

MEETING MINUTES CITY OF MILPITAS

Minutes of: Joint Meeting of Milpitas City Council
and Housing Authority
Date: Tuesday, August 1, 2017
Time: 5:00 PM Closed Session / 7:00 PM Open
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

- CALL TO ORDER** Vice Mayor Grilli called the joint meeting to order at 5:03 PM. City Clerk Mary Lavelle called the roll.
- PRESENT:** Vice Mayor Grilli, Councilmembers Nuñez and Phan
- ABSENT:** Mayor Tran and Councilmember Barbadillo. Mayor Tran arrived prior to 7:00 PM for the Open Session.
- CLOSED SESSION** City Council convened in Closed Session to discuss labor negotiations, litigation and personnel matters, as listed on the agenda.
- City Council then convened in Open Session at 7:00 PM with four members present.
- ANNOUNCEMENT** City Attorney Chris Diaz announced that the City Council would continue its discussion of items (f) and (g) again placing those on the next regular agenda on Tuesday, August 15.
- PLEDGE** Boy Scouts Troop No. 92 led the pledge of allegiance.
- INVOCATION** Vice Mayor Grilli invited Mr. Girish Shah and Mr. Yogesh Bapna from the Jain Temple on Main Street in Milpitas for the invocation.
- SCHEDULE OF MEETINGS** Council reviewed the Calendar/Schedule of Meetings for August 2017. No changes were noted or announced.
- PRESENTATIONS** Mayor Tran presented the following:
- Recognized volunteers from the Chamber of Commerce International BBQ event held in May
 - Recognized Incoming President Stanley Kuo of Taiwanese American Chamber of Commerce Northern California, located in Milpitas
- PUBLIC FORUM** Greg Smith, a teacher, wanted to address affordable housing for teachers. He'd met with the Newark teachers union leader on this date. Many teachers left the district since they could not afford to live nearby. There was a reduction in people entering teacher training programs, due to high housing costs. On this date, he found rent at \$2,100 was the cheapest apartment he could find in Milpitas on a website.
- Evelyn Chua, Milpitas resident, addressed the concept of having a Milpitas Exchange Zone or a Safe Zone, for the safe exchange of goods at the Police Department or other public space, for those items bought or sold online. This had been done successfully in the City of Daly City, for example.
- Voltaire Montemayor, Milpitas resident, wanted Milpitas to be known for harmony, be champions in singing, dance and sports. Be a showcase as one of the happiest and safest cities.

Liz Ainsworth, resident, supported having a safe space or zone to meet people to conduct a sale, especially for young people. Please do consider that suggestion.

Vijaya, representing the Association of Indian Americans based in Fremont, said her group last year started an Indian independence event. They wanted to do something similar again this year. A media representative, Gwen Do, operated a radio station and was taking part to promote culture and events such as those of Indian Americans. She described a festival coming up on August 6 at Murphy Park and asked the City to provide a shuttle service. They were ready to serve the community.

Councilmember Nuñez asked the City Manager's office to do some outreach to the group to find out what the needs were. The group could talk with City staff and then let Council know what's taking place. Acting City Manager Pangelinan responded he would certainly talk with this group.

Councilmember Phan supported the festival. He wanted to have the festival at its original location. The radio station representative returned to the podium and promoted her radio station. She asked again for assistance from the City and Mr. Phan asked her to leave her contact information with staff.

Rob Means, 1421 Yellowstone, said he'd sent an email to Council on the Personal Rapid Transit concept and submitted that concept to an online contest.

Robert Marini, resident, discussed water rates and current rate plan, according to his own opinion based on information he'd received from meetings of the Citizens Task Force on Water Rates. He displayed information on slides overhead.

Councilmember Nuñez asked, at what point would Council get a report from the Water Rates Task Force. The Acting City Manager replied the Task Force was in process to form recommendations to Council. The Public Works Director came forward to confirm what the City Manager had said. The next Task Force meeting was the following Tuesday. Ms. Hawk expressly stated that the City was not overcharging for water use. Task Force Chair Evelyn Chua came up to confirm the Task Force was forming recommendations and planned to come to the Council in September.

ANNOUNCEMENTS

Acting City Manager Pangelinan announced that Thursday, August 3 would be National Night Out in Milpitas, with more than 30 parties across the City. Mayor Tran encouraged all to attend.

Councilmember Nuñez said he was working as staff to his wife on National Night Out. Also, he donated two checks he had received from serving on the Board of the Santa Clara Valley Transportation Authority back to the City.

Vice Mayor Grilli promoted a National Night Out event that she and her husband hosted at Hall Park on Thursday evening.

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. None were reported.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

Motion carried by a vote of:

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

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as amended

Councilmember Nuñez asked to remove items no. 7 (Commissioner Attendance) and no. 33 (Pump Repair) from the consent calendar.

Mayor Tran requested to remove agenda item no. 24 (agreement with Mobilitie) from consent.

Councilmember Phan requested to pull agenda item no. 5 (Oversight Board appointment) from consent.

Motion/Second: Councilmember Nuñez/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

- *9. Burke Williams & Sorenson Amendment Approved Amendment No. 4 to the Agreement with Burke, Williams & Sorensen, LLP to close out legal services and direct the Acting City Manager to sign the Fourth Amendment.
- *10. Odor Update Received the monthly update of the odor control report.
- *16. Investment Status Received the investment report for the quarter ended June 30, 2017.
- *17. Grant for Bullet Proof Vests – Police Dept. Accepted the 2016 Bulletproof Vest Partnership (BVP) grant and approved an appropriation in the amount of \$7,847.97 into the Police Department’s operating budget.
- *20. Adopt Ordinance No. 260.2 Waived the second reading and adopted Ordinance No. 260.2 amending the Milpitas Municipal Code relating to the display of flags on City-owned property.
- *21. Resolution Adopted Resolution No. 8691 approving the Annual Investment Policy for FY 2017-18.
- *22. Resolution Adopted Resolution No. 8692 approving Badger meters as the standard brand of water meter for the City of Milpitas for ten years.
- *23. Amendment No. 1 Approved Amendment No. 1 to the Agreement for Legal Services with Best, Best & Krieger, LLP in the amount of \$150,000, and approved a total budget appropriation of \$292,300, of which \$142,300 would be reimbursed by developers/third parties, \$109,700 would come from the General Fund and \$40,300 to come from the Water Fund.
- *25. Amendment No. 5 Approved Amendment No. 5 to the Cayenta Software Support and Maintenance Service Agreement for the financial and utility billing system for an amount not to exceed \$3,000.
- *26. Amendment No. 5 Authorized the City Manager to execute Amendment No. 5 to the uniform rental and laundry service contract with G&K Services for annually not to exceed \$46,000.
- *27. Amendment No. 11
 1. Approved Amendment No. 11 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) relating to the Silicon Valley Rapid Transit Berryessa BART Extension Project (GT-1063).
 2. Appropriated \$125,000 of Lennar Homes deposited funds with the City to CIP No. 4265, BART Extension Coordination and Planning.
 3. Authorized a payment up to \$125,000 to VTA for off-quadrant pedestrian crossing signal improvements at Dixon Landing Road At-Grade railroad crossing from CIP No. 4265, BART Extension Coordination and Planning.
- *28. Amendment No. 4 Approved and authorized the City Manager to execute Amendment No. 4 to the Consulting Services Agreement with EOA, Inc. to increase the hourly rate, to increase the compensation by \$35,000 and to extend the term to June 30, 2018, associated with Municipal Regional Stormwater Permit C3 Reviews for Land Development projects.
- *29. O&M Agreement with KB Home South Bay Authorized the City Manager to execute a Storm Management Facilities Operation and Maintenance Agreement for KB Home South Bay, Inc. for its new residential development

at 1210 California Circle.

- *30. Amendment No. 4 Approved Amendment No. 4 to the Agreement with RMC Water and Environment to increase compensation in the additional amount of \$183,868 and extend the term to June 30, 2021 for the Dempsey Road Water Line Replacement, Projects No. 7118, No. 7117, No. 7100, No. 7129 and No. 3709.
- *31. Amendment No. 1 Approved Amendment No. 1 to the agreement with West Yost Associates for Project No. 7076 and increase the agreement amount by \$293,055.
- *32. Pay Cayenta and Portford Authorized payment of annual support and maintenance to two vendors: Cayenta for \$190,336.36 and Portford Solutions Group, Inc. for \$23,836.00.

MEETING MINUTES

Motion: to approve the City Council meeting minutes of June 20, 2017

Motion/Second: Councilmember Nuñez/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

PUBLIC HEARINGS

1. Weed Abatement

Fire Marshal/Deputy Fire Chief Albert Zamora described the need to remove the public nuisance, namely weeds, on certain properties in the City of Milpitas. Those whose properties were cleared of weeds by the Santa Clara County Agriculture Department, following notification letters, would be liened for the costs on their property tax bill. He referred to the list of properties and owners who were notified (per list behind the draft Resolution in the Council’s agenda packet).

Next, Mayor Tran opened the public hearing.

Voltaire Montemayor, resident, said if it was a problem, eventually it’s a nuisance. If weeds cover a pipeline, it will eventually be a big problem. He mentioned taxes and to comply with clearing weeds.

(1) Motion: to close the public hearing, following one speaker

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

(2) Motion: to adopt Resolution No. 8690 confirming assessments for weed abatement

Motion/Second: Councilmember Phan/Councilmember Nuñez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

2. Flag Ceremony

City Clerk Mary Lavelle presented the request from the Pakistani American Community Center to hold a ground level flag ceremony on Monday evening, August 14, 2017 outdoors in the back patio outside the Committee Room of City Hall. She described the forms filed and code requirement for this hearing prior to Council’s approval. The group would celebrate the date of Pakistan’s independence on August 14.

Vice Mayor Grilli asked the City Clerk to describe what was meant by a ground level ceremony. Ms. Lavelle described the outdoor event, when PACC volunteers would carry a Pakistan flag on a post in hand, and then fit it into a flag stand for the duration of the celebratory event. No flag would fly on any City flag pole.

Councilmember Nuñez asked if the current municipal code applied to this event or the new updated code. Ms. Lavelle replied that current regulations would apply (not the new ordinance, later on this agenda).

Mayor Tran opened the public hearing.

Voltaire Montemayor, Milpitas resident, attended the event last year when it was very successful. He was supportive of this flag ceremony.

(1) Motion: to close the public hearing, following one speaker

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

Motion carried by a vote of: AYES:
NOES: 0
ABSENT: 1 (Barbadillo)

(2) Motion: to approve a flag ceremony held by the Pakistani American Community Center at Milpitas City Hall outside plaza on Monday, August 14, 2017 from 7:00 to 9:00 PM

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

3. Urgency Ordinance

City Attorney Chris Diaz said the main question was whether City Council wanted to extend the temporary moratorium on affordable housing demolition, as first adopted via Ordinance No. 294 in June. This evening, Council was requested to adopt an update to its recently adopted urgency Ordinance No. 294, for 10 months and 15 days.

Mayor Tran opened the public hearing.

Hien Duong, resident, addressed the Council in Vietnamese language. She was a Sunnyhills Apartment resident and would like to stay as long as she could there.

Ms. Terry Naylor with a daughter, resident of Sunnyhills for 28 years, was trying to get the ordinance to be able to continue on with what they were doing. Now she had grandkids.

A woman, Sunnyhills resident, sought help from the City to save Sunnyhills Apartments. She asked to protect family, elderly, and be treated as human.

A woman, Sunnyhills resident, wanted the City to help save the apartment complex. She did not want to be homeless.

Alysson McDonald, Milpitas resident and President of Sunnyhills Neighborhood Association, said don't lose track of people already here, who were neighbors and residents.

Christian, of PACT a non-profit group in San Jose, spoke in support of Sunnyhills Apartments residents, noted the housing crisis as a regional issue. Preservation of existing units was necessary.

Bill Lee, resident, spoke on behalf of elderly and disabled people at Sunnyhills. He worried about their future and asked for help from City Council.

Joann, homeowner in Milpitas, said they need time to figure out what to do for those who were affected by this. She urged Council to please give the time by passing the ordinance.

Rob Means, resident, talked about the 1929 crash and how jobs were provided by the government. There was not enough affordable housing and it was a crisis. The free market was not providing what was needed, so it was time for government to help those in need.

Matthew Warren, a lawyer, urged Council to adopt the ordinance to preserve what the City did already have for affordable housing.

Mr. Nguyen, Sunnyhills Apartments resident, voiced his concern about what was happening where he lived and asked for Council to adopt the moratorium on demolition. It was difficult to find a new unit to rent.

William, was a 10-year resident at Sunnyhills, described that his was a very low income family, and described a difficult family situation.

A man spoke in Vietnamese language to the Council, stating he was too old to move to a new place.

Tu Phan, Sunnyhills Apartments resident, spoke in Vietnamese and urged Council to maintain the apartments for those who lived there. He loved the people at Sunnyhills.

Chun Le, resident, might need to move out. He did not want to be homeless, and might have to go to a nursing home to live, since he was elderly.

An elderly lady (with cane, seated) spoke in Vietnamese language to the Council, and asked Council to please help them.

Emilio Salazon, pastor of Sunnyhills United Church, said he loved his neighbors and urged compassion, and to provide help as needed for the residents.

Christina, an 8-year resident of Sunnyhills, sought help with saving their homes. Demolition would be very hard.

Eson, 12 year resident of Sunnyhills, said it was hard to see all the people who lived in the apartments. Despite working, it's very hard to pay rent and he was seeking help.

A woman addressed the Council in Spanish, wanted to continue to live in Sunnyhills Apartments. She spoke about her family and asked to please listen to her.

Shelly Lizer, member of PACT, said in a country rich as U.S., affordable housing should be a human right not a privilege. Low income seniors should not be put on the street, out of their apartments.

A lady who lived at Sunnyhills Apartments got laid off from work earlier, with low income.

Sandy Perry, with a housing network of San Jose, was working with the tenants of Sunnyhills. They wanted to negotiate with the property owner to save these homes. Engage whoever can make this happen. Be an inspiration for other cities in Santa Clara County.

Guy Haas, lived in The Pines neighborhood, and wanted to remind the Council of the history of Sunnyhills neighborhood, designed to be inclusive back in the 1950s.

A young woman, community college student, supported her Sunnyhills Apartments' neighbors here in Milpitas. It was difficult to find an affordable place in this county.

Evelyn Chua, resident, asked Council to adopt the ordinance for the demolition moratorium and protect housing for the residents at Sunnyhills.

Carmen Montano, resident of Sunnyhills neighborhood, spoke of the history of those apartments. The City's General Plan Housing Element must be adopted in the city every five years. If there was a housing crisis here, she asked that Council would extend the moratorium.

Robert Marini, resident, said there was need to extend the time for residents to find a place, and the City needed to plan long-term. More affordable housing units were needed in new developments.

Ben Vo, San Jose resident and college student, spoke in solidarity with Sunnyhills Apartments residents. He displayed a poster.

A man, a Milpitas resident, was flabbergasted when he heard of the plan to demolish Sunnyhills Apartments. That should be criminal.

Jihad Massoud, member of an equity group in Fremont, supported Sunnyhills Apartments residents as her nearby neighbors. It was difficult for those residents to move.

A woman spoke in Vietnamese language asking Council to please help residents to be able to stay at Sunnyhills Apartments and any support from the City was welcome.

Voltaire Montemayor, resident, urged the owner to help the residents. Keep the moratorium in place, he urged.

Jessica, lived in Milpitas since 1996, mentioned the many new housing units that had recently been added. There were only two places of low-income housing: Sunnyhills and the Selwyn area. You can't celebrate diversity if putting people out of their homes.

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

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

City Attorney Diaz read aloud the title of Ordinance No. 294.1, "An Urgency Ordinance of the City Council of the City of Milpitas Enacted Pursuant to California Government Code Section 65858 Extending for a Period of Ten Months and Fifteen Days the Temporary Moratorium on the Issuance of Demolition Permits for Structures Providing Affordable Housing Units." He provided explanation of the time frame for the urgency ordinance.

Councilmember Nuñez asked for the Planning Director to come forward. Mr. Nuñez said this was not just about Sunnyhills. It was to allow for looking at what else would be done about affordable housing in the City of Milpitas. He was talking to the County's Housing Authority and talking to non-profits and others to have a proper place to live here.

Vice Mayor Grilli thanked the residents who came to the meeting and put a face on the issue of affordable housing. The moratorium was a resource to look at the issue of housing longer term and finding opportunities. This was supporting goals of the City Council.

Councilmember Phan said his thoughts had not changed from last time, and he still supported it though it would not be enough. The ordinance was only a band aid, while the city needed something more permanent. He thanked all the people who came to the meeting.

Mayor Tran said this was a family-oriented city, especially generational. The housing crisis was extreme in the Bay Area and in Milpitas.

(2) Motion: to waive the reading beyond the title and adopt Urgency Ordinance No. 294.1, extending the temporary moratorium on the issuance of demolition permits for structures providing affordable housing

Motion/Second: Vice Mayor Grilli/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

City Attorney Diaz noted that other possible ordinances could be considered and brought back to City Council.

Councilmember Nuñez thanked Tony Alexander (pointed out in the back of the Chambers) for his efforts on this issue.

Mayor Tran said the Council would take a break at 8:57 PM. The City Council reconvened the meeting at 9:18 PM.

UNFINISHED BUSINESS

4. New Recycling & Garbage program information

Engineering Staff Leslie Stobbe gave a presentation about the new recycling and garbage program and introduced two individuals from Milpitas Sanitation. They focused primarily on single family residential customers, who would experience the most change from the current contracted service. The new service was described as “Pay as You Throw” program with different sizes of the split carts for households.

Ms. Kelli Pelligrini, marketing staff for Milpitas Sanitation, addressed the Council describing communication that would be sent out and distributed to customers.

Assistant Finance Director Jane Corpus reviewed the transition for billing customers for the new service. It will be invoiced three months ahead to residential customers. The first bill would be for four months’ service and no cart rental fee would be charged.

Councilmember Phan asked to add Tagalog language to the outreach information described. Ms. Stobbe responded as to why that language was not included. On organic processing, he asked if Milpitas Sanitation would process that material and she said it would be transferred. He asked how much per ton would it cost the city for processing and wanted to know the tip fee and transportation costs.

Vice Mayor Grilli asked how community meetings would be scheduled and how those were planned. She asked about an opportunity for a payment plan, and how it was conveyed to the customers.

