



# CITY COUNCIL TRANSPORTATION & LAND USE SUBCOMMITTEE Approved Meeting Minutes

**Date/Time:** Tuesday, November 29, 2011

**Where:** City Hall Committee Conference Room

**Attendants:** Council Member Gomez (Chair), Council Member Polanski,

*Quorum was established*

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## 1. Call to order

The meeting was called to order at 5:00 pm.

## 2. Public Forum *Please limit comments to 3 minutes*

There were no comments during Public Forum

## 3. Approval of Agenda & Minutes\*

*The agenda and minutes were approved.*

## 4. Announcements

*Chair Gomez had no announcements and requested of staff announcements. Staff Diana Barnhart stated that she and the City Manager would leave at 5:30 pm and will come back to attend the rest of the meeting*

## 5. Tobacco Prevention Policies Discussion

Chair Gomez didn't feel this item just fell on one committee. He requested that subcommittee take this testimony and schedule this item for the January meeting. Chair Gomez allowed for speakers on this item. The following members of the community spoke:

Dr. Roger Kennedy, chair of the tobacco free coalition for Santa Clara County. He discussed the dangers of outdoor smoking and stated facts on the dangers of second hand smoke in public parks and outdoor dining. He encourages outdoors areas to be smoke free as an important public health policy.

Veenu King, member of the advocate for teens of today and chair of the City of Milpitas Youth Advisory Commission, encourages smoke free parks and outdoor dining. She stated 46 of the restaurants that have outdoor seating, 21 allow outdoor smoking. She stated children suffer from asthma, bronchitis, and ear infections to name a few. She shared several bags of cigarette butts from a clean up at Dixon Landing and Gill Park located in the playgrounds and basketball & tennis courts. She urges support of park free smoking, tobacco retail licensing, and smoke free dining.

Christina Chan, Member of Community Advocate for Teens of Today shared she is a youth decoy for Santa Clara County that has tried to purchase tobacco and she has been successful without showing any identification of age (in San Jose). She also shared several bags of cigarette butts from Gill Park near the baseball and basketball areas. She also stated that fining retailers is better for those who sell to youth.

Carol Baker, Tobacco Free Coalition, she shared that 1% of smokers start as adults and the rest start as children. She states there should be a better way to prevent access of tobacco for children.

Chair Gomez has fact sheets on this information and stated the subcommittee will discuss at the next meeting

## **6. Transit Area Park Land discussion**

Chair Gomez discussed the need for fields in the Transit Area Plan. He stated Council gave direction to acquire 10 acres of park land. [Zoning maps were reviewed of the parcels that staff was directed to purchase]

Chair Gomez stated the school district would acquire land for their building, and the City would acquire land for their green space/recreation facility. He suggests the partnership would include the school district purchase the 3 acres for their school building. He feels this is an opportunity for more space.

Council Member Polanski thought the 10 acres would be joint use for a school with a shared community center type (school uses in the day) plus the open space for park and school physical education.

Staff will clarify the amount of space as 10 acres or 13 acres. Staff will review the transit area specific plan.

Council Member Polanski understands a bond is needed, by the school district, to build the school. Chair Gomez stated he'd like to use some of the bond to acquire more space for a larger outdoor facility like a soccer complex.

Staff will review the direction during the Transit Area Specific Plan review and approval time.

Chair Gomez should have discussions with the school district to negotiate land use for the area. City Manager Tom Williams stated the City owns the land.

Staff will provide a status report at the next meeting.

## **7. Receive testimony and discussion regarding medical marijuana facilities**

Chair Gomez welcomed Police Chief Dennis Graham to discuss the safety issues with Medical Marijuana Facilities (MMF).

Chief Graham started stating he does understand there is a large amount of members of the community that need MMF for medical reasons. He did state it is difficult as Police Chief and a department to approve these because they take an oath to uphold the state and federal laws. Chief Graham discussed with other Police Chiefs that have MMF to discuss how they deal with safety.

He learned that some of the large customer base and there is a majority of these facilities used for recreational use. He stated some of the consequences include robberies, money laundering, and cartels.

Chief Graham also stated Los Angeles and San Diego reversed policies due to public outcry.

Chief Graham recommended, if the City approves MMF, that some of the restrictions be included, using the Los Angeles experience:

- Hours of operation
- Restrict Locations (500-1000 yards away from where children are present such as schools, parks, daycare)
- Restrict the number of dispensaries
  - Chief Graham calculated the Los Angeles population to the number of dispensaries allowed, 50,000 pop/1 dispensary should then require 1-2 dispensaries allowed in the City of Milpitas.
- Ensure landowners are aware of federal law when leasing space to MMF
- Providing a legal age limit for employees

Chief Graham also stated that District Attorney Jeff Rosen has a Santa Clara County Medical Marijuana Prosecution Protocol to review the guidelines to ensure the City's ordinance meets the terms of the protocol.

Chief Graham disclosed these are just a few recommendations as a flavor of what the City can include.

Chair Gomez asked Chief Graham's opinion on onsite and offsite cultivation. Chief Graham would discourage the onsite as it becomes a crime target. He stated he also heard from another Chief, there would be environmental impacts as well.

Council Member Gomez asked if there was a restriction on how much marijuana you can have at a facility. Chief Graham stated the appropriate amount for a legitimate patient would be 6-8 plants or 8 ounces of dried marijuana. He suggests the MMF should have good records open to the public and a disclosure of the number of patients to determine the amount the facility should have.

Ms. Spuller distributed a table of research of the fees collected from California cities that allow MMF. Deputy City Attorney Brian Otake stated recent court cases in Southern California suggested that voter-approved tax collection is legally safer to collect revenue.

Council Member Polanski stated that MMF is definitely for patients that really need it. She also feels the names of the medicine should be regulated instead of names with connotation towards recreational use. She feels the city should move forward with tight restrictions.

Chair Gomez stated they should manage or create a memo from the Subcommittee. He reviewed the timeline and stated a meeting to discuss land use and regulatory structure, prior to Council. He feels this discussion will be brought to the April City Council Meeting.

## **8. Consider Possible Moratorium on Land Use Conversions for Residential Development**

*This item was discussed before Item # 7*

Staff Diana Barnhart discussed there were a lot of inquiries by housing developers and rezoning our industrial areas in the California Circle/Cadillac area. Staff is opposed to

freeway frontage of California Circle. There have also been inquiries at Hanson Court which is a heavy industrial area for housing. Ms. Barnhart has met with the owner of Preston Pipelines on Railroad Court for housing development. Also in the SanDisk Drive area near McCarthy Ranch and Alder Drive there has been inquiries for more housing developments. She stated staff is trying to focus developers to the Transit and Midtown Specific Plan areas.

Ms. Barnhart requests a moratorium on the conversion of industrial areas to residential for a period of time. Ms. Barnhart stated Milpitas has a good jobs-housing balance and we would like to maintain this.

Mr. Williams stated a moratorium would be up to 2 years until we are able to update the Midtown Specific Plan and look at the General Plan amendments.

Council Member Polanski does not want to have developers that impact the schools, services, and infrastructure with more housing.

Staff will bring the moratorium to the January City Council Meeting.

## **9. Other Business**

## **10. Adjourn**

The Subcommittee was adjourned at 5:55 pm.