

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

**MEETING MINUTES**

**Wednesday July 27, 2011 - 7:00 P.M.**

**Call to Order**

The Town of Milliken Board of Trustees convened a regular session on Wednesday, July 27, 2011 at 7:00 p.m. Those present: Mayor Janie Lichtfuss, Mayor Pro Tem Julie Cozad. Trustees: Bob Carnahan, Doug Kehr, Lois Ann Onorato and Peggy Wakeman. Also present: Town Administrator/Police Chief Jim Burack, Town Attorney Bruce Fickel, Community Development Director Steve House, Finance Director Mitzi McCoy, Co-Clerk Cheryl Powell and 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 to the agenda. The Town's auditors have requested that the presentation of the 2010 audit (Action item #1) be postponed until a future meeting. Trustee Wakeman requested an executive session for legal advice at the end of the action agenda.

**Citizens Comments**

None

**Minutes of Previous Meeting** – July 13, 2011 meeting.

Minutes approved as distributed.

**CONSENT AGENDA**

**1. List of Bills**

List of Bills for July 27, 2011.

**2. Renewal of Hotel and Restaurant License for El Mex-Kal Family Mexican Restaurant**

Laura Rangel of El Mex-Kal Family Mexican Restaurant has submitted the

renewal application and paid the required fees to renew the Hotel and Restaurant Liquor License for the period of August 26, 2011 until August 26, 2012.

Mayor Pro Tem Cozad moved to approve the consent agenda. Trustee Carnahan seconded the motion.

Vote: All in favor, none opposed.

## **ACTION AGENDA**

### **1. 2010 Audit Acceptance**

Each year the Financial Statements of the Town of Milliken are independently audited as required by Colorado statute. The Town Board approves those financial statements as audited and then forwards a copy of those statements to the State of Colorado.

Postponed until a future meeting.

### **2. Second Reading and Public Hearing for Consideration of an Amendment to Milliken Municipal Code Chapter 7, Article I Section 7-1-10 and an Addition to Milliken Municipal Code Chapter 7, Article II, Sections 7-2-160, Prairie Dogs**

Town Administrator/Police Chief Jim Burack asked the Town Board to consider a revision to the Milliken Municipal Code regulating the presence of prairie dogs on residential lots zoned R-1, R-2 and R-3 or residentially-designated PUD excluding parcels zoned R-1E. Town Administrator Burack explained the newest revision that was distributed in a red-line version to the Town Board during tonight's Work Session. The revisions indicate the changes that occurred after speaking to members of the Town Board and Public. The revision now includes residentially-designated PUD, excluding parcels zoned R-1E that are platted and upon which infrastructure, to include streets and all utilities, has been installed and one or more residences are occupied.

Town Administrator Burack used a map of the Town to illustrate the areas that will be included within the confines of this ordinance.

Public Hearing Opened at 7:11pm

Mayor Pro Tem Cozad asked if a revision could be made in the length of the sentences in the ordinance so that it could be easily interpreted by those reading it.

Trustee Chavez asked about the numerous complaints from the citizens. Town Administrator Burack explained that the complaints have come into the office over the course of a couple of years. There have been a moderate number of complaints and mostly regarding foreclosed lots or lots owned by absentee landlords. This ordinance provides the town with some legal recourse to force the owners of these lots to take care of them.

Trustee Carnahan asked about the penalty clause in the ordinance, specifically the amount of the fine and the term of imprisonment. Town Attorney Fickel explained that by statute this is the penalty range that is available and is the jurisdictional limit of the Town's Court. Town Attorney Fickel explained that the Board could specify the fine amount. For example: the first violation is a certain dollar amount, the second violation is a greater amount, etc. These amounts can then be placed in the Town's fine schedule.

Trustee Carnahan asked if this ordinance will be enforceable. Town Attorney Fickel explained that it would be legally enforceable.

Barb Tokunaga, 24355 Hwy. 257, Milliken, CO explained that prairie dogs are an important part of the environment. They are called a keystone species by the Division of Wildlife. A huge amount of animal life depends on the prairie dog, the hawks feed on them and other animals use the prairie dog burrows for their home. She hopes that the Town finds another way to control the prairie dogs without poisoning them.

Colleen Flack, 5225 65<sup>th</sup> Ave., Greeley (Milliken), CO explained she has A large prairie dogs colony on her lot. The prairie dogs are encroaching upon the front yard and she is concerned for her domestic pets and the children that come to her home. Mrs. Flack is requesting help in finding a way to eradicate the prairie dogs in her yard and would prefer a humane way to do this.

Public Hearing Closed at 7:37.

