



Robert Marini, Milpitas resident, displayed a VTA map of Dixon Landing Road and the future BART train track path of travel. Crossing Dixon Landing would be very difficult when BART trains go by, backing up traffic even more than was occurring now.

Liz Ainsworth, Milpitas resident, business owner and Chamber of Commerce President, thanked the City for its offer of help a few months ago when her organization was in distress. With help from the landlord, the Chamber was able to stay in current offices. She appreciated the show of support by the City Council, and the Chamber was more energized. The group was working with the Milpitas Post to produce the annual printed map of the City, also.

## **ANNOUNCEMENTS**

Vice Mayor Polanski noted another SAFE Team graduation that took place on Saturday. Safety tips were available for the community on the Emergency Preparedness Commission website.

Councilmember Montano reported that she served on Coyote Creek Watershed Advisory Committee and attended a recent meeting on November 13. There, she learned that Santa Clara Valley Water District would give out “gray water” grants to assist residents to recycle water from washing dishes, shower, etc. for re-use to water plants outside. She requested that a City staff member go with her to meetings in the future.

Mayor Esteves congratulated Youth Advisory Commission for its successful Spelling Bee event held last Friday, very well attended and well organized. For the Indian community, he wished a happy Diwali time for Festival of Lights. He attended the successful U-Jam exercise event at the Sports Center last Friday. He and Mr. Gomez attended the SAFE graduation last weekend. The Mayor noted donations may be made to a group providing assistance to victims of the recent hurricane in the Philippines.

## **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. No conflicts were reported.

Councilmember Giordano reported a contribution from Trumark, regarding agenda item no. 4.

## **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 submitted

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

\* 5. Approve Letter to Lieutenant Governor

Approved submission of a letter from the Mayor to the state’s Lt. Governor opposing efforts generally to legalize marijuana in California.

\* 6. Adopt Ordinance No. 286

Waived the second reading and adopted Ordinance No. 286 for Levying and Apportioning Special Tax in Community Facilities District No. 2013-1 (Piper Montague).

\* 7. Resolution of Initial Acceptance

Adopted Resolution No. 8315 granting initial acceptance of the Park Renovation 2011 Project No. 5091, subject to a one-year warranty period, and reducing the faithful performance bond to \$13,911.02.

\* 8. Resolution for canine training contract

Adopted Resolution No. 8316 approving a contract with James Faggiano, an individual doing business as JAFCO Canine Management for Police Canine Training, annually not-to-exceed \$20,260, and not to exceed \$101,300 during the five year term.



ABSENT: 1 (Gomez)

2. Updated Fire Codes

Fire Marshal Albert Zamora noted the actions needed for the City Council to adopt the updated fire code, as introduced at the prior Council meeting on November 5, 2013.

Councilmember Gomez returned to the dais at 7:30 PM.

Mayor Esteves opened the public hearing and heard no speakers.

(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 adopt Resolution No. 8313 making findings necessary under state law to adopt with local amendments the 2013 California Fire Code

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

(3) Motion: to waive the second reading and adopt Ordinance No. 113.23, repealing and replacing Chapter 300 of Title V of the Milpitas Municipal Code adopting the 2013 Edition of the California Fire Code and specified local amendments

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

3. Amending Zoning Code for Housing Related issues

Principal Housing Planner Felix Reliford explained necessary amendments to the City's Housing Element of the General Plan, required by recent new state law. Changes were related to Emergency Shelters, Transitional and Supportive Housing, Single Room Occupancy facility and Reasonable Accommodations to those who were disabled. A streamlined review of the City's updated housing element could be offered by the state's Housing and Community Development office, if a city made these amendments to local code by the end of 2013.

Mr. Reliford introduced consultant Ben Noble of The Planning Center, who defined several of the uses that staff had identified including supportive housing, transitional housing and emergency housing and others. Mr. Reliford noted two letters received by state agencies with comments and his response (in Council agenda packet).

