

**Draft MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, May 5, 2015  
**Time:** 5:30 PM Closed Session  
6:00 PM Study Session  
7:00 PM Regular Business  
**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 5:30 PM. The City Clerk noted the roll.

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

**ABSENT:** None

Assistant City Attorney Johnny Phan was present in place of City Attorney Mike Ogaz.

**CLOSED SESSION** City Council convened in Closed Session to discuss two items.

**ANNOUNCEMENT** None out of Closed Session.

**STUDY SESSION** The study session on the draft CIP for FY 2015-2020 was not heard and was continued to another meeting date.

City Council convened in Open Session for scheduled regular business at 7:08 PM.

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

**INVOCATION** Councilmember Grilli invited teacher Oona Cadorin (Teacher of the Year 2014) to give the invocation to start the meeting.

**MEETING MINUTES** Motion: to approve the minutes of April 21, 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 May 2015

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

**PRESENTATION** Mayor Esteves presented the following proclamations:

- *National Foster Care Resource Parent Awareness Month* – accepted by Quyen Vu, a social worker for the County of Santa Clara.
- *Older Americans Month* for May 2015 – several Senior Advisory Commissioners and Senior Center staff accepted the proclamation. Mayor Esteves presented additional commendations to Commissioners Barbara Ebright and Mary Banick.

- *Building Safety Month* for May 2015, accepted by five employees of the Building & Safety Department, in the 11<sup>th</sup> year participating in this special month of attention to safety of buildings to preserve life and property.
- Honoring Jason Scrempo, a highly skilled Milpitas High School football player who will attend University of Washington next year. The Mayor proclaimed “Jason Scrempo Day.”

**PUBLIC FORUM**

Diane Kruger, San Jose resident, did not care for the waiver and release form for non-Milpitas residents required of parents to sign for children enrolling in swim classes.

Robert Marini, Milpitas resident, showed a pie chart named “Number of people in parcel type” and discussed related utility rates for sewer service.

Rob Means, 1421 Yellowstone resident, tried to show a video webpage displaying information on Personal Rapid Transit.

Joseph Weinstein, Milpitas resident, described the Milpitas Police Honor Guard, consisting of off-duty police officers who take pride in their efforts at special memorable occasions. He urged financial support by the community to assist the Honor Guard with purchase of uniforms.

Voltaire Montemayor, Milpitas resident, was proud to live in this city. He hoped to have a successful karaoke tournament. He would like to have big water tanks installed that say “City of Milpitas” on them.

**ANNOUNCEMENTS**

City Manager Tom Williams announced that this afternoon 98.5 KFOX radio was in Milpitas, to announce results of a contest for best Mexican restaurant in the South Bay, and nearby La Milpa restaurant in Milpitas was selected.

Vice Mayor Montano noted a special Mother’s Day event on Saturday, from 12–3 PM, featuring mariachis, Pacific Asian and Folklorico dancers, to be held at the Milpitas Community Center.

**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 contributions were reported.

Councilmember Garry Barbadillo announced that he needed to recuse himself on agenda item no. 2 regarding the 450 Montague Expressway development project.

**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

Mayor Esteves requested to remove item no. 12 (International Park) from the consent calendar.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

- \* 5. Commission Appointments On the Sister Cities Commission, per the Mayor’s recommendation, appointed Peter Chang as a voting, regular member to a term that will expire in September of 2015, and newly appointed Mary Llamas as Alternate No. 1 to a term that will expire in September of 2016.



Mayor Esteves wanted his questions answered from the dais to questions he raised at the last meeting. Staff expressed that detailed responses were in the memo to City Council in the agenda packet. Issues responded to related to public benefit estimated value.

Councilmember Grilli asked staff to confirm open space and amenities without balconies to meet the open space requirements for this site.

Next, the Mayor invited the applicant Kevin Ma from Lennar Homes to address the Council on the residential project for 351 apartment homes and 151 stacked flats as condominiums. The project architect briefly walked through the design of the project.

Vice Mayor Montano asked if there would be palm trees on site. She asked if there would be recycled water used for landscaping. Mr. Ma said yes to the water.

Mayor Esteves asked about public art, what would be installed and its value. Mr. Ma agreed there would be public art, but was uncertain what type or its value. The Mayor also asked him about adding any affordable units. The Mayor asked if the developer was certain on the impact fees to pay for Transit Area Specific Plan development, and that fees were applied at the point of the building permit issuance. 50 Electric Vehicle charging stations would be provided, Mr. Ma responded when asked about that feature.

