

MINUTES of the regular City Council meeting of Wellsville City held Wednesday, January 20, 2010, at the Wellsville City Offices at 75 East Main. City officials present were Mayor Thomas G. Bailey, Councilmen Gary Bates, Ron Case, Colin Harrison, and Jackie D. Orton. City Manager/Recorder Don Hartle was 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 January 15, 2010. The meeting was called to order at 6:00 p.m. by Mayor Thomas G. Bailey.

<u>Others Present:</u>	Jennifer Leishman	Jeremie Poppleton
	Jeff Thorpe	Kaylene Ames
	Dave Fell	Justin Miner
	Sam Winward	Shawn McArthur
	Randy Wall	Bryant White, Jr.
	Neal Smart	Paul Egbert
	Scott Wells	Don Summit
	Evan Bankhead	Wyatt Bankhead
	Daniel Erikson	Spencer Erikson
	Josh Allen	Nicholas Allen
	Will Lewis	Mathew Andersen
	Tayson Hall	Kyle Leishman
	Paul V. Summit	Joshua A. Summit
	Zackery W. Summit	Hugo Dupont
	Kimball Probst	Merrill Probst
	JD Curtis	Gene Curtis

Opening Ceremony: Jackie D. Orton

The Council reviewed the agenda. Jackie D. Orton made a motion, seconded by Colin Harrison, to approve the agenda as presented.

<u>YEA 4</u>	<u>NAY 0</u>
Gary Bates	
Ron Case	
Colin Harrison	
Jackie D. Orton	

The Council reviewed the minutes of the January 6, 2010 meeting. Ron Case made a motion, seconded by Gary Bates, to approve the minutes of the January 6, 2010 meeting as presented.

<u>YEA 4</u>	<u>NAY 0</u>
Gary Bates	
Ron Case	
Colin Harrison	
Jackie D. Orton	

Don Hartle gave the Council a copy of the Warrant Register showing bills submitted to the Council for approval. After review and discussion, Ron Case made a motion, seconded by Jackie D. Orton, to approve the City's bills for payment, represented by check number 11203 through 11347.

<u>YEA 4</u>	<u>NAY 0</u>
Gary Bates	
Ron Case	
Colin Harrison	
Jackie D. Orton	

The National M.S. Society were to meet with the City Council to discuss the use of City facilities for a proposed bike ride. Don Hartle stated that an individual called and stated this issue needed to be rescheduled for 2 weeks from today.

Representatives from Red Slide subdivision met with the City Council to discuss the proposed plan to develop the West Park area. Dave Fell submitted the following to the City Council:

Mayor, City Council Members,

We thank you for your time and consideration. In accordance with your request, we formed a Committee to address the proposal presented by City Manager, Don Hartle, at the December 2, 2009 meeting of the City Council, wherein it was proposed that:

1. The Red Slide subdivision would deed the 2.2-acre West Park and 22.2-acre open space to the City.
2. The City would complete the park within a year, (a) reducing the existing retention pond, (b) adding a north-south berm to reduce run-off into adjacent residential properties, (c) completing the sprinkler system, (d) hydro-seeding the entire park, and (f) maintaining it thereafter as a City Park.
3. That the City would expand retaining pond capacity in the Entrance Park to accommodate increased storm water run-off resulting from the reduction in size of the West Park retention pond.
4. That the City would bill all 54 red Slide property owners \$9.00 per month: \$6.00 to pay for West Park maintenance, and \$3.00 to pay down the City's estimated capital expense in completing the Park. These fees would not be increased for five years, but would continue indefinitely.

As you recall, the owner-of-record for the Red Slide open space property is the now-defunct Red Slide subdivision Home Owners Association. The City's lawyer, Bruce L. Jorgensen of Olsen & Hogan, P.C. Attorneys at Law, reported in his letter to the Mayor dated June 23, 2009, that because of the Red Slide HOA had been administratively dissolved (by the State for failure by the developer to file necessary forms), title to these properties has been effectively transferred to each of the property owners individually. Bruce also concluded that the 2 Red Slide open space properties were the specific responsibility of the Phase 3 Red Slide property owners and that these 23 property owners should "organize and assume responsibility for the property, or, if possible, transfer title to the City or other appropriate owner." A two-thirds majority of property owners would be required to transfer title of the properties. It has been noted that, because of differences among CC&R's that were applied to each of the three phases of Red Slide development, ultimate legal responsibility for the subject properties might well devolve upon all 54 Red Slide property owners.

