

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, September 6, 2011  
**Time:** 7:00 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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**ROLL CALL**

Mayor Esteves called the meeting to order at 7:00 PM. City Clerk Lavelle noted the roll.

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

**ABSENT:** None.

**PLEDGE**

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

**INVOCATION**

Councilmember Debbie Giordano introduced Girish Shah, a lay leader, of the Jain Center, the temple in Milpitas, who provided the invocation prayer.

**MINUTES**

Motion: to approve City Council meeting minutes of August 16 and 23, as submitted

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

**SCHEDULE OF MEETINGS**

Motion: to approve the Council Calendar/Schedule of meetings for September

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

**PRESENTATIONS**

Mayor Esteves presented commendations to students from Randall Elementary School, 5<sup>th</sup> grader Isaac Chang and 6<sup>th</sup> grader Hursh Desai for winning state and regional awards as part of the school's Science, Technology and Math (STEM) Academy. Also awarded was their teacher Ms. Jeanine Thomas, the STEM teacher for fifth and sixth grades.

Mayor Esteves proclaimed *National Preparedness Month* for September 2011. The proclamation was accepted by City of Milpitas Fire Department Chief Brian Sturdivant and Office of Emergency Services Coordinator Sean Simonson.

**PUBLIC FORUM**

Cary Matsuoka, the new Superintendent of the Milpitas Unified School District, introduced himself to City officials, saying hello to the Mayor and City Council. He thanked City staff for its support, in particular to Police staff for their assistance on opening day recently. He looked forward to working successfully with the City alongside the School District as Milpitas grows.

A woman attorney, representing a group of professional women in Milpitas, disagreed with comments recently made in the Milpitas Post newspaper regarding Councilmember Debbie Giordano. She wanted the newspaper to be fair and unbiased in its reporting on local issues.

Robert Marini, Milpitas resident, spoke with Councilmember Giordano who said they can pick and choose what topics to discuss at the Council level. He referred to the Robson Homes new

development project. Also, he wanted the Senior Center open on the weekends and asked when that subject would be discussed by City Council.

In response to the resident, Vice Mayor McHugh said that a survey was conducted on that issue, and there was a lack of interest by respondents in the Senior Center being open on the weekends.

Councilmember Giordano discussed the process as noted in the City Council's Handbook on how issues can come forward on the Council agenda.

Mark Henning, Milpitas resident, addressed the City Council on several topics including a new radio station, recommending a book regarding Muslims, a law based on truth and common sense, and some history regarding Mr. Sal Cracolice.

**ANNOUNCEMENT**

City Manager Williams announced a community meeting on the County's home energy assessment rebate program on Wednesday, September 21 at 6:30 PM for homeowners at the Barbara Lee Senior Center.

Councilmember Giordano was checking on a follow-up issue by the Mayor, on Asian senior community being targeted for tax fraud. The anniversary of September 11, 2001 was coming up, with the ten year anniversary this weekend. She requested that the meeting would adjourn in memory of those who lost their lives on that date, including first responders.

Vice Mayor McHugh offered a warm welcome to Sam and Salina Garvin, who are business owners of the new Black Bear Diner restaurant, which opened last week.

Mayor Esteves offered his congratulations to sponsors of the recent Adobo Festival in Milpitas. He thanked Ahmadiyya Muslim Temple on their recent blood drive in honor of September 11 victims. The Milpitas Tidal Waves swim team did a good job on its competition last week in Morgan Hill. He thanked a Dagupan City, P.I. delegation including elected officials who recently visited Milpitas. The City did not plan a September 11 commemoration ceremony, so he suggested three items: 1) the meeting would adjourn in memory, 2) flags in the City should fly half staff that day, and 3) each and every resident should display their American flag on that date.

**ANNOUNCEMENT OF  
CONFLICT OF INTEREST**

None.

**APPROVAL OF AGENDA**

Motion: to approve the agenda, as amended

City Manager Tom Williams requested to remove Item No. 5 from the agenda and reschedule the matter on a later date.

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 amended

City Manager Williams stated a request from staff to remove Item No. 10 from the consent calendar.

Vice Mayor McHugh requested Item No. 7 be removed and Mayor Esteves requested removal of Item No. 16.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

- \*1. Update on Pump Station Repairs Received the progress report from the Public Works Director on the emergency contract work order for the Variable Frequency Drives/Pump Motor Assemblies for the Ayer Pump Station, CIP No. 7102.
- \*2. August Odor Control Received the August 2011 odor report.
- \*3. Commission Appointments Approved the following Commission re-appointments and one new appointment:
- Bicycle Pedestrian Advisory Commission:  
Re-appointed Nawal Stanojevic to a term that expires in August 2014.
- Community Advisory Commission:  
Appointed Edna R. Andres as a regular member to a term to expire in January 2014.  
Appointed Janice Bobay as Alternate No. 1 to a term to expire in January 2013.  
Appointed Jose Rosario as Alternate No. 2 to a term to expire in January 2013.  
Appointed Shirley Meirose as Alternate No. 3 to a term to expire in Jan. 2012.  
Newly appointed Thelma Batilo as Alternate No. 4 to a term to expire in January 2012.
- Emergency Preparedness Commission:  
Re-appointed Brian Shreve (MUSD rep.) to a term that expires in June 2014.  
Re-appointed Mercedes Albana as Alternate No. 1 to a term that expires in June 2013.
- Library Advisory Commission:  
Re-appointed Sonny Wang to a term that expires in June 2013.
- Parks, Recreation and Cultural Resources Commission:  
Re-appointed Naomi Matau to a term that expires in June 2014.
- Sister Cities Commission:  
Re-appointed Dennis Grilli to a term that expires in September 2014.  
Re-appointed Maria Magdalena Ortega to a term that expires in September 2014.  
Re-appointed German Galvan as Alternate No. 2 to a term that expires in September 2013.
- Youth Advisory Commission:  
Re-appointed Vicky Tu to a term that expires in September 2012.  
Re-appointed Monica La to a term that expires in September 2012.  
Re-appointed Veenu King to a term that expires in September 2012.
- \*6. Approve Comment Letters Approved two comment letters for the Mayor to sign on the OneBayArea Grant Proposal and the Bay Plan Amendment.
- \*8. Fee Waiver for MCTV Approved a fee waiver and in-kind donation of facility use and staffing for Milpitas Community Television (Channel 26) totaling \$782.50 for an event on October 22, 2011.
- \*9. Fee Waiver for Festival of Trees Approved the Milpitas Parks and Recreation Foundation's request for facility rental fee waiver and in-kind donation of equipment and staffing totaling \$1,813.75 for the 4<sup>th</sup> Annual 2011 "Festival of Trees" Gala Fundraiser event on December 1, 2011 in the Milpitas City Hall Rotunda.
- \*11. Records Retention Schedule Adopted Resolution No. 8116 approving the new 2011 City of Milpitas Records Retention Schedule for all City Departments.
- \*12. Resolution Awarding Contract to EcoPlexus Adopted Resolution No. 8117 awarding a contract to EcoPlexus, Inc. for the Main Sewer Pump Station Vehicle Canopy, Project No. 6079.
- \*13. Resolution Annexing Property to CFD 2005-1 Adopted Resolution No. 8118 annexing certain real property commonly known as the Los Coches Residential Project (APNs 086-29-049 and 086-29-050) into Community Facilities District No. 2005-1, Project No. 2653.



**RA 6. ADJOURNMENT**

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 7:45 PM.

**REPORTS**

Two items were approved on the consent calendar.

**4. Resolution FDA Regulation of Menthol Cigarettes**

Councilmember Polanski was contacted by Assemblymember Weickowski’s office on this subject, and she was pleased to recommend the resolution supporting Food and Drug Administration (FDA) regulations on mentholated cigarettes. This issue was related to targeted sales of cigarettes to young people and persons of color.

Motion: to adopt Resolution No. 8115 supporting the regulation of menthol in cigarettes and flavoring in all tobacco products

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

Speakers Victoria Bourdon, and the Rev. Jeff Moore from the NAACP, thanked the City Council for its support. Rev. Moore also thanked Police Chief Dennis Graham for his good work with young people in the community.

**5. Public Art Project**

This item was removed from the agenda and it would be rescheduled to a later date.

**NEW BUSINESS**

Two items were approved on the consent calendar.

**7. Approve Accounts Receivable Write-offs through June 30, 2011**

Vice Mayor McHugh had a question on the list of write-offs, regarding two restaurants that had fire permits not paid going back to 2008 and 2009. Finance Director Emma Karlen provided an overview of collection methods, the very high rate of collection for the City, and the efforts made regarding those restaurants. She also noted two businesses had paid fees since the list was distributed in the agenda packet the previous week.

Motion: approve the list of write-offs, as amended in newer list presented in the new total amount of \$88,600.25

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

**ORDINANCE**

**10. Ordinance No. 101.21 to Amend Contract with PERS for 2% at 60**

The City Manager reported to the City Council that this was the ordinance for adoption in order to implement a new, less expensive PERS retirement formula for non-public safety employees, for newly hired employees. It could not go on consent calendar, per the rules set by PERS.

City Attorney Ogaz advised one motion by the Council, as follows.

Motion: to waive the second reading and adopt Ordinance No. 101.21

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

**RESOLUTIONS**

Five resolutions were adopted on the consent calendar.

**BIDS/CONTRACTS**

Two items were approved on the consent calendar.

16. Side Letter with Milpitas Police Officers Association (MPOA)

This item was removed from the consent calendar at the Mayor's request.

City Manager Williams explained the need for the side letter, related to approval of the change in PERS formula for non-sworn Police Department employees who belong to MPOA. The change was to go to a 2% at age 60 plan for newly hired employees.

In response to Mayor Esteves, the City Manager stated December 31, 2012 was the contract expiration date for the current MPOA agreement. The Mayor stated his desire to seek concessions on the PERS pension plan formula for sworn officers in the MPOA, too. He inquired further about responses the City had received to a Request for Proposals (RFP) from outside agencies for public safety services. The Mayor wanted to schedule this matter for a presentation and discussion before the Council.

Mr. Williams further explained that the RFP responses from the County Sheriff and the County fire agency were inadequate for comparison to current levels of service delivery in the City. Therefore, more information was sought from the agencies that responded.

Vice Mayor McHugh asked for clarification as to the status of the RFP responses, what information was being gathered, and whether it was appropriate for the Council to receive that information at a public meeting, yet. The City Manager responded, and then Mayor Esteves again asked to agendaize this topic for discussion at a future Council meeting.

Motion: to approve the Side Letter agreement between the City of Milpitas and the Milpitas Police Officers Association, regarding PERS formula for newly hired non-sworn employees

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

**DEMAND**

One demand for payment was approved on the consent calendar.

**ADJOURNMENT**

Mayor Esteves adjourned the City Council meeting at 8:13 PM in honor of the victims, including first responders, who lost their lives on September 11, 2001.

The foregoing minutes were approved by the Milpitas City Council as submitted on September 20, 2011.

  
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Mary Lavelle  
City Clerk