



**MILLBRAE CITY COUNCIL
MILLBRAE REDEVELOPMENT AGENCY
MINUTES
January 10, 2012**

CALL TO ORDER MILLBRAE CITY COUNCIL AND REDEVELOPMENT AGENCY

Mayor Colapietro called the meeting to order at 7:00 p.m.

ROLL CALL: Mayor/Agency Chair Marge Colapietro, Vice Mayor/Agency Vice Chair Gina Papan, Council/Agency Members Nadia V. Holoher, Wayne J. Lee, and Robert G. Gottschalk.

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

1. **CEREMONIAL/PRESENTATION**

- NONE

2. **AGENDA OVERVIEW/STAFF BRIEFING**

- Informational Report Regarding Bills, Claims, and Payroll

City Manager Marcia Raines reviewed the agenda items.

- Report out from Closed Session of December 5, 2011

City Attorney Joan Cassman stated that two matters were discussed. No action was taken on the matter of potential litigation and on the matter of labor negotiations; action was taken by the Council at the December 13, 2011 meeting.

3. **APPROVAL OF MINUTES**

- Regular Meeting of December 13, 2011

Councilmember Holoher noted that former Mayor Denis Richardson's name was misspelled.

Upon a motion/second by Holoher/Papan the minutes of the December 13, 2011 meeting were approved with the above noted correction. Councilmember Gottschalk abstained.

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

- Update Report from the Planning Commission

Planning Commission Chair Lorrie Kalos-Gunn reported on the activities of the Planning Commission:

- in FY 2010 -2011 the Planning Commission acted on 32 development applications;
- approval of the Safeway;
- approval of a new restaurant at 300 El Camino Real;
- development of Site 2 area for 54 residential units with one or two commercial sites;
- two new members on the Planning Commission, Denis Fama and Andrew Bakesheefee;
- the Commission will review its bylaws in the coming year;
- invited the Council to hold a joint meeting.

CITIZEN COMMUNICATION

Wynn Grich, Hayward resident, spoke on the detrimental health effects of chloramines in the drinking water.

Mike Francoise, East Palo Alto resident, spoke on the hazards of fluoride in the drinking water and the detrimental effects of recycled water.

Patricia Welch and Adolfo DeCarlo, Millbrae residents, spoke about the parking situation on Lewis near Millbrae Avenue. They requested that the 2 hour parking restrictions in other parts of the City be enforced in this area. They noted that since the opening of the BART station, there has been an influx of cars parking in residential areas.

Jennifer Piefer, Millbrae resident, requested that the City Council, at their next meeting, discuss the renaming of Bayfront Park to Dylan Piefer Playground. She stated that she had a petition with over 1,000 signatures and that the family would bear the cost of new signage for the park.

Elizabeth Barrios, Millbrae resident, stated that Bayfront Park was important to the youth in that area, and that renaming the park would help to erase the pain of this tragic accident.

CONSENT CALENDAR

Councilmember Papan requested that both items be pulled for discussion.

5. Resolution No 12-01 Accepting as Complete the City Hall Roofing Project and Filing Notice of Completion

Councilmember Papan inquired about the cost override of the roofing project and wondered if the bid was too low.

Public Works Director Ron Popp stated that the condition of the roof substructure was unknown prior to the repair. Once the project began the following issues had to be addressed:

- dry rot;
- the current number of drains was insufficient, and new drainage needed to be added;
- additional support to the MCTV antennae;
- installation of insulation.

Councilmember Gottschalk noted that the figures on the resolution and the report do not match and needed to be clarified and corrected. Staff noted that the correct figure was \$72,152.

Upon a motion/second by Holober/Lee, Resolution No. 12-01 accepting as complete the City Hall Roofing Project and filing notice of completion was adopted. Councilmember Papan dissented.

6. Resolution No. 12-02 Accepting as Complete the 2011 Drainage Project and Filing Notice of Completion

Public Works Director Ron Popp stated that one of the change orders was due to an unidentified water main which was not visible until the street was opened up. That water main was no longer in use and has been recorded. The other change orders dealt with sloping issues.

Upon a motion/second by Lee/Holober, Resolution No. 12-02 accepting as complete the 2011 Drainage Project and filing notice of completion was unanimously adopted.

PUBLIC HEARING

7. Appeal of a Planning Commission Denial of a Modification to an approved Conditional Use Permit for a New Restaurant, of Approximately 2,230 Square Feet Within an Existing 4,350 Square Foot Building in the Downtown on Property Zoned Downtown Improvement Area – 425 Broadway

Councilmember Gottschalk stated that he had advocated on behalf of many residents in this area on this issue and he recused himself from this matter.

Councilmember Lee stated that he had served on the Planning Commission when this item was discussed, and he was willing to listen to new evidence on this matter and did not recuse himself.

Councilmember Holober stated that she had spoken to staff and the property owner on this issue.

Mayor Colapietro stated that she was present at the November 7th meeting and heard general information on the project; however, she did not make any public statements on this matter.

