

MINUTES of the regular City Council meeting of Wellsville City held Wednesday, May 20, 2009, at the Wellsville City Offices at 75 East Main. City officials present were Mayor Ruth P. Maughan, Councilwoman Marcene Parker, Councilmen Jackie D. Orton, Ron Case, Thomas G. Bailey, and Gary Bates. A copy of the Notice and Agenda was mailed to the Mayor and Council members and emailed and faxed to the Herald Journal on May 15, 2009. The meeting was called to order at 6:00 p.m. by Mayor Ruth P. Maughan.

<u>Others Present:</u>	Jennifer Leishman	Aaron Klopfenstein
	Bevan Higbee	Shawn McArthur
	Jill McArthur	Eric Hunsaker
	Randy Wall	Juanita Malm
	Danielle White	Kyle Rigby
	Justin Miner	Kathleen Howell
	Verlo Howell	Phil Howell
	Michele Howell	Lisa Weaver
	Becky Benson	Eric Baugh
	Scot Weaver	Evan Bigelow
	Patty Bigelow	Bill Krejei
	Justin Naser	Sam Winward
	James Wakefield	Brandon Corbett
	Alina Winward	

Opening Ceremony: Marcene Parker

The Council reviewed the agenda. Thomas G. Bailey made a motion, seconded by Gary Bates, to approve the agenda as presented.

<u>YEA 5</u>	<u>NAY 0</u>
Thomas G. Bailey	
Gary Bates	
Ron Case	
Jackie D. Orton	
Marcene Parker	

The Council reviewed the minutes of the May 6, 2009 meeting. There were word changes on lines 232 and 265. Ron Case made a motion, seconded by Thomas G. Bailey, to approve the minutes of the May 6, 2009 meeting with the changes.

<u>YEA 5</u>	<u>NAY 0</u>
Thomas G. Bailey	
Gary Bates	
Ron Case	
Jackie D. Orton	
Marcene Parker	

Don Hartle gave the Council a copy of the Warrant Register showing bills submitted to the Council for approval. After review and discussion, Marcene Parker made a motion, seconded by Jackie D. Orton, to approve the City's bills for payment, represented by check number 10323 through 10376.

<u>YEA 5</u>	<u>NAY 0</u>
Thomas G. Bailey	
Gary Bates	
Ron Case	
Jackie D. Orton	
Marcene Parker	

Aaron Klopfenstein met with the City Council for a business license. Mr. Klopfenstein would like to get his FFL in order to charge for repairs on guns. In order for him to receive his FFL, he is required to have a business license. Mr. Klopfenstein stated that he uses hand tools, no chemicals other than a cleaning solution, and will be working out of his shop. Ron Case stated that the Planning Commission approved Mr. Klopfenstein's home occupation. Mr. Case stated that the question was asked why Mr. Klopfenstein is applying for a Level 2 "Home Occupation" instead of a Level 1 "Home Occupation", and the reason is because he is working out of an auxiliary building instead of his home. Gary Bates asked if with the Level 2 "Home Occupation" is there an increase in the cost of the business license. Don Hartle stated no. The name of Mr. Klopfenstein's business is AK Gunsmithing. After discussion, Marcene Parker made a motion, seconded by Gary Bates, to approve the business license for Aaron Klopfenstein.

YEA 5

NAY 0

Thomas G. Bailey
Gary Bates
Ron Case
Jackie D. Orton
Marcene Parker

Brandon Jones was to meet with the City Council for a business license, but was held up in Idaho and had to reschedule.

At 6:15 p.m., Gary Bates made a motion, seconded by Thomas G. Bailey, to go into public hearings:

YEA 5

NAY 0

Thomas G. Bailey
Gary Bates
Ron Case
Jackie D. Orton
Marcene Parker

First, receive public input and consider the adoption of an ordinance establishing a Parks and Recreation Advisory Board. Gary Bates stated that this has been discussed in previous meetings. The ordinance meets all of the State requirements relative to committees. There is a nomination of a chairperson, the chairperson is then appointed by the Mayor, agendas are to be posted and minutes are to be kept of each meeting. The list of responsibilities is part of this ordinance. After discussion, Gary Bates made a motion, seconded by Jackie D. Orton, to approve **CODE AMENDMENT 2009-03** adopting **AN ORDINANCE AMENDING THE WELLSVILLE CITY CODE, TITLE 2, BOARDS AND COMMISSIONS, BY ADDING CHAPTER 5, PARKS AND RECREATION ADVISORY BOARD.**

YEA 5

NAY 0

Thomas G. Bailey
Gary Bates
Ron Case
Jackie D. Orton
Marcene Parker

At 6:20 p.m., Marcene Parker made a motion, seconded by Gary Bates, to close the public hearings.

