

MEETING MINUTES CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council and
Successor Agency
Date: Tuesday, March 15, 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 6:00 PM. City Clerk noted the roll.

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

ABSENT: None

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

City Council then convened at the dais for the Open Session at 7:07 PM.

ANNOUNCEMENT No announcement out of closed session.

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

INVOCATION Councilmember Barbadillo read a quote from Teddy Roosevelt to start the meeting.

MEETING MINUTES Motion: to approve the minutes of March 1, 2016 City Council meeting

Motion/Second: Councilmember Grilli/Councilmember Giordano

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

SCHEDULE OF MEETINGS Motion: to approve Council Calendars/Schedule of Meetings for March and April 2016

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

PRESENTATION Mayor Esteves proclaimed March as Arts Education Month, and presented a proclamation to several members of the Milpitas Arts Commission.

PUBLIC FORUM Milpitas residents Pete McHugh, Rohit Sharma and Harriett McGuire representing a group of residents called "Protect Our Park" had been collecting signatures of residents to request Council to put an item on the November ballot requesting approval to build a park at property on N. Main Street next to Milpitas Library.

Martin Skelson, Milpitas resident, had a maintenance item to bring to the attention of City staff, with his concern for taxpayers money. Staff needed to go to the City Hall roof, unplug the drain, and remove a ladder off the roof.

Robert Marini, Milpitas resident, objected to an e-mail he got from City staff, disagreeing to show material he wanted to display. He talked about his petition and wanting to get on the ballot the water rates on tiered system.

Rob Means, 1421 Yellowstone resident, talked about PRT (personal rapid transit) loop in Milpitas that he supported.

Steve Siddell, Milpitas resident, attended a meeting recently on odor concerns in the City. The Mayor and City Manager were very helpful upon educating the residents very well, so he said thank you to both.

Voltaire Montemayor, Milpitas resident, said art was science related, even ideas of a small child. Rain was here and more would come, so reservoirs were filling. He supported PRT.

Jezell Marez, Milpitas resident, said it was time to clean up a little bit. The pocket book needed to be managed properly. She mentioned water rates and bonds, PRT, college being built, money managing, performing arts building, overhanging bushes, and people to represent citizens.

ANNOUNCEMENTS

Councilmember Giordano announced the third annual “Milpitas Cares” event was coming soon, for those who would like to volunteer at www.milpitascare.org and sign up to help beautify the community.

Councilmember Grilli requested that the topic of preserving land for a park, and maybe having a ballot measure, be added to a future agenda for discussion.

Mayor Esteves had another proclamation to present, proclaiming April as Autism Awareness Month which he presented to Milpitas Librarian Steven Fitzgerald. He explained that the Library planned some extra resources and outreach to families and people with autism. Jennifer Lee, of Friends of Children with Special Needs, and Milpitas resident supported the events.

Vice Mayor Montano wished everyone a Happy St. Patrick’s Day on Thursday and Cesar Chavez Birthday on March 31. A breakfast event was planned on Vine St.

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.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as amended

City Manager Williams reported that staff requested to remove item no. 7 (BART Extension update) and continue it to the next meeting.

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 amended

Mr. Williams reported a correction on the dollar amount of the total grant funds in item no. 5 (SAFER grant for firefighters), which was \$1,250,000.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

