



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, MARCH 15, 2022

CITY COUNCIL CHAMBERS, 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 City Council meeting day of March 15, 2022, 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, and Phan

ABSENT: None

ADJOURN TO CLOSED SESSION

(a) 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

(b) CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation

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

City as Defendant - see attached letter

(c) PUBLIC EMPLOYEE APPOINTMENT/HIRING

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.

Council reconvened in open session at 8:09 PM.

City Attorney Diaz reported on item B. He stated the City Council gave direction to staff to come back with an open session item to consider an amendment to the Municipal Code to provide tools to deal with the homeless encampment clean-ups. The vote was as follows:

AYES: Councilmember Chua, Vice Mayor Montano, Mayor Tran

NOES: Councilmembers Dominguez, Phan

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

INVOCATION

Councilmember Dominguez led the invocation and shared a video on cyberbullying.

PRESENTATIONS

Mayor Tran proclaimed March 19, 2022, as Chez the Ice Cream Man Appreciation Day and commented on an event for him on March 19 at Straw Hat Pizza from 12:00 PM to 2:00 PM.

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 people spoke under Public Forum:

1. Voltaire Montemayor
2. Warren Wettenstein
3. Member of the Public
4. Stephen Balsbaugh
5. Michael Flores

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 the City received the California of Societies of Municipal Finance Officers (CSMFO) Award and received the Government Finance Officers Associations (GFOA) Distinguished Budget Presentation Award. He also announced the ADU Incentive program and the Safe ADU legalization program will launch this week. There will be an ADU workshop on Wednesday, March 23, from 4:00 PM to 5:00 PM.

Mayor Tran announced the Milpitas Little League opening day ceremony is this Saturday at 9:00 AM and spoke about the Milpitas Softball league opening day. He made the following requests:

1. Include a visitor side bleacher strategy for the Milpitas Knights Pee-Wee football program in the budgeting process.
2. Discuss looking at another CSCDA opportunity with Eleanor property for middle-income housing for a future meeting.

Councilmember Dominguez made the following request:

1. Discuss a strategy to invest money into a neighborhood foot patrol and develop a program within the Milpitas Police Department to increase foot patrol in high crime areas to be placed on the next agenda.

Councilmember Chua announced the Youth Commission will be hosting a spelling bee competition on April 22, and next Friday, March 25, is Family Night at the Milpitas Sports Center. She made the following request:

1. Consider expanding the Fee Waiver Policy eligibility to non-profit organizations outside of Milpitas for events specific to Milpitas residents.

Vice Mayor Montano announced that she attended the Disney Descendants stage performance and the Milpitas PAL Softball opening day.

Councilmember Dominguez made the following request:

1. Consider funding to implement and create a homelessness encampment response team to be dispatched to encampment sites to address concerns, talked about creating a position to provide mental health assistance, and would like this to be brought back for discussion at the budget meeting.

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 asked to move items 21 and 22 after the public hearing.

Councilmember Chua asked to move item 24 after item 22.

Motion: to postpone item 24.

Motion/Second: Councilmember Dominguez / Councilmember Phan

Motion failed by the following roll call vote:

AYES: Councilmembers Dominguez, Phan

NOES: Councilmember Chua, Vice Mayor Montano, Mayor Tran

Motion: to approve the March 15, 2022, regular meeting agenda and move items 21, 22, and 24 after the public hearing item.

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

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 with the modification to remove item C9 at the request of Stephen Balsbaugh during public comment.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

C1. Receive the City Council Calendars of Meetings for March and April 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Received the City Council Calendars of Meetings for March and April 2022.

C2. Approve the City Council Regular Meeting Minutes of March 1, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Approved the City Council Regular Meeting minutes of March 1, 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)

Received 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)

Reviewed the list of items that have been requested by the City Council.

C5. Adopt a Resolution Granting Acceptance of the Public Improvements for the Ellison Park Residential Project Public Improvement Plan No. 2-1220; Approve a Reduction in the Performance Bond to \$79,900.00 Which Shall Remain in Effect for the Duration of the One-Year Warranty Period; and Grant 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 (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Adopted **Resolution No. 9129** granting acceptance of the public improvements for the Ellison Park Residential Project Public Improvement Plan No. 2-1220; approving a reduction in the performance bond to \$79,900.00 which shall remain in effect for the duration of the one-year 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.

C6. Adopt a Resolution Granting Acceptance of the Completed Public Improvements for the Lucente Residential Project, Public Improvement Plans No. 2-1212, and Approve a Reduction of the Faithful Performance Bond to \$85,500.00 Which Shall Remain in Effect for the Duration of the Warranty Period, and Grant 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 has Been Completed to the Satisfaction of the City Engineer (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Adopted **Resolution No. 9130** granting acceptance of the completed public improvements for the Lucente Residential Project, Public Improvement Plans No. 2-1212, and approving a reduction of the faithful performance bond to \$85,500.00 which shall remain 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 has been completed to the satisfaction of the City Engineer.

- C7. Adopt a Resolution Approving and Authorizing the City Manager to Execute a Six-year Sole-Source Services Agreement with Symbium Corporation for the Unlimited Use of Proprietary Web-based Tools (Symbium PlanCheck and Build Business) as a Cloud-based Service for the Not-To-Exceed Amount of \$210,000.00 and Approve appropriation of \$90,000.00 from Permit Automation Fund 506 for this project (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Adopted **Resolution No. 9131** approving and authorizing the City Manager to execute a six-year sole-source services agreement with Symbium Corporation for the unlimited use of proprietary web-based tools (Symbium Plancheck and Build Business) as a cloud-based service for the not-to-exceed amount of \$210,000.00; and approving appropriation of \$90,000.00 from Permit Automation Fund 506 to this project.

- C8. Adopt Resolutions Approving and Authorizing the City Manager to Execute the 2021 Amended and Restated Water Supply Agreement Between the City and County of San Francisco Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County and Approving a Minimum Purchase Transfer Agreement from the City of Mountain View to the City of East Palo Alto (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Adopted **Resolution No. 9132** approving and authorizing the City Manager to execute the 2021 amended and restated Water Supply Agreement between the City and County of San Francisco Wholesale Customers in Alameda County, San Mateo County, and Santa Clara County; and adopted **Resolution No. 9133** approving a Minimum Purchase Transfer Agreement from the City of Mountain View to the City of East Palo Alto.

- C9. Approve the Pickleball Pilot Program at Gill Park and related Budget Action (Staff Contacts: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409, Tony Ndah, Public Work Director, 408-586-2602)**

This item was pulled from consent at the request of Stephen Balsbaugh during public comment.

- C10. Amend Resolution 7779 Delegating Authority to the Public Works Director to Take Emergency Action and Receive a Report on the Emergency Repair of Pump at the Main Lift Sewer Pump Station; and Determine By a Four-Fifths Vote There is a Need to Continue the Emergency Repair (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)**

Amended Resolution 7779 and adopted **Resolution No. 9134** delegating authority to the Public Works Director to take emergency action and award emergency contracts without giving notice soliciting competitive bids; received a report from the Public Works Director on the emergency repair of the pump at the Main Lift Sewer Pump Station; and determined by a four-fifths vote that there is a need to continue the emergency action.

- C11. Receive Monthly Report for Unhoused Services (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)**

Received the January 2022 report for unhoused services.

- C12. Receive the 2021 Housing Element Annual Progress Report and Housing Successor Agency Annual Report and Authorize the Submittal of Both Reports to the California Department of Housing and Community Development (HCD) and Governor's Office of Planning and Research**

(OPR) (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260 and Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275)

Received the 2021 Housing Element Annual Progress Report and Housing Successor Agency Annual Report and authorized the submittal of both reports to the California Department of Housing and Community Development (HCD) and Governor's Office of Planning and Research (OPR).

- C13. Report on Bids and Award Construction Contract to Mercoza in the Amount of \$327,680.00 for Citywide Sidewalk Repairs (Staff Contacts: Tony Ndah, Public Works Director, 408-586-2602 and Chris Schroeder, Purchasing Agent, 408-586-3161)**

Received a report on bids and awarded a construction contract to the lowest responsible bidder submitting a responsive bid, Mercoza, in the amount of \$327,680.00 for the Citywide Sidewalk Repair Project; and authorized the City Manager to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$35,000.00 for the Citywide Sidewalk Repairs Project.

