MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Special Meeting of Milpitas City Council**
Date:	**Monday, November 14, 2016**
Time:	**6:00 PM**
Location:	**Council Chambers, Milpitas City Hall, 455 E Calaveras Blvd., Milpitas CA**

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM.

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

ABSENT: None

CLOSED SESSION

The City Council immediately convened in Closed Session to discuss two matters listed on the agenda.

The City Council returned to the dais for Open Session at 6:49 PM.

PUBLIC FORUM

The following have spoken:

1. Rob Means, Milpitas resident, spoke about ecologically-friendly transportation
2. A man, a Milpitas resident, spoke regarding the absence of "no right-hand turn" signs or signals on Piedmont Road.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

ACTION ITEM

City Manager Tom Williams introduced consultants Rob Hilton and Peter Diebler from HF&H to present the staff report.

Mr. Hilton explained about the parameters of the selection process and matters that were given consideration during the entire process. Mr. Hilton did a contrast and comparison between Republic Services and Garden City on factors such as contract terms, performance measurements, services provided, and costs. Mr. Hilton also provided clarification whenever requested throughout the presentation.

The companies that submitted proposals could speak to the City Council after the speakers for 10 minutes each. Lou Pellegrini from Garden City and Evan Boyd from Republic Services made their respective presentations and answered questions from the City Council.

Mr. Hilton then returned to the podium to provide responses and clarification per City Council requests.

Mayor Esteves announced that speakers would be given two minutes to speak.

SPEAKERS:

1. Jason Kim, Milpitas resident, asked the City Council not to award the contract to Republic Services.
2. A man, Milpitas resident, asked Council to consider cost and services received when awarding the contract.
3. Shirhad Desai, Milpitas resident, requested Council to consider factors related to awarding the contract such as the current odor problem, the

company's odor-control processes, and other non-cost-related factors that would impact the City. He also requested Council not to award the contract to Republic Services.

4. Robert Marini, Milpitas resident, shared his opinion regarding the franchise fees and his desire to pay lower fees.
5. Rob Means, Milpitas resident, asked Council to give the contract to Garden City
6. A man, Milpitas resident, shared his concern about higher cost. He is in favor of Republic Services.
7. A woman, Milpitas resident, spoke in favor of Republic Services.
8. Myrna Castro, Milpitas resident, also spoke in favor of Republic Services.
9. Robyn Chen, Milpitas resident, spoke in favor of Garden City
10. SunTran, Fremont resident and Milpitas rental property owner, complained about the odor problem in Milpitas and Fremont and spoke in favor of Garden City.
11. A woman, Milpitas resident, shared that she lives nearby the landfill on the Dixon Landing side. She complained about the odor. She pointed out that Republic did not respect the community, had hurt the community, and had only acted to address the odor problems on a reactive basis. She pointed out that although cost might be higher, Garden City would be a good choice.
12. Another woman, Milpitas resident, complained about the odor even though she pointed out that she does not live close to the dump site. She stated that Republic Services had not been a "good neighbor" due to the worsening of the odor problem. She is in favor of Garden City, even though it would be more expensive.
13. Tom Lin, Milpitas resident and works in South Fremont, complained about the odor that he could smell regardless of whether he was at work or at home. He is in favor of Garden City.
14. Dan Mannasau, Milpitas resident, complimented the Council and expressed that he trusts that the Council would make the best decision – whatever it might be.
15. Andre Kramer, Milpitas resident, talked about the odor and the negative image painted about Milpitas because of the odor problem. He said that the odor must be eliminated to make the City more attractive to potential residents and business owners.
16. A woman, Milpitas resident, complained about the odor problem. She is in favor of Garden City, even though it would cost more. She also expressed that better air would improve the City's image.
17. A man, Milpitas resident, complained about the odor problem. He said that he is in favor of Garden City even though it would cost more. He pointed out that the odor problem not only affects quality of life but could also pose problems to residents' health.
18. Jezelle, Milpitas resident, expressed her support for Garden City. She also encouraged City Council to take its time so that the most educated decision would be made.
19. Anthony Phan, Milpitas resident, spoke in support of Republic Services due to their lower cost.
20. A woman, Milpitas resident, complained about the odor and expressed her support for Garden City.
21. Melissa, Milpitas resident, complained about the odor problems although she pointed out that Republic Services should not be blamed for all the odor problems. She said that the City should stay with Republic Services due to the cost and customer service.
22. Anthony Solis. Milpitas resident, also complained about the odor problem and noted that people are confused about the source of the odor. He said that he is in favor of Republic Services due to the lower cost.
23. A man, Milpitas resident, said that he likes living in Milpitas but does not like the odor. He pointed out that staff did a thorough job throughout the

selection process. He also agreed with staff recommendation to go with Garden City.

24. Nica Chen, Milpitas resident, complained about the odor problem and pointed out that recent studies pointed out that that Newby Island is the largest air polluter in Milpitas per the Bay Area Air Quality Management District and the recent San Jose Odor Study. She said that Republic Services should not be trusted due to causing the odor problem and overcharging residents all these years.
25. A man, a Milpitas resident who works in North San Jose, complained about the odor that he smells both at home and at work. He is in favor of Garden City.
26. Ron Rolkins, Milpitas resident, also complained about the odor problem and is in support of Garden City. He shared his experience that Republic Services began giving his household poor recycling, trash, and furniture pick-up services after he placed a "Yes on Measure L" sign at his front lawn.
27. Jennifer Strohfus. Milpitas resident, complained about the odor problem and is also in support of staff recommendation to award the contract to Garden City.
28. Jenny, Milpitas resident, also complained about the odor and is in support of Garden City.
29. Don Peoples, Milpitas commercial property and business owner, spoke in favor of Republic Services.
30. Jennifer Flores, Recycling Coordinator for Republic Services, spoke in favor of her company as well as to make corrections to what she felt were misstatement of facts shared thus far by previous speakers.
31. A man, Milpitas resident, is in support of Garden City not only in hopes of alleviating the odor problem but also for what he felt was Republic Services' unfavorable business and labor practices.
32. A woman who did not identify her city of residence spoke in support of Garden City.
33. Cynthia Rich, a San Jose resident, spoke in favor of Republic Services
34. Karen Hahn, representing the Milpitas Chamber of Commerce, spoke in support of Republic Services
35. Lisa Drake, Milpitas resident, shared her opinion that the animosity regarding this entire issue was started by Republic Services where they call residents using the term "rate payer." She asked Council to remember where the animosity started as they make the decision of which firm would get the contract.
36. Pete McHugh, Milpitas resident, spoke in favor of Republic Services due to good customer service provided to residents as well as the company's active community partnership efforts.
37. Arzhang Cavali, who did not identify his current city residence, reminded Council and the audience that during one of the meetings regarding solid waste collection and disposal, a Republic Services representative officially admitted that the company had some responsibility for the odor problem.
38. Larry Ciardella, Milpitas resident, spoke in favor of Republic Services.
39. Tom Valore, Milpitas resident, spoke in favor of Republic Services and questioned staff on why the decision has been recently changed in favor of Garden City.
40. A woman, Los Gatos resident, is in favor of Republic Services and the landfill expansion.
41. Le Huang, Milpitas resident, said that Milpitas has an image problem due to the odor problem.
42. A man, Milpitas resident, referred to the City of San Jose's odor study. He is in favor of Garden City.
43. Ganesh Rama, Milpitas resident, pointed out facts regarding violations made involving the Newby Island landfill. He requested the Council leave

behind a good legacy and stated that giving the contract to Republic would be a mistake.

44. A man, Milpitas resident, complained about the odor problem and spoke in favor of Garden City.
45. Priti Siri, a Milpitas business owner, spoke in favor of Republic Services.
46. Raymond, who did not mention his city of residence, pointed out that if Republic Services is chosen, the company could do a "bait and switch" tactic to raise the rates later on – just as they did to the City of San Jose residents.
47. Amy Lee, Milpitas resident, spoke in favor of Garden City.
48. Josh Mells, Milpitas resident, spoke in favor of Republic Services.
49. Liz Ainsworth, Milpitas resident, spoke in favor of Republic Services.
50. Samil Lin, Milpitas resident and a supporter of Garden City, shared his perception that Republic Services seemed dishonest with not providing full information beforehand during the numerous public meetings regarding the solid waste collection and disposal.
51. A man, Milpitas resident and business owner, complained about the odor. He also expressed his support for Garden City.
52. A man, Milpitas resident, said that he loves the city but hates its odor problem. He said that he supports Garden City
53. Erica Gomez, Milpitas resident, spoke in favor of Republic Services
54. Joshua Gomez, Milpitas resident, spoke in favor of Republic Services.
55. Toni Gomez, Milpitas resident, spoke in favor of Republic Services.
56. Bernadette Gomez, Milpitas resident, also spoke in favor of Republic Services.
57. Shui Ling Huy, Milpitas resident, complained about the odor problem.
58. A woman who did not identify her city of residence spoke in favor of Garden City.
59. A man, Milpitas resident, spoke in favor of Garden City.
60. Tring Lee, Milpitas resident, spoke in favor of Garden City.
61. Tom, Milpitas resident, spoke in favor of Garden City.
62. Steve, Milpitas resident, spoke in favor of Garden City.
63. Jose Leon, Milpitas resident, stated that plenty of misinformation has been going on. He spoke in favor of Republic Service.
64. A man, Milpitas resident, spoke in favor of Garden City.
65. Teri Benedict, speaking in behalf of non-exclusive haulers, talked about the garbage hauling and raising the franchise fees. She asked the Council to support the efforts and services of non-exclusive haulers.
66. A man, Milpitas resident, complained about the odor problem.
67. Brock Hill, City of Felton resident and a representative of Premier Recycling Company – Part of 11 non-exclusive haulers operating in Milpitas, thanked the Council for supporting non-exclusive haulers. He reminded the audience that there were not only two choices for the services, but the non-exclusive haulers are there as well to provide good service if the City would give them the opportunity.
68. A man, Milpitas resident, complained about Newby Island and Republic Services. He also complained about the odor problem and spoke in favor of Garden City.
69. A man who did not identify his city of residence, shared his opinion that Republic Services has been overcharging residents all these years and that residents should not be too thankful of Republic Services' community partnership efforts since Milpitas residents have been funding all those efforts. He requests Council to select Garden City.
70. Joseph Weinstein, Milpitas resident, offered advice for Council to consult with the City Attorney to get assurance that the City would be protected from lawsuits. He then added that the second thing to consider, in his opinion, is ensuring that the City recovers its cost from the consultant.
71. A man, Milpitas resident, said that the City should not do any more business with Republic Services.

72. Anthony, Milpitas resident, said that the landfill would close if more Milpitas residents would speak up against it.
73. A woman, Milpitas resident, told Council to not give the contract to Republic Services.
74. A woman, Milpitas resident, complained about the odor. She requested Council to grant the collection contract to Garden City.
75. Vicki Young, Milpitas resident, complained about the odor.
76. A woman, Milpitas resident and Milpitas business owner, said that she is in favor of awarding the contract to Garden City.
77. A man who did not identify his city of residence said that he supports Garden City.
78. Grace Pen, Milpitas resident, complained about the odor and expressed her support for Garden City.

Mayor Esteves announced that the Council will have a short break before going to Closed Session to discuss the issue. City Attorney Diaz suggested to reconvene in Closed Session prior to making a decision about the matter before them.

Prior to Council going on a short recess and then Closed Session, Mayor Esteves requested clarification regarding Slide 15 of the presentation (Summary Rate Comparison). Mr. Hilton from HF& H provided the explanation.

Vice Mayor Montano requested clarification regarding the costs in relation to the recycling and trash container size. After Mr. Hilton from HF&H provided a brief explanation which answered Vice Mayor Montano's question, the City Council went on a short recess and then Closed Session at 10:02 PM.

City Council reconvened from Closed Session at 10:18 PM.

City Attorney Diaz led the discussion by referring to the odor study report done by the City of San Jose. He stated that the City of Milpitas' consultants were looking into the accuracy of information contained within the odor study report, including the fact contained in the report that the source of odor could not be solely attributed to Newby Island.

City Attorney Diaz then advised the Council that should Council vote on awarding the contract to Republic Services, Council should direct staff to finish its thorough verification on whether the information contained with the odor study report was accurate and if there would be any environmental issues that the Council or that the City of Milpitas should address on a California Environmental Quality Act (CEQA) perspective.

City Attorney Diaz then advised Council that the same issues or concerns that he just brought up would not be applicable should the Council decide to award the contract to Garden City and that the City would be fine to proceed with the current CEQA exemptions. He added that no matter who would get the award, Council was advised to direct staff to explore the options with Waste Management, Inc. in terms of having alternative dumpsites for the recycling and trash.

Per Vice Mayor Montano's request, City Attorney Diaz clarified the advisement that he just gave.

Motion: to receive the staff report

Motion / Second: Councilmember Giordano / Councilmember Barbadillo

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

Council then discussed including the 20-gallon cart option for residential and commercial customers. Per request for clarification from City Manager Williams, Mr. Hilton from HF&H explained either Republic Services or Garden City would not be charging any rental fees under the new agreement – this would eliminate the need for consumers to purchase their own containers in order to avoid the monthly container rental fees.

Mayor Esteves expressed his support for the 20-gallon cart.

Councilmember Grilli spoke her support for the 20-gallon cart option. Per Councilmember Grilli's request for clarification, Mr. Hilton from HF&H explained how overall contract prices are affected and monitored.

Vice Mayor Montano asked Mr. Hilton about the vendor services provided, the 20-gallon cart option, and "green waste" processing. To answer Vice Mayor Montano's question, Mr. Hilton referred back Page 9 of the slide presentation and pointed out the separation of garbage and food scraps.

Motion: to receive staff report and to include the 20-gallon cart as a service option.

Motion / Second: Councilmember Grilli / Councilmember Giordano

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

The Council then discussed non-exclusive versus exclusive contract system.

Vice Mayor Montano expressed her support for a non-exclusive contract system since this would give opportunities for all businesses and make things more competitive.

Mayor Esteves expressed his support for an exclusive contract system.

Motion: for the City to have non-exclusive contracting for construction and debris recycling

Motion / Second: Vice Mayor Montano / Councilmember Giordano

Motion failed by a vote of: AYES: 2 (Giordano and Montano)
NOES: 3 (Esteves, Grilli, and Barbadillo)

Councilmember Grilli expressed her support for an exclusive contract system, but also spoke out that she wanted to thoroughly explore options to ensure that the City would be availing the service which would serve the best interest of the residents. City Manager Williams stated that staff could be directed to explore those options and report back to Council.

Motion (as amended): for the City to have exclusive contracting for construction and debris recycling, direct staff to explore non-exclusive avenues and to report back on findings before City Council on December 6, 2016

Motion / Second: Councilmember Grilli / Councilmember Barbadillo

Motion carried by a vote of: AYES: 3 (Esteves, Grilli, and Barbadillo)
NOES: 2 (Giordano and Montano)

City Manager Williams inquired of the Council on when would staff be asked to report back on findings. The motion was amended to reflect that staff would be reporting back its findings during the next Council meeting scheduled for December 6, 2016.

Motion: to adopt Resolution No. 8602 awarding the solid waste collection contract to Garden City, subject to final review by the City Manager and City Attorney

Motion / Second: Councilmember Barbadillo / Councilmember Grilli

Motion carried by a vote of: AYES: 3 (Esteves, Grilli, and Barbadillo)
NOES: 2 (Giordano and Montano)

Per City Attorney Diaz's request, Council clarified that the motion to award the contract to Garden City would include a stipulation that staff would report back its findings on December 6, 2016 regarding non-exclusive options for the City.

Councilmember Giordano spoke about her support for the Council action regarding the Guadalupe landfill and "Yes on Measure L." Councilmember Giordano explained that she supports Republic Services' due to the company's high ratings during the selection process, lower costs, and good customer services. Councilmember Giordano stated that she would vote against the motion for the City to award the contract to Garden City.

Vice Mayor Montano spoke about Newby Island landfill and her support for "Yes on Measure L." She also expressed her support for Republic Services, and she agreed with Councilmember Giordano that having a contractual relationship with Republic Services would give the City a continued control, leverage, or partnership regarding the Newby Island landfill and alleviating the odor problem. Vice Mayor Montano stated her desire for Milpitas to be included in a consortium of cities throughout the region who contract with Republic Services, and that she would vote against the motion for the City to award the contract to Garden City.

Mayor Esteves expressed his support for Garden City.

Motion: to direct staff to work with Waste Management on potential alternative disposal sites based on current disposal contract. Staff is further directed to report back to City Council on their findings during the December 6, 2016 Council meeting.

Motion / Second: Mayor Esteves / Councilmember Barbadillo

Motion carried by a vote of: AYES: 3 (Esteves, Grilli, and Barbadillo)
NOES: 2 (Giordano and Montano)

ADJOURNMENT Mayor Esteves adjourned the meeting at 11:20 PM.

The foregoing minutes were approved by Milpitas City Council on December 13, 2016.

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Pam Caronongan, Deputy City Clerk