

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, November 15, 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 Gomez, Giordano and Polanski

ABSENT: None

CLOSED SESSION

City Council convened in Closed Session to discuss performance reviews of the City Manager and City Attorney; and labor negotiations with two employee groups, the Milpitas Police Officers Association and Mid-Management/Confidential group.

City Council then convened in Open Session at 7:17 PM.

ANNOUNCEMENT

None.

PLEDGE

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

INVOCATION

Assistant Pastor Tom Apusen of North Valley Baptist Church in Milpitas offered a prayer to start the meeting.

MINUTES

Motion: to approve City Council meeting minutes of November 1, 2011, as submitted

Motion/Second: Vice Mayor McHugh/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 November and December, as amended

City Manager Tom Williams noted several changes: on November 17, two meetings were cancelled: (1) Finance Subcommittee and (2) Transportation and Land Use Subcommittee. The Economic Development Subcommittee would not meet on November 21 and was rescheduled to December 12 at 5:30 PM.

Vice Mayor McHugh noted the Sunol Smart Carpool Lanes group meeting was held earlier this month, on the first Monday, November 7. Also the Santa Clara Valley Transportation Authority Board would meet at 9:00 AM on Thursday, December 8 (not on December 1).

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

PRESENTATION

Mayor Esteves proclaimed "Use Less Stuff Day" on Friday, November 18. The Merryhill School Fifth Grade class of Ms. Kanchan Bhandare accepted the proclamation from the Mayor.

Awards were next presented to 20 winners of this year's Neighborhood Beautification Awards to residential and commercial property owners. Following the awards presentation, a reception with refreshments was held in the lobby.

The City Council meeting reconvened for its business at 7:50 PM.

PUBLIC FORUM

Denny Weisgerber, Vice President of the Milpitas Parks & Recreation Foundation, invited the Councilmembers and all to attend the 4th annual "Festival of Trees" event, with the theme of "Make a Difference" supporting Parks and Recreation activities. The Festival would be held in the City Hall rotunda on December 1, following the lighting of the City's tree outdoors.

Robert Marini, Milpitas resident, addressed the Council with comments on the City's General Fund and the sewer/utility rates.

Julio Alvarez, Alameda County resident who worked in Milpitas for the County Sheriff's Department in correctional officers service. He came to express the same concerns as recently made by the City Council, when it adopted Resolution No. 8129 opposing additional inmates at Elmwood Jail in Milpitas.

Thelma Batilo, a resident and Community Advisory Commission member, invited all residents to a Milpitas Lions Club tree planting on Saturday at 8:00 AM at Creighton Park.

ANNOUNCEMENT

Vice Mayor McHugh commended the Mayor and staff on a terrific celebration for Veterans Day held in Milpitas last Friday, November 11.

Councilmember Gomez requested an agenda item for discussion on the firefighter dental plan on the December meeting agenda.

Councilmember Giordano announced results of Rotary Club "Bowl Off" held yesterday, when \$2,000 was raised for charity. She remarked that Milpitas was on the local television news recently regarding a possible hate crime, so she asked the Police Chief to discuss hate crimes in his next report to the Council. She commented on a news article in the local newspaper last Friday, regarding a misstatement on records of video surveillance and the Mayor's office. She requested the City Manager provide a copy to all Councilmembers of an e-mail from the Chinese consulate on an issue of the Mayor with regards to bringing a karate tournament to Milpitas, and requested the City Attorney to review.

Councilmember Polanski thanked City staff for a wonderful Veterans' Day ceremony, and for Milpitas to be named a patriotic city. She had already received a copy of the e-mail referred to by Councilmember Giordano and did not need another copy.

Mayor Esteves invited any citizens to call him if they would like to meet with him, and would be happy to welcome them to his office. He helped the martial arts school to invite a Master to come to Milpitas. On December 1 was scheduled the annual Holiday Tree Lighting celebration. Honoring Veterans was important last Friday, especially remembering Sgt. Stephen Dunning.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Williams requested that Item No. 2 be heard prior to Item No. 1, due to the zone change in the latter item.

Councilmember Polanski requested Item No. 12 after the public hearings, regarding parks.

Councilmember Giordano would like Item No. 10 to be heard after Item No. 6.

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

Vice Mayor McHugh requested to remove Items No. 5b and 13 from consent.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

