

MINUTES of the regular **City Council** meeting of Wellsville City held **October 19, 2022**, at the Wellsville City Offices at 75 East Main. City officials present were Mayor Thomas G. Bailey; Councilwoman Kaylene Ames; and Councilmen Bob Lindley, Chad Poulsen, and Austin Wood. Also present were 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 October 17, 2022. The meeting was called to order at 6:00 p.m. by Mayor Thomas G. Bailey.

Councilwoman Denise Lindsay was excused from this meeting.

|                 |                |               |                  |
|-----------------|----------------|---------------|------------------|
| Others Present: | Brayden Brown  | Doug Cooper   | Peggy Cooper     |
|                 | Nick Fisher    | Cam Gallacher | Lody Hales       |
|                 | Megan Petersen | Megan Ragland | Diane Roundy     |
|                 | Maddie Soto    | Linda Wursten | Hailey Zollinger |

Opening Ceremony: Councilman Austin Wood

The Council reviewed the amended agenda. *Item 11, "Hailey Zollinger- Discuss options for sewer extension on 450 East,"* was added. **Councilman Bob Lindley made a motion, seconded by Councilman Chad Poulsen, to approve the amended agenda as presented.**

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|----------------------------|----------------------------|
| <u><b>YEA</b></u> <b>4</b> | <u><b>NAY</b></u> <b>0</b> |
| Kaylene Ames               |                            |
| Bob Lindley                |                            |
| Chad Poulsen               |                            |
| Austin Wood                |                            |

Minutes for the City Council meeting held September 21, 2022 will be reviewed at the next meeting.

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 Chad Poulsen made a motion, seconded by Councilman Austin Wood, to approve the City's accounts payable bills for payment, represented by check number 27504 through 27557.**

|                            |                            |
|----------------------------|----------------------------|
| <u><b>YEA</b></u> <b>4</b> | <u><b>NAY</b></u> <b>0</b> |
| Kaylene Ames               |                            |
| Bob Lindley                |                            |
| 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 Bob Lindley, to approve the City's accounts payable bills for payment, represented by check number 27579 through 27597.**

|                            |                            |
|----------------------------|----------------------------|
| <u><b>YEA</b></u> <b>4</b> | <u><b>NAY</b></u> <b>0</b> |
| Kaylene Ames               |                            |
| Bob Lindley                |                            |
| Chad Poulsen               |                            |
| Austin Wood                |                            |

At 6:10 p.m., Mayor Thomas G. Bailey opened the meeting for citizen input. There was none. At 6:11 p.m., citizen input was closed.

Maddie Soto, a prevention educator at CAPSA, met with the City Council to discuss CAPSA Domestic

Violence Awareness month. She shared statistics from CAPSA's July 2021-2022 fiscal year: 2000 individuals served; 8000 crisis calls; 300 clients sheltered; thousands of individuals helped through casework, advocacy, and therapy (33 of which were Wellsville City residents); 400 clients given a safe place to learn, process, and gain a support network; and 89 families housed. Prevention education taught in schools is helping to end cycles of abuse. Ms. Soto challenged those in attendance to discuss the impacts of domestic violence with those in their social circles and support survivors. The Council applauded CAPSA's efforts.

At 6:13 p.m., along with a **Level Two Home Occupation Conditional Use Permit** approved by the Planning Commission, the Council shall consider for possible approval a request from Nick Fisher for a **Business License** to operate "Fisher Power Wash LLC" out of the property located at approximately 664 North 850 East (Tax Id. #11-122-0030). Nick Fisher presented the request. He informed the Council that he first received a business license in 2016 to operate "Fisher Power Wash LLC." His business license lapsed in 2020 when Mr. Fisher did not pay to have his license renewed. Councilman Chad Poulsen informed the Council that the Planning Commission approved the **Level Two Home Occupation Conditional Use Permit** after reviewing requirements including not allowing truck or trailers to be parked in the city rights-of-way; no business signage on location; and no employees traveling to or from his home. Councilman Bob Lindley asked if Mr. Fisher has had any complaints regarding his business' equipment. Mr. Fisher answered he has not received any complaints. He reported he has recently downsized the business and has a single truck and trailer. Mr. Fisher shared that his pressure washing business is a mobile business and he travels to commercial and residential sites. He stated his trailer is parked on an RV pad outside of the city rights-of-way. After discussion, **Councilman Bob Lindley made a motion, seconded by Councilman Austin Wood, to approve a Business License for Nick Fisher to operate "Fisher Power Wash LLC" out of the property located at approximately 664 North 850 East (Tax Id. #11-122-0030).**

