

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

MEETING MINUTES

Wednesday, February 26, 2014 – 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, February 26, 2014 at 7:00 p.m. Those present: Mayor Milt Tokunaga, Mayor Pro Tem Julie Cozad; Trustees: Linda Beck, Reid Hobler, Jordan Jemiola, Linda Measner and Lois Ann Onorato. Also present: Town Administrator/Police Chief Jim Burack, Town Clerk Cheryl Powell, Treasurer & Accounting/Finance Director Patrick Murphy, Community Development Director Anne Johnson, Public Works Director Jason Fowler, Parks and Outdoors Director Josh Roseberry, Community Engagement Specialist Sandy Freeo and Town Attorney Bruce Fickel. Absent: Assistant Town Attorney Sunita Sharma.

Pledge of Allegiance

Mayor Tokunaga called the meeting to order.

Agenda Approval

Town Clerk Powell requested to add an informational item to the Agenda.

Citizen Comments

Community Development Director Anne Johnson introduced members of Evergreen Skateparks Catherine and Billy Coulon, owners of Evergreen Skateparks introduced themselves and another member of their group to the Town Board. They have rented a house in Milliken and are planning on being in Town until the end of May.

Jim Gardner commented that the Town has an ordinance that states that only a manufactured home can replace a mobile home in the Mobile Home Parks. Mr. Gardner said that this ordinance was intended to pertain to other areas of Town, not the Mobile Home Parks.

A special permit is not needed to bring in a mobile home, and it does not specify that it needs to be placed on a permanent foundation. Mr. Gardner reiterated that this only pertained to areas outside of the Mobile

Home Parks.

Mayor Tokunaga indicated that the ordinance will need to be reviewed. Russ Weber, with SAFEbuilt, explained that Rick Hanger, of DOLA, explained at the last Planning Commission meeting, that any mobile home manufactured after 1976 is called a Manufactured Home. Director Johnson explained that the definitions in the Town's Code do not mirror the State's definitions. She explained that the Planning Commission is currently reviewing these items and that there are two (2) more Work Sessions that will be held with the Planning Commission to review the Town's Code on area's pertaining to the Town's Mobile Home Parks. There was discussion regarding non-conforming uses. Mr. Gardner explained that if the Mobile Home Parks are not able to bring in mobile homes, the Town will lose 46 families that pay taxes, shop in Town and whose children attend local schools.

Trustee Hobler indicated that this is the reason why Planning Commission is discussing this and there should be answers within the next month or two. Mr. Gardner explained that there were stick-built homes on Cherry Street that flooded and they were immediately allowed back into their homes, but those in the mobile home parks could not go back into their homes for a month, which caused damage to the mobile homes. Russ Weber explained that a new mobile home can be brought in to replace one that was destroyed. Mr. Gardner explained that Tim Solomon was told that he needed to change the elevation in his mobile home park which needs to be compacted and inspected by an engineer. Russ Weber explained that the Town is not asking for changes in elevation.

Trustee Jemiola asked Russ Weber the difference is between a manufactured home and a mobile home. Trustee Jemiola asked for this to be placed on the Discussion Agenda.

Parks and Outdoors Director Josh Roseberry thanked the Town Board, staff and others for attending the services of his deceased Father.

Minutes of Previous Meeting

- January 22, 2014

Minutes approved as distributed.

Acknowledgement of the Paid List of Bills

February 2014 List of Bills

Trustee Measner asked about the payment to Wells Fargo Bank for a CWRPDA loan in the amount of \$205,491.03 was for. Director Murphy explained that it was a payment for the Town's loan on the sewer plant.

Trustee Hobler asked about the \$ 1,016.28 paid to the Johnstown Breeze. Staff explained that this amount was for publishing of ordinances, RFP's, the list of bills, etc.

Trustee Onorato asked about the bill to Lawrence, Jones, Custer & Grammick, LLP. Town Administrator Burack explained that this was for the Water attorneys who are doing the application to the state for the refresh wells.

CONSENT AGENDA

1. Intergovernmental Agreement (IGA) with Weld County to Retain the Professional Services of Bill Jerke

To review and consider for approval an IGA with Weld County engaging the professional services of Mr. Bill Jerke to provide consulting services to improve compliance by energy sector employers with the provision for providing accurate employee residency data to the Colorado Department of Local Affairs to generate additional revenue to the Town.

Pat Murphy, Finance Director

2. Consideration and Approval of Resolution 14-08, Establishing the BOOST (Building on Our Strengths and Traditions) Committee

To review and consider for approval Resolution 14-08, establishing the Town of Milliken "BOOST Committee" a task force and long-term recovery committee.

Sandy Freeo, Community Engagement Specialist

3. Consideration and Approval of Resolution 14-09, Updating Fees Charged for Cash-in-Lieu of Raw Water Units

To adopt a new, more responsive methodology for determining a fair and reasonable fee for Cash-in-Lieu of Colorado-Big Thompson (C-BT) Raw Water Units for the Town.

Pat Murphy, Finance Director

Trustee Hobler moved to approve the Consent Agenda. Mayor Pro Tem Cozad seconded.

Discussion: None.

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

Mr. Jim Lohr, owner of Copperleaf Home Builders, explained to the Town Board that he was looking into buying six (6) lots in the Centennial Farms Subdivision and since the raw water cash-in-lieu rate has been increased to \$24,000, he will not be able to build an affordable home. This will add a substantial amount to the cost of a new home, which a first time home buyer will not be able to afford. Mayor Pro Tem Cozad asked Mr. Lohr if he knew the current cost of Colorado–Big Thompson (CBT) water. She explained that the Town would be losing money at the old rate. She also explained that he could go out on the market to look for shares of water. It was explained that if there are certificates on those properties he would not have to purchase any or pay the cash-in-lieu amount. The Town needs to purchase water shares at whatever the market cost is.

ACTION AGENDA

1. Public Hearing on and Consideration of Approval of Ordinance 692, Adopting-by-Reference the 2012 International Fire Code

Town Attorney Fickel explained to the Town Board that due to a posting of notice requirement, approval of Ordinance 692, repealing the Town's 1997 Uniform Fire Code and adopting the 2012 International Fire Code be continued until the March 12, 2014 Town Board meeting.

Public Hearing opened at 7:47

Jim Gardner asked if this new fire code required the CO2 detectors in establishments. Town Clerk Powell explained that Fire Marshal Prather will be in attendance on March 12th and will be able to answer. Trustee Measner indicated that perhaps Mr. Gardner is speaking of Carbon Monoxide (CO) Detectors.

Mayor Pro Tem Cozad moved to continue the Public Hearing on Ordinance 692 until the March 12, 2014 Town Board meeting. Trustee Hobler seconded.

Discussion: None.

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

2. Public Hearing and Consideration of Approval for a Variance Request to Allow a Painted Fence and Arbor at the Heritage House

Community Development Director Anne Johnson asked the Town Board to consider for approval a request from the Town of Milliken for a Variance to allow a painted fence and arbor at the Heritage House, located at 102 N. Grace Avenue, in compliance with the Downtown Design Guidelines. Director Johnson explained that this variance request was brought to and approved by the Planning Commission on Wednesday, February 19, 2014.

Public hearing Opened at 7:52 P.M.

Trustee Jemiola indicated that he is not in favor of a painted fence. Director Johnson explained that the deck railing on the house is already painted white and it would give a more cohesive look. Mayor Pro Tem Cozad asked why couldn't the fence be stained and sealed. Director Johnson explained that the Britina plan for this area, indicated the painting of the fence and gazebos. Mayor Pro Tem Cozad mentioned that if there were code requirements regarding maintenance of a painted fence she would consider the request. The variance request indicates a self-imposed hardship, which would not be the case if the fence were stained and not painted. She indicated that the Town should follow the code and perhaps request the Planning Commission to re-evaluate the current code.

Trustee Beck asked if the painted fence fits into the era during the time the house was erected. Director Johnson indicated it did.

Trustee Measner explained that the Town Code does not allow for painted fences. If someone else in Town came in they would have to pay a \$150.00 application fee and go through all the other requirements of obtaining a variance.

Discussion from the Board ensued, focused on reviewing the current code and perhaps changing the code.

Mr. Jim Gardner asked if there is not another type of fence that could be used that is already white.

Trustee Hobler likes white picket fences, but understands the Town's code and explained that every 2-3 years, whether you stain it or paint it there will be maintenance.

Mayor Pro Tem Cozad would be in support of the Variance but suggested that the Code needs to be sent back to the Planning Commission for review and consideration.

Trustee Onorato explained that in the past there have been painted fences that were not maintained which is why the code was changed.

Public Hearing Closed at: 8:10 P.M.

Trustee Jemiola motioned to deny approval for a Variance to allow a painted picket fence and arbors and does not find it is consistent with the variance approval criteria as found in 16-3-520(j)(2). Mayor Pro Tem Cozad seconded.

Discussion: Trustee Hobler reiterated that if you look at the house, and its history, a white picket fence would fit the era of the house. He does not think the code should be changed. If someone would like to paint their fence, they can apply for a variance.

Mayor Pro Tem Cozad says it needs to meet all the variance criteria, and believes the hardship was self-imposed. There are other items, such as a setback requirement that is not self-imposed.

Mayor Tokunaga asked if the fence has been purchased. Director Johnson responded that the fence has been purchased and a Senior Advisory Class from Fort Collins has volunteered to either paint or stain the fence.

Planning Commissioner Vice-Chair Woodcock explained to the Town Board that the Commission was in favor of the painted fence and indicated to the Town Board that they plan on reviewing the current Code regarding painted fences. Director Johnson explained that it can be brought to the Planning Commission for their review of the code.

Trustee Beck is in favor of the white fence and believes that the current Code needs to be reviewed and perhaps revised.

Trustee Measner believes that the Code can be revised to indicate paint colors that would be advisable.

Vote: Mayor Pro Tem Cozad, Trustee's Onorato, Jemiola and Measner in favor. Trustee's Hobler and Beck opposed. Motion carried.

3. Consideration and Approval of an Appraisal Expenditure for Properties Located in Flooded Areas

Community Engagement Specialist Sandy Freeo asked the Town Board to review and consider for approval a bid proposal for the appraisal of the Evergreen and Martin Mobile Home Parks according to the requirements of the Hazard Mitigation Grant Program. Town Attorney Fickel indicated that he has spoken to the property owner's attorneys and their clients are aware of this and would like to know what the results are of the appraisal before they can decide what they are going to do.

Mayor Pro Tem Cozad moved to authorize the Town to accept the bid from Front Range AG Appraisal for \$10,000, and direct the Town Administrator to sign the contract. Trustee Onorato seconded.

Discussion: None.

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

DISCUSSION AGENDA

1. The Town of Milliken's Definition of Mobile Homes and Manufactured Homes

Town Attorney Fickel explained that the State has determined that manufactured homes are the subject of statewide concern. The definitions have been established in the state statute, and the Town is not allowed to change them. The State is the one who set the standards. There are two kinds of manufactured homes, the modular home and the home that has wheels on it. Modular and Manufactured can be used interchangeably.

Trustee Jemiola asked about the Town's definition since there is confusion between the citizens and staff. Town Attorney Fickel read to the Town Board the definitions in the Town's code. The Mobile Home Community District says the home cannot be less than 24 feet in width and not less than 36 feet in length and it also must be set on an excavated backfilled engineered foundation enclosed at the perimeter. Attorney Fickel read the remaining requirements listed in the Town's Code. The Town currently allows manufactured homes or modular homes and the Code would need to be changed to allow homes on wheels.

Discussion was in regard to the emergency ordinance that was passed by the Town Board which allows any of the destroyed/damaged mobile homes to be replaced by a mobile home. Any of the lots that were vacant prior to the flood cannot have a mobile home placed on them.

Mr. Gardner indicated that this sounds like a taking. He spoke about the mobile home on Broad Street. Once you take the residence out, it cannot go back to being a residence. Mr. Gardner feels that if that should happen, the Town has taken his rights away and needs to compensate him for this. Town Attorney Fickel responded that the Town is able to establish standards. Mr. Fickel explained that if the property owner came to the Board and requested a variance on such a property, this would not be considered a self-imposed hardship. Mr. Fickel explained the definition of a taking.

Mr. Solomon indicated that he understands the emergency ordinance and has homes moving into his Mobile Home Park. Mr. Solomon also explained his understanding of the home definitions.

INFORMATIONAL AGENDA

Announcement

Mayor Tokunaga announced that the Town Board recommends Mr. Ron Blackmer as the person who will fill the vacancy on the Planning Commission. A formal vote and the swearing-in will take place at the March 12, 2014 meeting.

Executive Session

The time is 8:39 p.m

Mayor Pro Tem Cozad moved to go into Executive Session C.R.S. 26-6-402(4)(e), for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators . Trustee Hobler seconded.

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

The executive session ended at: 9:44 p.m.

Resumed the Regular meeting at 9:44 p.m.

Updates on Staff Assignments

Other Business

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

Adjournment

Hearing no further business, the Mayor adjourned the meeting at 9:45 P.M.

Prepared by:


Cheryl L. Powell, Town Clerk

Approved by:


Milt Tokunaga, Mayor