

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

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

CONSENT CALENDAR

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

City Manager Tom Williams announced corrections to Items No. 13 and No. 14 on consent. For Item No. 13, the payment request to Frank Surian & Sons should be \$74,490.21 and on No. 14, the payment amount to Gil Sanchez should be \$57,686.

Councilmember Polanski requested to remove item No. 4 from the consent calendar.

Motion/Second: Vice Mayor Livengood/Councilmember Giordano

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

Councilmember Gomez returned to the dais following the vote on the consent calendar. The City Attorney asked him for any conflict of interest and Mr. Gomez replied he had none.

- * 2. Commission Appointments
 1. Appointed Becky Strauss to the Arts Commission and Public Art Committee as Alternate No. 1 to a term that expires in October 2008.
 2. Re-appointed Niranjan Gupta to the Telecommunications Commission to a term that expires in January 2010.
- * 3. Approve Artist for BART Station platform

Per recommendation of the Public Art Committee, authorized B.J. Katz as the glass artist for the proposed future Milpitas BART Station.
- * 6. Approve Grant Application to Open Space Authority

Authorized staff to apply for a \$40,000 grant from the Santa Clara County Open Space Authority for the Alviso Adobe Renovation Project No. 5055.
- * 7. Dispose One Police Vehicle

Authorized the Purchasing Agent to dispose of one surplus police vehicle, PT30-2003.
- * 8. Ordinance No. 38.776, regarding Planning Processes

Waived the second reading and adopted Ordinance No. 38.776 approving amendments to the Zoning Ordinance regarding streamlining the Planning permit and review process and changes to the public notification process.
- * 9. Resolution for "Click It or Ticket" program
 1. Adopted Resolution No. 7748 approving the agreement with the Regents of the University of California regarding the "Click It or Ticket" Program.
 2. Authorized the Police Chief to execute the agreement with the Regents of the University of California, subject to approval as to form by the City Attorney.
- * 10. Award Bid to Sielox Security Systems for Building

Awarded the bid for upgrading the Sielox Security System for the Police and Public Works building; and, authorized the City Manager to execute a contract with Universal Security & Fire, for the not-to-exceed amount of \$60,985.73, including sales tax, subject to approval as to form by the City Attorney.
- * 11. Contract Change Order No. 6 with Anderson Pacific

Authorized the City Engineer to execute the Contract Change Order No. 6 with Anderson Pacific Engineering Construction, in the amount of \$32,345.00 for the Main Sewage Pump Station, Project No. 6103.
- * 12. Computer Upgrades for Data 911 systems

Approved sole source purchase and authorized the purchase of Police mobile computer hardware and software upgrades from Data 911.

- * 13. Emergency Grading and Drainage at Alviso Adobe Approved payment request of \$74,490.21 to Frank Surian & Sons for the emergency grading and drainage system installation at the Alviso Adobe, CIP No. 5055.
- * 14. Architectural Services of Gil Sanches for Alviso Adobe Approved the payment request of \$57,686 for the architectural services of Gil Sanchez for emergency design work for Alviso Adobe (CIP 5055) grading and drainage system.
- * 15. Purchase of Two Book Theft Detection Units for new Library Approved the purchase of two new book theft detection units for the new Milpitas Library equipment for the not-to-exceed amount of \$30,707.87, and approve the standardization of the 3M Library Systems brand.
- * 16. NEC Corp. Child Identification Computer Systems Approved the standardization request and the purchase of two new NEC Corporation of America Child Identification Computer Systems for the not-to-exceed amount of \$8,500.

UNFINISHED BUSINESS

- 1. Report on Traffic Calming measures at Horcajo** Transportation Engineer Jaime Rodriguez discussed outcomes and recommendations, as a result of a community meeting held in February, to address traffic concerns in the Horcajo Street/Horcajo Circle area of Milpitas. Following the meeting, staff requested Council approval to implement changes for traffic calming. A description of the changes was detailed in the agenda report to Council.

Motion: receive report on community meeting for Traffic Calming Improvements along the Intersection of N. Hillview Drive and Horcajo Street/Circle and authorize staff to implement traffic calming improvements

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

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 7:16 PM.

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

ABSENT: None

- RA 3. MEETING MINUTES** Motion: to approve the Redevelopment Agency minutes of March 4, 2008, including joint meeting with the City Council, as submitted

Motion/Second: Agency/Councilmember Polanski / Vice Chair/Vice Mayor Livengood

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

- RA 4. Approval of Agenda and Consent Calendar** Motion: to approve the agenda and Agency consent calendar (items with asterisk*)

There were requests to remove Item No. RA5 and RA8, from audience members.

Motion/Second: Agency/Councilmember Gomez/ Agency/Councilmember Polanski

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

- RA 5. Request for Waiver of Conflict of Interest** City Attorney Mike Ogaz addressed this matter explaining the request that the City had received from its former contracted City Attorney. The item was requested to be

removed from consent by the representative of Piercey Toyota dealership.

Mayor Esteves allowed speakers from the audience at this time.

