

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, January 16, 2007
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM.

PRESENT: Mayor Esteves, Vice Mayor Livengood Councilmembers Giordano, Gomez and Polanski. Councilmember Gomez arrived in Closed Session at 6:15 PM.

ABSENT: None

CLOSED SESSION

Mayor Esteves publicly stated the Council would immediately convene in Closed Session to discuss the following two issues:

Conference with Labor Negotiators for Collective Bargaining: City Negotiators Tom Williams, Emma Karlen and Art Hartinger, with employee groups (1) International Association of Fire Fighters (IAFF), (2) Milpitas Employees Association (MEA), and (3) Milpitas Supervisors Association (MSA).

SPECIAL MEETING for the following matter:

Conference with Legal Counsel for existing litigation: City of Milpitas vs. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV0084002

The Council convened in Open Session at 7:00 PM.

**CLOSED SESSION
ANNOUNCEMENT**

None

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

Councilmember Polanski quoted Martin Luther King, Jr.

MINUTES

MOTION: approve minutes of January 2, 2007 City Council meeting as submitted

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

MOTION: to approve the Schedule of Meetings (Monthly Planner)

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATIONS

Mayor Esteves proclaimed American Red Cross “National Blood Donor Month” for the month of January 2007. The proclamation was accepted by Ms. Courtney Crisler of the Red Cross. She highlighted nine blood drives in Milpitas over last year with 240 units of blood donated, yielding 700 persons who received blood. She thanked all Milpitas donors.

Economic Development Manager Diana Whitecar and Fire Chief Clare Frank noted the significant donation to the City of a life-saving device, a defibrillator, from Piercey Toyota. The Fire Chief announced it would be placed at the Senior Center annex building (all other City buildings have new ones installed).

PUBLIC FORUM

Guy Haas, of 1277 Fallen Leaf Drive, addressed three issues: 1) street sweepers on the day after trash pick-up day in his neighborhood and this year the holiday schedule was not coordinated with the City; 2) what happened to park lands, with new park land needed for new residents where new homes were built; and 3) noting that the sign on Abel St. about construction, which said the due date for its completion was October 2006. It had not rained this winter, so he wanted to know what was the hold up on completing construction in that area of town. Mayor Esteves requested the City Manager to respond to the citizen's concerns and Mr. Williams agreed.

ANNOUNCEMENTS

Councilmember Polanski announced the Community Advisory Commission elected new Chairman Chris Lee and Vice Chair Mike Queenan, at its last meeting.

Mayor Esteves had good news from the Milpitas Police Department, which reported that crime was down 1.6% for last year versus the previous year. He thanked the police staff and citizens for helping keep it low. He also noted that the City received a distinguished budget award from the Government Finance Officers Association, a significant achievement for the Finance Department.

ANNOUNCEMENT OF CONFLICT OF INTEREST

Councilmember Giordano announced she had a conflict with Item No. 1, due to a real estate transaction regarding property next to the market.

APPROVAL OF AGENDA

Motion: to approve the agenda as amended

Councilmember Polanski asked for Item No. 6 to be heard following Item No. 1.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Councilmember Polanski requested removal of Item No. 9 and Mayor Esteves requested Item No. 13 be removed from consent.

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

* 2. Mayor Esteves' Recommendations for Commission Appointments

Approved the Mayor's recommendations for City of Milpitas Commissions:

Community Advisory Commission: Re-appointed Michael Queenan to a term that expires in January 2011.

Senior Advisory Commission: Re-appointed Bal Daquigan to a term that expires in December 2008 and re-appointed Amanda Santos to a term that expires December 2008.

Sister Cities Commission: Appointed Maria Magdalena Ortega as Alternate No. 2 to a term that expires in September 2007.

* 4. Request for Refund to Milpitas Rotary Club

Approved a refund of Fire Inspection Fee to the Milpitas Rotary Club in the amount of \$208, for the Pumpkin Patch held in October 2006.

* 5. Change BTAC Name to Bicycle Pedestrian Advisory

Approved the Bicycle Transportation Advisory Commission (BTAC) Bylaw amendment to change its name to Bicycle Pedestrian Advisory Commission (BPAC).

