

Regular Meeting

March 20, 2012

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 9:30 a.m. by Vice Chairman Kujawa in the Assembly Room of the Millcreek Township Municipal Building. Present were Gerald Wolf, Joseph Kujawa, Brian McGrath, Evan Adair, Esq., Gail Jares and Richard Morris, P.E. Mr. Figaski and Mrs. Vollbrecht were absent.

Following the Pledge to the Flag, Mr. Kujawa called for public comment on agenda items other than development or rezoning applications. Louis J. Aliota asked questions regarding the two resolutions on the agenda. Mr. McGrath suggested that Mr. Aliota wait to allow discussion and explanation of those resolutions and offer any comment at that time. Mr. Aliota agreed.

It was moved by Mr. McGrath and seconded by Mr. Kujawa to approve payment of the weekly General Fund bills dated March 15, 2012 in the amount of \$15,831.93 and of a bill from the Performance and Surety Bond Account in the sum of \$31,143.00. Motion carried by unanimous roll call vote.

Attorney Adair discussed proposed Resolution 2012-R-12 which would approve a Consent Order and Agreement with the Pennsylvania Department of Environmental Protection and Moxie Nein, LLC, with regard to remedial response activities at the Currie Landfill Site, acquisition of the premises by Moxie Nein, future donation of a portion of the Site to Millcreek Township and the Township's assumption of responsibility for maintaining response activities after their completion.

Attorney Adair stated that Millcreek has been involved in negotiations with PaDEP, Moxie Nein, the School District and Erie County for almost a decade regarding the Currie Landfill Site, which is a contaminated site south of Yorktown Centre that involves all or parts of three parcels, two of which are owned by Erie Drive-In Theatre Corp. The Currie Site is considered an "orphan" site because there is no owner or other known responsible party with any financial wherewithal to contribute toward costs of remediating the contamination. The DEP has a program that funds cleanup of orphan sites and money has been approved to do this work. The funding likely will disappear if the work does not begin this year. The Consent Order and Agreement or COA provides that Moxie Nein will acquire two parcels from the County Tax Claim Bureau's repository for a price not less than \$45,000. That price would pay collection fees and partially pay delinquent taxes owed on the parcels. PaDEP would then conduct the work needed to remediate the contamination. That work would allow for future development of the northernmost four acres for industrial use and create a larger "recreation" parcel that would be donated by Moxie Nein to Millcreek. Recreational facilities can be developed on that parcel. Millcreek would be responsible for maintaining the soil cap, the new flood detention basin and other facilities created in the remedial response activities. This work would also provide needed protections to Cascade Creek which has been affected by the contamination. Attorney Adair recommended approval of the Resolution and COA. Mr. McGrath moved and Mr. Kujawa seconded that Resolution 2012-R-12 be approved. No public comment was offered. The motion carried by unanimous roll call vote.

Attorney Adair then discussed proposed Resolution 2012-R-13 which addresses two property tax issues relating to the Consent Order and Agreement approved under the prior resolution.

Attorney Adair explained that the two parcels' value for tax assessment purposes have been in amounts that are far in excess of the value of contaminated property, such that taxes have accumulated to amounts over \$200,000. Taxes unpaid through 2011 were divested in the

judicial sale last year. Attorney Adair said that this Resolution would approve two matters. The first is approval of the sale of the parcels by the County's Tax Claim Bureau from its repository, as all such repository sales require assent by the taxing districts. The second would agree to reduction of the parcels' value for tax purposes, or a partial exoneration of taxes, so that taxes imposed during 2012 on the parcels would be based on the price paid for them from the County's repository. Attorney Adair noted that the parcels will not be available for use until after PaDEP concludes its remedial response activities such that taxes paid at \$45,000 value is probably better than what otherwise might be received. It was noted that these approvals are conditioned upon approvals by the Millcreek Township School District and the County of Erie and on Moxie Nein's purchase of the parcels, approval of the COA and meeting its other obligations under the COA. Mr. McGrath moved that Resolution 2012-R-13 be approved and Mr. Kujawa seconded the motion. The Board asked if there was any wish to make public comment and no one wished to comment. The Resolution was adopted by unanimous roll call vote.

