

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, November 17, 2015
Time: 6:00 PM Closed Session / 7:00 PM Open
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 6:00 PM. 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 four litigation matters.

City Council then convened in Open Session at 7:14 PM.

ANNOUNCEMENT

No announcement out of closed session.

PLEDGE

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

INVOCATION

Councilmember Grilli invited Rev. Jeff Moore to provide a prayer to start the meeting.

MEETING MINUTES

Motion: to approve the minutes of November 3, 2015 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 Calendars/Schedule of Meetings for November and December 2015

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

PRESENTATIONS

Mayor Esteves proclaimed Sikh Awareness Month for November and it was accepted by local resident and leader in the Sikh community.

PUBLIC FORUM

Robert Burrell, Milpitas resident, discussed the film, "The Milpitas Monster" at its 39th year, saying it would be available to view November 23 and 30 at the local movie cinema. He asked for endorsement of the film, as was done in 1976.

Althea Polanski, Milpitas resident, encouraged the Council to endorse the film, as requested.

Mayor Esteves reported that he had recently given a commendation already for the film.

Rob Means, Milpitas resident, spoke to the Council about PRT transportation.

Dieter Griesmeier, Milpitas resident and President of California Villas Landing Association homeowners group, expressed concerns about the oldest pump station in Milpitas, near Dixon Landing Road, very close by his condominium complex. Residents there were concerned about

water and material volume going into the pump station. This was not environmentally friendly and he urged the City to have the pump station urgently upgraded.

Robert Marini, Milpitas resident, addressed costs he located on page 52 of the previous fiscal year's budget.

Voltaire Montemayor, Milpitas resident, spoke of the homeless, education for kids, new drop house, telling kids to study, what's happening in France and concern, don't be afraid, and multi-cultural society.

Martha Lamdin, Milpitas resident, supported a skate park in Milpitas. She commented on mailing to residents about the upcoming Prop 218 hearing on water rates. She felt it was not good, as it was not eye-catching and boring.

Steve Siddell, Milpitas resident, wanted to request an item to come off the consent calendar (ordinance 38.823 on special events). He spoke of his visits to foreign countries, and the fact that people can live together in peace and harmony in Milpitas. He acknowledged recent deaths in France and on the Russian airliner that crashed in Syria.

Deepa, a long time resident of Milpitas, thanked the City officials for all the great transition happening in the City of Milpitas, with recent improvements. He also thanked the schools and teachers for educating his children. He saw first-hand the dedication of police and firefighters.

Kevin, a Milpitas resident, noticed water wasting at Rancho School playing fields and asked for that to be taken care of. Mayor Esteves said it was best to notify the School District, or use the City's app to notify city officials, who can forward a report to School District staff to correct.

ANNOUNCEMENTS

City Manager Tom Williams announced the annual Holiday Tree Lighting ceremony was scheduled for Monday, November 30 at 7:00 PM in the civic center, outdoors. Everyone in Milpitas was invited to attend the public event.

Economic Development Manager Edesa Bitbadal announced that on December 9, the City (with others) would host a workshop "Milpitas Competes" through the state *GoBiz* office, held at the Milpitas Community Center and it was open to the South Bay region.

Councilmember Giordano requested a report in December from the Public Works Department on el niño preparations, as Mr. Richard Santos of Santa Clara Valley Water District had done recently at a recent Chamber of Commerce Board meeting.

Councilmember Grilli requested a report back on the status of the region-wide study the City of Milpitas agreed to join on the minimum wage in Santa Clara County. She wanted an update on the status of the study (RFP, etc.) since she hadn't seen anything on City of San Jose website.

Vice Mayor Montano agreed with Mrs. Grilli on her request. The Vice Mayor reported that on this date was held a groundbreaking ceremony for the new Evergreen Community College program at Milpitas School district, with many City officials in attendance. The School District and College hope to hold the first classes starting in August 2016, she noted.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. None were reported.

Councilmember Garry Barbadillo said he had conflict on agenda item no. 2, related to his law firm office location across the street from that development project.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda with change in the order of items heard

Mayor Esteves asked to hear Item No. 2 first, and then for Item No. 5 to follow it.

