

**DRAFT MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Special Meeting of Milpitas City Council
Date: Monday, October 17, 2016
Time: 6:00 PM
Location: 455 E Calaveras Blvd., Milpitas CA

ROLL CALL

Mayor/Chair Esteves called the meeting to order at 6:08 PM. He led the Council and audience members in the pledge of allegiance to the flag.

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

ABSENT: None

**ANNOUNCEMENT OF
CONFLICT OF INTEREST**

None.

For public comments on the one agenda item, speaking time was established at two minutes per person, the Mayor announced.

DISCUSSION

City Manager Tom Williams introduced consultants Peter Diebler and Rob Hilton, and gave brief history of the steps in the process to date to arrive at this meeting to consider award of contract for solid waste collection services.

Mr. Peter Diebler, from the city's consultant firm HF&H, addressed the City Council with update since June 2016. Two viable finalists were considered from six collection proposals submitted earlier this year. A contract was already approved by City Council for disposal of solid waste. Garden City Sanitation and Republic Services Inc. were the two finalist companies for collection.

Key contract terms included length (15 or 10 years), better financial and operating reporting, and performance standards with penalties. Mr. Diebler reviewed service levels with variable rates. Some discussion was held on the four on-call clean-ups per year per resident offered vs. current "Dump Days" available at Newby Island. Billing services would be assumed by the contractor once a contract was awarded. Temporary debris box service was described when going to exclusive service vs. non-competitive.

A representative from the City of Sunnyvale was invited to the podium to comment on the SMaRT station in that city, while terms had not yet been finalized for the contract with Garden City.

Some Councilmembers objected to the process at this point of the meeting, when a final proposal for Garden City pricing was not done yet, while Republic Services contract had been finalized.

John Stufflebeam, Sunnyvale Director of Environmental Services, said he was not prepared to give final pricing information at the meeting.

Mr. Diebler proceeded with information on comparative costs and rates, between Republic Services and Garden City. He listed some advantages of agreement with each of the two bidding companies.

City Attorney Chris Diaz remarked on CEQA environmental process in reference to the potential new contract. The RFP process fully complied with state law, based on actions to date. He noted a public facilities exemption.

Mr. Rob Hilton expressed that the Garden City proposal would be more costly, when the Mayor asked many questions about the timing of proposals, and the City's use of Garden City versus Republic Services.

Councilmember Barbadillo asked Mr. Hilton about why some of the bidders were non-responsive. City Manager Tom Williams responded about the City trying to get specific pricing terms from City of Sunnyvale, only for the use of the SMaRT station for recycling.

Councilmember Giordano noted, if the City was going out 30 days from now for final pricing, she would ask the Council to look at non-exclusive construction recycling, look at pricing and costs. She did not want to put small businesses out of business.

Councilmember Barbadillo wanted to look at having 20 gallon carts for garbage.

Mr. Hilton summarized what terms he needed to come back to the Council with, including costs from Sunnyvale, 20 gallon carts, and non-exclusive construction debris recycling.

Mayor Esteves announced the time for speakers from the audience. Proposers could speak to the City Council after the speakers for five minutes each.

SPEAKERS:

Ruben Hernandez, San Jose resident, thanked Council for working for the City and serving them for 21 years, for Republic. He wanted the 60% recycle amount to be increased and to help senior citizens with their recycled items.

Vicky Chan, Milpitas resident, said thank you for the decision on Measure L.

Steve Sedell, Milpitas resident, thanked the Council for open and transparent government. The open negotiation was good, and he saw a need to be good to organized labor and for big business.

Cody Gomez, Milpitas resident, was very supportive of Republic Services, for the lowest cost proposal of any company.

Joshua Gomez, Milpitas resident, was supportive of Republic Services.

Howard Young, Milpitas resident of Sunnyhills, supported Council in moving away from Republic Services, relative to the odor issue. Republic did not have a great reputation, and would like to see another company get the City business.

William Kwan, Milpitas resident, supported Measure L, and felt the number one issue for residents was odor, as caused by Newby Island, operated by Republic Services.

John, lifetime resident, supported Republic Services. He was happy with the customer service provided by Republic.

Josh Mells, Milpitas resident, gave statistics upon the ratings given for Republic and Garden City. Republic rated much higher and would save residents money.

Francisco Mejia, Milpitas resident, lived near Great Mall. He felt Republic had great customer service and would save the residents a lot of money.

Robert Marini, Milpitas resident, noted criteria to learn if the contractor would violate the contract or not. He wanted to know what those were. He asked about revenue to the city from a vendor, and possible violation of Prop. 218.

Carla Van Meter, Milpitas resident, personally had gone to the dump. She felt the garbage pick-up was always neat. Republic with a proven track record was the only viable proposer.

Anthony Ye, Milpitas resident, said reality was that Republic had more than 4,000 odor complaints that were active. Don't focus on a few dollars difference savings over 50 years.

Jennifer Flores, representing another Jennifer of The Family Giving Tree, said the value of Republic Services contributing money, time and services to help Milpitas youth over many years was immeasurable. 75,000 under-privileged kids were helped by their efforts in giving out backpacks each year.

Patrick, Milpitas resident for two years while working 10 years at KLA Tencor, said he loved living and working in Milpitas, except for the smell. It was a hostile act by Republic to put Measure L on the ballot, he felt.

Jyoti More, Milpitas resident, felt Milpitas was charged highest rates for the past 10 years, looting residents. It was 50% cheaper if residents go to 20 gallon containers. A public nuisance was declared by City Council about the Newby Island facility. He urged Council to not do business with Republic Services.

A resident of Friendly Village did not feel that the best price for ratepayers was right. He wanted workers to get paid fair wages with benefits. Make sure the company was not strained. The City should work with company if there was a bad smell. Also he did not mind paying more for garbage service.

Brock Hill, Premier Recycling Co., wanted to address the exclusive franchise for construction demolition & debris recycling. This did not bring competition, if it went exclusive and would put at least ten companies out of business.

Ko Say, Fremont resident, used to live in Sunnyvale, and did not choose Milpitas based on the odor. He shopped for value, not just price. He listed quotes of what Garden City would provide.

Cynthia Rich, long time employee in Milpitas while a resident of San Jose, thanked Republic Service for its long support of Rotary Club services.

Raymond Wong, Milpitas resident, stated that Republic Services was not a good neighbor and did not mitigate the odor in the City. It only moved the composting processing due to a lawsuit. It had methane leakages for over one year, as documented by the LEA, with over ten violations noted by BAAQMD with no response to those. Republic Services was very sneaky with pricing.

Zemen Wong, Milpitas resident who supported Measure L, mentioned hidden costs if Republic was selected for garbage service. He talked about odor and lower costs at a price.

Jin Lee, Milpitas residents, talked about the public nuisance, violations and odor complaints filed. Saving a few dollars by selecting Republic Services was not a good idea.

Jennifer Strohfus, Milpitas resident, asked Council not to do business with Republic Services even though they were under pressure to select this company,

with lower rates. The City could have tiered rates, she suggested. Vote no to Republic Services.

Dan Strohfus, Milpitas resident, was in favor of Measure L and was opposed to his garbage going to Newby Island. Campaign contributions had been requested and he asked if Councilmembers had received contributions two years or four years ago.

Ron Lind, 38-year resident, only noticed the odor smell a very few times over his residency here. Significantly lower rates were ready to go in the fully complete contract by Republic Services. It's about the workers of that company.

Daniel Bobay, Milpitas resident, supported Republic Services as a good neighbor company. Only one company had provided a complete contract.

Akasha, Milpitas resident, spoke out against Republic Services. He wanted fresh air for his children. Republic Services were violators.

Liz Ainsworth, resident and Executive of the Milpitas Chamber of Commerce, spoke of the good corporate citizen that Republic Services has been over many years. It was a good employer here in Milpitas.

George Liu, Milpitas resident, read from a report issued by the City of San Jose last Friday about Republic Services. It spoke of a confirmed odor source, due to composting facilities. He opposed Republic.

