



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, NOVEMBER 7, 2023

CITY COUNCIL CHAMBER, 455 E. CALAVERAS BLVD, MILPITAS, CA

The City Council of the City of Milpitas convened on the regular City Council meeting day in a Joint Meeting of the Milpitas City Council, Housing Authority, and Successor Agency on November 7, 2023, in the City Council Chamber, 455 E. Calaveras Blvd, Milpitas, CA, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Regular City Council meeting to order at 7:02 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien, and Councilmember Phan (7:09 PM).

ABSENT: None.

PLEDGE OF ALLEGIANCE

Mayor Montano lead the Pledge of Allegiance.

INVOCATION

Mayor Montano presented the invocation.

PUBLIC FORUM

The following people spoke under Public Forum:

1. Stephen Balsbaugh
2. Vikas Seth
3. Voltaire Montemayor

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi 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 Mutalipassi 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

Mayor Montano read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the November 7, 2023 Regular Meeting Agenda, moving Presentations after Item 16.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo
by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan
NOES: None

CONSENT CALENDAR

Councilmember Lien asked to pull Item C6 from the Consent Calendar.

There were no public speakers.

After discussion, motion: to remove Item C6 from and approve the Consent Calendar.

Motion/Second: Vice Mayor Chua / Councilmember Lien
by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan
NOES: None

1. Receive City Council Calendar of Meetings for November 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received City Council Calendar of Meetings for November 2023.

2. Approve City Council City Council Meeting Minutes of October 17, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Approved City Council Meeting minutes of October 17, 2023.

3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received the list of anticipated agenda items for the next regular City Council meeting.

4. Adopt a Resolution Granting Acceptance of Public Improvements and Approve a Reduction of the Faithful Performance Bond for the District 1 Lot 4 (Gideon) Project located at 150 Market Street and Grant Authorization to the City Engineer to Release the Remaining Portion of the Lot 4 Performance Bond after the One-Year Warranty Period (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Roberto Alonzo, Transportation and Traffic Manager, 408-586-3316)

Adopted **Resolution No. 9278** granting acceptance of the completed public improvements for the District 1 Lot 4 (Gideon) Project as shown on Public Improvement Plans No. 2-1295; and approve a reduction in the faithful performance bond of \$38,085.00 which is 25% of the security's original value for the Lot 4 public improvements construction cost, the remaining amount of the Lot 4 performance bond cost shall be 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 that all required warranty work is completed to the satisfaction of the City Engineer.

5. Adopt a Resolution Granting Acceptance of Public Improvements and Approve a Reduction of the Faithful Performance Bond for the Thind Residence Residential Project and Grant Authorization to the City Engineer to Release the Performance Bond after the One-Year Warranty Period (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Roberto Alonzo, Transportation and Traffic Manager, 408-586-3316)

Adopted **Resolution No. 9279** granting acceptance of the completed public improvements for the Third Residence Residential Project as shown on Public Improvement Plans No. 2-1371; and approve a reduction in the Phase 1 faithful performance bond to \$15,989.00 and a reduction in the Phase 2 faithful performance bond to \$1,792.00, which are 25% of the securities' original values which shall be 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 that all required warranty work is completed to the satisfaction of the City Engineer.

7. **Approve and Authorize City Manager to execute a Lease Agreement with Pacific West Builders, Inc. to Lease City Owned Land at 1700 Sango Court in the Amount of \$34,800.00 (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046; and Robert Musallam, Housing Division Manager, 408-586-3275)**

Approved and authorized City Manager to execute a lease agreement with Pacific West Builders, Inc. to lease City owned land at 1700 Sango Court in the amount of \$34,800.00.

8. **Authorize the City Manager to Accept the 2023 Bulletproof Vest Partnership Grant in the Amount of \$7,628.91 and Approve a Related Budget Appropriation (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)**

Authorized the City Manager to accept the 2023 Bulletproof Vest Partnership Grant in the amount of \$7,628.91 and approve a related budget appropriation.

9. **Authorize the City Manager to Execute the Grant Agreement with the Office of Traffic Safety to Accept the Fiscal Year 2024 Office of Traffic Safety Selective Traffic Enforcement Program Grant and Approve a Related Budget Appropriation in the Amount of \$110,000.00 (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)**

Authorized the City Manager to execute the grant agreement with the Office of Traffic Safety to Accept the Fiscal Year 2024 Office of Traffic Safety Selective Traffic Enforcement Program Grant and approve a related budget appropriation in the amount of \$110,000.00.

