



**Minutes of the
Millcreek City Council
November 22, 2021
5:00 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 November 22, 2021 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was live streamed via the City's website with an option for online public comment.

PRESENT:

Council Members

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

City Staff

John Brems, City Attorney
Elyse Sullivan, City Recorder
Kurt Hansen, Facilities Director
Mike Winder, Assistant City Manager
Francis Lilly, Planning & Zoning Director
Rita Lund, Communications Director
Robert May, Long Range Planner
Aimee McConkie, Millcreek Common Director

Attendees: Nathan Anderson (electronic), Thom DeSirant, Marv Poulson, Sally Beesley, Beth Hartung-Soria, Hamlet Soria, K. Hansen, Heidi Reynaud, Allan and Emily Wood, Lisa Baskin, Chief Duane Woolsey, and Chief Steve DeBry.

WORK MEETING – 5:00 p.m.

TIME COMMENCED – 5:02 p.m.

Mayor Silvestrini called the work meeting to order.

1. Closed Session per Utah Code Ann. §52-4-205(c) Strategy Sessions to Discuss Pending or Reasonably Imminent Litigation

Council Member Jackson moved to go into a closed session per Utah Code Ann. §52-4-205(c) Strategy Sessions to Discuss Pending or Reasonably Imminent Litigation at 5:02 p.m. Council Member Catten seconded. The Recorder called for the vote. Council Members Catten, Marchant, and Jackson, and Mayor Silvestrini voted yes. The motion passed unanimously.

Council Member Jackson moved to go back into the public meeting at 6:36 p.m. Council Member Marchant seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

Council Member Jackson moved to adjourn the work meeting at 6:38 p.m. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. 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 led the pledge of allegiance. He excused Council Member Uipi.

1.2 Public Comment

Thom DeSirant, 718 E. Nibley View Court, expressed favor for Planning Item 2.2. He felt there was a lack of new owner-occupied housing and appreciated that this project would be. He said his generation had a hard time buying housing in the current market and wished to see more owner-occupied housing in the future.

Marv Poulson, 3631 S. 1020 E., said the City Center Master Plan was adopted two years ago and it had since been amended. He said the green space had been minimized and pavement maximized. He expressed concern about energy efficiency of the new city hall and not being progressive. He thought the “Connected By Nature” motto was not being followed and the proposed city hall would use more energy than necessary. He said the Salt Lake City police station was progressive, as an example.

1.3 Unified Police Department Millcreek Precinct Officers of the Month for October 2021 – Officer Chris Schroeder and Forensic Investigator Emily Wood

Chief Steve DeBry announced Officer Chris Schroeder (not present) and Forensic Investigator Emily Wood as the Officers of the Month for October 2021. Chief DeBry said Officer Schroeder responded to a residential burglary. The suspect entered the house through a sliding glass door and stole multiple items, including a handgun. A St. Mark’s Hospital patient bracelet was found outside near the victim’s residence. The patient had been arrested and transported to the hospital where he fled on foot. Investigator Wood lifted fingerprints from the sliding glass door and determined them to match those of the suspect who fled from the hospital. Officer Schroeder connected this suspect to one suspected of stealing a vehicle in South Salt Lake City. The same suspect was identified in all cases.

Mayor Silvestrini thanked Wood for her work. The Citizens Advisory Board gave Forensic Investigator Emily Wood a gift. Mayor Silvestrini noted that forensic investigation was a pooled service through the Unified Police Department (UPD).

2. Planning Matters

2.1 Discussion and Consideration of Ordinance 21-50, Rezoning Certain Property Located at Approximately 4088 South Highland Drive from R-1-8 Zone (Residential) to C-2 Zone (Commercial)

Mayor Silvestrini said the Council had a first reading at their last meeting for a rezone of a small parcel from R-1-8 to C-2. Robert May said the planned unit development project would consist of four 3-bedroom units and seven 2-bedroom units. The four units facing Highland Drive would have ground floor commercial of 375 square feet each. The 1,700 square feet of property pertaining to the rezone would be used for parking. When the project gets platted, the site will get consolidated into one piece of property. He showed the Council the building elevations that had heights of 35 and 45 feet. He noted the General Plan intended to encompass the property in the mixed-use zone. The Millcreek Community Council recommended approval of the rezone. In that meeting, buffering the west property line with trees and regulating the type of commercial space in the live/work units was discussed. The Planning Commission recommended approval of the rezone. Based on the staff findings, the development agreement was crafted to include the following considerations:

1. The development site plan as presented in Exhibit C shall not change
2. Elevations and locations of buildings of development as presented in Exhibit C shall not change
3. Building materials and façade articulation of development as presented in Exhibit C shall not change
4. Developer shall plant a minimum of 6 trees no less than two inches in caliper along the west property line. Trees along west property must be columnar birch or poplar.

