TOWN OF MILLIKEN
BOARD OF TRUSTEES
MILLIKEN MEETING HOUSE, 1201 BROAD STREET

MEETING MINUTES

Wednesday, January 27, 2016

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, January 27, 2016 at 7:00 P.M. Those present: Mayor Milt Tokunaga, Mayor Pro Tem Linda Measner Trustees: Linda Beck, LeRon Ehrlich, Jordan Jemiola, Ken Kidd and Lois Ann Onorato. Also Present: Town Administrator Kent Brown, Town Clerk Cheryl Powell, Community Development Director Martha Perkins, Community Engagement Specialist/Planner Seth Hyberger and Finance Director Jennifer Nash, Accounting Technician Courtney Diller, Public Works Director Bill Landwehr and Town Attorney Linda Michow. Absent: Parks Director Josh Roseberry.

Pledge of Allegiance

Mayor Tokunaga called the meeting to order.

Roll Call

Trustee's: Ehrlich, Onorato, Jemiola, Beck and Kidd, Mayor Pro Tem Measner and Mayor Tokunaga.

Agenda Approval

Trustee Jemiola requested Consent Item #1 (Water Storage Tank Parcel) moved to the first Action Item on the Agenda. Trustee Jemiola also asked to move Action Item #1 (Resolution 16-02) and Action Item #2 (Contract for HVAC Service) to the Consent Agenda. Trustee Kidd requested that Action Item # 2 remain on the Action Agenda.

Presentation

Mayor Tokunaga presented the Roosevelt High School football team, the Rough Riders and Coach Nolan Eastin with a plaque commemorating their success as the state runner-up in 2015. Coach Eastin presented a plaque to the Town Board and thanked the Town for recognizing the team.

Citizen Comments

None.

Minutes of Previous Meeting

January 13, 2016

Minutes approved as distributed.

Acknowledgement of the Paid List of Bills

January 2016 Bill

Mayor asked about the payment to IntelliChoice, Inc. Chief Garcia responded that it's records management in the Police Dept.

Trustee Jemiola asked how much has been paid to the Town's contract Engineering Firm, Lamp Rynearson & Associates this year. Trustee Kidd indicated that other engineers need to be looked at for projects.

Accepted as presented.

CONSENT AGENDA

1. **Consideration and Approval of Resolution 16-02, A Multi-Jurisdictional Hazard Mitigation Plan**

Community Engagement Specialist Seth Hyberger asked the Town Board for their consideration and approval of Resolution 16-02 to approve the Weld County 2016 Multi-Jurisdictional Hazard Mitigation Plan. The Plan's purpose is to assess and address hazard risks that affect Milliken and Weld County. These risks include winter storms, tornadoes, flooding, summer storms, and etc. The Plan also identifies goals, objectives, and action steps to make Milliken more resilient to future disasters.

Mayor Pro Tem Measner moved to approve the Consent Agenda. Trustee Jemiola seconded.

Discussion: None.

Vote: All in favor, none opposed. There were not any items.

ACTION AGENDA

1. **Water Storage Tank Parcel Easement**

Town Attorney Michow explained that there is an additional Exhibit that needs to be added to the Easement. This Exhibit will indicate the Site Plan and the proposed structures and improvements on this parcel. This will preclude any encroachment within 50 feet of this area. Attorney Michow explained that the Agreement had been previously signed by Bret Hall, but it has been resubmitted to him with this additional Exhibit for his approval. Attorney Michow would like the Town Boards approval on this Easement Agreement.

Trustee Jemiola moved to approve the Water Storage Tank Parcel Easement with Exihibit B and authorize Town Attorney Michow to make any slight changes or variations to the Easement. Seconded by Trustee Ehrlich.

Discussion: None.

Vote: All in favor, none opposed.

2. **Consideration and Approval to Authorize the Town Administrator to Sign the Contract for HVAC Service**

Public Works Director Bill Landwehr asked the Town Board to authorize the Town Administrator to sign the contract on the HVAC Service so the Town can proceed.

The Town of Milliken issued an advertisement for a RFP for HVAC Service in December 2015. The RFP consisted of maintaining the HVAC on Town Hall, PD, RO Building, Heritage House, Library Building, Pool, Public Works, Headworks and Waste Water Treatment Plant. It also consists of inspections of the equipment, filter, belt changes and cleaning the coils.

The Town received nine (9) bids. After discussion the proposal from Diller Mechanical was the best. They included the details and thorough proposal for periodic maintenance on the equipment, the identification of specific materials to replace, the experience with the systems and equipment, plus their repair rates were the least expensive. The other Eight (8) bids did not include the RO building in their proposal. Town Administrator Brown indicated that there was a meeting with all the companies. Director Landwehr indicated that three (3) hours was spent with these companies and his preferred company, Diller Mechanical has worked on the Town's systems for the past three (3) years and the owner of the company is a Milliken resident.

Trustee Jemiola clarified with Director Landwehr that the lowest bid did not include all of the Town's buildings and that the Town's Financial Policy there is approximately a 15% pricing difference for local businesses/vendors.

Trustee Kidd indicated that the contract cost for 2015 $10,138.00 and the Town paid Diller Mechanical over $42,000 for quarterly maintenance and repairs. Trustee Kidd indicated that ever since Milliken has hired this company to conduct preventative maintenance the Town's cost on repairs have increased dramatically. Trustee Kidd asked if anyone is tracking the costs with this company and if the same pieces of equipment continue to breakdown, perhaps it is time to replace the equipment. Director Landwehr indicated that he is tracking the bills received from Diller Mechanical and indicated that in 2015 there was a fire that happened in the rooftop unit at the Police Department and the costs were quite significant in repairing it. Trustee Kidd indicated that each year that this company has been contracted with the Town the costs have increased significantly.

Trustee Beck moved to authorize the Town Administrator to sign the contract for the HVAC Service. Trustee Jemiola seconded.

Discussion: None.

Vote: Mayor Tokunaga, Mayor Pro Tem Measner, Trustees: Ehrlich, Onorato, Jemiola, Beck in favor. Trustee Kidd opposed. Motion passed.

3. **Consideration and Approval of Renewing an Agreement between the Town of Milliken and ProCode, Inc. for Building Department Services**

Trustee Kidd recused himself from the discussion and vote concerning ProCode.

Community Development Director Martha Perkins asked the Town Board to review and consider approval of an agreement that renews the previous year's Building Department Services contract between the Town of Milliken and ProCode, Inc. for 2016. Director Perkins provided some background in regard to the RFP for building inspection and plan review services that was issued in November 2014. She indicated that the relationship between the Town of Milliken and ProCode, Inc. has worked well. The contractor has provided faster plan review, inspection turn-around times, and has work hard to meet the needs of the local residents and contractors.

Director Perkins also provided the budget implications the years 2014 and 2015 indicating that the permit revenue has increased and the building service cost has decreased. Director Perkins explained what the projections are for 2016,

Mayor Tokunaga asked Town Attorney Michow what the revision was to Mr. Gesick's contract. Attorney Michow indicated that Section 5.2 had been

amended allowing Mr. Gesick to choose at his discretion a replacement for himself when he is not available. The second changed is in the Termination provision 6.3, Mr. Gesick has asked for a 60 day advance notice instead of a 30 day notice if the Town would like to go with another contractor.

Trustee Jemiola moved to approve the agreement renewal by and between the Town of Milliken and ProCode, Inc. for Building Department Services for 2016 with the recommended changes to Section 5.2 and 6.3. Trustee Onorato seconded.

Discussion: John Gesick told the Town Board that he has appreciated working with the Town of Milliken and hopes this relationship will continue for years to come.

Town Administrator Brown asked Mr. Gesick about the Builders Board of Review and to provide and update to the Town Board. Mr. Gesick explained there has been two (2) applications received so far and others will follow. He will provide copies to the Board at another date.

Vote: All in favor, none opposed.

4. **Consideration and Approval of Ordinance 726, Amending Sections 2-1-10, 2-1-20 and 2-1-30 of the Milliken Municipal Code to Conform to State Law Regarding Election Deadlines and Declaring an Emergency**

Town Attorney Linda Michow asked the Town Board to consider for approval Ordinance 727 to change the time frames associated with submission of write-in candidates and cancellation of an election to conform to the Federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and to state law adopting provisions of the same. This allows greater access to vote for uniformed military and their families who are overseas. This ordinance also allows a municipality enough time to cancel an election and save the cost of all that is involved in an election.

Mayor Pro Tem Measner indicated that the entire concept does not make sense to her. If the legislature has stretched out the time frame where a Town is having an election almost two (2) months before those who are elected take office. People who are overseas should be allowed to vote, but the rest of the legislation does not make sense. Attorney Michow indicated it is what the Federal and State lawmakers have imposed upon Municipal Elections. Trustee Jemiola asked if this affects Home Ruled Municipalities. Attorney Michow indicated that it affects all municipalities since it is a federal change. Attorney Michow indicated that the Town needs to conform to these federal requirements.

Mayor Tokunaga asked if any write-in candidates would then be placed on the ballot. Attorney Michow indicated they would not since there would not be a petition with signatures.

Trustee Jemiola moved to approve Ordinance 726, amending Sections 2-1-10, 2-1-20, and 2-1-30 of the Milliken Municipal Code to conform to State Law regarding election deadlines and declaring an Emergency. Trustee Onorato seconded.

Discussion: None.

Vote: Mayor Tokunaga, Trustees: Ehrlich, Onorato, Jemiola, Beck and Kidd in favor. Mayor Pro Tem Measner opposed.

Attorney Michow indicated that the vote needs to be redone since it is an emergency ordinance, there needs to be a roll call vote.

Vote: Trustee Ehrlich – yes, Trustee Onorato – yes, Trustee Jemiola – yes, Trustee Beck – yes, Mayor Tokunaga – yes, Mayor Pro Tem Measner – no and Trustee Kidd – no. The motion did not pass since there was not three (3) quarters of the Board in approval of an emergency.

Trustee Jemiola asked what happens if the motion isn't passed. Attorney Michow indicated that the Town is still bound by the Federal requirements.

Discussion was whether the Town Board wanted to pass this ordinance without the emergency clause and whether someone in the Town could protest the election since it was not passed. Attorney Michow indicated the write-in timeframe has changed from 21 days to 64 days since it is the state law regardless of what is in the Town's Code. This ordinance conforms the local municipal code to what is already required by the federal and state governments by not adopting this there will be an inherent inconsistency in the Town's Code versus what is required under state law. This would be a confusion for electors and potential candidates.

Further discussion is that it should not affect this election since there are more candidates than the number of positions available.

Trustee Kidd gave his explanation as to why he changed his original vote and Mayor Pro Tem Measner indicated she would change her vote if the emergency declaration is removed.

Amending: Trustee Jemiola amended the motion to approve Ordinance 726, amending Sections 2-1-10, 2-1-20, and 2-1-30 of the Milliken Municipal Code to conform to State Law regarding election deadlines and striking the declaration of an emergency. Trustee Onorato seconded.

Discussion: Trustee Ehrlich asked for clarification if passing this ordinance 30 days after publication will not have any influence on this Aprils election. Attorney Michow indicated that the election will not be cancelled anyway due to the number of candidates, but there is a question in regard to write-ins under the Town's Code. Mayor Tokunaga indicated that the state would supersede the Town's Code regarding the write-ins. Attorney Michow indicated that she does not want a problem regarding any potential write-in candidates since the Town's Code says one thing and the states says another.

Discussion among the Board is whether there could be a potential conflict in regard to this election.

Attorney Michow indicated that in order to reinstate the emergency clause in the motion there would need to be a motion to reconsider from someone on the dissenting side it would need to be Mayor Pro Tem Measner or Trustee Kidd.

Mayor Tokunaga asked for a short recess.

Trustee Jemiola announced that if the motion fails, it needs to be understood that the Town is governed under state law.

Trustee Kidd asked to make a motion to reconsider the motion with the emergency clause. Trustee Onorato seconded.

Vote: Mayor Tokunaga, Trustees: Ehrlich, Onorato, Jemiola, Beck and Kidd in favor. Mayor Pro Tem Measner opposed.

Trustee Jemiola moved to approve Ordinance 726, amending Sections 2-1-10, 2-1-20, and 2-1-30 of the Milliken Municipal Code to conform to State Law regarding election deadlines and declaring an Emergency. Trustee Onorato seconded.

Roll Call Vote: Trustee Ehrlich – yes, Trustee Onorato – yes, Trustee Jemiola – yes, Trustee Beck – yes, Mayor Tokunaga – yes, Mayor Pro Tem Measner – no and Trustee Kidd – yes. Motion passed.

DISCUSSION AGENDA

There were not any items.

INFORMATIONAL AGENDA

Summary of Meeting (Review of Action Items, Staff Assignments & Schedule)

Adjournment

Hearing no further business, the Mayor adjourned the meeting at 8:09 P.M.

Prepared by:

Cheryl L. Powell, Town Clerk

Approved by:

Milt Tokunaga, Mayor