

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, September 16, 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, Gomez and Montano

ABSENT: Councilmember Gomez and Montano were absent at roll call and both arrived a few minutes after 6 PM for the Closed Session.

CLOSED SESSION

City Council convened in Closed Session to discuss labor negotiations.

City Council then convened in Open Session at 7:00 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 offered a prayer from the bible.

MEETING MINUTES

Motion: to approve the minutes of the August 19, 2014 City Council meeting

Motion/Second: Councilmember Giordano/ Councilmember Montano

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendars/Schedules of Meetings for September and October 2014

Councilmember Giordano pointed out that a special Veterans Commission meeting was scheduled for Wednesday, September 17 (not 24th as printed on calendar).

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

PRESENTATIONS

Mayor Esteves proclaimed the following:

- *Pollution Prevention Week* for September 14 – 20, 2014 (accepted by Jeff Moneda, and RSRAC Vice Chair Steve Ybarra)
- *National Preparedness Month* for September 2014 (accepted by Sean Simonson)
- *Fire Prevention Week* for October 5 – 11, 2014 (accepted by Albert Zamora)

PUBLIC FORUM

Rene Briones, Vice Chair of the Bicycle Pedestrian Advisory Commission member, invited all to the first-ever Family Bike Ride on Saturday, Sept. 20 at 9:00 AM starting at Gill Park, for a 3-mile bike ride with refreshments offered at the end of the round-trip ride.

Keval Parikh, a Star scout with Boy Scouts Troop 92, reported that the Scouts’ trailer was stolen recently, containing many supplies for the troop, including camping equipment. Donations may be sent to the troop c/o Mt. Olive Church. Vice Mayor Polanski was upset when she heard someone had stolen property from Troop 92 in Milpitas and challenged others to match her donation of \$200 toward the new trailer.

Ian Fregosi was with Evolve, a non-profit organization seeking more funding for education. Evolve was seeking support for reform of Proposition 13, attempting to “close the loop.” The group was asking corporations to pay their fair share of property taxes in California.

Pradip Radhakrishnan, Milpitas resident, was bringing the problem of odor to the City Council. It was on the agenda, so he was asked to speak later.

Rob Means, 1421 Yellowstone Ave resident, agreed there needed to be a sustainable future. The City needed to do more to protect and preserve the environment by dealing with the climate crisis. So, he invited all to an event on Sunday in Oakland, a protest for climate justice mobilization.

Voltaire Montemayor, Milpitas resident, urged people not to get intimidated when using a fire extinguisher. He asked where to bring used cooking oil and to have an emergency kit.

Robert Marini, Milpitas resident, discussed alleged violations of the California Constitution related to charges for sewer and water.

ANNOUNCEMENTS

Councilmember Giordano reported progress at the Milpitas Chamber of Commerce, with some new board members recently installed.

City Manager Tom Williams announced awardees of the new Employee of the Year Program: Gary King from Building Department. Rookie of the Year was Ahmed Aly from Engineering, and Rising Star was Jason Tang from Human Resources Department. He also announced staff promotions: Emma Karlen was appointed Assistant City Manager, Robert Mihovich was the permanent Fire Chief, and Mike Luu was the permanent Information Services Director.

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 or contributions were reported. Councilmember Gomez said he would abstain on Item No. 4 (RFQ on Environmental Litigation).

APPROVAL OF AGENDA

Motion: to approve the agenda, as presented

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 presented

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

*5. Commission Appointments Confirmed the following appointments recommended by the Mayor:

Youth Advisory Commission:

Re-appointed Sabina King, Sahil Hansalia, Sahil Sandhu as regular voting members to terms that will expire in September 2015.

Appointed Jacqueline Ajero and Jonathan Mendoza (previously Alternates) as regular voting members to terms that will expire in September 2015.

Newly appointed Alan Pham as a regular voting member to a term that will expire in September 2015.

Newly appointed Jashandeep Chahal as Alternate No. 1, Claudia Wang as Alternate No.2, Ravit Sharma as Alternate No. 3, and Christie Maly as Alternate No. 4 to terms that will expire in September 2015.

Emergency Preparedness Commission:

Re-appointed Stephen Strauss as a regular member to a term that will expire in June 2016.

*7. Adopt Ordinance No. 38.817

Waived the second reading and adopted Ordinance No. 38.817 extending the sunset date from June 16, 2014 to June 16, 2016 to allow a process for re-establishment of discontinued non-conforming uses within Midtown and Transit Area Specific Plan areas.

*8. Resolution – Conflict of Interest Code Filers

Adopted Resolution No. 8411 updating the list of employee classifications and Commissioners required to file a Statement of Economic Interests (Form 700) per the Conflict of Interest Code.

PUBLIC HEARINGS

1. CAPER on CDBG 2013-14

Principal Planner Felix Reliford introduced the annual Consolidated Annual Performance Evaluation Report for Community Development Block Grant funds for FY 2013-14.

Mayor Esteves asked how many service requests were made to service providers that went unmet. City Manager Williams and Mr. Reliford responded.

