

MEETING MINUTES CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council, Successor
Agency and Public Financing Authority
Date: Tuesday, October 17, 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 Vice Mayor Grilli called the joint meeting to order at 5:00 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Vice Mayor Grilli, Councilmembers Barbadillo and Nuñez

ABSENT: Mayor Tran and Councilmember Phan were absent at roll call, and arrived in Closed Session.

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 7:00 PM with all members present.

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

PLEDGE Boy Scouts Troop No. 163 presented the flags and led the pledge of allegiance.

INVOCATION Councilmember Nuñez requested a moment of silence in honor of Mr. Noel Jackson, recently deceased long-time City employee. Next, Mr. Nuñez read aloud a bible quote regarding the value of community.

PRESENTATIONS Mayor Tran presented the following:

Proclaimed Domestic Violence Awareness Month for October 2017. This event was first acknowledged by Vice Mayor Marsha Grilli. The proclamation was received by Tanis Crosby of the YWCA Silicon Valley, one of five agencies in Santa Clara County serving those in need due to domestic violence.

Proclaimed Manufacturing Day in Milpitas, which was held on Friday, October 13, 2017 in the City of Milpitas. Economic Development Director Edesa Bitbadal offered recognition to representatives from Flex and Cordis corporations, Milpitas Unified School District and others who celebrated this event and day the prior Friday.

Next, Mayor Tran invited Syed Mohsin and Thelma Batilo from the Community Advisory Commission to recognize the four 2017 winners of Neighborhood Beautification Awards: Terrace Gardens, Phoebe Kwong, Jon & Tiffany Arikata, and Chieu Lipscomb.

PUBLIC FORUM Mayor Tran stated the time for speakers would be limited to one minute each.

Rob Means, Milpitas resident, spoke about electric cars, including battery operated. He also supported the future of driverless cars becoming more common in the future.

Charlene Lee addressed the Council, yelling loudly, saying she would sue the Police Chief and other City officials, based on past treatment of her.

Councilmember Nuñez wanted to make sure Mr. Means' topic would be referred to the Economic Development Director, and that it would come back to Council.

Interim Police Chief Pangelinan wanted to respond to comments made. The Milpitas Police Department investigated the issue that Charlene Lee brought forward to police twice in the past. The matter was investigated thoroughly and then brought to the District Attorney's office for further review. The D.A. agreed with findings of the police investigation, wherein no crime was found to have been committed.

At 7:40 PM, the City Council took recess. Ms. Lee was escorted out of the Council Chambers and the meeting.

Matthew Stevenson of San Jose, from Citizens Community Energy, came up. Mayor Tran asked him to come back later when the community choice energy item was scheduled.

Tom Valore, Milpitas resident, requested that agenda item no. 10 (solid waste amendment) be removed from the consent calendar.

Robert Marini, Milpitas resident, wondered why the City Council did not want to increase the fee for recycled water. He gave further statistics on the use of and cost for that product.

Voltaire Montemayor, Milpitas resident, wanted to support the city overall, and commented on some of the proclamations made earlier.

ANNOUNCEMENTS

Acting City Manager Steve Pangelinan stated that the Fiscal Year end report for FY 2016-17 would come to the City Council on November 7 (not October) and Council could any discuss surplus then. Also, Milpitas Police Department was in the final steps of implementing "safe zones" for internet transactions, for people to feel safe making those in a public place (police parking lot) which included cameras.

Councilmember Nuñez noted that the Boy Scouts Troop No. 163 was one of the first scout troops to make a change allowing girls to be included in Cub Scouts and Boy Scouts, including an opportunity to work toward Eagle Scout status.

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 place item no. 13 (resolution to amend Classification Plan) onto the consent calendar.

Vice Mayor Grilli agreed with her colleague, and then asked move up item no. 18 (community choice energy) to be heard first for discussion.

Mayor Tran requested to move his item no. 19 (homeless strategy) to the next regular Council meeting agenda.

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Mayor Tran asked to remove item no. 10 (garbage contract amendment), as requested by a resident. He asked to remove items no. 5 (adopt ordinance), no. 6 (joint resolution- refinancing) and no. 9 (landscaping maintenance contract) from consent.

Councilmember Nuñez requested to remove agenda items no. 7 (Resolution) and no. 11 (improvement agreement) from the consent calendar.

Vice Mayor Grilli requested to hear no. 18 (energy programs) before the consent items.

