BOARD OF TRUSTEES
September 22, 2020
6:30 PM

Regular Meeting

MINUTES

A. CALL TO ORDER

Mayor Hamman called the meeting to order at 6:30 p.m.

1. Pledge of Allegiance
   Mayor Hamman asked that all rise for the pledge of allegiance.

2. Roll Call
   Mayor Troy Hamman
   Mayor Pro Tem Knutson
   Trustee Jon Gaiter
   Trustee John Jerome
   Trustee Rebekka Kinney
   Trustee Ashley Macdonald
   Trustee Tim Whitehouse

   Also Present:
   Kelly Houghteling, Interim Town Administrator
   Brad March, Town Attorney
   Tyler Sexton, Interim Finance Director
   Cody Bird, Director of Planning
   Bob Gowing, Director of Public Works
   Krystal Eucker, Town Clerk

3. Amendments to Agenda
   Mayor Hamman asked if there were any amendments to the agenda to which there was none.

4. Conflict of Interest
   Mayor Hamman asked if there were any conflicts of interest on this evening's agenda. Mayor Pro Tem Knutson commented that he did have a conflict of interest with Item C.2, Preliminary Plate for Sage Meadows.

B. COMMUNITY PARTICIPATION

1. Public Comment
Mayor Hamman opened the meeting up for public comment to which there was none.

C. ACTION ITEMS

1. Resolution No. 34-2020 Utility Rate Change
Mr. Sexton stated The Town of Wellington contracted with Woodard and Curran to evaluate water, wastewater, and storm water rates. The goal was to develop realistic projections of the full costs associated with operating the utility. Multiple years of utility bills were reviewed to establish a trend in usage. Calculate monthly fixed and volumetric charges necessary to provide for the utility's long-term financial sustainability. The Town was successful in that we accomplished all three goals and narrowed down the three main factors for the necessary rate increase:
    1. Utility rates have remained the same since 2016
    2. We have seen an increase in water cost.
    3. New capital and water treatment loans brought on by the Town

These rates are reflective of that study. Implementation of rate increases for the water will be time consuming and difficult to manage through the transition. Finance staff believes that it would be more efficient to work through the application once rather than repeating the process and then beginning the process all over again three months later. It will also be more cost effective to develop and mail a brochure to assist with explaining why the increase is necessary and spending time with citizens to better understand the information one time. The Town Staff is recommending scenario 3. The small increase should be barely noticeable rather than a 100% increase. We are trying to cut down on the call volume because the Utility billing Clerk is new, so she is training at this time.

Trustee Gaiter stated that he was a little confused on scenario 3 and asked where the small rate change would come in. He asked if the small rate change will begin in January and asked if that is the reason, he was recommending that one.

Mr. Sexton explained that scenario 2 would go from $35.00 to $63.00 in January, Scenario 3 is a $60.00 in October to a $61.00 in January so it's less than 3% rate increase.

Trustee Kinney stated that she is in favor of option 2. It increases gradually over time which eases the burden. Meaning there will be an increase in October and again at the end of the year. She believes that it is not fair to have the increase all fall right now as people are already struggling with kids at home, increased childcare and uncertainty for the future. Some people might already be behind. Both models accomplish the requirements for bringing the water fund where it needs to be.

Trustee Gaiter shared that he has had a lot of the same questions and comments from the community as Trustee Kinney has. Mr. Gaiter stated that the problem he had with scenario 1 was that there was not going to be a change until next year and with scenario 2 he likes the fact the we can shoulder a little bit of the burden, so not as much of that falls on the citizens at this moment. He would prefer to do scenario 2 even if that does mean more work on our side.

Mayor Pro Tem Knutson reminded the Board that option 2 may have a lower start but it's only for three months and then it would have a higher payment next year over option three. Whether you want to pay more next year or slightly less this year.

