



TOWN OF MILLIKEN  
TOWN BOARD  
AGENDA MEMORANDUM

To: Mayor Tokunaga and Town Board of Trustees	Meeting Date:
From: Martha Perkins, Community Development Director Linda Michow, Town Attorney	Wednesday April 13, 2016

Agenda Item #	Action: X	Discussion:	Information:
Agenda Title: Resolution No. 16-07 Authorizing the Recordation of the Milliken Town Center Subdivision Plat			
Attachments: Resolution No. 16-07 Ordinance 582 and 584 Town Board Minutes 5/28/2008 and 6/11/2008			

**PURPOSE AND BACKGROUND:**

On December 16, 2015, the Milliken Planning & Zoning Commission approved the commercial site plan for the Town of Milliken's Town Hall Parking Lot which sits on a site consisting of approximately .89 acres, addressed as 1101 Broad Street in the Town of Milliken, Lot 12, Block 38 in the County of Weld Colorado. The approval was conditional with the motion requesting the applicant provide a drainage, lighting and landscape plan that meet the Code's requirements before beginning construction. On December 23, 2015, Staff provided the Town Board an update on the project including the Commission's conditional approval.

During both of these meetings, staff did not realize that final Town Milliken Center Subdivision Plat and Ordinance had never been recorded with the County Clerk's office. Staff found a surveyor stamped plat and Ordinances 582, 583, and 584 with the minutes documenting the passage of these ordinances while writing the staff report for the Commission. After searching for the recorded plat, it became apparent that it had never been recorded.

Due to the long time delay, Town staff seeks Board authorization to record the Plat in accordance with the Board's prior approval under Ordinance Number's 582 and 584 to resolve this issue, which includes the passage of Resolution 16-07. Ordinance 582 vacated an alley to be included as part of the plat; Ordinance 583 rezoned the property from C-3 "General Business District", C-4 "Service Business District", and R-1 "Single Family Residential" to MU-C-D "Mixed Use Commercial - Downtown District"; and Ordinance 584 eliminated the lot lines under existing and proposed buildings on the Milliken Town Center site with a subdivision plat.

**BUDGET IMPLICATONS:**

None identified.

**STAFF RECOMMENDATION:**

Town Staff recommends approval of Resolution No. 16-07 in order to complete the subdivision plat recordation of the Milliken Town Center Subdivision Plat.

**SUGGESTED MOTION:**

“I move to approve Resolution No. 16-07 Authorizing the Recordation of the Milliken Town Center Subdivision Plat.”

**RESOLUTION NO. 16-07**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN AUTHORIZING THE RECORDATION OF THE MILLIKEN TOWN CENTER SUBDIVISION PLAT**

**WHEREAS**, the Town of Milliken is authorized pursuant to Title 31, Article 23, C.R.S. and the Town of Milliken zoning and subdivision regulations codified in Chapter 16 of the Milliken Municipal Code, to regulate the subdivision of land within the Town; and

**WHEREAS**, on June 11, 2008, the Town Board of Trustees approved Ordinance No. 584, approving the Milliken Town Center Subdivision Plat (the "Plat"); and

**WHEREAS**, in conjunction with approval of the Plat, the Board of Trustees also approved Ordinance No. 582, vacating an alley to be incorporated within the Plat; and

**WHEREAS**, it has come to the attention of Town staff that neither the Plat nor the above referenced ordinances were recorded in the real property records of Weld County; and

**WHEREAS**, in order to fully effectuate the terms of Ordinance Nos. 582 and 584, the Plat and ordinances must be recorded in the real property records of Weld County; and

**WHEREAS**, the Town staff has confirmed through independent research and consultation with the surveyor of the Plat that no new encumbrances or easements (recorded after June 2008) affect the Plat as previously approved; and

**WHEREAS**, the surveyor who initially prepared the Plat has signed the Plat; and

**WHEREAS**, the Town staff seeks to obtain Board authorization to record the Plat in accordance with the Board's prior approval under Ordinance No. 584; and

**WHEREAS**, the Board determines that the Plat should have been recorded in 2008, and hereby authorizes the Plat to be executed and recorded in accordance with the terms of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN:**

Section 1. The Board of Trustees hereby authorizes the Mayor and Planning Commission Chairperson to execute the Milliken Town Center Subdivision Plat and further authorizes the Town Administrator and appropriate Town staff to take all steps necessary to record Ordinance No. 582, Ordinance No. 584 and the Milliken Town Center Subdivision Plat in the real property records of Weld County.

Section 2. This Resolution is effective upon adoption by the Board.

