

Richard C. McCarthy Commission Chamber
Millville City Hall
Work Session
February 7, 2023, 6:00 P.M.

The Board of Commissioners met in a **WORK SESSION** with Mayor Orndorf presiding. Members present: Hewitt, Sooy, Romanik and Watson. City Solicitor, Brock Russell was also present.

Salute to the Flag

The salute to the flag was led by Mayor Orndorf.

Open Public Meeting Statement by Mayor Orndorf

"This meeting is being conducted in accordance with the Open Public Meetings Act of 1975 and was advertised, posted and made available to the public as required by Statute. The Municipal Clerk is directed to include a statement in the minutes of this meeting."

Public Comment on Agenda Items Only

Mayor Orndorf declared the public comment portion open on agenda items only and asked if any person present wished to be heard. There being no response Mayor Orndorf declared the public comment portion on agenda items closed.

Discussion of Commissioners

Vice-Mayor Sooy

Vice-Mayor Sooy reported that Wheaton's obtained demolition permits for five buildings last week and there is a resolution on the agenda this evening for a change order for the rescue squad building and explained that the original change order was in the amount of approximately \$126,000.00 and after negotiations with the contractor that amount has been reduced to an amount of \$69,000.00, which is still above the 20 percent that is allowed, but it still results to be the lowest bid that was actually received. He explained there was additional asbestos found, which resulted in the amount being increased.

Mayor Orndorf

Mayor Orndorf stated that the city is doing a lot of redevelopment and there has been a lot of interest in the city and she has received some questions from people on how the governing body can make decisions without talking amongst themselves and deferred to Brock Russell, because it is not always the commission that is involved with prior engagements and conversation and explained things happen between city employees, such as Brock, the business administrator and if the governing body is lucky they are able to meet with people.

Brock Russell, City Solicitor, explained that the city has an Economic Development Director, our City Administrator, Raymond Compari, who does an excellent job and if someone is interested in the acquisition of city owned property they would communicate with Mr. Compari, who would vet them and determine whether or not it is a worthwhile project and if it is he would convey that information to a commissioner or two commissioners and then there may be negotiations, which may lead up to a contract and typically they have to be confidential.

Brock Russell used the Redevelopment Project at 2 North High Street as an example, which was very complicated because there were two transactions and it involved a Redevelopment Attorney and two separate sets of negotiations, which is on the agenda tonight for approval.

Mayor Orndorf advised that they have a Redevelopment Plan so they don't have an empty building sitting on High Street and the purpose of the Redevelopment Plan is to ensure that they know what is going in that building and that there is a plan in place.

Brock Russell advised that the current commission has tried hard to utilize the Local Redevelopment and Housing Law for its intended purpose for these projects when selling someone land it would be a transaction under the Local Redevelopment and Housing Act, which means there is not only a purchase and sale agreement, but there is also a Redevelopment Agreement, which contains a lot of covenants that have to be satisfied by the redeveloper and if the redeveloper violates those covenants the title can actually revert back to the municipality. The other advantage is the first thing that happens when the city enters into a redevelopment agreement an escrow agreement is included where the redeveloper must pay money to the city that is held in an escrow account that pays the cost of the city's redevelopment attorney.

Further discussion took place on the redevelopment process and how the governing body meets and the role of the city professionals.

Public Comment

Mayor Orndorf declared the public comment portion open and asked if any person present wished to be heard.

Cheryl Howell addressed the governing body and expressed her displeasure about her neighbor planting bamboo on Violet Road approximately 3 or 4 years ago, whom she told at the time that it was very invasive and uncontrollable and expressed her concerns about it coming to her property. She stated that at that time she met with Wayne Caregnato, Zoning Officer, and inquired if any ordinances could be passed to address the issue and he advised her that it takes forever to get anything passed by the commission.

Cheryl Howell stated that it is now three years later and the bamboo is now approaching her yard and in May of last year she spoke with William Davis, who informed her that there were three additional people that have complained to him about bamboo in their neighborhoods, so at that time an ordinance was drafted and she was under the impression it was going to be brought before the governing body in May and approved in June, but nothing happened, so she came back in October to inquire about it and was advised that the governing body did not know how it could be enforced.

Cheryl Howell advised that as of today the bamboo is now more than 50' x 50' coming to her yard and advised that bamboo grows 10' to 12' underground by roots per year and would like to know what recourse she has, because if there is no law in the books, how is she supposed to legally address the matter.

Brock Russell advised Ms. Howell that she has the right to bring an action against her neighbor for nuisance, which has been heard in the past by Superior Court.

Cheryl Howell stated she shouldn't have to spend money on a lawyer, because it should be controlled by ordinance by the city and advised this has been a problem for years and every community around Millville has bamboo ordinances noting that on the other side of Laurel Lake it is not permissible to be within 50' of a neighboring property.

Ms. Howell further provided in detail her interactions with her neighbor about the bamboo.

Vice-Mayor Sooy asked Brock Russell to explain the Supreme Court case that he and Mr. Russell discussed about previous to the meeting with Mr. Russell responding that the bamboo problem has been controversial throughout the state and there is a bill in the legislature that would ban the sale of bamboo, which has not moved forward. In addition, there have been some municipalities that have adopted bamboo ordinances and the concern was that they are difficult to enforce. The Supreme Court had dealt with one of those cases in 2000 and there was a split decision, 4-3, and advised that a person can bring a legal action against somebody if their bamboo comes on to your property and then there is a question of what the damages would be and believes Teaneck has an ordinance that requires that if a person plants bamboo in their yard it must be done by a professional and limited to pots, but that would not help a situation where someone already has a bamboo problem.

Brock Russell further added that as a matter of common law a person cannot do something on their property that is deleterious to a neighboring property, because the neighbor would have a cause of action against their neighbor and suggested to Ms. Howell to have her lawyer write a letter to her neighbor.

Brock Russell concurred that bamboo is a problem but is not one with a simple answer and stated that it is hard to remove bamboo even if they agreed to remove it, because it is difficult to get it all and it comes back.

Further discussion took place regarding the problem with bamboo and the difficulty in creating and ordinance that would enforce the problem, how to stop people from planting it, how to fine people and how the nuisance affects the value of homes and the difficulty of homeowners selling their homes with that problem.

There being no further comments Mayor Orndorf declared the public comment portion closed.

Closed Session Resolution

City Clerk read the following resolution:

Resolution No. 44-2023 authorizing a Closed Session for the following matter:

1. Pending lawsuit regarding bill from Marnero Law against the City of Millville:
Attorney/Client Privilege

Vice-Mayor Sooy made a motion to approve the resolution, which was seconded by Commissioner Hewitt. The motion was carried by the following vote: Yeas: Hewitt, Sooy, Watson, Romanik and Orndorf.

The Board of Commissioners proceeded to the 4th Floor Conference Room and held the executive session. Upon completion the Board of Commissioners returned to the dais.

Adjournment

There being no further comments the meeting was adjourned on a motion made by Commissioner Hewitt and seconded by Commissioner Romanik subject to the call of the chair. All were in favor. None were opposed.

Respectfully submitted,



Jeanne M. Parkinson, RMC
City Clerk