

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, October 2, 2018
Time: 5:30 PM Closed Session
7:00 PM Open Session
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER Mayor Tran called the joint meeting to order at 5:30 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Mayor Tran, Vice Mayor Grilli, Councilmembers Barbadillo, Nuñez and Phan

ABSENT: None

CLOSED SESSION City Council convened in Closed Session to discuss litigation matters listed on the agenda.

ANNOUNCEMENT City Attorney Chris Diaz stated that there was no reportable action out of Closed Session and that Mayor Tran recused himself from item (b) on Closed Session agenda.

Council then convened for the Open Session regular agenda at 7:00 PM.

PLEDGE Members of Boy Scouts Troops No. 92 and No. 3423 presented the flags and led the pledge of allegiance.

INVOCATION None

PRESENTATIONS Mayor Tran proclaimed *Fire Prevention Week* for the week of October 7–13, 2018. The proclamation was accepted by Deputy Fire Chief/Fire Marshal Albert Zamora and Acting Fire Chief Rick Frawley, who stated “Look, Listen and Learn” was the safety theme this year.

The Mayor next proclaimed October 2018 as *National Planning Month*, and the proclamation was accepted by Planning Director Ned Thomas along with members of the planning staff.

Mayor Tran presented Neighborhood Beautification Awards to property owners selected for recognition. Awards were followed by a brief reception in the lobby.

PUBLIC FORUM Raymond Wong, resident, mentioned a traffic violation citation his son had received, on Park Victoria Drive turning onto Landess, where there was the issue of people soliciting in the crosswalk. He was concerned for how Police conducted traffic control there and the difficulty of people walking in between cars.

Cheryl Jordan, Milpitas Unified School District Superintendent, addressed the City Council and introduced some children and families who attended Milpitas schools. These were Spanish-speaking residents and a translator provided language assistance. One resident explained that the owner of the family’s Selwyn Drive apartment was giving eviction notices to these families. The residents were very concerned about where they were going to live if evicted.

Several Councilmembers responded to the residents about the housing issue and asked for this matter to come back to the City Council for discussion on ideas to help the families. Vice Mayor Grilli asked if the City staff had looked into this matter, and requested that the Council receive a memo with information on the status of the situation. City Manager Edmonds-Mares replied that staff could research this issue and reply back to the Council.

A woman speaking in Spanish addressed the Council, regarding her family residence situation and concern about being treated unfairly by the landlord at her apartment complex in Milpitas. Her children attend school in Milpitas and she was given a 60 days eviction notice.

Rob Means, resident, spoke about Personal Rapid Transit, and showed slides with maps showing where the PRT could be designed to loop around a segment of Milpitas.

Yoon Lee, resident, wanted information on the website and to have information about Mayor Rich Tran on the website. He turned his back to the podium and addressed the audience. Then he asked the Mayor if he had any comment. Mr. Lee felt he was a cyber-bullying victim due to his Korean heritage.

Mayor Tran and Councilmembers responded to Mr. Lee.

Voltaire Montemayor, resident, asked to please all get along to make Milpitas the best place to live. There were concerns about garbage, traffic, schools and high rent in the City.

Tom Valore, resident, spoke of the proliferation of campaign signs every other year during election season. Like graffiti, it was not beautifying the city. He requested please to those running for office to exercise restraint in posting of signs.

The City Manager responded to the Mayor about existing sign code, and staff could bring that back in the future to the City Council.

ANNOUNCEMENTS

City Manager Julie Edmonds-Mares officially introduced the newly permanent Human Resources Director Liz Brown, who had been in the role in an acting capacity for the past five months. She also introduced Bill Tott, as the acting Building & Housing Director, coming over from the City of Santa Clara on an interim basis.

City Clerk Mary Lavelle announced the upcoming voter registration deadline of Monday, October 22, 2018 in advance of the municipal election on November 6, 2018. She had voter registration forms available at the dais.

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 submitted

City Attorney Chris Diaz noted that the agenda included the deferral of agenda items no. 5 (Cost Allocation Plan) and no. 6 (Draft Sewer Rate Study) to a future meeting date.

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

CONSENT CALENDAR

Mayor Tran requested items no. 1 and 2 to be on consent and to hear item no. 3 (Planning Commission information).

Councilmember Phan requested to add items no. 9 (odor report) and no. 11 (fee study) to consent, while most Councilmembers did want to hear the odor update.

