BOARD OF TRUSTEES
May 17, 2022
5:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Work Session Agenda

The Zoom information below is for online viewing and listening only.

Please click this URL to join.
https://us06web.zoom.us/j/84232286199?pwd=WmNCVlJoYzZCSEVKVDBjbFNtVWN5UT09
Passcode: 101577
Webinar ID: 842 3228 6199
Or One tap mobile:
+17207072699,,84232286199# US (Denver) or +13462487799,,84232286199# US (Houston)
Or join by phone:
US: +1 720 707 2699 or +1 346 248 7799 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656

A. ITEMS

1. Regional Transportation Solutions Discussion

   - Presentation: Laurie Kadrich and Mark Peterson with Larimer County

2. Marijuana Licensing Authority Procedures

   - Presentation: Dan Sapienza, March & Olive, LLC

3. Board of Trustees Meeting Policies and Procedures

   - Presentation: Dan Sapienza, March & Olive, LLC

4. Board of Trustees Meeting Packet Discussion

   - Presentation: Patti Garcia, Town Administrator

5. Advisory Board and Commission Interview and Appointment Process

   - Presentation: Krystal Eucker, Town Clerk

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 17, 2022
Submitted By: Cody Bird, Planning Director
Subject: Regional Transportation Solutions Discussion

- **Presentation: Laurie Kadrich and Mark Peterson with Larimer County**

EXECUTIVE SUMMARY

Larimer County and Towns/Cities within the county participated in a collaborative effort in 2018 and 2019 to identify regional transportation needs and possible solutions to help fund those transportation needs. City and Town Managers have expressed support for continuing to discuss options for advancing regional transportation priorities. Larimer County staff and transportation specialists are assisting in facilitating the discussion. A memo from Larimer County is included as an attachment. Presentation slides for the work session are also included.

BACKGROUND / DISCUSSION

See attachments.

STAFF RECOMMENDATION

Provide guidance to Larimer County and Town staff about Wellington's desires to advance next steps in the regional transportation discussion.

ATTACHMENTS

1. Memo from Larimer County
2. Presentation Slides

LARIMER COUNTY | Community Planning, Infrastructure and Resources

P.O. Box 1190, Fort Collins, Colorado 80522-1190, 970.498.5741, Larimer.org

MEMORANDUM

TO: Wellington Board of Trustees

FROM: Laurie Kadrich, CPIR Director
Mark Peterson, County Engineer

DATE: May 10, 2022

RE: Regional Transportation Agenda Item

Larimer County seeks input from the Wellington Board of Trustees on your desire to collaborate and cooperate on regional transportation solutions. The communities of Larimer County are strongly interconnected, and a safe and reliable regional transportation network is needed to support our communities' travel needs. Although there is transportation funding legislation at both the state and federal levels, significant gaps remain in the ability to meet the regional transportation needs in our county.

The City/Town Managers of all communities in Larimer County expressed support for advancing discussions around regional transportation solutions, starting with meetings with each elected body in the county. We seek to understand the relative importance of regional transportation to your community and to know what approaches you are interested in pursuing to address regional transportation solutions. We hope to learn about the "must haves" and the "deal breakers" for your community to coordinate on regional transportation.

Larimer County initiated and funded a planning effort in 2018 to explore funding opportunities for regional transportation. The effort terminated with an unsuccessful sales tax ballot measure in 2019. The County recognizes two notable detractors from the success of that initiative:

1. Transportation was bundled with county facilities on the ballot question, which was a mistake. It led to voter confusion and the perception that the sales tax was too ambitious.

2. The 2018/2019 effort involved collaboration at the technical and policy levels through a Technical Advisory Committee (TAC) and a Regional Task Force (RTF). The TAC included a staff representative from each community in Larimer County, while the RTF included an elected official representative from each community. This structure did not enable broad discussion and support from the elected bodies throughout the County, resulting in mixed support for the ballot question.

As we renew the conversation around regional transportation, the County wishes to learn from these missteps and explore alternative approaches to achieve mutually beneficial solutions. We look forward to hearing your ideas and collaborating with you. Your input will be combined with that of the other elected bodies across the county to determine whether there are shared interests in potential next steps.

LARIMER COUNTY

Regional Transportation Solutions

Discussion with Wellington Board of Trustees

May 17, 2022

Mission Statement

A cohesive and collaborative strategy is needed to identify solutions for regional transportation needs

Meeting Purpose

Assess and inspire your community's desire to collaborate and cooperate on regional transportation solutions

AGENDA

1. Defining Regional Transportation
2. Regional travel snapshot
3. Current funding environment
4. Interactive polling and discussion

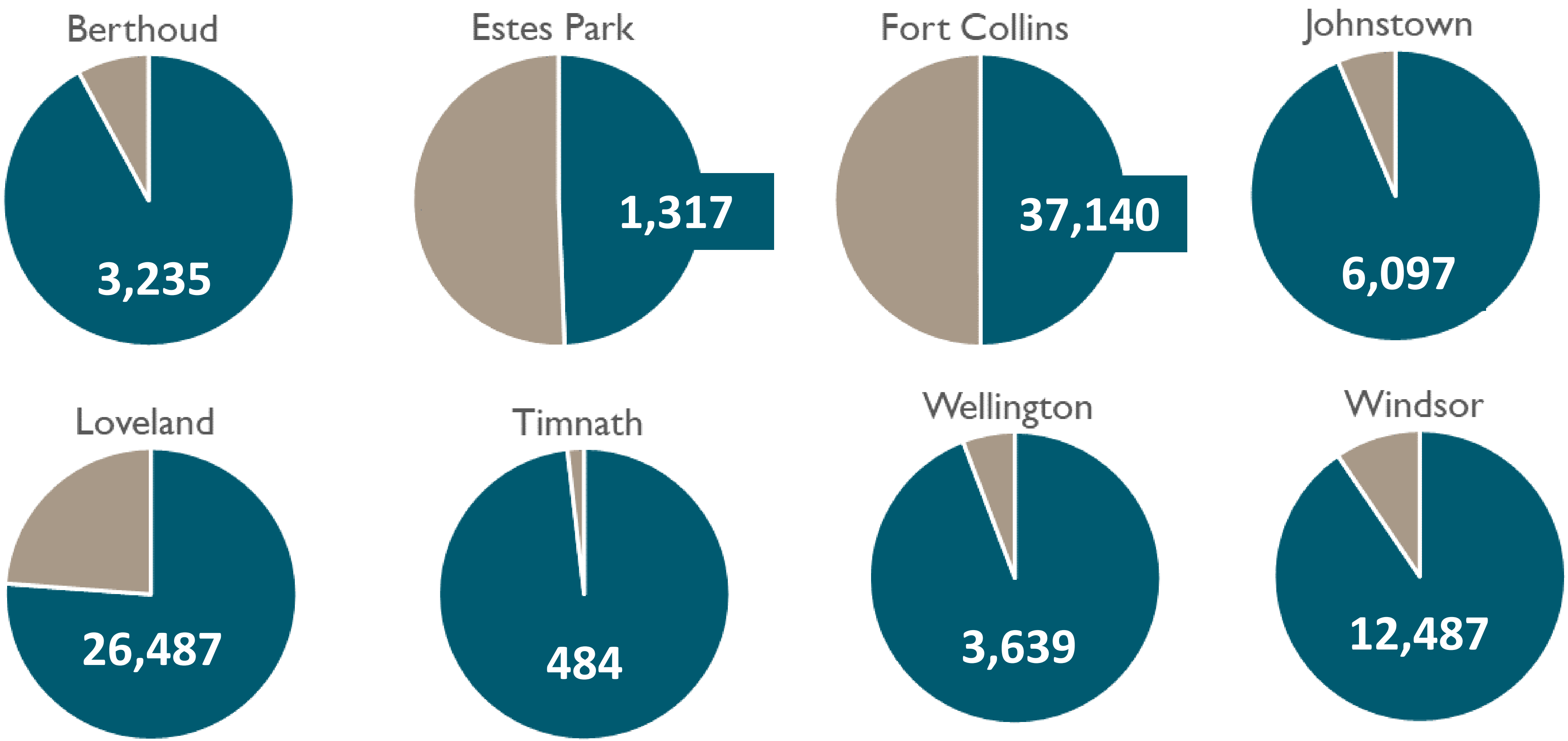
Regional Transportation Solutions

Improving mobility for people, goods and services using any travel mode (driving, riding transit, bicycling, walking, etc.) between communities and across our region.

REGIONAL Travel Snapshot

A mobile and interconnected region…

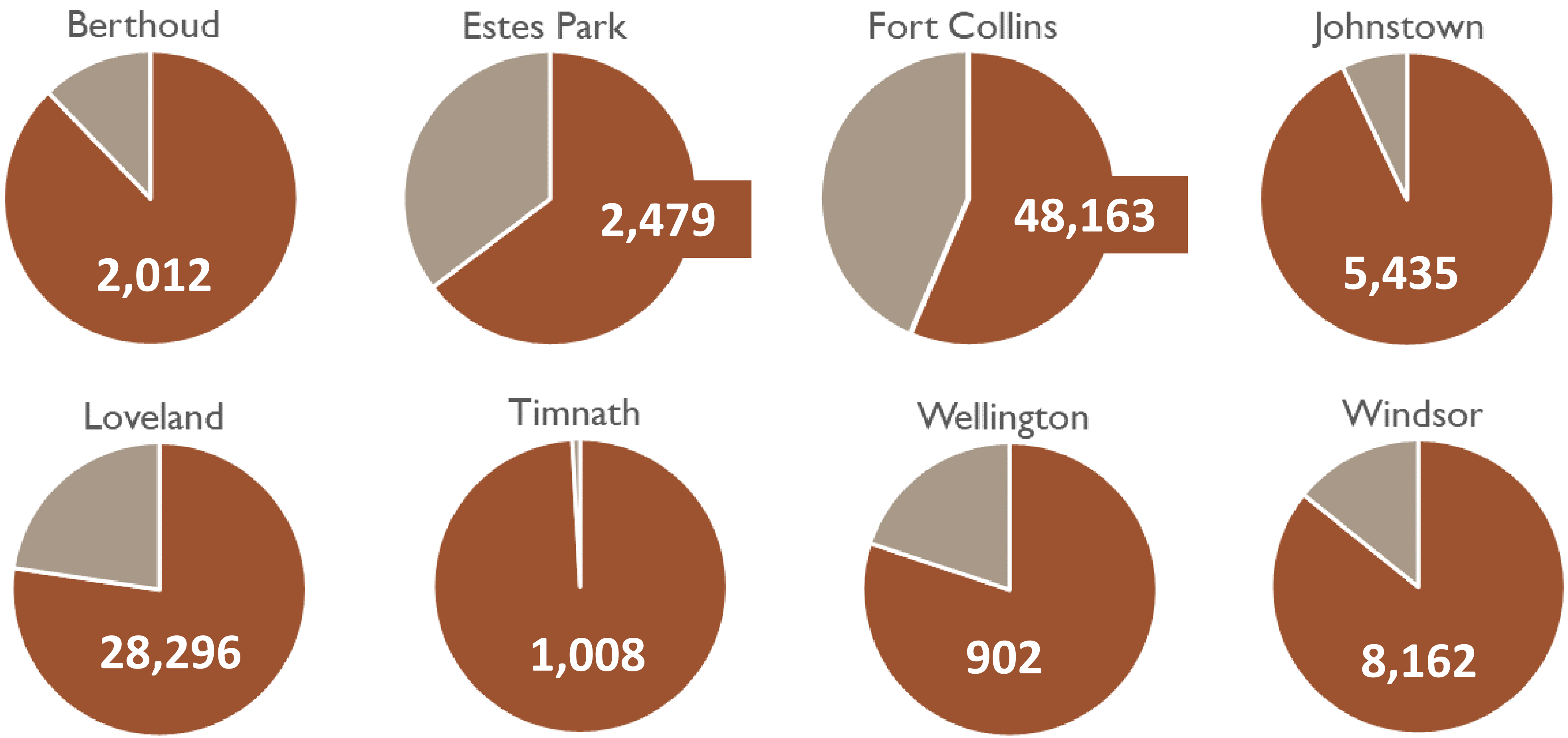
Employed residents who commute elsewhere for work



Source: U.S. Census Longitudinal Employer-Household Dynamics, 2019

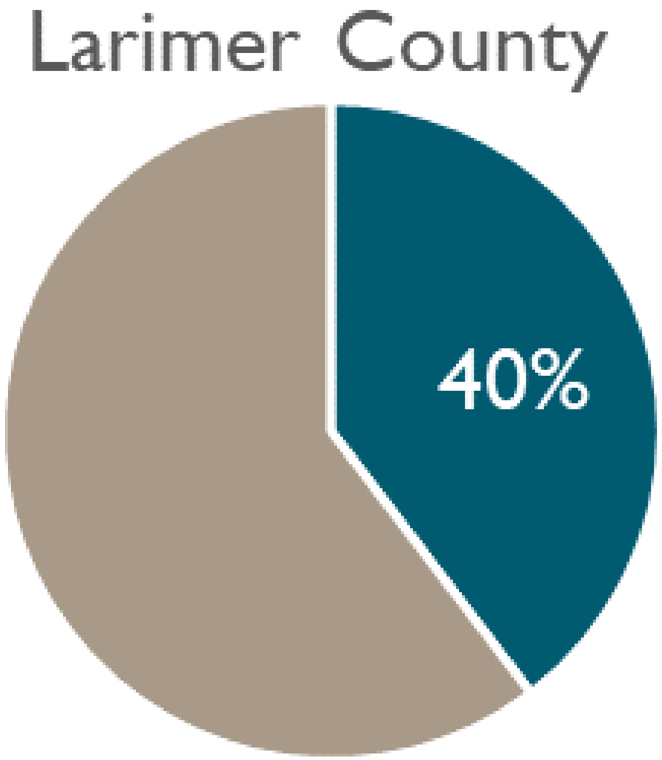
A mobile and interconnected region…

Employees who arrive from elsewhere



Source: U.S. Census Longitudinal Employer-Household Dynamics, 2019

Countywide Travel Patterns

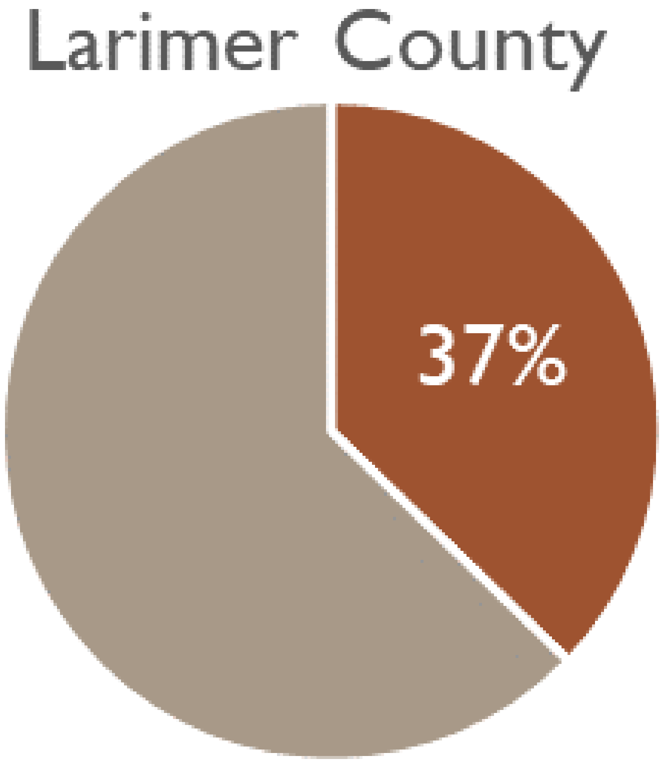


Percent of employed residents who commute elsewhere for work

	Count	Share
Larimer County	95,431	60.4%
Weld County	14,611	9.2%
Boulder County	10,641	6.7%
Denver County	8,232	5.2%
Adams County	5,483	3.5%
Arapahoe County	4,863	3.1%
Jefferson County	4,626	2.9%
El Paso County	2,781	1.8%
Douglas County	1,968	1.2%
Laramie County (WY)	1,088	0.7%
All Other Locations	8,368	5.3%
Total	**158,092**	**100.0%**

Source: U.S. Census Longitudinal Employer-Household Dynamics, 2019

Countywide Travel Patterns



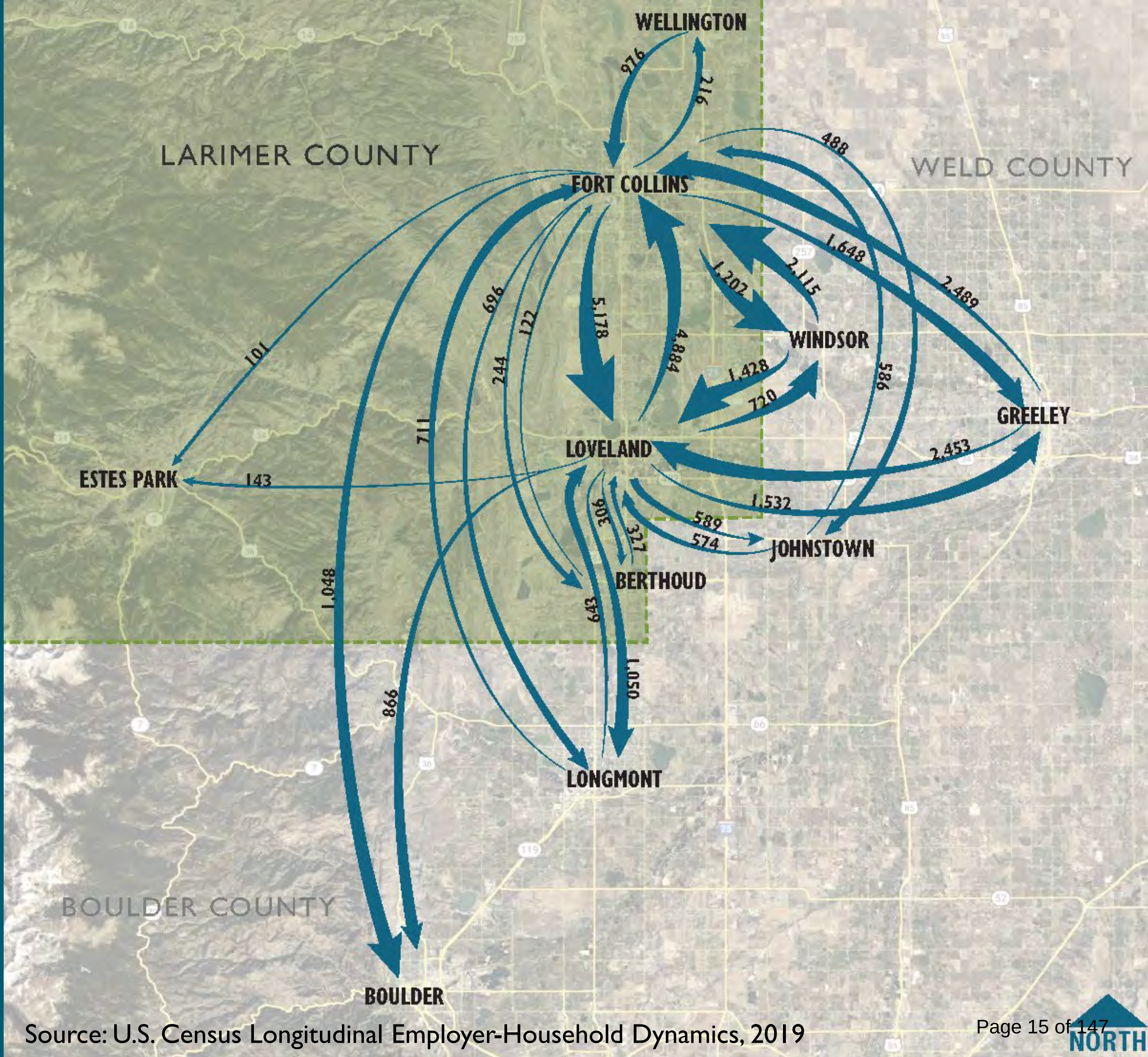
Percent of employees who arrive from elsewhere

	Count	Share
Larimer County	95,431	62.8%
Weld County	23,845	15.7%
Boulder County	4,845	3.2%
Jefferson County	3,937	2.6%
Adams County	3,714	2.4%
Arapahoe County	3,429	2.3%
Denver County	3,234	2.1%
El Paso County	2,813	1.8%
Douglas County	1,751	1.2%
Laramie County (WY)	1,059	0.7%
All Other Locations	8,021	5.3%
Total	**152,066**	**100.0%**

Source: U.S. Census Longitudinal Employer-Household Dynamics, 2019

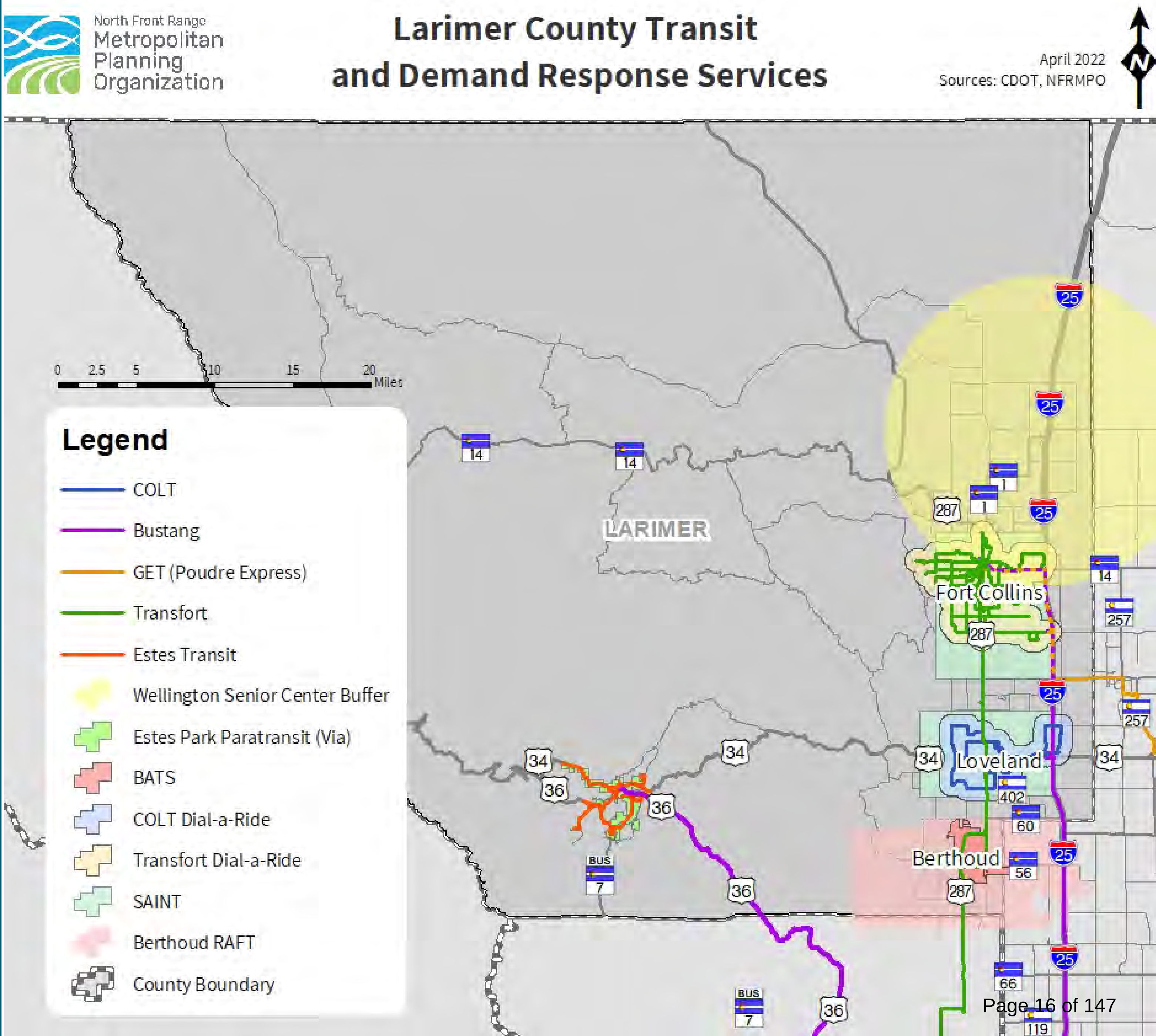
What does all that movement look like?