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 amended

A request to remove Item No. 9 (ordinance) was made by one audience member.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

- * 4. Commission appointments Per recommendation of the Mayor, approved the following:
- Arts Commission: re-appointed Harriet McGuire to a new term that will expire in October of 2018.
- Veterans Commission: moved Alternate No. 1 Ed Ackerman up to the voting seat as a regular voting member of the Commission to a term that will expire in February of 2016.
- * 6. Biennial Rate Adjustments Received report on biennial rate adjustments for solid waste program services provided by Republic Services of North America.
- * 7. Toy Program Donation Per request from the Milpitas Firefighters Toy Program, approved a \$500 donation to the 2015 Milpitas Firefighters Toy Drive.
- * 8. Co-sponsor Event with Lions Club Approved the City of Milpitas co-sponsoring the Milpitas Executive Lions Club's "Celebrating Differences" day event for kids and adults on April 24, 2016, waived City fees in the amount of \$3,021 and authorized staff support for the event.
- *10. Resolution Adopted Resolution No. 8512 changing the Bylaws of City Commissions to require resident appointments be those of residents within the City of Milpitas boundary only.
- *11. Avoid the 13 program
- 1) Authorized the Chief of Police to execute the agreement with the County of Santa Clara for the 2016 Avoid the 13 grant program.
 - 2) Approved a budget appropriation in the amount of \$18,700.00 to the Police Department overtime budget as a result of the 2016 Avoid the 13 Grant Program.
- *12. Amendment to HF&H agreement
- 1) Approved Amendment No. 2 to the consultant agreement with HF&H Consultants for solid waste procurement services in the amount of \$106,800.
 - 2) Approved a budget appropriation in the amount of \$106,800 from the Solid Waste Fund to CIP No. 3401.
- *13. Cobblestone Project Utility and O&M Agreements
- 1) Approved and authorized the City Manager to execute the Storm Management Facilities Operation and Maintenance Agreement for 345 Los Coches Street (Cobblestone), Project No. 2792.
 - 2) Approved and authorized the City Manager to execute the On-site Private Utility Agreement for 345 Los Coches Street (Cobblestone), Project No. 2792.

PUBLIC HEARINGS

1. Ordinance No. 290 Due to the late hour (approximately 11:30 PM), this matter was not discussed. Mayor Esteves did open the hearing and requested the City Council vote to continue the hearing and the ordinance to the next meeting.

Motion: to open the public hearing and move to continue it to December 1, 2015

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

2. The District Development Project

Planning Director Bill Ekern explained the various actions requested of the Council for the development project known as “The District” located on six parcel sites at Centre Pointe and Hourset Court in the Transit Area Specific Plan area. A zoning change (General Plan and Specific Plan changes) was requested for the project with many residential units to be constructed along with a major retail component. A Conditional Use Permit was needed as well, along with required community benefits identified at the project (for example, a new fire engine). A pedestrian bridge would be built over Penetencia Creek to accommodate pedestrians at this major new development.

Mayor Esteves asked about meeting the requirements for open space. Mr. Ekern responded affirmatively it met those in the TASP, along proposed Market Street and would also include a large public plaza.

Peter Zak of Lyon Communities, who was present with the Chairman and CEO of the company, provided detail of the major development project in the Transit Area Specific Plan area of Milpitas. Large residential buildings would be constructed as “wrap-around” style facilities so residents could park inside on the same floor as their homes, and parking spaces could not be viewed from the outside of the building. One building would be a 10-story structure. He was pleased to note that the development was exceeding the retail component requirement by 17,000 square feet and also was exceeding parking requirements with added on-street parking spaces.

Mayor Esteves inquired about removal of trees and planting of new ones. He asked about two-for-one policy and staff responded would be happy to adjust the numbers, as needed.

Mr. Zak reviewed timelines, including other elements that his firm was already building at the location. He displayed a video with a moving overview of what the development would look like when constructed. The company hoped to start construction next year, with final build-out taking about three to four years for completion.

Councilmember Grilli announced that Mr. Bob Nunez, Milpitas Unified School Board member, had submitted a letter of support for this project that had been given out at the Planning Commission.

Vice Mayor Montano asked about play space for children. Mr. Zak pointed out courtyards and rooftop amenities, and also a short walking trail to the future new community park. She asked about exercise equipment along the trails, and if there would be doggy bags along the open space. She commented on other elements of the project, including need for widening of Montague.

Next, Mayor Esteves opened the public hearing.

Robert Marini, Milpitas resident, heard there would be no low-income people in this development. New housing units would require a great deal more water to be used, in a time of drought. A benefit could be recycled water into the toilets of the buildings, not using potable water for flushing.

