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

MEETING MINUTES

Wednesday January 28, 2015 – 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, January 28, 2015 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, Treasurer & Accounting/Finance Director Patrick Murphy, Community Development Director Martha Perkins and Town Attorney Bruce Fickel. Absent: Community Engagement Specialist/Planner Seth Hyberger.

Pledge of Allegiance

Mayor Tokunaga called the meeting to order.

Roll Call

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

Agenda Approval

Trustee Jemiola requested Action #1 moved to Consent Agenda. Town Administrator Brown requested an Executive Session at the end of the meeting citing C.R.S 24-6-402(4)(a), for the purchase, acquisition, lease, transfer or sale of any real, personal, or other property. Trustee Ehrlich would like to discuss the Meeting House audio system that has been budgeted for 2015 and requested to add this to the Discussion Agenda.

Citizen Comments

None

Recognition

Mayor Tokunaga recognized Parks Director Josh Roseberry for his involvement in the presentation that was given to the Colorado Municipal League (CML) on

Tuesday, January 27, 2015. This presentation was based on the collaboration effort and the community engagement process for obtaining the Skate Park Grant. The Mayor said several other municipalities were in attendance at CML and he wanted to be sure that Director Roseberry was recognized for presenting.

Minutes of Previous Meeting

- January 14, 2015 – Approved as distributed.

Acknowledgement of List of Bills

Trustee Kidd inquired about a payment to Spradley Barr Ford for body repair to a vehicle. Accounting and Finance Director Murphy explained this was damage to a vehicle in which the side of the vehicle hit a pole in a parking lot in Johnstown.

List of Bills was acknowledged and accepted.

CONSENT AGENDA

1. **Resolution 15-03, Authorizing Elected Officials and Specified Town Staff to Conduct Banking Business on Behalf of the Town of Milliken**

   A Resolution to update signatures to conduct banking business on behalf of the Town of Milliken by adding Town Administrator Kent Brown.

2. **Water Lease Agreement with Bigfoot Turf of Excess Water Credits**

   To consider for approval a Water Lease with Big Foot Turf Farms, Inc. to lease "excess credits" from the Town of Milliken's Plan for Augmentation.

3. **Resolution 15-04, Authorizing the Town Administrator to Apply for and Secure Additional Water Rights for Augmentation from the Town's RO Wells**

   To secure additional water rights to be used for replacement of depletions from wells owned by Milliken and return flow obligations pursuant to the Augmentation Plan decreed in Case No. 02CW339.

4. **Consideration and Approval of an Agreement for an On-Call Engineering Firm move to consent**

   To consider for approval the selection of an on-call engineering firm, Lamp Rynearson, to continue to serve as the Town of Milliken's Engineer. The State of Colorado's Department of Transportation (CDOT) requested that the engineering firm be selected through a bid or Request for Proposal process

for transportation-related grants. After receiving ten (10) proposals and interviewing three (3) firms, staff recommends that Lamp Rynearson continue to serve as the Town's Engineer.

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

Discussion: None

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

ACTION AGENDA

1. **Consideration and Approval of an Agreement by and Between the Town of Milliken and SAFEbuilt Colorado, Inc. for Building Department Services for the Town**

Community Development Director Martha Perkins explained that this item was postponed from the last Board meeting at the direction of the Town Board.The only item that staff updated was a revised regional building permit and impact fee comparison from another Town. Director Perkins explained that with the removal of the cash-in-lieu of raw water fee, Milliken is in the lower half of the group of comparable municipalities as far as the cost for building fees. Director Perkins asked the Town Board for consideration and approval of an Agreement by and Between the Town of Milliken and SAFEbuilt Colorado, Inc. to provide a full range of building department services for the Town in 2015. She explained that a Request for Proposal (RFP) was sent out and the Town received four (4) proposals, staff interviewed three (3) of the companies. Director Perkins explained to the Board the criteria that the Town Staff used to base their decision on, such as experience, expertise, office location, software, software cost, administrative support and turn-around time for residential plan reviews. She also explained that, after discussion during the interview process, SAFEbuilt, the Town's current contractor has added am/pm inspection services, plus an additional module called Contractor Connect, which is a software module that will allow contractors to request permits and inspections online as well as track a permit in the plan review process and view inspection results in real time. These additional services and support would be included in the fee it presented in its response to the RFP. The turn-around time for residential and commercial plan review seems to be in-line with other communities.

Director Perkins explained staff's concern with ProCode, stating that even though its costs for services are less, the concern is that it is a start-up business and the President (Jonathan Gesick) of the company is currently employed by Weld County. During the interview process he stated he would

resign from his position with the County if he received this contract. Staff inquired about his backup staff and he explained that he would use a building inspector that is currently employed by Weld County. Director Perkins' concern is that other municipalities that she has worked for have had to have a Memorandum of Understanding (MOU) with that county or municipality before they could utilize that employee's services. As an additional cost, ProCode had given quotes for two (2) software programs; Accela and Meritage. The Town would be paying for the cost of the software.

Director Perkins explained that CCI was the other building services company that the Town interviewed. The president of the company would be the Town's Building Official and is also writing his own software program. The problem with this software is that the president of CCI was not sure if the Town's data, which is currently in Meritage, could be converted to his software. Director Perkins explained to the Town Board that after reviewing the Building Services RFP Comparison, staff recommends retaining SAFEbuilt's services.

Trustee Jemiloa moved to proceed with a contract with ProCode and include the terms for a twelve (12) month review period and if the Town is satisfied, to set it up for renewal. Mayor Pro Tem Measner seconded.

Discussion: Town Attorney Fickel asked if the motion is to execute the contract, or to bring it back to the Board. Trustee Jemiola indicated that there is not a contract in place, so it would need to be brought back before the Board. Mayor Tokunaga asked when SAFEbuilt's contract ends. Director Perkins responded January 31, 2015. Perkins indicated that the Town would need to request SAFEbuilt to extend their contract, until the ProCode contract is executed. Mayor Tokunaga asked if the ProCode contract needs to come back before the Board if it is essentially the same terms or could the Board just direct the Town Administrator to sign the contract. Trustee Jemiola indicated that this would be fine, if it is using the same contract guidelines. Town Attorney Fickel responded that the motion would be to authorize the Town Administrator to execute the contract on behalf of the Town Board under the same terms that were in the RFP set forth in the contract. Trustee Jemiola responded that is correct, and if there are substantial changes, it would need to come back before the Town Board.

Mayor Tokunaga asked Director Perkins about the backup inspector for ProCode regarding the need to execute an MOU with Weld County. Director Perkins replied yes, it was her understanding that the backup inspector for ProCode works for Weld County and would not be resigning his position with the County. Perkins suggested consulting the Town Attorney in regard to this.

Trustee Jemiola requested a call for vote.

Trustee Ehrlich asked for the motion to be repeated.

Town Attorney Fickel stated that the motion would be, to authorize the Town Administrator to execute the contract with ProCode, based on its RFP without substantial changes. Town Attorney Fickel confirmed that the contract that would be used would be the Independent Contractor Contract that was previously sent to the Town Board.

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

Trustee Beck explained her reasoning as to why she opposed the vote. She indicated that when you have an employee from the county trying to start up a business it feels as if it is under the radar and not the way to do things. They are a startup company and we don't know if they will be around. The other company that is writing their own software could be a problem. In her opinion SAFEbuilt has done a good job it has met the Town's needs and our concerns and she feels the Town should have stayed with it.

Trustee Kidd stated that after reviewing the ProCode proposal, they are not writing their own software, it was the other company. Trustee Beck indicated she meant the other company (CCI).

2. **Consideration and Approval of a Contract Extension with Waste Management**

Accounting and Finance Director Murphy explained to the Town Board that the Town had an ongoing contract with Waste Management for solid waste disposal for the Town of Milliken. Director Murphy explained that the current contract extension with Waste Management is the third year of up to five (5) additional one-year terms, in accordance with the contract signed on January 25, 2012. Director Murphy explained that the Agreement also provides for a potential annual increase in rates of 2.75% per year if the Agreement is extended and provided Waste Management provides the Town a sixty (60) day notice of its proposed rate adjustment.

Waste Management sent notice to the Town on December 11, 2014, of its intent and desire to continue with the Agreement and its request for a rate adjustment of 2.75%, which will take effect on March 1, 2015, in accordance with the Agreement. Staff's recommendation is to continue using Waste Management's services.

Trustee Jemiola moved that the Town agree to extend the Solid Waste Collection Services Agreement with Waste Management of Colorado, Inc. for one additional year, from March 1, 2015, through February 28, 2016, and

accept the requested rate adjustment of 2.75% in accordance with the Agreement. Trustee Ehrlich seconded.

