

and Environment, he wanted to know. The City also planned to spend \$180,000 for a contract with Singer Associates, so he asked what the City was getting for this expenditure.

Rob Means, 1421 Yellowstone Ave resident, mentioned the recently adopted plastic bag ban. There was less conversing about its environmental impacts. He quoted the ill effects of the disintegrating plastic and thanked the City Council for adopting the ban at the last meeting.

Frank DeSmidt, Milpitas Rotary Club, announced a lunch fundraiser offered by Rotary Club the following week, October 13 – 17, at the Outback Steakhouse restaurant. Tickets cost \$15.00 each and funds raised would go to help the needy in Milpitas.

Voltaire Montemayor, Milpitas resident, said the fire alarm was in the right position, the City had a good library and each Thursday night he expected to have the Milpitas Post in his driveway. He said there was a need for another high school.

Jezzell Delfina, Crater Lake neighborhood resident, had safety concerns for the performing arts building. She wanted to address the park issue and advocated keeping it (displaying a recent edition of the Milpitas Post newspaper). The City needed to collaborate on the park design. She also referred to Comcast cable rates and telecommunications.

Councilmember Giordano responded that she had recently mentioned the performing arts center at the Milpitas Arts Commission meeting, and hoped to discuss this topic soon.

ANNOUNCEMENTS

Councilmember Giordano congratulated three of her elected official colleagues voted in as one of best elected officials by readers of The Milpitas Post: Mayor Esteves along with Councilmembers Grilli and Barbadillo.

Mayor Esteves announced a free health fair on Sunday, October 11 from 8:00 am to 3:00 pm at St. John's Church Pavalkis Hall on Main Street with lots of free services and information offered to participants. Also, October is Filipino American Heritage Month, and a group offered free film screening of "Delano Manongs" on October 10 from 2–5 PM at the Barbara Lee Senior Center.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz 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

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

CONSENT CALENDAR

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

Councilmember Barbadillo asked to remove agenda items no. 9 (resolution - ammunition), no. 10 (resolution – purchase vehicles), no. 14 (CalRecovery contract) and no. 18 (Singer Associates) from consent.

Councilmember Giordano recommended removing items no. 11 and no. 12 (Agreements with RMC Water and Environment Inc.), per public comment.

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

- * 3. Odor Report Update Received the update of the odor control report.

- * 4. Commission Appointments Approved the following as recommended by Mayor Esteves:
 - Arts Commission
Appointed Doris Roth as voting member to a term that will expire in October 2017.
Appointed Marsha Tran as Alternate No. 1 to a term that will expire in October 2016.
Appointed Christina Driggers as Alternate No. 2 to a term that will expire in Oct. 2017.
Newly appointed Luqiang Shu as Alternate No. 3 to a term that will expire in October 2016.

 - Community Advisory Commission: newly appointed Vishal Gandhi as Alternate No. 4 to a term that will expire in January 2016.

 - Economic Development Commission: newly appointed Anna Wang as the real estate voting representative to a term that will expire in April of 2018.

 - Youth Advisory Commission: all YAC terms would expire in September of 2016.
Moved Alternate No. 1 Christie Maly to a seat as a regular voting member.
Moved Alternate No. 2 Emerald Gilana to the seat as Alternate No. 1.
Newly appointed Jenna Zarbis as Alternate No. 2.
Newly appointed Madeline Cacao as Alternate No. 3.
Newly appointed Amanda Jimenez as Alternate No. 4.

- * 5. Establish and Appoint Members to City Council Subcommittees Authorized the formation of three Ad Hoc City Council Subcommittees: Land Use and Transportation, Joint Use, and Facilities Naming Subcommittees; and appointed members to those and the Finance Subcommittee.
 - Land Use Transportation Subcommittee: Mayor Esteves, Chair & Councilmember Barbadillo, Member
 - Joint Use Subcommittee: Mayor Esteves, Chair & Vice Mayor Montano, Member
 - Facilities Naming Subcommittee: Vice Mayor Montano, Chair & Councilmember Grilli, Member
 - Finance Subcommittee: Vice Mayor Montano, Chair and Councilmember Indihar-Giordano, Member

- * 6. Request for report Directed staff to conduct a study and bring back to City Council a gender and ethnicity pay equity policy or ordinance that would include both the City of Milpitas as an employer and the agencies with which the City contracts; as well as City compliance with Senate Bill 358, if signed into law.

