BOARD OF TRUSTEES
March 21, 2023
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Work Session Agenda

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

Please click the link below to join the webinar:
https://us06web.zoom.us/j/84871162393?pwd=UkVaaDE4RmhJaERnallEK1hvNHJ5Zz09
Passcode: 726078
Or One tap mobile :
US: +17207072699,,84871162393# or +17193594580,,84871162393#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 720 707 2699 or +1 719 359 4580 or +1 669 444 9171 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623
Webinar ID: 848 7116 2393

A. ITEMS

1. Sam Light, CIRSA - Elected Officials Refresher Presentation
2. Water 101 Presentation and Cash in Lieu Water Discussion
   - Meagan Smith, Deputy Director - Public Works
3. Discussion of Irrigation Restriction Options
   - Hallie Sheldon, Senior Management Analyst
4. Board of Trustee Planning Calendar

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: **March 21, 2023**
Subject: **Sam Light, CIRSA - Elected Officials Refresher Presentation**

BACKGROUND / DISCUSSION

The Town of Wellington is a member of CIRSA (Colorado Intergovernmental Risk Sharing Agency), which provides the Town with many opportunities including training for our Board of Trustees. Sam Light, CIRSA General Counsel, presented an orientation overview for the Board of Trustees on April 26, 2022 and will now present a refresher course.

STAFF RECOMMENDATION

ATTACHMENTS

1. Wellington 3-21-23

Elected Officials Presentation

Presented by Sam Light, CIRSA General Counsel 3.21.23

Introduction

Presentation Overview

•Further exploration of liability risks and “best practices” in the areas of:

- Transparency & electronic communications
- Organizational structure & liability
- Ethics and personal conduct

•We’ll touch on some “hot topics” as well as some perennial risk management and governance challenges that governing bodies face from time-to-time.

•Presentation is a training resource only; is not intended to address or provide legal advice on any specific, pending issues.

Transparency

- Background: The Open Meetings Law (OML) “openness” requirement applies when 3 or more members of the governing body “meet” to discuss “public business”.

- The OML requires that such discussions occur at a meeting that is open to the public.

- And, if action will be taken or a quorum will be present, there must be timely notice—agenda posted at least 24 hours in advance.

- A “meeting” includes any gathering to discuss public business, in person, by phone, or electronically.

- The “openness” rule is a “rule of three”, so what about one-on-one meetings?

Transparency & Electronic Communications

•Emails: “If elected officials exchange email to discuss pending legislation or other public business among themselves, the electronic mail is subject to the [OML];” i.e., to the “openness” requirement.

•Email communication between elected officials “that does not relate to the merits or substance of pending legislation or other public business…shall not be considered a ‘meeting.’” Safe harbors (“non-meetings”) under House Bill 21-1025:

- “Scheduling and availability”
- Email sent for purpose of forwarding information (FYI)
- Responding to an inquiry from an individual who is not a member of the body
- Posing a question for later discussion by the body

Transparency & Electronic Communications

- While House Bill 21-1025 brings clarity re: certain non-meetings, it also confirms what the OML intends: Discussions of the "merits or substance"—that is, "the essence"—of a matter of public business are subject to the OML's openness requirement.

  - "Merits or substance" means "any discussion, debate, or exchange of ideas, either generally or specifically, related to the essence of any public policy proposition, specific proposal, or any other matter being considered by the governing entity."

- *See* CIRSA Handout and this CIRSA article: https://www.cirsa.org/news/how-the-colorado-open-meetings-law-applies-to-elected-officials-email/).

- Separate from the OML "openness" requirements, public records include "the correspondence of elected officials," subject to limited exceptions.

Transparency & Electronic Communications

- Using social media? Be cognizant of risks for public officials; e.g.:
    - Open meetings and open records issues
    - First Amendment concerns
    - Due process issues related to quasi-judicial proceedings
    - Other tort liabilities
    - True threats and doxing
- *See* this CIRSA article: https://www.cirsa.org/wp-content/uploads/2019/06/Social-Media-Use-by-Elected-Officials.pdf

Social Media - Tips

- Keep personal and any official sites separate.

- On your official site (if you have one), don't delete posts or discriminate based on content or viewpoint. Seek staff assistance in assessing whether comments may be removed.

- If on balance there is a need for the Town and/or its officials to correct disinformation, consider carefully the who, how, when and where.

- Don't engage in discussions of quasi-judicial matters (can constitute *ex parte* discussions).

- Consider also the value and impact of your social media activity in relation to your role as a member of the governing body; E.g.: Are personal opinions denoted as such? Are posts for or about the Board accurate as to "we" and where "we" are at?

Organizational Structure and Liability

- As discussed in April 2022 training, the law recognizes that everyone within a municipal organization has a "job description"—it is important that everyone understand and honor their "job description," both to help ensure the organization functions at a high level, and to avoid risks of liability, including the risk of personal liability!

  - You have protection from personal liability if you are "within the scope of employment" and not acting "willfully and wantonly."

  - Conduct that is "outside the scope" or "willful and wanton" can result in a loss of governmental immunity and create liability, including the potential of personal liability for you.

  - It can also result in loss of your public officials' insurance coverage. Public officials' liability coverage follows the same "course and scope" concepts.

Organizational Structure and Liability

- What is the Town structure? What is the governing body "job description"?
  - The Town of Wellington is a statutory town, with a Board-Administrator organizational structure.
  - Under this structure, there is a "separation of powers"—and such a separation of powers is the most common form of municipal structure.
  - **Board of Trustees:** Legislative & Corporate Authority (Policy & Governance)(CRS 31-4-301; Town Code 2-2-10).
  - **Town Administrator:** Chief administrative officer; responsibility for "day-to-day" operations (Town Code 2-3-20).

Organizational Structure and Liability

Where Do We Focus Efforts?

Ownership

|

Governance

|

Management

|

Supervision

|

Front Line Employment

Roles of elected officials are focused on:

- Policy-making, bigger picture, looking forward (i.e., future planning and projects); board decision-making regarding corporate interests and assets.
- Examples: Develop general ordinances & policies (legislation), annual budget-making, master plan, financial oversight, quasi-judicial and corporate matters reserved to the board.
- Longer time horizons—looking down the road.
- Stewardship and protection the Town's interests and assets.

Organizational Structure and Liability

- Tips to support the structure and avoid concerns around “role discipline” and “scope”:
  - Embrace the power and purpose of delegations of authority. The job descriptions of “others” are there to “serve and protect.” They **serve** to clarify where authority and responsibility lies, and to **protect** you, the governing body, and the Town assuming everyone is committed to “role discipline.”
  - Individually, the role of elected official may include being an ambassador, a set of “eyes and ears” for the Town and community, a liaison, and a champion of causes. But the job of elected official is a “WE” job. While each member holds a fraction of the governing body’s power, that power can’t be exercised alone.
  - Rather, elected officials act primarily as a BODY, and exercise responsibilities mainly by VOTING in a PUBLIC MEETING.

Organizational Structure and Liability

- More tips to support the structure and avoid concerns around “role discipline” and “scope”:
  - Commit to personnel conduct that strengths the WE and the governing body as an institution. This sometimes requires personal sacrifices, such as:
    - Setting aside a personal interest or agenda when there is lack of support.
    - Accepting “the Board has spoken” though one preferred a different outcome.
    - Recognizing that individual efforts—e.g., liaison and representative roles—are in service of the governing body (the WE).
    - Patience in terms of waiting until a matter is “ripe” for the governing body’s discussion and decision and, related to that, not “assuring” outcomes.

Organizational Structure and Liability

•Elected officials have fiduciary and stewardship responsibilities to the Town as an entity. Success in these responsibilities calls for:

- Consideration of issues on their merits alone.
- Attention to broad interests and objectives: “What’s the right thing to do for the Town as a Town.”
- Consideration of the interests and desires of both the vocal few and the silent majority.
- A resolve to “speak with one voice” to direct reports. The governing body is responsible for sorting out and reconciling the views and priorities of its members, so that it can speak with one voice. This is how the Board achieves clarity, credibility and accountability to its voice.

Ethics and Personal Conduct

- Become familiar with the ethics laws that govern your conduct (State Statutes & Town Code Ch. 2, Art. 6) and make them your “best friend” in addressing ethics matters.

- In particular, familiarize yourself with the standards and procedures governing conflicts of interest, the handling of confidential information, and gifts. Some “hot topics”:

  - The “common interest” exclusion; i.e., is there a conflict if the Board’s action affects the interests of a member as well as a large number of other persons or entities?

  - Conflicts involving the entity itself as respects its “many hats”.

  - Campaign contributions.

  - Handling of appearances of impropriety (i.e., perception = reality issues).

Go Beyond Ethics!

- Beyond ethical conduct, commit yourselves to high levels of personal conduct. Recognize that inappropriate personal conduct can be destructive to a public body, its agenda, and its reputation. Some problem areas we've seen:

  - "Outsider syndrome" and elected officials "going it alone".

  - Accusations of lack of respect, lack of good faith, hidden agendas, preconceptions, undue partisanship, incivility, or other concerns creating a sense of distrust.

  - An "imbalance" of information and/or participation on the body, or bodies constantly lining up with the same split vote on every issue.

- Commit to high standards of personal conduct that help strengthen the City as an entity and the Board as an institution, and to identifying and avoiding conduct that can debilitate a public body.

Concluding Thoughts – Embrace Wise Leadership

- While there are many aspects of risk management that municipalities and their elected officials cannot fully control—e.g., public perceptions, the actions of claimants, the inclinations of judges, the enactments of federal and state legislatures, etc.—embracing wise leadership in the areas we can control will support your success and reduce your risks. Some examples:

  - Committing to a “no surprises” approach while dealing with one another and staff.

  - Committing to meetings free of “gotcha” moments and “staff-bashing.”

  - Touting your governing body’s and your organization’s successes—builds faith and trust that your government is getting good things done!

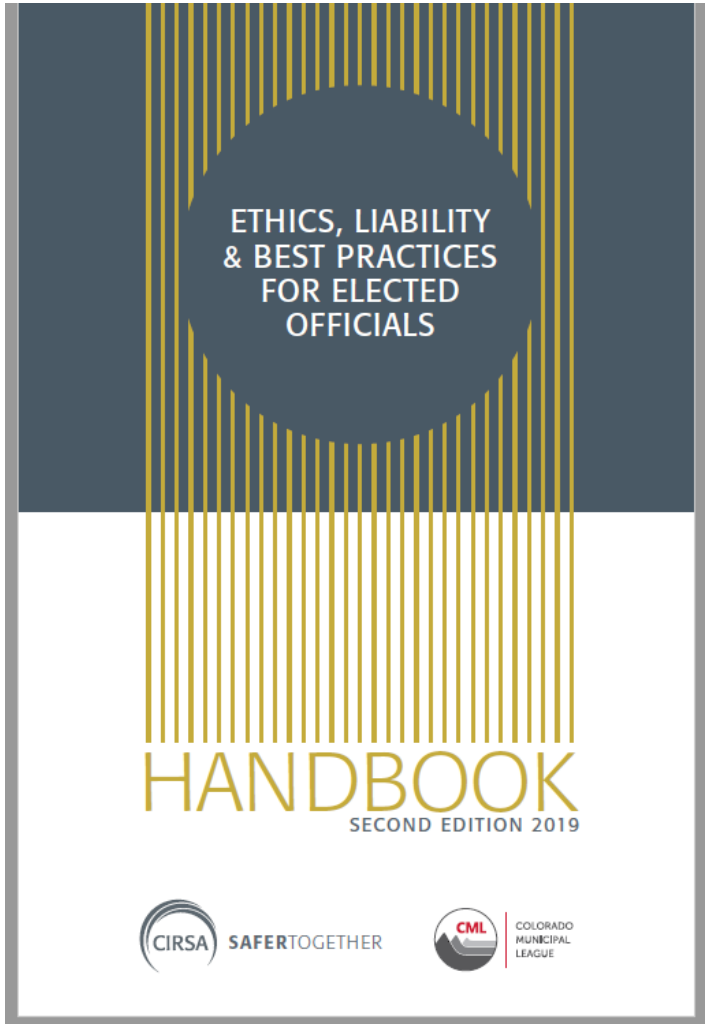
  - Embracing the fiduciary, stewardship, and “We” responsibilities of governing body membership.

Conclusion

Thank you for your public service!

And for the opportunity to present.

Resources



CIRSA Elected Officials Handbook: https://www.cirsa.org/wp-content/uploads/2019/06/EthicsLiabilityBestPracticesHandbookForElectedOfficials.pdf

CIRSA Executive Director Tami Tanoue's Webinar on Ethics, Liability, and Best Practices for Elected Officials: https://www.cirsa.org/wp-content/uploads/2020/05/Ethics-Liability-and-Best-Practices-Webinar-2020.mp4

•CIRSA elected and appointed officials' resources: https://www.cirsa.org/safety-training/elected-officials/.

Conclusion

Colorado Intergovernmental Risk Sharing Agency

- Not a commercial insurance company; CIRSA is a Colorado public entity self-insurance pool for property, liability, and workers' compensation coverages.
- Formed in 1982 by an intergovernmental agreement of 18 municipalities pursuant to CML study committee recommendations.
- Total membership today stands at 283 member municipalities & affiliated entities:
    - 282 are members of the PC pool
    - 139 are members of WC pool
- CIRSA views proactive approaches to risk management as critical member services – is a win-win.

Conclusion

Speaker Bio

Sam Light is General Counsel for the Colorado Intergovernmental Risk Sharing Agency (CIRSA). Previously Mr. Light was a partner with the Denver law firm of Light | Kelly, P.C., specializing in municipal and other public entity law, insurance law and defense of public entities and elected officials. Sam is a frequent speaker on municipal law and has practiced in Colorado since 1993.

Board of Trustees Meeting

Date: **March 21, 2023**
Subject: **Raw Water Requirement and Cash in-lieu Equivalent Discussion**

- **Meagan Smith, Deputy Director - Public Works**

BACKGROUND / DISCUSSION

WELLINGTON RAW WATER SOURCES

The Town of Wellington currently has two raw water sources: 1) up to 400 acre-feet (AF) of decreed use via three groundwater wells (the Wilson Wells) and 2) up to 2,000 AF of surface water via a 1983 agreement with the North Poudre Irrigation Company (1983 Agreement).

The Wilson Wells supply non-potable irrigation for approximately 15 acres between the Town of Wellington and Poudre School District. This includes Library Park and adjacent ball fields, as well as Eyestone Elementary and the former Wellington Middle School. This irrigation accounts for approximately 30 AF of water annually, leaving up to 370 AF available for potable use.

The 1983 Agreement between the Town of Wellington and North Poudre Irrigation Company (NPIC) allows for Wellington to receive a raw water supply via Reservoir #3 and, correspondingly, use of NPIC-owned property to site Wellington's water treatment facilities. The Agreement further specifies the total volume of water available to Wellington under this Agreement (2,000 AF), as well as various costs and charges for delivery of the water and use of the land adjacent to Reservoir #3.

The Town and NPIC are interested in renegotiating several points in the 1983 Agreement, with the overarching goals of a renegotiated agreement for Wellington being:

1. Ensuring a reliable current and near-term water supply
2. Reducing annual payments to sustainable levels
3. Creating predictability of future payments

One recent successful point of renegotiation is the result of an ongoing land purchase with NPIC. Wellington is currently under contract with NPIC to purchase 10.51 acres to secure the land for the existing Water Treatment and Intake Facility sites, as well as secure the land necessary for the current expansion project. The minor land division goes for approval before the Board of County Commissioners on March 27. This is the last step before closing on the property with NPIC. The purchase of this property will reduce the existing administrative fee in the 1983 Agreement, with an anticipated annual savings of more than $125,000.

CURRENT

Raw Water Requirement

Town Code currently requires water dedication to satisfy the Raw Water Requirement (RWR) for new Utility customers.

The Town of Wellington has had a defined raw water requirement for new development since at least 1987. From 1987 to 2017, the raw water requirement was 1 acre-foot (AF) per residential dwelling unit, with a cash-in-lieu equivalent of $10,000. This requirement was typically reduced by half for subdivisions with non-potable irrigation systems. To date, there has been no differentiation in requirement across different types of residential dwelling units (single-family attached or detached, multi-family apartments or condominiums). In 2017, the raw water requirement was reduced to 0.5 AF per residential dwelling unit.

In August 2020, the raw water requirement for residential development was updated (Resolution No. 28-2020) to create two types of residential requirements: 1) an indoor only requirement (0.32 AF per dwelling unit) for residential dwellings units with either no irrigable area, have a separate irrigation only tap, or have non-potable water for irrigation and 2) a standard requirement (0.58 AF per dwelling unit) for more traditional single-family dwelling units served by a single meter and with irrigable area attached to the dwelling unit served by potable irrigation.

Water Yield
Current Town Code specifies the Town will accept NPIC stock or Class D water allotment contract units of the Colorado-Big Thompson Project (C-BT) to satisfy the Town's raw water requirements with the following yield per unit:

- One share of NPIC stock – 2.4 AF (per share historical average allocation of multiple use water)
- One C-BT unit – 0.7 AF (per unit historical average yield of the project)

Cash-in-lieu Equivalent
Town Code currently allows for cash payment in-lieu of water dedication at the Town's discretion.

The value of water shares has risen sharply in recent years and is anticipated to remain volatile in the coming years. The average cost for one share of NPIC stock has risen 120% in the last five years, from $102,600 in 2018 to $224,500 in 2022. Cost increases per unit of C-BT have followed a similar trajectory.
The cash-in-lieu equivalent for the Town was most recently updated in August 2020 along with the raw water requirement (Resolution No. 28-2020). It was increased from $38,571/AF (Ordinance No. 06-2017) to $102,800/AF.

To establish the cash-in-lieu equivalent for the 2020 update, Staff developed a methodology based on the most recent three years of market sales data for NPIC shares. The average annual percent change in market value was determined and then applied to the most recent average annual market value of an NPIC share. This exercise resulted in a prediction of the cost of a NPIC share a year into the future which was utilized to set the cash-in-lieu equivalent.

This methodology was developed, in part, to account for the price increase in raw water between the time a developer meets the raw water requirement with a cash-in-lieu payment and when the Town can secure a purchase of raw water.

PROPOSED
Raw Water Requirement
Staff is proposing the following changes to the raw water requirements for residential developments:

- Reducing the indoor only residential requirement from 0.32 AF per dwelling unit to 0.25 AF per dwelling unit. This proposed reduction is based on analysis of updated customer consumption datasets developed for the 2022 Rate Study.
- Reducing the standard residential requirement from 0.58 AF per dwelling unit to 0.5 AF per dwelling unit. Most of this proposed reduction is from the reduction in the indoor portion of the requirement, with only 0.01 AF change coming from updates to assumptions related to average irrigable area for single-family dwelling units.
- Creating a multi-family raw water requirement of 0.18 AF per dwelling unit that reflects the difference in typical indoor demand seen in traditional multi-family developments with more than one shared wall. This difference in demand (approximately 30% less) is seen in the updated customer consumption datasets developed for the 2022 Rate Study.

Raw water requirements for commercial developments will be determined on a case-by-case basis. Raw water requirements for irrigation only taps will be based on conservative estimates of the proposed irrigation requirements.

Water Yield
Staff is proposing the following reductions to the yield the Town allocates for the listed water sources:

- One share of NPIC stock – reduce to 2.0 AF/share (current allocated yield is 2.4 AF/share)
- One C-BT project unit – reduce to 0.5 AF/unit (current allocated yield is 0.7 AF/unit)

These proposed reductions are based on recent and on-going drought events in Colorado and the broader West, including continuing uncertainty with Colorado River Compact negotiations and the impacts to water availability in the Northern Front Range. Many water providers in the Northern Front Range reduce the yield they allocate for C-BT units from the historical average yield of the C-BT Project of 0.7 AF/unit. For example, Johnstown allocates a yield of 0.35 AF per C-BT unit and Berthoud allocates 0.6 AF/unit.

The proposed reduction in yield allocation for NPIC shares is a function of the proposed reduction in C-BT yield allocation. NPIC has 10,000 shares of stock and the company owns 40,000 units of C-BT. This means each share of NPIC is tied to four units of C-BT. It is this C-BT portion (e.g., multiple use water) that can be used for municipal drinking water production. If a single unit of C-BT yields 0.5 AF, then four units of C-BT would yield 2.0 AF.

Cash-in-lieu Equivalent
Staff is proposing to utilize the same methodology developed for the 2020 update to set the cash-in-lieu equivalent. Updating the calculations with the most recent market data for NPIC shares and the proposed reduction in yield for an NPIC share results in a proposed cash-in-lieu equivalent of $124,100/AF. This is approximately a 20% increase over the current cash-in-lieu equivalent of $102,800/AF.

STAFF RECOMMENDATION

Does the Board have any questions or need more information in order to provide Staff with guidance on the proposed changes to residential Raw Water Requirement, Water Yield for NPIC and C-BT, and Cash-in-lieu Equivalent?

ATTACHMENTS

1. Powerpoint Presentation
2. Resolution 28-2020 - Water Contribution and Cash-in-Lieu
3. Ordinance 06-2017 - Re-Establishing Water Contributions and Water Tap Fee

Raw Water Requirement & Cash-in-lieu Equivalent

March 21, 2023

TOWN OF WELLINGTON

Wellington Raw Water Sources

- Potable water production
  - Wilson Wells
    - Up to 400 AF annually of decreed use
    - Approximately 30 AF annually for non-potable irrigation
  - NPIC 1983 Agreement
    - Up to 2,000 AF annually from Reservoir #3
    - Use of land to site Water Treatment Facility
    - Recent negotiations to purchase the land and reduce administrative fee; anticipated annual savings of more than $125,000

What is a Raw Water Requirement

- Dedication of water required by new development so the Utility has adequate supplies to provide a safe and reliable water supply for all water users under a wide range of hydrologic conditions

- Not only planning for tomorrow but for the long-term future of the Community

Current Raw Water Requirement

- Town Code requires water dedication to satisfy Raw Water Requirement
- Last updated in 2020

- Indoor only requirement – 0.32 AF per dwelling unit
  - Multi-family developments
  - Single-family development with non-potable irrigation
- Standard requirement – 0.58 AF per dwelling unit
  - Traditional single-family dwelling units (served by single meter with potable irrigation attached to unit)

Proposed Raw Water Requirement

- Reduce indoor only requirement
  - 0.32 AF per dwelling unit → 0.25 AF per dwelling unit
  - Single-family attached or detached served by single meter with non-potable irrigation or no irrigation requirement
- Reduce standard requirement
  - 0.58 AF per dwelling unit → 0.5 AF per dwelling unit
  - Single-family attached or detached dwelling units served by single meter with potable irrigation attached to unit
- Create multi-family raw water requirement
  - 0.18 AF per dwelling unit
  - Developments with more than one shared wall between units and multiple units served by a single meter

Current Water Yield Allocations

- Defined in Municipal Code Section 13-1-50
- Town accepts NPIC shares and C-BT units for water dedication
- One share NPIC – 2.4 AF
  - Historical average allocation of multiple use water
- One C-BT unit – 0.7 AF
  - Historical average yield of the project

Proposed Water Yield Allocations

- Continue to accept NPIC shares and C-BT units for water dedication

- Reduce yield allocations for both water sources
  - One share NPIC - 2.4 AF → 2.0 AF
  - One C-BT unit - 0.7 AF → 0.5 AF

- Proposed reductions based on recent and on-going drought events in Colorado and the West, including continuing uncertainty with Colorado River Compact negotiations.

Current Cash-in-lieu Equivalent

- Town Code allows for cash payment in-lieu of water dedication at the Town's discretion
- Last updated in 2020

- $102,800 per AF of requirement
  - Indoor only requirement per dwelling unit - $33,169
  - Standard requirement per dwelling unit - $59,760

Proposed Cash-in-lieu Equivalent

- Retain provision to allow for cash payment in-lieu of water dedication at the Town's discretion

- Increase Cash-in-lieu equivalent
  - $102,800/AF of requirement → $124,100/AF of requirement
  - Indoor only requirement per dwelling unit - $31,112
  - Standard requirement per dwelling unit - $61,960
  - Muli-family requirement per dwelling unit - $21,778

Summary of Proposed Changes

Current and Proposed RWR* , Water Dedication, and CIL** Equivalent

Class	Current RWR (AF)	Current Water Dedication (NPIC shares)	Current CIL Equivalent	Proposed RWR (AF)	Proposed Water Dedication (NPIC shares)	Proposed CIL Equivalent
Single-family, Indoor Only	0.32	0.13	$33,169	0.25	0.13	$31,112
Single-family, Standard	0.58	0.24	$59,760	0.50	0.25	$61,960
Multi-family, per unit	0.32	0.13	$33,169	0.18	0.1	$21,778
Commercial and Irrigation, all	Calculated	Calculated	Calculated	Calculated	Calculated	Calculated

*RWR - Raw Water Requirement

**CIL - Cash-in-lieu

Community Comparisons

Requirements	TOW Proposed	Mead	Frederick	Windsor	Berthoud
RWR (AF)	0.5	0.7	0.7	0.5	0.4
CIL Equivalent	$61,960	$70,000	$65,000	$40,000	$25,000

Requirements	Severance	Timnath	Johnstown	Firestone
RWR (AF)	0.7	0.67	0.5	0.47
CIL Equivalent	Does not accept	Does not accept	Does not accept	Does not accept

*RWR - Raw Water Requirement

**CIL - Cash-in-lieu

Direction

- Does the Board have any questions or need more information in order to provide Staff with guidance on the proposed changes to residential Raw Water Requirement, Water Yield for NPIC and C-BT, and Cash-in-lieu Equivalent?

RESOLUTION NO. 28-2020

A RESOLUTION ESTABLISHING WATER CONTRIBUTON REQUIREMENTS FOR WATER TAPS SERVING RESIDENTIAL UNITS AND ESTABLISHING CASH IN-LIEU OF PAYMENTS FOR WATER CONTRIBUTON REQUIREMENTS FOR RESIDENTIAL UNITS.

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

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

WHEREAS, the Town Engineer and Town Treasurer were directed by the Board to provide an analysis of raw water requirements and costs and both have reported to the Board; and

WHEREAS, the Town Code provides that prior to allowing any new water tap, water right dedications shall be required or in lieu thereof, the Town, in the Town's sole discretion may, but is not required to, accept cash payments; and

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

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

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

At **section 13-1-50 (f):** Cash payments in-lieu of water rights dedication shall be equal to the fair market value of the water rights necessary to satisfy the basic water rights requirement. The Town, including the Town Board by Ordinance or Resolution shall determine from time to time the cash in-lieu payment amount to be paid after a public hearing before the Board of Trustees with the decision of the Board of Trustees being final and conclusive; and

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

WHEREAS, the costs of shares of NPIC stock have increased roughly forty percent (40%) per year since 2018 and NPIC shares are currently selling for $200,000 or higher, per share.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of Trustees of the Town of Wellington, Colorado, that issuance of water taps for construction of any residential dwelling unit receiving water service from the Town shall require a raw water rights dedication meeting the following acre foot yield requirements, and if the Town elects to accept cash in-lieu of payments for water rights, such payments shall be as follows:

	Raw Water Dedication Requirement	**Cash In-Lieu Amount**
Each Residential Dwelling Unit ¾" tap		
Indoor Use	0.32 acre feet	$37,376
Outdoor Use	0.26 acre feet	$30,210
Combined (indoor and outdoor use)	0.58 acre feet	$67,586

1. Multiple-family development projects shall require the indoor use dedication requirement for each residential dwelling unit in accordance with the above schedule. Outdoor use for multiple-family development projects shall be required, based upon calculated need for an approved landscape plan.

2. The above requirements and schedule are subject to existing and new development agreements and memoranda of public improvements to the contrary.

3. To address single family units under contract, for which commitments to buyers have been made by the seller, the Town Planning Director, may issue taps and accept cash in lieu of payments based on the pre-existing rates established by Ordinance 6-2017, if:

   The party constructing the residential unit shall establish to the satisfaction of the Town Planning Director that the seller of the residential unit had entered into a contract with a buyer prior to the effective date of this resolution and that contract was entered into by the parties in expectation of the prior cash in lieu of payment amount.

   No reduced payments allowed by this paragraph 4 shall be accepted by the Town after October 15, 2020.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON THIS 12th DAY OF AUGUST, 2020.

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk

TOWN OF WELLINGTON SEAL COLORADO

ORDINANCE NO. 10 --2017

AN ORDINANCE RE-ESTABLISHING FEES TO BE CHARGED BY THE TOWN OF WELLINGTON, COLORADO, FOR UTILITY SERVICES, RE-ESTABLISHING RAW WATER CONTRIBUTION REQUIREMENTS AND DECLARING AN EMERGENCY.

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

WHEREAS, the Board set fees, including by Resolution 12-2008; and

WHEREAS, the Board revised fees, by Resolution 8-2016; and

WHEREAS, the Town Engineer was commissioned to provide analysis of raw water costs and reported to the Wellington Town Board by letter dated March 24, 2017 advising that based on market changes raw water contribution charges should be modified to reflect that the market price for Class D water allotment contracts representing acre foot units of water in the Colorado-Big Thompson Project ("CBT") administered by the Northern Colorado Water Conservancy District units ("NCWCD") were $26,000 and that one unit represented .7 acre feet of water. Based in these assumptions the Town Engineer reported that cost per acre-foot of water to be $37,143; and

WHEREAS, the Town Board, through the Town Attorney has advised that CBT units are transferring through NCWCD at the rate of $27,000 per unit equating to $38,571.43 per acre foot of water; and

WHEREAS, the Town code at Sec. 13-1-60 provides for water tap requirements and permits and provides for water right dedications as follows at the referenced section:

> (e) Procedure for dedicating water rights. The town shall have the sole right of determination to accept or reject any water rights proposed for dedication pursuant to the provision of this Section, or to allow a cash payment in lieu of water rights dedication to satisfy the basic dedication requirement. At the time of submission, the applicant shall indicate the water rights proposed to be dedicated to the town, or the amount of cash in lieu thereof that is proposed to be paid to the Town.
> (f) Cash in lieu of water rights dedication. Cash payments in lieu of water rights dedication shall be equal to the fair market value of the water rights necessary to satisfy the basic water rights requirement. The Town shall determine from time to time of the cash in lieu of payment amount to be paid after a public hearing before the Board of Trustees with the decision of the Board of Trustees being final and conclusive.

WHEREAS, Resolution 8—2016 provided for water fees charged at building permit/sewer tap issuance of $15,350, representing Town's Uniform Water Capital Investment fee which was based on two components, a $5,500 Plant Investment Fee and a $9,850 cash in lieu of Raw Water Fee.

WHEREAS, the Town Board of Trustees adopts the following modified fees by ordinance and establishes a raw water contribution requirement and reestablishes a payment in lieu amount for the raw water requirement.

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

Section 1: Utility Fees. The Town shall require payment of the Uniform Capital Investment Fee and shall requires Raw Water Reserve dedications (RWR) to issue water taps connected to Town Domestic water sources and modifies Ordinance 8-2016 setting the Town's Uniform Water Capital Investment fee and further modifies prior ordinance(s) eliminating differentiations for multi-family utility rates under the Town's Uniform Water Capital Investment fee.

The Town adopts fees due in relation to the issuance of any new water tap setting the water Capital Investment Fee and Raw Water Reserve dedication (RWR) as follows:

Meter/Tap Size	**Capital Investment**
Residential Capital Investment Fees	
3/4"	$5,500
Commercial and Industrial Capital Investment Fees	
3/4"	$5,500
1"	$9,680
1.5"	$18,095
2"	$30,195
>2"	Negotiated

Meter/Tap Size	**Acre Foot Raw Water Requirement Contribution**
Residential Capital Investment Fees	
3/4"	.5 AF
3/4" – 2" Multi-Family	Negotiated
Commercial and Industrial Capital Investment Fees	
3/4"	.5 AF
1"	.88 AF
1.5"	1.65
2"	2.75
>2"	Negotiated

Section 11: Raw Water. The Town shall require the contribution of the equivalent of raw water for any new water tap issued by the Town The Cash in- lieu of Raw Water Requirement Dedication in lieu of dedication of water rights for 1 acre-foot of water for water to meet the RWR Dedication requirement shall be $38,571.

Section 2. Sec. 13-1-60 (a) and (f) of the Wellington Town Code provide for water tap issuance requirements and permits and provide for water rights dedications and are amended to read as follows:

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

The Town will accept the following water rights to satisfy the Town's Raw Water requirements:

Water source	Allotment per unit
One share of North Poudre Irrigation company stock	2.4 AF
Class D water allotment contracts representing acre foot units of water in the Colorado-Big Thompson Project	.7 AF

(f) Cash in lieu of water rights dedication. Cash payments in lieu of water rights dedication shall be equal to the fair market value of the water rights necessary to satisfy the basic water rights requirement. The Town, including the Town Board by Ordinance or Resolution shall determine from time to time the cash in lieu payment amount to be paid after a public hearing before the Board of Trustees with the decision of the Board of Trustees being final and conclusive.

Notwithstanding any ordinance to the contrary, any utility fee to be imposed by the Town or imposed by any enterprise of the Town shall as required by the Town Code be set by ordinance or resolution of the Town Board of Trustees.

Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this Ordinance is necessary for the immediate preservation and protection of the public peace, health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.

Emergency Clause. The Board of Trustees finds and determines that, because this ordinance concerns the immediate and ongoing administration and operation of the Town and the need to meet costs which the Town must offset to meet requirement of agreements made by the Town its adoption as an emergency measure is necessary for the immediate preservation of the public's health, safety and welfare, and this ordinance shall therefore take effect immediately upon adoption as provided by law.

PASSED AND ADOPTED BY AFFIRMATIVE VOTE OF THREE-FOURTHS OF ALL THE MEMBERS OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON AND ORDERED PUBLISHED THIS 25th _DAY OF APRIL, 2017 AND ORDERED TO BECOME EFFECTIVE IMMEDIATELY AS AN EMERGENCY ORDINANCE OF THE TOWN OF WELLINGTON, COLORADO INCLUDING PURSUANT TO C.R.S. §31-11-105.

TOWN OF WELLINGTON, COLORADO

Tim Singewald, Mayor

ATTEST:

, Town Administrator/Clerk

(MO&P 04/7/17)

Board of Trustees Meeting

Date: **March 21, 2023**
Subject: **Discussion of Irrigation Restriction Options**

- **Hallie Sheldon, Senior Management Analyst**

BACKGROUND / DISCUSSION

In response to capacity limitations and the increased costs to lease and treat water; the Town of Wellington has historically adopted annual outdoor watering restrictions. The Board of Trustees requested to explore watering restriction options that best support the needs of the community and the utility. This is in alignment with the Strategic Plan goal to ensure adequate current and future water resources. To ensure financial viability of the utility and protect residents from supply-based rate increases, prioritizing essential water use is imperative to the health of the Town. Staff acknowledges the need to address more options regarding outdoor water use and the role of watering restrictions, however options are limited for the next two irrigation seasons (2023/2024) with the need to protect current water treatment infrastructure. With the new Water Treatment Facility coming online in 2024, there will be new opportunities for discussion regarding watering restriction needs starting in 2025. Town staff has prepared available options for the Board of Trustees to discuss that align with the needs of the current treatment facility and community consumption.

Mandatory watering restrictions May 1st – October 1st 2023 – (aligned with regulations adopted the past three years)
Outdoor watering restrictions are not unusual for a municipality in Colorado and specifically for Wellington.
Mandatory restrictions have been in place during the months of May-October since 2020. The overall impact to the Town's ability to serve has been positive the past 2 years with restrictions in place.
While there are many reasons to enact watering restrictions, such as costs to customers and promoting drought resiliency with landscapes, the primary goal of these proposed restrictions is to reduce water demand during peak demand periods. This allows our Water Treatment Plant staff to prioritize treatment for household water use such as drinking water.

The mandatory restrictions would include:

1. Upon adoption of this Resolution May 1, 2023 through October 15, 2023, outdoor watering shall be restricted to the hours between 7:00 p.m. and 8:00 a.m. the next morning.
2. Addresses with odd street numbers shall only water on Tuesdays and Saturdays.
3. Addresses with even street numbers shall only water on Wednesdays and Sundays.
4. Runoff from irrigation shall be kept to an insignificant minimum.
5. Irrigation overspray onto non-vegetated areas is prohibited.
6. Washing of outside paved or concrete areas is prohibited.

Exceptions to the mandatory restrictions include:

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

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

The voluntary restrictions in this resolution include:

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

An option for consideration with this resolution would be to extend these restrictions through the 2024 irrigation season, as final completion for the new Water Treatment Facility is July 29, 2024. The concerns with the current infrastructure and the consumption rates of outdoor water usage during the summer will be consistent in 2023 and 2024. The opportunity to address new regulations would align with the opening of the new facility.

Do not adopt any type of watering restrictions and only promote education about water efficiency practice
This option would not include restrictions or enforcement of watering practices by residents. It would be up to the residents to practice water efficiency and pay for any water waste due to evaporation during the day. The biggest concern with this option is that water treatment staff would not be able to prepare for consumption rates as they have in the past 3 years. In 2020, the Town was hit with record high consumption rates and the water treatment facility was just barely able to maintain supply to meet demand. The Town does not want to risk any additional strain to the already stressed system before the new facility is complete. The irrigation restrictions would allow Town staff to prioritize drinking water for residents. Additionally, with watering restrictions in place, treatment facility staff are able to predict consumption rates based on the hours outlined in the ordinance and prepare accordingly.

Another point of consideration that has been brought forward by residents are concerns of fines by Homeowners Associations. If watering restrictions are not in place, HOAs can fine residents to maintain a green lawn. However, if the Town has water restrictions in place, residents are protected from those fines by state law. Staff can promote water efficient practices to residents via mailers, social media, flyers, etc. In alignment with the Strategic Plan goals and the Municipal Water Efficiency plan adopted by the Town, this will occur regardless of the decision regarding watering restrictions.

Additionally, the Town is providing water conservation opportunities for residents with several programs already underway. These programs include a discount through Resource Central for a native species drought resistant garden in a box and free residential irrigation audits. Staff also have educational materials and engagement plans in progress to help inform our residents in water efficient practices. The primary goal of this discussion is to eliminate water waste and ensure the financial viability of the community and Town utility.

STAFF RECOMMENDATION

For the discussion of the Board of Trustees.

ATTACHMENTS

1. 2023_Irrigation restrictions presentation
2. Draft_Resolution 2023_Outdoor Watering Restrictions

Proposed Outdoor Watering Restrictions

March 21, 2023

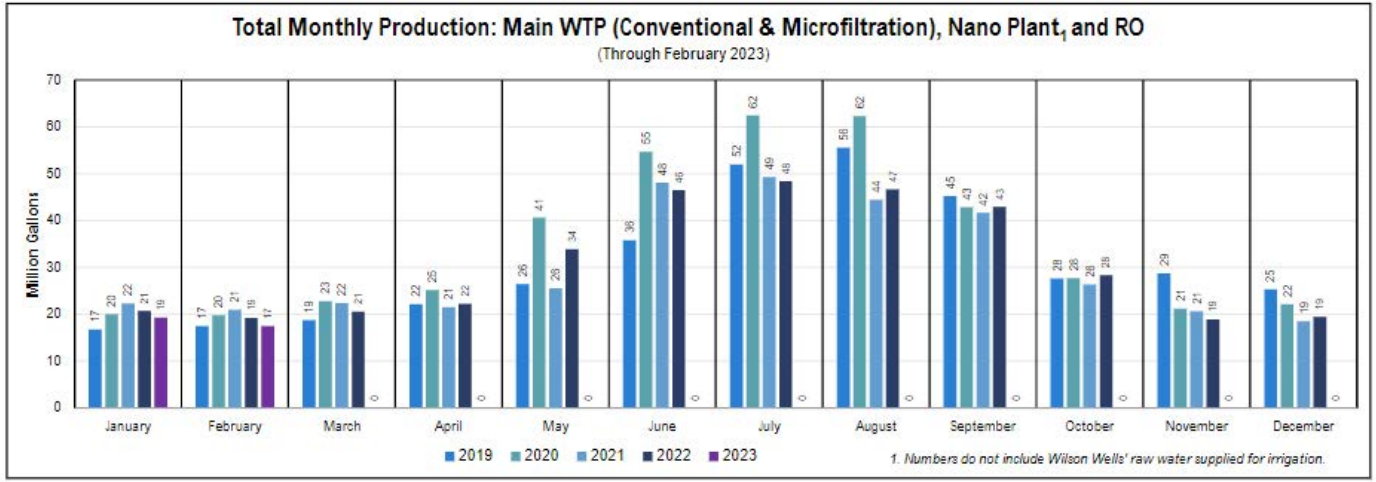
TOWN OF WELLINGTON

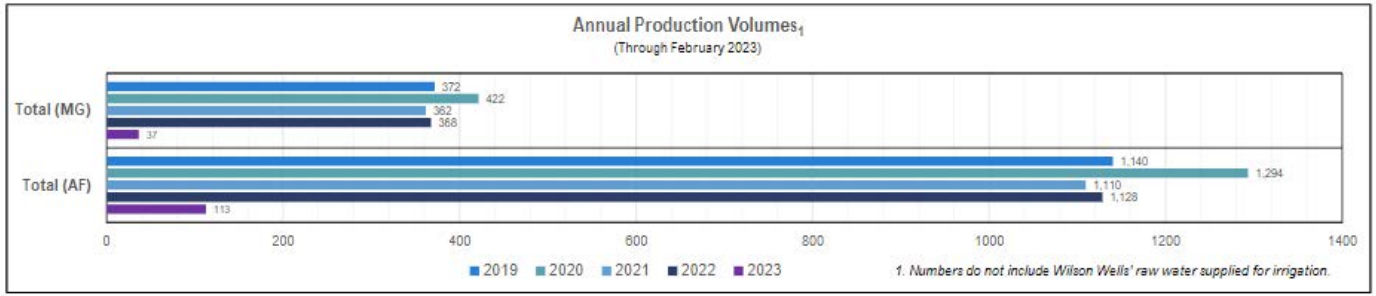
Background

- Approximately half of water customers use treated water for irrigation
- Irrigation demand accounts for about half of treated water demand during summer months
- Current plant expansion will increase the Town's treated water capacity at the Conventional Plant (2.0 MGD →4.2 MGD)
- The existing plants will be pushed hard for the next two years. The plants are close to maximum capacity, which can potentially cause serious issues
  - Stress and potential failure of existing aged equipment in the plants
  - Possible inability to serve customers during peak demand

Town of Wellington

Water Treatment





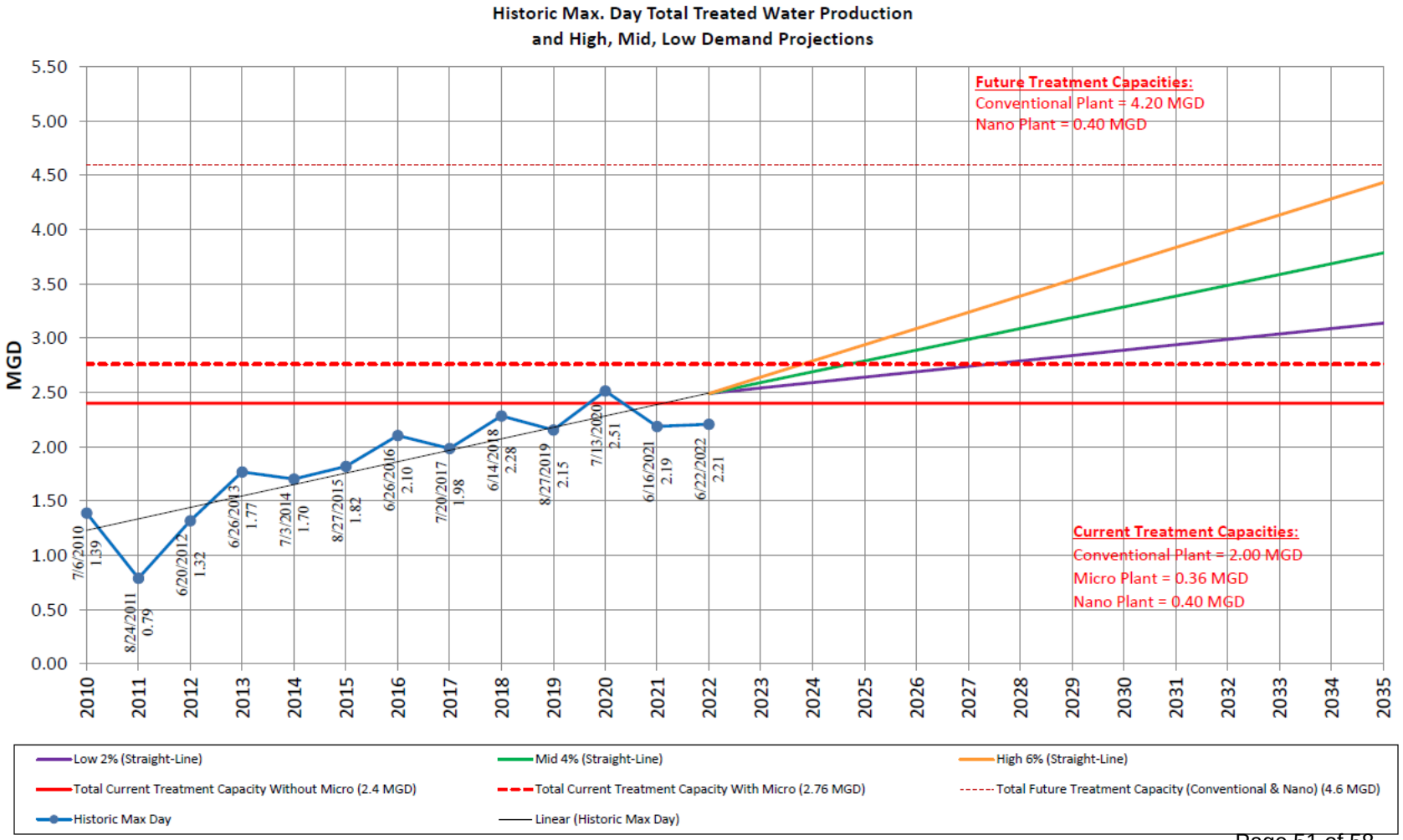
TOWN OF WELLINGTON

3/1/20

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

Operational Risks

- Demand exceeds treatment capacity
  - Experiences in 2020 highlight risk and increasing stress on existing plants
  - Max Daily Production
    - 6/22/22 – 2.2 MG
    - 6/16/21 – 2.2 MG
    - 7/13/20 – 2.5 MG
- Infrastructure failure
  - Aging equipment at conventional treatment plant
- Lack of redundancy
  - Supply/ Treatment / Distribution
- Communicating restrictions – proactive vs. reactive
  - Water bill inserts before restrictions in place
  - Social media to prepare for restrictions


Historic Max. Day Total Treated Water Production
and High, Mid, Low Demand Projections
MGD
5.50
5.00
4.50
4.00
3.50
3.00
2.50
2.00
1.50
1.00
0.50
0.00
2010
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7/6/2010 1.39
8/24/2011 0.79
6/20/2012 1.32
6/26/2013 1.77
7/3/2014 1.70
8/27/2015 1.82
6/26/2016 2.10
7/20/2017 1.98
6/14/2018 2.28
8/27/2019 2.15
7/13/2020 2.51
6/16/2021 2.19
6/22/2022 2.21
Future Treatment Capacities:
Conventional Plant = 4.20 MGD
Nano Plant = 0.40 MGD
Current Treatment Capacities:
Conventional Plant = 2.00 MGD
Micro Plant = 0.36 MGD
Nano Plant = 0.40 MGD
Low 2% (Straight-Line)
Mid 4% (Straight-Line)
High 6% (Straight-Line)
Total Current Treatment Capacity Without Micro (2.4 MGD)
Total Current Treatment Capacity With Micro (2.76 MGD)
Total Future Treatment Capacity (Conventional & Nano) (4.6 MGD)
Historic Max Day
Linear (Historic Max Day)

2023 Water Efficiency Programs

- Resource Central Garden-in-a-box
  - 15/25 discounts claimed
- Free irrigation audits – residential and nonresidential
- Education and Engagement
  - Water bill stuffers
  - Events promotions
  - Engagement survey
- Indoor programs – toilet tabs for leak detections and showerhead exchange program

TOWN OF WELLINGTON

RESOLUTION NO. XX-2023

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

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

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

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

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

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

SECTION 1: Mandatory Restrictions

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

1. Upon adoption of this Resolution through October 15, 2023, outdoor watering shall be restricted to the hours between 7:00 p.m. and 8:00 a.m. the next morning.
2. Addresses with odd street numbers shall only water on Tuesdays and Saturdays.
3. Addresses with even street numbers shall only water on Wednesdays and Sundays.
4. Runoff from irrigation shall be kept to an insignificant minimum.
5. Irrigation overspray onto non-vegetated areas is prohibited.
6. Washing of outside paved or concrete areas is prohibited.

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

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

If water production falls below levels required to provide water demand or the Town Administrator and Town Engineer determine that water supplies are in jeopardy of not

DRAFT

being able to meet demands, the Town Administrator and Town Engineer may order that outside watering with domestic water supplies be reduced to one day a week and such order may provide for established watering days based on addresses.

SECTION 2.: Water Wells

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

SECTION 3: Voluntary Restrictions

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

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

SECTION 4: VIOLATIONS:

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

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Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted by the Board of Trustees this day of April, 2023.

TOWN OF WELLINGTON, Colorado

ATTEST:

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Board of Trustees Meeting

Date: **March 21, 2023**
Subject: **Board of Trustee Planning Calendar**

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. BOT Planning Calendar

BOARD OF TRUSTEES PLANNING CALENDAR

March 28, 2023 6:30 p.m.	Board of Trustees Regular Meeting
April 11, 2023 6:30 p.m.	Board of Trustees Regular Meeting
April 18, 2023 6:30 p.m.	Board of Trustees Work Session Flock Camera Presentation Marijuana Sales Tax Collection Marijuana Ordinance Discussion Off-Road Vehicle Discussion Library Board Update
April 25, 2023 6:30 p.m.	Board of Trustees Regular Meeting
May 9, 2023 6:30 p.m.	Board of Trustees Regular Meeting
May 16, 2023 6:30 p.m.	Board of Trustees Work Session Hauler Licensing
May 23, 2023 6:30 p.m.	Board of Trustees Regular Meeting
June 13, 2023 6:30 p.m.	Board of Trustees Regular Meeting
June 20, 2023 6:30 p.m.	Board of Trustees Work Session
June 27, 2023	Colorado Municipal League Annual Conference
July 11, 2023	Board of Trustee Regular Meeting

Future Work Session Topics:
Joint meeting with Larimer County Commissioners
Board of Trustees Rules of Procedure
Safe Routes to School Memorandum of Understanding
Larimer County Growth Management Area Memorandum of Understanding
Joint meeting with Wellington Fire Protection District

This document and scheduling of topics/events is subject to change without notice.

BOARD OF TRUSTEES PLANNING CALENDAR

Additional Events:

April 1, 2023 – Egg Hunt event – 12 pm @ Wellington Community Park
April 4, 2023 – Town Hall – Emergency Preparedness – 6:30 pm @ Leeper
April 6, 2023 – Commissioner John Kefalas Community Conversations – 7:30 am @ TBar
April 15, 2023 – Sheriff's Office presentation and tour of facilities – 8 am @2501 Midpoint Drive, Fort Collins
June 3, 2023 – Town Yard Sale
June 10, 2023 – Town Clean Up
June 25-28, 2023 – Colorado Municipal League Conference @ Rockies Gaylord
June 29, 2023 – Larimer County Regional Elected meeting – 5:30 pm @ Horsetooth South Bay Pavilion

This document and scheduling of topics/events is subject to change without notice.