Motion: to approve the Consent Calendar including agenda items numbers 1, 2 and 11

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

Motion carried by a vote of:

AYES: 5

NOES: 0

*1. Council Calendar

Accepted the City Council calendar for October 2018.

*2. Meeting Minutes

Approved City Council meeting minutes of September 18, 2018.

**3. Planning Commission
stipend – updated info.**

Planning Director Ned Thomas made a brief presentation to the Council, offering history and some options regarding the stipend (\$25) currently provided to City of Milpitas Planning Commissioners. He displayed comparison data with other nearby cities.

Councilmember Barbadillo was in support of increasing the compensation, by adoption of an ordinance, as previously discussed by the Council, up to \$100.

Councilmember Nuñez had been looking forward to work load information and what the Planning Commission would be working on in the future. He looked forward to seeing the Commission work plan. He noticed that two recent Commission meetings had been canceled.

City Attorney Chris Diaz confirmed that no ordinance had been introduced yet to change the rate of the stipend. Staff could bring that back to City Council in the draft ordinance.

Vice Mayor Grilli agreed and requested that staff bring back the proposed Ordinance at the next Council meeting, and Councilmembers concurred.

No vote was taken.

PUBLIC HEARING

**4. Development Plan at 1380-
1400 South Main Street**

Senior Planner Michael Fossati described the development planned at 1380-1400 South Main Street, known as The Core project for 220 housing units, including 10 affordable units. He described outreach that was conducted for the project. Also displayed was a list of groups for and against the project, including two in favor but with amended conditions. City staff, project area neighbors and the developer had met to come up with revised, acceptable Conditions of Approval to limit, noise, dust and other impacts to neighboring business and the school district.

Mayor Tran opened the public hearing for any speakers.

Paul Ring, Vice President of Development with The Core Companies, came forward. Also, Mark Hirth of Hirth Land & Building came forward to explain that the developer would build more parking spaces by 10% beyond what was required by the City's code. He detailed other public benefits.

Next, Mayor Tran opened the public hearing for comments.

MUSD Superintendent Cheryl Jordan, along with two School Board members, thanked the Planning Commission for recommending The Core Companies meet with MUSD representatives regarding this proposed development. She met with Mr. Hirth and Mr. Ring, and showed them the new McCandless School. She thanked City staff for its cooperation and stated that the School District supported this plan.

Kelly Yip-Chuan, resident and small business owner, spoke in support of the project. It would revitalize Milpitas and bring much needed housing to the City of Milpitas.

Kathleen Wertham from Silicon Valley Leadership Group spoke in favor of this project (per a letter from CEO Carl Guardino sent to the City Council) supporting much needed transit-oriented housing in the valley.

Huascar Castro, policy associate from Silicon Valley at Home, supported this housing by Core. The community appeared to support this needed project, with good coordination.

Michael Tsai, resident and representative of YIMBY, was in support of the project. Much housing was needed in Milpitas and it was the type of project of the future, near BART.

A man, resident of Milpitas, spoke firmly opposed to the project. He was concerned about the schools and traffic. He wanted the developer to pay for schools, as was happening in Fremont and Santa Clara. Too much traffic on Montague with not enough jobs brought to Milpitas.

Voltaire Montemayor, resident, felt the previous speaker was partly right about clogging Montague. The city needed more housing and to support small businesses.

Yoon Lee, resident, considered what was planned for housing. There was a need for more jobs. He urged having an organic market and not to build more housing without jobs.

Stacy Brobst, resident of The Pines, felt this was a mostly good project, with a nice park in front and it was good they worked with the School District. More parking than needed was good, but not enough. She wanted the Council to add a condition that the development cannot charge a fee to residents for an extra parking space. When rented, they must let renters know exactly how much parking existed.

James Burke, spoke on behalf of The Holland Family, which had owned this land since 1962. She read aloud a letter to the Council from Mary Holland, one member of the family/owner.

Tom Valore, resident, had more questions than answers about this project. He noticed in the past that there was some conversion of commercial or industrial land to residential. Milpitas needed Class A office space and to improve the jobs to housing ratio, he felt. The school district needed about \$3 million so there was not enough coming in from the project. Parking issues remained in that area with the criteria inadequate.

City Attorney Diaz suggested the applicant come back up to respond to comments.

The developer's representative read a letter from Paul Humphries, of Flex company, in support.

Mayor Tran then invited Councilmembers to ask questions of the applicant.

Councilmember Nuñez questioned the parking. Mr. Fossatti read aloud one Condition of Approval on parking and parking management required at the project.

City Manager Edmonds-Mares reported that the City was exploring a police substation in the area, for the future.

Councilmember Nuñez discussed the land in proximity to the BART station and that legislation allowed the BART Board to have transit-oriented development on its parcels next to stations. The City Attorney explained it was uncertain here in Milpitas, due to Santa Clara Valley Transportation Authority's role building and managing new stations in Santa Clara County.

Mr. Ring from Core detailed that more studio units would be built than two-bedroom units, so that would allow more housing units that working professionals could afford. This was in response to a question from Vice Mayor Grilli.

Vice Mayor Grilli felt there was a need to have a meeting with the school district and community to educate residents about school funding, developer involvement, and what the City could do. This would be similar to a meeting that City of Fremont was hosting. There was need to explain the new 15% affordable housing requirement and why it did not yet apply to this project.

(1) Motion: to close the public hearing, following 13 speakers

Motion/Second:

Councilmember Phan/Councilmember Nuñez

Motion carried by a vote of:

AYES: 5
NOES: 0

Councilmember Barbadillo asked about the General Plan and zoning to support this project. He asked many questions of staff. He was not in favor of the project and expressed several concerns on funding for the schools, tandem parking, and density of housing. He wanted more data reported from staff on several issues.

Mayor Tran listened to residents on this and all projects proposed. He asked if there had been a community meeting in The Pines on this project. Mr. Fossatti replied yes, in 2017 after noticing 1,000 nearby residents. The Mayor asked about traffic impacts and if there was a traffic study done and staff responded with information from the study on the project.

Councilmember Nuñez commented on BART taking hold of the new stations once built via VTA managing the project construction. He asked more about traffic study done and wanted to understand benefits in a more detailed way.

Councilmember Phan knew everybody loved jobs, and that was easy to point to. Jobs needed housing. He spoke about the great demand for the type of housing offered by this developer, including many studio apartment units. He was “passionate” about this housing as a millennial.

Vice Mayor Grilli asked Councilmember Barbadillo to clarify what he’d asked for. He needed reasons for why the staff requested what they did on re-zoning, increased density, the CUP, density bonus and tandem parking.

City Attorney Diaz requested clear guidance to staff on what Council was looking forward to and when to bring it back to Council.

Councilmember Phan said there were some points to bring back at the next meeting and they would need a second reading of the ordinance. He would like to move forward on some parts of the project, if possible.

The City Attorney gave some procedural recommendations on action or delay to next meeting.

Councilmember Nuñez would like to see more about traffic congestion and parking. He wanted clear definition of the layering talked about, on what would be coming back to the City Council for affordable housing, etc.

Councilmember Barbadillo agreed to delay this matter for one more meeting. He agreed with what Mr. Nuñez asked for, as similar to his issues needing more information.

Councilmember Phan asked if this delay was going to affect the project for the applicant.

Councilmember Barbadillo said if the project goes through, it should be on what the project brings to the City. He referred to \$1 million for the school district. Maybe an increase in the affordable housing being proposed or in the retail section. Perhaps amend the plan for tandem parking, where staff could bring alternative options.

City Attorney Diaz suggested the City Council could re-open the public hearing, and then move to continue it to the next meeting date on October 16.

Motion: to re-open the public hearing on the Main St. development project by The Core Companies

Motion/Second:

Councilmember Nuñez/Councilmember Barbadillo

Motion carried by a vote of:

AYES: 5
NOES: 0

Motion: to continue the public hearing on the Main St. development project by The Core Companies to the October 16, 2018 City Council meeting, in order to receive more information from City staff as identified

Motion/Second: Councilmember Nuñez/Councilmember Barbadillo

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

Next, the City Manager asked the Mayor and City Council to consider the hour at 11:19 PM. She noted that the most time sensitive items remaining on the agenda were the cannabis report and BAAQMD appointment. Other agenda items could carry over to the next meeting.

UNFINISHED BUSINESS

Agenda items no. 5 (cost allocation plan) and no. 6 (sewer rate study) were deferred.

