



**MILLBRAE CITY COUNCIL
MINUTES
April 24, 2012**

CALL TO ORDER MILLBRAE CITY COUNCIL

Mayor Colapietro called the meeting to order at 7:04 p.m.

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

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

1. CEREMONIAL/PRESENTATION

- Introduction of Youth in Government Participants

The Mayor, Councilmembers, and staff introduced the 2012 Youth in Government participants.

- Proclamation Proclaiming the Week of April 22-28, 2012 as West Nile Virus and Mosquito and Vector Control Awareness Week

Mayor Colapietro announced that Trustee Nicholas was not able to attend tonight's meeting; the Proclamation would be picked up during the week.

2. AGENDA OVERVIEW/STAFF BRIEFING

- Informational Report Regarding Bills, Claims, and Payroll
- Report out from Closed Session - NONE

City Manager Marcia Raines reviewed the agenda items.

- Update on Caltrans Construction at El Camino Real and Millbrae Avenue

Public Works Director Ron Popp presented an update on the construction at this site. The Caltrans contractor will be back on site to finish the project and they still estimate that the work will be completed at the end of April. Staff will continue to put pressure on Caltrans to finish the job.

3. APPROVAL OF MINUTES

- Regular Meeting April 10, 2012

Councilmember Holober requested a correction to the minutes regarding her comment on item 5, and will provide the City Clerk with the correction.

Upon a motion/second by Lee/Holober, the minutes were approved with corrections.

4. ORAL REPORT FROM CITY COMMITTEE/COMMISSION CHAIRS

- NONE

CITIZEN COMMUNICATION

NONE

CONSENT CALENDAR

NONE

PUBLIC HEARING

NONE

OLD BUSINESS

5. Motion to Participate in Second Phase of Belamor's Proposed Homebuyer Incentive Program

Assistant City Attorney Michael Conneran presented the report. Staff is seeking direction from the City Council to participate in phase two of Belamor's proposed homebuyer incentive program. This program would be similar to the one Council approved back in August of 2011 in that the City is being asked to participate in a mechanism that would provide a cash rebate to all buyers of Belamor units within a six month period. The City would receive \$10,000 for each unit that participated in the program.

Mr. Corey, attorney for the developer, provided Council with copies of the promotional brochure.

Mayor Colapietro had the following questions for Mr. Corey:

- Regarding the letter sent to Council last month, what is meant by "public notice";
- Is there anything illegal about this program;
- Is it the developer's intent to avoid any paperwork with the Department of Real Estate;
- When will the promotional material be provided for review if the program will begin on May 1st; the timeframe is short?

Mr. Corey responded:

- There is no requirement for an official public notice for this program, and anything sent out to the public would first be approved by the City. The information and material provided would be the same as before with the exception that the payments and dates are different;
- There is nothing illegal about doing this type of incentive program as long as the rebate is disclosed, which it will be;
- There is more paperwork to provide to the Department of Real Estate and the escrow will provide all of the disclosures;
- It was anticipated that this would have come before the Council sooner. However, the information being used is the same as before and the review of the material may be cursory. Fees have been posted so as to cover the City's costs for the review.

Councilmember Gottschalk stated that he supports and approves this program. It will benefit the City by increasing property taxes and the new residents will generate new sales tax in the downtown area.

Councilmember Holoher inquired about the rebate for the three-bedroom unit, as it was not listed in the brochure. Mr. Lam, developer, stated that the rebate for a three-bedroom unit was \$60,000. The City would receive \$10,000 each for any size unit sold.

Councilmember Holober requested that a one page certificate be created to explain the program, and requested that the current motion be amended to reflect this.

Begin public comment.

Daniel F. Quigg, Millbrae resident, questioned why the City would participate in a second cash rebate program for this project. The previous program was approved by Council on a 4 to 1 vote and as Mayor at that time, he voted against the program. Additionally, no units sold during that program. Why is it necessary for the City to participate in a cash incentive program when the cash is not funded by the City? The program is a developer funded rebate and should be disclosed as such, as it is important that the City be transparent in their transactions. The City did not support other developer projects: Braddock and Logan, Silverstone, and 88 South Broadway. Did these other developers prepare their paperwork for the Department of Real Estate? Is the incentive program necessary; the developer can lower the price of the units? Selling the units at the higher rate with the incentive will cause the purchaser to pay higher property taxes and this should be disclosed to the buyer. The City should not be participating in this type of program as it appears that the developer is using the City to avoid compliance with the Department of Real Estate. With the City retaining \$10,000 for each unit sold, the City will be open to future liability, and a disclosure on the brochure is not a deterrence. The incentive program also puts the owners who are trying to sell their units in a disadvantage and discriminates against them. Additionally, City records indicate that Councilmembers have received campaign donations from this developer.

