

April 17, 2017

Minutes of the Millersburg City Council Meeting
Tuesday, April 11, 2017

Meeting Call to Order

Roll Call Dave Harms, Jim Lepin, Scott McPhee and Don Miller present - Scott Cowan absent

Pledge Allegiance

Agenda Changes and Additions - No changes

Consent Agenda

Approval of March 14 2017 Minutes and invoices gathered since last Council meeting

Councilor Don Miller made a motion to approve the minutes and monthly invoices and seconded by Councilor Dave Harms – motion approved unanimously.

Guest Presentation - No guest presentation

Public Comment

Mayor Jim Lepin noted there was much concern in the community about dog related issues and so he would ask the public to limit their comments initially to this issue and then he would have Sargent Kiein respond. Afterwards, he would open public comments to other items or topics of concern.

Craig Ziegenhagel provided a timeline of actions and consequences associated with certain dogs running at large and killing cats.

Donna Harrington recounted events associated with her cat's death.

Michelle Nunes apologized to the public for her animal's conduct and acknowledged full responsibility for what they did and advising what she intended to do to make amends.

Nate Neuschwander identified that his cat had been killed and wished to know how the City intended to respond to this incident.

Craig Ziegenhagel expressed the gravity of the situation - noting his wife and others were fearful that they may be harmed by dogs running-at-large without restraint and/or adequate law enforcement response. He said either the City handled this situation or the community members would take this matter into their own hands.

Dennis Gunner said that he was doubtful that law enforcement would adequately respond to whatever regulations are adopted. He said this assessment was based on a conversation he had with the sheriff's office this weekend in response to the latest dog attack. He said he was advised that witnesses to these types of event needed to take pictures with their cell phone in support of the actions they observed.

Linn County Sheriff Sargent Klein provided responses to the many observations and concerns raised. He noted that the dog owner in the incident described was cited. He explained the protocol the Sheriff's office must follow in citing the animal owner and noting there are many variables that can interfere with this action. He noted it is difficult for the officer to take action if a witness will not sign a citation and/or they [law enforcement] did not witness the event. He said that frequently when they arrive on the scene the dog is long gone and citizen's description of the animal and incident are vague. And thus, "we have to find a witness that will sign a complaint and citizens are not always receptive to signing a complaint." In response to an inquiry Sargent Klein discussed the concept of civil compromise and its application. He then responded to a number of comments from the public and council members. He provided insight to how a person should go about initiating a complaint.

Craig Ziegenhagel cautioned the audience about agreeing to a civil compromise as an animal control remedy because he noted it takes away other recourses.

Scott Stimpson explained how his dog had recently gotten loose [but not associated with any of these cat incidents] and explained what he went through to retrieve his dog that had been apprehended by law enforcement. He suggested that community members consider having a social media app known as Nextdoor.com app. He said this social media tool would aid in identify the dogs running-at-large for purpose of reuniting them with their owners. He said this is a beneficial method of resolving this Community animal conflict.

Councilor Don Miller said to Mrs. Nunes - we need to take into account the fact these dogs could attack a child.

Mayor Lepin opened the meeting to other public comments items

Josh Morris said that his recreation league had used Millersburg Park the past 4 years. He noted that more and more youth teams are coveting this limited park space and suggested that the City look to developing new sites for park related purposes.

Discussion followed about youth sports and various recreational needs and the budgeting process.

Councilor Don Miller asked Mr. Morris if he was with the Wood Bat Guys sporting league. Mr. Morris replied yes. Councilor Miller said he needed to pass on complaints he had received about that league's conduct in the park. He said that there were complaints of excessive drinking followed by observations that as its members left the park - they drove like idiots.

Steven Smith said he was asked to put in a sewer main and a four inch water line as part of his development. He said the infrastructure would be of benefit to other developers and wondered if there was some mechanism available to help him and others recoup their investment costs overtime from others who benefited from the installation of this infrastructure?