Our Committee, therefore, has contacted all 54 property owners and circulated a petition among residents regarding deeding of the open space properties to the City. We have received more than 75% support to proceed, both from Phase 3 and all 54 property owners. There are, however, some concerns:

1. Would the City/County accept signatures directly from a 2/3 majority of Red Slide property owners in order to deed property to the City – without formation of a new Red Slide HOA?
  - a. If so, would a 2/3 majority of Phase 3 property owners be required?
  - b. Or would a 2/3 majority of all 54 Red Slide property owners be necessary?
2. Would a representative of the Committee be allowed to participate in the redesign of the West Park and monitor its progress?
3. Would the City object if, as identified as a viable alternative in Bruce Jorgensen's letter, the 22.2-acre open space were to be deeded to "another appropriate owner" such as a Conservation District or comparable perpetual Environmental Trust? Several property owners favor such a transfer, fearing possible future open space "swapping" or changes in the definition of "open space".

4. *EVERY* Red Slide property owner objects to the principle of being charged to finish and maintain this proposed City Park, much less to be assessed for it forever.
  - a. Property owners argue that, in the price of their lots, they paid for the construction of the promised park, along with necessary streets, utilities access, curbs, sidewalks, and the cost to set apart City-mandated open space.
  - b. They also argue that they already pay their share of construction and maintenance costs for all other City parks and facilities:
    - i. If City policy is to be established that City residents should be charged directly for park space – then should not that policy be implemented City-wide, so that individual properties would be assessed on the basis of their distance from or ready access to such parks and other open areas?
    - ii. The cul-de-sacs of Red Slide Circle, 390 West, and 285 North, already serve large numbers of non-Red Slide residents, providing ATV, dirt bike, and snowmobile access points for recreation across the 22.2-acre open space and adjoining farmland and hillsides to the west. Red Slide streets and sidewalks provide attractive walking, jogging, and biking pathways for many other Wellsville residents. Red Slide development is valuable to the City, just as the City is to Red Slide. Our residents actively participate in the community: maintaining the cemetery; contributing financially to community events such as Founders’ Day Celebration and volunteering, for example, to manage: the 5K/10K and Fun Run, basketball and baseball tournaments, Music in the Park, and the expanded Rodeo; as well as providing floats and entrees in the parade, and arts and crafts; our Scouts and parents have volunteered in more than a dozen Eagle Scout Projects including recent restoration of rooms in the Tabernacle and refurbishment of the City’s tennis backstop, as well as annual food drives; our adults are active in Wellsville political affairs and provide leadership in the arts, education, church, emergency response organizations, local businesses, and County and City government.
  - c. It is not so much that Red Slide residents want a park:
    - i. They have lived for nearly a decade without improvements to that property and virtually every home in Red Slide already has installed its own playground equipment and recreational space.
    - ii. However, residents resent the presence of the half-finished park filled with invasive weeds that seed themselves throughout the development; a space that spills run-off and causes erosion on down-hill residential property; a space with man-made slopes too steep to be mowed by tractor; a space with periodic standing water (the retention pond mud bottom does not really absorb the water) that breeds mosquitoes, presents a drowning danger to small children, and kills off even the weeds that try to grow within there.
    - iii. Established native plant life, such as it was, was eradicated in the initial grading of the park area and, having been abandoned without successful seeding, has been replaced by highly invasive weeds that spread to lawns and gardens – a nuisance to neighbors and a scar across the face of the neighborhood.
  - d. The retention pond dominates West Park. If this huge structure is needed to meet statutory requirements for total storm water retention capacity of the Red Slide development, it would seem to be an integral part of the City’s storm water management program, and as such, should be protected, like streets and storm sewers, by the developer’s bond. In any case, there are concerns about the efficacy of the current park pond and about the

capacity of the City's Entrance Park pond, into which all Red Slide storm sewers and the park pond empty.

Again, we thank you for your time and consideration. We all wish to put this behind us and move on to more constructive endeavors – can a date be set to receive a response from the Council?

