



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

MINUTES

TUESDAY, DECEMBER 6, 2022

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA

The City Council of the City of Milpitas convened on the regular City Council meeting day in a Joint Meeting of the Milpitas City Council, Housing Authority, and Successor Agency on December 6, 2022, 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 Regular City Council meeting to order at 7:22 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan
ABSENT: None

PLEDGE OF ALLEGIANCE

Mayor Tran invited Voltaire Montemayor to lead the Pledge of Allegiance.

INVOCATION

There was no invocation.

PUBLIC FORUM

The following people spoke under Public Forum:

1. Voltaire Montemayor
2. Renuka Marichannappa
3. Jackie Romero

Mayor Tran called a recess at 7:31 PM and the City Council reconvened at 7:50 PM

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Mayor Tran offered thanks to City staff that contributed to the Annual Christmas Tree lighting ceremony.

Councilmember Chua made the following requests:

1. Requested staff look into the impact of and how the City can compensate for the massive number of layoffs in the Bay Area. Requested staff consider how the City can help residents affected by layoffs, reach out to those affected and show them our programs.
2. Dedicate the council meeting to Parks, Recreation, and Cultural Resources Commissioner Voltaire Montemayor in recognition of his December 10th birthday.

Mayor Tran requested Councilmember Chua's first item be directed to the Economic Development and Trade Commission before being sent to City Council. Councilmember Chua accepted.

Councilmember Chua asked to have a review of the current lottery process for low income housing and to look into how it can be improved.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi 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 Mutalipassi 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

Mayor Tran read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the December 6, 2022 Regular Meeting Agenda, postponing Item 18 to January 10, 2023

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Mayor Tran

NOES: None

ABSENT: Vice Mayor Montano

CONSENT CALENDAR

Motion: to approve the consent calendar.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Mayor Tran

NOES: None

ABSENT: Vice Mayor Montano

C1. Receive City Council Calendar of Meetings for December 2022 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received 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)

Approved 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)

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 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Reviewed the list of items that have been requested by City Councilmembers and provide direction to staff as necessary.

C5. Consider the Recommendation from Mayor Tran for Appointments to City Commissions and Declare an Unscheduled Vacancy (Contact: Mayor Tran, 408-586-3029)

Received the recommendation from Mayor Tran and approved the following appointments to City Commissions; and declared an unscheduled vacancy on the Economic Development and Trade Commission and directed the City Clerk to post the notice of unscheduled vacancy. Appointments were as follows:

Arts Commission:

1. Appoint Helen Qiu as Alternate No. 2 with a term ending October 2025.

Community Advisory Commission:

1. Promote Monica Rodriguez to a full voting seat with an unexpired term ending January 2024.
2. Promote Kavita Sreedhar to Alternate No. 1 with an unexpired term ending January 2024.
3. Appoint Jose Geronimo as Alternate No. 2 with a term ending January 2026.

Energy and Environmental Sustainability Commission:

1. Reappoint Jeff Hogg to a term ending October 2025.
2. Reappoint Charles Lingle to a term ending October 2025.
3. Promote Felix Mbuga to a full voting seat with a term ending October 2025.
4. Promote Carmelo Coronel to Alternate No. 1 with a term ending October 2025.
5. Appoint Frank Bush as Alternate No. 2 with an unexpired term ending October 2024.

Library and Education Advisory Commission:

1. Promote Ann Anderson to a full voting seat with an unexpired term ending June 2023.
2. Appoint Trijohn Minh Tran as Alternate No. 2 with an unexpired term ending June 2024.

Parks, Recreation, and Cultural Resources Commission:

1. Appoint Yesenia Illescas to a term ending June 2025.

Planning Commission:

1. Reappoint Mercedes Albana to a term ending December 2025.
2. Reappoint Sonia Medina-Ashby to a term ending December 2025.

Senior Advisory Commission:

1. Reappoint Jenny Berryhill to a term ending December 2025.
2. Reappoint Willy Wong to a term ending December 2025.
3. Promote Nona Tolentino to a full voting seat with a term ending December 2025.
4. Promote Barbara Jo Navarro to Alternate No. 1 with an unexpired term ending December 2023.
5. Appoint Ha Phan as Alternate No. 2 with an unexpired term ending December 2024.

