

*Draft* **MEETING MINUTES**  
**CITY OF MILPITAS**

<b>Minutes of:</b>	<b>Regular Meeting of the Milpitas City Council</b>
<b>Date:</b>	<b>Tuesday, January 21, 2020</b>
<b>Time:</b>	<b>6:00 PM Closed Session</b> <b>7:00 PM Open Session</b>
<b>Location:</b>	<b>Council Chambers, Milpitas City Hall,</b> <b>455 East Calaveras Blvd., Milpitas</b>

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**CALL TO ORDER** Mayor Tran called the meeting to order at 6:02 PM. City Clerk Mary Lavelle called the roll.

**PRESENT:** Mayor Tran, Vice Mayor Nuñez, Councilmembers Dominguez, Montano and Phan

**ABSENT:** None

**CLOSED SESSION** City Council convened in Closed Session to discuss three matters listed on the agenda (two related to litigation, and one employment matter). Item (c) from the agenda was not considered. Council exited Closed Session and came to the dais at 7:40 PM.

**ANNOUNCEMENT** City Attorney Diaz stated there was no reportable action out of Closed Session, and that City Council would reconvene in Closed Session at the conclusion of the Open Session agenda.

**PLEDGE** Mayor Tran led all in the pledge of allegiance.

**INVOCATION** Councilmember Phan welcomed and wished everyone a Happy New Year.

**PUBLIC FORUM** Rob Means, resident, discussed Personal Rapid Transit (PRT).

Mrs. Means, resident, was in support of PRT.

Mike Pellazari, resident, said most residents did not know what days street sweeping in Milpitas would occur, so he requested signs be posted, as done in San Jose.

Councilmember Montano responded that the Council's Transportation Subcommittee had discussed that topic, and was exploring what the resident mentioned.

Yolie Garcia, resident, stated traffic was difficult in Milpitas.

Barbara Martens, resident, stated traffic was bad throughout Milpitas.

Vice Mayor Nuñez asked for a copy of the Ms. Marten's comments, that she had prepared in writing.

Councilmember Dominguez wanted to clarify process and asked City Manager or City Attorney if it was correct that Councilmembers could not have a dialogue with speakers. City Attorney Diaz responded that the Brown Act officials to briefly respond, but have no discussion with fellow Councilmembers. Mayor and Councilmembers could also give direction to staff. She asked the Mayor, for the Council, to define "brief" and to move items along.

Lee Springer, Parktown area resident, stated how bad traffic had become and supported PRT.

John Agg, a 25 year resident, said there was a need for people moving, partly due to the many new developments.

Tom Valore, resident, was confused about how to get something on the City Council agenda, such as Rob Means' PRT.

Frank DeSmidt announced upcoming Chamber of Commerce and Rotary Club events.

Matt Tinsley, from the Santa Clara County Office of Education, supported full time care for pre-schoolers throughout the county. He stated Milpitas families were eligible for state assistance and provided printed information for the City Council.

Student Kristin Dang thanked the Mayor and City Council for supporting Center Stage Performing Arts and attending shows. She displayed videos of support (testimonials).

Student Natalie Bradford thanked the City Council for support of the theater group and displayed a video of the group performing at Disneyland.

Voltaire Montemayor, resident, enjoyed stage singing and dancing.

## **ANNOUNCEMENTS**

The City Clerk announced results of a vote of the property owner/voter in an election on annexation no. 18 for one parcel to be added into Community Facilities District No. 2008-1: one voter voted "yes," related to consent agenda item no. 4.

The City Manager announced a proposal to have a parade to honor Milpitas High School Trojans football team, which won state championship in its division. City Attorney Diaz said staff was seeking a yes or no answer on whether Council wanted work on the item. Assistant City Manager Ashwini Kantak noted there was a Special City Council meeting on January 28. If directed by the Council, staff would bring the parade topic including fee waiver on January 28, per consensus of the Council. Mayor and City Councilmembers all expressed support for the parade. The parade would be held on Saturday morning, February 1 at 10:00 AM.

Councilmember Dominguez commented on PRT in terms of process as residents were looking for what just happened with the parade. Community members were asking for staff time on the subject, so she asked the Council to consider having staff spend four or more hours of staff time on PRT.

Mayor Tran reminded his colleagues that there was a Rules Subcommittee and would like this topic to move there to decide about having it on the Council's agenda. He was ready to meet.

Vice Mayor Nuñez commented the process had morphed into using Announcements to have items brought back to City Council. The Transportation Subcommittee would meet soon, so he inquired where this topic would go. He was concerned about direction to staff on issues.

City Manager McHarris responded about the Transportation Subcommittee's role and recommended passing the PRT topic to that body and the members could decide whether to recommend it or not to the full City Council.

Councilmember Dominguez distributed a written memo regarding the Rules Subcommittee to each Councilmember and then read it aloud. The City Attorney noted that agenda item no. 19 addressed this process.

Vice Mayor Nuñez asked Mayor Tran if there was any difference in what the City Manager was asking versus what Ms. Dominguez sought. If his colleagues wanted the Rules Subcommittee to work, the Council needed to get to work.

Mayor Tran agreed with Vice Mayor Nuñez, and appreciated the memo in writing.

Councilmember Dominguez asked for confirmation that Council had already given direction on a special meeting to discuss the Rules Subcommittee and the Housing Authority. The City Manager confirmed.

Councilmember Phan requested Mayor Tran present Carl Guardino with a key to the City at the next City Council meeting, upon his announced upcoming retirement from the Silicon Valley Leadership Group. Mayor Tran agreed so long as all Councilmember names were printed on the key.

Vice Mayor Nuñez addressed three topics: (1) on comments regarding early childhood education, he wanted to follow up on what County staff requested for young children; (2) he went to the School District and observed electric school buses and learned that some districts had buses purchased but not in use, due to lack of charging stations, and suggested these could be put to use; and (3) thanked his recent intern from San Jose State University, who worked on a parklets study.

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

City Attorney Diaz asked Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. By roll call, none were reported.

**APPROVAL OF AGENDA**

Motion: to approve the City Council agenda, as amended

City Attorney Diaz said agenda item no. C3 (McCandless Well project) would be removed from agenda (to be rescheduled).

Motion/Second: Vice Mayor Nuñez/Councilmember Dominguez

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

**CONSENT CALENDAR**

Motion: to approve the consent calendar including agenda items no. 1 – 4, 7, 9-12, 14

Councilmember Phan asked to move up an item (no. 18) to be heard after the public hearing (no. 15).

Vice Mayor Nuñez requested removal of items no. C5, C6, C8 and C13 from consent.

Motion/Second: Councilmember Phan/Councilmember Montano

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

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| C1. Council Calendar                     | Received City Council calendars for January and February 2020.  |
| C2. Meeting Minutes                      | Approved City Council meeting minutes of January 7, 2020.   |
| C3. Two Resolutions –<br>McCandless Well | Item was removed from the agenda and would be continued to a future City Council meeting.   |
| C4. Resolution                           | (1) Following receipt of election results from the City Clerk indicating one yes vote, adopted Resolution No. 8936 certifying election results and adding Tract No. 10522 to Community Facilities District 2008-1 (Annexation No. 18); and<br>(2) Approved Final Tract Map No. 10522, and accepted all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements; and<br>(3) Approved and authorized the Interim City Manager to execute the Subdivision Improvement Agreement between the City of Milpitas and SJ Main St, LLC. |
| 5. Resolution                            | Vice Mayor Nuñez had a question about lawsuits and claims. He would talk to the City Attorney separately as it was regarding pending litigation.  |

Motion: to adopt Resolution No. 8937 consistent with the Mitigation Fee Act for Fiscal Year 2018-19 to review and accept the annual developer fee disclosure information Calaveras Blvd. Widening Traffic Impact Fee, Milpitas Business Park Traffic Impact Fee, Transit Area Specific Plan Impact Fee and Storm Drain Fee and making five-year findings for the Calaveras Blvd. Widening Traffic Impact Fee, Milpitas Business Park Traffic Impact Fee, and Transit Area Specific Plan Impact Fee for the fiscal year ended June 30, 2019

Motion/Second: Vice Mayor Nuñez/Councilmember Phan

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

6. Resolution

Item was not heard and was continued to the next meeting.

C7. Stormwater Agreement

Approved and authorized the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for Sprig Center LLC for the Sprig Center development project at 1585 N. McCarthy Boulevard.

8. Amendment to Agreement with JP Graphics

Vice Mayor Nuñez asked if the City had studied costs for printing and whether there was any need to hire back print shop staff.

