

MINUTES of the regular **City Council** meeting of Wellsville City held **July 20, 2022**, at the Wellsville City Offices at 75 East Main. City officials present were Mayor Thomas G. Bailey; Councilwoman Denise Lindsay; Councilmen Chad Poulsen and Austin Wood. Also present were City Engineer Chris Breinholt, City Planner Jay Nielson, 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 July 15, 2022. The meeting was called to order at 6:00 p.m. by Mayor Thomas G. Bailey.

Councilwoman Kaylene Ames and Councilman Bob Lindley were excused from this meeting.

Others Present:	Mark Baldwin	Tyler Baldwin	Chris Clark
	Tina Davis	Jim Hall	Shari Hall
	Troy Hawker	Kim Nelson	Reed Nelson
	Ben Nielson	Jared Nielson	Anna Owen
	David Owen	Kurt Petersen	Megan Petersen
	Shania Peterson	Dan Pond	Kim Pond
	Jason Spahr	Tanner Spillman	Rebekah Wakefield
	Sam Winward	Linda Wursten	

Opening Ceremony: Mayor Thomas G. Bailey

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

<u>YEA 3</u>	<u>NAY 0</u>
Denise Lindsay	
Chad Poulsen	
Austin Wood	

The Council reviewed the minutes of the July 06, 2022 regular City Council meeting. **Councilwoman Denise Lindsay made a motion, seconded by Councilman Austin Wood, to approve the minutes of the July 06, 2022 regular City Council meeting.**

<u>YEA 3</u>	<u>NAY 0</u>
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, **Councilwoman Denise Lindsay made a motion, seconded by Councilman Chad Poulsen, to approve the City's account payables bills for payment, represented by check number 27215 through 27254.**

<u>YEA 3</u>	<u>NAY 0</u>
Denise Lindsay	
Chad Poulsen	
Austin Wood	

At 6:07 p.m., Mayor Thomas G. Bailey opened the meeting for citizen input. Mayor Bailey presented a painting donated to Wellsville City by Eve Maughan, who just turned 99-years old. Ms. Maughan plans to write a history to accompany the painting. Mayor Bailey expressed gratitude for Ms. Maughan's donation. At 6:08 p.m., citizen input was closed.

Beginning at 6:10 p.m., the City Council shall receive public input, then along with input from the Planning Commission consider a request from Mark Baldwin to amend the **General Plan** and change the zoning, from **ROS-1 (Residential Open Space- 1-Acre)** to **RSF (Residential Single Family- 12,000-Square Feet)**

at property located at approximately 15 South 450 East (Tax Id. #10-014-0052). Mark Baldwin's daughter, Kimberly Baldwin Pond, presented the rezone request. Ms. Pond's parents have owned the 1.43-acre parcel for 53-years and would like to split the southernmost 0.7-acre, along with 82.5-feet of frontage, from the existing lot. She noted they are still requesting a variance despite opposition from neighboring property owners which was shared at the July 13, 2022 Planning Commission meeting. Ms. Pond stated she believes two 0.7-acre lots will still conform to the existing neighborhood. She pointed out the parcel directly north of the Baldwin's is only 0.35-acres (Tax Id. #10-014-0102). Ms. Pond said her parents have had a lot of interest over the years from neighbors and other Wellsville citizens who would like to purchase the lot. She stated Mr. Baldwin hopes to sell the property to someone who will truly value the property. She thanked the Council for their consideration.

At 6:14 p.m., Mayor Thomas G. Bailey opened the public hearing.

Reed Nelson neighbors the Baldwin property. He recommended the Council reject the rezone request. Mr. Nelson reported that when he was a member of the Planning Commission that area's zoning was intended for sparse housing. He added that was a factor when he purchased property and built his home in this neighborhood. Mr. Nelson told the Council he built his home in the middle of his lot, never anticipating or intending to split his acreage. Mr. Nelson expressed concern that rezoning the proposed property to RSF would allow the entire neighborhood to split parcels into smaller acreage. He noted 450 East is a narrow street and believes low density housing is a better fit for that area.

Neighbor Kim Nelson read written statements from fellow neighbors Mitchell and Molly Maughan (see Attachment #1) and Seth and Melanie Francis (see Attachment #2). The Maughan and Francis families each opposed any rezone which would allow parcels smaller than one-acre.

Anna Owen also neighbors the Baldwin property. Ms. Owen told the Council that she purposely bought her property in this area because of the low density housing, larger lots, and open country feel. She asked the Council to reject the RSF rezone request.

Neighbor David Owen seconded that he and Ms. Owen purchased their property because of the low density housing. He said he would support the Baldwin's splitting the lot *if* each lot could conform to the existing one-acre density. Mr. Owen asked the Council to reject the RSF rezone request.

