

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 9:30 a.m. by Chairman John Groh in the Assembly Room of the Millcreek Township Municipal Building. Present were Mark Zaksheske, Brian McGrath, John Groh, John Morgan, Mark Shaw, Esq., Richard Morris, P.E. and Sheryl Williams.

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

It was moved by Mr. McGrath, seconded by Mr. Morgan and carried by unanimous vote to approve the minutes from the December 6, 2016 meeting.

It was moved by Mr. McGrath, seconded by Mr. Morgan and carried by unanimous vote to approve payment of the weekly General Fund bills in the amount of \$864,738.70, and Sewer Revenue Fund Bills in the amount of \$330,834.51.

Treasurer Mark Zaksheske announced a few changes to the proposed 2017 Preliminary Budget, including a GovQA maintenance agreement in the administration budget for \$10,680.00 that was missing in the original budget, and that the final rates for workman's compensation insurance were slightly higher than projected. However, Mr. Zaksheske noted the budget is still in balance with no tax increase, and Mr. Groh added that no projected gaming revenue was included in the 2017 budget. On recommendation of Mr. Zaksheske, it was moved by Mr. McGrath and seconded by Mr. Morgan to adopt the budget for 2017. Motion carried by unanimous roll call vote.

A Public Hearing was held on Subdivision and Land Development Plans:

**TRANSPORTATION INVESTMENT GROUP LP. Sketch Plan. A sketch plan to show the concept of creating three parcels, a 5.2± acre Lot A, a 4.3± acre Lot B and a 6.1± Lot C and showing Lots B and C splitting 50' of frontage, located at the southwest corner of West 17<sup>th</sup> Street and Harper Drive in Tracts 14 and 17. Index 265-001 & 003.**

Engineer Richard Morris reported that at the December 6, 2016 meeting, the Planning Commission took no action on the Sketch Plan, but recommended that cross easements be provided for all parcels to access frontage. Mr. Morris noted that there is currently 25 feet of frontage and 50 feet is required. Mr. Groh reminded everyone that the purpose of a Sketch Plan is for the developer to receive comments from the Board to prepare a development plan.

John Laird of David Laird Associates, 1556 West 26<sup>th</sup> Street, representing Transportation Investment Group LP, explained the property lines in the drawings in more detail, noting that parcel 33471713302 is currently landlocked with no frontage. There are also some existing barriers that prohibit access to portions of some of the properties, with hardship being created by two buildings standing on one property. There is also an existing 50 foot wide easement for ingress and egress to access the properties.

Ray Benacci, Transportation Investment Group LP, explained that his company sold their trucking company in July, and the new owners would like to purchase the building rather than lease it. Therefore, Mr. Benacci's company would like to subdivide the parcel. Mr. McGrath asked how the trucks access the southern part of the western property, to which Mr. Benacci replied there are two entrances from West 17<sup>th</sup> Street, and stated there is room between the two buildings. He added

there is 50 feet reserved for future dedication of West 17<sup>th</sup> Street as well. Mr. McGrath noted that it has been discussed as a future option to make a portion of West 17<sup>th</sup> Street west from Harper Drive to the golf course public, and recommended that Mr. Benacci and Mr. Laird consult with the Engineering Department about possibly opening that portion of West 17<sup>th</sup> Street into a public street. Mr. Morris added that this could benefit FedEx as well, who is doing business in that area. Mr. McGrath added that by bringing the road up to Township specifications, this would give Transportation Investment Group 440 feet of frontage as opposed to 25 feet. Mr. Morgan asked when Mr. Benacci was hoping to have a land development plan ready to present to the Planning Commission, and he responded hopefully by February.

**UNIT 0800 RETAIL EXPANSION FOR MILLCREEK MALL. Land Development Plan. A land development plan to show a proposed 272 square foot and a proposed 26,603 square foot building addition to unit 0800 of Millcreek Mall, along with associated stormwater management facilities, located west of Peach Street (S.R. 0019) and north of Edinboro Road (S.R. 0699) in Tract 347. Index 750-020.**

Engineer Richard Morris reported that at the December 6, 2016 meeting, the Planning Commission recommended approval. Rick Partika, Director of Architecture and Engineering for the Cafaro Company, owner of the Millcreek Mall, explained that the proposed addition is for the Boscov's Department Store to move in where the Sears store was formerly located. James Shurell, Senior Development Engineer of Cafaro Company, confirmed that Boscov's is indeed the intended tenant, although the lease has not yet been signed. Mr. McGrath asked if there will be an underground stormwater extension and if there was adequate parking, to which Mr. Partika replied yes. Mr. McGrath noted that the sidewalks should be 5 foot wide, not 4 foot, and Mr. Morris confirmed this, and Mr. Partika and Mr. Shurell noted the change. Mr. Groh informed the gentlemen that the Township is in the process of making its parking lots greener, and asked them if they would be willing to plant more trees in their parking lots. Mr. Morgan noted that the County has available grants for this purpose and Mr. McGrath added that these grants subsidize approximately 85% of the cost. Both gentlemen expressed interest in this opportunity.

No one spoke in favor of or in opposition to the land development plan. On recommendation of Engineer Morris, it was moved by Mr. McGrath and seconded by Mr. Morgan to approve the Unit 0800 Retail Expansion for Millcreek Mall Land Development Plan, contingent on the sidewalks being changed to 5-foot width. Motion carried by unanimous roll call vote.

**HERITAGE APARTMENTS. Small Subdivision Plan. A small subdivision plan to show the creation of a 2.362 acre Lot 1 and a 17.232 acre residue parcel, located along the south line of West 8<sup>th</sup> Street (S.R. 4018), east of West 10<sup>th</sup> Street (unopened) in Tract 14. Index 237-004.**

Engineer Richard Morris reported that at the December 6, 2016 meeting, the Planning Commission recommended approval. Tom Revak, P.E., 1560 Walnut Street, stated that the Sisters of St. Joseph would like to separate Heritage Apartments from the rest of the property. Mr. Groh asked if the two properties have separate utilities and a firewall. Mr. Revak replied that he did not know, so Mr. Groh recommended that he contact BIU to comply with the Building Code. He also clarified for the audience that the other portion of the property is the former Villa Maria College dormitory. Mr. Morgan recalled discussing access to the property at

an earlier meeting in the year, and Engineer Morris confirmed that there are cross easements in place.

No one spoke in favor of or in opposition to the land development plan. On recommendation of Engineer Morris, it was moved by Mr. McGrath and seconded by Mr. Morgan to approve the Heritage Apartments Small Subdivision Plan. Motion carried by unanimous roll call vote.

Solicitor Shaw addressed the impact of the Commonwealth Court's decision on the May 15, 2015 Board's decision to approve the subdivision of the Ridgefield School property at 3227 Highland Road requested by the Millcreek Township School District. The Commonwealth Court reversed the decision of the Erie County Court of Common Pleas affirming the Board's decision. The Commonwealth Court, and subsequently the Court of Common Pleas remanded the Ridgefield subdivision decision back to the Board to take action consistent with the Commonwealth Court's opinion. As a result, Solicitor Shaw requested that the Board consider a Supplemented Decision on Remand that would add the following requirement to the Board's original May 16, 2015 decision: "1. That Lot 1 shall be used solely for purposes authorized in the R-1 Single Family Zoning District until and unless the Township approves a rezoning of Lot 1 and/or the Zoning Hearing Board approves the grant of a use variance, a use on special exception or other relief authorized under the Township's zoning regulations which authorizes a difference use of the property." On recommendation of Solicitor Shaw, it was moved by Mr. McGrath and seconded by Mr. Morgan to approve the Supplemental Decision on Remand of 3227 Highland Road. Motion carried by unanimous roll call vote.

It was moved by Mr. McGrath and seconded by Mr. Morgan to refer to the Planning Commission a Petition Requesting a Change in Zoning Classification for Jeremiah D. and Tiffany Schreiber, for the property located at 2501 Palermo Drive, now zoned C-1 Local Commercial District, asking for a change of classification to C-2 Commercial District. Township Index 745-007. County Index (33) 123-418.0-031.05. Motion carried by unanimous roll call vote.

Mr. Groh announced that the Board will be taking action on several Ordinances in the next month: Fire Code and Property Code Amendments - January 3, 2017, and Fire and EMS Ordinance – tabled until January 24, 2017. Solicitor Shaw added that the proposed Ordinances are available on the website.

Treasurer Mark Zaksheske explained how the Millcreek Tax rate is calculated, and suggested that taxes not be raised for 2017. It was moved by Mr. McGrath and seconded by Mr. Morgan to approve Resolution 2016-R-24; A Resolution of the Board of Supervisors fixing the Millcreek Township tax rate for the year 2017. Motion carried by unanimous roll call vote.

It was moved by Mr. McGrath and seconded by Mr. Morgan to approve Resolution 2016-R-25; A Resolution approving and authorizing certain financial grants within the 2017 Millcreek Township Budget. Motion carried by unanimous roll call vote. Treasurer Zaksheske explained that these grants total \$42,730.00 and are being given to the Regional Asset Fund (\$2,000.00), the Erie Metropolitan Transit Authority – LIFT (\$20,000.00), and for Senior Citizen Health Care – Lifeworks (\$20,730.00).

On recommendation of Treasurer Mark Zaksheske, it was moved by Mr. Morgan and seconded by Mr. McGrath to adopt the 2017 Sewer Revenue Fund Budget. Mr. Morgan noted there will be no sewer rate increase, and Mr. Zaksheske confirmed quarterly sewer billing rates will remain \$84.00. Motion carried by unanimous roll call vote.

Treasurer Zaksheske explained that periodically the Township disposes of old records eligible for disposal according to the Municipal Records Retention Manual. This request is for Payroll and Accounts Payable records. It was moved by Mr. McGrath and seconded by Mr. Morgan to

approve Resolution 2016-R-26; A Resolution pursuant to Resolution 2015-R-20 and the Municipal Records Manual to approve proposed disposition of certain Township records. Motion carried by unanimous roll vote.

