



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, MAY 17, 2022

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

6:00 PM (CLOSED SESSION)

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.

Councilmember Dominguez will be teleconferencing pursuant to Government Code Section 54953(b)(3) from the lobby of the Embassy Suite Hotel located at 901 E. Calaveras Blvd. Milpitas CA. The teleconference location shall be accessible to the public for the open session portion of the meeting. Members of the public will have the opportunity to address the City Council directly via Zoom from this location pursuant to Government Code Section 54954.3.

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.ci.milpitas.ca.gov/youtube>

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

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_FFXqJAGPSrOS0ZvUQAWzSw

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 (6:00 PM)

ADJOURN TO CLOSED SESSION

- (a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Pursuant to Government Code Section 54956.9(d)(2)
City as Defendant - See document attached

CLOSED SESSION ANNOUNCEMENT (7:00 PM)

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

PLEDGE OF ALLEGIANCE

INVOCATION (Mayor Tran)

PRESENTATIONS (7:05 PM)

- Asian Pacific American Heritage Month (Proclamation)
- Public Works Week (Proclamation)
- Memorial Day (Proclamation)
- Milpitas Robotics Team
- ADU Workshop Participants

PUBLIC FORUM (7:10 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@ci.milpitas.ca.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 (7:15 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 (7:25 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 the City Council Calendar of Meetings for May and June 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Receive the City Council Calendar of Meetings for May and June 2022.

- C2. Approve the Regular Meeting Minutes of May 3, 2022 and the Special Meeting Minutes of May 10, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Approve the Regular Meeting Minutes of May 3, 2022 and the Special Meeting Minutes of May 10, 2022.

- C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Wendy Wood, 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 (Contact: Mayor and City Councilmembers, 408-586-3000)**

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. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring Its Intention to Levy and Collect Assessments, and Provide Notice of the Public Hearing to be held on June 21, 2022, for Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1 Sinclair Horizon) (Staff Contact: Steve Erickson, Engineering Director 408-586-3301)**

Recommendation: Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring its intention to levy and collect assessments, and provide notice of the Public Hearing to be held on June 21, 2022, for LLMD 98-1 Sinclair Horizon.

- C6. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring Its Intention to Levy and Collect Assessments, and Provide Notice of Public Hearing to be held on June 21, 2022 for Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD 95-1 McCarthy Ranch) (Staff Contact: Steve Erickson, Engineering Director 408-586-3301)**

Recommendation: Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring its intention to levy and collect assessments, and provide notice of public hearing to be held on June 21, 2022 for LLMD 95-1 McCarthy Ranch.

- C7. Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to DeSilva Gates Construction LLC for Street Resurfacing Project Nos. 4283, 4298, 4303; and Approve Budget Change for Project Nos. 4303 and 4298 (Staff Contact: Steve Erickson, Engineering Director/City Engineer 408-586-3301)**

Recommendation: Adopt a resolution to approve Project Plans & Specifications; award the Construction Contract to the lowest responsible, and responsive bidder, DeSilva Gates Construction LLC, in the amount of \$4,754,451.00 for the Street Resurfacing Project Nos. 4283, 4298, 4303; authorize the City Manager to execute the Construction Contract with DeSilva Gates Construction LLC; authorize the Engineering Director/City Engineer to negotiate and execute Contract Change Order(s) in an aggregate amount Not to Exceed \$1,188,612.75 for the project; and approve the Budget Change to appropriate funding for CP 4298 and CP 4303.

- C8. Resolution Granting City Staff Enforcement Authority Regarding the Distribution of Single-use Foodware Accessories and Standard Condiments consistent with Assembly Bill 1276 (Staff Contact: Elaine Marshall, Deputy Public Works Director, 408-586-2603)**

Recommendation: Adopt a resolution granting City staff authority regarding the distribution of single-use foodware accessories and standard condiments consistent with Assembly Bill 1276.

- C9. Authorize the City Manager to Execute an Administrative Services Agreement and the Government Money Purchase Plan and a Trust Agreement and related documents with Mission Square Retirement for a 401A program for Unrepresented Executive Management and modify Resolution 8980, Unrepresented Employee Benefits (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)**

Recommendation: Authorize the City Manager to execute an Administrative Services Agreement and the Government Money Purchase Plan and a Trust Agreement and related documents with Mission Square Retirement for a 401A program for Unrepresented Executive Management and modify Resolution 8980, Unrepresented Employee Benefits.

- C10. Adopt a Resolution Granting an Easement to Santa Clara Valley Water District and Authorizing the City Manager to Execute the Grant of Easement, and Any and All Necessary Documents, in a Form Approved by the City Attorney, for the Access to Operate, Inspect, Maintain, Repair, and Reconstruct the Milpitas Pipeline, the Intertie, and Appurtenant Structures at Gibraltar Water Pump Station (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Recommendation: Adopt a resolution granting an easement to Santa Clara Valley Water District and authorizing the City Manager to execute the Grant of Easement, and any and all necessary documents, in a form approved by the City Attorney, for the access to operate, inspect, maintain, repair, and reconstruct the Milpitas Pipeline, the Intertie, and appurtenant structures at Gibraltar Water Pump Station.

