

Regular Meeting

October 24, 2017

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 7:00 p.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., Sheryl Williams and Student Ambassador Aaron Boyd.

Following the Pledge to the Flag, Mr. McGrath called for public comment on agenda items other than development or rezoning applications. There was no public comment.

It was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous roll call vote to approve the minutes of the Board's October 10, 2017 Regular Meeting.

It was moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous roll call vote to approve payment of the General Fund bills in the amount of \$883,917.95, and Sewer Revenue Fund bills in the amount of \$650,511.97.

Treasurer Mark Zaksheske gave the Third Quarter Financial Presentation, stating that this year's revenue and budget comparisons are on par with 2016. He reported that the Township's expenses so far this year are below those of 2016, as are salaries, health insurance, and pension payments. Mr. Zaksheske noted, however, that pension payments are made in the 4th quarter of the year, and added that there have been no salary increases this year due to ongoing AFSCME contract negotiations. In the areas of Public Safety and Streets, most categories are doing very well, but as the holidays and winter weather approach, expenses will likely increase in the areas of overtime and snow removal. Regarding community expenses, Mr. Zaksheske stated that recycling is doing well, and street lighting was ahead on the revenue side, which will offset the expense of new tariff rates this year. The Township's capital plan has an uncommitted balance of \$2.2 million, due to some projects and purchases that were unable to be completed this year, such as the Millcreek Golf and Learning Center construction, some ADA projects, and some recycling grants that were delayed. Overall, Mr. Zaksheske projects that the Township should end the year with a positive fiscal balance.

Mr. Zaksheske then presented a funding recommendation for the roof replacement at West Lake Fire Department. He reported that the Fire and EMS Commission had requested \$18,850 for this project, and by creating a formula which amortized the cost over five years, divided by the Township's four volunteer fire departments, the cost per quarter to each fire department becomes \$235.63. Each fire department currently receives \$42,499.83 in LST funds (Local Services Tax) per quarter, so if one subtracts \$235.63 from this amount, the quarterly LST payment for each fire department becomes \$42,264.20. It was felt that this would be the fairest way to fund this project without causing too much hardship to any of the fire departments, and that this formula would be useful for future funding requests from the other fire departments as well. On motion by Mr. Groh, it was seconded by Mr. Morgan to adopt this funding proposal to submit to the Fire and EMS Commission for their consideration. Motion carried by unanimous roll call vote.

Engineer Richard Morris announced that five engineering firms were invited to submit proposals, with the results of the Requests for MS4 (Municipal Separate Storm Sewer Systems) Proposals being opened October 19, 2017 at 3:00 PM, as follows: GPI - \$167,800, HRG - \$59,025, and AMEC - \$173,399. Mr. Morris stated that the proposals are currently under review, and a recommendation to award a contract will be made at the next meeting. He further explained that six streams will have sediment extracted to help the aquatic life, and Solicitor Shaw noted that, per state requirements, the sediment must be reduced by 10% and the project completed by June of 2018.

Mr. Morris announced that in order for the Township to be compliant, bids were solicited and received by the Engineering Department for the Millcreek Township Municipal Building ADA Project to install or modify certain sidewalks and ramps. The bid results are as follows: Amendola Development - \$15,468.00, Vavala Concrete Construction - \$21,822.00, Dailey Concrete Services – No Quote. On Mr. Morris's recommendation, it was moved by Mr. Groh and seconded by Mr. Morgan to award the contract for the Millcreek Township Municipal Building ADA Project to Amendola Development for \$15,468.00. Motion carried by unanimous roll call vote.

Mr. McGrath announced that quotations for cleaning of the pipe between West 17th Street and Peninsula Drive and Marshall Run were solicited and received by Sewer Department Foreman John Blose as follows: Insight Pipe Contracting, LLC - \$2,550/day (Costars Contract #16), State Pipe Services, Inc. - \$3,200.00/day. On recommendation of Mr. Blose, it was moved by Mr. McGrath and seconded by Mr. Groh to award the contract for pipe cleaning to Insight Pipe Contracting, LLC for \$2,550/day under Costars Contract #16. Motion carried by unanimous roll call vote.

Solicitor Mark Shaw reported that the proposed ADA Transition Plan has been available to the public since August 8, 2017 and is ready for approval. He noted there has been no public comment, including plaintiffs from the Voices for Independence lawsuit. Mr. Shaw added that some modifications were made to the plan due to the postponement of some projects and the addition of the reconstruction of the Millcreek Golf and Learning Center project. Mr. McGrath reported that there was an article in the *Erie Times News* this week stating that over \$300,000 has been designated for ADA modifications for 2017, 2018 and 2019. On recommendation of Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to adopt Resolution 2017-R-43; A Resolution to Adopt a Transition Plan for Millcreek Township Under Title II of the Americans with Disabilities Act. Motion carried by unanimous roll call vote.