Colin Harrison stated that after reading this letter, he is not sure if the residents of the Red Slide subdivision are for or against the park. They want the park finished, but they are not willing to help pay some of the costs associated with finishing the park. Dave Fell stated that the residents of the Red Slide subdivision have been polled, and if the open space is deeded to Wellsville City, they feel that it is not a valid requirement to have to pay to finish the park. Mr. Fell stated that Wellsville City had a bond that was returned to the developer that should have paid to finish the park. Don Hartle stated that Wellsville City held a bond for water, sewer, and streets. The park was private, so no bond was required for the park. Ron Case stated that Wellsville City held public hearings concerning this subdivision, but there was no input from the residents of the Red Slide subdivision. Randy Wall stated that they are willing to work with Wellsville City, but they feel that when they paid from their lots, they paid for the park. Mr. Case asked if the costs of the park were explained to the residents. Mr. Wall stated that every resident has already paid once for the park. Mr. Harrison stated that since the developer has left everyone pretty much high and dry, is the park the City's fault? Mr. Wall stated that it is not the City's fault, but the City should be liable for some of the cost of the park. Sam Winward stated that the residents are willing to deed more than 24 acres of open space to Wellsville City. The money for the cost of the park could come from a performance bond, part of public improvements, and impact fees. Gary Bates asked how many lots are open. Mr. Fell stated that all of the lots are sold, but there are 6 lots that haven't been built on yet. Mr. Case stated that he felt that Mr. Hartle's proposal for the West Park was a very fair proposal. Mr. Case stated that there are some issues that will need to go back City Attorney Bruce Jorgensen for answers. Mr. Bates stated that the subdivision next to the cemetery has a weed patch for their open space, which causes some concerns. Mr. Bates stated that they have approached the City and asked them to take it over and build a park. Jackie D. Orton stated that there are a lot of issues that are unique to the Red Slide subdivision. Mr. Orton stated that to have Wellsville City assess a park fee forever doesn't sit well with anyone. Mr. Fell asked about the requirement for the retention pond. Mr. Orton stated that he does not feel it is needed. Mr. Hartle stated that there is money in the proposed development budget to enlarge the retention pond at the entry park. When the retention pond overflows, it will run into the storm water drain, and that is why the entry park pond needs to be enlarged. The entry park retention pond needs to be enlarged no matter what. Mr. Orton stated that the retention pond is a mosquito trap and a drowning danger for small children. Shawn McArthur stated that if the retention pond is done appropriately, it will drain properly. Wellsville City and the lot owners of the Red Slide subdivision were deceived by the developer. This issue is not about our park or your drainage system, it is a community problem. Everyone needs to quit pointing fingers and move forward. Mr. Case stated that Mr. Hartle's proposal met everything that was wanted by both parties involved. Mr. Hartle stated that the open space in the Mount Sterling Estates is assessed to be worth about \$1,200, which equals about \$6.00 per year in taxes because it is dedicated open space. Mayor Thomas G. Bailey stated that the 22 acres of open space would be left as farmland. Mr. Case stated that as for building on it, City-owned facilities would be all that could be built on it. Mayor Bailey stated that the City's interest in the open space is to keep it as open space. Mr. Orton stated that City Attorney Bruce Jorgensen's last report was very ambiguous. The City Council set a date of February 17, 2010 as a tentative target date to have answers from City Attorney Bruce Jorgensen. Mr. Hartle stated that the pumping costs for the Red Slide subdivision were to be assessed to the lot owners, which it has never taken place. Mr. McArthur stated that everyone needs to work together and do what is best for the community, not for the Red Slide subdivision or for Wellsville City. Mr. Fell asked if John Panos has filed for bankruptcy. Mr. Hartle stated that he has researched, and he has a lawyer working on it. Mr. Bates suggested as home owners, they should see if they can recoup any monies for the park from John Panos. After discussion, Wellsville City will meet with City Attorney Bruce Jorgensen to do some more research and Wellsville City and the Red Slide subdivision will meet again on February 17, 2010.

The City Council considered a request from residents that a yield sign be installed for south-bound traffic at the junction of 200 East and Center Street. Mayor Thomas G. Bailey stated that with the new church house being built on the corner of 1600 South and Center Street, more traffic will be using 200 East and Center Street. Don Hartle stated that his opinion is that a yield sign would be better than a stop sign. Because of the slope, if a vehicle stops, it might not get going again on snowy roads. Mr. Hartle stated that the yield sign would not be installed until the spring so that the ground can thaw out. After discussion, Colin Harrison made a motion, seconded by Jackie D. Orton, to approve a yield sign be installed for south-bound traffic at the junction of 200 East and Center Street.

YEA 4

Gary Bates  
Ron Case  
Colin Harrison  
Jackie D. Orton

NAY 0

The City Council reviewed and discussed the proposed Cache County “Special Event Ordinance”. Mayor Thomas G. Bailey stated that he had Don Hartle add this item to the agenda since Wellsville City is trying to put together a similar ordinance. Ron Case stated that the ordinance has very good form. There is a public meeting next Tuesday at 6:00 p.m. There needs to be more communication with the cities and towns that the event travels through. Mayor Bailey stated that this ordinance is not confined to just bike races. Mayor Bailey stated that he wants the community to be able to gather without having to pay a fee. Organizers have to attend City Council meetings, as well as contact Cache County to hold an event. Mayor Bailey stated that Wellsville City has 2 options: 1) write their own ordinance, or 2) join the County’s ordinance. The County will not share any monies that they receive from special events. Mr. Case stated that the County has to notify the municipality in which the event is traveling through, but gives no time frame as to when so it could be the day before the event takes place. Mr. Case stated that this will be a real burden for event organizers to attend every City Council meeting of the municipalities that they will travel through. Kaylene Ames stated that most events are fund raisers, and that if there is a fee for every city and town that is traveled through, there will be no funds raised. Paul Egbert asked what the fee is for. Colin Harrison stated that it is an inconvenience fee. Gary Bates stated that he will take this issue back to the Recreation Committee. Mr. Bates suggested that the fee issue not be resolved this year, but that the liability issue, Sherriff’s Office coverage, and the clean up be resolved this year. Jackie D. Orton stated that if the fee per head is started this year, and if people have to pay more to come to a race in Wellsville, they will appreciate it more. Don Hartle suggested \$200.00 per day and proof of insurance for groups under 250. Mr. Bates stated that it was proposed that groups under 100 would be charged the cost of the pavilion, groups of 101 – 250 would be charged \$2.00 per head, and groups over 251 would be charged \$4.00 per head. Mr. Bates stated that at the last City Council meeting, it was passed that groups over 100 would be charged \$3.00 per head. Mr. Bates stated that Wellsville City should wait to see what Cache County passes, give the Recreation Committee more time to discuss this issue, discuss this issue with Glen and Kaylene Ames, and have something in place for 2011. Mr. Harrison stated that he doesn’t feel comfortable charging a group after they have already scheduled their event to take place in Wellsville. Mr. Hartle stated that he will add this issue to the next agenda to discuss what is learned from the County meeting which will be held on January 26, 2010.

The City Council discussed the proposed storm water regulations and procedures. Don Hartle stated that Smithfield, Hyde Park, North Logan, Logan, River Heights, Providence, Millville, Hyrum, Nibley, and Wellsville cities are getting down to crunch time for the new storm water regulations permit to be issued. Mr. Hartle stated that the recommendation at this point, is to have the municipalities join together and use the same engineering firm for this permit. The engineering firm that is being used is JUB Engineering. Providence City wants no part of this. Mr. Hartle stated that with all of the municipalities joining together, it would be cheaper for everyone. Mr. Hartle stated that he recommended that Wellsville City join the coalition. Colin Harrison asked if this new permit is close to being issued. Mr. Hartle stated yes. Mr. Hartle stated that once the new permit is issued, the City will have 120 days to comply. Mr. Hartle stated that the coalition discussed hiring 1 employee to oversee all of the paperwork, and it was discussed hiring a County employee. Mr. Hartle stated that there was some resistance to having a County employee. After discussion, Ron Case made a motion, seconded by Gary Bates, to a verbal agreement to join the coalition for the storm water permit.

**YEA 4**

Gary Bates  
Ron Case  
Colin Harrison  
Jackie D. Orton

**NAY 0**

Kaylene Ames met with the City Council to discuss the Wellsville Tabernacle. Ms. Ames stated that the Wellsville Foundation was awarded \$35,000 in RAPZ tax to install a heating/cooling system. They contracted with MechTech Engineering, who sub-contracted to Cartwright Engineers to perform a structural engineering analysis. In an email dated January 15, 2010, Cartwright Engineers stated that the steel rods in the attic are approximately 1/8-inch smaller near their midpoint. They also discovered that the top chord on the truss toward the north is bowing, which prescribed by the building code indicate that the truss is as much as 300 percent overstressed. There is a safety hazard with the Wellsville Tabernacle in this condition. Cartwright Engineers suggest that the entire roof be thoroughly assess and analyzed before installing the heating/cooling system in the attic. Ms. Ames stated that the Wellsville Foundation has closed the Wellsville Tabernacle until further notice. Ms. Ames stated that they received an estimate for completing a roof assessment, which is \$6,000. This amount will finish out their 2008 RAPZ tax funds. This will be the first phase. The second phase will depend on what the roof assessment says. Ms. Ames stated that the Wellsville Foundation is submitting paperwork for 2010 RAPZ tax. Mayor Thomas G. Bailey stated that the Wellsville Foundation has no other choice, and to move forward as planned.

