

Regular Meeting

March 26, 2019

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 7:00 p.m. by Chairman John Groh in the Assembly Room of the Millcreek Township Municipal Building. Present were Mark Zaksheske, John Morgan, John Groh, James Bock, Mark Shaw, Esq., Matthew Waldinger, Gary Snyder, Sheryl Williams and Student Ambassador Shane Karnes.

Mr. Groh announced that the meeting is being recorded by WQLN, will be broadcast on Spectrum Channel 1024 and on YouTube.com, and closed captioning is available.

Mr. Groh called for public comment on agenda items other than development or rezoning applications. No public comment was received.

It was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to approve the minutes from the March 12, 2019 Regular Meeting.

It was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to approve payment of the General Fund bills in the amount of \$693,145.89.

Treasurer Mark Zaksheske explained that \$56,440.94 was budgeted last fall for the purchase of a Fuel Pumping System for Township vehicles; however, extra equipment was needed due to corrosion and DEP issues, bringing the total cost to \$84,761.00 plus \$6000.00 for concrete. On recommendation of Mr. Zaksheske, it was moved by Mr. Morgan, seconded by Mr. Bock, and carried by unanimous roll call vote to approve a Capital Budget Amendment in the amount of \$34,320.06 by using excess available funds from line items that came in under budget and unused funds.

It was recommended by Mr. Zaksheske, moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to approve a Capital Budget Amendment of approximately \$54,000 for the purchase of MGLC Golf Course Equipment utilizing unspent funds and remaining funds from purchases that came in under budget in the Parks and Recreation Department.

On recommendation of Mr. Zaksheske, it was moved by Mr. Morgan and seconded by Mr. Bock to approve a Capital Budget Amendment in the amount of \$2468.00 to be placed in Reserve for the Parks and Recreation Department, due to a refuse truck coming in under budget. No public comment was received. Motion carried by unanimous roll call vote.

On separate motions by Mr. Bock, seconded by Mr. Morgan, the following recommendations from Public Works Director Gary Snyder were approved by unanimous roll call vote:

Replacement of HVAC rooftop Unit RTU-3 by Johnson Controls under COSTARS contract 008-145 at a cost of \$68,985.00, and is \$11,000.00 under budget.

Balancing of HVAC rooftop Unit RTU-2 by Johnson Controls under COSTARS contract 008-145 at a cost of \$4,410.00, an unbudgeted expense to be covered by Capital Budget Amendment.

Permission to enter into a three-year HVAC Maintenance Agreement with Johnson Controls under COSTARS contract 008-145 at consecutive annual costs of \$16,433.00 in 2019, \$17,226.00 in 2020 and \$18,130.00 in 2021.

Treasurer Mark Zaksheske reported that the Township is soliciting Requests for Proposals for bank financing for the purchase of the recently approved Street Sweeper and Garbage Truck, and proposals are due April 12, 2019 at 3:00 p.m.

On recommendation of Public Works Director Gary Snyder, it was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to authorize the sale of a 1994 White GMC Dump Truck to David See for \$1999.00.

On recommendation of Parks and Recreation Director Ashley Marsteller, it was moved by Mr. Groh and seconded by Mr. Bock to purchase an ExMark 96" rear discharge Zero Turn Mower from Miller Brothers under State Contract 4400020097 at a cost of \$32,872.50, and is \$5,802.50 under budget. Motion carried by unanimous roll call vote.

On recommendation of Ms. Marsteller, it was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to purchase a Dolphin Wave 100 Automatic Pool Cleaner from B & R Pools under COSTARS contract 014-030 at a cost of \$3,400.00, and is \$100.00 under budget.

On recommendation of IT Manager Kristoffer Filson, it was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to purchase anti-virus software from TechVAR at a cost of \$2,370.00.

On recommendation of Parks and Recreation Director Ashley Marsteller and Solicitor Mark Shaw, it was moved by Mr. Groh and seconded by Mr. Bock to authorize entering into a 48 month lease for five pieces of equipment, including four specialty mowers, from Ag-Pro to maintain the MGLC, at a total cost of \$47,900.00. Motion carried by unanimous roll call vote.

On recommendation of Planning and Development Director Matthew Waldinger and Township Engineer Anne Sokol, it was moved by Mr. Bock, seconded by Mr. Morgan to approve Change Order #2 for Wolf Run Drive Emergency Storm Sewer Repair in the amount of \$4,725.00 for Chivers Construction, bringing the total contract amount to \$264,699.53. Mr. Waldinger explained that the silt sock and erosion mat must be removed to determine the extent of the most recent erosion. Motion carried by unanimous roll call vote.

A Public Hearing was held on an inter-municipal liquor license transfer for Country Fair, Inc. from North East Borough to 2301 Peninsula Drive. Solicitor Mark Shaw explained that this is an Eating Place Liquor License, has been properly advertised and a public hearing is required.

Paul Rankin, Vice President Retail Marketing, spoke on behalf of Country Fair. He explained that Country Fair intends to have a restaurant within the convenience store at 2301 Peninsula Drive that will contain the required 30 seats, accessible seating, and special locking doors and freezer. He stated that the application is currently for beer only, but that Country Fair intends to apply for permission to sell wine in the future, and will support local wineries. Mr. Rankin reported that a specially designated drivers' license-activated cash register will be used for the sale of alcohol, allowing purchases to be limited to a maximum of 192 oz. or 3 liters of wine. He added that Country Fair now operates 14 similar facilities in the Erie area, and all employees will be specially trained.

Mr. Groh asked for clarification that there would be no addition to the current store, to which Mr. Rankin replied that is correct, and that certain grocery items will be relocated within the store to allow room. Mr. Groh asked if children may eat in the same area where alcohol is being consumed, and Mr. Rankin answered yes, but minors under the age of 21 may not purchase alcohol.

Mr. Groh called for public comment and none was received. He then closed the public hearing.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Bock and seconded by Mr. Morgan to adopt Resolution 2019-R-18; A Resolution of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania, Approving the Inter-Municipal Transfer of Pennsylvania Eating Place Retail Dispenser Liquor License No. E-1413 into the Township of Millcreek from North East Borough to Country Fair, Inc., 2301 Peninsula Drive, Erie, PA 16506. Motion carried by unanimous roll call vote.

A Public Hearing was held on Land Development and Subdivision Plans.

JAMES ALAN & AGNES C. GEHRES. Small Subdivision Plan. A small subdivision plan to show the creation of one new lot measuring 96' x 135', from tax parcel (33)23-122-8 that is to become an integral part of tax parcel (33)23-122-9, located along the west line of Garloch Drive and north of West Lake Road, in Tract 282. Indices 114-017 & 018

Planning and Development Director Matthew Waldinger reported that at the regular meeting on March 5, 2019, the Planning Commission recommended approval with three conditions: The 96' x 135' lot is to become an integral part of the neighboring parcel, Erie County Tax Parcel (33) 23-122-9; Move shed 7' from the new property line or remove shed; Provide existing building dimension on mylar. Mr. Waldinger added that the shed is on skids and the owner has agreed to move it.

James Gehres, 5422 West Lake Road, owner, explained the subdivision is to create a parking lot for usage by the restaurant adjacent to his property. Rob Wernicki, representing M Café Restaurant, acknowledged Mr. Gehres's statement is an option. No one else spoke either in favor of or in opposition to the plan.

On recommendation of Mr. Waldinger, it was moved by Mr. Bock and seconded by Mr. Morgan to approve the James Alan & Agnes C. Gehres Small Subdivision Plan with the requirements stated above. Motion carried by unanimous roll call vote.

RICHARD S. LIPCHIK, CHARLES W. LIPCHIK, & SHELLY L. WILMOTH. Small Subdivision Plan. A small subdivision plan to show the creation of two lots, Parcel 1 being 31.30 acres and Parcel 2 being 30.48 acres, from tax parcel (33)154-487-28, located along the east line of Martin Road and the west line of Appleman Road and south of the intersection of Martin and Appleman Roads, in Tract 333. Index 923-003.

Planning and Development Director Matthew Waldinger reported that at the regular meeting on March 5, 2019, the Planning Commission recommended approval with one requirement: Correct the owner names on adjacent properties on the mylar.

Richard Lipchik, 354 Anderson Drive, owner, explained that he wishes to divide the current parcel into two parcels, but has no other immediate plans. No one else spoke either in favor of or in opposition to the plan.