Daily commuting trips



Source: U.S. Census Longitudinal Employer-Household Dynamics, 2019

Some of which occurs by public transportation



Each community has a **unique transportation story** and priorities; all communities generate **regional travel**

CURRENT
Transportation Funding Environment

- $5 Billion in transportation funding for Colorado
- Partial distribution via Highway Users Tax Fund (HUTF)
  - Approximately $50 million over 10 years
- Emphasis on Greenhouse Gas (GHG) emissions reduction
  - Regionally Significant projects subject to GHG mitigation requirements
- Uncertainty about new gas and registration fees

STATE FUNDING

Senate Bill 21-260 (SB 260)

- $1.2 Trillion legislation
- 10-year federal infrastructure investment strategy
- New and continuing grant opportunities
- Emphasis on projects with regional impact
- Expected trend in awarding multimodal projects, transit, trails, complete streets and resiliency projects; focus on equity

FEDERAL FUNDING

Infrastructure Investment and Jobs Act (IIJA)

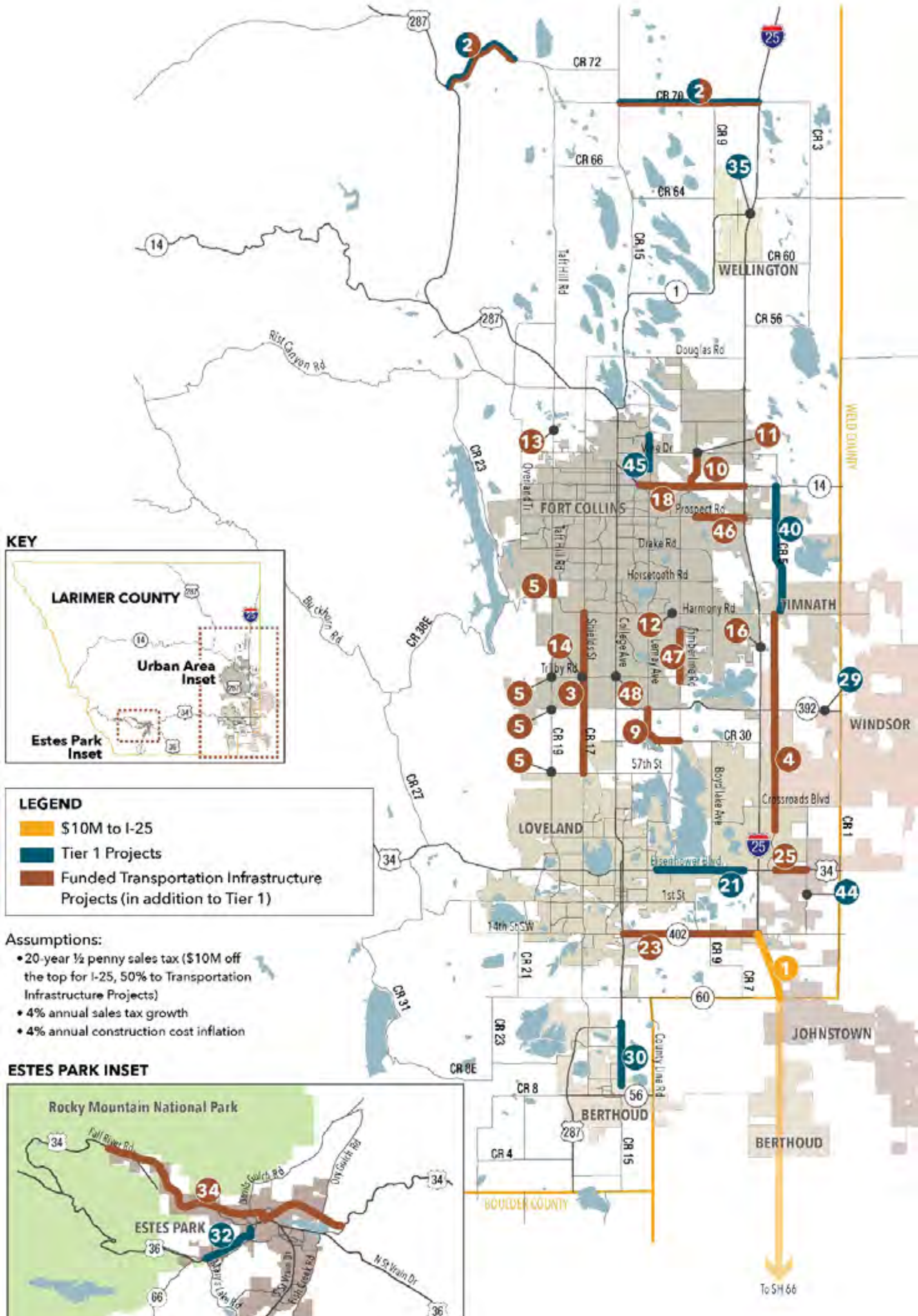
Public Perception:
Transportation is funded!

NOTABLE Funding Gaps and Considerations

- Increasing construction costs
- Federal Infrastructure Bill is grant heavy; competitive, local match requirements
- Non "Regionally Significant" projects (as defined in SB 260 and CDOT Rulemaking)
- Shift in focus to multimodal and transit projects reduces ability to fund capacity projects
- Uncertainty about how greenhouse gas rulemaking will be applied

Local Funding Attempt

- Technical Advisory Committee and Regional Task Force formed in 2018
- Compiled regional transportation infrastructure projects ($547M in needs)
- Evaluated and ranked infrastructure projects and developed strategy for project "short list"
- Identified eligibility criteria for transit
- Unsuccessful Half Penny sales tax ballot question in 2019



Short List of Projects

KEY TAKEAWAYS

- Identifying the right mix of projects that works for all communities and resonates with the public is challenging
- Message was not getting back to City Councils, community leaders
- Municipalities should have "skin in the game" – Council involvement and monetary contribution to planning effort
- Bundling transportation with facilities was a mistake

Interactive Polling

Go to **www.menti.com**

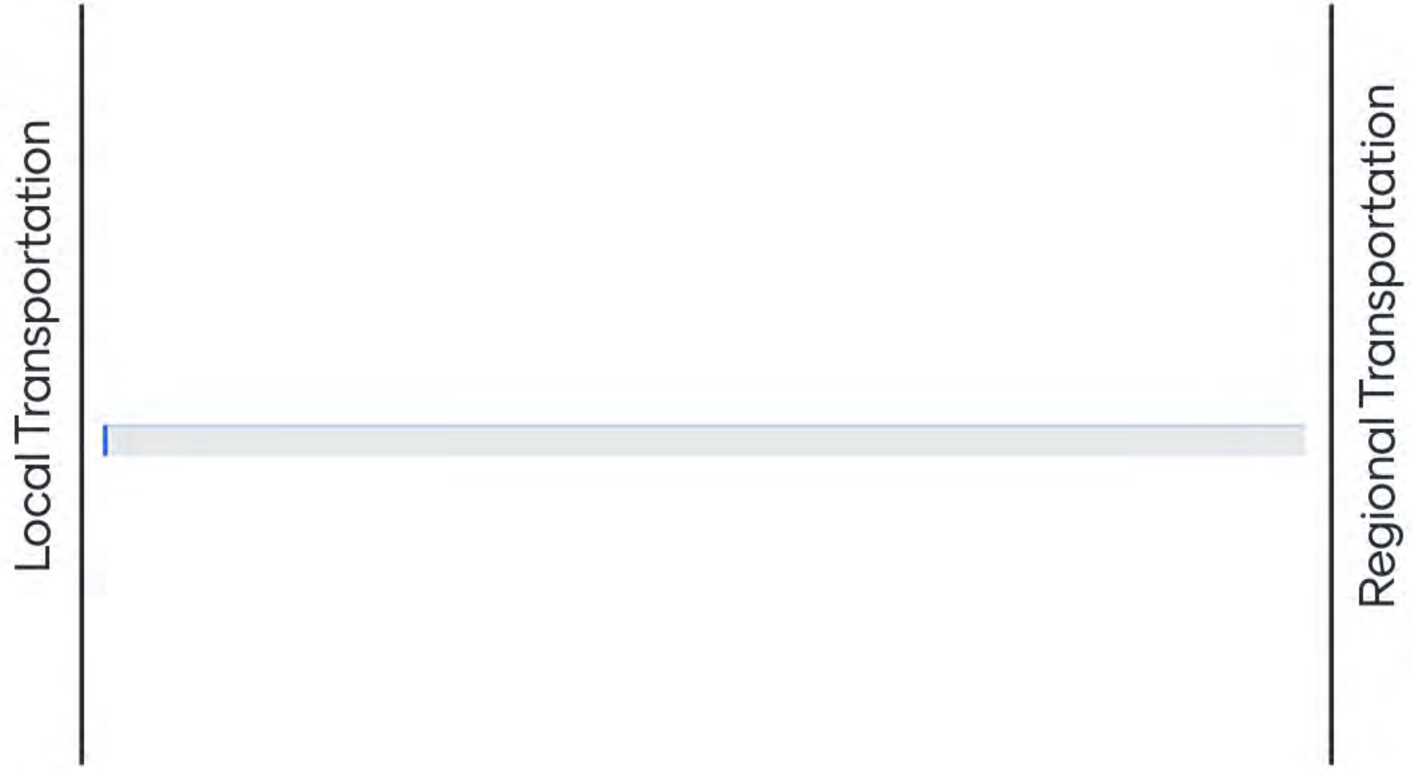
What are the critical issues for your community that impact regional transportation? Please rank these issues:

Mentimeter

1st	Congestion on regional corridors
2nd	Jobs/housing balance
3rd	Cost of living/affordable housing
4th	Tourism
5th	Lack of public transit options

How important is regional transportation compared to other topics in your community?

How important is it to address regional transportation needs compared to local transportation needs within your community?

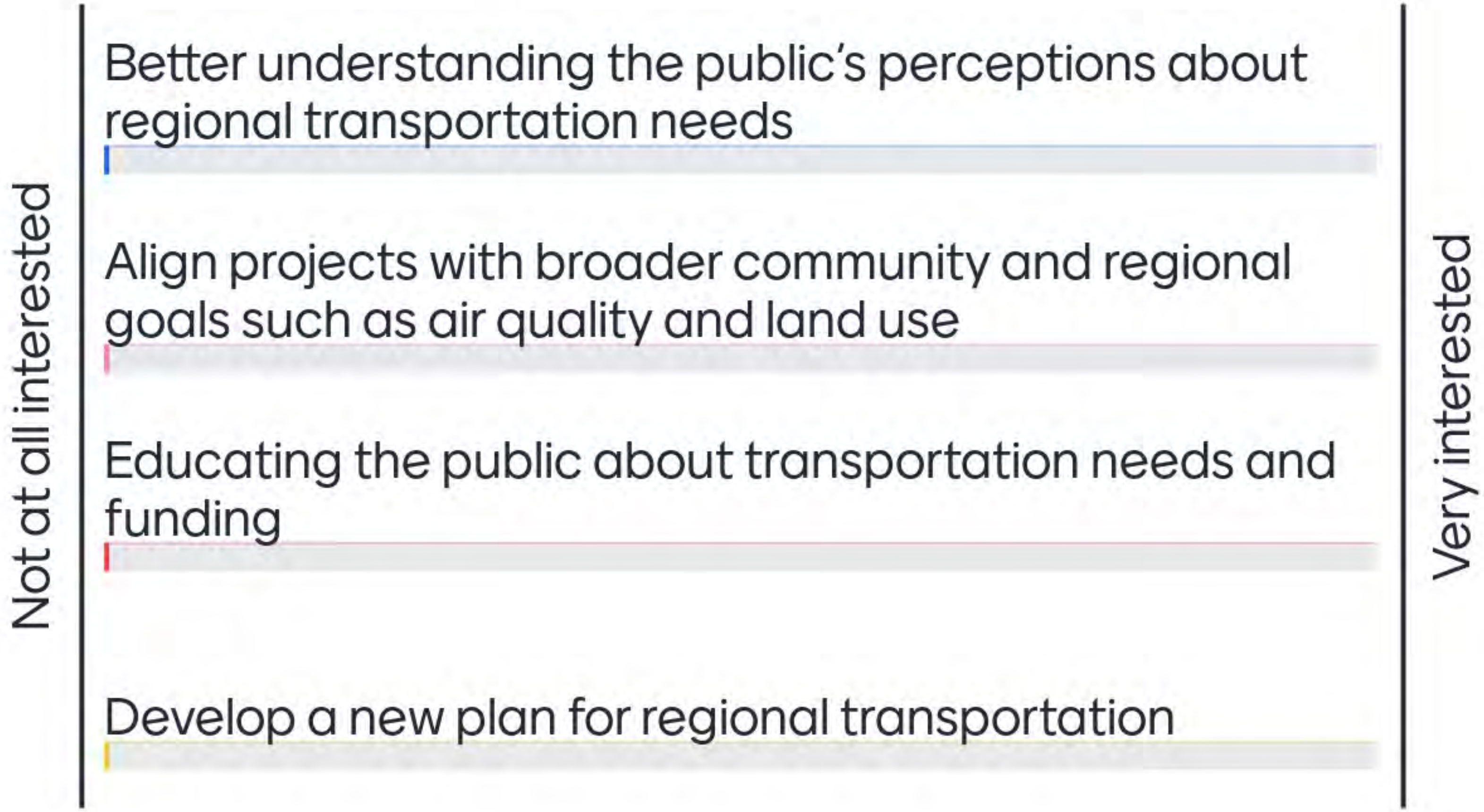


What is your level of interest in coordinating and cooperating on regional transportation solutions with other communities in Larimer County?

Mentimeter

What approaches are you interested in exploring to address regional transportation needs?

Mentimeter



What approaches are you interested in exploring to address regional transportation needs?

Mentimeter

What approaches are you interested in exploring to address regional transportation needs?

Mentimeter

Out of all the options presented in the previous questions, which three are most important to you?

Mentimeter

Better understanding the public's perceptions	Align projects with broader community and regional goals	Educating the public	Develop a new plan	Working with the business community	Working with marginalized communities	Pooling funds	Grant writing support	Implementing regional transportation impact fee	Pursuing new transportation funding	Establishing a Regional Transportation Authority (RTA)	Collective lobbying
0	0	0	0	0	0	0	0	0	0	0	0

What resources is your community willing to contribute? Select all that apply

Mentimeter

Funding for the planning effort (up to $25,000)	Staff resources (e.g., of TAC member)	Active participation from leadership and elected officials
0	0	0

Should there be consideration for expanding the "region" beyond Larimer County?

If so, what is the geographic extent of the "region"?

What are the "must haves" for your community to coordinate on regional transportation solutions?

DISCUSSION

What are the “deal breakers” that would prevent your community from coordinating on regional transportation solutions?

DISCUSSION


Thank you!

Board of Trustees Meeting

Date: May 17, 2022
Submitted By: Dan Sapienza
Subject: Marijuana Licensing Authority Procedures

- **Presentation: Dan Sapienza, March & Olive, LLC**

EXECUTIVE SUMMARY

Pursuant to the referred ordinance to allow marijuana sales in the Town of Wellington adopted by the voters in November, 2021, the Town Board on January 19, 2022 created the Marijuana Licensing Authority (MLA) and appointed Kristin Brown to that role. She was to establish the Town's rules and procedures for applications and licensing and accept license applications. The Board also required staff to return to the Board by June 14, 2022 with options for the Board to take on the role of MLA. This is the first discussion of how to proceed in that manner.

BACKGROUND / DISCUSSION

In November, 2021, the voters of the Town of Wellington voted to allow the operation of retail and medical marijuana stores within Town limits, subject to various zoning and setback requirements. The licensing and application process would be implemented by the Marijuana Licensing Authority (MLA), which was established by ordinance as the Board of Trustees, unless the Board designated another person or entity as MLA.

In January, 2022, it was proposed that the Town appoint Kristin Brown as an Assistant Municipal Judge and MLA, due to her experience in this role in other municipalities around the state. The application process was to begin on February 1, 2022 and it was determined that an experience MLA could get the appropriate Rules and Procedures in place in time and could implement the process. The Board expressed a desire to take on the licensing and application process itself, to have a more representative role and to be able to hold the necessary hearings. The Board required that staff return no later than June 14, 2022 with options for how the board itself could sit as the MLA, while utilizing the expertise of a professional marijuana licensing official.

STAFF RECOMMENDATION

ATTACHMENTS

1. WELLINGTON REFERRED ORDINANCE Retail and Medical Marijuana
2. Resolution 05-2022 Marijuana Authority Adopted January 19, 2022
3. Kristin Brown Resume
4. Wellington Marijuana Licensing Authority Rules and Regs
5. Summary of MLA Rules and Regs Proposed Changes

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 16of 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-l (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-l (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.

TOWN OF WELLINGTON

RESOLUTION NO. 05-2022

A RESOLUTION CREATING A LOCAL LICENSING AUTHORITY PURSUANT TO CHAPTER 2, ARTICLE 14 OF THE WELLINGTON MUNICIPAL CODE AND TO APPOINT KRISTIN BROWN AS ASSISTANT MUNICIPAL JUDGE TO SERVE IN THAT ROLE

WHEREAS, during the November 2, 2021 election, voters approved an ordinance concerning the regulation of retail and medical marijuana stores in the Town of Wellington; and

WHEREAS, pursuant to the November 2, 2021 election, Article 13.5 of Chapter 16 and Article 13.6 of Chapter 2 were repealed and Article 14 in Chapter 2 was created within the Wellington Municipal Code; and

WHEREAS, the Board of Trustees of the Town of Wellington shall serve as the Local Licensing Authority unless the Board of Trustees creates a separate Local Licensing Authority empowered to act in such capacity; and

WHEREAS, the Board of Trustees has considered the benefits of delegating Local Licensing Authority duties to an attorney and municipal judge who is familiar with the Marijuana Code and the due process requirements of marijuana licensing; and

WHEREAS, the Board of Trustees desires to serve as the Local Licensing Authority to ensure that these duties remain responsive to the needs of the residents and voters of the Town of Wellington; and

WHEREAS, in order to quickly get the Town administration ready for the acceptance and processing of applications for Marijuana stores, the Board of Trustees desires to temporarily establish a separate Local Licensing Authority to perform the duties under Article 14 of Chapter 2 and to establish rules and regulations to effectively administer to the new marijuana licensing requirements; and

WHEREAS, the Board of Trustees has considered the qualifications of Attorney Kristin Brown, with respect to marijuana licensing functions; and

WHEREAS, the Board of Trustees desires that Town staff present an option for the Local Licensing Authority where the Board of Trustees serves in that role with direct guidance by an experienced marijuana licensing professional

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

1. Pursuant to Chapter 2, Article 14 of the Wellington Municipal Code, a Local Licensing Authority is established with respect to marijuana licensing functions.

2. The Local Licensing Authority shall be an assistant Municipal Judge of the Town of Wellington designated by the presiding Municipal Judge to serve in that capacity.

3. The Board appoints Kristin Brown to serve as an Assistant Municipal Judge to be responsible for duties of the Local Licensing Authority.

4. The Mayor is hereby authorized to execute the Professional Services Agreement with Kristin Brown on behalf of the Town.

5. On or before June 14, 2022, the Board of Trustees will be presented with an option for modifying the Local Licensing Authority arrangement to allow for the Board of Trustees to serve in that capacity with guidance from staff and professionals in the area of marijuana licensing.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 19th day of January, 2022.

TOWN OF WELLINGTON, COLORADO

By:______________________________
Troy Hamman, Mayor

ATTEST:

____
Krystal Eucker, Town Clerk

RESUME OF KRISTIN N. BROWN

EDUCATION

Bachelor of Arts, University of Colorado, Boulder, CO	August 1987
Juris Doctor, Northwestern School of Law at Lewis and Clark College, Portland, OR	1990

LICENSE TO PRACTICE LAW

State of Colorado	1990

JUDICIAL EXPERIENCE

Acting Presiding Judge, Thornton Municipal Court	August 2021 - present
Associate Judge, Thornton Municipal Court	November 2008 – August 2021
Presiding Judge, Brighton Municipal Court	November 2010 - May 2021
Associate Judge, Brighton Municipal Court	October 2009 - Nov. 2010
Presiding Judge, Lyons Municipal Court	October 2010 - present
Associate Judge, Broomfield Municipal Court	2012 – present
Associate Judge, Superior Municipal Court	2014 – present
Associate Judge, Mead Municipal Court	2018 - present
Associate Judge, Longmont Municipal Court	2018 - present
Associate Judge, Fort Collins Municipal Court	2020 - present

POST OFFICE BOX 253
LONGMONT, COLORADO 80502
(303) 485-7079 FAX (303) 485-7078

HEARING OFFICER EXPERIENCE

Hearing Officer (administrative appeal matters) Federal Heights, Commerce City, Sheridan, Littleton, Clear Creek Fire Authority, Lakewood	2006 – present
Brighton Liquor Authority	September 2015 - present
Hearing Officer, City of Thornton	July 2003 – present
Hearing Officer, Administrative, Liquor/Marijuana Licensing Authority, Commerce City	2010 - present

MUNICIPAL LAW EXPERIENCE

Since 1990 have provided legal services to municipalities, to include legal counsel to City Council/Town Boards, prosecution services, liquor enforcement, legal counsel to police departments, drafting of ordinances. Municipal clients have included Erie, Frederick, Mead, Lyons, Wellington, Louisville, Lafayette, Thornton, Woodland Park, Dillon, Ft. Lupton, Grant Junction, Estes Park.

MEMBER OF

Colorado Bar Association
Boulder County Bar Association
Colorado Municipal Judges Association (Board Member for several terms)

REFERENCES

Victoria Simonsen, Town Administrator, Lyons, CO
vsimonsen@townoflyons.com

Diane Maes, Thornton Municipal Court Administrator, Thornton, CO
Diane.Maes@cityofthornton.net

Judge Randy Davis, Municipal Judge (retired)
randalljdavis@hotmail.com

Mark Shapiro, Erie Town Attorney (retired)
mark@mshapirolaw.com

TOWN OF WELLINGTON MARIJUANA LICENSING AUTHORITY RULES AND REGULATIONS

Rule 1. Authority, Purpose and Applicability

Rule 1.1 Purpose and intent.

As permitted by state medical marijuana and retail marijuana codes (C.R.S. Title 44, Article 10), the voters of the Town of Wellington enacted the "Ordinance Concerning the Regulation of Retail and Medical Marijuana Stores in the Town of Wellington" ("the ordinance") to allow retail marijuana stores and medical marijuana stores in the town on the condition that the establishments are operated in compliance with applicable state and local laws. The ordinance created the local licensing authority and vested it with authority to promulgate regulations as necessary for proper administration and enforcement.

The purpose of these regulations is to establish specific standards and procedures for local licensing of retail marijuana stores and medical marijuana stores and to protect the health, safety and welfare of the residents and consumers of the Town of Wellington ("the town") by prescribing the manner in which these establishments can be licensed and conducted in the town. Marijuana establishments are a heavily regulated industry in the state and town. The town has a zero-tolerance policy for violations of this ordinance, or these rules and regulations.

By enacting these regulations, the town does not intend to encourage or promote the establishment of any business or operation, or the commitment of any act, which constitutes a violation of state or federal law. As of the date of the enactment of these regulations, the use, possession, distribution, and sale of marijuana is illegal under federal law and those who engage in such activities do so at their own risk of criminal prosecution.

Rule 1.2 Relationship to other laws.

Pursuant to Wellington Municipal Code 2-14-20, the licensing authority incorporates the requirements and procedures set forth in the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended. The provisions in these regulations that are different from applicable state law are consistent with the town's responsibility to protect the public health, safety and welfare as authorized by applicable law. Where these regulations conflict with state regulations, the more restrictive provision shall control. To the extent that the regulations conflict with any town Municipal Code provisions regulating marijuana, the Town's Municipal Code provisions will govern. Nothing in these regulations shall be construed to condone, promote, facilitate or otherwise to permit the sale, possession or use of marijuana in violation of any applicable law.

Rule 2. Definitions

Rule 2.1 Definitions

The definitions contained in Sec. 2-14-30 of the Wellington Municipal Code (“WMC”) and CRS 44-10-103, as amended, shall apply equally to these regulations except where specifically defined below.

"Good cause" for purposes of refusing or denying license renewal, reinstatement or license issuance, includes:

a. The licensee or applicant has violated, does not meet, or has failed to comply with any provision of the Wellington Municipal Code, these rules and regulations, or any provision of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended;

b. The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority.

c. The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

"Good cause" for purposes of extension, continuance or other such procedural matters means unforeseen or emergency circumstances resulting in extreme and undue hardship that in the licensing authority's determination necessitates a deviation from the time restrictions contained herein, except those time restrictions imposed by state law or local ordinance.

"Local authority" means the Wellington Board of Trustees, or a separate local marijuana licensing authority appointed by the Board of Trustees.

"Posted on the property" for purposes of any required notices means on the proposed or licensed premises in a conspicuous location accessible to and in a place easily viewed by the public.

"Resident" for purpose of determining the neighborhood needs and desires means an owner or manager of a business, excluding a landlord, sublandlord or property owner of the proposed premises and the applicant, located within the neighborhood boundaries set by the city clerk.

"Secretary" means the town clerk of the Town of Wellington or designee.

Rule 3. Local Authority

Rule 3.1 Creation and purpose

Wellington Municipal Code Sec. 2-14-20 establishes the local licensing authority for the purpose of regulating and controlling the licensing and sale of marijuana in the town pursuant to the local licensing provisions and Colorado Marijuana Code, Title 44, Article 10, CRS, as amended. The local licensing authority shall have the final authority of review and approval on all such matters.

Rule 3.2 Powers

The licensing authority shall have all the powers and authority granted to the local marijuana licensing authority by the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, as well as those explicitly granted or reasonably inferred by the WMC. The licensing authority's powers shall include, but shall not be limited to, the authority to create its own procedural rules, administer oaths, and to issue subpoenas to require the presence of persons or the production of documents, books and records necessary to the determination of any hearing.

Rule 3.3 Duties

The licensing authority, along with the state licensing authority, shall enforce compliance with the requirements established in these regulations, local ordinances and the applicable provisions of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended.

Rule 3.4 Administrative penalties and remedies.

Any applicant or licensee who violates these regulations, any conditions of license issuance, any municipal code provisions related to marijuana establishments or any provision of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, and regulations, as applicable, shall be subject to such administrative penalties as the licensing authority deems appropriate, including without limitation license suspension, revocation or denial and the imposition of a fine, as set forth at Sec. 2-14-120 of the municipal code. A conviction shall be grounds for, but shall not be required prior to, the licensing authority taking action against a license.

