



BOARD OF TRUSTEES
February 23, 2021
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

Due to social distancing and limited seating, individuals that wish to appear in person at the meeting will need to register by February 23, 2021 at 4:00 p.m. by sending an email to euckerkk@wellingtoncolorado.gov. Once seating is full, registration will be closed.

Individuals attending in person will need to arrive at the meeting by 6:20 p.m. and will be required to wear masks.

Individuals wishing to attend the meeting virtually can view and participate in the meeting at the link below or by calling into the phone numbers listed below:

<https://zoom.us/j/96271512379?pwd=UnlhMmFYMjBIR0NVWmhKYXk0R2tyUT09>

Passcode: 697893

Webinar ID: 962 7151 2379

Or iPhone one-tap :

US: +16699009128,,96271512379# or +12532158782,,96271512379#

Or Telephone:

US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656

Members of the public may also provide public comment or comment on a specific agenda item by sending an email to euckerkk@wellingtoncolorado.gov. The email must be received by 4:00 p.m. Tuesday February 23, 2021 and will be read into the record during public comment or public comment for the agenda item.

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Amendments to Agenda
4. Conflict of Interest

B. COMMUNITY PARTICIPATION

1. Public Comment
2. Presentation
 - a. Parks and Recreation Manager Introduction - Dean Campos
 - b. Library Manager Introduction - Ross Lagenese

C. CONSENT AGENDA

1. Minutes of the February 9, 2021 Board of Trustees Meeting

D. ACTION ITEMS

1. WWTP Expansion - Update and CMAR Delivery Method Presentation
 - Staff presentation: Dave Myer, Engineer
2. Public Hearing - Conditional Use for Human Bean Drive Thru in C1 Community Commercial Zone District
 - Staff Presentation: Cody Bird, Planning Director
3. Ordinance No. 01-2021 - An Emergency Ordinance Amending the Municipal Code to Allow Water Dedications to be Treated as Appurtenant to Lots
 - Staff presentation: Brad March, Town Attorney
4. Resolution No. 07-2021 - A Resolution Confirming Appointment of the Municipal Court Clerk
 - Staff presentation: Brad March, Town Attorney
5. Agreement for Legal Services by Town Attorney 2021 & Town Attorney Goals for 2021
 - Staff presentation: Lori Woodruff, Human Resources Manager

E. Liquor License Authority

1. Annual Renewal - Ridley's Family Market
 - Staff presentation: Krystal Eucker, Town Clerk

F. REPORTS

1. Town Attorney
2. Town Administrator
3. Staff Communications
4. Board Reports

G. ADJOURN

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.



Board of Trustees Meeting

Date: February 23, 2021
Submitted By: Krystal Eucker, Town Clerk
Subject: Minutes of the February 9, 2021 Board of Trustees Meeting

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. 02.09.21 BOT Minutes



BOARD OF TRUSTEES

February 9, 2021

6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

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 Wyatt Knutson

Trustee Jon Gaiter

Trustee John Jerome

Trustee Rebekka Kinney

Trustee Ashley Macdonald

Trustee Tim Whitehouse

Also Present:

Patti Garcia, Town Administrator

Brad March, Town Attorney

Judi Tippetts, Finance Director

Cody Bird, Director of Planning

Hallie Sheldon, Management Analyst

Bob Gowing, Director of Public Works

Krystal Eucker, Town Clerk

DJ Jones, Water Treatment Superintendent

Michael Rairdon, Larimer County Sheriff's Office Patrol Sergeant

Lori Woodruff, Human Resources Manager

Mahalia Henschel, Communications Specialist

Tyler Sexton, Assistant Finance Director

3. Amendments to Agenda

Mayor Hamman asked if there were any amendments to this evening's 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 to which there was none.

B. COMMUNITY PARTICIPATION

1. Public Comment

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

Mayor Hammon thanked town staff for getting the pieces together to be able to have a hybrid meeting this evening.

2. Presentation

a. Larimer County Indirect Costs

Josh Fudge, Larimer County Budget Director informed the Board that he was going to review the indirect costs that were included in the Larimer County Sheriff's Office contract. Indirect costs are used to allocate the County's administrative overhead costs like Human Resources, IT, Budget Office, County Manager's oversight, County Commissioner oversight, Finance Department, Legal Department, infrastructure, network servers and storage. The County has created a rate for these administrative services that are not easily allocated out as it is not easy to determine how much staff time from these departments are spent on the various departments through the County. These services are bundled up into a group of eligible costs and then allocated out based on a formula of wages and benefits. This is a very standard way to create this rate.

The County's broader rate does include facilities costs; however, those are not included in the Town of Wellington's contract as the contract specifically says the Town won't be paying for that. Larimer County's rate was created by an outside consulting firm. The firm took all the County's data and did the calculations to come up with a rate. The firm has done similar calculations for multiple counties in Colorado. The rate also has to comply with Federal rules and State rules around grant programs so those same standards that apply to the County are applied to every service.

The purpose of this indirect cost rate is to ensure the property taxpayers do not subsidize services that are provided where we can seek reimbursement. Natural resources, The Ranch and the Solid Waste Department have a lot of services that are based on user fees. Those departments also consume some of the same services that are in the indirect cost rates. Those departments build their indirect costs into their user fees to help offset some of these costs. Since those services are not for property taxpayer funded services, that rate is included so that user fee programs and contracted services are paying for their share of the administrative overhead that the County has.

In this instance, especially with contracted services, there are other providers that, in theory, could provide law enforcement services that the county doesn't have to. Therefore, that is why the County's policy is that it is appropriate for these contracted services to include this rate. The County may not need those 10 ½ FTE's that are dedicated to the Town of Wellington if the County did not have this contract so that's why those administrative overhead services are applied to this contract.

The County also provides contract law enforcement to the Town of Timnath and the Town of Berthoud. Their contracts do include the full 9.67% rate based on salaries and benefits for the officers. The indirect costs are being phased into Wellington's contracts through negotiations. The indirect cost rate for Wellington is about 9.6%.

The County has revised the policy and the indirect cost rate in the last couple years to get it more in line with State regulations.

Trustee Gaiter inquired if the Larimer County Sheriff's Office has their own IT Department.

Mr. Fudge stated they do have one or two staff members that are dedicated to the Sheriff's Office. Storage of digital evidence is housed in the centralized IT department so that is an administrative or indirect cost.

Trustee Gaiter inquired about the Sheriff's Office having their own Human Resources Department.

Mr. Fudge stated he believed there are three positions that help out with recruitment as there is some special hiring with the qualifications of officers.

Trustee Gaiter inquired if there is a list of where each IT staff outside of the Larimer County Sheriff's Office is actually working on things related to the force that is working in Wellington.

Mr. Fudge stated he didn't have a list but could get that information to the Trustees.

Trustee Gaiter commented that his concern is the taxpayers of the Town of Wellington are paying property taxes to the County for things like paying for the County Manager and Human Resources Department and then they are also paying taxes to the Town of Wellington to pay for the Larimer County Sheriff's Deputies to serve as our police force and inside those costs are administrative costs. Trustee Gaiter stated he does have some major concerns that citizens are paying taxes to cover the administrative costs of Larimer County and now they are being taxed by the Town of Wellington to pay for those services in the contract.

Mayor Hamman inquired if Mr. Fudge would ok with gathering some of that information and bringing it back.

Mr. Fudge stated he can gather up some information on things that the Human Resources staff in the Sheriff's Office does versus what the county's central Human Resources Department does and provide that information to the Trustees.

Mayor Pro Tem Knutson inquired if the consulting company evaluates the percentages on a regular basis.

Mr. Fudge stated the consultants do adjust the formulas every year based on the prior year actuals.

C. CONSENT AGENDA

1. Minutes of the January 26, 2021 Board of Trustees Meeting

Mayor Pro Tem Knutson moved to approve the consent agenda; Trustee Jerome 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. Award Contract - Professional Services for Landscape and Irrigation Standards Update

Mr. Bird informed the Board that this evening's presentation is for a proposed contract for professional services to review and update the Town's landscape and irrigation standards.

In June of 2019, the Town adopted a Municipal Water Efficiency Plan and the goal of that plan is to track water to determine metrics for improving water efficiency and water conservation to protect and extended the Town's water resources.

The overall goal of the water efficiency plan was to reduce the Town's water demand by 10% over the next 10 years and we believed that can be achieved through implementing some of the goals identified in the Plan.

The use of advanced metering better tracks household and business water usage numbers. This can help in identifying any leaks and improving the infrastructure for collecting that data. The Town is in the process of installing those advanced meters.

Another element of the Water Efficiency Plan included conducting a water rate study that study has been completed. One of the recommendations of that rate study was to update the water utility and raw water charges.

The next item in the Water Efficiency Plan is to focus on educational activities to help the public and any of our water users understand the importance of some of these measures that were proposing; that is an ongoing activity.

The last component of the Water Efficiency Plan is the subject of the presentation this evening which is the Town's landscape design requirements in the form of updating our land use code. In conducting some research, we found that not only is the landscaping requirements an important piece but also some standards for irrigation and use of water for those landscapes, so both of those were included under the umbrella of the landscape design standards.

