

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, August 19, 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 was absent at the start of Closed Session and arrived at 6:43 PM.

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene to Closed Session for discussion of two issues: (1) labor negotiations with employee group Professional and Technical Group (ProTech), and (2) existing litigation, Milpitas Mills LP v. City and Redevelopment Agency.

City Council convened in Open Session at 7:03 PM.

**CLOSED SESSION
ANNOUNCEMENT**

None

PLEDGE

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

INVOCATION

Mayor Esteves asked for a minute of silence to be observed by all.

MINUTES

Motion: to approve the minutes of August 5, 2008 City Council meeting, as submitted

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedule of Meetings for August and September

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

PRESENTATION

Mayor Esteves issued commendations to honor "Read to Succeed" program at the Milpitas Library to: student and program creator Ms. Jamie Yao, 41 student tutors in the program at the Milpitas public library and the Vision Literacy organization. A representative from Vision Literacy thanked the Mayor and the student mentor/tutors. The Mayor thanked librarian Linda Arbaugh, also.

PUBLIC FORUM

Mr. Leon Beauchman, AT&T external affairs manager and elected member of the Santa Clara County Board of Education appreciated that the Council took time to recognize young people at this evening's meeting. He reported that AT&T had completed its upgrade in Milpitas of its cabling throughout the City, installed with as little disruption as possible. He again thanked City Council for working with his company so successfully. He presented a plaque with a "Lightspeed" medallion of simulated gold and thanked several City staff.

Mr. Ed Mendence of ReMax Real Estate, offered his personal “thank you” to City staff, and he had 26 years work experience in Silicon Valley, so he thanked Diana Whitecar and Joe Oliva for well representing the City of Milpitas. He helped to move a company over to an Ames Avenue building and had never encountered such excellent help with a complex deal. He thanked Frank Martorella of Fire Inspection and termed Kevyan Irannejad absolutely the best Building Official.

ANNOUNCEMENTS

City Manager Tom Williams reported that the red-LED reader board in front of City Hall was unlit, and it was due for repair, with a part on order.

Vice Mayor Livengood announced information from an email he received earlier in the week, regarding dangerous weapons that the Police Dept. had removed off the streets making the City safer. The action was possible due to a report from a citizen of some suspicious activity. The police always need citizens’ help to keep Milpitas safe.

Councilmember Giordano noticed that Mr. Peter Nelson was in the Chambers earlier. He had sent letters to Council and she wanted to know if his issue would come before the Council. City Attorney Ogaz responded that he would assist Mr. Nelson with an upcoming hearing that was continued.

Councilmember Polanski also thanked Police Chief Graham for the safe action. She thanked members of the Senior Advisory Commission, Bicycle Pedestrian Advisory Commission and Emergency Preparedness Commission for all of their time working at the booths at “Celebrate Milpitas” this past weekend, including a bicycle parking station.

Mayor Esteves reported that he and Councilmember Giordano attended the new teachers welcome event held this week. Officials offered all that Milpitas had to offer to the new teachers. He also congratulated the Chamber of Commerce for its successful “Celebrate Milpitas” festival held over the previous weekend.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Vice Mayor Livengood/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 Giordano/Councilmember Polanski

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

* 3. Commission re-appointments

Re-appointed Nawal Stanojevic to the Bicycle Pedestrian Advisory Commission to a term that expires in August 2011; and, re-appointed Yu-Lan Chou to the Library Advisory Commission to a term that expires in June 2010.

* 4. Arts and Culture Grants

Approved 7 (denied one) Milpitas Arts and Culture Grants for \$14,000, with remaining balance of \$1,000 applied to Arts Day and the Spooktacular event, for a total of \$15,000.

* 6. Continue MOU with Sister City in Huizhou, China

Approved the Memorandum of Understanding continuing a Sister City relationship with Huizhou City, China for five years from date of signing.

* 8. Youth Sports Grant

Approved one Group Youth Sports Assistance Fund grant in the amount of \$1,000 to the Milpitas Youth Soccer Club.