Mayor Hamman agrees with Trustee Gaiter and Trustee Kinney as he would like to ease the pain as much as possible. As far as our cost of water that was a rather quick increase that we had to incur. Mayor Hamman thinks we have a good system going forward and thinks we're thinks we are doing a decent job trying to keep up with this.

Mayor Hamman opened the meeting for public comment to which there was none.

Mayor Pro Tem Knutson moved to approve Resolution No. 34-2020, Scenario III; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:

> **Yeas -Jerome, Macdonald, Knutson**
> **Nays – Gaiter, Kinney, Whitehouse, Hamman**
> **Motion failed.**

Trustee Gaiter moved to approve Resolution No. 34-2020, Scenario II; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:

> **Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman**
> **Nays - None**
> **Motion carried.**

2. <u>Preliminary Plat for Sage Meadows 2nd Subdivision</u>

Mr. Bird informed the Board the applicant has submitted a request to plat approximately 36 acres of land for single-family detached residential, single-family attached residential and 2 larger lots along Highway 1 for potential commercial or public/civic use. A rezone request to a Planned Unit Development overlay is also proposed and will be applied for concurrently with the final plat for the subdivision. The PUD is proposed to accommodate the mix of detached and attached residential units, as well as commercial and public/civic development opportunities.

The preliminary plat was advertised for public hearings before the Planning Commission and Board of Trustees. The Planning Commission held the scheduled public hearing on September 14, 2020. No public testimony was presented. Following the close of the public hearing, the Planning Commission voted to approve the preliminary plat and forward the recommendation of approval to the Board of Trustees.

Mayor Hamman commented that he really liked the approach and the way it looks but has a concern about a single access into the site.

Trustee Whitehouse asked if the commercial parcels were going to be on a non-pot system?

> Mr. Bird stated the entire land that's proposed as part of this preliminary plat has the capacity to be on the existing non-potable system that's currently in Sage Meadows subdivision.

Trustee Whitehouse inquired about the sidewalks because their size is not standard town code.

> Mr. Bird responded that the sidewalks for this proposed subdivision identifies the

sidewalks will range from 3 -10 feet. Staff suggested that we would like all the sidewalks to comply with town standards, unless the developers increasing the width of sidewalks or trails.

Trustee Kinney expressed that she was impressed that the Town is considering a diverse look.

Trustee Gaiter voiced his concern on using the land and if we are going to have the opportunity for things other than just the Fire District or commercial property.

Mr. Bird responded that they are trying to provide maximum flexibility for this property as it is predicted that the parcel north of this will develop commercially at some point in the future.

Mayor Hamman opened the meeting for public comment to which there was none.

Trustee Whitehouse moved to approve the Preliminary Plat for Sage Meadows 2nd Subdivision; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Whitehouse, Hamman
Nays - None
Abstain – Knutson, Macdonald
Motion carried.

3. <u>Main Streets Program Memorandum of Understanding and 2021 Budget Update</u>

Ms. Cooper with Wellington Main Streets Program informed the Board that their total municipal funding request for 2021 is $77,500. This includes $75,000 in direct municipal funding and $2500 for their annual color flower planner support. They have changed their program area, so it no longer includes the east side of 6th Street, but the Board did vote last year to help support that program outside of their area. They are taking a very conservative approach this year and left off fundraising productions and project costs that they would typically include and that is due to COVID. They do not want to prematurely anticipate any funding that is coming in so the project cost estimations are listed separately under their budget and the Main Street Program will work very hard this upcoming year to complete their work plan events and projects as those funds become available to them. Ms. Cooper also informed the Board that the Wellington Main Streets Program submitted an application for graduate status with Colorado Main Streets and they are hoping to hear by the middle to the end of October. The approval of their status change will result in an increase of their annual mini grant dollars from $5,000 a year to $10,000 and that would be effective immediately. They have been awarded a five-year contract so from fiscal year 2020 to 2025 they will be guaranteed those mini grant funds. That will also allow them to borrow against those funds and could potentially take out three years at a time, $30,000 worth as a graduate level program or they can bank those funds year to year. The great things is that as they head into next year looking at the downtown master plan, that might allow them to retain some of those funds and not have to use them for a project and allow them to collect more funds to do a larger project.