- C14. Consider the Request Received by the City Clerk and Approve a Fee Waiver of \$1,500.00 for the Milpitas Kiwanis Club Foundation Crab Feed on April 8, 2022, at the Milpitas Community Center and a Fee Waiver of \$1,300.00 for the Milpitas Chamber of Commerce for an ADU Community Educational Event on April 30, 2022, at the Milpitas Community Center (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Approved a Fee Waiver of \$1,500.00 for the Milpitas Kiwanis Club Foundation Crab Feed on April 8, 2022, at the Milpitas Community Center and approved a Fee Waiver of \$1,300.00 for the Milpitas Chamber of Commerce for an ADU Community Educational Event on April 30, 2022, at the Milpitas Community Center.

- C15. Accept Commissioner Resignation (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)**

Accepted the resignation of Commissioner Crystal Caidoy from the Parks, Recreation, and Cultural Resources Commission and directed the City Clerk to post the notice of the unscheduled vacancy.

- C16. Consider the Recommendations from Mayor Tran for Appointments to City Commissions (Contact: Mayor Tran, 408- 586-3029)**

Considered the recommendations from Mayor Tran and approved the appointments to City Commissions as follows:

Library and Education Advisory Commission

1. Appoint Barbara Martens to serve as a Commissioner with a short-term to expire June 2024.
2. Appoint Ann Anderson to serve as Alternate No.1 with a short-term to expire June 2024.

Senior Advisory Commission

1. Reappoint Barbara Ebright to serve as a commissioner with a short-term to expire December 2023.

- C17. Authorize and Approve Travel to Yosemite, CA for Councilmember Anthony Phan to Attend the 30th Annual Yosemite Policymakers Conference to be Held on March 17 – 20, 2022, for a Total Estimated Amount of \$1,200.00 (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)**

Authorized and approved travel to Yosemite, CA for Councilmember Anthony Phan to attend the 30th Annual Yosemite Policymakers Conference to be held on March 17 – 20, 2022, for a total estimated amount of \$1,200.00.

PUBLIC HEARINGS

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.

18. 2022 Weed Abatement Public Hearing and Adopt a Resolution to Abate the Weeds (Staff Contact: Albert Zamora, Deputy Fire Chief / Fire Marshal, 408-586-3371)

Deputy Fire Chief / Fire Marshal Zamora presented the staff report and introduced Moe Kumre from the Santa Clara County Agriculture office.

Mayor Tran opened the public hearing.

The following people spoke:

1. Voltaire Montemayor
2. Joey Dela Cruz

Mayor Tran closed the public hearing.

Motion: to adopt **Resolution No. 9135** directing the County of Santa Clara Consumer and Environmental Protection Agency- Weed Abatement Program to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

COMMUNITY DEVELOPMENT

19. Receive a Presentation and Provide Direction to Staff on a Draft Zoning Ordinance Amendment amending Sections of Title V, Chapter 100, and Title XI, Chapter 10, of the Milpitas Municipal Code Relating to Mobile Food Vending (Food Trucks) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273 and Avery Stark, Associate Planner, 408-586-3288)

This item was not heard.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

20. Review the Proposed Streets, Parks, and Facilities Naming Policy and Provide Feedback to Staff (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

This item was not heard.

LEADERSHIP AND SUPPORT SERVICES

***21. Receive a Report on 2022 Citywide Community Engagement Survey (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Charmaine Angelo, Public Information Officer, 408-586-3055)**

*** This item was taken out of order after item 18.**

Assistant City Manager Kantak introduced the item and Public Information Officer Angelo presented the report. The consultant from FM3 Curt Below presented the survey results.

The following spoke during Public Comment:

1. Voltaire Montemayor
2. Allysson McDonald

The City Council received a report on the results of the 2022 Citywide Community Engagement Survey.

22. Provide Direction on American Rescue Plan Act (ARPA) Funding for Council Priority Items and Modifications to the ARPA Investment Plan and Provide Input on Proposed Process for Future Changes to the ARPA Investment Plan (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Lauren Lai, Director of Finance, 408-586-3111)

Assistant City Manager Kantak introduced the item and Finance Director Lai presented the staff report.

Economic Director Andrade provided additional information for the Chamber of Commerce funding and the Business Improvement District (BID) funding.

Building Safety and Housing Director Goei and Santa Clara County Director of the Office of Supportive Housing Consuelo Hernandez provided additional information on the funding for unhoused services.

Council provided feedback on staff's recommended funding modifications and provided additional direction to reallocate \$300,000 from the ADU program and \$75,000 from Community Events and allocate \$200,000 to fund a catalytic converter program with the remaining \$175,000 allocated to fund childcare services.

After discussion, motion: to approve the item with the amendment to defund through ARPA the Ferris Wheel and the roller skate event and delete \$300,000 from the ADU line item for a combined total of \$375,000 and allocate \$175,000 to fund childcare services and \$200,000 for the catalytic converter program.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

Finance Director Lai summarized for the record the motion includes defunding ADU funding by \$300,000 and defunding Community Events by \$75,000, Etching Catalytic Converter Program will be added at \$200,000, Childcare Support Services will be added at \$175,000, Rent and Mortgage Assistance funding will be reduced by \$100,000 to fund the Unhoused Services Contract with the County at \$100,000, Main Street Revitalization funding will be reduced by \$135,000 and money will be reallocated for the Business Improvement District (BID) study at \$75,000 and the Sustainable Neighbor Program at \$60,000. In addition Council is also approving staff's recommendation for an annual process for the ARPA Investment Plan.

Mayor Tran confirmed Finance Director Lai's summary.

The following spoke during Public Comment:

1. Voltaire Montemayor
2. Loreto Quevedo Dimaandal
3. Allysson McDonald

Councilmember Chua commented on Small Business Grant applications for businesses that previously received grants.

23. Receive Report Regarding Mayoral/Council Term Limits and Provide Direction to Staff on Future Ballot Measures, If Any (Staff Contact: Christopher J. Diaz, City Attorney, 408-586-3040 and Ashwini Kantak, Assistant City Manager, 408-586-3053)

This item was not heard.

REPORTS OF MAYOR & COUNCILMEMBERS

24. Per Councilmember Chua, Discuss the City's Lobbyist Ordinance (Contact: Councilmember Chua, 408-586-3023)

*** This item was taken out of order after item 22.**

Councilmember Chua commented on Lobbyist Ordinances for other cities and would like to look at strengthening the City of Milpitas's Ordinance.

City Attorney Diaz provided a brief explanation of the differences between the other cities' ordinances and the City of Milpitas's ordinance.

The following spoke during Public Comment:

1. Voltaire Montemayor

Councilmember Chua requested the City Attorney make a recommendation or presentation on how to make the Lobbyist Ordinance robust and up to date at the next available meeting.

Councilmember Dominguez asked to include real estate agent transactions.

Vice Mayor Montano asked to include City staff and Councilmembers.

After discussion, motion: to have the City Attorney make a recommendation or presentation on how to make the Lobbyist Ordinance robust and up to date and look at including real estate agent transactions, city staff, and Councilmembers and bring this item back in a month.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

ITEM PULLED FROM CONSENT

C9. Approve the Pickleball Pilot Program at Gill Park and related Budget Action (Staff Contacts: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409, Tony Ndah, Public Work Director, 408-586-2602)

Mayor Tran commented on the pickleball activity at Brown Park and stated it is not encouraged to continue due to the proximity of the residence adjacent to the courts. He stated he would like to move the pickleball activity from Brown Park over to Hall Park and would like the pilot program to include some striping at Hall Park.

The following spoke during Public Comment:

1. Stephen Balsbaugh
2. Allen Thomas
2. Voltaire Montemayor

Deputy City Manager Rossman commented on engaging the pickleball community and the existing users who may be tennis players when changing the use of the courts. He requested that the City Council provide direction to staff to work with both communities and others at Hall Park parallel to the construction at Gill Park.

After discussion, motion: to approve the Pickleball Pilot Program at Gill Park Handball Courts and appropriate \$75,000 from the General Government CIP Fund to the Minor Sports Courts Rehabilitation Project.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

ADJOURNMENT

Mayor Tran and Councilmember Phan adjourned the meeting at 11:35 in memory of Milpitas resident DeJon Packer and Terry Sandoval.

The foregoing minutes were approved by the Milpitas City Council on April 5, 2022.

Wendy Wood
City Clerk