

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, May 15, 2007  
**Time:** 6:30 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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**ROLL CALL**

Mayor Esteves called the meeting to order at 6:30 PM.

**PRESENT:** Mayor Esteves, Vice Mayor Livengood, Councilmembers Giordano, Gomez and Polanski

**ABSENT:** None

**CLOSED SESSION**

Mayor Esteves publicly stated the Council would immediately convene in Closed Session to discuss conference with labor negotiator for Collective Bargaining: City Negotiator Carmen Valdez with Milpitas Employees Association.

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 from the Proclamation for the National Day of Prayer as proclaimed by the President of the United States on May 3, 2007.

**MINUTES**

Motion: approve minutes of May 1, 2007 City Council meeting as submitted

Motion/Second: Councilmember Polanski/Councilmember Gomez

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

**SCHEDULE OF MEETINGS**

Motion: to approve the Council Calendar (Schedule of Meetings)

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

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

**PRESENTATIONS**

Mayor Esteves proclaimed five special dates:

*Bike to Work Day* on Thursday, May 17 and *Bike to Work Month* in May, accepted by the Milpitas Bicycle Pedestrian Advisory Commission Chairwoman Cheryl Bunnell.

*Memorial Day* to be celebrated on May 28, 2007 in Milpitas honoring veterans of all wars, accepted by Ms. Estrella Gilan from the American Legion Auxiliary organization.

Veterans of Foreign Wars' *Buddy Poppy Month* for the month of May 2007 (proclamation was to be mailed to group, as no one was present to accept in person).

*Small Business Week* for the week of May 21-25, 2007 celebrating small businesses in Milpitas, accepted by City Economic Development Manager Diana Whitecar and Chamber of Commerce President Nicky Wu. They announced some events sponsored by the Chamber of Commerce celebrating this special week.

*Asian Pacific American Heritage Month*, for the month of May 2007, accepted by community leaders Saratoga Mayor Aileen Kau, Milpitas Library Commissioner Trini Aolin and Community Advisory Commission Alternate Heidi Pham.

**PUBLIC FORUM**

**Rotary Club President Mike Berlinsky and Jane Hills of Catholic Charities** addressed City Council and the public about a new initiative to provide health care insurance to needy children in Milpitas, to upwards of 5,000 children living without health insurance. Those organizations joined with other groups to host First 5 health insurance sign-up day on June 7 from 2:30 – 6:30 PM at Rose School. The cost would be \$0 to \$15 per child per month. Mayor Esteves and School Superintendent Black would be present for the event sponsored by Kaiser Family Health Foundation.

Mayor Esteves requested City staff to advertise this special activity on local cable television Channel 15 for Milpitas parents.

**ANNOUNCEMENTS**

**Mayor Esteves** congratulated Recreation staff for the successful “Family Day” held last Saturday at the Community Center outdoors, encouraging healthy family activity.

**Councilmember Giordano** announced a free concert at the Milpitas Library on Sunday, May 20 at 3:00 PM featuring a classical guitarist. Also, she announced a Small Business Workshop, from 6-8 PM, and Friends of the Library Book Sale next month on June 1-3.

**ANNOUNCEMENT OF CONFLICT OF INTEREST**

None

**APPROVAL OF AGENDA**

Motion: to approve the agenda as amended

City Manager Williams requested to remove Item No. 16 from the agenda to be heard at another meeting, per staff request.

Councilmember Gomez requested to move No. 7 to after Public Hearing item.

Motion/Second: Councilmember Gomez/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 Gomez requested Item No. 11 removed from consent.

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

\* **9.** Youth Sports Assistance Fund Grant

Approved one Group Youth Sports Assistance Fund request, granting \$1,000 to Southpaw Prep, leaving grant fund balance of \$0.00 for the remainder of the fiscal year.

\* **12.** Resolution Directing Preparation of Annual Engineer Report for LLMD 98-1

Adopted Resolution No. 7674 directing the preparation of the Annual Engineer’s Report for Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1, Sinclair Horizon, Project No. 9489.