**YEA 4**

**NAY 0**

Kaylene Ames  
Bob Lindley  
Chad Poulsen  
Austin Wood

Along with the recommendation from the Planning Commission, the Council shall continue the discussion regarding possible approval of an ordinance amending **Title 10 "Land Use Regulations," Chapter 35 "Open Space," Section 2 "Land Set Aside"** required of the Wellsville Municipal Code. City Planner Jay Nielson presented the proposed amendment. After hearing the Council's reluctance (at the September 21, 2022 Council meeting) to eliminate any existing open space in order to protect Wellsville's rural nature, City Planner Nielson stated he has eliminated exceptions to retroactively remove open space. **Attachment A, 10-35-2 Land Set Aside Required** reads,

- "C. *Exception: Open Space set-aside for legal lots within the Residential Open Space One Acre (ROS1) and Residential Open Space One Half Acre (ROS ½) zoning districts may not be required if the Planning Commission determines that open space in a proposed one (1), two (2), or three (3) lot subdivision meets all of the requirements:*
5. *Open space cannot be located in the subdivision to have some future connectivity or functional purpose with existing or future open space within the neighborhood and/or adjacent parcels.*
  6. *Open space cannot be located in the subdivision to provide any future connection to a community trail system.*
  7. *Open space in the subdivision is not near or adjacent to any critical lands or existing or planned future open space as shown in the Parks, Recreation, and Trails Master Plan of the city.*
  8. *A public hearing must also be conducted with proper noticing requirements to allow public comment."*

It will be an exceptional circumstance, with tight requirements, in which the Planning Commission will

determine to eliminate open space requirements for one, two, or three lot subdivisions, City Planner Nielson stated. Mayor Thomas G. Bailey clarified that any subdivision with four lots or greater must have open space. City Planner Nielson affirmed. Councilman Austin Wood asked for an additional explanation on **Attachment A, 10-35-2 Land Set Aside Required, D. General Requirements for all Zoning Districts** which reads,

*"Open space shall be required if any lot or subdivision is part of a larger parcel that can be subdivided in the future. The provision to waive an open space set-aside shall not be used to circumvent open space requirements when it is apparent that lot(s) can be or attempts are being made to split-off lot(s), in small increments, to avoid setting aside open space. Existing open space, in all zoning districts, that has been set-aside, as required by ordinance, shall not be waived, removed, recorded, or modified in any way that is contrary to the original recording of the open space."*

City Planner Nielson explained that **D. General Requirements for all Zoning Districts** is intended to protect Wellsville City from those who would attempt to split two lots off at a time to avoid dedicating open space. Councilman Chad Poulsen stated that he would like a provision added to the proposed amendment which requires the subdivision applicant to justify why the subdivision is not paying a fee in lieu of open space. City Planner Nielson asked for additional time to consider that suggestion as the meeting progresses.

