

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, March 6, 2012  
**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 Giordano, Gomez and Polanski

**ABSENT:** None

**CLOSED SESSION**

City Council convened in Closed Session to discuss (1) one litigation case and (2) labor negotiations with the International Association of Fire Fighters Local 1699. Councilmember Giordano excused herself to the dais during discussion of *Giordano v. City of Milpitas*.

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

**ANNOUNCEMENT**

None.

**PLEDGE**

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

**INVOCATION**

Mayor Esteves called Debra Lax to the podium and she offered an invocation prayer.

**MINUTES**

Motion: to approve the City Council meeting minutes of February 9, 2012 as submitted, and of February 21, 2012, as amended

Councilmember Giordano requested additional notation on the motion she made on February 21 (page 10) to instruct the City Manager to proceed immediately with no further Council action or interference by Councilmembers and to review the various recommendations.

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

**SCHEDULE OF MEETINGS**

Motion: to approve the Council Calendars/Schedule of Meetings for March 2012, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

**PRESENTATIONS**

Mayor Esteves proclaimed Saturday, March 10, 2012 as *Arbor Day* in Milpitas, to be celebrated at 12:00 noon at Hall Memorial Park in Milpitas, and he read from the proclamation.

**PUBLIC FORUM**

Linda Windisch, 2141 Lacey Drive, Milpitas addressed Councilmember Polanski about her support for medical marijuana and other issues. Then she announced a petition for recall of the Councilmember and handed the form to the City Clerk at the dais.



Mayor Esteves asked to remove Item No. 1 for audience comments on re-affirming the vote to cut funding for some library hours and for the July 4<sup>th</sup> fireworks.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

1. Re-affirm Vote on Budget Cuts

City Manager Tom Williams explained why the item was on agenda again.

Councilmember Giordano commented that at the recent meeting of the Board of the Santa Clara County Joint Powers Authority for the library, the members supported the City in cutting the funding, and the Milpitas Librarian was given the power to set the hours that it could remain open.

Mayor Esteves invited speakers from the audience.

A yoga teacher at the Milpitas Library, a Milpitas resident of 12 years, learned that her class was canceled due to a budget cut by the City. This was difficult for the many students in her free class.

Librarian Linda Arbaugh responded to the Mayor about the yoga classes, noting the new hours would permit the Library to be open only three evenings per week.

Jaime Schlessbaum, a Milpitas Library volunteer, did not agree with cutting the library by 12 hours. She and husband would support a tax increase to keep it open the same hours.

Isaac Hughes, Milpitas resident, complained of not receiving records in the public binder to support the vote requested. He mentioned support for the savings of \$400,000 and what that paid for at the Library.

Charles Schlessbaum, debate coach at Milpitas High School and a Milpitas resident, mentioned the value of having the Library open as many evenings as possible. He suggested having a list of cuts that the community could vote on.

Councilmember Polanski discussed the subsidy amount to the Library, which is part of the Joint Powers Authority of Santa Clara County. While she had received emails about the yoga class and how many hours the Library would be open, that decision was up to Library staff.

Councilmember Gomez thanked the persons who spoke in support of the library. In the future, the City Council may need to consider increasing revenue through taxes.

Vice Mayor McHugh commended Library staff for preserving as many hours as they could.

Mayor Esteves stated he was the only one on City Council who opposed the cutting of the Library hours and repeated his rationale in opposition.

Motion: to re-affirm vote to eliminate funds for additional library hours, effective April 1, 2012 and to cancel the 4<sup>th</sup> of July 2012 fireworks event while maintaining the community swim party, with a plea to any corporation or business that would like to step up to the plate to re-instate the fireworks event by funding it

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

- \* 3. February Odor Report           Received the February 2012 odor control report from staff.
- \* 4. Commission Re-appoint       Re-appointed M. Idrees Munir to the Telecommunications Commission to a term that would expire in January 2014.
- \* 5. Authorize Mayor's Letter on South Bay Water Recycling   Authorized the Mayor to send a comment letter to City of San Jose and other TPAC agencies on the proposed expansion of the SBWR system.
- \* 9. Resolution Accepting Project and Change Order       Approved the balancing contract change order for the final contract amount of \$1,039,592.44. Adopted Resolution No. 8162 granting initial acceptance of the Light Rail Median Landscaping - Phase 1, Project No. 2001, subject to a one year warranty period and reduction of the faithful performance bond to \$103,959.24.
- \*10. Resolution Accepting Project No. 4261           Adopted Resolution No. 9163 granting initial acceptance of the Street Resurfacing 2012 - Rubberized Seal Coat, Project No. 4261, subject to a one year warranty period and reduction of the faithful performance bond to \$72,441.71.

**UNFINISHED BUSINESS**

Two items were approved on consent calendar.

**2. Budget Items– presentations by Department Heads**

City Manager Tom Williams noted the three departments whose leaders would present information for Council discussion at this meeting: Information Services, Police and Fire departments.

Information Services Director Bill Marion displayed data, comparing the City of Milpitas to City of Santa Clara and Town of Hillsborough, which did contract out their Information Technology staff. He provided explanation as to why it would cost more to outsource support services for computers and technology.

Councilmembers asked various questions and Mr. Marion responded, in particular about several of the specific job positions in I.S. Councilmember Gomez asked about policy changes or ordinances that could help alleviate any technology needs. Councilmember Giordano wanted to know if a Request for Proposals would go out for more information.

At 9:00 PM, Mayor Esteves announced that the City Council would take a 10-minutes break and then reconvened at 9:11 PM.

Next, Police Chief Dennis Graham addressed the Council, with his response to several inquiries at the last Council meeting on current vacancies, cutting a variety of positions, and potential automated field reporting.

The impact of the Police Department possibly leaving five vacant positions (Police Clerk Supervisor, Dispatcher, and three sworn officers) was discussed. Chief Graham said there would be an impact of three fewer police officers in patrol, and possible elimination of the two School Resource Officers and one who instructs the Character Counts program. Mayor Esteves said he did not support eliminating Character Counts and did not want to cut that officer, especially for the other programs that person also leads (Neighborhood Watch, Police Explorers and others). The Chief discussed the positions of Community Relations Sergeant and services provided by that position. He reviewed Great Mall officers, where four were assigned (Great Mall pays for two of those). Councilmembers remarked that maybe the Mall could pay for these officers.

Vice Mayor McHugh and Mayor Esteves gave feedback to the Chief.

At 10:25 PM, Councilmember Gomez proposed continuing the remainder of this agenda item (Fire Department presentation) to next Thursday at the budget study session, and to proceed to finish other items on this evening's agenda.

**Motion:** to continue the Fire Department presentation to March 8

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

Vice Mayor McHugh requested a report back to City Council on revenue to the City from citations.

Councilmember Giordano recommended to de-fund the current vacancy in Investigations, eliminate Character Counts position, and reduce to one (from two) School Resource Officer at Milpitas High School.

Chief Graham reported on automated field reporting possibility that was being studied at this time, and it would take 5-6 months to do a full RFP. City Clerk and Police Chief responded to questions about Document Processing staff that provided transcribing service to police officers currently.

Councilmember Giordano referred to a February 7 memo from the City Manager and another from the City Attorney on the legal requirement to adopt a budget by July 1. The City Manager confirmed that requirement and also addressed the audit requested by the Council and why the Harvey Rose firm cannot do it.

The Mayor invited speakers from the audience.

Joseph Weinstein, 626 Hamilton Ave, Milpitas, felt the Council was focused on the wrong thing when looking at police services. He was doing his own study and remarked on consequences at the Police Department when officers would have to come in from patrol to take reports at the Police headquarters office.

Robert Marini, Milpitas resident, remarked on the increasing population in Milpitas and high costs for employees.

Isaac Hughes, Milpitas resident, referred to the Alviso Adobe restoration project and money spent on it, which could have been done cheaper with students. He referred to the former Parks & Recreation Director and cost for that position, as well costs for emergency services.

Motion: to receive reports of the Information Services Director and the Police Chief, and to continue this subject matter to the budget study session on Thursday, March 8, specifically the presentation from the Fire Chief

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

## **REPORT OF MAYOR**

One item was approved on consent calendar.

## **NEW BUSINESS**

One item was approved on consent calendar.

### **6. Voter Survey**

City Manager Tom Williams introduced Mr. Dustin DeRollo with colleague Mr. David Metz from Fairbank, Maslin firm. They presented results of the survey recently conducted of 400 Milpitas voters, done in February in three languages. It revealed 61% favorable response to a potential ballot measure for a ½ cent sales tax, but overall support was weak, not intense. He recommended to delay going to ballot until November this year.

Councilmember Giordano asked questions about data she had received prior to the

meeting. She wanted to see more response on a utility user tax at a different percent besides five percent, as was in the survey.

Mr. Metz replied that a "UUT" was less popular than sales tax, by many voters surveyed throughout the state, and the result in Milpitas was common.

Councilmember Giordano requested a copy of the presentation given at the meeting from the consultants. The City Manager agreed to provide that to the City Council.

Councilmember Polanski asked exactly who was taxed with a UUT and then a sales tax. Mr. Williams and the consultants responded to her.

Mayor Esteves asked if there was an increase in the sales tax, he wanted to know the impact on buying capacity (i.e. buy less stuff if sales tax higher). He also asked the impact of state ballot measures on the November election if there was a local measure.

Next, Mayor Esteves asked for speakers from the audience.

Robert Marini, Milpitas resident, wanted to know how a poll of only 400 voters, 2% of voting population in the City, was adequate and wanted to know if results were correct.

Joseph Weinstein, Milpitas resident, referred to solid survey voters and asked why the survey did not ask about the state taking away millions of funds from the City.

Isaac Hughes, Milpitas resident, remarked about the survey and wording of questions. He opposed any tax on residents.

Motion: to receive the oral report from the representatives of Fairbank, Maslin and Saggau DeRollo firms, and not to call for any June 5, 2012 ballot measure and pursue any other action later

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Councilmember Giordano referred to the staff recommendation on the ½ cent tax measure, and could the Council consider a ¼ cent or other tax in November. Staff replied yes, and would have to do that for the November 6 ballot by Friday, August 10, 2012.

Mayor Esteves did not vote for the survey in the first place and felt it was premature to discuss a tax measure. He would not campaign for one until real costs were cut from the City's budget (including salaries and benefits).

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

## **ORDINANCES**

### 7. Ordinance No. 101.22

Human Resources Director Carmen Valdez reviewed the history on introduction of this ordinance to change the retirement PERS formula for public safety members. If adopted, the change would take affect April 9, 2012.

Vice Mayor McHugh inquired of the City Manager what newly hired employees would be affected by this change and he responded that all new hires (in Police and Fire) would be effected.

Motion: to waive the second reading and adopt Ordinance No. 101.22 amending the contract between PERS and the City of Milpitas regarding public safety retirement, changing to a 3% at age 55 formula

Motion/Second: Councilmember Gomez/Vice Mayor McHugh



(2) Motion: to adopt Ordinance No. 262.7, removing the retroactive section so that the ordinance would become effective in the normal timeframe 30 days following adoption

Motion/Second: Councilmember Gomez/Councilmember Polanski

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

**RESOLUTIONS**

Two resolutions were adopted on the consent calendar.

11. Consider Resolution

Motion: to drop the topic of discussion - of any possible ballot measure for revenue - from the Council agenda

Motion: Vice Mayor McHugh/Councilmember Giordano

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

**ADJOURNMENT**

Mayor Esteves adjourned the City Council meeting at 12:46 AM on Wednesday, March 7, 2012.

**The foregoing minutes were approved by the Milpitas City Council as submitted on March 20, 2012.**

  
\_\_\_\_\_  
Mary Lavelle  
City Clerk