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.


* 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.
*12. Resolution for Election
Adopted Resolution No. 8179 calling a General Municipal Election on November 6, 2012, requesting consolidation with the statewide election and requesting election services from the Santa Clara County Registrar of Voters.

*13. Resolution LLMD 95-1
Adopted Resolution No. 8180 preliminarily approving the Annual Engineer’s Report and providing for the notice of public hearing on June 19, 2012 for the LLMD No. 95-1.

*14. Resolution LLMD 98-1
Adopted Resolution No. 8181 preliminarily approving the Annual Engineer’s Report and providing for the notice of public hearing on June 19, 2012 for the LLMD No. 98-1.

*15. Resolution for Unclaimed Checks
Adopted Resolution No. 8182 to transfer a total of $218.76 unclaimed checks, per the list of checks generated by the City’s Finance Department to the General Fund, in accordance with Standard Operating Procedure No. 26-1.

*16. Resolution – Gann Limit
Adopted Resolution No. 8183 adopting the appropriations limit for the Fiscal Year 2012-13.

*17. Agreement with Carollo Engineers
Approved and authorized the City Manager to execute an agreement with Carollo Engineers in the amount of $130,437 for Curtis Well Pump Station, Project No. 7076.

*18. Amendment No. 2
Approved Amendment No. 2 to the contract with the Renne Sloan law firm.

*21. Amendment No. 3 to Agreement with VTA
Authorized the City Manager to execute Amendment No. 3 to the Master Agreement with the Santa Clara Valley Transportation Authority related to the Silicon Valley Rapid Transit Program Berryessa Extension Project.

*22. Amendment No. 3 to Agreement with MuniServices
Authorized the City Manager to execute Amendment No. 3 to the agreement with Muni Services LLC for financial consultant services.

PUBLIC HEARING

1. Five Year Consolidated Plan for CDBG funds
Acting Planning Director Felix Reliford reported on the Five Year Consolidated Plan for the expenditure of federal Community Development Block Grant funds awarded to the City. No comments had been received following the 30 day period of the document’s availability, and following community outreach meetings conducted by City staff.

Vice Mayor McHugh requested information on what the Silicon Valley Housing Trust Fund had accomplished over the last year. Mr. Reliford provided statistics on loans made and funding for city projects, such as the DeVries House. Also two homes were rehabbed for extremely low income senior homeowners. The Vice Mayor sought results for the entire county of that agency, too.

Mayor Esteves asked how staff ranked the community needs and staff explained the outreach effort to do that.

Councilmember Polanski asked about public service needs and services for substance abuse prevention.

Mayor Esteves opened the public hearing.

Robert Marini, Milpitas resident, asked what part of the plan was for low income people to pay their utility bills. Mr. Reliford responded to his question: nothing in the plan. Rebuilding Together did help seniors with energy efficiency in their homes to reduce utility bills.

(1) Motion: to close the public hearing
Motion/Second: Vice Mayor McHugh/Councilmember Polanski
Motion carried by a vote of: AYES: 5 NOES: 0
(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 implement 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 indentified 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.

Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk