



**MILPITAS CITY COUNCIL MEETING AGENDA
MILPITAS REDEVELOPMENT AGENCY MEETING AGENDA**

TUESDAY, OCTOBER 20, 2009

**6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER OF THE CITY COUNCIL by the Mayor**
- II. ROLL CALL by the City Clerk (6:30 p.m.)**
- III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**

CONFERENCE WITH LABOR NEGOTIATOR - COLLECTIVE BARGAINING
Pursuant to CA Government Code §54957.6 City Negotiator: Carmen Valdez
Employee Group: Milpitas Supervisors Association (MSA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- IV. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session if required, pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- V. PLEDGE OF ALLEGIANCE**
- VI. INVOCATION (Councilmember Giordano)**
- VII. APPROVAL OF COUNCIL MEETING MINUTES – October 6, 2009**
- VIII. SCHEDULE OF MEETINGS – Council Calendars for October and November 2009**
- XIX. PRESENTATIONS**

Proclamations
 - Domestic Violence Awareness Month – October 2009
 - Hand-made Hugs Charity
Commendations
 - To 9 Milpitas Elementary Schools, Milpitas Police Officer Dennis Kraft and Milpitas Unified Council of PTA's President Sally Minor for participating in *Walk and Bike to School Day* on October 7, 2009
- X. 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 unagendized item, 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 agendize the item for a future meeting.

- XI. ANNOUNCEMENTS**
- XII. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XIII. APPROVAL OF AGENDA**

XIV. CONSENT CALENDAR (Items with asterisk*)

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 member of the City Council, member of the audience, 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. If removed, this item will be discussed in the order in which it appears on the agenda.

XV. PUBLIC HEARING

- 1. Administrative Appeal of City Manager Decision Upholding Fire Inspection Fees Invoiced to Mr. Peter Nelson for Years 2004, 2005, and 2006 (Staff Contact: Bryan Otake, 586-3042)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order/Roll Call by the Mayor/Chair

RA2. Approval of Minutes – October 6, 2009

RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)

***RA4. Adopt a Resolution Granting Final Acceptance of Well Upgrade Project, Phase II, Project No. 7076 (Pinewood Well) (Staff Contact: Steve Erickson, 586-3301)**

***RA5. Award Contract to Rodan Builders, Inc. for Storm Pump Station Improvements (Wet Well Cleaning), Project No. 8188 (Staff Contact: Steve Erickson, 586-3301)**

RA6. Agency Adjournment

XVII. REPORTS OF COUNCIL, COMMITTEE AND COMMISSION

- 2. Consider Mayor’s Request to the City Council to Discuss Possible Ban on Single-Use Plastic Shopping Bags (Contact: Mayor Livengood, 586-3051)**

*** 3. Vice Mayor’s Request to Waive the Fees for the Milpitas Rotary Club’s Pumpkin Patch to be held October 16 – 31, 2009 (Contact: Vice Mayor McHugh, 586-3023)**

Public Art Committee

*** 4. Approve Payment for “Art in Your Park” Project for Pinewood Park (Staff Contact: Renee Lorentzen, 586-2786)**

Parks, Recreation and Cultural Resources Commission

*** 5. Approve two Youth Sports Assistance Fund Grant Applications (Staff Contact: Aaron Bueno, 586-3226)**

XVIII. NEW BUSINESS

- 6. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)**

XIX. ORDINANCE

- 7. Waive the First Reading and Introduce Ordinance No. 172.5, Adding Section III-6-5(g) Exemptions to Massage Establishments and Practitioners Permits of the Milpitas Municipal Code (Staff Contact: Tom Borck, 586-2434)**

XX. RESOLUTIONS

- * **8. Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information (Staff Contact: Emma Karlen, 586-3145)**
- * **9. Adopt a Resolution of Local Support for Federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding for Abbott Avenue Resurfacing, Project No. 4251 (Staff Contact: Greg Armendariz, 586-3317)**

XXI. BID AND CONTRACT

- * **10. Award the Bid for Two 2010 Toyota Camry Hybrid Vehicles to Piercey Toyota for the Not-to-Exceed Amount of \$ 56,968.90 (Staff Contact: Chris Schroeder, 586-3161)**

XXII. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, NOVEMBER 3, 2009

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.