Councilmember Giordano asked what could cause a City's Housing Element not be certified by the state, and staff provided a few examples of possible insufficiency.

Mayor Esteves inquired if these changes applied to all cities, even Atherton and Hillsborough, and staff replied yes. The Mayor asked if limits could be placed on types of housing and the consultant said it depended on which type of use. Staff remarked there would need to be a minimum to meet the state law.

Next, Mayor Esteves opened the public hearing.

Robert Marini, Milpitas resident, asked where the code was being amended specifically. He wondered where the shelters would be placed within the City and what the zones were to allow these buildings. Staff responded to him.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

Councilmember Montano was really glad that the City was moving toward compliance of the Housing Elements on these uses, as required. She expressed why the need for these types of housing arose at times. She was supportive of the proposed ordinance.

Next, City Attorney Mike Ogaz read aloud the title of Ordinance No. 38.810, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 10 of Title XI of the Milpitas Municipal Code Relating to Zoning."

(2) Motion: to waive the first reading of Ordinance No. 38.810 beyond the title

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

(3) Motion: to introduce Ordinance No. 38.810

Motion/Second: Councilmember Montano/Councilmember Giordano

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

#### 4. Trumark/Waterstone Residential Development Project at California Circle

Planning Director Steve McHarris reviewed actions to date for a General Plan Amendment requested by Trumark Properties for its proposed Waterstone Residential Development Project at California Circle. Two major discussions would focus on first, Land Use Conversion; and second, a Single Family Residential Subdivision. Mr. McHarris described why the City staff, and by unanimous recommendation of the Planning Commission, did not support approval of this project. Primarily, it was not in agreement with the General Plan and industrial/commercial development of this site. Staff identified flaws in the fiscal impact analysis, submitted by the applicant for the project. He listed six summary points, and the findings toward the General Plan amendment requested, which did not support the change.

Councilmember Gomez asked about the bridge overcrossing suggested. It was proposed by the applicant as a walkway crossing over Penitencia Creek to access closer to Dixon Landing Park. Mr. Gomez asked about mixed-use opportunities at this type of site. Mr. McHarris replied that hotels, restaurants, office, and residential were likely appropriate uses but not single family residences.

Councilmember Giordano asked the percentage of land, 10.7 acres, related to total amount in the California Circle area. Staff responded it was about 110 acres total, and so the project was roughly 10% of land area. Ms. Giordano was curious about hotels on site and why there were objections to being located next to single family residential development. She remarked on some Planning Commissioners' favorable comments at their meeting on this item. She did receive one email from a resident in favor of this project because he was opposed to any high density development at this location.

Vice Mayor Polanski did meet with representatives of Trumark the previous day, and had served on the Transportation and Land Use Subcommittee for several years with Mr. Gomez. Other "visions" for areas of the City have not always come true, she replied to Mr. McHarris when he discussed the anticipated study results on this part of the city.

Councilmember Montano appreciated the comment from the Vice Mayor on “vision.” The Tasman area was where the City should concentrate, with the new 49ers stadium coming. For this site under discussion, she preferred no high density buildings, so single family residential would be better. She visited the site and displayed visually what she viewed favorably.

Mayor Esteves asked if this project application was viewed as premature, and Mr. McHarris said yes, from staff and Planning Commission point of view. The Mayor asked about the odor issue and if that would impact the residences. Staff said it would be the closest residential neighborhood to the major site generating odors (landfill).

Next, Mr. Garrett Hines, Director of Architecture at Trumark Properties, addressed the City Council, reminding Councilmembers that his company was already building in the City of Milpitas in the Transit Area. He displayed images of the proposed development and homes at the California Circle site. He gave a 15-minute presentation, including description on how the development would bring up the land even with the levee level, not below the creek level as some parcels were presently. He quoted the positive conclusion of the Keyser Marston economic study that was done for this project. The Environmental Impact Report identified one unmitigatable issue, which was existing odor, and that was not generated by the proposed project. He listed ten positive benefits of the Waterstone residential project.