\* **13.** Resolution Directing Preparation of Annual Engineer Report for LLMD 95-1

Adopted Resolution No. 7675 directing the preparation of the Annual Engineer’s Report for Landscaping and Lighting Maintenance Assessment District (LMD) No. 95-1, McCarthy Ranch, Project No. 9474.

- \* **14.** Resolution Summarily Vacating Easements for Public Service Utility at Town Center  
Adopted Resolution No. 7676 summarily vacating the specified portions of the public service utilities easement at the Milpitas Town Center, located off Milpitas Blvd., Calaveras Blvd. and Hillview Drive, Project No. 3153
- \* **15.** Agreement with Smith & Associates for land appraisal  
Authorized the City Manager to execute a contract agreement with Smith & Associates, in the amount not to exceed \$27,500 to perform an initial appraisal of one acre of land within the City and provide four annual updates for the period 2008-2012
- 16.** Amendment No. 2 to the Agreement with RMC Water  
Item removed from the agenda for consideration at a later date, per staff request.
- \* **17.** Award Contract for Milpitas Communications Enhancement Project – Phase 1  
Awarded Construction Contract to Norwood Construction for the Milpitas Communications Enhancement Project – Phase 1, Project No. 4232, to Norwood Construction, in the amount of \$329,505.
- \* **18.** Change Order No. 1 with Blocka Construction Inc., for Well Upgrade Program  
Authorized the City Engineer to execute the Contract Change Order for Blocka Construction, Inc. for Project No. 7076, in the amount of \$49,543.36.
- \* **19.** Budget Appropriation for Park Renovation Project  
Approved budget appropriation for \$4,500 for Park Renovation Project with Cupertino Electric, Project No. 5082.
- \* **20.** Award the Bid for Burn Room Panel Replacement to Nielsen Building Systems Inc.  
Awarded the bid for Burn Room Panel Replacement to Nielson Building Systems Inc., and authorized the City Manager to sign a contract for the not to exceed amount of \$64,280.00, subject to approval as to form by the City Attorney.
- \* **21.** Award Bid to Frontier Ford for Purchase of Pickup  
Awarded the bid for one 2008 Ford F-350 pickup truck with service body to Frontier Ford, in the amount of \$31,751.73 including sales and tire tax.
- \* **22.** Approve the Contract with Pyro Spectacular for Fireworks  
Accepted the staff report and authorized the City Manager to execute the contract with Pyro Spectacular for the annual 4<sup>th</sup> of July 4<sup>th</sup> fireworks, subject to approval as to form by the City Attorney, in an amount not to exceed \$21,000.
- \* **23.** Approve Payment of Annual Maintenance Fees for Police Records Management  
Approved payment of annual maintenance fees for the Police Records Management System in the amount of \$39,421 to Tiburon, Inc.
- \* **24.** Approve Payment Request to Badger Meters for Replenishment Water Meters  
Approved payment to National Meter and Automation Inc. and approved the Badger meters to be the standardized brand of water meters, as allowed under Milpitas Municipal Code Section I-2.3.13.

**PUBLIC HEARING**

- 1.** Approve “S” Zoning for New Residence at 898 Calaveras Ridge Drive  
Planner Kristine Lowe presented this project to the City Council, a request for approval of a single story 5,706 sq. ft. residence on a 1.27 acre parcel in the Calaveras Ridge Estates subdivision. It was to be located in the Hillside zoning district, where some excessive grading was necessary. The Planning Commission did recommend the project for approval, with a condition from planning staff that required geologic and biologic assessments to be completed.

Councilmember Giordano asked if there was any consideration given to water conservation in terms of recent drought? Staff responded that there was not any special need to revisit the authorized conditions at this time.

Councilmember Polanski noted that there were 29 special conditions. She wondered if the applicant/homeowner was in agreement with those. Ms Lowe replied affirmatively.

Mayor Esteves opened the public hearing.

