

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, September 20, 2011
Time: 6:30 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the meeting to order at 6:30 PM. City Clerk Lavelle noted the roll.

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

ABSENT: None

CLOSED SESSION

City Council convened in Closed Session to discuss labor negotiations with two employee groups, Milpitas Police Officers Association and Mid-Management/Confidential group.

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

Councilmember Giordano read several quotes from various faiths about the "Golden Rule."

MINUTES

Motion: to approve City Council meeting minutes of September 6, as submitted

Mayor Esteves asked for all speakers to identify themselves, when speaking under Public Forum, reflecting that a woman spoke at the last Council meeting who did not give her name.

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 and October 2011

City Manager Williams announced that the Neighborhood Services & Education Subcommittee's meeting was canceled this month and from now on, would meet only as needed.

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

PUBLIC FORUM

Bonnie Mace, San Jose resident on behalf of the Silicon Valley Leadership Group, announced the annual Silicon Valley Turkey Trot 2011 on Thanksgiving Day, November 24, 2011, an annual event to raise money for three charities: Housing Trust Fund, Second Harvest Food Bank and Children's Health Initiative.

Kathleen King, Saratoga resident, invited City Councilmembers to join with other cities for the Mid-Cities trophy in the Turkey Trot. She urged the City Manager to place this activity on agenda for the City Council as a meeting for all to participate.

Benjamin Marchon, San Jose resident, represented International Brotherhood of Electrical Workers in Santa Clara County, and wanted City officials to meet with Tri-Trades about projects that may be built in the City of Milpitas. He emphasized training and safety of their workers.

Warren Barry, business representative of Plumbers and Steamfitters group of Santa Clara County, with 2300 members, emphasized training of workers, and apprenticeships. He invited City Council members to visit their nearby training center.

David Beany, San Jose resident, representing the Santa Clara County Electrical Joint Apprenticeship Training Center (JATC) with many workers, provided five-year apprenticeship program for future electricians, offered at no cost.

Robert Marini, Milpitas resident, referred to a remark at last meeting by the Vice Mayor about lack of interest in the Senior Center hours. He questioned criteria of the survey.

Vice Mayor McHugh responded about this topic at the Senior Advisory Commission and checked with the City Manager. Mayor Esteves replied, asking the City Manager to place this matter on the agenda at the next Council meeting.

Wade Lapearl, was the training coordinator for local steamfitters and pipefitters group. He discussed efforts to train the trades, and to help workers earn a living.

Mayor Esteves commented that he had visited one union training center and was impressed by the facility. They provided opportunity to be of value to the community, developers, and workers.

Noel Richter, a N. Park Victoria Drive, Milpitas resident, discussed Senior Center being opened on Saturdays. He urged Council to take a survey of those who used it to find out if they want it open on Saturday.

Chris Valverde, training coordinator for Sheetmetal Workers Local 104, with 5200 members, and they actively recruit to provide training for men and women to become skilled craftsmen. A "Career Fair" was offered on October 7 at the Training Center in San Jose, with 14 trades there and hands-on activity for more than 250 high school students.

Mark Henning, Milpitas resident, addressed the City Council about Alzheimer's and the fear of dying, two Mormons and other candidates running for President, that gangs should be classified as domestic terrorists in this country, and strong militia.

Christine Davis, San Jose resident, announced a free event tomorrow, a workshop for single family homeowners for energy assessment, and to learn about energy upgrades, for homeowners. It was scheduled from 6:30-8:30 PM at the Barbara Lee Senior Center.

Rob Means, 1421 Yellowstone resident, discussed climate change, terrorism, and natural disasters.

Gary Wong, representing Lions Club International, discussed many beneficial programs offered by Lions Club International, emphasizing eye health.

Councilmember Giordano asked questions of Mr. Wong, about whether the event was international. He said yes, from across the U.S. and Canada.

Ray Maglalang, Milpitas resident, spoke for the Lions Club International. Previously, their Leadership Forum was held in Vallejo, CA at a maritime facility. He had proposed to the Club president to hold the meeting in Milpitas at the Beverly Heritage Hotel.

Neal Ruditsky, manager of the Beverly Heritage Hotel in Milpitas, wanted the Council to take this event seriously. He urged the City to keep this event here in Milpitas locally, and to support the Lions Clubs of Milpitas.

