

MINUTES of the regular **City Council** meeting of Wellsville City held **March 02, 2022**, at the Wellsville City Offices at 75 East Main. City officials present were Mayor Thomas G. Bailey; Councilwoman Kaylene Ames; Councilmen Bob Lindley and Chad Poulsen. 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 25, 2022. The meeting was called to order at 6:00 p.m. by Mayor Thomas G. Bailey.

Councilman Austin Wood was excused from this meeting.

Others Present:	Chad Brown	David Chase	Clay Isom
	Clint Kerr	M. Kent Larsen	Kirt Lindley
	Brok Nelson	Kurt Petersen	Megan Petersen
	Art Smith	Kamee Summers	Kassi Summers
	McCoy Summers	Rob Summers	Tyler Withers
	Linda Wursten		

Opening Ceremony: Councilman Bob Lindley

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

<u>YEA 3</u>	<u>NAY 0</u>
Kaylene Ames	
Bob Lindley	
Chad Poulsen	

The Council reviewed the minutes of the February 16, 2022 regular City Council meeting. **Councilman Chad Poulsen made a motion, seconded by Councilwoman Kaylene Ames, to approve the minutes of the February 16, 2022 regular City Council meeting.**

<u>YEA 3</u>	<u>NAY 0</u>
Kaylene Ames	
Bob Lindley	
Chad Poulsen	

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 Bob Lindley made a motion, seconded by Councilman Chad Poulsen, to approve the City's account payables bills for payment, represented by check number 26773 through 26800.**

<u>YEA 3</u>	<u>NAY 0</u>
Kaylene Ames	
Bob Lindley	
Chad Poulsen	

At 6:07 p.m., Mayor Thomas G. Bailey opened the meeting for citizen input. There was no citizen input. At 6:08 p.m., citizen input was closed.

Beginning at 6:09 p.m., along with the recommendation from the Planning Commission, the City Council shall consider for possible approval the final plan for the Summers-Hall Subdivision consisting of two lots total, located at approximately 309 North Center, Tax Id. #11-079-0013. Rob Summers stated City Engineer Chris Breinholt's notes have been addressed by himself and Foresight Land Surveying. After discussion, **Commissioner Chad Poulsen made a motion, seconded by Commissioner Bob Lindley, to approve the final plan for the Summers-Hall Subdivision consisting of two lots total, located at approximately 309 North Center, Tax Id. #11-079-0013.**

Kaylene Ames
Bob Lindley
Chad Poulsen

Chad Brown of Franson Engineering met with the City Council to present the proposed pressurized water system for the Wellsville Irrigation Company. Mr. Brown and Tyler Withers have been working with Mayor Thomas G. Bailey and City Manager Scott Wells to obtain funding for a secondary irrigation system. Funding for a PL-566 watershed project grant has been received. The PL-566 grant authorizes the USDA Natural Resources Conservation Service (NRCS) to help local organizations and units of government plan and implement watershed projects. A PL-566 grant must benefit agriculture. It is Wellsville's rural nature which enabled the City to qualify for the PL-566 grant. Wellsville City is also working with Wellsville Irrigation Company, Cache County, Mendon City, Wellsville-Mendon Conservation District, and Cache Water District for the greater Wellsville-Mendon Plan. Mr. Brown stated they are currently evaluating the Watershed Environmental Assessment to meet appropriate requirements for funding. Thirty-percent of the design has been completed for Wellsville City's secondary irrigation system. Mr. Brown stated pipelines will be placed to deliver water to agricultural users within the project boundary. The system would run through pipelines along every street in Wellsville City to deliver secondary water to each resident. The project boundary includes some future annexation areas planned for Wellsville City. Mr. Brown clarified there are four water sources for the Wellsville-Mendon System; the upper and lower canals (owned by Wellsville-Mendon Conservation District), Wellsville Reservoir, and Murray Springs. The project boundary includes four zones: the Upper Zone, Lower Zone, South Zone, and Red Slide Zone. The South Zone and Red Slide Zone are higher in elevation than the upper canal of the Wellsville-Mendon system. These two zones will require booster pumps. The water rights within the upper and lower canals do *not* allow water above the upper canal. According to the water rights database, the water rights and the service area of the water rights of Wellsville Reservoir and Murray springs *could* be used to supply water to the South Zone and Red Slide Zone.

Mr. Brown presented the two proposed scenarios for the pressurized system. Regulating ponds will help maintain pressure which must stay within the range of 45-100 PSI. Scenario 1 contains two regulating ponds. An Upper Reservoir will provide water to the Upper Zone, Red Slide Zone, and South Zone. A Lower Reservoir will provide water to the Lower Zone. The Lower Reservoir will be matched in elevation with the Upper Canal allowing water to gravity feed to the Lower Zone. Scenario 2 does not include a Lower Reservoir. Water from Wellsville Reservoir will be pumped to the Lower Zone. Each scenario also includes pump stations at Wellsville Reservoir and the Lower Canal. The Upper Reservoir would require 20-acre feet of water, with a 5 to 5.5-acre footprint. A Lower Reservoir wouldn't require quite as many acre feet of water, with a 5 to 5.5-acre footprint. Mr. Brown stated there are pros and cons to each scenario. He estimated Scenario 1 would have the highest upfront capital expense (building two reservoirs), but the lowest overall expense. Data has projected that the pumping costs of Scenario 2 will exceed the upfront capital of Scenario 1 by 2025. Scenario 2 is expected to be the costliest long-term. Mr. Brown hopes the Environmental Assessment will be completed by the end of this year. A Finding of No Significant Impact (FONSI) will determine which scenario is the best alternative.

City Councilwoman Denise Lindsay arrived.

Multiple piping options have been explored. Pricing estimates have a 20-25% contingency as prices continue to rise. With that contingency, Mr. Brown is estimating \$20-\$30 per month, per connection/user. The PL-566 watershed project grant will cover 75% of the needed funding.

Mayor Bailey stated Wellsville City has 1,100-acre feet of water rights and Wellsville Irrigation Company has 600-acre feet of water rights, not including Wellsville Reservoir or Murray Springs. Mr. Brown noted water from Wellsville Reservoir and Murray Springs will be used more during the early and late seasons when water isn't supplied to the canals.

Mr. Brown has researched Wellsville City's water usage reports from 2012-2021. He presented graphs showing the increased demand on the culinary system during peak summer months. Mr. Brown stated

providing secondary water to additional residents through a pressurized secondary water system would decrease the summer demand on the culinary system which corresponds to lower summer culinary water bills for residents. City Councilman Chad Poulsen noted pumping culinary water from City wells costs around \$12,000 per month during the summer. He asked how that price compares to the proposed secondary system during peak summer months. Mr. Brown replied that a full financial projection is still under calculation.

Councilwoman Denise Lindsay asked if the estimated monthly rate of \$20-\$30 was per household. Mr. Brown answered per connection. He added the finer details of compensation between those with and without water shares have yet to be worked out. Ms. Lindsay noted the intense backlash the City received when garbage fees were increased \$3.00. She pointed out \$20.00 is a lot of money. Mr. Brown referred back to the graph and projected that high culinary water overage charges during peak summer months will exceed that of a monthly \$20 secondary water bill. Mr. Brown has spoken with residents whose culinary water bill increases \$250-\$300 in order to irrigate during the summer. Ms. Lindsay questioned what happens if a resident doesn't want to pay an additional \$20 monthly to have secondary water. Mr. Brown explained the monthly rate has been estimated with everyone joining the pressurized secondary system. Without everyone joining the system the monthly rate grows more costly per connection. Councilman Bob Lindley asked if initial hookup fees are included in the monthly rate. Mr. Brown answered the initial connection; valves, meters, and stubs are all included in the monthly rate. Other options are available; for instance, a one-time \$2,000 hookup fee could be charged, and that amount taken out of the loan total.

Mr. Lindley restated that canal water cannot be used above the upper canal. He asked how those water rights would be monitored if the water from each source all runs through the same system. Mr. Brown answered water from each source will require thorough metering. Data indicates there is enough water from Wellsville Reservoir and Murray Springs to service Red Slide Zone and South Zone. He noted there are certain scenarios where there are exceptions to canal company rules. Wellsville Ranches Subdivision pumps water up from the upper canal. Mr. Poulsen asked if there are plans to services areas outside the four redlined zones. Mr. Brown answered the system is sized for what is inside the redlined zones. Further growth outside the redlined zones will have to be addressed through the subdivision process with water shares and infrastructure evaluated. Additional reservoirs may be required as Wellsville City expands. Mr. Poulsen asked how much growth Mr. Brown expects an average year's water supply can accommodate in addition to existing households. He replied that is still under examination and unknown at this time.

