

**MEETING MINUTES  
CITY OF MILPITAS**

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, September 18, 2018  
**Time:** 5:30 PM Closed Session  
7:00 PM Open Session  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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**CALL TO ORDER** Mayor Tran called the joint meeting to order at 5:31 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. Councilmember Phan arrived in Closed Session. Councilmember Barbadillo was present at the start of Open Session.

**CLOSED SESSION** City Council convened in Closed Session to discuss litigation and matters listed on the agenda.

**ANNOUNCEMENT** City Attorney Chris Diaz stated that there was no reportable action out of Closed Session, and that Council would return to meet in Closed Session later in the evening.

Council then convened for the Open Session regular agenda at 7:14 PM.

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

**INVOCATION** Councilmember Nuñez invited Pastor Jeff Moore to provide an invocation to start the meeting.

**PUBLIC FORUM** Rob Means, resident, spoke on Personal Rapid Transit.

Anurag Pal, of Sunnyvale, invited Councilmembers to a crime forum on September 12.

Ed Ackerman, resident, described the City’s Veterans Plaza where the MIA/POW flag was flown. There were still 81,000 Americans missing from past conflicts, which would be recognized on a special day of observance each year on the third Friday in September. So, on September 21, this year there would be a Remembrance Day.

Mayor Tran asked the City Manager to follow through on recognizing that day.

Frank DeSmidt invited all to a Rotary Club fundraising dinner for “Know a Vet” organization at Ta Restaurant on Friday, October 5 and the contact was Hon Lien for tickets. Milpitas Chamber of Commerce would host a Casino Night on Friday, September 28. Those interested could call the Chamber office for information and tickets.

Jazell Marez, resident, wanted a response on lower level wages, to pay attention on wages and benefits, and a performing arts building. Thank you for the use of the soccer fields on the turf, even while football was in season. She sought a response to an e-mail she’d sent to the City.

**ANNOUNCEMENTS** City Manager Julie Edmonds-Mares officially introduced Sharon Goei as the new Director of Building and Housing, and Ned Thomas as the new Planning Director.

Councilmember Nuñez inquired on the ratio of homes to jobs. He’d thought the City was doing really well but saw it went from 1.6 to 1.1 so he asked for the facts, and wanted to go in the right direction. Ms. Edmonds-Mares noted the City was doing better than San Jose on this ratio. At approximate 1.6 ratio currently, she felt this was a healthy balance.

City Attorney Chris Diaz commented about alleged non-compliance with the Public Records Act, per prior comments from a resident speaker. Copies of records provided to the requester were available, and the City had responded timely to all Public Records Act requests.

**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

Mayor Tran asked the City Council to hear item no. 16 following item no. 13.

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

**CONSENT CALENDAR**

Mayor Tran requested items no. 1 through no. 12 to be on consent.

The Mayor congratulated the community for item no. 8 on award of a County grant for the all-inclusive playground equipment at the new McCandless Park. He specifically thanked Recreation Director Renee Lorentzen for her efforts on the grant.

Regarding the September calendar (item no. 1), Vice Mayor Grilli noted that the SVRIA meeting at 8:30 AM on September 26 had been canceled.

Regarding agenda item no. 3, Councilmember Nuñez spoke about the appointment of resident Chia Ling Kong to the Environmental Commission and wanted to extend the term for one month and a full term also of three years, changing the expiration date to October 2021. City Attorney Diaz recommended removal of this matter from the consent calendar.

Councilmember Phan requested for the next meeting to have on the agenda a discussion of removal of one Economic Development Commissioner and one member of the General Plan Advisory Committee.

Motion: to approve the Consent Calendar including agenda items numbered 1-12, excepting item no. 3

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

\* 1. Council Calendar

Accepted the City Council calendars for September and October 2018.

\* 2. Meeting Minutes

Approved City Council meeting minutes of September 4, 2018.

**3. Appointment to  
Commissions**

Recreation Director Renee Lorentzen addressed the recommendations for Commission appointments. The length of the Commissioner's term for the new Environmental Commission was explained.

Councilmember Nuñez again stated that, for the appointment to a vacancy, Ms. Kong was recommended to be appointed for one month until October 2018, and in addition, for one full term, so her seat on the Commission would expire in October 2021.

So, the City Council approved the following appointments:

**Energy and Environmental Sustainability Commission**

Appointed Chia Ling Kong as a Commissioner with a term to expire in October 2021.  
Appointed Patti Sexton as a Commissioner (representing business) with a term to expire in October 2020.

**Public Safety and Emergency Preparedness Commission**

Appointed Paul Ellis as a Commissioner with a term to expire in June 2021.  
Appointed Aleck Bittencurt to serve as Alternate No. 1 to a term to expire June 2019.

**Motion:** to appoint four residents to serve on two Milpitas Commissions (noted above)

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

- \* 4. Response to Grand Jury Approved and authorized staff to submit on behalf of the Mayor the City’s written response in a written letter to the Santa Clara County Civil Grand Jury Report on “Affordable Housing Crisis: Density is Our Destiny.”
- \* 5. Fee Waiver Request from Sunnyhills Approved the request from Sunnyhills Neighborhood Association and waived \$430 in city fees for Planning (\$250) and Recreation (\$180) fees for the Sunnyhills Halloween Neighborhood Watch Event scheduled on Saturday, October 27, 2018 at Augustine Park.
- \* 6. Resolution – SAFER Grant to Fire Department Adopted Resolution No. 8818 accepting the Department of Homeland Security’s Federal Emergency Management Agency SAFER grant of \$1,520,523 awarded to City of Milpitas, approved and accepted the grant terms, appropriated grant funding to the FY 2018-19 Fire Department operating budget, and transferred the City’s local match to the Fire Department’s FY 2018-19 operating budget from the Non-Departmental operating budget.
- \* 7. Resolution – accept Recycled Water project
  1. Adopted Resolution No. 8819 accepting the Recycled Water Conversion Sites Phase 1, Projects No. 7126 and No. 3417. Authorized reduction of the performance bond to \$63,450.81 which shall be in effect for the duration of the one-year warranty period.
  2. Granted authorization to the Public Works Director to issue the Notice of Final Acceptance and release of performance bond after the one-year warranty period, and to release and discharge the maintenance bond without further City Council action.
- \* 8. Resolution – Playground Equipment grant Adopted Resolution No. 8820 accepting a County of Santa Clara grant in the amount of \$779,820 for an All-Inclusive Playground Project at McCandless Park and designate the City Manager as authorized signer on the Grant Agreement with the County of Santa Clara, and appropriate funds into McCandless Park CIP Project No. 5102 Phase 7.
- \* 9. Trail Maintenance Agreement
  1. Approved and authorized the City Manager to execute the Public Trail Maintenance Agreement between City of Milpitas and Orchid Homeowners Association.
  2. Received three parcels from DR Horton Bay, Inc. for the single family home development at 31 Los Coches Street in Milpitas.
- \*10. Amendment No. 10 – Vali Cooper & Associates Approved Amendment No. 10 to the agreement with Vali Cooper & Associates to extend the term of the agreement until March 31, 2019 to provide support services for the Silicon Valley BART extension project.
- \*11. Amendment No. 2 – MuniServices LLC Approved Amendment No. 2 to the Agreement between the City of Milpitas and MuniServices LLC and authorized the City Manager to execute the amendment extending the term to June 30, 2020 for Sales and Use Tax Audit (SUTA) services.
- \*12. New Agreement with BB&K
  1. Approved and authorized the City Manager to execute an agreement with Best & Krieger LLP (BBK) to provide City Attorney services for the period of October 1, 2018 to September 30, 2020.

2. Approved an appropriation of \$97,350 into the City Attorney's operating budget.

## **PUBLIC HEARING**

### **13. CAPER on CDBG**

Housing Planner Hang Huynh (as acting Housing Manager) presented the Consolidated Annual Performance Evaluation Report for Fiscal Year 2018-2019 on the expenditures of the federal Community Development Block Grant funds and on the performance of the grantee non-profit agencies. The final report was due to the federal Department of Housing and Urban Development (HUD) by September 30 each year. She reviewed the annual funding cycle alongside appropriate dates. \$449,688 was the total amount granted for the last fiscal year. She also reported that 2,077 residents were served in the City of Milpitas with those funds through the non-profits.

Mayor Tran opened the public hearing for any speakers.

Voltaire Montemayor, resident, said funds were fairly well distributed, so please approve it.

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

Motion/Second: Vice Mayor Grilli/Councilmember Nuñez

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

Councilmember Nuñez commented on funding recipient agencies Dress for Success, Next Door Solutions, Rebuilding Together and YWCA. He noticed that overall, more outreach to women for services was likely needed, including by the local Milpitas Police Department.

