MEETING MINUTES
CITY OF MILPITAS

Minutes of: **Regular Meeting of Milpitas City Council**
Date: **Tuesday, February 2, 2016**
Time: **6:30 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 meeting to order at 6:30 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 one litigation matter.

City Council then convened in 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 Giordano invited Gail Cain from Christ Community Church to provide the invocation prayer.

MEETING MINUTES

Motion: to approve the minutes of January 19, 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 Calendar/Schedule of Meetings for February 2016

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

PUBLIC FORUM

Martin Skelson, Milpitas resident, referred to a past speaker who inquired if the City Council had read the protest letters prior to the hearing on the utility rates.

Maria, Santa Clara resident, purchased a holiday item at Season's Marketplace with a warranty. There was a problem with electrical wiring and she sought help from City Mayor or staff.

Rob Means, 1421 Yellowstone resident, talked about Personal Rapid Transit and benefits.

Robert Marini, Milpitas resident, displayed a chart from consultant on Average Use Residential Bill Survey as of 7/1/2015 (regarding water rates), and then an explanation of the averages. He claimed that Milpitas would have the highest rates for water come July.

Voltaire Montemayor, Milpitas resident, said it was a day to celebrate and get ready for the Super Bowl coming to the area. He talked about a park and children.

Steve Siddell, Milpitas resident, wanted items to assist the Police Department to solve crimes quicker which involved viable camera footage, from high functioning cameras.

ANNOUNCEMENTS

City Manager Tom Williams asked Economic Development Manager Edesa Bitbadal to address the new computer application for shopping and the pre-Super Bowl event held earlier that evening in City Hall lobby. The "Shop Milpitas" app could be downloaded to an Apple iphone or Android device to give users easy access to local businesses and restaurants, along with information on a shuttle service over four days. Daniel Nam from the Information Services Department gave an overview of the new application.

Vice Mayor Montano was glad to learn that the Walmart store would be open 24 hours (as noted during the presentation by staff).

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 requested to remove the agenda item on Mid-Year Budget Adjustments (Item No. 5) and move it to the next regular Council meeting date.

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

Vice Mayor Montano asked to remove items no. 8 (Housing Resolution) and no. 10 (Lyon Communities amendment).

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

* 1. Odor Update

Received the update of the odor control report.

* 2. Commission appointments

Per recommendation from Mayor Esteves, approved the following:

Bicycle Pedestrian Advisory Commission:
Appointed Philip Tuet as Alternate No. 1 to a term that expires in August 2016.
Newly appointed Bernel Hallera as Alternate No. 2 to a term that expires in August 2017.

Recycling and Source Reduction Advisory Commission:
Re-appointed Brian Shreve as the representative from the Milpitas Unified School District to a term that will in expire in October 2018.

Senior Advisory Commission:
Re-appointed Patrick Yung to a term that will expire in December 2017.

Telecommunications Commission:
Re-appointed Dinesh Gupta, Niranjan Gupta and Hai Tran to terms that will expire in January 2018.

Veterans Commission:
Re-appointed Ed Ackerman, Art Ebright and Allen Thomas to terms that will expire in February 2019.

* 6. Investment Status Report — Received the investment report for the quarter ended December 31, 2015

* 9. ADA Sidewalk Ramps — Approved plans and specifications, and authorized advertisement for bid proposals for the Disadvantaged Community Americans with Disabilities Act (ADA) Curb Ramps, Project No. 4282.

NEW BUSINESS

3. Water Supply Outlook – Santa Clara Valley Water District

City Engineer Steve Machida introduced Mr. Richard Santos, Director on the Board of the Santa Clara Valley Water District along with district staff. Mr. Santos then introduced Darin Taylor, who presented information on wholesale water supply and rates from that District. Mr. Taylor responded to questions from the Mayor and Council members.

Mayor Esteves invited speakers from audience.