Ms. Lindsay asked if the monthly rate covers the 25% the PL-566 watershed grant does not cover. Mr. Brown affirmed. Ms. Lindsay asked if additional grants could be obtained. Mr. Brown answered Federal funding was capped with the PL-566 watershed project grant. Any additional grants must be State funded. Large agricultural users and parcels will be metered along with every household. Mr. Brown emphasized that metering water allows homeowners to actually know how much water they are using, which changes behavior. He stated metering will improve individual water conservation. Watermaster Kirt Lindley and Mr. Brown said Cache Water District is serving as the sponsor of the project. The other organizations are co-sponsors. Mr. Brown hopes the canal will be piped in the future, but it will not be piped at this time. **Councilman Chad Poulsen made a motion, seconded by Bob Lindley, to continue planning the proposed pressurized water system for the Wellsville Irrigation Company.**

YEA 4

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

NAY 0

City Manager Scott Wells opened the discussion regarding amending **Title 10, Chapter 15, Table 10-15, "Residential Site Development Standards,"** setback standards for accessory buildings with a height greater than twelve-feet. Previously, buildings with heights taller than twelve-feet were required to have rear and side yard setbacks equal to building height. It is now proposed that buildings taller than twelve-feet have rear and side yard setbacks equal to one-half the building height. The **Land Use Regulations Table 10.15.020** now reads, *"Side yard if building height is greater than 12', setback shall be at least one-*

half the building height. Building height is measured from grade to mid-point of roof height." The Planning Commission determined setbacks for lean-tos off accessory buildings should be based on the lower elevation. If the lean-to's lower elevation is less than twelve-feet, the setback would fall under **Land Use Regulations Table 10.15.020 "Side yard if building height is 12' or less"** which is two-feet in the RSF zone. If the lean-to's lower elevation is above twelve-feet, the setback of one-half the building height still applies. After discussion, **Councilwoman Denise Lindsay made a motion, seconded by Councilman Chad Poulsen, to approve Code Amendment 2022-01, amending Title 10, Chapter 15, Table 10-15, "Residential Site Development Standards," setback standards for accessory buildings with a height greater than 12-feet.**

YEA 4

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

NAY 0

City Manager Scott Wells then opened the discussion regarding amending **Title 10, Chapter 44-2, titled "Fences, Walls, and Retaining Walls."** The proposed ordinance reads, *"...the City Council understands that new fencing products are available and new standards for types of fences will enhance the city..."* Amended **10-44-2: Fences and Walls, A. 1. A.** reads, *"The height of fences located within the front yard setback: 1) Solid fences or fences that are less than 50% open shall have a height of no more than three (3) feet. 2) Fences that have openings that are 50% or greater shall not exceed four (4) feet."* A standard four-foot tall, three-rail, vinyl fence is 60% open. Chain link fencing continues to be prohibited in the front yard between the front property line and the front of the dwelling or building. Mr. Wells discussed amending twelve-foot setbacks for six-foot tall side yard fencing on corner lots. The proposed amendment **10-44-2: Fences and Walls 3. A. 2.** reads, *"The property lines fronting any other street or streets that are not declared as the "front" may be fenced with the following options: A fence allowed in the front yard may be constructed along the property line, or a six-foot high fence may be constructed on the property line provided that any portion of the fence located within the site distance triangle (see 10.62 and 10.38.8D) is reduced in height as allowed within the front yard."* Councilman Bob Lindley stated he prefers the safeguard provided by twelve-foot setbacks for six-foot tall side yard fencing on corner lots. After discussion, **Councilman Chad Poulsen made a motion, seconded by Councilwoman Kaylene Ames, to approve Code Amendment 2022-2, amending Title 10, Chapter 44-2, titled "Fences, Walls, and Retaining Walls."**

YEA 3

Kaylene Ames
Denise Lindsay
Chad Poulsen

NAY 1

Bob Lindley

The Council then considered for approval amendments 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 Manager Scott Wells stated 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 County 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. This exception has been presented as a remedy to help non-participatory 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. All dimensional subdivision standards must be met. At a previous City Council meeting, 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 Planner Jay Nielson added further verbiage to the **11-1-12: Variances, Exceptions and Waiver of Conditions: B. Granting an exception for an unbuildable lot.**

2.b. *"At a minimum, the owner shall submit a notarized affidavit confirming the claim that the current owner had no knowledge and/or involvement with the creation of the illegal lot. The applicant shall also include, in the affidavit, evidence that all **reasonable** efforts have been exhausted to cause the person or parties that created the lot to participate in completing a legal subdivision making both lots buildable."* How the Council will determine that a new owner has fully exhausted all efforts to resolve the property dispute with the previous owner will require judgement calls. Mayor Thomas G. Bailey stated he believes it is *not* the City Council's responsibility to resolve private land disputes. Councilwoman Kaylene Ames and Councilman Chad Poulsen agreed. Mr. Poulsen reported that the Planning Commission struggled with how they would determine that a new owner has fully exhausted all efforts to resolve the property dispute with the previous owner. Does exhausting all efforts mean taking the previous owner to legal court? However, the Planning Commission did recommend approval of this amendment to the Council. Councilman Bob Lindley and Mr. Wells determined that an illegal lot is a parcel which has been granted a new tax identification number *without* proceeding through the City subdivision process. Mr. Poulsen is concerned this exception may perpetuate bad behavior from property sellers attempting to circumvent the subdivision process. Mr. Wells repeated that this exception has been presented as a remedy to help non-participatory misled buyers overcome hardship circumstances. The City is able to add a *notice of violation* upon an illegal lot which should alert title companies and protect an innocent buyer in the future. Mr. Lindley asked why this amendment is being considered. City Manager Scott Wells answered that the Council will soon see an application in which a misled buyer purchased an illegal lot. **Councilwoman Kaylene Ames made a motion, seconded by Councilman Bob Lindley, to continue the discussion regarding the proposed amendment 2022-03, amending 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

