

MEETING MINUTES CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council and Successor Agency to the Former Redevelopment Agency
Date: Tuesday, November 21, 2017
Time: 5:00 PM Closed Session
7:00 PM Open Session
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Councilmember Nuñez called the joint meeting to order at 5:01 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Mayor Tran, Councilmembers Barbadillo, Nuñez and Phan

ABSENT: Vice Mayor Grilli was absent at roll call. She was present by telephone conference from Telluride, CO in the Closed Session and for a portion of the Open Session in Council Chambers.

Recreation Services Director Renee Lorentzen sat in place of Acting City Manager Steve Pangelinan, who was absent.

CLOSED SESSION

City Council convened in Closed Session to discuss labor negotiations, litigation and personnel matters, as listed on the agenda. City Attorney Chris Diaz said that Mayor Tran would recuse himself on Closed Session agenda item (e).

City Council then convened in Open Session at 7:06 PM with all members present.

ANNOUNCEMENT

The City Attorney stated there was no reportable action out of Closed Session.

PLEDGE

Girl Scouts from various Troops presented the flags and led the pledge of allegiance.

INVOCATION

Councilmember Phan offered remarks and brief prayer.

PRESENTATION

Mayor Tran called resident Evelyn Chua to the podium to commend volunteers including nurses who raised funds for the Philippines General Hospital. The Mayor and Mrs. Chua presented commendations to eight volunteers/exercise instructors who helped in the effort.

PUBLIC FORUM

Allysson McDonald, Milpitas resident, spoke of a contract for the City to create a nexus study (related to affordable housing). She noted that the time was open for public comment, and the public meeting held recently had only six people in attendance. This report would help the City to plan for fees for affordable housing to be charged to developers.

Councilmember Nuñez remarked that the Planning Director was due to come back to City Council with revised fees to be charged. The Recreation Director said it would be in December.

Tom Valore, Milpitas resident, noted the change in format for the consent calendar. There was not time to know in advance what would be discussed, and that made it difficult for the audience.

ANNOUNCEMENTS

Recreation Director Renee Lorentzen announced the 30th anniversary of the City's annual holiday Tree Lighting on Friday, December 1 and all were invited. She also informed the Council that road repair work for 2017, with \$1.28 million worth of repairs anticipated, and \$17 million over 10 years, was due to be reported in a detailed memo from staff to City Council.

Councilmember Phan noted that the Vice Mayor had provided information from the Cities Association on best practices on cannabis in cities. The topic was to be taken up at a future Milpitas City Council meeting. Councilmember Nuñez asked to get contact information from a woman speaking out from the audience, so she could be invited to the next Council Subcommittee meeting.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST
AND CAMPAIGN
CONTRIBUTIONS**

City Attorney Diaz asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. None were reported.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as amended

Councilmember Nuñez asked to move items no. 9 and no. 10 to a future meeting date.

Councilmember Phan asked to move no. 13 to the front of the agenda, to be heard first.

Vice Mayor Grilli would like to move item no. 14 to be heard after that.

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

CONSENT CALENDAR

The City Attorney reminded the Council of the newer process for consent calendar, requesting Councilmembers to state aloud which items they wish placed onto the consent list.

Mayor Tran: items no. 6, 15 16, 17 and 18

Councilmember Nuñez: items no. 5, 7, 8 and 12

Councilmember Phan: items no. 11 and 15

Mayor Tran noted that one public speaker wanted to hear item no. 7. Councilmember Nuñez wanted a vote on whether or not to do this. He agreed with the staff time requested on the Mayor's item (on homeless strategy) and sought staff input on the issue. At the meeting, Mayor Tran wanted to present information himself and therefore, did not want that item on consent.

Mr. Nuñez stated his motion would be to keep agenda item no. 7 on consent calendar. The woman in the audience withdrew her request to speak.

City Attorney Diaz said agenda item no. 6 (Ordinance no. 48.21) needed to be heard aloud, for the first reading of the title and introduction of the ordinance.

Motion: to approve the consent calendar with these items: agenda items numbered 5, 7, 8, 11, 12, 15, 16, 17 and 18 - and including numbers 1 and 2, listed under Consent on the agenda

Motion/Second: Councilmember Nuñez/Councilmember Phan

Motion carried by a vote of: AYES: 3
NOES: 2 (Tran, Barbadillo)

The City Attorney clarified that items No. 1 and No. 2 were listed under consent calendar on the agenda and thus, those should be included in the vote taken for approval.

*1. Council Calendar

Accepted City Council calendars for November and December 2017.

*2. Meeting Minutes

Approved City Council meeting minutes of October 4 and 7, 2017.

UNFINISHED BUSINESS

3. Commissions

Mayor Tran made a few comments in general about Commissions.

Councilmember Phan asked to have item no. 6 to be heard prior to this no. 3.

Councilmember Nuñez wanted to consider two methods of doing Commissioner appointments. One would be like they are done at the County where Commissioners do interviews, review applications and make recommendations to the County Board of Supervisors. In other cities, they had two Councilmembers and the Clerk review all applications, do interviews and come back to full Council for a vote.

Councilmember Phan responded to one recommendation from Mr. Nuñez with departments, he supported that, to rely on expert advice. He felt that Department Heads had important sway over Commission applicants.

Mayor Tran agreed that the County's was a great model to imitate.

Councilmember Barbadillo believed this should be left to the Council, either the full City Council or by a Council subcommittee. Councilmembers served as liaisons.

Mayor Tran suggested also perhaps to revise the Commissions, like having Telecommunications to be revised to a Technology Commission. Even the Bicycle Pedestrian Advisory Commission could focus on transportation overall. There were many issues to work on and be precise.

Councilmember Phan responded to Mr. Barbadillo, saying how about two Councilmembers on a subcommittee along with the respective Department Head for input. He wanted a formal interview process.

Councilmember Nuñez asked to draft and bring something back at the next meeting. He asked to go over all those cities' Commissions. Few cities had Bicycle Commissions by themselves and mostly they had transportation commissions. Also there were term limits on many cities' Commissions. With Parks & Recreation, a closer connection with education was needed perhaps and include more voices. He found these topics interesting for a Commission from another city: public safety, finance, and strategic support. Also, he mentioned Rules & Open Government, and Transportation & Environment Commissions.

Councilmember Phan asked if that included consideration of City Council Subcommittees. Mr. Nuñez said some were Commissions and others Committees.

Councilmember Nuñez inquired about the cable television franchise (Comcast local office moving), and new changes in the law, and asked if there was going to be a community station. The City Attorney responded on DIVCA and standard processes due in 2020, with PEG fees going away.

No vote was taken regarding Commissions.

Next, the Mayor invited public comment.

Vicky Young said she was not understanding the process. If two were interviewing candidates, would this be the same Councilmembers all the time, she asked. Also, was this for existing Commissioners, or only the new ones? Do they also need to go through this process?

Councilmember Nuñez asked staff to bring back this subject at the next meeting on December 5 to review and discuss.

4. List of items

Ms. Lorentzen explained that staff brought forward a list of expected topics for reports or other method of response back to specific City Council requests that had been made. The list was put together by the City Clerk, and staff sought input from the Council.

Mayor Tran said his favorite column was “Target Completion” date and asked if it could be filled in more specifically (perhaps monthly) for those dates, for all of 2017. Staff would do so.

Councilmember Nuñez said that he had given feedback to Chief Pangelinan. He asked for staff to add that and bring it back to Council.

City Clerk Mary Lavelle asked the Council its preference about how to receive the list. The Mayor said he would like staff to bring it back to the Council in the Chambers, regularly and to have it on the meeting agenda.

***5. Request of Council**

On consent: approved more than four hours of staff time toward a plan to preserve industrial land in the City of Milpitas.

Though this matter was approved on consent, the Mayor later asked for explanation of the topic.