Water usage is higher in the summer months when irrigation is being utilized so that is the reason why the landscaping and irrigation standards warrant taking a look at. The current requirements for landscaping are based on minimums; minimum amounts of trees, shrubs, plants, amount of grounds cover etc. Those minimums result in attractive landscapes although they are heavily irrigated. There is really no limitations, standards or even guidance on the amount of or type of water supply. The Town wants to develop standards that encourage the use of well water where it's available for outdoor irrigation and to adjust automatic sprinklers when appropriate.

The Town has also identified that there is a need to look at the different types of landscapes like xeriscaping and native species and plants that can survive this environment.

Town staff evaluated those proposals and is recommending the contract be awarded to Logan Simpson Design Inc. in a not to exceed amount of \$41,202 as they have a strong history of developing these types of landscape and irrigation standards for Colorado communities. They understand the unique challenges with water in our environment.

Trustee Jerome inquired as to how to encourage the HOA's that are on potable systems to change to non-potable systems or amend their codes.

Mr. Bird stated if we have new regulations and standards in place for new developments, we can require those new spaces to meet the requirements. We can also encourage and educate to find ways to convert those existing landscapes to something that is a little less water intensive as well as work with the HOA's on potable systems.

Trustee Kinney commented that water conservation is not going away and will be a constant battle so being proactive and seeking professional guidance on this is essential for us.

Trustee Jerome inquired about there not being a piece in the proposal about helping existing properties in town to convert their properties to be more water efficient or if there is any grant money that will assist property owners to make that conversion.

Mr. Bird stated that staff's vision is to create that optimal mix of law versus xeriscaping or native species and hope to implement that standard practice for new development for but existing developing we are looking to have a toolbox for best practices for existing spaces as well as look for opportunities to create some kind of rebate program for converting a certain amount of irrigated space to native landscape.

Trustee Macdonald commented that one of the reasons HOA's have strict regulations on landscaping was an effort to maintain property value so it may be worthwhile to contact real estate professionals to get some recommendations from them on landscape standards.

Trustee Gaiter inquired if this would impact new development or is this intended for existing homes as well.

Mr. Bird stated in the short term we will identify standards for new developments and then we would look for opportunities to create incentive programs to look at existing landscapes to convert those to less water intensive landscapes.

Trustee Gaiter inquired if this would lead to the Town restricting homeowner's ability to water their own property.

Mr. Bird stated there is an opportunity for the Town to develop programs around water conservation which was what the Water Efficiency Plan was geared towards. This effort will identify some standards and best practices and then the Board would have the opportunity to adopt the policies for limiting water use as they see fit.

Trustee Gaiter inquired if this will be a policy document or a document designed to drive policy.

Mr. Bird stated the document that would be produced through this effort would develop a recommended set of guidelines. If it is adopted as part of the code for our land use code, it would be a regulation.

Trustee Gaiter inquired as to what is going to be done differently from the public outreach on the Comprehensive Plan to get good public input.

Mr. Bird stated staff is still collecting comments on the Comprehensive Plan and are very open to hearing suggestions from the Board on specific practices to implement to garner public input.

Trustee Gaiter commented that there has been public input and the public input has been utilized to support things where it fits with what the preconceived thought process is and in a lot of areas, it feels like the public input is not driving the document. Since the public outreach has been done online, that has left out a significant portion of our community who may not have participated in online forums.

Trustee Kinney commented that when it comes to public engagement, it is up to everyone in this room to drive that participation. Given the situation, there has been an incredible effort to reach out to as many people as possible.

Trustee Kinney commented that water restrictions have been put in place for many years in Wellington during the summer months.

Trustee Gaiter inquired as to why we are focusing on the landscaping as an area to cut water use when he thinks it would be substantial to address the tiers instead of having a high base rate.

Trustee Macdonald stated our water situation is multifaceted and we need to look at multifaceted solutions so addressing the tiers as one solution and looking at our landscape requirements is another solution.

Trustee Gaiter commented that the way that the initial document was presented gives him some very big concerns about working with Logan Simpson. As he read through the beginning of the document, it does not strike him as the purpose of the document. Trustee Gaiter stated he won't go further than that because that document is not public yet, but there are some major concerns about working with this company.

Trustee Macdonald inquired if the concern is with the document itself or how the company operates.

Trustee Gaiter commented that the concerns that are how the company is taking information has been provided and putting it into a document that's going to represent Wellington.

Trustee Gaiter stated he is on the steering committee for the Comprehensive Plan, so he has seen the draft of that document that is from the same company.

Ms. Garcia stated it is a draft document that was sent out to the steering committee only for a high level review and it hasn't been released to the public, it is considered a working document at this point in time.

Trustee Kinney commented that she is also on the steering committee and the purpose of receiving the draft of that document is for us to provide feedback so that's why it's a working document.

Trustee Macdonald inquired as to what Trustee Kinney's experience has been working with Logan Simpson so far.

Trustee Kinney stated she has been incredibly impressed so far. They are very accountable, very approachable and they have been working through an impossible situation with grace. When the document goes through the steering committee review, it will be presented to the public for comments.

Trustee Gaiter stated he has made his comments on the document and feels the mindset and the thought process of a company is not something he is comfortable with.

Trustee Whitehouse commented that the Town has the authority to change some of the text of the document; without seeing the document it is hard to understand the concerns.

Mayor Hamman opened the meeting up for public comment.

Mike Clark commented that we want to make sure that we conserve our water and that we're good stewards of our environment. Mr. Clark thinks the same thing can be accomplished by focusing mostly on the tier system and providing people with the informational resources and potential for grants and things like that. When citizens see higher bills in the summer, they will choose more xeriscape systems.

Kathy Wydallis, 3405 Revere Court, Wellington, CO stated she does not feel it is essential to have an outside company do this and also feels the Town is the biggest problem by watering during the day and after a rainstorm. It feels like the situation will take care of itself and doesn't see the need to spend \$40,000 on this.

Christine Gaiter, 8132 4th Street, Wellington, CO stated the code already encourages individuals to xeriscape and to use non-potable water. There were also some individuals that spoke about not liking the surveys from Logan Simpson and how the questions were leading and biased. Ms. Gaiter believes in property rights and does not want restrictions on how much water can be used for her home. Making the tiers higher and the base lower will have people self-serve water.

James Taylor, 7341 Indigo Run, Wellington, CO stated he has lived in several water conservative communities and stated the tiers system always works. Mr. Taylor agrees that there is significant opportunity to conserve our water and to be responsible with our water to have beautiful landscapes that are native to this area.

Trustee Macdonald moved to approve the contract in an amount not to exceed \$41,202 to Logan Simpson Design, Inc; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows:

Yeas – Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman

Nays – Gaiter

Motion carried.

2. Resolution No. 04-2021 - A Resolution of the Board of Trustees Making Appointments to the Wellington Parks Advisory Board

Ms. Eucker informed the Board that on February 4, 2021, Trustee Macdonald along with town staff and members of the Wellington boards and commissions conducted advisory board interviews for the Wellington Parks Advisory Board, Board of Adjustment, and the Community Activities Commission. There was a total of 12 applicants for the various boards and of those, nine were interviewed. Pursuant to those interviews, Robert Sausaman and Christine Gaiter are being recommended for appointment to the Parks Advisory Board.

Trustee Gaiter asked Trustee Macdonald as to why she felt each candidate would be good for the positions.

Trustee Macdonald stated she has had the opportunity to serve on a lot of these groups and commissions over the years and a lot of times there isn't an opportunity to interview applicants as it is more of getting anyone in to sit in a chair. We are now starting to see more and more applications being submitted to fill in these positions. The applicants were selected based on their current knowledge, understanding and experience with the boards and commissions. They understand what the organization was and what their purpose was. It was important to get the input of the liaison of these boards and commissions as well for these appointments. Trustee Macdonald commented that she had a lot of fun interviewing the applicants and it was a really cool opportunity to connect with each of the applicants.

Trustee Kinney thanked all the individuals that volunteer on these boards and commissions.

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

Trustee Kinney moved to approve Resolution 04-2021; 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.

3. Resolution No. 05-2021 - A Resolution of the Wellington Town Board Making Appointments to the Board of Adjustments

Ms. Eucker informed the Board that Kathy Wydallis and Stephen Carman are being recommended for appointment to the Board of Adjustments.

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

Trustee Gaiter moved to approve Resolution 05-2021; 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.

4. Resolution No. 06-2021 - A Resolution of the Board of Trustees Making Appointments to the Community Activities Commission

Ms. Eucker informed the Board that Richard Bacon and Jim Lafferty are being recommended for appointment to the Community Activities Commission.

Trustee Macdonald inquired if there was a conflict of interest with Jim Lafferty working for the Town.

Ms. Garcia stated she does not have a concern with Mr. Lafferty serving on the CAC.

Trustee Macdonald commented that she will be abstaining from this vote.

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

Trustee Kinney moved to approve Resolution 06-2021; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Kinney, Whitehouse, Knutson, Hamman

Nays – None

Abstain – Macdonald

Motion carried.

E. REPORTS

1. Town Attorney

None.

2. Town Administrator

Ms. Garcia informed the Board that Town Hall will be closed on Monday for President's Day. The work session on February 16th will include the Comprehensive Plan Future Land Use Map, Wastewater Treatment Plant delivery method presentation and an initiative and referendum discussion. The Town Hall meeting is in the process of being planned and a meeting is being worked on between the Board of Trustees and the Larimer County Commissioners.

3. Staff Communications

- a. 3-Mile Plan Clarification

Mr. Bird informed the Board that he will be providing further clarification on the 3-Mile Plan. Every year the Town adopts the 3- Mile Plan for municipal annexations. This plan is only identifying the area in which the Town is legally able to consider annotations into the Town of Wellington. Wellington is a statutory town, and this is a requirement under State statutes if Wellington intends on annexing any property into the Town in the coming year at the request of the property owner. Under the State statutes, the Town is able to include up to three miles from the Town's current boundary line. What the Town of Wellington has done historically is reference our growth management areas as identified in our Comprehensive Plan. Rather than extended for the full three miles from the Town limits, the Town looks at a smaller area where the Town actually anticipates growth within the next 20 years. When the 3-Mile Plan is adopted, it is not a statement of intent that the Town is going to annex those properties into Wellington, it is simply identifying the area in which the Town can consider an annexation.

When a property owner requests annexation, the Town is tasked with evaluating if it is appropriate for to include that property within the municipal limits and to provide a full range of municipal services including water, wastewater and stormwater.

Trustee Jerome inquired if Mr. Bird knows of any property annexed into Wellington without the property owner's consent.

Mr. Bird stated during his tenure with the Town, there has not been any property annexed without a petition from the property owner requesting annexation.

Trustee Jerome inquired if Mr. March knows of any property that has been annexed into Wellington without the property owner's consent.

Mr. March stated he has been with Wellington for 28 years and he has not seen one.

Mr. March informed the Board that an enclave and a piece of land that is completely surrounded and has been for at least three years. In 2010, the State statutes were amended to include additional protections for enclaves. The annexation procedure for enclaves is more difficult to achieve.

Trustee Whitehouse inquired if the property owner of an enclave initiated the annexation, would those additional procedures be in place.

Mr. March stated he did not believe so.

4. Board Reports

Trustee Macdonald requested an update from Mr. Singleton from the Boxelder Stormwater Authority.

Trustee Kinney stated there will be a presentation coming soon from the Solid Waste Policy Council.

Mayor Pro Tem Knutson stated he has attended the last couple Water Treatment Plan expansion meetings and Jacob is taking a different approach to their design by doing more upfront analysis and layout planning for the site so that is progressing well and we have received some good information.

F. ADJOURN

Upon a motion duly made, the meeting was adjourned at 8:18 p.m.

Krystal Eucker, Town Clerk



Board of Trustees Meeting

Date: February 23, 2021
Submitted By: Dave Myer, Engineer, Bob Gowing, Public Works Director, Mike Flores
Subject: WWTP Expansion - Update and CMAR Delivery Method Presentation

- **Staff presentation: Dave Myer, Engineer**

EXECUTIVE SUMMARY

An update on Wellington's WWTP will be provided, followed by a description of the Construction Manager at Risk (CMAR) project delivery method.

BACKGROUND / DISCUSSION

The presentation will consist of the following main topics:

- Project Overview (background and design Schedule)
- Contractor Selection (process described and preliminary staff recommendation)
- Next Steps (future Board item(s), etc.)
- CMAR Project Delivery Method (description)

STAFF RECOMMENDATION

ATTACHMENTS

1. WWTP CMAR Board Presentation 2-23-2021

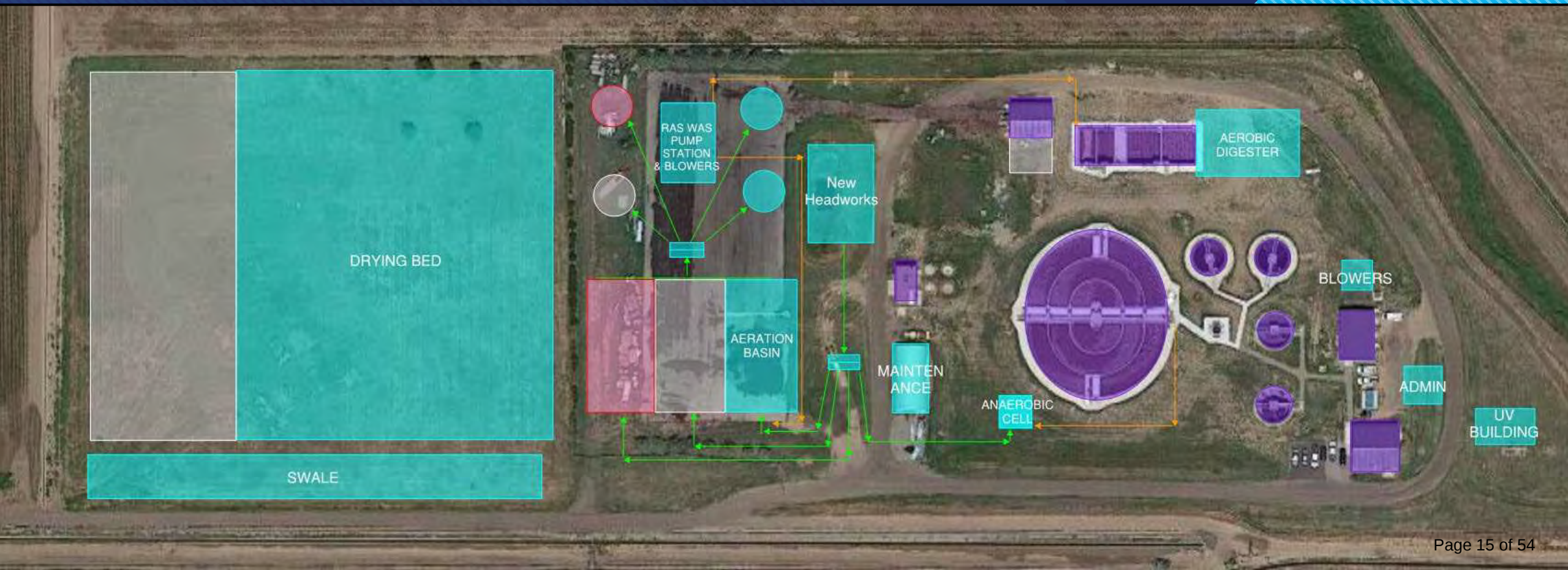
Wastewater Treatment Plant Expansion Project

- Project Overview
- Contractor Selection
- Next Steps
- CMAR Project Delivery Method

Project Overview

WWTP History

- Phase 1: 2003 Original Plant (purple)
- Phase 2: 2016 Expansion (purple)
- Phase 3: 2024 Current Expansion (teal)
- Phase 4: Future Expansions (grey & red)



Project Overview

Other WWTP Topics

- Town Growth
- Master Plan
- Demand and Capacity
- Increased Regulatory Requirements



Project Overview

Existing Plant Limitations



Project Overview

Design Schedule

- Design Initiated December 2020 (Jacobs)
 - Weekly Design Meetings
 - Wastewater Utility Plan Being Prepared Concurrently
 - Regulatory and Financial Requirements in Progress
 - Conceptual Design Report Received February 12
- 10 Percent Design Meeting February 18
- 30 Percent: April 2021
- 60 Percent: August 2021
- 90 & 100 Percent: December, January 2021

Overall Construction Schedule

- Construction Begin May 2022
- Construction Complete January 2024



Contractor Selection

Process

- CMAR Contractor RFP Issued November 20
- Five Proposals Received December 23
- Selection Committee Shortlisted 3 Firms
- Contractor Interviews Conducted January 27 & 28
- Selection Committee Meetings February 1 and 3



Results of Contractor Selection Process

Selection Committee Unanimously Selected

Moltz Construction (Windsor)

