

PUBLIC FORUM

Karen Kolander, Milpitas resident and director of the Milpitas Food Pantry, reminded the public of the non-profit’s new location at 1440 S. Main Street. She invited the Mayor and Council to visit this location, while thanking the City for help with the new site. The Food Pantry was getting ready for the busiest time of the year and also had a need for volunteers in the fall.

Robert Marini, Milpitas resident, discussed new sewer rates. He had questions that were not getting answered, regarding documentation for single and multi-unit charges; the data supporting assumption about fewer people living in them; and definition of single and multi-family units.

Bill Ferguson, Rivera St. resident in Milpitas, thanked the Council for bringing forward the campaign finance ordinance. It was bad to increase the campaign contribution limit to \$500 for several reasons.

Rob Means, 1421 Yellowstone, Milpitas, mentioned “Occupy Wall Street” protest activity going on around the country. There was frustration with corporations driving policy for citizens and the treatment of people, along with control of the corporate media.

ANNOUNCEMENTS

Councilmember Polanski thanked the Senior Advisory Commission and Senior Center staff for the recent Health Fair they hosted on Saturday, September 24, with several hundred visitors that day.

Councilmember Gomez asked to adjourn the meeting in memory of young Milpitas resident Jessie Ulibas Jr. He announced that the Council’s Transportation and Land Use Subcommittee planned to discuss medical marijuana dispensaries on October 25 at 5:30 PM.

Mayor Esteves welcomed a Sister City delegation visiting from Huizhou, China. He thanked the BAPS Temple for their recent walk-a-thon fundraising event, to help in part the Literacy Program. He congratulated Viet Boy Scout Troops that held a recent “Scout Day” in Milpitas.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Williams requested to remove Item 5. The plastic bag topic would be considered later, due to a lawsuit filed in the County of Los Angeles, regarding a similar ordinance.

Councilmember Polanski requested to continue Item No. 10 to the next meeting when there would be a full Council.

Councilmember Gomez asked to hear Item No. 8 following Item No. 3.

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

CONSENT CALENDAR

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

City Manager Williams requested to place Item No. 6 onto consent.

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

*6. Odor Control Report Received the September 2011 odor control report.

- *7. Progress Report on Ayer Pump Station Received a 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.
- *9. Commission Appointments Approved the following Commission appointments:
- Bicycle Pedestrian Advisory Commission
Re-appointed Antonio Pablo, Jr. to a term that ends in August 2014.
Re-appointed Chris Lee as Alternate No. 2 to a term that expires in August 2013.
- Telecommunications Commission
Appointed Kurt Bohan as a regular member to a term that expires in January 2013.
Appointed Debra Lax as Alternate No. 1 to a term that expires in January 2013.
Newly appointed Sukhi Singh as Alternate No. 2 to term that expires in January 2012.
- Youth Advisory Commission
Newly appointed Sahil Hansalia as Alternate No. 2 to a term that expires in Sept. 2012.
Newly appointed Veronica Wang as Alternate No. 3 to a term that expires in Sept. 2012.
Newly appointed Arjun Goyal as Alternate No. 4 to a term that expires in Sept. 2012.
- *11. EPC By-laws amendments Approved amendments to the By-laws, regarding membership, of the Emergency Preparedness Commission, as recommended by Commissioners at their last meeting on September 15, 2011.
- *13. Lions Club Fee Waiver Authorized a waiver of 50% of total rental fees (equivalent to \$1,827.50) for the Milpitas Executive Lions Club's rental of city facilities, reserved for Lions Club District Leadership Forum at the Milpitas Community Center and City Hall Rotunda and Committee Room in November 2012.
- *14. Resolution for 1722 Pebble Beach Court Adopted Resolution No. 8125 approving an addition to the hillside home at 1722 Pebble Beach Court, Milpitas, subject to the conditions of approval.
- *15. Resolution – Final Accept Project No. 5055 Phase III Adopted Resolution No. 8126 granting final acceptance of the Alviso Adobe Renovation Phase III, Project No. 5055 and release of the contractor's bond.
- *16. Resolution for Cayenta Software services Adopted Resolution No. 8127 authorizing payment of the Cayenta software support and maintenance agreement for the financial and utility billing system for the not-to-exceed amount of \$115,385.76 and declare Cayenta a sole source provider.
- *17. Re-advertise for Bids for Project No. 5055 Phase IV Rejected all bids received for Project No. 5055 Phase IV, and approved the re-advertisement for bid proposals for the Alviso Adobe Renovation project.
- *18. Approve Two Agreements for Debris Boxes Approved two Non-Exclusive Collection, Transportation, and Recycling Debris Box agreements with Allied Waste and Green Waste Recovery, and authorized staff to grant a maximum of two, three-year extensions to these agreements.
- *19. Report on Emergency Work on Abel Street Received a report from the Public Works Director on the emergency contract work order for the Replacement of Sidewalk Segment on Abel Street, CIP No. 4256.
- *20. Award Bid for Six Police Vehicles Awarded the bid for six 2011 Ford Crown Victoria Police Interceptor vehicles to Hansel Ford for the not-to-exceed amount of \$152,387.55.

PUBLIC HEARING

1. Appeal of Planning Commission approval of a communications tower at 777 Main Street Councilmember Gomez requested the Mayor to reduce speaking time limit to two minutes per person for the public hearing portion, and the City Council agreed.
- Planning Director James Lindsay provided an overview and history of the project requesting approval of an 80-foot telecommunications pole to be installed at 777 Main St.

He displayed photographs with a simulated view of the 80-foot elm tree style-covered pole for wireless communication (including cellular phone) antennas. Staff explained that the City could not consider radio frequency emissions in its decision making, due to federal regulations, except for the applicant certifying that the emissions would be within the regulated exposure amounts.

Councilmember Polanski and Vice Mayor McHugh asked questions about the height of the pole, and whether more towers would be needed if 60 feet were approved v. 80 feet.

Mayor Esteves next invited the two appellants to address the City Council, and limited their speaking time to 15 minutes each.

The first appellant, Mr. Yue Chen spoke on behalf of homeowners at 600, 700, and 800 S. Abel St., since Mr. John Ozag was not available to attend this hearing. Residents near the site were opposed for three main reasons: the tower location and proximity to local establishments, the health hazards to citizens, and the overall decrease of surrounding property values that would occur. He expressed significant concerns about the communications tower primarily for health reasons.

Mayor Esteves asked some questions of Mr. Chen about sources for the studies he quoted, from the internet. Mr. Chen explained he researched quite a bit online. The Mayor asked Mr. Chen about an alternative location and Mr. Chen described one on Hammer Way, across a parking lot.

The second appellant, Mr. Scott Von Rein representing Capital Telecom Acquisition, discussed appropriateness of the height of the structure. At 80 feet, the antennas would be at 72 feet on the pole, to allow a camouflaged tree to be shaped. It could accommodate four carriers at that height, and one was secured so far. If the tower were approved to be at a height of only 60 feet, the first carrier would be installed at the 52 feet level, and then 10 feet lower for the next one.

Mr. Von Rein asked Mr. Bill Hammet, an engineer from Sonoma, CA, to address the City Council regarding his role in determining levels of radio frequency emissions of the proposed tower and whether they would meet federal FCC standards. In this proposal, those levels would be well below the FCC amounts. Councilmembers asked him various questions to respond to earlier comments from Mr. Chen.

Because Mr. Chen had referred to the opposition to such towers by members of the IAFF (in his own research), Vice Mayor McHugh asked a question of Fire Chief Sturdivant about the IAFF position noted. Mr. Sturdivant responded that the Fire Chiefs had not taken a position on cell phone towers, due to inconclusive data so far.

Mayor Esteves asked Capital Telecom if the company had any similar installation in the Bay Area, and Mr. Van Rein replied no. He had a photo of an elm-simulated tower, and referenced one that had been approved in Fremont. Mr. Hammet noted similar installations in many Bay Area cities of towers at 80 feet and taller.

Councilmembers inquired of the Capital Telecom representatives several detailed questions on tower height, emissions, tree covering, alternate locations and other features.

Mayor Esteves next opened the public hearing, reminding speakers they were limited two minutes each.

15 residents, primarily from the 800 S. Abel St. residential development, spoke opposed to the communications tower for reasons related to its height, radio frequency emissions, aesthetic objections to the view and questioning its necessity.

One gentleman, a resident of Forest Ct. in the Pines neighborhood, was totally in favor of the tower in the south end of Milpitas, where the City was building out. Residents needed

The Mayor next asked if anyone wanted to speak from the audience.

Katy Kensinger, Friendly Village resident, was happy to have people come out and view what residents had complained about. She had a letter written to the park management in 2009 about safety issues and nothing had been done. Building staff spoke to her away from the podium and offered to discuss specifics after the meeting with her.

Motion: to receive oral report on conditions at Friendly Village Mobile Home Park

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

3. Report on Crime

Police Chief Dennis Graham gave an oral report on crime statistics in the City of Milpitas. Overall, crime was down 5.27% from 2009 to 2010. He highlighted that 2010 was the lowest violent crime rate, for the population, since 1970. In the first six months of the 2011 year, crime decreased overall.

Mayor Esteves asked specifically about residential burglary and what the police were doing to reduce that crime. Chief Graham explained some of the many steps taken by Police Department command and officers to thwart burglars.

Mayor Esteves requested to have information reported on drug crimes, specifically, and the Mayor handed the Chief a list of crimes that he would like information on, including domestic violence incidents.

Councilmember Polanski remarked that with cut backs in the budget, she wanted police officers on the street. She did not prefer police staff to hand count crimes, just to report back to the City Council. On major crimes (the FBI Index), that would be fine.

Councilmember Gomez inquired about common crimes at the Great Mall. He also asked for explanation on why crime was down so much when the City had the fewest number of officers than in many years. Chief Graham noted that technology was a significant factor in recent years. Mr. Gomez wanted gang violence in the information that was reported.

Vice Mayor McHugh agreed with Councilmember Gomez, and suggested in future reports to include drug crimes and a breakout on gang activity

Mayor Esteves asked about DUI activity and crimes. After some discussion and suggestions, Council came to a consensus to request reports on crime from the Chief of Police twice per year.

Motion: to receive a report on crime in Milpitas from the Police Chief, and asked for future reports semi-annually

Mayor Esteves asked if anyone from the audience wanted to speak.

Robert Marini, Milpitas resident, asked about identity theft and whether it was included in the crime statistics. Chief Graham responded no.

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

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