Mayor Tran requested to hear item no. 17 (Commissions) to be right after no. 18.

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

- *1. Council Calendar Accepted City Council calendar for October 2017.
- *2. Meeting Minutes Approved City Council meeting minutes of October 2, 3 and 5, 2017.
- *3. Community Garden Appropriated \$2,920 from the Senior Center Holding account to the Recreation and Community Services Senior Center operating budget for the City of Milpitas Community Garden program.
- *4. 2018 Meetings Approved the 2018 City Council meeting schedule, including canceling July meeting dates.
- 5. Adopt Ordinance No. 38.830 Planning Director Brad Misner was available to answer questions.

Mayor Tran asked if the ordinance was related to a specific development and staff replied the ordinance related to zone changes for development at 1992 Tarob Court and on Lundy Ave. in the Transit Area to accommodate zoning for the project.

Vice Mayor Grilli felt that the public benefits were not highlighted in the last two weeks. The True Life Company would double its commitment to affordable housing by its contribution (from 5% to 10%) voluntarily.

Mayor Tran spoke in support of the impact on affordable housing from the project, especially based on Vice Mayor Grilli's comment.

Councilmember Phan asked the Mayor why he pulled it from consent. Mayor Tran responded about wanting to understand the impact on affordable housing.

A woman resident asked how many houses would be built as a result of this action. She was concerned about the amount of traffic. Also, the high school population was too high now.

Councilmember Barbadillo stated the ordinance changed zoning for 8.7 acres in the Transit Area Specific Plan. He read aloud what the change would effect and reported that he would vote no, same as he did at the last meeting.

Motion: to waive the second reading and adopt Ordinance No. 38.830 amending the City's Zoning Map

Motion/Second: Vice Mayor Grilli/Councilmember Phan

Motion carried by a vote of: AYES: 3
NOES: 1 (Barbadillo)
ABSTAIN: 1 (Mayor Tran)

6. Joint Resolution – bonds re-financing

Councilmember Nuñez felt this matter was not appropriately listed on the agenda. He believed it must be listed separately, and should not be on consent calendar.

Councilmember Nuñez asked about the firms recommended by staff to use for this financing. He wanted to look at the list of which ones had been used in the past ten years. He felt the need to take a longer look at such firms, and Finance Director Will Fuentes responded to him.

Councilmember Phan agreed with his colleague, about the review of any agreements for services. He agreed this matter did not belong on the consent calendar. Mr. Phan agreed that Council should have more discussion on the re-financing matter.

Mayor Tran asked for explanation of re-financing of the bond obligation for the wastewater system. He asked how much money would be saved by taking the staff recommended action.

Councilmember Nuñez referred to the meeting scheduled on the following day (special Council meeting for report from Citizens Water Rates Task Force). He commented on the process, urgency of action, separate votes, and the anticipated meeting on Wednesday.

Mayor Tran believed there was ample opportunity to contact staff by phone number to ask questions when the agenda was distributed for each Council meeting.

Vice Mayor Grilli said she was ready to make a motion.

Councilmember Phan inquired as to which Councilmembers served on the Council's Finance Subcommittee. The Mayor responded that was himself and Vice Mayor Grilli. Mr. Phan asked if this topic was brought to them and the Mayor said no, but that was not required. The Finance Subcommittee reviewed the Capital Improvement Program projects and the City's annual budget.

(1) Motion: to adopt Joint Resolution of the City Council No. 8705, Successor Agency No. 10 and Public Financing Authority No. 21 adopting a Debt Management Policy

Motion/Second: Vice Mayor Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 3
NOES: 2 (Nuñez, Phan)

(2) Motion: to adopt City Council Resolution No. 8706 authorizing the refinancing of the Wastewater System Obligations (bonds), appointing the financing team and approving related matters

Motion/Second: Vice Mayor Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 3
NOES: 1 (Nuñez)
ABSENT: 1 (Phan)

Councilmember Phan left the dais and the meeting at 11:54 PM (prior to the vote above).

Mayor Tran asked the Finance Director for a report back later on how much money was saved by this action.

7. Resolution- purchase of 4 police vehicles

This item was removed from consent but was not heard. It would be continued to next agenda.

*8. Resolution

1. Adopted Resolution No. 8707 authorizing the Police Chief to execute the agreement with California Office of Traffic Safety for 2018 Selective Traffic Enforcement Program grant.
2. Approved a budget appropriation in the amount of \$100,000 to the Milpitas Police Department overtime budget as a result of the 2018 STEP grant.

