

## MEETING MINUTES CITY OF MILPITAS

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, August 15, 2017  
**Time:** 5:00 PM Closed Session / 7:00 PM Open  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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### CALL TO ORDER

Vice Mayor Grilli called the joint meeting to order at 5:02 PM. City Clerk Mary Lavelle called the roll.

**PRESENT:** Vice Mayor Grilli, Councilmembers Barbadillo, Nuñez and Phan

**ABSENT:** Mayor Tran was absent for Closed Session and arrived for the start of 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 Attorney Chris Diaz said that the Mayor recused himself from Closed Session litigation items listed (e), (f) and (g) on the agenda.

City Council then convened in Open Session at 7:02 PM with all members present.

### ANNOUNCEMENT

City Attorney Chris Diaz announced that Council did not complete all items on the list, and would continue the Closed Session agenda following conclusion of the Open Session items on this date.

Mr. Diaz made the following announcement: the City Council voted 4–0, with the Mayor recusing himself, to give direction to the City Attorney and Acting City Manager to take the procedural steps necessary to allow the Council to consider terminating the City Manager’s Employment Agreement at the next scheduled Council meeting.

### PLEDGE

Girl Scouts Troop No. 61189 presented the flags and led pledge of allegiance. A representative described efforts for the troop’s upcoming Silver Luna Project on August 20, 2017, collecting personal supplies for women in need.

### INVOCATION

Vice Mayor Grilli invited Mr. Guy Haas, lay minister of the Sunnyhills United Methodist Church, to provide some history of the church. He then invited the Pastor to conduct the invocation prayer to start the meeting.

### PRESENTATIONS

Mayor Tran and City Councilmembers made the following presentations.

- Commended Boy Scout Hyrum Pascal Villanueva for his achievement of “Eagle Scout,” who was accompanied by his parents.
- Proclaimed National Payroll Week, September 4 – 8, 2017 which was accepted by representatives of Silicon Valley American Payroll Association as well as City employees from Human Resources and Finance Departments.
- Proclaimed City of Milpitas as an “Age-Friendly Community” accepted by Senior Advisory Commission Chair Barbara Ebright.
- Proclaimed August 26<sup>th</sup> as National Women’s Equality Day, accepted by Guadalupe Rodriguez of the Santa Clara County Commission on the Status of Women.
- Commended and thanked leaders of the recent National Night Out events held throughout Milpitas on Thursday, August 3, 2017.

- Commended staff, students and Milpitas Unified School District leaders for the Silicon Valley Math Institute guiding summer school math students over the summer.
- Recognized Pakistan Independence Day on August 14, 2017, presented to Mr. Syed Mohsin representing the Pakistani American Community Center.
- Recognized Indian Independence Day on August 15, 2017, presented to Milpitas representatives of the Association of Indo-Americans.
- Congratulated five local Milpitas women on 50 years of continuous friendship.

**PUBLIC FORUM**

Raymond Wong, a 27 year resident, wanted to talk about the MedEvac police vehicle (an agenda item). He would return later to comment on agenda item no. 10.

Robert Marini, resident, displayed a power point slide with Potable Water Demand Projection in a table. Then he showed a video on “leak detector” technology.

Carmen Montano, resident, said she really appreciated that the Mayor was giving opportunity to allow the Councilmembers to present proclamations and share in that process.

Liz Ainsworth, resident and representative of American Cancer Society’s Relay for Life, hoped that her group - after 19 years in Milpitas – would hit \$1.5 million in fundraising upon its 20<sup>th</sup> anniversary here next year. On Tuesday, August 26, the group would be out at Murphy Park to hold a kick-off for next year.

Voltaire Montemayor, resident, said the presentations were great. He suggested to coordinate with City of San Jose on flood prevention. Minimum wage increases affect small business survival.

