



**TOWN OF MILLIKEN
TOWN BOARD OF TRUSTEES
AGENDA MEMORANDUM**

To: Mayor Tokunaga and Town Board of Trustees From: Martha Perkins, Community Development Director Via: Kent Brown, Town Administrator	Meeting Date: Wednesday, March 11, 2015
---	--

Agenda Item #	Action: X	Discussion:	Information:
Agenda Title: Petition for Martinez-Hahn Annexation			
Attachments: Resolution 15-09 "A Resolution of the Board of Trustees for the Town of Milliken Initiating the Annexation Proceedings for the Martinez-Hahn Annexation" Exhibit A			
<ul style="list-style-type: none"> • Petition for Annexation No. 1 & Survey Plat (Exhibit 1) • Petition for Annexation No. 2 & Survey Plat (Exhibit 2 A) • Petition for Annexation No. 3 & Survey Plat (Exhibit 2 B) • Open Space Survey Plat (Exhibit 3) 			

PURPOSE

To review and consider Resolution 15-09 and Exhibit 'A" which includes 3 petitions for the annexation of 3 parcels, Martinez-Hahn Annexation No. 1, No. 2, and No. 3, with associated plats included as Exhibit 1, Exhibit 2 A and 2 B, and Exhibit 3, which total approximately 155 acres north of County Road 52 currently owned 100% by the Estate of Joe Adam Martinez. The annexation petitions are signed by Ben Adam Martinez, as the legal representative for the Estate.

Annexations require notice to be given for a public hearing to determine whether the petition for annexation complies with the Town's Municipal Code Article 13 "Annexation", Section 30 and the statutory requirements as contained in the Colorado Revised Statutes (C.R.S.) 31-12-104, 31-12-105, and 31-12-107 which pertain to the annexation process. The Board of Trustees of the Town of Milliken needs to initiate the annexation proceedings by passing Resolution 15-07 and setting a public hearing date before the Planning and Zoning Commission on April 15, 2015 and the Board of Trustees on April 22, 2015 at 7:00 p.m. in the Meeting House located at 1201 Broad Street.

BACKGROUND

Town staff believes that the petitions substantially comply with the statutory requirements set forth in Sections 31-12-104, 31-12-105, and 31-12-107 and that an election is not required under Section 31-12-107(2) CRS as provided in Section 31-12-11 CRS. Each petition for annexation meets the minimum of 1/16th of the perimeter of the proposed annexation being contiguous to the Town of Milliken.

The pertinent sections of the State Statute and Municipal Code to provide for legal notice follow:

31-12-108. Setting hearing date - notice given. (1) As a part of the resolution initiating annexation proceedings by the municipality or of a resolution finding substantial compliance of an annexation petition or of a petition for an annexation election, the governing body of the annexing municipality shall establish a date, time, and place that the governing body will hold a hearing to determine if the proposed annexation complies with SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 or such parts PROVISIONS thereof as may be required to establish eligibility under the terms of this part 1. The hearing shall be held not less than thirty days nor more than sixty days after the effective date of the resolution setting the hearing. This hearing need not be held if the municipality has determined conclusively that the requirements of SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 have not been met.

(2) The clerk shall give notice as follows: A copy of the resolution or the petition as filed (exclusive of the signatures) together with a notice that, on the given date and at the given time and place set by the governing body, the governing body shall hold a hearing upon said resolution of the annexing municipality or upon the petition for the purpose of determining and finding whether the area proposed to be annexed meets the applicable requirements of SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 and is considered eligible for annexation. Said notice shall be published once a week for four successive weeks in some newspaper of general circulation in the area proposed to be annexed. The first publication of such notice shall be at least thirty days prior to the date of the hearing. The proof of publication of the notice and resolution or petition, or the summary thereof, shall be returned when the publication is completed, and, the certificate of the owner, editor, or manager of the newspaper in which said notice is published shall be proof thereof, and a hearing shall then be held as provided in said notice. A copy of the published notice, together with a copy of the resolution and petition as filed, shall also be sent by registered mail by the clerk to the board of county commissioners and to the county attorney of the county wherein the territory is located and to any special district or school district having territory within the area to be annexed at least twenty-five days prior to the date fixed for such hearing. The notice required to be sent to the special district or school district by this subsection (2) shall not confer any right of review in addition to those rights provided for in section 31-12-116.

SECTION 8. 31-12-111, Colorado Revised Statutes, is amended to read:

31-12-111. Annexation without election. If the resolution of the governing body adopted pursuant to section 31-12-110 determines that the applicable parts PROVISIONS of SECTION 30 OF ARTICLE II OF THE STATE CONSTITUTION AND sections 31-12-104 and 31-12-105 have been met, and further determines that an election is not required under section 31-12-107 (2), and does not determine that additional terms and conditions are to be imposed, the governing body may thereupon annex the area proposed to be annexed by ordinance.

BUDGET IMPLICATIONS

The Estate for John Adam Martinez owns approximately 155 acres and through a handwritten will of Connie Hahn, is deeding approximately 2.36 acres to the Town of Milliken as Martinez-Hahn Annexation No. 1, which is currently being used a residence by the Martinez family. This property will be transferred to Milliken within two weeks after the annexation ordinance is passed with the proposed zoning of "R-1 Single Family Residential". Once the family has vacated the residence, the Town may implement zoning for that parcel as it deems appropriate. The rest of the non-residential portion of the property, Annexation No. 2 and No. 3 including Exhibit 2 A and 2 B, will continue to be used for agricultural purposes, but the property owners are requesting they be zoned "R-1 Single Family Residential".

The Town shall give the family at least six months prior notice of the date that the Town wants them to vacate the property. Ben Adam Martinez is currently residing on the property as its caretaker and will continue to responsible for all utilities and maintenance of the residential property ensuring that all of the hearing, cooling, plumbing and electrical systems are operational and residential property is in compliance with all applicable codes, ordinances and statutes. It is specifically understood that this does not mean that the Martinez family will have to improve the residential property to comply with the Town's current building codes except if they make improvements with the prior consent of the Town.

In addition, the acreage legally described in Exhibit 3 as Open Space to be used for public purposes. It shall be conveyed as a non-exclusive easement to the Town for use as by the public for trails, nature observation, wetlands and other purposes, but shall not be developed.

In consideration of the Estate agreeing to annex to Milliken all the Martinez property owned by the Estate adjacent to the Town, the Town shall pay for all costs and prepare all documents for the annexation proceedings and will submit the documents to the appropriate authorities for the annexation proceedings. Although, the Martinez family also retained an attorney to prepare the requested annexation documents.

No new or additional fees or costs will be assessed against the property until the transfer of the property to Milliken until the transfer of the acreage has taken place at which time Milliken will be responsible for any fees or costs. The non-residential portion of the property will continue to be used for agricultural purposes, but will be

zoned "R-1 Single Family Residential". Once the family has vacated the residence, the Town may implement zoning for that parcel as it deems appropriate.

In exchange for the approximately 2.36 acres property and open space, the Town has agreed to pay for required legal notification and surveys required to transfer the property to the Town.

RECOMMENDATION

To accept the annexation petitions and initiate the annexation proceedings by passing Resolution 15-09 and setting the date for a public hearing before the Planning and Zoning Commission on April 15, 2015 and the Board of Trustees on April 22, 2015 at 7:00 p.m. in the Meeting House located at 1201 Broad Street.

SUGGESTED MOTION

"I move to accept the annexation petitions and initiate the annexation proceedings by passing Resolution 15-09 and setting the date for a public hearing before the Planning and Zoning Commission on April 15, 2015 and the Board of Trustees on April 22, 2015 at 7:00 p.m. in the Meeting House located at 1201 Broad Street."

**TOWN OF MILLIKEN
RESOLUTION NO. 15-09**

A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF MILLIKEN INITIATING ANNEXATION PROCEEDINGS FOR THE MARTINEZ-HAHN ANNEXATION.

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, WELD, COUNTY, COLORADO THAT:

1. At the regular meeting of the Board of Trustees on the 11th of March, 2015. The Petition for Annexation for the Martinez-Hahn Annexation was submitted to the Board of Trustees by the Clerk as a communication pursuant to Section 31-12-108(1), C.R.S. the location of the property described in the petition is set forth on Exhibit 'A' attached hereto and incorporated herein by reference.
2. The Board of Trustees has reviewed the petition and found that the requirements set forth in Section 31-12-104 and 31-12-105, C.R.S. have been substantially complied with.
3. Pursuant to Section 31-12-108(1), C.R.S., and pursuant to the *Milliken Municipal Code* Section 16-13-30 the Board of Trustees hereby sets the date for the hearing on the annexation petition before the Planning Commission for April 15, 2015 and the hearing before the Town Board of Trustees for April 22, 2015. All hearings are to be held at 7:00 P.M. in the Meeting House located at 1201 Broad Street. Notice of these hearings is to be published in accordance with Section 31-12-108 (2), C.R.S.
4. The purpose of these hearings shall be to determine whether the area proposed to be annexed meets the applicable requirements of Section 31-12-104 and 31-12-105, C.R.S. and the applicable provisions of the *Milliken Municipal Code* and is eligible for annexation.

This resolution was passed by a vote of ___ in favor and ___ opposed at the meeting of the Board of Trustees on the 11th day of March, 2015.

TOWN OF MILLIKEN

Milt Tokunaga, Mayor

Cheryl Powell, Town Clerk