

THURSDAY JUNE 27, 2019
PERRY CITY REDEVELOPMENT AGENCY MEETING AGENDA

The Perry City Redevelopment Agency Board will hold its RDA Meeting on Thursday, June 27, 2019 in the City Council Room at 3005 South 1200 West in Perry, starting at approximately 6:40 PM. Agenda items may vary depending on length of discussion, cancellation of scheduled items, or agenda alterations. Numbers and/or times are estimates of when agenda items will be discussed. The agenda shall be as follows, with every item being a discussion and/or action item, unless otherwise indicated:

Approx. 6:40 PM

1. Call to Order
2. Action Item
 - A. Resolution 2019-03 Executing an Amended Interlocal Agreement with Perry City for the Pointe Perry Community Development Project Area
3. Approval of Consent Items
 - A. May 9, 2019 RDA Meeting Minutes
 - B. June 13, 2019 RDA Meeting Minutes
4. Approx. 6:50 PM - Adjournment
 - A. Motion to Adjourn

Certificate of Posting

The undersigned duly appointed official hereby certifies that a copy of the foregoing agenda was sent to each member of the RDA Board and was posted in three locations: the Perry City Offices, Centennial Park, Perry City Park; and was faxed/emailed to the Ogden Standard-Examiner, Box Elder News Journal; and posted on the State Public Meeting Notice Website on this 20th of June, 2019. Any individual requiring auxiliary services should contact the City Offices at least 3 days in advance (435-723-6461).

Shanna S. Johnson, RDA Secretary

**REDEVELOPMENT AGENCY OF PERRY CITY
RESOLUTION 2019-03**

POINTE PERRY EXTENSION

**A RESOLUTION OF THE REDEVELOPMENT AGENCY OF PERRY CITY,
UTAH, ENTERING AN INTERLOCAL AGREEMENT BETWEEN THE
REDEVELOPMENT AGENCY OF PERRY CITY AND THE CITY OF PERRY
TO ADOPTED THE INTERLOCAL AGREEMENT WITH THE
REDEVELOPMENT AGENCY OF PERRY CITY FOR TAX INCREMENT IN
THE POINTE PERRY COMMUNITY DEVELOPMENT AREA.**

WHEREAS, Perry City adopted Ordinance 00-02 on February 24, 2000, creating the Redevelopment Agency of Perry City;

WHEREAS, the Utah Interlocal Cooperation Act, Title 11, Chapter 3, Utah Code Annotated, 1953 as amended, permits governmental units to enter into agreements with one another for the purpose of exercising on a joint and cooperative basis powers and privileges that will benefit their citizens and make the most efficient use of their resources;

WHEREAS, Title 11, Chapter 13, Section 5 of the Utah Code Annotated, 1953 as amended, provides that governing bodies of governmental units adopt resolutions approving an interlocal agreement before such agreements may become effective;

WHEREAS, Perry City (hereafter “City”) and the Redevelopment Agency of Perry City (hereafter “RDA”) have negotiated an Interlocal Agreement for the Pointe Perry Community Development Area as provided in state law;

WHEREAS, the County and RDA desire to adopt the Interlocal Agreement as provided herein;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Redevelopment Agency of Perry City hereby adopts the Interlocal Agreement with Box Elder County for the Pointe Perry Community Development Area as attached hereto as Exhibit “A” and incorporated herein by this reference. The governing body hereby authorizes and directs its Chair to execute the Interlocal Agreement and any documents relating thereto for and on behalf of the RDA.

PASSED AND APPROVED by the Redevelopment Agency of Perry City this 13th day of June, 2019.

KEVIN JEPPSEN, Chair

ATTEST:

Secretary

2nd Amended INTERLOCAL COOPERATION AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT is made and entered into this ____ day of _____, 2019, by and between the **REDEVELOPMENT AGENCY OF PERRY CITY**, a community reinvestment agency and political subdivision of the State of Utah (the “Agency”), and **PERRY CITY**, a political subdivision of the State of Utah in contemplation of the following facts and circumstances:

A. **WHEREAS**, the Agency was created and organized pursuant to the provisions of the Utah Neighborhood Development Act, Utah Code Annotated (“UCA”) §17A-2-1201 *et seq.* (2000), and continues to operate under the provisions of its extant successor statute, the Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the UCA (the “Act”), and is authorized and empowered under the Act to undertake, among other things, various community development activities pursuant to the Act, including, among other things, assisting Perry City (the “City”) in development activities that are likely to advance the policies, goals and objectives of the City’s general plan, contributing to capital improvements which substantially benefit the City, creating economic benefits to the City, and improving the public health, safety and welfare of its citizens; and

B. **WHEREAS**, the Agency and City previously entered into an interlocal agreement on May 31, 2007 regarding the collection and use of tax increment within the Pointe Perry Community Development Project Area (the “Project Area”); and

C. **WHEREAS**, due to unforeseen complications that arose from the original developer’s default on their construction and annual SID assessment obligations, the Agency and City have taken over the responsibility to fund the public infrastructure within the Project Area; and

D. **WHEREAS**, this Agreement repeals and replaces the original interlocal agreement in its entirety; and

E. **WHEREAS**, this Agreement is made pursuant to the provisions of the Act and the Interlocal Cooperation Act (UCA Title 11, Chapter 13) (the “Cooperation Act”); and

F. **WHEREAS**, the Agency created the Project Area, through the adoption of the Pointe Perry CDA Plan (the “Project Area Plan”), located within the City, which Project Area is described in Exhibit “A” attached hereto and incorporated herein by this reference; and