- * 7. Donation from Republic of Korea to Library Accepted the donation gift of \$2,500 to the Milpitas Public Library and the spending plan, as recommended by the Library Advisory Commission.

- * 8. New CIP for General Plan Established a Capital Improvement Project for the City of Milpitas General Plan Update Project in the amount of \$2,100,000 and appropriated \$1,200,000 to this project in FY 2015-16.

- *13. Amendment No. 6 Approved Amendment No. 6 to the consultant agreement with Schaaf & Wheeler to extend the term to October 31, 2016 for Storm Drain/Stormwater Program Documentation Review for the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265.

- *15. Storm Management for Pace project Approved and authorized the execution of a Storm Management Operation and Maintenance agreement for Pace Development at 324 Montague Expressway, Project No. 2762.

*16. Award Bid to ACCO

1. Awarded the bid to ACCO Engineered Systems, Inc. and authorized the City Manager to execute an agreement with ACCO for citywide HVAC Maintenance and Repair Service with for the not-to-exceed amount of \$300,000 for the first year and the annual not-to-exceed amount of \$187,527 for the remaining four years of the contract, for a total amount of \$1,050,108 during the five year term.
2. Authorized the Purchasing Agent to extend the term of the agreement annually for the next four years with an annual price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.

*17. Amendment No. 1 to Purchase and Sale Agreement

Approved the first amendment to the Purchase and Sale Agreement between the City of Milpitas and Milpitas Unified School District to extend the escrow closing date, regardless McCandless property in the Transit Area Specific Plan area.

PUBLIC HEARINGS

1. Water Rates

City Engineer Steven Machida provided history on the City of Milpitas rates for water utility service, the recent City of San Juan Capistrano court decision, tiered versus uniform rates, the water rate study update, allowable method for calculating rates, and the new schedule for notices to rate payers and the scheduled hearing in December, per Proposition 218.

Mr. Doug Dove of Bartle Wells Associates addressed the Council about the draft report on water rates prepared for the City. The Mayor and Councilmembers asked various questions for clarification of facts during his presentation.

Councilmember Barbadillo asked if there was a way to subsidize the increased costs for wholesale water. The City Manager replied only from the General Fund and he did not recommend doing that.

Councilmember Giordano asked how the proposed new rates (at this meeting) compared to what was proposed last spring. Staff replied that overall, uniform rates would be a little higher for many residential customers. Mr. Williams remarked that lower quantity users would pay a bit more while higher quantity users would pay less overall when uniform rates were applied compared to current tiered rates.

Mayor Esteves asked when a bond funding issue would occur. That could be authorized by the City Council at the December 15 council meeting, the City Engineer replied.

Next, Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, questioned the \$1.2 million cost for the water rate study and outreach efforts planned. He questioned costs for the status report and various items listed on the proposed budget for water service. He then quoted data in the water rate study report and asked for all information to be printed on mailed notice to customers.

Voltaire Montemayor, Milpitas resident, commented on the listed costs for water service, which he agreed with.

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

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Montano)

Mayor Esteves remarked that the bulk of the increase comes from the increase in the wholesale costs to procure water from the City’s suppliers.

City Attorney Diaz read aloud the title of 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.”

(2) Motion: to waive the first reading beyond the title of Ordinance No. 120.47

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

(3) Motion: to introduce Ordinance No. 120.47

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

(4) Motion: to authorize mailing of the Proposition 218 notice of public hearing on rate increase proposed and set December 15, 2015 as the public hearing date

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

2. Water Conservation Ordinance

Public Works Director Nina Hawk reviewed this ordinance requested a “housekeeping” matter for the City Council. Recently on June 16, City Council adopted an urgency ordinance for measures to be taken related to the drought, which included financial penalties. The recent court decision regarding City of San Juan Capistrano (on tiered water rates) yielded an outcome including the fact that penalties could not be attached to any tiered rate structure for water utility. Meanwhile, non-financial penalties were noted, and the Director reported that the City had reached 32% savings since the Governor’s declaration.

The proposed ordinance at this meeting would remove the 10% penalties attached to the City’s tiered rates, required due to the court’s decision.

Councilmember Giordano asked staff, in what time frame the 32% savings covered. Ms. Hawk replied that was determined in August, over a three months’ period of savings versus the base year of 2013.

Next, Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, said the City was punishing people based on the size of pipe coming in to the building of the homeowner. He complained about how the fee was charged, regardless of the amount of water used.

Voltaire Montemayor, Milpitas resident, said removing the supplemental water penalty would be great.

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

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

Councilmember Barbadillo asked the City Attorney about changed language in the ordinance, specifically on penalties for when the overuse of water occurred. Staff reviewed the text of the ordinance with him.

City Attorney Diaz read aloud the title of Ordinance No. 240.4, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 6 of Title VIII of the Milpitas Municipal Code Relating to Supplemental Water Use."

(2) Motion: to waive the first reading beyond the title of Ordinance No. 240.4

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

(3) Motion: to introduce Ordinance No. 240.4

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

UNFINISHED BUSINESS

One item was approved on consent calendar.

REPORTS

Four items were approved on consent calendar.

NEW BUSINESS

One item was approved on consent calendar.

RESOLUTIONS

9. Resolution related to ammunition for Police Dept.

Councilmember Barbadillo asked if all information was considered before preparing the recommendation and asked staff to make a brief presentation.

Police Chief Pangelinan and Purchasing Agent Chris Schroeder explained the process for an RFP and the rationale for the sole source purchase needed for the bullets that police officers use at Milpitas Police Department, including for training purposes.

Motion: to adopt Resolution No. 8504 approving the sole source purchase of ammunition for the police department from San Diego Police Equipment Company, Inc., Adamson Police Products, Inc. and Miwall Corporation for a combined annual not-to-exceed amount of \$57,000

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

10. Resolution related to Purchase of City Vehicles

Councilmember Barbadillo requested more detailed reasons on the need for the purchase of the vehicles for City staff, as recommended.

Purchasing Agent Chris Schroeder explained the mandate in the Police Memorandum of Understanding for replacement of police vehicles at certain mileage points, noting the safety and heavy use of the vehicles by officers. Police Chief Pangelinan also explained so many cars were needed out in the city, and what was the ideal. The action on the agenda for was for replacement of current vehicles, not simply buying new additional ones.

Councilmember Barbadillo asked what happened to the proceeds of the sales of used cars that go out to Public Surplus. Finance Director Emma Karlen answered that by stating the funds go into the equipment replacement fund.

Mayor Esteves invited comments from the audience.

Resident Voltaire Montemayor said it was a need, and to be current on equipment. He did not police cars slower and needing replacement.

Resident Jezzell Delfino said it was good that there was great tracking of such equipment, and working effectively. She suggested a used vehicle for the meter reading function, not a new purchase.

Mayor Esteves asked about green vehicles, if any. Mr. Schroeder replied there were no specifications for those at this time. City Manager Williams replied that police cars were yet not produced yet that were “green” fueled.

Motion: to adopt Resolution No. 8505 authorizing the purchase of seven city vehicles from the National Auto Fleet Group for the not-to-exceed amount of \$265,617.53 through a cooperative procurement contract, per Milpitas Municipal Code on cooperative purchasing

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

AGREEMENTS

11. Amendment No. 3 to Agreement with RMC

Four items were approved on consent.

Resident Robert Marini addressed the Council and said it seemed like every year the city was approving more funding for help from RMC. He asked what was City getting for the \$170,000 and were other contractors considered.

City Engineer Machida referred to page 8 on the water rate report for the response. This current agenda item was not related to the water rate study (in earlier report). That firm served to provide staff augmentation on utility reviews, plan checking, running water model software and coordinating city responses on documents for new development plans.

Mayor Esteves clarified this item was for only \$40,000 (not an amount questioned by Mr. Marini).

Motion: to approve Amendment No. 3 to the consultant services agreement with RMC Water and Environment, Inc. for Utility Engineering Support for \$40,000 and extend the term through June 30, 2016

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

12. Amendment No. 6 to Agreement with RMC

Resident Robert Marin asked again about the use of the same company for the same services and whether or not other firms were considered for the contracted service.

City Engineer Machida responded that that yes, the City did go out for on-call Engineering Services with a Request For Proposals (RFP). Six firms were interviewed that responded to the RFP. Staff determined the one with the best fit, working on both water and sewer utility services, and RMC was selected.

