



BOARD OF TRUSTEES  
April 26, 2022  
7:00 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

MINUTES

A video recording of this meeting is available on the Town of Wellington's YouTube page at <https://www.youtube.com/channel/UCPgB1-EYjaSam4hF3mkoFNA>

**A. CALL TO ORDER**

Mayor Chaussee called the meeting to order at 7:05

1. Pledge of Allegiance  
Mayor Chaussee asked that all rise for the pledge of allegiance.
2. Roll Call  
Mayor Calar Chaussee  
Mayor Pro Tem Ashley Macdonald  
Trustee Jon Gaiter  
Trustee Brian Mason  
Trustee Rebekka Kinney  
Trustee David Wiegand – Via Zoom  
Trustee Shirrell Tietz

Also Present:

Patti Garcia, Town Administrator  
Dan Sapienza, March & Olive, LLC, Town Attorney  
Hallie Sheldon, Management Analyst  
Nathan Ewert, Civil Engineer II  
DJ Jones, Water Superintendent  
Cody Bird, Planning Director  
Meagan Smith, Deputy Public Works Director  
Stephanie Anderson, Human Resources Manager  
Kelly Houghteling, Deputy Town Administrator  
Vik Runkle, Interim Finance Director  
Sergeant Matt Cherry, Larimer County Sheriff's Office  
Kallie Cooper, Community and Business Liaison  
Mahalia Henschel, Communications Specialist  
Ross Lagenese, Library Manager  
Darla Roselle, Human Resources Technician

3. Amendments to Agenda  
Mayor Chaussee asked if there were any amendments to the agenda this evening which there were none.
4. Conflict of Interest

Mayor Chaussee asked if there were any conflicts of interest this evening, to which there were none.

## B. COMMUNITY PARTICIPATION

### 1. Public Comment

The meeting was opened for public comment, Karen Eiffert, Reginald Westphal and Kathy Wydallis made comments.

## C. CONSENT AGENDA

1. Minutes of the March 22, 2022 Board of Trustees Regular Meeting
2. Minutes of the April 12, 2022 Board of Trustees Regular Meeting

**Trustee Tietz moved to approve the consent agenda; Trustee Mason seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee**

**Nays – None**

**Motion carried.**

## D. ACTION ITEMS

1. Resolution No. 17-2022 - A Resolution of the Board of Trustees Making Appointments to the Planning Commission

**Trustee Tietz moved to postpone the consideration of Resolution 17-2022 to the May 10, 2022 Board of Trustees Regular Meeting; Trustee Gaiter seconded the motion.**

Trustee Tietz would like the Board to agree on an appointment process before making appointments to the Planning Commission; further discussion ensued among the Board of Trustees.

**Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Tietz, Wiegand**

**Nays – Kinney, Mason, Macdonald, Chaussee**

**Motion failed.**

Mr. Bird informed the Board that he was a participant in the interview process for the Planning Commission appointments along with the Chair of the Planning Commission, Chair of the Board of Adjustments and members of the Board of Trustees.

Eric Sartor, Planning Commission Chair addressed the Board to support the individuals recommended for appointment to the Planning Commission.

Christine Gaiter, Board of Adjustment Chair addressed the Board and shared her perspective on the Planning Commission applicants.

Mayor Pro Tem Macdonald and Trustee Kinney shared their perspective on the applicants and appointment process.

The meeting was opened for Planning Commission applicants to make comments; Lisa Chollet, Lowrey Moyer, Tim Whitehouse, Gary Dicenta and Levi Killough gave comments.

The meeting was opened for public comment; Tom Donnelly, Sawyer Eiffert, Karen Eiffert made

comments.

