

MINUTES of the regular City Council meeting of Wellsville City held Wednesday, July 16, 2014, at the Wellsville City Offices at 75 East Main. City officials present were Mayor Thomas G. Bailey, Councilwomen Karen Higley and Glenna Petersen, Councilmen Gary Bates, Carl Leatham, and Perry Maughan. City Manager/Recorder Don Hartle, City Planner Jay Nielson, and City Attorney Bruce Jorgensen were also present. A copy of the Notice and Agenda was mailed to the Mayor and Council members and emailed and faxed to the Herald Journal on July 11, 2014. The meeting was called to order at 6:00 p.m. by Mayor Thomas G. Bailey.

Others Present: Jennifer Leishman David Owen Robert Bolton  
Kristine Bolton Don Ewing Alison Ewing  
Loyal Green Leroy Mayer Doris Mayer  
Lisa Parkinson Candy Sorensen Katie Christensen  
Cody Schenk Charee Vellinga Steve Kyriopoulos  
Marcene Parker Ruth P. Maughan Karma Leatham  
Mariah Noble

Opening Ceremony: Carl Leatham

The Council reviewed the agenda. Carl Leatham made a motion, seconded by Karen Higley, to approve the agenda as presented.

YEA 5 NAY 0  
Gary Bates  
Karen Higley  
Carl Leatham  
Perry Maughan  
Glenna Petersen

The Council reviewed the minutes of the July 2, 2014 regular City Council meeting. Karen Higley made a motion, seconded by Perry Maughan, to approve the minutes of the July 2, 2014 regular City Council meeting as presented.

YEA 5 NAY 0  
Gary Bates  
Karen Higley  
Carl Leatham  
Perry Maughan  
Glenna Petersen

The Council reviewed the minutes of the July 2, 2014 executive session meeting. Glenna Petersen made a motion, seconded by Karen Higley, to approve the minutes of the July 2, 2014 executive session meeting as presented.

YEA 5 NAY 0  
Gary Bates  
Karen Higley  
Carl Leatham  
Perry Maughan  
Glenna Petersen

Don Hartle gave the Council a copy of the Warrant Register showing bills submitted to the Council for approval. After review and discussion, Gary Bates made a motion, seconded by Carl Leatham, to approve the City's bills for payment, represented by check number 17160 through 17225.

YEA 5 NAY 0  
Gary Bates

Karen Higley  
Carl Leatham  
Perry Maughan  
Glenna Petersen

Katie Christensen asked if she could record the sound of this meeting. Mayor Thomas G. Bailey allowed Ms. Christensen to put her recording device on the table.

David Owen met with the City Council for a business license. Mr. Owen would like to have an online business in his home printing and selling books. The books would be shipped from the printer. The business license is for a home office. There will be no customers coming to his home. There will be no other employees. There will be an occasional shipment of a book for proof-reading to his home. Carl Leatham stated that the Planning Commission approved the conditional use permit with no restrictions. After discussion, Carl Leatham made a motion, seconded by Gary Bates, to approve the business license for David Owen.

YEA 5  
Gary Bates  
Karen Higley  
Carl Leatham  
Perry Maughan  
Glenna Petersen

NAY 0

At 6:15 p.m., Mayor Thomas G. Bailey conducted a public hearing for the consideration of and possible action by the City Council on the appeals by Robert Bolton and Cody Schenk (on behalf of the Heritage Southwest Estates Subdivision Home Owners Association) related to the conditional use permit for the Sardinz All American Travel Plaza (Steve Kyriopoulos) on the northeast corner of the intersection of 400 North and Highway 89/91. Mayor Bailey stated that City Attorney Bruce Jorgensen will have 10 minutes to make his statement. Robert Bolton will then have 10 minutes to reply to Mr. Jorgensen's remarks. Cody Schenk will then have 10 minutes to reply to Mr. Jorgensen's remarks. City Attorney Bruce Jorgensen stated that the procedure that has been followed is that certain uses are allowed within Wellsville City by conditional use. A conditional use permit is required for Steve Kyriopoulos' project. During the April 9, 2014 Planning Commission meeting, Mr. Kyriopoulos applied for a conditional use permit. There was some confusion as to if the conditional use permit was approved. During the April 23, 2014 Planning Commission meeting, the issue was revisited and it was established that the conditional use permit had not been approved because the conditions had not been met, such as meeting with UDOT. City Planner Jay Nielson authored a timeline concerning the list of conditions. After the April 9, 2014 Planning Commission meeting, Robert Bolton filed an appeal. After the April 23, 2014 Planning Commission meeting, Cody Schenk, on behalf of the Heritage Southwest Estates Subdivision Home Owners Association, filed an appeal. Mr. Jorgensen stated that Mr. Bolton is appealing the granting of the conditional use of the property. That issued has been resolved because it is now an allowed use. Mr. Bolton is also appealing the conditional use permit. A conditional use permit has not been approved. Mr. Jorgensen read from the April 23, 2014 minutes. Mr. Jorgensen stated that Mr. Schenk is appealing the approved development. The development has not been approved at this time. An issue is that access to and from the site has not been completed. This project is large enough and complicated enough that until the conditional use permit is approved, a building permit will not be approved. After the conditional use is approved, then an appeal can be filed. Mr. Jorgensen suggested that the 2 appeals be tabled at this time. The Planning Commission will work with Steve Kyriopoulos until a conditional use permit is approved or not approved. Mr. Jorgensen stated that a timeline has been given. As each condition is met, each condition is appealed, it is piecing the appeal process. Mr. Jorgensen suggested waiting until the conditional use permit is approved or not, and then appeal at that time. If an appeal is taken to district court, the judge will have all of the information, instead of just pieces. Mr. Jorgensen suggested waiting until final approval, then file an appeal within 10 calendar days after approval by the Planning Commission, and 30 days to file an appeal to district court. Mr. Jorgensen stated that then people will know what they are arguing about. The City Council is the appellate board. The City Council will hear what has been decided, and then can make a decision after that. Mr. Jorgensen stated that Mr. Bolton and Mr. Schenk can then file new or amended appeals at

