

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Milpitas City Council regular meeting
Date: Tuesday, May 7, 2013
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Esteves called the joint 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 at 6:05 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 7:05 PM.

ANNOUNCEMENT

No announcement out of Closed Session.

PLEDGE

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

INVOCATION

Mayor Esteves offered a prayer to start the meeting.

MINUTES

Motion: to approve meeting minutes of April 16, 2013 City Council meeting

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for May 2013

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

PRESENTATIONS

Mayor Esteves proclaimed *Older Americans Month* for the month of May 2013, and proclamation was accepted by Milpitas Senior Advisory Commission Chair Barbara Ebright.

The Mayor also proclaimed *Wildfire Awareness Week* for the week of May 5-11, 2013, accepted by Fire Chief Brian Sturdivant of Milpitas Fire Department and Assistant Chief Jerry Serpa of Spring Valley Volunteer Fire Department.

PUBLIC FORUM

Carol Kassab, CEO of Chamber of Commerce, invited all to the Mayor's "State of the City" speech at the Milpitas Community Center on Thursday, May 30, with the doors open at 6:30 PM and the speech scheduled to start at 7:00 PM.

Robert Marini, Milpitas resident, spoke on the recent notice he received of a water rate increase.

Rob Means, 1421 Yellowstone resident, spoke on global warming, environmental change, more wildfires happening and the need to control those.

ANNOUNCEMENTS

Mayor Esteves announced that on June 1-2, the Humane Society Silicon Valley would offer Free Pet Adoption those dates, at 901 Ames Avenue in Milpitas. He asked the City Manager about any community meetings on the budget. City Manager Tom Williams replied there had been one Council workshop last week on April 30, and the public hearing on the next Fiscal Year’s budget was scheduled the following Tuesday evening, May 14 at 6:00 PM in Council Chambers.

Vice Mayor Polanski responded that, as part of the future strategic planning process, there would be community outreach efforts, as referenced by the City Manager last Tuesday night. Mr. Williams said that he had not heard from anyone from the public on the schedule of the meetings.

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)

City Manager Williams turned to City Attorney Mike Ogaz for a statement on reporting by Councilmembers of campaign contributions. Mr. Ogaz asked if any contributions needed to be disclosed related to any items on consent calendar and none were reported.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

- * 4. Odor Control Report Received the April 2013 odor report.
- * 5. BAWSCA Appointment Re-appointed Councilmember Gomez to another term on the Board of Directors for the regional body, the Bay Area Water Supply and Conservation Agency (BAWSCA) and also the Bay Area Regional Water System Financing Authority (RFA).
- * 6. Investment Status Received the investment report for the quarter ended March 31, 2013.
- * 7. Resolution Engineer’s Report for LLMD No. 95-1 Adopted Resolution No. 8254 directing the preparation of the Annual Engineer’s Report for LLMD No. 95-1 at McCarthy Ranch.
- * 8. Resolution Engineer’s Report for LLMD No. 98-1 Adopted Resolution No. 8255 directing the preparation of the Annual Engineer’s Report for LLMD No. 98-1 at Sinclair Horizon.
- * 9. Resolution for TDA Funds for Street Resurfacing Adopted Resolution No. 8256 requesting that the Metropolitan Transportation Commission allocate Transportation Development Act Article 3 Funds to the City for Street Resurfacing 2014, Projects No. 4254 and No. 4268.
- *10. Resolution of Intent on Nitrogen Gas franchises Adopted Resolution No. 8257 of intention to amend ordinances and license agreements with nitrogen gas companies, and set June 4, 2013 as the date for a public hearing at the City Council meeting and to introduce the ordinances.
- *11. Amendment No. 2 to Harris & Assoc Agreement Approved and authorized the City Manager to execute Amendment No. 2 to the consultant agreement with Harris & Associates in the amount of \$275,000, subject to approval as to form by the City Attorney. Approved a budget appropriation in the amount of \$57,500 to increase Land Development Engineering expenditure budget for the remaining of the fiscal year that will be reimbursed by private development.

actions toward implementation of the CAP, including annual reports back to the City Council. Staff introduced Jeff Henderson, from the consulting firm PMC, who was available to answer questions from the Council.

Mayor Esteves asked who the stakeholders were. Staff's reply included members of the public, the media, the Sierra Club and other organizations such as Santa Clara Valley Transportation Authority (VTA). With regard to a note in staff report referring to expenditure of redevelopment agency (RDA) funds, staff explained that the CAP has been a several year process and RDA funds were expended near the beginning (prior to its demise). The Mayor said he liked to hear that more trees were encouraged or required in the CAP, highlighting goals of maintaining and increasing trees throughout the City.

Councilmember Montano asked about non-residential energy, listed on a pie chart display. This referred to energy used by commercial or industrial consumption. She asked if the City had done an inventory on buildings that could potentially have solar panels. The City Manager replied yes, and stated solar panels were already installed at the Sports Center, for example.

Next, Mayor Esteves opened the public hearing.

Rob Means, 1421 Yellowstone, spoke as a member of Sierra Club "Cool Cities" effort and distributed a letter with their comments. He said that none of those comments were included in the final recommendation from staff in the CAP.

Krystal Caidoy, Milpitas resident, thanked the Santa Clara Valley Transportation Authority and the City for providing funds to move the CAP forward, and having this done in Milpitas.

Robert Marini, Milpitas resident, commented that citizens were over-taxed on sewer costs. He remarked on fire personnel at this meeting, driving inefficient fire trucks to City Hall.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

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

Mayor Esteves noted traffic problems where the carpool lane stopped on Highway 237 which he thought contributed to emissions, and asked what could be done about it. The consultant and the City Manager replied on Vehicle Miles Traveled, vehicle fleet, travel time, and other elements factored into the analysis of the amount of CO2. There would be a monitoring tool used by city staff for year by year progress of the Climate Action Plan.

Councilmember Gomez wanted to know how much gas tax contributed to the City now, and the Finance Director answered approximately \$1.2 million.

Vice Mayor Polanski asked about consequences if emissions in the City were not lowered to levels identified in the CAP. Staff replied there were no fines in the legislation as adopted, but that could always change. She opposed what the state had done, imposing more mandates, and was not in favor of an increase in the gas tax.

(2) Motion: to adopt Resolution No. 8252 adopting a Negative Declaration and approving the Climate Action Plan

Motion/Second: Councilmember Giordano/Councilmember Montano

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

3. Residential Development
Project at 375 Los Coches Lots
1 and 2 - Ordinance and
Resolution

City Attorney Mike Ogaz requested from Councilmembers an oral report of any campaign contributions from the developer of this project and none were reported.

City Planner Tiffany Brown presented a proposal for live-work units in concert with a new residential project in the City on a 2.7 acre property at Los Coches and Milpitas Blvd. in the Town Center Zoning District. The proposal was received from DRG Builders and Mr. Doyle Heaton. A text amendment was necessary in this area for the project, since “live-work” units were not presently a listed use in the Town Center zone. By asking the City Council to adopt an ordinance, the text amendment amending the municipal code would accomplish the change sought.

Councilmember Giordano inquired about Planning Commission review of the project, and she read the meeting minutes and asked about the vote on the project by that body.

Mayor Esteves viewed the slides of the current status of the site, and asked the difference in the style of buildings proposed compared to what was presently on site. Live-work units with commercial on the first floor and residential use above that would introduce a new look to the neighborhood. The Mayor inquired about 5% commercial in the building mix where 500 sq. ft. commercial was very small, and wondered what business would fit there. He asked detailed questions on layout of the mixed-use buildings, children, square feet, parking entry and exits. He referred to traffic, and remarks made by Council’s Transportation and Land Use Subcommittee in the past, about busy traffic intersection and how that would be addressed by a developer. The Mayor suggested a review of park in lieu fee amounts paid by the developer. City Manager Williams responded that every year, an appraisal was done for the average acre per land for those fees, and would need to be done again later this year.

Councilmember Gomez referred to the Council Subcommittee and past discussions of what would go on this particular site, after a long period of vacancy. He commended staff and the applicant to come up with the combination concept of commercial mixed in with residential.

Vice Mayor Polanski agreed with Mr. Gomez’ comments. This site had been under review for a long time. She noted that she had met with the developer on the project proposal. It was a unique concept in this City, with a good compromise. She noted there were walkways and crosswalks, noting the responsibility of parents to watch out for children at busy roads and intersections.

Councilmember Giordano was glad to hear the Planning Commission did approve this project, as she always cared to learn how the members voted. This was a true “infill” project, she felt. All came up with a good compromise in this project, and it should fit in with the neighboring new residential project behind it, recently approved.

Councilmember Montano stated overall this was a good project, and she liked the commercial aspect to the front units. It was compatible with recently approved new homes nearby. She liked this idea and the unique architecture. Maybe there could be more live-work units in other parts of City as well. The walking trail would be enhanced at the former section of Calaveras Road, and she requested a new sign added there.

Applicant Doyle Heaton along with representatives of DRG Builders and the architect came to the podium, and thanked city staff for coming up with this new concept. Mr. Heaton responded to Councilmember Montano that he would be pleased to add a sign or plaque at the trail. Architect Ed Novak remarked on the flexibility in the commercial space with lots of glass on storefronts.

Councilmember Montano inquired about a Home Owners Association, and how that would work. Mr. Heaton answered, with remedies based on the association’s Conditions, Covenants and Restrictions, as for all residences on site.

Mayor Esteves next opened the public hearing.

Eldon Shreves, Milpitas resident of 50 years, was the property owner at this site, and noted that his adult children lived in Milpitas, with his son active with the Spring Valley Fire Department. He was happy with the proposed use and the improvement of the site as recommended, so he was very much in favor of the project and urged a yes vote.

Robert Marini, Milpitas resident, was opposed to the project, and felt the right to vote was marginalized when more residents would be added, on sewer rates. Also, traffic would increase too much and cause an increase of water demand, another problem.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

(2) Motion: to waive the first reading beyond the title of Ordinance No. 38.808

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

City Attorney Ogaz read aloud the title of Ordinance No. 38.808 "An Ordinance of the City Council of the City of Milpitas Amending Title XI, Chapter 10, Sections 2, 5, 13, and 53 of the Milpitas Zoning Ordinance to Conditionally Allow Live-Work Units within the Town Center Zoning District, further Define Live-Work Units, Introduce Live-Work Unit Specifications, and Add the Live-Work Parking Requirements."

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

(3) Motion: to introduce Ordinance No. 38.808 related to addition of Live-Work units to the Zoning Code

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

(4) Motion: to adopt Resolution No. 8253 approving Lots 1 and 2 Project at 375 Los Coches and the Mitigated Negative Declaration

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

RESOLUTIONS

Four resolutions were adopted on the consent calendar.

CONTRACTS

Four items were approved on consent calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 9:14 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on May 21, 2013.


Mary Lavelle, Milpitas City Clerk