

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Joint Meeting of Milpitas City Council and Milpitas Housing Authority  
**Date:** Tuesday, May 19, 2015  
**Time:** 6:00 PM Closed Session / 7:00 PM Open  
**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:** None

**CLOSED SESSION** City Council convened in Closed Session to discuss litigation matters.

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

**ANNOUNCEMENT** None out of Closed Session.

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

**INVOCATION** At the invitation of Councilmember Grilli, local resident and Commissioner Syed Mohsin introduced Imam Rasheed from his mosque who provided the invocation prayer.

**MEETING MINUTES** Motion: to approve minutes of April 28 and May 5, 2015 City Council meetings

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

**SCHEDULE OF MEETINGS** Motion: to approve Council Calendars/Schedule of Meetings for May and June 2015

City Manager Tom Williams announced that the Planning Commission on May 27 was canceled.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

**PRESENTATION** Mayor Esteves proclaimed May 14 – 22, 2015 as “Affordable Housing Week.” The proclamation was accepted by Silicon Valley Housing Trust and local residents.

**PUBLIC FORUM** Jerry Epps, 1378 Mount Shasta resident, requested an agenda item to bring back ballot measures to extend prior Measures T and Z, related to the adopted hillside ordinances. These were due to expire soon and needed to be brought before the voters next year to extend the regulations.

Laura Mello, Milpitas resident, said there were four active earthquake faults in Milpitas, and if any one of those should have a destructive earthquake, that would make hillside development unwise. She mentioned the visible slide on Mission Peak in Fremont, next to interstate highway 680.

Ray Maglalang, 1546 Lassen Ave. resident, requested to agendize the hillside ordinances on the next agenda to put it on the ballot for voters in June 2016.

Evelyn Chua, Coventry Lane resident, mentioned environmental costs if hillsides were not protected further, as a treasure for future generations. She wanted the Council to take this request seriously to bring the two measures to voters to extend the hillside protection.

Councilmember Giordano described what the two past ballot measures did, as approved in the 1990s (on Urban Growth boundary and one hillside protection). Mayor Esteves remarked that an assessment must be done by staff first, and report that to Council before any discussion about new ballot measures. The City Manager responded to this topic, stating that staff could bring that report to City Council on the second Council meeting in June (6/16/2015).

David Wall, N San Pedro St, San Jose, commented about odors from Newby Island, problems at the San Jose Planning Commission due to members abstaining, and with further comments about an EIR, and environmental concerns about the landfill proposed expansion.

Rob Means, 1421 Yellowstone resident, talked about global warming and green building.

Voltaire Montemayor, Milpitas resident, talked about earthquakes and flooding, concerns for roadwork if there was flooding and the need for hydro-pumping water.

**ANNOUNCEMENTS**

City Manager Williams noted the Memorial Day holiday scheduled Monday, May 25 with a ceremony at City Hall Veterans Plaza outdoors at 9:00 AM.

Mayor Esteves said he would like to close the meeting in memory of former Mayor Jimmy Rogers, who had recently passed away.

**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.

**APPROVAL OF AGENDA**

Motion: to approve the agenda, as submitted with one change of order

The City Manager requested to move agenda item no. 8 (Senior Work Plan) to be heard first, prior to the public hearing items.

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 with \*asterisk), as submitted

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

\* 3. Appointments to Commission

On the Economic Development Commission, re-appointed Don Peoples and Warren Wettenstein as voting members to terms that will expire in April of 2018. Also, newly appointed Michael Strle from Milpitas Great Mall as the retail business representative and a regular voting member to a term that will expire in April of 2018.

\* 6. Library Donation

Accepted the donation gift of \$1,000 to the Milpitas Public Library and the spending plan recommended by the Library Advisory Commission.

\* 7. Library Essay Contest

Appropriated \$3,200 to the Library Advisory Commission budget to purchase prizes and event supplies for the Annual Essay Contest at Milpitas Public Library.

- \* 9. Funds for Fire Dept. training equipment Accepted \$11,000 in funds from the Santa Clara County EMS Trust Fund for the purchase of Fire Department training equipment and approved a budget appropriation to the Fire Department's operating budget.
- \*10. 2015 COPS Grant Accepted the 2015 Citizen Options for Public Safety (COPS) Grant in the amount of \$110,690 and approved a budget appropriation in the amount of \$110,690 to the Police Department's operating budget.
- \*11. Adopt Ordinance – PERS Waived the second reading and adopted Ordinance No. 101.23, amending the City's agreement with CalPERS.
- \*12. Adopt Ordinance – Public Art Waived the second reading and adopted Ordinance No. 38.821 (as revised) amending the Zoning section of Milpitas Municipal Code to include provisions relating to public art in private development projects.
- \*13. Resolution Adopted Resolution No. 8478 awarding a contract to DeSilva Gates Construction and authorize the City Manager to execute the contract for 2014 Road Rehabilitation, Projects No. 4270, No. 4264 and No. 3412, in the total amount of \$1,846,846.00; and authorizing the Director of Engineering to negotiate and execute contract change orders for 2014 Road Rehabilitation in the cumulative amount not to exceed \$300,000. Approved a budget appropriation for additional \$2,000 Federal Surfacing Transportation Program grant fund totaling in \$1,652,000 to the 2014 Road Rehabilitation.
- \*14. Resolution Adopted Resolution No. 8479 approving the annual Engineer's Report, declaring intention to levy an assessment and providing for notice of public hearing on June 2, 2015 for LLMD No. 95-1, McCarthy Ranch.
- \*15. Resolution Adopted Resolution No. 8480 approving the annual Engineer's Report, declaring intention to levy an assessment and providing for notice of public hearing on June 2, 2015 for LLMD No. 98-1, Sinclair Horizon.
- \*16. Amendment – Hatch Mott Mac Donald LLC Approved Amendment No.2 to the agreement with Hatch Mott MacDonald in the additional amount of \$108,220 for Land Development Engineering services expiring on December 31, 2015.
- \*17. Agreement with HF&H Approved an agreement with HF&H Consultants for technical support services for solid waste rate review for a not-to-exceed amount of \$29,910 for a term from May 19, 2015 to June 30, 2016.
- \*18. Amend Agreement with York Insurance Group Authorized the City Manager to execute an amendment to the current agreement with York Insurance Services Group, Inc. for Workers' Compensation Third Party Administrator extending the agreement effective July 1, 2015 through June 30, 2016 in accordance with the terms and conditions stated in the amendment in an amount not to exceed \$129,000.
- \*19. Amendment – Jarvis, Fay, Doport & Gibson Approved seventh amendment to the agreement with law firm of Jarvis, Fay, Doport & Gibson, LLP adding \$19,500 for continuing necessary legal services.
- \*20. Agreement to Recruit Human Resources Director Authorized the City Manager to execute an agreement with William Avery & Associates, subject to approval as to form by the City Attorney, in an amount not to exceed \$23,900 for the administration of recruitment and selection for a Human Resources Director and approved budget appropriation of \$23,900.

**PUBLIC HEARINGS**

- 1. FY 2015-16 Budget City Manager Tom Williams reviewed a summary of the accomplishments of City departments in the past Fiscal Year 2014-15. He identified the FY 2015-16 Budget Objectives, including maintaining the core services of the City. He listed the items

incorporated into the proposed new budget, including those identified by City Council at the budget study session held last month.

Assistant City Manager/Finance Director Emma Karlen explained the request to propose to increase staff by seven positions to fill vacant City positions next year. Reclassification actions included establishing two Deputy Fire Chiefs (changing one Fire Marshal and one 40-hour Battalion Chief), among others. She explained the recommended change in the method of funding the City's contribution to CalPERS along with two minor changes in the city's Fiscal Policies. Additionally, two proposed new ordinances would: (1) separate the Public Works and Engineering departments and assign Recreation Services Division to report directly to the City Manager; and, (2) amend the settlement and contract authority of the City Manager.

Finance Director Emma Karlen presented the plan for a balanced budget in FY 2015-16, totaling \$139.9 million in all funds, including General Fund, enterprise funds and others. Total revenues anticipated and the planned expenditures were reviewed for next year, including the totals for next year's Capital Improvement Program. The total City budget would represent a 14.3% increase over the prior fiscal year.

Councilmembers asked Ms. Karlen various questions throughout the presentation and she responded. Councilmember Barbadillo asked her to explain the various changes proposed by ordinance and in the fiscal policies.

Following the City Manager and Assistant City Manager, City Department Heads presented one by one a very brief review of each department's budget for FY 2015-16, and to reply to questions from the Mayor and Council.

Councilmember Giordano had asked about historical costs of the City Attorney's office between a contracted attorney versus in-house services and outside attorneys, in reference to a memo Council had received with the costs identified. She noted in the past there had been a Council City Attorney subcommittee and thought it should be re-constituted to review the costs. The Mayor agreed with her suggestion and Councilmember Grilli volunteered to serve on such subcommittee along with Councilmember Giordano.

Councilmember Barbadillo left dais briefly at 9:28 pm.

Councilmember Giordano moved to create the City Council's City Attorney Subcommittee, and the motion was seconded by Councilmember Grilli. The motion was approved on a vote of 3 in favor, with Vice Mayor Montano opposed and Councilmember Barbadillo absent at the time of the vote.

Vice Mayor Montano voted no because she felt if this review of costs was done for one department – City Attorney - then it should be done for all.

Councilmember Giordano asked Planning Director Bill Ekern about neighborhood blight and code enforcement issues. City Manager Williams asked for clarification of what to bring back to City Council and Councilmember Grilli asked for a comprehensive report about code enforcement, including parking issues. Mrs. Grilli asked City Engineer Steven Machida to reach out and communicate with the Pines neighborhood homeowners.

The Capital Improvement Program budget was ready to be presented by staff, however since it was discussed the previous week at a study session, no review of the next year's CIP was given at this meeting. Mayor Esteves invited the City Engineer to the podium to answer any questions and there were none.

At 11:00 PM, Mayor Esteves opened the public hearing for comments.

1) Robert Marini, Milpitas resident, noted generally there was an 8% increase in every department for personnel costs while future years' costs at a lower percent increase were

unrealistic. He believed the funding majority was from property taxes but there was a drought situation ongoing in Milpitas.

2) David S. Wall, San Jose resident, commented on the “auditing” type function the City Council performed this evening. He suggested not to underestimate costs for the City Attorney’s office, as it needed to be well funded.

3) Rob Means, 1421 Yellowstone, spoke of costs for health care benefits for employees. He supported a single-payer healthcare system in U.S. and that would help reduce costs overall including for City of Milpitas. He also supported a parking permit system, as mentioned by the previous speaker.

4) Voltaire Montemayor, Milpitas resident, felt that all of what was presented by department staff deserved to be approved.

5) Steve Siddell, Milpitas resident, noted the challenge of governance with tight budget constraints and public unions. He did not have answers and it could be worthwhile to have people come in from free enterprise to review City processes, while he also supported what unions did. He supported the need for more police officers in Milpitas.

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

Motion/Second: Vice Mayor Montano/Councilmember Grilli

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

City Attorney Ogaz read aloud the title of Ordinance No. 197.13, “An Ordinance of the City of Milpitas Amending Section 1.00 of Chapter 3, Title VI of the Milpitas Municipal Code to Separate Engineering and Public Works into Two Departments and Assign the Recreation Services Division to Report Directly to the City Manager Department.”

(2) Motion: to waive the first reading beyond the title of Ordinance No. 197.13

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(3) Motion: to introduce Ordinance No. 197.13

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

City Attorney Ogaz read aloud the title of Ordinance No. 289, “An Ordinance of the City of Milpitas Adding Chapters 4 and 5 to Title I of the Milpitas Municipal Code Relating to Contract and Settlement Authority.”

(4) Motion: to waive the first reading beyond title of Ordinance No. 289

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(5) Motion: to introduce Ordinance No. 289

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(6) Motion: to adopt the Joint Resolution No. 8474 / HA15 of the City Council and the Housing Authority approving the final Budget & Financial Plan for the City of Milpitas for Fiscal Year 2015-16

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

(7) Motion: to adopt the following three Resolutions:

- a) Resolution No. 8475 amending the City's Classification Plan, relative to adding two Deputy Fire Chief positions, delete "confidential" from Office Specialist position in City Clerk's office, and delete some vacant positions
- b) Resolution No. 8476 approving amended Fiscal Policies, specifically including a change in method for funding annual required contribution to Cal PERS
- c) Resolution No. 8477 adopting the appropriations limit for the City of Milpitas for Fiscal Year 2015-16 of \$86,130,096

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Councilmember Giordano specified that her motion included not hiring of the Deputy City Attorney position until the new City Attorney Subcommittee first met to review those costs for that department.

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

At the conclusion of the budget public hearing at 11:19 PM, Mayor Esteves announced the City Council would continue with agenda item No. 2 (public hearing on utility rates) while other agenda items would be continued.

## 2. Water and Sewer Rate Ordinances

City Engineer Steven Machida introduced the water and sewer rate recommendations in the proposed ordinances. He explained current costs for wholesale water and the large cost increases imposed on the City to purchase water from the City's two main wholesale sources, necessitating the 38% increase in rates to be charged to customers. Mr. Machida displayed a chart comparing Milpitas rates to neighboring cities.

The City Engineer also reviewed costs and expenses related to sewer charges, including flow rates per the updated study, to City of Milpitas customers.

Mayor Esteves opened the public hearing at 11:40 PM.

Robert Marini, Milpitas resident, commented on sewer rate charges, and the notice which separated out costs for water and sewer fees. He displayed his own chart overhead.

David S. Wall, San Jose resident, remarked on the calculations by the previous speaker and those were not fair to ratepayers. He talked about San Jose's method on some specific rates calculated in that city, and wastewater and reclaimed water plan.

Voltaire Montemayor, Milpitas resident, commented about the new rates, a loss of revenue, and working all for one with sacrifice.

Garry Long, Milpitas resident, wished to learn clearly the rates for multi-family structures versus single family home. He felt the Council was “sticking it” to single family homeowners with the proposed rates. Sewer rates were way out of line, he claimed.

Motion: to close the public hearing

Motion/Second: Councilmember Grilli/Councilmember Barbadillo

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

Mr. Machida did not have an immediate response to Mr. Long. Mayor Esteves wanted an assurance that rates were very-well and carefully calculated. Mr. Machida responded that the flow study was updated a few years ago, and was used to base the sewer rates on.

Vice Mayor Montano did want to hear information about multi-family versus single family home sewer rate calculations. The Mayor asked Mr. Machida to review and explain the slide that showed figures on this topic, for rate calculations.

(1) Motion: to accept the Utility Rate Report

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

City Attorney Mike Ogaz read aloud the titles of two ordinances:

Ordinance No. 120.47, “An Ordinance of the City of Milpitas Amending Chapter 1 of Title VIII of the Milpitas Municipal Code Relating to Water Service Charges.”

Ordinance No. 208.51, “An Ordinance of the City of Milpitas Amending Chapter 2 of Title VIII of the Milpitas Municipal Code Relating to Sewer Charges.”

(2) Motion: to waive the first readings beyond the titles of Water Ordinance No. 120.47 and Sewer Ordinance No. 208.50

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(3) Motion: to introduce Water Ordinance No. 120.47 and Sewer Ordinance No. 208.50 to amend Title VIII of the Milpitas Municipal Code to establish water and sewer rates

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(4) Motion: to authorize mailing of Proposition 218 hearing notices

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(5) Motion: to establish Tuesday, August 4, 2015 as the public/protest hearing date for the water and sewer rates by ordinance

The five votes on the above actions took place after 12:00 midnight, so the technical date of the votes occurred early on Wednesday, May 20, 2015.

**REPORTS**

4. Affordable Housing Policy

This matter was not heard, and would be continued.

5. Ethics Hotline

This matter was not heard, and would be continued.

8. Senior Advisory Commission work plan

This matter was heard first on the agenda, prior to the public hearings.

Recreation Services Supervisor Stephanie Douglas reviewed the established purpose of the Senior Advisory Commission. With her were several Commissioners, including SAC Chair Barbara Ebright. Ms. Douglas identified the five workplan goals for FY 2014-15, and those for the future FY 2015-16 workplan.

Councilmembers provided some compliments to the Commission and staff, and asked brief questions to staff.

Mayor Esteves invited speakers from the audience.

Robert Marini, Milpitas resident, requested two additional computers for use at the Senior Center and add one more printer too. The City spent \$11 million for the new Senior Center, but it was not open adequate hours for all seniors who might want to use the facility. He said the center should be open on the weekend for a few hours.

Motion: to receive a presentation and approve the Senior Advisory Commission's FY 2015-16 Work Plan

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

**NEW BUSINESS**

Two items were approved on consent calendar.

**ORDINANCES**

Two ordinances were adopted on consent calendar.

**RESOLUTIONS**

Three resolutions were adopted on consent calendar.

**AGREEMENTS**

Five items were approved on the consent calendar.

**ADJOURNMENT**

Mayor/Chair Esteves adjourned the joint City Council/Housing Authority meeting at 12:04 AM on Wednesday, May 20 in memory of former Mayor Jim Rogers.

**The foregoing minutes were approved by the Milpitas City Council, as amended, on June 2, 2015.**

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Mary Lavelle  
Milpitas City Clerk