

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular & Special Meeting of Milpitas City Council
Date: Tuesday, April 18, 2017
Time: 5:30 PM Closed Session / 7:00 PM Open
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

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

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

ABSENT: Councilmember Barbadillo was absent at roll call. He participated in both the Closed and Open Sessions by telephone conference from his location in Mexico.

CLOSED SESSION City Council convened in Closed Session to discuss five matters listed on the regular meeting agenda and one item on the special meeting agenda.

City Council then convened in Open Session at 7:06 PM.

ANNOUNCEMENT City Attorney Chris Diaz announced to the audience that Councilmember Barbadillo was participating by telephone conference. Out of closed session, he announced that Rob Means had dropped his lawsuit against the City.

PLEDGE Boy Scouts Troops No. 92 and No. 193 led the pledge of allegiance together.

INVOCATION Councilmember Nuñez introduced Pastor Mark Simmons from Christ Community Church who offered a prayer to start the meeting. Mr. Simmons also promoted Milpitas Cares, an event for volunteers to do community service throughout Milpitas from April 21 – 30, 2017.

SCHEDULE OF MEETINGS City Council reviewed the Council Calendars/Schedule of Meetings for April and May 2017 and no changes were noted.

PRESENTATIONS Councilmember Phan commended Raghu Reddy, a Milpitas resident, upon his position as elected Chairman of Planning with the American Telugu Association, which recognized and honored the Indian heritage of residents in the bay area.

Councilmember Nuñez recognized Leif Juliussen who was recently chosen as “Firefighter of the Year” by the Knights of Columbus.

Mayor Tran also acknowledged Dem Nitafan as Citizen of the Year and John Muok as Police Officer of the Year, while those two men were not available to attend in person.

PUBLIC FORUM Rob Means, 1421 Yellowstone resident, spoke about climate change and environment, with concerns about rising sea level. He read aloud from a scientific letter about ice melt.

Erica Stanojevic, a Santa Cruz resident, thanked the City Council for saying no to trains that came through with oil. She grew up in Milpitas and now lived in Santa Cruz, which declared to divest from big oil companies and big banks for environmental reasons.

Voltaire Montemayor, Milpitas resident, wished to address the fast-approaching minimum wage of \$15 per hour. Everyone, especially small businesses, were worried. When people spend money, that helped the workers and people who lived here.

Robert Marini, Milpitas resident, attended a mediation meeting (about a lawsuit), and the attorney present was another member of the same firm that City Attorney Chris Diaz was from. That seemed to be a conflict of interest, he felt.

Michael Tsai, Milpitas resident, asked City Council to look into expanding staff for economic development to additionally support current staff, to address new businesses and find economic sustainability. Also, the City needed to update the fleet for public safety. With population growth, an increase in the number of police officers along with a good ratio was needed, especially with BART coming in to Milpitas.

ANNOUNCEMENTS

City Manager Tom Williams announced that on May 2, City staff would bring back the Sports Center sports field use item to Council.

Vice Mayor Grilli thanked the community and staff for support, following the evening of April 4, when she had to leave the last Council meeting abruptly, after learning her brother was injured in a bicycle accident.

Councilmember Phan reported that he was absent last time because he was in economic development meetings overseas. Later, he would provide an update on that trip.

Mayor Tran announced his request for action on next Council agenda: to ask the Recreation Services Department to explore waiving all fees for veterans for the Sports Center, Senior Center, and Community Center. Vice Mayor Grilli asked if that was lengthy work and so was he asking for more than four hours of staff time to be approved. The City Manager replied that step was according to city policy to request approval for staff time on that subject.

Mayor Tran also asked for an item on the next agenda to schedule having an independent performance review of the City Manager, and to vote on it during the public portion of the Council meeting. Mayor Tran felt this was an allowable action per the Attorney General.

Councilmember Nuñez asked the City Manager, on the next meeting regarding sports fields, whether that would be a report. He wanted to understand if there was a process on this type of request and tracking those items due to come back to the Council for action or reporting.

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.

City Attorney Diaz recommended a roll call vote, out loud, for every item on this agenda since one member was participating on the phone. He would ask for each roll call vote.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda for April 18, 2017

City Manager Williams requested to move item no. 5 (MUSD enrollment) to be heard first.

Mayor Tran wanted to hear the Chamber BBQ item (no. 4) immediately after that.

Vice Mayor Grilli asked to remove agenda item no. 8 (affordable housing report) for which the Council would need plenty of time for discussion, not late in the evening. She asked to move this topic to another meeting date in the future and allow staff to determine which date.

Motion/Second: Vice Mayor Grilli/Councilmember Phan

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

CONSENT CALENDAR

Motion: to approve the consent calendar for April 18, 2017, as amended

Councilmember Nuñez requested to remove agenda items no. 3 (mid-year budget), no. 9 (Calaveras Road repair), no. 10 (Grand Jury response letter) and no. 16 (Amendment to Agreement with Vali Cooper) from consent.

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

- * 6. Commission Per recommendation of Mayor Tran, re-appointed Ricardo Ablaza to a new 3-year term, on the Economic Development Commission, which will expire in April of 2020.
- *11. Resolution Adopted Resolution No. 8654 granting initial acceptance of public improvements for the Cobblestone Subdivision at 375 Los Coches Street by Tri Pointe Homes, Inc. and approving a reduction of improvement security for faithful performance.
- *12. Resolution Adopted Resolution No. 8655 granting initial acceptance of public improvements for the PACE Subdivision at 300, 324-368 Montague Expressway by Contour Trade Zone, LLC and approving a reduction of improvement security for the faithful performance; and authorized the City Manager to execute a Maintenance Agreement for Public Improvements for this project.
- *13. Resolution Adopted Resolution No. 8656 to transfer a total of \$930.80 in unclaimed checks and credits, per the list generated by the City's Finance Department, to the General Fund in accordance with Standard Operating Procedure No. 26-1.
- *14. Resolution Adopted Universal Resolution No. 8657 designating the City Manager as the authorized agent to execute for, and on behalf of, the City of Milpitas for the purposes of obtaining federal and state financial assistance.
- *15. Resolution Adopted Resolution No. 8658 approving Site Development Permit No. SD16-0005 to construct a new hillside home on a vacant 1.5 acre site located at 1639 Calera Creek Heights Drive.

MEETING MINUTES Motion: to approve the City Council meeting minutes of March 29 and April 4, 2017

Motion/Second: Councilmember Phan/Councilmember Nuñez

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

PUBLIC HEARING

1. Approve CIP FY 2017-18 Public Works Director Nina Hawk presented the proposed Capital Improvements Program (CIP) for FY 2017-2022 along with the request to approve the first year, 2017-18. She defined what a CIP was, the past projects accomplished, those anticipated in the coming year and staff recommendations for adopting the five-year plan while funding the first year. There were eleven reasons displayed for a CIP and Ms. Hawk reviewed those, describing four main steps in the CIP cycle. Many CIP projects and funding sources were identified. She listed two additional community meetings held on April 6 and April 11, where no opposition or comments were made by the public. \$59,633,549 was the amount requested for funding in the first year of the 5-year CIP.

City Council voted to open the public hearing for comments.

Richard Santos, a Director of the Santa Clara Valley Water District, strongly supported the Council's approval of the CIP, especially for the water-related projects. It was important to invest now in recycling infrastructure, along with other important projects noted.

Voltaire Montemayor, Milpitas resident, said this was the beef of the City money and his taxes in the city. Grants were helpful and he was in favor of the CIP.

Joseph Weinstein, 66 Hamilton Ave. resident, thanked the City Council. The matter of Calaveras Blvd. widening was a health and safety issue, and with Measure B funds available, the City should go after that. He refuted that there was enough money to pay for the recycled water project, noting that ratepayers only paid a small portion of that project. He urged the Council to protect potable water supply by using more recycled water.

Robert Marini, Milpitas resident, said residents did not approve of the report by Nina Hawk. Residents did ask some questions (at public meetings he'd attended). He wished to distribute tables that purported to show from the Urban Water Management Report the loss of more potable water by use of recycled water.

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

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

Mayor Tran was very excited with this CIP and offered his compliments to staff. He urged funding for Fire Station 2 improvements in the coming fiscal year. He asked for a staff description on how funding was planned for Project 3403 and staff responded.

City Manager Williams responded to the Mayor's comments, when the Mayor said the original draft CIP showed zero funds for this project. Mr. Williams replied that it had not changed since the study session on the CIP.

Councilmember Phan asked a question to Director Richard Santos: how much had his agency invested in recycled water infrastructure? Mr. Santos replied that \$1 billion was invested with San Jose on a nearby purification plant. Mr. Phan also asked him about a desalinization project.

Next, Councilmember Phan asked Ms. Hawk, regarding CIP 4273, if other funding sources were found, was the unused funding from the project going back into the General Fund? Ms. Hawk replied that all the money was being utilized. Mr. Phan asked if there was any backlog in street repair projects and staff replied there was an identified backlog of sidewalk repairs that were now caught up, and she discussed pothole repair work. \$100,000 for supplies to go with a new truck on order was the funding for taking care of potholes. He wanted to know if the City had considered a bond issue to pay for some projects.

Councilmember Nuñez asked about the Mid-Town Specific Plan update and projects in that area. Planning Director Brad Misner addressed the need and reasons for an update to that plan, which had been predicated on Redevelopment Agency funds that no longer exist. Mr. Nuñez asked about technology projects and overall needs. Information Services Director Mike Luu described two specific CIP projects, for express permitting in the Building Department and one other for streamlining.

Councilmember Nuñez asked about parks and updates. Recreation Director Renee Lorentzen reported there were 32 parks in the Parks Master Plan, and a few newer ones were added since that 2009 Plan. She detailed some health and safety work on parks. Mr. Nuñez asked about use of artificial turf to be installed in any parks and costs to consumers for recycled water. Ms. Hawk provided detailed explanation of recycled water and how it was funded.

Vice Mayor Grilli thanked staff and Mr. Santos for their vision, on the city's infrastructure and stated that recycled water was a very important item for the future. She inquired about International Park, and what the city was doing with that. Ms. Lorentzen reported that the

CIP was recommended to be closed and the funds would go to a MidTown Park.

Mayor Tran supported the needed recycled water project. Residents wanted to see water rates be the best value for them. He was very encouraged with the pipeline and costs paid by grants, reimbursements and developers' fees. He did not want residents to cover all those costs. He was not supportive of bonds in general and wanted to pay-as-we-go for water projects, if possible.

The Mayor asked about residents having access to a recycled water line, noting the higher costs for water. The Public Works Director identified the major benefits of that water and funding those lines by bond financing. Mr. Tran stated that drought taught the region that people needed to change how they accessed and used water, knowing that conservation was important. He wanted to know what the School District was doing in concert with the City for recycled water. He was opposed to the recycled water project and especially the cost of it. He would not get any recycled water to his house, so he did not get any benefit.

Councilmember Phan stated his support for a bond, while interest rates were very low on the market right now.

Councilmember Nuñez spoke of the area where drivers exited I-880 to Great Mall Parkway, toward car dealers. It needed a lot of improvement appearance-wise. He wanted to know if that route could be changed and add it to the list of CIPs. Staff replied yes. He asked if affordable housing was part of the CIP and staff replied, not really.

Councilmember Barbadillo said on the recycled water, it was the only item he agreed with the Water District on. That CIP was for the long term, with future benefits to residents. He talked about why potable water costs went down if more recycled water was used. Ms. Hawk responded to him about discretionary projects on the summary and those not recommended for funding. Mr. Barbadillo asked about funding as the Mayor had asked about for Fire Station 2 and the other stations.

Councilmember Barbadillo asked some questions about the timeline for buildout of the Transit Area and Mr. Williams replied, 10-15 years until completion. He felt the staff should find a way to fund Fire Station 2 improvements sooner than planned. Mr. Williams noted then another project would not get funded and a need to re-prioritize projects.

(2) Motion: to adopt Resolution No. 8653 approving the 5-Year Capital Improvement Program for Fiscal Year 2017-22, including approval for funding year one FY 2017-18 in the total amount of \$59,633,540

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

UNFINISHED BUSINESS

2. Ordinance No. 41.12

Planning Director Brad Misner reminded Councilmembers they had requested information on what work the Planning Commission did, and he was prepared with a listing of the duties and responsibility of Planning Commissioners on current planning and long range planning. He had information available on how much compensation other cities paid to Commissioners.

Planning Commission Chair Sudhir Mandal came to the podium to describe the value that the Commission brought to the City's business. Commissioners did a thorough review of all projects brought before them for a decision and that included site visits on their own. Members attended training classes. Special projects were done by dedicated people who served on the Commission and who really cared about this City.

Councilmember Phan felt it was a large increase in the pay amount, budget-wise. It was a large total number as reported by Mr. Misner and Mr. Phan did not know if he could support the increase.

Councilmember Nuñez asked about Commissioners' suggestions for possible changes, e.g. term limits. Mr. Misner reported that the Commission was working on recommended changes to their by-laws. Mr. Nuñez sought more information about Planning Commission pay, especially as compared to other cities.

Vice Mayor Grilli was one of two Councilmembers who voted against the proposal last year. A staff report then did not convince her last year to increase the Commissioner pay and she still opposed the proposed increase.

Councilmember Phan said the original increase amount was too liberal and he did not support a higher amount. Maybe it could increase more slowly over time but for now he opposed going from \$25 per meeting to \$100.

Mayor Tran said he would like the stipends competitive with the region. He had not received that information and needed that to be able to decide.

Councilmember Barbadillo commented that it was public service for the Commissioners to the city. This money was only a token for their work and had been paid \$25 since 1964. It was appreciation from the City for the increase approved last year. He was supportive.

Councilmember Nuñez felt the work and time put in on the Planning Commission was similar to what he did for the Santa Clara Valley Transportation Authority Board of Directors every week. He got \$100 for a meeting he attended for that agency.

Motion: to move this subject to a future meeting date – at staff discretion - with further supplemental information provided by staff, including a survey of other cities, any changes in by-laws and statutes in the municipal code

Motion/Second: Councilmember Tran/Councilmember Nuñez

AYES: 4
NOES: 1 (Grilli)

3. Mid-Year Budget Approval for 3 CIPs This item was not heard and would be moved to the next regular Council meeting.

4. Chamber BBQ Planning Director Brad Misner recalled that following the previous City Council meeting, Councilmembers had wanted to ask the Chamber staff some questions. Chamber CEO Mark Tiernan was available at this meeting.

Councilmember Nuñez discussed previous expenses and anticipated profits this year, compared to those amounts requested for funding by the City. Mr. Misner reviewed what information that Council had sought.

Mayor Tran called up Chamber of Commerce Executive Mark Tiernan to the podium. Mr. Tiernan explained information provided on this date by email to staff and City Council.

Councilmember Barbadillo thanked the Chamber for the material. Mr. Tiernan said the Chamber anticipated better weather this year (no rain as last year) and did not want to over-anticipate costs in order to maximize income with anticipating 10-15% increase in revenue. New potential sponsors were about to sign on to the event too. The Chamber staff questioned the figure in staff report on costs for business licenses for vendors since the Chamber estimated it would be closer to \$3500 not \$8000.

Councilmember Barbadillo wanted clarity on whether this was a true partnership or a sponsorship by the City for this event based on budget figures presented.

Mayor Tran invited speakers from the audience.

Voltaire Montemayor, Milpitas resident, totally favored this action and supported the BBQ Festival event.

Vice Mayor Grilli had some concerns about the total amount asked to be waived. In the future, if asked, this must be talked about months ahead of time and find a way to have a true partnership. She felt she did not have a choice but to support this.

Councilmember Phan agreed with the Vice Mayor about future collaboration. He was supportive of the partnership with Chamber. He asked more questions about business license fees for those that did business in the City.

Councilmember Nuñez noticed this was much different than four years ago (first BBQ). This really wasn't a partnership with the City, he felt. The amount of money left at the end did not help the Chamber all that much toward operating. The City needed to work with the Chamber to make this better next year.

Councilmember Phan would like a follow up after the festival, and identify what could be improved on and what went well and challenges that the City could help with in future.

Councilmember Nuñez said a true team would include having a City department head be part of that report. Mr. Nuñez asked if non-profits were charged to have a booth at the Festival. Mr. Tiernan replied no, explaining that ten booths were set aside for BBQ competition and if not filled, then the Chamber reached out to non-profits to use at no cost.

Motion:

1) to approve the request from the Milpitas Chamber of Commerce for City services and authorization to use the City's name and logo for promotional and marketing materials for the 2017 International BBQ and Festival on May 20 - 21, 2017; and.

2) to direct the formation of an equal partnership between the City of Milpitas and the Chamber of Commerce for the planning of this event in future years and not scheduled to be in conflict with other events in neighboring communities

Motion/Second: Vice Mayor Grilli/Councilmember Phan

AYES: 5

NOES: 0

Due to the late hour, discussion of completion or continuing agenda items was held.

Mayor Tran stated he would like to continue and discuss item no. 2 and then end this meeting.

Motion: to roll over any issue that was not time sensitive (excepting the Planning Commission pay hike)

Mr. Williams stated that agenda items no. 9 and no. 10 were time sensitive and required decisions at this meeting.

Motion/Second: Vice Mayor Grilli/Councilmember Phan

AYES: 5

NOES: 0

5. Vietnam Flag

This matter was heard first, prior to the CIP public hearing.

City Attorney Chris Diaz began to give a report to Council, and a Vietnamese translator was brought to the podium to translate his report for the benefit of members of the audience. Mr. Diaz summarized action by the San Jose City Council with regard to banning the socialist republic of Vietnam flag. He reviewed current City of Milpitas flag policy.

He defined three options for the City Council. Option 1 – preserve the existing flag policy in the municipal code, and adopt a resolution similar to City of San Jose. Option 2 – eliminate the current flag policy and adopt the same resolution as San Jose. Option 3 – maintain the current policy and adopt a resolution only promoting Vietnam Heritage and Freedom Flag. There was no staff recommendation as this matter was at the discretion of the City Council.

Councilmember Phan thanked the City Attorney for his work on his request. He wanted to hear from the public first.

Mayor Tran invited speakers to the podium. The Vietnamese translator assisted those who required her service.

Ha Phan, Milpitas resident, spoke in favor of banning the flying of the socialist Republic flag. She wanted a resolution adopted to that effect.

Voltaire Montemayor, resident, favored banning of the Vietnamese Republic flag and he supported the Heritage and Freedom flag to be flown.

Dan Nguyen referred to actions in 1975 in Vietnam. He wanted to prohibit flying of the red flag anywhere in the city. He spoke of refugees in Milpitas and San Jose, and that the flag made him sick and depressed.

Minh Duc Dao thanked the Council for honoring people in Milpitas, spoke of loss when Vietnam began to fly the red socialist flag there, many people had to flee. He was happy living in this country and wanted the Council to prohibit the flying of the red flag.

Jan Cung asked Council to look at the communist countries now, and what they did to their people and how they treated their country's people and the earth. Recognize the Freedom flag and ignore the communists, he asked.

Pham Sun, 80 years old, was a victim of communists all his life and was happy he came to America to live. He asked to adopt a resolution to prohibit presence of the communist flag.

Nguyen Song Tran expressed his feeling when he saw that flag in this country. He was a former soldier of Vietnam forces and battled always against that red flag. He could not tolerate the flying and sight of the communist flag. Please adopt a resolution to prohibit flying the red flag.

Long Nguyen, asked what officials would think if they saw the Nazi flag flying? Would they be intimidated or hurt? That was the same feeling of Vietnamese here when they saw the red communist flag. He recommended Option No. 2 by the City Attorney.

Khanh Nguyen, local resident, said he suffered a lot and came to this country to rebuild his life. Communists ruled after 42 years and did not treat the people fair there.

Councilmember Phan thanked all the members of the public who came down here to speak from the heart. If current flag policy was maintained, there was a legal risk in future. The City Attorney remarked there was little basis for the Council to say no to a request that came before Council at a public hearing. Council could not deny a request for content, and if it didn't incite violence, it would be approved.

Councilmember Phan felt the safest option was to do away with the flag policy. The City Attorney replied, not necessarily. There had never been a request for any controversial flag to be flown in the City. Mr. Phan noted that allowing the possibility of the socialist flag could potentially incite violence. The symbolism could incite violence, arson and bad treatment. He would not want violence to happen here and sought to revise the policy. There was a mental health factor and the policy would affect those who served in American forces in Vietnam along with Vietnamese living here. The Council owed it to veterans to not allow the display of the socialist flag.

Councilmember Nuñez asked about the order of the options presented. Option 1 was the most feasible, the City Attorney said.

Mr. Nuñez asked how speech was defined in the law, and Mr. Diaz enumerated.

Vice Mayor Grilli asked the City Attorney if that was only on City property (Option 2) and he said yes. She asked the City Manager about the process with flags, when a ground ceremony happened at City Hall.

Mayor Tran said there needed to be a way to recognize the communities of Milpitas, including farmworkers or other diverse groups.

Councilmember Barbadillo said Milpitas had the flag ordinance for a while, the City had not encountered any issues around free speech. Mr. Diaz responded about San Jose's policy and the possibility of risk. Mr. Barbadillo spoke about Option 3 and he wanted to adopt the Resolution as described.

