

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

MEETING MINUTES

Wednesday, April 24, 2013 – 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, April 24, 2013 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, Community Development Director Anne Johnson, Town Attorney Bruce Fickel, Assistant Attorney Sunita Sharma, Parks and Outdoors Director Josh Roseberry and Public Works Director Jason Fowler.
Absent: None.

Pledge of Allegiance

Mayor Tokunaga called the meeting to order.

Agenda Approval

Town Clerk Powell said there were no staff additions to the Agenda. Mayor Tokunaga requested Action Agenda item # 4 be moved to Action Agenda item # 2.

Citizen Comments

Mr. Dave Bernhardt 23809 WCR25, Milliken, spoke to the Town Board regarding his concerns of training and cross-training of the Town's Public Works employees, specifically in road grading. He stated that the county roads in Town are in poor shape and because of this some of his equipment has had repairs done. Mr. Bernhardt also has concerns regarding the drainage west of the Public Works building. He said there is standing water in his corrals. Mr. Bernhardt requested a meeting with the Mayor, Public Works Director Jason Fowler and Town Administrator Burack. Administrator Burack responded that he will schedule the appointment.

Mayor Pro Tem Cozad suggested a follow-up session after the meetings and to contact Weld County for training potential.

Minutes of Previous Meeting – April 10, 2013 meeting

Minutes approved as distributed.

Acknowledgement of the Paid List of Bills

April 2013 List of Bills

Mayor Pro Tem Cozad inquired about a payment to GE Osmonics and asked if this was a purchase for the Reverse Osmosis (R.O.) Plant. Director Fowler explained that it was.

CONSENT AGENDA

Mayor Pro Tem Cozad requested that the Consent item be placed as the first item on the Action Agenda.

ACTION AGENDA

1. Consideration and Approval of Agreement for Town Engineering Services from Lamp Rynearson

Town Administrator Burack asked the Town Board for their approval to retain Lamp Rynearson & Associates, Inc. for engineering services for 2013, with an annually renewable option that the Town can exercise. He explained that this is for engineering services outside of the contract with KBN Engineering, the Town's Water Engineer.

Mayor Pro Tem Cozad inquired whether Lamp Rynearson preformed development applications for the Town in which the applicant reimburses the Town for the service. Community Development Director Johnson responded yes. Town Administrator Burack also explained that Lamp Rynearson will be working on the Town's storm water project and that would come through as a task order. The primary assigned engineer is Omar Herrera who grew up in Milliken and graduated from Roosevelt High School.

Trustee Beck moved to accept the proposed agreement with Lamp, Rynearson & Associates, Inc. for engineering services for 2013, which is annually renewable by mutual agreement of the parties, and direct the Mayor to sign. Mayor Pro Tem Cozad seconded.

Discussion: Trustee Hobler asked if staff had investigated market rates. Town Administrator Burack said there are industry standards in pricing and

Lamp Rynearson has history with Milliken and Staff did not go through a formal Request for Proposal (RFP) process.

Director Murphy explained that the Financial Policies state that contracts for professional services are exempt from the public bid process however, the tasks that are requested of Lamp Rynearson do need to be compliant with the Town's Financial Policies.

Mayor Pro Tem Cozad explained that it is helpful to have someone with historical knowledge of the Town and knowledge of Town's code.

Trustee Jemiola asked when it would be considered to have in-house engineering. Town Administrator Burack replied it is something that needs to be looked at each year. He also explained that there are certain advantages the Town receives in having different engineering firms with their special areas of expertise.

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

2. Consideration and Approval of a Professional Service Contract with Britina for Downtown Design Guidelines

Community Development Director Anne Johnson asked the Town Board to consider for approval a Professional Service Contract with Britina for Downtown Design Guidelines – Heritage House Landscaping, Grain Elevator Concept Plan, and Town Square Construction Drawings. Milliken's main street is Broad Street and it is important to the economic core of the community. Director Johnson explained that the downtown area is composed of shared memories, a vital thoroughway of economic opportunity, and the capability of bring people together for a common purpose.

