



REGULAR MEETING MINUTES OF THE MILPITAS CITY COUNCIL

TUESDAY, SEPTEMBER 7, 2021
CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD,
MILPITAS, CA
5:30 PM (CLOSED SESSION)
7:00 PM (PUBLIC BUSINESS)

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

Mayor Tran called the Regular City Council meeting to order at 5:30 PM. Roll Call was taken by City Clerk Wood.

PRESENT: Mayor Tran, Vice Mayor Montano (arrived at approximately 5:35 PM), Councilmembers Chua, Dominguez, and Phan

ABSENT: None

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to California Government Code §54956.9(d)(1)
Alok Jain, et al. vs. City of Milpitas, et al; Santa Clara County Superior Court, Case No. 18CV325365

(b) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)
City as Plaintiff
County Sanitation District 2-3, West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, and City of Milpitas v. City of San Jose, City of Santa Clara

The City Council reconvened to the public portion of the meeting at 7:00 PM.

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 announce that there was no reportable action.

PLEDGE OF ALLEGIANCE

Mayor Tran led the Pledge of Allegiance.

INVOCATION

Councilmember Phan deferred the Invocation to Mayor Tran. Mayor Tran led the Invocation.

PRESENTATIONS

Mayor Tran proclaimed the month of September as Pain Awareness Month.

Vice Mayor Montano on behalf of the Mayor and City Council, proclaimed the week of September 5th as National Suicide Prevention Week and the month of September as National Preparedness Month.

Fire Chief Sherrard thanked Council for the proclamation and recognized Toni Charlop for her work on the emergency preparedness programs.

Councilmember Chua on behalf of the Mayor and City Council, proclaimed September 18, 2021, as National Cleanup Day and National Gymnastics Day. She acknowledged Scott Burns, owner of Game Time Elite Gymnastics.

Mayor Tran announced that the City will be holding a flag raising ceremony for the Hispanic Heritage Month on September 17 at 5:00 PM at Cezar Chavez Plaza.

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.

The following spoke under Public Forum:

1. Voltaire Montemayor

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.

City Manager McHarris announced that the City continues to partner with the County of Santa Clara for more testing in Milpitas. The City will be hosting a walkup COVID-19 pop-up clinic on Wednesday, September 15 from 4:30 PM to 7:30 PM at the Milpitas Community Center. The pop-up will have both Pfizer and Johnson and Johnson vaccines for the public 12 years or older. The City will continue to work with the County on future clinics including booster shots and additional vaccinations for the immune-compromised.

Vice Mayor Montano spoke about murals on Main Street, stating that there are pillars there that would be a good art site for the murals. She would like the school district to have a contest with the students to create the artwork. She also requested that the City designate more street sweeping signage for different areas in the City, more specifically at Capitol Avenue and Abel Street.

Councilmember Dominguez made a request to add a future agenda item to create an agreement with the owners of electrical boxes to allow the City access to remove gang-related tagging within 24 hours. She also commented on the skate park, stating that she received some concern about the lighting and the pathway to the bathroom. She would like staff to follow up and let Council know if there is a plan to create a pathway from the skate park to the bathrooms and if there is no plan she would like this brought to Council to create a pathway.

Councilmember Chua spoke about the monthly neighborhood clean-up day and stated that it is very popular but was only intended for May through August. She requested that staff prepare a report and ask for direction from the Council on what to do next. She commented on the trash voucher program stating that out of the 130 vouchers available only 11 went to the dumpsite. She would like to request that the Public Information Officer do an outreach to make sure the community uses the vouchers by December 31. She also stated that

Assemblymember Alex Lee would like to partner with the City at the Farmer's Market on October 24 to promote having safety resources. They are asking for Milpitas Police Department and Fire Department to participate in the event.

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 C8 to a later date to extend the term. There being no objections Mayor Tran stated that Item C8 would be postponed.

