

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, November 15, 2016
Time: 5:30 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 5:30 PM. City Clerk noted the roll.
- PRESENT:** Mayor Esteves, Vice Mayor Montano, Councilmembers Giordano and Grilli
- ABSENT:** Councilmember Barbadillo was absent at roll call and arrived in Closed Session.
- CLOSED SESSION** City Council convened in Closed Session to discuss eight litigation and other matters.
- City Council then convened in Open Session at 7:20 PM.
- ANNOUNCEMENT** No announcement out of closed session.
- PLEDGE** Boy Scouts Troop No. 92 led the pledge of allegiance.
- INVOCATION** Mayor Esteves invited a representative from BAPS Swami Temple to the podium to give the invocation.
- MEETING MINUTES** Motion: to approve the minutes of November 1, 2016 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 and November 2016
- Motion/Second: Councilmember Giordano/Councilmember Barbadillo
- Motion carried by a vote of: AYES: 5
NOES: 0
- PRESENTATION** Mayor Esteves presented the Water Environment Federation – 2016 Award Winner: Overall Highest Score in Innovation and Program Management for the Santa Clara Valley Urban Runoff Pollution Prevention Program, which was given to City of Milpitas. It was accepted by Engineering Department staff Leslie Stobbe.
- PUBLIC FORUM** Martin Skelson, Milpitas resident, referred to a ballot measure initiative effort that was done earlier this year, regarding water rates.
- Robert Marini, Milpitas resident, commented about Mayor’s past comments on upholding the law with regard to the state Constitution and the ballot initiative. He noted past litigations in court.
- Voltaire Montemayor, Milpitas resident, had words of encouragement and wisdom for Milpitas residents and those in the country. Maintain status of Milpitas as one of the best places to live in the world.

Michael Tsai, Milpitas resident, mentioned a news story recently about the high school principal. He congratulated all those who ran for office in the recent election. It was a time to come together as a community and work together for what's good for Milpitas.

Jezell, Milpitas resident, felt some were taking advantage, and remarked about salaries and those being raised.

ANNOUNCEMENTS

City Manager Tom Williams encouraged all citizens who were interested to attend the first Citizens Task Force on Water Rates on Thursday, November 16 at 6:00 PM. Also, he introduced and welcomed Daniel Degu, new staff member as the City's Economic Development Specialist.

Mayor Esteves announced the Thursday, December 1 at 6:30 PM Tree Lighting Ceremony and asked the Recreation Services Manager to describe events at City Hall and the outdoor plaza, with a "Magic of the Holidays" theme including a magician.

Vice Mayor Montano announced, on November 28, a new Family Resource Center would open at Randell Elementary School for the community. A grand opening dedication was planned on that Monday at 4:00 PM.

**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.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as amended

City Manager Williams asked to remove agenda item no. 15 (amend agreement with Burke Williams law firm) from the agenda to be considered at a later date.

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

Councilmember Grilli asked to remove item no. 20 (agreement with HF&H) from consent. Councilmember Giordano asked to remove item no. 21 (City Manager agreement) from consent. Councilmember Barbadillo asked to remove items no. 12 (Amend Classification Plan) and no. 13 (Adjust Salary Ranges) from consent.

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

* 4. Commission Appointments Approved all of the following as recommended by Mayor Esteves:

Arts Commission

Re-appointed Tess Santos to a term of 3 years which will expire in October 2019.
Re-appointed Alternate No. 1 Marsha Tran and Alternate No. 3 Lu Quiang Shu to terms of 2 years each that will expire in October 2018.

Community Advisory Commission

Re-appointed Van Lan Truong to a 4-year term which will expire in January of 2020.

Library Advisory Commission

Re-appointed Yu-Lan Chou and Hellie Mateo to terms of 2 years each which will expire in June of 2018.

Parks, Recreation and Cultural Resources Commission

Re-appointed Vishnu Mathur (past term expired in June 2016) to a term of 3 years which will expire in June of 2019.

Planning Commission

Re-appoint Sudhir Mandal and Demetress Morris to new terms of 3 years each which will expire in December of 2019.

Recycling and Source Reduction Advisory Commission

Re-appointed Marta Martinez and Manpreet Badesh to new terms of 3 years each which will expire in October 2019. Re-appointed Alternate No. 1 Mandeep Singh to a term of 2 years which will expire in October of 2018.