Councilmember Nuñez said the Council had asked for this plan quite some time ago, and he asked for input from the Economic Development Director. He spoke about the types of space and zoning in the Transit Area Specific Plan area. Ms. Bitbadal said an economic study was actually underway and she planned to come back with methods of preserving industrial land and staying competitive in the market.

City Attorney Diaz said the Council had options, including a possible future ordinance. Mr. Nuñez said to do this all at one time. In tandem could be the fiscal study response by Ms. Bitbadal and also perhaps an ordinance on land use preservation from the attorney.

Councilmember Phan agreed with Mr. Nuñez, and wanted Ms. Bitbadal to be the lead on it.

The Mayor invited public comment.

Tom Valore, Milpitas resident, was curious about the General Plan and reviewing land use in that. If the City was piece-mealing it with exceptions, maybe it was better to take a look at the entire plan.

Councilmember Phan wanted the Land Use element of the new General Plan to be expedited.

Voltaire Montemayor, resident, said to figure out what is wanted in this little area (Milpitas) next to larger cities. The industrial land shortage had to be solved.

6. Introduce Ordinance No. 48.21 on Solid Waste

Engineering Staff Leslie Stobbe addressed the Council on the proposed ordinance, which requested to seek new solid waste provisions to be included in the new franchise agreements by adoption of an ordinance. She listed five key changes (on slide).

Councilmember Phan addressed Mr. Lou Pellegrini of Milpitas Sanitation Inc. saying he had requested a labor agreement with Milpitas Sanitation at the last Council meeting. Mr. Pellegrini responded that he was working on it with the union representing his workers. Mr. Phan asked if it could be brought to the next City Council meeting. Mr. Pellegrini replied they were working with Teamsters and he could not commit them on the schedule for agreement.

City Attorney Diaz read aloud the title of Ordinance No. 48.21, “An Ordinance of the City Council of the City of Milpitas Amending Chapter 200 of Title V of the Milpitas Municipal Code Relating to Solid Waste Management.”

Motion: to waive the first reading beyond the title and introduce Ordinance No. 48.21 to amend Chapter 200 of Title V of the Milpitas Municipal Code regarding solid waste management

Motion/Second: Councilmember Nuñez/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0

REPORTS

- *7. Request for Staff Time on Homeless Strategy Per Mayor Tran's request, approved more than four hours of staff time toward a plan for a comprehensive homeless strategy for the City of Milpitas.
- *8. Request for Staff Time on EIFDs Authorized staff to spend more than four hours of staff time to study the feasibility of establishing Enhanced Infrastructure Financing Districts (EIFDs) within the City of Milpitas and return to Council with a report.
9. Report - Labor Negotiations This item was removed from the agenda.
10. Naming New Park This item was removed from the agenda.

NEW BUSINESS

- *11. Healthy Cities Initiative Received staff report on City of Milpitas Healthy Cities Dashboard.

ORDINANCE

- *12. Ordinance No. 296 Waived second reading and adopted Ordinance No. 296 regarding Community Choice Aggregation (energy) program.

RESOLUTIONS

- 13. Resolutions and Agreements for PACE programs** The Economic Development Director gave a presentation on the PACE programs. She described the required actions to proceed with allowing these programs in Milpitas, with five provider companies.
- Mayor Tran invited members of the audience to speak.
- Allysson McDonald, Milpitas resident, urged the City Council to support this effort.
- Ms. Bitbadal asked to point out some corrections to one of the documents in the agenda packet. She stated that explicit information for the Council, noting it on the attachment document.
- Mayor Tran invited more speakers from the audience.
- Vincent Rocha, thought this process sounded good and valuable for homeowners. He was here to represent Santa Clara Realtors, who were concerned about one element of these loans. PACE program loans were not regulated and these loans had first priority over mortgage for payment, if a home went to foreclosure or bankruptcy. City of Bakersfield eliminated PACE programs, as a result.
- Councilmember Barbadillo asked Mr. Rocha about PACE loans being first over first or second home mortgage. It was per state law. Mr. Barbadillo asked about one HVAC example.
- Heidi Wolf-Reid, 1397 Yosemite Drive resident and realtor, felt that this was a great opportunity for people to get ripped off, especially senior citizens. She identified several problems with these loans through PACE program providers.
- The Mayor next invited PACE provider representatives to address the Council.
- Eve Perez, Director of Government Affairs for Ygrene Energy, wanted to dispel myths given by the realtor community. The Governor's loan loss reserve program with \$10 million was established to help homeowners, if a property went toward default and no claims were made to date under the safety program.

Robert Bendorff of the HERO program responded to Councilmember Barbadillo about the first position of the PACE loan on the home. They had protections for senior citizen customers for this type of financing.

Rachel, of Open PACE program for residential customers in Los Gatos, explained that the contractor for the energy work on a home was the choice of the homeowner.

Councilmember Phan asked what was the average cost of a PACE loan. Mr. Bendorff said the average was \$20,000, with a minimum of \$5,000.

Councilmember Nuñez spoke of his mother-in-law and he asked about a home held in a trust. Providers explained that it was possible for homes in trust to participate.

City Attorney Diaz said, regarding consumer protections, the state was working on it, with state legislation to help homeowners with energy efficiency to improve their homes, via use of these financial tools.

Councilmember Barbadillo wanted best practices for homeowners, with quality assurances for the PACE program, and to incorporate those in a letter of agreement. There would need to be minimum qualifications for contractors, such as being bonded and licensed for extra protection.

Ms. Perez responded to Mr. Barbadillo, and referred to Sonoma County where due diligence was done on protecting property owners. She provided more information to the Council.

Councilmember Nuñez wanted to know if the Economic Development office would be the place that residents could call if there was a question or if something went wrong with the PACE financing. The City Attorney said the City could pull out of the program if it was not operating correctly.

Mayor Tran asked questions of an example homeowner, and difficulty paying bills down the road. Mr. Bendorff from the HERO program explained how contractors get kicked out of the program if they attempt to take advantage of seniors (basically, got blacklisted in the state).

Next, the Council voted on the following actions.

MOTION:

1. Adopt Resolution No. 8718 authorizing the inclusion of properties within the City's jurisdiction in the Ygrene program through the California Home Finance Authority Community Facilities District No. 2014-1 (Clean Energy) under SB 555 and under AB 811 and Resolution No. 8719 approving an amendment to the California Home Finance Authority/Golden State Finance Authority's Joint Powers Agreement (formerly the California Rural Home Mortgage Finance Authority) adding the City of Milpitas as an Associate Member, and authorize the City Manager to execute the amendment to the California Home Finance Authority/Golden State Finance Authority's Joint Powers Agreement adding Milpitas as an Associate Member.
2. Adopt Resolution No. 8720 authorizing the inclusion of properties within the City's jurisdiction in the California Home Energy Renovation Opportunity (HERO) Program and approving an amendment to the Western Riverside Council of Governments Joint Powers Agreement adding the City of Milpitas as an Associate Member, and authorize the City Manager to execute the Associate Member Agreement with the Western Riverside Council of Governments.
3. Adopt Resolution No. 8721 approving, authorizing, and directing execution of an amended and restated joint exercise of powers agreement relating to the California Statewide Communities Development Authority, and
Adopt Resolution No. 8722 authorizing the inclusion of properties within the territory of the City of Milpitas in the California Statewide Communities Development Authority Open PACE Program for those providers signing the City's Letter of Agreement and the ABAG Regional Agreement.

4. Adopt Resolution No. 8723 authorizing the City to join the FigTree Property Assessed Clean Energy Program, authorizing the California Enterprise Development Authority to conduct contractual assessment proceedings and levy contractual assessments within the territory of the City of Milpitas.
5. Find that the actions are exempt from environmental review under CEQA Guidelines Section 15378(b)(4).

Motion/Second: Councilmember Phan/Councilmember Barbadillo

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

14. Resolution – Bond Re-financing

Finance Director Will Fuentes introduced the bond consultant Municipal Advisor James Fabian from Fieldman Rolapp & Associates, who explained his experience with the City on prior COPs, and on the current re-financing of these water bonds. Mr. Fabian discussed projected coverage for the Sewer Fund. There was great opportunity at this time to lock in lower interest rates and to save money, quite similar to a re-finance on a residential home mortgage.

Attorney/Bond Counsel Scott Ferguson from the firm of Jones Hall explained the process and steps necessary for the financing actions. Council was asked to approve legal documents required, including on the security for the bonds. Bond documentation was defined and explained. On December 4, they would price the bonds and planned to close the bonds on December 20. Mr. Fabian then reviewed the required steps for City Council to complete the refunding process.

Mayor Tran asked some questions on costs, and the amount of savings to the City.

Councilmember Barbadillo discussed the financial opportunity for re-financing. He asked many questions about the costs including consultant fees, which were a total of \$229,000 to the City.

Councilmember Nuñez asked what the City was using presently for the Treatment Plant. Mr. Fuentes responded on methods to pay for capital costs, due to the funding. Mr. Nuñez asked Acting Public Works Director Ndah timing questions on the projects to be done, specifically the Capital Improvement Program's projects planned for the Wastewater Treatment Plant.

Mr. Nuñez asked about the City's AAA rating, with a negative outlook. The consultant explained the uncertainty factor, and once the plan for financing the share of the treatment plant costs was decided, then the City was in a good position to move back up in its rating.

Councilmember Phan inquired how much the City's water infrastructure affected the credit rating. Mr. Fuentes explained types of credit ratings, and that it would not come in to play at all on the rating.

City Attorney Diaz noted that a revised document was distributed to the City Council at the dais for a vote on this bond issuance.

Motion: to adopt Resolution No. 8724 authorizing the issuance, sale and delivery of Wastewater Revenue Refunding Bonds for the purpose of refinancing the costs of acquiring and constructing Wastewater System Improvement Projects, approving an Official Statement, and related matters

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

- *15. Resolution – Apex Apts Adopted Resolution No. 8725 final acceptance of public improvements and releasing performance bond for the Apex Apartments project located at 1102 South Abel Street by Milpitas Centria West, LLC, Tract No. 9773, Project No. 2583.

- *16. Resolution – Accept Daniel Ct. water main repair Adopted Resolution No. 8726 granting initial acceptance of the Daniel Court Water Main and Service Replacement, Projects No. 7110 and No. 7131, subject to a one year warranty period and releasing the faithful performance and payment bonds; and granting authorization to the City Engineer to issue the notice of final acceptance bond after the one-year warranty period without further City Council action.

AGREEMENTS

- *17. Bartle Wells Agreement Approved and authorized the City Manager to execute a consultant services agreement with Bartle Wells Associates to conduct a Comprehensive Water Rate and Cost of Service Study for a sum not to exceed \$45,000.

- *18. Crocker & Crocker Approved and authorized the City Manager to execute a consultant services agreement with Crocker & Crocker for the Water Rate Community Engagement Program for a sum not to exceed \$40,000.

- 19. Senior Lifestyles project Acting City Engineer Steve Erickson presented the Council actions needed – approval of three agreements – for the senior living development project at 1504-1620 South Main Street. Mr. Erickson detailed the reason for each of the agreements, with a description of the project and its current status.

Mayor Tran welcomed the applicant team and invited them to speak to the Council.

Mr. Joe Callahan, developer, who was with his business partner Ms. Terry Freeman, addressed the Council and provided printouts of powerpoint slides. The team consisted of Callahan Property Co. along with SRM Development and Westmont Living. Ms. Freeman provided a history of the project to date.