that time. Mayor Bailey stated that there have been 2 appeals filed, and asked if changes can be made to those appeals. Mr. Jorgensen stated correct.

Robert Bolton stated that after the April 9, 2014 Planning Commission meeting, there was massive confusion and a difference between Mr. Jorgensen, Mr. Hartle, and Chairperson Maughan. Mr. Bolton stated that he has no problem with Mr. Jorgensen's suggestion. Mr. Bolton stated that his remarks will exceed 10 minutes because this project has taken 3 years with countless meetings and hours. Mr. Bolton stated that there is no point in dealing with this now. Mr. Bolton asked that he be given written notice concerning the additional process and the confusion.

Cody Schenk thanked the City Council for the opportunity to stand and share his comments. Mr. Schenk stated that he submitted his appeal because he was under the impression that the project had been approved. Mr. Schenk stated that he looks forward to revisiting this issue in the future.

At 6:26 p.m., the public hearing was closed.

Mayor Thomas G. Bailey stated that it has been suggested that the appeals be tabled until the conditions have either been approved or not. Gary Bates asked about a limit on the numbers of appeals on the same subject. City Attorney Bruce Jorgensen stated that there is no limit to the number of appeals, but to consolidate the same issues so that they can be answered once. Don Ewing asked who makes the decision concerning the number of appeals. Mr. Jorgensen stated that the City Council makes that decision. Mayor Bailey stated that anyone that has something to say can do so and will be heard. Mr. Bates stated that they will be heard within a reasonable timeframe. Mr. Jorgensen suggested going through the HOA like they have with the current appeal. Carl Leatham stated that the City Council should follow Mr. Jorgensen's advice and discuss the issue when there is something to discuss. Glenna Petersen asked if the issue will be continued or tabled. Mr. Leatham stated tabled. After discussion, Carl Leatham made a motion, seconded by Karen Higley, to continue this discussion as such time as the Planning Commission has had a chance to review the conditions that have been presented the Steve Kyriopoulos and a conditional use permit has been issued.

**YEA 5**

**NAY 0**

Gary Bates  
Karen Higley  
Carl Leatham  
Perry Maughan  
Glenna Petersen

City Planner Jay Nielson met with the City Council to present the first draft of the rewritten Land Use Code. Jay Nielson stated that there is a state law that manages all zoning. It has been in existence for about 20 years. It gives direction on how zoning should work. Chapter 10 of the Wellsville City Municipal Code has never had a review, and this review gets the code up to state law. In 1972, the Wellsville City Code was adopted which was written between 1955 and 1975 by 2 people who traveled from community to community and wrote a code specific for that community. Wellsville City still has that code. The way to write a code is not to begin from scratch, but to use an existing code and modify it to fit the community. Mr. Nielson stated that he used the best code possible, which has been tested by Land Use Attorney Jody Burnett. Mr. Nielson stated that he used Logan City's code, which he has worked with for 10 years. Logan City's code came from the experience that Mr. Nielson received from Wellsville City. The size of the code is not important. The content of the code is important. Mr. Nielson stated that he has rewritten all of Chapter 10. Chapter 11 is the subdivision code. Over the years, the subdivision code has been brought up to speed. There are parts of Chapter 11 that should be in Chapter 10. The new Land Use Code is better organized. It is very helpful for new people on the Planning Commission and City Council. There are better references. The old code was about 200 pages. This new code is 320 pages. There are major sections of the old code that had holes in it. This new code helps to fill those holes. Mr. Nielson stated that he is concerned about meeting the needs with this code. This code is not perfect. Mr. Nielson stated that he is committed to spending whatever length of time is needed with the Planning Commission to review the code. This code will never be perfect. The way to perfect a code is by using the code. Mr. Nielson stated

