

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

MEETING MINUTES

Wednesday, May 11, 2011 - 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, May 11, 2011 at 7:00 p.m. Those present: Mayor Janie Lichtfuss, Mayor Pro Tem Julie Cozad. Trustees: Bob Carnahan, Ted Chavez, Doug Kehr and Peggy Wakeman. Also present: Town Administrator/Chief of Police Jim Burack, Town Attorney Bruce Fickel, Community Development Director Steve House, Finance Director Mitzi McCoy, Co-Clerk Cheryl Powell, Co-Clerk Betty Rangel and Public Works Director Mike Woodruff.

Pledge of Allegiance

Mayor Lichtfuss called the meeting to order.

Agenda Approval

Town Administrator Jim Burack responded there were no staff additions or deletions to the agenda.

Citizens Comments

None.

Minutes of Previous Meeting – April 27, 2011 meeting.

Minutes approved as distributed.

CONSENT AGENDA

1. List of Bills

List of Bills for May 11, 2011.

Trustee Chavez moved to approve the consent agenda. Trustee Kehr seconded the motion.

Mayor Pro Tem Cozad recused herself from voting since there was a

payment on the list to Tetra Tech where she is employed.

Vote: All in favor, none opposed.

ACTION AGENDA

1. Second Reading and Public Hearing for Consideration of an Amendment to Milliken Municipal Code Chapter 10, Article VI, Section 10-6-200, Residential Solicitation

Town Administrator Burack asked the Town Board to consider a revision to Milliken Municipal Code § 10-6-200, Residential Solicitation, that would allow commercial door-to-door solicitation by solicitors who have obtained an annual permit and identification badge issued by the Town. Town Administrator Burack explained this is a solution that would allow reputable local businesses to receive licensing to solicit after a criminal background check is conducted. This will be done to ensure the public safety of residents in town.

Public Hearing opened at 7:09 P.M.

Mr. Jim Anthony, 721 Stagecoach Drive, Milliken had a concern with section (d) on Ordinance # 646 regarding the hours of solicitation beginning at 8:00 a.m. He believes this is too early and 9:00 a.m. would be better. He also explained that many families are getting children ready for bed at 8:00 p.m. and 7:30 p.m. would be a more reasonable time to end solicitation to residences. Mr. Anthony also explained that he personally does not like solicitation on Sundays but if there is to be solicitation on Sundays the afternoon would be more acceptable.

Mrs. Colleen Anthony, 721 Stagecoach Drive, Milliken asked how this ordinance differs from the one currently in place. Town Administrator Burack responded that the current ordinance prohibits any solicitation. The amended ordinance would allow solicitation by reputable businesses after a licensing application is completed, a criminal background check is conducted by the Clerk's staff and individual is provided with a Town-issued identification. The cost to each individual solicitor will be \$25.00 to cover the cost of staff time, background check and identification materials. Mrs. Anthony asked the length of time the permit would be valid and if they could solicit each day of the week, and if solicitors fell outside the ordinance guidelines should citizens inform the police to file a complaint. Mrs. Anthony also asked if the solicitor would be required to show his solicitor license when a residence is contacted. Town Administrator Burack responded the permit will be valid for a year and they could solicit each day. The police should be contacted if a solicitor falls

outside the guidelines and the solicitors permit should be displayed when a residence is contacted. Town Administrator Burack also explained that the solicitors will be encouraged to wear a uniform displaying the company they are soliciting for. He further explained that those who will be soliciting are mainly local business, to include reputable businesses such as Open Range Communications.

Trustee Kehr asked for clarification on whether solicitors are able to conduct sales transactions or not. Town Administrator Burack responded they would be able to conduct sales.

Public Hearing closed at 7:17 P.M.

Mayor Pro Tem Cozad moved to approve Ordinance # 646 with a change to section (d) from the hours of 8:00 a.m. to 9:00 a.m., 8:00 p.m. to 7:30 p.m. or one half hour after sunset and Sunday's solicitation hours changed to noon until 5:00 p.m. Trustee Carnahan seconded.

Trustee Carnahan asked if a residence does not want solicitation and has a "no solicitation" sign displayed this will continue to supersede the ordinance. Town Administrator Burack responded that restriction applies to all solicitors whether they are religious, philanthropic, educational or commercial as stated in 10-6-200 (b) of the ordinance.

Vote: All in favor, none opposed.

2. Consideration and Approval of the Safe Routes to School Professional Services Contract with Ketterling, Butherus & Norton (KBN) Engineers, Inc.

Community Project Manager Rinebarger asked the Town Board to approve the Professional Services Contract with KBN Engineers, Inc. for the purpose of providing preliminary and final designs for the sidewalks and signage as part of the Safe Routes to School Grant as outlined in RFP 2011-SRTS.

Community Project Manager Rinebarger explained the selection process and informed the Town Board that nine (9) proposals had been received for the project. The contract with KBN for design services is in the amount of \$18,900 which will be reimbursed by the Colorado Department of Transportation (CDOT). KBN Engineers estimated the design portion of the project will take approximately ten (10) weeks and that the Town should be able to bid for construction by mid July.

Trustee Wakeman questioned language in the KBN contract where Section II, paragraph (a) second sentence stated "PS shall comply". Project Manager Rinebarger explained this as a clerical error and "PS" should be "KBN".

Trustee Wakeman noticed a grammatical error in paragraph IV that also needed to be corrected.

Mr. Mike Ketterling of KBN Engineering located at 820 H. Street, Greeley, CO expressed to the Town Board they are thrilled to be doing work for the Town. .

Mayor Pro Tem Cozad asked Mr. Ketterling if KBN or the Town will be calling in for locates on existing utilities. Mr. Ketterling explained that the field survey work has already been completed and he does not anticipate a problem with underground utilities since they will be digging 6-8 inches below the surface. Mr. Ketterling will identify any utilities that may create a potential problem and call the utility company's accordingly. Mayor Pro Tem Cozad stated her concern about finding utilities in the field and the potential expense. Mr. Ketterling explained that the Town has franchise agreements with the utility companies and if any are found to be in the way of the project the utility company will relocate the utility.

Mayor Pro Tem Cozad inquired about the cost of printing of the plans since this amount was not included in KBN's proposal. Mike Ketterling explained the largest cost for printing will be for CDOT and that CDOT generally requests ten (10) copies for the FIR/FOR meeting. Mr. Ketterling estimates the cost to be approximately \$200. Mayor Pro Tem Cozad asked about construction management of the project and thought it is important for the engineer to be on site. Mike Ketterling explained that his understanding is Town staff will do the management and he agrees with Mayor Pro Tem Cozad that an engineer should be on site especially at the beginning of the project. Mayor Pro Tem Cozad asked if CDOT would reimburse the town for construction management costs. Project Manager Rinebarger explained that the town would need to ask for a waiver from CDOT. Mayor Pro Tem Cozad asked what the cost would be for construction management. Mike Ketterling responded that the costs would be approximately \$7,000.

Mayor Pro Tem Cozad asked who is managing the Safes Routes project. Project Manager Rinebarger responded that she is along with Public Works Director Mike Woodruff and Town Administrator Burack. Town Administrator Burack explained that Project Manager Rinebarger has attended all the required CDOT training. He also explained that the Safe Routes grant amount of \$110,000 has been primarily earmarked for the construction portion of the project and staff is trying to manage the grant money. Mayor Pro Tem Cozad explained that sometimes construction projects go awry and end up costing more money and she would rather spend some of the town's funds to avoid potential construction problems.

Trustee Kehr moved to approve the professional services contract with KBN Engineers for the purpose of preliminary and final design for the sidewalks and signage as part of the Safe Routes to School Grant as outlined in RFP

2011-SRTS. Mayor Pro Tem Cozad seconded the motion.

Trustee Wakeman agrees with Mayor Pro Tem Cozad with regard to spending some town funds to ensure the proper construction management on the Safe Routes to School project.

Vote: All in favor, none opposed.

3. Consideration and Approval of Resolution 11-07, a Resolution Appropriating Funds for the Purchase of a New Police Vehicle for the Police Department.

Town Administrator/Police Chief Burack asked the Town Board to consider for approval a resolution supporting the appropriation of funds for the purchase of a new police vehicle as part of the fleet replacement plan. He explained there is a slight modification increase in the lease payment since the vehicle being purchased is a 2011 four wheel drive Ford Expedition which is a more suitable vehicle vice the budgeted Crown Victoria, to perform the oil and gas safety and security check for which the Town is compensated. Town Administrator Burack also made reference to the police vehicle unit mileage sheets that were included in the Town Boards packets. The annual charge would be \$8,250 which exceeds the 2011 budgeted amount of \$7,000.

