



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

TUESDAY, FEBRUARY 16, 2010

**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 SESSIONS OF CITY COUNCIL**
 - (1) 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
 - (2) LITIGATION** Pursuant to CA Government Code § 54956.9
EXISTING LITIGATION: Mills v. City, Santa Clara Co. Sp Ct. Case No. 1-08-CV-119458; Andrade v. City, Santa Clara Co. Sp. Ct. Case No. 1-09-CV-157608.
ANTICIPATED LITIGATION: Multiple Cases, City as Plaintiff and Defendant
- 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 – February 2, 2010**
- VIII. SCHEDULE OF MEETINGS – Council Calendars for February 2010 and March 2010**
- IX. 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.

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

XIII. 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.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Meeting Minutes – February 2, 2010

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

RA4. Adopt Resolutions Regarding the Proposed Thirteenth Amendment for Project Area No. 1 Redevelopment Plan, and the Sixth Amendment for the Great Mall Redevelopment Plan, and Call for a Joint Hearing (Staff Contact: Diana Barnhart, 586-3059)

***RA5. Authorize the City to Demand a Maximum Loan Payment of \$6.2 Million from the Redevelopment Agency in Fiscal Year 2009-10 (Staff Contact: Emma Karlen, 586-3145)**

***RA6. Adopt a Resolution Granting Final Acceptance of Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Steve Erickson, 586-3301)**

***RA7. Adopt a Resolution Approving Several Actions for Contracting of the Department of Energy (DOE) Federal Grant, Project No. 8198 (Staff Contact: Greg Armendariz, 586-3317)**

***RA8. Award a Construction Contract to VKK Signmakers Inc. for the Installation of the Library Donor Board, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**

***RA9. Authorize the Executive Director/City Manager to Execute the Regional Renewable Power Purchase Program Agreement for Cooperative Purchasing of Utility Power (Staff Contact: Greg Armendariz, 586-3317)**

***RA10. Adopt a Resolution Approving Submittal of an Application for Federal Economic Efficiency Earmark Funds (Staff Contact: Greg Armendariz, 586-3317)**

RA11. Agency Adjournment

XV. REPORTS OF MAYOR, COUNCIL AND COMMISSIONS

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

2. Request to Adopt a Resolution of Support for the "Local Taxpayer, Public Safety and Transportation Protection Act" as Proposed by the League of California Cities (Contact: Councilmember Giordano, 586-3032)

*** 3. Approve the Arts Commission 2010 Work Plan (Staff Contact: Renee Lorentzen, 586-2786)**

*** 4. Approve the Public Art Committee 2010 Master Plan (Staff Contact: Renee Lorentzen, 586-2786)**

- * 5. **Approve the Senior Advisory Commission 2010 Work Plan (Staff Contact: Renee Lorentzen, 586-2786)**

XVI. NEW BUSINESS

- 6. **Receive a Progress Report and Approve the Conceptual Design for the Alviso Adobe Site Improvements Phase IV, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**
- 7. **Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)**
- * 8. **Approve a Fee Waiver and In-Kind Donation of Equipment, Supplies, Facility Space and Staffing from Various City Departments for the 2010 American Cancer Society's Relay For Life Event at the Milpitas Sports Center, June 19-20, 2010 (Staff Contact: Bonnie Greiner, 586-3227)**

XVII. ORDINANCE

- * 9. **Waive the Second Reading and Adopt Ordinance No. 280 Imposing Liability on Social Hosts Who Allow or Encourage Underage Abuse of Alcohol (Staff Contacts: Dennis Graham, 586-2502, and Michael Ogaz, 586-3040)**

XVIII. BIDS AND CONTRACTS

- * 10. **Approve a New Capital Improvement Program (CIP) Project No. 4252, Street Pavement Resurfacing Jobs for Main Street Act 2010, Approve a Budget Appropriation, Approve Plans and Specifications, and Authorize Advertisement for Bid Proposals, Pending California Department of Transportation Approval (Staff Contact: Greg Armendariz, 586-3317)**
- * 11. **Authorize the City Manager to Assign the CH2M Hill Contract for Solar Site Surveys to Critigen (Staff Contact: Greg Armendariz, 586-3317)**
- * 12. **Approve an Amendment to the Contract for Fire Department Consulting Services in an Amount Not-to-Exceed \$125,500 (Staff Contact: Thomas Williams, 586-3051)**
- * 13. **Approve the New Veterans Bench Project, Authorize the City Manager to Execute a Contract with Artist Mary Ann Baker, and Approve a Budget Appropriation of \$5,995 (Staff Contact: Renee Lorentzen, 586-2786)**

XIX. ADJOURNMENT

NEXT REGULAR MEETING: MARCH 2, 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)

Economic Development Commission (alternate)

Mobile Home Park Rental Review Board

Parks, Recreation and Cultural Resources Commission

Recycling and Source Reduction Advisory Commission (alternate)

Senior Advisory Commission

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

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA4. Adopt Resolutions Regarding the Proposed Thirteenth Amendment for Project Area No. 1 Redevelopment Plan, and the Sixth Amendment for the Great Mall Redevelopment Plan, and Call for a Joint Hearing (Staff Contact: Diana Barnhart, 586-3059)

Background: The Milpitas Redevelopment Agency is proposing to add area to Project Area No. 1, delete a site from the Great Mall Project Area, extend the life and indebtedness amount of the redevelopment program and make other changes in accordance with California Redevelopment Law. This staff report provides an Executive Summary of the proposed amendments and adoption process. A complete analysis and history of the current redevelopment amendment process is included in the agenda packet (Exhibit A).

