



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, SEPTEMBER 19, 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_XhoC6tf4RIqqgIAblOkilA

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

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

City as Defendant

Lorin Preston v. City of Milpitas, Workers' Compensation Appeals Board nos. ADJ11353145, ADJ11353106, ADJ15144006, and ADJ15056426.

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 (Councilmember Barbadillo)

PUBLIC FORUM (7:05 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 (7:15 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 September and October 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for September and October 2023.

C2. Approve City Council City Council Meeting Minutes of August 29 and September 5, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Meeting minutes of August 29 and September 5, 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. Receive Report and Direct City Attorney to Introduce an Ordinance Regarding Regulation of Sidewalk Vendors in Parks and Public Rights of Way (Staff Contact: Michael Mutalipassi, City Attorney, 408-858-3040)

Recommendation: Receive a report and direct the City Attorney to introduce an ordinance regarding the regulation of street vendors in parks and public rights of way consistent with the Council's policy and SB 946.

C6. Consider Recommendations from Mayor Montano for Removal from City Commission, and Accept Commissioner Resignation (Contact: Mayor Montano, 408-586-3024)

Recommendation: Approve the removal of Steven Huang as non-voting Student Commissioner from the Economic Development and Trade Commission; Accept the resignation of Zeya Mohsin from the Planning Commission; and direct the City Clerk to post the notice of unscheduled vacancies.

C7. Review and Accept the 2023 Legislative Season Action Report, Including an Update on 2023 State and Federal Earmark Requests (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Recommendation: Review and accept the 2023 Legislative Season Action Report, including an update on 2023 State and Federal Earmark Requests.

C8. Authorize and Approve the Out-of-State Travel to Washington, D.C., for Mayor Carmen Montano to Attend the Forward Latino *National Advocacy Day* to be held on October 4 – 5, 2023, for an Estimated Total Not-to-Exceed Amount of \$2,000 Budgeted Under the Individual Elected Official Allocation for Conferences/Meetings/Trainings (Staff Contact: Ned Thomas, Acting City Manager, 408-586-3059)

Recommendation: Authorize and approve the out-of-state travel to Washington, D.C., for Mayor Carmen Montano to attend the Forward Latino *National Advocacy Day* to be held on October 4 – 5, 2023, for an estimated total not-to-exceed amount of \$2,000 budgeted under the Individual Elected Official allocation for Conferences/Meetings/Trainings.

C9. Authorize the City Manager to Execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 2001 Tarob Court Project by KB Home South Bay, Inc.; and Approve Budget Appropriation in the Amount of \$149,000.00 to the Non-Departmental Operating Budget in the TASP Fund (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Roberto Alonzo, Principal Civil Engineer, 408-586-3316)

Recommendation: Authorize the City Manager to execute the Fee Reimbursement Agreement for Transit Area Specific Public Facilities and Public Improvements at the 2001 Tarob Court Project by KB Home South Bay, Inc.; and Approve budget appropriation in the amount of \$149,000.00 to the non-departmental operating budget in the TASP Fund.

C10. Approve and Authorize the City Manager to Execute the Improvement Agreement with Extra Shine Car Wash, Inc., for the Completion of Offsite Public Improvements Located at 554 South Main Street Associated with Site Development Permit (SD18-0010) and Conditional Use Permit

(UA18-0020) (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Roberto Alonzo, Principal Civil Engineer, 408-586-3316)

Recommendation: Approve and authorize the City Manager to execute the Improvement Agreement with Extra Shine Car Wash, Inc., for the completion of offsite public improvements located at 554 South Main Street associated with Site Development Permit (SD18-0010) and Conditional Use Permit (UA18-0020).

- C11. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and DREF Milpitas, LLC, for the Apple Inc. Site Improvement Project at 260 S. Milpitas Blvd. (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement between the City of Milpitas and DREF Milpitas, LLC, for the Apple Inc. Site Improvement Project at 260 S. Milpitas Blvd.

- C12. Review and Approve the FY 2022-23 Fourth Quarter Financial Status Report, Fund Balances Thereof and Related Budget Amendments and Vehicle Purchase Order to Close-out the FY 2022-23 Budget and Authorize an Additional \$100,000 Blanket Purchase Order to the National Auto Fleet Cooperative Agreement for Vehicle Carry-Forward (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Recommendation: (1) Review the FY 2022-23 Quarterly Financial Status Report for the quarter ending June 30, 2023 (unaudited); (2) Approve budget amendments; and (3) Authorize an additional \$100,000.00 to the National Auto Fleet Cooperative Agreement blanket purchase order for vehicle carry-forward.

- C13. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Professional Services Agreement with Liebert Cassidy Whitmore for an Additional Agreement Amount of \$200,000.00, Subject to the Annual Appropriation of Funds (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)**

Recommendation: Approve and authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Liebert Cassidy Whitmore ("LCW") for an additional agreement amount of \$200,000.00, subject to the annual appropriation of funds.

- C14. Adopt a Resolution Approving and Authorizing the City Manager to Execute an Agreement Amendment with Insight Public Sector, Inc. (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)**

Recommendation: Approve and authorize the City Manager to execute an agreement amendment with Insight Public Sector, Inc., with additional funding in the amount of \$116,425.49, subject to the annual appropriation of funds, for a total agreement amount of \$300,441.49.

- C15. Approve an Amendment of the Master Services and Purchasing Agreement with Axon Enterprise, Inc., by Increasing the Total Not-to-Exceed Amount from \$913,178.60 to \$1,026,887.82 Over the Five-Year Term (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406; and Frank Morales, Assistant Chief of Police, 408-586-2521)**

Recommendation: Approve an amendment of the Master Services and Purchasing Agreement with Axon Enterprise, Inc., by increasing the total not-to-exceed amount from \$913,178.60 to \$1,026,887.82 over the five-year term.

- C16. 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)**

Recommendations: (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.

- C17. Accept the FY 2022-23 Commissioners Annual Report for Six (6) Commissions and Approve Six (6) Commission Work Plans for FY 2023-24 (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: (1) Accept the FY 2022-23 Commissioners Annual Report; and (2) Approve proposed FY 2023-24 Work Plans for: (a) Arts Commission (including two requested workplan additions detailed in the report); (b) Library and Education Commission; (c) Parks, Recreation and Cultural Resources Commission; (d) Senior Advisory Commission; (e) Veterans Commission; and (f) Youth Advisory Commission.

COMMUNITY DEVELOPMENT (7:20 PM)

- 18. Approve Proposed Project Locations Pertaining to Project No. 4299 Bicycle Improvement Project to be Funded by Caltrans 2022 Priority Legislative Budget Project (PLPB) Earmarks (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Roberto Alonzo, Acting Transportation and Traffic Manager, 408-586-3316)**

Recommendation: Approve proposed project locations pertaining to Project No. 4299 Bicycle Improvement Project to be funded by Caltrans 2022 Priority Legislative Budget Project (PLPB) Earmarks.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (8:00 PM)

- 19. Approve Historical Park Marker Project at Various City Parks and Appropriate Funds of \$90,000 to CIP No. 3489 (Staff Contact: Tegan McLane, Community Engagement and Inclusion Administrator, 408-586-3212)**

Recommendation: Approve Historical Park Marker Project concept at Bob McGuire, Frederick Creighton, Peter B. Gill, Jose Higuera Adobe, Murphy, Sunnyside Albert Augustine Jr. Memorial, and Delano Manongs parks and appropriate \$90,000.00 to Public Art CIP No. 3489.

LEADERSHIP AND SUPPORT SERVICES (8:30 PM)

- 20. Provide Feedback Regarding Potential Amendments to Title V, Chapter 9, Section 4.05 of the Milpitas Municipal Code Related to Use of Noise-Amplifying Devices at Gill Park (Staff Contact: Michael Mutalipassi, City Attorney, 408-858-3040)**

Recommendation: Provide feedback regarding potential amendments to Title V, Chapter 9, Section 4.05 of the Milpitas Municipal Code Related to use of noise-amplifying devices at Gill Park and direct the City Attorney to prepare a clarifying amendment consistent with the Council's policy.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (9:00 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.

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.