



**MILLBRAE CITY COUNCIL
MILLBRAE REDEVELOPMENT AGENCY
MINUTES
March 22, 2011**

CALL TO ORDER MILLBRAE CITY COUNCIL AND REDEVELOPMENT AGENCY

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

ROLL CALL: Mayor/Agency Chair Daniel F. Quigg, Vice Mayor/Agency Vice Chair Marge Colapietro, Council/Agency Members Gina Papan, Nadia V. Holober, and Paul Seto.

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

1. **CEREMONIAL/PRESENTATION**

- Presentation of a New Photo of the Rotunda of Malta to the Council by the Honorable Louis J. Vella Honorary Consul General of Malta

The Honorable Louis J. Vella presented Mayor Quigg and the Council with a new photo of the Rotunda of Malta.

- Presentation of Commendation to the Honorable Louis J. Vella on His Appointment as the Honorary Consul General of Malta

Mayor Quigg presented the Honorable Louis J. Vella with a commendation on his recent appointment as the Honorary Consul General of Malta in San Francisco.

- Proclamation Proclaiming Saturday, March 26, 2011 from 8:30 p.m. to 9:30 p.m. as Earth Hour

Mayor Quigg presented Environmental Programs Manager Shelly Reider with the Earth Hour Proclamation.

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 March 8, 2011

City Attorney Joan Cassman stated that the Council had met in Closed Session and discussed the matter of existing litigation and anticipated litigation, no action was taken on either item.

3. **APPROVAL OF MINUTES**

- NONE

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

- NONE

CITIZEN COMMUNICATION

NONE

CONSENT CALENDAR

5. Adoption of Ordinance Amending Title Page of Title 9, Repealing and Replacing Chapters 9.05 through 9.35, Repealing Chapter 9.85 and Adding Chapter 9.50 of the Millbrae Municipal Code Regarding Standard Building Regulations
 - Waive 2nd Reading
 - Adopt Ordinance

Upon a motion/second by Holober/Colapietro Council waived the 2nd reading and adopted Ordinance No. 737 amending Title Page of Title 9, repealing and replacing Chapters 9.05 through 9.35, repealing Chapter 9.85 and adding Chapter 9.50 of the Millbrae Municipal Code regarding Standard Building Regulations.

PUBLIC HEARING

NONE

OLD BUSINESS

6. Adoption of Private Sewer Lateral Ordinance
 - Waive 2nd Reading
 - Adopt Ordinance

Public Works Director Ron Popp stated that at the March 8, 2011 Council meeting there were Council questions that needed answering prior to the Council adopting the Private Sewer Lateral Ordinance. Council requested the following information:

- How many private sewer lateral overflows occurred last year?
In 2010, there were 56 private sewer lateral overflows.
- Are the numbers of days to make repairs which have been proposed in the ordinance update the same for other cities in San Mateo County?
Other cities that have been threatened with a Baykeeper lawsuit (Burlingame, Hillsborough, and San Carlos) have the same repair dates in their ordinances as those proposed in the Millbrae ordinance. Other cities (South San Francisco and San Bruno) anticipate including these repair dates.
- Do other cities require testing of private sewer laterals upon point of sale?
Burlingame requires testing of private laterals for homes older than 25 years, and repairs must be completed prior to date of sale.
Hillsborough requires testing of private sewer laterals at time of sale. If a defect is found, their City Engineer has been requiring the full replacement of any defective sewer laterals if they are older than 25 years, made of clay pipe, or some other material that is unlikely to perform well over the next 25 years.

San Mateo requires that for any buildings over 20 years the sewer later to the property be tested for infiltration and that any defects shall be repaired including the installation of a clean out per City specifications prior to the transfer of title.

Staff stated that the focus of the ordinance before Council this evening is on the replacement of private sewer laterals and not the issue of joint laterals. Staff will come back to Council at a future date and address the joint lateral issue. Costs incurred to split joint laterals would be shared equally (50/50) between the property owners.

Staff also looked into what the City of San Carlos is currently is doing. San Carlos has currently opted to not require testing prior to sale and in its place is requiring homeowners to test and repair their laterals as part of an overall citywide main repair and smoke testing program. San Carlos not yet received approval by Baykeeper for this change (their Consent Decree has the same requirement as Millbrae's). It was also noted that the additional cost for San Carlos to manage this program is being passed on to the property owners either directly or in the sewer rates.

Begin public comment.

Lou Sandrini, Millbrae resident, thanked staff for their discussion on the private sewer laterals. The issue of joint laterals must be addressed, and a policy must be established which would split the cost of shared later work 50/50 between property owners.

Alex Khalfin, SAMCAR, understands that the City has to comply with the Consent Decree. The changing of the wording from "should" to "shall" changes the meaning of the ordinance. He requested that Council consider placing a sunset clause in the Ordinance amendment. He also stated that the point of sale requirements will not help reduce the number of sanitary sewer overflows.

Ann E. Oliva, Real Estate Agent, inquired if there would be a contingency period for homes that are currently for sale.

Lee Ginsberg, Real Estate Agent, stated that the point of sale requirement will not accomplish the reduction of sanitary sewer overflows. The Council should look at what San Carlos is doing, and follow their example of an area by area citywide main repair. Additionally, many homes in the current market are either short sales or bank owned and there is no extra money to make these types of repairs at the time of sale. He encouraged Council not to amend the current ordinance

David Zigal, SAMCAR, noted that the main issue at hand is the change in the wording of the ordinance, "should" to "shall". This would mandate the seller with the burden of an added cost.

End of public comment.

The Consent Decree requires the inspection of private sewer laterals prior to the transfer of title upon sale of the property. The City Attorney advised that the Consent Decree requires the wording of "shall" in the ordinance for compliance.

