

Regular Meeting

April 11, 2017

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 9:30 a.m. by Chairman Brian 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., Charles Pierce and Sheryl Williams. Student Ambassador Sydney Stitt was absent.

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 March 28, 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 \$881,826.54 and Sewer Revenue Fund bills in the amount of \$105,297.25.

Solicitor Mark Shaw reviewed the Ridgefield property subdivision history, stating that the Supervisors originally approved the Millcreek Township School District's subdivision plan for 3227 Highland Road, and an appeal was denied by the Erie County Court of Common Pleas. The appeal continued to the Commonwealth Court, and in December of 2016 the Supervisors issued a decision believing they had met the Court's requirement. Montessori Regional Charter School filed an application to challenge the Board's Supplemental Decision as not having complied with the Court's directive, and on March 16, 2017, the Commonwealth Court directed this Board to comply with the Court's September 16, 2016 Order by "expressly conditioning its approval of the Millcreek Township School District's final subdivision plan on the School District first obtaining zoning relief that will allow proposed Lot 1 to be used for a commercial purpose." Attorney Evan Adair prepared a Second Supplemented Decision, which seeks to meet the requirements of this Order and states: "For the foregoing reasons, the Board supplements its decisions of May 12, 2015 and December 27, 2016, as follows: The subdivision plan of the Millcreek Township School District is approved on the condition that relief available under the Township's Zoning Ordinance is obtained which allows proposed Lot 1 to be used for a commercial purpose. If such relief is not obtained within two (2) years after the date of this Supplemented Decision, the condition shall fail and the plan shall be deemed denied."

Mr. McGrath commented that typically, per state law, the Township cannot put conditions on subdivisions, but in this case the Board is being directed to put conditions on the subdivision. In addition, before someone can use a property for a use that is not permitted in that zoning district, it must be rezoned, yet the Board is being directed to this as well. Mr. Groh added that despite the Board's disagreement with the Courts, they will comply, and hopefully this issue will be put to rest.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to approve the Second Supplemented Decision regarding the Millcreek Township School District Subdivision Plan for 3227 Highland Road. Motion carried by unanimous roll call vote.

Mr. Morgan noted that part of the reason this issue was complicated was because the Township has one form that is used for both rezoning and subdivision requests, and the applicant had erroneously filled out the application. It was moved by Mr. Morgan and seconded by Mr. Groh to direct Mr. Morris and Mr. Pierce to revise the forms within 30 days. No public comment was offered. Motion carried by unanimous roll call vote.

A Public Hearing was held on a Petition Requesting a Change in Zoning Classification for West Ridge Apartments, Inc.

WEST RIDGE APARTMENTS, INC., for the property located at 5208 West Ridge Road, now zoned C-4 Regional Commercial District asking for a change of classification to R-4 High Density Residential District. Index 402-016.

Zoning Administrator Charles Pierce reported that the Planning Commission recommended denial. Dave Jezek, 5208 West Ridge Road, stated that he has been the owner of West Ridge Apartments for over 30 years. It was originally zoned multi-family as an apartment building and still is, and he is requesting that the first 600 feet be rezoned back to Residential Multi-family zone. He stated that in May of 2007, a request was made to rezone to C-4 in anticipation of a retail development along with the Walmart property, but that never materialized. The latest request was made to rezone the entire property back to residential, but he really only needs the first 600 feet rezoned. He stated that there is multi-family adjacent to the property as well. Mr. McGrath and Mr. Groh ask for verification that currently the property is zoned Commercial but is being used for residential use and has been for over 30 years, to which Mr. Jezek replied yes. Mr. Pierce confirmed that the request is to revert to the previous zoning. No one else spoke in favor of or in opposition to the plan. It was moved by Mr. Morgan and seconded by Mr. Groh to approve the petition requesting a change in zoning classification for the first 600 feet only of West Ridge Apartments, Inc., from C-4 Regional Commercial District to R-4 High Density Residential District. Motion carried by unanimous roll call vote.