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: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / 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 by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, during normal business hours.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist for the:

Public Art Committee

Bicycle Pedestrian Advisory Commission

Community Advisory Commission (alternate)

Emergency Preparedness Commission (Chamber rep.)

Mobile Home Park Rental Review Board

Senior Advisory Commission

Telecommunications Commission (MUSD Rep.)

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk.

Contact the City Clerk's office (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 586-3001 or send an email 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 Council Chambers for all meetings. TDD phone number (408) 586-3013.

AGENDA REPORTS

TUESDAY, OCTOBER 20, 2009

XV. PUBLIC HEARING

1. **Administrative Appeal of City Manager Decision Upholding Fire Inspection Fees Invoiced to Mr. Peter Nelson for Years 2004, 2005, and 2006 (Staff Contact: Bryan Otake, 586-3042)**

Background: Under the Milpitas Municipal Code, a person has the right to challenge the amount of City fees via an administrative proceeding. On January 13, 2006, Peter Nelson, the owner of a four-unit apartment building at 1139 Calle Oriente in Milpitas, appealed the amount of City fire inspection fees for his property for the years 2004, 2005, and 2006. Then-City Manager Charles Lawson rejected the challenge and upheld the fees for Nelson's property.

On February 17, 2006, Mr. Nelson appealed the City Manager's decision to the City Council. The matter was then delayed by agreement between both sides, so that attempts could be made to settle the matter. Settlement attempts have proven unsuccessful.

Both Mr. Nelson and the City of Milpitas Fire Department have submitted written materials about the amount and legality of fees Mr. Nelson owes on his property for fire safety inspections for years 2004, 2005, and 2006. Those arguments are included in the Council meeting materials. A neutral collection of documents that memorializes the procedural history of this matter has been provided for the record and is included in the Council packet. In addition, the Council has been separately provided a box of documents from Mr. Nelson and a binder from the Fire Department setting forth the party positions.

At the October 6, 2009 City Council meeting, the Council opened and then continued a public hearing on this matter until the October 20, 2009 meeting. This administrative appeal is now ready for the presentation of arguments by the Fire Department and the appellant, and an administrative decision by the City Council. The parties will have to follow a set of procedural rules that comply with State law. These rules are also included in the Council materials.

After the Council reaches a decision on this matter, the City Attorney's Office will then reduce the Council's decision into writing, as required by the Milpitas Municipal Code.

Fiscal Impact: None.

Attachments:

- A. Questions to be answered by the City Council form
- B. Rules for City Council Consideration of an Appeal of City Fees
- C. Written submissions of party positions and supporting documentation (Submission of the City of Milpitas was previously provided in a separate binder. Mr. Nelson's submission was previously provided in a separate document box.)
- D. City Objections to Mr. Nelson's written submission
- E. Record of Procedural History index and documents
- F. Proof of Service
- G. Mr. Nelson's Objections to the City's written submission

Recommendations:

1. Open the continued public hearing.
2. Deny or grant any party requests to allow the playing of a video recording and/or to allow other actions.
3. Hear arguments from Mr. Nelson and the Fire Department.
4. Decide, as to Mr. Nelson's fire inspection fees for years 2004, 2005 and 2006, whether the fees were improperly calculated or the costs allocated to such fire inspection services in excess of the actual cost of providing the service.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order/Roll Call by the Mayor/Chair

RA2. Approval of Minutes – October 6, 2009

RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)

***RA4. Adopt a Resolution Granting Final Acceptance of Well Upgrade Project, Phase II, Project No. 7076 (Pinewood Well) (Staff Contact: Steve Erickson, 586-3301)**

Background: This project was initially accepted and has passed the one-year warranty period. A final inspection of the equipment installed, including the ammonia chiller, and the programmable logic controller (PLC), was found to be acceptable. Therefore, the Redevelopment Agency/City Council may grant a final acceptance and the contractor's bond may be released.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance for the Well Upgrade Project, Phase II, Project No. 7076 (Pinewood Well), and release of the contractor's bond.

***RA5. Award Contract to Rodan Builders, Inc. for Storm Pump Station Improvements (Wet Well Cleaning), Project No. 8188 (Staff Contact: Steve Erickson, 586-3301)**

Background: On September 15, 2009, the City Council approved the plans and specifications and authorized the advertisement for construction bid proposals for this project. This project will provide for the cleaning and removal of soils and debris from the below-grade storm pump station wet wells. Pump station wells to be cleaned include Jurgens, McCarthy Ranch, Bellew, Murphy Ranch, and Oakcreek. The Engineer's Estimate for the project is \$35,000.

The project was advertised and three sealed bid proposals were received and opened on October 7, 2009. Bid proposals ranged from \$41,875 to \$91,000, and Rodan Builders, Inc. submitted the lowest responsible bid in the amount of \$41,875. The lowest responsible bid exceeds the Engineer's Estimate by \$6,875. Staff believes the discrepancy between the bids and the Engineer's Estimate is due to the short three-week contract period, and because of the requirement for disposal of wet materials removed from the stations, which is not preferred by disposal sites.

Staff recommends that the bid be awarded rather than rejecting all bids and re-advertising for new bids because clearing the station-wet wells of debris prior to the winter season is beneficial to ensure the stations operate efficiently, and it is felt that better bids would not be achieved. There are sufficient funds in the project to cover the additional cost. Therefore, staff recommends the award of the construction contract to Rodan Builders, Inc. for an amount not to exceed \$41,875.

Fiscal Impact: None. Sufficient funds are available in the project budget for project.

Recommendation: Award a construction contract to Rodan Builders, Inc. for the Storm Pump Station Improvements (Wet Well Cleaning), Project No. 8188, in the amount of \$41,875.

RA6. Agency Adjournment

XVII. REPORTS OF COUNCIL, COMMITTEE AND COMMISSION

Council

2. Consider Mayor's Request to the City Council to Discuss Possible Ban on Single-Use Plastic Shopping Bags (Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood requests that the City Council evaluate whether adopting a ban on plastic single-use carryout bags would serve the interests of the City. Various Bay Area regional organizations, including Santa Clara County Recycling and Waste Reduction Commission (RWRC) and Association of Bay Area Governments, are encouraging local governments to restrict use of single-use bags because the plastic bags are viewed as a source of litter and waste. A model ordinance prepared for the RWRC for possible adoption by cities is included in the Council agenda packet.

On September 22, 2009, the San Jose City Council directed its staff to prepare an ordinance prohibiting use of single-use carryout plastic and paper bags within the City of San Jose. The ban would apply to all retailers, but would exclude restaurants and non-profit social service organizations. It would also exempt “green” paper bags containing at least 40% recycled content and bulk purchases of bags.

The American Chemistry Council has sued several cities, including Palo Alto and Manhattan Beach, for banning plastic bags without completing an environment impact report. San Jose’s Council determined that it would complete an environmental review before adopting an ordinance and that the effective date would be no earlier than December 31, 2010 to allow time for consumer education. City of San Jose staff was directed to continue an aggressive public outreach campaign, including to the ethnic Chambers of Commerce and small businesses, promoting use of reusable bags during this period.

The San Jose City Council also stated that San Jose would work to obtain support from the Santa Clara County Cities Association and RWRC for a regional bag ban. Staff was directed to support statewide bag reduction legislation and the San Jose Council will review the need for its municipal ordinance if the state legislature passes legislation regulating single-use bags before December 31, 2010.

Fiscal Impact: None.

Recommendation: At the Mayor’s direction, City Council may consider the issue of a ban on single-use carryout plastic bags in Milpitas, and direct staff accordingly.

- * 3. **Vice Mayor’s Request to Waive the Fees for the Milpitas Rotary Club’s Pumpkin Patch to be held October 16–31, 2009 (Contact: Vice Mayor McHugh, 586-3023)**

Background: The Milpitas Rotary Club requested a waiver of \$821.00 in City fees related to the review and permitting of its annual pumpkin patch. The fee amount includes a \$250 application fee for review by the Planning Commission Subcommittee, a \$142 electrical permit, and a \$429 Fire Prevention inspection fee. The pumpkin patch will be held from October 16 to October 30 in the Milpitas Unified Schools District’s parking lot at 1331 East Calaveras Boulevard. Milpitas Rotary Club requested the fee waiver to increase proceeds from the event that will help fund future Rotary services programs. The City Council has approved fee waivers for this event in the past two years.

Fiscal Impact: Loss of \$821 in fee revenue.

Recommendation: Per the Vice Mayor’s recommendation, approve a request by Milpitas Rotary Club to waive \$821 in City fees associated with review and permitting its annual pumpkin patch.

Public Art Committee

- * 4. **Approve Payment for “Art in Your Park” Project for Pinewood Park (Staff Contact: Renee Lorentzen, 586-2786)**

Background: On November 4, 2008 the City Council approved the “Green Tree” Art in Your Park Project for Pinewood Park. The project is collaboration between the Public Art Committee and the Milpitas Alliance for the Arts, which will place an artistic tree made of recycled materials in the south end of the park near Zanker Elementary School. The artist will be working with Zanker students to help string the branches of the “tree” so that they can play an active part in art that is being placed in their neighborhood park.

Fiscal Impact: None. A budget appropriation in the amount of \$10,000 from the Public Art Fund is needed and sufficient funds are available in that Fund.

Recommendation: Approve the final payment for the Pinewood Park “Green Tree” Art in Your Park Project and authorize funding for the art project in the amount of \$10,000 from the Public Art Fund FY 2009-10.

Parks, Recreation and Cultural Resources Commission

*** 5. Approve two Youth Sports Assistance Fund Grant Applications (Staff Contact: Aaron Bueno, 586-3226)**

Background: On June 15, 2009, the City Council approved and appropriated \$4,000 for the Youth Sports Assistance Fund for the 2009-10 budget year. Included in the Council agenda packet for review and consideration are two Youth Sports Assistance Fund applications.

One Group Youth Sports Assistance Fund application was received from Milpitas Youth Soccer Club in the amount of \$1,000, for coach trainings and improved goals for safety.

One Individual Youth Sports Assistance Fund application was received from Nastassia Hamor in the amount of \$500, for entry fees, airfare, hotel and other travel costs for the Inline Speed Skating World Championships held September 9-27 in Haining, China.

Fiscal Impact: None. There is currently a balance of \$3,000 in the 2009-10 Youth Sports Assistance Fund. Approval of one Group Youth Sports Assistance Fund Grant in the amount of \$1,000 and one Individual Youth Sports Assistance Fund Grant in the amount of \$500 will leave a balance of \$1,500 for the remainder of the fiscal year.

Recommendation: The Parks, Recreation and Cultural Resources Commission (PRCRC) and staff reviewed the applications on October 5, 2009 and recommend that the City Council award two Youth Sports Assistance Fund grants: \$1,000 to Milpitas Youth Soccer Club and \$500 to Nastassia Hamor.

XVIII. NEW BUSINESS

6. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)

Background:

Economic Development Commission (EDC): the Commission is working in two areas, Employability and Business Retention.

Business Retention: Recently, Commissioners worked closely with the Finance Director, Chief Building Official and Fire Chief to reconfigure the Business License application to be more user friendly for smaller and micro businesses. Much of the information requested as part of the initial business license application was not applicable to micro businesses. In addition, business license fees were not posted on the City’s website, requiring online applicants to call the City for assistance. The City has now simplified the business license application process and posted the fees online.

Another action that resulted in this effort was a modification to the Occupancy Permit requirements for smaller businesses. In the past, smaller and micro office users were subject to individual inspections and reviews, regardless if they made no changes to the offices occupied. Just as Over The Counter approvals of minor home improvements make it easier for homeowners to secure the appropriate permits, the small business office user will be able to open his or her office in Milpitas more quickly and less costly.

The Commission, in conjunction with the Mayor, will host the first Venture Capital Forum in Milpitas on November 17. The purpose of the meeting is to bring investors and entrepreneurs together to introduce them to business opportunities in Milpitas and to understand funding foci. Save the Date invitations have been distributed and once the VC panel is determined, formal invitations will be sent to other financial and entrepreneur service providers. The event will be held at City Hall between 5:00 and 7:00 p.m.

McCarthy Ranch – The current Leasing Agency for McCarthy Ranch, CrossPointe Realty Services, advised the City that the Sports Authority did not renew its lease and will close in early 2010. Sports Authority will continue to operate its location at the Great Mall. Borders Books and Music renewed its lease and Dollar Tree will occupy the former Western Wear space, opening in the beginning of 2010. Challenges facing McCarthy Ranch leasing are the over abundance of “Big Box” or larger vacancies throughout Silicon Valley as well as restrictions on existing leases, which often prohibit uses that may be seen as competitive. The occupancy rate is currently 83% including the Dollar Tree lease. This rate will fall to 67% once Sports Authority closes.

Kovio: Application for training funds through the State Employment Training Panel (ETP) is in the queue for consideration. As part of the state budget reductions, the ETP did not receive funding to meet the demands for assistance, and currently the Agency is not accepting new applications for training assistance. City staff is working with the State CalBIZ office to find a way to propel the Kovio application in the “queue.”

Shop & Stay: Staff is meeting with the Great Mall staff and hotels to begin implementation of this program, which includes the Great Mall providing Simon VISA gift cards to hotel customers so that they can “Stay & Shop” in Milpitas. Since the gift cards are VISA gift cards, they can be used at any retailer or service provider and not just the Great Mall.

SVUnwired: The two September community meetings were attended by residents and business owners who are using the service and wanted to provide feedback to the operators. SVUnwired created the new website www.SVUnwired.org to serve as an information sharing vehicle and introduced it at the last meeting. The website has a map of all the transmission nodes throughout the City. Most people using the network are pleased that it is being offered and made great suggestions on how to make it more user friendly and more easily accessible inside residences.

Fiscal Impact: There is no fiscal impact associated with this action.

Recommendation: Receive the monthly economic development report from the Economic Development Manager.

XIX. ORDINANCE

- 7. Waive the First Reading and Introduce Ordinance No. 172.5, Adding Section III-6-5(g) Exemptions to Massage Establishments and Practitioners Permits of the Milpitas Municipal Code (Staff Contact: Tom Borck, 586-2434)**

Background: The City Council of Milpitas adopted an ordinance regulating activities by massage establishments and practitioners in 1995. In 2008, the state legislature enacted a state law, Business & Professions Code Section 4600 et. seq., which took effect in September 2009 that authorized a state approved non-profit organization, the California Massage Therapy Council, to

certify massage practitioners. The new state law prohibits a local government from issuing permits and/or licenses to massage establishments and practitioners that have been certified by the state, but still allows some regulation by local governments, including business license and reasonable health and safety requirements. The Milpitas Municipal Code would be amended to exempt massage practitioners that have been certified by the state approved agency from obtaining City permits as required by state law.

Fiscal Impact: Possible reduction in fees collected from massage practitioner permits.

Recommendations:

1. Move to waive the first reading beyond the title of Ordinance No. 172.5.
2. Introduce Ordinance No. 172.5 to add Section III-6-5(g), Exemptions to Massage Establishments and Practitioners Permits of the Milpitas Municipal Code.

XX. RESOLUTIONS

- * **8. Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information (Staff Contact: Emma Karlen, 586-3145)**

Background: Government Code Section 66000 et seq. requires local agencies to provide an accounting of fees charged for development projects. The City has two basic accounting and reporting responsibilities under the Government Code. Section 66001(d) requires that, five years after collecting a development fee subject to this code section and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. If the required findings are not made, the unexpended funds shall be refunded.

Findings must:

1. Identify the purpose of the fee;
2. Demonstrate a reasonable relationship between the fee and the purpose for which it was charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements; and
4. Designate the approximate dates on which these funding sources can be expected to be deposited into the appropriate account or fund.

When sufficient funds have been collected to complete financing on incomplete public improvements, the local agency has 180 days to identify an approximate date by which the construction of the public improvement will begin or else is required to refund the unexpended fees, including accrued interest, to the current owner of lots or units of the development project.

