

**Draft MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, May 20, 2014
Time: 6:00 PM Closed Session / 7:00 PM Open
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER 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 the dais at 7:27 PM

CLOSED SESSION City Council convened in Closed Session to discuss litigation and labor negotiations.
City Council then convened in Open Session at 7:01 PM.

ANNOUNCEMENT None out of Closed Session.

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

INVOCATION Councilmember Montano read a quote from the bible.

MEETING MINUTES Motion: to approve the minutes of May 6, 2014 City Council meeting
Motion/Second: Vice Mayor Polanski/Councilmember Montano
Motion carried by a vote of: AYES: 3
NOES: 0
ABSTAIN: 1 (Giordano)
ABSENT: 1 (Gomez)

SCHEDULE OF MEETINGS Motion: to approve Council Calendars/Schedule of Meetings for May and June 2014
Motion/Second: Councilmember Giordano/Vice Mayor Polanski
Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

PRESENTATION Dr. Roger Kennedy and Bob Lorilla of the Tobacco Free Coalition of Santa Clara County and the Public Health Department presented the City Council with an award, to thank the City for recent regulation of cigarettes, often targeted and marketed to youth, and protecting the public's health.
Mayor Esteves proclaimed Lions Club International "Eyeglasses Recycling Month" for the month of May 2014, accepted by Mr. Ray Maglalang and Mr. James Goodheart (District Governor).

PUBLIC FORUM Robert Marini, resident, discussed revenue to the City from water and sewer utilities, and rates charged for those. He displayed a chart of revenues for the utilities per number in a household.
Ray Maglalang, resident and Lions Club representative, invited City Councilmembers to attend a spring clean-up event on May 31 from 9:00 am to 1:00 pm at Friendly Village Mobile Home Park, with volunteers helping to clean up landscaping and homes in that park.

Rob Means, 1421 Yellowstone resident, showed a video of Personal Rapid Transit in use today in South Korea.

ANNOUNCEMENTS

Vice Mayor Polanski noted two events she attended on Mother's Day weekend, the Camera Club new photo exhibit at the Milpitas Library, and the Pre-Mother's Day event sponsored by Carmen Montano at the Barbara Lee Senior Center on May 10.

Councilmember Montano hosted the first pre-Mother's Day event earlier in the month, where the turnout and entertainment was great. She thanked the City of Milpitas for waiving fees and the Guadalupe Club for co-hosting the event with her.

Mayor Esteves announced the annual Fil-Am Fiesta event was upcoming on Saturday, June 7 at the Milpitas Community Center scheduled from 2 – 5 PM.

Councilmember Giordano inquired about the City's Memorial Day ceremony, so the Mayor asked staff for any announcements.

City Clerk Mary Lavelle let voters know they could drop off completed Vote-by-Mail ballots for the June 3 election in the secure ballot box in her office at City Hall, 3rd floor.

City Manager Tom Williams announced the City's annual Memorial Day event would be held on Monday, May 26 at 9:00 AM at the Veterans Memorial Flag Plaza.

**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 Gomez reported had received a contribution for his state assembly campaign from the Spring Valley Golf Course, which was included on agenda item No. 11.

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

City Manager Williams requested to place items No. 4, No. 10 and No. 11 on the consent calendar.

City Councilmembers agreed only with Item No. 10 (Resolution approving street closure for a parade on June 1).

Councilmember Montano requested to remove Item No. 13 (billing solutions contract) from the consent calendar.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

* 2. Revised Monthly Water Delivery Schedule

Received revised monthly Treated Water Delivery Schedule March–December 2014; accepted Santa Clara Valley Water District's request for the City to execute a revised Monthly Treated Water Delivery Schedule for March–December 2014; and, authorized the Public Works Director to sign the Revised Schedule and submit it to the District.

- * 3. Commission Reappointments Approved the re-appointment of Dhaval Brahmhatt as a regular member to a term that will expire in April 2017, and the re-appointment of Mark Wong as Alternate No. 2 to another term that will expire in April 2016, on the Economic Development Commission.
- * 6. Resolution Adopted Resolution No. 8370 to approve a Non-Exclusive Collection, Transportation, and Recycling Agreement with Environmental Resource Recovery, Inc. dba Valley Recycling for a three-year term commencing on June 7, 2014 and authorized the City Manager or designee to extend the agreement for a maximum of two, three-year extensions.
- * 7. Resolution Adopted Resolution No. 8371 approving the annual Engineer's Report, declaring intention to levy an assessment, and providing for notice of public hearing on June 3, 2014 for LLMD No. 95-1, McCarthy Ranch.
- * 8. Resolution Adopted Resolution No. 8372 approving the annual Engineer's Report, declaring intention to levy an assessment, and providing for notice of public hearing on June 3, 2014 for LLMD No. 98-1, Sinclair Horizon.
- * 9. Resolution Adopted Resolution No. 8373 authorizing the purchase of a replacement back-up generator for Fire Station #4 from Peterson Power Systems, Inc. for the not-to-exceed amount of \$42,891.36 through a cooperative procurement contract pursuant to Milpitas Municipal Code Section I-2-3.08.
- *10. Resolution for Parade Street Closure Adopted Resolution No. 8374 per request of Gurdwara Sahib Sabha Church, authorizing temporary street closure on Kennedy Drive between S. Park Victoria Drive and Old Evans Road for the Nagar Kirtan Parade on Sunday, June 1, 2014.
- *12. Award Contract for Fireworks Awarded bid to Pyro Spectaculars North, Inc. and approved an agreement for the annual 4th of July City of Milpitas fireworks in the amount of \$23,000 for 2014 and up to \$21,850 for 4 additional years through July 31, 2018, for a total not-to-exceed \$106,650, subject to annual budget appropriation and without further City Council approval.
- *14. Amend Agreement with ACCO Engineered Systems Approved Amendment No. 4 to the Agreement with ACCO Engineered Systems, Inc. extending it from July 1, 2014 to June 30, 2015 for an amount not to exceed \$72,960 for City Hall Heating, Ventilation and Air Conditioning maintenance and repair.
- *15. Emergency Repairs Received a report of emergency repairs to Penitencia Pump Station, Project No. 3700 and authorized payment of invoices for the work up to a maximum amount of \$272,000.

PUBLIC HEARING

- 1. FY 2014-15 Budget City Manager Tom Williams reviewed in summary the accomplishments of City departments in the past Fiscal Year 2013-14. He identified the FY 2014-15 Budget Objectives, including maintaining the core services of the City. He proposed to increase staff by eight Full Time Equivalent employees for a total of 320.25 employees at the City of Milpitas next year. He listed the items incorporated into the proposed budget, including those identified by City Council at the budget study session last month.

 Councilmember Giordano, referring to the Planning Department which recently brought up a covered parking proposal, noted that other ideas on neighborhood issues of blight were also brought up. Mr. Williams replied staff would come back to City Council on program ideas, for example, with more pro-active enforcement of the Neighborhood Beautification Ordinance in the city.

 Vice Mayor Polanski had received one suggestion from a resident, since sidewalk strips were supposed to be maintained by homeowners but many did not know of their responsibility. Some cities actually buy back the strips of land in order to maintain those and beautify part of the City.

Councilmember Montano mentioned the Transient Occupancy Tax dollars and asked if those revenues went toward the library. Mayor Esteves answered her, explaining that some of the 2% increase did (from 8% to 10% rate, per voters in past). She thought funds could go toward increasing hours at the Library. The City Manager responded that \$1 million from the former Redevelopment Agency's dissolution was now allocated to the Library, so the City recommended those funds go toward opening library more hours.

Finance Director Emma Karlen presented a plan for a balanced budget in FY 2014-15, totaling \$119.8 million in all funds, including General Fund, enterprise funds and others. She explained the total revenues anticipated and the planned expenditures for the next year, including the totals for next year's Capital Improvement Program.

Next, City Engineer/Public Works Director Jeff Moneda presented the proposed five year CIP for FY 2014-19. Projects involved construction and renovations in six critical areas, including water and sewer utilities. He summarized the total funding recommended for specific projects in the next FY. Mayor Esteves asked him to explain the \$6.5 million amount toward the San Jose/Santa Clara Waste Water Treatment Plant, which related to the City's share of the improvements of that older facility in San Jose.

Councilmember Montano asked Mr. Moneda to be specific about Community Improvements and which buildings exactly were slated for work. Mr. Williams pointed to the list on a specific page in the CIP binder. Ms. Montano suggested that the City should consider expanding the Community Center in the future, and make the stage larger.

Mr. Moneda reviewed the pavement program, stating the City's current Pavement Condition Index (PCI) at 70 was fairly high compared to other local cities. Mayor Esteves sought to understand PCI 75 v. PCI 70, and Councilmembers agreed that photos would help demonstrate these levels. Mr. Moneda showed a map displaying zones of the city that had been paved throughout the past five years, along with the proposed pavement resurfacing map for FY 2014-15.

Councilmember Gomez referred to different types of streets, noting that the data did not always tell the whole story of individual residents' streets. The PCI rating was merely an average across the City of select road surfaces, not all roadways, and it might not help a specific resident if there was a big pothole in front of that home.

Ms. Karlen discussed several fee adjustments proposed for a variety of city services and programs in four departments: Finance, Building, Planning and Recreation. Each Department Head in those areas described the fees requested for an increase or newly established in the new Fiscal Year.

Mayor Esteves noted that the Council's Finance Subcommittee had recommended starting up the process for a new General Plan soon, and not wait until all funding was allocated. That was partly why the Planning fee was on the list, to start the funding mechanism for the updated General Plan. Steve McHarris, Planning Director, responded that staff was already going to start on the update of the major Housing Element next year.

At 9:06 PM, Mayor Esteves opened the public hearing for comments.

Speakers:

1) Elizabeth Padilla, Santa Clara resident, served as Director of the Enrichment Program at the Community Center, spoke on behalf of parents whose kids were enrolled. Parents wanted the academic program, not more recreation classes.

2) William Shrum, Milpitas resident, wanted to keep the enrichment program where his son attended the program, and has thrived there.

3) A man, Milpitas resident, asked if there was a plan to have a downtown in Milpitas. Mayor Esteves responded yes, with implementation of the MidTown Specific Plan.

- 4) Jessica Wong, Milpitas resident, supported the enrichment program where her son attended for two years. The teachers were very supportive at Elan Esprit.
- 5) A man, Milpitas father of three children who attended the Elan Esprit program, where the results were phenomenal, supported that program.
- 6) Laurie Matthews, San Jose resident and employee of Elan Esprit, emphasized early childhood education at the program at the Milpitas Community Center.
- 7) Mariah Coates, San Jose resident and teacher at Elan Esprit, said she absolutely loved the school, with successful results and smart kids, and the supportive parents.
- 8) Robert Marini, Milpitas resident, spoke on water fixed rate fee. He wanted to know what the cost was to the City, for the water sewerage fee and could not get an answer. He also asked how much money the City was borrowing for this service.

City Manager Williams responded about the need for accurate information, so he stated that the City was not subsidizing or was not short in terms of cost, and was effectively maintaining water and sewer services.

9) Rob Means, 1421 Yellowstone resident, was glad photovoltaic system installation fee remained low to keep prices down. \$4.5 million was to be spent on maintaining the streets' Pavement Condition Index, while the normal revenue stream was inadequate in the past, so he asked where the money was coming from. He emphasized the value of Personal Rapid Transit at the Montague crossing, as a low cost for a great investment.

10) Wendy Do, San Jose resident who worked for United Way, was working on affordable housing with other agencies throughout the Silicon Valley region. She emphasized the need for an increase in funds for housing.

11) Katie Silva, Milpitas resident, asked to keep the Elan Esprit program. She had a daughter who succeeded at the program.

12) A man, Milpitas resident, could not figure out the plus/minus on the CIP columns presented. Staff was able to respond to him in the Council Chambers.

13) Vijan, Milpitas resident, came with his son who attended Elan Esprit preschool. He wrote to the Vice Mayor and had heard back from her. He was considering the best programs for all children into the future.

14) Sara, a San Jose resident and teacher at Elan Esprit, loved the program which offered great educational success and cared about the families in Milpitas, at the well-balanced program, which was community oriented.

15) Martha Brown Lamdin, Milpitas resident, thanked the City Council for prioritizing funds for a study on the youth skate park, and asked about the \$100,000. She encouraged the City to keep the youth involved in the process of building a skate park, and urged the use of a professional skate park planner. She asked the City to use concrete not modular segments to build the park, for a long-lasting high quality facility.

City Manager Williams responded to her questions about use of those funds in the coming year, and the next steps towards a skate park in the City.

(1) Motion: to close the public hearing, following all the speakers heard

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

REPORT OF OFFICER

4. Resolution Supporting US SB316 / HR630 regarding Postal Service

At the request of Councilmember Montano, City Attorney Mike Ogaz had prepared a draft resolution and described a recommendation from letter carriers to support the U.S. Senate and House of Representatives bills, the Postal Protection Act in Congress. Some of the issues in that legislation would not require Postal employees to be required to pay part of their retiree medical costs, and would maintain Saturday delivery of mail and other actions.

Councilmember Montano was seeking support for this resolution, as other cities had done so. She strongly agreed with maintaining Saturday mail services.

Mayor Esteves asked a few questions about this topic. His opinion supported the postal workers' jobs and Saturday delivery.

Vice Mayor Polanski did not support the resolution, despite caring about hard working postal carriers in Milpitas. The U.S. Postal Service was losing money in the past several years. There were new ways of communicating and paying bills, outside of regular mail and more efficiency was needed.

Councilmember Giordano would vote no, also. She agreed with the Vice Mayor and more creative solutions were needed for the postal service budget crisis, and its survival.

Motion: to adopt Resolution No. 8369 supporting U.S. Senate Bill 316 and House of Representatives Bill 630, collectively known as The Postal Service Protection Act of 2013

Motion/Second: Councilmember Montano/Councilmember Gomez

Motion carried by a vote of: AYES: 3
NOES: 2 (Polanski, Giordano)

ORDINANCE

5. Noise Ordinance

Planning Director Steve McHarris described the noise abatement amendment, and its purpose to regulate in a specific manner noise control in residential neighborhoods during the daytime. He explained and defined decibel (dB) levels and displayed a hand-held noise meter. Code Enforcement Officers and Police have such devices which could measure specific decibel levels, to be used when complaints were received from residents with noise complaints. Mr. McHarris stated there were fines established (starting at \$100 for the first violation notice) in the proposed ordinance for violations of the daytime noise regulation.

Councilmember Montano asked about cars going by with booming stereo sounds, with loud vibrating music which bothered neighbors, and whether that would be a code enforcement or a police matter. Police Chief Steve Pangelinan commented on how the Police Department could respond to such an incident.

Councilmember Giordano felt this was a great idea - the ordinance as proposed - since it was very clear with specific circumstances and very descriptive. She complimented staff.

Mayor Esteves asked if staff could cite examples to help people understand the changes, and of noise disturbances and noise decibel levels. Mr. McHarris provided some examples, and explained measuring the noise level to compare to stated maximum decibel levels in the ordinance.

Councilmember Montano asked for a copy of the chart of comparison of noise levels as displayed overhead, from staff.

Mayor Esteves next invited speakers from the audience.

Robert Marini, Milpitas resident, asked what the length of time was that the noise had to persist for the City to respond to a complaint. Mr. McHarris replied to him that it was up to a “reasonable person” standard.

Jezelle Perez, Milpitas resident, commented on holiday celebrations and international events and hoped those were part of the exemptions on noise allowed. There should be no fees for such violations on those event days.

City Attorney Ogaz noted the enforceability of this ordinance via administrative citation or a violation as an infraction of the City’s Municipal Code. There was no cause for a charge of misdemeanor, which was similar to most infraction codes in the City.

The City Attorney then read aloud the title of Ordinance No. 196.11, “An Ordinance of the City Council of the City of Milpitas Amending Chapter 213 of Title V of the Milpitas Municipal Code Relating to Daytime Residential Zone Noise Levels.”

(1) Motion: to waive the first reading beyond the title of Ordinance No. 196.11

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

(2) Motion: to introduce Ordinance No. 196.11 creating new definitions, clarifying nighttime regulations and creating new regulations for daytime residential noise levels

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

AGREEMENTS

Two items were approved on the consent calendar.

11. Temporary Water Service at Golf Courses

City Engineer Jeff Moneda explained requests the City had received from two golf courses in the Milpitas hills for temporary water service to be provided by the City, due to the cessation of water supply of recycled water to the golf courses normally provided to them by Santa Clara Valley Water District. Both were testing underground to potentially have well water available for watering their grass. The proposed agreements were for a limited two month period only.

Councilmember Montano asked many questions on water usage, drinking water, recycled water, potential wells, pumping water uphill, and related issues.

Ms. Jo Maher, Santa Clara Valley Water District staff, explained that the District did oversee permitting of new wells tapping groundwater. Landowners had the right to put in a well to access water on their own property.

Councilmember Montano sought more information how the golf courses had conserved water and used water efficiently. The following four men came to the podium to respond to various questions from the City Council about the condition of the turf at each of the two golf courses and conservation efforts already made:

- 1) Mr. Jeff Perry, Regional Director of American Golf Corp. which included Summitpointe Golf Club
- 2) Mr. Robert Billings, General Manager of Summitpointe
- 3) Mr. Greg Jetter, co-owner of Spring Valley Golf Course
- 4) Mr. Dana Jetter, co-owner of Spring Valley Golf Course

Mayor Esteves invited speakers from the audience.

Robert Marini, Milpitas resident, said the water problem was because more projects kept getting approved by the City Council, making the situation worse every year. Other things could be done to conserve water. He accused Councilmembers of taking kick-backs from developers.

Vice Mayor Polanski answered the speaker directly, stating affirmatively that she had never taken a “kick-back” from anyone, and was offended.

Voltaire Montemayor, Milpitas resident, felt this action would be alright.

Motion: to approve temporary water service agreements with Summitpointe and Spring Valley golf courses for a term up to two months from first delivery, at no cost to the City

Motion/Second: Councilmember Gomez/Councilmember Giordano

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

13. Amend Agreement with DP2 Billings Solutions

Councilmember Montano asked if efficiency and effectiveness was a theme for the budget, why was the City not doing its billing (for utilities) online. Purchasing Agent Chris Schroeder responded the item tonight was only for the normal paper billing.

Finance Director Karlen responded to her that the City did have e-billing already available to customers, for the past several years. However, not everyone has signed up for that service, so it was still necessary to present a bill to every utility customer who was not enrolled online, by paper invoice through the postal mail.

Motion: to approve amendment No. 3 to the Agreement with DP2 Solutions, LLC extending it from July 1, 2014 to June 30, 2015, for the not-to-exceed amount of \$56,500 for an eight year value of \$623,500 total for utility bill printing and processing services

Motion/Second: Councilmember Montano/Vice Mayor Polanski

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

ADJOURNMENT

Mayor/Chair Esteves adjourned the City Council meeting at 11:25 PM.

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