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

MEETING MINUTES

Wednesday, August 26, 2015 – 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, August 26, 2015 at 7:00 p.m. Those present: Mayor Milt Tokunaga, 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 and Town Attorney Bruce Fickel. Absent: Mayor Pro Tem Linda Measner

Pledge of Allegiance

Mayor Tokunaga called the meeting to order.

Roll Call

Trustee's: Ehrlich, Onorato, Jemiola, Mayor Tokunaga, Trustee Beck and Trustee Kidd.

Agenda Approval

Town Administrator Brown indicated that Staff had no changes to the Agenda. Trustee Jemiola requested to move Action Agenda Item #3 to the Consent Agenda. There were not any objections from the Trustees.

Trustee Kidd would like to add a personnel item to the Discussion Agenda.

Mayor Tokunaga would like to add a comment during the Discussion Agenda regarding the Strategic Planning meeting with Kathie Novak.

Citizen Comments

Mr. Ron Grider, who resides at 153 W. Juneberry, Milliken, asked the Town Board for a follow-up regarding the business that is in operation next door to his home. Town Attorney Fickel responded by saying that he sent both businesses operating repair shops in a Residential Zoned area in Town a letter and let them know that they are operating their businesses illegally. The business owners can

request the Town Board to change the ordinance, to allow the businesses to continue. Mr. Fickel asked both Mr. Ortiz and Mr. Wakeman to attend tonight's meeting to speak to the Town Board.

Trustee Jemiola spoke about the lack of commercial or industrial areas in Town that could be used as business incubators. These type of start-up businesses end up being in garages. There are auto repair, auto body businesses, etc. that are occurring in residents garages. Trustee Jemiola feels that the code regarding home based businesses needs to be changed with special consideration to hours of operation, neighbors should not be disturbed by a home based business.

Andrea Grider who resides at 153 W. Juneberry, Milliken, spoke to the Town Board in regard to Mr. Wakeman's business indicating that he has operated a business at his residence and it has not bothered them. She spoke about her neighbor, Mr. Ortiz, indicating that the noise that exists, due to the revving of Jet Ski's and the amount of traffic that is occurring on her street and feels that it is out of control. Ms. Grider works from home for a business based in Denver. When she is on the phone for her job, there is the background noise of revved Jet Ski engines due to this business next door to her home.

Mayor Tokunaga indicated that staff is working on this issue and that if there any changes, it will proceed through the Planning and Zoning Commission and then proceed to the Town Board.

Mr. Mario Ortiz, who resides at 183 W. Juneberry, Milliken, spoke to the Town Board indicating that prior to receiving his license he might have been out of compliance with the Town's ordinance. Since receiving his license, he has reviewed the Code and is doing his best to be in compliance. Code Enforcement Officer Ehrlich spoke to Mr. Ortiz and he has made the suggested changes that she has recommended. He quit the job position he was at after he received his Business License with the Town and if his license is pulled now, he would be out of house and home. Trustee Jemiola encouraged these types of home businesses to work with their neighbors and to be respectful of their needs.

Trustee Onorato would not like a business such as that next door to her due to possible reduction in her homes value.

Trustee Kidd asked why Mr. Wakeman's business was being brought up. Town Attorney Fickel explained that Mr. Wakeman has been operating a transmission repair shop at his residence.

Trustee Kidd asked if someone had been issued a business license and is now being shut down. Town Attorney Fickel explained that a business license is just an indicator that someone is operating a business out of their home, but the current code does not allow this type of business in a residential neighborhood.

Joe Kuntz with Mountain Constructors addressed the Town Board letting them know that there will be a road closure on State Highway 257 while repairs are made to the bridge that crosses the Big Thompson River. The work is scheduled to commence on September 14th and remain closed until October 9th. Mr. Kuntz said that message boards will be setup two (2) weeks prior to the closure and the detours will be posted. Mr. Kuntz also handed out pamphlets indicating this information.

Minutes of Previous Meeting

Approved as distributed.

Acknowledgement of the Paid List of Bills

August 2015 List of Bills.

Accepted as presented.

Trustee Onorato asked about the payment to Kinsley Battery and why the battery wasn't purchased at the local auto parts store. Accounting Technician Diller was not sure why this battery was not bought at the local auto parts store.