Motion: to approve the September 7, 2021, regular meeting agenda.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

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 Consent Calendar. (Item C8 is postponed)

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of: AYES: 5
NOES: 0

- C1. Receive the City Council Calendar of Meetings for September 2021 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Received the City Council Calendar of Meetings for September 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 the City Council Meeting Minutes of the August 17, 2021, Regular Meeting (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Approved the meeting minutes of the August 17, 2021, regular meeting.

- C4. Adopt a Resolution Directing Staff to Fly City Event Celebration and/or Commemorative Flags at Various Standard Annual Events (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Adopted **Resolution 9102** directing staff to fly City Event Celebration and/or Commemorative Flags at various standard annual events and flag position for multiple commemorative periods.

- C5. Approve and Authorize the City Manager to Execute a Professional Services Agreement with Disability Access Consultants, LLC in the amount of \$269,150 for ADA Self-Evaluation and Transition Plan for the ADA Compliance Review, Project No. 3436; and Approve a Budget Appropriation of \$134,158 in PLAN JPA Grant Funding, and \$37,000 of General Government CIP Funding into Project No. 3436 (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Approved and authorized the City Manager to execute a Professional Services Agreement with Disability Access Consultants, LLC in the amount of \$269,150 for ADA Self-Evaluation and Transition Plan for the ADA Compliance Review, Project No. 3436; and approved a Budget Appropriation of \$134,158 of PLAN JPA Grant Funding, and \$37,000 from the General Government CIP Fund into CIP Project No. 3436.

- C6. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Milpitas – District 2 Owner, LLC for the District 1 Lot 2 Project at 1415 McCandless Drive (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 Milpitas – District 2 Owner, LLC for the District 1 Lot 2 Project at 1415 McCandless Drive.

- C7. Review and Accept the Legislative Action Report (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)**

Reviewed and accepted the Legislative Action Report.

- C8. Approve First Amendment to City Manager Employment Agreement with Steven McHarris (Staff Contact: Christopher J. Diaz, City Attorney, 408-586-3040)**

This item was postponed to a future date.

- C9. Approve and Authorize the City Manager to Execute a Memorandum of Understanding with the Santa Clara County Specialized Enforcement Team for a Ten-Year Period in an Amount Not to Exceed \$100,000, Subject to the Annual Appropriation of Funds (Staff Contact: Jared Hernandez, Acting Chief of Police, 408-586-2406)**

Approved and authorized the City Manager to execute a Memorandum of Understanding with the Santa Clara County Specialized Enforcement Team for a ten-year period in an amount not to exceed \$100,000, subject to the annual appropriation of funds.

- C10. Approve and Authorize an Extension of an Employment List for the position of Fire Captain to July 13, 2022, unless otherwise exhausted or abolished in accordance with the Personnel Rules (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053; and Jeannine Seher, Human Resources Director, 408-586-3086)**

Approved and authorized an extension of an Employment List for the position of Fire Captain to July 13, 2022, unless otherwise exhausted or abolished in accordance with the Personnel Rules.

C11. Receive a Report on the Milpitas HOPE Suicide Prevention Task Force Activities Since September 2020 (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Received a report on the Milpitas HOPE Suicide Prevention Task Force Activities.

C12. Approve and Authorize Payments During Fiscal 2021-22 for Worker's Compensation, General Liability, and Property Insurance Premiums and 10% Additional Payment Authority Designated to the City Manager (Staff Contact: Lauren Lai, Director of Finance, 408-586-3111)

Approved and authorized payments during Fiscal 2021-22 for Worker's Compensation, General Liability, and Property Insurance Premiums and 10% Additional Payment Authority Designated to the City Manager.

COMMUNITY DEVELOPMENT

13. Receive Report on Proposed Rent and Mortgage Relief Program Included in the Preliminary American Rescue Plan Act Investment Plan and Provide Direction to Staff (Staff Contact: Sharon Goei, Director of Building Safety and Housing, 408-586-3260)

Director of Building Safety and Housing Goei and Housing and Neighborhood Administrator Musallam gave a presentation on the program.

Council asked clarifying questions.

Sheri Burns from Silicon Valley Independent Living Center provided additional information.

