



BOARD OF TRUSTEES  
April 27, 2021  
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

MINUTES

**A. CALL TO ORDER**

Mayor Hamman called the meeting to order at 6:32 p.m.

1. Pledge of Allegiance  
Mayor Hamman asked that all rise for the pledge of allegiance.
2. Roll Call  
Mayor Troy Hamman  
Mayor Pro Tem Wyatt Knutson  
Trustee Jon Gaiter  
Trustee John Jerome  
Trustee Rebekka Kinney  
Trustee Ashley Macdonald  
Trustee Tim Whitehouse

Also Present:

Patti Garcia, Town Administrator  
Kelly Houghteling, Deputy Town Administrator  
Brad March, March & Olive, LLC, Town Attorney  
Dan Sapienza, March & Olive, LLC, Town Attorney  
Judi Tippetts, Finance Director  
Cody Bird, Director of Planning  
Hallie Sheldon, Management Analyst  
Bob Gowing, Director of Public Works  
Krystal Eucker, Town Clerk

3. Amendments to Agenda  
Mayor Hamman asked if there were any amendments to the agenda this evening to which there was none.
4. Conflict of Interest  
Mayor Hamman asked if there were any conflicts of interest on tonight's agenda to which there was none.

**B. COMMUNITY PARTICIPATION**

1. Public Comment

Mayor Hamman opened the meeting up for public comment.

Charlene Loma, 3812 Lincoln Avenue, Wellington, CO informed the Board that she has lived in Wellington for 39 years. Ms. Loma has concerns regarding the Comprehensive Plan including referencing all of historic neighborhoods as downtown neighborhoods, transitional areas are not spelled out, removing historic buildings and replacing with multi-level buildings, and wide streets impacting historical neighborhoods. Ms. Loma feels the historic downtown area is a benefit to the Town.

Ken McKenzie, 3733 McKinley, Wellington, CO informed the Board that they have received 211 signatures from citizens that would like to see some items changed in the Comprehensive Plan including removing 1.10 in Downtown Pillar, expand downtown to include Harrison Avenue as well as connecting side streets; remove goal 2.3 in Downtown Pillar, update zoning and subdivision regulations to encourage mixed use structures and higher density housing types; remove downtown core from land use map and change downtown neighborhood to have a density of 5. Mr. McKenzie would like to see these changes made as there were changes requested by individuals that lived in Pheasant Run.

Michael Baratta, 3736 McKinley Avenue, Wellington, CO stated he supports the information that Mr. McKenzie said in his public comment. The people of local government should not be ignored.

Christine Gaiter, 8132 4<sup>th</sup> Street, Wellington, CO commented that she has heard from citizens that there is a lack of non-electronic advertising as most people have not heard about the Comprehensive Plan. The Communication Manager has not done any print material and that is what people want; there has been an improvement with Facebook and the website. Ms. Gaiter stated she would like direct mails and a banner at the skate park. Ms. Gaiter stated she has heard from residents that it appears the Town is hiding something from the residents. Also, the land use code is part of the timeline for the Comprehensive Plan and the residents have not seen that yet. There have been comments on the Plan but she has not seen the regulatory tool yet and is concerned that there will not be the ability to comment on that. The website states “the land use map will serve as a regulatory tool to implement the principles and policies identified and the Comprehensive Plan.”

Mark Mixon, 3726 Garfield, Avenue, Wellington, CO commented that his water bill has quadrupled over the last couple months. Mr. Mixon started a social media conversation that turned viral in a good way and learned that some of the reason the Town has some problems right now is mismanagement from past Boards. Mr. Mixon commented that he learned a lot from attend the Board of Trustee meetings and one of the things he learned is the Town is in debt and would like to propose a moratorium on grown right now.

2. Presentation

Kallie Cooper, Executive Director of the Wellington Main Street Program gave an overview of the first quarter report that was included in packet material.

Trustee Gaiter inquired if Main Streets is looking to address the current sign code or are they looking to put a new sign code in place.

Ms. Cooper stated there is currently not a sign code that addresses the unique needs of the downtown area. Typically, the signs that would fit within the Town’s code would be too large for the downtown area so this would be to narrow that focus to commercial properties on Cleveland Avenue to give some guidance on what the community would like to see.

Trustee Gaiter inquired if there will be a Town presence at the Farmer's Market.

Ms. Cooper stated she did have discussion with Mr. Bird about using the Farmer's Market if there was a need for public engagement.

3. Proclamation

Mayor Hamman read the National Public Works Week Proclamation.

**C. CONSENT AGENDA**

1. Minutes of the April 13, 2021 Board of Trustee Regular Meeting

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

**Yeas – Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman**

**Nays – None**

**Motion carried.**

**D. ACTION ITEMS**

1. Ordinance No. 04-2021 - Minor Subdivision: Lot 2, Block 1, Boxelder Commons Filing One

Mr. Bird informed the Board that Ordinance 04-2021 is a minor subdivision request which is located south of Ridley's Market. The existing lot is 7.26 acres total, and this minor subdivision approval will divide the property into two lots. The applicant's request is to subdivide so one lot will be 1.76 acres and one will be 5.5 acres. The applicant is under contract to purchase the smaller parcel on Lot 2A.

The location described on the proposed plat as Lot 2A is zoned C-3 Highway Commercial. This location has an approved amended site plan for a Dollar General retail store.

The minor subdivision request is a simpler version of the major subdivision which would require a full plat and go through the preliminary and final process.

The Planning Commission conducted a public hearing to review the final plat on April 5, 2021. The Commission voted to recommend approval of the final plat, subject to comments and corrections identified in the staff report to the Commission. The corrections identified in the staff comments are required to be corrected on the final plat mylar. The corrections are minor clean-up items like text or clarification. Staff will verify that is completed on the final drawing. By recommending approval of the final plat, the Commission determined that the plat is consistent with the Town's Comprehensive Plan and that the plat conforms to the Town's subdivision regulations.

A closure report was also requested from the surveyor.

At the time of writing this report, no public comments have been received by Town staff, and none were expressed at the Planning Commission meeting on April 5, 2021.

Staff recommends approval of the minor subdivision request.

Trustee Gaiter inquired about the acreage and if this was a minor or major subdivision.

Mr. Bird stated in the land use section of the Town Code, the minor subdivision process is identified for a simple division of property and it outlines criteria for that process. One criteria for the minor subdivision process is that the property is less than five acres in size; this request was a little over seven acres. Staff informed the Planning Commission that

nothing would change between the five and seven acres because the land has been platted and the property boundaries are well defined on all sides so going through the minor subdivision process is eliminating a step for the applicant.

Trustee Gaiter inquired if that would cause any problems since that is deviating from Town Code. Mr. Bird stated staff does not believe so as there is still a public hearing on the item.

Mayor Hamman opened the meeting for public comment to which there was none.

**Trustee Kinney moved to approve Ordinance 04-2021, Minor Subdivision Lot 2, Block 1, Boxelder Commons Filing One with corrections identified by the Planning Commission and Staff and Authorize the Mayor to Execute the Plat; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman**

**Nays – None**

**Motion carried.**

2. Ordinance No. 05-2021 - Minor Subdivision: Lot 4, Coal Creek Center

Mr. Bird stated this item is very similar to the prior request. This request for minor subdivision is for Lot 4 in Coal Creek Center, located just north of 8050 6<sup>th</sup> Street (Taco Bell) and is zoned C-3 Highway Commercial. The current parcel is 1.24 acres total. The minor subdivision request is proposed to create two parcels. The applicant's request is to subdivide the existing lot to create a second buildable lot that will be 0.55 acres (Lot 4B) and one will be 0.69 acre (Lot 4A, current Taco Bell). The additional lot is proposed to sell for further development.

