

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, June 18, 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 6:00 PM. The City Clerk noted the roll.

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

ABSENT: Councilmember Montano was absent at 6:00 PM and arrived in Closed Session at 6:10 PM.

City Manager Tom Williams was absent, so Finance Director Emma Karlen served in his place at the City Council dais.

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

No announcement out of Closed Session.

PLEDGE

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

INVOCATION

Pastor John Haas, of Mount Olive Lutheran Church in Milpitas, was welcomed by Councilmember Debbie Giordano and then provided the invocation prayer.

MINUTES

Motion: to approve meeting minutes of May 14, 2013 City Council meeting, as submitted and to be reviewed by City Clerk for edits as needed to reflect a comment by Councilmember Giordano seeking a 50% pay increase for crossing guards (edit requested by Councilmember Montano)

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

Motion: to approve meeting minutes of June 4, 2013 City Council meeting, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Montano

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

SCHEDULE OF MEETINGS

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

Councilmember Montano stated there would be no Library Advisory Commission and no Sister Cities Commission meetings in July.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

PRESENTATION

Mayor Esteves proclaimed the month of July as “Parks and Recreation Month” for 2013. The proclamation was accepted by youngsters Zoe and Lucas Guzicki of Milpitas, whose family participated in many Recreation programs.

Next, Mayor Esteves presented 2012-13 Community Champion Awards from Recreation Services to nine local companies that provided donations and support for Recreation programs over the past year. Representatives from seven organizations were present to accept the plaques from the Mayor and Recreation Supervisor Jaime Chew. Companies/organizations in attendance were: Mission Peak Company, Milpitas Police Officers Association, Crowne Plaza Silicon Valley, Unicorn Dance band, Abbyy Corp., South Bay School of Music Arts, and Milpitas Parks & Recreation Foundation.

Finally, Mayor Esteves recognized award winning students from Milpitas in the 2013 Santa Clara Valley Science and Engineering Fair in various categories. Students Allen Cheung, Jonathan Liu, and Mark Shacker were present to receive their awards.

PUBLIC FORUM

Robert Marini, Milpitas resident, spoke about water and sewer rate information on the City’s website. He displayed a chart overhead with fee information.

Carol Kassab, CEO of Milpitas Chamber of Commerce, announced that next week the Chamber would host its Annual Awards dinner to honor the Businessperson of the year, Corporate Citizen of the Year, and Chamber Ambassador, at Sheraton Hotel in Milpitas on Thursday, June 27, 2013.

ANNOUNCEMENTS

Councilmember Gomez requested to adjourn the meeting in memory of three residents who had recently passed away: Mabel Mattos, Joie and Angelo Gill.

Vice Mayor Polanski announced that the 60th Anniversary of the City (upcoming in January 2014) new Council subcommittee would have its first meeting Thursday, June 27 in Committee Room.

Councilmember Montano reported that she had attended the Fil-Am Fiesta a few weeks ago, which was quite a multi-cultural event, and it was very nice.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Ogaz asked City Councilmembers if they had any personal conflicts of interest or reportable campaign contributions and the response from all members was 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 Montano requested removal from consent calendar of the following three items: No. 9 (tax sharing agreement with SGI), No. 10 (contract with O’Grady Paving) and No. 18 (continue temporary Building Inspector for Lyon Apartments construction project).

Mayor Esteves inquired about agenda item No. 15 (agreement with Quality Assurance Engineering dba CEL). He felt that \$500,000 was a large amount and wondered why that was a contract that did not go out for bids. CIP Manager Steve Erickson responded that the City had done business long-term with this consultant firm and it was valuable to continue working with CEL. The City Attorney confirmed that a consultant agreement did not require formal bidding, and Mr. Erickson said staff used a request for proposals process for this type of work.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of:

