

CITY OF MILPITAS MEETING MINUTES

Minutes of: Regular Meeting of the Milpitas City Council
Date: Tuesday, December 15, 2020
Time: 6:30 PM Closed Session
7:00 PM Open Session
Location: Meeting held via teleconference/zoom webinar online
Milpitas, CA

CALL TO ORDER

Mayor Tran called the regular meeting to order at 6:52 PM. City Clerk Mary Lavelle called the roll. The meeting took place via teleconference/zoom webinar.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez and Phan

ABSENT: None

CLOSED SESSION

City Council adjourned to Closed Session to discuss one item listed on the agenda, potential litigation with City as defendant. At 7:45 PM, members reconvened for the public meeting.

CLOSED SESSION ANNOUNCEMENT

City Attorney Chris Diaz said there was no reportable action out of Closed Session.

PLEDGE

Mayor Tran led all in the pledge of allegiance to the flag.

INVOCATION

Councilmember Phan paraphrased a quote from writer Ernest Hemingway.

Mayor Tran presented Keys to the City and Commendations to retiring Milpitas Police Chief Armando Corpus and City Clerk Mary Lavelle. The Mayor and Councilmembers offered their thanks, following their many years working for the City of Milpitas.

PUBLIC FORUM

The following residents commented: Yolie Garcia, Inderjit Mundra, Voltaire Montemayor, Urvishkumar Mehta, and Jackie Romero.

ANNOUNCEMENTS & FUTURE AGENDA ITEMS

City Manager McHarris announced the Economic Development office would host a webinar on "Next 30 Days of Your Business" to help local businesses in Milpitas to succeed at this challenging time.

Mayor Tran announced his appreciation for the Public Works Department staff's work installing holidays lights at City Hall, expressing gratitude from local residents.

The Mayor asked City Councilmembers to state the topics they would like added to upcoming City Council agendas in 2021.

Mayor Tran:

- 1) Consider a change in the City Commission structure, including the three-term limit, and bring it back on the next City Council agenda.
- 2) Review the City's policy on speed bumps, on an agenda within three months, for neighborhood safety.
- 3) Propose building height limits on the eastern side of Milpitas Blvd., north and south, within six months.

- 4) Propose a Homelessness Task Force, and bring it back the first meeting in January.

Councilmember Phan:

- 1) Agenda item no. 14 (ideas to help the community during covid) would be discussed when the next budget would be developed in 2021.
- 2) Agenda item no. 15 (Safety First community event) -noted the forum to discuss it would be during Public Safety Month in 2021, after new Police Chief was appointed.

Vice Mayor Montano:

- 1) Within the next six months, place the Economic Development Corp. on the agenda, to help the community with ventures, and have staff look into the EDC.
- 2) Consider an ordinance to ban vaping in the City, as a potential research topic for staff to look into.
- 3) For "Old Town" Main Street revitalization, form a subcommittee, locate funding, and spur economic development on Main St. Have a discussion on this.
- 4) Consider a plan to place utility fines into a fund to help small businesses (including payment of utilities) in the City.

Councilmember Chua:

- 1) First meeting in January, vote on an amendment to the Housing Ordinance not allowing developers to pay fees and to require building 15% affordable housing in new developments (i.e. not pay in lieu fee). Councilmember Phan asked if it was legal to do and City Attorney Diaz replied that with for-sale units, the City could require the affordable units built. For rental units, the City must provide options.
- 2) Create a Beautify Milpitas Subcommittee, Commission, or Task Force. Define the objectives and mission in order to plan for repairs, clean up, infrastructure and beautification of the City.
- 3) Concerning a second federal stimulus package, receive a report from city staff on what the City was doing to seek funding from the federal government – with an action plan for tapping into those funds.
- 4) Since Measure F passed, expedite the required Oversight Committee, with a process of selection, objectives. Finance Director Walter Rossman explained the process would be determined in the next two to three weeks, and the Mayor would nominate members in early February 2021.
- 5) Schedule and host a "Milpitas Business Expo" toward the end of next year and start planning for it soon.

Councilmember Dominguez:

- 1) Asked to have an expert in government teach a class in Government 101 to the City Council, as so many ideas were discussed. Maybe bring in a San Jose State University professor to understand roles and responsibilities, and for the Council to figure out priorities and stay focused. She asked the City Manager if this training/class/discussion could occur at the Council retreat. She clarified this was information for the City Manager.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST
AND CAMPAIGN
CONTRIBUTIONS**

City Attorney Diaz asked the Mayor and City Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. By roll call, no conflicts of interest or contributions were reported.

CODE OF CONDUCT

City Attorney Diaz read aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the December 15, 2020 meeting agenda, as amended, with deferral of items no. 14 and no. 15

Motion/Second:

Mayor Tran/Councilmember Dominguez

Motion carried by a vote of:

AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the consent calendar, including items no. C1 – C11

Mayor Tran commented on item no. C8 (Side Letter with MPOA), thanking the police organization for stepping up to defer a pay increase. He highlighted item no.C9 (donation to senior center) and read aloud a statement from the family of Andrea Dorey.

Councilmember Chua spoke on item no. C10 (5-year agreement for document imaging), pleased with a condition for yearly review of the performance of the provider, BMI Imaging, allowing for flexibility if needed over five years.

Motion/Second:

Mayor Tran/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5
NOES: 0

- | | |
|--------------------------------------|---|
| C1. Council Calendar | Received the City Council calendars of upcoming meetings for December 2020 and January 2021. |
| C2. Meeting Minutes | Approved the meeting minutes of the December 1, 2020 City Council meeting. |
| C3. Adopt Resolution | Adopted Resolution No. 9025 granting acceptance of Creighton Park Renovation, Project No. 5109, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance. |
| C4. Adopt Resolution | Adopted Resolution No. 9026 approving and authorizing the City Manager to purchase three Caterpillar XQ230 200kW and one Caterpillar XQ425 375kW Portable Generators from Peterson Power Systems through a Sourcewell cooperative contract in the amount of \$609,118.03. |
| C5. Adopt Resolution | Adopted Resolution No. 9027 updating the City of Milpitas Conflict of Interest Code in 2020, including the list of employee classifications required to file annually the FPPC Form 700/Statement of Economic Interests. |
| C6. Adopt Two Resolutions | Adopted Resolutions No. 9028 and No. 9029 authorizing the Finance Director to execute agreements and other documents with the California Department of Tax and Fee Administration for implementation of Measure F. |
| C7. Agreement per SB35 | Approved and authorized the City Manager to execute the Agreement with Raimi & Associates to provide consulting services related to the preparation of Objective Design Standards in accordance with California Senate Bill 35. |
| C8. Side Letter with MPOA | Approved and authorized the City Manager to enter into a side letter agreement with the Milpitas Police Officers Association (MPOA) to extend the existing labor agreement through December 31, 2023; eliminate a 5% salary increase scheduled for January 2021; and provide for salary increases of 2.5% each for July 2022 and July 2023. |
| C9. Accept Donation | Approved and accepted a \$50,000 donation to the Barbara Lee Senior Center from the Andrea Dorey Estate. |
| C10. Agreement with BMI Imaging Inc. | Received report on bids. Awarded and authorized City Manager to execute a five-year General Services Agreement with BMI Imaging Inc. in the amount of \$380,000 for document digitization and microfiche services for various City departments, subject to annual appropriation of funds. |

C11. Appoint Resident to
VTA BPAC

Appointed Milpitas resident Kristal Caidoy to the Santa Clara Valley Transportation Authority's Bicycle and Pedestrian Advisory Commission (BPAC) to a two-year term retroactively starting July 1, 2020 through July 1, 2022.

COMMUNITY SERVICES

12. Award Agreement for
Fire Station No. 2
Replacement, CIP No. 3447

City Engineer Steve Erickson presented past steps and history on the recommendation for the award of agreement with a contractor for CIP project No. 3447 to fully rebuild Milpitas Fire Station No. 2. He detailed how staff responded to a bid protest and to concerns raised by two City Councilmembers about the top bidders.

Mr. Dan Wood from Sausal Corp. (lowest bidder) was present online and answered questions from the City Council.

Mayor Tran invited public comments and heard from: Voltaire Montemayor, Jackie Romero, Urvishkumar Mehta, and Rick Solis from bidder Overaa & Co.

(a) Motion: to adopt Resolution No. 9030 to reject a bid protest from C. Overaa & Co., waive immaterial bid deviations and award the construction contract to Sausal Corporation in the amount of \$7,638,200 for the Fire Station No. 2 Replacement Project No. 3447; authorize the City Manager to execute the agreement with Sausal Corp.; and authorize the Engineering Director/City Engineer to negotiate and execute contract change orders in an aggregate amount not to exceed \$1,200,000

Motion/Second: Mayor Tran/Councilmember Chua

Motion carried by a vote of: AYES: 3
NOES: 1 (Phan)
ABSTAIN: 1 (Dominguez)

(b) Motion: to approve and authorize the City Manager to execute Amendment No. 1 to the Design Services Agreement with Shah Kawasaki Architects to increase compensation by \$75,000

Motion/Second: Mayor Tran/Councilmember Chua

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

(c) Motion: to approve a budget amendment for the Fire Station No. 2 Replacement Project No. 3447 by reducing lease revenue bonds proceeds and construction costs by \$3.4 million

Motion/Second: Mayor Tran/Councilmember Chua

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

(d) Motion: to reconsider the vote on 12c above and to take a new vote on it

Motion/Second: Mayor Tran/Councilmember Chua

Motion carried by a vote of: AYES: 3
NOES: 1 (Phan)
ABSTAIN: 1 (Dominguez)

- (e) Motion: to approve a budget amendment for the Fire Station No. 2 Replacement Project No. 3447 by reducing lease revenue bonds proceeds and construction costs by \$3.4 million

Motion/Second: Mayor Tran/Councilmember Chua

Motion carried by a vote of: AYES: 3
NOES: 1 (Phan)
ABSTAIN: 1 (Dominguez)

PUBLIC SAFETY

13. Update on Covid-19 testing

Fire Battalion Chief Geoff Maloon reported on the fixed Covid19 testing site at Milpitas Library and pop-up testing at the Milpitas Sports Center, mobile unit, and the costs. \$278,000 in additional funding was anticipated for testing needed through March 31, 2021, with potential FEMA reimbursement.

Mayor Tran proposed reducing the funding to 60% and offer testing three days per week rather than five, for the near future, unless FEMA did reimburse costs.

Councilmembers commented and offered varying ideas for testing and funding.

Mayor Tran invited public comments and heard from Jackie Romero and Urvishkumar Mehta.

- (a) Motion: to receive a staff update regarding the status of Covid-19 testing in Milpitas

Motion/Second: Councilmember Chua/Mayor Tran

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

- (b) Motion: to authorize up to \$139,000 (half of the \$278,000 recommended by staff) to fund the City's mobile testing unit and the County testing sites, with testing continuing 5 days per week, 45 days into the new year through February 14, 2021 (half of the time period recommended)

Motion/Second: Councilmember Chua/Mayor Tran

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

- (c) Motion: to approve and authorize the City Manager to execute Amendment No. 2 to the Agreement with IGeneX extending the term from Oct. 31, 2020 to Dec. 31, 2021

Motion/Second: Councilmember Chua/Mayor Tran

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

REPORTS

14. Council Ideas to Assist the Community

This item was removed from the agenda. It would be heard later when the next year's budget discussions were scheduled.

15. Safety Event

This item was removed from the agenda. It would be discussed later in 2021 when a new Police Chief would be appointed and during Public Safety Month.

**16. List of Council requested
Agenda Items**

Received the list of agenda items requested by Mayor and City Councilmembers.

Mayor Tran asked Councilmembers to review the remaining five items for 2020 on the list. The Mayor asked when to discuss or schedule each item.

On item No. 5 – the Milpitas Minuteman. Councilmember Phan said no vote or action was needed, since it would come back when branding was on a future Council agenda.

On item No. 4 – state certification for NEC electrical. Councilmember Dominguez reported that staff had explained that appropriate staff was already certified so nothing was necessary to come back to City Council.

On item No. 3 - day worker program. Vice Mayor Montano cited this was a very complex topic with multiple issues. Mayor Tran agreed to remove it from the list at this time and said he and the Vice Mayor could meet and discuss in the future.

On item No. 2 – Historical Commission. Vice Mayor Montano reported that the existing Parks & Recreation Commission included Cultural Resources, which partly covers historical topics. Mayor Tran responded that at the next regular meeting (January 5, 2021), there will be an item pertaining to Commissions, so this could be included.

On item No. 1 – consider satellite consular offices. Vice Mayor Montano asked to maintain this idea on the list, for discussion post-Covid.

Mayor Tran encouraged his colleagues to bring forth proposals and ideas to work on, in order to help residents.

Mayor Tran noted that it was time for Councilmember appointments to outside boards and agencies. He asked his colleagues to send him their requests for appointments, including liaisons to City Commissions.

NEXT AGENDA PREVIEW

17. Preview Agenda Items

Received list of anticipated agenda items for the next regular City Council meeting scheduled for January 5, 2021.

ADJOURNMENT

Mayor Tran adjourned the regular City Council meeting at 12:20 AM on Wednesday, December 16, 2020 in memory of Elaine Levine, co-founder of The Milpitas Post newspaper.

The foregoing minutes were approved by Milpitas City Council on January 5, 2021.

**Mary Lavelle
City Clerk**