



City of Milpitas
City Council Procedures and Protocols
Handbook

Council Approved on January 11, 2022

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CHAPTER I. Purpose and Overview

A. Purpose

This City Council Procedures and Protocols Handbook (Handbook) outlines the Milpitas City Council governing practices.

B. Applicability of Handbook

When not in conflict with the Constitution, the laws of the State of California or the Milpitas Municipal Code, this Handbook shall govern.

C. Revisions to the Handbook

This Handbook will be brought to Council for updates, as needed, due to changes in the law or if the City Council desires to change its procedures or protocols.

CHAPTER II. Duties of the City Council

A. General Authorities of City Council

Milpitas was incorporated on January 26, 1954. As a general law city, Milpitas derives its authority from and is subject to the California Constitution and the general laws of the State of California.

The City Council is the policy and lawmaking body of the City. State and local laws define the powers and responsibilities of the City Council.

The City has a Council Manager form of government in which the elected City Council sets policy direction and the City Manager implements Council policy, manages day-to-day operations, and provides professional recommendations to support the Council on policy decisions. Although the Council and City Manager operate in all four dimensions of the governance process: mission, policy, administration and management, the Council's focus is on the mission and policy while the City Manager's focus is on administration and management. Clarity of roles are informed by this Handbook and Municipal Code provisions that provide the overall framework for the governance relationship.

B. Duties of Mayor

The Mayor is directly elected by Milpitas voters. The Mayor is the official head of the City of Milpitas for all ceremonial purposes. The Mayor is entitled to vote on all matters but does not possess any veto power. The Mayor signs all ordinances and resolutions after approval by the majority of the City Council.

C. Duties of Vice Mayor (Mayor Pro Tempore)

The Vice Mayor is selected from those on the Council during the first meeting at which the Mayor and returning or incoming Councilmembers commence their terms. Nomination is done through a motion and appointment is based on a majority vote.

In the event that the Mayor cannot attend a ceremonial function, the Vice Mayor shall serve as the official head of the City in his or her stead. In the event that neither the Mayor nor Vice Mayor can preside at a ceremonial function, one of the remaining members of the City Council shall serve as the official head of the City on a rotating basis to be administered by City staff.

D. Duties of Mayor and Councilmembers

1. Arrive on time for all Council meetings.
2. Review all meeting materials published in accordance with the Open Government Ordinance and other applicable laws, in preparation for Council meetings. As a body, provide clear direction to staff to aid in the development and consideration of proposed ordinances, policies, and

procedures. Pass ordinances, adopt resolutions, approve new projects and programs, and approve the budget and contracts.

3. Keep in touch with the community and interpret what is heard to Council colleagues and to the staff.
4. Participate in City Council meetings and other public forums.
5. Represent the City Council by fulfilling the liaison assignments to legislators, external agencies, and the City's boards and commission.
6. Requests for Staff Resources
 - a. Mayor and Councilmember requests to consider new programs, services, or requests for significant allocations of resources, shall be directed to the budget process to the maximum extent possible.
 - b. Mayor or Councilmember requests for minor (generally less than four hours of staff time) research or other staff work must be directed to the City Manager.
 - c. If more than four hours of staff time will be required to complete the task/project, the item will be placed on the agenda to ask the City Council if time should be spent on the proposed item. A discussion and prioritization of Mayor and Councilmember requests are scheduled on a quarterly basis.
 - d. Mayor and Councilmember requests for more than four hours of staff work for City Council consideration will adhere to all the City of Milpitas Open Government Ordinance provisions, including, but not limited to:
 - I-310-2.30 Agenda Requirements. "(b) At least six (6) days before a regular City Council meeting, a preliminary agenda shall be posted containing a meaningful description of each item of business to be transacted."
 - "(c) A description is meaningful if it is sufficiently clear and specific to alert members of the public whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item.
 - To achieve the above requirements, all materials must be submitted to the City Clerk, to the extent possible, no less than eight (8) days in advance of a Council meeting.
 - e. Staff responses to a Councilmember inquiry, including the original inquiry, shall be distributed to the Mayor and all City Councilmembers.

7. Absences

- a. Whenever a member knows in advance that he or she will be absent from a City Council meeting, it is the responsibility of that member to notify the City Manager or City Clerk as soon as possible of the impending absence.
 - b. If a City Councilmember is absent without permission from all regular City Council meetings for 60 calendar days consecutively from the last regular meeting he or she attended, his or her office becomes vacant pursuant to Government Code 36513.
8. Administration of Oaths
The Mayor may require any person addressing the City Council to be sworn as a witness and to testify under oath; and must so require if directed to do so by a majority of the City Council. The Mayor may administer oaths. Appeals and revocation hearings are the most likely instances when testimony is taken under oath.
9. Subpoenas
In accordance with Government Code 37104, the City Council may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before it.
10. City Council Subcommittees
Council subcommittees, when used, are to help the Council do its job. Subcommittees ordinarily will assist the Council by studying an issue and preparing policy alternatives and implications for Council deliberation. Council subcommittees may not speak or act for the Council, and the subcommittee members should be regularly reporting out their work to the City Council through a scheduled agenda item.

