REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, MAY 17, 2022
CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA
6:00 PM (CLOSED SESSION)
7:00 PM (PUBLIC BUSINESS)

The City Council of the City of Milpitas convened on the regular City Council meeting day of May 17, 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 City Clerk

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

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, and Phan (arrived at approximately 6:02 PM)

ABSENT: Councilmember Dominguez

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Pursuant to Government Code Section 54956.9(d)(2)
City as Defendant - See document attached

CLOSED SESSION ANNOUNCEMENT

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

City Attorney Mutalipassi stated there was no reportable action.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

INVOCATION

Mayor Tran led the invocation.

PRESENTATIONS

Mayor Tran proclaimed the month of May as Asian Pacific American Heritage Month, proclaimed the week of May 15 – 21, as National Public Works Week, and proclaimed May 30 as Memorial Day.

Mayor Tran presented commendations to the Milpitas Xtreme Robotics Team 169X for winning the 2022 Northern California VRC State Championship and presented commendations to the ADU Workshop Participants.

PUBLIC FORUM

Those in the audience and via Zoom are invited to address City Council on any subject not on tonight's agenda. In-person speakers wishing to address the Council are requested, but not required to complete a Speaker Card and submit it to the Mayor. In-person speakers will then be asked to come up to the podium and state their name for the record. Those interested

in speaking via Zoom may do so by following the instructions on page one (1) of the agenda. Comments may be limited to three (3) minutes or less at the Mayor's discretion. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. The City Council may instruct the City Manager to place the item on a future meeting agenda.

The following people spoke under Public Forum:

1. Ben Ye
2. Milpitas resident
3. Milpitas resident
4. Milpitas resident
5. Voltaire Montemayor
6. Allysson McDonald

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a "yes" or "no" as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a future agenda for City Council discussion.

City Manager McHarris announced on May 22 the City of Milpitas will be hosting a regional gun buyback event at the Milpitas Community Center. He also stated there will be a press conference held at the Veteran Plaza this Friday.

Councilmember Chua spoke about the Youth Commission's Coding competition and Dumpster Day event and shared event videos and photos.

Vice Mayor Montano requested the City create a youth scholarship fund for underprivileged kids to play sports and staff bring forward this item for discussion as part of the upcoming budget hearing scheduled for the June 7 Meeting. She attended the Youth Commission coding competition.

Councilmember Chua requested the City explore increasing the Conferences/Meetings/Memberships allowance for each Councilmember to $10,000 and staff bring forward this item for discussion as part of the upcoming budget hearing scheduled for the June 7 Meeting.

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 aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the May 17, 2022, regular meeting agenda.

Motion/Second: Mayor Tran / Councilmember Phan

Motion carried by the following roll call vote:

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

NOES: None

ABSENT: Councilmember Dominguez

CONSENT CALENDAR

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

Motion: to approve the Consent Calendar.

Motion/Second: Mayor Tran / Councilmember Phan

Motion carried by the following roll call vote:

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

NOES: None

ABSENT: Councilmember Dominguez

C1. Receive the City Council Calendar of Meetings for May and June 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Received the City Council Calendar of Meetings for May and June 2022.

C2. Approve the Regular Meeting Minutes of May 3, 2022, and the Special Meeting Minutes of May 10, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Approved the Regular Meeting Minutes of May 3, 2022, and the Special Meeting Minutes of May 10, 2022.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Wendy Wood, 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: Mayor and City Councilmembers, 408-586-3000)

Reviewed the list of items that have been requested by City Councilmembers.

C5. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring Its Intention to Levy and Collect Assessments, and Provide Notice of the Public Hearing to be held on June 21, 2022, for Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1 Sinclair Horizon) (Staff Contact: Steve Erickson, Engineering Director 408-586-3301)

Adopted **Resolution No. 9148** approving the Annual Engineer's Report, adopted **Resolution No. 9149** declaring its intention to levy and collect assessments, and provided notice of the Public Hearing to be held on June 21, 2022, for LLMD 98-1 Sinclair Horizon.

C6. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring Its Intention to Levy and Collect Assessments, and Provide Notice of Public Hearing to be held on June 21, 2022, for Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD 95-1 McCarthy Ranch) (Staff Contact: Steve Erickson, Engineering Director 408-586-3301)

Adopted **Resolution No. 9150** approving the Annual Engineer's Report, adopted **Resolution No. 9151** declaring its intention to levy and collect assessments, and provided notice of a public hearing to be held on June 21, 2022, for LLMD 95-1 McCarthy Ranch.

C7. Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to DeSilva Gates Construction LLC for Street Resurfacing Project Nos. 4283, 4298, 4303; and Approve Budget Change for Project Nos. 4303 and 4298 (Staff Contact: Steve Erickson, Engineering Director/City Engineer 408-586-3301)

Adopted **Resolution No. 9152** to approve Project Plans & Specifications; awarded the Construction Contract to the lowest responsible, and responsive bidder, DeSilva Gates Construction LLC, in the amount of $4,754,451.00 for the Street Resurfacing Project Nos. 4283, 4298, 4303; authorized the City Manager to execute the Construction Contract with DeSilva Gates Construction LLC; authorized the Engineering Director/City Engineer to negotiate and execute Contract Change Order(s) in an aggregate amount not to exceed $1,188,612.75 for the project; and approved the Budget Change to appropriate funding for CP 4298 and CP 4303.

C8. Resolution Granting City Staff Enforcement Authority Regarding the Distribution of Single-use Foodware Accessories and Standard Condiments consistent with Assembly Bill 1276 (Staff Contact: Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Adopted **Resolution No. 9153** granting City staff authority regarding the distribution of single-use foodware accessories and standard condiments consistent with Assembly Bill 1276.

C9. Authorize the City Manager to Execute an Administrative Services Agreement and the Government Money Purchase Plan and a Trust Agreement and related documents with Mission Square Retirement for a 401A program for Unrepresented Executive Management and modify Resolution 8980, Unrepresented Employee Benefits (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)

Authorized the City Manager to execute an Administrative Services Agreement and the Government Money Purchase Plan and a Trust Agreement and related documents with Mission Square Retirement for a 401A program for Unrepresented Executive Management and adopted **Resolution No. 9154** modifying Resolution 8980, Unrepresented Employee Benefits.

C10. Adopt a Resolution Granting an Easement to Santa Clara Valley Water District and Authorizing the City Manager to Execute the Grant of Easement, and Any and All Necessary Documents, in a Form Approved by the City Attorney, for the Access to Operate, Inspect, Maintain, Repair, and Reconstruct the Milpitas Pipeline, the Intertie, and Appurtenant Structures at Gibraltar Water Pump Station (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

Adopted **Resolution No. 9155** granting an easement to Santa Clara Valley Water District and authorizing the City Manager to execute the Grant of Easement, and any and all necessary documents, in a form approved by the City Attorney, for the access to operate, inspect, maintain, repair, and reconstruct the Milpitas Pipeline, the Intertie, and appurtenant structures at Gibraltar Water Pump Station.

C11. Review the FY 2021-22 Quarterly Financial Status Report for the Quarter Ending March 31, 2022 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

Reviewed the FY 2021-22 Quarterly Financial Status Report for the Quarter Ending March 31, 2022.

C12. Authorize the City Manager to Amend the Memorandum of Understanding between the City and the International Association of Fire Fighters (IAFF), Local 1699 Modifying the Eligible

Participants for the Retiree Dependent Medical Fund (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)

Authorized the City Manager to amend the Memorandum of Understanding between the City and the International Association of Fire Fighters (IAFF), Local 1699 modifying the eligible participants for the Retiree Dependent Medical Fund.