Dan Pond, Mr. Baldwin's son-in-law, stated he feels two 0.7-acre lots fit subjectively with the existing neighborhood. He said that a home on the proposed new parcel would have the Code required 82.5-feet of frontage, which is substantially more than the existing home across the street. Mr. Pond told the Council Mr. Baldwin had owned his property for over 50-years and had always intended to sell the southern portion of the lot for a retirement asset or pass the property down to posterity. Mr. Pond said the Baldwins were "sideswiped by the zoning change to one-acre density." He asked the Council if there is an alternative for a variance for this parcel, something less disruptive than rezoning to RSF. Mr. Pond said he believes developing a single family home on that open acreage is the best use of the property rather than a weed patch. He concluded by asking the Council to consider the best use of that open acreage.

Kim Nelson told the Council the Baldwin's open acreage has never been an eyesore or fire hazard because alfalfa has always been farmed there. She reported the Burningham family has farmed the property for at least eight years. She reported Bruce and Vicky Gates, located at 169 S. 450 E. (Tax Id. #10-014-0066), had previously attempted to split their parcel into two lots. The Council denied the Gates request because the parcel was only 1.01-acre and could not be split into two lots and meet the one-acre density requirement. Ms. Nelson expressed concern that rezoning the proposed property to RSF will allow the entire neighborhood to split parcels into smaller acreage. She stated the large acreages and low density housing was why they had moved to the neighborhood. She concluded that ROS-1 zoning requires a minimum of one-acre for a building lot and asked what purpose the ROS-1 zoning serves if anyone can come along and change it.

Kim Pond stated her parents had the first home in this neighborhood and haven't fought any of their

neighbor's development as they have built homes around them. She said that before the Baldwin's open property was farmed it was a weed patch. Ms. Pond said the Burningham's request to the Planning Commission at the July 13, 2022 Planning Commission meeting was a conflict of interest because the Burningshams farm the Baldwin's open property and store equipment there free of charge. She asked those present to give her parents the same respect they gave their neighbors as they developed.

David Owen stated it was inappropriate for Ms. Pond to question the Burningham's motives especially since they are not present to defend themselves. He told the Council the only equipment the Burningshams have ever stored on the Baldwin's property, longer than overnight, is sprinkler pipe.

Reed Nelson asked why Mark Baldwin doesn't purchase 0.6-acres west of his property (Tax Id. #10-014-0081), from his brother, Reed Baldwin, to make his lot and the proposed building lot each conform to the existing one-acre ROS-1 zoning. Mr. Nelson addressed Mr. Pond's comment that a single family home is the best use of that property by saying that there are plenty of messy single family homes on their street. He asked how the parcel directly north of the Baldwin's which is only 0.35-acres (Tax Id. #10-014-0102) came to exist. City Manager Scott Wells said he is unaware of the historical decisions made to develop that 0.35-acre lot within the ROS-1 zone. Councilwoman Denise Lindsay asked who owns the small acreage directly south of the Baldwin's property. No one in attendance was aware who owns that property. No information was available on the Cache County Parcel and Zoning Viewer.

At 6:33 p.m., Councilman Austin Wood made a motion, seconded by Councilman Chad Poulsen, to close the public hearing.

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

Mayor Bailey asked Councilman Poulsen for the Planning Commission's feedback from the July 13, 2022 meeting. Councilman Poulsen reported the Commission did not give a recommendation. He noted comments from the public hearing were very similar to those shared tonight. The Commissioners expressed a desire to examine the General Plan more closely. The 'snowball effect' was also a concern, that rezoning the proposed property to RSF would result in the entire neighborhood splitting parcels into smaller acreage. City Planner Jay Nielson will take the neighbor's perspectives into consideration when writing his official recommendation to the Planning Commission. Councilman Austin Wood asked if the historical reference made by Mr. Pond regarding the minimum parcel size being upsized to one-acre during the Baldwin's homeownership was accurate. Mr. Jay Nielson answered that area has never been zoned less than one-acre. Following the discussion, Councilwoman Denise Lindsay made a motion, seconded by Councilman Chad Poulsen, to continue the discussion until a recommendation is received from the Planning Commission, regarding the request from Mark Baldwin to amend the General Plan and change the zoning, from ROS-1 (Residential Open Space- 1-Acre) to RSF (Residential Single Family- 12,000-Square Feet) at property located at approximately 15 South 450 East (Tax Id. #10-014-0052).

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

The Council shall receive public input, then along with a recommendation from the Planning Commission consider for possible approval the concept plan for the Winward Subdivision consisting of two lots total, located at 169 West 100 North (Tax Id. #11-081-0052). Sam Winward presented the concept plan. He explained he is still waiting for his engineer to complete the final recording of the lot line adjustments approved at the June 22, 2022 Planning Commission meeting. Upon completion of the property line adjustments, Mr. Winward proposes the westernmost 85.2-feet of the lot identified as Tax Id. #11-081-0020 becomes the backyard for his existing home lot identified as Tax Id. #11-081-0052. Mr. Winward is also proposing the easternmost 12,000-square feet of the lot identified as Tax Id. #11-081-0052 be subdivided

into a new lot. Mr. Winward stated he hopes to then sell the new building lot.

At 6:35 p.m., Mayor Thomas G. Bailey opened the public hearing. There was no public input. At 6:36 p.m., **Councilman Austin Wood made a motion, seconded by Councilwoman Denise Lindsay, to close the public hearing.**

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

The Council had no further questions. **Councilwoman Denise Lindsay made a motion, seconded by Councilman Chad Poulsen, along with a recommendation from the Planning Commission, to approve the concept plan for the Winward Subdivision consisting of two lots total, located at 169 West 100 North (Tax Id. #11-081-0052).**

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

The Council shall receive public input, then along with a recommendation from the Planning Commission to consider for possible approval an ordinance amending **Title 10, Chapter 17 Business & Other Zoning District Use Tables, Section 2 Primary Uses in Business & Other Zoning Districts updating Parking Commercial.** City Planner Jay Nielson's commentary reads, *"Wellsville has prohibited self-storage units for many years... Many years ago, the Wellsville City Council and Planning Commission determined that self-storage units had far more negative consequences than benefits. There is a great need for increased tax revenue and retail conveniences for the citizens of the city. Without these economic opportunities, buyers spend their money outside of the city, where our neighboring cities greatly benefit. Wellsville has precious little commercial land to produce sales tax revenue. Self-storage units consume large amounts of land with no tax benefit to the city save small amounts of property tax... To allow storage of personal property, vehicles, containers, or other equipment on commercial or industrial land is a lost economic opportunity for Wellsville. A loss that repeats itself year after year. Wellsville should ensure that its limited supply of revenue producing land is used for productive businesses where both the city and business owners' benefit. When the new code was adopted, commercial parking was allowed as a permitted use. It is unfortunate that these uses were not shown as 'N' Not Allowed at the time of adoption. It is proposed that these commercial parking uses... be amended to show that they are not allowed in any zoning district of the city."*

At 6:40 p.m., Mayor Thomas G. Bailey opened the public hearing. There was no public input. At 6:41 p.m., **Councilman Austin Wood made a motion, seconded by Councilwoman Denise Lindsay, to close the public hearing.**

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

City Manager Scott Wells explained that Carling Commercial Vehicle Storage, proposed at approximately 236 North Hwy 89/91 (Tax Id. #11-090-0011) is already vested. **Councilman Chad Poulsen made a motion, seconded by Councilwoman Denise Lindsay, along with the recommendation from the Planning Commission, to approve an ordinance amending Title 10, Chapter 17 Business & Other Zoning District Use Tables, Section 2 Primary Uses in Business & Other Zoning Districts updating Parking Commercial.**

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

The Council shall receive public input, then consider for possible approval a resolution adopting an amendment to the Wellsville City "Employee Handbook and Guideline." City Manager Scott Wells explained the proposed amendment includes adding Juneteenth as a paid holiday for all permanent full-time employees and adding Labor Day as a floating holiday. Concerning retirement, Wellsville City will match 2.5 percent of monies that are invested in the Utah State Retirement System by both "Tier 1" and "Tier 2" employees. Medical and dental insurance premiums will be paid by the City on certain employee positions to be set at a maximum of 95 percent of the monthly insurance premium. Mr. Wells asked the Council to continue this discussion regarding amending the "Employee Handbook and Guideline" once automatic enrollment for the State URS system is included.

At 6:47 p.m., Mayor Thomas G. Bailey opened the public hearing. There was no public input. At 6:48 p.m., **Councilwoman Denise Lindsay made a motion, seconded by Councilman Chad Poulsen, to close the public hearing.**

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

The Council had no further questions. **Councilman Austin Wood made a motion, seconded by Councilman Chad Poulsen, to continue the discussion regarding a resolution adopting an amendment to the Wellsville City "Employee Handbook and Guideline," once the Council has a full quorum and additional information.**

