



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

TUESDAY, DECEMBER 1, 2009

7:00 PM

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**
- III. PLEDGE OF ALLEGIANCE**
- IV. INVOCATION (Mayor Livengood)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – November 17, 2009**
- VI. SCHEDULE OF MEETINGS – Council Calendar for December 2009**
- VII. PRESENTATION**

Commendation to Library Advisory Commissioner Margie Stephens by the California Association of Library Trustees and Commissioners

VIII. 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.

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

XIII. PUBLIC HEARINGS

- 1. Consider Approving the Proposed Master Fee Adjustments for Various City Services and Programs and Adopt a Resolution (Staff Contact: Emma Karlen, 586-3145)**

2. **Introduce Uncodified Ordinance No. 276.1 Establishing 2010 and 2011 Annual Rates for Solid Waste and Recycling Services Provided by Allied Waste Services of North America (Staff Contact: Kathleen Phalen, 586-3345)**

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Meeting Minutes – November 3, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- RA4. Receive Progress Report for the New Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- RA5. Adopt Three Resolutions Regarding the Acceptance and Transmittal of the Preliminary Report, the Proposed Redevelopment Plan Amendments, and the Draft Environmental Impact Report for the Proposed Thirteenth Amendment to Redevelopment Plan for Project Area No. 1, and the Sixth Amendment to the Great Mall Redevelopment Plan (Staff Contact: Diana Barnhart, 586-3059)**
- *RA6. Approve Amendment No. 1 to the Agreement with Pacific Geotechnical Engineering for the Milpitas Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- *RA7. Adopt a Resolution Granting Initial Acceptance for Milpitas Library Window Covering Package, Project No. 8162 (Staff Contact Steve Erickson, 586-3301)**
- *RA8. Adopt a Resolution Authorizing the Purchase of One Low Income Housing Unit and Releasing Five Moderate Income Units (Staff Contact: Felix Reliford, 586-3071)**
- *RA9. Approve the Appropriation from the Redevelopment Agency Fund Balance and Authorize a Contract Amendment for Web Design Services for a Total Amount Not-to-Exceed \$62,700 (Staff Contact: Diana Barnhart, 586-3059)**
- RA10. Agency Adjournment**

XV. REPORTS OF MAYOR

3. **Consider Mayor's Request for the Creation of a Veterans Commission (Contact: Mayor Livengood, 586-3051)**
4. **Consider Mayor's Recommendations for Appointments/Reappointment to the Milpitas Planning Commission (Contact: Mayor Livengood, 586-3051)**
- * 5. **Consider Mayor's Recommendations for Appointment/Reappointments to Two Milpitas Commissions (Contact: Mayor Livengood, 586-3051)**

XVI. NEW BUSINESS

6. **Receive Update on Roadmap for Service Improvements (Staff Contact: Keyvan Irannejad, 586-3244)**
- * 7. **Approve Annual Commissioners' Recognition Event for 2010 (Staff Contacts: Rosana Cacao, 586-3207, and Dale Flunoy, 586-3228)**

XVII. ORDINANCE

- * 8. **Waive the Second Reading and Adopt Ordinance No. 208.45 to Repeal and Replace Title VIII, Chapter 2, Article V of the Milpitas Municipal Code to Amend the City's Sewer Use Ordinance (Staff Contact: Kathleen Phalen, 586-3345)**

XVIII. RESOLUTIONS

- * 9. **Adopt a Resolution Finding and Determining that a Project Area Committee Need Not Be Formed in Relation to the Proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the Proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project (Staff Contact: Diana Barnhart, 586-3059)**
- * 10. **Adopt a Resolution Granting Final Acceptance of 2008 Street Resurfacing, Project No. 4242 (Staff Contact: Steve Erickson, 586- 3301)**
- * 11. **Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 19, 2010 to Hear Objections (Staff Contact: Albert Zamora, 586-3371)**

XIX. BIDS AND CONTRACTS

- * 12. **Approve and Authorize the City Manager to Execute an Agreement with Bellinger, Foster, Steinmetz Landscape Architecture for the Alviso Adobe Renovation, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**
- * 13. **Approve a Contract with CSG Consultants, Inc. for an Amount Not-to-Exceed \$30,000 for Fire Department Inspection and Plan Review Services (Staff Contact: Albert Zamora, 586-3371)**
- * 14. **Approve an Amendment to a Contract for Fire Department Inspection and Plan Review Services for an Amount Not-to-Exceed \$94,000 (Staff Contact: Patricia Joki, 586-3370)**
- * 15. **Authorize the City of Milpitas to Enter into an Agreement with the County of Santa Clara for Distribution of 2008 Homeland Security Grant Funds (Staff Contact: Sean Simonson, 586-2810)**

XX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, DECEMBER 15, 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
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

XIII. PUBLIC HEARINGS

1. Consider Approving the Proposed Master Fee Adjustments for Various City Services and Programs and Adopt a Resolution (Staff Contact: Emma Karlen, 586-3145)

Background: The Municipal Code and the City's fiscal policies require the City Manager and department heads to calculate and propose adjustments to the fees and charges on a regular basis to assure that cost recovery stay current and are within the percentages of "costs reasonably borne" specified in the Code. Accordingly, fee increases or adjustments are proposed by various departments for the City Council's consideration. The Finance Department has provided assistance in verifying that the employee hourly rates used to calculate the costs of the services are supported by the Cost Allocation Study. In computing the fully loaded costs of a service fee, all the applicable direct costs, indirect costs, fixed asset recovery expense, department overhead expenses and general overhead expenses are included. Each department head has reviewed his or her fee schedules and determined that the proposed fees and service charges are within the specified percentages of cost recovery. Included in the agenda packet are the staff memoranda justifying the fee increases or fee adjustments and the Finance Subcommittee meeting minutes for your reference and consideration. Supporting documentation has also been made available to the public, as required by law.

