MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, September 20, 2016**
Time:	**6:00 PM Closed Session / 7:00 PM Open Session**
Location:	**Council Chambers, Milpitas City Hall, 455 East Calaveras Blvd., Milpitas**

CALL TO ORDER

Mayor Esteves called the meeting to order at 6:04 PM. City Clerk noted the roll.

PRESENT: Mayor Esteves, Councilmembers Giordano and Grilli

ABSENT: Councilmember Barbadillo and Vice Mayor Montano. The Vice Mayor arrived at 6:10 PM for Closed Session. Councilmember Barbadillo arrived for the start of Open Session.

CLOSED SESSION

City Council convened in Closed Session to discuss two agenda items.

City Council then convened at the dais for the Open Session at 7:00 PM.

ANNOUNCEMENT

No announcement out of Closed Session.

PLEDGE

Boy Scouts Troop No. 92 led the pledge of allegiance.

INVOCATION

Councilmember Barbadillo introduced Pastor Jimmy Geron of Christ Community Church to offer the invocation.

MEETING MINUTES

Motion: to approve the minutes of August 24 and September 6, 2016 City Council meetings

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 September and October 2016

City Manager Tom Williams announced the Office of Emergency Services Town Hall meeting was on Wednesday, September 28, 2016 (not as noted on the October calendar).

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

PRESENTATIONS

Mayor Esteves awarded the following:

- Proclaimed September 16, 2016 as *Prisoner of War/Missing in Action Day*, accepted by Ed Ackerman, Art Ebright and Denny Weisgerber, members of the Milpitas Veterans Commission
- Proclaimed September as *National Hispanic Heritage Month*, accepted by Ophelia, a Milpitas resident who cared about her culture. Vice Mayor Montano and other Hispanic people from the audience joined her at the podium.

PUBLIC FORUM

Steve Seddell, Milpitas resident, spoke of Jason Falconer, an off duty police officer. He thanked all police officers for their service, including here in the City of Milpitas.

Robert Means, Milpitas resident, discussed global warming.

Councilmember Giordano asked for the City Attorney to look into the lobbyist section of the Open Government ordinance.

Robert Marini, Milpitas resident, spoke of how fees were charged, and the City was giving industry a $19 million benefit by reducing fees. This was in relation to water service and water rates. He complained the City Manager did not allow him to present information on tiered rates.

The Mayor responded to the audience following Mr. Marini's comments.

Tom Valore, Milpitas resident, said there were rumors running rampant about the agenda. He wanted to make sure he could speak on any items that are listed on the agenda.

Raymond Wong, Milpitas resident, complained about a No Right Turn sign earlier. It had been removed so he wanted to say thank you to the City Council and staff.

Joseph Weinstein, Milpitas resident, said thank you to City Council for its service and for its diligence. He had met with the author of PRT (Personal Rapid Transit) who admitted to him he had no real data to support that transportation service.

Arzhang Zabali, Milpitas resident, was at a rally last Sunday about the landfill. He did not see one member of the City Council at that gathering (rally and march).

Voltaire Montemayor, Milpitas resident, thanked the Mayor for issuing the two proclamations earlier on the agenda. He spoke about a computer board and its usefulness.

ANNOUNCEMENTS

Vice Mayor Montano reported that she attended a Hero awards issued by Senator Wieckowski in Hayward last week, where RSRAC member Eddie Inamdar was honored for his work with his recycling company.

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.

Councilmember Barbadillo would recuse himself from agenda items no. 1 and no. 2, due to the proximity of his law office to the proposed projects.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as amended

The City Manager requested to remove two items from the agenda, item no. 7 (water augmentation report) and item no. 12 (resolution related to solid waste contract).

Mayor Esteves replied that item no. 12 would remain on this agenda only for comments from the audience and then it could be continued for discussion and vote at a future meeting.

Regarding item no. 7 (Water Supply Augmentation), Vice Mayor Montano asked for specific information on the costs of "blowout" of water pipes over last five years and to know the specific costs of water main breaks.

Councilmember Grilli asked City Attorney Diaz about the effect of a letter received from the City of San Jose at 4:00 PM on this date. Mr. Diaz said he would analyze it.

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 presented

City Attorney Diaz noted for the City Council that there were two Resolutions for adoption on agenda item No. 15 (future annexations into CFD 2008-1).