YEA 5

NAY 0

Thomas G. Bailey
Gary Bates
Ron Case
Jackie D. Orton
Marcene Parker

The City Council had an open discussion regarding concerns about the Red Slide subdivision park, playground, open space, and other related matters. Alina Winward asked for a summary of what has happened so far with these concerns. Don Hartle stated that the Red Slide subdivision was to be developed in 3 phases. The subdivision is zoned RA-1, which requires 40% open space. There are 3 options for open space: 1) HOA, 2) Conservative group, 3) donated to the City. The entry park is part of the open space, and has been deeded to Wellsville City. The park, which is part of phase 3, is owned by the HOA. Last fall, John Panos purchased a water hook-up for the park. The park is not a City utility, so there is no bonding for the park. Wellsville City has had problems with Mr. Panos for the last 2 to 3 years, but Wellsville City felt like they were making progress. Mr. Hartle stated that he was told because of the economy; Mr. Panos has lost both of his businesses and is filing for bankruptcy. Mr. Panos owes A & D Landscaping \$10,000 for the sprinkling system. There is no electricity to the park, so the lawn that has been planted is subject to burn up. Jackie D. Orton asked if A & D Landscaping has put a lien on the homes in phase 3. Mr. Hartle stated that that was a legal question, and he couldn't answer that. Mayor Ruth P. Maughan asked why there was no HOA. Shawn McArthur stated that he would give some history as to the HOA. The HOA has not been given to phase 3. Both phase 1 and phase 2 opted not to participate in the HOA. Mr. McArthur was told that until phase 3 is complete, the HOA will not be turned over. Mr. McArthur asked anyone to define complete. He thinks that complete means the ability to take over the HOA. Mr. McArthur asked where does the Red Slide subdivision stand and who is in charge. Mr. McArthur stated that there are grading issues that is causing flooding of yards. Mr. Hartle stated that he received a call today from an individual who is out of town, but says there are serious problems with residents dumping water at the top of the slope and it running into the yards on their neighbors on the down-slope side. Mr. Hartle stated that there is a state law concerning this issue. Kathleen Howell stated that her concern is establishing an HOA, installing the park, and then the liability that comes with it. Ms. Howell shared what other cities do. Ms. Howell stated that she loves open space. Ms. Howell stated that in other communities, it is required that the developer deed over some lots in the subdivision to the City. Once the developer meets all of the requirements, the lots are then deeded back to the developer to sell. Ms. Howell discussed the open space become a City park and assess the residents of Red Slide subdivision a fee for maintenance of the park. Mayor Maughan asked if the developer deeds the lots to the City in place of bonding. Ms. Howell stated that she didn't know, but that North Logan does this type of bonding the most. Ms. Howell stated that she would like to see some help from the City for the park. Ms. Howell stated that her other concern is the water pressure in the Red Slide subdivision. She would like to see it increase. Mr. McArthur stated that the funds from leasing the farm land around the Red Slide subdivision is going to Jeff Maughan's widow, which the funds should be going to the Red Slide subdivision. Mr. Hartle stated that the subdivision code has changed and the he files the final plat when all of the improvements have been installed and accepted by the City. Evan Bigelow asked if John Panos hasn't paid the property taxes on the open space, is the HOA responsible for the delinquent taxes. Ms. Howell stated that is correct, but the taxes are very minimal. Mr. Bigelow asked what happened to having soccer fields on this property. Marcene Parker stated that the City had the property engineered, and there was too much slope for soccer fields, so they would not be beneficial to the City. Mr. Bigelow stated that the water pressure in the Red Slide subdivision is ridiculous. Carolyn Orton stated that John Panos told people what they wanted to hear, and now it is coming back on the home owners as a lien. Ms. Orton stated that the park is an eye sore. Ms. Orton stated that the residents of the Red Slide subdivision need help from the City. Ms. Orton stated that the City should assess the residents of the Red Slide subdivision a fee to maintain the park. Ms. Orton stated that the residents of the Red Slide subdivision are willing to help, but they are asking for help from Wellsville City. Ms. Parker asked if anyone has proof that Jeff Maughan's widow is receiving the funds from leasing the farm property. Mr. McArthur stated that John Panos told him that. Kyle Rigby stated that he has been talking with neighbors and they would like to see Wellsville City take over and maintain the park in the Red Slide subdivision. Mr. Rigby stated that HOA's don't work, and is opposed to them. Sam Winward stated that he doesn't live in the Red Slide subdivision yet, but has purchased a lot in the subdivision. Mr. Winward stated that CC&R's exist, but each resident has a different CC&R within the same phase of the Red Slide subdivision. Gary Bates stated that with John Panos declaring bankruptcy, can liens be put on the open space and the park. Mayor Maughan stated that Wellsville City will keep working on the water pressure and the residents of the Red Slide subdivision may have to pay a little to get the park up and going. Randy Wall asked if the water retention pond has to be there. Mr. Hartle stated that the subdivision has to control its run-off, but agrees that it needs to be enlarged farther to the south. Mr. Bates stated that there are HOA's in Wellsville City that do work, and as for liability, he thinks there is insurance out there that will carry an HOA. James

Wakefield stated that he is a developer. Mr. Wakefield stated that he took his CC&R's to consult with an attorney, which, because there are so many violations, they are basically invalid. Mr. Wakefield stated that the retention pond should be engineered so that it is determined that it is safe. Ms. Parker stated that everyone that was a part of this project was told something different every time. Mr. Hartle stated that he and Mayor Maughan took a ride up into the Red Slide subdivision and they were approached by several people in the subdivision. Mr. Hartle stated that this item was added to the agenda to receive information. Mr. Hartle stated that there will be no executive session concerning the Red Slide subdivision. Mr. Hartle stated that the City Council will think about all of the issues that have been raised tonight, and that there may be several meeting pass before a decision is made. Vern Howell asked for permission to use his deck mower to mow the weeds that are growing at the park. Mayor Maughan stated that he has permission to mow the weeds. Becky Benson asked about 4-wheelers on the canal. Scott Weaver stated that there are 4-wheelers running up to the mountain behind his house. Mr. McArthur stated that there is open space to the west of the subdivision up to the mountain and there is a strip behind the subdivision that runs north and south. Mr. Hartle stated that that property is owned by Jeff Maughan and it is in the county. Mr. Orton stated that the time is up for this discussion. Mr. Orton stated that he is a resident of the Red Slide subdivision. Mr. Orton stated that he wanted to thank everyone for the way they conducted themselves, and this is how the problems will be solved is by discussing them. Mr. Orton stated that it is a fact that the Red Slide subdivision doesn't feel a part of Wellsville City. Mayor Maughan thanked everyone for coming and sharing their concerns with the City Council. After discussion, Mayor Maughan asked each City Council member to write down any ideas they may have and will discuss at a future meeting. Mayor Maughan stated that in the meantime, she and Don Hartle will meet with City Attorney Bruce Jorgensen. It was also discussed to form a committee and have 1 person from each block represent that block. Does Mrs. Jeff Maughan have any personal liability in the Red Slide subdivision?

The City Council discussed the procedures and the letter from City Attorney Bruce Jorgensen regarding old cemetery lots that have not been used for the past 60 years. Jackie D. Orton asked if there were a lot of cemetery lots that are not being claimed. Don Hartle stated that in this case, there is an individual that is a descendent of the family that owns the cemetery lot. There is no family that claims the lot, and this individual would like the lot. He doesn't want to purchase the lot, but is going to have to. Mr. Hartle has discussed this issue with City Attorney Bruce Jorgensen. Mr. Jorgensen suggested researching every lot in the cemetery. Mr. Hartle stated that it will take a lot of time and create a lot of work to do this. Mr. Hartle suggested that the City Council follow the advice of City Attorney Bruce Jorgensen. Mr. Hartle stated that their intent is to attempt contact with a family member of each lot that is owned in the Wellsville City cemetery. Mayor Ruth P. Maughan stated that her great-grandparents are buried in the Wellsville City cemetery. They own 8 lots, but only 4 lots are used. It has been 50 years, and Mayor Maughan does have the deed for the lots. Mr. Hartle stated that just because someone has someone else's deed doesn't mean anything. Ron Case asked if Wellsville City will advertise so that any family member can come forward. Mayor Maughan asked if someone did come forward, how would they claim the cemetery lot. Mr. Hartle stated that City Attorney Bruce Jorgensen would have to get involved. Marcene Parker asked how many years back are they going. Mr. Hartle stated that they would go 60 years back and proceed from there. Thomas G. Bailey asked if they would look at all of the cemetery lots. Mr. Hartle stated that they would review each lot and then do the advertising. Mr. Bailey stated that his mother and father are buried at the Wellsville City cemetery and that they passed the deed onto him before they died. Mr. Hartle stated that they do not bury anyone without a signature on the card for that lot. There is a card the represents each lot at the Wellsville City cemetery. Mr. Orton stated that he owns 4 burial spots and if him and his wife use 2, how does the other 2 lots get passed on to his family. Mr. Hartle stated that they would have to do some paperwork and obtain signatures of all of the other heirs. Mr. Case stated that this is standard procedure for most of all of the cemeteries. After discussion, Jackie D. Orton made a motion, seconded by Thomas G. Bailey, to follow the advice of City Attorney Bruce Jorgensen concerning old cemetery lots not being used for the past 60 years.

