

MEETING MINUTES CITY OF MILPITAS

Minutes of: Special Meeting of Milpitas City Council
Date: Tuesday, January 24, 2017
Time: 5:30 PM
Location: Council Chambers, Milpitas City Hall,
455 E Calaveras Blvd., Milpitas CA

ROLL CALL

Mayor Tran called the meeting to order at 6:41 PM.

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

ABSENT: None

The meeting agenda was approved by consensus of the City Council.

PUBLIC FORUM

Kurt Bohan, Heath St., Milpitas resident, was concerned about the future of public access television station. He'd been involved from the start more than twelve years ago, and later joined the Board of Milpitas Community Television (MCTV) and the Telecommunications Commission. His background was in television and film production, and now he wanted to offer an alternative for the tv studio operation, which must be affordable.

Steve Seddell, Milpitas resident, read a book recently titled "Industries of the Future" by Alec Ross, and attended a ceremony by billionaire CEOs in San Francisco. He urged Council to bring business to this City, and work with the Economic Development Director. Ask her to bring in businesses of the future. He questioned if the City had buildings or land mass for an industry of the future.

Robert Marini, Milpitas resident, had asked at the last meeting if family members could be members of a committee. He did not know what the policy was, and if it was approved to have relatives as members. He asked to learn what the policy was on having relatives on committees.

Mayor Tran would like the City Manager to respond on the nepotism issue and to bring it back on the next agenda, at his request.

Councilmember Nuñez remarked on the first comment, on MCTV, he referred to going out to bid for that service. He would like it brought back to City Council, to get the status on the station and bids, operation, etc. He would like to learn about this topic and where the city was with this item, to have it on a future agenda.

Councilmember Barbadillo confirmed what Mr. Nuñez said, and it was discussed at the Milpitas Telecommunications Commission meeting the previous evening. He supported the item requested to be placed on an agenda.

STUDY SESSION

City Manager Tom Williams expressed the theme for this meeting was governance. There would be a briefing by City Attorney Chris Diaz. He reviewed the Community Vision from the recently adopted

City's Strategic Plan. New Councilmembers asked the City Manager about the Strategic Plan efforts and he provided some past history.

With six bulleted items, the manager identified meeting objectives. Two could wait until a future meeting he suggested. Social media was front-and-center for municipalities. At a future meeting, the group could focus on Council's vision and work priorities.

Mr. Williams defined the form of government for Milpitas and specified its core services, required by state law. He listed eight characteristics of good governance. He identified bodies of law, the Council handbook, and also City policies and procedures.

Next, City Attorney Chris Diaz provided a legal overview on the definition of a General Law city (such as Milpitas) versus a Charter City (such as San Jose). Mayor Tran asked for the history on why Milpitas began as a general law city, not via a charter.

Councilmember Barbadillo commented on a past vote on charter city status and that it failed. The City Manager responded that staff could provide the past history. The manager urged Council to consider if it was restricted in any way from taking action, due to being a general law city rather than charter.

Councilmember Nuñez asked if the Council had to put this on the ballot. City Attorney Diaz replied that the people (voters) could initiate that or the City Council. Vice Mayor Grilli gave some history to her colleagues, stating this subject was considered twice in the recent past and Milpitas residents did not want a charter city both times.

City Attorney Diaz next described and defined the Council-Manager form of government, which was the most common type in California and was in practice here in the City of Milpitas. He responded to various questions about the City's current Open Government ordinance. Mr. Diaz suggested it was best for the City Councilmembers to read the Open Government ordinance and then ask him any questions.

Mr. Diaz displayed the nepotism policy in the Milpitas Municipal Code, relative to employees, which was excerpted from the Milpitas Municipal Code VI-101-18.

Next, City Manager Williams talked about the City Council Handbook, referring to a draft that the Councilmembers had, and he highlighted sections on communications, issuing certificates, and conduct. Some discussion was held about past Council Communications Subcommittee and the conduct of Council in speaking to the press. The City Attorney highlighted that the majority of Council needed to establish a policy before one person could speak out at a press conference.

Mr. Nuñez asked about the City Council subcommittee on Communications and if it was presently formed. Mr. Williams replied that the prior Council had formed one, with two Councilmembers. To reform it at this time, the Council would need to add it to an agenda for appointing two Councilmembers.

Councilmember Barbadillo asked what Councilmembers could or could not post on twitter, Facebook or other social media. The City Manager said the Council needed to evolve a social media policy for the Council, since they did not have one (though there was one for employees). Mr. Barbadillo stated he was an advocate for the first amendment to the US Constitution.

Further discussion was held on policy versus law regarding communication issues.

Councilmember Phan had reservations about the Council subcommittee, and whether it could be subjective, especially when a Councilmember might disagree with a member of the subcommittee. Objective advice from staff was needed.

Councilmember Barbadillo emphasized their rights as individual citizens to be allowed to speak out, while he supported the purpose of the Council Communications Subcommittee on behalf of the City Council as a whole.

