

MINUTES of the Wellsville City Planning Commission meeting held Wednesday, January 23, 2013, at the Wellsville City Offices, 75 East Main in Wellsville. Commission members present were Paul Egbert, John Spence, and M. Kent Larsen. Also present were City Manager/Recorder Don Hartle, Mayor Thomas G. Bailey, and Councilman Carl Leatham. A copy of the Notice and Agenda was posted, faxed and emailed to the Herald Journal, and mailed to the Planning Commission on January 18, 2013. The meeting was called to order at 6:00 p.m. by Chairman Pro-tem John Spence.

<u>Others Present:</u>	Jennifer Leishman	Ryan Cooper	Paul Cooper
	Mark Ballif	Kay Ballif	Mike Ballif
	Floyd Jensen	Richard Knapp	Mike O'Reilly
	Ron Jensen	Carson Christensen	Meagan Gill
	Trevin Fristrup	Paula Fristrup	John Bostock
	Dylan Bostock	Jared Larsen	Barrett Vest
	Nathan Martin	Wade Martin	Jonathan Cook
	Rachel Fry	Bruce Jorgensen	Ruth P. Maughan

Opening Ceremony: Jared Larsen

Chairman Loyal Green was excused from this meeting.

John Spence reviewed the agenda with the Commission. After discussion, M. Kent Larsen made a motion, seconded by Paul Egbert, that the agenda be approved as presented.

<u>YEA 3</u>	<u>NAY 0</u>
Paul Egbert	
John Spence	
M. Kent Larsen	

The Commission reviewed the minutes for the Commission meeting which was held January 9, 2013. After review, Paul Egbert made a motion, seconded by M. Kent Larsen, to approve the minutes of the January 9, 2013 meeting as presented.

<u>YEA 3</u>	<u>NAY 0</u>
Paul Egbert	
John Spence	
M. Kent Larsen	

Mayor Thomas G. Bailey stated that the term for Commission member Russell Glenn has expired. Mayor Bailey spoke with Mr. Glenn, and Mr. Glenn has asked that his seat be replaced by someone else. Mayor Bailey thanked Mr. Glenn for his service to Wellsville City, and his time and effort on the Planning Commission. Mayor Bailey stated that last Wednesday, he presented the name of Ruth P. Maughan to the City Council for approval to take a seat on the Planning Commission. Ms. Maughan accepted. Don Hartle swore in Ruth P. Maughan. John Spence welcomed Ms. Maughan to the Planning Commission. Mr. Spence thanked Mr. Glenn for his service to Wellsville City.

The Planning Commission reviewed for approval the final plat for the Ryan Cooper Subdivision consisting of a total of 2 lots (1 additional building lot) on property at 1095 South 200 East. Don Hartle handed out a memorandum from City Engineer Chris Breinholt dated January 21, 2013. John Spence asked if Ryan Cooper had seen this memorandum. Mr. Cooper stated that he had just received a copy of it. Paul Egbert asked about comment 3a from Mr. Breinholt, and stated that it looks like it has already been resolved on the final plat. Don Hartle stated that this final plat had been updated. After discussion, M. Kent Larsen made a motion, seconded by Paul Egbert, to approve the final plat for the Ryan Cooper Subdivision consisting of a total of 2 lots (1 additional building lot) on property at 1095 South 200 East.

<u>YEA 4</u>	<u>NAY 0</u>
Ruth P. Maughan	

Paul Egbert
John Spence
M. Kent Larsen

The Planning Commission continued the workshop for the possible approval of a conditional use for a "Wellness Facility" at Sherwood Hills at 7877 South Highway 89/91. Sherwood Hills to offer room and board and provide for or arrange for the provision of specialized treatment, rehabilitation or habilitation services for persons with emotional, psychological, or behavioral dysfunctions, impairments, or chemical dependencies. Consumers are assisted in acquiring the social and behavioral skills necessary for living independently. Don Hartle stated that the Planning Commission asked that he discuss this issue with City Attorney Bruce Jorgensen. Mr. Hartle stated that because there were differences of opinion, he asked that Mr. Jorgensen be present at this meeting. Richard Knapp submitted a letter from his attorney dated January 23, 2013, and asked that copies be made available to the Planning Commission. Bruce Jorgensen stated that he has reviewed the zoning ordinance. He was involved in 2006 when Chapter 17 of the zoning ordinance was adopted. Mr. Jorgensen has read the application that was submitted in October, and the second application that was submitted in December. This facility is not a group home or a disabled facility. Mr. Jorgensen stated that in his opinion, this type of use is not allowed in the RPD zone. All uses are conditional. The code discusses single family dwellings and what they consist of. The family used to be defined as everyone is related. Then, the code was amended to state that the owner must reside in the home, and a caregiver could live in the home also. This code is not intended for people in dormitory-style living conditions. It is further expressed in Chapter 17 concerning disabled and elderly people. In the RPD zone, the City is required to allow this type of business in the RPD zone only if it is for disabled persons. No facility should exceed 12 persons in the RPD zone. There is a section that states how a facility like this can ask for an increase in the number of persons living at the facility. Section 10-17-6 titled "Limitation" acknowledges the need for other facilities, but there are some uses that are prohibited. Mr. Jorgensen stated that there are 3 solutions to this issue: 1) deny the request, 2) treat the facility as a facility for disabled people with the maximum number of 12 persons, or 3) amend the RPD zone to allow for rehabilitation/treatment facilities. Don Hartle asked how a facility would ask for an increase in the number of persons. Mr. Jorgensen stated that there is an application to accommodate more persons that would have to be filled out and submitted to the City Council. Ruth P. Maughan stated that 10-17-1 is a limiting factor. Mr. Jorgensen stated that this code allows low-profile facilities to live in a community. If a facility is a danger to the community, it can be banned, which addicts can be a danger to the community. Paul Egbert stated that the Planning Commission has been told that this facility is not coming into the city under the disability code. That is the first thing that is mentioned in the letter from their attorney. Mr. Jorgensen stated that he read that in the letter. Mr. Hartle stated that the letter from the attorney states that they can treat sex offenders, but they have said several times that they wouldn't treat sex offenders. Mr. Jorgensen stated that the definition that Attorney Norris is quoting is from the State of Utah's code for rehabilitation facilities. Mr. Jorgensen read from Chapter 17 of the Wellsville City's code. Mr. Egbert stated that by the definition of disabilities, this facility doesn't fall under the code. The same exclusion applies to treatment/rehabilitation facilities. Mr. Jorgensen stated that they are included in a broader definition. It is not allowed unless it is specifically in the code. Ms. Maughan stated that 10-2-1 defines a dwelling. Mr. Jorgensen read that definition. The definition for dwelling unit was also read. The uses allowed in the RPD zone are dwelling units. Mr. Jorgensen also read the definition of a family. Mr. Jorgensen stated that he is not saying this facility can't happen. The code needs to be modified in order for it to take place. Ms. Maughan stated that it is not an allowable use unless changes are made. Mr. Egbert asked if Sherwood Hills will pursue the application under the disability clause. Richard Knapp stated that if they are denied, they will apply under the disability code or amend the code. M. Kent Larsen stated that this facility has the potential to help many people with problems. The facility will have to come in under the disability clause or amend the code. Floyd Jensen, representing Mark Ballif, asked if he may make a comment. Mr. Spence allowed his comment. Mr. Jensen stated that he concurs with the opinion of City Attorney Bruce Jorgensen. There are some small legal points that Mr. Jensen discussed. This facility hasn't obtained a license from the State of Utah. A license from the State of Utah should be obtained before a business license is issued. A declaration of easement was filed with the Cache County Recorder's Office in 1998 that defines the uses of the property. It is an agreement between the property owners. Mr. Jensen stated that the general public is afraid of the type of facility that is being proposed. The Ballif's are concerned that this will spill over into their property and business of the golf course. Mr. Jensen stated that the Ballif's

are concerned about security of the facility. They are concerned for the safety of their employees. The Ballif's would like to continue to operate the golf course. If this type of facility is allowed, the golf course business will be closed. Mr. Jensen stated that he understood city government to uphold the code and to do what is in the best interest of the citizens. The Planning Commission shouldn't choose one business at the expense of another business. Mr. Jensen stated that the resort and golf course complement each other. The golf course is the only source of income for the Ballif's. The owner of the resort has multiple businesses and multiple sources of income. Mr. Jensen understands that the resort owner has had some financial difficulties with the resort. There are other possibilities that the resort owner could do than opening a facility like this. Mr. Hartle asked that Mr. Jensen fax a copy of the agreement that he referred to the Wellsville City. Mr. Spence stated that the responsibility of the Planning Commission is to uphold the code of Wellsville City. It is their responsibility to see that a project fits or doesn't fit within the code. This meeting is not a public hearing. Mr. Spence stated that he did allow a few people to speak to gather information. Mr. Egbert stated that he believes the only option is to not approve this facility because it is not allowed. Mr. Egbert stated that they could discuss amending the code. Ms. Maughan stated that there is no reason to discuss amending the code unless it is requested. Mr. Egbert stated that additional information from the declaration of easement may not make a difference because it is a personal agreement. After discussion, Paul Egbert made a motion, seconded by Ruth P. Maughan, that based on the current code the conditional use for a "Wellness Facility" at Sherwood Hills at 7877 South Highway 89/91 be denied.

