



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES
TUESDAY, SEPTEMBER 19, 2023

The City Council of the City of Milpitas convened on September 19, 2023, 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 Montano called the Regular City Council meeting to order at 6:01 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo, Lien, and Phan (6:07 PM).
ABSENT: None.

City Attorney Mutalipassi announced the closed session items. The City Council adjourned to Closed Session at 6:04 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.

The City Council reconvened in open session at 7:29 PM

CLOSED SESSION ANNOUNCEMENT:

City Attorney Mutalipassi reported that there was no action taken on Closed Session items.

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

INVOCATION (Councilmember Barbadillo)

Councilmember Barbadillo presented the invocation.

PUBLIC FORUM

The following people spoke under Public Forum:

1. Johnny Reed
2. Kayleen Buteau

3. Marvin Serber
4. Voltaire Montemayor
5. Tom Valore

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 September 12, 2023 Regular Meeting Agenda, hearing the Announcement and Future Agenda Items section prior to the Consent Calendar.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

ABSENT: None

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Mayor Montano recognized the Fire Department softball team for winning the gold medal in the California Firefighter Olympics.

Councilmember Phan asked to add an item to the future agenda items list to bring back Capital Projects that haven't yet been named for the Council to review and as an overview of CIP Projects in the works. There was unanimous consensus from the City Council to add it to the prioritization list.

CONSENT CALENDAR

Motion: to approve the Consent Calendar

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

ABSENT: None

There were the following public speakers:

1. Voltaire Montemayor

C1. Receive City Council Calendar of Meetings for September and October 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received 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)**

Approved 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)**

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 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Reviewed the list of items that have been requested by City Councilmembers and provided direction to staff as necessary.

- 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)**

Received a report and directed 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)**

Approved the removal of Steven Huang as non-voting Student Commissioner from the Economic Development and Trade Commission; Accepted the resignation of Zeya Mohsin from the Planning Commission; and directed 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)**

Reviewed and accepted 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)**

Authorized and approved 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 \$180,000.00 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)**

Authorized 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 approved a budget appropriation in the amount of \$180,000.00 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)**

Approved and authorized 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)**

Approved and authorized 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)**

(1) Reviewed the FY 2022-23 Quarterly Financial Status Report for the quarter ending June 30, 2023 (unaudited); (2) Approved budget amendments; and (3) Authorized 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)**

Approved and authorized 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)**

Adopted **Resolution No. 9273** approving and authorizing 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)

Approved 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)

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 determined 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)

Accepted the FY 2022-23 Commissioners Annual Report; and approved 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

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)

Acting City Manager Thomas introduced the item. Deputy City Manager Cano and Acting Transportation and Traffic Manager Alonzo presented the report.

Council discussion ensued.

There were the following public speakers:

1. Voltaire Montemayor

After discussion, motion: to approve proposed project locations pertaining to Project No. 4299 Bicycle Improvement Project to be funded by Caltrans 2022 Priority Legislative Budget Project (PLPB) Earmarks.

Motion/Second: Councilmember Lien / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano
NOES: None
ABSENT: None

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

- 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)**

Acting City Manager Thomas introduced the item. Recreation and Community Services Director Lorentzen presented the report.

There were the following public speakers:

1. Voltaire Montemayor

Vice Mayor Chua asked to have the marker project reviewed by the Naming Subcommittee prior to creating the markers.

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

Motion/Second: Vice Mayor Chua / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano
NOES: None
ABSENT: None

LEADERSHIP AND SUPPORT SERVICES

- 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)**

City Attorney Mutalipassi presented the report.

There were the following public speakers:

1. Jennifer Ting
2. Albert
3. Voltaire Montemayor

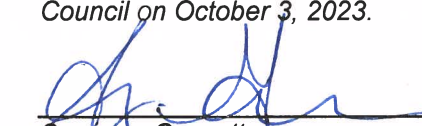
Councilmember Barbadillo emphasized the importance of the respectful use of the park in consideration of the nearby neighbors and community.

City Attorney Mutalipassi noted that the ordinance would come back to the City Council.

ADJOURNMENT

Mayor Montano adjourned the meeting at 8:35 PM.

The foregoing minutes were approved by the Milpitas City Council on October 3, 2023.



Suzanne Guzzetta
Milpitas City Clerk