Council provided feedback to staff to allocate 75 percent of the funding toward rent relief and 25 percent towards mortgage relief and eliminate the investor relief investment properties.

The following spoke during Public Comment:

1. Voltaire Montemayor
2. Allysson McDonald

Staff stated that they still need to go through the selection process and receive some additional information on the staffing resources and informed Council that this item will come back with an update.

14. Receive a Report on the Pilot Mobile Shower and Laundry Program and Provide Direction to Staff (Staff Contact: Sharon Goei, Director of Building Safety and Housing, 408-586-3260)

Director of Building Safety and Housing Goei gave a presentation on the pilot program.

The following spoke during Public Comment:

1. Unhoused Milpitas resident
2. Milpitas resident
3. Voltaire Montemayor
4. Allysson McDonald
5. Yolie Garcia

Council stated support for the program and discussed alternate locations.

Council provided direction to staff to continue the program and look into other location options for the dates surrounding the Magic on Main Street event.

LEADERSHIP AND SUPPORT SERVICES

15. Introduce Ordinance No. 23.16 Amending Title I, Chapter 2, Section 2.03 of the Milpitas Municipal Code Relating to Purchases Made by Departments (Staff Contact: Lauren Lai, Director of Finance, 408-586-3111)

Finance Director Lai gave a presentation on the proposed ordinance.

The following spoke during Public Comment:

1. Voltaire Montemayor

City Attorney Diaz read the title of Ordinance 23.16 “An Ordinance of The City Council f The City of Milpitas Amending Title 1, Chapter 2, Section 2.03 Of The Milpitas Municipal Code Relating To Purchases Made By Departments.”

Motion: to waive the first reading beyond the title of Ordinance No. 23.16; and introduce Ordinance No. 23.16 Amending Title I, Chapter 2, Section 2 of the Milpitas Municipal Code Relating to Purchases Made by Departments.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of:

AYES: 4

NOES: 1 (Montano)

16. Receive a Report from Staff Regarding Transition to an In-House City Attorney, Establish the Position of City Attorney, Adopt a Resolution to Amend the Classification Plan to Add the Salary Range for the City Attorney, and Provide Input into the Desired Qualifications to Assist in the Selection Process for the City Attorney (Staff Contacts: Ashwini Kantak, Assistant City Manager, 408-586-3053; and Jeannine Seher, Human Resources Director, 408-586-3086)

Assistant City Manager Kantak and Human Resources Director Seher gave a presentation on the transition and asked for Council input on the desired qualifications.

The following spoke during Public Comment:

1. Voltaire Montemayor

Council asked clarifying questions and provided general feedback on desired qualifications.

Pamela Derby, a consultant from CPS HR Consulting, provided additional information.

After further discussion, Motion: to establish the position of City Attorney and adopt **Resolution No. 9103** to amend the Classification Plan to add the Salary Range for the City Attorney.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by a vote of:

AYES: 3

NOES: 2 (Dominguez and Phan)

REPORTS OF MAYOR & COUNCILMEMBERS - from assigned Commissions, Committees, and Agencies

17. Establish the Main Street Revitalization Ad-Hoc Council Sub-Committee Comprised of Vice Mayor Montano and Councilmember Chua (Contact: Mayor Tran, 408- 586-3029)

Mayor Tran spoke about the Main Street Revitalization and recommended the appointment of Vice Mayor Montano and Councilmember Chua to the Main Street Revitalization Ad-Hoc Council Sub-Committee.

The following spoke during Public Comment:

1. Voltaire Montemayor

Motion: to establish the Main Street Revitalization Ad-Hoc Council Sub-Committee Comprised of Vice Mayor Montano and Councilmember Chua.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of: AYES: 5

NOES: 0

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

Mayor Tran asked if there were any members of the City Council wishing to comment on this item.

Vice Mayor Montano commented on having a museum on Main Street.

There was no action taken on this item.

ADJOURNMENT

Mayor Tran adjourned the meeting at 11:00 PM.

The foregoing minutes were approved by the Milpitas City Council on September 21, 2021.

Wendy Wood
City Clerk