City Attorney Joan Cassman stated that regarding Councilmember Lee, it is a matter of due process and not bias. This matter is coming before the Council and as such he has a duty and obligation to look at matters before the Council. She also noted that Councilmember Lee had already stated that he could review the item without bias and as such there is no reason why he should not remove himself.

Community Development Director Farhad Mortazavi presented the report. The proposal is for a Japanese style restaurant at 435 Broadway. The issue at hand is that of trash removal which would have to be in front of the restaurant on Broadway. Staff recommends that the Council uphold the appeal by overturning the Planning Commission's denial and approve the requested modification to an approved conditional use permit for a new restaurant.

Council inquired about:

- construction hours;
- parking for construction workers;
- blocking of the sidewalk during construction;
- the seating capacity of proposed restaurant;
- daily trash pick up and disposal;
- type of restaurant.

Staff responded:

- construction hours are:
 - Monday - Friday; 7:30 a.m. to 7:00 p.m.
 - Saturday; 8:00 a.m. to 6:00 p.m.
 - Sunday and Holidays; 9:00 a.m. to 6:00 p.m.
- Exceptions to these hours must be approved by the Building Official;
- construction workers would park in areas that were not in the immediate area so as to not take parking from downtown customers, and that the City Inspector would monitor this;

- the City Inspector would monitor the issue of the sidewalk being blocked due to construction and removal of debris;
- the proposed restaurant has a seating capacity of 52;
- trash pick up would be negotiated with the garbage company. Trash would be stored inside, in the rear of the restaurant, prior to being put out for pick up;
- the property owner had tried to bring in other restaurants/businesses but these efforts did not come to fruition.

John D. Nelson, attorney for the property owner, stated that the owner had tried in good faith to rent out the space and is now resorting to opening a restaurant to generate the funds to pay for it. Regarding the subject of the easement, Resolution item D, should be changed to reflect that the property owner upkeep her portion of the easement and not the entire easement. The trash issue has been going on since 2008. Having a Shabu Shabu type of restaurant will generate less waste than traditional restaurants and will add to the restaurants already in the downtown area. Regarding the issue of the construction debris, both sides of building are vacant and one side of building can be used to temporarily store debris. He went on to state that the conditions set forth are acceptable to the owner and requested that she be treated the same as other property owners in the downtown area.

Begin public comment.

Joan Burns, Millbrae resident, asked the Council the following questions: what are their goals for the future of the downtown area and is there a moratorium on the same types of businesses in the downtown area. She noted that the City has many of the same types of businesses/restaurants and that the downtown is becoming stale.

Belle Tao, property owner, stated that when she originally submitted plans in 2008, Shabu Shabu was the only restaurant of its kind in Millbrae. She tried to bring in other types of restaurants/businesses, but the process took a long time and the economic downturn that happened back in 2008 did not help the situation. Regarding the garbage pick up for the proposed restaurant, she stated that it would not be everyday. Some restaurants in the area have pick up once a week and others three days a week; only Deans Market has pick up everyday.

End of public comment.

Additional Council discussion resulted in the following corrections and additions to the resolution:

- page 8 of Resolution, make correction to staff report dates and Planning Commission vote;
- page 11 of Resolution item D change to read as “The property owner is responsible for maintaining the unfenced portion of the easement behind her property...”;
- add the following conditions:
 - ✓ to the extent possible construction debris to be stored at 439 Broadway with the windows covered, in an appropriate manner and not with newspaper. This would be temporary.
 - ✓ separation of liquid waste and solid waste with liquid waste disposed down the drain and solid waste disposed in the trash. Any restaurant grease would be disposed of according to the law and not down the drain;
 - ✓ pressure washing the sidewalk once a year in the spring with additional washings as needed.

Upon a motion/second by Holober/Lee, the above listed corrections and additions to the Resolution were approved by a vote of 4:0.

Upon a motion/second by Holober/Lee, Resolution No. 12-03 upholding the appeal of a Planning Commission denial of a modification to an approved conditional use permit for a 2.2300 square foot restaurant with a 4,350 square foot commercial building in the downtown at 435 Broadway was adopted by a vote of 4:0.

8. Resolution 12-04 Adding Solar Photovoltaic Improvement to the Clean Energy Project with Siemens and to Approve of Project Designs

Public Works Director Ron Popp presented the report. Staff recommends that the Council approve a resolution to:

- Add installation of a solar photovoltaic facilities improvement measure to the Clean Energy Project;
- Authorize amending the Services Agreement with Siemens to include the solar improvement;
- Authorize amending the project budget to include the possible removal and disposal of asbestos;
- Authorize the City Manager to file a Notice of Exemption pursuant to the California Environmental Quality Act for the solar;
- Approve the design for the interior and exterior lighting, smart irrigation controllers, solar photovoltaic, and HVAC system facilities improvement measure.

Mayor Colapietro opened the public hearing.