YEA 5
Thomas G. Bailey
Gary Bates
Ron Case
Jackie D. Orton
Marcene Parker

NAY 0

Mayor Ruth P. Maughan stated that on behalf of her and the City Council, she wanted to thank Steve Kyriopoulos for donating the repair work on the playground at the Wellsville City Square.

Department Reports:

Gary Bates – 1) Received comment from Don Hartle and Ron Case concerning the resolution discussing Parks, Playgrounds, and Recreation Facilities. Mayor Ruth P. Maughan had a few comments on the document as well.

Marcene Parker – 1) Spoke with Chad Jensen representing the Cache County Sheriff's Office concerning officers charging their time spent in Wellsville for special events back to Wellsville City. Deputy Jensen stated that Wellsville City is not charged for those hours. Don Hartle stated that Wellsville City may not be charged for the hours, but they are shown on the monthly report that is sent to Wellsville City from Cache County Sheriff's Office. Ms. Parker stated that Deputy Jensen is working on an ordinance that will be passed around to each of the communities in Cache County.

2) Memorial Day Program – microphones, but no stands. Is the power on at all times or does a switch need to be flipped? Power should be on at all times. 2 flags – check to make sure that we are using the best-looking flags. Chairs – 8:00 a.m. – about 20 chairs. Kurt Farmer and Nate Briggs to do taps.

Thomas G. Bailey – 1) Irrigation Committee Meeting – Paul Garrett resigned so they are looking for another individual.

2) Water schedules should be mailed out this week, and the water should be in the canal this weekend.

Mayor Ruth P. Maughan – 1) Tom Smith development – in the motion there was to be a discussion concerning sidewalks. The City Council discussed a sidewalk policy. The decision for Mr. Smith's development was that no sidewalk is required.

2) Fire Department received a grant for exercise equipment. They have put the equipment in the back of the Fire Station. The Fire Department would like to move the ambulance to the Emergency Response Building that is in back. Decided that these people are adults and can work it out between them, but now everyone is mad about it. The City Council went on a field trip to view all of the buildings and the equipment. It was decided that the fire truck and the ambulance are to remain in the Fire Station. The Fire Chief will be over both buildings

Ron Case – 1) Need to have a policy/resolution concerning the use of City equipment.

2) Need to have a policy/resolution concerning public commercial announcements are not allowed in the newsletter or on the website unless it is strictly within the community.

3) Sidewalk policy – discuss at a later date.

4) Rodeo Committee – same type as the Parks Committee – discussed and decided to have a member of the committee on the Parks and Recreation Committee.

5) Did anyone sign up for the Dairy Princess pageant – yes.

City Manager/Recorders Report:

Don Hartle – 1) There are 4 precincts in Wellsville City for elections, and does the City Council want to consolidate the precincts for the elections this fall – yes.

2) Update on sewer – received a letter from the State of Utah addressed to Dr. Kraig Johnson – some revisions needed to be made and they are back at the State of Utah. Spoke with Dr. Dupont from USU and his report should be completed by the end of June.

At 8:56 p.m., Marcene Parker made a motion, seconded by Gary Bates, to adjourn the meeting.

YEA 5
Thomas G. Bailey
Gary Bates
Ron Case
Jackie D. Orton
Marcene Parker

NAY 0

Ruth P. Maughan
Mayor

Don Hartle
City Manager/Recorder