



**Minutes of the
Millcreek City Council
December 10, 2018
6:00 p.m.
Work Meeting
7:00 p.m.
Regular Meeting**

The City Council of Millcreek, Utah, met in a public work meeting and regular meeting on December 10, 2018 in the City Hall Annex, located at 3330 S. 1300 E., Millcreek, UT 84106.

PRESENT:

Council Members

Jeff Silvestrini, Mayor
Silvia Catten, District 1
Dwight Marchant, District 2
Cheri Jackson, District 3
Bev Uipi, District 4

City Staff

John Geilmann, City Manager
John Brems, City Attorney
Elyse Greiner, City Recorder
Kurt Hansen, City Services Director
Francis Lilly, Community Development Director
Mike Winder, Economic Development Director
Rita Lund, Communications & Programs Director
Blaine Gehring, Planner

Attendees: Susan Brown, Ron Findly, Ross Gyhiott, Susan DeLegge, Bruce Parker, Carol Elliot, Larry Plowgian, Jeff Plowgian, Sue Denkers, Leslie Blackham, Mike Gibson, Muzz Malouf, Carol Flowers, Lynn Draper, Greg Strong, Joan Haven, Kelly Roemer, Stephanie Woody, Doug Smith, Kimberly Otto-Biebeyl, Shonnie Hays, Lynda Bagley, Mary Alice Dechter, Jordan Odette, Taylor Brodate, Zane DeLucia, Gary Hanneman, Tina Grant, Tom Nelson, Christine Goleish, Dee Andersen, Dan Andersen, Lyle Warner, Mary Ann Astin, Kyle Anderson, Stuart Jensen, Heather Jensen, D. Wenzl, Lenette Casper, Stephanie Steele, Bill Dubbeld, Ryan Robison, Pam & Renee Roberts, Sheryl Martin, Kimber Naffziger, Jake Hill, John & Mary Kapes, Lea Cotter, Mya Taaffe, Brenda Wicks, Lee Parkin, Torry Austin, Aaron Walker, Cory Minson, and Jennifer Beitel.

WORK MEETING – 6:00 p.m.

TIME COMMENCED: 6:03 p.m.

Mayor Silvestrini called the meeting to order.

1. Discussion of agenda items, correspondence, and/or future agenda items

Mayor Silvestrini said on the last agenda, the Council had a proclamation recognizing Mountainstar St. Mark's Hospital as a Valued Partner, but they were not able to attend. He said the proclamation would recognize them as a partner with the Millcreek Office of Emergency Management. He said Skyler Stratford, Emergency Manager, will present it to them later this month. The Council agreed to sign and deliver it.

He said the Council will have a meeting with Millcreek legislators tomorrow morning to discuss legislative priorities with the City's lobbyist. He said there will be discussions about broadening the base of sales tax and how it gets distributed to municipalities, issues about housing, and retirement for public safety. Mayor Silvestrini said the public is welcome to attend but there will not be opportunity for public comment.

Mayor Silvestrini said the Council had talked about scheduling a meeting for December 17th. He said if the blight study is cancelled, there will not be a need for that meeting. He said he suspects the Council will support abandoning the matter. The Community Reinvestment Agency will have public comment at that meeting before it adopts the resolution removing the blight study. If the resolution is passed, the public hearing would be moot and stricken. He went through the Council's agenda and said the massage license issue will have some public comment.

Mayor Silvestrini asked the Council about upcoming matters to discuss in the new year. Council Member Uipi brought up discussing community council budgets and financial reports. Lund said she will get their financials and requests by the end of the year. Council Member Marchant said the community councils have new council members and some will not meet officially until January. Council Member Catten brought up that Lund will train them at the end of January. Council Member Uipi asked about meeting the community councils since they have new members. Mayor Silvestrini said the Council could meet with them in a noticed meeting and provide them with training. Lund mentioned that Mt. Olympus and Millcreek Community Councils will hold their meetings January 8th instead of January 1st. Council Member Uipi said she would like to revisit the City Council's priorities. Council Member Catten expressed interest in rank choice voting. Mayor Silvestrini said the group that advocates for it would like to present and he would like to listen to County Recorder Sherrie Swensen. Mike Winder said municipalities must inform the State Elections Office by January 1st if they are going to use rank choice voting for the 2019 election. Mayor Silvestrini said the City should revisit broadband networks during a work session.

