



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, MAY 4, 2021

MILPITAS, CA

5:30 PM (CLOSED SESSION)

7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

City Council meeting is held via teleconference /Zoom webinar only (no physical meeting space).
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 by first registering for the zoom meeting in advance by providing email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of Zoom Meetings. Here is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_ukaYHD1RQjaLHHNIJ0ZL6Q

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 or staff 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. online written comment form previously used is no longer available for public comment.

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 (5:30 PM)

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Jeannine Seher, Human Resources Director

Bargaining Units: LIUNA (MEA, MIDCON, PROTECH), MPOA, IAFF, Unrepresented

One item regarding MEA

One item regarding all groups listed

(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

(c) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Cost Dispute with Tributary Agencies (Burbank Sanitary District, Cupertino Sanitary District, West Valley Sanitation District, County Sanitation District 2-3) Regarding Legal Expenses

(d) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9 (d)(2)

One Potential Case

Agenda Item 18 Appeal of Planning Commission's Denial of a Site Development Permit and

Conditional Use Permit Amendment for an Automatic Car Wash at 554 South Main Street

(e) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

Legal Risk Associated with Potential Hazard Pay Ordinance

(f) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Mayor Rich Tran

Employee: 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 (7:00 PM)

INVOCATION (Councilmember Chua)

PRESENTATIONS

- National Mental Health Awareness Month (Proclamation)
- Older Americans Month (Proclamation)
- Asian Pacific American Heritage Month (Proclamation)
- Economic Development Week (Proclamation)

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.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:15 PM)

Members of the City Council may make brief announcements or 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 subsequent 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 (7:30 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 2021 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**
- C2. Approve City Council meeting minutes of the April 20, 2021, Regular City Council Meeting (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Recommendation: Approve meeting minutes of the April 20, 2021, Regular City Council Meeting.

- C3. Waive the Second Reading and Adopt Ordinance No. 38.841 Amending Sections of Chapter 10 of Title XI of the Milpitas Municipal Code Relating to Off-Street Parking Requirements for Hotels and Other Lodging Uses (Staff Contact: Rozalynne Thompson, Senior Planner, 408-586-3278)**

Recommendation: Move to waive the second reading and adopt Ordinance No. 38.841 amending sections of Chapter 10 of Title XI of the Milpitas Municipal Code relating to off-street parking requirements for hotels and other lodging uses.

- C4. Move to Waive the Second Reading and Adopt Ordinance No. 209.5 to the Milpitas Municipal Code (Staff Contact: Steve Erickson, City Engineer/Engineering Director 408-690-7121)**

Recommendation: Move to waive the second reading beyond the title and adopt Ordinance No. 209.5 amending a section of Title XI of the Milpitas Municipal Code.

- C5. Adopt a Resolution Granting Acceptance of Trash Removal Devices, Phase 2, Project No. 3713, Authorizing the City Engineer to File a Notice of Completion, and Authorize the City Engineer to Issue a Notice of Final Acceptance (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Adopt a Resolution Granting Acceptance of Trash Removal Devices, Phase 2, Project No. 3713, Authorizing the City Engineer to File a Notice of Completion, and Authorize the City Engineer to Issue a Notice of Final Acceptance.

- C6. Adopt a Resolution designating Project No. 4298 Street Resurfacing 2020-2021 and Project No. 4303 Street Resurfacing Project 2021-2022 to be Funded by SB1 The Road Repair and Accountability Act of 2017 Funding (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Adopt a Resolution designating Project No. 4298 Street Resurfacing 2020-2021 and Project No. 4303 Street Resurfacing Project 2021-2022 to be Funded by SB1 The Road Repair and Accountability Act of 2017 Funding.

- C7. Adopt a Resolution to Approve Project Plans and Specifications for Street Resurfacing Project 2021, City Project Nos. 4283 & 4298; Award Construction Contract to DeSilva Gates Construction, LP for Street Resurfacing Project 2021, City Project Nos. 4283 & 4298, Federal Project No. STPL-5314(012); and Approve Related Budget Appropriations (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Adopt a Resolution to: (1) Approve Street Resurfacing Project 2021 Plans & Specifications; (2) Award the Construction Contract to DeSilva Gates Construction, LP, in the amount of \$2,388,223.00 for the Street Resurfacing Project 2021, City Project Nos. 4283 & 4298, Federal Project No. STPL-5314(012); (3) Authorize the City Manager to Execute the Construction Contract with DeSilva Gates Construction, LP; (4) Authorize the Engineering Director/City Engineer to Negotiate and Execute Contract Change Order(s) in an Aggregate Amount Not to Exceed \$238,822.30 for the Project; (5) Approve \$916,488 Budget Appropriation of One Bay Area Grant Cycle 2 (OBAG2) to CIP 4298; and (6) Approve \$127,586 Budget Appropriation of Transportation Development Act (TDA) Article 3 Grant to CIP 4283.

- C8. Adopt a Resolution of Intent to Annex Property Located at 1380-1400 South Main Street into Community Facilities District No. 2008-1 and Set a City Council Public Hearing Date of June 15, 2021, to Consider the Annexation (Annexation No. 21) (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Adopt a Resolution of Intent to Annex Property Located at 1380-1400 South Main Street into Community Facilities District No. 2008-1 and Set a City Council Public Hearing Date of June 15, 2021, to Consider the Annexation (Annexation No. 21).

- C9. Approve and Authorize the City Manager to Execute Amendment No. 2 to the Professional Services Agreement with Municipal Plan Check Services for Building Safety Services for a Total Amount Not to Exceed \$295,000 (Staff Contact: Sharon Goei, Building, Safety, and Housing, 408-586-3260)**

Recommendation: Approve and authorize the City Manager to execute Amendment No. 2 to the Professional Services Agreement with Municipal Plan Check Services for building safety services, increasing the total not-to-exceed amount from \$95,000 to 295,000.

- C10. Approve and Authorize the City Manager to Execute Two Agreements and related amendments with the County of Santa Clara for (1) Collection of AB939 Implementation Fees and for (2) Administration of the Countywide Household Hazardous Waste (HHW) Collection Program (Staff Contact: Elaine Marshall, Deputy Public Works Director, 408-586-2603)**

Recommendation: Approve and Authorize the City Manager to Execute Two Agreements and related amendments with the County of Santa Clara for (1) Collection of AB939 Implementation Fees and for (2) Administration of the Countywide Household Hazardous Waste (HHW) Collection Program covering July 1, 2021 – June 30, 2024.

- C11. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Maintenance Services Agreement with Executive Facilities Services for Daytime Custodial Services (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Recommendation: Approve and Authorize the City Manager to execute the amendment with Executive Facilities Services for Daytime Custodial Services in the amount of \$144,000 for Daytime Custodial Services, for a new contract amount not-to-exceed of amount \$239,000 and extend the agreement term through December 31, 2021.

- C12. Approve and Authorize the City Manager to Execute Amendment No.2 to the Joint Use Agreement between the Milpitas Unified School District and the City of Milpitas, for Joint Use Areas of McCandless Park and Mabel Mattos School (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: Approve and Authorize the City Manager to Execute Amendment No.2 to the McCandless Property Joint Use Agreement between the Milpitas Unified School District and the City of Milpitas.

- C13. Receive Monthly Report for Unhoused Services (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)**

Recommendation: Receive March 2021 report for unhoused services.

- C14. Adopt modifications to the City Council's Alcoholic Beverage Purchase and Consumption Policy (Staff Contact: Jeannine Seher, Director of Human Resources, 408-586-3086)**

Recommendation: Adopt modifications to the City Council's Alcoholic Beverage Purchase and Consumption Policy.

- C15. Approve and Authorize the Mayor to Sign a Letter Opposing Proposed Increases to Santa Clara Valley Water District's Groundwater Production Charges (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Recommendation: Approve and Authorize the Mayor to sign a letter of opposition to Santa Clara Valley Water District's Increases to Groundwater Production Charges.

PUBLIC HEARINGS (7:35 PM)

- 16. Conduct a Public Hearing to Discuss Allocation Amounts for FY21-22 Community Development Block Grant Funding and to Approve an Amendment to the FY20-21 Annual Action Plan (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)**

Recommendation: Move to continue the public hearing to May 7, 2021 at 3:00 PM.

- 17. Vehicle Miles Traveled Policy to Implement Senate Bill 743 (Staff Contact: Ned Thomas, Director of Planning, 408-586-3273)**

Recommendation: Move to continue the public hearing to the regular City Council meeting of May 18, 2021.

18. **Conduct a Public Hearing and Consider Adopting a Resolution Denying the Appeal and Upholding the Planning Commission's Denial of a Site Development Permit and Conditional Use Permit Amendment to Demolish an Existing Manual Coin-operated Car Wash and Construct a New, Fully Automatic 3,189-square foot Car Wash with an Additional 2,301-square foot Canopy Area on a .46 Acre Site Located at 554 South Main Street (Staff Contact: Rozalynne Thompson, Senior Planner, 408-586-3278)**

Recommendations: (1) Conduct a public hearing, receive public comment, and move to close the hearing; and (2) Adopt a Resolution denying the appeal and upholding Planning Commission's denial of a Site Development Permit and Conditional Use Permit Amendment to demolish an existing manual coin-operated car wash and construct a new, fully automatic 3,189-square foot car wash with an additional 2,301-square foot canopy area (for vacuums) and an increased front setback of 37 feet, 7 inches.

19. **Adopt a Resolution Approving the Fiscal Year 2021-22 Master Fee Schedule (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Recommendation: Adopt a Resolution Approving the Fiscal Year 2021-22 Master Fee Schedule

COMMUNITY DEVELOPMENT (9:15 PM)

20. **Receive Report on the Community Identification and Brand Study (Phase II) and Provide Direction on the Community Mark/Logo and the Evaluation and Exploration of the City Seal/The Minuteman (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)**

Recommendations: (1) Receive report on the Community Identification and Brand Study (Phase II); (2) provide direction to staff on the Community Mark/Logo for Citywide use; and (3) provide direction to staff on the evaluation and exploration of the City Seal/The Minuteman.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (9:45 PM)

21. **Receive an Update and Presentation from Santa Clara Valley Water District Staff on Flood protection projects within the City of Milpitas (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)**

Recommendation: Receive an Update and Presentation from Santa Clara Valley Water District Staff on Flood Protection Projects within the City of Milpitas.

LEADERSHIP AND SUPPORT SERVICES (10:05 PM)

22. **FY 2020-21 Third Quarter Financial Status Report (Staff Contact: Lauren Lai, Finance Director/Risk Manager, 408-586-3111)**

Recommendation: Review the FY 2020-21 Quarterly Financial Status Report for the Quarter Ending March 31, 2021.

REPORTS OF MAYOR & COUNCILMEMBERS - from assigned Commissions, Committees and Agencies (10:30 PM)

23. **Receive and Direct Staff on 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 on a form, at a Council meeting, or through the City Manager. Direct items to a City Council Subcommittee, to be placed onto a specific meeting date, or specify alternate direction to staff. 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.

24. Per Mayor Tran, Discuss and Provide Direction to Staff on Potential Hero/Hazard Pay Ordinance (Contact: Mayor Tran, 408-586-3029)

NEXT AGENDA PREVIEW (10:55 PM)

25. Receive Preview List of Anticipated Items for the Next Regular City Council Meeting Scheduled on May 18, 2021 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Receive list of anticipated agenda items for the May 18, 2021 regular City Council meeting.

ADJOURNMENT (11:00 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: cdiaz@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.ci.milpitas.ca.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.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 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@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda.