



**Minutes of the
Millcreek City Council
May 11, 2020
5:30 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 May 11, 2020 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106. The meeting was conducted electronically per Millcreek State of Local Emergency Directive No. 2 of 2020 and 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 (electronic)

City Staff

John Geilmann, City Manager
John Brems, City Attorney
Elyse Sullivan, City Recorder
Kurt Hansen, Legislative Policy Director
Francis Lilly, Planning and Zoning Director
Laurie Johnson, HR-Finance Director
Jim Hardy, Building Services Director (electronic)
Rita Lund, Communications Director
Mike Winder, Economic Development Director
John Miller, City Engineer (electronic)
Erin O'Kelly, Planner
Blaine Gehring, Legislative Policy Analyst
Jared Bowling, IT & Facilities Manager

Attendees: Jimmie Hartley and Chief Steve DeBry

WORK MEETING – 5:30 p.m.

TIME COMMENCED: 5:38 p.m.

Mayor Silvestrini called the work meeting to order.

1. Accessory Dwelling Unit Report; Erin O'Kelley, Planner

Erin O'Kelley said in the February Council work meeting, she gave a summary of the public outreach conducted by staff on accessory dwelling units (ADUs) and the Council discussed possible regulations for an ordinance. She said the Council had previously requested a full collection of the survey results and analysis which could be found in the current meeting staff report. She said she would go over regulations compared to other cities in the County, and elements of the draft ordinance. She gave a brief summary of the four online public survey

results. Mayor Silvestrini said it appeared that the third survey was less reliable because it seemed like someone was continually submitting the same responses multiple times within a short window of time. O'Kelley pointed out that the fourth survey was only open for the open house attendees in January 2020. She then showed a matrix of conditions with other cities regulations on ADUs which included: owner occupancy, residential zone, one per single-family house, attached versus detached, maintaining a single-family appearance, that ADUs could not be sold separately, whether separate utilities were allowed, if they were compliant with building code, parking requirements, entrances on the side or rear, size allowed, occupants, bedrooms allowed, and special considerations. She said elements of the draft ordinance had similarities to other cities. Millcreek's conditions with the proposed ordinance would be that the ADU had to be owner occupied, in a residential zone, one would be allowed per single-family house by zoning district, attached and detached would be allowed, it must maintain a single-family appearance, it may not be sold separately, separate utilities would not be allowed, it had to be compliant with building code, there would be a parking requirement, there could be an entrance on the side or rear, the size allowed would be 50% of the main dwelling or a 850 square feet maximum, could house two adults or a family as defined in code, two bedrooms would be allowed, and there would be 10 foot setbacks. She mentioned that the draft ordinance would require one parking space per bedroom.

Mayor Silvestrini asked about height provisions. O'Kelley said there were none in the draft. Mayor Silvestrini asked about fire code building occupancies. O'Kelley did not know the determination for fire safety. Council Member Catten asked about a minimum square footage ADU size. O'Kelley said the draft did not acknowledge it. Council Member Jackson asked about minimum lot size. O'Kelley said 8,000 square feet regardless of whether the ADU was attached or detached. Blaine Gehring said lots less than 8,000 square feet typically did not have enough space for ADUs to consider the setbacks and parking requirements. Francis Lilly said the Legislative Policy Department was also considering an ordinance amendment that would require a maximum impervious surface for a residential area.

O'Kelley went over the draft ordinance which considered six options for ADU creation: attached ADUs; converting a portion of an existing single-family home into an accessory dwelling unit, constructing an addition to an existing single-family home as an accessory dwelling unit, and constructing a new single-family dwelling with an accessory dwelling unit; and detached ADUs; constructing an addition to an existing detached structure as an accessory dwelling unit, constructing a new detached structure with/as an accessory dwelling unit, and converting an existing garage into an accessory dwelling unit. She reviewed the application processes for attached ADUs that would go through the Planning Department and detached ADUs which would go through the Planning Commission as a conditional use. Mayor Silvestrini said he would be interested in adding height requirements to the ordinance that matched the zone for detached ADUs. He asked about making existing ADUs conform to the ordinance. O'Kelley said existing ADUs would follow the same application process for them to be legally established. Council Member Marchant asked about an existing inventory of ADUs. O'Kelley said staff did an initial estimate on existing ones though she did not have the numbers with her, but she would do some more research. She said she looked at business license records and tax assessor data as resources. Other development standards in the ordinance considered for all ADUs was not allowing short-term rentals, and fencing, design, and landscaping requirements. Development standards for detached ADUs included height based on underlying zones, 25% maximum lot coverage of rear yard, 10 feet from property

