

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, September 7, 2010  
**Time:** 6:30 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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**ROLL CALL**

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

**PRESENT:** Vice Mayor McHugh, Councilmembers Giordano, Gomez and Polanski

**ABSENT:** Mayor Livengood

**CLOSED SESSION**

City Council convened in Closed Session to discuss two cases of existing litigation, City v. Nancy Mendizabal, and Matt Fredenberg et al. v. City.

The Council then convened in Open Session at 7:05 PM.

**ANNOUNCEMENT**

None.

**PLEDGE**

Vice Mayor McHugh led the pledge of allegiance.

**INVOCATION**

Pastor Robert Bernardo of the Milpitas Seventh-day Adventist Church. He announced a Community Event on September 11 at their Church starting at 11:00 a.m.

**MINUTES**

Motion: to approve City Council meeting minutes of August 17, 2010, as submitted.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of:

AYES: 3  
ABSTAIN: Polanski  
NOES: 0  
ABSENT: Livengood

**SCHEDULE OF MEETINGS**

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

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of:

AYES: 4  
NOES: 0  
ABSENT: Livengood

**PRESENTATION**

Vice Mayor McHugh proclaimed September as "National Emergency Preparedness Month" and the proclamation was accepted by Matt Keefer, Fire Aide Program, and Tim Howard, Radio Amateur Civil Emergency Services.

**PUBLIC FORUM**

Bill Ferguson expressed his concern over campaign contributions stating there were excess contributions from two developers to three members of the Council. He proposed a community forum on campaign contributions. Councilmember Giordano stated she is getting an opinion from the state on this matter and inquired if Mr. Ferguson is harboring any resentment for not being selected to serve on the Planning Commission.

Russ Bargstadt, Vice President of Starlite Pines Home Association, thanked the City for the street landscaping by their development.

Joseph Weinstein, Chair of the Milpitas Citizens Budget Task Force, announced three public outreach meetings seeking input on the City's budget: 1) September 16 from 7:00-9:00 p.m. in the City Hall Committee Room, 2) September 18 from 9:00-11:00 a.m. at the Senior Center Meeting Room, 3) September 30 from 7:00 -9:00 p.m. at the City Hall Committee Room. He asked citizens to visit the City website and follow the link to submit ideas on how to address the budget deficit. Councilmember Giordano requested staff agendaize an update on the Budget Task Force progress for the September 21 Council meeting.

Karen Kolander, Director of the Milpitas Food Pantry, stated the Food Pantry has withdrawn their application to relocate to the Sal Cracolice Building. Vice Mayor McHugh requested that she address this under the agenda item.

Isaac Hughes addressed the Council on his concerns of protocol from the dais and requested all council members and staff at the dais confirm they have no conflict of interest with agenda items. Vice Mayor McHugh pointed out that item is always on the agenda for the City Council. Mr. Hughes was escorted out of the Council Chambers.

**ANNOUNCEMENTS**

City Manager Williams introduced the new Fire Chief, Brian Sturdivant, and gave a brief description of the Chief's background.

Councilmember Giordano reported her attendance at a group meeting on August 25 of the California Advocates United to Save Education. She also requested staff to remove old trees from the older areas of the City and look into the use of federal stimulus funds to repair sidewalks caused by root damage. She further inquired why food is not being prepared in the kitchen of the new Senior Center, and suggested staff explore alternate ways of preparing food for the meal program.

Councilmember Polanski reported the Community Advisory Commission met on September 1 and discussed noise abatement. The Commission did not recommend any changes to the code at this time.

**ANNOUNCEMENT OF CONFLICT OF INTEREST**

None.

**APPROVAL OF AGENDA**

Motion: to approve the agenda as submitted.

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: Livengood

**CONSENT CALENDAR**

Motion: to approve the Consent Calendar (items noted with \*asterisk) as submitted.

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: Livengood

\* 2. Commission Appointments Council approved the Mayor's appointment to two Commissions.

Community Advisory Commission

Appointed Mia Bradway Winter as Alternate No. 2 to a term that expires in Jan. 2011.  
Appointed Samantha Beard as Alternate No. 3 to a term that expires in January 2012.  
Appointed Michelle Manassau as Alternate No. 4 to a term that expires in January 2012.

Youth Advisory Commission

Re-appointed Brian Leon to a term that expires in September 2011.

Appointed Isaiah Rigmaiden-Daniels as a regular voting member to a term that expires in September 2011.

- \* 4. Financial Assistance for Essay Contest Approved financial assistance in the amount of \$2,500 for the Milpitas Library essay writing contest and the related budget change form.
- \* 5. Approve Fee Waiver for Festival of Trees Approved Milpitas Parks and Recreation Foundation's request for fee waiver and in-kind donation of equipment and staffing totaling \$1506.25 for 3<sup>rd</sup> Annual *Festival of Trees* Gala Fundraiser event in December in the Milpitas City Hall Rotunda.
- \* 6. Settlement Agreement for the Damages to Fuel Tank Received report from staff regarding the insurance settlement agreement for damages to the Wrigley Ford Pump Station Tank, Private Job No. 2570.
- \* 7. Adopt Ordinances No. 38.788 and No. 38.796 Waived the second readings and adopted Ordinances No. 38.788 and No. 38.796.
- \* 8. Adopt Ordinance No. 274.1 Waived the second reading and adopted Ordinance No. 274.1 amending the Municipal Code provisions relating to certain public nuisances and their abatement.
- \* 9. Resolution Final Acceptance of the Minor Storm Drain Adopted Resolution No. 8030 granting final acceptance of the Minor Storm Drain at Country Club Drive, Project No. 3700, and release of the contractor's bond.
- \*10. Resolution of Initial Acceptance of the Alviso Adobe Renovation Adopted Resolution No. 8028 granting initial acceptance of the Alviso Adobe Renovation Phase III, Project No. 5055, subject to a one year warranty period and reduction of the faithful performance bond to \$57,156.
- \*11. Agreement with CHP for Use of Weapons Firing Range Adopted Resolution No. 8031 authorizing the City Manager to execute an agreement with the California Highway Patrol for the use of the Weapons Firing Range.
- \*12. Contract Extension with Empire Maintenance Services Authorized the City Manager to execute a contract extension to September 30, 2010 with Empire Maintenance Services for the not-to-exceed amount of \$13,433.80.
- \*13. Change Order with AME Contracting Co.
  1. Authorized the City Engineer to execute a contract change order with AME Contracting Company in the amount not to exceed \$31,000.
  2. Approved a budget appropriation of \$18,000 from Park Fund to the Park Renovation 2009 "Pathways" Project No. 5089.
- \*14. Agreement with County OES to receive a Homeland Security Grant for training
  1. Authorized the City Manager to enter into an agreement with the Santa Clara County Office of Emergency Services to receive the Homeland Security Grant for Emergency Operation Center training.
  2. Approved a budget appropriation for \$6,700 to the Fire Department operating budget.
- \*15. Payment Requests to Three Software Vendors Approved payments to three software vendors: (1) CRW Systems Inc. (Permit systems) \$28,500.00, (2) TriTech (Emergency Dispatch) \$100,705.82, and (3) Cayenta (Finance and Utility) \$107,837.16.

**PUBLIC HEARING**

- 1. Tentative Map for McCandless Mixed Use project Senior Planner Sheldon Ah Sing reviewed the McCandless project tentative map and conditional use permit to accommodate the development of 1,328 dwelling units into mixed use and five residential buildings on 23 acres. He noted the Council approved the Owner Participation Agreement for the project on August 3.

Vice Mayor McHugh opened the public hearing and no speakers were heard.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: Livengood

(2) Motion: adopt Resolution No. 8029 approving the Tentative Map and Conditional Use Permit for the McCandless Mixed Use Project

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: Livengood

## **JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA 1. CALL TO ORDER** Vice Mayor/Vice Agency Chair McHugh called to order the regular meeting of the Milpitas Redevelopment meeting jointly with the City Council at 7:45 PM.

