

MILLERSBURG CITY COUNCIL
October 13, 2015

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

The Millersburg City Council was called to order by Mayor Clayton Wood. The Pledge of Allegiance was said.

MINUTES OF SEPTEMBER 8, 2015

Jim Lepin moved, seconded by Darrin Lane to approve the minutes of September 8, 2015. The motion passed unanimously.

WATER LINE PROJECT

Janelle Booth reported that the Water Line Project on Conser and Woods Road is complete except for a small amount of cleanup. Booth said that overall she thinks they did a pretty good job and Woods Road is smoother than what it was before. The warranty on the trench patching is good for a year. The Council was very pleased with the project and said it was a good job from the engineering to construction.

Steve Vogler commented the crews were good, but he is not too happy with the bumpiness of the patch. Darrin Lane said it can be fixed after it settles. Scott Cowan asked Booth to remind the Council to have the patches fixed before the warranty period expires.

Janelle Booth recommended payment of \$83,391 to the contractor based on the progress to date.

Darrin Lane moved, seconded by Lisa Metz-Dittmer to authorize payment to Pacific Excavation for the latest invoice as relayed by the City Engineer. The motion passed unanimously.

LINN COUNTY SHERIFF'S REPORT

Sergeant Greg Klein gave the monthly Sheriff's report for September 2015 to the City Council. There were 7 traffic citations, 11 traffic warnings, 2 traffic crashes, 1 adult arrested, 28 complaints/incidents investigated and 12 traffic hours in October for a total of 113 hours spent in Millersburg.

Sergeant Klein told the council there is evidence of a transient camp on the property between Morningstar Road and I-5.

Sergeant Klein also told the council there is a quarterly Millersburg Crime Prevention Forum Thursday, October 15, 2015 at city hall.

OREGON MARIJUANA ORDINANCE

City Attorney Forrest Reid explained that if by December 31, 2015, a local ordinance is passed by the Millersburg City Council, the OLCC will not license any establishment which produces, processes, wholesales, and /or retails marijuana under the Recreational Marijuana program in Millersburg. The City Council may then direct a referral vote to the citizens of Millersburg during the November 2016 general election. If the referral vote passes, the OLCC will continue to not license any establishment. If no referral vote is submitted during the November 2016 general election, or the voters reject the referral, the OLCC will begin licensing establishments in Millersburg if the applicant meets the licensing criteria.

Darrin Lane moved, seconded by Lisa Metz-Dittmer to approve Ordinance No. 115 which is “AN ORDINANCE PROHIBITING THE LICENSING OF FACILITIES OR BUSINESSES IN MILLERSBURG, OREGON, WHOSE PURPOSE IS TO PRODUCE, GROW, PROCESS, RETAIL, WHOLESALE, OR DISTRIBUTE MARIJUANA FOR MEDICAL AND/OR RECREATIONAL PURPOSES.” The motion passed unanimously.

YARD DEBRIS BUCKET ISSUE

The Millersburg City Council reviewed a survey that was taken in Albany and Lebanon by Republic Services regarding their opinion on if they would use a weekly yard debris container. Although residents in Albany were mostly in favor of it, their city council voted against adopting the service. Residents in Lebanon were against it, their city council voted to adopt the service.

The cost for weekly yard debris service is \$3 extra per month for every residential customer of Republic Services, even if they don't use the service.

Since only one citizen has requested the weekly yard debris service, the council decided to take no action on this request.

Scott Cowan moved, seconded by Lisa Metz Dittmer to take no action on this request. The motion passed unanimously.

STRATEGIC PLAN CONTRACTING

Jim Lepin told the council he has had discussions with Gary Marks, the Lebanon City Manager regarding Lebanon's experience with getting a strategic plan put together. Lepin received support from the council in inviting Gary Marks to our next meeting so he can provide his perspective. Lepin asked the council to review the vision statements he provided and also the Request for Proposals that Lebanon sent out for a Strategic Action Plan. If after meeting with Gary Marks and agreeing the council wants to move forward with a Strategic Plan, Lepin would like the city council to approve an RFP to put in the budget.

FILL AND EXCAVATION ORDINANCE

Janelle Booth requested the council hold a work session to discuss the proposed Fill and Excavation Ordinance.

Scott Cowan moved, seconded by Jim Lepin to table the Fill & Excavation Ordinance until after the first of the year. The motion passed unanimously.

BASKETBALL HOOPS

Barbara Castillo reported there are currently 3 basketball hoops that have been placed in the city's right of way permanently in beauty strips. There are also at least 20 portable basketball hoops in the city's right of way. Castillo said the permanent hoops actually look much nicer than the portable hoops. Castillo said if the council directs her to require the property owners to remove the permanent hoops she will.

Darren Lane said that any time someone puts something in the city right of way, they should get a permit. The council had a brief discussion on the liability if they allowed something in the right of way.

This issue was tabled for a month and directed City Attorney Forrest Reid to talk to the League of Oregon Cities about the risks involved.

SERIAL PARTITIONING

The council had a discussion on Serial Partitioning. Darrin Lane said if someone wants to divide their property, he doesn't see any harm in that. It's when the property is divided further and further. When a property owner brings a partition in for review, if staff sees a potential for a serial partition, they would ask to see their final plan to make sure that all easements are in place.

Another dilemma is that it may not be the same property owner down the road.

Don Driscoll will write proposed language to be put in the Conditions of Approval for every land partition that is requested for the November meeting.

