



MILLBRAE CITY COUNCIL

AGENDA

July 24, 2018 - **DRAFT**

CALL TO ORDER MILLBRAE CITY COUNCIL

Mayor Papan called the meeting to order at 7:08 p.m.

ROLL CALL: Mayor Gina Papan, Vice Mayor Wayne J. Lee, Councilmembers Ann Schneider, Anne Oliva, and Reuben D. Holober.

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

1. CEREMONIAL/PRESENTATION

- Commission and Committee Members Service Recognition - Vice Mayor Presents Service Pins

Vice Mayor Lee presented service pins and thanked the Commission and Committee members for their years of service. Members who were present and recognized:

- Aline Lee for 10 years of service on the Sister Cities Commission
- Akiko Soda for 10 years of service on the Sister Cities Commission
- Marlene McBride for 5 years of service on the Senior Advisory Committee
- Daniel F. Quigg for 35 years of service on various elected and appointed positions

Members who are also recognized but are unable to attend:

- Donna Eghbal for 30 years of service on the Community Enhancement Advisory Committee
- Eunice Danli for 10 years of service on the Sister Cities Commission
- Jean Joh for 5 years of service on the Planning Commission
- Kathleen Kimura for 5 years of service on the Sister Cities Commission

2. AGENDA OVERVIEW/STAFF BRIEFING

- Report of Bills and Claims

Interim City Manager Williams updated the City Council on the following items:

- Millbrae Goes to the Movie Night on August 17th ;
- Series of automobile burglaries on the US101 and I-280 corridor;
- Central County Fire Department hired four new employees that will be rotated through Millbrae Fire stations;
- Well wishes to Battalion Chief Craig Latham on his retirement after 32 years of service.

Interim City Manager Williams provided the agenda overview.

3. APPROVAL OF MINUTES

- Regular Meeting of March 27, 2018
- Regular Meeting of July 10, 2018

Mayor Papan said that there were some minor changes made to the minutes from both meetings.

Upon a motion/second by Lee/Oliva, the meeting minutes of March 27, 2018 and July 10, 2018 with the minor changes to both sets of minutes, were approved unanimously.

4. ORAL REPORT FROM CITY COMMITTEE/COMMISSION CHAIRS

- NONE

PUBLIC COMMUNICATION

John Muniz, President of Millbrae Historical Society, spoke about the Millbrae Carriage House grand opening on August 4th.

Marge Colapietro, Millbrae resident, spoke about social media postings on big belly trash bins and the painting of the sun logo downtown, and also asked candidates running for City Council seats in November to act responsibly.

John Barrelier, Belmont resident, spoke on the red light camera program.

Wynn Greich, Hayward resident, spoke on chloramine in the water.

CONSENT CALENDAR

Items No. 5, 6, and 9 were pulled off the consent calendar for discussion.

7. Reject by Motion the Single Bid Received for the 2018 Pavement Maintenance Project
8. Reject by Motion the Single Bid Received for the Fire Station No. 38 Back-up Generator Project
10. Resolution No. 18-52 Approving an Inter-Governmental Agreement between Millbrae and San Francisco International Airport for a Water Inter-Tie
11. Update and Status Report on Comprehensive Classification and Compensation Study
12. Motion to Approve Cultural Arts Advisory Committee Utility Box Pilot Painting Program

Upon a motion/second by Lee/Oliva, Items No. 7, 8, 10, 11, and 12 on the consent calendar were approved unanimously.

5. Resolution No. 18-49 Accepting the 2017 Americans with Disabilities Act Interior Improvement Project as Complete and Filing Notice of Completion
6. Resolution No. 18-50 Ratifying Contract Change Order No. 2 to the Agreement with Kerex Engineering, Inc. for a Total Contract Cost of \$222,143, Accepting the 2017 ADA Exterior Improvement Project as Complete, and Authorizing the Filing of a Notice of Completion with the San Mateo County Clerk

For Items 5 and 6, Council asked staff to provide more details online on what improvements were made and the cost of these improvements.

Upon a motion/second by Papan/Schneider Items No. 5 and 6 passed unanimously.