**ANNOUNCEMENTS**

Acting City Manager Pangelinan made these announcements:

- (1) Report on Calaveras Road status – this week, work was ongoing for compaction, with a plan to open the road in October, paving would begin the following week, with notification given to residents in the area.
- (2) Report on clean energy program – the Community Choice Energy and a residential program would come to the City Council on September 19, 2017.
- (3) The City-wide newsletter “Connections” was issued in the first week of August and was sent out to the community. He thanked Economic Devevelopment staff Edesa Bitbadal and Daniel Degu. Connections was scheduled to be sent out to all households quarterly.
- (4) Staff would be putting together a calendar of items requested by Council and what date those would be returning, put into a priority order, with help from the City Clerk.

Councilmember Phan felt the proclamations on this evening’s agenda were very positive. However, he felt he must recognize something ugly: the events that happened in Charlottesville, VA over the weekend. He read aloud names of those who died, two law enforcement officers and one citizen. It was important to stand up to say hate groups were not welcome here.

Councilmember Nuñez announced that on Sunday night, the NAACP would host a prayer vigil in Milpitas, with information forthcoming the next day. A march at Google was also planned.

**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: Councilmember Nuñez/Councilmember Barbadillo

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

**CONSENT CALENDAR**

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

Councilmember Nuñez requested to remove item no. 5 (funding Veterans Commission lunch) from consent.

City Attorney Diaz recommended removal of agenda item no. 10 (MedEvac vehicle) for public comment. He stated there was a revised amendment for item no. 18 (Republic Services contract amendment), which was distributed earlier to the City Council.

Acting City Manager Steve Pangelinan commented on the Council Calendar, agenda item No. 1. He announced that three members of the City Council (Tran, Phan and Nuñez) would attend the League of California Cities annual conference in Sacramento on September 13 – 15, 2017. The Council was requested to designate a voting delegate and an alternate. Mayor Tran suggested Councilmember Phan as the voting delegate with Councilmember Nuñez as alternate, and the City Council agreed.

Motion/Second: Councilmember Nuñez/Councilmember Grilli

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

- \* 1. Calendars Received calendars for August and September, as discussed above (adding League of California annual conference September 13 – 15, 2017).
- \* 2. Meeting Minutes Approved City Council meeting minutes of August 1, 2017.
- \* 4. County PAB Appointment Appointed Councilmember Nuñez to serve on the County Expressway Plan 2040 Policy Advisory Board.
- \* 7. Fee Waiver Waived the \$60 fee to rent Augustine Park for the Girl Scouts Troop #61156 for its Silver Luna Project scheduled on August 20, 2017.
- \* 9. Adopt Ordinance Waived the second reading and adopted Ordinance No. 65.146 related to Electric Vehicle charging stations.
- \* 11. Resolution
  1. Adopted Resolution No. 8694 awarding a contract to Alaniz Construction, Inc. for the Park Access Improvement and Resurfacing, Project No. 5105, and Americans with Disabilities Act Curb Ramp Transition Program, Project No. 4283, in the amount of \$697,931.50.
  2. Authorized the City Engineer to execute contract change orders for the project in an aggregate amount not to exceed the construction contingency of \$100,000.
- \* 13. Amendment No. 1 Approved Amendment No. 1 and authorized the City Manager to execute the amendment with MuniServices LLC to decrease contingency rate for Sales and Use Tax Audit (SUTA) services from 25% to 15% for the first \$2 million in sales, transactions and use tax recovered; 10% for recoveries \$2 million to \$3 million; and 5% on recoveries over \$3 million.
- \* 14. Contract with Insight Approved and authorized the City Manager to execute a contract with Insight Public Sector for Avolve Software Corporation's ProjectDox Software in the amount of \$334,656.20 and \$6,000 for travel expenses to assist staff with implementation of the software for a total of \$340,656.20.
- \* 15. Amendment No. 1 Approved Amendment No. 1 to the Agreement with Page & Turnbull to increase compensation in the additional amount of \$197,485 for Alviso Adobe Renovation, Phase 5, Project No. 5055.
- \* 16. Amendment No. 3 Approved Amendment No. 3 and authorized the City Manager to execute the amendment with Matthew W. Adams, an individual doing business as All-Line Uniform Sales to

increase the total amount of compensation by \$18,000 to accommodate increases in Public Works staffing.