ALEXANDER LANE SIDEWALK

Darrin Lane moved, seconded by Lisa Metz-Dittmer to authorize and direct Janelle Booth to proceed with the design of the Alexander Lane Crosswalk and have it out for bid for Spring of 2016. The motion passed unanimously.

LIFT STATION UPGRADES

Janelle Booth reported they are not as far along as they thought they would be for the scope of the upgrades to the Morningstar and Wah Chang sewer Lift Stations. They need to develop up front information before they can provide the scope of the project for the sewer lift station upgrades. The Sewer Master Plan was done in 1981, and is not updated enough. Booth said they may need to develop a new Master Sewer Plan. Basis of design criteria needs to be established.

CLOSE PARK GATES

Barbara Castillo reported that after receiving a letter from a citizen on Granite Avenue requesting the city to start locking the gate again at night because people have been sleeping in their cars, working on their engines and creating a sustained disturbance, she hired Valley Merchant Police to lock the park gates. They will lock the park gates seven nights a week, and open them every Saturday and Sunday and also on the holidays that city staff has off. The cost is \$6 per lock and unlock, which comes to approximately \$265 per month.

The council was very supportive of the action that was taken to hire Valley Merchant Police.

TANK FARM

Scott Cowan said he is still working on making contact with the owners of the tank farm to find the status of the property and their plans for ever painting the tanks. Cowan said his goal is to see the tanks completely removed or painted.

Darrin Lane asked if the city could have an ordinance regarding unsightly buildings and establishing a fine if they are not cleaned up.

COMMENTS FROM THE PUBLIC

Doris Johnston invited the council to attend Business After Hours at Pacific Power Operations Center Tuesday, October 20, 2015 from 5:15-7 p.m.

BILLS OF THE CITY

Lisa Metz-Dittmer moved, seconded by Darrin Lane to pay the bills of the city. The motion passed unanimously.

CONCRETE RAMP

Barbara Castillo reported that a citizen had put a concrete ramp against the curb in front of the side of their house where an RV would be parked because they wanted easy access to that portion of their property. City staff removed the ramp very easily with the backhoe.

POWER SALES AGREEMENT

The Millersburg City Council received a letter from Elliot S. Davis, Senior Vice President, General Counsel, Chief Compliance Officer and Corporate Secretary of ATI. The letter states, “ATI Specialty Alloys and Components (ATI SAC) has supported the formation of a municipal utility since the beginning of this process, and will continue its support so long as the residents of Millersburg believe it is in the community’s best interests and vote to continue to form the municipal utility. On October 8, 2013 the City of Millersburg adopted a Municipal Utility Formation Plan Agreement between the City and ATI SAC (then known as Wah Chang). In addition to Wah Chang agreeing to pay for all consulting and legal fees to investigate the merits of the municipal utility, subject to reimbursement only if the City issues bonds or other financing to own and operate the utility system, the agreement contained the following provision:

- The Power Sales Agreement between the City and Wah Chang will also require Wah Chang to pay the city an amount equal to the unamortized costs of acquiring facilities to serve Wah Chang should Wah Chang terminate operations in the City. In the event Wah Chang reduces service so that the amounts paid by Wah Chang are not sufficient to cover the debt payments on the facilities acquired to serve Wah Chang, the amount paid by Wah Chang will be adjusted so that the city receives sufficient revenues to cover those payments.

This will confirm that Allegheny Technologies Incorporated (hereinafter ATI) hereby affirms the above contractual obligation(s). As you know, ATI has paid since 2013 and will continue to pay all legal and consulting fees related to this process, and the City is only required to reimburse these amounts if it issues bonds or acquires other financing to own and operate the utility system. Further, as described below, ATI will enter into a Guarantee Agreement with the City covering the above obligations which will include a

provision that, in the event that the ATI bond rating is below investment grade status (as determined by the S&P or Moody's rating services) at that time, or falls below investment grade status during the term of the Guarantee Agreement, ATI will also provide a bank letter of credit guarantee of its obligation to the City. In finalizing the terms of the Guarantee Agreement, it will be important to take into account and craft the terms such that they adequately cover any terms or requirements imposed by the entity issuing the bonds or other debt instrument. It will also be important for the City to have more detailed information regarding the total cost of the utility formation and the allocation of those costs, so that the amount of the guarantee can be determined. These figures cannot be finalized until the costs of the assets to be constructed or acquired, particularly those to be acquired from PacifiCorp, are finalized.

The Guarantee Agreement between ATI and the City will be entered into on or before the date that the City incurs any debt obligations in the formation or operation of the municipal utility. ATI understands that the City would not move forward with the creation of a municipal utility without such guarantee in place. Further, as described in the Business Plan for Millersburg City Power. ATI understands and acknowledges that the City will only move forward if: (a) Electric rates for all customer classes will not exceed the electric rates charged by PacifiCorp when BPA Tier 1 power is available to the City; (b) Electric rates produce revenues sufficient to pay for the new utility's operating expenses and debt payments, including an in-lieu of contribution to the City general fund to replace the franchise fees currently collected from PacifiCorp; (c) Electric system reliability will be comparable to or exceed that of PacifiCorp; and (d) The City is able to finance the municipal utility.

Darrin Lane said ATI doesn't want to put constraints on their finances until they know the citizens want it. The longer we wait to do an agreement with ATI, the more leverage the city will have. He sees no problem in finding out acquisition costs, bonding costs and if the citizens approve the municipal power utility.

The meeting adjourned at 9 p.m.

Respectfully submitted,

Barbara Castillo
City Administrator/Recorder