



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, DECEMBER 14, 2021

CITY COUNCIL CHAMBERS, 2ND FLOOR, 455 E. CALAVERAS BLVD.,

MILPITAS, CA

6:00 PM (CLOSED SESSION)

7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

The City Council meeting is held in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas and via teleconference/Zoom webinar.

You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.ci.milpitas.ca.gov/youtube>

Web Streaming: <https://www.ci.milpitas.ca.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting in person or by registering for the zoom meeting in advance. To register you will need to provide an email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of the Zoom Application. Below is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_N2-O-nLTQZyN2tbbPII9aA

After you register a link will be sent to you to join the City Council meeting in order to give your comments. All registered meeting attendees who wish to speak must click on the “raise hand” icon when the Mayor calls for public comments. If participating by calling in on your phone, dial *9 to use the “raise hand” feature, and when you are called upon, hit *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor will call the speakers to begin.

All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

ADJOURN TO CLOSED SESSION

- (a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Pursuant to Government Code Section 54956.9(d)(2)
Receipt of Government Tort Claim from Hanhong Chen and Yan Tang

CLOSED SESSION ANNOUNCEMENT:

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

PLEDGE OF ALLEGIANCE

INVOCATION (7:05 PM) - (Mayor Tran)

PRESENTATIONS

PUBLIC FORUM (7:15 PM)

Those in the audience and via Zoom are invited to address City Council on any subject not on tonight's agenda. In-person speakers wishing to address the Council are requested, but not required to complete a Speaker Card and submit it to the Mayor. In-person speakers will then be asked to come up to the podium and state their name for the record. Those interested in speaking via Zoom may do so by following the instructions on page one (1) of the agenda. Comments may be limited to three (3) minutes or less at the Mayor's discretion. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. The City Council may instruct the City Manager to place the item on a future meeting agenda.

NOTE: If a member of the public wishes to share any presentation materials for Council consideration, they must be submitted to the Clerk's Office by email to CityClerk@ci.milpitas.ca.gov by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:20 PM)

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a "yes" or "no" as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a future agenda for City Council discussion.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:30 PM)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

- C1. Receive the City Council Calendars of Meetings for December 2021 and January 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Receive the City Council Calendars of Meetings for December 2021 and January 2022.

- C2. Approve the City Council Regular Meeting Minutes of December 7, 2021 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Approve the City Council Regular Meeting Minutes of December 7, 2021.

- C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Receive the list of anticipated agenda items for the next regular City Council meeting.

- C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Contact: Mayor and City Councilmembers, 408-586-3000)**

Recommendation: Review the list of items that have been requested by City Councilmembers and provide direction to staff as necessary. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until it is scheduled as a full agenda item.

- C5. Approve and Authorize the City Manager to Execute a Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Innovative Transit Service Models Program; Approve New Fiscal Year 2021-22 Capital Improvement Program Project No. 3493 Milpitas OnDemand; Approve a Budget Appropriation of \$1,355,916 in Measure B Innovative Transit Service Models Program Funding and Developer Contributions into Project No. 3493; and Adopt a Resolution to Approve and Authorize the City Manager to Execute a Subscription and Services Agreement with RideCo in a Not-to-Exceed Amount of \$1,355,916 for Consultant Services Related to Milpitas OnDemand and Making Sole Source Findings and Findings that the Procurement is in the Best Interest of the City (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: (1) Approve and authorize the City Manager to execute a funding agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Innovative Transit Service Models Program; (2) Approve New Fiscal Year 2021-22 Capital Improvement Program Project No. 3493 Milpitas OnDemand; (3) Approve a budget appropriation of \$1,355,916 in Measure B Innovative Transit Service Models Program funding and developer contributions into Project No. 3493; and (4) Adopt a resolution to approve and authorize the City Manager to execute a subscription and services agreement with RideCo in a not-to-exceed amount of \$1,355,916 for consultant services related to Milpitas OnDemand and making sole source findings and findings that the procurement is in the best interest of the City.

- C6. Adopt a Resolution of the City Council of the City of Milpitas Declaring that a Certain Approximately 1.07-Acres of City Owned Land "Exempt Surplus Land" Under the Surplus Land Act (Government Code Section 54420 et Seq.); and Considering the Environmental Impact Report and Addendum for the Lower Penitencia Creek Improvements Project; Adopting Findings of Fact and a Statement of Overriding Considerations in its Limited Role as a Responsible Agency Pursuant to the California Environmental Quality Act and Approving and Authorizing the City Manager to Execute a Right-Of-Way Agreement with the Santa Clara Valley Water District for the Purchase of Easements and City Owned Land for Lower Penitencia Creek Flood Protection Improvements Project (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Adopt a resolution of the City Council of the City of Milpitas Declaring that a certain approximately 1.07-Acres of City Owned Land "Exempt Surplus Land" under the Surplus Land Act (Government Code Section 54420 et Seq.); and considering the Environmental Impact Report and Addendum for the Lower Penitencia Creek Improvements Project; adopting Findings of Fact and a

Statement of Overriding Considerations in its limited role as a responsible agency pursuant to the California Environmental Quality Act and approving and authorizing the City Manager to Execute a Right-Of-Way Agreement with the Santa Clara Valley Water District for the Purchase of Easements and City Owned Land for Lower Penitencia Creek Flood Protection Improvements Project.

- C7. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation & Maintenance Agreement for Anton Milpitas 730 LLC, a Delaware Limited Liability Company located at 730 E. Capitol Avenue (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for Anton Milpitas 730 LLC at 730 E. Capitol Avenue.