Councilmember Gomez asked if removing the pedestrian bridge impacted the project and Mr. Hines said no. He inquired about the \$500,000 offered to the City for an area wide study. Mr. Hines responded this would be a contribution to the area and act as a catalyst once Waterstone was built. Mr. Gomez replied he would rather see funds go toward another City use.

Councilmember Giordano commented on this project making something happen in this area and motivating other land owners. She liked its compatibility with the existing neighborhood, and felt it would improve neighborhood trails with a good impact on park space. She’d want to help the existing neighborhood by adding to Dixon Landing Park with an amenity such as bocce ball. She would also want the two park spaces enlarged by eliminating three homes next to the small park space on the proposed layout.

Vice Mayor Polanski asked how large the park space was. It was approximately 70 feet wide by 100 feet. She inquired about a gateway sign and wondered if it would be part of the master plan, or a future vision when implemented. The Vice Mayor asked about future hotels or other uses next to the neighborhood. The developer’s representative felt the hotel would have more guests with this development built. Trumark was not approached by a hotel company about this site over two years.

Councilmember Montano opposed making the center park larger. She opposed any proposed bridge over the creek, as it was a short walk now to Dixon Landing Park, which she walked for herself and it took only ten minutes.

Mayor Esteves asked how tall were the houses going to be, and the developer said up to 39 feet, similar to other buildings on Dixon Landing. He asked about noise next to the freeway and Mr. Hines said Trumark would mitigate for noise as required.

Mayor Esteves said he liked visions and plans, and wanted to receive the one due for this area in January. So, he wondered why this development plan was necessary to be done at this moment. He was concerned about odor complaints, which the developer would have to disclose to buyers. Mr. Hines felt that was an issue that all hoped would be soon remedied at the source (Newby Island landfill site).

Next, Mayor Esteves opened the public hearing.

1) **Bob Nunez**, California Villas resident, small business owner and retired schools superintendent, supported Trumark since that he saw the plan in more detail. He wanted to have a part in creating the vision for the site. He had been opposed to the possible bridge. Also, \$500,000 should not be spent on visioning, but some study may be done in partnering with the Milpitas Unified School District.

2) **Jill Kaufman-Nunez**, California Villas resident, spoke of this prime location of Milpitas and she opposed the pedestrian bridge for this project. Houses would be good there. She supported having a master plan while there was a need for more community meetings, and would like to stay involved. She noted success in Fremont with land use improvements and housing, for example.

3) **Dieter Griesmeir**, lived on Montecito Way in California Landing Villas complex and spoke as President of the Homeowners Association. Low density housing was okay to these groups, and they would welcome future stores in this area. His association mainly opposed the 220 ft. bridge over Penetencia Creek and his HOA told the Planning Commission this fact. He referred to problems with increased parking and would take legal action if high density with a bridge over the creek was approved at this site.

4) **Robert Marini**, Milpitas resident, referred to increased traffic problems that would arise and become worse at Dixon Landing Road. It would be difficult for police and fire to reach that site. He complained of utility rate increases, due to minimizing the votes of residents. No benefits for the residents of Milpitas would be realized.

5) **Wendy Durazo**, of Gingerwood Drive, agreed with the project going forth, as consistent with the neighborhood. The funds offered should be used to upgrade the park and to clean up the creek and flooding that occurred in the area.

6) **Liz Ainsworth**, Milpitas resident, discussed the idea that with 84 homes on site, parking could be an issue. Her family had four cars once kids became teenagers. So, she was curious how that would be facilitated in the new development.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

Councilmember Gomez thanked everyone for coming to the meeting. Council agreed with residents who spoke that high density residential did not belong there. Whatever goes in would enhance the surrounding community, he felt. He thanked Trumark for investing in the community and for the offer of \$500,000 offered for community benefits. He moved to approve the project, but the Mayor noted there were first more comments.

