

Draft **MEETING MINUTES**
CITY OF MILPITAS

Minutes of: **Special Meeting of Milpitas City Council**
Date: **Tuesday, August 13, 2019**
Time: **6:00 PM**
Location: **Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas**

**CALL TO ORDER
SPECIAL MEETING**

Mayor Tran called special meeting to order at 6:02 PM. City Clerk Mary Lavelle called the roll.

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

ABSENT: Councilmember Phan was absent at roll call. He arrived in Closed Session.

CLOSED SESSION

City Council adjourned to Closed Session to discuss two matters listed on the agenda. Mayor and Council then convened at the dais at 7:42 PM for the remainder of the open session agenda items.

**ANNOUNCEMENT OUT
OF CLOSED SESSION**

City Attorney Chris Diaz announced that City Council authorized on 5 – 0 vote to allow for a holiday break period (near Christmas) and to authorize Human Resources Director Liz Brown to pursue side letters with three employee labor groups.

PRESENTATIONS

Mayor Tran invited City Council to the podium.

- Councilmember Montano helped the Mayor to proclaim *Women’s Equality Day* on August 26, 2019 and presented certificates to 13 local women. Vice Mayor Dominguez also presented recognition to local women.
- Mayor proclaimed August 2019 as *American Muslim Appreciation and Awareness Month*
- Councilmember Montano recognized Maria Lemery, long time Milpitas resident and activist to protect hillsides, for her service to the community over her lifetime.

PUBLIC FORUM

Francesco Lozzaro, resident, was part of the youth theater program and spoke of her experience with the youth program, in particular starring as Annie.

Joseph Weinstein, resident, spoke in appreciation of Milpitas Police Department, and commented on his experience on a recent ride-along.

Jackie Romero, was a resident and volunteer leader of Children’s Theater Program, the Milpitas community theater in the city. She thanked City Council for funding the program throughout the years, showing support of the program. She asked to find a bridge program to help kids.

Lorenzo Maceo of San Jose, spoke of his experience participating in the theater program and its value to him personally.

Megan Zamora, 13 year old participant in the theater program, asked to keep the theater.

Mikayla, 16 year old Milpitas resident, thanked the Council for support for Center Stage Performing Arts and was a participant since she was 8 years old. Cared a lot for director Mei Wan.

Maria Dang, from San Jose, spoke in favor of “CSPA” Center Stage Performing Arts and its value to kids in the arts.

Allysson McDonald, resident, appreciated the awards given out earlier. She supported CSPA even when it was Rainbow Theater. She wanted support for renters and protection for renters.

Darius, involved with CSPA for over two years, since he was age 9. He loved the community and the welcoming family feeling to him and his sister.

Councilmember Phan wanted the Council to respond to the kids speaking however he confirmed this matter was not on the agenda, as noted by City Attorney. He requested to place this on a future agenda. Staff to come up with more information for the City Council, regarding the current program and later, for the Council to respond to them.

Councilmember Nuñez supported what Mr. Phan said. Also, the City Manager had been active in trying to get a resolution on this matter. Mr. Nuñez wanted Mr. McHarris to reveal what came up in meetings to date that could assist these residents.

Interim City Manager Steve McHarris reported that staff had discussions with theater leadership, and discussed ideas. Staff was following Council direction at the budget time to fund it, but not re-sign a contract, to study and come back to City Council. This topic was scheduled for October 1, 2019 Council meeting date. Staff would include all considerations about performing arts in Milpitas. A public meeting scheduled following day.

Mayor Tran had issue with the decision to suspend the Center Stage Theater program during any budget meeting of the City Council. He recalled exploring different areas only, so he was shocked if the program was cut. He wanted to revisit footage of the meeting, and he wanted to hear back precisely was said and voted upon at the budget meeting.

Evelyn Chua, resident, said her family was always in support of Rainbow Theater, and then Center Stage Performing Theater as a great way of expressing feelings by young people. Allow them to continue performing while solutions were worked on.

Tim Bradford, student, was long involved in the theater program, similar to his siblings before him. It helped young people with being able to do public speaking.

Natalie Bradford, student resident of San Jose, had been in the theater over 10 years. She had done shows at other theaters, and none were as family oriented as Milpitas.

Logan Hernandez Baker, age 1, had5 participated since she was a youngster in the theater. She had put together a video to show the City Council.

Lisa Baker, mother of two daughters who were in theater program over the last 8 years. She provided some history on theater that started in 1983. She implored continuing the program.

Kristin Dang was youth from San Jose and a five-year participant in the theater.

Cameron Bradford, student participant for nine years in theater program, was impacted by his sister's involvement in the theater when she was in Aladdin. He's in college studying theater arts.

Todd Bradford, San Jose parent of five children who'd been participants of Children's Theater Program, over last many years. His family had contributed personally to all the shows.

Christy Bradford, mother of five kids involved in the theater program and in Rainbow Theater when she was young. Their financial commitment was worth every penny, especially when all five were in the last show "Newsies." She asked Council to renew the contract.

Lisa Moreno, Milpitas resident since 1973, with her daughter Madison in the theater since 2007. She thanked City Council for support in the past many years. She wanted City support, as she'd asked for in 2012.

Martin Rios, resident, spoke of rent going up often. People have been getting evicted. He worked every day and wanted City Council to help out in this situation.

Chris Rios, resident, spoke of being born in Texas in poverty then he went on full scholarship to Stanford. His family struggled since moving to Milpitas in 2016. Egregious rent increases had occurred since he came here. He spoke of the ownership group that owned his apartment complex from out of state and complained of poor conditions.

Councilmember Nuñez asked the City Manager to have the code violations investigated at Mill Creek apartments, and supported by Councilmember Phan.

Veronica Salcedo, resident and tenant in Milpitas, asked when City Council would have an emergency ordinance for tenant protection. She was getting charged for parking spaces, and so extra fees were hurting the family. This needs action by Council.

Sandy Perry, Affordable Housing Network of San Jose, had attended Housing Subcommittee meetings and supported their work. On a Rental Assistance Program coming out of that, when he saw criteria, it was not designed to solve the problem that existed in Milpitas. Eligibility was an issue in that proposal. Consider rent control to address the fundamental issue.

Anurag Pal, of Assemblyman Kansen Chu's office, supported the theater program; and he submitted a letter this date to the City Clerk.

Vice Mayor Dominguez thanked Mr. Pal, and asked him if he had money for the arts. She appreciated the Assemblymember and needed funding for Milpitas.

William Au, resident, supported rent control and just cause. He'd rented for more than 15 years in Milpitas. City needs an emergency relief program set up soon, as renters were treated unfairly.

Rich Burquaardt, resident, spoke on the rent control issue. He was laid off from high tech job in 2016. He applied for social security and then looked for a place to rent.

Steve Gilliam, resident, spoke in support of the arts. He read a speech, noting he had coached youth sports in Milpitas. He gave strong support for the youth theater program.

Joseph Ehardt, Milpitas Historical Society, gave a report to City Council about the result of a donation made to MHS for its tour in June. He handed in a written report for the Council.

Janice Smitz, lived in Milpitas for 32 years, had two kids involved in Rainbow Theater for many years. One child became a sign language interpreter. She fully supported the program.

Berta Rios, Milpitas resident, had been a renter for three years in Milpitas. She'd been victim of a predatory landlord. There were serious housing and health concerns.

Ana Narajo, resident, addressed City Council in Spanish while Vice Mayor Dominguez translated. She said it was time to help the community. She spoke of high rent and a need for just cause while Council knew the problems. Her family needed help.

Voltaire Montemayor, resident, wished he could do theatrical speaking. He stated there was no segregation in Milpitas, with equality for women. All religions were respected in Milpitas.

Frank DeSmidt invited all to special events of the Milpitas Chamber of Commerce and Milpitas Rotary Club, including a Casino Night in September.

