

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

MEETING MINUTES

Wednesday, October 24, 2012 - 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, October 10, 2012 at 7:00 p.m. Those present: Mayor Milt Tokunaga, Mayor Pro Tem Julie Cozad; Trustees: Linda Beck, Ted Chavez, Reid Hobler, Jordan Jemiola, and Lois Ann Onorato. Also present: Town Administrator/Police Chief Jim Burack, Town Clerk Cheryl Powell, Treasurer & Accounting/Finance Director Patrick Murphy, Town Attorney Bruce Fickel, Assistant Attorney Sunita Sharma, Public Works Director Jason Fowler, Parks and Outdoors Director Josh Roseberry Community and Economic Development Director Steve House.

Pledge of Allegiance

Mayor Tokunaga called the meeting to order.

Agenda Approval

Town Clerk Powell responded there were no staff additions to the Agenda. Town Attorney Bruce Fickel requested a brief Executive Session to be held after the Discussion portion of the Agenda. Town Clerk Powell requested Action item # 4 moved to the first item of the Action Agenda.

Citizen Comments

None

Minutes of Previous Meeting – September 26, 2012 meeting.

Minutes approved as distributed.

Acknowledgement of the Paid List of Bills

October 2012 List of Bills

Trustee Jemiola inquired about a payment of \$6,499.28 to TruGreen and asked if the Town has a contract with TruGreen that the Town Board approved. Trustee

Jemiola commented that this additional expense would exceed the \$15,000 limit stated in the Financial Policies and would require approval by the Town Board. Accounting/Finance Director Murphy responded that he did not have a copy of the contract with him at the meeting, but he did not believe the contract amount had been exceeded. Trustee Jemiola cited the amounts that had been currently paid to TruGreen and listed on the following Lists of Bills: August 22nd \$4,659.00, July 25th \$435.00, June 27th \$4224.00. Director Murphy will investigate the terms of the contract and if there were additional services outside of the contract. Trustee Jemiola said the Board should have approved the contract.

Mayor Tokunaga asked the Finance Director to follow-up. Town Attorney Fickel suggested holding a Work Session to discuss contracts. Director Murphy asked if the Board would like payment to TruGreen withheld. Mayor Tokunaga indicated that the payment to TruGreen should be made. Trustee Jemiola indicated that the policies are in place for a reason and would like them followed. Mayor Pro Tem Cozad agrees that the policies should be followed and that payment to TruGreen should be made. Mayor Tokunaga commented that the follow-up by Accounting/Finance Director Murphy on TruGreen was not needed.

Mayor Tokunaga asked if the payment to Ryberg was just for the house moving or did it include the foundation at the new location. Town Administrator Burack responded yes; it included the foundation.

CONSENT AGENDA

1. Renewal of Retail Liquor Store License for Milliken Liquors

Jim and Shirley Gardner, DBA Milliken Liquors, have submitted the renewal Application and paid the required fees to renew the Retail Liquor Store License for the period of January 09, 2013 until January 09, 2014. The Police Department has indicated on their information sheet that there were zero calls for service and zero violations.

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

Vote: All in favor, none opposed. Motion passed

ACTION AGENDA

1. Consideration of Approval of Resolution 12-25, Supporting the Application for Exclusion from the 5.5% Limit of Assessed Valuation

Attributable to New Primary Oil or Gas Production

Accounting/Finance Director Murphy asked the Town Board to consider for approval a resolution supporting an application for exclusion from the statutory 5.5% revenue limitation and to recognize additional growth from new oil and gas production. Director Murphy explained there are specific conditions that must be met before the exemption will be granted: there must be a causal relationship between the oil and gas production and additional services that will be provided by the Town; there must be a fund set up to segregate and account for any funds gained from the exemption and the funds cannot be raised to pay for capital expenditures. The Town's application states that the causal relationship for Milliken is the road damage from the trucks that use the roads to access production sites. The application further states that if awarded the exemption, the Town would use approximately \$115,836.00 on road maintenance.

