

## MEETING MINUTES CITY OF MILPITAS

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, September 19, 2017  
**Time:** 5:00 PM Closed Session (scheduled time)  
7:00 PM Open Session  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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While the City Council meeting was noticed to start at 5:00 PM for Closed Session on the posted agenda, the City Clerk announced at 5:00 that the Council would actually begin at 6:00 PM.

### CALL TO ORDER

Mayor Tran called the joint meeting to order at 6:00 PM. City Clerk Mary Lavelle called the roll.

**PRESENT:** Mayor Tran, Vice Mayor Grilli and Councilmember Nuñez

**ABSENT:** Councilmembers Barbadillo and Phan were absent at roll call. Both arrived shortly thereafter in the Closed 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 Mayor Tran would recuse himself on Closed Session agenda items listed as (c) through (g).

City Council then convened in Open Session at 7:14 PM with all members present.

### ANNOUNCEMENT

The City Attorney stated there was no announcement out of Closed Session. He commented on the need to re-appoint the Chief of Police as the Acting City Manager, with additional action to be taken at a future meeting. Therefore, he was solely serving in the role of Interim Police Chief at this meeting.

### PLEDGE

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

### INVOCATION

Councilmember Barbadillo offered a prayer to start the meeting.

### PRESENTATIONS

Vice Mayor Grilli presented a plaque to Mayor Tran for his recent service to those in Texas and Florida as a member of 129<sup>th</sup> unit Air National Guard. Mr. Tran thanked the City Council.

Mayor Tran presented commendations and exchanged gifts with visitors from the City of Dagupan in the Philippines. Mayor Belen Fernandez came to the podium for the exchange of keys to the cities along with the Milpitas Mayor. A brief reception in the city hall lobby rotunda followed. At 8:04 PM, the City Council meeting resumed.

### PUBLIC FORUM

Dan Bobay, Milpitas Unified School District Board President, read a letter he'd sent to the Mayor and City Council. Student disciplinary action took place for middle school students at the high school. Anti-bullying information was available on the website.

Voltaire Montemayor, Milpitas resident, said the City of Dagupan was like the Gulf of Mexico, as a sister city to Milpitas. He wished to address homelessness in the best city in the world, Milpitas.

Liz Ainsworth and Tamara Overecker, Relay for Life Chair, presented a plaque from the American Cancer Society Relay for Life event to the City and Recreation Services Director Renee Lorentzen for all the support from the city for the annual fundraising event held in June.

Hang Nguyen, Sunnyhills Apartments resident, spoke to the Council in Vietnamese language, came as a representative of the elders and those who can't walk here. They did not want to move out from the apartments and needed City support to stay living there.

Jenny Wilson was called to the podium, but Charlene Lee came up then and spoke to the City Council. She commented on police service and the Chief of Police and City Clerk.

Tom Clavel, Milpitas resident, spoke about the City Manager recruitment and asked for an open and fair process to hire a new one, not behind closed doors.

A man spoke in Vietnamese language to the Council regarding Sunnyhills Apartments. They would like help from the City Council to stay there, and did not want to be homeless. He spoke on behalf of some of his friends who also lived there.

William Au, member of the renter association at Sunnyhills, would like to hear the latest status of the situation and the landlord's intention. Residents did not want to be moved out from their apartments, where low income people lived. They needed support of the Council.

Mayor Tran offered his city phone number for residents to call, 408-586-3029.

Rosalinda Moran, a resident, spoke about bullying at Milpitas High School and referred to an incident discussed earlier by the School Board President. Her friend spoke on her behalf. It was high school girls, not middle school.

Councilmember Nuñez noted this happened on school grounds. Someone was arrested so the Police Department was involved (mother had spoken to the Chief). He advised her to work with school district staff and continue talking with police, to make sure all were safe in the community.

Thi Van Pham, Sunnyhills resident, spoke in Vietnamese language to the Council, about the apartment complex, and really hoped City Council would intervene so he could stay and not be homeless.

Hang Do, Sunnyhills apartment renter, spoke of the crisis and representing the tenants there. She was concerned and needed the Council's help, and referred to a letter received from Supervisor Dave Cortese sent to the Council.

