



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, OCTOBER 20, 2015

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. CLOSED SESSION • 7:00 P.M. PUBLIC BUSINESS

SUMMARY OF CONTENTS

I. CALL TO ORDER/ROLL CALL by the Mayor(6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to California Government Code §54956.9(d)(1) – cases:

- 1) County of Santa Clara, et al. v. Milpitas Economic Development Corporation, et al.; Sacramento County Superior Court, Case No. 34-2013-80001436; and, Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al.; Sacramento County Superior Court, Case No. 34-2013-8001508
- 2) U.S. Equal Employment Opportunity Commission v. City of Milpitas; U.S. District Court, Northern District of California, Case No. 15-CV-04444
- 3) Casagrande v. City of Milpitas, Santa Clara County Superior Court, Case No. 1-15-CV-280605
- 4) SCS Development Company v. City of Milpitas, Santa Clara County Superior Court, Case No. 115CV283902

III. CLOSED SESSION ANNOUNCEMENT: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Councilmember Barbadillo)

VI. APPROVAL OF COUNCIL MEETING MINUTES – October 6, 2015 (2 meetings)

VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS - October and November 2015

VIII. PRESENTATIONS

- Proclaim October as Filipino Heritage Month
- Thanks to those who helped at the Filipino-American Month event on Saturday, October 10 – “Delano Manongs” film showing at Barbara Lee Senior Center
- Proclaim October as CPR Awareness Month
- Proclaim Help Mentally Challenged People Days October 17-18, 2015 by the Knights of Columbus: St. Elizabeth Council #8747 and St. John Council #5796
- 2015 Neighborhood Beautification Awards to Property Owners

IX. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight’s agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with asterisks*)

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 member of the City Council, 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. If removed, this item will be discussed in the order in which it appears on the agenda.

XIV. PUBLIC HEARING

- 1. Hold a Public Hearing and Adopt a Resolution for Summary Vacation of a Portion of the Public Service Utility Easement (PSUE) along the Northerly Projection of Railroad Court Parallel to Union Pacific Railroad (Staff Contact: Steven Machida, 408-586-3355)**

XV. REPORTS OF MAYOR AND COMMISSION

- * 2. Consider Mayor's Recommendations for Re-appointments to City Commissions (Contact: Mayor Esteves, 408-586-3029)**
- 3. Receive Presentation from the Library Advisory Commission and Accept the Work Plan for 2016 (Staff Contact: Bill Ekern, 408-586-3273)**

XVI. NEW BUSINESS

- * 4. Authorize Staff to Attend Out of State Training for Milpitas Fire Department's Personnel Management Program (Staff Contact: Rick Frawley, 408-586-2824)**
- * 5. Consider a Request from the Milpitas Rotary Club to Waive City Fees for its Annual Pumpkin Patch to be Held Starting October 16, 2015 at 1331 E. Calaveras Blvd. Parking Lot (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 6. Authorize Mayor's Response Letter to the 2014-15 Santa Clara County Civil Grand Jury Final Report "A Slow Rising Emergency – Sea Level Rise" (Staff Contact: Tom Williams, 408-586-3050)**

XVII. ORDINANCE

- * 7. Waive the Second Reading and Adopt Ordinance No. 240.4 Removing Supplemental Water Penalties per State Law (Staff Contact: Nina Hawk, 408-586-2603)**

XVIII. RESOLUTION

- * 8. Adopt a Resolution Amending the Classification Plan to Add an Assistant City Engineer Position and an Assistant Transportation Planner Position, and Approve a Budget Appropriation of \$125,0000 from the General Fund and Transit Area Impact Fees Fund (Staff Contact: Steven Machida, 408-586-3355)**

XIX. AGREEMENT

- * 9. Approve the First Amendment to the Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements with Milpitas Station (San Jose) Venture (Staff Contact: Bill Ekern, 408-586-3273)

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 3, 2015**

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 agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the 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

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 the City website. Phone 408-586-3040

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp(select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current Vacancies on

Economic Development Commission (alternate member)
Sister Cities Commission (2 vacancies)
Veterans Commission (2 vacancies)

Commission application forms are available online at www.ci.milpitas.ca.gov 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, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.

AGENDA REPORTS

XIV. PUBLIC HEARING

- 1. Hold a Public Hearing and Adopt a Resolution for Summary Vacation of a Portion of the Public Service Utility Easement (PSUE) along the Northerly Projection of Railroad Court Parallel to Union Pacific Railroad (Staff Contact: Steven Machida, 408-586-3355)**

Background: In 1976, as a part of the vacation of North Main Street (formerly San Jose-Oakland Road), the City was granted a Public Service and Utility Easement (PSUE) sixty-six feet wide along the northerly projection of Railroad Court and parallel to the Union Pacific Railroad. The Santa Clara Valley Transportation Authority (VTA) has acquired a portion of this property to construct a power substation and other facilities to serve the BART - Silicon Valley Berryessa Extension (SVBX) and needs the area clear for construction and land title reasons.

For the past five years, there have been no public utilities located in the easement within the VTA acquisition area and there are no planned utilities to be constructed in this same easement. Upon further review, staff determined that there is no need for the remaining easement area of the parcel, with the exception of a 10-inch strip adjacent to the existing Railroad Court right-of-way line. Therefore, staff recommends the City vacate the easement. A map containing the parcel information and dimensions of the easement in question is provided to City Council (with resolution in the agenda packet).

Section 8333(a) and (c) of the Streets and Highways Code authorizes the City Council to summarily vacate public service utility easements which are no longer necessary when the easements have been superseded by relocation and no other public facilities are located within the easement. Notice requirements for the public hearing and summary vacation have been met by advertising in the local newspaper and by physically posting the site with notices, per requirements of the Streets and Highways Code.

California Environmental Quality Act: This action is exempt from CEQA as there will be no physical change to the environment

Alternative: If the vacation is not executed, the City will retain the easement.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing.
2. Move to close the public hearing, following any comments.
3. Adopt a resolution for the summary vacation of a portion of the Public Service Utility Easement (PSUE) along the northerly projection of Railroad Court Parallel to Union Pacific Railroad.

XV. REPORTS OF MAYOR AND COMMISSION

- * **2. Consider Mayor's Recommendations for Re-appointments to City Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following appointments:

Arts Commission: re-appoint Nicole Phan to a new term of three years to a term that will expire in September 2018.

Recycling and Source Reduction Advisory Commission:re-appoint Kashmir Gill to a new term of three years that will expire in October of 2018.

Sister Cities Commission: re-appoint Peter Chang to a new term of three years that will expire September 2018.

Recommendation: Receive Mayor’s recommendations and move to approve re-appointments to three City of Milpitas Commissions.

3. Receive Presentation from the Library Advisory Commission and Accept the Work Plan for 2016 (Staff Contact: Bill Ekern, 408-586-3273)

Background: This is a report from the Library Advisory Commission to provide information to the City Council regarding the planned work plan for 2016.

Recommendation: Receive a presentation from the Library Advisory Commission Chair at the City Council meeting, and move to accept the LAC’s Work Plan for 2016.

XVI. NEW BUSINESS

*** 4. Authorize Staff to Attend Out of State Training for Milpitas Fire Department’s Personnel Management Program (Staff Contact: Rick Frawley, 408-586-2824)**

Background: The Milpitas Fire Department utilizes the Kronos Inc. Telestaff personnel management program. This program tracks daily shift balancing, scheduling, overtime dissemination, leave usage, payroll, and customizable reports. Milpitas Fire Department Administration is requesting to send administrative personnel for training at the Kronos, Telestaff Conference to maximize the utility of the program. The conference will be held November 16-18, 2015 in Las Vegas, NV.

Fiscal Impact: None. There are sufficient funds within the fire department training budget.

Recommendation: Authorize out of state travel for Milpitas Fire Department administrative staff to attend the Kronos Inc. Telestaff conference in Las Vegas from November 16–18, 2015.

*** 5. Consider a Request from the Milpitas Rotary Club to Waive City Fees for its Annual Pumpkin Patch to be held Starting October 16, 2015 at 1331 E. Calaveras Blvd. Parking Lot (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The City Clerk received a “Donation or Fee Waiver/Reduction Request Application Form” from the Milpitas Rotary Club on September 28. The Rotary Club applied for a Special Event Permit through the Planning Department, and it will be considered separately for approval by the Planning Commission Subcommittee. At this time, the club is requesting that the City Council waive all City fees charged for its annual Pumpkin Patch.

City Fees for Pumpkin Patch are:

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|---|----------|
| Special Event permit application – Planning Dept. | \$250.00 |
| Fire Marshal’s inspection permit + fees: | \$523.77 |
| Electrical Permit from Building official | \$199.88 |

Fiscal Impact: \$20,000 was approved and included in the FY 2015-16 City budget for City Council’s Unallocated Community Promotions. If the current fee waiver of \$973.65 is granted, then \$17,096.17 would be the remaining balance for the fiscal year.

Recommendation: Consider the request from the Milpitas Rotary Club and move to approve fee waiver for Planning, Fire, and Building fees totaling \$973.65 related to the Pumpkin Patch scheduled October 16 – November 2, 2015.

- * 6. **Authorize Mayor’s Response Letter to the 2014-15 Santa Clara County Civil Grand Jury Final Report “A Slow Rising Emergency – Sea Level Rise” (Staff Contact: Tom Williams, 408-586-3050)**

Background: On October 5, 2015, the City of Milpitas received the 2014-2015 Santa Clara County Civil Grand Jury final report on “A Slow Rising Emergency – Sea Level Rise.” The Grand Jury listed a finding and a recommendation in regards to Milpitas Climate Action Plan not addressing sea level rise, which requires a response from the City of Milpitas, pursuant to California Penal Code §933.05, for finding one and recommendation one. Staff recommends authorizing the Mayor to send the letter of response (draft in agenda packet) in reply to the Civil Grand Jury final report. The letter is due to the Grand Jury on October 23, 2015.

Recommendation: Authorize the Mayor to send the proposed response letter regarding the issue of sea level rise and city response to the Santa Clara County Civil Grand Jury.

XVII. ORDINANCE

- * 7. **Waive the Second Reading and Adopt Ordinance No. 240.4 Removing Supplemental Water Penalties per State Law (Staff Contact: Nina Hawk, 408-586-2603)**

Background: This ordinance - to remove a penalty section of the water conservation ordinance adopted earlier in 2015 - was introduced by the City Council on October 6, 2015. Ordinance No. 240.4 is now ready for its second reading and adoption.

Recommendation: Waive the second reading and adopt Ordinance No. 240.4 removing supplemental water penalties per state law.

XVIII. RESOLUTION

- * 8. **Adopt a Resolution Amending the Classification Plan to Add an Assistant City Engineer Position and an Assistant Transportation Planner Position, and Approve a Budget Appropriation of \$125,0000 from the General Fund and Transit Area Impact Fees Fund (Staff Contact: Steven Machida, 408-586-3355)**

Background: There is an emerging increase in the work load in the Engineering Land Development Division, primarily due to an increase in in-fill development project submittals and associated construction in the Transit Area Specific Plan (TASP) area. The complexity of these projects requires the skills of a licensed engineer to manage submittals and the review process as well as coordinating with developers and engineers. A more experienced engineer is better equipped to manage the division workflow, provide staff supervision, coordinate with department managers and staff, and to provide assistance to developers to meet submittal timelines while maintaining project review protocols. The Assistant City Engineer will also assist the City Engineer with budget preparation, complete special projects assigned, manage various Capital Improvement Program projects, attend Planning Commission meetings, assist with staff training and attend various outside agency meetings representing the City’s interests.

The Engineering Department also includes the Traffic Engineering Division. This division is responsible to evaluate the City’s traffic system design, construction and operations to ensure a safe and reliable street system. Similar to the workload in the Land Development Division, the Traffic Division has experienced an increased work load as a result of in-fill development. Typical assignments will include long range transportation planning, approve trip inventory

database, scoping and review of traffic impact analysis for new/redevelopment projects, tracking of regional grant opportunities and grant administration.

Fiscal Impact: There will be no fiscal impact to add an Assistant City Engineer, as the existing funded but unfilled Principal Civil Engineering position will be defunded and the balance of the funding is available in the Department's Fiscal Year 2015-16 operating budget. The Assistant Transportation Planner position will require an appropriation from the General Fund and from the Transit Area Impact Fees fund in the amount of \$125,000.

Recommendations:

1. Adopt a resolution amending the Classification Plan adding one Assistant City Engineer in the Engineering Land Development Division and one Assistant Transportation Planner in the Engineering Traffic Division.
2. Approve a budget appropriation from the General Fund and the TASP fees fund in the amount of \$62,500 respectively for the Assistant Transportation Planner into the Engineering Traffic Division budget.

XIX. AGREEMENT

- * 9. Approve the First Amendment to the Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements with Milpitas Station (San Jose) Venture (Staff Contact: Bill Ekern, 408-586-3273)**

Background: In 2014, the City Council approved a Fee Credit Agreement with Milpitas Station Venture relating to fees and improvements required within the Transit Area Specific Plan. A portion of these credits is tied to the completion of undergrounding or relocating PG&E overhead utility lines. This relocation was to be completed prior to Certificate of Occupancy for the 9th unit of the project. Because of complications with the relocation process and requirements of PG&E, the developer has not been able to relocate the overhead electric lines. Milpitas Station Venture is selling the property to another developer and both parties are seeking some relief in the timing requirement so as to enable the new developer to proceed with construction of the final phase of this development. The developers have requested the Fee Agreement be modified to allow the work to be completed prior to issuance of the certificate of occupancy for the final residential unit or building in Tentative Map No. 10037. No other condition of the agreement is proposed to change.

Fiscal Impact: None.

Recommendation: Approve the First Amendment to the Fee Credit Agreement for Transit Area Specific Plan Public Facilities and Public Improvements with Milpitas Station (San Jose) Venture.

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