



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, MARCH 16, 2010

7:00 P.M.

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** (Councilmember Giordano)
- V. **APPROVAL OF COUNCIL MEETING MINUTES** – March 2, 2010
- VI. **SCHEDULE OF MEETINGS** – Council Calendars for March and April 2010
- VII. **PRESENTATION** - Proclaim March 2010 as *Red Cross Month*
- 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 HEARING**
 1. **Introduce Ordinance No. 38.795 Amending the Municipal Code by Streamlining Planning and Entertainment Event Processes and Creating a Recreation and Entertainment Overlay District** (Staff Contact: Sheldon Ah Sing, 586-3278)
- XIV. **UNFINISHED BUSINESS**
 2. **Hear Report Updating the "Every 15 Minutes" Event at Milpitas High School** (Staff Contact: Dennis Graham, 586-2502)

XV. REPORTS OF MAYOR AND COMMISSIONS

Mayor

- * 3. Consider Mayor's Recommendations for Appointments to the Milpitas Bicycle Pedestrian Advisory Commission (Contact: Mayor Livengood, 586-3051)

Bicycle Pedestrian Advisory Commission

- * 4. Approve Amendment of the Bicycle Pedestrian Advisory Commission By-Laws (Staff Contact: Janice Spuller, 586-3291)

Parks, Recreation and Cultural Resources Commission

- * 5. Approve Parks, Recreation and Cultural Resources Commission 2010 Work Plan (Staff Contact: Aaron Bueno, 586-3226)

XVI. NEW BUSINESS

- 6. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)
- 7. Receive Report and Recommendations from the Revenue/Expenditure Task Force (Staff Contact: Tom Williams, 586-3050)

XVII. RESOLUTIONS

- * 8. Adopt a Resolution to Participate in Santa Clara County's Retrofit Bay Area Program (Staff Contact: Diana Barnhart, 586-3059)
- * 9. Adopt a Resolution Granting Initial Acceptance of and Authorizing Reduction in the Penal Sum of Subdivision Improvement Bond for the MIL Aspen Family Apartments, Project No. 3199 (Staff Contact: Fernando Bravo, 586-3328)
- * 10. Adopt a Resolution Granting Final Acceptance of Venus Pump Station, Project No. 6101 (Staff Contact: Steve Erickson, 586-3301)
- * 11. Adopt a Resolution in Support of the Department of Transportation's Community-Based Transportation Planning FY 2010-11 Grant Application for the Dixon Landing Road Plan Line Study (Staff Contact: Steve Chan, 586-3324)
- * 12. Adopt a Resolution Establishing the Fair Market Value of an Acre of Land for the Purpose of Calculating Park In-Lieu Fees (Staff Contact: Sheldon Ah Sing, 586-3278)

XVIII. BIDS AND CONTRACTS

- * 13. Authorize the City Manager to Execute Amendment No. 1 to the Consultant Agreement with HF&H Consultants for Solid Waste Services Contract Negotiation with Allied Waste and Assistance in Developing a Long-Term Solid Waste Master Plan, Project No. 3401 (Staff Contact: Kathleen Phalen, 586-3345)
- * 14. Authorize the City Manager to Execute the Silicon Valley Regional Interoperability Authority (SVRIA) Joint Powers Agreement (Staff Contact: Steve Pangelinan, 586-2426)

XIX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, APRIL 6, 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:

*Arts Commission and Public Art Committee
Bicycle Pedestrian Advisory Commission (alternate)
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*

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 HEARING

1. **Introduce Ordinance No. 38.795 Amending the Municipal Code by Streamlining Planning and Entertainment Event Processes and Creating a Recreation and Entertainment Overlay District (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: This proposal includes text amendments that combine the entertainment event review processes within the Municipal Code and other procedures into the Zoning Code for a streamlined and consistent process. This amendment also considers changing the review process of certain businesses from being conditionally permitted to being allowed by right, reducing the review time and cost to open such businesses in the City. In addition, this amendment proposes to add a “Recreation and Entertainment” overlay district to properties west of I-880 to help attract visitors to the area and surrounding retail businesses and diversify the City’s economic base. The Planning Commission reviewed these proposed changes at its December 9, 2009, and February 24, 2010 meetings and has recommended the City Council adopt them. For detailed information regarding the amendments, refer to the Planning Commission staff report and the underline and strikeout exhibits included in the agenda packet.

Fiscal Impact: None.

Attachments:

- A. Planning Commission Staff Report February 24, 2010
- B. Planning Commission Meeting Minutes February 24, 2010
- C. Underline & Strikethrough changes
- D. Ordinance No. 38.795

Recommendations:

1. Open the public hearing to hear testimony, and move to close the public hearing.
2. Waive the first reading beyond the title of Ordinance No. 38.795 to amend the Milpitas Municipal Code.
3. Move to introduce Ordinance No. 38.795.

XIV. UNFINISHED BUSINESS

2. **Hear Report Updating the “Every 15 Minutes” Event at Milpitas High School (Staff Contact: Dennis Graham, 586-2502)**

Background: At the January 5, 2010 City Council meeting, the Mayor and Council directed staff to work with the Milpitas Unified School District to implement an “Every 15 Minutes” event at Milpitas High School. This report provides an update on the proposed “Every 15 Minutes” activities to occur on the Milpitas High School campus on May 12 and 13, 2010.

Fiscal Impact: Unknown at this time.

Recommendation: Hear report from Chief Dennis Graham on Every 15 Minutes event.

XV. REPORTS OF MAYOR AND COMMISSIONS

Mayor

- * 3. **Consider Mayor’s Recommendations for Appointments to the Bicycle Pedestrian Advisory Commission (Contact: Mayor Livengood, 586-3051)**

Background: Mayor Livengood recommends the following citizens be appointed to the Bicycle Pedestrian Advisory Commission:

Appoint Antonio Pablo Jr. to a term that expires in August 2011.
Appoint Christine Sanchez as Alternate No. 1 to a term that expires in August 2010.

Recommendation: Consider the recommendations from Mayor Livengood, and move to appoint two members to the Bicycle Pedestrian Advisory Commission.

Bicycle Pedestrian Advisory Commission

- * 4. **Approve Amendment of the Bicycle Pedestrian Advisory Commission By-Laws (Staff Contact: Janice Spuller, 586-3291)**

Background: The Bicycle Pedestrian Advisory Commission (BPAC) voted on two amendments to its by-laws at the February 8, 2010 meeting:

- 1) To amend Section 2 Membership to allow for members and alternates to be employees who work in Milpitas, in addition to residents and residents within the Milpitas Unified School District Boundaries. Members have found that avid bicyclists and pedestrians may not live in Milpitas, however, commute by bike or walk from transit to and from their employment in Milpitas.
- 2) To amend Section 6 Meetings by omitting the months the BPAC will be meeting and commit to six meetings per year, without specifying the months. BPAC members have found that with the even months of meeting, they have rescheduled December due to the holidays and have met the following month in January.

Fiscal Impact: None. There is no fiscal impact.

Recommendation: Approve proposed amendments of the Bicycle Pedestrian Advisory Commission (BPAC) By-Laws.

Parks, Recreation and Cultural Resources Commission

- * 5. **Approve Parks, Recreation and Cultural Resources Commission 2010 Work Plan (Staff Contact: Aaron Bueno, 586-3226)**

Background: At the February 1, 2010 Parks, Recreation and Cultural Resources Commission meeting, the Commission approved its 2010 Work Plan. The Commission's 2010 Work Plan identifies ongoing goals, projects and tasks.

Fiscal Impact: None.

Recommendation: Approve the updated Parks, Recreation and Cultural Resources Commission 2010 Work Plan.

XVI. NEW BUSINESS

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

Background: California First Energy Efficiency Program: The City received the good news in late February that the CA 1st program, which will provide energy efficiency home improvement loans to Milpitas residents, was fully approved for \$16.5 million. These funds will be used to cover the start-up costs of the program, including the fees for participating cities.

Funds for property energy audits were also approved recently. Staff will attend an implementation meeting for the Energy Audit program the week of March 8. A separate agenda item (on consent calendar) supporting the City's participation is on tonight's agenda.

Business Outreach: City staff had several successful outreach meetings with local businesses. In general, the companies indicate that orders are increasing and further layoffs are not anticipated.

Business Development Classes: Nearly 20 to 25 different individuals have attended the three classes held, although some duplication occurred with the two retail classes. So far, all of the classes have been free. In addition to those classes already scheduled, the Silicon Valley Small Business Development Center will be offering a full day “Hands-On Introduction to QuickBooks and Basic Bookkeeping” at City Hall on April 28. Initial marketing for the class will be for Milpitas businesses and the cost of the program is just under \$90.

Redevelopment: Notices for the Joint Public Hearing on April 6 have been mailed to all property and business owners and residents in the Milpitas redevelopment project areas and posted throughout the proposed Added Area and the Amendment Areas. In addition, the notices will be published weekly in the Milpitas Post each week, beginning March 4 through April 1. The Final Environmental Impact Report (EIR) was also sent to all the taxing agencies affected by the proposed amendments and to those agencies that commented on the Draft EIR. A community meeting will be held on March 25 at the Milpitas Public Library at 6:30 p.m. on the proposed amendments.

Milpitas Silicon Valley Conference Center: Staff is in discussion the Group 4 Architecture Research and Planning on the project scope and contract. City staff hopes to be able to present a final contract to the City/Agency in April.

Freeway Sign Update: A proposed Sign Ordinance that will allow the freeway signs have been reviewed by both proposed sign developers. Staff is working with the developers to ensure that the freeway signs are consistent with the Outdoor Advertising Act.

Fiscal Impact: None. There is no fiscal impact associated with this action.

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

7. Receive Report and Recommendations from the Revenue/Expenditure Task Force (Staff Contact: Tom Williams, 586-3050)

Background: In April 2009, the Mayor announced, and the City Council confirmed by unanimous vote, the need to develop a long term financial strategy addressing the City’s decade long problem of balancing expenditures with revenues. Facing an annual structural deficit of \$11 million each year in the next five years, the Mayor and City Council appointed a nine member task force that included:

- Councilmember Debbie Giordano
- City Manager Tom Williams
- Finance Director Emma Karlen
- Police Officer Association (POA)
- International Association of Fire Fighters (IAFF)
- Milpitas Supervisors Association (MSA)
- Milpitas Employees Association (MEA)
- Mid-Management and Confidential Employees (UPEC)
- Professional and Technical Group (ProTech)

The objective of the task force was to recommend a plan that balances the City’s General Fund budget by FY 2012-13. The task force held seven formal meetings and discussed topics ranging from employee priorities to various strategies involving revenue enhancements, employee concessions inclusive of tiered benefits for new hires, work furloughs, additional contributions to benefits and elimination of programs that are not 100 % cost recovery.

In terms of priority values, feedback from represented employees indicated that job security was the top priority followed by medical and retirement benefits. Other discussions relating to priorities included adequate staffing levels for the services provided. Union representatives were clearly knowledgeable of the significant economic decline and conveyed a willingness to consider concessions as part of an overall deficit reduction and revenue generation plan.

It should be noted that each union representative acted in a capacity to “brainstorm” ideas and formulate recommendations. Union representations were not meet and confer nor any commitments made to imply the represented unions would implement recommendations set forth in this report. As such, a meet and confer process as well as a re-opening of each Memorandum of Understanding (MOU) must occur to receive formal acceptance of some task force recommendations. For example, implementation of furloughs, additional contributions of 2.5% to PERS, two-tiered retirement system or eliminating the 6% holiday in-lieu pay would require meet and confer and/or renegotiating terms in the MOU.

Overview of the Problem:

On December 15, 2009, the City Council received a report from the task force that provided an overview of the fiscal condition of the City and a laundry list of ideas to balance revenues and expenditures for City Council consideration. In summary of that briefing, over the last decade, revenues have declined while expenditures and employee costs have increased. On the average, expenditures have increased 3.1% per year while revenue has only increased 2.4% per annum with significant declines in revenue continuing this year. Revenue is projected to decline by approximately 9% in 2010. In each of the last three years, the City has realized a decline in revenues. Below is a table entitled General Fund Revenue/Expenditure Trends that presents annual surplus/deficits over the last decade with projections for the current fiscal FY 2010-11.

The total General Fund Budget currently stands at \$67.3 million of which 83%, or \$55.9 million, is personnel cost comprised of salary and benefits totaling \$35.1 million and \$20.8 million respectively.

Significant annual benefit costs include PERS (\$6.9 million); Group Insurance (\$5.7 million); Retiree Medical Benefits (\$2.8 million); MOU contractual incentive pay (\$2.7 million); Workers Compensation (\$1.2 million); and miscellaneous other benefits (\$1.6 million).