Ms. Stobbe described the meetings in various City locations on three dates in the fall on selected Wednesdays. Vice Mayor Grilli responded that there may need to be some meetings on the weekend to allow more families to come.

Councilmember Nuñez asked to confirm the start date of December 2 as the first date of new service, and staff said yes. He asked staff for further explanation of the rate increases for customers, and percent per month increase. Ms. Stobbe displayed a chart with some of the figures in response.

Mayor Tran asked if the costs were stabilized, and over what period of time? Ms. Stobbe said there were annual rate reviews in August every year. Staff would get back to the Mayor on one of his financial questions on the rate of increase.

Vice Mayor Grilli felt the transition would be difficult for some customers with significant changes coming up. She talked about requirements to reduce the amount of waste in the City. She asked if any other cities had unlimited trash pick-up as Milpitas has had, and the response was only Morgan Hill. She mentioned the City's Sports Center and playing fields as locations where outreach efforts could reach a lot of people.

Councilmember Nuñez asked about billing of catch-up months at the start and how that would impact staff. Finance Department staff indicated that would probably result in additional phone calls, and they would plan for that.

Mayor Tran thanked staff for the information and presentation.

The Mayor next allowed comments from the audience.

Robert Marini, resident, asked if a resident did not have a cart, he wanted to know what people were using to put out their garbage. Staff responded that, currently, residents could set out bags or wheeled cartons.

Voltaire Montemayor, resident, talked about separation of biodegradable material, soil, waste placed in the can, dirty soil, dishwashers and separation of materials.

Guy Haas, resident, asked about plastic bags and plastic wrap. Ms. Pelligrini from Milpitas Sanitation replied that plastic wrap would go into trash. Plastic bags were addressed in the re-usable bag ordinance and could be used to line a kitchen pail, then into garbage cart.

Tom Valore, resident, asked about the charge on his bill and cost increases for him. Staff responded about the current monthly rate and the senior discount paid.

Council thanked staff for the information and no vote was taken.

5. Oversight Board

Finance Director Will Fuentes was ready to respond to any questions regarding the Milpitas Oversight Board appointment.

Councilmember Phan inquired about the current representation on the Oversight Board and who it had been historically. Mr. Fuentes said it was the Finance Director along with one person from the public, currently Ms. Althea Polanski. Mr. Phan asked how often the Board met, and the response was, it depends. Mr. Phan was ok with appointing someone from the department rather than the Director if this would take up a lot of his time.

Councilmember Nuñez asked if the City Council had ever invited those Board members to talk to the Council, as a representative of the community. Mr. Fuentes described the contentious nature of the property in question before the Oversight Board. The property issue was going to take longer than one meeting, with a lot of discussion.

Mayor Tran did not doubt the abilities of Will Fuentes, but he would be going into a political situation. The Mayor did not want to put more on his plate and agreed with Mr. Nuñez. If there were other persons out there for this role, they should take a look at those, if needed. He recommended to move this item to the next meeting.

Mr. Fuentes explained that the County would take over the Oversight Board by the following June in 2018.

Mayor Tran did not want staff to fill this role and wanted to put this off to the next Council meeting. The Acting City Manager commented there was a recommendation to have staff represent the City on that Board, and that there were complex financial matters considered at this board and it required reporting to the state Department of Finance.

Councilmember Nuñez felt it wasn't about reports, it was about being pushed and pulled, and not about finance.

Mayor Tran recommended to move this topic to the next meeting, and discussion would continue. The Council concurred and no vote was taken on this item.

6. State of the City address

Councilmember Nuñez wanted to address the way the City Councilmembers speak, if they do so on behalf of the City and also use of the City seal. If speaking for the City, that should take approval by the whole Council. If speaking for yourself, he felt that was different. He wanted to know what were the rules and suggested to go to City Council Handbook, although some of it was outdated. He wanted to know rules, if they existed and asked the City Attorney to let him and Council know that.

City Attorney Chris Diaz replied there was some regulation on use of the City seal, and cities vary on that topic. Milpitas had an ordinance about the use of the City seal, and it had to be approved by Council. When speaking, officials were always allowed to use their titles. If speaking on behalf of the City, he urged that Councilmembers be cautious on what was stated as a public position.

Councilmember Phan believed that all should be able to use the seal for official business. When making presentations, be mindful of what each person says.

Vice Mayor Grilli asked what was done if anyone violated municipal code about the seal. Mr. Diaz responded there was no formal enforcement about that, but it was the law. If the City Council wanted to do something different, the City would have to change the municipal code by ordinance.

Mayor Tran said he had not ever used the seal and he did go out to the community to speak frequently.

7. Commission Attendance

Councilmember Nuñez commented on attendance by Commissioners, and Councilmembers at various meetings and functions. He also felt there should be term limits for Commissioners serving on the 14 City Commissions.

City Attorney Diaz commented again that the City Council Handbook needed to be updated. Mr. Nuñez awaited that, so the Council can be up to date, on attendance and many other policies.

There was no vote on this subject, while the City Council expressed that it wanted the City Attorney to come back with the revised Handbook.

8. Resolution for Censure Policy

City Attorney Diaz presented a proposed policy for censure, and a Resolution to adopt the policy. It could allow City Council to be able to reprimand one member for specified conduct, and he described the proposed process.

Councilmember Phan advocated to not move forward with this policy. Put aside conflict. The policy opened up a chance for gridlock and not working together. He agreed with a need for accountability on the part of all Councilmembers and to have constructive dialogue.

Councilmember Nuñez agreed with much of what his colleague had talked about. He'd grown a lot in seven months' time on the Council. Things changed all the time and he wanted to have a policy in place as a needed tool.

Vice Mayor Grilli listened to her colleague's concerns. This was not to deal with conflict between Councilmembers, it was to deal with violation of law or policy by a member.

Mayor Tran was honored to be serving as Mayor of the City, and working for all residents and working with staff. He would not support this regulation because he felt supporting it

would not help specific residents. He was here to do the people's work for residents. If someone crossed the line, then law enforcement would get involved, if needed.

Councilmember Nuñez's motion to adopt a resolution for a censure policy died for lack of a second and thus no vote was taken.

REPORTS

11. Mayor's proposal on massage establishments

Mayor Tran sought stricter regulation of massage establishments in the City. He proposed reduced hours of operation such as closing at 9:00 PM (not 10:00 PM as currently allowed), tougher permit rules, more severe consequences for violations and for further police review. He mentioned the problem of human trafficking in Santa Clara County. The Mayor said he always thought of families first, especially those here for generations.

Vice Mayor Grilli did not want the community to think the City did not have strict enforcement of these places currently. So she asked the Police Chief of what was in place and he responded. The Chief affirmatively stated that all complaints were investigated in Milpitas. He felt the current ordinance on massage establishments could use updating, and to be improved by working with the City Attorney.

Mayor Tran thanked the Police Department for keeping everyone safe.

Councilmember Nuñez asked for clarification. He wondered if other types of businesses needed to look at this issue. The Police Chief said no, not in Milpitas.

Planning Director Brad Misner came forward describing the performance standards needed, in reply to a question about tea or coffee houses or other types of businesses.

Councilmember Nuñez asked if more police review would mean more costs. Chief Pangelinan replied yes. Councilmember Nuñez asked how many massage establishments were in Milpitas and the Chief replied he would have to check and get back to him.

Motion: to authorize more than four hours of staff time to return to Council with stricter regulations of massage establishments

Motion/Second: Vice Mayor Grilli/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

12. Mayor proposal on parking

Mayor Tran reported that he'd spent July visiting all the neighborhoods of Milpitas. One in particular made the most noise and that was regarding difficulty for residents parking their cars in The Pines. Most felt it was due to an influx of personal vehicles on streets there. The Mayor presented powerpoint slides and showed a video clip from recent television story on overcrowded parking in that neighborhood. Therefore, he made the proposal for permit parking for streets within 500 yards from Abel Street, at no cost to homeowners. Each home would get two or three permits, and these would be issued to each home via car registration address.

Vice Mayor Grilli thanked the Mayor for bringing this forward and asked staff to take a look at it. When BART opened, there would be a need for permit parking around the station. This opened the door for it. Also, enforcement mattered, with a need to have that to make the program work. She felt the Council should ask the Chief to come back with a parking enforcement plan.

Interim Police Chief Pangelinan said parking enforcement would be a lower priority. Time-enforced parking was more labor intensive, and maybe he could use non-sworn persons to conduct enforcement. Staff would be pleased to study it.

Councilmember Nuñez said the Mayor's idea was great and he wanted to have this brought back as a finished proposal. He would like an overall plan for the city, related to parking and other parts of the City must be considered. They must address the issue city-wide. He stated a need to hear back on the list of items to be reported to Council, to track this and complete tasks by a certain date.

Mayor Tran responded. He felt the issue was the City's for creating the problem at this neighborhood, due to Transit Area Specific Plan high density housing built nearby.

Councilmember Phan was uncertain on this proposal so it was worth looking into it at this time. He wondered if it could incorporate Mr. Nuñez's original request, and looking at an overall parking program for the City.

Interim City Engineer Greg Chung came up to address some of the items City Council requested. He detailed the study in The Pines and investigations that had been done twice in past year in The Pines. A permit program could be useful, but it would have to take into account the need for any guest parking.