Director Johnson explained that during the Town Board's goal-setting and budget meetings for 2013, the Town Board elected to expand the scope from the previous Town Board to include a vision for all of Downtown Milliken. Director Johnson explained the Request for Proposal (RFP) process, the pre-bid meeting and walking tour where more than twenty participants were in attendance. Eight bids and proposals were submitted to the Town. Reviews of these eight proposals were conducted by the Planning and Economic Development Committee (PED), which consists of Mayor Tokunaga, Mayor Pro-Tem Cozad, Town Administrator Burack, Finance and Economic Development Director Pat Murphy, Community Development Director Anne Johnson. Also reviewing the proposals was Planning Commissioner Richard Hillier. This committee selected five firms for interview. The interview committee consisted of Mayor Tokunaga, Administrator Burack, Finance and Economic Development Director Murphy, Community Development Director

Johnson and Planning Commissioner Janet Carter. The selection of Britina was unanimous from all participants.

Director Johnson gave an overview of the budget implications and spoke of the DOLA funding of \$25,000 towards the downtown design. Director Johnson said that Kristin Cypher and Bob Couri from Britina were present if there are any questions.

Mayor Pro Tem Cozad clarified that the total costs are \$111,000 which includes \$12,000 in reimbursable expenses. She also pointed out that a correction in the Town contract needs to be made in regards to a name. The project scope should be labeled as an exhibit in the contract.

Mayor Tokunaga had a question regarding the actual construction drawings of Town Square. He was under the impression it was more the streetscape than the actual Town Square. Mayor Tokunaga said that in 2014 there will be an overlay performed on Highway 60 by the Colorado Department of Transportation (CDOT) and this item may take a higher priority than the Town square. He expressed concern that infrastructure which runs underneath Highway 60 may need to be replaced and conduit should be installed alongside this infrastructure for fiber optic cable.

Director Johnson explained that the highway will not be torn-up, it will be milled and filled by CDOT.

Mayor Pro Tem Cozad said one of the project's scope items was to have meetings with CDOT. Kristin with Britina spoke of ways to obtain funding for projects and to encourage businesses and existing businesses to expand. If utilities need to be improved there are other funding mechanisms the Town can try to obtain.

Mayor Tokunaga spoke of the \$30,000 being spent on construction drawings of the Town Square. He is concerned that there is a need for sidewalks along Highway 60 where there currently are not sidewalks. Mayor Pro Tem Cozad stated that the items listed in the RFP were directed by the Town Board. The other items being discussed are of importance but are outside of the scope of work. Director Johnson clarified that these will be construction drawings only, and construction of the project will only occur in the future when the Town Board authorizes the expenditure.

Trustee Hobler agrees with the Mayor, but said that the Town has been looking at creating a Town Square for at least four (4) years. He said there will always be something that needs to be done. The budget was set and the goals stated the direction the Town Board wanted to go.

Trustee Jemiola asserted that in order to envision the whole project, he would like to know what condition the infrastructure is in. Mayor Pro Tem Cozad

suggested that staff include in the 2014 budget to have the infrastructure lines examined with a camera. Town Clerk Powell replied that staff had budgeted for this item for 2013. Director Fowler added that there is \$15,000 in the 2013 budget that will be used to camera the lines, beginning with Old Town Milliken.

Mayor Pro Tem Cozad explained that by varying from the scope of work, you not only change the scope but the budget also changes. The process regarding the scope of work for the RFP was already done, which the Town Board approved.

Director Johnson will investigate grants to see what is available. She explained that when projects are shovel ready, there is more opportunity for grants. She explained the importance of proceeding with construction drawings so the Town can be ready to either construction portions, the whole concept, and/or go out for grants.

Mayor Tokunaga is concerned that there are additional construction drawings that may need to be done such as for the sidewalks.

Mayor Pro Tem Cozad agrees with the Mayor, but would like to address the scope of work that is currently in front of the Town Board.

Trustee Hobler moved to approve the Professional Service Contract with Britina for Downtown Design Guidelines – Heritage House Landscaping, Grain Elevator Concept Plan, and Town Square Construction Drawings. The contract with Britina will be signed after the contract with the State of Colorado has been executed. Trustee Onoraço seconded.

Discussion: Mayor Pro Tem Cozad stated she is very impressed with Britina and excited for the Town. She hopes all the citizens participate in this project.

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

3. Consideration and Approval of a Lease Amendment with 3 Coffee and Roastery at Milliken to Adjust the Term of the Lease and the Rental Rate

Director Murphy asked the Town Board to review and consider for approval an amendment to Sections 4 and 5 of the current lease with “3 Coffee and Roastery at Milliken” to provide for the relocation of the business out of the Historic Town Hall and Police Station and Public Computer Center and a transition period for the Town to consider new opportunities for the facility. Director Murphy also explained the terms of the current Lease Agreement. Director Murphy explained that after extraordinary efforts and investment on the part of its staff and ownership, the 3 Coffee enterprize has been unable to

realize the financial success necessary to continue its retail operation in the Town of Milliken and has decided to relocate in another community.

Director Murphy explained that the Town needs to assess its relationship and commitment to the High Plains Library that utilizes a portion of the coffee shop to provide a computer learning center to the citizens of the Town of Milliken. High Plains Library is willing to work with the Town as the Town tries to identify a new lessee for the facility. He explained that if the Town Board agrees to amend the current Lease it will allow for 3 Coffee to open the doors for the Computer Learning Center on the days and times they will be utilizing the facility while roasting their coffee. It will also allow time for the Town to identify a new use for the facility. If the Town Board decides to hold 3 Coffee to the strict terms of the lease, the owners have indicated that they will comply with their financial requirements, but will not be opening the doors to the public since they cannot continue to operate their business at a financial loss.

Mayor Pro Tem Cozad asked if the Town could find someone to come in and continue with the coffee function. Director Murphy said this is something that will be investigated. The Coffee Shop could be used for meetings during the downtown design process. Mayor Pro Tem Cozad asked if 3 Coffee would be willing to sell the improvements they made to the Town. Director Murphy has asked 3 Coffee for a list/cost of these improvements. Mayor Pro Tem Cozad indicated that she had donated furniture for the Town's use to the coffee shop and those items should remain with the facility.

Trustee Jemiola asked how much money was spent on the trade build out. Director Murphy provided a printout of the cost to the Town for the building.

Trustee Jemiola remarked that he is not in favor of the tax payers of Milliken subsidizing the coffee shop when 3 Coffee is not fulfilling the obligations of their lease. Director Murphy explained that 3 Coffee is, and has been in compliance with the lease and that the 20 hours of the computer availability was never part of the lease document with 3 Coffee. The 20-hour requirement was part of the grant provided to the High Plains Library in initially acquiring the computers. That obligation ended at the end of March, 2013.

Mayor Tokunaga spoke about the tenant finishes. Town Administrator Burack responded that there was a separate agreement that 3 Coffee had with Ron Blackmer to build the countertops and cabinetry. Mayor Pro Tem Cozad would like to see the invoices from 3 Coffee regarding Ron Blackmer.

Mayor Tokunaga asked what the approximate cost of the utilities bills are and how much they would be without the tenant. Finance Director Murphy explained that 3 Coffee only pays half the utility costs for the facility and that

the \$300 per month proposed in the lease amendment would cover the Town's utility costs.

Trustee Beck stated that Raul Cruz has been a good business partner with the Town and has gone above and beyond for the Town.

Trustee Jemiola feels that the lease should be terminated and 3 Coffee should be given 30 days to move out of the premises and a month to month option should not be offered.

Mayor Tokunaga asked how flexible 3 Coffee is with the hours they will be at the shop. Director Murphy indicated that 3 Coffee tentatively proposed Wednesdays from 9am-2pm and Saturdays from 10am-3pm. Mayor Tokunaga asked if an arrangement could be made that is more accommodating for the children and other computer users. Director Murphy will ask the library what days and hours are most used.

Trustee Hobler agrees with Trustee Jemiola and would rather let 3 Coffee terminate their contract giving 30-60 days and have an end date. Mayor Pro Tem Cozad agreed that an end date needs to be determined, which will allow the Town time to potentially obtain a new lessee for the property.

Director Murphy asked for clarification on what the Board wants. Trustee Hobler is willing to allow a 60-90 day timeframe at the current lease rate. Trustee Onorato feels that 3 Coffee is simply using the facility to assist in its relocation. Director Murphy explained that the amended lease of \$300 was his idea as it would allow 3 Coffee to continue roasting their coffee in Milliken at the same rate it would otherwise cost to rent use of another roaster elsewhere. Trustee Beck asked if there has been any interest in the building. Director Murphy said there has not been. Trustee Hobler believes the current lease amount of \$500 should continue for 60 – 90 days.

Town Administrator Burack spoke about the terms that were discussed with Raul Cruz of 3 Coffee, Director Murphy and himself. The building will remain activated to attract a potential new business and a new discussion with the Glenn A. Jones Library could be ensued. At least there would be some commitment for hours in the summer months in which the building would be open and the computers available and it may be more attractive for locating a new tenant. Trustee Hobler believes that once the \$300 and a month-to-month contract is in place and they can relocate their roaster, 3 Coffee will give their 30 day notice. Mayor Tokunaga was in agreement with Trustee Hobler. Director Murphy explained that Raul Cruz will actually be placing the Coffee Shop's roaster in storage since in neither of the new locations can accommodate the roaster. Trustee Chavez agrees with the 30-90 days at \$300 per month until the Town submits an RFP to locate another business.

Trustee Jemiola motioned to extend 3 Coffee's lease for 60 days at \$500 per month.

Motion died due to no second.

Mayor Tokunaga believes there should be a minimum of 3-4 months and thereafter converts to a month-to-month basis. Trustee Jemiola does not know many retailers that would like to move during the winter months. Mayor Tokunaga indicated that this would allow time to have conversations with Britina on the business usage. Mayor Pro Tem Cozad suggested a lease with a commitment through August at the reduced rent with the Town allowed to terminate the lease with a 30-day notice.

Mayor Pro Tem Cozad moved to approve a lease amendment until August 30th at the reduced rent of \$300 per month with the Town allowed to give a 30 day notice and the hours that were in the amended agreement. Trustee Chavez seconded.

Discussion: None.

Vote: Mayor Tokunaga, Mayor Pro Tem Cozad, Trustees Beck, Chavez, Hobler and Onorato in favor. Trustee Jemiola opposed. Motion passed.

4. Consideration and Approval of an Agreement with Sigg-Staver Construction for the Renovating and Remodeling of the Milliken Heritage House, and the Approval of Expenditures for Project Management and Oversight by Contractor, Jeff Zeigler, and Architect, Stuart Hutchison

Finance Director Pat Murphy asked the Town Board to review and consider approval of a Construction Agreement with Sigg-Staver Construction, LLC and the Project Management and Architectural Oversight expenditures necessary to complete the renovation and remodeling of the Milliken Heritage House by July 31, 2013. Director Murphy explained that this house was donated to the Town by Connie Hahn through a Will and one of the requirements of the Will was to create a museum. Director Murphy explained that the intent of the Town was to renovate and remodel the house for use by the Milliken Historical Society as a museum and provide other uses that would attract activity in and around Downtown, as part of the developing Town Square. Director Murphy explained the Request for Proposal (RFP) process and that there were three (3) proposals submitted to the Town. Town Staff reviewed the proposals and asked for an independent review of the proposals to ensure their reasonableness and accuracy in relation to the scope of work requested. The bids were all within the same range and due to the significance of the work, the fact that the proposals were significantly

higher than the amount budgeted, and the lack of expertise on Staff, remodeling contractor Jeff Zeigler volunteered to review the bids.