#### Department Reports:

Jackie D. Orton – 1) Replacement of sidewalks – Issues & Stipulations for Wellsville City and Contractors proposal – review.

2) Sales & Use Tax – Wellsville City charges 6.30% sales tax – 4.70% goes to the State, 1.00% is local tax.

3) Mayor Bailey, Don Hartle, and he rode around Wellsville City today to review commercial-zoned and manufacture-zoned property – need to get some commerce in Wellsville City, but want to maintain the charm of Wellsville City.

Colin Harrison – 1) Jerry Cokely can see the cemetery lights out his back window, and they are out of sync. The street lights are owned by Rocky Mountain Power. The cemetery lights are a cycling light. Don will fax the information from the light poles to Rocky Mountain Power, and have them come out and fix them.

Gary Bates – 1) Discussed with Principal Dobson representing Wellsville Elementary the use of the playground soccer field for U14 soccer. They granted Wellsville City the use of the playground soccer field for U14 soccer.

2) Little Red Riding Hood event hosted by the Bonneville Bike Club – the date of June 12, 2010 will not work for them. The President of the Bike Club is not upset about the \$3.00 per person fee. They have opted to move the bike race to Franklin, Idaho for 2010, and will return to Wellsville City in 2011.

3) Scheduled a youth fishing day on free fishing day – supposed to hold the event to train youth in fishing – will have Wellsville Dam stocked with small trout – will have sign-ups.

- 4) The Trail/Bridge project is going well – Chris Breinholt thinks that the project will go quickly.
- 5) Need to advertise that the Wellsville Dam is opened year-around for fishing.

City Manager/Recorders Report:

- Don Hartle – 1) Handed out July 2009 through December 2009 financial statements – General Fund revenues are down 12% from last year – very concerning
- 2) Handed out budget worksheets – due February 17, 2010
  - 3) Update on sewer lagoons – for year end on phosphorus, June through September, allowed to put 159 pounds in the Little Bear River – Wellsville City dumped 68.8 pounds in the Little Bear River. For the rest of the year, Wellsville City is allowed to put 953 pounds in the Little Bear River – Wellsville City dumped 833.7 pounds in the Little Bear River.
  - 4) Worked on the General Plan – advertising for a public hearing to adopt the General Plan – Planning Commission will hold its public hearing on February 10, 2010, and City Council will hold their public hearing on February 17, 2010.
  - 5) New 1-million-gallon reservoir – a problem is getting a right-of-way to get the water up to the reservoir – believes that the best way is through Jeff Maughan’s property – telephone number is unlisted, so wrote a letter asking to discuss with Wellsville City the possibility of purchasing a strip of land 20 feet wide along the south boundary of their property, or sell Wellsville an easement.
  - 6) When Wellsville City borrowed money in 2004; the State required a financial advisor. Asked when the City Council wants to begin this project – good time to bid the project to get a better price. Discussed with the people that he worked with last time and an option is to build the reservoir this year, and start making payments beginning in 2011. After discussion, Ron Case made a motion, seconded by Colin Harrison, to authorize Don Hartle to explore the feasibility of financing for the new 1-million-gallon reservoir.

**YEA 4**  
Gary Bates  
Ron Case  
Colin Harrison  
Jackie D. Orton

**NAY 0**

- 8) 2010 Census – Will Findley is recruiting people to work on the census, and needs a place for 2 – 3 meetings – offer the City Council room – will not pay for the rental.

At 9:15 p.m., Jackie D. Orton made a motion, seconded by Colin Harrison, to adjourn the meeting.

**YEA 4**  
Gary Bates  
Ron Case  
Colin Harrison  
Jackie D. Orton

**NAY 0**

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Thomas G. Bailey  
Mayor

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Don Hartle  
City Manager/Recorder