Councilmember Nuñez said staff should address The Pines first, since that group of residents came to the City Council first. Council was still waiting for staff to come back with a report. The Mayor's plan was better than no plan or waiting for staff.

Motion: to approve the Mayor's proposal and authorize more than four hours of staff time to return to Council with a residential permit parking program for The Pines neighborhood

Motion/Second: Councilmember Nuñez/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

**13. Councilmember Nuñez -
Travel Policy**

Councilmember Nuñez asked if the City Council needed to look at process, when reviewing the dollar amount for the City Manager. Had anyone looked at process, he wondered, and he sought guidelines. Mr. Nuñez asked if the City Council should look at the existing Standard Operating Procedure (SOP) for travel (applicable to staff and Councilmembers). It may need review, he suggested.

Acting City Manager Pangelinan replied that staff would be happy to give it a comprehensive review, and report back to Council.

Vice Mayor Grilli thanked Councilmember Nuñez for bringing this forward. She asked about the regulation that stated no more than two Councilmembers should travel together to a training or conference. She asked about being accountable for their own spending.

Mr. Pangelinan said staff could provide that information, if not currently given to Councilmembers. Staff could report on where they were in their budgets, in order to monitor themselves.

Councilmember Phan urged the Council to be mindful of using City dollars. He asked if there were any restrictions on officeholder accounts in Milpitas. Mr. Phan described these as he understood they operated in other cities. He said it was something to look into.

Vice Mayor Grilli asked him why this was any different than campaigning and campaign funds. City Attorney Chris Diaz responded briefly about FPPC regulation of such committees and that this subject could be placed on a future agenda for discussion.

Mayor Tran would like to learn of other examples.

No vote on this topic was taken. Staff agreed to return to Council following review of the SOP on travel.

NEW BUSINESS

14. HOUSING AUTHORITY – request for loan commitment

Planning Director Brad Misner described a potential project by Resources for Community Development to be proposed and built for affordable apartments at 355 Sango Court. He described the development process and the request for a loan commitment by the developer for this future project. Staff agreed this type of housing was appropriate for the site.

Dan Hardy, Associate Director of Housing Development from RCD, addressed the City Council. He gave some history of his agency, which hoped to be one of the first projects in Santa Clara County to receive Measure A funds to build 100 new affordable homes.

Councilmember Nuñez clarified that the members were sitting as the Housing Authority for this item and the City Attorney confirmed that.

Councilmember Phan asked when staff would come back with this item. Mr. Misner replied staff would have an agreement with all the terms listed, at a later date.

Councilmember Nuñez asked if residents who would move there would be current Milpitas residents. Mr. Hardy responded that it could be up to the City Council, with conditions on the project.

Motion: to approve the request from Resources for Community Development and approve a \$150,000 predevelopment loan commitment from the Milpitas Housing Authority for a new development at 355 Sango Court in Milpitas

Motion/Second: Vice Mayor Grilli/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

15. City Manager Signing Authority

Finance Director Will Fuentes gave a background report on current and past Milpitas history on the amount of the City Manager's signing authority for financial matters. He also displayed survey results of comparisons to other Bay Area cities.

Mayor Tran noted that other cities were below the average signing authority. He thought it was minimizing risk to have a lower threshold.

Councilmember Nuñez thanked staff for a very interesting report. He asked if most contracts signed under \$20,000 were for teachers and contract classes. Recreation Director Renee Lorentzen responded on classes the department offered. She'd brought any contracts over \$20,000 in the past to the Council, but those were few. Mr. Nuñez asked about contracts that were for \$19,999 or just below, in the past. Those may need close attention and monitoring by staff.

Councilmember Nuñez noted that many of the contracts taken alone were not above the past limit, but when taken together could be over the limit. Was that reviewed to be sure they did not go over the limit? Mr. Fuentes replied yes. Mr. Nuñez noted that some of these things needed to come back, and reports quarterly should be date specific and not be lost. He wanted to bring that back.

Councilmember Phan felt it was about open governance for him. He did not really care what the limit was, while the main thing was that it's reported. A contract could go on the consent calendar or have a subcommittee that reviews these purchase orders. Reporting of these contracts was most important to him.

Councilmember Nuñez did not understand why all these contracts did not come to City Council for final authorization or ratification, after the City Manager signed off.

Mayor Tran supported Mr. Phan's recommendations.

City Attorney Chris Diaz said when contracts were signed, they could come back to Council. If there was a desire to change the monetary amount for the City Manager to be allowed to sign for, that could be placed on another agenda.

**18. Discuss Planning
Commission By-Laws**

Planning Director Brad Misner distributed a new copy of a red-lined version of proposed Planning Commission changes to its by-laws. He would go through all of those.