(2) Motion: to adopt the FY 2017-2018 Consolidated Annual Performance Evaluation Report regarding Community Development Block Grant funds for the City of Milpitas

Motion/Second: Councilmember Nuñez/Councilmember Phan

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

## **NEW BUSINESS**

### **14. Draft Sewer Rate Study**

Public Works Director Tony Ndah presented with consultant Eric Callocchia, Senior Program Manager of Municipal Financial Services Group firm of Annapolis, MD.

The draft Sewer Rate Study contained study assumptions, dates, a financial plan, and policy alternatives. Mr. Ndah described and showed a map of the sewer system that Milpitas participated in along with the City of San Jose and four other agencies. He explained enterprise funds and why the City financed the sewer system in this manner, particularly to allow it to remain self-supported through user fees and to maintain sustainability.

Mr. Callocchia addressed the City Council with detail on the study method, assumptions, capital expenses via the CIP, identified a lot of volatility in costs for the treatment facility, projection of costs, with current rates not sufficient to cover costs for update of sewer system, rate calculation methodology and recommended rates for residential and non-residential customers.

Both men listed a Summary of Findings and Recommendations at the end of the report. Phased rate increases over the next five years were recommended. Mr. Ndah discussed the impact on mobile homes in particular. He gave a timeline for sewer rate adoption, with new rates not anticipated for adoption until December 4.

Vice Mayor Grilli said she had discussed the mobile home parks and the flow rate at those locations in the City, and how to fix that. Staff reported that new flow meters had been installed since the last sewer rates were adopted (old meters were less accurate).

Councilmember Nuñez asked questions on what made up the rates, inquired about bearing costs by bond issue, and why not to issue COPs. Staff explained utilities did not normally go out to the voters. Mr. Nuñez commented on the rate increase for the mobile home parks in the City.

Councilmember Phan commented on Mobile Home Park Subsidy information. He repeated his past request that he wanted staff to look into EIFD financing, as he would like the City to consider that as an alternative financing mechanism, to be able to have the subsidy for mobile home residents for sewer service costs. He referred to a related project in Los Angeles.

Vice Mayor Grilli asked about new data for the gallons per day (gpd) for sewer flow, and if San Jose had that for calculation of rates charged to customers. Staff did not have that information available but could get back to the Council.

Mayor Tran asked for any comments from the public.

Voltaire Montemayor, resident, remarked if it costs a lot, there would be a swinging effect.

The Mayor wanted to support any type of subsidy of sewer costs for seniors and disabled in a mobile home park.

Councilmember Barbadillo liked the good idea about mobile home residents. He asked why not expand that for assistance for other groups, like those who needed affordable housing or low cost rentals. Identify some low income family or those in housing, in addition to consideration for these sewer rates. Staff could take that into consideration.

Councilmember Nuñez mentioned the Senior Commission and the Veterans Commission, with other subsidies that could be provided. He asked Council to consider how to assist those who needed help overall with increasing rates. He supported what Mr. Barbadillo had talked about and wanted the outreach part to move ahead.

A review of timeline dates was then discussed further. Mr. Nuñez remarked on the November 20 and December 4 dates for public hearing and potentially then adopting new rates.

Vice Mayor Grilli would like to see the numbers again, with information from San Jose, before establishing the process for new rates.

Councilmember Phan was asking for feasibility on his plan, seeking concurrence and direction.

Councilmember Nuñez asked Vice Mayor Grilli if she'd like this one brought back in two weeks, and she said yes.

Motion: to consider time to study the sewer rate report more in depth, to continue this topic to the next City Council meeting in two weeks, and to gather information from San Jose

Motion/Second: Councilmember Nuñez/Vice Mayor Grilli

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

## 15. City Council Handbook and Agenda Management

Assistant City Manager Ashwini Kantak introduced the revised City Council Handbook and recommendations regarding the City Council agenda management and its preparation using new software. She provided some history of handbook. The Council could approve updates of the handbook in sections, including perhaps this evening the Agenda Management section.

City Clerk Mary Lavelle presented information on the Agenda Management process, and efforts made to date to move towards an automated agenda method utilizing a software program called MuniCode Meetings.