On recommendation of Mr. Waldinger, it was moved by Mr. Bock and seconded by Mr. Morgan to approve the Richard S. Lipchik, Charles W. Lipchik, and Shelly L. Wilmoth Small Subdivision Plan with the requirement stated above. Motion carried by unanimous roll call vote.

WESTMINSTER DEVELOPMENT, LLC. Land Development Plan. A land development plan to show the construction of a 10,825 square foot office

building with associated parking lot, located along the east line of Pacific Avenue and south of West 38th Street, in Tract 76. Index 363-007

Planning and Development Director Matthew Waldinger reported that at its regular meeting on March 5, 2019, the Planning Commission recommended approval.

Mike Sanford, Sanford Surveying and Engineering, 4721 Atlantic Avenue, stated he is the surveyor who prepared the plan for a small office building and parking area. No one else spoke either in favor of or in opposition to the plan.

On recommendation of Mr. Waldinger, it was moved by Mr. Bock and seconded by Mr. Morgan to approve the Westminster Development, LLC Land Development Plan. Motion carried by unanimous roll call vote.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to enact Ordinance 2019-5; An Ordinance of the Township of Millcreek, Erie County, Pennsylvania, establishing an intermunicipal agreement with the Township of McKean and the McKean Township Sewer Authority for the provision of sewer services to certain limited properties in McKean Township by Millcreek Township, and to execute the agreement in five days, when the Ordinance becomes effective. Mr. Shaw explained that this affects four properties along Grubb and Bargain Roads that were previously serviced by the MTSA.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to approve the Millcreek/McKean Border Area Sewer Agreement and to authorize execution of the agreement in five days.

On motion by Mr. Morgan, seconded by Mr. Bock, it was carried by unanimous roll call vote to adopt Resolution 2019-R-19; A Resolution pursuant to Resolution 2015-R-20 and the Municipal Records Manual to approve proposed disposition of certain Township records. This authorizes disposal of police DashCam videos after the mandatory 180 days from March 26 – April 9, 2019, and various financial and administrative records that have reached the end of their retention periods.

Mr. Shaw explained that annually streetlight costs are assessed in the form of a resolution, which is filed with the Township's Tax Collector. Mr. Zaksheske added that Penelec has increased their rates slightly, which will take effect June 1, 2019. On request of Streetlight Assessment Clerk Gail Jares, it was moved by Mr. Bock and seconded by Mr. Morgan to adopt Resolution 2019-R-20; A Resolution to assess the cost of street lighting upon various properties abutting on streets in various subdivisions within the Township of Millcreek. Motion carried by unanimous roll call vote.

Mr. Shaw reviewed Advanced Disposal's request at the previous meeting for a \$.24 monthly recycling cost increase per resident, stating that an answer was needed by April 1, 2019. Mr. Bock opined that Advanced Disposal entered into a contract and agreed to one rate for the duration of that contract. Mr. Morgan stated that the request is not unreasonable, but it is up to the bidder to project the cost for the length of the contract. Mr. Groh agreed, stating that a contract was agreed to and business is business. It was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to reject Advanced Disposal's rate increase request and hold the rates as agreed to in the contract.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Morgan and seconded by Mr. Bock to approve an Agreement for Use of Fuel Stations at the Township Building with MPS, Kearsarge, Lakeshore, West Lake and West Ridge Fire Departments, authorizing them to purchase gasoline and diesel fuel from the Township's fuel station, and for Public Works Director Gary Snyder to create rules for usage. Motion carried by unanimous roll call vote.

On recommendation of Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Morgan to approve an agreement between Millcreek Township and Premier Turf Farms, Dan Olson, owner, for maintenance of the Millcreek Golf and Learning Center, including staff management, turf and general maintenance and winterizing, for a seasonal cost of \$13,475, ending October 15, 2019. Motion carried by unanimous roll call vote.

On recommendation of Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Bock to approve an agreement between Millcreek Township and LPGA Professional Golfer Jodie O'Connor, d/b/a Landing Greens Management, for operation of the Millcreek Golf and Learning Center, to include the driving range, setting fee structures, lesson, league and tournament schedules and camps, for a seasonal cost of \$29,237. Motion carried by unanimous roll call vote. Ms. O'Connor thanked the Board for this opportunity, and stated that she has 120 girls in her Junior golf program and is excited to bring more youth and adult golf programming to Millcreek.