Discussion: Mayor asked if this the appropriate time to ask Waste Management what else they can provide the Town. Director Murphy has asked about increased recycling at a reduced cost and has not had success at this time while speaking with Waste Management representative Mike Woodruff. Director Murphy suggested that if the Board wanted to extend the contract with Waste Management further, there may be some leverage in doing that. Mayor Tokunaga expressed that he is a strong proponent of recycling and asked Director Murphy to further investigate any options available. Trustee Kidd asked if Johnstown's rates are less than Milliken's due to the volume. Director Murphy explained that Johnstown's and Milliken's services are a little different in which Milliken is allowed ten (10) additional bags of yard waste each week at no additional cost. Town Board would like this information reiterated to Milliken residents as a reminder since many of them do not take advantage of this. The Board requested the reminder be placed in the monthly Milliken Mail and other venues in which to reach the residents.

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

3. **Consideration and Approval of Resolution 15-05, Updating Revenues Related to Miscellaneous Services Provided by the Town of Milliken**

Director Murphy asked the Town Board to consider for approval Resolution 15-05, to adjust the Town Fee Schedule to reflect the rate changes necessary to fund the price increase requested by Waste Management, Inc. upon the extension of the Solid Waste Management Services Agreement with the Town, and other miscellaneous adjustments. Director Murphy also included in the fee schedule copies on the Plotter and the cost on construction water meters.

Trustee Ehrlich moved to adopt the recommended Fee Schedule with changes to the Refuse Collection Rates, and other miscellaneous charges, effective March 1, 2015. Trustee Jemiola seconded.

Discussion: None.

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

DISCUSSION AGENDA

Trustee Ehrlich asked about the upgrade to the sound system since there are funds for this in the budget. Town Administrator Brown explained that the staff will work on this.

INFORMATIONAL AGENDA

1. **Fields Annexation**

Community Development Director Perkins provided the Town Board with documentation regarding the annexation petition and other relevant documentation for the McDowell's property annexation into the Town of Milliken to ensure that a section of land owned by the Fields was not annexed into the Town by error. Staff found that the Mill Iron V Subdivision annexation was recorded in 1998 through Ordinance 367. There was also a letter in the file from Attorney Fickel stating the Notice of Public Hearing regarding the annexation and it was published for four (4) consecutive weeks in the Johnstown Breeze. The Plat was recorded in 1999 and the Fields were included in the mailing list for the Notice of Public Hearing.

There was also a Personal Representatives Deed that was recorded in March 2007. The deed includes a survey, which Staff believes is the strip of land in question. Mr. Fields took ownership of the property in question for a payment of $878.00 per the Last Will and Testament of James McDowall III, as the Representative for the McDowell Estate in Probate Court. Staff believes that the sliver of land was purchased by the Fields after it had been annexed into Town.

Town Attorney Fickel provided the Town Board with an update, stating that he had spoken to David Fields attorney extensively this afternoon and that both he and the Fields attorney agree that the Section in the Statute that speaks of detachment for failure to serve utilities is probably not viable. The Fields attorney had concern whether the annexation was proper. Attorney Fickel advised him that the same documents that have been provided to the Town Board will be sent to him. Attorney Fickel explained there is a provision in the Statute that says, if someone is adjacent to a municipality and the Town and the property owner think the property should be detached, that they can submit a request to the Town Board. Town Attorney advised the Town Board that this would be a Quasi-Judicial hearing, and therefore Attorney Fickel has advised the Fields attorney to ask his clients to refrain from conversations with the Town Board. The Fields will let the Town know how and if they want to proceed.

Mayor Tokunaga asked if annexation would eventually happen, especially if there is further annexation into Town from the west. Town Attorney said the property would be an enclave and the Town could force annexation.

Executive Session

Mayor Pro Tem Measner moved to go into Executive Session under C.R.S. 24-6-402(4)(a). Trustee Onorato seconded.

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

Executive Session commenced at approximately 7:45 P.M.

Executive Session ended at 8:14 P.M.

Regular Meeting Resumed – The time is 8:14 P.M.

ASSIGNMENT AND PROJECT UPDATE(S)

Other Business

Discussion regarding the appraisal for mineral rights and its results.

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

Adjournment

Hearing no further business, the Mayor adjourned the meeting at 8:17 P.M.

Prepared by: Approved by:

Cheryl Powell, Town Clerk Milt Tokunaga, Mayor