

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Meeting of Milpitas City Council
Date: Tuesday, September 17, 2013
Time: 7:00 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 at 7:00 PM.

CLOSED SESSION

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

Councilmember Gomez was absent from Closed Session, due to a conflict of interest he had with the litigation matter (re: City of San Jose).

City Council then convened in Open Session at 7:04 PM.

ANNOUNCEMENT

None.

PLEDGE

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

INVOCATION

Councilmember Montano read a bible passage as invocation.

MINUTES

Motion: to approve meeting minutes of September 3, 2013 City Council, as submitted

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedule of Meetings for September and October 2013

Councilmember Giordano reported she would attend a special Terrace Gardens Board closed session meeting on Thursday at 12:00.

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

PUBLIC FORUM

Dan Bobay, President of the Milpitas Unified School District Board of Education, requested support for students and local schools by seeking the City Council/Economic Development Corporation's sale of city-owned McCandless property to the school district. Its intent was to build a new school in the Transit Area, where the City was adding thousands of new families and residents. He referred to a vote of the Milpitas Oversight Board in support of amending the list of properties. Mr. Bobay specifically asked the City Council to place this topic on its next meeting agenda for discussion in order to remove the property from the list and standstill agreement. The School District could not wait two to three years for the lawsuits regarding the former Redevelopment Agency to be resolved.

Mayor Esteves reported that City Manager Tom Williams had already told him he planned to place this matter on the Council agenda.

Councilmember Gomez wanted to confirm it would be discussed in open session, not closed. City Manager Williams responded yes, if that was what the City Council wanted, and that it most likely would be for the October 15 meeting.

Karen Kolander of the Milpitas Food Pantry thanked the City for extending its lease for another year to continue the Food Pantry services to those in need. Rent anywhere else was going to price her organization out of the market, here in Milpitas and South Bay. She was seeking to partner with another agency to save future expenses, including rent.

Robert Marini, Milpitas resident, referred to a past lawsuit and costs. He felt there was a need for liability insurance against the City Councilmembers. If there was a loss of taxpayer funds, the cost would have to come out of Council salaries. He asked to stop spending money for a consultant to tell them what their goals were. He sought compliance by the Council with the laws of the state of California, as was required for sewer rate calculations.

Russ Barstadt, Milpitas resident and PTA volunteer parent, expressed gratitude for placing item on future agenda that Mr. Bobay requested.

ANNOUNCEMENTS

Mayor Esteves would adjourn in memory of former Milpitas Mayor Mr. Richard B. Taylor, who passed away on this date.

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 to both was none.

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Tom Williams requested to remove Item No. 7 (Resolution for contract amendment for janitorial service) from agenda, at staff's request.

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 submitted

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

* 2. Spanish/Mexican Signs for Alviso Adobe Park

Approved the Parks, Recreation and Cultural Resources Commission recommendation for the two preferred options for installation of Spanish/Mexican displays and signs at the Alviso Adobe Park.

* 3. Commission Appointments

Approved the following Commission appointments and re-appointments, per Mayor's recommendations:

Bicycle Pedestrian Advisory Commission:

Re-appointed Jose Leon as a regular member to a term that will expire in August 2016.

Library Advisory Commission:

Re-appointed Hellie Mateo as Alternate No. 1 to a term that will expire in June 2015.

Sister Cities Commission:

Re-appointed Roselda Mateo as a regular member to a term that will expire in Sept. 2016.
Re-appointed Peter Chang as Alternate No. 2 to a term that will expire in September 2015.

Youth Advisory Commission:

Re-appointed Sabina King and Sahil Sandhu as regular members to terms that will expire in September 2014.

Newly appointed Riane Abaya as Alternate No. 2, Jacqueline Ajero as Alternate No. 3 and Clare Sern as Alternate No. 4 to terms that will expire in September 2014.