**Trustee Gaiter moved to appoint Tim Whitehouse to One Regular Term on the Planning Commission beginning May 3, 2022 and Terming April 2024 and Delaying Other Appointments to the May 10, 2022 Regular Meeting; Trustee Tietz seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Tietz, Wiegand**

**Nays – Kinney, Mason, Macdonald, Chaussee**

**Motion failed.**

**Trustee Kinney moved to approve Resolution 17-2022, A Resolution of the Board of Trustees Making Appointments to the Planning Commission for Lisa Chollet, Lowrey Moyer, Tim Whitehouse and Gary Dicenta; Trustee Mason seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Kinney, Mason, Macdonald, Chaussee**

**Nays – Gaiter, Tietz, Wiegand**

**Motion carried.**

2. Resolution No. 18-2022 - A Resolution of the Board of Trustees Making Appointments to the Board of Adjustments

Mr. Bird informed the Board that the Board of Adjustment appointment recommendations was the same process as the Planning Commission appointments.

Christine Gaiter addressed the Board to support the individuals recommended in option one for appointment to the Board of Adjustments.

Mayor Pro Tem Macdonald and Trustee Kinney shared their perspective on the applicants and appointment process.

The meeting was opened for Board of Adjustment applicants to make comments; Kathy Wydallis, Reginald Westphal and Levi Killough gave comments.

The meeting was opened for public comment, Karen Eiffert and Lisa Chollet made comments.

**Mayor Pro Tem Macdonald moved to approve Resolution 18-2022, A Resolution of the Board of Trustees Making Appointments to the Board of Adjustments for Kathy Wydallis, Wyatt Knutson, Levi Killough and Reginald Westphal; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Kinney, Mason, Wiegand, Macdonald, Chaussee**

**Nays – Gaiter, Tietz**

**Motion carried.**

The Board of Trustees took a brief recess from 9:05 p.m. to 9:12 p.m.

3. Public Hearing: Zone Change Request from C-1 Community Commercial District to C-3 Highway Commercial District at the northwest corner of Jefferson Ave. and Sixth Street

Trustee Wiegand recused himself from this agenda item due to his attendance via Zoom and this being a quasi-judicial item.

There were no conflicts of interest on this agenda item.

Trustee Tietz disclosed that she had been notified that the Town is at risk of being sued if this is not moved along.

Trustee Tietz and Mayor Chaussee received comments from residents that they did not want the agenda item to pass.

Trustee Kinney disclosed that she received the same content as part of the Planning Commission, although that will not impact her decision during this public hearing.

Mr. Bird informed the Board that the property owner located at the northwest corner of Jefferson Avenue and Sixth Street has requested the zoning be changed from C-1 Community Commercial District to C-3 Highway Commercial District to allow for more intensive highway commercial uses for future development. The property proposed to be rezoned consists of two parcels being considered for development as one combined parcel for a total of 1.29 acres.

Zone change requests require public hearings by the Planning Commission and Board of Trustees. Notice of the public hearings was published in the Coloradoan as prescribed by State law. A sign advertising the public hearings has been continuously displayed on the property and notices were mailed to surrounding property owners as prescribed by State law.

The Planning Commission held a public hearing on April 4, 2022 to consider the rezoning request. Following the public hearing, the Planning Commission voted unanimously to forward a recommendation to the Board of Trustees to retain the existing zoning classification, C-1 Community Commercial District. The findings of fact used by the Planning Commission are as follows:

- Safety and access at the intersections would be negatively impacted if the higher intensity C-3 Highway Commercial District zoning is allowed;
- Uses allowed in C-3 Highway Commercial District zoning such as fast-food drive-thrus and gasoline stations are not appropriate for the location;
- Increased impact of higher volume traffic counts on local streets;
- Development of the property would be beneficial to address identified utility, street and drainage infrastructure needs on or adjacent to the property;
- Surrounding area has existing residential uses that need to be protected, including recently approved attached single-family townhomes and second-floor residential lofts within the C-1 Community Commercial District;
- Buffering, setbacks, screening and other typical zoning requirements would be ineffective in mitigating impacts of increased traffic adjacent to residential properties in the area; and
- Consistency of zoning districts along Sixth Street north of Jefferson Avenue and consistency of development approvals within existing zoning districts along Sixth Street.

The applicant, John Dyet informed the Board that they are pursuing the rezone from C-1 to C-3 and commented that he feels decisions have already been made and the issues with the property were not discussed until the public hearing. Mr. Dyet commented that they are not doing a gas station or a fast-food restaurant and there will be no semi-trucks; they are doing a retail cannabis store at this site. A traffic study was not completed although one can be done for this site. Mr. Dyet feels there is no reason this parcel cannot be converted from C-1 to C-3; cannabis is allowed in the town, although no parcels are available. There isn't a risk of a lawsuit; there is a guarantee of a lawsuit.

As requested, Mr. Bird read the findings of fact from the Planning Commission again.

Mr. Bird informed the Board that the context behind the safety issue during the Planning Commission meeting was related to traffic coming off the highway that would go back to the highway making left-hand turns against the flow of traffic; a traffic study is not needed for a zone change request.

The meeting was opened for public comment; Reginald Westphal, Levi Killough, Karen Eiffert, Kathy Wydallis, Jesy Andreen, Rick Freeman and Tom Donnelly provided comments in opposition of the rezone related to traffic, safety and the additional uses that could be allowed in C-3.

Mr. Dyet responded to the comments made by the public.

Mr. Bird informed the Board that a rezone request looks at the uses allowed on the property; entrances and exits would be reviewed during the site plan.

Mayor Chaussee closed the public hearing.

4. Ordinance No. 09-2022: An Ordinance Concerning a Zone Change Request from C-1 Community Commercial to C-3 Highway Commercial at the northwest corner of Jefferson Avenue and Sixth Street

Mr. Bird informed the Board that there are options for Ordinance 09-2022:

- Adopt or approve the Planning Commission's recommendation which would be to retain the existing C-1 Community Commercial zoning district
- Override the Planning Commission's recommendation to approve the requested C-3 Highway Commercial zoning district
- Continue the public hearing

The Board of Trustees would also need to make specific findings of fact for the approval or denial of the application.

The Board of Trustees discussed the request for the rezoning application.

**Trustee Gaiter moved to adopt the following findings of fact adopted by the Planning Commission:**

- 1. Safety and access at the intersections would be negatively impacted if the higher intensity C-3 Highway Commercial District zoning is allowed;**
- 2. Uses allowed in C-3 Highway Commercial District zoning are not appropriate for the location;**
- 3. Development of the property would be beneficial to address identified utility, street and drainage infrastructure needs on or adjacent to the property;**
- 4. Surrounding area has existing residential uses that need to be protected, including recently approved attached single-family townhomes and second-floor residential lofts within the C-1 Community Commercial District;**
- 5. Consistency of zoning districts along Sixth Street north of Jefferson Avenue and consistency of development approvals within existing zoning districts along Sixth Street; and**
- 6. Public Comments at the Town Board Public Hearing from area residents were in opposition to rezoning the property to C-3**

**and to deny the application for a zone change request, and to postpone Ordinance 09-2022 indefinitely; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Kinney, Mason, Tietz, Macdonald, Chaussee**  
**Nays – None**  
**Motion carried.**

5. 2022 Wastewater Bond Debt Service Coverage

Ms. Runkle informed the Board that the Town has to ensure all prior debt covenants are met when issuing new debt. The Town of Wellington has two previous bonds prior to the 2022 State loans we are currently borrowing:

- 2002: one final payment will be made in fall 2022. Bonds will be retired
- 2014: Payments through 2034. In February of each year one interest payment; in August, a second interest payment and the principal payment

The 2014 Bond issue has a covenant that states when new bonds are issued; current net revenue must cover the Maximum Annual Debt Service (MADS) by 1.2x. Based on assumptions to date, the MADS occurs in 2030. The need is \$3,122,584 and the Town's current net revenue is estimated to be \$2,558,302, thus, leaving a shortfall of \$564,282

The 2014 outstanding principal is \$1,770,000 and the outstanding interest is \$ 467,575. These can be "called" or retired in late 2024 and completely paid off. To meet the immediate need of the Bond Covenant there are two options.