Next, Hailey Zollinger met with the City Council to discuss options for a sewer extension on 450 East to her property located at approximately 450 East Main (Tax Id. #10-014-0049). Ms. Zollinger asked what her options are to extend the sewer given the obstacles with elevation. She inquired if the Council would consider allowing them to install a septic tank. She intends to sell the property and a potential buyer is expecting an answer regarding sewer. City Manager Scott Wells explained that the existing sewer line ends at the north end of Regan and Shanna Burningham's property (Tax Id. #10-014-0079). Troy and Brenda Hawker's (Tax Id. #10-014-0082) neighboring home is currently on a septic tank. Due to elevation, the Hawker home will not gravity feed into the existing sewer along 450 East. Therefore, it will not be an uncomplicated process for the Hawkers to connect to the city sewer line if it is extended along their frontage to connect to Ms. Zollinger's property. A grinder pump would be required. Mayor Bailey noted future development north of Ms. Zollinger's property may allow them to drill under Highway 101 and gravity feed sewer to the north. Councilman Chad Poulsen and City Manager Wells agreed gravity feed is the most ideal option for sewer. Councilwoman Kaylene Ames and Councilman Austin Wood asked if that distance of sewer given the elevation difficulties, for a single new home, would be considered a hardship. City Manager Wells answered that interpretation is up to the City Council. He encouraged the Council to study the 300-foot rule regarding sewer in the city code in order to determine whether a property owner is expected to hook on to the existing mainline *with a lateral line* if the sewer mainline comes within 300-feet; or is the property owner expected to *extend the mainline across their frontage* if the sewer mainline comes within 300-feet? City Manager Wells added the end of 450 East's sewer mainline is in the middle of the roadway rather than in the borrow pit which will double the cost of extension. The mainline's position in the middle of the road means that there is no manhole at the end of the line and its location is not exactly known. Therefore, the mainline may be as far as 260 to 290 feet from the Zollinger's property.

The Council reviewed conditions in which they granted Kolby and Heather Rowser (Tax ID. #11-086-0005) use of a septic system within city limits. Councilman Bob Lindley detailed the elevation complications which meant that the Rowser's sewer line would have stuck two feet out of the ground at the south edge of their frontage and even higher at the far north end of their frontage. Mayor Bailey explained that the Rowser's signed an agreement with the city that they will connect to the sewer mainline when future development brings sewer from the north. City Manager Wells expounded that the Ms. Zollinger's adjoining lot (Tax Id. #10-014-0050) is a flag lot. A home could be developed on each lot with a lot line adjustment fixing the flag lot. Because there are *two separate lots*, a single home developed on each would *not* be considered a subdivision (subdivisions must connect to the city sewer system). Three developed homes *would be* considered a subdivision and must meet all subdivision requirements including connecting to the city sewer system. Councilman Poulsen asked to see elevation data for this property and the existing sewer mainline at the next meeting. **Councilman Bob Lindley made a motion, seconded by Councilman Austin Wood, to continue the discussion regarding options to extend sewer along 450 East to Hailey Zollinger's property located at approximately 450 East Main (Tax Id. #10-014-0049) in order for the**