Fiscal Impact: The proposed fee adjustments will ensure that City fees are current and that costs for services are reasonably recovered through these fees.

Attachments:

- A. Resolution
- B. Six Staff Memos
- C. March 18, 2009 Finance Subcommittee Minutes
- D. April 22, 2009 Finance Subcommittee Minutes
- E. November 18, 2009 Finance Subcommittee Minutes

Recommendations:

- 1) Open the Public Hearing and take testimony.
- 2) Move to close the public hearing.
- 3) Adopt a resolution approving the Proposed Master Fee adjustments for various City services and programs.

2. Introduce Uncodified Ordinance No. 276.1 Establishing 2010 and 2011 Annual Rates for Solid Waste and Recycling Services Provided by Allied Waste Services of North America (Staff Contact: Kathleen Phalen, 586-3345)

Background: The City entered into a solid waste and recycling franchise agreement with Allied Waste Services of North America, LLC (Allied) in 1986, and a yard trims agreement in 1996 for residential and commercial solid waste and recycling services. These agreements, as well as a disposal agreement for Newby Island, will expire on September 5, 2017. The agreements provide that Allied is compensated by customer rates that are adjusted every two years. The size of the rate adjustment is determined contractually by a formula in the contract that is based on the Consumer Price Index (CPI) with allowance for other extraordinary costs due to changes in law or other circumstances beyond Allied's control.

The next contract rate adjustment is due January 1, 2010. In September 2009, Allied submitted its application package with documentation for a rate adjustment. Staff reviewed the application with consultant support and find that it is accurate and compliant with the contract formula. Proposed Ordinance No. 276.1 contains the complete 2010 and 2011 rate schedules and is included in the Council's agenda packet.

Because the CPI has increased very little in the past two years, single-family residential customers will see an increase from \$30.11 per month to \$30.28 per month (a rate increase of 17 cents). Similar small increases are proposed for the other customer classes except for roll-off services. (The roll off class includes the large debris boxes and commercial compactors that need to be picked up and delivered to Allied's facilities for services.) Because the roll-off customer base lost a substantial number of account subscriptions due to the poor economy, the formula allocates the remaining customers in this class a larger than normal amount of fixed costs which drives their rate increase higher than other classes. Therefore, Allied and City staff recommend that the rates for roll-off service be increased in two annual steps. As an example, the monthly rate for a 10-cubic yard roll-off container will increase from \$424.80 to \$458.17 on January 1, 2010, and to \$494.16 on January 1, 2011. Staff will review the allocation of fixed costs across customer class to determine if a recommendation for a revised methodology is warranted before the next scheduled rate increase. The Finance Subcommittee considered this item on November 18 and approved the staff recommendations.

Fiscal Impact: There is no fiscal impact from the recommended action.

Attachment:
Ordinance No. 276.1

Recommendations:

1. Open the Public Hearing to receive comments.
2. Move to close the Public Hearing.
3. Waive the first reading beyond the title of Ordinance No. 276.1.
4. Introduce uncodified Ordinance No. 276.1 approving the 2010 and 2011 annual rate adjustments for recycling and solid waste services.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Meeting Minutes – November 3, 2009

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

RA4. Receive Progress Report for the New Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)

Background: The contractor, Swenson & Associates, continues with installation of new site work, exterior finishes, interior walls, electrical, plumbing, and mechanical improvements. Installation of insulation and interior drywall is underway. The project is on schedule and within budget.

Project staff will provide additional project progress information at the Council meeting.

Fiscal Impact: None.

Recommendation: Receive progress report on the new Senior Center Project, Project No. 8176.

RA5. Adopt Three Resolutions Regarding the Acceptance and Transmittal of the Preliminary Report, the Proposed Redevelopment Plan Amendments, and the Draft Environmental Impact Report for the Proposed Thirteenth Amendment to Redevelopment Plan for Project

Area No. 1, and the Sixth Amendment to the Great Mall Redevelopment Plan (Staff Contact: Diana Barnhart, 586-3059)

Background: A more detailed report of the proposed amendments is included in the Council agenda packet as Exhibit A to this summary staff report.

Proposed Amendments

The City of Milpitas has two redevelopment project areas: Milpitas Redevelopment Project Area No. 1 and the Great Mall Project Area, which were merged in 2006. Both project areas have been amended several times which is detailed in the attached memorandum. The Agency is considering amending the Project Area No. 1 Redevelopment Plan to:

- extend by 10 years the effectiveness time limit and time period to repay debt/collect tax increment for the Amendment Areas;
- repeal the debt establishment time limit for the Amendment Areas;
- increase the tax increment limit and bonded indebtedness limit and exclude the Midtown Added Area from the tax increment limit;
- add projects and facilities to the list of eligible projects and facilities the Agency may fund;
- reinstate eminent domain over non-residential uses in the Amendment Areas;
- add territory totaling approximately 600 acres (“Thirteenth Amendment Added Area” or “Added Area”); and
- make certain technical corrections, and revise and update the various text provisions within the Redevelopment Plan to conform to the requirements of the California Community Redevelopment Law (“CRL”).

Concurrently, the Agency is proposing to amend (the “Sixth Amendment”) the Redevelopment Plan for the Great Mall Redevelopment Project (“Great Mall Project”) to delete a non-contiguous area developed with a freeway sign (“Sixth Amendment Deleted Area”). The area identified for deletion is within the area proposed to be added to Project Area No. 1. Collectively, the Thirteenth Amendment and Sixth Amendment are referred to as the “Amendments” and Project Area No. 1 and the Great Mall Project are referred to as the “Project Areas.”

Purpose of Amendments

The proposed 10-year extensions of Plan effectiveness and time period for collection of tax increment/repayment of debt would provide the Agency with additional tax increment revenue from the Amendment Areas, which is needed to fund the completion of the Agency’s redevelopment program for blight elimination and production of affordable housing. The Agency is proposing to repeal the debt establishment time limit currently set at January 1, 2014, for the Amendment Areas. By repealing this limit, the Agency will be able to establish debt during the length of the proposed effectiveness period, which includes issuing bonds and entering into agreements that would pledge tax increment revenues such as a development agreement.

The bonded indebtedness limit is also proposed to be increased. The increase in this limit is necessary to provide bonding capacity in relationship to the proposed tax increment limit for the Amendment Areas. Furthermore, unlike the tax increment limit, the bonded indebtedness limit applies to the Midtown Added Area and the proposed Thirteenth Amendment Added Area, and needs to be large enough to provide adequate bonding capacity for these areas in addition to the Amendment Areas.

The Redevelopment Plan includes a description of public improvements and facilities that the Agency may install or construct or cause to be installed or constructed. The description of public improvements is also being updated and expanded as necessary to reflect the Agency’s anticipated public improvement projects and facilities over the remaining effectiveness period of the Redevelopment Plan. The Agency proposes to reinstate eminent domain authority within the Amendment Areas and to establish eminent domain in the Added Area, in each case with the

limitation that eminent domain authority would not be authorized to acquire real property that is occupied as a residence. Eminent domain will be established for a 12-year period from the date of adoption of the Thirteenth Amendment.

The Thirteenth Amendment Added Area includes two primarily multiple-family residential areas referred to as the Adams and Selwyn/Shirley Subareas in the Dempsey Road/South Park Victoria neighborhood, and a portion of the Town Center Business Park south of Calaveras Boulevard and north of Montague Expressway. The Agency is proposing to make certain technical corrections to the Redevelopment Plan to update and clarify the provisions of the Redevelopment Plan. The proposed Thirteenth Amendment will be incorporated in a new Amended and Restated Redevelopment Plan that will apply to the Existing Project Area and Added Area.

The Sixth Amendment will amend the legal description of the Great Mall Project to reference the deletion of the freeway sign. No other amendment is proposed for the Great Mall Project. The proposed Sixth Amendment is a technical amendment necessary to avoid splitting or dividing a parcel within the proposed Added Area.

Purpose and Contents of Preliminary Report

The Preliminary Report is one of the legally required documents preceding the adoption of the proposed Amendments. The Preliminary Report provides documentation on the nature and extent of the conditions remaining within the Amendment Areas and the conditions that exist within the Added Area (blighting conditions), and how these conditions will be corrected through the use of redevelopment. The Preliminary Report also describes how the continued redevelopment of the Amendment Areas and redevelopment of the Added Area will be financed so that economic feasibility can be demonstrated.

The Report is to be made available to governmental taxing agencies that share in a portion of the general property tax levy within the Project Areas and Added Area. The review of the Preliminary Report initiates the consultation process leading up to the adoption of the proposed Amendments.

The Preliminary Report also includes an amendment to the Agency's five year Implementation Plan. The current Implementation Plan for the Project Areas is for the five-year period between fiscal year 2005-2006 through 2009-2010 (July 1, 2005 through June 30, 2010).

Finally, the Preliminary Report includes an identification of potential impacts to the Project Areas and surrounding residents referred to as the "Neighborhood Impact Report." The Amendments are not in and of themselves growth inducing or include additional redevelopment projects or programs. The Amendments will facilitate development consistent with the General Plan. A copy of the Preliminary Report has been provided to the City Council in the Council agenda packet. It is available to the public on the City website and at the City Clerk's office.

Purpose and Contents of the Draft EIR

The Draft Environmental Impact Report (EIR) is a Program EIR prepared to analyze the public and private activities or undertakings pursuant to or in furtherance of the Amendments, and to evaluate the potentially significant effects of public improvements and development that may be funded by or encouraged by the elimination of barriers to development by redevelopment activities. The Program EIR serves as the environmental baseline for subsequent approvals.

Next Steps

After approval, the Preliminary Report, along with the Thirteenth Amendment, as incorporated in the Amended and Restated Redevelopment Plan and the Sixth Amendment, will be sent to the Department of Finance (DOF), Department of Housing and Community Development (HCD) and

the affected taxing agencies. The Agency will include with the transmittal an offer to consult with the taxing agencies regarding the proposed Amendments.

The Amendments go to the Planning Commission on December 9 for their report on the consistency with the General Plan, and the Planning Commission will make a recommendation to the City Council on whether or not to adopt the Amendments.

The Draft EIR will be transmitted to affected taxing agencies and responsible agencies and made available for public review for 45 days beginning on December 3 through January 18, 2010. The final EIR, incorporating responses to comments received on the Draft EIR, will be provided to the Agency and City Council prior to the joint public hearing on the adoption of the Amendments.