Mayor Silvestrini said staff is partially moved into the new City Hall space. The construction should be mostly done by the end of the month. He said the first Council meeting in January will be in the new Council Chambers. The 2nd anniversary party open house will be on January 9th to show the public the expanded space. Council Member Jackson said she wanted to utilize the Youth Council more. Mayor Silvestrini said they could shadow the City Council members and attend their meetings. Council Member Catten said the Local Officials Day at the Legislature invites the youth councils and she believed it would be January 30th. Mayor Silvestrini asked Francis Lilly for a list of ordinance revisions for the next year. He said the Council can discuss them in a work meeting and give direction to the Planning Commission.

Council Member Jackson moved to adjourn the meeting at 6:27 p.m. Council Member Uipi seconded. Mayor Silvestrini called for the vote. The motion passed unanimously.

REGULAR MEETING – 7:00 p.m.

TIME COMMENCED: 7:00 p.m.

1. Welcome, Introduction and Preliminary Matters

1.1 Pledge of Allegiance

Mayor Silvestrini called the meeting to order then scouts from troop 377 led the pledge of allegiance.

1.2 Public Comment

Mayor Silvestrini extended an invitation to the public to address the Council on matters not related to an agenda item.

Bruce Parker, 3007 E. Cruise Way, said he appreciated the work the Council does. He said he reviewed the Olympus Hills and Canyon Rim Commons plans on the agenda and they mentioned conformance to the general plan. He said the general plan is still in the planning process and the community does not know what the community plan will be. He said the areas are unique and the plans should be unique. He asked the Council to consider holding action on the plans until the community plan is in place and guides those plans. He suggested amending the resolution to say that whatever the community general plan says, that that will be the control for those areas. He said he believed the public planning process will engage those residents and will benefit the City long term.

Mayor Silvestrini said the Council intends to engage in further planning with all the areas. He said what is being adopted with these two matters is a proposed budget to get approved by other entities to get taxing increment, not what will actually be built there. Parker asked the Council to be clear on what the controlling document is for the plans.

1.3 Unified Police Department Officer of the Month for November 2018

Chief DeBry presented Officer Keith Borders as Officer of the Month for November 2018. Chief DeBry read the citation that said Officer Borders set up a DUI checkpoint in Millcreek. The checkpoint was the first for Millcreek. He diligently worked on this assignment in addition to his regular duties. It required coordination with multiple agencies, 29 people utilized, and was paid for by grant money from the State. He said 752 cars were stopped; 10 failed sobriety tests, 4 produced DUI arrests, there were 2 in possession of drug paraphernalia, 2 in possession of alcohol, and 14 traffic citations were issued. County Council Member Granato thanked Officer Borders for his work. The Citizens Advisory Board for Millcreek Precinct presented Officer Borders with a gift.

Mayor Silvestrini thanked County Council Member Granato for her donation to the Promise Program.

2. Planning Matters

2.1 Discussion and Consideration of Ordinance 18-73, Rezoning Certain Property Located at 4284 S. 900 E. from the R-1-8 (Single-Family Residential) to the R-1-21 (Single-Family Residential)

Blaine Gehring said Leslie Blackham is the owner of the property at 4284 South 900 East. A few years ago, she was able to purchase additional property behind her home and has been renting the property for extra income. She would like to move her primary

residence to this address and keep horses on the property. This would require a rezone to R-1-21 which requires a half acre of property and her property is .83 acres in size. The keeping of up to four horses for private use only (not rentals) is a permitted use in the R-1-21 Zone. This, however, would be subject to the requirement that animals be kept 40 feet from any residence. Gehring said he received three letters and emails from neighbors, two in favor of the rezone and one against. The two for are directly affected by the 40-foot buffer. The Millcreek Community Council unanimously recommended approval of the rezone. The Planning Commission recommended approval of the rezone with the condition that no more than two horses be allowed on the property with a 5-4 vote. Gehring said the Planning Commission felt that 4 horses in that residential neighborhood was too much. Mayor Silvestrini asked about the evidence to support that recommendation. Gehring said there was no evidence. Council Member Jackson asked about possible road continuation behind the property. Gehring said there is no dedicated easement for the street and the neighborhood is fully built out.