Mayor Tran said he supported services for senior citizens. He was very concerned about parking, and making sure there was enough in all neighborhoods. He asked questions about staff parking and the need for the residents' parking along with street parking. He inquired if there was permit parking for the residents, which would be helpful for those who lived there. The Mayor expressed concern for the safety of the residents.

Mayor Tran asked what community benefit would be realized. Mr. Callahan responded, in the first year, \$20,000 in property tax with \$4 million over the life of the development agreement.

Councilmember Nuñez asked about the affordable component, comparing information in the handout versus overhead slide. He asked for an explanation of very low income, and low income by annual income, as described by the developer.

Councilmember Barbadillo asked a variety of questions, responded to by Mr. Callahan on zoning, the project construction timeline and development phases. The potential for a “density bonus” was possible regarding affordable units built, Ms. Freeman mentioned.

Councilmember Phan thanked Mr. Callahan for the tour given to him and Councilmember Nuñez of his facility in Livermore. Mr. Phan asked why Phase II was not yet moving toward entitlement. Ms. Freeman responded they had always planned to get Phase I built and get people moved in first, and then to move on to build Phase II for occupancy.

Councilmember Nuñez remarked that he wanted to have Vice Mayor Grilli present at the Council meeting to vote on this matter.

Ms. Freeman explained that the development team had financing lined up, subcontractors lined up, bids in place, and had been working on these three agreements since April. They did have a closing deadline for the Disposition and Development Agreement on December 31.

Councilmember Nuñez said that he wanted all five elected officials on record for this matter, and would also prefer to have the Planning Director be present to answer Council's questions. This could occur at the next Council meeting on December 5. He said that was his motion.

Mr. Callahan responded that would force them to a January closing date and he would need time to accommodate that.

Motion: to move the necessary actions on three agreements for Senior Lifestyle project at 1504-1620 South Main Street by Milpitas Phase I, LP to the Council meeting of December 5, 2017

Motion/Second: Councilmember Nuñez/Councilmember Barbadillo

AYES: 4

NOES: 0

ABSENT: 1 (Grilli)

SUCCESSOR AGENCY

20. Sale of 230 N. Main Street

Assistant Finance Director Jane Corpus provided background on the parcel at 230 N. Main Street and how it arrived at the recommendation at this meeting. She described past actions of the City, Redevelopment Agency, and the Oversight Board of the Successor Agency to the Former Milpitas Redevelopment Agency.

Mayor Tran wanted to know how a museum would be developed and what the vision was.

Steve Munzel, President of the Milpitas Historical Society, came up to answer the Mayor's question. It would be a community museum, rather than just a history museum. \$315,000 was agreed to be spent for this land purchase, as a first step toward hopefully having a museum in the future. Mr. Munzel was not sure about costs to build a museum until the land was secured first. Design, size and plan for a museum would need to be determined.

City Attorney Diaz explained a lot more of this process, legally, for the City and the Historical Society.

Councilmember Phan asked if educational facilities were included. City Attorney Diaz read aloud the language of Measure K, adopted last November, to define what voters approved regarding zoning for this parcel of land.

Councilmembers Barbadillo and Nuñez made various comments, with both wanting to be supportive of this effort and the Milpitas Historical Society.

Motion: to authorize the Executive Director of the Successor Agency of the former Milpitas Redevelopment Agency to execute a purchase and sale agreement with the Milpitas Community Museum for property located at 230 N. Main Street (Assessor Parcel Numbers 028-34-001 through 028-34-094)

Motion/Second: Councilmember Nuñez/Councilmember Barbadillo

Motion carried by a vote of:

AYES: 3

NOES: 1 (Phan)

ABSENT: 1 (Grilli)

Mr. Don Peoples thanked the Council for their support.

REPORTS of MAYOR & COUNCILMEMBERS

No reports.

ADJOURNMENT

Mayor Tran adjourned the joint meeting at 12:20 AM on Wednesday, November 22, 2017.

The foregoing minutes were approved by Milpitas City Council on December 5, 2017.

Mary Lavelle
Milpitas City Clerk