

Regular Meeting

August 14, 2018

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 9:30 a.m. by Chairman John Morgan in the Assembly Room of the Millcreek Township Municipal Building. Present were Mark Zaksheske, John Groh, John Morgan, James Bock, Mark Shaw, Esq., Matthew Waldinger, Anne Sokol, P.E., Matthew Puz, Jr., Chief Scott Heidt and Sheryl Williams.

Following the Pledge to the Flag, Chairman Morgan called for public comment on the Comprehensive Plan. No public comment was received. Mr. Morgan announced there will be a formal Public Hearing on August 28, 2018 at 7:00 p.m.

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

It was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to approve the minutes from the July 24, 2018 meeting.

It was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to approve payment of the General Fund bills in the amount of \$1,714,500.27, Sewer Revenue Fund bills in the amount of \$273,239.52, and a bill from the Millcreek Township Performance & Surety Bond Account in the amount of \$61.50.

On recommendation of Chief Scott Heidt, it was moved by Mr. Bock, seconded by Mr. Groh and carried by unanimous roll call vote to approve the promotion of Acting Lt. Timothy Ferrick to the rank of Lieutenant. Mr. Bock then administered the Oath of Office to Officer Mackenzie Kranz. The Board congratulated both of the officers and excused MPD staff, families and guests for a reception in the lobby.

Quotations for removal of a large tree in the vicinity of 5161 Evans Road were solicited and received by the Streets Department as follows: J. Thomas Tree Service - \$2,000, Leopold Tree Service - \$2,800, Dibble Tree Service - \$1,850. On recommendation of Gary Snyder, Director of Public Works, it was moved by Mr. Groh and seconded by Mr. Bock to award the contract to Dibble Tree Service for \$1,850. Motion carried by unanimous roll call vote.

Planning and Development Director Matthew Waldinger reported that bids were solicited and received by the Planning and Development Department for the Millcreek Golf and Learning Center Driving Range ADA Project as follows: Amendola Development – No Bid, Maya Brothers, Inc. - \$10,250, Finney & Son Concrete - \$10,380. On recommendation of Mr. Waldinger and Township Engineer Anne Sokol, it was moved by Mr. Groh and seconded by Mr. Bock to award the contract to Maya Brothers, Inc. in the amount of \$10,250 for this budgeted expense. Motion carried by unanimous roll call vote.

Mr. Waldinger reported that bids were solicited and received by the Planning and Development Department for the Zuck Park ADA Project as follows: Amendola Development – No Bid, Maya Brothers, Inc. - \$11,600, Finney & Son Concrete - \$10,950. On recommendation of Mr. Waldinger and Township Engineer Anne Sokol, it was moved by Mr. Groh and seconded by Mr. Bock to award the contract to Maya Brothers, Inc. in the amount of \$10,250 for this budgeted expense. Motion carried by unanimous roll call vote.

Mr. Waldinger reported that bids were solicited and received by the Planning and Development Department for the Old Perry Highway Culvert Replacement Project as follows: Mayer Brothers Construction - \$62,984.54, Chivers Construction - \$180,528.00, Shingledecker's Welding, Inc. - \$80,282.00, McLallen Construction - \$94,673.50, Russell Standard Corp. – No Bid, Konzel Construction - \$96,000.00, Ray Showman, Jr. Excavating - \$83,665.37, Afton Trucking/Cross Paving – No Bid, Empire Snow Management – No Bid. Mr. Waldinger explained that this is an emergency, unbudgeted project, but that emergency liquid fuel funds and the Engineering Department's contingency/emergency funds will be used. On recommendation of Mr. Waldinger and Township Engineer Anne Sokol, it was moved by Mr. Groh and seconded by Mr. Bock to award the contract to Mayer Brothers Construction for \$62,984.54. Motion carried by unanimous roll call vote. Furthermore, on recommendation of Mr. Waldinger, it was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to authorize the use of the Township's fund balance to supplement the cost of the project.

On recommendation of Public Works Director Gary Snyder, it was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to purchase an 8" Godwin Pump for the Sewer Department from Xylem under COSTARS contract 016-008 for the purchase price of \$64,170.16, not to include freight charges, and is a budgeted expense. Motion carried by unanimous roll call vote.

Public Hearing on Inter-Municipal Liquor License Transfers

Richard Blakely, Esq., representing Stevo's Pizza Presque Isle LLC, stated the purpose of their request is to enable the business at 35 Peninsula Drive to expand from a seasonal business to a year-round restaurant and to enhance revenue. He reported that the owner intends to use this license more for restaurant business rather than cash and carry business, although it is allowable under the license. Solicitor Mark Shaw confirmed that all paperwork has been completed and reviewed. No public comment was received either in favor of or in opposition to the request.

Guy Strayer and Jamie Pukylo, representing Country Fair, Inc., stated that their corporation is requesting an upgrade for Store #25 at 5838 Wattsburg Road. They reported that they have followed all PLCB requirements, have trained all employees appropriately, and added that the license was acquired through PLCB auction. Solicitor Mark Shaw confirmed that all paperwork has been completed and reviewed. No public comment was received either in favor of or in opposition to the request.

It was moved by Mr. Groh and seconded by Mr. Bock to adopt Resolution 2018-R-32; A Resolution of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania, approving the Inter-Municipal Transfer of Restaurant Liquor License No. R-8908 into the Township of Millcreek from the Borough of Union City. Motion carried by unanimous roll call vote.

It was moved by Mr. Groh and seconded by Mr. Bock to adopt Resolution 2018-R-33; A Resolution of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania, approving the Inter-Municipal Transfer of Restaurant Liquor License No. R-16989 (Temporary Number) into the Township of Millcreek from Union Township. Motion carried by unanimous roll call vote.

It was moved by Mr. Groh and seconded by Mr. Bock to adopt Resolution 2018-R-34; 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 Dash Cam videos after the mandatory 180 days through August 28, 2018. Motion carried by unanimous roll call vote. A public hearing was held regarding a Petition Requesting Changes in Zoning Classification:

NLA REAL ESTATE HOLDING, LLC, for property located at 4321 West Ridge Road, now zoned R-1 Single Family Residential and C-2 General Commercial asking for a 0.9 +/- acre portion of the property in the rear to be classified to R-4 High Density Residential. Township Index 414-001, County Index 33-55-242-82.02.

Zoning and Development Officer Matthew Puz reported that at their July 3, 2018 meeting, the Planning Commission recommended approval in concurrence with Erie County Planning Department.

Mike Sanford, Sanford Surveying and Engineering, 4721 Atlantic Avenue, represented the developer. Mr. Groh asked if the developer is planning to use the area for a retention pond, to which Mr. Sanford replied that the developer is considering it. Mr. Bock asked if there is a gas well on this parcel, to which Mr. Sanford replied no, that the property is east of the gas well. Larry Ishler, 4258 W. 28th Street, said that he has lived in his home for 40 years behind the 4321 West Ridge Road property, and stated there was a gas well there at one time. Mr. Sanford stated that he was unaware of a gas well being on the property. Mr. Ishler would like to know more about the Township's regulations for apartments being built near capped gas wells, but is not opposed to the petition. He also expressed concern regarding a possible trench being dug along the property, to which Mr. Waldinger clarified that this will be addressed in the land development stage of the process. Jim Barickman, 4628 W. 28th Street, expressed concern about more water problems if high density apartments are built at this location, stating that the water will flow into the creek because it cannot go under the road. Mr. Morgan responded that the Township's stormwater ordinance will require the developer to meet stormwater management plan requirements, and that this will be also addressed during the land development stage of the process. No one else spoke regarding the rezoning petition.

On recommendation of Mr. Puz, it was moved by Mr. Groh and seconded by Mr. Bock to approve the NLA REAL ESTATE HOLDING, LLC, petition requesting a change in zoning classification for a 0.9 +/- acre portion of the property located at 4321 West Ridge Road, from R-1 Single Family Residential and C-2 General Commercial to R-4 High Density Residential. Motion carried by unanimous roll call vote.