Mayor Silvestrini asked if the applicant wanted to address the Council.

Leslie Blackham, 857 E. 4315 S., thanked Gehring and Lilly for their help through the rezone process. She said she owns some of the surrounding parcels too. She said the building on the property is set up to store her horses' needs and she would add an awning for weather protection. She intends to get rid of the third horse and only keep two, though it would take some time to sell it.

Mayor Silvestrini asked for public comment. There was no comment.

Mayor Silvestrini said he was impressed the neighboring property owners were in support of the rezone. He does not understand the Planning Commission's recommendation beyond what is provided in the zoning ordinance. He asked staff to have the Planning Commission provide findings or basis for their recommendation when they recommend imposing conditions on permitted uses. Council Member Uipi also asked for more supporting evidence from the Planning Commission.

Lilly said staff would have to adjust the legal description on the ordinance to include all parcels owned by the Blackhams.

Council Member Catten moved to approve item 2.1, Ordinance 18-73, rezoning 4284 S. 900 E. from R-1-8 to R-1-21 as the zone is written to include the description of all the property owned by the applicant. Council Member Jackson seconded. The City Recorder called for the vote. The motion passed unanimously.

Mayor Silvestrini said the Council would recess the meeting to move into the Community Reinvestment Agency meeting then resume after that meeting concluded. He said there is a City Council work meeting noticed for tomorrow morning to talk about the legislative session issues that may affect Millcreek. Millcreek's lobbyist, Ashley Spatafore, will give a presentation about some of the legislation that they are aware of. The City is also interested in pursuing legislation. He said the public was welcome to attend but public comment would not be taken.

Council Member Uipi moved to recess the Council meeting and move into the Community Reinvestment Agency meeting at 7:28 p.m. Council Member Jackson seconded. Mayor Silvestrini called for the vote. The motion passed unanimously.

The meeting reconvened at 7:51 p.m.

2.2 Discussion and Consideration of Ordinance 18-74, Rezoning Certain Property Located at 1136 E. 3300 S. from the C-2 (Commercial) and R-1-8 (Single-Family Residential) to the R-M Zone (Multi-family Residential)

Blaine Gehring said the Millcreek Hollow Condominiums are located at 1136 East 3300 South with a parking lot and access off 1100 East at about 3335 South. The condos were built in 2003 in Salt Lake County in a C-2 Zone with the parking lot and access off 1100 East in an R-1-8 Zone. The condos are considered legal non-conforming as neither use conforms to Millcreek's current zoning ordinance. The subject property consists of 3.36 acres with 96 condominium units. The condos and parking lot do not conform to the current zone requirements of the C-2 and R-1-8 zones. The condos are multi-family residential. Currently, the C-2 zone requires commercial mixed use if residential is proposed for the zone. There is no commercial use in the condos. He said the parking and access on 1100 East is in a single-family zone, and parking and access for a multifamily use is not allowed in a single-family zone. Millcreek City is seeking a rezone of the property and condos to align their use with the zone. The Millcreek Community Council and Planning Commission sent favorable recommendations to approve the rezone. He said two residents of the condos spoke in favor of the rezone at the community council meeting. Mayor Silvestrini said this item is a correction zoning. Council Member Jackson asked how many property owners there are. Gehring said there are 96 units and the Home Owners Association (HOA). Lilly said there has been no formal report from the HOA on the matter, but they were notified of the issue before the meetings started.

Mayor Silvestrini asked for public comment.

Cory Minson, 3417 Millbert Dr., said he participated in Envision Committee meetings and they discussed a community of homes. He said the committee did not talk about high density housing. He has been told there is a high demand for homes. He said the City cannot keep adding high density. He said his neighboring lot used to be a single-family lot and it now has 6 housing units on it. He said it does not fit in the area. He asked the Council to consider the density. Mayor Silvestrini said the Council is not contemplating approving a new development, but an existing condominium project that is already built. The application is to change the zone to conform to the City's land use ordinances.

Council Member Jackson said it has been around for 15 years.

Council Member Marchant moved to approve Ordinance 18-74, so it will conform to existing use as it has been done for many years changing it to the R-M Zone; item 2.2. Council Member Jackson seconded.

Mayor Silvestrini thanked staff for pointing this out. He said the rezone would help the property owners with possible refinancing and such than if their homes had remained nonconforming to the zone. **The City Recorder called for the vote. The motion passed unanimously.**

2.3 Discussion and Consideration of Ordinance 18-75, Amending Code Chapters 19.04, 19.44, and 19.60 of with Respect to Regulating Licensed Massage Practices in Millcreek

Francis Lilly said when Millcreek was incorporated, there was a restrictive policy on massage therapy practices in the City; each massage therapist had to have their own business license, each business licensee had to be separated from another business licensee by 500 feet, there was an intersection perimeter setback of 300 feet from a number of listed intersections in the City, and “massage” was not defined in code. The Planning Commission made a recommendation for staff to come up with a definition for a licensed massage therapy practice, and to do away with the 300-foot intersection separation and replace it with 200-foot separation if the licensed massage therapy practices are not in a multi-tenant office building. He said there were a couple of commissioners that did not think the ordinance needed to change, some felt that no restriction was necessary, and some felt some sort of intersection was required. He said there was no formal reason from the Planning Commission as to why this ought to be. Lilly said the same intersection separation requirement exists for businesses like title lenders, pawn shops, smoke shops, and commercial storage units. He said the Council considered a comprehensive update to commercial zones a year and a half ago and that is when this restriction came in. Lilly said he learned a lot from working on this ordinance and felt confident that staff could handle any problems that come up without having a separation requirement. Lilly presented two ordinance options; option one considers a 200-foot separation requirement reflected in RM and Commercial zones, and option two that does not contemplate a separation requirement. He said from an administrative standpoint, staff can handle either option.

Lilly went through the proposed ordinance changes. Council Member Jackson asked about hours of operations. Lilly said there are no restrictions on hours of operation and they can now operate in the C-1 zone. Council Member Catten asked about other cities having proximity restrictions in intersections. He said he could not find anything, but South Salt Lake City caps the number of licenses issued. Council Member Catten asked if any massage therapy businesses were currently in the restricted intersections. Lilly said there are some. Mayor Silvestrini said two people, Suzanne Dunbar and Bijan Hosseini, advocated for this ordinance to not have the proximity restrictions in the November 26, 2018 Council work meeting. He said Suzanne Dunbar had issues with the reported number of licenses in Millcreek. Mayor Silvestrini had asked a planner to confirm the number of license and to produce a map that showed the location of massage business in Millcreek to determine if they were on commercial corners. He said that map needed to be part of the record and it reflected a number of licenses closer to what Dunbar had mentioned than what staff had provided before; closer to 40 than 60. Mayor Silvestrini said the location of those businesses generally align with the commercial corridors. Mayor Silvestrini mentioned that he and Council Member Jackson drove around separately throughout the City and did not observe a great number of those business congregated on the listed corners at this time. Council Member Jackson would prefer to let the market dictate what businesses go where.

Mayor Silvestrini said he is inclined to vote for the ordinance without the proximity restriction. He said he checked with the police force and with the Utah Division of Occupational and Professional Licensing and there are hardly any instances of licensed

massage therapists engaging in unlawful conduct. The City does not restrict other personal service businesses. Council Member Marchant said the Council received a letter (dated 11/20/18) from Richard Merrill, a licensed massage therapist, and then read from it, "Make no mistake we are as committed as you are to the elimination of the illicit activity and use of massage as a cover for it. We should be partners in this not adversaries." Council Member Marchant said Merrill made four suggestions and he would like staff to respond to. They are: to require every person doing massage therapy to have a Millcreek City business license; control the signage, no suggestive text or partially nude signs; review existing laws and develop prosecutorial means to enforce those laws, and encourage the development of legal massage practices through appropriate zoning. Lilly said the City is mostly in compliance with those suggestions. He said those who practice massage therapy in Millcreek are required to have a business license. The appropriate zoning issue is up to the Council to decide today. He said there are provisions that give the City sufficient leverage to suspend or revoke a business license as prosecutorial means to enforce illegitimate practices. He said obscenity is obscenity with signage, but regulating signs based on content is tricky. Lilly said the professional credibility of massage therapy is on the line.

Mayor Silvestrini asked the Council if they had a problem removing the proximity restriction. Council Member Uipi said she would like more information from the Planning Commission about their recommendation and mentioned that other cities do not require a proximity restriction. Council Member Marchant said he saw the point of keeping revenue building businesses in commercial corners, but the City does not discriminate against other similar types of businesses. Council Member Catten said she wished she understood the Planning Commission's rationale on 200 feet instead of 300 feet. Council Member Jackson it was fair to let the market should dictate where businesses go.

Mayor Silvestrini asked for a show of hands from the audience about their support of the ordinance. The public supported the ordinance with no proximity restriction without any opposition.

Joan Haven, 4219 S. Mars Way, said she did not see a difference in the two ordinance proposals, they both show a proximity restriction. Mayor Silvestrini said as of today there was a version that fixed some oversights. Council Member Jackson said the proximity restrictions Haven saw in the ordinance was in reference to other businesses. Haven said massage therapists are a healthcare profession and they should not be treated different than any other. Council Member Uipi thanked her for her suggestion in changing the word massage therapy establishment to massage therapy practice.

Ron Findly, representing the Utah Massage Professionals, said he applauded the Council. He said Commissioner Carlson from the Planning Commission referred to his experience as an attorney in South Salt Lake twenty years ago when this topic came before the Planning Commission. He said Commissioner Carlson said Millcreek does not have a problem with the profession, but the idea was to zone them out. The licensed massage therapists thought his remarks were discriminatory. Findly reiterated that massage therapists are recognized by the State as health care practitioners.

Susan Brown, 3464 Terrace View Dr. and 2766 E. 3300 S., thanked the Council for listening and being willing to change the tone of the conversations. The licensed massage therapists appreciate feeling validated and respected in Millcreek. She said Millcreek is a unique city in the middle of the valley, so a lot of people come from outside of Millcreek to visit the massage therapists here.

Lilly said today he updated the proposed ordinance text to include the words, “and special requirements” to Table 19.60.030, rather than putting the special requirements in the footnotes.

Council Member Jackson moved to adopt Ordinance 18-75, option 2, Amending Code Chapters 19.04, 19.44, and 19.60 of with Respect to Regulating Licensed Massage Practices in Millcreek. Council Member Uipi seconded.

Mayor Silvestrini said it would be easier for the Council to understand recommendations from the Planning Commission if they would include comments when they vote on things on the basis or reasoning for the recommendation.

The City Recorder called for the vote. The motion passed unanimously.

3. Business Matters

3.1 Discussion and Consideration of Ordinance 18-71, Adopting an Official Plan for the Canyon Rim Commons Community Reinvestment Project Area, as Approved by the Millcreek Community Reinvestment Agency and Directing that Notice of the Adoption be Given as Required by Statute

Mayor Silvestrini said at the last meeting Community Reinvestment Agency meeting, the Board adopted the plan and budget for the Olympus Hills and Canyon Rim Commons community reinvestment areas (CRA's). He said they are not the plans in the sense of what is going to be built there. He said that remains the decision of the residents of Millcreek in future planning efforts. The Council needs to adopt the recommendation of the Community Reinvestment Agency to adopt the budget and plan for those CRA's. The Millcreek Center CRA plan and budget will be up for adoption in January.

Mayor Silvestrini asked for public comment on item 3.1. There was no comment.

Council Member Jackson moved to adopt Ordinance 18-71, Adopting an Official Plan for the Canyon Rim Commons Community Reinvestment Project Area, as Approved by the Millcreek Community Reinvestment Agency and Directing that Notice of the Adoption be Given as Required by Statute. Council Member Uipi seconded.

Council Member Jackson said she wanted a robust public engagement on what should be there.
The City Recorder called for the vote. The motion passed unanimously.

3.2 Discussion and Consideration of Ordinance 18-72, Adopting an Official Plan for the Olympus Hills Community Reinvestment Project Area, as Approved by the Millcreek Community Reinvestment Agency and Directing that Notice of the Adoption be Given as Required by Statute

Council Member Uipi moved to approve item 3.2, Ordinance 18-72. Council Member Catten seconded. The City Recorder called for the vote. The motion passed unanimously.

