

MINUTES of the regular **City Council** meeting of Wellsville City held **February 16, 2022**, at the Wellsville City Offices at 75 East Main. City officials present were Mayor Thomas G. Bailey; Councilwomen Kaylene Ames and Denise Lindsay; Councilmen Chad Poulsen and Austin Wood. Also present were City Planner Jay Nielson (via Zoom) and City Manager Scott Wells. A copy of the Notice and Agenda was mailed to the Mayor and Council members and emailed and faxed to the Herald Journal on February 11, 2022. The meeting was called to order at 6:00 p.m. by Mayor Thomas G. Bailey.

Councilman Bob Lindley was excused from this meeting.

Others Present:	Justin Bailey	Reed Bailey	Rhett Bailey
	Alyssa Bradshaw	Brock Bradshaw	Paul Clark
	Troy Hawker	Austin Leishman	Jerald Leishman
	Mason McBride	Vickie Orme	Troy Parker
	Megan Petersen	Linda Wursten	

Opening Ceremony: Councilman Chad Poulsen

The Council reviewed the agenda. **Councilman Chad Poulsen made a motion, seconded by Councilwoman Denise Lindsay, to approve the agenda as presented.**

<u>YEA 4</u>	<u>NAY 0</u>
Kaylene Ames	
Denise Lindsay	
Chad Poulsen	
Austin Wood	

The Council reviewed the minutes of the February 02, 2022 regular City Council meeting. **Councilwoman Kaylene Ames made a motion, seconded by Councilman Chad Poulsen, to approve the minutes of the February 02, 2022 regular City Council meeting.**

<u>YEA 4</u>	<u>NAY 0</u>
Kaylene Ames	
Denise Lindsay	
Chad Poulsen	
Austin Wood	

Payroll is approved through the budget, therefore, the checks approved in the City Council minutes are not in numerical order from City Council meeting to City Council meeting as the city uses the same checking account for payroll and accounts payable. After review and discussion, **Councilman Austin Wood made a motion, seconded by Councilman Chad Poulsen, to approve the City's account payables bills for payment, represented by check number 26735 through 26766.**

<u>YEA 4</u>	<u>NAY 0</u>
Kaylene Ames	
Denise Lindsay	
Chad Poulsen	
Austin Wood	

At 6:06 p.m., Mayor Thomas G. Bailey opened the meeting for citizen input. Vickie Orme asked the Council for consent to place a request for citizen input in the City Newsletter, for the upcoming Patriotic Program. The Council agreed and thanked Ms. Orme for her efforts. Fire Chief Jerald Leishman, and six other members of the Wellsville City Fire Department, thanked the City Council for the newly purchased SCBA "Air Packs". Chief Leishman expressed appreciation for the funding allocated for the air packs which have improved the safety of the department members. He stated the majority of neighboring fire departments have SCBA air packs which enables the departments work in synchronization. The Council thanked the department members for their service.

At 6:12 p.m., citizen input was closed.

The Council shall receive public input, then along with the recommendation from Planning Commission consider for approval an amendment to **Title 11, Chapter 1: "Variances, Exceptions and Waiver of Conditions"; Title 11, Chapter 2-1; and Title 10, Chapter 62: "Definitions and Words"**. City Planner Jay Nielson opened the discussion regarding granting exceptions for unbuildable lots in Wellsville City. He reported that on rare occasions lots are subdivided illegally with a *metes and bounds description* submitted to the County Recorder's Office, which the Recorder's Office is obligated to accept according to State Code. However, Wellsville City is also mandated by State Code to regulate the subdivision of land. He presented the scenario of a landowner splitting a lot at the Recorder's Office (without City input) and then selling the lot(s) to new owners. Unbeknownst to the new owner, they just purchased an illegal lot. Building is not permitted on illegal lots. Mr. Nielson is presenting this exception as a remedy to help nonparticipatory misled buyers overcome hardship circumstances as suggested by the Office of the Property Rights Ombudsman. The proposed exceptions allow lots to go through the subdivision process and have a final plat recorded as buildable. This will *not* circumvent the Code; the parcel still must have a buildable lot and adhere to all Subdivision Codes. The proposed exception is for misinformed property purchasers, not for sub-standard lot appeals. At 6:21 p.m., Mayor Thomas G. Bailey opened the public hearing. There was no public input. At 6:22 p.m., **Councilman Chad Poulsen made a motion, seconded by Councilwoman Kaylene Ames, to close the public hearing.**