- *5a. Committee reappointment Re-appointed Larry Voellger (Milpitas Alliance for the Arts seat) to the Public Art Committee.
- *9. Cancel meeting Adjusted the 2011 City Council meeting schedule and canceled the regularly scheduled meeting on December 20, 2011.
- *14. Office of Justice Bullet-proof Vest Partnership Grant Accepted the 2009 and 2011 Bulletproof Vest Partnership grants and approved an appropriation in the amount of \$13,404.98 into the Police Department's operating budget.
- *15. ABAG Grant for Police Accepted the ABAG PLAN grant and approved an appropriation in the amount of \$22,984.69 into the Police Department's operating budget for the purchase equipment to reduce liability exposures and defending third party claims against the City.
- *16. Funds for Equipment for the Communications Center Approved an appropriation in the amount of \$8,040.18 into the Police Department's operating budget for the Communications Center Upgrade and accepted reimbursement of \$8,040.18 from the State of California Public Safety Communications Office.
- *17. 2012 Commissioners' Recognition Event Approved the 2012 Commissioners' Recognition Event to be held at Dave & Busters on April 14, 2012, with a total budget of \$6,975, accepting staff recommendation that cost savings of \$1,025 to remain in the City Council budget to be used at its discretion.
- *18. Resolution for Rate Adjustment by Allied Waste Adopted Resolution No. 8139 approving the January 1, 2012 through December 31, 2013 rate ceiling adjustments for recycling and solid waste services in accordance with contract requirements.
- *19. Resolution Related to Unexpended fees Adopted Resolution No. 8140 making findings for unexpended development fees and review and accept the annual developer fee disclosure information.
- *20. Resolution on Federally Funded Project with Caltrans Adopted Resolution No. 8141 authorizing the Public Works Director to execute right-of-way certifications for federally funded projects with the California Department of Transportation.
- *21. Change Order with Forster & Kroeger for Project No. 2001 Authorized the City Engineer to execute a contract change order with Forster & Kroeger, and approved a budget appropriation for the Median Mulch & Street Tree Maintenance for Great Mall Parkway, Project No. 2001.

PUBLIC HEARINGS

1. Contour Residential Project by Trumark This report was heard following the discussion of Item No. 2 public hearing.
- City Planner Cindy Hom described a new residential development project along Montague Expressway, known as Contour. The developer will construct 134 housing units: 91 attached townhomes and 43 detached single family homes. The Contour project was consistent with the adopted Transit Area Specific Plan.
- The Trumark representative, Garrett Hines, addressed the Council stating his company's

desire to seek approval of the Contour project in Milpitas.

Mayor Esteves asked staff about the setbacks and Ms. Hom responded with details on the number of feet on each side. City Manager Williams offered in response to the Mayor to have the staff edit one chart in the plan to state the minimum 38 feet setback on Montague. The Mayor further inquired about bicycle lanes and movement on the new proposed street.

Next, Mayor Esteves opened the public hearing and invited speakers.

Robert Marini, Milpitas resident, commented on the new housing project with so many additional units, and the right to vote being marginalized with regard to tax increases and the votes necessary.

(1) Motion: to close the public hearing

Motion/Second: Councilmember McHugh/Councilmember Giordano

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

(2) Motion: to adopt Resolution No. 8136 approving the Contour residential development project by Trumark at Montague Expressway , and including a change on Table 2 to state the 38 feet minimum setback at Montague

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

2. Harmony Housing Development

Planner Sheldon Ah Sing described the development project for the McCandless Trade Zone land use changes at the 12-acre site to build the Harmony residential project. Zone changes were requested to accommodate the development, to construct 93 townhouses and 183 condos as planned. A new condition of approval was recommended to add a pedestrian bridge to connect to the Integral neighboring residential project. Four exceptions were identified.

The applicant Dean Mills of DR Horton in Pleasanton presented the project, stating this was the company's fourth project in Milpitas. Staff estimated the bridge would cost approximately \$300,000, and this would be split between DR Horton and the developer of the Integral project. Mr. Mills said his company would prefer to contribute to the bridge project, not actually build it.

Councilmember Gomez inquired further about the bridge concept, details on the cost, and when it would be built. Rather than incurring a delay in the project, Mr. Mills did agree to the new condition to build the pedestrian bridge at 50% of cost of the pedestrian bridge, up to \$150,000.

Mayor Esteves asked about why the rezoning was necessary to the mixed use very high density. Mr. Ah Sing responded with staff's review of the Transit Area Plan and the current marketplace. The Mayor inquired further about the 25 foot setback, parking layout, density of housing in the project and in the Transit Area Specific plan.

Mayor Esteves next opened the public hearing and invited speakers.

Robert Marini, Milpitas resident, commented on the increased housing units in the City, would affect rate increases for water and sewer rates. Costs would be borne by single family residents and traffic would increase. He wanted to know if Councilmembers were receiving contributions from the housing developers.

Rachel, 25 Butler St. and Milpitas High School student, commented on traffic in front of the high school, since it was very crowded there. She asked about building more condos in this City, and wondered what that would do for students.

Vice Mayor McHugh responded to the student and thanked her for speaking up.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

Mayor Esteves asked if there were any art pieces in the project. Mr. Mills replied no, but he would be willing to consider that in the design elements. Councilmember Giordano agreed with the Mayor's comment and supported a desire to add art pieces in the City.

Next, City Attorney Mike Ogaz read aloud the ordinance title.

Councilmember Giordano stepped out of the City Council Chambers at 8:52 PM.

