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

MEETING MINUTES

Wednesday, March 9, 2016

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday March 9, 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, Finance Director Jennifer Nash, Accounting Technician Courtney Diller and Town Attorney Linda Michow. Absent: Parks Director Josh Roseberry and Public Works Director Bill Landwehr.

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 asked to move Action Item #3 to the Consent Agenda. Mayor Pro Tem Measner asked for this item to remain on the Action Agenda.

Presentation

Chief Benito Garcia presented Trustee Lois Ann Onorato with a Recognition Award and spoke about the commitment Lois Ann has had with helping to develop and strengthen the police and community resident's relationships.

Citizen Comments

None.

Minutes of Previous Meeting

February 24, 2016

Minutes approved as distributed.

CONSENT AGENDA

There were not any items.

ACTION AGENDA

1. **Public Hearing on Ordinance 723, Amending Sections 16-1-150 and 16-3-620 of Chapter 16, of the Municipal Code Concerning Home Occupations**

Public Hearing opened at: 7:08 P.M.

Director Perkins spoke to the Town Board and told the Town Board the Planning commission asked to deny this Ordinance until further information is obtained from business owners and residents concerning this issue. Mayor Pro Tem Measner asked how much input has been from the residents. Director Perkins indicated there has been quite a bit. There has been much discussion regarding the types of businesses that should be allowed. These discussions have been centered around the traffic, noise and neighborhood characteristics. There has been discussion regarding each business having a business license along with insurance that covers this type of business. Discussion has also included hazaroudous materials. Mayor Pro Tem Measner thinks this would be unfair to the new Town Board since this issue has been spoken about for 6 months. This should be complaint based. Also the determination of the area of the residence that would be allowed for the business. Mayor Pro Tem Measner explained that why have these types of things in the code if it is not able to be determined. Trustee Jemiola concurred with Mayor Pro Tem Measner. He indicated that he does not want to stifle a person who wants a home business, but he also wants to protect the character of the neighborhood and any public health and safety.

Trustee Ehrlich explained that this potential ordinance change started over a neighborhood dispute. He also explained that there had not been any other issues since this occurred. He believes that staff needs to go through the business license applications a little more thorough and that business insurance would be ideal to have on record for these types of businesses.

Mayor Tokunaga spoke about stop gap ordinances and that he agreed with Trustee Ehrlich about the insurance portion.

Perkins explained what staff was attempting to accomplish with this ordinance. A balance was attempted to be found that would be good for these home based entrepreneurs and the Town.

Trustee Kidd agrees that a Work Session should be held between the Planning Commission and Town Board. He spoke again about a procedure of sending out the Public Works Director, Building Official and a representative from the Fire Department to ensure the health and safety of these businesses. He also suggested that a periodic check on these businesses should be done and the business owners should be aware of these period checks occurring.

Mr. Reid Hobler, 800 Mill Iron Rd., thanked Staff for taking their time with this ordinance and its proposed changes. He and his wife started their business out of their home. They needed to have a Special Use Permit in order to do so while their business was being completed.

Janelle Penfold, 722 Traildust spoke about their subdivisions Homeowners Association (HOA) that lets people know what people can and cannot do in their home. This helps minimize what happens in a residential home.

Mayor Pro Tem Measner indicated that she would rather have a business be more transparent then people hiding their business. She agrees that insurance on the business would be a good addition. Trustee Jemiola mentioned there is a business now located in downtown Milliken that started as a home business.

Public Hearing closed at: 7:31 P.M.

Trustee Jemiola motioned that after hearing testimony, examination of the documents presented and the findings of fact finds the application does not meet the provisions of Sections et. seq. of the Town of Milliken's Land Use Development Code (LUDC) and denies Ordinance 723 "An Ordinance of the Town of Milliken Amending Sections 16-1-150 and 16-3-620 of Chapter 16, of the Milliken Municipal Code Concerning Home Occupations" in Weld County Colorado. Trustee Kidd seconded.

Discussion: None.

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

2. **Public Hearing and Consideration and Approval of Ordinance 725, Amending Chapter 7 "Health, Sanitation, and Animals" of the Municipal Code Concerning Beekeeping**

Public Hearing opened at: 7:32 P.M.

