

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, June 16, 2009  
**Time:** 7:00 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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**ROLL CALL**

Vice Mayor McHugh called the meeting to order at 7:00 PM.

**PRESENT:** Vice Mayor McHugh, Councilmembers Giordano, Gomez and Polanski

**ABSENT:** Mayor Livengood. Councilmember Gomez was absent at roll call and he arrived at 7:04 PM.

**PLEDGE**

Boy Scouts Troop No. 92 presented the colors and led all in the Pledge of Allegiance.

**INVOCATION**

None

**MINUTES**

Motion: to approve the meeting minutes of the June 2, 2009 City Council meeting

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 3  
NOES: 0  
ABSENT: 2 (Livengood, Gomez)

**SCHEDULE OF MEETINGS**

Motion: to approve Council Calendar/Schedule of Meetings for June and July, as submitted

Vice Mayor McHugh announced that Friday, July 3 would be a City holiday and that City Hall and other offices would be closed on that date.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 3  
NOES: 0  
ABSENT: 2 (Livengood, Gomez)

**PRESENTATION**

Vice Mayor McHugh proclaimed the following:

1) "Hand and Upper Extremity Therapy Month" and presented the proclamation to Mr. Prem Lalwani, President of the American Society of Hand Therapists.

2) "Parks and Recreation Month" for the month of July and the proclamation was accepted by Milpitas Parks and Recreation Director Bonnie Greiner and her staff.

**PUBLIC FORUM**

**Chris Darker**, local UPEC union representative, addressed the Council about the planned layoffs in the City. He spoke of situations in other cities and governments. He thanked Vice Mayor McHugh for standing up for employees, and the offer they had made, at the last Council meeting. Mr. Darker stated that employee layoffs should be a last resort only.

Vice Mayor McHugh responded briefly and asked that this topic be agendized on August 4. Councilmember Gomez clarified previous direction to the City Manager, that any negotiation would be to find out known impacts from the state's budget, including possible withholding of

income from the gas tax, redevelopment funding and other items. He asked the City Manager to respond and Mr. Williams reported that nothing specific was known at this time.

Vice Mayor McHugh wanted a report back on the next agenda, following up after tomorrow's scheduled meeting between the City Manager and Mr. Darker.

Councilmember Giordano sought clarity on what report back in August was due, the City Manager's report back on mitigation for layoffs or regarding state issues? Her point was that the Council could not set the agenda for the City Manager's meeting.

City Manager Williams reported that he had called for the meeting with the union representative and he would meet in good faith.

Councilmember Polanski stated the manager had made it clear to her. She would hope that negotiating teams always met in good faith in Milpitas. She mentioned that the Rules Committee met each month, although she was not clear on the process of items getting onto the agenda.

Vice Mayor McHugh asked if there were any additional speakers.

**Isaac Hughes**, Milpitas resident, discussed Roberts Rules of Order, and some specific elements as applied to City Council meetings in the past. He commented on the order of matters listed on the agenda, and that invocation must follow the pledge of allegiance. He mentioned Form 700 documents, and wanted all persons on the dais to make announcement of conflict of interest.

Vice Mayor McHugh asked for a memo back from the City Attorney on two issues raised, and to provide the memo to all Councilmembers.

## ANNOUNCEMENTS

**Councilmember Polanski** announced that "National Night Out" would be celebrated this year on Thursday, August 6 with block parties held throughout the City in concert with Police and Fire Departments' staff. Police Officer Kevin Jackson was coordinating along with Community Advisory Commissioners. On Saturday, June 13, Parks Commissioners went on a tour of the Alviso Adobe historical building and grounds.

**Councilmember Giordano** reported that the Milpitas Library would be sponsoring a book signing by Ken Reed, on Thursday, July 23 at 7:00 PM and the event was free to the public.

**Vice Mayor McHugh** announced that he, along with Councilmember Giordano, had attended the Fil-Am festival last weekend, a great celebration of Filipino culture.

## ANNOUNCEMENT OF CONFLICT OF INTEREST

Councilmember Giordano stated she would abstain from Item No. 2 due to a financial conflict.

## APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Williams noted staff requested to remove Item No. 10 from the agenda, and it would be heard in August.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Livengood)

## CONSENT CALENDAR

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

City Manager Williams announced the result of the bid on Item No. 24 on consent. Regarding the Police Department's roll-up garage door, the bid was awarded to United California Glass and Door in the amount of \$20,530.

City Attorney Ogaz stated on Item No. 23 landscaping contract, the intention was to limit the amount of the award (where bids had not been opened yet) to a total of not-to-exceed \$3 million.

Vice Mayor McHugh asked to remove Item No. 13 from consent, for a brief staff presentation.

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

- \*9. YAC Questionnaire Approved the Youth Advisory Commission Supplemental Questionnaire to be submitted with applications from Milpitas youth to serve on the Commission.
  
- \*14. Payment to City of San Jose for SJ/Santa Clara Water Pollution Control Plant Approved the budget appropriation and payment to City of San Jose for \$2,045,672 from the Sewer Fund for the Milpitas share of Water Pollution Control Plant Operations, Capital Program, and Debt Services costs.
  
- \*15. Youth Sports Assistance Fund Grant Awarded one Individual Youth Sports Assistance Fund grant in the amount of \$500 to Nastassia Hamor, toward costs for the Outdoor Inline Speed Skating National Championships held June 26 to July 5, 2009 in Colorado Springs, CO.
  
- \*16. Ordinance No. 197.11
  1. Waived the second reading of Ordinance No. 197.11.
  2. Adopted Ordinance No. 197.11, amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code.
  
- \*17. Ordinance No. 65.138
  1. Waived the second reading of Ordinance No. 65.138.
  2. Adopted Ordinance No. 65.138, adding a new Chapter 20 to Title II of the Milpitas Municipal Code related to green building regulations.
  
- \*18. Contract with Randazzo Enterprises for Demolition at 1504 and 1556 S. Main Street Adopted Resolution No. 7899 authorizing the City Manager to execute a contract with Randazzo Enterprises, Inc. for hazardous material remediation and demolition of the property located at 1504 and 1556 South Main Street, in the amount of \$108,904.
  
- \*19. Permittee Dedication and Improvement Agreement for Linear Technology
  1. Adopted Resolution No. 7900 for the approval of Public Improvement Plans.
  2. Authorized the City Manager to execute the Permittee Dedication and Improvement Agreement for Linear Technology, Project No. 3209.
  
- \*20. 3 Year Agreement with San Jose for Animal Services Adopted Resolution No. 7901 authorizing the City Manager to execute the agreement with the City of San Jose for Animal Control Services in the amount of \$686,801.
  
- \*21. Department of Energy Economic Stimulus Grant Application Adopted Resolution No. 7902 authorizing the City Manager to submit and execute grant documents approving submittal of Department of Energy economic stimulus grant application and authorizing the City Manager to implement the program.
  
- \*22. Resolution Repealing Outdated Green Build Policies Adopted Resolution No. 7903 repealing outdated green building policies and procedures set forth in Resolution No. 7735.
  
- \*23. Construction Contract for Light Rail Median Landscaping Authorized the City Manager to award a construction contract to the lowest responsible bidder for the Light Rail Median Landscaping, Project No. 2001.  
*(Note: It was awarded in July to California Trenchless for \$876,258.)*
  
- \*24. Contract for Installation of the Police Garage Rollup Door Awarded the bid and authorized the City Manager to execute a contract with United California Glass and Door for installation of the Police Dept. garage rollup door in the amount of \$20,530, subject to review by the City Attorney.
  
- \*25. Design Services Agreement with Gates & Associates Authorized the City Manager to execute a design services agreement with Gates & Associates in the amount of \$110,000 for Cardoza Park Playground Renovation and Electrical Cabinet Upgrade Project, Projects No. 5088 and No. 5085.