Mr. McGrath announced the Erie Area Council of Governments Joint Purchasing Bid Opening results for Street Materials as follows:

2,000 Ton Type C #57 Aggregate: Price Per Ton, Picked Up

Girts Sand & Gravel	\$ 8.75	Carmeuse Lime & Stone	\$21.50
ACA Sand & Gravel	\$ 9.00	IA Construction	\$ 8.75**

**Priced for Type A which is not used by the Township.

On recommendation of the Engineering Department, it was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Type C #57 Aggregate to Girts Sand and Gravel for \$8.75 per ton. Motion carried by unanimous roll call vote.

1200 Gallons AE-T Tack Oil: Price Per Gallon, Picked Up

Suit-Kote	\$1.10
Russell Standard	\$1.392

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for AE-T Tack Oil to Suit-Kote Corporation for \$1.10 per Gallon. Motion carried by unanimous roll call vote.

6 Tons Modified Asphalt Sealant Blocks: Option #1 Specified

SealMaster	\$.52/lb.	Option #1 w/boxes
	\$.57/lb.	Option #1 Alt. Meltable Buckets
Air-Vac Equipment	\$.76/lb.	Option #1 w/boxes
	\$.81/lb.	Option #1 Alt. Meltable Buckets

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Modified Asphalt Sealant Blocks to SealMaster for Option #1 – at a cost of \$.52/lb. with boxes, and \$.57/lb. for Meltable Buckets. Motion carried by unanimous roll call vote.

Grinding and Profiling (Milling): 92,000 Square Yards

Swank Construction	\$.61/sq. yd.
Donegal Construction	\$.56/sq. yd.

It was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for Grinding and Profiling (Milling) to Donegal Construction for \$.56/sq. yd. Motion carried by unanimous roll call vote.

Reclaiming and Recycling (Tar and Chip Roads): 11,100 Square Yards

EJ Breneman, LP	\$14.50/sq. yd.
Mt. Carmel Stabilization	\$ 8.69/sq. yd.

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 \$8.69/sq. yd. Motion carried by unanimous roll call vote.

Quotations for a heater replacement for Chestnut Hill Pool were solicited and received by Ashley Marsteller, Parks and Recreation Director, as follows: E-Z Clean - \$5,300.00, Pool Supply World - \$7,135.98, Pool Supply Superstore - \$6,999.98. On recommendation of Ms. Marsteller, it was moved by Mr. McGrath and seconded by Mr. Groh to award the contract to E-Z Clean for \$5,300.00. Motion carried by unanimous roll call vote.

Quotations for a new replacement courtroom exterior door for the District Justice's office were solicited and received by Jerry Burger, Building Maintenance Head Foreman, as follows: Corporate Glass - \$1,565.00, Parsons Penn Glass - \$1,375.00, Schaal Glass - \$2,150.00. Mr. McGrath relayed that the door is not opening safely, and Corporate Glass is able to obtain a door within one week, whereas the other two bidders would take two weeks or longer. Atty. Shaw advised that under these circumstances, it is permissible to award a contract to the second highest bidder due to time constraints and the safety factor. Therefore, on recommendation of Mr. Burger, it was moved by Mr. McGrath and seconded by Mr. Groh to award the contract to Corporate Glass for \$1,565.00 for the courtroom exterior door. Motion carried by unanimous roll call vote.

Mr. McGrath explained that enactment of the next two proposed Ordinances will formalize earlier action by the Board of Supervisors. On recommendation of Solicitor Mark Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to enact Ordinance 2017-6; An Ordinance to amend the Millcreek Township Zoning Ordinance, No. 2011-8, as amended, by changing the classification of a certain parcel of land situate in the Township of Millcreek, Erie County, Pennsylvania, described as follows, to-wit: property located at 3229 West 38th Street, now zoned R-1 Single Family Residential, to be rezoned to R-2 Low Density Residential District. Motion carried by unanimous roll call vote.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to enact Ordinance 2017-7; An Ordinance to amend the Millcreek Township Zoning Ordinance, No. 2011-8, as amended, by changing the classification of a certain parcel of land situate in the Township of Millcreek, Erie County, Pennsylvania, described as follows, to-wit: 10.03 Acre parcel located at 2608 Zimmerly Road and a 1.424 Acre parcel located off Zuck Road, now zoned RR Rural Residential, to be rezoned to C-2 General Commercial District. Motion carried by

unanimous roll call vote.

Mr. Morgan explained that the results from last year's Embrace Millcreek community interest survey highlighted road maintenance as a priority. In response to this, the Director of Public Works and the Streets Department Bureau Chief have worked together to create a public document to establish project detail and formalize the process for documenting and amending the process for road maintenance. Mr. McGrath noted that previously the Roadmasters would assess the Township roads with the Streets Department foremen and decide which roads would be repaired each year, so it is a good idea to now have the process formalized. Mr. Groh added that while not all may agree with which roads are considered to be "bad," he does feel that this is a good idea overall. He did note that this may result in a cost increase or a cut in another service in the future because the Township has over 200 miles of roads to maintain. Mr. McGrath also pointed out that this is the last year for increased funding from PennDOT. Mr. Morgan added that the Public Works department will create a multi-year plan, will seek funding sources, and will have a final multi-year project list to present to the Board by the next meeting. It was moved by Mr. Morgan and seconded by Mr. Groh to adopt Resolution 2017-R-15; A Resolution Adopting an Administrative Policy Requiring the Establishment of a Roadway Maintenance and Improvement Program. Motion carried by unanimous roll call vote.

Mr. Morgan explained that the next Resolution establishes how roadways will be inventoried and analyzed. It was moved by Mr. Morgan and seconded by Mr. Groh to adopt Resolution 2017-R-16; A Resolution Adopting an Administrative Policy Requiring the Establishment of a Pavement Monitoring Program. Motion carried by unanimous roll call vote.

Treasurer Mark Zaksheske explained that the Police Chief Scott Heidt has requested disposition of video dash-camera records, and this will be on an ongoing basis. It was moved by Mr. Groh and seconded by Mr. Morgan to adopt Resolution 2017-R-17; 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. McGrath announced that the Township has received a Keystone Communities Grant from the PA Department of Community and Economic Development (DCED) in the amount of \$77,500.00 for the Revitalization of the Millcreek Golf and Learning Center. He thanked Asst. Engineer Anne Sokol for her efforts in compiling the grant application, and Laura Guncheon, Kim Thomas and Julie Slomski from local government offices for their assistance as well. He added that the Township has budgeted \$155,000.00 in addition to the grant to restore the Millcreek Golf and Learning Center to its original operating condition. Atty. Shaw has reviewed the grant and noted that it is a standard agreement, and work must be completed by June 30, 2019. Mr. Groh stated that he is not in favor of the Township being in the golf business, but will follow DEP's directive. Mr. McGrath responded that the Township did not intend to start a golf business, but did so because it was a hazardous superfund site and there was a good opportunity to clean up and develop it through grants from the state. It was moved by Mr. Morgan and seconded by Mr. Groh to authorize Mr. McGrath and Mr. Groh to sign the Keystone Communities Grant. Motion carried by unanimous roll call vote. Mr. McGrath added that construction may start this year, if all goes well.

Engineer Richard Morris reported that the Township received a Financial Security Release Request from Millcreek Manor & MCH South Parking Lot – Lake Erie College of Osteopathic Medicine, Developer, and all requirements have satisfactorily been met. On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve a release of PNC Bank, NA. #18119711-00-000 in the amount of \$55,750.00, which is 10% of the original amount. Motion carried by unanimous roll call vote.

Mr. Morris reported that the Township received a Sidewalk Deferral Agreement request from Bonnell's Collision - Scott Bonnell, Developer, completed on the proper form. He noted that sidewalks are shown on the plan from property line to property line, and there are no other sidewalks in the area. Mr. Morgan mentioned that there had been some discussion of amending the sidewalks designed on the plan, and expressed concern as to the language of the deferral agreement. Discussion ensued among the Board and Mr. Shaw advised that the agreement will be recorded with the drawing attached showing where the sidewalk is to be constructed. He also stated that the land development plan protects the Township and indicates the obligation to install the proper ramp. It was moved by Mr. Groh and seconded by Mr. Morgan to approve the Sidewalk Deferral Agreement. Motion carried by unanimous roll call vote.

On recommendation of Police Chief Scott Heidt, it was moved by Mr. Groh and seconded by Mr. Morgan to approve the purchase and replacement of a defective antenna from Mobilcom for the police radio system at an estimated cost of \$1,237.73. Motion carried by unanimous roll call vote.