Steve Hasson responded that he would be proposing that Council look at developing a latecomer's contract for situations where developers assumed an inordinate amount of cost and risk to install

oversized infrastructure with uncertainty they could recoup their costs, and where other developers could access that infrastructure at minimal out-of-pocket expense.

Linn County Sheriff Sargent Klein concluded his remarks by providing an overview of incidents that the Sheriff's operation had attended in Millersburg the past 30 days. Most of these issues were traffic related.

Councilmember Comments

Councilor Scott McPhee noted that the City had previously provided the Albany Boys and Girls Club a certain amount of money [about \$2,000] for youth improvement purposes at a particular school and they had yet to expend this revenue and would like to redirect its use to improve Millersburg Park baseball and softball fields.

Steve Hasson said he did not see an issue with them transferring use of these monies from one venue to another. He said the best bet was to give the money back to the City to be expended on items in support of their activities.

Mayor Lepin asked Council to approve the return and redistribution of these revenues to accommodate the Boys and Girls Club's needs at Millersburg Park.

Councilor Don Miller made a motion to that effect and seconded by Councilor Dave Harms and approved unanimously.

Councilor McPhee also requested the park fields be improved as soon as physically possible.

Steve Hasson said we wish to accommodate that group as soon as possible and they just need to tell us what they need and where and weather provided. He did note that the Oregon Supreme Court had recently reduced the limits on the concept "recreational immunity" and thus he would be more cautious how the City initiated recreational ventures.

Councilor Dave Harms said he had stopped taking his kids to Millersburg Park because it was not maintained. He believed before we start looking at expending monies for new parks we need to take care of this park. Specifically, he noted the slide was in disrepair and the caution tape surrounding it did not register with the children. He said we need to get the daily cleaned up.

Councilor Miller said he was ashamed in the park because some time it was a pig-sty.

Steve Hasson said the City was going to purchase a new slide to replace the one that kept getting vandalized but the cost was between \$6,000 and \$7,000. We decided instead to make one more effort to fix it rather than place money into a new slide that might get vandalized. Accordingly, we talked to a fabricator today about refurbishing it and also intend to place cameras out so we can identify who is vandalizing the slide. He also noted there is an engineering effort underway to figure out how to drain the water from the children's play area as well as a study about how to remove storm water from the rest of the park area.

Councilor Scott McPhee said if the City intends to install cameras - consideration ought to be given to installing lights at the same location because it is fairly dark in that region of the park.

Mayor's Comments

Mayor Lepin wished to congratulate Councilor Scott McPhee on his marriage. He encouraged the public present to inform him when something positive occurred so he could place it on the agenda. He noted there was a flyer placed on the audience chairs called Millersburg Transportation options. This flyer is in response to a goal we have to identify public transportation options. This was developed for us by the Council of Governments [COG] that identifies 5 specific options that are available to us here in Millersburg to include qualifications and costs. This flyer will be placed in the utility bill and also available on the website. He noted that Councilor Don Miller was serving on the COG transportation committee. He said eventually, we might end up receiving bus service but that was a very expensive proposition. He noted a COG representative will be available at the next Council [May 9th] meeting to discuss transportation goals. He also noted he would like to have a workshop with the strategic planning committee on May 16 to go over our goals and update them. He said the meeting would occur after the planning commission meeting held that same evening.

City Manager's Report

Steve noted at the onset of his report that we are the recipient of a 35 year award from CSI, the City's insurance provider for responsible claim management.

Recommending the moving forward with development of Storm Water Master Plan to address drainage, wetlands, and floodplains issues

Steve noted a need to come up with comprehensive storm water management plan that evaluates these impacts and taking into account the entire City. He said there is a need to develop a number of strategies to minimize its impacts. Accordingly, he is asking Council to approve the moving forward with development of such a plan that will address drainage issues, wetlands and floodplains – essentially a document that lays it all out. He noted that CH2M has developed a preliminary scope of work that still needs some refinement. He said if Council is receptive to such a plan we will complete the scope and then solicit it for bid.