Applicant Mr. Haresh Panchal addressed Council, stating he bought the land 20 years ago and very much looked forward to building his family's beautiful dream residence on the hillside in Milpitas.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

(2) Motion: approve the "S" Zone No. SZ 2005-02 for Mr. Haresh Panchal to develop a 1.27 acre parcel with a new 5,706 square foot hillside single-family residence, with grading and landscaping at 898 Calaveras Ridge Road (APN 029-06-038), currently zoned Single Family Residential-Hillside (R1-H), subject to findings and conditions recommended by the Planning Commission

Motion/second: Councilmember Giordano/Councilmember Polanski

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

## UNFINISHED BUSINESS

### 2. Recommendation to the VTA Policy Advisory Committee

Councilmember Gomez reminded the City Council of his lack of availability to regularly attend PAC meetings, and that was why there was a vacancy for Milpitas on this body.

Councilmember Polanski noted her availability to serve and attend the monthly meetings in San Jose.

Councilmember Giordano thanked her colleague for volunteering, however, she valued consistency in representation on the outside boards for VTA-related matters, and would be pleased to have the same member (Vice Mayor Livengood) serve on VTA PAC as the member for the SVRTC Policy Advisory Board regarding BART.

Vice Mayor Livengood indicated he would be happy, and was available, to serve on the PAC.

Mayor Esteves noted the seat was previously held by Mr. Gomez, so it was two different persons on the two VTA bodies in the past, so that was why he recommended Ms. Polanski. The Mayor stated he was willing to review all Commission and outside assignments, in order to have a fair number of assignments for each Councilmember, based on their availability and interest.

Mayor Esteves requested a list from staff of all assignments, and for Councilmembers to inform him of their desire to serve on specific bodies.

Motion: Appoint Councilmember Polanski to the Valley Transportation Authority Policy Advisory Committee

Motion/second : Mayor Esteves/Councilmember Polanski

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

### 3. Street Tree Report

Parks Supervisor Carol Randisi provided a detailed oral report on the City tree program, and tree maintenance throughout the City. She explained the existing rules about tree planting and maintenance efforts, in compliance with the City's street tree ordinance.

There were three certified arborists on staff, and two persons also in training.

Ms. Randisi made three recommendations to the Council at this meeting: 1) to continue with the tree planting program, 2) adopt a tree and planting ordinance revision, upon working with the Community Advisory Commission (for two items: one tree per residential property with an appeal process, and revision of the penalty section for topping and illegal tree removal), and 3) to target one neighborhood in Milpitas annually for tree planting by identifying a neighborhood and hold community meetings to plan.

Councilmember Polanski discussed pruning of street trees. She asked staff whether there was a height limit for trees, and what action the City would take on trees trimmed too much. Ms. Randisi stated that the City took responsibility for the pruning, and managed a height of seven feet maximum, by handling service requests. If homeowners wanted to do the work, they would need a permit from the City first. How do residents know they had a City street tree? Staff replied, from the inventory – the last one was done in 1978, and was in the process of being updated presently.

Mayor Esteves inquired about the total number of trees gained in one year. Staff said it was increasing (while she did not have the exact total number) with approximately 350-400 additional street trees per year overall. 500 new planted trees per year were in the budget, while some trees were lost to due to blight or stormy weather every year.

Also, the Mayor asked about how to solicit residents to water the City street trees on their property? Ms. Randisi explained that the best way was to provide information to residents on how much the trees need. Mayor Esteves remarked that nothing was free and that there should be some fiscal impact, and to let the Council know what was the impact directly to increase the number of trees.

The Mayor noted that grants were available and would like to hear more about what grants the City received with respect to money for the tree program.

Councilmember Giordano thanked Ms. Randisi for her report. She had a goal in mind, and appreciated the staff response and information. More vegetation and landscaping added to property values. She expressed support for all three staff recommendations.

Councilmember Gomez asked about goals and objectives, and confirmed with staff that the budget request for next year included the goal for new trees in the City. He asked about the tree trimming program also.

Motion: receive staff report, and adopt the three tools which staff recommended in order to strengthen the tree program:

- 1) Continue with the current tree planting program.
- 2) Revise the Tree & Planting Ordinance with the Community Advisory Commission to include a requirement for one street tree per residential property with an appeal process, and to revise the penalty section to include reasonable cost recovery for tree topping and illegal tree removal.
- 3) Target one residential neighborhood annually for tree planting, including a process that would include community meetings to provide information and education on the tree planting program, and to provide residents with an appeal process.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of:

AYES: 5  
NOES: 0

#### 4. Funding for Alviso Adobe

City Engineer Greg Armendariz reported on the topic of grant funds sought to fund the historical Alviso Adobe project, CIP No. 5055. He provided the history of the long awaited community project, for a building on the statewide registry of CA historic sites.