- \*17. Revised JPA for NOVA      Approved the revised Joint Exercise of Powers Agreement: Workforce Development Services for the North Valley (NOVA) Job Training Consortium - created through a Joint Exercise of Powers Agreement – to newly include the addition of San Mateo County.
- \*18. Amend Agreement with Republic Services      Approved the revised amendment to the franchise agreement with Republic Services for continued solid waste collection services through November 30, 2017, on the same terms and conditions of the existing franchise agreement.

## **UNFINISHED BUSINESS**

- 3. Agreement with Mobilitie**      Information Services Director Mike Luu presented a report along with two representatives from Mobilitie and were ready to answer any questions from the Council. Eight locations were requested for siting small cell antennas in Milpitas, with four of those already approved at the Planning Commission along with four others Mobilitie was seeking right-of-way permits for. He provided links to information about these type of antennas.

Councilmember Nuñez asked if the sites were close to schools. He thought that \$1500 per site did not seem reason enough to allow installation of the devices, and wondered about the level of any harm. Mr. Luu and City Attorney Diaz responded.

Councilmember Phan asked the City Attorney if it was possible for Council to have a resolution in opposition to the state legislation (SB649), that Mr. Luu had described and the attorney replied yes.

The Mobilitie representative stated the rate agreed to would be grandfathered in, and his company would pay that amount when the agreement was approved.

Mayor Tran asked why the selected locations were proposed, when there were many light poles all over the City. Mobilitie said its client, Sprint, was trying to improve service where it was currently not ideal.

Mayor Tran requested a map of existing antennas that carry the same purpose and frequency, if possible. Mr. Luu replied that on city property there were no small cells installed, while there were two antenna poles at Fire Station 1.

Councilmember Phan asked the City Attorney, if Senate Bill 649 was adopted in the state legislature, what the maximum amount that the City could approve was. The answer was \$250. Mr. Phan thought the fee needed to be a lot more than that and the City should get more benefits.

Councilmember Nuñez calculated roughly \$8000 per year for the eight sites would be the total revenue, and felt that wasn't much. He agreed the Council should send opposition to Sacramento on that bill and join with other cities on that effort. He opposed the agreement.

Councilmember Barbadillo had looked up SB649 and the issue of co-location. He asked if the burden was looked at, if approved, upon city existing poles. Mr. Luu responded about the potential 350 wifi antennas on light poles around the city, similar in size. Mr. Barbadillo asked what if other companies came to Milpitas asking to locate antennas on city property.

Councilmember Phan asked staff if the City had the technical capacity to set up its own antennas and set up with cell phone companies directly. Mr. Luu said his staff was working on a current project regarding wifi service, in that arena, but not small cell antennas as in this non-exclusive agreement. He reported that the City would have until January 2018 to secure the current fee per antenna annual amount in the agreement.

Mayor Tran said he needed more information.

David Down from Mobilitie said his company was not unique, as small cells were becoming much more common versus older style large antennas. It was important for communities to move to this newer, lighter technology.

Mayor Tran wanted to know the profit margin on each unit. Mr. Down replied that would be proprietary. The Mayor supported the Council taking a stand against that Senate Bill.

Mayor Tran invited public comments.

Robert Marini, resident, did not understand some of the City Council's argument or objection. It was an exclusive contract for one company per pole. He urged Council not to accept a contract for no money at all, when it could get \$18,000 per year.

Councilmember Barbadillo asked Mr. Luu if this item went before the Telecommunications Commission. Mr. Luu responded no, it went to Planning Commission as required for a Conditional Use Permit. Mr. Barbadillo said it should have gone to Telecommunications.

Mobilitie's David Down detailed the process to date and said he could come back with more details.