- * **7.** Approve Fee Waiver and In-Kind Donation for Relay for Life fundraising event
Approved the request for fee waiver and in-kind donation of equipment, supplies and staffing totaling \$3,537 for the June 22-23, 2007 American Cancer Society's "Relay for Life" event at the Milpitas Sports Center.
- * **8.** Approve Information Services Staff Member Attendance at Communications Training/Certification Course
Approved out of state travel request for an Information Services Department staff member to attend a communications training and certification course, in Seattle, WA sponsored by vendor NetMotion.
- * **11.** Award Bid to CDW Computers for Toughbook Computers
Approved the purchase of eighteen (18) Panasonic Toughbook Computers and Port Replicators from CDW Government, Inc. for the not to exceed amount of \$64,642.32, including tax and recycling fees, for use by the Milpitas Engineering, Building and Planning Departments.
- * **12.** Award Bid to TruGreen Land Care for McCarthy Ranch Tree Pruning
Authorized the City Manager to execute an annualized contract for one year with an option to renew for three additional one-year periods for the not-to-exceed amount of \$25,796 with TruGreen Land Care for pruning of 790 Sycamore trees on the McCarthy Ranch Development, subject to approval as to form by the City Attorney.
- * **14.** Budget Appropriation Regarding Abel Right Turn Lane
Approved a budget appropriation for \$49,070 for the Abel Right Turn Lane, Project No. 4186.

PUBLIC HEARING

- 1.** Appeal of Planning Commission denial of Use Permit Amendment for Jerry's Market – Aslam Ali, owner

Councilmember Giordano excused herself from the meeting, due to her announced conflict of interest, and departed the Council Chambers at this time.

City Planner Cindy Hom noted that the hearing was continued from the December 19th Council meeting. She reviewed the reasons for the planning staff recommendation to deny the appeal, thus not allowing the store owner to proceed with a license to sell hard liquor. She noted six reasons in the findings (in written report to Council).

Mayor Esteves invited the **applicant Mr. Ali** to speak to the City Council first, before opening the public hearing. Mr. Ali introduced himself as the owner of the Jerry's Market and a Milpitas resident. He took great pride as a store owner/operator, and said there have been no police violations of his current ABC license. He wanted to maintain current customers, and even stopped carrying certain liquor products as soon as he took over the store. At this time, he was seeking a Type 21 license from the ABC.

Mr. Ali reiterated that he wanted to serve existing customers. His store also offered payment of PG&E bills on site. A lot of redevelopment in his area of downtown Milpitas was occurring. He felt his store was an important one that people can walk to, as there was no other grocery in that neighborhood.

Vice Mayor Livengood asked about the list of incidents indicated by the Police Department that had occurred at, or around, the store. He asked the owner how he would improve the situation. Mr. Ali said to keep it clean, he and his wife work there every day, allowing no loitering, removed graffiti as soon as it was known, closed down earlier, and the wall between the neighborhood and the store must be fixed so people could not jump over it. He was aware he must work with the Pines Homeowners Association to repair it. Mr. Ali noted that he had never had complaints from schools or residents nearby.

Mayor Esteves opened the public hearing and 41 persons commented.

Speakers:

Kathleen Morasci, San Jose resident, who does a lot of business in Milpitas and liked its small town feel. She stated that Mr. Ali was in the Rotary Club with her and other business minded persons.

Ronald J. Acuña supported the business owner. He lived in the Pines, had two young children and had never seen broken bottles or other debris in local parks, as a result of the store. People do what they will do, regardless of where they purchase their products, he believed.

Heide Wolf-Reid, Yosemite Drive resident, spoke in support of Mr. Ali, and had often spoken at public hearings. She felt there was often denial on new applicants at public meetings. Mr. Ali worked hard in Milpitas to offer a good business, and offered to correct problems even when not caused by his business. She supported his application.

Michael Gillem, 1504 S. Main St. #4, lived across street from Jerry's and was the RV Park Manager. He went to other liquor stores to find out what happened, and explained that RV owners had small refrigerators, so it would be good to have hard liquor for sale there. He noted that beer bottles and empty cans were in more areas around the City than solely near Jerry's. He wanted the City to give Mr. Ali his license.

Kashmiri Kaur, 60 Lonetree Ct., stated if there were no problems with Jerry's, the City should give him a license. Many homeowners rent rooms, where residents bring beer from outside the area, not from Jerry's customers.

Stephanie Bray, Jerry's Market shopper daily, had never seen a person intoxicated or a disturbance at the store. She lived across the street and asked to approve the license.

Raul Gonzalez was in favor of the license for Jerry's. He was a small business owner himself and lived in Pines as homeowner. He found Jerry's Market convenient, where he could easily walk over to the store.