Community Development Director Perkins asked the Town Board to consider for approval Ordinance 725, amending Chapter 7 of the Milliken Municipal Code to allow for beekeeping in residential neighborhoods while protecting the community's enjoyment of their property and open space in these residential neighborhoods. Director Perkins explained that she would other municipalities ordinances to draft this ordinance. She also explained that after listening to public input on March 2, 2016, the Planning Commission recommends that the Board entertain one more public join Work Session with a beekeeping expert to make sure that the ordinance addresses the public's concerns, is enforceable, and still encourages beekeeping. She explained that the wording "variance" has been changed to permit, an annual permit. This allows the Town to determine if a permit should be renewed each year and gives staff flexibility to pull a permit if there is a problem.

Trustee Jemiola explained that this proposed change came about when a resident spoke to him. He explained that the population of bees has declined over time and due to the area being significantly agricultural, it could create an impact.

Ms. Elizabeth Austin, who resides at 775 Saddleback Dr., is a hobby gardener and bee's do not bother her. She is more concerned about aggressive bees and the harm that could happen. She has researched other municipalities and wanted to know if a six (6) foot privacy fence would be a part of this proposed ordinance. Trustee Jemiola explained there is a six (6) foot fly away in the ordinance. Ms. Austin asked how close the fence needed to be. Trustee Jemiola explained that it needs to be around the hive. She wanted to know if there is a water source that needs to be on the property. She further explained her concern of bees migrating to the lakes in Milliken for water and residents use these facilities for fishing, etc.

Ms. Austin asked about the number of bees in a hive and what happens when they need more room. Mayor Pro Tem Measner explained that when a hive gets too full a new queen is chosen and half the hive leaves with that queen. Boe Boggeo, 3905 Glade Rd, Loveland is a past president of the Northern Colorado Bee Keepers Association. He explained in the winter, due to the lack of nectar, the hive declines in order for the queen to survive. He also explained the longevity of a bee. Ms. Austin mentioned that beekeeping tends to be a trend and people are not trained. She indicated that residents who have a permit and there has been problems should not be allowed a renewal. The Town's Code Enforcement does not need to continually go back to the problem property. Mr. Boggeo stated that every beekeeping association offers training to new beekeepers, they have trained 100 new members this past year. He suggested adding that to the permit section. He also advised that beekeepers should educate their immediate neighbors and to call the beekeeper first prior to call code enforcement. There is also a swarm hotline and they can get an experienced beekeeper to someone's house within a few hours. He also

suggested that beekeepers have a minimum of two colonies. Depending on the size of the lots, the number of colonies should be 2, 3 and then 4. A single hive would not be very rewarding.

Trustee Jemiola asked what would be a safe lot size to have bees, what measures can be taken to ensure safety.

Mr. Denise Reed, who resides at 2472 Birdie Dr., Milliken, painted a house where a swarm had been in this person's house for 12 years. This person had a professional beekeeper take the hive away, but they failed to seal up the area and the bees returned.

Mrs. Janet Lundquist, who resides at 2137 Pioneer Dr., Milliken, indicated that the Code is a good compromise which allows people to keep bees. She likes the permitting process and wants to know how enforcement is going to be handled. How do you handle a neighbor who has a hive whose hive swarms your property? Trustee Ehrlich explained there is not anyone on Staff who is a bee expert. Ms. Lundquist would like some type of enforcement that could be contacted by the Town. Ms. Lundquist also thanked the Town Board for their service.

Ms. Liberty Gerold, who resides at 774 Saddleback Dr., Milliken has a son who is very allergic to bees. She is concerned if a next door neighbors obtains bees. She asked if beekeeping is granted, that these hives could be placed on agricultural property. She wanted to know if insurance would be required to have hives. She also spoke about having placards on the property that indicate beekeeping. Having these signs may impact the sale of homes.

Mr. David Primer, who resides in Wellington, Colorado spoke about beekeeping and the bee association is there to educate people on beekeeping. He does not wear protective clothing and he is gentle with his bees. He stated that you will see more bees if you have a lot of flowers. Wellington authorized beekeeping a couple of years ago. He spoke about the benefit we receive from bees.

Ms. Janelle Penfold, who resides at 722 Traildust, asked what will occur if an HOA does not allow 6 foot fences. Trustee Jemiola explained it doesn't need to be a fence but a hedge, etc. that will force the bees upward. Ms. Penfold expressed concern if a beekeeper does not have sufficient foliage, water, etc. on their property and migrate to hers. What can she do in regard to this type of occurrence? Town Administrator Brown explained it could be declared a nuisance and would be handled appropriately.

Mr. John Kindsfather, Jr,. who resides at 2600 Peregrine Creek Dr., Milliken explained to the Town Board about a situation that occurred to him and his family last year in regard to a neighbor who had bee hives. His family has been swarmed and stung along with his animals. The neighbor was not a responsible

beekeeper. He spoke that he should be able to enjoy his yard. He also explained he is allergic and that an epi pen is only a temporary fix, you still need to seek immediate medical attention. He would like strict regulations in regard to beekeeping. There also needs to be checks and balances.

Ms. Megan McNerney, who resides at 2500 Peregrine Creek Dr., Milliken has not had issues with their neighbor's bees and believes that these neighbors have handled the bees well, including when there has been an aggressive swarm. The biggest issue occurred when the Town ordered that the hives be removed in 24 hours. She explained that there needs to be time for planning when you move hives. The bees came back and were extremely aggressive when this occurred.

Planning Commission Chair Tim Woodcock explained why the Commission continued this item and why they would like to speak to additional professionals. He suggested that this could be a joint Work Session with Board and Commission.

Mr. Jared Tucker, who resides in Milliken explained that the Binders who have a farm adjacent to Milliken have a field that has eight (8) bee hives. Mr. Tucker explained that there had not been any problems with these hives. They have swarmed, but there hasn't been an issue due to these. The bees live in oak trees on the property.

Mr. Mitchel Cheek, who lives in Northmore Acres in Johnstown, addressed the previous insurance question explaining that his homeowner's insurance covers the bees. You cannot enforce law on a bee, it is going to go where it wants. He indicated that his HOA was happy that he has bees.

Mrs. Kathy Kindsfather, who resides at 2600 Peregrine Creek Dr., Milliken is concerned that the same bees that were removed will now be allowed to return with this proposed ordinance. She is wanting to know what has changed between now and then when her family had issues with the bees that her neighbors had.

Trustee Jemiola asked how many hives or size of lot would she be comfortable with. Mrs. Kindsfather replied none, due to the health and safety issue she had with her family.

Mayor Tokunaga addressed the public and asked them to be sure to sign in and include an email address.

Public Hearing closed at: 8:45 P.M.

Trustee Ehrlich moved to table this Public Hearing. Mayor Pro Tem Measner seconded.

Discussion: Trustee Jemiola had a question regarding tabling the motion. Town Attorney Michow explained that it would only need to be re-noticed when the revised proposed ordinance is ready for a Public Hearing.

Vote: All in favor, none opposed.

Mayor Tokunaga requested a 5 minute recess.

3. **Consideration and Approval of a Contract Extension for the Town's Solid Waste Collection Services with Waste Management**

Finance Director Jennifer Nash asked the Town Board to consider for approval an extension of the current contract with Waste Management for the fourth of up to five (5) additional one-year terms, in accordance with the contract signed January 25, 2012. Town Administrator Brown explained that the fee increase will be approximately 29 cents.

Trustee Beck moved that the Town agrees to extend the Solid Waste Collection Services Agreement with Waste Management of Colorado, Inc., for one additional year, from March 1, 2016, through February 28, 2017, and accept the requested rate adjustment of 2.75% in accordance with the Agreement. Trustee Jemiola seconded.

Discussion: None

Vote: All in favor, none opposed.

4. **Consideration and Approval of Authorizing the Town Administrator to Sign the Contract for the Mowing of Open Space and Right-of-Ways**

Director Josh Roseberry asked the Town Board for their consideration and approval and the authorization allowing the Town Administrator to sign the contract for the mowing of open space and right-of-way areas. Director Roseberry explained that this was included in the budget for 2016. He also explained this will allow staff to concentrate on other areas of Town where residents will see an increased level of service. With this contract, residents will also see an increased level of service in the Open Space and Right-of-Way areas. Roseberry also explained that a request for bids was sent out through the Rocky Mountain Bid Systems on February 4, 2016 and the Town held a pre-bid meeting in which 14 companies attended. The Town received 16 bids for this service. All the bidders submitted a price per acre and a price per on call acre. Staff recommends that the budgeted amount not be exceeded.

Trustee Jemiola asked about the condition of the area down Quentine and why some of it looks good and other sections do not. Roseberry explained that there is an issue with the drainage and with the irrigation system.