AYES: 5

NOES: 0

- * 1. Commission Appointments Confirmed the following Mayor's appointments:
- Bicycle Pedestrian Advisory Commission
Re-appointed Kristal Caidoy as Alternate No. 2 to a term that will expire in August 2015.
- Emergency Preparedness Commission
Re-appointed Betty Reutter as Alternate No. 1 to a term that will expire in June 2015.
- Library Advisory Commission
Re-appointed Marie Pham as a regular member to a term that will expire in June 2015.
Re-appointed Nonie McDonald as Alternate No. 2 to a term that will expire in June 2015.
- Parks, Recreation, and Cultural Resources Commission
Re-appointed Stephanie Fong as a regular member to a term that will expire in June 2016.
Appointed Gerome Guerrero as a regular member to a term that will expire in June 2014.
Appointed Bill Singh as Alternate No. 1 to a term that will expire in June 2014.
Newly appointed Satish Bansal as Alternate No. 2 to a term that will expire in June 2015.
- * 2. Donation to Fremont 4th of July parade Approved Mayor's request to participate in Fremont's 4th of July parade and to donate \$200 to Fremont 4th of July Parade organization.
- * 5. Sister Cities By-Laws Approved a change in Section 6 of the Sister Cities Commission's By-laws to state, "The Sister Cities Commission shall hold regular meetings on the fourth Thursday of each month at 6:00 p.m." which changed regular meeting time from 7 PM to 6 PM start.
- * 7. Pool Covers funding Accepted the PG&E incentive and Association of Bay Area Government's grant for the purchase of new swimming pool covers at the Milpitas Sports Center. Assigned the PG&E incentive to Knorr Systems in the amount of \$16,068.73.
Appropriated the ABAG Plan Risk Management Program grant in the amount of \$16,068.72 to the Milpitas Recreation Services Division budget.
- * 8. Adopt 3 Ordinances Waived second readings and adopted the three Ordinances No. 220.2, No. 222.1 and No. 223.2 for amendments and authorized execution of the agreements with Air Products and Praxair, on the effective date of the ordinances.
Authorized the City Manager to execute the Franchise License Agreements with two companies, Air Products and Praxair, on the effective date of the ordinances.
- *11. Resolution Adopted Resolution No. 8275 creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee, and approved the Memorandum of Agreement creating the Santa Clara County Recycling and Waste Reduction Technical Advisory Committee.
- *12. Resolution and other actions for District 2
- 1) Approved and authorized execution of a Subdivision Improvement Agreement, on-site private utilities covenant agreement, and right-of-way encroachment permit agreement.
 - 2) Approved four Final Maps (Tracts 10141, 10145, 10148, and 10149) with the recommended street names.
 - 3) Approved the Public Improvement Plans No. 2-1165 and Penitencia Creek Trail Improvement Plans.
 - 4) Approved the temporary closure of McCandless Drive.
 - 5) Adopted Resolution No. 8276 annexing properties known as "District 2" project by Taylor-Morrison, LLC into Community Facility District 2008-1.
- *13. Authorize Bids for Cathodic Protection systems Approved the plans and specifications for Projects No. 7115, No. 6115 and No. 3706, and authorized advertisement for bid proposals.

- *14. Amendment No. 2 to Agreement with ACCO Authorized Amendment No. 2 to the agreement with ACCO Engineered Systems and authorized the City Manager to execute the amendment from June 30, 2013 to February 17, 2014 for the not-to-exceed amount of \$21,144, for a total contract value of \$204,854 for City Hall Heating, Ventilation, and Air Conditioning maintenance and repair.
- *15. Agreement with Quality Assurance Engineering Approved and authorized the City Manager to execute an agreement with Quality Assurance Engineering, Inc. (dba CEL) in the amount of \$500,000, for various Capital Improvement Program (CIP) projects, subject to approval as to form by the City Attorney.
- *16. Workers Compensation Insurance Authorized renewal of contract and authorized the City Manager to pay Brown & Brown of California the premium rate of \$113,631; and, approved acceptance of Safety National Casualty Corporation to provide for the City's excess workers' compensation insurance for FY 2013-14.
- *17. Approve Eight Contracts for Recreation Services Vendors for FY 2013-14 Approved contracts between the City of Milpitas Recreation Services and the following eight vendors for annual classes and camps not to exceed their appropriate dollar amounts for Fiscal Year 2013-14:
- 1) Mad Science of Bay Area – not to exceed \$22,500.00
 - 2) Barry Poole (tennis instruction) – not to exceed \$40,000.00
 - 3) Irene Saxe and Music Together – not to exceed \$28,000.00
 - 4) Noteworthy Music – not to exceed \$35,000.00
 - 5) South Bay Scholars Basketball Camps – not to exceed \$30,000.00
 - 6) Jensen Performing Arts – not to exceed \$25,000.00
 - 7) Communication Academy – not to exceed \$27,500.00
 - 8) Tatsiana Lahunovich (fitness) – not to exceed \$25,000.00
- *19. Amendment No. 2 to Agreement with HF&H Authorized the City Manager to execute Amendment No. 2 to the consultant services agreement with HF&H Consultants for technical support services for solid waste rate review by increasing compensation in the amount of \$28,446, for a total not-to-exceed amount of \$236,696.
- *20. Amendment No. 3 to Agreement with HMH Eng. Authorized the City Manager to approve Amendment No. 3 to the agreement with HMH Engineers for one year extension from June 30, 2013 to June 30, 2014 for the Dixon Landing Road/I-880 Interchange Right of Way project with no change in contract amount.
- *21. Agreement with BAE Urban Economics for General Plan Housing Element Approved the budget appropriation request of \$113,719 from the Milpitas Housing Authority to fund the General Plan Housing Element Update; and authorized the City Manager to execute a consulting services agreement with BAE Urban Economics to prepare the General Plan Housing Element in an amount not to exceed \$113,719.
- *22. Amendment No. 2 to Agreement with Tiburon Inc. Approved Amendment No. 2 to the agreement with Tiburon Inc. for a one year extension of services for software support and maintenance for the Police Records Management System for the period July 1, 2013 to July 1, 2014, for the annual not-to-exceed amount of \$52,828.

REPORTS

Two items were approved on consent calendar.

3. Resolution Supporting Library Tax Ballot Measure

Councilmember Montano asked for the City Council's support of an upcoming special ballot measure for the Milpitas Library, which would be the continuance of a library services tax. It will be on a special all-mail ballot for Milpitas and other cities in the county Library Joint Powers Authority, in August.

Councilmember Montano asked Milpitas Librarian Linda Arbaugh to describe the tax, the current version of which expires in 2015. Councilmember Montano wanted Milpitas to join other cities whose Councils had adopted a resolution of support. Without funding from the measure, the Library would have to make major cuts in all areas of service.

Mayor Esteves stated that the Cities Association of Santa Clara County recently endorsed the resolution unanimously supporting the libraries.

Councilmember Giordano responded that typically she was anti-tax, but on this particular one, this was an extension of an existing tax so voters were asked to just support what was already there now. So she supported the resolution. Mrs. Arbaugh confirmed there would no increase in tax.

Vice Mayor Polanski asked the librarian to explain the voting process since it was strictly by mail ballot only, and Mrs. Arbaugh responded.

Motion: to adopt Resolution No. 8272 supporting the Santa Clara County Library District Community Facilities District Special Tax Measure A on the August 27, 2013 ballot

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

4. Community Advisory Commission – Tree Program

Principal Planner Felix Reliford, staff liaison to the Community Advisory Commission, described the request from CAC’s “Green Tree Subcommittee” recommending a new tree-planting program for the city. The three-member subcommittee met and presented to the entire Commission their plan at the beginning of June, recommended to the City Council for approval. They requested amendment of the Commission’s work plan to adopt and add the tree program.

He introduced members of the CAC subcommittee and asked Commissioner Jacqueline Holland to make a presentation. The group sought \$40,500 allocation for the program to start with an intention to seek grant funds. She referred to the City’s adopted Climate Action Plan, including the goal to plant two trees per home, while they also urged a tree planting day during the City’s 60th anniversary. A suggestion was made to provide a new tree at every sale of a home in Milpitas.

Mr. Reliford concluded by confirming the recommendation to the City Council.

Councilmember Gomez thanked staff and Commissioners, and asked about the issue of trees on private property versus public parks. Mr. Reliford replied that the program could be scaled down, in terms of numbers. They could start with city parks and other public lands, noting that new developments were required to provide landscaping including trees. Mr. Gomez inquired about use of developer-paid park in lieu fees. Mr. Reliford explained in part what such fees could be applied towards, such as trees on park lands or other city facilities, but not for street trees all over the City. The program total costs were estimated at \$60,000 while Commissioner Ray Maglalang said the subcommittee was seeking \$40,000 allocated by the City Council to start tree planting.

Vice Mayor Polanski had no objection to planting trees in the City. She asked what the expected costs were to maintain trees once planted, as that would be important to know. She did not want to encumber a homeowner with a duty to maintain a tree, if forced to put on their property. The cost to plant a tree was one thing, and the need to know long-term maintenance costs existed. Also, what about street medians? It was a good idea to have this program as part of the CAC’s work plan as a laudable goal.

Mayor Esteves commented this idea was not something new to the City. When he was first Mayor, he recalled that planting 500 trees was a goal.

Councilmember Montano felt the bottom line was to beautify the city with trees. She was concerned about watering and irrigation. The plan could be to map out where trees would go, starting maybe in the public right-of-ways. She also recommended adding ivy on soundwalls in addition to street trees. She did not agree with making new homeowners plant trees, forcing them to accept, and also recommended replacement of trees along Dixon Road.

Councilmember Giordano recalled the City began a re-foresting project, into six or eight areas with the goal to beautify the City. She agreed with Ms. Montano to delete the recommendation about a tree provided at point of sale of any home. She agreed with the concept of sending this plan back to staff to investigate the details and recommend a funding plan with more research needed. She thanked Commissioners for their hard work.

Councilmember Gomez asked staff and Commission to come back with more of the details known.

Mayor Esteves thanked the Commission and the subcommittee. This was a favorite project of his and was a huge undertaking. The impact would be even more, would be magnificent, when implemented. It involved education for residents to maintain the trees also. He supported the project and wanted to proceed ahead. All the questions raised at this meeting were part of planning. He saw a value for generations to come.

Motion: to amend the Community Advisory Commission's Work Plan 2013-14 to include Tree Planting Program, and direct staff to support it and come back to Council with possible funding sources, and delete item no. 5 (requirement for new tree upon the sale of a home) from the plan proposal

Motion/Second: Councilmember Gomez/Councilmember Giordano

Mayor Esteves invited comments.

Robert Marini, Milpitas resident, said if the program was maintained by the City, there would be increased cost to residents. In north Milpitas near the high school, on west side of Arizona, the street was maintained with brown leaves and trash.

Mayor Esteves called for the vote on the motion above.

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

NEW BUSINESS

6. Report from Santa Clara Valley Water District

CIP Manager Steve Erickson introduced representatives from the Santa Clara Valley Water District who would give an overview presentation of current projects and activities of the District within Milpitas.

Mr. Richard Santos, elected District Director for Alviso and Milpitas, noted he had met with Mayor Esteves a few months ago. Then, the Mayor suggested a presentation to Council to update elected officials. He introduced the District's Government Relations Manager Rick Callendar. Mr. Callendar gave a presentation with powerpoint information on many projects ongoing in the City of Milpitas in conjunction with Santa Clara County, Santa Clara Valley Transportation Authority, and Bay Area Rapid Transit.

Councilmember Montano asked how many percolating ponds there were to replenish groundwater and the answer was there are no recharge ponds. She asked about creeks located near the planned BART station and sought clarification about those would be protected, and not flood the area around the station. Ms. Montano asked about the purpose of water from the new Water Purification Center and district staff said it was not direct potable water but would be used for irrigation.

Mayor Esteves asked about recreational trails and plans. Mr. Callendar responded that the District worked with cities on joint agreements for trail use, upon request. Ms. Norma Camacho from the District explained the process for joint use agreements with cities, and she was looking forward to a new grant award.

The Mayor further asked about parcels being taken out of the defined flood plain. He wanted to know if they were residential, so the residents would no longer need flood insurance. District staff replied that yes, some residences would be removed from that area, working on the FEMA process, once the flood protection work was done.

