



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES
TUESDAY, MAY 7, 2024

The City Council of the City of Milpitas convened on the regular City Council meeting day in a Meeting of the Milpitas City Council on May 7, 2024, in the City Council Chamber, 455 E. Calaveras Blvd, Milpitas, CA, and via teleconference/Zoom webinar.

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

Mayor Montano called the Regular City Council meeting to order at 7:01 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan
ABSENT: Councilmember Barbadillo

PLEDGE OF ALLEGIANCE

Mayor Montano led the pledge of allegiance.

INVOCATION

Vice Mayor Chua provided the invocation.

PRESENTATIONS

Mayor Montano presented proclamations in recognition of Affordable Housing and Building Safety Month, National Mental Health Awareness Month, Older Americans Month, and Distracted Driving Awareness Month.

PUBLIC FORUM

There were the following public speakers:

1. Stephen Balsbaugh
2. Rob Means
3. Vonny Jap
4. Reva Konduru
5. James Luo
6. Voltaire Montemayor
7. Member of the public
8. Loc Nguyen

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mitalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest (Absent: Barbadillo). City Attorney Mitalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions (Absent: Barbadillo).

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the City Council Code of Conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Vice Mayor Chua/Councilmember Lien

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

NOES: None

ABSENT: Councilmember Barbadillo

CONSENT CALENDAR

City Manager Thomas acknowledged the MOU between the City and Milpitas Police Officer's Association (MPOA). MPOA President David Morris offered comments on the MOU.

There were no public speakers.

Councilmember Phan asked to pull Item C5 to be heard immediately after the Consent Calendar.

After discussion, motion: to approve the Consent Calendar, pulling Item C5 to be heard immediately following the Consent Calendar.

Motion/Second: Vice Mayor Chua/Mayor Montano

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

NOES: None

ABSENT: Councilmember Barbadillo

1. Receive City Council Calendar of Meetings for May 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received City Council Calendar of Meetings for May 2024.

2. Approve City Council City Council Meeting Minutes of April 16, 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Approved City Council Meeting minutes of April 16, 2024.

3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received the list of anticipated agenda items for the next regular City Council meeting.

4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Reviewed the list of items that have been requested by City Councilmembers and provided direction to staff as necessary.

6. Approve and Authorize the City Manager to Execute the Purchase Order with Code 3 Technology for Fire Mobile Computer Replacement (Staff Contact: Daniel Nam, Information Technology Director, 408-586-2712)

Approved and authorized the City Manager to execute the purchase order with Code 3 Technology for

27 Getac ruggedized laptop computers for a total amount not-to-exceed \$152,507.45.

7. Approve Amendments to the Subscription and Services Agreement with RideCo for Milpitas SMART (Staff Contact: Jay Lee, Planning Director, 408-586-3077)

(1) Approved amendments to the subscription and services agreement with RideCo for Milpitas SMART; and (2) Authorized the City Manager to execute the amended agreement.

8. Adopt Resolutions Approving the Annual Engineer's Report and Declaring Intention to Levy and Collect Assessments, and Provide Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch (Staff Contact: Michael Silveira, City Engineer, 408-586-3303; and Roberto Alonzo, Public Works Division Manager - Engineering, 408-586-3316)

Adopted **Resolution No. 9319** approving the Annual Engineer's Report, adopted **Resolution No. 9320** declaring its intention to levy and collect assessments, and provide notice of public hearing to be held on June 4, 2024, for Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch.

9. Adopt Resolutions Approving the Annual Engineer's Report and Declaring Intention to Levy and Collect Assessments, and Provide Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1 - Sinclair Horizon (Staff Contact: Michael Silveira, City Engineer, 408-586-3303; and Roberto Alonzo, Public Works – Engineering Division Manager, 408-586-3316)

Adopted **Resolution No. 9321** approving the Annual Engineer's Report, adopted **Resolution No. 9322** declaring its intention to levy and collect assessments, and provide notice of public hearing to be held on June 4, 2024, for Landscaping and Lighting Maintenance Assessment District No. 98-1 - Sinclair Horizon.