This structural deficit, coupled with the second worst economic recession in the history of the United States and State of California policies of taking local revenue has led to the deepening deficit ranging from \$9 - \$12 million for the City of Milpitas. In addition to the decade long gap in expenditures outpacing revenue, the City has lost an additional \$18.2 million as a result of the recession over the last two years. General Fund loss is \$6.8 million while the Redevelopment Agency lost \$11.4 million as a result of the State taking funds from redevelopment. \$1.7 million of the \$6.8 million General Fund loss will be repaid by the State of California in compliance with Proposition 1A requirements.

In summary, the City’s General Fund has declined by \$2.8 million in Transient Occupancy Taxes; \$1.9 million decline in sales tax; and a \$400,000 decline in property tax revenues over the last two years.

As a result of the above explanation of the current fiscal crises and information provided to the City Council at its meeting of December 15, 2009, the Task Force recommendations are to reduce the deficit by \$11 million thus bringing expenditures and revenue into balance.

Task Force Recommendations:

Task Force recommendations to the City Council for balancing revenues and expenditures includes a three prong approach to achieving a balanced budget by FY 2012-13 that includes revenue generation, employee concessions, and a combination of program elimination for those

programs not 100 % cost recovery coupled with economic recovery. In summary, the Task Force recommendations would generate the following amounts:

City of Milpitas Task Force Revenue/Expenditures Summary			
Revenue Generators			
1	Utility User Tax Consumption @ 3%	Annualized Amount	
	<i>Electricity & Gas</i>	\$	3,000,000
	<i>Water & Sewer</i>	\$	650,000
	<i>Sanitation</i>	\$	250,000
	<i>Cable Television</i>	\$	100,000
	Sub-Total	\$	4,000,000
OR			
2	Sales Tax Increase of .25 %	\$	4,000,000
Cost Savings			
1	Furlough Day @1/month	Annualized Total	Annualized General Fund
	<i>4.6% Savings</i>	\$	2,400,000
2	Increased Contribution to PERS Benefit	\$	800,000
	<i>2.50%</i>	\$	1,000,000
3	Eliminate Programs if Not 100% Cost Recovery		
	<i>Rainbow Theatre</i>	\$	225,000
	<i>DARE</i>	\$	8,000
	<i>Aquatics</i>	\$	265,000
	<i>Pre-School</i>	\$	54,000
	Eliminate Programs Sub-Total	\$	552,000
4	Reduce New Hire Medical Benefits by 50% save approx. 6,500 per employee. @ 10 empl.	\$	65,000
5	Two Tiered Retirement System for New Hires		
	<i>10 years out</i>	\$	850,000
	<i>20 years out</i>	\$	1,900,000
	Grand Total of furloughs, 2.5% pers contr, new hire benefits & 10 years out for two tiered retirement	\$	4,315,000
	Add In: UUT		
	UUT or Sales Tax	\$	4,000,000
	Economic Recovery	\$	3,000,000
	Grand Total of Task Force Recommendations	\$	11,867,000
			\$ 11,155,000

Task Force Recommendation Prong 1

Consider a 3% Utility User Tax or a 0.25 (quarter cent) sales tax. Implementation and voter approval of either would generate \$4 million annually. It should be noted that the Task Force was not unanimous in forwarding this recommendation. Councilmember Giordano specifically requested that this report indicate her general opposition to tax increases and submitted a letter dated February 10, 2010 (included in the agenda packet).

Utility User Tax – The City does not have a utility user tax but can potentially impose 1% to 11% on the consumption of utility services that include electricity, gas, water, sewer, telephone, sanitation and cable television. The Task Force decided to recommend a 3% tax which would generate sufficient revenue in keeping with the three pronged approach of the Task Force.

Sales Tax Increase – The City currently imposes 1% sales & use taxes on transactions within the City of Milpitas. The City’s annual sales tax varies from \$15 million to \$17 million. If the City imposes an additional 0.25 % sales & use tax, the potential additional revenue generation would range between \$3.75 million to \$4.25 million per year.

The Task Force understands that implementation of either a utility user tax or a 0.25 % sales tax would require voter approval. It is recommended that in the fall of 2010, the City begin polling voters to determine the likelihood of voter support. If favorable, the measure could be placed on a countywide special election ballot in 2011.

