

MILPITAS OVERSIGHT BOARD

TO THE CITY OF MILPITAS ACTING AS THE RDA SUCCESSOR AGENCY

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA 95035-5479
GENERAL INFORMATION: 408-586-3000 www.ci.milpitas.ca.gov

MILPITAS OVERSIGHT BOARD MEETING

Milpitas Committee Room
455 E. Calaveras Blvd., Milpitas, CA 95035

MEMBERS:

Emma Karlen
Bruce Knopf, Vice Chair
Mike McInerney, Chair
Michael Mendizabal
Althea Polanski
Matthew Tinsley
Glen Williams

ALTERNATES:

Russell Morreale
Alan Minato

Jane Corpus Takahashi
Suzanne Carrig
Michael Murdter

Minutes of the February 19, 2016 Meeting

I. CALL TO ORDER, ROLL CALL AND PLEDGE OF ALLEGIANCE

Chair McInerney called the meeting to order at 1:02 p.m.

ROLL CALL

MEMBERS PRESENT: Suzanne Carrig (arrived at 1:08 p.m.), Bruce Knopf, Mike McInerney, Mike Mendizabal, Russell Morreale, Althea Polanski, and Glen Williams

MEMBERS ABSENT: None

II. PUBLIC FORUM

A member of the public spoke on the Board's rule regarding a speaker's option to not identify himself or herself or state the speaker's home address. The speaker expressed concern that Board Chair McInerney did not do enough to protect the identity of those speakers who did not identify themselves at the start of their comments. Board Chair McInerney said he would do better in the future.

III. APPROVAL OF AGENDA

Moved by Mr. Williams and seconded by Ms. Polanski to approve the agenda. The motion passed unanimously.

IV. APPROVAL OF MINUTES FOR January 25, 2016 Meeting

The following changes to the minutes are as follows: Include Mike Mendizabal as being present at the meeting.

Moved by Mr. Morreale and seconded by Ms. Polanski to approve the minutes of the January 25, 2016 as amended. The motion passed with the following vote: **AYES:** Knopf, McInerney, Mendizabal, Morreale, Polanski and Williams **NOES:** 0 **ABSTAIN:** Carrig **ABSENT:** 0

V. OLD BUSINESS

None

VI. NEW BUSINESS

- A. Receive and Consider Report and Recommendations from the Ad Hoc Committee of the Oversight Board Regarding Results of Request for Proposals (RFP) Process for the Sale of Property No. 2 Listed on the Long Range Property Management Plan (LRPMP) and Located at Alder Drive & Barber Lane, Milpitas, California (APN 086-02-086).
 - 1. Adoption of Resolution No. 76 of the Oversight Board Approving the Sale of Property Located at Alder Drive & Barber Lane, Milpitas, California (APN 086-02-086) to Lodging Dynamics Development, LLC Pursuant to the Long Range Property Management Plan and a Request for Proposals (RFP) Process.

Ms. Montoy presented the staff report.

Board Member Williams said that he was pleased to see that they had four competitive bids that were different from first issuance. He added that the Ad Hoc Committee members along with City Manager Williams were unanimous on the recommendation of the selected bid.

Board Member Polanski expressed appreciation that the Ad Hoc Committee found a time to meet and discuss the submitted proposals. She also was pleased with receiving four bids and concluded that the Ad Hoc Committee is putting forward an excellent recommendation.

City Manager Williams stated that the Successor Agency concurs and he personally was pleased with the process and sees it as an example of exactly what the disposition of parcels was meant to be and the City fully supports the sale of this land for a hotel. He pointed out that City staff spent a great deal of time with all four of the proposers in their due diligence to submit their RFPs and the City is excited to be working with this particular company to have a hotel built.

No member of the public spoke on this item and there was no discussion between the Board Members.

Moved by Mr. Knopf and seconded by Ms. Polanski to approve the adoption of Resolution No. 76. The motion passed unanimously.

Before proceeding to the next item, Chair McInerney surveyed the public in attendance on which item(s) they planned to speak. All indicated they would speak only on Item VI.C.

Moved by Mr. Knopf and seconded by Mr. Mendizabal to amend the agenda to take up Item VI.C first. The motion passed unanimously.

- C. Receive and Consider Report and Alternative Resolutions from the Ad Hoc Committee of the Oversight Board Regarding Disposition of 230 N. Main St. Listed on the Long Range Property Management Plan as Property No. 3.
 - 1. Alternative A: Resolution No. 78 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Approving a Request for Proposals (RFP) for the Sale of Property Located at 230 N. Main Street, Milpitas, California, and listed on the Long Range Property Management Plan as Property No. 3.
 - 2. Alternative B: Resolution No. 78 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Amending the Long Range Property Management Plan to Authorize Retention of Property No. 3 Located at 230 N. Main Street, Milpitas, California for Governmental Use.

Ms. Montoy presented the staff report explaining the differences between the two alternatives of Resolution No. 78. Ms. Montoy indicated that the staff report included a brief summary regarding the Dissolution Law regarding the issues of governmental use that has been discussed before and, whether there is authority to amend the LRPMP.

City Manager Williams stated that the parcel meets the Dissolution Law's test of an asset constructed and used for a governmental purpose because the parcel is zoned and used as an open space with an approved park and museum planned for the site. The construction of the park became delayed when the Dissolution law became effective and the City is ready to move forward with the project. The City Manager also expressed the view that the question of allowing amendments to approved Long Range Property Management Plans, as the Legislature did for parking facilities, has not been answered for other governmental use parcels. He requested a third party review of this question and asked the Board's special counsel if the Dissolution Law expressly prohibits an amendment to the Successor Agency's LRPMP. He recommended that the Board adopt Alternative B of Resolution No. 78 to authorize retention of this piece of property for governmental use.

Board Member Polanski clarified for the public that the Ad Hoc Committee first discussed in great detail the 86 N. Main St parcel and concluded to present Alternatives A & B to the Oversight Board. Then came the discussion on 230 N. Main St. where the Committee agreed to present the same alternatives for it as the Committee had decided for 86 N. Main St. On 86 N. Main St. she believes the parcel is not marketable and therefore there is no need for an RFP process. She stated that she prefers to amend the LRPMP and that she has the same questions on amending the LRPMP that the Successor Agency has. She reminded the Board that months ago she pushed for an amendment in order to present it to DOF and hopefully resolve the question of the Board's authority to amend the LRPMP. She concluded that she sees this property as a park, always has seen it that way and that's why she wanted to bring an amendment alternative to the full Board.

Board Member Williams clarified that Ad Hoc Committee made no recommendation on either of these two properties. The Committee decided to present two possible alternatives to the full Board for the Board's consideration. Therefore, the Ad Hoc Committee had no consensus on any particular action to take other than to take the opportunity for the full Board to talk about the parcel's disposition.

Chair McInerney took public comments and the following individuals addressed the Board on this item: Mr. Steve Munzel, Mr. Jerry Epps, Mr. Roger Skuse, Mr. Dana Arbaugh, Mr. Joseph Weinstein, Mr. Richard Santos, Ms. Janna Schmitz and Ms. Danielle Goldstein.

Ms. Montoy responded to questions from the City Manager and members of the public:

- a. With respect to the duties of the Board it has a statutorily created duty, a fiduciary duty to the holders of enforceable obligations and to all the taxing entities that benefit from property taxes and from other revenues.
- b. With respect to governmental use, the plain language interpretation of the statute says that any of those types of facilities such as parks must have been constructed and used. The statute does not say zoned for parks or reserved for parks, it says constructed and used as a public facility.
- c. City Manager Williams is correct that there is no expressed prohibition to amending the LRPMP. However, the specific language of the Dissolution Law says that previously approved LRPMPs, like the one for Milpitas, may only be amended once and solely for retention of parking facilities.
- d. With respect to accepting any bid, the Board is not required to accept any bid and, if this process moves forward and the Board is at a point in the future where a bid is received, the Board would make a determination based on all the facts and circumstances at that time.

Board Member Knopf addressed a remark on tax dollars made during the public comments. He stated that he views tax increment dollars as funds the City's RDA borrowed from other taxing entities that the City had to use for redevelopment purposes. In this case the City used tax increment dollars to purchase this property. He further pointed out that when the State Legislature terminated redevelopment and disbanded redevelopment agencies, it said that any RDA project that has not been completed and used for a governmental purpose must be sold to the City through a compensation agreement with the taxing entities or sold to the highest bidder with the proceeds distributed back to the taxing entities.

After more discussion it was moved by Mr. Knopf and seconded by Mr. Williams to postpone action of this item until the completion of dispositions of the other properties. The motion passed with the following vote: **AYES:** Carrig, Knopf, McInerney, Mendizabal, Morreale, and Williams **NOES:** Polanski **ABSTAIN:** 0 **ABSENT:** 0

With the vote, City Manager Williams made three points for the record:

- a. The Milpitas Redevelopment Agency has not deprived taxing entities of any tax revenue. It has created value for those other taxing entities.
- b. The Oversight Board is depriving the citizens and tax payers of the City of Milpitas because the City has already purchased 230 N. Main St for approximately 7 million dollars. If the Board is depriving anyone, the Board is depriving the City of Milpitas as a taxing entity.
- c. The Successor Agency whole-heartedly disagrees with Board Member Knopf's comments on the tax increment.

There was a 10 minute recess.

- B. Receive and Consider Report and Alternative Resolutions from the Ad Hoc Committee of the Oversight Board Regarding Disposition of 86 N. Main St. Listed on the Long Range Property Management Plan as Property No. 1.
 1. Alternative A: Resolution No. 77 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Approving a Request for Proposals (RFP) for the Sale of Property Located at 86 N. Main Street, Milpitas, California, and listed on the Long Range Property Management Plan as Property No. 1.
 2. Alternative B: Resolution No. 77 of the Oversight Board of the Successor Agency of the Former Milpitas Redevelopment Agency Amending the Long Range Property Management Plan to Authorize Retention of Property No. 1 Located at 86 N. Main Street, Milpitas, California for Governmental Use.

Ms. Montoy presented the staff report.

After a lengthy discussion it was moved by Mr. Knopf and seconded by Ms. Polanski to approve the adoption of Resolution No. 77A, with the following change: In Section 2, second sentence be: "That the RFP be posted no earlier than 60 days after the Board's adoption of Resolution No. 77A." The motion passed unanimously.

- D. Update on Sale of 540 S. Abel Street Property (Cracolice Building).

Board Member Morreale presented the update saying that the sale is proceeding. The buyer provided a deposit payment on February 5, 2016 that the City sent to Chicago Title, the escrow company. Unfortunately, depositing the check has been delayed because the check was made payable to the Successor Agency and it needs to be re-issued to Chicago Title. Escrow is scheduled to close by June 6, 2016.

Moved by Ms. Polanski and seconded by Mr. Knopf to accept the verbal report. The motion passed unanimously.

VII. NEXT MEETING

- A. Identify Potential Agenda Items.

1. 86. N. Main St

- B. Set Date and Time.

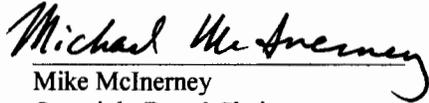
It was agreed that the next meeting will be held on July 18, 2016 at 1:00 p.m.

VIII. MEETING ADJOURNMENT

Moved by Mr. Knopf and seconded by Ms. Polanski, Chair McInerney adjourned the meeting at 3:44 p.m., on the consensus of the Board.

*Meeting minutes drafted and submitted by
Barbara Crump, Board Secretary*

Approved on July 18, 2016.


Mike McInerney
Oversight Board Chair


Barbara Crump
Oversight Board Secretary