for

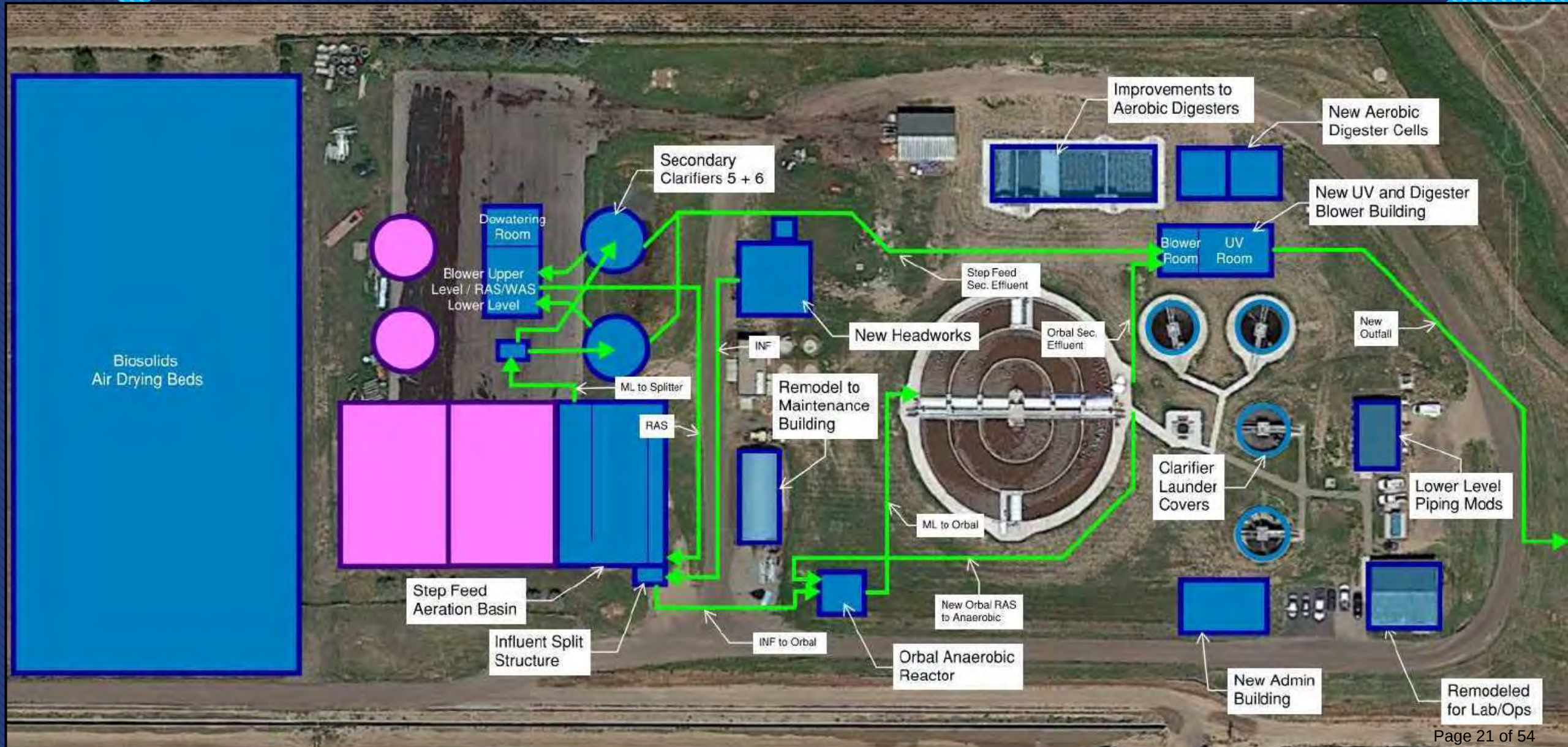
CMAR Contractor

Next Steps



- Continue Contract Negotiations with Moltz Construction
 - Ideal to bring Contractor on board at 30% design.
- Present Staff Recommendations and CMAR Contact to the Board for Approval
 - Tentatively Scheduled for March 9 (or 23)
- Continue Weekly Design Meetings with Jacobs and Moltz
- Provide Board with Project Updates at 30%, 60%, 90%, and 100%

Conceptual Site Plan at 10 Percent



CMAR Project Delivery Method



What is CMAR?

Construction Manager at Risk



CMAR



The Construction Manager at Risk (CMAR) is a project delivery method which entails a commitment by the Contactor to deliver the project within a Guaranteed Maximum Price (GMP) based on the construction documents and specifications at the time of the GMP.

The CMAR project delivery method, when used appropriately, can be a very powerful tool.

CMAR VS Other Traditional Delivery Methods

Taking a Quick Look at Others:

- ❑ Design–Bid–Build
- ❑ Design–Build

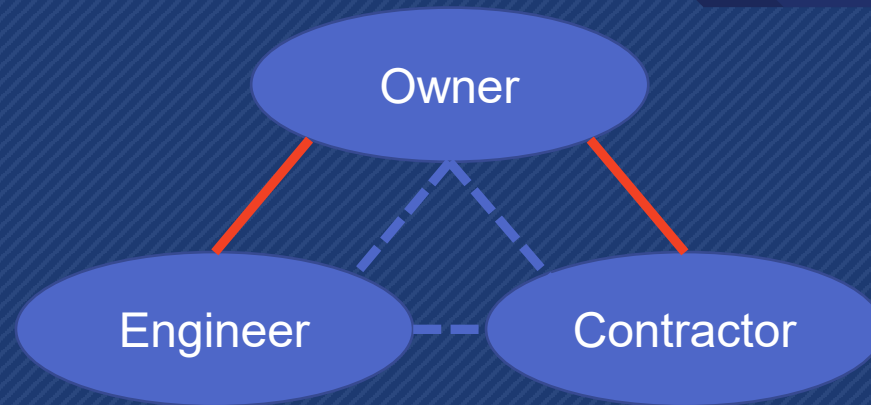


Design-Bid-Build (DBB)

The traditional baseline for project delivery, provides a known procurement solution that will continue to be appropriate for many projects. However, design-bid-build has inherent disadvantages for many project types that the CMAR delivery method can solve, providing additional tools and flexibility for owners

Owner Advantages

- Well understood and time-tested process.
- Independent contracts for engineering and construction.
- Legal and widely used.
- More input into specific means and methods.



- Contractual Relationship
- - Working Relationship

Owner Disadvantages

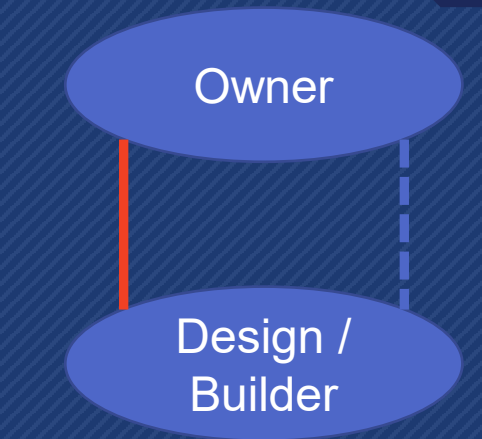
- Linear process takes time.
- Little collaboration between designer and contractor.
- Relies on engineer's estimates to program funding until late in the project.
- Hard bids subject to design omissions/errors and resulting change orders.
- Little opportunity for qualifications-based contractor selection.
- Separate contract for design and construction have Owner bearing all risk with project performance and budget.

Design-Build (DB)

Design-build is a method of project delivery in which one entity - the design-build team - works under a single contract with the owner to provide design and construction services at a proposed price. There are several commonly used variations (Lump Sum, Target Price, Progression, Etc.)

Owner Advantages

- Potential cost savings through design innovation during competitive procurement.
- Fast possible procurement and project delivery schedule.
- Perceived as “competitive” construction pricing, providing full contract cost at bid time.
- Designer and contractor selected based on qualifications and single-entity teaming with interests aligned for project success.
- Owner has single point of contact and single contract.



- Contractual Relationship
- Working Relationship

Owner Disadvantages

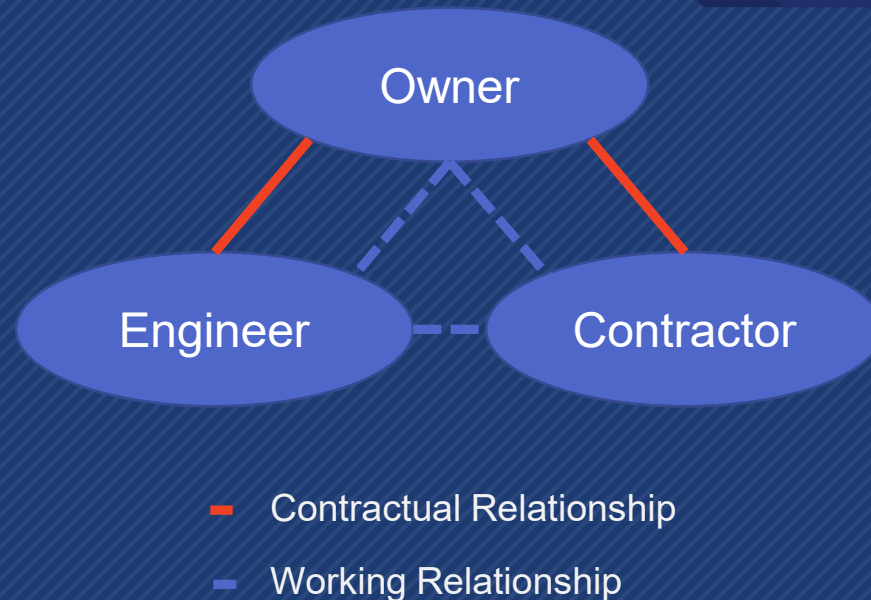
- Proposal evaluation and selection can be complex.
- Limited ability to predict what will ultimately be proposed.
- Lump sum pricing may include excess risk and contingency due to undefined project scope.
- Limited opportunity for owner and design-builder collaboration on design during procurement process.
- Limited ability for owner to adjust design and scope without resulting in change orders and price adjustments.

CMAR

CMAR provides owners with an excellent solution for engaging qualifications-selected contractors early in the design process while maintaining a two-contract relationship with the engineer and constructor. This method improves collaboration but does not ultimately place delivery responsibility on a single entity.

Owner Advantages

- Integrates constructability early in the design process.
- Provides true contractor-led estimates and scope revision during design.
- Can reduce overall project risk and contingency.
- Can reduce design misunderstandings and potential for change orders.
- Allows qualifications and past performance as criteria when selecting a contractor.



Exact same contractual lines as DBB.

Owner Disadvantages

- Relies on engineer's estimate for initial project costs.
- May create "forced marriage" for engineer and contractor.
- Added costs for contractor pre-construction services (potentially offset by savings via early collaboration).
- Contractor selected based on fees without knowing full construction price.



CMAR



Timing & Cost

- Unlike the traditional Design-Bid-Build project delivery, the CMAR is brought into the design phase to assist with Opinions of Probable Cost, schedules, value engineering, constructability, and risk assessments. Additionally, the CMAR provides a Guaranteed Maximum Price (GMP), generally near the end of the design phase (90%).

