

City Council

Jose Esteves, Mayor

Carmen Montano, Vice Mayor

Garry Barbadillo, Councilmember

Debbie Indihar Giordano, Councilmember

Marsha Grilli, Councilmember



NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that a Special Meeting of the Milpitas City Council is scheduled for 8:00 AM, Friday, July 3, 2015 at Milpitas City Hall, 455 East Calaveras Boulevard, Milpitas, CA in the City Council Chambers on the second floor.

SPECIAL MEETING AGENDA
FRIDAY, JULY 3, 2015 at 8:00 AM

- I. CALL TO ORDER/ROLL CALL by the Mayor**
- II. PLEDGE OF ALLEGIANCE**
- III. PUBLIC FORUM**
- IV. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- V. APPROVAL OF AGENDA**
- VI. UNFINISHED BUSINESS**
Discussion and action to select interim City Attorney services.
- VII. ADJOURNMENT OF SPECIAL MEETING**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035, telephone number (408) 586-3040.

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:

www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

If you need assistance, per Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at (408) 586-3001 or e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. Larger font agenda is available or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.

MEETING MINUTES CITY OF MILPITAS

Minutes of: Special Meeting of Milpitas City Council
Date: Friday, July 3, 2015
Time: 8:00 AM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 8:00 AM. The Deputy City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Giordano and Grilli

ABSENT: Councilmember Barbadillo

PUBLIC FORUM

Citizen Rob Means, 1421 Yellowstone Ave. Milpitas resident, spoke about global climate changes and reducing worldwide carbon content. He encouraged everyone to make major ecologically sound changes such as alternative transportation to minimize carbon emissions. This is in order to preserve and restore the Earth if we wish for the Earth to sustain life.

Vice Mayor Montano agreed with Citizen Mean's comments. She referred to *Quinto Sol* or *Fifth Sun* as translated in English—the Aztec legend in which the Fifth Sun will be the last one to set in this lifetime and with all life ending due to extreme global heat.

AGENDA APPROVAL

Councilmember Giordano motioned and Vice Mayor Montano seconded the approval of the agenda. The motion was approved by unanimous vote of the Council.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Manager Williams asked the Mayor and Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

1. UNFINISHED BUSINESS - INTERIM CITY ATTORNEY SERVICES

Mayor Esteves explained that the City does not have an in-house City Attorney since the adjournment of the July 1, 2015 special meeting. He also said that City Council recently voted to hire an interim City Attorney to serve the City's legal needs while the City secures an agreement for outsourced legal services via a Request for Proposal (RFP) process.

Mayor Esteves opened the discussion of hiring an interim City Attorney while the City undergoes a formal Request for Proposal (RFP) process to secure an outsourced or contracted City Attorney services. He clarified that the candidates being considered for interim City Attorney will not be participating in the RFP process, thus ensuring that objectivity and clarity in direction is maintained and upheld throughout the entire process.

The City Council was considering the following six candidates for interim City Attorney:

1. Attorney Valerie Armento (Atkinson Farasyn, a Mountain View law firm)
2. Attorney Gary Baum (Law Offices of Gary M. Baum)
3. Attorney Claire Lai (Part-Time / Temporary Deputy City Attorney for the City of Milpitas)
4. Attorney Jonathan Lowell (City Attorney for the City of Pleasanton)
5. Attorney Judy Robbins (Private Practice)
6. Attorney Gregory Rubens (Aaronson Dickerson et al)

Mayor Esteves addressed the rest of the Council if there were additional names to be added to the list. Since no one had spoken, no names were added to the list. He then suggested for the City Manager's office to negotiate and secure a contract starting from the top candidate selected. He also said that the City Manager did not have to return before City Council for approval of the agreement to secure Interim City Attorney services.

Councilmember Giordano asked Mayor Esteves for clarification regarding the scope of services that the interim City Attorney would cover and how long he or she would be serving the City.

Mayor Esteves replied that the interim City Attorney would serve for approximately three months or until the City's RFP process is complete and a contract is signed between the City and the new outsourced City Attorney. He also added that the interim City Attorney will also assist staff and the new outsourced City Attorney to ensure a smooth transition phase.

In turn, Councilmember Giordano stated that she would like to hear from Mayor Esteves his "Top Three" candidates in mind since he would be the one working more intensely with the interim City Attorney.

Vice Mayor Montano agreed with Mayor Esteves' suggestion of having all the Council members present rank the six candidates and getting the "Top Three" candidates from the tabulated results. She added that it was important for all the Council members' voices to be heard.

The City Council then discussed and came up with the following three methods of voting, tabulating, and narrowing down the list to the "Top Three" candidates:

1. The six candidates would be ranked from one to six, with one being the top choice and six being the last choice. Each member would have one vote.
2. The six candidates would be ranked from one to six, with one being the top choice and six being the last choice. The Mayor's vote would count as two votes, while the remaining Council members' votes would count as one vote each.
3. Mayor Esteves would share his "Top Three" candidates. The Council would rank the three candidates from one to three, with one being the top choice and three being the last choice. Each member would have one vote.