**RA 4. Approval of Agenda and Consent Calendar**

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

Motion/Second: Agency/Councilmember Livengood /Agency/Councilmember Giordano

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

**\* RA 5. Partial Certificate of Completion for Project No. 3160**

Authorized the Agency Executive Director to execute the Partial Certificate of Completion for certain residential units for KB Home Terra Serena Project No. 3160, subject to approval of the City Attorney as to form.

**\* RA 6. Amend Agreement with D.R. Horton for Centria residential Project**

Adopted Resolution No. RA 282 amending the Owner Participation Agreement with D.R. Horton to change the housing unit type and mix for the West Building of the Centria Project.

**\* RA 7. Resolution Accepting Pool Lighting Project No. 8163**

Adopted Resolution No. RA 283 granting final acceptance and release of the contractor's bond for Project No. 8163.

**RA 8. ADJOURNMENT**

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 9:31 PM.

**REPORT FROM COUNCILMEMBER**

**6. Support SB 156**

This item was heard after Item No. 3, prior to the Redevelopment Agency meeting.

Councilmember Giordano requested Council support for library-related legislation in the State Senate, SB 156. She reviewed some of the needs that could be met if the bond measure was successful and welcomed the Milpitas Librarian Linda Arbaugh who was present. Ms. Arbaugh recommended that the City Council adopt a resolution of support, as there was a tremendous need throughout the community for increased library services. The bonds would especially help the City of Gilroy in Santa Clara County.

Motion: Adopt Resolution No. 7673 supporting Senate Bill 156

Motion/Second: Councilmember Giordano/Vice Mayor Livengood

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

**NEW BUSINESS**

**7. Presentation from the Santa Clara Valley Transportation Authority staff**

City Manager Williams introduced Mr. Jim Lawson (former Milpitas City Council member), the VTA's Government Affairs liaison, to address the City Council, on issues at the transit agency.

VTA had recently conducted and received a Comprehensive Organizational Assessment, not an audit, which was self-directed. The bi-ennial budget - a stable budget currently - was under review. The agency was solely dependent on tax revenues, with labor costs being the highest operating cost item. Also completed recently was a comprehensive operations analysis, which staff would review with the Council.

Mr. Lawson introduced his two colleagues Ms. Ann Carey, Executive Assistant to the General Manager of the VTA, and Mr. Jim Unitas, planning manager at VTA.

Ms. Carey gave a basic overview and history of the 12-year-old transit agency, along with the recently completed, publicly released Comprehensive Organizational Assessment. It recommended that VTA operate more like a business. She highlighted four goals set by Michael Burns, the newest VTA General Manager (since 2005).

Mr. Unitas, VTA Planner, addressed the comprehensive operations analysis, and recommended improvements that could be implemented as a result.

Councilmember Polanski asked about training for VTA Board members, in their very significant role. That was necessary, Mr. Unitas agreed.

Mayor Esteves asked about targeted ways to elicit efficiency within the VTA's budget. Ms. Carey replied that could be achieved, with two measures: farebox recovery and less reliance on subsidies with targeted markets.

Vice Mayor Livengood addressed the subject of composition of the Board of Directors, on which he had served for one term recently. He noted the high turnover of the Board, which could be improved. Mr. Livengood wondered if changes were suggested in the formula for how cities were grouped and represented. Mr. Lawson said the analysis did address this subject, and he then reviewed what the City groups were (with Milpitas grouped with Gilroy and Morgan Hill).

Councilmember Gomez inquired on the farebox recovery measurement, wasn't there some proposal to allow riders to ride for free? Ms. Carey responded yes, that was in San Francisco on the Muni Railwa, and was not implemented.

Mr. Unitas, Operations Planning Manager, noted the year-long process on Policy Development and Data Collection & Analysis. VTA staff was hopeful to unveil a new bus system network as a result of the study. Monday, May 21 would be a meeting in Milpitas at the Great Mall, among other public input meetings, to hear from riders and the community. VTA then hoped to implement meaningful schedule changes in January of 2008. The four "Core Principles" were identified: improved ridership, higher farebox recovery, responsiveness to customers, and effective use of the transit investment and resources.

Councilmember Giordano asked some questions about public input process, and asked Information Services Director Bill Marion to place information on Channel 15 and a link to VTA's website on the City website, especially highlighting the upcoming meeting.

Mayor Esteves inquired if the VTA's plans advocate Smart Growth? Mr. Unitas responded that within VTA planning was a group that worked with cities on all development plans, and together they tried to make VTA work with the plans from local agencies/cities, including support of high density housing near transit operations. The Mayor was happy to hear that, with the need for high density along transit corridors.

Mr. Lawson reiterated that VTA was working though the organizational assessment and its budget, noting these were reflecting the agency's plans for the future. VTA was pleased it had this opportunity to received input from City staff wand was looking forward to implementing changes next January.

Mayor Esteves commended VTA on taking on the assessment themselves and thanked the three VTA staff for their presentation.

No vote was taken on this subject, as it was an information report only

## 8. Options on Medical Marijuana Dispensaries

Before the staff presentation on this topic, Councilmember Polanski referred to the lengthy memo received from the City Attorney's office and she wanted it to be released to the public for information.

Motion: to waive the privilege/confidentiality of the May 9, 2007 memo from the Milpitas City Attorney

Motion/Second: Councilmember Polanski/Mayor Esteves



## ORDINANCES

### 10. Traffic Ordinance No. 43.208

Transportation Engineer Jaime Rodriguez presented the recommendation for a reduction in speed limit on Yosemite Drive, from 40 mph to 35 mph. Staff recommendation results from a recent speed survey conducted in that area.

Mayor Esteves reported that the City Council did receive one e-mail from a resident who was opposed to the speed limit change, while he was satisfied with current speed limit for the area on Yosemite.

Councilmember Giordano questioned why this one section only was recommended for change, when no complaints about this matter had need received.

(1) Motion: waive the first reading beyond the title of Ordinance No. 43.208

Motion/Second: Councilmember Gomez/Vice Mayor Livengood

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

Mr. Rodriguez the title of Ordinance No. 43. 208 “An Ordinance of the City of Milpitas Amending Chapter 100, Title V of the Milpitas Municipal Code Related to Traffic.”

(2) Motion: introduce traffic Ordinance No. 43.208

Motion/Second: Councilmember Gomez/Vice Mayor Livengood

Motion carried by a vote of: AYES: 4  
NOES: 1 (Giordano)

### 11. Ordinance No. 101.20

Human Resources Director Carmen Valdez noted that the Council had introduced this ordinance at its meeting of April 17, and was before the Council at this meeting for adoption, in order to amend the agreement with PERS for firefighter members only. The current Memorandum of Understanding with the firefighters employee group authorized the change, and the contract amendment was necessary to implement the negotiated benefit.

Councilmember Gomez noted the benefits of the change to the City’s PERS agreement, for firefighter members. She also responded to questions from the Mayor about overall total costs for the four MOUs approved over the last year.

(1) Motion : waive the second reading of Ordinance No. 101.20

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

(2) Motion: adopt Ordinance No. 101.20, amending the agreement between the City of Milpitas and the Board of Administration of the California Public Employees Retirement System for local firefighter members

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

## RESOLUTIONS

Three Resolutions were adopted on the Consent Calendar.

**BIDS AND CONTRACTS**

Seven items were adopted on the Consent Calendar.

16. Amendment to Agreement with RMC Water for Fees

This item was removed the agenda, to be considered a future Council meeting.

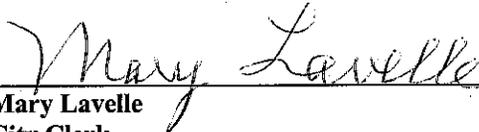
**CLAIMS AND DEMANDS**

Two items were adopted on the Consent Calendar.

**ADJOURNMENT**

Mayor Esteves adjourned the meeting at 10:24 PM.

**The foregoing minutes were approved by the Milpitas City Council as amended on June 5, 2007.**

  
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Mary Lavelle  
City Clerk