

Draft **MEETING MINUTES**
CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, August 7, 2012
Time: 6:00 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 Gomez, Giordano, and Polanski

ABSENT: None

CLOSED SESSION

City Council convened in Closed Session to discuss the performance evaluation of the City Attorney.

City Council then convened in Open Session at 7:01 PM.

ANNOUNCEMENT

No announcement was made out of closed session.

PLEDGE

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

INVOCATION

Councilmember Giordano referred to email from a member of the Sikh community and announced an event in Fremont, and she requested to adjourn the meeting in memory of those recently killed.

MINUTES

Motion: to approve the City Council meeting minutes of June 19 and July 25, 2012, as submitted

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

SCHEDULE OF MEETINGS

Motion: to approve the Council Calendars/Schedule of Meetings for August 2012, as amended

City Manager Tom Williams announced several meeting changes:

- 1) Milpitas Oversight Board was changed from August 9 to August 16 at 6:00 PM
- 2) Transportation and Land Use Subcommittee meeting was scheduled on August 14 at 5:30 PM
- 3) Special City Council meeting was scheduled on August 14 at 6:30 PM
- 4) Finance Subcommittee meeting schedule for August 16 was canceled

Councilmember Giordano noted a special meeting of the County Library Joint Powers Authority Board that was held the previous day at 1:30 PM.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

PRESENTATION

Mayor Esteves proclaimed the month of August as *Breastfeeding Awareness Month* and it was accepted by Erin Beinecke of the Santa Clara County Public Health Department.

PUBLIC FORUM

Robert Marini, Milpitas resident, referred to questions he had on the single family residence rate for sewer utility charges. He asked if the Mayor owned multi-family property.

Ellis Miller, a union representative from Redding, CA, referred to a letter the union sent to City’s Human Resources Director on the LIUNA pension fund. He quoted from the letter and provided copies for the City Council.

Jim Doer, a Big Basin Drive Milpitas resident, called Public Works about a bed that was dumped by the side of the road, and it was picked up two weeks later. He expressed other concerns about City services and the recent layoffs.

ANNOUNCEMENTS

Councilmember Polanski announced National Night Out in Milpitas on Thursday, August 9, with community events throughout the City. She reported that the Alert SCC system was tested this night at 7:00 PM with alert messages being sent out.

Councilmember Gomez requested to place on next agenda the LIUNA issue. Councilmember Giordano requested a vote on the issue raised by Mr. Gomez, with a motion and vote on whether to accept that agenda item. She moved, and Mayor Esteves seconded, not to place the matter on next agenda. The motion failed with only those two members in favor. Therefore, the topic would go onto the next Council meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Williams stated staff wanted to remove agenda item no. 13, a fee waiver request by Milpitas PAL, because the event was not going to be held.

Mayor Esteves wanted to table agenda Item No. 8, the request for a constitutional amendment, to really dig into the issue further. Councilmember Giordano seconded his request.

Vice Mayor McHugh had asked for this subject on the agenda, based on a citizen request. He planned to ask for it to be brought back next month and felt it was an issue obligated to take a position on. He moved to continue the item.

Councilmember Gomez was happy to support Vice Mayor McHugh’s motion, and asked for information on the impact at the local government level.

Motion: to table agenda Item No. 8 (on Resolution of support for constitutional amendment)

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Mayor Esteves requested removal of Items No. 9 (Library donation item) and No. 10 (Rotary Club fee waiver) from consent.

Councilmember Giordano asked to move item No. 9 earlier on the agenda, since there were residents in the audience who attended the meeting for this issue. She asked that it be heard as the first item of Unfinished Business.

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

- * 4. Odor Report Received the June - July 2012 odor report.

- * 5. Commission Appointments Approved the following residents for Commission appointments:
 - Bicycle Pedestrian Advisory Commission:
Re-appointed Christine Sanchez as Alternate No. 1 to a term that expires in August 2014.

 - Community Advisory Commission:
Appointed Thelma Batilo as Alternate No. 1 to a term that expires in January 2013.
Appointed Mayvid Maclay as Alternate No. 2 to a term that expires in January 2013.
Appointed Eva Ferguson as Alternate No. 3 to a term that expires in January 2014.
Newly appointed Eusebio Espitia as Alternate No. 4 to a term that expires in January 2014.

 - Emergency Preparedness Commission:
Appointed Charlotte Torres Ronquillo to a term as a voting Commissioner expiring June 2013.
Appointed Betty Jo Reutter as Alternate No. 1 to a term that expires in June 2013.
Newly appointed Phong Nguyen as Alternate No. 2 to a term that expires in June 2013.

 - Library Advisory Commission:
Re-appointed Trinidad Aolin to a term that will expire in June 2014.

 - Mobile Home Park Rental Review Board:
Re-appointed Mila Garcia to a new full term that expires in June 2015.
Re-appointed Arthur Sana as the Alternate Member to a new term that expires in June 2015.

 - Parks, Recreation and Cultural Resources Commission:
Re-appointed George Baltazar to a term that expires in June 2015.
Re-appointed Evelyn Ramirez as Alternate No. 1 to a term that expires in June 2014.

 - Telecommunications Commission:
Newly appointed Hien Nguyen as Alternate No. 2 to a term that expires in January 2014.

- *11. Temp. Building Inspector Approved the developer's request to continue the contract for a dedicated building inspector for the Lyon Milpitas Apartments residential construction project.
 - Approved a budget appropriation of \$70,320, less the administrative fee, into the Building and Safety Department's budget for six months.

- *12. Investment Portfolio Received and accepted investment report for the quarter ended June 30, 2012.