On recommendation of Solicitor Mark Shaw, it was moved by Mr. Bock, seconded by Mr. Morgan and carried by unanimous roll call vote to approve a five year PennDOT Agility Agreement, allowing for mutual trading of services and equipment.

On recommendation of Mr. Shaw, it was moved by Mr. Bock, seconded by Mr. Groh and carried by unanimous roll call vote to adopt Resolution 2019-R-21, the signature authorization for the PennDOT Agility Agreement.

Planning and Development Director Matthew Waldinger reported that since the last meeting, Community Country Day School has provided the correct documents needed for its Stormwater Management Plan and Maintenance Agreement. On recommendation of Mr. Waldinger and Township Engineer Anne Sokol, it was moved by Mr. Bock and seconded by Mr. Morgan to approve the Community Country Day School Stormwater Management Plan and Maintenance Agreement. Motion carried by unanimous roll call vote.

On recommendation of Mr. Waldinger, it was moved by Mr. Bock and seconded by Mr. Morgan to approve a Sidewalk Deferral Agreement for 6138 Grubb Road – Richard R zodkiewicz, Developer, as there are no other sidewalks currently in the area. Motion carried by unanimous roll call vote.

On request of Treasurer Mark Zaksheske, it was moved by Mr. Morgan and seconded by Mr. Bock to authorize the Supervisors, Treasurer, Assistant Treasurer and Human Resource Manager to attend a Municipal Law Symposium on April 30, 2019 at no cost to the Township. Motion carried by unanimous roll call vote.

On recommendation of Human Resource Manager Diane Lyons, it was moved by Mr. Morgan, seconded by Mr. Bock, and carried by unanimous roll call vote to approve the hiring of Nicholas Banister, Code Enforcement Officer, at an annual salary of \$40,000, effective April 1, 2019. Mr. Morgan clarified that the department will now have a full complement, and a new position has not been created.

On recommendation of Parks and Recreation Director Ashley Marsteller, it was moved by Mr. Groh, seconded by Mr. Bock, and carried by unanimous roll call vote to approve the hiring of the following extended adult seasonal maintenance staff:

<u>NAME</u>	<u>POSITION</u>	<u>HOURLY RATE</u>
Tom Hanson	Part Time Maintenance	\$11.50
Tim Smith	Part Time Maintenance	\$10.00
Eric Naura	Part Time Maintenance	\$13.00

On recommendation of Planning and Development Director Matthew Waldinger, it was moved by Mr. Morgan, seconded by Mr. Bock and carried by unanimous roll call vote to approve the hiring of Kevin Hilling as summer help for the survey crew from May 1, 2019 – August 24, 2019, at an hourly rate of \$7.65.

Mr. Groh reported that the Board met in Executive Session with Solicitor Mark Shaw on March 14 and 21, 2019 to discuss land use, zoning and other legal matters.

On recommendation of Chief Scott Heidt, it was moved by Mr. Bock, seconded by Mr. Morgan, and carried by unanimous roll call vote to authorize permission to register the Millcreek Township Municipal Building for the 17th National Drug Take Back Initiative on Sat., April 27, 2019 from 10:00 a.m. – 2:00 p.m., and to again partner with Wegman's as an additional collection site, with MPD overtime costs to be reimbursed by Wegman's.

On separate motions by Mr. Morgan, seconded by Mr. Bock, and on recommendation of Zoning and Development Officer Matthew Puz, Jr., the following petitions requesting a change in zoning classification were referred to the Millcreek Township Planning Commission:

ROBERT W. SESLER for property located at 1647 West Gore Road, now zoned R-1 Single Family Residential, asking for a change in classification to R-2 Low Density Residential. Index 724-046. County Index 33-120-542-5.

ROBERT W. SESLER for portions of properties located at 4042 and 4058 West Ridge Road, now zoned C-2 General Commercial, asking for a change in classification for approximately 4.01 acres of the property to R-4 High Density Residential. Indices 406-012 and 406-013. County Indices 33-44-229-38 and 33-44-229-39.

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

Student Ambassador Shane Karnes reported that McDowell will be administering the ACT test on April 13, 2019, and the SAT test on May 4, 2019. He announced that the Speech and Debate Team placed 5th overall at the state competition, with one student placing first in the state.

