



BOARD OF TRUSTEES
July 25, 2023
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to muhse@wellingtoncolorado.gov. The email must be received by 4:00 p.m. on the day of the meeting. The comments will be provided to the Trustees and added as an addendum to the packet. Emailed comments will not be read during the meeting.

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. CALL TO ORDER

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

B. COMMUNITY PARTICIPATION

1. Public Comment

C. CONSENT AGENDA

D. ACTION ITEMS

1. Resolution No. 26-2023: A Resolution of the Town of Wellington, Colorado in Consideration of the Continuation of the Public Hearing for the Appeal of the June 6, 2023 Planning Commission Site Plan Decision
 - Presentation: Dan Sapienza, Town Attorney & Ethan Muhs, Town Clerk
2. Resolution No. 27-2023: A Resolution of the Town of Wellington, Colorado Regarding Payment to the North Poudre Irrigation Company Pursuant to the Town's Purchasing Policy and 2022 Budget
 - Presentation: Meagan Smith, Deputy Public Works Director

E. REPORTS

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

F. ADJOURN

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

Board of Trustees Meeting

Date: July 25, 2023

Subject: Resolution No. 26-2023: A Resolution of the Town of Wellington, Colorado in Consideration of the Continuation of the Public Hearing for the Appeal of the June 6, 2023 Planning Commission Site Plan Decision

- **Presentation:** Dan Sapienza, Town Attorney & Ethan Muhs, Town Clerk

BACKGROUND / DISCUSSION

The Town's Planning Commission approved a site plan on June 6, 2023 and subsequently received an appeal to that decision on June 12, 2023 pursuant to requirements established by the Town's Municipal Code. The Town must accomplish additional coordination and noticing per the Code before the appeal can be considered by the Board of Trustees via a Public Hearing. Both the site plan Applicant and the Appellant consent to a continuation of this Hearing beyond the 45-day window specified in Section 15-2-120(b)(3)b.1 of the Code.

This Resolution is an acknowledgment that the Board of Trustees approves the continuation of that Hearing as briefed, and further, it establishes the date and time of the Hearing on August 23, 2023.

Please refer to the verbiage in the Resolution for additional references on procedural requirements and timelines per the Town's Code.

STAFF RECOMMENDATION

Staff have identified the following options for Trustee consideration:

1. Approve Resolution No. 26-2023
2. Approve Resolution No. 26-2023 with amendments as the Board of Trustees deems appropriate
3. Postpone consideration of Resolution No. 26-2023 to a specific date and time and provide staff direction regarding additional information or amendments
4. Vote to deny Resolution No. 26-2023

ATTACHMENTS

1. Resolution 26-2023 - Considering the Continuation of the Public Hearing for the Appeal of the June 6, 2023 Planning Commission Site Plan Decision

TOWN OF WELLINGTON

RESOLUTION 26-2023

A RESOLUTION OF THE TOWN OF WELLINGTON, COLORADO CONSIDERING THE CONTINUATION OF THE PUBLIC HEARING FOR THE APPEAL OF THE JUNE 6, 2023 PLANNING COMMISSION SITE PLAN DECISION

WHEREAS, the Town of Wellington's Planning Commission approved a site plan application from Connell Resources (Applicant) on June 6, 2023; and

WHEREAS, the Town accepted an Appeal to that decision on June 12, 2023 from residents of the Town of Wellington represented by Mr. Jeffrey B. Cullers, Esq. (Appellants) in accordance with Section 15-2-120(b)(4)a. of the Town's Municipal Code; and

WHEREAS, Section 15-2-120(b)(3)b.1. of the Town's Municipal Code requires that the Town Board shall consider such an appeal at a Public Hearing within forty-five days of the close of the appeal period; and

WHEREAS, the Town scheduled the appeal to be heard at the July 25, 2023 Board of Trustees regular meeting; and

WHEREAS, the Appellants and Applicant have consented to a continuation of the Public Hearing for the Appeal in accordance with Sections 15-2-20 (d) and 15-2-230 (c)(4)a.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, LARIMER COUNTY, COLORADO.

The Board of Trustees hereby approves the continuation of the Public Hearing for the Appeal to a Special Meeting of the Board of Trustees to be held on August 23, 2023 at 6:30pm.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted this 25th day of July 2023.

TOWN OF WELLINGTON, COLORADO

By: _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk

Board of Trustees Meeting

Date: July 25, 2023

Subject: Resolution No. 27-2023: A Resolution of the Town of Wellington, Colorado Regarding Payment to the North Poudre Irrigation Company Pursuant to the Town's Purchasing Policy and 2022 Budget

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

BACKGROUND / DISCUSSION

For review and consideration is Resolution No. 27-2023 giving approval to make partial payment of the 2022 Invoice from North Poudre Irrigation Company for water usage by the Town of Wellington in water year 2022. The Town of Wellington Purchasing Policy requires Board of Trustee approval for purchases and contract awards for appropriated (budgeted) items above \$30,000.

