BOARD OF TRUSTEES
September 8, 2020
6:30 PM

Regular Meeting

**MINUTES**

## A. CALL TO ORDER

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

1. <u>Pledge of Allegiance</u>
   Mayor Hamman asked that all rise for the pledge of allegiance.

2. <u>Roll Call</u>
   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. <u>Amendments to Agenda</u>
   Mayor Hamman asked if there were any amendments to the agenda to which there was none.

4. <u>Conflict of Interest</u>
   Mayor Hamman asked if there were any conflicts of interest on this evening's agenda to which there was none.

## B. COMMUNITY PARTICIPATION

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

2. Presentation - Water Rate Survey Results - Hallie Sheldon, Town Intern
Ms. Sheldon informed the Board that the information she will be providing comes from the water survey that was released in August. There were 12 questions asked on the survey and there were 727 surveys taken.

How many individuals live in your household?
- 1-2 People: 46.5%
- 3-5 People: 45.8%
- 5-7 People: 6.5%
- 8+ People: 1.2%

Do you own your home or rent your home?
- Own: 93%
- Rent: 7%

Who pays your water bill?
- Self: 97.4%
- Landlord: 0.8%
- HOA: 1%
- Not Sure: 0.1%
- Other: 0.7%

How do you pay your water bill?
- Online: 79.9%
- By Mail: 9.2%
- In Person: 1.8%
- Dropbox: 7.2%
- Not Sure: 1.9%

How important is it for Wellington to have enough funding to keep our water safe to drink? (On a scale from 1-5)
- 1 - 2.6%
- 2 - 2.1%
- 3 - 9.6%
- 4 - 16%
- 5 - 69.7%

How important is it for Wellington Water to have enough funding to ensure dependability of water service? (On a scale from 1-5)
- 1- 2.1%
- 2- 3%
- 3 - 9.4%

- 4 - 23%
- 5 - 62.6%

How important is it for Wellington Water to have enough funding for conservation and watershed sustainability (maintaining our water source capacity for future uses)? (On a scale from 1-5)
- 1 - 3.3%
- 2 - 5%
- 3 - 16.1%
- 4 - 24.8%
- 5 - 50.9%

In terms of water rates, do you think the amount you pay each month for water is:
- Too Little: 1.9% (14 survey-takers)
- Too Much: 57.1% (415 survey-takers)
- About Right: 34.4% (250 survey-takers)
- Not Sure: 6.6% (48 survey-takers)

Which of the following do you believe is the most important reason to conserve water?
- Saving Money on water and water-related heating bills 28.9%
- Ensuring that there is enough water for human use (agriculture, business, and future needs) 50.5%
- Ensuring that there is enough water for fish and wildlife: 8.1%
- Other: 12.5%

How do you prefer to get information about Wellington Water programs and services?
- Mail: 63%
- Advertisements around town: 0.6%
- Social media: 12.5%
- Town Website: 10%
- Other: 13.9%

Please read the scenarios below and choose which one you would prefer (based on 7,000-gallon use/month).
- Scenario I – 9.9%
- Scenario II – 28.1%
- Scenario III – 27.1%
- Not Sure – 34.9%

Trustee Macdonald inquired as to the difference between bills and human use.

Ms. Sheldon stated that would be their preference of why we conserve water to ensure the future Wellington businesses and fields have the water they need.

Trustee Gaiter asked that the FAQ and presentation be placed back on the website.

3. <u>Presentation - B-Dam Project Status Update - Bob Gowing, Public Works Director</u>

Mr. Gowing informed the Board about what is happening with the B-Dams. The B-Dams are a series of five flood control structures designed and constructed in the 1970's by the Soil Conservation Service. Each B-Dam generally consists of very large earthen dam, outlet works and an emergency spillway. These dams are currently maintained by North Poudre Irrigation Company (NPIC).

The B-Dams work together to provide extremely effective flood control for downstream properties. Communities that primarily benefit from that flood control include Wellington, Fort Collins, Timnath and Larimer County. Without the B-dams, approximately 75% of the Town would lie within the regulatory 100-year floodplain. The Box Elder projects were designed assuming the B-Dams stay in place.

In the mid 2010's, B-2, B-3 and B-4 were reclassified as "High Hazard Dams" by the State, meaning the dams must either be improved to a higher performance standard or be removed. In 2016, the National Resource Conservation Service (NRCS), formerly the Soil Conservation Service completed studies for B-2 and B-3 to identify the improvements required. Estimated costs ranged from $25,000,000 to $30,000,000, with a potential NRCS match of 65%. Participating communities were not able to agree on cost sharing to complete the improvements, and the project was put on hold.

In 2019, the communities were informed by the NRCS that the project must progress or funding for the match would be discontinued. The communities and NPIC agreed to an IGA to fund a study to refine the design and develop a rational cost share approach. The total budget was $250,000, to be shared equally by the five partners. A Stakeholder Group and a Technical Evaluation Committee were formed including the following:

- NPIC
- Town of Wellington
- Town of Fort Collins
- City of Fort Collins
- Larimer County

SEH was hired to accomplish the following tasks under the direction of the Stakeholders:

- Review and update previous hydrologic and hydraulic modeling for B-2 and B-3.
- Analyze B-4 and develop recommendations for improvement.
- Determine if additional modeling was needed for B-5 and B-6.
- Work with the Stakeholders and the State Engineer's Office to re-evaluate the previous recommendations using new State criteria.
- Prepare conceptual improvement plan and cost estimates.
- Develop a potential cost sharing proposal for stakeholder review and potential future use.

Results of the Survey:

- The SEO worked closely with the team to "pilot" a new approach to dam safety hazard mitigation, based on:
    - State modeling techniques
    - Probable failure modes

- Consequences of failure
- Potential mitigation measures

- Results indicate B-2, B-3, and B-4 have low failure likelihood with a high probability of loss life and property damage.
  - Mitigation measures required:
    - Early Warning System
    - Emergency Action Plan
    - Operations and Maintenance Plan

Mr. Gowing stated there will be an item in the 2021 CIP budget proposing some early warning systems for flooding. The information is being researched currently and what costs shares might be available based on who is at the most risk. It is currently looking to be about $100,000 and that will need ongoing maintenance as well.

Trustee Macdonald inquired if this information has been submitted to the County as part of their hazard mitigation process.

Mr. Gowning stated they have been kept up to date with the information.

## C. CONSENT AGENDA

1. July 28, 2020 Regular Board of Trustees Meeting Minutes

**Trustee Whitehouse moved approve the consent agenda; 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.**

## D. ACTION ITEMS

1. Resolution No. - 29-2020 Bulk Water Rate Increase

Mr. Sexton informed the Board that bulk water rates need to be evaluated to ensure fair equity among residents and developers.

The bulk water station is located at 4021 Grand Avenue and the current cost per 1,000 gallons is $6.25.

Wellington is expecting a slight decrease in usage in 2020 due to the bulk water station being under repair although it is anticipated that roughly 245,000 gallons will be used.
The bulk water station uses point .84% of our total water usage which equates to 7.988 acre-feet. The current market value of one-acre foot is $2,180.85 and the cost to treat that water is $39,535.00. Using those amounts, it is determined that the bulk water station fees should be increased to $15.20 per 1,000 gallons.

Trustee Gaiter confirmed that the increase is what it costs the Town to purchase and treat the water.

Mr. Sexton stated that is correct.

Mr. March mentioned that the Resolution also affords the Town Administrator and the Public Works Director the ability to adopt rules for the use of public property that would be enforcement rules. That is something the Board mentioned at the last meeting.

Trustee Gaiter confirmed that that would allow the Town to enforce no commercial use at the bulk water station if we needed to.

Per Mr. March; that is correct.

Trustee Jerome commented that he would like to see the technology improved at the bulk water station; something that would allow the Town more control on who is using that station.

Trustee Whitehouse inquired as to enforcement issues as there are a number of commercial users that utilize the bulk water station.