Senior Advisory Commission

Re-appointed Melba Holliday, Deborah Langley, Jae Kuk Wi and Alternate No. 2 Nona Tolentino to new terms of 2 years each which will expire in December of 2018.

Telecommunications Commission

Re-appointed Sukhi Singh to a 2-year term which will expire in June of 2018.

- * 7. Accept CAFR for FY 2015-16 Accepted the City’s Comprehensive Annual Financial Report, and other related Annual Audited Reports for the fiscal year ended June 30, 2016.
- * 8. Resolution Adopted Resolution No. 8606 making certain findings pursuant to the Mitigation Fee Act for Fiscal Year 2015-16 regarding the continuing need for unexpended development fees, and review and accept the annual developer fee disclosure information.
- * 9. Resolution Adopted Resolution No. 8607 granting initial acceptance of the Wrigley-Ford Creek Erosion Repair Project No. 3700 subject to a one year warranty period and reduction of the faithful performance bond to \$6,660 and granting authorization to the City Engineer to issue the notice of final acceptance after the one-year warranty period and to release and discharge the performance bond without further City Council action.
- *10. Resolution Adopted Resolution No. 8608 approving the sole source agreement and statement of work. Authorized the City Manager to execute Amendment No. 1 to the Agreement with Trittech Software Systems for a Records Management System upgrade for Milpitas Public Safety Dispatch. Authorized the Purchasing Agent to extend the term of the agreement for the next four years, based on the terms of the agreement and without further City Council action, except for appropriation of funds.
- *11. Resolution Adopted Resolution No. 860 and authorized the City Manager to execute a sole source agreement with Telecommunications Engineering Associates, a subsidiary of Daryl D. Jones, Inc. for maintenance and support of the Milpitas Police Department’s Public Safety Dispatch Center communications system in an amount not to exceed \$91,232 per year. Authorized the Purchasing Agent to extend the term of the agreement for one additional year without further City Council action, except for appropriation of funds.
- *14. Amendment Authorized the City Manager to execute the Third Amendment to the 911 Emergency Medical Services Provider Agreement between the City of Milpitas and the County of Santa Clara County to allow Supplemental Transportation Ambulance Resource rights to the City of Milpitas.
- *15. Amendment to Burke Williams agreement Item was removed from the agenda.
- *16. Approve Final Map and SIA for McCarthy Creekside Approved Final Map Tract No. 10393, including acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements; and authorized the City Manager to execute the Subdivision Improvement Agreement.

- *17. Amendment Approved and authorized the City Manager to execute the Third Amendment to the Multi-Party Agreement providing for continued participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program.
- *18. Stormwater Permit for Traverse Partners Authorized the City Manager to execute a Storm Management facilities Operation and Maintenance agreement for Traverse Partners, LLC.
- *19. Amendment Approved Amendment No. 2 to the consultant agreement with RMC Water & Environment for the Recycled Water Pipeline Extension Project extending the agreement term to December 31, 2017.

PUBLIC HEARINGS

1. Ordinance No. 65.145 – Building Code Update

Chief Building Official Keyvan Irannejad explained status of this ordinance to be adopted following its introduction on November 1. Updates to the Building Code were required by state law every three years, and local amendments were introduced after meeting with the local area building officials. The ordinance was ready for adoption following introduction on November 1, allowing for implementation by the first of the new year.

Mayor Esteves opened the public hearing.

Voltaire Montemayor encouraged adoption of the ordinance for safe buildings.

(1) Motion: to close the public hearing, following one speaker

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(2) Motion: to adopt Resolution No. 8603 making findings necessary under state law to adopt with local amendments to the Building Code Administration Ordinance, and other related state codes

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(3) Motion: to waive the second reading and adopt Ordinance No. 65.145, updating the Milpitas Municipal Code regarding building regulations

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

2. Ordinance No. 113..24 – Fire Code Update

Fire Marshal/Deputy Fire Chief Albert Zamora reviewed the status of the Fire Code update which would be adopted in the ordinance at this meeting, following introduction on November 1. The Fire Code, similar to the Building Code, must be updated with local amendments every three years.

Next, Mayor Esteves opened the public hearing.