**Council to further study sewer codes and elevation data at this location.**

**YEA 3**

Bob Lindley  
Chad Poulsen  
Austin Wood

**NAY 1**

Kaylene Ames

The Council shall discuss options for running sewer to Creekside Meadows Subdivision located at approximately 1100 South 200 East (Tax Id. #10-043-0007). Lody Hales, who is pursuing purchase of Creekside Meadows Subdivision, was not in attendance to present his proposal. City Manager Scott Wells told the Council he was unaware Mr. Hales would not be present and would have been better prepared had he know he would be responsible to present. The Creekside Meadows Subdivision final plat, which was previously approved for property owner Paul Freed, outlines a sewer lift station located north of Hawbush Creek which pumps sewer uphill to gravity feed down to 200 East, the line would then bore under the Wellsville-Mendon canal and Highway 89/91, to attach to the city mainline at 900 South. City Manager Wells explained Mr. Hales hopes to gravity feed and attach the subdivision to the city sewer mainline at approximately 570 East 200 South. Mr. Hales would need consent and participation from three additional property owners to run sewer to the proposed location along 200 East: C4 Group LLC (Tax Id. #10-043-0001), Nilsson 4 Properties LLC (Tax Id. #10-042-0020, #10-042-0001), and McClendon Family Trust (10-017-0001, #10-017-0015). The newly proposed sewer placement would allow Mr. Hales avoid a sewer lift station and boring the highway. City Manager Wells said City Engineer Chris Breinholt stated that a new sewer line runs all the way to 200 East which brings sewer closer to the trunk line rather than connecting to the sewer system by boring under the highway at 900 South and traveling through the sewer system to hit the trunk line at 400 South. Councilman Chad Poulsen said he would approve of the gravity fed system if it was within city rights-of-ways rather than within private property. City Manager Wells stated Mr. Hales and the other three property owner's hurdles will include an easement and a 12-foot hardpacked roadway to allow a vacuum trailer to travel throughout the system. Mayor Thomas G. Bailey asked if the C4 Group LLC (the Cable family) property is being developed. City Manager Wells answered that the Cable family was denied a 2.5-acre density rezone with Cache County. Mayor Bailey stated for this proposed sewer system to gain any traction C4 Group LLC, Nilsson 4 Properties LLC, and the McClendon Family Trust need to collaborate on what development they would like to pursue and be annexed into Wellsville City. If collaborated, those developments should determine where they would like to place a road and the sewer should follow the roadway he added. City Planner Jay Nielson asked if Mr. Hales has had serious conversations with the three other property owners to carry out this proposal. City Manager Wells repeated he wished Mr. Hales was present to answer these questions. City Manager Wells stated the McClendon and Nilsson property owners are not looking to develop soon but recognize that a sewer utility line connecting to their property will increase their property values. City Planner Nielson asked for additional information on the properties involved so they can better illuminate the magnitude of a possible annexation. City Manager Wells asked if the Council is willing to entertain the idea of the proposed sewer system. The Council agreed they do not have enough details to even consider entertaining the proposed sewer system. **Councilwoman Kaylene Ames made a motion, seconded by Councilman Bob Lindley, to continue this discussion when Lody Hales is present.**

**YEA 4**

Kaylene Ames  
Bob Lindley  
Chad Poulsen  
Austin Wood

**NAY 0**

Next, the Council shall consider options for purchasing property in Wellsville with open space contributions. City Manager Scott Wells pointed out that the Creekside Meadows Subdivision and Cooper Subdivision are pursuing paying fees in lieu of open space. He asked the Council to create a vision of where they would like Wellsville City to purchase property with those fee in lieu contributions. The Council mentioned the Bradshaw property located at approximately 100 North 100 East (Tax Id. #11-082-0011, #11-082-0012, #11-082-0050, and #11-082-0051); the Long Pockets LLC property located at approximately 50 North Center (Tax Id. #10-021-0004); property near the Highway 89/91 and Hwy 23

intersection which would allow for a future overpass; the Bevan and Clarice Higbee TRS property located at approximately 700 South 200 East (Tax Id. #10-038-0012); the Thomas G. Maughan TR property located at approximately 100 North 450 East (Tax Id. #10-014-0048); and property west of 300 West.

City Planner Jay Nielson encouraged the Council to consider a larger picture rather than solely properties which are available at the moment. "Acquisition of open space ought to be driven by a **Master Plan** that says this is where our priorities are, this is the criterion we use, and this fits with the **Parks, Recreation, and Trails Master Plan**." City Planner Nielson stated. The **Parks, Recreation, and Trails Master Plan** should be updated to include open space acquisitions he added. Councilwoman Kaylene Ames agreed. Councilman Bob Lindley would like to see open space acquired which is adjacent to existing city open space such as the Bradshaw properties. Such priorities should be included in the Parks, Recreation, and Trails Master Plan City Planner Nielson said. He stated that entrances to the city and highway corridors should also be priorities and would be supported by the **General Plan**. Areas adjacent to lighted intersections have been exclusively preserved for commercial development. City Planner Nielson commended Wellsville City's open space setbacks along the highway corridor. City Manager Wells encouraged the Council to examine the **Wellsville City Master Plan** and the **Parks, Recreation, and Trails Master Plan**. **Councilman Bob Lindley made a motion, seconded by Councilman Austin Wood, to continue the discussion and further investigate open space priorities.**