YEA 2

NAY 0

ABSTAIN 1

Chad Poulsen
Austin Wood

Denise Lindsay

Next, along with a recommendation from the Planning Commission, the Council shall consider approving a business license for Ben Nielson to operate "Landscape Expressions," a landscaping business out of property located at approximately 208 North 200 West (Tax Id. #11-081-0001). Mr. Ben Nielson hopes to build a shed and store trucks and equipment on the northeast portion of the property. He told the Council several employees will pick up trucks in the morning before heading out to the jobsites. Mayor Thomas G. Bailey asked Councilman Chad Poulsen for the Planning Commission's feedback. Councilman Poulsen reported there was public concern regarding noise pollution, increased traffic and potential increased hazards to the neighborhood children, aesthetic view disruption, and property devaluation. The Commission's concerns included the number of employee vehicles parked on location, increased traffic, and potential increased hazards to the neighborhood children, and what would be stored on location. The Commission reviewed the **Level Two Home Occupation Requirements** and questioned if Mr. Ben Nielson could meet those requirements. City Manager Scott Wells reported the Commission's recommendation of approval also included a privacy fence and vegetative screen, fire access approved by the fire marshal for the narrow neck 19.5-foot lane, and only two off-street employee parking spots are allowed. Councilwoman Denise Lindsay asked how many trucks and employees Mr. Ben Nielson will have. Mr. Ben Nielson answered four trucks and ten employees (which varies based on the season). He added he plans to send most employees directly to the job site rather than carpooling from his property. Councilman Poulsen asked if Mr. Ben Nielson plans to store wood chips, dirt, gravel, or trees at this location. He answered only equipment- trucks, trailers, skid loaders, and compact excavators; all materials are sent directly to the jobsite. Councilman Poulsen asked if he plans to live or rent the home located on the property. Mr. Ben Nielson answered he is already living in the home. Councilman Austin Wood asked Mr. Ben Nielson to elaborate on the concerns raised by neighbors. Mr. Ben Nielson said he plans to install a fence to protect neighborhood children from equipment hazards; design landscaping to improve the

aesthetic view; and allow only two off-street employee parking spots.

City Planner Jay Nielson asked the record to include that a home occupation is a Conditional Use Permit which has seven specific requirements. If these seven requirements are not met over time the Conditional Use Permit can be retracted. Mr. Jay Nielson emphasized that a home occupation Conditional Use Permit is not a right, rather it is a privilege. Councilman Poulsen questioned if the Home Occupation Requirements are realistic and reasonable for residents. For instance, Level Two Home Occupation Requirements read, *"No more than twenty-five (25) percent of the property, including parking, where the home occupation is located may be used for business purposes. This area shall remain in character with the rest of the neighborhood."* Councilman Poulsen said he doubts most Level Two Home Occupation properties abide by that twenty-five percent requirement. Mr. Jay Nielson asserted that two wrongs do not make a right; violators do not nullify the requirements for themselves or anyone else. He also explained that public complaint is the top factor indicating home occupation violations which trigger enforcement actions. Mr. Ben Nielson told the Council he can meet the twenty-five percent requirement. He reminded the Council that this is a landscaping company and said he plans to make the property much more aesthetically pleasing than it is today. Councilwoman Lindsay warned Mr. Ben Nielson that landscaping companies do not often find neighbors easy to please. After discussion, **Councilman Austin Wood made a motion, seconded by Councilman Chad Poulsen, along with the recommendation from Planning Commission, to approve a business license for Ben Nielson to operate "Landscape Expressions," a landscaping business out of property located at approximately 208 North 200 West (Tax Id. #11-081-0001).**

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

Next, along with a recommendation from the Planning Commission, the Council shall consider approval of the final plan for the Black Willow Subdivision (formerly known as the 300 North Subdivision) consisting of five lots total, located at approximately 290 North 100 East (Tax Id. #11-083-0009). Mr. Jared Nielson reported they have met all of City Engineer Chris Breinholt's requirements. City Planner Jay Nielson stated he did not have any concerns. City Engineer Chris Breinholt said he is awaiting Mr. Jared Nielson's engineer's next submittal. City Manager Scott Wells asked for clarification regarding sidewalk. Mr. Jared Nielson proposed running sidewalk along the entire length 100 East, from the corner of 200 North to the corner of 300 North, rather than battling the slope along the subdivision's portion of 300 North. Mr. Breinholt agreed Mr. Jared Nielson's completion of sidewalk along 100 East, from the corner of 200 North to the corner of 300 North, would be a good trade in lieu of sidewalk along 300 North with such a steep slope. Mr. Wells suggested Wellsville City fund an asphalt trail along 300 North which could follow the topography. **Councilwoman Denise Lindsay made a motion, seconded by Councilman Chad Poulsen, along with the recommendation from the Planning Commission, to approve the final plan for the Black Willow Subdivision (formerly known as the 300 North Subdivision) consisting of five lots total, located at approximately 290 North 100 East (Tax Id. #11-083-0009).**

YEA 3

NAY 0

Denise Lindsay
Chad Poulsen
Austin Wood

Next, the Council shall award a bid for the 2022 Wellsville City Leatham Springs Rehabilitation Project. City Engineer Chris Breinholt presented the bids received by AAA Excavation Inc, Allied Underground Tech, and Ormond Construction Inc. AAA Excavation Inc bid \$107,116.50. Allied Underground Tech bid \$223,768.00. Ormond Construction Inc bid \$256,815.18. Mr. Breinholt told the Council he is familiar with all three companies. He is certain that AAA Excavation Inc missed considerable items in their bid. Mr. Breinholt stated he is confident in and recommended awarding the bid to Allied Underground Tech for \$223,768.00. Councilman Chad Poulsen pointed out the engineer's estimate was not in the same ballpark as Allied Underground Tech or Ormond Construction Inc bids. Mr. Breinholt reported items were also missed in the Jones & Associates Consulting Engineer's estimate. City Manager Scott Wells noted the

budget will have to be adjusted accordingly. He stressed the importance of saving as much groundwater as possible, especially during this period of megadrought. Mr. Breinholt underscored how variable pricing can be for projects such as this. "Despite engineer's best guestimates, you just don't know until you start digging" he said. Mr. Breinholt and Mr. Wells will determine a fixed amount in which the project cannot exceed. Mr. Breinholt's list of references for Allied Underground Tech's completion of similar projects will be forwarded to the Council. Following the discussion, **Councilman Chad Poulsen made a motion, seconded by Councilwoman Denise Lindsay, to award the 2022 Wellsville City Leatham Springs Rehabilitation Project to Allied Underground Tech for \$223,768.00.**