lines, those on flag lots must be within 20 foot setbacks, the ADU should be permanent, and must meet the design standards for accessory structures. Francis Lilly said staff would look at updating accessory dwelling unit language in the various zones. Gehring said other cities have applications that request the date the ADU was built for building code reference. Council Member Catten asked about short-term rentals in the ADU. O'Kelley said short-term rentals would not be allowed per the draft ordinance. Lilly said there was concern for them because of housing affordability. O'Kelley said a Building Department inspection would be required before a final decision was issued from the Planning Department and then there would be an affidavit recorded to the property stating the ADU was legally permitted. She said she added an exceptions provision to the ordinance to assist with existing structures that could be denied by the Planning Commission. There would be a compatibility of surrounding neighborhoods provision in the ordinance too to assist the Planning Commission in their determination.

Mayor Silvestrini asked about property maintenance and legal implications when the owner does not live on site. John Brems said he would look into it. Council Member Jackson asked about other cities. O'Kelley said other cities required owner-occupancy. Mayor Silvestrini said there would always be enforcement issues with regulating ADUs. He asked if it was better to regulate them on a land use basis or business license basis. John Brems said land use was more permanent and business licenses would be better for enforcement. Council Member Jackson asked about enforcement and compliance with current rentals. O'Kelley said business licenses were better for regulating requirements but she did not know about enforcement. She said people do want to build ADUs for family to live in, but business licenses do not regulate family-lived in rentals, so the land use option was a way to regulate requirements for that scenario. Mayor Silvestrini asked about an annual renewal program. Brems said he would consider it. John Geilmann asked about an annual regulatory process or a one-time thing because that changed things. O'Kelley said the administrative application did not require noticing and asked if the Council would like to add a courtesy notice for neighbors. Mayor Silvestrini said noticing for detached ADUs made more sense than internal ones. He said there would not be a process for objection if the neighbors objected. Council Member Uipi asked about affordable housing for detached ADUs. Lilly said most ADUs would be affordable based on size and bedroom count but there was no language that would force the housing type to be affordable so the market would dictate the affordability. He said the ADU concept was the least disruptive for neighborhoods to add density and affordability.

2. Discussion on Amendments to Short-Term Rental Code Chapter 5.19; Blaine Gehring, Legislative Analyst

Blaine Gehring said the primary requirements for short-term rentals were in Chapter 5 of Millcreek Code and he was recommending changes to it. He recommended that the owner of the short-term rental live on the property as their primary residence, the occupancy be limited to a maximum of two adults per bedroom with a maximum of eight related adults or four unrelated adults, to limit the number of days a short-term rental could be rented and better define the rental duration, that short-term rentals provide one additional parking space per available rented bedroom in addition to the required minimum of two spaces per residence, and to limit the number of short-term rentals through the City. Mayor Silvestrini pointed out that if the owner lived there most of the year, they would want to make sure the property did not get trashed. Council Member Jackson said that she looked online and her District already had more than 25 short term rentals. Council Member Uipi asked about enforcement on the limit. Lilly said other cities limited quantity and had a first-come-first-served waiting list.

Council Member Uipi asked about penalties for exceeding the cap or the process to get on a waiting list. Brems said capping the amount made sense but created problems. He said there could be a disbursement requirement such as a minimum distance apart from each other. Council Member Uipi would not like to have a cap on the number until it became a problem. Council Member Catten pointed out that apartment buildings might be less of a nuisance because people were constantly coming and going. Kurt Hansen asked about the Councils' input on the maximum of 8 adults. Mayor Silvestrini said parking for more than that would be hard to meet.

Mayor Silvestrini said the other work meeting agenda items would be addressed in the regular meeting.