9. BrightView Landscape

Mayor Tran asked why there was a contract for the park maintenance service, when there was city staff who did maintenance work in Public Works. Purchasing Agent Chris Schroeder responded that there was not enough staff to handle all park maintenance jobs, for up to 26 city parks. Acting Public Works Director Tony Ndah responded additionally. Mr. Schroeder said that until this new contract was approved, Terracare Services has had the service contract for the past five years.

Mayor Tran thanked the Purchasing Agent for his work on this required contract.

Motion:

1. Award a bid to BrightView Landscape Services Inc. and authorize the City Manager to execute the contract with BrightView for City of Milpitas Parks Maintenance Service, initially not to exceed \$1,241,776.
2. Authorize the Purchasing Agent to extend the term of the contract annually for each of the four option years with annual price increases per the terms of the agreement and without further City Council action, except for appropriation of funds.

Motion/Second:

Vice Mayor Grilli/Councilmember Barbadillo

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Phan)

10. Amendment to Milpitas Sanitation Agreement

This item was heard second after agenda item no. 18.

Engineering staff Leslie Stobbe presented this request to the City Council for Milpitas Sanitation Inc. which would be an "approved facility" providing post-collection services. Also available were David Sidiqqui from R3 consulting group and Lou Pellegrini of Milpitas Sanitation, Inc. Ms. Stobbe explained the changes to the current new agreement that were necessary and requested in the amendment at this meeting. No changes to the rates to be charged to customers were requested in this amendment.

Councilmember Nuñez requested explanation of Amendment Exhibit L (Rates), in the slide staff presented. He wanted to understand rates approved versus rates for items for additional services to go in the Exhibit L. Mr. Nuñez needed a lot more information before he could vote on changes.

Mayor Tran was concerned on changes to Exhibit L with new rates for service. The Mayor asked for explanation of side yard pickup. He asked further questions to Mr. Pellegrini, who responded on those items.

Councilmember Barbadillo referred to No. 3 on the Amendment No. 2 document, subcontractor. He sought clarification on language and terms, directing comments and questions to Mr. Pellegrini. City Attorney Diaz commented also. Mr. Barbadillo said it would be best to have had a red-lined version of contract changes.

Councilmember Nuñez asked about street sweeping, and wondered about the impact on Milpitas versus the current contract.

Vice Mayor Grilli inquired about the remark that there were no differences in the price to residents. Ms. Stobbe confirmed that was correct while pricing for some infrequent services, such as those for disabled or senior residents, with side yard pick up, were now included on the new exhibit.

Councilmember Phan asked Mr. Pellegrini about the risk of not starting newly in Milpitas on December 1. His company would start then if the amendment was adopted. Mr. Phan wondered why it took so long to prepare. He asked questions related to labor costs and labor peace agreements. Mr. Pellegrini described the union that his employees belonged to. Mr. Phan asked

for labor peace agreement with bargaining labor groups that MSI worked with and Mr. Pelligrini was affirmative on that.

Next, Mayor Tran invited public comment.

Tom Clavel, Milpitas resident, spoke in favor and asked for no further delay to adopt this amendment to the agreement. It was time for the will of the people to be heard on the agreement and to leave the contract with Republic Services.

Voltaire Montemayor, resident, talked about moving forward, despite some questions from the residents. Rates were fairly computed, he felt.

A woman, Milpitas resident of 7 years, said Milpitas was changing with new garbage stations. She was glad to remove Republic Services from this community and looked forward to the new company.

Dave, a 15 year resident, spoke of a friend who visited on the weekend and complained of the smell in this city. He was glad to change to a new garbage provider this year.

Aiwan Su, resident, discussed waste diversion goals for the State of California. Milpitas waste numbers were quoted and that more significant diversion of waste, including recycling rate, was needed for City of Milpitas. Don't delay the new garbage service.

Robin Chen, Milpitas resident, found that separating food scraps and compacting trash would reduce what goes to the landfill. Allow residents to pay a minimum garbage bill, if doing the reduction steps. She asked the Council to approve the amendment.

Wai Chu, 15 year resident of Milpitas, urged City Council to keep the new contract. Residents had waited a long time to change to a new garbage company.

Lynn, Milpitas resident, urged support to vote in favor of the amendment, for the new garbage company and to stop business with Republic. Air quality was important for residents.

Tom Valore, Milpitas resident, noted that questions asked by City Council were great to clarify what was to be accomplished by the amendment. He appreciated hearing the responses. Now residents agreed Council should move forward on the amendment.

Vice Mayor Grilli asked what the implication was if Council did not approve the amendment at this meeting. Mr. Pelligrini reported lots of activity had already occurred to get going by the start date on December 1. MSI would not be able to bring material anywhere if the amendment was not voted upon and the performance bond needed to be in place.

Councilmember Nuñez said the issues were never just one party's fault. This item was not about Republic Services, for him. He provided additional comments on this amendment and the new services by Milpitas Sanitation and comments received from residents.

Vicky, 15 years resident, was looking forward to having new service as of December 1. She urged no delay.

Councilmember Phan was uncomfortable with voting on this item and did not want it to be an uninformed vote. He wanted it to come back at the next meeting. This was all about building relationships.

Darrell Shu, a 23 year resident, said residents wanted a new garbage services company, due to the smell in Milpitas. Last year, the issue was part of the election. He suggested all meeting minutes to be put out to the public on the website. They needed to understand why there would be any delay.

Mayor Tran expressed his goal to allow the contractor to be ready on December 1 and was supportive of Milpitas Sanitation. He asked if six months' no charge would be offered to the elderly and veterans.

Councilmember Barbadillo felt this was part of the transition from the onset and fully understood what was going on. He wanted to be fair to the community and would vote for the amendment.

Motion: to approve Amendment No. 2 to the Agreement with Milpitas Sanitation, Inc. for Collection of Solid Waste and Collection and Processing of Recyclable Materials and Organic Materials

Motion/Second: Vice Mayor Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 3
NOES: 1 (Phan)
ABSTAIN: 1 (Nuñez)

11. Improvement Agreement This item was removed from consent but was not heard. It would be continued to next agenda.

UNFINISHED BUSINESS

12. Resolution – rooftop solar This item was removed from consent but was not heard. It would be continued to next agenda.

*13. Resolution This item was added to and approved on the Consent Calendar.

Adopted Resolution No. 8708 amending the Classification Plan to re-assign the Police Support Services Manager from the Mid-Con bargaining unit to the Unrepresented Employees group and adjust the annual salary range for Police Support Services Manager to \$112,500 - \$157,500.

14. RMC Water This item was removed from consent but was not heard. It would be continued to next agenda.

15. Amendment to Common Interest Agreement Acting Public Works Director Tony Ndah was ready to answer questions. Councilmember Nuñez sought clarity on the government entities involved, and staff reviewed the agencies involved in the Common Interest Group.

Motion: to approve Amendment No. 1 to the Common Interest, Privilege and Confidentiality Agreement with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3 and Burbank Sanitary District of the San José/Santa Clara Regional Wastewater Facility and direct the City Manager to execute the amendment in a form approved by the City Attorney

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

16. List of Council Items This item was removed from consent but was not heard. It would be continued to next agenda

17. Commissions This item was removed from consent but was not heard. It would be continued to next agenda.

18. Community Choice Energy programs Economic Development Director Edesa Bitabadal explained how Community Choice Energy programs could work in Milpitas, to allow choice of electric service providers (an alternative to PG&E). One of eight could be selected from those operational in the Bay Area currently. She described Silicon Valley Community Energy, including the cities that are part of that Joint Powers Authority. The Milpitas Economic Development Commission recommended that the City join Silicon Valley Community Energy (SCVE).

She asked a representative from SVCE to come to the podium. Mr. Don Bray, account services manager of SVCE, addressed the Mayor and Council and distributed a letter inviting Milpitas to join his agency as a member. It was launched on April 3, 2017 providing clean energy to 11 cities and unincorporated Santa Clara County. Choices offered were for GreenStart or GreenPrime (all renewable sources). He defined the required steps to join the JPA and to serve customers in Milpitas by May of 2018.

Councilmember Nuñez wanted to take this subject to appropriate City Commissions for a recommendation.

Councilmember Barbadillo asked how this was different from PG&E as a source of electricity. PG&E's were about 33% renewable energy, while SVCE would be 99% renewable sources, so it was considered much cleaner. The Councilmember asked if the costs/invoices to customers would increase over time (currently 1% less than PG&E). He asked for assurance from Mr. Bray that there would continue to be reductions in rates going into the long-term future and inquired if there was any community outreach.

Vice Mayor Grilli recalled that in 2014, she was frustrated when this group was trying to get the City to join this JPA. So, she was pleased now to consider doing so, for the benefit of Milpitas residents.

Mr. Bray described the extensive outreach program, within member cities and communities that would occur if Milpitas joined the JPA.

Councilmember Nuñez asked if Chambers of Commerce in the county had taken a position on SVCE. Mr. Bray said his organization had joined all the Chambers in the Valley, and enjoyed good relationships with the Chambers.

Mayor Tran invited comments from the audience.

Arnold Sher, Milpitas resident, a member of Community Climate group in the city, urged the Council to take action to reduce carbon footprint. She asked the Council to join SVCE.

Tyler, life-long resident and Community Climate lobby leader, asked Council to go ahead and join SVCE, a long-established program already including 12 cities in the county. Renewable energy was essential to reduce carbon footprint.

Bruce Carny, resident of Mountain View, was a leader on sustainability in that City and an environmental activist in the Valley. He urged support to join SCVE.

Matthew Stevenson, volunteer of Climate lobby and a San Jose resident, wanted regular residents to participate in markets, with costs and other considerations. Lower prices and a choice of providers, with new ways to meet demands for energy, would be the result.

Rudy Steffing, resident, said something was not computing. They must use natural gas for generating some of the electricity all the time, and was not always renewable energy. There may be some use of nuclear energy also, which he knew as a retired engineer.

Voltaire Montemayor, resident, was in favor of approval of this program, for renewable energy since future sources of energy would run out. He urged joining.

Tom Clavel, Milpitas resident, president of a citizens group, spoke in favor of joining this contract. It would be very good for the environment even if the savings would be only 1% for customers.

Rob Means, resident, said this was a "no brainer" and the only choice was whether to go for 50% or 100% clean energy renewable program. Set the bar higher than all the other cities in the JPA.

Vice Mayor Grilli asked if the City or the customer chose between the two options, GreenStart or GreenPrime. Mr. Bray said that was the choice of the customer. Mrs. Grilli said Green Prime for City facilities was urged.

Councilmember Phan was supportive of clean energy and thanked SVCE folks for working with City staff. Reject any rhetoric that disparaged PG&E, he urged, which had been a good partner with the City.

Councilmember Nuñez was looking at this favorably. He asked for the impact on the City itself, if joining. Mr. Bray responded that the impact on staff time was minimal. SVCE had its own staff, and had a working group with City staff to reduce any amount of city staff time to implement. Mr. Nuñez was eager to move to the next step and wanted to be clear on all impacts on City staff, all departments, and to understand all liability.

Tom Valore, Milpitas resident, asked what was the interface of current solar systems with appropriate hardware for the new program. Mr. Bray responded about net metering and benefits that would accrue.

David Kane was a Los Altos resident where he had SVCE as his energy provider. He said there were no complications and it was a wonderful program.

Mayor Tran expressed his support and that it would benefit the community, including cost savings for residents of Milpitas.

Councilmember Barbadillo did not like that the local government must adopt an ordinance to establish a CCE program and the agency must have a program certified by state government. There was no guarantee, when the City would only have an RFP. He was not sure of the supply of clean energy. They needed to provide Council with more solid facts, data about the program and why it was better for Milpitas. He asked if PG&E had this alternate energy source, for example.

Motion: to accept the staff report, direct staff to come back with a resolution to join Silicon Valley Community Energy and consider the City joining the GreenPrime option, and answer questions brought up at this meeting

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

Motion carried by a vote of: AYES: 4
NOES: 1 (Barbadillo)

A request was heard to address item no. 10 next (solid waste agreement amendment).

REPORT

19. Homeless Strategy

Earlier, Mayor Tran had requested to move this item to the next meeting agenda.

NEW BUSINESS

20. Comcast Closure

This item was removed from consent but was not heard. It would be continued to next agenda.

ORDINANCE

21. Ordinance No. 48.21 –
Solid Waste Management

This item was removed from consent but was not heard. It would be continued to next agenda.

ADJOURNMENT

Mayor Tran adjourned the joint City Council, Successor Agency and Public Financing Authority meeting at 12:02 AM on Wednesday, October 18, 2017.

The foregoing minutes were approved by Milpitas City Council on November 7, 2017.

Mary Lavelle, Milpitas City Clerk