



# JOINT MEETING OF THE MILPITAS CITY COUNCIL, HOUSING AUTHORITY, AND SUCCESSOR AGENCY

## AGENDA

**TUESDAY, DECEMBER 6, 2022**

**CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA  
7:00 PM (PUBLIC BUSINESS)**

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

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.milpitas.gov/youtube>

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

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## **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\\_32mb8VCLThqzajXO\\_9lhKw](https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_32mb8VCLThqzajXO_9lhKw)

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** (7:00 PM)

**PLEDGE OF ALLEGIANCE**

**INVOCATION** (Vice Mayor Montano)

**PUBLIC FORUM** (7:05 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@milpitas.gov](mailto:CityClerk@milpitas.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** (7:10 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** (7:15 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 City Council Calendar of Meetings for December 2022 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Receive City Council Calendar of Meetings for December 2022.

- C2. Approve City Council Regular Meeting Minutes of November 15, 2022 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Approve City Council Regular Meeting minutes of November 15, 2022.

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

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. Consider the Recommendation from Mayor Tran for Appointments to City Commissions and Declare an Unscheduled Vacancy (Contact: Mayor Tran, 408-586-3029)**

Recommendation: (1) Receive the recommendation from Mayor Tran and approve appointments to City Commissions; and (2) Declare an unscheduled vacancy on the Economic Development and Trade Commission and direct the City Clerk to post the notice of unscheduled vacancy.

**C6. Reconfirm Findings and Determinations Under Resolution No. 9165 and Assembly Bill 361 for the Continuation of Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)**

Recommendation: Move to reconfirm findings and determinations under Resolution No. 9165 and Assembly Bill 361 for the continuation of virtual meetings of the City Council and Legislative Bodies.

**C7. Authorize City Manager's Response Letter to the October 7, 2022 Santa Clara County Civil Grand Jury Final Report "If You Only Read the Ballot, You're Being Duped" (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053; and Michael Mutalipassi, City Attorney 408-586-3040)**

Recommendation: Authorize the City Manager to send a letter in response to the October 7, 2022 Santa Clara County Civil Grand Jury Final Report "If You Only Read the Ballot, You're Being Duped" pursuant to Penal Code section 933.

**C8. 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: Receive an update on the American Rescue Plan Act (ARPA) programs and provide direction to staff.

**C9. Accept the City's Annual Comprehensive Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2022 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Recommendation: Accept the City's Annual Comprehensive Financial Report (ACFR) and other related annual audited reports for the Fiscal Year ended June 30, 2022 and find a CEQA exemption.

**C10. Authorize the City Manager to Execute a Master Encroachment Agreement for Bandwidth IG, LLC, a Delaware Limited Liability Company for Installation of Network Facilities Within Public Right-of-Way (Staff Contact: Steve Erickson, Engineering Director / City Engineer, 408-586-3301; and Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Authorize the City Manager to execute a master encroachment agreement for Bandwidth IG, LLC, a Delaware Limited Liability Company for installation of network facilities within public right-of-way and find a CEQA exemption.

**C11. Adopt a Resolution Authorizing the City Manager to Execute the Purchase of Two 2023 Ford Super Duty F-250 SRW (W2B) XLT 4WD Crew Cabs for the Fire Department from Through a Sourcewell Cooperative Contract with National Auto Fleet Group in the Amount of \$154,270.06 (Staff Contact: Brian Stelling, Interim Fire Chief, 408-586-2827)**

Recommendation: Adopt a resolution authorizing the City Manager to execute the purchase of two 2023 Ford Super Duty F-250 SRW (W2B) XLT 4WD Crew Cabs for the Fire Department through a Sourcewell Cooperative Contract with National Auto Fleet Group in the amount of \$154,270.06 and find a CEQA exemption.

**C12. Housing Authority/Successor Agency: Sale of the residential unit located at 600 S. Abel Street Unit #208 (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046 and Michelle Silva, Administrative Analyst II, 408-586-3244)**

Recommendation: (1) Adopt the resolution authorizing the Executive Director of the Milpitas Housing Authority to execute documents for the sale of the residential property located at 600 S. Abel Street Unit #208 in the amount of \$314,973.00; and (2) Approve related budget amendments due to the sale of the property located at 600 S. Abel Street Unit #208 in the amount of \$314,973.00.