Mayor Esteves and Councilmembers Grilli and Giordano selected the third method to determine the "Top Three" candidates. Vice Mayor Montano did not agree with the majority's selected method.

Mayor Esteves presented his "Top Three" candidates, ranked from first to third choice. He mentioned that the three candidates have direct City Attorney experience. The "Top Three" candidates were:

1. Attorney Gary Baum (Law Offices of Gary M. Baum)
2. Attorney Valerie Armento (Atkinson Farasyn, a Mountain View law firm)
3. Attorney Jonathan Lowell (City Attorney for the City of Pleasanton)

City Manager Williams advised the City Council that Attorney Lowell was no longer eligible as a candidate for Interim City Attorney. He had been recently informed that Attorney Lowell's retirement date from the City of Pleasanton had been moved to the end of 2015.

In light of the new information, Mayor Esteves revised his "Top Three" to reflect the following, starting from first to third choice:

1. Attorney Gary Baum (Law Offices of Gary M. Baum)
2. Attorney Valerie Armento (Atkinson Farasyn, a Mountain View law firm)
3. Attorney Claire Lai (Part-Time / Temporary Deputy City Attorney for the City of Milpitas)

City Manager Williams and the Deputy City Clerk tabulated the votes. The ranking result was as follows:

1. Attorney Gary Baum (Law Offices of Gary M. Baum)
2. Attorney Valerie Armento (Atkinson Farasyn, a Mountain View law firm)
3. Attorney Claire Lai (Part-Time / Temporary Deputy City Attorney for the City of Milpitas)

City Manager Williams informed the City Council that Attorney Lai currently has a contract with the City, and that she has done an outstanding job thus far. He further noted that in terms of *Pitchess* motions, Attorney Lai had drafted more than 90 percent of the demurrer on the Citation case, and that she is quite capable as a licensed attorney and a technical resource.

Motion: For Council to accept the ranking result for the “Top Three” candidates and to direct the City Manager and staff use the ranking results in selecting and securing a contract for Interim City Attorney services. Council direction will be carried out without further need for City Manager and staff to return before City Council for contract approval.

Motion/Second: Councilmember Grilli / Vice Mayor Montano

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1

In regards to the City securing a contract for long-term City Attorney services, City Manager Williams informed Mayor Esteves and City Council that staff has released the RFP notice to seven municipal law firms on July 2, 2015 as scheduled and in compliance to Council direction. In response to Mayor Esteves’ inquiries, City Manager Williams further advised that the RFP notice was released to the League of Cities, the City’s website, and various channels of communication available to the City to ensure that all interested parties were informed and could participate in the RFP process.

Councilmember Giordano stated that August 15, 2015 was the scheduled submission deadline for the RFPs. She requested for clarification on whether the RFPs would be first reviewed by the City Attorney Subcommittee or the City Council itself.

Mayor Esteves replied that nothing specific had been decided. He suggested for the City Attorney Subcommittee would preliminarily screen the RFPs, and then the City Council would decide from the two or three RFP finalists per City Attorney Subcommittee recommendation.

Vice Mayor Montano stressed that it was important to have an inclusive screening and selection process from start to finish since the interim and long-term contract-based City Attorney would be working for all members of the City Council.

Councilmember Giordano reassured Vice Mayor Montano and the rest of the City Council that the RFP process would indeed be all-inclusive. She clarified that all RFPs would be presented to the City Council, and that the City Attorney Subcommittee would simply meet once to review as to what had been received as a whole during the RFP process and present recommendations before City Council. She further clarified that City Council as a whole could always accept or reject any and all of City Attorney Subcommittee recommendations.

Mayor Estevez, in agreement with Councilmember Giordano, explained that the City Attorney Subcommittee serves as an avenue to ensure efficiency throughout the RFP selection process.

Vice Mayor Montano reiterated the importance of an all-inclusive process since each Council member has different set of opinions, backgrounds and moral views. She felt that City Council should steer towards a more inclusive process.

In response to Vice Mayor Montano's comment, Mayor Esteves said that the final selection process would be all-inclusive process, that the City Attorney Subcommittee's role would be to facilitate the preliminary screening processes, and that the subcommittee recommendations could be accepted or rejected once they are presented before City Council.

Mayor Esteves confirmed via inquiry that Councilmembers Giordano and Grilli are the current members assigned to the City Attorney Subcommittee.

Motion: To direct the City Attorney Subcommittee to conduct RFP preliminary screening processes and to present findings, recommendations, and a list of "Top Three" candidates for long-term contract-based legal services before City Council. In addition, each City Council member will have access to all applicant-related data received via the RFP process during the subcommittee's presentation.

Motion/Second: Mayor Esteves / Councilmember Grilli

Motion carried by a vote of:

AYES: 3

NOES: 1 (Vice Mayor Montano)

ABSENT: 1

ADJOURNMENT

Mayor Esteves adjourned the meeting at **8:26AM**.

The foregoing minutes were approved as amended by the Milpitas City Council on August 4, 2015.

Pam Caronongan
Milpitas Deputy City Clerk