- * 2. RSRAC Appointments Per recommendation of Mayor Esteves, approved the following:
- Recycling and Source Reduction Advisory Commission:
 Moved Alternate No. 2 Manpreet Badesha to a seat as a voting member to a term that expires in October 2016.
 Newly appointed Marta Martinez as a business representative voting member to a term that expires in October 2016.
 Newly appointed Mandeep Singh as Alternate No. 1 to a term to expire in October 2017.
 Newly appointed Yue George Liu as Alternate No. 2 to a term to expire in October 2016.
- * 5. SAFER Grant Funds to Add Firefighters Authorized the Milpitas Fire Department to apply for the SAFER grant from the Department of Homeland Security in order to fund additional firefighter positions.
- * 6. Police Driver Training Approved a budget appropriation in the amount of \$19,844 to the Police Department budget for the POST mandated training with costs fully reimbursable by POST.
- * 8. Two Resolutions Adopted resolutions related to the City's Groundwater and Conservation Technology Programs 1) Resolution No. 8527 authorizing the filing of a financial assistance application for a financing agreement for Groundwater Abstraction Program with the State Water Resources Control Board and 2) Resolution No. 8528 authorizing the City Manager to execute documents for construction of Conservation Technology Program.
- * 9. Resolution Adopted Resolution No. 8529 granting final acceptance of Wrigley-Ford and Ford Creek Maintenance, Project No. 3706, and releasing the contractor's bond.
- *10. Resolution Adopted Resolution No. 8530 granting initial acceptance of 2014 Road Rehabilitation Projects No. 4270, No. 4264 and No. 3412 subject to a one year warranty period and reduction of the faithful performance bond to \$212,545. Resolution shall also grant 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.
- *11. Resolution Adopted Resolution No. 8531 pursuant to Section I-2-3.13 Standardization of the Milpitas Municipal Code designating Drager Safety, Inc. (SCBA) as the Standard SCBA for the City of Milpitas.
- *13. Amendment to Agreement with HMH Approved Amendment No. 2 to the consultant agreement with HMH Inc. to extend the term through March 1, 2017 and to increase the agreement by \$11,390 for the Montague Expressway Widening, Project No. 4179.
- *14. Amendment to Agreement with Law Firm Approved the Second Amendment to the current Agreement with Burke Williams & Sorensen, LLP for legal services regarding elimination of odors and direct the City Manager to sign the Second Amendment.
- *15. Agreement Extension Approved an extension of the agreement with OfficeMax for the period of May 31, 2016 to June 30, 2018 in the annual not-to-exceed amount of \$95,000 and a total agreement amount not to exceed \$440,000.

PUBLIC HEARING

1. Urgency Ordinance on Marijuana City Attorney Diaz reminded the City Council about state legislation that was designed to regulate marijuana, anticipating state voters' approval of several statewide propositions favoring legalization. The request at this meeting was to extend the recently adopted urgency ordinance continuing a prohibition on these potential dispensaries and uses in the City of Milpitas.
- Vice Mayor Montano asked about by-products of marijuana, like hemp rope. The City Attorney said that would mostly likely be prohibited too.

Mayor Esteves asked if processing a site for medical marijuana which was distributed solely to doctors, would that be disallowed? The City Attorney replied yes, it would be prohibited. Exceptions to a permanent ordinance in the future might include this one.

Mayor Esteves next opened the public hearing for comments.

Michael Tsai, Milpitas resident, thanked City staff. He urged City Council to consider the amount of water being used to keep marijuana plants irrigated. This was at a time when a water rate hike was affecting residents a lot.

Robert Marini, Milpitas resident, noted a lot of things were hidden from the public. If a doctor prescribed this medicine, then a person should be able to get it in Milpitas if it was needed.

Rob Means, Milpitas resident, referred to the invocation quote. Marijuana was not a real health hazard, he stated. This will be big business and will generate revenue in the City.

Voltaire Montemayor, Milpitas resident, felt marijuana was considered bad for a long time. Council could extend the ordinance for a long time, on this environmental issue.

Chris Norwood, Milpitas resident and MUSD trustee, appreciated the city staff efforts on this ordinance. Residents were mindful and caring about children in this community, and all want to be considerate of children and the impact of having this in the community. He was not looking forward to it.

George Liu, Milpitas resident, said marijuana had been legal for those who need it for medical use. He urged support for the proposed ordinance.

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

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

City Attorney Diaz read aloud the title of Ordinance No. 270.4, "An Interim Urgency Ordinance of the City Council of the City of Milpitas Enacted Pursuant to California Government Code Section 65858 Extending for a Period of 10 Months and 15 Days the Temporary Moratorium on Cannabis Dispensaries, Manufacturers, Cultivation and Delivery of Cannabis Pending the Completion of Studies and the Preparation of an Update to the City's Municipal and Zoning Codes."