Dieter Griesmeier, Milpitas resident, said the traffic would be a nightmare with this monster building of ten stories going in and it was too crowded for Milpitas. There was too much for those who lived here now.

A man, Milpitas resident, knew this side of Montague would be expanded eventually, having the commercial buildings would be beneficial, and he asked about the small parcel left. He did have concerns about generating traffic. Long term planning was needed.

Rob Means, 1421 Yellowstone, talked of shared use mobility. Providing an extra 257 parking spaces for the project was going in the wrong direction. More affordable housing was needed. He encouraged the appropriate type of trees to be planted (not palms) and said there was a need for electric car charging spaces.

Voltaire Montemayor, Milpitas resident, was impressed and encouraged by the project. This would keep Milpitas competitive with surrounding cities.

Martha Lamdin, Milpitas resident, was sad and disappointed with this. She liked the older style of Milpitas with single family homes, with a driveway and when it was easy driving around town. Too much traffic would result, if this was built.

Mike Strle, speaking as a member and on behalf of the Milpitas Economic Development Commission, reported the group took a vote the previous week and Commissioners were fully in favor of this project, which provide new residences and businesses for the city.

(1) Motion: to close the hearing following all speakers

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

Councilmember Giordano asked the Economic Development Manager about the jobs/housing balance with this project. Bringing 120,000 sq. ft. of retail/commercial space with residential (much needed housing units) would support local industry. Ms. Edesa Bitbadal commented further on the economic opportunity.

Councilmember Grilli asked if staff could address Ms. Lamdin's remarks about the Transit Area Specific Plan, and lack of information given to residents about it. Mayor Esteves commented that the city was not "building blind." Perhaps some residents did not know about or know details of the established Transit Area Specific Plan adopted in 2008, with many details of what would be allowed for development in the new BART station vicinity. It was written over several years with a great deal of public comments and input. Similarly developed was the adopted Mid-Town Specific Plan. City Manager Williams commented on the plans and acknowledged current traffic concerns of city residents.

Mayor Esteves suggested jacaranda trees as one of the types to be planted as accent trees, and staff said that could be accommodated.

(2) Motion: to adopt Resolution No. 8509 adopting the Addendum to the certified Environmental Impact Report for the Transit Area Specific Plan, in support of the "The District" development at Centre Pointe and Houret Ct

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(3) Motion: to adopt Resolution No. 8510 adopting the General Plan Amendment and the Specific Plan Amendment for "The District" development project

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(4) Motion: to adopt Resolution No. 8511 approving the Site Development Permit, Use Permit, Major Tentative Maps, and approving exceptions to Supplemental Water Use Restrictions for “The District” development at Centre Pointe and Houret

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

City Attorney Diaz read aloud the title of Ordinance No. 38.324, “An Uncodified Ordinance of the City Council of the City of Milpitas Amending the Zoning Map for Chapter 10, Title XI of the Milpitas Municipal Code (RZ 15-0005) to Change the Zoning Designation of a Portion of Assessor’s Parcel Numbers 086-33-086 and 086-033-087 from MXD2-TOD (Mixed Use-High Density with Retail/Transit Oriented Development Overlay) to R3-TOD (Multiple Family-High Density Transit Oriented Development Overlay) and Implement a Corresponding Amendment to the Transit Area Specific Plan Zoning District Map (Fig 5-21).”

(5) Motion: to waive the first reading beyond the title of Ordinance No. 38.324

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(6) Motion: to introduce Ordinance No. 38.824

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

Peter Zak announced a ground breaking ceremony for District Lot 1 at 11:00 AM the following day, Wednesday, November 18.

Mayor Esteves announced that Council would take a short break at 9:21 PM and it reconvened at 9:34 PM.

3. Continue Hearing on Landscaping Ordinance No. 238.4

Due to the late hour (approximately 11:30 PM), this matter was not discussed. Mayor Esteves did open the hearing and requested the City Council vote to continue the hearing and the ordinance to the next meeting.

Motion: to open the public hearing on revisions to the city’s Water Efficient Landscape ordinance and continue it to December 1, 2015

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

NEW BUSINESS

5. Report from Campaign Finance Reform Committee

City Clerk Mary Lavelle reported that the Campaign Finance Reform Committee, appointed by the Mayor last January, met seven times in 2015. She introduced the Committee’s Chair Althea Polanski, who came to the podium to present the report of 14

recommendations regarding campaign finance and elections in Milpitas. Seeking to have fair and equitable election and campaign processes was the goal, and she thanked the Committee members for their work, four of whom were present. She then proceeded to introduce and explain each of the Committee's recommendations to change campaign-related regulations.

The first topic was regarding a proposed campaign contribution cap, strongly urged by the Committee. City Councilmembers asked many questions about this concept, and some were skeptical of its application for Milpitas elections, since it might put an underfunded candidate at a disadvantage to a well-funded candidate who did not accept the limit.

City Attorney Chris Diaz commented that a contribution limit was much more likely to pass constitutional muster than an expenditure cap. Candidate loans could be exempted from the local rule on contributions cap, if desired.

There were many comments on loans from a candidate's own funds to a campaign committee and if that counted toward a limit/cap or not. The City Attorney said he could research further and respond in writing.

Recommendations No. 2 through No. 14 were identified by Chair Polanski, and she responded to questions that the Council asked on several of the proposals.

Councilmember Grilli felt that penalties recommended were such that no one would volunteer to sign up for the cap. There was no accountability in some of it and she felt there needs to be more of that. A lot more review of these subjects was needed by City Council before an ordinance would be introduced.

Next, the Mayor invited audience members to comment.

Robert Marini, Milpitas resident, felt it would give too much advantage to the Mayor if the contribution cap was \$20,000 when City Council cap amount was only \$15,000.

Rob Means, Milpitas resident, referred to "outside forces" or PACs (political action committees), and none of these recommendations touched that, such a large issue across the country. This proposal did not address any of that from the Supreme Court's decision. Start dealing with that by supporting a proposed 28th amendment to the U.S. Constitution.

Voltaire Montemayor, Milpitas resident, talked about imposing an ordinance on election next year. The limit of the cap was a little bit low he thought.

Councilmember Grilli referred to PACs and a new AB 990 to require more disclosure for PACs in the state. More was required in their advertising. The committee had lots of good ideas, but there was more to discuss by Council. She wanted the City to have more positive campaigns than negative, and sought how that could be incorporated.

Vice Mayor Montano liked idea of endorsing Proposition 49 (requested by Rob Means) by City Council and sought more information about it.

Councilmember Barbadillo appreciated the Committee's work on this topic. He did support an ordinance to make most of the recommendations happen. He offered suggestions on the legal language to craft the ordinance to prohibit PACs from contributing to candidate committee if there was quid pro quo corruption (implicit versus explicit bribe of a public official).

Mayor Esteves cared very much about dealing with PACs. More topics could be addressed by the Campaign Finance Reform Committee he felt. Those included ethics, lobbyists donating or not and pay-for-play (by PACs), so he offered the option for the Committee to meet and discuss further. Meet one more time, he urged, and the City Council could then go from there.

Councilmember Grilli wanted the committee to discuss accountability, and perhaps providing resources to the City Clerk.

Vice Mayor Montano liked some of the suggestions for PACs to limit those. She wanted to know if the Supreme Court or Superior Court superseded local ordinances, and the City Attorney agreed the City has to abide by court decisions. The Vice Mayor also suggested researching having a seven-member City Council.

Mayor Esteves also asked to consider looking at voluntary non-acceptance of contribution from unions. He gave the Committee a big thank you for all their work to date on the many recommendations provided at this meeting. Their work however was not done yet and he asked the group to meet again. Chair Polanski replied that could mostly likely happen after the holidays, in January 2016.

No vote was taken on the Committee's report.

9. Adopt Ordinance 38.823

Resident Steve Siddell had concerns about the ordinance on special events regulations. He did not like some specific language of the ordinance about one table and more than two chairs being possibly defined as an event. He expressed other concerns and asked the Council not to adopt the ordinance in current form.

Mayor Esteves asked Planning Director Bill Ekern to respond to the resident's comments, which he did by expressing the major intent of the ordinance.

Councilmember Giordano offered that staff could return this topic to the Council agenda six months from now and then review the policy once it was in progress. She suggested the Council could then determine if there was anything to adjust then.

Motion: to waive the second reading and adopt Ordinance No. 38.823, and to return to City Council in six months time to provide a review of the process for Special Events permitting

Motion/second: Councilmember Giordano/Vice Mayor Montano

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

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 11:36 PM.

The foregoing minutes were approved by the Milpitas City Council on December 1, 2015.

**Mary Lavelle,
Milpitas City Clerk**