Robert Marini, Milpitas resident, asked the definition of potable water and what was the increase that SCVWD required of customers. Mr. Taylor responded that treated water was potable while recycled water was not (safe and drinkable).

Voltaire Montemayor, Milpitas resident, talked about capital costs to provide water.

Rob Means, 1421 Yellowstone, flinched at the high cost of capital projects related to water service provided by the District.

Tom Valore, Milpitas resident, noted that water was imported from remote sources, and costs were related to transporting it. He inquired about capturing more rainwater to keep costs down.

Mayor Esteves thanked the water district staff and Director Santos.

Motion: to accept the report from SCVWD staff on water supply and costs

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

4. Six Months Financial Status

Director of Finance Russell Morreale provided a financial status update on FY 2015-16 to the City Council, with an overall upbeat report on revenues and expenditures. He responded to various questions from the Mayor and Council on specific categories of revenue. Highlighted was the low unemployment level locally (recently reported as 3.5%) and overall General Fund status, at 48% of the adopted budget amount.

Councilmember Giordano asked about the amount of reserves and if the City was maintaining the correct amount per adopted policy. She asked for that information to be provided in the future.

Mr. Morreale provided a list of upcoming key FY 2016-17 budget meeting dates for March – May this spring, in advance of adopting the new FY budget.

Mayor Esteves asked if there would be a presentation to the Finance Subcommittee, and staff responded yes.

Next, Mayor Esteves invited speakers from the audience.

Robert Marini, Milpitas resident, said all revenues to the General Fund were not mentioned, such as Water Fund and Sewer Fund transfers to the General Fund. He commented further about highest rates in the county.

Voltaire Montemayor, Milpitas resident, said the budget reserve was still good.

Rob Means, 1421 Yellowstone resident, talked about non-departmental costs and health insurance cost increases.

Motion: to accept the oral report from the Finance Director

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

5. FY 2015-16 Mid-Year Budget Appropriations

This item was removed from the agenda and would be rescheduled to the next meeting.

ORDINANCE

7. Urgency Ordinance on Marijuana/Cannabis

City Attorney Chris Diaz addressed the City Council about the reason to adopt an urgency ordinance for marijuana cultivation, as related to recent state legislation. He described relevant court cases in California on land use regulations related to medical marijuana and dispensaries. Three related bills from the state legislature were signed by Governor Brown in October of 2015. The new urgency ordinance would cover marijuana dispensaries, manufacturing, cultivation and delivery to be included in local regulation. If the Council did not adopt the urgency ordinance, effective for 45 days, then state law would prevail starting on March 1, 2016.

The Police Chief answered a few questions from City Council, on related police issues responding to problems around both illegal and medical marijuana.

Next, Mayor Esteves invited speakers from audience.

Robert Marini, Milpitas resident, asked why would there be a penalty to a person to get his prescription filled, outside the city to get medical marijuana.

Rob Means, 1421 Yellowstone, commented on the City keeping marijuana out of the city after 20 years since voters approved medical marijuana in California.

Steve Siddell, Milpitas resident, talked about the treatment of cancer did not involve everybody getting stoned. Criminal activity was related to cash businesses, like marijuana dispensaries.

Voltaire Montemayor, Milpitas resident, said excessive use was a problem for some family and friends. There could be difficulty dealing with users.

A man, Milpitas resident, asked about the delivery of cannibis. He asked about people who could not leave their house and how would they receive marijuana if delivery was prohibited in the ordinance.

Councilmember Giordano supported prohibiting marijuana dispensaries in the past and she still did.

Councilmember Grilli asked about commercial delivery of marijuana and whether the current ordinance prohibited that. Staff replied yes, and the new ordinance would expand on it.

Mayor Esteves asked about traveling through Milpitas with marijuana in a vehicle, to go to deliver in another City. He suggested including passing through local streets to be prohibited (vs. freeway travel). The City Attorney provided suggested language.

Mayor Esteves was strongly against the medical marijuana dispensaries when that issue came to City Council in the past. He remained concerned for families and children, crime issues, and abusive use of marijuana. He supported the new proposed and more clear ordinance to control marijuana.

