

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, June 4, 2013  
**Time (scheduled):** 6:00 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

---

**ROLL CALL** Mayor Esteves called the meeting to order at 6:30 PM. The City Clerk noted the roll.  
**PRESENT:** Mayor Esteves, Vice Mayor Polanski, and Councilmember Montano  
**ABSENT:** Councilmember Giordano. Councilmember Gomez was absent at 6:30 PM and arrived at 6:34 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 7:03 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 invited resident Rev. Edna Andres of United Methodist Church in San Jose and a Milpitas resident to provide the opening prayer.

**MINUTES** Motion: to approve meeting minutes of May 21, 2013 City Council meeting, as submitted  
Motion/Second: Vice Mayor Polanski/Councilmember Gomez  
Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

**SCHEDULE OF MEETINGS** Motion: to approve Council Calendars/Schedule of Meetings for June 2013, as amended  
Motion/Second: Vice Mayor Polanski/Councilmember Gomez  
Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

**PRESENTATION** Mayor Esteves presented the Youth Advisory Commission scholarship award to Cindy Wu, the first recipient of a \$500 scholarship to a graduating high school senior. Also at the podium with the Mayor were the Chair, Vice Chair and one member of the Youth Advisory Commission.

**PUBLIC FORUM** Two Fremont men, Steve Cho and Mr. Singh, representing July 4<sup>th</sup> parade committee came to extend invitation to the Mayor, Councilmembers and Milpitas residents to attend the parade in their community (not sponsored by the City of Fremont) themed “United We Stand” starting at 10:00 AM, for one mile with more information available at [www.fremont4th.org](http://www.fremont4th.org).  
Rob Means, 1421 Yellowstone, talked about global warming, and displayed comments from several websites.

Robert Marini, Milpitas resident, displayed a notice of sewer rate adjustments and complained of having no any written response to his April 30<sup>th</sup> letter to the City requesting information for the basis of fee calculations.

Carol Kassab, CEO of Milpitas Chamber of Commerce, congratulated the Mayor on his successful “State of the City” speech given last Thursday evening May 30 at the Community Center.

**ANNOUNCEMENTS**

Vice Mayor Polanski thanked the Mayor, staff and all who attended the well-done Memorial Day ceremony held on May 27 to remember those who were lost serving the country. The Children’s Theatre Alliance held its first successful fun run-walk event last weekend, and their next play will be presented at the Community Center in July.

Mayor Esteves announced that the Fil-Am Fiesta would be held on Saturday, June 8 at 2:00 PM at the Milpitas Community Center.

**ANNOUNCEMENT OF CONFLICT OF INTEREST**

None.

**APPROVAL OF AGENDA**

Motion: to approve the agenda, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Montano

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

City Attorney Mike Ogaz asked the Mayor and City Councilmembers if they had received any campaign contributions from any vendor or contractor on the consent calendar, and all replied no.

**CONSENT CALENDAR**

Motion: to approve the Consent Calendar (items noted with \*asterisk), as amended

City Manager Williams requested that staff wished to remove Item No. 10 (financial status report) from consent for an oral presentation.

Motion/Second: Councilmember Gomez/Councilmember Montano

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

- \* 6. May odor report Received the May 2013 odor report.
- \* 7. Accept Donation for Park Approved donation to Parks and Recreation of trees and a park bench at Murphy Park in honor of Ms. Kanwarjit Kang.
- \* 8. Approve Grant Funds for Police Department software Approved an appropriation in the amount of \$101,600 into the Police Department’s operating budget for the purchase of Computer Aided Dispatch (CAD) software, the entire cost of which will be reimbursed through Urban Area Security Initiative Grant.
- \* 9. Approve Fee Waiver Approved a fee waiver in the amount of \$1,500 to the Intergroup Central Office of Santa Clara County for its Alcoholics Anonymous Unity Day event on August 18, 2013.
- \*11. Adopt Resolution Adopted Resolution No. 8270 transferring a total of \$254.28 unclaimed checks, per the list of checks generated by the City’s Finance Department, to the General Fund.
- \*12. Adopt Resolution Adopted Resolution No. 8271 adopting the appropriations limit for Fiscal Year 2013-14.
- \*13. Adopt-a-Spot Agreement with Lions Club Authorized the City Manager to execute the Adopt-a-Spot Agreement with the Milpitas Executive Lions Club to adopt the Alviso Adobe Park for one year from June 1, 2013 to May 31, 2014.

