

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 7:00 p.m. by Chairman Richard Figaski in the Assembly Room of the Millcreek Township Municipal Building. Present were Gerald Wolf, Richard Figaski, Brian McGrath, John Groh, Evan Adair, Esq., Richard Morris, P.E., Charles Pierce, Zoning Administrator, Isaac Riston, Student Ambassador and Sheryl Williams.

Following the Pledge to the Flag, Chairman Figaski called for public comment on agenda items other than development or rezoning applications. No comments were offered.

It was moved by Mr. Groh and seconded by Mr. McGrath to approve the minutes of the Board's April 14, 2015 meeting. Motion carried by a unanimous roll call vote.

It was moved by Mr. McGrath and seconded by Mr. Groh to approve payment of the General Fund bills in the amount of \$1,128,897.09, and Sewer Revenue Fund Bills in the amount of \$268,284.26. Motion carried by a unanimous roll call vote.

Mr. Groh read proposed Resolution 2015-R-8; A Resolution to establish a student-local government ambassador program. It was moved by Mr. Groh and seconded by Mr. McGrath to approve Resolution 2015-R-8; Motion carried by a unanimous roll call vote. Mr. Groh introduced Isaac Riston, a senior at McDowell High School, who is the Congressional Coach for the Speech and Debate Team, plans to major in Business Administration, and recently was awarded a \$15,000 scholarship at the national tournament in Florida.

A Public Hearing was held on the following Subdivision Plans:

BRUCE & DEBORAH MINNICK. Small Subdivision Plan. A subdivision plan to show the creation of a 2.0 acre parcel, Parcel "B-1," that is to become an integral part of the neighboring property, Whispering Woods Lot 181 (Erie Co. Tax Parcel 33-200-1-27), located east of Thomas Road, south of Sterrettania Road in Tract 355. **Index 519-032.**

Engineer Morris reported that at its April 14, 2015 meeting, the Planning Commission recommended approval of this small subdivision plan with the requirement that the 1.429 acre Parcel B-1 is to become an integral part of the neighboring property, Whispering Woods Lot 181 Erie Co. Tax Parcel 33-200-1-27. Bill Miller, 5442 Mystic Ridge, spoke in favor of the small subdivision plan, stating that he purchased the parcel to incorporate it into his existing lot. There was no one opposed to the subdivision plan.

It was moved by Mr. McGrath and seconded by Mr. Groh to approve the Bruce and Deborah Minnick Small Subdivision Plan with the stated requirement. Motion carried by a unanimous roll call vote.

MILLCREEK TOWNSHIP SCHOOL DISTRICT. Small Subdivision Plan. A subdivision plan to show the creation of a 4.905 acre parcel, Lot 1, a 0.906 acre parcel, Lot 2, and a 0.961 acre residue parcel, Lot 3, located east of Highland Road, between West 32nd Street and West 34th Street in Tract 77. **Index 348-001.**

Engineer Morris reported that at its April 14, 2015 meeting, the Planning Commission recommended approval of this small subdivision plan with two requirements: Lots 2 and 3 be labeled as dedicated as a public park, and the drawing must have Lots 2 and 3 side and rear setback lines removed.

Mr. Figaski clarified that the purpose for this hearing is to discuss the subdivision plan, and that no comments are to be given regarding future land development at this time. He also asked citizens to appoint a spokesperson to comment on the issue, rather than having several people express the same comments repeatedly. He also noted that he and Mr. Groh attended the Planning Commission meeting and all have met and discussed the results of that meeting.

Attorney Tim Sennett, Solicitor for the Millcreek Township School District, explained that the School District is requesting to divide the Ridgefield School property into 3 parcels, and having reviewed their application with the Township's Zoning Administrator, believe they are in accordance with the Subdivision and Land Development Ordinance.

Mr. McGrath asked if the School District has any issue with the requirement to label Lots 2 and 3 as a public park. Mr. Sennett replied that their only concern in labeling it as a public park is that the land will still be subject to its Facility Use policy, as are all of the school district properties.

Attorney Adair commented that there was never an issue of who owns the property, but rather an issue of dedicating it to public use. Mr. McGrath compared it to ball fields, Asbury Park, and other properties owned by the School District.

Matthew McLaughlin, 3302 Highland Road, spoke in favor of the subdivision and making a portion of it available for public use.

Matthew Baldwin, owner of a house at 3418 Pacific Avenue, is in favor of dedicating part of the property for public use, thus enhancing the neighborhood.

Sean Fedorko, 5130 Fox Park Drive, spoke in support of the subdivision and the need for integration in community planning, and favors preserving the park within the subdivision.

Franklin Laskowski, 3111 Westline Street, speaking in opposition to the subdivision, expressed concern as to why the property must be subdivided, and has concerns regarding limited parking and a lack of restroom facilities. He is also asked who will assume responsibility for the property. Mr. Figaski responded that the School District will retain ownership of the property, and its use will be subject to a Facility Use policy. The Township will assist, but Millcreek Township School District still owns the property. Mr. McGrath stated that the property never had formal parking or restroom facilities before, and does not see any difference in the use property before or after subdivision approval. He also stated that future development issues, such as parking, cannot be discussed at this time until the property enters the land development phase, and subdividing the land is totally up to the owner of the property. The Board must ensure that the owner follows all Township rules and regulations.

Attorney Thomas Pendleton, residing at 5566 Larchmont Drive, spoke in opposition to the application. Attorney Pendleton stated that the School District says that what is being created is a park, but contended that a park already exists on acreage beyond the school's parking lot and that the School District is proposing to separate almost half of the existing park area from land that would form the two lots, leaving an area that is 147 feet wide on its north end and 145 feet wide on its south end. Attorney Pendleton claimed that when one wants to create a park, the size and dimensions of the park must be adequate to meet its proposed uses. Attorney Pendleton expressed the opinion that the proposed open space would not be large enough to serve youth soccer and football activities that have been conducted in the past on the property and that the existing basketball court and playground for the school are not within the two lots proposed. Attorney Pendleton said that parking is an issue and that all the parking would be on proposed Lot 1 and stated that he believes that when the only parking available is on the street, it will be a problem for the neighborhood and for drivers. Attorney Pendleton cited the Supervisors' adoption of Ordinance 2004-6 that prohibited on-street parking on the east and west lines of Highland Road.

Attorney Pendleton cited Sections 2.01 of the Subdivision and Land Development Ordinance as requiring that all subdivisions conform to the comprehensive plan and said that the ordinance also defines open space. Attorney Pendleton then cited the comprehensive plan's open space map, which he said identified all of the Ridgefield School property as public land. Attorney Pendleton contended that this appendix means that the School District's proposal violates the Subdivision Ordinance.

Mr. McGrath stated that though Attorney Pendleton claims the application violates the Township's comprehensive plan, the plan is a recommendation, not a law. It is a recommendation for future land use, and the Supervisors do pay attention to the comprehensive plan. But as it is a plan or a recommendation, it is not correct to suggest that a development application "violates" the comprehensive plan. Attorney Pendleton responded that the Subdivision Ordinance requires compliance with the comprehensive plan, unless you request a modification or a variance and said the School District has not asked for either.

Mr. McGrath added that the Supervisors approved the 2004 ordinance prohibiting parking on Highland Road after receiving requests from many neighbors who complained along both sides of 34th Street and Highland Road. Mr. McGrath said that he had noted these issues as he attended at least 15 D.A.R.E. graduation programs at Ridgefield School. Mr. McGrath said that Attorney Pendleton claims that if there is going to be a formal use of the park land, it would create the same sort of situation. That gets to the development phase of the process. If we get to that phase and the School District says that it is going to allow use of the area by Erie Youth Soccer or a football or lacrosse organization, then there are going to be issues as to parking and how the District will handle it. Mr. McGrath added that what is before the Board tonight is a subdivision where the School District says it wants to dedicate the grassy parcel as a public park, and for all we now know, that could be for the neighborhood to go over and throw a Frisbee.

Attorney Pendleton responded that the Subdivision Ordinance itself, Section 3.18.3, says you have to designate in your application a number of spaces based on the number of people you think are going to use the park.

Attorney Adair interjected, saying that, with all due respect, he believed that Attorney Pendleton was cherry picking. Attorney Adair said that this is not a residential subdivision creating a number of lots, nor is it a land development plan and, in any case, there is no requirement that the School District set aside any open space, as might be the case in a multi-family residential development. Even if this were a large residential development, the Township does not require that the plan lay out for each and every lot where the required off-street parking will be. Attorney Adair said this detail is not required until someone comes in asking for a permit to construct something on a given lot. Attorney Adair said he believes Attorney Pendleton is cherry picking in the sense that he wants to create an artifice where there is no way the School District can possibly meet Attorney Pendleton's standards, but those standards are not Millcreek's. Attorney Adair said that the comprehensive plan is a planning document and the Municipalities Planning Code flatly says it does not trump any statute or any ordinance and is not anything mandatory at all.

Attorney Pendleton stated that there is a difference of opinion and noting that he had exceeded the Board's time limit for comment, thanked the Board for its allowing additional time.

Russell Buck, 3231 West 13th Street, owns property at 2422 Westline Street, and is concerned about the School District creating a road in the subdivision that might connect to Westline Street, which has weight restrictions for trucks. Mr. Figaski responded that this issue would be discussed during the land development phase. Mr. McGrath commented that the Township will address public access, parking, lighting and storm water management during the land development phase, and Mr. Groh said we are currently limited to discussing property dimensions only during this phase.

John Morgan, 1604 Biebel Avenue, a Millcreek Township Planning Commission member, commended the Board for its explanation of the subdivision to the citizens. He suggested allowing citizens to express general concerns about their neighborhoods under the "Citizens to Be Heard" portion of the meeting. Mr. Figaski responded by saying the Supervisors are giving people the opportunity now to discuss the subdivision phase, and if and when the time comes in the future, they will be able to address the Board with their opinions on the land development phase.

There being no further public comment, it was moved by Mr. Groh and seconded by Mr. McGrath to approve the Millcreek Township School District Small Subdivision Plan with the stated requirements. Motion carried by a unanimous roll call vote. Mr. Figaski added that in conjunction with this particular vote, the Township will be issuing a written decision at the next Board meeting on May 12, 2015.

It was moved by Mr. Groh and seconded by Mr. McGrath to refer to the Planning Commission a Petition Requesting a Change in Zoning Classification for **H H & R PARTNERSHIP**, for property located at 3746 West 12th Street, now zoned C-2 General Commercial District and R-1 Single Family Residential District, asking for a change in classification of the R-1 Single Family Residential District portion to C-2 General Commercial District. Township Index 241-034. County Index 33-027-086.0-029.00. Motion carried by a unanimous roll call vote.

Mr. Groh acknowledged the McDowell High School students who were in attendance, and reminded them to have their papers signed after the meeting.

Mr. McGrath presented the Bid Tabulations for joint purchasing of street materials from the Erie Area Council of Governments:

ASPHALTCOMPOUNDS, EMULSIONS and APPLICATION EQUIPMENT - PRICE PER GALLON AE-T (Tack Oil)

<u>BIDDER</u>	<u>PICKED UP/LOCATION</u>	<u>DELIVERED/MINIMUM TANKER LOAD</u>
Suit-Kote	\$1.15 / Meadville, PA	\$1.36* 1,000 Gallons (Verbal)**
Russell Standard	\$1.182/Waterford, PA	\$1.50* 1,000 Gallons (Letter)**

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for AE-T to Suit-Kote. Motion carried by a unanimous roll call vote.

BITUMINOUS HOT MIX - PRICE PER TON PICKED-UP

<u>BIDDER</u>	<u>9.5mm</u>	<u>19mm</u>	<u>25mm</u>	<u>FJ1</u>
Russell Standard	\$56.50	\$52.00	\$49.50	\$60.00
Mayer Bros.	\$60.00	\$54.00	\$52.50	\$64.00
Cross Paving	\$63.36	\$56.33	\$55.46	N/B
Joseph McCormick	\$59.00	\$53.00	\$51.50	\$72.00

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Bituminous Hot Mix to Russell Standard, Mayer Brothers, Cross Paving and Joseph McCormick at their respective prices per ton, based on need and convenience. Motion carried by a unanimous roll call vote.

COLD PATCHING – PRICE PER TON DELIVERED TO BIDDER

<u>Russell Standard</u>	<u>Suit-Kote</u>
\$79.50	\$82.00

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Cold Patching to Russell Standard for \$79.50 per tons, and Suit-Kote for \$82.00 per ton, based on need and convenience. Motion carried by a unanimous roll call vote.

AGGREGATE MATERIALS - PRICE PER TON PICKED UP

	<u>Type C Stone #8</u>	<u>Type C Stone #57</u>	<u>Gravel 2A</u>	
Girts Sand & Gravel	\$9.00	\$ 9.00	\$7.25	Clymer,NY
Troyer Sand & Gravel	\$8.30	\$10.60	N/B	Waterford, PA

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Type C Stone #8 (picked up) to Troyer Sand and Gravel for \$8.30 per ton. Motion carried by a unanimous roll call vote.

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Type C Stone #57 (picked up) to Girts Sand & Gravel for \$9.00 per ton. Motion carried by a unanimous roll call vote.

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Gravel 2A (picked up) to Girts Sand & Gravel for \$7.25 per ton. Motion carried by a unanimous roll call vote.

AGGREGATE MATERIALS - PRICE PER TON DELIVERED

	<u>Type C Stone #8</u>	<u>Type C Stone #57</u>	<u>Gravel 2A</u>	<u>Granular 2RC</u>
Girts Sand & Gravel	\$15.90	\$15.90	\$14.15	\$13.15

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract, at the respective prices, for Type C Stone #8 (delivered), Type C Stone #57 (delivered), Gravel 2A (Delivered) and Granular 2RC (Delivered) to Girts Sand & Gravel. Motion carried by a unanimous roll call vote.

GRINDING & PROFILING PAVEMENT (MILLING)

	<u>PRICE PER SQ. YD.</u>
Swank Construction	\$ 0.64

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Grinding and Profiling Pavement (Milling) to Swank Construction for \$0.64 per square yard. Motion carried by unanimous roll call vote.

RECLAIMING & RECYCLING TAR AND CHIP ROADS

	<u>PRICE PER SQ. YD.</u>
Mt. Carmel Stabilization	\$9.56
E.J. Brenneman	\$13.90

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Reclaiming and Recycling Tar and Chip Roads to Mt. Carmel Stabilization for \$9.56 per square yard. Motion carried by a unanimous roll call vote.

Lucas Black, Building Maintenance Foreman, solicited and received three quotations respectively for material, installation labor and concrete reinforcement for the installation of a trench drain in garage #2:

Material:

Trumball	\$10,671.88
Green Distributors	\$11,190.30
Ditrich Construction Supply	\$11,490.46

Labor for Installation:

Wm. T. Spaeder	\$10,741.00
Millers Plumbing	\$ 5,200.00
Jim Brozell Construction	\$ 8,820.00

Concrete Reinforcement:

Baycrete	\$ 1,833.00
Austin	\$ 1,958.40
Concrete Services	\$ 1,960.00

It was recommended by Jerry Burger, Head Foreman, Building Maintenance, moved by Mr. McGrath and seconded by Mr. Groh to award the contract for material to Trumball for \$10,671.88, the contract for labor to Millers Plumbing for \$ 5,200.00, and the contract for concrete reinforcement to Baycrete for \$ 1,833.00. Motion carried by a unanimous roll call vote.

It was recommended by Attorney Adair, moved by Mr. Groh and seconded by Mr. McGrath to enact Ordinance 2015-3; An Ordinance of the Township of Millcreek, Erie County, Pennsylvania, amending the Zoning Ordinance, No. 2011-8 as amended, providing for purposes and findings of fact related to adoption of the amendment, adding and amending defined terms, establishing certain general and specific standards relating to the location, placement, construction and maintenance of Tower-based Wireless Communications Facilities and Non-tower Wireless Communication Facilities; providing for the regulation of such facilities within and outside of the public rights-of-way; providing for the enforcement of said regulations and including severability and repealor provisions. Attorney Adair explained that this Ordinance will update regulations dictating where wireless communication towers and facilities can be placed, and are limited to what federal and state governments regulations will allow. Motion carried by a unanimous roll call vote.

It was recommended by Attorney Adair, moved by Mr. Groh and seconded by Mr. McGrath to enact Ordinance 2015-4; An Ordinance of the Township of Millcreek, Erie County, Pennsylvania, authorizing the entry into an inter-governmental agreement with Harborcreek Township and Fairview Township for the purpose of entering into a joint agreement for provision of professional services for plan reviews, inspections, certifications, administration and reporting as Building Code Officials, Construction Code Officials and Inspectors under the Code for the said Townships. Mr. Figaski explained that this Ordinance authorizes and approves this contract with Building Inspection Underwriters (BIU) to enforce the Uniform Construction Code (UCC). Mr. Groh commented that he would like to see more than one contractor doing building inspections. Motion carried by a unanimous roll call vote.

It was recommended by Engineer Morris, moved by Mr. McGrath and seconded by Mr. Groh to approve Resolution 2015-R-9; A Sewer Planning Module for sewer extension, as outlined by the Greene Township Sanitary Sewer Extension Project – Phase 1. Engineer Morris explained that the sewer planning module will allow Green Township’s waste to pass through Millcreek Township to the Wastewater Treatment Plant, and that all other Township entities have approved this project. Motion carried by a unanimous roll call vote.

It was moved by Mr. Groh and seconded by Mr. McGrath to approve a Request for Proposal from LifeWorks Erie, "Powerful Tools for Caregivers." Mr. Groh explained that since the closing of the J.O.Y. Center and cessation of the contract with MECA, LifeWorks Erie has now been contracted to provide senior services to the Township. The Township will use the remaining money from the Brick Fund, approximately \$544.00, to fund this program, which will cover all books and supplies. The program will be coordinated by Judy Zelina, Public Services. Motion carried by a unanimous roll call vote.

It was moved by Mr. McGrath and seconded by Mr. Groh to approve an agreement between Millcreek Township, Millcreek Township Sewer Authority and Greene Township to allow Green Township's wastewater to pass through Millcreek. Mr. McGrath explained that several years ago the Township purchased extra capacity from the city of Erie to allow for this project, and the Township will now be reimbursed \$380,663.91 under this agreement. Motion carried by a unanimous roll call vote.

It was recommended by Engineer Morris, moved by Mr. Groh and seconded by Mr. McGrath to approve two Sidewalk Deferral Agreements: 3455 West 40th Street and 3452 West 41st Street – PLP VII, developer. Engineer Morris reported that there are no existing sidewalks in the area. Motion carried by a unanimous roll call vote.

It was requested by Gerald Wolf, Treasurer, moved by Mr. Groh and seconded by Mr. McGrath to make a budgetary transfer of \$225,420.00 from the Major Equipment Purchase Administration account to the Major Equipment Purchase Police Department account for software maintenance upgrades. No public comment was offered. Motion carried by a unanimous roll call vote.

Lucas Black, Building Maintenance Foreman, under the direction of Jerry Burger, Building Maintenance Supervisor, solicited and received three quotations for material for a footrest for the bar at the Erie Golf Club.

ESP Metal Crafts	\$1,307.00
Keyworks	\$1,147.02
4Rails.com	\$1,441.78

Mr. McGrath explained that Mr. Black recommended using the second lowest quote due to quality of material, ease of installation and durability of material. It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract to ESP Metal Crafts for \$1,307.00. No public comment was offered. Motion carried by a unanimous roll call vote.

It was requested by Ashley Marsteller, Director of Parks and Recreation, moved by Mr. McGrath and seconded by Mr. Groh to approve Matthew Puda for Part-time Maintenance at \$7.65 per hour. No public comment was offered. Motion carried by a unanimous roll call vote.

It was requested by Gary Snyder, Head Foreman, Sewer Department, moved by Mr. McGrath and seconded by Mr. Groh to approve Max Knight and Rich Turri for summer help, beginning May 11, 2015. No public comment was offered. Motion carried by a unanimous roll call vote.

It was requested by Gary Walters, Head Foreman, Streets Department, moved by Mr. McGrath and seconded by Mr. Groh to hire Thomas Kocur, effective May 25, 2015, and Jonathan Jares, effective May 11, 2015, for summer help at an hourly rate of \$8.45. No public comment was offered. Motion carried by a unanimous roll call vote.

On separate motions by Mr. Figaski and seconded by Mr. Groh, the following requests from Chief Tesore were approved:

Permission, retroactively, for West Lake Fire Department fire police to work traffic control at Presque Isle State Park on April 19, 2015 for the "Mercy Walk for Women."

Permission, retroactively, for Lt. Little, Sgt. Mitchell and Cpl. Irwin to attend the Lethality Assessment Roundtable in Monroeville, PA on April 28, 2015 at no cost other than approximately six hours of overtime for travel.

Permission for Cpl. Parmeter and Ptlm. Caldwell to attend Applied Suicide Intervention Training on May 7-8, 2015 at no cost to the Township.

No public comment was offered. Motions carried by unanimous roll call votes.

It was requested by Engineer Morris, moved by Mr. Groh and seconded by Mr. McGrath to approve Renae Trapp for summer help, beginning May 11, 2015 at the appropriate rate. No public comment was offered. Motions carried by unanimous roll call vote.

Mr. Groh noted that the new Millcreek Township Planning Commission meeting schedule is available on the website, and that the Supervisor meetings, in addition to being broadcast by WQLN on the Government Channel, can now be viewed on YouTube. Student Ambassador Riston commented that this is an excellent way for citizens to access the meetings.

Gary Behr, 4045 Feidler Drive, approves of the meetings being broadcast on the YouTube channel, and thanked the Board for putting more information on the Township website, specifically newly proposed Ordinances.

Tom Boehm, 4843 Equestrian Drive, is opposed to the sale of Millcreek Township Water Authority to Erie Water Authority, as he feels that regionalization of assets does not work and fears that Township residents will wind up shouldering the financial responsibility for EWA. Mr. Figaski refuted some of Mr. Boehm's statements made in a recent letter to the *Erie Times News*, clarifying that MTWA is selling to EWA, and not the city of Erie. He stated that American Water Company charges over \$11.00 per 1,000 gallons of water compared to MTWA's fee of approximately \$4.50 per 1,000 gallons, and that money EWA has borrowed has been partially for system improvements and the rest allocated for the proposed purchase of MTWA. Mr. Figaski reported that the Township's independent evaluation of MTWA showed that the 7200 additional customers would be paying for the EWA bond issues being floated, and that the Board plans to use the proceeds from the sale for the main provisions of the Second Class Code, which are transportation, road maintenance and public safety.

There being no other citizens to be heard, it was moved by Mr. McGrath, seconded by Mr. Groh and duly carried to adjourn the meeting at 8:33 p.m.

Sheryl A. Williams
Assistant Secretary

APPROVED: May 12, 2015

Richard P. Figaski
Brian P. McGrath