

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, February 5, 2013
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 Polanski, Councilmembers Giordano, Gomez and Montano

ABSENT: None

CLOSED SESSION

City Council convened in Closed Session to discuss labor negotiations and one litigation matter.

City Council then convened in Open Session at 7:00 PM.

ANNOUNCEMENT

City Attorney Mike Ogaz announced that the City Council approved - by unanimous vote - agreement with two employee groups, the Mid-Management and Confidential unit and the Profession and Technical employees, on new Memorandums of Understanding for a one year period (January 1 to December 31, 2013) which would include a 2.5% restoration of the amount employees pay toward the employer portion of PERS. The documents were directed to be brought back for a final vote on the agenda of the next City Council meeting on February 19.

PLEDGE

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

INVOCATION

Councilmember Giordano offered her own prayer to start the meeting.

MINUTES

Motion: to approve meeting minutes of January 15, 2013 City Council meeting, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedule of Meetings for February 2013, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

PRESENTATIONS

Mayor Esteves made the following presentations:

He proclaimed both *Dr. Martin Luther King, Jr. Day* on January 21, 2013 and *Black History Month* for the month of February 2013. Both were accepted by resident Demetress Morris.

He presented the *2013 Artist of Year Award* to Patty Jensen of the Jensen School for the Performing Arts. The Mayor also gave certificates of commendation to nominees Joe Santoro and Carla Moss. Arts Commissioners Becky Strauss and Robin Hays assisted the Mayor with the presentation of the awards, as selected the Arts Commissioners.

PUBLIC FORUM

Robert Marini, Milpitas resident, had previously asked three questions about sewer rates. He claimed that Milpitas was not an open and transparent city government.

Demetress Morris, Milpitas resident, discussed flag raising for Black History month. City Manager Tom Williams replied that he could discuss that event with her, away from the City Council meeting.

ANNOUNCEMENTS

Mayor Esteves noted that many residents in February were celebrating Chinese Lunar New Year, so he wished all a Happy New Year. The 64th India Republic Day was also being celebrated.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor 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

Councilmember Giordano requested to put Item No. 3 (regarding Council reimbursements) on consent and to adopt the new policy, as proposed.

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

* 3. Councilmember Reimbursements

Adopted the new policy (for the City Council Handbook) restricting items permitted for reimbursement to City Councilmembers, as proposed by Vice Mayor Polanski.

* 5. Odor Report

Received the December 2012 and January 2013 odor reports.

* 6. Planning Commission

Appointed Demetress Morris as the Alternate Member of Milpitas Planning Commission to a term that would expire in December 2015.

* 7. Commission Appointments

Approved recommendations made by Mayor Esteves, following.

Community Advisory Commission:

Appointed Eva Ferguson as a regular member to a term to expire in January 2015.
Appointed Oscar Leon as a regular member to a term to expire in January 2015.
Appointed Marsha Tran as Alternate No. 1 to a term to expire in January 2015.
Newly appointed Ray Maglalang as Alternate No. 2 to a term to expire in January 2015.

Economic Development Commission:

Appointed Sumeet Ahuja as a regular member representing Retail to a term to expire in April 2015. Newly appointed B. Michael Howard as a regular member representing Hotels to a term to expire in April 2015.

Library Advisory Commission:

Appointed Marie Pham as a regular member to a term to expire in June 2013.
Appointed Hellie Matteo as a regular member to a term to expire in June 2013.

Recycling and Source Reduction Advisory Commission:

Appointed Kashmir Gill as a regular member to a term to expire in October 2015.
Appointed Madan Arora as Alternate No. 1 to a term to expire in October 2013.
Newly appointed Eddie Inamdar as Alternate No. 2 to a term to expire in October 2014.

Telecommunications Commission:

Reappointed Albert Alcorn as a regular member to a term to expire in January 2015.
Reappointed Kurt Bohan as a regular member to a term to expire in January 2015.
Reappointed Ernesto Bautista as Alternate No. 1 to a term to expire in January 2015.

Sister Cities Commission:

Newly appointed Peter Chang as Alternate No. 2 to a term to expire in September 2013.

Veterans Commission:

Newly appointed Ferdinand Luis, Jr. as Alternate No. 2 to a term to expire February 2016.

