

MEETING MINUTES CITY OF MILPITAS

Minutes of: Special Joint Meeting of Milpitas City Council and the
Milpitas Housing Authority
Date: Tuesday, June 12, 2018
Time: 5:30 PM Closed Session
Open Session immediately following
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Vice Mayor Grilli called the joint meeting to order at 5:30 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.

Councilmember Phan arrived in Closed Session. Mayor Tran arrived at the dais at 6:37 PM.

Deputy City Attorney Heather Lee sat in as City Attorney for the Open Session, following the departure of City Attorney Chris Diaz after the Closed Session announcement.

CLOSED SESSION

City Council convened in Closed Session to discuss one matter listed on the agenda.

City Council then convened in Open Session at 6:05 PM.

ANNOUNCEMENT

City Attorney Chris Diaz stated out of Closed Session that the Council (4 members present) had authorized a letter to go to Mayor Tran, based on the outcome of investigation reports that had been in the media, and that the letter was available upon public request.

PLEDGE

Councilmember Nuñez led the pledge of allegiance.

PUBLIC FORUM

Voltaire Montemayor, resident, urged no use of marijuana in Milpitas. City could have a dispensary for medical use for health. Use of marijuana was bad and eventually destructive.

Rob Means, resident, spoke about marijuana topics and had attended a community meeting on this date on cannabis in Milpitas. There was much discussion on revenue from this product and taxes.

Hien La, a Sunnyhills Apts. resident, thanked the Council for past action of the Council for efforts to secure the residents of that complex. She inquired if other steps would happen and to expand units for low income residents and seniors in Milpitas.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

Deputy City Attorney Heather Lee asked Councilmembers if they had any personal conflicts of interests or reportable campaign contributions. None were reported.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Councilmember Nuñez/Councilmember Barbadillo

Motion carried by a vote of:

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

PUBLIC HEARING

1. 355 Sango Court

Planning Director Brad Misner addressed the Council, with opening comments on affordable housing. He noted the three “P’s” – production, preservation and protection - as the keys to approaching this important goal. He introduced Ms. Kelly Snider, recently hired as a consultant, to assist City Planning staff on work related to affordable housing.

Associate Planner Lillian Hua came forward to introduce the multi-family housing development proposed at 355 Sango Court for 100-102 units, 100% affordable housing with a request for a density bonus. Developer was also asking for an exemption from Transit Area Specific Plan (TASP) fees. Ms. Hua reviewed - displayed overhead – the density bonus concessions and waivers requested by the developer for this project. She described parking, park land and public art requirements for this type of project. The developer sought exemption from the City’s public art requirement since it was 100% affordable units to be built.

Mayor Tran arrived at the dais at 6:37 PM.

Staff reported that \$16 million in Measure A funds had been allocated and approved by the County toward this project. Findings for the project were consistent with the General Plan, TASP, Zoning Ordinance and Density Bonus regulations.

Next, the applicant was invited to the podium. Mr. Baker Lyon of Resources for Community Development (RCD), developer of 355 Sango Ct., came forward and detailed elements of the project, after having made efforts to receive input on the project, including from the Planning Commission. Also, architect Daniel Simons of David Baker Architects provided some design details and displayed developments in other cities his firm had designed.

Mayor Tran opened the public hearing for comments.

Lisa Doan, resident, speaking in Vietnamese language translated by Van Lan Truong, was a resident of Sunnyhills Apartments. She spoke in favor of the project at 355 Sango Ct. for affordable housing rental units.

Hue Do, resident of Sunnyhills (Vietnamese language), was in support of the project.

Robert Mize, pastor at Cathedral of Faith in Milpitas, commented that there was a need for many more projects of this type in Silicon Valley, for all working people. He addressed parking issues and wanted this project to move forward rapidly.

Nina Rizzo, who managed GreenTrip certification program, supported healthy places to live near green transit, available for people to live. This project with its parking and bike ratio did meet GreenTrip’s criteria. Lower income people owned fewer cars and drove less than others.

Dien Duy Nguyen, Sunnyhills resident, asked for support of the project at 355 Sango Ct.

Quynh Nguyen, (Vietnamese language) was a resident at Sunnyhills, wished that Council always supported residents to have a place to live, especially older residents. He thanked City Council for their leadership.

Nguyen Thi Le, Sunnyhills resident, asked for support of the project at 355 Sango Ct.

Stacy Brobst, Milpitas resident, had been on a steering committee for this project, which was desperately needed, with enough parking. There was a great need for this type of development for low income residents and she urged approval by the Council.

Que Nguyen, resident of Sunnyhills, asked for support so people had a place to live.

Hien La, Sunnyhills Apts resident, was very happy to hear about the project for low income residents coming to Milpitas. She did not support the lower parking space numbers.

