



BOARD OF TRUSTEES
May 11, 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 May 11, 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.

Please click the link below to join the webinar:

<https://zoom.us/j/92114920446?pwd=NE00T0twaU9iQ0dQRi9CVy96RDY0UT09>

Passcode: 474554

Or One tap mobile :

US: +12532158782,,92114920446# or +13462487799,,92114920446#

Or Telephone:

US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 9128 or +1 301 715 8592

Webinar ID: 921 1492 0446

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 May 11, 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 Quarterly Update
 - b. Wellington Public Library Quarterly Update

3. Proclamation

a. Police Week Proclamation

C. CONSENT AGENDA

1. Minutes of the April 27, 2021 Board of Trustees Meeting

D. ACTION ITEMS

1. Resolution 10-2021 - A Resolution Referring to the Voters the Question of Whether Sales of Medical and Retail Marijuana Should be allowed in the Town of Wellington

- Staff presentation: Dan Sapienza, Town Attorney

2. Resolution No. 11-2021 - A Resolution Approving Mandatory Watering Restrictions

- Staff presentation: Dan Sapienza, Town Attorney and Bob Gowing, Public Works Director

3. Resolution 12-2021 - A Resolution Appointing Mayor Troy Hamman to the Wellington Housing Authority

- Staff presentation: Patti Garcia, Town Administrator

4. Resolution 13-2021 - A Resolution Establishing Fees to be Charged for Residential 3/4-inch Water Tap Permits

- Staff Presentation: Patti Garcia, Town Administrator

E. REPORTS

1. Town Attorney

2. Town Administrator

3. Staff Communications

a. Report of Bills - April 2021

4. Board Reports

F. 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: May 11, 2021
Submitted By: Dean Campos
Subject: Parks and Recreation Quarterly Update

EXECUTIVE SUMMARY

Parks Update

- Parks Maintenance Technician II & III - Assessed/Evaluated - Efficiency.
- Certifying Park Maintenance Technician III and Recreation Coordinator - Play Structure Inspector - Positive Financial Impact.
- Developing Preventive Maintenance Schedule - Parks System.

Recreation Update

- Negotiating user fees with ActiveNet (Registration Software) for better rates.
- Standard Operating Procedures and Staff Training being documented.
- Recreation Forum Feedback being implemented - Cheer Program (Cheer Spirit Colorado) & Tennis (Contractor US Tennis Association)
- Virtual Recreation Page
- Developing new communication strategy for participants in Youth and Adult Sports to better meet the needs of the community.

Department Holistically

- Collaborated with Kelly to develop better department structure to sustain program growth and save the Town resources.
- Cost-Recovery - Inputting all financial data into analytical software. Service Categories Developed. Beneficiary of Service workshop scheduled.
- Partnerships being developed - Boys and Girls Club (facility usage), Colorado Youth Outdoors (Innovative programming), Poudre School District (facility usage), Wellington Soccer Club (Funneling participants into our program).
- Colorado Parks and Recreation Association - Developing talent pipeline in Northern Colorado with other agencies to increase Town of Wellington visibility for professional development.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

None



Board of Trustees Meeting

Date: May 11, 2021
Submitted By: Ross Lagenese, Library Director
Subject: Wellington Public Library Quarterly Update

EXECUTIVE SUMMARY

WPL Quarterly Update

- Successful and community supported re-opening for indoor public patronage
 - i. Simple and unique signage (slides)
 - ii. Continued access to curbside use
 - iii. Consistent and easily readable section signage and re-organization promoting exploration and self-sufficiency
 - iv. Change in hours reflecting resident needs, working families, and students
 - v. Redesigned and user-friendly website interface. Optimized for mobile use
 - vi. Local Matters section in alignment with Strategic Plan/Local issues
 - vii. Increase in new patrons, circulation, inclusive and expansive media

- Major focus on collaboration with the community, local businesses, school programs/clubs, and Town of Wellington departments

- Development of ongoing partnership between Wellington Public Library (WPL), Liberty Common High School (LCHS), and Colorado State University (CSU) Engineering Department for an Engineering and Robotics program for all ages and pathways
 - i. Directly supports and tactfully develops Science, Technology, Engineering and Mathematics (STEM) programs for residents and youth
 - ii. Robotic demonstrations/challenges/events by state and national award-winning robotic teams. Student developed and managed with oversight lead by WPL and instructor
 - iii. Participation and development with CSU Engineering Department and University Recruiting Department. Demonstration of full pathway from young children to university opportunity and engagement

- In compliment to developing programs and events, WPL has secured a Prusa 3D printer thanks to the Wellington Friends of the Library. Printer is in shipping process currently and will be accessible to all patrons for a myriad of uses and supplements. CSU Engineering has offered to assist in set-up, calibration, and promotion



- Summer Reading Program
 - i. Extreme increase/partnership in local business patronage and donations
 - ii. Early registration has launched
 - iii. Coordination with local elementary and middle schools
 - iv. Partnership with Wellington Boys & Girls Club
 - v. Expansion and inclusion with adult readers as modeling for literacy
 - vi. Events secured with contingencies in place
 - vii. Joint event planned with TOW Parks and Recreation Department

- Quarterly budget figures/lines are in accordance and fiscally within parameters

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. Library Presentation

Wellington Public Library













PROCLAMATION

National Police Week May 9-15, 2021

Whereas, in 1962, the President of the United States designated May 15th as National Peace Officer's Memorial Day and the calendar week in which May 15th falls, as National Police Week; and

Whereas, there are more than 800,000 sworn law enforcement officers now serving in the United States, including the dedicated members of the Larimer County Sheriff's Office; and

Whereas, it is important that all residents know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

Whereas, the Town of Wellington desires to honor the valor, service and dedication of our law enforcement professionals.

NOW, THEREFORE, I, Troy Hamman, Mayor of the Town of Wellington, Colorado, do hereby proclaim, the week of May 9 through May 15, 2021, as

National Police Week

in the Town of Wellington and urge all fellow residents to salute the service of law enforcement officers in our community and in communities across the nation.

Dated this 11th day of May 2021

Troy Hamman, Mayor



Board of Trustees Meeting

Date: May 11, 2021

Submitted By:

Subject: Minutes of the April 27, 2021 Board of Trustees Meeting

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. April 27, 2021 Board of Trustees Draft Minutes



BOARD OF TRUSTEES

April 27, 2021

6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

A. CALL TO ORDER

Mayor Hamman called the meeting to order at 6:32 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
Kelly Houghteling, Deputy Town Administrator
Brad March, March & Olive, LLC, Town Attorney
Dan Sapienza, March & Olive, LLC, 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

3. Amendments to Agenda
Mayor Hamman asked if there were any amendments to the agenda this evening to which there was none.
4. Conflict of Interest
Mayor Hamman asked if there were any conflicts of interest on tonight's agenda to which there was none.

B. COMMUNITY PARTICIPATION

1. Public Comment

Mayor Hamman opened the meeting up for public comment.

Charlene Loma, 3812 Lincoln Avenue, Wellington, CO informed the Board that she has lived in Wellington for 39 years. Ms. Loma has concerns regarding the Comprehensive Plan including referencing all of historic neighborhoods as downtown neighborhoods, transitional areas are not spelled out, removing historic buildings and replacing with multi-level buildings, and wide streets impacting historical neighborhoods. Ms. Loma feels the historic downtown area is a benefit to the Town.

Ken McKenzie, 3733 McKinley, Wellington, CO informed the Board that they have received 211 signatures from citizens that would like to see some items changed in the Comprehensive Plan including removing 1.10 in Downtown Pillar, expand downtown to include Harrison Avenue as well as connecting side streets; remove goal 2.3 in Downtown Pillar, update zoning and subdivision regulations to encourage mixed use structures and higher density housing types; remove downtown core from land use map and change downtown neighborhood to have a density of 5. Mr. McKenzie would like to see these changes made as there were changes requested by individuals that lived in Pheasant Run.

Michael Baratta, 3736 McKinley Avenue, Wellington, CO stated he supports the information that Mr. McKenzie said in his public comment. The people of local government should not be ignored.

Christine Gaiter, 8132 4th Street, Wellington, CO commented that she has heard from citizens that there is a lack of non-electronic advertising as most people have not heard about the Comprehensive Plan. The Communication Manager has not done any print material and that is what people want; there has been an improvement with Facebook and the website. Ms. Gaiter stated she would like direct mails and a banner at the skate park. Ms. Gaiter stated she has heard from residents that it appears the Town is hiding something from the residents. Also, the land use code is part of the timeline for the Comprehensive Plan and the residents have not seen that yet. There have been comments on the Plan but she has not seen the regulatory tool yet and is concerned that there will not be the ability to comment on that. The website states “the land use map will serve as a regulatory tool to implement the principles and policies identified and the Comprehensive Plan.”

Mark Mixon, 3726 Garfield, Avenue, Wellington, CO commented that his water bill has quadrupled over the last couple months. Mr. Mixon started a social media conversation that turned viral in a good way and learned that some of the reason the Town has some problems right now is mismanagement from past Boards. Mr. Mixon commented that he learned a lot from attend the Board of Trustee meetings and one of the things he learned is the Town is in debt and would like to propose a moratorium on grown right now.

2. Presentation

Kallie Cooper, Executive Director of the Wellington Main Street Program gave an overview of the first quarter report that was included in packet material.

Trustee Gaiter inquired if Main Streets is looking to address the current sign code or are they looking to put a new sign code in place.

Ms. Cooper stated there is currently not a sign code that addresses the unique needs of the downtown area. Typically, the signs that would fit within the Town’s code would be too

large for the downtown area so this would be to narrow that focus to commercial properties on Cleveland Avenue to give some guidance on what the community would like to see.

Trustee Gaiter inquired if there will be a Town presence at the Farmer's Market.

Ms. Cooper stated she did have discussion with Mr. Bird about using the Farmer's Market if there was a need for public engagement.

3. Proclamation

Mayor Hamman read the National Public Works Week Proclamation.

C. CONSENT AGENDA

1. Minutes of the April 13, 2021 Board of Trustee Regular Meeting
Trustee Macdonald moved to 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. Ordinance No. 04-2021 - Minor Subdivision: Lot 2, Block 1, Boxelder Commons Filing One
Mr. Bird informed the Board that Ordinance 04-2021 is a minor subdivision request which is located south of Ridley's Market. The existing lot is 7.26 acres total, and this minor subdivision approval will divide the property into two lots. The applicant's request is to subdivide so one lot will be 1.76 acres and one will be 5.5 acres. The applicant is under contract to purchase the smaller parcel on Lot 2A.

The location described on the proposed plat as Lot 2A is zoned C-3 Highway Commercial. This location has an approved amended site plan for a Dollar General retail store.

The minor subdivision request is a simpler version of the major subdivision which would require a full plat and go through the preliminary and final process.

The Planning Commission conducted a public hearing to review the final plat on April 5, 2021. The Commission voted to recommend approval of the final plat, subject to comments and corrections identified in the staff report to the Commission. The corrections identified in the staff comments are required to be corrected on the final plat mylar. The corrections are minor clean-up items like text or clarification. Staff will verify that is completed on the final drawing. By recommending approval of the final plat, the Commission determined that the plat is consistent with the Town's Comprehensive Plan and that the plat conforms to the Town's subdivision regulations.

A closure report was also requested from the surveyor.

At the time of writing this report, no public comments have been received by Town staff, and none were expressed at the Planning Commission meeting on April 5, 2021.

Staff recommends approval of the minor subdivision request.

Trustee Gaiter inquired about the acreage and if this was a minor or major subdivision.

