

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, November 3, 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 Giordano, Gomez and Polanski

ABSENT: None

PLEDGE

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

MINUTES

Motion: to approve City Council meeting minutes of October 20, 2009, as submitted

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendars/Schedule of Meetings for November, as amended

Vice Mayor McHugh requested four meetings to be added to the calendar routinely: 1) Valley Transportation Authority's Milpitas-Gilroy-Morgan Hill group meeting on the first Monday each month at 10:30 AM at VTA offices, 2) VTA's Policy Advisory Committee on the second Thursday each month, and 3) and 4) on odd months, at 3:30 PM and 5:00 PM, ABAG legislative and finance meetings.

Councilmember Gomez added a Finance Subcommittee meeting on November 18 at 4:00 PM.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

PRESENTATION

Mayor Livengood presented Neighborhood Beautification Awards to 18 homeowners, schools, organizations and businesses for maintaining properties in the most beautiful and attractive manner in the City during the past year. A reception followed in the 2nd floor lobby area.

Mayor Livengood announced the City Council would take a break at 7:20 PM for refreshments with award winners. The Council reconvened at 7:30 PM.

PUBLIC FORUM

Kathryn Gray, resident of 411 Bixby Drive, spoke as a representative of the Milpitas Parks and Recreation Foundation, invited the Mayor and Council to attend its annual "Festival of the Trees" gala fundraiser event in the City Hall's lobby rotunda on December 3. Funds raised would be in support of the Recreation Assistance Program (RAP), which assists many families in Milpitas to participate in the various programs offered by the Parks & Recreation Department.

ANNOUNCEMENTS

Councilmember Giordano congratulated the City Manager and employees for their recent celebration luncheon for the employee service awards, including honoring one employee of 30 years. It demonstrated the dedication and longevity of City of Milpitas employees.

Councilmember Gomez reported that on October 10 at Randall School, there was a clean-up event that many participated in to make it look beautiful over the course of one Saturday. City and school district employees and volunteers participated in a successful clean-up event.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

Councilmember Gomez requested to remove Item No. 3 from the agenda.

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 submitted

Vice Mayor McHugh noted a typing correction needed on the Resolution for Item No. 10, regarding the spelling of Wellington Drive.

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

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

*2. Council Liaison to RSRAC Appointed Mayor Livengood as the City Council’s liaison to the Recycling and Source Reduction Advisory Commission.

*4. Approve Out of State Travel for OES Coordinator Approved out-of-state travel request for the Emergency Services Coordinator to attend the Harvard Kennedy School Executive Education’s National Preparedness Leadership Initiative Program to be held in December 2009 and again in 2010.

*5. Adopt Ordinance No. 172.5 Waived the second reading and adopted Ordinance No. 172.5 to add Section III-6-5(g), Exemptions to the Municipal Code, regarding massage establishments.

*7. Resolution on Parking Penalties and Parking Examiner Adopted Resolution No. 7934 (superseding Resolutions No. 6512 and No. 6202) approving an updated schedule of parking penalties and appointment and training requirements for the Parking Examiner.

*8. Resolution for Document Imaging Services from Peelle Adopted Resolution No. 7935 approving the purchase of document imaging services by piggybacking the City of Sunnyvale’s contract with Peelle Technologies, which authorizes the City Manager to execute a separate contract with Peelle incorporating by reference the original solicitation, terms, conditions, and pricing for the annual not-to-exceed amount of \$85,000.

*9. Resolution for Office Supplies from Office Max Adopted Resolution No. 7936 approving the purchase of city-wide office supplies by piggybacking the City of San Jose’s contract with Office Max, which authorizes the City Manager to execute a separate contract for the annual not-to-exceed amount of \$125,000, incorporating by reference the original solicitation, terms, conditions, and pricing of the City of San Jose’s contract.

*10. Resolution regarding 2018 Wellington Drive Adopted Resolution No. 7937 approving minor building and site modifications at 2018 Wellington Drive (planning application).

