



FOR IMMEDIATE RELEASE

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Milpitas Statement Regarding Court Ruling on First Amendment Coalition Legal Fees

City disagrees with ruling, but will pay \$90,000

Milpitas, Calif. --- In response to the [ruling](#) by Santa Clara County Superior Court Judge Sunil Kulkarni awarding \$90,000 in attorney fees and court costs to the First Amendment Coalition regarding its Public Records Act request for documents, the City of Milpitas has issued the following statement.

The transparency of open government at all levels is essential to establish and maintain public trust. The City of Milpitas depends on this trust, support, and engagement of the people of our community, and to this end, we take our responsibility under the California Public Records Act very seriously. We have made great efforts to ensure full transparency for our community and compliance with the Act and related legal requirements.

Unfortunately, the ruling by Judge Sunil Kulkarni painfully demonstrates the double bind the City of Milpitas faced in this matter. Despite our full commitment to comply both with the Public Records Act and a conflicting court-approved temporary restraining order that prevented our release of documents last year, Judge Kulkarni has ordered the City to pay \$90,000 in attorney fees to the First Amendment Coalition (FAC) that the City believes is unwarranted.

Although the City accepts Judge Kulkarni's decision, it respectfully disagrees with the ruling on FAC attorney fees, especially as the judge found that the City appropriately withheld documents subject to a legally binding temporary restraining order.

FAC originally sought close to \$300,000 in attorney fees including a "fee enhancement." We are grateful that Judge Kulkarni denied the enhancement and reduced the FAC attorney fees by half to \$90,000, deeming most of FAC's legal work as "excessive."

However, In the interest of settling this matter now and allowing all parties to move forward without further distraction or incurring further legal costs, the City of Milpitas will not challenge this ruling despite our serious disagreement with it.

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Background

In April 2017, the City received multiple CPRA requests relating to a closed personnel session of the Milpitas City Council discussing the performance and allegations related to former City Manager Tom Williams.

Williams then filed a "reverse-CPRA" action to stop any release of documents relating to these allegations. Of particular importance, the court-approved temporary restraining order imposed monetary sanctions on Milpitas if the City did not comply with the order.

In May 2017, the First Amendment Coalition made another CPRA request concerning Williams and Milpitas Mayor Richard Tran. Although the City provided some records in response, it withheld numerous others in compliance with the temporary restraining order. Nevertheless, the FAC sued the City alleging the City should not be complying with the temporary order.

Although the City took great effort to comply with the Public Records Act and the conflicting temporary order, certain documents came to light later in the process that the City opted to disclose voluntarily in order to be fully transparent.

During this same period in 2017, the City handled close to 50 CPRA requests related to the former City Manager issue, in addition to the regular number of hundreds of public records requests that the City normally receives in the ordinary course of business. In response to all these requests, the City produced close to 17,000 pages of public documents to ensure the public's right to know was honored. In the city's continuing efforts of enhanced transparency and access to public records, internal procedures have been reviewed and identified enhancements have already begun to be implemented.

In [June 2018](#), Judge Kulkarni found that the Williams TRO was a legally binding order that prevented the City from disclosing certain documents in response to CPRA requests. The City acted appropriately by obeying the TRO and not releasing documents that fell under that order, even if the TRO was claimed to be a "prior restraint" by the FAC.

Judge Kulkarni's June decision noted that Williams, as a high-ranking public official with the City of Milpitas, had a "significantly reduced expectation of privacy in the matters of his public employment." On the other hand, the public has a significant interest in learning how city employees use taxpayer money, as well as a significant interest in understanding the city's response to allegations that high-ranking City officials may have committed misconduct.

The June decision found that disclosure of the records in this case will help satisfy the public interest that outweighs the privacy rights of the former city manager.

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About the City of Milpitas

Located at the southern end of San Francisco Bay, Milpitas is a progressive community that is an integral part of Silicon Valley. As a full-service city of 389 full-time employees with water utility, sewer utility, police and fire services, Milpitas serves a diverse population of nearly 80,000. The city has an annual \$191 million operating budget and a \$315 million capital improvements budget.

Milpitas is the eighth-fastest growing city in the United States according to the US Census, and the second-fastest in California. It has the third highest job growth among the 515 qualifying cities rated by Wallet Hub. The homeownership rate is close to 70%, and the Milpitas housing market remains relatively affordable in Santa Clara County. Milpitas is often called the "Crossroads of Silicon Valley" with most of its 14 square miles situated between two major freeways (I-880 and I-680), Route 237, and a County expressway.

More information at: <http://www.ci.milpitas.ca.gov/>