Rule 4 Licenses and Applications

Rule 4.1 Licensure required

It shall be unlawful for any person to operate a retail marijuana store or medical marijuana store in the town without first obtaining a local license. A valid marijuana license from the State of Colorado is also required. The license requirements in these regulations shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law. The license does not provide any exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution or possession of marijuana. Upon denial or revocation of a state license, any license issued under these regulations shall be null and void. If a court of competent jurisdiction determines that the issuance of local licenses violates federal law, all licenses issued under these regulations shall by deemed immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the licensee.

Rule 4.2 General application requirements

All applicants and licensees shall follow the procedures set forth in Chapter 2, Article 14 of the municipal code and the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, pertaining to license applications. All applicants shall submit to the secretary a local license application, including background investigation of any associated key person and other application or renewal forms submitted to the State.

Rule 4.3 Fees

All fees must be paid at the time an application is submitted. An application will not be acted on until all fees have been paid in full. No license shall issue unless all fees are paid. All application fees are nonrefundable. A permit or license fee may be refunded only if the license or permit is denied, at the discretion of the licensing authority for good cause shown. No portion of the license or permit fee shall be refunded if the license or permit is suspended, revoked, surrendered or the business is otherwise terminated.

Rule 4.4 Restrictions for applications

Pursuant to WMC 2-14-70, no application shall be received or acted upon by the Authority until the Town establishes whether the proposed application meets the established distance restrictions set forth at WMC 2-14-70.A.2., and that the applicant has fully complied with all town zoning ordinances.

Rule 4.5 Preliminary findings

Upon receipt of a complete application (to include full payment of all required fees) and after investigation, the town attorney or designee will make preliminary findings in writing regarding the application and shall send such findings to the applicant not less than five days prior to the date of any scheduled public hearing. The findings shall encompass the following matters, by way of illustration and not limitation:

a. Whether the applicant is or will be entitled to possession of the premises for which the application is made;

b. Whether the retail marijuana store or medical marijuana store as contemplated by the application at the premises sought to be licensed is in full compliance with land development, fire, building or other applicable town ordinances, regulations, or rules of the town or any other applicable laws, regulations or rules of the State;

c. The number and type of marijuana businesses located in or near the neighborhood; and

d. The results of the background investigation concerning the Applicant.

Rule 4.6 Consideration of applications

a. New license applications. Upon receipt of a complete application for a new license (and payment in full of all required fees), the licensing authority shall review the application and all supporting documents to determine whether the application shall be granted or denied.

An incomplete application will be returned to the applicant with written instructions on the missing items to be included in the application. Pursuant to Wellington Municipal Code 2-14-50.A., the applicant shall be given seven days to remedy and supplement the application to conform with the local and state provisions, and these rules and regulations. Failure to submit a complete application in that time frame may result in denial of the application. WMC 2-14-50.A.

Before entering a decision, approving or denying the application, the local licensing authority shall consider the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which the application has been made, including the number, type, and availability of medical marijuana stores and retail marijuana stores located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant to conduct the type of business proposed. CRS 44-10-304.

In the event the licensing authority determines that additional evidence is necessary, a public hearing may be scheduled, pursuant to C.R.S. 44-10-303, as amended. The hearing shall be held not less than thirty days after the date the completed application is filed. Notice of the hearing shall be posted in a conspicuous place on the premises and published on the town's website no less than ten days prior to the hearing. Posting requirements set forth at C.R.S. 44-10-303(1)(b), (c), (d), as amended, are adopted. The hearing shall be open to the public, though comment and testimony of members of those in attendance will not be taken. The public hearing shall be recorded by electronic or other means.

The applicant bears the burden of proving that all qualifications for licensure have been satisfied, the applicant is fit to hold the requested license, and that the applicant is prepared to operate the business in compliance with the requirements of state and local law.

Within thirty days after the public hearing or completion of the application investigation, the licensing authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and state the reasons for the decision. A copy of the decision shall be provided to the applicant via first class mail to the address of applicant as provided on the application, or via electronic mail, to the e-mail address of applicant as provided on the application.

In the event the application for license is granted, the licensing authority shall not issue a local license until the building in which the business to be conducted is ready for occupancy after the issuance of a Certificate of Occupancy, and with such items as furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of Title 44, Article 10, C.R.S., as amended, and then only after the licensing authority or designee has inspected the premises to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

Rule 4.7 Good moral character

The licensing authority shall make a finding and determination as to the moral character of the applicant. A determination that the applicant is not of good moral character constitutes sufficient grounds for denial of the application, regardless of other qualifications. Good moral character means an individual who has a personal history demonstrating honesty, fairness and respect of the rights of others, and conformance to the law. It also includes the propensities of the applicant toward criminal conduct, in addition to any criminal record. In evaluating the moral character of an applicant, or manager, the licensing authority may consider the following factors:

a. The criminal history of the person, including the facts set forth at C.R.S. 25-5-101(2), as amended;

b. Denial, suspension, revocation or other disciplinary action of business and professional licenses currently or previously held by the applicant and the applicant's officers, owners, executives, and managers;

c. The types and dates of criminal or licensure violations, including whether the violations related to moral turpitude, substance abuse or public safety;

d. Evidence regarding abuse of intoxicating or controlled substances by the applicant and the applicant's officers, owners, executives, and managers;

e. Evidence of rehabilitation, if any, submitted by the applicant; and

f. Any additional information that may otherwise directly impact the applicant's ability to operate a marijuana establishment in conformity with applicable laws and regulations.

Rule 4.8 Prohibited licensees

Persons prohibited as licensees, as set forth at C.R.S. 44-10-307, as amended, is hereby adopted. In addition, no person who has been convicted of the offense of operating a marijuana business without the necessary state and local license in the preceding five years from the date of application shall be granted a local marijuana license.

Pursuant to CRS 44-10-307(1)(h), a license shall not be issued or held by a person who employs another person at a medical marijuana business or retail marijuana business who has not submitted fingerprints for a criminal history record check or whose criminal history record check reveals the person is ineligible.

Rule 4.9 Denial of application

The licensing authority shall deny any application that does not comply with Chapter 2, Article 14, WMC, or does not meet the requirements of Title 44, Article 10, C.R.S., as amended, or state and local rules and regulations. Where there is "good cause" for denial, as defined herein, the licensing authority may deny an application for licensure.

Upon denial of an application, the applicant may petition the licensing authority to reconsider the denial. WMC 2-14-50.D. The written petition for reconsideration shall be filed with the licensing authority within ten days of the date of the written order denying the application, and shall state the reasons the denial of the application was in error. Timey filing of a petition for reconsideration is jurisdictional. A late filing will not be accepted, and the denial of the license application shall be final. Hearing on the petition shall be scheduled, not less than thirty days from the date the petition to reconsider was filed.

At the hearing, the applicant bears the burden of establishing by a preponderance of the evidence that the denial of the application for the marijuana was an abuse of discretion by the licensing authority.

Appeal of the final decision of the licensing authority shall in the form of a Rule 106, C.R.C.P appeal to the Larimer District Court.

Rule 4.10 Renewal applications.

Renewal applications may be administratively approved by the secretary if the licensee has met all conditions of the license, has had no compliance issues during the preceding year, has no history of violations in the prior year, and there are no allegations against the licensee that would constitute good cause to deny the application. If a renewal application is not eligible for administrative approval, the licensing authority shall set the matter for hearing. Notice of the hearing shall be provided to the applicant and be posted on the premises at least ten days prior to the hearing. Upon request of the applicant, the licensing authority may continue the hearing for good cause. The licensing authority may refuse to renew any license for good cause, subject to judicial review.

If a licensee submits a timely and sufficient renewal application, the licensee may continue to operate until the application is finally acted upon by the licensing authority. CRS 44-10-3014(1).

Rule 4.11 Transfer of ownership

Upon receipt of an application for transfer of ownership, the licensing authority, in its sole discretion, may hold a public hearing on the application. If a hearing is scheduled, notice of the hearing shall be posted at the premises for a period of at least ten days prior to the hearing. The Secretary shall provide notice of the hearing to the applicant at least ten days prior to the hearing.

The applicant has the burden to prove that all of the qualifications of licensure have been satisfied, that the applicant is fit to hold the requested license, and that the applicant is prepared to operate the business in compliance with the requirements of the municipal code, the Colorado Marijuana Code, CRS Title 44, Article 10, as amended, and these rules and regulations.

After appropriate background investigation by the licensing authority (including criminal history check), the licensing authority shall consider the provisions of C.R.S. 44-10-307, as amended, “Persons prohibited as licensees,” in addition to other relevant provisions of relevant state and local law.

The licensing authority shall issue a written order granting or denying the application, discussing the grounds for the decision. A copy of the order shall be provided to the applicant via first class mail to the address on the transfer application, or via electronic mail to the e-mail address on the transfer application.

Rule 4.12 General hearing rules and procedures

a. All hearings shall be electronically recorded, or recorded via means to ensure an accurate record of the proceedings is recorded in the event of an appeal. Any person who testifies will be placed under oath.

b. All documents or exhibits that a party to a hearing intends to submit for consideration of the licensing authority must be marked, with a copy to the Secretary and opposing party at least five days before the hearing date, unless ordered otherwise by the licensing authority.

c. The licensing authority will admit exhibits and testimony if it is determined that the information is of probative value as determined by the licensing authority. The Colorado Rules of Evidence do not apply to the administrative hearings, though may be a guide for the licensing authority. The licensing authority may, in its sole discretion, limit the presentation of evidence and cross examination to prevent the admission of repetitive, cumulative, incompetent or irrelevant evidence. The licensing authority may ask questions of witnesses.

d. Only parties in interest may present evidence and testimony at hearings. “Parties in interest” include the applicant (including all owners of more than 10% interest of the corporation of LLC applicant), counsel for the applicant, the town attorney or designee attorney representing the interest of the town, and any person deemed of interest at the discretion the licensing authority.

e. The town will, upon written request, provide a qualified language interpreter in person or via telephone during the hearing if either the applicant or a witness has limited English proficiency.

f. At the close of the evidence and arguments, the licensing authority may either make the determination immediately or after taking the matter under advisement. A written decision shall be issued with any application for a new license, as provided herein.

Rule 5. General License Provisions

Rule 5.1 Licensee to manage licensed premises

Pursuant to C.R.S. 44-10-313(12), as amended, each licensee shall manage the licensed premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. The licensee shall report any change in manager to the state and local licensing authorities prior to the change.

A medical marijuana business or retail marijuana business that is not a publicly traded corporation shall notify the licensing authority in writing of the name, address, and date of birth of a controlling beneficial owner, passive beneficial owner, or manager before the new controlling beneficial owner, passive beneficial owner, or manager begins managing or associating with the operation. Any controlling beneficial owner, passive beneficial owner, manager or employee must pass a fingerprint-based criminal history check as required by the state licensing authority and obtain the required identification prior to being associated with, managing, owning, or working at the operation. C.R.S. 44-10-313(4).

Rule 5.2 Exercising privilege under license

Each license issued under Title 44, Article 10, C.R.S., as amended, and the Wellington Municipal Code, is separate and distinct. It is unlawful for a person to exercise any of the privileges granted under a license other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee’s license. A separate license is required for each specific business or business entity and each geographical location. Violation of this section may result in the suspension or revocation of the license pursuant to the provisions herein.

Rule 5.3 Possession of premises

At all times, a licensee shall possess and maintain possession of the premises for which the license is issued by ownership, lease, rental or other arrangement for possession of the premises.

Rule 6. Non-renewal, suspension or revocation of license

Rule 6.1 Initiation of hearing process

In addition to any other sanctions prescribed by Tile 44, Article 10, C.R.S., as amended, or rules promulgated pursuant to Title 44, Article 10, C.R.S, as amended, or these rules and regulations, the licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee must be afforded an opportunity to be heard, to fine a licensee or to suspend or revoke a license issued by the licensing authority for a violation by the licensee or by any of the agent, manager or employee of the licensee of any provision of state or local law, including state and local rules and regulations, or of any the terms, conditions or provisions of the license issued by the licensing authority.

The licensing authority, on its own motion, may issue an Order to Show Cause and Notice of Hearing. Or, the town attorney, or designee attorney, may file a written request for show cause hearing, supported by an affidavit attesting to the specific facts establishing probable cause to believe that the licensee, agent, manager or employee violated state or local law related to the licensing and/or operation of a medical or retail marijuana store. If the licensing authority finds there is probable cause to believe that the licensee, agent, manager or employee of licensee violated any provision of applicable state or local law related to marijuana establishments, including any violation of state or local rules and regulations, the licensing authority may issue a Show Cause Order and Notice of Hearing.

Any Order to Show Cause and Notice of Hearing shall be personally served on the licensee via hand-delivery, via first class mail to the address as listed on the most recent application filed with the licensing authority, or via electronic mail to the e-mail address as listed on the most recent application filed with the licensing authority.

Rule 6.2 Hearing, burden of proof

At the show cause hearing the town attorney, or designee attorney, shall prove by a preponderance of the evidence that the licensee, agent, manager or employee violated any provision of the Colorado Marijuana Code, Title 44, Article 10, CRS, as amended, any provision of the Wellington Municipal Code related to marijuana licensing, or any provision of state or local rules and regulations, related to the licensing and/or operation of a medical or retail marijuana store, or failed to comply with any the terms, conditions or provisions of the license issued by the licensing authority.

The licensee shall have the opportunity to cross examine any witness called to testify in favor of the town, present witnesses on its own behalf and make legal argument.

All provisions of Rule 4.12 herein related to the conduct of hearings shall apply to any show cause hearing.

The licensing authority shall issue written findings addressing all alleged violations by the licensee. In the event the licensing authority finds that a violation or violations of law did occur, penalty shall be imposed. A copy of the findings and order shall be served on the licensee personally, by hand delivery, via first class mail or electronic mail as provided herein.

Rule 6.3 Suspension, Revocation

Upon finding a violation of law by the licensee, agent, manager or employee, the licensing authority may revoke the marijuana license or suspend the marijuana license for a period not to exceed six months.

Upon finding the licensee failed to comply with any terms, conditions or provisions of the license, the licensing authority may revoke the marijuana license or suspend the license for a period not to exceed six months.

At the discretion of the licensing authority, pursuant to WMC 2-14-120, all or part of the days of suspension may be held in abeyance on conditions specifically set by the licensing authority. Also, at the discretion of the licensing authority, pursuant to WMC 2-14-120, the authority may allow the licensee to pay a fine in lieu of all or part of any suspension.

Rule 6.4 Summary suspension

Nothing in this section prevents a summary suspension of a license when the licensing authority has objective and reasonable grounds to believe and finds, upon a full investigation, that the licensee has been guilty of deliberate and willful violation or that the public health, safety, or welfare imperatively requires emergency action. The licensing authority may summarily suspend the license pending proceedings for suspension or revocation which shall be promptly instituted and determined. For purposes of this section, "full investigation" means a reasonable ascertainment of the underlying facts on which the agency action is based. C.R.S. 24-4-401(4)(a).

Rule 6.5 Fine in lieu

Pursuant to WMC 2-14-120(C), the licensing authority may, in its sole discretion allow the licensee to pay a fine in lieu of serving all or part of the suspension. When the decision of the licensing authority suspending a license for fourteen days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon receipt of the petition, the licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made that it deems desirable and may, in its sole discretion, grant the petition upon making specific findings as set forth at WMC 2-14-120.C.

Rule 7 Medical marijuana store license; retail marijuana store license

Rule 7.1 Medical marijuana store license

A licensee holding a medical marijuana license issued by the licensing authority shall fully comply with all provisions of CRS 44-10-501, as amended, "medical marijuana store license," and all state and local provisions related to the operation of said business.

Rule 7.2 Retail marijuana store license

A licensee holding a retail marijuana license issued by the licensing authority shall fully comply with all provisions of CRS 44-10-601, as amended, "retail marijuana store license," and all state and local provisions related to the operation of said business.

Rule 8 Amendments

These rules and regulations may be amended from time to time by the licensing authority.

Adopted and effective this _______ day of ____________________, 2022.

WELLINGTON MARIJUANA LICENSING AUTHORITY

By_____________________________
Kristin N. Brown

ATTEST

____
Krystal Euker, Town Clerk

TOWN OF WELLINGTON
MARIJUANA LICENSING AUTHORITY

Summary MLA Rules & Regulations: Application for New License

Rule 3.1 - Creation, purpose

Local Marijuana Licensing Authority created.

Rule 4.4 - Restrictions on applications

No application to be received or processed until Town establishes proposed location for license meets zoning distance requirements, and complies with all Town zoning ordinances.

Rule 4.5 - Preliminary findings

Upon receipt of complete application and payment of all fees, Town Attorney or designee, to issue written preliminary findings re: details of application, zoning, compliance with WMC and codes adopted by the Town, result of background check on applicant(s).

Rule 4.6 - Consideration of applications.

MLA to consider facts and evidence from background investigation, including the number, type and availability of medical marijuana stores and retail marijuana stores in or near the premises under consideration, and other pertinent information as determined by the MLA.

If additional evidence necessary, public hearing to be scheduled. Notice of hearing to be posted on premises and posted on town's website no less than 10 days prior to hearing. Hearing is open to the public. Public comment not taken. Hearing to be recorded.

Applicant bears burden to prove all qualifications for licensure. Standard of proof is by preponderance of the evidence. Applicant to make presentation to MLA, offer sworn testimony of owner(s), other witnesses in in support of application. MLA members may question applicant and other witnesses presented by applicant.

Rule 4.7 - Finding of good moral character

MLA to determine whether applicant is of "good moral character" to hold license. "Good moral character" means an individual who has personal history demonstrating honesty, fairness and respect of the rights of others, and conformance to the law. Also includes any propensity of the applicant to criminal conduct, in addition to any criminal record (applicant to submit fingerprints with application for criminal history background).

Rule 4.8 - Prohibited licensees

No person who has been convicted of an offense of operating a marijuana business without a license in the past five years shall be granted a local license.

Rule 4.9 - Denial of application

MLA shall deny application that does not comply with WMC Chapter 2, Article 14, related to Retail and Medical Marijuana licensing, or does not meet the requirements of CRS, Title 44, Article 10, related to marijuana licensing.

Upon denial of an application, the applicant may petition the MLA to reconsider the denial. Ten day deadline to file written petition for reconsideration. No late application to be received or acted upon. Applicant bears the burden of establishing by a preponderance of the evidence that the denial of the application was an abuse of discretion.

Rule 4.11 - General hearing rules and procedures

Hearings to be electronically recorded. Any witness is required to testify under oath.

The Colorado Rules of Evidence to not apply to hearings, but may be a guide to the MLA. The authority may limit the presentation of evidence and cross examination to prevent admission of repetitive, cumulative, irrelevant evidence. The MLA members may ask questions of the applicant and other witnesses.

Only a party in interest may present evidence (applicant - all owners of more than 10%, counsel for the applicant, town attorney or designated counsel for the MLA, any person designated by the MLA as a party of interest).

A written decision shall be issued by the MLA on any application for new license. Appeal of MLA decision is to the Larimer District Court.

Relevant statutory provisions:

CRS 44-10-301: Local licensing authority - applications - licenses.

CRS 44-10-303: Public hearing notice - posting and publication.

CRS 44-10-304: Results of investigation - decision of authorities - medical marijuana.

CRS 44-10-307: Persons prohibited as licensees - definitions.

CRS 44-10-308: Business and owner requirements - legislative definition - definition.

CRS 44-10-311: Restrictions for applications for new licenses.

CRS 44-10-313: Licensing in general.

CRS 44-10-501: Medical marijuana store license.

CRS 44-10-601: Retail marijuana store license - rules and definitions.

Board of Trustees Meeting

Date: May 17, 2022
Submitted By: Dan Sapienza
Subject: Board of Trustees Meeting Policies and Procedures

- **Presentation: Dan Sapienza, March & Olive, LLC**

EXECUTIVE SUMMARY

The purpose of this discussion is to develop board policies and procedures for the conduct of meetings. Discussion areas include agenda setting, attendance, virtual attendance, Rules of Order, Time limits for presentation and discussion, Time limits for Meeting and conflicts of interest. Policies and examples are included in the packet to stimulate ideas and discussion. The goal is to focus on how the board wants meetings to operate moving forward. Some ideas will be brought back for formal board policy adoption or possibly further work session discussion.

BACKGROUND / DISCUSSION

See the following page for a list of items for discussion, a summary of each issue, potential discussion topics, current procedures, and some examples. Prior to discussion, the Board should determine a proposed time limit for each sub-item, to ensure that all items can be discussed in the limited time of the work session. The list of "potential discussion topics" for each item is not intended to be a limiting list, only a small list of potential discussion areas.

Where outside materials are provided, they should be seen as reference materials for idea generation and discussion, not recommendations or even "best practices."

1. Agenda Setting
2. Attendance
3. Virtual attendance and participation by Trustees
4. Rules of Order
5. Time limits for presentation and discussion
6. Time limits for Meeting
7. Conflicts of interest

STAFF RECOMMENDATION

ATTACHMENTS

1. May 17 Meeting Items for Discussion
2. Town of Nederland - Board of Trustees Rules of Procedure
3. 2015 Board Policy on Agendas, Agenda for Oct. 27, 2015, Page 5 of Minutes for October 27, 2015
4. 2016 Bob's Rules (Colorado Municipal League)
5. 2021 Bob's Rules (Colorado Municipal League)
6. Town of Wellington Resolution 32-2016 - Town Board Governance Policy
7. Wellington, CO Municipal Code - Ch. 2 Art. 6 - Ethics

May 17, 2022 Board of Trustees Work Session

Agenda Item on Board Policies and Procedures.

1. **Agenda Setting**
   a. **Summary:** Due to the Colorado Open Meetings Act, placing items on the agenda is the only method by which action can be taken by the Town. If an item is not given adequate public notice, no action can be taken by the Board. While the Mayor has authority to place items on the agenda, there has been an interest in how other Trustees can do the same
   b. **Potential Discussion Topics:**
      i. Mayor's Roll in agenda setting.
      ii. Requests from other Trustees – number required for inclusion
      iii. Requests from the Public
      iv. Threshold for use of staff time on potential agenda item
   c. **Current Town of Wellington Policy/Procedure:** Mayor sets agenda. Other trustee's can request items to be included with approval of mayor. With two additional Trustees, item can be placed on agenda without Mayoral approval. See 2015 Policy.
   d. **Examples:**
      i. Town of Nederland included in Packet

2. **Attendance**
   a. **Summary:** It has been suggested that Trustees should be bound to adhere to an attendance policy, with some number of "excused" and "unexcused" absences. A potential challenge for this sort of policy in a non-home-rule municipality is that a Trustee cannot be removed automatically: removal of a Trustee requires public hearing and a vote by the Board of Trustees.
   b. **Potential Discussion Topics:**
      i. Benefits and risks of an attendance policy.
      ii. Consequence for violation of policy.
      iii. Application to regular board meetings only, or also to include work sessions, retreats, special meetings, etc.
      iv. Time frame for policy – "Two absences in one calendar year" or "two absences in 12-month period" or "two absences during term of office."
   c. **Current Town of Wellington Policy/Procedure:** None.
   d. **Examples:**
      i. Town of Oak Tree
         - 10.1 Attendance. All members of the Town Board shall attend all meetings of the Town Board and shall not be excused from attending, except by majority consent of the Town Board.
         - 10.1.1 A member of the Town Board shall not leave the meeting facility while the board meeting is in progress, unless excused by the presiding officer.
         - 10.1.2 Two consecutive, unexcused absences, of a board member, from meetings, may be cause for dismissal from the Board.

ii. New Castle
   - Occurrence of a Vacancy A vacancy shall occur whenever a Council Member dies, becomes incapacitated, or resigns. A vacancy shall also occur whenever a Council Member fails to attend four consecutive regular meetings of the Council or fails to attend at least seventy-five percent (75%) of the regular meetings of the Council within any twelve (12) month period after being elected, provided, however, that a majority of the entire Council may vote to excuse one or more absences for unusual and extenuating circumstances. An excused absence shall not be counted for the purpose of this provision. For the purpose of this provision only, to "attend" a meeting means to attend a substantial portion of such meeting as determined by a majority of the entire Council.

iii. Town of Nederland included in Packet

3. Virtual attendance and participation by Trustees

a. Summary: Prior to COVID-19, the Town of Wellington had no provision for remote meetings of the Board of Trustees. With adoption of Sec. 2-2-85, there exists an option for a completely virtual meeting, if required due to public health emergency or “other unforeseen circumstances affecting the town.” With the ongoing COVID crisis, Trustees would sometimes “remote in” to regular in-person meetings, but there has been no formal policy adopted.

b. Potential Discussion Topics:

i. Should remote participation be allowed?
ii. Limited reason for remote participation? Vacation vs medical emergency
iii. Interaction with attendance policy, if any
iv. Quasi-Judicial hearings

c. Current Town of Wellington Policy/Procedure: No formal policy. Practice has allowed some remote participation in meetings, but quorum requires in-person quorum.

d. Examples:

i. Loveland - Members of Council may participate remotely using the same Zoom meeting procedures, but are encouraged to use their City-issued computer for remote participation. If there is no background noise, Members of Council may remain unmuted throughout the City Council meeting. If background noise interferes with the meeting, the host may mute the Member of Council, and the Member will have to request to be unmuted through the computer’s Zoom chat feature. In order to ensure that all Members of Council have a chance to participate, the Mayor will recognize and ask each Council Member, whether attending in person or participating remotely, if that Council Member has questions or comments on each item or section of the Agenda. Council Members will wait until the Mayor has called on all other Council Members before a second round of questions or comments begins. The Mayor will continue this process to recognize and call on each Council Member to address comments and questions, subject to its established rules. No Member of Council may participate remotely during any quasi-judicial proceeding, although the member may stay on the line. If there is not a quorum with sufficient Members of Council present in person, the quasi-judicial matter will be rescheduled to a future date certain.