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

* 4. Fund Increase in Library Hours	Approved a budget appropriation in the amount of $470,052 from the Transient Occupancy Tax fund to pay for increased hours of service at the Milpitas Public Library.
* 6. Commission Appointments	Approved the Mayor's recommendation: **Veterans Commission:** all terms expire in February of 2019 Appointed current Alternate No. 1 William Devereux to a currently vacant seat as a voting member to a term of three years. Appointed current Alternate No. 2 John Schmidt as Alternate No. 1 to a term of three years. Newly appointed Ricardo Martinez as Alternate No. 2 to a term of three years.
* 7. Water Supply Augmentation	Item removed from the agenda.
* 9. Approve Travel	Approved out of state travel to Cleveland, OH in September and in Las Vegas, NV next May for the Economic Development Manager.
*10. Waive Fees Rotary Club	Approved fee waiver as requested by Milpitas Rotary Club for Planning, Fire, and Building fees totaling $973.65 related to the Pumpkin Patch held October 17-31, 2016.
*11. Donation to Korean Language Foundation	Approved request from the Korean Language and Culture Foundation for a $500 donation to the non-profit group for its Hangeul Day celebration on October 8, 2016.
*13. Resolution	Adopted Resolution No. 8589 granting initial acceptance for Milpitas Sports Center Pool Repairs Project, CIPs No. 3048 and No. 5103, subject to a one year warranty period and reduction of the faithful performance bond to $143,532.19; 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.
*14. Resolution	Adopted Resolution No. 8590 for the summary vacation of an existing emergency access easement at 901-905 Montague Expressway. Directed the City Clerk to record a certified copy of the Resolution, including Exhibit A, attested by the City Clerk under seal, with the County of Santa Clara Recorder.
*15. Resolution	Adopted Resolution No. 8591 adopting boundary map showing territory proposed to be authorized to be annexed in the future to Communities Facilities District No. 2008-1 (CFD 2008-1). Adopted Resolution No. 8592 declaring intention to authorize the annexation in the future to CFD 2008-1. Set a public hearing for 7:00 pm on Tuesday, November 1, 2016 in the City Council Chambers at Milpitas City Hall, and directed the City Clerk to give notice of public hearing in accordance with applicable state law.
*16. Resolution	Adopted Resolution No. 8593 authorizing the Chief of Police to execute the agreement with the California Office of Traffic Safety (OTS) for the 2017 Selective Traffic Enforcement Program (STEP) grant. Approved a budget appropriation in the amount of $100,000 to the Police Department overtime budget as a result of the 2017 Selective Traffic Enforcement Program grant.

*17. Contract with Marina Landscape Maintenance	1. Awarded the bid and authorized the City Manager to execute a five-year contract, including four Annual Renewal Options for a not-to-exceed five year contract of $1,656,420, with Marina Landscape Maintenance, Inc. for Parks and Streetscape Maintenance Services and Appropriate Funds in the Amount of $85,284 to augment the adopted budget for the year-one contract amount of $331,284. 2. Appropriated $20,000 from Community Facilities District (CFD) No. 2008-1 and $65,284 from the City's General Fund in the Parks Maintenance Budget. 3. Authorized the purchasing agent to extend the term of the agreement annually for each of the four option years with annual price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.
*18. Contract with Mike Davis Landscaping Service	1. Awarded the bid and authorized the City Manager to execute the contract with Mike Davis Landscape Services for Civic Center, Library Landscape Maintenance Service in the initial not-to-exceed amount of $96,600. 2. Authorized the Purchasing Agent to extend the term of the agreement annually for each of the four option years with annual price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.
*19. JPA for Silicon Valley Regional Interoperability Auth.	Authorized the City Manager to sign the Restated Joint Powers Agreement for the City of Milpitas, approving the addition of Santa Clara Valley Transportation Authority as a voting member.
*20. Amendment No. 5 to Agreement with Vali Cooper	Approved and authorized the City Manager to execute Amendment No. 5 to the Consultant Service Agreement with Vali Cooper & Associates in the amount of $230,000 and extend the term to February 28, 2017.
*21. Amendment No. 2 to Agreement with Harris Assoc.	Approved and authorized the City Manager to execute Amendment No. 2 to the Consultant Service Agreement with Harris & Associates in the amount of $200,000.

PUBLIC HEARINGS

1. 1980 Tarob Ct. Development Project

Contract Planner Neal Martin presented this residential development project to the City Council for the proposal to build 59 townhomes and a public trail along Penitencia Creek in the Transit Area Specific Plan area near the new BART station. He described the layout, design, parking spaces and style of the project, and reviewed number of trees to be removed and new ones planted.

Mayor Esteves asked the project applicant to come up and to explain community benefits.

Leah Dreger from The True Life Companies displayed a list of Transit Area Specific Plan required benefits alongside additional developer-provided community benefits including a gift of $622,839 for a future five acre park and cricket field across Tarob Ct.

Planning Director Brad Misner responded to the Mayor's question about the affordable housing fee and its application to this project specifically.

Mayor Esteves next opened the public hearing, inviting speakers from the audience.

Shankar, Milpitas resident, said that there had been tons of housing built all in one area. It was not clear this was doing any good for residents while schools were overcrowded, there were no parks and no trees.

Barbara Ebright, Milpitas resident, commented on jacaranda trees being put in this project. Those should not be installed near sidewalks and could not use recycled water.

Robert Marini, Milpitas resident, felt the hypocrisy of the city which did the opposite of what it asked of residents.

Steve Seddell, Milpitas resident, spoke in favor of the development.

A man, resident nearby, complained of traffic in the morning, and to consider impact of traffic of this new community.

A man, Milpitas resident, spoke in support of this project and more housing was needed in Milpitas, with more density. He felt density would help solve the traffic problem.

George, Milpitas resident, said this project did not bring much benefit to current residents.

Rich Tran, Milpitas resident, was worried about the traffic impact of this project. Adding more units was a major issue over the next 2–3 years.

A woman, Milpitas resident, who lived near Yellowstone, said it could take her more than half hour to get to the Great Mall at times, due to traffic. Improved roadways would help existing residents.

Voltaire Montemayor, Milpitas resident, urged studying the project further while he did offer his support.

Howard, resident of Sunnyhills neighborhood, urged that there be enough schools to support all the newcomers to the City.

Rob Means, 1421 Yellowstone, Milpitas, heard concerns voiced about traffic in the TASP area. He urged Council to determine how to mitigate the flow of traffic.

Ashar, Milpitas resident, spoke about traffic near his office at 237 and Zankar, five miles from home. It took him longer than 30 minutes to get to work due to increased traffic flow every day.

Anthony Yee, Milpitas resident, said this type of development with new residents, does affect current residents who don't have access to new public transit when BART opens.

(1) Motion: to close the public hearing, following 14 speakers

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSTAIN: 1 (Barbadillo)

Mayor Esteves commented in response to many of the speakers, identifying facets of the TASP as adopted in 2008. He appreciated the many benefits of this specific project.

Councilmember Grilli asked if the number of units was going above and beyond the total number of units in the TASP. The City Manager replied this project was at the low end of density called for in that plan.

Councilmember Giordano talked about the vision of the City. She wanted to know the jobs/housing balance which was important to provide housing for Silicon Valley workers.

(2) Motion: to adopt Resolution No. 8587 approving the Vesting Tentative Map, Site Development Permit, Use Permit and Environmental Assessment for the 1980 Tarob Court residential project

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0

ABSTAIN: 1 (Barbadillo)

2. Verona Crossing at 91 Montague Expressway

Contract planner Cecilia Jaroslawski presented the project at 91 Montague Expressway in Milpitas, near the future BART station, with a high density plan, not specifically in the Transit Area. She reviewed the plan for 72 residential condominiums in a 4-story building which fell under the scope of the MidTown Specific Plan and met parking requirements.

Mayor Esteves invited the project applicant to speak next.

Anthony Ho, architect for the project addressed the Council. He described the outdoor livability of this project with windows opening outward, away from neighbors. He displayed the architectural style of the modern project.

Mayor Esteves asked him to summarize public benefits of the project. Mr. Ho answered with across the street improvements which were all helpful and not required. The project owner came forward, noted $500,000 spent on plans so far, and mentioned $600,000 in public benefit in the new road and pathway improvements.

The Mayor commented further on the architecture, saying it appeared too flat on one side. The architect agreed that the windows would be recessed to provide varying surfaces.

Councilmember Grilli asked about public benefits of improvement on the railroads. The civil engineer for the project responded.

Mayor Esteves asked if "Milpitas" could be part of the name of the project and be placed on the entry sign. The architect replied affirmatively.

Vice Mayor Montano liked that the project had the windows facing toward the hills which was a nice feature especially when hills were green.

Mayor Esteves next opened the public hearing, inviting speakers from the audience.

A man, Milpitas resident, spoke against this project. He objected to the architecture, which was extremely different from the project built already next door. Rental properties tend not to be maintained as well as condos owned by the residents. Train tracks were right next door to the site. Sound and vibration would be a problem for residents.

Robert Marini, Milpitas resident, agreed with the previous speaker. He noted that one Councilmember was a real estate agent and favored all new development. This would use more water if built.

Dinesh, Milpitas resident, wanted to address the jobs/housing balance. He gave examples where other cities had done it right with housing, jobs and retail. In Fremont, high density housing was going in near the BART station. Santa Clara also had a new development. He urged reconsideration of what's proposed here and in other projects. There should be a moratorium on all new housing.

Joseph Weinstein, Milpitas resident, referred to Jacaranda tree and problems those trees produced, while slippery and made a mess with what drops from the branches. He had experience in the Philippines with the same tree.

Voltaire Montemayor, Milpitas resident, supported the project.

Steve Seddell, Milpitas resident, thanked the developer for coming to Milpitas and bringing this development to the City. Differing architecture styles were a good idea here. Rental properties were a good addition and could be very nice. He supported the project.

Michael Tsai, Milpitas resident, founder of "Yes in My Back Yard" or YIMBY, was in support of housing development and dense housing smart growth types. He urged setting

aside units for teachers. He disagreed with comments earlier about realtors. More office space was needed in the city too.

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

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSTAIN: 1 (Barbadillo)

Vice Mayor Montano liked this project, and there was a great need for apartments in this region. She fully supported it.

The Mayor and Vice Mayor talked about regional issue of traffic, and the many folks who drive through Milpitas.

(2) Motion: to adopt Resolution No. 8588 approving the Site Development Permit No. SD13-034, Conditional Use Permit No. UP13-0021, Tentative Tract Map No. MT13-0008, and Environmental Assessment for the 72-residential unit condominium project Verona Crossing located at 91 Montague Expressway

Motion/Second: Vice Mayor Montano/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSTAIN: 1 (Barbadillo)

3. FY 2015-16 CAPER

Housing Manager Tim Wong addressed the City Council about the Consolidated Annual Performance Evaluation Report (CAPER) for FY 2015-16 regarding Community Development Block Grant (CDBG) funding provided by federal government. $393,490 was the total grant award in the last fiscal year.

The Citizen Participation Plan for the funds was also in need of review, since it was last done in 2012 for Milpitas. Several revisions were incorporated, relative to census data and outreach to citizens who speak other than English at home (65% of Milpitas residents) – Limited English Proficiency (LEP) households.

An Analysis of Impediments to Fair Housing Choice was also required to be updated, since last done in 2011 for Milpitas. This city had a reduced access to affordable housing, as was true in the entire region. How to reduce or neutralize the impediments must be reported.

The Consolidated Plan update would include a housing survey, four community meetings, and have the update submitted to the federal Department of Housing and Urban Development (HUD) by next May. Four meetings were scheduled over two dates in October and two in November at various locations.

Councilmember Giordano thanked Mr. Wong for work done with Terrace Gardens via CDBG grant funds for that complex. She asked for an explanation of the General Plan Housing Element's relation to this report.

Vice Mayor Montano commented that one of the outreach meetings should be held at a school where the city would get more parents' input. She urged outreach at the high school and other sites. Staff responded they could add one more meeting at a school.

Mayor Esteves next opened the public hearing, inviting speakers from the audience.

Voltaire Montemayor, Milpitas resident, spoke in support.

(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 the following items related to Community Development Block Grant funding from the federal government:

1. FY 2015-16 Consolidated Annual Performance Evaluation Report (CAPER)
2. Citizen Participation Plan
3. Analysis of Impediments to Fair Housing Choice Report

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

UNFINISHED BUSINESS

5. Citywide Tree Program

Planning Director Bradley Misner and Public Works Director Nina Hawk presented an overview of the city's Urban Forest Inventory, the official city tree, managing and protecting the Urban Forest, and staff sought input from the City Council on concerns about trees.

Ms. Hawk displayed top ten most commonly planted trees in Milpitas, starting with the Columbia Plane, and no. 10 crepe myrtle. About 61 Jacaranda trees were planted in city right of way areas throughout Milpitas. Total value estimate was $29,489,260.

Mr. Misner discussed the City's tree ordinance and the future creation of a comprehensive Tree Ordinance following the General Plan Update, soon to begin. He also mentioned entry and gateway plans for city entry points, including some jacaranda trees.

Vice Mayor Montano asked about the adopted ordinance and if it impacted other districts, such as Santa Clara Valley Water District. Mr. Misner said the ordinance adopted had to do with trees on city property, not other parcel owners.

Councilmember Giordano thanked the Mayor for asking for this valuable report. She talked about CalFire which identified drought resistant type of trees, and with concern about insects statewide. She inquired about the seven zones identified by staff.

Councilmember Barbadillo asked how the staff valued the urban forest. The Public Works Director explained the age, health, and species was used to determine the value. He asked for more explanation on how trees were specifically maintained.

Vice Mayor Montano asked when Council would review tree ordinance again. The Planning Director replied if desired, in the future, a more comprehensive ordinance could be worked on after the General Plan was adopted.

Mayor Esteves noted this report was helpful to inform the public. He mentioned the citation process, when City trees get trimmed illegally. He requested regular reporting to the Council about trees and the status of the inventory. Public Works could do that, Ms. Hawk said. The Mayor urged filling in vacant tree spots along major streets throughout the city. He urged working with non-profit organizations also.

Next, the Mayor invited speakers from the audience.

Robert Marini, Milpitas resident, reported two dead trees at Augustine Park that needed to be removed. Trees were ripping up the sidewalks, in two noted locations on Arizona.

Deiter Greismier, Milpitas resident, just learned that jacaranda was the official City tree, even though it was one native to South America. A local native type tree would be a better choice. He noted some problems of City tree roots growing into sewer lines and pushing up sidewalks.

Daveen Fontenou, Milpitas resident since 1976, reported a group of Eucalyptus trees that were dropping leaves and skin on her property. She needed to learn whose duty it was to trim those trees, and on neighboring district property at 1850 Blue Spruce Court.

Barbara Ebright, Milpitas resident since 1979, commented on a messy tree in her front yard put in by the City - a fruitless Mulberry tree, and other hearty trees at her property.

Voltaire Montemayor, Milpitas resident, said trees would be in line with the beautification of the city.

Motion: to receive a staff report from Public Works and Planning on trees in Milpitas

Motion/Second: Vice Mayor Montano/Councilmember Barbadillo

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

NEW BUSINESS

Three items were approved on consent.

8. Citizen Task Force on Water Rates

Mayor Esteves asked the City Councilmembers to provide names of persons they each wished to serve on the new Task Force:

Councilmember Grilli named Ted Grisch and Joseph Weinstein.
Councilmember Barbadillo did not have names yet and would provide to the Mayor later.
Councilmember Giordano named Tom Valore and Liz Ainsworth.
Vice Mayor Montano named Carina Dominguez and Evelyn Chua.
Mayor Esteves named Dan Manassau, Ray Maglalang and Rajeev Madnawat.

Motion: to approve the names submitted, along with those later to be provided by Councilmember Barbadillo, for the Citizens Task Force on Water Rates

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

RESOLUTIONS

Four items were approved on consent.

12. Solid Waste Contract

City Manager Tom Williams noted the City Council's concurrence to move this item to a future date for Council action. He recognized the Mayor and Council's willingness to receive comments from the audience at this meeting.

Mayor Esteves reduced the speaking time to two minutes per person due to the large number of audience members who wished to speak.

The City Manager recommended that Council consider the rule that persons who spoke at this meeting would not speak a second time, unless new information was reported.

The City Attorney commented on the need to digest letters received late on this date including one from the City Attorney of the City of San Jose.

Next, the Mayor invited speakers to the podium. The following persons addressed the City Council regarding odor, solid waste services and the future contract.

1) Mr. Yee – agenda report not clear
2) Brock Hill - from a construction recycling company
3) Don, a resident – economic impact
4) Terry Benedict – construction recycling company employee
5) Raymond Wong – no contract to Republic
6) Woman, from Los Gatos – did not want garbage in her backyard
7) Howard Young – concern for odor
8) Man, resident – concern about odor and health, property value
9) Woman, resident – how to attract companies to city, bad odor was problem
10) Man, resident – did not want expansion of Newby landfill
11) Young, resident – attract people here but odor drove them away
12) Woman, resident – referred to data from BAAQMD Notices of Violations
13) Cynthia Liu, resident – did not mind paying more if landfill moved
14) George Liu, resident – on the RSRAC, prices must be adjusted
15) Man, resident – odor and landfill was a cancer on Milpitas
16) Woman, resident – would residents have to wait till late at night to address Council
17) Evan Boyd, General Manager of Republic Services – referred to letter sent earlier
18) Tom Valore, resident – did not believe this matter should have been continued
19) Ganesh Ramon, resident – odor was problem
20) Voltaire Montemayor, resident – referred to odor
21) Richard Lee, resident – willing to pay higher rates to not do business with Republic
22) Michael Tsai, resident – find common ground to address odor issue

The City Council agreed to work with the City Manager to find a date for a future meeting to discuss this topic, preferably at a special meeting with only this one item.

ADJOURNMENT

The City Council meeting was adjourned at 11:22 PM.

The foregoing minutes were approved by Milpitas City Council on October 4, 2016.

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Mary Lavelle
Milpitas City Clerk