



**MILLBRAE CITY COUNCIL
MINUTES
November 12, 2013**

CALL TO ORDER MILLBRAE CITY COUNCIL

Mayor Papan called the meeting to order at 7:03 p.m.

ROLL CALL: Mayor Gina Papan, Vice Mayor Wayne J. Lee, Councilmembers Marge Colapietro, Robert G. Gottschalk, and Anne Oliva

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

1. CEREMONIAL/PRESENTATION

- Presentation by Local Business – Millbrae Lock

Vernon Bruce, owner of Millbrae Lock, made a brief presentation regarding his business.

- Presentation by Andy Pitman, Millbrae Community Television General Manager, on the Alliance for Community Media Best Documentary Profile Award to MCTV for “City With a Heart”

Andy Pitman, General Manager, made a brief presentation on their recent award for their documentary “City With a Heart”.

- Presentation by Teresa Lai, Chief Executive Officer, American Chinese International Cultural Exchange Council

Teresa Lai, CEO, made a brief presentation highlighting the recent trip to which was made to China noting the cities visited and presentations by various organizations.

Mayor Papan and Vice Mayor Lee presented a certificate of appreciation to Teresa Lai, Chief Executive Officer, American Chinese International Cultural Exchange Council.

2. AGENDA OVERVIEW/STAFF BRIEFING

- Report of Bills and Claims

City Manager Marcia Raines reviewed the agenda items.

Vice Mayor Lee requested that item 6 be pulled off of the agenda.

3. APPROVAL OF MINUTES

- NONE

4. ORAL REPORT FROM CITY COMMITTEE/COMMISSION CHAIRS

- NONE

PUBLIC COMMUNICATION

Wynn Grcich, Hayward resident, spoke on the detrimental health effects of fluoride in the drinking water.

Paul Harrell, Millbrae business owner, spoke on a recent meeting regarding way-finding signage. He attended the recent Millbrae Business Advisory Committee and noted the disconnect of the MBAC and the signage the meeting. He stated that there needs to be better communication so that all stakeholders are informed.

You You Xue, Millbrae resident, addressed the Council regarding issues at Hemlock Avenue. He noted various issues at Hemlock Avenue between Hillcrest and Hermosa: large trucks parked along this stretch of road that block views for drivers, car vandalism, and kids using bb guns and setting off fireworks. He also noted that the area also has drainage problems.

CONSENT CALENDAR

5. Adoption of Resolution No. 13-49 Appropriating \$30,000 to Purchase Equipment Compatible with the City's Fiber Optic Network

Upon a motion/second by Papan/Lee Consent Calendar item 5 was unanimously adopted.

PUBLIC HEARING

NONE

EXISTING BUSINESS

6. Discussion Regarding the Dissolution of the Millbrae Business Advisory Committee

This item was pulled off of the agenda however; Councilmember Colapietro noted that members of the Millbrae Business Advisory Committee (MBAC) were in attendance. Mayor Papan stated that public comment by the members would go forward.

Begin public comment.

Matt Fitzgibbons, MBAC Vice Chair, addressed the concern that the Millbrae Business Advisory Committee (MBAC) had outlived its purpose. He noted that the guidelines state that committees are advisory. He stated that the Committee no longer receives input from the Council liaison and that this input was a source of information for the Committee. The liaison role is advisory and not executive and he felt that this issue was managed by the liaison. The City needs this committee going forward.

Harry Aubright, MBAC Chair, stated that the MBAC should not be abolished. They are an advisory committee, here to project what they feel is the need in the community and they should be able to work with the consultants that the City has hired regarding Economic Development and signage. The MBAC should look at the business process and enforcement, and open up discussion to the Millbrae community.

Karen Steffey, MBAC Member, believes that the MBAC is important. She noted the following issues in the downtown area which are important and need to be investigated by the City: signage, parking, clean streets, and no retailing on the sidewalk.

Desmond Yuen, MBAC Member, stated that he became a member of the MBAC because he cares about the City. Collectively the group has knowledge about business and downtown Millbrae. The Council should reconsider keeping the MBAC intact.

Vernon Bruce, MBAC Member, stated that in the past the Council liaisons have provided information to the Committee and the Committee would communicate to the Council via the liaison. The MBAC has studied various proposals in the past such as a parking structure and a downtown arch and there had been funding for projects through the Redevelopment Agency. However, Council never knew that the Committee was spending time on these projects because they never came before the Council. This past year the Committee has spent time looking into changing its mission statement due to Council request. He stated that if it were up to him he would vote to not disband the Committee.

Dan Rogers, MBAC Member, stated that he was proud to serve on a Committee comprised of downtown merchants and residents. The members are volunteers who spend an enormous amount of time on the Committee and they truly care about the City. He was upset by the comments made by Vice Mayor Lee regarding the enormous amount of staff time taken to facilitate the Committee. How can the amount of staff time and volunteer time be quantified? He stated that the MBAC is owed an apology.

End public comment.

Mayor Papan stated that this item will be addressed in the near future.

7. Adoption of a Resolution to Create a Policy and Establish Procedures for the Acceptance and Placement of Public Art within the City of Millbrae

Council had the following requests regarding the policy and resolution:

- on page 3, paragraph 2.9 Plaque - consider adding the following language “A plaque may also be used to memorialize or commemorate a person, place, or significant event”;
- on page 3, paragraph 3.1.1 is overly broad. Consider changing it to read as follows “To advise the City Council, and to advise and assist other City Boards and Commission, in the field of the fine arts, and to cooperate and work with the appropriate City representatives and other stakeholders”;
- the resolution should include language that clearly states that the Council will make the final decision regarding the acceptance and placement of public art.

No public comment for this item.

Upon a motion/second by Colapietro/Lee Resolution No. 13-50 Creating a Policy and establishing procedures for the acceptance and placement of public art within the City of Millbrae was unanimously adopted with the above noted changes.

NEW BUSINESS

8. Revocation of an Approved Conditional Use Permit for an Airport Parking/Car Rental Business, FlightCar

City Attorney Joan Cassman stated that the City Attorney’s Office will be presenting this item to the City Council, supporting the Planning Commission’s recommendation to revoke the Conditional Use Permit. Mr. Tim Fox, County Counsel’s Office, will be advising the Council on this matter.

Emily Charley, City Attorney's Office, presented the report and stated that the Planning Commission recommends that the City Council accept its report of findings from the public hearing on November 4th and recommend that the Council revoke the Conditional Use Permit for FlightCar.

FlightCar was non-compliant on the following conditions:

- landscaped areas not being maintained;
- use of generators as temporary power sources being operated 24 hours;
- no ADA access, no smoke detector, non-weather-rated transformer, no building permits obtained for any on site improvements;
- site improvements were initiated prior to obtaining a building permit;
- more than 2 FlightCar employees on site, business operating 24 hours a day as opposed to 5:00 a.m. to midnight as originally proposed;
- FlightCar employees parking vehicles off site on El Camino Real;
- FlightCar, after operating for a number of weeks, attempted to comply with the red curb painting;
- no business license.

Tim Fox, County Counsel, stated that there is no legal requirement regarding this evening's process.

Council inquired:

- was FlightCar provided with information in writing regarding the permit process;
- what taxes have been paid to date;
- did the applicant receive notice regarding the general requirements and special conditions of the Conditional Use Permit;
- when did staff approach FlightCar about the violations/non-compliance.

Staff responded:

- FlightCar was provided with information regarding the permit process. After any final action taken by the Planning Commission, an action letter is sent out to the applicant which spells out all of the general requirements and special conditions;
- to date no taxes have been paid;
- FlightCar received a letter regarding the general requirements and special conditions. FlightCar must sign the letter stating that they agree to the conditions placed on the approval;
- regarding the issue of non-compliance, numerous staff was involved. In order for FlightCar to obtain a business license, they needed to be in compliance with the general requirements. However since they were not in compliance, the Planning Department could not sign off for them to obtain their business license.

Staff also noted that the business license is to operate the business and special conditions are for the building/improvement of the facility. A business can not begin operation until a business license is issued.

David Hyams, FlightCar, stated that he had been retained by FlightCar to help them navigate this process; that this is a company finding its way, and the principals are young entrepreneurs. He stated that six issues have been corrected and that the key issues are the building permit and the number of employees. FlightCar was unable to obtain a building permit due to conflicting requirements of temporary vs. permanent building, and thus they were unable to obtain a business license. Regarding

the number of employees, currently there are only two employees as originally presented and they would like to expand to four.