Prior to consideration of adoption of the Amendments, the Agency will prepare a Final Report to City Council. The Report will include the blight and financial feasibility analyses contained in the Preliminary Report and may be revised or supplemented as necessary in response to taxing agency consultations, or to include additional information or clarification on the information contained in the Preliminary Report between transmittal and incorporation in the Agency's Report to City Council. The Report to City Council is anticipated to be considered by the Agency and received by the City Council in mid-February of 2010.

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

Recommendations:

1. Adopt a resolution of the Milpitas Redevelopment Agency approving the Preliminary Report to affected taxing agencies on the proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project, and authorize transmittal of said report.
2. Adopt a resolution of the Milpitas Redevelopment Agency referring the proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project, to the Planning Commission of the City of Milpitas for its report and recommendation, and authorize the transmittal of said amendments to the affected taxing entities and other interested persons and organizations.
3. Adopt a resolution of the Milpitas Redevelopment Agency accepting and authorizing circulation of the draft environmental impact report on the proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment project.

***RA6. Adopt Amendment No. 1 to the Agreement with Pacific Geotechnical Engineering for the Milpitas Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**

Background: On April 1, 2009, the City entered into a consultant agreement with Pacific Geotechnical Engineering, in the amount of \$18,000, to provide onsite field observation and testing for the new foundation systems. Staff now recommends that Pacific Geotechnical Engineering perform additional onsite field observation testing for the trellis and canopy structures and foundations, and to provide a final inspection and report. Amendment No.1 with Pacific Geotechnical Engineering is proposed for these additional services. Staff has negotiated a fee for these services not to exceed \$5,000, which is considered reasonable for the work. Approval of this agreement amendment brings the total agreement amount to \$23,000.

Fiscal Impact: None. There are sufficient funds in the project budget for these consultant services.

Recommendation: Approve amendment No. 1 to the agreement with Pacific Geotechnical Engineering, in the amount of \$5,000, Project No. 8176, subject to approval as to form by the City Attorney.

***RA7. Adopt a Resolution Granting Initial Acceptance for Milpitas Library Window Covering Package, Project No. 8162 (Staff Contact Steve Erickson, 586-3301)**

Background: This project provided new window blinds within the new public library circulation lobby, quiet study, computer center, homework center, and multi-purpose room. These blinds are needed to reduce sunlight glare and to improve the comfort and usability of the new library. The project was awarded to Home Line, Inc. on June 2, 2009. The project has been successfully completed, and staff recommends the City Council grant an initial acceptance of the project, and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$3,310.50.

Fiscal Impact: None

Recommendation: Adopt a resolution granting initial acceptance for the Milpitas Library Covering Package, Project No. 8162, subject to the one year warranty period and reduction of the faithful performance bond to \$3,310.50.

***RA8. Adopt a Resolution Authorizing the Purchase of One Low Income Housing Unit and Releasing Five Moderate Income Units (Staff Contact: Felix Reliford, 586-3071)**

Background: Since February 2009, the Redevelopment Agency has authorized the purchase of nine moderate-income affordable units from home owners in order to preserve the affordability restriction outlined in the Resale Restriction Agreements. The Agency also authorized staff to reduce the price of these units from moderate to low-income given that the price of moderate income units is very close to current market prices. A total of \$790,000 in additional housing funds was committed for price reductions and down payment assistance loans for these units.

The City recently received notification from six additional property owners wishing to sell their affordable housing units; one low-income unit and five moderate income units. The average subsidy required to convert a moderate income unit to low-income is approximately \$90,000 per unit. Therefore, an additional \$450,000 would need to be invested in the five moderate income units for the Agency to purchase and re-sell them to low-income households. The one low-income unit could be purchased and resold with a new \$25,000 down payment assistance loan.

Finding qualified buyers at the low-income level is becoming increasingly difficult due to the declining number of buyers and stricter lending requirements and the fact that moderate income buyers are purchasing market rate units. Staff is researching alternatives to our current resale agreement, such as a market based equity sharing program, that could prove to be more attractive to moderate income home buyers.

Status of Affordable Housing Units in the Project Area: State redevelopment law requires that 15% of the housing units within the redevelopment project area shall be affordable to low and moderate-income households. Nine percent of the units are to be affordable to low and moderate-income households and the balance of 6% to very low-income households. Currently 19% of the units that have been approved for development, or have been constructed in the project area, are designated as affordable; 10% for low and moderate income households and 9% for very-low income households. This represents 100 more low and moderate income units in the project area than the minimum amount required.

Conclusion: Staff is requesting authorization to purchase the low-income unit at Centria East since it can be resold at the Agency's purchase price with a \$25,000 down payment assistance loan. We are recommending releasing, not exercising our option to purchase, the five moderate

income units in Parc Place and Parc Metropolitan due to the large subsidy required and the declining number of qualified low and moderate income applicants.

Fiscal Impact: None, there is adequate funding in the Agency's housing fund budget for the \$25,000 loan.

Recommendation: Adopt a Resolution authorizing the purchase and modification of the resale agreement to include a down payment loan of one low-income unit located at 1101 S. Main Street #221, and the release of five moderate income units.

***RA9. Approve the Appropriation from the Redevelopment Agency Fund Balance and Authorize a Contract Amendment for Web Design Services for a Total Amount Not-to-Exceed \$62,700 (Staff Contact: Diana Barnhart, 586-3059)**

Background: Due to the need for graphic design and web services to support the Redevelopment Agency and Economic Development activities, a contract with a web designer was executed in September of 2009 and funded by the Economic Development budget. In order to continue these activities and complete the preparation and posting of the Redevelopment Plan amendments as well as recommendations from the Economic Development Commission, an additional appropriation is required to retain the web services. The existing contract will require an amendment extending the term to June 30, 2010 and the total compensation to \$62,700.