- C11. Review the FY 2021-22 Quarterly Financial Status Report for the Quarter Ending March 31, 2022 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Recommendation: Review the FY 2021-22 Quarterly Financial Status Report for the Quarter Ending March 31, 2022.

- C12. Authorize the City Manager to Amend the Memorandum of Understanding between the City and the International Association of Fire Fighters (IAFF), Local 1699 Modifying the Eligible Participants for the Retiree Dependent Medical Fund (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)**

Recommendation: Authorize the City Manager to amend the Memorandum of Understanding between the City and the International Association of Fire Fighters (IAFF), Local 1699 modifying the eligible participants for the Retiree Dependent Medical Fund.

- C13. Approve and Authorize the City Manager to Enter into a Side Letter to Amend the Memorandum of Understanding between the City and United Public Employees of California (UPEC Local 792), the Professional-Technical Unit (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)**

Recommendation: Approve and authorize the City Manager to enter into a side letter agreement with the United Public Employees of California (UPEC Local 792), the Professional-Technical Unit adding a new section to the Memorandum of Understanding to compensate qualified Community Service

Officers when expressly assigned to work as Field Evidence Technicians (FET) a 5% pay differential above their base salary.

- C14. Make Findings and Determinations Set Forth in Assembly Bill 361 and Adopt a Resolution Authorizing Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)**

Recommendation: Move to make findings and determinations under Assembly Bill 361 and adopt a resolution authorizing virtual meetings of the City Council and legislative bodies.

- C15. Authorize and Approve Out-of-State Travel to Reno, NV for Mayor Rich Tran, and Vice Mayor Carmen Montano to Attend the United States Conference of Mayors to be Held on June 3 – 6, 2022 for a Combined Total Estimated Amount of \$4,700 (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)**

Recommendation: Authorize and approve out-of-state travel to Reno, NV for Mayor Rich Tran, and Vice Mayor Carmen Montano to attend the United States Conference of Mayors to be held on June 3 – 6, 2022 for a combined total estimated amount of \$4,700.

- C16. Receive an Update on the Emergency Replacement of Two (2) Boilers and Install of a Temporary Heating System for the Public Works, Information Technology, and Police Department Building and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Recommendation: Receive an update on the emergency replacement of two boilers and the installation of a temporary heating system for the Public Works, Police and Information Technology Department buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

PUBLIC HEARINGS (7:30 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. Adopt a Resolution Approving a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of 56 townhome condominiums and 24 accessory dwelling units. The residential development will consist of eight multi-family residential buildings up to 48 feet in height (four stories), with 84 vehicle parking spaces and associated site improvements on a 1.92-acre site located in the Very High-Density Mixed-Use (MXD3) Zoning District at 1752-1810 Houret Court. The Project is located within the Transit Area Specific Plan (TASP) area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019). (Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: Adopt a resolution to approve Site Development Permit No. SD21-0012, Conditional Use Permit No. UP21-0006, Vesting Tentative Map No. MT21-0002, Density Bonus Permit No. DB21-0001, Tree Removal Permit No. TR21-0035, and Environmental Assessment No. EA21-0004, subject to the Conditions of Approval.

- 18. Adopt a Resolution to Adopt the Trail, Pedestrian, and Bicycle Master Plan Update and Adopt the Trail, Pedestrian, and Bicycle Master Plan Initial Study Mitigated Negative Declaration (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301, Steve Chan, Transportation and Traffic Manager, 408-586-3324)**

Recommendation: (1) Open the public hearing for comments and move to close the hearing; (2) Adopt the Trail, Pedestrian, and Bicycle Master Plan Initial Study/Mitigated Negative Declaration and its associated Mitigation Monitoring and Reporting Program; (3) Adopt a Resolution to Adopt the Trail, Pedestrian, and Bicycle Master Plan Update; and (4) Authorize the Engineering Director/City Engineer to file a Notice of Determination in accordance with CEQA Guidelines Section 15075.

COMMUNITY DEVELOPMENT (9:00 PM)

19. **Adopt a Resolution Certifying Election Results and Adding the Property Located at 308 Sango Court into Community Facilities District No. 2008-1 (Annexation No. 22) (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Following receipt of election results from the City Clerk, adopt a resolution certifying election results and adding the property located at 308 Sango Court into Community Facilities District No. 2008-1 (Annexation No. 22).

20. **Receive Progress Report on The Work Completed and Existing Conditions Analysis from Ascent Environmental and Staff on the Milpitas Gateway-Main Street Specific Plan, Discuss Plan Objectives and Priorities, and Provide Direction on Key Planning Concepts and Land Use Strategies (Staff Contact: Ned Thomas, Planning Director, 408-586-3273 and Jay Lee, Principal Planner, 408-586-3077)**

Recommendation: Receive progress report on the work completed and existing conditions analysis from Ascent Environmental and staff on the Milpitas Gateway-Main Street Specific Plan, discuss Plan objectives and priorities, and provide direction on key planning concepts and land use strategies.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (10:00 PM)

21. **Receive Presentation from Bay Area Air Quality Management District Staff on the Results of the South Bay Odor Attribution Study (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602 and Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Receive a presentation from Bay Area Air Quality Management District Staff on the results of the South Bay Odor Attribution Study.

ADJOURNMENT (10:30 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@ci.milpitas.ca.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 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 (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at 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 prior to the meeting. You may request a larger font agenda.