



**Minutes of the
Millcreek City Council
January 31, 2024
6:00 p.m.
Special Meeting**

The City Council of Millcreek, Utah, met in a special public meeting on January 31, 2024, in the Grandview room at City Hall, located at 1330 E Chambers Avenue, Millcreek, UT 84106.

PRESENT:

Council Members

Jeff Silvestrini, Mayor
Silvia Catten, District 1
Thom DeSirant, District 2
Cheri Jackson, District 3
Bev Uipi, District 4

City Staff

Mike Winder, City Manager
Francis Lilly, Assistant City Manager
Kurt Hansen, Facilities Director
Alex Wendt, Deputy City Recorder
Rita Lund, Communication Director

Attendees:

Carol Hollowell, CEO of Switchpoint, Chief Petty-Brown, Sergeant Jodie Samson UPD Mental Health Unit, Carol Hollowell, Nate Mitchell, Robert Keller, Kara Cope, Tim Whalen, David Dangerfield, Jim Slaydon, Kerri Van Rosendaal, James Van Rosendaal, Mary Fullmer, Kaylene Kane, Christy Fullmer, Daniel Fullmer, Steven Fullmer, Garth Sagehill, Kathryn Sagehill, Nicole Barnes, Gary Hannerman, Stephanie Peterson, David Van, Chris Wilkinson, Lori Wilkinson, Amy Nelson, Darren Nelson, Vaughn Howard, Jennifer Howard, Katie Anderson, Steve Whipperman, Cindy Whipperman, Ed Bagley, Lisa Bagley, John Norton, L. Spencer, Catherine Scott-Bullock, Kim Du Cott, Shauna Brent Wall, Eugene Lee, Sally Ware, Meghan Staples, Thomas Rivers, Chris Evans, Suzanne Stewart, Preston Smith, Sandra Cruz, Megan Hoot, Austin Hoot, Leigh Bardsley, Dave Bardsley, Lauren Tipton, Valor McNeely, Rafael Flores, James Dranbay, Jason Smith, Stephanie Smith, Michelle Kennedy, Ashley Cline, Jennifer Jordan, Chandler Whipple, Santiago Cortez, Priscilla Martinez, Rebecca Laws, Scott Laws, Melanie Rasmussen, Steve Anderson Walt Romney, Jared Aida, Clayton Simms, Clyde Grome, Mark Hiskey, Nichole Duggins, Dana Berg, Joni Lelis, Gina Larson, Lynnette Orme, James Ford, Mary Kimball, Allesen Peck, Spencer Aland, Jonathon Kizzinger, Stew Marchant, Adam Neff, Peter Richards, Ben Gowands, Sherri Wittwer, Kelly Roemer, Lynne Barrett, Cheryl Krusk

REGULAR MEETING – 6:00 p.m.

TIME COMMENCED: 6:03 p.m.

1. Discussion of an Application for a Permit for a Residential Facility for Persons with a Disability Located at 1871 E 3300 S.

Mayor Silvestrini said that when the Haven was going out of business the city reached out to the management of the Haven because of the short notice they gave for going out of business. The city asked to help relocate residents. The Haven replied that they did not need help. Later a realtor called Mayor Silvestrini and asked if the City would buy the Haven building and property. The city was not interested in purchasing the property. Mayor Silvestrini said that he was aware that the State was interested in property like this. Mayor Silvestrini then called Mr. Wayne Niederhauser, Director of Homeless Services for the State, to let him know that the property would be available for sale. Mayor Silvestrini said he would let Mr. Niederhauser know again because of growing homelessness problems in Utah and the Wasatch Front. Home prices have escalated drastically. Home prices rising makes it harder for people to stay in their houses and makes it harder to acquire housing. People become unsheltered and homeless due to high housing values. Utah does not want the problems that Washington and California see due to homelessness. The thing that helps to solve this problem is to help people with deeply affordable housing and treatment. It is hard in Utah to find housing for medically compromised people. This is not a homeless shelter; it is an assisted living treatment facility. In every religious tradition people are taught to take care of the poor, this is the right thing to do. Mayor Silvestrini said that even his car had been broken into in his driveway. This makes him feel violated and he hates that this happens to the residents of Millcreek. To address these problems Millcreek pays \$1.5 million a month to police the streets of Millcreek. The Millcreek police officers spend a lot of time arresting homeless people when they commit crimes and help get them services, they help clean up homeless camps. This problem is a scourge for everyone, it is not just a Salt Lake City problem. Homeless people are in this community. As the mayor, he is trying to solve the problem. In Olympus Hills there are four group homes.

