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

MEETING MINUTES

Wednesday, May 13, 2015 – 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, May 13, 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, Community Engagement Specialist/Planner Seth Hyberger, Police Chief Benito Garcia and Town Attorney Bruce Fickel.

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

Town Administrator Brown indicated that Staff had no changes to the Agenda.

Mayor Tokunaga requested to add a postponement regarding the report from attorney Marni Kloster as the first item on the Action Agenda. The Mayor would like to add the following items for consideration: (1) would attorney Marni Kloster attend a meeting to deliver her findings, even though she submitted a summary report? (2) should the report be made public, due to attorney client privilege? and, (3) what the action item would be.

Attorney Fickel responded that there would need to be a motion to postpone.

Mayor Tokunaga requested to move Action item #3 to the Consent Agenda. Trustee Jemiola requested to move Action item #4 to the Consent Agenda.

Citizen Comments

None.

Minutes of Previous Meeting

- April 22, 2015 – Approved as distributed.

CONSENT AGENDA

1. **Consideration and Approval of Resolution 15-12, Amending the Budget for Capital Improvements**

   Finance Director Patrick Murphy asked the Town Board for consideration and approval to appropriate funds for the completion of projects under construction at the end of 2014 and to allocate and appropriate funds for the additional costs of constructing the Milliken-Johnstown Trail. The Heritage House Landscaping Project and the Public Works Materials Storage Facility, were completed in January and Resolution 15-12 re-appropriates the un-expended funds remaining to cover the final completion costs for these two projects. Resolution 15-12 also appropriates funds from the Impact Fees Fund and the Capital Improvement Fund to cover the additional costs of the Trail.

2. **Consideration, Approval and Authorization for the Town Administrator to Sign the Contract for Street Improvements**

   Public Works Director Bill Landwehr asked the Town Board to authorize the Town Administrator to sign the contract for the Street Improvement Project so the Town can proceed. Director Landwehr explained that his recommendation for the project is Apex Pavement Solutions whose bid came in at $204,234, which is a portion of the appropriated $349,000 for the 2015 budget.

   Trustee Jemiola moved to approve the Consent Agenda. Trustee Ehrlich seconded.

   Discussion: None

   All in favor, none opposed.

ACTION AGENDA

1. **Postponement on the Update on Conflict of Interest**

Mayor Tokunaga asked that the postponement be made until the May 27, 2015 Town Board meeting. Trustee Beck asked if the postponement could be until the June 10, 2015 Town Board Meeting since she will not be in attendance for the May 27th meeting. A discussion amongst the Board ensued as to the date regarding the postponement. Trustee Jemiola would prefer to resolve this matter for both the public and for Trustee Kidd as soon as possible. Discussion from some of the Town Board members was why this is being postponed since the report from the investigating attorney has been provided to the Town Board. Town Attorney Fickel responded that he did not know if the Town Board has had sufficient time to review the report.

Mayor Pro Tem Measner moved to waive the attorney client privilege on the report provided from attorney Marni Kloster so that the public could have access to the report. Trustee Jemiola seconded.

Trustee Kidd recused himself and left the meeting room.

Discussion: None.

Vote: Trustees: Ehrlich, Onorato and Jemiola and Beck, Mayor Pro Tem Measner and Mayor Tokunaga in favor, none opposed. Motion carried.

Mayor Tokunaga then asked the Board if attorney Marni Kloster needs to attend a meeting to present and discuss her findings. Town Attorney Fickel responded that if the Board needs further clarification from what was in the report Attorney Kloster is amenable to attending a meeting.

Mayor Tokunaga spoke in regard to the third item as to whether there is any conflict of interest. Town Attorney Fickel responded that whether there is a means to establish a hearing set forth in the statute to determine whether it is necessary and appropriate to impose sanctions for the conflict of interest that took place. If the Board decides it does not wish to proceed, it ends at this meeting. If the Board decides that a hearing should take place then there are other decisions that need to be made.

Trustee Jemiola read an excerpt from the findings of Marni Kloster to the public. The report is dated May 8, 2015 and he read from page three (3) of the report. "Unfortunately, there is very limited case law regarding these types of matters and what constitutes an impermissible conflict of interest. From the information I received there does not appear to be a direct financial interest by Trustee Kidd in ProCode or Jonathan Gesick's contract with the Town of Milliken and the key individuals denied such an interest."

Trustee Jemiola moved that the Board does not find that Trustee Kidd had a direct financial conflict of interest with ProCode and that this matter be closed.

Trustee Onorato seconded.

Discussion: Trustee Beck asked if the Public should see this report prior to the Board making a decision or voting.

Mayor Tokunaga disclosed a discussion he had with the Mayor Pro Tem and the Town Administrator in regard to further instruction from the Town's insurance (CIRSA) in order to ensure that there is a proper understanding of potential conflicts of interest.

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

2. **Public Hearing/Meeting for the Purpose to Review and Recommend Ordinance 709, Amending the Town of Milliken's Official Zoning Map for Lot 1, Block 1 of Centennial Cooperative Park Replat "B", Contiguous with Lot 2, Block 1 of Settlers Village Subdivision Second Filing**

Mayor Tokunaga spoke about the hearing procedures and read the quasi-judicial hearing procedures to the Town Board and Members of the Public.

Lot Holding, LLC and Thompson River Parks and Recreation are the interested parties in this item.

Public Hearing Opened at: 7:30 p.m.

There were not any members of the interested parties present.

Community Development Director, Martha Perkins, read into the record that this Hearing/Meeting was for the Review and Recommendation for a Request to Amend the Town of Milliken's Official Zoning District Map for Lot 1, Block 1 of Centennial Cooperative Park Replat "B" with Reception #3168858 Consisting of Approximately 3.718 Acres and a Parcel of Land being a Portion of Centennial Drive Right-of-Way and Related Easements as Created in Settlers Village Subdivision with Reception #2833840 and Contiguous with Lot 2, Block 1 of Settlers Village Subdivision Second Filing with Reception #3214671 consisting of Approximately 0.716 acres, both located in the Town of Milliken, Weld County, Colorado, from a PUD "Planned Unit Development" to R-1 "Residential Single Family" Zoning District. Together these Parcels create Approximately 4.434 Acres of Land.

Director Perkins asked that her staff report be included as part of the record.

Beatriz Rangel who resides in Milliken asked to see a copy of the map and where the Field House will be placed.

The Town Board had already approved the R-1 zoning for the Fossil Park Subdivision.

Public Hearing Closed at: 7:37 p.m.

Trustee Jemiola moved that after hearing testimony, examination of the documents presented and the findings of fact finds the application meets the provisions of Town's Municipal Code Chapter 16 Sections et. seq. of the Town of Milliken's Land Use Development Code (LUDC) and approves the request to amend the Town of Milliken's Official Zoning District Map for Lot 1, Block 1 of Centennial Cooperative Park Replat "B" with Reception #3168858 consisting of approximately 3.718 acres and a parcel of land being a portion of Centennial Drive right-of-way and associated easements as created in Settlers Village Subdivision with Reception #2833840 and contiguous with Lot 2, Block 1 of Settlers Village Subdivision Second Filing with a reception #3214671 consisting of approximately 0.716 acres, which totals approximately 4.434 acres and Ordinance 709. Mayor Pro Tem Measner seconded.

Discussion: None.

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

3. **Consideration, Approval and Authorization for the Town Administrator to Sign the Agreement with the Center for Priority Based Budgeting**

Finance Director Patrick Murphy asked the Town Board to execute an agreement with the Center for Priority Based Budgeting to develop the "Fiscal Health Diagnostic Tool" as the first step toward implementing Priority Based Budgeting in Milliken. Director Murphy explained that the Board appropriated $30,000 in the 2015 Budget for the implementation of Priority Based Budgeting. Town Staff had met with the principals in April to discuss the most effective approach to integrate this practice for the Town. Director Murphy also explained that the proposal estimates that this tool can be implemented and ready to use in three of the Town's Funds (General, Water and Sewer Funds) by July 2015, at a total cost of $4,000, with and annual recurring subscription fee of $3,500.

Discussion among the Board and Staff was in regard to the process and the potential cost of the budgeting tool.

Trustee Jemiola moved to authorize the Town Administrator to execute an agreement with the Center for Priority Based Budgeting for the development

and implementation of its web-based Fiscal Health Tool in accordance with their proposal. Trustee Ehrlich seconded.

Discussion: Trustee Beck asked that the Town is doing this based on a recommendation from DOLA and CML. Director Murphy responded that this is the initial process. There are many communities that incorporate the whole Priority Based Budgeting at once. Milliken is just initiating the Fiscal Health Analysis and will go forward from there.

Trustee Jemiola stated that the Mountain View Fire Dept. was one of the first to incorporate Priority Based Budgeting. He indicated that the department had been in debt and now were able to pay for a new Fire Truck.

Cindy Telep asked how much this item will cost. Director Murphy explained this process is going to cost $4,000.

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

4. **Consideration and Selection of a Proposal for the Implementation of a Stormwater Utility Fee for the Town of Milliken**

Community Engagement Specialist Seth Hyberger asked the Town Board to consider and select based on the two proposals received in regard to establishing the basis of the Town's Stormwater Utility Fee. Hyberger explained that the Town Board established a Stormwater Utility Fund by the passage of an Ordinance in December, 2014.

Stormgroup 1 provided a previous proposal that came in at approximately $65,000. Town Administrator Brown and Hyberger spoke to Mr. Sorenson about staff being able to provide some of the process to this project.

Lamp Rynearson and Associates also provided a proposal that came in a little lower in cost.

Hyberger recommended Lamp Rynearson and Associates, due to their past experience with the Town and that their cost for completing the project was at a lesser amount.

Trustee Ehrlich moved to approve the Town entering into a contract with Lamp Rynearson and Associates to establish a Stormwater Utility Fee for the Town and authorize the Town Administrator to execute such contract. Trustee Jemiola seconded.

Discussion: None.

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

5. **Consideration and Adoption of the Town's Water and Sanitary Sewer Master Plan Update**

Town Administrator Brown asked the Town Board to consider and adopt the Water and Sanitary Sewer Master Plan Update 2014 as completed by Ketterling, Butherus, & Norton Engineers, LLC (KBN) as reviewed and recommended by the Milliken Water, Wastewater and Drainage Utility Advisory Commission. This Update was provided to the Town Board at a work session at the end of 2014. There will be addendums and changes due to circumstances to this Master Plan. This document will provide a basis for the Town.

Trustee Beck moved to approve the Water and Sewer Master Plan Update of 2014 produced by Ketterling, Butherus & Norton Engineers, LLC (KBN) and recommended by the Water, Wastewater & Drainage Utility Advisory Commission. Trustee Onorato seconded.

Discussion: None.

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

6. **Consideration and Approval of Ordinance 710, Amending the Town of Milliken Municipal Code by the Addition of Section 7-2-180, Prohibiting Human Burials within the Town of Milliken**

Town Clerk Powell asked the Town Board to consider for approval Ordinance 710, amending the Town's Municipal Code by prohibiting human burials within the Town Limits. Town Administrator Brown spoke about this item and said that information based on this was on the CML Listserve. This had been based on questions from residents in other municipalities due to costs for burials, etc. Cemetery's and established family burial grounds are not included in this ordinance.

Cindy Telep asked about ashes from cremation. Town Administrator Brown responded that the ordinance defines a body.

Mayor Pro Tem Measner moved to approve Ordinance 710, amending the Milliken Municipal Code to prohibit human burials within the Town of Milliken. Trustee Onorato seconded.

Discussion: None.

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

DISCUSSION AGENDA

There were not any items.

INFORMATIONAL AGENDA

1. **Road Base Material**

   Director Landwehr informed the Town Board of the purchase of road base material for a project regarding the condition of WCR 44 between WCR 21 and WCR 19.

   Trustee Ehrlich asked about the road near the lift station on HWY. 257 and if there would be road base added to this area. Landwehr said that he will investigate this area and will place it on their work agenda.

2. **Town of Milliken Draft Trail and Sidewalk Gap Analysis Report**

   Provided the Town Board with the draft copy of the completed Gap Analysis Report.

3. **Milliken Police Department Monthly Report**

   Provided the Town Board with the monthly report for the Police Department.

ASSIGNMENT AND PROJECT UPDATE(S)

Other Business

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

Adjournment

Hearing no further business, the Mayor adjourned the meeting at 8:06 P.M.

Prepared by: Approved by:

Cheryl Powell, Town Clerk Milt Tokunaga, Mayor