Ms. Cooper brought to the Board a proposed MOU to formalize the verbiage on deliverables from the Main Street Program to the Town and this would be signed on an annual basis, along with their budget approval through the Town of Wellington. This MOU would outline the specific deliverables that they would assist the Town and the Board of Trustees with downtown redevelopment projects that are agreed upon between the two organizations. They would help to maintain an inventory and database of occupied and vacant properties, help to create awareness of the downtown community through promotion of events, social media, quarterly articles and other media platforms, communicate grant funding and pursue initiatives and opportunities to enhance the appearance of mainstream program area. These are things that they've already been doing. There is also a portion that talks about compensation, which would change year to year. Ms. Cooper said that she would do a quarterly report so the Board can see where they are at in the budget and the projects that they have going on an ongoing basis.

Trustee Macdonald stated that when Main Streets was originally founded, part of the pilot was that there would be a plan eventually in place for them to be self-sufficient financially and inquired if that is what Main Streets is working towards.

> Ms. Cooper responded that this year was supposed to be a very pivotal year for them to move towards that financial independence and a lot of those projects and events did not happen due to COVID. Her goal for next year as part of that graduate program status and giving them that dollar flexibility over the next five years. That will be huge for their project costs and they are also starting some other larger events that should be larger revenue producers. The potential of a farmer's market and potentially doing additional events and taking a really close look at direct contribution and support. Corporate sponsorship directly to their organization and really take advantage of the fact that they are a nonprofit organization, and a lot of those fees, and contributions are tax deductible. That is a big consideration for their board of directors moving forward and something that their financial sustainability committee has shifted in and making sure that that is a goal they are working towards.

Trustee Macdonald thanked Ms. Cooper for all that they do even with the COVID pandemic.
Mr. March suggested that the Town include in the MOU a provision that provides that the $75,000 is subject to appropriation. Mr. March also noted that the agreement would be terminal on a 90 days' notice. He was not sure if the $75,000 was going to be allocated as of January 1 or if it was a monthly disbursement.

> Ms. Cooper explained that they present the board with next years budget and then that is taken into consideration as they work through their budget cycle for 2021 and it will be effective as of January 1.

Trustee Gaiter responded that his understanding of the MOU is that the funds are allocated quarterly to the Main Street Program; they present an invoice to the Town on a quarterly basis.

Mr. March commented that if the Board understands that if it's terminated that would have an impact on the compensation so if they are comfortable with that he would suggest that they include an appropriation clause that he can provide.

Trustee Gaiter stated that he appreciated everything that Main Streets has done especially through COVID 19. Their support for the local businesses and talking with business owners has been fantastic.
Mayor Hamman quickly thanked Ms. Cooper and Main Streets for all their hard work and making the connections we needed to make things happen.

Mayor Hamman turned it over for public comment which there was none.

Trustee Kinney moved to approve the Memorandum of Understanding with the additional appropriations clause; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

4. <u>Annexation Agreement and Development Agreement for Poudre School District Subdivision</u>
Mr. Bird informed the Board that town staff is still negotiating items with school district staff which includes irrigation of an outdoor learning park or courtyard, raw water dedication and off-site road improvements for Highway 1, County Road 9 and County Road 62. The school district staff is convening an executive session tonight with their Board before they can proceed with some of their comments. There is a meeting set up with them that coming Thursday to continue those conversations. Mr. Bird suggested that this item be tabled until the October 13th meeting so those discussions can take place.

Trustee Whitehouse said that he appreciates everyone's dedication to getting this down.

Trustee Whitehouse moved to table the Poudre School District Annexation and Development Agreement to October 13, 2020; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

5. <u>Proposed Ordinance - An Ordinance Concerning the Regulation of Retail and Medical Marijuana Stores in the Town of Wellington</u>
Mr. March informed the Board that information is applicable to items five through nine and suggested that the Board table these items until the October 13th meeting. On Friday, September 18th an action was filed and the District Court requesting a declaratory judgment; a declaratory judgment is a proceeding by which the District Court can look at certain questions and provide answers. The first component to the declaratory action was a preliminary injunction hearing and the Court has set that preliminary injunction hearing for tomorrow afternoon. The relief requested in conjunction with the preliminary injunction hearing is to prohibit the County Clerk from printing ballots without the Wellington initiatives for the November 3rd election. If that isn't an alternative, they would request that the Court declare that the Wellington Clerk should be required to provide Wellington voters with independent mail ballots for the November 3rd election. As the Board has been advises that is problematic, in light of 31-10-108, Wellington cannot schedule an election unless it's done 60 days prior to the election and that has already passed.
The protest decision the hearing officer was required to issue a ruling on the Wednesday action within five days. She issued that ruling on September 20th which was Sunday. The hearing officer in her determination found that the petition relative to the marijuana sales issues was not sufficient, meaning that it did not meet the requirements of State law, specifically she cited to the facts that she felt that there were administrative components. Also, the hearing officer found that

the petition was insufficient because under CRS 13-11, 113, the circulator is required to file a petition at the time the signatures are turned in showing that they have received pay for the signatures and what the circulator has been paid. The hearing officer determined that these were not sufficiently filed and determined that the whole petition was insufficient because of that.

If the petition is found to be sufficient at tomorrow's hearing, the Board is required under CRS 31-11-04 to refer that ordinance to the voters. That referral has to occur no later than 150 days after the determination of sufficiency but cannot occur within 32 days of the general election. That would allow the board to set this matter beginning, December 8, 2020 and as late as January 12, 2020. Since this matter is in litigation, the Board should enter the general policy of simply not commenting on litigation.

Trustee Whitehouse moved to table item C.5 to October 13, 2020; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

6. Proposed Ordinance - An Ordinance Concerning Retail Marijuana Sales Tax in the Town of Wellington, Colorado

Trustee Macdonald moved to table item C.6 to October 13, 2020; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

7. Resolution No. 30-2020 - A Resolution Calling a Special Election in the Town of Wellington, Colorado

Trustee Gaiter moved to table item C.7 to October 13, 2020; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

8. Resolution No. 36-2020 - A Resolution Referring a Ballot Question

Mayor Pro Tem Knutson moved to table item C.8 to October 13, 2020 Trustee Whitehouse seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

9. Resolution No. 31-2020 - A Resolution Authorizing the Town Clerk to Appoint Election Judges for the Special Election

Mayor Pro Tem Knutson moved to table item C.9 to October 13, 2020; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

10. Resolution No. 35-2020 - A Resolution Appointing the Town Treasurer
Mr. March informed the Board that this resolution is the appointment of the Town Treasurer. The Town has retained Judith Tippits as the Financial Director; this is a joint position of Finance Director and Town Treasurer.

Trustee Gaiter inquired if the Board could get a review of the reasons behind having that as one combined position.

Mr. March stated that State statute requires that the town appoint a town treasurer. The finance director has some responsibilities to the Town Administrator, particularly in preparing the budget. The town administrator has the ultimate hiring and firing power of all employees, with the exception of statutory employees. There was a desire not to create a situation that the Town Administrator could terminate the Finance Director, so the Finance Director holds the position of both Finance Director and Town Treasure. This also allows the Finance Director, without running contrary to the Town Administrator, to bring disputes or concerns to the Board

Trustee Gaiter thanked Mr. March and expressed his concerns about having that as a combined position because you do have that person reporting to both. He did not realize that the Town Treasurer cannot be dismissed without the action of the Board.