CONSENT AGENDA

Consideration and Approval of the Milliken Field House Development Agreement

Town Board to consider and approve a development agreement with Thompson Rivers Parks and Recreation District (TRPR), the property owner, for the construction of a 21,607 square foot building with soccer fields for the Milliken Field House or Athletic Complex in Milliken. The Town Board reviewed and approved the final Milliken Field House plat in a public hearing on May 27, 2015. The site plan consists of approximately 13.194 acres and is zoned R-1, "Single Family Residential".

Trustee Ehrlich moved to accept the consent agenda. Trustee Onorato seconded.

Discussion: None.

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

ACTION AGENDA

1. **Public Hearing and Consideration and Approval Ordinance 717, an Ordinance Adopting the Town of Milliken Official Zoning Map**

Mayor Tokunaga explained the public hearing procedures.

Public Hearing Opened at: 7:28

Community Development Director Martha Perkins asked the Town Board for consideration and approval of ordinance 717, adopting the Official Zoning Map of the Town of Milliken. She explained that the last adoption of the Official Zoning Map was through Ordinance 569, which went into effect in January 2008. Since that time, there have been several annexations and zonings that have occurred since the last adoption.

Director Perkins explained that both she and the Town's contract GIS person have both reviewed the maps and the coinciding ordinances for content. Director Perkins presented the map and explained the different zoning districts.

Trustee Kidd asked if the zoning map change was due to the annexations that have been added along with their zoning. Perkins replied yes.

Trustee Jemiola asked about the C-5 zoning district and where would that be located. Perkins said the applicant would apply for a C-5 zoning and this zoning change would follow the current land use process and would go before the Planning Commission and then the Town Trustees.

Trustee Jemiola asked if the C-5 zoning could be discussed during a Work Session. Town Administrator Brown responded yes.

Mayor Tokunaga asked if a C-5 zone would be allowed within a Mixed Use Zoning District. Perkins replied no.

Public Hearing Closed at: 7:45 p.m.

Trustee Beck 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) and approves Ordinance 717 " An Ordinance of the Town of Milliken adopting the Town of Milliken Official Zoning Map" in Weld County, Colorado. Trustee Jemiola seconded.

Discussion: None.

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

2. **Consideration and Approval of an Memorandum of Understanding (MOU) with Mark and Robin Spaur**

Town Attorney Bruce Fickel asked the Town Board to consider for approval an MOU with Mark and Robin Spaur. The Spaurs will donate and convey to the Town a 15 foot strip of land adjacent to and south of the existing 30 foot right-of-way of Weld County Road 46 ½ and convey a 30 foot temporary construction easement adjacent to and south of the dedicated 15 foot strip of land. Both of these are needed for the construction of the proposed trail and are included in Exhibit "A", the Trail and Exhibit "B", the Temporary Construction Easement. Attorney Fickel explained it is similar to the MOU that was recently accomplished with the Purvis Family. This area is a requirement of the Colorado Department of Transportation (CDOT) in order to construct the Milliken-Johnstown Trail. The Town's payment to the Spaurs for crop damage is the MOU of $4,000 is included in the construction costs for the Milliken-Johnstown Trail. Other items related to the security concerns will be paid during the construction of the trail which includes a section of fencing, security cameras and lighting. The costs for the annexation of the Spaur property identified will be the Town's responsibility.

Trustee Jemiola asked if this MOU will allow the Town to begin the construction process on the Trail. Town Administrator Brown replied that all the obstacles will have been removed, but it will still need to be reviewed by CDOT. Brown indicated that there is one more crossing the Town is waiting for approval on and that it is with the Binder Family.

Trustee Jemiola moved to approve the Memorandum of Understanding between the Town of Milliken, Colorado and Mark and Robin Spaur and authorize the Mayor to execute on behalf of the Town. Trustee Ehrlich seconded.

Discussion: None.

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

Town Attorney responded that this property is a donation to the Town, it is not an easement. The Town will own the property.

3. **Consideration and Adoption of Ordinance 718, an Ordinance Setting the Ballot Title and Ballot Question for the November 3, 2015 Election**

Town Administrator Kent Brown asked the Town Board for consideration and adoption of Ordinance 718 to set the ballot title and ballot language necessary to pursue a 1% increase in the Town of Milliken sales and use taxes to be placed on the ballot at the November 3, 2015 election. This discussion has been on-going. The Town is heavily dependent on oil and gas revenue valuation. This would create a more solid revenue source for the Town.

Administrator Brown explained that currently Milliken's sales tax rate is among the lowest for all Weld County cities and similar size cities statewide. Without the stoplight our tax rate will be equal to or the lowest in the County. The residents are already shopping in other municipalities and paying those higher rates elsewhere. He spoke of the Field House and the additional traffic that will be coming through Town which would benefit the residents here with the increased sales tax amount. This ordinance will place this language on the ballot. He spoke of the discussion with the Town Board and where this additional tax amount will be applied pursuant to the request of the Town Board.

Trustee Jemiola asked if this amount could be used against debt reduction such as the Field House. The Capital Improvement Funds throws these funds into a pool and if the vast majority of residents may not understand. Town Administrator Brown spoke about Ft. Collins and how they are limited with what they can use their funds for due to their language in the ballot. Brown indicated that most of the language within ballots speak of Capital Improvements in a whole, most cities have kept these within a few categories and with a sunset, such as this ballot language. This language will not limit the flexibility that the Town Board has with these additional funds.

Administrator Brown explained that 1% of sales tax is approximately $175,000 per year, the use tax is toward car purchase will increase to approximately $250,000. This sales tax increase will not increase the Town's budget in a substantial way in order to provide a major impact on the cost of street repairs, etc., but it will certainly help the Town accomplish a few more of these items.

Trustee Beck moved to approve Ordinance 718, an Ordinance of the Town of Milliken, Weld County, Colorado setting the ballot title and ballot question referred to in this ordinance at an election to be held November 3, 2015, providing the effective date of this ordinance, and setting for the details in relation to the sales and use tax rate for the Town of Milliken. Trustee Onorato seconded.

Discussion: None.

Vote: Trustee's Ehrlich, Onorato, Beck and Kidd and Mayor Tokunaga in favor. Trustee Jemiola opposed. Motion passed.

4. **Consideration and Adoption of Ordinance 719 and 720, Ordinances Placing Questions on the November 3, 2015 Ballot**

Town Attorney Bruce Fickel asked the Town Board to consider for approval Ordinance 719, regarding marijuana cultivation, establishments for retail sales and other facilities. There are many state restrictions on the sale of both Medical and Retail sales. There is also all of the Town's Codes and regulations, the re-zoning and the Use by Special Review process that would need to be addressed.

This gives the Town Board the flexibility to look at each of these types of facilities on a case by case basis.

Trustee Ehrlich asked if the increase in sales tax or use tax apply to these. Attorney Fickel indicated it would be the sales tax and the additional occupational tax, if that is approved by the voters.

Attorney Fickel indicated that the second ordinance, Ordinance 720 is regarding an occupational tax for the business transactions. This tax takes place per transaction at these establishments/facilities.

Trustee Onorato moved to approve Ordinance 719 and Ordinance 720, regarding the proposed questions as presented for the November 3, 2015 ballot in order for the electors of the Town to determine their desires at the November 3, 2015 election, for the establishment or operation of any medical or recreation marijuana businesses that sell, cultivate, manufacture, prepare, package, purchase, test or otherwise provide for or allow for the use of marijuana or marijuana products and the occupational tax associated with these business activities. Trustee Beck seconded.

Discussion: None.

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

5. **Consideration and Approval of an Agreement for Legal Services of Town Attorney for the Town of Milliken**

Administrator Brown asked for the Town Board to consider for approval an agreement between the Town of Milliken and Widner Michow & Cox LLP to provide legal services for the Town of Milliken.

Town Attorney Fickel who has reviewed the agreement spoke about the contract and that the changes he recommended have been made with the exception of the mileage to and from Milliken. He indicated that information regarding the firms malpractice and workers comp insurance along with their liability insurance for their vehicles will be forthcoming.

Trustee Kidd moved to approve the agreement between Widner Michow & Cox, LLP and the Town of Milliken to provide legal services for the Town of Milliken. Trustee Onorato seconded.

Discussion: None.

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

DISCUSSION AGENDA

Strategic Planning Session

Summary from Kathie Novak regarding the Strategic Session. Mayor asked Administrator Brown to send the draft document from Ms. Novak to the Trustees for their review.

Presentation

The Town Board Presented Town Attorney Bruce Fickel a plaque commemorating his many years of service to the Town Board and the residents of Milliken and thanked him for his service.

Personnel Issue

Trustee Kidd spoke of Mr. Hyberger who has worked as the Town's Community Engagement Specialist/Planner through a grant obtained through the Office of Emergency Management and the Department of Local Affairs. He would like to direct staff to place this position in next year's budget as a funded position.

INFORMATIONAL AGENDA

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 8:29 P.M.

Prepared by:

Cheryl L. Powell, Town Clerk

Approved by:

Milt Tokunaga, Mayor