

CITY OF MILPITAS MEETING MINUTES

Minutes of: Meeting of the Milpitas City Council
Date: Tuesday, May 18, 2021
Time: 6:00 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 6:00 PM. City Clerk Wood 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

(a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

City as Plaintiff

County Sanitation District 2-3, West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, and City of Milpitas v. City of San Jose, City of Santa Clara

(b) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Cost Dispute with Tributary Agencies (Burbank Sanitary District, Cupertino Sanitary District, West Valley Sanitation District, County Sanitation District 2-3) Regarding Legal Expenses

City Council reconvened to the public portion of the meeting at 7:00 PM.

CLOSED SESSION ANNOUNCEMENT

City Attorney Diaz announced that the City Council made a decision in Closed Session but there was no reportable action.

PLEDGE

Mayor Tran led all in the Pledge of Allegiance.

INVOCATION

Councilmember Chua introduced Pastor Mike Villanueva from Captive Church and asked him to lead the Invocation.

PRESENTATION

Mayor Tran proclaimed the week of July 14 – 21 2021, as Public Works Week, proclaimed May 24, 2021, as Eritrea Independence Day, and proclaimed May 31, 2021, as Memorial Day.

PUBLIC FORUM

The following spoke during Public Forum:

1. Urvishkumar Mehta
2. Tom Valore
3. Voltaire Montemayor

ANNOUNCEMENTS & FUTURE AGENDA ITEMS

City Manager McHarris announced that Milpitas will have a County hosted Milpitas youth COVID vaccination site for residents ages 12 through 17 years old, at the Milpitas Sports Center on Thursday, May 27 from 1:00 to 7:30 p.m. The City is also working with the Milpitas Unified School District on targeted outreach to families.

Mayor Tran spoke about the upcoming Milpitas beautification event on Saturday and stated that it is full, but people can sign up for the waitlist.

Councilmember Chua requested a presentation from the City Manager and executive staff on an initial plan for the City's action items on how they will open up City Hall. She would like this information before the American Rescue Plan Act (ARPA) discussion in, so that they can determine if there is any funding needed to get City Hall COVID free compliant. She also made the following announcements:

1. On May 28 the Youth Advisory Commission is giving away finals care packages which include goodies and helpful hints on how to survive finals week. She thanked the commission for all their work on this event.
2. Milpitas Connected is the official newsletter for the City, it provides information and events happening in the City.
3. Presented a short video on the Milpitas Park and Creek Clean-up event.

Councilmember Dominguez announced that Mental Health Awareness month is in May. She stated that there are different activities the City and County are hosting online, and invited all residents to log on to help break the stigma around mental health. She spoke about the stress people have experienced during COVID and encouraged anyone experiencing anxiety, depression, or feeling overwhelmed to call 1-855-278-4204. She made a request to create a collaborative video with the City Council to send a message to help break the stigma against asking for help and would like it posted and shared.

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. By roll call, there were no conflicts of interest. City Attorney Diaz asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, Councilmember Chua replied that she received campaign contributions as stated at the previous meeting. City Attorney Diaz clarified for the record that the contribution was from someone affiliated with item seven on the agenda. Mayor Tran replied that he received campaign contributions as stated at the previous meeting related to item seven on the agenda. No other Councilmembers had reportable campaign contributions.

CODE OF CONDUCT

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

APPROVAL OF AGENDA

Motion: to approve the May 18, 2021, meeting agenda.

Motion/Second: Mayor Tran / Vice Mayor Dominguez

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

CONSENT CALENDAR

The following items were added to the Consent Calendar:

1. **Agenda Item No. 18: Approve and Authorize the City Manager to Execute a Five-Year Professional Services Agreement with up to two additional two-year options to extend the service with PFM Asset Management LLC to Provide Section 115 Pension Trust Management Services and Establish a Section 115 Pension Trust**
2. **Agenda Item No. 19: Receive and Direct Staff on List of Agenda Items Requested by City Councilmembers**
3. **Agenda Item No. 20: Receive Preview List of Anticipated Items for the Next Regular City Council Meeting Scheduled on June 1, 2021**

The following items were removed from the Consent Calendar:

1. **Agenda Item No. C7: Adopt a Resolution upholding the Appeal of the Planning Commission’s Denial and approving a Site Development Permit and Conditional Use Permit Amendment to Demolish an Existing Manual Coin-operated Car Wash and Develop a New, Fully Automatic 3,189-square foot Car Wash with an Additional 2,301-square foot Canopy Area and associated site improvements with an increased front setback of 37 feet-7 inches on a .46 Acre Site Located at 554 S. Main Street Pursuant to CEQA Guidelines 15303 and 15183**

City Attorney Diaz stated that for item C2 on the minutes, staff is asking for authority upon approval, to make a minor correction changing the day listed from Tuesday to Friday.

Motion: to approve the modified Consent Calendar, including Items No. C1-C6, C8-13; Agenda Item No. 18, 19, and 20; with a minor correction to item C2 as stated by the City Attorney.