Risks



- Included in this GMP is a contingency line item to take care of bid overages, reasonably inferred items and other project related items that may arise during construction. By giving the Owner the GMP prior to bids, the Contractor assumes the risk of bids coming in higher as he is contractually bound to deliver the project per the plans and specifications and any additional allowances as defined in his GMP.
- If the Contractor is performing their contractual duties competently, the final design should have been subject to a more rigorous quality control process than the typical Design-Bid-Build project delivery method and risks are minimized.
- Owner has the ability to reject the GMP and proceed with a competitive bid.



Construction can start after mutual agreement on price.





CMAR

Contractor is selected based on QUALIFICATIONS

Contractor onboard during design (Preconstruction Services)

By requiring the design to be nearly complete prior to GMP, the risk of change orders are minimized.

Projects have come in under budget & able to add scope

GMP is Not To Exceed

GMP is the MAXIMUM price

All subcontractors are included in the GMP

Better Contractors are winning CMAR projects

Wellington has used CMAR successfully in past

Predominate Delivery Method used along the Front Range

Construction Manager at Risk



Time

Collaboration

Cost Savings

Owner gets best bang for its buck \$\$

Contractors like it!

Less risks for everyone

Owner...Engineer...Contractor...all involved in the process



Thank You
Questions?



TOWN OF
WELLINGTON



Board of Trustees Meeting

Date: February 23, 2021
Submitted By: Cody Bird, Planning Director
Subject: Public Hearing - Conditional Use for Human Bean Drive Thru in C1 Community Commercial Zone District

- **Staff Presentation: Cody Bird, Planning Director**

EXECUTIVE SUMMARY

A public hearing was advertised for the Board of Trustees to consider a conditional use request for a drive thru coffee shop proposed to be located within the C1 Community Commercial zone district. The Planning Commission at its meeting on February 1, 2021 tabled the conditional use hearing to March 1, 2021 to allow additional analysis and coordination regarding traffic engineering. Because the Planning Commission tabled the item, the Commission has not yet formed a recommendation to forward to the Board of Trustees. It is advisable for the Board of Trustees to also table the agenda item to a date following the March 1, 2021 Planning Commission hearing so the Commission's recommendations can be considered. The applicant for this request is in general agreement with tabling the item to a later date.

BACKGROUND / DISCUSSION

It is advisable to table the public hearing for the conditional use request to a later date to allow the Planning Commission to forward a recommendation to the Board of Trustees for consideration. A public hearing may be tabled to a date certain. The date, time and location of the public hearing must be identified to satisfy the public notice requirements for the hearing. The recommended date, time and location are including in the recommended motion.

STAFF RECOMMENDATION

Move to table the public hearing for the conditional use request to the regular Board of Trustees meeting to be held March 9, 2021 at the Leeper Center, 3800 Wilson Ave., Wellington, CO beginning at 6:30pm.

ATTACHMENTS

None

Board of Trustees Meeting

Date: February 23, 2021
Submitted By: Brad March, Town Attorney
Subject: Ordinance No. 01-2021 - An Emergency Ordinance Amending the Municipal Code to Allow Water Dedications to be Treated as Appurtenant to Lots

- **Staff presentation: Brad March, Town Attorney**

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

The Town Planner has advised that with the Town's focus on having development contribute water rights as opposed to developers making cash-in-lieu of payments, there have been issues surrounding how to apply contributed water rights. In the past, when cash-in-lieu-of payments were made, the cost of the tap, including the raw water component, was paid for on issuance of the building permit and the payment was treated as applying to the specific lot for which a building permit was issued. As the Town has encouraged builders/developers to bring raw water, particularly North Poudre shares, to satisfy raw water requirements, the Town has seen developers purchase multiple shares of North Poudre stock with the intent that the stock would be turned in to the Town to obtain multiple taps.

As an example, a builder, might acquire ten shares of North Poudre stock and turn the water over to the Town for credit against multiple future water tap permits. As buyers purchase lots the builder applies the water rights against the credit received for the turned in shares. Shares are hard to come by and must be purchased in blocks and a single share represents more water than needed for a single tap. When water shares come available; builders are required to make substantial cash outlays to purchase the shares. At approximately \$200,000 / share, 10 shares of North Poudre equate to \$2,000,000. Builders need to borrow funds, both to build homes and to acquire shares. As security, lenders take interests in the undeveloped lots. There is currently no mechanism for the lender to take a security interest in the water satisfying the raw water requirement for the lot until the builder applies the turned in water and requests a water tap permit. The water shares, when turned in for credit against taps, are placed in the name of Town and the Town is not willing to give the lender a security interest in shares titled in the Town. There is a time gap between when the water is contributed and when a tap permit is issued. Once the water main is tapped and the tap is assigned and service can be provided to the lot, the tap becomes an appurtenance (attachment to) to the lot and cannot be moved.

To allow the builder to use the water for security and to ensure that the lender has ample water rights to satisfy the water requirements for taps to be issued in the event of a foreclosure one option would be for the Town to issue water tap certificates representing paid-for water tap permits and that the builder could turn in a tap certificate with each lot when a building permit was pulled. Lenders could be given a lien against the tap certificates. Tracking water certificates through builders and lenders in the Town's records would be cumbersome, would require significant staff time to maintain the records and there would be risks associated with possible errors.

As opposed to creating a separate tap certificate, the proposed ordinance is designed to allow the builder to turn water stock into the Town and designate specific lots to which the water is to be applied. Those lots will be marked in the planning office's files as having the raw water requirement satisfied. The builder, on requesting

a building permit on such a water satisfied lot, would pay the balance of the fees, and would be issued a building permit. If the lender were required to take the lot back, the lender would take the lot with the water rights satisfied. If a lot were sold in an undeveloped state, the sold lot would either have water rights satisfied or not satisfied. The designation of a raw water satisfied lot would not change unless the lot owner requested transfer of the designation to another lot, under the proposed ordinance water satisfaction could only be transferred with Town Board authorization and consent by any lender holding a security interest in the property. Issues would have to be addressed on a case-by-case basis if a lot were divided or if a larger tap were required for a lot. In discussions with staff, it was felt that record keeping using this mechanism would be less cumbersome than issuing tap entitlement certificates and would meet the needs of developers and lenders.

It is proposed that the ordinance be passed as an emergency measure and allowed to be put in place immediately. Passing the measure would allow staff to treat water already titled in the Town as appurtenant to specific lots (attached to the lots) if requested by the developer. This should afford builders a more immediate right to secure financing. As water, in good faith, has already been turned into the Town to meet the Town's recently changed water requirements, it would seem reasonable to allow developers to utilize the already purchased and turned over water for security. Passing the ordinance as an emergency measure would avoid impeding building progress.

STAFF RECOMMENDATION

ATTACHMENTS

1. Ordinance No. 01-20201

TOWN OF WELLINGTON

ORDINANCE NO. 01-2021

AN ORDINANCE ALLOWING WATER CONTRIBUTION REQUIREMENT DEDICATIONS TO BE TREATED AS APPURTENANT TO LOTS AND PROVIDING FOR ADOPTION AS AN EMERGENCY ORDINANCE

WHEREAS, the Town Code (the “Town Code”) of the Town of Wellington, Colorado (the “Town”) provides that the Board of Trustees (the “Board”) of the Town shall set fees for various services provided by the Town by ordinance or resolution; and

WHEREAS, the Board set water fees, including by Resolution 12-2008, Resolution 8-2016, Ordinance 6-2017, Ordinance 28-2020, and Resolution 44-2020; and

WHEREAS, the Town Code provides that prior to allowing any new water tap or water permit, water rights dedications shall be required or in lieu thereof, the Town, in the Town’s sole discretion, may accept cash payments; and

WHEREAS, the Town has accepted shares of North Poudre Irrigation Company (NPIC) stock in satisfaction of raw water dedication requirements imposed by the Town Code and may accept Class D water allotment contracts representing acre foot units of water in the Colorado-Big Thompson Project in satisfaction of water right contribution requirements; and

WHEREAS, the cost of raw water has risen, and availability of raw water has increased, making procurement of raw water difficult and financing of raw water acquisition problematic; and

WHEREAS, financial lenders issuing loans for development of subdivision projects have requested that the Town establish a means to acquire a security interest in raw water contributions; and

WHEREAS, the Town Code at Section 13-1-50 addresses capital investment fees and water rights dedication requirements and provides:

At section 13-1-50 (d)(1): Developers of residential uses shall dedicate to the Town water rights yielding one (1) acre-foot, (or such lesser amount of water as may be established by ordinance or resolution of the Town Board) of water per year for each dwelling unit to be served by the Town water Utility; and

At section 13-1-50 (e): Procedure for dedicating water rights. The Town shall have the sole right of determination to accept or reject any water rights proposed for dedication pursuant to the provision of this Section, or to allow a cash payment in lieu of water rights dedication to satisfy the basic dedication requirement. At the time of submission, the applicant shall indicate the water rights proposed to be dedicated to the Town, or the amount of cash in lieu thereof that is proposed to be paid to the Town...; and

WHEREAS, the Town Code at Section 13-1-60 addresses issuance of water tap permits and provides:

At section 13-1-60 (a): Water and sewer tap permits required. It is unlawful for any Person to tap or make any connection with the Town's water or sewer facilities or to take or to use any water from said water facilities without having first obtained a permit from the Town. Any Person desiring to tap the water or sewer mains or use water from the Town's water system shall make application in writing for a tap permit to the Town Administrator. The application shall state the size of the tap to be made with the water or sewer system, the location of the proposed tap, the premises for which the service is sought, the purpose for which the water is to be used All plant investment fees and other charges assessed by the Town shall be submitted with the application.; and

At section 13-1-60 (b): Issuance of tap permits. If the application complies with the provisions of this Code, the Town Administrator shall issue a permit subject to Town Engineer review. Permits shall be signed by the Town Administrator and shall set forth the name of the Person for whose benefit the permit shall be granted, the date issued, the point on the water or sewer main at which the tapping is to be done, the size of the tap and the curb stop, the premises to be served and the use to be made of the water and any restrictions on the discharge to the sewer facilities.