Fiscal Impact: Funds are available in the Redevelopment Agency Fund Balance to cover the cost of these services.

Recommendations:

1. Approve a budget appropriation in the amount of \$43,200 from the Redevelopment Agency Fund for contractual services.
2. Authorize the City Manager to execute a contract amendment for a total amount not to exceed \$62,700, and extend the contract term until June 30, 2010.

RA10. Agency Adjournment

XV. REPORTS OF MAYOR

3. Consider Mayor's Request for the Creation of a Veterans Commission (Contact: Mayor Livengood, 586-3051)

Background: Mayor Livengood is proposing the creation of a Veterans Commission for the City of Milpitas consisting of a seven member body with two alternates, a term of three years, and a quarterly meeting schedule. The new commission would consist of honorably discharged U.S. veterans or still actively serving members in any branch of the U.S. military.

The Mayor proposes advertising for applicants in the first week of January 2010, with appointments in February, and the first meeting of the new commission in March 2010. Staff is instructed to modify the existing commission application for this new commission to include a section pertaining to the applicants' military service. A memo from the Mayor is included in the Council agenda packet.

Recommendations:

1. Approve the creation of a new Veterans Commission.
 2. Instruct staff to modify the existing commission application for the new commission to include a section pertaining to the applicants' military service.
- 4. Consider Mayor's Recommendations for Appointments/Re-Appointment to the Milpitas Planning Commission (Contact: Mayor Livengood, 586-3051)**

Background: Mayor Livengood recommends the following Milpitas residents be appointed/reappointed to the Planning Commission:

Reappoint Gurdev “Dave” Sandhu to a term that expires in December 2012.

Appoint Mark Tiernan (current Alternate) as a regular member to a term that expires in December 2012.

Appoint Steve Tao to a term that expires in December 2012.

Appoint Erik Larsen as an Alternate member to a term that expires in December 2012.

Recommendation: Consider the Mayor’s recommendations and move to approve appointments/reappointment to the Planning Commission.

* **5. Consider Mayor’s Recommendations for Appointment/Reappointments to Two Milpitas Commissions (Contact: Mayor Livengood, 586-3051)**

Background: Mayor Livengood recommends the following Milpitas residents be appointed/reappointed to the following commissions:

Senior Advisory Commission:

Reappoint Denny Weisgerber to a term that expires in December 2011.

Reappoint Albert Wang to a term that expires in December 2011.

Reappoint Mary Banick to a term that expires in December 2011.

Reappoint Barbara Ebright to a term that expires in December 2011.

Reappoint Bernice Wrinkle to a term that expires in December 2011.

Appoint Karen Adams (current Alternate No. 2) as a regular member to a term that expires in December 2011.

Reappoint Estrella Gilana as Alternate No. 1 to a term that expires in December 2011.

Telecommunications Commission:

Reappoint Niranjana Gupta to a term that expires in January 2012.

Reappoint Dinesh Gupta to a term that expires in January 2012.

Reappoint M. Idrees Munir to a term that expires in January 2012.

Reappoint Roger Shaw to a term that expires in January 2012.

Reappoint Hai Tran to a term that expires in January 2012.

Reappoint Kurt Bohan as Alternate No. 2 to a term that expires in January 2012.

Recommendation: Consider the Mayor’s recommendations and move to approve appointment/reappointments to the Senior Advisory Commission and Telecommunications Commission.

XVI. NEW BUSINESS

6. Receive Update on Roadmap for Service Improvements (Staff Contact: Keyvan Irannejad, 586-3244)

Background: At the Finance Sub-Committee meeting on November 18, 2009, Councilmember Gomez and Councilmember Giordano requested a report to the City Council on an update on Roadmap for Service Improvements. Since the last report, submitted to the City Council on May 6, 2008 on Roadmap for Service Improvements, additional improvements have taken place that has streamlined the permitting process in order to provide more fiscally sound, proactive and effective customer service. An update on accomplishments and objectives in further improvements and streamlining of the permitting process will be presented to City Council.

Fiscal Impact: None.

Recommendation: Receive staff report on roadmap service improvements.

* 7. **Approve Annual Commissioners' Recognition Event for 2010 (Staff Contacts: Rosana Cacao, 586-3207, and Dale Flunoy, 586-3228)**

Background: The City of Milpitas recognizes its Commissioners in April at the annual Commissioners' Recognition Event. The event celebrates the volunteerism of the City's Commissioners and Committee members and their accomplishments. Many positive comments from the Commissioners were received from last year's recognition event, and they were extremely pleased with the venue. Last year, the City Council donated \$1,500 to the Food Pantry. This year, staff has provided three proposals for City Council to consider. A budget of \$10,000 was approved in the FY 2009-10 for this event.

Three proposals for the 2010 Commissioners' Recognition Event for consideration are listed below.

Option A

A Commissioners' Celebration Brunch would be held at Dave & Busters on Saturday, April 10, 2010 from 9:00 a.m. to 11:00 a.m. A sit down buffet brunch would be provided to our Commission and Committee members and one guest. Signature Buffett includes Chef carved brown sugar glazed ham, Chef's omelet station, crisp bacon, breakfast sausage, country redskin potatoes, toasted English muffins with whipped butter and jelly, blackened chicken pasta, goldfingers (chicken strips) served with chipotle-honey sauce, fresh fruit display, assorted dessert squares, assorted juices, coffee, and hot tea.

Suggested Gift: Key chain with City Logo - \$1,500
\$1,500 - cost savings

Held at Dave & Busters

Food/Drink:	\$5,425 (Signature Buffet) (based on 175 attendees)
Invitations/Certificates	\$ 600
Entertainment:	\$ 400
Misc. Supplies:	\$ 500
Gift:	<u>\$1,500</u>
	\$8,425

Option B

A Commissioners' Celebration Brunch would be held at Dave & Busters on Saturday, April 10, 2010 from 9:00 a.m. to 11:00 a.m. with a suggested donation of \$1,500 to go towards the City of Milpitas' Parks and Recreation Services Recreation Assistance Program (R.A.P.). This year the City of Milpitas Parks and Recreation Services Department received \$16,721 from Community Development Block Grants (CDBG) Funding and to date has awarded the full amount to low income families in Milpitas. The amount of \$1,500 could help ten individuals, or three families, participate in Recreation programs, depending on the activities or programs for which they apply.

Suggested Gift: Key chain with City Logo - \$1,500
Make a donation on behalf of the Commissioners to the Parks and Recreation Services Recreation Assistance (RAP) Program - \$1,500

Food/Drink:	\$5,425(Signature Buffet) (based on 175 attendees)
Invitations/Certificates	\$ 600
Entertainment:	\$ 400
Misc. Supplies:	\$ 500
Gift:	\$1,500
<u>RAP donation</u>	<u>\$1,500</u>
	\$9,925

Option C

A Commissioners' Celebration Brunch would be held at Dave & Busters, on Saturday, April 10, 2010 from 9:00 a.m. to 11:00 a.m. In lieu of a Commissioner gift, the Commissioners would donate \$3000 towards the purchase of a piece of art or bench to be placed at the new Veterans Memorial area located at the Community Center near the City Hall Amphitheater. A dedication plaque would be installed with the art or bench stating that "City of Milpitas Commissioners of 2009" sponsored the piece.

Suggested Gift: Purchase a piece of art or bench for the Veterans Memorial - \$3,000.

Food/Drink:	\$5,425 (Signature Buffet) (based on 175 attendees)
Invitations/Certificates	\$ 600
Entertainment:	\$ 400
Misc. Supplies:	\$ 500
<u>Art/Bench:</u>	<u>\$3,000</u>
	\$9,925

Recommendation: Approve Option C, Commissioners' Celebration Brunch, for the 2010 Commissioners' Recognition Event, to be held at Dave & Busters with a total budget of \$9,925, which includes \$3,000 to go towards the purchase of a piece of art or bench for the Veterans Memorial area at the Community Center.

XVII. ORDINANCE

- * **8. Waive the Second Reading and Adopt Ordinance No. 208.45 to Repeal and Replace Title VIII, Chapter 2, Article V of the Milpitas Municipal Code to Amend the City's Sewer Use Ordinance (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On November 17, 2009, the City Council introduced Ordinance No. 208.45 to repeal and replace Title VIII, Chapter 2, Article V of the Milpitas Municipal Code. San Jose City Council adopted similar ordinances on May 19, 2009, for the purpose of creating a dental amalgam capture program and revising requirements for fats, oils and grease (FOG) capture. The California Regional Water Quality Control Board is requiring San Jose to implement a dental amalgam program throughout the sewer tributary area. Per the 1983 "Master Agreement for Wastewater Treatment between City of San Jose, City of Santa Clara, and City of Milpitas," the City is required to revise its sewer use ordinance as necessary to keep the WPCP in compliance with state and federal requirements.

Fiscal Impact: There is no fiscal impact from the recommended action.

Recommendations:

1. Waive the second reading of Ordinance No. 208.45.
2. Adopt Ordinance No. 208.45 to Repeal and Replace Title VIII, Chapter 2, Article V of the Milpitas Municipal Code to Amend the City's Sewer Use Ordinance.

XVIII. RESOLUTIONS

- * **9. Adopt a Resolution Finding and Determining that a Project Area Committee Need Not Be Formed in Relation to the Proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1, and the Proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project (Staff Contact: Diana Barnhart, 586-3059)**

Background:

History of Redevelopment and Proposed Amendments

The City of Milpitas has two redevelopment project areas: Milpitas Redevelopment Project Area No. 1 and the Great Mall Project Area, which were merged in 2006. Milpitas Redevelopment Project Area No. 1 contains approximately 2,230 acres. The original Redevelopment Plan for Project No. 1 was adopted by the City Council by Ordinance No. 192 on September 21, 1976, and consisted of approximately 577 acres (“Original Project Area”) located in the central portion of the City. In 1979, Project Area No. 1 was amended to include an additional 483 acres (“Amendment Area No. 1”). In 1982, Project Area No. 1 was amended to include 479 acres (“Amendment Area No. 2”) and in 2003, the Project Area was amended to add 691 acres (“Midtown Added Area”). The Original Project Area No. 1 and Amendment Areas No. 1 and 2 are referred to as the “Amendment Areas.”

The Great Mall Redevelopment Project was adopted by the City Council on November 2, 1993, by Ordinance No. 192.8, and consists of 150 acres. The Redevelopment Plan was amended on October 16, 2001, by Ordinance No. 192.13, to add 0.76 acres in two separate properties (located along Interstate 880 and Montague Expressway containing 0.75 acres, and along Interstate 680 south of Calaveras Boulevard containing 613 square feet) for the placement and maintenance of freeway signs for the Great Mall of the Bay Area.

The Redevelopment Agency is considering amending the Project Area No. 1 Redevelopment Plan to: 1) extend by 10 years the effectiveness time limit and time period to repay debt/collect tax increment of the Amendment Areas; 2) repeal the debt establishment time limit for the Amendment Areas; 3) increase the tax increment limit and bonded indebtedness limit, and exclude the Midtown Added Area from the tax increment limit; 4) add projects and facilities to the list of eligible projects and facilities the Agency may fund; 5) reinstate eminent domain over non-residential uses in the Amendment Areas; 6) add territory totaling approximately 600 acres (“Thirteenth Amendment Added Area” or “Added Area”); and 7) make certain technical corrections, revise and update the various text provisions within the Redevelopment Plan to conform to the requirements of the California Community Redevelopment Law (“CRL”). Concurrently, the Agency is proposing to amend (the “Sixth Amendment”) the Redevelopment Plan for the Great Mall Redevelopment Project (“Great Mall Project”) to delete a non-contiguous area developed with a freeway sign (“Sixth Amendment Deleted Area”). The area identified for deletion is within the area proposed to be added to Project Area No. 1. Collectively, the Thirteenth Amendment and Sixth Amendment are referred to as the “Amendments” and Project Area No. 1 and the Great Mall Project are referred to as the “Project Areas.”

Discussion

The Agency is proposing to re-instate eminent domain within the Amendment Areas and to include eminent domain authority in the Added Area, in each case with the limitation that eminent domain authority would not be authorized to acquire real property that is occupied as a residence. Eminent domain would be established for a 12-year period from the date of the adoption of the Thirteenth Amendment. Eminent domain may be needed to assemble small and irregularly shaped commercial and industrial sites to accommodate contemporary users that are consistent with the General Plan, Zoning and other City planning designs and standards.

Section 33385.3 of the California Community Redevelopment Law requires that a Project Area Committee (“PAC”) be formed in connection with a redevelopment plan amendment if the proposed amendment would do either of the following:

- (1) Grant the authority to the agency to acquire by eminent domain property on which persons reside in a project area in which a substantial number of low and moderate income persons reside; or
- (2) Add territory in which a substantial number of low and moderate income persons reside and grant the authority to the agency to acquire by eminent domain property on which persons reside in the added territory.

Neither the proposed Thirteenth nor the Sixth Amendments contain authority for the Agency to use eminent domain to acquire properties occupied as a residence. Therefore, a Project Area

Committee (PAC) is not required in connection with the proposed Amendments. Alternatively, the Agency can informally consult with residents, property owners, business owners, and existing civic and business organizations with the Project Areas and proposed Added Area to receive input on matters affecting the residents of the Project Areas and Added Area or other issues of concern. This is typically accomplished through a community information meeting held by staff and consultants to hear concerns and answer questions regarding redevelopment and the proposed Amendments.

Next Steps

Before the Council can consider adopting the Amendments, it must hold a public hearing on the adoption of the Amendments. The Agency and Council may hold separate hearings on the Amendments, but more commonly the Agency and Council hold a joint public hearing. Not less than 30 days prior to the hearing, notice of the hearing must be mailed to residents and businesses (occupants) in the Project Areas and Added Area. In addition, notice is sent to all owners in the Project Areas and Added Area. Notice of the hearing is also published in the newspaper once a week for four consecutive weeks prior to the hearing. It is recommended that the notice of the hearing also include notice of a community information meeting. At this meeting, staff and consultants can review the fundamentals of redevelopment, discuss the purpose of the Amendments and address questions in an informal setting.

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

Recommendation: Adopt a Resolution finding and determining that a Project Area Committee need not be formed in relation to the Proposed Thirteenth Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1 and the Proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Redevelopment.

*** 10. Adopt a Resolution Granting Final Acceptance of 2008 Street Resurfacing, Project No. 4242 (Staff Contact: Steve Erickson, 586- 3301)**

Background: This project, which was initially accepted on October 7, 2008, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include Resurfacing of the following streets:

- Milpitas Boulevard between Tramway Drive and Hanson Court
- Landess Avenue between Park Victoria Drive and Clear Lake Avenue
- Smithwood Street between Marylinn Drive and Rudyard Drive,
- Yosemite Drive between Sinclair Frontage Road and Vista Way
- Arizona Avenue between Jacklin Road and north of Oregon Way
- Temple Drive between Calaveras Boulevard and Canton Drive
- Gadsden Drive between Calaveras Boulevard and Canton Drive
- Dempsey Road between Yosemite Drive and Chewpon Avenue
- Hammond Way between 400-ft north of Curtis Avenue and end-of-street
- Watson Court
- Pecten Court
- Silvera Street
- Louise Court

Minor pavement repairs on the following streets also occurred:

- McCarthy Boulevard between State Route 237 and the Northerly City Limits
- Ranch Drive

Staff recommends the Council grant a final acceptance for the project and release the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance for 2008 Street Resurfacing, Project No. 4242, and release of the contractor's bond.

- * 11. **Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 19, 2010 to Hear Objections (Staff Contact: Albert Zamora, 586-3371)**

Background: The County of Santa Clara Department of Agriculture and Environmental Management has notified the City of Milpitas that it is commencing its Hazardous Vegetation Abatement (weed abatement) program for the forthcoming 2010 season. The County has requested the City adopt a resolution declaring weeds to be a public nuisance and to schedule a public hearing to hear objections to the proposed destruction and/or removal of weeds. A resolution, declaring weeds on specific properties to be a public nuisance, is adopted by the Council each year and gives affected property owners an opportunity to appear before the Council. The public hearing will be scheduled for January 19, 2010.