YEA 4

NAY 0

Kaylene Ames  
Bob Lindley  
Chad Poulsen  
Austin Wood

Lody Hales arrived at the Council meeting. City Manager Scott Wells asked the Council to return to *Item 12* to discuss options for running sewer to Creekside Meadows Subdivision located at approximately 1100 South 200 East (Tax Id. #10-043-0007). Mr. Hales stated he is pursuing purchase of the subdivision and is exploring options to gravity feed the subdivision's sewer and attach the to the city sewer mainline at approximately 570 East 200 South. He hopes to avoid a sewer lift station and boring underneath Highway 89/91. Mr. Hales shared that he has verbal agreements from three property owners to run sewer to the proposed location along 200 East: C4 Group LLC (Tax Id. #10-043-0001), Nilsson 4 Properties LLC (Tax Id. #10-042-0020, #10-042-0001), and McClendon Family Trust (10-017-0001, #10-017-0015). He asked the Council if they have any reservations with the proposed sewer before he invests further. Mr. Hales said he has discussed the proposal with City Engineer Chris Breinholt who thinks it is a better alternative than the originally proposed sewer lift station located north of Hawbush Creek pumping sewer uphill to gravity feed down to 200 East, boring under the Wellsville-Mendon canal and Highway 89/91, and attaching to the city mainline at 900 South. Mayor Thomas G. Bailey asked for a concept plan showing where Creekside Meadows Subdivision and the three other properties would place a roadway. He repeated that the sewer system should follow a roadway. Mayor Bailey stressed that the three other property owners need to understand that an easement with a 12-foot hardpacked roadway to allow a vacuum trailer to travel throughout the system will be necessary prior to development. Mr. Hales shared that the C4 Group LLC already has a concept plan for their property established; Brett Nilsson and Dan McClendon have also agreed to a concept plan he said. Mr. Hales stated if the Cables, Nilssons and McClendons agree to annex that still leaves an "island" of county properties between those three property owners and Highway 89/91. City Planner Jay Nielson replied that all those "island" properties zoned with the County would also have to be annexed into Wellsville City. Councilman Chad Poulsen recommended Mr. Hales and the other property owners design to match Wellsville City's ten acre block grid. Steve Earl, principal engineer with Cache Landmark Engineering, Inc. is working with Creekside Meadows and C4 Group LLC to make sure there is a crossroad every 660-feet reported City Manager Wells. Mr. Hales affirmed they are looking to match the city's **Master Plan**. If the proposed gravity fed sewer system is approved the Creekside Meadows Subdivision final plan will lose the sewer lift station and three homes where the new easement and roadway will connect to the C4 Group LLC property. Mr. Hales asked again if the Council has any reservations with the proposed sewer before he invests further. Mayor Bailey repeated they cannot determine if the proposal is feasible without a concept plan for the four properties detailing where the road and sewer system will run. City Planner Nielson agreed and said that a concept plan would also help the city consider the scale of

possible annexations. Councilman Austin Wood asked what the cost comparison would be for the proposed extensive distance of sewer line to be ran to 200 South versus the sewer lift station, boring Highway 89/91, and the shorter distance of sewer line to be ran to 900 South. Mr. Hales recognized the cost comparison and feasibility of the proposed gravity fed sewer line is yet to be determined. City Manager Wells stated that City Engineer Breinholt is still assessing what size of line the gravity fed system would need to accommodate for future growth along that extensive distance. The Council agreed to maintain their previous motion to continue the discuss regarding connecting sewer to Creekside Meadows Subdivision located at approximately 1100 South 200 East (Tax Id. #10-043-0007).

