

Regular Meeting

February 14, 2017

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

Following the Pledge to the Flag, Vice Chairman Morgan extended Mr. McGrath's apology for being absent due to a family matter, and then 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 24, 2017 Regular meeting.

It was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous vote to approve the minutes of the Board's February 6, 2017 Special Public 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 \$1,433,016.34, Sewer Revenue Fund bills in the amount of \$503,659.85 and a Water Authority Operating Account bill in the amount of \$8,110.17.

A Public Hearing was held on a Petition Requesting a Change in Zoning Classification for Jeremiah D. & Tiffany Schreiber, for property located at 2501 Palermo Drive, now zoned C-1 Local Commercial District, asking for a change in classification to C-2 General Commercial District. Township Index 745-007, County Index (33) 123-418.0-031.05.

Zoning Administrator Charles Pierce reported that the Planning Commission recommended approval. Jeremiah Schreiber, 2501 Palermo Drive, explained the reason for the change in zoning, stating that he operates a chiropractic practice on the property and would like to offer a healthy juice bar and café with healthy snacks for his current patients. Mr. Morgan asked if this café would be open to the public and if he was subleasing the café business, to which Mr. Schreiber answered yes to both questions. Mr. Groh asked if this was going to be a restaurant. Mr. Schreiber answered no, it will be a mini-café with retail food sales. Mr. Pierce advised that this still classifies as a restaurant.

Mr. Morgan expressed concern that this property lies in the middle of a C-1 district; therefore, changing the zoning would be considered "spot zoning." Mr. Groh agreed, stating that he is not in favor of "spot zoning," and that the proposed café could not be classified as an accessory use because it will be open to the public and subleased to a private vendor. He asked Mr. Pierce if the Planning Commission discussed accessory use, to which Mr. Pierce replied that they did not discuss accessory use, and they recommended approval because there is C-2 zoning across the street and one parcel north of Mr. Schreiber's business. Mr. Groh stated that if approved, this would allow for other C-2 uses in that district, and Mr. Pierce confirmed this, stating that in a rezoning, the entire district would fall under the new classification if requirements were met.

Mr. Groh stated that in this case, this district would then become C-2, which is more retail in nature. Mr. Schreiber replied that he has been forthright, has no plans to operate any other businesses, asked what other options he may have and wanted to know how the zoning map was created. Mr. Groh replied that originally that area was zoned agricultural, and the zoning areas and map changed as needed as the area was developed.

Mr. Morgan replied that it is not appropriate to suggest other options, although Mr. Schreiber may have accessory options, could ask for a variance, or if denied, he could appeal to the Zoning Hearing Board. Mr. Groh added that the Board does not want to discourage business, and if Mr. Schreiber plans to expand in the future, they would want his business to stay in Millcreek, but the C-2 zoning is the issue. He emphasized that there must be a primary use first, which would be his chiropractic business, to even add an accessory use.

Mr. Schreiber asked for clarification of the difference between the dentist's property to the north being rezoned to C-2 and his property being rezoned to C-2. Mr. Groh stated there is a property in between, and based on his experience, this could be classified as "spot zoning," which is what the Township is trying to avoid. He reiterated that the Board wishes there was more they could do, but unless the rezoning request would classify as an accessory use, it cannot be approved. He added that perhaps an amendment to the petition or classification, and offering healthy foods for clients only and not the general public might help.

Solicitor Shaw further explained that if Mr. Schreiber proposed an accessory use, then the zoning would not have to be changed. Mr. Morgan added that because Mr. Schreiber is proposing subleasing the café and advertising to the public, this does not classify as an accessory use.

It was moved by Mr. Groh and seconded by Mr. Morgan to deny the Petition Requesting a Change in Zoning Classification for Jeremiah D. & Tiffany Schreiber. Motion carried by unanimous roll call vote.

Engineer Richard Morris explained that once there is a recorded land development plan, if any changes are requested they must be approved by the Board. Mr. Morris reported that an addition of 1800 square foot has been proposed as the Creative Imprint Systems Nonsubstantial Land Development Plan Amendment, and stormwater management requirements have been satisfied.

Speaking on behalf of the amendment was Jeff Santos, Creative Imprint Systems, 2670 West 11th Street, stating that they need more room for storage, and is frustrated that so many requirements are mandated. He feels that it is difficult for small businesses to grow because of the high cost of stormwater management and other conditions. Mr. Groh explained that the state mandates the stormwater management requirements because Millcreek Township is an MS-4 community. Mr. Shaw added that every other municipality has stormwater requirements and ordinances as well, not just Millcreek.

Mr. Groh asked Mr. Morris to clarify that this is a minor amendment, to which he answered yes. On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve the Creative Imprint Systems Nonsubstantial Land Development Plan Amendment, originally approved at the meeting of May 27, 2003. Motion carried by unanimous roll call vote.

Mr. Morgan reported that quotations for tree removal were solicited and received by the Streets Department as follows: Dibble Tree Service - \$3,175.00, Jefferson Tree Service - \$2,195.00, Thomas Tree Service - \$2,375.00. On recommendation by the Streets Department, it was moved by Mr. Morgan and seconded by Mr. Groh to award the contract to Jefferson Tree Service for \$2,195.00. Motion carried by unanimous roll call vote.

Mr. Groh reported that quotations for turnout gear for Fire Inspector Caleb Dixon were solicited and received by EMA Coordinator/Fire Official Matt Exley as follows: Kaza Fire Equipment - \$2,225.00, Witmer Associates - \$2,633.98, Chief Supply - \$3,319.98. On recommendation by Mr. Exley, it was

moved by Mr. Groh and seconded by Mr. Morgan to award the contract to Kaza Fire Equipment for \$2,225.00 and is a budgeted purchase. Motion carried by unanimous roll call vote.

Mr. Morgan reported that Gary Snyder, Public Works Director, submitted a request to purchase a new AC tank, pump and calibration tank for the asphalt plant for \$140,767.40 under COSTARS Contract No. 00005211655, and is a budgeted purchase. On recommendation of Mr. Snyder, it was moved by Mr. Morgan and seconded by Mr. Groh to purchase the new tank and accessories through COSTARS for \$140,767.40. Motion carried by unanimous roll call vote.

Mr. Morgan read proposed Ordinance 2017-4; An Ordinance To Amend Certain Provisions of the Millcreek Township Code Chapter 110, Solid Waste and Recycling to incorporate certain changes in the state law and modifications to the certain methods of collection, methods of payment collections and enforcement and elimination of the registration requirements and other incidental and necessary changes. Solicitor Shaw explained that the Waste Ordinance is being amended in conjunction with the solicitation of bids for the new waste contract, and highlighted a list of proposed changes and updates to the current contract. He announced that bid packages will be available today at 3:00 p.m. and are due at 3:00 p.m. on March 8, 2017. The use of "Bagsters" was discussed, which cost approximately \$29.95, but the cost does not include pick up, which could cost approximately \$130.00. Mr. Pierce added there are requirements to where they can be picked up, such as a certain distance from the road.

Donald Wolozanski, 4218 West 28th Street, asked if there is a way to get his neighbors to secure their trash, which often blows from open boxes all over the neighborhood. Mr. Shaw replied there are provisions in the ordinance that would require people to use properly sized containers. Mr. Morgan suggested that Mr. Wolozanski speak to the Recycling Coordinator after the meeting to learn about alternative ways to secure trash. On recommendation by Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to enact Ordinance 2017-4. Motion carried by unanimous roll call vote.