10. Adopt a Resolution Designating Street Resurfacing 2024-2025, Project No. 4300 to be Funded by California Senate Bill 1 - The Road Repair and Accountability Act of 2017 (Staff Contact: Michael Silveira, City Engineer, 408-586-3303; and Roberto Alonzo, Public Works Division Manager – Engineering, 408-586-3316)

Adopted **Resolution No. 9323** designating Street Resurfacing 2024-2025, Project No. 4300 to be Funded by California Senate Bill 1 - The Road Repair and Accountability Act of 2017.

11. Authorize the City Manager to Accept the CalRecycle Grant and Approve Related Budget Amendment (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2603; and Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Authorized the City Manager to accept grant funding from CalRecycle's Senate Bill 1383 Local Assistance Grant and approved related budget amendment for revenues in the amount of \$217,999.00 for the Solid Waste Fund (Fund 280) for FY 2024-25.

12. Receive an Update on Storm Drain System Emergency Repairs and Improvements at Evans Road and Piedmont Creek and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

(1) Received an update on the storm drain system emergency repairs and improvements at Evans Road and Piedmont Creek; and (2) Determined by a four-fifths vote that the condition continues to constitute an emergency.

13. Approve Design for Dixon Landing Public Art Project (Staff Contact: Renee Lorentzen,

Recreation and Community Services Director, 408-586-3409; and Tegan McLane, Assistant Recreation and Community Services Director, 408-586-3212)

Approved artist Lacey Bryant's design for Dixon Landing Park public art mural.

ITEMS PULLED FROM CONSENT CALENDAR

- 5. Adopt a Resolution Approving a Memorandum of Understanding between the City of Milpitas and Milpitas Police Officers Association (MPOA) Covering the Period of January 1, 2024 through December 31, 2026 (Staff Contact: Kelli Parmley, Human Resources Director, 408-586-3086)**

The City Council offered comments and thanks to the Police Department for their service.

There were the following public speakers:

1. Voltaire Montemayor

After discussion, motion: to adopt **Resolution No. 9324** approving a Memorandum of Understanding between the City of Milpitas and Milpitas Police Officers Association (MPOA) covering the period of January 1, 2024 through December 31, 2026.

Motion/Second: Vice Mayor Chua/Councilmember Phan

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

NOES: None

ABSENT: Councilmember Barbadillo

PUBLIC HEARINGS

- 14. Conduct a Public Hearing on an Appeal of the Planning Commission's Decision to Deny Conditional Use Permit No. UP23-0013 to Allow for the Retail Sales of Tobacco Products at 1225 Jacklin Road (Staff Contact: Jay Lee, Planning Director, 408-586-3077)**

City Manager Thomas introduced the item. Associate Planner Baez presented the report. The appellant, Kareem Al Salahi, addressed the City Council.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Senkadir
2. Jagdev Singh Bariano
3. Rishi Behan
4. Nazleen Walji
5. Ihaara Walji
6. Charlotte Cardenas
7. Edelmira Ponce
8. Marina Lidtke
9. Venkat
10. James Luo
11. Kuljinder Kaur
12. Loc Nguyen
13. Khalil Barforoshi
14. Ron
15. Dr. Ashok

16. Voltaire Montemayor
17. Member of the public
18. Barbara
19. Kayla Dixon

Mayor Montano closed the public hearing.

The Appellant presented closing remarks.

Councilmember Lien questioned the appellant and Police Chief Hernandez regarding compliance with the General Plan, Zoning Ordinance, and City Standards. Police Chief Hernandez confirmed no significant issues related to the smoke shop were reported.

Vice Mayor Chua raised several concerns regarding the smoke shop including health impacts, second-hand smoke, and the protection of children. Associate Planner Baez detailed the proximity of the shop to nearby schools and detailed the restrictions. Director Lee explained the city's smoke-free ordinance and highlighted the applicant's agreement to enforce a no-smoking policy on-site. Further discussion involved the police department recommendations including ensuring clear line-of-sight for officers, the installation of video security cameras, and the prohibition of the unregulated substance Kratom due to its potential health risks. Finally, issues regarding the shop's signage and its impact on community image were addressed, with the applicant showing willingness to change the business name and signage if required by the council.