YEA 4

Kaylene Ames
Denise Lindsay
Chad Poulsen
Austin Wood

NAY 0

Councilman Chad Poulsen recommended adding that the innocent party must demonstrate they have exercised due diligence attempting to resolve the property dispute with the previous owner. City Manager Scott Wells stated he would ensure the innocent buyer has exhausted all efforts with the seller prior to submitting the request to the Council. Mr. Nielson agreed to add further verbiage to the notarized affidavit section. **Councilman Chad Poulsen made a motion, seconded by Councilwoman Denise Lindsay, to add verbiage to the amendment concerning additional requirements for the requestor and to continue the discussion regarding an amendment to Title 11, Chapter 1: "Variances, Exceptions and Waiver of Conditions"; Title 11, Chapter 2-1; and Title 10, Chapter 62: "Definitions and Words".**

YEA 4

Kaylene Ames
Denise Lindsay
Chad Poulsen
Austin Wood

NAY 0

Mayor Thomas G. Bailey invited Brock and Alyssa Bradshaw to open the discussion regarding sidewalk located at approximately 160 West 600 South, Tax Id. #10-038-0002. The Bradshaw's plan to build a single home on the four-acre parcel. The lot is not being subdivided. Frontage sidewalk or paying a *fee in lieu* to the sidewalk fund is required by City Code for any new residential development. The Code has a subdivision rule and a given lot rule. The given lot rule reads that if you build a house on any legal lot, you build a sidewalk for the frontage of your property. The interpreted frontage of property on a corner lot is two-sided. Installing sidewalk on two sides of frontage for a four-acre parcel would be very expensive. At the October 20, 2021 City Council meeting the Council discussed if the Code should have a capped quantity of sidewalk to be required of large acreage properties as to not overburden the citizens. Ms. Bradshaw asked the Council if they had made a decision regarding a minimum requirement for sidewalk on large acreages. Mayor Thomas G. Bailey first asked where on the property they plan to build their home. The Bradshaw's presented a site plan. The driveway will connect to 600 South near the center of the property. The home will face 200 West.

City Manager Scott Wells reminded the Council that at the October meeting City Engineer Chris Breinholt had stated a common way of dealing with large lots is using a portion for the home and leaving the rest as a remainder parcel or remainder pasture. In that case, municipalities typically have different sidewalk requirements for remainder parcels. The remainder parcel is not a buildable lot and doesn't require infrastructure. Mr. Breinholt said the amount of remaining property determines if the property can be considered a remainder. A parcel only big enough for a single lot cannot be declared a remainder parcel. Mr. Wells pointed out current City Code does not address remainder parcels. If remainder parcels were added to City Code, the Bradshaw's would have to go through the subdivision process in order to split the remainder lot from the building lot. In this scenario, sidewalk would only be required on the frontage of the building lot. Mr. Bradshaw noted that this property is zoned for quarter-acre lots. He suggested only requiring sidewalk along the frontage of a quarter-acre. Mr. Wells stated that would not work as a minimum because many of the lots within the City are larger than a quarter-acre. Councilwoman Denise Lindsay reminded the Council that frontage of property on a corner lot is considered two-sided. Ms. Bradshaw said she considered 600 South as their frontage which the driveway will connect to. Councilman Chad Poulsen mentioned that the Code reads "street frontage" rather than frontage of the house. The Bradshaw's stated the property will be kept as farm ground except for where he builds his home. Mr. Bradshaw estimated the farm ground will not be subdivided for at least ten years. Mr. Wells asked the Council if they would like to pursue remainder parcels. Councilman Austin Wood stated he hates overburdening residents with sidewalk requirements and limits should be placed on the amount of required sidewalk. Ms. Lindsay suggested limiting sidewalk to *street frontage* on corner lots in extenuating large acreage circumstances such as this. She emphasized that whatever decision is made should be consistent for all residents. Mr. Wood asked what the length of frontage along 600 South is. Mr. Bradshaw estimated 500-feet. Mr. Wells reiterated the importance of maintaining consistency for residents. The Council discussed previous sidewalk decisions involving Austin Wood, Martee Parker, Daniel Coleman, and Andrew Stokes. Ms. Lindsay asked the Bradshaw's if they allowed them to only place sidewalk on a single frontage, due to the extenuating size of the lot, which frontage would they prefer. Ms. Bradshaw replied 200 West and pointed out 200 West is the shorter frontage. Mayor Bailey stated sidewalk should be placed on street frontage which would be 600 South. Councilwoman Kaylene Ames observed that sidewalk on either frontage would not connect to any other sidewalk. Mr. Wells said it is the City's responsibility to connect sidewalks. Mr. Bradshaw stated he was concerned about the ditch at the east end of 600 South. He said he does not want to be held liable for a child injured riding a bike into the ditch. Mayor Bailey responded that sidewalk is turned over to the City as soon as it is constructed. Liability would fall on the City. Mr. Poulsen said that 600 South is a good street to have sidewalk on to connect to the church and Wellsville Reservoir. Mr. Wood asked how long the current sidewalk ordinance has been in effect and how many corner lots have built sidewalk in that time. Mr. Wells replied that the existing sidewalk ordinance was created in 2019 and there was only a single corner lot which has built sidewalk under the current ordinance. Mr. Poulsen pointed out this possible exception would be due to the excessive footage, which would not apply to the previous 0.28-acre corner lot which the ordinance required to have sidewalk.

