



SPECIAL MEETING MINUTES OF THE MILPITAS CITY COUNCIL

**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)**

The City Council of the City of Milpitas convened on the Special Council Meeting day of December 14, 2021, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/Zoom webinar.

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

Mayor Tran called the Special City Council meeting to order at 6:00 PM. Roll Call was taken by City Clerk Wood.

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

ABSENT: None

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.

City Attorney Diaz stated there was no reportable action.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

INVOCATION

The Invocation was led by Mayor Tran.

PRESENTATIONS

Mayor Tran presented Jane Corpus and Jaime Garcia keys to the City in appreciation of their years of service with the City.

PUBLIC FORUM

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.

There were no speakers under Public Forum.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

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.

Mayor Tran wished everyone a happy holiday and thanked staff for their work.

Vice Mayor Montano wished everyone a happy holiday and thanked staff for their work on the Holiday Magic on Main Street.

Councilmember Chua wished everyone a happy holiday, commented on her first year in office, and thanked everyone for their support. She also shared a short video of the Holiday Magic on Main Street.

Councilmember Dominguez thanked staff and Council for their work over the past year. She also announced the save the date for the Lean in Latinas first ‘Get InspiRED Virtual Summit’ on January 15, 2022.

Councilmember Chua announced that the ADU online workshop will take place on December 15, 2021, at 4:00 PM.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Diaz asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Diaz asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

City Attorney Diaz read aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Mayor Tran stated that he would like to postpone item C5 to a future date at the request of staff.

Motion: to approve the December 14, 2021, Special Meeting Agenda with the postponement of item C5.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran
NOES: None

CONSENT CALENDAR

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.

Motion: to approve the modified Consent Calendar, with the postponement of item C5.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

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

Received 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)**

Approved 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)**

Received 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)**

Reviewed the list of items that have been requested by City Councilmembers.

- 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)**

This item was postponed to a future meeting.

- 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)**

Adopted **Resolution No. 9111** 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.) 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)**

Approved and authorized 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)**

Approved and authorized 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)**

Received 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)**

Adopted **Resolution No. 9112** 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)**

Approved and authorized the City Manager to execute a Professional Services Agreement with Our City Forest to administer the Lawn Bust Milpitas Pilot Program.

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

Accepted the resignations of Commissioner Darl Travis from the Veterans Commission and Commissioners Ricky Davis, Martha Lamdin, and Lisa Moreno from the Homelessness Task Force; and confirmed 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)

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

PUBLIC HEARINGS

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)

Engineering Director/City Engineer Erickson presented the staff report.

Mayor Tran opened the Public Hearing.

The following people spoke:

1. Henry Gee
2. Stephen Balsbaugh
3. Allen Thomas
4. George Chen

Council discussed options for additional pickleball courts, a potential pickleball pilot program, and revising the language in the master plan to include more definitive language for pickleball.

Recreation and Community Services Director Lorentzen provided additional information.

Consultant Linda Gates provided additional comments.

Motion: to close the public hearing and adopt **Resolution No. 9113** adopting the Parks and Recreation Master Plan Update and adopting the Negative Declaration/Initial Study for the Parks and Recreation Master Plan; and authorizing the Engineering Director/City Engineer to file a Notice of Determination in accordance with CEQA guidelines section 15075.

Motion/Second: Vice Mayor Montano / Councilmember Chua

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

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)

Planning Director Thomas and Principal Planner Lee presented the staff report.

Mayor Tran opened the Public Hearing.

The following people spoke:

1. Frank Bush
2. Barbara Jo Navarro
3. George Chen

Attorney from Best Best and Krieger, Ryan Stager, provided additional information.

Mayor Tran closed the public hearing.

Motion: to adopt **Urgency Ordinance No. 38.844.**

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

PUBLIC SAFETY

- 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)**

Fire Chief Sherrard presented the staff report.

Motion: to adopt **Resolution No. 9114** 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.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

- 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)**

Public Works Director Ndah presented the staff report.

Council expressed concerns with the service and commented on exploring a competitive process to look at other waste collection companies.

The following people spoke under public comment:

1. Kent Kenny
2. Paul Nelson

Motion: to reject the Assignment of Contract and Fourth Amendment to the Franchise Agreement with MSI.

Motion/Second: Councilmember Phan / Mayor Tran

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Mayor Tran

NOES: None

ABSTAIN: Vice Mayor Montano

COMMUNITY DEVELOPMENT

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

Economic Development Andrade introduced the item.

City Attorney Diaz stated that Vice Mayor Montano sits on the commission for First 5 but because her seat as a Councilmember and on First 5 are both government positions there is no conflict of interest. He further stated that this is considered a non-interest under government code section 1080 and she is free to participate in this item.

Economic Development Specialist Truong presented the staff report.

A representative from Evergreen Valley College, Maniphon Dickerson provided additional information on the program.

The following people spoke under public comment:

1. Wendi Mahaney-Gurahoo
2. Warren Wettenstein

Motion: to 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; 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 direct staff to return for City Council consideration of the remaining \$150,000 for additional ARPA beneficiary grants by summer 2022.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by a roll call vote of:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

LEADERSHIP AND SUPPORT SERVICES

- 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)**

Motion: to postpone this item to the next meeting.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

ADJOURNMENT

Mayor Tran adjourned the meeting at 11:19 PM.

The foregoing minutes were approved by the Milpitas City Council on January 11, 2022.

Wendy Wood
City Clerk