Mr. Bird stated in the land use section of the Town Code, the minor subdivision process is identified for a simple division of property and it outlines criteria for that process. One criteria for the minor subdivision process is that the property is less than five acres in size; this request was a little over seven acres. Staff informed the Planning Commission that nothing would change between the five and seven acres because the land has been platted and the property boundaries are well defined on all sides so going through the minor subdivision process is eliminating a step for the applicant.

Trustee Gaiter inquired if that would cause any problems since that is deviating from Town Code. Mr. Bird stated staff does not believe so as there is still a public hearing on the item.

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

Trustee Kinney moved to approve Ordinance 04-2021, Minor Subdivision Lot 2, Block 1, Boxelder Commons Filing One with corrections identified by the Planning Commission and Staff and Authorize the Mayor to Execute the Plat; 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.

2. Ordinance No. 05-2021 - Minor Subdivision: Lot 4, Coal Creek Center

Mr. Bird stated this item is very similar to the prior request. This request for minor subdivision is for Lot 4 in Coal Creek Center, located just north of 8050 6th Street (Taco Bell) and is zoned C-3 Highway Commercial. The current parcel is 1.24 acres total. The minor subdivision request is proposed to create two parcels. The applicant's request is to subdivide the existing lot to create a second buildable lot that will be 0.55 acres (Lot 4B) and one will be 0.69 acre (Lot 4A, current Taco Bell). The additional lot is proposed to sell for further development.

The Planning Commission conducted a public hearing to review the final plat on April 5, 2021. The Commission voted to recommend approval of the final plat, subject to comments and corrections identified in the staff report to the Commission. The corrections identified in the staff comments are required to be corrected on the final plat mylars. By recommending approval of the final plat, the Commission determined that the plat is consistent with the Town's Comprehensive Plan and that the plat conforms to the Town's subdivision regulations.

When this was before the Planning Commission, staff did ask the applicant for a conceptual site plan showing the property could be utilized for development for uses permitted in that district. The applicant did provide a drive thru restaurant that did meet the Town's standards.

At the time of writing this report, no public comments have been received by Town staff, and none were expressed at the Planning Commission meeting on April 5, 2021.

Staff requests approval of the minor subdivision.

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

Trustee Kinney moved to approve Ordinance 05-2021, Minor Subdivision Lot 4 Coal Creek Center with corrections identified by the Planning Commission and Staff and Authorize the

Mayor to Execute the Plat; 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. 09-2021 - A Resolution of the Board of Trustees of the Town of Wellington Appointing and Confirming Appointment to the Boxelder Basin Regional Stormwater Authority Board of Directors

Ms. Garcia informed the Board that this item is related to the vacancies on the Boxelder Stormwater Authority Board. There are two vacancies and both are related to the Town of Wellington. One vacancy is a joint appointment with the Town of Wellington and Larimer County and the other is the Town of Wellington appointment. Mr. Seaworth was on Larimer County's agenda today for the joint appointment and this will be the second part of his appointment.

Some research was done with other municipalities to see how they handle appointments and if those are filled by citizens or staff. Both the City of Fort Collins and Larimer County appoint staff. Fort Collins has appointed Theresa O'Connor who is the Deputy Director of Utilities and Larimer County has appointment Eric Tracy who is their Land Development Engineer.

Tim Singewald has represented the Town of Wellington well over the years although in keeping in with the other participants, it seems important for the Town to have a Trustee or a staff member to represent the Town on the Stormwater Authority Board. In speaking with the City of Fort Collins, it allows the City Council to receive regular updates.

Currently, the Town does not have an available staff member to take on the appointment although the Town will be hiring an individual to directly oversee water issues. When that person is hired, it is recommended that person would become the representative on the Stormwater Authority Board. This discussion took place in the weekly Mayor's meeting with the Mayor and Trustee Macdonald and Trustee Macdonald offered to be the appointee until we have an individual hired to oversee water.

Mayor Pro Tem Knutson commented that he would prefer to keep Mr. Singewald as the Stormwater Authority appointee and would like to hear why Trustee Macdonald has changed her mind in appointing Mr. Singewald.

Trustee Macdonald stated she has attended a lot of meetings and has heard a lot of what is going on with the Boxelder Stormwater Authority and has a lot of historical knowledge and understanding of how that has progressed over time. Trustee Macdonald met with Mr. Singewald and asked him if he was looking out for the best interest of this community and his answer was yes. Immediately following that discussion, there was a survey that was distributed out to the community that had some bias associated with it and that was distributed by the association that Mr. Singewald is part of. There was a significant amount of concern that came from staff, Trustee Macdonald and community members about his ability to represent the community without bias. Mr. Singewald has represented the community historically; he may not be so equitable to do so at this time. Trustee Macdonald agrees that the individual that is appointed to the vacancy should be a staff member or a Trustee until there is an individual hired to oversee the Town's water.

Mayor Pro Tem Knutson feels that Mr. Singewald would be the better representative at this time due to some of the things that are going on with the Boxelder although maybe his term could be shorter to allow a staff member to come on board to take that over.

Trustee Kinney commented that she is excited for a water manager to serve on the Stormwater Authority although until that happens, she would recommend Trustee Macdonald to fill that vacancy.

Trustee Jerome commented that he is in agreement with Mayor Pro Tem Knutson and feels that Mr. Singewald has served the Town of Wellington well.

Trustee Gaiter commented that he has no concerns with Trustee Macdonald serving on that Board and also feels that Mr. Singewald would do a fine job representing the Town as a whole. Trustee Gaiter inquired as to why this was not on the last agenda.

Trustee Whitehouse commented that Mr. Singewald be reappointed for a year to transition the staff member that will take that over.

Mayor Hamman commented that this item was pushed out due to the agendas getting full. Mr. Singewald has done an exemplary job representing the Town and Mayor Hamman is in favor of getting a water manager on staff as soon as possible; Mr. Singewald's appointment can stay in place until the water manager is hired.

Ms. Garcia informed the Board that the agreement with Boxelder states it does need to be for a three-year term. The idea was that if a Trustee was appointed, the Board could tell that Trustee when they would need to resign to hand that vacancy off to the water manager. It is unknown if the Town would have that ability with Mr. Singewald.

Mr. March commented that the Board can say the appointment is until a successor is appointed which usually covers the other end of a three-year term.

Trustee Kinney inquired of this item could be tabled to talk with Mr. Singewald and see if he would be willing to resign when a water manager is hired.

Trustee Whitehouse commented that Mr. Singewald is on the meeting.

Mr. Singewald thanked the Trustees for supporting him as he has been working to make a good deal for Wellington with the Boxelder situation. The sunset agreement was done in 2017 and the sunset provision allowed the Town to get out of this as there was money being spent and it is way over budget. That sunset agreement saved the Town millions of dollars. The project is done although now there is discussion about a possible process being done on the east side detention facility. Mr. Seaworth is concerned that the Town could be liable for millions of dollars if the project goes south. Mr. Singewald is working to resolve that with the Town having some immunity. Also, Mr. Singewald and Mr. Seaworth are working to keep Wellington out of a possible lawsuit. Bringing someone onto the Stormwater Authority Board would take a year and a half just to understand the basics of what has been happening. Mr. Singewald stated he would be happy to serve for another year as by that time this should be done.

Mayor Hamman inquired if Mr. Singewald would be open to a one-year term.

Mr. Singewald stated he would be open to a one-year term and that would cement the sunset agreement or be really close.

Mayor Hamman opened the meeting for public comment.

Kathy Wydallis, 3405 Revere Court, Wellington, CO "I am appalled that Tim Singewald is not being reappointed to the Boxelder Water Authority board to continue representing Wellington. There is not another person in town with as much historical knowledge or familiarity with the past, present, and likely future Boxelder issues as Mr. Singewald. His "Wellington First" attitude has already saved our town a lot of money and he is still working to keep Wellington from paying legal costs that are not our responsibility.

I have been told that the reason he is being replaced is because of this statement in the Staff Presentation part of the packet....

"For the town appointment, I would recommend appointment of either a Trustee or a staff member."

I am assuming that the person recommending this is our brand-new town administrator. In fact, I don't think there is anyone in the Town Administration that was here when I moved in only 8 years ago. This appointment has been held by non-trustee and non-town employee people until Mr. Singewald (who happened to be mayor at the time) was appointed. There is no precedent for such a requirement for this position. We are told that the town staff is swamped, and I know the trustees are all very busy people volunteering their time to be trustees. If Wellington is lucky enough to have Tim Singewald available and willing to continue as Wellington's representative on the Boxelder Water Authority, the Trustees should reappoint him. It is what is best for Wellington."

Christine Gaiter, 8132 4th Street, Wellington, CO commented that she would be cautious to appoint a staff member as they do not have the best interest of the citizens because they do not live here and do not pay the taxes, so it won't affect them. Ms. Gaiter would prefer a citizen who actually is affected by the decisions they make. It comes across that the Town Administrator, Mayor and Trustee Macdonald are making decisions for the Board as the Board was clear they wanted to appoint Tim Singewald.

Mayor Hamman commented that was not the case at all as there has been long range planning to have an internal water manager to oversee the Town's water issues.

Trustee Kinney commented that the recommendation from the attorney was to make the appointment for the three years with the idea that there would be a resignation based on when the Town has a water manager; there is no option to appoint for a one-year term, only a three-year term.

Ms. Garcia stated the appointment of a staff member or water manager in the future would come back to the Board for approval as that would not be done at an administrative level.

Mayor Pro Tem Knutson moved to approve Resolution 09-2021 with the change of Tim Singewald in place of Ashley Macdonald as a Town representative for three years at which point a successor will be determined; 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. Resolution No. 10-2021 - A Resolution Referring an Ordinance Regarding the Sale of Retail and Medical Marijuana

Mr. March informed the Board that the ordinance regarding the sale of marijuana has been a long process with a few executive sessions. In the packet material is a proposed ordinance that would correct problems with the previously initiated ordinance that the Town is in a lawsuits over. The proponents of the ordinance are willing to accept this although they have been difficult to contact in the past. At this point, the referral ordinance will not move forward as the Town wants the lawsuit withdrawn first. The proposed stipulation that was included in packet material would allow for the lawsuit to be withdrawn.

Mr. March is seeking approval from the Board this evening to enter into the stipulation. This stipulation would provide that if the Board refers the ordinance to the voters, the proponents would dismiss their lawsuit.

Trustee Gaiter stated this has been a long process and a short summary of that is there was enough signatures that came from citizens to say they wanted to have sales of medical and recreational marijuana on the agenda to vote on, there were protests that were brought up, the judge then found that there were concerns that it was not sufficient and that has been tied up in court then the Town has been in negotiations with the proponents to find fixes to those problems that caused the insufficiency. The Town and the proponents have found something that is eligible, so the Town would now potentially be referring this matter to the voters, which is what the voters wanted in the first place.

Trustee Kinney asked for an example of the wording associated with the contingency and dismissal of the lawsuits.

Mr. March stated the stipulation was included in the packet material. What it provides is the parties stipulate to the dismissal of the above caption lawsuit on adoption of an ordinance referring in substantially the form presented to the Town Board at the April 27, 2021 meeting the referendum sales ordinance to the voters. If the Board refers the ordinance at the next meeting, the proponents will agree to dismiss the lawsuits.

Mayor Hamman opened the meeting for public comment.

Un-named public comment: He did not see why that has to be in Wellington as it is only 10 miles away in Fort Collins.

Mayor Hamman commented that this was an initiative from citizens to move this forward. Mr. March stated there is an ability under State Constitution and State Statutes for the voters to submit adequate numbers of signatures to require that a matter be placed on the ballot which has occurred. There were adequate signatures for this question to be put on the ballot and then there were challenges to the form of the ordinance and those challenges were sustained saying the form was not adequate. The proponents of the ordinance who gathered the signatures took that to District Court and that lawsuit has been in court for months. There is a compromise that says the Board has indicated that they are willing to allow this to go to the voters to allow the voters to decide if there should be sales of marijuana in the Town. This will clean up the previously submitted ordinance to something that is more acceptable and abides by State law.

Mr. March commented that he would need a motion authorizing the Town Attorney to enter into the proposed stipulation to dismiss the lawsuits.

Trustee Gaiter moved to approve the Town Attorney signing the stipulation to settle the Marijuana lawsuits; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Knutson, Hamman

Nays – Macdonald, Whitehouse

Abstain – Kinney

Motion carried.

E. REPORTS

1. Town Attorney
None.
2. Town Administrator
None.
3. Staff Communications
 - a. Report of Bills - March 2021
 - b. Quarterly Treasurer's Report
Ms. Tippetts reviewed the Economic Outlook for 2021 that was prepared by Richard Wobbekind with the University of Colorado Boulder and the Wellington Quarterly Finance Report that was included in packet material.

Trustee Gaiter commented that he was under the impression that tap fees would be changed at the beginning of the year and inquired as to why that had not been done.

Ms. Garcia stated it was approved in the budget although that also needs to be approved by Resolution. Ms. Tippetts did state that the Town is behind \$90,000 due to the fees not being increased. That will come back to the Board on the May 11th agenda.

Trustee Gaiter commented that he does not believe the Town can afford the projects that are slated as there is an additional \$4 million for the water plant, the sewer plant, and all the other projects the Town has. The changes to the rates that are being imposed on citizens is too high. Staff has put these plants together with the assumption that they need to support a certain amount of growth although they are not going to be able to cut 10's of millions of dollars by value engineering it down. Trustee Gaiter believes that as a Board, we should rethink the vision and direction that is being given to staff in terms of what these plants need to support so we can put together a plan that meets the requirements the Town needs to fit what the Town can afford to do. During this process of the Comprehensive Plan, the Town can set what the future growth looks like and have the ability to look at slowing down the rate of growth. Making a smaller adjustment to the infrastructure that can last a longer time because there is an ability to keep growth down.

There was 40 people that showed up to the Town Hall meeting regarding the Comprehensive Plan from Pheasant Run and the Board gave direction to staff to make changes. There were several signatures from citizens that were given to the Board this evening regarding the downtown area and inquired as to how the Board is going to handle that.

Mayor Hamman commented that the Planning Commission will vote on that. Trustee Kinney commented that the Steering Committee met earlier this week and all of that input is being taken in and the Plan is being reworked right now. The current process is that the Steering Committee has homework on each section and providing additional feedback. The next draft will then be available for the Steering Committee, the public and for public hearing with the Planning Commission. Trustee Kinney is on the Steering Committee and believes the Steering Committee is representing the community and is confident that the community is being heard.

Mr. Gowing informed the Board that the Town will be pursuing a grant program. The grant was recently put out by CDOT's Main Street Program and is funded by Senate Bill 110 which allows for a total of \$22 million in projects up to \$2 million per individual project. The evaluation criteria for this grant is heavily weighted towards public safety as it is targeted towards main streets. Projects could be pedestrian facilities, traffic calming, pedestrian scales, and street lighting improvements. A team of town staff and Main Streets was put together to pursue this grant and we needed to move quickly. The Town is likely to see a lot of competition for the grants although the package that will be put together will be a good one.

4. Board Reports

Trustee Macdonald commented that the softball team took first place in the district championship last week.

Also, the membership directory that was distributed by the Chamber was really comprehensive and commended the Chamber for their hard work on the directory.

Mayor Hamman commented that he has volunteered to join the Housing Authority Board.

F. EXECUTIVE SESSION

1. Executive session for the purposes of considering the following water-related matters: legal advice on specific legal questions pertaining to the Town's existing and potential future water supply, as described in C.R.S. § 24-6-402(b); the Town's potential purchase, acquisition, or lease of real, personal, or other property interests pertaining to the Town's water supply, as described in C.R.S. § 24-6-402(a); and positions relative to water matters that may be subject to negotiations, strategy for those negotiations, and instructions for negotiators, as described in C.R.S. § 24-6-402(e)(I). As required by C.R.S. §24-6-402(2)(d.5)(II)(A) and (II) (E) the executive session proceedings will be electronically recorded and the record will be preserved for 90 days through July 20, 2021.

Trustee Gaiter moved to go into executive session for the purposes of considering the following water-related matters: legal advice on specific legal questions pertaining to the Town's existing and potential future water supply, as described in C.R.S. § 24-6-402(b); the Town's potential purchase, acquisition, or lease of real, personal, or other property interests pertaining to the Town's water supply, as described in C.R.S. § 24-6-402(a); and positions relative to water matters that may be subject to negotiations, strategy for those negotiations, and instructions for negotiators, as described in C.R.S. § 24-6-402(e)(I); 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.

The Board of Trustees moved into executive session at 9:02 p.m.

Trustee Gaiter moved to close the executive session; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None

Motion carried.

The executive session was closed at 10:12 p.m. and the regular meeting resumed.

G. ADJOURN

Upon a motion duly made, the meeting was adjourned at 10:12 p.m.

Krystal Eucker, Town Clerk



Board of Trustees Meeting

Date: May 11, 2021
Submitted By: Dan Sapienza, Brad March, Town Attorney
Subject: Resolution 10-2021 - A Resolution Referring to the Voters the Question of Whether Sales of Medical and Retail Marijuana Should be allowed in the Town of Wellington

- **Staff presentation:** Dan Sapienza, Town Attorney

EXECUTIVE SUMMARY

On July 30, 2020, proponents of an initiated ordinance to allow sale of medical and retail marijuana in the Town of Wellington submitted signatures sufficient to place the ordinance on the ballot. Following a hearing, it was determined that the petition was not sufficient. This decision is the subject of ongoing litigation between the proponents of the initiated ordinance and the Town of Wellington. At the last meeting, the Board authorized the Town attorney to enter into a stipulation whereby the pending litigation would be dismissed upon referral of the revised ordinance to the voters. Resolution 10-2021 refers to the voters the question of whether marijuana sales should be allowed in Wellington in a revised ordinance. If the resolution is adopted, the question will be placed on the November 2, 2021 ballot, along with the previously approved marijuana sales tax measure.

BACKGROUND / DISCUSSION

The Wellington Municipal Code prohibits the operation of marijuana establishments, pursuant to Sec. 2-13.6-10 and 16-13.5-10. On July 30, 2020, signatures were submitted to the Town Clerk for an initiated ordinance to repeal this prohibition and allow the sale of recreational and medical marijuana in the Town of Wellington, subject to local and state licensing and regulation. On August 20, 2020, the number of petition signatures was verified as sufficient.

Following the verification, two protests were filed pursuant to state election statutes regarding the sufficiency of the petitions. A hearing was held on September 16, 2020 and the hearing officer found that the petitions were insufficient for several reasons, including the administrative nature of portions of the ordinance and failure to comply with Colorado statutes regarding a report on the amount paid per signature to petition circulators. Following this decision, the proponents filed two suits with the District Court for review of the hearing officer's determination.

There are two primary areas of concern with the ongoing litigation. First, there is a possibility that success by the proponents will require the proposed initiated ordinance to be referred at a special election before November, 2021. This special election would require additional expense by the town and would not replace the need for the town to hold an election in November, 2021 for the associated special marijuana sales tax measure. Second, success by the proponents in the ongoing litigation would require the town to refer to the voters the original proposed ordinance, in which there have been identified a number of issues related to conflicting law and repealed laws referenced in the ordinance.

Negotiations between the Town Attorney and the proponents' attorney have led to a proposed settlement, as discussed in a prior meeting of the Board of Trustees. Under the agreement, if the Town refers to the voters at the November 2, 2021 election a similar ordinance that corrects the issues identified, the proponents have agreed to dismiss the lawsuits. Pursuant to the stipulation authorized by the Board of Trustees at the April 27, 2011 meeting, Resolution 10-2021 refers to the voters the revised ordinance that would allow sales of medical



and retail marijuana in Town, subject to local and state regulation.

It is felt that the proposed ordinance addresses a number of concerns:

1. If sales are to be allowed, issues in the previously defective ordinance are remedied.
2. The question of allowing marijuana sales will share a ballot with the previously referred marijuana sales tax ordinance on November 2, 2021. This would allow voters to consider both matters at the same time, reducing confusion and reducing costs to the Town of holding separate elections.
3. The referral ordinance would not require the Town to begin processing applications until February, 2022, which would allow time to adopt allowed regulations in a timely fashion.
4. The Town's litigation costs in the two ongoing suits will be stopped.

STAFF RECOMMENDATION

Move to adopt Resolution 10-2021, referring to the electors of the Town of Wellington at the November 2, 2021 election the Ordinance Concerning the Regulation of Retail and Medical Marijuana Stores in the Town of Wellington.

ATTACHMENTS

-
1. Resolution 10-2021 - Referring Ballot Question Regarding Sale of Marijuana to Electors of the Town
 2. Ordinance to be Referred Concerning Retail and Medical Marijuana
 3. FILED Stipulation For Settlement and Contingent Dismissal
 4. Presentation - 2021-05-11 Marijuana Referral

**RESOLUTION OF BOARD OF TRUSTEE'S OF THE TOWN OF WELLINGTON, CO.
REFERRING ORDINANCE REGARDING SALE OF MARIJUANA TO THE VOTERS**

RESOLUTION NO. 10-2021

TOWN OF WELLINGTON, COLORADO

A RESOLUTION OF THE TOWN BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, REFERRING A BALLOT QUESTION REGARDING THE SALE OF MEDICAL AND RETAIL MARIJUANA TO THE ELECTORS OF THE TOWN AT THE NOVEMBER 2, 2021 ELECTION

WHEREAS, the Town Board of Trustees of the Town of Wellington (the "Town Board of Trustees") has voted to refer to the electorate the question of whether medical and retail sales of marijuana should be allowed in the Town of Wellington and adopt the Article 14 - RETAIL AND MEDICAL MARIJUANA STORES REFERRED ORDINANCE in the form approved by the Town Board of Trustees and to be published on the Town Website at <http://www.wellingtoncolorado.gov/>.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, THAT:

Section 1. There is hereby submitted to a vote of the electors of the Town of Wellington, Colorado at the November 2, 2021 election the following ordinance/question:

BALLOT TITLE: Removing prohibitions on the sale of medical and retail marijuana in the Town of Wellington, Colorado.

SUBMISSION CLAUSE: Shall the sale of Retail and Medical Marijuana be lawful in the Town of Wellington Colorado and shall the Town be authorized to issue licenses for the sale of Retail Marijuana and Medical Marijuana in the C-3 zoning district in accordance with the referral ordinance submitted to the Town Board by the Town Clerk on April 20, 2021 and published on the Town's website.

Section 2. The Town Board of Trustees hereby authorizes and directs the officers of the Town to certify on or before _____, the ballot title and submission clause in substantially the form set in Section 1. Such ballot title shall be submitted to the eligible electors of the Town at the November 2, 2021 election.

Section 3. The Wellington Town code shall be amended if a majority of the registered voters voting at the election on November 2, 2021 vote "yes" in response to the ballot title in Section 1.

INTRODUCED, READ AND ADOPTED at a regularly scheduled meeting of the Town of Wellington, Colorado, on the 11th day of May, 2021.

