



**MILLBRAE CITY COUNCIL  
MINUTES  
January 22, 2013**

**CALL TO ORDER MILLBRAE CITY COUNCIL**

Mayor Papan called the meeting to order at 7:01 p.m.

**ROLL CALL:** Mayor Gina Papan, Vice Mayor Nadia V. Holober, Councilmembers Wayne J. Lee, Marge Colapietro, and Robert G. Gottschalk.

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

1. **CEREMONIAL/PRESENTATION**

- Update Report from Jessica Stanfill Mullin, League of California Cities Peninsula Division

Jessica Stanfill Mullin, Regional Public Affairs Manager, provided the Council with an update report on the Peninsula Division.

- Police Bureau 2012 Annual Report

This report has been rescheduled to a future meeting. City Manager Marcia Raines announced the Sheriff's Office Gun Buy Back event on January 26, 2013 at the San Mateo County Event Center.

2. **AGENDA OVERVIEW/STAFF BRIEFING**

- Informational Report Regarding Bills and Claims

City Manager Marcia Raines reviewed the agenda items. She noted a revision to the Commission/Committee appointment agenda report.

- Report out from Closed Session of January 8, 2013

City Attorney Joan Cassman stated that no Closed Session was held on January 8, 2013.

3. **APPROVAL OF MINUTES**

- Regular Meeting of January 8, 2013

The Clerk was provided with minor corrections.

Upon a motion/second by Colapietro/Lee the minutes were unanimously approved.

4. **ORAL REPORT FROM CITY COMMITTEE/COMMISSION CHAIRS**

- Update Report from the Sister Cities Commission

Sister Cities Commission Member Aline Lee introduced Peninsula Chinese Business Association Member Paul Seto and Chamber of Commerce CEO Ed Banayat to announce the upcoming February 16<sup>th</sup> Lunar New Year Celebration at Civic Center Plaza.

- Update Report from the Senior Advisory Committee – Announcing the January 26<sup>th</sup> Senior Health and Wellness Fair

Committee Members Dorothy Lauser and Mary Somers announced the Senior Health and Wellness Fair on January 26<sup>th</sup>. The event will begin at 9:00 a.m. and there will be a number of free health screenings. Miracle Shred will be on-site to provide free document shredding.

### **PUBLIC COMMUNICATION**

Wynn Grich, Hayward resident, spoke on the detrimental effects of flu vaccinations.

### **CONSENT CALENDAR**

5. Council Appointments to Commissions and Committees

Item 5 was pulled for discussion.

Councilmember Lee noted that the appointment terms were not evenly staggered. Mayor Papan stated that the Council should move ahead with the appointments and have the Subcommittee look at this issue and report back at a future meeting.

Upon a motion/second by Holober/Colapietro Consent Calendar item 5 was unanimously approved.

6. Investment Report as of December 31, 2012

Upon a motion/second by Lee/Colapietro Consent Calendar item 6 was unanimously approved.

### **PUBLIC HEARING**

7. Appeal of a Planning Commission Approval of a Design Review Application to Allow a 2,810 sq. ft. New Two-Story House on a 16,405 sq. ft. Vacant Lot (1304 Murchison Drive)

Mayor Papan opened the public hearing.

Community Development Director Farhad Mortazavi presented the report.

Begin public comment.

LaVerne Dunn, Millbrae resident, stated that she was never informed of an easement on her property and would not have purchased the property if she had known. She stated that she will not have full access of her driveway due to this project and that her quality of life would be adversely impacted.

Nick Miranda, Millbrae resident, stated that he adamantly opposes building on this site. The property owner is not interested in living in this house. There are issues of privacy from the driveway and window placement of the proposed home and it will overlook existing houses. Additionally, property values of homes in area will diminish. He requested that Council overturn this decision.

Alfonso Fonseca, Millbrae resident, stated that there are privacy, noise, and drainage concerns. The home is next to the easement and 5 feet of buffer space may not be enough. He was also concerned about drainage from changing the landscape of the property.

Demetre Cordis, Millbrae resident, agrees with the views of the previous speakers. He stated that he had a copy of a July 1991 memo from the Fire Marshall regarding 1304 Murchison, and that the turning radius at the end of the driveway is measured at 20 feet, not at 40 feet which is required. A fire engine would fit down the driveway but not be able to complete the turn at end.

Brent Youngblood, Millbrae resident, expressed his concerns regarding the project at 1304 Murchison Drive. He questioned why the applicant could have access to that road when they were previously advised that the lot was unbuildable due to easements.

Mark Haesleoop, attorney for Ms. Dunn, stated that the project exceeded the floor area ratio and would be completely maxed out. This property does not meet City requirements for the front lot line and to state that any other portion of the lot is the front lot line is not in conformity with the City's Municipal Code. He stated that the Dunn property encroaches onto the easement, and any approval of this project would require the legalization of this encroachment. Lastly, he stated that a lawsuit was filed in court and any action taken tonight may be premature. The Council could uphold the appeal, find that the set back is inappropriate and send it back to the Planning Commission, or wait until the lawsuit is heard by the courts.

End of public comment.

Upon a motion/second by Lee/Papan the public hearing was closed.

Vice Mayor Holober disclosed that she knows the appellants' attorney and that she discussed this issue with the City Attorney. She stated that she has no financial interest in the matter and is not precluded from participating in the issue.

Councilmember Lee disclosed that he was serving on the Planning Commission when this matter was before them. He stated that he has no financial interest in the matter and is not precluded from participating.

Council requested that staff address the following concerns that were raised by the speakers:

- the issue of whether Ms. Dunn would have full access to her driveway during construction;
- the loss of utilities to Ms. Dunn during construction;
- the issue of privacy;
- the issue of traffic;
- the issue of drainage/soil report;
- the issue of adequate water supply;
- fire access;
- was an exception made regarding the lot line;
- where is parking currently occurring;
- what is the number of vehicle trips per day;
- would a portion of the appellants' home be removed;
- has the applicant agreed to all of the conditions listed in the staff report.

Staff responded:

- Ms. Dunn would have full access to her driveway during construction;
- Ms. Dunn would have all utilities during construction;
- the issue of privacy was discussed at length during the Planning Commission meetings;
- no traffic study was done for this project, nor is one required. The issue of traffic was discussed at the Planning Commission meetings;
- a soil report is required prior to the building application. No soil report has been done because no building application has been submitted;
- water will be available and connected if the project is approved;
- a fire hydrant will be installed as part of the project;
- no exception was made regarding the lot line;
- parking is currently happening on the easement;
- the number of vehicle trips per day is ten, and this is average traffic;
- no portion of the appellants' home would be removed;
- the applicant has agreed to all conditions listed in the staff report.

Fred Starkey, architect for the project, stated that care was taken to address the angling of the property and the placement of windows, along with a six foot fence and the placement of trees and bushes. The concern regarding fire access to the property was addressed with installation of a fire hydrant. There was discussion of the property setbacks, and the size of the project is not out of character with other homes in the City.

There was additional discussion of the project and it was noted that the setback is in place so that homes are not built up to the sidewalk. The Planning Commission worked very hard, did their due diligence and gave the neighbors ample opportunity to address their issues. Property owners have a legal right to build on their property.

Council inquired about the pending litigation and what was their timeline to act on this decision.

City Attorney Joan Cassman stated that the project has been approved by the Planning Commission and the Council must act within 45 days from the time the appeal is filed. Failure to act would be approval of the project. The City is not named as a party to the lawsuit, therefore, the Council could make a decision tonight and if the lawsuit deems that the project can not be built then the applicant may need to reconsider.

Upon a motion/second by Lee/Colapietro the Council unanimously denied the appeal at 1304 Murchison Drive and upheld the decision of the Planning Commission.

### **EXISTING BUSINESS**

8. Resolution Recognizing the Participation of the City of Millbrae in the San Mateo County Subregion for the Regional Housing Needs Allocation Process and Acceptance of the Allocation Assigned by the Subregion for the City of Millbrae

Community Development Director Farhad Mortazavi presented the report.

Upon a motion/second by Colapietro/Lee Resolution No 13-02 recognizing the participation of the City of Millbrae in the San Mateo County Subregion for the Regional Housing Needs Allocation process and acceptance of the allocation assigned by the Subregion for the City of Millbrae was unanimously adopted.

### NEW BUSINESS

9. Receive Report and Approve Response to the 2011-2012 San Mateo County Civil Grand Jury Report "Does San Mateo County Need 13 Separate Police Dispatch Centers?"

City Clerk Angela Louis presented the report.

Vice Mayor Holober noted a typo in the third paragraph of the letter.

Upon a motion/second by Lee/Colapietro the Council unanimously approved the response letter with the correction.

10. Approval of Mayor's Letter to BART

Mayor Papan requested that the speakers come forward and address the Council.

#### Begin public comment.

Sean Hebard, Carpenters Local 217, stated that there is a written and signed agreement with Republic Urban Properties and there is no agreement with other developer. He requested that the Council should not rush this decision. He also stated that Local 217 looks forward to working with the City.

Barry Ongerth, Tourism Committee Chair, stated that he was glad that Council would not grant any benefit of TOT or other concessions/benefits on this project. He noted that the San Francisco International Airport and the City of San Francisco would be building a 400 room hotel opening in 2017. To have 600 rooms come on the market at the same time, in an industry that is cyclical may impact the current rooms in the City.

Carter Mau, BART, stated that he was sent by BART General Manager Crunican to clarify 2 points: 1). that the letter is of support only, and 2). the letter, as written, implies that the City will work with BART if a hotel is included; would the City still work with BART if no hotel is part of the project. He went on to state that the BART Board of Directors would be meeting on February 14<sup>th</sup> to discuss the received proposals and that it will be up to the Board to decide the outcome of the project.

#### End of public comment.

Mayor Papan stated that the purpose of the letter is to get a project moving for the City; this has been going on for the past five years. The City is focusing on Economic Development and this project fits into this discussion. The letter is to get our message across to BART; a hotel will fit into the scheme of a mixed-use project in the City.

Council discussed the draft letter and noted the following:

- the letter over emphasizes a hotel element;

- there is no need to copy the Mayor of San Francisco on the letter;
- do not include the attachments as they are confusing.

There was continued Council discussion and Mayor Papan noted that the City needs to move forward with economic development. She noted that the Council had been clear on the point that no Transient Occupancy Tax (TOT) would be granted for the project. Additionally, any project which BART accepts would be treated expeditiously by the City.

Councilmember Gottschalk stated that he supports a hotel in a mixed-use project, if this is the decision of the BART Board. He reminded Council that the PKF study made it clear that a hotel is not feasible unless there is the TOT rebate, and to say that the Council is in favor of a hotel would be pre-approving a concept before the BART Board has made a decision. He stated that the letter could be sent with only the Mayor's signature.

Councilmember Colapietro stated that she would not sign the letter as written and would abstain from voting. She also stated that it should be a decision of the BART Board as to what project is approved.

Vice Mayor Holober stated that the letter could be revised and brought back at the January 29<sup>th</sup> meeting for discussion.

It was the consensus of the Council to bring this item back at the January 29<sup>th</sup> meeting with two letters, one with Mayor's signature and another for the Council to sign.

#### 11. Discussion Regarding the Election of a Secretary/Treasurer to the League of California Cities Peninsula Division

Vice Mayor Holober requested that this item be brought forward; there are two candidates: Councilmember Kirsten Keith, Menlo Park and Mayor Elizabeth Lewis, Atherton.

Mayor Papan, Vice Mayor Holober, and Councilmember Colapietro all agreed that Atherton Mayor Elizabeth Lewis would be the best candidate.

Mayor Papan noted that a majority of the Council approved of the appointment and that she would be attending the meeting and vote accordingly.

### COUNCIL COMMENTS

Mayor Papan:

- Announced the Friends of the Millbrae Dog Park website: [www.millbraedogpark.com](http://www.millbraedogpark.com);
- Announced the January 25<sup>th</sup> Mayor's Civic Coordinating Council meeting;
- Announced the Gun Buy Back event on Saturday, January 26<sup>th</sup>;
- Announced the Dental Ease, Free Dentistry Event on February 2<sup>nd</sup>;
- Attended the Cultural Arts Commission meeting;
- Reminded her Council colleagues that if they are unable to attend a meeting, they should contact the City Manager so that an alternate can be sent;
- Reminded the public to wash their reusable bags periodically for health reasons;
- Announced the Strategic Planning meeting on January 29<sup>th</sup>.

Vice Mayor Holober:

- Attended the League of California Cities Environmental Quality Policy Committee. There will be on-gong discussion this year to make changes to CEQA. Senator Michael Rubio is proposing new legislation. She will give the report to the City Manager to share with the other Councilmembers.

Councilmember Lee:

- Thanked Mayor Papan for expediting the Commission and Committee appointments;
- Announced the Lions Crab Feed on February 2<sup>nd</sup> at St Dunstan’s Hall;
- Attended the study session meeting on the proposed Dog Park;
- Attended the League of California Cities Environmental Quality Policy Committee meeting.

Councilmember Colapietro:

- Announced the Senior Fair on January 26<sup>th</sup>;
- Attended the Pre Hospital JPA meeting;
- Attended the San Mateo County Emergencies Services Council meeting;
- Announced the January 31<sup>st</sup> San Mateo County Healthy Communities Forum in the Community Center.

Councilmember Gottschalk:

- Announced the February 15<sup>th</sup> Rotary Club Chinese New Year Banquet, the February 16<sup>th</sup> Lunar New Year Festival, and the February 24<sup>th</sup> Peninsula Chinese Business Association Banquet.

**ADJOURN CITY COUNCIL**

There being no further business to discuss the City Council adjourned at 10:19 p.m.

BY: \_\_\_\_\_  
City Clerk

APPROVED: \_\_\_\_\_  
Mayor