9. Resolution No. 18-51 Authorizing the Interim City Manager or His Designee to execute Professional Service Agreements with Five (5) Engineering Firms for On-Call Construction Management and

Inspection Services Not to Exceed Aggregate Amount for all Five (5) contracts of \$1,000,000 for Each Fiscal Year for a Base Term of Three (3) Consecutive Fiscal Years for a Total of Aggregate Amount Not to Exceed \$3,000,000 during the Three Year Base Term, and an Option to exercise two (2) one-year options to extend the term of the contracts with not to exceed amounts of \$1,000,000 per option year

Council asked that staff make sure outside on-call companies have a good comprehension of our City buildings and neighborhoods, and be attentive to the needs of our community. Staff responded that these firms will mainly be doing construction management and inspections, but staff will make sure the consultants are attentive to the City's needs.

Upon a motion/second by Papan/Oliva Item No. 9 passed unanimously.

PUBLIC HEARING

13. Ordinance Amending Chapters 3.30, 5.100, 10.05 of the Millbrae Municipal Code, and Adding Chapter 7.30 to the Millbrae Municipal Code to Allow and Provide for the Regulation of Short-Term Residential Rentals and Adopting a Resolution Establishing a Fee for a Short-Term Residential Rental Permit
- Waive First Reading
 - Introduce Ordinance

Upon a motion/second by Lee/Oliva the motion to open the public hearing passed unanimously.

Acting Community Development Director Madalena presented the report. Short term residential rentals are currently banned in Millbrae. We do know they are operating. It has come to the City's attention and precipitated the urgency to bring this forward. It's been estimated that there are around 200 of these in the City. Our goal is to adopt this ordinance to give us the ability to manage rentals and give us tools to enforce the rules and address disturbances when they arise.

At the June 18th Planning Commission meeting the Planning Commission approved the necessary changes to the zoning code and recommended that the City Council approve the Short-Term Residential Rental ordinance as recommended by staff.

Mayor Papan said that she has several letters that will become part of the record now. We have letters from Sandra and Fred Mangold, Matt Middlebrook of Airbnb, Paul Larson, and Jean Joh.

City Council asked questions:

1. Request for clarification on Section 7.30.070-B-6 on prohibiting weddings, corporate events and commercial functions – Can we make it clear that this only refers to revenue generating events? What if you were to have a private wedding at your home, would this be prohibited?
2. What if someone has a Short-Term Rental permit and is renting out one bedroom in their house, then the person renting the bedroom wants to have a wedding in the backyard?
3. Request for clarification on Section 3.30.060 on registration – Did you mean “hosting unit” or “hotel?”
4. If the host has a history of problems will the City not issue a permit?
5. We should not hold a current owner responsible for something a previous owner may have done. How are we going to track that?
6. What are we doing about people operating without any permit?
7. Can you explain what a violation notice is if someone has not applied?

8. What about studios? A studio is a zero. If you are renting it as an Airbnb then clearly you are not using it as housing stock. What does that really mean?
9. We are hearing that people who rent out their homes for 100 days a year as Short-Term rentals can make more money than if they got a long term tenant. How do we stop that?
10. Will anyone be confirming with the county assessor the validity if somebody says they own the home?

Staff responded:

1. We are considering regulations to put in place for rental property. You cannot use Short-Term Rentals for the purpose of a wedding. If someone in your family is getting married and you are using your home as a site for the wedding, this is not affected. Your personal use of your home for a wedding is fine.
2. That would be prohibited as a Short-Term Rental. This cannot be conducted as a part of the Short-Term Rental arrangement.
3. Hotel is defined in the Transient Occupancy Tax ordinance broadly to include Short-Term Rentals as well as traditional hotels. So even though it says hotels, it includes Short-Term Rentals.
4. One of the criteria for getting a permit is there cannot be more than three violations in the past year.
5. We need to look at that on a case by case basis. The way the ordinance is written, it gives the director that discretion to look at violations in the past and take that into consideration and try to determine if that was the same owner.
6. With this ordinance we would have the ability to go out and try to provide better enforcement. We would go out there and provide violation notices. Give them a warning and try to work with them first. Then go through the normal processes of code enforcement.
7. They will be fined \$1,000 a day.
8. A studio is considered zero bedrooms so you don't get the two to begin with. You just get the plus two. So at night you can have two renters there and during the day you can have four people inside.
9. You have to occupy and be the primary owner of the residence so that would not happen. You could go away for 100 days a year and rent it out and not rent it if you chose, but it is still your primary place of residence. So for 100 days a year you could go somewhere else and rent out your house, but it is your primary residence. So for 265 days of the year your head has got to be on the pillow so to speak.
10. Yes, we will be verifying the homeowner info with the county.

Start public comment:

Ofelia Angulo, Millbrae resident, said there is a really big problem in her neighborhood because of Airbnb such as noise, parking issues, people coming in and out constantly, and safety issues.