Rob Means, 1421 Yellowstone resident, was trying to advance a transit project for Personal Rapid Transit across the city. He discussed a community owned project and asked to put it on a future agenda to discuss his project and how to proceed.

At 8:53 PM, the public forum concluded.

Mayor Tran directed staff, regarding Performing Arts, to review what took place at the Council meeting for the budget adoption in June and to review what was said by Councilmembers and direction given to staff regarding the youth theater program.

City Attorney Chris Diaz responded that the City Council was restricted on the subject to coming back at a future meeting.

Mayor Tran spoke of Milpitas as a special place, and even folks from San Jose even come over here. Special to see so many people coming to speak on the community theater program tonight. He repeated that he was not made aware that Community Theater would be suspended, when he voted to adopt the budget. Unless he had evidence about suspending the program, then hard for him to accept. Wanted this to be corrected.

Vice Mayor Dominguez spoke of her main duty as a Councilmember and talked about good governance. Keep up with their own policies and she was concerned for residents' time. She asked her colleagues, regarding Rules Subcommittee emergency clause, Councilmembers needed to submit a request by last Friday.

Mr. Diaz wanted the Council to remain Brown Act compliant. Councilmembers needed not to comment further on the the topic.

Councilmember Phan said October 1 was when this item would be discussed and then residents would have a better opportunity to engage on that date. He thanked all the speakers for coming to this meeting.

Councilmember Nuñez thanked the community for coming out to the meeting. He noted that the City Manager had certain jurisdiction to do things, that did not have to come back to City Council. He encouraged residents to keep the City Manager involved when communicating with City officials.

Councilmember Montano recalled the budget meeting, and why the theater program was brought to Council's attention had to do with residents who brought concerns of not being able to rent the facility due to dates taken by the theater. The bottom line was that all Council did want the arts in the City, including the theater program and a theater for the performing arts. She recommended the city seek matching funds.

Councilmember Montano spoke to the residents on rent control, and that there was a bill in the state legislature on that topic that would affect the entire state.

Mayor Tran asked to look at public records of the past budget Council meeting. If there was nowhere that the theater program would be suspended or if the City Manager did so without Council direction, then the City Council could also do the same to maintain it.

ANNOUNCEMENT

City Attorney Chris Diaz asked if Councilmembers had any conflict of interest on the agenda items and any campaign contributions, and all replied none.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Councilmember Nuñez/Councilmember Montano

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

CONSENT CALENDAR

Motion: to approve the Consent Calendar including agenda items no. 1, 2 and 4 - 7

Mayor Tran had one question on an HVAC issue at Milpitas Fire Station 1. He asked staff if that was being looked into and taken care of.

Councilmember Nuñez wanted to remove item no. C3 from consent.

Motion/Second: Councilmember Nuñez/Vice Mayor Dominguez

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

C1. Council Calendars Accepted City Council calendar for August 2019.

C2. Meeting Minutes Approved City Council meeting minutes of June 11 and 18, 2019.

3. Veterans Commissioner Councilmember Nuñez wanted it written down that there was an exception to the rule regarding Commissioner term limits of three terms. Due to a relatively low number of veterans, the City Council would allow these residents to serve more than the limit. Staff confirmed this practice.

Motion: to receive Mayor Tran’s recommendation and re-appoint Commissioner Art Ebright to the Milpitas Veterans Commission to new three-year term that will expire in February of 2022, with exception to established term limits. Motion included requesting staff to ensure the Veterans Commission by-laws could be amended to memorialize this practice for the Veterans Commission only.

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

C4. Lease for Temp. Fire Station No. 2 Approved and authorized the City Manager to execute a Lease Agreement for a temporary fire station located at 1126 Yosemite Drive by and between the City of Milpitas (“Tenant”) and Casetronic Engineering Group (“Landlord”) for a term of two years plus two six-month options, for a total of three years, commencing on August 13, 2019.

C5. Water Bottle Refill Station Approved and awarded a construction contract with Hoi’s Construction, Inc. for the Water Bottle Refill Station Installation Project in the amount of \$178,000. Authorized the Director of Public Works to execute contract change orders without any further City Council action except for appropriation of funds.

C6. Report of Emergency Repair Work Received a report from the Public Works Director for the emergency remediation work at the Police/Public Works Building, and authorized payment of invoices from Indoor Restore Environmental Services and SB Construction, for a total amount of \$33,399.50.

C7. Report of Emergency Repair Work Received a report from the Public Works Director for the Purchase and Installation of McQuay Turbocor compressors for the Public Works/Police Department Building and authorized payment of invoices from Dormatech in the amount of \$198,375.

COMMUNITY DEVELOPMENT

8. Terrace Gardens Board of Directors Building & Housing Director Sharon Goei gave a presentation on staff requested actions related to Terrace Gardens Senior Housing apartments. Legal action was needed related to the Board of Directors membership and disposition of surplus cash at Terrace Gardens, related to the established non-profit organization. \$114,890 was the total surplus cash to be disbursed.

Councilmember Montano asked what oversight the City had concerning Terrace Gardens. She felt there needed to be an audit for accountability. Staff responded it could ask for that via the Board of Directors.

The City Attorney replied that the City had some rights to request information and reports, and had the right to demand corrections, per the regulatory agreement.

Councilmember Nuñez did not agree with joining the two items together for discussion. On No. 8, Mayor Tran was correct that even if City representatives were not on the Board, the City of Milpitas still had a role to play to check into anything that was wrong. The City can do code enforcements. He'd been concerned about serving on that Board, and then voting recently on Community Development Block Grant funds allocated by the City Council.

Mayor Tran asked for staff put. He wanted to support staff as long as the City did not lose power. Staff said that the City would still have oversight, per existing regulatory agreement. Also, the City could do audits on all City below-market-rate (BMR) units within the City.

Councilmember Nuñez wanted to confirm that this was a "request" to Terrace Gardens, and wanted to know what happened if it was not accepted by that agency.

The City Attorney said the City would ask the Terrace Gardens Board and acknowledge that the City Council could ask for those seats back in the future.

Councilmember Montano would like to see the City still represented on the Board of Directors.

Councilmember Phan said this was a question of administrative function of having a Board member at Terrace Gardens. The City could still have a presence but it did not necessarily have to be a City Councilmember. He compared to the Chamber of Commerce, which had a "Council liaison" to the Board of Directors. He suggested something similar could occur on the Terrace Gardens Board, via a transition period, without the same duties and responsibilities of a Board member. Councilmember Nuñez liked Mr. Phan's idea.

Motion: to authorize the City Manager (or his appointee) serving on the Board to request the Board of Directors at Terrace Gardens to amend the by-laws to remove the City Council-member's seat and City Manager's seat from the Board composition, and include asking the Board for a liaison type position, and to allow for the potential to ask again in the future to return to having a voting Board member, if desired

Motion/Second: Councilmember Phan/Councilmember Nuñez

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

9. Terrace Gardens transfer of surplus

Next, Ms. Goei explained the terms of the regulatory agreement, which required approval by City if the Terrace Gardens Board ever needed to disburse excess surplus cash, as requested at this meeting. She responded to various questions from Councilmembers regarding this very first time request for excess funds to be transferred into their Replacement Reserve Account fund.

Mayor Tran asked a question about Terrace Gardens was funded and a representative from the John Stewart management company came forward. She said most funding was from the rent paid by tenants.

Councilmember Phan thought this was a straightforward request, and with a similar approach to City Council moving any extra money into reserves when planning its budget.

Councilmember Montano agreed the surplus funding should go into a reserve fund.

Councilmember Nuñez agreed with the Mayor, that dollars should stay here with the City.

City Attorney Diaz answered the City Council about where the funds could be placed, related to housing concerns, by putting the funds into a line item that exists for affordable housing rather than the Housing Authority budget.