The Town of Wellington entered into a Water Supply Agreement with the North Poudre Irrigation Company (NPIC) in 1983. The Agreement defines terms and conditions related to operations and payment requirements for the Town of Wellington to utilize water from NPIC Reservoir #3 to treat and serve residents and business of the Town.

The water year runs from November 1 to October 31 and the Town of Wellington typically receives an NPIC invoice for water usage for a water year in the following November. In 2022, the Town received a revised invoice from NPIC on December 6, 2022 (attached). Upon receipt and review, Staff had significant concerns related to the 8.25% interest rate used for the rate calculation. Staff requested the opportunity to discuss concerns and propose a solution to the NPIC Board in late December 2022. The NPIC General Manager agreed with the request and Town Staff presented a proposal for a reduced interest rate at the March 8, 2023 NPIC Board Meeting. The proposed interest rate of 6.32% was based on a survey of farm and ranch real estate interest rates during water year 2022 from five regional banks. The NPIC Board discussed the proposal in an NPIC Executive Session.

At that time and continuing now, the Town is in active negotiations with NPIC regarding the 1983 Water Supply Agreement. The Town Board of Trustees held an Executive Session on March 21, 2023 regarding negotiations with the NPIC. Discussing the very high invoice for 2022 with the NPIC Board was an excellent tool for communicating the extreme variability in the current rate calculation and the impact it has on the budgeting process for the Town.

In late March 2023, the NPIC General Manager advised the Town that the NPIC Board did not approve the Town's request to modify the interest rate. Acknowledging the invoice is greater than the Town's budgeted amount, the NPIC Board did approve the option of making a partial payment for the 2022 with the remainder due in early 2024 so the Town could include the remaining payment in the 2024 budget process.

NPIC legal counsel developed a proposed agreement for deferred payment and presented it to Town Staff on May 18, 2023. Staff discussed this option internally and had reservations about overburdening future budgets with this financial obligation.



At the July 11, 2023 Board of Trustee Meeting, Staff brought forward for consideration Resolution 23-2023 amending the 2022 Budget to allow for full payment of the 2022 NPIC Invoice. Resolution 23-2023 failed. Staff is now bringing forward for consideration Resolution No. 27-2023 giving approval for partial payment of the 2022 NPIC Invoice for water usage by the Town of Wellington in the amount of \$2,034,243.20.

The approved 2022 budget for Raw Water Purchases (204-34-5593) is \$2,058,854. The budget for 2022 is for expenses related to the 1983 Water Supply Agreement and all other raw water assessments for 2022. Those assessments are listed below:

- \$10,207.80 - NPIC Annual Assessment on 53 Shares under the 1983 Agreement – 02/08/2022
- \$12,420.00 – NPIC Annual Assessment on Town owned shares – 02/08/2022
- \$1,200.00 – Larimer County Underground Water Users Association Assessment – 03/09/2022
- \$783.00 – Larimer County Underground Water Users Association Assessment – 03/09/2022

After paying the above raw water assessment invoices, \$2,034,243.20 remains in the Raw Water Purchases budget for 2022. Should the Board approve this partial payment, a balance \$640,650.18 will remain due to NPIC for this invoice and Staff will bring a proposal for paying this balance to the Board of Trustees for consideration.

STAFF RECOMMENDATION

Staff have identified the following options for Trustee consideration:

1. Approve Resolution No. 27-2023
2. Approve Resolution No. 27-2023 with amendments as the Board of Trustees deems appropriate
3. Postpone consideration of Resolution No. 27-2023 to a specific date and time and provide staff direction regarding additional information or amendments
4. Vote to deny Resolution No. 27-2023

ATTACHMENTS

1. Resolution 27-2023 - Consideration of Payments to NPIC
2. 2022_North Poudre Irrigation Company Invoice

TOWN OF WELLINGTON

RESOLUTION 27-2023

A RESOLUTION OF THE TOWN OF WELLINGTON, COLORADO REGARDING PAYMENT FOR THE 2022 INVOICE FROM NORTH POUDRE IRRIGATION COMPANY PURSUANT TO THE TOWN'S PURCHASING POLICY AND 2022 BUDGET

WHEREAS, the Town of Wellington entered into a Water Supply Agreement with North Poudre Irrigation Company (NPIC) in 1983; and

WHEREAS, the terms of the Water Supply Agreement define the operations and payment requirements for the Town of Wellington to utilize water from NPIC Reservoir #3 to treat and serve to the residents and businesses of the Town; and

WHEREAS, the Town of Wellington received an invoice from the NPIC in November 2022 for water usage by the Town for water year 2022; and

WHEREAS, the Town of Wellington received a revised invoice from the NPIC in December 2022 for water usage by the Town for water year 2022 ; and

WHEREAS, Town staff attempted to negotiate the interest rate variable utilized in the calculation of charges for water usage defined in the Water Supply Agreement; and

WHEREAS, the 2022 Town of Wellington Budget provides for the partial payment of the 2022 NPIC Invoice in the amount of \$2,034,243.20; and

WHEREAS, the Town of Wellington Purchasing Policy requires Board of Trustee approval for purchased and contract awards for appropriated items above \$30,000.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, LARIMER COUNTY, COLORADO.