Michael Llewellyn-Williams, Millbrae resident, said he has been an Airbnb host for two and a half years and he feels this resolution is heavy handed and a disproportionate response to the issue.

Jo Llewellyn-Williams, Millbrae resident, said she is an Airbnb host and this has brought many wonderful people into her home and Airbnb screens every single person and they have not had any problems.

Desmond Hayes, Millbrae resident, is a host and said when he thinks about a registry he thinks about sex offenders, felons or a public threat and he feels that nuisance ordinances on the books are enough.

Brian Peagler, Millbrae resident, said short term rentals have negatively impacted his life, he appreciates the City trying to solve this issue, and asks Council to vote no to changes to Chapters 3.30, 5.100 and 10.05.

Nils, Millbrae resident, is an Airbnb host and single father with three kids in college and Airbnb allows him to support his children. He thinks the new ordinance is going way overboard and is not enforceable.

Fred Mangold, Millbrae resident, said there are illegal room rentals not registered causing noise and parking issues.

Ken Boyd, Millbrae resident, said Airbnb across the street has six cars parked outside of his house every day and tenants fight, throw cigarettes and the house was not designed to have half a dozen extra people.

Kerry Arco, Millbrae resident, said it is unrealistic that this will be enforced. Random people are across the street from her home and she has to park around the corner and she does not feel safe.

End public comment.

Upon a motion/second by Lee/Holober the motion to close the public hearing passed unanimously.

City Council asked questions:

1. If there is a hardship, can the Community Development Department waive the \$1,000 deposit?
2. Do we have a process in place if parking becomes a problem?
3. The people in Lomita Hills call because the renters are noisy and they cannot sleep and we cannot do enforcement now. Why is that?
4. If a complaint is made and you do not get a response within an hour, what will be done?
5. If I need to make a complaint at 1:00 am who do I complain to?
6. If the complaint is filed with the Sheriff's Office, how will the City get the information that the Short-Term Rental host has a strike against them?
7. You have this ordinance now, but who will be keeping track of all of this?
8. Is there a phone number we can call? How is this going to work? In the announcement that goes out to the neighbors, will there be a phone number on there? How are we going to report things?
9. If this ordinance passes, are you going to have an announcement asking hosts to register?
10. What if the fines are not paid? What is the escalation from there?
11. Can we add language to the ordinance that prohibits smoking in Short-Term Rental units?
12. If a host claims their unit is hosted and it is really non-hosted, is that a violation?
13. What happens if the renter leaves a mess and the mess affects the neighbors?

Staff answered:

1. Yes, the Community Development Director will have the ability to increase or decrease the deposit amount.
2. We do ultimately have the ability to revoke the permit due to lack of parking.
3. Right now if there are noise issues, or a large party that is a nuisance we can regulate that. If it is an Airbnb location, through our permit approval process, we can work with the property owner and if they don't comply we can revoke that permit.
4. We would document that. It would be a violation and we could revoke the permit.
5. After hours all of these calls will be going to the Sheriff. If Code Enforcement is not available, the calls go to the Sheriff's Office.

6. We will coordinate with the Sheriff's Office. We will communicate and have a report. Our Code Enforcement staff will investigate and determine if there is a violation. If there is, we will issue a Notice of Violation.
7. The Community Development Department will keep track of this. There will be a database.
8. There will be a phone number and contact information for our Community Development Department to report violations and also to apply for a permit. It's an enforcement issue. As we continue to develop the program it will evolve.
9. This is a whole roll-out program. Information will be available on the City website. We will also work with Millbrae Community Television (MCTV) and have a public notice campaign. As people bring illegal units to our attention, and we issue Notices of Violation, the notice will ask them to cease the activity and provide direction to come in and apply for a permit to legalize their Short-Term Rental unit.
10. If the fines are not paid, then we go to court and get them paid. If we start to accumulate fines, we will revoke the permit and go to court and make sure they comply with the zoning rules.
11. Whoever owns the home can smoke in their home, but you are asking to prohibit renters from smoking in the home. Right now the law only prohibits smoking in places of employment. It's more problematic to try to do this and it would be hard to enforce.
12. Yes, that would be a violation.
13. In terms of leaving a mess, that is prohibited by the operating rules. The City can fine the renters or permittees. The City could clean up the mess and use the fine to pay for that. As to property damage, the City is indemnified for property damage, but we don't have indemnity for neighbors.

Upon a motion/second by Papan/Holober Item No. 13 waiving the first reading and introducing the ordinance passed unanimously.