REPORT

7. Cannabis topic

Assistant City Manager Ashwini Kantak presented a report on cannabis topics. She provided some history on this subject in the City of Milpitas. If use was authorized by the Council, buffer zones for sensitive uses were called for, with 600 feet mandated by the state, providing the City with discretion to allow for less. She suggested three possible options for the Council via two potential ordinances, and a choice on those buffer zones.

Mayor Tran asked for public comments.

Victor Gomez, of Silicon Valley Cannabis Alliance, thanked staff for work on ordinances and supported Option A to move ahead with cannabis in Milpitas. He mentioned development agreements considered in Hollister when he was on the City Council.

Voltaire Montemayor, resident, was not in favor of this kind of business in Milpitas.

Mayor Tran was looking to make some moves at this meeting for cannabis. He believed in its recreational uses and for personal users in the City. He liked the business aspect of it as well as the medical cream products. He asked if places of worship were included in buffer zones and staff replied no, but could incorporate those if directed by Council. He favored Option C.

Councilmember Phan noted for Option A, there needed to be a resolution adopted by City Council, with leeway on the uses allowed and a cap on the maximum number of businesses. He wanted to move forward on this, and to meet state requirements.

Vice Mayor Grilli thanked the Subcommittee for the work done. She had voted No on Proposition 64 on the state ballot two years prior. Benefits for cities did allow for strong policies to be built at the local level. Illegal activity was worst in cities without strong regulations. It was unfortunate that a proposed tax was not placed on the ballot. She asked the City Attorney about process on that.

City Attorney Diaz replied that the City Council could build in an option for community benefits through development agreements. On compensation to the City, the Council could consider putting a tax on the ballot for voters in 2020 then. The Vice Mayor wanted to take that direction.

Vice Mayor Grilli asked about different buffer zones, such as 200 feet versus 600 feet. Ms. Kantak responded on that Subcommittee idea.

Mr. Diaz clarified there would be two ordinances for consideration if Option A was pursued: a zoning ordinance and also a regulatory ordinance.

Councilmember Nuñez said he had voted against Proposition 64 in the past. Since that time, he had become educated about cannabis use while visiting establishments. He knew that other

businesses from other cities would deliver in Milpitas, if no shops were opened here. He favored Option A.

Councilmember Barbadillo responded that normally the City would have a tax ordinance first, and then regulate it, with any new product. His view was that the City was not ready for cannabis and did not want to move forward on regulations. The Council was trying to correct a failed tax ordinance with a possible community benefit by having a development agreement. He wanted to allow for tax revenue first before a regulating ordinance and favored Option B.

Councilmember Phan replied to Councilmember Barbadillo with responses to several of his comments.

Motion: to approve staff recommended Option A: to advance a zoning ordinance and regulatory ordinance based on the City Council Subcommittee on Cannabis' recommendations (including buffer zones)

Motion/Second: Councilmember Phan/Councilmember Nuñez

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

NEW BUSINESS

8. Electronic Billboard This item and the following one were not heard and both would be continued to the next Council meeting.

9. Odor Issues

10. Appointment to BAAQMD Board

Assistant City Manager Ashwini Kantak would take any questions on this staff request for the nomination of a Councilmember to be considered to go onto the Board of Directors of the Bay Area Air Quality Management District, through the upcoming open seat via the Cities Association of Santa Clara County.

Mayor Tran would like to nominate Councilmember Nuñez and made this motion, remarking that Mr. Nuñez often donated stipends like the \$100 paid for this position. The Mayor then asked if Mr. Nuñez would consider donating that stipend that to the Milpitas youth football program and he agreed.

Motion: to appoint Councilmember Nuñez to be considered for appointment by the Santa Clara County City Selection Committee to the position of Bay Area Air Quality Management District Board Member and direct staff to coordinate the application process

Motion/Second: Mayor Tran/Councilmember Phan

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

AGREEMENT

*11. Matrix Fee Study This item was moved to the consent calendar and approved by unanimous vote.

Authorized the City Manager to execute the Professional Services Agreement with Matrix Consulting Group for the amount not to exceed \$266,475 for the City's Community Development Service Area – Service Delivery/Organizational Assessment and Fee Study, and transfer \$266,475 from the contingency reserve to the City Manager's operating budget.

REPORTS

None.

ADJOURNMENT

Mayor Tran adjourned the City Council meeting at 12:23 AM on Wednesday, October 3, 2018.

The foregoing minutes were approved by Milpitas City Council on October 16, 2018.

**Mary Lavelle
Milpitas City Clerk**