

ANNOUNCEMENTS

City Manager Williams called on Mr. Greg Armendariz, Director of Public Works. He reported an emergency contract issued to Preston Pipelines on Saturday, September 12, in order to repair a major water main rupture, near Country Club Drive in the Milpitas hills. No damage to properties was experienced, but extensive damage to pipes was found. The Mayor thanked Mr. Armendariz for the City staff’s rapid response to the water main break.

Councilmember Giordano requested the Mayor adjourn this meeting in honor of two residents who recently had passed away, Mr. Ed Connor and Mrs. Helen Terra, both long time residents in the City of Milpitas. Mayor Livengood agreed to do so.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

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 noted a correction to agenda Item No. 16, where the correct amount for the requested contract extension was \$53,200.

Councilmember Gomez asked to place Item No. 4 on the consent calendar.

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

***4. Commission Appointments**

Appointed or re-appointed to City of Milpitas Commissions, as follows:

Bicycle Pedestrian Advisory Commission: appointed Aaron Faupell as a regular voting member with a term to expire in August 2011.

Economic Development Commission: appointed Paul Mulder as the Retail Representative with a term to expire in April 2012.

Sister Cities Commission:

Re-appointed Marsha Binh Tran to a term that will expire in September 2012

Re-appointed Alternate No. 2 Miriam Hardin to a term that will expire in Sept. 2011.

Youth Advisory Commission:

Re-appointed the following Commissioners to one year terms: Sareen Sandhu, Richard Albana, Brian Leon, Lovin Cortez, Dilpreet Khalsa, Jennifer Shen and Patricia Do.

Appointed Samuel Lai and Celine Cacho as permanent voting Commissioners for one year terms.

Additionally, appointed new alternate members to YAC as follows: Luqman Munir as Alternate No. 1, Christina Bruce as Alternate No. 2, Darren Lim as Alternate No. 3, and Diana Tran as Alternate No. 4.

*** 5. Arts & Culture Grant Awards for 2009-10**

Approved four Milpitas Arts and Culture Grants, in the total amount of \$7,500:

1. Milpitas Alliance for the Arts - \$3,000
2. Calaveras Repertory Theatre - \$2,000
3. Van Pham Mai (San Khau Viet CALI) - \$1,500
4. Fancy Dancers, Inc. - \$1,000

with Milpitas for sisterhood. She extended an invitation to elected officials to visit her City for the annual festival next year. Dagupan officials presented a plaque with the MOU adhered permanently, representing sisterhood between the two cities.

PUBLIC HEARINGS

2. Approve FY 2008-09 Consolidate Annual Performance Evaluation Report for the federal Community Development Block Grant funds

Principal Housing Planner Felix Reliford introduced the report required annually to review how CDBG funds were spent successfully in the community, identifying accomplishments in the last fiscal year.

One comment had been received from Live Oak Day Care, to correct the number of individuals under its care (14 not 4 as typed in the report draft). Mr. Reliford noted three accomplishments: the adoption of Housing Element to the General Plan, implementation of Housing and Urban Development five-year consolidated plan, and the start to the implementation of the Transit Area Plan. Further, he highlighted that funds were granted to assist 18 service providers in the community.

Councilmember Giordano inquired how did things look for grant funding from the federal government for next year for CDBG. Staff responded it looked about the same as the current year, but not with the extra stimulus funds. Ms. Giordano commended the number of residents assisted with these funds, which helped more than 5,000 people in Milpitas and said thanks to staff.

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

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

(2) Motion: to adopt the FY 2008-09 Consolidated Annual Performance Evaluation Report

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

3. Entertainment Event Permit for St. James Orthodox Church to hold Food Festival on October 23-25, 2009

City Clerk Mary Lavelle presented the request from St. James Church to host its annual Food Festival, scheduled for the third weekend in October. All departments had reviewed the application and she was expecting to receive an updated insurance certificate naming the City as additional insured.

Mr. Nimer Mogannam was present representing St. James's Church.

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

(1) Motion: move to close the public hearing

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

(2) Motion: to approve Entertainment Event Permit No. 2009-4 including for St. James Orthodox Church's "Food Festival" on October 23-25, 2009

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of:

AYES: 5

NOES: 0

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER

Mayor/Agency Chair Livengood called to order the regular meeting of the Milpitas Redevelopment meeting jointly with the City Council, at 8:11 PM.

ROLL CALL

PRESENT: Chair/Mayor Livengood, Vice Chair/Vice Mayor McHugh, Agency/Councilmembers Giordano, Gomez and Polanski

ABSENT: None

RA 2. MINUTES

Motion: to approve the meeting minutes of the Redevelopment Agency meeting of September 1, 2009, as submitted

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

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 amended

Vice Mayor McHugh requested to remove Item No. RA6 from the consent calendar. Also, on Item No. RA10, he commented favorably to waive the requested fees at Terrace Gardens for the benefit of the senior residents there.

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

Motion carried by a vote of:

AYES: 5

NOES: 0

***RA 4. New CIP, Abbot Avenue Street Resurfacing Project**

1. Approved a new Capital Improvement Project - Abbott Avenue Street Resurfacing, Project No. 4251.
2. Approved a budget appropriation of \$300,000 from the Street Fund into the new project for the resurfacing of Abbott Avenue.
3. Defunded \$364,000 in federal American Recovery and Reinvestment Act Program (ARRA 2009) funds from Project No. 8194, and approved a budget appropriation of \$364,000 into this new project for the resurfacing of Abbott Avenue.
4. Approved project plans and specifications and authorized the advertisement for bid proposals, pending Caltrans project approval, for Abbott Avenue Street Resurfacing.

***RA5. Adopt a Resolution Granting Final Acceptance of Project No. 8165**

Adopted Resolution No. RA 345 granting final acceptance of the North Main Street Streetscape Phase I, Project No. 8165, and release of the contractor's bond.

RA6. Award Contract to Joseph J. Albanese for S Main Street, Project No. 4243

This item was removed from consent calendar for discussion.

Vice Mayor McHugh had a question on the 20% local match feature of the grant for this program. City Engineer Armendariz explained that it could potentially be up to a 100% match opportunity, and so staff would do its best to maximize the grant amount.

Additionally, the Vice Mayor asked if there were alternate segments of the motion needed, if the total funds did come through for the City, and staff replied no.

Motion: to award a construction contract to Joseph J. Albanese, Inc. for South Main Street Streetscape Phase I, Project No. 4243, for the base bid and bid alternate 1 in the amount of \$888,393.50, subject to approval as to form by the City Attorney

the owner's bill, it was the renter's. She asked about other utilities and their practices, based on Mr. Ogaz's comments that a property owner could be held responsible, as other utility companies do in other jurisdictions. Ms. Giordano would hold off on doing that in Milpitas, especially if that did not occur with other utilities such as PG&E and Comcast.

Councilmember Giordano next spoke regarding collections for the private job accounts and stated it was a great idea to pursue. She wanted the developer to sign agreement that held the property owner to be responsible, and lien it when necessary. Using liening property versus putting it on the tax roll was cleaner to do (she believed it was not pertinent to property taxes).

City Attorney Ogaz understood from the Finance Director that for the City's utility, the ability to turn off the water service was an effective tool, to remedy non-payment of bills presently. On private job accounts, presently developers did sign development agreements and could add a requirement for the property owner to sign any agreement.

Councilmember Polanski noted there were a lot of properties in the City that were rented out, and not all owners were good landlords. Sometimes a utility was part of the rent, so utility should be part of the lien as well, she stated.

Vice Mayor McHugh pointed out, that even though it might have impact on property owners of rented units, that was the most significant portion of write-offs (on the list at last meeting) presented by staff. So, should the City try to collect so as not to reduce services? It was in the best interests of the City to collect, so he was supportive of a lien process or add to the tax roll for collection.

Mayor Livengood asked about landlords who pay utilities for the renters such as water, sewer and garbage, and so what might be proposed was that the landlord would have to pay if bills remained unpaid, no matter what the status of renters.

City Manager Williams remarked that staff would seek clarity on any action with regard to private job accounts.

First, Vice Mayor McHugh asked the City Attorney reiterate his comment on the possibility of any "business unfriendly move" noted earlier. Mr. Ogaz said that was regarding the private job accounts, suggesting it could create greater burdens for a development team, including an owner, if both owner and developer had to sign an agreement where unpaid bills would go on as a lien or on the tax bill. City Manager Williams commented on the speculative nature of land and competitiveness.

(1) Motion: to direct the City Attorney to pursue preparation of action necessary, such as an ordinance, for imposition of liens on property owners to enhance collection of debts owed to the City

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

(2) Motion: with regard to private job development accounts, to continue action as suggested by the City Attorney (no change to current law)

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

(3) Motion: to review anew the concept to lien property owners for utility bills, take it out of the equation to get a better legal understanding of it and possibly bring that issue

back at a future time, and to use the lien process for Neighborhood Beautification Ordinance violations and others but not to lien property owners for utility debts

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion failed on a vote of: AYES: 2 (Giordano, Gomez)
NOES: 3

(4) Motion: proceed to modify existing ordinances to have non-payments classified as public nuisances, and include all eligible proposed write-offs including utilities

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

Motion carried by a vote of: AYES: 3
NOES: 2 (Giordano, Gomez)

8. Monthly Economic Development Report

Economic Development Director Diana Barnhart gave her monthly report, highlighting various business activities throughout the City. Particularly exciting was the likely September opening of the new South Bay Honda auto dealership.

She went on to note achieved elements of the "Roadmap to Service Improvements" in the City, including online permitting instituted, one-stop permit shop, simplifications of the zoning code, more staff level reviews, easier business license process, and outreach to brokers.

Councilmember Gomez thanked her for her efforts and the report on the items above, making Milpitas a business friendly and welcoming City.

Mayor Livengood agreed with the comments of his colleague, and thanked Ms. Barnhart for her report on recent activity. No vote was taken.

RESOLUTIONS

Two resolutions were adopted on the consent calendar.

BIDS & CONTRACTS

Four items were approved on the consent calendar.

ADJOURNMENT

Mayor Livengood adjourned the City Council meeting at 8:49 PM. in memory of two recently deceased long time Milpitas residents, 96 year old Helen Terra and Senior Advisory Commissioner Ed Connor.

The foregoing minutes were approved by the Milpitas City Council as amended on October 6, 2009.


Mary Lavelle
City Clerk