No public comment for this item.

Jessie Thompson, Siemens Industry, Building Technologies, commended the Council on the thoroughness of their work and stated that Siemens was excited to be partnering with the City on this project.

Mayor Colapietro closed the public hearing.

Council discussed the project and:

- approved adding the installation of a solar facilities improvement measure (FIM) to the project;
- authorized amending the service agreement to include the solar (FIM);
- authorized the City Manager to file a Notice of Completion;
- requested that items 2 and 3 from page 2 of the Resolution be removed as staff would need to come back and discuss:
 - ✓ amending of the budget to include possible asbestos removal from the heating, air conditioning and ventilation (HVAC) unit;
 - ✓ approving the designs for the lighting, irrigation controllers, HVAC unit, and solar photovoltaic FIM.

Upon a motion/second by Holober/Lee Resolution 12-04 adding solar photovoltaic improvement to the FY 2011-2012 Clean Energy Project with Siemens Industry, Building Technologies Division and Clean Energy Project designs was unanimously adopted.

Council recessed at 9:50 p.m. for a short break and reconvened at 10:00 p.m.

OLD BUSINESS

9. City Council to Serve as the Successor Entity to the Redevelopment Agency

Project Manager Leslie Parks presented the staff report. Staff recommends that the Council agree to serve as the Successor Entity to the Redevelopment Agency as allowed by AB x1 26 and wind up the affairs of the dissolved agency subject to review by an oversight board composed of representatives appointed by the city, the county, the local school district, the local community college district and the largest local special district. Staff will come back Council at the January 24th meeting with other recommendations that will require Council approval.

Council inquired:

- what happens if the City is not the Successor Agency;
- what happens to property owned by the Redevelopment Agency;
- how will the tax increment funds be disbursed and for how long.

Staff responded:

- if the City is not the Successor Agency, this role would be fulfilled by the County;
- the properties at 100 El Camino Real (Boiling Bay Restaurant) and 1761 El Camino Real (parking lot) would have to be sold by the Agency, possibly through some type of bid process. The monies from the sale would go to the County Tax Assessor for disbursement. If parking lot was purchased with housing funds, it could be kept;
- the tax increment funds would be disbursed for 10 years and there should be enough tax increment coming in to cover these obligations. Tax increments will still be coming in but will go to the County and the County will disburse the funds to pay these obligations.

No public comment for this item.

Upon a motion/second by Papan/Holober the City Council unanimously moved to serve as the Successor Entity to the Redevelopment Agency as allowed by AB x1 26.

NEW BUSINESS

10. Council Discussion on Appointments

Mayor Marge Colapietro stated that she would review each subcommittee separately, and noted that serious thought was put into each recommendation.

Police Shared Services Subcommittee – there would be no appointments to make as work has already been done on this issue.

Councilmember Holober noted that it would be helpful to have the subcommittee help to close up any loose ends now that agreement had been signed by City Manager.

Mayor Colapietro noted that the bulk of work had already been done and that the Council could come back and discuss this at a future meeting.

Councilmember Gottschalk noted that in the interest of time the Mayor should state her recommendations for each subcommittee and Council could then give their input before approving the appointments.

Mayor Colapietro made the following recommendations:

- Fire Shared Services Subcommittee – Mayor Colapietro and Vice Mayor Papan;
- Budget Subcommittee – Mayor Colapietro and Vice Mayor Papan;
- Field Agreement Subcommittee – Vice Mayor Papan and Councilmember Holober;
- Millbrae Community Youth Center Subcommittee – Councilmember Lee and Councilmember Gottschalk.

Councilmember Holober suggested that a new Technology Subcommittee be formed and suggested that Vice Mayor Papan and Councilmember Lee serve on the subcommittee.

Vice Mayor Papan thanked Councilmember Holober for the opportunity of serving on the Technology Subcommittee but passed on the opportunity. Councilmember Gottschalk supported the idea of this new subcommittee.

Councilmember Holober and Councilmember Lee were appointed to the Technology Subcommittee.

Council concurred on the other subcommittee appointments.

COUNCIL COMMENTS

It was the consensus of Council to forgo their comments due to time constraints.

There being no further regular business to discuss the City Council recessed and the Redevelopment Agency adjourned at 10:45 p.m.

RECESS CITY COUNCIL AND ADJOURN REDEVELOPMENT AGENCY

RECONVENE CITY COUNCIL

11. CLOSED SESSION

Conference with Legal Counsel – Labor Negotiations
 Closed Session held pursuant to Government Code §54957.6
 Agency Negotiator: Marcia Raines
 Employee Organization: Millbrae Police Officers Association

ADJOURN CITY COUNCIL

There being no further business to discuss the City Council adjourned at 11:30 p.m. in memory of Glenn Forcum, husband of Ernestine Forcum, father of the Honorable Mark Forcum and Juliann Forcum.

/s/ Angela Louis
City Clerk

/s/ Marge Colapietro
Mayor