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk

Full Text of Measure:

Passage of the Ordinance to be referred to the voters of the Town of Wellington:

TOWN OF WELLINGTON

ORDINANCE NO XX-2021

**Ordinance Concerning the Regulation of
Retail and Medical Marijuana Stores in
the Town of Wellington**

WHEREAS Article XVIII, Sections 14 and 16 of the Colorado Constitution. allow the personal and medical use of marijuana in Colorado subject to local; and

WHEREAS, Article XVIII, Sections 14 and 16 of the Colorado Constitution and applicable laws allowed the Town of Wellington, Colorado (the “Town”) to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or Retail Marijuana Stores and the Town enacted an ordinance prohibiting such operations.

WHEREAS, a citizen initiative was submitted to the Wellington Town Clerk to allow the sale of retail and medical marijuana and the petition was found by a C.R.S. §31-11-110 hearing officer to not be sufficient and the petition therefore was not submitted to the voters of the Town..

WHEREAS, it is unclear to the Wellington Town Board of Trustees (the “Town Board”) whether the voters wish to see the sale of medical and retail marijuana allowed in the Town and the Town Board feels that the question of whether retail or medical marijuana sales should be allowed in the Town should be decided by the Town’s voters.

WHEREAS, members of the Town Board have voiced a willingness, if flaws in the previously submitted initiated ordinance can be addressed that the Town Board might be willing to refer the question of whether retail and medical marijuana should be allowed in the Town to the Town’s voters and there has been a further willingness to refer an initial regulatory scheme to the Town’s voters so long as the Town Board would have full authority to modify the regulatory scheme after following January 1, 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON COLORADO UPON APPROVAL BY THE REGISTERED ELECTORS OF THE TOWN OF WELLINGTON. COLORADO, THAT:

Section 1. Articles 13.5 of Chapter 16 and Article 13.6 of Chapter 2 of the Wellington Municipal Code are hereby repealed in their entirety.

Section 2. A new Article 14 is hereby added to Chapter 2 of the Wellington Municipal Code and shall read as follows:

Article 14 - RETAIL AND MEDICAL MARIJUANA STORES

Sec. 2-14-10 Purpose.

A. The Board of Trustees hereby declares that this Article shall be deemed an exercise of the police powers of the Town for the protection of the economic and social welfare and the health, peace, and morals of the people of the Town.

B. The Town further declares that it is unlawful to cultivate, manufacture, distribute, or sell retail marijuana or medical marijuana, except in compliance with the terms, conditions, limitations, and restrictions set forth in this Chapter, Sections 14 and 16 of Article XVIII of the State Constitution and Article 10 of Title 44, C.R.S. and 1 CCR 212-3 (the “Colorado Marijuana Code”).

Sec. 2-14-20 Powers and Duties of the Local Licensing Authority.

A. The Local Licensing Authority shall grant or deny local Licenses for the distribution and sale of retail marijuana or medical marijuana as provided by law; suspend, fine, restrict, or revoke such Licenses upon a violation of this Article or a rule promulgated pursuant to this Article; and may impose any penalty authorized by this Article or any rule promulgated pursuant to this Article. The Local Licensing Authority may take action with respect to a License accordance with the procedures established pursuant to this Article.

B. The Local Licensing Authority shall promulgate such rules and make such special rulings and findings as necessary for the proper regulation and control of the distribution and sale of Retail Marijuana to be consistent with state law for the enforcement of this Article.

C. This Article 14 incorporates the requirements and procedures set forth in the Colorado Marijuana Code. The Local Licensing Authority adopts the provisions and restrictions set forth in Colorado Marijuana Code and regulations for all Licensees not explicitly addressed within this Article. In the event of conflict between the provisions of this Article and the Colorado Marijuana Code, the more restrictive provision shall control.

D. On and after February 1, 2022, the Local Licensing Authority shall begin processing applications under this Chapter and shall process the applications in the order they are received. The Local Licensing Authority shall administratively approve any License application under this Article so long as the conditions set forth in this Article are met and the applicant has paid the operating fee and any other fees required by this Article. Local Licensing Authority fees (exclusive of State fees) for applications shall not exceed \$5,000.00.

Sec. 2-14-30 Definitions.

Any word or term used that is defined in any of the following provisions shall have the same meaning that is ascribed to such word or term as used in Article XVIII, Sections 14 or 16 of the Colorado Constitution and the Colorado Marijuana Code. C.R.S. §44-10-101, *et seq.* and C.R.S. §25-1.5-101, *et seq.* unless varied hereunder:

Colorado Marijuana Code: Article 10 of Title 44 of the Colorado Revised Statutes, as amended, and any regulations promulgated thereto.

Direct Measurement: A straight line from the nearest property line of the Protected Use to the nearest portion of the building in which the Retail or Medical Marijuana Store License is

located.

License: A license or registration granted pursuant to this Article.

Licensed Premises: The premises specified in an application for a License under this Article, which are owned or in possession of the Licensee and within which the Licensee is authorized to sell retail and/or medical marijuana in accordance with the provisions of the Colorado Marijuana Code.

Licensee: A person licensed or registered pursuant to the Colorado Marijuana Code and this Article.

Local Licensing Authority: The Board of Trustees of the Town of Wellington shall serve as the Local Licensing Authority unless the Town Board creates a separate Local Licensing Authority empowered to act in such capacity.

Local Licensing Official: The Town Clerk or other designee of the Local Licensing Authority.

Location: A particular parcel of land that may be identified by an address or other descriptive means.

Medical marijuana store A "Medical marijuana business" as defined by the Colorado Marijuana Code but only including a medical marijuana store, and not including a medical marijuana cultivation facility, a medical marijuana products manufacturer, a medical marijuana testing facility, a marijuana research and development licensee, a medical marijuana business operator, or a medical marijuana transporter.

Person: A natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

Premises: A distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

Protected Use: Those uses defined in Sec. 2-14-70 including Schools, parcels zoned P (Public District) or any parcel containing another Retail or Medical Marijuana Store License or parcels zoned R-1 (Residential District), R-2 (Residential District) and/or R-4 (Residential District).

Retail Marijuana Store: A "Retail Marijuana Business" as defined by the Colorado Marijuana Code but only including a retail marijuana store and not including a retail marijuana cultivation facility, a retail marijuana products manufacturer, a marijuana hospitality business, a retail marijuana hospitality and sales business, a retail marijuana testing facility, a retail marijuana business operator, or a retail marijuana transporter.

School: A public or private preschool, including a licensed daycare or a public or private elementary, middle, junior high, or high school, college, or principal campus of a college (and including the new Middle / High School at Wellington, not open as of the date of adoption of this ordinance).

State Licensing Authority: The Colorado Department of Revenue, Marijuana

Enforcement Division, created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of retail and medical marijuana in this State, pursuant to Articles 10 of Title 44 C.R.S. and Colorado Marijuana Rules 1 CCR 212-3, and other Colorado applicable statutes as applicable and incorporated in the Colorado Marijuana Code.

Sec. 2-14-40 Applications-Licenses.

An application for a License shall be filed in accordance with State law on forms provided by the State Licensing Authority. The application shall contain such information as the State Licensing Authority may require. Each application shall be verified by the oath or affirmation of the persons prescribed by the State Licensing Authority. An application shall be approved or denied by the Local Licensing Authority or the Local Licensing Official and by the State Licensing Authority. An application shall not be approved, and a license shall not be issued if either of the Licensing Authorities find that:

- The applicant knowingly made a false statement or knowingly gave false information with the application; or
- Reliable evidence shows the applicant will operate the proposed retail and/or medical marijuana Store in violation of the Colorado Marijuana Code; or
- Good Cause, as defined in the Colorado Marijuana Code and other applicable law, exists for denial of the application.

Sec. 2-14-50 Denial of Application.

A. The Local Licensing Authority shall deny a Local License application as provided for by the Colorado Marijuana Code and regulations promulgated thereunder, and if the application contains any false, misleading information. If an application is determined incomplete by the Local Licensing Official, the applicant will be notified and be given seven (7) days to remedy and supplement the application to conform to this Article or the application may be denied.

B. The Local Licensing Official shall consider and act upon all applications in accordance with the standards of this Article and in compliance with the Colorado Marijuana Code and regulations. The Local Licensing Authority shall deny any application that is not in full compliance with this Article.

C. The Local Licensing Authority shall formulate a list of all additional requirements if needed in addition to the forms provided by the State Licensing Authority.

D. If the Local Licensing Authority denies a License, the applicant shall be entitled to a hearing.

E. If an application is denied, the Local Licensing Authority shall set forth in writing the grounds for denial.

Sec. 2-14-60 Persons Prohibited as Licensees.

The Local Licensing Authority hereby adopts the provisions and restrictions set forth in the Colorado Marijuana Code and applicable state regulations.

Sec. 2-14-70 Restrictions for Applications for Marijuana Store Licenses.

A. The Local Licensing Authority shall not receive or act upon an application for the issuance of a Local License pursuant to this Article:

1. Until it is established that the applicant is, or will be, entitled to possession of the Premises for which application is made under a lease, rental agreement, letter of intent or other arrangement for possession of the premises or by virtue of ownership of the Premises.
2. The approval of the application for Licensure for a Retail or Medical Marijuana Store License complies with all zoning ordinances and said zoning ordinances shall be amended as follows:

Retail or Medical Marijuana Store Licenses shall only be permitted in the C-3 zoning district. In addition, the following setbacks will apply:

- a. Retail or Medical Marijuana Store Licenses shall not be permitted to be located within two thousand (2,000) feet of any parcel containing a school; and
- b. A Retail or Medical Marijuana Store License shall not be permitted to be located within five hundred (500) feet of parcels zoned P (Public District) or any parcel containing another retail or medical marijuana store License; and
- c. Retail or Medical Marijuana Store Licenses shall not be permitted to be located within two hundred (200) feet of parcels zoned R-1 (Residential District), R-2 (Residential District) and/or R-4 (Residential District).

B. In addition to the requirements of the Colorado Marijuana Code the Local Licensing Authority shall consider the evidence and make a specific finding of fact as to whether the Premises in which Retail or Medical Marijuana Store licensure application is to be sold is located within any distance restrictions established by, or pursuant to, this Section.

C. The distance measurements and requirements pursuant to this Section shall be computed by Direct Measurement in a straight line from the nearest property line of the land containing the Protected Use to the nearest portion of the building in which the Retail or Medical Marijuana Store License is located.

Sec. 2-14-80 Transfer of Ownership.

A. A Local License granted under the provisions of this Article shall not be transferable except as provided in this Section, but this Section shall not prevent a change of location as provided in the Colorado Marijuana Code.

B. For a transfer of ownership, a Licensee shall apply to the State Licensing Authority and Local Licensing Authority on forms prepared and furnished by the State Licensing Authority. The Local Licensing Authority may charge a fee not to exceed \$1,000.00 to process such transfer and shall permit a transfer of ownership pursuant to this Article in conjunction with the Colorado Marijuana Code.

Sec. 2-14-90 Licensing Renewal.

A. A Licensee shall apply for the renewal of an existing License to the Local Licensing Authority not less than thirty (30) days prior to the date of expiration with a Local Licensing Authority renewal application fee of \$1,500.00. The Local Licensing Authority shall not accept an application for renewal of a License after the date of expiration, except as provided in subsection (B) of this Section. The Local Licensing Authority, in its discretion, subject to the requirements of this Article and based upon reasonable grounds, may waive the thirty (30) day time requirement set forth in this Article. The Local Licensing Authority may hold hearings on Licensing renewal applications including for good cause. Good Cause for purposes of this Section shall mean:

1. The Licensee renewal applicant has violated or has failed to comply with any terms, conditions, or provisions of this Article or the Colorado Marijuana Code or any supplemental law; ordinance; or regulation; or
2. The Licensee has been operated in a manner that adversely affects the public health or welfare of the immediate neighborhood in which the establishment is located.