(2) Motion: to waive the reading beyond the title of Ordinance No. 270.4

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

(3) Motion: to adopt Urgency Ordinance No. 270.4, extending the prohibition of cannabis dispensaries, manufacturing, cultivation, or delivery of cannabis in Milpitas

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

REPORT OF COUNCIL

3. Naming Subcommittee

Recreation Manager Renee Lorentzen explained that the City Council Subcommittee on Facilities Naming met and recommended that the Council adopt an updated Standard Operating Procedure and lists of names to be considered for parks, streets, and facilities. Guidelines and criteria were developed in order to accommodate re-naming also.

Vice Mayor Montano referred to an example of a park in the past that had been renamed in a neighborhood, where the community had no input. So new rules would prevent that from happening that way.

A Park Memorial Program was recommended so Councilmember Barbadillo asked what was the role of the Parks, Recreation and Cultural Resources Commission now with the updated SOP. Ms. Lorentzen reported that staff would take it to the Commission and seek a recommendation, then take it to City Council for final approval.

Mayor Esteves did not want conflicting recommendations. He did not want a Commission to discuss naming. He thought the Council subcommittee should select names, then bring it to a Commission for review only.

Ms. Lorentzen described and responded to Councilmembers' questions about the park benches and naming. She reported there was one request to approve a pending bench for Charles Loughborough at Augustine Park. Staff would maintain it, unless damage occurred to the bench, which the family would have to cover.

Motion: to approve the Streets, Parks and Facilities Naming Standard Operating Procedure and Naming Lists; and, approve a memorial bench donation for Charles Loughborough to be installed at Augustine Park, and direct the Parks, Recreation and Cultural Resources Commission to develop a Park Memorial Program

Mayor Esteves invited speakers from the audience.

Robert Marini, Milpitas resident, said the Council should not have anything to do with naming, since it could be a conflict of interest. It was a conflict if the person gave a donation to a City Councilmember.

Voltaire Montemayor, Milpitas resident, said there would be disappointed family members with the naming.

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

NEW BUSINESS

4. Silicon Valley Community Choice Energy Program

City Engineer Steve Machida described the Community Choice Energy program, which the City of Milpitas could consider joining along with other communities to aggregate power on the open market. 11 cities and Santa Clara County had already agreed to join in a program in Silicon Valley. This could help meet goals of adopted Climate Action Plan.

Vice Mayor Montano asked if the \$100,000 amount to join in the program was a one-time fee or annual. That was to be determined, Mr. Machida responded. The infrastructure was already existing (PG&E's).

Councilmember Barbadillo asked why San Jose was not a participating city in the program. Mr. Machida did not know, but could inquire.

Councilmember Grilli was favorable to this program, as she had heard described by County Supervisor recently.

Mayor Esteves wanted to see a cost-benefit and economic analysis, when staff came back with a report including what liabilities and exposure were. An investment study was a good idea, he urged.

Vice Mayor Montano asked for an example of another city's contract so the Council could study it.

Mayor Esteves invited speakers from the audience.

Liz Ainsworth, Milpitas resident, had two questions. This seemed similar to how water was handled and what was the impact to those who had solar on their houses now.

Robert Marini, Milpitas resident, cannot grasp the real advantages to joining this. It would it only help PG&E not the residents, he felt. He asked what did residents get out of it.

Rob Means, Milpitas resident, agreed it was like having PV panels on someone else's home. It was a big risk, so try to trust the other 11 cities that had already agreed to join in on the CCE program while San Jose had its own energy program. He fully supported this program, with all vigor and speed.

Michael Tsai, Milpitas resident, agreed with having City of Milpitas look at the environmental impact of global warming, and taking steps like this program to be responsive to impacts on the economy of global warming was helpful.

Voltaire Montemayor, Milpitas resident, talked about water and hydroelectric power.

George Liu, Milpitas resident, talked about building codes and requiring all new residents to have solar panels to be efficient.

Motion: to receive the report from the City Engineer on Silicon Valley Community Choice Energy program; and, direct staff to investigate the process and costs to join the SVCCE and report back to Council on the findings

Motion/Second: Councilmember Grilli/Councilmember Barbadillo

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

7. Update on BART Extension Item not heard and would be rescheduled to future Council meeting date.

RESOLUTION

12. Agreement with New Provider for Solid Waste Disposal Services

City Engineer Steve Machida introduced consultant Rob Hilton to provide a summary of actions to date to arrive at this evening's recommendation for award of contract for solid waste disposal. Two bids were submitted for disposal, and he reviewed the terms of both bids from Waste Management of South Bay Inc. and from GreenWaste Recovery.

