on the next agenda for possible adoption:

**THE CITY OF PERRY ORDAINS:**

Perry City Code Section 202.99 is hereby repealed and the following is substituted in their place and stead:

**Chapter 202.99 ENFORCEMENT.**

The City Council, the Ordinance Enforcement Officer, the Chief of Police, or their duly authorized representative(s) are hereby charged with the duty of enforcing the Ordinances and are hereby empowered to commence and pursue any and all necessary and appropriate actions and/or proceedings in the District Court or Circuit Court of Shiawassee County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of any of the provisions of these Ordinances, and to correct, remedy and/or abate the noncompliance or violation. And it is further provided that any

person aggrieved or adversely affected by this noncompliance or violation may institute suit and/or join the City of Perry in the suit to abate the same.

(a) Definitions. As used in this Chapter, "Authorized local official" means a police officer or the Ordinance Enforcement Officer, whose is hereby legally authorized to issue municipal civil infraction citations.

(b) Procedure to Enforce Codified Ordinance Violations:

1. Initial Identification of an ordinance violation. The Authorized local official shall meet with any individual(s) responsible for a violation of the Ordinance to educate and inform them of the infraction. The alleged violator shall have a minimum of 3 business days to take corrective action evidenced in writing with agreement of the Authorized local official to correct the alleged violation. If corrected timely, no further action will be taken.
2. Written Notice. If violation is not addressed based on the initial discussion with the Authorized local official, the Authorized local official will document the situation using an Ordinance Violation Notification Form approved by the City Council for the City of Perry and present a copy to the individual responsible for the infraction. The notification shall specify the violation and provide that the violation must be addressed within 3 business days or a municipal civil infraction citation may be issued.
3. Continued Violation. In the event an alleged violation continues after written notice, the Authorized local official is authorized to issue a municipal civil infraction. In the sole discretion of the Authorized local official, the Authorized local official may issue a municipal civil infraction citation without advance verbal or written notification as provided above.

(c) Municipal Civil Infraction. Any violation or failure to comply with the ordinance requirements herein is a municipal civil infraction. An Authorized local official, including the Ordinance Enforcement Officer may issue a municipal civil infraction citation upon personally witnessing a violation. The Authorized local official may also issue a citation to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil

infraction and if the City Attorney approves in writing the issuance of the citation.

- (d) Minors. If the person is cited as a minor, that individual shall be permitted to appear in court or to admit responsibility for a civil infraction without the necessity of appointment of a guardian or next friend. A court having jurisdiction over a municipal civil infraction shall have jurisdiction over the minor and may proceed in the same manner as if that individual were an adult.
- (e) Parties. A municipal civil infraction action is a civil action in which the defendant is alleged to be responsible for a municipal civil infraction as defined by state law and this Code. The plaintiff in a municipal civil infraction action shall be the City of Perry if the alleged municipal civil infraction is a violation of this Code, any other City ordinance designating the violation as a municipal civil infraction or a state law designating a violation as a municipal civil infraction.
- (f) Continuing Violation. As provided for in this Chapter, each act of violation and every day upon which any violation is permitted or suffered to exist or continue shall constitute a separate violation and shall be punished separately upon admission or determination of responsibility. The penalty provided by this Chapter, shall apply to any amendment or addition to this Chapter or to the provisions of this Code defining substantive violations of this Ordinance whether or not such penalty is reenacted in the amendatory ordinance.
- (g) Disposition of Municipal Civil Infraction cases:
  - 1. If a defendant is determined to be responsible or responsible "with explanation" for a municipal civil infraction, the judge or district court magistrate may order the defendant to pay a civil fine, costs as provided for by law, and, if applicable, damages and expenses as provided in Michigan Compiled Laws Section 8733(2). In the order of judgment, the judge or district court magistrate may grant a defendant permission to pay a civil fine, costs, and damages and expenses within a specified period of time or in specified installments. Otherwise, the civil fine, costs, and damages and expenses are due immediately. If a defendant is ordered to pay a civil fine, the judge or district court magistrate shall summarily tax and determine the costs of the action, which are not

limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment. Costs of not less than nine dollars (\$9.00) or more than five hundred dollars (\$500.00) shall be ordered. Except as otherwise provided by state law, costs shall be payable to the general fund of the plaintiff. In addition to ordering the defendant to pay a civil fine, costs, and damages and expenses, the judge or district court magistrate may issue a writ or order under Michigan Compiled Laws Section 8302.

