

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, April 19, 2011
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM. City Clerk Lavelle noted the roll.

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

ABSENT: None

CLOSED SESSION

City Council convened in Closed Session to discuss two matters, labor negotiations and two cases of existing litigation.

City Council then convened in Open Session at 7:10 PM.

ANNOUNCEMENT

None.

PLEDGE

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

INVOCATION

Mayor Esteves gave a brief prayer to start the meeting.

MINUTES

Motion: to approve City Council meeting minutes of March 28 and April 5, 2011, as submitted

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendar/Schedule of meetings for April and May, as amended

City Manager Williams announced two meetings that were canceled in April: the Economic Development and Neighborhood Services & Education subcommittees.

Councilmember Giordano added one meeting she had attended on this date: the County Library's Joint Powers Authority Finance Subcommittee meeting.

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

PUBLIC FORUM

Motion: Councilmember Gomez moved, and Councilmember Polanski seconded, a motion to change the speaker time to one minute each (from the usual three) on all agenda items and for the Public Forum. It was approved unanimously, due to the large crowd already in attendance at the meeting. Mayor Esteves then invited speakers to the podium.

Christina Driggers, a parent with her son, spoke in support of Rainbow Theatre.

Alex Driggers, a young man who had performed in eight shows, supported Rainbow Theatre.

Steve A., a Milpitas resident, spoke in support of Milpitas Tidal Waves swim team.

Suzanne Stone-Williams, with her daughter, spoke in support of Rainbow Theatre.

Danielle, age 15 resident of Milpitas, was involved in Rainbow Theatre for many years.

Josh Harris, a San Ramon resident, supported Rainbow Theatre on behalf of his wife.

Jim Granbow, a San Jose resident, said his son was in Rainbow Theatre and was very supportive.

Stephanie Simmons, Milpitas resident, stated what Rainbow Theatre means to her family.

Brian Stole, a young man spoke in favor of Rainbow Theatre, a resident of Union City.

Christy Bradford, San Jose resident, was in several Theatre shows, and her daughter was now.

A woman, spoke in support of Rainbow Theatre, a resident of San Jose.

Philip, a young boy, spoke in favor of Rainbow Theatre.

Martha Lanham, spoke in favor of Rainbow Theatre and presented signatures from parents and children in support.

Rob Means, a Milpitas resident, spoke about the Boston Tea Party and history.

Claudia Wang, a Milpitas resident, spoke in favor of Rainbow Theatre.

Ann Zhao, a high school student, spoke in support of Milpitas Tidal Waves swim team, and presented a petition with signatures from parents, students and teachers in support.

A parent spoke about being an immigrant, and assimilating his children into American culture.

Yang, a Milpitas resident, father with two children in the Tidal Waves spoke in support.

Veronica, a young Milpitas resident, spoke in support of Rainbow Theatre.

Holly Nguyen, a Milpitas resident and Milpitas Tidal Waves swimmer, supported the program.

Scott, a Milpitas resident, was a student in Rainbow Theatre and spoke in support.

C.J., a Milpitas resident, spoke in favor of Milpitas Tidal Waves.

John Tao, a Milpitas resident and Army Lt., spoke in favor of Milpitas Tidal Waves.

Mary Gray, a 14 year resident, spoke in favor of the Milpitas Tidal Waves swim team.

Wei Chu, a Milpitas resident, spoke in favor of Milpitas Tidal Waves.

Robert Marini, Milpitas resident, was disturbed about Council limiting the speaking time.

Mayor Esteves and Councilmember Gomez explained to him the rationale for the time limit.

ANNOUNCEMENTS

Councilmember Polanski announced an event on Thursday, April 21 at 2:00 PM at Murphy Park, there would be dedication of a memorial park bench in memory of Linda Rabe.

Vice Mayor McHugh announced he would be out of town next week.

Mayor Esteves thanked Milpitas Police officers for arresting a sex offender recently, reducing crime in the City. He thanked city staff, Mr. Gordillo, for responding to a neighborhood problem with street lights. He congratulated Milpitas Library Volunteers, and to the students who won in the recent essay contest. Congratulations were offered on the opening of Aspen Apartments recently. He thanked all Commissioners for serving the City of Milpitas. He congratulated Ms. Gaye Morando as Citizen of the Year, and also to the Police Officer and Firefighter of the Year.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Williams requested to continue Item No. 7 to the next meeting.

Councilmember Gomez asked to hear Item No. 5 following the public hearing, Item No. 1.

Motion/Second: Councilmember Gomez/Councilmember Polanski

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: Councilmember Giordano/Councilmember Polanski

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

***2. Commission Appointments**

Community Advisory Commission: Appointed Michelle Manassau as a regular member to a term that expires in January 2014. Appointed Edna R. Andres as Alternate No. 1 to a term that expires in January 2013. Appointed Janice Bobay as Alternate No. 2 to a term that expires in January 2013.

Recycling and Source Reduction Advisory Commission: re-appointed Steve Ybarra to a term that expires in October 2013.

***3. Veterans Work plan**

Approved the 2011-2012 Veterans Commission Work Plan.

***6. Approve Comments**

Approved submission of comments to the California Water Resources Control Board on the Draft Sanitary Sewer System Waste Discharge Requirements

***8. Approve Actions for Bids on Project No. 4255**

Approved the plans and specifications for street resurfacing 2011; authorized the advertisement for bid proposals; and, approved a budget appropriation of \$1,000,000 from the Street Fund into Project No. 4255.

PUBLIC HEARING

1. CDBG Grant Funding Allocations for FY 2011-12

Principal Housing Planner Felix Reliford addressed the City Council on the new recommendations for Community Development Block Grant (CDBG) funding for FY 2011-12. The estimated total grant amount for the City of Milpitas was \$638,938, but that was possibly subject to further cuts by Congress. The Community Advisory Commission held a noticed public hearing on March 2, 2011 regarding the 18 applicants recommended for funding out of 20 applications received for CDBG funds.

Mr. Reliford referenced the list of recommendations and where there were anticipated cuts in funding. Staff recommendation was to approve the CAC funding recommendations and the One Year Action Plan, which described eligible programs to be funded in the upcoming year.

Vice Mayor McHugh asked about the slight difference on two recommendations from the original ones presented to CAC by staff. These were for Santa Clara Family Health Foundation and the Milpitas Food Pantry. Mr. Reliford explained the funding formula and the numbers prepared in case there was a further cut to the grant total. Also, he noted that the City Council had previously set a \$5,000 minimum grant per agency policy.

Mayor Esteves asked about Project Sentinel and the type of report submitted to the City. Staff responded that agency provided required Fair Housing services, and the grant amount recommended came out of the public services section of the funding. Their services regarded tenants, landlords, and discrimination reports. Mayor Esteves asked Mr. Reliford for a sample copy of the report.

Councilmember Giordano inquired about one of the programs not recommended this year, which was Domestic Violence for Women (though funded last year). Mr. Reliford responded that other programs addressed that kind of service.

Next, Mayor Esteves opened the public hearing for comments.

Karen Kolander, director of the Milpitas Food Pantry, thanked the City Council for its ongoing support. She spoke of the CAC's actions and reviewed history.

Kathleen King, Santa Clara Family Health Foundation, addressed the funding allocated in the last two years. Her organization needed funding from many sources and asked the Council to take \$5,000 from the City's RAP program to provide funding to her agency.

Wanda Hale, Catholic Charities of Santa Clara County, thanked the City for ongoing support for its Long Term Care Ombudsman Program.

Rob Means, 1421 Yellowstone, commented on the possible 10% cut in CDBG funding that may be experienced came from Republicans in Congress.

Gloria Whittaker Daniels, 22 year Milpitas resident, represented the Greene Scholars Program (GSP) and requested funds on behalf of the sponsoring agency for GSP, the California Alliance for African American Educators. She spoke of the rich community history in Milpitas for African Americans.

Dale Flunoy, Program Coordinator of the Recreation Assistance Program (RAP), identified the number of children helped each year, along with his thanks.

Georgia Bacil, of SALA, described free legal services given to seniors in Milpitas twice each month at the Senior Center, and she thanked the City Council for its support.

Debra Whitlock Lax, television station manager for Channel 26 MCTC and resident, supported the CAAAE's GSP program. The group partnered with television operations to encourage young African American residents to get involved in TV. She asked for reconsideration for funding the GSP television student program.

Charlene Gage, a San Jose resident and college student, was favorable toward GSP and urged participation, and support for funding by City Council.

Chris Norwood, a 35 year resident of Milpitas, supported reconsideration of the GSP television program, an innovative one to promote multi-cultural youth involvement.

Leslie, with a son in the GSP TV program, said it was enlightening and very informative. She asked Council to reconsider funding for it.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

Motion carried by a vote of:

AYES: 5

NOES: 0

Vice Mayor McHugh made a motion to modify the funding recommendations as follows: take \$3,960 from City's RAP and fund \$2,500 to CAAAE for GSP, which was less than \$5,000 minimum, and then take \$1,460 and add it to Healthy Kids Foundation. The motion died for lack of a second.

Councilmember Giordano sought support for the Domestic Violence for Women. She recommended \$3,000 for the Support Network, and supported what Vice Mayor McHugh said, including taking \$3,000 from the RAP program.

She restated the motion: grant \$2,500 to CAAAE GSP and \$1,460 to Healthy Kids, and fund \$3,000 to Domestic Violence with all of it to come out of the City's Recreation Assistance Program, leaving \$7,000 for RAP.

Councilmember Polanski was concerned about changing the policy to go below \$5,000 in funding amount for an organization.

Mayor Esteves was not enthusiastic if an agency did not show up at this hearing. So, he was reluctant to support the Support Network for Battered Women. He agreed with the request for funds for CAAAE GSP.

The motion stated above, moved by Councilmember Giordano and seconded by Vice Mayor McHugh, failed on a vote of two in favor with three opposed.

Vice Mayor McHugh moved, anew, to take \$3,690 from RAP to fund \$2,500 to GSP and to add remaining \$1,460 to Healthy Kids Program. The motioned was seconded by Council member Giordano, and it failed with two in favor and three opposed.

(2) Motion: to approve the Community Development Block Grant funding recommendations from the Community Advisory Commission with the following changes: move \$3,960 from the City's RAP to CAAAE's GSP along with \$1040 from the Milpitas Food Pantry amount to make it an even \$5,000 for CAAAE GSP, and then, to find other ways to help the Milpitas Food Pantry from the promotional or other segment of the City Council budget

Councilmember Gomez asked Councilmember Polanski to clarify if funding would be considered during the upcoming budget process and she said yes, including a look at Healthy Kids, too.

Motion/Second: Councilmember Polanski/Councilmember Gomez

Motion carried:

AYES: 4

NOES: 1 (Giordano)

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER

Mayor/Agency Chair Esteves called to order the regular meeting of the Milpitas Redevelopment Agency meeting jointly with City Council at 10:10 PM.

ROLL CALL

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

ABSENT: None

RA 2. MINUTES

Motion: to approve the Agency meeting minutes of April 5, 2011

Motion/Second: Vice Chair/Vice Mayor McHugh / 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, as submitted

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

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

RA4. Review Draft 2011-16 CIP

City Engineer/Public Works Director Greg Armendariz presented the draft Capital Improvement Program for the next five years. This document had been reviewed by the Council's Finance Subcommittee, the Parks, Recreation & Cultural Resources Commission, and was found in conformance with the General Plan by the Planning Commission.

Highlights of the past year's completed CIPs were noted. Most important was completion of the new Senior Center, delivered on time and under budget. The City received federal stimulus grant funds for items including HVAC replacement at the Police Department building. In Parks, work was completed on exterior renovation and seismic upgrades of the Alviso Adobe building. At Cardoza Park, phase I of improvements were done, as well as some utilities work around the City.

For the next five years, additional infrastructure and seismic improvements on critical infrastructure elements was planned. Staff identified financial challenges and uncertainties for funding the longer term projects. Mr. Armendariz gave an alternate funding recommendation, toward street resurfacing needs and the City's Fire Station upgrades by using some of the Transient Occupancy Tax fund balance. Staff recommended use of \$1.5 million from the unallocated Public Art Fund balance and to re-appropriate \$500,000 of the annual TOT toward street resurfacing.

Mayor Esteves asked about the fund balance of public art money. Finance Director Karlen responded, noting there was no encumbrance on these funds. The Mayor asked if staff checked with the Arts Commission on this topic. There was discussion on need for funds to maintain the "Pavement Condition Index" high.

Councilmember Gomez commented that street resurfacing was critical and he commended the City Engineer for making this a priority, as it was a core service.

Councilmember Polanski noted that the Finance Subcommittee stated this topic was a priority, and could use funds in the interim until the economy gets better.

Mr. Armendariz asked for clear direction on these funding alternatives. He next gave a summary of the six areas of the CIP fund groups, over the next five years. He identified the major projects in each area.

Vice Mayor McHugh inquired about dollar amounts in the proposed budget for two items, to which the staff responded. The Vice Mayor asked for a summary - page 1A - showing the amounts for project where currently there was not funding.

Mayor Esteves asked questions about the land for a new park next to the library, and also land identified in the Transit Area Specific Plan.

Motion: to receive and review the draft 2011-2016 Capital Improvement Program (CIP). Direct staff to proceed with funding streets improvement work utilizing \$1 million from the Public Art fund balance and re-allocate \$500,000 from annual Transit Occupancy Tax (TOT) revenue as well as approve Fire Station Improvements with \$1.5 million from TOT revenues

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

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

*RA5. Resolution Granting Final Acceptance Adopted joint Resolution No. RA414 / 8194 granting final acceptance of the South Park Victoria Street Resurfacing, Project No. 8194, and release of the contractor's bond.

*RA6. Soundwall Renovation Project No. 8196 Approved project plans and specifications for Project No. 8196, and authorized advertisement for bid proposals.

RA 7. ADJOURNMENT Chair/Mayor Esteves adjourned the Redevelopment meeting at 10:36 PM.

REPORTS OF MAYOR AND COMMISSION Two items were approved on the consent calendar.

NEW BUSINESS

4. Economic Development Report Economic Development Manager Diana Barnhart reported quickly with significant updates in the business community and development possibilities. Five items were highlighted on slides, including the recent SunPower facility dedication at Flextronics including Governor Jerry Brown. Ms. Barnhart invited the Chief Building Official to show the online "Business Resource Center" which was soon to be unveiled on the City website. Staff received positive comments from the City Council on the new interactive online assistance for smaller businesses.

Mayor Esteves provided several additional suggestions to Mr. Irannejad for marketing and promoting this exciting new online service.

No vote was taken on the oral report.

5. Report on Certification of Initiative Petition Ballot Measure This item was heard following the Public Hearing.

City Clerk Mary Lavelle presented the Certificate of Sufficiency of voters' signatures on the petition for a ballot measure submitted to her office in March. She reported that 3,745 valid signatures were found sufficient out of 4,159 verified. This number was more than 15%, and thus the petition was certified. Proponents sought adoption of an ordinance entitled "Milpitas Commercial Specific Plan Area."

The Mayor and Council asked the City Clerk various questions on the process for the signatures and petition, including the estimated cost for a special election (\$436,000). Planning Director Lindsay responded to questions about past actions on the project.

City Council was then requested to take one of three actions, based on guidance from the California Elections Code.

Next, Mayor Esteves invited speakers from the audience to speak for one minute or less.

More than 40 persons addressed the City Council on this matter.

The following speakers spoke opposed to the petition:

Claudia Shope, San Jose resident, concern for cost of election, opposed measure.
David Rosenfeld, Piedmont attorney, distributed his 7 page letter to the Council.
Don Richter, Milpitas resident, felt process was highjacked for democracy.
Sam Siyou, San Jose resident and former worker in Milpitas, opposed the measure.
Carol Vee, Milpitas resident, asked Council not to adopt the action.
Samina Sundas, American Muslim Voice and Human Relations Commissioner, opposed.

Fred Hirsch, Santa Cruz resident, concerned about Walmart, and was opposed.
Madriga Singh, worked and lived in Milpitas, was opposed.
Phil Tucker, project director of California Health Network, requested to take 30 days.
A man, local resident and worker at SaveMart, opposed Walmart.
Karen Johnson, Los Gatos resident, urged take 30 days and recall it was denied last year.
Tom Berger, Redwood City resident, City should not be bullied.
Guy Haas, resident since 1982, opposed Walmart, was proponent of two measures filed.
Mr. Garcia, member of coalition, asked to delay Walmart's request.
Arthur Balangue, Milpitas Coalition for Better Community, UCFW, Milpitas resident, was concerned other stores would close. He submitted petition to City Clerk yesterday.
Nancy Mendizabal, 30 year resident, presented ballot measure submitted yesterday.
Steve Jones, previous resident of Gilroy, asked for 30 days to delay.
Rob Means, Yellowstone, said Walmart thought Council would roll over for them.
A woman, Milpitas resident, wanted to wait 30 days and get report from staff.
Greig Reeves, 34 year Milpitas resident, member of UFCW local, wanted 30 days delay.
Robert Marini, Milpitas resident, commented Mr. Gomez doesn't know how long people wanted to speak, so some were denied a longer time. Take 30 days to wait.
Daniel Jabon, union member long time, local 73, did not support Walmart.
Ajay Talon, resident since 1988, asked for delay on process to seek more review.

The following speakers spoke in favor of the petition:

Christina, San Jose resident, supported the initiative.
Suzanne Stone-Williams, in favor of Walmart expansion.
Marisia, San Jose resident, spoke of McCarthy Ranch vacancies, and favored Walmart.
Ed Riffle, Milpitas resident, spoke in support of Walmart, and favored expansion.
Mabel Lee, resident, spoke of recent closures at McCarthy Ranch, favored expansion.
Debra Curtis, Sunnyvale resident, worked at Walmart and allow a superstore.
Christina Chau, Milpitas resident, favored expansion.
Ana Mujillo, Fremont resident and Milpitas Walmart employee, supported the store.
Melissa, employee at Milpitas Walmart, expressed how much she loved Walmart culture.
Jim Shawn, Milpitas resident of 15 years, enjoyed choices, favored a decision tonight.
Elvira Jordan, 28 year Milpitas resident, supported Walmart expansion.
Carol Kassab, Milpitas Chamber of Commerce, supported Walmart initiative.
Marcus Rodriguez, store manager of Milpitas Walmart, said his 300 employees were a great team with excellent support and he worked 17 years for Walmart.
Robert Paedon, President of Milpitas Chamber of Commerce, supported Walmart.
A man, Milpitas resident since 1972, said don't wait 30 days, approve it tonight.
Angie Stoner, Public Affairs manager for Walmart in Northern California, said Walmart business was driven by customer demand. Customers want the store to expand here.
Joseph Weinstein, resident since 1976, not willing to spent money on election.
David Benoit, 11 year resident, founder of Community Prosperity consumer group, shopped once per month at Walmart in south San Jose for groceries.
Dennis King, Executive Director of Hispanic Chamber of Commerce in San Jose, supported Walmart expansion since the store embraced diversity.

At 9:41PM, the public speakers portion was concluded.

Vice Mayor McHugh wanted to request a staff report from the City Manager on proposed impacts of the initiative, including infrastructure effects and fiscal impact on the City. His motion was seconded by Councilmember Giordano.

Councilmember Giordano would not vote for an ordinance by voter petition. She could not vote for the ordinance without having further study. She wanted to include the April 19 letter from an attorney delivered at the meeting. Ms. Giordano asked the City Attorney if there was any pending legislation on ballot box initiatives.

Councilmember Gomez voted against the Walmart proposal last year. When campaigning for office last fall, knocking on doors, he heard residents state they wanted the Walmart store expansion. His vote last year was wrong and now he wanted to support what voters

support a 30 day study.

Councilmember Polanski previously voted no for the Walmart store expansion. She recognized the right of Walmart to go to voters and people to sign the petition. It spoke largely to her when she got the certification numbers from the City Clerk, with the number of signatures verified on petition which was more than the number of votes she got in the last election. She was not willing to move for a 30 day delay.

Mayor Esteves felt this issue had been a long study for him, while preparing to run for Mayor last year. He listened to the people, to know what's best for them and they wanted Walmart. He was struggling to invite businesses to come to Milpitas, and it was hard to get them to stay here too. Jobs were important in this City and the Walmart stores are progress. He did not want a 30 day study on this issue. Elected officials must be decisive, and listen to the people. He proposed to adopt the ordinance on the petition.

Mayor Esteves called for the question, and a vote.

Motion: to order a report within 30 days from staff on impacts of the proposed ordinance

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion failed by a vote of: AYES: 2 (McHugh, Giordano)
NOES: 3

When the above failed, the following motions were offered and approved.

(1) Motion: to waive the reading of Ordinance No. 38.79 beyond the title, after City Attorney Ogaz read the title of the ordinance aloud

Motion/Second: Councilmember Gomez/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 1 (Giordano)

(2) Motion: to adopt Ordinance No. 38.799, creating a "Milpitas Commercial Specific Plan Area" to be effective in 10 days

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

At 10:00 PM, the Mayor announced that Council would take a 10 minutes break.

ORDINANCE

7. Ordinance No. 111.9

At agenda approval, this item was continued to the next Council meeting.

BID/CONTRACT

One item was approved on the consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 10:54 PM.

The foregoing minutes were approved by the Milpitas City Council as amended on May 3, 2011.



Mary Lavelle, City Clerk