Mitch Mankin, from Silicon Valley at Home, supported the staff recommendation for low income people and families at an ideal location near public transit, a park and a school. He was glad to hear funds were made available from Measure A for this project.

Van Lan Truong, resident, supported the development for affordable housing at 355 Sango Ct.

Voltaire Montemayor, resident, said he supported the project.

Rob Means, 1421 Yellowstone resident, said the fact the developer was building and then owning this project was key. Environmental elements were very positive. He remarked on parking space numbers and the “stacking” concept.

Joe Sun, pastor at a church near Sango Ct., said he and his church fully supported this project. Housing was so needed, especially the affordable type. He was worried about parking, due to traffic he viewed every day in that area of Milpitas.

(1) Motion: to close the public hearing, following 15 speakers

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

Planning Director Misner addressed comments about parking, explaining that the developer added “stacker” parking for a few extra spaces based on remarks at the Planning Commission meeting on the project.

Mayor Tran was so happy this project was ready for a vote. He asked questions about the income levels for affordability and how people qualified for the rental units. Mr. Lyon of RCD replied, and said The John Stewart Co. would manage the development for RCD. He defined the application and review process to create a waitlist. The Mayor wanted there to be a local preference in the lottery. City Manager Edmonds-Mares said there were regulations about that type of preference, so she could research that and get back to the Council.

Vice Mayor Grilli thanked staff and the developer for finding a workable solution for parking. She asked if there were occupancy levels in the apartments. The developer replied two people per bedroom plus one.

Councilmember Nuñez referred to a page in the Planning Commission staff report, asking where and what services would be made available to residents. Mr. Misner detailed on a map what was anticipated in the TASP area around BART. Mr. Nuñez asked about supportive services to be available and future funding the developer would seek from the City (\$3-\$5 million).

Councilmember Phan asked if there was a funding request at this meeting, and staff and the developer said no (that would be in the future). Mr. Phan asked the developer to detail how the project would be funded and built. He commented on parking spaces, and stated that Zipcar was not really affordable to those who rented affordable income apartments.

Mayor Tran asked how many bike spaces there would be and the developer responded, 102 secure spaces and about 10 for visitors at a bike rack.

Councilmember Barbadillo agreed there was a housing shortage in Bay Area. He asked about number of units and density bonus allowed. He had questions about occupancy versus parking allocated for residents. Ms. Rizzo from GreenPrint explained data that her non-profit had analyzed that there would be ample parking after Mr. Barbadillo questioned the “.5” spaces. The Councilmember also asked about the concession amounts. The developer was asking for concessions and waivers that the Planning Director had explained. Mr. Barbadillo commented on storm drains and making adjustments to the resolution when adopted. He spoke of maintaining

affordability over time. The goal should be to ensure affordable housing for the long term, perhaps more than 55 years, a time frame to which the project should be extended.

Alicia, another RCD staff representative, responded to the Councilmember's question about whether the City could restrict the units for local residents. This had been done in Oakland, for example, and she asked the City to be clear that fair housing laws applied. Mayor Tran asked her if RCD had worked with any local school districts.

Attorney Heather Lee commented that the City would have to have data to support the Fair Housing regulations, as described by RCD. Officials could not impose additional requirements as a mandate at this meeting.

Councilmember Barbadillo spoke of the City's public art fee and wanted to understand why the developer asked for a waiver on art. Mr. Baker responded about goals of RCD on providing safe, affordable places to live. Of course, the agency needed enough funds to do that. The Council member felt too much was requested in the concessions and waivers.

Councilmember Phan asked if tenants needed to pay for any of the parking spaces and Mr. Baker said no. Mr. Phan asked about the park fee of \$2.4 million and Mr. Misner detailed how the park space was met, with no physical park to be built on site.

Councilmember Nuñez commented on parks and the needed art. He felt the developer should pay some of these fees or provide the amenities in order to make a community for residents.

Vice Mayor Grilli asked how far the five acre park envisioned would be from the new development. The developer and staff Tim Wong responded. Local commitment to funding on projects like this one was important to help a developer leverage other funds, from other sources.

Mayor Tran commented about mixed use spaces and the obligation to fill in with businesses necessary to meet the needs of the new residents. He recommended to consider looking at Houret Drive to ensure there would be a market.

Councilmember Nuñez asked staff what were the anticipated TASP fees and the reply was \$3.3 million. The public art fee would need to be paid at 0.5% of valuation, estimated at \$300,000. Mr. Nuñez wanted to clarify that the developer was asking the City to waive \$3.5 million. The City Manager responded further about all the upcoming projects for affordable housing and mixed-use developments coming up.

(2) Motion: to adopt Resolution No. 8796 approving Site Development Permit, Density Bonus and Environmental Assessment for construction of a 100-102 unit multi-family apartment building and associated site improvements on a 1.26 acre site at 355 Sango Court, and making CEQA findings

Motion also included additional items identified by Councilmember Barbadillo: to require 55 years restriction as an affordable rental unit development, to require additional parking included to get to the total of 95 spaces, to adjust the Transit Area Specific Plan fees and reduce required public art fee by 50% (waive half).

Motion/Second:

Councilmember Nuñez/Vice Mayor Grilli

Motion carried by a vote of:

AYES: 5

NOES: 0

RESOLUTIONS

2. Housing Authority
Resolution regarding Monte
Vista Apartments loan

Regarding Bridge Housing's Monte Vista Apartments in Milpitas, and the request for a short term subordination of the loan by the City, the Council wanted to hear the total package of requests made to the City. Housing Manager Tim Wong came up to detail those for this loan.

Monte Vista is a 306-unit apartment complex, with 163 affordable units in Milpitas, built by Bridge Housing. Multiple financing sources were secured for this type of project. The financing included “senior loans” and those considered “junior,” in position or order, which mattered to creditors. With a lien on the priority, the City (Housing Authority) had been asked to do five things:

- 1) To accept a lower position in loan re-payment, short term
- 2) To waive repayment of interest on the loan, accrued through 2016
- 3) To revise the loan’s interest rate from 5.45% to 3.05%
- 4) To agree loan payments to be calculated “pari pasu” estimated at \$200,000 annually
- 5) To agree to forego new loan payments for 10 years.

Mr. Wong stated that staff recommended that the Council, serving as the Milpitas Housing Authority, adopt a resolution to accomplish the above actions.

Bridge Housing representatives were available, including the Director of Development Jamie Hiteshaw along with Mr. Mitch Crispell. They gave an overview of the currently successful Monte Vista Apartments and defined the goal of this financing request.

Mayor Tran next invited public comments.

Voltaire Montemayor, resident, said any help to the project was a big thing, and said thanks.

Mayor Tran asked staff how the loan forgiveness would occur. The developer wanted to be clear that Bridge was not looking for any new funds, only the actions as described by staff.

Councilmember Phan wished to be clear how this request differed from May 15. Mr. Wong said on that date, only one part of these actions was brought to the Council. At this meeting, all five steps requested by Bridge were presented for one action. Mr. Phan asked about John Hancock’s position in the project and Bridge Housing staff replied.

Councilmember Nuñez requested explanation of the loan sizes from the five and six sources, on the chart displayed by staff. Mr. Hiteshaw from Bridge responded. The Councilmember asked how an audit was done on this loan process.

Vice Mayor Grilli wanted to know how the 50 additional units would be phased in to the existing apartments units. Mr. Hiteshaw responded and said it would take about 4–5 years.

Councilmember Barbadillo asked the corporate make up of this property and why there was market rate housing mixed in with restricted units. Mr. Barbadillo asked many questions about the financing, the loan, the affordable units and other related matters.

Mr. Barbadillo said he wanted to adjust item no. 5 on the actions list, to go half way, and defer the principal on the loan. The City Manager expressed that the residual receipts mattered. Mr. Hiteshaw could reduce the timeline or pay a percent more that was due to the City over the years. The Councilmember said he was trying to get something back to the City in return for forgiveness.

City Manager Edmonds-Mares suggested that the City Council could approve action items no. 1–4, and work with Bridge Housing on the final recommended item 5 to get to a win-win scenario. She stated that item no. 1 was most important to act on at this meeting.

Councilmember Nuñez recommended bringing that last part to the City Council on the following Tuesday, June 19, if that was acceptable so that the Council could vote on the first four.

Motion: to adopt joint Resolution No. HA 22/City Council No. 8797/Successor Agency No. SA 11 to accomplish four actions relative to financing of the Monte Vista Apartments complex:

1. To accept a lower position in loan re-payment, short term
2. To waive repayment of interest on the loan, accrued through 2016

3. To revise the loan's interest rate from 5.45% to 3.05%
4. To agree loan payments to be calculated "pari pasu" estimated at \$200,000 annually

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

Also, the City Council directed staff to return on June 19 with terms in order to permit Bridge Housing to forego the first 10 years' loan repayment to the City/Housing Authority.

3. Housing Authority - resolution

City Manager Edmonds-Mares reminded the City Council that they had discussed this topic in Closed Session a few weeks earlier, so swift action could be taken at this meeting, which she recommended.