MariCris Benitez, of Milpitas Executive Lions Club, invited all to attend the “Make a Difference Day” on October 29 in Milpitas.

Mayor Esteves asked what the Lions Club was seeking. Mr. Wong said the group was seeking financial support, so the Mayor asked to place it on a Council agenda for a future meeting.

Todd Tran, resident of 1128 Park in Milpitas, was a sheetmetal worker/member of local union. He had attended his training at one of the San Jose union centers to learn his skill.

Mark Benniger, a representative of the Sheetmetal Workers, saw 32-40% unemployment among his members. The Tri-Trades Mechanical group on projects typically do 35-40% of the work on a development project. Presently they need work and he would like to get phone call from City Councilmembers and developers when they build in Milpitas. He asked for help and stated his phone number 408-263-9705, while looking for commitment to local hire.

ANNOUNCEMENT

Councilmember Giordano asked her colleagues if they, like she had, received a new inquiry about odor problems in the City. The City Manager responded to her that staff would report monthly.

Vice Mayor McHugh announced he recently had the honor of attending “Thank You America” event, with the Board of Supervisors and the Mayor. He also reported an excellent presentation was given by the City Manager in front of Milpitas Rotary Club on Monday.

Councilmember Polanski announced that the Emergency Preparedness Commission planned to be at the October 29 “Make a Difference Day” event at the Seasons Marketplace.

Mayor Esteves congratulated Cross Pointe Church for opening its recreation enter and youth facility. He welcomed Crossroads Church in Milpitas. He congratulated TienTien Chinese School at its new location in Milpitas. He wished a “Happy Moon Festival” to the Asian community.

The Mayor had three requests: 1) the City was doing street paving and resurfacing, and asked that this topic be placed on an upcoming agenda for a status report, 2) regarding the RFP response from County Fire, he was not asking for a presentation but wanted to receive a timeline from staff on this issue, and 3) planned to adjourn the meeting in memory of Mr. Warren Schmid, the City’s first City Manager who passed away on this date.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Polanski/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

Councilmember Giordano requested Item No. 2 be removed from the consent calendar.

Vice Mayor McHugh gave a brief comment on Item No. 19, citing it as an excellent example of the City working with Valley Transportation Authority to come up with solution for a traffic issue.

Mayor Esteves requested to remove Items No. 15 and No. 18 since he had received questions on why the City contracted out those services.

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

- *10. Fee Waivers Requested Approved two fee waivers requested by the Rotary Club for the Pumpkin Patch in the amount of \$867.82, and by St. John's the Baptist Church for its Autumn Festival event in the amount of \$1,425.77.
- *11. Resolution for a Lift Truck Adopted Resolution No. 8121 authorizing the purchase of an Altec AT-37G telescoping lift truck from Altec Industries, Inc. for the not-to-exceed amount of \$97,860.17 through a cooperative procurement contract.
- *12. Resolution Accepting Project No. 6073 Adopted Resolution No. 8122 granting initial acceptance of Phase 6 of the Sewer Deficiency and Structural Correction Program, Project No. 6073, subject to a one year warranty period and reduction of the faithful performance bond to \$72,810.00.
- *13. Resolution Supporting Funding Application Adopted Resolution No. 8123 supporting the 2012 Regional Transportation Improvement Program funding application for Project No. 4259, the Escuela Parkway Pedestrian and Bicycle Enhancement Project.
- *14. Agreement with David J. Powers & Associates Approved and authorized the City Manager to execute an agreement with David J. Powers & Associates, Inc. in the amount of \$25,000 for Project No. 3706, subject to approval as to form by the City Attorney.
- *16. Budget Appropriation for a Temporary Intern Approved a budget appropriation for the California Department of Recycling and Recovery Beverage Container Program in the amount of \$18,962 and authorized a temporary student intern position in the Utility Engineering Section.
- *17. Award Bid to Pavex 1) Waived minor bid irregularity and awarded a construction contract, including two Add Alternate bid items, to Pavex Construction for Street Resurfacing 2011 and 2012 "Ranch Drive" Projects No. 4255, No. 4261 and No. 8202, for a the total amount of \$870,395.
2) Approved a budget appropriation of \$30,000 from Transient Occupancy Tax funds.
3) Authorized staff to execute change orders for Street Resurfacing 2011 and 2012, provided that the change orders do not exceed the established construction contingency amount for the projects, and do not require additional appropriation.
- *19. Agreement Between City and VTA for Project No. 4262 1) Authorized the City Manager to execute an agreement between the Santa Clara Valley Transportation Authority and City of Milpitas for construction of the Milpitas Blvd/Dixon Landing Road Intersection Improvements.
2) Authorized staff to approve VTA's execution of change orders for the Milpitas Blvd./Dixon Landing Road intersection improvements, provided that the change orders do not exceed the established construction contingency amount for the project (\$20,000).

PUBLIC HEARING

1. 2010-11 CAPER for CDBG funds Principal Housing Planner Felix Reliford explained the need for the annual review of expenditure of Community Development Block Grant Funds, provided each year to the City from the federal Department of Housing and Urban Development. That review was completed by preparation of the Consolidated Annual Performance Evaluation Report (CAPER) annually.

Mr. Reliford described the outreach effort inviting comments and reported none were received from the public on CAPER. Funding was on a downward trend, regarding the amount for Milpitas. 5800 residents were assisted with CDBG funding in FY 2010-11.

Mayor Esteves opened the public hearing, and invited speakers.

Alvin White, Milpitas resident, commented after he had read the report that was made available. He had discussed the matter with Mr. Reliford at City Hall.

- (1) Motion: move to close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

Councilmember Gomez addressed the City Manager and wanted to know looking forward regarding CDBG funds: could the City help the General Fund in any way with those funds, and what about in the next budget cycle? Mr. Williams responded that most of the CDBG funding was earmarked, for offsetting some other costs in the budget.

Councilmember Giordano had received feedback from neighbors on blight in the City. She wondered if it was possible to allocate CDBG funding to help in that area. Staff replied, yes, as long as it met needs of low income residents.

Councilmember Gomez inquired if the discussion about CDBG funding priorities and the General Fund could happen before the grant application period occurs next time and the City Manager said yes.

Councilmember Polanski asked when the City Council last approved priorities, and staff replied in the fall of 2009.

(2) Motion: to adopt the FY 2010-11 Community Development Block Grant program's Consolidated Annual Performance Evaluation Report (CAPER)

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

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 8:19 PM.

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

ABSENT: None

RA 2. MINUTES Motion: to approve the Agency meeting minutes of September 6, 2011

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

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, removing Item No. 5

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

Mayor Esteves asked a question on Item No. RA5 regarding meeting the needs identified by the project. He requested the item come off consent.

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

*RA4. New Fund Balance Classifications Approved and affirmed the new fund balance classifications in accordance with GASB Statement 54.

RA5. Reject Bids for Project No. 8204

City Manager Williams reviewed the status of the City's Redevelopment Agency, with regards to the State and current Supreme Court case.

Mayor Esteves had questions about how to meet the need for street repaving if the Agency was not available. He did not want to defer the street maintenance that staff identified as necessary. This matter needed to be addressed as a budget item, at the next budget study session.

Councilmember Polanski felt the Council would need to look at items as a whole, while suspending some RDA projects, considering the state actions.

Motion: to reject all bids submitted for the Redevelopment Agency Area Pavement Reconstruction Project, CIP No. 8204

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

Councilmember Giordano was in favor of this work. Street repaving was a huge issue in the City. However, the City was in the middle of a budget year and Council had not looked at the entire budget for the future just yet.

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

RA 6. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:29 PM.

REPORTS OF MAYOR AND COUNCIL

2. Board and Commissions Appointments

Councilmember Giordano asked questions to the Mayor regarding appointments to the Youth Advisory Commission. She wanted to know his policy on making his own recommendations, and whether Alternate Members would move up.

Mayor Esteves remarked that his appointments were not automatic, just a rubber stamp. He phoned all the Commissioners to find out their interest, including when they want to be re-appointed.

Councilmember Gomez suggested that in the future the Mayor consult with the Councilmember who served as liaison to a specific Commission, in this instance with Councilmember Giordano about the members on YAC. The Mayor agreed he could.

The following appointments were approved.

Mobile Home Park Rental Review Board

Newly appointed Arthur Sana as the alternate member to a term that expires in June 2012. Appointed Mila Garcia (current alternate member) as a regular member to a term that expires in June 2012.

Recycling and Source Reduction Advisory Commission

Re-appointed Ed Blake, Jr. to a term that expires in October 2014.
Re-appointed Christopher Salian to a term that expires in October 2014.
Re-appointed Echo Arthur to a term that expires in October 2013.

Youth Advisory Commission

Appointed Sahil Sandhu as a regular member to a term that expires in September 2012. Newly appointed Cindy S. Wang as Alternate No. 1 to term that expires in Sept. 2012.

Motion: to approve the recommendations by Mayor Esteves for appointments to two Commissions and one Board (noted above)

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

3. Councilmember Giordano

Councilmember Giordano pointed out past history with regard to appointments to the Youth Advisory Commission. She asked the Mayor some questions regarding why Alternate Members were not recommended to moved up to voting members.

Mayor Esteves responded about one student per family serving on a City Commission at a time, and that the end of the term for Youth Advisory Commissioners was in October, when school had started. So, he chose to make appointments in August in preparation for the new school year.

No action was taken.

4. Councilmember Polanski –
Ordinance No. 243.4 on
Campaign Finance

City Attorney Mike Ogaz suggested that the Council could review ordinance amendments regarding campaign finance, issue by issue, as these six items were listed on the agenda.

Mayor Esteves requested that the Council vote on sections of the ordinance amendments, one at a time.

Regarding the Campaign Finance Task Force, Councilmember Polanski – Chair of the Task Force - reported on the outcome of several meetings held this year. She and Councilmember Gomez served on the task force, starting back in March, and held monthly meetings. She agreed with the idea of reviewing issues one at a time.

Councilmember Giordano referred to a letter received by e-mail to the City Council, late this date, from attorney Charles H. Bell, Jr. of Sacramento. City Attorney Ogaz said he had not had time to review that letter, and so had no comment at the meeting.

Councilmember Polanski remarked that all Task Force meetings were public, and speakers had been welcome to contribute at all meetings. She was comfortable moving forward and also suggested putting out the 2nd reading at least 30 days, and not necessarily on the next meeting agenda.

Mayor Esteves explained this topic was not a public hearing item, but he invited speakers to address the Council.

Bill Ferguson, Milpitas resident on Rivera St, thanked the Council and the subcommittee for working on these issues. The aggregation topic was very good. Meanwhile, the maximum contribution limit increase, beyond the current \$350, was not good since only companies and developers could give that amount or more. Total maximum campaign spending at \$60,000 was way too high, so he suggested \$20,000 for City Councilmember and \$30,000 for Mayor's election.

Rob Means, 1421 Yellowstone, felt the aggregation rule was a good one. He was okay with raising contribution limit to \$500. On total spending limits, he noted City of Santa Clara had a limit of \$30,000. He did not think the Mayor election should have a different limit. There was a conflict of interest when taking money from developers who had projects before the Council. He sought a charter city issue, to permit instant runoff voting.

Robert Marini, Milpitas resident, agreed with Mr. Ferguson's comments on campaign expenditures. Maximum should be only \$20,000 - \$30,000 for a candidate to spend. Wants announcement before vote.

Councilmember Giordano referred to comments from resident Ed Riffle that she had received in an e-mail. He was opposed to the recommendations, and believed restrictions were violations of the first amendment.

The City Council discussed six changes to campaign finance rules in Milpitas that were recommended by the Campaign Finance Task Force.

Contribution Amount: the Task Force recommended an increase from a \$350 contribution limit to a \$500 limit.

Councilmembers commented on the rationale behind the original limit, a suggestion to reduce the amount, using the Consumer Price Index to adjust the amount, spending power of voters, free speech issues and contributions from corporations v. individuals.

1) Motion: to approve a change in the campaign contribution limit to \$500 from the current \$350

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

Aggregation: the Task Force recommended that any money contributed by an individual be aggregated with any money contributed by a corporation, committee, partnership, or other organization controlled by the individual.

Councilmembers discussed the definition of “controlling corporation,” examples when a company’s multiple employees donate funds, the time frame covered by this proposal, and how it would be implemented.

2) Motion: to add the rule of aggregation of campaign contributions to the campaign regulations in Milpitas, as recommended by the Task Force

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

Independent Expenditure Committees: the Task Force recommended that such committees that spend \$100 or more in the City of Milpitas election should be required to file a copy of the their FPPC Form 461 with the City Clerk (in addition to state filing requirements)

Councilmembers discussed different amounts spent on campaigns in other cities, state committees’ involvement in local campaigns, trying to “follow the money,” and the enforcement of this potential requirement.