Mayor Silvestrini asked about the correction of the developer's address on the development agreement and said he substituted the page with a corrected address page. Anderson said he was okay with that.

Mayor Silvestrini asked for public comment. There was none.

Council Member Jackson moved to grant approval of rezone application ZM-21-003 accompanied with a development agreement that outlines the conditions recommended by staff and adopt Ordinance 21-50. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

2.2 Discussion and Consideration of Ordinance 21-51, Approving a Master Development Agreement for a New Mixed-Use Planned Unit Development Consisting of 7 Residential Townhomes and 4 Live/Work Townhomes with Respect to Approximately 0.63 acres of Real Property Located at Approximately 4080, 4088, and 4090 South Highland Drive

Council Member Jackson moved to adopt Ordinance 21-51, approving a master development agreement for a new mixed-use planned unit development located at approximately 4080, 4088, and 4090 South Highland Drive. Council Member Marchant seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

3. Business Matters

3.1 Millcreek Community Foundation Presentation; Aimee McConkie, Millcreek Common Director and Mike Winder, Assistant City Manager

Mike Winder said there had been discussions on what kind of mechanism a city could have to attract different charitable donations, funds, and assistance. Aimee McConkie said Venture Out started years ago and since then she learned how to operate a non-profit. She said a not-for-profit entity was a tool that she saw other organizations using. She proposed a Millcreek Community Foundation nonprofit. The purpose of the foundation would be to raise funds to service Millcreek residents per Utah State Code 10-8-2. The proposed governance would have the City Council as the Board of Directors and key staff positions as the executive committee so the entity could continue in the future and the goals would be aligned with the Council's goals for the City. Venture Out could also be tied with the Foundation. The next steps, if the Council was in favor of it, would be for staff to prepare the legal documentation, a business plan, a concept of operation, and an operating budget.

Council Member Marchant asked if it would be intended just for the City Center area or if it could be used for improvements at other parks. Winder said it could be used elsewhere but the impetus was the City Center. He said donations made to the city are tax deductible, but donors feel better about donating to 501(c)3s. Council Member Marchant asked if donations could be targeted to a particular event. McConkie said yes, it would be a mechanism to do community good. She said it would have to meet a charitable donation standard per the IRS guidelines. Mayor Silvestrini said the City's partnership with Comcast for the Internet Essentials Program required a non-profit organization to be involved for the grant funding, so the city joined with PIC2AR. The foundation could have the single focus of operating Millcreek Common or be successor to Venture Out, but it would provide institutional structure, so events are not based upon one person. Council Member Jackson asked if the Promise Program donations would be part of it. Winder said that was considered but he wanted to get the framework set up first. Council Member Marchant asked how targeted funds get documented. McConkie said the Council would identify key needs for the city and have advisory committees over the needs. Mayor Silvestrini said the finances would be administered by the city. McConkie said there would be reports showing where funds were going. The Council gave positive feedback for staff to bring a formal presentation for consideration.

3.2 Wasatch Boulevard Study Update; Rita Lund, Communications Director

Rita Lund said Cottonwood Heights did a study for Wasatch Boulevard a couple years prior. Holladay received a grant to study their section and asked Millcreek to participate to study its section too. In November there was a public open house from the various user groups of Wasatch Boulevard. From that, a list of values and priorities were drafted for the Wasatch Boulevard Phase II Corridor Study. The values were:

- Options and infrastructure for accessing jobs, amenities, and recreation using transit, shuttles, and carpooling should be improved.
- Active transportation connections are a critical component of Wasatch Boulevard that should be preserved and expanded to better serve users of all ages and abilities.
- Pedestrian access should be improved and expanded around existing and planned commercial/mixed use development hubs.
- Traffic flow should remain functional and efficient as the corridor continues to develop, while preserving the character of Wasatch Boulevard as a secondary facility to I-215.

- Design measures that can encourage safer driving should be implemented where speeding or potentially unsafe conditions exist today.
- Preserve access to nature and recreation, neighborhoods, and businesses while accommodating a range of users.

Lund showed the Council a website with an interactive public survey on it for the Wasatch Boulevard Phase II project. Mayor Silvestrini asked who the consultant was. Lund said Alta Planning. She asked for Council feedback.

3.3 Request for Gate at Scott Avenue Park; Rita Lund, Communications Director

Rita Lund said there had been problems with campers parked overnight in the parking lot at Scott Avenue Park. It was suggested that a gate be put in the parking lot. The cost would be about \$2,500. Lund wondered if neighbors could lock and unlock the gate. Council Member Jackson asked if more than one person could do it. Lund said yes. Mayor Silvestrini said UPD would need to know who to get a hold of. Council Member Marchant said there were some transient people living in the restroom at that park. He expressed concern for the safety of people closing/opening gates. Council Member Jackson asked about an automated gate. Lund said those could be jammed by people. Council Member Marchant said people may have to approach visitors to leave. Lund said UPD would be called in those situations. Mayor Silvestrini asked about the origins of the gate cost estimation. Lund said it was proposed by the Salt Lake County Parks Department.