G. **WHEREAS**, the Project Area contains vacant and underutilized land, which is anticipated to be developed, with encouragement and planning by the Agency, into a mixed-use development. The City and/or the Agency may enter into one or more participation agreements with one or more developer(s) which will provide certain terms and conditions upon which the Project Area will be developed using, in part, “Tax Increment” (as that term is defined in the Act), generated from the Project Area; and

H. **WHEREAS**, historically, the Project Area has generated a total of less than \$175.00 per year in property taxes for the various taxing entities, including the City, Box Elder County (the “County”), and the Box Elder County School District (the “School District”); and

I. **WHEREAS**, upon full development as contemplated in the Project Area Plan, property taxes produced by the Project Area for the City, the County, and the School District are projected to total approximately \$1,200,000 per year and that sales tax generated from the Project Area will be more than \$185,000 per year for the City and County; and

J. **WHEREAS**, the City has issued \$1,965,000 in Special Assessment Bonds (the “Bond”) the proceeds of which were used to fund the construction of certain public infrastructure improvements within the Project Area and said bonds are paid annually through an assessment to the real property owners in the Project Area; and

K. **WHEREAS**, the Agency has requested the City, the County, and the School District participate in the promotion of development in the Project Area by agreeing to remit to the Agency for a specified period specified portions of the increased real property and sales tax revenues (i.e., Tax Increment,) which will be generated by the Project Area; and

L. **WHEREAS**, it is in the best interest of the citizens of the City for the City to remit such payments to the Agency to permit the Agency to leverage private development of the Project Area; and

M. **WHEREAS**, the parties desire to set forth in writing their agreements regarding the nature and timing of such assistance;

NOW, THEREFORE, the parties agree as follows:

1. **Repeal and Replace Original Agreement.** The City and Agency repeal the interlocal agreement, dated May 31, 2007, and replace it with this 2nd Amended Interlocal Agreement.

2. **Additional Tax Revenue.** The City has determined that significant additional Tax Increment will likely be generated by the development. Each of the parties acknowledge, however, that the development activity required for the generation of the Tax Increment is not likely to occur within the foreseeable future or to the degree possible or desired without Tax Increment participation to induce and encourage such development activity.

3. **Offset of Development Costs and Expenses.** The City has determined that it is in the best interests of its citizens to pay specified portions of its portion of Tax Increment to the Agency in order for the Agency to offset costs and expenses which will be incurred by Agency or participants in Project Area development, including, without limitation, the construction and installation of Buildings, infrastructure improvements, personal property and other development related costs needed to serve the Project Area, to the extent permitted by the Act, the Project Area Plan, and the Project Area Budget, each as adopted and amended from time to time.

4. **Base Year and Base Year Value.** The base year, for purposes of calculation of the Base Taxable Value (as that term is defined in the Act), shall be 2007, meaning the Base Taxable Value shall, to the extent and in the manner defined by the Act, be equal to the equalized taxable value shown on the 2007 County assessment rolls for all property located within the Project Area (which is currently estimated to be \$1,117,715, but is subject to final adjustment and verification by the County and Agency).

5. **Agreement(s) with Developer(s).** The Agency is authorized to enter into one or more participation agreements with one or more participants which may provide for the payment of certain amounts of Tax Increment (to the extent such Tax Increment is actually paid to and received by the Agency from year to year) to the participant(s) conditional upon the participant (s)'s meeting of certain performance measures as outlined in said agreement. Such agreement shall be consistent with the terms and conditions of this Agreement, shall require as a condition of the payment to the participant(s) that the respective participant or its approved successors in title as owners of all current and subsequent parcels within the Project Area, as outlined in Exhibit "A" (the "Property"), shall pay any and all taxes and assessments which shall be assessed against the Property in accordance with levies made by applicable municipal entities in accordance with the laws of the state of Utah applicable to such levies, and such other performance measures as the Agency may deem appropriate. Amounts required to be paid by developers shall include assessments which shall be levied against their property in accordance with procedures adopted for the special improvement district which was created by the City on January 13, 2000 (the "SID") for the purpose of financing costs and expenses which were incurred by the City in the construction and installation of certain public off-site improvements to the project site, including sanitary sewer main (12-inch or larger), culinary water main, storm drainage, public roads, curb, gutter, sidewalk and such other improvements as were required by City ordinance along the entire frontage of the project (the "Municipal Improvements").

6. **Payment Trigger.** The first year ("Year One") of payment of Tax Increment from the City to the Agency shall be tax year 2008. Each subsequent year, beginning with the first year after Year One, shall be defined in sequence as Year Two through Year Twenty.

7. **Total Payment to Agency.** The City shall remit to the Agency, beginning with property tax receipts in Year One, and continuing through Year Twenty, 90% of the annual Tax Increment generated from the Project Area. The City is authorized and instructed to pay 90% of the annual Tax Increment to the Agency, acting as the tax collection agency for the City. The remaining 10% will remain with the City. In no event shall the aggregate total of all payments of Tax Increment which shall be paid to the Agency in accordance with the provisions of this Agreement exceed the total amounts of all assessments which shall be levied by the City against the property pursuant to the SID (the "Total Assessments"), less any reserves funded with proceeds of the Bonds issued with respect to the SID and such amounts shall be referred to herein as the "Maximum Agency Payment." It is understood that the amount of the Maximum Agency Payment will not exceed \$3,113,436 which represents the amount necessary to fully amortize the Bonds. In addition, some or all of the Maximum Agency Payment which shall have accrued may not have been paid to the Agency pursuant to this Agreement due to the lack of tax revenues in any given year. That portion of the Maximum Agency Payment shall not have been previously paid to the Agency shall be referred to herein as the "Accrued Agency Payment." The City Tax Increment shall continue to be paid to the Agency so long as there shall remain any Accrued Agency Payment; provide, however, that no portion of the City Tax Increment shall be aid to the Agency after the year 2026.