Staff also held a meeting with the Heritage House Committee which consists of Trustees Linda Beck and Lois Ann Onorato. The Committee determined that the scope of work was appropriate and necessary for the future uses of the Heritage House and approved the recommendation to move forward in awarding a contract for submission to the Town Board for approval. Director Murphy explained a change in the project amount from \$161,061 to \$165,000 due to an amount owed to Architect Stuart Hutchison.

Mayor Tokunaga is concerned with the total amount of the project explaining that the \$165,000 amount was not anticipated. The Mayor explained that part of the reason he moved the 3 Coffee & Roastery action item ahead of this action item was to consider that this facility could be potentially used for the museum. The Mayor has spoken to some contractors and heard that the price of lumber has almost doubled and that perhaps waiting a few months to start the project would allow for the price to decline. Trustee Hobler stated that something needs to be done with the house since the Town Board had it moved. Mr. Jay Staver with Stigg-Staver Construction, responded that lumber is up 26%, however the relatively small amount of lumber in the project does not have a significant effect on the total project cost. He also explained that the house needs to be brought up to a certain code no matter what the use of the house is. The house will continue to deteriorate if it is left as is. Trustee Hobler asked about the cost difference from the original projected cost and is it due to additional work being done on the house. Director Murphy explained that there were items added such as the deck, cover over the stairway, etc.

Trustee Jemiola responded that the Board discussed the proposed project and the Town needs to complete the project and bring the house up to code. He suggested that perhaps the museum could be located to the old Police Department/Town Hall. Mayor Pro Tem Cozad agreed with Trustee Jemiola as to the need to move ahead on the project and realizes there were add-ons to the building. It needs to be brought up to code and become viable to the Town. She asked about the add-ons to the contract. Director Murphy explained that the utility service needs to be relocated since it is currently located in the middle of the handicap ramp. Mayor Pro Tem Cozad suggested that the Town should look for additional funding, such as an Energy Impact Grant or Block Grant to recover some of the additional costs.

Trustee Beck commented on the cost of the project, but agrees that it needs to be completed and it will be an indicator to the Milliken citizens how the Town square project is moving forward. Trustee Onorato also commented on the cost, but is excited about the project.

Town Administrator Burack indicated that it is worth recognizing the insurance proceeds received by the Town due to the flooding of the house and that there could potentially be additional insurance proceeds. The water and sewer taps from the adjacent Wolff property, that the Town acquired, are being reused and the property the Heritage House originally sat on at 417 Broad Street has a value.

Trustee Beck moved to approve the Construction Agreement with Sigg-Staver Construction for the renovation and remodeling of the Milliken Heritage House and to authorize the expenditure of funds for Project Management and Architectural Oversight with Jeff Zeigler and Stuart Hutchison Architects. Mayor Pro Tem Cozad seconded.

Discussion: Mayor Tokunaga explained that his objection is not about the museum, his objection is the cost of the project and that the funds could be better spent elsewhere.

Vote: Mayor Pro Tem Cozad, Trustees Beck, Chavez, Hobler, Jemiola and Onorato in favor. Mayor Tokunaga opposed. Motion passed.

5. Consideration and Approval of Ordinance 681 to Amend Article II of Chapter 13 of the Milliken Municipal Code by Amending Section 13-2-80 Regarding Drought Conservation Measures and Surcharges

Public Work Director Jason Fowler asked the Town Board to review and consider for approval an amendment to Chapter 13, Section 13-2-80 of the Milliken Municipal Code regarding Drought Conservation Measures that had been presented to and approved by the Water, Wastewater and Utility Commission at their April 1, 2013 meeting. Staff was assigned the responsibility of reviewing the Town's current drought restrictions and to provide a recommendation to the Commission. Director Fowler updated and amended Section 13-2-80 to include a fourth drought level and also incorporated the restrictions imposed at each drought level. The Commission approved the updated Drought Conservation Measure for passage to the Town Board for their approval.

Discussion from the Town Board was in regard to current water restrictions and the Mayor mentioned the current allocation level of 60% for C-BT water from Northern Colorado Water Conservancy District and that there are now guidelines in place for the Town of Milliken. Director Fowler explained that there are restrictions for each drought level. Currently the Town would be considered in the mild drought level. Director Fowler also explained that the Town's water engineer Forrest Leaf believes if the spring and early summer temperatures do not run excessively high, the percentage level may become increased in July.