Councilmember Grilli asked the timeframe for the project and Mr. Ma said the company was targeting construction to begin next year.

Next, Mayor Esteves opened the public hearing and invited speakers.

Robert Marini, Milpitas resident, did not support more housing being developed when that would add more use of water resources, when there was a state-wide drought occurring.

Rob Means, 1421 Yellowstone resident, noted true-green evergreen elm trees in the project, in response to the Vice Mayor. He talked about a ramp overcrossing at Montague where PRT or a shuttle could work instead.

Steve Siddell, Milpitas resident, congratulated the business people working so hard with City staff on this project. He was concerned about fees, including impact fees on the project. Also he objected to any "tax" for public art. There could be crime due to criminals coming on BART, so limit access to public parks to keep crime down.

Voltaire Montemayor, Milpitas resident, commented on a loop, with business booming at the Great Mall. BART would connect to 49ers stadium, and Milpitas could be like San Francisco welcoming people.

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

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

Recreation Manager Renee Lorentzen came forward, stating the suggested names for the two public parks which came from the Milpitas Historical Society originally, and then four of those were recommended to City Council by the Parks, Recreation and Cultural Resources Commission.

Vice Mayor Montano would like to see some indigenous names, specifically Ohlone Indians and so she would recommend Ohlone Park.

Mayor Esteves felt this was a guessing game for Council. The park names could be decided later, with more input and consideration for the Vice Mayor's suggestion. Councilmember Grilli agreed it would be difficult to select two names, without being clearer on other options and the reason for the recommendation. Maybe staff could return with a firm recommendation on park names after more research.

Mayor Esteves was bothered by the public benefit amount quoted by the developer. The estimated value for the public art was too small, as quoted by Mr. Ma. Affordable housing was needed in Milpitas as soon as possible, so help was needed from developers. A gesture of social responsibility was important, the Mayor felt. He was against the park inside the complex, as designed, as it should be a contiguous large park for the community. There should be a development agreement on the items he recommended.

Councilmember Giordano wanted to work with the developer and no affordable housing ordinance was adopted just yet in Milpitas, as that was in the future. Also, the public art ordinance not in place yet either. She wanted to move forward on the project, and incorporate the spirit of what the Mayor was trying to do.

No action was taken by the City Council regarding names for the two park spaces in this project. Suggestions were made to return to Milpitas Historical Society and the Parks, Recreation and Cultural Resources Commission to recommend specific names with more background and to consider indigenous people for park names.

(2) Motion: to adopt Resolution No. 8467 approving the Vesting Tentative Map No. MT14-0002, Site Development Permit No. SD14-0014, and Conditional Use Permit No. UP14-0023 and Exception to Urgency Ordinance No. 240.2 for a 489 dwelling unit project located at 450 Montague Expressway

Motion/Second: Councilmember Giordano/Councilmember Grilli

Councilmember Grilli and Vice Mayor Montano gave explicitly supportive comments.

Mayor Esteves reminded the City Council his motion was to consider what he said earlier. He asked the developer (Lennar representative) if the company understood what he was asking and if the company would go along in spirit, even though no conditions of approval were added on public art and affordable housing.

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

At 9:09 PM, the Mayor announced City Council would take a break until 9:15 PM.

## UNFINISHED BUSINESS

### 3. Adopt Ordinance for Required Public Art Fee

The City Manager reported that City Council had received letters requesting a change to the formula recommended for public art fees on developers, as proposed in the ordinance. Mayor Esteves reviewed the ideas in two letters he'd received from BDK and Summerhill Homes, essentially for lower or a different fee than the 1% proposed.

Mayor Esteves invited speakers on this topic.

Melanie Holden who worked with BDK Capital, expressed that the main request was for a reduction less than 1% fee as proposed, particularly for large dollar value developments. Her company's project of \$300 million could be at a lower percentage than proposed, with many other amenities for the City from the new development.

Marshall Torre, from Summerhill Homes, would like consideration of a reduction in the proposed fee amount for a multi-\$100 million project. Mayor Esteves confirmed his

recommendation for a 0.5% fee rather than 1% of project value.

