

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, March 19, 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. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Polanski, Councilmembers Giordano and Montano

ABSENT: Councilmember Gomez was absent at roll call and arrived in Closed Session at 6:15 PM.

CLOSED SESSION

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

City Council then convened in Open Session at 7:20 PM.

ANNOUNCEMENT

No announcement out of Closed Session.

PLEDGE

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

INVOCATION

Councilmember Montano offered a prayer to start the meeting.

MINUTES

Motion: to approve meeting minutes of March 5, 2013 City Council meeting, as amended

One correction was requested by the City Clerk, on page 4, recording the vote on the resolution as zero "No" votes (not one, as typewritten on the draft minutes).

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedule of Meetings for March and April 2013, as amended

City Manager Tom Williams stated the San Jose/Santa Clara Treatment Plant Advisory Committee (TPAC) meeting was scheduled on Monday, March 25 at 1:30 p.m. The City's Economic Development Commission meeting met the previous evening on March 18 at 6:00 PM.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

PRESENTATION

Mayor Esteves presented a Certificate of Recognition to the Art of Living Foundation. Several representatives from the non-profit organization gave a presentation to inform the community about its current stress free, violence free community campaign.

Councilmember Gomez left the dais at this time for several minutes and returned later.

PUBLIC FORUM

Rob Means, 1421 Yellowstone, Milpitas resident, noted the comment "infeasible" stated at a previous meeting in reference to railroad crossing at Yosemite. He researched it further.

Robert Marini, Milpitas resident, discussed the way that sewer costs were calculated.

Gary Roope, Mentelinda Loop, Milpitas resident, asked the City to do something on the parking situation, kitty corner to the newest auto dealerships on Thompson. Too many auto dealer employees were parking next to the City's new parks in that neighborhood.

Frank DeSmidt of the Milpitas Rotary Club announced a free e-waste event at Huntford Printing on Saturday, March 30. Also, the 39th annual celebration for the Milpitas Citizen of the Year was planned for April 13 at Pavalkis Hall, sponsored by the Knights of Columbus.

ANNOUNCEMENTS

Chief Building Official Keyvan Irannejad introduced the City's newly hired Principal Civil Engineer Mr. Ebby Sohradi, in land use engineering.

Vice Mayor Polanski thanked City staff, the Milpitas Historical Society and others who coordinated the fine opening of the beautiful new Alviso Adobe Park last Saturday morning.

Mayor Esteves congratulated the India Community Center upon ten years in the City of Milpitas. He announced two current art exhibits, one at City Hall and one at the Milpitas Library.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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 Montano requested to remove agenda item No. 5 on the Public Art Master Plan from consent for discussion.

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

- * 4. Commission Appointments Newly appointed Melanie Holthaus to Economic Development Commission as Alternate No. 1 to a term that will expire in April 2015, and newly appointed Nonie McDonald to the Library Commission as Alternate No. 2 to a term that will expire in June 2013.
- * 7. Resolution Adopted Resolution No. 8238 granting initial acceptance of VTA's Water, Storm, and Sewer Utility Relocation at Piper Dr. VTA Project No. C610, subject to 1 year warranty.
- * 8. Resolution Adopted Resolution No. 8239 granting initial acceptance of Abel Street Transit Connection Project, Project No. 4260, Federal Project No. CML-5314 (003), subject to a one year warranty and reduction of the faithful performance bond to \$103,440.04.
- * 9. Resolution Adopted Resolution No. 8240 approving the Donation Policy and Procedures for the City of Milpitas Parks and Recreation Programs.
- *10. Resolution and other actions for Trumark project Adopted Resolution No. 8241 annexing properties known as "Pace Project" into Community Facility District 2008-1.
- *11. Resolution Adopted Resolution No. 8242 authorizing the City Manager to execute a separate contract with Iteris, Inc., selected by the originating agency, the City of San Jose and incorporating

(2) Motion: to adopt Resolution No. 8237 establishing the South Milpitas Boulevard Plan Line from Montague Expressway to Capitol Avenue in the City of Milpitas

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

UNFINISHED BUSINESS

2. BART Project Update

City Manager Tom Williams commended Ms. Carolyn Gonot - Santa Clara Valley Transportation Authority (VTA) Bay Area Rapid Transit (BART) project manager - and her staff, who were doing a fantastic job working with the City on the progress of BART coming to Milpitas.

Acting City Engineer Kathleen Phalen introduced Ms. Gonot from VTA to provide an update on the BART construction status in Milpitas. Additionally, from VTA staff, Mr. Mark Massman, VTA Silicon Valley BART Extension (SVBX) Project Director and Ms. Bernice Alaniz, VTA SVBX Communications Director, addressed the Council.

Ms. Alaniz described current project activity, with over eleven major utilities moved for grade separation. She discussed the stakeholder outreach performed in a three tier approach. Ms. Gonot provided more details on the project in the near future. The project includes a Residential Noise Insulation Program underway, with 246 homes near the new BART station eligible for sound improvements, including 97 in Milpitas.

Mr. Massman next spoke on the plan for MOTA, Maintenance of Traffic and Access for the BART construction project.

Councilmember Montano inquired about the Kato Rd./Dixon Landing area, and Mr. Massman responded with some accomplishments there, and work remaining.

For contact and communications, there were three BART project offices, with the main office in Milpitas on California Circle. Mayor Esteves thanked all three VTA speakers for their presentations.

The Mayor next invited speakers from audience.

Carol Kassab, CEO of Milpitas Chamber of Commerce, addressed Ms. Montano, explaining that the Chamber had put Milpitas Materials (a local supplier) in touch with the VTA at the start of the project.

Councilmember Giordano asked when would the next report be provided to City Council and Ms. Gonot responded, in about four months. VTA staff reported that on April 5, VTA would celebrate the re-opening of Kato Road and the milestone one-year anniversary of the start of BART construction.

Motion: to receive the report given at the Council meeting by Valley Transportation Authority's staff on construction of the Bay Area Rapid Transit extension

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

3. Fire Department Update

City Manager Tom Williams reviewed for the City Council why this matter was presented on this date, arriving one month after a vote of the Council to work towards a solution on the issue of significant overtime expenses in the Fire Department, well over what was budgeted in FY 2012-13.

Fire Chief Brian Sturdivant gave a progress report on addressing the minimum staffing flexibility and control on overtime costs. IAFF Local #1699 employees did not vote to affirm the plan that the Council authorized on February 19. He identified the containment measures in that previous vote: four firefighter layoffs effective on Wednesday, March 20, one fire apparatus taken out of service, and six firefighter personnel demoted (per City's employment regulations upon reduction in force).

Councilmember Giordano thought this issue was done. The Council did not change anything as presented last month when the agreement was presented, so she was shocked at this outcome.

Councilmember Gomez asked about overtime costs over the last two months. Chief Sturdivant responded it was about \$75,000 per month, slightly down from last fall. Mr. Gomez also sought additional explanation on the federal SAFER grant.

Vice Mayor Polanski asked if the federal sequester being implemented had any impact on the SAFER grant award. Chief Sturdivant replied, none right now, while he would need to determine that after October 1, when the new federal fiscal year started.

Councilmember Montano wanted to know if the City had mutual aid with the City of Fremont. The Fire Chief confirmed Milpitas did have an agreement with both larger cities to the north and south of Milpitas, and he had recently received a letter of support from the Fremont Fire Chief.

Mayor Esteves stated he was looking more for long term stability of the City's Fire Department and related costs for the service. His priority was cost containment.

Next, the Mayor invited comments from the audience.

Robert Marini, Milpitas resident, said one thing Council could do was not increase the number of housing units.

Firefighter Geoff Maloon sought more than three minutes to speak, which the Mayor did not grant, so he left the dais making no comments.

Steve King, President of IAFF, wanted to tell one side of story. He discussed some of the overtime issues, and reminded the Council that Battalion Chiefs had no overtime. They had worked hard to bring down overtime expenses and wanted the Council to accept the SAFER grant. The Fire Department could "upstaff" with those funds. He wondered why they should lower minimum staffing while accepting grant funds to hire six more.

Councilmember Giordano responded to Mr. King, stating she held up her end of the bargain, and supported the agreement last month, but now the union said no.

Vice Mayor Polanski spoke on behalf of the Council's Task Force, made up of her and Mr. Gomez, and the work they had done to come up with a fair plan. She was very disappointed in the position the Council was put it in, at this meeting, since the vote of the firefighters did not support the plan.

Councilmember Gomez questioned the Fire Chief to fully understand the SAFER grant. He asked if the Chief would continue to pursue the grant even after layoffs were implemented. Chief Sturdivant noted the grant was awarded, and there was a 30 day window to work out issues to be able to implement the terms. Mr. Gomez did not want to see the money go away.

City Manager Williams addressed flexibility on staffing in the Fire Department, stating there was none under the current Memorandum of Understanding. With a number of 59 firefighters total - once the grant was accepted and implemented - for the 24 months

performance period. That could not change at all, if the funds were accepted.

City Attorney Mike Ogaz remarked on the wording of the motion recommended by staff on the agenda, and it could be broken into two parts, if desired.

Motion: to direct the Milpitas Fire Chief to implement the plan to brown out one fire apparatus and implement layoffs of four Milpitas firefighters effective March 20, 2013, and to reject the SAFER grant

Motion/Second: Councilmember Giordano/Mayor Esteves

Vice Mayor Polanski asked staff about the SAFER grant, and its specific timelines necessary in the details of the grant. Chief Sturdivant confirmed the \$2.1 million amount to hire six firefighters by an April deadline, with the Federal Emergency Management Agency (FEMA) willing to entertain adjustments to the final amount.

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

REPORTS

5. Public Art Committee

Councilmember Montano had removed this item from consent, and she had read the goals of the Public Art program and Master Plan. She highlighted one type of funding, from the City of Brea, which had an ordinance to require developers pay into a fund over time for these projects. She wanted to consider such an ordinance in Milpitas. She also inquired about the “Cartwheel Kids” sculpture at City Hall and how to move forward with getting it over to the Library (it was not on the list of projects for approval).

Recreation staff Renee Lorentzen responded on costs to move the sculpture, with \$15,000 as the estimated maximum provided by the artist some time ago. Councilmember Montano wanted to see the art moved but hoped actual costs would be lower.

Vice Mayor Polanski agreed with moving the “Kids” even if the recommendation from the Committee was to hold off. She preferred the Minute Man statue to be installed in place of the Kids statue at City Hall. She referred to the 60th anniversary of City next January and hoped to have the Minute Man in place by then.

Councilmember Gomez felt art was wonderful, but he opposed spending up to \$166,000 City funds on an art project, however. He would vote against such expenditure.

Mayor Esteves asked if the cost (of moving Cartwheel Kids) had gone out for bid. Ms. Lorentzen replied that staff only had an estimate to date, and certainly could solicit bids.

(1) Motion: to move the Cartwheel Kids sculpture from City Hall to the front of the Milpitas Library

Motion/Second: Councilmember Montano/Vice Mayor Polanski

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

The next action then would be to install the Minute Man as art in front of City Hall, and the Mayor wanted to put that issue on the Council’s agenda.

Councilmember Montano wanted the issue of seeking funds from developers for Public Art into a special fund on the agenda and to study an ordinance. The City Manager responded that nearby cities, such as Fremont, had a similar ordinance.

(2) Motion: to review ordinances in other cities related to public art and its funding; and, to approve the Public Art Committee Master Plan

Motion/Second: Councilmember Montano/Vice Mayor Polanski

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

ORDINANCE

6. Ordinance No. 284

City Attorney Ogaz reviewed the genesis of this new ordinance, along with edits he had made to the earlier draft version, as directed at the last City Council meeting.

Mayor Esteves wanted to add a request for announcement of any donations from employee unions to the ordinance. Mr. Ogaz responded that the Mayor's goal was already reached, by the language included on "contracts" since employee groups' Memorandums of Understanding were, in fact, contracts that came before the Council for a vote.

Ordinance No. 284 was "An Ordinance of the City Council of the City of Milpitas Adding Milpitas Municipal Code Section I-210-5.20 Requiring Disclosure of Developer Contributions to City Council."

(1) Motion: to waive the second reading of Ordinance No. 284

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

(2) Motion: to adopt Ordinance No. 284

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

RESOLUTIONS

Five resolutions were approved on consent calendar.

BIDS & CONTRACTS

Five items were approved on consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 9:37 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on April 2, 2013.


Mary Lavelle
Milpitas City Clerk