B. Notwithstanding the provisions of subsection (A) of this Section, a Licensee whose License has been expired for not more than thirty (30) days may file a late renewal application upon the payment of a nonrefundable late application fee paid to the Local Licensing Authority of \$500.00 in addition to the License renewal fee paid to the Local Licensing Authority and any fees due to the State Licensing Authority. A licensee who files a late renewal application and pays the requisite fees may continue to operate until final action to approve or deny the Licensee's renewal application.

C. Notwithstanding the amount specified for the Late Application Fee, the Local Licensing Authority by rule or as otherwise provided by law may, in its discretion, may reduce the amount of the renewal application and/or the late application fee.

Sec. 2-14-100 Fees.

Every Retail and Medical Marijuana Store Licensee shall pay an operating fee at the time of its initial application for licensure and a renewal fee at the time of each application for License renewal. This fee is imposed to offset the cost of administering this License. The initial application fee and renewal fee shall be determined by the Local Licensing Authority and set by resolution, but in no event shall either fee payable to the Local Licensing Authority exceed five thousand dollars (\$5,000.00).

Sec. 2-14-110 Hours of Operation.

A Retail or Medical Marijuana Store Licensee may engage in the sale of marijuana and marijuana products between the hours of 8:00 a.m. and 9:00 p.m. daily; provided, however, that the Local Licensing Authority may at its discretion extend, but not further limit, such hours of operation.

Sec. 2-14-120 Disciplinary Actions: Suspension-Revocation-Fines.

A. In addition to any other sanctions prescribed by the State Licensing Authority, the Local Licensing Authority has the power, on its own motion after investigation and opportunity for a public hearing at which the Licensee shall be afforded an opportunity to be heard, to suspend or revoke a License issued by the Local Licensing Authority for a violation specified in subsection (B) below. The Local Licensing Authority has the power to administer oaths and issue

subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of a hearing.

B. The Local Licensing Authority may take disciplinary action for violations by Licensee or any agent, manager, or employee of Licensee of the Colorado Marijuana Code or this Article.

C. The Local Licensing Authority may, in its sole discretion, issue a fine in lieu of all or any portion of a suspension and may hold all or part of any suspension in abeyance on conditions set by the Local Licensing Authority. When determining whether to impose a fine in lieu of a suspension the Local Licensing Authority may make findings that:

1. The public safety, health and welfare would not be impaired by permitting the Licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;
2. The books and records of the Licensee are kept in such a manner that the loss of sales that the Licensee would have suffered had a suspension gone into effect can be determined with reasonable accuracy; and
3. The Licensee has not had its License suspended or revoked during the 12-months immediately preceding the date of the motion or complaint that resulted in a final decision in relation to a penalty for violations pertaining to the Licensee.

D. The fine accepted shall be: (a) not less than five-hundred dollars (\$500.00) nor more than two thousand five-hundred dollars (\$2,500.00) for license infractions of a minor nature that do not directly impact the public health, safety, or welfare which shall include but are not limited to failure to display badges, unauthorized minor modifications of Premises, minor clerical errors in inventory tracking procedures; and (b) not less than one-thousand dollars (\$1,000.00) nor more than ten-thousand dollars (\$10,000.00) for violations that have an immediate impact on the public health, safety, or welfare.

E. Payment of a fine shall be in the form of cash or in the form of a certified check or cashier's check made payable to the Local Licensing Authority, whichever is appropriate.

F. Upon payment of the fine, the Local Licensing Authority shall enter its further order permanently staying the imposition of the suspension, if the fine is paid to a Local Licensing Authority.

G. If the Local Licensing Authority does not make the findings required in this Section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the Local Licensing Authority and Licensee shall be, upon request, afforded a hearing within thirty (30) days.

Sec. 2-14-130 Inspection of Books and Records-Inspection Procedures.

A. Each Licensee shall keep a complete set of all records necessary to show fully the business transactions of the Licensee, all of which shall be open at all times during business hours for the inspection and examination by the Local Licensing Authority or its duly authorized representatives. The Local Licensing Authority may require any Licensee to furnish such information as it considers necessary for the proper administration of this Article and may require an audit to be made of the books of account and records on such occasions as it may consider necessary.

B. The Licensed Premises, including any places of storage where retail or medical

marijuana is stored, sold, or dispensed shall be subject to inspection by the Local Licensing Authority and its investigators, during all business hours for the purpose of inspection or investigation and for examination of any inventory or books and records required to be kept by the Licensee. Where any part of the Licensed Premises consists of a locked area, upon demand to the Licensee, such area shall be made available for inspection without delay. and, upon request by authorized representatives of the Local Licensing Authority, the Licensee shall open the area for inspection.

C. Each Licensee shall retain all books and records necessary to show fully the business transactions of the Licensee for a period of the current tax year and the three (3) immediately prior tax years.

Sec. 2-14-140 Licensing Authority Established.

There is hereby established a Local Licensing Authority to issue only Retail Marijuana Store and Medical Marijuana Store Licenses upon payment of a fee and in compliance with all Local Licensing requirements to be determined by the Local Licensing Authority.

Sec. 2-14-150. Other Marijuana Licenses Prohibited.

A. Except for the specific licenses the Local Licensing Authority is authorized to issue pursuant to this Article, no other retail and/or medical marijuana licenses may be issued, including licenses for marijuana cultivation facilities, marijuana testing facilities, or marijuana products manufacturers.

B. The Local Licensing Authority declares that, should any provision, section, paragraph, sentence, or word of this Article be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions. sections, paragraphs, sentences, or words of this Article as hereby adopted shall remain in full force and effect.

Section 3. Subject to the following, prior to January 1, 2023 modification of the provisions of this ordinance shall require approval of the voters of the Town of Wellington, Colorado. Following January 1, 2023, the Town Board may modify, or repeal this ordinance by ordinance of the Town Board, prior to January 1, 2023, the Town Board may modify this ordinance by ordinance of the Town Board to comply with the Colorado Marijuana Code or other state statute or state regulation.

Section 4. The Board of Trustees declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions. sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 5. All the provisions of the Wellington Municipal Code as heretofore adopted that conflict with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section 6. The Town Clerk shall certify the passage of this Ordinance and cause notice of its contents and passage to be published or posted. This Ordinance shall become effective immediately upon adoption or passage by the voters.

☒ District Court ☐ Denver Probate Court Larimer County, Colorado Court Address: 201 Laporte Ave. Fort Collins, CO 80521	
Petitioners: TIM MORGEN , an individual AMIE RAKOCZY , an individual v. Respondents: TOWN OF WELLINGTON , a Colorado municipality; KRYSTAL EUCKER , in her official capacity as the Clerk for the Town of Wellington; JOHN JEROME , an individual; MELISSA WHITEHOUSE , an individual.	COURT USE ONLY
Petitioners: PROSPEROUS WELLINGTON , a Colorado nonprofit corporation TIM MORGEN , an individual AMIE RAKOCZY , an individual MELANIE MURPHY , an individual v. Respondents: TOWN OF WELLINGTON , a Colorado municipality; TOWN OF WELLINGTON BOARD OF TRUSTEES , in their official capacities; KRYSTAL EUCKER , in her official capacity as the Clerk for the Town of Wellington	
J. Brad March March and Olive, LLC, Attorney for Town of Wellington 1312 S. College Ave Fort Collins, CO Phone Number: 970-482-4322 E-mail: bmarch@bmarchlaw.com FAX Number: 970-482-5719 Atty. Reg. #:13355	Case Number: 2020CV030678 , and 2020CV030669 Division Courtroom 3C
STIPULATION FOR SETTLEMENT AND CONTINGENT DISMISSAL	

Counsel for Petitioners and Respondents file this stipulation for settlement and contingent dismissal and stipulate and state as follows:

RECITALS

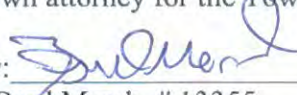
1. Petitioners were the proponents of two citizen initiated ordinances (the “Initiated Ordinances”) , one ordinance intended to allow for the sale of retail and medical marijuana in the Town (the “Initiated Sales Ordinance”) and one intended to allow the imposition of sales taxes on the sale of marijuana in the Town (the “Sales Tax Ordinance”) filed with the Respondent Town of Wellington (Respondents, the Town of Wellington, Town Of Wellington Board of Trustees, and Krystal Eucker, the “Town”).
2. The Initiated Ordinances were submitted to the Wellington Town Clerk as required by C.R.S. §31-11-109 and the signatures on the petition were found to be sufficient.
3. The sufficiency of the Initiated Ordinances was protested by the Respondent Town electors, (“Jerome” and “Whitehouse”) as allowed by C.R.S. §31-11-110. The hearing officer (the “Hearing Officer”) found the Initiated Sales Ordinance to be insufficient and the Sales Tax Ordinance to be sufficient.
4. The Wellington Town Board of Trustees (the “Town Board”), pursuant to C.R.S. §31-11-105 has referred the Sales Tax Ordinance to the Voters to be voted on at the election on November 2, 2021.
5. Petitioners appealed the Hearing Officer’s ruling in case number 2020CV030669 and requested declaratory relief directing the Town to proceed with elections in case number 2020CV030678.
6. The Town and hearing officer took the position that the Initiative Sales Ordinance was flawed.

7. The Town Board is willing to submit and agrees that the question of whether retail and medical marijuana sales should be allowed in the Town is a question that should be presented to the voters of the Town of Wellington (the "Voters").
8. The Town and Petitioner have agreed to an acceptable form of an alternate ordinance which if submitted to the Voters and approved would allow for the sale of retail and medical marijuana in the Town (the "Referendum Sales Ordinance").
9. The Town Board at its meeting on April 27, 2021, by motion, approved the form of the Referendum Sales Ordinance and agreed to adopt resolutions or ordinances referring the question of adoption of the Referendum Sales Ordinance to the Voters at the next Town Board meeting on May 11, 2021, so long as both of the above captioned cases are dismissed by Petitioners. The Referendum Sales Ordinance will be referred to Voters to be voted on at the election on November 2, 2021.

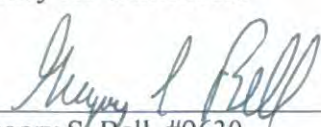
WHEREFORE, the parties, pursuant to CRCP 41(a)(1)(B) stipulate to the dismissal with prejudice of both of the above captioned actions on adoption of an ordinance referring, in substantially the form presented to the Town Board at the April 27, 2021 meeting, the Referendum Sales Ordinance to the Voters at the November 2, 2021 regular election.

Dated this 28th day of April, 2021.

