

## MEETING MINUTES CITY OF MILPITAS

**Minutes of:** Meeting of Milpitas City Council  
**Date:** Tuesday, January 7, 2014  
**Time:** 6:30 PM Closed Session / 7:00 PM Open  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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- 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, Councilmembers Giordano and Montano
- ABSENT:** Councilmember Gomez was absent at roll call and arrived at 6:04 PM.
- CLOSED SESSION** City Council convened in Closed Session to discuss litigation.
- City Council then convened in Open Session at 7:10 PM.
- ANNOUNCEMENT** None
- PLEDGE** Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.
- INVOCATION** Councilmember Montano went to the basilica in downtown San Jose, and read a quote from Pope John II found inside that historic building.
- MINUTES** Motion: to approve meeting minutes of December 3, 2013 City Council, as submitted
- Motion/Second: Vice Mayor Polanski/Councilmember Giordano
- Motion carried by a vote of: AYES: 5  
NOES: 0
- SCHEDULE OF MEETINGS** Motion: to approve Council Calendar/Schedule of Meetings for January 2014, as amended
- From City Manager Tom Williams:
- 1) Santa Clara Valley Transportation Authority Board of Directors meeting scheduled for January 2 was moved to January 9 at 5:30 PM.
  - 2) Parks, Recreation and Cultural Resources Commission meeting was canceled last night, January 6, due to lack of a quorum.
  - 3) San Jose Treatment Plant Advisory Committee scheduled on January 9 was canceled.
- Vice Mayor Polanski reported that the 60<sup>th</sup> anniversary events subcommittee would meet Thursday, January 9 at 5:30 PM at City Hall.
- Motion/Second: Councilmember Giordano/Vice Mayor Polanski
- Motion carried by a vote of: AYES: 5  
NOES: 0
- PRESENTATIONS** Mayor Esteves recognized 2014 Artist of the Year Carla Moss, as well as nominee Padmini Satish. Two Milpitas Arts Commissioners, Harriet McGuire and Becky Strauss, honored Ms. Moss.
- Larry Voellger and Becky Strauss, members of the Milpitas Alliance for the Arts, made a presentation of their donation of \$18,926 in final funds to the City for arts programming, upon the closure of the non-profit organization.

**PUBLIC FORUM**

Robert Marini, Milpitas resident, commented on previous votes of several Councilmembers; and referred to calculations for water and sewer rates.

**ANNOUNCEMENTS**

Vice Mayor Polanski highlighted the upcoming 60<sup>th</sup> anniversary of the City activities – Gala event and Family Day – coming soon over the weekend of January 25-26, 2014.

Mayor Esteves congratulated the 60<sup>th</sup> Anniversary Committee on the plans for celebrating later this month and this year. He looked forward to the planned events.

**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 submitted

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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 to remove from consent agenda items No. 6 (donation to Korean non-profit), no. 10 (janitorial service contract) and no. 18 (Sports Center project).

Vice Mayor Polanski requested to remove from the consent calendar agenda item no. 7 (donation request from IAFF Local for Toy Drive).

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

**\* 2. Commission Appointments**

Confirmed the following appointments recommended by Mayor Esteves:

Arts Commission/Public Art Committee:

Re-appointed Bill Foulk as a regular member to a term that will expire in October 2016.

Community Advisory Commission:

Re-appointed Syed Mohsin to a term that will expire in January 2018.

Re-appointed Michelle Manassau to a term that will expire in January 2018.

Re-appointed Edna Andres to a term that will expire in January 2018.

Senior Advisory Commission:

Appointed Patrick Yung as a regular member to a term that will expire in December 2015.

Appointed Jae Kuk Wi as Alternate No. 1 to a term that will expire in December 2015.

Newly appointed Jenny Berryhill as Alternate No. 2 to a term that will expire in December 2014.

Sister Cities Commission:

Appointed Nolan Chen as a regular member to a term that will expire in September 2014.

Appointed Peter Chang as Alternate No. 1 to a term that will expire in September 2014.

Telecommunications Commission:

Re-appointed Dinesh Gupta to a term that will expire in January 2016.

Re-appointed Hai Tran to a term that will expire in January 2016.