Mr. Poulsen asked the Bradshaw's what they had envisioned for sidewalk and if they were in favor of creating a remainder parcel. Ms. Bradshaw answered they hoped to place sidewalk directly in front of their house on 600 South rather than all of the frontage along 600 South. She stated to create a remainder parcel would require them to go through the entire subdivision process including sidewalk, curb, and gutter. They would prefer not to go through the subdivision process. Mr. Wells mentioned that residents are frustrated with sidewalks which lead to nowhere. He stated the City has a responsibility to connect sidewalks and would continue the sidewalk from the Bradshaw's property to 100 West. He noted the sidewalk along the ditch would most likely require a railing. Ms. Lindsay hopes the Church of Jesus Christ of Latter-day Saints would continue the sidewalk along their property east of 100 West. If so, the City could connect the sidewalk to Center Street. Mr. Wells stressed building and connecting the proposed sidewalks concurrently. Mr. Poulsen suggested bridging the span over the ditch. Mr. Wells and Mayor Bailey expect a bridge would be too costly. Mayor Bailey stated that if the Council were to require both frontages to have sidewalk, they are likely to be damaged over time and then it would be the City's responsibility to replace them when the property is subdivided ten to twenty years in the future. Requiring the Bradshaw's to do sidewalk on only a portion of 600 South was discussed. The Council determined portions are impossible to be consistent with in the future. Ms. Ames stated sidewalk along 600 South will help connect Wellsville Reservoir to the Murray trailhead one day. Mayor Bailey restated that he believes sidewalk along the two-

sided frontage of four-acres is much too big of a burden. The Council agreed upon requiring the Bradshaw's to place sidewalk only along 600 South. Ms. Lindsay stated she would like to allocate funds from the Sidewalk Fund to continuing the sidewalks from 200 West to Center Street. Following the discussion, **Councilwoman Denise Lindsay made a motion, seconded by Councilwoman Kaylene Ames, to allow an exception due to the large acreage, for Brock and Alyssa Bradshaw's property at approximately 160 West 600 South, Tax Id. #10-038-0002 and to require sidewalk on a single frontage, from property line to property line along 600 South (which is deemed the frontage).**

YEA 4

NAY 0

Kaylene Ames
Denise Lindsay
Chad Poulsen
Austin Wood

City Manager Scott Wells discussed the second quarter financial report for November 2021. Mr. Wells reviewed revenues and expenses. After discussion, **Councilwoman Denise Lindsay made a motion, seconded by Councilman Austin Wood, to approve the second quarter financial report for November 2021.**

YEA 4

NAY 0

Kaylene Ames
Denise Lindsay
Chad Poulsen
Austin Wood

City Manager Scott Wells shared a project report with the Council. Mr. Wells noted that the Council had been surprised when a resident asked about a proposed commercial development at the previous meeting. City Planner Jay Nielson was the only one familiar with the proposed project. Mr. Wells stated this is typical of the process. Mr. Nielson's **Public Disclosure of Pre-application Information** reads, *"The Mayor and City Council employs a city manager to do its work in meeting the daily operational needs of the city. Alone, he responds to scores and scores of conversations with citizens, property owners, developers, realtors, and other parties that are trying to do something with property within the city... He employs professionals to assist him in his voluminous tasks. He refers technical questions to the City Engineer and the City Planner to find solutions. We all do our best to meet the needs of the public and property interests... Recently some concern was expressed that the Mayor and City Council is not properly informed about pending development projects. It seemed that there was a greater concern that the public should be more informed about everything that is under consideration by the city... However, proposals that are still in the preapplication stages, preparing for formal submittal, should not be reported in a public forum... City staff has an obligation to hold conversations about private property rights in confidence with the owners who initiate them. The public's right to know begins when someone makes an application that requires public notice and/or public hearings. This is an important procedural practice in order to protect property owners from unfair competition or unfair advantage taken by others... The city manager and his employee are pleased to fully update elected officials, privately, on any matter that they want to know about. Obviously it is our obligation. However the same obligation does not exist when it comes to informing the public about proposals that have not yet made application. To do so would be loaded with speculation, inaccuracies, and presumptions because the intentions of the property owner are never fully known until submission of an application. This then suggests that presentations in public meetings, about projects that are "in-the-mill," should only include those projects that have made formal applications."* Councilman Chad Poulsen stated he wants to know about projects as soon as Mr. Wells is aware of them. He said the public asks him about developments prior to his knowledge of them. Mr. Wells responded that discussing a project before it has been through the proper legal process is a misuse of public trust and adds to public clamor rather than minimizes it.

An application has been submitted for Castle Country RV; for a proposed commercial development at approximately 4300 South on Hwy 89/91. A road will run between the proposed Castle Country RV property and the proposed Pallets of Utah property. The Pallets of Utah application is still under review by the City Engineer. An easement is being pursued for a lift station to pump sewer back to 400 North.

A single shed, with 30-parking stalls, is proposed across from Sharp's Trucking (approximately 400 North 900 East) and will house Infuze Hydration and a wholesale tire company.

The design review process is beginning for Wellsville Grocery, a proposed grocery store and gas station with 25-30 parking stalls on Loyal Green's property along 900 East.

Details are coming together for a Specific Plan for Sardinz (approximately 700 East Main Street), which is proposing a grocery store, hardware store, two restaurants, a food truck lot, 72-apartment units, and 64-townhouse units.

Mayor Thomas G. Bailey stated additional information regarding the proposed pressurized irrigation system will be presented at the next two Council meetings. Estimates will be provided.

City Manager Scott Wells conducted the Separation of Duties for Municipal Officials Open Meeting Training 2022. Separation of duties is a required internal control which ensures clerks and treasurers duties are separate. Separating payment authorization, record keeping, and money custody reduces fraud risk and protects employees. The clerk and treasurer should always be independent and not supervise each other so neither can override the control. The purpose of separation of duties between the clerk and the treasurer is to prevent the unchecked access of any senior person the financial assets of the entity.

Department Reports:

Denise Lindsay-

1) No business or concerns at this time.

Chad Poulsen-

1) No business or concerns at this time.

Mayor Thomas G. Bailey-

1) No business or concerns at this time.

Kaylene Ames-

1) Discussed providing a response to an opening ceremony request. Denise Lindsay recommended the opening ceremony given by a non-elected official may only be given in person at Council meetings. Chad Poulsen agreed the individual should be present at the meeting, he also suggested they be a Wellsville resident. The collective Council agreed the opening ceremony did not need to be a prayer. Ms. Ames prepares thoughtful insights for her opening ceremony. Austin Wood stated that his caveat is that the opening ceremony must be uplifting. Mr. Poulsen agreed the opening ceremony must be family friendly. Linda Wursten suggested opening ceremonies be limited to five minutes or less.

Austin Wood-

1) Suggested facilitating a workshop between the DWR representatives and the Bridle Path Estates Subdivision developers. Mr. Wood hopes DWR and the development team can collaborate to protect wildlife. Reeve & Associates, Inc. may not be present again until after building moratorium is concluded. The elevation for the building moratorium was determined based on how far the water can be pushed uphill from the gravel pit and still provide fire protection. Paul Freed's development is right on the edge of that elevation. A booster pump may be used to increase pressure for fire protection until the moratorium is lifted. Or Paul Freed may make a payment towards the new well equal to the cost of the booster pump.

City Manager/Recorder's Report:

1) Working to finalize a location for a new well. Previous discussion proposed the new well be located at Lindley tank. Winter access to that location is difficult. Further discussion is needed.

At 8:06 p.m., Councilman Austin Wood made a motion, seconded by Councilman Chad Poulsen, to adjourn the meeting.

YEA 4

Kaylene Ames
Denise Lindsay
Chad Poulsen
Austin Wood

NAY 0



Thomas G. Bailey
Mayor



Scott Wells
City Manager