At section 13-1-60(c): Time limitation on tapping.

(1) Each water and sewer tap permit issued by the Town pursuant to this Code shall expire one hundred eighty (180) days after the issuance of the permit unless the tap applied for has been installed during the one-hundred-eighty-day time period and unless the construction of the premises for which the tap has been issued has been commenced.

(2) The holder of any water or sewer tap permit may apply for an extension of the one-hundred-eighty-day time period. Extensions may be granted only by the Board of Trustees for good cause established by the permit holder. Any extension shall be limited in time to an additional one-hundred-eighty-day period and only one (1) extension shall be granted for any tap.

(3) If a water or sewer tap permit expires, all charges paid to the Town to serve the permit to the applicant shall be forfeited and are nonrefundable.

(4) The holder of a tap permit may relinquish the permit to the Town at any time prior to its expiration. The Town shall, upon demand, refund seventy-five percent (75%) of the permit fee paid to the owner.

At section 13-1-60(d): Transfer of tap permits. Tap permits are for a specific address or location and may not be transferred to any other site or another owner except as specifically authorized by the Board of Trustees.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AS FOLLOWS:

1) The following section 13-1-60(e) is added to the Wellington Town Code:

(e) Establishing raw water as an appurtenance. On dedication and contribution of raw water to the Town, before issuance of a tap permit, an owner may request that dedicated raw water be applied towards raw water tap permit requirements associated with a specific property or properties. If so requested and approved, the Town will treat the dedication as

appurtenant to such property. If contributed water is insufficient to meet the then current raw water tap requirements at the time that a water tap permit is requested for the property, the property owner shall contribute such additional water as may be required to meet the then current raw water tap requirement. The Town shall issue the owner a letter of proof of raw water dedication at the time water is dedicated to specific property. Any dedicated raw water deemed appurtenant to specific property may not be transferred to any other property except as authorized by the Board of Trustees with approval of the owner's lender holding a security interest in the originally specified property and appurtenant raw water. Raw water dedicated to the Town and raw water fees paid to the Town are non-refundable.

- 2) Repealer. The Board of Trustees hereby declares that should any section, paragraph, sentence, word or other portion of this Ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this Ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this Ordinance and adopted all other portions of said rules and regulations, independent of the elimination here from of any such portion which may be declared invalid.
- 3) Certification. The Town Clerk shall certify to the passage of this Ordinance and make not less than three (3) copies of the adopted Code available for inspection by the public during regular business hours.

Emergency Clause. The Board of Trustees finds and determines that, because this ordinance concerns the immediate and ongoing administration and operation of the Town, to allow use of dedicated water stock to be used as loan security and to allow immediate contributions of raw water to the Town, adoption as an emergency measure is necessary for the immediate preservation of the public's health, safety and welfare, and property and this ordinance shall therefore take effect immediately upon adoption as provided by law.

PASSED AND ADOPTED BY AFFIRMATIVE VOTE OF THREE-FOURTHS OF ALL THE MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON AND ORDERED PUBLISHED THIS 25th DAY OF FEBRUARY, 2021, AND ORDERED TO BECOME EFFECTIVE IMMEDIATELY AS AN EMERGENCY ORDINANCE OF THE TOWN OF WELLINGTON, COLORADO INCLUDING PURSUANT TO C.R.S. §31-11-105.

TOWN OF WELLINGTON, COLORADO

By: _____
Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk



Board of Trustees Meeting

Date: February 23, 2021
Submitted By: Brad March, Town Attorney
Subject: Resolution No. 07-2021 - A Resolution Confirming Appointment of the Municipal Court Clerk

- **Staff presentation: Brad March, Town Attorney**

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

Crystal Smith serves as the Municipal Court Clerk. As a result of restructuring, Crystal Smith's part time position with the Town was terminated. The Wellington Municipal Code states that the Municipal Court Clerk is appointed by both the Municipal Judge and the Board of Trustees. Resolution 07-2021 appoints Michelle Sowder as Crystal Smith's successor.

STAFF RECOMMENDATION

ATTACHMENTS

1. Resolution 07-2021

TOWN OF WELLINGTON
RESOLUTION NO. 07-2021

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON
CONFIRMING APPOINTEMNT OF THE MUNICIPAL COURT CLERK

WHEREAS, the Board of Trustees of the Town of Wellington, Colorado has adopted and reenacted the Wellington Municipal Code; and

WHEREAS, the Municipal Judge is to appoint the Municipal Court Clerk pursuant to the Town Code at Section 2-4-70 (b) and C.R.S. § 13-10-108; and

WHEREAS, pursuant to Town Code at Section 2-4-70 (a) the Board of Trustees is to appoint at the same time as the Municipal Judge's appointment, a Municipal Court Clerk; and

WHEREAS, by Resolution 12-2020 the Board of Trustees appointed the Municipal Judge and appointed the acting Municipal Court Clerk; and

WHEREAS, the acting Municipal Court Clerk resigned as of February 26, 2021; and

WHEREAS, the Municipal Judge, effective February 26, 2021, has appointed Michelle Sowder as the Wellington Municipal Court Clerk.

NOW, THEREFORE, be it resolved by the Board of Trustees for the Town of Wellington, Colorado, as follows:

1. The Town Board confirms the appointment by the Municipal Judge and likewise appoints Michelle Sowder as the Wellington Municipal Court Clerk.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 23rd day of February, 2021.

TOWN OF WELLINGTON, COLORADO

By: _____
Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk

Board of Trustees Meeting

Date: February 23, 2021
Submitted By: Lori Woodruff, Staff
Subject: Agreement for Legal Services by Town Attorney 2021 & Town Attorney Goals for 2021

- **Staff presentation: Lori Woodruff, Human Resources Manager**

EXECUTIVE SUMMARY

This action item requests that the Board of Trustees approve the updated Agreement for Legal Services for the Town Attorney for 2021. This Agreement identifies the scope of legal services, compensation, availability, Town-designated representative, non-discrimination, assignment, term and termination, conflicts, and miscellaneous provisions.

This action item also requests that the Board of Trustees approve the Goals for the Town Attorney for 2021. Goals for 2021 will become the basis of the evaluation process that will take place at the end of 2021. The goals in this document were culled from the Fall 2020 Town Attorney evaluation document. This document was previously shared with the Board of Trustees and contained feedback from Board of Trustees and Senior Management.

Both of these documents have been vetted by Town Administrator, Patti Garcia and Town Attorney, March & Olive, LLC.

BACKGROUND / DISCUSSION

- 1). Revising the Agreement between the Town of Wellington and the Legal Services provided by the Town Attorney. Last Agreement has been in place since 2016.
- 2). Adding/updating Agreement language.
- 3). Updating fee structure.
- 4). Determining evaluation goals for 2021 calendar year.

STAFF RECOMMENDATION

Approve:

- 1). Agreement for Legal Services by Town Attorney
- 2). Town Attorney 2021 Goals

ATTACHMENTS

1. Wellington Engagement Letter April 22 2016
2. Agreement for Legal Services for Town Attorney 2021
3. Town Attorney Goals 2021

MARCH, OLIVE & PHARRIS, LLC

J. BRADFORD MARCH
STEWART W. OLIVE
JOHN W. PHARRIS

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ARTHUR E. MARCH
1908-1981
ARTHUR E. MARCH, JR.
1953-2007

April 22, 2016

Town of Wellington

Attn: Larry Lorentzen Town Administrator

RE: Scope of Representation and Fees

Dear Mr. Lorentzen and members of the Wellington Town Board

The purpose of this letter is to set forth our mutual understanding of the nature and scope of March, Olive & Pharris, LLC's representation of the Town of Wellington (the "Town") and our firm's appointment as Town Attorney. Our office's attorneys, paralegals and staff are bound to keep matters confidential by the code of professional conduct. Be aware that our paralegals and staff are not attorneys and will not give legal advice or operate independently of supervising attorneys.

Billings for the majority of the work which we perform are based upon the amount of time expended in conjunction with a project, multiplied by the hourly rate of the attorney or staff member providing services. The hourly rates for attorneys providing services, effective September 1, 2016, are as follows:

Attorneys	\$150
Paralegals	\$75-\$110

Extraordinary costs such as copying projects, computerized legal research, courier or express mail services, substantial mailings, travel costs, deposition costs and copies, preparation costs for exhibits, advertising costs and court or other filing fees will be accounted and billed for separately. When rate changes are made in the firm, we will notify you in writing 45 days of the next invoice billing. We have charged the Town no retainer for services to be rendered.