Fiscal Impact: None.

Recommendations: Adopt a resolution declaring weeds on specific properties to be a public nuisance and setting a public hearing for January 19, 2010.

XIX. BIDS AND CONTRACTS

- * 12. **Approve and Authorize the City Manager to Execute an Agreement with Bellinger, Foster, Steinmetz Landscape Architecture for the Alviso Adobe Renovation, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Alviso Adobe Renovation, Phase IV Site Improvements, Project No. 5055, is included in the approved Capital Improvement Program. The work involves improving the Alviso Adobe grounds to create a public park with historic elements to simulate an early 1900's Orchard/ Mexican Rancho. The improvements include: restoring the existing outbuildings, constructing a new public restroom, American Disabilities Act (ADA) accessibility to the site, landscaping, and create a picnic and passive recreation area. Through the City's consultant selection process, Bellinger, Foster, Steinmetz Landscape Architecture has been selected to provide the design services for the Alviso Adobe Renovation, Phase IV Site Improvements. Staff negotiated a scope and fee for these services not to exceed \$354,000, which is considered reasonable for the work.

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

Recommendation: Approve and authorize the City Manager to execute an agreement with Bellinger, Foster Steinmetz Landscape Architecture in the amount of \$354,000, Project No 5055, subject to approval as to form by the City Attorney.

- * 13. **Approve a Contract with CSG Consultants, Inc. for an Amount Not-to-Exceed \$30,000 for Fire Department Inspection and Plan Review Services (Staff Contact: Albert Zamora, 586-3371)**

Background: The Fire Prevention Division has two vacant and unfunded Fire Prevention Inspector positions, one funded Fire Protection Engineer and one unfunded Fire Protection Engineer position. Due to recent layoffs, budget constraints, and a retired rotational fire inspector, two contract personnel have been retained to perform the functions and duties equivalent to one and one-half Fire Prevention Inspectors. Only one Fire Protection Engineer position is currently filled. The second funded Fire Protection Engineer position has remained

vacant since May 2006, when the one-year special assignment plan checker was reassigned back to the Building and Safety Department to assist with the increased workload at that time.

The Fire Department contracted with CSG Consultants, Inc. to perform the necessary combination plan review and inspection support services and to pick-up the additional workload during the heavy construction periods throughout each year. The work completed by CSG Consultants, Inc. meets industry standards and their commitment to responsive customer service is exceptional.

The current contract with CSG Consultants, Inc. expired, and no additional staff has been hired to fill this gap. Given the above staff shortages, the Fire Department requests to again contract with CSG Consultants, Inc. for combined inspection and plan review services to address workload issues and meet customer service demands.

Fiscal Impact: None. Sufficient resources exist within the Fire Department's budget to fund this request.

Recommendation: Approve a contract for fire inspection and plan review services between the City of Milpitas and CSG Consultants, Inc., for an amount not-to-exceed \$30,000.

* **14. Approve an Amendment to a Contract for Fire Department Inspection and Plan Review Services for an Amount Not-to-Exceed \$94,000 (Staff Contact: Patricia Joki, 586-3370)**

Background: With adoption of the current budget, the Fire Department reduced funding for one Hazardous Material Inspector position. The position had been assigned to complete fire prevention inspections. In addition, one fire engineer on a special assignment to the Fire Prevention Division retired, leaving the Department without any fire prevention inspectors. To address this situation and to maintain a high level of service to the public, the Fire Department has reprioritized and shifted some inspections to managers, some to line fire personnel, and has entered into limited contracts to complete plan review and inspections to fully meet the City's fire and life safety responsibilities. This work includes life-safety plan reviews for new development, tenant improvement projects, and associated inspections, along with annual compliance inspections for fire code regulated activities conducted by businesses. Currently two individuals are under contract to complete these-type activities.

One individual currently works on full-time bases. The contract will be expended beginning in January 2010. Due to an increase in construction activity, her duties have been concentrated in this area. Due to this, a number of other items under contract have not been completed. The requested increase amount will assist in providing more time for the consultant to complete these items while still performing necessary inspections needed to meet customer service demands.

Fiscal Impact: This request is to increase the compensation amount in one contract by \$30,000. Sufficient resources exist within the Fire Department's budget to fund this request.

Recommendation: Approve the amendment to one contract for fire inspection services for plan review and inspection services for an amount-not-to-exceed \$94,000.00.

* **15. Authorize the City of Milpitas to Enter into an Agreement with the County of Santa Clara for Distribution of 2008 Homeland Security Grant Funds (Staff Contact: Sean Simonson, 586-2810)**

Background: The Fiscal Year 2008 Homeland Security Grant Program is made up of three grant programs: the State Homeland Security Program (SHSP), the Urban Area Security Initiative Grant Program, and the Metropolitan Medical Response System Grant. These programs support the implementation of state homeland security strategies to address the planning, organization, equipment, training, and exercise needs for acts of terrorism and other catastrophic events. By entering into this agreement, the City's emergency response personnel will be able to attend, at no

cost to the City, specific classes pertaining to homeland security issues. Additionally, some classes are required in order for personnel to maintain certain certifications. Without this agreement, costs for this training will need to be paid for by the City.

Fiscal Impact: Entering into this Agreement will augment the homeland security training cost of emergency response personnel.

Recommendation: Approve agreement between the City of Milpitas with the County of Santa Clara for distribution of 2008 Homeland Security Grant Funds.

XX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, DECEMBER 15, 2009