Mayor Silvestrini turned the time over to Assistant City Manager, Francis Lilly for his presentation. Mr. Lilly said that he has heard on social media that this can be stopped. The scope of this decision is very limited. The Switchpoint Facility will not be a homeless shelter. It is licensed by the state of Utah as a residential support program. Residents will have a clinical team. The state of Utah has a homeless shelter, a homeless shelter is a temporary shelter. A residential support program, as defined by the State of Utah is a residential support program includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are, emotional, psychological, developmental, or behavioral. These programs require state licensing. Homeless shelters do not require licensing from the Department of Health and Human services. The Switchpoint facility will not be a behavioral hospital. It will not provide acute care. Clients will be on the path to stability before they become residents. The program will be subject to inspection multiple times per year. Millcreek officials will be onsite inspecting the facility as well. The property is zoned RM, Residential Multifamily. Residential facilities for persons with a disability are permitted in the RM Zone according to Millcreek Code. Any residential support program must be licensed as such. Residential facilities are governed in Millcreek code by chapter 19.87. The Planning Director must approve permitted use in any zone where it is allowed even if some might find it objectionable. The facility cannot house people that are housed involuntarily. Mr. Lilly said he cannot deny an application if there are proposed detrimental effects. However, the

Planning Director can revoke a permit if there is a problem. Permits are nontransferable. The Millcreek Code does not contemplate the role of the City Council in approval of a residential treatment facility. Millcreek code does not contemplate a public hearing process for a permitted use of any type. Civil and constitutional rights are not subject to public scrutiny.

Millcreek cannot deny a permit for the use in a permitted zone. Millcreek cannot deny the permit. If any residential use is allowed in the zone, then disabled Americans are allowed in the zone. Residential uses are allowed in the RM Zone. Federal law protects the rights of disabled Americans. When the use is expressly allowed, denial of a permit for a residential facility for persons with a disability in a zone where the use is expressly allowed is a violation of both the Fair Housing Act and the Americans with Disabilities Act. In 2016, the Department of Justice and Department of Housing and Urban Development issued a joint statement that clarified that denying, delaying, or adding unreasonable conditions to a permit based on stereotypical perceptions about a protected class of disabled people is a likely violation of the Fair Housing Act.

Mayor Silvestrini said that in the last meeting a couple lawyers at the meeting challenged the meaning of Federal Law. Mayor Silvestrini turned time over to Nathan Crane, attorney for Snow, Christensen and Martineau, and outside counsel for the city. In the process of defending municipalities, he learned that state and federal laws have teeth. Laws protecting the rights of disabled Americans is important. Litigation regarding these cases is nasty, brutish, and not short. Even simple cases can cost tens of thousands of dollars. Rob Keller, attorney with Snow, Christensen and Martineau then added and expounded on the legal risks of the city denying this use. Denying applications is risky. Most of the cases they have defended are where a city law says a use cannot be approved but when someone comes in asking for reasonable accommodation for a disability you cannot articulate to a court why a denial was issued when there is a disability. Federal law determines what they perceive rights to be and what constitutes intentional discrimination. Mayor Silvestrini explained that Millcreek has secured more than \$100 million in grant money from the Federal government, Covid funds alone amounted to \$14 million. The city would risk huge liability from the applicant or people that might live in this facility if they brought a suit from before the federal government. All that money would have to be paid back and Millcreek would be blacklisted from receiving other federal money. It would cripple the city and the cities' ability to repair infrastructure and improve the city.

Mr. Lilly explained, there are three mental health facilities in Millcreek. They are all next to houses, churches and where people reside. Moving this facility to a different part of Millcreek would not be allowed under the Fair Housing Act. The facility is compatible for this use. The facility is well suited for a residential support program. The use is not changing. When the use of a property does not change in the code, the city cannot create new requirements for the new owner. Mr. Lilly turned time over to Carol Hollowell with Switchpoint to talk about security. Switchpoint wants to ease fears that people may have. There will be uniformed security onsite at the property. The security staff will be trained in de-escalation and trauma informed care. Residents of the facility cannot be locked down, but everyone who enters the facility must check in, have a quick background check, they cannot stay the night and they must leave by 10 p.m. Mr. Lilly said that the city will meet with officials from the Unified Police Department monthly. Drug use by residents of the facility is

expressly prohibited. Mayor Silvestrini said that Chief Petty-Brown and Sergeant Jodie Samson will speak to the people tonight. The city will devote additional police presence to the neighborhood. Officers will be encouraged to do their paperwork in the police cars in the area. Chief Petty-Brown explained that the overflow homeless shelter was a great success when UPD, the city, and Switchpoint worked closely together. Salt Lake City Police often work with Switchpoint, and they speak very highly of them. Switchpoint is very proactive and easy to work with. Sergeant Jodie Samson, UPD Mental Health, said she has worked in policing for 29 years. During this time, she has met thousands of people with mental illness. By far, the majority of calls from people's homes when they suffer mental illness. When people get into a facility the calls for service drastically go down. People with addiction commit crimes, people in treatment cause crime rates to go down. People that need mental help are not monsters, they are sick and need treatment. As soon as there is a crime in our society people say, they must be mentally ill. Statistically 3-5% of people who are mentally ill commit violent crimes. Mentally ill people are rarely committing those crimes. Police respond far more to nursing homes due to age related mental illness. Tim Wahlen, Switchpoint – there was a facility in Midvale where the police were called often but it was due to terribly inhospitable conditions that were created by the facility staff, not the residents. When the facility was remodeled and taken over by different staff, police calls stopped.

Mr. Lilly asked Ms. Hollowell from Switchpoint about treatment. Lindsey from Odyssey House described community treatment. Assertive Community Treatment (ACT) teams were created in the 90's after mental health care was de-institutionalized in the '80's. The goal is to bring all the services psychiatric hospitals provide to mentally ill individuals in the community. This can help people function and be stable in the community. If someone has acute psychiatric symptoms staff are often not surprised by this because they can see it coming. Oftentimes a participant themselves will say, "I need more treatment." Staff will call and say there needs to be more treatment. Lindsey explained what happens if someone runs away from a facility. These are residences not lockdown facilities. Sometimes people will disappear for a few days or longer, for a variety of reasons. Mr. Lilly explained that people convicted of murder, manslaughter, or sex crimes will not be allowed in the program. Residents can come and go as they please, participation is voluntary. This facility is an ongoing commitment. It will require fortitude on everyone's part. Switchpoint includes a code of conduct as part of their lease agreement, including good neighbor language. Mr. Lilly said he is working with the applicant, Switchpoint, to create reasonable boundaries. Millcreek residents were very concerned that The Haven went out of business. This speaks highly of Millcreek and their desire to help vulnerable people. The Haven was a privately operated business that ceased operations. This has happened to four other similar facilities in Millcreek in the last five years. This is part of a statewide and nationwide trend of assisted living facilities shutting down. The residents of The Haven received thirty-day notice to leave once the sale of the property commenced. The owner negotiated with four other local assisted living facilities that residents could move in and keep the same rate that they paid at the Haven.

Mr. Lilly explained his perspective as staff. Freedom means freedom for everybody. This is the land of the free and home of the brave. Many times, it happens where people want to do the right thing according to their moral compass, but they are afraid. People can be brave the way that Millcreekers are brave. Being brave does not mean being reckless, that is why staff described the expectations they have for Switchpoint. Life is not perfect, and people need

help. These people can live in our neighborhoods and be protected by federal law. Millcreek will trust but verify that Switchpoint will follow conditions set. Mr. Lilly said that he cannot stop this facility and this permit from happening. Mr. Lilly also said that he will always follow the law. Mayor Silvestrini said that he will make sure that the city works with Switchpoint and the police.

Council Member Cheri Jackson said that this facility is in her district, she has been speaking with residents and she feels their pain. This is a hard and difficult change that is unknown. The city will do its best to make this work and to make this a safe facility that is an asset to the community where people can build relationships like they did with residents at The Haven. The fact that residents are at this meeting shows how much you love your neighborhood and your home, your safety and security. She values that too. The city will work to ensure you feel that same love, safety, and security.

Mr. Barnsley – He asked about the level of the security officer, and about sign in processes. It would be someone trained in de-escalation, they can refuse people to come in, they can restrain until law enforcement gets there. People must sign in and sign out on a log. They will make sure people leave when the facility closes. Cameras will be inside and outside of the building. They will be patrolling the facility. Visitors and volunteers must sign an agreement on a code of conduct for the facility. Mr. Barnsley asked about violations. Ms. Hollowell, from Switchpoint, said that if people break the code of conduct there are individual consequences. If residents are not kept to standard they are evicted. Mr. Lilly explained that in Millcreek Code it speaks about a pattern of nuisance at a facility that leads to enforcement.

Amy Nelson – She explained that she is a nurse and works with homeless individuals. She appreciates the need for facilities like this. She wants there to be guidelines, boundaries, and standards. She asked if there would be drug testing. Ms. Hollowell said there will be drug testing. These people are paying rent so there are not random drug screens but if staff notices abnormal behavior, they can drug screen. The people who live here will have activities. Medical professionals will be on the property every day, but they will not live at the facility. The ACT team will work with the residents every day.

Clayton Sims – Mr. Sims said that the presentation said that drug use will cause eviction from the program. Ms. Hollowell explained that the ACT team will work with the residents, they will find out if they are using drugs, and conduct drug tests. Mr. Sims asked how quickly people leave if they have a positive drug test. Mr. Lilly said it was his understanding that they would be evicted in 24 hours. Mr. Sims asked about what type of other violent behaviors or crimes would not be allowed.

Steven Fullmer – Mr. Fullmer said it is his understanding that there will be 43 people there at the facility. He thinks there are 15 parking places. He does not want Melbourne to become a congested street due to parking if people visit the facility. He does not believe that there is enough space for all the cars that will car at the facility. Mr. Lilly said that as part of his review they will do a parking analysis. The use of the facility is not changing, the amount of people in the facility is not changing. Mr. Lilly said he does not believe they can require additional parking. Ms. Hollowell said most of these people do not have vehicles.

Steve Anderson – Mr. Anderson said he was a director for residential treatment facilities for

children. He feels it is a big jump to go from zero people to 43 people living together. He suggests that the facility should not be opened to 43 beds right away. Start with sixteen or twenty. He believes that the office of licensing does not have to allow this. To make this financially viable they will get more liberal with who they admit. The ACT team will not want to drug test the patients because then the resident is kicked out of the facility. Ms. Hollowell said this is a working best practice to ensure that people who need treatment and are stable can get it. Mr. Whalen said this is not a treatment facility, this is a mental health program. Almost none of these individuals will have a vehicle. This is not a treatment facility. They did not have to use substances to be there. They have to be diagnosed with a mental health disability. The ACT team will give them care. Mr. Anderson said that he believes this facility is not in compliance due to parking.

Audrey Evanson – State legislators are working to help improve homelessness in the state. She supports these measures. If there were ten of these facilities in the state it would be great. Fifty would be even better. People in these facilities have lost limbs due to the cold. She believes that Millcreek is a community that can take on these challenges.

A woman who did not give her name explained her main concern is her children. She is very concerned about a facility like this in her neighborhood. She is unhappy with the decision to bring this facility to Millcreek. She expressed frustration with city communication. She does not feel this is best for Millcreek.

A man who did not give his name said that he worked for the Department of Corrections and the mentally ill. He said that he wanted to hear more about industry standards tonight for the facility. He feels there are lots of unanswered questions and asked that this facility be delayed. There are 18 spots for parking. Putting 43 people together is problematic.

Lauren Tipton – Ms. Tipton explained she lives within walking distance of the facility and Millcreek Common. There do need to be more mental health facilities in Utah. She is a mom, and a resident of Millcreek and explained she is a social worker and mental health therapist. She is very sad that her community hates people who are in need of help. There is so much fear in this room from people who don't understand. The prejudice and entitlement and lack of Christian values is unbelievable for Utah. There is so much hatred and fear over this. There are drug houses in the neighborhood and those are a bigger problem than a mental health facility for people who want to improve. She said she is in support of this and hopes the community comes around and realizes this is not that bad.

Stephanie Smith – Said she spoke last week; her brother has been in and out of psych wards for 30 years. He has wanted stability and to have a productive life. Her brother has worked very hard to get into a facility like this. He has had to work hard and prove that he can be in a facility like this. He would like to be stable.

Lisa Bagley – She said she resents being called a hater. She is unhappy with supposed miscommunication from the city. The assisted living center of The Haven is not the same as a facility for 43 men. She wanted to know what kind of treatment people would be getting. She said she keeps hearing the word treatment and that does not sound like residential assisted living. Mr. Wahlen said that Switchpoint is on site to manage the housing. The treatment journey often looks like someone is released from the Utah State Hospital, they

meet with the ACT team, verify their history, their medication, their treatment, and stability and determine if they can move to a facility like this. Staff are on-site providing care for them. Case managers are on site, the ACT Teams come to visit the residents. The ACT Teams are the treatment aspect. Ms. Bagley wondered who is keeping track of data, what is working and what is not. How can she get access to that data. She wants someone who is objective to review the data. She asked how children in the area would be protected. Chief Petty-Brown said people are free to leave the facility. They are not locked down. Bagley asked again how to protect the children. Sgt. Samson said there is crisis in the neighborhood all the time. UPD works with the mental health team, and they are keeping track of what happens in the facility.

