

January 12, 2009

A Special Meeting of the Millwood City Council was called to order by Mayor Dan Mork at 7:00 p.m. January 12, 2009 at the Millwood City Hall. Council members present: Mr. Brian Ellingson, Mr. Richard Schoen, Mr. Kevin Freeman and Mr. Glenn Bailey. Mr. Culler was excused. Also present: Attorney Brian Werst, Planner Tom Richardson, Maintenance Supervisor Cleve McCoul and Clerk-Treasurer Eva Colomb.

Mr. McCoul led the Flag Salute.

Mayor Mork stated the purpose of the Special Meeting; to review, discuss and possibly adopt ordinance 373, an ordinance regarding the use, maintenance, operation, regulation, construction, disturbance and modification of the rights-of-way within Millwood. Ms. Colomb advised that notice of the meeting was published in the Spokesman Review and posted at the official posting places. Mayor Mork introduced Sean Heston of Canfield and Associates and Sean Boutz , legal counsel for Canfield and Associates.

Mr. Werst explained that the need for a right of way regulation ordinance was recognized when a company doing work in the right of way on Liberty was not meeting generally accepted construction specifications, and requests to block of streets for fairs and market activities were received. Mr. Werst advised that the Special Event Permit process covers some of the activities requested, but not all. Discussion was held regarding the Model Traffic Ordinance adopted by Millwood and some specific subjects not addressed in it. Discussion was held regarding the need to address snow accumulation situations that have arisen in the last few weeks. Mr. Werst discussed versions of the ordinance previously submitted to the Council.

Mr. Richardson discussed the purpose of the ordinance: to provide for the issuance of right of way use permits in order to regulate activities that involve construction, disturbance, modification or certain uses and maintenance within the rights of way and to provide for regulation that coordinate the increased use of corridors, lessen the amount of construction, reduce the overall costs of the City by receiving adequate compensation to cover the City's costs associated with its rights of way, and lessen the inconvenience to the public and to provide procedures for the City to administer the permit process. Mr. Richardson explained that the City owns the right of way and so, is responsible for it. The proposed ordinance provides for the establishment or procedures needed to implement requirements. The property owner is responsible for the area between the developed street and the property line including sidewalks, snow removal landscaping and parking areas. Citizen Bobbie discussed the stated responsibilities of the property owner and asked if the property owner is responsible for clearing snow, where they should put the snow removed from the right of way. Ms. Beese discussed the recent heavy snow fall and the size of the burms that have accumulated in the area between the paved streets and the right of way. Mr. Werst stated that the property owner is responsible for the maintenance of the area between the paved street and property line and that every jurisdiction has a requirement that property owners maintain the right of way which in some cases is a sidewalk. Discussion was held regarding enforcement issues that may arise regarding snow removal issues and the need to maintain safe passage for cars and pedestrians.

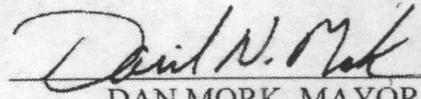
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Discussion was held regarding possibly developing specifications for snow removal requirements. Discussion was held regarding a requirement in the proposed ordinance that no alley, sidewalk, street or public way may be obscured, constructed, maintained or repair work be performed within the area in a manner that endangers the public health, safety and general welfare of the City or prohibits the City from providing necessary services to residents, without first obtaining a written permit. Citizen Shirene Young stated that many of the alleys in Millwood have seemed to become part of the adjacent yards and asked if the property or fences that may have been placed in the right of ways are grandfathered. Mr. Richardson advised that there is no grandfathering and that if the public safety is threatened, action will be taken. Discussion was held regarding utilities that may be located under and over alleyways. Mr. Richardson discussed permit requirements as set forth in the proposed ordinance. Discussion was held regarding requirements for working in the rights of way included in utility franchise ordinances. Discussion was held regarding requirements of the zoning ordinance for trimming trees located on public and on private property and under what circumstances permits for working in the right of way may be required when trimming trees. Citizen June King asked how the proposed ordinance will be enforced and what fines or penalties may be associated with violations. Enforcement and abatement remedies were explained. Mr. Werst discussed requirements of other ordinances regarding trees or vegetation that obscure vision creating hazardous conditions. Bobbie Beese discussed a problem that occurred near her business (3301 N Argonne) when the alley was blocked by workers installing siding at a neighbor's property. The alley was blocked for two days and no notice was given before the work began. Mr. Werst explained that the permit process requires that traffic and safety plans be submitted for review and approval before a permit is issued which would include notification of neighboring property owners. Discussion was held regarding the fact that most property owners do not know exactly where their property line is located. Permit fees proposed in the ordinance were discussed. Ms. Young asked for clarification on a requirement of the proposed ordinance (section 5c) which states that permits may be issued for use of a right-of-way for a period not in excess of 180 days for those activities that have the potential of altering the appearance of or disturbing the surface or subsurface of the right of way on a temporary or permanent basis. (1) Frequent-use hauling involving an average of 6 loaded vehicles per hour during any 8-hour period in one day for 2 or more consecutive days. Ms Young advised that at least that many deliveries are received at the I. E. Paper Company mill on a daily basis. The language of section 5c were revised as follows: Permits may be issued for use of a right of way for a period not in excess of 180 days for those activities that have the likelihood of altering the appearance of or disturbing the surface or subsurface of the right of way on a temporary or permanent basis as determined by the Director or designee.

Mr. Freeman moved to adopt ordinance #373 with changes made to Section 5 c, seconded by Mr. Bailey. The motion carried unanimously.

ADJOURNMENT: Mr. Ellingson moved to adjourn, seconded by Mr. Schoen. Mayor Mork adjourned the meeting at 8:07 p.m.

January 12, 2009



DAN MORK, MAYOR

Attest:



Eva L. Colomb, Clerk-Treasurer