



CITY OF MILPITAS

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Mailing Address: 455 East Calaveras Boulevard, Milpitas, California 95035-5479 . www.ci.milpitas.ca.gov

March 19, 2008

Great Mall of the Bay Area, Associates, L.P.
Swerdlow Real Estate Group, Inc.
200 South Park Road,
Hollywood, Florida 33021

Great Mall of the Bay Area
Attn: Bruce Yale
447 Great Mall Dr
Milpitas, CA 95035

Paul Fickinger
The Mills
5424 Wisconsin Avenue
Chevy Chase, MD 20815

Subject: Termination of Sign Lease between
City of Milpitas and Great Mall of the Bay Area

Draft

Dear Mr. Fickinger:

Please consider this letter official notice under the Sign Lease between the City of Milpitas ("Landlord") and Great Mall of the Bay Area, Associates, L.P. ("Tenant") dated December 18, 2001 ("Sign Lease"), of Landlord's intent to terminate the Sign Lease at the end of the Leasehold period.

It is Landlord's intent to make this notice effective as of the date the City Council of Milpitas authorized such termination at its Council meeting of March 18, 2008, with Lease termination to become effective on midnight November 2, 2008.

We send this letter to the address for which Notices are required to be sent under Section 15.05 of the Sign Lease, but since we are aware that ownership of the Tenancy described herein has changed since execution of the Sign Lease, have also sent as a courtesy a copy to you as current holder of the Tenancy.

Please call me if you have any question regarding the content or intent of this notice. Also, be advised that the City will expect that the Sign shall be removed prior to the September 18, 2008 termination date as required under Section 7.04 of the Sign Lease. Failure to remove the sign according to that provision and this notice will result in the City removing the sign after Lease termination and exercising its rights with regard to withholding return of the Sign Removal Deposit as provided in Section 2.05 of the Sign Lease.

Very truly yours,

Michael J. Ogaz
Milpitas City Attorney

Copy: File

MEETING MINUTES – Draft

City of Milpitas
Facilities Naming Subcommittee
Wednesday, February 20, 2008, 5:30 p.m.
Committee Conference Room
Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas



City Council

Jose Esteves, Mayor
Bob Livengood, Vice Mayor
Armando Gomez, Jr., Councilmember
Althea Polanski, Councilmember
Debbie Giordano, Councilmember

Facilities Naming Subcommittee Members

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Jaime O. Rodriguez, Staff Liaison
(408) 586-3335

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I. Flag Salute Vice Mayor Livengood led the Committee in the Pledge of Allegiance

II. Call to Order Vice Mayor Livengood led the meeting to order at 5:30 p.m.

Attendees: Vice Mayor Livengood
Councilmember Armando Gomez

Staff: Jaime O. Rodriguez, Traffic Engineer, Staff Liaison
Mike Ogaz, City Attorney
Bonnie Greiner, Parks & Recreation Director
Leslie Stobbe, Public Information Specialist
Diana Whitecar, Economic Development Manager

Public: Paul Fickinger, Simon Retail Group
Jory Thomas-Everhardt, Great Mall
Christopher Bowe, Dave & Buster's at Great Mall
Paul Hickenlooper, Sak's Fifth Avenue at Great Mall
Kai Giffin, Piercey Toyota

III. Public Forum

No items from the public.

IV. Announcements

Subcommittee: None.

Staff: Bonnie Greiner mentioned that the naming of the Paul Sandhu Gathering Room at the Teen Center is scheduled for May 8, 2008 @ 6:00 PM prior to the Youth Advisory Commission.

V. Approval of Minutes (November 14, 2007) – *Approved*

VI. Approval of Agenda – VM Livengood requested that Item D2 – I880/Montague Sign Renewal item be moved to the front of the agenda to accommodate Mike Ogaz' schedule
Approved w/Order Change – (Draft Minutes are maintained in the agenda order)

VII. Items for Discussion / Action

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Old Business:

A. Milpitas Honors Plaques – City Hall Lobby (Info)

Rodriguez reported that this project was approved by the City Council during the February 5th council meeting and that the new plaques were scheduled for installation the week of April 7th.

B. Milpitas Veterans Street Name Signs (Info)

Rodriguez reported that this project was approved by the City Council during the February 19th council meeting and that the new street names were already ordered. Installation of the new signs is scheduled for mid-April.

New Business

C. Facility Naming Recommendations - Milpitas Library Rooms (Action)

Item was presented by Leslie Stobbe. Stobbe noted that a meeting was held on February 4th with the nominees at the direction of the Library Subcommittee. “Ed Cavallini Tower” is proposed for the south tower in the new library. “Josephine Guerrero Children’s Activity Room” is proposed for the children’s reading room. “Robert Keely Quiet Reading Area” is proposed for the reading area on the second floor.

Stobbe noted that the nominees were pleased with the namings and suggested locations. CM Gomez motioned to forward these recommendations to the City Council. VM Livengood seconded the recommendation.

D. Great Mall Parkway (Action)

1. Name Options

Rodriguez noted that at the previous subcommittee meeting that staff was directed to come up with options to rename the portion of Great Mall Parkway between I-880 and Abel St to help attract people to the new Toyota dealership. Staff recommendations were “Milpitas Auto Parkway” and “Milpitas Auto Plaza”. VM Livengood asked if there were any conflicts with the “Auto Mall Parkway” name north of Milpitas in the City of Fremont. Rodriguez noted that although staff did not coordinate with the City of Fremont that staff did coordinate with Caltrans and that the City needs only to notify them of the street name proposed by the city and then to provide funding to Caltrans for them to replace any existing impacted freeway signage. Rodriguez noted four signs on southbound I-880 and two signs on northbound I-880. CM Gomez asked about impacted properties by a name change. Rodriguez confirmed that there are no businesses or residents using a street address on Great Mall Parkway.

VM Livengood asked if Caltrans needs to approve a street name. Rodriguez responded that Caltrans approval for a name is not required and that replacement of the six cantilever signs is approximately \$20,000 each but if Caltrans allowed the City to just place a new sign over the existing signs that it would be significantly less.

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VM Livengood asked when Great Mall Parkway was named. Rodriguez clarified that it was changed with the realignment of Capitol Av for the VTA Light Rail Station. Rodriguez also confirmed that one of the southbound I-880 signs just before the Great Mall Parkway exit does read, “Tasman Dr/Great Mall Parkway Next Exit”

VM Livengood asked for public comment. Paul Fickenger noted that continued maintenance of the Great Mall Parkway name at I-880 is important to them in helping to continue to attract new tenants to the Great Mall and that is a selling point to them for new tenants.

CM Gomez asked for stakeholder input to help identify a name that is helpful to all businesses that are near the I-880/Great Mall Parkway interchange. The subcommittee asked for staff to invite stakeholders to the next Facilities Naming Subcommittee for their input. A short discussion occurred on the next meeting and because CM Gomez could not make the regularly scheduled March meeting, that the meeting in April would be preferred. VM Livengood asked that both the Great Mall and the Toyota dealership be notified of the next meeting date. Christopher Bowe suggested, “Great Mall Auto Plaza” as a median ground. VM Livengood noted that those suggestions would be considered during the April meeting.

2. I-880/Montague Sign Lease Renewal

Rodriguez noted that the existing lease for the Great Mall to have their large pylon sign along the west side of I-880 at the Montague Expressway interchange is scheduled to expire on November 2, 2008 and that it had an annual renewal cost of \$10,200 which was just paid in January. Two renewal options are available and were discussed by Ogaz.

Ogaz noted that the agreement allowed for termination in two options: 1) let it expire on November 2, 2008 with no action from the council or 2) terminate with 6-month written notification which would require full action by the council. If option 1 were pursued the sign could remain in place on a hold over basis. Ogaz noted that no cause is required if written-termination were pursued. VM Livengood asked if Option 1 were pursued if no written notice was required. Ogaz responded that a notice 30-days prior to lease termination should be provided to allow for removal of the sign, but no action by council would be required.

CM Gomez asked if the annual renewal fee was paid in advance. Rodriguez confirmed that the payment received in January was for the current year making the agreement “paid in full” until November 2, 2008. GM Gomez asked if staff had a process in place of what to do with the sign after the lease expired. Rodriguez responded that no options had been explored yet but that a deposit by the Great Mall was provided which would be used to remove the sign if the sign was not removed by the Great Mall. Ogaz confirmed that the deposit was \$16,000.

CM Gomez asked about a process to bring another entity on board to place a sign at the current Great Mall pylon sign location. Ogaz responded that staff would need to explore the viability of bringing another sign in. VM Livengood noted that staff should begin exploring a process to

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bring another entity in because the potential for use of a sign at the location are now different because of new businesses in the area and technology available which may help to bring in more revenue than the current lease payment noting the sign on Highway 101 for the City of Redwood City. Issues related to the process include who pays for the installation/builds a new signs, how the sign will be used and who maintains it.

VM Livengood asked for comments from the audience. Paul Fickenger from the Mills-Simons Corp commented that they are interested in continuing to retain the sign location and speaking with the City regarding enhancements and incorporation of other businesses onto then sign. CM Gomez asked Paul whether the Great Mall was interested in continuing to retain the sign location because at previous meetings the Great Mall did not express interested. Paul confirmed that the Simon's Corp. is interested in continuing to retain the sign at its present location.

Kai Giffin, on behalf of the County, noted that there would eventually be five (5) car dealerships between Great Mall Pkwy and Calaveras Blvd and that signage was an important part of their success. He also noted that having a sign on I-880 was important to the success of the car dealerships. Kai mentioned that the sign location should be monitored because it may be impacted by the I-880 widening project and that partnerships should be created to install the sign on behalf of the City to maximize profit. For the Toyota dealership, the current sign location was not critical. Rodriguez noted that the I-880 widening project would not impact the existing Great Mall pylon sign at I-880/Montague Expressway.

Christopher Bowe commented that the Great Mall was a community piece for the City and that success of their businesses was dependent on partnership with the City. Christopher wanted the sign to continue to say Great Mall versus Dave & Buster's because it is what people know as a destination in Milpitas.

VM Livengood noted that the expansion of auto dealerships in Milpitas is important to Milpitas because of the revenue potential and limits on staff resources to patrol it. In addition the current sign can be better with the use of technology and that the City should take the land back to identify a way to place a sign that benefits businesses. CM Gomez noted that he also wanted to get a process in place to allow for more businesses in Milpitas to benefit from a sign at that I-880/Montague location.

CM Gomez motioned to make a recommendation to the Council to send the Great Mall a 6-month written notification of planned lease termination. GM Gomez also asked staff to keep all interested parties informed on the planned City Council agenda date for this item.

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VIII. Next Meeting

CM Gomez noted that he would not be able to make the regularly scheduled meeting on March 19, 2008 so the meeting will be moved to Wednesday, April 16th in the Fourth Floor Conference Room.

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. A free copy of the Open Government Ordinance is available from the City Clerk's Office or can be obtained from the City's web page at www.ci.milpitas.ca.gov.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT SUBCOMMITTEE.

City Attorney, Michael Ogaz
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(408) 586-3040 Fax (408) 586-3056
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