The City Council discussed culinary and secondary water restrictions and notification processes for Wellsville City. City Manager Scott Wells reported irrigation water has been turned off to the city parks and cemetery for the end of the season. He shared that pressure reducing valves are being replaced on the south end of town. The city's text notification system has been successful in notifying citizens of impending utility interruptions over the last three years. City Manager Wells will soon present the appraisal for the Bankhead property (Tax Id. #10-039-0004) for the proposed well site. City Manager Wells reported last year 400,000-gallons of water flowed from Leatham Springs per day. This year only 300,000-gallons is flowing from Leatham Springs per day. City Manager Wells explained that by this time of year the city is typically able to rely solely on water from Leatham Springs rather than pump water from the city's culinary wells. This year the city continues to rely on the city's culinary wells pumping four to five times a day. He believes water conservation efforts will need to be even stricter next year. **Councilman Bob Lindley made a motion, seconded by Councilman Chad Poulsen, to continue the discussion about water restrictions for culinary and secondary water for Wellsville City and the notification process.**

YEA 4

NAY 0

Kaylene Ames  
Bob Lindley  
Chad Poulsen  
Austin Wood

City Manager Scott Wells discussed the fourth quarter financial report for May 2022. The sidewalk fee in lieu fund is up, City Manager Wells hopes to improve and continue city sidewalks. Wellsville City charges \$100.00 an acre for irrigated property; \$50 an acre for unirrigated property; and \$25 an acre for unirrigated street rent. Court expenses are up to ensure the City is compliant prior to being audited. Attorney, engineering, and 'professional/technical- other' fees are up due to subdivision reviews. First responder and fire department supplies are up but will be reimbursed via grant money. Parks and Recreation supplies are up due to \$30,000 worth of playground repairs which the city could not avoid due to liability concerns. City Manager Wells hopes yearly inspections will help moderate those playground repair expenses in the future. Emergency preparedness fees are up in a combined effort to update the city's emergency plan with the Church of Jesus Christ of Latter-day Saints. City Manager Wells reported to the Mayor and Council that Wellsville City is in good financial standing. After discussion, **Councilman Bob Lindley made a motion, seconded by Councilman Chad Poulsen, to approve the fourth quarter financial report for May 2022.**

YEA 4

NAY 0

Kaylene Ames  
Bob Lindley  
Chad Poulsen  
Austin Wood

City Planner Jay Nielson returned the Council's discussion regarding *Item 10*, possible approval of an ordinance amending **Title 10 "Land Use Regulations," Chapter 35 "Open Space," Section 2 "Land Set Aside"** required of the Wellsville Municipal Code. After contemplation, he discouraged Councilman Chad Poulsen suggestion that a provision be added to the proposed amendment which requires the subdivision applicant to justify why the subdivision is not paying in lieu of open space. That provision does not make sense because it would practically dictate that a small subdivision pays in lieu of open space which is contrary to the whole premise of the amendment and the three mandatory criteria he explained. He continued, saying requiring open space for all properties and forcing small subdivisions to pay in lieu of

open space would never withstand a constitutional review. Multiple options for open space make certain constitutionality and legality. Road rights-of-way are the only instances in which a city can take property from a landowner. Requiring open space for one, two, or three lot subdivisions which do not have connectivity or a future functional purpose with existing or future open space; does not provide any future connection to a community trail system; or is not near or adjacent to any critical lands or existing or planned future open space; *does not make sense and is the whole premise of the proposed amendment*. Paying fees in lieu for open space is also very costly for subdivisions smaller than three lots which consequently have lower profit margins than large subdivisions. Paying fees in lieu for open space currently costs a two-lot subdivision \$85,000.00 to \$150,000.00 *in addition* to the purchase price of the property which is often not workable for small subdivisions. If a small subdivision's open space does not make sense given the three listed criteria, and has the option for an exception, how can code ask the landowner if they have exhausted all resources to pay in lieu fees for open space City Planner Nielson asked. Asking the landowner if they have exhausted all resources, to pay in lieu fees for open space is *contrary* to the premise of the whole amendment he asserted.