Motion: to approve Amendment No. 6 to the consultant services agreement with RMC Water and Environment to extend the term to October 31, 2016 for support on the Silicon Valley Rapid Transit (BART) Program Berryessa Extension, Project No. 4265 and various city capital projects

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

14. Amendment No. 3 to Agreement with CalRecovery

City Engineer Steven Machida explained this was the odor expert hired since 2004 to understand the process around Newby Island expansion and odors. The consultant served as expert witness for the City and provided recommendations on how to mitigate odors from Newby Island landfill and the Water Pollution Control Plant. The recommended amendment was for work related to sewer pump station data to be provided to BAAQMD. He responded to questions from Mayor Esteves and Council member Barbadillo

Motion: to approve Amendment No. 3 to the consultant services agreement with CalRecovery, Inc. to increase the compensation by \$105,000 for technical odor support services and approve a budget appropriation of \$130,000

Motion/Second: Councilmember Barbadillo/Councilmember Giordano

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

18. Agreement with Singer Associates, Inc.

Robert Marini, Milpitas resident, asked what services the company would provide to the City. He suggested it could help on the notice of utility rate (water) increase and to improve that notice by including how calculations were made.

Councilmember Barbadillo had the same concern as the resident (speaker above). He felt there might be duplication of service going on, for example with some of the work being accomplished by the Economic Development Manager, and possibly other city staff doing those tasks already.

City Manager Williams explained the need for this communications firm to be hired to help the city with public information and communication, often performed in other cities by a Public Information Officer. It could be done more efficiently this way (versus hiring an-house staff person) to do a much better effort at outreach with the media and the public. The company could work on a quarterly newsletter and an annual report, along with improved press releases going out.

Councilmember Giordano noted a factor of growing pains with so much activity in the city recently, especially with development efforts, so this was a good step to hire this person to help the city with media and community relations.

Councilmember Grilli supported this effort and liked the idea of focusing on the

positive activity of the City and getting the message out.

Mayor Esteves asked if a Request for Proposals was necessary. Mr. Williams replied the City could do so but was not required. The Mayor asked if other cities in the South Bay had similar firms hired or in-house staff and he wanted to know about other clients of the recommended firm. Mayor Esteves strongly urged bringing the support of the senior management team explicitly to the selected firm.

Motion: to authorize the City Manager to enter into an agreement with Singer Associates, Inc. in the amount not to exceed \$120,000 (for the remainder of Fiscal Year 2014-15) and to seek the involvement of City department directors (senior management team)

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 3
NOES: 1 (Barbadillo)
ABSENT: 1 (Montano)

JOINT MEETING of EDC and CITY COUNCIL

Mayor Esteves called the joint meeting of the Economic Development Corporation and City Council to order at 10:23 PM. Four members were present (Vice Mayor absent).

CONSENT CALENDAR

Mayor Esteves asked staff to explain the recommended action first, before voting on the motion. City Attorney Diaz summarized terms of the litigation settlement, having to do with five city properties and options to purchase those. City Manager Williams explained that the City Council had moved assets from the City to the Economic Development Corporation, prior to dissolution of the Milpitas Redevelopment Agency several years ago. This was essentially a “housekeeping” action by the EDC and City Council on the agenda this evening.

Councilmember Barbadillo asked for additional explanation and information to be clear on the City Council’s vote on this action, to which the City Manager responded.

Motion: to adopt the joint meeting consent calendar item (agenda item no. 19 below)

Motion/Second: Board/Councilmember Giordano / Board/Councilmember Grilli

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

Resident Robert Marini came to the podium to ask questions about the parcel next to the Milpitas Library and its potential use as a park. He wanted to know if that parcel would be purchased to make that land a park. City Manager Williams replied, stating the current General Plan designation and the zoning for that parcel.

***19. Five Memorandums of Termination of Option**

Authorized the City Manager and the Milpitas Economic Development Corporation President to execute five Memorandums of Termination of Option to purchase the five properties (listed below), which will then be recorded with the County of Santa Clara Recorder’s Office.

- 1265 N. Milpitas Blvd. – Corporation Yard
- 1325 E. Calaveras Blvd. – Milpitas Sports Center and open space
- 86 and 230 N. Main Street – vacant land
- 540 S. Abel Street – Cracolice Building

ADJOURNMENT

Mayor/Chair Esteves adjourned the Joint City Council and Economic Development Corporation meeting at 10:32 PM.

The foregoing minutes were approved, as amended, by the Milpitas City Council on October 20, 2015.

Mary Lavelle.
Milpitas City Clerk