



BOARD OF TRUSTEES
May 24, 2022
6:30 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/UCPgBl-EYjaSam4hF3mkoFNA>

A. CALL TO ORDER

Mayor Chaussee called the meeting to order at 6:32

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 – Arrived at 8:16 p.m.

Trustee Jon Gaiter

Trustee Brian Mason

Trustee Rebekka Kinney

Trustee David Wiegand

Trustee Shirrell Tietz

Also Present:

Patti Garcia, Town Administrator

Dan Sapienza, March & Olive, LLC, Town Attorney

Krystal Eucker, Town Clerk

Cody Bird, Planning Director

Bob Gowing, Public Works Director

Kallie Cooper, Community and Business Liaison

Dave Myer, Engineer

Nate Ewert, Engineer

Seargent Cherry, Larimer County Sheriff's Office

3. Amendments to Agenda

Mayor Chaussee asked if there were any amendments to the agenda this evening; there were no amendments.

4. Conflict of Interest

Mayor Chaussee asked if there were any conflicts of interest this evening; there were no conflicts of interest.

B. COMMUNITY PARTICIPATION

1. Public Comment

The meeting was opened for public comment; Melissa Whitehouse, Blair Pedersen, Suzane

Burtis, Lowrey Moyer, Tim Whitehouse, Richard Seaworth, Tim Singwald, Jesy Andreen, Kent Allen, Rick Freeman and Reginald Westphal provided comments.

C. CONSENT AGENDA

1. Resolution No. 20-2022: A Resolution Approving the Town Administrator's Administrative Plan of Organization
2. Minutes from the May 10, 2022 Regular Board of Trustees Meeting

Trustee Kinney moved to approve the consent agenda; Trustee Wiegand seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None

Motion carried.

D. ACTION ITEMS

1. Jacobs Contract Amendments for Extended Water Treatment Plant & Water Reclamation Facility Construction Services

Mr. Myer informed the Board that the Jacobs' existing executed scope of work for Construction Services included a budget for a full-time Resident Project Representative (RPR) and engineering services during construction at the Water Treatment Plant (WTP) based on an 18-month construction period and a 20-month construction period for the Water Reclamation Facility (WRF). The Construction Manager at Risk (CMAR) Contractors, as part of their recently signed contracts, included extended construction schedule durations of 27 months for the WTP and 30 months for the WRF, nine (9) months and ten (10) months longer than the duration assumed in Jacobs' existing contracts. The increased construction durations for both plants resulted in added scope for on-site and office-based engineering services.

Jacobs and Town staff have had several meetings to discuss the RPR role and schedule for services based on construction schedules recently provided by the CMAR Contractors (Hensel Phelps for the WTP, and Moltz for the WRF). Jacobs and town staff recommend an extension of RPR coverage and engineering services during construction for both projects to fulfill the defined contractual role of the RPR. Furthermore, both Contractors have assumed a full-time RPR on-site during construction as part of their Guaranteed Maximum Price (GMP). To reduce the cost of these contract extensions, Jacobs and town staff have negotiated that a single RPR will be used during the initial four months of construction at both plants at approximately half-time as the Contractors are initiating activities. Town engineering staff will fulfill some RPR roles during this interim period. After this ramp-up period, instead of the RPR, two of the town's staff engineers will assist with construction administration by being responsible for preparing all the weekly meeting agendas, meeting minutes and action logs for distribution to the project team, including follow-up and coordination of any action items resulting from the meetings. This construction administration assistance by the Town will be provided for the entire duration of both construction periods.

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

Trustee Kinney moved to approve execution of contract amendments with Jacobs Engineering Group in the not to exceed amount of \$210,280 and \$238,880 for the Water Treatment Plant and Water Reclamation Facility, respectively, for extended services during construction, including the Resident Project Representative, with monies being funded from the owner contingencies contained within the Guaranteed Maximum Price of each project.; Trustee Tietz

seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None

Motion carried.

2. Contract for Materials Testing & Inspection for the Water Reclamation Facility Expansion Project
Mr. Myer informed the Board that in July 2021, CTL/Thompson (CTL) completed the design-phase geotechnical report update for the plant’s current expansion. CTL also provided geotechnical services for the plant’s initial construction in 2002. Whenever possible, it is advisable to employ the same firm that prepared the design-phase geotechnical report for construction-phase testing services. That firm will be familiar with the project, site soil conditions and design recommendations. In addition, potential gaps between accountability for those two phases are more likely to be avoided. CTL currently has the qualifications, equipment, and availability to do this work.

CTL provided a scope of services and fees for materials testing and construction observations related to the plant’s expansion and the General Contractor’s (Moltz) schedule. Fees were also based on a list provided by Jacobs regarding required tests and inspections as identified in the specifications for the project. CTL also used Moltz’s estimated quantities of materials that would be relevant for testing. The services will require soil compaction testing, asphalt testing, concrete testing, masonry observation and testing, and structural steel inspection. Testing frequencies will vary depending on the construction schedule and the Contractor’s schedule. Actual fees will be based on the hours charged and laboratory tests conducted at the unit rates in Exhibit B within the draft contract.

