

MEETING MINUTES CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council, Housing Authority Commission and Successor Agency to the Former Redevelopment Agency
Date: Tuesday, June 21, 2016
Time: 6:00 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 joint meeting of all three entities to order at 6:01 PM. City Clerk noted the roll.

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

ABSENT: Councilmember Barbadillo was absent at roll call. He arrived in Closed Session.

CLOSED SESSION City Council convened in Closed Session to discuss three litigation matters.

City Council then convened in Open Session at 7:01 PM.

ANNOUNCEMENT No announcement out of closed session.

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

INVOCATION Vice Mayor Montano invited Pastor Jennifer Chapman and Reverend Cal to give the invocation.

MEETING MINUTES Motion: to approve the minutes of June 7, 2016 City Council meetings, as amended

City Clerk Mary Lavelle noted one correction for the roll call: Councilmember Giordano was present at 6:00 pm (not Vice Mayor Montano as written).

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

SCHEDULE OF MEETINGS Motion: to approve Council Calendars/Schedule of Meetings for June and July 2016, as amended

City Manager Tom Williams said there will be no Santa Clara Valley Transportation Authority meetings on July 6 and 7, as noted on the July calendar.

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

PRESENTATIONS Mayor Esteves had several presentations.

- Proclaimed June as *Parks & Recreation Month*. Accepted by Evan Matau and his son, along with Ken McCaulay, who both lead youth sports team programs at Milpitas Sports Center.
- Presented the Youth Advisory Commission Scholarship for 2016 to Amanda Nguyen, recent graduate of Milpitas High School.

- Recognized Milpitas High School Principal Cheryl Lawton for her service and upon her move to a new school district next year.
- Recognition of Campaign Finance Reform Committee members. Present to receive certificates were: Rohit Sharma, Marty Riker, Robert Nunez and Althea Polanski.

PUBLIC FORUM

Rob Means, 1421 Yellowstone resident, showed a video regarding personal rapid transit.

Michael Tsai, Milpitas resident, offered sympathy and condolences to friends and family of Michael Katherman, a San Jose police officer who was killed on duty the previous week. The funeral was held on this date.

Robert Marini, Milpitas resident, commented on the large number of items on the agenda for this meeting. There would not be enough time, so he recommended moving some items to the start of the meeting such as no. 16 and no. 14, for the public's benefit.

Voltaire Montemayor, Milpitas resident, read in the Milpitas Post of the issue of an increase in minimum wage which was important, while care for business owners was also important.

Citizen Sam from Hayward asked if there was a projector to display information overhead. A customer appreciation day was planned on June 25 at Cento Car Wash at Chevron on California Circle. He asked if there could be colored blue bike lanes in the city. He asked for \$13.75 an hour minimum wage and for Milpitas to be a "Compassion City."

Jezell Marez, Milpitas resident, urged use of diesel and other fuels for city emergency services vehicles. She looked forward to hearing more about a Performing Arts Center.

ANNOUNCEMENTS

City Manager Tom Williams announced that on Saturday, July 2, the renewed Milpitas Sports Center revitalized sports field would celebrate the re-opening with Mayor and others.

Recreation Services Manager Renee Lorentzen announced festivities planned for the annual 4th of July celebration in Milpitas with a pool party from 12:00 – 4:00 PM at Milpitas Sports Center, with a music concert starting at 7 PM featuring Orchestra Borinquen, and fireworks starting at approximately 9:15 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.

Mr. Diaz said Councilmember Barbadillo would excuse himself from Public Hearing Item No. 2 due to the location of his office nearby the development project in the Transit Area.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as amended

The City Attorney clarified that agenda item no. 10 (affordable housing nexus study update) was on the consent calendar. Staff requested agenda item no. 28 (related to property at 75 S. Milpitas Blvd.) be removed from the agenda completely.

Mayor Esteves noted that this meeting's was a lengthy agenda, with likelihood not to finish all agenda items. Therefore, he said all Public Hearing items would be heard, and then after that Council would consider agenda items numbered 15, 16, 22 and 23.

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)

City Attorney Diaz asked the City Council if the City Council would approve the Resolution for agenda item no. 30 (contract with County for Senior Nutrition Program) with discretion for the City Attorney to make minor technical changes, as needed. The Council agreed.

Councilmember Grilli asked to remove agenda item no. 25 (resolutions calling for three ballot measures in November) for discussion.

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

*10. Affordable Housing Nexus Study Received a status report of City Affordable Housing Nexus Study.

*11. Commission Appointments Per Mayor's recommendation, affirmed the following:

Library Advisory Commission

Re-appointed Trinidad Aoalin, Elpidio Estioko and Ha Phan to new terms of two years each that will expire in June of 2018.

Parks, Recreation and Cultural Resources Commission

Re-appointed Vishnu Mathur to a new term of three years that will expire in June 2019.