Mayor Esteves asked if, next year when the CDBG fund allocations are discussed, staff would provide the number of unmet requests for service that remained, upon review of specific goals stated by the non-profit groups when they applied for funds. Mr. Reliford said he would provide that information to the City Council.

Mayor Esteves opened the public hearing and heard no speakers.

(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 commented on the need for services for youth. More funds should go to youth rather than the emphasis on seniors. She also recommended providing notice of the CDBG funds in ethnic newspapers to inform all communities.

Mayor Esteves asked if the agencies had met their goals. Mr. Reliford responded that only the number energy efficient homes was just slightly less than targeted. (25 v 28)

(2) Motion: to adopt the FY 2013-14 Consolidated Annual Performance Evaluation Report (CAPER) on Community Development Block Grant funding

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

2. Draft Housing Element for 2015 - 2023

Principal Planner Felix Reliford introduced the mandated Housing Element of the City's General Plan, prepared every eight years per state law, which must be submitted to state Housing and Community Development for approval. He expressed how devastating the elimination of Redevelopment Agencies had been for Milpitas and cities statewide, in terms of inability to reach affordable housing goals. Staff recommended removal of the policy about requiring space for executive level, luxury housing in the City. Mr. Reliford stressed that no community would exactly meet its Regional Housing Needs Allocation (RHNA) number, as determined by ABAG, while much progress had been made in the City. He reviewed timeline of actions on this document to date, including going before the Planning Commission.

Staff asked the City Council to consider whether or not to pursue some suggested policies that other cities are considering to encourage and/or fund affordable housing, now that the 20% Redevelopment set-aside was eliminated as a funding source.

The City's Housing Element consultants spoke next from BAE Urban Economics: Janet Smith-heimer, managing principal and along with Stephanie Hager, senior associate. The two women reviewed achievements of the last seven year Housing Element period, 2007 – 2014. They discussed goals for the next eight year period. Several proposed program changes in the new Housing Element update were noted, and included deletion of the program to assist in creation of executive-luxury style housing.

Questions were asked about state and federal government funds, such as grants that could be available for affordable housing in Milpitas. The consultant provided some suggested, possible programs for further study to increase production of housing, e.g. Inclusionary Housing Ordinance and/or In-Lieu and Housing Impact Fees.

Councilmember Gomez commented on state actions that had caused the current problem of lack of funds for affordable housing.

Councilmember Giordano remarked that the further study ideas were not in the Housing Element draft document. These were all new on the slides this evening. Staff replied these were in part a result of discussion at the Planning Commission meeting.

Councilmember Montano pointed out this was a draft document, so far only, and not the final product.

Vice Mayor Polanski said the City needed to get some public input on the idea of and inclusionary housing ordinance or other suggested actions.

Mayor Esteves asked what was the expected outcome of such a study on Inclusionary Housing Ordinance, and felt it would be known in advance.

Staff reviewed the timeline, with the end goal of having the City Council adopt the Housing Element in January 2015.

Councilmember Giordano noted (on page 68) about government constraints: the Urban Limit Line. There was no discussion on the impact to the community when that expired in 2018. She felt that should be included.

Next, Mayor Esteves opened the public hearing for comments.

Richard Ruth, Quail Drive in Milpitas, said the draft Housing Element was not complete, with some information missing. The public needed to review all parts of the document and comment. As far as the RHNA numbers, he wanted to know if those were over 4 years or 8 years. On affordable housing, the government was looking for money for school districts as a similar issue. He asked when it was studied that there was enough affordable housing and limit reached. He believed the report's numbers were bogus.

Mr. Reliford responded that RHNA numbers were for an eight year time period.

Heidi Wolf-Reed, Milpitas resident, was very proud of the City with housing being developed and constructed. How the City would finance affordable housing was the main issue to deal with. She felt it was not a good idea to have Inclusionary Housing as a policy. She wanted “boomerang” RDA funds to be directed to affordable housing.

Councilmember Montano asked her if boomerang funds were the way to go. The resident repeated that 20% of boomerang funds should be set aside for affordable housing.

Pilar Lorenzana-Campo, of the Non-Profit Housing Association, had sent a comment letter prior to the meeting. Non-profit affordable developers were the members of her organization with various opportunity sites. Federal and state tax credits were available, she pointed out. Three of 20 parcels would be feasible for tax credits, she determined.

City Manager Williams was asked to explain “boomerang” funds, related to the former Redevelopment Agency money that now went into the General Fund. Majority of former RDA tax funds were parceled out to the various taxing entities within the County.

Robert Marini, Milpitas resident, referred to an additional 6,000 houses coming to Milpitas. New parcels and households were increasing the City’s population by 30% which only added to the problem of water/drought issue.

Rob Means, 1421 Yellowstone, said this issue was a tough nut to crack - affordable housing.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

Vice Mayor Polanski said there was no such thing as “boomerang” funds and that was an incorrect made-up name. Milpitas had a history of being strong on affordable housing over many years. These were funds that had always been in the City budget while these were now a much smaller amount. She was not big on an inclusionary housing ordinance. Fees could continue to be passed to everyone. Future City Councils would have to come to grips with that.

Councilmember Giordano would like executive housing discussion re-inserted in the Housing Element. There needs to be a balance of housing mix, including high density and other types including the upper end. On the further programs to study, she was not in favor of inclusionary zoning or a study, so she proposed to eliminate that from further discussion. On government constraints, the urban growth boundary would end in 2018 so that will have a big impact and should be included in discussion.

Councilmember Montano asked if other topics come into play beyond inclusionary housing ordinance, housing impact fee, or commercial linkage fees. Mr. Williams replied yes, for example, a density bonus and a community benefit district. Ms. Montano was not sure why hillside housing needed to be included. She did want further study to move forward with possible additional programs to consider.

Mayor Esteves found that a study would be a futile exercise on an inclusionary housing ordinance. He asked, what about grants? Focusing on that was not a good idea, rather just dreaming. Better solutions were needed. For the balance of homes, he wanted to respect the ballot measure, the hillside ordinance adopted by voters. He asked if the City did really have to achieve the goals for affordable housing in the Housing Element.

Mr. Reliford said staff could go back and do more analysis, and perhaps suggest other potential policies to study in the future.

Councilmember Montano asked if developers had been asked about Inclusionary Housing ordinance and she sought a comment from any developer in the audience. Mayor Esteves allowed one to come forward.

Jim Sullivan of SCS Development, commented on work done already in Milpitas on providing affordable housing in new building. There was a chilling effect on development when a city had an inclusionary housing ordinance (or housing impact fees).

(2) Motion: to authorize staff to update the Draft General Plan Housing Element 2015-2023 for the City of Milpitas which goes to the California Department of Housing and Community Development, and revise the Housing Element including to circulate the document to another public meeting with three amendments: 1) re-insert the executive housing discussion for a housing balance, 2) eliminate any suggested programs for further study, and 3) have a discussion of government constraints of the Urban Growth Boundary, especially when it terminates and if it were to be renewed

Mayor Esteves agreed with the motion made and wanted to include consideration of Measure T (hillside ordinance adopted by voters).

Motion/Second: Councilmember Giordano/Councilmember Gomez

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

Mayor Esteves announced the City Council was taking a break at 9:48 PM and reconvened about 10 minutes later.

UNFINISHED BUSINESS

3. Progress Report on Street Lights (LED)

Public Works Director Jeff Moneda updated the City Council on the program for installation of thousands of new LED street lights, installed by City staff crews (no contractor) with decorative lighting fixtures. He displayed photographs of several of the locations where the new fixtures installed with 60% more efficient energy use than previous lights. That would yield a \$62,500 rebate from PG&E.

Councilmembers inquired of some further details of the project and specifics about the lights, to which staff responded.

Next, the Mayor invited speakers from audience.

Rob Means, 1421 Yellowstone, commended the City and staff for saving energy and saving money with these new lights.

Voltaire Montemayor, resident, noted the energy consumption savings.

Motion: to receive the oral report from the City Engineer on progress of installation of new LED street lights throughout the City by in-house staff

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Gomez)

4. Update on Environmental Litigation RFQ

This matter was heard prior to Item No. 3 (above). Councilmember Gomez left the dais for this item and departed the meeting for the evening.

City Attorney Mike Ogaz expressed the goals of the Request for Qualifications for selecting an attorney for environmental litigation, related to finding a solution to the ongoing odor problem in Milpitas.

Mayor Esteves invited speakers from the audience.

Pradip, Milpitas resident, thanked the City Council for taking such a strong action about this odor issue. He and other residents were delighted that the Council would pursue litigation. They would like to help with this effort in any way.

Rob Means, 1421 Yellowstone, commented that the landfill wasn't the only source of the odor, such as water pollution control plant, drying beds, and the bay itself. Garbage rates would go up a lot if landfill/dump was closed for the odor problem. So all residents needed to further reduce what gets brought to the dump.

Voltaire Montemayor, resident, wondered if water from rain would reduce the odor.

Mr. Gupta, resident, referred to the landfill and garbage, some of which came from San Jose. When he had friends to his house, they noticed the smell so he hoped Council was successful in efforts to stop the odor.

Motion: to receive City Attorney's report on the Request for Qualifications for environmental law firms

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

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

NEW BUSINESS

6. Montague Village Park Plan Planning Director Steve McHarris presented plans and overview for the proposed Montague Village Park with its design and layout. Many amenities would be offered. Mayor Esteves asked questions about capacity and parking spaces available. Recreation Manager Renee Lorentzen answered questions about a new community center on-site.

The Mayor allowed speakers from the audience.

Jim Sullivan, SCS developer with projects in Milpitas, appreciated working with staff and going before the Parks, Recreation and Cultural Resources Commission on this park as a collaborative effort. He was excited about the outdoor amphitheatre area, community center, and tennis courts next to his residential developments under construction.

Motion: to approve the park design for the proposed Montague Village Park located in the Piper-Montague Sub-District of the Transit Area Specific Plan area

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

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

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 10:54 PM.

The foregoing minutes were approved by the Milpitas City Council on October 6, 2014.

Mary Lavelle, Milpitas City Clerk