



**Minutes of the  
Millcreek Mayor's Meeting  
January 24, 2020  
8:00 a.m.**

The Mayor of Millcreek, Utah, met in a meeting on January 24, 2020 at City Hall, located at 3330 S. 1300 E., Millcreek, UT 84106.

**PRESENT:**

**Council Members**  
Jeff Silvestrini, Mayor

**City Staff**  
Robert May, Planner  
Elyse Sullivan, City Recorder

**Attendees:** Marv Poulson and Richard Hansen

**MEETING – 8:00 a.m.**

**TIME COMMENCED: 8:10 a.m.**

Mayor Silvestrini called the meeting to order.

**1. Discussion and Consideration of EX-19-002, Sidewalk Exception at 2525 E. Neffs Lane by applicant Ryan Heath**

Mayor Silvestrini said he attended the East Mill Creek Community Council meeting and Planning Commission meeting when this application was heard. He noted that the applicant's employer was a contributor to his campaign for Mayor, but it did not have any bearing on the application. Robert May said the sidewalk deferral was triggered by a flag lot subdivision application. Per Millcreek's zoning code, new development must install all public improvements or bond for them though the code does allow for a sidewalk exception option. That option must get recommendations from the Public Works Director, the community council, and the Planning Commission and the applicant went through that exception process. The Planning Commission recommended to the Mayor to grant the proposed sidewalk exception based on a recorded deferral agreement. The East Mill Creek Community Council voted to recommend denial of the proposed sidewalk exception based on their concern that Neffs Lane should have all public improvements installed. The Public Works Director could not justify recommending a sidewalk exception based on the following reasons: the open irrigation ditch posed a risk with its proximity to the travel way; and although the new home would be the first home with sidewalk on the north side of Neffs Lane, it was only a matter of time before other homes subdivide or rebuild, completing the missing segments of sidewalk. May said the proposed deferral agreement said the applicant may have to install the sidewalk within 10 years.

Marv Poulson, 3631 Carolyn Street, asked why the application went through the current exception process instead of going to a City Council meeting for decision. Mayor Silvestrini said the City inherited the County's process for exceptions and the Council delegated the authority to the Mayor to grant exceptions by ordinance. Poulson said new homes in his neighborhood had to install sidewalks and it did not seem fair to allow someone else to defer the requirement or get an exception. He brought up due process and equal protection as a basis for argument.

Mayor Silvestrini pointed out that the applicant was not present for comment. He then asked for other public comment.

Richard Hansen, 3630 Carolyn Street, said houses in the subject neighborhood were probably built before the code was in place, but the City should now enforce the current code. He felt that the neighborhood would come up to code at some point. May said the City does require improvements to be installed for all new development, but the applicant does get the opportunity to ask for an exception.

Mayor Silvestrini said the original philosophy behind resolving issues at a Mayor's meeting instead of at the City Council meeting was to free the Council from dealing with administrative matters. He said the Council did discuss the process when the City first incorporated and the Council elected not to hear those items. He said if the public would like the process to change, the Council would be open to that. He pointed out that the City was not forgiving the property owner of the requirement to install the sidewalk by granting a deferral, just relieving the obligation for a period of time. He felt the agreement should be extended from 10 to 20 years because he had done other deferrals for 20 years. The consideration for granting a deferral was done through a case-by-case analysis, so the Mayor did not feel that this was an equal protection argument. The Mayor said nobody would use the sidewalk in front of one property if it was not contiguous to other sidewalks and a standalone sidewalk would create drainage problems. He said he was aware of the irrigation ditch in front of the property and of the Planning Commission's consideration that the irrigation ditch be piped. He said he would require that the ditch be piped as a condition in the deferral agreement. Mayor Silvestrini and May said the applicant planned to pipe the ditch anyway. Poulson asked about a required surface finish for the buried pipe. The Mayor said it could be dirt. Mayor Silvestrini said curb and gutter would still be installed, the deferral was only for sidewalk. He requested that Exhibit B be amended to make it clear that the deferral did not apply to the requirement to install curb and gutter. He said in reviewing the property, there was almost complete sidewalk on the south side of Neffs Lane and none on the north side so he did not see a reason to install sidewalk now though it did not relieve the applicant to install it in the future. The Mayor said if the opportunity for more sidewalk on Neffs Lane was presented, the applicant would be required to install it at that time. The agreement says for a period of 20 years, the applicant does not have to install sidewalks unless the City requires it. The agreement would be recorded to the property so it stays with the property though the owner may change. Mayor Silvestrini read from Section 3, Termination of Deferral, and requested that the date be changed from 2030 to 2040.

Mayor Silvestrini said with the amendments to the agreement he had mentioned, he granted the deferral. He said he appreciated the recommendations from the Public Works Director and East Mill Creek Community Council for denial. He said the Public Works Director said

the irrigation ditch would pose a safety hazard, so with it being buried, the safety concern would be alleviated. Residents at the East Mill Creek Community Council did not want the project to be approved at all which was why they did not want to grant the sidewalk exception. Poulson asked if the City would inspect the burial of the ditch. Mayor Silvestrini said yes, it would happen through the building permit process. May said the East Mill Creek Water Company would inspect it too.

Mayor Silvestrini instructed May to inform the City Attorney of the changes to the deferral agreement; that Exhibit B state that the deferral was only for sidewalk, to change the date from 2030 to 2040 in Section 3, and add the condition that the deferral was subject to the burial of the irrigation ditch.

**The meeting adjourned at 8:30 a.m.**