**RESOLVED, APPROVED AND ADOPTED this 13th day of April, 2016.**

TOWN OF MILLIKEN, COLORADO

\_\_\_\_\_  
Milt Tokunaga, Mayor

ATTEST:

\_\_\_\_\_  
Cheryl Powell, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Linda Michow, Town Attorney

**TOWN OF MILLIKEN  
TOWN BOARD  
MILLIKEN COMMUNITY COMPLEX, 1101 BROAD STREET**

**REGULAR MEETING MINUTES**

**WEDNESDAY, MAY 28, 2008 - 7:00 P.M.**

The Board of Trustees for Milliken convened into a regular session on the 28<sup>th</sup> of May at 7:00 p.m. Those present: Mayor Janie Lichtfuss, Mayor Pro Tem Ted Chavez, Trustees: Colleen Anthony, Julie Cozad, Jack Eckert, Milt Tokunaga, and Peggy Wakeman. Also present: Town Administrator Sheryl Trent, Town Attorney Bruce Fickel, Town Clerk Kari Redman-Gutierrez, Community Development Director Steve House, Police Chief Jim Burack, Public Works Director Mike Woodruff, and Senior Coordinator Lois Ann Onorato.

**Call to Order**

Mayor Lichtfuss called the meeting to order and led the audience in the pledge of allegiance.

**Agenda Approval**

The Agenda was approved as presented.

**Citizens Comments**

There were no comments.

**Appointment**

Mayor Lichtfuss appointed Jim and Nancy Mason to the Trails, Open Space and Tree Committee for a term of two years each or until 2010.

**Board Members' Reports Re: Attendance at Other Meetings**

Trustee Chavez reported that items discussed at the Milliken Business Association meeting included the Project Pride progress and Milliken Madness Days.

Trustee Eckert reported that he joined the Mayor in her walk about town. Citizens were glad to see them and offered good comments. Trustee Eckert attended the Trails, Open Space and Tree Committee on May 19<sup>th</sup>. They gave an excellent slide presentation on the different types of trails and the materials to build them.

Trustee Cozad agreed that Ken Robinson's slide show at the Trails, Open Space and Tree Committee meeting was excellent. The presentation included many concepts of Dan Burden, a renowned speaker, featuring "Walk able Communities". Additionally, the Trails, Open Space and Tree Committee plans to have a booth at Beef 'N Bean Day.

Trustee Cozad attended two other meetings, namely, UPW which is a work subcommittee for the Northern Range Metropolitan Planning Organization (NRMPO) which establishes the budget for the NRMPO and the projects for the year.

Trustee Cozad said the Strategic Transit Task meeting was a conference call. Subjects talked about included the criteria for new transit projects, making sure they are small enough to handle and are related to transit issues.

Mayor Lichtfuss reiterated Trustee Eckert's comments regarding "walking the neighborhoods" in Milliken. Many residents voiced legitimate complaints which have been given to the appropriate staff. The volunteer dinner was held on May 22, 2008 without electricity due to the storm. Zoe Smith should be commended for the outstanding decorations.

The Mayor attended memorial services in Evans. Police Chief Burack was one of the featured speakers.

### **CONSENT AGENDA**

*Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda items unless a Board member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Action Agenda.*

1. **Approval of the Minutes of the May 14, 2008 Meeting.**
2. **Approval of Final List of Bills for May 28, 2008**
3. **First Reading of Proposed Ordinance No. 582 for the Vacation of Alleys, Ordinance No. 583 for the Re-Zoning and Preliminary MU-C-D Development Plan, and Ordinance No. 584 for the Minor Subdivision**

**RESOLUTION NO. 16-07**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN AUTHORIZING THE RECORDATION OF THE MILLIKEN TOWN CENTER SUBDIVISION PLAT**

**WHEREAS**, the Town of Milliken is authorized pursuant to Title 31, Article 23, C.R.S. and the Town of Milliken zoning and subdivision regulations codified in Chapter 16 of the Milliken Municipal Code, to regulate the subdivision of land within the Town; and

**WHEREAS**, on June 11, 2008, the Town Board of Trustees approved Ordinance No. 584, approving the Milliken Town Center Subdivision Plat (the "Plat"); and

**WHEREAS**, in conjunction with approval of the Plat, the Board of Trustees also approved Ordinance No. 582, vacating an alley to be incorporated within the Plat; and

**WHEREAS**, it has come to the attention of Town staff that neither the Plat nor the above referenced ordinances were recorded in the real property records of Weld County; and

**WHEREAS**, in order to fully effectuate the terms of Ordinance Nos. 582 and 584, the Plat and ordinances must be recorded in the real property records of Weld County; and

**WHEREAS**, the Town staff has confirmed through independent research and consultation with the surveyor of the Plat that no new encumbrances or easements (recorded after June 2008) affect the Plat as previously approved; and

**WHEREAS**, the surveyor who initially prepared the Plat has signed the Plat; and

**WHEREAS**, the Town staff seeks to obtain Board authorization to record the Plat in accordance with the Board's prior approval under Ordinance No. 584; and

**WHEREAS**, the Board determines that the Plat should have been recorded in 2008, and hereby authorizes the Plat to be executed and recorded in accordance with the terms of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN:**

Section 1. The Board of Trustees hereby authorizes the Mayor and Planning Commission Chairperson to execute the Milliken Town Center Subdivision Plat and further authorizes the Town Administrator and appropriate Town staff to take all steps necessary to record Ordinance No. 582, Ordinance No. 584 and the Milliken Town Center Subdivision Plat in the real property records of Weld County.

