



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, AUGUST 9, 2022

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA

6:00 PM

The City Council of the City of Milpitas convened for a Special City Council meeting on August 9, 2022 in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by Acting City Clerk

Mayor Tran called the Special City Council meeting to order at 6:00 PM. Roll Call was taken by Acting City Clerk Guzzetta.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan

ABSENT: None

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

INVOCATION

Councilmember Phan provided the invocation.

PRESENTATIONS

Mayor Tran presented a proclamation recognizing August 2022 as American Muslim Appreciation Month.

PUBLIC FORUM

There following people spoke under Public Forum:

- Voltaire Montemayor.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Mayor Tran asked for the following:

1. A review of the Milpitas Chamber of Commerce previously approved request for funding including a financial report dating back 12 months and the workplan for the Art & Wine Festival. He also asked the City to pause any disbursement of funds to the Chamber of Commerce until the review is completed.
2. Memory bench at Sunny Hills Park for one of the founders, Dave Vohlberg, and to explore other historical plaques or benches to remember our history and suggested the Arts Commission explore fundraising opportunities for the project.

Councilmember Dominguez asked that staff bring back the plan for the use of State funding for bike lanes and homelessness issues and share with the public and Council. Would like a clear understanding of what we've spent and what will be funded. Staff to bring presentation forward to understand how funds are being used to

maximize taxpayer dollars. City Manager McHarris indicated this item was returning to City Council next month.

Councilmember Chua asked the City Manager to look into implementing a workshop for small businesses on the bidding process for projects in the city.

Councilmember Phan acknowledged and congratulated the Planning Department on winning two awards through the American Planning Association for their work on the 2040 General Plan and the Development Review Handbook.

Vice Mayor Montano announced that she attended the Kiwanis sponsored Annual Shopping Spree Event for disadvantaged families, offered comments on the new ambulance, and remarked on the progress of the new fire station. She asked Planning Department staff ensure small businesses understand ADA compliance requirements.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Tran read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the August 9, 2022, Special Meeting Agenda.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

CONSENT CALENDAR

Motion: to approve the Consent Calendar.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

C1. Receive City Council Calendar of Meetings for August 2022 (Staff Contact: Suzanne Guzzetta, Acting City Clerk, 408-586-3001)

Received City Council Calendar of Meetings for August 2022.

C2. Approve City Council Special Meeting minutes of June 14, 2022, Regular Meeting minutes of June 21, 2022, Special Meeting minutes of July 7, 2022, and Special Meeting minutes of July 11, 2022 (Staff Contact: Suzanne Guzzetta, Acting City Clerk, 408-586-3001)

Approved City Council Special Meeting minutes of June 14, 2022, Regular Meeting minutes of June 21, 2022, Special Meeting minutes of July 7, 2022, and Special Meeting minutes of July 11, 2022.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, Acting City Clerk, 408-586-3001)

Received the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Contact: Suzanne Guzzetta, Acting City Clerk, 408-586-3001)

Reviewed the list of items that have been requested by City Councilmembers and provided direction to staff as necessary.

C5. Receive an Update on the Emergency Replacement of Two (2) Boilers and Install of a Temporary Heating System for the Public Works, Information Technology, and Police Department Building and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

Received an update on the emergency replacement of two boilers and the installation of a temporary heating system for the Public Works, Police and Information Technology Department buildings; and (2) Determined by a four-fifths vote that the condition continues to constitute an emergency.

C6. Adopt a Resolution Granting Acceptance of Public Improvements and Approve Reduction of Faithful Performance Bond for Public Improvements for the Anton Ascend (730) and Anton Aspire (750) Residential Projects and Granting Authorization to the Engineering Director/City Engineer to Release the Performance Bond after the One-year Warranty Period. (Staff Contact: Steve Erickson, Director of Engineering/City Engineer, 408-586-3301)

Adopted **Resolution No. 9179** granting acceptance of public improvements for the Anton Ascend and Anton Aspire Residential Projects as shown on Public Improvement Plans No. 2-1228 and 2-1229; and approved a reduction in the performance bonds for the Projects, subject to the one-year warranty period and reduction of the faithful performance bonds to \$82,000.00 and \$69,500.00 respectively which shall be in effect for the duration of the warranty period; and granted authorization to the Engineering Director/City Engineer to release the performance bonds after the one-year warranty period, without further City Council action provided all required warranty work is completed to the satisfaction of the Engineering Director/City Engineer.

C7. Adopt a Resolution Granting Acceptance of Public Improvements and Approve Reduction of Faithful Performance Bond for Public Improvements for the Centre Pointe – Summerhill Phase 1A Residential Project and Granting Authorization to the Engineering Director/City Engineer to Release the Performance Bond after the One-Year Warranty Period; (Staff Contact: Steve Erickson, Director of Engineering/City Engineer, 408-586-3301)

Adopted **Resolution No. 9180** granting acceptance of the completed public improvements for the Centre Pointe – Summerhill Phase 1A Residential Project as shown on Public Improvement Plans No. 2-1221; and approved a reduction in the faithful performance bond to \$166,100.00, which is 10% of the security's original value which shall be in effect for the duration of the warranty period; and granted authorization to the Engineering Director/City Engineer to release the performance bond after the one-year warranty period without further City Council action provided all required warranty work is completed to the satisfaction of the Engineering Director/City Engineer.

C8. Approve Budget Appropriation of \$103,602.00 in Fiscal Year 2022/2023 California Transportation Development Act Article 3 (TDA-3) Funding for use in City Capital Improvement Program Project

No. 4283 American Disability Act (ADA) Curb Ramp Transition Program (Staff Contact: Steve Chan, Transportation and Traffic Manager, 408-586-3324)

Approved budget appropriation of \$103,602.00 in Fiscal Year 2022/2023 California Transportation Development Act Article 3 (TDA-3) Funding for use in City Capital Improvement Program Project No. 4283 American Disability Act (ADA) Curb Ramp Transition Program

- C9. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for S&B Milpitas, LLC for the Lantana at 720 Montague Expressway. (Staff Contact: Steve Erickson, Director of Engineering/City Engineer, 408-586-3301)**

Approved and authorized the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for S&B Milpitas, LLC for Lantana at 720 Montague Expressway.

- C10. Consider Recommendations from Mayor Tran for Appointments to City Commissions (Staff Contact: Suzanne Guzzetta, Acting City Clerk, 408-586-3001)**

Received Mayor Tran's recommendations and approve the appointments to City Commissions.

- C11. Accept Commissioner Resignations (Staff Contact: Suzanne Guzzetta, Acting City Clerk, 408-586-3001)**

Accepted the resignations of Aileen Zhong from the Community Advisory Commission and Cecelia Hutnick from the Arts Commission; and direct the Acting City Clerk to post the notice of unscheduled vacancies.

- C12. Reconfirm Findings and Determinations Under Resolution No. 9165 and Assembly Bill 361 for the Continuation of Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)**

Moved to reconfirm findings and determinations under Resolution No. 9165 and Assembly Bill 361 for the continuation of virtual meetings of the City Council and Legislative Bodies.

Mayor Tran called a recess at 6:36 PM. The City Council reconvened at 7:08 PM

PUBLIC HEARING

- 13. 2022 Weed Abatement Assessment Public Hearing and Adopt a Resolution to Confirm the Assessment Report (Staff Contact: Arthur Belton, Deputy Fire Chief / Fire Marshal, 408-586-3384)**

Deputy Fire Chief / Fire Marshal Belton presented the report.

Mayor Tran opened the public hearing

There were the following speakers:

- Voltaire Montemayor

Mayor Tran closed the public hearing.

Motion: to adopt **Resolution No. 9181** confirming the 2022 Weed Abatement Assessment Report and the Assessment List to be entered into the Tax Assessment Rolls.

Motion/Second: Mayor Tran/Vice Mayor Montano

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

14. Adopt a Resolution Certifying Election Results and Adding the Property Located at 150 Market Street into Community Facilities District No. 2008-1 (Annexation No. 23) (Staff Contact: Steve Erickson, Director of Engineering/City Engineer, 408-586-3301)

Principal Engineer Alonzo presented the report.

Mayor Tran opened the public hearing

There were the following speakers:

- Voltaire Montemayor

Mayor Tran closed the public hearing.

Motion: receive election results from the Acting City Clerk and adopt **Resolution No. 9182** certifying the election results and adding the property located at 150 Market Street into Community Facilities District No. 2008-1 (Annexation No. 23).

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

15. Conduct a Public Hearing, Adopt a Resolution to Adopt the Climate Action Plan Update and the Addendum to the General Plan Environmental Impact Report and Approve a related Budget Amendment (Staff Contact: Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Public Works Deputy Director Marshall presented the report. Ascent Environmental Consultant Hannah Kornfeld responded to questions from the City Council. Marshall clarified it should be CIP #3453

Mayor Tran opened the public hearing

There were the following speakers:

- Patricia Sexton
- Sukhad Mutatkar and Satvika Iyer
- Voltaire Montemayor
- Dashiell Leeds
- Felix Mbuga
- Robert Means

Mayor Tran closed the public hearing.

Deputy Public Works Director Marshall responded to questions from the City Council.

Motion: to adopt **Resolution No. 9183** adopting the Climate Action Plan Update and the Addendum to the Milpitas General Plan 2040 EIR for the Milpitas Climate Action Plan Update and approve a Budget Appropriation in the amount of \$150,000 to CIP #3416 for near term implementation of the Climate Action Plan Update.

Motion/Second: Mayor Tran / Councilmember Chua

Mayor Tran amended the motion: to adopt **Resolution No. 9183** adopting the Climate Action Plan Update and the Addendum to the Milpitas General Plan 2040 EIR for the Milpitas Climate Action Plan Update and approve a Budget Appropriation in the amount of \$150,000 to CIP #3453 for near term implementation of the Climate Action Plan Update. Councilmember Chua accepted the amendment.

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

16. Conduct a Public Hearing and Adopt the Milpitas Water, Sewer, and Storm Master Plans and Addendum to the Environmental Impact Report for the Milpitas General Plan (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

Public Works Director Ndah presented the report.