Mr. Kai Giffin, of Independent Processing Services on behalf of Piercey Toyota, asked that the item be discussed, with regard to future advertising signs at the 880 freeway. Piercey desired that the law firm of Meyers, Nave be granted a waiver by the City, in order for the firm to represent the dealership in matters relating to negotiation with the City of Milpitas on a new advertising sign.

Mr. Rob Means, Milpitas resident, called this a “classic conundrum” about helping a corporation do its business with the local government.

Vice Mayor Livengood next asked the City Attorney about the issues he was concerned with from the beginning in regards to Meyers Nave and Piercey. Mr. Ogaz explained that his recommendation to deny the waiver was based on the knowledge about the sign issue from the City’s perspective that the law firm had. He was uncertain about the “ethical wall” that Meyers Nave would build to shield it from an inside point of view.

Councilmember Giordano asked if there was a policy that would preclude Meyers Nave from representing the client. Staff reported no, and thus, she did not see any conflict unless such a policy existed.

Councilmember Polanski asked staff if the law firm still did some work on select projects for the City. Mr. Ogaz replied yes, on three litigation matters.

Councilmember Gomez noted there was a revolving door ordinance in this City and other cities, to prevent, for example, the planning director not going to work for a developer.

Vice Mayor Livengood was not concerned with one issue raised by Mr. Giffin, about money the company already spent (on legal and other efforts on the sign) which would be lost, if the waiver was not granted. He believed the law firm could represent Piercey in this matter with the ethical wall existing. This was a straightforward matter, with a new sign to be negotiated on, in the future. He could support the requested waiver.

Councilmember Polanski would second a motion, based on the Vice Mayor’s comments. She also supported researching what Mr. Gomez brought up, for the City’s upper management staff and to consider it at a future Council meeting.

Mayor Esteves asked if Meyers Nave would foresee a conflict? City Attorney Ogaz replied yes, there was the potential for it. What benefit would the City get, if the waiver was granted, asked the Mayor. Mr. Ogaz said there was no benefit to the City. With a blank check, it could be a liability, the Mayor felt. He was very scared about this unknown, granting a waiver when he did not know everything about the consequences.

The Mayor allowed for public speaker at this time.

Isaac Hughes, Milpitas resident, had seven points to make. The state FPPC covered this subject, he read statutes on this, including Government Code and court cases in California. It could be confirmed with website information and with the state’s Attorney General. Staff should have debriefed persons about what Meyers Nave would/would not work on when those attorneys left the City. Contracted employees should not return to do additional work. Council must define an “ethical wall” for the public. He asked, when has an attorney been worried about saving someone some money, and that Meyers Nave was not concerned about saving money. Others did care about morality and ethics. Contract employees were not supposed to come back.

Councilmember Polanski next asked questions of the City Attorney about the liability of the previous contracted attorneys. The City did need a policy for what occurred when contract employees depart employment with the City. With that, she moved the staff recommendation, and added to return to Council with a policy about restricting those employees.

Councilmember Giordano repeated that she did not see a conflict. Whose obligation was it, to clear the conflict and accept the interaction between these parties? The City Attorney responded that it was the client's choice, and it resided with Council.

(1) Motion: to decline the request to waive conflict of interest for the Meyers Nave, Riback Silver and Wilson law firm; and, to ask staff to return to Council/Agency with a policy about revolving door for senior management staff

Motion/Second: Agency/Councilmember Polanski /Mayor/Chair Esteves

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

(2) Motion: to approve the request to waive conflict of interest for the Meyers Nave, Riback Silver and Wilson law firm

Motion/Second: Agency/Councilmember Giordano / Vice Chair/Vice Mayor Livengood

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

***RA 6.** Award Construction Contract for Phone Install at new Parking Garage

Rejected the lowest bid from Summer & Sons Electric; and, awarded a construction contract to Design Electric, in the amount of \$49,040 for installation of twelve emergency phone stations within the Midtown East Parking Garage, Project No. 8161, and approved the standardization of the Talk-A-Phone emergency phone system.

***RA 7.** Amendment for Kimley Horn on Project No. 4202

Approved Amendment No. 2 to the Agreement with Kimley Horn and Associates for Calaveras Blvd. Bridge Widening, Project No. 4202, in the amount of \$73,834, subject to approval as to form by the City Attorney.

RA 8. Subordinate Agency Loan to The Crossings at Montague

This item was removed from the consent calendar at the request of one citizen.

City Attorney Mike Ogaz was asked to explain this request and he replied on the financing mechanism employed by the developer of The Crossings at Montague. The Agency had loaned money to the developer, and the project was undergoing refinancing at this time. There is security for the loan, due to increased equity in the property since the time it was acquired by the owner.

Mayor Esteves allowed public speakers at this time.

Speaker: **Rob Means**, Milpitas resident, commented now with seven years gone by, there had been plenty of time for the property owner/developer to hold onto the City/RDA's money, and the City should now get it back. Such funding could be applied to the City's budget to address the structural deficit.

Motion: authorize the Agency Executive Director to execute Subordination Agreements, subordinating the Redevelopment Agency loan to refinancing of The Crossings at Montague property in the approximate amount of \$67 million

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Livengood

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

RA 9. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 7:51 PM.

REPORT OF MAYOR AND SUBCOMMITTEES

Three items were approved on the consent calendar.

4. Facilities Naming Subcommittee: approve Names for Rooms at new Library and Lease Termination Notification to the Great Mall

Councilmember Polanski asked for this subject to be removed from consent. She supported the first part of the staff recommendation regarding named spaces at the new Library. However, she asked questions and wished to hear from her colleagues on the second issue on the agenda.

Transportation Engineer Jaime Rodriguez provided background history on the Great Mall lease termination for space at I880 and Montague. \$10,000 per year was paid to the City for that leased space, where a large monument sign was placed to advertise the Mall.

Staff reported that the Subcommittee's recommendation was to send written notice about terminating the lease in six months time. Notification was required by the lease, to allow for the Mall to remove the sign in advance of any future plans the City had with respect to signs at that location.

Councilmember Polanski asked if the Great Mall sign at this location was the same sign as viewed on I-680. Staff replied yes. If the City moved forward with this action, would the other sign remain she asked, and staff replied yes. The sign on I-680 was located on private property (unlike the 880 sign).

Desire for new signs was expressed by staff, per recommendation of the Subcommittee. A process at the Subcommittee level would need to be developed for new signs. The City would take a look at other businesses having the opportunity to advertise on any new sign created or displayed. Ms. Polanski characterized the existing one "an ugly sign." She asked if there were any downsides to termination of the current lease and staff replied only loss of the current revenue.

Vice Mayor Livengood commented that the issues identified by Mrs. Polanski were those discussed at the Subcommittee. The land was owned by taxpayers, and the issue was to get as much money as the City could from that sign location. The idea was to have a sign that all could share, e.g. Piercey Toyota, Great Mall and others. A new sign could advertise City events too, on city-owned land.

City Manager Williams noted the lease terms, which severely undervalued that land now, and so when the lease expired, staff could negotiate for best use and the future sign.

Speakers:

Paul Fickinger, Executive Vice President for Mills, a Simon Company (Great Mall owner), reported that the Mall recognized the City's intent, while the Mall would like to continue to control sign placement and location. In 2001, the City Council approved the current arrangement. Elimination of the sign would reduce sales and reduce awareness of the Great Mall by drivers on I-880, and thus reduced revenue to the City. He requested to work with the City on a signage solution to maintain freeway exposure that's so critical.

Mayor Esteves asked Great Mall representative about working with the Mall in future. Mr. Fickinger noted the current lease ends on October 2 this year.

Councilmember Polanski asked for the last paragraph of the draft letter, she read aloud the dates and asked for a correction on the date of sign removal in September.

Isaac Hughes, said consideration is a loyalty to people who have been good to the community. He made comments about Vice Mayor Livengood and spoke about Great

Mall and its tax dollar revenue to Milpitas.

Vice Mayor Livengood commented on the draft letter presented to City Council, with the correction to the removal date of the sign (six months from letter date). He remarked about the Great Mall's attitude toward lease termination, when it had "kicked out" senior volunteers for no reason in the past. The bottom line was a piece of land was important to the taxpayers. He urged turning it into a community sign for the Great Mall, other economic engines, and community event information.

(1) Motion: authorize sending written notification by letter to the Great Mall regarding lease termination for ad space at I-880 and Montague Expressway

Motion/Second: Vice Mayor Livengood/Councilmember Polanski

Mayor Esteves repeated that he was not comfortable with the letter, and that the City should give more notice to Great Mall about the need for sign removal and have an explicit plan in place for what would go in its place.

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

(2) Motion: approve the recommendation from the Facilities Naming Subcommittee for naming of rooms and areas in the new Milpitas Library as listed:

1. Ed Cavallini Tower (the south tower)
2. Josephine Guerrero Children's Activity Room (first floor)
3. Robert Keely Quiet Reading Area (second floor)

Motion/second: Vice Mayor Livengood/Councilmember Polanski

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

NEW BUSINESS

Two items were approved on the consent calendar.

5. Report on Parking Task Force Economic Development Manager Diana Whitecar introduced Transportation Planner Joe Oliva, who gave the staff presentation on this issue. Mr. Oliva reviewed the timing of the Task Force assignment and noted the work program consisted of four identified tasks.

He provided several examples of tight parking in various commercial parking locations, including many workplaces. Some religious facilities were displayed also.

Task 2 Conclusions were that Milpitas was consistent with other cities, and should have more categories for parking. He noted that household sizes and number of vehicles per household were higher on average than in Santa Clara County and in the U.S.

The next steps for the Task Force included outreach for Task 3, with a technical memorandum to follow. Next, Task 4 included preparation of revisions to the Zoning Code and a General Plan amendment. Staff planned to return to the City Council in the fall of this year.

Councilmember Giordano asked if the Task Force discussed restriping of streets, with a narrower approach and its impact? Mr. Oliva replied that it was brought up, and would be considered during Task 4.

Speakers:

Isaac Hughes asked could the Council state how this would impact the public on parking on residential streets? He commented on narrow parking in other cities. There

