

**MILLERSBURG CITY COUNCIL
JULY 14, 2015**

Present: Councilors Scott Cowan, Lisa Metz-Dittmer, Darrin Lane, Jim Lepin,
Mayor Clayton Wood, City Engineer Janelle Booth, City Attorney Forrest
Reid, City Planner Don Driscoll, City Administrator/Recorder Barbara
Castillo

The Millersburg City Council was called to order at 7:30 p.m. by Mayor Clayton Wood. The Pledge of Allegiance was said.

MINUTES OF JUNE 9, 2015

Jim Lepin moved, seconded by Lisa Metz-Dittmer to approve the minutes of June 9, 2015 as written and sent out. The motion passed unanimously.

CONTINUATION OF CONSER PLANNED DEVELOPMENT

Mayor Clayton Wood opened the continued Public Hearing and reconvened the City Council's deliberation phase of the Conser Planned Development Subdivision request.

Don Driscoll summarized the hearing process to date as follows:

1. Following the applicant's rebuttal testimony on June 10th, Ed Schultz, legal council to the applicant, requested to reserve their 7-day open record request opportunity.
2. The hearing testimony phase closed at 8:30 p.m. on June 10, 2015.
3. The Mayor recessed the council to another room and requested the Planning Commission to deliberate and make a recommendation to the City Council.
4. The Mayor reconvened the Council and requested a recommendation from the Planning Commission.
5. Planning Commission Ed Perlenfein, reported to the City Council that the Millersburg Planning Commission's unanimous recommendation is to deny the request. Council did not hear the Planning Commission's deliberation.
6. Ed Schultz requested to hold the record open until the Council schedules another meeting.
7. The request was extended to this City Council meeting, July 14, 2015.
8. The Council is now in the reconvened deliberation phase of the hearing.

Scott Cowan said that since he missed the last meeting, he won't be involved in the discussion or deliberation.

Matthew Conser recapped their testimony from the last meeting. Conser said they have provided 10 provisions to comply with the code, 33 findings to comply with the Comprehensive Plan, and their Traffic Impact Study demonstrates sufficient capacity for the project. This project is not significantly denser but is a more intense use of the remainder property due to the preservation of open space. It is just different than what people are used to. They plan to offer the open space as a potential donation to the City or manage the open space with a Home Owners Association.

Conser said when they came to Millersburg in 1990, some of the citizens were resistance to change and they were met with skepticism. Conser said if they hadn't persisted back then, some of the citizens objecting to this plan wouldn't be living here. They took a huge gamble by buying real estate here. Conser said he encouraged you as city leaders, to implement your own development code and Comprehensive Plan.

Darrin Lane asked with respect to the HOA, you made it clear that the intent is that the HOA would manage the open space. What other things would be managed by the HOA, the CCR's? Lane said you

haven't come up with the CCR's yet. Conser said they are usually done at the end of the process and not now.

Lane asked if you have a HOA that is responsible for managing the open space, what is the process the city would use if the HOA would be failing to operate? Forrest Reid said the city could take action by fixing what needs to be fixed and then going after the property owners. Lane asked if the city could have an ordinance going after an HOA if they didn't comply. Reid said this is difficult and not an easy thing to do. Reid said many HOA's are not functioning correctly, and it is not as though they have a pool of money. Lane asked if it is possible for a HOA to disband. Would a HOA collect from the members on a monthly or annual basis and what do they do?

Ed Schultz said the city's goals and guidelines have been more than concrete. They also require you to have less than the 10,000 sq ft. The decision the City Council makes must be based on the regulations and not the public sympathy. We have this system that is driven by absolute compliance with regulations. The City must comply with State Land Use Goal 10. Schultz said all of their issues have been covered. The only issue is there will be variable lot sizes.

Clayton Wood mentioned that if the City owns the open space, there is a potential liability with owning it.

Darrin Lane said that listening to testimony in opposition, there were a lot of concerns about this is just a way for a developer to shrink the lot size to increase their profit margin. That is a perception that is a challenge to overcome. Lane said if we approve this one, we have to approve the next one. If you are going to approve one, then you should make sure that you would approve the rest of them. If we approve this one, we need to make sure we put very detailed rules to prevent it from becoming one of the worst case scenarios. The question is how well it is maintained. The open space will become an area that won't be maintained. It will become a vegetated dump. The applicant says they are complying with the code. Lane said for his part he would be willing to vote for a PD if it included a proposed HOA and proposed CC&R's with conditions of approval. Lane would want the open space well maintained, would want the applicant to submit an open space management plan for us to look at. He wants to see a plan that says this is how it will be maintained. It will look like a limited developed park. He would want the city to develop an ordinance so the city could go after an HOA if they weren't complying with the rules. He would also want to make sure the HOA and the CCR's would address things like quality of life things that affect others. How would you store things? Lane said he would be willing to approve this PD if he felt that those items were adequately addressed. So then it isn't a way for the applicant to come and make a few bucks. He would want it approved tentatively and see all the conditions written out in such a way.