Mayor Tokunaga asked if first year exclusion means that any subsequent years for production of assessed valuation are not eligible for this exclusion in the future. Director Murphy explained this is only for the first year the new wells are assessed in the Town; the second year they will be assessed as part of the whole base.

Trustee Beck moved to approve Resolution 12-25 supporting the application for exclusion from the 5.5% limit of assessed valuation attributable to new primary oil or gas production. Trustee Onorato seconded.

Discussion: None

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

2. Public Hearing and Consideration of Approval of a Tavern Liquor License for Lalo's Cantina

Town Clerk Powell explained to the Town Board that Mr. Dustin Hoffschneider, co-owner of Lalo's Cantina located at 1007 ½ Broad Street, has submitted a Tavern Liquor License application and paid the required fees. Town Clerk Powell had handed out a new drawing of the premise that excludes the restroom areas and adds a fenced enclosure at the back of the building to include an outside storage cooler.

Public Hearing opened at: 7:15PM

Mr. Hoffschneider spoke to the Town Board about his plans with the Tavern and answered questions regarding the type of food/snacks he needs to provide under the guidelines of a Tavern Liquor License.

Town Clerk Powell explained to the Town Board that Mr. Hoffschneider has been made aware that all of the employees who will be working at the Tavern need to receive certification that they have attended Training for Intervention Procedures (TIPS) and that on December 4, 2012 at the Milliken Meeting House, Kelly Haralson with the State of Colorado's Liquor Enforcement Division will be holding a training class entitled "Standards for Sellers and Servers of Alcohol Beverages."

Mayor Pro Tem Cozad inquired how the signatures on the petition were acquired. Mr. Hoffschneider responded that Lorena who is his co-owner of the Tavern and her husband took the petition around. Trustee Chavez asked if patrons can order food from the Carniceria next store. Mr. Hoffschneider stated no; the two (2) businesses will remain separate.

Public Hearing closed at: 7:27 PM

Trustee Hobler moved to approve the Tavern Liquor License for Lalo's Cantina located at 1007 ½ Broad Street, Milliken, CO 80543. Trustee Chavez seconded.

Discussion: None

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

3. Consideration and Approval of a Professional Service Contract with Ketterling, Butherus & Norton Engineers, LLC (KBN) for Water Engineering and Resources Management Services

Town Administrator Burack asked the Town Board to consider for approval a Professional Service Contract with KBN Engineers, LLC for water engineering and resources management service.

On July 30, 2012 a Request for Proposals (RFP) for Water Engineering and Resources Management Services for the Town of Milliken was released by staff. The Water, Wastewater and Drainage Utility Advisory Commission (WWDUAC) appointed a subcommittee of Vice-Chairman Flack and Commissioner Jones to assist the Town Administrator with the review of proposals, creation of a short-list of candidates, and interviews of the finalists. Firms interviewed were Civil Resources of Frederick, Gauthiere Engineering of Greeley and KBN. KBN were also the contractors for the Town's Safe Routes to School Project.

Mike Ketterling, KBN Engineers, addressed the Town Board and explained that they will be partnering with Forrest Leaf who possesses extensive knowledge of water in Northern Colorado. Mr. Leaf's time will be billed through KBN.

Mayor Pro Tem Cozad asked if the contract is for time and materials or if there is a not-to-exceed amount. Explaining there should be a not-to-exceed amount for General Services and when items not covered in that area, a proposal for those services needs to come back to the Town Board.

Town Administrator Burack clarified that there is an amount that was budgeted in the 2013 budget and that there are many projects such as the water rate study, etc. that KBN will be providing the Town. Mayor Pro Tem Cozad explained that perhaps the 2013 budget is the not-to-exceed amount with the projects outlined. There could be \$15,000-\$20,000 for a not-to-exceed in General Services. A change order to the contract could be brought back to the Town Board for items such as the rate study. Mike Ketterling is fine with however the Town Board would like to do the contract.

Mayor Tokunaga asked Mike Ketterling what some of the components of the project may be. Mike Ketterling replied water, sewer and drainage infrastructure repairs or enhancements to the system, water rights issues and water supply plans through the system that need to be monitored. Mr. Ketterling explained that Milliken is poised to grow, so infrastructure may be challenged and those are the types of items that Milliken needs to be prepared to address when growth happens.