Vice Mayor Grilli stated she could not support Option 2. She was part of the community when the original policy was created, and she helped at some ground ceremonies. In the current policy, flags did not stay up flying, rather it was only during the ceremony.

Councilmember Phan would like to amend the flag policy, not eliminate it. He did not want to cut off ground level ceremonies.

Councilmember Nuñez asked about friendship cities and what about their flags. Mr. Diaz read from the current City policy.

Raising of the Heritage Flag was the important piece, Councilmember Nuñez felt, and also banning the socialist flag.

Mayor Tran supported Mr. Phan and Mr. Nuñez, in terms of amending the policy. The policy must protect the City from any risk, an important point. The City was home to over 10,000 Vietnamese people who were refugees and legal immigrants. He was the liaison to the Veterans Commission and a military member himself, so he spoke of 58,000 Americans who lost their lives during the Vietnam war.

Vice Mayor Grilli asked, when amending the policy, would that still leave it open to a Councilmember to bring forward a flag-flying request from a resident? The City Attorney said he could look into that.

Councilmember Phan suggested to include in the policy the participation of the Sister Cities Commission. What they recommended would go to City Council, who finally decide the policy. It would ultimately allow for flags to be flown. Then, he discussed identity of the Vietnamese community and their liberties.

Motion:

The City Attorney said he was looking for a motion related to Option 2. It would need to address and preserve sister cities' flags, consider friendship cities, look into other locations to fly flags, have the issue under the City's control, to allow private requests, and have the Sister Cities Commission have some review of sister cities' flags.

Councilmember Phan said he would move what Mr. Diaz just said, and to request to return with a policy, endeavoring to bring it back for the second meeting in May to get consensus. Then the Attorney could bring a resolution back after that.

Mr. Phan further understood this topic to be delicate and the need to be in conformance with law. If there was any issue with the ordinance the City Attorney brought back, they can revise it and return. He wanted staff to return with an ordinance for Council to consider.

Motion/Second: Councilmember Phan/Vice Mayor Grilli

City Attorney Diaz repeated what he understood as the motion and said he would come back at the second meeting in May.

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

City Council took a break at 9:45 PM and returned at 9:50 PM.

REPORT

7. Wage Theft This item was not heard and would be continued to the next meeting.

NEW BUSINESS

8. Affordable Housing This item was continued to a future City Council meeting.

9. Calaveras Road repair Councilmember Nuñez asked if the figures in the report were for the total costs of that project. He wanted to know why it was on agenda here as a Capital Improvement Program project and not presented with the budget.

Public Works Director Nina Hawk explained that it met criteria as a CIP and was requested for the current fiscal year (not the future FY 2017-18). The CIP could carry the dollars forward into a future year for expenditures on the project work.

Motion: to receive this report on Emergency Repair of Calaveras Road, to approve a new Capital Improvement Project titled Calaveras Road Repair - Project No. 4285, to approve the budget appropriation of \$1.2 million from Transient Occupancy Tax into Project No. 4285 and to authorize staff to pay invoices up to \$1.2 million for the project

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

10. Update Response to Civil Grand Jury Human Resources Director Tina Murphy explained that the City was asked in a letter from the County Civil Grand Jury to provide an update to responses to the 2011-2012 Grand Jury regarding recommendations on the pension program.

Councilmember Nuñez said he disagreed with the written response. For example, the report stated that several cities had filed for bankruptcy and he disagreed with the County's statement on that. Ms. Murphy offered to discuss where he had comments and questions.

Councilmember Phan asked about the time frame when the City was asked to respond to the Grand Jury. He also asked what authority the Grand Jury had with these pension matters.

City Attorney Diaz explained the mandate and operations of a county civil grand jury and its duties. Prudent actions were recommended and it was useful for the City to respond to a letter from that entity.

Motion: to approve written response letter for the Mayor's signature to the 2016-2017 Santa Clara County Civil Grand Jury Request regarding Pension and Other Post Employment Benefits

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

16. Amendment No. to
Agreement with Vali Cooper

This item was not heard and would be continued to the next meeting date.

REPORTS

None provided.

ADJOURNMENT

Mayor Tran adjourned the City Council meeting (regular and special) on Wednesday, April 19, 2017 at 1:30 AM.

The foregoing minutes were approved by Milpitas City Council on May 2, 2017.

Mary Lavelle
Milpitas City Clerk