EXISTING BUSINESS

NONE

NEW BUSINESS

14. Designation of Voting Delegate and up to Two Alternates for the 2018 League of California Cities Annual Conference

Upon a motion/second by Papan/Holober the nomination for Vice Mayor Lee as the City's voting delegate and Councilmember Schneider as the alternate passed unanimously.

15. Consider Adopting a Resolution No. 18-53 Determining Public Interest and Necessity Demands the Restoration of the Millbrae Recreation Center and Introduction of an Ordinance Ordering the Submission of a Proposition of Incurring Bonded Debt to the Qualified Voters of the City of Millbrae at the General Municipal Election to be Held on November 6, 2018 for the Purpose of Financing the Restoration of the Millbrae Recreation Center.
 - Waive First Reading
 - Introduce Ordinance

Deputy City Manager Hilbrants provided the introduction. Andrea Gifford from Group 4 Architects presented the report. Round One of the outreach has just been completed. We touched base with almost 1,000 residents through a variety of different events including the online survey, farmers market, outreach at Taylor Middle School, as well as smaller events. In August we will start the second round of outreach.

Begin public comment.

Ken Boyd, Millbrae resident, request clarification on the insurance reimbursement amount.

End public comment.

Staff said that the City has property insurance on City property for replacement value. We are replacing a 1969 building. This new building is state of the art and the building costs here are reflective of what is occurring in 2018.

Section 10 of the ordinance says the Mayor is hereby authorized, but is not required, to act as an author of any ballot argument in support of the ballot measure. Council asked that this be changed to say that all five members of the City Council are authorized, but are not required, to act as an author of any ballot argument.

Upon a motion/second by Schneider/Oliva waiving the first reading and introducing the ordinance with the amendment to Section 10 authorizing all five Councilmembers to act as authors to any ballot argument passed unanimously.

Upon a motion/second by Holober/Papan Resolution No. 18-53 determining public interest and necessity demands the Restoration of the Millbrae Recreation Center passed unanimously.

COUNCIL COMMENTS

Mayor Papan:

- Lions Club Baseball Little League is having a tournament this week. I would like to compliment them on their international relations. Last weekend they had a Taiwanese Little League team that came over. It was a wonderful event.
- Thank you to staff and Group 4 for the movies in the park.
- National Night Out is coming up on August 7th.
- Relay for Life is coming up in September.
- Fair Political Practices Commission (FPPC) filings are due July 31st.
- We will be having a public hearing to keep the public informed about Schultz Park.

Vice Mayor Lee:

- We welcome another new business. On Thursday at 5:30 pm is the ribbon cutting for Seriously Addictive Mathematics.
- Thanks to Mackenzie Brady and Rob DuCote for putting together the movie nights that will be held every month. Thanks to the Lions Club for the movie screens.

Councilmember Schneider:

- Millbrae Lions has the Millbrae Machines car show on Saturday, August 18th.
- Tonight we approved going forward with the utility box painting project. I'd like to give a shout out to the Leos.
- Attended Assemblyman Kevin Mullin's event for elected officials and the faith community re immigration. There will be a follow up discussion in the Fall.
- I'd like to give a shout out to our Recreation staff for a great movie night last Friday.

Councilmember Oliva:

- Senior Advisory Committee voted for Marlene McBride as their Chair and Rochelle Mullen as Vice Chair. They are working on their work plan and will bring it to the Council next month.
- Shared a picture of a fun event at Rotary Park on Sunday morning. Thanked everyone for being there. Good job Rotary and Millbrae Education Foundation (MEF).

Councilmember Holober:

- Attended the Parks and Recreation Commission meeting last week and there was a discussion about the potential sale of Schultz Park. There were some concerned neighbors there.
- Attended the Sister Cities Commission meeting this week and they are planning a group visit to Mosta, Malta. They are opening it up to a few members of the community who are interested in going. Right now they are looking at April of 2019 before the current president is out of office.

CLOSED SESSION

Closed Session held pursuant to Government Code §54957.5

Public Employee Appointment/Employment

Title: City Manager

ADJOURN CITY COUNCIL MEETING

The City Council meeting was closed in memory of long-time Millbrae resident Malcolm Barnett who passed away on July 15 and Sophia Ma who passed away recently (mother of California State Board of Equalization Chair Fiona Ma).

There being no further business to discuss, the City Council adjourned at 10:44 p.m.

Elena Suazo
City Clerk

Gina Papan
Mayor