

MEETING MINUTES

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

Wednesday, September 28, 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 Mandal, Vice Chair Madnawat, Commissioners Sandhu, Ciardella, Morris, Lien, Maglalang, Mohsin
Absent: All commissioners were present
Staff: Bradley Misner, Katy Wisinski, Krishna Kumar
- 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 September 14, 2016 meeting minutes of the Planning Commission.
Motion to approve Planning Commission meeting minutes.
Motion/Second: Commissioner Sandhu/Commissioner Ciardella
AYES: 7
NOES: 0
ABSTAIN: 0
- V. ANNOUNCEMENTS** Commissioner Lien thanked City staff, school board members, commissioners and the community for attending the Rotary Club's September 17 fundraiser, making the event a success.

Commissioner Ciardella also attended the Rotary Club's event and said the venue, Ta Restaurant, was fantastic. He said there will be more Rotary events in October, including a pumpkin patch and carnival.

Chair Mandal attended the first half hour of the Town Hall meeting and said it was well attended.
- VI. CONFLICT OF INTEREST** **Deputy City Attorney Katy Wisinski** 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 September 28, 2016 agenda as submitted.

Motion/Second: Vice Chair Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

VIII. CONSENT CALENDAR

NO ITEMS

IX. PUBLIC HEARING

IX-1 MILPITAS FARMERS MARKET – 447 GREAT MALL DRIVE - P-UP16-0016: A request to operate a certified Farmers Market within the Great Mall parking lot on Sundays from 6:00 AM until 2:00 PM.

Project Planner Krishna Kumar showed a presentation describing the project. The Farmers Market has been operating temporarily under a special event permit and is requesting a conditional use permit in order to operate long term. There have been two comments received regarding the Farmers Market, one in strong support and the other in opposition.

Commissioner Mohsin asked if the Police Department reviewed the traffic program and Ms. Kumar said they received the circulation plan and it was approved.

Applicant Douglas Mena said there have been no incidents since 2014, since he has been with the Farmers Market.

Chair Mandal opened the public hearing and there were no speakers.

Motion to close the public hearing.

Motion/Second: Commissioner Maglalang/Commissioner Sandhu

AYES: 7

NOES: 0

Motion to Adopt Resolution No. 16-034 approving Conditional Use Permit No. UP16-0016, subject to the attached Conditions of Approval.

Motion/Second: Vice Chair Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

X. NEW BUSINESS

POTENTIAL AMENDMENTS OF PLANNING COMMISSION RULES AND REGULATIONS

Mr. Misner said that at the last Planning Commission meeting, Commissioner Maglalang asked to agendize a conversation about the rules and regulations (Bylaws) of the commission. The intent tonight is to allow the commissioners to discuss certain amendments they may wish to see in the Bylaws and give direction to staff, who will take their direction, prepare amendments in strike through and underlined format, and return at a future meeting so they can see the amendments and have a discussion leading up to the adoption of amended bylaws. Mr. Misner noted that the commission may make recommendations to the Bylaws but the actual approval authority rests with the City Council on changes to the bylaws.

Chair Mandal said commissioners can request changes, in addition to those requested by Maglalang, and that staff should also make recommendations if there are items that need to be cleaned up or modified. He said the commission will discuss one item at a time and then take a vote to determine if the majority of the commission wants to have staff pursue the requested revisions.

Chair Mandal said the discussion would begin with the new list of recommended amendments handed out by Commissioner Maglalang. Ms. Wisinski noted it is a public document which has been photocopied and placed on the table should any member of the public like to review it and follow along as the commission holds their discussion.

Chair Mandal asked why Item A incorporating a new stipend is noted as Done on the list and Commissioner Maglalang said the bylaws already show the revised amount and therefore no discussion is necessary.

Ms. Wisinski said the current Bylaws set a stipend amount per meeting and under the government code the amount is required to be approved by City Council through an ordinance or resolution. There is an ordinance that speaks to that and she will make sure everything is the way it should be under state law and bring it back to the commission.

Item B – term limits of the Planning Commission Chair

Chair Mandal said commissioners are appointed by City Council and any commissioner can run for Chair or Vice Chair, it is not restricted, so he sees no need to revise this item.

Commissioner Sandhu said he agrees with the Chair’s comments and there should be no term limits.

Commissioner Ciardella said if the Chair is not doing a good job the commission has the opportunity to make a change, and he agrees with the comments that there should be no term limits.

Commissioner Morris said some commissioners may not be comfortable in the role of Chair and it should not be mandated.

Commissioner Lien agrees with the commissioner’s comments and sees no need to set term limits.

Commissioner Maglalang said he has observed that the majority of Chairs have been there for many years and setting term limits gives a chance for everyone to run the meeting. He believes after two years there may be a lack of energy and burn out. He added there can be an exception to the rule that if nobody wants to be nominated then the current Chair can continue.

Commissioner Mohsin agrees that some may not be comfortable doing the job of the Chair. She said there is a process of election and anyone who wants to serve can be nominated therefore she sees no need for term limits.

