



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

TUESDAY, FEBRUARY 2, 2010

**6:00 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 (6:00 p.m.)**
- III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**
PUBLIC EMPLOYEES PERFORMANCE EVALUATIONS
Pursuant to CA Government Code §54957.
Positions: (1) City Manager Tom Williams and (2) City Attorney Mike Ogaz
- 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 (7:00 p.m.)**
- VI. INVOCATION (Councilmember Polanski)**
- VII. APPROVAL OF COUNCIL MEETING MINUTES – January 19, 2010**
- VIII. SCHEDULE OF MEETINGS – Council Calendar for February 2010**
- XIX. PRESENTATION**
Government Finance Officers Association Distinguished Budget Presentation Award presented to the City of Milpitas for the Fiscal Year 2009-10
- 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. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Meeting Minutes – January 19, 2010**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- RA4. Receive Progress Report on the Senior Center Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- RA5. Receive Financial Status Report for the Six Months Ended December 31, 2009 (Staff Contact: Emma Karlen, 586-3145)**
- RA6. Approve FY 2009-10 Mid-Year Budget Appropriations for Operating Budget and Capital Improvement Project Budget and Adopt a Resolution Approving the Title Change of an Employee Position (Staff Contact: Emma Karlen, 586-3145)**
- *RA7. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2009 (Staff Contact: Emma Karlen, 586-3145)**
- *RA8. Adopt a Resolution Granting Initial Acceptance of and Reducing Performance Bond for Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202 (Staff Contact: Steve Erickson, 586-3301)**
- *RA9. Adopt a Resolution Granting Final Acceptance of and Release of the Performance Bond for Storm Drain Pump Station Improvements (Wet Well Cleaning), Project No. 8188 (Staff Contact: Steve Erickson, 586-3301)**
- *RA10. Adopt a Resolution Granting Final Acceptance of Street Crack Seal Project for FY2008-09, Project No. 8194 (Staff Contact: Steve Erickson, 586-3301)**
- *RA11. Approve a New Capital Improvement Project “Street Light Pole Improvements” Project No. 8199, Approve a Budget Appropriation, and Authorize the Executive Director/City Manager to Approve Amendment No. 2 to the Contract with Cal-West Lighting & Signal Maintenance for Streetlight Improvement Services (Staff Contact: Greg Armendariz, 586-3317)**
- RA12. Agency Adjournment**

XVI. REPORTS OF MAYOR AND VICE MAYOR

- * 1. Consider Mayor’s Recommendations for Appointments to the New Milpitas Veterans Commission (Contact: Mayor Livengood, 586-3051)**
- 2. Consider Vice Mayor’s Recommendation to Adopt a Resolution of Support for Milpitas Unified School District Parcel Tax Measure (Contact: Vice Mayor McHugh, 586-3023)**

XVII. NEW BUSINESS

- * 3. Approve a Budget Appropriation for Community Development Block Grant-Recovery Funds (Staff Contact: Felix Reliford, 586-3071)**

XVIII. ORDINANCES

4. **Introduce Ordinance No. 280 to Impose Liability on Social Hosts Who Allow or Encourage Underage Abuse of Alcohol (Staff Contacts: Dennis Graham, 586-2502 and Mike Ogaz, 586-3041)**
- * 5. **Waive the Second Reading and Adopt Uncodified Ordinance No. 279 Repealing Outdated and Unused Sections of Milpitas Municipal Code (Staff Contact: Michael Ogaz, 586-3041)**

XIX. RESOLUTION

- * 6. **Adopt a Resolution Granting Initial Acceptance and Reducing Performance Bond for Sewer Replacement Program and Authorize Reduction of Performance Bond, Project No. 6111 (Staff Contact: Steve Erickson, 586-3301)**

XX. ADJOURNMENT

NEXT REGULAR MEETING: FEBRUARY 16, 2010

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)*
- Mobile Home Park Rental Review Board*
- Parks, Recreation and Cultural Resources Commission*
- Recycling and Source Reduction Advisory Commission (alternate)*
- Senior Advisory Commission (alternate)*
- Veterans Commission*

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

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

Background: Contractor Swenson & Associates continues with installation of new site work, exterior finishes, electrical, plumbing, and mechanical improvements for the new Senior Center. Installation of interior drywall and painting is underway. The project is on schedule and within budget. Project staff will provide additional progress information at the Council meeting.

