



**MILPITAS CITY COUNCIL
SPECIAL MEETING
AGENDA**

MONDAY, JULY 18, 2016

**455 EAST CALAVERAS BOULEVARD
COUNCIL CHAMBERS, 2ND FLOOR
MILPITAS, CA
6:00 P.M.**

SUMMARY OF CONTENTS

I. CALL TO ORDER/ROLL CALL by the Mayor

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION

Pursuant to California Government Code Section 54956.9 - City as Plaintiff (2 matters)

CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION

Pursuant to California Government Code Section 54956.9 - City as Defendant

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

V. 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.

VI. ANNOUNCEMENTS

VII. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

VIII. APPROVAL OF AGENDA

IX. UNFINISHED BUSINESS

- 1. Receive Report and Recommendation from Staff on the Initiative Petition for a Ballot Measure Regarding Water Rates (Contact: Chris Diaz, 408-586-3040)**
- 2. Receive a Report on Water System Losses (Staff Contact: Steven Machida, 408-586-3355)**
- 3. Receive Water Rate Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)**
- 4. Receive Solid Waste Disposal Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)**

X. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, AUGUST 2, 2016**

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 Sister Cities Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or 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

VII. UNFINISHED BUSINESS

1. **Receive Impact Report on the Initiative Petition for a Ballot Measure Regarding Water Rates and Direct Staff as Appropriate (Staff Contacts: Steve Machida, 408-586-3355 and Christopher Diaz, 408-586-3040)**

Background: On January 27, 2016, the City received a Notice of Intent to Circulate a Petition and proposed initiative measure (“Measure”) from Milpitas residents/proponents. The Measure would repeal the most recent City Council-approved uniform volumetric water rate schedule (effective January 1, 2016) and return the City to a tiered rate structure. By doing so, the Measure titled “Initiative Measure Regarding the City of Milpitas Water Rates and Charges” would also repeal the capital surcharge entirely.

On June 21, 2016, the City Clerk certified the initiative petition as sufficient with regard to the number of signatures. At this same meeting, the City Council directed staff to prepare an impact report to analyze the impact of the Measure on the City’s finances, ability to provide public services, etc., as authorized by the California Elections Code. Pursuant to the Elections Code, this report is required to be presented to the City Council no later than 30 days after being requested. This impact report is being brought back to the City Council within this time-frame.

As detailed in the impact report, the primary areas of concern are:

- **Rate Structure Legality** – The Initiative Measure Rates are similar to the tiered rates that were successfully challenged in the San Juan Capistrano Taxpayer Assn. Inc. v. City of San Juan Capistrano case. The case determined that the rates were not in compliance with Proposition 218.
- **Revenue Shortfall** – The Initiative Measure Rates are estimated to collect \$4 million less each year compared to the adopted City water rates. The Initiative measure will continue to draw down the Operating Fund, will accrue a deficit in the near term and erode the City’s operating reserves below the 30% policy level.
- **Impacts to Service** – If water utility expenses exceed revenues, the two options are to increase revenues or decrease expenses. Appendix A of the report identifies water utility services that will be impacted if operating expenses are decreased.
- **Impacts to Infrastructure** – Appendix B of the report identifies water system infrastructure that is funded by the capital surcharge. Deferral or elimination of the projects to reduce expenses will likely result in long-term water system failure.
- **Capital Project Deferral** – Water systems are mission critical health and safety enterprises. Every community needs a safe and reliable drinking water system. The CIP program identifies and prioritizes projects to maintain and improve water system reliability. Deferral or elimination of projects jeopardizes the implementation of key improvements that affect water quality and reliability.

After the impact report is presented to the City Council, under the Elections Code, one of the following two options is available:

- a. Adopt the Measure as an ordinance, without alteration, or;
- b. Submit the Measure to the voters at the next regular municipal election. A “regular election” is one where Councilmembers are elected so that would be Tuesday, November 8, 2016.

Recommendations:

1. Receive a report from City staff analyzing the impact of the proposed water rates initiative.
2. Direct staff as appropriate.

2. Receive a Report on Water System Losses (Staff Contact: Steven Machida, 408-586-3355)

Background: The City operates a potable water distribution system. Historically, this water system provides water for many purposes, including but not limited to: drinking, hygiene, food preparation, use in products, manufacturing processes, fire fighting, street sweeping, construction uses (compaction and dust control), maintenance flushing operations, and irrigation for landscapes and gardens. In addition to these known uses, water is lost during water main breaks, slow leaks, aging water meters, and unauthorized use.

Water loss is typically defined as the difference between the amount of water purchased or introduced into the distribution system and the water sold to customers. It can fluctuate annually depending on the amount of construction activity, water line breaks and meter reliability.

The City’s 2015 Urban Water Management Plan Table 4-4 reports water loss at 374,049 hcf, which is about 11%, with 2.2% accounted for.

Total water loss data is difficult to document. During emergency events, such as fires, the priorities are health, safety, and protection of property, not measuring the volume used. The frequencies and duration of emergencies occurrences are very dynamic, changing from year to year.

Staff has estimated the annual losses in millions of gallons as shown in the table below.

Line	Categories	Estimated % of total water purchased	Estimated HCF	Estimated MG
1	Fire fighting and fire flow testing	0.3	10,000	7.5
2	Known Water system breaks, including fire hydrant knock downs	1.4	50,000	35.7
3	Water system flushing	0.03	1,000	0.75
4	Construction meters	0.44	15,000	11.2
5	Street sweeping	0	60	0.005
6	Sanitary sewer system flushing	0.01	200	0.16
7	Subtotal calculated losses	2.2%	76,260	55
8	Under-registered customer meters	2-5	76,000	50-130
9	System leaks	3 to 6	220,000	75-150
10	Unauthorized use	<0.1	1,500	0.75
11	Subtotal estimated losses	8.8%	297,000	230
12	Total losses	11%	373,760	285

Lines 1-5 are calculations based upon the following reasonably known assumptions. Line 1 is estimated at 10 large events per year with 10,000 gallons per minute x 60 minutes and 30 smaller events with 1,600 gallons per minute x 30 minutes. Line 2 is estimated at 10 day time events per year with 8,500 gallons per minute x 60 minutes and 40 night time events per year x 90 minutes (longer response time). Line 3 is necessary to maintain water quality and is estimated at 10 events at 2,500 gallons per minute for 30 minutes each. Lines 4, 5, and 6 data is from

construction meters that are not included in the “water sold” reports. The subtotal of calculated water losses is 55 million gallons per year (76,260 hcf) as shown in Line 7.

Lines 8-10 represent losses without reasonable assumptions to work with. As water meters age, they tend to under-register the amount of water used. Water meters may also under-register if customer demand does not fall within the meter’s recommended operating range. Staff’s best guess is that this is one of the largest components of water loss, as shown in Line 8. Line 9 represents small system leaks that exist due to shifting soils. Staff’s best guess is that this is the largest component of water loss, as shown in Line 9. Line 10 represents unauthorized use, which may be result from using hydrants without a construction meter. These categories represent most of the lost water and total about 230 million gallons per year (297,000 hcf), bringing the total lost water total to 285 million gallons per year (373,000 hcf).

Although confirmed calculated water loss is estimated at 2.2% (or 76,260 hcf), total known water loss is calculated to be 11% or 373,760 hcf. The 8.8% or 297,000 hcf differential can be assumed water loss through unmetered uses such as construction or theft. A capital improvement program Project No. 7121 is scheduled to replace all water meters over the next several years. These new meters employ smart technology to help customers understand their water use and detect on-site leaks. Staff is preparing a grant application to assist with funding. A second project, water system seismic improvements, is replacing backbone water pipelines with seismically-resistant joints to minimize the number of leaks expected with major ground movement. A third project in the capital improvement program is the Water Loss Study. This study may use ultrasound or other non-destructive technology to predict location of leaks.

Small leaks are common, yet are very difficult to locate. Once they have grown large enough to penetrate the surface, the leaks are more easily identified. However, in some instances the break is not in the location where the water surfaces. Leaks that have penetrated the surface are repaired. The cost to repair leaks depends upon the size and type of pipe failure and damage to the surrounding area. Sufficient revenue from water rates is an important, needed factor to ensure pipeline repair and replacement, which will improve the system and keep water loss down.

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

Fiscal Impact: None.

Recommendation: Receive report from Engineering staff on water system losses.

3. Receive Water Rate Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)

Background: The City Council adopted a new water rate structure on December 15, 2015. This water rate structure is in conformance with the final court interpretation of Proposition 218 (San Juan Capistrano) where water rates for each customer class generate the needed revenue to serve that customer class. Some residential customers are unhappy with the loss of a tiered rate structure. Subsequently, a petition was circulated collecting signatures to repeal the new water rate structure. The petition process is not addressed in this item. The City Council became aware that misinformation and confusion regarding water rates is widespread throughout the Milpitas community and directed staff to prepare a fact sheet for clarification.

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

Recommendation: Receive a report from City Engineering staff on the water rate fact sheet.

4. Receive Solid Waste Disposal Fact Sheet (Staff Contact: Steven Machida, 408-586-3355)

Background: The City's solid waste collection and disposal agreements with Republic Services (Newby Island) will expire in September 2017. The City has not sought a competitive bid for waste disposal and collection for more than 30 years. The City's process included soliciting separate competitive bids for disposal and collection. The City received two bids, one from Waste Management Inc. (Guadalupe Landfill) and the other from GreenWaste Recovery (Monterey Peninsula Landfill). It should be noted that the City's current vendor, Republic Services, did not submit a bid for disposal and, as such, was not considered in the competitive bid process. After a thorough evaluation of technical capabilities, services, and costs, the City Council awarded the disposal contract to Waste Management on March 15, 2016. Subsequently, the City Council became aware that misinformation regarding the RFP process and disposal award is widespread throughout Milpitas and San Jose communities and directed staff to prepare a fact sheet for clarification. A fact sheet is included in the Council packet for review.

California Environmental Quality Act: The report is exempt from CEQA as there will be no physical change to the environment.

Recommendation: Receive a report from City Engineering staff on the solid waste disposal fact sheet.

X. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, AUGUST 2, 2016**