

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, June 17, 2008
Time: 6:30 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

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

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

ABSENT: Councilmember Giordano

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene to Closed Session to discuss one issue, labor negotiations with employee group Milpitas Professional and Technical Group (ProTech).

City Council convened in Open Session at 7:08 PM.

**CLOSED SESSION
ANNOUNCEMENT**

None

PLEDGE

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

INVOCATION

Mayor Esteves asked all in attendance to observe a moment of silence.

MINUTES

Motion: to approve the minutes of June 3, 2008 City Council meeting, as submitted

Motion/Second: Councilmember Gomez/Vice Mayor Livengood

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

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendars/Schedule of Meetings for June and July

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

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

PRESENTATION

Mayor Esteves proclaimed July as Parks & Recreation Month. The proclamation was accepted by 15-year residents, the Senados family, including their three children.

PUBLIC FORUM

Boy Scout Alan Berryhill of local Scout Troop No. 92 announced he was working on his Eagle Scout project and sought financial support for \$800-\$900 in costs. He planned to build an 8' x 10' storage shed at the Milpitas Senior Center and requested donations.

ANNOUNCEMENTS

City Attorney Mike Ogaz introduced new Assistant City Attorney Bryan Otake, who recently joined the office. Mr. Otake thanked the City Attorney for his introduction and thanked the City Council for their welcome and the opportunity to come to work for the City.

Councilmember Polanski noted that the Community Advisory Commission strongly supported “National Night Out” scheduled on Thursday, August 7 this year. She urged the public to call the Police Department for any groups that would like to host a block party. The idea was to get to know your neighbors and have fun. Ms. Polanski also congratulated Allied Waste staff Ms. Jean Mader (who was in the audience) upon being selected as the Milpitas Business Person of the Year by the Milpitas Chamber of Commerce.

Mayor Esteves announced to the community that there would be no City Council meetings in July, with the next meeting on August 5. A big July 4th celebration was planned in Milpitas on the holiday Friday. Parks and Recreation Director Bonnie Greiner provided details on the “Red, White and Boom” celebration to include a pool party at the Sports Center and fireworks in the evening at 9:30 PM, with Silicon Valley Houserockers scheduled to play from 8–9:30 PM.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST**

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

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

CONSENT CALENDAR

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

Motion/Second: Vice Mayor Livengood/Councilmember Polanski

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

*6. Annual Odor Control Report and Odor Control Action Plan Accepted the Annual Odor Control Report and approved the Updated Maintenance-Level Odor Control Action Plan.

*7. Commission Reappointments Council re-appointed the following Commissioners:
To the Emergency Preparedness Commission (formerly CEPAC):
Re-appointed Brian Shreve (School District rep.) to a term that expires in June 2011.
Re-appointed Russ Cherry to a term that expires in June 2011.

To the Library Advisory Commission:
Re-appointed Marilyn Hay to a term that expires in June 2010.
Re-appointed Trinidad Aoalin to a term that expires in June 2010.
Re-appointed Elpidio Estioko to a term that expires in June 2010

To the Parks, Recreation and Cultural Resources Commission:
Re-appointed Kathryn Gray to a term that expires in June 2011.
Re-appointed Freddie Cacao as Alternate No. 1 to a term that expires in June 2010.

*8. Letter in Support of HR 6049 Renewable Energy and Job Creation Act of 2008 Authorized Mayor Esteves to send a letter of support for the Renewable Energy and Job Creation Act, H.R. 6049, per the recommendation of the Economic Development Commission.

*9. Youth Sports Assistance Fund Grant Approved funding one Group Youth Sports Assistance Fund grant, in the amount of \$1,000 to Milpitas Knights Youth Football, per the recommendation of the Parks, Recreation and Cultural Resources Commission.

*10. Adopt Ordinance No. 38.777 Waived the second reading and adopted Ordinance No. 38.777 for Zoning Amendment ZA08-0002, related to the Transit Area Project.

- *11. 4th Amendment to the Senior Nutrition Contract with Compass Group USA, Inc. Bateman Division
 Approved the fourth amendment, subject to approval as to form by the City Attorney, to the contract and authorized payment to Bateman, Compass Group USA, Inc. for July 1, 2008 through June 30, 2009, not to exceed \$4.06 per meal for a total of \$63,985.60 for the fiscal year.
- *12. 2nd Amendment to the Senior Nutrition Contract with the County of Santa Clara
 Approved the second amendment to the contract between Santa Clara County Social Services and the City of Milpitas effective July 1, 2008, through June 30, 2009; and authorized payment to the County in the amount of \$82,371.
- *13. 4th Amendment to the Contract with New Orient Restaurant
 Approved the fourth amendment to the contract between the City of Milpitas and New Orient Restaurant from July 1, 2008 through June 30, 2009, for the Senior Nutrition Program; and authorized payment to New Orient Restaurant for the total amount of this contract, \$25,958.40, not to exceed \$4.16 per meal.
- *14. Approve Agreement Renewal with CSAC–EIA for EAP for City Employees
 Authorized staff to enter into an agreement for continuing the Employee Assistance Program for City of Milpitas employees with CSAC-EIA, California State Association of Counties-Excess Insurance Authority, for the Employee Assistance Program purchased through Managed Health Network (MHN) for City of Milpitas Employees for the period July 1, 2008 through June 30, 2009, not to exceed \$35,954.28.
- *15. Amend Agreement with Southern California Risk Management Association
 Authorized the City Manager to execute an amendment to the current agreement with Southern California Risk Management Association (SCRMA) to extend the agreement through June 30, 2009, and approved payments in an amount not to exceed \$128,284 for the administration of the workers' compensation program for the City of Milpitas.
- *16. Approve Contract Renewal for Excess Workers' Compensation Insurance
 Approved acceptance of National Safety Casualty Corporation for the City's excess workers' compensation insurance for FY 2008-09, and authorized the City Manager to pay Brown & Brown of California the premium rate of \$128,887.
- *17. Agreement Amendment No. 1 with Randall Funding and Development, Inc., for On-Call Services for Various Projects
 Approved and authorized the City Manager to execute Amendment No. 1 to the agreement with Randall Funding and Development, Inc., in the amount of \$34,000, for on-call services for various projects, subject to approval as to form by the City Attorney.
- *18. Plans and Specifications and Ad for Bid Proposals for Project No. 7086
 Approved plans and specifications for the Water System Air Relief Valve Modifications, Phase II, Project No. 7086 and authorized advertising the project for bid proposals.
- *19. Plans and Specifications and Ad for Bid Proposals for Venus Pump Station Rehab.
 Approved plans and specifications and authorized advertising the project for bid proposals for the Venus Pump Station Rehabilitation, Project No. 6101.
- *20. Authorize Change Order with DeSilva Gates for Street Resurfacing 2008 projects
 Authorized the City Engineer to execute the Contract Change Order with DeSilva Gates Construction, Street Resurfacing 2008, for Projects No. 4242, No. 6073 and No. 8194 in the amount of \$301,000.
- *21. Approve Amendment No. 2 to the Agreement with Metropolitan Planning Group
 Approved Amendment No. 2 to the agreement for Professional Planning Services with Metropolitan Planning Group extending the term to June 30, 2009, increasing the term by one year and increasing the contract amount by \$270,000.
- *22. Approve Amendment to the Contract for Attorney Services with Hopkins & Carley
 Approved an amendment to the contract with law firm Hopkins & Carley, adding \$60,000 to the existing contract of \$19,000, for a total contract amount of \$79,000.
- *23. Approve Amendment No. 3 to the Contract for Attorney Services with Roy C. Abrams
 Approved the third amendment to the agreement between the City of Milpitas and attorney Roy C. Abrams, adding \$25,000 to the contract amount and extending the term of the agreement through December 31, 2008.

Ms. Gaye Morando and Mr. Frank DeSmidt from the Chamber of Commerce were present, along with Mr. Steve Bajor of ProEvents, who was hired this year to manage the annual event. Mr. Bajor answered questions from the Council on the street layout, with artist booths against the curb rather than in the center. He also responded about the Caltrans permit to close Milpitas Blvd. at Highway 237/Calaveras Blvd. Proper signage was planned to alert drivers in the area to the street closure.

Councilmember Polanski provided the suggestion that some food vendors be located in the center of the festival area to meet the needs of festival-goers.

Mayor Esteves opened the public hearing for comments and none were heard.

(1) Motion: move to close the public hearing

Motion/Second: Vice Mayor Livengood/Councilmember Polanski

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

(2) Motion: to approve Entertainment Event Permit No. 2008-5 for the Milpitas Chamber of Commerce, including a waiver of business license fees (typically \$50 per vendor), electrical permit fee (approximately \$144), fire inspection fee (approximately \$1,729), and fees related to the portable entertainment stage (\$750 rental and \$750 towing plus deposit) for South Bay Kids music.

Motion/Second: Vice Mayor Livengood/Councilmember Polanski

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

3. Landscape and Lighting
Maintenance District No. 95-1
McCarthy Ranch

Assistant Civil Engineer Liz Racca-Johnson discussed the annual assessments made for Community Facilities District No. 95-1 at the McCarthy Ranch development site. She provided photographs displaying the work maintained there. \$274,480 was the proposed assessment total for FY 2008-09, and that amount was within the range previously approved by City Council.

Mayor Esteves opened the public hearing for comments, and none were heard.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

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

(2) Motion: to adopt Resolution No. 7771 approving the Annual Engineer's Report, to confirm diagram and assessment, and order the levying of assessments for FY 2008-09 for Landscaping and Lighting Maintenance District No. 95-1, McCarthy Ranch

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

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

4. Landscape and Lighting
Maintenance District No. 98-1
Sinclair Horizon

Assistant Civil Engineer Liz Racca-Johnson discussed the annual assessments made for Community Facilities District No. 98-1 at the Sinclair Horizon development, near part of Berryessa Creek, where landscaping was maintained. She provided photographs displaying the work in that part of the City. \$35,562 was the proposed assessment total, within a range previously approved by the City Council.

Mayor Esteves opened the public hearing for comments, and none were heard.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Polanski/Vice Mayor Livengood

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

(2) Motion: to adopt Resolution No. 7772 approving the Annual Engineer's Report, to confirm diagram and assessment, and order the levying of assessments for FY 2008-09 for Landscaping and Lighting Maintenance District No. 98-1, Sinclair Horizon

Motion/Second: Councilmember Polanski/Councilmember Gomez

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

5. Introduce Zone Change
Ordinance No. 38.778 regarding
Hanson Ct. parcel

Planning Director James Lindsay presented the request by the property owner to rezone from Agricultural to MP Industrial Park designation, to have same zoning as the parcels around the 1.17 acre parcel (APN 28-17-001) located at the end of Hanson Court.

On June 11, the re-zone request was reviewed by the Planning Commission and recommended for approval. No Environmental Impact Report was needed and this change was exempt from California Environmental Quality Act review.

Mayor Esteves opened the public hearing for comments.

Speaker:

Katina Stavralakis, Milpitas resident and business owner on Hanson Ct, stated her office faced the property. She noted how frequently it had flooded over the years. It was well served as agricultural land and did not want it re-zoned. It was very nice property and serene. She would rather have it as a park, not concreted over the wetland area with a lot of water. The land would serve the community better as open space or agricultural land. She did not want water from that property diverted out to neighboring lands.

Vice Mayor Livengood asked if the applicant was present and he was not. On behalf of the speaker above, Mr. Livengood wished the owner to have a response to the speaker. The Planning Director noted the owner lived out of town and could not be present at the hearing.

Motion: move to continue the public hearing to the next City Council meeting on August 5, 2008, in order to hear from the property owner partly in response to comments at the public hearing

Motion/Second: Vice Mayor Livengood/Councilmember Gomez

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

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 7:57 PM.
- RA 2. ROLL CALL** **PRESENT:** Mayor/Chair Esteves, Vice Mayor/Vice Chair Livengood, Agency/Councilmembers Gomez and Polanski
ABSENT: Agency/Councilmember Giordano
- RA 3. MEETING MINUTES** Motion: to approve the Redevelopment Agency minutes of June 3, 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: 4
NOES: 0
ABSENT: 1 (Giordano)
- RA 4. Agenda Approval and Consent Calendar** Motion: to approve the meeting agenda and Consent Calendar (items with *asterisk)

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

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Giordano)
- RA 5. Update Report on New Library and related actions** CIP Project Manager Steve Erickson addressed members on development projects in the MidTown including the new Library under construction. For the south tower art sculpture, staff recommended moving forward on an agreement for a hanging art piece by artist Mr. Cork Marcheschi. Mr. Erickson showed a rendering of what the piece would look like, inside the south tower of the new library.

Councilmember Polanski asked if the artist was prepared, and staff reported that he was comfortable with the terms and requirements of the project.

With regard to the outdoor art piece, artist Mr. Goggin was not prepared to complete the Terrapedia piece. Therefore, for plaza art, staff recommended to consider art after the library was completed and open.

On the historic Fire Truck display at the parking garage, Mr. Erickson reported that the City had arrived at an agreement with the Milpitas Historical Society, with costs covered under a contract change order in the library construction. Costs included \$25,000 for the railing and \$14,000 for security of the truck.

Councilmember Polanski inquired how long the contract term was for the fire truck display and staff replied two years minimum.

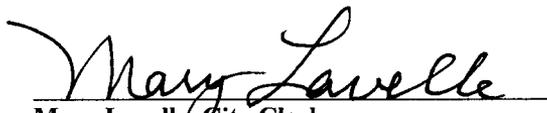
Vice Mayor Livengood felt the end result was where the Council/RDA started actually, and he felt the display was better not enclosed. He thanked staff and the Historical Society representatives for working on this outcome.

Mr. Erickson next provided members with statistics on N. Main Streetscape and Library budgets and construction status. Library construction was 76% complete at this date.

City Attorney Mike Ogaz clarified that ten years was the term for the fire truck display, in the contract with the Historical Society.

- *RA 7. Actions related to the Amendment of the Redevelopment Plan for the Great Mall Project Area and Outside Special Counsel
- 1) Authorized staff to prepare legal documents and reports and perform other actions necessary for a fifth Amendment to the Redevelopment Plan for Great Mall Project Area.
 - 2) Adopted Agency Resolution No. RA 307 authorizing the engagement of outside legal counsel, Murphy and Davis, for special Agency project legal services.
 - 3) Appropriated \$42,075 from Redevelopment Funds to the Agency Counsel's FY 2007-08 operating budget.
- *RA 8. Certificate of Completion for Certain Residential Units within Tract No. 9698 for KB Home
- Authorized the Agency Executive Director to execute the Certificate of Completion, pertaining to certain residential units (described on the Certificate of Completion document) for KB Home Terra Serena Project No. 3160, subject to approval of Agency Council as to form.
- *RA 9. Amendment No. 1 to the Agreement Financial Consulting Services with Economic & Planning Systems
- Approved Amendment No. 1 to the Agreement for Professional Financial Consulting Services with Economic & Planning Systems, increasing the contract amount to \$123,070. Appropriated \$24,550 from Redevelopment funds into the Planning Division's FY 2007-08 operating budget.
- *RA10. Actions Related to Contract for Corporation Yard Canopy
- Approved plans and specifications for Corporation Yard Canopy, authorized advertising Project No. 8183 for bid proposals, and authorized Agency Executive Director to execute a construction contract, subject to approval as to form by the Agency Council.
- *RA11. Award Construction Contract to Valley Slurry Seal Co. for the Slurry Seal Project
- Awarded a construction contract, with add Alternates A and B, to Valley Slurry Seal Co., for Slurry Seal Project FY 2008-09, Projects No. 8194 and No. 6073, in the amount of \$526,256.
- *RA12. Award Construction Contract to Granite Construction for Singley Area Street Rehab.
- Awarded a construction contract to Granite Construction Co. for the Singley Area Street Rehabilitation Phase V, Project No. 8193, in the amount of \$772,245.
- *RA13. Amendment No. 4 to the Agreement with CEL for Various Projects
- Authorized the Agency Executive Director to execute Amendment No. 4 to the agreement with Consolidated Engineering Labs (CEL) for one additional year until June 30, 2009 for inspection and testing services.
- *RA14. Resolutions Approving the Annual Investment Policy
- Adopted two resolutions approving the Annual Investment Policy for FY 2008-09: City of Milpitas Resolution No. 7773 and Agency Resolution No. RA 308.
- RA 15. ADJOURNMENT**
- Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:16 PM.
- REPORT OF OFFICER AND COMMISSION**
- Two items were approved on the consent calendar.
- NEW BUSINESS**
- One item was approved on the consent calendar.
- ORDINANCE**
- One ordinance was adopted on the consent calendar.
- BIDS AND CONTRACTS**
- Eighteen items were approved on the consent calendar.
- CLAIM/DEMAND**
- One item was approved on the consent calendar.
- ADJOURNMENT**
- Mayor Esteves adjourned the Council meeting at 8:16 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on August 5, 2008.


 Mary Lavelle, City Clerk