Moved up Satish Bansal (current Alternate No. 1) to a voting seat to a term of three years that will expire in June of 2019.

Moved up Samu Tiumalu (current Alternate No. 2) to the seat as Alternate No. 1 to a term of two years that will expire in June of 2018.

Veterans Commission

Re-appointed Commissioner Andre J. Ramones to a new term of three years that will expire in February of 2019.

*13. Accept Donate Rail Farm Cart for Alviso Adobe Park Approved a Parks & Recreation donation of a historic rail farm cart for the Alviso Adobe Park to the City of Milpitas, based on the recommendation from the Parks, Recreation and Cultural Resources Commission

*17. Approve 2 Fee Waivers (1) Waived \$1,500 in fees for costs related to the annual American Cancer Society's Relay for Life walkathon event at Murphy Park held July 9 - 10 2016.
(2) Waived \$773.77 in fees for costs related to the annual St. Elizabeth Catholic Church Parish Festival held at the Church on Sunday, August 14, 2016.

*18. Approve Manual update Approved the updated City of Milpitas Facility Use Manual.

*19. Healthy Policy Approved the City of Milpitas Healthy Food and Drink Vending Machine Policy as part of the Partnerships to Improve Community Health (PICH) Grant.

*20. Approve Out of State Travel by City Employees Approved the list of anticipated out of state travel by city employees throughout the Fiscal Year 2016-17 and approved final reporting of out of state trips taken by employees in Fiscal Year 2015-16.

*21. Approve Tract Map for 450 Montague Parkway 1. Approved the final map of Tract 10324, including approval of street names and acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements;
2. Authorized the City Manager to execute the Subdivision Improvement Agreement and the Density Average Agreement;
3. Modified project conditions of approval items 38.d.iii), 38.e.iii) and 39.1 to allow the developers to defer execution of the Fee Credit Agreement to a later date mutually agreed upon; and

4. Modified project condition of approval item 43 to allow annexation of real properties within Tract 10324 into CFD 2008-1 be completed at a later date, contingent upon that developers were prohibited from sales of any real properties within Tract 10324 until the CFD annexation process was completed.

- *26. Resolution for MOU with ProTech Adopted Resolution No. 8564 approving the Memorandum of Understanding with the Milpitas Professional and Technical Group covering the period of July 1, 2016 through June 30, 2019.
- *27. Resolution for MOU with MidCon Adopted Resolution No. 8565 approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering the period of July 1, 2016 through June 30, 2019.
- *28. Resolution –75 S. Milpitas Removed from the agenda.
- *29. Joint Use Agreement with MUSD for McCandless Park Approved the McCandless Property Joint Use Agreement between the City of Milpitas and the Milpitas Unified School District.
- *30. Agreement with County for Senior Nutrition Program Authorized the City Manager to execute an Agreement with the County of Santa Clara for the FY 2016-17 Senior Nutrition Program.
- *31. Amendment No. 2 to Agreement with MIG and Amendment No. 3 to Agreement with M Group 1. Approve Amendment No. 3 to Agreement with M Group for Planning Services, extending the term one year to June 30, 2017, and adding \$150,000 for a total not to exceed amount of \$440,000.
2. Approved Amendment No. 2 to Agreement with MIG for Planning Services, extending the term one year to June 30, 2017, and adding \$150,000 for a total not to exceed amount of \$270,000.
- *32. Renew Agreement with Brown & Brown of California Authorized the City Manager to pay Brown & Brown Insurance Services of California the premium rate of \$144,433 and authorized Safety National Casualty Corporation to provide for the City's excess workers' compensation insurance for Fiscal Years 2016-17 and 2017-18.
- *33. Agreement with San Jose Water Company Authorized execution of an agreement with San Jose Water Company for design and construction of a recycled water intertie, with any amendments deemed necessary by the City Attorney.
- *34. Plans and Specs. For Project No. 4283 Approved plans and specifications for Park Access Improvement and Resurfacing, Project No. 5105 and ADA Curb Ramp Transition Program, Project No. 4283; and, authorized the advertisement for bid proposals.
- *35. Plans and Specs. For Project No. 3700 Approved the project contract documents for Wrigley Creek Erosion Repair Project No. 3700 and authorized advertisement for bid proposals.
- *36. Extend Agreement with County for EMS Authorized the City Manager to extend the agreement with Santa Clara County for Emergency Medical Services for one term with an expiration date of June 30, 2019.
- Successor Agency
*37. Actions for Conveyance of Property Authorized the City Manager/Executive Director of the Successor Agency of the former Milpitas Redevelopment Agency, or his designee, to execute all documents and take all action necessary to complete the sale and conveyance of the property located at the Northwest Corner of Alder Drive and Barber Lane (APN No. 086-02-086) to Lodging Dynamics Development LLC.
- Housing Authority
*38. Approve Loan Write off Approved Housing Authority loan write-off amount of \$50,000, consistent with action taken by the Milpitas City Council at its meeting on June 7, 2016.