On recommendation of Recycling Coordinator Jessica Stutzman, it was moved by Mr. Groh and seconded by Mr. Bock to authorize application for reimbursement for the annual Tire Collection and Paper Shredding Day via the PA DEP Household & Small Business Pollution Prevention Grant in the amount of \$2,291.64, with \$554.87 to be reimbursed to Fairview Township. Motion carried by unanimous roll call vote. Mr. Groh reported that 17,309 lbs. of paper and 786 tires were collected, totaling 22,400 lbs. of recyclable material. On behalf of the Recycling Department, he thanked all who volunteered for this event.

On recommendation of Planning and Development Director Matthew Waldinger, it was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to extend the current engineering services contract with Greenman-Pedersen, Inc. for one year from August 1, 2018 through July 31, 2019.

Mr. Shaw explained that the next item on the agenda pertain to inter-municipal PILOT (Payment in Lieu of Taxes) agreements for Maryvale and Ridgebury Apartments, would be effective July 1, 2018 through the end of each municipality's 2019 tax year, and have been reviewed by Attorney Evan Adair. On recommendation of Solicitor Mark Shaw, it was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to approve two PILOT agreements between HANDS (Housing and Neighborhood Development Services) and Millcreek Township, Millcreek Township School District, Erie County, and Erie County Council. Mr. Morgan thanked HANDS for their many efforts over the years.

On recommendation of Planning and Development Director Matthew Waldinger and Township Engineer Anne Sokol, it was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to approve the release of Northwest Bank Letter of Credit #8305004163 in the amount of \$137,808.00 for VOICES FOR INDEPENDENCE – Voices for Independence, Developer, as all requirements have been satisfied.

On recommendation of Planning and Development Director Matthew Waldinger and Township Engineer Anne Sokol, it was moved by Mr. Groh and seconded by Mr. Bock to approve a Sidewalk Deferral Agreement for 414 Roslyn Avenue – Eric P. and Barbara A. Jacobs, Developer. Mr. Waldinger reported that the application was completed on the Township approved form and there are no sidewalks in the area. He further explained that the homeowner is not required to build sidewalks unless an adjacent neighbor constructs sidewalks. Mr. Shaw advised that the permit drawing be included when the document is recorded. Motion carried by unanimous roll call vote.

Mr. Groh presented the July Building Construction report as follows, which is available on the Township website and also in the Zoning Office.

<u>July 2018:</u>	Total Residential Structures	\$ 659,300.00
	Total Non-residential Structures	<u>394,500.00</u>
		\$ 1,053,800.00
	Zoning Permits Issued	28
	Zoning Permit Fees	\$ 5,100.00

On recommendation of Diane Lyons, Human Resources Manager, it was moved by Mr. Groh and seconded by Mr. Bock to approve Melanne Page as Assistant Treasurer at an annual salary of \$57,000 with a starting date of August 27, 2018, contingent upon successful completion of pre-employment screenings. Motion carried by unanimous roll call vote.

On recommendation of Chief Heidt, it was moved by Mr. Bock, seconded by Mr. Groh, and carried by unanimous roll call vote to authorize the following:

Permission for Patrolman Buckner to attend PA Vehicle Inspection Regulations training in Warren, PA from August 28-30, 2018, with no cost to the Township and use of a Department vehicle.

Permission for three officers to attend a Level 1 crash investigation course at Montgomery County Department of Public Safety from September 10-21, 2018 at a total estimated cost of \$5,080.00

On recommendation of Chief Heidt, it was moved by Mr. Bock and seconded by Mr. Groh to approve a Loan Agreement and Understanding contract with Glock, Inc. for the usage of 7

handguns for evaluation by the Department Firearms Instructors. Mr. Bock explained that the department requested this service, that there is no charge, and this will be the starting point for the department to eventually develop uniform handgun usage. Solicitor Mark Shaw reviewed the agreement and also recommended approval. Motion carried by unanimous roll call vote.

On recommendation of Chief Heidt, it was moved by Mr. Bock and seconded by Mr. Groh to approve the purchase of a software subscription from PowerDMS Company at a cost of \$7,703.80 for one year, including a one-time training fee of \$2200.00, and an ongoing yearly fee, subject to possible change in terms upon negotiation of the agreement. Mr. Bock explained that this is the first step in the accreditation process and will streamline the department's policies and procedures. Mr. Morgan asked if funds are available for this purchase, to which Mr. Zaksheske replied yes, due to unused funds within the budget. Motion carried by unanimous roll call vote.

On recommendation of Emergency Management and Code Enforcement Director Matthew Exley, it was moved by Mr. Bock, seconded by Mr. Groh and carried by unanimous roll call vote to approve the following training requests for department employees:

Permission for Mr. Exley to travel to State College to represent the Township at the Keystone Emergency Management executive board meeting on August 16-17, 2018 at an approximate cost of \$170.00, with travel by department vehicle.

Permission for Mr. Exley and Fire Inspector/Deputy EMA Coordinator Caleb Dixon to attend the ICS Division Supervisor meeting at Erie County Department of Public Safety on August 27-29, 2018 at no cost to the Township and with use of a department vehicle.

Mr. Groh reported that due to recently announced scheduling changes for the pool at the McDowell Intermediate School, the Parks and Recreation department currently is cannot accept any registrations for fall swimming classes. However, Parks and Recreation Director Ashley Marsteller is working with the school district to resolve the problem, and hopes to have an updated schedule before the next meeting, and thanks residents for their patience and understanding.

Mr. Groh reported that the Parks and Recreation Department is seeking part-time staff to complete the season for the Township's golf ranges, as many of the current staff are going back to school. Interested parties may contact the department.

On recommendation of Planning and Development Director Matthew Waldinger, it was moved by Mr. Groh and seconded by Mr. Bock to authorize Zoning Officers Matthew Puz, Jr. and Julie Maggio to attend a training class on the International Building Code on August 22, 2018 in Coraopolis, PA at a total cost of \$558.00 and with use of a Township vehicle. Motion carried by unanimous roll call vote.

On recommendation of Planning and Development Director Matthew Waldinger, it was moved by Mr. Groh and seconded by Mr. Bock to authorize Zoning Officer Matthew Puz, Jr. to submit an application to attend a FEMA Floodplain training class in September, and if accepted, the course would be free of charge, with travel expenses to be covered by the Township. Motion carried by unanimous roll call vote.

Mr. Morgan reported that the Board met with Solicitor Mark Shaw in Executive Session on July 26, 2018 and August 7, 2018 to discuss legal and personnel matters.

It was moved by Mr. Groh, seconded by Mr. Bock and carried by unanimous roll call vote to authorize the three Millcreek Supervisors and one former Millcreek Supervisor to attend the annual ECATO Picnic and meeting on August 23, 2018 at a total cost of \$60.00.

Solicitor Mark Shaw reported that the Board of Supervisors held an emergency meeting on July 30, 2018 to discuss an emergency stormwater situation on Wolf Run Drive, and that this is permissible under the PA Second Class Township Code. Mr. Shaw noted that he minutes of that meeting will be on the agenda for approval at the August 28, 2018 meeting.

On recommendation of Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Bock to approve an access agreement (consistent with easement agreements) with the property owners of 5144 Wolf Run Drive, which allows the Township to access the property to inspect and monitor as well as investigate the situation. No public comment was received. 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 access agreement with the property owners of 5126 Wolf Run Drive, subject to the final terms of negotiation of the agreement. Mr. Shaw explained that there are trees in danger of falling which need to be safely removed. No public comment was received. Motion carried by unanimous roll call vote.

Mr. Shaw relayed that the Township reached out to CEC (Civil and Environmental) Consultants, to request a proposal for a design to remedy the situation. Township Engineer Anne Sokol reported that she has received and reviewed the proposal and is confident in the design, but feels the Township does not need the construction and administration portion of the proposal. Ms. Sokol stated that the Township will need a geo-technical expert on site once construction begins, and the time schedule is very aggressive due to the nature of the problem. Mr. Shaw agreed that it is premature to hire a construction firm, and stated that CEC is agreeable to approve the proposal without the construction and administration component.

On recommendation of Mr. Shaw, it was moved by Mr. Groh and seconded by Mr. Bock to approve the contract with CEC Engineers (with construction portion deleted), not to exceed \$51,000, subject to the final terms of negotiation of the agreement. No public comment was received. Mr. Zaksheske noted this is not a budgeted expense, and money from the General Fund will need to be authorized. It was then moved by Mr. Groh and seconded by Mr. Bock to amend the motion to approve the contract with CEC Engineers (with the deleted construction and administration portion), not to exceed \$51,000, subject to the final terms of negotiation of the agreement, and to also authorize that the General Fund be used for this expense. Motion carried by unanimous roll call vote. Mr. Shaw also reported that the resident family has moved for safety reasons and a claim has been submitted to the Township's insurance company, and recommended submitting the CEC proposal to the insurance carrier to see if there is coverage for any possible future damages.

Open Records Officer Sheryl Williams reported that for the month of July there were two Right-to-Know requests requiring two hours of response preparation time. One request was granted and the other request was denied.

Mr. Morgan addressed concerns from residents Larry Ishler and Jim Barickman expressed earlier in the meeting regarding flooding issues along West 28th Street and the possible project regarding an open channel where there is currently a pipe. He summarized the Township's presentation at a recent meeting regarding its MS4 permit application and subsequent submission of several project proposals to PA DEP. Township Engineer Anne Sokol reported that the proposal is still under

review by the PA DEP, and if approved, extensive studies would need to be completed before starting any project would begin regarding the opening of the channel, saying it would probably not be within the next 18 months. Mr. Morgan explained that public hearings with the property owners would also need to occur before beginning any project.

Larry Ishler, 4258 W. 28th Street, opined that a proposal to open the channel would not solve the issue, and stated that more open trenches are needed at the top of the hill to get the water into the system.

Jim Barickman, 4628 W. 28th Street, felt that the real problem is with the pipe under West 26th Street, and requested that the Board please work with PennDOT to get some action, and asked that the residents be involved as well.

Sandra Sawwan, 5033 Walnut Ridge, asked for more information about the proposed Comprehensive Plan and the Future Land Use Map, specifically about the current vs. future zoning of 8th Street and Peninsula area. Mr. Morgan explained that the Future Land Use Map lists types of appropriate uses and then makes recommendations to the Township. He suggested scheduling a meeting with Zoning and Planning Officials to discuss her specific zoning concerns regarding her property.

Dennis Dolan, 1470 Taylor Ridge Court, addressed the Board regarding the proposed Comprehensive Plan. He is in favor of the 8th and 12th Street Corridor ideas, but feels that commercial expansion is being severely limited in the upper Peach Street and Rt. 99 areas, and also in the Interchange Road area. Mr. Dolan stated that allowing carefully selected commercial expansion is desirable to help the tax base, increases jobs in Millcreek, and allows more residual business opportunity. He distributed maps and visual aids to the Board which offered alternative zoning options that he feels could be considered for the Interchange Road area. He also noted that Summit Township is currently redoing their Comprehensive Plan as well and has designated both sides of Rt. 99 as Mixed Use. He concluded by offering to meet with any of the Supervisors regarding this issue, and will send an electronic form of his presentation maps to the Supervisors. Mr. Morgan thanked Mr. Dolan for his comments and stated that his presentation will be added to the public record.

Mr. Morgan clarified that Millcreek Township has an excess of commercial space and the proposed Comprehensive Plan addresses encouraging the redevelopment of current corridors and neighborhoods rather than developing more green space. He reported that Summit Township and Millcreek did a joint corridor study and that Summit Township is in agreement with Millcreek in limiting further commercial development south of Rt. 99.

Gregg DePoty, 5739 Thomas Road, asked that the Board be flexible with commercial development in the Rt. 99 corridor.

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. Bock to adjourn the meeting at 11:06 a.m.

Sheryl A. Williams
Township Secretary

Approved: August 28, 2018

John E. Morgan _____

John H. Groh _____

James S. Bock _____