



APPROVED 6/12/17

Minutes of the
Millcreek City Council
Special Meeting for MSD Study
Tuesday, May 23, 2017

Councilmembers present

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

Other present

Leslie Van Frank – Acting Recorder

Mayor Silvestrini called the meeting to order at 6:32 pm, and led the audience in the Pledge of Allegiance.

Mayor Silvestrini explained that state law required Millcreek to do a study on the feasibility of leaving the Municipal Services District (MSD), even though the voters already voted to leave. He explained that the law required Millcreek to study two scenarios: one, staying in the MSD, and two, leaving the MSD and self-providing all services. There is a penalty if, by providing our own services, Millcreek would have more than 105% revenues above costs of services

The mayor explained that the city had also asked for a study of two other scenarios: What would it cost to contract with the county directly? What if we contracted for most but did our own planning?

The mayor said that in the meeting, the study would first be presented, then public comment would be held. He explained that the City Council would have a public meeting next week, on May 30th, to decide whether to leave the MSD.

Mayor Silvestrini introduced the study consultant, Jason Burningham, from Lewis Young, Robertson & Burningham, Inc. Mr. Burningham gave some background information about his firm and about the selection process. He gave a short an introduction of the study, and then presented slides.

Mr. Burningham first summarized the study. He explained that his firm had prepared four scenarios. The first and fourth were required by statute. The second and third were prepared at Millcreek's additional request.

The first scenario has Millcreek staying in the MSD. In the second, Millcreek leaves the MSD and contracts with the county for all services. In scenario three, Millcreek leaves MSD and contracts with the county except for planning and development services (business licensing, land use development, zoning, code enforcement, etc), which Millcreek would self-provide. The fourth scenario assumes the City leaves the MSD and self-provides all services.

Councilwoman Uipi joined the meeting at 6:42 pm

Mr. Burningham explained that the percentages shown on the charts show the percentage of revenues to expenses. Under scenario one, for every dollar of municipal services provided (public works, necessary employees, and so forth), there's \$1.08 generated within the boundaries of Millcreek. That's significantly more revenue than the cost of providing the current level of service. Most of that 8% has been used for other things, such as administrative and capital costs in other areas outside of Kearns, Magna, and other township areas.

Scenario two – The percentage comes down because by contracting with MSD, the city would avoid administrative expenses that would otherwise be provided by the MSD. This scenario would have 6% being retained by the city to be used as it wished. The same is true with scenario 3.

Scenario 4 – There would be significant start-up costs, including a new city office building, public works building, and all the necessary employees. There would have to be a tax increase of \$260 on the average home in Millcreek.

The study looked at demographics. Population drives sales taxes. Mr. Burningham's firm looked at various sources, information from the governor's office, his firm's own data, a Kem Gardner study. Millcreek has just under 60,000 people. The average growth rate is small.

Millcreek has almost 24,000 households, and 6,600 acres of development. This is not overly dense compared to a major metro area, but is certainly consistent with other cities along the Wasatch bench.

The study looked at projected growth, including new development projects in Millcreek. Growth has been slow, but many mixed-use projects have been proposed and worked on. Artesian Springs, the Town Center plan, Meadowbrook. These are all contemplated projects. The study anticipates 1,362 new residents due to this new growth. That rate is still well below the average growth rate in Utah. Millcreek's sales tax growth, though still very healthy, doesn't grow as rapidly as some of the other communities you might see in Utah, Salt Lake, or Davis Counties, because population is a factor,

People per household will go down, because of the higher density development. The mean AGI will continue to increase, however. These factors help forecast what the revenues will look like.

Millcreek's economic tax base is quite phenomenal. Almost \$8 billion in market value, almost \$4 billion in taxable value, (because tax value isn't as much as market value). Millcreek has a high percentage of residential property: 73%. About 9% is office, 8% commercial, and the rest is made up of institutional, vacant land, etc. This is very diversified compared to other communities the study reviewed.