3) Motion: to add a requirement that independent expenditure committees to file FPPC Form 461 with the City Clerk

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

City Attorney Ogaz inquired, and Councilmember Gomez confirmed, that he wanted to modify this amendment to delete the last sentence, and Vice Mayor accepted this change to his motion.

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

Voluntary Campaign Expenditures limit: the Task Force recommended a \$60,000 spending limit by candidates for Mayor and City Council.

Councilmembers discussed the dollar amount and its genesis, expense of campaigns,

voluntary nature of the imposed limit, encouraging more candidates to run for office, amounts actually spent in November 2010, incumbents, differing limits for Council v. Mayor races, and ability to change this rule following the next election.

4) Motion: to adopt a voluntary campaign spending expenditure limit of \$60,000

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

Campaign Consultants: the Task Force recommended that consultants would be required to register with the City Clerk.

Councilmembers discussed the time frame for this requirement, the high paid political consultants (not campaign workers or volunteers), definition of campaign consultant, and amounts paid to consultants.

Councilmember Gomez offered a change in the definition in the draft ordinance regarding amount received for services in the past two years, and disclosure. The City Attorney agreed to incorporate this language.

5) Motion: to include an amendment to require campaign consultants to register with the City Clerk and disclose business contact information and clients

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

City Council Meeting Disclosures: the Task Force recommended amending the Open Government ordinance requirement for the announcement of conflict of interest, to add a statement that encouraged elected officials to disclose any campaign contributions in the past year from any companies or people coming before the City Council with business before the Council. The intent was a voluntary disclosure by Councilmembers.

Councilmembers discussed the effort needed to do this step, having the contribution information available on a computer database, disclosure of appropriate information, enforcement of current Open Government requirements, and best wording.

Councilmember Polanski recommended that the City Attorney and City Manager review the wording on this section and return to the City Council with suggested language that the Attorney would read aloud at regular City Council meetings.

6) Motion: to direct the City Attorney to come back to the Council with wording for a City Council meeting disclosure under the Open Government ordinance regarding disclosure of campaign contributions

Motion/Second: Councilmember Polanski/Councilmember Gomez

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

Following the discussion and affirmative votes on the six major elements recommended by the Campaign Finance Task Force, the City Council next voted on the ordinance.

City Attorney Ogaz read aloud the Title of Ordinance No. 243.4, "An Ordinance of the City Council of the City of Milpitas Amending the Campaign Finance and Disclosure Requirements for City Elections."

(7) Motion: to waive the first reading beyond the title of Ordinance No. 243.4

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

Councilmember Polanski asked the City Attorney if 30 days would be helpful to come back for the second reading to allow enough time for review and changes, and Mr. Ogaz replied affirmatively.

(8) Motion: to introduce Ordinance No. 243.4 and schedule the second reading and adoption scheduled for the second meeting in October

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

NEW BUSINESS

5. Economic Development Report

Economic Development Manager Diana Barnhart gave a monthly report on topics related to employment data, research and development, and retail success, despite the vacancy rate including at McCarthy Ranch.

Motion: to receive the monthly report from Economic Development Manager

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

6. Health & Safety Report – Friendly Village MH Park

This item was not heard.

7. Report on Crime

This item was not heard.

8. VTA Governance

This item was not heard.

9. Response to Civil Grand Jury

This matter was heard following Item No. 4 at 10:40 PM.

Fire Chief Brian Sturdivant identified the Santa Clara County Civil Grand Jury report and the letter of response he sent in reply. Mayor Esteves asked the Chief to summarize the Grand Jury's inquiry about firefighting in all cities within Santa Clara County and the County. It was seeking to find out where service delivery could reduce redundancies and consider consolidation where feasible, due to the current economic climate.

Councilmember Gomez asked about costs for staffing up to four firefighters per engine (an increase from the current three).

Chief Sturdivant discussed the differences of the County fire agency as a District, which was not the same as a city Fire Department.

Councilmember Giordano inquired about the analyst service for the administrative review and the Chief explained the volunteer interns, skilled analysts, who did the work.

Vice Mayor McHugh asked about the date of the response and timing.