- * 9. Investment Report Received the investment report for the quarter ended December 31, 2012.
- *10. Ben Gross Tribute Approved the planned Ben Gross tribute event on February 23 at the Barbara Lee Senior Center, in an amount not to exceed \$1,500 and directed staff to research a possible park dedication in honor of the 1960s Milpitas African-American Mayor at a City park.
- *11. Accept Walmart grant Accepted the Walmart Foundation grant in the amount of \$1,000 and increased Recreation Division budget by \$1,000 for the Senior Nutrition Program.
- *12. Actions Related to Sora Milpitas LLC apartments Adopted Resolution No. 8225 annexing properties known as SORA Milpitas, LLC into Community Facility District 2005-1.
Approved and authorized execution of a subdivision improvement agreement.
Approved the final map (Tract 10139) and public improvement plans (2-1163).
- *13. Resolution – Water meters Adopted Resolution No. 8226 designating National Meter and Automation as the sole source provider for Badger water meters in the City of Milpitas.
Approved the purchase of assorted Badger water meters from National Meter and Automation for the not-to-exceed amount of \$70,092.76.
- *14. Temp. Building Inspector Approved the Lyon Apartments developer’s request to continue employment of a temporary dedicated building inspector.
Approved budget appropriation of \$70,320, less the administrative fee, into the Building and Safety Department’s budget for five months until July 31, 2013.
- *15. Temp. Building Inspector Approved and authorized Coyote Creek condominium and townhouse developer’s request for the employment of a temporary building inspector.
Approved a budget appropriation of \$46,880, less the administrative fee, into the Building and Safety Department’s budget for remaining four months of Fiscal Year 2012-13.
- *16. Agreement with RMC Water and Environment Authorized the City Manager to execute the consultant agreement with RMC Water and Environment, Inc. for utility engineering support.
- *17. Amend Contract with TerraCare for 2 New Parks Authorized the City Manager to execute amendment No. 1 to the contract with TerraCare Associates to add two new parks (Alviso Adobe and Cerano) to the City of Milpitas Parks Maintenance services contract for the not-to-exceed annual amount of \$89,460.
- *18. Amend Universal Building Service Contract Approved Amendment No. 4 to Universal Building Services contract for additional janitorial services for the not-to-exceed amount of \$97,948, through June 30, 2013.
- *19. Concert Band Composer Authorized the City Manager to execute a contract with composer Jason McChristian in an amount not to exceed \$525. Accepted the Milpitas Parks and Recreation Foundation grant in the amount of \$809 and increased the Recreation Division budget in the amount of \$809 for the Milpitas Community Concert Band Program.

UNFINISHED BUSINESS

1. Report on CAFR (Audit Report for FY 2012-13)

Finance Director Emma Karlen introduced Ms. Amy Meyer from the firm Maze & Associates, who gave an oral report on the final Comprehensive Annual Financial Report for FY 2011-12. An “unqualified” or clean audit report was given and she reported that it was the highest possible outcome. Ms. Meyer said that the Redevelopment Agency was included for the seven months it existed in the last fiscal year, and there were a number of references to the dissolution of the Agency, and to the Successor Agency. The internal control review yielded no internal accounting weaknesses, along with seven recommendations on internal procedures.

Vice Mayor Polanski complimented staff on the comprehensive report and thanked Ms. Meyer for coming back, after the last meeting. Vice Mayor asked about impact on next year’s audit, of the RDA dissolution. An asset review was the big topic for next time.

Mayor Esteves invited speakers from audience.

Robert Marini, resident, wondered if utility rate funds were included in the report. He wanted to know where the overcharge for utility rates was going.

Motion: to accept the City’s Comprehensive Annual Financial Report (CAFR) and other related Annual Audited Reports for the fiscal year ended June 30, 2012

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

At 7:40 PM, Mayor Esteves announced Council would take a break for staff to work on technical difficulties, and then returned to the dais at 7:51 PM.

2. Commissioners Recognition

Dale Flunoy, Recreation Services staff, described to City Council what was planned this year for Commissioners Recognition event as a luncheon this year. The budgeted cost was expected to be between \$12 – 17 per person, with a \$5,100 maximum.

Mayor Esteves asked if there was good input for the event. Staff polled the Chairs and Vice Chairs of Commissions, who supported the event with a meal as proposed.

Motion: to approve the 2013 Commissioners’ Recognition event as a catered luncheon to be held on Saturday, April 13, 2013 at the Milpitas Community Center

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

4. Council Task Force on Fire Dept. Overtime costs

City Manager Tom Williams addressed the City Council. He reported that the City Council’s Task Force met to review Fire Dept overtime issue and sought to avoid layoff of any firefighters, in partnership with IAFF Local 1699, City management and several community residents. He provided some background statistics about Fire Department staff costs. He thanked Vice Mayor Polanski and Councilmember Gomez for their leadership, with the main issue identified as minimum staffing required, per Fire’s Memorandum of Understanding with the City.

\$249,145 was the average total compensation for one firefighter in Milpitas. Mr. Williams explained a federal government grant to be awarded to Milpitas, from the Department of Homeland Security and FEMA, for a total of \$2.1 million to cover the cost of hiring six firefighters for two years.

Fire Chief Brian Sturdivant explained how minimum staffing worked in the City (15 firefighters always on duty), where he sought more flexibility on staffing, when necessary.

The utility of overtime on a monthly basis would affect the flexibility of staffing, as applied by the Fire Chief.

City Manager Williams then reviewed the four part solution, directed by Task Force, and presented this evening. The IAFF Local's Executive Board agreed to the terms. They included: 1) accept the SAFER grant and hire six firefighters; 2) transfer \$600,000 from reserves to Fire Department, to be recouped over six years; 3) delay any layoffs to March 19 (to allow time for a vote by union members); and, 4) if the IAFF Local 1600 agreed to eliminate minimum staffing provision in the current MOU and the grant was accepted, then layoffs would be rescinded.

Councilmember Gomez expressed that he did not want to be here on this issue. Solutions were needed, so that was what the Task Force did. While not perfect, the solution recommended would allow the City to retain firefighters and hire six more. The proposal allowed for payback to reserves over time. He urged support by his colleagues.

Councilmember Giordano emphasized that the plan was contingent on all four components working together. She thanked Task Force for the good ideas presented.

Vice Mayor Polanski thanked staff, Mr. Gomez, IAFF members and the Fire Chief for coming to this point for a workable solution. No deviation or changes were sought, since it was a complete package necessary in this situation.

Mayor Esteves was proud of City Council for dealing with this issue, which has been going on for a long time. He termed a "propaganda campaign" had led to misinformation, and he did not care for that. The Mayor pointed out that Fire overtime costs in the last five years was \$7.1 million, a cost to taxpayers.

Councilmember Montano referred to the 2010-11 Civil Grand Jury of Santa Clara County that identified an outmoded service delivery model of most current Fire Departments in the country. That report noted that the majority of calls were emergency medical, not fires. Perhaps another model, such as EMT response, could be looked into.

Steve King, IAFF 1699 Local President, thanked the Council for the Task Force efforts and reviewing the overtime issue. He was happy to look at new ways to deal with the issue. His group appreciated Council moving forward with the SAFER grant, and care about safety of this community.

Mayor Esteves asked Mr. King if he had any comments on the recommended proposal. Mr. King replied that it was not yet voted on by the membership and they understood what they needed to do and would seek to make it work.

Mayor said Council really appreciated all our firefighters.

On a motion by Councilmember Giordano, and seconded by Councilmember Gomez, the City Council voted unanimously to reduced speaking time to two minutes per speaker, due to the large crowd in the audience.

Mayor Esteves then invited speakers to the podium.

Debra Higuera, lifetime resident, spoke of daughter whose life was saved when she was seven 7 years old and she would never forget that.

Tim, a resident, noted a comment by Councilmember Gomez about a 28% vacancy rate, however, it was the absentee rate.

Dan Manassau, Milpitas resident, commented on union tactics. He wanted to know why negotiators were not talking about total compensation for firefighters. Compared to New York City, total compensation was less than at the City of Milpitas. Salary and benefits

were too high in this city.

Mr. Lorin, Milpitas resident, said he would prefer to hear about 20 firefighters on duty at all times, not 15, especially if there was a large emergency. He was a SAFE volunteer.

Jonathan Ford, Parkville Ct., asked the audience how many were CPR trained and hands were raised. He stressed that more residents would need to be available in emergency.

Harry Evan, of Jacklin Rd, had twins and was a business owner. He picked this city for its public safety services and he had 19 years in public safety himself.

A woman asked if Councilmembers had ever been in a fire. She was, three years ago, and was so glad that the Milpitas firefighters came to her house, were so kind and helpful. They saved the house.

Mercedes, a resident, reported her husband had had a heart attack and the Milpitas firefighters saved his life. She was grateful.

Susan Ryan, was a resident, a business owner, nurse, mother, and grandmother. She described an important time when the firefighters helped her. She thanked MFD.

Lenore Reed, of Grayhouse Drive, said public safety was very important in this city. Consider staffing issue, since that was the cause of the overtime. Milpitas must be covered in emergency.

Robert Marini, resident, complained of increasing population, which caused heavier burden to the fire dept.

Carol Harris, LaCrosse Drive, felt the City needed all the firefighters now employed and probably more. She said to the City Council "get rid of yourselves first" not public safety, police and fire. She complained of layoffs.

Robert Hughes, lived in Newark, said his city no longer had a Fire Department since the County took it over. He did not want to have any firefighters lose their jobs.

A woman resident had a fire at her home, and really appreciated the local firefighters who came to her home quickly. Quick response times were important for safety.

A man, lifetime resident, thanked the Council to let folks speak before they voted. He said to look at the budget as a whole and overtime costs need to work for the City. You cannot put a value on life. He disagreed with Councilmember Montano and that it was terrible to consider only EMTs rather than experienced firefighters, for the residents.

A young man asked the Council to think about how they would react if they were given a notice of layoff.

Esai Lopez, resident, had been on ride-a-longs with the firefighters and all of them were professionals in this city.

A woman resident worried about mother going into a grand mal seizure and needing emergency care. Firefighters had mother's life twice.

Alicia Drummond, resident, said that if the Council laid off firefighters, that would destroy the dreams of young people who want that profession.

Jeffrey Reed, resident, felt citizens needed to unify to come as one and take care of one another. He spoke of his father, who brought the family to Milpitas.

Vice Mayor Polanski thanked all those who spoke and shared their views. She repeated

that public safety was important, as a core service of the City. She encouraged all residents to join a SAFE team and learn CPR and learn how to use an AED. In a major emergency, the firefighters could not reach everyone in the City at same time. The solution proposed is a good one.

Councilmember Gomez stated that public safety was the number one priority. 70% of the City's budget goes to Police and Fire in Milpitas. Recommendations were good, even if they were not perfect to deal with the issue.

Councilmember Giordano wearing a Councilmember hat appreciated the Mayor's comments. They had to address this issue, a "runaway train." She supported the recommendation as a fiscal conservative. Her daughter was a firefighter, and she thought of her during this discussion.

Mayor Esteves thanked all those who spoke and provided input to Council. Personally, he appreciated the response time of Milpitas firefighters, and they helped his mother-in-law when she fell and broke her hip. He appreciated the work of the Task Force as well as working together with residents.

Motion: to manage the issue of Fire Department overtime expense, 1) accept the federal SAFER grant award of \$2.1 million and hire six firefighters; 2) transfer \$600,000 from reserves to the Fire Department, to be recouped over six years; 3) delay any layoffs to March 19, 2013, allowing time for a vote by the union members on this solution; and, 4) if the IAFF Local 1600 agrees to eliminate minimum staffing provision in the current Memorandum of Understanding and the grant is accepted, then layoffs would be rescinded. This motion included to continue the City Council Task Force on Fire Department Budget.

Motion/Second: Vice Mayor Polanski/Councilmember Montano

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

REPORTS

Two items were approved on consent calendar.

NEW BUSINESS

Three items were approved on consent calendar.

8. Financial Status Report through December 31, 2012

Finance Director Emma Karlen reviewed the current financial status of the city overall, expressing the anticipated budget shortfall when preparing this year's budget, last year. She provided revised projections of General Fund revenues and expenditures for FY 2012-13. She told Council that the distribution of funds that are distributed from the former Redevelopment Agency area were to be directed to capital projects, as previously directed. The City could balance its budget at the end of the Fiscal Year with the use of Equipment Replacement Reserve funds, as authorized by Council at budget adoption.

Ms. Karlen identified key dates this year for planning to adopt the FY 2013-14 budget. The Council budget hearing is scheduled on Tuesday, May 14, 2013. She also offered to provide a budget study session for the Council, if desired, in April.

Vice Mayor Polanski would like to have the budget study session on a separate date from any regular City Council meeting date.

Mayor Esteves inquired, regarding the next Capital Improvement Program, would it address all line items that were previously to be funded by the Redevelopment Agency? Staff replied that the CIP already would have removed the former RDA as a funding source, so yes.

Motion: to accept the oral report from the Finance Director, and schedule a budget study session on separate date from regular City Council meeting dates

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

City Manager Tom Williams publicly thanked Finance Director Karlen for all her hard work, many hours, behind the scenes with the management and the Firefighters IAFF union group, on the solution reached this evening regarding the overtime issue in the Fire Department.

RESOLUTIONS

Two Resolutions were adopted on consent calendar.

CONTRACTS

Six items were approved on consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 9:39 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on February 19, 2013.



Mary Lavelle
Milpitas City Clerk