Mayor Esteves asked how the District prioritized projects. Staff discussed criteria in the Capital program. District staff also looked at cost-sharing, partnerships, and ranked all projects on annual basis.

Mr. Santos thanked the Mayor and City Council, while Mayor Esteves thanked Santa Clara Valley Water District staff for the information provided.

Motion: to note receipt of the oral report from Santa Clara Valley Water District

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

RESOLUTIONS

Two Resolutions were adopted on consent calendar.

9. Resolution

Councilmember Montano wanted clarification on what exactly the tax sharing plan was with this company. Finance Director Emma Karlen explained that the City was approached by SGI (Silicon Graphics Inc.) about moving its headquarters to the City of Milpitas, and sought a tax sharing agreement. This would mean sharing tax revenues up to 50% of property tax, transient occupancy (hotel) tax and use tax for five years.

Councilmember Montano asked what the benefit was. Staff explained the City would be gaining, since the company was not here now. The city would get more tax revenue if SGI moved to Milpitas.

Councilmember Gomez wanted to know total revenues. Ms. Karlen had an estimate from the company, so that \$25,000 was a very rough estimate on possible revenue from the tax sharing. SGI had 210 employees it would move here.

Councilmember Giordano asked if the company approach the City or the other way around. Ms. Karlen said the company approached the City.

Mayor Esteves favored this program, to assist a company with coming to Milpitas since they were bringing jobs and workers to the City. There was a need to be competitive with worldwide marketplace.

Next, the Mayor invited speakers from the audience.

Robert Marini, Milpitas resident, asked what happened after five years, when the agreement ended. The Mayor responded that the company would pay all the taxes.

Motion: to adopt Resolution No. 8273 authorizing the City Manager to negotiate and execute a Tax Sharing Agreement with SGI, subject to approval as to form by the City Attorney, for the sharing of up to 50% of Property, Use and Transient Occupancy Taxes generated by SGI in Milpitas and allocated to the City of Milpitas for a period of 5 years

Motion/Second: Vice Mayor Polanski/Councilmember Montano

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

10. Resolution

Councilmember Montano was curious how the City contracted with different companies to do streets work. Her view was that when some streets were paved, after the work, they

did not look that great. She about benchmarks or a system, along with a list of companies to do business with.

Transportation Engineer Steve Chan explained that the City used the invitation to bid process, per specifications. The City awarded contracts to the lowest responsible bidder, which must construct according to specifications. One year to correct anything needed, if defective, after any project was initially accepted.

Mayor Esteves asked about the type of street work. Mr. Chan explained that the street would not be removed and replaced; rather it would be slurry sealed and cape sealed.

Motion: to adopt Resolution No. 8274 authorizing the City Manager to award and execute a construction contract with O’Grady Paving, Inc. for Street Resurfacing Project 2014, Street Cape and Slurry Seal, Project No. 3412, No. 4254 and No. 4268, in the amount of \$1,649,128; and, to authorize staff to execute change orders for the projects provided that the change orders do not exceed established construction contingency amount of \$250,000 for the project

Motion/Second: Councilmember Montano/Councilmember Gomez

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

CONTRACTS

Nine items were approved on consent calendar.

18. Extend Temporary Building Inspector

Councilmember Montano had removed this item from consent calendar, stating she thought the developer was going to pay the cost for the temporary building inspector and requested confirmation of that. Chief Building Official Keyvan Irannejad came to the podium to respond, stating affirmatively that the developer would in fact continue to pay for the temporary assigned project-specific building inspector for Lyon Apartments.

Motion: to approve developer Lyon Communities’ request to continue with employment of one dedicated building inspector for an additional month ending July 31, 2013, and approve a budget appropriation of \$11,720, less the administrative fee, into the Building and Safety Department

Motion/Second: Councilmember Gomez/Vice Mayor Polanski

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

ADJOURNMENT

Mayor Esteves adjourned the meeting at 9:13 PM in memory of Mabel Mattos, Joie and Angelo Gill.

The foregoing minutes were approved by the Milpitas City Council as submitted on August 6, 2013.



Mary Lavelle
Milpitas City Clerk