8. **Property Tax Increase.** This Agreement provides for the payment of the increase in real, personal property, and centrally assessed property taxes collected from the Project Area by the County acting as tax collection agency for the City. Real property taxes which are subject to this Agreement shall not include taxes collected from the Project Area by the County, acting in its capacity as the tax collection agency for the City, which are to be paid to or utilized by abatement districts, special service or improvement districts or other entities for which the County acts as the tax collection agency, nor shall it include any component of real property taxes retained by the County as payment for costs incurred in the collection of real property taxes for itself or other applicable agencies. It is expressly understood that the real property taxes which are the subject of this Agreement are only those real property taxes collected by the County, on behalf of the City from the Project Area.

9. **Project Sales Tax.** The Project Area currently generates a small amount of sales tax revenue for the City. The City has agreed that if the Property Tax for any given year is less than the amount of the Accrued Agency Payment, then the City shall pay to the Agency a portion of the sales tax revenue generated by the Project Area (“Project Area Sales Tax”) and paid to the City, as applicable, as set forth herein. It is agreed that the Project Area Sales Tax which may be available for payment to the Agency in accordance with the provisions of this section, shall not include any sales tax revenue which shall be designated by law for an exclusive use and, therefore, Project Area Sales Tax shall include only that portion of sales tax revenue from the Project Area for which the City have discretion to use such funds for such purposes as they shall determine in accordance with Utah law. The difference between the amount of the then existing Accrued Agency Payment and the actual amount of the Property Tax Payment paid to the Agency for the same year shall be the “Agency Payment Shortfall.” So long as there shall exist an Agency Payment Shortfall, then the City shall pay to the Agency from Project Area Sales Tax received by the City for the applicable year, the lesser of (i) all such Project Area Sales Tax, or (ii) eighty percent (80%) of the Agency Payment Shortfall. The City shall not have any obligation to pay in any more than the amount of the Project Area Sales Taxes which are available for such payment as defined in this section notwithstanding the fact that the Agency Payment Shortfall for such year shall exceed the amount of such Project Sales Taxes. It is agreed that any Agency Payment Shortfall not paid shall not reduce the amount of the Accrued Agency Payment and that the unpaid portion may, therefore, be subject to payment in subsequent years. Amounts required to be paid pursuant to this section shall be remitted to the Agency not later than March 31 of the year in which any Agency Payment Shortfall is required to be paid to the Agency or within thirty (30) days from the date of receipt of sales tax monies applicable to same by the City, as applicable, whichever is later. It is agreed that the obligation of the City to pay the Agency Payment Shortfall is expressly limited to the amount of Project Area Sales Taxes which has been received by such party and subject to the other limitations set forth in Paragraph 6. No Project Area Sales Tax for any period after the year 2026 shall be paid by the City to the Agency.

10. **No Independent Duty.** The City shall be responsible to remit to the Agency only Tax Increment received by the City. The City shall have no independent duty to pay any amount to the Agency other than the Tax Increment received by the City on an annual basis during each Increment Period for each Phase.

11. **Authority to Bind.** Each individual executing this Agreement represents and warrants that such person is authorized to do so, and, that upon executing this Agreement, this Agreement shall be binding and enforceable in accordance with its terms upon the party for whom such person is acting.

12. **Further Documents and Acts.** Each of the parties hereto agrees to cooperate in good faith with the others, and to execute and deliver such further documents and perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this Agreement.

13. **Notices.** Any notice, request, demand, consent, approval or other communication required or permitted hereunder or by law shall be validly given or made only if in writing and delivered to an officer or duly authorized representative of the other party in person or by Federal Express, private commercial delivery or courier service for next business day delivery, or by United States mail, duly certified or registered (return receipt requested), postage prepaid, and addressed to the party for whom intended, as follows:

If to City:
Perry City
3005 South 1200 West
Perry, UT 84302
Phone: (435) 723-6461

If to Agency:
Perry City Redevelopment Agency
3005 South 1200 West
Perry, UT 84302
Phone: (435) 723-6461

Any party may from time to time, by written notice to the others as provided above, designate a different address which shall be substituted for that specified above. Notice sent by mail shall be deemed served or delivered seventy-two (72) hours after mailing. Notice by any other method shall be deemed served or delivered upon actual receipt at the address or facsimile number listed above. Delivery of courtesy copies noted above shall be as a courtesy only and failure of any party to give or receive a courtesy copy shall not be deemed to be a failure to provide notice otherwise properly delivered to a party to this Agreement.

14. **Entire Agreement.** This Agreement is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understandings of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

15. **No Third-Party Benefit.** The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto. There are no intended third-party beneficiaries to this Agreement.

16. **Construction.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. In the event the date on which any of the parties is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

17. **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

18. **Amendments.** No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing executed by each of the parties hereto.

19. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

20. **Waivers.** No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

21. **Governing Law.** This Agreement and the exhibits attached hereto shall be governed by and construed under the laws of the State of Utah. In the event of any dispute hereunder, it is agreed that the sole and exclusive venue shall be in a court of competent jurisdiction in Box Elder County, Utah, and the parties hereto agree to submit to the jurisdiction of such court.

22. **Declaration of Invalidity.** In the event that a court of competent jurisdiction declares that the City cannot pay and/or that the Agency cannot receive payments of the Tax Increment, declares that the Agency cannot pay the Tax Increment to developers, or takes any other action which has the effect of eliminating or reducing the payments of Tax Increment received by the Agency, the Agency's obligation to pay the Tax Increment to developers shall be reduced or eliminated accordingly, the Agency, and the City shall take such steps as are reasonably required to not permit the payment and/or receipt of the Tax Increment to be declared invalid.

