

*Draft* **MEETING MINUTES**  
**CITY OF MILPITAS**

**Minutes of:** **Regular Meeting of Milpitas City Council**  
**Date:** **Tuesday, January 17, 2012**  
**Time:** **6:00 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 6:00 PM. City Clerk Lavelle noted the roll.

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

**ABSENT:** Councilmember Gomez was absent at roll call and he arrived for the Closed Session at 6:05 PM.

**CLOSED SESSION**

City Council convened in Closed Session to discuss labor negotiations with Mid-Management/Confidential employees, a performance review of the City Attorney and one case of litigation. Councilmember Giordano recused herself from the last two items in Closed Session and returned to the dais in Council Chambers.

City Council then convened in Open Session at 7:11 PM.

**ANNOUNCEMENT**

City Attorney Mike Ogaz announced (1) with regard to Mid-Management employees, agreement was reached on a new Memorandum of Understanding for the period January 1, 2012 through December 31, 2012, including a 14.8% contribution to employer PERS amount; and, (2) on the litigation matter, Council called for a special meeting to be scheduled on Monday, January 23, 2012 for a Closed Session at 6:00 PM. Both items were by unanimous vote of the City Council, with Councilmember Giordano absent for No. 2.

**PLEDGE**

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

**INVOCATION**

Councilmember Polanski read aloud a segment of a prayer.

**MINUTES**

Motion: to approve City Council meeting minutes of January 3 and 4 (as amended), 2012

Vice Mayor McHugh wanted to comment on the reason he voted no on one item at the January 3 City Council meeting. Mayor Esteves advised him to do so at "Announcements."

Vice Mayor McHugh requested an addition to January 4 meeting minutes, on Announcements on page 2, he indicated that Milpitas would be seated as a formal VTA board member for both the first and the second two-year periods, for a total of four years, based on the letter sent.

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 January and February 2012, as amended

City Manager Tom Williams noted two meetings were canceled: the Planning Commission on January 18 and the Council's Finance Subcommittee on January 19.

Vice Mayor McHugh announced as of January, he no longer served on the Sunol Smart Carpool Lane group and was now on the VTA Board's Admin. and Finance Committee, which met on Thursdays monthly at 12:00 noon at the County Government Center in San Jose.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

**PUBLIC FORUM**

Niranjan Gupta, a Milpitas resident, gave Councilmembers some information about playing fields. He wanted fees waived. Mayor Esteves said this item would need to be placed on an agenda. Councilmember Gomez remarked it should go on the agenda for the joint meeting of the MUSD Board and City Council.

Rob Means, 1421 Yellowstone Ave, Milpitas, commented on the Occupy movement, campaign finance reform, the U.S. Constitution and other topics.

**ANNOUNCEMENTS**

Councilmember Giordano complimented winners of the Rotary Club's Gene Schwab "Service Above Self" Employee award winner Steve Smith and the other nominees. She requested that employee years of service be printed in the newspaper when salaries were published each year.

Vice Mayor McHugh repeated his comments about why he voted as he did on the Planning Commission appointments on January 3, particularly that he disagreed with not re-appointing Commissioner Noella Tabladillo.

Mayor Esteves wished all a Happy Asian New Year.

**ANNOUNCEMENT OF CONFLICT OF INTEREST**

None.

**APPROVAL OF AGENDA**

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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 Item No. 2 from consent, for discussion.

Councilmember Gomez requested to remove Items No. 5 and No. 6 from consent.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Councilmember Polanski said she would vote no on Item No. 10, the flag amendment. She requested again to state for the public what those items were that were removed.

City Manager Tom Williams then read aloud the title of Item No. 2 (Commissions) and Item No. 5 (Gomez request on Black Friday costs).

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

\* 3. Report on Invocations

Directed staff to keep Council apprised of Rubin v. Lancaster case as it wound its way through appellate court. Until such time as it would become a final decision, City would maintain the current policy and SOP No. 1.2 in place. If Rubin became a final decision, Council guidance could be sought on whether to change the current policy regarding invocations.



**RA/HA 3.** Agenda Approval/  
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: 5  
NOES: 0

**\*RA/HA 4.** Resolution  
Amending EOPS

Adopted joint Resolution No. RA 429 / 8152 / HA 4 amending the Enforceable Obligation Payment Schedule and authorizing the City and Milpitas Housing Authority as Successor Agencies to accept the Schedule on February 1, 2012.

**\*RA/HA 5.** Transfer Property  
to City

Authorized the Executive Director to transfer certain real property to the City of Milpitas and authorize the City Manager to accept the conveyance of certain real property from the Milpitas Redevelopment Agency and to take all other necessary legal actions.

**\*RA/HA 6.** Assignment of  
Agreements for Affordable  
Housing

Authorized the Executive Director of the Milpitas Redevelopment Agency to assign or transfer agreements and other documents and rights to the City of Milpitas Housing Authority and to the City of Milpitas, and to take all other necessary legal actions. Authorized the Executive Director of the City of Milpitas Housing Authority and the City Manager of the City of Milpitas to accept the assignment or transfer of such rights from the Milpitas Redevelopment Agency, and to take all other necessary legal actions.

**RA/HA 7. ADJOURNMENT**

Chair/Mayor Esteves adjourned the Agency/Authority/Council meeting at 7:39 PM.

### **JOINT ECONOMIC DEVELOPMENT CORPORATION AND CITY COUNCIL MEETING**

**EDC 1. CALL TO ORDER**

Mayor/Agency Chair Esteves called to order the regular meeting of the Milpitas Economic Development Corporation meeting jointly with City Council at 7:39 PM.

#### **ROLL CALL**

**PRESENT:** Chair/Mayor Esteves, Vice Chair/Vice Mayor McHugh and Board/ Council members Gomez, Giordano, and Polanski

**ABSENT:** None

**EDC2.** Agenda Approval

Motion: to approve the agenda as submitted

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

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

**EDC3.** Contract for City Hall  
A/V Upgrade

City Engineer Greg Armendariz addressed the Council about projects listed on the EDC agenda (Items No. EDC3, EDC4, and EDC5). Mayor Esteves asked for a breakdown of costs on a contract to award to Preston Pipelines for Wrigley Ford Creek maintenance project, which staff replied could be provided to him.

Motion: to authorize the Economic Development Corporation President to award a construction contract for the Milpitas City Hall Audio Visual Systems Upgrade, Project No. 9001, as well as the two actions following

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

**EDC4.** Award Contract to  
Preston Pipelines

Awarded a construction contract to Preston Pipelines, Inc. for the Wrigley Ford Creek Maintenance, Project No. 8162, in the amount of \$294,061; and, approved a budget appropriation of \$400,000 from EDC funds into Project No. 8162.

**EDC5.** Award Contract for Police Evidence Room

Economic Development Corporation President to award the construction contract for the Police Department Evidence Room Improvements, Project No. 8182; and, approved a budget appropriation for the Police Department Evidence Room Improvements.

**EDC6. ADJOURNMENT**

Chair/Mayor Esteves adjourned the Corporation meeting at 7:51 PM.

## **REPORTS OF OFFICERS AND COMMISSION**

2. Commission Appointments

Vice Mayor McHugh was concerned about the recommendation for appointments to the Senior Advisory Commission, because he sought re-appointment for the Commission's Chairman Denny Weisgerber. Mr. McHugh highlighted the service by Mr. Weisgerber on the Veterans Commission and other bodies. So, the Vice Mayor moved and Councilmember Giordano seconded, to move up Deborah Langley to Alternate No. 1 and appoint Moo Jin Choi as Alternate No. 2, along with re-appointing Mr. Weisgerber to another term.

Mayor Esteves had addressed the issue of persons serving on two Commissions, which he did not agree with, if there were new applicants wanting to serve. The Mayor wanted to give more citizens an opportunity.

Councilmembers Gomez and Polanski concurred with Vice Mayor McHugh.

City Attorney Ogaz noted the motion applied only to the Senior Advisory Commission so far. He also commented about the Mayor's authority to make recommendations since the Mayor only has the power of appointment, subject to Council concurrence.

