



## REGULAR MEETING OF THE MILPITAS CITY COUNCIL

### AGENDA

TUESDAY, OCTOBER 06, 2020  
MILPITAS, CA  
6:00 PM (CLOSED SESSION)  
7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

City Council meeting is held via teleconference /Zoom webinar only (no physical meeting space). You may watch the Council meeting without providing public comment by accessing it via links below:

#### **Meeting shall be livestreamed - Go to:**

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.ci.milpitas.ca.gov/youtube>

Web Streaming: <https://www.ci.milpitas.ca.gov/webstreaming>

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### PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting by first registering for the zoom meeting in advance by: providing email address (not disclosed) and a name.

Here is the link to register:

[https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN\\_ZZfHL\\_fvTjaeO1Fkky5V9A](https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_ZZfHL_fvTjaeO1Fkky5V9A)

A link will be sent to you to join the City Council meeting in order to give comments. All registered meeting attendees who wish to speak must click on the “raise hand” icon when the Mayor calls for public comments. If participating by calling in, dial \*9 to use the “raise hand” feature, and when you are called upon, hit \*6 to unmute your phone. Your phone number will be displayed in the live meeting. Staff will call the speakers to begin.

All comments provided shall be limited to three minutes or less as determined by the Mayor/ Chair. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items. The online written comment form previously used is no longer be available for public comment.

**MILPITAS CITY COUNCIL CODE OF CONDUCT**

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

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

**ADJOURN TO CLOSED SESSION**

(a) City Council will consider the following matters in Closed Session:

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Pursuant to CA Government Code Section 54956.9(d)(1)

Vibha Shah v. City of Milpitas, et al/City of Milpitas v. Kenneth Louis Kaldy, et al  
Santa Clara County Superior Court, Case No. 18CV322398

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to CA Government Code Section 54956.9(d)(1)

Alok Jain, et al. vs. City of Milpitas, et al; Santa Clara County Superior Court, Case No. 18CV325365

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Pursuant to CA Government Code Section 54956.9(d)(2)

City as Defendant. 3 potential matters:

- (1) Brown Act Demand to Cure and Correct/Cease and Desist Demand
- (2) Libel and Slander Allegation
- (3) Defamation of Character Allegation

See documents included in the Council agenda packet, as justification.

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

**PLEDGE OF ALLEGIANCE** (7:00 PM)

**INVOCATION** (assigned to Vice Mayor Nuñez)

**PRESENTATION** - Proclaim *Fire Prevention Week* October 4 -10, 2020

**PUBLIC FORUM**

Those interested are invited to address City Council on any subject not on tonight's agenda, orally via zoom webinar (instructions on page 1). Speakers may provide their name and city of residence for the Clerk's record, and comments may be limited to three minutes or less. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. Council may instruct the City Manager to place the item on a future meeting agenda.

## **ANNOUNCEMENTS AND FUTURE AGENDA ITEMS** (7:20 PM)

Members of the City Council may make brief announcements or suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion, but shall simply state a “yes” or “no” as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a subsequent agenda for City Council discussion.

## **ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

## **READING ALOUD OF THE CITY COUNCIL CODE OF CONDUCT**

## **APPROVAL OF AGENDA**

### **CONSENT CALENDAR** (7:40 PM)

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 City Councilmember, member of the public 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.

**C1. Receive City Council calendar of meetings for October 2020 (Staff Contact: Mary Lavelle, 408-586-3001)**

**C2. Approve City Council meeting minutes for the September 15, 2020 Regular Meeting (Staff Contact: Pam Caronongan, 408-586-3003)**

Recommendation: Approve September 15, 2020 City Council meeting minutes drafted by the Deputy City Clerk.

**C3. Adopt a Resolution Accepting and Authorizing the City Manager to Execute the Agreement to Accept the 2019 State Homeland Security Grant Program Funding and Approving and Authorizing a Sole Source Purchase for Procurement of Mobile Crash Barriers and Portable Bollards Manufactured by Delta Scientific Corporation; and Approve Budget Appropriation to the Police Department’s FY 2020-21 Operating Budget (Staff Contact: John Torrez, 408-586-2408)**

Recommendation: Adopt a resolution accepting and authorizing the City Manager to execute the Agreement to accept the 2019 State Homeland Security Grant Program Funding, and approving and authorizing a sole source purchase for procurement of Mobile Crash Barriers and Portable Bollards Manufactured by Delta Scientific Corporation; and approve a budget appropriation into the Police Department’s FY 2020-21 operating budget.