Councilmembers asked the consultant a variety of questions related to price per ton for disposal, Dump Day, current contract versus potential new one, fees for drop off of materials, and adjustment to annual tipping fees.

Mayor Esteves invited both presenters to the podium.

Tim Flanagan, General Manager of Monterey Regional Waste Management District, to whose facility GreenWaste would haul the solid waste for disposal, described his public agency as a partner to the City, with transparency and open governance. Their company was graded higher on the technical part of the proposal. He emphasized being another public entity.

Emily Finn of GreenWaste Recovery reminded Council it was a local company, and waived threat of litigation in terms of conflict. They could be flexible on operating hours, which was very helpful if/when a truck breaks down. They were technically superior over the other bidder. She described routes to the two different disposal sites.

Alex Guerra of Waste Management Inc. highlighted significant savings to be realized by hiring his firm over the competitor. He described some of the proposal details, with 5% maximum CPI increase per year. They could be flexible to accommodate a late truck if a breakdown of a delivery vehicle occurred.

Vice Mayor Montano noted the move to separate material organics from non-organic, and asked if that would increase costs. One company said no, while one said it would be considered with the hauling proposal.

Mayor Esteves invited speakers from the audience.

Brett Faulker, GreenWaste staff, said they would bid for hauling as well. Operational flexibility was valuable, he said, especially with all the growth going on here.

Robert Marini, Milpitas resident, clarified the rates displayed were only for disposal. Later would be a contract for hauling. He wanted to know how long Newby Island would be open, and how long residents had to live with the smell.

Voltaire Montemayor, Milpitas resident, did not favor one company over the other, which was a decision for the Council.

Tom Valore, Milpitas resident, as a resident he cared about effects on the bill to pay every other month. He could not believe that the disposal contract was separated from the hauling contract, not knowing what the other would be and the impacts on each other. 20 years for a contract was maybe a bad idea.

George Liu, Milpitas resident, thought it was a surprise that Republic Services did not bid for the disposal contract. There was no advantage.

Councilmember Giordano asked if it was normal to separate disposal from collection. Mr. Hilton replied it was done both ways. He displayed a list of other agencies that had done so recently.

Councilmember Grilli would not be in support of passing on any higher cost of disposal to the residents, as proposed by GreenWaste.

Vice Mayor Montano sought more cost comparison from current rate customers pay to the future costs, with hauling added to disposal. She asked Mr. Hilton why it was for 20 years, and he said that was a standard amount of time for such contracts, and at times they were even longer.

Councilmember Giordano was in favor of a contract with Waste Management. She knew how disenchanted residents were with the higher water rates. So she supported the staff recommendation based on costs as presented.

Mayor Esteves also cared about the taxpayers and would support Waste Management. He was happy that his garbage would not be dumped "in his back yard." The Mayor was pleased at the last presentation by these two companies and reminded residents that both firms had no reported odor issues.

Motion: to adopt Resolution No. 8532 authorizing the City Manager to execute an exclusive franchise agreement with Waste Management, Inc. for solid waste disposal services

Motion/Second: Councilmember Giordano/Councilmember Grilli

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

JOINT MEETING

CITY COUNCIL AND SUCCESSOR AGENCY

Call to Order & Roll Call

The joint meeting of the City Council and the Successor Agency to the Former Milpitas Redevelopment Agency was opened at 10:41 PM with all members present.

Approve Agenda & Consent

Motion: to approve the agenda and consent calendar (item no. 16 below)

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

*16. Purchase & Sale Agreement

Authorized the Executive Director of the Successor Agency of the former Milpitas Redevelopment Agency to execute a Purchase and Sale Agreement with Lodging Dynamics Development LLC for property located at the northwest corner of Alder Drive and Barber Lane (APN 086-02-086).

ADJOURNMENT

The joint meeting of the City Council and Successor Agency was adjourned at 10:42 PM.

The foregoing minutes were approved by Milpitas City Council as amended on April 5, 2016.

Mary Lavelle
Milpitas City Clerk