



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES
TUESDAY, AUGUST 29, 2023

The City Council of the City of Milpitas convened in a Special Meeting of the Milpitas City Council on August 29, 2023, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/ Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Special City Council meeting to order at 5:30 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo (5:40 PM), Lien, and Phan.
ABSENT: None

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

PUBLIC FORUM

There were no public speakers.

ANNOUNCEMENT OF CONFLICT OF INTEREST

City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the August 29, 2023 Special Meeting Agenda

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Councilmembers Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None.

ABSENT: Councilmember Barbadillo

AGENDA ITEMS

- 1. Review City Council Procedures and Protocols Handbook and Provide Direction to Staff (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)**

Recommendation: Review City Council Procedures and Protocols Handbook, provide input, and direct staff to bring back modifications, if any, for Council consideration.

Acting City Manager Thomas introduced the item. Assistant City Manager Kantak, joined by City Attorney Mutalipassi, presented the report.

Chapter II - Duties of the City Council

- Section C: Duties of the Vice Mayor - when and how the Vice Mayor is selected.

Mayor Montano proposed changing the Vice Mayor appointment from every two years to at the discretion of the mayor with the option to appoint every year. Vice Mayor Chua asked if the duration can be dictated by the Mayor and would then be approved by the City Council. City Attorney Mutalipassi noted that both appointment and removal would be by the recommendation of the Mayor with approval of City Council. Assistant City Manager suggested language for the handbook that the appointment would come before the City Council annually at the start of every calendar year. Both the Mayor and Vice Mayor agreed with the suggested language.

Councilmember Phan reflected on past Vice Mayor appointments and suggested the Council work together to appoint the Vice Mayor for a full two-year term, noting that a single-year term occurred only once before. Mayor Montano spoke on the working relationship between the Mayor and Vice Mayor and suggested that this change would provide opportunity for other Councilmembers to get the experience of filling the position.

Chapter III - Mayor and Councilmember Conduct

- Section A: Use of electronic devices; use of laptops and cell phones in Closed Session.

Mayor Montano asked to include language in the Code of Conduct adding that use of electronic devices during Closed Session is prohibited, voicing concern for the sensitivity of closed session issues. Acting City Manager Thomas suggested also adding language to Chapter 4, Section D, Number 4 regarding the use of electronic devices if this is a supported change. Mayor Montano supported this suggestion.

Councilmember Barbadillo suggested that adopting additional rules on top of existing rules and legislation would be overkill. Councilmember Phan spoke in opposition to the recommendation, cautioning against this. Vice Mayor Chua noted that rules against technology won't stop leaks from happening.

City Attorney Mutalipassi clarified that ex parte communication at the dais is considered a Brown Act violation and that during a meeting, members of the public must address the entire council at the same time.

Chapter IV - Meetings

- Section F 2: Presiding Officer - Seating

In response to questions from Vice Mayor Chua, City Attorney Mutalipassi noted that the Council was not currently following the handbook policy for seating assignments. Vice Mayor Chua recommended staff return with less ambiguous language and define that seniority was determined by continuous service as an elected official. City Attorney Mutalipassi suggested revising the handbook language so that the Mayor and Vice Mayor sit at the center of the dais and remaining councilmembers select their seats in order of seniority. Vice Mayor Chua agreed with the suggestion. Councilmember Lien noted she asked to address this issue in the past. She suggested the Council sit in accordance with the current City Council Handbook policy.

- Section G 1-5 Voting, Rules of Procedure; Roberts Rules of Order

Councilmember Barbadillo voiced concern with the order of voting, noting his name was always called first, when he hadn't had the time to consider the matter. Vice Mayor Chua questioned if there was a way to alternate which Councilmember would be called on first to vote. City Attorney Mutalipassi noted that members may pass on the vote and then be returned to afterwards.

Chapter VI – City Council Actions

- Proclamations and Commendations

Vice Mayor Chua asked the method of recourse if the Mayor chooses to not issue a commendation. City Attorney Mutalipassi noted there is not an appeal process, but that the Councilmember could ask for a resolution issuing a commendation. Vice Mayor Chua asked to return with language to that effect. City Attorney Mutalipassi suggested a commendation using the community mark as an option for councilmembers. Mayor Montano asked staff to return with those options to review.

City Council Salaries

Title 1, Chapter 13, Milpitas Municipal Code and SB 329 (2023)

City Attorney Mutalipassi provided information on SB 329 allowing the City Council to adopt an ordinance to increase salaries by up to 5% each year that no increase was given. He offered to prepare an ordinance to adopt the salary increase. Vice Mayor Chua asked to bring back those options for the City Council to consider. Councilmember Phan proposed a salary setting commission and asked if the Council should consider becoming a Charter City. Vice Mayor Chua suggested Councilmember Phan bring the topic up during Announcements and Future Agenda Items.

Training and Travel Budget

Councilmember Lien suggested setting a dollar threshold prior to going to City Council for approval. Assistant City Manager Kantak offered to return with options for Council consideration. Mayor Montano also asked for a list of items for which the training and travel budget may be used.

Policies and Procedures for Censure

Mayor Montano questioned the definition of admonishment as called for in the adopted Censure policy. She asked staff to return with definitions of the sanctions detailed for a councilmember and asked to receive copies of censure policies from MUSD and other cities.

Interns

Mayor Montano voiced concerns with limitations on school status and age. Vice Mayor Chua asked to include graduates for consideration. Councilmember Phan suggested including a time frame after graduating to be considered for an intern position and responded that the purpose of an internship was to develop skills and gain experience. He followed up, noting that internships available to anyone regardless of school status and age are jobs, not internships.

Keys to the City

Mayor Montano and Vice Mayor Chua asked for guidelines to consider for granting keys to the City. Vice Mayor Chua suggested it should only be for a significant or measurable contribution to the community and also suggested limits on the number that can be issued. Councilmember Phan suggested delegating the process to the City Council. Vice Mayor Chua referenced the City Facility Naming Policy as a reference for developing guidelines to issuing keys to the City.

Photographs of Past Councilmembers

Mayor Montano noted that the picture of a former Councilmember, Debbie Giordano, that served for 12 years, was missing. She suggested there be a minimum number of years or terms served before a photo can be displayed with past councilmembers, and that it applies to all Mayors, Vice Mayors, and Councilmembers. Councilmember Lien remarked that once a Councilmember has served, they have the right to have their

picture on the wall. Mayor Montano agreed with Councilmember Lien and suggested a waiting period of seven years after serving before a picture is hung on the wall of the Council Chamber. There was consensus in support of all members being recognized with a waiting period.

Chapter IV - Meetings

Assistant City Manager Kantak noted that staff recommended deleting the reference to Council meeting start time as it is governed by the Milpitas Municipal Code.

Chapter V – Meeting Agendas and Minutes

Vice Mayor Chua asked for clarification on p. 21 of the handbook, Item 2a, as to who can request an item to be added to the agenda, both for Closed and Open Session agendas, and asked to make the language very clear. She also asked to include a notation in the handbook that the City Manager can also call a special meeting.

Mayor Montano questioned if the City Council desired to hire a consultant and conduct a retreat to continue revising the handbook.

ANNOUNCEMENTS

There were no announcements.

ADJOURNMENT

Mayor Montano adjourned the meeting at 7:50 PM.

The foregoing minutes were approved by the Milpitas City Council on September 19, 2023.



Suzanne Guzzetta
Milpitas City Clerk