Lund noted that there were dangerous playground toys that needed to be removed at Fortuna Park.

3.4 Review of Referendum Process; John Brems, City Attorney

Mayor Silvestrini said the city received a referendum application with respect to the ordinance that was passed by the City Council to change the requirements for billboards in the City Center on November 15, 2021.

John Brems reviewed a Powerpoint presentation that explained the entire referendum process from application to election as prescribed by Utah Code 20A. The presentation included dates specific to the current process with the application challenging Ordinance 21-48 as well as general information. He made a disclaimer that the presentation was for informational purposes only and should not be relied upon by referendum sponsors.

Brems explained that the Council had three date options for an election should the referendum sponsors collect the required number of signatures. The Council needed to make a determination that night because they would not have another regular meeting before the petition packet which included the possible election date was provided to the referendum sponsors. Utah Code § 20A-7-607(5)(c) or 20A-7-609(2), provided for: November 8, 2022, the next general election, June 28, 2022, a special election date by agreement with affected owners, local clerk, county clerk, and city attorney, and November 7, 2023, the next regular municipal general election. State code stated that the land use referendum shall appear on the next regular municipal ballot (November 2023) unless the City Council called a special election. The special election days per Utah Code § 21A-1-204 are June 28, 2022, or November 8, 2022, or another date if the City Council

is unanimous. He noted that June 28, 2022 was too soon of a turnaround from when the City Recorder had to determine if the number of signatures from the petition was sufficient.

Council Member Jackson asked if the Salt Lake County Clerk's Office had provided a recommendation. Elyse Sullivan said she had been in communication with that office, and they felt the date options available to Millcreek were November 2022 or November 2023. They said the ballot for the next election in 2022 would be crowded, so if the referendum created a situation where a second ballot page was needed, extra costs of an unknown amount would be incurred by Millcreek. The County would not send out a separate ballot. They could also accommodate the referendum at the next municipal election in 2023. That election would be city-wide with the mayoral race, so there would not be an additional cost for the referendum. The estimated not to exceed cost for that election was \$145,088. Sullivan noted that she got the final word from the Salt Lake County Clerk's Office about accommodating the election shortly before the Council meeting, so before then she had reached out to Utah County inquiring if they would host a special election for Millcreek. Utah County was willing with an estimated cost of \$125,000, but that would create two ballots for residents and could be confusing. Council Member Catten did not like the idea of having Utah County run a special election. Council Member Jackson expressed concern about the referendum being on the 2022 ballot and getting lost with other items on multiple pages. Sullivan noted that Millcreek did a city-wide election in 2019 and the estimated not to exceed cost provided by the County then was \$130,000 but it only cost \$44,000. John Brems pointed out that 2023 was two years away and it could be a political campaign issue.

Mayor Silvestrini asked for public comment. There was none.

Brems went over his recommended code of conduct for Millcreek officials and staff. He noted that there were intersecting constitutional rights with free speech. He said public funds could not be used for political purposes or to influence a position. He recommended that accurate, factual, and neutral communications should be provided in a timely manner and in the capacity as a representative of Millcreek. If comments were made in a personal capacity, he cautioned that non-Millcreek residents consider why they were making a comment. He recommended that everyone be a courteous professional and exercise discretion when posting anything on personal social media.

3.5 Discussion and Consideration of Resolution 21-40, Establishing an Election Date to Consider a Possible Referendum Challenging the Adoption of Ordinance No. 21-48

Council Member Jackson did not like pushing the election to 2023. Mayor Silvestrini noted the cost was more finite in 2023 and would not be an additional cost. Council Member Catten asked John Brems on his recommendation. Brems did not have one. Council Member Jackson asked for Elyse Sullivan's recommendation. Sullivan said she did not have one. Council Member Catten asked about other dates at random. Sullivan said state statute dictated June (primary election) and November (general election) for a special election. Council Member Marchant asked about the June 2023 primary. Sullivan said primary elections were partisan and every registered Millcreek voter may not receive

a ballot. She also noted that if the city opted to do ranked choice voting again, there would not be a primary election.

Council Member Catten recommended November 2023 for time and cost. Council Member Marchant said there would be a broader response at that time.

