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

MEETING MINUTES

Wednesday, July 22, 2015 – 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, July 22, 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, 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.

Presentation

Tonia Martinez a volunteer with ESGR explained the role of ESGR. She presented Police Chief Benito Garcia an Employer Support of the Guard and Reserve (ESGR) award. Ms. Martinez also read a narrative that was written by Milliken Police Sergeant Tim Handle, who is currently on military deployment.

Agenda Approval

Town Administrator Brown indicated that Staff had no changes to the Agenda. Trustee Jemiola requested Action #5 moved to the Consent Agenda.

Citizen Comments

Mr. Ron Grider, who resides at 153 W. Juneberry Street in Milliken, addressed the Town Board with concerns regarding his neighbor who is operating a business and has it listed as a Jet Ski repair. Mr. Grider indicated that there has been an increase in traffic and his neighbor uses the street to park vehicles. Mr.

Grider has proof that it is a business. He has called Chief Garcia and did not receive a call back. Chief Garcia explained to the Town Board that Code Enforcement is working on this issue.

Mayor Pro Tem Measner did not think a business license could be issued for this type of business. Trustee Jemiola explained to Mr. Grider that remediation does not happen immediately. Further discussion was the impact on those businesses currently licensed to operate and the types of businesses allowed in residential areas.

Ms. Cathy Reck, who resides at 203 W. Juneberry Street, addressed the Town Board indicating that this business has approximately two (2) new vehicles at his residence per week. She looks out her window and see's these vehicles out on the street. The noise from these vehicles starts very early in the morning sometimes as early as 6:00 am. The business is listed on Facebook and on Craig's list.

Community Development Director Martha Perkins spoke regarding home occupations indicating that this license was issued for jet ski repair not for vehicle repair.

Mayor Tokunaga asked if this is now an issue that will be brought to court and if this could be expedited. Town Attorney Fickel replied yes.

Trustee Ehrlich spoke about other people who have vehicle repair businesses in residential areas of town.

Trustee Kidd who performs work for a few municipalities, stated that a business synopsis needs to be completed. The Public Works Director and the Fire Marshall investigate the home and the type of business that will be conducted and each department files off on the synopsis. Stipulations are listed on the synopsis and it is filed in the property file.

Trustee Beck asked if they could just be shut down. Chief Garcia explained that the business license portion could be revoked. He has not seen the business license application explaining the type of work that would be conducted and on what type of engines, etc.

Town Attorney Fickel read from the Town's Code, stating the types of businesses that could be conducted within a residential area.

Mayor Tokunaga asked staff to investigate and report back at the next Town Board meeting on August 12th.

Minutes of Previous Meeting

Approved as distributed.

Acknowledgement of the Paid List of Bills

July 2015 List of Bills.

Trustee Jemiola asked about the payment to Agtown. Accounting Technician Courtney Diller explained that this was for a brochure for the Chamber and MBA and is paid from a Grant that was received. Trustee Kidd asked about the payment for Pat Murphy's mileage reimbursement. Diller explained that this was to meet the attorney regarding the CDHPE violation.

Accepted as presented.

CONSENT AGENDA

1. **Consideration and Approval of a Liquor License Renewal for the Burnout Grill**

   To consider for approval a Hotel and Restaurant Liquor License Renewal for the Burnout Grill from September 14, 2015 until September 14, 2016.

2. **Consideration and Approval of an Intergovernmental Agreement (IGA) with Weld County for the Conduct of a Coordinated Election**

   Town Clerk Powell asked the Town Board to consider for approval an IGA with Weld County concerning the administration of the November 3, 2015, Coordinated Election.

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 the Fossil Park Subdivision Agreement**

Community Development Director Martha Perkins asked the Town Board for their

approval of a development agreement with Lot Holding Investments, LLC for the Fossil Park Subdivision as part of the Settlers Village Final Plat. The Town Board had reviewed and approved the final Fossil Park subdivision plat in a public hearing on May 27, 2015. The subdivision consists of approximately 50 acres and is zoned R-1, "Single Family Residential". It is platted for approximately 70 single family residential lots with 6 phases of development.