Councilor Scott McPhee made a motion to move forward with the development of a storm water management plan and seconded by Councilor Dave Harms and passed unanimously.

Robert Wrightman said that the City did not have a good handle on storm water and noting his property had been flooded on more than one occasion. Mayor Lepin advised that once we go through this planning process we have the rules in place to attend to conflicts such as expressed by Mr. Wrightman. This is the first major step in this regard he said.

Generator bid opening results

Steve noted we had the generator bid opening today and advised that Janelle has provided Council with the preliminary bid amounts so they can see cost implications with the understanding this information is preliminary as these bids are still subject to verification. He said it should be noted we received alternate bids to reflect construction of a block wall enclosure in addition to a fence constructed enclosure.

Steve was looking for guidance from Council: Did they wish staff to continue to evaluating the purchase of a generator knowing the preliminary costs? Mayor Lepin noted this was a strategic planning item related to emergency preparedness. The intent would be to make the City Hall a place available for the community to congregate in a natural disaster event. Council nodded approval they wished to continue with the generator purchase.

Crosswalk – project status and anticipated schedule for completion

City Engineer, Janelle Booth, advised the forms have been inspected associate with this project and they are good to go. The holdup has been concrete – the concrete pour has been delayed because of the weather. The contractor is hoping to pour the ramp and the curb this week. She said they were told that as soon as they pour they need to open the sidewalks. She said the crosswalk painting will take place in May.

Reader Board Power

Janelle Booth advised the reader board has been assembled to include its electrical components but we are waiting for the power company to connect it and we have been advised this may occur April 14.

A preliminary recommendation concerning participation in a force main cleaning program and developing a strategy for reducing or eliminating storm water infiltration as estimated costs

Steve Hasson called to the Council's attention the fact the City experienced two sewer related disruptions whose remedy will cost the City about \$52,000. The first had to do with a lift station failure when its pumps were overwhelmed from nearly 3 inches of rainfall – falling in a short time period. The second incident related to a broken pressure sewer line. Steve said he had met with the City of Albany staff that provides for our wastewater management and they advised while attending to these two [2] conflicts they had also noticed storm water was infiltrating our sewer lines known as [I&I]. Steve said he had asked them to construct a cost and development proposal that would identify how to remedy the situation and is now providing Council with a copy of their comments. He had also asked CH2M to evaluate their comments for merit and propose as maintenance course of action. He noted as part of this effort to determine a proper maintenance course of action- the City is also evaluating two [2] inter local agreements [IGA's] with Albany for care and custody of our wastewater system.

Janelle Booth noted all sewer systems have some level of storm water infiltration. She said this is one of the things they looked at as part of constructing a sewer master plan. They said they had not seen a lot of [I&I] but on further examination it is apparent there is some infiltration in the manhole areas. And it is Albany's recommendation: We take care of the manholes where we know there are infiltration issues.

Accordingly, we have constructed a memo that addresses how we would go about attending to these issues along with costs and timeframes for completion. She said rather than looking to Albany to perform this maintenance work there is no reason it could not be placed out to bid to drive down maintenance costs. She said as we move forward CH2M will be recommending budgeting and scheduling timeframes. She noted that the issue with the lift station failure will be resolved by installation of two [2] new lift stations this summer.

Steve Hasson said he was calling these issues to Council's attention for information purposes only. However, at the next council meeting - he may be bringing back a maintenance course of action and associated costs figures for Council's review and possible action.

Councilor Scott McPhee noted that as part of our budgeting process we need to look at sewer fees.

Recommending initiation of a Business License

Steve Hasson showed council a draft business license he had constructed for their review. He said the motivation behind a business license is to have knowledge of the nature of commercial operations existing in your community; and to assure the business agrees with the land use zone they are located. He also noted the City would then have an awareness of the universe of community businesses interests which would provide an opportunity to reach out to them. He said that there are many different types of business licensees and many of them are intrusive in their inquiry and are relied upon as revenue source. He said the one he has constructed is minimally inquisitive and he suggested the City charge a small business license fee. He said the business license was a two [2] part process: if you approved the nature of a license - then at the next meeting he would bring back the code language authority relied upon for assuring these business licenses were obtained and maintained.