PUBLIC HEARINGS

**1. Actions to Approve
McCarthy Creekside
Development at 625 North
McCarthy Blvd.**

Planning Director Bradley Misner introduced contract planner Cecilia Jaroslowski, who presented the McCarthy Creekside industrial development project at 625 North McCarthy Blvd. in Milpitas.

Ms. Jaroslowski provided remarks about wildlife in the project area and reviewed approved actions in the Environmental Impact Report for the site, explaining compliance with environmental regulations including the California Environmental Quality Act. She discussed the community and public benefits of the project.

Vice Mayor Montano asked about removal of existing trees. She wondered if the trees were those put in by Our City Forest. Staff replied no, they were old trees and many were cactus. The Vice Mayor also inquired about jobs to be offered, and the planner said the applicant could best respond to that question.

Representing the project applicant, Jeff Lennart spoke of this high quality industrial project, and brought property owner Joe McCarthy Sr. and the architect up to the podium. He referred back to original Master Plan for McCarthy Ranch that was started in 1990. Mr. Lennart displayed visuals of the project design and landscaping. Trees to be removed were primarily due to the need for an easement required by the Santa Clara Valley Water District.

Mayor Esteves asked if dedications were given as an option, or were they offered by his company. Mr. McCarthy responded that it was a combination. The Mayor asked about what public benefits were part of the project that were not required.

Vice Mayor Montano asked about significant increases in traffic, as noted in the report. She was concerned about the status of the road condition at McCarthy Ranch and asked if there was a community impact fee for roads.

Mayor Esteves opened the public hearing. He limited all speakers to two minutes.

Ms. Kleinhouse, of the Santa Clara Valley Audubon Society, addressed a prior settlement with Mr. McCarthy from 1998, not to oppose McCarthy Ranch when it was developed. Out of caution, she was retracting and withdrawing letters and associated documents that had recently been sent to the City Council (prior to the meeting).

Dr. Yiwei Wang, Executive Director of San Francisco Bay Bird Observatory, a non-profit located in Milpitas spoke. Since 1981, her group operated a banding station to keep track of birds along Coyote Creek. She thanked the McCarthy family for protecting Coyote Creek and contributing toward its restoration, especially since there was success with an abundance of birds in this area. However, she was concerned that current EIR produced for this project would threaten environmental legacy. Certain species were not included while her group had observed two bird types - SF Common yellow throat and Alameda song sparrow - at the site and adjacent to it. She asked for a Supplemental EIR to be conducted for additional bird species that lived and reproduced in the project area. She provided a list of bird species at Coyote Creek to the City Clerk.

Alison Nelson, volunteer for SF Bird Observatory since 2012, asked the Council not to approve a Site Development Permit. The nearest neighbor was not notified, the Bird Observatory, which operated a bird banding station adjacent to the project land. She had sent a letter to the City Council about this project. She handed some written material to City Councilmembers, prior to speaking.

Mr. Jan Hintermeister, volunteer and long time Board Member of the San Francisco Bay Bird organization, felt like this was at the last minute. Across from Coyote Creek was the bird banding station, with special status species. For future projects, an analysis and update to the prior EIR must be fully dealt with for this and other projects.

Robert Marini, Milpitas resident, asked about the 1,000 jobs that the project was going to generate. He wondered how many of those jobs would be for Milpitas residents. Also, some buildings would be knocked down, so some employed persons would lose jobs.

Voltaire Montemayor, Milpitas resident, said it was a big advantage to have the family name McCarthy at this site. He mentioned solving the odor problem.

Motion: to close the public hearing, following six speakers

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

Mayor Esteves asked staff if there were any responses to the public. The planner referred to the consultant for the EIR for this project. She stated that birds of concern were considered in the 2009 EIR, when the impacts were defined to less than significant for this site, except for the burrowing owl. Specific steps were required for that species in the mitigation measures.

Vice Mayor Montano's main concern was for the burrowing owl, native to the site.

Councilmember Grilli asked about jobs being lost. Staff replied said the site was presently vacant with a dilapidated family home structure, with no offices or warehouses on this property.

Mayor Esteves asked if an ornithologist was part of the team that evaluated. The developer responded that a biological survey was done on the site. The EIR consultant said a biologist would have to advise on any burrowing owls if found when construction would begin.

Motion: to adopt Resolution No. 8555 approving the Site Development Permit, Conditional Use Permit and Tentative Map, subject to the Conditions of Approval, to subdivide the property into six parcels, allow the demolition of existing structures, removal of existing trees and construction of five industrial buildings totaling 804,476 square feet and one restaurant building of 6,026 square feet and allow shared parking, on a 44.17 acre site located at 625 North McCarthy Boulevard

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

Vice Mayor Montano really liked the project and was glad they were building for manufacturing and industrial uses, to bring jobs to this area.

Mayor Esteves thanked the project applicant for the very appealing landscaping plan for this site, with 400 new trees to be planted at the development, providing value to the City.

2. Actions to Approve Development at 730 – 750 E. Capitol Avenue

Planning Director Bradley Misner introduced contract planner Michael Moore from MIG consultants, who presented the Anton Mixed Use development at 730-750 E Capitol Ave, with apartments and ground floor retail across from the new BART station. An exception was sought to the Water Urgency Ordinance regarding filling the swimming pools. Park land dedication was detailed with fee equivalent dollar amounts and acres equivalent for this sized project.

Council had no questions and Councilmember Barbadillo left the Chambers for this item.

Mr. Baker from Anton Development, a local development firm established for 20 years, detailed some of the project design, landscaping, and layout including the Milpitas Blvd. extension including 47% of the cost towards that adjacent new roadway. He offered an additional public benefit of \$25,000 to be used towards any needed community benefit.

Vice Mayor Montano asked if recycled water would be used for landscaping, and Mr. Baker replied yes, for all. She asked for clarification on the pools. The developer explained his company was asking for the right to build swimming pools, maintaining the discretion of the city as to when to fill those.

Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, remarked on the number of housing units to be built and how much water those new residents would use. This would be a large number of additional water users during a time of drought.

A woman, Milpitas resident, asked about parkland and who would maintain it. Why were they paying Berryessa School fees, if in Milpitas? Mayor responded to her.

Martin Skelson, Milpitas resident, remarked on a problem in East Palo Alto, where there was no water available where a building project was approved. The City Manager responded to him about the appropriate capacity of water available in Milpitas.

Voltaire Montemayor, Milpitas resident, said this was an attractive development project.

Mr. Sharma, Milpitas resident, felt there were way too many housing units getting built in Milpitas. The rate of construction cannot be sustained, and traffic was worse. The EIR for this site was done a long time ago.

Citizen Sam wondered if the developer could put in zip cars or offer ride sharing for any workers at the site.

Motion: to close the public hearing, following six speakers

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

Councilmember Giordano asked the Economic Development Manager to comment on jobs/housing balance and how did the economics work for businesses to house employees. Ms. Edesa Bitbadal provided some statistics on the need for healthy balance.

Mayor Esteves complimented the developer on the architecture and asked if he would actually build it to appear as the designs and rendering showed at this meeting. The applicant responded affirmatively.

Vice Mayor Montano appreciated that the developer would donate extra park land and create more open space. She recognized that the project conformed to the high density housing planned near BART in the Transit Area.

Motion: to adopt Resolution No. 8556 approving the Environmental Assessment No. EA16-0002, Site Development Permit No. SD15-0014 and an Exception to the City's Supplemental Water Use Restrictions for the Anton Mixed-Use Apartment Development at 730-750 E. Capitol Avenue in Milpitas, per California Environmental Quality Act Guideline 15168(c)(2)

Motion/Second: Vice Mayor Montano/Councilmember Grilli

City Attorney Chris Diaz noted the motion for adoption should include an amendment to the Conditions of Approval to add the \$25,000 contribution from the developer.

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSTAIN: 1 (Barbadillo)

3. LLMD No. 95-1, McCarthy Ranch

City Engineer Steven Machida presented the details on this annual report of the Landscape Lighting Maintenance District No. 95-1 at McCarthy Ranch. He highlighted \$326,597 total costs this year, with \$308,092 as the total amount to be assessed to property owners, and \$52,393 as the operating reserve fund.

Vice Mayor Montano asked if this maintenance included street lighting and asked if that would be replaced in the coming year with LED lights. Mr. Machida replied yes.

Mayor Esteves opened the public hearing for comments.

Voltaire Montemayor, Milpitas resident, asked to approve this item, as he was in favor.

Motion: to close the public hearing, following one speaker

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of:

AYES: 5
NOES: 0

Motion: to adopt Resolution No. 8557 approving the annual Engineer's Report, confirming diagram and assessment and ordering levy of assessments for Fiscal Year 2016-17 for Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch)

Motion/Second: Vice Mayor Montano/Councilmember Giordano

Motion carried by a vote of:

AYES: 5
NOES: 0

4. LLMD No. 98-1, Sinclair Horizon

City Engineer Steve Machida presented the details on this annual Landscape Lighting Maintenance District No. 98-1 at Sinclair Horizon. He highlighted \$54,932 total costs this year, with \$39,122 as the net amount to be assessed.

Mayor Esteves opened the public hearing for comments.

Voltaire Montemayor, Milpitas resident, reported that this area connected him to Yosemite when he drove nearby and he supported this item.