**C13. Adopt a Resolution Appointing Roger Lee as Interim Public Works Director (Liz Brown, Interim Human Resources Director, 408-586-3086)**

Recommendation: Adopt a resolution appointing Roger Lee as Interim Public Works Director 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 Roger Lee.

**C14. Waive the Second Reading and Adopt Ordinance No. 38.849 Amending the Zoning Map of the City of Milpitas in Accordance with the Provisions of Section 3.03 of Chapter 10 of Title XI of the Milpitas Municipal Code to Change the Zoning Classification of Certain Parcels (APNs 086-38-021, -022, and -037), Located on the East Side of South Hillview Drive and Extending Approximately 1,200 Feet Southerly From Los Coches Street, From the M2 Heavy Industrial Zoning District to the M1 Light Industrial Zoning District (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: Move to waive the second reading and adopt Ordinance 38.849 amending the Zoning map of the City of Milpitas in accordance with the provisions of Section 3.03 of Chapter 10 of Title XI (Zoning Ordinance) of the Milpitas Municipal Code to change the Zoning Classification of Certain Parcels (APNs 086-38-021, -022, and -037), located on the east side of South Hillview Drive and extending approximately 1200 feet southerly from Los Coches Street, from the M2 Heavy Industrial Zoning District to the M1 Light Industrial Zoning District.

**C15. Waive the Second Reading and Adopt Ordinance No. 38.850 Amending Section 13 “Special Uses” of Chapter 10 “Zoning” of Title XI of the Milpitas Municipal Code Relating to Outdoor Dining (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: Move to waive the Second Reading and Adopt Ordinance No. 38.850, amending Section 13 “Special Uses” of Chapter 10 “Zoning” of Title XI of the Milpitas Municipal Code and adding a new Subsection 13.19 Relating to Outdoor Dining and find a CEQA exemption under sections 15183 and 15061(b)(3).

**C16. Report on Bids and Award Construction Contract to G&G Builders Inc. in the Amount of \$872,029.00 for Rehabilitation of Up to Eleven City Parks Project (Staff Contact: Roger Lee, Interim Public Works Director, 408-586-2602)**

Recommendation: (1) Receive report on bids and award a construction contract to the lowest responsible and responsive bidder, G&G Builders Inc., in the amount of \$872,059.00 for the Rehabilitation of Up to Eleven City Parks project; and (2) Authorize the City Manager to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$468,514.00 subject to appropriation of funds and find a CEQA exemption as modifications to existing facilities.

## **PUBLIC HEARINGS** (7:20 PM)

Members of the public may be allotted up to three (3) minutes or less at the Mayor's discretion, to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of ten (10) minutes for opening statements and up to a total of five (5) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

**17. Conduct a Public Hearing and Adopt Ordinance No. 65.152 for Adoption by Reference the 2022 California Building Codes and Amendments (Staff Contact: Bill Tott, Building Official, 408-586-3263)**

Recommendation: (1) Open the Public Hearing; hear testimony, then move to close the public hearing. (2) Waive the second reading and adopt Ordinance No. 65.152 amending Chapters 3, 3.5, 4, 5, 6, 7, 10, 14, 150, and 170 of Title II of the Milpitas Municipal Code adopting by reference the 2022 California Building Code, 2022 California Residential Code, 2021 International Property Maintenance Code, 2022 California Mechanical Code, 2022 California Electrical Code, 2022 California Plumbing Code, 2021 International Swimming Pool and Spa Code, 2022 California Existing Building Code, and 2022 California Historical Building Code, with amendments.

**18. Conduct a Public Hearing and Adopt Ordinance No. 65.153 Adopting by Reference the 2022 California Energy Code; and Adopt Ordinance No. 65.154 Adopting by Reference the 2022 California Green Building Standards Code with Amendments (Staff Contact: Bill Tott, Building Official, 408-586-3263)**

Recommendation: (1) Open the public hearing, hear testimony, then move to close the public hearing; (2) Waive the second reading and adopt Ordinance No. 65.153 amending Chapter 11 of Title II of the Milpitas Municipal Code adopting by reference the 2022 California Energy Code; and (3) Waive the second reading and adopt Ordinance No. 65.154 amending Chapter 19 of Title II of the Milpitas Municipal Code adopting by reference the 2022 California Green Building Standards Code with amendments and find a CEQA exemption.

**19. Conduct a Public Hearing, Waive the Second Reading and Adopt Ordinance No. 133.26, Adopting by Reference with Certain Local Amendments the 2022 Edition of the California Fire Code (Staff Contact: Arthur Belton, Deputy Fire Chief/Fire Marshal, 408-586-3384)**

Recommendation: (1) Following the City Attorney reading aloud the title, waive the second reading beyond the title of Ordinance No. 113.26; (2) Open the public hearing and move to close following comments; and (3) Adopt Ordinance No. 113.26 adopting by reference with certain local amendments the 2022 edition of the California Fire Code, enacted as Chapter 300, Title V of the Milpitas Municipal Code.

**20. Conduct a Public Hearing and Consider Adopting an Urgency Ordinance Amending Section 13 "Special Uses" of Chapter 10 "Zoning" of Title XI of the Milpitas Municipal Code Relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) (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 an Urgency Ordinance amending Section 13 "Special Uses" of Chapter 10 "Zoning" of Title XI of the Milpitas Municipal Code to comply with Government Code Section(s) 65852.2, 65852.22, 65852.23 and Section 17980.12 of the Health and Safety Code and making findings that the proposed zoning ordinance amendment is statutorily exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21080.17, which exempts from CEQA any ordinance that is adopted to implement Government Code Section 65852.1 or 65852.2.

21. **Conduct a Public Hearing and Introduce an Ordinance Amending Section 13 “Special Uses” of Chapter 10 “Zoning” of Title XI of the Milpitas Municipal Code Relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: (1) Conduct a public hearing and move to close the hearing following comments; (2) City Attorney shall read aloud the title of the Ordinance; and (3) Move to waive the first reading beyond the title and introduce an Ordinance amending Section 13 “Special Uses” of Chapter 10 “Zoning” of Title XI of the Milpitas Municipal Code relating to Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) and making findings of CEQA exemption.

#### **COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE** (9:30 PM)

22. **Receive Staff Report on Draft Water Rates Study, 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 for the Proposed Water Rates (Staff Contact: Roger Lee, Interim Public Works Director, 408-586-2602; and Lauren Lai, Finance Director, 408-586-3111)**

Recommendation: (1) Receive staff report on Draft Water Rates Study; and (2) 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 and find a CEQA exemption.

23. **Receive Staff Report on Draft Sewer Rates Study, 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 for the Proposed Sewer Rates (Staff Contact: Roger Lee, Interim Public Works Director, 408-586-2602; and Lauren Lai, Director of Finance, 408-586-3111)**

Recommendation: (1) Receive staff report on Draft Sewer Rates Study; and (2) 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 and find a CEQA exemption.

#### **LEADERSHIP AND SUPPORT SERVICES** (10:30 PM)

24. **Adopt a Resolution Appointing Brian Stelling as Interim Fire Chief (Staff Contact: Liz Brown, Interim Human Resources Director, 408-586-3086)**

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

#### **ADJOURNMENT** (10:45 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: [mmutalipassi@milpitas.gov](mailto:mmutalipassi@milpitas.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.milpitas.gov](http://www.milpitas.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.milpitas.gov/government/council/agenda\\_minutes.asp](http://www.milpitas.gov/government/council/agenda_minutes.asp) (select meeting date)

**APPLY TO SERVE ON A CITY COMMISSION**

Commission application forms are available online at [www.milpitas.gov](http://www.milpitas.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@milpitas.gov](mailto:CityClerk@milpitas.gov) prior to the meeting. You may request a larger font agenda.*