Section 2. This Resolution is effective upon adoption by the Board.

**RESOLVED, APPROVED AND ADOPTED this 13th day of April, 2016.**

TOWN OF MILLIKEN, COLORADO

\_\_\_\_\_  
Milt Tokunaga, Mayor

ATTEST:

\_\_\_\_\_  
Cheryl Powell, Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Linda Michow, Town Attorney

ORDINANCE NO. 582

AN ORDINANCE VACATING A PORTION OF AN ALLEY IN THE TOWN OF MILLIKEN SUBDIVISION IN THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO.

Section 1.

WHEREAS, the Town of Milliken is the applicant and owner of the property and has submitted an application to vacate a portion of an alley in the Town of Milliken, and,

WHEREAS, pursuant to the Land Use Code of the Town of Milliken, the Planning and Zoning Commission and the Board of Trustees have determined that the hereinafter-described alley shall be vacated.

Section 2.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO:

The alley as more particularly described in Exhibit A incorporated herein is hereby vacated, reserving all easements for existing utilities.

Section 3. Effective Date:

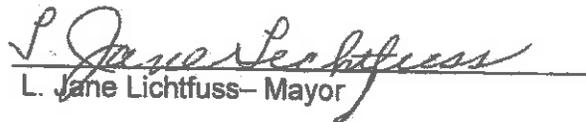
The Board of Trustees of the Town of Milliken herewith finds, determines and designates that this Ordinance shall take effect and be in force thirty (30) days after publication.

At its meeting June 11, 2008 this Ordinance was read, passed and ordered published by the Board of Trustees.

ATTEST:

TOWN OF MILLIKEN:

  
Kari Redman-Gutierrez – Town Clerk

  
L. Jane Lichtfuss – Mayor

Published: 6-19-08

**EXHIBIT A**

**The alley abutting and north of Lots 12 to 21, Block 37 of the Town of Milliken Subdivision and the alley abutting and north of Lots 12 to 21, Block 38 of the Town of Milliken Subdivision.**

**Plat and Site Plan for the Milliken Town Center and Setting a Public Hearing for June 11, 2008**

**A. Vacation of Alleys between Ethel Avenue and Grace Avenue North of Broad Street in downtown Milliken**

The purpose of this request is to vacate the alleys located north of Lots 12-21, Block 37 and Block 38 in the Town of Milliken Subdivision.

Staff Presentation: Steve House, Community Development Director

Suggested Action: Motion that the alleys, located in Block 37 and Block 38, north of lots 12-21, of the Town of Milliken Subdivision, are vacated and that the Mayor be authorized to execute a deed(s) to be recorded with the Weld County Clerk and Recorder.

**B. Re-Zoning from C-3, C4, and R-1 to MU-C-D and Preliminary MU-C-D Development Plan**

The purpose is two-fold: 1) to rezone Town property presently zoned C-4, C-3, and R-1 in down town Milliken to an MU-C-D, Mixed Use Commercial Downtown District to be used as a Police Station, park and plaza, municipal court and a community meeting room. 2) To review and approve a Preliminary MU-C-D Development Plan for a Police Station, park and plaza, municipal court and community room.

Staff Presentation: Steve House, Community Development Director

Suggested Action: Motion that Lots 22 and 23, Block 37 and adjoining right-of way, Milliken Subdivision zoned C-4 and Lots 10-21, the vacated north 5' of Broad Street Block 37 and adjoining rights-of way, Milliken Subdivision zoned C-3; and the south ½ of Lot 10, Lots 11,22- and 23 of Block 38 and adjoining rights-of-way, Milliken Subdivision zoned R-1, be rezoned to MU-C-D, Mixed Use Commercial-Downtown District.

Motion that the Preliminary MU-C-D Development Plan for the Milliken Town Center be recommended for approval by the Town Board and that the approval include a waiver to the requirement for a minimum of 20% glass in the east and west building elevations.

**C. Minor Subdivision for the Milliken Town Center Plat and Site Plan for the Milliken Police Station and Meeting House**

A Minor Subdivision plat and site plan has been completed by Frederick Land Surveying, Inc. and the Town's architect, Ross-Sheppard

Architects, to meet the requirements of the Land Use Code. A subdivision replat and site plan must be reviewed and approved by the Town before development can begin for the new Police Station, municipal court, community meeting room, park and public plaza. The Milliken Town Center Subdivision (sheets 1 and 2) meets all the submittal criteria of the Land Use Code. The subdivision is considered a minor subdivision final plat because this site was previously platted within the town. The existing property parcels, lots 10-23 along with the north 5 feet of Broad Street abutting Lots 12 to 16 on the south of Block 37, Milliken Subdivision and the south 12.5 feet of Lot 10 and Lot 11 to 23, Block 38 Milliken Subdivision are being replatted to Lot 1, Block 38 and Lot 2, Block 37. This subdivision replat will eliminate lot lines presently located under existing and proposed buildings on the site.

Staff Presentation: Steve House, Community Development Director

Suggested Action: Motion that the Milliken Town Center Subdivision and the Milliken Police Station and Meeting House site plan be recommended to the Town Board for approval with the condition that minor technical corrections, as required by Town staff, be made prior to signing and recording the site plan document.

Trustee Cozad moved to approve the Consent Agenda, Items #1 through 3C. Trustee Anthony seconded the Motion.

Discussion:

There was none.

Vote: All in favor, none opposed. Motion Carried.

## END OF CONSENT AGENDA

## ACTION AGENDA

### 4. Public Hearing of Use by Special Review – Noble's Bernhardt O 1-25 and Hansen O 1-23 Oil and Gas Wells

The public Hearing was opened at 7:30 p.m.

Community Development Director House said that the applicant, Noble Energy, Inc. has requested approval of two (2) gas wells. Existing oil and gas operations areas will be used as locations to directionally drill the

two (2) wells. The Bernhardt 01-25 well will be located in an active gravel mine and the Hanson 01-23 well will be located within an agricultural field. Both wells are located on the Bernhardt property in the northeast part of Milliken.

Trustee Anthony asked why the oil companies were disputing the \$400 inspection fee.

Julia Jones, Attorney of Beatty & Wozniak, Inc., representing Noble Energy, Inc., responded that the dispute has been ongoing for sometime. The oil companies believe that the State Regulations for inspections take precedence. There are also concerns that the fee is a discriminatory fee aimed solely at the oil companies.

Hearing no further comments, the public hearing was closed at 7:35 p.m.

Trustee Tokunaga moved that the Use by Special Review for gas well numbers Bernhardt 01-25 and Hanson 01-23 be approved with the following conditions:

1. The applicant shall submit an inspection fee of \$400 per well for each year or part year that the well has not been plugged or abandoned. The inspection fee shall be due after January 1 of each year and shall be paid within thirty (30) days after receipt of an invoice from the Town. The applicant is disputing this inspection fee and has requested that this issue be resolved with the Town Attorney.
2. The sites shall be reclaimed as soon as practicable.
3. Prior to commencement of operations, a notice to proceed shall be obtained from the Town Clerk upon receipt of items listed in Section 16-9-60 of the Milliken Land Use Code.
4. Within thirty (30) days after completion of operations, the applicant shall provide to the Town "as-built" drawings showing all facilities, pipelines, flow lines and gathering lines which the applicant has placed on the land subject to the conditional use.

Trustee Chavez seconded the Motion.

Discussion:

Trustee Anthony stated that she would vote against the motion because of the budget implications regarding the inspection fee.

Vote: Six in favor, one opposed. Motion carried.

5. **Approval of DOLA Contract**

Town Administrator Trent explained that the approval of this Grant Contract will allow the Town to memorialize the agreement with the Department of Local Affairs (DOLA) to fund \$272,500 of the costs for the water line replacement on Ethel Avenue continuing west on Ash Street. This amount will be drawn down as needed to reimburse the Town for expenses for all of the costs of the water line construction, which is scheduled to be completed in 2008. The Town has already committed to fund the remainder of the project in an amount up to \$250,000.

Trustee Chavez moved to approve the Grant Contract with DOLA in the amount of \$272,500 for the water line infrastructure and authorize the Mayor to sign. Trustee Eckert seconded the Motion.

Discussion:

Trustee Cozad asked for clarification of a letter she had received regarding the grant and a possibility that it would have to go to a vote of the people if the Board would accept it.

Town Administrator Trent explained that if a grant exceeds a certain portion of the budget, the Tabor Amendment applies. The citizens of the Town of Milliken voted to be exempt from the Tabor Amendment so it would not apply.

Vote: All in favor, none opposed. Motion carried.

6. **Approval of Special Use Permit – Mr. and Mrs. King**

Community Development Director House stated that this is an annual review for parking of a semitrailer at the home of Mr. and Mrs. King located at 260 Bobcat Drive. Each year the Milliken Municipal Code provides for this special review of the original permit which was approved in 2001. A letter was received from the HOA by an e-mail requesting a postponement so that neighbors would have an opportunity to voice their concerns.

Nancy King of 260 Bobcat Drive, Milliken stated that in previous years, the HOA has never had a voice in determining the approval/denial for the Use by Special Review. She has not received any complaints during the last year concerning the parking of their truck in Wildcat Acres. She asked why

the review was set up to be an annual review and if an annual review was necessary.

Town Administrator Trent responded that it had been set up as an annual review in previous years and that the Board has authority to change the review period.

Trustee Cozad moved to approve the parking permit for Mr. and Mrs. King of 260 Bobcat Drive for the VIN # as contained in the staff report, with the condition that if there is a complaint filed, that they request an annual review in writing no later than May of each year. Trustee Chavez seconded the Motion.

Discussion:

A discussion ensued weighing the pros and cons of requesting an annual review, continued ownership of the property, and the possibility of a request for a review by Staff.

Trustee Cozad amended her motion to approve the parking permit for Mr. and Mrs. King of 260 Bobcat Drive for the VIN # as contained in the current staff report, with the condition that there is a review if: 1) there is a valid complaint, 2) there is a request by the applicant, 3) there is a request by Town Staff, 4) the property changes ownership, or 5) conditions change on the site. Trustee Chavez seconded the Amended Motion.

Trustee Wakeman stated that she would vote against the motion, not because she is against the permit but because she believes in the annual review.

Vote: Six in favor, one opposed. Motion carried.

7. **Approval of Special use Permit – Mr. and Mrs. Gavito**

Community Development Director House explained that this is an annual review for parking of a semitrailer at the home of Mr. and Mrs. Gavito located at 261 Bobcat Drive. Each year the Milliken Municipal Code provides for this special review of the original permit which was approved in 2001. A letter was received from the HOA by an e-mail requesting a postponement so that neighbors would have an opportunity to voice their concerns.

Laura Gavito of 261 Bobcat Drive said that they have a trucking operation. The truck is driven only by Mr. Gavito, does not have a set run, and is home each night with no week end work. Ms. Gavito said that the Use by Special

Review was a result of a former resident who operated his trucking business out of his home with fuel and other miscellaneous trucking items being stored at their residence. The Board requested that the Gavitos come before them to ask for a permit to be able to park his truck at his home. They have not received any complaints from their neighbors during the past year.

Trustee Cozad moved to approve the parking permit for Mr. and Mrs. Gavito of 261 Bobcat Drive, as contained in the current staff report, with the condition that there is a review if: 1) there is a valid complaint, 2) there is a request by the applicant, 3) there is a request by Town Staff, 4) the property changes ownership, or 5) conditions change on the site. Trustee Eckert seconded the Motion.

Discussion:

Trustee Wakeman stated that she would vote against the motion, not because she is against the permit but because she believes in the annual review.

Vote: Six in favor, one opposed. Motion carried.

8. **Update on Development Agreement with Dr. Flack**

Town Administrator Trent began by introducing Kim Lawrence, Milliken's Water Attorney. Town Administrator Trent reviewed the March 12, 2008 discussion regarding the Development Agreement. The Board requested that Staff prepare a Development Agreement with Homestead at Ashton within 60 days and to place a high priority on the request. She said that a substantive agreement had been reached on all of the issues except the water issue. Two to three issues remain prohibiting reaching full agreement. The first issue involves the yield of the water shares, secondly is there enough water to serve development and thirdly, the Town is requesting to change the shares in court to municipal use which can be an expensive and a long process. Dr. Flack currently cannot record his plat and cannot sell any property until the Development Agreement is signed. The attorneys involved suggested completing the Agreement, setting aside the water issues until later this year. If an agreement cannot be reached on the water issues, then the parties would request a judgment from the Court.

The other basic point of the development Agreement is the sewer connections as required by Code. Any annexation into the Town must bring the sewer lines to the development. Homestead at Ashton is proposing an agreement with Evans to temporarily treat their sewage for the first fifty homes. The fifty first building permit, cannot be approved by the Town until

a contract has been signed to build the sewer line to the wastewater treatment plant.

The Mayor declared a recess at 8:45 p.m.

The meeting resumed at 8:55 p.m.

Duane Flack, 5225 65<sup>th</sup> Avenue, developer of the Homestead at Ashton, stated that he had requested an executive session to discuss the issues privately, but was not granted his request.

He proceeded to give an in-depth review of the issues which have occurred during the last two and one half years regarding his development application process.

Dr. Flack distributed a Summary of Dates and a memo from the former Town Engineer dated December 6, 2005 to the Board.

Mayor Lichtfuss asked that the Board have an opportunity to review the papers and discuss them at a later time.

Trustee Cozad asked when the first time the change of the use for the water was discussed.

Town Administrator Trent responded that it occurred when Brown and Caldwell contract was signed, perhaps four months ago.

Town Attorney Fickel explained that the Town has an Ordinance that requires the Town to obtain water that is usable to the Town.

Following Dr. Flack's in-depth review of the issues, the Board determined that Staff should prepare a Development Agreement for presentation at the June 11, 2008 meeting. If the Development Agreement is agreed upon, the recording of the plat in the Clerk and Recorder's office should take place as soon as feasible.

9. **Executive Session**

C.R.S. 24-6-402(4)(f) to discuss personnel matters except if the employee who is the subject of the session has requested an open meeting or if the personnel matter involves more than one employee, and all of the employees have requested an open meeting. Personnel matters do not include discussion of other council members or appointment of elected or appointed officials of the City's personnel policies.

Trustee Anthony moved to go into executive session as stated in C.R.S. 24902(4)(f) to discuss personnel matters at 10:03 p.m. Trustee Eckert seconded the Motion.

Discussion:

There was none.

Vote: All in favor, none opposed. Motion carried.

The regular meeting resumed at 10:30 p.m.

10. **Re-Appointment of John Easley as Milliken's Municipal Judge and the Appointment of Mike Bonafede as Alternate Municipal Judge**

Trustee Eckert moved to appoint John Easley as Milliken's Municipal Judge and Mike Bonafede as the Alternate Milliken Municipal Judge. Trustee Wakeman seconded the Motion.

Discussion:

There was none.

Vote: All in favor, none opposed. Motion carried.

11. **Other Business**

There was none.

12. **Adjournment**

Hearing no further business, the meeting adjourned at 10:35 p.m.

Prepared by:

Approved by:

  
Kari Redman-Gutierrez, Town Clerk

  
L. Gane Lichtfuss, Mayor

ORDINANCE NO. 584

AN ORDINANCE REPLATTING REAL PROPERTY KNOWN AS THE TOWN OF MILLIKEN SUBDIVISION IN THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO.

Section 1.

WHEREAS, the applicant and owner of the property has submitted an application and paid the attendant fee for the replat of Blocks 37 and 38 of the Town of Milliken Subdivision; and,

WHEREAS, pursuant to the Land Use Code of the Town of Milliken, the Planning and Zoning Commission and the Board of Trustees have determined that the hereinafter-described area of the Town requires this replatting.

Section 2.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, WELD COUNTY, COLORADO:

Lots 10 to 23, along with the vacated North 5 feet of Broad Street abutting Lots 12 to 16 on the South, Block 37, Town of Milliken Subdivision and the South 12.5 feet of Lot 10 and Lots 11 to 23, Block 38, Town of Milliken Subdivision being a portion of the Town of Milliken, Weld County, Colorado, are hereby replatted as Lot 1 and Lot 2 of Milliken Town Center Subdivision described in the legal description attached hereto as Exhibit A and incorporated herein by reference.

Section 3. Effective Date:

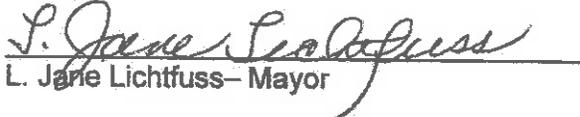
The Board of Trustees of the Town of Milliken herewith finds, determines and designates that this Ordinance shall take effect and be in force 30 days after publication.

At its meeting June 11, 2008 this Ordinance was read, passed and ordered published by the Board of Trustees.

ATTEST:

TOWN OF MILLIKEN:

  
Kari Redman-Gutierrez - Town Clerk

  
L. Jane Lichtfuss - Mayor

Published: 6/19/08

EXHIBIT A

Lot 1 and Lot 2 of Milliken Town Center Subdivision.

**TOWN OF MILLIKEN  
TOWN BOARD  
MILLIKEN COMMUNITY COMPLEX, 1101 BROAD STREET**

**REGULAR MEETING MINUTES**

**WEDNESDAY, JUNE 11, 2008 7:00 P.M.**

The Board of Trustees for Milliken convened into a regular session on the 11<sup>th</sup> of June at 7:00 p.m. Those present: Mayor Janie Lichtfuss, Mayor Pro Tem Ted Chavez, Trustees: Colleen Anthony, Julie Cozad, Jack Eckert, Milt Tokunaga, and Peggy Wakeman. Also present: Acting Town Administrator Police Chief Jim Burack, Town Attorney Bruce Fickel, Town Clerk Kari Redman-Gutierrez, Community Development Director Steve House, Management Analyst Ron Doyle, and Senior Coordinator Lois Ann Onorato.

**Call to Order**

Mayor Lichtfuss called the meeting to order and led the audience in the pledge of allegiance.

**Agenda Approval**

The Agenda was approved as presented.

**Citizens Comments**

There were no comments.

**Appointment**

Mayor Lichtfuss officially appointed Matt Mitby to the Trails, Open Space and Tree Committee.

**Board Members' Reports Re: Attendance at Other Meetings**

Trustee Wakeman attended the Milliken Fire Protection District meeting on June 5<sup>th</sup> as a liaison. She plans to attend the meetings on a regular basis.

Trustee Chavez attended the Thompson River Park and Recreation's (TRPR) work session a week ago and will attend the regular meeting on June 16<sup>th</sup>. He also attended the Milliken Business Association meeting on June 10<sup>th</sup>. Discussions focused the Project Pride progress. JJ's Auto continues to work on their improvement application. They are considering adding an awning and painting their trim. Joey's Taco Factory is considering adding stucco, flower boxes, and awnings and is anticipating finishing the project by August. NAPA painted the windows in their storage shed.

Trustee Chavez announced that Milliken Madness Day will be July 19<sup>th</sup> and will be held downtown featuring a car show, ice cream social, and a garage sale.

Trustee Cozad attended the North Front Range Metropolitan Planning Organization (NFRMPO) on June 5, 2008 in Johnstown. The organization accepted the audit and adopted the transit fare policy of \$2. The bus will travel from Greeley to Loveland. The van pool has 500 riders which is estimated to take 400 people in cars off the road.

The NFRMPO has established an independent 501(c)3 entity called *Embrace Colorado*. It is a non-profit organization designed to address the challenges of the rapidly growing region. Several distinguished members of the board include Bill Kaufman, Ed Starck, Tom Selders, Milan Karspeck, Glenn Vaad, and Louis Swanson who all share regional perspectives.

The Regional Air Quality Control will hold a public meeting on June 25, 2008 in Frederick to discuss and find solutions to reduce the ozone.

