

**Draft MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, December 15, 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. 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 three matters.

City Council then convened in Open Session at 7:12 PM.

**ANNOUNCEMENT** No announcement out of closed session.

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

**INVOCATION** Mayor Esteves invited Pastor Anthony Chiu from Crosspoint Chinese Church to provide a prayer to start the meeting.

**MEETING MINUTES** Motion: to approve the minutes of December 1, 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 December 2015 and January 2016

City Manager Tom Williams announced that the Council's Transportation & Land Use Subcommittee met on this date (December 15) at 5:30. Also the Planning Commission Subcommittee would meet on December 17 at 5:30 PM.

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

**PRESENTATION** None.

**PUBLIC FORUM** Community Advisory Commission Chair Thelma Batilo and Commissioner Mike Bilbao invited all to a tree planting on Saturday at 9:00 AM at 2 Ranch Drive at entrance to Coyote Creek Trail near McCarthy Ranch.

Robert Marini, Milpitas resident, addressed what he felt was overcharging for sewer service.

Rob Means, Milpitas resident, talked about a Citywide transit feeder, which would be an outstanding return on investment for Personal Rapid Transit plan for the City.

Jezell Marez, Milpitas resident, wanted a summary of what was done to help residents. She was advocating for two community arts buildings in Milpitas.

Veterans Commissioner Ed Ackerman along with Commisisoner Dana Arbaugh reported the recent success of the third annual Veterans Car Show in Milpitas held in October. Funds raised were donated to three organizations that offer services to local veterans. Mr. Ackerman thanked many City Recreation staff by name, including Renee Lorentzen and Dale Flunoy.

Voltaire Montemayor, Milpitas resident, mentioned schools closed in Los Angeles due to potential crisis, a need to coordinate with schools and take care of kids. Rain was coming and so he hoped all were ready to make storage out of the rain.

David Matheson, Milpitas resident, thanked the City Council for serving and also thanked the frequently commenting residents at Council meetings (such as Rob Marini and Rob Means).

**ANNOUNCEMENTS**

Mayor Esteves invited South Bay Kids music program performers to come forward to present a brief holiday singing tribute. Young people sang several Christmas songs for all to enjoy.

**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. No contributions were reported.

Councilmember Barbadillo had a conflict of interest regarding the development project in the TASP area (Item No. 1) so he would recuse himself, due to location of his office nearby.

**APPROVAL OF AGENDA**

Motion: to approve the meeting agenda, as amended

City Manager Tom Williams asked for a sequence change to hear items no. 6 (report on cricket playing fields) and no. 7 (winter season preparation) prior to the public hearings on this agenda.

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

**CONSENT CALENDAR**

Motion: to approve the Consent Calendar (items noted with \*asterisk)

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

\* 3. Minimum Wage study Received an update from staff on the topic of the upcoming minimum wage study.

\* 4. Commission Appointments Per recommendation from the Mayor, approved the following:

Bicycle Pedestrian Advisory Commission:

Appointed William Barnes as a voting member to a term that expires in August of 2018.  
Newly appointed Philip Tuet as Alternate No. 2 to a term that expires in August of 2018.

Library Advisory Commission:

Appointed Hellie Mateo as a voting Commissioner to a term that expires in June of 2016.  
Appointed Nonie McDonald as the Alternate No. 1 to a term that expires in June of 2017.  
Newly appointed Tony Cailles as Alternate No. 2 to a term that expires in June 2017.

Senior Advisory Commission:

Re-appointed Karen Adams to a term that will expire in December of 2017.  
Re-appointed Barbara Ebright to a term that will expire in December of 2017.  
Re-appointed Alternate No. 1 Jenny Berryhill to a term that will expire in December 2017.



Martin Skelson, Milpitas resident, said the entire country had been asked to be more transparent. He started talking about water rates so the Mayor asked him to wait.

Jezell Marez, Milpitas resident, agreed the building of this project should be postponed. She urged placing cactus in more areas of the City and she supported growing spices.

Robert Marini, Milpitas resident, spoke of hypocrisy of the Council, by adding more houses to the City while there was a drought. Set an example, he urged.

Rob Means, 1421 Yellowstone resident, noted the reduction in units (from apartments to townhomes) with 200 fewer places being built for people to live in Milpitas. There was need for more places for people locally near transit. He was not keen on this project.

Voltaire Montemayor, Milpitas resident, could feel the momentum, and it was time to approve the project.

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

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

Councilmember Giordano noted the increase in housing and increasing use of water. She said that when sewer capacity was reached years ago, the City as the owner of the sewer system could put a moratorium on that until capacity increased. It was not the same with water. As demand for more water came, the City would continue to procure the water, as needed from Hetch Hetchy. City Manager affirmed that was correct.

Mayor Esteves referred to the housing crisis in the Bay Area and the need for having more housing near and close to where people worked. That was the point of the TASP for Milpitas, as the City grew.

Vice Mayor Montano made various comments about growth, ABAG, the need for housing, and smart growth in the City.

(2) Motion: to adopt Resolution No. 8516 approving Major Vesting Tentative Map, Conditional Use Permit, and Site Development Permit for construction of 73 townhome units and associated site improvements on 2.92 acres at 600 Amalfi Loop (for Amalfi II – Siena development project)

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

2. Water Rates Ordinance No. 120.47

City Engineer Steven Machida presented the newer water rate study for Milpitas as prepared by consultant Doug Dove from Bartle Wells. Mr. Wells reviewed costs (wholesale, operational and capital) along with drought impacts as the factors contributing to the need to raise rates for the City's water services to customers. He identified a 65% increase over a 2-step increase for typical households as compared to neighboring cities in the County, with Milpitas on lower end currently, moving to the middle with new rates.

Councilmembers asked a variety of questions of the consultant.

Mr. Machida provided response to questions that City staff and leaders had been receiving since the notice to the public was mailed out earlier in the fall. He displayed a chart with

anticipated average monthly bills for low, average and high water users, and included the dollar increase by month.

Next, Mayor Esteves opened the public hearing for many residents to comment.

Mr. Rosa remarked on the water study and the cost of it.

Eva Evans talked of calamity for residents when they opened their new water bills.

Richard Ladden objected to the water rate increase. He discussed figures provided and those missing in the water rate study.

Jim Lee, a resident of 15 years, opposed the flat rate system and felt the City should implement tiered rates for water service.

Martin Skelson, a 37 year resident of Milpitas, totally opposed the water bond and did not agree with that at all. He was not pleased with the notice he got or the rate increase.

A man spoke objecting to the water rates proposed, and addressed his comments toward the City Engineer sitting in first row. An auction of demand for water service was needed.

Dennis Graham Sr., long term resident, felt the information given was not all clear and questioned some of the material presented by staff and consultant.

A woman asked why residents were getting penalized when they were asked to save water. She felt residents should band together, go to Sacramento and do something.

Robert Marini said the Council was constantly violating the state Constitution by not providing the basis for the water bonds to be issued. He identified several steps in the process that were against the law.

Jezell Marez complained about improper notices and information, and that this public hearing was so late in the evening. There was lack of communication she felt and a need to educate the public more. She had 14 points to make.

A woman thought that residents were “held hostage” before this topic. Flyer that was sent out did not say anything about the bond nor about legality of tiered rates. She wanted to know how many protests were filed.

A woman wanted six months’ extension of anything adopted tonight. Many additional objections to increased housing and rates increased while saving water during drought.

A man opposed the water rate increase and said notice was not entirely clear. City could have a presentation posted on the city website to be helpful.

Rob Means reported the meter charge went from 27 to 18 dollars. Why? Milpitas had a low water rate now, but after increase would be in the middle (of cities in County). Then after the April increase, Milpitas would be in top three of costs for water.

A woman said people were not living in the stone age so she wondered why electronic signatures were rejected. She felt it should be allowed in the modern computer age and wanted an answer why electronic means to protest were not permitted in the process.

Voltaire Montemayor said residents had to take care of each other. Catching up with the budget with need for a contingent budget. Sit down and revisit figures.

David Matheson asked about the rule for the wet ink signatures on petition letters, and whether that was a local or state rule. City Attorney Diaz responded, regarding voter-adopted Proposition 218 regulations.

Katherine said she was not involved politically and trusted that leaders had to care for residents. We do have a drought and it might become worse. She urged the Council to have a long term vision, while working together.

Bill Brooks reviewed staff chart of costs in Milpitas versus other cities. This city would be among the highest once new rates adopted, and then near the top.

Jennifer opposed the water rate increase. She collected signatures for 10 days opposing these rates. She was glad Council wanted to listen to the citizens, so vote no on the rate increase. Many people did not know they got a letter in the mail.

Mayor Esteves asked the City Attorney to explain the court decision around City of San Juan Capistrano and the court ruling on tiered rates not being justified. Chris Diaz did so, for benefit of the residents.

Francine Ward Wilkinson came to the meeting due to a comment from her neighbor earlier this evening. Her family had been here since 1957. She opposed the rate increase and many people would not be able to afford their water bills from the City.

Minh Le was a retired engineer and said most people opposed the water rate increase because it was not right. The situation was not handled correctly.

(1) Motion: to close the hearing following 22 speakers

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

Councilmember Giordano asked the City Attorney if the City had complied with the law, with proper notification. City Attorney Diaz replied yes and explained why.

Councilmember Barbadillo expressed his opinion that he did not like the water rate increase. Opposing the increase without following the facts was not helpful while looking at the costs to the City was most relevant. He suggested that perhaps not enough information was distributed and that more transparency on this issue would help.

Mayor Esteves said this was not an overnight issue, as it had been with the City for months already. Several public hearings on this subject were held, even prior to this meeting. City needed to be fair about the charges and costs for high quality water.

Councilmember Giordano agreed with the Mayor about this topic, having been discussed for many months this year, including at the Council Finance Subcommittee. She agreed it was painful for residents to pay the increase in fees. Main issue was that the city did not own the water supply.

Vice Mayor Montano said this was a hard decision, realizing no one wanted to pay higher bills even though costs have increased. Wages had not gone up since 1970s and climate change had an impact on water, a precious commodity. Staff had justified the reasons for the water bond needed.

Mayor Esteves commented on increasing costs especially from the two wholesalers. There were core City services and this was one. Other services would have to be reduced if the rates based on costs were not increased.

Councilmember Barbadillo heard that most people did not understand the notices that were sent along with reasons for the increase. He proposed more time for understanding the proposed rates.

Councilmember Grilli noted the focus was on the costs being charged by wholesalers. Those need to be passed on to the customers who pay for the water. She urged finding out what the wholesalers were doing to reduce their costs.

Vice Mayor Montano asked again about tiered water rates and if those were illegal. City Attorney Diaz explained what the impact of the court case had on rates for this utility in Milpitas and that justification was necessary for recommended water rates.

Councilmember Grilli asked about knowing the number of protests received, and what would happen if the Council did not adopt rates this evening. City Engineer Machida responded that it would cause canceled Capital Improvement Program projects and in two years, the fund would be underwater and require borrowing from the General Fund.

Vice Mayor Montano felt there should be a way the City Council could offer a reduced rate for water service for low-income senior residents and for fixed income residents.

Next, the Mayor asked the City Clerk to report on the protests received.

City Clerk Mary Lavelle reported that 2045 protest letters were received, including a few turned in at the meeting. Not all of those were verified, she said, as to whether there were duplicates or that they contained proper street address or parcel number. This was fewer than 9,179 valid protests that would need to be submitted to stop the vote by City Council on the water rates ordinance.

City Attorney Chris Diaz read anew the title of Ordinance No. 120.47, "An Ordinance of the City Council 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 second reading beyond the title of Ordinance No. 120.47

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(3) Motion: to adopt Ordinance No. 120.47 for establishing new water rates in 2016

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

## **UNFINISHED BUSINESS**

One item was approved on consent calendar.

## **REPORTS**

Two items were approved on consent calendar.

### **6. Cricket Fields**

Mayor Esteves explained the request for a report on the potential to have cricket playing fields in Milpitas and to consider doing so in the next fiscal year. He identified several leaders in the effort to seek a cricket playing field.

Several residents came to speak on this item. Mr. Rajeev Madnawat addressed the City Council first on the desire of many residents and families to have a place to play the game of cricket and bringing business to Milpitas.

Hemant Bunch of the California Cricket Academy next spoke and showed a short video presentation to explain the game and its goals. A woman also spoke, stating there were some corporate sponsors interested to invest in the cricket field. Locally, both boys and girls play this sport competitively.

Vice Mayor Montano asked about the total number of feet radius needed to play and the woman speaker told her 240 feet. This was compared to soccer fields (two soccer fields across one football field).

Next, 16 different speakers expressed support and the need for cricket fields. Several were representatives of cricket organizations, including India Cricket Club of Milpitas and the Northern California Cricket Association. A few youth players spoke to the Council.

Mayor Esteves responded that projects would be prioritized. He asked that staff study this request and come back with what was feasible in the future, and to evaluate options.

Councilmember Grilli supported such a study and asked when it would be done. City Manager Williams said there was no work program yet for this matter, while he guessed it would take three to six months for the study and a report back to Council from staff.

Mayor Esteves asked for the study sooner (in three months) than later in order to try to get it into next year's budget.

Vice Mayor Montano talked about soccer fields at the Sports Center with state of the art features going in. She had more questions about the square feet needed for a field, vs. what was planned on the soccer fields. She inquired about a 7–10 years plan for having a cricket field. She acknowledged multiple needs for sports activity in the City, a cricket field along with other needs such as a skateboard park.

Motion: to approve the Mayor's request and to direct staff to conduct a study on cricket playing fields and provide recommendation on a regulation size field, and to come back with results within three months

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

## **NEW BUSINESS**

One item was approved on consent calendar.

### **7. Winter Storm Preparation**

Public Works Director Nina Hawk came to the podium to give an oral update on preparations in Milpitas for winter storms, including repairs made to date. She displayed a map of all storm systems and drains, including 13 storm water pump stations. She reviewed readiness of emergency generators at several sites and described supplies for sandbags which were available at two locations now. Ms. Hawk provided a useful list of phone numbers for contact before or after storms, including the City's Public Works Department at 408-586-2600.

Mayor Esteves invited speakers from the audience.

Jezell Marez, Milpitas resident, wanted a meeting about employees at the Public Works Department and discussed the image and a sign at that department office.

Voltaire Montemayor, Milpitas resident, discussed getting ready for the high tide and increased water in pump stations. Preparations were necessary for a good water flow.

Motion: to receive and file the report from the Public Works Director

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

<b>ORDINANCE</b>	One ordinance was adopted on consent calendar.
<b>RESOLUTIONS</b>	One resolution was adopted on consent calendar.
<b>DEMANDS</b>	Two items were approved on consent calendar.
<b>ADJOURNMENT</b>	Mayor Esteves adjourned the City Council meeting at 11:45 PM.

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