Donald Peoples, 3444 Spring Creek Ln., and President of the Milpitas Downtown Association, reminded Council that there was mixed use in this part of town. Problems could arise at times, but there were mechanisms to solve them. Property owners had concerns, but he knew Mr. Ali as a responsible business owner. If denied, the existing problems would remain. Since Mr. Ali made some helpful changes in business hours and planned to reduce problems at the fence, he strongly recommended approval.

Willie Miller, 156 Lonetree Ct. , lived at that address for 15 years. He noted that the previous storeowner did not keep it anywhere as neat as Mr. Ali. He used the park daily, and it was not trashed, as suggested at this meeting.

Bobbi Ann Miller, 156 Lonetree Ct, was in favor of the market request. She went to the store with grandchildren to buy ice cream, and other products for children. Jerry's would carry new products upon request. She had never seen items in the photos shown by staff.

Bob Whittaker, resident since 1993, lived directly across the street from the store. He saw who came and went from Jerry's. He would challenge Council to look at the Milpitas High School and compare the number of incidents there over last six years by comparison to the market.

Irene Johnson, 56 Lonetree Ct, resident there since 1968, noted the changes since she moved in. She rode the bus a lot, saw people jaywalking, was concerned that school children get off the bus near the new houses, with lots of traffic in the neighborhood. She suggested the land use as a hardware store in the future.

Sheryl Shirley, 2151 Oakland Rd, lived there 17 years. She had known Ali since he and wife took over the store. It was very clean and she never worried about safety while going in/out from the store, even in the back parking lot.

Mansoorali Hudde, suggested a person could buy liquor anywhere to get drunk. Why apply a different standard to a small business as opposed to large chain stores? He was

satisfied with the mitigations planned by the store owner, and urged approval of license.

Jennifer Cullenbine, Churchill Drive, 15 years resident and business owner, said the Alis were two of the people who help the world, volunteering and helping to make a difference in lives of the neediest in the community.

Helen Tuet, 1756 Pinewood Ct., felt the issue was whether Jerry's should sell hard liquor and noted state ABC rules. If Jerry's owner were to apply today for a beer/wine license, it would not be granted. She was not in favor of the store selling hard liquor.

Araceli Tapia, attended a lot of meetings on this matter already. She was approached at her house to sign a petition for a deli and to sell hard liquor and did not sign. She felt people were intimidated in the Pines neighborhood and was concerned about children going/coming from school. Her opinion was there was no need for a convenience store to sell hard liquor.

G. B. Farwell, 1504 S Main St., was in favor of Jerry's Market liquor license. The current owner had done nothing but improve his store.

Jennifer Morrison, lived in Milpitas her whole life and in the Pines for the last five years. She did not drink, was often the designated driver, and so would like the chance to offer her friends who do drink to shop at Jerry's. Mr. Ali had been very friendly and helpful personally to her.

Dean Reese, 1444 S Main St, lived there for 18 years. Two office staff, who worked for him long term, used to avoid going to Jerry's in the past because it was dirty, with trash and graffiti (due to past owner). But, now those ladies went in to shop often at the store. He was a retired police officer and was in favor of the license for the store owner.

Denice Perry, 45 Lonetree, a Pines resident since 1988. She had submitted some of the photos in the agenda packet. She noted a real estate ad, with a reference to a park, but she felt it could not be used due to the mess. She felt no need for more drunk people and thought Mr. Ali really sought only to make more money, due to increased sales.

Jaime Dulay Jr. was at the meeting to support Jerry's Market. He used to come home late at night and did not see any problems at that store. It would be convenient if you could just go in that store to shop for liquor too. He favored granting the license.

Michael Berlinski, President of Milpitas Rotary Club and a 30 year resident of the City, stated the store was much cleaner than under the previous owner, and often noticed Mr. Ali picking up debris. He was a retired Deputy who worked at Elmwood. He noted Mr. Ali was member of Rotary and involved in the community in ways beyond the store.

Ladd Yani, 1825 Forest Ct., had in the past spoken against Jerry's but spoke in favor at this meeting. He had no problem walking into Jerry's with his 4-year-old grandson to buy treats. He did not drink but was favorable to those running the store and thought they should be supported.

Richard Langhorst, Fallen Leaf Drive, spoke in support of Mr. Ali and the small business owner. He wondered what would happen when Ali leaves town and if the store was sold to a new owner. He requested support of the Planning Commission decision to deny the application.

Vaniece Espenshade, Old Oakland Rd, was new to this area. She supported Mr. Ali and his wife. She did not like fast food places, but did shop at Jerry's, where you did not find druggies and alcoholics at the store. She felt sorry for the storeowner, if more high school kids would be walking by his store. No doubt that if he sold liquor parents would buy it and some kids would try to steal and drink it. She was in favor of granting the license to the store owner.

Paul Mulder wanted a community store, a convenience store in this part of town. He was in favor of the store owner and felt people had to be responsible about themselves. He owned a business across the street.

Russ Bargstadt, President of the Pines Homeowners Association, spoke about one person's economics versus the quality of life of many neighborhood residents. Problems with common areas in that part of Milpitas included vagrants, vandalism, and graffiti. He remained concerned that some of those were due to Jerry's Market.

Dennis Smith, Glenmore Circle, sent an e-mail to the City Council on January 9. Attractive nuisance issues were those noted by the Homeowners Association. He had served on a county Advisory Panel and addressed the incarcerated persons from Elmwood. He knew Mr. Ali who was a good businessman, and shook his head at businesses that leave our state lately. He wanted favorable review of the application and stated that the ABC had no issues with this license application.

George Bassler, 2151 Old Oakland Rd, lived 1.5 miles from Jerry's. He was remodeling his home at this time and thus often shopped in the area. He supported Jerry's Market application and did not believe that women and children felt unsafe while going in front of the store and was in favor of granting the liquor license.

James Tidwell, 343 Manzanita Ct, had lived for 30 years in the Pines. He had seen the area before there was a Jerry's Market. Now, he expressed in favor of Ali's application, which was for a legitimate business for legitimate purpose and use. No one had ever been accosted or seen desperate people in front of the store.

Gary Reese, 1170 Winding Way, 35 year resident of Pines. Mr. Ali was a most responsible store owner and he did see why he couldn't get his license.

Shehzad Maherali, lived in Fremont and shopped often at Jerry's. She supported Mr. Ali and his license application.

Mayvid Maclay, was in favor of small business but not a liquor store. Mr. Ali was a fine man and the store was a fine place. She thought many who spoke did not have any kids affected, while she noticed the smell and empty cans around the parks. She was not in favor of hard liquor sales at Jerry's, while agreeing it was wonderful to have the convenience store.

Steve Hebert, 15 year resident, explained that he would not let his wife enter the store, when the previous owner was there. Since Mr. Ali owned it, he certainly did. The business was family operated and he was in favor of the application.

Daniel Olivares, father of four and many grandchildren, he often shopped at Jerry's. Mr. Ali did bend over backwards for the community and his customers. He was speaking in support.

Deanna Melen was a proud supporter of Jerry's Market, had been there at midnight even. She mentioned with regard to schools, what about the Nob Hill supermarket near Milpitas High School where hard alcohol was sold.

Victor Khan had known the Ali family about 1.5 years, and had yet to hear anything to oppose the store. He asked please to grant the license.

Heidi Pham, spoke on behalf of 67 year old godparents who lived on Blue Spruce and knew the store owners. The godparents felt it was a wonderful, clean store. They were senior citizens who shopped at the store often. She went to the store herself late at night, her County co-workers went to Elmwood and did not notice inmates buying any liquor when they get out. What if a franchise buys the store across the street at the empty lot?

the store and the neighborhood around it recently.

The Mayor had several points he made about the police-provided data, and directed his comments to the police Commander. Probably most were customers of Jerry's but that data was not included in Police Department reports. Mr. Esteves concluded the evidence did not support the police incidents list and that Jerry's was not directly connected to the 45 incidents.

Meanwhile, the Mayor noted the concerns of residents he heard tonight. He thought that the owner's mitigations were very helpful. He thought periodic review would be a good idea on the use permit, if authorized. Also, he specifically identified that the Pines-owned fence between the neighborhood and Jerry's Market did not look good and needed the improvement Mr. Ali offered to the Pines HOA.

Councilmember Polanski asked what percentage (square feet) of the store was for the sale of alcohol? Owner Mr. Ali was not totally sure, but said it was approximately 40% now and would increase to about 45% with hard liquor sales added. She also discussed the video surveillance cameras. She asked what type of visibility was there for employees to track what was taking place throughout the store. Mr. Ali responded no, that it was solely recorded on tape presently.

Councilmember Gomez declared it was a difficult decision here tonight, and he sought to find some sort of balance between the two sides. He wanted conditions of approval to work successfully and then perhaps have a review of the permit after six months. He went ahead to state the action in the motion below.