Jim Lepin said he doesn't agree with what Darrin said but understands it.

Lisa Metz-Dittmer said she understands what Darrin says about the open space and it has potentially liability for the city. All the houses are around the open space. It is not a free for all to enter it. How are those people going to feel when people are going on the open space next to their homes? How do you prevent crime and camps from setting up there. The original plan was for 81 lots and all of the wetlands and open space were contained within those lots. Lisa said she has lived in areas where there was an HOA and it didn't protect her at all and she had to take her issue to a lawsuit.

Jim Lepin said he is not willing to back off the 10,000 sq. ft. and said he was very proud of the community at the last meeting. Lepin said this whole CC& R and HOA issue is a "sticky wicket". He has sat on the Board of Directors of an HOA and knows you can have the best designed HOA, but it is impacted by the changes in people over time.

Darrin Lane moved to approve the J. Conser & Sons application for a Planned Development Subdivision subject to the adopted Conditions of Approval to be determined at a subsequent meeting. The motion died for lack of a second.

Jim Lepin moved, seconded by Lisa Metz-Dittmer to deny the J. Conser & Sons application for a Planned Development Subdivision based on non-compliance with the minimum 10,000 square foot lots.

Jim Lepin retracted his previous motion and Lisa Metz-Dittmer retracted her second of that motion.

Jim Lepin moved, seconded by Lisa Metz-Dittmer to deny the J. Conser & Sons application for a Planned Development Subdivision subject to the adopted findings for denial that will be determined at a later date. The motion passed with the voting as follows: Clayton Wood – aye, Darrin Lane – aye, Lisa Metz-Dittmer – aye, Jim Lepin – aye and Scott Cowan abstained from voting.

THE DECISION MADE BY THE MILLERSBURG CITY COUNCIL TONIGHT WAS A TENTATIVE DECISION AND THE FINAL DECISION WILL BE MADE AUGUST 11, 2015.

The hearing closed at 8:50 p.m.

REFERRAL VOTE

Forrest Reid reported that at the last meeting, the council directed him to come up with language for a ballot title for the power issue to go for a vote by the citizens of Millersburg on the November ballot.

Reid presented the Ballot Title to the council. Reid said the Ballot Title needs to be published in the Albany Democrat Herald and can be challenged within seven business days.

BALLOT TITLE

Caption: Formation of Millersburg City Power, a municipal electric utility.

Question: Should the City obtain financing to form a municipal utility to provide electric service to customers within the City?

Summary: Oregon law authorizes cities to form and operate municipal electric utilities and acquire power, including power from Bonneville Power Administration (BPA). A City Council appointed Advisory Committee created a Plan detailing how the City could form and operate such a utility. This measure allows implementation of that Plan to enable the City to form the utility, acquire service territory rights, acquire and build electrical facilities, and purchase power to serve customers within the City, so long as the rates charged by the City do not exceed the rates charged by Pacific Power when BPA Tier 1 power is available to the City. Under the City Charter which requires citizen approval, this measure authorizes the City to borrow up to \$40 million to finance all costs of forming and operating the utility, with such costs paid out of electricity rates approved by the City Council. If City electricity rates would be higher than Pacific Power rates, or the City would incur more than \$40 million in costs, the City would not form the utility.

Jim Lepin moved, seconded by Scott Cowan to approve the Ballot Title as presented. The motion passed with Mayor Wood, Scott Cowan, Darrin Lane, and Jim Lepin voting in favor. Lisa Metz-Dittmer declared a conflict of interest and abstained from voting and did not participate in any discussion of this issue.

WATER LINE PROJECT

Janelle Booth reported that the contractor, Pacific Excavation will start working on the Water Line Project on Monday, July 20th. They will start at the north end of Woods Road. They will be asking the property

owners where they want the meters in place. They will also have traffic control in place, and local traffic will be allowed.

PURCHASING WATER SYSTEM

Janelle Booth reported that she has been working with the City of Albany regarding the separation of the water supply between Albany and Millersburg. There will be paper work to complete up front, but the day to day operation won't be any different. There will be some additional costs. Albany will still be doing most of the sampling, the Consumer Confidence Reports, the cross connection and back flow prevention. The City of Millersburg is required to hire a Direct Responsible Charge person. CH2M provides this service and is currently providing it for Dallas, Oregon. It will require about one half day per month of one person's time.

