



still speak under Public Forum if they wished. She made a motion to do this, but no second was offered.

Vice Mayor McHugh did not want to remove Item No. 5, and opposed contracting out police, but wanted to hear from the public. He suggested moving up Item No. 5 (RFP for Police services) as the first item to discuss after approval of agenda. Councilmember Gomez said he would second a motion by the Vice Mayor McHugh and did not support the RFP.

Mayor Esteves liked the Vice Mayor's comment and possible motion, stating he wanted to hear from all who wished to speak. He concluded the Council would proceed with the agenda, as scheduled.

The Mayor moved on to Public Forum, requesting speakers who wished to address the Council on items not listed on the agenda.

Jenifer Lind, 1874 Yosemite Drive, spoke on behalf of the Community Advisory Commission to invite all Councilmembers and the community to attend a Town Hall Meeting, on the topic of Emergency Preparedness, from 6:30 to 8:30 PM next week on Thursday, October 11.

Carol Kassab, Chamber of Commerce, invited all to attend a Candidates Forum on Wednesday, October 17 in the City Council Chambers, with all candidates for City Council, Mayor and the School Board.

A woman invited students to participate in this year's Milpitas Writing Contest on October 20, at the Milpitas Library, sponsored by the Library Advisory Commission...

Rob Means, 1421 Yellowstone, Milpitas resident, discussed transportation policy. He sought a crossing over the railroad tracks so people could more easily get to the Great Mall and across town. Council should seek resources that may be available for grant funds.

Yolie Garcia, 864 Founders Way, invited Council and citizens to a Mayor and Council Candidates forum on Education on Wednesday, October 10 at the Milpitas Senior Center.

Dan Manassau, a Milpitas resident, urged Council not to spend five cents on any bridge, as Rob Means needed exercise.

Ed Hart, 52 years resident of Milpitas, wanted to speak on an agenda item.

Robert Marini, Milpitas resident, wanted to review housing and planning report, which stated the number of households and number of residents. He sought change in the way the sewer rates were calculated for customers in the City.

Isaac Hughes asked staff to display a video for the audience watch. It related to lawsuit involving Councilmember Giordano and her conduct, about which he made allegations.

Robert Halliday, Autry St resident, received a flyer in the mail recently about Allied Waste. A group planned to sue that company, so he wanted to know more about such lawsuit and the goal of getting money. It was a landfill and it smelled.

Mrs. Cantu was a crossing guard for eight years. She wondered why crossing guards have not had a raise in their hourly pay for many years.

## **ANNOUNCEMENTS**

Councilmember Polanski reported that OES office would host a SAFE class upcoming on weekends, October 27, November 3 and 10, with information available on the City website. At the Emergency Preparedness Commission, they asked her to invite all City Councilmembers. Also, the 408 area code would be split in the coming month, where callers will need to dial 1 + 408 to make all local calls.

Councilmember Giordano directed a comment to a resident in the audience, Mr. Manassau. She wanted to apologize to him publicly. Last year, she called into question his CPA status at one meeting. She reviewed records and apologized as she was not correct in her past comments.

Mayor Esteves last Sunday morning, attended the "Sugar Dump 5K" run at McCarthy Ranch, encouraging physical fitness and healthy living.

**ANNOUNCEMENT OF CONFLICT OF INTEREST**

None.

**APPROVAL OF AGENDA**

Motion: to approve the agenda, as amended

Vice Mayor McHugh requested to take Item No. 5 first, under Unfinished Business.

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 Polanski requested to remove agenda Item No. 10 (resolution on the change to the to Classification Plan) from consent

Vice Mayor McHugh reported that on Item No. 4 Commission appointments, he was the liaison to Sister Cities Commission and supported both appointments. On Item No. 7 (waiver of fees for Rotary Club), he supported that item and he was a member of Rotary Club. He requested to remove Item No. 8 (Temporary Public Works Inspector) and No. 10 (adding Public Works Manager classification) from consent.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

\* 2. Monthly Odor Report

Received the September 2012 odor report.

\* 4. Commission Appointments

Arts Commission: re-appointed Harriett McGuire to a term that will expire in October 2015.

Sister Cities Commission: Appointed Miriam Hardin as a regular member to a term that will expire in September 2015. Appointed German Galvan as Alternate No. 1 to a term that expires in September 2014.

\* 6. Donation to Library

Accepted the donation of \$2,000 to the Milpitas Public Library and spending plan for materials, as recommended by the Library Advisory Commission.

\* 7. Rotary Club Fee Waiver

Approved the fee waiver in the amount of \$877.82 for the Milpitas Rotary Club Pumpkin Patch event taking place during the month of October.

\*11. Resolution Accepting Project No. 4259

Adopted Resolution No. 8203 granting initial acceptance of the Escuela Parkway Pedestrian and Bicycle Enhancement Project No. 4259, Federal Aid Project No. RPSTPLE (009), subject to a one-year warranty period and reduction of the faithful performance bond to \$43,499.04.

\*12. Amendment No. 3 with J.P. Graphics

Authorized the City Manager to execute amendment No. 3 to the agreement with J.P. Graphics to extend the contract for citywide printing services for two additional option years in annual not-to-exceed amount of \$85,000 per year.

\*13. Award Bid for On-Call Graffiti Removal

Awarded the bid for IFB 2031 for On-call Graffiti Removal at various City of Milpitas locations to Graffiti Protective Coatings, Inc. for the annual not-to-exceed amount of \$20,000.

\*14. Award Bid for On-Call Pavement Repair

Awarded the bid for IFB 2028 for On-call Pavement Repair at various City of Milpitas sites to DRT Grading & Paving for the annual not-to-exceed amount of \$200,000. Authorized the City Manager to grant yearly increases pursuant to the contract without further City Council action.

Near the end of the Council meeting, Vice Mayor McHugh said he had a concern about the second part of motion. He asked staff for explanation on how that would be gauged, regarding the costs for the contract.

City Manager Williams replied he would bring this item back for consideration, in order to respond to questions and provide information, as requested. The Vice Mayor was ok with that.

\*15. Payment for Software Support Services

Authorized payment to Tiburon, Inc. for software support services for the annual not-to-exceed amount of \$50,312.00.

**UNFINISHED BUSINESS**

1. Update on Alviso Adobe

Engineer Michael Boitnott reported on the status of the project updating the historic structure and park at the Alviso Adobe, located at 2087 Alviso Adobe Ct. He reviewed work done on Phases I through V, with present work ongoing for Phase IV. He identified cost savings and the minimal change orders. He recommended additional interior improvements to the floor structure, in an amount approximately \$200,000. That could delay opening until February 2013.

Councilmember Polanski – liaison to the Parks, Recreation and Cultural Resources Commission - was at the previous night’s meeting on this topic. The Commission was unanimous in its motion to recommend support of the additional work. PRCRC also sought effort on some historical display and information inside the home.

Motion: to accept the staff report, authorize additional change order work for interior of the Alviso Adobe, and include the recommendations from the PRCRC on historic preservation elements to the interior

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

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

**REPORTS of OFFICERS**

3. Request of Mayor to Consider Ben Gross Tribute

Mayor Esteves referred to a request he and Councilmembers received from resident Debra Lax for an event to honor the recently deceased former Milpitas Mayor Ben Gross. There was a matter of a funding question. City Manager Williams recommended waiving the fee to rent the Milpitas Senior Center, but not to waive any costs for staff labor (overtime). He suggested to meet with the citizen and come up with work program for such an event.

Councilmember Polanski commented that the City should participate in an event, work with people and not cause extra fees, as a co-sponsor.

Councilmember Giordano wanted an estimate of staff costs. She proposed to cap the amount on overtime costs at \$400.

Vice Mayor McHugh liked the City Manager’s suggestion and the City should take the lead on such an event, with recognition of the first African American Mayor in the City. He was so involved with integrated housing also. He could see spending a few thousand dollars on a City event for the deceased former Mayor.

Next, Councilmember Giordano made a motion to direct staff to waive fees and any overtime costs, with a cap of no more than \$400 for the event. However, no second was offered.

