

CITY OF MILPITAS MEETING MINUTES

Minutes of: Meeting of the Milpitas City Council
Date: Tuesday, May 4, 2021
Time: 5:30 PM Closed Session
7:00 PM Open Session
Location: Meeting held via teleconference/zoom webinar online
Milpitas, CA

CALL TO ORDER

Mayor Tran called the regular meeting to order at 5:30 PM. City Clerk Wood called the roll. The meeting took place via teleconference/zoom webinar.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan (Councilmember Phan arrived at approximately 5:34 PM)

ABSENT: None

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Jeannine Seher, Human Resources Director

Bargaining Units: LIUNA (MEA, MIDCON, PROTECH), MPOA, IAFF, Unrepresented

One item regarding MEA

One item regarding all groups listed

(b) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

City as Plaintiff

County Sanitation District 2-3, West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, and City of Milpitas v. City of San Jose, City of Santa Clara

(c) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Cost Dispute with Tributary Agencies (Burbank Sanitary District, Cupertino Sanitary District, West Valley Sanitation District, County Sanitation District 2-3) Regarding Legal Expenses

(d) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9 (d)(2)

One Potential Case

Agenda Item 18 Appeal of Planning Commission's Denial of a Site Development Permit and Conditional Use Permit Amendment for an Automatic Car Wash at 554 South Main Street

(e) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Legal Risk Associated with Potential Hazard Pay Ordinance

(f) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Mayor Rich Tran

Employee: City Attorney

City Council reconvened to the public portion of the meeting at 7:50 PM.

**CLOSED SESSION
ANNOUNCEMENT**

City Attorney Diaz announced that the City Council provided direction to staff in Closed Session but there was no reportable action.

PLEDGE

Mayor Tran led all in the Pledge of Allegiance.

INVOCATION

Councilmember Chua introduced Pastor Mike Villanueva from Captive Church, and asked him to lead the Invocation.

PRESENTATION

Mayor Tran proclaimed May 2021 as National Mental Health Awareness Month, Older Americans Month, Asian Pacific American Heritage Month, and the week of May 9 – 15, 2021, as Economic Development Week.

PUBLIC FORUM

The following spoke during Public Forum:

1. Voltaire Montemayor

**ANNOUNCEMENTS &
FUTURE AGENDA ITEMS**

City Manager McHarris announced the following:

1. Santa Clara County held its first vaccine clinic in Milpitas on April 28, and all 500 doses were administered. Due to the strong outreach campaign led by City staff, 70% of those vaccinated were Milpitas residents. There were 76 minors vaccinated with 75% of them being Milpitas residents.
2. Milpitas will have two more vaccination clinics this week. One will be at the Milpitas Sports Center on Thursday, May 6, from 1:00 p.m. to 8:00 p.m. The Recreation and Community Services Department will be running another site at the Milpitas Community Center on Friday, May 7, from 12:00 p.m. to 5:00 p.m. For more information on these clinics' residents can call 408-586-3434 or visit the City's website or social media pages.
3. Volunteer Park and Creek Clean-up event will be held on Saturday, May 15, at Higuera Adobe Park, from 11:00 a.m. to 1:00 p.m. Residents can sign up to volunteer by visiting the City's website or social media pages or by calling the Recreation and Community Services Department at 408-586-3206.

Mayor Tran announced that there will be a Neighborhood Beautification day on Saturday, May 22, 2021.

Vice Mayor Montano requested the following:

1. The meeting be closed in memory of Peggy Pecot.
2. A discussion to reduce the City's facilities deposit at the Senior Center to make it more affordable.
3. To bring back the glass display at City Hall with safety glass to showcase the cultural heritage in Milpitas.
4. A report from the City Manager on the Transit Occupational Tax (TOT) status to see how the hotels are doing.
5. Commented on projects that have been approved by the Planning Commission not having art displays and stated that the City has an ordinance for new facilities or projects to have some type of art. She requested information showing that the ordinance is being followed. Mayor Tran added to the request by asking for an update on the Art developer fees.

Mayor Tran requested a discussion in the next fiscal year, for a sliding scale permitting program for seniors and low-income residence for necessary safety renovations.

Councilmember Phan made a request to explore an opportunity to create middle-income workforce housing and spoke about a program through the California Statewide Communities Development Authority that converts market-rate housing to moderate-income housing. He spoke about an opportunity that exists within the Metro Plan area

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR

Motion carried by a vote of:

AYES: 5
NOES: 0

City Attorney Diaz confirmed that in approving the agenda it included moving item 21 up to 20, postponing item 24 to the May 11 meeting, and continuing items 16 and 17. He recommended that Council reconsider the motion to make it clear that item 16 involving the CDBG will be continued to May 7 at 3:00 p.m. and item 17 for the Vehicles Miles Traveled policy will be continued to the May 18 meeting.