Sales tax is by far the largest revenue stream that comes to the city. More than 1600 sales tax outlets. i.e., established places of business that impose and collect sales tax on services and goods. The businesses collect the tax and remit to state tax commission. It gets redistributed, 50% based on population, 50% based on point of sale.

The types of outlets include retail and manufacturing. This is good diversity though retail is the most significant.

The data for the study came from the county and the state tax commission. Mr. Burningham's firm then geo-coded the 1662 outlets, and determined whether they were within Millcreek's boundaries as incorporated. The study estimates that Millcreek would have generated \$9.9 million in sales tax revenues in 2016.

The facilities Millcreek owns include parks (Scott Ave, Canyon Rim, Fortuna and Sunnyvale), roads (171.5 centerline miles, which is significant for a city with just 60,000 in population), and storm drain systems (370,640 linear feet). It will cost money to maintain these facilities. The statute required the study to look at the capital outlay to maintain these.

Historically, what has been put into capital hasn't been sufficient long-term going forward. Roads and infrastructure have been becoming depleted, and resources need to be reinvested back into them.

Most development will be in-fill development. But the growth in tax value will continue, and there should be another \$100 million in taxable value over 5 years.

5-year cost projections:

Here's what the MSD provides:

Township services (administration)

Public works (roads, curb, gutter, snow plowing, street lighting,)

Engineering

Planning and development (zoning, land use planning, community development, business licensing)

Animal services

Parks

Capital projects. Only \$500,000 has budgeted for Millcreek, which is not nearly enough, so the study increased it to \$2 million.

Mr. Burningham explained the cost projections for each scenario.

If scenario 4 were to produce revenue in relation to expenses in excess of 105%, then Millcreek would be required to pay the difference to the MSD for ten years

Mr. Burningham explained that Class C road funds are comprised of the gas tax that the state collects. The state distributes a percentage to local government. In counties, the gas tax is known as Class B road funds, in cities, it's Class C. The population and number of road miles within the jurisdiction determine the percentage distributed.

In scenario 1, where Millcreek remains in the MSD, Millcreek would be paying 8% to the rest of the areas served by the MSD. Millcreek has helped to subsidize other areas within the MSD.

Scenario 2 – one of the great benefits of withdrawing and then contracting back, the contracts that have been offered have been much more aggressive in terms of cost-savings. Other local governments and the county have been interested in providing services to Millcreek. The difference here is that 6% above the expenses can be further deployed by Millcreek within city boundaries.

The same is true in scenario 3 – 1% is a couple of hundred thousand dollars, plus about \$2 million more in capital. Millcreek will determine how it is to be used in the budget

In scenario 4, there would probably be some phasing in. The city might not build a brand new building for the city or for public works. But study looks at it as though the city is starting new and it's all fresh. Taxes would have to go up \$260 per \$345,000 median value Millcreek home.

The study requires a determination of the impact on the remaining areas, i.e., the remaining unincorporated areas and municipal townships.

Without Millcreek withdrawing, under 1st scenario, it would cost the remaining areas about \$350,000 annually because of additional administrative costs. Spread out among the members of the MSD, it's about \$5 per \$98,410 taxable value house

In Scenario 2, the impact to the rest of the county is \$31 on the same value house. In Scenario 3, it's about \$32 but there's an expense reduction that goes along with it. Under scenario 4, the impact would be \$79 per single family dwelling unit.

Mr. Burningham said that there are several conclusions to be made:

Withdrawing does make some financial sense to the City, primarily for the control of revenues, being able to deploy the revenues more specifically within city boundaries.

The study also concludes in scenario 4 that the city does not exceed the 105% rule, so there is no requirement if Millcreek was to self-provide to give any money back to the county.

Scenarios 2 and 3 give the city council the opportunity to look at what services it wanted to control.

