

**Draft MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Meeting of Milpitas City Council  
**Date:** Tuesday, March 17, 2015  
**Time:** 6:00 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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**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 Montano, Councilmembers Barbadillo Giordano and Grilli

**ABSENT:** Councilmember Barbadillo was absent at roll call. He arrived later in the Closed Session at 6:10 PM.

**CLOSED SESSION**

City Council convened in Closed Session to discuss litigation and labor negotiations.

City Council then convened in Open Session at 7:08 PM.

**ANNOUNCEMENT**

None

**PLEDGE**

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

**INVOCATION**

Councilmember Giordano read a quote from President John F. Kennedy about public service.

**MEETING MINUTES**

Motion: to approve the minutes of March 3, 2015 City Council meeting

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

**SCHEDULE OF MEETINGS**

Motion: to approve Council Calendar/Schedule of Meetings for March and April 2015

City Manager Tom Williams reported that the City Council Finance Subcommittee would hold a meeting at 4:00 PM the following day, March 18.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

**PUBLIC FORUM**

Nika Chen, Milpitas resident, wished to discuss odor issues and Newby Island. She asked the City Council to consider using another company because Republic was not doing a good job. When the contract expired in 2017, she and other residents did not agree to extend the contract with Republic. Other landfills were close to Milpitas that did not produce such bad odors as at Newby Island.

Robert Marini, Milpitas resident, commented on sewer rates.

Four girls who were actresses with the Milpitas Children's Theatre Alliance came to announce the group's "Community 5 K Fun Run/Walk" on May 31. They sought support for their program.

Mayor Esteves encouraged residents to support the youth and the Children's Theatre by joining the fun run, or offering financial support for the run.

Rob Means, 1421 Yellowstone Ave. resident, discussed a climate change march held in New York last fall October 21, 2014 and showed video footage of the large crowd at that event.

Voltaire Montemayor, Milpitas resident, said neighboring towns did not have plastic in the stores. It was messy in some cars while it was necessary to train people how to sort plastic.

Ray Zhang, 13 year resident, asked for help to fight a public nuisance, relative to odors. Mayor Esteves asked him to wait for that topic on the agenda.

**ANNOUNCEMENTS**

None.

**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

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

**CONSENT CALENDAR**

Motion: to approve consent calendar items (noted by \*asterisk), as amended

Vice Mayor Montano requested removal of Item No. 6 (Memorial Plaque), Item No. 10 (CFD property) and No. 11 (Trail Bridge) from the consent calendar.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

\* 5. Commission Appointments To the Community Advisory Commission, newly appointed Adrian Morel as Alternate No. 2 to a term that will expire in January 2017.  
To the Senior Advisory Commission, re-appointed Melba Holliday as a regular member to a term that will expire in December 2016.

\* 9. Resolution – South Main Street Improvements Adopted Resolution No. 8456 granting final acceptance of and releasing the warranty bond for the South Main Street Improvements - Paragon Project No. 3204.

\*12. New CIP No. 2005  
1. Approved a new Capital Improvement Program Project No. 2005 for the Lower Penitencia Creek Pedestrian Bridge Project.  
2. Approved a budget appropriation of \$150,000 from Transit Area Specific Plan (TASP) impact fees and \$500,000 from developer contributions.  
3. Approved Amendment No. 1 to the Agreement with Biggs Cardosa Associates, Inc. in the amount of \$184,500 and for a term until March 18, 2016 for the Lower Penitencia Creek Pedestrian Bridge.

\*13. Agreement related to McCarthy Development Approved the Assignment and Assumption Agreement between the City, BRE/Milpitas LLC and Hudson Campus Center LLC relating to the 65 acres along North McCarthy Boulevard between Ranch Drive.

\*14. Amend Agreement with CSG Authorized the City Manager to execute Amendment No. 3 to the agreement with CSG for fire inspection and plan review services for a total amount-not-to-exceed \$238,200 for Fiscal Year 2014-15.

\*15. Pay Burton Fire

Authorized payment of invoices to Burton Fire totaling \$28,162.65 for the Ladder Truck TK86 repairs.

## **PUBLIC HEARING**

### **1. Town Center Zoning Ordinance**

Planning Director Steve McHarris provided history on zoning from 1960s to current day in Town Center, as regards allowance for residential development. There was some discussion on notifying property owners for five public meetings held on this subject. 132 acres comprised the Town Center zone, with a map showing this area. Mr. McHarris described three possible alternatives for the Council to vote on this evening regarding zoning of residential and commercial property.

