

## Regular Meeting

May 24, 2022

The regular meeting of the Millcreek Township Board of Supervisors was called to order at 5:30 p.m. by Chairman Daniel Ouellet in the Assembly Room of the Millcreek Township Municipal Building. Present were Daniel Ouellet, James Bock, Kim Clear, Mark Zaksheske, Matthew Puz, Robert Donikowski, Ashley Marsteller, Chief Scott Heidt, Mark Shaw, Esq. and Sheryl Williams (remotely). Matthew Waldinger was absent.

Following the Pledge to the Flag, on recommendation by Chief Heidt, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to promote Sgt. Adam Hardner to the rank of Lieutenant. Lt. Hardner will remain in the Investigative Services Division.

Mr. Ouellet called for Public Comment on agenda items other than development or rezoning applications. There was no public comment.

On motion by Ms. Clear, seconded by Mr. Bock, it was carried by unanimous roll call vote to approve the minutes from the May 10, 2022 regular meeting.

On motion by Ms. Clear, seconded by Mr. Bock, it was carried by unanimous roll call vote to approve payment of the General Fund bills in the amount of \$207,963.68, and Sewer Revenue Fund bills totaling \$134,601.58.

Parks and Recreation Director Ashley Marsteller reported that since the Township acquired the property at 5131 Evans Road in December 2021, it has used the site for Police Department and Volunteer Fire Department training but is now ready to demolish the existing buildings. The Planning and Development sought three quotations for demolition, as follows: KC Demolition – no quote, Safford Services – no quote; DRS of Erie County, Inc. - \$8,500. On recommendation of Ms. Marsteller, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to authorize DRS of Erie County, Inc. to demolish the existing buildings at 5131 Evans Road at a cost of \$8,500.00.

Zoning and Development Officer Matthew Puz reported that bids were solicited and received for the Oakmont and Ardmore Sidewalk Project as follows: Amendola Construction and Maintenance - \$344,750.00, Empire Snow Management, Inc. – No Bid, Lindy Paving, Inc. - \$257,450.00, Madcrete Construction LLC - \$266,675.00, Vavala Concrete Construction - \$237,742.00, Steel Nation Environmental - \$370,930.00. On recommendation of Mr. Puz, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to award the contract for the Oakmont and Armore Sidewalk Project to Vavala Concrete for \$237,742.00.

On recommendation of Chief Scott Heidt, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to renew a Voice Recorder Maintenance/Service Agreement with Mobilcom for a total price of \$1,280.00.

Public Works Director Robert Donikowski reported that quotations were solicited and received for Flagger Training for the Public Works Department as follows: WM Lane, LLC - \$5,700.00, Workforce Solutions of America, LLC - \$6,000.00, and Flagsafe - \$6,050.00. On recommendation of Mr. Donikowski, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to authorize WM Lane, LLC to conduct Flagger Training for the Public Works Department for the total price of \$5,700.00.

Mr. Donikowski reported that the Erie Area Council of Governments (EACOG) Joint Purchasing program solicited, received and opened bids for culvert pipe and concrete catch basins. On recommendation by Mr. Donikowski, it was moved by Ms. Clear, seconded by Mr. Bock and

carried by unanimous roll call vote to award the culvert pipe contract to Green Distributors, and the Concrete Catch Basins Risers, Frames/Grates contract to Waterford Pre-cast for the prices listed on the spreadsheet given to the Supervisors.

Public Works Director Robert Donikowski reported that bids were advertised and received for the 2022 Milling and Paving Project, including approximately 430,076 square yards of paving or 28.79 miles of roadway and 34 ADA compliant ramps, as follows: Lindy Paving - \$6,630,026.58, and Joseph McCormick Construction Co., Inc. - \$6,900,305.20. On recommendation by Mr. Donikowski, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to award the 2022 Milling and Paving Project contract to Lindy Paving for \$6,630,026.58.

On recommendation of Solicitor Mark Shaw, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to adopt Resolution 2022-R-24; A Resolution Awarding Millcreek Township Milling and Paving Project 2022 and Authorizing the Use of Funds Provided to Millcreek Township under the American Rescue Plan Act of 2022 for this Eligible Paving Project.