Councilman Poulsen disagreed and said if open space does not make sense for a small subdivision, they should pay a fee in lieu of open space. City Planner Nielson replied that requiring a landowner to exhaust all resources to pay fees in lieu of open space undermines all three criteria of the exception. Councilman Austin Wood agreed with City Planner Nielson and stated that requiring a landowner to exhaust all resources to pay fees in lieu of open space changes the intent of the whole amendment. Councilman Poulsen said that Creekside Meadows Subdivision and Cooper Subdivision do not want open space within their subdivisions and are each paying in lieu of open space. City Manager Scott Wells explained that small subdivisions consequently have lower profit margins than large subdivisions. Open space on top of the purchase price of the property is often not feasible for small subdivisions. He gave the example of \$200,000 of fees in lieu of open space being easier to absorb amongst 18 lots; rather than \$120,000 of fees in lieu of open space amongst two lots. City Planner Nielson asked how Councilman Poulsen expects the Planning Commission to determine that a landowner has exhausted all efforts to pay fees in lieu of open space. City Manager Wells reported the 40 percent open space for Creekside Meadow's 18-lot subdivision appraised at \$210,000.00. Creekside Meadows was appraised as undeveloped, without services. 40 percent open space for Cooper Subdivision's five-lot subdivision appraised at \$200,000.00. Cooper Subdivision is within town center and has services available. City Planner Nielson stressed that the fee in lieu price of open space is based on the *appraised value of the property*. Councilman Poulsen stated he disagrees with using the appraised value of a property because he believes open space should be appraised as open space *not* as a building lot. He continued that Creekside Meadow's property was appraised as farmland yet is being sold as building lots. Cooper Subdivision's property was appraised as development property, yet the open space is being sold to Wellsville City as undevelopable land he said. Brad Parkinson is paying fees in lieu for undevelopable land at developable prices which Councilman Poulsen inferred is unfair. City Manager Wells and Councilman Bob Lindley pointed out Wellsville City will still be expected to pay appraised prices (or developable prices) when purchasing any property within town center using in lieu fees, even if the property is undevelopable. Councilman Poulsen concurred property within town center is more expensive than property outside of town.

Councilman Poulsen said "Open space is an option for them in the code. They have that same option as anybody else that has a subdivision. It doesn't matter if it's a three-lot subdivision, or a two-lot subdivision, or a 50-lot subdivision they still have that option. It is in the code for them and they have that option." City Planner Nielson asked if the Council is in agreement that there are certain circumstances in small subdivisions in which open space *does not make sense*. If the Council is in agreement on that basic point this should be easy to solve, he said. If they agree that open space does not make sense in small subdivisions, how can the city justify requiring them to pay money for open space that does not make sense he asked. Councilman Wood replied that citizens are regularly forced to pay in lieu of sidewalk that does not make sense on their property. City Manager Wells asked if they should reevaluate and have options to eliminate open space and sidewalks if it does not make sense with a lot's topography. Mayor Bailey stated common sense must enter the equation somewhere. "Code says if you are zoned this, this, or this, it requires this much open space. That's what the code says. And these are your options. Just because you only have one lot or two lots or three lots doesn't mean that your options are different. You still have the same options. Why do we want to take one away just because of the number of lots?" asked Councilman

Poulsen. City Planner Nielson responded "Because individual property owners are different than developers. Developers have a profit margin that allows them to do more because they are dealing with more land. Individual property owners are hurt by open space requirements." Councilman Poulsen replied, "Planning and zoning has the ability to take that into consideration." City Planner Nielson asked again how Councilman Poulsen expects the Planning Commission to determine that a landowner has exhausted all efforts to pay fees in lieu of open space.