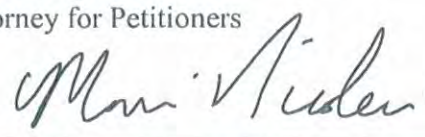
March & Olive, LLC,
Town attorney for the Town of Wellington, CO

By: 
J. Brad March, # 13355

Bell, Gould, Linder & Scott, P.C.
Attorney for Whitehouse

By: 
Gregory S. Bell, #9630

KBN Law, LLC
Attorney for Petitioners

By: 
Mario Nicolais, Reg. #38589

Res. 10-2021 – Marijuana Sales Referral

Referring To The Voters The Question Of
Whether Sales Of Medical And Retail Marijuana
Should Be Allowed In The Town Of Wellington





Background



Petition collection

- Petition drive to get signatures for two ordinances
 - Turned in July 30, 2020 – 669 signatures
 - Statement of Sufficiency on August 20, 2020 – 464 verified of 351 required
- Sales tax ordinance referred to November 2, 2021 ballot
 - Resolution 38-2020 – adopted October 27, 2020



Sufficiency Protest

- Protests of sufficiency filed September 8, 2020
- Hearing held September 16, 2020
- Findings of petition insufficiency after hearing
 - Administrative v. Legislative nature of ordinance
 - Failure to comply with CRS 31-11-113 – regarding statement on payment to petition circulators



Litigation

- *Prosperous Wellington et al. v. Town of Wellington et al.*
 - Filed October 5, 2020
- *Morgan v. Town of Wellington et al.*
 - Filed September 30, 2020
- Possible outcomes of litigation
 - Proponents win – special election required for original proposed ordinance
 - Hearing officer's decision upheld – proponents circulate petitions again



Current Status

- **Litigation**
 - Stipulation approved at last Board of Trustees Meeting
 - Filed with court on May 5, 2021
 - If Resolution 10-2021 is passed, the cases are automatically dismissed.
- **November 2, 2021 Election**
 - Sales Tax Measure



Resolution 10-2021



Resolution 10-2021

Submits revised proposed ordinance to voters at the November 2, 2021 election

- *BALLOT TITLE:* Allowing the sale of medical and retail marijuana in the Town of Wellington, Colorado.
- *SUBMISSION CLAUSE:* Shall the sale of Retail and Medical Marijuana be lawful in the Town of Wellington Colorado and shall the Town be authorized to issue licenses for the sale of Retail Marijuana and Medical Marijuana in the C-3 zoning district in accordance with the referral ordinance submitted to the Town Board by the Town Clerk on May 11, 2021 and published on the Town's website.



Ordinance Revisions

- Same structure, same general provisions as original proposed ordinance.
- Old ordinance
 - Referenced Articles 43.3 and 43.4 of Title 12 (Repealed and replaced with Article 10 of Title 44)
 - Conflicting language about authority of various entities
 - Limitations on local authority



Proposed (Revised) Ordinance

- Repeals prohibition on sales of marijuana – medical and retail
- Allows sale of retail and medical marijuana to consumers via licensed marijuana stores in areas zoned C-3
 - February 1, 2022
- Prohibits operation close to other uses
 - 2,000 feet from schools
 - 500 feet from P (public) zones or other marijuana stores
 - 200 feet from R-1, R-2, and R-4

Zoning Map



**TOWN OF
WELLINGTON**





Proposed (Revised) Ordinance (cont)

- Local and state licensing requirements
- Prohibits transfer of license without pay fee and an application with state and local licensing authority
- Restricts operation to between 8:00am and 9:00pm
- Prohibits modification of ordinance by Board of Trustees until January 1, 2023.



Recommendation

Move to adopt Resolution 10-2021, referring to the electors of the Town of Wellington at the November 2, 2021 general election an ordinance to allow the sale of medical and retail marijuana in the Town of Wellington.



Board of Trustees Meeting

Date: May 11, 2021
Submitted By: Dan Sapienza
Subject: Resolution No. 11-2021 - A Resolution Approving Mandatory Watering Restrictions

- **Staff presentation: Dan Sapienza, Town Attorney and Bob Gowing, Public Works Director**

EXECUTIVE SUMMARY

Although current treatment capacity is adequate for typical usage, water demand this year continues to be higher than average. Staff is requesting the approval of mandatory watering restrictions to ensure viability of residential household water supply.

BACKGROUND / DISCUSSION

Outdoor watering restrictions are not unusual for a municipality in Colorado and specifically for Wellington. The Town of Wellington has maintained voluntary outdoor watering restrictions since 2013 when Resolution 8-2013 was adopted. In May of 2020, mandatory restrictions were approved for the first time. The results of those restrictions were mixed, but the overall impact to the Town's ability to serve were positive.

While there are many reasons to enact watering restrictions, such as costs to customers, the primary goal of these proposed restrictions is to reduce water demand during peak demand periods.

STAFF RECOMMENDATION

Move to approve Resolution No. 11-2021 Mandatory Watering Restrictions.

ATTACHMENTS

1. RESOLUTION NO 11-2021
2. Irrigation restriction presentation (1)

TOWN OF WELLINGTON

RESOLUTION NO. 11-2021

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON,
COLORADO AMENDING HOURS OF OUTDOOR WATERING

WHEREAS, Section 13-1-160(a) of the Wellington Municipal Code concerning sprinkling and water scarcity states the Town Board shall have the authority to establish such rules and regulations so as to limit the days of outdoor watering or sprinkling or to limit the use of water in such manner as it shall deem necessary. Such regulations may be adopted by Resolution and shall become effective immediately upon passage; and

WHEREAS, drinking water demand has increased significantly, due in part to COVID-19 factors such as the stay-at-home requirements; and

WHEREAS, up to 75% of water is lost through evaporation when watering is done during the heat of the day; and

WHEREAS, the Town has maintained in place outdoor watering restrictions since 2013 as adopted by Resolution 8-2013; and

WHEREAS, water use has become a more pervasive problem for the Town and water delivery costs have risen dramatically and supply capacity has become more limited as a result of increased burdens on the Town's water treatment plant.

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

SECTION 1: Mandatory Restrictions

Effectively immediately upon passage, outdoor watering within the Town of Wellington using treated water supplies from the Town's Water Utility shall be limited as follows:

1. Upon adoption of resolution through October 15, 2021, outdoor watering shall be restricted to the hours between 7:00 p.m. and 8:00 a.m. the next morning.
2. Addresses with odd street numbers shall only water on Tuesdays and Saturdays.
3. Addresses with even street numbers shall only water on Wednesdays and Sundays.
4. Runoff from irrigation shall be kept to an insignificant minimum.
5. Irrigation overspray onto non-vegetated areas is prohibited.
6. Washing of outside paved or concrete areas is prohibited.

Notwithstanding the foregoing the following are allowed during the hours of 7:00 p.m. and 8:00 a.m.

1. watering of gardens and plants, including vegetable gardens and containers; and
2. watering of new grass seed, sod and landscape vegetation if the landowner/occupant establishes vegetation is not more than 30 days from planting.

If water production falls below levels required to provide water demand or the Town Administrator and Town Engineer determine that water supplies are in jeopardy of not being able to meet demands, the Town Administrator and Town Engineer may order that outside watering with domestic water supplies be reduced to one day a week and such order may provide for established watering days based on addresses.

SECTION 2.: Water Wells

If outdoor watering using adjudicated water wells ("Non-Utility Watering") occurs, the well owner shall at all times when water is being applied conspicuously post the property as being watered using "well water" or "non-potable water."

SECTION 3: Voluntary Restrictions

Residents applying utility and non-utility water are encouraged to follow the following voluntary restrictions to conserve water and reduce the potential for more stringent mandatory restrictions.

1. Non-utility users Limit outdoor watering to no more than 2 days a week.
2. After rainstorms, turn off automatic watering systems until lawns start to get dry again.
3. Watering should be limited to only that which is necessary to keep lawns and other landscape plans alive and healthy.
4. Non-utility Sprinkler systems should be maintained and adjusted to prevent water running off the lawn and into the street gutter.
5. If cars are washed outdoors at home, washing should be done with buckets and rinsed by hose with a spray nozzle. Avoid letting water run.

SECTION 4: VIOLATIONS:

As provided by the Wellington Municipal Code at 13-1-160(a), Enforcement shall be by summons issued in accordance with Section 2-4-140 of the Code. The property of any User violating this provision shall be subject to utility service termination. Penalties may be enforced against the occupant or owner of any property or any person responsible for violating watering restrictions. Each day that such violation continues to exist shall be considered a separate offense. Violation of watering restrictions as provided for by this resolution shall be a non-criminal violation and pursuant to Wellington Municipal Code Section 1-4-20, any person convicted of a noncriminal violation may be fined by an amount not to exceed one thousand dollars (\$1,000.00). In addition, such person shall pay all costs and expenses in the case, including attorney fees.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted by the Board of Trustees this 11th day of May, 2021.

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk

Proposed Irrigation Restrictions for 2021

May 11, 2021



Background

- Although many Town residents and businesses are located in subdivisions that have non-potable irrigation systems, many are not
- The use of treated water for summertime irrigation dramatically increases overall water demand on the Town's water treatment plants
- The plant expansion projects currently under design will increase the Town's capacity to produce water
- However, the existing plants will be sorely taxed for the next few years. The plants are very close to maximum capacity, which can potentially cause serious issues
 - Stressing and potential failure of existing aged machinery within the plants
 - Exceeding compliance requirements, possibility resulting in costly violations
 - Possible inability to serve customers during peak demand
 - Corresponding potential issues at the Wastewater Treatment Plant
- Please see the following slides provided for discussion



TOWN OF WELLINGTON

Water Treatment

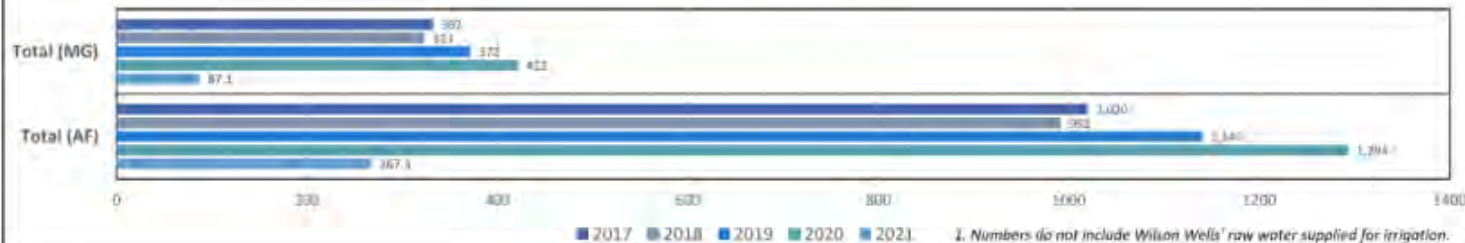
Total Monthly Production: Main WTP (Conventional & Microfiltration), Nano Plant₁ and RO

(Through April 2021)



Annual Production Volumes₁

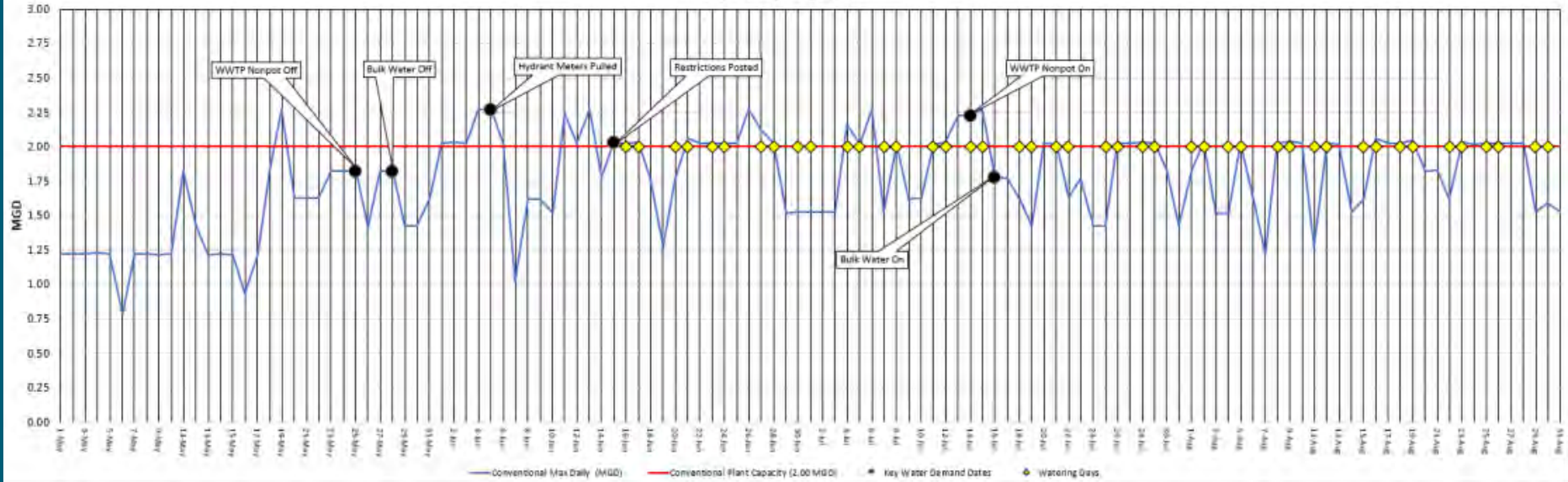
(Through April 2021)



This graph presents the total volumes of treated water production for the past 5 years

Conventional Plant Water Treatment Production

May 1 Through Aug 31, 2020



This graph illustrates the effects of the various water conservation milestones implemented last summer.