Motion: to close the public hearing, following one speaker

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of:

AYES: 5
NOES: 0

Motion: to adopt Resolution No. 8558 approving the Annual Engineer's Report, confirming diagram and assessment, and ordering levy of assessments for Fiscal Year 2016-17 for Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon)

Motion/Second: Councilmember Grilli/Councilmember Giordano

Motion carried by a vote of:

AYES: 5
NOES: 0

5. Updated Recreation Fees

Recreation Services Manager Renee Lorentzen provided overview of the request to increase various deposits and fees for recreation facilities and amenities. This request was due, especially since a comprehensive update to all fees had not been done since 1997.

The Mayor and Vice Mayor asked for details about some of the displayed rates.

Councilmember Grilli asked how staff prioritized residents versus non-residents when reserving facilities or charging fees. Staff used a first come, first served approach.

Councilmember Barbadillo asked about current revenue from park rentals and facilities. Finance Director Russell Morreale reported \$1.8 million per year for all recreation programs. Ms. Lorentzen reported there was an additional \$330,000 anticipated in revenues, if the fee increases were approved.

Councilmember Giordano asked when the Council had last reviewed these fees. Staff replied, in 2001.

Ms. Lorentzen addressed the new artificial turf field rental at the Sports Center, noting that brand new fees were to be established.

Vice Mayor Montano stated she did not want to support an increase in the cost for After The Bell program fees nor any increase in fees for day camps.

City Manager Tom Williams mentioned that there were some RAP (Recreation Assistance Program) funds available to Milpitas families.

Mayor Esteves asked if there was any help for facility rentals for hardships. Staff responded no, but fee waivers were possible by the City Council for non-profit groups.

Mayor Esteves opened the public hearing for comments.

Robert Marini, Milpitas resident, was concerned about fees for use of the Sports Center versus comparable private sports gyms or clubs, at a pay-as-you-go rate. He wanted to know how fees were charged and if there were discounts for seniors.

A Milpitas resident who lived near a park noticed people setting up their own parties on the edge of City parks. Was there any process for that?

Voltaire Montemayor, Milpitas resident, said it was good to discuss the proposed rates. He talked about differences in the various City parks.

Motion: to close the public hearing, following three speakers

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5
NOES: 0

Motion: to adopt Resolution No. 8559 approving updates and additions to Recreation Fees (per table/chart attached as Exhibit to Resolution)

Motion/Second: Councilmember Giordano/Councilmember Barbadillo

Motion carried by a vote of:

AYES: 5
NOES: 0

Following this public hearing, the City Council moved to discuss item no. 15, solid waste collection services contract.

UNFINISHED BUSINESS

6. Water Rates Economics
7. Fact Sheet on Water Rates
8. Fact Sheet on Solid Waste
9. Capital Projects in TASP

The four agenda items listed below were not heard and would be continued to a future Council meeting.

REPORTS

12. Rent Control Issue

Councilmember Barbadillo had requested this topic on the agenda.

Councilmember Giordano was against this agenda topic and wanted to know his intent.

Mr. Barbadillo said this issue came up when the minimum wage was discussed, with some people having a hard time. He heard about high rents, both residential and commercial rents. He wanted to withdraw the issue regarding commercial property rent control, after he heard from various people. Perhaps residential rent control had some value, he mused.

Councilmember was Giordano was opposed to rent control and felt it did not work.

Vice Mayor Montano said she believed in free markets and competition. The best way to alleviate rental problems was to advocate for higher wages. Rent control was contrary to her beliefs about the competitive market. Councilmember Grilli agreed with her.

Next, the Mayor asked for public input.

Anell Babar, California Apartment Association, felt Milpitas was a leader in housing development. The best way to meet demand would be to build more. Rent control would not solve problems and would hurt small businesses too (apartment managers).

Mr. Rocha, of the Santa Clara County Association of Realtors, said rent control does nothing to bring more rental units to the market. It reduced the chance of apartment owners having the cash to maintain the units. He agreed with the previous speaker.

Voltaire Montemayor, Milpitas resident, knew the Council wanted to help renters.

Motion: to suspend any further discussion regarding rent control in City of Milpitas

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of:

AYES: 4

NOES: 1 (Barbadillo)

The joint meeting was then adjourned at 1:38 AM on June 22. Items not considered would be carried over to the next regular meeting date. (Items no. 6, 7, 8, 9 and 14).

NEW BUSINESS

14. Water System Losses

This item was not heard.

15. Solid Waste Collection Agreement

City Engineer Steven Machida introduced Mr. Rob Hilton, consultant from HF&H, who gave history to date of the efforts to seek new contracts for the city's garbage service. Six companies had bid for solid waste collection services (following two that bid previously for solid waste disposal, which was awarded to Waste Management Inc.). He described

state mandates on the City for recycling and environmental issues. Dump Day was found to be very popular, after doing a survey for community input. He provided staff recommendations following an evaluation process conducted on the submitted proposals.

Councilmember Grilli asked for elaboration on the scoring and cost summary noted on page 30 of his presentation.