(2) Motion: uphold the applicant's appeal and approve the Conditional Use Permit with the nine conditions of approval recommended by the Planning Department (in the staff report) and include requirement of a review of the implementation of those conditions in six months time

Mayor Esteves asked about video surveillance equipment and whether it was audio and visual. Mr. Ali responded that at present, only audio was available at the counter; but he could do additional work to add video surveillance for his store. Mayor Esteves would vote yes, he announced, if this condition was added to the motion, and that was accepted by Councilmember Gomez.

Motion/Second: Councilmember Gomez/Councilmember Polanski

Motion carried by a vote of: AYES: 3
NOES: 1 (Livengood)
ABSENT: 1 (Giordano)

The City Council then took a break at 9:40 PM and reconvened at 9:55 PM.

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 10:28 PM.

RA 2. ROLL CALL **PRESENT:** Mayor/Chair Esteves, Vice Mayor/Vice Chair Livengood and Agency/Councilmembers Giordano, Gomez, and Polanski

ABSENT: None

RA 3. MEETING MINUTES Motion: approve the Redevelopment Agency minutes of January 2, 2007, including joint meeting with the City Council, as submitted

Motion/Second: Agency/Councilmember Polanski / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

RA 4. Approval of Agenda and Consent Calendar

Motion: approve the agenda and Agency consent calendar (items with asterisk*)

Motion/Second: Agency/Councilmember Polanski / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

*** RA 5. Agreement with Consolidated Engineering Laboratories, Project No. 8162**

Authorized the Executive Director to execute an agreement with Consolidated Engineering Laboratories in the not-to-exceed amount of \$260,000, for the Milpitas Public Library, Project No. 8162, subject to approval as to form by Agency Counsel.

RA 6. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 10:28 PM.

REPORT OF OFFICERS

3. Mayor's Recommendations for Planning Commissioners

Mayor Esteves announced his recommended candidates for the Planning Commission.

Planning Commission

Appoint Rajeev K. Madnawat to a term that would expire in December of 2009.

Appoint Minh Nguyen as Alternate to a term that would expire in December of 2009.

Motion: to approve the Mayor's recommendations to the Planning Commission

Motion/Second: Mayor Esteves/Councilmember Polanski

Motion failed on a vote of: AYES: 2 (Esteves, Polanski)
NOES: 3

NEW BUSINESS

6. Report from the Valley Transportation Authority (VTA) on Milpitas Bay Area Rapid Transit Station

This issue was heard prior to the RDA meeting, following the break.

Transportation Engineer Jaime Rodriguez introduced two staff presenters: Ms. Kat Mereigh from VTA and Mr. Terry Bottomley of Bottomley & Associates.

Transportation Planner Kat Mereigh reviewed project history to date, including the many scoping meetings, and she noted many of the details planned for BART in the San Jose/Milpitas area.

Mr. Bottomley reviewed the vision concept plans for a BART station at the San Jose / Milpitas border on Montague, near the Great Mall. He provided detailed information lettered Concept Plans A, B, C, and D. The latter two were newly suggested to the City of Milpitas, and included overhead "aerial" stations. Those were significantly different from the previously endorsed "retained cut" in the ground-level BART station for Milpitas.

The BART Community Working Group had provided comments on the Concepts, which included six main points: support for the Milpitas Transit Area Plan, prefer new station location, prefer station in a retained-cut open to aerial option with access improvements, encourage access to RDA areas north and south of Montague Expressway, explore shared parking with Great Mall, and keep strong intermodal connections to local and regional transit.

VTA staff identified the next steps in the planning process which was proceeding

rapidly. Any possible design changes, to be considered for study, must be included in the Federal Environmental Impact Statement by the end of February.

Councilmember Polanski inquired about the noise level anticipated in Concept "D." Staff explained that those impacts would be studied to determine the answer.

Councilmember Giordano asked if the aerial platform was a new idea and was being added for study in the FEIS. Staff responded affirmatively.

Councilmember Livengood was fearful that if the Council was going to give approval for comments on a letter from the City Manager to study an aerial BART station, when Milpitas had always wanted an open cut design no matter what, it was not good. He stated that the City wanted a consistent position, and thus to permit study on the retained cut option only, nothing additional.

Mayor Esteves asked whether the proposed aerial option was conflicting with Transit Area Plan. Staff responded by stating that would be part of the study. The BART Parking Garage would need to be built in advance of pursuit of other elements of that plan.