4. **Rules of Order**
    a. **Summary:** The Rules of Order are the procedures by which a meeting is run, including motions, agendas, and who is permitted to speak. The Town Code requires the use of Robert's Rules, but the Town has followed "Bob's Rules" instead, as a simplified procedure.
    b. **Potential Discussion Topics:**
        i. Continue with Bob's Rules
        ii. Only follow Robert's Rules
        iii. Conflict of Rules
    c. **Current Town of Wellington Policy/Procedure:** WMC 2-2-80(d). The business of the Board of Trustees shall be conducted in accordance with the prepared agenda which only may be altered by approval of the Board. Meetings of the Board of Trustees shall be conducted by the Mayor, according to Robert's Rules of Order, Revised, unless otherwise provided in this Code, state statute or other policies or procedures adopted by the Board of Trustees.

       The Board adopted Resolution 32-2016, adopting Bob's Rules as the supplement to Robert's Rules.

5. **Time limits for presentation and discussion**
    a. **Summary:** Due to the length of Board Meetings, there has been a suggestion that presentation to the board and also board debate be limited.
    b. **Potential Discussion Topics:**
        i. Requiring planned presentation length to be listed on agenda
        ii. Five minute time limit for Trustee to have floor before moving onto other Trustee
    c. **Current Town of Wellington Policy/Procedure:** None.

6. **Time limits for Meeting**
    a. **Summary:** At the retreat, it was discussed that meetings be required to end by a certain time (9:30pm or 10:00pm) unless extended by vote.
    b. **Potential Discussion Topics:**
        i. Desire for such a policy
        ii. Result for agenda items after cut off
        iii. Time for ending meeting
        iv. Number of extensions allowed and length of extensions
    c. **Current Town of Wellington Policy/Procedure:** None.
    d. **Examples:**
        i. Town of Nederland included in Packet

7. **Conflicts of interest**
    a. **Summary:** WMC 2-6-20(c) "The Board of Trustees determines that ethical standards among its members, appointed officers and employees, as well as the members of the various boards and commissions of the Town, are essential to the public affairs of the Town. The Board of Trustees intends to prohibit the appearance of impropriety as well as actual conflicts of interest. The purpose of this Code of Ethics is to establish guidelines for standards of conduct for all officials and employees of the Town by setting forth those acts or actions that are incompatible with the best interests of the Town; by directing disclosure by such officials and employees of private, financial or other substantial interests in matters affecting the Town; and by imposing sanctions upon public officers or employees who violate the provisions of this Code of Ethics. This Code of Ethics is hereby declared to be in the best interest of the Town."

       The intent is to discuss expectations among the Trustees about conflicts of interest on agenda items and actions to be taken when recusal is necessary.
    b. **Potential Discussion Topics:**
        i. Recusal process
        ii. Notice of Conflict of Interest
        iii. Stay at dais vs sit in audience vs leave room
    c. **Current Town of Wellington Policy/Procedure:** See attached Code of Ethics from the Wellington Municipal Code.
    d. **Examples:**
        i. Town of Nederland included in Packet

NEDERLAND BOARD OF TRUSTEES RULES OF PROCEDURE

(Amended May 2014)

RULE I
PURPOSE

These Rules of Procedure are to govern the actions of Town of Nederland Board of Trustees in the conduct of its business and serve as a reference in resolving procedural issues. Upon taking office, all Trustees shall review and become familiar with the Rules of Procedure.

RULE II
CONDUCT OF BOARD OF TRUSTEES MEETINGS

A. Regular Meetings/Business Meetings/Work Sessions – Scheduling

1. **Regular meetings** of the Nederland Board of Trustees shall consist of "business meetings" and "study sessions" also known as "work sessions". As a general proposition, business meetings will be held at 7:00 p.m., on the first and third Tuesday of each month and work sessions will be held as determined necessary and set by the Mayor and Town Administrator. Generally, all such meetings shall be held in the Multi-purpose Room at the Nederland Community Center.

2. **Business meetings** present the appropriate forum for formal Board of Trustees action. Business meetings shall also provide an opportunity for general public input and comment as well as scheduled public hearings. Proclamations, public recognitions and awards are appropriate to business meetings as are committee reports from Board of Trustees Members.

3. **Work sessions** will provide the Board of Trustees with an opportunity to explore and discuss in detail matters that have been placed on the work session agenda. Members of the public, speakers, or persons (not including Town staff or consultants) presenting information to the Board of Trustees at work sessions shall be allowed to address the Board of Trustees only with the approval of the majority of the Board of Trustees present at the work session or as previously approved by the Mayor or a majority of Board of Trustees present when setting the agenda for such sessions. Work sessions shall also be utilized to review and establish upcoming agendas for both work sessions and business meetings. No final action shall be taken at work sessions.

4. **Special meetings** may be either business meetings or work sessions. The Town Clerk may call a special meeting on the request of the Mayor or any two (2) members of the Board of Trustees with at least 48 hours written notice to each Trustee and the Town Administrator, served personally or left at such person's usual place of residence. Any Trustee may waive notice of the meeting, and a Trustee's presence shall constitute a waiver

of notice of the meeting. No business may be conducted at a special meeting except that specifically provided for in the notice.

5. **Emergency meetings** may be called by the Mayor or any two (2) Board of Trustees members in the event of an emergency that requires the immediate action of the Board of Trustees in order to protect the public health, safety and welfare of the residents of the Town. Notice of such emergency meeting may be given to the Board of Trustees by telephone or whatever other means are reasonable to meet the circumstances of the emergency. At such emergency meeting, any action within the police power of the Board of Trustees that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided, however, that any action taken at an emergency meeting shall be effective only until the first to occur of (a) the next regular meeting, or (b) the next special meeting of the Board of Trustees at which the emergency issue is on the public notice of the meeting. At such subsequent meeting, the Board of Trustees may ratify any emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded.

B. Attendance at Board of Trustees Meetings

1. It shall be the responsibility of each Board member to contact the Town Clerk, Town Administrator, or Mayor as soon as it is known that such member will not be in attendance at a meeting of the Board of Trustees. In the event a Board member is not in attendance at a meeting, such absence shall be considered excused, unless any Board member objects to the excusal of such absence. In the event of objection, the Board of Trustees shall determine by majority vote whether the absence is excused or unexcused. In the event a Board member is absent for three (3) regular meetings in a two-year term, any absence thereafter shall be considered unexcused unless the Board of Trustees has previously approved the extended absences.

2. When a member's absence from a meeting is declared unexcused by the Board of Trustees, at the next succeeding regular meeting attended by the unexcused member, the member may explain the reason for the subject absence and request that the Board of Trustees reconsider its determination. Such reconsideration may occur upon the concurrence of a majority of the Board of Trustees present.

3. More than three (3) unexcused absences within a two-year term may subject a Trustee to disciplinary action by a majority vote of the rest of the Board.

C. Attendance at Other Entity Meetings and Social Gatherings.

1. The Town may be represented by its elected officials at meetings of other entities, including, without limitation, intergovernmental organizations, neighborhood organizations, business and service organizations, and other organizations or groups with whom the Town has a relationship.

2. Trustees may attend social gatherings or meetings of other groups without the public notice required by the Open Meetings Law, C.R.S. § 24-6-401, et seq., however public

notice must occur when three or more Trustees attend and the meeting is convened to discuss public business.

D. Board of Trustees Packets/Agenda Items

1. Board of Trustees' agendas shall be posted to the Town of Nederland website, at Town Hall, and at the Nederland Post Office at least two (2) days preceding the Board of Trustees business meeting or special meeting. Packets, containing the agenda and applicable documents, will be posted to website at least 24 hours in advance and usually on the Friday prior to the Tuesday regular meeting.

2. Trustees will be notified of the packet's posting via email. Each Trustee is responsible for thoroughly reviewing all material within the packet prior to the applicable meeting. If a Trustee has a question or issue for the Town staff, the Trustee should attempt to contact the administrator or appropriate staff member within a reasonable time prior to the meeting, when possible, so he/she may prepare a response or be prepared to respond.

3. Direction for preparation of an agenda item shall require at least a majority of Trustees present to direct staff to expend substantial time on any matter. The preparation of agenda items that require significant staff time, as determined by the Town Administrator, must be approved by a majority of the Trustees present. The Mayor may set the order of the agenda. As standard procedure, agenda items should not be added or deleted after the agenda has been finalized by the Town Clerk's office, but such may occur with the consent of the Mayor and in accordance with applicable laws such as open meetings notice requirements.

4. The Mayor may delegate to the Town Administrator the preparation of the Board of Trustees agenda. The agenda may be modified by the Mayor or Town Administrator within twenty-four (24) hours of a meeting or work session, subject to compliance with legal notice requirements and notice to Trustees (such as personal, written, telephonic and electronic communications). A Trustee may request the Mayor or Town Administrator to modify the agenda, subject to the discretion of the Mayor or Administrator to comply with such request.

5. Items for inclusion on the agenda shall be submitted to the Town Clerk no later than six (6) days prior to a business meeting or work session.

6. Members of the public may petition the Mayor and Town Administrator to have an issue placed on the agenda by submitting a form available from the Town Clerk. Acceptance of such potential agenda item is at the discretion of the Mayor and Town Administrator.

E. Mayor's Duties

1. The Mayor shall, at the designated date and time, call the Board of Trustees to order and upon ascertainment of a quorum proceed with business.

2. As the Board of Trustees chair, the Mayor is responsible for conducting the meeting in an orderly and democratic fashion, and

a) Shall decide all questions of order, subject to a member's right to appeal to the Board of Trustees as a whole;

b) May speak to points of order in preference to other Trustees;

c) May respond to/from the podium;

d) Shall appoint, where applicable, all advisory groups, such as committees and task forces, whether standing, joint or special, unless Nederland Municipal Code provides otherwise;

e) May call a recess at any time during a meeting to determine a rule of order or at the request of a majority of the Board of Trustees or for the convenience of Trustees or staff.

f) Ensure that all discussions are related to the topic at issue.

g) Shall announce the result promptly upon completion of every vote.

h) Shall sign all ordinances and resolutions passed by the Board of Trustees.

3. Cancelation of Meetings

The Mayor may cancel or reschedule any regular meeting with at least 48 hours' notice to Trustees, except that at least one (1) regular meeting shall be held per month.

4. Removal for Disorderly Conduct.

In the event any person(s) interrupts the business of the Town Board of Trustees or causes a disorder, the Mayor may require such person to cease such behavior and/or leave the Board of Trustees meeting room. Should such person fail to comply, the Mayor may request a police officer be summoned and have such person removed.

5. In the absence or inability of the Mayor to serve, the Mayor Pro Tem shall preside and have all powers and duties of the Mayor.

F. Members' Duties

1. In order for the Board of Trustees to conduct official business, either the Mayor or the Mayor Pro Tem must be present to chair the meeting.

2. Trustees should be on time for all meetings and promptly return from any recess or break.

RULE III
ORDER OF BUSINESS

A. Business Meetings

1. After the Mayor's Call To Order, the Board of Trustees will generally consider business in the following order:

a) Roll Call
Following Roll Call, the Mayor will announce whether a quorum is present.

b) Consent Agenda (Warrants, Minutes, and Previously discussed Action Items and business that do not require roll call vote)
Includes items that can be approved without discussion or debate and are usually approved by unanimous vote. Prior to the motion to approve, a Board member may request removal of an item on the Consent Agenda. Items removed will be considered in the order they appeared on the agenda.

c) Staff Reports (second meeting of the month)

d) Mayor and Trustee Reports (second meeting of the month)

e) Public Comment

f) Information Items (Reports, Proclamations, Recognitions and Awards)

g) Action Items (Approval of Ordinances, Resolutions, Town projects, Town policies, Contracts, etc.)

h) Discussion Items (Discussion of future Action Item topics, without formal action taken)

i) Other Business (New business, Updates to previous reports, etc.)

j) Adjournment

2. At 10:00 p.m., if the regular meeting of the Board of Trustees has not adjourned, the Board of Trustees shall follow these procedures:

a) All agenda items not previously considered shall be continued to an hour and day set by the Board of Trustees; or

b) The Board of Trustees may vote for a thirty-minute extension of the proceedings, but may not continue for more than two (2) thirty-minute extensions.

3. Trustees should limit discussion of Other Business to a brief review of the matter. If a majority of Trustees request that formal action be taken, the matter shall be placed on

the agenda for a future work session or business meeting. At such work session or business meeting, Trustees may discuss the specific details of the matter.

B. Work Sessions

After the call to order, Board of Trustees will generally consider business in the following order:

1. Roll Call

2. Work Session Agenda Items

3. General Comments of Board of Trustees/Staff

4. Adjournment

C. Executive Sessions

1. Executive sessions are held in accordance with state statute and permit an affirmative vote of two-thirds of a quorum present to call an executive session at either a regular or special meeting. No formal action can occur at an executive session. The motion for executive session shall describe as specifically as possible the subject of the executive session so long as such description does not disclose any information that would potentially harm the public interest.

2. Only the following matters may be discussed at an executive session:

a) The purchase, acquisition, lease, transfer or sale of any real, personal or other property interest;

b) Conference with the Board's attorney for the purpose of receiving legal advice on specific legal questions;

c) Matters required to be kept confidential by federal or state law;

d) Details of security arrangements or investigations;

e) Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiation and instructing negotiators;

f) Personnel matters, unless the employee requests an open meeting;

g) Consideration of documents protected by the Open Records Act; and

h) Other matters allowed by state law.

D. Modification of Order of Business

Unless an objection is raised by a Trustee, the Mayor may proceed out of order or return to a matter previously considered. In case of objection, the agenda's order or reconsideration of a matter will not be changed unless approved by a majority of Board of Trustees present. A Trustee may move to consider an item out of order, with the approval of the Mayor.

E. Quorum

A quorum shall be a majority of the members of the Board of Trustees in office at the time for the transaction of business at all Board meetings. In the absence of a quorum, a lesser number may adjourn any meeting to a later time or date, and in the absence of all members, the Town Clerk may adjourn any meeting for not longer than one (1) week. For meetings at which less than a quorum is in attendance, a majority of the members present are authorized to send the Town Marshal or other person for the absent members, as such majority of members may agree.

F. Public Participation

Regular Board meetings and study/work sessions are open to the public. At regular Board meetings, provision is made for public comment so interested individuals or spokespersons for various organizations may present their views directly to the Board of Trustees. The time limits for procedures in this Section may be suspended for any agenda item by majority vote of the quorum present.

1. Members of the public shall have the opportunity to comment on certain matters before the Board. Each person shall first sign a public comment sheet listing his name, address, and identifying the issue on which he would like to comment. Public comment sign-up sheets shall be prepared by the Town Clerk and placed at the entrance to the Board chambers.

2. Public comment to the Board of Trustees on other than agenda items is scheduled at the beginning of each formal Board meeting and shall be scheduled for a total period not to exceed thirty (30) minutes without approval of a majority of the Board members present.

3. The presiding officer will call each individual listed, who will have three (3) minutes to address the Board of Trustees. Individuals who have registered to comment on a subject may cede a portion or all of their time to another individual; however no individual may speak for more than six (6) minutes. All individuals or spokespersons desiring to address the Board of Trustees on any agenda item or other business must state name and general address before offering their comments.

4. Individuals who are not registered or have additional comments will be allowed one (1) minute to address the Board of Trustees on any item following the registered listing call.

5. All individuals shall observe proper decorum and avoid the use of abusive or profane language in the meeting room and when addressing the Board of Trustees. In the event that abusive or profane language is used or an individual otherwise disrupts the meeting, such individual may be removed from the meeting room by the Town Marshal.

6. Persons other than members of the Board of Trustees and Town officers shall not be permitted to address the Board of Trustees except upon recognition by the presiding officer. If anyone other than a Town official desires to speak to a member of the Board of Trustees while the Board is in session, the member, if agreeable to the request and upon approval of the presiding officer, shall rise and retire to the rear of the Board chambers or elsewhere until the conversation is finished.

7. Unsigned communications shall not be introduced to the Board of Trustees.

RULE IV
RULES OF SPEAKING/DECORUM

A. Recognition

1. No Trustee shall speak until such member has addressed and/or been recognized by the Mayor.

2. When recognized by the Chair, a member's comments shall be confined to the question under debate, avoiding personalities and refraining from impugning the motives of any other member's argument or vote. All discussion shall occur only upon recognition of the presiding officer.

3. When a Trustee is speaking, no other Trustee shall interrupt or conduct a private conversation.

B. Decorum

1. All Trustees shall be familiar with and at all times abide by the *Nederland Board of Trustees' Code of Conduct.*

2. No Trustee may leave the meeting while a meeting is in progress without the request and permission of the Mayor. In such event, the Mayor may delay Board of Trustees action or proceed without the absent member(s) unless the matter before Board of Trustees is quasi-judicial. Failure to obtain permission shall result in the Trustee's accrual of an unexcused absence.

3. No Trustee shall engage in conversation or commit any other act tending to distract the attention of Board of Trustees from the business before it.

4. When speaking or debating, Trustees shall confine their remarks to the question under discussion or debate and shall not engage in discussion directed to personal matters or issues. Trustees shall respect the divergent opinions and comments of others and shall not engage in personal, verbal attacks or comments or behavior disrespectful of each other,

staff, or other persons. All discussion shall occur only upon recognition of the presiding officer.

C. Right of Appeal

Any member may appeal to the Board of Trustees from a ruling of the presiding officer. If the appeal is seconded, said member making the appeal may briefly state a reason for the same, and the presiding officer may briefly explain the basis for said officer's ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the chair be sustained?" If a majority of the members present vote "Yes," the ruling of the Chair is sustained; otherwise it is overruled.

D. Limitation of Debate

No member of the Board of Trustees shall be allowed to speak more than once upon any one (1) subject until every other member choosing to speak shall have spoken, and no member shall speak more than twice upon any one (1) subject, nor for a longer time than ten (10) minutes, without consensus of the Board of Trustees.

E. Conflict of Interest

In the event that the Mayor or a Board member has a conflict of interest that requires disclosure pursuant to state law, such person shall disclose such interest, in writing or during a meeting, as soon as the conflict of interest is known. If the Mayor or a Board member has a conflict of interest which such person has not disclosed, such a conflict may be addressed by any other Board member, and the Board of Trustees may determine by a majority of those present that a conflict of the Mayor or a Board member exists. If the Mayor or a Board member has a conflict of interest, whether self-disclosed or determined by the Board of Trustees, such person shall abstain from voting on the issue. If the vote of a member is necessary to obtain a quorum or otherwise enable the Board of Trustees to act, the member may vote only after disclosure in the office of the Secretary of State as provided by state law.

F. Recesses

1. In the Mayor's sole discretion, the Mayor may call a recess at any time during a formal Board meeting.

2. During a recess:

   a) Board members may discuss procedures for considering a particular substantive issue before them;

   b) Three or more Board members shall not convene and discuss substantive issues before them, including through electronic means;

c) Board members shall not take formal votes, make final policy decisions or take any other formal action; and

c) No one shall be excluded from Board of Trustees discussions involving a sufficient number of members to constitute a quorum.

RULE V
VOTING

A. Voting Generally

1. Every Trustee, including the Mayor, must vote unless: a) the matter concerns Trustee's own conduct; b) Trustee has a conflict of interest, which, by applicable law, requires Trustee to abstain from voting. In those instances, the Trustee shall not participate in the discussion of the issue. The failure to vote when required to do so shall be considered an affirmative vote.

2. Votes may be taken either by voice vote or by roll call vote. A voice vote is achieved by asking those in favor of an item to indicate such as a group and then by asking those in opposition to an item to likewise indicate as a group. A roll call vote is achieved by having each board member individually indicate his vote either in favor of or in opposition to the item. All votes are announced by the Mayor with the assistance of the Town Clerk, if necessary.

3. Roll call votes are recorded in the minutes and indicate the names of the Board members who voted in opposition. Any Board of Trustees member may call for a roll call vote at any time.

4. The order of a roll call vote shall rotate with each vote taken.

5. All ordinances, resolutions and order for the appropriation of funds require an affirmative vote of a majority of the Town Board through a roll call vote. All other actions may be approved by a majority of those <u>present</u>. No votes may be taken unless a quorum is present.

6. In case of a tie vote on any motion, the motion shall be considered defeated. In the event an applicant/proponent is present for the matter in question, the Mayor may, prior to calling for a vote, ask such individual whether, because an even number of Town Trustees are present, the applicant/proponent wishes to continue the matter until all members of Board of Trustees are present. The decision of the applicant/proponent shall be determinative. In the event the applicant/proponent is not present, Trustees present shall decide whether to proceed on the item despite the presence of an even number of Trustees.

B. Voting Requirements

Matters coming before the Board of Trustees shall be subject to the following voting requirements:

Situation	Votes Required for Passage
To pass an ordinance under Consent	Majority of the quorum present.
To pass an ordinance not under Consent	A roll call vote is required.
To pass an ordinance as emergency ordinance	Vote of three-fourths of all members of the Board. A roll call vote is required.
To pass a resolution	Majority of quorum present.
Any ordinance/ resolution/order for the appropriation of funds (Budget adoption and amendment)	Majority of all members of the Board. A roll call vote is required.
Any ordinance/ resolution/order approving a contract	Majority of all members of the Board. A roll call vote is required*
Authorization of expenditure over $100,000	Majority of all members of the Board. A roll call vote is required.
Authorization of expendiuture less than $100,000 and greater than $10,000	Majority of quorum present. A roll call vote is required.
Authorization of expenditure less than $10,000	Majority of quorum present.
To take an official Board position on a ballot measure	Five (5) or more members of the Board.
To appoint officers	Vote of a majority of all members of the Board in office at the time. A roll call vote is required.

*** If a contract is initially approved by roll call vote as an Action Item, with specific amendment(s) directed that must be subsequently prepared, the contract may return to the agenda for final approval on the Consent Agenda, for which roll call is not required.**

C. Making Motions

Any Board of Trustees action, which requires a vote, must be preceded by a motion by a Trustee. All motions presented by any Trustee require a second. The Mayor shall be entitled to participate in the discussion of motions, and may make or second a motion. Motions are generally introduced by voice. However, if the motion is long or involved, motions may be put into writing. Any Trustee may demand that a motion be put into writing.

D. Presentation and Disposition of Motions

The following steps shall be taken for the presentation and disposition of motions:

1. The presiding officer recognizes a Board member.
2. The Board member proposes a motion.
3. Another Board member seconds the motion.
4. The presiding officer may cause the motion to be restated.
5. The Board debates/discusses the motion (amendments to the motion or other substitute motions may be made during the debate/discussion).
6. At the conclusion of the debate/discussion, the presiding officer may cause the motion to be restated.
7. Vote is taken and the presiding officer announces the result of the vote.

E. Types of Motions

The following motions are the most commonly used:

1. Motion to amend: A motion to amend may take the form of inserting, striking out or striking out and inserting words, sentences, or paragraphs. A motion to amend must be pertinent to the main motion. It is proper to make a motion to amend an amendment. Motions shall be discussed in the reverse order from which they were proposed.

A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment shall not be heard unless otherwise agreed by the member making the first amendment. An amendment modifying the intention of a motion shall be in order, but an amendment relating to a different matter shall not be in order.

2. Motion to continue: A motion to continue has the effect of moving an item to a future agenda. The motion shall include the date to which the item is being continued.

3. Motion to lay on the table: This motion is used to set aside an item currently under discussion for a more pressing matter. It is not used to "kill" an item. Once the more pressing matter has been disposed with, a motion to take from the table is in order. This motion shall be made at the same Board meeting or at the next Regular Board meeting.

4. **Motion to postpone to a definite time or indefinitely:** Approval of this motion effectively "kills" the item. If the motion fails, discussion on the motion and a vote can be had. All motions to postpone, excepting a motion to postpone indefinitely, may be amended as to time. If a motion to postpone indefinitely is carried, the principal questions shall be declared lost. Reconsideration of a Motion postponed indefinitely shall require the affirmative vote of a majority of the Board.

5. **Motion to move the previous question:** This motion is used to cut off debate and to bring an immediate vote on the pending motion. This motion cannot be made while a Board member has the floor. The motion requires a second, cannot be debated, and requires a two-thirds vote to approve. A vote is first taken on the motion; if successful, debate is halted and a vote on the main motion is made. If the vote on the motion to move the previous question fails, debate on the main motion may continue.

6. **Motion to reconsider:** Any action taken by the Board may be reconsidered. A motion to reconsider must be made at the same meeting at which the action occurred or at the next following regular meeting. The motion must be made by a Board member who voted on the prevailing side and he shall so state that in his motion. A vote is then taken on the motion to reconsider. The passage of a motion to reconsider suspends all action on the original motion. The original question is then placed before the Board in the exact form it was in when previously adopted. Once the vote is taken and the results determined, no further reconsideration can be granted without unanimous consent of the Board.

In the event a contract has been signed by the Mayor or other legal obligations made or entered into with Board of Trustees approval, a motion to reconsider may be made at any time before the final adoption.

In the event a quasi-judicial matter is to be reconsidered, the applicable notice requirements shall be followed and the reconsideration of the original question shall be postponed to a future business or special meeting. The notice shall inform the public when the original question is to be reconsidered. In the event the reason supporting the reconsideration motion is based upon new information or evidence, the Board of Trustees shall reopen the public hearing to take evidence on the narrow issue of the new information or evidence. In such circumstance, staff shall be directed to make a good faith effort to notify, in writing, all persons who testified at the original public hearing of the date and time for the continued public hearing.

In the absence of new or additional evidence or information, the Board of Trustees shall not reopen the public hearing for purposes of additional public testimony. The matter shall be scheduled for a future business or special meeting.

7. **Motion to refer:** If a Board member believes more information is needed before a decision can be made, such member may move to refer the item to a board or commission for further study. The motion should identify the board or commission as well as instructions regarding actions to be taken by that body and when a report should be made

to the Board. This motion should not be used to receive further information from staff. In that case, a motion to continue should be made.

8. **Motion to adjourn:** A motion to adjourn shall be in order at any time, except as follows:

a) When repeated without intervening business or discussion;
b) When made as an interruption of a member while speaking;
c) When the previous question has been ordered; and
d) While a vote is being taken.

A motion to adjourn is debatable only as to the time to which the meeting is adjourned.

F. Precedence of Motions

When a main motion is before Board of Trustees, no subsidiary motion shall be entertained except: (a) to fix the hour of adjournment, (b) to adjourn, (c) to lay on the table, (d) for the previous question (which is essentially a demand that the vote be taken on the motion at hand), (e) to postpone to a certain day, (f) to refer, (g) to amend, and (h) to postpone indefinitely. These motions shall have precedence in the order indicated. Any such motion, except a motion to amend and a motion to postpone indefinitely, shall be put to vote without debate.

G. Withdrawal of Motion

Any motion may be withdrawn by the mover with the consent of the Board of Trustees.

H. Division of Question

If the question contains two or more divisible propositions, the Mayor may divide the motion.

I. Motions Out of Order

The Mayor may at any time, unless overridden by a majority vote of the member's present, permit a Trustee to introduce an ordinance, resolution, or motion out of the regular order of the agenda.

J. Procedure in Absence of Rule

In the absence of a rule to govern a point of procedure, reference shall be to *Robert's Rules of Order.* The principles and provisions of *Robert's Rules of Order* shall apply only to the extent that they are appropriate to a governing assembly such as Board of Trustees, with consideration being given to the size of Board of Trustees, as well as its political and legal status.

RULE VI
MISCELLANEOUS

A. Confidentiality

It shall be a conflict of interest and a violation of this policy for any member of the Board of Trustees to disclose any confidences of the Town, any matter discussed in executive session, or any matter which is subject to the attorney-client privilege between the Town and the Town Attorney, unless a majority of the Board of Trustees determines that such disclosure should be made.

A decision to breach confidentiality, or to waive a privilege, such as the attorney-client privilege, shall only be made by Board of Trustees acting as a whole, whenever the confidentiality requirement or the privilege applies to the Town as a whole or to Board of Trustees as a whole. Any Trustee who individually breaches such confidentiality, or who purports to waive such a privilege will be considered to be acting outside the performance of Trustee's authority, and will be subject to any consequential liability for such act.

B. Protest

Any Board of Trustees member shall have the right to express dissent from or protest against any ordinance or resolution of the Board of Trustees, and have the reason therefor entered upon the record. Such dissent or protest must be filed in writing, couched in respectful language, and presented to the Board of Trustees not later than the next regular meeting following the date of passage of the objectionable ordinance or resolution.

C. Board Approval of Expense Reimbursement

The members of the Board of Trustees and the Mayor shall be reimbursed for actual expenses incurred by them or any of them in the transaction of Town business as follows: reimbursement for mileage, parking, and a daily per diem is authorized and shall be reimbursed upon the presentation of an itemized statement of such expenses, accompanied by receipts when available. Mileage shall be reimbursed at the federal rate of reimbursement per mile; parking shall be reimbursed at actual cost; and per diem shall be provided for meals & incidental expenses at the rate established by the U.S. General Services Administration for the location at which the expense occurred. These pre-authorized reimbursements do not require further Board approval. Any expense other than the foregoing shall be approved for reimbursement by the Board of Trustees prior to being incurred. If any such expense is approved by the Board, it does not require further Board approval after the expense is incurred. Reimbursements shall be presented for payment within one (1) month of occurrence.

D. Term Limits

No elected municipal official may serve more than two consecutive terms in office, except that with respect to terms of office which are two years or shorter in duration, no official shall serve more than three consecutive terms in office. Terms are considered consecutive unless they are at least four years apart. Town voters may approve the modification or elimination of these term limitations. Colo. Const. Article XVIII, Sec. 11.

RULE VII
ORDINANCES AND RESOLUTIONS

A. Introduction

All ordinances and resolutions, except emergency ordinances, shall be introduced to the Board of Trustees in printed or written form at least forty-eight (48) hours prior to the meeting. Emergency ordinances shall be introduced to the Board of Trustees and in the meeting in printed or written form.

B. Review

All proposed ordinances shall be reviewed by the Town Attorney and bear the Attorney's certification that they are in correct form. The Town Administrator shall attach to each proposed ordinance a brief digest of the provision thereof, and where it is proposed to amend an existing ordinance. The digest shall show the name of the department or party at whose request the proposed ordinance was prepared.

C. Reading of Ordinances and Resolutions

Ordinances shall be read in full or by title only where copies are available to the Board of Trustees and those in attendance and may be amended prior to adoption. After proper publication, the ordinances will be in effect thirty (30) days following adoption with the exception of ordinances that are repealed prior to the thirty-day limit. All ordinances adopted containing an emergency clause are effective immediately.

D. Amendment of Ordinances

If an ordinance is proposed as an amendment to a previously adopted ordinance, it shall be reported as an amending ordinance. An amending ordinance shall be accompanied by an exhibit showing the part of the original ordinance to be amended, properly identified by page, section or paragraph referenced to the original ordinance, and having a line drawn through the part stricken out and that part added shown in italics or in a different colored ink or underscored.

E. Report by Committee

All matters referred to committee or advisory board must be reported by the committee or board within the time frames specified by the Board of Trustees upon referral. If not reported as above provided, any member of the Board of Trustees may call the document out of committee by notifying the Town Clerk and Mayor in open session of said member's intention. It shall then be the duty of the Clerk to place the document before the Board of Trustees for consideration at the next succeeding meeting without any further reference.

RULE VIII
PUBLIC HEARINGS

A. General

1. This Rule shall apply to all Town Boards conducting public hearings, including the Board of Trustees, the Planning Commission, and the Board of Zoning Adjustment.

2. All persons desiring to speak before a Town Board conducting a public hearing shall sign up to be heard prior to the hearing's commencement. All persons speaking before a Town Board at a public hearing shall provide their names and addresses.

B. Public Hearing Procedures on Land Use Matters

1. The meeting shall be chaired by the Mayor or board chairperson. The hearing shall be conducted in accordance with the procedures set forth in Chapters 16, 17, and 18 of the Nederland Municipal Code. The purpose of such Code provisions is to provide a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence presented is reasonably related to the purpose of the public hearing. The Mayor/Chairperson has the authority to limit debate to a reasonable length of time to maintain reasonable equality of time for all positions on an issue.

2. The Mayor/Chairperson shall cause all such persons to promise and agree that all statements and evidence they present shall be the truth.

3. Any person speaking may be questioned by a member of the board or, where appropriate, by members of Town staff, or an attorney or representative of one in opposition to such person.

4. When the number of persons wishing to speak may unduly prolong the hearing, the Mayor/Chairperson may impose a time limit upon each speaker.

5. Town staff's duties are to enter, as part of the record, a copy of the matter's public notice; all application documents for the proposed project and copies of any other information and documents that are an appropriate part of the public hearing record; to provide a synopsis or summary of the issues before the board including issues considered in prior public meetings/hearings of boards and/or commissions; make recommendations as to the matters to be determined by the board; and answer specific questions as requested by the board or the parties to the hearing.

6. The property owner, applicant or proponent or representative(s) of the project/issue before the board, shall present evidence and describe the nature of the request. The burden of presenting the case for the proponent of the project/issue is upon such proponent or its representative, not the Town staff.

7. All testimony in support, or opposition, or questions shall be directed through the Mayor/Chairperson, who will direct the appropriate person to respond.

8. The property owner, applicant or proponent or representative(s) of the project/issue will be afforded an opportunity for brief rebuttal statements/evidence following public input.

9. If final action is not to be taken at the same time as the public hearing, the Mayor/Chairperson will advise the audience/public when the matter will be considered.

10. If a board member is absent during a public hearing, he/she shall not be eligible to vote on the matter unless he/she has listened to and reviewed the entire record of the hearing. It is not the purpose or intent of this provision to postpone or unduly delay a decision by the board because of the absence of a member to enable him/her substantial time to review the record.

11. The essence of the following shall be presented by the Mayor/Chairperson at the outset of the public hearing:

> "We welcome your comments and input. Because we will strive to proceed through the public hearing in a timely manner, we require that all persons observe the following procedures with respect to comments and testimony:
>
> When you are recognized to speak, please approach the podium and state your name and address. All comments and testimony shall be made from the podium, no comments or testimony shall be presented from the audience.
>
> Comments and testimony are to be directed to the board. Dialogue and inquiries from the person at the podium to members of staff or the seated audience is not permitted. Inquiries that require staff response will be referred to staff by the Mayor/Chairperson.
>
> It is our desire to give everyone an opportunity to speak and be heard in a timely manner and within an atmosphere of respect and diplomacy. These procedures are to foster that atmosphere. Thank you for your cooperation, and we look forward to hearing your comments."

C. Non-Land Use Public Hearing Procedures

Persons wishing to speak may do so whether in favor, opposed or neutral. No specific order of those in favor or in opposition will be used.

With the advice of the Town attorney, the Mayor/Chairperson shall conduct the hearing in such manner as to provide for free speech and expression of opinion of all persons speaking, subject only to the limits of courtesy and respect to other persons and their opinions as long as the subject is related to the issue or the public hearing. Notwithstanding these purposes, the Mayor/Chairperson has the authority to limit comments to a reasonable length of time.

Any person speaking may be questioned by members of the board or by the Town staff.

The Mayor/Chairperson shall rule upon all disputed matters or procedures.

D. Liquor and Retail Marijuana Store License Hearing Procedures

The Nederland Board of Trustees sits as the Nederland Local Licensing Authority and hears licensing, suspension, and revocation cases.

The meeting shall be chaired by the Mayor. The hearing shall be conducted in accordance with the procedures set forth in statute and regulations. The purpose of such laws and regulations is to provide a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence presented is reasonably related to the purpose of the public hearing. The Mayor has the authority to limit debate to a reasonable length of time to maintain reasonable equality of time for all positions on an issue.

The Mayor shall cause all such persons to promise and agree that all statements and evidence they present shall be the truth.

Any person speaking may be questioned by a member of the Board or, where appropriate, by members of Town staff, or an attorney or representative of one in opposition to such person.

When the number of persons wishing to speak may unduly prolong the hearing, the Mayor may establish a time limit upon each speaker.

Town staff's duties are to enter, as part of the record, a copy of the matter's public notice; all application documents for the proposed project and copies of any other information and documents that are an appropriate part of the public hearing record; to provide a synopsis or summary of the issues before the Board including issues considered in prior public meetings/hearings of boards and/or commissions; make recommendations as to the matters to be determined by the board; and answer specific questions as requested by the board or the parties to the hearing.

The applicant shall present evidence and describe the nature of the request. The burden of presenting the case for the applicant is upon such applicant or its representative, not the Town staff.

All testimony in support, or opposition, or questions shall be directed through the Mayor, who will direct the appropriate person to respond.

The applicant will be afforded an opportunity for brief rebuttal statements/evidence following public input.

If a member of the Board is absent during a public hearing, he/she shall not be eligible to vote on the matter unless he/she has listened to and reviewed the entire record of the hearing. It is not the purpose or intent of this provision to postpone or unduly delay a decision by the board because of the absence of a member to enable him/her substantial time to review the record.

The essence of the following shall be presented by the Mayor/Chairperson at the outset of the public hearing:

> "This is a public hearing before the Nederland Board of Trustees, sitting as the Nederland Local Licensing Authority, on an application for a new (type of license) license, submitted by (name of applicant) for the premises with a street address of (physical address of establishment) within the Town of Nederland.
>
> Before the hearing begins, I will outline the manner in which the hearing will be conducted and the order in which we would receive testimony. Does the Board have any questions about the process for this hearing before I begin?
>
> Although the Authority is acting as a judge of this case, I note for the applicant and members of the public that strict rules of evidence do not apply. Any evidence that is relevant to the matter at hand may be considered by this Authority. It is then up to each member of the Authority to determine the credibility and weight of all such evidence as it relates to their decision. As Chair, I may limit testimony or evidence determined to be irrelevant, repetitive or cumulative.
>
> The order of this public hearing will be as follows:
>
> 1. This Authority will accept the preliminary investigation reports and findings of Town staff. The Town Clerk will provide this information.
>
> 2. The applicant may present an opening statement (if any).
>
> 3. The applicant will present its request to the Authority. Prior to excusing the applicant's witnesses, cross-examination shall be permitted in the following order:
>
>   a. Authority members
>   b. Any other party in interest.
>
> 4. The Town may present evidence and witnesses (if any). Prior to excusing the Town's witnesses, cross-examination shall be permitted in the following order:
>
>   a. The applicant or its representative
>   b. Authority members
>   c. Any other party in interest.

5. Any "party in interest" may present evidence and testimony. Before excusing witnesses, cross-examination of interested parties and their witnesses shall be permitted in the following order:

a. The applicant or its representative
b. Authority members

*Under the Colorado Liquor Code, a "party in interest" includes:

- An adult resident of the relevant neighborhood;
- An owner or business manager of a business located in the relevant neighborhood;
- A representative of a school located within 500 feet of the premises for which the license is under consideration.

*Under Nederland Municipal Code Section 6-32, the relevant neighborhood is the entirety of the Town.

6. The applicant may then present any rebuttal evidence it wishes to; the Town may then also provide rebuttal evidence, if any.

7. The applicant is then permitted to give a closing statement, if s/he chooses.

Throughout this process, the Authority may ask questions.

After all evidence and testimony has been received, I will close the public hearing. The Authority will then begin its deliberations on this application. The Authority will make a decision by motion and roll call vote.

[OPENING THE HEARING]

"I now open the public hearing on an application for a new (type of license) License, submitted by (name of applicant) for the premises with a street address of (physical address of the premises), Nederland, Colorado. I invite the Town Clerk to provide the Authority with the Town's preliminary investigation reports and findings."

[After the Town Clerk is done, invite the applicant to make an opening statement (# 2 above); then follow the order of testimony in # 3 through 7 above]

"Not hearing any more evidence to be brought before the Authority on this matter, I now close the public hearing. Local Authority, you may begin your deliberations."

[When the Authority appears to be done with deliberations, the Mayor may call for a motion if no one makes one without prompting.]

RULE IX
AMENDMENT/SUSPENSION OF RULES

A. Amendment of the Rules

These rules may be amended or new rules adopted by a majority vote of all Trustees. Any such amendments shall be submitted in writing at a business meeting or work session preceding formal action to amend. The amendments shall be placed on the discussion agenda of a subsequent business meeting with a resolution. This requirement may be waived by unanimous consent with a recorded vote of all Trustees present.

B. Suspension of the Rules

Any provision of these rules not governed by the Municipal Code may be temporarily suspended at any meeting of Board of Trustees by a majority vote of all Trustees. The vote on any such suspension shall be entered upon the record. When making a motion to suspend the rules, the Trustee shall specify which rule or part of such rule being temporarily suspended and the purpose for which the rule is to be suspended.

Board of Trustees COMMUNICATION

Meeting Date: October 27, 2015	**Page 1 of 1**	**Item: Board Policy - agendas**
Agenda No.:	**Presented by: Town Attorney**	

At the board's requires the following policy is proposed for the Board's consideration relative to managing agenda items and placing items on the Town Board's agenda. This proposal is submitted of discussion purposes and will be modified at the Town Board's direction.

DRAFT

Wellington Town Board Policy for inclusion of Agenda items:

Subject to the following timeliness requirements, items may be placed on the agenda for the Wellington Town Board by the Town Administrator, the Mayor or by any board member. Any agenda item requested by a board member must be approved for the agenda by the Mayor or, lacking the Mayor's approval, by two other board members.

SUMISSION TIMELINESS

Unless (i) approved by the Town Administrator or (ii) approved by the Town attorney and the mayor or by a vote of the board,

Without the Administrator's approval, an item will not be placed on the Wellington Town Board's agenda that has not been presented to the Town Administrator at least three business days before the a scheduled meeting (in most cases this requires submission the Wednesday before the regular scheduled Tuesday meeting).

Notwithstanding any contrary policy provision, all agenda items are subject to the requirements of the Colorado Open Meetings Act.

RECOMMENDED MOTION: Move that the proposed Board policy relative to Board agenda's be adopted.

TOWN OF WELLINGTON
3735 CLEVELAND AVENUE
P.O. BOX 127
WELLINGTON, CO 80549
TOWN HALL (970) 568-3381
FAX (970) 568-9354

BOARD OF TRUSTEES
October 27, 2015
LEEPER CENTER – 3800 WILSON AVE.

Work Session – Budget - 6:30pm

REGULAR MEETING – 7:30 PM

AGENDA

CALL TO ORDER - PLEDGE OF ALLEGIANCE
ROLL CALL
ADDITIONS TO OR DELETIONS FROM THE AGENDA
CONFLICTS OF INTEREST
PUBLIC TO BE HEARD ON NON-AGENDA ITEMS
CORRESPONDENCE
PRESENTATIONS
Economic Development Strategic Plan - Silverlode Consulting

CONSENT AGENDA
- Board of Trustee Minutes for October 13, 2015
- Court Report for October, 2015
- Larimer County Sheriff's Report for September
- Park Advisory Board Minutes for September 15, 2015
- Board of Adjustments Minutes for October 1, 2015

NEW BUSINESS
1. KRW Proposal – Assistant Town Administrator Recruitment and Selection
2. Main Street Report
3. Ordinance 11-2015 - Repealing Ordinance 9-2008, Setting Stormwater Service and System Development Fees & Collection of Boxelder Stormwater Authority System Development Fees
4. Resolution 24-2015 - Setting Stormwater Fees
5. Hartford Homes Request for Building Permits in Boxelder Commons Prior to Construction Acceptance
6. Park Advisory Board Recommendation to Remove Wellington Advertising Sponsorship Program (WASP) Sign from Community Park
7. Purchase Request – Entrance Signs
8. Request to Amend Pieper Road Paving Requirements - Lots 5 & 6 Wellington Business Park
9. Purchase Request – Chlorine Dioxide Test Kit
10. Agenda Policies
11. Town Administrator Evaluation Form
12. Bills for Approval
13. Town Attorney Update
14. Town Administrator Update

SCHEDULING OF WORK SESSIONS
OTHER

15. Executive Session

ADJOURN

TRUSTEE SINGEWALD MOVED AND TRUSTEE BILLINGTON SECONDED to approve the request for the delay in paving roads until May 31, 2016 conditional on submittal of a letter of credit. Roll call was taken and the motion passed unanimously.

---

9. Purchase Request – Chlorine Dioxide Test Kit

Mr. Bean said the request is for a new test kit that is portable and is new technology that will take less time to run the testing. He explained the process that is currently being used. He said this company is the only one approved by the EPA for this testing method.

TRUSTEE MICHEL MOVED AND TRUSTEE HARLESS SECONDED to approve the purchase request for Chlorine Dioxide Test Kit in the amount of $2,072.91 from Ted Miller Associates. Roll call was taken and the motion passed unanimously.

---

10. Agenda Policies

Mr. March said he was asked to put together a policy to add items to the agenda. Trustee Singewald said his concern was a Trustee being blocked from putting issues on the agenda. Mayor Brinkhoff said his concern was adding action items on the agenda the night of the meeting. Trustee Macdonald asked if there was a specific item that was not added that was requested. Trustee Singewald said he had submitted a request for an item regarding the Stormwater Authority on an agenda and was told that it had not been submitted before the deadline. He had tried to get it added on the night of the meeting and it was blocked.

Mr. March said that they should just set a deadline. It was decided that agenda items need to be submitted by Thursday noon. He asked if the Board wanted to see a policy at the next meeting. There was concern that an item being added to the agenda be appropriate to be placed on public record. If staff has an issue with an item being suggested the member would be contacted and if needed a poll of the board members could be made before the item is added. If the submission is after the deadline it can be added by the Mayor.

---

11. Town Administrator Evaluation Form

Mr. March said he sent a comparison to the Board Members of questions and wording for the evaluation. He asked that they mark the questions that they want on the evaluation, send them to him by Friday and he will compile the evaluation form for the next meeting.

---

12. Donation to Eagles After Hours

Mayor Brinkhoff said it was discussed at the last meeting to give some money to the Eagles After Hours Program. An amount of $10,000.00 was suggested. Mayor Brinkhoff asked that Christy Brucher be asked to attend the next meeting where the Board will present the check.

TRUSTEE MICHEL MOVED AND TRUSTEE MACDONALD SECONDED to approve $10,000.00 for the Eagles After Hours Program. Roll call was taken and the motion passed unanimously.

---

13. Bills for Approval

DPC Industries Inc.	$ 1,042.80
Lyons Gaddis	2,169.50
Dell	1,127.42
NALCO	1,593.00
TST	2,750.00

Bob's Rules of Order (Summary Version Prepared for Colorado Municipal League 2016 Annual Conference)

1.0 Introduction

Efficient and well run public meetings are a necessity for local government. An efficient and well-run meeting allows all scheduled business to be accomplished, voices to be equally heard, and differences of opinion to be aired amicably. Whether the meeting issues are deeply challenging and emotional or simply ministerial and non-confrontational, a well-run meeting leaves all participants feeling that the decisions made during the meeting are the product of fairness, equality, and respect. Poorly run meetings can undermine confidence in local government by allowing a perceived inequality among participants when engaged in debate and discussion, injecting conflict and argument between the participants, and adding confusion to the decision-making process and uncertainly in the eventual decision.

Unfortunately, efficient and well-run meetings for many Colorado local governments may be the exception and not the rule. *Bob's Rules of Order* seek to bring organization and equality to meetings of Colorado local governments.

The seminal handbook, *Roberts Rules of Order,* is perhaps the most widely known set of rules designed to facilitate and manage meetings. Beginning with the pocket handbook first drafted in 1878, and with significant rewriting and amendment since that time, *Roberts Rules of Order* has evolved into a complex set of rules intended to organize large meetings of every type. Due to the sheer volume and complexity of *Roberts Rules of Order*, it is unreasonable for all meeting participants to fully comprehend and gain a working knowledge of *Roberts Rules of Order*. As a result, *Roberts Rules of Order* is often ineffective for use in conducting the meetings of local government.

"*Bob's Rules of Order*" is intended as a simplified set of rules better suited to manage local government meetings and decision-making. Although *Bob's Rules of Order* calls upon the basic concepts offered by *Robert's Rules*, *Bob's Rules* pares down the available motions to those essential to advance the goal of running an efficient public meeting for Colorado local government.

2.0 Key Terminology

Amendment (or to Amend) **-** An amendment is a motion to change, to add words to, or to omit words from, a pending main motion. The change is usually to clarify or improve the wording of the original motion and must, of course, be germane to that motion.

Body **-** The formally constituted organization commissioned with the obligation and duty to act on behalf of the local government.

Chairperson **-** The person appointed or elected to preside over the meeting.

Floor **-** The privilege or right to speak to the body.

Member **-** A person appointed to elected to hold office as a recognized participant of the body.

Motion **-** A formal proposal seeking specific action by the body typically preceded by the words "I move that ..." Motions are generally introduced by voice but may be presented in writing.

Moving Party **-** The Member presenting a motion or point for action by the body.

Out of Order **-** An act or action that fails to comport with these Rules of Order. Acts or actions that comport with these Rules of Order would be recognized as "in order."

Point **-** A declaration of a member addressed to the chairperson requesting to bring before the body a matter for immediate decision or resolution. There are three recognized points: (1) Point or Order; (2) Point of Information; and (3) Point of Appeal.

Second **-** An oral declaration by a Member to express that a motion offered to the body should receive debate or discussion.

3.0 General Rules Governing the Meeting

- Floor Required to Address Body. Except when raising a Point (Point of Order, Point of Information, or Point of Appeal), a Member must first be recognized by the Chairperson and be given the floor in order to address the Body.

- Time Limit for Floor. A Member's right to the floor should be limited to five (5) minutes. A Member may request that the Chairperson grant additional time. Such request should customarily be granted by the Chairperson unless the Chairperson determines that other Members are waiting to be recognized to obtain the floor or that meeting efficiency necessitates that the requested extension be denied. When one Member is denied a request for an extension of time to speak, no other Member shall be granted an extension of time for the same agenda item.

- Limitation on Obtaining Floor. A Member should only speak once to any motion under debate until such time that all others seeking the floor have been provided an opportunity to speak to the motion.

- No Interruptions or Side Discussions. In order to maintain a clear recorded meeting record, only one person shall speak at any one time. Interrupting a person who has the floor or engaging in side discussions while another person has the floor is out of order.

- Second Required for Debate. All motions must receive a second before debate or discussion may begin. A second does not connote approval of the motion but only that the Member offering the second supports fuller discussion of the motion.

- Chairperson Discretion. The Chairperson may independently decide to deviate from the Rules of Order in order to increase meeting efficiency and to best enable full and informed discussion of a matter before the Body. However, such independent action by the Chairperson remains subject to a Point of Order and Point of Appeal through which a Member can bring the meeting into full compliance with the Rules of Order.

- Voting:

  Vote Requirement. A majority vote of the quorum present is required for any motion unless a different requirement is set by these Rules of Order or by applicable law. For example, a supermajority (2/3rds of quorum present) is required for a Motion to Call the Question pursuant to these Rules of Order and a supermajority (2/3rds of a quorum present) is required for a motion for executive session pursuant to the Colorado Open Meetings Law (C.R.S. § 24-6-402(4)).

  Aye or Nay Vote Required. A vote of "aye" or "nay" (or another form of clearly affirmative or negative declaration) shall be taken upon every motion. Every Member, when present, must vote aye or nay unless:

  (1) The Member is excused by the Chairperson due to the Member's declaration of a conflict of interest at the introduction of the agenda item or immediately upon discovery of a legally recognized conflict of interest; or

  (2) The Member is excused by the Chairperson because the member is without sufficient information upon which to enable an informed vote due to an absence at a prior meeting, e.g., the member did not attend the meeting for which meeting minutes are moved for approval.

  No Abstention. A vote to "abstain" or any other voting declaration other than aye or nay shall be recorded as a "nay" vote on the pending motion or matter.

  No Explanation of Vote. Members shall not explain their vote except during discussion and deliberation prior to the calling of the vote on the question. Any attempt to explain a vote or to condition the vote immediately prior to casting the vote is out of order.

4.0 Chairperson's Privileges & Duties

- Chairperson to Direct Meeting. The Chairperson is privileged to act as the director of the meeting. The Chairperson shall seek to clarify the actions pending before the Body during the meeting and prior to a vote. For example, the Chairperson is encouraged to restate motions, announce expectations for the meeting agenda, and recommend to the Body the proper procedure or rules for a particular course of action. The Chairperson has a continuing right to the floor although, like any other member, shall be held to compliance with the Rules of Order.

- Chairperson as Parliamentarian. The Chairperson is the meeting parliamentarian and shall decide all questions of process and procedure. Such decisions are subject to appeal by a Point of Appeal. The Chairperson may consult with the Body's legal counsel or administrative staff to assist in rendering decisions regarding the application of the Rules of Order.

- Chairperson as Facilitator of Discussion. As the meeting director, the Chairperson should generally encourage and enlist other Members to propose or to second motions and to lead initial debate. Nevertheless, the Chairperson is entitled to the same rights as Members regarding the presentation of motions, seconding motions, and debate and may exercise such privilege as deemed appropriate by the Chairperson.

- Temporary Informal Recesses. The Chairperson may declare a temporary recess without motion or consent of the Body. However, no recess shall be declared which would interrupt a member who has properly secured the floor to speak.

5.0 Moving Party's Privileges

- At any time *prior to* receiving a second on a motion, the Moving Party may unilaterally withdraw or unilaterally amend a motion provided that the Moving Party has the floor. A motion, *once seconded*, belongs to the decision-making Body and the Moving Party's privileges are limited.

- The Moving Party retains the following limited privileges after the motion receives a second if the Moving Party has properly secured the floor to speak:

  A. The Moving Party may speak to the rationale, purpose, meaning, or need of the motion prior to the opening of full debate to other members of the Body.

  B. The Moving Party may withdraw his/her seconded motion unless an objection is raised by Point of Order. An objection to the Moving Party's withdraw of the seconded motion will summarily defeat the Moving Party's request to withdraw.

  C. The Moving Party may accept a proposed amendment (a "Friendly Amendment") unless an objection is raised by Point of Order. An objection to a Friendly Amendment will summarily defeat the Moving Party's privilege to accept a Friendly Amendment and, in such case, a formal Motion to Amend would be in order.

  D. During debate, to further explain or clarify the meaning, intent, or purpose of the motion or to otherwise respond to a Point of Information.

6.0 Classes & Priority for Points and Motions

There are three classes for motions and points: (1) Privileged; (2) Main; and (3) Subordinate. The class determines the priority or importance of the motion or point and, therefore, determines whether the motion or point is "in order" when made, i.e., if the motion or point proposed is appropriate for the Body to consider at the time it is presented.

- **PRIVILEGED** motions, which include all three Points, do not require a pending main motion on the floor and do not relate directly to a pending question. Privileged motions or points may be raised at anytime. Privileged *points* do not require the floor; privileged *motions* require the floor. Privileged motions oftentimes involve an administrative or ministerial aspect of the meeting that needs to be resolved independently of the business then-pending before the Body. There following motions or points are recognized as privileged and are listed *in order of precedence*:

    - Point of Order
    - Point of Information
    - Point of Appeal
    - Motion to Recess
    - Motion for Executive Session

- A **MAIN** motion formally presents to the Body an item for action. A Main motion can be made only when no other motion is pending. If a Main motion is presented when another pending motion or point is before the Body, it is out of order.

  Although there are as many Main motions as there are subject matters that a Body may consider, there are four (4) commonly recognized *specific* Main motions used in local government decision-making:

    - Motion to Adjourn
    - Motion to Reconsider
    - Motion to Postpone an Agenda Item to a Date Certain
    - Motion to Postpone Indefinitely

- A **SUBORDINATE** motion is related to and supplements or builds upon the Main motion. A Subordinate motion must be dealt with before the Main motion can be voted on. A Subordinate motion is in order only when there is a pending main motion on the floor. Once a seconded Subordinate motion is pending on the floor, neither a MAIN motion nor another Subordinate motion is in order.

  There are three (3) recognized Subordinate motions:

    - Motion to Amend (a Main Motion)
    - Motion to Continue Matter Before the Body to Date Certain
    - Motion to Call the Question (Close Debate)

7.0 Points and Motions in Detail

A. Points

There are three "Points:" (1) Point of Order; (2) Point of Information; and (3) Point of Appeal. Points do not require a second. They are each "privileged" and may be raised at anytime.

- **Point of Order** (or to "raise a question of order" as it is sometimes expressed), is an opportunity for a Member to express an opinion that the rules or procedures of the Body are being violated. The appropriate means of asserting such opportunity is for the member to wait for a break in the discussion and state "Point of Order" and wait to be recognized by the Chairperson. Any existing debate or discussion should cease. Upon the Chairperson's recognition, the member must succinctly state the general rule or procedure believed to be in violation. A point of order should not interrupt another speaker, does not require a second, is not debatable, is not amendable, and cannot be reconsidered. For example:

  Member Jones was granted the floor and proposed a motion to approve a site plan. Member Jones then proceeded to discuss the rationale for his motion.

Member Jones:	[has the floor and is engaged in debate on a motion, he pauses in his debate]
Member Smith:	"Point of Order."
Chairperson:	"Excuse me a moment, Mr. Jones. The Chairperson recognizes Ms. Smith."
Member Smith:	"I believe we are debating a motion that did not receive a second. I believe that this is out of order because a motion requires a second before debate."
Chairperson:	"You are correct Ms. Smith, I do not recall a second was offered. Therefore, let us cease debate. Do I have a second on the motion? [A second is offered]. Thank you for your Point of Order, Ms. Smith. Mr. Jones, you have the floor and may commence debate."

- **Point of Information** is a *request to <u>receive</u> information* on a specific question, either about process, meeting conduct, clarification of a motion, or about a fact during of debate. A Point of Information is <u>not</u> an opportunity for a member to *<u>provide</u>* information to the Body and should never be used as a means of continuously interrupting the flow of debate. Using a Point of Information to provide information or to interrupt debate would be out of order. As an example of the proper use of a Point of Information:

Member Quinn has the floor and is engaged in debate on a seconded motion.

Member Frank:	"Madam Chairperson, Point of Information"
Chairperson:	"Excuse me a moment, Ms. Quinn. The Chairperson recognizes the Mr. Frank."
Member Frank:	"Ms. Quinn said there were 5,000 vehicles per day recorded at the Main Street intersection, but our Traffic Engineer said it was 1,500. What is the correct number?

- **Point of Appeal** is a request of a member to challenge a decision of the Chairperson concerning the application of the Rules of Order. A Point of Appeal shall customarily be in order immediately following the Chairperson's decision and may be declared out of order and unavailable where the Body has relied upon the Chairperson's decision and continued the proceeding in reliance upon, or in accordance with, the Chairperson's decision. The member making the Point of Appeal may briefly state his or her reason for the Point, and the Chairperson may briefly explain his or her ruling, but there shall be no further debate on the appeal. As an example of the use of a Point of Appeal:

Chairperson:	"We have on the floor a Motion to Call the Question." The vote on a Motion to Call the Question will require a majority vote of the quorum present."
Member Thomas:	"Point of Appeal"
Chairperson:	Mr. Thomas has raised a Point of Appeal. Mr. Thomas has the floor. Mr. Thomas, what is your appeal?"
Member Thomas:	I appeal the Chairperson's decision regarding the vote on the Motion to Call the Question. A Motion to Call the Question requires a 2/3rds vote pursuant to our Rules of Order at page 3.
Chairperson:	"My decision regarding the required vote is being appealed. I believe that closing debate is a rather simple matter only requiring a majority vote like a majority of all of our motions."
Chairperson:	"We shall have a vote on the appeal. Mr. Thomas appeals my decision regarding a vote on a Motion to Call the Question requires a simple majority of this quorum. Mr. Thomas asserts it should be a 2/3rds vote. The question

we are now voting on is 'Shall the decision of the Chairperson be sustained?'"

The Members vote to not sustain (overturn) the Chairperson's decision.

Chairperson: "My decision is overturned on appeal. I stand corrected and will now declare that the Motion to Call the Question on the floor requires a vote of 2/3rds of the members of the Body. Let us proceed to the consideration of the Motion to Call the Question."

B. Motions

- **Motion to Recess** **(Privileged)**
  A Motion to Recess is intended to offer a temporary cessation in the meeting to accommodate matters such as restroom breaks or to consult with legal counsel or administrative staff. The motion should state approximate amount of time for the requested recess as a convenience to other members and the public in attendance. Not debatable and requires an immediate vote. Majority vote of quorum present required for approval.

- **Motion for Executive Session** **(Privileged)**
  A Motion for Executive Session must include the citation to Colorado Revised Statute subsection authorizing session and a brief description of subject matter (e.g., "I move to hold an executive session pursuant to C.R.S. § 24-6-402(4)(b) to receive legal advice on the right to impose a condition on the proposed development"). Not debatable and goes to immediate vote. Supermajority of 2/3rds of quorum present required for approval pursuant to the Colorado Open Meetings Law.

- **Motion to Adjourn** **(Main)**
  Motion to Adjourn is available to cease further action of the Body and immediately terminate the meeting. A Motion to Adjourn is debatable and requires a majority vote of quorum present required. Caution should be exercised when

- **Motion to Reconsider** **(Main)**
  A Motion to Reconsider is available to suspend the prior vote on a motion and cause the matter to be reopened for another consideration. A Motion to Reconsider is only in order at the same meeting at which the decision to be reconsidered was made or at the *next* regular meeting of the Body. The

motion must be made by a member on the prevailing side of the original motion to be reconsidered. The required second on the motion need not be a member from prevailing side. The motion is debatable but only for the reasons to explain or justify reconsideration and not for the purpose of debating the merits of the original motion.

A supermajority vote of 2/3rds of the quorum present is required for approval. If the motion to reconsider is approved, the final vote and decision on the prior motion is effectively voided and the matter is reopened. All proceedings, testimony, evidence, and debate on the matter remain part of the official record. The Body should debate and decide the appropriate method to reconsider the matter (e.g., setting a new date for continued debate or discussion, posting or publication of new notice of the reopened matter, etc.). Reconsideration of quasi-judicial matters will always require the setting of a new hearing date and new notice for the reopened public hearing in accordance with the applicable law governing the original matter.

- **Motion to Postpone an Agenda Item to Date Certain (Main)**
  A Motion to Postpone an Agenda to a Date Certain pertains to a matter that is not presently on the floor but is scheduled for later consideration on the Body's agenda. The motion must identify a date and time certain for the agenda item to be reset for Body consideration. If the Moving Party desires to *indefinitely* postpone an item, a Motion to Postpone indefinitely is the appropriate motion (see below). The Motion to Postpone an Agenda Item to a Date Certain is debatable. A majority vote of quorum present required for approval.

- **Motion to Postpone Indefinitely (Main)**

  A Motion to Postpone Indefinitely will effectively kill a motion and removes the matter from consideration without directly voting it down. The motion is debatable. A majority vote of quorum present required for approval. If approved, the matter will not be brought back to the Body unless the Body instructs that the item return for a future agenda.

- **Motion to Amend (a Main Motion) (Subordinate)**
  A Motion to Amend (a Main Motion) is applicable only to a Main motion on the floor. The motion must provide specificity as to the intended amendment. The motion is debatable. A majority vote of a quorum present required for approval. A motion to amend is not in order when another motion to amend is already pending (made and seconded) before the Body;

e.g., the Body will deal with only one Motion to Amend at a time to avoid confusion.

- **Motion to Continue Matter to Date Certain** **(Subordinate)**
  A Motion to Continue a Matter (before the Body) to a Date Certain postpones to holdover the current motion to a date, time, and place stated in the motion. The motion is debatable. A majority vote of a quorum present required for approval.

- **Motion to Call the Question** **(Subordinate)**
  A Motion to Call the Question (also phrased as to "Close Debate") will close further debate and require vote on the motion pending before the Body. The motion applies only to the motion on the floor. The motion is not debatable. Due to the fact that such a motion will forestall the Body's ability to discuss the merits of the pending matter, a supermajority vote of 2/3^{rds} of the quorum present is required for approval in order that the Body evidences a strong intent that continuing debate is not necessary to decide the matter.

8.0 Suspension of Rules

A. Chairperson May Suspend

Subject to challenge by Point of Appeal, the Chairperson may elect to suspend operation of any rule provided by these Rules of Order; provided, however, that the Chairperson shall not be authorized to suspend or alter the vote required on any motion or matter.

B. Motion to Suspend

Any member may move to suspend the applicability of a rule of order by proposing a main motion; provided, however, that no motion may suspend or alter the vote required on any motion or matter. Such motion shall be presented only as a Main motion which motion shall require a second, be subject to debate, and shall require a majority vote of the quorum present for adoption.

Summary of Requirements for Motions and Points

MOTION	Type	Second Required?	Debatable?	Vote Required
Point of Order	Privileged	No	No	No Vote Required
Point of Information	Privileged	No	No	No Vote Required
Point of Appeal (to challenge the Chairperson's decision)	Privileged	No	Only as needed to explain the Decision and the applicable Rule subject to challenge	Majority of quorum present
Motion to Recess	Privileged	Yes	No	Majority of quorum present
Motion for Executive Session	Privileged	Yes	No	2/3rds of quorum present
Any Main Motion	Main	Yes	Yes	Majority of quorum present unless otherwise required by law, rule, or regulation
Motion to Adjourn	Main	Yes	Yes	Majority of quorum present
Motion to Reconsider	Main	Yes	Yes	2/3rds of quorum present
Motion to Postpone an Agenda Item	Main	Yes	Yes	Majority of quorum present
Motion to Postpone Indefinitely	Main	Yes	Yes	Majority of quorum present
Motion to Amend (a Main Motion)	Subordinate (to a Main Motion)	Yes	Yes	Majority of quorum present
	Subordinate	Yes	Yes	Majority of quorum present

Motion to Continue Matter Before the Body to Date Certain	(to a Main Motion)			
Motion to Call the Question (Close Debate)	Subordinate (to a Main Motion)	Yes	No	2/3rds of quorum present

THIS DOCUMENT IS AN EXCERPT FROM A LARGER WORK UNDER PRODUCTION CONCERNING MEETING PROCEDURE FOR COLORADO LOCAL GOVERNMENTS
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Bob's Rules of Order

SIMPLIFIED PARLIAMENTARY RULES OF ORDER FOR COLORADO LOCAL GOVERNMENTS

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Introduction

Efficient and well-run public meetings are a necessity for local government. An efficient and well-run meeting allows all scheduled business to be accomplished, voices to be equally heard, and differences of opinion to be aired amicably. Whether the meeting issues are deeply challenging and emotional or simply ministerial and non-confrontational, a well-run meeting leaves all participants feeling that the decisions made during the meeting are the product of fairness, equality, and respect. Poorly run meetings can undermine confidence in local government by allowing a perceived inequality among participants when engaged in debate and discussion, injecting conflict and argument between the participants, and adding confusion to the decision-making process and uncertainly in the eventual decision. A set of standardized rules of order or procedure which are both fully understood and routinely employed by meeting participants are a critical component to efficiency in meetings.

Robert's Rules of Order[1] is perhaps the most widely known set of rules offered to facilitate and manage meetings. Beginning with the pocket handbook first published in 1878, and with significant rewriting and amendment since that time, *Robert's Rules of Order* has evolved into a complex tool for meeting management. *Robert's Rules* totals an astounding 716 pages.[2] No fewer than two dozen independent publications are available to help meeting participants better understand, decipher, and interpret *Robert's Rules* including a *Robert's Rules for Dummies* publication[3] and a *Complete Idiot's Guide to Robert's Rules*.[4] Because an effective meeting necessarily requires meeting participants to equally understand the procedural rules governing the meeting, *Robert's Rules of Order* can prove to be an ineffective tool in conducting the meetings of local government.

Notwithstanding the unsuitability of *Robert's Rules of Order* to manage local government meetings, many communities incorporate *Robert's Rules* into their local meeting procedures by reference in local codes and policies. The incorporation of *Robert's Rules* into local government meeting procedures almost always results, not from an express acknowledgment that *Robert's Rules* will be suitable for use in the local government setting, but perhaps from a blind assumption that *Robert's Rules* will best guide meeting procedure because is the most recognized set of procedural rules. Few people have fully read *Robert's Rules* and fewer understand that *Robert's Rules* contain processes and procedures that Colorado local government might deem unacceptable.[5]

"*Bob's Rules of Order*" is intended as a simplified set of rules better suited to manage Colorado local government meetings. Although *Bob's Rules of Order* calls upon some of the basic concepts offered by *Robert's Rules*, *Bob's Rules* of Order pares down the available motions to those essential to advance the goal of running an efficient public meeting for Colorado local government.

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[1] Henry M. Robert III and others, *Robert's Rules of Order Newly Revised*, 11th ed. (Da Capo Press, 2011).
[2] Id. The total pages are inclusive of 92 pages of summary charts and indexes.
[3] C. Allen Jennings, *Robert's Rules for Dummies*, (New Jersey, John Wiley & Sons Inc., 2016).
[4] Nancy Sylvester, *The Complete Idiot's Guide to Robert's Rules*, (New York, Penguin, 2010)
[5] For example, *Robert's Rules of Order* includes provisions for the summary imposition of penalties against members who breach *Robert's Rules*, up to and including expulsion from the meeting and removal from membership on the body. See Chapter XX, Robert's Rules of Order.
Robert's Rules authorize a process and imposition of penalties for undefined conduct and actions taken by members outside of meetings which is deemed unacceptable by the body. Id.

Legal Advice and Disclaimers

Bob's Rules of Order does not offer legal advice. The *Rules* are offered to assist local government when considering the creation or implementation of local rules of order that will become a helpful tool in conducting more efficient public meetings.

When deciding practice and procedures for meetings, local governments should always inquire first to their local attorney. The local attorney is best suited to both understand the application of the laws affecting the local government and how to integrate the applicable law into the common or historic practice, procedures, and needs of the community. All legal advice involves an assessment of risk based on full knowledge of the law, the client, and the client's circumstances. Only the local attorney has the knowledge to best advise the local government in deciding the proper rules of order and procedure to govern meetings. In short, it is not a best practice to blindly apply the recommendations of *Bob's Rules w*ithout consulting local legal counsel.

Terminology

Certain words and phrases are used throughout Bob's Rules of Order refer to actions or persons involved in a meeting. Some of these words and phrases are capitalized to remind the reader that the word or phrase has a specifically defined meaning.

Amendment (or to Amend) - An amendment is a motion to change, to add words to, or to omit words from a pending main motion. The amendment is usually intended to clarify or improve the wording of the original motion and must, of course, be germane to that motion.

Body – The formally constituted organization commissioned with the obligation and duty to act on behalf of the local government.

Chairperson – The person appointed or elected to preside over the meeting.

Floor – The privilege or right to speak to the body.

Member – A person appointed or elected to hold office as a recognized participant of the body.

Motion – A formal proposal seeking specific action by the body typically preceded by the words "I move that ..." or "I make a motion that …." Motions are generally introduced by voice but may be presented to the body in writing.

Moving Party – The Member presenting a motion or point for action by the body.

Out of Order – An action that fails to comport with these *Rules of Order.*

Point – A declaration of a member addressed to the chairperson requesting to bring before the body a matter for immediate decision or resolution. There are three recognized points: (1) Point or Order; (2) Point of Information; and (3) Point of Appeal.

Second – An oral declaration by a Member to express that a motion offered to the body should receive debate or discussion.

Key Assumptions

Certain assumptions are incorporated into *Bob's Rules of Order*. Each of these assumptions are subject to rejection or modification by the Body in the development of the local rules of order to render *Bob's Rules* consistent with the local practices and procedures of the local government.

- ***The Chairperson Serves as the Parliamentarian***:
- ***Abstaining from Voting is not Permitted.***
- ***A Conflict-of-Interest Mandates Recusal from Voting***:
- **A Motion is Not a Prerequisite to Discussion or Debate on a Matter.**

These assumptions are each clarified below:

- ***The Chairperson Serves as the Parliamentarian***:

  During a meeting, decisions regarding the proper application of the *Rules* will be required. For example, a determination will need to be made during a meeting that a particular motion is, or is not, Out of Order (*i.e.*, appropriate for presentation under the *Rules*). "Parliamentarian" is the customary term used to identify the person with a solid understanding of the meeting rules and who is commissioned to render decisions on the applicable and proper procedure.

  The practice in most government meetings is to assign the role of parliamentarian to the person in charge of the procedure and flow of the meeting – that is, the chairperson.

  In some local governments, the role of parliamentarian is assigned to the clerk, attorney, or other administrative support or staff person. This assignment of the role to a person other than the chairperson can prove challenging; the parliamentarian will often be seen as "taking sides" on a ruling of procedure. Asking an administrative support or staff person to render a ruling between potentially conflicting positions held by body members who may control or supervise the administrative person is often seen as ill-advised and places the administrative person in an awkward position.

- ***Abstaining from Voting is not Permitted.***

  Whether a member is elected, appointed, or volunteered to serve the body, an underlying assumption is that the member agreed to perform the duties of the position unless prevented by law.[6] A member may wish to "abstain" (*i.e.*, not declare a formal vote or position) due to a myriad of reasons which may include a simple desire to avoid being placed on the record in support or opposition of a proposition. Such an abstention for personal reason or convenience constitutes a neglect of the duty freely accepted by the elected or appointed member to represent the body and the public and, therefore, is not permitted by these *Rules of Order*.

  Abstentions can undermine the required vote of the body. Taken as an expression that the member is not declaring a vote and therefore no vote by the member will be recorded, an abstention or possible multiple abstentions can reduce the body's vote total below the

[6] See *A Conflict-of-Interest Mandates Recusal from Voting*, below.

number necessary to enact a proposition or motion. For example, for a vote requiring a majority of a 5-member body, an abstention of two members will allow the vote to be approved by only 2 of the voting members or less than the quorum of the body.

The potential for abstention places the body at risk that the body will not have a sufficiently representative number of voting members after devoting considerable time and effort in reaching the point of rendering a decision. Combined with the abstaining member's active participation in the debate and deliberation before declaring an abstention, the member can effectively influence the body's decision yet evade taking a public position on the motion or proposition. Such practice should be viewed as incompatible or inconsistent with the concept of open, transparent, and representative government.

When a member expresses an otherwise unpermitted abstention on a vote, the *Rules of Order* deem the abstention as an affirmative vote or declaration in favor of the proposition which is pending before the body. For example, if a body member votes to "abstain," the clerk will record the vote as a "yes" vote or as an affirmative expression of support for the pending proposition. If the abstaining member objects to the recording of her abstention as an affirmative vote because then member does not affirmatively support the motion, the member is afforded an easy solution, which is to vote "no" on the motion.

The alternative to the recording of the abstention as an affirmative or "yes" vote and, instead, to record the abstention as a "no" vote, will allow members to defeat a motion without taking a specific position on the motion. In other words, the recorded vote on a motion by seven voting members could be 3 votes in favor by declaration of a "yes" vote, 2 votes in opposition by declaration of a "no" vote, and 2 votes to "abstain" which are then recorded as "no" votes. As a result, the motion is defeated upon a 3-4 vote without a majority of members publicly committing to a "no" or negative position on the vote. Such a scenario should be considered as antithetical to open, transparent, and representative government.

- ***A Conflict-of-Interest Mandates Recusal from Voting***:

  When a member faces a lawfully recognized conflict of interest, the member shall recuse[7] themselves from all participation in the matter and shall <u>not</u> vote. Moreover, the conflicted member shall <u>not</u> be permitted to influence the body by participation in the consideration, deliberation, or debate on the matter and may not seek to influence individual members outside of the public meeting or the hearing. Mandating that a member recuse themselves from advocating and voting on a matter due to a conflict of interest is lawfully permitted and a member has no personal constitutional right to participate or vote where a conflict exists.[8] Colorado provides a limited single exception to this rule where (i) the conflict

[7] Recusal is not the equivalent to abstention. Abstention is "the withholding of a vote;" whereas recusal is "the [removal] of oneself as judge or policy maker in a particular matter, especially because of a conflict of interest." Black's Law Dictionary (8th Ed. 2004). Abstention, if allowed, permits the member to participate in the proceeding and, prior to the vote, to make a declaration that the member will not vote for reasons often unstated, and which can include personal preference, indifference, lack of information, or possibly a perceived conflict of interest. In contrast, recusal precludes the member from participation in any aspect of the matter because to participate or to vote would subject the member or the member's organization to liability.

[8] *Nevada Commission on Ethics v. Carrigan*, 564 U.S. 117 (2011)

arises from a personal or private interest; (ii) a quorum cannot be maintained if the member is excluded; and (iii) the member makes a required disclosure to the secretary of state.[9]

What constitutes a conflict of interest is difficult to summarize. State law recognizes a number of conflicts of interests in statute which are unfortunately not well defined. In addition, many local rules of procedure recognize other circumstances in which a member is not lawfully permitted to participate due to a conflict of interest. As a result, the body's attorney should always be consulted in advance of the meeting regarding a potential conflict of interest. In nearly all situations, the determination of a legally recognized conflict of interest will involve an evaluation of the particular facts surrounding the conflict, the form of decision pending before the body, and the potential for a vote to be entered notwithstanding a conflict of interest.

A declaration that a member has a conflict of interest is not addressed by a declaration to "abstain." Abstention is a declaration of a desire not to vote on a matter for which the member may otherwise lawfully participate and vote. The existence of a conflict of interest creates a legal impediment to participation and voting which can subject the member and the body to potential legal liability.

Recusal from participation due to a conflict of interest should be offered before the body *prior to* tor at the *initial opening* of the matter on the agenda. For example, the conflicted member should seek the floor at the initial opening of the matter and proclaim that, "Madam Chairperson, following consultation with our attorney and due to a conflict of interest, I must respectfully recuse myself from all participation in this matter." It is customary for the conflicted member, following declaration of recusal, to leave the dais of the body and take a seat either in the audience or outside the meeting room for the entire consideration of the matter.

- **A Motion is Not a Prerequisite to Discussion or Debate on a Matter.**

In some meeting rules of order, a motion is a necessary prerequire to discussion or debate. However, such a practice is generally inconsistent with the common practice of local government meetings. Oftentimes, discussion on a problem or proposition sets the basis or background that will lead to an appropriately stated motion. The basis or background more often enables the motion to be tailored to the viewpoints and comments offered during discussion offered prior to any motion. It is not infrequent that a hastily stated motion is later withdrawn or modified following discussion. As a result, efficiency is achieved by permitting motions to be made at an appropriate time which may be before, during, or following robust discussion or deliberation on a matter.

General Rules Governing the Meeting

- <u>Quorum Required</u>. A majority of the members of the Body in office shall constitute a quorum for the transaction of business at all meetings where a quorum is required. In the absence of a quorum, the Body's chairperson, vice chairperson, other officer, or the administrative staff person serving the Body may announce that the meeting is continued due to lack of a quorum and such announcement

[9] See C.R.S. § 24-18-110.

may include the date, time, and place at which the meeting will be re-convened. By way of example, such announcement may state: "Due to lack of quorum, this meeting is continued to the [state date, time, and place]." In the event any meeting is adjourned to a later date, the Chairperson or the administrative staff person serving the Body shall prepare and cause to be delivered to each member of Body timely notice setting forth the date and hour to which such meeting has been continued. Any announcement of a continuation without a public announcement of the date, time, and place of the continued meeting shall require the issuance of new notice for any public hearings or other matters that require notice.

- Floor Required to Address Body. Except when raising a Point (Point of Order, Point of Information, or Point of Appeal), a Member must first be recognized by the Chairperson and be given the floor in order to address the Body. Speaking without first obtaining the floor is out of order.

- Time Limit for Floor. A Member's right to the floor is limited to five (5) minutes. A Member may request that the Chairperson grant additional time. Such request should customarily be granted by the Chairperson unless the Chairperson determines that other Members are waiting to be recognized to obtain the floor or that meeting efficiency necessitates that the requested extension be denied. When one Member is denied a request for an extension of time to speak, no other Member shall be granted an extension of time for the same agenda item. Speaking in excess of the allocated time is out of order.

- Limitation on Obtaining Floor. A Member should only speak once to any motion or matter under debate until such time that all others seeking the floor have been provided an opportunity to speak to the motion. Obtaining the floor after previously speaking when other members are waiting an opportunity to speak is out of order.

- No Interruptions or Side Discussions. To maintain a clear recorded meeting record, only one person shall speak at any one time. Interrupting a person who has the floor or engaging in side discussions while another person has the floor is out of order.

- Second Required for Debate. All motions must receive a second before debate or discussion may begin. A second does not connote approval of the motion but only that the Member offering the second supports fuller discussion of the motion.

- Chairperson Discretion. The Chairperson may independently decide to deviate from the Rules of Order in order to increase meeting efficiency and to best enable full and informed discussion of a matter before the Body. However, such independent action by the Chairperson remains subject to a Point of Order and Point of Appeal through which a Member can bring the meeting into full compliance with the Rules of Order.

- Voting:

  Vote Requirement. A majority vote of the quorum present is required for any motion unless a different requirement is set by these Rules of Order or by applicable law. For example, a supermajority (2/3rds of quorum present) is required for a Motion to Call the Question pursuant to these Rules of Order and a supermajority (2/3rds of a quorum present) is required for a motion for executive session pursuant to the Colorado Open Meetings Law (C.R.S. § 24-6-402(4)).

Aye or Nay Vote Required. A vote of aye or nay (or another form of affirmative or negative declaration such as "yes" or "no") shall be taken upon motions. Every Member, when present, must vote aye or nay unless:

(1) The Member is excused by the Chairperson due to the Member's declaration of a conflict of interest at the introduction of the agenda item or immediately upon discovery of a legally recognized conflict of interest; or

(2) The Member is excused by the Chairperson because the member is without sufficient information upon which to enable an informed vote due to an absence at a prior meeting, e.g., the member did not attend the meeting for which meeting minutes are moved for approval.

No Abstention. An unexcused member's vote to "abstain" or other similar declaration other than "aye" or "nay" shall be recorded as a "nay" vote on the pending motion or matter.

No Explanation of Vote. Members shall not explain their vote except during discussion and deliberation prior to the calling of the vote on the question. Any attempt to explain a vote or to condition the vote immediately prior to casting the vote is out of order.

Chairperson's Privileges & Duties

- Chairperson to Direct Meeting. The Chairperson is privileged to act as the director of the meeting. The Chairperson shall seek to clarify the actions pending before the Body during the meeting and prior to a vote. For example, the Chairperson is encouraged to restate motions, announce expectations for the meeting agenda, and recommend to the Body the proper procedure or rules for a particular course of action. The Chairperson has a continuing right to the floor although, like any other member, shall be held to compliance with the Rules of Order.

- Chairperson as Parliamentarian. The Chairperson is the meeting parliamentarian and shall decide all questions of process and procedure. Such decisions are subject to appeal by a Point of Appeal. The Chairperson may consult with the Body's legal counsel or administrative staff to assist in rendering decisions regarding the application of the Rules of Order.

- Chairperson as Facilitator of Discussion. As the meeting director, the Chairperson should generally encourage and enlist other Members to propose or to second motions and to lead initial debate. Nevertheless, the Chairperson is entitled to the same rights as Members regarding the presentation of motions, seconding motions, and debate and may exercise such privilege as deemed appropriate by the Chairperson.

- Temporary Informal Recesses. The Chairperson may declare a temporary recess without motion or consent of the Body. However, no recess shall be declared which would interrupt a member who has properly secured the floor to speak.

Moving Party's Privileges

- At any time *prior to* receiving a second on a motion, the Moving Party may unilaterally withdraw or unilaterally amend a motion provided that the Moving Party has the floor. A motion, *once seconded*, belongs to the decision-making Body and the Moving Party's privileges are limited.

- The Moving Party retains the following limited privileges after the motion receives a second if the Moving Party has properly secured the floor to speak:

  A. The Moving Party may speak to the rationale, purpose, meaning, or need of the motion prior to the opening of full debate to other members of the Body.

  B. The Moving Party may withdraw his/her seconded motion unless an objection is raised by Point of Order. An objection to the Moving Party's withdraw of the seconded motion will summarily defeat the Moving Party's request to withdraw.

  C. The Moving Party may accept a proposed amendment (a "Friendly Amendment") unless an objection is raised by Point of Order. An objection to a Friendly Amendment will summarily defeat the Moving Party's privilege to accept a Friendly Amendment and, in such case, a formal Motion to Amend would be in order.

  D. During debate, to further explain or clarify the meaning, intent, or purpose of the motion or to otherwise respond to a Point of Information.

Classes & Priority for Points and Motions

There are three classes for motions and points: (1) Privileged; (2) Main; and (3) Subordinate. The class determines the priority or importance of the motion or point and, therefore, determines whether the motion or point is "in order" when made, i.e., if the motion or point proposed is appropriate for the Body to consider at the time it is presented.

- **PRIVILEGED** motions, which include all three Points, do not require a pending main motion on the floor and do not relate directly to a pending question. Privileged motions or points may be raised at any time. Privileged *points* do not require the floor; privileged *motions* require the floor. Privileged motions oftentimes involve an administrative or ministerial aspect of the meeting that needs to be resolved independently of the business then-pending before the Body. There following motions or points are recognized as privileged and are listed *in order of precedence*:

  - Point of Order
  - Point of Information

- Point of Appeal
- Motion to Recess
- Motion for Executive Session

- A **MAIN** motion formally presents to the Body an item for action. A Main motion can be made only when no other motion is pending. If a Main motion is presented when another pending motion or point is before the Body, it is out of order.

  Although there are as many Main motions as there are subject matters that a Body may consider, there are four (4) commonly recognized *specific* Main motions used in local government decision-making:

  - Motion to Adjourn
  - Motion to Reconsider
  - Motion to Postpone an Agenda Item to a Date Certain
  - Motion to Postpone Indefinitely

- A **SUBORDINATE** motion is related to and supplements or builds upon the Main motion. A Subordinate motion must be dealt with before the Main motion can be voted on. A Subordinate motion is in order only when there is a pending main motion on the floor. Once a seconded Subordinate motion is pending on the floor, neither a MAIN motion nor another Subordinate motion is in order.

  There are three (3) recognized Subordinate motions:

  - Motion to Amend (a Main Motion)
  - Motion to Continue Matter Before the Body to Date Certain
  - Motion to Call the Question (Close Debate)

Points and Motions in Detail

A. Points

There are three "Points:" (1) Point of Order; (2) Point of Information; and (3) Point of Appeal. Points do not require a second. They are each "privileged" and may be raised at any time.

- **Point of Order** (or to "raise a question of order" as it is sometimes expressed), is an opportunity for a Member to express an opinion that the rules or procedures of the Body are being violated. The appropriate means of asserting such opportunity is for the member to wait for a break in the discussion and state "Point of Order" and wait to be recognized by the Chairperson. Any existing debate or discussion should cease. Upon the Chairperson's recognition, the member must succinctly state the general rule or procedure believed to be in violation. A point of order should not interrupt another speaker, does not require a second, is not debatable, is not amendable, and cannot be reconsidered. For example:

Member Jones was granted the floor and proposed a motion to approve a site plan. Member Jones then proceeded to discuss the rationale for his motion.

Member Jones:	[has the floor and is engaged in debate on a motion, he pauses in his debate]
Member Smith:	"Point of Order."
Chairperson:	"Excuse me a moment, Mr. Jones. The Chairperson recognizes Ms. Smith."
Member Smith:	"I believe we are debating a motion that did not receive a second. I believe that this is out of order because a motion requires a second before debate."
Chairperson:	"You are correct Ms. Smith, I do not recall a second was offered. Therefore, let us cease debate. Do I have a second on the motion? [A second is offered]. Thank you for your Point of Order, Ms. Smith. Mr. Jones, you have the floor and may commence debate."

- **Point of Information** is a *request to <u>receive</u> information* on a specific question, either about process, meeting conduct, clarification of a motion, or about a fact at any time during a meeting. A Point of Information is <u>not</u> an opportunity for a member to <u>*provide*</u> information to the Body and should never be used as a means of continuously interrupting the flow of debate. Using a Point of Information to provide information or to interrupt debate would be out of order.

  As an example of the proper use of a Point of Information while the Body is engaged in debate on a seconded motion:

Member Quinn:	[Has the floor and is offering her thoughts on a pending matter.]
Member Frank:	"Madam Chairperson, Point of Information"
Chairperson:	"Excuse me a moment, Ms. Quinn. The Chairperson recognizes Member Frank."
Member Frank:	"Ms. Quinn said there are more than 5,000 vehicles passing through the Main Street intersection during the peak evening hours. But I recall that our Traffic Engineer stated earlier that the traffic count at the intersection during evening peak hours was only 1,500 vehicles. What is the correct number?
Chairperson:	"Let's have the Traffic Engineer provide us the accurate figure for traffic count."

  Following the Traffic Engineer's advisement, Ms. Quinn again has the floor.

- **Point of Appeal** is a request of a member to challenge a decision of the Chairperson concerning the application of the Rules of Order. A Point of Appeal shall customarily be in order immediately following the Chairperson's decision and may be declared out of order and unavailable where the Body has relied upon the Chairperson's decision and continued the proceeding in reliance upon, or in accordance with, the Chairperson's decision. The member making the Point of Appeal may briefly state his or her reason for the Point, and the Chairperson may briefly explain his or her ruling, but there shall be no further debate on the appeal.

As an example of the use of a Point of Appeal when a motion is pending discussion:

Chairperson: "We have on the floor a Motion to Call the Question that was seconded." The vote on a Motion to Call the Question is not debatable and will require a majority vote of the quorum present."

Member Thomas: "Point of Appeal"

Chairperson: Mr. Thomas has raised a Point of Appeal. Mr. Thomas, you have the floor. What is your appeal?"

Member Thomas: I appeal the Chairperson's decision regarding the required vote on a Motion to Call the Question. A Motion to Call the Question requires a 2/3rds vote pursuant to our Rules of Order.

Chairperson: "My decision regarding the required vote is being appealed. I believe that closing debate is a rather simple matter only requiring a majority vote like a majority of all of our motions."

"We shall now vote on the appeal. Mr. Thomas appeals my decision regarding a vote on a Motion to Call the Question requires a simple majority of this quorum. Mr. Thomas asserts it should be a 2/3rds vote. The question we are now voting on is 'Shall the decision of the Chairperson be sustained?'"

[The Members vote to not sustain (they overturn) the Chairperson's decision.]

Chairperson: "My decision is overturned on appeal. I stand corrected and will now declare that the Motion to Call the Question requires a vote of 2/3rds of the members of the Body. Let us proceed to the consideration of the Motion to Call the Question."

B. Motions

- **Motion to Recess** **(Privileged)**

  A Motion to Recess is intended to provide a temporary cessation in the meeting to accommodate matters such as restroom breaks or to consult with legal counsel or administrative staff. The motion should state approximate amount of time for the requested recess as a convenience to other members and the public in attendance. A second is required and the motion is not debatable and requires an immediate vote. A majority vote of quorum present required for approval.

As an example of a Motion to Recess, such motion might be stated as:

Member Thomas: "I move to recess our meeting for 15 minutes until 7:30."

Member Jones: "Second."

Chairperson: "We have a Motion to Recess on the floor to recess until 7:30. Because this motion is not debatable, would the clerk please call for the vote."

- **Motion to Adjourn (Main)**

Motion to Adjourn is available to cease further action of the Body and immediately terminate the meeting. A Motion to Adjourn is debatable and requires a majority vote of quorum present required. Caution should be exercised when presenting a Motion to Adjourn when items are pending on the agenda that required prior notice (such as public hearing publication or posting of property) because these matters must be properly continued to a future date or new notice published and/or posted.

As an example of a Motion to Adjourn, such motion might be stated as:

Member Thomas: "I move to adjourn this meeting."

Member Jones: "Second."

Chairperson: "We have a Motion to Adjourn on the floor. Member Thomas, did you want to speak to your motion or open any debate?

Member Thomas: "Thank you. I believe the remaining items on our agenda are not important and it is already 11:00 p.m. I believe we are all tired and can no longer concentrate."

Chairperson: Any other debate? Seeing none, would the clerk please call for the vote. Please note that only a simple majority of our quorum present tonight is needed to adjourn."

- **Motion to Reconsider (Main)**

A Motion to Reconsider is an extraordinary motion that requires a degree of care in presenting and, if approved, care in processing the matter to be reconsidered. A successful Motion to Reconsider will effectively void the prior vote taken on the previously decided motion and cause the matter to be reopened for another motion and a new consideration.

A Motion to Reconsider is only in order at the same meeting at which the decision to be reconsidered was made or at the *next* regular meeting of the

Body. The motion must be made by a member on the prevailing side of the original motion to be reconsidered. The required second on the motion need not be a member from prevailing side. The motion is debatable but only for the reasons to explain or justify reconsideration and not for the purpose of debating the merits of the original motion.

A supermajority vote of 2/3rds of the quorum present is required for approval. All proceedings, testimony, evidence, and debate on the matter presented during the initial consideration of the original matter will remain part of the official record; only the decision or vote taken is voided.

In the event of a successful Motion for Reconsideration, it is recommended that the reconsideration of the original matter be continued to a future date as opposed to being heard at the same meeting in which the Motion for Reconsideration was approved. This recommendation stems from the fact that the matter under reconsideration will likely require new public notice so that interested parties (and possibly an applicant whose rights are being decided) are apprised of the new consideration and can attend and participate in the new consideration. Even when a successful Motion for Reconsideration was presented in the same night as the matter subject to reconsideration, the parties present for the original matter may have departed the meeting after what appeared to those attending to be a final decision on the original motion. Fairness will often dictate that the reconsideration be scheduled for a future date.

As an example of the typical process surrounding a Motion to Reconsider, such motion might be stated as:

Member Thomas: "I move to reconsider our decision to approve Ordinance 14 which required all owners to keep their dogs on leashes at all times. I believe I can make this motion because I voted "yes" on the ordinance and it was approved at our last meeting."

Member Jones: "Second."

Chairperson: "We have on the floor a Motion to Reconsider Ordinance 14 concerning our new dog leash law. Please note that a Motion to Reconsider, if we approve it tonight, will reopen the consideration of Ordinance 14 and require new debate, a new motion, and a new vote. Member Thomas, did you want to speak to your Motion to Reconsider? Please note that you are free to discuss the reason why you wish to seek reconsideration but this is not intended to be a debate of the merits of Ordinance 14 at this time."

Member Thomas: "Thank you. I would like us to reconsider Ordinance 14 because upon reflection over the last week I believe the Ordinance may be too restrictive and we might want to consider allowing an exemption to the leash requirement for owners that can maintain control over their dogs by using voice command."

Chairperson:	"Any other debate concerning whether we should reconsider Ordinance 14? Seeing none, would the clerk please call for the vote. Please note that this Motion to Reconsider requires a supermajority of 2/3rds of the quorum present tonight to be approved. If approved, our administrative staff will need to schedule Ordinance 14 for discussion at a future date and provide or publish any required notices to the public concerning our reconsideration of Ordinance 14."

- **Motion to Postpone an Agenda Item to Date Certain (Main)**

A Motion to Postpone an Agenda Item to a Date Certain pertains to a matter that is <u>not</u> presently on the floor but is scheduled for later consideration on the Body's agenda. The motion must identify a date and time certain for the agenda item to be reset for Body consideration. If the Moving Party desires to *indefinitely* postpone an item, a Motion to Postpone indefinitely is the appropriate motion (see below). The Motion to Postpone an Agenda Item to a Date Certain is debatable. A majority vote of quorum present required for approval.

As an example of a Motion to Postpone an Agenda Item to Date Certain, such motion might be stated as:

Member Smith:	"I move to Postpone Agenda Item 8 which pertains to funding of the repainting of the offices in City Hall to our meeting on August 15 at 7:00 p.m. here in our Council Chambers."
Member Edwards:	"Second."
Chairperson:	"We have a Motion to Postpone Agenda Item 8 which pertains to the funding of the repainting of the offices. This motion is debatable, so I would offer Mr. Smith and other Members an opportunity to comment on the motion".
Member Smith:	"I believe that this is not an urgent matter and, quite frankly, there are more pressing matters to fully consider tonight. The August 15 agenda looks like a light meeting."
Chairperson:	"Any other discussion? Seeing none, would the clerk please call for the vote."

- **Motion to Postpone Indefinitely (Main)**

A Motion to Postpone Indefinitely will effectively kill a matter that is subject to the Body's consideration (and is usually on the meeting agenda or scheduled on a future agenda). This motion will remove the matter from the Body's consideration without full debate of the matter and without directly voting the matter down on the matter's merits. It is most commonly used to eliminate a matter from the current and/or future agendas because there is insufficient interest on the Body to hear the matter. As a caution, a Motion to Postpone Indefinitely would not be appropriate where the item involves a quasi-judicial matter for which an applicant has a right to a hearing and opportunity to be heard; legal counsel should be consulted regarding the use of this Motion for any quasi-judicial matter. The motion is debatable. A majority vote of quorum present required for approval. If approved, the matter will not be brought back to the Body unless the Body instructs that the item return for a future agenda.

As an example of a Motion to Postpone Indefinitely, such motion might be stated as:

Member Johnson: "I move to Postpone Indefinitely Agenda Item 2 which pertains to enacting a leash law for all cats in the town."

Member Samuels: "Second."

Chairperson: "We have a Motion to Postpone Agenda Item 2 indefinitely which pertains to our imposing a leash law on cats. This motion is debatable and requires a majority vote of the quorum present tonight. I would offer Ms. Johnson and other Members an opportunity to comment on the motion."

Member Johnson: "I have talked with many citizens about this proposal and believe that we are likely to be harshly criticized should be enact such an ordinance. So I think it is a waste of our time to continue to entertain this idea and I prefer just to eliminate the matter from tonight's agenda and our future consideration."

Chairperson: "Any other discussion? [Member Thomas requests floor]. The floor recognizes, Mr. Thomas. Mr. Thomas you have the floor."

Mr. Thomas: "Thank you. Although I agree with Ms. Johnson about the public sentiment we are likely to hear about leashing cats, I think we should at least open the public debate and have the citizens comment to us directly. So, I oppose the motion to postpone indefinitely."

Chairperson: "Seeing no other discussion, would the clerk please call for the vote."

[Vote fails to gain the required simple majority vote needed for a Motion to Postpone Indefinitely.]

Chairperson:	"We do not have the required majority of the quorum so the offered motion is rejected or fails. We will consider the matter of leashing cats as our scheduled Agenda Item 2 tonight."

- **Motion to Amend (a Main Motion) (Subordinate)**

A Motion to Amend (a Main Motion) is applicable only to a Main motion on the floor. The motion must provide specificity as to the intended amendment. The motion is debatable. A majority vote of a quorum present required for approval. A motion to amend is not in order when another motion to amend is already pending (made and seconded) before the Body; e.g., the Body will deal with only one Motion to Amend at a time to avoid confusion.

As an example of a Motion to Amend a Main Motion, such motion might be stated as:

Member Smith:	I move to Approve Ordinance No. 6 as presented to us tonight."
Member Jackson:	"Second."
Chairperson:	"We have a proper Motion on the floor that has received a second to approve Ordinance No. 6. Any discussion?"
Chairperson:	"Yes, the Chair recognizes Mr. James. Mr. James, you have the floor."
Member James:	"Thank you. I move to amend the motion offered by Ms. Smith to change the amount of the penalty for the first violation stated in Section 1-1-3 on page 3 of Ordinance No. 6 from the stated $100 for the first offense to $200 for the first offense."
Member Samuel:	"Second.'
Chairperson:	"We have a Motion to Amend before us to change the penalty in Section 1-1-3 of Ordinance No. 6 from $100 to $200 for the first offense. We will take up the Motion to Amend first and decide that Motion before we consider the Main Motion. It is debatable and requires a simple majority vote. I see no one wishing to comment or debate the offered amendment to Ordinance No. 6. Would the clerk call for the vote on the Motion to Amend only."
	[Motion receives majority vote of approval.]
Chairperson:	"The Motion to Amend is approved so Ordinance No. 6 is now amended to change the penalty for a first offense to $200. We next turn to the Main Motion to

approve Ordinance 6, now as amended. Any debate on Ordinance No. 6 as amended? Seeing none, would the clerk please call for the vote of Ordinance No. 6 as it was amended."

- **Motion to Continue Matter to Date Certain (Subordinate)**

A Motion to Continue a Matter (that is before the Body) to a Date Certain postpones to holdover the current motion to a specific date, time, and place stated in the motion. Note that a motion to continue a matter without stating a date certain would operate more like a Motion to Postpone Indefinitely (see above) and would require the matter to be affirmative requested by the Body for future consideration and reintroduced and, when required, new publication of notice of the hearing or discussion. The motion is debatable. A majority vote of a quorum present required for approval.

As an example of a Motion to Continue a Matter to a Date Certain, such motion might be stated as:

Member Smith: "I move to continue this matter under consideration to our meeting on February 23 at 7:00 p.m. here in our Council Chambers."

Member Edwards: "Second."

Chairperson: "We have a Motion to Continue this matter we are considering to a date and time certain, that being our meeting of February 23, at 7:00 p.m. here in our Council Chambers. This motion is debatable and only requires a majority of the quorum here this evening. I would offer Mr. Smith and other Members an opportunity to comment on the motion."

Member Smith: "I believe we need a continuation so that we can have a full opportunity to review the traffic study we received tonight. Without my detailed review of that study, I do not believe I am able to make an informed decision on the matter pending before us."

Chairperson: "Any other discussion? The Chair recognizes Ms. Hampton."

Member Hampton: "We have all had the traffic study for more than a month and we received a presentation on the study contents last week. With all respect to Mr. Smith, I believe a majority of us are fully informed and we can decide the issue tonight."

Chairperson: "Seeing none other request to debate, would the clerk please call for the vote."

- **Motion to Call the Question** **(Subordinate)**

  A Motion to Call the Question (also more correctly phrased as to "Close Debate") will close further debate and require vote on the motion pending before the Body. The motion applies only to the motion on the floor. The motion is not debatable. Due to the fact that such a motion will forestall the Body's ability to discuss the merits of the pending matter, a supermajority vote of 2/3rds of the quorum present is required for approval in order that the Body evidences a strong intent that continuing debate is not necessary to decide the matter.

  As an example of a Motion to Call the Question (or Close Debate), such motion might be stated as:

  [A debatable motion is pending before the Body and the Body is engaged in debate.]

  Member Bernie: "I move to Call the Question."

  Member Jones: "Second."

  Chairperson: "We have Motion to call the Question which will, if approved, close all debate on the matter presently before us and require a vote. This motion is not debatable. This motion will require a supermajority of our quorum by 2/3rds. Would the clerk please call for the vote."

  Chairperson: "The Motion to Call the Question is approved by a 2/3rds vote. Would the Clerk please call for the vote on the main motion."

- **Motion for Executive Session** **(Privileged)**

  Executive sessions are expressly permitted by state law to allow the Body to discuss certain topics in a closed non-public setting. The most common authorized executive session topics for local government include:

  A. Purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest; except that no executive session shall be held for the purpose of concealing the fact that a member of the local public body has a personal interest in such purchase, acquisition, lease, transfer, or sale.[10]

  B. Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions. Mere presence or participation of an attorney at an executive session of the local public body is not sufficient to qualify the executive session as a session involving legal advice.[11]

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[10] C.R.S. § 24-6-402(4)(a).
[11] C.R.S. § 24-6-402(4)(b).

C. Matters required to be kept confidential by federal or state law or rules and regulations. The Body shall announce the specific citation of the statutes or rules that are the basis for such confidentiality before holding the executive session.[12]

D. Specialized details of security arrangements or investigations, including defenses against terrorism, both domestic and foreign, and including where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for, a violation of the law.[13]

E. Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.[14]

F. Personnel matters *except if* the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting.[15] However, you *cannot* hold an executive session for "personal matters" to discuss:

   (i) an elected official or an appointed member of the Body;[16] or

   (ii) the appointment of a person to fill an appointed[17] or elective office; or

   (iii) personnel policies that do not require the discussion of matters personal to particular employees.[18]

G. Consideration of any documents protected by the mandatory nondisclosure provisions of the "Colorado Open Records Act",[19] except that all consideration of documents or records that are work product as defined in C.R.S. § 24-72-202 or that are subject to the governmental or deliberative process privilege shall occur in a public meeting unless an executive session is otherwise allowed pursuant to state law.

Because the authorized purposes for executive session are limited and because errors in calling for an executive session *may* result in the session discussion becoming subject to public disclosure or actions, if any,

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12 C.R.S. § 24-6-402(4)(c).
13 C.R.S. § 24-6-402(4)(d).
14 C.R.S. § 24-6-402(4)(e).
15 C.R.S. § 24-6-402(4)(f)(I).
16 C.R.S. § 24-6-402(4)(f)(II).
17 Id. A special statutory provision of the Colorado Open Meetings Law (C.R.S. § 24-6-402(3.5)) may authorize non-public executive sessions to conduct some of the business associated with selecting the chief executive officer (commonly considered as the "city manager" or "town administrator.) Consult your local counsel to understand the steps necessary to hold these special forms of non-public public meetings.
18 C.R.S. § 24-6-402(4)(II).
19 Id.

invalidated, it is always advised to obtain legal advice regarding each motion.

Unlike other matters that will be open for public discussion, debated, and possibly decided by the Body, it is not necessary that the Executive Session be listed on the meeting agenda in advance. Oftentimes, the Body has no need for an executive session and the need arises during the meeting. For example, the need for legal advice may not be known until evidence or information is presented that give rise to a question requiring consultation with the Body's counsel.

The Motion for Executive Session must include the citation to Colorado Revised Statute subsection authorizing session and a brief description of subject matter.

The motion is debatable. However, care should be taken during debate to not disclose any confidential or sensitive information that might undermine the purpose of the executive session. For example, a town board member may state in debate during the public meeting that an executive session should be held to allow the council to decide "whether to spend up to $2,000,000 on the acquisition of the vacant Thompson Property for a public park." Such public disclosure would essentially undermine the purpose of the executive session, that is, to give the town board the opportunity to determine negotiation strategy and the total amount willing to be paid to the seller for the Thompson Property. More appropriate would be to declare in debate that the executive session is needed to "allow the town board to decide the maximum amount the negotiation team can offer in negotiation."

Very importantly, a supermajority of 2/3rds of quorum present required for approval pursuant to the Colorado Open Meetings Law.

As an example of a Motion for Executive Session to obtain legal advice, such motion might be stated as follows:

Member Thomas: "I move to hold an executive session pursuant to C.R.S. § 24-6-402(4)(b) to receive legal advice on the right to impose a condition on the proposed rezoning application under discussion."

Member Jones: "Second."

Chairperson: "Is there any debate on this motion? Seeing none, would the clerk please call for the vote." Please note that the vote required for executive session is a 2/3rds of the quorum present tonight."

[Vote by the Body is taken and the vote is unanimous.]

Chairperson: "We are now authorized to enter into executive session."

Suspension of Rules

A. Chairperson May Suspend

Subject to challenge by Point of Appeal, the Chairperson may unilaterally elect to suspend operation of any rule provided by these Rules of Order; provided, however, that the Chairperson shall not be authorized to suspend or alter the vote required on any motion or matter.

B. Suspension of Rules

Any member may move to suspend the applicability of a rule of order by proposing a main motion; provided, however, that no motion may suspend or alter the vote required on any motion or matter. Such motion shall be presented only as a main motion which motion shall require a second, be subject to debate, and shall require a majority vote of the quorum present for adoption.

Matrix of Points and Motions

Type	MOTION	Floor Required?	When in Order?	Second Required?	Debatable ?	Vote Required
Point	**Point of Order**	No	Any time	No	No	-
Point	**Point of Information**	No	Any time	No	No	-
Point	**Point of Appeal**	No	Immediately following decision	No	Yes	Majority of quorum
Main	**Main Motion**	Yes	When no other motion is pending	Yes	Yes	Usually majority. Depends on law or regulation Section 3.9
Main	**Adjourn**	Yes	When no motion pending	Yes	Yes	Majority of quorum
Main	**Postpone (an item on the agenda)**	Yes	When no motion pending	Yes	Yes	Majority of quorum
Subsidiary	**Continue (a pending matter or pending motion)**	Yes	When matter or motion is pending	Yes	Yes	Majority of quorum
Subsidiary	**Close Debate**	Yes	When motion pending	Yes	No	2/3rds of quorum
Subsidiary	**Table**	Yes	When matter or motion is pending	Yes	No	Majority of quorum
Subsidiary	**Amend (a pending motion)**	Yes		Yes	Yes	Majority of quorum

Type	MOTION	Floor Required?	When in Order?	Second Required?	Debatable ?	Vote Required
Privileged	**Recess**	Yes	Any time	Yes	No	Majority of quorum
Privileged	**Executive Session**	Yes	For Legal Advice: Any time For other reason: When no matter or motion pending	Yes	Yes, provided that the debate does not disclose confidential information	2/3rds of quorum
Privileged	**Reconsider**	Yes	When no matter or motion pending, and at either at the same meeting at which the decision to be reconsidered was made *or* at the *next* regular meeting of the body. Otherwise, such motion is unavailable and out of order.	Yes	Yes, as to reason but not to debate original motion	2/3rds of quorum

TOWN OF WELLINGTON, COLORADO
RESOLUTION NO. 32 - 2016

A RESOLUTION OF THE WELLINGTON TOWN ADOPTING POLICES ADDRESSING TOWN BOARD GOVERNANCE

WHEREAS, Town Code of the Town of Wellington (the "Town Code"), **Sec. 2-2-80. Conduct of meetings; voting. at subsection (c) and (d) provides:**

(c) The Board of Trustees may, from time to time, establish rules and regulations by resolution to govern the preparation and distribution of the agenda for regular and special meetings, accompanying documentation for agenda items and the minutes of previous meetings.

(d) The business of the Board of Trustees shall be conducted in accordance with the prepared agenda which only may be altered by approval of the Board. Meetings of the Board of Trustees shall be conducted by the Mayor, according to Robert's Rules of Order, Revised, unless otherwise provided in this Code, state statute or other policies or procedures adopted by the Board of Trustees.

Subsections 2-2-80(c) and (d) of the Town Code are sometimes referenced as the "Governance Provisions."

WHEREAS the Governance Provisions recognize that the Wellington Town Board of Trustees (the "Town Board") may establish rules relative to the preparation and distribution of the Town Board agenda and may clarify the *Roberts Rules of Order, Revised* procedure governing meetings.

WHEREAS, the Colorado Open Meetings Law at §24-6-402 generally requires that, meetings at which … formal action occurs or three members are in attendance, shall be posted and held on no less than twenty-four hours notice prior to the meeting with posting to include specific agenda information where possible.

NOW, THEREFORE, be it resolved the Board of Trustees of the Town of Wellington, Colorado that the Town Board adopts the following policies and procedures relative to the governance of Town Board meetings as follows:

Agenda:

Unless otherwise established by the Town Board, regular meetings of the Town Board shall be held on the second and fourth Tuesdays of each month and the meeting agenda and such supporting materials as may be available shall be circulated to the members of the Town Board by 11:59 p.m. the previous Friday before the meeting. The Agenda may be supplemented up to 24 hours before the regular meeting.

Special meetings of the Town Board may be held as provided for by Colorado Statute and the Town Code. The Agenda and Agenda items shall be provided to the Town Board at least 24 hours before the special meeting.

Agendas shall be established by the Town Administrator/Clerk and the Mayor. Any Town Board member may request that the Mayor or the Town Administrator/Clerk place items on the Agenda. If the Mayor or Town Administrator/Clerk is not willing to place an item requested by a Town Board member on the Agenda any two Board members may direct that an item be placed on the Agenda without Mayoral or Town Administrator/Clerk approval.

Town Board agenda material may be delivered to the Town Board members either in person or by email and may be in either paper or digital form.

Robert's Rules of Order, Revised

The Governance Provisions of the Town Code provide that meetings of the Town Board shall be governed by *Robert's Rules of Order, Revised. Robert's Rules of Order* was originally published in 1876 and as of 2011 is in the 11th revised edition. It is intended that meetings of the Town Board and of other boards and commissions of the Town shall be governed by the most recent version of *Robert's Rules of Order ("Robert's Rules")* Ongoing revisions have made the use of Robert's Rules cumbersome and difficult. In 2016 the Colorado Municipal League at its 94th Annual Conference offered a presentation, *"How to Run Effective Meetings: Bob's Rules." Included as part of the presentation were copyrighted materials identified as "Bob's Rule's of Order (Summary Version Prepared for Municipal League 2016 Annual Conference ("Bob's Rules").*

Meetings of the Wellington Town Board shall be governed by *Bob's Rules* as such rules clarify and supplement *Robert's Rules.*

Other Boards of the Town

Activities of other Boards established by the Town shall be governed in accordance with these polices including agendas established and circulated by the committee chair and Town Administrator/Clerk by the Friday proceeding the committee meeting, governance by *Robert's Rules* as supplemented by *Bob's Rules.*

<u>All or a portion of the Bob's Rules document is prepared from copyrighted materials and used with the permission of the author, Robert C. Widner and the permissive use shall be noted on copies of document materials maintained by the Board</u>

THIS RESOLUTION adopting policies of the Town Board WAS READ, PASSED, AND UNANIMOUSLY ADOPTED by the Wellington Town Board of Trustees at a regular meeting held this 23 day of August, 2016

TOWN OF WELLINGTON, COLORADO

By ______________________________
Jack Brinkhoff, Mayor

ATTEST:

____
Larry Lorentzen, Town Administrator/Clerk

ARTICLE 6 - Code of Ethics

Sec. 2-6-10. - Title, citation and effective date.

This Article is intended to supplement the Colorado Constitution and state law and constitutes the code of ethics governing the conduct of elected and appointed officials and employees of the Town with respect to real or apparent conflicts of interest in the performance of their official activities on behalf of the Town and its citizens. This Article may be cited herein as the Code of Ethics. (Ord. 10-1987 §1; Ord. 11-2007 §1)

Sec. 2-6-20. - Purpose.

(a) The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the government structure; that public office not be used for personal gain; and that public officials and employees maintain a standard of conduct that will inspire public confidence in the integrity of the government.

(b) The public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed. The people have a right to expect that every public official and employee will conduct himself or herself in a manner that will tend to preserve public confidence in and respect for the government he or she represents.

(c) The Board of Trustees determines that ethical standards among its members, appointed officers and employees, as well as the members of the various boards and commissions of the Town, are essential to the public affairs of the Town. The Board of Trustees intends to prohibit the appearance of impropriety as well as actual conflicts of interest. The purpose of this Code of Ethics is to establish guidelines for standards of conduct for all officials and employees of the Town by setting forth those acts or actions that are incompatible with the best interests of the Town; by directing disclosure by such officials and employees of private, financial or other substantial interests in matters affecting the Town; and by imposing sanctions upon public officers or employees who violate the provisions of this Code of Ethics. This Code of Ethics is hereby declared to be in the best interest of the Town. (Ord. 10-1987 §2)

Sec. 2-6-30. - Scope of coverage.

The provisions of this Code of Ethics shall be applicable to all members of the Board of Trustees, all advisory boards and commissions and all officers and employees of the Town. (Ord. 10-1987 §3)

Sec. 2-6-40. - Definitions.

The terms used in this Article are hereby defined as follows:

Financial interest means any interest which shall yield, directly or indirectly, a monetary or other material benefit to the official or employee or to any other person employing or retaining the services of the official or employee.

Official or *employee* means any person elected or appointed to, or employed or retained by, any public office or public body of the Town, whether paid or unpaid, and whether part-time or full-time.

Official action means any legislative, administrative or appointive act of any official; or employee of the Town or any agency, board, committee or commission thereof.

Personal interest means any interest arising from blood or marriage relationships or from close business or political association, whether or not any financial interest is involved.

Public body means any agency, board, body, commission, committee, department or office of the Town.

Relative means any person related to a public officer or employee by blood or marriage, in any of the following degrees: parent, spouse, child, brother, sister, parent-in-law, nephew, niece, aunt, uncle, first cousin, grandparent, grandchild and child-in-law. A divorce or separation between spouses shall not be deemed to terminate relationships described herein.

Substantial interest means any situation, including without limitation a financial or personal interest in the outcome of a decision in which, considering all of the circumstances, a reasonably prudent person observing the situation would expect a marked tendency to make a decision other than an objective decision. In those instances where there is a disagreement pertaining to a substantial interest, the Board of Trustees shall determine the matter, with its decision being final.

Transaction means any contract, any sale or lease of an interest in land, material, supplies or services, or any granting of a development right, license, permit or application. (Ord. 10-1987 §4; Ord. 11-2007 §1)

Sec. 2-6-50. - Conflicts of interest.

The following are determined to be conflicts of interest which are prohibited by this Code of Ethics:

(1) Financial or personal. interest. No official or employee, either on his or her own behalf or on behalf of any other person shall have a financial interest or personal interest in any business or transaction with any public body.

(2) Incompatible employment. No official or employee shall engage in private employment with, or render services for, any private person who has business transactions with any public body.

(3) Representation of private persons. No official or employee shall appear on behalf of any private person, other than himself or herself, before any public body.

(4) Gifts and favors. No official or employee shall accept any gift, whether in the form of money,

thing, favor, loan or promise, that would not be offered or given if the official or employee were not an official or employee. (Article XXIX of the Colorado Constitution)

(5) Confidential information. No official or employee shall, without prior formal authorization of the public body having jurisdiction, disclose any confidential information concerning any other official or employee, any other person or any property or governmental affairs of the Town. Whether or not it shall involve disclosure, no official or employee shall use or permit the use of any such confidential information to advance the financial or personal interest of himself or herself or any other person.

(6) Nepotism. It is determined that the appointment or employment of a relative creates a situation of substantial interest on the part of an elected or appointed official or an employee of a public body. Therefore, no elected or appointed official or an employee of a public body shall appoint or vote for appointment of any relative to any office or position of employment, or participate in discussion or voting on matters pertaining to administrative policies, duties, salaries, equipment purchases, expenditures, revenues or other matters affecting the public body of which the relative is a member or is employed, except as provided by Section 2-6-60 of this Article.

(7) Multiple membership on board or commissions. The fact that an official or employee or a relative of an official or employee serves the Town through membership on one (1) or more advisory boards, commissions or other public bodies shall not in and of itself constitute a conflict of interest on nonadministrative matters to be considered by the official or employee. In those instances where there is a disagreement pertaining to a possible conflict of interest due to multiple memberships in public bodies, the Board of Trustees shall determine the matter, with its decision being final. (Ord. 10-1987 §5; Ord. 11-2007 §1)

Sec. 2-6-60. - Disclosure and disqualification.

(a) Whenever an official or employee is required to deliberate and vote on any matter in which he or she has a substantial interest, the official or employee shall give notice of said interest to the public body as reasonably possible after the interest has arisen. The interested official or employee shall thereafter:

(1) Refrain from voting upon or otherwise acting in an official capacity in such transaction.

(2) Be excused from participation in the discussion by the public body; however, the official or employee may participate in the discussion on the matter as a private citizen from the audience.

(b) In those instances where there is a disagreement pertaining to a substantial interest, the Board of Trustees shall determine the matter, with its decision being final. (Ord. 10-1987 §6; Ord. 11-2007 §1)

Sec. 2-6-70. - Remedies for violations.

(a) The Board of Trustees may censure any elected official who willfully violates any provision of this Article. Such censure shall be in accordance with applicable state law.

(b) The Board of Trustees may remove any person other than a Trustee from such person's appointed office or position of employment with a public body when such person willfully violates any provision of this Article. Such removal shall be in accordance with applicable state law.

(c) If a contract or sale is consummated contrary to the provisions of this Article, the Town may void the contract or sale.

(d) Any person affected by a Town transaction may commence a civil action in the District Court having jurisdiction for equitable relief to enforce the provisions of this Article upon showing a willful violation of any provision of this Article. Before filing such action, the person shall present the claim to the Board of Trustees and give the Board of Trustees an opportunity to act thereon.

(Ord. 10-1987 §7; Ord. 11-2007 §1)

Board of Trustees Meeting

Date: May 17, 2022
Submitted By: Patti Garcia, Town Administrator
Subject: Board of Trustees Meeting Packet Discussion

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

EXECUTIVE SUMMARY

At the April 29 and 30 Trustee workshop, the Trustees identified the need to address meeting packet information, how recommended motions were phrased for action items, how to report out on questions from Trustees on packet items and responses from public comment at meetings.

BACKGROUND / DISCUSSION

Please see attached memo.

STAFF RECOMMENDATION

For discussion purposes.

ATTACHMENTS

1. Memo_Packet info

Summary

During the Trustee workshop held April 29 and 30, the Trustees identified the need to address meeting packet information, how recommended motions are phrased for action items and how to handle questions from Trustees and responses from public comment at meetings.

Packet information

The goal of information provided in the meeting packets is to provide an overview of the agenda item through a cover memo, to include supporting documents and provide a recommended motion based on the research and analysis completed by staff.

Topics for discussion:

1. Packet distribution – Packets are currently released on Friday afternoon.
   a. The Trustees discussed having the packet released on Wednesday.
   b. The packet is a permanent document that should not be amended at least 24 hours prior to the meeting.
2. Cover memo
   a. Are the cover memos currently adequate to address the needs of the Trustees to support their decision making?
   b. Ideas for improvement
3. Supporting documentation - Staff heard during the workshop a request to include all contract proposals and background information in meeting packets.
   a. What information is needed by the Trustees to support their decision making?
   b. How would large volumes of information be best provided to the Trustees in the packet (ie as an attachment, as a link in the memo).
   c. Provide ideas on additional documents or information that would assist in decision making.
4. Motions – Below are two ideas for motions which may cover the options requested by the Trustees. These are for discussion only as the goal to assure that the Trustees are comfortable with motions presented moving forward.
   a. TRUSTEE ACTION OR RECOMMENDED ACTION
   Staff has identified the following options for Trustee consideration:
   1) Approve Ordinance No. XX-2022.
   2) Approve Ordinance No. XX-2022 with amendments as the Board of Trustees deems appropriate.
   3) Postpone consideration of Ordinance No. XX-2022 to a specified date and time and provide staff direction regarding additional information or amendments the Trustees would like to request for their further consideration.
   4) Vote to deny Ordinance No. XX-2022.

   Staff recommends Option #1

b. **AGENDA ITEM: RESOLUTION APPROVING AN INTERGOVERNMENTAL GRANT AGREEMENT ACCEPTING A COMMUNITY IMPACT GRANT AWARD OF $988,000 BETWEEN THE CITY OF LOVELAND, COLORADO AND THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND FOR CONSTRUCTING WILLOW BEND PARK AND TRAIL**

RECOMMENDED TO CITY COUNCIL: A motion to adopt Resolution #R-30-2022 approving an intergovernmental grant agreement accepting a community impact grant award of $988,000 between the City of Loveland, Colorado and the State Board of the Great Outdoors Colorado Trust Fund for constructing Willow Bend Park and Trail

OPTIONS:

COUNCIL ACTION OPTIONS	CONSEQUENCE
Approve the Motion	Allows the City of Loveland to accept a Community Impact grant award of $988,000 from Great Outdoors Colorado (GOCO) for construction of Willow Bend Park and Trail
Deny the motion or take no action	Denial would prohibit the City of Loveland from accepting the awarded GOCO grant and would reduce the budget for Willow Bend Park by approximately 20%
Adopted a Modified Motion	Specify in Motion
Refer back to Staff	A referral back to staff would delay acceptance of the award and possibly delay construction of Willow Bend Park and Trail

5. Packet questions received from Board of Trustees
   a. Deadline for receipt of questions by staff in order to have the questions addressed at a meeting.
   b. Expectations of staff regarding the receipt of questions; expected turn around for response.
   c. Consolidate questions and answers of all Trustees? Include the name of the Trustee that asked the question(s)?
   d. Publication of the questions and answers; when and where.

6. Public comment
   a. Staff response to public comment – The Trustees had discussed including responses in the meeting packet following the meeting when the comment was made.

Board of Trustees Meeting

Date: May 17, 2022
Submitted By: Patti Garcia, Town Administrator
Subject: Advisory Board and Commission Interview and Appointment Process

- **Presentation: Krystal Eucker, Town Clerk**

EXECUTIVE SUMMARY

The Board of Trustees has requested to review the interview and appointment process of volunteers to the Wellington Advisory Boards and Commissions.

BACKGROUND / DISCUSSION

The Board of Trustees make appointments to the Wellington Advisory Boards and Commissions when terms expire, when vacancies occur and when a new board or commission is established by ordinance. The Mayor and Trustees are also appointed to some of the boards and commissions. The Trustees have requested to review the current interview and appointment process and discuss options for moving forward for appointments of advisory board/commission volunteers.

The Town Clerk facilitates the appointment process through the receipt of applications, notification of interviews, coordinating scheduling for interviews and including the appointments on the Trustee agenda for consideration.

The goal of this discussion is for the Trustees to provide direction to staff as to their preferred interview and appointment process.

The Board of Trustees make appointments to the following boards and commissions:

- Board of Adjustment
- Community Activities Commission (Trustee liaison)
  - Currently, there are two vacancies with seven applications received
- Parks and Recreation Advisory Board (Trustee liaison)
  - Currently, there is one vacancy with five applications received
- Planning Commission
- Housing Authority (Trustee liaison)
  - Currently, there is one vacancy with a request from the Housing Authority to reappoint the individual whose term has expired
- Finance Committee (Trustee liaison)
  - Applications are being accepted for seven members

Topics for discussion:

1. Application
   a. Current process - Notification of openings are currently made available through the website and social media. Applications are fillable online and are to be submitted through the website. If a resident would like a hard copy of an application, it can be requested from the Town Clerk. The online applications are routed to Krystal Eucker and Mahalia Henschel for double coverage to assure the applications are received and accounted for. There currently is no automatic notification to the applicant that an application has been

received. Staff would like to enable a notification system that reports back to an applicant that their application has been received; this option may be available through our website and we will have more information to share shortly on this option.

2. Interview process
    a. Current process - Interviews for all boards and commissions are held by two trustees, the chair of the advisory board/commission and the staff liaison.
3. Appointment process
    a. Current process - Appointments are made by resolution on the regular agenda.

STAFF RECOMMENDATION

No recommendation.

ATTACHMENTS

None