MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, February 19, 2019**
Time:	**6:00 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 meeting to order at 6:00 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Mayor Tran, Vice Mayor Dominguez, Councilmembers Montano and Nuñez

ABSENT: Councilmember Phan was absent at roll call. He arrived at 6:20 PM in Closed Session.

CLOSED SESSION

City Council convened in Closed Session to discuss three matters listed on the agenda.

ANNOUNCEMENT

City Attorney Chris Diaz did not have any reportable action out of Closed Session.

City Council convened at the dais for the Open Session regular agenda at 7:27 PM.

PLEDGE

Local Boy Scouts from Troops No. 3423 and No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Councilmember Phan deferred to the Mayor, who then offered a brief prayer.

PRESENTATION

Mayor Tran commended two student Unity Poetry contest winners, Christina Quan – elementary school winner, and Nicholas Nguyen – high school winner.

PUBLIC FORUM

Evelyn Chua, resident, spoke to the Council about the Environmental Club of Milpitas High School who contacted her about doing a project. Students would work with the Community Advisory Commission, Milpitas Cares and student volunteers to conduct a Clean-Up Day on Saturday, March 19 at Pioneer Mobilehome Park. Mrs. Chua introduced 3 of the students, who spoke at the podium about the club's efforts.

Robert Marini, resident, felt the city was not open and transparent regarding information provided about bonds for water utilities upgrade work. He alluded to false campaign promises and asked for explanation of costs, and advice from the Citizens Water Rates Task Force. He asked for agenda item No. 3 to be discussed, not on consent.

Rob Means, resident, spoke to the Council about status of "PRT" personal rapid transit, reporting that he'd met with staff on this matter. He'd like to move forward on how to provide staffing, and an agreement for planning it in the future.

Voltaire Montemayor, resident, complimented the poetry contest winners. He discussed homelessness and a need to address those residents in Milpitas.

Ali, resident, requested that item no. C9 traffic signal be removed from consent. He stated he was an anti-war activist and a veteran. He talked about Congress and funding of the military.

Tom Valore, resident, discussed a proposal for gun control in San Jose and asked Milpitas to consider looking at what Mayor Sam Liccardo recommended in that city, for Milpitas.

ANNOUNCEMENTS

Mayor Tran encouraged residents to apply to be considered to serve on a City of Milpitas Commission.

Councilmember Montano gave a thumbs up to Police Chief Corpuz for a recent "Coffee with a Cop" event held the previous Saturday - a great success for residents and was appreciated.

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. By roll call, none were reported.

Councilmember Montano would recuse herself from agenda item no. 13, due to proximity of her residence to The Pines neighborhood.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Councilmember Phan/Councilmember Nuñez

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

CONSENT CALENDAR

Motion: to approve the Consent Calendar including agenda items no. 1, 2, 5, 6 and 8

Mayor Tran, in reply to residents' requests, asked to remove items no. 3 and no. 9 from consent.

The Mayor also requested to move up agenda item no. 13 to be heard first, before all other matters for discussion.

Councilmember Nuñez requested to remove items no. 4, no. 7 and no. 10 from consent.

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

* 1. Council Calendars

Accepted City Council calendar for February and March 2019.

* 2. Meeting Minutes

Approved City Council meeting minutes of January 29 and February 5, 2019.

3. Resolution – Amend Water Supply Agreement

Mayor Tran asked for comment from the public.

Robert Marini, resident, said the Council would extend the agreement from 2035 for five more years. He urged City Council to wait until closer to the time frame for the City Council at that time. He asked why they were doing so now, when it could be done in future years.

Public Works Director Tony Ndah said there were seven changes in the agreement, as described in the written staff report.

Motion: to adopt Resolution No. 8846 approving the Amended and Restated Water Supply Agreement between the City and County of San Francisco Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County and authorize the City Manager to execute the agreement

Motion/Second: Councilmember Phan/Councilmember Montano

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

4. Agreement with Alta Planning – Trails Plan

Councilmember Nuñez asked about this related to the FY 2017-18 surplus in the budget, and why it was requested to be approved at this meeting. Interim Finance Director Jane Corpus

responded regarding this item which was one on a list of items in the MidYear budget report. This one required an agreement to be approved for a consultant.

City Engineer Steve Erickson explained the funding in the budget that was included for this agreement for the Trails and Bike Master Plan, and then the project was expanded, with further funding needed to execute the consultant services for development of the Master Plan.