- * 9. Costs for Fire Inspector at Aspen project Approved a \$40,000 increase in the Fire Prevention division budget for pre-paid dedicated fire inspector services for the Aspen Development Project.
- *10. Auction Surplus Vehicle Flat Bed Truck at Auction Approved the request from the Purchasing Agent to auction the surplus Ford F450 flat bed truck.
- *11. Ordinance No. 38.778 Waived the second reading of Ordinance No. 38.778 and adopted Ordinance No. 38.778 authorizing the Hanson Court rezoning.
- *12. Ordinance No. 38.779 Waived the second reading of Ordinance No. 38.779 and adopted Ordinance No. 38.779 for Zone Change No. ZC2007-8, related to the Sinclair Renaissance residential project.
- *13. Ordinance No. 38.780 Waived the second reading of Ordinance No. 38.780 and adopted Ordinance No. 38.780 for Zoning Amendment ZA08-0005 streamlining the zoning code.
- *14. Final Acceptance of Project No. 4179 Adopted Resolution No. 7776 granting final acceptance of the Montague Expressway Eastbound Median Modification Project No. 4179 and approved release of the contractor's bond.
- *15. Requirements for Emergency Work on Intertie at I-880 Adopted Resolution No. 7777 and RDA Resolution No. RA311 finding that emergency response and repair was required for the emergency water intertie crossing I-880 between Dixon Landing Rd and McCarthy Blvd, and authorizing the Director of Public Works to administer the emergency action. Also approved a budget appropriation for \$240,000 from the Water Fund to the budget Account No. 400-423-4241.
- *16. Change Order to Project No. 6103 Authorized the City Engineer to execute Contract Change Order No. 9 with Anderson Pacific in the amount of \$91,285 for the Main Sewage Pump Station, Project No. 6103.
- *17. Contract with Hexagon Transportation Approved a contract for with Hexagon Transportation Consultants for as needed Transportation Services to prepare the Citywide Deficiency Plan, Project No. 8192.
- *18. Change Order to Project No. 4242 Authorized the City Engineer to execute a contract change order with DeSilva Gates Construction in the amount to not exceed \$75,000 for Project No. 4242.
- *19. Payment of Annual Software Support Authorized payments for annual support and maintenance to the following vendors:

Tritech Software Systems (Emergency Dispatch)	\$95,919.54
Cayenta (Finance system)	\$95,289.50
Peelle Technologies (Document Management)	\$22,962.00
Intergraph Corporation (GIS)	\$12,468.00
Tiburon Inc (Police Records)	\$41,392.00

UNFINISHED BUSINESS

- 1. Progress report on the Alviso Adobe Renovation Project City Engineer Greg Armendariz provided an update on restoration efforts at the historic Alviso Adobe for CIP Project No. 5055. The project consists of new park improvements on the two acre site, building structural renovations, and public access improvements, with work done in two scheduled Phases. Next phase will consist of \$800,000 of work on the structure and exterior of the adobe.

Vice Mayor Livengood asked staff about the recent Open Space Authority court case decision, and wanted confirmation that it had no impact on Milpitas, which staff confirmed. Funds allocated for Milpitas (\$350,000) were secure for reimbursement on the project. Milpitas was in District 2, while the lawsuit affected only District 1.

Councilmember Giordano recalled that access was only available on Calaveras Rd. Mr. Armendariz discussed past staff recommendation, while access would be on a bridge structure most likely and he would bring that issue forward in the coming year.

Mayor Esteves asked what would be done by the end of 2009. The building exterior would be complete, but not the access nor landscaping at that point. Funding was already secured for that next phase, staff reported.

Motion: to receive staff progress report and approve a budget appropriation in the amount of \$54,000 from Santa Clara County Historical Heritage Commission and \$13,607 from the Milpitas Historical Society (into Project No. 5055 budget)

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

2. Report on City-wide Wireless (wifi) Network services

Information Services Director Bill Marion reported on the status of the wireless assets received from Earthlink Inc, which the City assumed operation as of May 19. Public access was restored at four public locations. Two proposals were received, one from Veraloft and one from a consortium group. In Milpitas, free city-wide wireless service was preferred (over paid subscription), Mr. Marion reported.

Mr. Karl Garcia from Google was present to answer questions about the Silicon Valley Unwired non-profit organization (second group).

Councilmember Polanski asked about the non-profit, and its ability to offer free service. Was that due to the corporate backing? Mr. Marion replied it was due to less overhead and the fact of other successful non-profit ventures in the marketplace.

Mayor Esteves asked about free wireless and what was the difference in cost between the two proposals. Staff estimated there could be in Milpitas 15,000 households as potential customers for the wireless service.