- \*14. Amendment No. 1 to Agreement with RMC Water Authorized the City Manager to execute Amendment No. 1 to the consultant services agreement with RMC Water and Environment, Inc. for Utility Engineering support by increasing the compensation in the amount of \$88,000 for a total contract not-to-exceed amount of \$176,000.
  
- \*15. Amendment No. 3 to Agreement - Premier Recycle Authorized the City Manager to execute Amendment No. 3 to the Non-Exclusive Collection, Transportation, and Recycling of Debris Agreement with Premier Recycle.
  
- \*16. Amendment No. 1 to Agreement with West Yost Authorized the City Manager to execute Amendment No. 1 to the consultant services agreement with West Yost & Associates for technical support services for the Santa Clara Valley Transportation Authority-Bay Area Rapid Transit construction project by increasing compensation in the amount of \$20,000, for a total contract not-to-exceed amount of \$38,000 for Projects No. 4265 and No. 7100.
  
- \*17. Award Bid for printing to Fricke-Parks Press Awarded the bid for printing of the Recreation’s Activity Guide publication to Fricke-Parks Press for one year with an annual option to renew for four more years for the annual not-to-exceed amount of \$7,595. Total contract value is \$37,975, if options are exercised. Authorized the City Manager to execute the contract and exercise annual renewal options with up to 5% price increases, per contract terms, without further City Council approval, subject to appropriation of funds in the option years.
  
- \*18. Approve purchase of Badger Water Meters Approved the purchase of assorted Badger automatic reporting water meters and equipment from National Meter and Automation for the not-to-exceed amount of \$27,953.32.

**PUBLIC HEARINGS**

- 1. Traverse Residential project at 569 – 625 Trade Zone Blvd. City Attorney Ogaz asked if Council had received any contribution from the developer of this project and all replied no. Councilmember Gomez recommended that this question be asked only once per agenda, and Mr. Ogaz said he could do that for future meetings.
 

Assistant City Planner Cindy Hom presented the proposal for a new 206-unit residential development on a 12.5 acre site, termed “Traverse” by Warmington Homes in the Transit Area Specific Plan section of Milpitas. The Planning Commission recommended the project for approval by Council, following its public hearing held on May 8.

Two exceptions to the Transit Area Specific Plan requirements were requested, for additional parking on Momentum Drive and for an 8 feet sidewalk, rather than 10 feet in front of buildings. The developer offered to provide public art at a public park, as a public benefit, worth \$100,000 for those two exceptions.

Councilmember Montano repeated a comment she made at a previous Council meeting, to ask staff to look into public art requirement by ordinance, as done by some other cities.

Mayor Esteves asked the planner how the staff was able to balance the exceptions desired along with the public benefit offered. Staff had done so, meeting the requirement of the Planning Commission for most density possible in the project, which the developers met while offering a very desirable new amenity (art).

Councilmember Gomez asked staff about the new community park at the site, for a multi-use park. Staff replied that details were not confirmed yet, and would need to go to the Parks, Recreation and Cultural Resources Commission for input on how to develop the park. Mr. Gomez thanked Warmington Homes for the vast improvement in its plan, vs. the first rendition, and for its investment in the community at this specific site.

Councilmember Montano asked how residents of the new development would get to the new BART station. Staff explained the walking path across Trade Zone Boulevard. Ms. Montano also sought assurance about the required clean-up and no contamination from oil

due to the former auto wrecking yard at that property, the long-standing business use at this location.

Mr. Greg Mix of Warmington Homes noted that disclosures to home purchasers would be necessary about the long-time auto use on site.

The Mayor asked staff to explain the density transfer, as it was the first time it was done in Milpitas and to explain what the guidelines were. He asked about 33 protected trees, and acknowledged that more will be planted. Staff noted 483 new trees would be planted. He asked about mitigation for an environmental plan that covered south part of County.

Next, Mayor Esteves asked the project applicant to the podium.

Greg Mix of Warmington Homes in San Ramon looked forward to building this beautiful new project in Milpitas, and then he responded to several questions from the Council.

The Mayor asked details about roofs on the units to be built and the architect explained flat roofs, collection of rainwater, and re-use of that water via a white membrane roof.

Then Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, opposed the project due to the resulting population increase, the number of parcels, and the loss of the right to vote on increased taxes which gets marginalized in his view.

Rob Means, 1421 Yellowstone resident, sought as the Mayor did, to be clear of the balance of the project for public benefit. He wanted to know about pollution clean-up and costs. He was disappointed about the density compromise, where more units should be built at the maximum allowed next to new transit.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

Vice Mayor Polanski asked the City Manager to explain the Community Facilities District and purpose to pay for recurring City operational costs, and Mr. Williams explained the new CFD to be established for homeowners.

Mayor Esteves inquired further about these issues: the park, portion of the park paid by developer, the amenities, density averaging, numbers required in TASP, the goal of 7,000 new housing units and response to the City Manager's comments on federal (FTA) funding agreement based on expected BART ridership.

(2) Motion: to adopt Resolution No. 8267 approving the Traverse residential development project by Warmington Homes for 206 new residential units on a 12.5 acre site in the Transit Area Specific Plan's Trade Zone/Montague Sub-District location

Motion/Second: Councilmember Gomez/Vice Mayor Polanski

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

At 9:04 PM, Council took an announced break and returned at 9:16 PM.

2. Nitrogen Gas Franchises

Chief Building Official Keyvan Irannejad introduced the request for updates to two franchise agreements with two companies for provision of nitrogen gas to commercial customers in Milpitas. These were for existing pipelines already installed underground in the City. Nitrogen gas was currently provided to 21 businesses within the City.

Mayor Esteves asked about liability and risk, if any, to the City with a concern for safety. Staff replied that all requirements were met by the franchised providers.

The Mayor next opened the public hearing for comments and none were heard.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

The Mayor asked the City Clerk if any written protests or comments were received, and she answered no.

City Attorney Ogaz read aloud the titles, as follows:

Ordinance No. 220.2 “An Ordinance of the City Council of the City of Milpitas Amending Chapter 19 of Title III of the Milpitas Municipal Code Regarding Non-Exclusive Franchise for Nitrogen Gas Facilities.”

Ordinance No. 221.1 “An Ordinance of the City Council of the City of Milpitas Amending Chapter 17 of Title III of the Milpitas Municipal Code Regarding Nitrogen Gas Franchise (Air Products)”

Ordinance No. 223.2 “An Ordinance of the City Council of the City of Milpitas Amending Chapter 18 of Title III of the Milpitas Municipal Code Regarding Nitrogen Gas Franchise (Praxair, Inc.)”

(2) Motion: to waive the first readings beyond the titles of Ordinances No. 220.2, No. 221.1 and No. 223.2

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

(3) Motion: to introduce Ordinances No. 220.2, No. 221.1 and No. 223.2

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

(4) Motion: to establish June 18, 2013 as the Council meeting date to adopt 3 ordinances and for approval of the 2 Franchise License Agreements with Air Products and Praxair

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

3. Levy Assessments for  
LLMD No. 98-1 Sinclair  
Horizon

CIP Manager Steve Erickson introduced the Landscaping and Lighting Maintenance Assessment District No. 98-1 at Sinclair Horizon subdivision. Each year, a public hearing was required to review assessments charged to property owners for various public improvements. Photos were displayed to show some of the landscape and maintenance in that neighborhood. \$36,591 was the total amount to be assessed in the coming fiscal year.

Mayor Esteves opened the public hearing.