City Manager Edmonds-Mares recommended the City Council pause on this one, until further discussion on the MidYear budget (agenda item no. 14).

Vice Mayor Dominguez asked when the Master Plan was last updated, and staff responded in 2009. She mentioned deadlines for Measure B funding that the City must pay attention to.

There was no vote on this matter at 9:57 PM.

* 5. Adopt Ordinance 120.48	Waived the second reading and adopted Ordinance No. 120.48 amending Section 6, Chapter 1 of Title VIII of the Milpitas Municipal Code relating to water and recycled water service charges.
* 6. Adopt Ordinance 208.53	Waived the second reading and adopted Ordinance No. 208.53 amending Section 6, Chapter 2 of Title VIII of the Milpitas Municipal Code relating to sewer service charges.
7. Approve Out of State Travel	Councilmember Nuñez asked staff about Central Square, and its service to the city, since he was concerned with online comments he'd read about this vendor. Information Services Director Mike Luu explained the original company for the City's CAD system was Tri-Tech, and was bought last year by CentralSquare. The latter is the company that was recently in the news. Motion: to approve out of state travel for staff from the Police Department and Information Services to attend "CentralSquare 2019" in San Antonio, TX on March 17-20, 2019, and from the Fire Department to conduct final inspection on the new ambulance in Winter Park, FL during March 2019 Motion/Second: Councilmember Nuñez/Councilmember Montano Motion carried by a vote of: AYES: 5 NOES: 0
* 8. Accept MTC P-TAP 20 grant funds	Authorized acceptance of Metropolitan Transportation Commission (MTC) Pavement Management Technical Assistance Program (P-TAP 20) grant funding of $38,500 and authorized payment of $7,700 to MTC for P-TAP 20 local match.
9. New CIP No. 4292, Traffic Signal	Mayor Tran invited a resident to address the Council. Resident Ali came forward to ask a list of questions 1-7 about this project. Following those, Engineer Steve Chan replied to several of the residents' concerns, including with regard to cameras on which no data was stored. Motion: to approve the creation of one new FY 2018-19 Capital Improvement Program Project No. 4292, approve project plans and specifications, authorize advertisement for bid proposals for McCarthy Boulevard/SanDisk Drive Traffic Signal, and approve a budget appropriation of $750,000 from the McCarthy Business Park Traffic Impact Fee fund the new McCarthy Blvd./Sandisk Dr. Traffic Signal, Project No. 4292 Motion/Second: Councilmember Phan/Councilmember Nuñez Motion carried by a vote of: AYES: 5 NOES: 0

10. Next Meeting Agenda

Councilmember Nuñez would like this in future not to be listed on consent. He'd prefer the opportunity to provide comments and request agenda items. The City Manager agreed this was the opportunity for City Council input on City Council meeting agendas.

PUBLIC HEARING

11. Public Hearing – Bingo License Application

City Clerk Mary Lavelle gave an oral report describing the application for a new Milpitas Charity Bingo, Inc. application for bingo games to be held at 461 S. Milpitas Blvd. Space C. The goal of the bingo hall was to make donations to local non-profit groups with the bingo game proceeds. All departments had provided appropriate review of the application. Milpitas Planning Commission approved a Conditional Use Permit for the entertainment use on an industrial site, with a list of 36 conditions of approval. Game hours listed in the CUP were Wednesdays – Sundays from 5:00 – 10:30 PM.

Applicant's representative Mr. Bob Livengood gave a brief presentation, describing the business plan and layout of Milpitas Charity Bingo.

Next, Mayor Tran opened the public hearing.

Robert Marini, resident, had a question for Mr. Livengood about volunteers who would help operated the bingo games, and he responded.

Voltaire Montemayor, resident, said he supported bingo in Milpitas.

Victor San Vicente, Milpitas Rotary Club, was very interested in this bingo place, and to have a way to raise funds for Rotary's non-profit charity efforts and also for Chamber of Commerce.

Riza Santoro, bingo manager of St. John the Baptist Church, reported her group's bingo was operating for 10 years. She was concerned that revenue would diminish at the church's bingo, due to a great success anticipated with the $1 million goal for the new one by Mr. Livengood. Funds were generated for the parish and she hoped St. John would continue to draw lots of players on Monday nights.

Tom Valore, resident, wondered about the difference between 501(c)3 and other charitable organizations. Mr. Livengood responded any group to receive a donation must have tax exempt status. City Attorney Chris Diaz noted that was correct.

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

Motion/Second: Councilmember Montano/Councilmember Phan

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

Mayor Tran thanked the St. John's community, and for the bingo group members who came out to the public hearing on this application. The Mayor thought more options for bingo were needed in this community. He supported this new bingo and had faith in St. John's continued success and really liked the non-profit partners list.

Councilmember Nuñez asked the Chief of Police if there were safety concerns about the daytime hours. Police Chief Corpuz mentioned flexibility in the hours by the applicant.

Councilmember Montano asked Mr. Livengood why it took so long to get the required Franchise Tax Board tax exempt letter (as required by Milpitas Municipal Code). Applicant explained that it was already deemed a non-profit public benefit corporation by the state, but had not yet received the tax exempt status from the FTB. He was expecting that letter of determination soon. He suggested to Council the applicant was accepting if the City Council approved the bingo license, pending receipt by the City of that letter.

Councilmember Montano asked a variety of questions, including about staff, reporting, tax exempt status, the parent organization and groups receiving the donations. She reviewed the requirement of Milpitas Charity Bingo to verify the non-profit partners were documented tax exempt charitable organizations. There were many nonprofits in Milpitas, so other groups might want to participate and earn donations.

(2) Motion: to receive the staff report and approve a new Bingo License for Milpitas Charity Bingo Inc. along with a requirement that applicant shall provide a valid certificate or letter from the Franchise Tax Board evidencing tax exemption consistent with Milpitas Municipal Code III-7-3.00 to the satisfaction of the City Manager

Motion/Second: Councilmember Montano/Vice Mayor Dominguez

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

COMMUNITY DEVELOPMENT

12. Residential Short Term Rental Regulations

Item was not heard.

COMMUNITY SERVICE

13. The Pines Permit Parking program

This matter was heard and discussed first, prior to item no. 4 and prior to the public hearing.

Engineer Steve Chan gave a background report and update for the proposed program to have a Parking Permit Program established for The Pines neighborhood in the south of Milpitas. He described parking surveys that were conducted in the past. He provided options and the staff recommendation.

Councilmember Phan asked why new a Capital Improvement Program (CIP) project would be funded from the General Fund for this new project. Interim Finance Director Jane Corpus responded that anything allocated for a CIP project was already designated in the budget. This project would be funded with funds that were available. Mr. Phan also asked about signage for this program.

Councilmember Nuñez commented on statistics that staff had provided from a 2017 survey analysis. He asked staff how much was in the FY 2017-18 surplus, and Ms. Corpus said $3.1 million was remaining, after some expenditures already approved by Council in December. He talked about weighing all possible avenues for spending that money.

Vice Mayor Dominguez asked some detail questions of staff about which vehicles were noted to be parked longer than 72 hours, and 28 or 29 were vehicles registered in the neighborhood. She expressed her reservations as to whether this program would work, based on her experiences.

Mayor Tran spoke of the residents who'd lived in that neighborhood for many decades, and the struggle with the high density development built in and around the area.

The Mayor invited public comments.

Ali, resident, asked why there would be a study on something that was studied before. Check with other nearby cities. There should not be a fee program ever as it would affect low income households disproportionately, who would have to pool resources to pay for the permit. Address the root cause as to why more people packed into houses to afford rent, and a focus on prohibiting predatory investment.

Guy Haas, resident of The Pines, thanked the City Council for the effort put into this proposed program. Any provision for residents who have visitors for one week was needed. The Vehicle Code Enforcement was cause for concern.

Vice Mayor Dominguez asked the Police Chief if there was a parking enforcement officer. Chief Corpuz would enforce the law and issue violations where necessary, for all matters.

Councilmember Nuñez asked if Police could enforce "residents only" if posted. The Chief replied that selective enforcement caused more complaints than anything else.

Mayor Tran invited speakers from the audience.

Tom Valore, resident, was concerned about the best use of funds, as mentioned by Mr. Nuñez. He had concerns for homeless and affordability, and did not like taking path of least resistance.

Rob Means, resident, said the problem would be semi-resolved with the plan if adopted. He talked about "commons" and use of that by community members.

Mike Novotny, a 40+ year resident of The Pines, felt it was premature to have this program, since new information came out at this meeting. Cost and impacts on present parking spots were his concerns.

