

**Draft MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, January 6, 2015
Time: 7:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 7:09 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Barbadillo, Giordano and Grilli

ABSENT: None

PLEDGE

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

INVOCATION

Mayor Esteves offered a prayer to start the meeting.

MEETING MINUTES

Motion: to approve the minutes of the December 16, 2014 City Council meeting

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for January 2015

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

PRESENTATION

Mayor Esteves presented a certificate to Christine Ma, local winner of Lions Club International Peace Poster contest for 2014-15. Representatives of the Lions Club were present with her.

PUBLIC FORUM

Mitchell Smith, owner of Solar Technology of San Jose, wanted City Council to adopt the HERO program in Milpitas, Home Energy Renovation Opportunity (a PACE program). It helped homeowners improve their homes, via a funding mechanism that was paid back over time on their property tax bills.

Evelyn Chua, member of Emergency Preparedness Commission, invited all to attend free training for the SAFE program, which helped residents get ready in teams for the time of a major disaster. SAFE was a collaboration of EPC and Fire Department staff, which helped all residents. Training was upcoming in the spring of this year. Call staff Sean Simonson at 408-586-2810 to sign up.

Robert Marini, Milpitas resident, referred to the hiring of a lobbyist last year in February. The city did not identify issues the lobbyist would lobby on nor was the cost identified. There was no input from the public given on the consent item. The City lost \$100,000 in this example without asking the residents. More housing made the situation worse for the citizens.

Rob Means, 1421 Yellowstone resident, asked to show a one minute video (The Wombat) with a message that "we are one" referring to one world. He felt a need to make change, to reduce the

amount going to all landfills. He mentioned the Pope had recently addressed climate change and he sought Milpitas to do that, too.

Voltaire Montemayor, Milpitas resident, suggested having a team for a drill, in preparing for an earthquake or a flood, with certification. He said there were talents in Milpitas.

Joseph Weinstein, resident at 66 Hamilton, thanked the City Council for their work. He discussed recent news about police officers shot and killed in New York. He wanted to highlight the excellent Police Department of high quality in Milpitas, which must be maintained. He asked for a resolution in support of officers and support of the grieving officers across the nation. Blue lights were being displayed across the United States, and so he requested blue light bulbs at City Hall, displayed perhaps from the fourth floor.

Mayor Esteves responded, stating that Councilmember Grilli had already asked for the blue light item on the next Council agenda.

Frank DeSmidt, of Milpitas Rotary Club, asked for help in getting the Club's annual Gene Schwab Award going again. He and the club wanted to have the award program again and needed City staff assistance to do it.

Councilmember Giordano asked for a response to Mr. DeSmidt. Mayor Esteves explained that it was replaced with an employee recognition program (based on performance) at the City last year. Councilmember Giordano said that maybe it would be good to have a discussion with the Rotary Club to honor employees in some way.

ANNOUNCEMENTS

City Manager Tom Williams announced that the State of California Housing & Community Development accepted the City's draft Housing Element submitted last fall. It would appear on an upcoming Council agenda for final adoption and then would be valid for eight years.

Councilmember Grilli thanked Mayor Esteves for the resolution being placed on the next meeting agenda, for the blue light program in support of police.

Two Councilmembers asked for clarification from the Mayor regarding appointments at the next meeting he would make to the new ad hoc Campaign Finance Reform Committee. Mayor Esteves was suggesting seven members, and he would provide the names of all those who expressed interest to the City Clerk, along with his recommendations for appointment. City Council would need to vote to approve those members at the next meeting.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Ogaz asked the Mayor and Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the agenda, as submitted

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

CONSENT CALENDAR

Motion: to approve the Consent Calendar items (noted by *asterisk), as amended

City Manager Williams requested removal of Item No. 4 (odor report) from consent for a brief oral report from the Acting City Engineer on current activity.

Mayor Esteves had questions on Item No. 7 (new CIP on Main St. Pavement) and requested to remove it from consent.

Councilmember Grilli asked to remove Item No. 5 (Commission appointments) from consent.

