



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, MAY 16, 2023

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.

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>

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_KIZP29aHRK-XUqLY1ZHxqg

After you register a link will be sent to you to join the City Council meeting in order to give your comments. All Zoom meeting attendees who wish to speak must click on the "raise hand" icon when the Mayor calls for public comments. If participating via phone, dial *9 to use the "raise hand" feature, and when called to speak, dial *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor will call speakers by name to address the City Council.

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.

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 by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

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 LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Nick Raisch, Human Resources Director

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

(b) CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

City as Defendant

Hanhong Chen, et al. v. City of Milpitas, et al., Santa Clara Superior Court case number 22CV393670

(c) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to California Government Code Section 54957

Position: City Attorney

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.

PLEDGE OF ALLEGIANCE

INVOCATION (Mayor Montano)

PRESENTATIONS (7:05 PM)

- Asian Pacific American Heritage Month (Proclamation)
- Public Works Week (Proclamation)
- Certificates for Earth Day and Library and Education Advisory Commission Essay Winners
- Certificates for Milpitas High School students: Sydney Moon and Sukhad Mutakar

PUBLIC FORUM (7:15 PM)

Members of the public are invited to speak on any item that does not appear on today's agenda. Comments will be limited to three minutes or less at the Mayor's discretion. When called to speak, you are encouraged to state your name for the record. As an item not listed on the agenda, no action can be taken, however the City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:20 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 May and June 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for May and June 2023.

- C2. Approve City Council City Council Meeting Minutes of April 25 and May 2, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Approve City Council Special Meeting minutes of April 25, 2023 and Regular Meeting minutes of May 2, 2023.

- 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 Montano for Appointments to City Commissions and Declare an Unscheduled Vacancy (Contact: Mayor Montano, 408-586-3024)**

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

- C6. Authorize and Approve Out-of-State Travel to Columbus, OH, for Mayor Carmen Montano to Attend the United States Conference of Mayors to be Held on June 2 – 5, 2023, for a Combined Total Estimated Amount of \$3,500.00 (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053)**

Recommendation: Authorize and approve out-of-state travel to Columbus, OH, for Mayor Carmen Montano to attend the United States Conference of Mayors to be held on June 2 – 5, 2023, for a combined total estimated amount of \$3,500.00.

- C7. Adopt a Resolution Granting Acceptance of Fire Station No. 2 Replacement, Project No. 3447, Authorizing the City Engineer to file a Notice of Completion, and Authorizing the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)**

Recommendation: Adopt a resolution granting acceptance of Fire Station No. 2 Replacement, Project No. 3447, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

- C8. Adopt a Resolution Designating Project No. 4305 Street Resurfacing 2023-2024 to be Funded by SB-1 The Road Repair and Accountability Act of 2017 (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)**

Recommendation: Adopt a resolution designating Project No. 4305 Street Resurfacing 2023-2024 to be funded by SB-1 the Road Repair and Accountability Act of 2017.

- C9. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring the City Council's Intention to Levy and Collect Assessments, and Provide Notice of Public Hearing to be held on June 20, 2023 for Landscaping and Lighting Maintenance Assessment District No.**

95-1 (LLMD 95-1 McCarthy Ranch) (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)

Recommendation: Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring the City Council's intention to levy and collect assessments, and provide notice of public hearing to be held on June 20, 2023, for LLMD 95-1 McCarthy Ranch.

- C10. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring the City Council's Intention to Levy and Collect Assessments, and Provide Notice of the Public Hearing to be held on June 20, 2023, for Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1 Sinclair Horizon) (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring the City Council's intention to levy and collect assessments, and provide notice of the Public Hearing to be held on June 20, 2023, for LLMD 98-1 Sinclair Horizon.

- C11. Adopt a Resolution Granting Acceptance of Delano Manongs Park (Formerly Known as McCandless Park), Project No. 2005, 5102, 7076, Authorizing the City Engineer to File a Notice of Completion, and Authorizing the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)**

Recommendation: Adopt a resolution granting acceptance of Delano Manongs Park (formerly known as McCandless Park), Project No. 2005, 5102, 7076, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

- C12. FY 2022-23 3rd Quarter Financial Status Report for the Quarter Ended March 31, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Recommendation: Review the FY 2022-23 Quarterly Financial Status Report for the quarter ended March 31, 2023.

- C13. Adopt a Resolution Approving a Site Development Permit and Amending the Previously Approved Design Standards of an Existing Planned Unit Development (PUD No. 68, Countryside Estates) to Allow Development of a New One-Story Single-Family Residence on a Vacant 1.653-Acre Lot Located in the R1-H Single-Family Residential Zoning District and Hillside Combining District at 1311 Countryside Court (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Recommendation: Consider the exemption in accordance with CEQA and adopt a resolution approving Site Development Permit No. SD21-0010 and PUD Amendment Permit No. PA21-0003, subject to the attached Conditions of Approval.

- C14. Adopt a Resolution to Terminate the Water Shortage Level 2 Drought Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Elaine Marshall, Deputy Public Works Director, 408-586-2603)**

Recommendation: Adopt a resolution terminating the City's Level 2 Water Shortage Emergency.

- C15. Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Recommendation: (1) Receive an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

- C16. Approve Parks and Recreation and Community Services Programs Donation for a Memorial Bench in Honor of Dale Flunoy (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: Approve the Parks and Recreation Donation for a Memorial Bench for Dale Flunoy.

- C17. Approve Amendment No.1 to the Memorandum of Understanding with the MUSD for Expansion of After the Bell for the Extended Learning Opportunities Program (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: Authorize the Acting City Manager to approve Amendment No.1 to the Memorandum of Understanding with the MUSD for expansion of After the Bell for the Extended Learning Opportunities Program.

- C18. Consider One Fee Waiver Request and One Donation Request from Show Up and Love and Contemporary Asian Theatre Scene (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: (1) Approve a Fee Waiver of \$700.00 for the Show Up & Love 1st Annual Fundraiser Cook off for Love at the Barbara Lee Senior Center Community Room on Sunday, July 16, 2023; and (2) Approve a donation of \$500.00 to the Contemporary Asian Theatre Scene to help pay for the cost of renting one theatre from Century Theatres on Tuesday, May 30, 2023.

- C19. Adopt a Resolution to Supersede Resolution 9145 to update City Event Celebration Flags and/or other Commemorative Flags at Cesar Chavez Plaza (Staff Contact: Renee Lorentzen, Director of Recreation and Community Services, 408-586-3409)**

Recommendation: Adopt a resolution to supersede Resolution No. 9145 updating City Event Celebration Flags and/or other Commemorative Flags at Cesar Chavez Plaza.

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.

- 20. Hear Administrative Appeal of Hearing Officer's Decision Upholding the Police Chief's Denial of a Massage Establishment Permit (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3041, Christopher Creech, Assistant City Attorney, 408-586-3049)**

Recommendation: (1) Open a public hearing; (2) Take evidence in accordance with MMC I-20-3.02; and (3) vote to (i) uphold the previous decision, or (ii) reverse and remand the decision for further consideration, or (iii) reverse the decision (without remand) and reach an opposite decision, or (iv) modify the previous decision, or (v) add new or additional conditions to the permit with additional notice, or (vi) continue the matter for further discussion for a meeting no later than 60 days from the date of the close of evidence.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (8:30 PM)

- 21. Receive Presentation from Staff on Exploratory Storm Drain System Funding Options (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Recommendation: Receive an informational presentation on the Preliminary Stormwater Funding Options Analysis and provide feedback to staff.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (9:30 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. 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 whether to move the item forward. If a majority of the City Council agrees to move the item forward, the City Manager shall place the item on a future agenda.

ADJOURNMENT (9:35 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 / 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.