The second requirement set forth under Government Code Section 66006 provided that the City shall establish separate capital improvement accounts or funds for each improvement funded by project development fees. Any interest income earned by funds in such an account shall be deposited in such account. Each local agency is required, with 180 days after fiscal year end, for each separate account, to make available to the public the following information:

1. Brief description of the type of fee in the account;
2. The amount of the fee;
3. The account's beginning and ending balance;
4. The amount of fees collected and the interest earned;
5. A description of the improvements on which the funds were expended and the amount expended on each improvement including the percentage of the improvement funded with development fees;

6. An approximate date by which the construction of a public improvement will begin if the local agency determines that sufficient funds have been collected to complete financing on the incomplete improvement;
7. A description of each inter-fund transfer or loan made from the account; and
8. The amount of any refunds made pursuant to Code Section 66001.

The City utilizes Traffic Impact Fee Fund and Storm Drain Development Fund to track these development related fees. Interest income is allocated to the Traffic Impact Fee Fund and Storm Drain Development Fund based on their respective monthly cash balances. Expenditures from these funds were in the form of capital improvement projects to either renovate existing facilities or maintain the existing level of service, consistent with the General Plan due to increased demand related to the development project.

Status reports (included in the agenda packet) contain a ten-year history from fiscal years 1999-2000 through 2008-09 for the Traffic Impact Fee Fund and a six-year history for the Storm Drain Development Fund. The City began to collect Storm Drain fees in FY 2003-04; consequently, there is only a six-year history. Reports show the amount of fees collected each year, interest income, a brief description of the projects funded, the percentage of the projects funded by the developer fees, and the beginning and ending balance of the funds. Reports indicated that at the end of June 30, 2009, the City had approximately \$1.37 million in the Traffic Impact Fee Fund and \$157,000 in the Storm Drain Development Fee Fund. Inter-fund transfers were made to capital projects that are related to the collection of the fees. There have not been any loans made from the accounts. As of June 30, 2009, the City has not refunded any of the developers' fees.

Staff has identified fees totaling \$1,805, which were collected in FY 2003-04, for traffic impact mitigation on a project located on S. Main Street. These funds will be appropriated into an existing capital improvement project (Montague Expressway Widening, Project No. 4179) which will be done in cooperation with the County in two to three years. The project cost is approximately \$4.0 million, with the City's cost share (including these developer fees) at \$2.5 million and the remainder of the funding to be paid by the County.

Fiscal Impact: None. There is no fiscal impact for the recommended actions.

Recommendation: Adopt a resolution making findings for unexpended development fees and review and accept the annual developer fee disclosure information.

- * 9. **Adopt a Resolution of Local Support for Federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding for Abbott Avenue Resurfacing, Project No. 4251 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City Council approved a new Capital Improvement Project, approved the plans and specifications, and authorized the advertisement for bids for the resurfacing of Abbott Avenue, Project No. 4251 on September 15, 2009.

Staff is working to secure \$501,000 in federal American Recovery and Reinvestment Funding (ARRA) for this project. A necessary step in securing this funding is the adoption of a Resolution by the City Council showing local support for the project, and to authorize the filing of the application for ARRA Funding, and the Resolution must state the assurance that the City of Milpitas will complete the project.

Fiscal Impact: None.

Recommendation: Adopt a resolution of local support for federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding for Abbott Avenue Resurfacing, Project No. 4251.

XXI. BID AND CONTRACT

- * 10. **Award the Bid for Two 2010 Toyota Camry Hybrid Vehicles to Piercey Toyota for the Not-to-Exceed Amount of \$ 56,968.90 (Staff Contact: Chris Schroeder, 586-3161)**

Background: The current fiscal year's budget includes funds to purchase two 2010 Toyota Camry hybrid vehicles. Purchasing worked with Fleet Maintenance and Police departments to develop the specification. The City advertised the bid on the City's website, on Public Purchase, and in the local newspaper. One bid was received from Piercey Toyota for \$56,968.90.*

*Pricing includes sales tax, DMV, Government and dock fees.

Fiscal Impact: None. Sufficient funding is available from the Equipment Replacement Fund for the purchase of these vehicles.

Recommendation: Award the bid for two 2010 Toyota Camry hybrid vehicles to Piercey Toyota for the not-to-exceed amount of \$56,968.90.

XXII. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, NOVEMBER 3, 2009