



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

**TUESDAY, SEPTEMBER 21, 2010**

**6:45 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)**

**SUMMARY OF CONTENTS**

- I. CALL TO ORDER by the Mayor**
- II. ROLL CALL by the City Clerk (6:45 p.m.)**
- III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**  
**CONFERENCE WITH LEGAL COUNSEL**  
Anticipated Litigation: Possible initiation of litigation as plaintiff or petitioner, pursuant to Government Code Section 54956.9(c): one case on unfunded mandate claim
- IV. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session if required, pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- V. PLEDGE OF ALLEGIANCE**
- VI. INVOCATION** (Councilmember Giordano)
- VII. APPROVAL OF COUNCIL MEETING MINUTES** – September 7, 2010
- VIII. SCHEDULE OF MEETINGS** – Council Calendars for September and October 2010
- IX. PRESENTATION** – Commendations for Read to Succeed 2010
- X. PUBLIC FORUM**

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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.

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- XI. ANNOUNCEMENTS**
- XII. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XIII. APPROVAL OF AGENDA**
- XIV. CONSENT CALENDAR** (Items with asterisk\*)

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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.

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- XV. PUBLIC HEARINGS**

1. **Hold a Public Hearing and Accept the City of Milpitas 2010 Public Health Goals Report for the Public Water System (Staff Contact: Kathleen Phalen, 586-3345)**
2. **Hold a Public Hearing and Adopt the FY 2009-10 Community Development Block Grant Consolidated Annual Performance Evaluation Report (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**
3. **Hold a Public Hearing, Introduce Ordinance No. 38.797, and Adopt a Resolution Changing the Land Use Designation and Zoning of 50 Acres to Town Center Including Minor Zoning Text Amendments (Staff Contact: Sheldon Ah Sing, 586-3278)**

**XVI. UNFINISHED BUSINESS**

4. **Receive Report on Polystyrene Food Container Ordinances Adopted by Other Cities, and Direct Staff to Study the Potential Impact of a City of Milpitas Ban and Develop a Public Outreach Plan (Staff Contact: Kathleen Phalen, 586-3345)**

**XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

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

**RA2. Approval of Minutes – September 7, 2010**

**RA3. Approval of Agenda**

**RA4. Receive City of Milpitas Unaudited Financial Status Report for the Fiscal Year Ended June 30, 2010 (Staff Contact: Emma Karlen, 586-3145)**

**RA5. Agency Adjournment**

**XVIII. REPORTS OF MAYOR & COUNCIL AND COMMISSIONS**

- \* **5. Consider Mayor's Recommendation for Re-appointments to the Youth Advisory Commission (Contact: Mayor Livengood, 586-3051)**
- 6. Review of the Shopping Cart Removal Ordinance (Contact: Councilmember Gomez, 586-3031)**
- 7. Report of Councilmember Giordano Regarding Possible Soccer Field Solar Lighting (Contact: Councilmember Giordano, 586-3032)**
- 8. Update on Citizen's Budget Task Force (Contact: Councilmember Giordano, 586-3032)**

**Arts Commission**

- \* **9. Approve Milpitas Art and Culture Grants for FY 2010-11 (Staff Contact: Renee Lorentzen, 586-3409)**

**Public Art Committee**

- \* **10. Approve the Main Street Transit Shelter Public Art Project Proposal (Staff Contact: Renee Lorentzen, 586-3409)**

**XIX. NEW BUSINESS**

- 11. Receive Presentation from Representative of Pacific Gas & Electric Regarding Installation and Current Operation of “SmartMeters” (Staff Contact: Keyvan Irannejad, 586-3244)**
- 12. Receive a Technology Update on Online Timecard project and GIS Capabilities of the City Website (Staff Contact: Bill Marion, 586-2701)**
- 13. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)**
- \* 14. Approve a Request for Installation of a Memorial Bench at Hidden Lakes Park for Mike Wells (Staff Contact: Bonnie Greiner, 586-3227)**

**XX. RESOLUTION**

- \* 15. Adopt a Resolution Amending List of Designated Full Disclosure Positions for the City of Milpitas’ Conflict of Interest Code (Staff Contact: Mary Lavelle, 586-3001)**

**XXI. BIDS AND CONTRACTS**

- \* 16. Authorize the City Manager to Execute the Termination and Release of City of Milpitas Subdivision Improvement Agreement, Apton Properties, LLC, Tract 9690, Project No. 3144 (Staff Contact: Fernando Bravo, 586-3328)**
- \* 17. Authorize the City Manager to Execute Amendment No. 5 with Bartle Wells Associates for the 2009 Financial Utility Master Plan Update, Project No. 7103 (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 18. Authorize the City Engineer to Execute a Contract Change Order for the Abbott Avenue Resurfacing, Project No. 4251 (Staff Contact: Steve Chan, 586-3324)**
- \* 19. Award the Bid for Janitorial Service and Authorize the City Manager to Execute a Contract with Universal Building Services for the Annual Not-to-Exceed Amount of \$173,808 (Staff Contact: Chris Schroeder, 586-3161)**

**XXII. ADJOURNMENT**

**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](mailto: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](http://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, and at the Milpitas Library during normal business hours.

**APPLY TO BECOME A CITY COMMISSIONER!**

Current vacancies exist for the:

*Bicycle Pedestrian Advisory Commission (alternate)  
Emergency Preparedness Commission, Mobile Home Park Rental Review Board  
Parks, Recreation & Cultural Resources Commission (alternate)  
Recycling & Source Reduction Advisory Commission (alternate)  
Senior Advisory Commission and Youth Advisory Commission*

Applications are available online at [www.ci.milpitas.ca.gov](http://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](mailto: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. PUBLIC HEARINGS

**1. Hold a Public Hearing and Accept the City of Milpitas 2010 Public Health Goals Report for the Public Water System (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** As required by California Department of Public Health, staff completed the “City of Milpitas 2010 Report on Public Health Goals for the Public Water System,” included in the Council agenda packet. The report is a compilation of the City’s water quality data that exceeded a public health goal during calendar years 2007, 2008 and 2009. The City is required to hold a public hearing to receive comment on this report and to notify the State when this requirement is completed.

As reported in the City’s annual consumer confidence reports, Milpitas municipal water continuously attains all regulatory standards for water quality. Testing did occasionally detect contaminants at concentrations below drinking water standards, but above public health goals. Public health goals are established by the federal and state governments to inform the public about potential health effects of contaminants in drinking water. From 2007 through 2009, water testing detected a single positive coliform bacteria result in the municipal supply and several detections of lead from customer plumbing.

Coliform bacteria are generally considered to be benign, but serve as an indicator of potential water contamination since they are widely prevalent in nature. The single positive result was obtained out of 3,925 samples collected on a weekly basis throughout the distribution system and was not replicated by repeat testing. This anomalous result does not indicate a potential water quality problem.

Lead testing is conducted every three years on a representative set of older homes and businesses to assess if the municipal water chemistry should be adjusted to make it less corrosive. Soft, acidic waters are more prone to dissolve lead and other metals from pipes, solder, and faucets than harder, more alkaline waters. The City analyzed 37 water samples from residential and business taps and found that 23 samples exceeded the public health goal of 0.2 parts per billion. This result is below the drinking water standard and the State has determined that the City’s wholesale water suppliers have implemented optimum corrosion control adjustments. Plumbing installed after 1986 used low-lead solder which reduces risk, while older home plumbing develops a mineral scale or coating that also reduces risk. All customers can further reduce their exposure risk by not drinking or cooking with hot water or with cold water which has been sitting over six hours in home plumbing. Flushing for 15 to 30 seconds until the cold water temperature drops removes this standing water from home plumbing.

**Fiscal Impact:** None.

**Attachment:** City of Milpitas June 30, 2010 Public Health Goals Report for the Public Water System

**Recommendations:**

1. Open public hearing to receive public comment, and move to close the public hearing.
  2. Accept the City of Milpitas 2010 Public Health Goals report and direct staff to notify the California Department of Public Health of the public hearing.
- 2. Hold a Public Hearing and Adopt the FY 2009-10 Community Development Block Grant Consolidated Annual Performance Evaluation Report (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

**Background:** The Consolidated Annual Performance Evaluation Report (CAPER) describes the City's Community Development Block Grant (CDBG) programs and activities undertaken during the past CDBG program year, Fiscal Year 2009-10. The CAPER also evaluates the City's overall progress in carrying out those priority projects that were identified in the approved Five-Year Consolidated Plan and One-Year Action Plan.

**The report identifies the following major accomplishments:**

- Approval of Senior Lifestyles Project which will include 63 additional affordable senior units,
- Adoption and State certification of the General Plan Housing Element (2009-2014),
- Use of CDBG-R funds to assist in the renovation of Calle Oriente Park,
- Use of CDBG funds to support Countywide Homeless Census and Survey,
- Funded 21 different public service agencies and housing providers, and
- Provided CDBG funds to assist over 6,200 Milpitas residents.

The CAPER has been advertised for public review and comments for 15 days (August 27-September 10, 2010). Copies of the CAPER were sent to all service and housing providers that received CDBG funds from the City and other interested parties. Copies were also made available at City Hall and at the Milpitas Public Library. Staff has received two public comments from service providers (Support Network for Battered Women and Health Trust) regarding additional statistical information which has been incorporated into the final document.

**Fiscal Impact:** None.

**Attachment:** July 1, 2009 - June 30, 2010 Draft CAPER

**Recommendations:**

1. Open the public hearing, take public testimony and move to close the public hearing.
2. Adopt the FY 2009-10 Consolidated Annual Performance Evaluation Report.
3. **Hold a Public Hearing, Introduce Ordinance No. 38.797, and Adopt a Resolution Changing the Land Use Designation and Zoning of 50 Acres to Town Center Including Minor Zoning Text Amendments (Staff Contact: Sheldon Ah Sing, 586-3278)**

**Background:** This item considers an amendment to Section 5 (Commercial Uses and Zones) of the Zoning Code and a request from the affected property owners to change to the General Plan Land Use and Zoning designations for 50 acres located generally between Los Coches Street and Calaveras Boulevard. The existing land use designations of the properties include Highway Services, Industrial Park and Heavy Industrial. Many of these properties contain non-industrial and legal non-conforming uses. The area is made of up commercial and medical services, retail and office space, and community serving uses. The Town Center district is a mixed use district that allows for more intensive development with higher floor area ratios (85%) than the current zoning (50%).

The rezone would allow for the flexibility in redeveloping the sites and attracting new tenants. For detailed information regarding the project, please refer to the attachments in the Council packet. The Planning Commission reviewed the project at its August 25 meeting and recommended that the City Council approve the project.

**Fiscal Impact:** None.

**Attachments:**

- A. Ordinance No. 38.797
- B. Resolution
- C. Negative Declaration
- D. Strikeout and Underline Exhibit

- E. Planning Commission Staff Report of 8/25/10
- F. Planning Commission Draft Meeting Minutes of 8/25/10
- G. Letters
- H. Maps

**Recommendations:**

1. Open the public hearing for comments, and move to close the public hearing.
2. Move to waive the first reading beyond the title of Ordinance No. 38.797.
3. Introduce Ordinance No. 38.797 to amend Section 5 of the zoning code and rezone 50 acres of property to Town Center.
4. Adopt a Resolution approving a General Plan amendment and Negative Declaration for the Los Coches Rezone Project.

**XVI. UNFINISHED BUSINESS**

**4. Receive Report on Polystyrene Food Container Ordinances Adopted by Other Cities, and Direct Staff to Study the Potential Impact of a City of Milpitas Ban and Develop a Public Outreach Plan (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On August 17, 2010, the City Council discussed a report of the Mayor and directed staff to report back on ordinances adopted by other cities banning the use of expanded polystyrene foam food containers. Discussion of this item included the desire for the City to evaluate adopting its own ordinance to ban polystyrene food containers, the need for the City to study the potential economic impacts of such a ban, consider delaying implementation of a ban until better economic times, and the need for a public and stakeholder outreach plan.