Trustee Kidd asked why wouldn't the Town have the additional 34 acres of parks, etc. be mowed if it will cost the Town $26,000 for the Open Space and R-O-W area which consists of 36 acres. Josh indicated this is an option.

Trustee Beck asked about the cost difference in areas and if it is due to how difficult the area would be to mow. Director Roseberry said yes.

Town Administrator Brown indicated that this was meant to be built off of and see how well this program works.

Trustee Kidd would like to know what the Board will see with this program. Director Roseberry indicated that staff has never been able to complete all the Open Space and R-O-W areas and now that will occur. Staff will be able concentrate on the maintenance, irrigation, etc. of the parks and other areas of Town.

Mayor Tokunaga appreciates the investigation and the work Director Roseberry has done in regard to this item.

Mayor Pro Tem Measner moved to authorize the Town Administrator to sign the service contract for Green Man Lawn and Landscape. Trustee Kidd seconded.

Discussion: None.

Vote: All in favor, none opposed.

5. **Consideration of Confidentiality Agreement with Stewart Environmental Consultants, LLC and Stewart CMF, LLS, FEI Engineers, Inc. and the Town of Milliken for a Professional Services Agreement at the Milliken R.O. Facility**

Town Administrator Brown asked the Town Board to table this item for now. consider for approval a confidentiality agreement proposal between Stewart Environmental Consultants, LLC and Stewart CMF, LLC; FEI Engineers, Inc. and the Town of Milliken.

Trustee Onorato motioned to table the motion of the confidentiality agreement between Stewart Environmental Consultants, LLC and Stewart CMF, LLC; FEI Engineers, Inc. and the Town of Milliken. Mayor Pro Tem Measner seconded.

Discussion: None.

Vote: All in favor, none opposed.

DISCUSSION AGENDA

1. **Proposed Resolution 16-05, A Resolution to Update Revenues Related to Water Services Provided by the Town of Milliken Through its Fee Schedule**

   Director Nash discussed with the Town Board the proposed amended fee adjustments, deletions and additions to the Town of Milliken's Fee Schedule, specifically regarding base standby and usage charges for the potable and non-potable water systems. Director Nash indicated that this is based on the discussion at a prior Work Session with Forrest Leaf. These increases are for operational costs and treatment costs.

   Town Administrator Brown would like to address that these rate increases are occurring because of rate increases passed on to the Town from our treatment providers. The two providers Central Weld and the City of Greeley have increased over 100% over the last six years. The last rate increase the Town passed was in 2010.

   Discussion was on the rate tiers. The last two rate tiers will be at the same rate per thousand.

   The non-potable base rate will be increased to $45.00 per month. There are only eleven of these in Town. The rate per thousand gallons will increase to $1.00.

   Trustee Jemiola would like to see the ordinance that requires homeowners who go over 75,000 gallons per year for three out of five years which requires residents to bring another share of water to the Town repealed at the next Town Board Meeting The consensus from the Board was to bring this to the next meeting as an Action item.

2. **Review the Proposed Town of Milliken Storm Water Management and Facility Utility Enterprise Fee**

   Community Engagement Specialist/Planner Seth Hyberger amended fee adjustments, deletions and additions to the Town of Milliken's Fee Schedule, to modify the Town Fee Schedule to establish and incorporate a fee for storm water management. Hyberger handed out a packet that incorporates some of the Town's commercial and industrial properties that indicate what the potential costs could be.

   Discussion was on the annual fee amount for the commercial and industrial areas. Trustee Ehrlich indicated that a business should not be charged less than a residential customer.

The Board had some questions regarding some of the rates and the properties and would like to have additional clarification on how the rates were derived at for the commercial and industrial areas. The Mayor indicated that areas like Loveland, Longmont, etc. are charging less. There needs to be a competitive rate for the area.

Executive Session

C.R.S. 24-6-402(4)(a), for the purchase, acquisition, lease, transfer or sale of any real, personal, or other property interest.

Trustee Jemiola moved to go into Executive Session under C.R.S. 24-6-402(4)(a). MPT seconded.

Vote: All in favor, none opposed.

Executive Session began at 10:20 P.M.

Executive Session ended at: 10:40 P.M.

Resumed Regular Meeting

Resumed at: 10:38

INFORMATIONAL AGENDA

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

Adjournment

Hearing no further business, the Mayor adjourned the meeting at 10:38 P.M.

Prepared by: Approved by:

Cheryl L. Powell, Town Clerk

Milt Tokunaga, Mayor