

Draft **MEETING MINUTES**
CITY OF MILPITAS

Minutes of: **Joint Meeting of the Milpitas City Council
and Milpitas Housing Authority**
Date: **Tuesday, November 5, 2019**
Time: **5:30 PM Closed Session
7:00 PM Open Session**
Location: **Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas**

CALL TO ORDER Mayor Tran called the joint meeting to order at 5:30 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Mayor Tran, Vice Mayor Dominguez and Councilmember Nuñez

ABSENT: Councilmembers Montano and Phan were absent at roll call and arrived in closed session.

CLOSED SESSION City Council convened in Closed Session to discuss one matter listed on the agenda.

City Council convened at the dais for the Open Session regular agenda at 7:03 PM.

ANNOUNCEMENT City Attorney Chris Diaz stated there was no reportable action by the City Council, out of Closed Session.

PLEDGE Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION Vice Mayor Dominguez welcomed Rahesh Shah from the BAPS community, who then provided the invocation to start the meeting.

PRESENTATIONS Mayor Tran welcomed the Community Advisory Commission Chair Van Lan Truong, and she presented the Neighborhood Beautification Awards to the property award winners

Mayor and Council honored the City of Milpitas employee Milpitas “Star” Awardees, recently presented to teams of Milpitas employees for specific team-oriented projects.

PUBLIC FORUM Bob Livengood, resident of S. Main Street in Milpitas, invited all to a “Salute to Milpitas Veterans” on Sunday, November 10 at the Milpitas Charity Bingo starting at 7:00 PM. After five weeks in operation, Milpitas Charity Bingo had distributed more than \$30,000 to non-profits in the community with proceeds from the bingo charity. Volunteers worked very hard at the facility. He thanked City Council for approving it and for supporting the efforts in the community.

Robert Marini, resident, attended a census meeting recently and asked about how data was collected for household numbers. He referred to a comment he’d read in an email from one Council- member. He felt the city was not transparent about fees, and wanted further explanation.

Voltaire Montemayor, resident, would like someone to sing the Star Spangled Banner once in a while. He appreciated homes that beautified the city.

ANNOUNCEMENTS Vice Mayor Dominguez asked the City Attorney to reach out to Mr. Marini, regarding a question he had about the census since he’d staff to help him get his question answered. She thanked all the three Councilmembers for establishing a true team, that took care of the city, and for service,

working together. She thanked the Mayor for his service, while away with military fighting fires north of the City of Milpitas.

Councilmember Montano thanked Milpitas firefighters when they fought recent serious fires in Milpitas, including the emergency response on her cell phone which was very helpful.

Councilmember Nuñez honored and thanked Public Information Officer Jennifer Yamaguma for all her efforts to keep the residents, Council, and everyone informed about the fire and other information during the previous weekend.

**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

Motion/Second: Councilmember Montano/Vice Mayor Dominguez

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

CONSENT CALENDAR

Motion: to approve the consent calendar including agenda items no. C2 – C14, with the exception of no. 12

Mayor Tran requested item 12 (report on water main repair) be removed from consent.

Councilmember Nuñez asked to remove item C1 from consent. He also had questions and comments on some consent items, that would remain on consent.

On item no. 3 (updated Fire Code), he wanted to know what the changes were explicitly, and if that could be presented at the next meeting. The City Manager said yes.

On item no. 9 (agreement for consulting services for Engineering), he was concerned that it was almost a 100% increase, and wanted to know if there was a valid reason for that. The City Manager responded it was for required work on the well upgrade and pedestrian bridge crossing projects.

On item no. 13 (fee waiver for a non-profit group), he remarked that there were lots of car washes around town. He asked if this would this be coming to Council frequently or was this the first one. City Manager replied it was the first one. The City Council may consider adjusting the special event fee, with concerns about car wash regulations. There would be an education component for the public also.

Mayor Tran wanted to discuss the items removed from consent first, prior to the remainder of the regular agenda.

Motion/Second: Councilmember Nuñez/Councilmember Montano

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

Regarding agenda item no. 1, Councilmember Nuñez made comments and remarks on several of the scheduled meetings on the November and December calendars, noted for staff and his Council colleagues. Councilmember Montano joined him in expression of desire to have on the agenda a place for members to report out of committees and bodies on which they serve.

1. Council Calendars

Received City Council calendar for November 2019.

- C2. Meeting Minutes Approved City Council meeting minutes of October 8 and 15, 2019.
- C3. Ordinance No. 113.25 Waived the first reading and introduced Ordinance No. 113.25, to be enacted as Chapter 300, Title V of the Milpitas Municipal Code. Set a public hearing for Tuesday, December 3, 2019 at 7:00 p.m. in the Milpitas City Council Chambers to consider adoption of Ordinance No. 113.25, adopting by reference, with certain local amendments, the 2019 Edition of the California Fire Code.
- C4. Ordinance No. 65.147 Waived the first reading and introduced Ordinance No. 65.147 amending Chapters 1, 3, 3.5, 4, 5, 6, 7, 10, 13, 14, 150, and 170 of Title II of the Milpitas Municipal Code relating to Code Administration; adopting by reference the 2019 California Building Code, 2019 California Residential Code, 2018 International Property Maintenance Code, 2019 California Mechanical Code, 2019 California Electrical Code, 2019 California Plumbing Code, 2018 International Swimming Pool and Spa Code, 2019 California Existing Building Code, and 2019 California Historical Building Code, with amendments; and amending regulations pertaining to grading, excavation, paving, and erosion control, and gas shut-off devices. Also set a public hearing date on December 3, 2019, pursuant to California Government Code Section 50022.3, for adoption of the Ordinance.
- C5. Ordinance No.38.837 Waived the second reading and adopted Ordinance No. 38.837 amending Milpitas Municipal Code Title XI, Chapter 10, Sections 2, 4, 5, 7, and 56 relating to assembly and other non-industrial Uses in the M2 Heavy Industrial Zoning District.
- C6. Resolution Adopted Resolution No. 8919 (1) granting acceptance of public improvements for the Waterstone Subdivision at 1494 California Circle, Tract 10270, Public Improvement Plan No. 2-1193; (2) approving a reduction in the faithful performance bond to \$190,000, which shall be subject to and in effect for the duration of a one-year warranty period; and (3) 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.
- C7. Resolution Adopted Resolution No. 8920 (1) granting acceptance of public improvements for the Coyote Creek Townhomes Subdivision at 601 Murphy Ranch Road, Tract 10087, Public Improvement Plan No. 2-1151; (2) approving a reduction in the faithful performance bond to \$30,000, which shall be subject to and in effect for the duration of a one-year warranty period; and (3) 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.
- C8. BAAQMD Grant Approved funding agreement between the Bay Area Air Quality Management District and the City of Milpitas to receive grant funds in the amount of \$32,000 for Electric Vehicle Charging Stations at City Hall and Public Works Building.
- C9. Amendment No. 1 – David J. Powers & Assoc. Approved and authorized the Interim City Manager to execute Amendment No. 1 to the Professional Services Agreement with David J. Powers & Associates related to CIP Projects No. 7076 and No. 2005 to increase compensation by \$55,000, for a total agreement in the amount of \$123,843.
- C10. Public Art Design Per recommendation of the Milpitas Arts Commission, approved James Dinh's Circle of Time Public Art design for Higuera Adobe Park.
- C11. Bulletproof Vest Partnership Grant Accepted the 2019 Bulletproof Vest Partnership Grant and approved a budget appropriation for \$18,546.07 into the Milpitas Police Department's operating budget.
12. Water Main repair Mayor Tran had removed this item from consent to have a report from the Public Works Director about work done on a significant repair of a large water main on Abel Street. Mr. Tony Ndah reported on staff effort working 27 hours straight to get the water main and the street back in service.

City Council received a report from the Public Works Director on the emergency repair work on a water main on Abel Street, and authorized the City Manager to execute contracts with Preston Pipeline and Joseph J. Albanese, respectively, for emergency repair of the Abel St. Water Main.

- C13. Fee Waiver Per request form received by the City Clerk, waived \$932.63 for the Special Event Permit fee and automation fee identified by City Planning staff for Greater Love Church of God in Christ for its car wash fundraising events in October, benefitting those in need in Milpitas with food and clothing.
- C14. 2020 Council Meeting Schedule Approved the 2020 Milpitas City Council meeting schedule, including cancelation of both July and first August meeting dates next year.
- C15. Reappoint One Commissioner Re-appointed Mercedes Albana to her current term of three years on the Public Safety and Emergency Services Commission in a term that will expire in June of 2020.
- C16. Code of Conduct Adopted a City Council Code of Conduct.

PUBLIC HEARING

17. Robson Homes project at 1005 N. Park Victoria Drive Planning Director Ned Thomas introduced Planner Adrienne Smith who provided a report of the request for a new residential subdivision by Robson Homes at 1005 N. Park Victoria Drive. There were five specific actions requested for this project, which were recommended by the Milpitas Planning Commission. The project as designed would include ten Accessory Dwelling Units (ADUs) within the 36 single family homes on a 4.88 acre site.

Ms. Smith detailed the affordable housing requirement for the project along with findings for an exception to the City's affordable housing ordinance, which mandated 15% units to be affordable. Staff provided findings that the ADUs included help to meet the need in the city.

Applicant Mr. Mark Robson addressed the City Council with a brief. He spoke of the importance of housing in the Bay Area and neighborhood compatibility. ADUs were added as an affordable element to the new homes project his company would bring to a long empty parcel of land. He held several meetings with community members to respond to their concerns, including those about parking and traffic. He detailed financial benefits that totaled \$5.6 million, including a \$200,000 donation to Milpitas Unified School District.

Next, Mayor Tran opened the public hearing.

A woman neighbor was worried about needing a second kitchen in a home in order to have an income property on the second floor, and make it more uniform. She wanted to know if she was allowed to have a second kitchen at her home, as she had been denied by the City when she submitted in the past. She felt it was too many housing units.

Huascar Castro, from Silicon Valley at Home, was fully supportive of this project, including the ADUs as a new innovative solution to providing multiple affordable units of housing. He was encouraged that Robson would build ten ADUs from the start.

A woman resident from across the street felt the number of units was too much and would create more traffic, congestion and safety issues. She opposed it.

Cheryl Jordan, MUSD Superintendent, noted that in addition to \$200,000 donation to the schools, Mr. Robson had also noted that the ADUs when ready, could be made available to teachers as a place to live, so that was great for educators.

Resident Mr. Phan, who lived south of the project, invited all Councilmembers to stop by the neighborhood and see the parking problems that would come with these houses getting built. Second story ADUs would be an eyesore.

Voltaire Montemayor, resident, said this was a very nice spot in Milpitas. He supported building, but not sure the plan was perfect while he would support it.

A man resident, neighbor, remarked that more than one comment had been submitted despite what he wrote. Many people signed a letter/petition. A smaller document would be in order, more than 600 pages to read and review on this project. He opposed the project and asked not to approve zoning changes. He submitted some papers to the City Clerk.

A man James, a neighbor, complimented Mr. Robson and Robson Homes. Original plan was to build just 24 homes in low density residential and only built 26 houses across the street. He felt the new project was going backwards since parking would be a real problem and traffic.

A woman resident who lived across the street since 2005 was not against Robson and welcomed a new development. She was strongly against the zoning change.

A woman neighbor made remarks about parking and the extra units wondering how long it would take to build those.

Mayor Tran invited Mr. Robson back to the podium to answer questions posed by the speakers.

The City Attorney recommended the Council ask the developer any questions they had following his comments.

Mayor Tran asked about parking per house, which was two. Robson's HOA would require that homeowners park cars in the garage. The Mayor asked about the bike lane and landscape set back. Developer described the wider street and no reduction in parking on the city street.

Councilmember Montano asked about the tot lot and if it was opened to the rest of the neighborhood, and Mr. Robson replied yes. She heard the concerns about traffic and asked about a stop sign at Creed St. at N. Park Victoria Drive.

Motion: to close the public hearing, following 11 speakers

Motion/Second: Councilmember Nuñez/Councilmember Montano

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

Councilmember Nuñez asked questions to staff and wanted to know more about the zone change requested and how it affected the General Plan update. Mr. Thomas responded. Mr. Nuñez asked about the payment in lieu of affordable housing fee offered by the developer to pay. He asked how long the extra process for "duet" homes would take (alternative in staff report), and Mr. Thomas said a minimum of three months. Mr. Nuñez favored the alternative for the developer to build some duet homes to add more housing to the City.

Mayor Tran commented further on this view of what may be the last single family home development, according to the developer.

Councilmember Montano liked the project including the ADUs and it exceeded parking requirements. It was a high quality design she felt.

Councilmember Phan appreciated Mr. Robson and his spirit of collaboration. Vote would not be difficult for him and he was glad for the amount of community input the developer sought out. This project added to a diverse housing stock

Councilmember Nuñez was ready to make a motion.

