

## Regular Meeting

January 24, 2017

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 7:00 p.m. by Chairman McGrath in the Assembly Room of the Millcreek Township Municipal Building. Present were Mark Zaksheske, John Groh, Brian McGrath, John Morgan, Mark Shaw, Esq., Richard Morris, P.E. and Sheryl Williams.

Following the Pledge to the Flag, Chairman McGrath called for public comment on agenda items other than development or rezoning applications. None were received.

It was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous vote to approve the minutes of the Board's January 3, 2017 Annual Organization meeting.

It was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous vote to approve the minutes of the Board's January 3, 2017 Regular meeting.

It was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous vote to approve payment of the General Fund bills in the amount of \$1,052,700.18, and Sewer Revenue Fund bills in the amount of \$68,605.56.

On recommendation of Chief of Police Scott Heidt, it was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous roll call vote to approve the following Millcreek Police Department promotions, retroactive to January 1, 2017:

Michael Kabasinski to Captain, assuming command of the Investigative Services Division as Chief Heidt's replacement with 28 years of service in February.

Donald Kucenski to Lieutenant, as Kabasinski's replacement and remaining assigned to the Investigative Services Division with 21 years of service.

Lesley Mitchell to Lieutenant, remaining assigned to the Special Services Division and approaching 22 years of service.

Mark Irwin to Sergeant, as Kucenski's replacement and remaining assigned to the Investigative Services Division with 18 years of service.

Adam Hardner to Corporal, as Irwin's replacement and remaining assigned to the Special Investigative Unit within the Investigative Services Division, approaching 11 years of service.

On recommendation of Chief of Police Scott Heidt, it was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous roll call vote to approve the employment of Jonathan Kutterna as a probationary police officer with MPD, retroactive to January 16, 2017. Officer Kutterna has prior police experience with the City of Franklin Police Department and the PA Attorney General Drug Task Force. The oath of office was administered to Officer Kutterna by Supervisor John Groh, and Chairman McGrath announced that the addition of Officer Kutterna brings the complement of MPD officers to 63.

The Supervisors offered their congratulations to all of the officers on their achievements, thanked them for their service, and family and friends were dismissed for a brief reception in the lobby.

Consideration of Subdivision Plans:

**GEOFFREY P. KOWALCZYK. Small Subdivision Plan. A small subdivision plan to show the creation of a 20' x 100' parcel which will become an integral part of**

**the neighboring property, Erie County Tax Parcel 33-51-199-7, located along the north line of West 23<sup>rd</sup> Street, west of Evanston Avenue in Tract 16. Index 313-097.**

Engineer Richard Morris reported that the Planning Commission recommended approval on January 3, 2017. Geoffrey Kowalczyk, 134 Olin Avenue, Girard, stated that he is the owner of the property at 2612 West 23<sup>rd</sup> Street and wants to sell the land to a friend to increase his lot size. No one else spoke in favor of or in opposition to the subdivision plan. On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve the Geoffrey P. Kowalczyk Small Subdivision Plan. Motion carried by unanimous roll call vote.

**DAVID R. & DONNA M. DUBOIS. Small Subdivision Plan. A small subdivision plan to show the creation of two irregularly shaped parcels, a 0.625 acre parcel to become an integral part Erie County Tax Parcel 33-192-628-1.28 and a 0.567 acre parcel to become an integral part of Erie County Tax Parcel 33-192-628-1.29, located west of Old Perry Highway and east of Cobblestone Drive in Tracts 342 and 343. Index 843-031.**

Engineer Richard Morris reported that the Planning Commission recommended approval on January 3, 2017. Michael Mankosa, 6243 Cobblestone Drive, stated that he is one of two prospective buyers of the parcels. Mr. Groh asked if the lots meet the required square footage area, and Mr. Morris confirmed there is enough square footage despite the irregular shape of the parcels. No one else spoke in favor of or in opposition to the subdivision plan. On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve the David R. & Donna M. Dubois Small Subdivision Plan. Motion carried by unanimous roll call vote.

It was moved by Mr. Groh and seconded by Mr. Morgan to refer to the Planning Commission a Petition Requesting a Change in Zoning Classification for **DEAN & ANGENIE RAMDHANIE**, for property located at 3229 West 38<sup>th</sup> Street, now zoned R-1 Single Family Residential District, asking for a change in classification to R-2 Low Density Residential District. Township Index 359-025, County Index 33-83-409-5. Motion carried by unanimous roll call vote.

It was moved by Mr. Groh and seconded by Mr. Morgan to refer to the Planning Commission a Petition Requesting a Change in Zoning Classification for **WESTMINSTER PLACE PARTNERSHIP**, for property located at 2608 Zimmerly Road, now zoned RR Rural Residential District, consisting of approximately 11.4 acres, asking for a change in classification to C-2 General Commercial District. Township Index 745-002, County Index 33-140-418-30 and 23.01. Motion carried by unanimous roll call vote.

Chairman McGrath introduced proposed Ordinance 2017-3; An Ordinance to amend Chapter 36, adding Article III of the Millcreek Township Code, known as the Fire and Emergency Medical Services Commission. Mr. Groh explained that this ordinance has been discussed at several meetings, and that it has evolved through input from the fire chiefs and legal counsel. He noted that in years past, the public supported the local fire departments through donations, but unfortunately, financial support has declined over the years. Even with the appropriation of Local Service Tax (LST) to local fire departments, they are still struggling financially. Mr. Groh continued by stating that under the Second Class Township Code, the Township is obligated to provide fire services and has the authority to establish regulations, but clarified that the Township is not taking over fire department operations. He thanked all of the dedicated volunteers who have served the fire departments over the past 75 years. Mr. Groh also stated that there is no requirement under this Ordinance for any of the fire departments to merge, although that could be considered in the future by the Fire Commission. He explained that the purpose of the Fire Commission will be to act in an advisory capacity to assist the Board of Supervisors, and to be a liaison between the Board of

Supervisors, EMS and the fire departments. Mr. Groh noted that the Assembly Room is available on the 3<sup>rd</sup> Thursday of the month; therefore, February 16, 2017 has been chosen for the first meeting of the Fire Commission.

Mr. McGrath announced that seven residents have applied for the three positions on the Fire Commission, and the Board expects to complete the selection process by the February 14<sup>th</sup> Board of Supervisors meeting. Mr. Groh directed EMS and fire departments to select their representatives in time for the first Fire Commission meeting on February 16<sup>th</sup> as well.

Mr. McGrath thanked the firefighters in attendance, invited them to speak following his statement, and thanked them for their input during the drafting of the ordinance, noting that many of their comments were incorporated into the ordinance.

James Rosenbaum, Deputy Fire Chief, West Ridge Fire Department, and Matthew Parker, Fire Chief, Kearsarge Fire Department, thanked the Supervisors for collaborating with the firefighters. They are hopeful to set clear goals, priorities and objectives, and are optimistic that together the departments will be more efficient and effective with a successful end result.

Mr. McGrath commented that 17 years ago, during a discussion about the ambulance service, even though there was some "heartburn," they developed a successful model, and believes they can do it again. Mr. Rosenbaum agreed.

It was moved by Mr. Groh and seconded by Mr. Morgan to enact Ordinance 2017-3. Motion carried by unanimous roll call vote.

A Public Hearing was held on a Request for Liquor License Transfer into Millcreek Township:

Solicitor Shaw explained that PA law requires municipal approval of transfer of a liquor license from one municipality to another, and a formal decision must occur no more than 45 days after receiving the initial request. Mr. McGrath read proposed Resolution 2017-R-4; A Resolution Approving the Inter-Municipal Transfer of Restaurant Liquor License No. R-10830 into the Township of Millcreek from the City of Erie.

Paul Naimi, Esq., Flaherty & O'Hara Law Firm, 610 Smithfield Street, Pittsburgh, PA, 15222, representing Sheetz, Inc., Store #557, 750 Peninsula Drive, formally requested that Millcreek Township approve Resolution 2017-R-4 pursuant to Section 461(b.3) of the Pennsylvania Liquor Code. Mr. Naimi explained recent modernized changes in the liquor law under Act 39 of 2016, which allow certain stores that sell liquid fuels to sell liquor, so long as they do not sell beer and wine from the area of the store that is licensed as a restaurant. Mr. Naimi stated that the northeast wing of the store will be dedicated to food and beverages, and the house rule is a 2-drink limit. Beer can be sold for on-premises consumption or to take out in 6-packs or 12-packs. However, wine sales will be for take-out only in a designated area to be determined. Also, beer sales will be restricted between the hours of 7:00 a.m. and 1:45 a.m, and wine sales will end at 11:00 p.m. each day. Gasoline sales will occur at a dedicated register which will not accept any beer or wine SKU numbers or sales.

Mr. Naimi added that security cameras cover the entire area and are monitored off-site, and signs are posted stating there is to be no outdoor beer consumption. He also outlined Sheetz's Responsible Alcohol Management Program (RAMP) certification. Mr. Naimi presented a floor plan of the store to the Board, as well as a packet of information with the history of Sheetz, Inc., store hours and policies, and proposed details concerning the sale of beer and wine at the Peninsula Drive store.

Mr. Groh asked if the floor plan had been submitted to the PLCB, to which Atty. Naimi replied no; he said standard procedure is for the PLCB to review the floor plan after the Township approves the resolution. Mr. Shaw asked if the PLCB binds Sheetz to the conditions they are proposing to the Township, to which he replied yes to state policies, but not to Sheetz's policies. Mr. Shaw asked Mr. Naimi if he and Sheetz would be opposed to making these documents part of the Township's approval, to which he replied no. Mr. Shaw also asked Mr. Naimi if he wanted the documents he supplied, including the written PowerPoint he supplied, made a part of the public record for the hearing, to which he replied yes. Mr. McGrath asked for public comment. No one spoke in favor of or in opposition to the proposed resolution.

Mr. Morgan was in favor of making Sheetz's documents part of the resolution. Mr. Groh and Mr. McGrath asked more questions regarding the layout of the store and seating area, percentage of alcohol sales in their stores, intermingling between guests who are and are not drinking alcohol, noting that residents will want to know this information.

On recommendation of Mr. Shaw, it was moved by Mr. Morgan and seconded by Mr. Groh to amend Resolution 2017-R-4 to include the aforementioned documents presented by Atty. Naimi and Sheetz, including the floor plan, as part of the resolution. No public comment was offered. Motion carried by unanimous roll call vote.

On recommendation of Mr. Shaw, it was moved by Mr. Morgan and seconded by Mr. Groh to adopt Resolution 2017-R-4, as amended. No public comment was offered. Motion carried by unanimous roll call vote.

It was moved by Mr. Morgan and seconded by Mr. Groh to reappoint Scott Stewart to the Planning Commission for a four-year term, to expire January 13, 2021. Motion carried by unanimous roll call vote.

Mr. Groh announced that a vacancy exists on the Property Maintenance/Fire Code Board of Appeals, and he is trying to make contact with a person the Board feels would be suitable to serve on this commission.

Mr. Morgan announced that the Board received Fred Infield's letter of resignation from the Zoning Hearing Board. Mr. Morgan moved that Alternate Member Art Goellner be appointed to finish Mr. Infield's term, which expires January 15, 2019, seconded by Mr. Groh. No public comment was offered. Motion carried by unanimous roll call vote. Mr. Morgan added that the Board will search for a candidate to fill the Alternate Member vacancy, the term of which is one year.

Engineer Richard Morris reported that the Township received a Financial Security Release Request from Abiding Hope Lutheran Church - Abiding Hope Lutheran Church, Developer, noting that all requirements have been satisfied. On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve a release of Letter of Credit from Northwest Savings Bank Check #1009 for \$25,126.00. Motion carried by a unanimous roll call vote.

Mr. Morris reported that the Township received a Financial Security Reduction Request from JP Realty Group, LLC - JP Realty Group, LLC, Developer, noting that Glenwood Pet Hospital is currently under construction and a few items still need to be completed. On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve a reduction of Erie Bank Check #1501 from \$56,595.00 to \$12,595.00. Motion carried by unanimous roll call vote.

Solicitor Mark Shaw explained that as part of a potential resolution of the Angela Cres Trust lawsuit, both parties have agreed to hire a third party engineering firm to review the stormwater

management plan and share costs. On recommendation of Mr. Shaw, it was moved by Mr. Morgan and seconded by Mr. Groh to retain Gannett Fleming Engineering Firm at an hourly rate of \$170.00 for Senior Project Manager and \$110.00 for Staff Engineers. No public comment was offered. Motion carried by unanimous roll call vote.

Solicitor Mark Shaw reported that he has been in discussion with the owners of the Millcreek Mall regarding stormwater management due to the expansion of the former Sears store, and has reviewed the proposed agreement with Land Development Coordinator Matthew Waldinger. On recommendation of Solicitor Mark Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to approve a Stormwater Management Maintenance Agreement with Millcreek Mall Corporation. No public comment was offered. Motion carried by unanimous roll call vote.

Mr. Groh summarized the Township’s building construction reports for the month of December 2016 and the Year 2016, and announced that the reports will be available on the Township website and in the Engineering/Zoning Office.

<b><u>December 2016:</u></b>	Total Residential Structures	\$ 385,000.00
	Total Non-residential Structures	<u>655,084.00</u>
		<b>\$ 1,040,084.00</b>
	Zoning Permits Issued	11
	Zoning Permit Fees	<b>\$ 4,800.00</b>
<b><u>Year 2016:</u></b>	Total Residential Structures	\$ 13,196,397.00
	Total Non-residential Structures	<u>17,770,111.00</u>
		<b>\$ 30,966,508.00</b>
	Zoning Permits Issued	267
	Zoning Permit Fees	<b>\$ 65,350.00</b>

Mr. Groh presented the 2016 Zoning Office Statistics report, noting that the Township gained 45 new single-family dwellings and 30 new multi-family units. Commercial and residential construction costs were \$30,966,508.00, and the sum of all permit, petition and appeals fees collected in 2016 was \$108,633.50. This report is available in the Zoning Office and on the Township website.

It was requested by Human Resource Manager Diane Lyons, moved by Mr. Groh and seconded by Mr. Morgan to approve an annual salary of \$103,000.00 for Chief of Police Scott Heidt, retroactive to January 1, 2017. Motion carried by unanimous roll call vote.

Action on a request by Chief Heidt for training for two officers was postponed until the Board receives more information regarding travel time and expenses.

It was requested by Chief Heidt, moved by Mr. Groh and seconded by Mr. Morgan to approve the purchase of a VC4000 PC by Vericom Motion Performance Instruments for \$2,554.00, and is a budgeted purchase. Motion carried by unanimous roll call vote.

Chief Heidt requested that the Board acknowledge the Wm. T. Spaeder Company for their donation services of fabrication and modifications to the Department’s armored vehicle provided in the amount of \$1,129.37. The Board publicly thanked the Wm. T. Spaeder Company for their generous donation.

Mr. Groh reported that the Erie County Election Board has filed a petition with the Erie County Court of Common Pleas for a proposed division of Millcreek Voting District 23 into two districts, as it has become too large. This district currently encompasses the Zuck, Zimmerly and Interchange Road areas. The proposed new districts would be named “Re-drawn Millcreek 23” and “Millcreek 25,” and a detailed list of boundaries for these districts is available at the Erie County Courthouse.

A hearing has been scheduled on January 25, 2017 before Judge William R. Cunningham in Courtroom 206A at the Erie County Courthouse, 140 West Sixth Street.

Mr. Groh announced the recent passing of retired Building Maintenance Head Foreman Bill Perry, a 40-year employee of the Township, and offered the Board's deepest sympathy to his family.

Mr. Groh also announced the tragic death of former Erie resident and West Lake firefighter E.J. Mascaro, who was killed in a car accident responding to a fire call in South Carolina, and offered the Board's deepest condolences to his family.

It was requested by Director of Public Works Gary Snyder, moved by Mr. McGrath and seconded by Mr. Groh to approve the purchase of two (2) International 10-ton cab and chassis from Five Star International for the price of \$183,141.92, Costars contract #025-005, and two (2) dump bodies, power angle snow plows, wing plows and salt spreaders from US Municipal for the price of \$141,049.00, Costars contract #025-019. All purchases were budgeted for 2017. Motion carried by unanimous roll call vote.

Quotations for a new Miller 12vs Welder were solicited and received by Joe Yatzor, Fleet Maintenance Bureau Chief, as follows: Airgas - \$1986.44, Welder Supply - \$2140.95, Matheson - \$2008.51. On recommendation of Mr. Yatzor, it was moved by Mr. McGrath and seconded by Mr. Groh to purchase the Miller 12vs welder from Airgas for \$1986.44. Motion carried by unanimous roll call vote.

On recommendation of Parks and Recreation Director Ashley Marsteller, it was moved by Mr. McGrath, seconded by Mr. Groh and carried by unanimous roll call vote to approve the following employees for the Winter Season:

<b>NAME</b>	<b>POSITION</b>	<b>HOURLY RATE</b>	<b>HIRE DATE</b>
Carol Gilbo	Knit & Crochet (sub)	\$10.50	Worked 6/2016
Lauren Ertsgaard	Adult Leisure (sub)	\$ 9.50	New hire
Taylor Gushie	WSI (sub)	\$ 8.50	Worked 8/2016
Robert Bolmanski	Lifeguard	\$ 7.65	

It was requested by Engineer Richard Morris, moved by Mr. Morgan and seconded by Mr. Groh to authorize up to \$900.00 for Mr. Morris and Assistant Engineer Anne Sokol to attend PennDOT Engineering and Construction Management System (ECMS) – Local Project Training in Indiana or Pittsburgh, PA, in either February or March, to include lodging, meals and transportation with Township vehicle. Motion carried by unanimous roll call vote.

It was requested by Human Resource Manager Diane Lyons, moved by Mr. Morgan and seconded by Mr. Groh to hire Engineering Intern Jennafer Bisel as a Part-Time Planner, retroactive to January 23, 2017, at an hourly rate of \$12.00, to increase to \$14.42 upon the completion of her degree in May of 2017. Mr. Morgan explained that Ms. Bisel has been a valuable asset to the department, and having her planning expertise will be extremely useful in the formation of the Township's new Comprehensive Plan. Motion carried by unanimous roll call vote.

Regarding the Comprehensive Plan, Mr. Morgan reported that 11 proposals for Consultant Services have been received from as far away as Seattle, and the Planning Commission's goal is to have a recommendation by February 14, 2017, or at the very latest, February 28, 2017.

Mr. Groh announced that the Board received Dan Bensur's letter of resignation from the Sewer Authority. The Board has someone in mind for a replacement and hopes to appointment a replacement at the February 14, 2017 meeting.

Mr. McGrath reported that the Board met in Executive Session to discuss ongoing litigation matters on January 5, 13, and 19, 2017.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Morgan and seconded by Mr. Groh to direct Engineer Richard Morris to draft a letter of support to the National Fish and Wildlife Foundation regarding the Scott Run Watershed Protection and Restoration Grant, specifically stating that Millcreek Township will encourage community participation via education/outreach programs. No public comment was offered. Motion carried by unanimous roll call vote.

Mr. Shaw informed the Board that he received a letter from the PA Department of Environmental Protection (DEP) regarding the Township's proposal to complete maintenance activities within Marshall's Run, stating they agree with the Township's assertion that they may utilize permit equivalency under Superfund for a Chapter 105 Water Obstruction & Encroachment permit. Mr. Shaw said there are still some substantive requirements to be met, but the Township may now move forward on this matter.

Mr. Shaw updated the Board on the most recent LECOM appeals, noting that the Board of Assessment Appeals determined that some hospital and residential parcels are not tax exempt. On recommendation of Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to extend Attorney Evan Adair's legal services on this matter throughout the appeal process. No public comment was offered. Motion carried by unanimous roll call vote.

Mr. McGrath recognized a member of the local school board in attendance and thanked the Millcreek Township School Board for their assistance on this issue.

Art Goellner, 6026 Moraine Avenue, asked if the clear cutting near the Humane Society was initiated by PennDOT. Engineer Richard Morris responded that yes, it was initiated by PennDOT due to future construction of a detention basin on the south side.

Mr. Morgan announced there will a Public Meeting on February 7, 2017 at 6:00 p.m. at Perry Highway Hose Company, Oliver Road, to discuss a PennDOT study regarding future development on Route 99. Mr. McGrath asked Mr. Morris to have Public Relations Director Judy Zelina advertise this meeting on the Government Channel.

There being no other citizens to be heard or any further business to come before the Board, it was moved by Mr. Groh and seconded by Mr. Morgan to adjourn the meeting at 8:30 p.m.

Sheryl A. Williams  
Assistant Secretary

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Approved: February 14, 2017

John H. Groh  
John E. Morgan