C13. Approve and Authorize the City Manager to Enter into a Side Letter to Amend the Memorandum of Understanding between the City and United Public Employees of California (UPEC Local 792), the Professional-Technical Unit (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)

Approved and authorized the City Manager to enter into a side letter agreement with the United Public Employees of California (UPEC Local 792), the Professional-Technical Unit adding a new section to the Memorandum of Understanding to compensate qualified Community Service Officers when expressly assigned to work as Field Evidence Technicians (FET) a 5% pay differential above their base salary.

C14. Make Findings and Determinations Set Forth in Assembly Bill 361 and Adopt a Resolution Authorizing Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)

Moved to make findings and determinations under Assembly Bill 361 and adopted **Resolution No. 9156** authorizing virtual meetings of the City Council and legislative bodies.

C15. Authorize and Approve Out-of-State Travel to Reno, NV for Mayor Rich Tran, and Vice Mayor Carmen Montano to Attend the United States Conference of Mayors to be Held on June 3 – 6, 2022 for a Combined Total Estimated Amount of $4,700 (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)

Authorized and approved out-of-state travel to Reno, NV for Mayor Rich Tran, and Vice Mayor Carmen Montano to attend the United States Conference of Mayors to be held on June 3 – 6, 2022 for a combined total estimated amount of $4,700.

C16. 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) Determine by a four-fifths vote that the condition continues to constitute an emergency.

PUBLIC HEARINGS

Members of the public may be allotted up to three (3) minutes or less at the Mayor's discretion, to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of ten (10) minutes for opening statements and up to a total of five (5) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

17. Adopt a Resolution Approving a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of 56 townhome condominiums and 24 accessory dwelling units. The residential development will consist of eight multi-family residential buildings up to 48 feet in height (four stories), with 84 vehicle parking spaces and associated site improvements on a 1.92-acre site located in the Very High-Density Mixed-Use (MXD3) Zoning District at 1752-1810 Houret

Court. The Project is located within the Transit Area Specific Plan (TASP) area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019). (Ned Thomas, Planning Director, 408-586-3273)

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

The representative from City Venture, Samantha Hauser gave a presentation on the proposed project.

Mayor Tran opened the Public Hearing.

The following spoke:

1. Voltaire Montemayor

Mayor Tran closed the Public Hearing.

After discussion, <u>motion:</u> to adopt **Resolution No. 9157** to approve Site Development Permit No. SD21-0012, Conditional Use Permit No. UP21-0006, Vesting Tentative Map No. MT21-0002, Density Bonus Permit No. DB21-0001, Tree Removal Permit No. TR21-0035, and Environmental Assessment No. EA21-0004, subject to the Conditions of Approval.

Motion/Second: Vice Mayor Montano / Councilmember Phan

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Phan, Vice Mayor Montano,

NOES: Mayor Tran

ABSENT: Councilmember Dominguez

18. Adopt a Resolution to Adopt the Trail, Pedestrian, and Bicycle Master Plan Update and Adopt the Trail, Pedestrian, and Bicycle Master Plan Initial Study Mitigated Negative Declaration (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301, Steve Chan, Transportation and Traffic Manager, 408-586-3324)

Engineering Director/City Engineer Erickson introduced the item and Transportation and Traffic Manager Chan and representative from Alta Planning Erin Davis presented the staff report.

Mayor Tran opened the Public Hearing.

The following spoke:

1. Voltaire Montemayor
2. Allysson McDonald

Mayor Tran closed the Public Hearing.

Vice Mayor Montano requested staff research a potential trail to connect Sunny Hills on Dixon Landing Road to Fremont on Scott Creek Road in the future.

After discussion, <u>motion:</u> to adopt **Resolution No. 9158** adopting the Trail, Pedestrian, and Bicycle Master Plan Initial Study/Mitigated Negative Declaration and its associated Mitigation Monitoring and Reporting Program; adopt **Resolution No. 9159** to Adopt the Trail, Pedestrian, and Bicycle Master

Plan Update; and authorize the Engineering Director/City Engineer to file a Notice of Determination in accordance with CEQA Guidelines Section 15075.