Vice Mayor Polanski wondered about parking question. Mr. McHarris noted the parking requirements depended on how many bedrooms in the units, and the applicant met the minimum requirement for parking. Mr. Hines noted 2.9 spaces per home would be built where every home would have two-car garage with additional guest spaces throughout. The Vice Mayor said she did not think that a bridge was a good idea at all. She agreed with some positive comments of the Planning Commissioners, and believed this was a good project. It would be a catalyst.

Mayor Esteves remarked that all the Planning Commissioners voted no on this project, even with some positive comments made at the meeting. The School District was opposed to this project. He would like to wait for the study report to come to the City Council in January, before deciding on this specific development application. He liked plans, and would prefer that before he could say yes or no. So, he would not be willing to support a housing project right at this time, until knowing best use of that land.

Councilmember Giordano was supporting the Trumark project. She supported eliminating any bridge crossing over the creek. She would want to see more open space and she urged putting some of that money into improving the nearby park.

City Manager Tom Williams noted the applicant offered the funds for a community benefit, so the applicant and staff could work together and bring it back to City Council.

Mike Titus, an attorney representing Trumark, understood staff would meet with Trumark over the draft conditions of approval to hammer out final details. He felt if they did not reach agreement, they certainly could return to Council in December. The applicant saw only draft conditions to date, and now the bridge was deleted. So he asked for one week to reach agreement on the conditions.

Councilmember Montano agreed with most other Councilmembers and did not favor the pedestrian bridge. She moved to accept the project.

City Attorney Mike Ogaz addressed the City Council, that if there was a motion to approve the project, he distributed to Councilmembers two resolutions with conditions of approval and a draft ordinance which required votes for approval of the project. The applicant had received the documents, too. Staff could return at next meeting with final conditions of approval, if that was necessary after meeting with the applicant.

(2) Motion: to adopt Resolution No. 8314 making certain findings regarding environmental impacts and mitigation measures, approving certain mitigation measures, adopting a Mitigation Monitoring and Reporting program, making findings concerning alternatives, and adopting a Statement of Overriding Considerations, all in accordance with California Environmental Quality Act for the planned development re-zoning for Waterstone residential project for which an Environmental Impact Report has been prepared

Motion/Second: Councilmember Gomez/Vice Mayor Polanski

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

(3) Motion: to adopt Resolution No. 8319 approving General Plan Amendment No. GP12-0003, Zoning Amendment No. ZA12-0004, Site Development Permit No. SD12-0002, Planned Unit Development No. PD12-0001, and Major Vesting Tentative Map No. TM12-0001 (“Waterstone Residential Project”) requesting changes to the General Plan and Zoning Land Use designations from Industrial Park to Residential for developments of an 84-unit residential subdivision on 10.7 Acres at 1494-1600 California Circle;

and, as noted by City Attorney Ogaz:

- (a) the Planning Director has authority to negotiate Conditions of Approval, otherwise to come back to Council for further approval at the next Council meeting if agreement cannot be reached with the developer, and
- (b) the pedestrian bridge be removed as a condition of approval, and that parties negotiate further park improvements with use of conditional funds.

The staff would only return to the City Council if there was no agreement on conditions. City Manager Williams said staff could consider coming back to Council with the plan for the \$500,000 community benefit offered from Trumark (distinct from conditions).

Motion/Second: Councilmember Gomez/Vice Mayor Polanski

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

City Attorney Ogaz read aloud the title of Ordinance No. 38.811, “An Ordinance of the City Council of the City of Milpitas Amending the City’s Zoning Sectional Map, Changing the Designation of 10.7 Acres from Industrial Park (MP) to Single Family Residential Minimum Lots Size 2,500 Square Feet (R1-2.5) with Site and Architectural Overlay (-S) and Planned Unit Development (PD12-001).”