Motion: to direct the City Manager and staff to meet with Ms. Lax and come back to City Council with an appropriate celebration of Mr. Gross' service to this city, with a budget that is appropriate given the historical significance

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

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

## 5. Review RFP for Police

Councilmember Gomez has asked for this agenda item to put an end to the discussion of outsourcing police services. He was fully supportive of the Police Department and its officers. He like the Vice Mayor's idea that there should be no outsourcing of any public safety without a vote of the people. He asked for an item at the next meeting for an ordinance.

Councilmember Polanski did not disagree with Mr. Gomez and would support a motion for such ordinance. The City did go out and do an RFP for the Fire Dept. services in June and received no requests, so it was a moot issue. The City did that for the Police Dept. and only one qualified agency (County Sheriff) responded that it could not meet high standards of the Milpitas Police Department. The City Council was responsive to those in the community who would ask, why did Council not look at outsourcing for these services.

Vice Mayor McHugh had two points: to salute and congratulate police officers on the excellent job they do He noted the high regard that officers are held in by residents and business owners. With the concern on costs, the Council would address those with all employees. Public Safety was too important to be left to politicians. So he wanted an ordinance to state that any attempt to contract out must be supported by a vote of people. He motioned and Mr. Gomez seconded.

Councilmember Giordano already spoke at the beginning, and wanted to eliminate any consideration of the RFP and outsourcing, so it was moot now. She referred to Citizens Budget Task Force recommendations. She did support a motion on the proposed ordinance, requiring a vote of the people to ever outsource.

Mayor Esteves wanted to keep vital service, all valued the community. The big issue was the economic issue. The Council needed to address the deficit in operations budget each Fiscal Year. There were lots of unfunded liabilities in the capital improvement budget. He felt the City must keep great public services. Police doing great job. He asked speakers to address how to improve the budget and pay for these services, and offer help on future budgets.

Councilmember Gomez moved to allow each speaker reduced speaking time in order to have enough time for all those present in the audience who wanted to address the Council. He suggested 90 seconds speaking limit, supported by Vice Mayor McHugh.

Councilmember Giordano moved to allow only 60 seconds per speaker, seconded by Councilmember Polanski, which was approved with 4 in favor and 1 opposed (McHugh).

Mayor Esteves then addressed the audience, and invited speakers, so long as they followed the instructions from the Fire Marshal for lining up.

The following 41 speakers addressed the City Council, opposed to contracting out police or public safety services.

### Speakers:

- 1) Joseph Weinstein, 626 Hamilton resident
- 2) Ed Hart, 52 year resident
- 3) A young man
- 4) A young man
- 5) Kendra Williams, Penitencia St resident and mother
- 6) Frank Delgado, resident

- 7) Matt Toffey, president of MPOA and Milpitas Police Sergeant
- 8) Nancy Mendizabal, Milpitas resident
- 9) Philip Coneeny, retired NYPD officer and Milpitas resident
- 10) Jenifer Lind, 35 year resident on Yosemite Drive
- 11) Mia Bradway Winter, Rivera St. resident
- 12) Katherine Foster, 35 years resident
- 13) Robert Halliday, Milpitas resident on Autrey St.
- 14) Stacey See, resident
- 15) Rita Simke, Erie Circle resident of 30 years
- 16) David Hufton, 50 year resident on Fountainbleu Avenue
- 17) A young girl whose father was a police office in Milpitas
- 18) Bobby Carswell, President of Milpitas Youth Football for over 20 years
- 19) A man, Milpitas resident of 30 years
- 20) A woman
- 21) Denny Weisgerber, 50+ year resident of Milpitas, 195 Casper St.
- 22) Mark Tiernan, resident
- 23) John Jay, owner of Best Marina at 542 So. Main Street
- 24) Deepka Lalwani, Glenview Drive resident
- 25) Page Brown, teacher, resident of Jasmine Ct.
- 26) Armando, resident and father of two children
- 27) Kathy Doy, 18 years MUSD Principal
- 28) Michelle Templeton, Vegas Ave resident, moved to Milpitas in 1980s
- 29) Roland Pinto, 1266 N Hillview resident
- 30) Leo Row, six year resident
- 31) Wylie Rankin, 2041 Arizona Ave resident
- 32) Debbie Rankin, 2041 Arizona Ave
- 33) Aurora Pasion, resident and business owner
- 34) Joe Nichols, lifelong resident on London Drive
- 35) Angela Wright, 1860 Nelson Drive
- 36) Rolando Valle, resident since 1996
- 37) Lisa Miller, spouse of Milpitas police officer
- 38) Ms. Jensen, resident
- 39) Rob Means, 1421 Yellowstone
- 40) Robert Marini, Milpitas resident
- 41) Joy, 37 year resident of Milpitas

Motion: to not have any outsourcing of police or public safety services, and direct staff to return at next meeting with a proposed ordinance to require a vote of the people on any consideration of this idea in the future

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

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

At 9:00 PM, Mayor Esteves announced that the Council would take a break and the meeting resumed at 9:15 PM.

## **NEW BUSINESS**

Two items were approved on the consent calendar.

### **8. Temporary Inspector Position**

Vice Mayor McHugh had removed this from consent for an information report from the staff. Chief Building Official Keyvan Irannejad provided history on his department's staffing needs, due to the many projects ongoing at this time.

Motion: to approve and authorize continued employment of one Temporary Public Works Inspector position, and, approve a budget appropriation in the amount of \$112,682 from the General Fund to the Building & Safety Department budget to be reimbursed by private development funds

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

## ORDINANCE

### 9. Ordinance No. 76.15

Finance Director Emma Karlen explained the rationale for making some changes in the Milpitas Municipal Code on business license regulation. Staff sought to streamline procedures and to study the tax rates to return with later recommendation.

Councilmember Giordano asked for the opinion of the Chamber of Commerce. Milpitas Chamber CEO Carol Kassab came to the podium and said that on face value, it seemed fine, but she would need to study the details further.

City Attorney Ogaz read aloud the title of Ordinance No. 76.15, "An Ordinance of the City Council of the City of Milpitas Amending the Business License Ordinance by Amending Sections 16.01 and 16.03 and Deleting Section 16.02 of Chapter 1 of the Milpitas Municipal Code."

(1) Motion: to waive the first reading beyond the title of Ordinance No. 76.15

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

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

(2) Motion: to introduce Ordinance No. 76.15 amending Sections 16.01, and 16.03 and deleting Sections 16.02 and 17.07 of Chapter 1 Title III of the Milpitas Municipal Code

And, (3) to approve a budget appropriation of \$6,000 for Business License system reprogramming cost, to combine with Fire Dept. annual permit process on calendar year basis

Motion/Second: Councilmember Polanski/Councilmember Gomez

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

## RESOLUTIONS

### 10. Resolution adding Job Classification

Councilmember Polanski did not have a problem with the proposed new Public Works Manager paid out of enterprise fund. But for a new manager to be paid out of the General Fund, she thought City Council needed to have a comprehensive discussion, with a future reorganization. Strategic planning for revenue coming in to General Fund was necessary.

Councilmember Giordano would like to hear from City Manager, who gave an explanation with rationale for authorizing the positions at this time. He stated hiring of the Utility Public Works Manager was the only one planned at this time.

Vice Mayor McHugh asked to remove this item from consent, and was supportive of what was discussed. He was accepting the deferring of a second position, until financing was secured.

Motion: to adopt Resolution No. 8202 adding the job classification and pay range for Public Works Manager, to approve and direct the City Manager to commence with hiring one Public Works Utility Manager only (funded by enterprise funds); and the motion included to come back with a strategic plan on how to fund other areas such as CIP and infrastructure, as a comprehensive package

Motion/Second Councilmember Polanski/Vice Mayor McHugh

Motion carried by a vote of:

AYES: 5  
NOES: 0

**BIDS & CONTRACTS**

Three items were approved on the consent calendar.

**DEMAND**

One payment was approved on the consent calendar.

**ADJOURNMENT**

Mayor Esteves adjourned the City Council meeting at 10:01 PM.

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