Forrest Leaf explained that the only item he foresees reoccurring on a monthly basis is the water accounting that needs to be compiled and submitted to the state. This service had been previously done by Brown and Caldwell, the Town's former water engineering consulting firm. Mr. Leaf stated the cost to compose this report is not substantial.

Town Attorney Fickel provided the Town Board with language to add in the contract with KBM referring to the not-to-exceed amount. The Mayor requested that staff inform the Town Board when the not-to-exceed amount is getting close. Mayor Pro Tem Cozad suggested a figure of up to \$25,000 and any new projects would need to come back to the Town Board for approval.

Mayor Pro Tem Cozad moved to approve to approve the Professional Service Contract with Ketterling, Butherus, & Norton Engineers, LLC (KBN) for Water Engineering and Resources Management Services with the addition of 1c "General Resource Management Services provided by the Engineer shall not exceed \$25,000 with additional expenses to be presented and approved by the Town in writing prior to inception." Trustee Beck seconded.

Discussion: None.

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

4. Consideration of Approval of a Contract with Coulsen Excavating for the Purpose of Paving Alice Avenue and Inez Blvd.

To consider for approval a contract with Coulsen Excavating for the purpose of paving Alice Avenue and Inez Blvd. with a 'second lift' of asphalt for an amount not to exceed \$389,070.31

As part of the 2012 Budget the Town Board appropriated funds for street improvements, particularly upgrading Alice Avenue and Inez Blvd. (WCR 46) that had been installed over a decade ago with a single lift of asphalt. Because of that deficiency the drainage has not worked effectively to properly allow storm water to flow from the crown in the road into the gutter. The second lift of asphalt, of about two inches on average, will bring the edge of the asphalt up to edge of the gutter, and improve and protect the road surface. Some preliminary patch repair work will occur first. Staff completed a Request for Proposals (RFP) and Coulson was the responsive bid.

Town Administrator Burack explained that during the project planning and meetings with Weld County Public Works, it was noted that portions of Alice Ave. and Inez Blvd. have not been annexed into the Town of Milliken, but Milliken has collected the Highway User Trust Fund (HUTF) funds on Alice Ave. The area on Inez Blvd. is completely owned by Weld County and the County has been collecting the HUTF funds. Milliken has begun annexation procedures so that the Town can begin collecting the funds.

Mr. Bill Schrader with Coulsen Excavation spoke to the Town Board explaining the required repairs his company will perform.

Mayor Pro Tem Cozad asked about the differences in the pricing between the two (2) proposals even though both the original proposal that was provided in the Board packet and the one handed out at the meeting have the same total dollar amount. Mr. Schrader explained it is the difference between by the ton versus by the square yard. When the "by- the- ton" figure was entered into his software program it had added an additional \$400. Instead of having his performance bond reissued he absorbed the \$400 cost.

Mayor Pro Tem Cozad asked if there were any additional changes in the revised contract. Town Administrator Burack explained that there was a portion added with an express warranty of one year. Project Manager Caree Rinebarger explained that there is a tonnage price instead of a square yard price.

Mayor Pro Tem asked if the roads are owned by Mr. Binder and is he in agreement to the annexation or have they been dedicated as right-of-way. Janet Carter, with Weld County Public Works, who is also a Milliken resident, explained that those areas are currently right-of-way.

Ms. Carter explained that Weld County has continued to collect the HUTF funds for Inez Blvd. the past twelve (12) years. The County was never contacted about the changes to the road and the Town had essentially given permission to the developer to improve the road without any notification to Weld County. Therefore the County does not maintain that area of roadway. Ms. Carter explained that the County Commissioners have agreed to waive the right-of-way permitting to allow Milliken to improve the roadway with the condition that Milliken annexes this portion of roadway into the Town. Ms. Carter also explained there will not be any HUTF money refunded to the Town, even though the Town has maintained it. She also explained if the annexation takes place by December 31, 2012, the Town will collect the HUTF funds for 2012.