Mr. Garcia, the Google representative, noted with 30,000 households in Mountain View, yielded 15,000 unique users per month. Mr. Marion estimated that half the residents of Milpitas might use the service over a year. The Mayor further asked Mr. Garcia how the company measured its success with the wireless network for household users.

Mayor Esteves pointedly asked about customer service and who the wireless customers in Milpitas would call for assistance when the network was down. That was to be determined in the future as the network was fully established.

Vice Mayor Livengood commented about revenue lost in return for non-profit business model, and staff's assessment that it was the best choice for Milpitas. He wanted to give SVU an opportunity to make the wireless service work, while customer service that the Mayor asked about was very important. Bridging the digital divide was important.

Motion: to receive staff report and direct staff to negotiate and draft an agreement with non-profit Silicon Valley Unwired "SVU" (I-Net Solutions/Google) for operation of the Milpitas wifi (wireless communication) network

Motion/Second: Councilmember Gomez/Vice Mayor Livengood

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 8:11 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 minutes of August 5, 2008 as amended

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Giordano

Councilmember Polanski asked for edits to the minutes on Item No. RA5 to correctly reflect her remarks on August 5th regarding her request for a sign providing historical information when one would be leaving the newer section of the new library while entering the old grammar school section.

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

RA 4. Agenda Approval and Consent Calendar

Motion: to approve the agenda and consent calendar items (*)

Motion/Second: Agency/Councilmember Gomez / Agency/Councilmember Giordano

Mayor Esteves asked a question about Item No. RA6. He wondered if the Centria West was to be used as rental property dwellings? Staff responded yes.

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

RA 5. Amend Owner Participation Agreement with DR Horton for Centria East Residential Housing Units

Planning Director James Lindsay discussed changes requested now in the DR Horton residential development project, termed Centria West. The recommended change to the OPA was to change the number of below market rate units for sale, and to permit sale of the Centria West to another owner. He discussed market conditions on affordable units on the project terms, as well as financial assistance from the Housing Fund.

DR Horton could structure the sales to low-income residents so that no more than \$75,000 would be needed for the down payment to buy a condominium unit. This would aid low-income buyers, rather than moderate-income residents who have been able to buy market rate housing in the current market.

Mayor Esteves asked questions about this change in the OPA document and its ramifications for potential Milpitas homebuyers. Staff noted that in 2005 when the agreement was made, moderate income families could not afford market rate housing while presently they could. Buyers cannot be found in today's market, so with further assistance, low-income buyers may be located to buy remaining condominium units. Offering additional down payment assistance from the low income housing fund helped.

Vice Mayor Livengood asked questions to clarify what staff requested, learning that 464 remained as the total number of housing units that would be built in both Centria developments.

Mayor Esteves asked about legality of the transaction, and the City Attorney confirmed his office had thoroughly confirmed the amendment document.

Motion: Approve Amendment No. 4 to the Owner Participation Agreement with Western Pacific Housing, LLC (D.R. Horton), regarding affordable housing units to be built in the residential development project

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

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

*RA 6. Property Transfer for Centria West residential

Upon finding the following (per City Attorney memo of August 15):

1. That at the time of this proposed transfer, the Owner Participation Agreement Between the Agency and D.R. Horton (Western Pacific) is in full force and effect, no default by D.R. Horton (Western Pacific) exists with respect to that agreement, and no contractual default will occur upon consummation of the transfer.
2. That the proposed transferee, Lyon Milpitas LLC, has demonstrated sufficient qualifications and experience to perform the remaining obligations under the Owner Participation Agreement.
3. That the proposed transferee, Lyon Milpitas LLC, agrees to be bound by all the provisions of the Owner Participation Agreement, the attached regulatory agreement, and all conditions of approval attached to all discretionary approvals applicable to the Centria West development, the Agency members then moved two action items.

1) Approved the sale and transfer of property of the Centria West site from Western Pacific Housing, LLC (D.R. Horton) to Lyon Milpitas LLC, and

2) Approved a new Owner Participation Agreement with Lyon Milpitas LLC for 67 affordable units within the 327 unit Centria West project.

*RA 7. Amendment No. 2 with EPS consultants

- 1) Approved Amendment No. 2 to the Agreement for Professional Financial Consulting Services with Economic & Planning Systems, increasing contract amount to \$158,070.
- 2) Appropriated \$35,000 from Redevelopment Agency funds to the Planning Division's FY 2008-09 operating budget.

RA 8. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:33 PM.

REPORTS OF OFFICERS

5. Review of Housing Market Study

Economic Development Manager Diana Whitecar reminded the Council that the Housing Market Study was referred to the Economic Development Commission in the spring for its study and review. She then introduced the Commission Chair.

EDC Chairman Mr. Dhaval Brahmhatt reported to the City Council on the Commission's review of the Housing Market Study. He pointed out the Commissioners remained committed to the variety of housing needs for all income levels of residents in Milpitas. Overall, the Commission found the study consistent with City's Strategic Action Plan with regard to housing goals.

Councilmember Giordano asked the City Manager about the course of action Council could take following this report. City Manager Williams said Council could direct staff to proceed, ensuring all cross sections of housing opportunities exist in the City, so that all levels of housing can be offered to our residents.

Ms. Giordano further inquired about Housing Element of the General Plan. The City Manager explained it was due for completion in 2010 (rather than 2009 as first planned).

Vice Mayor Livengood would support the staff recommendation, and wanted to make it clear that Council had found ways to provide moderate and low income housing in the City. It was unable to deal, so far, with executive/upscale housing, so he asked staff to provide some ideas in that area specifically.

Councilmember Giordano recalled that when looking at the Economic Development Plan, stress was placed on encouraging higher-end retail and that was related to bringing in higher income residents, who could purchase high-end homes. Council had noted a void in that area.

Chair Brahmhatt commented on rental housing stock in the City. Renters could not afford to buy, and when conversion of units occurred, residents were forced to move.

Councilmember Polanski agreed that renters must be considered, and look at the rent increases in apartments in the future.

Motion: to direct staff to explore the opportunity sites identified in the Housing Market Study to provide a broader range of housing including upscale executive housing; and, include a study of the current rental market in order to increase the City's supply of rental units.

Motion/Second: Vice Mayor Livengood/Councilmember Polanski

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

7. Govdelivery.com Proposal by Open Government Sub-Committee

Councilmember Gomez introduced this item, and explained that the Open Government Subcommittee received a presentation on GovDelivery.com, as a way to keep residents informed via e-mail. It was relatively cheap to purchase and install.

Information Services Director Bill Marion displayed some examples on how this service worked in the example cities of Berkeley and Elk Grove. He reported expected costs of \$8,094 for purchase initiation, split by all departments, and the suggestion that the City Manager's department would fund the monthly fee of \$875.

Vice Mayor Livengood noted that the cost to citizens was nothing, and they could change it at any time. It was a recognition that this was the way citizens get their information today, not searching all around on the web for it. Free for subscribers, but a small cost to taxpayers/city.

Councilmember Polanski asked about the privacy policy. Staff reported that was part of the agreement the City would have to enter into, and protection of email addresses was part of that.

Ms. Polanski was concerned that Council was not waiting until the budget process for services such as this one. She did not know what the state was going to do with its budget yet, City had frozen the Police Commander position, did not have funds for the Crossing Guards raise, and, at the last meeting asked to find money for a swim coach. She was concerned about the budget, with new funding requests. Council could only stretch the budget so thin, so it was important to make sure the benefit was worth the costs. She urged caution, noting the burden on funds.

Councilmember Gomez discussed staff time needed for GovDelivery, and with the anticipated process of re-vamping the City's website, the new process could go hand-in-hand with website work at same time.

Staff reported that initial monthly billing would only start once the service/product was all set to go (not prior).

Mayor Esteves wanted to know how many residents would be interested in the new service. Mr. Marion said visits to the website would increase a great deal, based on information that GovDelivery reported about other cities. Mayor Esteves thought there were more critical services that the City could provide than this one. And, he questioned how to meet needs of those without a computer at home. He felt it was merely an added convenience to residents at home and wanted equity in information distribution.

Motion: to approve the purchase of GovDelivery.com e-mail subscription service; and direct Information Services staff to implement the new product in conjunction with implementation of the update to City of Milpitas website in 2008 with costs borne by City Manager and all departments

Motion/Second: Vice Mayor Livengood/Councilmember Gomez

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

NEW BUSINESS

Three items were approved on the consent calendar.

ORDINANCES

Three ordinances were adopted on the consent calendar.

RESOLUTIONS

Two resolutions were adopted on the consent calendar.

BIDS AND CONTRACTS

Three items were approved on the consent calendar.

DEMANDS

One item was approved, for payment to five vendors, on the consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the Council meeting at 9:07 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on September 2, 2008.



Mary Lavelle
City Clerk