

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, June 5, 2012
Time: 7:00 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 Giordano, Gomez and Polanski

ABSENT: None

CLOSED SESSION

City Council convened in Closed Session to discuss several cases of litigation, and the performance evaluation of the City Attorney.

City Council then convened in Open Session at 7:24 PM.

ANNOUNCEMENT

No announcement out of closed session.

PLEDGE

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

INVOCATION

Councilmember Giordano read a quote to start the meeting, regarding living in unity.

MINUTES

Motion: to approve the City Council meeting minutes of May 7, 8, and 15, 2012

Motion/Second: Councilmember Giordano/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 June 2012, as amended

Councilmember Polanski announced that the Council's June 26 Transportation and Land Use Subcommittee meeting was canceled, and the next meeting would be in August.

Vice Mayor McHugh announced a meeting the following day, June 6 at 11:30 AM at City Hall for an ad hoc subcommittee of the Sister Cities Commission.

Councilmember Giordano inquired of Councilmember Polanski about the Saturday morning meeting on June 9 of the Parks, Recreation and Cultural Resources Commission. Ms. Polanski explained that PRCRC each year in June scheduled a tour of facilities and parks, in place of the first regular meeting that month. Public was invited and welcome, if interested.

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

PRESENTATION

Mayor Esteves commended volunteers of the Volunteer Income Tax Assistance (VITA) program, who prepared tax returns for those in need at the Milpitas Library each year. He distributed certificates to several volunteers and received comments from Dr. Shahid Mujtaba.

PUBLIC FORUM

Mr. Dem Nitafan, resident and President of the Filipino-American Association of Milpitas, invited all to attend this coming Saturday for the Fil-Am Fiesta and Cultural Celebration at the Milpitas Community Center. All the public was welcome to the 24th annual celebration.

Mr. Robert Marini, Milpitas resident, discussed letters of protest, complaints, process for ballots and utility rates. He quoted some sections of the California Constitution.

Mr. Rob Means, 1421 Yellowstone Ave resident, discussed climate change and showed a video.

Mr. Phong Nguyen, resident and Community Advisory Commissioner, wanted Council support for a new program. He discussed past letters he'd received about his lawn not being cut, and he thought a City ordinance needed to be changed. The new Neighborhood Adoption Program was launched on May 19, trying to have better culture between neighbors and create positive relations.

ANNOUNCEMENTS

Mayor Esteves offered congratulations to all those graduating from school in Milpitas, including students who recently received awards from the School District. He attended a successful music concert by the Milpitas Community Band. He wished to adjourn the meeting in memory of Mr. Ted Weller, a life-long Milpitas citizen who passed away recently.

ANNOUNCEMENT OF CONFLICT OF INTEREST

Councilmember Gomez announced he had abstained from Item No. 1 on the Closed Session, due to his employment with the City of San Jose.

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

Councilmember Gomez requested removal of agenda items No. 19 and No. 20 from consent, regarding awards of contract for public works services.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

- * 2. Odor Control Received the May 2012 odor report.
- * 4. Commission reappointment Reappointed Jenifer Lind to a term to expire in January 2016 on the Community Advisory Commission. Reappointed Arlyn Swiger to a term to expire in June 2015 on the Emergency Preparedness Commission:
- * 5. Terrace Gardens financials Received the financial report on Terrace Gardens, Inc. and directed the report be filed in the City Clerk's office.
- * 9. Cal EPA Grant Authorized the City Manager (or his designated representative) to enter into an agreement with California Environmental Protection Agency to receive a state grant for the Milpitas Fire Department to implement electronic reporting requirements, as required by Assembly Bill 2286. Approved a budget appropriation for \$20,000 to the Fire Department operating budget.
- *10. Adopt Ordinance 197.12 Waived the second reading and adopted Ordinance No. 197.12.
- *11. Adopt Ordinances No. 208.48 and 239.7 Waived the second readings and adopted Ordinance No. 208.48, amending the Sewer Ordinance and Ordinance No. 239.7, amending the Stormwater and Urban Runoff Ordinance.

(2)Motion: to adopt the Milpitas 5-Year Consolidated Plan for CDBG funds

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

REPORT OF MAYOR

3. Appoint Alternated to Oversight Board

Mayor Esteves explained that Councilmember Gomez, who serves on the Milpitas Oversight Board, did not have an alternate to fill in for him when absent. The Mayor asked if any Councilmember wanted to serve as Alternate, and then suggested staff could serve as the alternate on the board, when necessary. Boardmember Emma Karlen already had an appointed staff alternate (Jane Corpus Takahaski).