Mayor Tran felt the policy and the subcommittee was disturbing. He did not want to be restricted from speaking out, especially if there was a split 3 – 2 vote on an issue. Mr. Tran said he was not using city property or equipment to do non-city business. He did ask about use of MCTV and if it was ok to use it to communicate. The City Manager replied, sure, if fees were paid and he was using it to communicate as an individual.

There were more comments from the City Manager, and he noted there was a policy from City Council Handbook on not deliberating at a Commission meeting.

Vice Mayor Grilli asked about their roles as liaisons at Commission meetings. City Manager Williams noted that it was not for Council to guide Commissioners in taking a position on something but rather to listen, make sure the Commission was orderly, stayed on the agenda and could bring Commissioners up to date on Council actions taken. City Attorney Diaz emphasized the “due process” clause of state law.

Mr. Williams reviewed additional points from the handbook. The City Attorney was planning to bring the City Council Handbook to the City Council for approval and to receive any amendments from Council, in coming months.

Regarding proclamations and certificates, the City Manager read aloud the policy from the handbook, indicating the Mayor issued proclamations, commendations and other certificates. Councilmember Nuñez commented and Vice Mayor Grilli agreed with him, that the City needed to have just one proclamation or commendation when attending an event. Councilmember Phan asked the attorney, how can the Council coordinate without breaking the Brown Act? City Manager Williams and Vice Mayor Grilli referred to the role of staff in the City Manager’s office to handle these.

Mayor Tran wanted a policy of just one commendation or proclamation per event or activity. No multiples, to make it unique and special.

Regarding Council conduct, Councilmember Nuñez asked if he missed a section on City Manager and senior staff conduct? He wondered if there was a counterpart on how staff would conduct themselves. The City Manager referred to labor law, and City personnel rules and regulations, along with city policies. Mr. Nuñez would like to see that.

Councilmember Phan asked what the repercussions were of violating policy, if it was not legally enforced. He asked if the City Council had the right to censure other members. City Attorney Diaz responded that the current handbook did not have ramifications laid out if violated.

Mayor Tran asked for comments from Council.

Councilmember Nuñez thanked staff for providing the City Council Handbook in its current format (mostly policy from past City Councils). He wanted to sit with and study the handbook for a while before recommending changes.

Mr. Williams said he recommended to take the information provided at this meeting, to study it and plan to have another meeting on directing the staff. After that, Council could bring back vision, projects, goals etc. at a third (or more) meeting.

Vice Mayor Grilli commented that with regard to the City's open government ordinance, it was important for all to take time to read it through.

Councilmember Barbadillo said he had two thoughts, wishful and one a reality. He wished maybe to have a charter, due to the Council having a lack of time as part-time Councilmembers. He also felt an auditor or ombudsman would be very useful, if staying as a general law city.

Councilmember Nuñez found this very informative, so he could be more effective and better prepared. Get and keep the community and citizens very involved in city government, with the most important part about keeping Milpitas as an effective city.

Councilmember Phan thanked the City Manager and City Attorney for guiding the group through the study session. He agreed with Councilmember Barbadillo to see some objectivity in the decision making process. It was not wishful thinking to explore the potential benefits of charter city status, and he wanted staff to explore the option. He agreed it was appropriate to discuss having an auditor or an ombudsman.

Mr. Barbadillo commented further about the possibility of what an ombudsman would be for.

Vice Mayor Grilli noted that she had been an elected official in this City for many years. If Council wanted to look at pros/cons of Charter City, she was okay with that. On having a full time City Council – she was not clear why that would be necessary to serve the City Council very well. Past Councils had done so – serving the public – just fine as part-time members. Charter City issue had already been through the community twice before, and been rejected. There was lots of other work to be focused on.

Mayor Tran asked for some history on when in the past charter city was discussed. The City Manager responded that a community group released its study in 2001 and also there was an advisory vote on the ballot in June of 2006. Mr. Tran noted that population had grown significantly since those years, as had the business community.

Councilmember Phan made a motion to explore the pluses and minuses of transitioning to a charter city. It was seconded by Mayor Tran.

Vice Mayor Grilli asked the City Attorney if this was appropriate, since it was not on the agenda for this meeting. Mr. Diaz replied that maybe at the next regular meeting, Council could place this topic on the agenda to receive input, and could vote then on further staff work. He suggested to leave the motion on the table (no vote was taken then).

City Manager Williams said he would add it to the agenda on February 7. Mayor Tran supported what the City Attorney recommended, so he was ok with that.

The City Manager recommended that the City Council could go home to study the handbook and the open government ordinance. Various dates were suggested for the next Study Session, but since no consensus was reached, the City Manager said his office would coordinate a date.

Councilmember Phan made a motion to adjourn at 8:46 PM.

Mayor Tran invited speakers from the audience.

Robert Marini, Milpitas resident, talked about transparency and that all must obey the laws. In the past, the City had not followed the laws of the state. He gave examples that he felt demonstrated his comment.

Mayor Tran adjourned the Special City Council meeting at 8:49 PM.

The foregoing minutes were approved by Milpitas City Council on February 21, 2017.

Mary Lavelle
Milpitas City Clerk