Task Force Recommendation Prong 2

Employee Concessions - work furloughs, two tiered retirement and benefit package and increased employee's contribution to PERS would generate approximately \$3.6 million in annual savings. Immediate savings of \$2.7 million in current employee concessions that include twelve (12) furlough days per year (totaling 4.6% or \$1.9 million) and an additional 2.5% contribution to PERS benefit (totaling \$800,000) would be possible upon agreement with each of the bargaining units. For those units where a furlough program is unrealistic, other concessions to achieve an equivalent savings, such as foregoing Holiday In-Lieu pay would have to be negotiated. In the longer term, but to be negotiated now, is a two tiered benefit package for new employees where the PERS benefit formula is changed and Medical Benefits are paid 50% by the employee. This will save an additional \$900,000 but will take at least ten years before this savings is realized due to the City's slow pace of employee turnover.

Eliminate Programs – Any program that is not 100 % cost recovery should be eliminated. The Task Force identified Rainbow Theatre, DARE supply costs, Aquatics and Pre-School as the programs to eliminate. This would result in an annual savings of \$552,000 a year.

Task Force Recommendation Prong 3

The City has been diligent in managing finances to ensure ongoing service delivery to the community. These are however unprecedented economic times. Recent economic conditions combined with the fundamental structural failure of how local governments are funded have created the worst crises in local government history. The Task Force believes that with continued economic development success and the recent location of auto dealerships, corporate headquarters and the use tax program, City revenues will regain some of the losses suffered during the economic downturn. The Task Force believes that it is not unreasonable to forecast a \$2.3 to \$2.5 million increase in local revenue over the next two years. If this additional revenue is realized, then adjustments to Task Force Recommendations Prongs 1 and 2 can be made.

Fiscal Impact: A general fund savings of approximately \$11.1 million if the Task Force recommendations are implemented.

Recommendation: Implement the Task Force Recommendations. Direct the City Manager to renegotiate MOU provisions as set forth in the Task Force recommendations with implementation commencing with the FY 2010-11 budget; and study the feasibility of placing a Utility User Tax or 0.25% Sales Tax increase on the ballot in 2011.

XVII. RESOLUTIONS

- * **8. Adopt a Resolution to Participate in Santa Clara County's Retrofit Bay Area Program (Staff Contact: Diana Barnhart, 586-3059)**

Background: Implementation of the "Retrofit Bay Area Program" is another step in providing services to residents to help them make their homes more energy efficient. "Retrofit Bay Area" is an Association of Bay Area Governments (ABAG) program in partnership with 14 counties and a total of 104 local governments in California, including the San Francisco Bay Area. "Retrofit Bay Area" establishes the infrastructure for a market-driven residential retrofit program that will stimulate the economy and create jobs while transforming energy markets in California.

ABAG was awarded a \$10.75 million dollar grant to fund "Retrofit Bay Area," the region-wide energy efficiency program that will retrofit 17,000 homes (single family and multifamily) with an average of 20% energy reduction. The grant includes funding for regional and local program

development, implementation, evaluation, measurement, verification, administration and reporting. ABAG will work with the counties to form agreements for the local implementation funding to be distributed. Santa Clara County will receive \$1.9 million to manage the local aspects of the program (see Exhibit A of the resolution). A cities advisory group, including Milpitas, is assisting with the local development, marketing, and implementation.

The Santa Clara County Residential Retrofit Program, or SCCRRP, will consist of a suite of environmental programs and information, including financing options that will be uniformly packaged, marketed and presented to County constituents. The County's program will provide grants for nonprofits, businesses, housing agencies, utilities and consulting firms to provide energy audits to the residential community. The energy audits are expected to stimulate interest in comprehensive home retrofits such as added insulation, weatherization, heating, ventilation and air conditioning upgrades, new windows and energy efficient appliances, resulting in significant reductions in energy and water consumption. These improvements will be financeable through the California First Program.

Fiscal Impact: None. There is no fiscal impact associated with this action.

Recommendation: Adopt a resolution to participate in Santa Clara County's Retrofit Bay Area Program.