There are generally two types of subcommittees as follows:

- Standing subcommittees that have continuous subject matter jurisdiction and will continue to exist until the City Council terminates their existence through formal action.
- Ad hoc subcommittees have limited subject matter jurisdiction and are usually formed primarily to study a particular topic or immediate issue, and once their task is complete, the ad hoc subcommittee will automatically terminate.

Both standing and ad hoc subcommittees of the City Council are subject to the Brown Act pursuant to the City's Open Government Ordinance.

Subcommittees shall obtain City Council concurrence before they proceed in any direction different from the original instructions of the City Council. In addition, Subcommittees should not implement policy, provide direction that would result in incurring additional expenses or provide direction to staff to

take any actions that are not consistent with existing City Council direction without first obtaining City Council approval for such actions.

11. Compensation for Mayor and Councilmembers
Information about compensation for the Mayor and Councilmembers can be found in the Milpitas Municipal Code I-14-1.00, et seq.
12. Travel Expenses and Reimbursements
Information about travel expenses and reimbursements for City related expenses can be found in the City Council Travel Policy 3-1.

E. City Council Vacancies

A vacancy in the office of Councilmember or Mayor may be filled by appointment by the City Council. The appointee shall hold office until the next special municipal election which shall be immediately called to fill the remainder of the vacant term as provided under Milpitas Municipal Code Section I-3-2.00. Any unexpired remainder of the term of such office shall be filled by the voters at such election.

F. Role of City Manager.

1. The City Manager is the chief executive officer and the head of the administrative branch of the City government. The City Manager is appointed by the City Council and reports to the full City Council. The City Manager shall work in collaboration with the City Attorney.
2. The City Manager implements policies and procedures initiated by City Council and manages the day-to-day operations of the City. The City Manager supports the full Council in setting clear goals for the City and optimizes the use of City resources to meet these goals.
3. The City Manager is the appointing authority, responsible for all City personnel. The City Manager or designee serves as a liaison to each commission. The use of City-owned property is handled through the City Manager's Office. The City Manager supports effective policy making and oversight by the City Council by providing information, formulating policy proposals, advising, and informing the Council on policy matters while promoting team building and collaboration, and ensuring that the administration's delivery of service is consistent with City Council direction.
4. The City Manager prepares the budget annually, advises the City Council of future financial needs, and is responsible for budget administration after adoption. The City Manager prepares and submits to the City Council a complete report at the end of each fiscal year on the finances and administrative activities of the City during the preceding year. City Manager shall also present quarterly fiscal/budgetary updates or requested throughout the year.

G. Role of City Attorney.

1. The City Attorney is appointed by the City Council and reports to the full City Council. The City Attorney advises the City Council and City officers in their official capacity on legal matters affecting the City, attends all City Council meetings and some board/commission meetings, and represents the City in legal actions and proceedings. The City Attorney shall work in collaboration with the City Manager.
2. The Office of the City Attorney approves as to form all bonds and contracts made by the City, approves all ordinances and resolutions and related amendments for the City, and prosecutes criminal cases for violation of City ordinances.
3. The members of the City Attorney's Office (attorneys and staff) maintain an attorney-client relationship with the City, full City Council, or individual members thereof, its officers, agents, and employees, so their official communications are protected as confidential attorney-client privilege.

CHAPTER III. Mayor and Councilmember Conduct

A. Mayor and Councilmembers shall:

The Milpitas City Council Code of Conduct, as approved by the City Council and noted below, shall be included in Council meeting agendas, and read aloud at all City Council meetings.

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.

B. Mayor and Councilmember Best Practices for Council Meetings

- put constituents first at all times;
- treat each other and members of the public with dignity, courtesy, and respect;
- maintain confidentiality of all closed session materials and discussion;
- be attentive to others, limiting interruptions and distractions;
- encourage diverse viewpoints in debate while being mindful not to prolong discourse or block consensus;
- agree to respectfully disagree;

- keep comments clear, concise, and on topic;
- start meetings on time, work from the agenda; and
- present problems in a way that promotes discussion and resolution.

C. Mayor and Councilmember Conduct with City Staff:

1. Always maintain professionalism, treat all staff with respect.
2. Direct staff personnel issues to the City Manager.
3. Comments about staff performance should not be made in public or to the individual employee and should only be made to the City Manager through private correspondence or conversation.
4. Comments about staff in the office of the City Attorney should be made directly to the City Attorney.
5. In accordance with Milpitas Municipal Code VI-1-2.04, except for purposes of inquiry, the City Council and its members shall deal with the administrative staff solely through the City Manager.
6. The Mayor and Councilmembers must not attempt to influence City staff on the making of employment appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
7. Routine administrative support will be provided to the Mayor and all Councilmembers. Requests for additional staff support - even in high priority or emergency situations — should be made to the City Manager.
8. Do not solicit political support from staff. The Mayor and Councilmembers should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace and on personal time.