Motion/Second: Mayor Tran / Vice Mayor Montano

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

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| C1. Council Calendar | Received the City Council calendar of upcoming meetings for May and June 2021. |
| C2. Meeting Minutes | Approved meeting minutes of the May 4, 2021, Regular City Council Meeting, May 7, 2021, Special City Council Meeting, and May 11, 2021, Special City Council Meeting; with authority to make a minor correction. |
| C3. Resolution – Approving the Annual Engineer’s Report for LLMD No. 95-1 | Adopted Resolution No. 9064 approving the Annual Engineer’s Report; adopted Resolution No. 9065 declaring its intention to levy and collect assessments; and provide notice of the public hearing to be held on June 15, 2021, for LLMD 95-1 McCarthy Ranch. |
| C4. Resolution – Approving the Annual Engineer’s Report for LLMD No. 98-1 | Adopted Resolution No. 9066 approving the Annual Engineer’s Report; adopt Resolution No. 9067 declaring its intention to levy and collect assessments; and provide notice of the public hearing to be held on June 15, 2021, for LLMD 98-1 Sinclair Horizon. |
| C5. Resolution - Approving Acceptance of Public Improvements located at 1210 California Circle, Tract 10359 | Adopted Resolution No. 9068 approving acceptance of public improvements for the California Circle Residential Project located at 1210 California Circle, Tract 10359, Public Improvement Plan 2-1219; and approving a reduction in the faithful performance bond to \$131,000.00, which shall be subject and in effect for the duration of a one-year warranty period; and granting authorization to the City Engineer to release the performance bond after the one-year warranty period, without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer. |
| C6. Resolution - Accepting the 2021 Santa Clara County Multi-Jurisdictional Program for Public Information Program | Adopted Resolution No. 9069 accepting the 2021 Santa Clara County Multi-Jurisdictional Program for the Public Information Program; a program under the Community Rating System of the Federal Emergency Management Agency’s National Flood Information Program. |
| 7. Resolution - Upholding the Appeal of the Planning Commission’s Denial Located at 554 S. Main St. | This item was pulled off of consent. |

- C8. Accept Four Donations
Totaling \$8,000
Accepted four donations totaling \$8,000 from Gomez Consulting, Morley Bros., Overton Moore Properties, and the Pulte Group for funding temporary housing for unhoused persons and approved an appropriation of \$8,000 to the FY 2021-22 Recreation and Community Services Department Operating Budget.
- C9. Approve the Proposed
Legislative Advocacy
Policy and Legislative
Guiding Principles
Approved the proposed Legislative Advocacy Policy and Legislative Guiding Principles.
- C10. Approve and Authorize a
Memorandum of
Understanding (MOU) by
and Between the City of
Milpitas and the Milpitas
Unified School
Approved and authorized the City Manager, or his designee, to execute a Memorandum of Understanding (MOU) by and between the City of Milpitas and the Milpitas Unified School District regarding the MUSD Alliance Partners for Future-Ready Learners Program.
- C11. Mayor's Recommendation
of Vice Mayor Carmen
Montano to Serve on the
BAWSCA/RFA
Approved Mayor's recommendation of Vice-Mayor Carmen Montano to serve on the Board of Bay Area Water Supply and Conservation Agency and its Regional Financing Authority for a four-year term from July 1, 2021, through June 30, 2025.
- C12. Side Letter to Amend the
MOU between the City and
(MPOA) and between the
City and LIUNA/UPEC
Local 792, representing
(Mid-Con) and (ProTech)
Approved and authorized the City Manager to enter into a Side Letter to amend the Memorandum of Understanding between the City and the Milpitas Police Officers Association (MPOA) and between the City and LIUNA/UPEC Local 792, the Mid-Management-Confidential Unit (Mid-Con), and the Professional and Technical Unit (Pro-Tech) relating to the vacation cash-out provisions amending the Vacation Cash Out MOU provisions.
- C13. Accept Youth Advisory
Commissioner Resignation
Accepted resignation of Commissioner Andrea Liu from the Youth Advisory Commission and confirm the noticing of the unscheduled vacancy.

PUBLIC HEARINGS

14. Resolution - Approving
Vehicle Miles Traveled
Policy to Implement
Senate Bill 743
Planning Director Thomas introduced the item. Principal Planner Lee presented the report for the Vehicle Miles Traveled Policy to Implement Senate Bill 743. Consultant Karen Mack provided additional information.
- Mayor Tran opened the public hearing.
- The following spoke during Public Comment:
1. Urvishkumar Mehta
 2. Voltaire Montemayor
- Mayor Tran closed the public hearing.
- Council asked clarifying questions.
- Motion: to adopt **Resolution No. 9070** for a new citywide policy to establish Vehicle Miles Traveled (VMT) as the standard of measurement for analysis of potential environmental impacts from vehicle traffic under the California Environmental Quality Act (CEQA).
- Motion/Second: Mayor Tran / Councilmember Phan
- Motion carried by a vote of: AYES: 5
NOES: 0

COMMUNITY DEVELOPMENT

15. Receive Monthly Report for Unhoused Services Building Safety and Housing Director Goei gave a presentation for the monthly report of unhoused services. Santa Clara County Office of Supportive Housing Department Director, Kathryn Kaminski and Acting Police Chief Hernandez provided additional information.

The City Council received the March 2021 report for unhoused services and asked clarifying questions.

Council requested that staff bring back information on the following:

1. The number of people assessed that qualify for Project Homekey
2. Police data on individuals that qualify for 5150 W&I
3. The number of Police calls for service related to a mental health crisis and how many of those calls resulted in enrollment into psychiatric services provided by Valley Medical
4. The number of people that are part of the realignment in the probation system as part of AB109
5. Clarification on local jurisdiction parameters with regards to if there are any policies or laws in place at the Federal, State, or County levels
6. Continue receiving the monthly reports

The following spoke during Public Comment:

1. Urvishkumar Mehta
2. Voltaire Montemayor

No motion was made for this item.

COMMUNITY SERVICES & SUSTAINABLE INFRASTRUCTURE

16. Receive a Presentation on the Draft Milpitas Water Master Plan Public Works Director Ndah introduced the item and City consultant Elizabeth Drayer gave a presentation on the Draft Milpitas Water Master Plan.

The City Council received the presentation and made a request for staff to bring back information on the cost and the need for water infrastructures and the wells on the map showing the red and black areas.

The following spoke during Public Comment:

1. Urvishkumar Mehta
2. Voltaire Montemayor

No motion was made for this item.

17. Receive a Presentation on the Draft Milpitas Sewer Master Plan Public Works Director Ndah introduced the item and City consultant Curtis Lam gave a presentation on the Draft Milpitas Sewer Master Plan.

The City Council received the presentation and provided brief comments.

The following spoke during Public Comment:

1. Urvishkumar Mehta

No motion was made for this item.

LEADERSHIP AND SUPPORT SERVICES

C18. Approve and Authorize a Five-Year Professional Services Agreement with PFM Asset Management LLC to Provide Section 115 Pension Trust Management Services

Approved and authorized the City Manager to execute a Five-Year Professional Services Agreement with PFM Asset Management LLC to provide Section 115 Pension Trust Management Services; authorized the City Manager to execute up to two (2) additional two-year options to extend services without further City Council Action; authorize the City Manager to execute any Trust related documents after approval as to form by the City Attorney; and adopted Resolution No. 9071 for the Post-Employment Benefits Trust Agreement between PFM Assets Management LLC ("PFM") as Trust Administrator and Wells Fargo Bank, N.A. ("Wells Fargo") as directed Trustee; approve the Investment Earnings Goal for the Trust; and designate the City Trust Administrators.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Vice Mayor Montano

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

C19. List of Agenda Items Requested by City Councilmembers

Reviewed the list of items that have been requested by City Councilmembers at a Council meeting, or through the City Manager.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Vice Mayor Montano

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

C20. Preview Agenda Items

Received a list of anticipated agenda items for the June 1, 2021, regular City Council meeting.

This item was moved onto the Consent Calendar and approved as follows.

Motion/Second: Mayor Tran / Vice Mayor Montano

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

**ITEMS PULL OFF OF
CONSENT CALENDAR**

7. Resolution – Upholding the Appeal of the Planning Commission’s Denial Located at 554 S. Main St

The following spoke during Public Comment:

1. Tom Valore
2. John Agg

City Attorney Diaz provided legal advice regarding this item. He stated that the City Council closed the public hearing at the last meeting, and it is important that the Council not take in any new information that changes their opinion or their vote. If any Councilmember is inclined to want to change their vote, then staff would need to reschedule a public hearing so that the appellant can be there to respond to any new information. Any public comment that was heard can be considered to direct any changes to the resolution, but that is the limitation for this meeting, so that there is no violation of the appellants’ due process rights.

Councilmember Dominguez commented on the recommendations from staff and the Planning Commission, stated her concerns with the project, and said that she requested this item be pulled so that her vote will be noted for the record.

Councilmember Phan commented on his concerns with the project and stated his dissent.

City Attorney Diaz stated that there is a revised resolution which was distributed to Council and posted on the website prior to the meeting. The revision adds one condition which is listed as number 79 dealing with Police Department conditions particular to security videos. The motion for Council would be to adopt the revised resolution.

Motion: to adopt the revised **Resolution No. 9071** upholding the Appeal of the Planning Commission's Denial and approving Site Development Permit SD18-0010 and Conditional Use Permit Amendment UA18-0020 to demolish an existing manual coin-operated car wash and develop a new, fully automatic 3,189-square foot car wash with an additional 2,301-square foot canopy area and associated site improvements with an increased front setback of 37 feet-7 inches.

Motion/Second: Councilmember Chua / Vice Mayor Montano

Motion carried by a vote of:

AYES: 3
NOES: 1 (Phan)
ABSTAIN: 1 (Dominguez)

ADJOURNMENT

Mayor Tran adjourned the meeting at 10:30 PM.

Draft meeting minutes submitted by City Clerk, Wendy Wood