The City Attorney described what action Council could take to have the project come back to City Council with the alternative that staff offered (to add/include duet units for more affordable

housing on this site). Council and staff wanted to honor the effort made by the developer to work with the MUSD. Mr. Diaz recommended the project and actions to return to Council with the revised environmental documents.

The City Attorney asked developer Mr. Robson for his concurrence to proceed with the alternative for the duets.

Motion: to defer approval of this project, directing staff and developer to go back and pursue steps needed for the alternative project design that would include building some “duet” (duplex housing) units to add to the total number of housing units built at 1005 N. Park Victoria Drive, with new CEQA documents and to proceed in rapid time frame return to Planning Commission and City Council

Motion/Second: Councilmember Nuñez/Councilmember Montano

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

COMMUNITY DEVELOPMENT

18. Measure B Funding Agreement

Transportation Engineer Steve Chan presented background on Measure B from the 2016 election, which was the ½ cent sales tax to fund transportation projects. City’s priority was for projects on Highway 237/Calaveras Blvd. He described three improvement projects to be funded with \$1.8 million of Measure B funding and the City was required to fund 10% of the costs.

Councilmember Montano commented on the long time bottlenecking problem on 237 near McCarthy Ranch off-ramp. She wondered why the state was not in charge, instead of VTA.

Motion: to authorize the City Manager to execute a Funding Agreement between the City and the Santa Clara Valley Transportation Authority for 2016 Measure B State Route 237 near term improvements project.

Motion/Second: Councilmember Phan/Councilmember Nuñez

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

19. Calif. Energy and Green Building Standards Codes

Building Safety & Housing Director Sharon Goei alongside Building Official Bill Tott brought the energy and green codes to Council. She explained what was required by state law, for updated codes every three years. Ms. Goei described local amendments that were proposed to the new statewide building and related codes.

Mr. Tott noted one consultant was present working with Silicon Valley Clean Energy on the green building standards codes regarding energy. He defined and explained new “Reach” codes for the State of California. This included incorporating processes to add more electric vehicle charging stations.

Mayor Tran wanted to know how Milpitas compared to neighboring cities on energy and climate protection action. Mr. Tott showed a “Regional Efforts” slide.

Councilmember Montano asked when Council would be reviewing the Climate Action Plan, and Mr. Tott said it would be updated in 2020.

Ms. Montano inquired if PG&E had ongoing shut-downs, and City was urging all-electric vehicles, how did that figure into the codes. She asked about putting solar panels on city buildings and staff replied that research on that was underway.

Councilmember Nuñez asked Mr. Tott additional questions about saving energy, and saving funds. The cost of going green was expensive, he pointed out. Some of those costs some people could not afford. All needed to find a way to shrink the city's footprint, in whatever way worked for City of Milpitas.

These actions would be for new construction only, Mr. Tott confirmed.

Mayor Tran referred to regional efforts and wanted to make sure Milpitas was the top small city for green efforts. He wanted to move forward to ban natural gas in new development too. He felt this would be safer for all residents and for the environment too.

Vice Mayor Dominguez wanted to move forward on saving the environment. This city followed San Jose on the Reach codes and those would evolve.

Councilmember Phan supported moving forward to ban natural gas as the Mayor suggested.

Councilmember Nuñez inquired about Silicon Valley Clean Energy (SVCE) and what it thought about those changes. He also wanted to ask the Fire Chief his opinion.

Councilmember Montano served on the Board of (SVCE) and said the agency goal was to go to all electric (no gas use). Maybe this could be gradual.

Vice Mayor Dominguez agreed with Councilmembers Montano and Nuñez with concern to go gradual on moving from gas to all electric.

Mayor Tran clarified that these rules would be impacting new construction of homes, not apply to existing homeowners and staff confirmed that.

Councilmember Nuñez wanted to support the Mayor with a bold statement, but did not want to cost the city, liability-wise. The City would need to have a plan to move to all-electric by banning gas in new construction. If moving toward owning the power lines (via SVCE), then do so with eyes open.

City Manager McHarris commented that what staff presented was a great step to become efficient and good to have goals on reducing gas, with concern for the costs to homeowners and builders.

Mayor Tran said he still was in favor of moving to ban gas (like City of Berkeley did), but was willing to go at pace of City Council recommendation.

Councilmember Phan wanted an outline more of specific goals, in a Resolution with intentions getting formalized in that document.

Staff commented further on actions that could be needed to get toward gas-free, all electric.

Next, Mayor Tran invited speakers to the podium.