- 3. Discussion on Amendments to Parking in Designated Bike Lanes Code Section 11.20.050; Kurt Hansen, Legislative Policy Director**
- 4. Discussion on Amendments to Disposal of Surplus Property Code Section 2.22.170; Kurt Hansen, Legislative Policy Director**
- 5. Staff Reports**
- 6. Discussion of Agenda Items, Correspondence, and/or Future Agenda Items**

Council Member Jackson moved to postpone items 3-6 to the regular meeting. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

Council Member Catten moved to adjourn the work meeting at 7:00 p.m. Council Member Jackson seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

REGULAR MEETING – 7:00 p.m.

TIME COMMENCED: 7:08 p.m.

1. Welcome, Introduction and Preliminary Matters

1.1 Pledge of Allegiance

Mayor Silvestrini called the meeting to order and then led the pledge of allegiance.

1.2 Public Comment

There was none.

2. Planning Matters

2.1 Discussion and Consideration of Ordinance 20-21, Rezoning Certain Property Located at Approximately 4372, & 4356-4358 S. 900 E. from R-1-8, R-1-5 (Residential Single-Family) & RM (Residential Multi-Family) to C-2 (Commercial)

Mayor Silvestrini said the Council had a first read of the item previously. He asked for public comment. There was none. Council Member Marchant said the item brought zoning conformity to the area and it was appropriate.

Council Member Marchant moved to approve Ordinance 20-21, Rezoning Certain Property Located at Approximately 4372, & 4356-4358 S. 900 E. from R-1-8, R-1-5 (Residential Single-Family) & RM (Residential Multi-Family) to C-2 (Commercial). Council Member Jackson seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

2.2 Discussion and Consideration of Ordinance 20-22, Amending the Millcreek Together General Plan by Changing the Future Land Use Map in the Area of 4372 S. 900 E. from Neighborhood 1 to Retail/Office

Mayor Silvestrini said the item was for a change to the General Plan for the previous rezone.

Council Member Marchant moved to approve amending the Millcreek Together General Plan by Changing the Future Land Use Map at the same location from Neighborhood 1 to Retail/Office. Council Member Catten seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

3. Financial Matters

3.1 Public Hearing on Fiscal Year 2020-21 General Fund and Capital Improvement Projects Fund Tentative Budget

Mayor Silvestrini said the State Treasurer had been trying to get a sales tax revenue collection estimate during the pandemic. The estimate for Millcreek in March 2020 was in excess of \$932,000, only \$6,000 off from last year. He said half of March experienced the Stay Home, Stay Safe Order from the State so a lot of businesses were restricted. Council Member Marchant said the amount was still \$75,000 more than what was received two years ago.

Laurie Johnson said the FY 20-2021 tentative General Fund budget was projected to be \$25,263,613, 5.27% lower than what was expected for FY 2019-20. She said it was a balanced budget that included 3.5% property tax increase. She would not have data to update numbers until June 8th. She said the budget was posted online and no changes had been made to it since it was last presented to the Council. Mayor Silvestrini said the public could make comment on the public comment form on the meeting live stream page of the City's website. He said the public could email the Council as well. He said other cities were not forecasting too much loss in sales tax revenue.

Council Member Jackson moved to open the public hearing. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

While waiting for online public comment, Mayor Silvestrini said he spoke to the Utah congressional delegation about transportation funding and pandemic relief for cities under 500,000 in population. He said now would be a good time to stimulate the economy with infrastructure construction.

There were no public comments.

Council Member Jackson moved to close the public hearing. Council Member Marchant seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

4. Business Matters

4.1 Discussion and Consideration of Resolution 20-18, Amending the Millcreek Employee Policy and Procedure Manual – Second Edition to include Section 4-01 3b. Reporting Fraud, Waste, & Abuse and to update Section 5-02 Travel Policy

Laurie Johnson said the amendment to the employee policy and procedure manual included the addition of section 4-01.3b which provided a process for reporting fraud, waste, and abuse. The second proposed change was an update to section 5-02 Travel Policy which provided guidance for using city and personal vehicles. She said she was tightening policies to lessen risk on Millcreek's financial items. The policies would help to reduce Millcreek's risk from moderate to low based on the assessment from the City's auditor. Council Member Marchant thanked the auditor for the suggestion to reduce risk.