Trustee Tokunaga attended the School Board meeting. Discussions included summer projects, enrollment, fix up at the elementary school, reduction of compulsory attendance age from seven to six years of age, completion of Roosevelt High School practice field, and the reclassification of the school from 3A to 4A.

Trustee Eckert reported that he had "walked" the southeast side of town with the Mayor on Saturday. The citizens appear to be happy to see and talk with them.

Mayor Lichtfuss reported on several items which included: the Webinar Conference which was well done and a lot of information was gained from the conference, a couple of disaster relief groups in Milliken and Windsor, rode in the Johnstown BBQ parade, and has had breakfast meetings with several of the neighboring Mayors.

## CONSENT AGENDA

1. Approval of the Minutes of the May 28, 2008 Meeting
2. Approval of Final List of Bills for June 11, 2008
3. First Reading of Proposed Ordinance No. 585, Rezoning of Property within the Frontier Commercial Center Subdivision from C-4, Service Business District to I-2, Medium Industrial District and Set Public Hearing for June 25, 2008

Zone change from C-4 to I-2 for Outlot A & Lots 11 & 12, Block 1, Frontier Commercial Center Replat A, and Lot 1, Block 1, Frontier Commercial Center Replat C.

Staff Presentation: Steve House, Community Development Director

Suggested Consent Action: Motion to approve the rezoning from C-4, Service Business District to I-2, Medium Industrial District for Outlot A and Lots 11 and 12, Block 1, Frontier Commercial Center Replat A, and Lot 1, Block 1, Frontier Commercial Center Replat C.

Trustee Cozad moved to approve the Consent Agenda Items #1 through #3. Trustee Chavez seconded the Motion.

Discussion:

There was none.

Vote: All in favor, none opposed. Motion carried.

## END OF CONSENT AGENDA

## ACTION AGENDA

4. Second Reading and Public Hearing of Proposed Ordinance No. 582 for the Vacation of Alleys, Ordinance No. 583 for the Re-Zoning and Preliminary MU-C-D Development Plan, and Ordinance No. 584 for the Minor Subdivision Plat and Site Plan for the Milliken Town Center

The public hearing was opened at 7:35 p.m.

- A. Vacation of Alleys between Ethel Avenue and Grace Avenue North of Broad Street in downtown Milliken, Ordinance No. 582

Community Development Director House explained that the purpose of this request is to vacate the alleys located north of Lots 12-21, Block 37 and Block 38 in the Town of Milliken Subdivision.

Trustee Chavez moved to adopt Ordinance No. 582 and that the alleys, located in Block 37 and Block 38, north of lots 12-21, of the Town of Milliken Subdivision, be vacated and that the Mayor be authorized to execute a deed(s) to be recorded with the Weld County Clerk and Recorder. Trustee Eckert seconded the Motion.

Discussion:

There was none.

Vote: All in favor, none opposed. Motion carried.

**B. Re-Zoning from C-3, C4, and R-1 to MU-C-D and Preliminary MU-C-D Development Plan, Ordinance No. 583**

Community Development Director House said the purpose is two-fold: 1) to rezone Town property presently zoned C-4, C-3, and R-1 in downtown Milliken to an MU-C-D, Mixed Use Commercial Downtown District to be used as a police station, park and plaza, municipal court and a community meeting room. 2) to review and approve a Preliminary MU-C-D Development Plan for a police station, park and plaza, municipal court and community room.

Trustee Cozad moved to adopt Ordinance No. 583 and that Lots 22 and 23, Block 37 and adjoining right-of way, Milliken Subdivision zoned C-4 and Lots 10-21, the vacated north 5' of Broad Street Block 37 and adjoining rights-of way, Milliken Subdivision zoned C-3; and the south ½ of Lot 10, Lots 11, 22, and 23 of Block 38 and adjoining rights-of-way, Milliken Subdivision zoned R-1, be rezoned to MU-C-D, Mixed Use Commercial-Downtown District. Trustee Anthony seconded the Motion

Discussion:

There was none.

Vote: All in favor, none opposed. Motion carried.

Trustee Cozad moved to adopt Ordinance No. 583 and that the Preliminary MU-C-D Development Plan for the Milliken Town Center be

approved including a waiver to the requirement for a minimum of 20% glass in the east and west building elevations. Trustee Anthony seconded the Motion.

Discussion:

Trustee Anthony asked for clarification regarding the minimum requirement of 20% glass in the east and west building elevations.

Community Development Director House explained that the standard for development in the downtown district requires that there is a certain amount of glass in the portion that fronts Broad Street. The new building does not meet the requirements therefore the request for the waiver.

Jeff Sheppard of Roth and Sheppard Architects, further explained the standards for the glass and why the request for the waiver.

Vote: All in favor, none opposed. Motion carried.

**C. Minor Subdivision for the Milliken Town Center Plat and Site Plan for the Milliken Police Station and Meeting House, Ordinance No. 584**

Community Development Director House explained that a Minor Subdivision plat and site plan has been completed by Frederick Land Surveying, Inc. and the Town's architect, Roth Sheppard Architects, to meet the requirements of the Land Use Code. A subdivision replat and site plan must be reviewed and approved by the Town before development can begin for the new police station, municipal court, community meeting room, park and public plaza. The Milliken Town Center Subdivision (sheets 1 and 2) meets all the submittal criteria of the Land Use Code. The subdivision is considered a minor subdivision final plat because this site was previously platted within the town. The existing property parcels, lots 10-23 along with the north 5 feet of Broad Street abutting Lots 12 to 16 on the south of Block 37, Milliken Subdivision and the south 12.5 feet of Lot 10 and Lot 11 to 23, Block 38 Milliken Subdivision are being replatted to Lot 1, Block 38 and Lot 2, Block 37. This subdivision replat will eliminate lot lines presently located under existing and proposed buildings on the site.

Discussion:

Trustee Anthony asked if the property owner was amiable to putting up signs.

Acting Administrator Police Chief Burack responded that signage is in place and he and Community Development Director House will continue to work with the property owner.

Trustee Cozad asked the source of the water for the irrigation system and if flowers would be included in the landscaping.

Matt Blakley, Landscape Architect of 153 W. Mountain Avenue, Fort Collins, CO responded that it comes from a pump station at Lola Park. Adjacent to Frances is a planter which would provide an area for flowers. Ethel and Broad would be a location for a variety of shrubs.

Trustee Tokunaga asked if the project requires a larger water tap and would additional water taps be necessary for the project.

Acting Administrator Police Chief Burack responded that three taps have been purchased and are sufficient for the project.

Trustee Tokunaga inquired about the Town owing the enterprise fund for prior taps and if repayment would be forthcoming.

Community Development Director House will check into the matter and report his findings at a later date.

Trustee Anthony asked about the safety of the cross walk in front of the new building.

Community Development Director House responded that striped crosswalks will be added on Highway 60.

Acting Administrator Police Chief Burack continued that future discussions will consider and analyze needed crosswalks for the entire Town.

The public hearing was closed at 8:15 p.m.

Trustee Anthony moved to approve Ordinance No. 584 and that the Milliken Town Center Subdivision and the Milliken Police Station and Meeting House Site Plan be approved with the condition that the drainage pond area may be redesigned as necessary if park grant funding is received from GOCO and with the condition that minor technical corrections, as required by Town staff, be made prior to signing and recording the Site Plan document. Trustee Cozad seconded the Motion.

Vote: All in favor, none opposed. Motion carried.

5. **Development Agreement for The Homestead at Ashton, Inc.**

Town Attorney Fickel reviewed the Development Agreement and related addenda for The Homestead at Ashton, Inc.

As Dr. Flack indicated during the meeting on May 28, 2008, the Flacks were frustrated by the delays which they had experienced in presenting this Development Agreement to the Board of Trustees. Mr. Fickel addressed a few of the more salient issues which have, been negotiated to Flacks' benefit without significantly impacting the Town's best interests on either a short or long term basis.

Town Attorney Fickel said that the Letter of Credit which guarantees the provision that the infrastructure does not expire when the infrastructure is accepted but extends through the two year warranty period. If the entity providing the infrastructure, such as the paving, sewer mains or water mains, does not follow through, there is a fund to go back in and fix the problems. The engineers are still in the process of evaluating the infrastructure costs as presented and needs to be confirmed with the Town's engineers.

Trustee Tokunaga asked the ratifications if the development is sold prior to completion.

Town Attorney Fickel responded that if the entity is not in existence or transferred to someone, a successor can proceed as stated but if both parties agree, the agreement can be revised at any time.

Cozad asked if the Town would hold the entire letter of credit for the two year period.

Town Attorney Fickel responded the Town would hold the entire letter of credit. The reasoning for that is, if replacements have to be made, the changes would be more expensive than the first implementation.

Chris Pickett of Lamp Rynearson, 808 8<sup>th</sup> Street, Greeley, CO, representing Dr. Flack, agreed that the project should move forward. The issue regarding the water should be set aside and worked out in the next six months.

Issues Mr. Pickett addressed included: the letter of credit explaining how other communities handle it, installation of the sewer line from the property to the lift station, reimbursement of the cost and the number of years it would take to realize a repayment.

A discussion ensued regarding the provision of non-potable water for the development. It was determined that the discussion will continue at a later date.

Trustee Chavez moved that the Board of Trustees for the Town of Milliken approve the Development Agreement for the Homestead at Ashton Inc including the attached addenda as presented by Staff and authorize the Mayor and Town Clerk to execute the Agreement and further direct the Town Clerk to record the Development Agreement and Final Plat in the Weld County Clerk and Recorder's Office. Negotiations shall continue with the raw water dedication and the letter of credit. Trustee Eckert seconded the Motion.

Discussion:

There was none.

Vote: All in favor, none opposed. Motion carried.

6. **Other Business**

There was none.

7. **Adjournment**

Hearing no further business, the meeting adjourned at 9:10 p.m.

Prepared by:

Approved by:

\_\_\_\_\_  
Kari Redman-Gutierrez, Town Clerk

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L. Jane Lichtfuss, Mayor