Proposed Actions: The actions before the Redevelopment Agency are to approve the Report to the City Council (Exhibit B) and transmit the Report to the City Council together with the proposed Amendments (Exhibit C) and consent to the public hearing. The City Council is requested to receive the proposed Thirteenth Amendment as incorporated in the Amended and Restated Redevelopment Plan for Milpitas Redevelopment Project No. 1 and the proposed Sixth Amendment to the Redevelopment Plan for the Great Mall Project; to receive the Report to Council prepared for the Amendments; and consent to and call for a joint public hearing with the Agency on the Amendments.

Proposed Amendments

The City of Milpitas is considering amending 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 for the Amendment Areas; 2) Repeal the debt establishment 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."

Purpose of the Report to the City Council: The purpose of the Report to the City Council is to provide the facts and evidence required for the Agency and City Council to make necessary findings in connection with the adoption of the proposed Amendments.

Contents of Report: The Report to the City Council includes the blight and financial feasibility analyses contained in the Preliminary Report and is revised and supplemented as necessary in response to taxing agency consultations and to include additional information or clarification on the information contained in the Preliminary Report between transmittal and incorporation in the Agency's Report to the City Council. A notable change in the information presented in the Preliminary Report is an increase in the amount of revenues that are anticipated to be received by the Agency. Subsequent to the completion of the Preliminary Report, the County provided the Agency with a required report which indicates the base year assessed value for the proposed Added Area. The base year value was higher than what was estimated in the Preliminary Report

and as a result, the anticipated projected revenues available for projects and programs have increased by approximately 1% over the estimates included in the Preliminary Report.

The Report to the City Council has 13 sections. The first seven sections are substantially the same as presented in the Preliminary Report approved by the Agency on December 1, 2009. The following is a brief summary of the new sections provided in the Report to the City Council.

New Sections/Information

- I. **Method or Plan for Relocation.** This section states the requirements of the law that the Agency must provide relocation benefits to any persons or families proposed to be relocated from the Project Area (Existing Project Area and proposed Added Area) as a result of any Agency action.
- II. **Analysis of the Preliminary Plan.** The Preliminary Plan describes the Added Area boundaries and contains general statements of the land uses, layout of principal streets, population densities, building intensities and building standards. The Preliminary Plan states that the land uses and development standards will be those defined in the General Plan as it currently exists or may be amended from time to time. The Preliminary Plan is the basis from which the Amended and Restated Redevelopment Plan was prepared.
- III. **Report and Recommendation of the Planning Commission.** On December 9, 2009, the Planning Commission adopted its report finding that the proposed Amendments are consistent with the City's General Plan and recommended that the Agency and City Council adopt the proposed Amendments.
- IV. **Summary of Community Consultations.** The Agency has made available the Amendments to and offered to consult with persons and organizations concerning policy matters affecting the residents of the Project Area. In anticipation of tonight's action, the Agency will be sending notices to all owners and occupants within the Project Areas and Added Area of the joint public hearing on the proposed adoption of the Amendments. The notice will also include an invitation to attend a community information meeting prior to the hearing to provide an informal forum for community input and to answer questions regarding the Amendments. Copies of the Amendments will be made available at the meeting.

- XII. **Environmental Compliance (Environmental Impact Report).** The Draft EIR is incorporated within the Report to the City Council by reference. It was the conclusion of the EIR that the Amendments would encourage development that could result in potential environmental impacts that may be significant and unavoidable even with mitigation measures. These impacts may include greenhouse gas emissions and traffic service levels.

- XIII. **The Report of the County Fiscal Officer and the Agency's Analysis Thereof, Including a Summary of Consultations with Affected Taxing Entities.** The base year report is a document that identifies the property value in the Added Area and the taxing agencies share of the property tax revenue. Based on the information provided in the base year report, the City of Milpitas derives the largest portion of its taxes from the Added Area at 14%. Milpitas Unified School District receives 10.4%. All other entities receive less than 2% of their property tax revenues from the Added Area.

In response to the Agency's distribution of the Preliminary Plan in September, the Milpitas Unified School District requested clarification on the Agency's build-out assumptions. As a result, the Agency modified the build-out assumptions using the District's latest student multiplier. The Agency received acknowledgements of the mailings from the Santa Clara Valley Water District and the County Department of Planning and Development. No agency responded to the request to meet with Agency officials.