D. City Council Censure Policy

1. If the Council wishes to take action related to the conduct of one or more members of the Council, the City Council [Censure Policy](#) shall be followed.

CHAPTER IV. Meetings

- A. All Council decisions must occur at City Council meetings pursuant to the requirements of the Ralph M. Brown Act. The City Council shall not use a series of telephone calls, a conference call, mass e-mailing or any other method of communication to discuss or decide matters within the jurisdiction of the Council among a majority of the Councilmembers.

- B. Quorum
 - 1. No business may be transacted by the Council at a regular or special meeting unless a quorum of the membership is present (on a 5 member Council, a quorum is 3 members).
 - 2. When there is no quorum, the Mayor or Vice Mayor, or any Councilmember may adjourn a meeting, or if no Councilmember is present, the City Clerk may adjourn a meeting.

- C. Council Meeting Dates; Cancellation
 - 1. If at any time any regular meeting of the Council falls on a holiday, the regular meeting shall be held on the next business day or the earliest business day within a week.
 - 2. Any meeting of the City Council may be canceled in advance by the Mayor. It can also be cancelled by a majority of the Councilmembers at a City Council meeting. The City Manager may also cancel a meeting in cases of need, such as an emergency or when a majority of members have provided notice of their unavailability to attend a meeting.

- D. Types of Meetings
 - 1. Regular meetings are held on the first and third Tuesdays of each month at 7:00 p.m. in the City Hall Council Chambers, 455 E. Calaveras Blvd., Milpitas, California. Pursuant to the requirements of the City's Open Government Ordinance, the Preliminary agenda is posted by the Wednesday preceding the regular meeting date. The Brown Act requires the posting of an agenda at least 72 hours prior to a regular meeting.
 - 2. Special Meetings may be called by the Mayor. They can also be called by a majority of the Council at a public meeting. Any special meeting called requires a minimum of 24 hours' notice as required by the Brown Act. Only business described in the notice may be transacted.
 - 3. Study Sessions may be held as part of a regular meeting or special meeting and are held for the purpose of providing information to the City Council, particularly on issues that are more complex or more time-consuming. Study sessions may be conducted jointly with another City

board, commission or committee or another governmental agency. At study sessions Councilmembers may state their individual responses and questions to the information provided and may collectively provide direction to City staff. No formal action is taken at the study sessions.

4. Closed Sessions can be part of either regular or special meetings, typically in advance of the regular or special meetings. The start time of the Closed Sessions shall be publicly noticed in accordance with the law. The Council conducts its business in public to the greatest extent possible. State law, however, recognizes that in certain limited circumstances authorized by the Brown Act, that the Council will need to meet in private without the public present. These matters may include certain personnel matters, labor negotiations, real property negotiations, matters of public security, and the discussion of litigation, among other topics listed in the Brown Act. These rules provide for strict confidentiality of City Council discussion as required by State law and no Councilmember shall disclose anything discussed in closed session to any individual not present in that closed session. Violating this confidentiality requirement can subject an individual Councilmember to disciplinary action, a referral to the grand jury, and in some limited circumstances, criminal prosecution. In limited instances, if action is taken in closed session, the City Attorney may need to report out any action taken and any vote on that action.
5. Emergency Meetings can occur in limited circumstances when there is a work stoppage, crippling activity, other activity that impairs public health, safety, or dire emergency. Depending on the factual circumstances, 24 hour notice or one hour notice may be required, or no notice at all.

E. Teleconferencing

1. Pursuant to Government Code Section 54953(b), teleconferencing may be used as a method for conducting meetings where Councilmembers may be counted towards a quorum and participate fully in the meeting from remote locations. If a Councilmember participates in a meeting via teleconference, the following requirements must be met:
 - a. The remote locations must be connected to the main meeting location by telephone, video, or both.
 - b. The notice and agenda of the meeting must identify the remote location.
 - c. The agenda must be posted at the remote location and be accessible to the public.
 - d. All votes must be by roll call.
 - e. The meeting must in all respects comply with the Brown Act, including participation by members of the public present in the remote locations.

- f. During the teleconference, at least a quorum of the members of the City Council shall participate from locations within the boundaries of the City.
2. Because there are other legal nuances to making use of the teleconferencing provisions in the Brown Act, please check in with the City Attorney or City Clerk in advance.
3. During certain state of emergency situations, it may also be possible to meet remotely without complying with some of the requirements above, depending on certain findings that must be met during a state of emergency as required by the Brown Act. See, Cal. Gov. Code 54953(e)