Motion: to reconsider the motion to approve the agenda.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of:

AYES: 5
NOES: 0

Motion: to approve the agenda continuing items 16, 17, and 24 as stated previously, and move item 21 following the public hearing.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of:

AYES: 5
NOES: 0

- | | |
|---|--|
| C1. Council Calendar | Received the City Council calendar of upcoming meetings for May 2021. |
| C2. Meeting Minutes | Approve meeting minutes of the April 20, 2021, Regular City Council Meeting. |
| C3. Ordinance – Amending Sections of Chapter 10 of Title XI of the Milpitas Municipal Code | Waived the second reading and adopted Ordinance No. 38.841 amending sections of Chapter 10 of Title XI of the Milpitas Municipal Code relating to off-street parking requirements for hotels and other lodging uses. |
| C4. Ordinance – amending a section of Title XI of the Milpitas Municipal Code | Waived the second reading beyond the title and adopted Ordinance No. 209.5 amending a section of Title XI of the Milpitas Municipal Code. |
| C5. Resolution – Granting Acceptance of Trash Removal Devices, Phase 2, Project No. 3713 | Adopted Resolution No. 9059 granting acceptance of Trash Removal Devices, Phase 2, Project No. 3713, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance. |
| C6. Resolution - Project No. 4298 Street Resurfacing 2020-2021 & Project No. 4303 Street Resurfacing Project 2021-2022 | Adopted Resolution No. 9060 designating Project No. 4298 Street Resurfacing 2020-2021 and Project No. 4303 Street Resurfacing Project 2021-2022 to be funded by SB1 The Road Repair and Accountability Act of 2017 Funding. |
| C7. Resolution - Project Plans and Specifications for Street Resurfacing Project 2021, City Project Nos. 4283 & 4298; Award Construction Contract to DeSilva Gates Construction | Adopted Resolution No. 9061 (1) approving Street Resurfacing Project 2021 Plans & Specifications; (2) awarding the construction contract to DeSilva Gates Construction, LP, in the amount of \$2,388,223.00 for the Street Resurfacing Project 2021, City Project Nos. 4283 & 4298, Federal Project No. STPL-5314 (012); (3) authorizing the City Manager to execute the construction contract with DeSilva Gates Construction, LP; (4) authorizing the Engineering Director/City Engineer to negotiate and execute Contract Change Order(s) in an aggregate amount not to exceed \$238,822.30 for the Project; (5) approving \$916,488 budget appropriation of One Bay Area Grant Cycle 2 (OBAG2) to |

- CIP 4298; and (6) approving \$127,586 budget appropriation of Transportation Development Act (TDA) Article 3 Grant to CIP 4283.
- C8. Resolution - To Annex 1380-1400 S. Main St. into Community Facilities District No. 2008-1
Adopted **Resolution No. 9062**, intent to annex property located at 1380-1400 South Main Street into Community Facilities District No. 2008-1 and set a City Council Public Hearing Date of June 15, 2021, to consider the annexation (Annexation No. 21).
- C9. Amendment No. 2 to the Professional Services Agreement with Municipal Plan Check Services for Building Safety Services
Approved and authorized the City Manager to execute Amendment No. 2 to the Professional Services Agreement with Municipal Plan Check Services for building safety services, increasing the total not-to-exceed amount from \$95,000 to 295,000.
- C10. Agreements with the County of Santa Clara for collection of AB939 fees & administration of the Countywide (HHW)
Approved and authorized the City Manager to execute two agreements and related amendments with the County of Santa Clara for (1) collection of AB939 Implementation Fees and for (2) administration of the Countywide Household Hazardous Waste (HHW) Collection Program.
- C11. Amendment No. 1 to the Agreement with Executive Facilities Services for Daytime Custodial Services
Approved and Authorized the City Manager to execute the amendment with Executive Facilities Services for daytime custodial services in the amount of \$144,000 for daytime custodial services, for a new contract amount not-to-exceed \$239,000 and to extend the agreement term through December 31, 2021.
- C12. Amendment No.2 to the Joint Use Agreement between the Milpitas Unified School District
Approved and authorized the City Manager to execute Amendment No.2 to the McCandless Property Joint Use Agreement between the Milpitas Unified School District and the City of Milpitas.
- C13. Monthly Report for Unhoused Services
Pulled off consent by Councilmember Chua.
- C14. City Council's Alcoholic Beverage Purchase and Consumption Policy
Adopted modifications to the City Council's Alcoholic Beverage Purchase and Consumption Policy.
- C15. Letter Opposing Proposed Increases to Santa Clara Valley Water District's Charges
Approved and authorized the Mayor to sign a letter of opposition to Santa Clara Valley Water District's increases to groundwater production charges.

PUBLIC HEARINGS

16. Allocation Amounts for FY21-22 Community Development Block Grant Funding and Approve an Amendment to the FY20-21 Annual Action Plan
This item was continued to May 7, 2021, at 3:00 p.m., during the approval of the agenda and approved as follows.
Motion/Second: Mayor Tran / Councilmember Chua
Motion carried by a vote of: AYES: 5
NOES: 0
17. Vehicle Miles Traveled Policy to Implement Senate Bill 743
This item was continued to May 18, 2021, during the approval of the agenda and approved as follows.
Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of:

AYES: 5
NOES: 0

18. Denying the Appeal and Upholding the Planning Commission's Denial of a Site Development Permit and Conditional Use Permit Amendment to Construct a New Car Wash Located at 554 South Main Street

Planning Director Thomas introduced the item. Senior Planner Thompson presented the item.

Dean Hanson, a representative for the appellant, gave a brief presentation on the proposed project. Appellant Ramesh Sood and representatives Joel Chapin, Gurbir Maroke, and Jaggot Kahlon provided additional information and spoke in favor of the proposed project.

Motion: to open the Public Hearing

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by a vote of:

AYES: 5
NOES: 0

The following spoke during Public Comment:

1. Voltaire Montemayor
2. Rajen Patel

Motion: to close the Public Hearing

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of:

AYES: 5
NOES: 0

Council asked clarifying questions and discussed the proposed project. A majority of Council spoke in support of the project.

City Attorney Diaz stated that Council would need to make a motion to direct staff to return with a resolution approving the car wash. If that direction is given to staff and the motion is approved, then staff will bring back a resolution approving the car wash on consent at the next regular meeting on May 18.

Motion: to approve the car wash and bring this item back at the next regular meeting.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of:

AYES: 3
NOES: 2 (Phan, Dominguez)

Councilmember Dominguez expressed concerns and left the meeting at 10:19 PM.

19. Resolution - Approving the Fiscal Year 2021-22 Master Fee Schedule

Finance Director/Risk Manager Lai introduced the item. Budget Manager Lei presented the report for the Fiscal Year 2021-22 Master Fee Schedule.

Motion: to open the Public Hearing

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Dominguez)

The following spoke during Public Comment:

1. Voltaire Montemayor

Motion: to close the Public Hearing

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Dominguez)

Motion: to adopt **Resolution No. 9063** approving the Fiscal Year 2021-22 Master Fee Schedule.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Dominguez)

**COMMUNITY SERVICES &
SUSTAINABLE
INFRASTRUCTURE**

*This item was heard out of order after the public hearings.

*21. Presentation from Santa Clara Valley Water District Staff

Received an update and presentation from Santa Clara Valley Water District representatives Richard Santos, Rechelle Blank, Karl Neuman, and Sunshine Ventura Julian, on the Flood protection projects within the City of Milpitas

No motion was made for this agenda item.

COMMUNITY DEVELOPMENT

20. Report on the Community Identification and Brand Study (Phase II)

Assistant City Manager Kantak introduced the item. Public Information Officer Angelo gave a presentation on the Community Identification and Brand Study (Phase II). Economic Development Director Andrade presented the impact on Economic Development, and Planning Director Thomas presented the impact on placemaking. Consultant Katherine Filice presented the proposed branding concepts and staff requested direction from Council on the Community Mark/Logo and the City Seal/The Minuteman.

**LEADERSHIP AND
SUPPORT SERVICES**

Due to the late hour, Council moved this item to a future meeting.

C22. FY 2020-21 Third Quarter Financial Status Report

Reviewed the FY 2020-21 Quarterly Financial Status Report for the Quarter Ending March 31, 2021.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of: AYES: 5
NOES: 0

C23. List of Agenda Items Requested by City Councilmembers

Reviewed list of items that have been requested by City Councilmembers

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by a vote of: AYES: 5

NOES: 0

24. Per Mayor Tran, Discuss and Provide Direction to Staff on Potential Hero/Hazard Pay Ordinance

This item was continued to May 11, 2021, during the approval of the agenda and approved as follows.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of:

AYES: 5

NOES: 0

- C25. Preview Agenda Items

Received list of anticipated agenda items for the April 20, 2021, regular City Council meeting.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by a vote of:

AYES: 5

NOES: 0

**ITEMS PULLED OFF OF
CONSENT CALENDAR**

13. Receive Monthly Report for Unhoused Services

Due to the late hour, this item was continued to May 11, 2021.

ADJOURNMENT

Mayor Tran turned the meeting over to Vice Mayor Montano for the adjournment.

Vice Mayor Montano spoke about Peggy Pecot and stated she would be adjourning the meeting in honor and memory of Peggy. The meeting adjourned at 11:49 PM.

The foregoing minutes were approved by Milpitas City Council on May 20, 2021.

Wendy Wood
City Clerk