

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, September 1, 2009
Time: 6:30 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

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

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

ABSENT: Councilmember Giordano was absent at roll call, and arrived at the conclusion of roll call at 6:31 PM.

CLOSED SESSION

City Council convened in Closed Session to discuss potential litigation.

City Council then convened in Open Session at 7:00 PM.

ANNOUNCEMENT

City Attorney Mike Ogaz reported a unanimous vote of the City Council to authorize prosecuting an action against "online" travel providers to recoup transient occupancy tax (TOT) owed to the City, or take such other action administratively or through other means to recoup those taxes.

PLEDGE

Boy Scouts Troop No. 92 led the colors procession and pledge of allegiance.

MINUTES

Motion: to approve City Council meeting minutes of August 14, 2009 as submitted

Councilmember Giordano stated she would abstain from approving the minutes since she was absent from the April 14 meeting, as was Councilmember Polanski.

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 3
NOES: 0
ABSTAIN: 2 (Giordano, Polanski)

Motion: to approve City Council meeting minutes of August 18, 2009 as submitted

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for September, as amended

Councilmember Giordano requested to add two upcoming Cost Reduction Task Force meetings scheduled on Wednesdays, September 9 and 23 at 1:00 PM.

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

PRESENTATION

Mayor Livengood honored the Purchasing Division of the Finance Department by presenting the National Purchasing Institute’s “Excellence in Procurement Award” for the City of Milpitas to Chris Schroeder, the City’s Purchasing Agent.

The Mayor also proclaimed “National Disaster Preparedness Month” for the month of September, and handed the proclamation to Emergency Preparedness Commission Chair Russ Cherry and to SAFE Team Leader Darl Travis.

PUBLIC FORUM

Jeremy DiSalvo, Assistant Director of the Milpitas Community Band, commented on his perception that the band’s service was needed less frequently this year. He mentioned several community activities such as July 4th and the Holiday Tree Lighting ceremony. He believed that services were not requested for the Veterans Day event and he would like to participate.

ANNOUNCEMENTS

Vice Mayor McHugh announced City Engineer Greg Armendariz gave an excellent presentation on emergency preparedness of the City’s resources to the Milpitas Rotary Club on Monday; and he represented the City at the Italian Festival in San Jose on Saturday.

Mayor Livengood shared a clip from the previous evening’s television news, aired on the CBS5 channel, which focused on positive business developments in Milpitas.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Mayor Livengood requested to move Item No. 3 to be heard following the Public Hearing.

Motion: to approve the agenda, as amended including moving Item No. 3 to follow Item No. 1

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

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

* 2. BPAC Appointment

Appointed Commissioner Aaron Faupell as the Milpitas representative to the VTA BPAC – Santa Clara Valley Transportation Authority Bicycle and Pedestrian Advisory Committee.

* 5. File Community Based Transportation Plan

Accepted, and directed City staff to file, the Milpitas Community Based Transportation Plan.

* 6. Initial Acceptance of Tract 9699, KB Home project

Adopted Resolution No. 7923 granting initial acceptance of subdivision improvements for Tract 9699 of the KB Home Terra Serena development, Project No. 3160.

* 7. Approve Maintenance Scheduling & Tracking Software

Adopted Resolution No. 7924 authorizing the City Manager to execute a separate contract – piggybacking onto City of Santa Monica’s current contract - with vendor Maintenance Connection for maintenance scheduling and tracking software.

* 8. 1st Amendment to Coop. Agreement with VTA

Approved the first amendment to the Cooperative Agreement between the City of Milpitas and the Santa Clara Valley Transportation Authority (VTA) for the Route 237/ I-880 Interchange and McCarthy Blvd. median at I-880, Project No. 4170.

* 9. Agreement with law firm for TOT Recovery

Approved a legal services agreement with McKool Smith, LLC, and authorized the City Attorney to execute the contract with the law firm for services related to recovery of transient occupancy (hotel) tax.

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

RA 3. Agenda Approval and Consent Calendar

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

Motion/Second: Agency/Councilmember Giordano / Agency/Councilmember Polanski

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

RA 4. Senior Center Project No. 8176 Construction Update

CIP Engineer Steve Erickson provided an update to the Agency/Council on the progress of construction on the new senior center facility. He reviewed the budget and items of activity including contract change orders, noting the project was 31% complete to date.

Councilmember Polanski commented that the subcommittee discussed the potential use of solar in construction and where it could be added to the building, at the suggestion of Councilmember Giordano. Staff displayed some of the fixtures and furniture going out to bid, which were very impressive. Ms. Polanski looked forward to this step of the building. She also noted that staff offered a tour of the project site to Councilmembers.