Next Steps

If the Redevelopment Agency and the City Council take the actions recommended by staff, then the Agency and the City Council will consent to holding the joint public hearing, and the City Council will set the hearing date for April 6, 2010. Public notice for the joint public hearing is done in accordance with California Redevelopment Law (CRL) and consists of the following:

1. A first class letter will be mailed to every property owner, business and resident within the Milpitas Redevelopment Project Area No. 1, the Great Mall Project Area and proposed Added Area. based on the information from the latest assessed valuation property tax roll from Santa Clara County. Agency staff will use its best efforts to notify all property owners, residences, and businesses within the Project Areas and Added Area including utilizing a mailing house service to handle the mail. The letter is mailed out thirty days prior to the joint public hearing.
2. A letter will also be mailed by certified mail, return receipt requested, to every affected taxing entity that receives property taxes from the Project Areas and Added Area, the Department of Housing and Community Development and the Department of Finance. This letter will be sent out 45 days prior to the joint public hearing and will be accompanied by the Report to the City Council on the Amendments.
3. Notice of the joint public hearing will also be published in a local newspaper of general circulation once a week for five consecutive weeks prior to the joint public hearing and posted throughout the redevelopment project areas and proposed added areas.
4. A community information meeting will also be held in March. Notice of the community meeting will be included with the notice of the joint public hearing mailing to all property owners, residents and businesses in the Project Area and will be published twice in advance of the meeting.

Costs for the extensive mailings exceed the current Economic Development Operating budget. It is estimated that the cost of mailings (over 10,000 pieces) and the extensive public noticing will cost approximately \$25,000.

Fiscal Impact: Funds of \$25,000 are available in the Redevelopment Fund balance.

Attachments:

- Exhibit A: Detailed Background and analysis of the proposed report to the City Council.
- Exhibit B: The Report to the City Council
- Exhibit C: The proposed Thirteenth Amendment to Project Area No. 1 and the proposed Sixth Amendment to the Great Mall
- Exhibit D: Agency Resolution approving the report to the City Council, transmitting the report to and the proposed amendments the City Council and consenting to a public hearing.
- Exhibit E: City Council Resolution accepting the Report and the amendments and calling for a Joint Public Hearing.
- Exhibit F: Budget Appropriation Form

Recommendations:

1. Adopt a Redevelopment Agency Resolution approving the proposed Thirteenth Amendment for Project Area No. 1 Redevelopment Plan, and the Sixth Amendment for the Great Mall Redevelopment Plan from the Redevelopment Agency, and consenting to a Joint Public Hearing.
2. Adopt a City Council Resolution receiving the Redevelopment Agency's Report and calling for a Joint Hearing with the Redevelopment Agency on April 6, 2010.
3. Approve a budget appropriation for \$25,000 from the Redevelopment Agency Fund to cover the costs of mailing and publishing notices for the proposed Amendment.

***RA5. Authorize the City to Demand a Maximum Loan Payment of \$6.2 Million from the Redevelopment Agency in Fiscal Year 2009-10 (Staff Contact: Emma Karlen, 586-3145)**

Background: In September 2004, the Redevelopment Agency entered into an Agreement of Purchase and Sale with the City of Milpitas for the purchase of eight parcels of land which are located in the Redevelopment Project Area. Under the terms of the Agreement, the purchase price of the parcels was \$20,455,191. The final payment is due on September 7, 2044 and bears simple interest of 10% annually. The City has the right to demand payment when needed. In the past few years, the City utilized the loan payment from the Agency as a mechanism to balance the General Fund budget shortfall. In FY 2007-08, the City demanded \$2.1 million and in FY 2008-09, the demand was \$2.7 million.

For the FY 2009-10 budget, the City Council approved a \$4.9 million loan payment from the Agency to balance the General Fund budget shortfall. Due to the deteriorating economy, staff revised the General Fund revenue to be below budget by \$3.8 million and did not anticipate sufficient expenditure savings to offset the revenue shortfall. Staff therefore recommends a higher loan payment not to exceed \$6.2 million from the Agency this year.

The amortization schedule (in the agenda packet) shows that the payment of \$6.2 million in FY 2009-10 will reduce the total outstanding balance on the loan to \$21,379,718, consisting of \$20,455,191 principal and \$924,527 outstanding interest.

Fiscal Impact: There is sufficient balance in the Redevelopment Project Fund to pay the \$6.2 million in FY 2009-10. Staff estimated that the RDA Project Fund will have about \$25.1 million remained as undesignated reserve at the end of Fiscal Year 2009-10.

Recommendation: Authorize the City to demand a maximum loan payment of \$6.2 million from the Redevelopment Agency in FY 2009-10.

***RA6. Adopt a Resolution Granting Final Acceptance of Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Steve Erickson, 586-3301)**

Background: Project No. 8160 was initially accepted on January 20, 2009. A final inspection of the work was made, and staff determined the project has passed the one-year warranty period. This project includes replacing the gymnasium floor and support structure, installation of new bleachers, replacement of basketball backboards, painting, installation of air-conditioning and related insulation, and safety padding of gymnasium walls.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of the Sports Center Large Gymnasium Improvements, Project No. 8160, and release of the contractor's bond.