Trustee Carnahan asked if staff didn't realize that it would cost \$7,000 to outfit the vehicle. Town Administrator Burack explained the initial projected cost was on a Crown Victoria and not on an Expedition. The base cost of the Expedition is \$29,000 and it is paid for over the course of four (4) years. Town Administrator Burack further explained that he probably underestimated the cost when preparing the 2011 budget figure, but there still would have been a difference in cost between outfitting a Crown Victoria and an Expedition. Some of the equipment in the retired Crown Victoria would have been transferred to a new Crown Victoria which would have saved some costs. The Town also received a \$10,000 no match Local Law Enforcement Block Grant which will help purchase a new computer for the Expedition.

Trustee Wakeman asked what year the vehicle is that is being taking out of service. Town Administrator Burack responded that police unit #3 was a 2001. The vehicle is no longer operational and it was sold to Lee's Auto Auction.

Mayor Pro Tem Cozad asked if this type of vehicle would be used to perform oil and gas safety and security check fees and if the Town is anticipating the receipt of additional revenue. Town Attorney Bruce Fickel indicated yes.

Trustee Chavez asked if the vehicle had to be a Ford Expedition and would a different vehicle such as a Jeep Liberty be able to conduct this service. Town

Administrator Burack explained that having a single make of police vehicle is preferable and Jeep is not a typical supplier of police fleet vehicles.

Trustee Wakeman asked if there is a warranty above and beyond a typical vehicle since it is a police vehicle. Public Works Director Mike Woodruff responded that the vehicle should have a five (5) year, 100,000 mile power-train warranty.

Mayor Pro Tem Cozad moved to approve Resolution 11-07 to appropriate funds for the purchase of a new police vehicle for the Milliken Police Department. Trustee Chavez seconded.

Discussion: Mayor Pro Tem explained that her direction would be to not to exceed the \$8,250 with an additional approximate amount of \$7,000 for the vehicle build out. Potential oil and gas revenues for the Town from the safety and security check fees should cover the additional cost of the vehicle.

Vote: Mayor Lichtfuss, Mayor Pro Tem Cozad, Trustees Chavez, Kehr and Wakeman In favor. Trustee Carnahan opposed. Motion carried.

4. Consideration and Approval of Accounts Receivable Corrections

Finance Director McCoy asked the Board to consider for approval an adjustment to the accounts receivables in order to accurately reflect the receivables of the Town of Milliken on the Town's financial statements.

Trustee Wakeman asked with regard to the adjusting entries and wanted it clarified that these amounts were for balances that have already been paid. Finance Director McCoy responded that is largely correct and went on to explain that the Bailey Homes permit was entered in the system twice. The payments from Sundance Homes and JD Custom Homes permits were entered into incorrect accounts. The other three (3) small amounts were deemed uncollectable for various reasons.

Trustee Wakeman moved to direct staff to write off the accounts receivable accounts detailed above that have been deemed uncollectible or were entered inaccurately. Trustee Chavez seconded.

Vote: All in favor, none opposed.

5. Consideration and Approval of Resolution 11-08, a Resolution Opposing the Transfer of Mail Carrier and Sorting Operations from the Milliken Post Office to the Johnstown Post Office

Director House asked the Board to approve a resolution in opposition to the transfer of all mail carrier and sorting operations from the Milliken Post Office

to the Johnstown Post Office. This resolution is in response to the U.S. Postal Service program to reduce operational costs. The U.S. Postal Service is going to transfer the mail carrier and sorting services to the Johnstown facility effective July 16, 2011. Director House went on to explain that this will hurt the downtown area and will have an impact on businesses due to fewer trips to the downtown area. Milliken needs a postal facility that will handle future growth in the area.

Trustee Kehr said that the Agenda Memorandum mentions that eventually the position of postmaster may be eliminated he asked if the Town knows for certain. Director House stated he did not know that for certain but he believes this is an attempt to reduce personnel costs.

Trustee Wakeman asked if there is any other plan of action opposing this proposal outside of adopting the resolution.

Town Administrator Burack explained that staff would contact the postal service in Denver and approach them as to why the town feels Milliken is not the appropriate location from which to remove services. Why would they want to save money on a town that is growing and is already in a cost effective location. The program suggests they will have a retail facility in town, but will eliminate all the back office services. Possibly a delegation of Board Members could approach the U.S. Postal Service and there are probably Senators, Congressman and Commissioners who could provide assistance to us.

Mayor Lichtfuss expressed that a public petition would also be helpful.

Trustee Chavez moved to approve Resolution 11-08 which is in opposition to the planned transfer of mail carrier and sorting operations from the Milliken Post Office to the Johnstown Post Office. Trustee Kehr seconded.

Discussion: Mayor Pro Tem Cozad suggested citizens contact the legislatures and County Commissioners, and possibly place a notice in the newspaper encouraging citizens who would like to protest the change in the Milliken Post Office facility.