**ROLL CALL** **PRESENT:** Vice Chair/Vice Mayor McHugh, Agency/ Councilmembers Giordano, Gomez and Polanski

**ABSENT:** Chair/Mayor Livengood

**RA 2. MINUTES** Motion: to approve the Agency meeting minutes of August 17, 2010, as submitted

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

Motion carried by a vote of: AYES: 3  
ABSTAIN: Polanski  
NOES: 0  
ABSENT: Livengood

**RA 3. Agenda Approval and Consent Calendar** Motion: to approve the agenda and consent calendar, as submitted

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

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: Livengood

\*RA4. Contract with Murphy and Associates law office Approved a contract with Murphy and Associates, for legal services related to litigation, in an amount not to exceed \$150,000, and approved appropriation to the City Attorney's department budget from the Redevelopment Unreserved Undesignated Fund Balance in that amount.

\*RA5. Resolution Authorizing Release of Resale Restrictions Adopt Resolution No. RA392 authorizing the release of the Resale Restriction Agreement for one moderate-income affordable unit, identified in the resolution.

**RA 6. ADJOURNMENT** Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 7:46 PM.

## **REPORTS OF MAYOR AND COUNCIL**

3. Councilmember Gomez's Request to Discuss Re-use of Sal Cracolice Building Councilmember Gomez stated that since the application has been withdrawn by the Food Pantry, some of the intent of this report has changed. He spoke in support of the Food Pantry and said discussion has been ongoing for some time about the best use of the building. He confirmed that he has always supported recreation services for that site so

the neighborhood communities would have the same services as the rest of the City. He also clarified there are other considerations for the site and he would like to reach out to the community for input.

Councilmember Gomez stated he does not agree with all the concerns the neighbors have regarding the Food Pantry and noted there is not a basis for concern on increased crime, reduced property values, or loitering. He maintained the facility should be City operated, but if the building were privately owned, he would probably support the Food Pantry's move there. He suggested the City help the Food Pantry find a new location, and read the list of his five recommendations adding another recommendation for the potential use of Redevelopment Agency funds.

Vice Mayor McHugh reviewed the process for public input requesting those who wished to speak to fill out a speaker card and give to the Deputy City Clerk.

Vice Mayor McHugh clarified the reason this site was being considered for the Food Pantry is because the City owns it and the Food Pantry cannot afford to pay market rates. He stated he has done research on the citizen concerns and identified three major issues. He noted there would be less traffic for the Food Pantry than there was for the Senior Center, that he spoke to two local realtors and the Food Pantry would have no impact on the resale value of their homes, and he spoke to the Police Chief regarding crime in the area and there were no arrests in the last 12 months making this not an area of concern. Vice Mayor McHugh also noted there is an elementary school 1/10<sup>th</sup> of a mile from the current location of the Food Pantry and the principal of the school stated they have not had any problems in 24 years. He stated he feels this is a disservice to the Food Pantry given the good and important work they do, but will honor their request to withdraw their application.

Councilmember Polanski noted the Neighborhood and Education Subcommittee met on August 10 and 31 and heard public input. She reported the Subcommittee has scheduled three public outreach meetings for use of the building on September 28, September 30, and October 12. She also noted she held a community meeting on August 24 on the use of the building and thanked the community for their input. Councilmember Polanski stated she felt she did not reach out enough to the community and apologized. She commented on the first recommendation from Councilmember Gomez stating not keeping the building under City control was never a consideration. She confirmed that the Food Pantry is a vital service for Milpitas and supports the recommendations to assist them.

Councilmember Giordano confirmed her desire to keep the Cracolice Building as a City owned operation. She reported she has worked at the Food Pantry and highly respects their work. She committed to support Councilmember Gomez's recommendations to assist the Food Pantry.

Vice Mayor McHugh clarified that selling the Cracolice Building was never a consideration.

Councilmember Polanski commented the food pantry could be considered for emergency disaster assistance so there may be other funding available. She suggested the Food Pantry be agendaized for discussion of ideas on how to assist them.