Motion: to appoint staff Felix Reliford (acting Planning & Neighborhood Services Director) as alternate to Councilmember Gomez on the Milpitas Oversight Board

Motion/Second: Mayor Esteves/Vice Mayor McHugh

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

NEW BUSINESS

6. Express Lanes Report

Santa Clara Valley Transportation Authority engineer Murali Ramanujam gave a presentation on the current status of the new express lanes on state highway 237, where express lanes were implemented in the carpool lane. He quoted reduced travel times during commute hours.

Mayor Esteves asked several questions of VTA. He had received many complaints from residents and other drivers about the lack of available entrance to carpool lanes from Milpitas. He complained about the lanes being closed, without any testing, and wanted the lanes opened back up for Milpitas commuters/carpoolers.

Motion: to receive the oral update from Santa Clara VTA staff on the status of the Santa Clara County Express Lane Program, and to direct the City Manager to prepare a letter to Caltrans for the Mayor's signature expressing City concerns about the lanes

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

7. Request for Use of City Building

Acting Planning Director Felix Reliford addressed the Council on a proposal the City had received from Magnolia Public Charter Schools to lease the Sal Cracolice facility at 540 South Abel Street, both the building and modules. Magnolia is a public charter school focused on math and science. If building were to be leased out, it could represent a revenue stream to the City.

Next, Tim Saka of Magnolia Science Academy Schools addressed the Council. In 2001, MSA schools started in the Los Angeles area to meet needs of low income students. The program had a focus on science studies, encouraging their students to get into and attend college. One school has opened in this area in Santa Clara to date.

Vice Mayor McHugh asked about MUSD permission requirements versus City land use requirements for a school. City Attorney Mike Ogaz responded, it depended on the use, i.e. it was not under local jurisdiction if the use was strictly for education but he was unsure about for a charter school.

In response to a Councilmember's question, Mr. Saka reported that the school grade levels were to start out with grades 6 and 7, with a plan to expand up to grade 12 ultimately.

Mayor Esteves allowed speakers from the audience.

Robert Marini, Milpitas resident, asked questions about where the teachers came from who would teach the classes. At the Mayor's direction, Mr. Saka responded to the resident.

Motion: to authorize the City Manager to come back to the City Council with a final appraisal for the City's property and with a 3-year lease agreement for use of the Sal Cracolice facility for the Magnolia Charter Academy Public School

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

8. Financial Status Report

Finance Director Emma Karlen reported on the City's current finances, with an overall 4.6% increase in revenue over three quarters versus what was originally budgeted for FY 2011-12. Property tax revenue continued to be lower than expected, while sales tax revenue was slightly up. At the end of the fiscal year, she expected to request the use of about \$4.7 million in reserves to cover the anticipated deficit.

Motion: to receive the financial status report for the nine months ended March 31, 2012 from the City's Finance Director

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

ORDINANCES

Three ordinances were adopted on the consent calendar.

RESOLUTIONS

Three resolutions were adopted on the consent calendar.

BIDS AND CONTRACTS

Four items were approved on the consent calendar.

- 19. and
- 20. Contracts with Terracare for Parks, Landscape and Streetscape maintenance

Councilmember Gomez wanted to be consistent and to vote against these two contracts for outside services for public works functions. That was why he had removed it from the consent calendar.

Vice Mayor McHugh questioned the City Manager about the current status and conditions of the City's parks. Tom Williams noted that representatives of the contractor Terracare were present, and he had gone over the detailed inventory done with that company. Inventory had revealed various deficiencies, and he displayed some photos. Terracare representatives had identified aging infrastructure in some of the City's parks.

Motion: to award the bid for City of Milpitas Parks Maintenance Service to Terracare Associates for the annual not-to-exceed amount of \$1,326,155 for the first two years, and the annual not-to-exceed amount of \$1,369,638 for years three through five; and, authorize the City Manager to grant yearly increases per contract without further City Council action

and

Motion: to award the bid for Streetscape Landscape Maintenance and repair services to Terracare Associates for the annual not-to-exceed amount of \$125,218; and authorize the City Manager to grant yearly increases per contract without further City Council action

Motion/Second: Vice Mayor McHugh/ Councilmember Giordano (on No. 19 and No. 20)

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

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 9:47 PM in memory of Ted Weller.

The foregoing minutes were approved by the Milpitas City Council as submitted on June 19, 2012.



Mary Lavelle
City Clerk