

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, February 20, 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, Councilmembers Giordano, Gomez and Polanski. Vice Mayor Livengood participated by telephone conference call for the Closed Session and most of the public meeting in the Council Chambers.

Councilmember Gomez arrived at 6:10 pm. Councilmember Giordano arrived at 6:07 PM. Vice Mayor Livengood was present by telephone conference for the Closed Session until 6:30 PM. For the Open Session, Mr. Livengood was present from 7:35 PM until adjournment.

ABSENT: Vice Mayor Livengood was absent from 6:30 to 7:35 PM.

CLOSED SESSION

Mayor Esteves publicly stated the Council would immediately convene in Closed Session to discuss the performance evaluation of the City Attorney.

The Council returned for Open Session at 7:00 PM.

**CLOSED SESSION
ANNOUNCEMENT**

Mayor Esteves announced that, on a 5-0 vote, in the performance evaluation of contracted attorney firm Meyers Nave, the attorneys met the City Council's expectations.

PLEDGE

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

INVOCATION

Councilmember Giordano introduced Pastor Robert Rainey of Park Victoria Baptist Church, who gave the invocation. The 40-year resident of Milpitas led a prayer to start the meeting.

MINUTES

Motion: approve minutes of February 6, 2007 City Council meeting, as submitted

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

SCHEDULE OF MEETINGS

Motion: to approve the Schedule of Meetings (Monthly Planner), as amended

Councilmember Giordano announced the Santa Clara County Library Joint Powers Authority meeting for February 22 was canceled. Councilmember Polanski noted that the Facilities Naming Subcommittee on February 21 was canceled.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Livengood)

PRESENTATIONS

Mayor Esteves introduced the widow of Mr. **John McDermott**, Betty McDermott, who accepted a City of Milpitas proclamation for her husband's efforts in designing the City's minuteman logo in the 1950s when Milpitas first formed as a City. Mr. McDermott was a City Councilmember in 1960, and many of his family were present to honor him at the meeting.

Rotary Club's 102nd Birthday was proclaimed by the Mayor, noting that Rotary was founded in 1905 in Chicago, IL. The proclamation was accepted by local Milpitas Rotary Club President Michael Berlinski, who provided some facts about Rotary and its success, along with noting its great support from the Mayor and City Council.

Eagle Scout Glenn Mark Robinson Jr. was presented with a City of Milpitas Certificate of Achievement from Mayor Esteves.

City Purchasing Agent Christopher Schroeder accepted the "**Achievement of Excellence in Procurement**" Award, with 125 points Milpitas was in the top 10% of 166 agencies that applied this year. Mr. Schroeder noted the award was given for adherence to best practices criteria, and excellence on behalf of the staff in that City Department, whom he thanked by name: Emma Karlen, Bart Damele, Rosina Castellanos, Linda Cortinas, and Irene Felix along with Daniel Nam of the Information Services department.

PUBLIC FORUM

Peter Nelson, Santa Cruz resident, addressed the Council regarding fire department fees and asked if they would hear his appeal (previously presented). Mayor Esteves asked staff to respond to him, away from the meeting.

ANNOUNCEMENTS

City Manager Tom Williams provided two announcements. First, the statewide Amgen-sponsored bicycle race would come through Milpitas on the following afternoon of February 21; and second, two public access channels 15 and new channel 26 were now both operational, ready to go live.

Councilmember Polanski announced the Council would hold a budget study session next Tuesday, February 27, at 6:00 PM, in the Committee Room. She judged a student speaker contest over the weekend sponsored by the Lions Club, with one participant from Milpitas. She received a letter from the County Superior Court, about the Civil Grand Jury which sought citizens to serve, with a March 5 deadline. She referred to a letter from the CAC to the City Council, and read aloud most of it (regarding lack of re-appointment of one Alternate member of the Commission). She discussed the recent loss of crossing guard Mabel Butler, and with City flags lowered to half staff, wanted to adjourn the meeting in her memory.

Councilmember Giordano was approached by residents about getting a second post office in Milpitas and asked if staff can find out about that possibility. City Attorney responded that the decision was one of the federal government's and US Postal Service, though nothing prevents the City Council from conveying opinion about it. Ms. Giordano suggested City Manager explore it.

Mayor Esteves asked to re-agendize the reappointment of Alternate No. 2 Heidi Pham to the Community Advisory Commission. For the Tuesday, February 27 budget workshop, he encouraged residents to attend, stating that citizens' input was very important on budget priorities. He would surely honor the request to adjourn in memory of crossing guard Mabel Butler. Lastly, the Mayor wished Happy New Year in Chinese and Vietnamese, particularly to the many Asian community members in Milpitas.

City Council recessed for two minutes at 7:36 PM, in order to arrange for Councilmember Livengood to join the meeting by telephone conference. At 7:38 PM, the meeting continued.

City Attorney Mattas advised the Mayor and Council that all votes must be taken by a roll call vote, due to one member participating by phone. The City Clerk would call each member by name asking for their voice vote during this meeting.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda as submitted

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 submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

***4.** Disposal of three City Vehicles

Approved auctioning three surplus City-owned vehicles: a truck, a motorcycle and a pavement marker.

***5.** Ordinance No. 48.18

Waived the second reading and adopted Ordinance No. 48.18 Amending an Existing Subsection to Chapter 200 of Title V of the Milpitas Municipal Code Entitled “Weekly Disposal.”

***7.** Final Acceptance of Project No. 5069

Adopted Resolution No. 7657 granting final acceptance of Athletic Court Rehabilitation - Project 5069, and release of the contractor’s bond.

***8.** Plans and Specifications and Bids for Project No. 4236

Approved plans and specifications for Project No. 4236, Street Resurfacing 2007, and authorized advertising the project for bid proposals.

***9.** Multi-Family Survey

Authorized the City Manager to execute an agreement with A&A Distribution, Inc. for a Multi-Family Address Survey, in an amount not-to-exceed \$26,000.

***10.** Agreement with BAAQMD

Authorized the City Manager to execute the License Agreement between the City of Milpitas and Bay Area Air Quality Management District for the use of City real property, subject to the approval by the City Attorney as to form.

***11.** Bid for Fuel Purchase

Awarded the bid and authorized the City Manager to execute a multi-year contract with Valley Oil to provide fuel, for the not to exceed amount of \$230,000 for the initial term of the contract, subject to approval as to form by the City Attorney.

REPORT OF OFFICERS, COMMISSIONS & COMMITTEES

1. Resolution Regarding Health

Councilmember Giordano announced the resolution was requested by County Supervisor Liz Kniss’ office. She read aloud the resolution that was introduced and voted upon. She noted that community participation was essential to the schools’ being successful with regard to good health and wellness, and the MUSD School Board was also asked to adopt a similar resolution.

Mayor Esteves asked if there was a fiscal impact, regarding specific City programs. Councilmember Giordano replied no, it was more to promote a philosophy of good health practices for all to pursue in the City and our school children.

Motion: Adopt Resolution No. 7655 regarding health awareness in the City and County, along with the efforts of Milpitas Unified School District

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

2. Facility Use Manual - Review for Sports User Groups

Parks and Recreation Director Bonnie Greiner explained that this item was on the agenda at the request of Councilmember Giordano. The purpose was to review the adopted priorities in the Facility Use Manual, established in 2004 to help with allocation of the City's various athletic playing fields. There had been a challenge in the last few years, with an increase in the number of groups and individuals that wish to use those fields. Groups compete for use, with the City owning only six fields that have lighting for night time games.

Ms. Greiner distributed a handout of information displayed overhead, highlighting Priority I through V, as noted in the Manual for the 12 fields and 10 Milpitas Unified School District fields.

City Attorney Steve Mattas advised that the Council received an e-mail from a person from one of the groups that use the fields, with a reference to how various Council members might vote on this matter. He noted Brown Act requirements for the City Council, and advised them to hear from all interested parties at this meeting, then deliberate, and finally note any decision to be voted.

Ms. Greiner provided a summary of the recent Parks, Recreation and Cultural Resources Commission meeting discussion. PRCRC's recommendation of the 70% (v. existing policy of 51%) residency requirement of organization's members, came from the need to meet the current community demands for field use.

Councilmember Giordano asked if PAL soccer was only in the fall and staff replied yes. Staff confirmed that youth soccer was two seasons only. She asked about City sponsored sports events, and Ms. Greiner explained that the PAL was partly budgeted.

Councilmember Gomez stated the staff presentation showed the need for fields. The Transit Area Plan would bring more people, and the need for more fields. What would happen to existing organizations if the percent required changed? Ms. Greiner responded that groups with less percent residents would be charged more for field use.

Vice Mayor Livengood felt it was difficult to do anything that would make it more difficult for kids to use fields, so raising the threshold was going to raise a hardship. The City cannot do that, but would listen to all speakers.

Mayor Esteves inquired about the reservation schedule and utilization of the field schedule. Staff explained that twice a year, staff sat down to schedule reservations into actual use, and reviewed priorities. The Mayor stated that residency might not be only critical criterion to use fields. He was not favorable to excluding some groups.

Mayor invited speakers to the podium.

Speakers:

Mike Baker, Canterbury Place resident, MYSC leader. Volunteer organizations are fragile groups and having something like this come to Council, possibly would shut down his organization. No discussion on how the change proposed would affect organizations that use fields. Need some kind of impact study on this kind of change.

Councilmember Giordano asked Mr. Baker was 2003 when MYSC was formed? Policies in 2004, were they playing at that time? He stated that MYSC started in fall 2004. Councilmember Giordano noted that MYSC draws players from farther away, due to the higher level of play.

Raul Tapia, Starlite Drive resident, involved as Commissioner of Milpitas PAL Soccer. They do not turn away kids, nobody was on waiting list, they take all kids who want to play soccer and it was a really good program.

Marlene Alamillo, North Little League President, was concerned about the safety of the fields for the kids. She cared about the outfielders, when soccer players were on fields, digging up the ground, so her concern was for maintenance of fields. NLL had been around for 40+ years, and bound by Little League rules, with three forms of identification required for residents.

Joe Lowry, PAL and MYSC involved for 20+ years, would hate to see either one of these two groups disappear with this change in policy. He felt City staff and groups working creatively could take care of needs for field use.

Sylvia Higgins, Milpitas PAL volunteer, was new volunteering with the group this year. If you break it down differently by season for sports that may solve things differently than the proposal at this meeting.

Valerie Serena, Willow Ave, advocate for baseball and her children also play soccer. She wanted to ask Council to consider waiving the costs for some of the organizations, and maybe that would help them out.

Jaime Carnero, neighbor of PAL baseball president, his kids have played baseball and soccer. To have competitive sports, you do need other kids playing sometimes. As a coach, he noted that field utilization isn't what it was thought. He discussed the permit paper and sharing as adults was needed for the sports teams' participants.

BJ Navarro, N. Hillview Drive, had two sons who played all sports offered. She was a Milpitas Strikers coach, and offered support for use of fields by her team.

Greg Bennett, Wessex Place, stated it seemed like the City needed more fields in Milpitas. Set aside land for more fields in Milpitas, as plans for the City are considered.

Jim, W. Capitol Ave, was a soccer coach for many years. He noted that there was a need for different venues for different levels of play. He was a field coordinator last fall. Gill Park and Rancho had up to six teams practicing on those small fields. Meanwhile, there was a large space lit at night at the Sports Center available sometimes.

Councilmember Giordano commended Bonnie Greiner for the hard work on good use of playing fields and fair use consideration.

Councilmember Gomez was uncomfortable with staff/Commission's recommendation. He suggested it gets worked out at the twice a year field allocation staff meetings.

Councilmember Polanski was not comfortable changing the residency requirement percentage, as recommended by the Commission.

Vice Mayor Livengood (on telephone) supported any motion that would the keep current policy in place, as he did not want current groups hurt. Creating equality for all sounds good, but the tough work was in the details which was difficult, and required more discussion to figure out. Locating additional fields was a good suggestion and he had some ideas, such as shared use, and to keep use of the fields affordable must be fair.

Mayor Esteves was happy that there was this number of teams, kids and leagues participating in the City of Milpitas. He wanted to serve as many kids as possible. So, any solution must be a "win-win" solution, not one that drops some teams or programs. The current proposal was not acceptable to him as a solution. Challenges were growing, so form a group to come up with a solution, get direct input from teams, and hear from other points of view.

Mayor Esteves reminded all about the City Council budget workshop next Tuesday, where comments were welcome if people felt this was a budget issue.