Councilmember Nuñez said he would prefer to compare the old City Council Handbook to the new style. He would like to do the agenda section while he still had a lot of questions to ask overall. He questioned the approval of the agenda process, seeking much more direction and involvement by Councilmembers, and then suggested a new Subcommittee for this purpose.

Councilmember Phan wanted there to be a Subcommittee to discuss the Handbook, and in the future a Rules Committee to allow for input by the City Council on the agenda. This should be memorialized through a Resolution, through the Subcommittee that would end up on the agenda.

City Attorney Diaz provided guidance, on what to act on at this meeting, and maybe in the future the City Council could discuss a Rules Committee.

Mayor Tran asked if the Subcommittee on City Council Handbook would decide items for the future agendas. Mr. Diaz said the Subcommittee could discuss that.

Motion: to form an ad hoc Subcommittee to discuss the City Council Handbook and to come back at a future City Council meeting, with Councilmembers Nuñez and Barbadillo as members

Motion/Second: Councilmember Phan/Councilmember Nuñez

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

## RESOLUTION

### 16. Resolution Approving Cost Allocation Plan

This topic was heard prior to item no. 14.

Finance Director Will Fuentes and consultant Terry Madsen of ClearSource Financial Consulting came up to present an update to the City's Cost Allocation Plan for FY 2018-19. Last time that the CAP was approved by City Council was in 2014, and it was due for an update for proper methodology and to ensure that utility fund costs were appropriately charged based on the cost allocation.

The consultant Mr. Madsen provided the tenets of cost allocation of central services or "indirect" services of the City government. He explained how cost allocation was determined for municipalities and other governments. Mr. Fuentes further explained the approach by City staff to the CAP in the current budget and financial times.

Vice Mayor Grilli referred to the past Citizens Task Force on Water Rates' request for this information, and wanted to know if this information was shared with that group, and staff said no. She asked that this be shared with that group.

Councilmember Nuñez noted that one person was in the audience from the Task Force (Tom Valore). He asked about the study on this topic specifically.

The City Manager explained that Council would later look at the Fee Study and Phase 2 of Cost Allocation Plan for indirect services. It was important to bring out this information before discussing utilities and the fee study.

Mayor Tran wanted to support the staff recommendation for this item.

Councilmember Phan asked if the update covered adjusted fee structures. No, said staff, that would be part of the next steps. Utility rate studies were next, with sewer rates on this agenda and water rate study for next month. Mr. Phan asked if staff would conduct an asset management

plan. Ms. Edmonds-Mares said staff could provide an information memo to respond more in detail on that topic.

Councilmember Barbadillo noted the three possible sources to update for cost allocation: water, sewer and solid waste funds, and discussed those items.

Mr. Fuentes said that an update to the approach for the Cost Allocation Plan did not have to be approved at this Council meeting. There was more discussion, and responses from staff and the consultant to Councilmember Barbadillo's questions and remarks.

Councilmember Nuñez felt a study should be done every year, review costs annually as the consultant said. Mr. Nuñez wanted to confirm that was done, and staff replied that it had been. The underlying methodology should be reviewed periodically, and it was last done in 2014. The Councilmember said he wanted more time to understand the numbers presented.

Assistant City Manager Ashwini Kantak said staff could bring this item back on October 2, with sewer rates figured based on the current CAP and also on the proposed new CAP, based on the methodology prepared in the new plan.

Councilmember Nuñez felt it was necessary to go slower, so that all could understand what was in the report, especially citizens whose sewer rates would be calculated based on this.

Vice Mayor Grilli repeated her comment that the members of the past Task Force should be notified, so she asked staff to send information to them. The City Manager said staff would be happy to do so.

Motion: to receive a report from the Finance Director and consultant; to continue the Cost Allocation Plan topic to the next City Council meeting, and directed staff to provide the CAP to members of the Citizens Task Force on Water Rates

Motion/Second: Councilmember Nuñez/Councilmember Barbadillo

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

## **REPORTS FROM MAYOR & COUNCIL**

Councilmember Nuñez thanked Assistant City Manager Ashwini Kantak for standing at the podium for so many items at one Council meeting. Councilmembers Barbadillo and Phan confirmed those comments.

## **ADJOURNMENT**

Mayor Tran adjourned the City Council meeting at 11:16 PM.

**The foregoing minutes were approved by Milpitas City Council on October 2, 2018.**

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**Mary Lavelle**  
**Milpitas City Clerk**