Mr. Burningham turned the meeting back to the Mayor

The Mayor explained that one of the challenges for the consultant was to get information from the county. The county didn't want to give out the info because they recognized they'd be competing with other bidders. They didn't want to be in the unfavorable position of making their prices public, and then be outbid. The Mayor explained that the city council knows the residents of Millcreek like animal services, snow plowing, roads and so forth. So he went to County Mayor Ben McAdams and said that the consultant needs the information. He and the county came to an understanding that if Millcreek leaves the MSD, Millcreek could commit to contracting with the county for at least a year. The City Council said that if the city decided to start its own planning department, that's enough to do the first year. Once we committed to the one-year contract, the County gave us the costs. The mayor has contracts ready to be signed for the services if that is what the decision ends up being.

The Mayor explained that the County Mayor's finance group has said that the Lewis Young study is a good one. These are good numbers. The tax projections are commensurate with the County's and the state's. The Mayor feels good about these numbers.

The Mayor then announced that the city will be receiving \$1.77 million in start-up funds. That will allow the city to have 7.5% in reserves, which helps the city's borrowing capacity if that became necessary in the future.

The mayor explained that last year, Millcreek had two large grants from the state (900 East) and from the federal government (2300 East), so the county indicated that it was going to spend only \$660,000 on capital projects in Millcreek this year. Our money is spread around to the unincorporated county and the municipal townships. In our proposed budget for this next year, there will be nearly \$3 million to contribute to roads.

The mayor said that it makes sense to leave the MSD, and to contract directly with the county for the services we all enjoy.

Kevin Smith, Millcreek resident, offered his opinion that this public hearing is a sham. He said that everyone knows what the council is going to do—withdraw and rely on the county to take care of the city. The city being incorporated has been ridiculous. Mr. Smith has been retired for 9 years from the DA's office of Salt Lake County. He was with the county for years. He said he's seen it go from well-running smooth operation to cat-herding. The only true government that will serve us will be a metro government. He said that "It's a laugh that we're going to be independent. You're depending on the county to take care of you." He noted that Cottonwood Heights doing its own snowplowing was a joke. We can't have our own police or fire forces, or even our own sewer because it's a district. If we wanted to be a separate and independent city, "then show some guts and do it." "I came here to see if there would be any good ideas." "Our Independent city is here, I didn't vote for it, but it's here, and if it goes badly, then we can disincorporate."

Kumar Shah, Millcreek resident, disagrees with “my learned neighbor next door, calling it a sham.” Mr. Shaw said that it is a fantastic study. We had our election. The city has been formed. Planning and zoning was a major problem. We weren’t getting attention from the county. It makes perfect sense for us to do our own planning and zoning. Thank you to the mayor and council for showing the wisdom to get the other parts of the study done.

Mr. Shah asked Mr. Burningham what his confidence was that the revenues would be as projected in the study. Mr. Burningham replied that in terms of sales tax and class c road funds, his confidence is 90 percent or higher. He said that his firm spent lots of time with the county and with the state, reviewed each of the tax outlets, and has firm numbers on what was generated. The factors that would make the numbers higher or lower are whether the population grows as anticipated. It’s a conservative estimate.

Mr. Shah asked what the mechanism would be if the council were to decide the city wants to self-provide. Mr. Burningham indicated that Millcreek would be contracting with the county over a period of time before wholly self-providing. He explained that other communities, such as Cottonwood Heights and Taylorsville have started with the county and over time have decided to do more of their own services. Cottonwood Heights is now starting its own public works department. They didn’t start with their own police, but originally contracted with the county.

Mr. Shah said that there was enough discord in the community about planning, this allows our city to self-provide that service. He recommends going with Scenario 3.

Ron Reaveley, Millcreek resident, said that the reason we wanted to be incorporated was to have local control and not be subject to big government i.e., the county. We’ve achieved that. We can now spend the money how we as a city can best do for ourselves. If it’s best to stay with the county for services, we have that choice. That was the purpose of the election. The suggestion to do all or nothing would be like a 21-year old getting married and saying, I don’t want to rent, drive a second hand used car. I want to have my mansion and drive a Rolls. Most of us start slowly and build slowly. Do what makes economic sense. Mr. Reaveley said that he applauds and appreciates the council’s efforts.

Richard McNamee, Millcreek resident, disagrees with Mr. Smith’s recommendation to dive all in and take on all risk early on. I worked toward incorporation. I heard a lot from the other side that was against it. I respect that other viewpoint. Let’s get our feet slowly underneath us. The cautious approach. The county provides excellent services. Our goal was to have control over that and get more responsiveness. All this is in favor of leaving the MSD and contracting back. The margins are a bit small under scenario 3. The 106% sounds good to me because it gives an opportunity to build cash reserves, but I leave it to the Council to determine whether that’s doable.

Mr. McNamee asked about Mr. Burningham’s slide that addressed growth. The household AGI started with \$62,000 and grew quickly to \$90,000. Mr. Burningham replied that the projection related to AGI is based on a trend analysis of the prior five year period. That just happened to be the relative growth of income in Millcreek based on data in 2011-14. Something affected it, but regardless of what it shows, the income doesn’t factor into the revenue analysis. But the statute required that to be looked at. It

could be argued that the buying power is higher given the higher AGI, and that increases the revenues. For the analysis, the study didn't use the AGI in any way. The study used only the current sales tax per capita and grew it by population.

Mr. McNamee asked the mayor what advantages were there to taking control over planning now. Mayor Silvestrini explained that as the council members walked and campaigned in Millcreek, they heard time and again about how the planning department was too slow, and there was too much red tape. These are residents trying to do work on their homes. There is significant dissatisfaction with county planning. The mayor explained that he has worked with a lot of people at the county and they're good. But they're serving too many masters. They don't apply our ordinances appropriately. FCOZ and RCOZ, the latter being unique to Millcreek. The city is going to continue to enact its own ordinances, and separate from the rest of the county. SL County services can't keep up. Plus, they're understaffed. The mayor explained that the study had looked at other comparable cities (Orem, Layton, Taylorsville). We need to spend more on planning than the county spent in order to do the job. We've been asking for updates. Our ordinances are 60 years old. Our conditional use ordinance is outdated by more than 14 years. We are updating them now. The planning department needs more resources, which we can provide, and will still have the 1% excess revenues. In addition, we want to do our own economic development. We'll do that better ourselves – and thereby increase revenues to fix our sidewalks. One department in the first is a reasonable goal. It's one of the reasons our residents voted to incorporate.

Mont Mahoney, Millcreek resident, asked who makes the decision to leave. The mayor responded that the decision would be made by the city council at its May 30th meeting.

Paul Cisneros, Millcreek resident, asked why should we leave the MSD now. The mayor responded that state law gives us six months to leave. Mr. Cisneros asked, why not start with option 2 and then go to 3. The mayor responded that we should do it now because we can do it better. Councilmember Uipi mentioned that another reason to move forward with option 3 is that a lot of applicants have put their plans on hold waiting for us to start our own planning. She echos the mayor's sentiments of having planning be specific to Millcreek.

Mr. Cisneros asked why there was such a large variation in costs based on the different scenarios. Mr. Burningham said he would unbundle them:

Scenario 1 – the assumption is that incorporation comes with some fixed costs, such as legislative governance, which includes an attorney, a recorder, a treasurer. The administration expense is the most diluted one. The start-up costs are based on a small footprint of a leased office building at a reduced market rate, comparable to the number of employees Millcreek would have to have.

Scenario 2 – Here, the city is contracting for services. There is more administrative cost because of the necessary oversight to administer the contracts. Some additional FTEs would be brought in to help, with their salaries and the associated benefits. There would also be capital (computers printers). The footprint of city offices would expand to about 7,000 square feet.

Scenario 3 – Here, the administrative expenses is based on data from other cities of similar size and a similar number of building permits and business licenses. There would be some administrative costs,

plus a full planning department. Startup costs are more because we assume mapping, printing, plotters, vehicles, and some economic development costs.