Speakers:

Karen Kolander, Director the Milpitas Food Pantry, announced the withdrawal of their application to relocate to the Sal Cracolice Building and thanked everyone for their support.

Denny Weisberger proposed a museum for the site noting it would create less traffic than the other suggestions.

Julie Loreda stated she has been served by the food pantry and spoke in support of the relocation.

Kelly Everett stated she was disturbed by the polarization and asked for more tolerance.

Bushra Aziz spoke in support of the food pany and acknowledged they need more space.

Sambabba Therauil suggested the building be used for recreation services.

Fa Yoeu said the building should be used to serve the residents and submitted a petition with 500 signatures.

Robert Pomeroy stated he is disturbed by the tenor of the situation and spoke in support of the food pantry.

Prakosh Balakrishnan suggested the building be used for a community center.

Maulik Shah thought the food pantry should be moved to a better location than what is proposed..

Ying Zhang would like the building used as a community center

Michelle Eacret spoke in support of the food pantry and thought it should be moved to a location that has less impact on the community.

Jun Zheng opposes the location and suggested the food pantry be in an industrial area.

On-Kit Chow stated the food pantry should be located in a more suitable area.

Wilson Zhou would like a community center at the site.

Grace Fang would like a community center at the site.

Stephen Su expressed concerns about traffic from the food pantry and suggested a community center.

Cecila Liu wants to see the City retain control of the building and make it a community center.

Min Chen opposes the food pantry and wants the building to serve the neighbors.

Cynthia Liu would like a community center built.

Allyson Lim spoke in opposition to relocating the food pantry to the proposed location.

Ziang Zhu spoke on behalf of several residents to locate the food pantry to another location.

Eric Wang spoke in opposition to moving the food pantry.

Kam Ng opposes the relocation of the food pantry citing traffic and parking issues.

Yan Wang said she supports the food pantry locating to another location away from the KB Home development.

Rev. Ernest Boyer, from St. Joseph Church, spoke in support of the proposed location for the food pantry.

Jennifer Lee spoke in support of a community center.

Nivanika Kamat supports the food pantry but at another location.

Stanley Chan would like to see a community center built.

Hilda Vivas spoke in support of youth programs for the site.

Cheryl Serna stated she worked for the food pantry for 12 years and never felt fear.

Ajit Trimbakr stated he does not support the food pantry at the proposed location.

Kin Chan spoke in support of a youth/community center.

Michael Liu would like a plan that is mutually beneficial.

Hao Luo would like a youth/community center built.

Nita Bhatia supports the food pantry but in another location.

Linda Cau would like to see a win-win situation for all sides.

Anna Li supports the food pantry but not located at the proposed location.

John Jay supports the food pantry at the proposed location.

Jingchau Zhang spoke in support of a community center for the site.

Charles Mori commented on his support for the community and the food pantry.

Akemi Mori stated she agreed with Charles Mori.

Mylinh Tu said the food pantry should be relocated to another site.

Pamela Chang feared loitering and children safety if the food pantry to move to the proposed location.

David Sum would like a mutual agreement among all parties to solve the problem.

Madhavan Subramanian spoke in favor of a community center.

Councilmember Gomez suggested changing the wording on recommendation no. 1 to "a City operated facility." He requested that the Council agendaize an item to discuss the Food Pantry's vision. He further added another recommendation to look into RDA funding. Councilmember Gomez asked the public lend their support and consider making a contribution to the Food Pantry. He further said he would ask developer TP Pham to make a contribution and encouraged the board of the KB Home development to take up fund raising efforts as well to demonstrate their support.

Councilmember Giordano asked that under recommendation no. 1, language be added at the end of the recommendation stating "for the betterment of the entire community." She requested clarification on recommendation no. 2 to define the scope of "neighboring communities" and inquired how residents will be notified of community meetings.

Vice Mayor McHugh asked the City Manager what methods of communicating to the public would be used. City Manager Williams recommended the outreach meetings be posted on the Milpitas website, advertised in the Milpitas Post and through direct mail.

Councilmember Polanski added that the meetings would also be posted on the digital display board outside City Hall. She announced the three outreach meetings of