A Public Hearing was held on a Small Subdivision Plan:

**THOMAS & PATRICIA POTTER. Small Subdivision Plan. A subdivision plan to show the creation of two lots, Parcel A, a 100' x 165' lot, and Parcel B, a 1.22-acre lot, at 3721 Zimmerly Road (tax parcel ID 33-137-577.0-004.00), along the south line of Zimmerly Road, east of Love Road, in Track 351. Index 613-006**

Zoning and Development Officer Matthew Puz reported that at their May 3, 2022 regular meeting, the Planning Commission recommended approval with the following Modification: Lot B depth-to-width ration is r.5:1 which exceeds the 3:1 requirement, Lot B frontage is 39.64'; (100' requirement); and Requirement: A new Highway Occupancy Permit may be needed in the future before the construction of any new development occurs. Solicitor Mark Shaw reviewed the terms and requirements for a subdivision request.

Thomas Potter, 5930 Glade Drive, the developer, stated that he bought the 1.67-acre property when it was condemned by the Township and has spent approximately \$300,000 to improve the house on the front of the property. He would like to subdivide the property for his daughter to live in the house in the front of the property. Solicitor Mark Shaw asked Mr. Potter if 39.64 ft. of frontage is the maximum width he can do. Mr. Potter stated that the frontage is 40 ft. including the driveway, and his attorney told him that part of the driveway can become a joint driveway. He reported that the state has been there to inspect the replacement of a 16' culvert pipe that had collapsed, and the state gave him permission to replace it with a 20' pipe. Mr. Shaw asked him if his intent is to have a shared driveway, and if so, an easement must be recorded so that the rear house will be able to have access in the future. Ms. Clear noted that regardless of the driveway the width to depth ratio does not meet ordinance specifications. Mr. Potter claimed that it does because of the 140 ft. width of the property.

Mr. Puz was asked if any residents expressed concerns at the Planning Commission meeting, to which he replied that some residents had concerns about stormwater management, and some stated that Zimmerly Road needs work to support heavy construction equipment. Ms. Clear noted that the minutes

from the Planning Commission meeting stated that the neighborhood currently consists of 1.5 to 2 acre lots and residents are concerned about loss of their property value.

Jay Pratt, stated his mother lives at 3649 Zimmerly Road, said he is worried about how property value will be affected. He said he is 100% in favor of the subdivision plan if it will positively impact the community and wants the Township to do what is best for the community. No one else spoke in favor of or in opposition to the small subdivision plan.

Mr. Ouellet closed the hearing and called for a motion to approve. There was none. Mr. Ouellet said his reluctance to vote is due to the lack of 100 ft. frontage. Mr. Shaw advised that if there is not a motion to approve, there must be a motion to deny. It was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous vote to deny the Thomas and Patricia Potter Small Subdivision Plan.

Mr. Potter asked, if under the new Zoning Ordinance two dwellings are permitted on one property, to which Mr. Puz replied yes, but it would be considered a land development plan. Mr. Potter expressed his disappointment in the Board's decision and left the meeting.

Zoning and Development Officer Matthew Puz explained that the developer of a Small Subdivision Plan located at the intersection of West Gore Road and Greenwood Street has requested to amend the plan with the addition of easements for sidewalk, stormwater and water lines. The owners are Robert W. and Elise E. Sesler and the plan was approved on April 19, 2022, but not yet recorded. On recommendation of Mr. Puz, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to approve a Nonsubstantial Amendment to the Sesler Small Subdivision Plan.

On recommendation of Solicitor Mark Shaw, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to adopt Resolution 2022-R-25; A Resolution pursuant to Resolution 2015-R-20 and the Municipal Records Manual to approve proposed disposition of certain Township records. Mr. Ouellet noted that the records to be disposed are police DashCam videos which will reach the end of their retention period between May 25, 2022 and June 14, 2022.

On recommendation of Solicitor Mark Shaw, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to adopt Resolution 2022-R-26; A Resolution of the Township of Millcreek, Erie County Pennsylvania recognizing the expiration of Millcreek Township's right to open the portion of Plaza Drive (50' ROW) that fronts along Lot 152 and Lot 153 of the Westminster Subdivision (Erie County Map Book 2, Pages 433, 434, 437, and 438), and Grand View Boulevard, now known as Westminster Boulevard (120' ROW), from its present northern terminus at the corner of Lot 153 to Kahkwa Club Road, now known as 38th Street, per State Statute. Mr. Shaw explained that the street was never opened, and after 21 years the Township no longer has any rights to the road. He reported that a neighbor would like to purchase a portion of the road.