Voltaire Montemayor said the best firefighters in the world were in Milpitas.

(1) Motion: to close the public hearing, following one speaker

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

(2) Motion: to adopt Resolution No. 8604 making findings necessary under state law to adopt with local amendments the 2016 California Fire Code

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(3) Motion: to waive the second reading and adopt Ordinance No. 113.24, updating the City's Municipal Code for fire regulations

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

3. Recycled Water Extension Project

Consultant Susan Yogi presented the objectives and description of the Recycled Water Extension project. Five segments with 9.5 miles of recycled water pipeline were to be built for this project. Golf courses in the hills would be one place this water could be used once the infrastructure was in place.

Vice Mayor Montano asked about the trees that the Community Advisory Commission wanted to plant at entrances to the City, and if this water reach those trees. City Manager Williams confirmed the water backbone structure for recycled water would serve that identified need.

Councilmember Barbadillo asked the consultants questions about costs of the project, and if some of it was grant funded.

Mayor Esteves discussed the water augmentation program for the city, of which this project was one significant effort. It would meet the recycled water portion of the program to permit use of more potable water for other uses.

Next, Mayor Esteves opened the public hearing.

Robert Marini, Milpitas resident, asked where was this project in the CIP and where the recycled water was coming from. The City Manager said it was in the CIP and water would come from the sewer treatment plant after water was treated.

Voltaire Montemayor, Milpitas resident, referred to use of recycled water at the golf courses and other uses.

Jezell, Milpitas resident, wanted to know where existing recycled water service was in the City, and what was the source of it. The City Manager responded.

Tom Valore, Milpitas resident, asked about different categories of water. He wondered what was the difference between recycled and reclaimed water

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

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

(2) Motion: to adopt Resolution No. 8605 approving and adopting the Environmental Assessment No. EA16-0006, Initial Study/Mitigated Negative Declaration for Implementation of the Milpitas Recycled Water Pipeline Extension Project

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

REPORT OF MAYOR

5. Request for Ordinance - No Smoking Near Restaurants

Mayor Esteves expressed his request for a new ordinance to promote clean air. He asked two speakers to the podium.

Two women from Breathe California, a Bay Area organization, spoke from the group which was promoting an effort to have clean air and no secondhand smoke throughout the cities. Smoking resulted in bad impacts to children, seniors, pregnant women and others. Smoke-free outdoor dining would be beneficial in the City of Milpitas, and could be achieved as was done recently in the City of Cupertino.

Mayor Esteves asked for speakers from the audience.

Robert Marini, Milpitas resident, asked if the city had any feedback from businesses about this type of ordinance. Mayor Esteves said yes, and that several were in favor.

Voltaire Montemayor knew that second hand smoke was not good, especially for children.

Vice Mayor Montano asked city staff about impact to businesses, especially to new hotels.

Motion: to direct City staff to prepare an ordinance to prohibit smoking in outdoor dining areas throughout the city

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

NEW BUSINESS

6. Year End Financial Report

Acting Finance Director Jane Corpus reported positive results on the revenue and the expenditures side of the year-end review of the city's FY 2015-16 budget. Various categories of revenue were reported higher than anticipated. \$12 million was transferred from the General Fund into the General Government CIP for various funding needs. She also identified one time revenues from the state "triple flip" actions. \$13.4 million was in undesignated reserve, which more than met the Council's policy for necessary reserves.

Councilmember Barbadillo asked about the funding deficiency in 5-year CIP, which was identified at \$57.8 million.

The Mayor next invited speakers from the audience.

Robert Marini, Milpitas resident, wanted to know the General Government CIP versus just the remaining CIP. City Manager Williams replied that those projects that were not in the water and sewer CIP list were in the General Government section.

Voltaire Montemayor, Milpitas resident, said this was a good accomplishment for everyone. The City was still champion.

Motion: to receive the report on the FY 2015-16 CAFR from staff

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

RESOLUTIONS

12. Resolution to Update Classification Plan

Councilmember Barbadillo asked staff for a descriptive report on this matter.

Human Resources Director Tina Murphy reviewed the need to update the City's Classification Plan regarding positions in Public Works, City Manager, Recreation and Planning Departments. The goal was to provide appropriate classifications of several management positions based on the current workload and assignments of these jobs.

Mr. Barbadillo asked several more questions as did the Mayor to clarify understanding of the positions needed and provide professional level staffing.

Mayor Esteves invited speakers from the audience.

Robert Marini, Milpitas resident, asked if costs for the benefits with increased salaries was considered, as quoted and the Mayor replied yes.

Voltaire Montemayor, Milpitas resident, referred to prior layoffs, and now there was a need for good services for everyone.

Tom Valore, CFO of Milpitas Chamber of Commerce, directly supported comments given for the position of Economic Development Manager and elevation to Director status.

Mayor Esteves was appreciative to see improvements to the scope of work of all City employees, which translated to more and better services for residents and businesses. He pointed to the well known need in the Planning Department for the manager position, among others. This effort helped the City to stay competitive with other cities and government agencies.

Vice Mayor Montano commented favorably on the work of Economic Development Manager Edesa Bitbadal, with so much demand in this growing city.

Motion: to adopt Resolution No. 8610 amending the Classification Plan for positions in Recreation, Public Works and Economic Development; and, approve a budget appropriation in the amount of \$56,800 from the Sewer Fund and \$28,400 from the General Fund; and approve a budget transfer of \$56,800 from the Utility Engineering function in the Engineering Department to the Public Works Department for one Deputy Public Works Director in the Public Works Department

Motion/Second: Vice Mayor Montano/Councilmember Grilli

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

13. Resolution

Councilmember Barbadillo wanted the public to fully understand this topic, which had been requested to update the salary ranges of Department Heads and unrepresented managers.

Human Resources Director Tina Murphy explained the broad differences that had existed from the bottom to the top of pay ranges for unrepresented management employees. Upon adoption of the proposed Resolution, the result would be that all classifications would have a 40% difference from lowest to highest salary ranges for the identified positions.

The effort would provide more flexibility to attract the best candidates for openings at the City of Milpitas.

City Manager Tom Williams requested the City Council to take action on only two positions this evening - Finance Director and City Engineer only. The remaining positions on the unrepresented listed would be continued to December 6.

City Attorney Chris Diaz clarified the action to amend the Resolution language and its attached exhibit (list of positions) to reflect only the Finance Director and City Engineer.

Motion: to adopt Resolution No. 8611 amending the Classification Plan to state the salary range for two positions, Finance Director and City Engineer only and to return at the next meeting with other unrepresented management positions

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

AGREEMENTS

20. Amendment No. 4 to Agreement with HF&H

Councilmember Grilli requested this item for discussion. She felt that some of the scope of work items should be discussed by the new City Council. There would be a need to have that discussion with the new City Council. She appreciated that there was reimbursement of \$425,000 in the new contract for these services.

Mayor Esteves asked for comments from the audience.

Voltaire Montemayor, Milpitas resident, discussed figures in the report.

Councilmember Barbadillo agreed with Mrs. Grilli on this issue. See how new contracts were going to work out and then discuss those issues.

City Manager Williams said this action would thus need to remove \$66,000 from the budget of \$138,000 proposed this evening. Then, staff could bring back that one identified task (no. 20) later for consideration and funding later.

Motion: to approve Amendment No. 4 to the Agreement with HF&H, while removing Task No. 20, for the amount of \$72,160, and allow the City Attorney to make appropriate amendments to the documents

Motion/Second: Councilmember Grilli/Councilmember Barbadillo

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

21. Approve Amendment to Employment Contract with City Manager Tom Williams

Councilmember Giordano wanted to remind the public about review process that had been done with the City Manager. It resulted in a positive performance review for Mr. Williams and this evening the City Council requested to provide a 2% salary increase in the proposed amendment to the employment agreement.

Mayor Esteves invited speakers from the audience.

Voltaire Montemayor, Milpitas resident, made comments on other matters.

Motion: to approve Amendment No. 3 to the Agreement with City Manager Tom Williams

Motion/second: Councilmember Giordano/Councilmember Barbadillo

Motion carried by a vote of:

AYES: 5
NOES: 0

ADJOURNMENT

Mayor Esteves adjourned the City Council meeting at 9:37 PM.

The foregoing minutes were approved by Milpitas City Council on December 6, 2016.

**Mary Lavelle
Milpitas City Clerk**