Following a few comments by the City Council, Mayor Esteves opened the public hearing.

Rob Means, 1421 Yellowstone resident, felt the original staff recommendation to allow residential above commercial on the first floor made the most sense.

Farouk Laiji, from Shappell Properties, explained that his company was the largest single stakeholder in the Town Center area, next door to the City. He referred to a letter sent to City Council dated March 12 opposing the zoning amendment to deny opportunity for any residential development. He urged consideration for high density housing at this location and to be collaborative with stakeholders involved, especially businesses. He suggested a traffic study and economic development impact study in order to determine best use.

Steve Siddell, Milpitas resident, attended one of the early meetings and saw what happened at the Planning Commission. He did not believe the public heard from one significant group of people, who may have been intimidated at the Commission meeting.

Tom Valore, 25 year resident, saw two situations when City staff brought forward solid recommendations, while these were being rejected. He felt it was at whim, despite the economic soundness of the proposal. He would appreciate when making decisions, that those were supported by sound investigation and that Council not summarily dismiss staff's professional recommendation.

Voltaire Montemayor, resident, talked about modifications of buildings in Town Center.

(1) Motion: to close the public hearing, after hearing five speakers

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

Councilmember Giordano would sustain her previous vote supporting the past recommendation from Planning Commission and staff to permit live/work units in Town Center zone, and she would also support no residential on the first floor, as previously brought. She would vote no on newly proposed ordinance.

Councilmember Grilli felt the City had not studied economic impact adequately and on this topic, the City was going too fast. She thought more outreach to residents and with Shappell was necessary. Bringing in some good commercial development was needed. She did not support the ordinance on the agenda this evening.

Vice Mayor Montano had heard from residents that they have to go outside Milpitas to shop for certain things, and would like to see more commercial at Town Center. She would vote to re-zone this area to be commercial only.

Councilmember Barbadillo knew there was lots of development going on and he wanted to see a balance. Mostly, he saw only residential developments being built in the City. He spoke on behalf of citizens, where their voices must be heard, and wanted the City's "heart" in the Town Center. He urged keeping the Town Center concrete as originally intended, as a shopping and commercial area, not residential.

Mayor Esteves remarked on the frequency of studies by governments, which he felt were an example of government procrastination. He discussed where to focus building houses, as it was occurring now in the Transit Area, near the new BART station. He felt commercial and retail development in Town Center was most appropriate.

(2) Motion: to adopt Resolution No. 8455 approving the General Plan Amendment to eliminate references to residential development, residential densities, and mixed-use development in the Town Center

Motion/Second: Councilmember Barbadillo/Vice Mayor Montano

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

City Attorney Mike Ogaz read aloud the title of Ordinance No. 38.820, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 10 of Title XI of the Milpitas Municipal Code Prohibiting All New Residential Uses in Town Center Zoning District."

(3) Motion: to waive the first reading beyond the title of Ordinance No. 38.820

Motion/Second: Councilmember Montano/Councilmember Barbadillo

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

(4) Motion: to introduce Ordinance No. 38.820 to prohibit residential use in Town Center

Motion/Second: Councilmember Barbadillo/Vice Mayor Montano

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

## UNFINISHED BUSINESS

### 2. Odor Control Update

City Engineer Steven Machida gave an update on odor reporting to both the City of Milpitas and to the Bay Area Air Quality Management District hotline. He announced a public meeting scheduled by BAAQMD on Thursday, April 23 at City Hall.

Vice Mayor Montano asked about the process and the staff who come from the District out to Milpitas to verify an odor complaint. She asked if they were certified and sought more clarification on that process. Mr. Machida responded.

Councilmember Giordano remarked that this was an ongoing long-time issue for the City, and she always backed up those opposing the odors.

Motion: to receive the oral report from the City Engineer on odor update

Motion/Second: Councilmember Giordano/Councilmember Barbadillo

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

### 3. Report on Crime

Police Chief Steven Pangelinan reported statistics on major crime figures, based on FBI Crime Index categories. He highlighted a recent increase in aggravated assaults from 2013 to 2014, the majority of which were domestic-violence related.

Mayor Esteves asked how many arrests were made on the 182 burglaries. Chief Pangelinan said he could provide that information later to the Mayor and Council. He then discussed effects of the state realignment of prisoners in 2011, which impacted the increase of some categories of crimes in Milpitas.