- * 4. Adopt Ordinance No.198.4 Waived the second reading and adopted Ordinance No. 198.4 increasing maximum payout from \$250 to \$500 per Bingo game, authorized per California Penal Code Section 326.5.
- * 5. Three Resolutions for Montague Village project
 - 1) Adopted Resolution No. 8295 approving the Subdivision Improvement Agreement between the City of Milpitas and SCS Development Corporation for Final Tract Maps No. 10060 and No. 10061 (Montague Village Townhomes and Amalfi Apartments projects), approve Final Tract Maps No. Tracts 10060 and No. 10061 with the recommended street names, and approve Public Improvement Plans 2-1172 and 2-1164 for construction of public improvements as part of Final Tract Maps No. 10060 and No. 10061.
 - 2) Adopted Resolution No. 8296 annexing real properties located within Final Tract Maps No. 10060 and No. 10061 into Community Facility District 2008-1 (Annexation No. 4).
 - 3) Adopted Resolution No. 8297 of Intention to Establish Community Facilities District No. 2013-1 for the Milpitas Transit Area Piper/Montague Subdistrict and set the public hearing on November 5, 2013.
- * 6. Resolution 76 Gas Station Adopted Resolution No. 8298 granting initial acceptance of the 76 Gas Station located at 190 W. Calaveras Boulevard, Project No. 2555, subject to a one-year warranty period and reduction of the faithful performance bond to \$12,500.
- * 7. Resolution Amending Agreement with UBS This item was removed from the agenda.
- * 8. Resolution for Contract with A Plus Painting Adopted Resolution No. 8299 authorizing the City Manager to award and execute a construction contract with Michael Dovgan doing business as "A Plus Painting" for 2013 Soundwall Renovation, Project No. 4267 in the amount of \$81,720.
Authorized the Public Works Director to execute change orders for 2013 Soundwall Renovation, Project No. 4267 for cumulative contingency amount not to exceed \$12,000
- * 9. Resolution for Amendment No. 8 with ThyssenKrupp Adopted Resolution No. 8300 to approve Amendment No. 8 to the agreement with ThyssenKrupp Elevator Corporation for the Platinum Maintenance Elevator Service in the amount of \$26,668.72 and for a retroactive period from July 1, 2013 to June 30, 2014; and, authorized the City Manager to extend agreement terms on an annual basis for the next three years with an annual increase of no more than 3.5% per year, without further Council action, except for the appropriation of funds.
- *10. Amendment No. 1 to Agreement Dr. H. Michaels Approved Amendment No. 1 to the agreement with Dr. Howard Michaels to extend the term of his current agreement with the City from October 1, 2013 to March 30, 2014 in the amount not to exceed \$9,000, for a total contract amount of \$54,000, for services at the Milpitas Fire Department.
- *11. Agreement with Law Firm for Labor Negotiations Approved a consultant agreement with the law firm of Burke, Williams & Sorensen LLP for labor negotiation services in the amount of \$50,000.

PUBLIC HEARING

- 1. Consolidated Annual Performance Evaluation Report (CAPER) on CDBG funds Principal Planner Felix Reliford reviewed the purpose of the CAPER prepared each year, describing successful distribution of CDBG (Community Development Block Grant) funds in Milpitas. For recent fiscal years, funding had been reduced by the federal government more than 30% since 2008. Major accomplishments included the assistance

to more than 6,000 residents over a variety of programs in Milpitas. Regarding the homeless population in Milpitas, the County counted 135 homeless residents in January of 2012, but only 95 in Milpitas in January 2013, so that was a noteworthy and valuable reduction.

Councilmember Montano asked about the Family Literacy Program and how the schools were targeted, since she was aware they must be “school site improvements.” She wanted staff to assure that funds went to the correct students. Mr. Reliford confirmed that at least 51% of students must be from low income families, and schools report that information to City staff based on federal guidelines. Ms. Montano reported that Rose and Randall Elementary schools were the school site improvement locations in MUSD.

Mayor Esteves opened the public hearing for comments.

Karen Kolander, Director of the Milpitas Food Pantry, stated the report should not be approved as written and her opinion was that corrections were needed. With \$439,000 CDBG funds in total, only 10% went to actual programs with the majority going to housing and administration. She requested the City Council look at other groups like the Milpitas Food Pantry. She would like to see value for \$1 of the other organizations.

Councilmember Giordano asked staff if the City was restricted by the federal guidelines in scope of what CDBG could be spent towards. Mr. Reliford replied yes, that 65% was for non-public services, 20% for administration with the remainder for direct public services, so the recommendations were within the scope of those services.

Mayor Esteves inquired about auditing and reporting of CDBG funds, and Mr. Reliford explained the mandatory quarterly reporting by grant recipients and the site visits by City staff to the non-profit organizations’ program sites.

Robert Marini, Milpitas resident, felt there was no accounting for what the City spent the funds on, and he wanted to see a list of precisely what the funds were going toward.

Councilmember Montano pointed to a specific item in the CAPER - low income tax credits, asking whether the City was still giving incentive to developers. Mr. Reliford explained the federal government was giving those to builders. He provided examples such as projects at 750 E. Capitol and South Main St. senior housing. She asked about the requirements in the zoning code for emergency shelters and recent changes in state law.

Motion: to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

Councilmember Montano inquired about a portion of the CAPER referring to possible amendment to the zoning ordinance for homeless, or emergency, shelters approved by right, in order to conform to new state law on these specific types of uses. Mr. Reliford confirmed this information, explaining the goal was to assist special needs populations such as low-income seniors, disabled persons, and homeless families and individuals in communities by providing housing opportunities.

Vice Mayor Polanski had been involved with CDBG for 16 years, and referred to the lengthy process that groups must go through well before this report came to the City Council with specific funding recommendations. She thanked Mr. Reliford, staff and the Community Advisory Commission for all the work that went into this program.

Motion: to adopt the 2012-13 Consolidated Annual Performance Evaluation Report on federal Community Development Block Grant funds in the City of Milpitas

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

ADJOURNMENT

Mayor Esteves adjourned the Council meeting at 7:41 PM in memory of Richard B. Taylor, a former Mayor of the City of Milpitas in 1960.

The foregoing minutes were approved by the Milpitas City Council as submitted on October 1, 2013.



Mary Lavelle
Milpitas City Clerk