

CITY OF PERRY REGULAR COUNCIL MEETING
PERRY COMMUNITY BUILDING

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REGULAR CITY COUNCIL MEETING HELD ON AUGUST 5, 2021.

INVOCATION PRESENTED BY DEANNA SHAW, SHAFTSBURG COMMUNITY BIBLE CHURCH

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: SUPT. DPW, JOHN SOUDER
STUDIO 130, ALEX MALLOY

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

APPROVAL OF THE AGENDA:

08-05-21-01

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

READING AND APPROVAL OF THE MINUTES:

08-05-21-02

Moved by Wallace, seconded by Lambert that we suspend the rules, waive the reading and approve the minutes from the July 15, 2021 regular meeting.
Carried, all yes.

PRE-APPROVED REPORTS/PRESENTATIONS:

Jami Cromley, CDL Director gave an annual report for the District Library.
John Plowman, County Commissioner reported the latest county situation regarding Rescue Act funds.

COMMENTS FROM THE PUBLIC:

None.

MAYOR & DEPARTMENT HEAD REPORTS:

MAYOR-

Shared the city tribute given to Robertson's for their years of service to the food bank and read an article to go in the paper that thanks all that made "National Night Out" a success.

SUPT. OF DPW, JOHN SOUDER reported the cost to consider spraying for mosquitos and they are still marking buried water lines for GIS location.
CLERK, DEVIN MILLER reported that the City has received initiative petitions and they have been certified for possible ballot proposal.

COMMITTEE REPORTS:

Lambert reported that F&O committee will be meeting Monday to begin working on codified ordinance regarding penalties.

Porter reported that the P&P committee will now meet every other month and next meeting is September.

Galbavi reported the Personnel committee's recommendations to modify personnel policy in regards to evaluation procedures.

PRESENTATION AND APPROVAL OF THE BILLS:

08-05-21-03

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

OLD BUSINESS:

Discussion/Possible Approval of Website Development

08-05-21-04

Moved by Lambert, seconded by Porter that the Perry City Council approve a website development/maintenance Proposal with Shumaker Group, which shall include the following:

- Website Development- Gold Package \$1750.00
- Website Hosting & Maintenance- (Option B) \$750 each year for a commitment of three (3) years
- ADA Compliance Verification- Annual Review \$150.00 each year for a commitment of three (3) years

and authorize the Mayor and/or Clerk to sign said proposal. Carried, all yes.

Possible Approval of Marketing Agreement with Service Line Warranties

08-05-21-05

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

WHEREAS the City has received a request to enter into a Marketing Agreement (attached hereto) from Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America;

AND WHEREAS the City desires to enter into the attached Marketing Agreement with Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America;

THEREFORE IT IS RESOLVED THAT Mayor Sue Hammond is hereby vested with the authority to enter into the attached Marketing Agreement as written. Carried, all yes.

Possible First Reading of Zoning Ord. Amendment No. 354 Re: Violations Enforcement

Discussion.

08-05-21-06

Moved by Lambert, seconded by Wallace that Zoning Ordinance amendment #354 regarding violation enforcement and which reads as follows be placed on the next agenda for possible adoption:

CITY OF PERRY ORDAINS:

The City of Perry Zoning Ordinance No. 354, Section 17.06(E) is amended and the below cited paragraph shall be inserted in its stead as follows,

SECTION 17.06. ENFORCEMENT.

...
E. The City Council, the Zoning Administrator, or their duly authorized representative(s) are hereby charged with the duty of enforcing the Ordinance 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 this Ordinance, 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.

1. Definitions. As used in this Section, "Authorized local official" means a police officer or the Zoning Administrator, whose is hereby legally authorized to issue municipal civil infraction citations.
2. Procedure to Enforce Zoning Violations:
 - a. Initial Identification of a zoning ordinance violation. The Zoning Administrator shall meet with any individual(s) responsible for a violation of this 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 Zoning Administrator to correct the alleged violation. If corrected timely, no further action will be taken.
 - b. Written Notice. If violation is not addressed based on the initial discussion with the Zoning Administrator, the Zoning Administrator will document the situation using a Zoning 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.
 - c. 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.
3. Municipal Civil Infraction. Any violation or failure to comply with the zoning requirements herein is a municipal civil infraction. An Authorized local official, including the Zoning Administrator may issue a municipal civil infraction citation upon personally witnessing a violation. The Zoning Administrator 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.
4. 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.

5. 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.
6. Continuing Violation. As provided for in this Section, 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 Section, shall apply to any amendment or addition to this Section or to the provisions of this Code defining substantive violations of this Zoning whether or not such penalty is reenacted in the amendatory ordinance.
7. Disposition of Municipal Civil Infraction cases:
 - a. 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.
 - b. 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.

- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. 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.

8. Issuance and Service of Municipal Civil Infraction Citations.

Municipal civil infraction citations shall be issued and served by Authorized local officials as follows:

- a. The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- b. The place for appearance specified in a citation shall be the 61st District Court.
- c. 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.
- d. 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."
- e. 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.
- f. 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.

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

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

This Amendment shall take effect 30 days from date of publication.
Carried, all yes.

NEW BUSINESS:

Mayor's Appointments

Discussion.

Mayor reappointed John Plowman to the SESSA Board with a term to expire August 2025.

08-05-21-07

Moved by Wallace, seconded by Porter that we approve John Plowman as the Mayor's reappointment to the SESSA Board with a term to expire August 2025. Carried, all yes.

Mayor appointed Tim DeLau to the SESSA Board with a term to expire August 2025.

08-05-21-08

Moved by Coffey, seconded by Lambert that we approve Tim DeLau as the Mayor's appointment to the SESSA Board with a term to expire August 2025. Roll call vote. Wallace, Porter, Lambert and Coffey voted "yes". Galbavi voted "no". Motion carried.

Possible Adoption of Ord. Amendment No. 355 Re: School Property Speed Limit

08-05-21-09

Moved by Lambert, seconded by Porter that Ordinance No. 355 which amends school property speed limit, and which was read at the July 15, 2021 regular Council meeting, be adopted. Carried, all yes.

Discussion of Proposal Re: Macqueen House

After review of Macqueen House gutter proposal, Mayor and Council have recommended the DPW add to their schedule cleaning gutters annually.

Discussion of Library Back Entry

District Library Director is working with their IT to set up security cameras to possibly open the back doors. Porter questioned whether there was a handicap parking spot for the library.

Discussion Re: the Policy-Employee Participation in Political Activities

Sent to the Personnel Committee. No action taken.

Discussion Re: Amendments to Personnel Policy

Sent to the Personnel Committee. No action taken.

ANY OTHER BUSINESS THAT MAY COME BEFORE COUNCIL:

PUBLIC COMMENT-

Resolution-Re: Proposed Ballot Question

08-05-21-10

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

WHEREAS the City has received Initiatory Petition to amend the City Charter allowing for medical marihuana facilities, to assist medical marihuana patients with critical medical conditions, and to create a City Department of Medical Marihuana with local regulatory authority;

AND WHEREAS the City Clerk has certified the sufficiency of the registered electors thereto and the City Attorney as reviewed said petition for compliance with the Home Rule City Act and has stated the same meets the requirements;

AND WHEREAS the City is now tasked with the requirement to adopt by resolution the ballot question to accompany the proposed amendment;

THEREFORE IT IS RESOLVED THAT the following shall be the ballot question to accompany the proposed amendment at the next general election:

This proposed charter amendment, if adopted, would assist patients in need of medical marihuana for conditions such as epilepsy, multiple sclerosis, colitis, arthritis, crohn's disease, cerebral palsy, chronic pain, parkinson's disease, post traumatic stress disorder and other medical conditions for which marihuana is an approved medical use by the State of Michigan, end the City's prohibition of medical marihuana facilities, and create a City Department of Medical Marihuana responsible for overseeing the local regulatory structure for such facilities.

SHALL THE PROPOSAL BE ADOPTED?

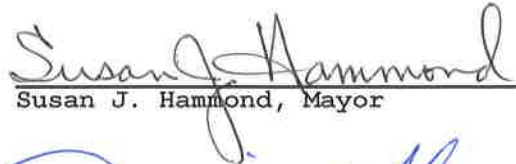
[] YES [] NO

Carried, all yes.

ITEMS FOR NEXT AGENDA

1. Discussion Re: the Policy-Employee Participation in Political Activities
2. Discussion Re: Amendments to Personnel Policy

ADJOURNMENT: 9:32 P.M.


Susan J. Hammond, Mayor 8/9/21
Date


Devin Miller, Clerk 8/9/21
Date