Ways to address the 2014 Bond Covenant:

- Refinance the outstanding debt can lower the bond coverage, although refinancing requires time, costs money, and the interest rates on the current outstanding debt are extremely favorable. The 2014 Bonds have very favorable interest rates; this is not assured in this market.
- Setting up a trust and moving some portion of current cash balances to a Trust Bank to cover the future principal and interest payments. This eliminates the bond covenant requirements, the Trustee bank makes all payments and reporting requirements, the Town receives the interest earnings on the balance that is transferred and it also allows the Town to call the outstanding debt in late 2024 and then will save \$319,135 in interest payments.

The meeting was opened for public comment and Christine Gaiter commented.

Ms. Runkle commented that there are fees associated with the trust, although there will be no effect on utility bills from this action.

Bond Counsel Mario Trimble gave information on the reasoning for setting up the trust.

**Trustee Gaiter moved that the Town Board of Trustees, acting for itself and in its authority as the governing body of the Town Wastewater Enterprise, upon final document approval by the Town Attorney and the Town's bond counsel, authorize the mayor to execute a defeasance escrow agreement and all other documents necessary to establish a trust account with a trustee bank and authorize the Town Wastewater Enterprise to fund such account in an amount sufficient to remove the restrictive covenants associated with outstanding bonds; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee**  
**Nays – None**  
**Motion carried.**

6. Resolution No. 19-2022 - A Resolution of the Board of Trustees Appointing Officers and Municipal Judge until 2024 Election

Per Ms. Garcia, under Chapter 2, Article 3 of the Wellington Municipal Code, appointed officers shall be appointed by a majority vote of the members of the Board of Trustees at the first meeting after the Town's biennial election. The appointed officers include the Town Manager, Town Clerk, Treasurer, Town Attorney, Municipal Judge and Assistant Judge. This action would also confirm the appointment by the Municipal Judge of the Municipal Court Clerk.

The meeting was opened for public comment; there were no comments.

**Mayor Pro Tem Macdonald moved to approve Resolution 19-2022, A Resolution of the Board of Trustees Appointing Officers and Municipal Judge until 2024 Election; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee**

**Nays – None**

**Motion carried.**

## **E. REPORTS**

1. Town Attorney

None.

2. Town Administrator

Ms. Garcia reminded the Board of the round table the following evening.

3. Staff Communications

a. Colorado Open Records Act (CORA) Quarterly Report

4. Board Reports

Trustee Gaiter suggested a joint letter between Larimer County, Poudre School District and the Town of Wellington to CDOT regarding the round-a-bout by the high school. Also, the CAC discussed ADA parking for the fireworks during the 4<sup>th</sup> of July event.

## **F. EXECUTIVE SESSION**

1. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. – regarding negotiations with North Poudre Irrigation Company. As required by C.R.S. §24-6-402(2)(d.5)(II)(A) and (II) (E) the executive session proceedings will be electronically recorded and the record will be preserved for 90 days through July 25, 2022.

**Mayor Pro Tem Macdonald moved to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. – regarding negotiations with North Poudre Irrigation Company; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee**

**Nays – None**

**Motion carried.**

The Board of Trustees moved into executive session at 11:20 p.m.

No official action was taken during the executive session.

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

**Yeas – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee**

**Nays – None**

**Motion carried.**

The Board of Trustees moved out of executive session at 11:56 p.m.

**G. ADJOURN**

**Mayor Pro Tem Macdonald moved to adjourn the meeting; Trustee Gaiter seconded the motion.**

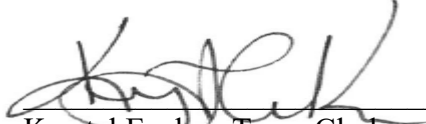
**Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee**

**Nays – None**

**Motion carried.**

The meeting was adjourned at 11:57 p.m.



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Krystal Eucker, Town Clerk