Mayor Tran asked about unexcused absences, changing from three to five. He wondered if that was right. Mr. Misner said yes, as one recommendation from the Planning Commissioners.

Councilmember Nuñez asked what was an "excused absence?" Mr. Misner responded, it was advance warning to staff that a person would not attend the scheduled meeting.

Councilmember Nuñez asked about the Planning Commission Subcommittee, and was it the one that looked at whether to have alcohol at the theater and staff replied yes. Mr. Nuñez wanted to know about required training of the Commissioners. Mr. Misner pointed to Section 6.09 in the By-Laws which addressed training.

Councilmember Grilli asked about resources available for sending Commissioners to training. Staff responded that was in the budget. Regarding unexcused absences, she felt there shouldn't be any of those and she was not in favor of increasing it (3 to 5).

Councilmember Phan asked if there were changes to compensation in the by-laws. Mr. Misner responded no. If compensation changes were sought, those would be in the Municipal Code first. Mr. Phan also asked about term limits, and thought they should have similar limits to the Councilmembers.

Mayor Tran supported Councilmember Phan's idea on Commission term limits.

No vote was taken, and the Planning Director agreed to bring back a new final copy of Planning Commission by-laws for adoption at the next Council meeting.

ORDINANCE

19. Ordinance No. 65.146

Building Official Keyvan Irannejad explained the reason per new state law requiring the proposed ordinance to adopt the state standards for Electric Vehicle charging stations. City of Milpitas had already been doing the state mandated steps.

Mayor Tran said comments were welcomed from the public.

Voltaire Montemayor, resident, said it was important to have these charging stations, as part of saving energy.

Next, City Attorney Diaz read aloud the title of Ordinance No. 65.146, "An Ordinance of the City Council of the City of Milpitas Adding Chapter 1.6 to Title II of the Milpitas Municipal Code Relating to Setting Forth Procedures for Expediting Permitting Processing for Electrical Vehicle Charging Systems."

(1) Motion: to waive the first reading beyond the title Ordinance No. 65.146, regarding electric vehicle charging stations

Motion/Second: Vice Mayor Grilli/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

(2) Motion: to introduce Ordinance No. 65.146

Motion/Second: Vice Mayor Grilli/Councilmember Phan

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

AGREEMENT

24. Agreement with Mobilitie Mayor Tran asked Information Services Director Mike Luu if there were four of these cell phone antennas going up on City property. Mr. Luu confirmed that they would be installed on existing light poles. The Mayor asked about any health risks to the public and Mr. Luu responded that there was a lot of documentation about this. Due to the height of the antennas, ground level and transmission, the effect was deemed irrelevant versus safe levels established by state government. He also described recent state legislation on this technology which would affect what municipalities could do in terms of regulating location and fees charged for the small cell antennas.

The Mayor wanted to know more about the health effects on residents, before he would vote on this.

Mr. Luu said a representative could attend the Council meeting in the future to explain the study done on these issues. The Mayor would like to receive that study.

Councilmember Nuñez supported what the Mayor had asked. He referred to a recent study from Princeton that showed such antennas did cause problems, so he was leery.

Councilmember Phan asked if Senate Bill 649 had passed and staff replied yes. Many cities opposed that regulation, in terms of taking power away from the cities. Mr. Luu explained fees the company would pay per antenna installed, annually, under the new legislation. Mr. Phan wanted to look at what additional benefit the City would get. If only \$1,500 per antenna was paid, then the City was subsidizing the company, Mr. Phan thought.

City Attorney Diaz responded that staff could bring this proposed agreement back to Council, with more information in response to questions asked at this meeting.

Councilmember Nuñez said to bring back where the installations would be in the City and what fees would be collected. Mr. Luu responded he could send out the report and information soon, and on August 15, he could bring back this request to approve the agreement.

No vote was taken on this item.

DEMAND

33. Pay Invoices for Pump Station Repair Councilmember Nuñez asked, since this project was coming out of the Capital Improvements Program list, was it added to the list for this year? Public Works Director Nina Hawk replied no. The pump station repairs had already been on the list and the project was not taken “out of order.”

Motion: to approve the following

1. Authorize the City Manager to approve payment in the amount of \$10,062.50 to Pump Repair Service Company from Capital Improvement Project No. 3710, Penitencia Station.
2. Authorize the City Manager to approve payment in the amount of \$6,788.43 to Peterson Power from the Utilities Operating Budget.

Motion/Second: Councilmember Nuñez/Councilmember Phan

Motion carried by a vote of:

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

REPORTS

None.

ADJOURNMENT

Mayor Tran adjourned the joint meeting at 1:18 AM on Wednesday, August 2, 2017.

The foregoing minutes were approved by Milpitas City Council on August 15, 2017.

Mary Lavelle
Milpitas City Clerk