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

Trustee Gaiter moved to approve the execution of a contract with CTL Thompson in the not to exceed amount of \$123,902.00 for materials testing and inspections during construction of the Water Reclamation Facility with monies being funded from the project’s budget; Trustee Tietz seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None

Motion carried.

3. Public Hearing: Consider Annexation of the Lamb Annexation property into the Town
There were no conflicts of interest disclosed by the Board of Trustees.

Trustee Gaiter disclosed that the Board members received emails from a resident regarding the property. Trustee Gaiter also had a resident ask questions regarding the agenda item, although he did not engage in discussion with the resident.

Trustee Tietz disclosed that emails had been received regarding the property and a request from a resident to approve the annexation but not the zoning. Trustee Tietz did look at the comprehensive plan and library districts.

Mayor Chaussee disclosed he had received the same emails.

Mr. Bird informed the Board that the owner of a property approximately 0.57 acres in size located east of Sixth Street at the intersection of Sveta Lane has submitted a petition for annexation to incorporate the property into the Town of Wellington. The same property was previously considered for annexation in 2020 and following recommendations from the Planning Commission and a public hearing by the Board of Trustees, the annexation was approved. After the approval, the Town was not provided with a signed annexation map to be recorded with the Larimer County Clerk and

Recorder and having not been recorded within 180 days from the date of approval, the annexation became void and of no effect. The owner has petitioned to again have the property annexed into the Town of Wellington.

The Board of Trustees on April 12, 2022 passed Resolution No. 14-2022, finding the annexation petition to substantially comply with State and local requirements and finding that the property meets the eligibility requirements of State Statutes. The resolution also established the date for a public hearing to consider the annexation on May 24, 2022. The Board of Trustees referred the proposed annexation to the Planning Commission for review and to form a recommendation on the annexation. If annexation is recommended, a recommendation for zoning is also needed.

The prior property owner, Linda Lamb, submitted a petition for annexation to incorporate approximately 0.57 acres of land at 7840 Sixth Street into the Town of Wellington. The property is located at the south end of the Sixth Street commercial corridor and is considered an enclave. The current property owner is Devries Properties, LLC.

The owner is requesting the property be zoned C-3 Mixed Use Commercial District (formerly C-3 Highway Commercial District prior to recent updates to the Land Use Code). The size and shape of the property will limit development to a single lot. The applicant has provided a conceptual only site plan to demonstrate the ability to develop the site for uses allowed within the C-3 zoning district. The site and existing building may be redeveloped following site plan review approval and proper building permits.

The property is within the Town's Growth Management Area (GMA) and is within the identified 3-mile plan adopted by the Town. Urban services including Town water and sanitary sewer can be extended to serve the property.

The staff report to the Planning Commission, and the applicant's narrative is included in the packet material.

The Planning Commission heard this annexation at their May 3, 2022 meeting and unanimously approved recommending annexation into the Town of Wellington. The Planning Commission also unanimously approved recommending C-3 zoning for the annexation.

Town staff has provided the required notifications to advertise the public hearing.

Mr. Tom Donnelly, the applicant's representative, addressed the Board and gave background on the previous annexation that had not been recorded with the County. The property owner is seeking annexation and a C-3 zoning classification. A complete site plan will be brought before the town if the property is annexed. The property owner is responsible for making a use work on the property. The owners understand there may be some traffic concerns that need to be addressed and will try to work on that to be best of their ability.

The meeting was opened for public comment; Leann McDaniel, Christine Kenney, Reginald Westphal, Jesy Andreen, Christine Gaiter, Barb Holgren and Russ Brewer spoke in opposition to the application. Lowrey Moyer spoke in favor of the application.

Mr. Donnelly addressed the public's comments and commented that it is not about the use but the zoning.

The public hearing was closed.

Mr. Donnelly inquired if Trustee Macdonald would be voting on this agenda item this evening as she was not in attendance for all of the public hearing; Trustee Macdonald said she would be voting.

4. Ordinance No. 12-2022: An Ordinance Conditionally Annexing the Lamb Annexation into the Town of Wellington

Mr. Bird informed the Board that there is a draft ordinance in the packet material, which is based on what staff heard at the Planning Commissions' hearing. The draft ordinance does two things; approving the annexation to bring the property into the Town of Wellington and it would assign the C-3 Mix-Use Commercial zoning based on the applicant's requests and the staff and the Planning Commission recommendations based on those findings.

Additionally, the Planning Commissions' findings of fact are included in the packet material for the previous agenda item.

When considering an annexation, some things need to be done. The annexation will need to be approved or denied, adopt specific findings of fact, assign a zoning district designation to the property and take action on the ordinance.

Based on the planning commission's recommendation of findings, staff recommends approval of Ordinance 12-2022.

The Board moved into a short recess to seek legal counsel regarding Trustee Macdonald's ability to vote on this agenda item; the meeting resumed at 8:47 p.m.

Trustee Macdonald requested postponing the agenda item to review the entire public hearing.

Mr. Sapienza informed the Board that it is extremely important to avoid ex parte communications until the item is brought back before the Board.

Trustee Gaiter moved to postpone Ordinance 12-2022: An Ordinance Conditionally Annexing the Lamb Annexation into the Town of Wellington to the June 14, 2022 Regular Board of Trustee Meeting; Trustee Tietz seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None

Motion carried.

5. Resolution No. 21-2022: A Resolution Authorizing Temporary Road Closures for the Annual 4th of July Celebration

Ms. Cooper reviewed the road closure plan for the 4th of July event. The plan was amended on May 24, 2022 and was provided to the Board of Trustees.

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

Trustee Kinney moved to approve Resolution No. 21-2022: A Resolution Authorizing Temporary Road Closures for the Annual 4th of July Celebration; Mayor Pro Tem Macdonald seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None

Motion carried.

6. Ordinance No. 13-2022: An Ordinance Prohibiting the Use of State-Prohibited Fireworks in the

Town of Wellington

Mr. Sapienza informed the Board that staff was directed to look into methods to encourage increased enforcement of Town of Wellington fireworks ordinances, due to high levels of use of illegal fireworks around the Fourth of July holiday. Through meetings with Larimer County Sheriff's Office (LCSO) and investigation of other ordinances used by municipalities, it was determined that Wellington's ordinance was inconsistent with the area. This proposed ordinance allows fireworks in the Town permitted by state law and no others. This will allow LCSO to focus their efforts on those fireworks that present the most significant danger to the Town, including large explosive devices and airborne effects purchased from out of state.

The meeting was opened for public comment; Reginald Westphal, Christine Gaiter, Jesy Andreen, Susan Burtis and Karen Eiffert provided comments.

Trustee Kinney moved to approve Ordinance 13-2022: An Ordinance Prohibiting the Use of State-Prohibited Fireworks in the Town of Wellington; Mayor Pro Tem Macdonald seconded the motion. Roll call on the vote resulted as follows:

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

Nays – Tietz

Motion carried.

7. Resolution No. 22-2022: A Resolution Approving the Colorado Regional Opioid Intergovernmental Agreement for the Larimer County Region and Appointing a Representative from the Town of Wellington to Serve on the Larimer Regional Opioid Council

Mr. Sapienza informed the Board that in 2021, the State of Colorado announced it would be receiving up to \$400 million from the nationwide opioid class action lawsuit. To facilitate the disbursement of these funds, the State created the Colorado Opioids Settlement Memorandum of Understanding (MOU). To participate in the opioids settlement, local municipalities had to sign the Colorado MOU, which was signed by the Town in 2021. This guaranteed the Town would receive its local government share of the settlement. By entering into the IGA, the Town, with other members of the Larimer Regional Opioid Council, will determine the disbursement of an estimated \$14,000,000 over 18 years. These funds are designated to assist in mitigating the opioid crisis.

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

Trustee Gaiter moved to approve Resolution No. 22-2022: A Resolution Approving the Colorado Regional Opioid Intergovernmental Agreement for the Larimer County Region and Appointing Brian Mason to Serve on the Larimer Regional Opioid Council and Patti Garcia to Serve as an Alternate; Trustee Macdonald 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
None.
3. Staff Communications

None.

- a. Larimer County Sheriff's Office Monthly Report - April 2022
Verbal Report
- b. Memorandum regarding the Larimer County Floodplain Update - Preliminary results and path forward
Written Report

4. Board Reports

Mayor Pro Tem Macdonald congratulated all the students on transitioning and upgrading.

Trustee Kinney attended the Boys and Girls Club of Larimer County where fundraising efforts were celebrated and an award was given for the Champion of Children.

Trustee Mason moved to reconsider the adoption of the WaterNow Alliance Grant; Mayor Pro Tem Macdonald seconded the motion.

Trustee Mason voted no on the agenda item at the previous meeting, which was the prevailing side. Discussion and roll call on the motion will occur at the June 14, 2022 meeting.

F. EXECUTIVE SESSION

The consensus of the Board was to continue the executive sessions that were on this evening's agenda to June 14, 2022.

1. 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. and the transfer or sale of real property pursuant to Section 24-6-402(4)(a), regarding potential sale of the Thimmig Property. 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 August 22, 2022.
2. Executive Session: For the purpose of considering the purchase, acquisition, lease, or transfer of real property pursuant to Section 24-6-402(4)(a), regarding potential property acquisitions within the Town of Wellington for municipal purposes. 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 August 22, 2022.

G. ADJOURN

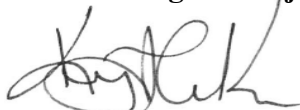
Mayor Chaussee moved to adjourn; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None

Motion carried.

The meeting was adjourned at 10:15 p.m.



Krystal Eucker, Town Clerk