The Board of Trustees hereby approves payment of \$2,034,243.20 towards the Revised 2022 North Poudre Irrigation Company Invoice for Water Usage by the Town of Wellington.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted this 25th day of July 2023.

TOWN OF WELLINGTON, COLORADO

By: _____
Calar Chaussee, Mayor

ATTEST:

Ethan Muhs, Town Clerk



3729 Cleveland Avenue
P.O. Box 100
Wellington, Colorado 80549
Telephone: (970)568-3612
Fax: (970)221-4659

North Poudre Irrigation Company

December 6th, 2022

Town of Wellington
P.O. Box 127
Wellington, CO 80549

Re: Revised Differential Rate Calculation for WY 2022

Dear Town of Wellington,

This notice is to inform you that there was an error in the 2022 Rate Differential calculation that was previously sent to you in early November. The error was due to an incorrectly listed Quota percentage for NWCWD. Enclosed is the revised calculation and invoice reflecting the 80% Quota for WY 2022. We apologize for the inconvenience, please reach out with any questions. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Cali Gunter". The signature is fluid and cursive.

Cali Gunter
Corporate Secretary

North Poudre Irrigation Company
"Supplying water in Northern Colorado since 1901"



INVOICE

3729 Cleveland Avenue
PO Box 100
Wellington, CO 80549

DATE: December 6th, 2022

TO
Town of Wellington
P.O. Box 127
Wellington, CO 80549

FOR
Revised NPIC Fiscal Year 2022 Water
Usage by the Town of Wellington

Item	Description	Amount
Water Usage	FY '22 Water Usage 996.63 acre-feet	\$2,624,816.83
Differential Rate Charge *Revised*	FY '22 Rate Charge: \$47.60 per acre-foot	\$44,058.13
Yearly Reserve	Per Agreement (Due by March 1 st , 2023)	\$9,000.00
Reservation Fee	Refundable over 500 acre-feet	(\$2,981.58)
Total Balance Due:		\$2,674,893.38

Please make payment out to the North Poudre Irrigation Company.

If you have any questions concerning this invoice, contact Cali Gunter at (970) 568-3612,
cgunter@npicwater.com.

THANK YOU



Phone: (970) 568-3612
Fax: (970) 221-4659
www.npicwater.com

North Poudre Irrigation Company (FY2022)

Calculation of Charges to Town of Wellington for Annual Water Use Exceeding 275 acre feet as per Agreement Between NPIC and Town of Wellington, dated August 26, 1983

Formula:

$$C=(((MV \times Int/100)+A) \times 1.07)/5.5 \text{ ac-ft per share}$$

Where,

C	=	Charge per acre foot of annual water use in excess of 275 af
MV	=	Market value of one share of NPIC (yearly avg)
Int	=	Interest rate for farm and ranch loans (call AgCredit--970-330-4071)
A	=	NPIC annual assessment per share
APP	=	=Appropriation (is set at 5.5--NO variable)

Values for FY 2021:

MV=	\$224,444.00
INT=	8.25
A=	\$180.00
APP=	5.5

Calculation of per ac-ft charge:

$$C= \frac{(((\$224,444 \times 8.25/100)+\$180) \times 1.07)/5.5 \text{ af-ft per share}}{\$3,637.34 \text{ per ac-ft}}$$

Charges for FY 2021

Wellington water use (Nov 1, 2021 - Oct 31, 2022)	996.63 ac-ft
Less Base Use	- 275 ac-ft
Equals Use in Excess of Base Use	= 721.63 ac-ft

Times Per Ac-Ft Charge	X	\$3,637.34
Equals Charges for Excess Use	=	\$2,624,816.83

NOTE: These calculations do not include charges imposed by the Northern Colorado Water Conservancy District because of differential rates. These charges are calculated separately and are included with NCWCD charges on the total water used by Wellington.

**NCWCD Differential Rate Charge For Wellington Water Use
(As per 3-22-1990 letter from NPIC to NCWCD)**

Charges=	(CBT)	X	(W)	X	(RD)
	(CBT + NP)	X	(A)		

Where,

FY 22 (11/1/21 -10/31/22)

Charge=the amount due to NWCWD

NP=11,070 (NPIC domestic use decrees) in Acre-feet 11,070

CBT=Quota delivery to NPIC in acre-feet (80%x40k) 32,000

W=Wellington water use (Nov 1 - Oct 31) in acre-feet 996.63

A=NCWCD Quota 80%

RD=NCWCD Rate Differential (Municipal-NPIC) 47.60
(\$49.10- \$1.50)

Charges=	CBTxWxRD =	32,000 x 996.63 x \$47.60
	(CBT + NP) x A	(32,000 + 11,070) x 0.8

Total Charges= \$ 44,058.13