City Attorney Diaz read aloud the title of Ordinance No. 270.3, "An Interim Urgency Ordinance of the City Council of the City of Milpitas Enacted Pursuant to California Government Code Section 65858 Amending Title XI, Chapter 5 to Prohibit Cannabis Dispensaries, Manufacturers, Cultivation, and Delivery of Cannabis in Milpitas."

Motion: to waive the reading beyond the title of urgency Ordinance No. 270.3

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

Motion: to adopt Interim Urgency Ordinance No. 270.3, prohibiting cannabis dispensaries, manufacturing, cultivation, or delivery of cannabis in Milpitas and including request from Mayor Esteves to prohibit traveling local streets with marijuana

Motion/Second: Councilmember Giordano/Vice Mayor Montano

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

RESOLUTION

8. Resolution on Homeless

Vice Mayor Montano wanted to know about the City's actions taken toward affordable housing. She asked about developer impact fees. Housing Manager Tim Wong explained that it was up to Council how to dedicate those fees paid by project developers.

She wanted to add in a change to the policy on age restriction at Terrace Gardens senior housing. The City Manager explained that it was a state regulation applied to the bond financing of that facility, to require residents older than a specified age.

Mayor Esteves asked if there was any way to implement the age restriction in senior housing in the City. The City Attorney replied he could look at that and get back to the Council. The Mayor wanted to know how the City's homelessness was assessed. Mr. Wong replied there were homeless persons in the city and his code enforcement and the police do assist that population. The County had estimated 122 in Milpitas.

The Mayor said Council could not act until Councilmembers knew the full assessment of the problem here in this City (vs. in the County). He needed to know what the City had already done to address the homeless in the City. He did not want a resolution adopted that was generic, county-wide applied to the City of Milpitas.

Vice Mayor Montano noted that homeless were not just out on the street. Those could include people living with others because they lacked a place to live. Rents were too high for many to afford here in Milpitas and the south bay.

Councilmember Grilli asked about people living on the streets. Mr. Wong replied that staff did receive phone calls about homeless encampments and those living on private

property. Staff tries to provide information about services offered.

Next, the Mayor asked for speakers from the audience.

Robert Marini, Milpitas resident, said if utility rates were raised, water and sewer fees would not be affected. Veterans would be affected by the age limit increase for senior housing, which could result in more homeless people.

Tom Valore, Milpitas resident, described homeless as a person without an address. He felt the County resolution was to say that it was a crisis in this County, where housing was so expensive. Poverty was affecting a lot of people.

Voltaire Montemayor, Milpitas resident, said sometimes it was really complicated issue, including for veterans.

Motion: to adopt Resolution No. 8523 finding that the problem of homelessness constitutes a crisis and consider policy options for funding affordable housing to house homeless people

Mayor Esteves stated he wanted staff to look into the real, true number of homeless within the City of Milpitas and the status of the issue in the City.

Motion/Second: Vice Mayor Montano/Councilmember Grilli

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

AGREEMENT

10. Amendment to Purchase and Sale Agreement

City Attorney noted that Councilmember Barbadillo had a possible conflict due to the location of his office close to The District development project, so he left the dais.

Vice Mayor Montano asked about this specific site and if it was part of The District. Acting Planning Director Sarah Fleming replied yes. This was a remnant parcel, near the area where a grocery store was planned and access to utilities at the site were encumbered. Surface parking on this land would be planned.

Motion: to approve the first Amendment to the purchase and sale agreement with Lyon Communities in the amount of $150,000 and direct the placement of those funds into the City's affordable housing fund

Motion/Second: Vice Mayor Montano/Councilmember Giordano

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

ADJOURNMENT

The meeting was adjourned at 10:19 PM.

The foregoing minutes were approved by Milpitas City Council on February 16, 2016.

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Mary Lavelle
Milpitas City Clerk