10. **Adopt a Resolution to Reject a Bid Protest from Iteris; Award IFB 24-025 and Authorize the City Manager to Execute the Purchase Order with Econolite Control Products, Inc. in the amount of \$127,871.66 for the Purchase of 25 Citywide Traffic Detection Cameras (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Adopted **Resolution No. 9280** to reject a bid protest from Iteris; award IFB 24-025 and authorize the City Manager to execute the purchase order with Econolite Control Products, Inc. in the amount of \$127,871.66 for the purchase of 25 citywide traffic detection cameras.

11. **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)**

(1) Received 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) Determined by a four-fifths vote that the condition continues to constitute an emergency.

12. **Authorize the City Manager to enter into a Funding Agreement Between the City of Milpitas and the Santa Clara Valley Transportation Authority for Grant Funds from the 2010 Measure B Vehicle Registration Fee Countywide Program in an Amount Not to Exceed \$120,000.00 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Authorized the City Manager to enter into a funding agreement between the City of Milpitas and the Santa Clara Valley Transportation Authority for grant funds from the 2010 Measure B Vehicle Registration Fee Countywide Program in an amount not to exceed \$120,000.00.

- 13. Authorize the City Manager to Execute the Third Amendment to the Agreement with the Santa Clara Valley Water District for Water Conservation Program Cost Sharing and to Execute an Amendment to the Professional Services Agreement with Our City Forest to Administer the Lawn Bust Milpitas Pilot Program (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Elaine Marshall, Deputy Public Works Director, 408-586-2603)**

Authorized the City Manager to execute the third amendment to the Agreement with the Santa Clara Valley Water District for Water Conservation Program Cost Sharing to extend term by an additional year and increase Valley Water cost share payment to City for Lawn Bust Milpitas for additional not to exceed of \$40,000.00; and an amendment to the Professional Services Agreement with Our City Forest to administer the Lawn Bust Milpitas Pilot Program to implement program for an additional year at a cost not to exceed \$120,000.00.

- 14. Waive Second Reading of Ordinance No. 196.12: an Ordinance of the City Council of the City of Milpitas Amending Section 4.05 of Chapter 9 ("Parks") of Title V ("Public Health, Safety, and Welfare") of the Milpitas Municipal Code (Staff Contact: Michael Mutalipassi, City Attorney, 408-858-3040)**

Waived the second reading and adopted **Ordinance No. 196.12**, An Ordinance of the City Council of the City of Milpitas Amending Section 4.05 of Chapter 9 ("Parks") of Title V ("Public Health, Safety, and Welfare") of the Milpitas Municipal Code.

- 15. Authorize International Travel for One (1) Member of the Milpitas Police Department's Criminal Investigations Bureau to Provide Technical Assistance in Support of an Out-of-Country Criminal Investigation, as a Member of the Santa Clara County Regional Enforcement Allied Computer Task Force (REACT) and in Coordination with the United States Secret Service (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406; and Stephen Parodi, Police Captain, 408-586-2523)**

Authorized international travel for one (1) member of the Milpitas Police Department's Criminal Investigations Bureau currently assigned to REACT to assist in an out-of-country criminal investigation.

PUBLIC HEARINGS

- 16. Adopt a Resolution Certifying an Environmental Impact Report (SCH No: 2022110251) and Approving a General Plan Text Amendment, Zoning Map Amendment, Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment; and Introduce an Ordinance Amending the Zoning Map in Accordance with the Provisions of Section 3.03 of Chapter 10 of Title XI (Zoning) of the Milpitas Municipal Code to Change the Zoning Classification of a Certain Parcel (APN 022-38-007) from the MP Industrial Park Zoning District to the MXD Mixed Use Zoning District; and Allow Development of a Multi-Family Residential Project Consisting of 13 Residential Buildings, up to 51 feet in Height, and One Residential Apartment Building, up to 78 feet in Height, for a Total of 206 Residential Units, and Associated Site Improvements on an Approximately 6.7-acre Site Located at 1355 California Circle. (Staff Contact: Jay Lee, Planning Director, 408-586-3077 and Lillian VanHua, Senior Planner, 408-586-3073)**

City Manager Thomas introduced the item. Senior Planner VanHua presented the report, joined by

Planning Director Lee.

Mayor Montano opened the public hearing.

Applicant representative Jim Sullivan made a presentation.

There were the following speakers:

1. Matthew Beeston
2. Voltaire Montemayor

Mayor Montano closed the public hearing.

Vice Mayor Chua asked for clarification on the changes to the conditions of approval 25 & 26 and what the differences were between the staff and applicant recommendations.

Councilmember Lien asked for timelines on building and questioned if the Conditions of Approval were the only area of disagreement. Applicant representative Jim Sullivan noted that he had met with staff, and they were in agreement on everything else.