Treasurer Mark Zaksheske explained that Chief Scott Heidt is requesting that the periodic disposition of dash cam videos be approved, as well all records that are contained on an old AS400 server. The records were transferred to a new server over a year ago, and the one-year required waiting period has passed. On recommendation of Mr. Zaksheske, it was moved by Mr. Groh and seconded by Mr. Morgan to adopt Resolution 2017-R-44; 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.

Solicitor Mark Shaw explained that Erie County is in the process of finalizing the purchase of the new public radio system and needs each municipality to choose which option they wish to purchase, and whether they want a 36 month term (\$137,369.89 total) or 60 month term (\$192,283.15 total) payment plan. Chief Scott Heidt has recommended the fiber connection option rather than making more expensive structural upgrades to the cell tower. On recommendation of Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan that the Township enter into an agreement with Erie County that addresses its choice of the fiber connection option to be paid over a 36 month term. Motion carried by unanimous roll call vote.

Treasurer Mark Zaksheske reported that there have been spot outages of the non-emergency police phone line, serviced through Earthlink, as well as some emergency transfers from the 911 County Dispatch center. IT Manager Kris Filson has recommended switching to a Velocity fiber line, which requires a one-time fee of \$4,062.95 to tie into the existing equipment. The subsequent monthly service fee would then be \$100.00 per month. Mr. Zaksheske recommended using the excess funds from the Granada settlement to fund this purchase. It was moved by Mr. Groh and seconded by Mr. Morgan to add the Velocity fiber line to the Township server at a cost of \$4,062.95 plus the monthly service fee of \$100.00 per month, using funds from the Granada settlement. Motion carried by unanimous roll call vote.

Mr. Zaksheske reported that the Township's current agreement with National Fuel Resources expires at the end of this month, and recommended entering into a one year agreement to purchase heating fuel at 50% of the market price while monitoring fuel prices during the year. It was moved by Mr. Groh and seconded by Mr. Morgan to authorize Chairman McGrath to sign the contract with National Fuel Resources. Motion carried by unanimous roll call vote.

Mr. Morgan reported that the Township has decided to terminate the contract with the first consultant hired for the Comprehensive Plan, effective May 30, 2017, and an agreement has been proposed, per which the Township would pay City Architecture \$22,608.64 as full payment and the consultant will transmit all listed materials in good faith without exception or additional compensation. It was moved by Mr. Morgan and seconded by Mr. Groh to authorize Chairman McGrath to sign the Contractual Termination Agreement between Millcreek Township and City Architecture. Motion carried by unanimous roll call vote.

Engineer Richard Morris reported that the original contract for the Asbury Park ADA Project was awarded to Vavala Concrete Construction LLC on September 26, 2017, but some additional sidewalk was required to change the access route to the tennis and volleyball courts. On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve Change Order #1 in the amount of \$6,450.00, bringing the new total contract amount to \$67,272.00, which is still within the budget. Motion carried by unanimous roll call vote.

Mr. Morris explained that a municipal assistance program for the Township regarding its MS4 requirements has become available through partnering with Erie County to receive educational and outreach services, data collection, information system and mapping services, and planning and administrative support services, all at a relatively low cost. On recommendation of Engineer Richard Morris, it was moved by Mr. Morgan and seconded by Mr. Groh to approve a Memorandum of Understanding with Erie County Department of Planning for NPDES Municipal Separate Storm Sewer Systems - MS4. Motion carried by unanimous roll call vote. Mr. Morgan noted that the idea for the municipal assistance program was actually the brainchild of our own Engineer, Richard Morris.

On recommendation of Mr. Morris, it was moved by Mr. Groh and seconded by Mr. Morgan to approve a Stormwater Management Plan and Stormwater Maintenance Agreement for CIDER MILL APARTMENT GARAGE – Belle Valley Partners, LLC, Developer. Mr. Morris reported that the application was submitted on the Township approved form and that the developer will own and maintain the underground stormwater facility. No public comment was offered. Motion carried by unanimous roll call vote.

On request of Treasurer Mark Zaksheske, it was moved by Mr. Groh and seconded by Mr. Morgan to authorize, retroactive to October 20, 2017, Mr. Zaksheske and Human Resources Manager Diane Lyons to attend a free Local Government Benefits Seminar on October 20, 2017 at the Green Tree Municipal Building, with use of a township vehicle. Motion approved by unanimous roll call vote.