Mayor Bailey emphasized that open space on a single lot is not going to benefit the community. City Planner Nielson reminded the Council recent **Code Amendment 2021-03, in Chapter 10-35-040 titled "Open Space Standards,"** repealed ownership of open space within a lot, **4. Type 4 "Individual Private Ownership within a Subdivision"**. Councilman Poulsen said that purchase of that single lot open space for a reasonable price benefits the city and holds to the code. Mayor Bailey informed the Council that a 110-foot by 110-foot lot (approximately 0.28-acres) in the city just sold for \$155,000.00. How can you ask a young person trying to build a house to pay another \$62,000.00 for 40% of the lot (which they do not have full use of), on top of the \$155,000.00 purchase price, and other impact fees Mayor Bailey asked. Councilman Poulsen said he believes a set price should be determined for open space regardless of the property's appraised value. "Land is worth different values wherever you buy it," replied City Manager Wells. City Planner Nielson stated that a set price for open space would disadvantage the city because the city cannot in turn purchase open space with fees in lieu funds for that set value. Councilwoman Kaylene Ames stated she does not want Wellsville City to take advantage of small builders. Councilman Poulsen said he does not like the disparity between the values of different properties and disputed the use of appraised values. Councilman Wood said that asking the Planning Commission to determine that a landowner has exhausted all efforts to pay fees in lieu of open space would be based on emotion and not strictly enforcing the code. Councilman Lindley agreed that the Planning Commission's purpose is not to determine policy but to enforce the code. "As of right now if they are interpreting policy, they can't pass any of these because there is still an option for fee in lieu. That is still an option in the code," Councilman Poulsen said. "They are saying that it does not make sense to require open space in those limited circumstances which means that fee in lieu is off the table. Because there is no open space required," stressed City Planner Nielson. Mayor Bailey said previous major and minor subdivision rules made a lot of sense. "Lumping everyone into major subdivisions means that the individual homeowner gets hurt." Mayor Bailey said. "Which we don't want," emphasized Councilwoman Ames. Mayor Bailey repeated that giving up 40 percent of a single lot and paying an additional \$62,000.00 for that open space is not a possibility for many people. City Planner Nielson agreed building for those with a single lot or a small subdivision has been made infeasible in Wellsville City. "But we're already doing it," responded Councilman Poulsen. "I don't like the fact, with the Mayor, that somebody has to pay an extra \$40,000.00 on their lot but I'm just saying that we're already doing it," said Councilman Poulsen. City Planner Nielson stated subdivisions larger than three lots will still have the option to keep their open space. They do not have to pay a fee in lieu. "If they don't do that, if they buy the open space, the property is worth more. That is the same with a single lot building a house. Their property is worth more if they buy up that open space and have a full lot," Councilman Poulsen stated. Councilman Wood said defining the line of when someone becomes a developer would make this an easier discussion. Mayor Bailey answered four lots or more is where Wellsville City has drawn that line. Mayor Bailey pointed out that requiring open space in one, two, and three-lot subdivisions also forces them to be in and pay the legal fees for a Homeowners Association (HOA), which he said he would personally avoid. **Councilman Chad Poulsen made a motion, seconded by Councilman Bob Lindley, to continue the discussion regarding possible approval of an ordinance amending Title 10 "Land Use Regulations," Chapter 35 "Open Space," Section 2 "Land Set Aside" required of the Wellsville Municipal Code.**

YEA 4

Kaylene Ames  
Bob Lindley  
Chad Poulsen  
Austin Wood

NAY 0

Chad Poulsen-

1) No business or concerns at this time.

Mayor Thomas G. Bailey-

1) Expressed appreciation to Scott Wells, Leesa Cooper, Denise Lindsay, and Jamie Van Huss for their efforts towards a very pleasant Wellsville City Appreciation Dinner.

Kaylene Ames-

1) No business or concerns at this time.

Bob Lindley-

1) No business or concerns at this time.

Austin Wood-

1) Discussed Tony Johnson's remodeling efforts at 81 East Main Street. Mr. Johnson hopes to set up Regional Development Authority (RDA) grant opportunities in Wellsville.

City Manager/Recorder's Report:

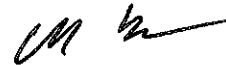
1) Wellsville City's employee Christmas dinner will be held in person.

At 8:01 p.m., Councilman Bob Lindley made a motion, seconded by Councilman Chad Poulsen, to adjourn the meeting.

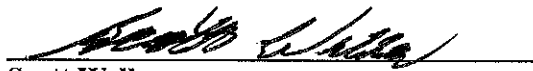
YEA 4

Kaylene Ames  
Bob Lindley  
Chad Poulsen  
Austin Wood

NAY 0



~~Thomas G. Bailey~~ Chad K. Poulsen  
Mayor - Pro-Tem

  
\_\_\_\_\_  
Scott Wells  
City Manager