



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

**TUESDAY, OCTOBER 5, 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 Gomez)
- VII. APPROVAL OF COUNCIL MEETING MINUTES** – September 21, 2010
- VIII. SCHEDULE OF MEETINGS** – Council Calendar for October 2010
- IX. PRESENTATIONS**
  - Proclaim *Help People with Intellectual Disabilities Days* – October 15-17, 2010
  - Proclaim *Fire Prevention Week* – October 3-9, 2010
  - Proclaim *World Vegetarian Month* for the month of October
  - Commend Information Services Department Volunteers for Work on GIS Mapping on City Website
- 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 HEARING**

- 1. Hold a Public Hearing and Adopt a Resolution Approving a Tentative Map, Site Development Permit, and Conditional Use Permit for the Milpitas Station Project (Staff Contact: Sheldon Ah Sing, 586-3278)**

**XVI. UNFINISHED BUSINESS**

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

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

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

**RA2. Approval of Minutes – September 21, 2010**

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

**\*RA4. Waive Minor Bid Irregularities and Award Construction Contract to Ashron Construction and Restoration, Inc. for Soundwall Renovation, Project No. 8196 (Staff Contact: Steve Erickson, 586-3301)**

**\*RA5. Award Construction Contract, Including One Add Alternate Item, to Priority Roofing Solutions, Inc. for Storm Pump Station Improvements (Re-roofing), Projects No. 8188 and No. 8162 (Staff Contact: Steve Erickson, 586-3301)**

**RA6. Agency Adjournment**

**XVIII. REPORTS OF MAYOR, COUNCIL AND COMMISSION**

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

**4. Consider Proposed Amendment to the Regulation of Campaign Contributions Ordinance (Contact: Councilmember Polanski, 586-3024)**

**Parks, Recreation & Cultural Resources Commission**

**\* 5. Approve Sixteen Family Child Care Assistance Fund Grant Requests (Staff Contact: Toby Librande, 586-3077)**

**\* 6. Approve one Youth Sports Assistance Fund Grant Application (Staff Contact: Aaron Bueno, 586-3226)**

**XIX. NEW BUSINESS**

7. **Receive Report from Pacific Gas & Electric (PG&E) Representative regarding Gas Pipelines and Infrastructure in Milpitas (Staff Contact: Greg Armendariz, 586-3317)**
8. **Receive Report on the Alviso Adobe Project, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**
- \* 9. **Request to Waive Fees for the Milpitas Rotary Club's Annual Carnival and Pumpkin Patch (Staff Contact: Cindy Hom, 586-3273)**

**XX. ORDINANCE**

- \* 10. **Waive the Second Reading and Adopt Ordinance No. 38.797 Related to Town Center Re-zoning (Staff Contact: Sheldon Ah Sing, 586-3278)**

**XXI. BID AND CONTRACT**

- \* 11. **Authorize the City Manager to Execute a Contract Extension with Alice Wright to for Abandoned Shopping Cart Retrieval Services (Staff Contact: Chris Schroeder, 586-3161)**
- \* 12. **Approve Amendment No. 1 to the Contract with Jeffrey L. Clet (Staff Contact: Thomas Williams, 586-3050)**

**XXII. ADJOURNMENT**

**NEXT CITY COUNCIL MEETING: TUESDAY, OCTOBER 19, 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](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*
- 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 HEARING**

- 1. Hold a Public Hearing and Adopt a Resolution Approving a Tentative Map, Site Development Permit, and Conditional Use Permit for the Milpitas Station Project (Staff Contact: Sheldon Ah Sing, 586-3278)**

**Background:** This item considers the tentative map; site development permit and conditional use permit to accommodate the development of 303 dwelling units within four lots on 12 acres. The project is located on the west side of South Milpitas Boulevard just north of Montague Expressway within the Piper-Montague sub-district of the Transit Area Specific Plan. The project includes the development of four product types with varying densities from single family detached units to multi-family attached town home style units. For detailed information regarding the project, please refer to the attachments in the Council packet. The Planning Commission reviewed the project at its September 8 meeting and recommended the Council approve the project.

**Attachments:**

- A. Resolution
- B. Planning Commission Staff Report of September 8, 2010
- C. Planning Commission Approved Minutes of September 8, 2010
- D. Project Plans

**Fiscal Impact:** None.

**Recommendations:**

1. Open the public hearing, hear public testimony, and move to close the public hearing.
2. Adopt a Resolution approving the Tentative Map, Site Development Permit and Conditional Use Permit for the Milpitas Station Project.

**XVI. UNFINISHED BUSINESS**

- 2. 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 will attend the Council meeting to provide a report on this topic. This item was continued from the Council meeting on September 21, 2010.

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

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

- \*RA4. Waive Minor Bid Irregularities and Award Construction Contract to Ashron Construction and Restoration, Inc. for Soundwall Renovation, Project No. 8196 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** On August 17, 2010, the Agency approved the project plans and specifications and authorized the advertisement for construction bid proposals for Soundwall Renovation, Project No. 8196. The project provides for the patching and painting of existing City owned soundwalls along the east side of North Milpitas Boulevard from Berryessa Creek to Escuela Parkway and along the east side of Escuela Parkway from North Milpitas Boulevard to Tramway Drive. The Engineer’s Estimate for the base bid project work was \$100,000.

The project was advertised and three (3) sealed bid proposals were received on September 21, 2010. Bid proposals ranged from \$104,624.00 to \$120,000.00, and the lowest responsible base bid was submitted by Ashron Construction and Restoration, Inc. in the amount of \$104,624.00, which exceeds the Engineer's Estimate by \$4,624. Staff believes the discrepancy between the low bid and the Engineers Estimate is due to the short 25 working day contract period and the need for delicate pruning and handling of existing landscaping that must be tied back to complete the painting. Staff recommends the bid be awarded rather than rejecting all bids and re-advertising for new bids because it is believed better bids would not be achieved, and because we are at the end of the exterior painting season and wet weather is anticipated. There are sufficient funds in the project to cover the additional cost; therefore staff recommends the award of the construction contract.

Ashrons's bid contained two minor bid irregularities in that the bidder bound a signed copy of issued Addenda #2 within the bid package rather than acknowledging receipt of Addenda #2 by listing it in the bid package as instructed. The second irregularity is that the total base bid price was added correctly, however the total was not spelled-out correctly. The Public Contract Code and the City's bid documents define these as a "minor bid irregularity," and authorize the City to "waive" these irregularities and proceed with award of the contract. Project staff and the City Attorney's office have reviewed these bid irregularities and have determined they are minor and not significant. It is recommended the Agency waive the minor bid irregularities and award the construction contract to Ashron Construction and Restoration, Inc.

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

**Recommendations:**

1. Waive minor bid irregularities.
2. Award a construction contract to Ashron Construction and Restoration Inc., as the lowest responsive responsible bidder, for Soundwall Renovation, Project No. 8196, in the amount of \$104,624.00.

**\*RA5. Award Construction Contract, Including One Add Alternate Item, to Priority Roofing Solutions, Inc. for Storm Pump Station Improvements (Re-roofing), Projects No. 8188 and No. 8162 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** On April 6, 2010, the Agency approved the project plans and specifications and authorized the advertisement for construction bid proposals for the Storm Pump Station Improvements (Re-roofing), Project No's 8188 and 8162. The project provides for re-roofing and repairs at the Abbott Avenue, Murphy Ranch, Ayer and California Circle Pump Stations. It also provides for replacement of the roof on the historic water tower near the Midtown East Parking Garage adjacent to the new Public Library. The Engineer's Estimate for the base bid work (basis for determining the lowest responsive bidder) was \$100,000.

The project was advertised and five (5) sealed bid proposals were received on September 22, 2010. Bid proposals ranged from \$46,100 to \$103,194, and the lowest responsive base bid was submitted by Priority Roofing Solutions, Inc. in the amount of \$46,100.

The bid package included one add alternate item for consideration of submitted pricing after bid opening. Staff recommends awarding the package with this item for an amount not to exceed price of \$19,100, which was below the \$30,000 Engineers Estimate for this add alternate item. The add alternate item will provide for the re-roofing at California Circle Pump Station. Awarding the project base bid with the recommended alternate item brings the total construction contract to \$65,200, which is within the project's cost plan and budget and no additional budget appropriation is required.

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

**Recommendation:** Award a construction contract including one Add Alternate item to Priority Roofing Solutions, Inc., as the lowest responsive responsible bidder, for storm pump station improvements (re-roofing), Projects No. 8188 and No. 8162, in the amount of \$65,200.

**RA6. Agency Adjournment**

**XVIII. REPORTS OF MAYOR, COUNCIL AND COMMISSION**

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

**Background:** Mayor Livengood recommends the following Milpitas students to be appointed to the Youth Advisory Commission as voting members: Veenu King, Monica La, and Vicky Tu. Also, appoint Sabina King as Alternate Member No. 1. and Sahil Sandhu as Alternate Member No. 2. All terms will expire in September 2011.