Scenario 4 – This scenario requires the full service of an administrative director, financial, administration of public works and other departments.

Mr. Cisneros noted that this would be a generic number, and the expenses likely overstated. Mr. Burningham responded that the expenses would include \$21 M for a public works building, a city hall with much more than 7,000 square feet, snowplow equipment, animal shelter, and so forth. The expenses are shown as amortizing over five years.

Mr. Cisneros asked the mayor that if the city leaves the MSD, when will that occur? The mayor responds that he has been meeting with the county already. The effective date of departure will be June 30. The city's fiscal year starts July 1. It is expensive and burdensome to do two budgets. He is meeting with planning tomorrow. They are willing to continue to work with us after July 1. We are negotiating for services, but they know there will be a transition. Applications started with county will continue with county. We will do it in a logical way, seamless transition.

Vicki Turner, Millcreek resident, asked if anything has been built in in terms of a city sales tax? Most cities in the state have. The mayor responded that the county has historically charged the 1% local option sales tax; the adopted that in incorporation, and it's already built into the revenue. Ms. Burner asked what percent of sales tax generated in Millcreek is actually paid by the residents? The mayor responded that a study done for the town center showed \$7 million of leakage in sales tax, where Millcreek residents go outside of Millcreek to shop. Mr. Burningham indicated that his firm has not done a sales tax leakage study but he would estimate 60-65% is locally generated by residents. There's a fair amount of daytime population that comes here.

Ms. Turner thanked Councilmember Uipi for bringing up the expediency of the planning and zoning process. People have been put on hold as we work through these issues. As you said if we are contracting zoning and planning with the county, and you want to put your own together, is that attractive to other developers? Councilmember Uipi responded that we would contract for certain services, like traffic engineering. We need to be as ready as we can be on July 1st. We've had one part-time employee for the last four or five months. We want to give the same customer service as we would expect. Ms. Turner noted that such service really important when looking at commercial properties.

Ms Turner added that some county services, like garbage, recycling, and snow removal is pretty good, though she questions some of the people who drove trucks this year. I'm concerned about policing, and roads compliance. If this city thing is such a great idea, unless I see improvements in that, what are you offering? Ms. Uipi asked what she is referencing? Ms. Turner said that the only time you see the police is when there's a catastrophe. In terms of policing neighborhoods – getting to know the community – it doesn't come off well. We have these districts in the city that are very distinctly different. Huge difference in the number of registered voters as you go by elevation. There's a huge difference in representation.

Ms. Turner asked the Mayor, “You’re talking about a municipal building?” The mayor responded that we are looking at the old Big Lots store on 33rd S. and 13th E.

Ms. Turner asked that if we contract for services, can we get add-ons. The mayor responded that we control the level of services as a city. Regarding the police, the mayor said, we may not see what they do and think they’re not around. But the mayor has been on ride-alongs with them. We’ve caught burglars. Crime is a big problem, but they can only do what they can with the money they’ve got.

Shonnie Hays, Millcreek resident, voiced a preference for Option 3. Glad to see we get to spend our own revenues and choose how to spend them. It’s essential for the city to make determinations about how it’s zoned and planned for. Ms. Hays is particularly looking forward to the economic development portion of this. She would like to stop the leaking dollars and bring them back to Millcreek.

Marilyn Hoffman, Millcreek resident, indicated that she did not vote for the city. She is very concerned that our taxes don’t go up. But, the vote was taken, let’s be fiscally responsible and deliver high quality services. Ms. Hoffman said she thinks Option 4 isn’t what we want to do—that’s too much too fast. Ms. Hoffman sees scenario 3 as a good compromise—taking on one department at a time. She has been very pleased with county services – I’d be happy to have most if not all services from the county. Ms. Hoffman does have a concern about franchise tax. The mayor noted that Millcreek residents paid a franchise tax while we were in the county for cable TV. The franchise tax shown on the revenue projections is the same tax. It’s revenue neutral. The city does have the option to enact further franchise taxes. Every other city in the state our size has enacted it. We haven’t.