- \* 3. Commission workplan                      Approved the work plan for the Library Advisory Commission for 2014.
- \* 4. Accept Donation from Milpitas Alliance for the Arts                      Upon dissolution of the Milpitas Alliance for the Arts organization, accepted its donation to the City totaling \$18,926 to be incorporated into the Public Art Program and Milpitas Recreation Division budgets and appropriated, as follows:
  - 1. appropriate \$12,000 from grant revenue to the Public Art Program,
  - 2. appropriate \$3,463 from grant revenue to the Milpitas Community Concert Band, and
  - 3. appropriate \$3,463 from grant revenue to Center Stage Performing Arts program.
- \* 5. Relay for Life Fee Waiver                      Waived \$1,440 in fees for specified City costs related to the annual American Cancer Society's Relay for Life walkathon event at Milpitas Sports Center on June 21-22, 2014.
- \*11. 1609 Country Club Drive                      Adopted Resolution No. 8331 approving Site Development Permit Amendment No. SA13-0002, subject to conditions of approval for the 121 square foot addition to the home at 1609 Country Club Drive in Milpitas.
- \*12. Contract Award to Exaro                      1. Adopted Resolution No. 8332 awarding a construction contract to Exaro Technologies Corporation for Cathodic Protection Improvements, Projects No. 7115, No. 6115, and No. 3706, in the amount of \$477,630.00.  
2. Authorized Public Works Director to execute change orders for the Cathodic Protection Improvements projects, provided change orders do not exceed the established construction contingency amount for the project and do not require additional appropriation.
- \*13. Appoint Staff                                      Adopted Resolution No. 8333 to appoint Principal Engineer Steven Machida as the City of Milpitas Alternate to the Santa Clara Valley Water Commission for a two year term.
- \*14. Accept Fire Station Improvements                      Adopted Resolution No. 8334 granting final acceptance of Fire Station Improvements, Project No. 3403 and releasing the contractor's bond.
- \*15. Accept Police Dept. Evidence Room Project                      Adopted Resolution No. 8335 granting final acceptance of the Police Department Evidence Room Improvements, Project No. 9003 and releasing the contractor's bond.
- \*16. Bids for Pinewood Park                      Approved plans and specifications for Pinewood Park Improvements Projects No. 3412, No. 5095, No. 5096 and No. 7116, and authorized advertisement for bid proposals.
- \*17. Agreement with Hydro Science Engineers                      1. Approved and authorized the City Manager to execute an agreement with Hydro Science Engineers, Inc. in an amount not to exceed \$40,500.00.  
2. Approved a budget appropriation in the amount of \$40,500 to the Engineering budget. \$10,000 would be paid from the Water fund and \$30,500 would be reimbursed from South Bay Water Recycling.
- \*19. Amendment to RMC Water Agreement                      Approved a consultant agreement with RMC Water and Environment, in the amount of \$475,000, and for a term to June 30, 2016, for the Marylinn Drive Sewer Replacement Projects No. 6115 and No. 6116.

**PUBLIC HEARING**

- 1. Weed Abatement Program                      Fire Marshal Albert Zamora explained actions taken to date for the weed abatement program, including the resolution adopted last month. This evening was the opportunity to hear from any property owners who might object to clearing of weeds on their properties. Also Mr. Moe Kumre of the County of Santa Clara Agriculture office was present to answer questions about the program.  
  
Councilmember Montano inquired about weeds on Caltrans properties in Milpitas. The Fire Marshal responded that he contacted Caltrans directly about those in the past, and he can do so with any notification from a Councilmember.  
  
Vice Mayor Polanski reminded all that the new "My Milpitas" application was available for mobile devices, and it could be used to photograph any site with weed problem and

then have a report made to the Fire Marshal.

Mayor Esteves opened the public hearing and heard no speakers.

Motion: to close the public hearing

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

Motion: to adopt Resolution No. 8329 directing the Santa Clara County Agricultural Commissioner to abate the nuisance (weeds), keep account of the cost, and embody such account in a report and assessment list to the City Council, in accordance with the Milpitas Municipal Code

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

## NEW BUSINESS

### 6. Donation request

Councilmember Montano removed this item from consent because she wanted to ask staff to look into incorporating public art at development sites in the City. This was a topic that was mentioned at a past City Council meeting.

City Manager Williams noted that he would need policy direction by the City Council on whether they wish to seek an ordinance to require public art.

Councilmember Montano requested to place this topic on a future agenda, as the Mayor suggested. Council then moved on to the request for a donation.

Motion: to approve a \$500 donation to the Korean Language and Culture Foundation

Motion/second: Councilmember Montano/Councilmember Giordano

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

One representative from the Korean Language and Culture Foundation came to the podium and thanked the City Council for supporting the organization, following the group's successful Hangeul Day held at Milpitas City Hall last fall.

### 7. Support for Toy Drive

Vice Mayor Polanski removed this item from consent to express her concern about setting precedent for future Community Promotions budget items over five years. Also, with the City's location here in Silicon Valley, there were other ways technology-wise to promote the Toy Drive, such as mobile apps, e-mail and websites, so as not to cause as much cost with paper and US postage fees.

Mayor Esteves felt with the newly established policy for Fee Waivers and Donations, this one request for \$2200 over five years was a circumvention of this policy.

Councilmember Montano did not agree with the idea of providing funds for printing and postage for seeking toys, while disadvantaged children needed much more support, such as athletics, leadership, positive role models, and positive character.

Interim Fire Chief Robert Mihovich expressed the goal of the Firefighters' toy program at holiday time, and its effort to partner with the City on the outreach effort by mail.

Motion: not to authorize the City Manager to form a financial partnership with Firefighters Local 1699 to support the Milpitas Fire Fighters Toy Drive (\$2,200 requested for 5 years)

Motion/Second: Vice Mayor Polanski/Councilmember Montano

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

## ORDINANCES

8. Adopt Ordinance No. 243.7 City Attorney Mike Ogaz reviewed the purpose and explained his edits to the ordinance which would limit campaign committee transfers of individual donations to not more than \$250 per donor, to the Milpitas campaign committee account. The ordinance as amended was ready for adoption.

Councilmember Montano asked what the FPPC ruling was on this ordinance. Mr. Ogaz replied that the state agency would not make judgment on local law. The FPPC does track limitations on state legislative candidates, in a similar fashion to what was proposed here in Milpitas.

City Attorney Ogaz read aloud the title of Ordinance No. 243.7 “An Ordinance of the City Council of the City of Milpitas amending Chapter 210, Title I of the Milpitas Municipal Code Relating to Campaign Contribution Limits.”

(1) Motion: to waive the second reading beyond the title of Ordinance No. 243.7

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

(2) Motion: to adopt Ordinance No. 243.7 regarding campaign contributions

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

9. Introduce Ordinance No. 26.4 Finance Director Emma Karlen explained the goal to have the city become consistent with state law on how to ratify expenditures including payroll and checks (demands for payment). Staff presented an annual financial audit to the City Council and this was the way the city remained consistent with law. The ordinance would confirm the policy and current practice at the City of Milpitas.

City Attorney Ogaz read aloud the title of Ordinance No. 26.4, “An Ordinance of the City Council of the City of Milpitas Amending Chapter 12 of Title I of the Milpitas Municipal Code Relating to City Expenditure Ratification Process.”

(1) Motion: to waive the first reading beyond the title of Ordinance No. 26.4

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

(2) Motion: to introduce Ordinance No. 26.4 updating the City expenditure ratification process in accordance with state law

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

## RESOLUTIONS

Five resolutions were adopted on the consent calendar.

### 10. Janitorial Service Contract

Councilmember Montano asked many questions about the new contract recommended by staff for janitorial service. She sought to understand why the City was changing contractors for this work, and to be clear on the issue of fair or prevailing wages paid to the contracted workers with Varsity Facility Services.

Purchasing Agent Chris Schroeder explained how the issue of fair wages was agreed upon after many meetings with the City Manager, South Bay Labor Council and the contractor. All were in agreement with the fair wage that was in the contract, which was the amount paid by the union. Varsity Vice President Rob Ridge also spoke to the Council.

Motion: to adopt Resolution No. 8330 awarding the contract for City Wide Janitorial Service at twelve City of Milpitas locations to Varsity Facility Services in the annual not-to-exceed amount of \$408,288 and not to exceed \$2,041,440 during the five year term; and, to authorize the City Manager to extend the term of the agreement annually for the next four years with increase of no more than 5% per year without further City Council action (except for appropriation of funds)

Motion/Second: Councilmember Montano/Councilmember Giordano

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

## AGREEMENTS

Three items were approved on the consent calendar.

### 18. Sports Center project

Councilmember Montano inquired if a survey was done, of the facility users and visitors at the Milpitas Sports Center. She felt that could be helpful in term of implementing the updates to that building. Public Works Director Jeff Moneda replied no survey was conducted, while the consultant and architect gave recommendations as to what needed to be done, and the City Council voted to approve the option as presented.

Vice Mayor Polanski noted that the Sports Master Plan would provide some of those things desired, and included input by the Parks, Recreation and Cultural Resources Commission.

Motion: to approve Plans and Specifications and authorize the advertisement for bid proposals for Project No. 3408 at the Milpitas Sports Center and to approve Amendment No. 1 to the agreement with BFGC Architects Planners, Inc. in the amount of \$41,665, Project No. 3408

Motion/Second: Vice Mayor Polanski/Councilmember Montano

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

## ADJOURNMENT

Mayor Esteves adjourned the Council meeting at 9:41 PM.

**The foregoing minutes were approved by the Milpitas City Council as amended on January 21, 2014.**

  
Mary Lavelle, Milpitas City Clerk