***RA7. Adopt a Resolution Approving Several Actions for Contracting of the Department of Energy (DOE) Federal Grant, Project No. 8198 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On January 5, 2010, the Agency/City Council approved a new Capital Improvement Project titled "Department of Energy (DOE) Federal Grant, Project No. 8198" for the replacement of the existing air conditioning chiller and compressor units and controls at the Public Works/Police Department building. The replacement of these units is necessary, as they have reached the end of their service life, and in fact, one of the units failed last September. It is imperative to replace all the units before temperatures rise this summer, to ensure a safe and healthy work environment within the Police and Public Works building, which also houses the City Emergency Operations Center (EOC) and is thereby designated as an "Essential Facility."

An evaluation of the available cooling system options for the Public Works/Police Department building has been completed. Design work is currently underway for the required building improvements and equipment replacement. The Public Contract Code allows the specification of a particular brand of equipment for use in a municipal project if the Agency/City Council finds

that such a designation is needed to match existing equipment already in use in the public improvement and/or to obtain a necessary item that is only available from one source.

It is recommended that the Agency /City Council make a finding that the McQuay Turbocor chiller/compressor units (120 ton capacity) be specifically designated as the cooling equipment for this project. Based upon the technical data available, staff believes that only this particular brand of equipment will be able to provide the needed reliability, performance, vibration minimization and noise mitigation levels needed to meet the needs of the sensitive communications and emergency response networks housed within the Public Works/Police Department building. Furthermore, the unique interior and structural constraints of the HVAC housing area preclude the use of other chiller brands, due to their technical designs and configurations.

In addition, it is recommended that the Agency/City Council approve the plans and specifications and authorize the advertisement for bid proposals, immediately upon building permit issuance, for Project No. 8198. Staff has learned that the lead-time for the manufacturing and delivery of the compressor and chiller equipment is approximately 11 weeks. To mitigate this long lead-time, authorization to negotiate a fixed-price option to purchase the McQuay equipment from the supplier/manufacturer, is also recommended, while the plans are completed, permitted and bid. This option would then be contractually delegated to the successful lowest bidder for the installation work for the Public Works/Police Department Building chiller compressor replacement project. A “sole source” designation for the chiller/compressor equipment would be listed in the plans and specifications.

Fiscal Impact: None at this time. The equipment costs will be included in the total construction contract bids. The Engineer’s Estimate is \$800,000 and the grant will cover \$660,000 of this. A budget appropriation from Redevelopment Agency Tax Increment will be requested, if required, after bids are received.

Recommendation:

Adopt a Resolution approving the following actions:

- Find that the listing of certain specific equipment brands (sole source) for contract documents on the Department of Energy (DOE) Federal Grant, Project No. 8198, is appropriate to match existing system components;
- Authorize the Executive Director/City Manager to pre-order McQuay Turbocor Chiller/compressors from Norman Wright, Mechanical Equipment Corporation through a fixed-price purchase option; and
- Approve plans and specifications for the Department of Energy (DOE) Federal Grant, Project No. 8198, and authorize the advertisement for bid proposals, subject to building permit issuance.

***RA8. Award a Construction Contract to VKK Signmakers Inc. for the Installation of the Library Donor Board, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**

Background: Project No. 8162 provides for the installation of a donor board inside the new Milpitas Public Library. The Engineer’s Estimate for work is \$10,000. The project was advertised and one sealed bid was received and opened on January 29, 2010. VKK Signmakers Inc. submitted the sole bid proposal in the amount of \$9,651.00.

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

Recommendation: Award a construction contract to VKK Signmakers Inc. in the amount of \$9,651.00 for the Milpitas Library Donor Board, Project No. 8162.

***RA9. Authorize the Executive Director/City Manager to Execute the Regional Renewable Power Purchase Program Agreement for Cooperative Purchasing of Utility Power (Staff Contact: Greg Armendariz, 586-3317)**

Background: Over the last several Agency/Council meetings, City staff made various presentations connected with energy efficiency, home retrofits and solar power. Most recently, on January 5, 2010, the City Council authorized a contract with CH2M Hill to perform solar site analysis on 16 City sites. With the site analysis information, the City is prepared to participate in the “Regional Renewable Power Purchase Program,” which is a multi-agency cooperative renewable energy purchase effort, lead by Santa Clara County. The program under this agreement, authorizes the County to solicit proposals from qualified solar contractors to finance, design, install and maintain solar power panels on various City facilities. By participating in this large cooperative effort, the City will enjoy significant cost saving benefits through “economy of scale” capital cost discounts and lower energy rate setting.

In order to participate in the County’s cooperative purchase, the City must enter into the “Agreement for Cooperative Purchasing of Power” which authorizes the County to be the lead agency, in soliciting a request for proposals for the purchase of renewable power. At the completion of the solicitation and selection process, the City will participate in the subsequent power purchase, financing, real estate and/or other required agreements with the selected vendors/contractors. A copy of the agreement is included in the Council’s packet.

Fiscal Impact: None.

