

**MEETING MINUTES
CITY OF MILPITAS**

Minutes of: Special Meeting of Milpitas City Council Housing Subcommittee and Milpitas City Council
Date: Tuesday, September 24, 2019
Time: 6:00 PM
Location: Barbara Lee Senior Center, Denny Weisgerber Room, 40 N. Milpitas Blvd., Milpitas

**CALL TO ORDER
SPECIAL MEETING**

Councilmember Nuñez called the special joint meeting to order at 6:00 PM. City Clerk Mary Lavelle called the roll. All present said the pledge of allegiance to the flag.

PRESENT: Mayor Tran, Vice Mayor Dominguez, Councilmembers Montano, Nuñez and Phan

ABSENT: None

Attorney Ethan Walsh from the firm of BB&K was present serving as City Attorney for this meeting.

PUBLIC FORUM

Rob Means, resident, spoke about Personal Rapid Transit and climate emergency.

Voltaire Montemayor, resident, said the City Council was too busy. Maybe they needed two more members of the Council by election. There was a negative impact because members were so busy.

Councilmember Nuñez said the Council could look into that idea.

Allysson McDonald, resident, spoke of a rally she attended in Fremont last week, including the City Council there. That City may require having solar panels in all new construction projects. Consider banning gas in all new buildings to meet climate challenges in Milpitas.

Councilmember Nuñez asked if staff would come back with a status report on Reach Codes, and items related to what the speaker raised. Building Safety & Housing Director Sharon Goei noted there would be stakeholder outreach meetings coming up.

ANNOUNCEMENT

City Attorney Ethan Walsh introduced himself and asked if Councilmembers had any conflicts of interest on the agenda items and all replied none.

APPROVAL OF AGENDA

Motion: to approve the meeting agenda, as submitted

Motion/Second: Councilmember Montano/Councilmember Nuñez

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

AGENDA ITEM

Ms. Goei addressed the City Council, referring to Assembly Bill 1482 adopted by the California State Assembly, expected to be signed by the Governor. She also noted the Council's introduction of Ordinance No. 302 on September 17, regarding rent review. She displayed the "Approach" overhead slide with a table conveying side by side information comparing those two documents.

Attorney Mr. Walsh stated that if the City Council required substantive changes to the introduced ordinance, they would need to consider a revised ordinance to be introduced in a future meeting.

Councilmember Nuñez asked if the ordinance could be brought to City Council on October 1. The Attorney replied no due to noticing requirements. He stated that if a newer ordinance based on changes discussed was needed, it would need to go to City Council on October 15.

Housing Administrator Robert Musallam next reviewed with more information in detail the chart on display for the City Council. He highlighted points for discussion with the Council. A third column was available to fill in with comments or direction from the Council.

Councilmember Montano wanted to keep the 7% threshold for maximum rent increases, as proposed in the City rent review ordinance. This was in reference to the highest rent increase to allow landlords to raise on tenants in one year.

Vice Mayor Dominguez thanked the members of the Subcommittee. She wanted to understand further the percentage thresholds (annual rent increase amounts), as that was confusing.

Councilmember Nuñez responded that the numbers that the Housing Subcommittee had were discussed and proposed, prior to adoption of state legislation AB 1482. He commented on the varying CPI number, which changed, as in the state legislation of the rent cap at 5% + CPI (up to 10% maximum). He wanted to adopt locally what was in the state law. Other factors – such as fees – affected what landlords might charge renters, when the rent cap did go into effect.

Councilmember Montano wanted to know what the average CPI was over the past few years. Staff responded that information could be obtained and provided later. She wanted to establish the 7% rent increase as the threshold to allow for rent review.

Vice Mayor Dominguez was considering if perhaps the amount should be 5%, not 7%.

Next discussed was the topic of Just Cause Eviction regulation. Some allowance to regulate it was included in AB1482, while the City could adopt stronger language on this issue. In Milpitas, single family homes were exempt from rent control in AB1482, while they were included in the rent review ordinance proposed for Council action.

Councilmember Phan sought definition of the types of housing that were exempt, including who was the owner (corporation or individual). Staff responded with the definition in the legislation.

Councilmember Montano said to just mirror the state bill, after the discussion above.

Vice Mayor Dominguez did not want the community to be confused on this issue. Clarify what the City would do versus adopted legislation. She was okay with “mirroring” what would be in the local ordinance compared to state law. There was no registry of single family homes, so it would be hard to keep track of those rent increases. Provide the most protection that the Council could.

Councilmember Nuñez asked what was the responsibility of the proposed Rent Review Board. Mr. Musallam explained the last step in the review of proposed rent increase, where tenants would go to Project Sentinel to have a rent review board hearing, after other steps were followed.

Councilmember Phan asked what the criteria was for being on the Rent Review Board. Staff responded that had not yet been discussed in detail. In the ordinance, it states that those applying must have a demonstrated interest in this area, for appointment to the board. Applicants submit to the Housing Subcommittee through to the Mayor for appointment.

Vice Mayor Dominguez inquired regarding the just cause language: in AB1482 there were time requirements for residence minimums, before the tenant had rights under just cause eviction. 12 – 24 months was confirmed by City Attorney.

Ms. Dominguez commented that if someone went to Project Sentinel presently who lived in an apartment, the person could not get any protections since the City did not have a just cause law. She wanted to have local law mirror the new state law on just cause eviction rules. And, she

wanted an urgency ordinance to be adopted on October 15 to be effective right away, ahead of the January 1, 2020 implementation of the new state law.

Councilmember Montano asked about the “Fremont model.” Staff responded City of Fremont would limit rent increases to 5% per year, without reference to CPI. On the just cause issue, if mirroring the state law, it would include Just Cause protection.

Councilmember Phan sought consistency throughout regulation, if the City went to mirror locally what was in the state bill. City must clearly define any exceptions in the law, with any exemptions noted specifically. Also, there should be an education component, so people understood what was to be effective right away, not on January 1.

Councilmember Nuñez agreed there needed to be a clear notification program for renters. He asked if the Public Information Officer would conduct a community outreach effort.

Councilmember Montano asked who was overseeing Project Sentinel. Mr. Musallam responded that City Housing staff would do so, as was happening currently.

Mayor Tran welcomed the community at this meeting. He agreed with what he heard so far and inquired about “subsidized housing.” He wanted to include residents at rental units in subsidized housing, if possible, in the local law. Mayor asked if there were any scenarios for residents in subsidized housing who were at risk, if not included in the rent review ordinance. Staff responded with information from the report in Fremont and said yes. Mr. Tran wanted to include those residents in the local law.

Councilmember Montano commented that those with Section 8 vouchers were already getting assistance from the federal government. She did not want to include subsidized housing, therefore, in the local protections.

The Vice Mayor – reading from a Harvard study from 2018 - noted that evictions mostly hurt low income, single mothers, who were in Section 8 units. Councilmember Phan agreed with the Mayor and Vice Mayor on including subsidized units.

Councilmember Phan wanted the local law to sunset at the same expiration time as AB1482. City Attorney Mr. Walsh noted that was how he would approach writing the ordinance.

Mayor Tran then called for speakers from the audience, limited to one minute.

Speakers:

Ana Naranjo, spoke in Spanish, stating tenants needed assistance now, not in November or January.

Alejandro Naranjo, spoke in Spanish, asking for help from City Council. Rents kept increasing and residents needed help. Kids were depressed.

William Au, from Sunnyhills Apartments Tenants Association, said tenants needed assistance with rent.

Sandy Perry referred to a letter sent by the Law Foundation to the City Council, with three things requested, to cover as many people as possible.

Loreto Dimaandal, a retiree in Milpitas, asked if City Council cared, why did it keep putting off the issue. The Council should pass an emergency ordinance right now. She was a volunteer community organizer to help the renters.

Aboubacar Ndiave said he’d sent a letter to City Council noting that majority of multi-family housing was owned by large corporate landlords who don’t live in Milpitas.

Allysson McDonald, resident and homeowner, was pleased that Council was considering the ordinances at this meeting. She was glad that Councilmember Montano agreed that lower than 7% should be a threshold.

Veronica Salce, resident, expressed feelings that her family had been through, after an experience of getting evicted. The City needed an ordinance now for just cause.

A girl, Diana Pricindo, resident of Milpitas, stated that families had suffered.

Michael Dittmer, resident, spoke of the need for rent control and what had occurred in Mountain View. He urged the City Council not to simply copy/paste what was in AB1842. He quoted from that legislation.

Voltaire Montemayor, resident, said the City would take it. He mentioned 5%–7% and rent review board. He spoke of kind hearts, landlords, home owners, developers and all would help.

Cristina, Sunnyhills Apartments resident spoke in Spanish, had heard from neighbors that they don't ask for help repairing their apartments, so they won't get evicted. If they had to move out, apartment rent would go up higher. They felt harassment.

Matthew Warren, of the Western Center on Law & Poverty, said AB 1482 was very important but that there were huge gaps. He was glad the City Council was considering a just cause ordinance, and to increase amounts provided to tenants.

Rob Means, resident, agreed with the Mayor to include subsidized housing. Also, Council should look at foreign ownership of single family residences. He asked regarding the AB1482 rule on rent increase threshold of 5% + CPI, if it would allow a decrease when CIP goes down if it was negative (rather than increased).

Councilmember Nuñez said it was clear what they were looking for on October 1 including an urgency ordinance only for a short period of time.

City Attorney Walsh mentioned the 10 days requirement for noticing the (public hearing at City Council) meeting for any urgency Ordinance. It would take effect on October 15. Mr. Nuñez responded that he agreed that was what the Subcommittee was asking for. He asked for the Council meeting on October 1: to look at including subsidized housing, to have facts the City of Fremont considered, to match AB1482 in a city ordinance.

Mr. Walsh replied to the City Council that if it was substantially changing the ordinance that was introduced at the last City Council meeting, it would come back on October 15. If substantive changes to any ordinance were made to one that was already introduced, the ordinance would need to be newly introduced and could be adopted two weeks later.

Councilmember Nuñez noticed the bill had lots of dates and some parts were retroactive. He asked if the local law included sections like that. City Attorney replied, possibly. Mr. Nuñez felt they could include other things in the ordinance then if working on it going forward.

Councilmember Nuñez asked the City Attorney to confirm dates for an urgency ordinance and for the regular ordinance(s) for the upcoming regular Council meeting on October 15. Items to look at were: the numbers of who owned rental units, owners who were individuals versus corporations, consideration at applying law retroactively, as state law had done – all of this to provide relief to those who really did need it.

Vice Mayor Dominguez inquired about the loophole in AB1482 that tenants must be in their homes for twelve months minimum to be protected by just cause eviction section. She wanted to know how to address that locally. Staff Robert Musallam responded that if a tenant was covered by a one year lease agreement, the tenant would be covered (with just cause protection) while that was not true for those with month-to-month rentals.

Councilmember Nuñez felt a need for more information to return back to the Housing Subcommittee, with answers to questions raised at this meeting. Maybe find out information from those who testified in Sacramento. Answer as much as possible before the October 15 City Council meeting.

Mayor Tran spoke of family members, extended family, being landlords. It was hard to distinguish corporate ownership and foreign ownership of rental property in Milpitas. That was a big piece of the real estate market in the Bay Area.

Ethan Walsh said that a City urgency ordinance for just cause eviction only would cover from that date (when adopted) to January 1, 2020 and staff could bring that forward on October 15. Then a separate regular ordinance for a rent review program would also be considered. He pointed out that 4/5 vote of the City Council was required to adopt any urgency ordinance.

Vice Mayor Dominguez addressed dates for action by City Council. She asked if she could introduce a memo at the Rules Committee and get it on the October 1 City Council meeting agenda. Mr. Walsh replied no, due to noticing requirement (for a public hearing notice 10 days prior to a meeting).

Councilmember Nuñez would be glad if the urgency ordinance was adopted and effective on October 15, since it would help residents. He was glad that the full City Council was present for this discussion. It was a worthy effort to have a one topic, one focus meeting this evening.

ADJOURNMENT

Councilmember Nuñez adjourned the joint Housing Subcommittee and City Council special meeting at 8:11 pm.

The foregoing minutes were approved by Milpitas City Council on October 15, 2019.

Mary Lavelle
Milpitas City Clerk