- *RA8. Investment Portfolio Received the investment report for the quarter ended September 30, 2009.
- *RA9. Change Order for Carlo St. Ramp Project No. 8195 Authorized the City Engineer to execute a contract change order with Joseph J. Albanese, Inc. for the Carlo Street Ramp Conversion, Project No. 8195 in the amount of \$130,000.
- *RA10. Amend Agreement for One Housing Unit Adopted Redevelopment Agency Resolution No. RA348 approving an amendment to the resale restriction agreement converting the housing unit at 700 S. Abel St. #327 from a moderate to a low-income unit and authorizing financial assistance to sell the home to a low-income buyer.

RA 11. ADJOURNMENT

Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 8:10 PM.

REPORTS OF COUNCIL

One item was approved on the consent calendar.

1. Lobbyists Registration

Mayor Livengood asked for this item on the agenda. He personally had heard from five contacts directly on the issue of a possible plastic bag ban and on styrofoam containers. He wanted to know which ones had registered as lobbyists.

Councilmember Gomez commented that some cities had disclosure of Councilmembers' meetings with lobbyists, stating whom the member met with, on what topic, and at the time the item was heard before the voting body.

In response to Mayor Livengood's inquiry, City Clerk Mary Lavelle reported that there were two registrations received in her office from lobbyists regarding the possible ban on plastic bags issue, from American Chemical Council (Ryan Kenny) and from Manny Diaz and Associates.

Vice Mayor McHugh did not have much interaction with lobbyists at the County, so he asked about Milpitas. Did he need to put communication with a lobbyist on his calendar? Mayor responded yes. Mr. McHugh reported that he met with one person, Mr. Manny Diaz, at his office upon his request for a meeting.

Mayor Livengood stated the onus was on the lobbyist to register and commented further.

Councilmember Polanski asked how did she know if the person was a lobbyist? Mayor Livengood replied that the person needed to be paid to lobby the City Council on the issue. The City Attorney read aloud the definition of lobbyist from the municipal code.

Councilmember Giordano asked what constituted a "meeting" for posting online and City Attorney Ogaz responded it would include a face-to-face meeting or telephone conversation on a subject that the lobbyist was paid to communicate with elected officials regarding.

Councilmember Polanski asked if that included e-mail and the Mayor said yes.

City Manager Williams responded to Ms. Polanski, asking her to send e-mail to the City Manager from a lobbyist. He would ensure that if the e-mail writer needed to register as lobbyist, staff would follow up to attempt compliance.

Mayor Livengood asked the City Clerk to reach those who had contacted him recently about the plastic bag and/or styrofoam issue, to ask those persons to register as lobbyists, and then to re-agendize this item to report back to Council.

No vote was taken.

3. Request Regarding Spring Valley Firefighters

Item was removed from the agenda.

NEW BUSINESS

One item was approved on the consent calendar.

ORDINANCE

One item was approved on the consent calendar.

RESOLUTIONS

Four resolutions were adopted on the consent calendar.

6. Proposition 1A Receivable funds

Finance Director Emma Karlen explained the Proposition 1A Receivable program that was designed by a new statewide collaborative, California Communities. It will sell bonds, financing would be paid by the state, and the City gets its money quickly that would otherwise be repaid from the state in three years.

Councilmember Polanski asked what the new agency (California Communities) gets out of this effort? Ms. Karlen explained whoever buys bonds would get the interest paid by the state, and that could possibly be more than a 2% return (amount state must pay City, otherwise). Ms. Polanski asked if the state bore all costs of financing the bonds and staff replied yes. Councilmember Polanski re-emphasized the spending problem at the state that she'd mentioned earlier in the meeting.

Vice Mayor McHugh agreed with comments from his colleague. It was good the City would get our money as scheduled with this new plan. He commended the League of California Cities and the California State Association of Counties in the creative approach they came up with.

Motion: to adopt Resolution No. 7933 approving the form of and authorizing the execution and delivery of a Purchase and Sale Agreement and related documents with respect to the sale of the seller's Proposition 1A Receivable from the State; and directing and authorizing certain other actions in connection therewith

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

BIDS & CONTRACTS

Three items were approved on the consent calendar.

ADJOURNMENT

Mayor Livengood adjourned the City Council meeting at 8:30 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on November 17, 2009.


Mary Lavelle
City Clerk