The Planning Commission conducted a public hearing to review the final plat on April 5, 2021. The Commission voted to recommend approval of the final plat, subject to comments and corrections identified in the staff report to the Commission. The corrections identified in the staff comments are required to be corrected on the final plat mylars. By recommending approval of the final plat, the Commission determined that the plat is consistent with the Town's Comprehensive Plan and that the plat conforms to the Town's subdivision regulations.

When this was before the Planning Commission, staff did ask the applicant for a conceptual site plan showing the property could be utilized for development for uses permitted in that district. The applicant did provide a drive thru restaurant that did meet the Town's standards.

At the time of writing this report, no public comments have been received by Town staff, and none were expressed at the Planning Commission meeting on April 5, 2021.

Staff requests approval of the minor subdivision.

Mayor Hamman opened the meeting for public comment to which there was none.

**Trustee Kinney moved to approve Ordinance 05-2021, Minor Subdivision Lot 4 Coal Creek Center with corrections identified by the Planning Commission and Staff and Authorize the Mayor to Execute the Plat; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman**

**Nays – None**

**Motion carried.**

3. Resolution No. 09-2021 - A Resolution of the Board of Trustees of the Town of Wellington Appointing and Confirming Appointment to the Boxelder Basin Regional Stormwater Authority Board of Directors

Ms. Garcia informed the Board that this item is related to the vacancies on the Boxelder Stormwater Authority Board. There are two vacancies and both are related to the Town of Wellington. One vacancy is a joint appointment with the Town of Wellington and Larimer County and the other is the Town of Wellington appointment. Mr. Seaworth was on Larimer County's agenda today for the joint appointment and this will be the second part of his appointment.

Some research was done with other municipalities to see how they handle appointments and if those are filled by citizens or staff. Both the City of Fort Collins and Larimer County appoint staff. Fort Collins has appointed Theresa O'Connor who is the Deputy Director of Utilities and Larimer County has appointment Eric Tracy who is their Land Development Engineer.

Tim Singewald has represented the Town of Wellington well over the years although in keeping in with the other participants, it seems important for the Town to have a Trustee or a staff member to represent the Town on the Stormwater Authority Board. In speaking with the City of Fort Collins, it allows the City Council to receive regular updates.

Currently, the Town does not have an available staff member to take on the appointment although the Town will be hiring an individual to directly oversee water issues. When that person is hired, it is recommended that person would become the representative on the Stormwater Authority Board. This discussion took place in the weekly Mayor's meeting with the Mayor and Trustee Macdonald and Trustee Macdonald offered to be the appointee until we have an individual hired to oversee water.

Mayor Pro Tem Knutson commented that he would prefer to keep Mr. Singewald as the Stormwater Authority appointee and would like to hear why Trustee Macdonald has changed her mind in appointing Mr. Singewald.

Trustee Macdonald stated she has attended a lot of meetings and has heard a lot of what is going on with the Boxelder Stormwater Authority and has a lot of historical knowledge and understanding of how that has progressed over time. Trustee Macdonald met with Mr. Singewald and asked him if he was looking out for the best interest of this community and his answer was yes. Immediately following that discussion, there was a survey that was distributed out to the community that had some bias associated with it and that was distributed by the association that Mr. Singewald is part of. There was a significant amount of concern that came from staff, Trustee Macdonald and community members about his ability to represent the community without bias. Mr. Singewald has represented the community historically; he may not be so equitable to do so at this time. Trustee Macdonald agrees that the individual that is appointed to the vacancy should be a staff member or a Trustee until there is an individual hired to oversee the Town's water.

Mayor Pro Tem Knutson feels that Mr. Singewald would be the better representative at this time due to some of the things that are going on with the Boxelder although maybe his term could be shorter to allow a staff member to come on board to take that over.

Trustee Kinney commented that she is excited for a water manager to serve on the Stormwater Authority although until that happens, she would recommend Trustee Macdonald to fill that vacancy.

Trustee Jerome commented that he is in agreement with Mayor Pro Tem Knutson and feels that Mr. Singewald has served the Town of Wellington well.

Trustee Gaiter commented that he has no concerns with Trustee Macdonald serving on that Board and also feels that Mr. Singewald would do a fine job representing the Town as a whole. Trustee Gaiter inquired as to why this was not on the last agenda.