End of public comment.

Assistant City Attorney Michael Conneran addressed the following issues that were raised:

- Potential liability;
- Campaign contributions;
- Transparency;
- Programs with other developers;
- Discrimination.

Mr. Conneran stated that the City, by virtue of participating in the project, does not imply liability for future issues, and the developer has provided the City with an indemnity.

Receiving a campaign contribution alone does not preclude Councilmembers from voting on an item. There is no hint of a “quid pro quo” arrangement in which a Councilmember would vote a certain way, and Council already knows that this is prohibited.

All meetings regarding this project were conducted openly and documents were available to the public for review.

The City did not assist other developers, and phase one in August was the first time such a program was implemented in the City. No other developer approached the City to participate in such a program.

Regarding the issue of discrimination against those who are selling units in the development and do not have the opportunity of this program, is not discriminatory in the legal sense. What it will do is to make a distinction between those who purchased units earlier and those who waited to purchase during the incentive program.

Councilmember Lee noted that there is a need for affordable housing in the Bay Area.

Upon a motion/second by Gottschalk/Papan Council unanimously moved to participate in the Second Phase of the Belamor Homebuyer Incentive Program, with the addition that a one page certificate be created to describe the program.

Council took a 5 minute break to dismiss the Youth in Government Participants.

NEW BUSINESS

6. Receive Report and Approve Response to 2011-2012 San Mateo County Civil Grand Jury Report, "The County, San Carlos and Cal Fire, A Missed Opportunity?"

City Clerk Angela Louis presented the report recommending that the Council review and approve the response to the 2011-2012 San Mateo County Civil Grand Jury Report. On February 15, 2012 the City received a letter from the Grand Jury requesting a formal response to their report entitled "The County, San Carlos and Cal Fire, A Missed Opportunity?" The report outlines a series of findings and recommendations to all local cities, fire districts, and the County of San Mateo concerning Cal Fire and its contract relationship with the County along with the City of San Carlos' desire to potentially contract through the County for services.

Council inquired as to why most responses were noted as "this cannot be confirmed by the City of Millbrae".

City Manager Marcia Raines stated that this is a standard response when the questions do not specifically apply to the City.

Council discussion focused on the response and requested that a simple letter be sent to the Grand Jury acknowledging the report and to only comment on the recommendations made.

Councilmember Holober requested that in the future the Grand Jury reports should come to Council first for direction on how to proceed.

No public comment for this item.

Upon a motion/second by Gottschalk/Lee Council unanimously received the report and requested staff to prepare an abbreviated response focusing on recommendations to cities and special fire districts in San Mateo County and also requested that future Grand Jury Reports come first before the Council so as to provide direction to staff on the response.

7. First Budget Study Session Fiscal Year 2012-2013 Proposed Budget

Finance Director LaRae Brown presented the informational report for the first budget study session for Fiscal Year 2012-2013. The proposed budget was developed using information received from Federal, State, and County entities as of April 16, 2012. Every department completed a review of their projected Revenues and Expenditures for FY 2012-2013 and each department was required to reduce their departmental budgets by an additional 5%. The proposed budget reflects the following changes and assumptions:

- Increase in Public Employee Retirement System Rate (PERS);

- Increase in the employer paid retiree medical insurance maximum yearly contribution rate;
- The elimination of the State Vehicle License Fee revenue - \$86,169;
- Revenue loss due to anticipated construction projects and business closures: \$238,850;
- The elimination of the Redevelopment Agency (RDA);
- The Redevelopment Successor Agency and Oversight Board approval of \$250,000 for administration costs;
- The Redevelopment Successor Agency and Oversight Board approval of \$180,000 for the Field License Agreement;
- The employee 5% concessions will continue, although the Memorandum of Understanding (MOU's) for all represented employee groups expires on June 30, 2012.

Ms. Brown reviewed each of the attachments.

Council had the following comments and requested that staff return at the next meeting with a detailed explanation of costs and more realistic estimates as those provided appeared to be too high:

- cost of \$45,000 to paint exterior of two buildings appears high;
- HVAC system in the Council Chamber; first time this has been an issue;
- cost of \$400,000 to repave and relight parking lots;
- is there a timeline on compliance for the new playground equipment;
- cost of \$45,000 to replace the Senior Wing doors; is there a less expensive alternative;
- cost of \$100,000 for the Community Center kitchen remodel;
- floor replacement in Chetcuti Room and Police Station;
- no figure provided for Economic Development;
- provide a more realistic figure for legal services;
- spell out all shared services: Code Enforcement and Fire Training Chief;
- explanation of salary overtime;
- list other liabilities not listed on the debt schedule;
- position allocation, indicate percentage of time for each position and better define each position;
- restructure our obligations with regard to pension and medical.

Staff received Council's comments and noted the following on some of the items that could be addressed:

- all figures provided were estimates and staff could look into items in depth if Council so directs;
- the Senior Wing doors are the accordion doors that go along the length of the building. Staff can look into a less expensive alternative if Council provides direction;
- the floor replacement is for changing the floor covering;
- there is no figure for Economic Development, there is a need to do this but this has not been identified by Council;
- the figure for legal services is only the General Fund allocation. Staff can provide a figure for all City Attorney expenses;
- the overtime figure is from all departments, with a majority from the Fire Department.

Council inquired if there was enough time to review and adopt the budget by May 22nd and asked when the budget needed to be adopted.

Staff stated that the budget must be approved prior to July 1st, and Council had already approved the budget calendar at a previous meeting.

It was noted that the decision to amend the budget calendar could be done as budget discussions progressed.

No public comment for this item.

Council received the report.

COUNCIL COMMENTS

Mayor Colapietro:

- Announced that the Oversight Committee has had three meetings and the ROPS for the period of January 2012 – June 2012 was submitted to the State for review. The next meeting is scheduled for April 27th;
- Attended the C/CAG Board of Directors Retreat last week;
- Participated in the Press Conference and Kick Off Event for Hepatitis B awareness;
- Attended the Respect 24/7 Anti-Bulling Event;
- Attended the San Mateo County Office of Emergency Services meeting;
- Encouraged all high school students to visit the San Mateo Credit Union website where they can apply for \$1,000 scholarships.

Vice Mayor Papan:

- Attended the HIP Housing Graduation;
- Attended the Bark for Life Event with Councilmember Lee. Money was raised for a Millbrae Dog Park;
- Attended the ABAG Spring General Assembly with Councilmember Lee;
 - ✓ One Bay Area has grants available for housing plans and hopes the City will take advantage of this.
- Attended the Progress Seminar;
 - ✓ Attended the Growing Stronger in San Mateo County program. Millbrae was mentioned in the keynote speech as part of the shared services with the recent switch to the Sheriff's Office.
 - ✓ There were some great ideas on improving our downtown, and requested that staff contact Comcast regarding providing Wi-Fi to the downtown area. The City of San Mateo is already doing this.
 - ✓ Announced that San Francisco International Airport will soon be breaking ground on a new air traffic control tower.
 - ✓ Announced that the City of Redwood City calls all stakeholders in before streets are dug up for construction work and any cable, phone, etc. work can be done at once rather than at different times. She requested that staff follow this model.

Councilmember Holober:

- Announced support of Wi-Fi in the downtown area and stated that the Technology Sub-Committee has also discussed this;
- Commented that the County is being threatened by the Asian Tiger mosquito and hopefully the Mosquito and Vector Control District is on top of this emerging problem;
- Requested that a letter be sent to Trustee Betsey Schneider, of the Mosquito and Vector Control District, commending her on the discovery of the alleged embezzlement in the District;
- Requested an update on the expenses associated with the San Bruno fire and if the City had been reimbursed.

Councilmember Lee:

- Stated that hepatitis B press event was to announce a grant awarded by Gilead to research this disease. A fundraiser will be held on Thursday April 26th at the South San Francisco Conference Center;
- Announced that Meadows School is having a fundraiser auction this weekend;
- Announced the May 19th Spring Valley Carnival;
- Announced Dine Out events support all local schools.

Councilmember Gottschalk:

- Announced that the Peninsula Chinese Business Association is having a dinner on April 27th in the Chetcuti Room and they will present over \$10,000 to schools and other entities in the community from money that they have raised.

RECESS CITY COUNCIL

There being no further regular business to discuss the City Council recessed at 9:55 p.m.

RECONVENE CITY COUNCIL

8. CLOSED SESSION

Conference with Legal Counsel – Labor Negotiations
 Closed Session held pursuant to Government Code §54957.6
 Agency Negotiator: Marcia Raines
 Employee Organizations: Firefighters Local 2400
 Sanitation Workers Association
 Teamsters Local 856
 Employee Group: Unrepresented Management

ADJOURN CITY COUNCIL

There being no further business to discuss, the City Council adjourned at 10:45 p.m. in memory of Millbrae residents Ruth Edwards Bennison and Doris Dunne.

/s/ Angela Louis
City Clerk

/s/ Marge Colapietro
Mayor