Mr. March confirmed that they are both answerable to the Board and has a duty to report to the Board if there were concerns as well, not just the Town administrator.

Mayor Hamman turned it over for public comment which there was none.

Trustee Gaiter moved to approve Resolution 35-2020 to approve Town Treasurer Judith Tippetts; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows: Roll call on the vote resulted as follows:

Yeas - Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman
Nays - None
Motion carried.

D. REPORTS

1. Town Attorney – Mr. March had nothing new to share.

2. Town Administrator –

Ms. Houghteling welcomed Judith Tippetts to the Town and thanked Tyler Sexton for all his work in the interim.

Judith Tippetts shared that they have been reviewing concerns that she has heard from the Board on some citizens are behind in their utility bills. She has been reviewing some Cares Grants language and she has found $60,000 that is available. Once she gets approval from the Board, she would like to put together a hardship grant application that would allow some of our residents to ask for funding for some of their utility bills. Mr. Sexton helped her put together an aging report, this report shows that out of 3,902 utility customers, 359 of them are at 60 days behind; that 60 days translates into $11,600 that we are behind. The alarming ones are the ones that are more than 120 days behind and that equates to $37,000. Ms. Tippetts would like to get the go ahead from the Board to come up with an application for this grant. It would be for billing periods from March 2020 and forward, so if they were behind before those monies would not qualify. Also, she doesn't think that they should disqualify somebody for applying for that just because their current, that does not mean that they have not been struggling.

> Ms. Houghteling mentioned that this would be something similar to what they're rolling out right now for our business and nonprofit assistant program. This would also be for all utilities, not just water. They figured that could assist with about $2000 per household. She thinks it aligns nicely with what they are already attempting to do with our business and nonprofit community.

Judith Tippets mentioned that they did get a confirmation from DOLA that those funds can be used for utilities as long as they make it plural so they can't exclude electric. Ms. Tippetts thinks it would be a great way to reach out to our utility users.

Trustee Gaiter thinks that it's a great idea and has been approached by several citizens who have concerns being behind and now in conjunction with the rate increase. He thinks it's a great idea to also keep the consideration for those that may have made some pretty major sacrifices to stay current. He would love to see it move forward.

Trustee Whitehouse concurred with Trustee Gaiter and said that that was something he has inquired about in the past; he is in full support.

Trustee Kinney said that she is very excited that our residents can benefit from this.

Mayor Hamman said that this is news he was hoping to hear and thinks that it's great.

3. Staff Communications

a. Treasurer Report

> Staff presentation: Tyler Sexton, Assistant Finance Director said he can answer any questions the Board may have on the monthly report.
>
> Trustee Whitehouse mentioned that it seemed like revenues are running greater than anticipated and expenses seem to be running less than anticipated which is certainly better than what they were looking at a few months ago so that was encouraging.

Trustee Gaiter wanted to clarify that the water fund if he was reading it correctly, that we are currently at negative $1 million at this point?

Mr. Sexton responded that would be based off budget, and they will be anticipating the North Poudre share invoice and they will start seeing that bill next month.

Trustee Whitehouse asked what the projected number for water costs will be.

Mr. Sexton said it will be anywhere from $1.6 to $2 million dollars.

Trustee Macdonald asked how far back do the historical billing records go with North Poudre?

Mr. Sexton says they switched to Caselle back in 2009 but he has a file folder of all invoices for that last 10 years.

4. Board

Trustee Gaiter asked Mr. Gowing if he could report on how they were looking at the water treatment plant.

Mr. Gowing reported that the demand is starting to fall off a little bit. There was some cooler weather that had a big impact on outdoor water use, so it is looking better that it did back in August.

Trustee Kinney thanked Mr. Gowing for the work on the green house and that she has enjoyed watching the progress; it looks great.

E. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:58 p.m.

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Krystal Eucker, Town Clerk