Mr. Shaw reported that it has been three (3) years since towing rates for the Township have been increased. On recommendation of Mr. Shaw, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to adopt Resolution 2022-R-27; A Resolution of Millcreek Township Board of Supervisors Adopting Towing Rates in Accordance with Millcreek Township Code Section 137-28.

It was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to adopt Resolution 2022-R-28; A Resolution of the Millcreek Township Board of Supervisors Recognizing National Police Week and National Police Month in 2022 and Honoring the Service and Sacrifice of those Law Enforcement Officers Killed in the Line of Duty while Protecting our Communities and Safeguarding our Democracy. Ms. Clear thanked the Millcreek Police Department for all they do to make Millcreek Township a safe place in which to live.

Treasurer Mark Zaksheske recommended that the sale of a trailer at 569 Conti Drive from the Erie County Repository for Unsold Properties, which was tabled from the last meeting, be denied, as it remains under condemnation by the Code Enforcement Department. Solicitor Mark Shaw added that the Notice of Violation calls for demolition after 30 days of the notice if not corrected, and the expiration date was in March of 2022. It was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to deny the sale of the trailer from the Erie County Repository for unsold properties.

On recommendation by Human Resource Manager Diane Lyons, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to approve a Memorandum of Agreement between the American Federation of State, County and Municipal Employees (AFSCME) Local 3530 and the Township for Summer Infrastructure Overtime.

On recommendation of Public Works Director Robert Donikowski, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to publicly advertise the sale of thirteen (13) Township vehicles by auction via sealed bids, as the vehicles no longer have a useful purpose to the Township.

On recommendation of Solicitor Mark Shaw, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to approve an agreement between Matthew Heid, 2267 Brooksboro Drive, and the Township for the purchase of a lot adjacent to his property valued at \$1,100.00, subject to any changes or requests from Mr. Heid.

On recommendation by Solicitor Mark Shaw, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to approve an agreement with Millcreek Paramedic Services (MPS) allowing the Township to provide MPS with a portion of its CDBG-COVID II entitlement funds per the 2020 Coronavirus Aid, Relief and Economic Security (CARES) Act in an amount not to exceed \$164,121.00 for the purchase of eight (8) LUCAS 3, v3.1 Chest Compression Systems and associated equipment and services.

On recommendation of Zoning and Development Officer Matthew Puz, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to approve the release of The Farmers National Bank of Canfield Letter of Credit #419 in the amount of \$163,047.50 for Dollar Tree, 4234 West Ridge Road - FIDC 106, LLC, Developer, as all requirements have been satisfied.

On recommendation of Zoning and Development Officer Matthew Puz, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to approve a stormwater management plan and stormwater maintenance agreement for Modwash - West 26<sup>th</sup> Street – Hutton Erie Filmore PA St, LLC, Developer.

On recommendation of Treasurer Mark Zaksheske, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to authorize the hiring of a part-time Street Light Clerk for June through August to assist with processing payments.

On recommendation of Parks and Recreation Director Ashley Marsteller, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to approve a third round of employees for the summer season:

<b>NAME</b>	<b>POSITION</b>	<b>HOURLY RATE</b>	<b>START DATE</b>
<b>DAY CAMP</b>			
Ashley Michaels	Day Camp Counselor	\$13.00	6/10/2022
Alyssa Pamula	Day Camp Supervisor	\$15.00	6/10/2022
<b>LIFEGUARDS</b>			
Lillian Heinrich	Lifeguard	\$12.50	6/10/2022
Matthew McCormick	Lifeguard	\$12.50	6/10/2022
Kyla Kramer	Lifeguard	\$12.50	6/10/2022
<b>MAINTENANCE</b>			
Isaac Buterbaugh	Seasonal Laborer	\$14.00	6/06/2022
Tyler Phillips	Seasonal Laborer	\$14.00	5/31/2022
Kyle Karnes	Seasonal Laborer	\$14.00	6/13/2022

Mr. Ouellet reported that the Board met with Mr. Shaw in Executive Session on May 12 and 19, 2022 to discuss legal and personnel matters.

Solicitor Mark Shaw announced that a list of questions and answers regarding the new zoning ordinance will be posted on the Township website to provide guidance for residents.