Board of Trustees Meeting

Date: May 11, 2021
Submitted By: Patti Garcia, Town Administrator
Subject: Resolution 12-2021 - A Resolution Appointing Mayor Troy Hamman to the Wellington Housing Authority

- Staff presentation: Patti Garcia, Town Administrator

EXECUTIVE SUMMARY

The Wellington Housing Authority consists of five members, each serving five year terms. Ashley Macdonald was appointed as a Town Trustee to a term ending December 2024. Ms. Macdonald has advised the Town that she would like to step down from this appointment. Mayor Troy Hamman has volunteered to serve the balance of the term or until he is no longer serving as an elected official for the Town of Wellington.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Move to adopt Resolution No. 12-2021 Appointing Mayor Troy Hamman to the Wellington Housing Authority

ATTACHMENTS

1. Reso - HA appointments

TOWN OF WELLINGTON

RESOLUTION NO. 12-2021

A RESOLUTION APPOINTING MAYOR TROY HAMMAN TO THE WELLINGTON HOUSING AUTHORITY

WHEREAS, the Town of Wellington has adopted the Wellington Municipal Code; and

WHEREAS, the Town Code at Section 2-8-20 provides that the Housing Authority shall consist of five (5) persons appointed by the Mayor with the consent of the Board of Trustees; and

WHEREAS, Trustee Ashley Macdonald was appointed to the Housing Authority with a term ending December 2024 and has requested to be replaced on the Housing Authority Board;

WHEREAS, Mayor Troy Hamman has volunteered to fill the balance of Trustee Macdonald's term or until he is no longer serving as an elected official for the Town of Wellington.

NOW, THEREFORE, be it resolved by the Board of Trustees for the Town of Wellington, Colorado, confirms the following appointment to the Wellington Housing Authority:

Member: Troy Hamman

Term Expires: December 2024 or until no longer serving as an elected official for the Town of Wellington.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted this 11th day of May, 2021.

TOWN OF WELLINGTON, COLORADO

By: _____
Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk

Board of Trustees Meeting

Date: May 11, 2021
Submitted By: Patti Garcia, Town Administrator
Subject: Resolution 13-2021 - A Resolution Establishing Fees to be Charged for Residential 3/4-inch Water Tap Permits

- **Staff Presentation:** Patti Garcia, Town Administrator

EXECUTIVE SUMMARY

The Board of Trustees instructed staff to prepare a resolution updating impact fees charged for water taps and placed on the May 11, 2021 agenda. At the Board's request, the attached draft resolution was prepared for consideration.

BACKGROUND / DISCUSSION

- The Town last updated water tap fees in April 2017. Ordinance 6-2017 updated raw water dedication requirements, cash-in-lieu rates, and water tap fees for 3/4-inch, 1-inch, 1 1/2-inch and 2-inch water meters.
- The Town more recently updated the raw water dedication and cash-in-lieu rates in August 2020 to reflect dramatic increases in the cost of acquiring water shares (Resolution 28-2020)
 - o At the time the raw water cash-in-lieu rates were updated, the Board of Trustees requested that the raw water rates be reviewed periodically for any necessary updates.
- The Town's water usage rates were also updated in December 2020 (Resolution 44-2020). At the time the usage rates were updated, it was also contemplated that the water tap fees would need to be increased.
 - o The water tap fees were originally expected to see an increase of approximately \$2,000 for a 3/4-inch water tap (\$5,500 to \$7,500 was originally anticipated). The 3/4-inch water tap is what is used for single-residential homes.
 - o More recently, the Finance Department is expecting that an increase to \$7,750 is advisable for 3/4-inch water taps.
- The draft resolution attached reflects an increase in the water tap fee for only the 3/4-inch residential tap. The proposed \$7,500 is the amount that was originally anticipated during consideration of the 2021 budget.
- The draft resolution does not include other water tap size fees. A subsequent action would be required to update the other tap size fees.
- Another resolution or ordinance would also be needed to update the raw water cash-in-lieu rates to reflect changes in the market share prices.
- Resolutions are effective upon adoption. If adopted May 11th, the resolution changing the 3/4-inch residential water tap fee charges would take effect immediately.
 - o In the past, changes to impact fees that are effective immediately has been expressed as a concern by those affected. Affected parties have requested advanced notification of planned changes to address those changes in contracts that are already in place.

STAFF RECOMMENDATION

- The draft resolution prepared at the Board's request does not contemplate changes for water tap fees other than a 3/4-inch residential water tap. Additional calculations and consideration is needed to recommend fees for other tap sizes.
 - Raw water cash-in-lieu rates are currently being evaluated to recommend changes that reflect current market share pricing. Consideration of the water tap fees and the raw water cash-in-lieu rates concurrently is recommended.
 - The Town is also currently in consideration of needed changes to the sanitary sewer usage rate charges and sewer tap fee charges. Consideration of the sewer tap fee charges at the same time as the other water fee changes may result in fewer public hearings for rate changes and reduce confusion for multiple changes in successive meetings.
 - Based upon the above, the Board may take one of the below actions:
-
- Move to adopt Resolution 13-2021 establishing fees to be charged for residential 3/4-inch water tap permits.

– OR –

- Table the item for discussion at a regular work session on May 18, 2021 beginning at 6:30 pm. This work session item would include information to update all water tap sizes, propose an increase to \$7,750 for the 3/4-inch water tap permit, raw water contribution and the sewer tap fees.
- These items would then be considered at the regular Board meeting on May 25, 2021 beginning at 6:30 pm. Consideration of fees for all water tap sizes, proposing an increase to \$7,750 for the 3/4-inch water tap permit, raw water contribution and sewer tap fees would be included on the agenda.

ATTACHMENTS

1. Resolution 13-2021

TOWN OF WELLINGTON

RESOLUTION NO.13-2021

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF WELLINGTON, COLORADO,
INCREASING FEES TO BE CHARGED BY THE TOWN FOR WATER TAP PERMITS

WHEREAS, the Wellington Town Code provides that the Board of Trustees of the Town of Wellington shall set fees for various services provided by the Town by resolution; and

WHEREAS, previous ordinances and resolutions have established fees; and

WHEREAS, the Town Code at Section 13-1-40 provides:

All buildings or premises connected to the Town water and sewer facilities shall be held and deemed to be occupied, and Utility user charges collected thereon. The obligation to pay Utility user charges shall include charges to those buildings or premises for which service has been terminated by the Town or the property owner. All rates shall be established by ordinance or resolution of the Board of Trustees.

WHEREAS, by Ordinance 6-2017 the Town last amended Raw Water Dedication & Capital Investment Fees;

WHEREAS, the Town the Town is currently subject to compliance orders imposed by the State of Colorado and has experienced shortfalls in meeting costs associated with the construction of the Town's water treatment plant, which treatment plant expansion is needed to meet growth requirement in the Town; and

WHEREAS, the Town in its 2021 budget assumed increases to \$7,500 in the Town's Water Capital Investment Fee / Tap Fee based on analysis provided to the Town Board at the time that such budget was presented;

NOW, THEREFORE, BE IT RESOLVED that the Town Board of Trustees of the Town of Wellington, Colorado, that fees charged by the Town shall be established as follows:

Utility Fees. The Town shall charge fees for utility services as follows:

The Town's Water Capital Investment Fee / Tap Fee payable on issuance of tap permits as provided for by Section 13-1-60 for connection to the Town's water utility for a standard ¾" tap shall be increased from \$5,500.00 to \$7,500.00.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted this 11th day of May, 2021.

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk

Check Issue Date	Payee	Description	Amount
4/1/2021	BASIC BENEFITS LLC	MARCH 2021 MONTHLY COBRA FEE	26
4/1/2021	CENTURYLINK	UTILITIES	1,605.52
4/1/2021	POUDRE VALLEY REA	UTILITIES	3,898.43
4/1/2021	TDS	UTILITIES	224.9
4/1/2021	XCEL ENERGY	UTILITIES	1,286.63
4/1/2021	COLORADO ANALYTICAL LAB	2021 WTP Testing	420
4/1/2021	COLORADOAN	Public Hearing 3749 Harrison	21.09
4/1/2021	DANA KEPNER	New Meters for New Homes	9,024.00
4/1/2021	FERGUSON WATERWORKS #1116	Fire Hydrants	342.94
4/1/2021	GOVCONNECTION, INC.	Computer Equipment for staff	5,081.85
4/1/2021	INTERSTATES CONSTRUCTION SRVCS	INSTALLATION OF CHLORINE FLOW PACED METERING	6,385.00
4/1/2021	KELLAR ENGINEERING LLC	Traffic Study	2,700.00
4/1/2021	LEWAN & ASSOCIATES, INC.	SHAREFILE	31.25
4/1/2021	MOBILE MINI INC	2021 Mobile Office Rental	1,354.30
4/1/2021	POLAR GAS INC	Propane WTP Utility	707.63
4/1/2021	POLYDYNE INC.	2021 Blanket PO for WWTP	2,173.50
4/1/2021	SBRAND CONSULTING	BOARD RETREAT	2,500.00
4/1/2021	SMART DOCUMENT MANAGEMENT, LLC	Confidential Document Shredding Service	22
4/1/2021	WELLINGTON FIRE PROTECTION DIS	EVENT FEE 2021	400
4/9/2021	FIRST NATIONAL BANK OMAHA	P-card purchase 03-15-21 to 03-31-21	23,171.45
4/14/2021	BLACK HILLS ENERGY	Town Utility Bills	2,618.47
4/14/2021	FIRST NATIONAL BANK	Park loan payment	22,454.99
4/14/2021	GALLEGOS SANITATION	Town Utilities	1,512.00
4/14/2021	Jive Communications Inc	Telephone services	860.92
4/14/2021	PINNACOL ASSURANCE	Insurance	6,510.48
4/14/2021	RISE BROADBAND	Internet for WWTP	125.63
4/14/2021	TDS	Town Utilties	119.9
4/14/2021	XCEL ENERGY	UTILITIES	10,282.00
4/14/2021	AWP INC	Railroad & Roundabout Crossing Signage	1,509.90
4/14/2021	A-Z SAFETY SUPPLY	REPAIR AND CALIBRATION	264.5
4/14/2021	BOBCAT OF THE ROCKIES	SERVICE	3,904.65
4/14/2021	BOXELDER STORMWATER AUTHORTIY	NON RESIDENTIAL WATER 2020	891
4/14/2021	CINTAS	2021 Blanket PO for Streets First Aid Restock	87.44
4/14/2021	CIVICPLUS	ANNUAL FEE RENEWAL	3,279.45