Councilmember Phan expressed his initial uncertainty about the project. He posed questions to the applicant, acknowledging the importance of the business as a source of income. After acknowledging the respectful and fact-based arguments of supporters, he noted he could conditionally support upholding the appeal while highlighting that the conditional use permit could be revoked if conditions were not met.

Vice Mayor Chua asked if a condition could be included to have the City Council review the conditional use permit at six months and then a year after. City Attorney Matalipassi confirmed that conditional use permits could be reviewed at any time, but it could be added as a condition of issuing the permit. He outlined the council's three options for action: uphold the appeal and issue the CUP as presented, deny the appeal and deny the CUP, or uphold the appeal with additional conditions.

Mayor Montano asked questions of the appellant and staff regarding the shop location, products sold, and number of smoke shops in the city. She expressed appreciation for the appellant's willingness to comply with suggested conditions, and spoke in support of Vice Mayor's suggestion adding the six-month and one year reviews of the CUP.

Vice Mayor Chua made a motion: to consider the project to be categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301 (Existing Facilities) and as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning); and to adopt **Resolution No. 9325** upholding the appeal and overturning the Planning Commission's decision to deny Conditional Use Permit No. UP23-0013 to allow for the retail sales of tobacco products within an existing 870-square-foot tenant space of a 9,960-square-foot multi-tenant commercial building located on a 0.9-acre site located at 1225 Jacklin Road within the C1 Neighborhood Commercial Zoning District with additional conditions of approval including prohibiting smoking and on-site use of products, limiting business hours to 10 AM to 10 PM daily, and including review of the permit at 6 months and 1 year.

Vice Mayor Chua also suggested the City Manager look into a tobacco ordinance and to enhance the

smoking ordinance to prohibit smoking in parking lots. She also advised the appellant to consider double doors for the establishment.

City Attorney Mutalipassi restated the motion.

Councilmember Phan seconded the motion.

Motion/Second: Vice Mayor Chua/Councilmember Phan

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Lien, Councilmember Phan

NOES: None

ABSENT: Councilmember Barbadillo

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

City Manager Thomas introduced the new Finance Director, Luz Cofresi-Howe, announced the upcoming budget meeting, presented a video on the recent City Earth Day event, and offered an update on the status of pickleball.

Vice Mayor Chua made the following requests:

1. Look into establishing a tobacco ordinance for the city of Milpitas. There was consensus to add the item to the prioritization list (Vote: 4-0-1. Absent: Barbadillo).
2. Explore enhancing the smoking ordinance to include prohibitions in parking lots. Mayor Montano asked to also include parks in the prohibition. There was consensus to add the item to the prioritization list (Vote: 4-0-1. Absent: Barbadillo).
3. Consider using banners to promote local businesses in Milpitas. There was consensus to add the item to the prioritization list (Vote: 4-0-1. Absent: Barbadillo).

Vice Mayor Chua also congratulated Public Information Officer Charmaine Angelo on receiving an award from the California Public Information Officer's Association.

Mayor Montano made the following requests:

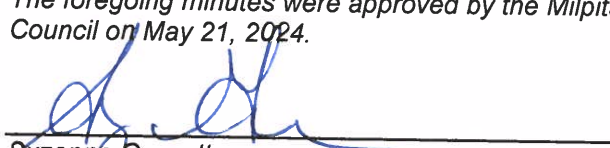
1. Conduct a traffic study on Escuela Parkway to address circulation concerns. There was consensus to add the item to the prioritization list (Vote: 3-1-1. No: Phan. Absent: Barbadillo).
2. Investigate the feasibility of hosting night food truck events to revitalize Main Street. There was consensus to add the item to the prioritization list (Vote: 3-1-1. No: Phan. Absent: Barbadillo).

Mayor Montano also recognized the Milpitas High School Aerospace Club for placing fifth in a preliminary national competition.

ADJOURNMENT

The meeting was adjourned at 9:36 PM.

The foregoing minutes were approved by the Milpitas City Council on May 21, 2024.


Suzanne Guzzetta
Milpitas City Clerk