Trustee Jemiola asked *"what day was the bid opening?"* Project Manager Caree Rinebarger responded the bid opening was posted on September 28th. Trustee Jemiola asked *"which paper did we publish the advertisement for formal bids?"* Project Manager Rinebarger said it was not published. Trustee Jemiola said *"that is also required in the financial policies of the Town be published 10 days prior to the bid openings for a contract exceeding \$50,000. My second concern is that under budget implications \$631,980. basically, what this says is the remaining funds, after only spending \$389,070.31 to repair the streets will go back into the Capital Improvements Fund, it doesn't say street related capital improvements, it says capital improvements. These are my two (2) main concerns that the previous Board questioned, street improvements and the second, that the bid process wasn't followed correctly for contracts \$50,000 or higher."* Legal Counsel can address this.

Town Attorney Fickel explained that if there is an error the Town Board can waive the publication provision since the Town Board established the policies and procedures in the first place.

Discussion from the Board was on the remaining money that had been budgeted in 2012 for street improvements and whether it should be placed into a street improvements capital improvement fund for 2013. Mayor Tokunaga suggested this should be brought up by the Town Board at a budget session.

Mayor Tokunaga asked if Mr. Schrader foresees any problems with paving the roads in 2012. Mr. Schrader does not.

Trustee Beck moved to approve the contract with Coulson Excavating, entitled Street Improvements, for the purpose of completing the paving of Alice Avenue and Inez Blvd. for an amount not to exceed \$389,070.31. Mayor Pro Tem Cozad seconded.

Discussion: Mayor Pro Tem Cozad would like the road annexations done before the end of the year. She thanked Janet Carter and asked her to express this to the Weld County Commissioners and Public Works.

Trustee Jemiola would like the remainder of the 2012 street improvement funds placed into the 2013 street improvements fund.

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

DISCUSSION AGENDA

1. 3 Coffee/High Plains Library Computer Center Hours of Operation

Town Administrator Burack informed the Town Board of a meeting he had with Pat Betz, Director of the Glenn A. Jones Library. He spoke to Ms. Betz regarding staffing at the facility. They offered to staff the Public Computer Center (PCC) on Mondays from 2-5pm. They requested a hold harmless agreement for the Town and 3 Coffee owned equipment in the facility. They will only provide staffing when Town Hall is open due to security reasons.

The Mayor suggested that the Town Board give direction to the Town Administrator to proceed with the offer from the Glenn A. Jones Library. The Town Board agreed it was an administrative issue only and Administrator Burack will contact the library to accept the offer.

Executive Session

Mayor Pro Tem Cozad moved to go into Executive Session per 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; and or C.R.S. 24-6-402(4)(e), for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators. Trustee Jemiola seconded.

Vote: All in favor, none opposed.

The time is 8:42 pm.

Resume Regular Meeting

Mayor Tokunaga stated: "The time is now 8:56 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.

INFORMATION AGENDA

1. Notification of Planning Commission Approval of Peregrine Creek Second Minor Subdivision

Community and Economic Development Director House informed the Town Board regarding notification from the Planning Commission of its approval of the Peregrine Creek Second Minor Subdivision. It's an addition of two (2) lots.

Trustee Hobler asked if the lots are buildable with the existing oil & gas easements. Director House indicated they are buildable.

Updates on Staff Assignments

Other Business

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

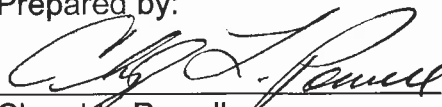
Town Attorney Bruce Fickel will conduct a Work Session on contracts.

Town Administrator Burack will follow up regarding the Glenn A. Jones Library's offer to staff the Public Computer Center on Mondays from 2:00pm-5:00pm.

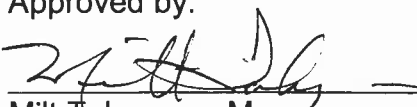
Adjournment

Hearing no further business, the Mayor adjourned the meeting at 9:05 p.m.

Prepared by:


Cheryl L. Powell
Town Clerk

Approved by:


Milt Tokunaga, Mayor