Trustee Wakeman explained this is a perfect example of the importance of supporting local business in the community. If you value service in your community it's important to support those who have invested in the community.

Vote: All in favor, none opposed

6. **Consideration and Approval of a Memorandum of Understanding (MOU) and Settlement Agreement between the Town of Milliken and Noble Energy, Inc.**

Mayor Pro Tem Cozad recused herself since Noble Energy is a client of her employer.

Town Attorney Fickel asked the Board to consider approving a MOU concerning the security services provided by the Town's police department in connection with Noble's oil and gas operation areas within the Town's municipal boundaries.

Town Attorney Fickel explained that there is a change in the MOU agreement that the Town Board received in their packets. He said he spoke with Noble Energy's attorney and stated that in section D of the agreement it was not acceptable to the Town to base annual change in payment on the wells by an increment of more than ten percent (10%) from the current number of wells which is 39. He explained that the agreement will now be based annually on the actual number of well sites. This information will come from the State of Colorado, Colorado Oil and Gas Commission. Town Attorney Fickel further explained there may be a few refund checks to other oil and gas companies who have already paid the Town based on the new calculation of well sites.

Trustee Carnahan asked how long the agreement will be in force. Town Attorney Fickel responded that the agreement is in force for one year and renewed annually as stated in section 4 (B). He further explained that when the Town changes the ordinance it will address that if the Town has an MOU with the oil and gas company the cost is \$350.00 per well site and without the MOU the cost will be \$400.00 per well site.

Trustee Wakeman moved to approve the Memorandum of Understanding (MOU) and the settlement agreement between the Town of Milliken and Noble Energy, Inc. Trustee Carnahan seconded.

Vote: All in favor, none opposed.

Mayor Pro Tem Cozad moved to go into executive session according to C.R.S. §24-6-402(4)(f), to discuss personnel matters. Trustee Kehr seconded.

Vote: All in favor, none opposed.

Executive Session commenced at 8:06 p.m.

Executive Session

C.R.S. 24-6-402(4)(f), to discuss personnel matters (except if the employee who is the subject of the session has requested an open meeting or if the personnel matter involves more than one employee, and all of the employees have requested an open meeting). Personnel matters do not include discussion of other board members or appointment of elected or appointed officials or the Town's personnel policies;

Resume Regular Meeting

Mayor Lichtfuss stated: "The time is now 8:14 p.m. and the Executive Session has been concluded. If any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I ask that you state your concerns now."

There were no concerns.

DISCUSSION AGENDA

Trustee Applicant

Discussion among the Board was whether they would be able to appoint a new Trustee since it was not listed on the action agenda.

Town Attorney Bruce Fickel explained the purpose of having public notice of these meetings was to inform the public of what was on the agenda. He believes that the Board can act on naming an appointment since the public has been informed the interviews would be taking place today. Based on the posting of the agenda he deems that the Board had done their due diligence.

The Town Board discussed the six (6) applicants who applied for the vacant Trustee position and how the Board appreciated those that had applied. The discussion included how tough of a decision it is since all the applicants would be an asset to the Town Board.

Mayor Lichtfuss commended all applicants and in particular Reid Hobler and Craig Bacco for applying. She hopes they will all consider running in the April, 2012 election and she believes everyone had good reasons for applying for the Trustee position.

The result of the vote is as follows:

Vote: Lois Ann Onorato – Mayor Lichtfuss, Mayor Pro Tem Cozad and Trustee Carnahan.

Vote: Jim Anthony – Trustees Chavez and Kehr

Vote: Jordan Jemiola – Trustee Wakeman

Lois Ann Onorato is the new Trustee by the majority of the vote.

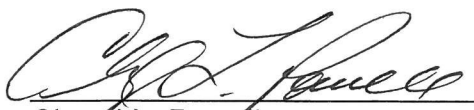
Trustee Chavez commended Public Works Director Mike Woodruff for the grading work performed on N. Dorothy Ave.

Town Attorney Fickel informed the Town Board there has been a small issue with the Coffee Shop. The Public Health Department said that a plan for more than 15 seats in the Library/Coffee Shop will require two bathrooms. Town Attorney Fickel amended the lease and they are now limited to fifteen (15) chairs for the coffee shop. If it ever becomes a problem we can ask the Public Health Department for a variance.


Adjournment

Hearing no further business, the Mayor adjourned the meeting at 8:37 p.m.

Prepared by:


Cheryl L. Powell,
Town Co-Clerk

Approved by:


L. Jane Lichtfuss, Mayor