F. Presiding Officer

1. The Mayor presides at all City Council meetings. In the absence of the Mayor, the Vice Mayor is the presiding officer. If both the Mayor and Vice Mayor are absent, the remaining Councilmembers should select a presiding officer for that meeting. The presiding officer votes on all questions as do other members of the City Council.
2. The Mayor/presiding officer always sits in the middle seat at all formal council meetings. The Vice Mayor and City Manager are always seated immediately next to the Mayor/presiding officer. Councilmembers are seated based on seniority on the City Council. The Councilmember with the most seniority is seated next to the Vice Mayor, followed by the next most senior Councilmember and so forth. Seniority is defined by continuous time of service as an elected member of the Council. When two or more Councilmembers have equivalent time of service, those Councilmembers shall be given priority in seat selection by the highest number of votes in his/her most recent election.
3. The presiding officer conducts the meetings of the City Council to:
 - a. Ensure that consideration of items on the agenda move along without delay.
 - b. Ensure that petitioners, proponents, and opponents are heard but not allowed to disrupt the meeting.
 - c. Ensure that decorum is maintained at the meeting.
 - d. In presiding over matters where the public has provided testimony and/or raised questions, the presiding officer should:
 - (i) Restate every question coming before the Council.
 - (ii) Direct questions or comments requiring a response to staff for a response.

- (iii) Ensure that staff and members of the public direct their comments to the presiding officer.
 - (iv) If necessary, help keep Councilmember questions relevant to the matter being considered by the Council.
 - (v) If necessary, consider calling for a brief recess if orderly conduct of the meeting is being disrupted.
 - (vi) Announce the decision of the Council on all subjects.
- 4. Ensure that each member of the Council is provided an opportunity to completely express their views on items of business, the Mayor should:
 - (i) See that Councilmembers ask to be recognized by the Mayor before speaking.
 - (ii) Ensure that each Councilmember is given the opportunity to fully express their views.
- 5. The Chief of Police, or his or her representative, is the ex officio sergeant-at-arms of the City Council. The ex officio sergeant-at-arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum in the council chamber.

G. Voting; Rules of Procedure

- 1. A motion, second, and a majority vote of the Council shall be required for any formal action of Council (except where a different vote requirement is set by state law). Votes and abstentions are taken by roll call and recorded in the meeting minutes.
- 2. Steps in making, discussing, and voting on a formal motion:
 - a. The maker of the motion asks for recognition by the presiding officer. After the individual is recognized, he or she will say "I move that we ..."
 - b. The presiding officer will ask if there is a second. Another member of the group must second the motion in order for it to be discussed. A second is made by saying "I second the motion." The Mayor or any Councilmember can suggest one or more modifications in the motion, which the member making the motion can accept or reject. There also may be times where the City Manager or City Attorney may suggest an amendment to the motion for clarity purposes for the public, which the member making the motion can accept or reject.

- c. The presiding officer then restates the motion "It has been moved and seconded that ..." and opens the floor to discussion and debate.
 - d. The presiding officer will recognize members who wish to comment on the motion. Only one "main motion" may be discussed at a time.
 - e. Once discussion has concluded, the presiding officer will "call for the question" and conduct a roll call vote.
 - f. The presiding officer will announce the result of the vote.
3. Unless state law requires otherwise, a majority vote is needed for the motion to pass. In the event of a tie vote, the motion does not pass.
 4. Subject to state law limitations and to the extent this Handbook does not address an issue of parliamentary procedure, Roberts Rules of Order shall apply. For example, even though Roberts Rules of Order permit a legislative body to reconsider or rescind prior actions, under due process the City Council cannot reconsider or rescind a quasi-judicial decision after the decision is final, in the absence of statutory authority to the contrary.
 5. The City Attorney serves as parliamentarian during City Council meetings. The role of the parliamentarian is advisory; the Chair has the power to rule on questions of order.

H. Continued Matters

1. Any matter may be continued to a subsequent meeting.
2. If the Mayor or Councilmember who was not present at a prior meeting has reviewed the relevant documents and minutes from the missed meeting and, if possible, reviewed the recording or webcast from the meeting, then he or she shall disclose those actions on the record at the beginning of the discussion of the item and may vote on the continued matter.
 - a. Exception: Continued Public Hearing. If a hearing is required for an agenda item, then the Mayor or a Councilmember shall not participate in the decision if that member was not present during the entire hearing from the time of its opening to the time of its close. (MMC § I-20-3.14.)

I. Public Participation

1. Members of the public are encouraged and invited to participate in the legislative process by submitting written comments before the meeting or speaking at a meeting.

It is the intent of these rules to allow everyone to be heard without fear of jeers or cheers that may discourage public participation. For this reason, these rules are taken seriously. Persons attending the meeting will refrain from

behavior which will disrupt the public meeting. This includes making loud noises, clapping, shouting, booing, hissing, or engaging in any other activity in a manner that disturbs, disrupts, or impedes the orderly conduct of the meeting. Disruptive or threatening behavior may result in removal from the Council meeting.

2. Only the presiding officer can interrupt a speaker during a presentation. However, a Councilmember can ask the Mayor for a point of order if the speaker is off the topic or exhibiting behavior or language the Councilmember finds disruptive.
3. Time Limits for public comment:
 - a. Individual Speakers - 3 minutes or less as determined by the Mayor/presiding officer.
 - b. Organized group (in lieu of individual speakers) – up to 15 minutes, depending on the number of speakers represented and at the discretion of the Mayor.
 - c. The presiding officer may take a poll to determine number of speakers for each item and at his/her discretion, limit the amount of time allotted to the speaker(s) when needed.
4. Individuals who wish to speak should submit a speaker card to the City Clerk to be called up at the appropriate time. Each speaker may only speak once on an item and shall speak at the podium into the microphone and address the City Council. A speaker may also provide comments virtually if the meeting format allows virtual participation.
5. Written or photographic materials relevant to consideration of a matter may be submitted to the Council. Copies of such materials should be provided for the Mayor, Councilmembers, City Clerk, City Manager and City Attorney. The materials must be submitted to the City Clerk's Office by email to CityClerk@ci.milpitas.ca.gov by 12:00 p.m. on the day of the meeting, for distribution to the city officials in advance of the meeting/hearing. The City Council retains discretion to accept or to reject new documentation furnished on the night of the City Council meeting/hearing. Accepted materials are retained by the City and become part of the official public record.
6. Wireless/Cellular telephones or any other telecommunications device should be in the silent mode or turned off during the City Council meeting. The Mayor and Councilmembers will not use cellphones or other telecommunications devices in Closed Session Council meetings.
7. Literature distribution or petition circulation is not permitted when the City Council is in session. Such activity may occur outside the meeting room, provided access is not blocked.

8. Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers, with the following restrictions:
 - a. Signs or symbolic objects shall not obstruct the view or passage of other attendees, or otherwise disturb the meeting.
 - b. Objects that are deemed a safety threat to persons at the meeting or could damage the facility itself will not be allowed.

J. Discussion Items on the agenda are to be conducted in the following order:

1. Staff / applicant presentation
2. Council questions to applicant and/or staff
3. Open public hearing (or public comment section) for comments
4. Close public hearing (or public comment section)
5. Response by staff to public questions/concerns, if warranted
6. Council discussion and deliberation
7. Council votes

K. Quasi-Judicial Matters/Appeals/Revocation Hearings

1. Quasi-judicial matters and appeals will be considered at a noticed public hearing and will follow the order stated in Section I, above, with the following time allocations:
 - a. Applicant/Appellant – 15 minutes
 - b. Individual Speakers – 3 minutes
 - c. Rebuttal – 5 minutes
 - d. In an appeal, if the appellant is not the applicant, the applicant shall also have 15 min and is entitled to make any concluding remarks prior to closure of the public hearing

The time limits may be changed by the presiding officer to permit full and fair consideration of a particular matter depending on the number of items on the agenda and the number of persons desiring to speak on a matter.

2. If the Mayor or a Councilmember has spoken or met with a proponent or opponent of a quasi-judicial matter or has visited the site of a project which is the subject of a hearing, that contact, or visit should be acknowledged and described on the record prior to the opening of the hearing. Any facts

that could influence the Mayor or a Councilmember's decision, must be included in the public record.

L. Items Considered after 11:00 p.m.

1. Unless a majority of the Council determines there is a need to act, no items shall continue, and no new items shall be heard after 11:00 p.m.

M. Conflict of Interest

1. The Political Reform Act (PRA) enforced by the Fair Political Practices Commission (FPPC), controls financial conflicts of interest.
2. In accordance with the Open Government Ordinance (MMC I-310-2.180), at the beginning of each City Council meeting or upon the arrival of the Mayor or Councilmember, the City Attorney shall ask the Mayor and each member of the City Council to disclose any financial or personal conflict with any item on the City Council's agenda. Pursuant to Government Code section 87105, if the Mayor or a Councilmember discloses that such a personal financial interest is present, he or she shall publicly identify the conflict or potential conflict in detail sufficient to be understood by the public and shall recuse him or herself from taking action on the item if required to do so by law and leave the meeting room.
3. The other applicable law is Government Code §1090, which applies only to contracts in which a public official has a financial interest.
4. Whenever it appears to a Councilmember that he or she may have a prohibited financial interest in any item that may be presented to the City Council, the Councilmember should consult with the City Attorney at the earliest opportunity for advice on whether a disqualifying conflict of interest exists.
5. With full consideration of the City Attorney's advice, it is up to each individual Councilmember to decide for him/herself whether there is a conflict of interest. When a Councilmember may be in doubt, the City Attorney can obtain more formal advice from the Fair Political Practices Commission (FPPC).
6. A member shall not vote upon any matter on which s/he has a conflict of interest.
7. A member shall openly state the reason for his/her conflict of interest, or work in consultation with the City Attorney to state something on the record.
8. A member who is disqualified by a conflict of interest shall recuse him/herself from the dais and leave the room unless it is during the Consent Calendar.

CHAPTER V. Meeting Agendas and Minutes

A. Agenda Order

City Council agendas will be prepared by the City Clerk and presented to the City Council in the order described below. The presiding officer with the approval of a majority of the Council can change the order of hearing the items on the agenda.

1. Opening
 - a. Call to Order by Mayor and Roll Call by City Clerk
 - b. Adjourn to Closed Session
 - c. Closed Session Announcement
 - d. Pledge of Allegiance. If the Mayor and Vice Mayor are both absent, then the City Clerk calls the meeting to order and a temporary presiding officer is elected by a majority of those councilmembers present. Upon the arrival of the Mayor or Vice Mayor, the temporary presiding officer relinquishes the chair at the conclusion of the business then before the City Council.
 - e. Invocation. In accordance with the policy adopted by City Council (SOP 1.2), the Mayor and Councilmembers shall invite a community member to give an invocation at the speaker podium.
2. Ceremonial matters. The presentation and receipt of proclamations and commendations not requiring formal legislative action.
3. Public Forum. Members of the public wishing to comment on any item not appearing on the agenda may address the City Council at this time. State law prevents Council from taking action on any matter not on the agenda. Comments may be referred to staff for follow up. Individuals are limited to 3 minutes. However, the presiding officer has discretion to reduce the speaking time in situations where there are a large number of persons who wish to speak.
4. Announcements and Future Agenda Items. The Mayor and Councilmembers shall report on any meetings or conferences attended and paid for by the City and may also report on various assignments or other events. The Mayor and Councilmembers shall be limited to the same amount of speaking time as members of the public during open public comment (3 minutes). The City Manager may also make brief announcements. This section will include special reports and any other requests for staff work by the Mayor and Council.

5. Announcements of Conflict of Interests and Campaign Contributions. City Attorney shall ask the Mayor and Councilmembers to declare any conflicts of interest or campaign donations related to items on the agenda, in accordance with the Milpitas Open Government Ordinance (Municipal Code I-310)
6. Reading of the City Council Code of Conduct
7. Approval of Agenda
8. Consent Calendar. All matters listed under the Consent Calendar, including minutes, are considered by the Council to be routine and will be enacted by one motion without discussion (except for simple clarifying questions). If discussion is desired, that item may be removed and considered separately.
9. Public Hearing. Duly noticed hearings as mandated by local, state, or federal law, providing an opportunity for public review and comment of a proposed action by the Council.
10. Community Development. This section will cover the Community Development City Service Area and will include items related to Building, Housing, Economic Development, Engineering (Land Development), and Planning.
11. Community Services and Sustainable Infrastructure. This section will cover the Community Services and Sustainable Infrastructure City Service Area and will include items related to Engineering (Capital Projects and Solid Waste), Public Works, and Recreation and Community Services,
12. Public Safety. This section will cover the Public Safety City Service Area and will include items related to Fire/Emergency Preparedness and Police.
13. Leadership and Support Services. This section will cover the Leadership and Support Services City Service Area and will include items related to the City Clerk, City Council, City Manager, Finance, Human Resources, and Information Services.
14. Reports of Mayor and Councilmembers. Reports and work plans from Commissions will be presented in this section.
15. Adjournment

B. Agenda Item Submission

1. The City Manager has the primary responsibility for the development of the Council Agenda, ensuring all protocols are followed, and that management of the agenda is closely linked to organizational goals and work plans. Any

item that is placed on the agenda shall be in accordance with the City's Open Government ordinance (MMC I-310) so that it can be clearly understood by members of the community.

2. Mayor or Councilmember:

- a. The Mayor or a Councilmember may request the City Manager to add an item to a Council agenda. No staff report or other staff work will occur until the item is discussed before the full City Council. Discussion and prioritization by the City Council will occur on a quarterly basis.
- b. Councilmembers may make this request verbally during a meeting or may submit a written request to the City Manager at other times.
- c. See Chapter II.D.6 "Request for Staff Resources" for further details on any associated staff work related an agenda item request.

3. Members of the Public. A member of the public may request Council action in the following ways:

- a. Write a letter to the City Council
- b. Speak during the Public Comment period at a City Council meeting
- c. Attend annual Council goal setting meeting and provide input

Upon agreement of a majority of the City Council, Council will determine whether to place on a future agenda an item requested by the public.

C. Meeting Minutes

1. The preparation of accurate minutes is the responsibility of the City Clerk

- a) In general, summary minutes are used to record proceedings. The record focuses on who spoke and the motions and votes. Video recordings are used in order to serve a number of administrative, legal, and historical functions and to provide verbatim record of meetings. Failure to record does not affect the validity of any proceedings or action taken by the City Council.
- b) The City Clerk may be directed by the presiding officer, with the consent of the City Council, to enter in the minutes a synopsis of the discussion of any matter coming before the City Council. The synopsis should be in complete sentences.
- c) The Mayor or a Councilmember may request, through the presiding officer, the privilege of having a previously prepared written abstract

summarizing the major points of his or her statement on any subject under consideration entered into the minutes. If the City Council consents, such an abstract is entered into the minutes.

- d) Items such as letters which individuals request “to have entered into the record” are referred to in, but do not become a part of, the minutes.
- e) Changes in substantive matters may be made only at the direction of a majority of the City Council. Clerical corrections are to be made when discovered in order to maintain accuracy.

CHAPTER VI. City Council Actions

Several different types of action may be taken by the Mayor and/or City Council.

A. Proclamations.

Proclamations are issued by the Mayor without formal action by the City Council. Proclamations are public announcements directing attention to a person, organization, or event, such as Citizen of the Year, Girl Scout Week, or International Year of the Child. Councilmembers need to make their requests to the Mayor, only the Mayor can issue proclamations.

B. Commendations.

Commendations are acknowledgments of the activities of a person or organization, issued by the Mayor or by all Councilmembers without formal action being taken. Commendations typically acknowledge exceptional endeavors or are given to retiring employees and departing board and commission members and are presented at an appropriate function or council meeting.

C. Ordinances.

Legislative acts of the City Council are known as ordinances. Subject to certain state law exceptions, most ordinances are introduced at one meeting and are adopted by majority vote at a subsequent meeting and go into effect 30 days after adoption.

An ordinance is necessary (1) when state law requires a regulation to be adopted by ordinance, (2) to amend or repeal provisions of the Municipal Code or any uncodified ordinances, and (3) to impose regulations on persons or property in the City.

Ordinances shall be prepared by the City Attorney. Ordinances are prepared for presentation to the City Council when ordered by a majority vote of the City Council, or when requested by the Mayor or the City Manager, or when prepared on the City Attorney's own initiative.

D. Resolutions.

Resolutions are City Council actions which become effective upon adoption and encompass the business not addressed through ordinances. They are typically used to handle routine business and administrative matters requiring some type of formal memorialization. Resolutions are used for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another agency, or where the frequency of future reference back to its contents warrants a separate document to facilitate reference and research.

E. Motions.

The least formal of City Council actions, motions typically are used for procedural matters (such as to continue items) or for administrative matters (such as to accept reports). An adopted motion is as legally effective and binding as an adopted resolution but generally is recorded simply as an item entry in the minutes.

CHAPTER VII. Communication

A. California Public Records Act.

All letters, memoranda, and email and other electronic communications involving City Councilmembers and members of boards, commissions, committees and task forces, the subject of which relate to the conduct of government or the performance of any governmental function, with a few exceptions as outlined in the Public Records Act, are public records. Emails and texts with content that concerns City business with other City employees or officials or interested members of the public are likely public records even if they are sent to/from a personal account or device.

B. Ralph M. Brown Act

Each Councilmember should be mindful of all of the requirements of the Brown Act and the Open Government Ordinance contained at Milpitas Municipal Code I-310.1.00 in communicating with each other. A majority of the Council shall not use a series of telephone calls, a conference call, mass e-mailing or any other informal session to discuss or decide matters before the City Council. This type of communication would be considered a “serial meeting” in violation of the law.

Section 54952.2(b)(1) of the Brown Act prohibits a majority of members of a legislative body outside of a lawful meeting from directly or indirectly using a series of meetings to discuss, deliberate or take action on any item of business within the subject matter jurisdiction of the body. Paragraph (b)(2) expressly provides that substantive briefings of members of a legislative body by staff are permissible, as long as staff does not communicate the comments or positions of members to any other members.

A serial meeting is a series of meetings or communications between individuals in which ideas are exchanged among a majority of a legislative body (i.e., three council members) through either one or more persons acting as intermediaries or through use of a technological device (such as a telephone answering machine, or e-mail or voice mail), even though a majority of members never gather in a room at the same time. Serial meetings commonly occur in one of two ways; either a staff member, a member of the body, or some other person individually contacts a majority of members of a body and shares ideas among the majority (“I’ve talked to Councilmembers A and B and they will vote ‘yes.’ Will you?”) or, without the involvement of a third person, member A calls member B, who then calls member C, and so on, until a majority of the body has reached a collective concurrence on a matter.

1. Contacts with staff

Staff can inadvertently become a conduit among a majority of a legislative body in the course of providing briefings on items of local agency business. To avoid an illegal serial meeting through a staff briefing:

- a. Individual briefings of a majority of members of a legislative body should be “unidirectional,” in that information should flow from staff to the member and the member’s participation should be limited to asking questions and acquiring information. Otherwise, multiple members could separately give staff direction thereby causing staff to shape or modify its ultimate recommendations in order to reconcile the views of the various members, resulting in an action outside a meeting.
 - b. Members should not ask staff to describe the views of other members of the body, and staff should not volunteer those views if known.
 - c. Staff may present its viewpoint to the member but should not ask for the member’s views and the member should avoid providing his or her views unless it is absolutely clear that the staff member is not discussing the matter with a quorum of the legislative body.
2. Contacts with constituents, bargaining unit representatives, developers, and lobbyists

As with staff, a constituent, bargaining group representative, developer, or lobbyist can also inadvertently become an intermediary who causes an illegal serial meeting. Constituents’ unfamiliarity with the requirements of the Act aggravates this potential problem because they may expect a member of a legislative body to be willing to commit to a position in a private conversation in advance of a meeting. To avoid serial meetings via constituent conversations:

- a. First, state the ground rules “up front.” Ask if the constituent has or intends to talk with other members of the body about the same subject; if so, make it clear that the constituent should not disclose the views of other members during the conversation.
 - b. Explain to the constituent that you will not make a final decision on a matter prior to the meeting. For example: “State law prevents me from giving you a commitment outside a meeting. I will listen to what you have to say and give it consideration as I make up my mind.”
 - c. Do more listening and asking questions than expressing opinions.
 - d. If you disclose your thoughts about a matter, counsel the constituent not to share them with other members of the legislative body.
3. Contacts with fellow members of the same legislative body

Direct contacts concerning local agency business with fellow members of the same legislative body, whether through face-to-face or telephonic conversations, notes or letters, electronic mail, or staff members, are the most obvious means by which an illegal serial meeting can occur. This is not to say that a member of a legislative body is precluded from discussing items of agency business with another member of

the body outside of a meeting; as long as the communication does not involve a quorum of the body, no “meeting” has occurred. There is, however, always the risk that one participant in the communication will disclose the views of the other participant to a third or fourth member, creating an illegal serial meeting. Therefore, it is recommended you avoid discussing local agency business with a quorum of the body or communicating the views of other members outside a meeting.

C. Mail Processing

1. Members of the City Council may receive mail and other materials through City Hall.
2. All mail received and specifically addressed to the Mayor or a Councilmember shall be placed in the mail drawer for that person without first being opened.
3. General correspondence addressed to Councilmembers as a whole may be opened and delivered to all Councilmembers if appropriate.

D. Correspondence

1. The City Manager or designee is authorized to receive and take administrative action on all correspondence directed to the City Council. The City Manager or designee may also respond to correspondence submitted to the full City Council on non-agenda items or authorize a staff member to respond. A courtesy copy is provided to each Councilmember.
2. Generally, correspondence relating to a specific City Council agenda item shall be distributed with the agenda report; correspondence received after the publication of agenda packets is to be compiled and distributed to the City Council prior to the City Council meeting.
3. After the City Council has taken a position on an issue, official correspondence should reflect this position. While Councilmembers who may disagree with a position are free to prepare correspondence on such issues as private citizens, City letterhead, official City Council title, and staff support should not be utilized. In addition, City letterhead and staff support cannot be utilized for personal or political purposes.

E. City letterhead, logo, insignia, and brand, as well as staff support cannot be utilized for personal or political purposes.

F. Council Communication to Planning Commission

1. The Mayor and Councilmembers should be mindful not to unduly influence the decision at the Planning Commission meeting so as not to get ahead of the process.

2. It is not appropriate for the Mayor or a Councilmember to make public comments at the Planning Commission meeting unless he/she is acting in his or her personal capacity. If/when the matter comes before the City Council, such member should recuse him or herself from the matter.

G. External Communication

1. The Mayor and Councilmember may communicate on behalf of the City through media interviews, letters, and newsletters. They may also be quoted in City issued press releases. Although the Mayor and Councilmember are able to express individual opinions, any communication made on behalf of the City shall be aligned with Council adopted policies, programs, priorities. City issued press releases will include a quote by Mayor and other quotes, if any, will be determined by the City Manager, based on related work by each Councilmember.

CHAPTER VIII. Council Liaison Roles

The Mayor and Councilmembers serve on behalf of Milpitas as members of other governmental entities, committees, and agencies.

A. City Council Liaison

1. All City Councilmembers shall serve as liaisons to other City Commissions which shall be approved by the full City Council. In serving as a liaison, a City Councilmember shall endeavor to attend all Commission meetings of the Commission to which he or she is assigned.
2. Statements made by the City Council liaison about the City's official position should reflect the majority opinion of the City Council, which is defined by current or past official City Council action via City Council vote or consensus.
3. If the Mayor or a Councilmember wishes to attend the meeting of a Board, Agency, Committee or Task Force to which he/she has not been appointed to serve on by the City Council, the Mayor or Councilmember, as a courtesy, should advise the City representative(s), if any, as well as the respective chair, and should be mindful of the influence of his/her presence. If the presence of the Mayor or Councilmember shall constitute a quorum of the City Council, the meeting should be noticed as that of the City Council and all Councilmembers invited. An exception to this rule is when the Mayor or Councilmember observes only and does not speak at the meeting.

B. Milpitas Public Financing Authority, Milpitas Municipal Financing Authority, and Housing Authority Commission.

The Mayor and Councilmembers serve as the members of the Milpitas Public Financing Authority, Milpitas Municipal Financing Authority, and Housing Authority Commission.

C. Regional Boards and Outside Agency Representatives.

1. The role of a Member on regional Boards will vary depending on the nature of the appointment.
2. Reporting. Council representatives to Regional Boards shall keep the Mayor and Councilmembers informed of ongoing business through short written reports to the Mayor and Councilmembers or update reports to the City Council during the "Mayor and Councilmember Reports" opportunity on the City Council meeting agenda.
3. In the event the primary assigned liaison is unable to attend a particular meeting, he or she should notify the chair of the board/agency, and the

appointed alternate Council representative, or Mayor, should attend in the place of the primary.