Town Attorney Fickel re-read the ordinance with the revisions that will be included for review at the Town Board meeting on August 10, 2011.

Trustee Carnahan moved to postpone the Public Hearing until the August 10, 2011 meeting. Trustee Kehr seconded the motion.

Vote: All in favor, none opposed.

3. **First Reading for Consideration of Ordinance 648, an Amendment to the Milliken Municipal Code Chapter 11, Article 1, Section 11-1-30, Encroachments Prohibited**

Town Administrator/Police Chief Jim Burack asked the Town Board to consider a revision to the Milliken Municipal Code adding § 11-1-30(b) for the purpose of removing, abating or relocating the encroachment that intrudes upon any street, alley, sidewalk, curb, gutter or other public places within the Town. Town Administrator Burack explained this amendment will provide assistance with the Town's "Safe Routes to School" project. If the Town is required to relocate landscaping that is in the Town's right-of-way, this ordinance will allow the Town to recover the funds by means of collection from the property owner or through the tax lien process.

Trustee Chavez asked how many residential properties this may involve. Town Administrator Burack responded there may be approximately twenty (20) to twenty-five (25) residences directly affected by the project but only a couple that have been unresponsive to Town staff inquiries.

This ordinance is set for a public hearing on August 10, 2011.

4. **For Consideration and Approval of Professional Services Contract with Ketterling, Butherus & Norton (KBN) Engineers, Inc. and Resolution 11-11 Amending the 2011 Budget and Appropriating Funds for the Constuction Administration.**

Town Administrator/Police Chief Jim Burack asked the Town Board to consider for approval A Professional Services Contract with KBN Engineers, Inc. for the purpose of providing construction administration as part of the Safe Routes to School Grant, and approval of Resolution 11-11 amending the 2011 budget and appropriating funds accordingly. Town Administrator Burack explained that because the project is Colorado Department of Transportation (CDOT) administered with federal funding, precise, detailed reporting and documentation would be required. Staff believes it would be more efficient and effective to retain KBN's assistance to ensure accurate and timely submission of the Town's reimbursement requests.

Trustee Wakeman asked if the Town received more than one proposal on the Construction Administration project. Town Administrator Burack responded that he was not certain if this amount had been included in the other project bids the Town had received. He explained this project will require a waiver from CDOT since generally on larger projects the administration and engineering portions are done by separate firms. He believes since KBN Engineers are the engineers on the project, they will provide the most expeditious and cost effective results for the Town.

Mayor Pro Tem Cozad commented that she believes this to be a reasonable fee for the amount of work that will be required of KBN Engineering.

Trustee Carnahan asked about the section in the letter from KBN that states "our fee does not include material testing" and asked if there is an estimate of what the cost would be for the testing. Public Works Director Mike Woodruff responded he believes the approximate cost to be between \$2,500 and \$3,500 for geotechnical services.

Trustee Carnahan moved to approve the Professional Service Contract with KBN Engineers for the purpose of Construction Administration as part of the Safe Routes to School Grant and approval of Resolution 11-11 and to appropriate funds accordingly. Trustee Onorato seconded.

Trustee Wakeman pointed out that Resolution 11-11 was missing from the packet of information that was provided to the Town Board.

Discussion included amending the motion to approve the contract and to bring Resolution 11-11 to the Board on August 10, 2011 to amend the 2011 budget and to appropriate the funding for the project. Town Attorney Fickel said that the Town Board could amend the motion to approve the contract and bring Resolution 11-11 to the meeting on August 10, 2011 since the payment on the project will not occur prior to that date.

Trustee Carnahan moved to amend the motion to approve the Professional Service Contract with KBN Engineers for the purpose of Construction Administration as part of the Safe Routes to School Grant and authorize the Mayor to sign. Trustee Onorato seconded.

Vote: All in favor, none opposed.

Resolution 11-11 to amend the budget and to appropriate funds will be brought to the Town Board on August 10, 2011

**5. For Consideration and Approval of a Settlement of Payment for Development Improvements in Peregrine Creek Subdivision**

Community Development Director House asked the Town Board to consider for approval a settlement of payment from Advantage Bank for incomplete development improvements in the Peregrine Creek Subdivision. Director House explained that a development agreement and letter of credit in the amount of \$24,000 was part of the subdivision approval to ensure completion of certain development improvements. Some of the improvements are outstanding at this time which is the basis of this proposed settlement amount of \$32,173.14 from Advantage Bank.

Trustee Wakeman asked if the Town is billing the other lot owners for their pro-rata share of costs. Town Attorney Fickel responded that the Town is not asking the other lot owners for their pro-rata share since this amount should cover all the costs.