Andrew Asera, spoke on behalf of Warren Wettenstein a Milpitas resident and taxpayer, who was supportive of Republic Services.

Shang Yao, Fremont resident, said when driving past Milpitas on 880, he could smell the odor. He wanted to support Milpitas residents for clean air.

Denny Weisgerber, Milpitas resident of more than 60 years, noted that Republic Services inherited a bad egg of that landfill site. Now, there was good service with a good company, so don't change it. The smell would continue there.

A Milpitas resident had experienced the smell since he moved here in 2013. If Republic would take the garbage somewhere else, then he would support them. He did not want the stinky smell any longer.

Shankar, Milpitas resident, thanked the City Council. He lived in northern part of Milpitas, when he goes outside with coffee in the morning he often knew it smelled outdoors. This was not about money it's about doing what's right.

Kerry Benedict, one of the non-exclusive franchise debris haulers of the 10 haulers have their recycled material brought to Zanker in San Jose. He urged keeping construction debris out of the contract.

Tom Cabel, Milpitas resident, felt Republic Services was a bad neighbor in actual experience. The company spent over \$500,000 to go against the Council's decision, on the first contract for disposal.

A man felt Milpitas was an innovative city with the concept of separating garbage disposal and its collection. He was reflecting on his job experience on how to decide contract award.

A woman, Milpitas resident, complained about the smell. She wanted to be proud to live here, not embarrassed.

A man, Milpitas resident, did not support Republic Services, due to odor.

Kiran, Milpitas resident, moved here recently from India. He could not take children for a walk due to the smell.

Charlene Kong, Milpitas resident, felt there were many garbage companies out there. She complained of the smell and unlimited dumping at Newby Island. It was bad for environment to select Republic Services and she asked for proportional pricing as other cities offered.

A man, Milpitas resident of 10 years, heard from friends that this was a smelly city. He had called BAAQMD to make complaints. Urged Council not to do business with Republic Services.

Helen, Milpitas resident, thought there should be a “dump deodorant” while she supported Republic Services, with very good service.

Tracy Chi, Milpitas resident, called to complain about the odor several times.

Jose, resident of San Ramon and worked in Mountain View for Firma. He spoke of his company and had some recycling material. He wanted competition for construction recycling.

Tracy Powell, long time Milpitas resident, spoke about Newby Island.

Vincent, 18 year resident, spoke in support of Republic Services. He thought there was no smell.

Tom Valore, Milpitas resident, was subjected to calls for revenge and supposition. He said to consider only facts, and talked about costs spent on the process so far. Two vendors were now considered with one responsive and one was not (should throw it out). Choose Republic Services while odor should not be a part of this process.

Pete McHugh, 43 year resident of Milpitas, supported the award of contract to Republic Services, due to economies of combined services, and its community involvement.

Barbara Ebright, Milpitas resident, represented seniors and so she liked supporting the cheapest rates.

Anna, Milpitas resident, was in favor of Republic Services. She said reduction of odor was part of the new contract, and must do more recycling to create less garbage. She appreciated support of Republic Services.

Santos, Milpitas resident, liked the Republic Services and the sidewalk pick up. She had no problem with the smell.

Micky Skelson, Milpitas resident, heard that people want the cheapest rate for garbage service. The City already spent a lot of money for HF&H consultant services.

Vicky Young, Milpitas resident, worked for a non-profit organization. Newby Island was the source of the smell, and they don't really care about residents.

Nilish Sharma, Milpitas resident, thanked Council for a fair process. He was disappointed that odor issue was not considered as a factor when selecting a vendor. It came from every operation at Newby Island, where Republic had violations. Look at economic and environmental impacts always.

Voltaire Montemayor, Milpitas resident, was not favoring any side. Republic was doing its job now.

Kang, resident of Milpitas, felt no one can beat Republic on cost, so consider the company. It caused time and money bringing Measure L on the ballot. That company lied a few times he noted.

Kenneth Wang, young resident of Milpitas, said Republic was creating a situation where he could not play outside and breathe clean air.