Council Member Silvia Catten said that the Granite School District is good at placing schools on lockdown when there is even a hint of something happening. These facilities are in the neighborhood already.

Mr. Fullmer spoke again and said there is a different level of concern for an assisted living center. They are in the facility so that they can get treatment. They have not proven that they can manage 43 beds.

Adam said he lives on Evergreen – He said he feels frustrated with the process and condescended to.

A woman who did not give her name said that answers have been contradictory. She wants to know where these people are in their treatment. Mr. Wahlen said they are treating individuals who have been stabilized. Being assigned to an ACT team is like their home health team. She wondered if there was any supervision for when these people leave the facility. Ms. Hollowell said that they trust these people for the stage they are at based on their behavior. She fears for the safety of the children, this is a concern for a parent or grandparent. She trusts the elected officials. Ms. Hollowell said that perhaps the security can stand outside during school times when children are walking by.

Lindsey – Millcreek resident and ACT team member said that she brings her daughter to work, and her daughter meets the participants, she has never feared for her safety. The people who live in a facility like this have been victimized their whole lives, that often leads to their mental health issues. These people in a facility like this want a stable place to live where they can be safe.

Ben Gowans – People here are expressing their concerns, and the people are coming to the community whether residents like it or not. He said he has no experience with mental health problems. He said he will give time and energy to help, yet still has concerns. What has the history been with Switchpoint with a facility like this. Ms. Hollowell said they run other types of supportive housing. He then asked what statistics look like for success for these residents. Neil Dangerfield, Chairman of the Board of Switchpoint, explained a two-pronged approach. The treatment team comes to the facility, but the facility is where they live. Mr. Gowans asked are there residences with these many individuals. Mr. Dangerfield said there are two residences that each have 100 beds. This is supported housing. They will have an active training program to help these people learn life skills like laundry and cooking. The people in the facility have often been

isolated. They define success as these are folks living in a common area with each other happily. Success is that people feel connected, they hope people will live there until they do not want to live there anymore. Mr. Gowans asked how long people have lived there. Mr. Dangerfield said that some people will live there for ten years and others will be able to leave far more quickly.

Kara Cope said she is supportive of people who were unhoused. The people who will come to this facility want to be there. Take it upon yourself to be a volunteer and see from the inside.

James – gave a clarification and said this is about prioritization and his priority will always be his children. He thanked everyone there. He told a story about a friend of his who would have been in a facility like this, but that person assaulted a nurse and was kicked out of the facility. He asked what is different between Switchpoint model and staffing and will there be adequate staffing. Ms. Hollowell said that they must meet a certain ratio to meet licensing requirements. Switchpoint culture is that they hire very good staff. Their guarantee is that they have a big enough team to have staffing. Perhaps they will have 24/7 security inside and outside the building to help people feel secure.


Peter Richards – He asked if they have had experiences with a facility like this around a cemetery. He wondered where people go if they get kicked out. Ms. Hollowell explained that when someone is evicted, they are not dumped on the street. They make sure they connect them with other housing or shelter options. Mayor Silvestrini said that he is very happy that Switchpoint is the provider. They do a good job of enforcing the rules. They will make sure that people are not camping in the neighborhood or the cemetery.

A man who did not give his name asked what happens to Switchpoint and the residents if they lose their license. Then he said that if someone from the facility assaults his girlfriend, he will hold Switchpoint responsible. He also said he would hold the city responsible.

Mayor Silvestrini said that the city is responding to the concerns heard. Council Member Uipi asked about criteria that people must meet to be in a facility like this. Mr. Wahlen said that these people have had a variety of diagnosed mental disorders. Wahlen said that trespassing is a common charge for people in a facility like this. The ACT Team can work with these individuals for a lifetime. He asked for volunteers to help. Council Member Uipi asked about the type of activities that will be held. Ms. Hollowell described how the activities vary, sometimes it will be skills classes, cooking, job training bingo, or singing.

Council Member DeSirant moved to adjourn the meeting at 9:17 p.m. Council Member Uipi seconded the motion. Mayor Silvestrini asked for the vote. Council Member DeSirant voted yes, Council Member Uipi voted yes, Council Member Catten voted yes, Council Member Jackson voted yes, Mayor Silvestrini voted yes. The motion passed unanimously.

ADJOURNED:

APPROVED:  Date 03-25-2024
Jeff Silvestrini, Mayor

Attest: 
Elyse Sullivan, City Recorder