Mayor Tokunaga asked about infrastructure for fiber for internet and if this was something that could be installed during development. Bret Hall, who is with Lot Holdings, LLC explained that the provider in the area would be the one who provides this. As the developer he cannot, he can't even tell them where to place the infrastructure on the property. The utility easement is already provided and Mr. Hall explained that the providers do not use a conduit, they conduct a direct bury of the line.

Discussion from the Town Board were ways in which the Town could have internet providers bring the services to the Town and put these in place in existing and new subdivisions. Mayor Tokunaga spoke of how important it is to have this type of communication available and the importance will grow over the years.

Mayor Tokunaga asked about item # 18 on the construction improvements. The Mayors asked, when the Town actually accept the construction improvements, does this happen at 75% occupation or some other time during the construction. Town Attorney Fickel explained that it typically happens per request and it's not dependent upon occupation. Typically the town accepts the infrastructure in phases. Mr. Hall explained this typically happens when the sewer line is inspected, when the concrete is poured, etc. Then there is a warranty period.

Mr. Hall explained that Certificate of Occupancies (C.O.'s) are not given unless the public improvements are accepted, but it is typically at the request of the Town.

Mayor Pro Tem Measner asked if there are any reimbursement impacts in regard to the back reimbursement. Bret Hall explained that there are not any residual reimbursements owed.

Trustee Onorato moved to approve the development agreement with Lot Holding Investments, LLC for the Fossil Park Subdivision. Trustee Jemiola seconded.

Discussion: None.

Vote: All in favor, none opposed.

3. **Consideration and Approval of a Request to Modify the Required Rear Yard Setback of 20 Feet for Two (2) Lots in Settlers Village Planned Unit**

Development (PUD) to 18 Feet

Community Development Director Perkins asked the Town Bo9ard to consider a request from Lot Holding Investments, LLC and Windmill Homes to modify the required rear yard setback on two (2) cul-de-sac lots. The required rear yard setback is 20 feet and the requested rear setback to 1913 Sunset is 19.04 feet and for 1813 Sunset is 18.75 feet. The two (2) lots require a rear yard setback modification to the Settler's Village final plat for up to two (2) feet or for up to 10% less than the required rear setback of twenty (20) feet. This would be a minor modification to the subdivision.

Perkins explained that since the lots are on the cul-de-sac, they have a narrower frontage than the same lot on a regular street. The applicant found it difficult to place some of Windmill's model homes on these lots without encroaching into the required rear setback as defined in the Settler's Village subdivision final plat. The problem became apparent when home buyers choose Windmill house models that did not quite fit on these cul-de-sac lots within the setbacks.

Bret Hall explained that all the backyards back up to open space. They are trying to accommodate buyers with the lot and house that they want. Typically these minor modifications are done in other municipalities administratively.

Trustee Jemiola moved that after hearing testimony, examination of the documents presented and the findings of fact, finds the application meets the provisions of Sections et. seq. of the Town of Milliken's Land Use Development Code (LUDC) Chapter 16, including Section 16-3-460 "PUD" Planned Unit Development District, approves the request for a minor modification to the Settlers Village PUD by allowing a required rear yard setback for 1913 Sunset Circle (Lot 14, Block 1) and 1813 Sunset Circle (Lot 24, Block 1) in Settlers Village for up to 2 feet less or 10% less than the required 20 foot rear yard setback as defined in the Settler's Village PUD final plat in Milliken, Colorado. MPT seconded.

Discussion: Trustee Kidd asked if the Community Development Director was given permission to do this administratively since it was brought up earlier in the year with John Bailey.

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

4. **Direction from the Town Board to Town Staff on the Fields Family Request Following the Information Previously Provided by Staff**

Town Administrator Kent Brown asked the Town Board for direction in regard to the Fields Property detachment. He does not have any further comments outside of the memo that was provided to the Town Board.

Trustee Onorato explained that she had a conversation with David Fields. Trustee Jemiola also explained that David Fields had contacted him on the phone.

Discussion among the Trustees was that the Fields had known that they were being assessed taxes by the Town of Milliken for a number of years. That the process for the de-annexation was followed by staff.

Attorney Fickel explained that the Town Board should entertain a motion in regard to this issue.

Trustee Jemiola asked what had happened with the property since the fee of $800 seems an insignificant amount for this portion of land. Was this an amount to correct an error on property previously sold to the Fields by Mr. McDowall. Trustee Jemiola would like a better understanding of what could have transpired in regard to the annexation and also in regard to the Notice, which the Fields indicated they did not receive. Town Attorney Fickel explained that property lines used to be defined by fences, but that changed when property lines were defined by legal description. In the case of the Fields, when Jim McDowall sold the property, it was sold by legal description and part of that description was beyond the fenced property line. The Fields could have filed a quiet title action and they could have acquired the property for nothing. What they most likely paid for was the cost of an attorney to give that property to the Fields, but this occurred after the property had already been annexed into Milliken. Attorney Fickel addressed the question in regard to the Notice, explaining that the Fields concern in not receiving it is irrelevant. The Fields had indicated that the Planning Commission had already made their decision and forwarded it on to the Town Board. The Planning Commission is only an advisory commission, the Town Board is the authority over the annexations. The Fields along with their attorney attended the Town Board meeting in regard to the annexation and they did not object to it at that meeting. They could have indicated their argument there.

Mayor Pro Tem Measner denied the request for reimbursement to the Fields family. Trustee Beck seconded.

Discussion: None.

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

5. **Consideration and Approval of an Intergovernmental Agreement (IGA) with Weld County for the Improvement and Repaving of WCR 19**

Town Administrator Brown asked the Town Board for consideration and approval of an IGA with Weld County for the improvement and repaving of the Town's section/portion of WCR 19 between SH 60 and WCR 42. The preliminary estimate in 2015 was approximately $200,000, the Town had reserved funds of

$109,500 within the Street Fund to cover this project.

The proposed agreement indicates that the Town will provide $41,219.77 towards the project. This is a significant reduction from the estimate provided in 2014. The project consists of a 4" mill and overlay for WCR19.

Trustee Ehrlich moved to approve the Intergovernmental Agreement for the improvement of WCR 19 from State Highway 60 to WCR 42 Construction Improvements in Milliken, Colorado. Trustee Onorato seconded.

Discussion: None.

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

DISCUSSION AGENDA

Trustee Jemiola had a question regarding what Boulder Scientific is doing at the site they own. Mr. Bret Hall explained that he could explain what the Metro District has planned in that area, but as what Boulder Scientific is doing, he doesn't know. Trustee Jemiola asked if Boulder Scientific owned that site. Mr. Hall responded yes. The berm to the Highways is owned by Boulder Scientific, but the Metro District has control over the surface by an agreement. The Metro District intends to place a wetlands in that area. They would be moving a wetlands from Brighton to this location. The EPA along with the Corp of Engineers gave their approval on the wetlands. FEMA also became involved and told them they could not proceed with additional studies. They hired Drexel Barrel and engineering firm and it was determined that the wetland area had no impact on the floods. The study has been forwarded to the Town's engineer for comment. The wetlands will be a nice amenity to the corner of the Town.

Discussion was the potential of water storage in the wetland area, etc. Mr. Hall explained that they are ready to build the wetland once it is approved by the Town.

Town Hall Parking Lot

Town Administrator Brown and the Town's contract engineer Shar Shadowen with Lamp Rynearson, provided an overview of a conceptual plan of the Town Hall parking lot. These plans were based off of the requests and recommendations from the Town Board and Town Staff.

Discussion among the Board was the layout and the type of parking and the center walkway. The Boards consensus is they like the layout.

Shar Shadowen provided an estimated cost sheet for this project. Town Administrator Brown explained what is currently in the budget and that there

could be modifications. There are funds available that were earmarked for downtown improvements.

Town staff will bring a contract before the Town Board for the design and specifications.

INFORMATIONAL AGENDA

Town Attorney Fickel updated the Town Board of the issue with the complaint to the Burnout Grill regarding noise. A memo was sent to the complainant and they were satisfied with what was written in the memo.

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 8:42 P.M.

Prepared by:

Cheryl Powell, Town Clerk

Approved by:

Milt Tokunaga, Mayor