2. The schedule of civil fines and costs to be imposed for municipal civil infractions which is required to be posted shall also be readily available for public inspection. The schedule need not include all municipal civil infractions. The schedule may exclude cases on the basis of a defendant's prior record of municipal civil infractions.
3. A default in the payment of a civil fine, costs, or damages or expenses ordered pursuant to state law and this Code or an installment of the fine, costs, or damages or expenses as determined by the court may be collected by a means authorized for the enforcement of a judgment pursuant to state law.
4. If a defendant fails to comply with an order or judgment issued pursuant to state law within the time prescribed by the court, the court may proceed under Michigan Compiled Laws Sections 8729, 8731, or 8733, as applicable.
5. A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor as provided for in state law.
6. Default in payment of fines, costs, damages, or expenses.
  - i. If a defendant defaults in the payment of a civil fine, costs, or, if applicable, damages or expenses as provided in state law, or any installment, as ordered, the court, upon the motion of the plaintiff or upon its own motion, may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or a bench warrant of arrest for the defendant's appearance.

- ii. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursement shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this section.
- iii. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
- iv. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine, costs, or damages or expenses.

7. Fines. Each municipal civil infraction shall carry a fine of \$50.00 for each occurrence. All subsequent offense for the same or similar violation by the same defendant shall carry a fine of \$200.00 and shall be denoted on the Municipal Civil Infraction Citation.

(h) Issuance and Service of Municipal Civil Infraction Citations. Municipal civil infraction citations shall be issued and served by Authorized local officials as follows:

- 1. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- 2. The place for appearance specified in a citation shall be the 66<sup>th</sup> District Court.
- 3. Each citation shall be numbered consecutively and shall be in a form approved by the State Court Administrator. The original citation shall be filed with the District Court. Copies of the citation shall be retained by the City and issued to the alleged violator as provided for in state law.
- 4. A citation for a Municipal civil infraction signed by an authorized City official shall be treated as if it were made under oath if the violation alleged in the

citation occurred in the presence of the official signing the complaint and if the citation contains the following statement above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge and belief."

5. An Authorized local official may issue a citation to a person if:
  - i. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
  - ii. Based upon investigation of a complaint by someone who allegedly witnessed the person commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction, and the City Attorney approves in writing the issuance of the citation.
6. Municipal civil infraction citations shall be served by an authorized City official as follows:
  - i. Except as provided below, an authorized City official shall personally serve a copy of the citation upon the alleged violator.
  - ii. If the municipal civil infraction involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.

(i) Contents of Municipal Civil Infraction Citations. All municipal civil infractions citations shall contain the following information:

1. A municipal civil infraction citation shall contain the name and address of the alleged violator, the municipal civil infraction or infractions alleged, the place where the alleged violator shall appear in court, the telephone number of the court and the time at or by which the appearance shall be made.
2. Further, the citation shall inform the alleged violator



that he or she may do one of the following:

- i. Admit responsibility for the municipal civil infraction by mail, in person or by representation, at or by the time specified for appearance.
  - ii. Admit responsibility for the municipal civil infraction "with explanation" by mail by the time specified for appearance or in person, or by representation.
  - iii. Deny responsibility for the municipal civil infraction by doing either of the following:
    - 1) Appearing in person for an informal hearing before a judge or District Court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the City.
    - 2) Appearing in court for a formal hearing before a judge with the opportunity of being represented by an attorney.
3. The citation shall also inform the alleged violator of all of the following:
- i. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
  - ii. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
  - iii. That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the City.
  - iv. That at an informal hearing the alleged violator must appear in person before a judge or District Court magistrate, without the opportunity of being represented by an attorney.
  - v. That at a formal hearing the alleged violator must appear in person before a Judge and will have the opportunity of being represented by an attorney

retained at his or her own expense.

4. The citation shall contain a notice in boldfaced type stating that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.
5. A citation for a municipal civil infraction signed by an authorized local official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the authorized local official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."

All other provisions of said ordinance not inconsistent with the above amendments remain in full force and effect. Carried, all yes.

#### **Possible Approval of Ord. Violation Form**

Discussion.

10-21-21-09

Moved by Lambert, seconded by Galbavi that we approve the City of Perry Ordinance Violation Notification form as recommended and presented by the Finance and Ordinance Committee. Carried, all yes.

#### **Possible First Reading of Ord. Amend. No 358 Re: Updates to General Offensive Codes**

Discussion.

10-21-21-10

Moved by Lambert, seconded by Porter that Ord. Amend. No. 358 regarding updates to general offensive codes and which reads as follows be placed on the next agenda for possible adoption:

**THE CITY OF PERRY ORDAINS:**

Perry City Code Section 678.02(b) 678.05(c) (d) 678.06(c) 678.07(b) 678.99 is hereby amended and the following are substituted in their place and stead:

678.02 OBSTRUCTING STREETS AND SIDEWALKS; SNOW AND ICE.

(b) No person shall permit any snow or ice to remain accumulated on sidewalks within the public right-of-way in the

front, rear, or sides of any business, house, building, or lot owned, occupied or controlled by him or her longer than twenty-four hours after the same has fallen. Where either snow or ice has fallen or formed on any such sidewalk, the owner, occupant, or agent shall, within twenty-four hours after it has fallen or formed, remove the snow or ice in such a manner as to render the total width of the sidewalk safe for pedestrian travel thereon. If this does not occur, the Superintendent of Public Works shall cause the removal of the snow or ice in such a manner as to render the total width of the sidewalk safe for pedestrian travel thereon. The actual cost of snow and ice removal, including supervision and overhead costs, plus ten percent will result in a lien against the premises and shall be immediately placed on the utility billing in regard to said property, and if said billing remains unpaid, shall be collected in accordance with the regular procedures utilized by the City for collection of delinquent utility billings. In the event that the subject property does not have an existing utility account at the time of such removal, one shall be established in regards to said property.

#### 678.05 NUISANCE ABATEMENT.

(c) Investigations. The Ordinance Enforcement Officer, Chief of Police or a member of the Police Department, on a routine inspection or upon receipt of a complaint, may investigate a suspected nuisance.

(d) Notice to Remove. Whenever the Ordinance Enforcement Officer, Chief of Police or a member of the Police Department finds or is notified that a nuisance has been permitted to remain on private property in the City, the Ordinance Enforcement Officer, or Chief shall implement the corrective action enforcement actions referenced in Chapter 202.99.

#### 678.06 WATER POLLUTION.

(c) Whenever the Superintendent of Public Works or a member of the Public Works Department finds or is notified of a potential water pollution violation, immediate action with the alleged violator to cease discharge of any potential pollutants will be initiated.

#### 678.07 OUTDOOR FURNACES PROHIBITED.

(b) Penalties for Violation. Persons violating this section may be responsible for a municipal civil infraction. Each and every day of noncompliance is a separate violation.

#### 678.99 PENALTY.

( EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

All other provisions of said ordinance not inconsistent with the above amendments remain in full force and effect. Discussion. Carried, all yes.

**Possible First Reading of Ord. Amend. No 359 Re: Authorized Officials & Penalties**

10-21-21-11

Moved by Lambert, seconded by Wallace that Ord. Amend. No. 359 regarding authorized officials and penalties, which reads as follows be placed on the next agenda for possible adoption:

THE CITY OF PERRY ORDAINS:

Perry City Code Section 696.09 is hereby amended and the following is substituted in their place and stead:

696.09 AUTHORIZED CITY OFFICIAL.

The Ordinance Enforcement Officer, Chief of Police, and/or the City Council's designee(s), are hereby designated as the authorized City official(s), to issue municipal civil infraction citations or municipal civil infraction violations notices as provided by this code.

Perry City Code Section 696.99(a) (b) (c) is hereby repealed and the following is substituted in their place and stead:

696.99 PENALTY.

(EDITORS NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

All other provisions of said ordinance not inconsistent with the above amendments remain in full force and effect. Carried, all yes.

**Possible Approval of SEDP Membership**

10-21-21-12

Moved by Porter, seconded by Coffey that we shall approve the 2022 renewal with SEDP to the partner level for an amount not to exceed \$1000.00 and authorize the Mayor and/or Clerk to sign the agreement. Carried, all yes.

**Discussion/Possible Approval of Grant Writer Agreement**

10-21-21-13

Moved by Lambert, seconded by Galbavi that we authorize the Mayor to sign the proposed agreement from Grantsmanship Consulting LLC regarding grant consulting services with monthly

retainer fees and hourly fee per agreement for the services to offer funding opportunities and review grants, which states agreement is valid until either party may terminate agreement upon written notice, pending the agreement is approved by our City Attorney. Carried, all yes.

#### **Discussion- Charter Commission**

Discussion. No action taken.

#### **Mayor's Appointment**

*Mayor appointed Steve Wallace, 431 N. East St., to Planning Commission for a term to expire January 2023.*

10-21-21-14

Moved by Lambert, seconded by Galbavi to approve the Mayor's appointment of Steve Wallace to the Planning Commission for a term expiring January 2023. Carried, all yes.

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

##### **PUBLIC COMMENT-**

##### **Possible Acceptance of Resignation-**

10-21-21-15

Moved by Wallace, seconded by Lambert that we accept with regret the resignation of Mike Tobias from LOCC and extend our appreciation for his service. Carried, all yes.

##### **Mayor's Appointment-**

Mayor appointed Mary Plowman, 202 Meadowdale Lane, to LOCC for a term to expire October 2024.

10-21-21-16

Moved by Porter, seconded by Galbavi to approve the Mayor's appointment of Mary Plowman to the Local Officers Compensation Commission for a term expiring October 2024. Carried, all yes.

Mayor and Council agreed to inform city residents the changes to city charter that are coming before them on the November election regarding proposed charter amendments.


Galbavi inquired if anyone new what was happening for Halloween with the businesses.

**ITEMS FOR NEXT AGENDA:**

1. Discussion- Charter Commission
2. Possible Renewal of Liability & Property Insurance
3. Christmas Lighting Contest
4. Auditor's Proposal

**ADJOURNMENT: 9:09 P.M.**

 10/27/21  
\_\_\_\_\_  
Susan J. Hammond, Mayor Date

 11-9-21  
\_\_\_\_\_  
Devin Miller, Clerk Date