Fiscal Impact: None.

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

RA5. Receive Financial Status Report for the Six Months Ended December 31, 2009 (Staff Contact: Emma Karlen, 586-3145)

Background: In FY 2009-10, staff projected total General Fund revenue to be \$52.7 million, about \$617,000 less than the FY 2008-09 actual revenue. However, the economic downturn continued to impact the City's revenues negatively, particularly in sales tax revenues, transient occupancy tax (TOT) revenue, building permit fees and service charges related to private development jobs. Based on the revenues received to date and lack of significant economic recovery, staff revised the General Fund revenue to be \$48.9 million, about \$3.8 million below budget.

The City will not know the full impact of the Christmas Holiday sales until March 2010, due to the lag time between the vendors filing their sales tax returns and the time required for the State Board of Equalization ("SBE") to reconcile the sales tax revenue for the calendar quarter. However, sales tax information received to date indicated that sales tax revenue generated from electronic equipment, auto sales, building materials, light industry and restaurants has declined considerably compared to the same period one year ago. Sales tax revenue generated from the department stores and miscellaneous retail was relatively flat. Overall, sales tax revenue has been revised to be \$2.1 million below budget.

TOT continued to decline, with revenue received for the first six months of FY 2009-10 decreased by about 27% compared to the same period last year. This is discouraging news because TOT revenues were already down 23% in FY 2008-09. TOT has been revised to be \$849,000 below budget.

A majority of the decrease in building permits and inspection fees was due to the lack of major construction activities. Customer service charges also decreased by about \$517,000 compared to last year, primarily due to fewer private job development activities; consequently, engineering and planning revenues were negatively impacted. Building permits fees and private job development charges have been revised downward by \$340,000 and \$400,000 respectively. Property tax revenue, although down by \$153,000 compared to the same period last year, is actually on track with the budget. Staff anticipated that the property tax revenue would decline slightly due to property tax appeals and property foreclosures and the FY 2009-10 projected revenue has already reflected the decrease.

Departments' expenditures continued to be below budget and were at 48% of the General Fund budget. The City Manager has instructed all the departments to be judicious with their expenditures with the goal of achieving budget savings to offset some of the revenue shortfall. The FY 2009-10 budget was projected to be balanced with a \$4.9 million loan repayment from the Redevelopment Agency ("RDA"). Based on the current economic situation and continued

deterioration of the General Fund revenues, it is very probable that additional loan repayment from the RDA will be required.

At the same time, staff projected that RDA's tax increment revenue to be on target, perhaps even slightly over budget by about \$1 million. However, it should be noted that there are still many pending assessed value appeals in the Redevelopment Areas by property owners. The Agency will not know the impact to the revenue until these appeals have been resolved by the County Assessor's office.

Water service charges were revised to be below budget by about \$1.9 million despite a rate increase. The City and the Santa Clara Valley Water District were successful with water conservation campaign efforts. However, these efforts in conjunction with the poor economy also affect the water service revenue by more than 12%. Simultaneously, sewer service charges were revised to be below budget by about \$483,000 or 4% of the projected revenue. Although sewer revenue was also affected by the economy, because some of the sewer charges are fixed, the decline has not been as extensive as the water revenue.

Fiscal Impact: None.

Recommendation: Receive the financial status report from the Finance Director for the six months ended December 31, 2009.

RA6. Approve FY 2009-10 Mid-Year Budget Appropriations for Operating Budget and Capital Improvement Project Budget and Adopt a Resolution Approving the Title Change of an Employee Position (Staff Contact: Emma Karlen, 586-3145)

Background: To maintain conformity with the City's budgeting policies that any additional appropriation to a department's budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff submits the budget change form and justification memoranda from departments for review and consideration by the City Council/Redevelopment Agency. Pursuant to the budget policy, the Finance Subcommittee reviewed these budget adjustment requests on January 20 and recommended approval to the Agency/Council.

Necessary budget adjustments include the following:

- 1) Re-appropriate \$134,770 in the Equipment Replacement Fund to purchase a garbage truck. In the FY 08-09 budget, the City Council approved the purchase of a garbage truck for the Parks and Recreation Services Department. In November 2008, a garbage truck was purchased for \$137,428. It was determined that the vehicle did not meet the department's specifications. The truck was returned to the dealer this fiscal year with full refund. The money was put back into the Equipment Replacement Fund. There is no fiscal impact as the funding source for the re-appropriation is from the sales proceeds that were returned to the Equipment Replacement Fund.
- 2) Due to the high degree of technical skills and specialization required for modern broadcast operations, the title of one "Public Information Specialist" in the Information Services Department does not connote the job tasks, knowledge or abilities within the classification. The proposed title of "Video Media Specialist" will more clearly identify the responsibilities and requisite skills for this position. There is no fiscal impact as there is no change in salary for re-titling the position.
- 3) Due to the fact there is no longer a Printing Services shop within the City Clerk's office, the budget line items for Print Shop service of \$28,000 for the City Clerk will be transferred out of the City Clerk's office to three departments which historically utilized most Print Shop services. There is no fiscal impact for the budget transfer.

- 4) Increase Trees and Landscape operating budget by \$22,000 to repair a sound wall that was damaged due to a vehicle accident. \$17,000 of the budget adjustment will be funded from the property insurance reimbursement through ABAG PLAN. The City's self-retained deductible is \$5,000. Staff recommends that the RDA Project Fund provides funding for the \$5,000 deductible while ABAG PLAN continues to pursue an insurance claim against the responsible party.
- 5) Increase the Utilities Maintenance operating budget by \$20,000 to cover additional cost needed to purchase a Ford F450 utility truck. There is \$39,998 available in the operating budget, however, the most recent low bid for this truck was \$58,800 and this item will need to go out to bid again. The proposed funding sources are \$10,000 each from the Water Fund and Sewer Fund respectively.
- 6) Transfer \$836,679 from the Recycled Water Fund to Water Fund. This transfer was inadvertently omitted from FY 09-10 budget. The transfer is typically made to compensate the Water Fund for annual lost revenue due to recycled water sales replacing potable water sale. The proposed funding source is from the Recycled Water Fund.
- 7) Increase funding for Capital Improvement Project No. 8182 City Building Improvement by \$75,000. \$30,000 is needed for re-plumbing Fire Station #2 and \$45,000 is needed for equipment replacement at various City facilities. The proposed funding source is from the Redevelopment Project Fund.

Fiscal Impact: The total budget adjustment requested is \$1,116,449, but the overall fiscal impact to the City's various funds is \$936,679. There are sufficient balances in various funds to cover the additional appropriations.

Recommendations:

1. Approve Fiscal Year 2009-10 mid-year budget appropriations, as itemized on the budget change form, reflecting six specific appropriations.
2. Adopt a resolution approving the title change of one Public Information Specialist to Video Media Specialist.

***RA7. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2009 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2009 is submitted for review and acceptance.

The Portfolio Summary Report (included in the Council's agenda packet) provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of December 31, 2009.

As of December 31, 2009, the principal cost and market value of the City's investment portfolio was \$166,408,431 and \$168,831,383 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended December 31, 2009 was 2.15%. The comparative benchmarks for the same period were 0.31% for LAIF (Local Agency Investment Fund) and 0.95% for the 12-month average yield of the 2-year Treasury Note. Excluding the

long-term GNMA securities and investment of the bond proceeds, the weighted average maturity of the portfolio was 355 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

The market values of the securities were provided by Union Bank, the safekeeping bank of the City's securities. All the securities owned by the City are held by the trust department of Union Bank under the terms of a custody agreement.

Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None.

Recommendation: Receive the investment report for the quarter ended December 31, 2009.

- *RA8. Adopt a Resolution Granting Initial Acceptance of and Reducing Performance Bond for Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Agency awarded the sidewalk widening of Calaveras Blvd bridges to JJ Albanese, Inc. on August 4, 2009. The project has been successfully completed, and staff recommends that the Agency adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$12,600, which is 10% of the contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Sidewalk Widening at Calaveras Boulevard Bridges, Project No. 4202, subject to a one year warranty period and reduction of the faithful performance bond to \$12,600.

- *RA9. Adopt a Resolution Granting Final Acceptance of and Release of the Performance Bond for Storm Drain Pump Station Improvements (Wet Well Cleaning), Project No. 8188 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Agency awarded a project to Rodan Builders, Inc. on October 20, 2009, for the cleaning of storm pump station wet-wells at the Jurgens, McCarthy Ranch, Bellew, Murphy Ranch, and Oakcreek stations. The contractor removed silt and debris from the stations to allow them to operate more efficiently. The project has been successfully completed, and staff recommends the Agency adopt a resolution granting final acceptance of the project and authorize the release of the contractor's performance bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of the Storm Drain Pump Station Improvements (Wet Well Cleaning), Project No. 8188, and release of the faithful performance bond.

- *RA10. Adopt a Resolution Granting Final Acceptance of Street Crack Seal Project for FY2008-09, Project No. 8194 (Staff Contact: Steve Erickson, 586-3301)**

Background: This project was initially accepted on February 3, 2009. A final inspection of the work was made, and staff has determined the project has passed the one-year warranty period. Work included the installation of pavement crack seal on various City streets to extend the life of the pavement. Staff recommends the Redevelopment Agency grant final acceptance of the project and to release the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of the Street Crack Seal Project FY 2008-09, Project No. 8194, and release of the contractor's bond.

***RA11. Approve a New Capital Improvement Project "Street Light Pole Improvements" Project No. 8199, Approve a Budget Appropriation, and Authorize the Executive Director/City Manager to Approve Amendment No. 2 to the Contract with Cal-West Lighting & Signal Maintenance for Streetlight Improvement Services (Staff Contact: Greg Armendariz, 586-3317)**

Background: Some of the City's street lighting infrastructure has been in service for over 50 years. This new Capital Improvement Project will provide for various improvements to renovate and replace some of this aging infrastructure, including replacement of street ballasts/lamps, steel light poles, modification of foundations, and other related improvements. Work will be performed based on a prioritized database inventory.

The City currently has an "On Call Traffic Signal and Streetlight Support services" contract with Call West Lighting & Signal Maintenance. The staff recommendation also includes amending this contract in order for Cal-West to provide street lighting improvements as required for this street light program. The amount of the amendment is \$100,000 and will be based on time and materials. In addition, a budget of \$50,000 is also recommended for the City to procure lighting equipment in advance, which requires a long lead time for manufacturing and delivery. The total budget appropriation for this project is \$150,000.

Fiscal Impact: A budget appropriation of \$150,000 is requested. Funds are available from the Street Fund (\$75,000) and Redevelopment Agency – RDA Tax Increment (\$75,000).

Recommendations:

1. Approve a new Capital Improvement Project, Street Light Pole Improvements, Project No. 8199.
2. Approve a budget appropriation of \$150,000 from the Street Fund and the RDA Tax Increment.
3. Authorize the Executive Director/City Manager to approve Amendment No. 2 to the Contract with Cal-West Lighting & Signal Maintenance for Streetlight Improvement Services.

RA12. Agency Adjournment

XVI. REPORTS OF MAYOR AND VICE MAYOR

*** 1. Consider Mayor's Recommendations for Appointments to the New Milpitas Veterans Commission (Contact: Mayor Livengood, 586-3051)**

Background: Mayor Livengood recommends the following persons be appointed to the new Veterans Commission:

Appoint Dana Arbaugh to a term that expires in February 2013.

Appoint Bruce Choy to a term that expires in February 2013.

Appoint Juan Samano to a term that expires in February 2013.

Additionally, Mayor Livengood requests that the City Council waive the requirement, per City Council Handbook, that does not allow residents to serve on more than one Commission. Mr. Arbaugh is currently a member of the Sister Cities Commission.

Recommendation: Per recommendation from Mayor Livengood, move to approve his recommended appointments to the new Milpitas Veterans Commission and waive a requirement that does not allow residents to serve on more than one Commission for Mr. Arbaugh.

2. Consider Vice Mayor's Recommendation to Adopt a Resolution of Support for Milpitas Unified School District Parcel Tax Measure (Contact: Vice Mayor McHugh, 586-3023)

Background: The Milpitas Unified School District Board approved moving forward on a Parcel Tax at its meeting of January 21, 2010. The proposal is to seek a tax of \$84 per parcel for five years, with an exemption for senior citizens. Due to the dire funding situation facing the School District for FY 2010-11, this tax will provide essential services support for the public school system. The School District Board voted to have the matter submitted to the voters in June of 2010.

Fiscal Impact: There is no direct impact to City finances.

Recommendation: Consider adoption of a Resolution supporting Milpitas Unified School District parcel tax.

XVII. NEW BUSINESS

*** 3. Approve a Budget Appropriation for Community Development Block Grant-Recovery Funds (Staff Contact: Felix Reliford, 586-3071)**

Background: On June 16, 2009, the City Council approved the allocation of \$157,293 in Community Development Block Grant - Recovery (CDBG-R) funds for program activities. The CDBG-R funding was a one-time special allocation from the Department of Housing and Urban Development (HUD) as part of the American Recovery and Reinvestment Act of 2009. The appropriate documentation has been submitted to HUD for the CDBG-R program activities and the required budget appropriation is now being submitted to Council for approval.

Fiscal Impact: The \$157,293 for CDBG-R funds is available in the City's CDBG account.

Recommendation: Approve the budget appropriation for Community Development Block Grant-Recovery (CDBG-R) funds.

XVIII. ORDINANCES

4. Introduce Ordinance No. 280 to Impose Liability on Social Hosts Who Allow or Encourage Underage Abuse of Alcohol (Staff Contacts: Dennis Graham, 586-2502 and Mike Ogaz, 586-3041)

Background: On January 5, 2010, the City Council directed staff to present a "Social Host" ordinance for its consideration. Social Host ordinances prohibit persons from holding or allowing others to hold underage alcohol drinking events on property that they own, lease or otherwise control. At least 29 cities and counties in California have such ordinances. Within Santa Clara County, the cities of Gilroy, Los Gatos, Palo Alto, and Morgan Hill have Social Host ordinances.

For introduction and the Council's consideration, the proposed Social Host Ordinance (included in the Council packet) imposes two types of liability on social hosts of underage drinking events: criminal liability and recovery of City response costs. Each type of liability is a separate legal tool to deter underage alcohol abuse and underage drinking parties. It is up to the Council to decide whether it desires an ordinance with one or both of these legal tools.

The Social Host Ordinance provisions that express these different approaches are summarized as follows:

Criminal Liability of Social Hosts. Under Section 7.05.A. of the Social Host Ordinance, adults who knowingly host an underage drinking party or who reasonably should have known that such an event would occur can be prosecuted criminally. At the discretion of the charging police officer or the City Attorney, a violation could be prosecuted as either a misdemeanor or an infraction. A misdemeanor conviction would subject defendants to fines up to \$1000 and up to six months in prison. An infraction is punishable only by a fine up to \$500 (i.e., no imprisonment).

Cost Recovery of City Costs: Under Section 7.05 B. of the Social Host Ordinance, City staff would have the power to recover the direct costs of police, firefighters, and other public services that respond to complaints and/or injuries and damage to public property that occur at an underage drinking party.

Section 7.06 of the Social Host Ordinance allows the City to place liens on real property where a property owner fails to pay fines or city costs.

The Social Host Ordinance, with all these different optional provisions, is now ready for the Council's consideration and introduction.

Fiscal Impact: None.

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 280.
 2. Introduce Ordinance No. 280 imposing liability on social hosts who allow or encourage underage abuse of alcohol.
- * 5. **Waive the Second Reading and Adopt Uncodified Ordinance No. 279 Repealing Outdated and Unused Sections of Milpitas Municipal Code (Staff Contact: Michael Ogaz, 586-3041)**

Background: On January 19, 2010, the City Council introduced Ordinance No. 279, which repealed certain provisions of the Milpitas Municipal Code that are obsolete, unused or superseded by state law. No changes have been made to the Ordinance since its first reading.

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

Recommendations:

1. Waive the second reading of uncodified Ordinance No. 279 repealing outdated and unused sections of the Milpitas Municipal Code.
2. Adopt uncodified Ordinance No. 279.

XIX. RESOLUTION

- * 6. **Adopt a Resolution Granting Initial Acceptance and Reducing Performance Bond for Sewer Replacement Program and Authorize Reduction of Performance Bond, Project No. 6111 (Staff Contact: Steve Erickson, 586-3301)**

Background: The City Council awarded Project No. 6111 to California Trenchless, Inc. on June 16, 2009, to remove and replace sections of sanitary sewer pipeline that have reached the end of their service life. These pipe segments had failures and sags that required a significant amount of maintenance to remove plugs and back-ups. Sewer segments were replaced on Larch Street, Chestnut Avenue, Poppy Lane, North Hillview Drive, and Coelho Street. The project was successfully completed, and staff recommends that the City Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$33,300, which is 10% of the contract amount.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Sewer Replacement Program, and authorize reduction of the performance bond to \$33,300 for Project No. 6111.

XX. ADJOURNMENT

NEXT REGULAR MEETING: FEBRUARY 16, 2010