Voltaire Montemayor, resident, described traffic in Milpitas, and heavy road clogging. Perhaps try to avoid problems with this program and help the people, where it was crowded.

Next, Mayor Tran addressed many issues related to this proposal, and expressed his goal to get this program established based on the many concerns he'd heard from residents of The Pines. He commented on parking style in courts in Milpitas (perpendicular, where not allowed). He responded to the method of paying for the program, which came about from Council discussion and direction. He asked questions about towing of improperly parked vehicles, and the Chief replied when towing was allowed.

Councilmember Phan did not think this was an easy issue for Councilmembers. They need to be pro-active at mitigating traffic. He spoke about his family's personal story, and about neighbors growing up with concern for working people, their living conditions, as it was not just about parking. He did not support the parking permit program.

Councilmember Nuñez said Council was elected to represent everybody in the City, not just The Pines. Parking difficulties where he lived, at north end of the city. He felt there would be a negative impact if this was implemented, so he did not support it. He appreciated comments from the speakers and asked staff to bring this item back with all CIP projects (due for discussion next month), and find what could be done to help those living two to three families in one house or apartment. He said that was his motion.

Councilmember Phan would like the $130,000 be appropriated, but not for the parking program. Council should appropriate funds to housing or anything else more productive. Make housing more affordable with access to jobs, he stated. He wanted to add on to Mr. Nuñez's motion with $230,000 going to something else.

Vice Mayor Dominguez felt this was a serious vote, as it would set a trajectory for future votes. She had walked the neighborhood. Housing, rent, squeezing in more people, pushing out long-term residents were concerns while there were parking issues across the City. She could support the motion, if this topic would come back.

Motion: to receive a staff report, not to approve a new CIP project for a parking permit program in The Pines neighborhood, and to have this item return as part of the CIP presentation on March 12, to explore costs, and later decide then if funding should go to this or another program

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

LEADERSHIP

14. FY 2018-19 Mid Year Budget review - Resolution

Assistant City Manager Ashwini Kantak presented the General Fund Overview for FY 2018-19.

Councilmember Phan responded regarding the change in Transient Occupancy Tax from 11% to 14%. Staff provided details on the recently approved tax increase, and anticipated increased revenue to the General Fund. The City Manager explained that the City currently had about five months of reserve funds.

Mayor Tran asked about how the PERS stabilization fund was saved and staff said it was in an interest bearing account.

Councilmember Montano asked about investments of the City, and was concerned if they were in any immoral or other issues that Councilmembers did not agree with. City Manager replied twice each year, a financial report was given to Council and staff could provide more information to respond to that concern.

Ms. Kantak reviewed a list and funding needed on identified Phase II requests for six identified CIPs. Councilmembers commented on some of those projects.

Ms. Kantak reviewed next Recommended Funding for One-Time Personnel and Non-Personnel Needs. Mayor Tran commented on the list and believed the need was there, in order to meet the needs of Milpitas residents.

Councilmember Phan wanted to clarify Finance Department requests. Staff explained a need for more support on procurement and purchasing tasks, to meet a backlog of work in that area and the need for updating the purchasing ordinance and policies. Human Resources Director Liz Brown came forward with the Fire Chief to answer questions about firefighter turnout equipment costs.

Councilmember Montano asked Public Works about the tree maintenance budget increase, wanting to make sure when trees were removed that this was not done on HOA property in the City. She asked for a detailed explanation of the odor monitoring program "electronic" process.

Mayor Tran supported the funds for the odor monitoring program, using technology. He felt that the tree maintenance was needed and important, taking care of those.

Vice Mayor Dominguez supported costs for equipment for firefighters and to make sure there was replacement equipment for firefighters planned. She wanted to see mapping of prioritizing trees and where those were maintained.

City Council by consensus was not ready to vote on the staff recommendations at this meeting.

Motion: to continue this discussion of the Mid-Year FY 2018-19 budget and staff recommend-dations to a future meeting

Motion/Second: Vice Mayor Dominguez/Councilmember Nuñez

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

15. Mayor's Appointments to Commissions

Item was not heard.

16. Mayor's Recommen-dation for 3 City Council Subcommittee

Item was not heard.

ADJOURNMENT Mayor Tran adjourned the meeting at 12:04 AM on Wednesday, February 20, 2019.

The foregoing minutes were approved by Milpitas City Council on March 5, 2019.

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Mary Lavelle
Milpitas City Clerk