A representative of Summerhill Construction had worked on pre-construction and had a good understanding of the Reach Codes. He wanted Council to understand these codes would affect any projects that had been approved but not yet built. He was working with cities all around the Bay on the unintended consequences. He appreciated an option for mixed-fuel buildings.

A woman named Rose of Silicon Valley expressed strong support for all electric codes for new residential construction. She addressed what other cities were doing or have voted on. She spoke of resiliency solutions.

Councilmember Montano was for going all electric, but it should be gradual for consumers and builders.

Resident Voltaire Montemayor was in line with fossil fuels, mentioned gas pipes.

Next, City Attorney Chris Diaz read aloud title of Ordinance No. 65.148, “An Ordinance of the City Council of the City of Milpitas Amending Chapter 11 of Title II of the Milpitas Municipal Code Adopting by Reference the 2019 California Energy Code with Amendments.”

(1) Motion: to waive the first reading beyond the title and introduce Ordinance No. 65.148 amending Chapter 11 of Title II of the Milpitas Municipal Code adopting by reference the 2019 California Energy Code with amendments

Motion/Second: Councilmember Phan/Councilmember Nuñez

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

Next, the City Attorney read aloud the title of Ordinance No. 65.149, “An Ordinance of the City Council of the City of Milpitas Amending Chapter 19 of Title II of the Milpitas Municipal Code Adopting by Reference the 2019 California Green Building Standards with Amendments.”

(2) Motion: to waive the first reading beyond the title and introduce Ordinance No. 65.149 amending Chapter 19 of Title II of the Milpitas Municipal Code adopting by reference the 2019 California Green Building Standards Code with amendments

Motion/Second: Councilmember Phan/Councilmember Montano

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

(3) Motion: to set the public hearing date on Tuesday December 3, 2019, pursuant to California Government Code Section 50022.3, for adoption of the two Ordinances (noted above)

Motion/Second: Councilmember Phan/Vice Mayor Dominguez

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

20. HOUSING AUTHORITY

Resolution to Adopt Bylaws

Councilmember Nuñez explained that this recommendation came out from the City Council Housing Subcommittee. The members wanted to have separate meetings of the Milpitas Housing Authority and wanted to have all members of the Council present to discuss the housing topics. He did not volunteer to serve as the Chair.

Mayor Tran appreciated efforts to advocate for more housing. He was trying to understand the role of Subcommittee and a separate Housing Authority, when all five Councilmembers would meet (as currently). He asked if the Council was trying to do something that already exists.

Councilmember Nuñez wanted to define what this body does or could do, such as own property.

City Attorney Diaz responded to the Councilmembers on legally what could be done, and actions taken as the present Housing Authority body composed of all five Councilmembers.

Mayor Tran expressed his reservations.

Councilmember Montano what was discussed recently at Housing Subcommittee.

The City Council chose to take no action on the recommendation for adoption of Bylaws and elect officers. This topic would roll this over to the next meeting, said Councilmember Montano.

Councilmember Phan found it was helpful for all, to meet like the retreats meeting with clearly defined what the exact expectations are. Define what those bylaws are, maybe have a retreat meeting on this topic rather than a study session. Include brainstorming if possible. For him, it did not make a difference on the leadership positions of the Housing Authority. The would need to define what the Housing Authority could do. The Vice Mayor agreed with Mr. Phan.

No action was taken to adopt a Housing Authority resolution in order to adopt new bylaws for the City of Milpitas Housing Authority nor select any officers.

Vice Mayor Dominguez asked for a retreat sooner than later on agenda items no. 20 (Housing Authority) and no. 21 (Rules Subcommittee).

Mayor Tran asked staff to send out a memo to the City Council about the Housing Authority purpose, goals, etc. Councilmember Montano asked to include what do other cities have or do with these agencies.

The City Manager responded on what he heard the Council wanted to do: to meet in a study session/retreat format on the Housing Authority, and on the Rules Subcommittee topics, soon. He recommended a daytime schedule for such meeting.

LEADERSHIP

21. Clarification – Rules Subcommittee

This agenda report was not heard, and could be moved or discussed at a special meeting date.

REPORTS

Items No. 22, 23 and 24 regarding 3 City Commission work plans were not heard.

NEXT AGENDA

25. Preview next agenda

Noted receipt of list of agenda items for the November 19, 2019 City Council meeting.

ADJOURNMENT

Mayor Tran adjourned the joint meeting at 11:18 PM.

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