Planning and Development Director Matthew Waldinger reported that subsequent to adoption of Resolution 2019-R-15 at the March 12, 2019 meeting, and in order to comply with the Pennsylvania Municipalities Planning Code, he recommended that the Board refer the Lester-Lawndale Sanitary Sewer Extension Project to the Millcreek Township Planning Commission for their recommendation relative to the Millcreek Township Comprehensive Plan, and to also refer the project to the Erie County Department of Planning and Community Development for their recommendation relative to the Erie County Comprehensive Plan.

On recommendation of Mr. Waldinger, it was moved by Mr. Morgan and seconded by Mr. Bock to refer the Lester-Lawndale Sanitary Sewer Project to the Millcreek Township and Erie County Planning Commissions for their recommendations. No Public comment was offered. Motion carried by unanimous roll call vote.

Connie Scheu, 5107 West Street, stated that she moved to Erie from Fairview to gain better access to public transportation, and asked the Board to reconsider and increase their contribution to EMTA.

Dave Szymanowski, 823 Oregon Avenue, opined that the amount that other municipalities contribute to EMTA should not affect the amount that Millcreek gives. He stated that Millcreek receives many financial, economic and commercial benefits from having the bus and LIFT system, and that the Board should look at valuing what is important.

Amy Cichocki, West Grandview Boulevard, works for Voices for Independence and relies on LIFT service daily. She is worried that she will have to find alternative transportation due to the reduction in Millcreek's contribution to EMTA, and asked the Board to consider people with disabilities when making these types of decisions.

Jeremy Peterson, 5217 Cidermill Road, EMTA Executive Director, asked the Board to reconsider its contribution to EMTA, stating that EMTA services are important to employers, employees, and to economic development. He would like the EMTA to become a regional asset and is open to discussion regarding moving forward as a public authority.

Ben Wilson, 4120 Alison Avenue, EMTA Board member, relayed that his personal usage of bus services into Millcreek during his youth has been instrumental in his success, and asked the Board to reconsider its EMTA contribution.

Gary Behr, 4045 Feidler Drive, stated that his impression was that EMTA would not reduce services based on the size of Millcreek's contribution, and asked the Board to clarify that this is not the Board's intent. Mr. Morgan replied that the contribution Millcreek made in the past amounted to .12% of EMTA's budget, and does not go toward LIFT services. He does not anticipate a reduction in EMTA services in Millcreek, and asked the media to please make that clear.

Dennis McAndrew, 1547 High Street, stated that his perception is that Millcreek is doing its due diligence and does not want to be taken advantage of. He opined that Millcreek should be better represented on the EMTA Board, and that EMTA should justify why they need the funds. Mr. Morgan clarified that this issue is not a part of any past disputes within the EMTA, and the Board feels that every municipality receiving services should be making a contribution.

Dave Szymanowski, 823 Oregon Avenue, wanted to clarify that the bus routes are connected to where LIFT buses do travel, and is worried that some LIFT services may be cut. Mr. Peterson confirmed that there is a ¼ mile buffer zone for LIFT service around existing bus routes.

Dave Robinson, EMTA Board Chair, wanted to dispel some of the residents' fears, but also felt that the citizens who spoke have legitimate concerns. He stated that 1/3 of LIFT funding comes from the operating budget, and is offering to cut Millcreek's requested contribution by 2%, which would bring Millcreek's contribution to 54% of EMTA's total matched funds. He stated that Millcreek accesses 54% of the services outside the city. Mr. Robinson explained that a formula must be used to calculate a fair contribution from each municipality and is committed to implementing that formula when requesting municipal contributions in the future. He closed his remarks by asking the Board to reconsider their EMTA contribution.

Mr. Morgan wanted to reiterate that there is no intention on anyone's part to cut EMTA services to residents, and that the amount of Millcreek's contribution should not impact services.

Mr. Groh stated that buses bring commerce here and he is willing to look at the issue again and reopen the discussion. He opined that there must be a formula to determine municipal contributions.

Jon DeMarco, 2579 S. Tracy Drive, thanked the Board for possible reconsideration of the Township's contribution, and encouraged them to go back to valuing what is important.

With no further business to come before the Board and no more citizens to be heard, it was moved by Mr. Bock and seconded by Mr. Morgan to adjourn the meeting at 9:00 p.m.

Sheryl A. Williams
Township Secretary

Approved: April 9, 2019

John H. Groh _____

John E. Morgan _____

James S. Bock _____