Vice Chair Madnawat said term limits work well when there are a large number of commissioners to choose from; however, given such a small commission he sees it as unnecessary. He is not opposed to some kind of rotation but said elections can cause friction and he would like to avoid that.

Commissioner Morris said the election is included on the meeting agenda and if anyone is interested in serving as Chair they should make it known to the other commissioners.

Ms. Wisinski said it is proper for commissioners to indicate their interest in seeking the Chair and Vice Chair positions. At the meeting prior to an election, an item can be added to the commission agenda for commissioners to indicate their interest in serving as Chair and Vice Chair.

Vote against Item B, term limits for the Chair – Lien, Ciardella, Sandhu, Mandal.
No further action required

Item C – meeting with developers

Chair Mandal said commissioners have been provided with Bylaws, training and information on Ethics, and he sees no need to change the Bylaws.

Vice Chair Madnawat said meetings should be included on the commissioner's online calendars, meeting at city hall is not practical, and he is in favor of disclosure of meetings.

Commissioner Sandhu agreed with Vice Chair Madnawat that if online calendars are maintained then meetings are public information. In regards to disclosing meetings, he believes most commissioners already do so.

Commissioner Ciardella believes it is acceptable to meet with developers as long as the meetings are disclosed.

Commissioner Morris said this request seems redundant as the commissioners are already disclosing their meetings.

Commissioner Lien agrees with Commissioner Morris and added that when commissioners meet with developers there should be no promises made.

Commissioner Maglalang said he chose city hall as a meeting place because it is a neutral location and included the word preferably in his request because it is not mandatory. He said he has read minutes that a commissioner has met with a developer with no disclosure of what was discussed and would like to see this included in the Bylaws.

Commissioner Mohsin said she has never met with a developer and believes all commissioners disclose their meetings.

Vote in favor of Item C, a to add language that preferably meetings with developers are held in city hall – Madnawat, Sandhu, Morris, Lien, Maglalang
Item approved

Item C, b - disclosing what was discussed

Vice Chair Madnawat said it is improper to include the words agreed or disagreed in the bylaws. Chair Mandal said the commission is voting if it should be considered but it is up to staff and the City Attorney to select the correct wording.

Ms. Wisinski said it would not be permissible for a commissioner to agree or disagree to include those points and that as staff works through amendments they will take that into consideration.

Vote in favor of Item C, b disclosing what was discussed – Maglalang, Lien, Morris, Sandhu, Madnawat
Item approved

Item D - adding the Ethics Code

Commissioner Maglalang previously distributed Resolution 7413 which was approved by City Council in 2004. He said it includes steps on decision making and it is important for any new planning commissioner, and the request is to hand out the ethics code on decision making to commissioners.

Vice Chair Madnawat said this can work by just adding one line requiring new commissioners to review the City's Code of Ethics. It should not mention a particular resolution because it may change or be repealed but there will always be a Code of Ethics.

Commissioner Mohsin agrees with Vice Chair Madnawat that it is important to remind commissioners about the Code of Ethics.

Commissioner Lien is not familiar with the resolution and agrees with Vice Chair Madnawat.

Commissioner Morris is not clear on what the resolution is.

Ms. Wisinski does not recall Commissioner Maglalang handing out a copy of the resolution itself and staff does not have a copy on hand.

Commissioner Sandhu said there should be a reference that new commissioners should have ethics training.

Mr. Misner will ensure that the commissioners get a copy of the resolution. He would like to have a training session on a number of items and that would be one of the items on the agenda, in addition to how conditional use permits are addressed, the types of conditions reasonably imposed on projects, and other staff level training.

Vote in favor of Item D, adding a reference to the Ethics Code – Maglalang, Lien,

Morris, Ciardella, Sandhu, Madnawat, Mandal
Item approved

Item E, a – commission budget

Commissioner Maglalang said the Planning Commission should have a budget of their own which is discussed at the beginning of the fiscal year so they know how many trainings can be attended and can plan for each commissioner to attend a training.

Chair Mandal said it is good idea to discuss the budget at the beginning of the year but it does not need to be in the Bylaws. He believes it is a process improvement, not a bylaw change.

Vice Chair Madnawat said the budget is determined by City Council and he does not see a benefit to seeing this information in the Bylaws. He said staff has been good at providing money for trainings and he has not seen a commissioner unable to attend a training due to lack of budget.

Mr. Misner said section 10.09 gives some direction that it is intended for the League of California Cities (LOCC) and the commission may like to see that opened up to other conferences as long as they relate directly to training that is pertinent to the commission. There is money set aside on an annual basis and it would be useful to hear who is interested in attending a training then he can take a look at what the costs would be to see if it works for everybody. If funds are limited, trainings can be offered on a rotational basis.