Mr. Shaw explained proposed Resolution 2017-R-8; A Resolution to approve the bid package for the collection, transportation and proper disposition of municipal waste, recyclable materials and leaf waste from residential properties in Millcreek Township not defined and maintained as "commercial pickups." Mr. Shaw explained that the current waste and recycling contract expires on March 31, 2017, and the Township is advertising for both 3-year and 5-year contract options, with an additional option for one quarter, and similar services as in the past to include weekly pick up, recycling, leaves and brush, monthly hazard and waste pick up, options for Christmas tree pickup, and per-bag service. He noted that the entire bid package is included in this resolution. On recommendation by Solicitor Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to adopt Resolution 2017-R-8. Mr. Morgan asked for clarification that regardless of which vendor is selected, waste collection service will not be disrupted, to which Mr. Shaw replied in the affirmative. No public comment was offered. Motion approved by unanimous roll call vote.

Mr. Morgan explained that in Pennsylvania, tax collectors are independently elected public officials with compensation set by the various taxing bodies, and the salary must be set by February 15, 2017. Mr. Groh noted that he received two different proposed salary amounts, and Mr. Morgan recalled a different discussion and stated that he was not in favor of increasing the current tax collector salary. Solicitor Shaw advised that if the resolution is not adopted, the proposed salary will revert to the current salary. It was moved by Mr. Morgan, and not wanting to delay passage, seconded by Mr. Groh to adopt Resolution 2017-R-5; A Resolution by the Millcreek Township Supervisors of Millcreek Township, Erie County, Pennsylvania, establishing the Millcreek Township Tax Collector's compensation at \$29,509.00 per year for the years 2018, 2019, 2020 and 2021. Motion carried by unanimous roll call vote.

Treasurer Mark Zaksheske explained that the Township regularly disposes of records according to the schedules mandated by the Pennsylvania Municipal Records Manual, and read a list of records

requested to be destroyed from the Street Light Assessment Clerk, Human Resources Manager, and Sewer Revenue Department. On recommendation of Mr. Zaksheske, it was moved by Mr. Groh and seconded by Mr. Morgan adopt Resolution 2017-R-6; 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 call vote.

Mr. Morgan explained that annually the County distributes financial aid to municipalities for Liquid Fuels, which must be requested via application. On recommendation of Treasurer Zaksheske, it was moved by Mr. Groh and seconded by Mr. Morgan to adopt Resolution 2017-R-7; the 2017 County Aid Application for Liquid Fuels. Motion carried by unanimous roll call vote.

It was moved by Mr. Groh and seconded by Mr. Morgan to table Resolution 2017-R-9; A Resolution Adopting a Political Leave of Absence Policy Applicable to Certain Millcreek Township Employees Seeking Elective Political Office, until Mr. McGrath can be present to participate in the vote. Motion carried by unanimous roll call vote.

On recommendation by Treasurer Mark Zaksheske, it was moved by Mr. Groh and seconded by Mr. Morgan to approve the sale of 2311 Caughey Road from the County Repository for Unsold Properties, with 2009-2016 total tax forgiveness of \$154.87. Motion carried by unanimous roll call vote.

Mr. Groh announced the new Fire and EMS Commission will hold their first meeting on Thursday, February 17, 2017 at 7:00 p.m. in the Assembly Room of the Township Municipal Building. Three residents were interviewed and recommended by the Supervisors to serve as representatives on the commission: Retired Albion Prison employee Rebecca Kessler, investment banker and broker John Marsden and retired businessman and Mercyhurst University Adjunct Professor Randy Lachowski. Both Mr. Groh and Mr. Morgan noted their appreciation for the residents volunteering to serve. It was moved by Mr. Groh and seconded by Mr. Morgan to appoint Rebecca Kessler, Randy Lachowski, John Marsden and to the Fire and EMS Commission. Motion carried by unanimous roll call vote. Fire and EMS Commission members are as follows:

<u>AGENCY</u>	<u>REPRESENTATIVE</u>	<u>ALTERNATE</u>
Lake Shore Fire Department	Darryl Tavernese	Brian Salvatore
West Ridge Fire Department	Dan Ouellet	Jim Rosenbaum
West Lake Fire Department	Rick Schau	Kirk McCaslin
Belle Valley Fire Department	Jeremy Moreland	Zachary Kuhn
Millcreek Paramedic Service	Bill Martin	
<u>Supervisor Appointees:</u>	<u>Residents</u>	<u>Supervisor Liaison:</u>
	Rebecca Kessler	John Groh
	John Marsden	
	Randy Lachowski	
<u>Township Employees:</u>	Matt Exley	
	Caleb Dixon	
	Scott Heidt	

Several commission openings are still vacant, so Mr. Morgan asked residents to please step forward and contact the Supervisors if interested on serving on the Property Maintenance/Fire Code Board of Appeals, Zoning Hearing Board or Sewer Authority.

Mr. Morgan announced that the Planning Commission has prepared a recommendation for consultant services for the new Comprehensive Plan. Land Development Coordinator Matt Waldinger reported that the eleven proposals were received. They were narrowed to four, which the Planning Commission interviewed. The Planning Commission is recommending City

Architecture to prepare the Comprehensive Plan. Mr. Morgan congratulated the Planning Commission on their exceptional work on this project. It was moved by Mr. Morgan and seconded by Mr. Groh to award the contract for Consulting Services for the Comprehensive Plan to City Architecture. Motion carried by unanimous roll call vote.

Mr. Groh summarized the Township's building construction report for the month of January 2017, and announced that the report will be available on the Township website and in the Zoning Office.

Total Residential Structures	\$	779,000.00
Total Non-residential Structures		<u>152,900.00</u>
	\$	931,900.00
Zoning Permits Issued		8
Zoning Permit Fees	\$	2,550.00

Treasurer Mark Zaksheske announced that H.A.N.D.S. (Housing and Neighborhood Development Service) has again made a contribution of \$3,780.00 to Millcreek Township, and has made additional contributions to other communities that it serves, despite being an organization that exempt from real estate taxation. Mr. Zaksheske publicly thanked H.A.N.D.S. for their payment, and Mr. Groh and Mr. Morgan expressed their appreciation for this contribution.

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 items:

Transfer of Patrol Officer Shollenberger from the Patrol Division to the Investigative Services Division as a Detective, retroactive to January 30, 2017.

Elevation of Patrol Officers Sorokes, Speicher and DeAngelo to the status of Class D Patrol Officers retroactive to February 1, 2017, as each officer has met all Department expectations and requirements of a probationary officer.

Permission to send Patrol Officers Buckner and Presnar to a Prescription Drug Investigation course at the Pennsylvania State Police Northwest Training Center in Meadville on March 27-28, 2017, at no cost to the Township.

Permission for Captain Mook and Lieutenant Little to attend "The Media and Law Enforcement" training in Franklin on March 27-28, 2017, sponsored by the Northwest PA Chiefs of Police Association in conjunction with the Penn State Justice and Safety Institute. Registration costs are covered by the NWPA Chiefs, but the officers will require a department vehicle and approximately two hours of overtime for the two days of travel.

Permission to purchase police ammunition and less lethal gases, projectiles, and other items from the Officer Store of Witmer Public Safety Group in the total amount of \$13,924.50, which is a budgeted purchase.

Retroactive approval for Corporal Parmeter to attend the Child Abuse Investigation course held at the Pennsylvania State Police Northwest Training Center, Meadville on February 7-8, 2017, at no cost to the Township.

Permission for Detective Mays to attend a Microcontroller Course designed for members of the Explosive Ordinance Disposal (EOD) team at the Erie County Department of Public Safety from March 13-16, 2017, at a cost of \$900.00.

Permission for Sergeant Fallon and Corporal Parmeter to attend the 2017 National Child Abuse Conference in Huntsville, Alabama from March 27-29, 2017, at a total

estimated cost of \$2400.00. No overtime pay is expected and these officers will travel via Township vehicle. (The Supervisors authorized a cost analysis comparison and approval if airfare is less costly.)

Permission for Sergeants Hauber and Irwin, and Detectives Mays and Shollenberger, to attend an Introduction to Cellular Investigations course sponsored by the Erie Police Department from August 7-9, 2017 at the Erie County Department of Public Safety, at no cost to the Township.

Permission for Sergeant Fallon, Corporal Parmeter, and Detectives Bolash and Henderson, to attend a Social Media and Technical Skills course sponsored by the Erie Police Department from August 10-11, 2017 at the Erie County Department of Public Safety, at no cost to the Township.

Regarding travel and training items, Mr. Morgan suggested that for the future department heads be given authority to grant such requests at their discretion, and suggested a meeting with Board officials and department heads in the near future.

It was requested by EMA Coordinator/Fire Code Official Matt Exley, moved by Mr. Groh and seconded by Mr. Morgan to authorize Mr. Exley and Richard Pietron to attend the PA State Fire Academy Instructor Development Conference on March 4-5, 2017 in Lewistown at a total cost for hotel of \$203.56, with use of the Township vehicle, and is a budgeted expense. (Mr. Exley and Mr. Pietron will be instructors and therefore their registration fees are waived.)

On recommendation of IT Manager Kris Filson, it was moved by Mr. Groh and seconded by Mr. Morgan to renew the Support and Maintenance agreement with Third Generation, Inc. telephone system at a cost of \$5,870.00 for 12 months, and is a budgeted expense. Motion carried by unanimous roll call vote.

It was requested by Director of Public Services Judy Zelina, moved by Mr. Morgan and seconded by Mr. Groh to authorize two Township employees to attend the PROP (Professional Recyclers of PA) in King of Prussia from July 24-28, 2017 at a cost of \$2,997.00 with use of a Township vehicle, and is a budgeted expense. Motion carried by unanimous roll call vote.

Mr. Morgan announced that the Board met with Solicitor Mark Shaw in Executive Session on February 2 and 9, 2017 to discuss various legal matters.

Student Ambassador Sydney Stitt reported that there are a lot of exciting sports events coming up, such as Cathedral Prep vs. McDowell, basketball playoffs and district swimming competition.

Open Records Officer Sheryl Williams gave the January Right-to-Know report, stating there were two Open Records requests, with one granted and the other denied due to there being no existing records responsive to the request.

Mr. Morgan added that he hopes to have the City Architecture contract for the Comprehensive Plan executed by March 1, 2017, with a schedule to be determined and announced hopefully by the end of March.

Solicitor Mark Shaw reported that the Board received a letter from Atty. Henry Miller regarding a possible construction violation on Lake Front Drive. Mr. Shaw investigated, found no violation of the Township's ordinances and notified Mr. Miller in writing. Mr. Shaw also reported receiving a letter from Michael Visznoski on behalf of LECOM seeking a refund with respect to some properties owned by NCH Corporation, as a result of some parcel combination and tax assessment, which Mr. Shaw will investigate.

Donald Woloanski, 4218 West 28th Street, is building a single family home at 4015 Colonial Drive which slopes away from the road, and asked why the Engineering Department is requiring him to put in a water retention pond. He stated that his builder is constructing three other homes in the subdivision, is not permitted to tap into the water retention pond, and noted that installing pipe is very expensive. He is also concerned about the amount of flooding near Contessa Drive, even with a retention pond. Mr. Morgan responded that the Township is trying to obtain permits through DEP to resolve the Contessa Drive issue, and Mr. Morris said they should have the permits by summer. Mr. Morris continued to explain that a single family development requires stormwater management, and Mr. Woloanski's home has no stormwater management and must provide it either via infiltration or by storing and gradually releasing the water either with pipes or a retaining pond. Mr. Morgan emphasized that the goal is to keep from flooding other people's parcels, and the homeowner must maintain water on his own parcel. Mr. Morris stated every situation is different, and soils are different as well, but said he and his team will work with the developer.

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 10:57 a.m.

Sheryl A. Williams
Assistant Secretary

Approved: February 28, 2017

Brian P. McGrath
John H. Groh
John E. Morgan