

Mayor Esteves commented on Item No. 21, a legal services expense. It was a necessary cost for professional services to work with City staff to protect City residents with regard to the Newby Island Landfill expansion.

Vice Mayor McHugh asked to remove Item No. 24, Exercise Equipment Maintenance contract, from consent.

Councilmember Gomez inquired if he should abstain from voting on Item No. 21, Jarvis Fay legal contract, due to his employment with City of San Jose. City Attorney Ogaz replied yes, so he did.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

* 3. Commission Appointments Following the Mayor's recommendations, Council appointed the following residents:

Arts Commission/Public Art Committee

Newly appointed Doris Roth as Alternate No. 2 to a term that expires in October 2013.

Public Art Committee

Newly appointed Linda Vrabel as general member to a term that expires in October 2014.

Emergency Preparedness Commission

Re-appointed Pamela Wells to a term that expires in June 2015.

Re-appointed Michael Berryhill to a term that expires in June 2015.

Library Advisory Commission

Re-appointed Yu-Lan Chou to a term that expires in June 2014.

Re-appointed Margie Stephens to a term that expires in June 2014.

Re-appointed Elpidio Estioko to a term that expires in June 2014.

Appointed Ha Phan as a regular member to a term that expires in June 2014.

Appointed Marie Pham as Alternate No. 1 to a term that expires in June 2013.

Newly appointed Hellie Mateo as Alternate No. 2 to a term that expires in June 2013.

Parks, Recreation and Cultural Resources Commission

Re-appointed Steve Munzel to a term that expires in June 2015.

Re-appointed Rohit Sharma to a term that expires in June 2015.

* 5. Library Mural Accepted recommendations of the Milpitas Public Art Committee, the Milpitas Library Advisory Commission and the Board of the Santa Clara County Library Joint Powers Authority and authorized an artistic mural inside the Milpitas Public Library.

* 6. Accept Library Donation Continued to the next meeting date in August.

* 8. Accept Grant for Fire fighters Rescue Training Accepted the grant from the State Homeland Security Grant Program and appropriated funding totaling \$49,005 through SHSGP to facilitate firefighter training, noting it is cost neutral to the City.

* 9. Emergency Repair Work on City Hall Glass Doors Received a report from the Acting Public Works Director on the emergency contract work order for replacement of the glass headers at City Hall exit doors, Project No. 3406.

*10. Resolution Accepting Project No. 5094 Adopted Resolution No. 8186 granting initial acceptance of the Department of Energy Grant Program, Project No. 5094, subject to a one-year warranty period and reducing the faithful performance bond to \$1,644.00.

*11. Resolution for Sinclair Renaissance Project No. 3211 Adopted Resolution No. 8187 annexing properties known as Sinclair Renaissance into the Community Facility District 2005-1.

Approved and authorized the execution of a subdivision improvement agreement, storm water management facilities operation and maintenance agreement, on-site private utilities covenant agreement, and right-of-way encroachment permit agreement.
Approved the final map (Tract 10029) with the approved street names and public improvement plans.

- *13. Amendment No. 2 to Contract with CalRecovery Authorized the City Manager to execute Amendment No. 2 to the contract with CalRecovery Inc. for solid waste consulting services for an amount not to exceed \$4,000.
- *14. Authorize City Manager to award contract Authorized the City Manager to award a construction contract for Fire Station Improvements, Project No. 3403; and, authorized staff to execute change orders for the project, provided that the change orders do not exceed the established construction contingency amount for the project, and do not require additional appropriation.
- *15. Award Contract to O’Grady Paving Inc. Authorized withdrawal of a bid by American Asphalt Repair and Resurfacing Company, Inc. on mistake grounds under Public Contract Code Sections 5101 and 5103. Authorized the City Manager to award and execute a construction contract to O’Grady Paving, Inc. for 2013 Street Resurfacing, Project No. 4268 in the amount of \$890,385. Authorized staff to execute change orders for Street Resurfacing Project No. 4268, provided that change orders do not exceed the established construction contingency amount for the project, and do not require additional appropriation.
- *16. Authorize City Manager to award contract Authorized the City Manager to award a construction contract for Park Renovation Project 2011 “Pathways” for Pinewood & Albert Augustine Jr. Memorial Parks, Project No.5091. Authorized staff to execute change orders for “Pathways,” provided that the change orders do not exceed the established construction contingency amount for the project and do not require additional appropriation.
- *17. Budget for Abel St. Transit Connection Approved a budget appropriation of \$76,000 from the Community Design for Transportation grant program and \$18,500 from the Water Fund to the Abel Street Transit Connection, Project No. 4260.
- *18. Authorize City Manager to Execute Agreement Approved and authorized the City Manager to execute an agreement with JDH Corrosion Consultants, Inc. in the amount of \$75,000 for Project No. 7109.
- *19. Authorize City Manager to Execute Agreement Approved and authorized the City Manager to execute an agreement with Advance Design Consultants in the amount of \$40,000 for Project No. 7100.
- *20. Renew Excess Workers Compensation Insurance Authorized the City Manager to pay Brown & Brown of California the premium rate of \$113,631, and authorized and approved Safety National Casualty Corporation to provide for the City’s excess workers’ compensation insurance for FY 2012-13.
- *21. Amendment to Legal Services Contract Approved the second amendment to the contract with the Jarvis, Fay, Doporto & Gibson firm for attorney services and increase the contract amount by \$90,000.