YEA 3

Denise Lindsay
Chad Poulsen
Austin Wood

NAY 0

Jason Spahr met with the Council to request a building permit for property located at 1050 South 200 West (Tax Id. #10-039-0003). Mr. Spahr stated he is requesting a building permit for a 20-foot expansion of an existing garage/shop. If approved, the 20-foot addition would include a bathroom which must connect to the City's culinary system. Mr. Spahr informed the Council that the addition would span eight-feet past 4,650-feet of elevation. **Temporary Land Use Regulation 2022-02** is a moratorium which currently prohibits residential and commercial building permits and subdivision applications in those parts of Wellsville City located above 4,650-feet in elevation. Mr. Spahr read aloud from the moratorium, *"1. The subdivision, issuing building permits, approving water connections, and development of any real property located in those parts of the City located above 4,650 feet in elevation as depicted on Exhibit A attached to this Ordinance and incorporated herein (the "Upper Pressure Zone"), is hereby temporarily prohibited, and a temporary land use regulation (moratorium) on the filing and approving of any application for a subdivision, building permit, or water connection, requiring a water hook-up of any kind is hereby imposed on all areas within the Upper Pressure Zone."* Mr. Spahr presented three reasons he does not believe the proposed garage addition conflicts with the moratorium. First, he is not requesting a new water hook up. He would be attaching the proposed line to his home's existing water connection. Second, Mr. Spahr's house and existing water connection is not within the Upper Pressure Zone. He emphasized he is the last house to access water on that water line *from the Lower Pressure Zone*. Third, the majority of Mr. Spahr's property is below 4,650-feet of elevation. He informed the Council the proposed garage addition would sit at 4,658-feet of elevation. Eight-feet above the moratorium line. For these three reasons, Mr. Spahr asked the Council to grant an exception and give him a building permit. He added "If you don't give me a building permit because of the elevation, will you allow me to build and not connect to water until after the moratorium is lifted?" City Manager Scott Wells repeated the majority of Mr. Spahr's property is below 4,650-feet of elevation, he is not asking for a new water hook up, and his existing water connection is sourced from the Lower Pressure Zone. Mr. Wells told the Council he was uncomfortable granting an exception without the Council's interpretation of the moratorium. He stressed whatever the Council determines will be the City's policy moving forward. Mr. Wells reported that the City's legal counsel has stated an interpretation made by the Council in this circumstance is defensible. City Planner Jay Nielson stressed the Council needs to make findings for the record which justify the Council's interpretation. The Council needs to determine if the proposed addition constitutes as new development since there is no new water hook up. Mayor Thomas G. Bailey stated he is not comfortable with a building permit being issued for property above 4,650-feet or an existing water line being extended above 4,650-feet until the moratorium is lifted. Councilwoman Denise Lindsay acknowledged the Council is evaluating Mr. Spahr's request with an abundance of caution. She underscored the moratorium explicitly prohibits issuing building permits for *any* property of the City located above 4,650-feet in elevation. Councilman Austin Wood stated this is a complex situation and noted the Council needs to consider perception management (the practice of ensuring the message you wish to send is understood by the specific individuals or groups you want to reach). He said that Land Use Regulation 2022-02 was established to protect those citizens dependent upon water from the Upper Pressure Zone until another water source is developed. He recognized the intent of the moratorium is not to limit water to those in the Lower Pressure Zone. City Engineer Chris Breinholt informed the Council that the elevation of 4,650-feet was determined because that is the point which Mr. Breinholt feels comfortable with new development being served by the *Lower Pressure Zone*. He added Mr. Spahr's existing home located just below 4,650-feet has less than desirable water pressure. Mr. Wells

suggested creating a policy that allows building permits for acreages at least 50-percent within the Lower Zone whose water is supplied from the Lower Zone, and disallowing access to water until after the moratorium is lifted. Chairman Chad Poulsen pointed out Mr. Spahr's wants to build onto an existing building and said it is not new development. The Council asked Mr. Nielson's opinion. Mr. Nielson commended the Council for their abundance of caution. Mr. Spahr repeated he is not constructing new development; it is not a new subdivision. It is an existing home, on an existing water meter, connecting to the Lower Pressure Zone. Mr. Spahr then shared that a water line already runs into the shop which has been cemented over along with hydrants. Mayor Bailey stated he interprets the moratorium as the City will not provide new water above 4,650-feet of elevation. He cautioned the Council from supplying any new water above 4,650-feet regardless of the water's source which he recognized was an abundance of caution. Mr. Breinholt told the Council he feels allowing Mr. Spahr to build his addition and connect to water will not violate the intent of the moratorium. Otherwise, he suggested fine tuning the moratorium once it expires to eliminate existing homes within the Lower Pressure Zone regardless of elevation. Mr. Nielson stated he doubts the city attorney will be comfortable with manipulating the moratorium stipulations. Mr. Wells recommended the Council use the location of the service line, within the Lower Pressure Zone or Upper Pressure Zone, as a finding. Councilwoman Lindsay stated she was uneasy making a decision without the full Council quorum. Councilman Wood stated he was comfortable with Mr. Spahr moving forward with building the addition as long as he waits to connect to water until after the moratorium is finetuned. Following the discussion, **Councilman Austin Wood made a motion, seconded by Councilman Chad Poulsen, to grant Jason Spahr's request for a building permit at property located 1050 South 200 West (Tax Id. #10-039-0003) with the following findings; attempting to be in compliance with the building moratorium and the interpretation thereof this building permit is related to an existing structure and the majority of the Spahr's property is within the Lower Pressure Zone; the granting of this building permit allows for construction of the proposed addition only; no water will be hooked up or used at this addition until further review of the next moratorium if extended.**

YEA 2
Chad Poulsen
Austin Wood

NAY 1
Denise Lindsay

This discussion regarding Jason Spahr's request for building permit at property located 1050 South 200 West (Tax Id. #10-039-0003) will be continued at the August 3, 2022 City Council meeting.

Planning Commission Chairman Chris Clark met with the Council, *in a nonofficial capacity*, to discuss a proposed pioneering agreement for property located at 261 West 600 South (Tax Id. #10-026-0032). Mr. Clark extended 330-feet of water line to his new home. He hopes a pioneering agreement will allow him to recoup half of that expense (which he estimated would be \$16,000.00) from a future developer. Mr. Clark asked City Engineer Chris Breinholt what the lifespan of a water line is. Mr. Breinholt answered 50-years. Mr. Clark originally asked for a 15-year pioneering agreement. City Manager Scott Well reported the city's legal counsel recommended five to seven years. Mr. Clark reported the Maverik gas-station and convenience store has a ten-year pioneering agreement. Mr. Clark asked the Council for a ten-year pioneering agreement for \$16,000.00. Councilman Austin Wood asked why Mr. Clark is not requesting a pioneer agreement for road, sidewalk, and sewer as well. Mr. Clark answered he was financially responsible for a quarter of the road and 330-feet of water line extension. Mr. Clark's property has a septic system. Mr. Wells stated he and Mr. Breinholt felt the water line extension was Mr. Clark's cost of development. Mr. Wells stressed the Council must be very careful with pioneering agreements because every new lot has infrastructure costs associated with it. Therefore, every lot could request a pioneering agreement which Wellsville City would be responsible to keep track of and collect. Mr. Wells said that pioneering agreements generally apply to someone who has been asked to do more than what was required for their development (rather than the bare minimum) and someone along the way (not associated with the development) benefited. He asked the Council if pioneering agreements for bare minimum infrastructure is justifiable or not. Mr. Clark pointed out once the property south of his home is developed, three services can be connected to the 330-feet of water line he financed. Mr. Clark asked how many developers are responsible for running water line through City right-of-way. Mr. Wells answered all developers. Mr. Breinholt presented information prepared regarding pioneering agreements. He told the Council that his firm, Jones & Associates Consulting Engineers, represents 19 municipalities. Pioneering agreements are

typically used when a developer installs public improvements (at their cost) and seeks reimbursement from neighboring landowners when they develop their property. He pointed out pioneering agreements are usually used for large investments in public infrastructure such as reservoirs, culinary wells, and sewer lines such as was installed by Maverik which serve the greater good or have an extreme cost. Mr. Breinholt said most clients do not use pioneering agreements at all or use them on an extremely limited basis. He reported that across Jones & Associate's 19 municipalities there are fewer than ten pioneering agreements. Mr. Breinholt said completing public improvements on the developer's dime and distributing the cost to those who benefit from the improvement are reasons to use pioneering agreements. Reasons *not* to use pioneering agreements included the burden of tracking reimbursement money and distributing it requires significant accounting work and puts that responsibility on city staff. Mr. Breinholt recommended Wellsville City use pioneering agreements on a limited basis with a relatively short timeframe based upon the value of the investment. He also worries addressing this proposed pioneering agreement retroactively will bring many previous developments into question. Mr. Breinholt concluded that he has never seen a pioneering agreement used at such a small scale and does not feel it is justifiable. Councilwoman Denise Lindsay pointed out that any development south of Mr. Clark's property which extends the sewer line could ask for a pioneering agreement to hold Mr. Clark responsible to contribute to the sewer. Councilman Austin Wood said he hopes to pursue a pioneering agreement in the future and chose to abstain from voting. Councilman Chad Poulsen stated it is tough to make the City a collection agency unless the infrastructure is on a grand scale. **Councilwoman Denise Lindsay made a motion, seconded by Councilman Chad Poulsen, to continue the discussion regarding a pioneering agreement for property located at 261 West 600 South (Tax Id. #10-026-0032).**

YEA 2
Denise Lindsay
Chad Poulsen

NAY 0

ABSTAIN 1
Austin Wood

This discussion regarding a pioneering agreement for property located at 261 West 600 South (Tax Id. #10-026-0032) will be continued at the August 3, 2022 City Council meeting.

Shania Peterson met with the Council to request a variance from the prohibition of chain link fence in front yards for property located at 755 East 400 North (Tax Id. #11-088-0011). Ms. Peterson read a written statement, *"On July 8, 2022, at my home located at 755 East 400 North in Wellsville, I prepared to have the fence that was being installed in my front yard finished. However, my contracted fence installers were sent away. To which I learned was due to a new city ordinance that chain link is no longer approved to fence the front yards of homes in Wellsville. Respected members of the Council, I appeal to you today simply because I feel that as the average citizen I cannot be expected to follow an ordinance that was not readily available for me to find as the average citizen. In planning, contracting, and paying for my fence I didn't once think I was breaking any code, nor did I want to. I simply believed we were having a fence installed in order to keep our three-year old daughter safe while she played in the front yard (which is a popular reason for many people to fence). As many of our neighbors have similar fencing, and many homes within Wellsville have similar fencing, we felt assured in continuing to fence our yard in a similar fashion and of a material we could afford. When our yard was surveyed for the fencing project the City had not updated the public documents on the website with the new fencing ordinance. A month later when our yard was marked and plotted to have the pole set this information still had not been updated on the city's website including the date that our poles were finally set. On the final day of fencing was when we had a city representative show up and ask our contractors to leave because it turned out we were violating a new city ordinance, again something we were not aware of. Within an hour of this happening, I came down to meet with City Manager Scott Wells and I explained to Scott Wells that at no point during our plans to have our yard fenced did we think we were breaking any kind of city ordinance, nor did we want to. We the citizens of Wellsville before and after this incident continue to follow any and all city ordinances and comply with local regulations without issue. During my meeting on July 8th with Mr. Wells, we also visited the website and he noted specifically Section 10-44-02 there had been no update to include this new ordinance that would affect our current fencing project and recognized the error. I appeal to you today just simply as a citizen of Wellsville, not being punished for what I felt like was my due diligence in acting accordingly with the information that was presented to me within the city code at the time of my contract with the company that would do my fencing... I ask for understanding that it is quite hard for a citizen to follow ordinances*

that they are not aware of and ask for leniency under the circumstances... Our contractor has not relinquished us from our contract and has stated we will not be refunded for the materials that we paid for in full, which was \$6,200.00... Most importantly to keep my three-year old child safe who is within three homes of Hwy 89. Specifically, Section 10-44-02 is not updated as of today."

Tanner Spillman introduced himself as the property owner. Mr. Spillman stated they had explored fencing options to keep children and pets safe. He repeated **Section 10-44-2: Fences and Walls under Additional Requirements** does not mention any chain link restrictions. When Mr. Wells later directed them to **Section 10-36-15: Fences and Walls under Development Standards** they believed this applied to new development rather than existing homes. Mr. Spillman noted they have purchased black coated chain link with black poles which is more aesthetically pleasing than galvanized chain link. He stated he understands the neighboring properties with chain link in the front setback were grandfathered in before the fencing code was updated in March.

City Planner Jay Nielson explained **Section 10-36-15: Fences and Walls under Development Standards** was adopted in 2019. He pointed out searching 'chain link fence Wellsville Utah' on an online search engine brings up both **Section 10-44-2** and **Section 10-36-15**. He added **Development Standards** apply to any development that needs a permit. Fences need permits. Mr. Nielson asserted that wherever there is redundancy within City Code the most stringent portion must prevail.

Mr. Nielson indicated that the only option the Council has would be to change the code to allow chain link fence in the front yard, which he did *not* recommend. The collective Council agreed they do not wish to modify the code to allow chain link in front yards. Councilman Austin Wood explained that while the Council sympathizes with Ms. Petersen and Mr. Spillman, they still must adhere to the code which has restricted 5,000 other residents from having chain link fences in their front yards. For Ms. Peterson and Mr. Spillman to apply for a variance a hardship must be confirmed. Mr. Nielson explained a hardship cannot be self-imposed and cannot be financial. He read aloud the five criteria for a variance. All five criteria could not be met. If a variance were approved a chain link fence would be placed in the front yard which is not allowed by Code. Mr. Wells stated any leniency would result in other citizens recognizing and possibly considering new chain link fence. If Ms. Peterson and Mr. Spillman choose to appeal the Code, they would need appear before the Board of Adjustments to do so.

Mr. Spillman hired Lowes who contracted with Sublime Fencing. He said 20-posts have been sunk in concrete. Mr. Spillman said the distance set for chain link posts are not a compatible distance for any other fencing. He stated he cannot afford the expense to have the chain link poles removed and new poles set. Sublime Fencing has said they will not allow the chain link fencing materials to be returned. In addition to relocating the poles, vinyl fence would cost \$12,000.00 and wood fence would cost \$18,000.00. Councilwoman Denise Lindsay asked if he applied for a fencing permit. He answered he was unaware he needed a fencing permit from what they read on Section 10-44-2. Councilwoman Lindsay said a reputable contractor should have obtained a fencing permit. Therefore, the fault lies with the contractor. Mr. Nielson agreed and declared their contract with the fencing company is invalid without a permit.

The Council brainstormed a variety of fencing alternatives for Ms. Peterson and Mr. Spillman to pursue. Ms. Peterson and Mr. Spillman thanked the Council for their time and will meet with Mr. Wells for a permit to finish the fence once they determine how to proceed. The Council wished them luck. **Councilman Chad Poulsen made a motion, seconded by Councilman Austin Wood, to continue the discussion regarding chain link fence in front yards for property located at 755 East 400 North (Tax Id. #11-088-0011).**

YEA 3
Denise Lindsay
Chad Poulsen
Austin Wood

NAY 0

The Council reviewed the 2022 Founders' Day assignments and schedule of events.

The City Council discussed culinary and secondary water restrictions and notification processes for Wellsville City. Door flyers were left at each house south of 900 South reminding residents of watering restrictions. City Manager Scott Wells reported 400,000 gallons a day are flowing from Leatham Springs. The City is currently using 2.2 million gallons a day. Therefore, 1.8 million gallons a day are being pumped from the City's culinary wells. Mr. Wells explained a power outage July 2, 2022 led to a water valve which directs water into Lindley Reservoir not closing tightly. It took eight days for Lindley tank to recover. The Leatham Spring tank has yet to recover. Wellsville City has had to regulate the water used by the Wellsville Recovery Center. **Councilman Chad Poulsen made a motion, seconded by Councilman Austin Wood, to continue the discussion about water restrictions for culinary and secondary water for Wellsville City and the notification process.**

YEA 3

Denise Lindsay
Chad Poulsen
Austin Wood

NAY 0

Department Reports:

Denise Lindsay-

1) No business or concerns at this time.

Chad Poulsen-

1) No business or concerns at this time.

Austin Wood-

1) No business or concerns at this time.

City Manager/Recorder's Report:

1) A timer has been installed on the City splash pad.

At 9:27 p.m., **Councilman Chad Poulsen made a motion, seconded by Councilwoman Denise Lindsay, to adjourn the meeting.**

YEA 3

Denise Lindsay
Chad Poulsen
Austin Wood

NAY 0


Thomas G. Bailey
Mayor


Scott Wells
City Manager

To whom it may concern -

Attachment #1

We, the undersigned are opposed to the rezoning
of our neighborhood to less than acre lots.

Sincerely

Mitchell Maughan / Molly Maughan



2450 450 E
Wellsville, Utah
84339

Seth and Melanie Francis

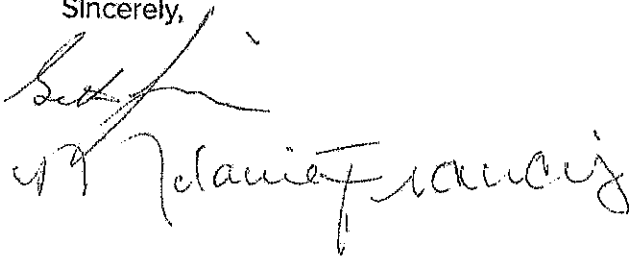
30 South 450 East
Wellsville, UT
(435)245-4268
(435)760-3379
melaniefrancis505@gmail.com

July 20, 2022

To Whom It May Concern:

In regards to the matter of rezoning the property of 15 South 450 East. We are not opposed to the property becoming a Residential Single Family property as long as it meets the 1 acre requirements of the street. We would be opposed to the rezoning of our street to allow for smaller lots, such as $\frac{1}{2}$, $\frac{1}{3}$, or $\frac{1}{4}$ acre lots. We would prefer to see our street maintain the zoning of a minimum of 1 acre lots (or very near). Many of the residents on our street purchased their properties in part to enjoy the larger spaces required and would prefer to keep it this way. Thank you for your consideration on this matter.

Sincerely,

Handwritten signatures of Seth and Melanie Francis. The signature for Seth is a stylized 'S' followed by a horizontal line. The signature for Melanie is a cursive 'Melanie Francis'.

Seth and Melanie Francis