Recommendation: Authorize the Executive Director/City Manager to execute the Regional Renewable Power Purchase Agreement for Cooperative Purchasing of Power, subject to the approval of the Agency Counsel/City Attorney.

***RA10. Adopt a Resolution Approving Submittal of an Application for Federal Economic Efficiency Earmark Funds (Staff Contact: Greg Armendariz, 586-3317)**

Background: In early February, staff became aware of a federal earmark funding opportunity that will allow city facilities to be used as a demonstration site for a state of the art electrochromic dynamic windows demonstration. This technology allows windows to switch from clear to “tint” on demand by electronic controls (either computer or manual.) This allows for higher energy efficiencies, with user control of the natural lighting and heat gain. This project will involve replacement of existing windows with the installation of electrochromic windows on one or more city facilities.

In addition to the great energy savings for the City, the new windows would be developed and manufactured locally, employing cutting edge technology that uses an all-PVD manufacturing process to form the electrochromic stack. The project will help a local technology company by supporting early technology adoption of its energy saving windows, stimulating the scale-up a local manufacturing facility, and creating local jobs. Using municipal buildings will showcase the product and convey the City’s interest in reducing its carbon footprint.

A total of three applications for the funding will be submitted. The first application will be for FY 2010-11 and funds requested would be for the replacement of windows at the Police/Public Works building. As many of the windows as possible on the east facing wall would be replaced with the electrochromic windows.

The first application was due to Senator Feinstein’s office on Friday, February 5, 2010. Similar applications are due to Senator Boxer’s and Congressman Honda’s offices on Friday February 12, 2010. In order to complete the application and make the deadlines, Mayor Livengood signed the letter (in the agenda packet). The resolution before the Agency/City Council is a request to support the application.

The Public Works/Police Department building has been designated as the first dynamic window pilot project site, due to the fact that HVAC upgrades are also underway, potentially making this a highly energy efficient building, after all these improvements are completed. In addition, the

local funding match for the HVAC project is also being considered and will provide added weight to the earmark application. The total request of the earmark funding is \$1.5 million.

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

Recommendation: Adopt a joint Resolution approving submittal of an application for Federal Earmark Funds for the City of Milpitas Dynamic Windows Demonstration.

RA11. Agency Adjournment

XV. REPORTS OF MAYOR, COUNCIL AND COMMISSIONS

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

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

Appoint Arthur Ebright to a term that expires in February 2013.

Appoint Mel Hinshaw to a term that expires in February 2013.

Appoint David Gundstrom to a term that expires in February 2013.

Recommendation: Consider recommendations from Mayor Livengood, and move to appoint three members to new Milpitas Veterans Commission.

2. Request to Adopt a Resolution of Support for the "Local Taxpayer, Public Safety and Transportation Protection Act" as Proposed by the League of California Cities (Contact: Councilmember Giordano, 586-3032)

Background: On October 20, 2009, a coalition led by League of California Cities, local government, transportation and public transit leaders, filed a ballot measure called the Local Taxpayer, Public Safety and Transportation Protection Act with the California Attorney General's office. The coalition is working to have the measure placed on the statewide ballot for November 2010. If passed by voters, the measure would close loopholes and prevent the State from borrowing, raiding or otherwise redirecting local government, transportation and public transit funds.

The ballot language is intended to protect local revenues by doing the following:

- Prohibit the State from taking, borrowing or redirecting local taxpayer funds dedicated to public safety, emergency response and other vital local government services, including redevelopment.
- Close loopholes to prevent the taking of local taxpayer funds currently dedicated to cities, counties and special districts.
- Revoke the State's authority to borrow local government property tax funds or divert local redevelopment funds.
- Protect vital, dedicated transportation and public transit funds from State raids.
- Prevent State borrowing, taking or redirecting of the State sales tax on gasoline (Proposition 42 funds) and Highway User Tax on gasoline (HUTA) funds that are dedicated to transportation maintenance and improvements.
- Prevent the State from redirecting or taking public transit funds.

Fiscal Impact: None. There is no direct fiscal impact from passage of this resolution. The Act would protect City revenues.

Recommendation: Consider adoption of a resolution supporting the Local Taxpayer, Public Safety and Transportation Protection Act.

* 3. **Approve the Arts Commission 2010 Work Plan (Staff Contact: Renee Lorentzen, 586-2786)**

Background: Pursuant to the Arts Commission (AC) Bylaws, the Commission serves as an advisory body to the City Council on matters pertaining to the arts. Its Mission Statement is: the Milpitas Arts Commission, in order to enhance the quality of life in its community, shall promote, provide and encourage the arts in the City of Milpitas, encompasses the Commission's vision, values, mission statement and goals in their proposed work plan for 2010.

At the January 25, 2010 Commission meeting, Commissioners reviewed a draft 2010 Work Plan which included goals for ongoing programs, events and long term goals they would like to accomplish. Included in the Council's packet is the Arts Commission's proposed 2010 Work Plan for the Council's review and consideration.

Fiscal Impact: None.

Recommendation: Approve the 2010 Arts Commission Work Plan.