Mr. Zaksheske explained that he would like to move some of the Township's funds into a higher interest bearing certificate of deposit account and needs approval. On motion by Mr. Groh, seconded by Mr. Morgan, it was approved by unanimous roll call vote to add Erie Bank Account 1206873232 to the Township's Fund Depository List.

On recommendation of Chief Scott Heidt, the following actions were moved by Mr. Groh, seconded by Mr. Morgan and carried by unanimous roll call vote, with no public comment:

Permission for two ISD officers to attend the 2017 Violent Crime Behavioral Analysis Seminar from November 7-9, 2017 at the PSP Academy in Hershey at a total cost of \$844.56, with use of a Township vehicle.

Permission for four officers to attend Domestic Violence training on November 13, 2017 at the Conservation Center in Erie, with any costs to be covered by the department's SafeNet grant.

It was moved by Mr. Groh and seconded by Mr. Morgan to accept, with regret, a letter of resignation from Nancy Lorei of the Millcreek Township Sewer Authority after serving 19 years on the Authority. The Board thanked her for her service, and invited residents who may be interested in serving on the Authority to contact the Administration Office or one of the Supervisors. Motion carried by unanimous roll call vote.

Mr. Groh announced "Drug Take Back Day" will be held on Saturday, October 28, 2017 from 10:00 a.m. – 2:00 p.m. in the lobby of the Municipal Building. Residents can bring in their unused medications to be destroyed.

Mr. McGrath reported that the Board met in Executive Session with Solicitor Mark Shaw to discuss legal matters on October 9, 11, 12 and 19, 2017.

Mr. McGrath announced that the construction of the Dave Hanlan Community Park on Caughey Road is nearly finished and he has met with Superintendent Hall to see if the Township can be of assistance in the opening of the park.

Mr. Morgan reported that the Embrace Millcreek Comprehensive Plan project 3-week survey is now closed and the results are being tabulated. The Township will keep the public apprised and citizens can check the website for announcements at: www.embracemillcreek.com. Mr. McGrath shared that he received a call from a 90 year old resident who requested that a copy of the survey be mailed to her so that she could participate, as she does not have a computer. She was very happy to be a part of the process.

Student Ambassador Aaron Boyd reported that McDowell High School is observing Red Ribbon Week, focusing on drug prevention. Signs have been posted encouraging students to be drug and alcohol free, and to educate students on drug awareness and drug and alcohol prevention.

Solicitor Mark Shaw reported that the Township received a complaint filed in Federal Court last week, with respect to the new Sign Ordinance, challenging the limitation of temporary signs allowed on a property. Mr. Shaw stated that the Township also received a communication from the plaintiff's attorney requesting that the Supervisors voluntarily to agree to not enforce the temporary sign limit until after the Court renders a decision on the preliminary injunction.

Mr. McGrath wanted to clarify that while the new Sign Ordinance does not mention political signs, it seems that it is being interpreted that way. Mr. Shaw reiterated that the ordinance is content neutral. Mr. Groh expressed his frustration with the situation, commenting that he was not in favor of enacting the Sign Ordinance in May, but the Township was forced to enact some form of sign ordinance because of the Court's decision regarding another case involving the same attorney with respect to Township sign limitations. He suggested that perhaps this attorney should have proposed a curative amendment to the ordinance rather than bringing another lawsuit against the Township, which is becoming very costly to the taxpayers. He questions whether there should be a limit on temporary signs at all, because he feels that most people do use good judgment. Mr. McGrath stated it is frustrating that the attorney that sued the Township previously did not state that he had a problem with the Draft Sign Ordinance during the comment period before the Sign

Ordinance was enacted. He explained that the Township was trying to address “sign pollution,” and reported that since the new Sign Ordinance was enacted in May, there has been a substantial difference in the amount of complaints of signs in vacant lots and in the Township’s right-of-way. Mr. Groh and Mr. McGrath continued to debate their views on the Sign Ordinance and how it relates to First Amendment rights.

On recommendation of Solicitor Shaw, it was moved by Mr. Groh and seconded by Mr. McGrath to agree to hold in abeyance Section 145-82 A.(2)(c)(i) of Sign Ordinance 2017-8, and to not enforce this portion of the ordinance pending resolution of this matter at the preliminary injunction. No public comment was offered. Motion carried by unanimous roll call vote.

Gary Behr, 4045 Feidler Avenue, stated his frustration with the pending lawsuit because of the Sign Ordinance, and expects this will continue to happen during subsequent elections. He would like something to be done to stop this cycle, because otherwise it will continue to cost the taxpayers over \$30,000.00 per year.

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 8:31 p.m.

Sheryl A. Williams
Assistant Secretary

Approved: November 14, 2017

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