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)

Reconfirmed 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)

Authorized 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)**

Received 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)**

Accepted 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)**

Authorized 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)**

Adopted **Resolution No. 9202** 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)**

Adopted **Resolution No. 9203 / HA32 / SA15** 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 approved 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)**

Adopted **Resolution No. 9204** 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)

Waived the second reading and adopted **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)

Waived the second reading and adopted **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)

Received 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 authorized 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

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)

Building Official Tott presented the report.

Mayor Tran opened the public hearing

There were the following speakers:

1. Voltaire Montemayor
2. Jared Johnson
3. Bruce Naegel
4. Alex Wagonfeld
5. Linda Hutchins-Knowles

Mayor Tran closed the public hearing.

City Attorney Mutalipassi read the title of the ordinance.

After discussion, motion: to 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

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

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

NOES: None

- 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)**

Postponed to the first regular meeting in January 2023.

- 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)**

Deputy Fire Chief / Fire Marshal Belton presented the report.

Mayor Tran opened the public hearing

There were the following speakers:

1. Voltaire Montemayor

Mayor Tran closed the public hearing.

City Attorney Mutalipassi read the title of the ordinance.

After discussion, motion: to waive the second reading and 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.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

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

NOES: None

Items 20 & 21 were heard jointly.

- 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)**

Planning Director Thomas presented the report. Senior Planner Fossati and Consultant Holly Pearson were available to respond to questions from the Council.

Mayor Tran opened the public hearing

There were the following speakers:

1. Voltaire Montemayor

Mayor Tran closed the public hearing.

Vice Mayor Montano asked for clarification on heights within a half mile of the transportation area and voiced concerns with the new State-mandated height allowances.

After discussion, motion: to adopt **Urgency Ordinance No. 38.851** 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.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

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

NOES: None

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)**

City Attorney Mutalipassi read the title of the ordinance.

After discussion, motion: to waive the first reading beyond the title and introduce **Ordinance No. 38.852** 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.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

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

NOES: None

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

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)**

Interim Public Works Director Lee presented the report.

Mayor Tran asked staff to engage more with business customers and ensure the City hears from small businesses and shopping centers.

Councilmember Dominguez voiced opposition to exploring rate increases and asked to simplify the process potentially through an online form that residents could submit their information and staff certification verify the address. She asked to ensure outreach is offered in the languages spoken by Milpitas residents.

There were the following speakers:

1. Voltaire Montemayor

Mayor Tran confirmed staff's recommendation to conduct the public hearing on March 7, 2023.

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)

Received staff report on Draft Sewer Rates Study directed 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.

Interim Public Works Director Lee presented the report.

Mayor Tran noted that there needs to be a larger discussion regarding subsidizing mobile home parks and the importance of community engagement.

There were the following speakers:

1. Voltaire Montemayor

Councilmember Dominguez mentioned the importance of making sure there is opportunity for the community to have access in different languages, and to include information on the protest process on the website and in the newsletter.

Mayor Tran confirmed staff's recommendation to conduct the public hearing on March 7, 2023

LEADERSHIP AND SUPPORT SERVICES

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

Interim Human Resources Director Brown presented the report.

There were the following speakers:

1. Voltaire Montemayor

After discussion, motion: to adopt **Resolution No. 9205** 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.

Motion/Second: Tran / Chua

Motion carried by the following:

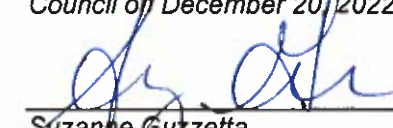
AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

ADJOURNMENT

Mayor Tran adjourned the meeting at: 9:34 PM in honor of the birthday of Parks, Recreation and Cultural Resources Commissioner Voltaire Montemayor.

The foregoing minutes were approved by the Milpitas City Council on December 20, 2022.



Suzanne Guzzetta
Milpitas City Clerk