Councilmember Gomez abstained from this agenda item, so the vote was 4 in favor.
- *22. Authorize City Manager to Execute Agreement Authorized the City Manager to negotiate and execute an acquisition improvement agreement or similar instrument with D.R. Horton for Sanitary Sewer Project 11A and a portion of Project 11B. Approved Improvement Plan No. 2-1153 for Offsite Sewer 11A and a portion of 11B.
- *23. Senior Nutrition Program Agreements Authorized the City Manager to execute a Master Agreement with the County of Santa Clara for the Senior Nutrition Program.
Authorized the City Manager to execute a contract amendment with Compass Group USA, dba Bateman, in the amount of \$69,883.
Authorized the City Manager to execute a contract amendment with New Orient Restaurant in the amount of \$40,317.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

(2) Motion: to adopt Resolution No. 8185 approving the annual Engineer's Report, confirm diagram and assessment, and order levy of assessments for FY 2012-13 for Landscaping and Lighting Maintenance Assessment District No. 98-1

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

REPORT of OFFICER

4. Councilmember Request on Handbook policy

Councilmember Giordano brought this issue to the City Council for considering a possible change to their Council Handbook in order to set the tone for the Council at the dais. Use of communication devices during meetings was a new topic being addressed by local governments. A guideline could be adopted and she liked the Mountain View example.

Ms. Giordano asked City Attorney Mike Ogaz to give a brief report, which he did, providing an overview of what other cities have done for restrictions on use of electronic devices during public meetings.

Councilmember Polanski commented on her valuable use of her Apple ipad at the dais. She did not see the need for a written policy right now. Councilmember Gomez commented similarly.

Mayor Esteves felt the issue was any disruption during meetings and discussions. As elected officials, expectation was to live up to high standards. He did not desire guidelines, but rather would leave it up to each Councilmember as regards their own individual behavior.

Vice Mayor McHugh felt the Council could leave it up to the individuals. A concern may be regarding receipt of messages during a meeting discussion. The integrity of Council members was the issue.

Councilmember Polanski stated, on the environmental issue and paper agenda packets, the ipad made it easier to research an issue during a meeting on her device. Integrity and common sense should guide the City Council.

Motion: to receive a report from the City Attorney and Councilmember Giordano, and to take no further action at this time on the issue of a policy on use of electronic devices at the Council dais

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

NEW BUSINESS

7. Update on BART project

Acting Public Works Director Kathleen Phalen introduced Leyla Hedayat, of the program manager's office at BART, who gave an update to the Council on status of the BART extension construction. She announced public meetings upcoming in June.

Councilmember Gomez asked about Dixon Landing Road and a plan for no total closure there, which BART staff confirmed.

Mayor Esteves inquired about Montague Parkway trenching. He wondered if there would be full closure at that site and BART staff replied a schedule would be developed by the contractor, but was not done yet.

The Mayor allowed for public comments.

Robert Marini, Milpitas resident, asked how much Milpitas had to pay toward the construction of BART. Acting Public Works Director Phalen responded that the City was not a direct contributor toward the cost of BART construction. The City did share in costs for select utility improvements that would occur while BART construction proceeded.

Motion: to receive a progress report on the Bay Area Rapid Transit Silicon Valley extension project

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

RESOLUTIONS

Two resolutions were adopted on the consent calendar.

12. Hear Request for Support from SCV Water District

Continued to the next meeting date in August.

BIDS & CONTRACTS

Sixteen items were approved on consent calendar.

24. Award Bid for Equipment Service and Repair

Vice Mayor McHugh asked about the bid award, and the reported add-on amounts to the contract. City Purchasing Agent Chris Schroeder came to the podium and explained the base bid for the Sports Center and Senior Center. How many break-downs that might occur was unknown, in advance of the contract year, so a contingency amount for repair was included after the low bid was determined.

Motion: to award the bid for Exercise Equipment Preventative Maintenance Service and Repair to Gym Doctors for the annual not-to-exceed amount of \$9,600; and authorize the City Manager to grant yearly increases per contract without further Council action

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 8:43 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on August 7, 2012.


Mary Lavelle
City Clerk