4. Reports

4.1 Mayor's Report

Mayor Silvestrini said he went to a Utah League of Cities and Towns (ULCT) board meeting and legislative policy committee meeting. The hot topic is housing. Legislative leadership is concerned that cities are being obstacles to construction of housing and in permitting dense housing. He said the Speaker of the House said there will be carrots and sticks for those cities that provide dense housing along transportation corridors to accommodate Utah's growth. Legislators are worried about increased traffic congestion. The ULCT will continue to lobby that local control matters and that cities are better equipped to determine where density should go. He said part of the effort is educating residents about the increasing population and that cities need to invest in transit options and build the communities to use them.

Mayor Silvestrini thanked the Unified Police Millcreek Precinct for having their Christmas party at City Hall last week. At the party they honored Detective Ronnie Prescott as Officer of the Year. Mayor Silvestrini said Detective Prescott deserved that honor. Council Member Uipi said it was a great event.

4.2 Reports of City Council Members

Council Member Uipi thanked Mayor Silvestrini for his leadership through recent tough issues.

4.3 Staff Reports

John Geilmann said it has been a good year. This time last year staff was moving into the new city hall space and now they are moving into the expanded space. He said that means that staff has the ability to perform better. He said it all starts at the top and the Council is the best. He thanked the Council on behalf of the staff.

4.4 Unified Police Department (UPD) Report

Detective Bettina Allen said UPD has been able to issue 244 citations over the last month from school zones, cross walks, and from high complaint areas where safety is a concern. The three traffic units have tried to do proactive work. UPD obtained a third speed trailer and it allows for more concise research about speeding. She said if the public wants the trailer in their neighborhood, they should request it from UPD. She brought up that "pirates" are stealing packages from porches and for the public to be wary of that.

A resident said there have been problems in her neighborhood and when she calls the Millcreek Precinct, nobody answers the phone. Detective Allen said the precinct is open during regular business hours, but the residents can call dispatch after hours. The resident said there are signs on her street that say, "fire lane, no parking." A building on her street rents to dancing and yoga classes and those customers park in the fire lane area. She said sometimes her neighbors cannot get to their house because of all the street parking. Detective Allen said the resident could contact her personally.

4.5 Unified Fire Authority (UFA) Report

District Chief Woolsey said that John Geilmann says, "Play to Win." He said that motto includes the members of the community and he watches that play out; it is refreshing to see. He said it looks like they are going to have about 30 people in camp, but 28 people

have contingent offers based on background checks. The thermal imaging camera training is going well. The media will go through that training on Friday. UFA is working through the changes with the new ambulance paramedic and EMT partnerships, so they can be smooth for when that program starts in February. Mayor Silvestrini asked Chief Woolsey to convey a happy holidays to the stations.

5. Consent Agenda

- 5.1 Approval of October 22, 2018 Work Meeting and Regular Meeting Minutes
- 5.2 Approval of November 13, 2018 Work Meeting and Regular Meeting Minutes
- 5.3 Approval of November 26, 2018 Work Meeting and Regular Meeting Minutes

Mayor Silvestrini said he gave the Recorder a couple of corrections in the October 22, 2018 minutes involving the term "pooled services."

Council Member Uipi moved to approve the minutes. Council Member Jackson seconded. Mayor Silvestrini called the vote. The motion passed unanimously.

6. New Items for Subsequent Consideration

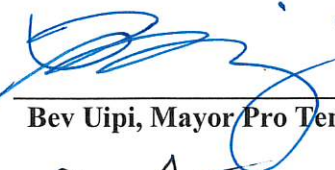
7. Calendar of Upcoming Events

- Planning Commission Mtg., 12/19/18, 5:00 p.m. at City Hall Annex

Mayor Silvestrini said there was a scheduled Community Reinvestment Agency special meeting on December 17, 2018 to consider findings of the blight study but there is no need to have that meeting now. The next Council meeting will be January 14, 2019 at the new space in City Hall. He wished everyone in Millcreek a happy holidays.

ADJOURNED: Council Member Uipi moved to adjourn the meeting at 8:54 p.m. Council Member Catten seconded. Mayor Silvestrini called for the vote. The motion passed unanimously.

APPROVED:


Bev Uipi, Mayor Pro Tempore

Date

1/14/19

Attest:


Elyse Greiner, City Recorder