NAY 0

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

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

YEA 4

NAY 0

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

City Manager Scott Wells conducted the Fraud Triangle for Municipal Officials Open Meeting Training 2022. Opportunity, pressure, and rationalization are the three components of the fraud triangle. Removal of one or more components of the fraud triangle acts as a deterrent to fraudulent activity. Opportunity for fraud may be minimized by separating duties. Management has the greatest ability to influence the opportunity component of the fraud triangle. Opportunity must be present for fraud to occur. "I'll pay it back" and "they don't recognize my value" are both elements of rationalization.

Mayor Thomas G. Bailey introduced the Executive Session to discuss the purchase, sale, exchange, or lease of real property. At 7:40 p.m., **Councilwoman Kaylene Ames made a motion, seconded by Councilman Bob Lindley, to adjourn into a closed session to discuss the purchase, sale, exchange, or lease of real property.**

YEA 4

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

NAY 0

EXECUTIVE SESSION:

Those present in the closed session were: Mayor Thomas G. Bailey; Councilmembers Kaylene Ames, Bob Lindley, Denise Lindsay, Chad Poulsen; City Manager Scott Wells; and Minute Recorder Megan Petersen.

The closed session was digitally recorded and saved as "Closed Session – City Council Meeting 03/02/2022".

At 8:12 p.m., **Councilman Chad Poulsen, seconded by Councilman Bob Lindley, made a motion to reconvene into an open session.**

YEA 4

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

NAY 0

OPEN SESSION:

Councilman Bob Lindley made a motion, seconded by Councilman Chad Poulsen, to authorize City Manager Scott Wells to proceed with a contract to purchase one-acre of a parcel located at approximately 400 North 300 East, Tax Id. #11-086-0038 currently owned by the Arlyn M. and LaDaun G. Brenchley TRS with the stipulations discussed.

YEA 4

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

NAY 0

Councilman Bob Lindley made a motion, seconded by Councilman Chad Poulsen, to authorize City Manager Scott Wells to continue price negotiations to purchase 0.41-acres located at approximately 50 North Center, Tax Id #10-021-0004 currently owned by Long Pockets LLC.

YEA 4

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

NAY 0

Department Reports:

Denise Lindsay-

- 1) Has received inquiries regarding a fireworks display for the Founders' Day Celebration.

Chad Poulsen-

- 1) Contract negotiations are upcoming with Cache County Sheriff's Department for the yearly law enforcement contract.
- 2) Planning Commission approved a lot line adjustment for Lynn Leishman and Kim Egbert at property located at 130 South 300 East, Tax Id. #10-014-0034 and Tax Id. #10-014-0059.

Mayor Thomas G. Bailey-

- 1) In approximately two years, Logan City will terminate solid waste service for Wellsville City. Cache County is exploring options for solid waste to be hauled away by a private enterprise.
- 2) The State is in the process of selecting a new judge for Wellsville City. Four candidates will be interviewed for the position. A committee will be formed to evaluate the candidates.

Kaylene Ames-

- 1) Arbor Day is April 29th. The Council discussed whom to honor by dedicating a new tree.
- 2) Areas in need of tree trimming discussed.

Bob Lindley-

- 1) Baseball and softball signups have begun.
- 2) Speakers for Memorial Day Veterans Program considered.
- 3) RAPZ tax application due.

City Manager/Recorder's Report:

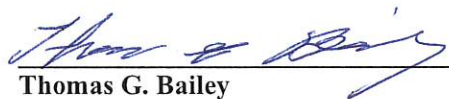
- 1) Wellsville City decals will be added to City vehicles.
- 2) New city truck acquired from truck lease program. Another truck to be leased in July for public works employees.
- 3) Surplus city vehicles to be auctioned according to State law by a private auction company.
- 4) Budget sheets to be distributed next week.
- 5) Pickleball courts construction tentatively planned for this year.

At 8:38 p.m., **Councilman Chad Poulsen made a motion, seconded by Councilman Bob Lindley, to adjourn the meeting.**

YEA 4

Kaylene Ames
Bob Lindley
Denise Lindsay
Chad Poulsen

NAY 0



Thomas G. Bailey
Mayor



Scott Wells
City Manager