Rob Means, 1421 Yellowstone resident, said he rode his bicycle on that path in Sinclair Horizon, and this was an example where a public-private partnership worked well.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

(2) Motion: to adopt Resolution No. 8268 approving the annual Engineer's Report, confirm diagram and assessment, and order levy of assessments for FY 2013-14 for Landscaping and Lighting Maintenance Assessment District No. 98-1

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

4. Levy Assessments for  
LLMD No. 95-1 McCarthy  
Ranch

CIP Manager Steve Erickson introduced the Landscaping and Lighting Maintenance Assessment District No. 95-1 at McCarthy Ranch. Each year, a public hearing was required to review assessments charged to property owners for various public improvements. Photos were displayed to show some of the maintenance, installation and repair work in that area. \$276,676 was the total amount to be assessed in the coming fiscal year.

Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, commented that the basis for calculating fees was displayed for this district (per slide displayed) so he asked why not for water/sewer costs.

Rob Means, 1421 Yellowstone resident, queried why Capital Improvement Program costs were part of the budget for the LLMAD. Mr. Erickson said it was to improve, replace, and maintain infrastructure at the site, not for the specified CIP projects.

(1) Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

(2) Motion: to adopt Resolution No. 8269 approving the annual Engineer's Report, confirm diagram and assessment, and order levy of assessments for FY 2013-14 for Landscaping and Lighting Maintenance Assessment District No. 95-1

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSENT: 1 (Giordano)

## **UNFINISHED BUSINESS**

### **5. Strategic Planning Process**

City Manager Tom Williams introduced Dr. Shawn Spano, a PhD. from San Jose State University and head of consulting company Public Dialogue Consortium which had been conducting processes with local governments for strategic planning. He walked through the strategic plan design concept and an overview including four Phases, seeking input from the Mayor and City Council.

Councilmember Montano asked if he planned to meet with individual Councilmembers. Dr. Spano would love to meet with members, and it was on his list as a possibility.

Councilmember Gomez asked City Manager the cost of this process. Mr. Williams responded that \$19,000 was the initial phase cost and he would bring back the next scope to the City Council for approval. For all of the Phases described, if implemented, the total cost for the strategic planning process would be approximately \$150,000.

Vice Mayor Polanski wanted to know how long would the process take start to finish. Dr. Spano replied, it depends. When engaging the community, it would take a little longer but generally completed within one year. Council and Dr. Spano engaged in dialogue about how to engage the very diverse population of the City of Milpitas.

Mayor Esteves asked about the \$150,000 “price tag” and what the community would get for that.

City Manager Williams told the City Council that one on one meetings can be scheduled with Shawn Spano to get started, as he had recently done with all department heads, members of the Senior Management team. Use of cable television, webstreaming and use of the website would be utilized for more outreach to community.

The Mayor invited speakers from the audience.

Robert Marini, Milpitas resident, said this seemed to be an overlap with the work of City Commissions.

### **REPORT of COMMISSION**

One item was approved on consent calendar.

### **NEW BUSINESS**

Two items were approved on consent calendar.

### **10. Financial Status Report**

Finance Director Emma Karlen provided an oral report of the current financial status of the City for the past nine months, through March 31. One category of revenue that was higher than budgeted, for example, was sales tax at \$20.51 million, for FY 1012-13.

Mayor Esteves asked about car sales and sales tax, use tax, grocery stores and into what business segment those funds fell. Councilmember Gomez also asked for sales tax revenue information that, in addition to car sales tax, the Finance Director explained that was confidential information.

The Mayor thanked Ms. Karlen for her oral report on the city’s status.

### **RESOLUTIONS**

Two Resolutions were adopted on consent calendar.

### **BID & CONTRACTS**

Five items were approved on consent calendar.

**DEMAND**

One item was approved on consent calendar.

**ADJOURNMENT**

Mayor Esteves adjourned the meeting at 10:28 PM.

**The foregoing minutes were approved by the Milpitas City Council as submitted on June 18, 2013.**

  
\_\_\_\_\_  
Mary Lavelle  
Milpitas City Clerk