

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, December 1, 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 Giordano

ABSENT: Councilmember Polanski

PLEDGE

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

INVOCATION

Mayor Livengood read aloud a letter he sent this week to the Mayor of Lakewood, WA, offering condolences on the loss of four police officers in that community.

MINUTES

Motion: to approve City Council meeting minutes of November 17, 2009, as amended

Vice Mayor McHugh requested edits to the announcements he had made with regard to appointments made at the prior month's Cities Association meeting.

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedule of Meetings for December, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

PRESENTATION

Mayor Livengood presented a commendation to Library Advisory Commissioner Margie Stephens by the California Association of Library Trustees and Commissioners. Ms. Stephens is the longest serving City Library Advisory Commissioner, since her appointment in 1986.

PUBLIC FORUM

None.

ANNOUNCEMENTS

Mayor Livengood thanked City staff and the Councilmembers in attendance for the excellent Tree Lighting ceremony and visit from Santa held the evening prior, November 30.

**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: 4
NOES: 0
ABSENT: 1 (Polanski)

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Councilmember Gomez requested to add Items No. 3 and 4 onto consent.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

- *3. Veterans Commission Approved the creation of a new Veterans Commission, and directed staff to modify the existing Commission application for the new Commission to include a section pertaining to applicants' military service.
- *4. Planning Commission
Appointments Approved the following appointments to the Milpitas Planning Commission:
1. Re-appointed Gurdev "Dave" Sandhu to a term to expire in December 2012.
 2. Appointed Mark Tiernan as a regular member to a term to expire in December 2012.
 3. Newly appointed Steve Tao to a term to expire in December 2012.
 4. Newly appointed Erik Larsen as Alternate member to a term to expire in Dec. 2012.
- * 5. Commission Appointments Approved the following appointments to Commissions:
- Senior Advisory Commission:
Re-appointed Denny Weisgerber to a term that expires in December 2011.
Re-appointed Albert Wang to a term that expires in December 2011.
Re-appointed Mary Banick to a term that expires in December 2011.
Re-appointed Barbara Ebright to a term that expires in December 2011.
Re-appointed Bernice Wrinkle to a term that expires in December 2011.
Appointed Karen Adams as a regular member to a term that expires in December 2011.
Re-appointed Estrella Gilana as Alternate No. 1 to a term that expires in December 2011.
- Telecommunications Commission:
Re-appointed Niranjan Gupta to a term that expires in January 2012.
Re-appointed Dinesh Gupta to a term that expires in January 2012.
Re-appointed M. Idrees Munir to a term that expires in January 2012.
Re-appointed Roger Shaw to a term that expires in January 2012.
Re-appointed Hai Tran to a term that expires in January 2012.
Re-appointed Kurt Bohan as Alternate No. 2 to a term that expires in January 2012.
- * 7. Commissioners 2010
Recognition Event Approved Option C (third of three presented) for a Commissioners' Celebration Brunch scheduled April 10, 2010 for annual Commissioners' recognition event, at Dave & Busters restaurant at the Great Mall, with a total budget of \$9,925, including \$3,000 towards the purchase of a piece of art or bench for Veterans Memorial area.
- * 8. Adopt Ordinance No.
208.45 Waived the second reading and adopted Ordinance No. 208.45 to repeal and replace Title VIII, Chapter 2, Article V of the Milpitas Municipal Code to Amend the City's Sewer Use Ordinance.
- * 9. Resolution relating to
Amendments to the
Redevelopment Plan areas Adopted Resolution No. 7942 finding and determining that a Project Area Committee need not be formed in relation to the Proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1 and the Proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment.

- *10. Final Acceptance of 2008 Street Resurfacing Project Adopted Resolution No. 7943 granting final acceptance for 2008 Street Resurfacing, Project No. 4242, and release of the contractor's bond.
- *11. Resolution Declaring Weeds a Public Nuisance Adopted Resolution No. 7944 declaring weeds on specific properties to be a public nuisance and setting a public hearing for January 19, 2010.
- *12. Agreement with Landscape Architect for Alviso Adobe Approved and authorized the City Manager to execute an agreement with Bellinger, Foster Steinmetz Landscape Architecture in the amount of \$354,000, Project No. 5055, subject to approval as to form by the City Attorney.
- *13. Contract with CSG Consultants for Fire Dept. Approved a contract for fire inspection and plan review services between the City of Milpitas and CSG Consultants, Inc. for an amount not-to-exceed \$30,000.
- *14. Amendment to a Contract for Fire Department Inspection and Plan Review Services Approved an amendment to one contract for fire inspection services for plan review and inspection services for an amount-not-to-exceed \$94,000.
- *15. Agreement for 2008 Homeland Security Grant Funds Approved an agreement between the City of Milpitas and the County of Santa Clara for distribution of 2008 Homeland Security Grant Funds.