Motion: to approve receipt of Terrace Gardens' transfer of surplus fund (and not confirming the request from Terrace Gardens for those to be placed into reserves) and to put those funds of \$114,890 into the Affordable Housing fund in the City budget line item

Motion/Second: Councilmember Nuñez/Vice Mayor Dominguez

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

COMMUNITY SERVICES

10. Ordinance No. 43.212 for time limited parking

Transportation Engineer Steve Chan gave the background report about concerns when the BART station in Milpitas opened. A parking study was done by consultant Nelson\Nygaard on the parking issues and how people would respond to restrictions in the neighborhood around the station. He reported how Fremont and San Jose limited parking near transit stations.

Milpitas staff recommended on street parking limited to four hours between specified daytime hours within ½ mile radius of the BART station, to be enforced by the Milpitas Police Department. The parking fine would be \$65.00.

Councilmember Montano asked how enforcement would be done. Police Chief Corpuz said Police would conduct enforcement and issue citations. The method for doing so would be determined in the future, along with more discussion of fines and fees, as set.

Councilmember Phan was intrigued about license plate technology, and would like to look into best use of technology instead of having officers patrolling to issue parking tickets. Patrolling the area for crime concerns would be better. Try to automate the process.

Councilmember Nuñez –wanted to know if the tickets being given out would be cost recovery, and if the budget anticipated this program. Chief Corpuz said the city adjusted fees for variety of reasons. New Community Service Officers would help with an increased workload and growth of the City.

City Attorney Chris Diaz read aloud the title of Ordinance No. 43.212, “An Ordinance of the City of Milpitas Amending Title V, Chapter 100, Section 15.06 “Parking Time Limited on Certain Enumerated Streets” of the Milpitas Municipal Code.”

Motion: to waive the first reading beyond the title and introduce Ordinance No. 43.212 amending Milpitas Municipal Code, Title V, Chapter 100, Section 15.06 “Parking Time Limited on Certain Enumerated Streets”

Motion/Second: Councilmember Montano/Councilmember Nuñez

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

LEADERSHIP

11. Ordinance No. 301 for update of Milpitas Municipal Code (various sections)

City Attorney Chris Diaz walked the City Council through the list of changes requested in the proposed ordinance to amend and update the codified Municipal Code in various sections.

Mayor Tran commented about Building & Safety proposed to become the Building & Housing Department. He did not favor losing the word “Safety” in the department name. The Assistant City Manager responded that Housing staff were brought over to join the Building Department although safety matters were not removed.

City Attorney Chris Diaz suggested calling it Building Safety & Housing (in the ordinance text) and that was acceptable to most of the Council.

Councilmember Phan was reluctant to proceed with any of the changes related to positions and position titles.

Councilmember Montano would like to take those positions off.

Mr. Diaz replied to her stating that Sections 20 and 21 could be deleted, as proposed in the draft ordinance text (regarding severance payments specified and positions exempt from competitive service).

Councilmember Nuñez agreed with his colleagues. Maybe there was uncertainty about additions to the municipal code. He'd rather have those two positions come back to City Council, with more information, at a later time.

City Attorney Chris Diaz read aloud the title of Ordinance No. 401, "An Ordinance of the City Council of the City of Milpitas Amending Various Sections of Titles I, II, V, VI, XI and XII of the Milpitas Municipal Code to Make Corrections, Clarifications, Minor Updates and Modifications."

City Attorney and Councilmembers said there could be follow up conversation around budget time on the additional positions in the sections the Attorney would remove from the draft ordinance language.

Motion: to waive the first reading beyond the title and introduce Ordinance No. 301 amending various sections of Titles I, II, IV, V, VI, XI and XII of the Milpitas Municipal Code to make corrections, clarifications, minor updates and modifications; and, to change Building & Housing to Building Safety & Housing as the updated department title, and the action did not include Sections 20 and 21 as proposed

Motion/Second: Councilmember Nuñez/Vices Mayor Dominguez

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

ADJOURNMENT

Mayor Tran adjourned the special meeting at 10:53 PM in honor and in memory of the CHP law enforcement officer in Riverside, CA who lost his life earlier on August 12. He requested a moment of silence before the meeting concluded.

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