**C4. Adopt a Resolution to Authorize the Chief of Police to Execute the Grant Agreement with the Office of Traffic Safety to Accept the FY 2021 Office of Traffic Safety Selective Traffic Enforcement Program Grant and approve a budget appropriation in the amount of \$57,500 (Staff Contact: Jared Hernandez, 408-586-2406)**

Recommendations:

- a) Adopt a resolution to authorize the Chief of Police to execute the Grant Agreement with the Office of Traffic Safety accepting the FY 2021 Office of Traffic Safety Selective Traffic Enforcement Program Grant.
- b) Approve a budget appropriation in the amount of \$57,500 for overtime in the Police Department Operating Budget.

**C5. Adopt a Resolution to Approve Project Plans & Specifications; Reject a Bid Protest from Pacific Electric Contracting, Inc.; Award a Construction Contract to the Bear Electrical Solutions, Inc. in**

**the amount of \$418,150 for the Enhanced Crosswalk Striping & Beacons/Radar Speed Feedback Signage, Projects No. 3454 and No. 3458; Authorize the City Manager to Execute the Construction Contract; and Authorize the Engineering Director/City Engineer to Negotiate and Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)**

Recommendation: Adopt a resolution approving project plans & specifications; reject a bid protest from Pacific Electric Contracting, Inc.; award a construction contract to the lowest responsible bidder submitting a responsive bid, Bear Electrical Solutions, Inc., in the amount of \$418,150 for the Enhanced Crosswalk Striping & Beacons/ Radar Speed Feedback Signage, Projects No. 3454 and No. 3458; authorize the City Manager to execute the contract with Bear; and authorize the Engineering Director/ City Engineer to negotiate and execute contract change orders in an aggregate amount not to exceed \$63,000.

- C6. Adopt a Resolution Granting Acceptance of the Milpitas Skate Park & Snack Shack/Restroom Building Replacement, Projects No. 5111, No. 3424, and No. 6133, Authorizing the City Engineer to File a Notice of Completion, and Authorize him to Issue a Notice of Final Acceptance, and Approve a Budget Appropriation of \$52,900 from the Community Facilities District No. 2005 Funds into the Public Works Operation and Maintenance Budget (Staff Contact: Steve Erickson, 408-586-3301)**

Recommendation: Adopt a resolution granting acceptance of the Milpitas Skate Park & Snack Shack/ Restroom Building Replacement, Projects No. 5111, No. 3424, and No. 6133, authorizing the City Engineer to file a Notice of Completion, and authorize him to issue a Notice of Final Acceptance, and approve a budget appropriation of \$52,900 from Community Facilities District No. 2005 funds into the Public Works operation and maintenance budget.

- C7. Adopt a Resolution Granting Acceptance of Water Bottle Refill Station Installation Project, CUP 2353 and Authorizing the Director of Public Works to File a Notice of Completion and Issue a Notice of Final Acceptance (Staff Contact: Tony Ndah, 408-586-2602)**

Recommendation: Adopt a resolution granting acceptance of Water Bottle Refill Station Installation Project, CUP (California Uniform Public Construction Cost Accounting Act public works project) 2353 and authorizing the Director of Public Works to file a Notice of Completion and issue a Notice of Final Acceptance after the one-year warranty period has elapsed.

- C8. Adopt a Resolution Granting Acceptance of Public Improvements and Approving Reduction of Faithful Performance Bond for Public Improvements for 260 South Main Street Subdivision at 260 South Main Street by Eastside San Ramon Partners, LLC, and Granting Authorization to the City Engineer to Release the Performance Bond After the One-year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)**

Recommendation: Adopt a resolution:

- a) Granting acceptance of public improvements for 260 South Main Street Subdivision at 260 South Main Street, Tract 10435, Public Improvement Plan No. 2-1233; and
- b) Approving a reduction in the faithful performance bond to \$16,000, which shall be subject to and in effect for the duration of a one-year warranty period; and
- c) Granting authorization to the City Engineer to release the performance bond after the one-year warranty period, without further City Council action provided all required warranty work is completed to his satisfaction.

- C9. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with Group 4 Architecture, Research & Design for Space Planning and Design of Office Spaces at City Hall and Approve Related Budget Amendment (Staff Contact: Tony Ndah, 408-586-2602)**

Recommendation: Approve and authorize the City Manager to execute Amendment No. 1 to the Agreement with Group 4 Architecture, Research & Design for Space Planning and Design of Office Spaces at City Hall, resulting in a decrease of the total not to exceed amount by \$40,000 - from \$150,000 to \$110,000 - and approve a budget amendment returning the contractual savings to the General Government CIP Fund balance.

- C10. Authorize the City Manager to pay the Santa Clara County Cal ID Program FY 2020-21 invoice in an amount not to exceed \$126,235 (Staff Contact: Frank Morales, 408-586-2521)**

Recommendation: Authorize the City Manager to pay the Santa Clara County Cal ID Program FY 2020-21 invoice in an amount not to exceed \$126,235.

- C11. Approve a Budget Appropriation in the amount of \$96,100 to the Equipment Fund Non departmental FY 2020-21 Operating Budget for the Replacement of Two Police Vehicles (Staff Contact: Jared Hernandez, 408-586-2406)**

Recommendation: Approve a budget appropriation in the amount of \$96,100 to the Equipment Fund Non-departmental FY 2020-21 operating budget for the replacement of two Police vehicles.

- C12. Receive Report on the Status of COVID19 Testing in the City of Milpitas; Direct the City Manager to develop a Memorandum of Understanding with the County of Santa Clara for COVID-19 testing activities retroactive to March 13, 2020 for FEMA reimbursement purposes; Authorize Additional \$155,000 to Fund the City's Mobile Testing Unit and the County Fixed Testing Site through December 31, 2020; and Direct the City Manager to explore developing an agreement with the County to establish a City-operated vaccination site when a vaccine becomes available (Staff Contact: Geoffrey Maloon, 408-586-2818)**

Recommendations:

- a) Receive an update regarding the status of COVID-19 testing in Milpitas.
- b) Authorize \$155,000 to fund the City's mobile testing unit, the County mobile and pop-up testing sites and the fixed testing site at Milpitas Library through December 31, 2020.
- c) Direct the City Manager to develop a Memorandum of Understanding with the County of Santa Clara for COVID-19 testing activities retroactive to March 13, 2020 for FEMA reimbursement purposes.
- d) Direct the City Manager to explore developing an agreement with the County to establish a City-operated vaccination site when a vaccine becomes available.

- C13. Consider Mayor's Recommendation to Move Up two Current Alternate Members and Appoint One New Alternate Member on the Senior Advisory Commission (Contact: Mayor Tran, 408-586-3029)**

Recommendation: Receive Mayor Tran's recommendation, and move to appoint the following:

- a) Appoint current Alternate No. 1 Willy Wong as a voting Commissioner to a term that will expire in December of 2022.
- b) Move current Alternate No. 2 Nona Tolentino into the Alternate No.1 seat, into a term that will expire in December of 2020.
- c) Newly appoint Barbara Jo Navarro as Alternate No. 2 into a term that will expire in December of 2021.

**PUBLIC HEARING** (7:45 PM)

- 14. Conduct a Public Hearing and Approve of the List of Energy and Water Conservation Measures and Consider Adoption of a Resolution Authorizing the City Manager to Execute an Amendment to the Energy Services Agreement with Engie Services U.S., Inc. for the Construction of Energy**

**and Water Conservation Measures in the Amount of \$33,983,429 (Staff Contact: Tony Ndah, 408-586-2602)**

Recommendations:

- a) Open the public hearing, receive any comments and move to close the public hearing.
- b) Approve list of Energy and Water Conservation Measures developed for the City.
- c) Find that the implementation of the proposed projects is categorically exempt under California Environmental Quality Act Guideline Section 15301.
- d) Adopt a resolution authorizing the City Manager to execute a contract with ENGIE Services U.S. for energy and water conservation measures identified in Bundles A, B, and C.1 in the amount of \$33,983,429, subject to the City obtaining the necessary financing and appropriation of funds.
- e) Authorize the City Manager to execute one or more amendments to the Energy Service Agreement to increase the maximum compensation by an aggregate amount not to exceed \$3.3 million.
- f) Direct the City Manager to return to City Council for authorization to sell approximately \$11.3 million of General Fund Lease Revenue Bonds needed to finance implementation of Bundles B and C.1.

**COMMUNITY DEVELOPMENT** (8:00 PM)

**15. Adopt a Resolution to Endorse the 2020-2025 Santa Clara County Community Plan to End Homelessness (Staff Contact: Sharon Goei, 408-586-3260)**

Recommendation: Adopt a resolution to endorse the 2020-2025 Santa Clara County Community Plan to End Homelessness.

**LEADERSHIP AND SUPPORT SERVICES** (8:30 PM)

**16. Receive and Accept General Fund Monthly Financial Status Verbal Report (Staff Contact: Walter C. Rossmann, 408-586-3111)**

Recommendation: Accept the September 2020 General Fund Monthly Financial Status verbal report.

**17. Adopt a Resolution Establishing the Measure F Oversight Committee Subject to Voter Approval of Measure F (Staff Contact: Walter C. Rossmann, 408-586-3111)**

Recommendation: Adopt a resolution establishing the Measure F Oversight Committee and approve the Measure F Oversight Committee structure and responsibilities, subject to voter approval of Measure F (1/4 cent sales tax) on November 3, 2020.

**18. Introduce Ordinance No. 23.15 for Updates to Milpitas Municipal Code on Purchasing (Staff Contact: Walter C. Rossmann, 408-586-3111)**

Recommendations:

- a) Receive presentation from staff.
- b) Following the City Attorney reading the title, move to waive the first reading beyond the title of Ordinance No. 23.15.
- c) Introduce Ordinance No. 23.15 to update the municipal code section on purchasing.

**19. Introduce Ordinance No. 65.150 Regarding Responsible Construction (Staff Contacts: Christopher J. Diaz, 408-586-3040 and Steve McHarris, 408-586-3059)**

Recommendation: Following the reading of the title by the City Attorney, move to waive the first reading beyond the title and Introduce Ordinance No. 65.150 adding Chapter 32 (Responsible Construction) to Title III of the Milpitas Municipal Code.

**REPORTS OF MAYOR & COUNCILMEMBERS - from assigned Commissions, Committees and Agencies**

(10:00 PM)

20. **Discuss Council Sponsored Events; and, Discuss and Provide Direction on 2020 United States Census Outreach and Any Council Sponsorship (Contact: Councilmember Dominguez, 408-586-3031)**

Recommendation: Discuss City Council sponsored event process; and, discuss and provide direction on the City's 2020 US Census outreach and any Council sponsorship.

21. **Per Request of Vice Mayor Nuñez, Engage in Discussion on Councilmembers' Ideas to Economically Assist the Milpitas Community During the Pandemic (Contact: Vice Mayor Nuñez , 408-586-3023)**

22. **Receive and Direct Staff on List of Agenda Items Requested by City Councilmembers (Contact: Mayor Tran, 408-586-3029)**

Recommendation: Review list of items presented (list in agenda packet) that have been requested by City Councilmembers on a form, at a Council meeting, or through the City Manager. Direct items to a City Council Subcommittee, to be placed onto a specific meeting date, or specify alternate direction to staff. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until the item is scheduled as a full agenda item.

**NEXT AGENDA PREVIEW**

23. **Receive Preview List of Anticipated Items for the Next Regular City Council Meeting Scheduled on October 20, 2020 (Staff Contact: Mary Lavelle, 408-586-3001)**

Recommendation: Receive list of anticipated agenda items for the October 20, 2020 regular City Council meeting.

**ADJOURNMENT** (11:00 PM)

**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 City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and 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  
e-mail: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov) / Phone: 408-586-3040

*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](http://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 City website. City Council agendas and related materials can be viewed online: [www.ci.milpitas.ca.gov/government/council/agenda\\_minutes.asp](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

**APPLY TO SERVE ON A CITY COMMISSION**

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://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, please call the City Clerk at 408-586-3001 or send an e-mail to [mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger font agenda or arrange for mobility assistance.*