



REGULAR MEETING MINUTES OF THE MILPITAS CITY COUNCIL

**TUESDAY, NOVEMBER 16, 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 Regular Meeting day of November 16, 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 Regular 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 (virtual), and Phan

ABSENT: None

ADJOURN TO CLOSED SESSION

(a) PUBLIC EMPLOYMENT

Pursuant to California Government Code Section 54957

Position: City Attorney (review of candidates)

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 de los Angeles stated there was no reportable action.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

INVOCATION

Councilmember Chua introduced Sister Bing Noman of St. John Church of Milpitas.

PRESENTATIONS

There were no presentations.

PUBLIC FORUM

Those interested are invited to address City Council on any subject not on tonight's agenda, orally via zoom webinar (instructions on page 1). Speakers may provide their name and city of residence for the Clerk's record, and comments may be limited to three minutes or less. 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.

The following spoke under Public Forum:

1. Voltaire Montemayor

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

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.

Mayor Tran congratulated the Milpitas High School Marching Band and Color Guard for placing second at the regional competition.

Vice Mayor Montano attended the Marching Band event at Milpitas High School and requested staff to look into Mural Art on Great Mall Parkway on the light rail pillars.

Councilmember Phan spoke about the third-party food delivery fee cap urgency ordinance that was adopted last year and stated that there are complaints that third-party food delivery services are charging above what the current ordinance allows. He requested the City make the temporary fee caps permanent and add additional provisions for enforcement.

Councilmember Chua announced new library evening hours and spoke about a resident that became the first gold-level donor. She also announced that Silicon Valley Clean Energy made a donation pledge of \$5,000 to the City's Holiday Magic event. She also announced that the ADU corner is now live and requested that staff do an ADU tool demo to help encourage ADU construction. She also commented on two courts at Peter Gill Park being used for tennis players and soccer players to practice against the wall and requested staff to look at creating a pilot project to accommodate pickleball and would like a feasibility study with a goal of making these courts multi-purpose.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney de los Angeles 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 de los Angeles 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 de los Angeles read aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the November 16, 2021, Regular Meeting Agenda.

Motion/Second: Mayor Tran / Councilmember Phan

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Councilmember Dominguez)

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

Vice Mayor Montano stated she would like to pull items C5, C8, and C11 off the Consent Calendar.

Motion: to approve the Consent Calendar removing items C5, C8, and C11.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Councilmember Dominguez)

C1. Receive City Council Calendars of Meetings for November and December 2021 (Staff Contact: Wendy Wood 408-586-3001)

Received the City Council Calendars of Meetings for November and December 2021.

C2. 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.

C3. Approve City Council Special Meeting Minutes of November 1, 2021, and the Regular Meeting Minutes of November 2, 2021 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Approved the City Council Special Meeting Minutes of November 1, 2021, and the Regular Meeting Minutes of November 2, 2021.

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

Review the list of items that have been requested by City Councilmembers including additional attachments with the revised list.

C5. Adopt a Resolution Granting Acceptance of Public Improvements and Approve Reduction of Faithful Performance Bond for Public Improvements for the Amalfi Apartments and Granting Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

This item was pulled off Consent.

C6. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Bridge Point Milpitas LLC for the Bridge Point Project at 205 N. McCarthy Blvd (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 Bridge Point Milpitas LLC for the Bridge Point Project at 205 N. McCarthy Blvd.

C7. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Robson Homes, LLC for the Finch Hollow Project at 1005 North Park Victoria (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 Robson Homes, LLC for the Finch Hollow Project at 1005 North Park Victoria.

- C8. Approve and Adopt the Proposed City ADA/Section 504 Complaint/Grievance Procedure (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

This item was pulled off Consent.

- C9. Authorize the City Manager to Accept the 2021 Bulletproof Vest Partnership Grant and Approve a Related Budget Appropriation in the Amount of \$10,239.97 (Staff Contact: John Torrez, Police Captain, 408-586-2408)**

Authorized the City Manager to accept the 2021 Bulletproof Vest Partnership Grant in the amount of \$10,239.97; and approved a budget appropriation into the Police Department's FY 2021-22 operating budget in the amount of \$10,239.97.

- C10. Authorize the City Manager to Execute the Grant Agreement With the County Of Santa Clara to Accept the 2020 State Homeland Security Grant Program Award; Approve and Authorize the Sole Source Purchase of Mobile Crash Barriers; and Approve a Budget Appropriation In the Amount of \$106,836.95 (Staff Contact: John Torrez, Police Captain, 408-586-2408)**

Authorized the City Manager to execute the grant agreement with the County of Santa Clara to accept the 2020 State Homeland Security Grant Program award and approved and authorized the sole source purchase of mobile crash barriers manufactured by Delta Scientific Corporation; and approved a budget appropriation of \$106,836.95 into the Police Department's FY 2021-22 operating budget.

- C11. Award IFB No. 22-014 to JAM Services and Authorize the City Manager to Purchase Decorative Light Poles and Fixtures for the Not-To-Exceed Amount of \$152,085.94 (Staff Contact: Tony Ndah, Public Works Director)**

This item was pulled off Consent.

