

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, August 18, 2009
Time: 7:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Livengood called the meeting to order at 7:00 PM. City Clerk Lavelle called the roll.

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

ABSENT: Councilmember Giordano was absent at Roll Call. She arrived at 7:03 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 City Council meeting minutes of August 4, 2009, 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/Schedules of Meetings for August and September 2009, as amended

City Manager Williams noted the cancellation of the Senior Advisory Commission meeting on Tuesday, August 25.

Councilmember Giordano inquired if Task Force meetings should be placed on the agenda and Mr. Williams replied he was still working with union representatives to form and schedule those.

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

PRESENTATION

Mayor Livengood presented a certificate to Ms. Shontale Taylor, who recently graduated from Milpitas High School and did so despite many obstacles, and was now entering college.

Mayor Livengood presented the Urban Land Institute Award to DeVries Place Senior Housing facility, accepted by Mid Peninsula Housing Coalition staff Jan Lindenthal, alongside City staff Housing Planner Felix Reliford. MidPeninsula and its DeVries project was honored for the beautiful new building providing housing for low-income seniors on N. Main Street.

PUBLIC FORUM

Rob Means, 1421 Yellowstone resident, spoke regarding Sunnyhills neighborhood and problems with overgrown weeds on properties where foreclosures had occurred. He asked for information on how to get the City's help to have the nuisance abated.

ANNOUNCEMENTS

Councilmember Polanski noted Assemblyman Alberto Torrico would be at the Milpitas Library on Saturday, August 29 from 1 – 3 PM, with an opportunity for citizens to talk with him.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST**

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

The City Manager asked the Council to remove Supplemental Agenda Item No. 15a from the agenda, since the matter was handled on August 14.

Motion/Second: Vice Mayor McHugh/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 amended

City Manager Williams requested to remove item No. 16 from the agenda, since staff continued to work with the VTA on the recommendation.

Mayor Livengood noted that the agenda was already approved including that item, so he said it would be continued to the next Council agenda.

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

*2. Commission Appointments On the Bicycle Pedestrian Advisory Commission, re-appointed Rene Briones to a term that expires in August 2012, and re-appointed Aaron Faupell as Alternate No. 2 to a term that expires in August 2011.

On the Parks, Recreation and Cultural Resources Commission, re-appointed Rebecca Villalobos as Alternate No. 2 to a term that expires in June 2011.

*4. Sister Cities Commission Approved the updated Memorandum of Understanding continuing the Sister City relationship with the City of Tsukuba, Japan for five years beginning September 1, 2009.

*9. Make Public a Confidential Attorney Memo Moved to make public a confidential memo from the City Attorney (regarding agenda items and conflict of interest announcements at Council meetings) and placed the memo with the City Clerk for citizen access.

*10. Cost Sharing and Reimbursement Agreement Authorized the City Manager to execute a Cost Sharing and Reimbursement Agreement for the Transit Area Piper Montague Subdistrict, subject to approval as to form by the City Attorney.

*11. Sewer Management Plan Approved and certified the Sanitary Sewer Management Plan.

*12. Adopt Ordinance No. 65.139 Waived the second reading and adopted Ordinance No. 65.139, amending the Milpitas Building Administration Code by providing for additional building permit and plan review extension periods.

*13. Annexing Parcels into CFD 2005-1 Adopted Resolution No. 7920 certifying and annexing APN 086-01-041 to 086-01-042 (Cerano Apartments and Murphy Ranch Townhomes) into Community Facilities District No. 2005-1.

*14. Resolution for Actions re: Cerano Apartments, PJ 3170 1. Adopted Resolution No. 7921 approving public improvements plans, new Public Park Plans, and the Final Map for Cerano Apartments.
2. Authorized the City Manager to approve a Subdivision Improvement Agreement (Tract 10019) for Cerano Apartments, Project PJ (private job) No. 3170.

*15. Resolution Granting Initial Acceptance of Project No. 3700 Adopted Resolution No. 7922 granting initial acceptance of the Minor Storm Drain at Country Club Drive Project No. 3700, subject to the one-year warranty period and reduction of the faithful performance bond.

Councilmember Giordano asked about 63 low income units in Phase 1, and whether those were for Milpitas residents and the applicant said yes. There was a 55-year term according to the Disposition and Development Agreement in accord with state regulations, for low- and very low-income senior residents at this site.

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

Motion: to close the public hearing

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

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

Motion: to adopt Joint Resolution No. RA 343/No. 7919 authorizing the Agency Executive Director to execute the Assignment and Assumption Agreement, and the Disposition and Development Agreement, for South Main Senior Lifestyles (SMSL) LLC development project at 1504-1620 So. Main Street in Milpitas, and making statutory findings in connection with CEQA and Community Redevelopment Law; and, approve a budget change form.

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

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

**RA 5. Budget Amendment to
Address State Budget**

Finance Director Emma Karlen reviewed the State of California's plan to take \$11.8 million funds from the Redevelopment Agency and \$1.7 million loan from the General Fund. She reviewed alternatives previously presented by the City Manager in order to manage the state's take-away from the City/Agency budget.

Councilmember Giordano noted this occurred a few years ago, and she inquired about use of hotel tax used toward library hours. She was leaning toward the use of Transient Occupancy Tax funds alternative (not use of reserves).

Councilmember Polanski asked about the interest rate earned presently and whether it was adjusted. Ms. Karlen said it was not yet determined for this year, but it was more than LAIF (minimal, lately). Ms. Polanski was comfortable with No. 1 (use reserves) or No. 2 (use hotel tax) alternatives provided.

Councilmember Gomez asked what was to happen next year. The Finance Director responded the state would take \$2.4 million from RDA next year. What other things, she did not yet know. He inquired about Proposition 1A terms for borrowing money. Ms. Karlen responded the state could borrow municipal funds twice in ten years, but must pay back the first loan before a second borrowing. Mr. Gomez stated he wanted to leave the reserves in place, as undesignated, and agreed it was ok to use hotel tax funds to cover the loan.

Vice Mayor McHugh would like to know the likelihood of the prevention of taking RDA funds. Mr. Williams responded there were legal ramifications, considering that five months ago a state court ruled that a prior take (ERAF shift) was illegal. Mr. Ogaz commented that California Redevelopment Agency attorneys remarked that the state was busy trying to make findings to make the recent take legitimate. He further commented there could be a chance of success in court again. Mr. Williams made it clear to Agency members that the Milpitas RDA cannot withhold funds from the state (consequences otherwise).

Motion: move to utilize \$1.7 million from Transient Occupancy Tax funds to cover the state borrowing of \$1.7 million from the General Fund until it is repaid by the state pursuant to Proposition 1A; and to amend the Redevelopment Agency budget to include the \$11.8 million required by the state Education Revenue Augmentation Fund shift

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

(2) Motion: to approve the budget change form authorizing the changes approved above

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

***RA6.** Resolution Granting Final Acceptance, Project 8165

Adopted Resolution No. RA 344 granting final acceptance of North Main Street Streetscape Phase I, Project No. 8165 and release of the contractor's bond.

***RA7.** Consulting Agreement with Biggs Cardosa Associates

Authorized the Agency Executive Director to approve an agreement with Biggs Cardosa Associates, Inc. for consulting services for Soundwall Renovation, Project No. 8196, for an amount not to exceed \$28,500.

RA 8. ADJOURNMENT

Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 7:41 PM.

REPORTS OF OFFICERS

1. Personal Rapid Transit

Mayor Livengood explained that he'd like Milpitas to speak up on this issue and to seek funds toward new technology from the federal government, for possible alternate transportation opportunities including PRT (personal rapid transit).

Rob Means, Milpitas resident, came to the podium, stating he was satisfied with the Mayor's appropriate request, even though it's unknown at the federal level what would be funded.

Vice Mayor McHugh commended Mr. Means for continuing to carry the torch on this.

Motion: to authorize sending a letter from the City of Milpitas to the Santa Clara Valley Transportation Authority regarding funding for PRT/ATN (Automated Transit Network) for the Curtis/Yosemite overcrossing

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

3. School Presentation on Raising a Reader Program

Vice Mayor McHugh introduced Milpitas Unified School District staff Kathy Lincoln who addressed Council on "Raising a Reader." Ms. Lincoln thanked the City for continued support of this unique and valuable program. Staff Linda Lambert also provided information on the present success of the program.

Mayor Livengood acknowledged MUSD Boardmembers Dan Bobay and Marsha Grilli in the audience. He expressed the ongoing support in the City's budget for this program, and thanked the MUSD staff for updating the City Council.

NEW BUSINESS

Three items were approved on the consent calendar.

5. Approve the Cardoza Park Renovation Master Plan and Project Phasing, Project No. 5088

Parks and Recreation Director Bonnie Greiner presented the Master Plan for upgrading Cardoza Park, to completely renovate the City's most popular park, including a new community recreation building and updating all the facilities at this park.

Cost would be approximately \$11 million for the total upgrade plan, which encompassed three phases, with construction on Phase I scheduled to start in January 2010. Ms. Greiner provided a color handout of the overhead presentation to the Council. Phases 2 and 3 would occur in future years, following the funding to be pursued.

Mayor Livengood asked the timeframe for Phase 1. Staff replied by the end of May next spring, Phase 1 should be complete, in order to open for summer programs with no disruption.

Councilmember Gomez asked about \$10 million funding needed for Phases 2 and 3. Staff Engineer Steve Erickson responded those were unfunded at this point. Mr. Gomez asked, in the Parks Master Plan, was funding something to look at then and staff replied yes. Cardoza Park would also be included in the Parks Master Plan.

Councilmember Polanski reported that, at the last Parks, Recreation and Cultural Resources Commission meeting, Commissioners provided some valuable suggestions for areas at this Park for upgrading and were very supportive of the proposal.

Councilmember Giordano asked about available parking, and what was to be done with additional needs for parking with a new building and an increase in amphitheatre capacity. She saw only seven new parking spaces and that did not take care of the parking needs. Ms. Greiner responded that there was parking at the Sports Center available, with a walk-through to the park. Ms. Giordano liked the park, which was well used. She wanted staff to go back to the drawing board, due to the parking situation, and thus would vote no on the proposal for Phase 1 of this project.

Motion: to receive staff report and approve Cardoza Park Renovation Master Plan and Project Phasing, Project No. 5088

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

6. Actions related to Landmark Tower at 600 Barber Lane

Senior Planner Sheldon Ah Sing presented the request to amend the project known as Landmark Tower located at 600 Barber Lane. He reviewed the park in lieu fees calculated originally, versus the new request from the applicant based on new, lower calculations of the number of residents per unit.

Mayor Livengood asked for some confirmation on the facts from prior project approval. Staff agreed that open space would be properly provided in the project once built, and thus park in lieu fees, as the Mayor asked, would no longer be necessary.

Vice Mayor McHugh asked if staff was in agreement with calculations of reduced level of occupancy at the new units and Mr. Ah Sing replied yes.

Additionally, staff reviewed architectural changes to the building to be made by the developer, and displayed those overhead.

Motion: 1) approve the elimination of Park in Lieu Fees based upon the demographic information provided by applicant TP Pham LLC for Landmark Tower and provide credit to the applicant for the public roof top park/garden in lieu of any remaining fees, and 2) approve the architectural refinements to the exterior elevation

Motion/Second: Councilmember Gomez/Councilmember Giordano

Mayor Livengood commented that maintenance of the available park facilities would be the responsibility of the property owner, not the City, as originally stated last fall.

Motion carried by a vote of:

AYES: 5

NOES: 0

7. LIFT zone update

Planning Director James Lindsay provided the City Council with an oral update on activities staff and property owners have taken to date, to improve the status of the area known as the “LIFT” Local Improvement for a Better Tomorrow zone of the city.

Mayor Livengood reported that he walked around the blighted property areas on Sunday. He found 27 windows in violation (plywood, plastic, saran wrap on broken windows). He gave a verbal suggestion to property owners to go and fix those immediately. The roadway was a serious safety problem, with its grading and water leaking, as he saw on Sunday. There was no recreation opportunity for kids who live there, as they were only playing kickball in the dirt, where it was dangerous. The Mayor was not satisfied with only cosmetic improvements, as these were serious problems. He reported also an obvious problem with garbage pick-up, too infrequent, as well as an issue of abandoned vehicles left on properties.

Vice Mayor McHugh remembered from the Mayor’s swearing-in ceremony about the need for improvements in this area. He asked staff if the major (one family) owner was in attendance at a recent meeting of LIFT Zone property owners and staff replied yes.

Councilmember Giordano wondered about the concept of a Homeowners Association. If one were formed, who would handle that and she asked if it could be mandatory. Staff responded no, on the requirement to legal participation, but it could be attractive for owners and for residents there.

Councilmembers remarked that in the future, select Dempsey Rd. properties could be covered in the future of the program, once success was met in the Calaveras area.

Mayor Livengood thanked staff and noted Council received the status update on the LIFT Zone area of Milpitas from the Planning Director (no vote was taken).

8. Economic Development Monthly Report

Economic Development Manager Diana Barnhart provided highlights in the local economy including an upcoming IHOP restaurant, Marina Foods, and Great Mall’s new retail tenants, including Coach and Olive Garden restaurant. There would be nearly 92% occupancy once all the new businesses filled in the mall locations.

Mayor Livengood asked for all five Councilmembers to be present for the opening of the new Honda dealer in the fall. He asked Ms. Barnhart to coordinate with the Honda dealership owners to ensure an appropriate date for all.

Ms. Barnhart reported that the nearby NUMMI automobile plant owned by Toyota, a large regional employer, in Fremont would be closing. Staff planned to continue with “Hotel Happenings” publication from Parks & Recreation distributed at hotels.

Highlighted also was the recent success of Silicon Valley Unwired wireless computer service (wifi) in Milpitas. City staff planned outreach at the outdoor movie on Thursday night, as well as some efforts at the Senior Center.

Staff provided brief summary information from the recently produced Convention Center Analysis, with strengths and challenges in the City for the potential of a conference/convention center.

Councilmember Polanski, noted on the concept of conference center analysis, she asked Council to read carefully and include any comments back to staff for the consultant.

Upon receiving the monthly economic development report from the Economic Development Manager, the Mayor thanked her (no vote was taken).

ORDINANCE

One ordinance was adopted on the consent calendar.

RESOLUTIONS

Three resolutions were adopted on the consent calendar.

BIDS & CONTRACTS

Two items were approved on the consent calendar.

ADJOURNMENT

Mayor Livengood adjourned the City Council meeting at 8:54 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on September 1, 2009.



Mary Lavelle
City Clerk