Motion/Second: Mayor Tran / Councilmember Phan

Motion carried by the following roll call vote:

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

NOES: None

ABSENT: Councilmember Dominguez

Mayor Tran asked to move item 21 up to be heard at this time. There was no objection from Council.

COMMUNITY DEVELOPMENT

19. Adopt a Resolution Certifying Election Results and Adding the Property Located at 308 Sango Court into Community Facilities District No. 2008-1 (Annexation No. 22) (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Principal Civil Engineer Alonzo presented the staff report.

Mayor Tran opened the Public Hearing.

The following spoke:

1. Voltaire Montemayor

Mayor Tran closed the Public Hearing.

Mayor Tran stated that this is the time for the City Clerk to canvass the ballots and to report the results of the election to the City Council.

City Clerk Wood stated that one ballot was received and opened the sealed ballot. She stated that there was one vote in favor of the proposition, and it has been approved.

Motion: to adopt **Resolution No. 9160** certifying election results and adding the property located at 308 Sango Court into Community Facilities District No. 2008-1 (Annexation No. 22).

Motion/Second: Mayor Tran / Councilmember Phan

Motion carried by the following roll call vote:

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

NOES: None

ABSENT: Councilmember Dominguez

20. Receive Progress Report on the Work Completed and Existing Conditions Analysis from Ascent Environmental and Staff on the Milpitas Gateway-Main Street Specific Plan, Discuss Plan 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)

Planning Director Thomas and Principal Planner Lee introduced the item. Ascent Environmental Consultants Christine Babla, David Shiver, and David Greensfield gave a presentation on the work completed and the existing conditions analysis for the Milpitas Gateway-Main Street Specific Plan.

Mayor Tran stated he would like to preserve the commercial and industrial square footage, commented that density on Main Street is acceptable to the public and is supportive of higher density south of Calaveras Boulevard in the area shown on the Specific Plan. He would like to see a clock tower on the building at the corner of Main Street and Serra Way, supports four to five-story buildings in the Main Street and Able area, and would like to see if there will be a parking garage.

Vice Mayor Montano stated she would like to revitalize Main Street with restaurants, entertainment, and a paseo. She would also like to see a museum in that area and look into purchasing an empty parcel to provide parking. She envisions the area to be like Santana Row and would like it to be pedestrian and business-friendly. She would like to preserve the commercial areas, see a larger FAR for the mixed-use, and supports a Business Improvement District.

Councilmember Phan stated he would like to see the area as an urban village model with adding residential to the area. He would like more activity on Main Street and incentives for properties that are not active. He would also like to look for opportunities to redevelop existing parcels to improve esthetics and shrink the scope of Main Street in terms of large commercial projects.

Councilmember Chua agreed with the previous suggestions, commented on allowing commercial business on the second floor, and suggested staff look into a potential bill that would allow developments with no parking, as it might apply to Main Street.

The following spoke during public comment:
1. Voltaire Montemayor

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

21. Receive Presentation from Bay Area Air Quality Management District Staff on the Results of the South Bay Odor Attribution Study (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602 and Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

*** This item was taken out of order**

Director of Public Works Ndah introduced the item and Bay Area Air Quality Management District representatives and Director of Meteorology and Measurement Ranyee Chiang presented the South Bay Odor Study.

The following spoke during public comment:

1. Voltaire Montemayor
2. Hiep Tran
3. Ling Kong

Council received the presentation from Bay Area Air Quality Management District Staff on the results of the South Bay Odor Attribution Study and asked clarifying questions.

Bay Area Air Quality Management District representative Paul Grazzini, Greg Nudd, Jerry Bovee, and Tamiko Endow provided additional information.

General Manager for Newby Island Dan North provided additional information.

Mayor Tran requested staff agendize the formation of a collaborative subcommittee to work with Newby Island representatives and the appointment of two members from the City Council to serve on the committee.

ADJOURNMENT

Mayor Tran adjourned the meeting at 11:39 PM.

The foregoing minutes were approved by the Milpitas City Council on June 7, 2022.

Wendy Wood
City Clerk