(4) Motion: to waive first reading beyond the title of Ordinance No. 38.811

Motion/Second: Councilmember Gomez/Vice Mayor Polanski

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

(5) Motion: to introduce Ordinance No. 38.811

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

Following the public hearing and votes on this item, Mayor Esteves announced that the City Council would take a short break.

**JOINT MEETING**  
**CALL TO ORDER**

Mayor Esteves called to order the joint meeting of the City Council, Successor Agency and Housing Authority at 10:12 PM, with all members present.

**HA3. Actions Required for**  
**South Main Senior Lifestyles**

Principal Housing Planner Felix Reliford provided a very brief review of the proposal for the residential project (as previously discussed at a study session) on the South Main Senior Lifestyles development proposal for 382 apartment units for senior residents at 1504 – 1620 South Main Street in Milpitas.

Mayor Esteves asked about financial benefit to the City of the recommended transaction. There would be \$33.125 million in total invested in the project, as Mr. Reliford reviewed in his powerpoint presentation.

Applicant/developer Mr. Joe Callahan and project manager Ms. Terry Freeman, in reply to the Mayor, responded that 55 years was the specified life of the project, as was typical for all developments. The Mayor asked about ownership of the land. Mr. Callahan explained it would stay with whoever was developer or owner of the project at that time.

Mayor Esteves wanted to protect the City’s investment in the land. What would happen if factors changed, such as a foreclosure? City Attorney Ogaz responded, stating that all conditions of approval run with the land, and the City could condition a new owner with additional or revised conditions.

Mayor Esteves opened the public hearing.

Rob Means, 1421 Yellowstone, stated this was a good project from many angles, including a crossing at Cedar, with potential for Personal Rapid Transit (a future mode of transit) along the creek channel and up toward the BART station.

(1) Motion: to close the public hearing, following one speaker

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

(2) Motion: to adopt Joint Resolution No. HA 10/ 8318/ SA 2 of the Housing Authority, City Council and Successor Agency (1) approving an Assignment and Assumption Agreement for the initial Disposition and Development Agreement for the Real Property of the Milpitas Housing Authority located at 1504-1620 South Main Street in Milpitas, (2) Approving a summary report required by California Health and Safety Code Section 33433, (3) approving a First Amended and Restated Disposition and Development Agreement and the sale of such Real Property to South Main Senior Lifestyles, LLC and (4) adopting findings in connection with the sale

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

#### ADJOURNMENT

Mayor Esteves adjourned the Housing Authority meeting at 10:24 PM.

### JOINT MEETING OF THE CITY COUNCIL, SUCCESSOR AGENCY AND ECONOMIC DEVELOPMENT CORPORATION

#### CALL TO ORDER

Mayor Esteves called to order the joint meeting with the Successor Agency and Economic Development Corporation at 10:24 PM.

#### EDC3. Status Report - McCandless Property

City Manager Tom Williams recently spoke with the Milpitas Unified School District Superintendent, who indicated school district is no longer interested in pursuing a joint use agreement in that area. The City remained open to this concept and ready to meet any time on a shared use concept.

Vice Mayor Polanski reported that the City did have a meeting as planned with School District staff and Board, and had a good discussion. Other circumstances arose, and the School District did not want to pursue an agreement further.

Mayor Esteves invited speakers.

Rob Means, 1421 Yellowstone, referred to a letter from the Attorney General and that the school district did not want to move ahead, due to other actions ongoing with Oversight Board and other parties. He suggested one thing that the City Council could do was to drop the lawsuits pending.

Mayor Esteves asked the City Manager to comment on the letter. City Manager Williams remarked that it was from the Attorney General's office counsel representing state Department of Finance, opining on the Milpitas Oversight Board and School District Resolution about removing the McCandless property from the standstill agreement, and legality of it.

Motion: to receive the oral report from the City Manager on the McCandless property

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

#### ADJOURNMENT

Mayor Esteves adjourned the joint meeting at 10:32 PM.

*Meeting minutes respectfully submitted by  
Mary Lavelle, City Clerk*