* 4. **Approve the Public Art Committee 2010 Master Plan (Staff Contact: Renee Lorentzen, 586-2786)**

Background: At the January 25, 2010 Public Art Committee meeting, the Committee approved its 2010 Master Plan which outlines the Public Art Installation projects the members would like to facilitate in 2010. Projects listed are based on City projects and those the Committee has an interest in pursuing for benefit of the community. All projects will return individually to City Council for budget and location approval.

Fiscal Impact: None.

Recommendation: Approve the Public Art Committee 2010 Master Plan.

* 5. **Approve the Senior Advisory Commission 2010 Work Plan (Staff Contact: Renee Lorentzen, 586-2786)**

Background: Pursuant to the Senior Advisory Commission (SAC) Bylaws, the Commission serves as an advisory body to the City Council on matters pertaining to recreation, leisure, and nutrition services for the Senior Citizens of Milpitas.

At the January 26, 2010 Senior Advisory Commission meeting, Commissioners reviewed a draft 2010 Work Plan, which included goals for ongoing programs, events and long term goals they would like to accomplish. Included in the Council's packet is the Senior Advisory Commission's proposed 2010 Work Plan for the Council's review and consideration.

Fiscal Impact: None.

Recommendation: Approve the 2010 Senior Advisory Commission Work Plan.

XVI. NEW BUSINESS

6. **Receive a Progress Report and Approve the Conceptual Design for the Alviso Adobe Site Improvements Phase IV, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On June 2, 2009, the Council adopted the mitigated negative declaration for the Alviso Adobe building and related site improvements. This project is included in the approved 5-year Capital Improvement Program and provides for the design and construction of a new park and restoration of the existing outbuilding at the Alviso Adobe, as outlined in the January 2000 Alviso Adobe Historic Park Master Plan. The new park features will include the addition of a

public restroom, pathways, lighting, picnic areas, apricot orchard, group seating area, herb garden, and other landscaping elements to replicate a historic 1920s rancho. Staff will provide a brief presentation describing the recommended concept plan in more detail for the Council's consideration.

Fiscal Impact: None.

Recommendations: Receive staff progress report and approve the Conceptual Design for the Alviso Adobe Site Improvements Phase IV, Project No. 5055.

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

Background: The last month has been busy with a few new potential business opportunities coming forward. One longtime business has discussed a potential expansion project with the City that could result in additional jobs and potential revenue. This activity is in a very preliminary stage and staff will keep the Council updated on progress made.

Federal Earmark Funding: The City was approached by another Milpitas company to submit a request for federal earmark funding for the installation of "smart" windows in civic buildings. This item is the subject of another Council agenda item.

Housing Developments: Shapell Industries continues to build out the Town Center single family homes behind the Town Center Shopping Center. The Building Department reports that 41 of 65 total units received final inspections and are selling well. D.R. Horton's Paragon condominium development on South Main Street resumed construction in mid-2009 and has completed construction of 42 of 147 total approved units.

Business Outreach: Recently outreach meetings have been held with KLA-Tencor and Linear Technology. Additional meetings are scheduled with LifeScan, SanDisk, Headway Technologies and Solyndra and requests have been made to JDSUniphase, LSI Logic, and Flextronics.

Business Development Classes: Local business development classes began on February 9 at City Hall. These classes are co-sponsored by the Silicon Valley Small Business Development Center and are taught by their instructors. Reservations for the first class were "sold out" immediately and a waiting list of 40 was also developed. The classes are a result of the Economic Development Commission Employability Subcommittee efforts to have more local offerings for individual entrepreneurs. Classes will continue through February and March, with the last class in early April and are held in the Committee Room at City Hall. They are advertised by the SVSBDC, the Milpitas Chamber of Commerce weekly email blasts and on the City's webpage.

*** 8. Approve a Fee Waiver and In-Kind Donation of Equipment, Supplies, Facility Space and Staffing from Various City Departments for the 2010 American Cancer Society's Relay For Life Event at the Milpitas Sports Center, June 19-20, 2010 (Staff Contact: Bonnie Greiner, 586-3227)**

Background: For the past ten years, the American Cancer Society, with the volunteer support of numerous Milpitas community members and businesses, has hosted the annual Relay for Life fundraising event at the Milpitas Sports Center. The group requested use of the Sports Center field from June 18 to 21, for the event set-up (6/18), event (6/19-6/20), and take down (6/21).

The City of Milpitas has a long history of supporting this annual event with services, staff support, facility space and equipment on varying levels. A complete list of requested items for fee waiver or donation is included for consideration of Council approval.

Fiscal Impact:

Relay for Life requests that City Council approve the waiver or donation of the following, for a total of \$7,242.55.

Staff provided estimated departmental costs associated with each requested item:

Recreation Services:

• Use of Football Field- June 18 to June 21 \$500.00 deposit (refundable) \$60.00 application fee (3 @ \$20) \$2,880.00 (72 hours @ \$40.00 per hour)	\$3,440.00
• Use of Community Center and Adobe 2/18 (MCC Auditorium) \$287.50 (2.5 hours @ \$115 per hour)	\$287.50
2/27 (Adobe) \$125.00 (2.5 hours @ \$50.00 per hour)	\$125.00
3/18, 4/15, 5/20 (Room 7/8) \$375.00 (7.5 hours @ \$50.00 per hour)	\$375.00
• Use of white event fencing for Kids Camp area Volunteer's pickup, set-up and return	\$ no cost
• Use of City Marquee for event announcement 6 week announcement	\$ no cost
• Use of Mobile Stage* \$700.00 (2 days @ 350.00 per day) \$150.00 in part-time staff time (5 hrs @ \$30.00) *Towing to be paid by Relay for Life/ACS	\$850.00
• Use of two EZ-Up shade structures Volunteer's pickup, set-up, and return	\$ no cost
Total from Parks and Recreation Services	<u>\$5,077.50</u>

Park Services

• Trash cans/ Garbage cans	
• Field Prep and track dragging for event	
• Water/ irrigation turned off during event	
• Restrooms opened and secured as needed	
• Weekend Crew point of contact during the event Staffing (12 hours @ 60.00 per hr)	\$720.00
• Use of sand for luminaries	
• Use of two John Deere tractors	<u>\$200.00</u>
Total from Park Services	<u>\$920.00</u>

Fire Department

• Fire site/event inspection & permits for tents/canopies Site Plan and Review	\$429.00
• Provision of First Aid by Fire Aids during event	\$ no cost
• Provide Safe House \$50.00 Towing and fuel \$ 0 Volunteer Fire Aides	\$50.00
• Use of four MFD generators Picked up and delivered by volunteers	\$ no cost
• Community Fire Aides supplies, food	\$250.00
• Two (2) Emergency Medical Technicians	<u>\$ no cost</u>
Total from Fire Department	\$729.00

Police Department

• Officers to escort funds during the evening	\$350.00
• Police Command RV for on-site banking (1 escort)	\$ no cost
• Use of two 10 x 20 canopies	<u>\$ no cost</u>
Total from Police Department	\$350.00

Building Department:

• Temporary Electrical Permit	<u>\$166.05</u>
Total from Building Department	\$166.05

Total **\$7,242.55**

Recommendation: Approve the Milpitas Relay for Life request for fee waiver and in-kind donations of equipment, supplies, facility use and staffing totaling \$7,242.55 for the June 19-20, 2010 American Cancer Society's Relay for Life event at the Milpitas Sports Center.

XVII. ORDINANCE

- * **9. Waive the Second Reading and Adopt Ordinance No. 280 Imposing Liability on Social Hosts Who Allow or Encourage Underage Abuse of Alcohol (Staff Contacts: Dennis Graham, 586-2502, and Michael Ogaz, 586-3040)**

Background: On February 2, 2010, the City Council introduced Ordinance No. 280, which prohibits persons from holding or allowing others to hold underage alcohol drinking events on property that they own, lease or otherwise control. No changes have been made to the ordinance since its first reading.

Fiscal Impact: None. There is no fiscal impact from the recommended action.

Recommendations:

1. Waive the second reading of Ordinance No. 280 imposing liability on social hosts who allow or encourage underage abuse of alcohol.
2. Adopt Ordinance No. 280.

XVIII. BIDS AND CONTRACTS

- * **10. Approve a New Capital Improvement Program (CIP) Project No. 4252, Street Pavement Resurfacing Jobs for Main Street Act 2010, Approve a Budget Appropriation, Approve Plans and Specifications, and Authorize Advertisement for Bid Proposals, Pending California Department of Transportation Approval (Staff Contact: Greg Armendariz, 586-3317)**

Background: Staff completed plans and specifications for a street resurfacing project in preparation for "Jobs for Main Street Act 2010." A condition of the stimulus funding is that projects be "shovel ready." The House of Representatives approved this stimulus program on December 16, 2009, titled "Jobs for Main Street" and it has yet to be approved by the Senate.

In order to comply with the grant requirements and schedule, staff is seeking approval of a new Capital Improvement Program (CIP) project with the necessary budget appropriation. Staff also seeks approval of the plans and specifications and authorization to bid the project upon obtaining Caltrans approval, referred to as an E-76 clearance, for federally funded projects.

The street segments included in this new resurfacing project are:

- 1) Milpitas Boulevard between Hanson Court and northerly City Limit;
- 2) Dixon Road between Milpitas Boulevard and Conway Street;

- 3) Arizona Avenue between Washington Drive and Tiny Street;
- 4) Washington Drive between Milpitas Boulevard and Arizona Avenue;
- 5) Abel Street between Milpitas Boulevard and Marylinn Drive.

A copy of the title sheet of the project plans is included in the Council's agenda packet, and the complete set of plans and specifications are available for review in the office of the City Engineer. The Engineer's Estimate for the project is \$3,200,000. The grant will provide \$3,000,000 in reimbursement funds after completion of the project.