Councilmember Giordano wondered if the goal was to shorten the list of the four presenters. Mr. Hilton said it was to meet, screen and negotiate. Ms. Giordano felt they could streamline this process and shorten the list.

Mayor Esteves asked several questions. He told the consultant there was no “slack” time in the schedule for finalizing this contract award.

Mayor Esteves invited speakers from the audience.

Leslie Anderson, Milpitas resident, commented on children who ate lunch at nearby schools and outdoors, it smelled some days due to the location near Newby Island. Republic Services would take recyclables to Newby Island so ask other contractors where they would take those. She was concerned about hidden costs or fees.

A man talked about wanting to live in a beautiful city. He mentioned a spoonful of tar and had three points to make, but ran out of time trying.

A man wanted to take the Newby Island Landfill extension off the list. That places stinks, he said, and it affected health and home prices and the future.

A man, Milpitas resident, made three points: 1) in scoring, Notice of Violations by BAAQMD and odor complaints should be taken into consideration; 2) Republic Services rate now was highest in nine cities nearby; 3) Committee knows environmental and social impact to City residents should be taken into consideration when deciding.

Jennifer Strohfus, Milpitas resident, commented about Republic Services and its price. The odor smell would continue in Milpitas if garbage continued to go to Newby Island, if a contract was awarded. She said there would be a referendum by voters if the City Council awarded a contract to that company.

A woman was concerned about the high number of complaints about Newby Island and Republic Services, especially due to odor.

A man said there was need to look at all true costs. The impact of the odor is very bad throughout the South Bay. Hidden costs and impacts needed to be calculated.

Ms. Chen, resident had a background in statistics. She referred to odor issue of concern to residents. Add the factor of data available from BAAQMD on public nuisance complaints.

Voltaire Montemayor, Milpitas resident, mentioned the smell in Milpitas.

Councilmember Giordano said there was a great sampling of good public input. Only if costs go up would some services be included - or not. She suggested negotiating with the top two ranked companies, to keep the costs down and get the best service. Republic had the lowest bid on the scoring list.

Mayor Esteves felt the contract award should be made by August 20, 2016. He asked if Council could take out one or two from the scoring list. City Attorney Diaz recommended that to provide the most leverage he suggested not limiting to only one or two companies. In response to the Attorney’s comment, the Mayor then wanted to support the staff recommendation to negotiate with all four bidders.

City Manager Williams asked if the Mayor's suggestion was to come back at the August 16 Council meeting with a final recommendation for one firm.

Councilmember Giordano said staff already threw out the two highest bidders prior to this meeting. So now, maybe throw out two lowest and limit subjectivity during negotiations.

The City Manager expressed a desire to meet and talk to each of the companies along with the evaluation committee, to get a sense of the proposals and reality of those. He would then return to the City Council with a detailed recommendation.

Councilmember Grilli asked when returning with the staff's recommendation, to have the staff provide the cost to the resident detailed, versus current costs.

Motion: to receive the evaluation committee report, to identify the elements of the future collection service package, and to authorize the City Manager to negotiate a solid waste collection agreement with the shortlisted proposers and narrow the number of proposers for negotiations if unable to complete successful negotiations

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 1 (Giordano)

16. Report on Initiative Petitions on Water Rates

City Clerk Mary Lavelle gave a report on the result of signature verification conducted on an initiative petition for a ballot measure turned in to her office on May 20, 2016. 2,907 signatures were reviewed at the County Registrar of Voters office. 2,421 were found to be valid and that number was greater than the number required to permit the initiative ordinance to be placed on the ballot for Milpitas voters.

Councilmember Grilli asked about the cost to check signatures. The City Clerk said she had yet not received an invoice, and estimated the cost to be approximately \$5,000.

Mayor Esteves invited public comments.

Robert Marini, Milpitas resident, commented on past actions last year for the Proposition 218 hearing process, the number of signatures needed, and the approval of water rates, unhappy public, and no mention of the water bond.

Martin Skelson, Milpitas resident, said the new initiative did not affect the City at all. Noted savings of \$19 million left on the table, relative to recycled water. He had calculated many of the costs versus new fees.

Jennifer Strohfus, Milpitas resident, said the City did not need a financial impact report. She discussed the water initiative, wherein she and other proponents did not agree that the \$25 million bond was necessary. She urged keeping the reclaimed water price unchanged.

Voltaire Montemayor, Milpitas resident, said the measure would be voted upon.

Councilmember Giordano liked the staff recommendation and sought to have the report with more data coming back at a meeting next month.