Mayor Tran opened the public hearing

There were the following speakers:

- Voltaire Montemayor
- Sukhad Mutatkar and Satvika Iyer

Mayor Tran closed the public hearing.

Public Works Director Ndah responded to questions from the City Council

After discussion, motion: to approve **Resolution No. 9184** to adopt Water Master Plan and directed staff to return with a five-year rate study by December 2022; to approve **Resolution No. 9185** to adopt Sewer Master Plan and directed staff to return with a five-year rate study by December 2022; to approve **Resolution No. 9186** to adopt Storm Master Plan and directed staff to return to Council with various funding options for the Stormwater System by December 2022; and to approve **Resolution No. 9187** to adopt the City of Milpitas Utility Master Plans – Addendum to the Environmental Impact Report for the Milpitas General Plan.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

17. Conduct a Public Hearing and Introduce an Ordinance Amending Sections of Chapter 10, Title XI of the Milpitas Municipal Code Relating to Non-Residential Building Heights (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Planning Director Thomas introduced the item and Senior Planner VanHua presented the report.

Mayor Tran opened the public hearing

There were the following speakers:

- Voltaire Montemayor

Mayor Tran closed the public hearing.

City Attorney Mutalipassi read the title of Ordinance No. 38.846 *“An Ordinance of The City Council of the City of Milpitas Amending Sections of Chapter 10 of Title XI of the Milpitas Municipal Code to Modify and Add Regulations Relating to Maximum Heights for Non-Residential Buildings in Certain Commercial Zones, and Making Findings of CEQA Exemption”*

Motion: to waive the first reading beyond the title and introduce **Ordinance No. 38.846** amending sections of Chapter 10 of Title XI of the Milpitas Municipal Code relating to Non-Residential Building Heights and determined that the Municipal Code amendment is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15183 (Projects Consistent with a General Plan) and 15061(b)(3) (Common Sense Exemption).

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

18. Conduct a Public Hearing and Introduce an Ordinance Amending Sections of Chapter 10, Title XI (Zoning) and sections of Chapter 213, Title V (Noise Abatement) of the Milpitas Municipal Code Relating to Outdoor Music in Bars and Restaurants and Review and Permitting Requirements for Special Events (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Planning Director Thomas presented the report.

Mayor Tran opened the public hearing

There were the following speakers:

- Voltaire Montemayor

Mayor Tran closed the public hearing.

Councilmember Dominguez suggested a new category of event be created for a threshold of 75 or less attendees and explore the possibility of no permit fees for those types of event.

Planning Director Thomas and Consultant Holly Pearson provided additional information.

Councilmember Dominguez suggested adding an exemption to the existing “simple assembly” designation or include language to qualify for the exemption, the event must be non-profit or free to the community.

Vice Mayor Montano stressed that a fee of \$15,000 was too much and may need to be evaluated on a case-by-case basis.

City Attorney read title of **Ordinance No. 38.847** *“An Ordinance of the City Council of the City of Milpitas Amending Sections of Chapter 10 of Title XI and Chapter 213 of Title V of the Milpitas Municipal Code to Modify and Add Regulations Relating to Outdoor Music in Bars and Restaurants and Review and Permitting Requirements for Special Events, and Making Findings of CEQA Exemption.”*

Motion: to waive the first reading beyond the title and introduce **Ordinance No. 38.847** amending sections of Chapter 10 of Title XI (Zoning) and Chapter 213 of Title V (Noise Abatement) of the Milpitas Municipal Code relating to Outdoor Music in Bars and Restaurants and Review and Permitting Requirements for Special Events and determined that the Municipal Code amendment is exempt from California Environmental Quality Act pursuant to CEQA Guidelines Sections 15183 (Projects Consistent with a General Plan) and 15061(b)(3) (Common Sense Exemption).

Motion/Second: Tran/Chua

Vice Mayor Montano asked for an amendment to put language in to review fees on a case-by-case basis.

Mayor Tran amended the recommendation to add language to “waive all fees pertaining to outdoor music in bars and restaurants or businesses that employ 9 or less people.” Councilmember Chua accepted the amendment.

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

COMMUNITY DEVELOPMENT

- 19. Receive Progress Report on The Work Completed and Existing Conditions Analysis from Raimi and Associates and Staff on the Housing Opportunity Zones, Discuss Project Objectives and Priorities, and Provide Direction on Key Planning Concepts and Land Use Strategies (Staff Contact: Ned Thomas, Planning Director, 408-586-3273 and Jay Lee, Principal Planner, 408-586-3077)**

Received progress report on the work completed and existing conditions analysis from Raimi and Associates and staff on the Housing Opportunity Zones, discussed Project objectives and priorities, and provided direction on key planning concepts and land use strategies.

Planning Director Thomas introduced the item. Principal Planner Lee, Raimi and Associates Consultants Malhotra and Sensenig presented the report.

There were the following speakers:

- Voltaire Montemayor

After discussion, Council received the report.

ADJOURNMENT

Mayor Tran adjourned the meeting at 10:51 PM.

The foregoing minutes were approved by the Milpitas City Council on August 16, 2022.

*Suzanne Guzzetta
Acting City Clerk*