- *14. Sale of Surplus Engines Received report of the sale of two 750hp diesel engines from Bellew Storm pump station.

- *15. Resolution Adopted Resolution No. 8189 granting initial acceptance of the Fire Station Improvements, Project No. 3403, subject to a one year warranty period and reduction of the faithful performance bond to \$11,125.

- *16. Resolution Authorized the City Manager to approve a balancing change order for South Milpitas Boulevard Water Line Replacement and Los Coches Valve Replacement, Project No. 7098.
Approved a budget appropriation of \$125,000 from the Water Fund into Project No. 7098.
Adopted Resolution No. 8190 granting initial acceptance of the South Milpitas Boulevard Water Line Replacement and Los Coches Valve Replacement, Project No. 7098, subject to a one year warranty period and reduction of the faithful performance bond to \$267,294.64.

- *17. Resolution Adopted Resolution No. 8191 approving the Annual Investment Policy

- *18. Charter School Lease Authorized the City Manager to execute a three-year lease agreement for the use of the Sal Cracolice facility for the Magnolia Charter Academy public school.

City Attorney Ogaz read aloud the title of the Ordinance, “An Uncodified Ordinance of the City Council of the City of Milpitas Amending Chapter 10 of Title XI of the Milpitas Municipal Code for the Purpose of a Map Amendment to the City’s Zoning Sectional Maps for the South Bay Tech Rezone from Industrial Park to General Commercial.”

(2) Motion: to waive the first reading beyond the title of Ordinance No. 38.805

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

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

Councilmember Gomez left the dais following vote above.

(3) Motion: to introduce Ordinance No. 38.805

Motion/Second: Vice Mayor McHugh/ Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

(4) Motion: to adopt Resolution No. 8192 approving General Plan Amendment No. GP12-0001, Specific Plan Amendment No. ST12-0001, and Conditional Use Permit No. UP12-0013 and adopting the Negative Declaration EA12-0002

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

2. Weed Abatement Program

Fire Marshal Albert Zamora described the need to remove the public nuisance, namely weeds, on certain property in Milpitas. Those whose properties were cleared of weeds by the County Agricultural Department, following notification, will be liened for the costs on their property tax bill. He referred to the list of properties in the agenda packet. The Fire Marshal introduced Mr. Ray Moreno from the County who was also present to answer any questions.

Mayor Esteves opened the public hearing and no comments were heard.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

(2) Motion: to adopt Resolution No. 8193 confirming assessments on tax bills for the weed abatement in 2012

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

Mayor Esteves invited speaker from audience.

Robert Marini, Milpitas resident, asked if there was any criteria that showed the Fire or Police were meeting their own criteria.

Vice Mayor McHugh asked about response time and decrease in crime statistics, and if those would be part of the RFP and staff replied yes.

Mayor Esteves requested the Fire Chief to send the Fire RFP to elected officials of the agencies that were interested initially but did not respond.

Motion: to note receipt and file what was presented by the Fire Chief on the Fire Department RFP and to receive at the next meeting the Police Department's RFP for police services

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

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

7. Councilmember Request for Task Force on Sign Ordinance

Councilmember Giordano brought this issue to the City Council and she felt it was time for a review of the sign code and suggested giving this issue to Planning Commission for study.

Councilmember Polanski also stated she sought review of the sign code, with some of the issues going back to 1987 with no change. She agreed with Councilmember Giordano that this topic should go to the Planning Commission, or ad hoc subcommittee of that Commission. Then, the group could provide input to the City Council.

Vice Mayor McHugh supported the proposal and then quoted from an article in the San Jose Mercury News this date on the sign code.

Councilmember Polanski asked, when reviewing the ordinance, to consider the concerns of small businesses and any difficulty they expressed about display of signs.

Motion: to send this issue directly to the Planning Commission for study (which could have its own subcommittee) and to report back to the City Council

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

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

9. Library Donation

This item was heard prior to Item No. 3 following Public Hearings.

Mayor Esteves expressed his concerns about the use of the donated funds towards upholstery for the furniture in the Milpitas Library. Derek Wolfson, of the Library staff, reinforced the need for the improved upholstery in the seating area behind the desk of the Children's area due to high volume in the first 3.5 years and the count of 100,000 "double rubs" already reached.

Mayor Esteves wanted to move approval, but to consider review for best cost product and asked the Library to contact the City's architect. That was already done, reported Milpitas Librarian Linda Arbaugh.

Motion: to accept the \$5000 donation to the Milpitas Library and approve the spending plan for upholstery as recommended by the Library Advisory Commission

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

NEW BUSINESS

Three items were approved on the consent calendar.

10. Rotary Club Request for Fee Waiver

The item was removed from consent at the Mayor’s request. He had no objection to the fee waiver, he explained. Mayor Esteves asked the Rotary Club what funds waived would be used toward. Mr. Todd Flesner, Rotary Club representative, came to the podium to report that the Rotary had a strong interest in helping youth, supported a camp, also the Rebuilding Together project, with direct benefit to community members, including those with special needs.

Mayor Esteves hoped the Rotary Club would report back on the funds to the City Council.

Motion: to approve a fee waiver of \$878.77 for the Milpitas Rotary Club Carnival held last June, with the savings going toward community support projects of the Club

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

RESOLUTIONS

Three resolutions were adopted on the consent calendar.

BIDS & CONTRACTS

Nine items were approved on consent calendar.

DEMAND

One item was approved on consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 9:40 PM, in memory of the Sikh community, especially the recent shooting victims.

*Meeting minutes respectfully submitted by
Mary Lavelle, City Clerk*