A number of cities in the United States and internationally have implemented bans on the use of expanded polystyrene foam. A summary of the banned materials, affected stakeholders, exemptions, and penalties of thirty ordinances adopted by local agencies in California is included in the Council packet. Nearly all of these agencies border the Pacific Ocean or San Francisco Bay and most acted primarily to keep polystyrene litter off of beaches and out of waterways. Sixteen of the agencies are in the San Francisco Bay Area and one, Palo Alto, is in Santa Clara County. The remaining agencies are located along the Monterey Bay and Southern California Coast.

Most of the local ordinances ban commercial food vendors and restaurants from distributing polystyrene disposable food containers, while the San Mateo County, Sonoma County, Orange County, and Los Angeles ordinances are limited to a ban of polystyrene containers in their own government facilities. Although many of the ordinances were recently adopted, the cities of Carmel and Berkeley have had bans in effect for over a decade. Some ordinances go further by banning polystyrene packaging and ice chests and non-recyclable plastic. Most allow administrative exemptions for undue hardships. Violations of the ordinances are generally considered to be infractions. Several other cities found that circulation and adoption of a negative declaration was needed; however, the City will have to conduct its own individual environmental assessment, in the event it decides to adopt an ordinance.

The experience of the thirty profiled California cities demonstrates that polystyrene bans may be feasibly implemented by local government. Staff seeks Council's direction to proceed with a study of the potential impacts of a polystyrene container ban in the City of Milpitas in accordance with Council's August 17 discussion. The study will identify potential alternatives to a polystyrene ban including developing options for recycling and encouraging voluntary reduction of usage through a stakeholder awareness campaign. The study will define the categories of stakeholders impacted by a ban, evaluate the economic impact to these stakeholders, identify and evaluate impacts of preferred alternative materials for food containers, and make recommendations on the types of polystyrene products to regulate as well as the types of businesses and organizations that should be covered by a ban. The study will also evaluate

enforcement procedures and penalties for violation. In addition, staff seeks direction to concurrently develop a plan for stakeholder outreach and a public awareness campaign.

Staff would prepare and issue a Request for Proposals (RFP) for completion of this study including an outreach program and environmental assessment.

**Fiscal Impact:** None at this time. However, if Council directs staff to proceed with a study, a cost summary would be prepared, which would include the above work scope and fees negotiated with a selected consultant. This information and a budget request would be presented to Council at a future date, for review and approval.

**Recommendations:**

1. Receive report on polystyrene food container ordinances adopted by other California cities.
2. Direct staff to conduct a study of the potential impacts of a Milpitas polystyrene ban.
3. Direct staff to develop a plan for stakeholder outreach and public awareness.

**XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

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

**RA2. Approval of Minutes – September 7, 2010**

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

**RA4. Receive City of Milpitas Unaudited Financial Status Report for the Fiscal Year Ended June 30, 2010 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** The unaudited financial report indicates that total General Fund revenue was below budget by approximately \$3.9 million. The biggest shortfall came from sales tax revenue which was below budget by \$2 million. Building permit and plan check fees were below budget by about \$791,000, while investment income was below budget by \$158,000 due to lower reinvestment yield when securities mature. Transient Occupancy Tax (TOT) revenue was below budget by almost \$559,000. The only revenue source that was slightly above budget by \$109,000 was property tax revenue. Staff anticipated property tax revenue to decrease by 4% compared to the prior year's primarily due to lower assessed valuation and property tax appeals. However, the decrease in revenue came in at 3.4% instead of 4%. Redevelopment tax increment revenue exceeded budget by about 5% despite decline of the housing market, primarily due to occupancy of the new housing developments such as KB Homes, Centria and Aspen which placed these new properties on the tax roll.

On the expenditure side, the report shows that City departments achieved savings in the General Fund operating expenditures of 6.4% (approximately \$4.3 million), resulting in a net savings of \$0.3 million (\$3.9 million revenue shortfall offset by \$4.3 million in expenditure savings). In addition, the departments also closed out many outstanding purchase orders thus saving another \$0.3 million. However, even with the expenditure savings and close outs of purchase orders, the General Fund still needs to rely on the RDA loan payment to balance the FY 2009-10 budget. The original FY 2009-10 budget anticipated draw down of RDA loan payment not to exceed \$4.9 million (in mid-year, the Council approved use of \$6.2 million due to deteriorating General Fund revenues). Staff now recommends draw down of \$4.4 million due to achieved net savings. The undesignated General Fund reserve remained at approximately \$14.7 million on June 30, 2010. The undesignated General Fund reserve amount is equivalent to approximately 22.4% of the FY 2010-11 budgeted expenditures. The budget policy requires the General Fund to maintain at least 15% of the budgeted expenditures.

The Redevelopment Agency's tax increment revenue was above budget by \$1.9 million or 5% as mentioned above. The Water utility revenue was below budget by \$1.9 million or 12%. The

Sewer utility revenue was also below budget by \$504,000 or 4.6%. Shortfall of the utility fund revenues was due to lower sales of water in the industrial and commercial sectors and water conservation in the residential sector.

**Fiscal Impact:** None.

**Recommendation:** Receive the unaudited financial status report for the Fiscal Year ended June 30, 2010.

**RA5. Agency Adjournment**

**XVIII. REPORTS OF MAYOR & COUNCIL AND COMMISSIONS**

**\* 5. Consider Mayor's Recommendations for Re-appointments to the Youth Advisory Commission (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood recommends several Milpitas students to be re-appointed to the Youth Advisory Commission as follows: appoint Darren Lim (current Alternate No. 2) and Diana Tran (current Alternate No. 3) as regular voting members, and re-appoint Celine Cacho as a regular voting member. Their terms will expire in September 2011.

**Recommendation:** Consider the recommendation from Mayor Livengood and move to approve the three Youth Advisory Commission appointments.

**6. Review of the Shopping Cart Removal Ordinance (Contact: Councilmember Gomez, 586-3031)**

**Background:** There has been an increasing number of abandoned shopping carts in the Manor and Parktown neighborhoods and the enforcement process for stores not participating in the City's retrieval service should be reviewed.

**Fiscal Impact:** None.

**Recommendation:** Consider a review of the Shopping Cart Removal Ordinance and direct staff accordingly.

**7. Report of Councilmember Giordano Regarding Possible Soccer Field Solar Lighting (Contact: Councilmember Giordano, 586-3032)**

**Background:** Councilmember Giordano requested this item to be brought before the full City Council for discussion and direction. She recommends the following:

SunPower Corporation indicated an interest in providing solar power to light soccer fields in Milpitas through the SunPower Corporation. In order to submit an application, the City will need to identify a specific project for solar lighting. It is recommended that staff investigate two sites: (1) expanding the use of the existing football field at the Sports Center into an all surface sports field, and (2) creating a new soccer field at the Sports Center overflow parking site.

If directed by the Council, Engineering staff will develop designs for these potential conversions for further Council consideration, and if approved by the City Council, submit them for funding to the SunPower Foundation.

**Recommendation:** Direct staff to complete the designs as described in this report and present the findings to the City Council for further direction.

**8. Update on Citizens Budget Task Force (Contact: Councilmember Giordano, 586-3032)**

**Background:** Councilmember Giordano, who serves as the Council liaison to the Citizens Budget Task Force, requested this item to be placed onto the agenda, for the City Council to receive an update on Task Force activity to date.

**Recommendation:** Receive a status report from the Chair of the Citizens Budget Task Force.

**Arts Commission**

**\* 9. Approve Milpitas Art and Culture Grants for FY 2010-11 (Staff Contact: Renee Lorentzen, 586-3409)**

**Background:** The Milpitas Arts and Culture Grant Program is a competitive grant program offering monetary and in-kind support to individuals and organizations hosting cultural or artistic events in the City of Milpitas. In-Kind support includes performance space, (i.e. Community Center, Senior Center) and City staff support. The grant budget for this program is \$7,500. All grant events are held in Milpitas and are open to the public for either little or no cost.

Ten applicants submitted Milpitas Arts and Culture Grant Program (MACG) applications for the 2010-11 funding cycle.

The Milpitas Arts Commission voted to recommend to the City Council five grants in the amount of \$7,500 total, to approve grant proposals for In-Kind performance space only and to deny three grant proposals.

Five grant proposals were received and approved for In-Kind Services and the following monetary amounts:

1. Opera San Jose: Monetary Funding: \$3,000
2. Calaveras Repertory Theatre: Monetary Funding: \$2,000
3. Milpitas Alliance for the Arts: Monetary Funding: \$1,000
4. Van Pham Mai (San Khau Viet CALI): Monetary Funding: \$1,000
5. Milpitas Camera Club: Monetary Funding: \$500

Two grant proposals were received and recommended to receive In-Kind Service performance space only:

1. Fancy Dancers, Inc. (Community Center)
2. Fil-Am Association of Milpitas, Inc. (Community Center)

Three grant proposals were received and recommended for denial from the following Applicants:

1. Bay Area Showcase Chorus
2. Fremont Symphony Orchestra
3. GENCO

**Fiscal Impact:** None.

**Recommendation:** Approve five Milpitas Arts and Culture Grants in the amount of \$7,500 total and approve two grants for In-Kind performance space only.

**Public Art Committee**

**\* 10. Approve the Main Street Transit Shelter Public Art Project Proposal (Staff Contact: Renee Lorentzen, 586-3409)**

**Background:** On May 24, 2010, the Public Art Committee reviewed four art proposals for the Milpitas Main Street Transit Shelter Public Art Enhancement project. Submitting artists were asked through the Public Art Committee's project Request for Proposals to submit art project proposals that would enhance the aesthetics of the City-owned transit shelter within the

designated project budget of \$7,000. This transit shelter is the first of five transit shelters included in plans for future Main Street improvements.

Submitted proposals were received from four artists: (1) Stained Glass – Keith Bramer, (2) Fiesta – Adrian Litman, (3) Bird of Paradise – Adrian Litman, and (4) Spanning the Years – Carla Moss.

The Public Art Committee’s favorite art proposal was “Bird of Paradise” by artist Adrian Litman.

**Fiscal Impact:** None. Sufficient funds are available and allotted for this project in the Public Art budget.

**Recommendation:** Approve the “Bird of Paradise” project proposal by artist Adrian Litman for the Main Street Transit Shelter Enhancement project.

## **XIX. NEW BUSINESS**

### **11. Receive Presentation from Representative of Pacific Gas & Electric Regarding Installation and Current Operation of “SmartMeters” (Staff Contact: Keyvan Irannejad, 586-3244)**

**Background:** City Council has requested information about the installation and use of “SmartMeters” in Milpitas homes and businesses. A representative of Pacific Gas & Electric company, Mr. Alex Kobayashi, will attend the Council meeting to provide a report on this topic.

**Recommendation:** Receive presentation from PG&E staff on SmartMeters.

### **12. Receive a Technology Update on Online Timecard project and GIS Capabilities of the City Website (Staff Contact: Bill Marion, 586-2701)**

**Background:** At the request of Councilmember Gomez, staff will provide a brief update on the status of two technology projects that are under the guidance of the Telecommunications Commission. Earlier this year, Council directed the Telecommunications Commission to identify areas in which the City could realize efficiencies and/or cost savings through the use of technology. One of the primary areas of interest was payroll time entry. The Commission formed a subcommittee that examined the current process and recommended specific functions that could be automated. Based on this input, staff has been developing an in-house time entry application. An update on the application and the plan for pilot implementation will be presented.

During the Commission’s report on the status of the current five-year technology plan, one of the recommendations the Commissioners identified as incomplete was the availability of Geographic Information System (GIS) data on the City website. Since that report, the amount of GIS data on the City website has greatly expanded. Staff will make a presentation on the GIS capabilities of the City website at the City Council meeting.

**Fiscal Impact:** None.

**Recommendation:** Receive the technology update report from staff.

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

**Background:** SunPower Agreement: Negotiations are complete and the Agreement with SunPower is out for signature. SunPower will be reimbursed a total of \$1.5 million over a five year period for equipment installed and new employees hired, consistent with the Agency direction in April 2010. SunPower is purchasing equipment that will be stored in a Flextronics warehouse until Flextronics completes the tenant improvements necessary for equipment

installation. Staff will continue to work closely with SunPower and Flextronics on the hiring of new employees to ensure that Milpitas residents are targeted.