- \*26. Award Contract to California Trenchless Inc. Awarded a construction contract to California Trenchless, Inc. for Sewer Deficiency and Structural Correction Program- Phase 5, and Sewer System Replacement, Projects No. 6073 and No. 6111, in the amount of \$357,655.
- \*27. Award Contract to Stoloski & Gonzalez, Inc. Awarded a construction contract to Stoloski & Gonzalez, Inc., for the Water System Air Relief Valve Modifications, Project No.7086-Phase III, in the amount of \$72,624.
- \*28. Award Contract to Gantry Constructors, Inc. for Gibraltar Reservoir and Pump Station, Project No. 7101
1. Approved a budget appropriation for \$3,000,000 from the Water Fund into Project No. 7101.
  2. Awarded a construction contract to Gantry Constructors, Inc. in the amount of \$5,728,700 for Gibraltar Reservoir and Pump Station Improvements, Project No. 7101.
  3. Authorized staff to execute change orders for the Gibraltar Reservoir and Pump Station Improvements, provided that change orders do not exceed the established construction contingency of \$900,000 for the project.
- \*29. Authorize Bids for Calle Oriente Park, Project No. 5087 Approved plans and specifications and authorized advertisement for bids for Calle Oriente Park, Project No. 5087.
- \*30. Renew National Safety Casualty for Excess Workers' Compensation Insurance Approved the acceptance of National Safety Casualty Corporation for the City's excess workers' compensation insurance for FY 2009-10, authorizing the City Manager to pay Brown & Brown of California the premium rate of \$118,089.
- \*31. Funding Agreement with VTA for Tasman Landscaping Authorized the City Manager to execute the Funding Agreement with the Santa Clara Valley Transportation Authority for Tasman East Landscaping, Project No. 2001.
- \*32. Amendment No. 2 to MuniServices LLC contract Approved Amendment No. 2 to the contract with MuniServices LLC, subject to approval as to form by the City Attorney.
- \*33. Contract Amendments for the Senior Nutrition Program
1. Authorized the City Manager to execute an agreement with the County of Santa Clara for FY 2009-10 in the amount of \$175,099.
  2. Authorized the City Manager to execute an agreement with Bateman Compass Group USA, for FY 2009-10 in the amount of \$73,842.00.
  3. Authorized the City Manager to execute an agreement with New Orient Restaurant for FY 2009-10 in the amount of \$28,491.40.

## **PUBLIC HEARINGS**

### **1. General Plan Housing Element**

Principal Housing Planner Felix Reliford reviewed goals and the purpose of the General Plan Housing Element for the next five years, including identification of sites in the City to meet ABAG fair share regional housing needs (RHNA).

There were 6,270 housing units planned presently within Milpitas. The City remained a bedroom community, with a majority of single family residences in its housing stock. Staff reported on its executive-luxury style housing analysis: the City had 29 vacant residential zoned sites where luxury homes could be built. Also, a significant 14-story high rise condominium development, Landmark Towers, was approved in the past year by the Planning Commission and City Council.

Mr. Reliford reviewed the process of getting the housing element certified by the State of California Housing and Community Development (HCD) department. He thanked Ms. Vernazza Wolfe, who was present, the City's consultant in preparation of the Housing Element draft document.

Councilmember Giordano inquired about opportunity sites that Mr. Reliford identified. She requested to show or list those in the report. Staff explained why these were not listed, due to the fact that the City would have to do an Environmental Assessment and analysis on each site then, and geo-technical studies would be necessary. Ms. Giordano asked for clarification on the hillside sites v. valley floor, with regard to luxury housing.

City Manager Williams reported that the state agency (per CEQA) required the environmental work, not a local ordinance, and the City Attorney confirmed this.

Councilmember Giordano requested to add “opportunity sites” into the report, and trusted that staff would figure it out.

Vice Mayor McHugh then opened the public hearing.

Speaker:

**Richard Ruth**, Milpitas resident, spoke on the five year plan for the Housing Element – a planning document – where there was no mention of above-moderate income (luxury) housing. He termed it “a shame” that the City did nothing in this area, when the Economic Development Commission stated it wanted to develop such housing stock. There should be mention by the City in the five-year plan, especially when the economy turned around and to prepare to meet the needs of companies coming to Milpitas.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

Vice Mayor McHugh asked about AMI (income) information and asked staff to make a correction on pages 57-58 regarding labels and staff agreed.

(2) Motion: to approve the General Plan Housing Element Update and direct staff to forward the document to the Department of Housing and Community Development for review and certification – with incorporating edits requested by the Vice Mayor, and one comment made by Councilmember Giordano

Motion/Second: Councilmember Giordano/Councilmember Gomez

Vice Mayor McHugh noted this was a draft document, and not final yet.

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

2. Community Development  
Block Grant - ARRA funds

Councilmember Giordano left the dais during discussion and vote on this item.

Principal Housing Planner Felix Reliford discussed the additional \$157,293 allocation due the City of Milpitas for Community Development Block Grants, on top of money previously allocated for the current fiscal year. Staff offered a back-up plan for funding, in case the federal government did not accept planned improvements at Calle Oriente Park for stimulus funding. The alternate plan would fund four, rather than five, recommended non-profit agencies.

Vice Mayor McHugh asked for an explanation between public services (\$23,593) and non-public services, since the allocation recommended was for non-public services. “Capital Investments” was the same as non-public services (\$133,700 recommended), City Manager Williams explained.

Councilmember Gomez inquired if there had been any opportunity to look back at groups not funded in the recent CDBG regular application process. Staff replied no.

Vice Mayor McHugh then opened the public hearing.



(2) Motion: to waive the first reading beyond the title of Ordinance No. 38.792 for the zoning amendments

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

(3) Motion: to introduce Ordinance No. 38.792

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

(4) Motion: to adopt Resolution No. 7890 certifying the Environmental Impact Report

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

(5) Motion: to adopt Resolution No. 7891 approving the General Plan Land Use Designation change, via GP Amendment No. GP 08-0005 for N. McCarthy Blvd.

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

4. Levying Assessments for LLMD No. 95-1at McCarthy Ranch

Engineer Fernando Bravo introduced the request to approve the engineer's report, confirm the diagram and assessment, and to order the annual assessments on 34 parcels in the McCarthy Ranch area in this special district for improvements. \$276,676 was the total proposed assessment, an increase of \$2196 over last year. Mr. Bravo presented photographs of the areas maintained.

Vice Mayor McHugh asked about the carryover amount from last year to this year. Staff explained that it was related to an amount from three years ago, spread over expenditures over those years, with a small increment remaining in the balance, which would eventually be depleted.

Vice Mayor McHugh then opened the public hearing.

Speaker:

**Rob Means**, 1421 Yellowstone, heard the comment of a 1% increase, and could not imagine how that could be, when costs in all other areas of the economy were going up much more. He asked questions about how to cover costs in the future.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4  
NOES: 0

ABSENT: 1 (Livengood)

(2) Motion: to adopt Resolution No. 7892 approving the Annual Engineer's Report, confirming diagram and assessment and ordering levy of assessments for FY 2009-10, for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

5. Levying Assessments for LLMD No. 98-1 at Sinclair Horizon

Engineer Fernando Bravo introduced Sinclair Horizon's Landscape and Lighting Maintenance District No. 98-1 and the need to authorize assessments for this special district for the next fiscal year. The budget for the coming year was \$35,847, with an increase of \$285 over last year. Staff displayed photographs of how/where the outdoor landscaping was maintained.

Vice Mayor McHugh then opened the public hearing, and no one spoke.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

(2) Motion: to adopt Resolution No. 7893 approving the Annual Engineer's Report, confirming diagram and assessment and ordering the levy of assessments for FY 2009-10, for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

6. Establishing new project for Calaveras Blvd. Widening

Engineer Jaime Rodriguez introduced Mr. Norman Wong, Project Manager with the consulting firm Kimley Horn & Associates, who assisted with preparation of this new project report to start the process of widening Calaveras Blvd. between Town Center and Abel Street. It would help to reduce congestion to both interstate freeways in Milpitas and provide additional capacity. It was not feasible to go as far west as Abbott Lane at this time. Staff described funding and methods to get the impact fee proposed.

Mr. Rodriguez reported that the City did not receive any comments on development of the impact fee, from staff's efforts at a public meeting and outreach.

Vice Mayor McHugh then opened the public hearing, and no speakers were heard.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

(2) Motion: to adopt Resolution No. 7894 establishing a “Calaveras Boulevard Widening Project – Traffic Impact Fee” for traffic generated by new private development

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

7. Milpitas Bikeway Master Plan Update for 2009

Engineer Jaime Rodriguez introduced Matt Lowsky, design consultant with Alta Planning + Design, and City transportation staff Janice Spuller. The last adopted bikeway master plan for Milpitas was in 2002, with a map update done in 2003. He reviewed the process completed to get to this recommendation for the new plan, with major input from the Bicycle Pedestrian Advisory Commission. There were 36.7 miles of bikeway currently and 33.6 miles would be added to that in the new plan including Class I (paths), II (lanes) and III (routes).

Vice Mayor McHugh read from a letter from Starlite Pines HOA, with its concerns about abandoning a portion of an existing crossing over the railroad.

Vice Mayor McHugh then opened the public hearing for comments.

Speaker:

**Rob Means**, 1421 Yellowstone Ave, said the plan obviated a need for crossing at Curtis and Yosemite. He noticed that the Vice Mayor did not ride a bike across town. He wanted Council to look at a map, to see the distance between two proposed railroad crossings was too lengthy, so a third crossing over the railroad was needed.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

Vice Mayor McHugh asked if there was any problem keeping another crossing in the plan, even though not feasible. Staff responded about funding challenges, feasibility, and lack of interest on the part of property owners.

Councilmember Polanski, a long time resident as she was, would not want to see this item (road crossing) be taken out of the master bike plan, especially knowing that things could change in 10-20 years. It would be a direct shot for residents of Parktown and other neighborhoods.

(2) Motion: to adopt Resolution No. 7895 approving the Milpitas Bikeway Master Plan Update 2009 and Environmental Impact Assessment No. EA09-0008, Project No. 4244, and directing staff to include the rail crossing at Curtis & Yosemite in the plan

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 3  
NOES: 1 (McHugh)  
ABSENT: 1 (Livengood)

**JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA 1. CALL TO ORDER**

Vice Mayor/Vice Chair McHugh called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:45 PM.



8. Raising a Reader Program Update from MUSD Staff

No one was present from the Milpitas School District, therefore Vice Mayor McHugh summarized the value of “Raising a Reader” for young people. The City contributed \$10,000 to the program and he described how essential reading was in the lives and families of all youngsters.

**NEW BUSINESS**

Three actions were approved on the consent calendar.

10. Santa Clara Valley Water District presentation

This item was removed from the agenda.

11. Santa Clara Valley Health and Hospital Services

Vice Mayor McHugh welcomed Ms. Kim Roberts, CEO of the Santa Clara Valley Health and Hospital Services, who provided an update report to the City Council. She distributed a copy of her proposal (as on the screen). The County official provided a broad overview of the hospital’s services, successes and current budget challenges.

Ms. Roberts invited City Councilmembers to visit the hospital for a tour, any time. Mr. McHugh thanked her for coming and for work she did on behalf of all county residents.

12. Economic Development Update

Economic Development Manager Diana Barnhart reported on recent economic development activities throughout the City of Milpitas.

Highlights included status of the upcoming International House of Pancakes restaurant, Honda dealership construction, new businesses and stores in the Great Mall (she had met the new General Manager of Great Mall on this date), and one large sale of a technology corporate property (Murphy Ranch Technology Park).

On this same date, the public announcement of Silicon Valley Unwired free wireless computer service in Milpitas was made. It was a very fast service, available free to all users. People could go to [www.svunwired.org](http://www.svunwired.org) to learn more about the service.

One exciting development was Online Commercial Permits program, via the Building Department. These would be for those that do not require specialized plan review.

City Manager Williams commented that the state was discussing taking gas tax funding from cities, which would impact the City significantly.

Chief Building Official Keyvan Irannejad responded to questions about the details on the IHOP restaurant and Marina Foods market progress.

City Manager Williams asked the Finance Director Emma Karlen to come forward to clarify a comment he made. She stated that gas tax funding was not the same as Proposition 42 money which was for infrastructure spending. Councilmember Gomez asked for information on state budget issues and effects on the City, and Ms. Karlen stated she would be glad to report back when she had more information for Council.

Motion: to receive the monthly economic development oral report from the Economic Development Manager

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried on a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Livengood)

13. Update on I680 High Occupancy Toll Lane Project

Traffic Engineer Jaime Rodriguez introduced Sam Wang, a Caltrans senior project engineer, who worked on this project with the City.

The project was managed by the state and included the widening from Pleasanton to San Jose of Interstate Highway 680. A new High Occupancy Toll “HOT” lane was being