Kerry Blake, Millcreek resident, had several questions about the % metric. How is that measured? What’s the history of this? Have we known about this problem for some time? This implies there are other regions in the county that are not 100%, but below 100%. The mayor responded that some of us had strong suspicions this was the case and the reason many people supported incorporation. The study shows that the impact of us leaving on the other parts of the county is about the cost of a meal or a night out at the movies. \$33 / year isn’t stunning. Most people can afford it. Mr. Blake asked whether inefficiency came into play? The mayor explained that you get efficiencies with economies of scale. But that works only to a point. It isn’t efficient to provide some kinds of services on a large scale. For example, the mayor explained, we get economies of scale for snow plowing, police, fire, animal services. But that doesn’t work for planning, where one individual sits with another. It hasn’t been working for Millcreek.

Larry Holmes, Millcreek resident, indicated that he is not happy that the meeting is being recorded without announcing it. The mayor explained that all public meetings must be recorded by law. Mr. Holmes had several questions about amortization, which Mr. Burningham answered: Seven years for snowplows, five for vehicles, 3 for computers, mapping, and so forth. Mr. Holmes noted that the study shows a population density of 2.4 to 2.3 people per household, which means we have an aged community rather than a lot of kids.

Mr. Holmes indicated that the 30% projected growth in AGI seemed high, but Mr. Burningham had previously explained it. Mr. Holmes asked that if it’s a line item that must be in there, why isn’t it

constant rather than inflated? Mr. Burningham responded that the number could have been flattened it out, but it wouldn't have made any difference to the study.

Mr. Holmes asked how much the study cost. Mr. Burningham said \$30,000. Mr. Holmes asked whether it had been put out for competitive bid? The mayor responded, yes, but we received only one bid, and bBased on the amount of work that was involved, they gave us a pretty good deal.

Mr. Holmes thanked the group for the presentation, which he said had been very thorough. He also expressed his opinion that the city wait one year before leaving the MSD.

Jerry Colcan, Millcreek resident pointed out on slide 13, under 2017, total revenue of \$15,000 and expenses of \$14,000. He asked whether that was property tax. Mr. Burningham responded that it's not property tax. It's sales tax. It's the forecasted costs of services. Mr. Colcan asked, "So we are accumulatively paying \$15,000 and getting services of only \$14,000,000?" Mr. Burningham responded in the affirmative.

Mr. Colcan asked what agency has authority over planning and zoning? The mayor responded that right now the county is serving as our staff, enforcing our ordinances. They accept the applications, grant the approvals, and work on proposals for the Planning Commission. They report to us. Mr. Colcan asked if the Millcreek Planning Commission currently makes the decisions and reports to the council? The mayor responded in the affirmative. Mr. Colcan asked who is the board of adjustment? The mayor explained that there is no board of adjustment. Instead, Millcreek has law-trained hearing officers who we interviewed.

Mr. Colcan noted that he generally supports the concept of scenario 3 – that's why we became a city.

Dwayne Vance, Millcreek resident, thanked the council for providing multiple scenarios. Often these discussions focus on extremes, and not on the intermediate solutions. Cost is not the sole determining factor. From Mr. Vance's perspective, control, accountability, and cost, are balanced in Option 3. Fire and police aren't part of the MSD – but Mr. Vance suspects Millcreek has similar issues with those districts. Even if Millcreek leaves SLVLSA and contracts back, we control our funding and services. Mr. Vance would encourage the City to competitively bid the services at the end of this year. If the county isn't competitive, we should evaluate our other options.

Paul Cisneros noted that he pays a fair amount of taxes, and doesn't mind paying for other areas for people who aren't as well off as we are

Councilmember Uipi asked for a show of hands for each option. The majority were in favor of option 3.

The mayor announced that the city council will consider the issue at its May 30th city council meeting.

The meeting adjourned at 8:45 pm