23. **No Separate Legal Entity.** No separate legal entity is created by this Agreement.

24. **Duration.** This Agreement shall terminate on the first to occur of (i) December 31, 2026, or (ii) when all payments required to be made to the Agency have been received.

25. **Assignment.** No party may assign its rights, duties or obligations under this Agreement without the prior written consent first being obtained from all parties. Notwithstanding the foregoing, such consent shall not be unreasonably withheld or delayed so long as the assignee thereof shall be reasonably expected to be able to perform the duties and obligations being assigned.

26. **Termination.** Upon any termination of this Agreement resulting from the uncured default of any party, the order of any court of competent jurisdiction or termination as a result of any legislative action requiring such termination, then any funds held by the Agency and for which the Agency shall not be required to disburse to developers in accordance with the agreements which govern such disbursement, then such funds shall be returned to the party originally remitting same to the Agency and upon such return this Agreement shall be deemed terminated and of no further force or effect.

27. **Interlocal Cooperation Act.** In satisfaction of the requirements of the Cooperation Act in connection with this Agreement, the Parties agree as follows:

- a. This Agreement has been, on or prior to the date hereof, authorized and adopted by resolution of the legislative body of each Party pursuant to and in accordance with the provisions of Section 11-13-202.5 of the Cooperation Act;
- b. This Agreement has been, on or prior to the date hereof, reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party pursuant to and in accordance with the provisions of Section 11-13-202.5(3) of the Cooperation Act;
- c. A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Cooperation Act;
- d. The Chair of the Agency is hereby designated the administrator for all purposes of the Cooperation Act, pursuant to Section 11-13-207 of the Cooperation Act; and
- e. Should a party to this Agreement desire to terminate this Agreement, in part or in whole, each party to the Agreement must adopt, by resolution, an amended Interlocal Cooperation Agreement stating the reasons for such termination. Any such amended Interlocal Cooperation Agreement must be in harmony with any

development/participation agreement(s) entered into by the Agency as described in this Agreement.

- f.** Immediately after execution of this Agreement by both Parties, the Agency shall, on behalf of both parties, cause to be published notice regarding this Agreement pursuant to Section 11-13-219 of the Cooperation Act.
- g.** This Agreement makes no provision for the parties acquiring, holding and disposing of real and personal property used in the joint undertaking as such action is not contemplated as part of this Agreement nor part of the undertaking. Any such provision would be outside the parameters of the current undertaking. However, to the extent that this Agreement may be construed as providing for the acquisition, holding or disposing of real and/or personal property, all such property shall be owned by the Agency upon termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day specified above.

City: PERRY CITY

By: _____
Its: Mayor

Attest:

City Recorder

Approved as to form:

Attorney for City

Agency: PERRY CITY REDEVELOPMENT AGENCY

By: _____
Its: Chair

Attest:

Secretary

Approved as to form:

Attorney for Agency

EXHIBIT “A
to
INTERLOCAL AGREEMENT

Legal Description of Project

That certain real property located in Box Elder County, State of Utah, described as follows:

A PART OF SECTION 27 AND THE NORTH HALF OF SECTION 34, TOWNSHIP 9 NORTH; RANGE 2 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 15 LOCATED NORTH 89°30'33" EAST 2768.15 FEET ALONG THE NORTH LINE OF SAID SECTION 27 AND SOUTH 00°00'00" WEST 1365.66 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 27; RUNNING THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES; (1) TO THE RIGHT ALONG THE ARC OF A 5609.58 FOOT RADIUS CURVE, A DISTANCE OF 140.55 FEET, CHORD BEARS SOUTH 11°31'46" EAST 140.54 FEET; (2) SOUTH 04°03'25" EAST 646.38 FEET; (3) TO THE RIGHT ALONG THE ARC OF A 1095.92 FOOT RADIUS CURVE, A DISTANCE OF 346.00 FEET, CHORD BEARS SOUTH 04°59'14" WEST 344.57 FEET; (4) SOUTH 14°01'54" WEST 122.00 FEET; THENCE NORTH 90°00'00" WEST 98.00 FEET.