Mr. March stated there is an ability in the code to administratively adopt rules and regulations relative to the use of public property which the bulk water station would be. There is currently signage posted that says the bulk water station is not for commercial purposes. If rules and regulations are in place to prevent the water from commercial use, then if people are found to be using it for that purpose, they can be summoned and brought before municipal court.

Trustee Whitehouse inquired if there has been any discussion regarding placing a camera at the bulk water site.

Mr. Gowing stated that is something that is being looked into. Staff have noticed some commercial users at the station and when they can get a picture of it happening, a letter is sent to the company letting them know the water is not for construction.

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

**Trustee Gaiter moved approve Resolution No. 29-2020; 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.**

2. Annexation Agreement and Development Agreement for Poudre School District Subdivision

Mr. Bird informed the Board that the Annexation and development agreement are still being worked on with the school district. There have been meetings between staff and the school district's board members in which progress as been made although there is still some work to be done.

A remaining item is determining the final numbers for the raw water dedication requirement. The anticipated demand for the site has been pretty well figured out. One question remaining is if the courtyard will be on a potable or non-potable system. Staff has a desire for them to use the non-potable system for that irrigation although the school districts has some concerns of the hardness of the water spotting the windows and concrete. The school district is looking at other options to treat that area.

Another item that is still being discussed is if the Town will allow a water share dedication, cash-in-lieu or a combination thereof. This has been discussed a few times at the staff level and staff supports a combination of shares and cash-in-lieu based on what the school district has in their water portfolio. That decision ultimately needs to be made by the Board of Trustees within the development agreement.

The next item is the cost and timing of the offsite road improvements at the intersection of Highway 1, County Road 9 and County Road 62E. This intersection does need to be addressed to a different type of configuration. The Town is currently underway with a study of those intersections to determine what the design would look like. The cost estimate will be included in that study. The school district would be a party to that improvement.

The last item being discussed at the staff level is identifying the estimated costs for public improvements to satisfy the requirement for the warranty for those improvements.

Trustee Whitehouse inquired if the items that are outstanding and are in need of policy consideration of the Board will be on the September 22, 2020 agenda.

Mr. Bird stated he did not believe everything will be finalized by the September 22, 2020 meeting although it is very possible that the final decision will not be made until October.

Trustee Jerome commented that he feels the courtyard should be on a non-potable system.

Trustee Gaiter agreed with trustee Jerome.

Trustee Macdonald commented that at a meeting with the school district, they looked into some type of system to allow them to switch between potable and the non-potable system.

Mr. Bird commented that the school district wanted an option in case their non-potable system went down.

Trustee Gaiter inquire if there is any control for the Town to ensure the school district doesn't use potable water when not necessary.

Mr. Bird stated part of the proposal from the beginning was that potable water was on a separate meter to monitor the usage.

Trustee Whitehouse inquired if the cash-in-lieu will be discussed at an upcoming work session.

Mr. Bird stated there is an opportunity at the next work session to discuss cash-in-lieu.

**Trustee Gaiter moved to table the Poudre School District Annexation and Development agreement to September 22, 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.**

3. <u>Proposed Ordinance - An Ordinance Concerning the Regulation of Retail and Medical Marijuana Stores in the Town of Wellington</u>

Mr. March stated there were two initiated ordinances that were presented to the Town Clerk for the Board to consider. Initiated matters are initiated by citizens and are required to receive signatures from at lease 5% of registered Wellington voters to sign a petition. The petitions that were circulated were to allow for the sales of retail and medical marijuana and to impose a sales tax on retail marijuana sales. The desire of the proponents was to place both questions on the November 3, 2020 ballot. Unfortunately, the timing did not work to allow for placement on the November 3rd ballot. The statute does not allow for an election to be called within 60 days from the election date. A call was placed to the Larimer County Elections Office to see if there was a way to get on the ballot for November 3rd and they stated that was not possible.

The Board has the option to adopt the sales of marijuana ordinance as it stands; if not adopted, the question will need to be referred to the voters. If the proposed ordinance is not adopted, the statute says that the proposed ordinance shall be published forthwith and referred to the voters. It is recommended that the protest period be exhausted prior to referring any measures to the voters. The sales tax ordinance has to be referred to the voters.

Mayor Hamman commented that he is not interested at this time to entertain a motion to approve the ordinance.

Mr. March recommends items 3, 4, 5 and 6 be tabled at this time.

Mayor Hamman opened the meeting up for public comment.

Rick Freeman commented that in areas where this type of thing has been passed, there have been increase in criminal activity. IN the past, the Town has voted this down and it should continue.

**Trustee Gaiter moved to table item D.3 to September 22, 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.**

4. <u>Proposed Ordinance - An Ordinance Concerning Retail Marijuana Sales Tax in the Town of Wellington, Colorado</u>

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

**Trustee Whitehouse moved table item D.4 to September 22, 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. Resolution No. 30-2020 - A Resolution Calling a Special Election in the Town of Wellington, Colorado

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

**Trustee Gaiter moved to table item D.5 to September 22, 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.**

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

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

**Trustee Knutson moved to table item D.6 to September 22, 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.**

7. Resolution No. 32-2020 - A Resolution Designating the Municipal Judge as the Initiative Referendum Protest Hearing Officer

Mr. March informed the Board that the Clerk is normally designated as the hearing officer for protests unless some other person is designated by the legislative body. This resolution would appoint the municipal judge as the hearing officer and that appointment would extend beyond this election.

Mayor Hamman inquired as to how long the judge would be the hearing officer.

Mr. March stated it would be in place until the Board of Trustees changes it. The Clerk has a series of statutory requirements that she has to follow when it comes to elections so having the municipal judge would be outside of those duties to rule on the hearings.

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

**Trustee Kinney moved approve Resolution 32-2020; Trustee 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. 33-2020 - A Resolution Authorizing the Temporary Road Closure for the Annual Trick or Treat Down Main Street Event

Ms. Houghteling informed the Board that Resolution 33-2020 is a road closure for the Trick-or-Treat event that is put on by Main Streets. Main Streets did get approval from the Larimer County Health Department for the event so considerations have been approved. The road closure would take place on Saturday, October 31, 2020 from 3:00 p.m. – 6:00 p.m. between Cleveland from 1st Street to 5th Street.

Trustee Gaiter commented that the CAC Board was very willing to use some of their funding to help support this event.

Trustee Kinney commented that this is a great event, but the safety is concerning.

Mayor Hamman opened the meeting for public comment.

Kristi Cannon thanked Main Streets and the Chamber for all their work on this event.

**Trustee Kinney moved approve Resolution 33-2020; 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.**

9. <u>CARES Funding Allocation</u>

Ms. Houghteling informed the Board that Wellington received approximately a half million dollars from Larimer County through the Department of Local Affairs CARE Funding program. Staff has been working with the State of Colorado as there is a lot of questions about this funding. Town staff were working closely with the Chamber and Main Streets as well. In light of the answers we have received, the draft funding allocation is as follows:

- Town Support
  - General Supplies - $58,000.00
  - Technology for Remote Work - $50,000.00
  - Water Treatment Plant Chemicals - $27,500.00
  - Plexiglass - $1,200.00

- County Support
  - Increase COVID-19 Testing Capability - $50,000.00

- Non-Profit Support
  - Wellington Non-Profit Recovery Fund - $50,000.00

- Business Support
  - Sidewalk Expansion Program Tables and Chairs - $10,000.00
  - Wellington Business Recovery Fund - $250,000.00

Based on the proposed, Wellington's total expenses would be $496,700.00 of the $552,720.00 that was allocated to us.

Mr. Houghteling is proposing to create a Wellington Business and Recovery program that is run by town staff to be able to allocate dollars directly to the businesses and non-profits based on criteria and requirements. If the Board is favorable of the program, a committee would be formed rather quickly to review applications that come in. A deadline would be set for those applications for the committee to review and make sure that Wellington will be able to be reimbursed for the applicant's expenses.

Trustee Kinney is in favor of the recovery funds and would like to serve on the review committee and believes the Main Streets program and Chamber would be beneficial to be on the committee.

Trustee Whitehouse is in support of the recovery funding.

Trustee Gaiter commented he is also willing to serve on the review committee.

Trustee Gaiter commented that he has a concern about the $50,000 going back to Larimer County for the COVID testing as the funds were distributed to municipalities based on size and may not be proportionate.

Trustee Macdonald commented that she has a concern about the review committee members being the same people applying for the funding.

> Ms. Houghteling stated initially the committee would consist of town staff and a representative from Main Streets and the Chamber that would not be applying for the funds. It would be helpful for our partners to be on the committee.

Mayor Hamman commented that he does share Trustee Gaiter's concerns with the COVID testing funds, but it will not stop him from moving forward with the allocation and business recovery program.

> Ms. Houghteling stated she will let the County know that the Board has reservations about the COVID testing funds at the next meeting.

Mayor Hamman opened the meeting for public comment.

Ms. Cooper from the Main Streets program commented that she would like to be a part of the committee and does not believe they would be applying for funds.

**Trustee Macdonald moved to approve the CARES Funding allocation as presented by staff; 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.**

Mayor Hamman closed the regular meeting at 8:28 p.m. and opened the Liquor License Review Board.

## E. OTHER BOARDS

<u>Roll Call</u>
Mayor Troy Hamman
Mayor Pro Tem Wyatt Knutson
Trustee Jon Gaiter
Trustee John Jerome

Trustee Rebekka Kinney
Trustee Ashley Macdonald
Trustee Tim Whitehouse

1. Liquor License Review Board
Annual Renewal - Sol de Jalisco

Mr. March informed the Board that El Mezcal Inc., d/b/a Sol de Jalisco has submitted their annual renewal for their Hotel and Restaurant liquor license. A review of the application found the establishment is in good standing with the Colorado Secretary of State, the establishment is current with sales tax and the Larimer County Sheriff's Office reported no issues directly related to the establishment's liquor license.

Trustee Jerome inquired if this renewal included the patio expansion that was approved a few months ago.

Mr. March stated this is their annual renewal and the patio extension was a temporary modification.

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

**Trustee Gaiter moved approve the annual renewal for El Mezcal Inc, d/b/a Sol de Jalisco; 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.**

Mayor Hamman closed the Liquor License Review Board at 8:31 p.m. and resumed the regular meeting.

## F. REPORTS

1. Town Attorney

Mr. March informed the Board that the Jacobs engineering contract was approved by the Board subject to Town Administrator and Town Attorney review. The contract was modified as to the insurance staying in place and the potential liability goes from the amount we pay on the contract to a $10 million potential liability.

2. Town Administrator

Ms. Houghteling informed the Board that this evening is Mr. Sexton's last night as Interim Finance Director as a new Finance Director has been hired. Ms. Houghteling thanked Mr. Sexton for all his hard work as Interim.

3. Staff Communications

Trustee Gaiter inquired as to the rise in sexual assaults and if there is a reason for that.

Sgt. Rairdon stated it is hard to pinpoint the reason but sometimes it may be a report of something that happened years ago. It is not necessarily something that happened at the time of the report.

a. *Larimer County Sheriff's Office - July 2020 Report*

4. Board

Trustee Whitehouse inquired if the citizen initiatives been posted to the website and will the protests be published on the website.

Mr. March stated we can look into putting something on the website.

Trustee Kinney commented that she feels the citizen initiative should be going to a vote. Also, she has a concern of a conflict of interest with Trustee Jerome being a protester and what that means for him to be voting on Board items.

Trustee Gaiter commented that he believes conflict of interest is tied to financial gain so if this was a situation that Trustee Jerome had something to financially gain from the proposal moving forward that would create a conflict.

Mr. March stated that is certainly a component and he will look into it further.

Trustee Gaiter thanked Mr. Sexton for his work as Interim.

Trustee Gaiter inquired as to when the Board will be able to go back to in person meetings.

Ms. Houghteling stated that is uncertain as other municipalities are still doing virtual meetings.

**G. EXECUTIVE SESSION – There was no Executive session.**

**H. ADJOURN**

Upon a motion duly made, the meeting was adjourned at 8:46 p.m.

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Krystal Eucker, Town Clerk