Quyen La, Sunnyhills apartments, spoke on behalf of tenants, and continued to seek City help with the landlord and situation with Section 8 residents there. They needed help from the City and did not want to become homeless.

Tuong Ngo, elderly resident of Sunnyhills, addressed the Council in Vietnamese language, had not been able to sleep lately. They wanted city help working with the landlord, so they could continue to live at the apartments and not become homeless.

Guy Haas, Milpitas resident, noticed graffiti at the wall in The Pines neighborhood. He reported it in the morning and by the afternoon it was gone. The Mayor complimented the Public Works Department for its effort.

Robert Marini, Milpitas resident, spoke about water and water rates, and the Task Force Report coming in October to the City Council. He commented on the use of and provision of recycled water and lack of savings.

Rob Means, 1421 Yellowstone resident, commented on Rupert Murdoch, his ownership of The Wall St. Journal and a letter to that paper's editorial board from California Governor Jerry Brown.

Steve Sedell, Milpitas resident, referred to a Councilmember's comment about contractors coming to the city to complete phase I of a project, and then leaving some sections that were not done or selling those off. He wondered if it was possible for projects done in stages, if there could be required completion bonds to secure getting those done.

**ANNOUNCEMENTS**

Councilmember Nuñez announced, that on this date, he'd spent half the day in San Francisco with Economic Development staff. He spoke highly of Economic Development Director Edesa Bitbadal and Economic Development Specialist Daniel Degu, representing Milpitas, at a "BizNow" event. Mr. Nuñez commended them on their presentation about the City of Milpitas. The previous Saturday, he and the Mayor went through the Fire Department training for elected officials, and gained new admiration for the firefighters and Mayor Tran's abilities.

Mayor Tran thanked the Fire Department's Office of Emergency Services and fire and police staff for practicing with the recent emergency drill with City staff to get ready for emergencies.

**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: 5  
NOES: 0

**CONSENT CALENDAR**

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

Regarding agenda item no. 5, City Attorney Chris Diaz read aloud the revised recommendation (as noted below).

Councilmember Nuñez requested to remove agenda items no. 4 (donation request), no. 7 (amendment to West Yost agreement), and no. 8 (amendment - Common Interest Group) from the consent calendar.

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

Councilmember Phan requested to move items no. 12 and no. 13 to the front of the agenda and the Mayor supported that.

Upon motion by Councilmember Nuñez, seconded by Vice Mayor Grilli, the Council voted 5 - 0 to do as requested in the order of agenda items. Mr. Diaz recommended to hear regular agenda items after that, and then consent calendar items that were removed for discussion.

**\*1. Council Calendar**

Accepted City Council calendars for September and October 2017, with two additions noted by the City Clerk: 1) Special City Council meeting on Wednesday, October 18 for a report from the Citizens Task Force on Water Rates; and, 2) City Council Subcommittee on marijuana would meet on Monday, October 9 at 6:00 PM.

**\*2. Meeting Minutes**

Approved City Council meeting minutes of September 5 and 11, 2017.

**\*3. Fee Waiver**

Approved a fee waiver for Sunnyhills Neighborhood Association \$430 in city fees for Planning (\$250) and Recreation (\$180) fees for the Sunnyhills Halloween Neighborhood Watch Event scheduled on Saturday, October 28, 2017.

**4. Donation request**

Councilmember Nuñez asked questions to staff regarding the request for a donation versus other requests for fee waivers he'd seen before. He wanted to understand why this was permitted and the City Clerk responded to him.

Motion: to approve a \$500 donation to Korean Language and Culture Foundation non-profit group for its Hangeul Day celebration on October 7, 2017 at Milpitas Library

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

\*5. Agreement with UniFirst Approved an agreement with UniFirst Corporation and authorized the City Manager to execute it, to provide Uniform, Floor Mat, Towel and Other Linen and Laundry Services for the City of Milpitas annually not to exceed \$62,579.40 and a total agreement amount not to exceed \$312,897; and, authorized the Purchasing Agent to extend the term of the agreement annually for each of the four option years with price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.

\*6. Agreement for Stormwater Maintenance Authorized the City Manager to execute the Storm Management Facilities Operation and Maintenance Agreement for The McCarthy Ranch, LP (McCarthy Creekside).

7. Amendment to Agreement with West Yost Associates Acting City Engineer Greg Chung came to the podium to answer questions.

Councilmember Nuñez asked the Human Resources Director about the recruitment efforts and status of the City Engineer position. Human Resources Director Tina Murphy described the much wider spread of advertising for this position specifically, such as via ICMA and other outlets. The city was seeking more applicants than the current pool before moving to interviews, and it was difficult to fill this type of position in the current market.

Councilmember Nuñez urged her to recruit differently, as required to get this position filled. Ms. Murphy provided some history.

Motion: to approve Amendment No. 4 to the Agreement with West Yost Associates, Inc. to extend the term of the agreement from September 30, 2017 to December 31, 2017

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

8. Amendment to Agreement for Common Interest Group Councilmember Nuñez believed this item did not meet the definition of what goes on consent. This matter should not be on consent. The public should see it and the Council should discuss such a major expenditure. The City should not “hide” it under consent.

Motion: to approve Amendment No. 3 with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3, and Burbank Sanitary District Cost Sharing Agreement for the Common Interest Group in an amount of \$980,000 for a total contract amount not-to-exceed \$1,400,000 and direct the City Manager to execute the amendment in a form approved by the City Attorney

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

## **PUBLIC HEARING**

9. Project at 1992 Tarob Ct. This item was heard after completion of items no. 12 and no. 13, starting at 10:21 PM.

Planning Director Brad Misner introduced the project and plans for residential building with zone and map changes needed to allow the proposed development at four addresses, including 1992 Tarob Ct. in the Transit Area. He gave some history of the site, and actions taken to

Planning Commission for this development project near the new BART station. He discussed the Economic Impact Study's results, including the reduction of 140,000 square feet of commercial/industrial space and loss of some jobs. Land use changes would be positive overall.

He described the specific land use application and proposal for the 1992 Tarob Ct. site specifically for townhomes, near the Milpitas BART station. \$232,444 was offered by the developer to go into the affordable housing fund. No mitigations per CEQA were needed.

City Attorney Diaz suggested to City Council to first ask clarifying questions to the Planning Director, open the public hearing to hear first from the applicant, and then the public comments. After that, the City Council could make motions.

Mr. Misner responded to Councilmember Nuñez about the purpose of a future study session. Mr. Nuñez asked about past policy adopted, and about not changing land use until more of the Transit Area Specific Plan was built out.

Councilmember Barbadillo asked about the order of the recommendations, suggesting maybe the study session should be first. Mr. Misner and Mr. Diaz responded to him further.

Mayor Tran opened the public hearing, inviting the applicant to speak first.

Leah Beniston, representative of The True Life Companies, described the three continuous parcels at 1980 and 1992 Tarob Ct, and 551 Lundy Place, each with distinct land owners. 53 residential units were proposed for new townhomes on the property. She noted that the Planning Commission recommended the City Council approve the project and related actions.

Steve Sedell, Milpitas resident, said he'd spoken consistently of conserving industrial land throughout the city to accommodate industries of the future. Existing issues with parking had not panned out as planned in the Transit Area. Currently, there was not enough parking in that section of Milpitas. This plan to convert land use will not bring jobs to Milpitas.

Voltaire Montemayor, resident, believed there was more positive impact for this project.

Motion: to close the public hearing, following two speakers

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

City Attorney Diaz requested the City Council to reveal any ex parte communications or visits to the site by Councilmembers:

- Councilmember Phan: met with consultant Bob Livengood
- Councilmember Barbadillo: none
- Councilmember Nuñez: one phone call from Bob Livengood
- Vice Mayor Grilli: met with the applicant about one year ago; and, the previous Friday, she visited the site by herself.
- Mayor Tran: met with applicant six months ago and had contact with Bob Livengood.

Councilmember Nuñez asked the Planning Director how the street looked currently and also on the San Jose side. Mr. Misner asked staff to pull that map up on the overhead screen. Mr. Nuñez asked further questions and details about the project and land layout.