Fiscal Impact: The estimated construction cost of \$3,000,000 is reimbursable by the grant. If the "Jobs for Main Street" bill is not enacted by Congress, this project will not be constructed, due to lack of local funds.

Recommendations:

1. Approve a new CIP Project –Street Pavement Resurfacing Jobs for Main Street Act 2010, Project No. 4252.
2. Approve a budget appropriation of \$3,200,000 from the Street Fund to the Street Pavement Resurfacing Jobs for Main Street Act 2010, Project No. 4252.
3. Approve the Plans and Specifications for Project No. 4252.
4. Authorize advertisement for bid proposals, pending Caltrans approval and issuance of an E-76 clearance.

*** 11. Authorize the City Manager to Assign the CH2M Hill Contract for Solar Site Surveys to Critigen (Staff Contact: Greg Armendariz, 586-3317)**

Background: On January 5, 2010, the City Council awarded a contract to CH2M Hill to perform solar site analysis in preparation for submission as part of the "Regional Renewable Power Purchase Agreement" through Santa Clara County. The purpose of the "Regional Renewable Power Purchase Agreement" is to acquire solar power for city buildings and achieving an economy of scale in contracting and financing of this program. CH2M Hill now requests the City's permission to assign the contract to a spin-off company called Critigen, which was formed in order to better focus resources on renewable energy projects like the one that the City is engaged in. Critigen is backed by substantial funding and uses the same skilled personnel and analytical tools, formerly of CH2M Hill, that justified award of the project by the County and City in the first place. The scope of work remains unchanged and all work will be performed at exactly the same price as that originally required of CH2M Hill.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to assign the CH2M Hill contract for solar site surveys to Critigen.

*** 12. Approve an Amendment to the Contract for Fire Department Consulting Services in an Amount Not-to-Exceed \$125,500 (Staff Contact: Thomas Williams, 586-3051)**

Background: With the departure of former Fire Chief Clare Frank, the City Manager determined the need to conduct an administrative review of all divisions of the Fire Department and to provide career development to existing Fire Department command staff before proceeding with a search for a new Fire Chief. The City has entered into an agreement with FireChiefs.com to provide those consulting services.

The contract requires the consultant to develop a two-year work plan for the Fire Department, provide leadership development training to all personnel, provide budgetary review of all divisions of the Fire Department, provide personnel reviews of all divisions of the Fire Department, provide advice and assistance to the Human Resources Director and City Manager in the selection and promotion of personnel, attend all meetings necessary to carry out the work described in this agreement, respond to emergencies, as necessary, and provide overall direction

to Fire Department personnel, prepare a written report regarding any emergency response policy recommendations, work with other department heads to provide advice and assistance to them in carrying out their duties and responsibilities, and work with the public in a manner so as to provide customer satisfaction on issues relating to the Fire Department.

The contract will be expended beginning in February 2010. The requested increased amount will assist in providing more time, until June 30, 2010, for the consultant to complete the items described in the scope of services.

Fiscal Impact: This request is to increase the contract amount by \$106,000. Sufficient resources exist within the Fire Department's budget to fund this request and will result in a savings over the amount that has been budgeted for a permanent position.

Recommendation: Approve the amendment to the existing contract for Fire Department consulting services between the City of Milpitas and FireChiefs.com for Fire Department consulting services for an amount-not-to-exceed \$125,500.

- * 13. **Approve the New Veterans Bench Project, Authorize the City Manager to Execute a Contract with Artist Mary Ann Baker, and Approve a Budget Appropriation of \$5,995 (Staff Contact: Renee Lorentzen, 586-2786)**

Background: On December 1, 2009, the City Council approved the Commissioners' Recognition Event for 2010 which included the Commissioners donating \$3,000 to a Veterans Bench for the Veterans Memorial in lieu of a Commissioner gift. Staff approached the Senior Center Bench project artist, Mary Ann Baker about the Veterans Bench in an effort to keep the benches located throughout the Civic Center Plaza in similar design and medium. Ms. Baker submitted a proposal of two bench Options.

On January 25, 2010 the Public Art Committee voted to recommend Option B for final City Council approval in the total project budget amount of \$8,995.00, with \$5,995.00 to come from the Public Art Fund and \$3,000.00 to come from the Commissioners' Recognition Event budget.

Staff drafted the contract agreement, per the artist's project bid, and a copy is in the Council agenda packet.

Fiscal Impact: On January 25, 2010, the Public Art Committee reviewed both Options and voted to recommend Option B for final City Council approval in the total project budget amount of \$8,995.00, with \$5,995.00 to come from the Public Art Fund and \$3,000.00 to come from the Commissioners' Recognition Event budget.

Recommendations:

1. Approve the new Veterans bench project.
2. Authorize the City Manager to execute the contract with artist Mary Ann Baker in the amount not to exceed \$8,995, of which \$3,000 will come from the Commissioner Recognition Event budget and \$5,995 from the Public Art Fund.
3. Approve a budget appropriation of \$5,995 from the Public Art Fund.

XIX. ADJOURNMENT

NEXT REGULAR MEETING: MARCH 2, 2010