YEA 4

NAY 0

Ruth P. Maughan
Paul Egbert
John Spence
M. Kent Larsen

Don Hartle stated that if Mr. Knapp, Mr. O'Reilly, and Mr. Jensen make an application to amend the code, he will ask that they work with City Attorney Bruce Jorgensen on the request and pass the attorney costs onto the applicant.

The Planning Commission held a workshop for possible adoption of Rules of Procedures for Planning Commission meetings. Don Hartle stated that he sent a rough draft of the document in their packets. Mr. Hartle handed out the first page of the code book they have each been given in the past. Mr. Hartle stated that this first page may clear up some concerns that have been stated. Mr. Hartle stated that the Planning Commission has the right to request that the code be amended. Paul Egbert stated that there is some benefit to repost rules of procedures so that people attending the meeting can know what is expected of them. M. Kent Larsen stated that there may be some rationale for the Mayor appointing the Chairperson. Mr. Larsen stated that he is comfortable with the Planning Commission selecting the Chairperson and the Vice Chairperson. Mr. Egbert asked what Mayor Bailey's opinion on this issue is. Mayor Thomas G. Bailey stated that Mayor Maughan selected Loyal Green as the Chairperson of the Planning Commission. Mayor Bailey stated that he thinks it has worked very well. Mayor Bailey stated that it gives the Chairperson the right to run the meeting how they want without being voted out next time. Mayor Bailey stated that the existing code would need to be amended to allow the Planning Commission to select a Chairperson. Ms. Maughan asked what the concerns were with the Chairperson. John Spence stated that Mr. Larsen was reviewing a pro-tem Chairperson on the internet, and began looking at what other Planning Commissions do. Mr. Larsen reviewed it further, and found that other Planning Commissions have a Vice Chairperson. Other Planning Commissions also vote on a Chairperson yearly. Mr. Larsen stated that he can't imagine anyone wanting to be the Chairperson year after year. By electing a Chairperson yearly, it gives others on the Planning Commission an opportunity to serve as Chairperson. It gives the Planning Commission new direction. It is refreshing to have a change periodically. Mr. Egbert asked if the Chairperson is reappointed every year. Mayor Bailey stated yes. Mayor Bailey stated that it is a good idea to change the Chairperson every two years. Ms. Maughan stated that the Chairperson can be changed every 2 or 3 years, but she feels that they should still be appointed by the Mayor. The Planning Commission can vote on a Vice Chairperson. Mayor Bailey stated that the advantage of setting the term is so that the Chairperson knows up front how long they will need to serve. Ms. Maughan suggested 2 years. Mr. Egbert stated that the code would need to be amended to say every 2 years instead of years. Mayor Bailey stated that it is still wise to appoint the Chairperson yearly, but did recommend a term of 2 years. Mr. Egbert stated that the code

should read an annual reappointment for a general 2-year term. Mr. Egbert asked about additional details for public hearings, such as time restraints. Mr. Larsen handed out copies of 3 different cities' rules that he liked. Mayor Bailey stated that the rules need to be written and hung on the wall. The rules should be reviewed at each public hearing. Mr. Larsen asked if the Planning Commission would review the 3 cities' rules that he liked and discuss at the next meeting. Mr. Hartle asked that the Planning Commission review all handouts. At the next meeting, select the content. At the second meeting in February, have the Rules of Procedures for Planning Commission meetings in final format to be approved. The Planning Commission agreed.

At 7:35 p.m., Paul Egbert made a motion, seconded by M. Kent Larsen, to adjourn the meeting.

YEA 4
Ruth P. Maughan
Paul Egbert
John Spence
M. Kent Larsen

NAY 0

John Spence
Chairman Pro-tem