Councilmember Giordano thanked the Chief for numbers provided, and felt his report would be helpful to hear each year. She asked how many police officers the City had in 2004 versus 2014. The Chief replied there were 85 sworn officers today and the peak was 95 sworn officers in the past. Ms. Giordano asked about volunteers and reserve officers, which the Chief responded regarding the few that Milpitas did utilize.

Vice Mayor Montano asked about drug crimes and whether DUIs were included and the Chief said no. She asked about surveillance cameras, stating her belief there was a need for those around the City, strategically placed where there was a lot of traffic.

Motion: to receive the oral report from the Police Chief on crime statistics in Milpitas

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

### 4. RFP for Milpitas Community Television

Information Services Director Mike Luu reviewed the Goals and Objectives for an Operator of Channel 26 television station proposed Request for Proposals (RFP).

Councilmember Giordano inquired about the cost of doing an RFP. Mr. Luu replied it would be only in terms of City staff time to work on it and advertise the RFP. She wanted to know what the cost of the service would be and staff said the response to the RFP (from operators) would provide estimated cost to run the station.

Vice Mayor Montano asked for further information on the three alternatives given.

Councilmember Barbadillo asked for statistics on who watched channel 26. Mr. Luu explained neither he nor the City could get those figures from Comcast directly. He did know about submittal requests to show programs, about 6 – 12 per month.

Councilmember Grilli asked if those people were charged a fee, asking for their shows to be broadcast. Staff said, yes per the fee schedule.

Mayor Esteves asked about alternative two, to renegotiate a new deal with Milpitas Community Television (MCTV). The Mayor asked if the TV26 board could participate in the RFP process and staff replied yes.

Councilmember Grilli asked about the non-profit holding funds provided by Comcast. Mr. Luu replied that MCTV still had most of those funds, with the purpose to run the station. Staff would need to review the franchise agreement to find out the exact answer. City Manager Williams felt the funds would stay with the channel operator.

Motion: to receive the report from the Information Services Director on the Request for Proposals (RFP) objectives and to direct staff to move forward with issuing the RFP for Milpitas Community Television with the goals and scope of work

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

## REPORT OF COMMISSION

### 6. Memorial Plaque at Milpitas Sports Center

This was heard following item No. 1.

Recreation Services Manager Renee Lorentzen defined the recommendation from the Parks, Recreation and Cultural Resources Commission to create and install a memorial plaque in memory of the recently deceased young resident, near Farm Fields at the Milpitas Sports Center. The plaque would be unveiled in mid-June.

Vice Mayor Montano wanted to highlight this action in memory of the special little boy, and she requested to re-name dugout area as “Christian’s Dugout” at the baseball fields.

Mayor Esteves wanted to support the recommendation on the agenda for the plaque, but did not want to add onto recommendation. The Mayor felt a plaque in memory was very honorable for any resident in memoriam. He did not want to add on to that motion.

Councilmembers Grilli and Barbadillo supported the Vice Mayor on the dugout name.

Motion: per recommendation of the Parks, Recreation and Cultural Resources Commission, approve a memorial plaque for installation near the Milpitas Sports Center Little League Farm Field in memory of 8-year-old Christian Dalugdug and additionally name the baseball dugout as “Christian’s dugout”

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of:

AYES: 4

NOES: 1 (Esteves)

### 7. Veterans Commission Workplan

Human Resources Director Carmen Valdez with Veterans Commission Chairman Denny Weisgerber presented the Veterans Commission work plan for 2015 – 2016. She acknowledged several Commissioners in the audience. She provided history of the five year old Commission and its activities, including the annual Veteran of the Year program and the fundraising Veterans Car Show on city grounds.

Chair Weisgerber described the three programs that benefited from the car show proceeds: Semper Fi Fund, Family Supportive Housing Inc. and VA Palo Health Care Chaplain’s Fund. The current work plan would add The Blue Star Memorial Program sponsored by Garden Club of Milpitas, with a plaque to be placed at the entry to Veterans Plaza on Veterans Day.

Staff described 85 veterans currently registered on the City’s email list, after doing regular outreach throughout the City. Mayor Esteves encouraged further outreach to all residents so the available services could be broadly advertised.

Councilmember Giordano served as Council liaison to this Commission, and was trying always to do more outreach. The Commission needed more funds for that purpose so she urged Council to add dollars to the budget for the Commission.

Vice Mayor Montano agreed with getting more veterans to be involved so they know about services. She also urged placement of flags all along Calaveras Blvd. on the median, along that main road in Milpitas at significant holidays, working with Caltrans.

Mayor Esteves referred to Memorial Day and Veterans Day ceremonies. He suggested a campaign to distribute flags to residents, to put out flags at home on those holidays. He was also concerned about veterans trying to find jobs and helping them.

Motion: to accept the oral report provided at the meeting and to approve the 2015 Veterans Commission Work Plan, with several additions to the work plan as suggested by City Councilmembers (on budget, flags, and outreach efforts)

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

## NEW BUSINESS

### 8. Update on Bay Area Rapid Transit station construction in Milpitas and parking garage

Planning Director Steven McHarris explained the changed status of the parking garage at the under-construction Milpitas BART station. He displayed overhead the Pedestrian Bridge walkway design update. Staff from the Santa Clara Valley Transportation Authority (VTA) were also present and could provide update to the Council.

Mr. McHarris described the recent VTA funding reduction for the parking garage architecture, which required that agency to plan to go from a \$5 million structure reduced to \$2.5 million, with reduced parking spaces. The revised parking structure design was displayed, in which several were not as aesthetically pleasing as the original modern design plan intended. The pedestrian bridge design between the parking garage and the BART station was also shown.

Mayor Esteves agreed with staff needing to work with VTA on high standards on the parking garage, while he emphasized the retail needed to be planned well too. The City could start discussing the \$17 million amount with VTA.

Councilmember Barbadillo asked if staff had the dollar amount on the various design alternatives now on the table due to budget cuts. He asked about past commitment to parking structure design.

Vice Mayor Montano asked about high density zoning on the sites displayed and about additional improvements in the station area. She urged neon lights, little cornfields in design, and liked the bridge with the waves.

Mayor Esteves insisted there would be retail open on day one at the parking structure.

Next, VTA staff member Carolyn Gonot responded to the Mayor's questions on retail space getting built. Planning Director Steve McHarris and Economic Development Manager Edesa Bitbadal replied with staff's view, and including need for a possible economic impact study on retail needs for that BART area.

Ms. Gonot reported that Montague Light Rail Station was planned to be closed starting on March 23, 2015 for five months to start construction activity there for BART. A shuttle service will be available for users of that station.

Motion: to receive report on parking garage at BART station from the City's Planning Director and brief response comments from VTA staff

Motion/Second: Councilmember Giordano/Mayor Esteves

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

## RESOLUTION

### 10. Annex Property into CFD 2005-1 for Waterstone

Vice Mayor Montano addressed the City Engineering staff, expressing a need to ensure there was a pedestrian signal light at this new development. Mr. Machida responded that the project could include beacon (flashing) lighting at the crosswalk nearby.

(1) Motion: to adopt Resolution No. 8457 annexing real properties located within Final Tract Map No. 10270 into Community Facilities District No. 2005-1

Motion/Second: Vice Mayor Montano/Councilmember Grilli

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

(2) Motion: to approve a Subdivision Improvement Agreement between the City of Milpitas and Lennar Homes of California, Inc. for public improvements associated with Final Tract Map No. 10270 (Waterstone)

Motion/Second: Vice Mayor Montano/Councilmember Grilli

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

(3) Motion: to approve Final Tract Map No. 10270 (Waterstone) and public improvement plans 2-1193, construction documents for the associated public improvements

Motion/Second: Vice Mayor Montano/Councilmember Grilli

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

#### **AGREEMENTS**

Three items were approved on consent calendar.

11. Joint Use Agreement with SCVWD for Trail and Pedestrian Overcrossing

Vice Mayor Montano commented that the City needed to aggressively look for grants for the pedestrian overcrossing open space at this project site.

Motion: to approve the Environmental Assessment No. EA 14-0005 for two Addendums to the Transit Area Specific Plan Final Environmental Impact Report for the Lower/ East Penitencia Creek trails and proposed bridge, and approve the Joint Use Agreement between the City of Milpitas and the Santa Clara Valley Water District

Motion/Second: Vice Mayor Montano/Councilmember Grilli

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

#### **ADJOURNMENT**

Mayor Esteves adjourned the joint meeting at 11:57 PM.

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