Motion: to approve and authorize the City Manager to execute Amendment No. 4 to the contract with J.P. Graphics for printing services, extending the term by six months and increasing compensation by \$77,500 from \$780,010 to an amount not to exceed \$857,510

Motion/Second: Vice Mayor Nuñez/Councilmember Phan

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

Following the vote above, the City Council returned to Closed Session at 11:52 PM. All items not yet considered would move to the Special Meeting on Tuesday, January 28.

C9. Purchase Orders for Public Safety Uniforms

(1) Authorized the Interim City Manager to issue blanket purchase orders for Police and Fire uniforms and equipment and related services, in substantially the same form as the draft purchase order, to Summit Uniforms in an amount not to exceed \$30,000 per year, and to LC Action Police Supply in an amount not to exceed \$50,000 per year.  
(2) Authorized the Purchasing Agent to exercise the options to renew the term of the blanket purchase orders for two additional one-year periods, subject to annual appropriations, if the service remained acceptable to the City.

C10. Side Letters

Approved the Side Letter Agreements between the City of Milpitas and (1) the Milpitas Police Officers Association (MPOA) and (2) the International Association of Firefighters (IAFF), regarding exchange of City Holiday from Lincoln's Birthday to César Chávez Day.

C11. Side Letter

Approved the Side Letter Agreement Between International Association of Firefighters, Local 1699 (IAFF) and City of Milpitas for 10% Special Assignment Pay applied to employees assigned to the Fire Captain 40 Hour Classification.

C12. Side Letter

Approved the Side Letter amending the Memorandum of Understanding between the City of Milpitas and the Milpitas Police Officers Association Agreement dated January 1, 2017 – December 31, 2021 Section 17.06.1 Compensatory Time Off (CTO) allowing the maximum accrued CTO increase from 240 to 480 hours for Communications Dispatcher and Communications Dispatcher Supervisor for the calendar year 2020.

13. Chandler Asset Management

Item was not heard and was continued to the next meeting.

### C14. Approve Travel

- (1) Authorized and approved travel for Vice Mayor Nuñez, Councilmember Montano, and Interim City Manager McHarris to attend the League of California Cities *New Mayors & Council Members Academy* in Sacramento, CA on January 22–24, 2020, for a total combined estimated amount of \$5,800.
- (2) Authorized and approved travel for Interim City Manager McHarris to attend the League of California Cities *City Managers Conference* in Napa, CA on February 5–7, 2020, for a total estimated amount up to \$1,500.

**PUBLIC HEARING**

**15. Resolution and Ordinance**  
for residential development  
1005 N. Park Victoria Dr.

Planning Director Ned Thomas reminded City Council that this project came before the City Council previously on November 19, 2019.

Associate Planner Adrienne Smith described the Robson Homes residential development project and Council's direction for an adjustment to single family homes to be constructed at 1005 N. Park Victoria Drive, including four "duet" homes, alongside 34 single family homes and 10 accessory dwelling units. She explained required environmental and related documents necessary for the project's approval.

Mayor Tran opened the public hearing.

Mark Robson of Robson Homes thanked the City staff for working with him on Council direction on the project.

Voltaire Montemayor, resident, was in favor.

Frank Evans, resident, commented on prior public opposition to this project and said the zoning change was not appropriate for the neighborhood.

Councilmember Montano left the dais at 9:08 PM.

(1) Motion: to close the public hearing, following three speakers

Motion/Second: Vice Mayor Nuñez/Councilmember Dominguez

Motion carried by a vote of:

	AYES: 4
	NOES: 0
	ABSENT: 1 (Montano)

Mayor Tran stated this would be the first housing development he favored, since he was first elected. He was pleased with the below market-rate homes in the project.

Councilmember Montano returned to the dais at 9:16 PM.

Mayor Tran asked questions of Mr. Robson who responded along with his architect.

Vice Mayor Nuñez requested explanation on the number of duet homes, the affordable units in the project. Mr. Robson explained the layout for the two “duets” to be built, and the remainder was a “fraction” of the inclusionary ordinance requirement that would be paid in fee.

Councilmember Phan favored the project.

Councilmember Montano asked about Fire Department requirements for emergency vehicle access.

Councilmember Dominguez thanked Mr. Robson for engagement with the community and asked about new home pricing, and stated she wanted to support more all-affordable building.

Mayor Tran said the only way to get 100% affordable housing at this or other sites would be high density in tall buildings, which he would not support.

Councilmember Montano and Phan expressed support for high quality of Robson houses. Councilmember Phan believed that Robson Homes actually would build them, and not sell to another builder, as often occurs.

Councilmember Dominguez stated she would not support the project due to the low number of affordable housing units.

(2) Motion: to adopt Resolution No. 8939 adopting a Mitigated Negative Declaration and Mitigation Monitoring Program to comply with California Environmental Quality Act; approving the revised project including a General Plan Amendment, Planned Unit Development, Site Development Permit and Vesting Tentative Map to allow development of a residential subdivision (by Robson Homes) with 34 market rate single-family homes, four below market-rate paired homes and 10 accessory dwelling units on a 4.88-acre site at 1005 N. Park Victoria Drive; and, allow an exception to the Affordable Housing Ordinance to allow payment of fees in lieu of providing a full 15% of units as below-market-rate units

One modification to Condition of Approval No. 3 was included in the motion, read aloud by City Attorney Chris Diaz: to modify Condition No. 3 Effective Date as follows: “Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date Ordinance No. 38.838 becomes effective.”

Mayor Tran requested to include his amendment for a traffic calming emphasis in terms of signs showing kids holding hands, kids at play, speed limit at 15 mph, paint on the ground blended into the project, subject to the approval of the City Engineer.

Motion/Second: Councilmember Montano/Councilmember Phan

Motion carried by a vote of: AYES: 4  
NOES: 1 (Dominguez)

City Attorney Diaz read aloud the title of Ordinance No. 38.838, “An Ordinance of the City Council of the City of Milpitas Amending the Zoning Code Contained in Title XI, Chapter 10, Section 3.03 of the Milpitas Municipal Code to allow a Zoning Designation Change of Certain Parcels within the Zoning Map.”

(3) Motion: to waive the first reading beyond the title and introduce Ordinance No. 38.838 to rezone the subject site (1005 N. Park Victoria Drive) from the Single-Family Residential (R1-6) Zoning District to the Single-Family Residential (R1-3) Zoning District

Motion/Second: Councilmember Montano/Councilmember Phan

Motion carried by a vote of: AYES: 4  
NOES: 1 (Dominguez)

#### **COMMUNITY SERVICES**

16. Ordinance No. 304 – skate park regulations Item was not heard.

#### **LEADERSHIP**

17. Pension Actuarial Report Item was not heard.

18. Update on SB50 This item was heard following public hearing item no. 15.

City Attorney Chris Diaz provided an oral update on the revived Senate Bill 50, related to housing and transit oriented development. It would require fourplexes by right and some loss of local zoning control remained in the bill, with the addition of “local flexibility plan.”

Mr. Diaz stated that City Council could take a position, and direct staff on a letter to the legislature, and then he responded to various questions from Councilmembers.

Mayor Tran invited speakers from the audience.

Vince Rocha, senior director of housing policy for the Silicon Valley Leadership Group said a letter of support was warranted.

Councilmember Montano inquired about nearby cities, and what teeth was in the bill to make them produce their fair share of housing. Mr. Rocha responded on use of land for housing.

Huascar Castro, Silicon Valley at Home policy associate, was in support of SB50.

Nico Nagel, from Fair Housing Advocacy Coalition, asked for support of SB50.

Aaron Eckhouse, from California Symmetry, was a sponsor of SB50 and mentioned various groups that have expressed support for the bill.

Councilmembers commented on the bill, indicating their overall support. Vice Mayor Nuñez said the bill would be considered on January 23 in Sacramento, so he encouraged Council members to visit the Senate for the committee hearing on this bill.

Motion: (1) to receive an update on California Senate Bill 50 from the City Attorney, and (2) to direct staff to draft a letter in support from Milpitas City Council to the state Senate to be sent on Wednesday, January 22, 2020

Motion/Second: Councilmember Phan/Councilmember Montano

Motion carried by a vote of: AYES: 4  
NOES: 0  
ABSTAIN: 1 (Tran)

19. Follow up on Council requests from January 7

Item was not heard and was continued to the next meeting.

### **COMMISSION REPORT**

20. PRCRC Work Plan

Item was not heard and was continued to the next meeting.

### **NEXT AGENDA**

21. Preview next agenda

Received preview list of anticipated agenda items for February 4, 2020 City Council meeting.

### **ADJOURNMENT**

City Council reconvened into Closed Session at 12:00 PM. Mayor Tran adjourned the Council meeting at 1:00 AM when Council exited Closed Session on Wednesday, January 22, 2020.

*Meeting minutes respectfully drafted and submitted by  
Mary Lavelle, City Clerk*