Mr. McGrath noted that the Township's Report of Building Construction for February 2012 had been issued and that it reports construction of two new single-family homes, the new Walmart store and a new branch office building for First National Bank.

Mr. Kujawa announced that Bill Hitchcock, the Garage Foreman, had reviewed prices under the PA CoStars state contract and the CW COG for one 1500 and one 2500 four-wheel-drive pickup trucks. On recommendation by Mr. Hitchcock, Mr. Kujawa moved that the Board approve contracts to Penske GMC under the PA CoStars contracts for purchase of a GMC Sierra 1500 4WD WT pickup truck at a price of \$19,670.26 and for a GMC Sierra 2500 HD 4WD diesel pickup truck for a price of \$29,798.00, each being the lowest of the available prices. Mr. McGrath seconded the motion. No public comment was offered and the motion carried by unanimous roll call vote.

On recommendation from Bill Perry, Mr. Kujawa advised that the Township had sought proposals for a new lock system for the Municipal Building's six doors, as replacement parts for the original system are no longer available and recommended that a contract for locks for six doors, including 200 swipe cards, be awarded to Stanley Security Solutions for a price of \$23,638.84. Mr. McGrath seconded the motion. No public comment was offered and the motion carried by unanimous roll call vote.

On recommendation by Jim Sperry, Mr. McGrath moved that Sarah Pelton be employed as a water safety instructor at an hourly rate of \$9.00. Mr. Kujawa seconded the motion. No public comment was offered and the motion carried by unanimous roll call vote.

Mr. McGrath stated that Millcreek sought proposals for removal of five trees and received proposals of \$800.00 from Dibble Tree Service and \$695.00 from Jay Thomas Tree Service. Mr. McGrath moved and Mr. Kujawa seconded that the contract be awarded to Thomas Tree Service for a price of \$695.00. No public comment was offered and the motion carried by unanimous roll call vote.

Mr. McGrath stated that Millcreek sought proposals for removal of seven other trees and received proposals of \$1,375 from Larson Tree Service, \$2,425.00 from Dibble Tree Service and \$3,210.00 from Jay Thomas Tree Service. Mr. McGrath moved and Mr. Kujawa seconded that the contract be awarded to Larson Tree Service for a price of \$1,375.00. No public comment was offered and the motion carried by unanimous roll call vote.

Mr. McGrath reported that the Township had sought proposals for materials and labor to install a 42' by 25' awning at Erie Golf Course and had received proposals of \$13,650.00 from Guy E. Allen & Son, \$15,500.00 from Al's Awning Shop and \$23,750 from LaRay Awnings, and moved that a contract be awarded to Guy E Allen & Son for the low price of \$13,650.00. Mr. Kujawa seconded the motion. No public comment was offered and the motion carried by

unanimous roll call vote.

Mr. Morris stated that the Township had sought proposals for professional services in providing a wetlands delineation at the Millcreek Golf & Learning Center property and recommended that a contract be awarded to Hill Engineering, Inc. at its proposed price of \$6,500.00, the lowest price proposal received. Mr. McGrath moved and Mr. Kujawa seconded that the contract be awarded. No public comment was offered and the motion carried by unanimous roll call vote.

Louis Aliota, residing at 538 Margo Court, expressed his opinion it would be in the best interest of the Supervisors and "senior staff" if questions he asked would be answered, these including whether the Township has a written document outlining the scope of duties of Supervisors in their elected capacities and whether the Township has eminent domain power to take property interests. Attorney Adair stated that duties of elected Supervisors and other Township officers, including the treasurer, solicitor and secretary, are defined in the Second Class Township Code and that the same Code gives townships power to condemn interests in real estate in particular circumstances, the Second Class Township Code not being a Township record.

No other citizens wishing to be heard, on motion by Mr. McGrath seconded by Mr. Kujawa and duly carried, the meeting was adjourned at 10:04 a.m.

Phyllis A. Vollbrecht
Assistant Secretary

APPROVED: March 27, 2012

Richard P. Figaski
Joseph S. Kujawa
Brian P. McGrath