Council Member Marchant moved to approve Resolution 20-18, Amending the Millcreek Employee Policy and Procedure Manual – Second Edition to include Section 4-01 3b. Reporting Fraud, Waste, & Abuse and to update Section 5-02 Travel Policy. Council Member Catten. seconded. The Recorder called for the vote. All Council Members voted yes. The motion passed unanimously.

Work Meeting Items Continued:

3. Discussion on Amendments to Parking in Designated Bike Lanes Code Section 11.20.050; Kurt Hansen, Legislative Policy Director

Kurt Hansen said he was seeking the Council's direction about parking in designated bike lanes per Unified Police Department's direction. The ordinance proposal would add a bike lane definition and add bike lanes to the list of prohibited areas for parking. Council Member Marchant asked Chief DeBry about what areas had the problem. Chief DeBry said Wasatch Boulevard. Mayor Silvestrini said 2300 E. and 900 E. also did. He said there may be no other parking options for residents than in a bike lane, like on Upland Terrace. He said a resident asked him about exceptions for bike lane parking with a residential permit. Council Member Jackson asked about signage to allow for residential parking. Chief DeBry said if Upland had a variance, the other people getting ticketed would be upset. He felt there would be problems with residential permitting exceptions. Council Member Marchant said he did not see the problem on 900 E. Chief DeBry said parking in bike lanes was a safety issue for the bicyclists. John Miller said uphill on Upland had a bike lane because bicycles could not travel with the speed of traffic but there was no bike lane on the downhill side because they could. Council Member Jackson did not feel an exception was necessary. The Council concurred.

4. Discussion on Amendments to Disposal of Surplus Property Code Section 2.22.170; Kurt Hansen, Legislative Policy Director

Hansen said the City would replace equipment, furniture, and vehicles as it continued to grow. The Code did not define nominal value, so he proposed adding a definition of \$100 or less. He suggested two ordinance amendments to the Council; one, staff would bring the Council a list of

items for surplus with a suggested minimum bid and they could declare items as having a nominal value, or two, nominal valued items would not come before the City Council for determination. The Council favored the second option and the \$100 value for the nominal value definition.

5. Reports

5.1 Mayor's Report

Mayor Silvestrini said Millcreek staff was healthy and the County statistics were holding steady with the coronavirus. The City had tentatively received word that it would be getting a \$500,000 grant for the ice ribbon in the City Center. He said he met with members of the Utah congressional delegation that day and would meet with the U.S. Senators during the week. The City had decided to cancel Venture Out activities for the summer as well as the 4th of July parade and breakfast. On May 21st from 2-4 p.m., East Mill Creek Elementary would have a parade for families to see teachers. On May 22nd, there would be a ceremony of sorts for graduating seniors at Skyline High School. Mayor Silvestrini asked Rita Lund to reach out to all the elementary schools to see if they were doing ceremonies/parades. He said he would do a virtual Memorial Day celebration. He announced that the Unified Police Department (UPD) and Unified Fire Authority Boards were continuing to work on their budgets. He reported that Midvale was conducting a feasibility study to leave UPD.

5.2 City Council Member Reports

Council Member Catten said she attended the Jordan River Commission meeting and reported that the "Get To The River Festival" was cancelled. She said Utah residents had been lucky with low numbers of coronavirus cases.

5.3 Staff Reports

Rita Lund said the Unified Command was looking at County-wide special events for the summer.

6. Consent Agenda

6.1 Approval of April 27, 2020 Regular Meeting Minutes

Council Member Jackson moved to approve the minutes from April 27, 2020. Council Member Catten seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

7. New Items for Subsequent Consideration

There were none.

8. Calendar of Upcoming Events

- Planning Commission Mtg., 5/20/20, 5:00 p.m. at City Hall
- City Council Mtg. TUESDAY 5/26/20 at 5:00 p.m., City Hall

ADJOURNED: Council Member Jackson moved to adjourn the meeting at 8:03 p.m. Council Member Uipi seconded. Mayor Silvestrini called for the vote. All Council Members voted yes. The motion passed unanimously.

APPROVED: _____ **Date**
Jeff Silvestrini, Mayor

Attest: _____
Elyse Sullivan, City Recorder

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