Power Purchase Agreements: Vendors have been selected for cities to negotiate with for Power Purchase Agreements. These agreements will allow a vendor to install solar panels on designated city owned sites that will lead to a reduction in public energy costs. Once negotiations are complete, contracts will be brought forward to the City Council for approval.

Small Business Development Classes: The Silicon Valley Small Business Development Center is offering a second series of classes this fall at City Hall. Two classes have been held with nearly 30 attendees at each class. The Chamber of Commerce is advertising the classes as part of its monthly newsletter and weekly eBlasts and ads will also be placed in the local newspaper. The classes are also announced on the City's website.

Cantonese "How to Start a Business" Class: As part of the Economic Development Commission's Employability Subcommittee, the City will be hosting the "How to Start a Business" class in Cantonese on October 13. The class will be held at City Hall. The City is doing this in conjunction with the Milpitas and Cupertino Chambers of Commerce as a way to reach Chinese speaking business entrepreneurs. Cupertino hosted a similar class presented in Mandarin in February which was very successful.

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

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

- \* 14. **Approve a Request for installation of a Memorial Bench at Hidden Lakes Park for Mike Wells (Staff Contact: Bonnie Greiner, 586-3227)**

Background: At the September 10, 2010 Rules Subcommittee meeting, a request was approved for a bench to be placed at Hidden Lakes Park in memory of former Milpitas Firefighter, Mike Wells. It was unanimously approved by the subcommittee to seek City Council approval to install a bench in memory of the recently passed Firefighter at the family's request.

The family will fund the bench and appropriate memorial plaques associated with the bench, and has worked with City staff on the placement, location and type of bench that best fits the park.

Fiscal Impact: None.

Recommendation: Approve the request for a memorial bench in memory of former Milpitas Firefighter Mike Wells to be placed at Hidden Lake Park.

## XX. RESOLUTION

- \* 15. **Adopt a Resolution Amending List of Designated Full Disclosure Positions for the City of Milpitas' Conflict of Interest Code (Staff Contact: Mary Lavelle, 586-3001)**

Background: California's Political Reform Act requires that the City Council review the City's Conflict of Interest Code biennially (in even-numbered years) to determine if it is up to date or if changes are necessary. The City's Conflict of Interest Code was last reviewed and amended on September 16, 2008, per adoption of Resolution No. 7782. Job classifications need to be added and the list of positions updated appropriately.

A resolution including an amended Appendix adopting the City's Conflict of Interest Code, to incorporate the changes, is included in the Council's agenda packet. Job classifications listed in bold are those to be added.

**Recommendation:** Adopt a Resolution updating the list of employee classifications required to file under the City's Conflict of Interest Code.

## XXI. BIDS AND CONTRACTS

- \* 16. **Authorize the City Manager to Execute the Termination and Release of City of Milpitas Subdivision Improvement Agreement, Apton Properties, LLC, Tract 9690, Project No. 3144 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** In 2006, the City and Apton Properties, LLC, entered into a Subdivision Improvement Agreement, Tract 9690, Project No. 3144 ("Subdivision Improvement Agreement") requiring Apton to install certain off-site improvements as shown in the approved improvement plan No. 2-1067 (located in the office of the City Engineer) related to the Apton Plaza Project for the benefit of the City.

The Project was never constructed, and the Redevelopment Agency of the City of Milpitas has subsequently purchased the Project site at 230 North Main Street, thereby removing the need for the construction of the off-site improvements and rendering moot the Subdivision Improvement Agreement.

In order to clean up the title records to the 230 North Main Street site, a formal termination of the Subdivision Improvement Agreement is needed. City staff therefore requests authorization to execute the termination document included in the council packet and authorization to record said document.

**Fiscal Impact:** None.

**Recommendation:** Authorize the City Manager to execute the Termination and Release of City of Milpitas Subdivision Improvement Agreement, subject to the approval of the City Attorney as to form, and to record the document.

- \* 17. **Authorize the City Manager to Execute Amendment No. 5 with Bartle Wells Associates for the 2009 Financial Utility Master Plan Update, Project No. 7103 (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On November 10, 2008, City Council awarded a contract to Bartle Wells Associates (BWA), in the amount of \$8,000, for work on an update on the 2003 Financial Utility Master Plan. This work consisted of evaluating future plans for infrastructure growth, assessing financial data, and reviewing agreements with outside agencies, such as San Francisco Public Utilities Commission (SFPUC), the Santa Clara Valley Water District and the San Jose/Santa Clara Water Pollution Control Plant. This data collectively enables the City to lay out its financial projections, which are then used to calculate the City's future water and sewer rates. Since its inception, the contract has been amended in the amount of \$18,000, to a total contract value of \$26,000.

Staff recommends amending the contract a fifth time for additional services from BWA. These services include developing additional water and sewer revenue projections, updating the cost of service analysis and cost allocation, and establishing a new water rate structure based on more reliable estimates from water and wastewater providers. SFPUC wholesale rates have increased substantially in the last three years, due to implementation of the \$4.6 billion Water Supply Improvement Program. This causes a disparity in the City's rate structure and a significant shortfall in revenue collection. Staff has negotiated a workscope for a not-to-exceed fee of \$26,600 for Amendment No. 5, which is considered reasonable. Approval of this agreement amendment will bring the total contract amount to \$52,600.

**Fiscal Impact:** None. There are sufficient funds in the project balance.

**Recommendation:** Authorize the City Manager to execute Amendment No. 5 with Bartle Wells Associates for the 2009 Financial Utility Master Plan Update, Project No. 7103 for a not-to-exceed amount of \$26,600.

- \* 18. **Authorize the City Engineer to Execute a Contract Change Order for the Abbott Avenue Resurfacing, Project No. 4251 (Staff Contact: Steve Chan, 586-3324)**

**Background:** The City Council awarded this project to O'Grady Paving, Inc. on June 15, 2010, for \$571,615. The project provided new asphalt concrete pavement for Abbott Avenue (between Heath Street and Marylinn Drive) and Marylinn Drive (between Abbott Avenue and Main Street). The work includes roadway repairs and the installation of new asphalt pavement, ADA-compliant handicap ramps and roadway markings.

Staff recommends additional removal and replacement of existing damaged concrete curb, gutter, sidewalk and driveway approaches to improve street drainage. Staff has negotiated a change order with the contractor for a cost not to exceed \$160,000 for this additional work, which is considered reasonable. Staff recommends the approval of this change order.

**Fiscal Impact:** None. Sufficient funds are available in the project budget for the additional costs associated with this Change Order. This project is funded by federal Stimulus Funds.

**Recommendation:** Authorize the City Engineer to execute the Contract Change Order with O'Grady Paving, Inc. in the amount not to exceed \$160,000.

- \* 19. **Award the Bid for Janitorial Service and Authorize the City Manager to Execute a Contract with Universal Building Services for the Annual Not-to-Exceed Amount of \$173,808 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On July 23, 2010, the City of Milpitas issued a Request for Proposals (RFP) for city-wide janitorial service. Purchasing staff worked closely with Facilities Maintenance staff to develop the specification and bid package for the RFP. The RFP was advertised in the local newspaper, on the City website and on Public Purchase. Seven proposals were received and evaluated by a committee of three, including the Facilities Maintenance supervisor and two maintenance staff, who scored the proposals based on eight criteria. The proposers' company backgrounds, technical abilities, and references were all evaluated. Interviews of the top three proposers were conducted.

The recommendation for award is based on the offering considered to be the most advantageous to the City. Final pricing for the bid at \$173,808 represents a savings of \$36,192 per year over the previous contract. The new contract for this service is for three years, with two one-year options for renewal.

**Fiscal Impact:** None. Funds are available from the Facilities Maintenance operating budget for FY 2010-11 for this service.

**Recommendation:** Award the bid for janitorial service to Universal Building Services and authorize the City Manager to execute a contract for the annual not to exceed amount of \$173,808.

## XXII. ADJOURNMENT

**NEXT REGULAR MEETING: TUESDAY, OCTOBER 5, 2010**