MS4 PERMIT

DEQ is required to look at communities and their municipal storm water impacts. Each community can apply for a waiver and Janelle Booth is working with a representative of DEQ to see if the City of Millersburg qualifies for this waiver. They are mostly concerned with impacts to aquatic life. There is a deadline of September 30th to either be included in a permit, or obtain a waiver.

SPEED ZONES

Darrin Lane reported he has heard from the Oregon Department of Transportation regarding the City's request for a speed zone investigation on Alexander Lane and Old Salem Road. ODOT has recommended a speed of 35 mph on Alexander Lane and 50 mph, 40 mph and 35 mph for different parts of Old Salem Road. Lane said that 85% of the traffic on Old Salem Road was going 52 mph.

Scott Cowan moved, seconded by Jim Lepin to accept the findings of ODOT as reported by Darrin Lane. The motion passed unanimously.

WATER LINE ON 54TH

Barbara Castillo reported that there are two properties at the end of the pavement on 54th Avenue that are vacant without city water. City water is available to them but is across 54th Avenue. There is a 30 foot public right of way in front of these parcels. Castillo said that she met with Jim McWade a few months ago out at that property, and he suggested that the City put the water line in the right of way as a change order to the Conser/Woods Road water project. It has been the city's policy to have the developer put in the water line. This situation is unique because the developers have only done it on their property and then deed their roads and the utilities to the public. Lisa Metz-Dittmer said it wouldn't be fair to the others who have had to put in the water lines at their expense. It was the concensus of the council to get a an informal cost estimate from Pacific Excavation for the water line and also one from a private contractor to see if the city performed the work, if they could recoup their costs when the developer would pay for their water connection.

SHERIFF'S REPORT

Lt. Michelle Duncan of the Linn County Sheriff's Department reported there have been six citations, 16 traffic warnings and 1 crash on Old Salem Road. 12.5 hours have been spent on traffic control in Millersburg the past month. There have been a few vehicles broken into and 95% of them had the doors

unlocked. Duncan requested that if you do have your vehicle broken into, to please report it. Duncan also said that Millersburg is on focus patrols.

COMMENTS FROM THE PUBLIC

- Craig Ziegenhagel said he has been requesting increased patrols in Millersburg over the 4th of July, but he has not seen any effort being made to stop the illegal fireworks. Ziegenhagel said a neighborhood street was blocked off to light off these fireworks. He said that volunteer fire fighters and reserve deputies could patrol the area and give out citations of \$1,000 for illegal fireworks. Jim Lepin said the Linn County Sheriff's office had 37 calls in the county regarding this issue.

TANK FARM

Scott Cowan said he is pursuing getting the tank farm across from city hall either cleaned up or removed. Barbara Castillo said she has no information in her files regarding the tank farm but did look on the Linn County's website for tax information. They have the tank farm property listed as inactive with a zero valuation. There is a sign on the gate giving a phone number. Castillo said that Don Miller has previously contacted them on three different occasions to request them to either pressure wash the tanks or paint them with no results.

BILLS OF THE CITY

Scott Cowan moved, seconded by Lisa Metz-Dittmer to pay the bills of the City. The motion passed unanimously.

EMPLOYEE WAGES

Jim Lepin moved, seconded by Scott Cowan to make the following wage increase for city employees: Sean Shearer – 2% COLA raise retroactive back to July 1, 2015, Dustin Patton – 2% COLA raise after his probationary period which ends August 20, 2015, LeAnn Chartraw – 2% COLA raise plus \$.50 per hour retroactive back to July 1, 2015, Barbara Castillo – 3% COLA raise retroactive back to July 1, 2015.

APPROVAL OF CHECK WITH ONE SIGNATURE

Scott Cowan moved, seconded by Darrin Lane to approve check number 13503 made out to Timber Ridge PTC which was processed with only one signature. The motion passed unanimously.

REQUEST FOR DONATION FROM ALBANY HELPING HANDS

Darrin Lane moved, seconded by Scott Cowan to donate \$2,500 to Albany Helping Hands. The motion passed unanimously. Scott Cowan suggested this be designated to help with a heating system to assist in killing bed bugs.

CRIME PREVENTION FORUM

Jim Lepin reminded everyone about a Crime Prevention Forum being held Thursday, July 16, 2015 at 6 p.m. at city hall.

The meeting adjourned at 10:06 p.m.

Respectfully submitted,

Barbara Castillo

City Administrator/Recorder