- * **9. Adopt a Resolution Granting Initial Acceptance of and Authorizing Reduction in the Penal Sum of Subdivision Improvement Bond for the MIL Aspen Family Apartments, Project No. 3199 (Staff Contact: Fernando Bravo, 586-3328)**

Background: On April 17, 2007, the City entered into a Subdivision Improvement Agreement with MIL Aspen Associates, subdivider, for the construction of certain public improvements to serve their residential apartments on 1666 S. Main Street. The public improvements for Aspen Family Apartments have been completed by the developer, per the approved improvement plans, and are available in the office of the City Engineer. This work is, therefore, now ready for initial acceptance in accordance with the improvement agreement. The developer's faithful performance bond may be reduced to \$150,000, which is 10% of the contract amount.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of and authorizing reduction in penal sum of subdivision improvement faithful performance bond to \$150,000 for MIL Aspen Family Apartments, subject to a one-year warranty period for Project No. 3199.

- * **10. Adopt a Resolution Granting Final Acceptance of Venus Pump Station, Project No. 6101 (Staff Contact: Steve Erickson, 586-3301)**

Background: Project No. 6101 was initially accepted on March 17, 2009. The project has passed the one-year warranty period as determined by a recent final inspection of the work by staff. The rehabilitation work included the sealing of the wet well, removing and replacing of the pumps, hatches, valves and related electrical controls.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of Venus Pump Station, Project No. 6101 and release of the contractor's bond.

- * **11. Adopt a Resolution in Support of the Department of Transportation's Community-Based Transportation Planning FY 2010-11 Grant Application for the Dixon Landing Road Plan Line Study (Staff Contact: Steve Chan, 586-3324)**

Background: The Caltrans' Community-Based Transportation Planning (CBTP) grant program provides funding to coordinate transportation and land-use planning projects that encourage community involvement and partnership. The grant program goals are to provide livable/sustainable community concepts with a transportation or mobility objective and promote community identity and quality of life.

Staff is submitting a FY 2010-11 Community Based Transportation Planning grant application for the Dixon Landing Road Plan Line Study. Dixon Landing Road is a regional connector providing connection from Fremont and I-680 to I-880. The project will in general study the widening of Dixon Landing Road from four to six lanes, with new bicycle lanes, and continuous sidewalks on both sides of Dixon Landing Road. These improvements will provide improved pedestrian and bicycle safety particularly at the at-grade Union Pacific railroad crossing and future BART crossing east of Milmont Road, and in the McCarthy Boulevard area where future development projects from both Fremont and Milpitas are anticipated.

The City is requesting \$150,000 with a City local-match of \$75,000. Grant awards will be made in July 2010.

Fiscal Impact: None. A new Capital Improvement Program (CIP) will be included in the next budget. Sufficient funds are available from the Traffic Impact Fees and Street Fund for local match.

Recommendation: Adopt a Resolution in support of the Caltrans's Community-Based Transportation Planning FY 2010-11 Grant Application for the Dixon Landing Road Plan Line Study.

* 12. **Adopt a Resolution Establishing the Fair Market Value of an Acre of Land for the Purpose of Calculating Park In-Lieu Fees (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: Where a fee is accepted to be paid in lieu of park land dedication, the amount of the fee will be based upon the fair market value determined at the time of filing of a final subdivision map. Pursuant to the City's Subdivision Ordinance, the fair market value is determined by one of the following methods:

- The fair market value as determined by the City Council. At any time, the City Council may adjust the fair market value determination for an acre of land in the City in order to more accurately reflect actual real estate market conditions; or
- The subdivider may, at his expense, obtain an appraisal of the property by a qualified real estate appraiser approved by the City, which appraisal may be accepted by the City Council if found reasonable; or
- The City and subdivider may agree as to the fair market value.

The City is in contract with the appraisal firm Smith & Associates to provide a recommendation on the average value of one-acre of land. According to the appraisal report dated January 29, 2010, the recommended value of one acre of land in the City of Milpitas is \$2,003,760. This value, if adopted, will be used to calculate park in-lieu fees for residential developments that do not dedicate the required amount of public park land pursuant to the Subdivision Ordinance.

Fiscal Impact: None.

Recommendation: Adopt the resolution establishing the fair market value of an acre of land to be \$2,003,760 for the purpose of calculating park in-lieu fees.

XVIII. BIDS AND CONTRACTS

* 13. **Authorize the City Manager to Execute Amendment No. 1 to the Consultant Agreement with HF&H Consultants for Solid Waste Services Contract Negotiation with Allied Waste**

**and Assistance in Developing a Long-Term Solid Waste Master Plan, Project No. 3401
(Staff Contact: Kathleen Phalen, 586-3345)**

Background: On August 4, 2009, the City entered into an agreement with HF&H Consultants for assistance with the financial, regulatory, and technical management of current solid waste services and for long-term planning of future solid waste services. Tasks conducted under this agreement included review of Allied Waste's 2010 and 2011 rate application. On December 1, 2009, staff brought the 2010-2011 solid waste rate recommendation to Council for approval, but noted that the long-established cost allocation methodology requires further analysis. Staff committed to reviewing the allocation of fixed costs across customer classes to determine if a recommendation for a revised methodology would be warranted before the next scheduled rate increase.

The scope of the proposed Amendment No. 1 includes assessment of the cost allocation methodology and review of a broad number of issues with the current Allied Waste agreements. The City and Allied Waste entered into the solid waste and recycling collections agreement in 1986 and the yard trims agreement in 1996, and have amended these agreements many times over the intervening 24 years to adjust to changing service delivery conditions. Although these agreements do not expire until September 5, 2017, both Allied and staff believe that a restructuring of the agreements is warranted at this time. The scope of work will also analyze the current service delivery needs and support negotiations with Allied. Assuming Allied and the City reach an agreement, staff will bring the recommendations to Council to either substantially amend or replace the existing Allied Waste agreements.

Project 3 kicks off the City's Solid Waste Master Plan with the data gathering and service needs assessments. The City's disposal agreement with Allied's Newby Island Landfill also expires in 2017 and the landfill is expected reach capacity and close sometime around 2023. The City Solid Waste Master Plan will address future disposal options, diversion, and collection services to ensure that Milpitas community continues to enjoy high quality solid waste services at a competitive price.

The amount for this additional work shall not exceed \$167,750, bringing the total HF&H agreement amount to \$208,250, which is considered reasonable for the work involved.

Fiscal Impact: None. Sufficient funds are available in Project No. 3401, Solid Waste Master Plan, for this purpose.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the agreement with HF&H Consultants in an amount not-to-exceed \$167,750 for solid waste services contract negotiation with Allied Waste and assistance in developing the City's Solid Waste Master Plan, Project No. 3401.

*** 14. Authorize the City Manager to Execute the Silicon Valley Regional Interoperability Authority (SVRIA) Joint Powers Agreement (Staff Contact: Steve Pangelinan, 586-2426)**

Background: In 2001, a Joint Funding Agreement (JFA) was entered into by all of the municipalities in Santa Clara County along with San Jose State University, the South Santa Clara County Fire District and the Santa Clara Valley Water District. The JFA established an Executive Steering Committee known as the Silicon Valley Regional Interoperability Project or "SVRIP."

The purpose of the JFA and SVRIP is to enhance and coordinate regional public safety data and radio communications systems, with a focus on interoperability and strategic planning. In other words, to work together to plan and implement systems which enhance the abilities of the various public safety agencies to communicate with each other in both routine and emergency situations, and to allow for the sharing of information that would assist them in performing their duties.

This JFA Silicon Valley Regional Interoperability Authority (SVRIA) partnership has continued as a successful consortium effort for nine years engaging in numerous planning and system enhancement initiatives that have improved public safety agency capabilities in these areas and created strategic plans to address future needs. For the most part these activities have been funded with grants, however, a blend of local matching funds and in-kind resource contributions have also been allocated by the participants in the JFA. Additionally, participants have contributed funds towards shared overhead costs.

The need to manage current shared systems, along with the growing need and value of initiating future enhancements requires a transition from a JFA to a Joint Powers Authority (JPA) so that the regional consortium of communities and partners can continue to benefit from the advantages of collaborative planning and shared system strategies.

Fiscal Impact: Approximately \$33,281 for FY 2010-11. This is a Police Department budgeted expense.

Recommendations:

1. Authorize the City Manager to sign the Joint Powers Agreement for the City of Milpitas to become a member of the Silicon Valley Regional Interoperability Authority (SVRIA).
2. Authorize the City Manager to sign the Amendment to the Second Amended Joint Funding Agreement (JFA) to allow the JFA and its assets to transition to a Joint Powers Agreement.

XIX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, APRIL 6, 2010