(2) Motion: to waive the first reading of Ordinance No. 38.800

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

(3) Motion: to introduce Ordinance No. 38.800 amend zoning code for reducing housing density

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

(4) Motion: to adopt Resolution No. 8137 approving a General Plan amendment and a Transit Area Specific Plan Amendment changing designations for the Harmony residential development

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

(5) Motion: to adopt Resolution No. 8138 approving the Major Tentative Map, Site Development Permit, Conditional Use Permit for 276 single family homes and condos for the Harmony residential development , including urging of an art piece to be added and an additional Condition of Approval to add a new pedestrian bridge

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

EDC 2. Agenda Approval/
Consent Calendar

Motion: to approve the agenda/consent calendar

Motion/Second: Board/Councilmember Polanski / Vice Chair/Vice Mayor McHugh

Motion carried by a vote of:

AYES: 5

NOES: 0

*EDC3. Don Fraser & Assoc.

Authorized the EDC President to execute a contract with Fraser & Associates for an amount not to exceed \$30,000, and approved a budget appropriation from the Economic Development Corporation Fund.

EDC 4. ADJOURNMENT

Chair/Mayor Esteves adjourned the Corporation meeting at 10:49 PM.

REPORTS OF MAYOR AND COUNCIL

5b. Commissioner Removal
6. Sister Cities Commission
7. E-mail policy
8. Public Records Act Requests
10. Flag Ordinance changes

Agenda Items No. 5b, 6, 7, 8 and 10 were not heard.

NEW BUSINESS

Four items were approved on consent calendar.

11. Economic Development

This item was not heard.

12. Youth Sports User Group
Field Allocation – update

This item was heard following the public hearings.

Parks & Recreation Director Bonnie Greiner provided history behind the current practice of Field Use allocation, for groups to fairly share use of the playing fields for sports teams playing soccer and other sports. She reviewed priorities for the fields' use, previously approved by the City Council in 2004. Staff provided statistics on current use by the seven user groups representing various teams and sports.

Councilmember Gomez noted the focus was on soccer. When any field was vacant, he wanted to know if there was a problem that arose. Ms. Greiner explained how improved communication helped to avoid empty, unused fields. Mr. Gomez asked about the potential new ten acre park in the Transit Area and how many soccer fields could fit there. The City Manager responded that school use would take precedence, and at least one soccer field would be included.

Vice Mayor McHugh asked about communication between groups, and if it could be improved. He asked if this issue would be considered by the Parks, Recreation and Cultural Resources Commission, which could provide some input.

Councilmember Giordano felt what was going on was not working. The MYSC was newer than PAL Soccer. There needed to be equality between the groups and perhaps to expand the Sports Center back area. She supported this issue going before the PRCRC.

Councilmember Polanski felt the problem was the priorities. Staff was following those as Council had set. Those needed to change for equitable allocation of fields.

Mayor Esteves agreed with the need to review priorities. He asked if fields were 100% utilized and Ms. Greiner replied they were booked fully. The Mayor said all needed to be informed about unused fields and a time limit with penalty if not used when reserved.

Next, the Mayor asked for speakers from the audience.

Vishnu Mathur, PRCRC Commissioner, discussed the two soccer clubs in town. He felt

that MYSC got second choice for field use all the time while PAL got first choice on fields, year round.

Niranjan Gupta, President of Milpitas Youth Soccer Club (MYSC), complained that those players age 15 and up do not have a fair place to play. He claimed the plan was not working out, despite what was agreed in 2004.

BJ Navarro, resident and director on Milpitas Youth Soccer Club, said this was a great City to play soccer with 20 competitive teams, 5 are in top levels of soccer for Division 2.

Antonio Silva, Murray St. resident and MYSC coach, agreed with the Mayor that this was an opportunity for him and his team to succeed. He was a volunteer, coaching 36 players, and his team beat others with full-time paid coaches. He'd moved from Sunnyvale to Milpitas, and was a soccer referee in other states.

Councilmember Gomez commented on use of the school sites for soccer, and this topic should be referred to the City/School subcommittee to iron out shared use, similar costs, to add more fields to the inventory available. Staff agreed.

Motion: to direct the Parks, Recreation and Cultural Resources Commission to review priorities on playing fields use and to bring back a recommendation to the City Council April of 2012, and for the City/School communication committee to discuss fields at the scheduled December meeting

Motion/Second: Councilmember Polanski /Councilmember Gomez

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

13. Response to Grand Jury

Vice Mayor McHugh asked about the letter of response and its required due date. City Manager Tom Williams explained that the City had no record of receiving the original letter from the Grand Jury and thus an extension was granted to the City for response.

Mayor Esteves asked questions about the recommendations, which regarded consolidation of dispatch services countywide, and the Fire Chief and Police Chief responded. The Mayor wanted the response letter to have more input on study and analysis of the issue of common dispatch and to be more direct on what the City thinks.

Councilmember Polanski understood his concerns but felt the draft letter proposed by staff was good. The County Grand Jurors would understand what it said.

Motion: to approve the staff-drafted letter of response to the County Grand Jury for the Mayor to sign

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

RESOLUTIONS

Three resolutions were adopted on the consent calendar.

CONTRACT

One item was approved on the consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 11:02 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on December 6, 2011.


Mary Lavelle, City Clerk