that the Planning Commission has scheduled meetings, and has committed to working through the first 1/3 of the code. Mr. Nielson stated that he was pleased to see the willingness of the Planning Commission to review the code. Don Hartle stated that the League of Cities and Towns has recommended that the City Council not attend Planning Commission meetings. Mr. Hartle stated that he encourages the City Council to attend the Planning Commission meeting if possible. Mayor Thomas G. Bailey stated that the invitation stands as the Planning Commission reviews the new Land Use Code. Mr. Nielson stated that it is very important and efficient to have a discussion about an issue and get it right the first time. Glenna Petersen asked what the projected date is when the code will be finalized. Mr. Nielson stated that there is no date set. Carl Leatham stated that the Planning Commission meetings concerning the new Land Use Code are scheduled when Mr. Nielson is available. Mr. Nielson stated that the first meeting is scheduled for September. Mayor Bailey thanked Mr. Nielson for attending this meeting.

The City Council discussed increasing all fees associate with the cemetery. Don Hartle stated that he has discussed this for some time. The new section of cemetery is about ready to be opened. The following is what is remaining in the existing cemetery: 2 full lots, 4 – ½ lots, and 5 – ¼ lots. There are numerous people that have purchased lots that are not satisfied and want to be in the new section. The last time cemetery fees were reviewed was in 2005. Mr. Hartle stated that any headstone that exceeds 30” high, 55” wide, and over 16” deep, Wellsville City will contract with Browns Monument to move the headstone. There will be a \$200 surcharge to do this. Mr. Hartle is proposing to raise rates for purchasing lots, as well as opening and closing a grave. Mr. Hartle stated that the penciled items of the code are his recommended changes. Gary Bates asked if these rates are compared to other cities’ rates in Cache Valley. Mr. Hartle stated no. Mr. Bates asked if Wellsville City is selling lots in the new area. Mr. Hartle stated not yet. Glenna Petersen asked if there is a map of who owns what in the cemetery. Mr. Hartle stated yes. Mr. Hartle stated that the code states that there is to be a cement vault. Mr. Hartle stated that he spoke with a gentleman that installs plastic vaults. Mr. Hartle stated that he said the plastic vaults are stronger and last longer. Mr. Hartle asked that the City Council review the cemetery and discuss this issue again in 3 weeks.

#### Department Reports:

Gary Bates – 1) Reported a good turnout at the Army Band Concert that was held on July 6, 2014.  
2) August 15, 2014 – Movie on the Square – Despicable Me II

Mayor Thomas G. Bailey – 1) Asked if Karen Higley needed any help with Founder’s Day – probably will, but it is going good now.  
2) Asked the City Council to be thinking of a Marshall of the Day and an Outstanding Citizen.

Perry Maughan – 1) Received complaints about the proposed location of the Mountain Man statue, decided to move it to the east entry park.  
2) Logo – one individual is starting a petition to leave the logo for Wellsville City as is.  
3) Roads – completed around the first part of September.

Glenna Petersen – 1) Dates for the League of Cities & Towns – September 10 – 12 – Don Hartle will begin registration process.  
2) Asked who to thank for the Lagoon tickets – Lagoon.  
3) Send emails – use letterhead – normally don’t put emails on letterhead – will discuss with Leesa Cooper.  
4) Received emails from a salesman about using solar lighting for street lights – think about it someday.

Karen Higley – 1) Taxes for businesses – a tax id number is issued for the retail business and Wellsville City will received the tax revenue. Gary Bates asked about making the tax id number part of the policy. Discussed adding it to the application/renewal form.  
2) Founder’s Day – extra restrooms – call Colin Harrison. Barricades for race – how many and where. More black can garbages – how many more are needed.

City Managers/Recorder's Report:

- Don Hartle – 1) Handed out a copy of an updated 2010 letter concerning water rights that he and City Attorney Bruce Jorgensen has been working on. This is for the City Council's information only.  
2) Working on leasing a tractor. Did find a tractor to lease for this year from now until the end of August.  
3) Handed out a copy of the letter that he wrote to Marshall Lindsay concerning his mailbox.

At 7:29 p.m., Glenna Petersen made a motion, seconded by Karen Higley, to adjourn the meeting.

**YEA 5**  
Gary Bates  
Karen Higley  
Carl Leatham  
Perry Maughan  
Glenna Petersen

**NAY 0**

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Thomas G. Bailey  
Mayor

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Don Hartle  
City Manager/Recorder