Motion: 1) to receive the report from the City Clerk and accept the City Clerk's certification of the sufficiency of petition signatures on the initiative petition submitted, and, 2) and to direct staff to prepare a report analyzing its impact, and present the report to the Council at a Special City Council meeting in July (within 30 days of the certification)

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

ORDINANCES

22. Introduce Ordinance No. 201.6

Planning Director Bradley Misner explained the proposal to clarify when replacement trees were required, at the time when trees were removed from private property. A ratio of two-to-one replacement was recommended along with cost recovery when trees were removed illegally. He said that protected trees would be included in the appropriate municipal code section. In the future, a more comprehensive tree ordinance could come back to City Council in other areas of regulation (public works and others).

Councilmember Barbadillo inquired who performed the enforcement of this ordinance. Mr. Misner said any tree removal had fallen to the Public Works Department. Residents were often thinking about trees in the right-of-way or street trees. Now, this code would deal with trees on private property.

Vice Mayor Montano inquired if a tree was on private property and needed to be removed from the Santa Clara Valley Water District, do they need permission? Staff replied yes, if it was on private property.

Mayor Esteves asked, what if it was a non-protected tree, and if that could be cut down. Staff replied, yes, and that size was the primary qualifier, not age of the tree. The Mayor asked if there was a heritage tree, whether that would be protected from removal. Staff responded that findings must be made for a permit for removal to be issued.

Vice Mayor Montano said there were rules and regulations per state of California about heritage trees, which were distinct from city ordinances.

Mayor Esteves next invited speakers from the audience.

Voltaire Montemayor, Milpitas resident, was concerned about the ratio of two to one tree replacements.

Mayor Esteves told staff that he wanted the ratio to be “at least” two for one, but it could be more. Mr. Misner helpfully responded that the Mayor’s request could be an amendment to the ordinance.

City Attorney Chris Diaz read aloud the title of Ordinance No. 201.6, “An Ordinance of the City Council of the City of Milpitas Amending Sections 4.02 and 9.01 of Chapter 2 of Title X of the Milpitas Municipal Code Relating to Permits Required for Tree Removal and Replacement Requirements.”

(1) Motion: to waive the first reading beyond the title of Ordinance No. 201.6 to add a section to the Milpitas Municipal Code related to replacement of trees

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

(2) Motion: to introduce Ordinance No. 201.6, including the amendment to require replacement of trees at a ratio of at least 2 to 1

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

23. Introduce Ordinance No. 23.14

Finance Director Russell Morreale explained a new process for Milpitas, related to procurement and public works contracting. Improvements and saving could be achieved by adopting a process known as CUPCCA, California Uniform Public Construction Cost Accounting Act. If adopted at the next regular meeting, this new process would be effective in September this year. He related as to how the City bid and procured public contracts, especially in Public Works and Engineering projects. The recommended purchasing method would raise limits for bid amounts, and have formal advertised bidding only for items over \$175,000.

Mayor Esteves said when bidding, it was often good to get the lowest price. So he wanted to know how did the staff know the City was getting the best price. Mr. Morreale said the staff would still have to go out and get three good price quotes.

Vice Mayor Montano wanted to know if this would apply to services. Staff responded that it would apply public contract law purchases, not general city purchases. That impacted primarily Public Works and Engineering large scale city contracts.

Next, the Mayor invited speakers from audience.

Voltaire Montemayor, Milpitas resident, asked Council to proceed on the staff's recommendation.

Councilmember Grilli was more comfortable with the initial numbers presented and did not want to change those figures (\$100,000 for City Manager and \$45,000 for Council approval of all public project bids).

(1) Motion: to adopt Resolution No. 8560 electing the City to become subject to the California Uniform Public Construction Cost Accounting Act

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

City Attorney Chris Diaz read aloud the title of Ordinance No. 23.14, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 2 of Title I of the Milpitas Municipal Cod (Purchasing), Relating to Adoption of the Uniform Public Construction Cost Accounting Act."

(2) Motion: to waive the first reading of Ordinance No. 23.14 beyond the title and to introduce the ordinance, to facilitate implementation of the California Uniform Public Construction Cost Accounting Act effective September 1, 2016

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

RESOLUTION

24. Consider Resolution to Oppose Santa Clara VTA Sales Tax Ballot Measure

Mayor Esteves introduced this item, with the resolution that the majority of the City Council asked for at the last meeting. He provided reasons to oppose the 0.05% sales tax measure by Santa Clara Valley Transportation Authority, as listed in the draft resolution.

Councilmember Giordano stated her vote last time was to be in support of the traffic relief measure. She mentioned the 12-0 VTA Board of Directors vote to support this measure. She identified some of the projects that would help Milpitas specifically. She did not support the City's proposed resolution opposing the VTA tax measure and read from information she had received from Silicon Valley Leadership Group.

Mayor Esteves rebutted some of the items on that list and their estimated costs.

Councilmember Grilli supported Mayor Esteves the last time this topic came up. However, she now had more information and found that some projects on the Milpitas list were included on VTA's funding recommendations with the sales tax money. So, she withdrew support for what the Mayor wanted (resolution to oppose the measure).

Mayor Esteves asked for comments from the audience.