Motion: Receive report from VTA staff on the Milpitas BART Station – Alternative Station Layout Options, and authorize the City Manager to issue a comment letter to VTA stating explicitly that Milpitas was only interested in studying the retained cut station designed along with a structured parking garage

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

ORDINANCE

9. Adopt Ordinance No. 262.4

Assistant City Attorney Richard Pio Roda read the title of Ordinance No. 262. 4 "An Ordinance of the City of Milpitas to repeal Section I-310-4.10 of the Milpitas Municipal Code in its entirety, to add a new Section I-310-4.10 of the Milpitas Municipal Code, and to amend all references to the "Open Government Commission" in Title I, Chapter 310 to refer to "Open Government Subcommittee" "

This amendment to the Open Government Ordinance, regarding maintaining the existence of the Subcommittee, was introduced on December 19, 2006. At this meeting, it was recommended for adoption, allowing for a permanent Open Government Subcommittee consisting of two Councilmembers.

(1) Motion: waive the second reading of Ordinance No. 262.4

Motion/Second: Councilmember Gomez/Vice Mayor Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: Adopt Ordinance No. 262.4, amending provisions for the Open Government Subcommittee

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Polanski)

RESOLUTION

10. Resolution Approving the Memorandum of Understanding with the Mid-Management and Confidential Unit for January 1, 2006 to December 31, 2008

The Memorandum of Understanding with the employee group was before the Council at this meeting, having returned for a vote following the failure to adopt a resolution on December 19, 2006.

Mayor Esteves asked for staff to present the dollar amount of the contract overall. Finance Director Emma Karlen announced that in the three-year contract: the first year, a 0% increase for those employees for FY 2005-06, then from January 2006 through FY 2006-07 there was a \$73,400 impact, the next FY 2007-08 was a \$255,000 impact, and in the final year FY 2008-09 a \$322,000 cost. It amounted to about a 7.4% increase compounded in the last year.

Motion: Adopt Resolution No. 7649 approving the Memorandum of Understanding with the Milpitas Mid-Management and Confidential Employees Group for the period January 1, 2006 through December 31, 2008

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Polanski)

BIDS AND CONTRACTS

13. Cooperative Agreement for Landscaping of Route 237 / I-880 Interchange and McCarthy Blvd. Median

Three items were adopted on the Consent Calendar.

City Engineer Greg Armendariz introduced the landscaping plan and the request for a budget appropriation recommended for landscaping at the interchange of McCarthy Blvd/237 at I-880. The VTA provided the City with \$1.5 million for landscaping, at the interchange, for its share of the 50% cost of the work.

Four proposal benefits were identified by the City Engineer:

1. Allow City to leverage partial funds of two transportation landscape projects
2. Provides landscaping to be completed by next year, on three of the highest visible highway gateways to the City
3. Completion of the design has this project “shelf ready” to take advantage of the recent state transportation proposition, for possible earlier funding
4. VTA would administer both the design and construction of the 237/I-880, Tasman and McCarthy median landscape improvements (VTA has funded 60% design)

Four landscape concepts were designed and highlighted, with sketch displayed:

1. Select low maintenance trees, ground cover and minimal use of shrubs
2. Use of recycled water for irrigation
3. Select tall trees for proper scale and mass against interchange structures
4. Landscape visual context to be bold and simple arrangement of plants, mulch materials as ground cover, complementing large open areas.

At this meeting, staff requested to spend \$300,000 from the \$1.5 million obtained already from VTA.

Mayor Esteves asked for further explanation of the financial formula and the shared costs plan of the governments funding agreement. Staff explained that maintenance costs were ongoing and the City was responsible for annual maintenance, to be done by contract with Caltrans. Later, there would be payment returned back to the City from State Transportation Improvement Program (“STIP”) funds in 2009-2010.

Motion: Approve a Budget Appropriation and authorize the City Manager to Execute a Cooperative Agreement between the City of Milpitas and the Valley Transportation Authority for landscaping of the Route 237/I-880 Interchange and the McCarthy Blvd. Median at I-880

Motion/Second: Mayor Esteves/Vice Mayor Livengood

Motion carried by a vote of:

AYES: 5
NOES: 0

CLAIM AND DEMAND

Item approved on Consent Calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 10:42 PM.

The foregoing minutes were approved by the Milpitas City Council as amended on February 6, 2007.



Mary Lavelle
City Clerk