

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, August 21, 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 6:03 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 collective bargaining regarding LIUNA pension fund, and conference with City Attorney regarding anticipated litigation.

City Council then convened in Open Session at 7:05 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 Gomez commented on the recent passing of former Milpitas Mayor Ben Gross, the first African American Mayor west of the Mississippi. He requested to adjourn the meeting in honor of Mr. Gross.

MINUTES

Motion: to approve the City Council meeting minutes of August 7, 2012, as submitted

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

Vice Mayor McHugh stated he would attend a meeting the following day, August 22 at 10:00 AM, at Santa Clara Valley Transportation Authority for the BART extension committee.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

PRESENTATION

Mayor Esteves commended Marilyn Hay, a long-serving member of the Milpitas Library Advisory Commission, for her many years of service to the Milpitas community with a wide variety of organizations and events over the years, including selection as "Citizen of the Year." She and husband Paul would soon be moving to Oregon for their planned retirement. Mrs. Hay was wished well by the City Council and members of the Library Advisory Commission.

PUBLIC FORUM

Robert Marini, Milpitas resident, addressed the City Council on rates charged for sewer services and compared calculations to those done in the 1970s. He compared multi-family rates to single family residents.

Bonnie Mace, of the Silicon Valley Leadership Group and San Jose resident, encouraged the Council and residents to participate in the annual “Turkey Trot” event on Thanksgiving Day, November 22. All funds raised at the run/walk event would go to the Housing Trust of Silicon Valley, the Childrens’ Health Initiative and the Second Harvest Food Bank. Jeff Brendell of Brocade Communications announced the “Mayor’s Cup” challenge at the Turkey Trot, which he encouraged the Mayor and Councilmembers to participate in. Kevin Zwick, Executive Director of the Housing Trust, spoke of the Turkey Trot past success and its benefits to the community.

ANNOUNCEMENTS

None.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Tom Williams said staff requested to remove agenda Item No. 16 (amendment to master agreement with VTA) due to an offer of one full time employee to work at the City for this project, requiring a different amendment on the costs.

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

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 asked for direction on the recommendation provided on Item No. 9, RFP for police services, and then Vice Mayor McHugh requested to remove it from consent. The Vice Mayor also requested Item No. 15 (bid award for police radios) to come off consent.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

* 2. Commission Appointments Approved the following appointments, recommended by Mayor Esteves:

Community Advisory Commission:

Appointed Thelma Batilo as voting member to a term that expires in January 2016.
Appointed Mayvid Maclay as Alternate No. 1 to a term that expires in January 2013.
Appointed Eva Ferguson as Alternate No. 2 to a term that expires in January 2013.
Appointed Eusebio Espitia as Alternate No. 3 to a term that expires in January 2014.
Newly appointed Oscar Leon as Alternate No. 4 to a term that expires in January 2014.

Bicycle Pedestrian Advisory Commission:

Re-appointed Rene Briones to a term that will expire in August 2015.

* 4. Grant to Firefighters Accepted the grant from the Department of Homeland Security and appropriated funding totaling \$183,293 (federal share) for the purchase of 16 mobile data computers and the implementation of a comprehensive wellness/fitness program.

* 5. Adopt Ordinance 38.805 Waived the second reading and adopted Ordinance 38.805 for the South Bay Tech Center (Zoning Amendment ZA12-0002).

* 6. Resolution for “Avoid the 13” program Adopted Resolution No. 8194 authorizing the Chief of Police to execute the agreement with the County of Santa Clara for the 2012 Avoid the 13 grant program.
Approved a budget appropriation in the amount of \$9,500 to the Police Department overtime budget as a result of the 2012 Avoid the 13 grant program.

- * 7. Resolution Accepting Project No. 9003 Adopted Resolution No. 8195 granting initial acceptance of the Police Department Evidence Room Improvements, Project No. 9003, subject to a one year warranty period and reduction of the faithful performance bond to \$5,658.

- * 8. Resolution Accepting Project No. 4255 Adopted Resolution No. 8196 granting initial acceptance of Street Slurry Seal Project 2011, Project No. 4255, subject to a one-year warranty period and reduction of the faithful performance bond to \$68,111.

- *10. Sewer Lines in TASP Approved the Acquisition and Reimbursement Agreement for Public Facilities pursuant to Sewer Lines 11A and 11B within the Transit Area Specific Plan.
Approved payment of up to \$914,405.15 from Sewer Fund in direct payment to the developer.

- *11. Amendment No. 1 with CEL Approved Amendment No. 1 to the agreement with Consolidated Engineering Laboratories to extend the agreement one year for various capital improvement program projects.

- *12. Agreement with Attorney Approved employment agreement with the Milpitas City Attorney Michael J. Ogaz.

- *13. Amendment No. 4 with CSG Authorized the City Manager to execute amendment No. 4 to the agreement with CSG for fire inspection and plan review services for an increase of \$78,400 and a total amount-not-to-exceed \$122,400 annually, including the original contract amount of \$44,000.

- *14. Amendment No. 2 with Gachina Landscape Approved amendment No. 2 to the Gachina Landscape Management contract with the City of Milpitas for Civic Center, Library landscape maintenance service and increased the contract amount for a total not-to-exceed amount of \$10,682 for additional irrigation services.

- *16. Amendment No. 4 to VTA Master Agreement Removed from the agenda for consideration at a future meeting.

- *17. Report of Emergency Repair to water main Received this report of emergency repair work from the acting Director of Public Works.
Approved a budget appropriation from the Water Fund in the amount of \$30,000 and authorized staff to pay Preston Pipeline invoices for the emergency repair of the La Crosse Drive water main in an amount not to exceed \$30,000.

UNFINISHED BUSINESS

1. Review of Land Use Moratorium

Senior Planner Sheldon Ah Sing introduced a discussion of the moratorium on land use conversions, and gave a recommendation for General Plan and Specific Plan updates. He discussed impacts to six planning areas, including utility and solid waste capacity, traffic, fiscal/economic impact, land use compatibility, schools and other issues. He included comment on the “complete streets” effort required by state law early next year.

Vice Mayor McHugh asked about the prohibition on social uses and what other uses besides churches that would affect. Staff replied assembly uses, for example the Elks Club. The Vice Mayor also asked about the moratorium that expired on August 5 and what was done to advertise that fact.

Mayor Esteves responded that the City Council was undertaking the topic tonight, and that it was not fruitful to publicize the expired conversion moratorium, since some may want to extend the moratorium.

Councilmember Polanski remarked that, at the recent Transportation and Land Use Subcommittee meeting, she had inquired about continuing a land use conversion moratorium, and the Council could consider a new one.

Mayor Esteves wondered if staff compared to other cities, and staff replied yes. Policies were a mixture of other jurisdictions. The Mayor also wanted to know more about school projection numbers and pointed out how they could change over time.

Motion: to direct staff to complete the work plan, especially including the complete streets effort by January 2013, and to bring back on the Council's agenda a possible moratorium at the next meeting or as soon as proper noticing of the meeting could be done

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

REPORTS of OFFICERS

3. LIUNA Pension Fund

City Manager Tom Williams gave an explanation of the recent request by the LIUNA organization, which represented three city employee groups. It was related to a recovery plan, a surcharge, on the additional pension fund that was offered to its members.

Mayor Esteves invited speakers from the audience.

Ellis Miller, the union representative from Redding, CA, discussed the employer pension plan that employees agreed to participate in. He suggested that there were three options that the City had in this matter: select a deferred plan, a default plan, or buy the City out.

Councilmember Giordano asked him questions about a fourth staff option.

Councilmember Gomez wanted to know about a "verbal agreement" mentioned by Mr. Miller in his remarks and the City Manager replied he did not know of any.

Councilmember Polanski pointed out the matter was on a supplemental pension plan, separate from the City's participation in PERS pension. She also confirmed the City's agreement via Memorandums of Understanding with Milpitas Employees Association, Milpitas Supervisors Association and the Professional and Technical Group.

Vice Mayor McHugh reminded all this was supplemental in addition to what the City already provides via PERS. In the last fiscal year, the City paid \$230,000 into the LIUNA fund via current employee agreements.

Paul Mullett, retired City employee, stated he had a verbal agreement with Human Resources Director Carmen Valdez about this issue and that liability was on the City.

City Manager Williams provided further additional history on this item when it was originally negotiated, on exposure regarding the pension plan and now recommended the most prudent position for the City.

Mayor Esteves wanted to maintain status quo and the current contract, as is.

Motion: to maintain the current status of the LIUNA National (Industrial) Pension Fund with three employee groups, with no changes

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

NEW BUSINESS

One item was approved on the consent calendar.

ORDINANCE

One ordinance was adopted on the consent calendar

RESOLUTIONS

Three resolutions were adopted on the consent calendar.

BIDS & CONTRACTS

Seven items were approved on consent calendar.

9. Police RFP

Vice Mayor McHugh had questions for Acting Police Chief Pangelinan, on response times and the difference between Priorities level 1, 2, and 3. Staff responded with definitions.

Mayor Esteves asked about response times in other cities and comparison to Milpitas. He asked questions about and commented on the crime rate, a significant factor.

Councilmember Gomez asked if issues he'd previously noted were included in the RFP and Mr. Pangelinan replied that services and supplemental services were included. Mr. Gomez wanted to learn how the Police Department would track performance data. The Acting Chief stated that a contracted agency would acquire the city's Police assets, in response to the Mayor.

Councilmember Polanski felt that evaluation criteria were very important. She wanted the response times to be met and maintained and that any agency responded to keep that up.

Vice Mayor McHugh disagreed with the Mayor on this subject. Public Safety was the most important service provided to residents, and response time was critical. He proposed to simply note receipt and file the document only.

Mayor Esteves explained why there was a request for an RFP. This was an economic issue not a performance issue for this service, and he needed to compare to other cities.

Councilmember Giordano could vote with Mr. McHugh and could vote with Mr. Esteves, as there were valid arguments for both. She believed the City Council did need to complete the process, as was done for other City services.

Motion: to approve the Request for Proposals (RFP) document for police services and go forward with the process on it

Motion/Second: Councilmember Giordano/Councilmember Polanski

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

15. Award Bid to RFC
Wireless for Police radios

Vice Mayor McHugh asked the City Attorney about the process on bidding for the radios. An invitation to bid was prepared for 30 units, but the bids were so reasonable it was expanded to 36 units. The Vice Mayor asked the City Attorney if that was ok to vary from the invitation to bid, and Mr. Ogaz replied yes, it was common to add on, with the unit price still the lowest one.

Motion: to award the bid for Motorola XPR6550 Radios and Accessories to RFC Wireless, of San Ramon, CA for the not-to-exceed amount of \$35,952.14

Motion/Second: Vice Mayor McHugh/ Councilmember Polanski

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

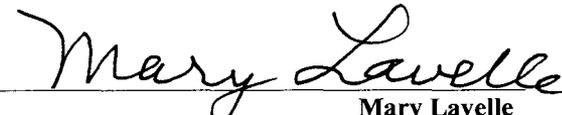
DEMAND

One item was approved on consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 8:50 PM in memory of former Milpitas Ben Gross.

The foregoing minutes were approved by the Milpitas City Council as submitted on September 4, 2012.


Mary Lavelle
City Clerk