On recommendation of Police Chief Scott Heidt, it was moved by Mr. Groh and seconded by Mr. Morgan to authorize three detectives to attend the Eastern States Vice Investigators Conference in Virginia from May 22-26, 2017, at an estimated cost of \$1,050.00, plus 3 hours overtime. Hotel and registration fees will be paid by the Erie County District Attorney's Office, with travel by department vehicle. Motion carried by unanimous roll call vote.

On recommendation of Human Resources Director Diane Lyons, it was moved by Mr. McGrath and seconded by Mr. Groh to hire Gregory Haynes as a part-time seasonal employee at the Millfair Compost and Recycling Center from April 11 to December 1, 2017 at an hourly rate of \$11.10. Motion carried by unanimous roll call vote.

Mr. McGrath announced that the Board met in Executive Session on April 4, 2017 with Attorney Shaw to discuss legal matters.

Mr. Morgan reported receiving a call from a resident on Amherst Road regarding a section of Amherst where people are parking on the street on a hill where there is a curve. He asked the Township and Traffic Engineers and Traffic Officer to study the situation, and Mr. Morris reported that there is a length of Amherst Road north of Merilee Drive that should be restricted to "No Parking." Mr. McGrath noted that this must be accomplished by a new Ordinance. It was moved by Mr. Morgan and seconded by Mr. Groh to direct Solicitor Shaw to draw up the appropriate ordinance. Motion carried by unanimous roll call vote.

Solicitor Shaw explained that the Township received a letter from Advanced Disposal requesting to change the collection day for Whispering Woods Subdivision from Tuesday to Wednesday, effective April 19, 2017. Under the new waste collection agreement, the Board must approve this at a meeting. Mr. McGrath added that an old map had been used previously and passed on to Advanced Disposal, and there was some confusion. The president of the association has volunteered to notify everyone in the subdivision to make them aware of the change. Mr. McGrath reported that overall things are going well with the transition to the new waste collection service, that collection days will remain the same, but not necessarily the time. He added that the large bins will be delivered as they become available over the next 90 days. It was moved by Mr. Morgan and seconded by Mr. McGrath to approve the request to change the waste collection day for Whispering Woods Subdivision to Wednesdays, effective April 19, 2017. Motion carried 2-1, with Mr. Groh voting no. Mr. Morgan also commended the Public Services team from the Township in handling the many phone calls and email inquiries about the new waste collection service.

Mr. Shaw mentioned the ongoing sidewalk issues along Interchange and Zimmerly Roads and at the intersection of Peach Street and Kuntz Road, where there have been two fatalities. He noted that the Township has been in communication with PennDOT, trying to work out a sidewalk agreement. He stated that historically when the state installed sidewalks, the Township was not responsible for maintenance of the sidewalks. PennDOT has since changed its policy and is now insisting that the Township be responsible for maintenance of any sidewalks that it installs, and is requiring the Township to sign a maintenance agreement before it will install any sidewalks. Mr. McGrath noted that the state does not have a law that requires the Township to take over the maintenance of the sidewalks, that this is just a "policy," and Mr. Shaw agreed, reiterating that the state has an obligation to maintain the sidewalks. Mr. Morgan reported that the Township has met with District executives, government officials, legislators, and special project directors, but the reality is that two fatalities have occurred, federal funds have already been allocated, the Township has committed to pay 20%, and still PennDOT is refusing to start the project unless the Township signs their agreement. Mr. Groh noted that in discussing this issue with other Township officials, smaller Townships do not have the financial resources to fight this policy. He did want to emphasize that on a local level, the Township has an excellent relationship with PennDOT officials. It was moved by Mr. Morgan and seconded by Mr. Groh to prepare a letter to send to the Pennsylvania Secretary of Transportation. No public comment was offered. Motion carried by unanimous roll call vote.

Open Records Officer Sheryl Williams gave the March Right-to-Know Report, stating that two extensions from February and one new request were partially granted, with 20 hours of preparation time spent on the responses.

Mr. McGrath announced that the next meeting will be held on Tuesday, April 18th at 7:00 p.m.

There being no 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 10:40 a.m.

Sheryl A. Williams
Assistant Secretary

Approved: April 18, 2017

Brian P. McGrath

John H. Groh

John E. Morgan