Councilmember Barbadillo asked staff what earlier concerns were when this project was initially presented to staff. Planning Director Lee noted staff waited for better coordinated efforts on use of the area between different developers and applicants. Councilmember Barbadillo questioned if the recommended zoning update would apply to the entirety of the affected Specific Plan area. Senior Planner VanHua explained that the General Plan text amendment would remove the requirement for the California Circle Specific Plan. Planning Director Lee followed up that this project would not preclude a specific plan in the future. Councilmember Barbadillo highlighted the importance of reaching a common ground between staff and developers.

Councilmember Phan questioned the applicant and expressed thanks to both staff and the applicant. He suggested accepting the developer's proposals to modify the conditions of approval.

Mayor Montano paused the discussion to issue proclamations.

Mayor Montano spoke on the importance of affordable housing and asked to keep lines of communication with Pulte to ensure regular updates on efforts.

Councilmember Lien thanked staff and spoke about the need to approve the developer's recommendation for updates to the conditions of approval.

Councilmember Barbadillo asked the City Attorney to speak on the significance of removing the California Circle Specific Plan overlay. City Manager Thomas and Planning Director Lee noted that this amendment only removes the overlay from this site.

Vice Mayor Chua moved to approve the staff recommendation incorporating the Developer recommendation to modify the condition of approval no. 25

City Attorney Mutalipassi read the title of the ordinance and restated the motion.

After discussion, motion: to

(1) Adopt **Resolution No. 9281** certifying an Environmental Impact Report pursuant to Public

Resources Code Section 21080(d) and 21082.2(d) and CEQA Guidelines Section 15064;
(2) Waive the first reading beyond the title and introduce **Ordinance No. 38.854** amending the Zoning map of the City of Milpitas in accordance with the provisions of Section 3.03 of Chapter 10 of Title XI (Zoning Ordinance) of the Milpitas Municipal Code to change the Zoning Classification of a Certain Parcel (APN 022-38-007), located on the west side of California Circle, from the MP Industrial Park Zoning District to the MXD Mixed Use Zoning District;
(3) Adopt **Resolution No. 9282** to approve General Plan Text Amendment No. GP22-0001; and
(4) Adopt **Resolution No. 9283** to approve Zoning Map Amendment No. ZA22-0001, Site Development Permit No. SD22-0003 incorporating the developer recommendation to modify conditions of approval no. 25 and 26, Conditional Use Permit No. UP22-0001, Vesting Tentative Map MT22-0001, Density Bonus Permit No. DB23-0003, Tree Removal Permit No. TR23-0021, and Environmental Assessment No. EA22-0002, subject to the findings and Conditions of Approval. Additions to the Conditions of Approval are approved as follows:

- COA No. 25: add Section XII-1-3.03, which would require concurrent construction of both the for sale and rental product types, shall not be applicable. Given the current extenuating circumstances, concurrent construction may prove to be infeasible and impractical. Permittee agrees to diligently pursue an affordable builder, acceptable to the City of Milpitas, who will expeditiously Permittee will be limited to 65% of it's units (85 units) receiving Certificates of Occupancy, before a building permit has been issued and construction has begun on the Below Market Rate (rental product) site. At such time of the rental product beginning construction, the remaining 35% of Permittee's units (46 units), shall be eligible for release for Certificate of Occupancy.
- COA No. 26 add: Furthermore, Permittee agrees to work with City Attorney's Office to include within the Affordable Housing Agreement, language that would be of benefit to qualified employees of the Milpitas Unified School District in securing rental opportunities for both low- and moderate-income units to be provided.

(5) Developer to make scheduled reports to staff with staff regularly reporting to the City Council on the status of the project.

Motion/Second: Vice Mayor Chua/Councilmember Phan
by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan

NOES: None

ABSENT: None

PRESENTATIONS

Diwali (Proclamation)

Mayor Montano, joined by the City Council, presented proclamations in recognition of Diwali.

LEADERSHIP AND SUPPORT SERVICES

17. Receive a Presentation and Provide Direction to Staff on Community Outreach for Potential

Revenue Measures for the November 2024 Election (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

City Manager Thomas introduced the item. Deputy City Manager Cano presented the report.

Council Discussion ensued.

Councilmember Lien spoke in support of business tax modernization.

Vice Mayor Chua voiced concerns with polling for so many items and suggested prioritizing what the City needs now.

Councilmember Phan suggested, if taking any action, to move forward with polling about the General Obligation bond measure, noting community support for public safety. He questioned the impact of too many survey questions on public participation and voter impact. Councilmember Phan indicated he wouldn't support business modernization or a sales tax extension as the funds are too flexible.