Council requested that the City Attorney evaluate the option of including a sunset clause on the wording change from "should" to "shall" in section 8.20.450 of the Ordinance amendment.

Upon a motion/second by Papan/Colapietro Council moved to include a sunset clause for the change in wording from “should” to “shall” was approved by a vote of 3:2; Councilmembers Holober and Seto dissented.

Upon a motion/second by Papan/Colapietro Council waived the 2nd reading and unanimously adopted ordinance No. 738 amending Municipal Code Chapter 8.20, Article IV to require inspection, repair and replacement of private sewer lateral lines and installation of temporary sewer traps during maintenance to private laterals with the inclusion of the amendment above.

NEW BUSINESS

7. Joint City Council and Redevelopment Agency Resolution Approving Audit Service Agreement with Maze and Associates for Fiscal Year 2010-2011

Finance Director LaRae Brown briefly discussed the amendment of the agreement with Maze and Associates for auditing services to extend the term of the agreement for three additional years through Fiscal Years 2012-2013 with the total fee for each fiscal year reduced by a minimum of \$2,500.

Council did not agree with the 1.5% CPI increase but noted that the reduction of \$2,500 is more than the 1.5% increase. There was discussion on looking at bidding the audit services out to see what other companies are charging.

Staff noted that the increase is consistent with what Maze and Associates is currently charging other cities and that at this time it would cost approximately \$20,000 to prepare an RFP. Additionally, the City currently uses the software from Maze and Associates to prepare the CAFR, and if the City were to change to a different provider, we would possibly need to purchase different software.

No public comment for this item.

Upon a motion second by Holober/Colapietro City Council Resolution No. 11-08 and Redevelopment Agency Resolution No. 11-03 approving the audit service agreement with Maze and Associates for Fiscal Year 2010 – 2011 was approved by a vote of 3:2; Councilmembers Papan and Seto dissented.

8. Compensation Issue Regarding Former Millbrae Employee

City Attorney Joan Cassman stated that the item was placed on the agenda at the request of the Mayor. The Mayor is seeking guidance and direction from the Council regarding the discrepancy of \$17,913.58 in former City Manager Ralph Jaeck’s compensation.

Council discussed the following:

- The matter should be pursued as public funds are involved.
- There needs to be closure on this item and it is hoped that the issue can be resolved amicably.
- There may be future costs associated with this issue.
- Along with the issue of returning the \$17,913.58 is the contacting of CalPERS for an adjustment in the retirement rate.
- What is the process to move forward?
- How will the issue be reviewed so as not to have this happen in the future?

It is noted that Council was divided in its discussion on this matter.

Begin public comment.

Lou Sandrini, Millbrae resident, stated that this is strictly a business issue. Will the Finance Director be questioned each time an issue arises? The overpayment must be collected as public funds were used, and the City should collect from Mr. Jaeck's retirement and place the burden of proof on him. The public trust should not be violated.

Robert G. Gottschalk, Millbrae resident, stated that the process was poorly done. If Mr. Jaeck owes monies, he should pay. The first notification Mr. Jaeck had that there was a problem was a letter from the City Attorney. The second letter Mr. Jaeck received gave him one week to address the issue; this is not due process. If the City can definitively show that he was overpaid, he is quite certain that Mr. Jaeck would pay, but the methodology used was poor. He also stated that the City should pursue this in a less litigious manner.

Michael Sullivan, Millbrae resident, agreed with much of what was said this evening. There is a need to know what this issue could cost the City. He questioned how things got to where errors were made in the Finance Department, and noted that the City Manager's contract is overly-complicated. Council should walk away from this and focus on correcting the problem so that it does not happen again.

End of public comment.

Upon a motion/second by Papan/Colapietro Council deferred the matter for one month. The Mayor will send correspondence to Mr. Jaeck advising him of Council's discussion this evening and ask him for a response and further clarification.

COUNCIL COMMENTS

Councilmember Seto:

- Attended the Parks and Recreation meeting and discussed the par course equipment being installed;
- Announced the Compost giveaway on March 25th from 3:00 p.m. to 7:00 p.m.;
- Announced the Police Volunteers Italian Dinner on April 2nd from 6:30 p.m. to 8:00 p.m.;
- Attended the Fire Shared Services meeting last week with Councilmember Papan.

Councilmember Holober:

- Announced that issues involving public funds should be open to the public and requested that all budget Study Sessions be televised.

Councilmember Papan:

- Attended the Fire Shared Services meeting with Councilmember Seto;
- Attended the League of Women Voters meeting on March 21st Ted Lempert was the featured speaker;
- Requested that an item come before Council regarding Millbrae water issues and water rates.

Vice Mayor Colapietro:

- Requested that information from Councilmembers serving on various sub-committees be accurate and should be shared with Councilmembers serving in a different forum and caution be taken on how to relay to personnel and public;
- Congratulated the new Board of Directors for the Historical Society;

- Announced the April 1st Peninsula Council of Lions Police and Firefighters Awards. Police Officer Rob Raw and Firefighter Jennifer Price will be recognized;
- Announced the April 2nd Youth Summit at the San Mateo County Event Center.

Mayor Quigg:

- Welcomed Royal Pharmacy as a new business in the community;
- Attended the recent BAWSCA meeting and stated that there will be future water rate increases in the City;
- Attended the Chamber of Commerce Board of Directors meeting on March 21st.

ADJOURN CITY COUNCIL AND REDEVELOPMENT AGENCY

There being no further business to discuss the City Council and Redevelopment Agency adjourned at 10:17 p.m.

/s/ Angela Louis
City Clerk

/s/ Daniel F. Quigg
Mayor