Jackie, 35 year resident and soccer coach, did not have a problem with the odor. It appeared to be only one viable contractor so don't spend any more money on contracted consultant. The other company was more expensive.

Robert Song, Milpitas resident, felt health was first priority. After 30 years, the City needed to have a change.

Michael Tsai, Milpitas resident, noted water rates already went up, so lower garbage rates would bring needed relief to people. Diversion helped. Milpitas needed to be a good neighbor with San Jose. He supported the choice of Republic Services.

Bassan, Milpitas resident, felt the garbage smell increasing getting worse and worse. Companies in this area were adding to a lot of garbage.

Robin Chan, Milpitas resident, spoke of an online survey done of residents. Respondents wanted to stop doing business with Republic and to stop the odor. He wanted the option of 20 gallon bins.

At 9:40 PM, Mayor Esteves announced a short break for the City Council. Council returned at 9:50 PM.

Next, the Mayor invited Republic to speak first. Evan Boyd, General Manager, addressed the City Council, ready to enter into agreement with City of Milpitas, at the lowest cost for best service. He asked Council to render a decision.

Michael Caprio, area manager of Republic Services in Northern California, never had bid numbers put out in a staff report and then have City negotiating rates with a competitor. With Garden City, there were a lot of conditions. Contract terms were set and ready to go. He urged City Council to move forward, and was willing to work on any details remaining.

Louie Pellegrini, owner of Garden City Sanitation, resident of Los Altos. THye had negotiated their price already with the consultants for his company's proposal. Cost of processing material was listed and cost of using SMaRT station in Sunnyvale would be advantageous. Outcome of Measure L was still unknown and could void the agreement with Republic.

Councilmember Giordano said one speaker noted an odor report put out last Friday from San Jose. She asked the City Attorney about the impact on the Council from such a report. Mr. Diaz said the report was released by the City of San Jose and it would not impact the decision that this Council needed to make.

Councilmember Giordano identified items for further reporting: 1) Garden City cost analysis and input from Sunnyvale to get final total costs, for a final contract proposal within 30 days; 2) an issue with putting out small businesses, with small collection debris boxes in which she wanted to keep it non-exclusive for construction material recycling, and 3) the odor study from San Jose, which

she was not sure of its impact, when legally entering a contract and wanted the City staff to review it first. Therefore, she proposed pushing this matter out for 30 days (to November).

Mayor Esteves had a question for Garden City. He knew the company would continue to work with the SMaRT station, so there could be a later decision on pricing from Sunnyvale, and while the Garden City representative said his company needed nine months' time to order new trucks, on time for start of a new contract. So the Mayor asked if there was a "Plan B" for recycling, if the SMaRT station did not work out? Yes, Garden City would haul recycling material to alternate sites in San Leandro and Fremont, if necessary.

The Mayor and Councilmembers asked the consultant various questions about timing on decisions to be made, and the effect of the 30 days timeframe suggested by Councilmember Giordano. Mayor Esteves did not want to go beyond 30 days from this evening for a final decision to be made.

Councilmember Barbadillo wanted to know if Council asked staff to come back in 30 days, whether or not there would be a contract to sign with Garden City (in addition to Republic Services contract, already presented).

Mayor Esteves listed the items, as suggested by his colleague:

- 1) non-exclusion for construction recycling materials
- 2) effect of the San Jose odor study recently issued
- 3) a new update on the Garden City contract
- 4) consider offering 20 gallon containers to customers

Motion by Giordano: to continue this item for 30 days or less to consider 4 items, consultant return with answers, and CC to deliberate and make decision

Motion/Second: Councilmember Giordano/Vice Mayor Montano

It was suggested that this matter could be considered at regular City Council meeting on November 15 or at a special City Council meeting date.

Councilmember Grilli stated that she would not support the motion. She had wanted all the information at this meeting to make a decision. She felt they were letting down the public by not completing the voting at this meeting, as noticed to the residents.

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

ADJOURNMENT

Mayor Esteves adjourned the meeting at 10:23 PM in memory of Henry Le, founder of Lee Sandwiches.

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