Carl Guardino, Executive Director of Silicon Valley Leadership Group, was heartened by the housing development approved earlier at this meeting. He had been working more than three years for a traffic relief and road repair measure. While there was some confusion about the direct benefits to Milpitas residents, he identified several. Mr. Guardino asked for a resolution of support for the measure, with items favoring Milpitas on a list he handed to the Council.

A woman who worked on employment issues asked for support for the measure, to help high tech and other workers, including lower income residents locally and countywide. Regional solutions were needed, she urged.

Cindy Chavez, member of the County Board of Supervisors and Chair of the SCVTA Board, spoke. She appreciated all of the work by the Mayor and Council, and especially sticking up for the City's specific identified needs. This effort was a region-wide one.

City Manager Tom Williams commented on how long the Highway 237 widening had been on a priority list of the MTC, over the years. A portion of the \$360 million of the half-cent sales tax funding would come to Milpitas, while potentially the city could improve transit locally with its own tax.

Vice Mayor Montano favored the measure. She urged use of a formula for funding with one factor being population. The state should use traffic coming through to be counted for road repair funds. She emphasized Milpitas was not an island. Collaboration regionally was important on many transportation issues. She agreed with the Mayor about a firm commitment needed on the funding to be spent and used in Milpitas on transport.

Mr. Guardino discussed the state cap on sales tax, which was locally at 8.75% and could still add 0.5% to accommodate the cap. If Milpitas went onto the ballot too and both taxes passed, it could be more than allowed. The City Manager responded to that, explaining the VTA item would be considered a "special tax" and not go against the state cap. He would research this topic and get back to the City Council with verified information.

Mayor Esteves suggested the Council could defer this, for more information to return to the City Council at future meeting, or vote now.

Councilmember Giordano thanked speakers for coming to address the Council on this matter, and then moved to support the VTA's sales tax measure on the November ballot.

Mayor Esteves called again for speakers.

Michael Tsai, Milpitas resident, remarked on difficult traffic getting around the city including on Calaveras Blvd. near City Hall. He believed that Milpitas got short shrift at times. He complimented the Vice Mayor on her questions and the Mayor on his position, against this tax so Milpitas was not ignored. Councilmember Giordano had great wisdom, noting that this was really a regional issue ultimately.

Voltaire Montemayor, Milpitas resident, said this was really a tug of war. Residents would see if people want it on November 8.

Motion: to support the SCVTA's ½ cent sales tax measure scheduled for voters in Santa Clara County on November 8, 2016

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

25. Call for Three Ballot Measures on November 8, 2016

Councilmember Marsha Grilli supported the first two measures, but did not support the third one on Town Center zoning. She wanted to know if residents were talking about open space and not the Serra Center. The City Council needed to prioritize what was going onto the ballot.

Vice Mayor Montano felt the ballot measure was good and should be taken to voters.

City Attorney Chris Diaz commented on the Town Center item. It would be confirming no residential in the Town Center and that could only be changed by voters, in the future.

Vice Mayor Montano commented on shopping centers in the City besides Great Mall.

Councilmember Barbadillo did support the measure for Town Center to be only commercial development, and going to voters to keep that.

Mayor Esteves noted that he had voted for the ordinance to keep Town Center as only commercial (no residential development on that site).

Next, the Mayor asked for speakers from the audience.

Voltaire Montemayor, Milpitas resident, supported the Mayor's idea.

City Attorney Diaz then read aloud each of the three ballot questions in the Resolutions presented to the City Council.

(1) Motion: to adopt a Resolution No. 8561 calling for the Urban Growth Boundary to be extended until December 31, 2038

Motion/Second: Councilmember Grilli/Councilmember Giordano

AYES: 5
NOES: 0

For the above measure, Vice Mayor Montano and Councilmember Grilli volunteered to write the ballot argument in favor of the measure.

(2) Motion: to adopt a Resolution No. 8562 calling for the Hillside Ordinance to be extended until December 31, 2038

Motion/Second: Councilmember Barbadillo/Councilmember Giordano

AYES: 5
NOES: 0

For the above measure, Councilmembers Grilli and Barbadillo volunteered to write the ballot argument in favor of the measure.

(3) Motion: to adopt a Resolution No. 8563 calling for a new Ordinance to allow residential development in the Town Center by voters only

Motion/Second: Councilmember Barbadillo/Vice Mayor Montano

Motion/Second: AYES: 3
NOES: 2 (Giordano, Grilli)

For the above measure, Councilmember Barbadillo and Vice Mayor Montano volunteered to write the ballot argument in favor of the measure.

ADJOURNMENT

Mayor Esteves adjourned the joint meeting of the City Council, Successor Agency and Housing Authority at 1:38 AM on Wednesday, June 22, 2016.

The foregoing minutes were approved by Milpitas City Council on August 2, 2016.

Mary Lavelle
Milpitas City Clerk