PUBLIC HEARINGS

- 1. Proposed Fee Adjustments
 - Finance Director Emma Karlen explained the process for periodic review of fees charged throughout the City, and where appropriate to adopt adjustments to better recover costs of the programs or City services.
 - Police Chief Dennis Graham discussed vehicle towing fees – not raised since 2000 - with a recommendation from the Finance subcommittee to increase these to 75% of cost recovery. He explained the three-tier fee schedule for those fees.
 - Fire Marshal Patricia Joki explained the new permit automation fee proposed to recover costs related to Fire Permit software and database. The newer technology would ultimately allow inspections to be scheduled online. The fee recommended was \$6.77 per permit or inspection.
 - Utility Engineer Kathleen Phalen described the water meter acquisition and installation fee, typically applied to developers, not to average resident homeowners. It was a pass-through cost, recommended to be adjusted (as noted in agenda packet).
 - Chief Building Official Keyvan Irannejad stated that the last fee increases in Building were in August 2004. He based fees on average time required for plan checks and he displayed comparisons to nearby cities. His department proposed modest fee increases to bring Milpitas closer to the average county-wide.
 - Planning Director James Lindsay recommended a change on nine application types from flat fees to private job (PJ) accounts, and a change to the deposit amounts to provide more flexibility
 - Parks and Recreation Director Bonnie Greiner identified costs related to the Milpitas Tidal Waves swim team program. With adoption of recommended fee increases, cost recovery would increase from 27% to 57%, by doubling the \$50 per month fee to \$100 per month. Also recommended was an increase in the current monthly non-resident fee from \$25 to \$50, with about 20% non-resident participants. Ms. Greiner also reviewed increases proposed for the Community Garden participation fees, following a comparison to cities that offer such a program.
 - Vice Mayor McHugh noted the Tidal Waves increases were higher than average, so he suggested tiered rates for the beginner group of swimmers. For example, bump up to \$75 for the beginners for six months, and then to \$100 after that time, he suggested.

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

Mayor Livengood requested that staff return at a later date, in 2010, with the swim team proposed fees, at a meeting when all five Councilmembers would be present.

City Manager Tom Williams responded to the Mayor that staff could return to the Council with a revised resolution on the swim team fees on the first Tuesday in January.

2. Ordinance No. 276.1 on Allied Waste's Solid Waste and Recycling Rates

Utility Engineer Kathleen Phalen explained the request for adjusted contract solid waste and recycling rates, charged by contractor Allied Waste to Milpitas residential and commercial customers. She displayed a fee comparison chart with surrounding cities, on the single family rates for garbage collection.

Mayor Livengood pointed out the rates were for unlimited collection, while there were other cities with limitations on collected amounts. Ms. Phalen noted the rates displayed were for 96 gallon containers.

Ms. Phalen next explained the proposed "roll off" monthly rates for the largest debris box bins for customers with large amounts of refuse for pick-up. These rates were suggested to be phased in over the next two years, due to the higher anticipated rate increases. Current rates were higher for Milpitas than surrounding cities.

Mayor Livengood then opened the public hearing.

Mr. Gil Cheso, General Manager of Allied Waster, answered the Mayor's earlier inquiry – most homeowners receive a 96-gallon container for ordinary garbage. He reported that the contract most recently was a difficult one to arrive at the rates presented by City staff, particularly due to the current economy. Mr. Cheso looked forward to continue to do business with the City of Milpitas.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

City Attorney Mike Ogaz read aloud the title of Ordinance No. 276.1, "An Uncodified Ordinance of the City Council of the City of Milpitas approving 2010 and 2011 Annual Rate Adjustments for Recycling and Solid Waste Services and Amending Collection Agreements to Reflect those adjustments."

(2) Motion: to waive the first reading beyond the title of Ordinance No. 276.1

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

(3) Motion: to introduce uncodified Ordinance No. 276.1 approving the 2010 and 2011 annual rate adjustments for recycling and solid waste services, including phased-in over two years rates for the roll-off customers effective January 1, 2010 and January 1, 2011

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Polanski)

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 8:04 PM.

ROLL CALL

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

ABSENT: Agency/Councilmember Polanski

Councilmember Giordano left the dais at 8:04 PM and returned shortly afterwards.

RA 2. MINUTES

Motion: to approve the meeting minutes of the Redevelopment Agency meeting of November 3, 2009, as submitted

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

Motion carried by a vote of:

AYES: 3
NOES: 0
ABSENT: 2 (Polanski, Giordano)

RA 3. Agenda Approval and Consent Calendar

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

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

Motion carried by a vote of:

AYES: 3
NOES: 0
ABSENT: 2 (Polanski, Giordano)

RA 4. Senior Center Project update

Project Engineer Steve Erickson provided an update on the progress of the construction of the new Senior Center. The project remained on budget and on time according to the construction timeline. He displayed several photos of the ongoing onsite work.

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

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

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Polanski)

RA 5. Resolutions Regarding RDA Plan Amendments

Economic Development Manager Diana Barnhart presented a detailed report for necessary actions related to Milpitas Redevelopment Agency plan amendments. The Preliminary Report must be approved, sent to the Planning Commission and sent to affected taxing agencies, receive the draft environmental impact report and circulate it, and determine that a project area committee does not need to be formed for the proposed amendment.

Ms. Barnhart reviewed in detail the proposed amendments, including the rationales for adding territory in three locations with in the City of Milpitas. \$5.715 billion was the estimated revenue to the Agency over the life of the project area.

Councilmember Gomez inquired if there were any preliminary comments from local taxing agencies affected. Ms. Barnhart replied that she had received one request for clarification by the High School District affected.

Staff provided a timeline of activities for next steps in the process - with two actions in 2009 for the preliminary plan followed, in 2010, by review of the Final Report to City Council and an April 6, 2010 Public Hearing – to amend the RDA plan for project areas.

Motion: to adopt the following actions:

1) Adopt Resolution No. RA 349 approving the Preliminary Report to affected taxing agencies on the proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project, and authorize the transmittal of the report

2) Adopt Resolution No. RA350 referring the proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project, to the Planning Commission of the City of Milpitas for its report and recommendation, and authorize the transmittal of the amendments to the affected taxing entities and other interested persons and organizations

3) Adopt Resolution No. RA351 accepting and authorizing circulation of the draft environmental impact report on the proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment project

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

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Polanski)

*RA6. Amendment No. 1 to Agreement with PGE

Approved Amendment No. 1 to the agreement with Pacific Geotechnical Engineering, in the amount of \$5,000, for new Milpitas Senior Center, Project No. 8176, subject to approval as to form by the City Attorney.

*RA7. Resolution Granting Initial Acceptance of Library Window Covering Package

Adopted Resolution No. RA352 granting initial acceptance for the Milpitas Library Covering Package, Project No. 8162, subject to the one year warranty period and reduction of the faithful performance bond to \$3,310.50.

*RA8. Resolution Authorizing Purchase of One Low Income Housing Unit and Releasing Five Moderate Income Units

Adopted Resolution No. RA353 authorizing the purchase and modification of the resale agreement to include a down payment loan of one low-income housing unit located at 1101 S. Main Street #221, and the release of five moderate income housing units.

*RA9. Authorize a Contract Amendment for Web Design Services

1. Approved a budget appropriation in the amount of \$43,200 from the Redevelopment Agency Fund for contractual services.
2. Authorized the City Manager to execute a contract amendment for a total amount not to exceed \$62,700, and extend the contract term until June 30, 2010.

RA 10. ADJOURNMENT

Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 8:26 PM.

REPORTS OF MAYOR

Two items were approved on the consent calendar.

NEW BUSINESS

6. Update on the “Roadmap to Service Improvements”

Councilmember Gomez expressed the desire to update the City Council and citizens as to all the improvements that have taken place at City Hall, since he and Councilmember Giordano set in motion a few years ago “The Roadmap to Service Improvements.”

Senior Building Official Keyvan Irannejad displayed the online commercial permitting system since June of this year, which followed successful implementation of residential online permitting. He displayed slides showing the online method to apply, for example, for permits for restaurants and commercial tenant improvements, such as adding a roof or canopy.

Mr. Irannejad explained additional information now available on green building activities on the City's website, such as solar installations, and also pre-submittal reviews available.

Mayor Livengood commented favorably on how this work set the City apart from all others in the Bay Area. He also thanked Information Services technology staff in addition to Building Department staff for these advances in City services.

No vote was taken on the oral report given.

ORDINANCE

One ordinance was adopted on the consent calendar.

RESOLUTIONS

Three 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 8:38 PM, in memory of the four police officers in Lakewood, WA who lost their lives last weekend.

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

**Mary Lavelle
City Clerk**