Solicitor Mark Shaw reported that the Township received a request from McKean Township for Millcreek to accept an estimated 35,000 gpd flow from a proposed development by Maleno Land Development to be located on the McKean Township side of the intersection of Bargain and Hershey Roads, and Millcreek’s Sewer Technical Manager David Wright has determined that the Township has the capacity to accept the waste flow. On recommendation of Mr. Shaw, it was moved by Ms. Clear, seconded by Mr. Bock and carried by unanimous roll call vote to authorize Mr. Shaw to send a letter to McKean Township stating that Millcreek Township is willing to enter into an agreement with McKean Township and McKean Sewer Authority, providing McKean Township enters into an agreement with the City of Erie regarding the additional waste flow when it leaves Millcreek and enters the city.

Mr. Shaw reported that the Board recently authorized the filing of an appeal to the Erie County Court of Common Pleas regarding a zoning decision on a build-to line, but the Board now wishes to revisit the appeal. On motion by Mr. Ouellet, seconded by Ms. Clear, it was carried by unanimous roll call vote to withdraw the Township’s appeal to the Erie County Court of Common Pleas regarding Docket No. 2021-11855. Mr. Shaw stated that the matter is still subject to neighbors challenging a building project over the build-to line, and the Township accepts no responsibility or liability if the project is challenged.

Kathy Umpleby, 2916 Broadlawn Drive, stated she was relieved that the Board withdrew its appeal and wants to move on and build her porch after an 18-month long process. Mr. Bock asked her why she did not solicit signatures from all her neighbors as advised by the Township Solicitor, to which she replied that the signatures would be required to be notarized, that if one person objected the project could not go through, and some of the elderly people on the block have caregivers and are not able to clearly understand what they are signing. Mr. Bock then clarified that his vote in favor of withdrawing the appeal was the right thing to do, and not in response to recent social media postings.

William Jordan, 4264 Stone Creek Drive, Whispering Woods, reported there are three (3) undeveloped hillside lots across from his house that were cleared of vegetation eight (8) years

ago, but the owner has been excavating and sending material to other areas, which is causing mud to pour down the hillside when it rains. He said that the owner dug ditches to divert water from three (3) silt socks and into Walnut Creek, which is not permitted in the Whispering Woods Stormwater Management Plan and Agreement. Mr. Jordan opined that this is essentially an

open mining operation and assumed material is being sold to other developers. Solicitor Mark Shaw advised Mr. Jordan to contact the Erie County Conservation District at 814-825-6403.

Robert Umpleby, 2916 Broadlawn Drive, stated that he is relieved that the Board withdrew its appeal, but it does not change his feelings. He relayed that he originally applied for a \$50.00 Building Permit to build a porch on the front of his home and ended up spending \$8,200.00 in litigation and appeal fees, while the Township spent over \$24,000.00 in legal fees to oppose the project. He stated that he was not planning to build an enclosed structure. Mr. Umpleby also felt that he and his neighbors were not treated respectfully by the Zoning Hearing Board (ZHB), and that the \$1000.00 fee to appeal to the ZHB was too high.

Michael Umpleby, 165 Pinehurst Drive, Cranberry Township, PA, claimed that his parents' building permit was incorrectly denied, that the \$1000 ZHB appeal fee was too high, and that the Zoning Hearing was unfair and confrontational. Mr. Umpleby relayed that Judge John J. Meade's decision ruled that an addition of a porch on an existing structure is permitted, and the Umpleby's attorney stated that the SALDO does not apply in this case. He claimed that his parents have been failed due to the amount of money it cost them throughout this process and the loss of more than a year of their time.

Rob Umpleby, 4510 McCreary Road, asked the Board, "How is the Township servicing its residents?" He opined that the \$1000 fee to appeal to the ZHB is prejudiced, and that all Township residents should be supporting each other. He asked the Board to reconsider its policies and examine the behaviors of certain individuals.

Former Supervisor John Groh, 603 Montpelier Avenue, stated that he is Mrs. Umpleby's brother-in-law and she was his campaign manager, so he has stayed out of the matter until tonight. He opined that if a matter concerns the subdivision itself, then the subdivision should accept or challenge it, but that it should not be a Township matter. He thanked Ms. Clear for her comments in support of the Millcreek Police Department and asked the Board to continue to fund and staff the MPD appropriately.

There being no further business to come before the Board or any other Citizens to be Heard, it was moved by Ms. Clear and seconded by Mr. Bock to adjourn the meeting at 7:04 p.m.

Sheryl A. Williams  
Township Secretary

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APPROVED: June 14, 2022

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Daniel P. Ouellet

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James S. Bock

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Kim Clear