- C8. Approve and Authorize the City Manager to Enter into a Side Letter to Amend the Memorandum of Understanding between the City and LIUNA/UPEC Local 792, and the Milpitas Police Officer's Association amending the Sick Leave Cash Out MOU provisions (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)**

Recommendation: Approve and authorize the City Manager to enter into a Side Letter to amend the Memorandum of Understanding between the City and LIUNA/UPEC Local 792, and the Milpitas Police Officer's Association amending the Sick Leave Cash Out MOU provisions.

- C9. Receive the Monthly Report for Unhoused Services (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)**

Recommendation: Receive the September and October 2021 reports for unhoused services.

- C10. Action on a Resolution Acknowledging Receipt by City Council of a State Mandated Compliance Report on Required Annual Fire Inspection of Certain Occupancies (Staff Contact: Albert Zamora, Deputy Fire Chief, 408-586-3371)**

Recommendation: Adopt a resolution acknowledging receipt of the report herein by the Milpitas Fire Department regarding the inspection of certain occupancies requiring annual inspections pursuant to sections CA HSC §13146.2 and §13146.3 of the CA Health and Safety Code.

- C11. Approve and Authorize the City Manager to Execute a Professional Services Agreement with Our City Forest to administer the Lawn Bust Milpitas Pilot Program (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Recommendation: Approve and authorize the City Manager to execute a Professional Services Agreement with Our City Forest to administer the Lawn Bust Milpitas Pilot Program.

- C12. Accept Commissioner Resignation (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Accept the resignations of Commissioner Darl Travis from the Veterans Commission and Ricky Davis from the Homelessness Task Force; and confirm the noticing of the unscheduled vacancies.

- C13. Motion to Reconfirm Findings and Determinations Under Resolution No. 9105 and Assembly Bill 361 for the Continuation of Virtual Meetings (Staff Contact: Christopher J. Diaz, City Attorney, 408-586-3040)**

Recommendation: Move to reconfirm findings and determinations under Resolution No. 9105 and Assembly Bill 361 for the continuation of virtual meetings.

PUBLIC HEARINGS (7:35 PM)

- 14. Adopt a Resolution to Adopt the Parks and Recreation Master Plan Update and Adopt the Parks and Recreation Master Plan Negative Declaration/Initial Study (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301 and Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: (1) Open the public hearing for comments and move to close the hearing; (2) Adopt a resolution to adopt the Parks and Recreation Master Plan Update and adopt the Negative Declaration/Initial Study for the Parks and Recreation Master Plan; (3) Authorize the Engineering Director/City Engineer to file a Notice of Determination in accordance with CEQA guidelines section 15075; (4) Provide feedback to staff regarding potential funding strategies.

- 15. Conduct a Public Hearing and consider adopting Urgency Ordinance No. 38.844 amending sections of Chapter 1 “Subdivisions” and Chapter 10 “Zoning” of the Milpitas Municipal Code relating to urban lot splits and two-unit projects to comply with Government Code Sections 66411.7 and 65852.21 and determining the ordinance to be statutorily exempt from CEQA (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: (1) Conduct a public hearing and move to close the hearing following comments; and (2) Adopt Urgency Ordinance No. 38.844.

PUBLIC SAFETY (9:05 PM)

- 16. Adopt a Resolution for Appointing Jaime Garcia as Interim Assistant Fire Marshal (Staff Contact: Albert Zamora, Deputy Fire Chief, 408-586-3371, and Brian Sherrard, Fire Chief, 408-586-2811)**

Recommendation: Adopt a resolution appointing Jaime Garcia as Interim Assistant Fire Marshall in accordance with California Government Code Sections 7522.56 and 21221(h) and approve and authorize the City Manager to execute an employment agreement with Jaime Garcia.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (9:15 PM)

- 17. Approve and Authorize the City Manager to Execute the Assignment and Consent and Fourth Amendment to the Franchise Agreement with MSI for the purpose of Assignment of Contract and Modify Certain Service Provisions (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Recommendation: Approve and authorize the City Manager to Execute the Assignment and Consent and Fourth Amendment to the Franchise Agreement with MSI for the purpose of Assignment of Contract and Modify Certain Service Provisions.

COMMUNITY DEVELOPMENT (9:45 PM)

- 18. American Rescue Plan Act (ARPA) Workforce Development Programming (Staff Contact: Alex Andrade, Director of Economic Development, 408-586-3046)**

Recommendation: (1) Approve ARPA Workforce Development funding to be deployed at \$150,000 annually for two years for grants to non-profit organizations that have been adversely impacted and/or responding to the COVID-19 public health emergency; (2) Approve ARPA Workforce Development grants for ARPA beneficiaries providing workforce development and education services, addressing the negative economic impacts of the COVID-19 public health emergency, in the amount of \$150,000: \$40,000 for Milpitas Youth Force, a community service program for low-income youth including salaries

and wraparound services, \$50,000 for Evergreen Valley College to implement the Amazon Cloud Practitioner Program for cloud computing initiatives, \$40,000 for First 5 Santa Clara County, a non-profit organization to support an early childhood education teacher apprenticeship program, \$20,000 to be divided between Rising Sun Center for Opportunity and Build It Green, community-based organizations to implement a green building certification training program and climate careers externships; and (3) Direct staff to return for City Council consideration of the remaining \$150,000 for additional ARPA beneficiary grants by summer 2022.

LEADERSHIP AND SUPPORT SERVICES (10:25 PM)

- 19. Receive an Update on the American Rescue Plan Act and Provide Direction to Staff (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Lauren Lai, Director of Finance, 408-586-3111)**

Recommendation: (1) Receive an Update on the American Rescue Plan Act (ARPA), including compliance and reporting requirements; and (2) Provide direction to staff.

ADJOURNMENT (11:00 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: cdiaz@ci.milpitas.ca.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on City website. City Council agendas and related materials can be viewed online: www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's Office at 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda.