

MEETING MINUTES

MILPITAS PLANNING COMMISSION Milpitas City Hall, Council Chambers 455 E. Calaveras Blvd., Milpitas, CA

Wednesday, January 13, 2016

- I. PLEDGE OF ALLEGIANCE** **Chair Mandal** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/ SEATING OF ALTERNATE**
- Commissioners**
- Present:** Chair Sudhir Mandal, Vice Chair Rajeev Madnawat
 Commissioners Hon Lien, Zeya Mohsin
- Absent:** Maglalang, Morris, Sandhu
 Commissioner Ciardella was absent at roll call and arrived at 7:15 PM
- Staff:** Bill Ekern
- III. PUBLIC FORUM** **Chair Mandal** invited members of the audience to address the Commission and there were no speakers.
- IV. APPROVAL OF MEETING MINUTES**
- Chair Mandal** called for approval of the November 18, 2015 meeting minutes of the Planning Commission.
- Motion** to approve Planning Commission meeting minutes.
- Motion/Second: Vice Chair Madnawat/Commissioner Lien
- AYES: 4
- NOES: 0
- ABSTAIN: 0
- V. ANNOUNCEMENTS**
- Interim Planning Director Bill Ekern announced that the January 27 Planning Commission meeting will be canceled but he expects hearings on both February 10 and 24. He will be out of the office from January 21 through the month of February and Senior Planner Sarah Fleming will fill the director's role.
- Mr. Ekern said the League of California Cities is holding a Planning Commissioners training in San Ramon in March and encouraged the commissioners to attend.
- Vice Chair Madnawat said last month he participated on an interview panel for a General Plan consultant. There were six companies interviewed and he said it was a good experience.
- Chair Mandal said the Planning Commissioners training is a good learning experience and he hopes that commissioners will attend since it is taking place close to home.

VI. CONFLICT OF INTEREST

Mr. Ekern asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.

VII. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the January 13, 2016 agenda as submitted.

Motion/Second: Commissioner Mohsin/Commissioner Lien

AYES: 4

NOES: 0

VIII. CONSENT CALENDAR

NO ITEMS

IX. PUBLIC HEARING

NO ITEMS

X. NEW BUSINESS

X-1 PRESENTATION BY MALATHY SUBRAMANIAN

Malathy Subramanian of Best Best & Krieger was present to discuss due process issues for Planning Commissioners and showed a PowerPoint presentation on the subject. Ms. Subramanian said due process comes up when there are protected interests and that before governmental action on a protected interest, the holder of the interest is entitled to reasonable notice and an opportunity to be heard.

Ms. Subramanian discussed acceptable findings and said relevant facts need to support them, adding that acceptable findings can be found in several ways, including staff reports, CEQA documents and resolutions. She also discussed unacceptable findings and said procedural due process is required.

Private meetings held outside of the public process need to be disclosed and commissioners should indicate when they have visited a site, allowing affected parties to have an opportunity to respond to the information, adding that a final determination must be based on evidence presented at the hearing.

Ms. Subramanian said if there are lawsuits then meetings are transcribed word by word, and if a commissioner says something they should not have said it will be cited in the lawsuit, adding that emails and writings can also become part of the record.

She discussed points for avoiding the appearance of bias:

- Avoid statements prior to the close of hearings that suggest your mind is made up
- Do not pre-commit to decisions
- If you think you cannot be fair, do not participate

- Disclose ex-parte communications and site visits

Commissioner Ciardella stressed the importance of not committing to a decision when meeting with an applicant.

Commissioner Lien asked if it would be best for commissioners not to meet with applicants. Ms. Subramanian said it is acceptable to say no, but if they choose to meet with a developer they should also meet with a neighbor or constituent, or someone against the project, if it is requested. If they choose not to meet, then they should not meet with either.

Vice Chair Madnawat said his policy is to not meet and feels it is insufficient to disclose that there was a meeting without stating on the record what was discussed.

Ms. Subramanian said the cleanest way to avoid problems is not to meet, to read the staff reports and come to the meetings prepared, and to listen and make decisions based on what is heard at the public hearing.

XI. ADJOURNMENT The meeting was adjourned at 7:45 PM.

Motion to adjourn to the next meeting.

Motion/Second: Vice Chair Madnawat/Commissioner Mohsin

AYES: 5

NOES: 0

*Meeting Minutes submitted by
Planning Secretary Elia Escobar*