The firm's relationship as Town attorney is governed by statute and the Town code. We reserve the right to withdraw as counsel for any reason, including failure to pay monthly billing statements or reasons consistent with the Colorado Rules of Professional Responsibility applicable to all attorneys practicing law in this state. If for any reason we feel it necessary to terminate an attorney-client relationship, we would contact the Town to explain the basis of the firm's decision. Obviously, if you have any concern regarding the services which we have provided and wish to terminate the relationship, the firm would appreciate the opportunity to discuss your concerns.

If you have any questions regarding this letter or as always, if you have question regarding a future bill, please do not hesitate to call us.

Sincerely yours,

MARCH, OLIVE & PHARRIS, LLC



J. Brad March

ACKNOWLEDGMENT AND ACCEPTANCE

The Town accepts and agrees to the terms and conditions set forth in the accompanying letter of April 22, 2016 concerning the appointment of MARCH, OLIVE & PHARRIS, LLC as Wellington's Town Attorney.

Town of Wellington, Colorado

By _____

Jack Brinkhoff, mayor

Date _____



AGREEMENT FOR LEGAL SERVICES BY TOWN ATTORNEY

THIS AGREEMENT FOR LEGAL SERVICES is made this _____ day of _____, 2021, by and between March & Olive, LLC, a Colorado Limited Liability Company, formerly known as March, Olive and Pharris, LLC and authorized to continue to do business under the name March, Olive and Pharris, LLC, with its principal place of business at 1312 South College, Fort Collins, Colorado, 80524-2880, Attorneys and Counselors at Law (hereinafter called the "Town Attorney"), and the Town of Wellington, Colorado, with the principal Town Hall located at 3735 Cleveland Ave., Wellington, Colorado, 80549, (hereinafter called the "Town").

RECITALS

1. Town Attorney employs attorneys, authorized to practice law in the state of Colorado, and employs support staff.
2. Pursuant to C.R.S. § 31-4-304 the Town of Wellington (Town), by its Board of Trustees (the "Board of Trustees") is required to appoint a Town Attorney.
3. The Wellington Town Code (the "Code") at Sec. 2-3-10 provides that the Town Attorney is an appointed officer of the Town and at Section 2-3-40 provides that the Board shall appoint a Town Attorney and shall fix the attorney's compensation.
4. The Code at Sec. 2-3-40(d) sets forth the duties of the Town Attorney.
5. The Code at Sec. 2-3-50 and state law at C.R.S. § 31-4-307 define the manner in which the Town attorney may be removed.

1. SCOPE OF LEGAL SERVICES

- A. The Town Attorney shall provide to and coordinate for the Town all usual and customary legal services authorized by statute and the Code to be provided by the town attorney. The legal services shall include, but not be limited to:
 - a. Provide legal advice to the Town, Board of Trustees and staff of the Town, and various boards and commissions as may be created by Board of Trustees;
 - b. Provide legal advice and services associated with land use, subdivision, and other planning applications;
 - c. Prepare or review all resolutions, ordinances, contracts, bonds, and review other written instruments as requested by the Town;
 - d. Represent the Town in judicial and appropriate administrative proceedings;
 - e. Advise the Town on current federal, state, and local laws affecting the Town and changes or developments therein; and
 - f. Provide advice and topical seminars to the Board of Trustees and Town staff as requested on a periodic basis.
- B. The Town Attorney shall provide for support and para-professional personnel in its representation of the Town as deemed necessary and cost effective by the Town Attorney.



- C. The Board of Trustees reserves the right to engage special legal counsel on any matter deemed appropriate by the Board of Trustees, following consultation with the Town Attorney, to advise the Town or to assist the Town Attorney.
- D. The Town Attorney may, including on direction of the Board of Trustees, maintain working relationships with attorneys specializing in fields of interest to municipalities, including but not limited to condemnation, litigation, and water law. The Town Attorney may recommend that the Board of Trustees retain special legal counsel with special knowledge and expertise to represent the Town or assist the Town Attorney when it deems reasonable and in the best interest of the Town and in cases of conflict of interest. The Town Attorney may also recommend hiring special legal counsel to advise the Town or provide second opinions on matters of extraordinary importance to the Town, including matters involving complex litigation or a substantial financial or other impact on the Town or its residents, considering the Town's budget as a whole and considering Town functions or programs, when such matters of extraordinary importance also involve legal uncertainties or complexities.
- E. Any attorneys who are not employed by the Town Attorney, but who are employed by or retained by the Board of Trustees to perform legal representation or to assist Town, shall be under the general supervision and coordination of the Board of Trustees. Such non-Town attorneys shall contract directly with the Town and not the Town Attorney. The Town Attorney shall not warrant the quality of the work of such non-Town attorney.
- F. Although the Town Attorney shall actively seek to avoid potential for conflicts, the Town understands and recognizes that unanticipated conflicts may arise that could impair the ability of the Town Attorney to represent the Town on specific legal matters. In such event, the Town Attorney shall comply with the requirements of the Colorado Rules of Professional Conduct in addressing such conflict with the Town. The parties understand that the Town is not obligated to waive any conflict to permit the Town Attorney to represent the Town.

2. COMPENSATION

- A. The Town shall compensate the Town Attorney at the rates set forth in **Exhibit A** to this Agreement.
- B. The Town shall not be required to compensate the Town Attorney for:
 - a. Electronic and hardcopy library and research materials and research librarian services except database access charges (e.g., Lexis/Nexis or Westlaw) for legal research which shall be billed at the Town Attorney's cost without administrative markup;
 - b. Employee benefits;
 - c. Employee insurance, including malpractice insurance;
 - d. Training and continuing legal education;
 - e. Bar and professional licensing expenses and registrations;
 - f. Local professional memberships;
 - g. Town Attorney owned electronic, computer and computer/network related communications equipment, hardware, software and information technology support



support services, systems training of Town Attorney personnel, including personal computers, laptops, computer printers, or mobile telephones;

- h. Routine copying customarily performed in the day-to-day performance of legal services except those projects requiring outside copying and specialized printing services may be charged at cost. Large project copying (typically more than 100 pages/project) may be charged to the Town in accordance with the Town Attorney's standard policies;
 - i. Facsimile expenses;
 - j. Newspapers and professional periodicals;
 - k. Office supplies used by the Town Attorney (to include items customarily associated with standard office operations and management such as paper, pens, notebooks, paper files, file folders, tape, paperclips, labels, etc.); and
 - l. Archival storage and retrieval of outdated client files performed in accordance with the Town Attorney's standard client file storage policies; provided, however, that the Town Attorney may relinquish possession of outdated files to the Town for storage.
- C. The Town shall compensate the Town Attorney for out-of-pocket fees and costs incurred on the Town's behalf, including but not limited to filing fees, service of process, expert witness fees (only as pre-authorized by the Town), court reporter fees, transcript fees, recording fees, title company's fees for reports of title, and publication fees. Such fees will be billed to the Town at the Town Attorney's cost without mark-up.
- D. The Town shall compensate the Town Attorney for mileage expenses for personal use of private vehicles used by the Town Attorney, other Town Attorney attorneys, and paralegals for travel within the Larimer County area incurred in the direct and exclusive performance of services for the Town. Mileage shall be charged at the Town Attorney's standard mileage rate (not to exceed U.S. Internal Revenue Service published business travel mileage allowance).
- E. The Town Attorney shall provide to the Town a detailed invoice for all legal services on a regular basis. Such billings shall separate work and fees, including allocations associated with specific projects for which the Town accounts separately. The Town shall pay all undisputed billings from the Town Attorney within thirty (30) days of receipt of invoice. The Town's obligation to make prompt payment of all fees and charges does not depend upon achievement of any specific results.

3. AVAILABILITY

- A. The Town Attorney shall attend Board of Trustees regular and special meetings, study sessions, Board retreats, and other Town business meetings unless requested not to attend by the Mayor, Town or the Board of Trustees and be available to provide legal services for the Board of Trustees.
- B. The Town Attorney shall strive to be available to render the services required hereunder on an "on call" basis.



- C. The Town Attorney will employ or retain on contract at its discretion and own cost, at its office and during regular business hours, such administrative personnel as are necessary to support the Town Attorney.

4. TOWN-DESIGNATED REPRESENTATIVE

In the interest of budget management, the Board of Trustees hereby designates the Mayor and Town Administrator to serve as the primary contacts to the Town Attorney outside of the regular Board of Trustees meetings.

5. NON-DISCRIMINATION

During the performance of this Agreement, the Town Attorney shall:

- a. Not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, age, military service, veteran status, marital status, national origin, or disability.
- b. Comply with all state and federal laws, regulations, and executive orders regarding non-discrimination applicable to the Town and its programs.

6. ASSIGNMENT

This Agreement for services is personal to the parties hereto and shall not be assigned by either party.

7. TERM AND TERMINATION

This Agreement shall be effective as provided above and may be terminated by the Town as allowed by the Code at Sec. 2-3-50 and state law at C.R.S. § 31-4-307.

8. CONFLICTS

Unless otherwise agreed by the Town, the Town Attorney shall not accept work on behalf of any client that the Town Attorney believes will create a conflict or the potential for a conflict with the Town. This requirement shall specifically preclude the Town Attorney from undertaking work on behalf of Larimer/Weld Counties, any special district whose jurisdiction or area of service lies within all or any portion of the Town, any special district or municipality that shares a common boundary with the Town or which may potentially provide services within the Town, and any landowners, businesses, and developers residing or working within the Town.



