

**MEETING MINUTES
CITY OF MILPITAS**

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

**ROLL CALL
CLOSED SESSION**

Vice Mayor McHugh called the meeting to order at 6:30 PM. City Clerk Lavelle called the roll.

PRESENT: Vice Mayor McHugh, Councilmember Gomez and Polanski

ABSENT: Mayor Livengood and Councilmember Giordano were absent at roll call. Ms. Giordano arrived at 6:35 and Mr. Livengood arrived at 6:50 PM.

CLOSED SESSION

Vice Mayor McHugh stated the City Council would convene to Closed Session for discussion of:
(1) Labor negotiations with the Milpitas Supervisors Association
(2) Workers Compensation Appeals Board Claim No. SJO 199815 re: Andrew Smith

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

**CLOSED SESSION
ANNOUNCEMENT**

None.

**ROLL CALL
REGULAR MEETING**

Mayor Livengood called the meeting to order in Open Session at 7:00 PM. City Clerk Lavelle called the roll for this portion of the meeting

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

ABSENT: Councilmember Gomez was absent at 7:00 and arrived on the dais at 7:01 PM.

PLEDGE

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

INVOCATION

Father Victor Tran of St. Elizabeth Catholic Church provided an invocation prayer.

MINUTES

Motion: to approve City Council meeting minutes of September 15, 2009, as amended

City Manager Williams reported a correction needed on page 1, noting the start time of the meeting was 7:00 PM, not 6:30 PM as noted on the draft minutes.

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendar/Schedule of Meetings for October, as submitted

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

PRESENTATIONS

Mayor Livengood proclaimed the following:

Make a Difference Day on October 24, 2009 - proclamation would be delivered.

Fire Prevention Week for October 4–10, 2009 – proclamation accepted by Assistant Fire Marshal Albert Zamora, on behalf of the Milpitas Fire Department.

Help People with Intellectual Disabilities Days on October 16-18, 2009 – proclamations accepted by members from two Knights of Columbus Councils #5796 and #8747.

PUBLIC FORUM

Morgan Mainerick invited the City Council and community to attend the upcoming Halloween “Spooktacular” event offered by the Parks & Recreation Department, at the Great Mall on October 24, 25, and 31. There would be a live game board on which all young people may move along an Enchanted Forest to win prizes.

Justin Marlaire, of the Silicon Valley Leadership Group, invited City Councilmembers and the community to participate in the group’s annual “Turkey Trot” on Thanksgiving Day morning. It was a fundraising run/walk to raise funds for several needy organizations in Santa Clara Valley. Akeena Solar planned to sponsor the “Mayor’s Cup” challenge, in which Milpitas may compete against cities of similar size. **Kathleen King**, Saratoga City Councilmember, encouraged Mayor and Council to attend. She thanked Council for CDBG funds for the Healthy Kids program, too.

Debra Santos Drummond of 624 Easter Ave., spoke about re-zoning of flood plain areas in Milpitas by FEMA, which she commented was the same as New Orleans. She complained about this change, as it was unfair and residents were not notified. Her household had received a higher insurance bill based on the flood data, which would be a great hardship on homeowners and property tax payers. The Mayor asked staff to assist her with information.

Virginia Fuji spoke the H1N1 flu virus and whether the untested vaccine was appropriate. She was very concerned about this issue and asked Councilmembers to read information she had sent them via e-mail. Vaccines may not be safe, she wanted the community to know.

ANNOUNCEMENTS

Mayor Livengood announced he would re-dedicate a park on October 17 at 10:00 AM for the re-naming of the Robert E. Browne Park on that morning (currently Yellowstone Park). Also, he read aloud a card he’d received from a grateful resident on Grand Teton Drive, expressing appreciation for employees who took care of street trees. Mr. Livengood thanked City staff for their good work.

Vice Mayor McHugh thanked residents for selecting him as the Best Elected Official recently in a newspaper contest. From the dais, he announced he would be a candidate for Mayor of Milpitas in the 2010 election.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Gomez/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: Vice Mayor McHugh/Councilmember Polanski

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

***2. Commission Appointments**

Appointed or re-appointed to City of Milpitas Commissions:

Arts Commission

Re-appointed Harriet McGuire to a term that expires in October 2012.

Re-appointed Donine Ettinger to a term that expires in October 2012.
Appointed Tess Santos as a regular member to a term that expires in October 2010.
Newly appointed George Baker as Alternate No. 1 to a term that expires October 2010.
Newly appointed Jan Beran as Alternate No. 2 to a term that expires in October 2011.

Recycling and Source Reduction Advisory Commission

Re-appointed John Cimino to a term that expires in October 2012.
Appointed Garrett Dye as a regular member to a term that expires in October 2012.
Newly appointed Joe Kwong as Alternate No. 1 to a term that expires in October 2011.

- *3. Family Child Care Grants Approved twelve \$500 Family Child Care Assistance Fund grants to the following family child care providers: Georgette Christopher, Sherry Clanton, Yan Ding, Lisa Hodges, Kim Lagman, YuYing Lai, Nasreen Mohammed, Samiha Samawi, Sabina Sheikh, Araceli Tapia, Christina Loan Tran and Jasmine Yousefkhachi.
- *4. Youth Sports Fund Grant Approved one Group Youth Sports Assistance Fund grant for \$1,000 to Milpitas Junior Giants.
- *7. Stay and Shop Program Approved a recommendation to participate in the proposed "Stay and Shop" program for a cost not-to-exceed \$8,250, funded from Economic Development program budget.
- *8. 2010 City Council Meeting Schedule Approved the 2010 regular City Council meeting schedule, including cancellation of the July 2010 City Council regular meetings.
- *9. Resolution of Initial Acceptance of Project No. 3163 Adopted Resolution No. 7927 granting the initial acceptance of Water System Improvements, Spring Valley Heights Association, Project No. 3163, subject to a one year warranty period and reduction of the faithful performance bond to \$130,000.
- *10. Resolution of Initial Acceptance of Project No. 7086 Adopted Resolution No. 7928 granting initial acceptance of the Water System Air Relief Valve Modifications Phase III, Project No. 7086, subject to the one-year warranty period and reduction of the faithful performance bond to \$7,262.40.
- *11. Resolution Accepting JAG funds for 2009 Adopted Resolution No. 7929 to accept the 2009 Edward Byrne Justice Assistance Grant (JAG) in the amount of \$17,172.00 administered by the San Jose Police Department; and, approved the budget change form to appropriate \$17,172 JAG revenue to the Police Department operating budget.
- *12. Award Contract for Alviso Adobe Renovations project 1. Waived a minor bid irregularity and awarded a construction contract to CRW Industries, Inc. for the Alviso Adobe Renovation Project in the amount of \$498,732 and approved a project specific change order policy.
2. Authorized City Manager to execute the second amendment to the agreement with Gil Sanchez Architecture for the Alviso Adobe Project No. 5055 in the amount of \$110,800.
- *13. Debris Agreement with Eagle Recycling Approved a Non-Exclusive Collection, Transportation, and Recycling Debris Agreement with Eagle Recycling Inc.
- *14. Debris Agreement with Qualified Trucking Approved a Non-Exclusive Collection, Transportation, and Recycling Debris Agreement with Qualified Trucking.
- *15. Award the Bid for Annual Clothing Requirements Awarded the bid and authorized the City Manager to execute a contract with Prolific Holdings Inc. for annual clothing requirements for Public Works, and Parks and Recreation Services employees for the annual amount of \$17,475.02.
- *16. Award the Bid to Repipe Specialists Inc. for Replumbing Fire Station No. 2 Awarded the bid and authorized the City Manager to execute a contract with Repipe Specialists Inc. for re-plumbing Fire Station No. 2 for the not-to-exceed amount of \$26,080.
- *17. Agreement with SCVTA for Bike Rack Grant Authorized the City Engineer to execute the Transportation Fund for Clean Air Bicycle Rack Grant Agreement with the Santa Clara Valley Transportation Authority.

*18. Authorize Agreement with Winzler & Kelly

Authorized the City Manager to execute a consulting services agreement with Winzler & Kelly for the Ayer Reservoir and Pump Station Improvement, Project No. 7102, for an amount not to exceed \$38,400.

*19. Authorize Payment to TriTech for Software Support

Approved the payment of \$99,774.08 to TriTech for annual renewal of the software support agreement for the 911 dispatch system.

PUBLIC HEARING

1. Hearing on Appeal of Fire Inspection by Mr. Peter Nelson (continued)

Mayor Livengood announced this agenda item. City Manager Williams said the primary speaker of behalf of the City was absent, thus staff requested to continue the hearing to the next City Council meeting.

The Mayor opened public hearing, and asked if there were any speakers.

Mr. Peter Nelson requested that, if the public hearing was continued, he would like the tolling agreement extended for two weeks, to save him costs for an attorney. City Attorney Mike Ogaz reported that the City Manager had authority to do that.

Motion: to continue the public hearing to the next City Council meeting and approve extending the tolling agreement between the City and Mr. Nelson for two weeks, per his request

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 7:38 PM.

ROLL CALL

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

ABSENT: None

Councilmember Gomez stepped away from the dais for several minutes following the roll call.

RA 2. MINUTES

Motion: to approve the meeting minutes of the Redevelopment Agency meeting of September 15, 2009, as submitted

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

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

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: 4
NOES: 0
ABSENT: 1 (Gomez)

*RA 7. Change Order with Median Mulch & Street Tree Maintenance for Landscaping

Authorized the City Engineer to execute the contract change order for Forster & Kroeger, Inc. in the amount not to exceed \$4,500 for the Light Rail Median Landscaping, Project No. 2001.

RA 8. ADJOURNMENT

Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 8:04 PM.

REPORTS OF MAYOR and COMMISSION

Three items were approved on the consent calendar.

NEW BUSINESS

Two items were approved on the consent calendar.

5. Alameda County Congestion Management Agency update on I-680 Express Lanes project

City Engineer Greg Armendariz introduced Mr. Dave Hyams, from Alameda County CMA, who was present to give an update on the I-680 Express Lane project under construction presently on a 14-mile segment of the Interstate freeway, including the portion through Milpitas.

Mr. Hyams played a video showing how the dynamic pricing with FasTrak units (in commuters' vehicles) driving in designated express lanes would work, once construction was completed.

Councilmember Gomez inquired as to where the revenue would go. Mr. Hyams replied to the joint powers authority to pay for project features and the remainder could go to improvements in the corridor or toward public transit services.

Vice Mayor McHugh asked about the charge for specific destinations and the maximum charge to a driver in one of the "HOT" lanes during busy traffic. There would be a maximum fee, though it was not yet determined, said Mr. Hyams.

Mayor Livengood thanked Mr. Hyams for the informative report and video.

6. 2005 Greenhouse Gas Emissions Inventory Report and Proposed Energy Efficiency Actions

Economic Development Director Diana Barnhart reviewed features of AB32, the California Global Warming Solutions Act of 2006, and its application to cities.

Congressman Mike Honda's staff member Chris Schwarz read aloud a letter of support from Mr. Honda, about efforts underway toward the Greenhouse Gas (GHG) Emissions Inventory Report.

Ms. Barnhart reported on "ABAG Energy Watch Projects" in the City of Milpitas, with efforts highlighting savings in energy costs achieved, through retrofitting and other efforts at multiple city-owned facilities. This occurred especially due to the work of the building maintenance and street/road crews. She explained Power Purchase Agreements, as a method of acquiring solar energy for the city and customers. Additionally, she discussed GHG Findings from the 2005 emissions inventory of city facilities.

The most likely next step in Milpitas could be the community wide inventory of GHG emissions. Sponsoring agency ICLEI could do this step with the City at a cost of approximately \$10,000, along with setting goals for the City to achieve in the future. Director Barnhart reported that SB375 updates to the City's General Plan were scheduled to be done and that staff would report back on this.

Mayor Livengood acknowledged the breadth of information Ms. Barnhart had shared. He commented on one point: the City should be very aggressive in pursuing the Solar Power Purchasing Agreements and serve as a leader in that facet of this work.

Vice Mayor McHugh was favorable to allocate the \$10,000 to be spent on the ICLEI community-wide inventory, and made the motion below.

Motion: to receive the Energy Efficiency Program update, the 2005 Greenhouse Gas Emissions Inventory Report, and to direct staff to allocate \$10,000 needed to proceed with the ICLEI-designed community inventory

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

RESOLUTIONS

Three resolutions were adopted on the consent calendar.

BIDS & CONTRACTS

Seven items were approved on the consent calendar.

CLAIMS & DEMANDS

One item was approved on the consent calendar.

ADJOURNMENT

Mayor Livengood adjourned the City Council meeting at 8:36 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on October 20, 2009.



Mary Lavelle
City Clerk