Mayor Lepin noted that the license was a goal identified in the strategic plan. He said not only would the license be beneficial to knowing who is in this community but also will provide a base for building a business relationship. He suggested that Steve add the businesses "number of employees" to the business license. Councilor Don Miller suggested Steve add "additional comments" to the last page of the draft business license template.

Attorney Forrester Reid asked a number of questions about the business license: What criteria or threshold are we reliant for that determination? Who is going to police this? What will you do if I don't acquire this license? How will we enforce? What if the business is transitory in nature?

Steve Hasson replied: we will inquire of other communities how they have instituted these fees and how they deal with these types of perplexities. He noted that because it would be a small fee - the City's energy to go after a non-responder would be minimal.

Mayor Lepin suggested that perhaps the word license needs to come out to make it more palatable maybe call it "registration".

The Council appeared to be receptive to moving forward with a business registration strategy.

Status of playground drainage resolution

Janelle Booth said that she had constructed a preliminary design for purposes of redirecting the water away from the children's play area. She also has a very preliminary costs estimate for the work at hand – she says it is in the range of \$30K to install the piping and a retaining wall to direct the water to the drainage location.

Councilor's expressed concern about the costs. Janelle Booth said she would look at other options to dial back costs and Steve said he intended to bring back a definitive proposal to the next meeting because this concern needs to be put to bed.

Recommending hiring of a Planner to perform a variety of development related tasks

Steve said he was recommending we bring a planner on board to address a number of developer related purposes. He said this person would help with the community's growth and development. He thought this person would reduce payroll costs and aid in reducing liabilities resulting from more attention to development details. He said this person's presence would more than pay for itself. He said the position would cost in the range of \$52,000 per year plus benefits. He said we are reliant upon contractor's for work output that can be done in house at substantial savings and noting that most of our contractual services are more than \$100 per hour as opposed to an employee payment of \$25 to \$30 per hour. He said this person would help us attend to all the matters that our starting to stroll this way. Steve noted he had constructed a memorandum that provided for the many duties this person could potentially participate.

Don Driscoll wished to clarify that the contractual planning costs were modest and no way are these types of savings to be gathered by bringing his services in house.

Mayor Lepin commented on this position stating there were two [2] aspects to this proposal: He said we need to have someone who could look closer to plans coming in this office before they go to other agencies for review. Also we need someone that can go out and do much of the inspection work that we are now reliant on out engineers to perform that is non-engineering in nature – that none-the-less we pay engineering rates to provide. He said more specifically: We pay CH2M to provide a number of services that this employee could provide at a substantial savings. He said he hoped that the Councilors would come into the office more frequently and understand the nature of the operation and gain perspective about new duties and tasks resulting from growth pressures. He said "there is more work than I thought and it takes people to do the work and someone to manage it and we need boots on the ground to make this happen." He said to better understand costs – he had taken payroll costs for 2015/16 and compared them to next year's costs and taking in account work that Steve is also doing to help reduce costs that would normally be outside the City manager's work scope such as writing legal contracts that he has the capacity to construct with minimal legal oversight. He said that taking all of the financial factors in consideration – he thought we could bring this person on board and save \$8000 a year. He noted: Essentially, bringing this person in house will not cost us anymore than what we paying now for services rendered. He said it is not necessary to call this person a planner, however some of what they will be doing is planner related and Steve will continue to do planner type activities.

Donna Harrington advised that she and her husband had opened up a business in Marion County and they relied upon the Jefferson City planner to help them with their development processes and that persons' services had proven invaluable to them.

Don Driscoll said he thought the City ought to provide this service in house. He said the City has grown to the point where it is now the right thing to do. He said his only concern with Steve's memorandum is there is an inference he was overcharging for services rendered and he wished to express that is not the case.

Councilor Dave Harms said the issue he has with our present process is the fact is it takes so long to respond to public need because we have to go to a consultant and they need to get back to us with answers and that takes time which slows down a public response. He said he agreed with the Mayor's budgeting - he thought the numbers were pretty darn close. He said he agreed with the entire first page of duties listed. He said - I think if we were to hire a person to do these tasks whether they are called a planner or something else this would be of great value and improve the communication conflict.

Councilor Scott McPhee said he agreed with most of this. He said his caution when looking through the work list was assuring the right person is hired to do the job. He said I think we are going to go further into public works and inspections. If we do inspections then we will need a certified building inspector and I don't think you will find a person with these credentials and also a planner credential. Maybe instead of a planner we look for someone who is public works person and also a building inspector.

Mayor Lepin asked Councilor Scott McPhee if he would be receptive to setting down with Steve and identifying the nature of this position to which he replied yes.

Steve Hasson noted that the City needs a person who has a planning background and a person who has a public works background and these may be two different persons. He said he wanted to cultivate both roles as growth allows.

Councilor Scott McPhee said we do have a public works department whether we want to acknowledge its presence. Steve Hasson agreed saying it may be fledgling but from here on out it will grow.

Councilor Don Miller said he was concerned if we hired this person and another recession hit whether we would be disposed to laying them off.

Steve Hasson said this is a business and yes we would lay that person off to protect our bottom line if need be.

Councilor Dave Harm expressed concern we would hire this person and then they would lured away.

The Mayor asked Steve if the Council is receptive, what would be the next step?

Steve Hasson replied: I will set down with Scott and hammer out an advertisement and bring it back to the next Council meeting for endorsement and also place money in the budget earmarked for this person.

Councilor Dave Harms made a motion to refine the job description to include the skill set associated with this person. He said he was looking for assurances that there was a correlation between this person's abilities and the compensation offered.

Steve Hasson said if there was caution about finding the person that has all these skills that he has held all the positions noted in the job duties having served as a planning director, building official, public works director and building contractor.

Councilor Dave Harms said he would hope the person hired could hit the road running rather than be schooled in the position.

Mayor Lepin said we have a head nod to create the job description to include skill set and educational requirements for the next meeting.

City Attorney's Report No report

Unfinished Business

Budget Member appointment

Councilor Don Miller nominated Barry Holsworth and Dennis Gunner to serve on the City's budget committee and seconded by Councilor Scott McPhee - the motion was passed unanimously.

Establishing Budget Committee Date and Altering Council Meeting Date: the Council agreed to convene the budget committee Wednesday, May 3 and possibly May 17. The Council also moved the budget Hearing date to June 6, as well as the City Council meeting, to minimize conflict with school graduations.

New Business

Ordinance 126 Encouraging safe and appropriate dog behavior in the City of Millersburg

Mayor Lepin advised the audience how the proposed dog ordinance had been constructed and who had been involved in the effort. He noted that after the ordinance had been drafted that Craig Ziegenhagel had proposed changes and the City asked our attorney to review his proposed modified language and see how it might be incorporated into the document.

A discussion followed between the City's attorney Forrest Reid and Mr. Ziegenhagel about the language that he had inserted in the document. After discussion and further clarification, Attorney Reid thanked Mr. Ziegenhagel for his input and advised these changes could be incorporated into the document.

Attorney Reid advised the Council they should let him take Mr. Ziegenhagel's modifications and incorporate them into the ordinance and then he would bring it back to next council meeting for possible action. He also distributed a document containing the pertinent Oregon Statutes relating to dog matters he was relying for the ordinance's construction and explaining how they are applied if it is approved.

Discussion followed between Forrest Reid and council members concerning authorities and penalties.

Andrew Dayton Partition Appeal – a public hearing

Mayor Lepin noted that the next item for Council consideration was an appeal submitted by Andrew Dayton concerning a land partition he had brought before the planning commission that had been denied on a close 4 to 3 vote.

The Mayor asked if any member of the Council had a conflict that would preclude them from participating in this matter. No member identified a conflict. With that the Mayor turned the matter over to Don Driscoll the City's contracted land use planner to explain the procedure, the land use particulars and timelines. He noted that the City's Planning Commission had denied the application by a vote of 4 to 3. He noted that afterwards the applicant had appealed the denial decision to the City Council and that is why the matter is before Council. He also noted the appeal was properly noticed and timely appealed. Don explained the land use entailed the addition of one lot in addition to the one already there. Next, Don provided the Council guidance on how to consider the scope of review. The Council determined to hear the appeal "on the record" which limited the testimony to the participants with standing. AK&D engineering provided testimony about the proposal for the appellant Andrew Dayton. The appellant's representative Jason Cota provided testimony about the proposal. Dennis Gunner and Scott Stimpson, members of the planning commission, offered testimony why they denied the application. Other audience members tried to interject their points of view but were advised they could not participate in the proceedings because the matter was on the record. The applicant did not provide a rebuttal response. The hearing was closed. Councilor Scott McPhee made a motion this item should be remanded back to planning commission for further review and seconded by Councilor Don Miller. Motion to remand was unanimous. Barbara Castillo noted this item will be heard before the planning commission in May due to notice procedure timeframes.

Approving of Ed Perlenfein's proposal to improve portions of Zuhlke Lane in exchange for the forgoing of 140' of road frontage fee @\$175 per foot or \$24,500

Steve Hasson advised council that in there is a map in their packet that explains this frontage proposal relying on a color coding system for clarification. He noted that Ed Perlenfein's Alexander Estates subdivision was approved by the planning commission with turn arounds [hammerheads] on the streets that led to Zuhlke lane. Subsequent, Mr. Perlenfein determined that he could improve upon his development project as well as further public interest by improving more portions of Zuhlke Lane. Accordingly, he has reassembled his development proposal with the planning commission's blessing to provide for further road improvements of public benefit and provided the Council will forgo road frontage fees on a lot in his possession that fronts on Zuhlke Lane in exchange for these other road improvements.

Attorney Reid clarified the proposal and the Council's participation.

Councilor Dave Harms made a motion to approve Mr. Perlenfein's additional road improvement participation on Zuhlke Lane in exchange for the forgoing of 140' of road frontage fees and seconded by Councilor Don Miller. Motion was approved unanimously.

Approving \$37,500 expenditure to CH2M for the Water System Master Plan

Steve Hasson said at the last Council meeting he had brought forth a proposal to develop a Water System Master Plan and the Council had affirmed proceeding with that action. Tonight he is asking Council to approve the actual sum to provide for the development of this plan.

Mayor Lepin asked why this plan was important?

Janelle Booth advised that it was needed to satisfy regulatory requirements now that Millersburg has been designated as having its own water system. This action also provides an overview of the water system to aid in the City's growth and development.

Councilor Dave Harms made a motion to approve an expenditure of \$37,500 for this purpose and seconded by Councilor Don Miller and approved unanimously.

Closing public comments:

Steve Smith inquired about the terms and conditions associated with the subdivision approval process. He advised that he had purchased 7 lots in Bailey Estates that did not have electricity to each of the lots and consequently he had to pay interest charges on these lots for 30 days until such times as power could be extended. He wondered why the City could not, as part of its subdivision platting approval process, assure electric utility extension. It was his understanding when the plat was approved then the utilities were in place and the project was complete in this regard. He thought having a planner on board could help assure that this type oversight does not occur and supported that action.

Mayor Lepin said we need to understand how this occurred.

Dennis Gunner inquired why the water system master plan was not put out to bid and the Mayor replied that we do not have a protocol for what is the threshold for bidding procedure but the current thinking is \$50,000.

Craig Ziegenhagel noted that the City Hall generator is part of an overall emergency preparedness strategy.

Closing Council Comments:

Councilor Don Miller said that when the reader board is connected he hoped that we would present static messages so as not to distract Old Salem Drivers and cause accidents. He also said we could advertise those businesses that procured a business license on the reader board.

Adjournment: Council adjourned at approximately 10:14 P.M.