Councilmember Barbadillo emphasized the importance of having a Plan B since there's no guarantee a revenue measure would be approved by the electors.

Councilmember Lien suggested providing direction to conduct the poll due to the urgent nature of all the needs.

Vice Mayor Chua disagreed and suggested conducting a survey on only one measure.

Mayor Montano questioned if the Measure F extension polling need to go now. Finance Director Lai noted that polling could wait until 2026. Mayor Montano spoke in support of polling only about the Public Safety General Obligation Bond.

Councilmember Phan asked about the cost of the survey when polling on one or multiple topics. Deputy City Manager replied that cost was roughly the same whether polling for one or multiple items. Councilmember Phan suggested making the most of that poll now as related to budget concerns to get an overall sense of public opinion.

Vice Mayor Chua supported polling for only the Public Safety General Obligation Bond, and going back if response was negative.

There were the following speakers:

1. Voltaire Montemayor

After discussion, Vice Mayor Chua made a motion: to proceed with community outreach surveys for a potential Public Safety Infrastructure General Obligation Bond Measure and follow-up with questions as recommended by the Polling Consultant, FM3.

Motion/Second: Vice Mayor Chua / Councilmember Phan
by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan

NOES: None

18. **Introduce Ordinance 298.1, An Ordinance of The City Council of the City of Milpitas Amending the Milpitas Municipal Code Title Xi (“Zoning, Planning and Annexation”), Chapter 10 (“Zoning”), Section 13 (“Special Uses”), Subsection 13.15 (“Cannabis Uses”) to Prohibit and Regulate Cannabis Uses, Establishments, and Operations to the Fullest Extent Allowed By State Law, and Making Findings of Exemption From Environmental Review Pursuant To CEQA Guidelines Sections 15061(b)(3) 15183, 15305, and 15378 (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)**

City Attorney Mutalipassi introduced the item. Assistant City Attorney Creech presented the report.

There were the following public speakers:

1. Voltaire Montemayor

Council Discussion ensued.

Vice Mayor Chua questioned how the ordinance would affect Milpitas. Assistant City Attorney Creech noted that the only thing that would change would be a limited allowance for medical cannabis delivery pursuant to State law.

Councilmember Barbadillo asked clarifying questions regarding the ordinance. Assistant City Attorney Creech, City Attorney Mutalipassi, and Chief of Police Hernandez responded. Councilmember Barbadillo expressed concerns regarding illegal deliveries in the city.

Councilmember Phan noted that if the city had its own ordinance, they would have some control.

Councilmember Barbadillo made a motion: to defer the introduction of the ordinance and amend it to tighten enforcement on illegal distribution and delivery of cannabis in Milpitas.

City Attorney Mutalipassi cautioned that medical cannabis would be legal on January 1, 2024 if the City Council doesn't adopt this ordinance.

Motion/Second: Councilmember Barbadillo / Councilmember Phan
by the following:

AYES: Vice Mayor Chua, Councilmember Barbadillo, Councilmember Phan

NOES: Councilmember Lien

ABSTAIN: Mayor Montano

19. **Review the List of Agenda Item Requests From Individual Councilmembers and Provide Direction to Staff Through the Council-Approved Prioritization Process (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)**

Deferred to November 14, 2023.

ITEMS PULLED FROM CONSENT CALENDAR

6. **Approve and Authorize the City Manager to Execute Amendment #1 to the Agreement with HdL and Associates for Sales Tax Audit, Analysis, Reports and Forecasting Services in an Amount of \$300,000 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Finance Director Lai responded to questions from the City Council.

After discussion, motion: to approve and authorize the City Manager to execute Amendment #1 to the agreement with HdL and Associates for sales tax audit, analysis, reports and forecasting services in an amount of \$300,000.00..

Motion/Second: Councilmember Lien / Vice Mayor Chua
by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan

NOES: None

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

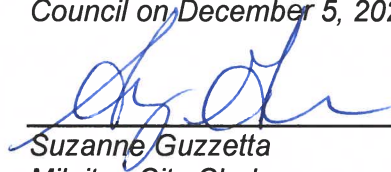
Vice Mayor Chua relayed a request from residents to bring back Bingo and the Tour at the Senior Center. Upon polling the City Council, there was unanimous consensus to add the request to the prioritization list.

Mayor Montano requested adding consideration of a parade on Main Street to the list. Upon polling the City Council, there was consensus to add the item to the prioritization list (NOES: Councilmember Phan).

ADJOURNMENT

Mayor Montano adjourned the meeting at: 11:39 PM.

The foregoing minutes were approved by the Milpitas City Council on December 5, 2023.



Suzanne Guzzetta
Milpitas City Clerk