



Mayor Esteves asked for a correction on Chamber of Commerce meetings in June, held on the fourth Thursday each month, including June 23. No Finance Subcommittee meeting was scheduled on June 22.

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

## PRESENTATIONS

Mayor Esteves presented two proclamations: (1) *Public Works Week* for May 15 – 21, 2011 – accepted by staff Fariborz Heydari and Jorge Diaz; and, (2) *Older Americans Week* for the month of May – accepted by Denny Weisgerber, Chairman of the Senior Advisory Commission.

Certificates of Appreciation would be distributed to eleven local businesses that donated food for the Disaster Drill held Wednesday, April 6 at Randall School. OES Coordinator Sean Simonson provided the list of donors, as displayed, including Taco Bell, Wal-Mart, Subway and others.

## PUBLIC FORUM

Lynn Chamberlin, child care health consultant and registered nurse, stressed the need to keep the Child Care Coordinator position in the City of Milpitas, and not cut that valuable position.

Marie Pham, Milpitas resident, commented on the 20 years of information about child care businesses and asked to revisit the position of child care coordinator.

Andre Macaplinac, 456 Lomer Way, represented Assemblyman Bob Wieckowski and he noted the Asian Pacific Heritage Awards luncheon held recently at which Milpitas resident Dem Nitafan was honored. He thanked Mayor Esteves for his attendance.

A woman asked Council to reconsider shutting down the pre-school. She recently spoke to parents about the closure, and they were shocked at the news. Parents cannot afford the expense of the private programs.

Robert Marini, Milpitas resident, said the City was in violation of the regulations from Proposition 218. He discussed the number of persons per multi-family households and complained of the highest sewer rates in Santa Clara County.

Diana Manix, 1115 Kimberly Drive, San Jose, was in favor of the Child Care Coordinator position. The varied, excellent information and workshops offered by Toby Librande were unbelievable and quite necessary in the community.

## ANNOUNCEMENTS

City Manager Tom Williams read portions of a letter he received from the federal Department of Housing and Urban Development regarding a recent audit of CDBG program and ARRA grant funds. It found no financial deficiencies in the programs, which was great news to share.

Councilmember Polanski attended the County's Emergency Preparedness Council meeting recently, where the group wanted the City to be aware of "AlertSCC." It was a free service to receive emergency warnings directly from the County on participants' cell phones. Everyone can sign up for free at this location on the web: [www.alertscc.com](http://www.alertscc.com).

Vice Mayor McHugh requested an evaluation by the City Manager of a resident's suggestion. Once a month, assign one City Department Head to report at the Council meeting on what the department was doing, their successes and challenges. Also, he stated he would vote no at upcoming TPAC meeting on expansion of the treatment plant due to no interest in moving up the elimination of the odor problem in Milpitas.

Mayor Esteves announced the May 30 Memorial Day holiday, when there would be a Milpitas ceremony at 9:00 AM to remember heroes of today and yesterday. All were encouraged to come out and pay special tribute to veterans.

Next, the Mayor reviewed a written list of information he'd requested of City staff to report to the Council and some new items: (1) a Council compensation summary, including benefits, (2) Council pension benefits for elected officials of the last 10 years, (3) a projected budget over the next five years for the (a) General Fund and (b) all funds, (4) the general plan to reduce employee percent of benefits to salary before/after 2011 employee cost reductions and the average salary per employee in each union, (5) a pension reform plan for all employees, (6) comparison of employee salaries and benefits to the private sector and other public agencies, (7) a report back from City Manager on hiring an internal auditor and a possible Community Resource Commission, (8) a.) employee performance rating system that was fair and objective, and (b.) ordinance to change the use of seniority as the basis for workforce reduction. He stated goals and possible actions.

Vice Mayor McHugh added his request for the report on VTA's BART expansion and its effect on residences and businesses, and the mitigations planned. He desired the report in June. Mayor Esteves responded to him regarding outcome of a meeting on this date with a VTA representative and the City Engineer Greg Armendariz.

**ANNOUNCEMENT OF  
CONFLICT OF INTEREST**

None.

**APPROVAL OF AGENDA**

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

**CONSENT CALENDAR**

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

Councilmember Polanski commented on the lease with the Milpitas Food Pantry (Item No. 5), for which she thanked staff for the success at finding a new location for the organization.

Mayor Esteves wished to remove Items No. 2 and No. 18 from consent.

The Mayor inquired about details of the Food Pantry lease and whether the new location was accessible by public bus route. Ms. Diana Barnhart responded.

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

\* 1. Commission Appointments Confirmed the following appointments:

Economic Development Commission

Re-appointed Dhaval Brahmhatt a term that expires in April 2014.

Senior Advisory Commission

Appointed Melba Holliday as a regular member to a term that expires in December 2012.

Appointed R. "Lee" Verna as Alternate No. 1 to a term that expires in December 2011.

Newly appointed Deborah R. Langley as Alternate No. 2 to a term that expires in December 2012.

\* 3. Letter on Altamont Corridor Rail Project Alternatives Approved comment letter on the Altamont Corridor Rail Project Alternatives Analysis Report opposing the aerial high-speed rail track alignment options through Milpitas.

\* 5. Lease Agreement with Food Pantry Approved lease agreement for property at 1440 So. Main Street with the Milpitas Food Pantry for two years starting June 1, 2011.

- \* 7. Communities Putting Prevention to Work Grant Accepted Santa Clara County Health Department “Communities Putting Prevention to Work” grant in the amount of \$53,138 and authorized the City Manager to execute a contract with the County for the grant. Approved a budget appropriation in the amount of \$21,777 for the Police Department overtime budget and \$9,380 for Police Dept. supplies budget from grant revenue.
- \* 9. Adopt Ordinance No. 65.141 Waived the second reading and adopted Ordinance No. 38.793 modifying regulations for non-conforming uses.
- \* 10. Adopt Ordinance No. 38.793 Waived the second reading and adopted Ordinance No. 239.6, amending Title XI, Chapter 16, of the Milpitas Municipal Code related to prohibiting copper-contaminated discharges into storm drains.
- \* 11. Resolution of Intent LLMD 95-1 McCarthy Ranch Adopted Resolution No. 8089 preliminarily approving the Annual Engineer’s Report and providing for the notice of public hearing on June 21, 2011 for LLMD No. 95-1.
- \* 12. Resolution of Intent LLMD 98-1 Sinclair Horizon Adopted Resolution No. 8090 preliminarily approving the Annual Engineer’s Report and providing for the notice of public hearing on June 21, 2011 for LLMD No. 98-1.
- \* 13. Resolution of Final Acceptance KM Homes Adopted Resolution No. 8091 granting conditional final acceptance of the KB Home Terra Serena Project No. 3160 and release of the noted bonds.
- \* 14. Resolution for Agreement on County 2010 EMP Grant Adopted Resolution No. 8092 authorizing the City Manager to execute the agreement with the County of Santa Clara for the distribution of 2010 Emergency Management Performance Grant funds.
- \* 15. Plans & Specs. and ads for bids for Project No. 4255 Approved the plans and specifications for Project No. 4255 and authorized the advertisement for bid proposals.
- \* 16. Award Contract to Preston Pipelines for Project No. 7098
  - 1) Waived minor bid irregularity and awarded a construction contract including one add alternate item to Preston Pipelines for the South Milpitas Boulevard Water Line and Los Coches Valve Replacement, Project No. 7098.
  - 2) Approved Amendment No. 3 to the Agreement with West Yost Associates for a not-to-exceed amount of \$67,751.00, for the South Milpitas Boulevard Water Line Replacement and Los Coches Valve Replacement, Project No. 7098.
  - 3) Authorized staff to execute change orders for the South Milpitas Boulevard Water Line and Los Coches Valve Replacement, Project No. 7098, provided that the change orders do not exceed the established construction contingency amount for the project, and do not require additional appropriation.

**JOINT REDEVELOPMENT AGENCY, PUBLIC FINANCING AUTHORITY & 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 the City Council at 7:55 PM.

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

**ABSENT:** Agency/Councilmember Gomez

**RA 2. MINUTES** Motion: to approve the Agency meeting minutes of May 3, 2011

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

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/consent calendar

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

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

**\*RA4. Award Contract to Hometown Construction Inc. for Community Center HVAC**

Awarded a construction contract to Hometown Construction, Inc. for the Community Center HVAC replacement, Project No. 8182, in the amount of \$404,906. Authorized staff to execute change orders for the Community Center HVAC replacement project, provided that the change orders do not exceed the established construction contingency amount of \$60,000 for the project.

**RA 5. ADJOURNMENT**

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 7:56 PM.

**REPORTS OF MAYOR**

Two items were approved on the consent calendar.

**2. Letter of Support for SB568**

Mayor Esteves asked for this to be removed from consent, so he could ask staff about the study previously directed by the City Council and when it would be presented. He wanted to understand how support for the letter to state senators could be requested prior to the study being presented on the environmental issues of plastic bags and styrofoam containers.

Engineer Kathleen Phalen explained the request was for a letter supporting state legislation restricting use of polystyrene food containers. The letter was recommended by members of the City's Recycling and Source Reduction Advisory Commission. It was not specifically related to the plastic bag issue, or local efforts on food containers.

Vice Mayor McHugh felt there was enough factual data out there and he was comfortable to support legislation at the state level.

Councilmember Giordano agreed with the Mayor, and this topic was not properly debated at City Council level. She asked if there was a drop-dead date to respond on the letter. Staff replied no.

Councilmember Polanski stated she was opposed from the start on spending funds on a study, since last year. There was plenty of information on these subjects. She wanted to see the report before supporting the bill at the state level.

Vice Mayor McHugh asked if this matter could come to Council at the first meeting in June. Ms. Phalen explained staff planned to bring it on June 21, and the Vice Mayor said he was ok with that schedule.

Motion: to table this item (support for SB 568) to the June 21, 2011 Council meeting

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

**NEW BUSINESS**

Two items were approved on the consent calendar.

**4. Economic Development Report**

Economic Development Manager Diana Barnhart updated the Council on business activity in Milpitas including the new freeway signs coming soon. She'd met with Black Bear Diner franchise owner about the new restaurant planned on Calaveras Blvd. which she was excited about.

Redevelopment activity was concentrated lately on new legislation introduced in Sacramento to maintain agencies but with more strict oversight.

Ms. Barnhart also discussed the Chamber of Commerce proposal for agreement with the City on two programs: Business Compliance Express and Business Retention. Council member Giordano asked what role the Economic Development Manager would play with the new Chamber programs and how this would be measured. Staff would serve as a liaison. The point of the agreement, as explained, would be two ultimate goals: revenue retained along with number of businesses/employees long term. The contract with Milpitas Chamber of Commerce would come before Council on June 21.

No vote was taken on the oral report.

**6. LAFCO Request for one Island Annexation**

Planning Director James Lindsay explained the possibility of the City annexing an unincorporated "island" of land, less than one acre which was completely surrounded by the incorporated City limits. This land qualified for a streamlined annexation process, as recommended by the County, and outlined to the City in a letter from the Local Agency Formation Commission (LAFCO).

Mayor Esteves sought more information to know the pros/cons on whether the City Council should do this. Mr. Lindsay noted that he would come back with that type of information on June 21, with an analysis, following outreach to the property owner.

Motion: to direct staff to investigate the necessary steps to potentially initiate the unincorporated island annexation of the identified Piedmont Road parcel, as suggested by the Santa Clara County LAFCO

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

**ORDINANCES**

Two were adopted on the consent calendar.

**8. Ordinance No. 65.141 on Building Code Enforcement**

City Attorney Mike Ogaz explained the need for the simple municipal code update. If adopted, it would permit the Building Division to collect civil penalties from property owners for violations when appropriate, similar to the ability of the Fire Department presently.

City Attorney Ogaz read aloud the title of Ordinance No. 65.141 "An Ordinance of the City Council of the City of Milpitas Amending Chapter 1 of Title II of the Milpitas Municipal Code Relating to Building Code Enforcement."

(1) Motion: to waive the first reading beyond the title of Ordinance No. 65.141

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

(2) Motion: to introduce Ordinance No. 65.141 relating to Building Code Enforcement

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

**RESOLUTIONS**

Four resolutions were adopted on the consent calendar.

**BIDS AND CONTRACTS**

Two items were approved on the consent calendar.

**17. Power Purchase Agreement with Ecoplexus, Inc.**

City Engineer Greg Armendariz discussed the collaborative Power Purchase Agreement for solar power in Santa Clara County. He identified contract terms with recommended vendor Ecoplexus Inc. which would install solar panels on several city facilities. Furthermore, he expressed anticipated energy cost savings of \$140,581 over five years.

Councilmembers asked several questions to which the City Engineer responded. In reply to Councilmember Giordano, he noted that the City Hall building did not “pencil out” for solar panels.

Councilmember Giordano requested a mid-term report back to City Council on this contract.

Motion: to approve and authorize the City Manager to execute a Solar Power Purchase Agreement with Ecoplexus, Inc., subject to approval as to form by the City Attorney

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

**18. Amendment No. 1 to SIA for Fairfield Murphy Ranch**

Mayor Esteves requested this item be removed from consent calendar. He objected to the amendment on two accounts that he identified within the terms of the agreement. City staff engineer Fernando Bravo responded to the Mayor’s concerns on the standard contract language and need for the brief amendment.

Councilmember Giordano noted the contractor was changing what they’re doing with this project, so she inquired whether there was anything unusual in this one that the City would not have done with other development projects and staff said no. Mr. Bravo noted that it was common to have changes occur as the details of a development were constructed in the field.

Vice Mayor McHugh asked the City Attorney a process question. Mr. Ogaz noted the Council was asked merely to agree to the amendment to the Subdivision Improvement Agreement. The Vice Mayor said he was not happy with the project, however he was not on the City Council when it was approved.

Motion: to approve Amendment No. 1 to the Subdivision Improvement Agreement for Fairfield Murphy Ranch, subject to approval as to form by the City Attorney

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 3  
NOES: 1 (Esteves)  
ABSENT: 1 (Gomez)

**ADJOURNMENT**

Mayor Esteves adjourned the City Council meeting at 9:07 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on June 7, 2011.

  
Mary Lavelle, City Clerk