Trustee Jemiola moved to adopt Ordinance 681, amending Article II of Chapter 13 of the Milliken Municipal Code by amending Section 13-2-80 regarding Drought Conservation Measures and Surcharges. Mayor Pro Tem Cozad seconded.

Discussion: None.

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

6. Consideration and Approval of Ordinance No. 682, an Ordinance that Amends Sections of Chapter 13-2 of the Milliken Municipal Code

Director Murphy asked the Town Board to review and consider approval of Ordinance 682 which amends sections of Chapter 13-2 of the Milliken Municipal Code regarding residential requirements for Raw Water, Tap Fees, and usage charges. Director Murphy explained that the amendments to the code will allow a consistent, predictable, more affordable, and easily enforceable policy with regard to the raw water requirements for residential lots in Milliken. It will also encourage a more sustainable level of water use on residential property, and will provide a rate structure for water usage that provides the Town with the resources it needs to acquire additional water for excessive water users, while not increasing rates for those who operate within historically normal ranges, which was provided to staff by Forrest Leaf the Towns Water Engineer. The code change will also improve the oversight, management, and enforcement of water usage and regulations in the Town. In the current code it states that if a resident uses more than their one share of water the Town could request an additional share. The tiered rate structure will be based on usage of 30,000 gallons or more each month, where these users will be billed at a higher rate structure. The rate structure for the 30,000 gallons or more would be based on the current lease rate for water which would be set on May 1st of each year. The Town would require residents to obtain a second unit of water if there is overuse during any three (3) out of five (5) consecutive years.

Trustee Jemiola asked that additional language be added to Section 4b. If a resident is using more than 170,000 gallons he would like a notice to be sent to the property owner since there are a lot of rental properties in Milliken. Director Murphy explained that a notice will be sent to all citizens explaining this change.

Mayor Pro Tem Cozad suggested that in the Town's newsletter it should suggest that property owners can contact staff to find out what their prior years usage was in order to ascertain what to project for the current year.

Mayor Tokunaga asked how the metric for the three (3) out of five (5) years over usage was arrived at. Director Murphy explained it was calculated by

the Town's water engineer and staff. Director Murphy explained that each May the rates will be set and implemented on June 1st.

Further discussion from the Town Board was in regard to water rates in general and if these rates will be adjusted. Director Murphy explained that these rates will be reviewed in the future. This ordinance is only based on those residents who are exceeding their one (1) unit share of water.

Director Murphy explained that this Code amendment was recommended by the Water Commission unanimously to be brought to the Town Board for their approval.

Mayor Pro Tem Cozad moved to adopt ordinance 682 Amending Article 13 of the Milliken Municipal Code by Amending Sections 13-2-240, 13-2-280, 13-2-310, 13-2-610, and 13-2-630, and adding Section 13-2-670 regarding raw water, water taps and water usage rates and Town Staff shall make all reasonable efforts to notify each property owner each and every year the Maximum Allowable Annual Metered Volume is exceeded. However, the absence of receipt of such notice shall not preclude the Town from exercising its right to impose additional costs and fees for excessive water use. Trustee Onorato seconded.

Discussion: None.

Vote: Mayor Tokunaga, Mayor Pro Tem Cozad, Trustees Beck, Chavez, Hobler and Onorato in favor. Trustee Jemiola abstained. Motion passed.

DISCUSSION AGENDA

There are not any items.

Updates on Staff Assignments

Other Business

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

Meeting with Dave Bernhardt will be scheduled by Town Administrator Burack.

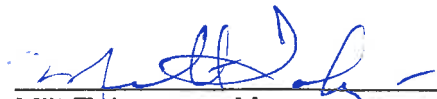
Adjournment

Hearing no further business, the Mayor adjourned the meeting at 10:02 P.M.

Prepared by:


Cheryl L. Powell, Town Clerk

Approved by:


Milt Tokunaga, Mayor