Motion: to receive staff progress report on the Senior Center Project No. 8176

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

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

RA 5. Receive Financial Status Report for Year Ended June 30, 2009

Finance Director Emma Karlen provided a summary of unaudited General Fund status for the fiscal year that ended on June 30, 2009. The major revenue shortfall at end of the year was reduced Transient Occupancy (hotel) Tax, 23% below what the budget anticipated. Building and Fire Permits revenue was also lower than expected by 21%. Recent success of the use tax generation program had helped significantly in the sales tax revenue category.

Ms. Karlen discussed reimbursements from the federal government (FEMA) for Fire Department expenses (overtime costs) for firefighters who went out of the City on response teams.

Next, expenditures ended the year at 92.6% of the anticipated budgeted amount, primarily due to department savings on spending throughout the year. There was still a \$2.6 million deficit at the end of the year in the General Fund. The result was that use of the Redevelopment Agency loan payment would be far less than the \$6 million in the original budget. \$22.9 million remained in reserve funds at year's end.

Mayor Livengood noted that the expenditure rate was commendable, for the staff's hard work, on keeping spending down. He was very impressed.

Councilmember Giordano asked Ms. Karlen about the pre-funding of retiree medical benefits. Was it included and staff responded yes, each year a small amount was funded.

Vice Mayor McHugh shared the Mayor's point of view on staff expenses. He was impressed at the high rate of reserves the City maintained. That was very wise and he saluted the Council and staff on that subject.

Motion: to receive the unaudited financial status report for the Fiscal Year ended June 30, 2009

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

Motion carried by a vote of:

AYES: 5

NOES: 0

***RA 6.** Final FY 2009-10 Budget and 2009-2014 CIP

Received the Final City of Milpitas Budget for FY 2009-10 and the 2009-2014 Capital Improvement Program.

***RA 7.** Approve FY 2008-09 Year End Budget Adjustments

Approved the Fiscal Year 2008-09 year-end budget appropriations (itemized on the budget change form) related to issues in Public Works and in the Neighborhood Services budget related to CDBG reimbursements.

RA 8. ADJOURNMENT

Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 7:36 PM.

REPORT OF COMMISSION

One item was approved on the consent calendar.

NEW BUSINESS

One item was approved on the consent calendar.

3. Santa Clara Valley Water District presentation on water conservation

This item was heard following Public Hearing Item No. 1.

Santa Clara Valley Water District Director Richard Santos provided statistics to the Council on water supply, drought conditions, current and future water needs, and conservation efforts. He recently met with Mayor Livengood and appreciated the close working relationship between the District and the City. All kinds of programs were available including rebates, low flow shower heads, and toilet devices to reduce water use by all residents and commercial customers in the City. His message was that it was critical to conserve. He noted free house inspections were available to help homeowners uncover and correct any water leakages on properties.

Also, district staff provided information and tote bags to the City Council members.

Mayor Livengood thanked Mr. Santos for attending the meeting and remaining accessible to the community and City leaders. The City Council received the report from Richard Santos and no vote was taken.

4. Approve Write-off of Accounts Receivable FY08-09

Finance Director Emma Karlen reported that the City's collection rate was extremely high at 99.66%, and the write-off amount for approval was \$105,904 (0.34% of that invoiced). She had provided the City Council with the list of those that still owed amounts to the City.

Mayor Livengood asked about Conoco Philips and why that company could not pay and asked similarly about Executive Inn.

Vice Mayor McHugh was intrigued by one false alarm customer who owed the majority of the overdue amount. He suggested an ordinance for placing a lien on property for anyone who did not pay fees due, such as false alarms and fire inspection fees.

Councilmember Giordano asked about some of the vendors on the list, for example Borders Books. On the Neighborhood Beautification Ordinance (NBO), where one owner had \$3000 in fines, the Council needed to put teeth in an ordinance with the lien idea. She asked about one restaurant with a large amount overdue.

Councilmember Polanski noted on the NBO violations, with some of these, the City must have gone in to do something, so there was a need to follow up on what was still owed. Planning Director Lindsay responded that violations were resolved, while accumulated fines remained in some cases. Compliance had been reached for nearly all cases.

Councilmember Giordano asked if NBO violations stayed with the property, regardless of owner. She then suggested the City lien the property. City Attorney Ogaz responded that could be done, if an appropriate ordinance was written that way (though that was not the case presently).

Motion: to approve the total of \$105,904 as the accounts receivable write-off amount for FY 2008-09 (those on the list distributed) while continuing to pursue some of these; and to bring back an ordinance to lien properties with amounts owed to the City

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

RESOLUTIONS

Two resolutions were adopted on the consent calendar.

BIDS & CONTRACTS

Six items were approved on the consent calendar.

ADJOURNMENT

Mayor Livengood adjourned the City Council meeting at 8:00 PM.

The foregoing minutes were approved by the Milpitas City Council as amended on September 15, 2009.



Mary Lavelle
City Clerk