Commissioner Morris asked for clarification of the request. Mr. Misner said the notion is to stay current with events that impact Planning Commissions in cities. Section 10.09 discusses continued trainings for commissioners, very specifically attendance of the LOCC Planners Institute. There is money available for this conference and the ability to attend the annual conference as well as other provisions about attending other conferences. Staff should bring forward information on an annual basis that makes the commission aware of available trainings and dates and gauge the interest of the commissioners to attend. There is a budget for training but he is unsure if it would satisfy every commissioner every year and he will need to see what the total budget is.

Vice Chair Madnawat said the Bylaws reference the League of California Cities and he would prefer the wording state ‘any relevant training’ and not be specific to one particular training.

Commissioner Mohsin has been on several commissions and each has a budget. She feels it is not necessary to amend the Bylaws but the budget should be presented to the commission.

Commissioner Ciardella motioned to approve E, a and E, b in one motion and approval for the Director and the City Attorney to do what they feel is best, and it was seconded by Commissioner Sandhu. All voted in favor.

Mr. Misner said communication has not happened regarding the established budget and letting the commissioners know what options are available, and although this does not need to be in the Bylaws it does need to be a frequent practice.

Item F - meeting preparation

Commissioner Maglalang believes text regarding visiting project sites should be transferred to responsibilities of commissioners.

Mr. Misner asked for clarification that the request is to take the language verbatim from section 10.10 and move it to section 6 and Commissioner Maglalang said that is correct.

Chair Mandal asked the City Attorney for her opinion on moving the text. Ms. Wisinski said the commission has a lot of latitude in terms of how they set up the Bylaws and they can certainly move things around if they want, and that it seems a good suggestion in terms of the organization of the document to move section 10.11 in the same regard.

Commissioner Ciardella does not believe site visits should be required as often times commissioners are familiar with project sites.

Mr. Misner said section 6.01 discusses general duties. The language in terms of meetings preparation gives guidance as to how a commissioner might go about that and, as it is written, says preparation may include site visits. It is not a mandate, although it is strongly encouraged.

Commissioner Sandhu believes the text is currently in the right place, as moving it makes it a requirement and he does not think that is necessary.

Vice Chair Madnawat said technically he is okay with transferring one sentence from one place to another but he has issues with site visits and said decisions should not be made based on what was seen.

Chair Mandal does not want a requirement to visit sites in the language of the Bylaws and is not in favor of making the change.

Vice Chair Madnawat said site visits should be organized by the city, if it is necessary to visit, due to liability issues.

Vote in favor of Item F, a and b to transfer text in the Bylaws – Maglalang, Madnawat

Commissioner Morris said she would like the word ‘may’ included and Ms. Wisinski said Commissioner Maglalang’s request is to consider moving the sentence ‘this may include site visits, research or calling upon city planning staff’ so if the entire sentence is moved then the word ‘may’ is already in the sentence.

Chair Mandal said he is reading verbatim from the motion maker’s request and taking a vote on it.

Commissioner Maglalang said he believes commissioners should visit sites in order to have an intelligent discussion and that moving the text is just a matter of transferring it to the responsibilities of the commissioners.

Ms. Wisinski said section 6.01 recognizes the duties formally imposed by the City Council. The government code says that if a city establishes a Planning Commission the City Council needs to formally invest that commission with a scope of authority and a scope of duties. The Bylaws can be broadened to clarify council imposed

duties and duties the Planning Commission imposes upon itself.

Commissioner Morris motioned to leave the Bylaws as they are and broaden them to include self-imposed duties.

Ms. Wisinski clarified that the motion is to keep the discussion of council imposed duties as they are in section 6.01 but also to clarify that the commission has imposed upon itself further duties to be undertaken by the members, and move the sentence that Commissioner Maglalang has identified to the section of Planning Commission imposed duties.

Commissioner Morris confirmed the motion and it was seconded by Commissioner Lien. All voted in favor.

Commissioner Sandhu said section 3.01 references seven members of the commission with no mention of an alternate. Ms. Wisinski said the commissioner is correct that section 3.01 only addresses the seven members of the Planning Commission but that later in the document the alternate is mentioned and every sentence that ends with a 1 in superscript is a cross reference to the portion of the municipal code that provides that exact thing.

Chair Mandal said that beyond the commissioner's input, staff should review and clean up the Bylaws as they see necessary.

Mr. Misner said staff will make edits to the Bylaws based on the direction given from the commission, and will return with a draft and presentation regarding the language changes.

Commissioner Morris asked when the stipend increase will take effect and she has questions regarding pension changes. Ms. Wisinski said staff is happy to agendize this item and bring it back for discussion.

Commissioner Maglalang said section 10.02 states that all questions should be directed to the Chair. He questioned why, when he asks questions of staff, the Director or the City Attorney, he has to first ask the Chair and suggested changing the language in the Bylaws.

Vice Chair Madnawat said it is meeting protocol that the Chair should be given full privilege to run the meeting and all questions should go through the Chair so that he can have control. This is general protocol and not specific to this commission.

XI. ADJOURNMENT

The meeting was adjourned at 9:06 PM.

Motion to adjourn to the next meeting.

Motion/Second: Vice Chair Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

*Meeting Minutes submitted by
Planning Secretary Elia Escobar*