Mayor Esteves responded, with respect for the recommendation from his fellow Council members, that he recommend as requested to re-appoint Mr. Weisgerber to the Senior Advisory Commission, along with the other appointments noted.

Motion: to approve the recommendations, as follows, from the Mayor for Commission appointments and re-appointments, including the new one added to re-appoint Mr. Denny Weisgerber as a regular member on SAC

### Community Advisory Commission

Re-appoint Samantha Beard to a term that expires in January 2016.

Appoint Janice Bobay as a regular member to a term that expires in January 2016.

Appoint Jose Rosario as a regular member to a term that expires in January 2015.

Appoint Shirley Meirose as Alternate No. 1 to a term that expires in January 2013.

Appoint Thelma Batilo as Alternate No. 2 to a term that expires in January 2013.

### Emergency Preparedness Commission

Appoint Mercedes Albana as a regular member to a term that expires in June 2014.

Appoint Pamela Wells as a regular member to a term that expires in June 2012.

Newly appoint Charlotte Torres Ronquillo as Alternate No. 1 to a term that expires in June 2013.

Newly appoint Betty Reutter as Alternate No. 2 to term that expires in June 2013.

### Senior Advisory Commission

Re-appoint Karen Adams to a term that expires in December 2013.

Re-appoint Denny Weisgerber as a regular member to a term that expires in Dec. 2013.

Appoint Deborah Langley as Alternate No. 1 to a term that expires in December 2013.

Newly appoint Moo Jin Choi as Alternate No. 2 to a term that expires in December 2013.

Telecommunications Commission: re-appoint Dinesh Gupta and Niranjana Gupta to terms that expire in January 2014.

Youth Advisory Commission: re-appoint Brian Leon to a term that expires in September 2012.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

#### 4. Update on Medical Marijuana Dispensaries

Acting Planning Director Diana Barnhart reported the summary information provided to the Council's Transportation and Land Use Subcommittee in 2011, on other Bay Area cities' dispensaries. The issue of compassion was stressed and the Police Chief addressed safety and security concerns of such facilities. Staff reported revenue from three cities.

Councilmembers expressed concerns on issues of land use, revenue from such facilities (such as that received in the City of San Jose), information for the public and community input on this issue.

Mayor Esteves invited speakers from the audience.

Rachel Morrissey, a San Francisco resident, was diagnosed with melanoma last summer and was undergoing therapy with side effects. She supported efforts in Milpitas.

Michael Gamino, a Campbell resident, was a user of cannabis for many years which helped him to be a functioning adult. Revenues as displayed should not be ignored for the City. He urged the City to take control of the issue.

Lin Noll, a Milpitas resident and parent, spoke in support of continuing a ban of such marijuana dispensaries. She did not want drugs in the community and more police would be needed.

Jennifer Morrissey, Atherton resident, spoke about her daughter Rachel, who had cancer and the helpful use of medical marijuana for her care. She checked on the treatment with the doctor and was glad her daughter found a facility for the medicine in San Jose.

Donald Irving, Abbott Ave. resident, was a 60 year old native of north Silicon Valley who had worked in construction and found use of cannabis had greatly improved the quality of his life while other drugs were not good.

Rob Means, 1421 Yellowstone Ave., said from a public health perspective, cigarettes kill people as did alcohol, while cannabis killed zero people per year. It would be better to ban cigarettes and allow cannabis.

Councilmember Giordano asked the Subcommittee if home-based business was discussed and Mr. Gomez said not yet.

Mayor Esteves wanted to know if the Subcommittee would address whether there were potential Milpitas residents who would take advantage of dispensaries.

Motion: to direct the Transportation and Land Use Subcommittee to continue with its discussion and findings on the subject of medical marijuana dispensaries, and report back to the City Council when prepared

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

#### 5. Black Friday costs

Police Chief Graham reported to City Council on the \$26,790 cost for the Thanksgiving time shopping spree at Great Mall in Milpitas. City Councilmembers asked a number of questions regarding how the City staff planned for and responded on "Black Friday" last fall including Police and Fire personnel costs. Councilmember Gomez, in particular,