Mayor Pro Tem Cozad moved that the settlement proposal from Advantage Bank in the amount of \$32,173.14 for the unfinished development improvements in Peregrine Creek Subdivision be accepted. Trustee Wakeman seconded.

Vote: All in favor, none opposed.

**6. Consideration and Approval of a Water Lease Agreement for Hall-Irwin Corporation**

Public Works Director Mike Woodruff asked the Town Board to consider for approval a Water Lease Agreement from the Town of Milliken to Hall-Irwin Corporation for 15.87 acre feet of water and will expire on December 31, 2011. The Town has and does lease excess water credits. This agreement will generate approximately \$4,761 for the Town's water fund.

Trustee Onorato moved to approve and authorized the Mayor to sign the 2011 Water Lease Agreement with Hall-Irwin Corporation. Trustee Kehr seconded.

Vote: All in favor, none opposed.

**Executive Session**

C.R.S. 24-6-402(4)(b), to confer with an attorney for the Town for the purposes of receiving legal advice on specific legal questions;

Trustee Wakeman moved to go into Executive Session according to C.R.S §24-6-402(4)(b), to confer with an attorney for the City for the purposes of receiving legal advice on specific legal questions

Vote: All in favor, none opposed.

**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**

### **MPO**

Mayor Pro Tem Cozad asked the Town Board for their opinion regarding the weighted vote process that the Metropolitan Planning Organization (MPO) uses. The consensus of the Trustees was that the weighted vote was not fair to the smaller municipalities who typically have only one vote and the larger municipalities have more than one. The Town Board feels the MPO's Bylaws should be amended to provide for equality between all municipalities.

### **Budget Retreat**

Finance Director Mitzi McCoy asked the Town Board if the budget retreat could take place on Wednesday, August 17<sup>th</sup> from 5:00pm-8:00pm. The Town Board agreed with the date and time.

### **Oil and Gas Well Safety Check Litigation**

Town Attorney Fickel informed the Town Board that Kerr-McGee's attorney has asked for an extension of time for their answer of the Towns complaint regarding the oil and gas wells safety inspection fees. Town Attorney Fickel recommended that the Board grant the extension of time.

### **Victim Assistance and Law Enforcement (VALE) Grant**

Town Administrator/Police Chief Burack announced that the new furniture provide by a fully funded VALE grant has arrived and is in place in the Police Departments family and juvenile rooms. He would like to show the newly decorated rooms to the Town Board at the conclusion of this meeting.

### **Beef 'n Bean Day Beer Garden**

Co-Clerk Powell updated the Town Board on the Special Event Liquor Permit for Beef 'n Bean Day, specifically on the ten (10) day posting notice requirement of liquor in the park. Co-Clerk Powell explained she spoke to the State Liquor Licensing Supervisor Dan Gunter on July 25, 2011 regarding the posting of notice at the park. Mr. Gunter explained that we could legally post the notice requesting any petition remonstrations to be submitted to the Clerk's Office by 5:00pm on August 5, 2011 in order to remain in compliance of the requirements for a Special Event Liquor Permit.

### **Police**

Trustee Carnahan asked if there was an update on the reported stolen guns incident from citizen's vehicles in the Wal Mar and Frank Farms Subdivisions. Town Administrator Burack responded that to his knowledge the guns have not been recovered and does not believe the guns are still located in Milliken.

**Board Schedule**

Mayor Pro Tem Cozad announced that she will not be at the August 24<sup>th</sup> Town Board meeting because she will be attending the Colorado Water Congress in Steamboat Springs and she will report to the Town Board regarding the conference.

**Financial Study Group**

Trustee Kehr asked about the Financial Study Group. Finance Director McCoy responded she was waiting for the 2010 audit to be complete before she scheduled a time for this committee meeting.


**Pressure Reducing Valve (PRV)**

Trustee Wakeman asked about the recent letter in the Johnstown Breeze regarding the PRV. Town Administrator Burack explained that this was due to misinformation given to a citizen by staff and the delayed response from a Town employee. Town Administrator Burack announced there will be a message in the newsletter regarding PRVs.

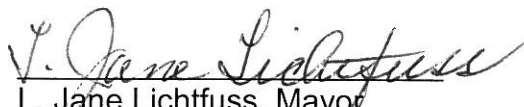
**Adjournment**

Hearing no further business, the Mayor adjourned the meeting at 8:40 p.m.

Prepared by:

  
Cheryl L. Powell  
Town Co-Clerk

Approved by:

  
L. Jane Lichtfuss, Mayor