Steve Siddell, Milpitas resident, talked about economic development in the city and to be thoughtful about fees that would impact the manufacturing sector of businesses. He recommended a cap such as \$250,000 - \$500,000 for public art.

Councilmembers commented, with all supporting the idea of 0.5% fee instead of 1%.

Assistant City Attorney Johnny Phan recommended that staff edit the wording in the ordinance and to bring it back on May 19, after advertising that change, for adoption.

Motion: to amend the text of Ordinance No. 38.821 to incorporate the lower 0.5% fee (v. 1% as introduced on April 7), amending the Milpitas Municipal Code to include provisions relating to public art in private development projects and to bring the ordinance back for adoption at the next regular City Council meeting May 19

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

#### 4. Odor Report

This item was not heard.

### NEW BUSINESS

#### 6. Policies for Solid Waste Services RFP

City Engineer Steven Machida introduced Senior Manager Peter Deibler and Partner Robert Hilton from the consultant firm HF&H. Those men reviewed a wide array of issues related to the upcoming RFP for solid waste services in Milpitas. They gave City Council some very specific recommendations to change current practices for the RFP. Key contract terms were identified while the structure and schedule for the proposed RFP were reviewed.

City Councilmembers asked various detail questions that the consultants answered.

Mayor Esteves asked for comments from the audience.

Michael Gross, GreenWaste Zanker Director of Green Waste, had a long term contract with Monterey County and would like to bid here in Milpitas.

Robert Marini, Milpitas resident, wondered how the City was going to handle scaling of service, when collection of waste/recyclables was separate from disposal of same.

Voltaire Montemayor, Milpitas resident, said it would be good if it will reduce the smell that was discussed and sorting and separating items was helpful prior to disposal.

Mayor Esteves asked if the contractor would be involved in drafting the final contract with the selected provider. Mr. Hilton responded that the RFP would be the contract the city wanted to have, and then exceptions could be requested. Staff would review that with the City Attorney. Following the RFP, then they would negotiate an actual contract with a provider, discussing the changes desired.

Motion: to receive a report from representatives of consultant HF&H, and direct staff to continue working with consultant on finalizing the policies governing and the content of the solid waste services Request for Proposals

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

**7. Report on Water Augmentation**

City Engineer Steven Machida reported on various ways to consider augmenting City water supply, after a recent study on the possibilities to diversify water sources. Ten considerations for alternate water supply were listed. One concept was to pursue discussion with Alameda County Water District as an alternate water supply, possibly in addition to the current two city wells.

Councilmember Grilli asked what the City was doing to reduce watering of landscape areas, such as in front of Milpitas Police and other City properties. Mr. Machida noted the need to consider looking at a change to drought tolerant vegetation in the city.

Vice Mayor Montano asked if all households had a water meter. Mr. Machida replied that every house is metered in some way. Newer building might have a “master meter” rather than a single family house with single meter, as in older homes. She asked about percolation ponds and permission that would be needed from the Santa Clara Valley Water District.

Councilmember Barbadillo asked if most City parks were using recycled water on grass and landscaping. Staff replied, no not yet, but recycled water pipelines were being installed in additional neighborhoods and under I-680 to the east, so more parks in the coming year would switch from use of potable water.

Mayor Esteves asked about possible additional wells, noting the City of Santa Clara had 27 groundwater wells established. He also asked about more large storage tanks, to collect large amount of water for future use.

Next, the Mayor invited comments from the audience.

Robert Marini, Milpitas resident, recommended use of proportional charging for sewer fees to be more fair, based on the number of people in house or unit.

Voltaire Montemayor, Milpitas resident, spoke of water from highlands and reservoir, inducing rain, warnings of global warming, desalination, and a tank in the mountains.

Motion: to receive the staff report on Water Supply Augmentation, and continue work plan tasks for conservation, recycled water, and ground water wells

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

**ORDINANCE**

One ordinance was adopted on the consent calendar.

**RESOLUTIONS**

Six resolutions were adopted on the consent calendar.

**DEMANDS**

Three items were approved on the consent calendar.

**ADJOURNMENT**

Mayor Esteves adjourned the Council meeting at 11:18 PM with a call for a Special City Council meeting to discuss the draft Capital Improvement Program (CIP) and two items not heard on the agenda tonight, on Monday, May 11, 2015 at 7:00 PM.

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