9. MISCELLANEOUS PROVISIONS

- a. Disputes. Mandatory Arbitration for Claims under \$25,000. Although the Parties do not expect that any dispute will arise between the Parties, in the unlikely event of any dispute under this Agreement, including a dispute regarding the amount of legal fees or costs owed to the Town Attorney or the quality of the Town Attorney's services, including any claim of malpractice, such dispute shall be subject to binding arbitration if the damages, liability or claim(s) asserted total less than Twenty-Five Thousand Dollars (\$25,000.00) in the aggregate. In such event, the Town and the Town Attorney acknowledge that they are waiving their right to seek remedies in court, including the right to a jury trial. This clause does not prevent the Town and the Town Attorney from trying to resolve any dispute through voluntary mediation, but there is no requirement to do so. The Town agrees that the Town shall have no right to dispute fees within 90 days after payment by the Town.
- b. Arbitrations. All arbitrations shall be held in Larimer County, Colorado, unless the Parties mutually agree on some other location. As set forth above arbitration shall not be required for any dispute between the Parties in which the aggregate dollar amount of alleged damages, liability, or claim(s) total Twenty-Five Thousand Dollars (\$25,000.00) or more. Such disputes may be resolved by the District Court, County of Larimer, State of Colorado.
- c. Document Ownership. The Town Attorney shall maintain all files currently in the Town Attorney's possession titled in the name of the Town in accordance with Colo Rule of Professional Conduct 1.16A. The Town may at any time request a list of Town files maintained by the Town Attorney and complete or partial copies from files, at the Town's expense. Files maintained in the name of the Town, by the Town Attorney, including currently existing files shall be the property of the Town. Upon termination of this Agreement, or on the failure to renew the Town Attorney's appointment, the Town Attorney shall, with a representative of the Town, review files maintained by the Town Attorney and deliver to the Town such files or copies of such files as requested by the Town. The Town Attorney and Town Clerk may, from time to time review files maintained by the Town Attorney and may define files that may be destroyed or turned over to the Town.
- d. Professional Liability Insurance. The Town Attorney shall maintain professional liability insurance in an amount no less than one million (\$1,000,000.00) dollars and shall provide copies to the Town Attorney's insurance to the Town on request.
- e. Enforcement. This agreement shall be enforceable and shall run to the benefit of the Town Board and the Town Attorney and no third party shall have any rights hereunder.



IN WITNESS WHEREOF, the parties to this Agreement have executed as of the date(s) set forth below.

Town of Wellington

ATTEST:

By: _____
Troy Hamman, Mayor

Krystal Eucker, Town Clerk

March & Olive, LLC

By: _____
J. Brad March



EXHIBIT A

ATTORNEY RATES PER HOUR FOR MUNICIPAL LEGAL SERVICES

Attorneys:

**March & Olive LLC
1312 S. College Ave.
Fort Collins, CO 80524-2880**

Attorneys

\$170.00

Paralegal/Research Professional

\$80.00



Goals for 2021 – Town Attorney

January 1, 2021-December 31, 2021

Based on the 2020 evaluation feedback from the Board of Trustees and Senior Management for the Town, the following goals represent top areas for continued growth and development:

1. Timeliness:

- Meet deadlines.
- Prepare for BOT meeting ahead of time – not right before a meeting.
- Provide timely feedback on packet materials.
- Be more responsible for quality control.

2. Accuracy, Preparation, Organization:

- Proofread, correct grammar, and fix typos.
- Have necessary meeting materials on hand to address questions/concerns.
- Provide staff accurate documentation when requested.

3. Professionalism:

- Be proactive in providing BOT potential legal concerns/issues.
- Professional demeanor, communication, appearance.
- Provide BOT with framework for succession plans.



Board of Trustees Meeting

Date: February 23, 2021
Submitted By: Krystal Eucker, Town Clerk
Subject: Annual Renewal - Ridley's Family Market

- **Staff presentation: Krystal Eucker, Town Clerk**

EXECUTIVE SUMMARY

Ridley's Family Markets Inc, d/b/a Ridley's Family Markets has submitted their annual renewal for their Liquor Store 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.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. Ridley's Renewal

OR 0400 (07/24/19)
 COLORADO DEPARTMENT OF REVENUE
 Liquor Enforcement Division
 Submit to Local Licensing Authority

RIDLEY'S FAMILY MARKETS
 821 WASHINGTON STREET S
 Twin Falls ID 83301

RECEIVED

NOV 10 2020

LIQUOR ENF. DIVISION

125858

Fees Due		
Renewal Fee		227.50
Storage Permit	\$100 X	\$
Sidewalk Service Area	\$75.00	\$
Additional Optional Premise Hotel & Restaurant	\$100 X	\$
Related Facility - Campus Liquor Complex	\$160.00 per facility	\$
Amount Due/Paid		\$327.50

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

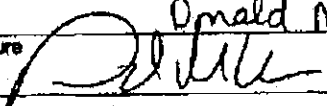
Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name RIDLEY'S FAMILY MARKETS INC			Doing Business As Name (DBA) RIDLEY'S FAMILY MARKETS	
Liquor License # 03-05940	License Type Liquor Store (city)	Sales Tax License # 302740990000	Expiration Date 02/08/2021	Due Date 12/25/2020
Business Address 7670 5TH STREET Wellington CO 80549				Phone Number 9705683197
Mailing Address 621 WASHINGTON STREET S Twin Falls ID 83301			Email open controller@shopridleys.com	
Operating Manager Kelly Neal	Date of Birth 12/26/1988	Home Address 502 Kim Dr., Fort Collins, CO 80525	Phone Number 970-568-3197	
1. Do you have legal possession of the premises at the street address above? Yes No Are the premises owned or rented? Owned <u>Rented</u> *If rented, expiration date of lease 7-30-2024				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. Yes No				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes <u>No</u>				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes <u>No</u>				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes <u>No</u>				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes <u>No</u>				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes <u>No</u>				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes No Ridleys store in Gypsum, CO				

Affirmation & Consent

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business	Title
Donald Mark Ridley	Owner
Signature	Date
	11-1-20

Report & Approval of City or County Licensing Authority

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules. Therefore this application is approved.

Local Licensing Authority For	Date
Signature	Title
	Attest

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Tax Check Authorization, Waiver, and Request to Release Information

I, Donald Mark Ridley am signing this Tax Check Authorization, Waiver and Request to Release Information (hereinafter "Waiver") on behalf of Ridley's (the "Applicant/Licensee") to permit the Colorado Department of Revenue and any other state or local taxing authority to release information and documentation that may otherwise be confidential, as provided below. If I am signing this Waiver for someone other than myself, including on behalf of a business entity, I certify that I have the authority to execute this Waiver on behalf of the Applicant/Licensee.

The Executive Director of the Colorado Department of Revenue is the State Licensing Authority, and oversees the Colorado Liquor Enforcement Division as his or her agents, clerks, and employees. The information and documentation obtained pursuant to this Waiver may be used in connection with the Applicant/Licensee's liquor license application and ongoing licensure by the state and local licensing authorities. The Colorado Liquor Code, section 44-3-101, et seq. ("Liquor Code"), and the Colorado Liquor Rules, 1 CCR 203-2 ("Liquor Rules"), require compliance with certain tax obligations, and set forth the investigative, disciplinary and licensure actions the state and local licensing authorities may take for violations of the Liquor Code and Liquor Rules, including failure to meet tax reporting and payment obligations.

The Waiver is made pursuant to section 39-21-113(4), C.R.S., and any other law, regulation, resolution or ordinance concerning the confidentiality of tax information, or any document, report or return filed in connection with state or local taxes. This Waiver shall be valid until the expiration or revocation of a license, or until both the state and local licensing authorities take final action to approve or deny any application(s) for the renewal of the license, whichever is later. Applicant/Licensee agrees to execute a new waiver for each subsequent licensing period in connection with the renewal of any license, if requested.

By signing below, Applicant/Licensee requests that the Colorado Department of Revenue and any other state or local taxing authority or agency in the possession of tax documents or information, release information and documentation to the Colorado Liquor Enforcement Division, and is duly authorized employees, to act as the Applicant's/Licensee's duly authorized representative under section 39-21-113(4), C.R.S., solely to allow the state and local licensing authorities, and their duly authorized employees, to investigate compliance with the Liquor Code and Liquor Rules. Applicant/Licensee authorizes the state and local licensing authorities, their duly authorized employees, and their legal representatives, to use the information and documentation obtained using this Waiver in any administrative or judicial action regarding the application or license.

Name (Individual/Business) <u>Ridley's Family Market</u>		Social Security Number/Tax Identification Number [REDACTED]	
Address <u>71670 5th St</u>			
City <u>Wellington</u>		State <u>CO</u>	Zip <u>80549</u>
Home Phone Number		Business/Work Phone Number <u>208-324-4633</u>	
Printed name of person signing on behalf of the Applicant/Licensee <u>Donald Mark Ridley</u>			
Applicant/Licensee's Signature (Signature authorizing the disclosure of confidential tax information) <u>[Signature]</u>			Date signed <u>1/6/21</u>

Privacy Act Statement

Providing your Social Security Number is voluntary and no right, benefit or privilege provided by law will be denied as a result of refusal to disclose it. § 7 of Privacy Act, 5 USCS § 552a (note).