Motion: to adopt Resolution No. HA 24 authorizing the Executive Director of the Milpitas Housing Authority to execute documents for the sale of a residential property at 340 Celebration Drive for the amount of \$210,000

Motion/Second: Vice Mayor Grilli/Councilmember Barbadillo

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

ORDINANCE

4. Consider Ordinance No. 297

Housing Manager Tim Wong discussed the proposed affordable housing ordinance. He described that non-residential developments could pay a fee or the City could require new projects to include affordable units, and Council could require the ordinance to be applicable to any land use application not deemed complete by the effective date of ordinance. Staff also reviewed the Nexus Study completed and issued last year.

Vice Mayor Grilli asked for explanation of "deemed complete" and the Planning Director explained that concept and when that status was achieved for a development project. Anything entitled at this time would be exempt from this new ordinance, if adopted.

Mr. Wong noted that an exception could be payment by a developer/applicant of an in-lieu fee, which could be made in lieu of building affordable units. Or, on an off-site development, there could be a land swap, with fair square footage exchanged, and then adjust units/fees.

Another fee of \$4.00 per square foot for all proposed non-residential developments could be established by a Resolution to be adopted by the City Council in the future. Mr. Misner said this was for brand new construction for those structures over 5,000 sq. ft. (not improvements or additions). Staff explained how the fee could be structured and adjusted in the future.

Councilmember Phan questioned the 5,000 sq. ft. threshold amount, saying maybe it was too low. Maybe 10,000 sq. ft. would be more accommodating.

Councilmember Nuñez asked if the exemptions listed were similar to what was found in other cities. He was surprised that City of San Jose did not have such fees, while the City Manager responded stating that city was considering it.

Mr. Wong introduced the consultant (David) who had completed the Nexus Study, who commented on the rates other cities were charging. That included Fremont at \$4.00 per sq ft. He responded to various questions from the Council, and reviewed the chart titled Maximum Supported Residential Impact Fees.

Councilmember Nuñez wished to know if developers were notified that the City was considering this fee. The Planning Director said, no, while the meeting and this topic was broadly noticed.

Mr. Wong stated the staff recommendation for in lieu fees to be adopted by Council, based on the data in the nexus study. Councilmember Nuñez asked questions about the comparable neighboring cities rate percentage for affordable housing. The City Manager commented in response to him, on the goals of affordable housing which was ultimately to get units built.

Mr. Misner talked about the “Palmer effect” per legislation AB1505. For owner occupancy units the fee structure was there, but those would have to come to Council to approval. Also, mixed use residential development was viewed as very good policy and popular.

Vice Mayor Grilli strongly supported the non-residential view. She was concerned for outreach done and the commercial development community was left out of the conversation. She was not really happy with the 10% level for residential. She felt the City could do better here, especially versus nearby cities, stating the rate should go higher.

Councilmember Barbadillo agreed with the Vice Mayor. 15% he recalled talking about, in the past, and he preferred that rate.

Next, the Mayor invited public comments.

Huascar Castro, for Silicon Valley at Home, said his group had submitted a letter previously. He felt 10% inclusionary amount for affordable in mixed use units was too low versus nearby cities. He referred to others including the City of Santa Clara.

Voltaire Montemayor, resident, said the charge was ok, that he had heard discussed.

Mr. Wong explained why the amount for the set-side units was recommended to provide an incentive for developers to construct units rather than allowing payment in lieu.

Councilmember Nuñez was hearing that they were going up. For residential, go to 15% and capture what was in residential. For rental, take that out and talk to someone to take it out, similar to what Fremont did (a sliding scale). He wished to move the ordinance.

Mr. Misner reminded the City Council that the amount for fees would be adopted by resolution later. It was okay if City of San Jose wanted Milpitas to go first. The City Manager suggested the City Council could adopt no. 1 and no. 2 on the resolution recommended for adoption, but have staff evaluate the third item - the \$4.00 per square foot impact fee for non-residential development.

A second to the motion was made by Councilmember Phan. However, the ordinance would need to be amended for the 15% figure (from 10%). The direction to staff was to come back with a resolution after outreach to the commercial development community.

City Attorney Heather Lee read aloud the title of Ordinance No. 297 “An Ordinance of the City Council of the City of Milpitas adding a new Title XII and amending Title I, Chapter 1, Section 4.02 of the Milpitas Municipal Code relating to affordable housing, repealing Resolution No. 8491, and making CEQA exemption findings.”

Motion: to waive the first reading beyond the title and introduce Ordinance No. 297 related to affordable housing, incorporating the 15% figure for required affordable units in all new housing development in Milpitas

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

ADJOURNMENT

Mayor Tran adjourned the joint special meeting at 11:49 PM.

The foregoing minutes were approved by Milpitas City Council on August 7, 2018.

Mary Lavelle
Milpitas City Clerk