

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Special Meeting of Milpitas City Council
Date: Thursday, November 29, 2018
Time: 6:30 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER Mayor Grilli called the meeting to order at 6:33 PM. City Clerk Mary Lavelle called the roll.

PRESENT: Vice Mayor Grilli, Councilmembers Barbadillo

ABSENT: Councilmembers Nuñez and Phan were absent

ANNOUNCEMENT None

PLEDGE Mayor Tran led the pledge of allegiance.

PUBLIC FORUM Joe Sun, 28 years resident, thanked the Council for its vote to ban marijuana last Tuesday.

City Attorney Chris Diaz explained the upcoming scheduled actions proposed for the City Council on ordinances to ban commercial marijuana businesses.

Jennifer Strohfus thanked the City Council for the vote last week. She sought to clearly understand the process for the adoption of an urgency ordinance and a permanent ban.

A woman resident was very concerned. She was happy with unanimous vote at last Council meeting on ban of marijuana and wanted a schedule in place for the ban by ordinance.

Robert Marini, resident, wanted to know why this (marijuana ban) was not on the agenda. He said that hindsight was 20/20.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS The City Attorney asked Councilmembers if they had any personal conflicts of interests or reportable campaign contributions. None were reported.

APPROVAL OF AGENDA Motion: to approve the meeting agenda, as submitted

Motion/Second: Vice Mayor Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 3
NOES: 0
ABSENT: 2 (Nuñez and Phan)

BUSINESS ITEMS

1. Cost Allocation Plan Finance Director Will Fuentes introduced the Fiscal Year 2018-19 Central Services Full Cost Allocation Plan (CAP) and provided history of the CAP, last approved on January 21, 2014. At this meeting, staff requested that the Council update the CAP to ensure that all utility funds were charged an appropriate share of General Fund indirect costs.

Vice Mayor Grilli thanked staff for the information. She had heard this helpful information at the Council's Finance Subcommittee meeting previous to this evening, where there were some valuable comments from the public.

Councilmember Barbadillo asked about a Supreme Court decision that Mr. Fuentes had referenced on a request to collect appropriate sales tax, for internet sales and staff replied.

Mayor Tran called for public comments.

Robert Marini, resident, said he did not know what the final report would state. He mentioned water sold last year, the need for new data for the current year, and a spreadsheet he had.

Motion: to receive the staff report and approve the Fiscal Year 2018-2019 Central Services Full Cost Allocation Plan

Motion/Second: Vice Mayor Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 3
NOES: 0
ABSENT: 2 (Nuñez and Phan)

2. Sewer Rates Study

Public Works Director Tony Ndah described the sewer collection system operated by the City, with over 179 miles of underground pipes. Milpitas was one of eight cities that sent waste collection pumped to the San Jose plant. He provided history of prior presentations to City Council on this topic.

Mr. Ndah reviewed the items requested by City Council last September for follow up, including outreach and meeting with residents of the mobile home communities in Milpitas. Staff also followed up with City of San Jose on the Flow Study. Staff recommended a subsidy for mobile home residents, but to sunset that subsidy if the sewer flow study was updated prior to 2025. The City could explore additional subsidy programs for disadvantaged sewer customers, e.g. seniors. Staff recommended more discussion on how to do this at the time of the budget process.

Vice Mayor Grilli asked if the City was developing its own program or joining existing ones. Mr. Ndah said the City would provide one specific for the City to help residents.

The Public Works Director further described why an increase in sewer rates, fees and charges was necessary at this time, noting those were last increased three years ago. Mr. Ndah identified the expected monthly increase in costs per month to customers.

Next, Public Information Officer Jennifer Yamaguma discussed the Community Engagement Plan for the sewer rates. Extensive efforts in print, online and with public meetings were planned in advance of the Proposition 218 notification and public hearings scheduled.

Councilmember Barbadillo was pleased with the outreach plan as proposed and asked if costs were covered by revenue collected. He wanted to know about cost recovery for the services. Mr. Ndah explained the use of and need for bond funds.

The City's financing consultant Jim Fabian described what credit rating agencies looked at, the City's history regarding rates, and the schedule for bond financing. The City would fortify its existing rating at this time and one contribution to doing so was regularly adjusting rates.

Vice Mayor Grilli felt that maybe two public meetings might not be enough. Add more flexibility, with at least one in the daytime (not only night meetings) and hold these at differing locations throughout the City.

Mayor Tran asked about advertising in The Milpitas Post, which he encouraged and also posting on Milpitas Beat website. Maybe have "a neat video" posted online - very effective.

The Mayor called for comments from the public.

Robert Marini, resident, referred to the draft study of sewer rates. He wanted to know when a final study would be ready for residents (not just a draft) prior to the Proposition 218 process moving ahead. Staff responded to him with the outline for the process.

Vice Mayor Grilli asked for clarification on Council's action at this meeting. Mr. Ndah confirmed to her that Council was not adopting rates.

Motion: to receive a staff report on Sewer Rates Study, and to direct staff to proceed with community engagement on proposed rates, including identifying a date for the Public Hearing and mailing a notice of the Public Hearing not less than 45 days prior to the hearing date

Motion/Second: Councilmember Barbadillo/Vice Mayor Grilli

Motion carried by a vote of: AYES: 3
NOES: 0
ABSENT: 2 (Nuñez and Phan)

3. Water Rates Study

Public Works Director Tony Ndah provided an overview of water system, revenue for water fund, rate structures, proposed rates and a timeline for adoption of new rates. The water system served 6.9 million gallons of water per day over more than 200 miles of underground pipes through four pump stations, with two water source providers (San Francisco Public Utilities Commission and Santa Clara Valley Water District). No new rates had been adopted since April of 2016.

Mr. Ndah described significant cost increases to buy the water supply, at 63% of the overall costs to operate the water utility. A significant expenditure was for necessary Capital Improvement Program projects. For FY 2019-23, that totaled \$46.3 million. He identified reserve policies for the water fund, to cover 30% in reserve and to meet infrastructure needs, especially when emergencies occur such as a major water main break.

A tiered rate structure for water rates was explained along with the requirements for such following the San Juan Capistrano case at California Supreme Court several years ago. Tiered rates must reflect the proportionate cost of providing service within each tier, with four main criteria which staff defined.

Therefore, staff recommended to adjust water rates on a Uniform Rates schedule. These include a fixed meter charge, quantity charge and one additional feature. The average increase would be \$3.52 per month for a customer's water bill monthly.

Next, Public Information Officer Jennifer Yamaguma described a Community Engagement Plan, the same efforts to be made for water rates as described earlier in the meeting for the sewer rates.

City Attorney Chris Diaz told the City Council that Attorney Kelly Salt from his firm BBK was available over the phone (live teleconference), if any legal detailed questions arose.

Mayor Tran said he would accept whatever the findings were. He asked about the timeline for the rates and wanted to understand the urgency to adopt new rates. He asked about the bond status and how much was sought for projects. A \$20 million bond was sought in 2020. The Mayor asked staff for more detailed description of each part of the Operating Expenses \$28.5 million water costs, as in a pie chart displayed overhead.

Attorney Kelly Salt described a couple of other types of financing, as declining and budget based. The Mayor wanted to consider looking at those, while Mr. Diaz explained that those were essentially another kind of tiered rates and were tightly limited based on the Supreme Court case.

Staff noted that in California, water conservation was a way of life. Mayor Tran inquired about water rates and their application to CIP projects and water supply, and to be clear and understand what the "capital surcharge" was spent towards.

Mayor Tran asked about spending General Fund money to expedite projects, possibly for safety. Assistant City Manager Ashwini Katak responded on why that was not ideal, with the need to be financially prudent, that would not be a good strategy. He asked about water late fees paid by customers and Mr. Ndah said those were much more than on sewer rates.

Vice Mayor Grilli mentioned some features of strict water conservation standards that the Governor put out in the spring. She asked a question about the take-or-pay provision, currently in use with providers.

Councilmember Barbadillo wanted to do away with some old habits, with new leadership. In the future, there should be more protections to avoid scaling up so much since 2015 rates. He wanted all customers and the public to understand the true cost to purchase water. He cared about the sources of water (two providers). He sought more information on clearly understanding the calculations that staff described.

Mayor Tran asked staff to provide a list of cities/providers that offered tiered rates (versus uniform), and to have input on how to assist seniors and low income residents with increased costs for water.

Mayor Tran asked for public comments.

Robert Marini, resident, said the residents of Milpitas were subsidizing the General Fund with the water fund. He discussed the cost of recycled water and subsidizing the water fund with that. He urged Council to reduce the fee for recycled water and made other points.

Attorney Kelly Salt responded to the speaker and the Council about the court's approach to cities' use of and cost charges for recycled water.

Mr. Ndah commented further on this issue of recycled water and stated it was incorrect, as to what the resident had claimed.

Tom Valore, resident, felt the City was always behind the curve in establishing water rates.

Motion: to receive a staff report on the Water Rates Study, and to direct staff to proceed with community engagement on proposed rates, including identifying a date for the Public Hearing and mailing a notice of the Public Hearing and proposed rates not less than 45 days prior to the hearing date

Motion/Second: Vice Mayor Grilli/Councilmember Barbadillo

Motion carried by a vote of: AYES: 3
NOES: 0
ABSENT: 2 (Nuñez and Phan)

ADJOURNMENT

Mayor Tran adjourned the special City Council meeting in memory of Pastor Hadlock Pomele at 9:43 PM.

The foregoing minutes were approved by Milpitas City Council on December 18, 2018.

Mary Lavelle
Milpitas City Clerk