Vice Mayor Montano asked to remove Item No. 6 (Oversight Board alternates) from consent.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

- * 8. Resolution Adopted Resolution No. 8436 granting final acceptance of the 2013 Sound Wall Renovation Project No. 4267 and release of the contractor's bond.
- * 9. Resolution Adopted Resolution No. 8437 approving the appraisal reports, and establishing the fair market value of land in the City of Milpitas outside the Transit Area Specific Plan and Midtown Specific Plan to be \$53 per square feet or \$2,308,680 per acre, and for land in the City of Milpitas inside the Transit Area Specific Plan and Midtown Specific plan to be \$64 per square foot or \$2,787,840 per acre for the purpose of calculating park in-lieu fees, effective on January 7, 2015.
- *10. Cannon Design Group
 1. Approved a consultant agreement with Cannon Design Group for design review services on an as-needed basis for the term from January 6, 2015 to January 5, 2018 in the annual amount of \$50,000.
 2. Approved an appropriation in the amount of \$50,000 to the Planning and Neighborhood Services Department Fiscal Year 2014-15 operating budget.
- *11. Agreements with EOA
 1. Approved two separate consultant agreements with EOA Inc, and CSG Consultants, Inc., for third party review of development projects for compliance with the Municipal Regional Permit (MRP) Provision C.3 for an annual amount not-to-exceed \$60,000.00 and for a term from January 6, 2015 to January 5, 2017.
 2. Approved a budget appropriation in the amount of \$120,000 in the Engineering Operating Budget for Fiscal Year 2014-15.

PUBLIC HEARINGS

- 1. 2015 Weed Abatement 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 any questions about the program.

Mayor Esteves opened the public hearing for comments, and heard none.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Barbadillo

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

(2) Motion: to adopt Resolution No. 8433 directing the County Agricultural Commissioner to abate the nuisance, keep an 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: Councilmember Giordano/Vice Mayor Montano

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

2. Development Proposal for 75 South Milpitas Blvd.

Senior Planner Shaunn Mendrin presented the history and actions to date for a new residential development featuring 25 townhomes at 75 S. Milpitas Blvd. It will include five “live-work” units located on land at Los Coches and Milpitas Blvd. He explained the request from the developer for an exemption from the recently adopted urgency ordinance requiring use of recycled water for landscaping.

Mayor Esteves asked how the units were harmonious with the Union Bank structure next door to the site. He sought information on how many jobs would be lost due to the new residential development, even with the live-work component.

Mike Sullivan, project developer, came to the podium to answer that two businesses were relocating to locations in Milpitas. Six others were primarily had one or two employees.

Mayor Esteves asked if it was considered mixed-use. Staff replied it was not typical but it was mixed-use with live-work units included. The Mayor asked square footage of residential versus commercial space in the development proposed. He asked about public benefits of the project.

Councilmember Giordano remarked this was a classic infill project. She would not expect architecture to be similar to the next door buildings. She saw it as compatible with storefronts on the street with a commercial component.

Councilmember Barbadillo asked if this was the second live-work unit project in Milpitas and inquired about one other under construction. He had many questions about the businesses in the live-work units and allowable types. He was concerned specifically about the impact to schools and whether the school district had provided any input. Staff replied no response was received from Milpitas Unified School District, though notice had been sent.

Councilmember Grilli commented on the student ratio, and the local school district did constant enrollment projections. Five new students in the project sounded correct and would not be a burden. She liked the look of the project.

Vice Mayor Montano said there should be a soundwall between the bank and the driveway entrance to the homes, or a security gate. She remarked that the project conformed to the one around it and she liked the mixed-use idea. It was not aesthetically appealing to her and felt it was rather plain. Some public art element at the project site would be valuable, she suggested also.

Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, said it would take 1.6 million more gallons to provide water. He commented about Councilmember Giordano. Last time, City Council waived park in lieu fees and he urged them not to do that this time. He also wanted to know what the average cost per unit would be.

Rob Means, 1421 Yellowstone resident, noted that on page C1, the elevation of the site was noted to be about 18 feet above sea level. He talked about global warming effects on the City and the rise of sea level in Milpitas.

Don Nguyen, tenant in the current building at 75 S. Milpitas, gave his support to the developer whom he thanked for assistance with relocating in a timely manner. City staff provided a lot of help including on construction at his new office.

Voltaire Montemayor, Milpitas resident, liked housing in Milpitas. He was concerned for people crossing to Marina, with more people walking. It should be commercial.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

Applicant Mike Sullivan came up to podium to address the Council, and thanked staff and the Planning Commission for all their work on this project over the last year. He was excited about the Master Tree Plan his company would work with the City on, as part of the project. Next, the project architect presented a short powerpoint presentation and site plan to Councilmembers.

Vice Mayor Montano noted that the homeowners would pay for infrastructure. Though the association should not pay for future conduits for the “purple pipes” for non-potable water. She wanted the developer to pay for that.

Mayor Esteves asked what type of business would go in the relatively small spaces. He asked about a business person buying the unit. He thought these townhomes would be too expensive for a single person small business owner. The Mayor really wanted to see a project with only commercial space on the first floor.

Councilmember Giordano commented about Town Center and the zoning for that area, with which this project was in conformance.

(2) Motion: to adopt Resolution No. 8434 approving Vesting Tentative Map No. MT14-0002, Site Development Permit No. SD14-0014, Conditional Use Permit No. UP14-0023 and Planned Unit Development No. PD14-0002 for a 25 townhouse development multi-family residential subdivision, based on findings and subject to conditions of approval

Motion included the addition of two conditions: to include a barrier (soundwall or gate) for security separating the development from the bank building next door, and add an art piece on site.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Councilmember Barbadillo gave a reminder that with technicalities and compliance, along with other regulations, that City Councilmembers exercise discretion beyond those laws. He identified many new units being built in Milpitas which all were adding lots of new students to the school district. He would vote no on this residential project.

Vice Mayor Montano said if there were not any developments in the area, she would vote no. She had voted no for the one behind Wells Fargo. However, once the neighborhood was turning residential, she was okay with this project. Businesses at the frontage were a good idea that she supported.

Mayor Esteves had a concern about more residential in a commercial area of the City, so he did not favor the change in use. He would support this development if all of the first floor was all commercial with residential above. He would thus vote no.

Motion carried by a vote of: AYES: 3
NOES: 2 (Esteves, Barbadillo)

3. General Plan Amendment for Climate Action Plan

Senior Planner Adam Petersen explained the need for the General Plan Amendment to incorporate the previously adopted Climate Action Plan.

Vice Mayor Montano asked about Greenhouse Gas Emissions Reduction Strategy, and why no “Eco Passes” were included in the Climate Action Plan. Those transportation passes would help employees to use transit more often, rather than driving. She asked city staff to consider offering those again. She asked about walkways, child care centers in developments, shopping near residences, and other issues.

Mayor Esteves asked about target numbers. He wanted to know what measures were included to target a higher percent of reduction in greenhouse gases.

Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, talked about energy efficient appliances and how did that work. He wanted to know what the City offered.

Voltaire Montemayor, Milpitas resident, commented that there was no permanency of big oil reserves. So the more people could save energy, the more use of oil was unneeded. He did not know about electric charging cars.

Rob Means, 1421 Yellowstone, noted that in 2013 there was input from the Sierra Club when this issue came to the City Council. Some elements of the CAP could be improved, to add the PACE program, particularly helpful to homeowners be more efficient. More bicycle infrastructure in town was needed too.

(1) Motion: to close the public hearing

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

(2) Motion: to adopt Resolution No. 8435 approving General Plan Amendment No. GP13-0002 for o create a section entitled “Greenhouse Gas Emissions Reduction Strategy” within the Land Use Element of the City’s General Plan addressing the City’s adopted Climate Action Plan

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

UNFINISHED BUSINESS

4. Odor Report

Acting City Engineer Steve Machida presented the Odor Control update report, reviewing the variety of government regulating agencies and entities involved with odor issues in Milpitas: odor generators, CalRecycle, San Jose Local Enforcement Agency (LEA) and the Bay Area Air Quality Management District. He detailed recent actions and meetings affecting efforts to stop odor in Milpitas.

Mayor Esteves asked who will demonstrate a link between odors and the Newby Island landfill. Mr. Machida replied: inspectors from the state agency would do so, with confirmation on site when reported.

Councilmember Barbadillo asked if Alviso and Santa Clara had the same issues with odor. Staff reported there were some complaints from Santa Clara and even from Fremont reported too. Mr. Barbadillo asked about support to the grass roots group recently formed in Milpitas. Mayor Esteves responded to him about the existing Request for Proposals to the City for an expert in this field to assist the city with legal action.

Councilmember Barbadillo asked if the City had considered lobbying. City Attorney Ogaz responded they would discuss all legal options with expert counsel, including lobbying if appropriate, and then do the groundwork first, once a firm was selected.

Councilmember Grilli reported there two goals in the community: (1) to stop the expansion of the nearby landfill and, (2) find some solutions to the odors (mitigation).

Mayor Esteves invited comments from the audience.

Robert Marini, Milpitas resident, asked what was the solution to the problem since it had been going on for years and years already.

Motion: to note receipt of the oral report on odor issues, provided by Acting City Engineer Steven Machida

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

REPORTS OF MAYOR

5. Commission Appointments

Councilmember Grilli said she was uncomfortable with the appointment process and would like additional information. She wanted to read some justification for why the Mayor was making the recommendations he did.

Councilmember Giordano thought Mrs. Grilli had a valid comment. In the past, the City Council used to interview Planning Commissioner applicants and get to know them a bit. She suggested putting out the names one meeting ahead.

Mayor Esteves responded stating his approach, after talking to the applicants. He encouraged City Council if they had questions to ask him those if they do. He would always go for a majority vote of the Council.

Councilmember Giordano asked if the Mayor was open minded to have some kind of input, when recommending, to advise the Council as to why he was appointing specific persons. Maybe a Mayor's report or a summary from him would help. She believed that should be done at least two meetings ahead.

Mayor Esteves responded to the Planning Commission appointments he was making for two new members recommended for appointment at this meeting.

Motion: to approve all of the following Commission appointments

Community Advisory Commission:

Re-appointed Oscar Leon as a regular member to a term that will expire in January 2019.
Re-appointed Ashish Kathapurkar as Alternate No. 2 to a term that will expire in January 2017.

Emergency Preparedness Commission:

Appointed Evelyn Chua as a regular member to a term that will expire in June 2015.
Appointed Jonathan Nakapalau as Alternate No. 1 to a term that will expire in June 2015.
Newly appointed Christine Tran as Alternate No. 2 to a term that will expire in June 2015.

Planning Commission:

Appointed Hon Lien as a regular voting member to a term that will expire in December of 2015.
Newly appointed Ray Maglalang as a regular voting member to a term that will expire in December of 2017.
Newly appointed Zeya Mohsin as the Alternate Member to a term that will expire in December of 2015.

Senior Advisory Commission:

Re-appointed Debra Langley as a regular member to a term that will expire in December 2016.

Re-appointed Willy Wong as Alternate No. 2 to a term that will expire in December 2016.

Telecommunications Commission:

Re-appointed William Lam as a regular member to a term that will expire in January 2017.

Re-appointed Idrees Munir as a regular member to a term that will expire in January 2016.

Appointed Ernesto Bautista as a voting member to a term that will expire in January 2017.

Appointed Anh Bao as Alternate No. 1 to a term that will expire in January 2017.

Newly appointed Stephan Tang as Alternate No. 2 to a term that will expire in January 2016.

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

Councilmember Giordano asked the Mayor to give a report to City Council in the future regarding Planning Commission recommendations in the future.

6. Appoint Alternates to Oversight Board

Vice Mayor Montano asked if the City Council could receive copies of the meeting minutes of the Oversight Board. Staff would provide those to her, Mr. Williams responded. Those documents were available on the City website, also.

Motion: to appoint both Jane Corpus and Steve McHarris as City of Milpitas staff alternates to either voting member on the Milpitas Oversight Board

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

NEW BUSINESS

7. Approve New CIP Project - Main Street Pavement Reconstruction, Budget Appropriation and Authorize Consultant Agreement with HMH Engineers

Mayor Esteves had a question for staff on the amount of the contract with the engineering firm. CIP Manager Steve Erickson described the Request for Proposals process, and reviewed what was done to arrive at HMH Engineers as the recommended firm for the consultant agreement.

City Attorney Ogaz reminded the City Council that the process for proposals was always followed properly and a formal bid for consulting services was not required.

Vice Mayor Montano clarified that it was not a construction project. Staff explained it was the design only phase of the new project. She asked questions about older pipes in the city that were likely to break and timeframe of the pavement work scheduled.

Mr. Erickson responded that the City did have maps showing all utility infrastructure, including Dempsey Road, So. Main Street and other areas to know where breaks and failures have occurred. Engineering worked closely with maintenance staff too.

Councilmember Barbadillo also inquired if this item needed an RFP. Mr. Erickson explained how engineers gather design consultants for a list which is maintained by the Engineering Division.

Motion: to approve the following three actions:

- 1) Approve a new Capital Improvement Program Project – the Main Street Pavement Reconstruction Project No. 4277
- 2) Approve a budget appropriation of \$3,468,000 from the 2003 RDA Tax Allocation Bonds and \$528,000 from the 1997 RDA Tax Allocation Bonds Project No. 4277

3) Authorize the City Manager to execute an agreement with HMH Engineers in the amount of \$225,000, for a term from January 6, 2015 to December 31, 2015

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 10:19 PM.

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