Councilmember Phan inquired about affordable housing and whether this project was for that purpose. Staff replied, no, it would be market rate but the developer would pay more into that fund. He said the Council had prioritized affordable housing and would more likely support the project if it was that. He was concerned about the industrial land amount in the TASP and this was the only available industrial land in that area.

Mayor Tran asked if City staff had checked in with those industrial parcels across the street, and if the project was environmentally safe. Mr. Misner said staff would follow up on that, if the project went forward. The City had not heard from City of San Jose to date.

Councilmember Nuñez asked Mr. Misner if he agreed with the dollar figure amounts shown on a slide presented by the developer's representative Ms. Beniston. \$457,804 would come to the City if all four parcels were built out and the land use was changed. Mr. Nuñez asked staff for further explanation, and that amount was confirmed.

Vice Mayor Grilli visited the site last week, and upon visiting, she believed the project made sense. She asked if there any were concerns of the Planning Commission. Mr. Misner said the Commission simply voted to recommend the project to Council, with no objections or changes.

Councilmember Nuñez asked about dollars and wanted to know about public art, and why the affordable housing amount was \$600,000.

City Attorney Diaz summarized what was being asked of City Council, and it was at their discretion. He identified the "threshold" question in terms of the General Plan change land use, and the land's current designation.

Mayor Tran wanted to request to move this project vote to a future date, for more deliberation to come to a clear decision. He asked the applicant to come forward. Ms. Beniston replied to him that her company was flexible. If the Council had additional concerns or questions to answer, she could be open to pushing this decision out.

Councilmember Nuñez asked move it to the next meeting, in October. He sought more understanding of what was on the money list displayed earlier at the meeting and he had additional questions. He would like to wait two weeks for a decision to be made

Motion: to move all actions recommended for this proposed project (1992 Tarob Ct. et al.) to the first City Council meeting in October and to re-open the public hearing, keeping it open until October 3, 2017

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

## **NEW BUSINESS**

### **11. CAPER FY 2016-17**

Planning Director Brad Misner explained the Consolidated Annual Performance Evaluation Report which was the tool for evaluating the Community Development Block Grantees' performance. He detailed briefly the achievements of the funded agencies serving those in need in Milpitas.

Mayor Tran remarked that some agencies did not meet established goals. Would those be funded again in the next cycle, he inquired. Mr. Misner responded how the City Council could prioritize in future years. Mayor Tran felt that Next Door Solutions was very important to fund.

Councilmember Barbadillo requested, the next time the funding was brought forward, that this CAPER be attached to the next set of recommendations. Staff replied it was a timing issue that made that challenging.

Councilmember Nuñez responded that staff should do a short matrix of services within the City and notice where any agency was short. Then, staff could display for the Council what was done to meet goals and the funding's impact.

Motion: to accept the staff report and approve the CAPER for FY 2016-17, regarding Community Development Block Grant funds

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

**12. SVO's silicon valley  
IDEA**

Councilmember Phan introduced Mr. Eddie Truong, who said he was speaking on behalf of Derrick Seaver, Chief Executive Officer of the Silicon Valley Organization. He talked about regional branding, regional economy, and working together with companies and municipalities to increase regional growth and economic opportunities. He was the Director of Public Policy and described the SVO's IDEA project.

Mayor Tran said the Council could also ask the Economic Development Director questions after the discussion. He asked which other cities were invested and the SVO rep. replied the cities of San Jose and Santa Clara, to date.

Vice Mayor Grilli asked him what the partnership would do relative to the Milpitas Chamber of Commerce. Mr. Truong said he'd long worked with all the chambers in the area and partnering. SVO was not in competition with local chambers.

Councilmember Nuñez spoke to Economic Development Director Edesa Bitbadal. His own non-profit was a member of SVO, and now he was interested in her vision on how this would work for the City of Milpitas. Ms. Bitbadal reported she'd had some conversations with SVO staff and explained the value of regional promotion.

Councilmember Barbadillo asked if he had any other partnerships to date and Mr. Truong mentioned San Jose and Santa Clara with ongoing conversations with other cities.