4/14/2021 COLORADO ANALYTICAL LAB	2021 WTP Testing	1,252.00
4/14/2021 COLORADO CONTROLS	PW Shop Lighting R&M	1,879.00
4/14/2021 DANA KEPNER	HYDRANT	11,845.44
4/14/2021 DENVER INDUSTRIAL PUMPS	VERTICAL TURBINE	45,739.33
4/14/2021 DPC INDUSTRIES, INC	WTP Chemicals	100
4/14/2021 DS CONSTRUCTORS, LLC	3749 HARRISON AVE EXPANSION	43,921.34
4/14/2021 EMPLOYERS COUNCIL SERVICES, INC.	BACKGROUND CHECKS	351
4/14/2021 EVOQUA WATER TECHNOLOGIES LLC	2021 Blanket PO for WTP Chemicals	8,541.00
4/14/2021 HYDRO CONSTRUCTION COMPANY	PER-CONSTRUCTION SERVICES	2,646.00
4/14/2021 INGRAM LIBRARY SERVICES	LIBRARY BOOKS	3,182.46
4/14/2021 INTERSTATES CONSTRUCTION SRVCS	Repair	180.16
4/14/2021 JACOBS ENGINEERING C/O BANK OF AMERICA	WATER SYSTGEM UPDATE	4,988.50
4/14/2021 LOGAN SIMPSON DESIGN INC	SERVICE FOR 01/02/21-03/12-21	23,507.25
4/14/2021 NALCO COMPANY	2021 Blanket PO for WTP Chemicals	4,450.50
4/14/2021 PHONE COMPUNET INC.	Phone services	360
4/14/2021 POLAR GAS INC	2021 Blanket PO WTP Utilities	536.76
4/14/2021 PROGRESSIVE	SENIOR BUS	2,205.00
4/14/2021 RH WATER & WASTEWATER, INC	Monthly WTP Monitoring	830
4/14/2021 TED D MILLER ASSOCIATES, INC.	IPM & Sensor	1,840.00
4/14/2021 THE LUBE STOP	propane	12.8
4/14/2021 TIMBERLINE ELECTRIC & CONTROL CORP.	2021 Blanket PO for WTP Service/Repair	870.2
4/14/2021 TREE TOP INC.	2021 Blanket PO for Tree Maintenance	140
4/14/2021 UNCC	TRANSMISSIONS	212.52
4/14/2021 UNITED MAILING	Printing and mailing of monthly utility bills	1,928.77
4/14/2021 WEX BANK	Gas for Town Vehicles	4,491.32
4/20/2021 COLORADO STATE TREASURER	SUTA Payment First Quarter	2,601.73
4/22/2021 KRISTA JOHNSON	EMPLOYEE RECOGNITION	100
4/22/2021 MICHELLE SOWDER	EMPLOYEE RECOGNITION	100
4/22/2021 MIKE FLORES	work wear reimbursment	146.73
4/22/2021 Utility Management	AMY ROBINSON	189.35
4/22/2021 Utility Management	APEX DEVELOPMENTS LLC	42.39
4/22/2021 Utility Management	BARBARA MENZEL	48.04
4/22/2021 Utility Management	BRYAN/NATASHA DAVIS	44.82
4/22/2021 Utility Management	CB SIGNATURE HOMES	125.59
4/22/2021 Utility Management	CB SIGNATURE HOMES	124.21

4/22/2021 Utility Management	CB SIGNATURE HOMES	124.76
4/22/2021 Utility Management	CB SIGNATURE HOMES	125.28
4/22/2021 Utility Management	CB SIGNATURE HOMES LLC	221.47
4/22/2021 Utility Management	CHARLES/MONICA SMITH	148.06
4/22/2021 Utility Management	CONNIE WAYLAND	13.93
4/22/2021 Utility Management	CRYSTAL BRITTON	156.17
4/22/2021 Utility Management	DEB HOBELMAN	44.01
4/22/2021 Utility Management	EQUITY LLC	177
4/22/2021 Utility Management	ERIC SCHRADER	67.62
4/22/2021 Utility Management	FR DEVELOPMENT	45
4/22/2021 Utility Management	GARY/CONNIE WAYLAND	137.89
4/22/2021 Utility Management	GATEWAY HOMES OF COLORADO LLC	146.93
4/22/2021 Utility Management	HARTFORD CONSTRUCTION LLC	90.54
4/22/2021 Utility Management	HARTFORD CONSTRUCTION LLC	153.1
4/22/2021 Utility Management	HARTFORD CONSTRUCTION LLC	124.7
4/22/2021 Utility Management	HARTFORD CONSTRUCTION LLC	146.27
4/22/2021 Utility Management	HARTFORD CONSTRUCTION LLC	146.3
4/22/2021 Utility Management	JASON/HALEY BESNEATTE	208.48
4/22/2021 Utility Management	JEN/ GEORGE BAKER	323.77
4/22/2021 Utility Management	JEREMY/CAMILLA WALKER	319.23
4/22/2021 Utility Management	JOSE/EVELYN CASTELLANOS AMADOR	50.99
4/22/2021 Utility Management	JOSEPH/JESSICA HERNANDEZ	151.58
4/22/2021 Utility Management	KAITLYN/VINCE THOMAS	135.76
4/22/2021 Utility Management	KURTIS/LIESHA PALU	243.27
4/22/2021 Utility Management	LINDSAY KILLOUGH	377.58
4/22/2021 Utility Management	MARK/ALEXANDRIA HANSEN	293.25
4/22/2021 Utility Management	MASON RUEBEL	152
4/22/2021 Utility Management	PAMELA BLANCO-COCA/DANIEL COCA NOGUERAS	164.42
4/22/2021 Utility Management	PAUL/JANALEE VAN RYN	150.62
4/22/2021 Utility Management	ROY FRENCH	177.14
4/22/2021 Utility Management	RYAN/ JESSICA JAQUES	47.6
4/22/2021 Utility Management	SAGE HOMES	128
4/22/2021 Utility Management	SAGE HOMES LLC	147.2
4/22/2021 Utility Management	SAGE HOMES LLC	125.94
4/22/2021 Utility Management	SAGE HOMES LLC	250.61

4/22/2021 Utility Management	SAND CREEK ENERGY	43.06
4/22/2021 Utility Management	SARA GOSSMAN	428.15
4/22/2021 Utility Management	SHAUN L HARTUNG	160.68
4/22/2021 Utility Management	WENDACE PETERSON	46.1
4/22/2021 Utility Management	WILLIAM CARSON	40.25
4/22/2021 Utility Management	WYATT/KRISTIN KNUTSON	64.92
4/26/2021 JENNY JONES	Reimbursement	79.34
4/26/2021 JUDITH TIPPETTS	PHONE STIPEND	162.5
4/26/2021 KRYSTAL EUCKER	PHONE STIPEND	162.5
4/26/2021 TYLER SEXTON	PHONE STIPEND	162.5
4/29/2021 FIRST NATIONAL BANK OMAHA	P-card purchase 04-01-21 to 04-15-21	13,060.78
4/30/2021 ALLSTATE	MONTHLY PRIMUUM	744.15
4/30/2021 BASIC BENEFITS LLC	APRIL 2021 MONTHLY COBRA FEE	26
4/30/2021 COLORADO WATER RESOURCES & POWER DEVELOP	DRINKNING WATER REVOLVING FUND DIRECT LOAN	36,747.29
4/30/2021 GALLEGOS SANITATION	WWTP TRASH	1,512.00
4/30/2021 GUARDIAN	Insurance Premium	5,349.99
4/30/2021 HealthEZ	Health Insurance Premiums	34,651.88
4/30/2021 HEALTHIEST YOU C/O TELADOC INC	APRIL INSURANCE PREMIUM	560
4/30/2021 TDS	Internet at 3749 Harrison	184.85
4/30/2021 VERIZON WIRELESS	TOWN CELL PHONES	2,620.93
4/30/2021 XCEL ENERGY	UTILITIES	30,555.41
4/30/2021 ABLAO LAW LLC	Judges Monthly Salary	750
4/30/2021 AMAZON	OFFICE SUPPLIES	686.54
4/30/2021 BECHTOLT ENGINEERING INC	TRAFFIC LIGHTS	4,749.50
4/30/2021 BERKADIA G	LOAN INTEREST	2,000.00
4/30/2021 BOXELDER BASIN REGIONAL STORMWATER AUTH	2020 RESIDENTIAL SERVICE FEES/SYSTEM DEVELOPMENT	773,958.76
4/30/2021 COLORADO ANALYTICAL LAB	2021 WTP Testing	622
4/30/2021 COURTESY LAWN & TREE CARE INC.	TREESCAPES	3,950.00
4/30/2021 DANA KEPNER	LEAK DETECTED	8,640.00
4/30/2021 DEEP ROCK WATER COMPANY	DEEP ROCK 4/1GL DIST	120.48
4/30/2021 DENVER INDUSTRIAL PUMPS	2 Backup Motors for Nano & RO Facilities	7,614.00
4/30/2021 EMPLOYERS COUNCIL SERVICES, INC.	Yearly Membership Dues	6,126.00
4/30/2021 F & C DOOR CHECK & LOCK	Lock W/KEYPAD	495
4/30/2021 GALLEGOS SANITATION	EASTER EGG HUNT CAC	352
4/30/2021 HARCROS CHECMICALS INC	2021 Blanket PO for WTP Chemicals	17,510.00

4/30/2021 HUMANE SOCIETY	QUARTERLY BILLING	330
4/30/2021 JACOBS ENGINEERING C/O BANK OF AMERICA	2021 WWTP Expansion Contract	52,527.75
4/30/2021 KACY GRAPHICS	DIRECTORY	80
4/30/2021 L.C. SALES TAX ADMINISTRATOR	Less 3 1/3% Vendor Fee	15,065.86
4/30/2021 LARIMER COUNTY UNDERGROUND WATER USERS	PUMPING FEE 2021	783
4/30/2021 LEWAN & ASSOCIATES, INC.	MANAGED LICENSING	1,120.65
4/30/2021 MARC CORP	ALL WEATHER PATCH	664.87
4/30/2021 MARCH & OLIVE, LLC	Legal Services	5,385.00
4/30/2021 MCDONALD FARMS ENTERPRISES, INC.	2021 Blanket PO WWTP Sludge Removal	1,226.00
4/30/2021 MOSES, WITTEMYER, HARRISON & WOODRUFF	PROFESSIONAL SERVICES	14,000.00
4/30/2021 NALCO COMPANY	Supplies	4,450.50
4/30/2021 NORTHERN COLORADO SPORTS OFFICIALS	Monthly Administrative fee for our sports officials.	625
4/30/2021 PHONE COMPUNET INC.	DUTY PHONE	120
4/30/2021 PLATINUM CHEMICALS INC	WIPES	957
4/30/2021 POLAR GAS INC	Propane WTP Utility	1,914.27
4/30/2021 POLYDYNE INC.	2021 Blanket PO for WWTP	2,173.50
4/30/2021 POSITIVE COACHING ALLIANCE	Membership	3,750.00
4/30/2021 POUDRE VALLEY AIR	WHEEL&MOUNT	1,720.00
4/30/2021 SAFEBUILT, LLC LOCKBOX # 88135	March 2021 Permit Activity	32,426.45
4/30/2021 TROPHY CREATIVE LLC	New Staff Apparel Order	417.04
4/30/2021 WELLINGTON CO MAIN STREET PROGRAM	2ND QUARTER	19,375.00
4/30/2021 WELLINGTON FIRE PROTECTION DIS	Less 5% Vendor Fee	16,872.00
4/30/2021 WELLINGTON TOY STORAGE	CAC STORAGE FOR THE YEAR2021	1,513.20
4/30/2021 XCEL ENERGY	UTILITIES	178.76
Total		1,423,461.91