Awarded IFB No. 22-014 to JAM Services and authorized the City Manager to purchase decorative light poles and fixtures for the not-to-exceed amount of \$152,085.94.

- C12. Award and Authorize the City Manager to Execute a Five-Year General Services Agreement with Merrimac Petroleum, Inc. dba Merrimac Energy Group to Provide Fuel and Diesel Delivery Services (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Awarded IFB No. 22-022 and authorize the City Manager to execute the five-year General Services Agreement with Merrimac Petroleum, Inc. dba Merrimac Energy Group to provide fuel and diesel delivery services.

- C13. Review the FY 2021-22 Quarterly Financial Status Report for the Quarter Ending September 30, 2021 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Reviewed the FY 2021-22 Quarterly Financial Status Report for the Quarter Ending September 30, 2021.

- C14. Approve City Council Meeting Schedule for 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Approved the 2022 Milpitas City Council meeting schedule, with any changes requested at the City Council meeting.

C15. 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.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

16. Introduce Ordinance No. 48.22 Amending Chapter 200 (Solid Waste Management) of Title V (Public Health, Safety, and Welfare) of the Milpitas Municipal Code to Comply with SB 1383 Requirements (Staff Contact: Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Deputy Public Works Director Marshall presented the staff report and proposed a change to the ordinance presented in the agenda packet to amend section V-200-3.22 deleting subsection b and c and re-letter subsection d to letter b, removing language that was carried over from the Cal Recycle model ordinance for optional waivers that were not clearly defined.

Mayor Tran opened the public hearing.

The following spoke during public comment:

1. Voltaire Montemayor

Mayor Tran closed the public hearing.

City Attorney de los Angeles read the title of Ordinance 48.22 “An Ordinance of The City Council of The City of Milpitas Amending Chapter 200 Of Title V of The Milpitas Municipal Code Relating to Solid Waste Management” and stated that it would include an amendment to section 5-200-3.22 to delete subsection b and c and re-letter subsection d to letter b as recommended by staff.

Motion: to waive the reading beyond the title and introduce **Ordinance No. 48.22** amending Chapter 200 (Solid Waste Management) of Title V (Public Health, Safety, and Welfare) of the Milpitas Municipal Code.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Councilmember Dominguez)

LEADERSHIP AND SUPPORT SERVICES

17. Adopt a Resolution for Exception to the 180-Day Wait Period in Accordance with California Government Code Section 7522.56 and 21224 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

Finance Director Lai presented the staff report.

The following spoke during public comment:

1. Voltaire Montemayor

20. Review Proposed City Council Procedures and Protocols Handbook, Provide Input, and Direct Staff to Bring Back for Council Consideration (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Christopher Diaz, City Attorney, 408-586-3041)

Assistant City Manager Kantak presented the staff report.

The following spoke during public comment:

1. Voltaire Montemayor

The City Council reviewed the proposed City Council Procedures and Protocols Handbook, asked clarifying questions, and directed staff to bring it back for Council consideration at the next meeting.

ITEMS REMOVED FROM CONSENT

C5. Adopt a Resolution Granting Acceptance of Public Improvements and Approve Reduction of Faithful Performance Bond for Public Improvements for the Amalfi Apartments and Granting Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Vice Mayor Montano asked if the Public Art Ordinance was part of this project.

Engineering Director/City Engineer Erickson stated that he would check and follow up.

The following spoke during public comment:

1. Voltaire Montemayor

Motion: to adopt **Resolution No. 9108** granting acceptance of public improvements for the Amalfi Apartments Project, Public Improvement Plans No. 2-1172 and approved a reduction in the performance bond, subject to a one-year warranty period and reduction of the faithful performance bond to \$380,000.00 which shall be in effect for the duration of the warranty period and granting authorization to the City Engineer to release the performance bond after the one-year warranty period, without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Councilmember Dominguez)

C8. Approve and Adopt the Proposed City ADA/Section 504 Complaint/Grievance Procedure (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Vice Mayor Montano asked if the City provides education to businesses on ADA rules.

Engineering Director/City Engineer Erickson stated that he would follow up.

Mayor Tran requested that the City provide postcards to businesses to provide ADA information.

The following spoke during public comment:

1. Voltaire Montemayor

Motion: to approve and adopt the proposed City ADA/504 Complaint/Grievance Procedure.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Councilmember Dominguez)

C11. Award IFB No. 22-014 to JAM Services and Authorize the City Manager to Purchase Decorative Light Poles and Fixtures for the Not-To-Exceed Amount of \$152,085.94 (Staff Contact: Tony Ndah, Public Works Director)

Vice Mayor Montano clarified the light pole color.

The following spoke during public comment:

1. Voltaire Montemayor

Motion: to award IFB No. 22-014 to JAM Services and authorize the City Manager to purchase decorative light poles and fixtures for the not-to-exceed amount of \$152,085.94.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by a vote of:

AYES: 4

NOES: 0

ABSENT: 1 (Councilmember Dominguez)

ADJOURNMENT

Mayor Tran adjourned the meeting at 9:32 PM.

The foregoing minutes were approved by the Milpitas City Council on December 7, 2021.

Wendy Wood
City Clerk