Mr. McGrath explained that the Erie Area Council of Governments requires each municipality to approve, by resolution, its annual Independent Auditor's Report, and each board member was given a copy of the report. It was moved by Mr. McGrath and seconded by Mr. Morgan to approve Resolution 2016-R-27; A Resolution to approve the Independent Auditor's Report of the Erie Area Council of Governments for the calendar year ending December 31, 2015. Motion carried by unanimous roll call vote.

Mr. McGrath explained that the Supervisors recently met and discussed their titles concerning their employment responsibilities and duties, and also the recent unemployment case regarding a former elected Township Supervisor. Also, a new job requirement would be that one must be an elected Township Supervisor. The Second Class Township Code allows for other job titles and job descriptions, and therefore the Supervisors decided to recommend to the Township Auditors that their titles be changed. Mr. Morgan clarified that their elected responsibilities and job duties are actually one in the same, but this will more accurately reflect what the Supervisors do. Mr. Groh added that their office is still "elected Supervisor", but the jobs they do will be reflected through their titles. More information will be given at the next meeting.

It was recommended by Engineer Morris, moved by Mr. McGrath and seconded by Mr. Morgan to approve a financial security reduction for Whispering Woods Estates Phase 7A – Speciale Properties, Developer, by \$23,638.34, from \$53,063.34 to \$29,425.00 (Northwest Bank #8305004023). Per Engineer Morris, the Township must retain 10% of the original security until the project is completed. Motion carried by unanimous roll call vote.

Engineer Morris reported he was expecting a Financial Security Release Request letter regarding Abiding Hope Lutheran Church, but did not receive it, but the deadline is January 5, 2017 to act on this matter. On request of Mr. Morris, it was moved by Mr. Morgan and seconded by Mr. McGrath to table the request for financial security release until January 3, 2017. Motion carried by unanimous roll call vote.

Mr. Groh summarized the Township's building construction report for the month of November 2016, and announced that the report will be available on the Township website and in the Engineering/Zoning Office.

Total Residential Structures	\$	739,000.00
Total Non-residential Structures		<u>202,000.00</u>
	\$	<b>941,000.00</b>
Zoning Permits Issued		14
Zoning Permit Fees	\$	<b>3,950.00</b>

Mr. McGrath announced that Recycling Coordinator Jessica James Stutzman reported that the Township was awarded a TreeVitalize Grant from the DCNR in the amount of \$7,630.00 to plant 50 trees throughout the Township.

The Annual Christmas TreeCycling Event will be offered at the Millfair Compost & Recycling Center, 2301 Millfair Road, on Saturday, January 14, 2017 from 9:00 a.m. – Noon. This event is open to all municipalities and is free, with monetary donations to be given to the Emmaus Soup Kitchen.

It was moved by Mr. Groh and seconded by Mr. McGrath to approve a request by Director of Police Tesore to trade a deadlined MPD patrol vehicle to Mercyhurst University North East, Municipal Police Academy in exchange for equal value in mandatory 2017 Act 180 training for

MPD Officers. Mr. Morgan questioned this procedure and felt that more information was needed before action could be taken, and discussion ensued. Mr. Groh withdrew his motion, and it was decided to revisit this matter at the January 3, 2017 meeting.

Mr. Groh announced that the Giving Tree was again successful this year, and thanked those who donated gifts to area families in need. He did note that five gift tags were taken off the tree and no gifts were brought in, and this is the first time this has ever happened. He thanked the McDonald Illig law firm for sponsoring gifts for these families, and to Ashley Marsteller and Jessica James Stutzman for doing the last minute shopping.

Mr. Groh announced two executive sessions with the Township Solicitor on December 15 and 22, 2016.

Mr. Morgan reported that the deadline for submission of proposals for Consultant Services for the Comprehensive Plan is January 2, 2017, and thus far over a dozen proposals have been received for consideration. He is optimistic that there will be a great field from which to choose.

Student Ambassador Sydney Stitt announced that McDowell High School students are happy to be on holiday break, that winter sports and clubs are in full swing, and finals are coming soon. When asked about her recent meeting with Governor Tom Wolf, she said it was a good collaborative experience.

Solicitor Mark Shaw requested that the Supervisors approve a contract amendment for BIU to assist with building inspections, which would extend the current contract by one year, with the same fee as in the prior three years. It was moved by Mr. McGrath and seconded by Mr. Morgan to approve the contract amendment with BIU. No public comment was offered. Motion carried 2-1, with Mr. Groh voting no.

Mr. Shaw announced that at the next meeting on January 3, 2017, the Supervisors will be considering a public improvement ordinance concerning sidewalks, and it has been posted on the website.

There being no citizens to be heard or any further business to come before the Board, the meeting was adjourned at 10:32 a.m.

Sheryl A. Williams  
Assistant Secretary

---

Approved: January 3, 2017

Brian P. McGrath  
John H. Groh