THENCE SOUTH 00°00'00" WEST 161.74 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 15 AND OF A FRONTAGE ROAD; THENCE SOUTH 14°01'53" WEST 440.07 FEET ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 15 AND THE WESTERLY RIGHT-OF-WAY LINE OF THE OLD CENTRAL PACIFIC RAILROAD, SAID POINT BEING LOCATED NORTH 00°31'01" EAST 2033.89 FEET ALONG THE EAST LINE OF SAID SECTION 27 AND NORTH 90°00'00" WEST 2735.58 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 27; THENCE CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF SAID FRONTAGE ROAD THE FOLLOWING FOUR COURSES; (1) SOUTH 14°01'53" WEST 116.50 FEET; (2) TO THE RIGHT ALONG THE ARC OF A 77.46 FOOT RADIUS CURVE, A DISTANCE OF 93.70 FEET, CHORD BEARS SOUTH 48°15'17" WEST 88.09 FEET; (3) SOUTH 81°28'31" WEST 29.90 FEET; (4) TO THE LEFT ALONG THE ARC OF A 528.00 FOOT RADIUS CURVE, A DISTANCE OF 319.71 FEET, CHORD BEARS SOUTH 54°07'42" WEST 314.85 FEET; THENCE SOUTH 11°14'51" WEST 75.76 FEET; THENCE SOUTH 37°01'22" EAST 30.78 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID FRONTAGE ROAD; THENCE NORTH 87°26'42" EAST 107.70 FEET; THENCE SOUTH 85°44'49" EAST 303.02 FEET; THENCE SOUTH 02°33'13" EAST 1012.52 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID FRONTAGE ROAD; THENCE NORTH 69°33'22" WEST 110.89 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF FRONTAGE ROAD; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES; (1) TO THE RIGHT ALONG THE ARC OF A 807.00 FOOT RADIUS CURVE, A DISTANCE OF 550.19 FEET, CHORD BEARS SOUTH 13°52'22" EAST 539.59; (2) SOUTH 05°23'16" WEST 17.75 FEET; (3) SOUTH 84°20'38" EAST 27.45 FEET; (4) SOUTH 03°54'27" WEST 1353.41; THENCE NORTH 86°55'59" WEST 191.77 FEET; THENCE NORTH 87°44'25" WEST 552.57 FEET; THENCE NORTH 00°25'24" EAST 256.37 FEET; THENCE NORTH 58°54'38" EAST 421.00 FEET; THENCE NORTH 24°34'10" WEST 332.32 FEET; THENCE NORTH 89°34'26" WEST 80.00 FEET; THENCE NORTH 00°25'24" EAST 132.00 FEET; THENCE NORTH 68°43'59" WEST 611.00 FEET; THENCE NORTH 06°27'19" WEST 110.71 FEET; THENCE NORTH 08°35'29" EAST 180.53 FEET; THENCE NORTH 16°06'19" WEST 291.65 FEET; THENCE SOUTH 88°09'05" WEST 64.34 FEET; THENCE NORTH 43°00'35" WEST 42.58 FEET; THENCE NORTH 04°53'47" EAST 72.91 FEET; THENCE NORTH 44°59'05" WEST 149.66 FEET; THENCE NORTH 09°07'31" WEST 117.72 FEET; THENCE NORTH 19°00'20" WEST 172.57 FEET TO AN EXISTING FENCE LINE BEING PREVIOUS GRANTORS PROPERTY LINE; THENCE SOUTH 87°15'35" EAST 262.49 FEET ALONG SAID FENCE; THENCE NORTH 13°25'58" WEST 330.73 FEET; THENCE NORTH 19°38'32" WEST 414.60 FEET; THENCE NORTH 36°58'17" WEST 365.28 FEET; THENCE NORTH 45°00'59" EAST 273.97 FEET; THENCE NORTH 87°59'09" EAST 331.13 FEET; THENCE NORTH 85°04'12" EAST 308.60 FEET; THENCE NORTH 29°03'53" EAST 96.56 FEET; THENCE NORTH 80°14'06" EAST 101.31 FEET; THENCE NORTH 10°17'34" EAST 316.45 FEET; THENCE NORTH 88°39'23" EAST 214.86 FEET; THENCE NORTH 01°20'37" WEST 377.37 FEET; THENCE SOUTH 75°41'16" EAST 260.87 FEET THENCE SOUTH 61°29'01" EAST 62.96 FEET; THENCE NORTH 78°02'05" EAST 170.62 FEET TO A POINT 33.00 FEET WEST OF AND PERPENDICULAR TO THE CENTERLINE OF THE OLD CENTRAL PACIFIC RAILROAD; THENCE PARALLEL TO SAID CENTERLINE TO THE LEFT ALONG THE ARC OF A 5696.58 FOOT RADIUS CURVE, A DISTANCE OF 851.25 FEET, CHORD BEARS NORTH 16°14'46" WEST 850.46 FEET; THENCE NORTH 70°06'44" EAST 400.81 FEET TO THE POINT OF BEGINNING.

CONTAINING 106.71 ACRES.

PERRY CITY REDEVELOPMENT AGENCY MEETING
PERRY CITY OFFICES
MAY 9, 2019

5:32 PM

OFFICIALS PRESENT: Board Chair Kevin Jeppsen presided and conducted the meeting.
Esther Montgomery, Nathan Tueller, Toby Wright, Andrew Watkins,
and James Taylor

STAFF PRESENT: Shanna Johnson, Chief Deputy Secretary
Bob Barnhill, City Planner and Office Administrator

OTHERS PRESENT: None.

ITEM 1: CALL TO ORDER

Board Chair Kevin Jeppsen called the meeting to order.

ITEM 2: PRESENTATION

A. PROPOSED FISCAL YEAR 2019-2020 RDA TENTATIVE BUDGET

Shanna Johnson reviewed the proposed budget for Fiscal Year 2019-2020 explaining tax increment revenue is planned to be received in the amount of \$39,326.00, which will be contributed to the Debt Service Fund.

3. ACTION ITEM

A. DISCUSSION/ACTION ON ADOPTION OF A TENTATIVE FISCAL YEAR 2019-2020 BUDGET FOR THE PERRY CITY REDEVELOPMENT AGENCY IN ACCORDANCE WITH UCA §17C-1-601.5, AND SET A PUBLIC HEARING ON A PROPOSED FINAL BUDGET FOR JUNE 13, 2019

MOTION: Board Member Wright made a motion to adopt a Tentative Fiscal Year 2019-2020 Budget for the Perry City Redevelopment Agency as presented and set a public hearing on a proposed final budget for June 13, 2019. Board Member Tueller seconded the motion

ROLL CALL: Board Member Tueller, Yes Board Member Montgomery, Yes
Board Member Wright, Yes Board Member Taylor, Yes
Board Member Watkins, Yes

Motion Approved. 5 Yes, 0 No.

ITEM 4: ADJOURNMENT

A. MOTION TO ADJOURN

MOTION: Board Member Wright moved to adjourn. Board Member Montgomery seconded the motion.

Motion Approved. All Board Members in favor.

The meeting adjourned at 5:47 PM.

Susan O Bray, Board Secretary

Kevin Jepps en, Board Chairman

Shanna Johnson, Chief Deputy Secretary

DRAFT

Thursday, June 27, 2019

PERRY CITY COUNCIL MEETING AGENDA

The Perry City Council will hold a meeting on the Thursday identified above, starting at approximately 7:00 PM in the City Council Room at 3005 South 1200 West in Perry. Agenda items may vary depending on length of discussion, cancellation of scheduled items, or agenda alteration. Numbers and/or times are estimates of when agenda items will be discussed. Action on public hearings will always be later in the same meeting or at a subsequent meeting. Every agenda item shall be a discussion and/or action item, unless otherwise indicated.

Approx. 7:00 PM – Regular Meeting

1. Call to Order and Opening Ceremonies

- A. Thought, Reading or Invocation – Andrew Watkins
- B. Pledge of Allegiance – Nathan Tueller
- C. Review and Adopt the Agenda

2. Approx. 7:05 PM Procedural Issues

- A. Conflicts of Interest Declaration(s), If Any
- B. Pass out Warrants to Council Members (and Possible Discussion)
- C. Appointments:
 - Gun Range Board Members

3. Approx. 7:10 PM - Presentation:

- A. Open Meetings Act Training

4. Approx. 7:25 PM – Public Hearing and/or Public Comments (No Vote Needed)

Rules: (1) Please Speak Only Once (Maximum of 3 Minutes) per Agenda Item; (2) Please Speak in a Courteous and Professional Manner; (3) Do Not Speak to Specific Member(s) of the City Council, Staff, or Public (Please Speak to the Mayor or to the Council as a Group); (4) Please Present Possible Solutions for All Problems Identified; (5) No Decision May Be Made During this Meeting if the Item Is Not Specifically on the Agenda (with Action on Public Hearings, if any, later in the Meeting); and (6) Comments must be made in person or in writing (with your name being stated for the record).

- A. Public Comments

5. Approx. 7:30 PM – Action Items (Roll Call Vote)

- A. Approval of Warrants
- B. Resolution 2019-18 Amending the Perry City Personnel Policies and Procedures Regarding Personal Use of City Property
- C.

6. Approx., 7:40 PM – Discussion Item

- A. Fourth of July Planning & Updates

7. Approx. 7:45 PM – Minutes & Council/Mayor Reports (Including Council Assignments)

No Council Action May be Taken if an Item is not specifically on the Agenda

- A. Approval of Consent Items
 - May 23, 2019 City Council Work Session Minutes
 - May 23, 2019 City Council Meeting Minutes
- B. Mayor's Report
- C. Council Reports
- D. Staff Comments
- E. Planning Commission Report

8. Approx. 8:05 PM – Executive Session (if needed)

- A. Discussion of the purchase, exchange, lease, or sale of real property, when public discussion would disclose the value of the property or prevent the authority from completing the transaction of the best possible terms.

- B.** Strategy session to discuss the character, professional competence, or physical or mental health of an individual.
- C.** Strategy session to discuss collective bargaining.
- D.** Strategy session regarding pending, or reasonably imminent litigation.
- E.** Strategy session to discuss the deployment of security personnel, devices, or systems.
- F.** Discussion of investigative proceedings regarding allegations of criminal misconduct.

9. Approx. 8:30 PM – Adjournment

Certificate of Posting

The undersigned duly appointed official hereby certifies that a copy of the foregoing agenda was sent to each member of the City Council and was posted in three locations: the Perry City Offices, Centennial Park, Perry City Park; and was emailed to the Ogden Standard-Examiner, Box Elder News Journal; and posted on the State Public Meeting Notice Website on this 20th day of June, 2019. Any individual requiring auxiliary services should contact the City Offices at least 3 days in advance (435-723-6461).

Shanna S. Johnson, Chief Deputy Recorder

Report Criteria:

Detail report.
Invoices with totals above \$2000.00 included.
Paid and unpaid invoices included.