Mr. Hyams stated that parking tax is not being collected as FlightCar does not provide parking services. His clients are willing to sit down and discuss a revenue stream with the City; they want to work with the City and grow and provide a revenue stream. He asked the Council to delay action tonight so that all concerned can sit down and work this out.

Council stated that they want new businesses in the City, however the process of complying with City processes and requirements can not be disregarded, and that they do not want to set a precedent.

Begin public comment.

Joe Galligan, accountant for Skypark, stated that airport parking is a 24/7 365 day business. He commented on the business model of renting your car when you are out of town and there is a business of this nature operating in Burlingame as well. He stated that this business is using a lot that they are not supposed to as all other airport parking is in commercial areas and not in residential areas.

Robert Mota, Millbrae resident, stated that when Nissan occupied the site, there was no access to Hermosa. FlightCar is operating on a residential street and not on El Camino Real. There is increased crime, double parking and speeding cars in the residential area due to this business.

End of public comment.

Upon a motion/second by Colapietro/Lee the Council unanimously approved the Revocation of an Approved Conditional Use Permit for an Airport Parking/Car Rental Business, FlightCar.

Mayor Papan announced that the Council would take a short recess at 9:37 p.m.

Council reconvened at 9:43 p.m.

9. Adoption of the Standard Building Regulations Ordinance Including (a) the 2013 California Model Codes, as the 2013 California Fire Code as Amended; and (b) Adoption of the California Green Building Code and (c) Adoption of the 2012 International Property Maintenance Code
 - Waive 1st Reading
 - Introduce Ordinance

Building Official Doug Rider and Fire Marshal Jim Allan presented the report. The Building Codes are being adopted “as is” from the State with the addition of appendices and the amendments to the current Code are in the Fire Code. Once the ordinance is adopted it will become effective on January 1, 2014. When property improvement is done, the date the home was built will trigger replacement of non-compliant fixtures to energy efficient ones. These changes will be incorporated into a chart for the public as this will affect both residences and businesses.

No public comment for this item.

Upon a motion/second by Lee/Colapietro Council waived the first reading and introduced an ordinance to adopt the Standard Building Regulations Ordinance Including (a) the 2013 California Model Codes, as the 2013 California Fire Code as Amended; and (b) Adopt the California Green Building Code and (c) Adopt the 2012 International Property Maintenance Code.

COUNCIL COMMENTS

Mayor Papan:

- Congratulated the newly elected Councilmembers;
- Announced that the Fire Assessment provides approximately 22% of Fire Department budget;
- Thanked the Stanford Flu Crew at the Millbrae Library for giving out free flu shots;
- Announced that the Leos Club Appreciation Dinner was held this past weekend and noted that there are many dedicated youth in the group;
- Stated that our thoughts and prayers go out to everyone affected by Typhoon Haiyan.

Vice Mayor Lee:

- Announced the League of California Cities New Mayor and Councilmember Academy is in January and he encouraged all Councilmembers to attend;
- He thanked Councilmember Gottschalk and City Manager Raines for accompanying him on the trade mission in China.

Councilmember Colapietro:

- Attended the recent C/CAG BPAC meeting and Millbrae was awarded \$62,500 out of a \$100,000 grant application for updates to our bicycle and pedestrian access. Millbrae came in third for point scores;
- Congratulated the Friends of the Millbrae Library, the Lions Club and the Rotary Club , for a fun Halloween weekend and a great turnout;
- Announced that the Youth Advisory Committee held a productive meeting last week;
- Announced that the Millbrae Historical Society is having their last Friday night classic movie at the Millbrae Museum;
- Congratulated City Manager Marcia Raines on her recent appointment as Vice President of the City Managers' Department Executive Committee of the League of California Cities.

Councilmember Gottschalk:

- Congratulated Anne Oliva and Reuben Holoher on the election and congratulated all candidates on their rigorous campaigns;
- Announced the Mills Capuchino High School Football lunch on November 13th.

Councilmember Oliva:

- Thanked the voters who elected her and announced that 25% of registered voters voted in the election.

ADJOURN CITY COUNCIL

There being no further business to discuss the City Council adjourned at 10:25 p.m. in memory of Lela Mae Duncheon, mother-in-law of City Attorney Joan Cassman, and Millbrae resident Carolyn M. Browne. Our thoughts and prayers to those affected by Typhoon Haiyan.

Angela Louis
/s/ City Clerk

Gina Papan
/s/ Mayor