Councilmember Phan felt the City Council could provide direction to permit SVO to begin a conversation with Economic Development staff at the City, for ongoing dialogue with a more detailed proposal to come later. He saw room for SVO to supplement the city's efforts in economic development. More international partnerships could be possible.

Councilmember Nuñez wanted to hear from the Milpitas Chamber on how it felt about this proposal. Ms. Liz Ainsworth came up to the podium and was pleased that the City Council was considering this proposal (first termed "Ready" in the past). She said local Chambers were involved for a while in this type of regional work, and referred to success around Austin, TX.

Vice Mayor Grilli thanked the Chamber for sharing thoughts. She was intrigued by the idea of partnership and wanted to know what the financial investment would be to start it, at a public meeting near the beginning of this process. Ms. Bitbadal said if there was any financial commitment requested of the City, staff would bring that back to City Council for its approval and appropriation.

Councilmember Barbadillo asked, as a ballpark figure, what would this effort cost the City. Mr. Truong said it would be determined based on initiatives the City joined in on.

Mayor Tran and Council thanked him for his report and to keep the conversation going.

**13. PACE**

Economic Development Director Edesa Bitbadal described Property Assessed Clean Energy (PACE) programs. Experts from four provider companies were present to answer questions from the Council. These companies provided loans for renewable energy and seismic energy retrofits for homeowners. Financing was provided to property owners for these home improvements, and the loans stayed with the property. CaliforniaFIRST was the only provider currently authorized in Milpitas. More were eager to join the marketplace here. She described terms of the programs.

Robert Bendorff, of the HERO financing program, thanked the Mayor for his military service first. He was ready to answer any questions, stating his company was available in more than 400 communities.

Councilmember Phan asked to hear from the other PACE providers.

James Hammel, of the CA statewide development authority that operates an open PACE program with cities and counties, the California FIRST program that was in Milpitas presently.

Emily Goodwin from Ygrene, a PACE program in California, described many ways PACE could be used as a tool for property owners. It was a competitive market to have multiple providers.

Christine Padilla from another financing company spoke of the value of job creation with these programs.

Mike Ballma, from a non-profit solar organization based in Milpitas, provided solar installations, some of which were financed through PACE programs, so he really appreciated these programs.

Mayor Tran asked for speakers from the audience. Voltaire Montemayor spoke to the Council.

Ms. Bitbadal reported that staff would come back with a resolution to move forward on allowing other providers of PACE programs in Milpitas.

Councilmember Barbadillo spoke favorably.

Councilmember Nuñez asked if any homeowners had asked for this. He sought information on how to respond with numbers that helped in meeting AB32 goals and the City's Climate Action Plan. The representative from HERO gave a handout in response.

Vice Mayor Grilli wanted to review options. She had talked to the PACE providers and had heard from residents who would like this financing resource. Residents would take advantage of these programs, along with a good consumer protection option.

Councilmember Phan asked about the Association of Bay Area Government's involvement. One of the companies described how his program worked closely with ABAG on a regional effort. What occurred here in the Bay Area was similar to other PACE programs in California.

Councilmember Barbadillo noted that since some programs were longer term, he wondered about the warranty for homeowners.

Motion: to accept the staff report and direct staff to implement Option 1 to bring back to the Council more on Property Assessed Clean Energy (PACE) program opportunities in the near future

Motion/Second: Vice Mayor Grilli/Councilmember Phan

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

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| 14. Community Choice Energy | This topic would come back to the City Council at the second meeting in October. |
| 15. City Budget Process     | This item was not heard and was continued to the next meeting.                   |
| 16. List for City Council   | This item was not heard and was continued to the next meeting.                   |

#### **ORDINANCE**

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| 17. Purchasing Authority of City Manager | This item was not heard and was continued to the next meeting. |
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**REPORTS of MAYOR &  
COUNCILMEMBERS**

None.

**ADJOURNMENT**

Mayor Tran adjourned the City Council meeting at 12:05 AM on Wednesday, September 20, 2017 AM.

**The foregoing minutes were approved by Milpitas City Council on October 3, 2017.**

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**Mary Lavelle  
Milpitas City Clerk**