Councilmember Nuñez suggested to move this item over to the next meeting. He wanted to know what other cities around Milpitas were doing, what was the charge per pole, which ones had signed up with a lobbyist, and wanted to know if the Telecommunications Commission was meeting before the next City Council meeting. That was his motion.

Vice Mayor Grilli said she would second that motion, and agreed the subject should go before the Telecommunications Commission. Mr. Luu replied that staff could add this matter to the Commission meeting scheduled for the following Monday.

Mayor Tran said the Council, and he, simply wanted more information.

Motion: to move this topic and approval of an agreement to the next meeting agenda (on September 5, 2017) and directed staff to return with information as requested (above)

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

## REPORTS

### 5. Veterans Lunch

Recreation Staff Dale Flunoy noted that the Chair and Vice Chair of the Milpitas Veterans Commission were present to make the request for funding the 2<sup>nd</sup> annual Veterans Luncheon in November.

Mayor Tran said he looked forward to supporting this event.

Councilmember Nuñez was supportive of the event and had some questions. He wished to know the total amount for Community Promotions Unallocated budget. He wanted to know what else would come out of that budget and the true number of the total in that account line. He commented about amounts for the Chamber's International BBQ festival.

Vice Mayor Grilli remarked that if it was known as an annual event, then it should be included in the Commission's budget. She responded to Mr. Nuñez about his interest.

Mayor Tran felt there was a need to do more for Milpitas veterans.

Mr. Nuñez commented that the luncheon did not really fall into “Community Promotions Unallocated” as a description. It could be better planned in next year’s budget appropriately.

Motion: to approve the transfer of \$1,800 from the City Council Unallocated Community Promotions funds to Recreation Services Special Events operating budget in the FY 2017-18 budget for the second Annual Veterans Commission - Veterans appreciation lunch on November 18, 2017

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

Veterans Commission Chair Art Ebricht thanked the City Council for supporting veterans.

## **NEW BUSINESS**

### **6. Classification and Compensation Study**

Human Resources Director Tina Murphy explained the process for the completion of the classification and compensation study by the consultant Ralph Andersen and Associates. She described preliminary compensation survey data, recently received.

Councilmember Phan asked if the City’s bargaining unit members had reason to comment on this item. He asked any union representatives to come to the podium.

Engineering employee Leslie Stobbe, shop steward for the mid-management unit, was pleased to see this study done. She and the employees were pleased that the Human Resources Director was very open about the process and she came to answer employees’ questions about the study. Ms. Stobbe was interested in how the compensation would be studied. The LIUNA local was present and working closely with Human Resources.

Councilmember Phan responded that Ms. Stobbe’s comments were educational. In the future, the City should have bargaining groups given the opportunity to speak.

Upon receiving this oral report from the Human Resources Director on the City-wide Classification and Compensation Study, no vote taken.

## **ORDINANCE**

### **8. Ordinance No. 293**

Engineering Public Information Specialist Leslie Stobbe presented the ordinance for a second reading and adoption to restrict use of EPS foam food ware in Milpitas. She reviewed actions taken to date including results of a survey given to Milpitas businesses about the implementation of this new ordinance. She described requirements of stormwater permit long-term trash reduction plan, with a 70% reduction required by July 1 this year.

Mayor Tran commented favorably on the ordinance and complimented staff on its preparation and presentation.

Councilmember Nuñez appreciated all the additional information provided by staff, as requested at a prior meeting on this topic. He was particularly interested in the small trash capture devices to be installed in drains, as displayed and explained by Ms. Stobbe.

Vice Mayor Grilli thanked Mr. Nuñez for delaying this topic to get the additional work done and information provided. She recommended to Councilmembers to ask Public Works Director Nina Hawk to take them on a tour to see the devices in action.

Councilmember Barbadillo addressed the nationwide effort on banning EPS foam. He asked many questions to which staff responded.

Ordinance No. 293 adding Chapter 8 of Title III of the Milpitas Municipal Code relating to the prohibition of expanded polystyrene (EPS) foam food service ware was then adopted.

Motion: to waive the second reading and adopt Ordinance No. 293 regarding restrictions on the use of EPS foam food ware

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

## RESOLUTIONS

### 10. Resolution – BearCat MedEvac vehicle

Purchasing Agent Chris Schroeder and Police Captain Henry Kwong were both available to answer questions about the City’s purchase of the new MedEvac vehicle for the SWAT team of the Milpitas Police Department. Captain Kwong explained details, design and capacity of the vehicle to be used in specified circumstances by the SWAT.

Next, Mayor Tran invited public comments.

Raymond Wong, 27 year resident of Milpitas, wondered if Council considered costs for maintaining such a vehicle, as one must do when purchasing a new car. He was concerned about those substantial costs.

Voltaire Montemayor, resident, said teamwork would be in this vehicle, with the power of Police and Fire, with military equipment, to hit the spot, and he agreed with the purchase.

Alysson MacDonald, resident, learned about this vehicle purchase in the Milpitas Post and she had concerns about it. The police needed a protocol for conditions for deployment, with public input. She understood that police were already borrowing such a vehicle currently. She questioned the costs, asking if costs for life saving equipment was included in the purchase, or was the capability for that an additional cost.

Mr. Schroeder said life support equipment was included in the purchase price. Maintenance would be done in-house at the city, with a Ford truck chassis type vehicle, so Fleet Maintenance was staff available to do repair work or send it out if under warranty.

Captain Kwong responded to additional questions posed by the speakers.

Councilmember Nuñez noted that Council asked for a protocol to be developed, before the vehicle was purchased. The community needed to be involved in that process, he stated.

Police Chief Pangelinan replied to the Councilmember and noted that staff could come back to City Council with that policy (or protocol) in the future. Captain Kwong had described what was done in past to call for use of a MedEvac vehicle (when borrowed from neighboring police agencies).

Councilmember Phan asked staff about borrowing such vehicles from other agencies. He asked if the City paid for that service and Mr. Kwong said no, it was part of mutual aid with the other police departments. Mr. Phan asked if the vehicle could be labeled as a medical/ rescue vehicle. He agreed with a need for community input on crafting policy.

Chief Pangelinan commented further regarding the new vehicle, its use, community input, and policy development.

Vice Mayor Grilli supported this action as an investment in the community’s safety.

Councilmember Barbadillo asked if there were any other choices besides this specific vehicle. Mr. Schroeder said there were 22 manufacturers that produced armored vehicles,

but this was only one that met the city's identified criteria. The purchase met the GSA's Best Customer Pricing for this type of vehicle.

Mayor Tran commended the Police Department and the community's trust with the police.

Motion: to adopt Resolution No. 8693 authorizing the sole source purchase of a Lenco BearCat MedEvac Emergency Rescue Vehicle for the Milpitas Police Department for an amount not to exceed \$382,308.51

Motion/Second: Vice Mayor Grilli/Councilmember Phan

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

Councilmember Nuñez asked for the Council to convene into Closed Session next and to defer Item No. 12 to the next meeting.

At 11:44 PM, the City Council returned to Closed Session to discussion litigation Item (b) listed on the agenda. They came out from Closed Session returning to the dais at 12:16 AM.

City Attorney Chris Diaz announced there was no reportable action out of Closed Session.

**12. Planning Commission  
By-Laws**

Item was not heard and would be continued.

**REPORTS of MAYOR &  
COUNCILMEMBERS**

Councilmember Nuñez stated he'd received an invitation from Lions Club for August 27, when the Club would have its installation from 11 AM to 2 PM at Embassy Suites Hotel.

**ADJOURNMENT**

Mayor Tran adjourned the meeting at 12:18 AM on Wednesday, August 16, 2017 in memory of Jimmy Chamoures, a long-time member of the community who had recently passed away.

**The foregoing minutes were approved by Milpitas City Council on September 5, 2017.**

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**Mary Lavelle  
Milpitas City Clerk**