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid	Voided
Cottonwood Title Co.								
12514	Cottonwood Title Co.	110797-JGP	1200 W Corridor/ Maurice M. Roc	06/14/2019	6,570.00	6,570.00	06/20/2019	
12514	Cottonwood Title Co.	110797-JGP	1200 W Corridor/ Maurice M. Roc	06/14/2019	115.00	115.00	06/20/2019	
12514	Cottonwood Title Co.	114260-JGP	1200 W Corridor/Shawn Francis	06/14/2019	26,439.00	26,439.00	06/20/2019	
12514	Cottonwood Title Co.	114260-JGP	1200 W Corridor/Shawn Francis	06/14/2019	247.45	247.45	06/20/2019	
Total Cottonwood Title Co.:					33,371.45	33,371.45		
Jones & Associates								
11552	Jones & Associates	19057	miscellaneous	06/01/2019	889.00	889.00	06/20/2019	
11552	Jones & Associates	19057	streets	06/01/2019	210.00	210.00	06/20/2019	
11552	Jones & Associates	19057	streets	06/01/2019	1,095.00	1,095.00	06/20/2019	
11552	Jones & Associates	19057	streets	06/01/2019	416.50	416.50	06/20/2019	
11552	Jones & Associates	19057	streets	06/01/2019	74.25	74.25	06/20/2019	
11552	Jones & Associates	19057	streets	06/01/2019	1,235.50	1,235.50	06/20/2019	
11552	Jones & Associates	19057	streets	06/01/2019	2,079.00	2,079.00	06/20/2019	
11552	Jones & Associates	19057	streets	06/01/2019	970.00	970.00	06/20/2019	
11552	Jones & Associates	19057	Culinary Water	06/01/2019	119.00	119.00	06/20/2019	
11552	Jones & Associates	19057	Storm Drain	06/01/2019	49.00	49.00	06/20/2019	
11552	Jones & Associates	19057	mapping	06/01/2019	2,481.75	2,481.75	06/20/2019	
Total Jones & Associates:					9,619.00	9,619.00		
William M. Morris P.C.								
10434	William M. Morris P.C.	6/19/2019	City Attorney Services	06/01/2019	1,800.00	1,800.00	06/20/2019	
10434	William M. Morris P.C.	6/19/2019	City Attorney Services	06/01/2019	337.50	337.50	06/20/2019	
10434	William M. Morris P.C.	6/19/2019	City Attorney Services	06/01/2019	112.50	112.50	06/20/2019	
10434	William M. Morris P.C.	6/20/2019	City Attorney Services	05/01/2019	1,800.00	1,800.00	06/20/2019	
10434	William M. Morris P.C.	6/20/2019	City Attorney Services	05/01/2019	337.50	337.50	06/20/2019	
10434	William M. Morris P.C.	6/20/2019	City Attorney Services	05/01/2019	112.50	112.50	06/20/2019	
Total William M. Morris P.C.:					4,500.00	4,500.00		
Grand Totals:					47,490.45	47,490.45		

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid	Voided
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Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

Report Criteria:

Detail report.

Invoices with totals above \$2000.00 included.

Paid and unpaid invoices included.

**PERRY CITY
RESOLUTION 2019-18**

**A RESOLUTION OF PERRY CITY, UTAH, AMENDING THE
PERRY CITY PERSONNEL POLICIES AND PROCEDURES
MANUAL; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Perry City (hereafter “City”) is a municipal corporation duly organized and existing under the laws of the state of Utah;

WHEREAS, *Utah Code Annotated* §10-3-717, 1953 as amended, authorizes the City to exercise administrative powers by resolution;

WHEREAS, the City Council is authorized to adopt personnel policies and procedures for the effective and efficient administration of municipal government;

WHEREAS, the City Council adopted its current *Personnel Policies and Procedures Manual* desires to amend the same;

WHEREAS, the City Council desires to conform its policies to H.B. 164 from 2019 Legislative Session and make other changes to personnel policies and procedures;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Perry City, Utah, that the Perry City Personnel Policies and Procedures manual hereto as Exhibit “A” incorporated herein by this reference is hereby approved and adopted.

PASSED AND ADOPTED by the City Council on this ____ day of June, 2019.

KEVIN JEPPSEN, Mayor

ATTEST:

City Recorder

June 5, 2019

Brent Jex
Utah Fraternal Order of Police
2195 W 5400 S., Ste. B201
Taylorsville, UT 84129

Via email.

Re: HB 163 – Policy Recommendations

Brent,

During the 2019 Legislative Session, the Utah Legislature voted into law House Bill 163 (HB 163), which “amends provisions relating to offenses against the administration of government.” Among other statutes, HB 163 amended Utah Code Ann. 76-8-101 – Definitions, and Utah Code Ann. 76-8-402 – Misusing Public Money or Public Property. These amendments will be effective July 1, 2019.

Utah Code Ann. 76-8-402 is applicable to all “public servants,” defined as “any officer or employee of the state or any political subdivision of the state, including judges, legislators, consultants, and persons otherwise performing a governmental function.” Utah Code Ann 76-8-101. There is no question that police officers fall within the ambit of this definition.

The amendment to this statute, makes the appropriation of “public property to the public servant’s own use or to benefit or to use or benefit of another without the authority of law...” either a second, or third degree, felony depending on the “...value of the use...” of the public property. Utah Code Ann. 76-8-402 (2)(a); Utah Code Ann. 76-8-402 (3); Utah Code Ann. 76-8-402 (4). Under this broad definition, many routine uses of department equipment and property could be deemed felonies, exposing Utah law enforcement officers to the unreasonable risk of prosecution. For example, an officer’s use of a department cell phone, department computer, or vehicle for personal errands following their shift might be deemed a violation under this statute.

The statute provides a carve-out that can limit an officer’s broad exposure to criminal liability. Utah Code Ann. 76-8-402 (6)(a) provides “a public servant is not guilty of a violation of this section for *authorized personal use* of public property.” (*Emphasis added*). An officer may qualify for the authorized personal use exception in one of two ways. First, an officer is not liable for incidental uses of department property, so long as the value provided to the department is substantially outweighed by the officer’s incidental use of the property, and the use of the property is not prohibited by law. While this language provides some protection to officers who may incidentally use department property, it is also open to interpretation, and to the whims of individual prosecutors (especially those who have political agendas).

Second, an officer may qualify for the authorized personal use exemption if, among other things, “a written policy of the public servant’s public entity is in effect that authorizes the public

servant to use or possess the public property for personal use in addition to the primary purpose of fulfilling the public servant's duties as a public servant..." Utah Code Ann. 76-8-402 (1)(a)(iii).

The nature of the law enforcement profession is such that the lines between an officer's employment and personal life often become blurred. In essence, it is extremely difficult for an officer to simply "not be a cop" when he is off the clock. Officers, while often not obligated to do so, routinely carry a firearm and provides assistance in stopping crimes while they are off duty. Generally, law enforcement personnel always maintain a minimum level of alertness to their surroundings, and responsiveness to the needs of the community. To aid officers in their work, police agencies often issue equipment to officers that is also frequently used on "personal" time. As stated before, many departments issue police officers cell phones, computers, firearms, and vehicles or other equipment that an officer may take home or make use of while not being paid by the department.