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

**4. Consider Proposed Amendment to the Regulation of Campaign Contributions Ordinance (Contact: Councilmember Polanski, 586-3024)**

**Background:** Milpitas City ordinance limits campaign contributions to \$350 per each individual or entity contributor. Recently, the question has been asked whether contributions from individuals should be combined with those of entities they control for purposes of determining the total amount of a contribution and whether it fits within the \$350 limit. Other cities' ordinances and FPPC regulations contain such "aggregation" provisions. A copy of a provision contained within the City of Santa Clara campaign finance ordinance and one within the FPPC regulations are included in the agenda packet as examples. Adding an aggregation provision to the Milpitas Municipal Code will regulate the flow of donations from individuals and entities under their control.

**Recommendation:** Provide direction to the City Attorney regarding the scope of an appropriate aggregation provision to be added to the Regulation of Campaign Contributions Ordinance.

**Parks, Recreation & Cultural Resources Commission**

**\* 5. Approve Sixteen Family Child Care Assistance Fund Grant Requests (Staff Contact: Toby Librande, 586-3077)**

**Background:** At its September 13, 2010 meeting, the Parks, Recreation and Cultural Resources Commission (PRCRC) reviewed sixteen Family Child Care Assistance Fund Grant Applications. All of the applications met eligibility guidelines. The PRCRC recommended distributing grants to all of the applicants in the following denominations: \$480 to Janice Chaney, Sherry Clanton, Yan Ding, Carolyn Reed, Rosa Rodriguez, Samiha Samawi and Sabina Sheikh, \$360 to Shila Desai and Araceli Tapia, and \$240 to Victoria Burns, Donna Egusa, Kim Lagman, Yu Ying Lai, Nasreen Mohammed, Fauzia Salim and Jasmine Yousefkhachi. One additional grant application was received but the applicant was unable to attend the PRCRC meeting. Her application will be considered at the PRCRC meeting on October 4, 2010, and the City Council on November 16, 2010. Included in the Council's agenda packet is the background information regarding this item.

**Fiscal Impact:** None. \$6,000 was budgeted this year for these annual grants.

**Recommendation:** Approve the sixteen Family Child Care Assistance Fund Grant requests.

- \* 6. **Approve one Youth Sports Assistance Fund Grant Application (Staff Contact: Aaron Bueno, 586-3226)**

**Background:** The City Council approved \$4,000 for the Youth Sports Assistance Fund for the 2010-11 budget year. Included in the Council's agenda packet for review and consideration is one Youth Sports Assistance Fund application from the Milpitas Youth Soccer Club in the amount of \$1,000 requested for coaching and safety trainings.

**Fiscal Impact:** There is currently a balance of \$4,000 in the FY 2010-11 Youth Sports Assistance Fund. Approval of one Group Youth Sports Assistance Fund Grant in the amount of \$1,000 will leave a balance of \$3,000 for the remainder of the fiscal year.

**Recommendation:** The Parks, Recreation and Cultural Resources Commission and staff reviewed the application on September 13, 2010 and recommend that the City Council award one Youth Sports Assistance Fund grant of \$1,000 to the Milpitas Youth Soccer Club.

## **XIX. NEW BUSINESS**

7. **Receive Report from Pacific Gas & Electric (PG&E) Representative regarding Gas Pipelines and Infrastructure in Milpitas (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The Mayor and City Council have requested information on the gas pipelines and appurtenances located in the City of Milpitas, in light of the San Bruno pipeline incident. Mr. Alex Kobayashi, Pacific Gas & Electric's government liaison for the City of Milpitas will attend the Council meeting and provide a report on this topic, including the process involving the assessment and evaluation of the condition and operation of the gas distribution infrastructure in Milpitas. He will also be available for questions.

**Fiscal Impact:** None.

**Recommendation:** Receive presentation from PG&E staff on gas pipelines and appurtenances located in the City of Milpitas.

8. **Receive Report on the Alviso Adobe Project, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This project is included in the approved 5-year Capital Improvement Program and provides for the design and construction of the exterior restoration of the Alviso Adobe building including structural retrofitting. The project also includes design and construction of new park improvements, including renovation of the existing outbuildings and Art improvements as more recently authorized by the Council. The new park features will include a public restroom, pathways, lighting, picnic areas, apricot orchard, park benches, garden and other landscaping elements to replicate a historic 1920's farm setting. Staff will provide a brief presentation on progress to date, project budget and a schedule of the next phase of the project.

**Fiscal Impact:** None

**Recommendation:** Receive the progress report on the Alviso Adobe Project No. 5055.

- \* 9. **Request to Waive Fees for the Milpitas Rotary Club's Annual Carnival and Pumpkin Patch (Staff Contact: Cindy Hom, 586-3273)**

**Background:** The Milpitas Rotary Club has requested a waiver of \$2,063 in City fees related to the review and permitting of its annual carnival and pumpkin patch. The fee amount includes a total of \$500 in application fees for separate reviews of each event by the Planning Commission Subcommittee, \$355 in building permit fees, and \$1,208 in Fire Prevention inspection fees. The

carnival will be held from October 21 to October 24 in Walmart's parking lot at 301 Ranch Drive. The pumpkin patch will be held from October 22 to October 30 in the Milpitas Unified Schools District's parking lot at 1331 East Calaveras Boulevard. Milpitas Rotary Club requested the fee waiver to increase proceeds from these events that will help fund future Rotary services programs. The City Council has previously approved fee waivers for these events

**Fiscal Impact:** Loss of \$2,063 in fee revenue.

**Recommendation:** Approve the Milpitas Rotary Club's request to waive \$2,063 in City fees associated with review and permitting of its annual carnival and pumpkin patch.

## **XX. ORDINANCE**

- \* **10. Waive the Second Reading and Adopt Ordinance No. 38.797 Related to Town Center Re-zoning (Staff Contact: Sheldon Ah Sing, 586-3278)**

**Background:** On September 21, 2010 the City Council introduced Ordinance No. 38.797 changing the zoning of 50 acres to Town Center and making minor text zoning text amendments. The ordinance remains unchanged and is now ready for adoption.

**Fiscal Impact:** None.

**Recommendation:** Waive the second reading and adopt Ordinance No. 38.797 related to Town Center re-zoning.

## **XXI. CONTRACTS**

- \* **11. Authorize the City Manager to Execute a Contract Extension with Alice Wright for Abandoned Shopping Cart Retrieval Services (Staff Contact: James Lindsay, 586-3273)**

**Background:** On January 6, 2009, the City Council selected Alice Wright as the winner of the Request for Proposals for abandoned shopping cart retrieval services. On September 21, 2010, the City Council directed staff to increase the pick-up times from once per day to twice per day and to enhance the enforcement procedures both of which necessitated changes to the scope of work and compensation within the contract. Staff has met with Ms. Wright and reached agreement on the following terms for the extension. The cost of the service would increase by an average of \$500 per month. The term of the contract would be from November 1, 2010 to June 30, 2011, with an optional one-year extension that could be granted by the City Manager. This 8-month period will allow time to confirm the anticipated amount of fines collected from non-participating stores. This extension also covers a gap within the contracted time period from January 18, 2010 to June 30, 2010, where Ms. Wright was paid a total of \$8,250. Therefore the total not-to-exceed amount would be \$24,250 (\$16,000 for November 1, 2010 to June 30, 2011 and \$8,250 for January 18, 2010 to June 30, 2010).

**Fiscal Impact:** There are sufficient funds in the Planning & Neighborhood Services operating budget to cover the additional \$500 monthly service cost, the majority of which is anticipated to be reimbursed by the collection of fines from non-participating stores.

**Recommendation:** Authorize the City Manager to execute a contract extension with Alice Wright for abandoned shopping cart retrieval services.

- \* **12. Approve Amendment No. 1 to the Contract with Jeffrey L. Clet (Staff Contact: Thomas Williams, 586-3050)**

**Background:** On July 1, 2010, the City of Milpitas entered into a written agreement for consulting services with Jeffrey L. Clet, who provided assistance to the Fire Department while

the City conducted outreach for a permanent fire chief. To date, the current agreement is for a not-to-exceed amount of \$19,999. Staff recommends that the agreement be amended to add \$20,000 for a total contract amount of \$39,999. Now that the City has hired a new fire chief, this amount will cover the consultant's remaining costs during the transition period.

**Fiscal Impact:** None. Sufficient funds are already appropriated within the Fire Department's budget to fund this contract amendment.

**Recommendation:** Approve an amendment to the contract with Jeffrey L. Clet, adding \$20,000 to the existing contract of \$19,999, for a total not-to-exceed amount of \$39,999.

**XXII. ADJOURNMENT**

**NEXT CITY COUNCIL MEETING  
TUESDAY, OCTOBER 19, 2010**