Council Member Catten moved to adopt Resolution 21-40 establishing November 7, 2023 as an election date to consider a possible referendum challenging the adoption of Ordinance No. 21-48. Council Member Jackson seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

4. Reports

4.1 Mayor's Report

Mayor Silvestrini reported that the city has had a series of calls for service at Holladay Hills Apartments. The City sent the property owner a nuisance violation letter. Staff has had two separate meetings with property management and received a positive response from the property owner who indicated they would work on cleaning up the property and getting better security. He noted there had been problems with tenants with bad behavior and not paying rent as well as a lot of unattended small children. The Promise Program Manager would explore getting space at the state building to the south of the complex or an apartment at the complex to set up an after-school program. Council Member Catten suggested including Principal Higgins at William Penn Elementary School in conversations because she could give good insight. The Mayor noted the city was trying to solve a problem.

The Mayor reported that the paving on 3900 S. was done, so there would be a ribbon cutting on that project at 2300 E. 3900 S. on November 24th. There was work that remained to be done including installing two hawk crossings. Also, the Mountair streetscape was being worked on again. The planting would be done in the spring. The project delay was between Comcast and Rocky Mountain Power burying and relocating utilities.

The Mayor wished everyone a pleasant Thanksgiving.

4.2 City Council Member Reports

Council Member Jackson said the Community Renewable Energy Program Design Committee was continuing to meet weekly.

4.3 Staff Reports

Francis Lilly briefed the Council on a proposal for a private right-of-way to be dedicated to a public use on Pinnacle Place cul-de-sac. The County has been slow plowing it for a long time. The three property owners have petitioned the city to have it platted to a public use. Lilly briefly reviewed the dedication process. Staff has determined there were no significant engineering defects for the city to take it for public use. The cul-de-sac has an 80-foot diameter which is the minimum a fire truck needs for a turnaround access. There is no space for the addition of sidewalk. The dedication ordinance requires sidewalk, but the code allows for the applicants to seek a sidewalk exception through a separate process. Staff would not object to the dedication or sidewalk exception. Council Member

Marchant asked about garbage collection. Mayor Silvestrini said the residents had been receiving services like it was a public street. Lilly said the sidewalk exception would be perpetual.

Lilly said every month he would send the Council a dashboard/development summary of project progress in the City Center and their relation to the greatest impact scenario for density. He then reviewed the report. Mayor Silvestrini noted that maximum density was not being reached by the projects.

4.4 Unified Fire Authority (UFA) Report

Battalion Chief Duane Woolsey said a UFA station captain passed away. He had served in many capacities in the Salt Lake area. UFA was struggling with hiring personnel, so they implemented a mandatory staffing policy. They recently hired four paramedics, but they were looking to hire sixteen. He said the Authority's Centennial was on November 21st, so he had presented 100-year coins to the Council. Chief Woolsey listed the personnel promotions. He presented the third quarterly report to the Council. There were 1,526 total incidents but only 11% were emergent. He listed the top fire and top EMS dispatches. There were 1,414 engine responses and 1,142 ambulance responses from the three fire stations.

4.5 Unified Police Department (UPD) Report

Chief Steve DeBry said on December 1st the Precinct would have their Christmas celebration. He then provided the October 2021 crime statistics. There were 3,023 calls for service, 932 total cases, 417 citations, and 54 booking arrests. There were 44 assaults, 16 burglaries, 19 drug offenses, 71 family offenses, no homicides, 100 larcenies, 4 robberies, 7 sex offenses, and 44 stolen vehicles. He announced that the Millcreek Community Oriented Policing Unit joined with school resource officers for Red Ribbon Week at Upper Terrace Elementary School where students were able to talk with police officers, look at police vehicles, and ask questions. The Millcreek Community Oriented Policing Unit joined with Unified Fire Authority and IHC for Millcreek Elementary's Trunk or Treat. He provided figures for traffic enforcement at 3300 S./Highland Drive and listed three properties that had transient encampment refuse collected which amounted in 5,100 pounds transported to the landfill.

5. New Items for Subsequent Consideration

There were none.

6. Calendar of Upcoming Events

- Canyon Rim Citizens Association Mtg., 12/1/21, 7:00 p.m. TBD
- East Mill Creek Community Council Mtg., 12/2/21, 6:30 p.m. TBD
- Mt. Olympus Community Council Mtg., 12/6/21, 6:00 p.m. TBD
- Millcreek Community Council Mtg., 12/7/21, 6:30 p.m. TBD
- City Council Mtg., 12/13/21, 5:00 p.m. at City Hall

Francis Lilly said all four community councils would be discussing the Millcreek Common West project in December. Winder noted that the Council would meet on December 20th in lieu of the 27th.

ADJOURNED: Council Member Jackson moved to adjourn the meeting at 9:03 p.m. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

APPROVED:  Date 12-20-2021
Jeff Silvestrini, Mayor

Attest: 
Elyse Sullivan, City Recorder