At many agencies, it is common for police officers to use their equipment for personal use. The cultural expectations, norms, and policies of many agencies are not sufficient to alert their officers that their current use of department property could be classified as criminal conduct as of July 1, 2019. For instance, it may be common practice for an officer to use his patrol vehicle to stop at the grocery store on the way home, to take his children to school in the morning, or he may use his department issued cell phone to watch YouTube videos far more than he uses it for official department use. An officer may spend time at the range with a department gun or weapon attachment. Within certain departments, these activities would be considered normal, but in a matter of days these activities could be subject to criminal prosecution and the concomitant loss of employment and decertification by POST¹.

The public at large receives many ancillary benefits when police officers are able to take immediate action to emergency situations while off-duty. This statute, perhaps unintentionally, directly chills this behavior. Any reasonable officer who knows that he may be violating a criminal statute for an innocuous use of department property would be wise to leave all of his department-issued property at his agency every day, and will therefore be less prepared and less inclined to intervene in emergency situations while off-duty.

Given the broad effect of the statute, the manifold consequences of its enactment, and our inability to contemplate every potential application of the statute, we recommend that individual agencies enact similarly broad policies to protect their officers from misapplication and misuse of the code. We suggest police agencies immediately adopt a version of the following policy language, before the effective date of the statute:

Personal Use of [Agency/Department] Property Policy

The [Agency Name] and the [Political Subdivision – City, County, etc]. have recognized the benefits to the community when officers are able to use [Agency/Department] property for incidental or personal use in addition to the primary use of fulfilling his or her duties as a law enforcement officer. To enable officers to continue to use their issued equipment in a manner that best serves the public, officers are authorized to use or possess any [Agency/Department] property

¹ Any felony results in a baseline recommendation of a three-year suspension or revocation at POST.

issued to them for any incidental or personal use, so long as the property is used in a lawful manner. This policy presumes that any public property issued to an officer is properly in that officer's possession and that the officer's use or possession of said property is to fulfill their duties as a public servant. This policy also presumes that incidental or personal use or possession of public property by the officer is authorized by this policy. This policy is enacted to minimize criminal exposure for the lawful use of [Agency Name] property by officers under Utah Code Ann. § 76-8-402.

It is imperative that the policy language above be enacted by agencies before July 1, 2019. Under the statute, policies that authorize the personal use of department property are not retroactively effective. Utah Code Ann. 76-8-402 (6)(b)(ii). In other words, an agency cannot enact a policy after July 1, with an "effective date" of July 1. Any agency that does adopt a policy on or before the effective date of the statute will directly expose their officers to unnecessary criminal liability. We are gravely concerned that the absence of such a policy (no matter how unintentional or well meaning) will be abused by politicized prosecutors or narrow public interest groups to make target officers felons and/or that such officers will be decertified at POST under this statute.

It is our hope that emergency enactments of this draft policy above need only serve as a temporary measure while the FOP pursues legislative amendment or repeal of Utah Code Ann. § 76-8-402. If agencies can act quickly, we hope to avoid the unnecessary destruction of any careers in the meantime.

Sincerely,

NELSON JONES, PLLC

By: Bret W. Rawson
FOP General Counsel

The improper, careless, negligent, destructive, or unsafe use or operation of equipment can result in disciplinary action, up to and including termination of employment.

Personal Use of City Property

The City recognizes the benefits to the community when officers and employees are able to use City property for incidental or personal use in addition to the primary use of fulfilling official duties. To enable officers and employees to continue to use their issued equipment in a manner that best serves the public, officers are authorized to use or possess any City property issued to them for any incidental or personal use, so long as the property is used in a lawful manner. This policy presumes that any public property issued to an officer or employee is properly in that officer's possession and that the officer's use or possession of said property is to fulfill their duties as a public servant. This policy also presumes that incidental or personal use or possession of public property by the officer is authorized by this policy. This policy is enacted to minimize criminal exposure for the lawful use of City property by officers or employees under Utah Code Annotated §76-8-402.

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Use of Phone and Mail Systems

Personal use of the telephone for long-distance and toll calls is not permitted. Employees should practice discretion when making local personal calls and may be required to reimburse Perry City for any charges resulting from their personal use of the telephone.

The use of Perry City-paid postage for personal correspondence is not permitted.

To ensure effective telephone communications, employees should always use the approved greeting and speak in a courteous and professional manner. Please confirm information received from the caller, and hang up only after the caller has done so.

Use of Tobacco Products, Electronic Cigarettes or Like Devices

In keeping with Perry City's intent to provide a safe and healthful work environment, and to comply with the Utah Clean Air Act, use of tobacco, electronic cigarettes, or any like devices used for the intake of nicotine is prohibited throughout the workplace, in all City facilities or vehicles, within 50 feet of any building entrance, and within 50 feet of any ventilation ducts.

This policy applies equally to all employees and visitors.

Work Schedules

Work schedules for employees vary throughout our organization. Supervisors will advise employees of their individual work schedules. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

Flexible scheduling, or flextime, is available in some cases to allow employees to vary their starting and ending times each day within established limits. Flextime may be possible if a mutually workable schedule can be negotiated with the supervisor involved. However, such issues as staffing needs, the employee's performance, and the nature of the job will be considered before approval of flextime. Employees should consult their supervisor to request participation in the flextime program.

Rest and Meal Periods

Perry City follows the current state and federal laws for rest and meal periods. Supervisors will advise