

City Council  
Rich Tran, Mayor  
Marsha Grilli, Vice Mayor  
Garry Barbadillo, Councilmember  
Bob Nuñez, Councilmember  
Anthony Phan, Councilmember



**CITY OF MILPITAS - NOTICE OF SPECIAL MEETING**

***NOTICE IS HEREBY GIVEN*** that a Special Meeting of the Milpitas City Council has been scheduled for Tuesday, May 30, 2017 at 12:00 PM at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA in the Council Chambers on the second floor. The meeting agenda follows:

**SPECIAL MEETING AGENDA**

TUESDAY, MAY 30, 2017

12:00 PM

Milpitas City Hall

Council Chambers 2<sup>nd</sup> floor

455 E. Calaveras Boulevard, Milpitas, CA

- I. CALL TO ORDER / ROLL CALL / PLEDGE**
- II. CLOSED SESSION**
  - (a) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(1)  
Tom Williams v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235
  - (b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(2) - City as Defendant  
(2 matters)
  - (c) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Pursuant to California Government Code Section 54957  
Position: City Manager
  - (d) PUBLIC EMPLOYEE APPOINTMENT**  
Pursuant to California Government Code Section 54957  
Position: Acting City Manager
- III. ANNOUNCEMENT OUT OF CLOSED SESSION (if any)**
- IV. PUBLIC FORUM** *Comments limited to 3 minutes or less*

**V. OPEN SESSION**

Adopt Resolution Appointing Steve Pangelinan as Acting City Manager Pursuant to the Government Code Sections 7522.56 and 21221(g) and Approving the Amended Employment Agreement (Staff Contact: Christopher J. Diaz, 408-506-3040; Tina Murphy, 408-586-3086)

**VI. ADJOURNMENT**

**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, boards, councils 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.

Materials related to an item on this agenda submitted to the City Council after distribution of the agenda would be available for public inspection at the City Clerk's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas during normal business hours.

For more information on your rights under the Open Government Ordinance or to report a violation of the ordinance, contact the City Attorney at Milpitas City Hall, 455 E. Calaveras Blvd, Milpitas, CA  
E-mail: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov) / Phone 408/586-3040

*The Open Government Ordinance is codified in Milpitas Municipal Code as Title I Chapter 310 and is available at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

## SPECIAL MEETING – AGENDA REPORT

### V. OPEN SESSION

**Adopt Resolution Appointing Steve Pangelinan as Acting City Manager Pursuant to the Government Code Sections 7522.56 and 21221(g) and Approving the Amended Employment Agreement (Staff Contact: Christopher J. Diaz, 408-506-3040; Tina Murphy, 408-586-3086)**

#### **Background**

The City Manager is currently on administrative leave effective May 19, 2017. Steve Pangelinan currently serves as the City's Interim Chief of Police and previously served as the City's Chief of Police. Mr. Pangelinan retired from the City effective December 30, 2016.

Staff is recommending hiring Mr. Pangelinan on a part-time, interim basis to perform specific duties of the City Manager position while the City Manager is on leave. Given the need for continuity and a highly trained professional to lead the City, staff recommends hiring Steve Pangelinan on a part-time, interim basis from May 30, 2017 through May 29, 2018, or such earlier date as the City Manager returns from leave or the City or Mr. Pangelinan terminate the appointment. His hours for both the Interim Chief of Police position and the Acting City Manager position will not exceed 960 hours combined per fiscal year.

#### **California Public Employees Reform Act 2013 and the Public Employees' Retirement Law**

The California Public Employees Reform Act of 2013 ("PEPRA") requires a 180-day "wait" period before a retiree can return to work for a public agency; however, the 180-day "wait" period is not applicable so long as the City Council certifies the need to fill the critically needed position before 180 days have passed by resolution in a public meeting, and so long as the retiree did not retire with a retirement incentive such as the CalPERS golden parachute (i.e., 2 years additional service credit). In addition to the requirements of PEPRA, the appointment of a retiree to a position that is available because an individual is on leave must comply with Section 21221(g) of the Public Employees' Retirement Law ("PERL"). In accordance with PERL, such an appointment is permissible if it is pursuant to a resolution by the City Council finding that the position is available because of a leave of absence granted to a person on payroll status for a period not to exceed one year and found to require specialized skills. Staff has worked with the City Attorney to ensure that additional requirements, such as ones that relate to compensation and hours worked, will be met.

Included in the Council's agenda packet is the required resolution to appoint a retiree pursuant to PEPRA and PERL and a form of the Amended Employment Agreement for Mr. Pangelinan which has been amended to include the additional duties of the Acting City Manager appointment.

#### **Fiscal Impact**

Mr. Pangelinan would be paid an hourly rate of \$115.38 per hour, which is less than the maximum salary range for the City Manager position. He will not be entitled to any benefits, vacation, or holidays.

#### **Recommendation**

Adopt resolution appointing Steve Pangelinan to serve as Acting City Manager pursuant to **Government Code Sections 7522.56 and 21221(g)** and approving the amended employment agreement.

#### **Attachment**

1. City Council Resolution