Trustee Whitehouse commented that Mr. Singewald be reappointed for a year to transition the staff member that will take that over.

Mayor Hamman commented that this item was pushed out due to the agendas getting full. Mr. Singewald has done an exemplary job representing the Town and Mayor Hamman is in favor of getting a water manager on staff as soon as possible; Mr. Singewald's appointment can stay in place until the water manager is hired.

Ms. Garcia informed the Board that the agreement with Boxelder states it does need to be for a three-year term. The idea was that if a Trustee was appointed, the Board could tell that Trustee when they would need to resign to hand that vacancy off to the water manager. It is unknown if the Town would have that ability with Mr. Singewald.

Mr. March commented that the Board can say the appointment is until a successor is appointed which usually covers the other end of a three-year term.

Trustee Kinney inquired of this item could be tabled to talk with Mr. Singewald and see if he would be willing to resign when a water manager is hired.

Trustee Whitehouse commented that Mr. Singewald is on the meeting.

Mr. Singewald thanked the Trustees for supporting him as he has been working to make a good deal for Wellington with the Boxelder situation. The sunset agreement was done in 2017 and the sunset provision allowed the Town to get out of this as there was money being spent and it is way over budget. That sunset agreement saved the Town millions of dollars. The project is done although now there is discussion about a possible process being done on the east side detention facility. Mr. Seaworth is concerned that the Town could be liable for millions of dollars if the project goes south. Mr. Singewald is working to resolve that with the Town having some immunity. Also, Mr. Singewald and Mr. Seaworth are working to keep Wellington out of a possible lawsuit. Bringing someone onto the Stormwater Authority Board would take a year and a half just to understand the basics of what has been happening. Mr. Singewald stated he would be happy to serve for another year as by that time this should be done.

Mayor Hamman inquired if Mr. Singewald would be open to a one-year term.

Mr. Singewald stated he would be open to a one-year term and that would cement the sunset agreement or be really close.

Mayor Hamman opened the meeting for public comment.

Kathy Wydallis, 3405 Revere Court, Wellington, CO "I am appalled that Tim Singewald is not being reappointed to the Boxelder Water Authority board to continue representing Wellington. There is not another person in town with as much historical knowledge or familiarity with the past, present, and likely future Boxelder issues as Mr. Singewald. His "Wellington First"



attitude has already saved our town a lot of money and he is still working to keep Wellington from paying legal costs that are not our responsibility.

I have been told that the reason he is being replaced is because of this statement in the Staff Presentation part of the packet....

"For the town appointment, I would recommend appointment of either a Trustee or a staff member."

I am assuming that the person recommending this is our brand-new town administrator. In fact, I don't think there is anyone in the Town Administration that was here when I moved in only 8 years ago. This appointment has been held by non-trustee and non-town employee people until Mr. Singewald (who happened to be mayor at the time) was appointed. There is no precedent for such a requirement for this position. We are told that the town staff is swamped, and I know the trustees are all very busy people volunteering their time to be trustees. If Wellington is lucky enough to have Tim Singewald available and willing to continue as Wellington's representative on the Boxelder Water Authority, the Trustees should reappoint him. It is what is best for Wellington."

Christine Gaiter, 8132 4<sup>th</sup> Street, Wellington, CO commented that she would be cautious to appoint a staff member as they do not have the best interest of the citizens because they do not live here and do not pay the taxes, so it won't affect them. Ms. Gaiter would prefer a citizen who actually is affected by the decisions they make. It comes across that the Town Administrator, Mayor and Trustee Macdonald are making decisions for the Board as the Board was clear they wanted to appoint Tim Singewald.

Mayor Hamman commented that was not the case at all as there has been long range planning to have an internal water manager to oversee the Town's water issues.

Trustee Kinney commented that the recommendation from the attorney was to make the appointment for the three years with the idea that there would be a resignation based on when the Town has a water manager; there is no option to appoint for a one-year term, only a three-year term.

Ms. Garcia stated the appointment of a staff member or water manager in the future would come back to the Board for approval as that would not be done at an administrative level.

**Mayor Pro Tem Knutson moved to approve Resolution 09-2021 with the change of Tim Singewald in place of Ashley Macdonald as a Town representative for three years at which point a successor will be determined; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman**

**Nays – None**

**Motion carried.**

4. Resolution No. 10-2021 - A Resolution Referring an Ordinance Regarding the Sale of Retail and Medical Marijuana

Mr. March informed the Board that the ordinance regarding the sale of marijuana has been a long process with a few executive sessions. In the packet material is a proposed ordinance that would correct problems with the previously initiated ordinance that the Town is in a lawsuit over. The proponents of the ordinance are willing to accept this although they have been difficult to contact in the past. At this point, the referral ordinance will not move forward as the Town wants the lawsuit

withdrawn first. The proposed stipulation that was included in packet material would allow for the lawsuit to be withdrawn.

Mr. March is seeking approval from the Board this evening to enter into the stipulation. This stipulation would provide that if the Board refers the ordinance to the voters, the proponents would dismiss their lawsuit.

Trustee Gaiter stated this has been a long process and a short summary of that is there was enough signatures that came from citizens to say they wanted to have sales of medical and recreational marijuana on the agenda to vote on, there were protests that were brought up, the judge then found that there were concerns that it was not sufficient and that has been tied up in court then the Town has been in negotiations with the proponents to find fixes to those problems that caused the insufficiency. The Town and the proponents have found something that is eligible, so the Town would now potentially be referring this matter to the voters, which is what the voters wanted in the first place.

Trustee Kinney asked for an example of the wording associated with the contingency and dismissal of the lawsuits.

Mr. March stated the stipulation was included in the packet material. What it provides is the parties stipulate to the dismissal of the above caption lawsuit on adoption of an ordinance referring in substantially the form presented to the Town Board at the April 27, 2021 meeting the referendum sales ordinance to the voters. If the Board refers the ordinance at the next meeting, the proponents will agree to dismiss the lawsuits.

Mayor Hamman opened the meeting for public comment.

Un-named public comment: He did not see why that has to be in Wellington as it is only 10 miles away in Fort Collins.

Mayor Hamman commented that this was an initiative from citizens to move this forward. Mr. March stated there is an ability under State Constitution and State Statutes for the voters to submit adequate numbers of signatures to require that a matter be placed on the ballot which has occurred. There were adequate signatures for this question to be put on the ballot and then there were challenges to the form of the ordinance and those challenges were sustained saying the form was not adequate. The proponents of the ordinance who gathered the signatures took that to District Court and that lawsuit has been in court for months. There is a compromise that says the Board has indicated that they are willing to allow this to go to the voters to allow the voters to decide if there should be sales of marijuana in the Town. This will clean up the previously submitted ordinance to something that is more acceptable and abides by State law.

Mr. March commented that he would need a motion authorizing the Town Attorney to enter into the proposed stipulation to dismiss the lawsuits.

**Trustee Gaiter moved to approve the Town Attorney signing the stipulation to settle the Marijuana lawsuits; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Jerome, Knutson, Hamman**

**Nays – Macdonald, Whitehouse**

**Abstain – Kinney**

**Motion carried.**



## E. REPORTS

1. Town Attorney  
None.
2. Town Administrator  
None.
3. Staff Communications
  - a. Report of Bills - March 2021
  - b. Quarterly Treasurer's Report  
Ms. Tippetts reviewed the Economic Outlook for 2021 that was prepared by Richard Wobbekind with the University of Colorado Boulder and the Wellington Quarterly Finance Report that was included in packet material.

Trustee Gaiter commented that he was under the impression that tap fees would be changed at the beginning of the year and inquired as to why that had not been done.

Ms. Garcia stated it was approved in the budget although that also needs to be approved by Resolution. Ms. Tippetts did state that the Town is behind \$90,000 due to the fees not being increased. That will come back to the Board on the May 11<sup>th</sup> agenda.

Trustee Gaiter commented that he does not believe the Town can afford the projects that are slated as there is an additional \$4 million for the water plant, the sewer plant, and all the other projects the Town has. The changes to the rates that are being imposed on citizens is too high. Staff has put these plants together with the assumption that they need to support a certain amount of growth although they are not going to be able to cut 10's of millions of dollars by value engineering it down. Trustee Gaiter believes that as a Board, we should rethink the vision and direction that is being given to staff in terms of what these plants need to support so we can put together a plan that meets the requirements the Town needs to fit what the Town can afford to do. During this process of the Comprehensive Plan, the Town can set what the future growth looks like and have the ability to look at slowing down the rate of growth. Making a smaller adjustment to the infrastructure that can last a longer time because there is an ability to keep growth down.

There was 40 people that showed up to the Town Hall meeting regarding the Comprehensive Plan from Pheasant Run and the Board gave direction to staff to make changes. There were several signatures from citizens that were given to the Board this evening regarding the downtown area and inquired as to how the Board is going to handle that.

Mayor Hamman commented that the Planning Commission will vote on that.

Trustee Kinney commented that the Steering Committee met earlier this week and all of that input is being taken in and the Plan is being reworked right now. The current process is that the Steering Committee has homework on each section and providing additional feedback. The next draft will then be available for the Steering Committee, the public and for public hearing with the Planning Commission. Trustee Kinney is on the Steering Committee and believes the Steering Committee is representing the community and is confident that the community is being heard.

Mr. Gowing informed the Board that the Town will be pursuing a grant program. The grant was recently put out by CDOT's Main Street Program and is funded by Senate Bill 110 which allows for a total of \$22 million in projects up to \$2 million per individual project. The

evaluation criteria for this grant is heavily weighted towards public safety as it is targeted towards main streets. Projects could be pedestrian facilities, traffic calming, pedestrian scales, and street lighting improvements. A team of town staff and Main Streets was put together to pursue this grant and we needed to move quickly. The Town is likely to see a lot of competition for the grants although the package that will be put together will be a good one.

4. Board Reports

Trustee Macdonald commented that the softball team took first place in the district championship last week.

Also, the membership directory that was distributed by the Chamber was really comprehensive and commended the Chamber for their hard work on the directory.

Mayor Hamman commented that he has volunteered to join the Housing Authority Board.

**F. EXECUTIVE SESSION**

1. Executive session for the purposes of considering the following water-related matters: legal advice on specific legal questions pertaining to the Town's existing and potential future water supply, as described in C.R.S. § 24-6-402(b); the Town's potential purchase, acquisition, or lease of real, personal, or other property interests pertaining to the Town's water supply, as described in C.R.S. § 24-6-402(a); and positions relative to water matters that may be subject to negotiations, strategy for those negotiations, and instructions for negotiators, as described in C.R.S. § 24-6-402(e)(I). 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 20, 2021.

**Trustee Gaiter moved to go into executive session for the purposes of considering the following water-related matters: legal advice on specific legal questions pertaining to the Town's existing and potential future water supply, as described in C.R.S. § 24-6-402(b); the Town's potential purchase, acquisition, or lease of real, personal, or other property interests pertaining to the Town's water supply, as described in C.R.S. § 24-6-402(a); and positions relative to water matters that may be subject to negotiations, strategy for those negotiations, and instructions for negotiators, as described in C.R.S. § 24-6-402(e)(I); Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Gaiter, Jerome, Kinney, Macdonald, Whitehouse, Knutson, Hamman  
Nays – None  
Motion carried.**

The Board of Trustees moved into executive session at 9:02 p.m.

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

**Yeas – Gaiter, Jerome, Macdonald, Whitehouse, Knutson, Hamman  
Nays – None  
Motion carried.**

The executive session was closed at 10:12 p.m. and the regular meeting resumed.

**G. ADJOURN**

Upon a motion duly made, the meeting was adjourned at 10:12 p.m.



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Krystal Eucker, Town Clerk