



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, OCTOBER 19, 2010**

**7:00 P.M.
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER by the Mayor**
- II. ROLL CALL by the City Clerk**
- III. PLEDGE OF ALLEGIANCE**
- IV. INVOCATION (Councilmember Gomez)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – October 5, 2010**
- VI. SCHEDULE OF MEETINGS – Council Calendars for October and November 2010**
- VII. 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.

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

- XII. PUBLIC HEARING**
 - 1. Adopt a Resolution Authorizing the Extension of the Maturity Date and the Weighted Average Maturity with Respect to California Enterprise Development Authority Variable Demand Revenue Bonds, Series 2008 (Humane Society Silicon Valley Project) (Staff Contacts: Emma Karlen, 586-3145, and Bryan Otake, 586-3040)**
- XIII. REPORT OF MAYOR**
 - * 2. Consider Mayor's Recommendations for Appointments to Four Milpitas Commissions (Contact: Mayor Livengood, 586-3051)**
- XIV. NEW BUSINESS**

3. **Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)**
- * 4. **Consideration of the City Council Meeting Schedule in 2011 (Staff Contact: Mary Lavelle, 586-3001)**
- * 5. **Request to Waive Fees for the Alcoholics Anonymous of Santa Clara County 16th Annual Unity Day at the Community Center on Sunday, August 21, 2011 (Staff Contact: Rosana Cacao, 586-3207)**
- * 6. **Request to Waive Fees for the St. John Baptist Catholic Church Annual Autumn Festival (Staff Contact: Tiffany Brown, 586-3283)**

XV. RESOLUTION

- * 7. **Adopt a Resolution Granting Final Acceptance of the Water System Air Relief Valve Modifications, Project No. 7086, Phase III (Staff Contact: Steve Erickson, 586- 3301)**

XVI. CONTRACTS

- * 8. **Authorize the City Manager to a Execute Memorandum of Understanding with Santa Clara Valley Transportation Authority for Calera Creek Waterline Casing, and Approve a Budget Appropriation for the City's Cost Share (Staff Contact: Fernando Bravo, 586-3328).**
- * 9. **Approve and Authorize the City Manager to Execute a Warranty Work Order Contract for Valley Slurry Seal, Project No. 4255 (Staff Contact: Steve Erickson, 586-3301)**

XVII. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, NOVEMBER 2, 2010

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's Office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, 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)*
- Mobile Home Park Rental Review Board, Emergency Preparedness Commission*
- Parks, Recreation & Cultural Resources Commission (alternates)*
- Recycling & Source Reduction Advisory Commission (alternate)*
- Senior Advisory Commission, Youth Advisory Commission (alternates)*

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

XII. PUBLIC HEARING

1. **Adopt a Resolution Authorizing the Extension of the Maturity Date and the Weighted Average Maturity with Respect to California Enterprise Development Authority Variable Demand Revenue Bonds, Series 2008 (Humane Society Silicon Valley Project) (Staff Contacts: Emma Karlen, 586-3145, and Bryan Otake, 586-3040)**

Background: Federal and State laws provide the ability for cities and counties to join together under cooperative agreements to form joint powers authorities to issue tax-exempt and taxable bonds to fund projects that provide a public benefit and serve the needs of residents within the jurisdictions of the participating members. Generally speaking, cities and counties in California have the ability to act as issuers of conduit revenue bonds, but many jurisdictions utilize joint powers authorities primarily for economies of scale, to access specialized transaction knowledge and resources, and to avoid using valuable local staff time on these types of transactions. The California Enterprise Development Authority (the “Authority”) is a joint powers authority whose purpose is to issue tax-exempt and taxable conduit revenue bonds to fund industrial and commercial development projects and other public purpose projects within the current and future member jurisdictions.

In 2008, the City Council adopted resolutions approving associate membership in the Authority and the Authority’s issuance of its Variable Rate Demand Revenue Bonds, Series 2008 (Humane Society Silicon Valley Project) (the “Bonds”) for the benefit of the Humane Society Silicon Valley (the “Humane Society”). The Humane Society has now requested the Authority’s assistance in extending the maturity date of the Bonds. The City is required to conduct a public hearing and approve the extension of the maturity date and the weighted average maturity of the Bonds pursuant to Section 147(f) of the Internal Revenue Code and the Joint Exercise of Powers Act, comprising Chapter 5 of Division 7 of Title 1 of the Government Code of the State (commencing with Section 6500).

The Authority’s legal counsel will advise the Humane Society with respect to the steps to be undertaken in connection with extending the maturity date of the Bonds and will prepare such documentation as may be necessary to complete such extension. No City staff time or resources will be needed.

Fiscal Impact: None. Conduit revenue bonds are a special, limited obligation of the Authority payable solely through the payment of principal and interest from the Humane Society. In most cases, the bonds will be secured by a letter of credit from a bank with a minimum rating of A1/A- from Standard and Poor’s or comparable minimum rating from another nationally recognized rating agency or be privately placed with a sophisticated investor or qualified institutional buyer. As such, any bonds issued by the Authority will not be a direct obligation of the Authority, the City or any member of the Authority. Neither the faith or credit, nor the taxing power of the City, any member of the Authority, the State of California or any political subdivision is pledged to the repayment of the bonds.

Because interest on the bonds is tax-exempt, a public hearing and approval of the extension of the maturity date and weighted average maturity of the bonds by the City is required by the Internal Revenue Code of 1986.

Recommendations:

1. Open the public hearing.
2. Move to close the public hearing, after hearing any testimony.
3. Adopt a resolution approving the extension of the maturity date and weighted average maturity of the bonds by the California Enterprise Development Authority.

XIII. REPORT OF MAYOR

- * 2. **Consider Mayor's Recommendations for Appointments/Re-appointments to Four Milpitas Commissions (Contact: Mayor Livengood, 586-3051)**

Background: Mayor Livengood recommends the following citizens be appointed/re-appointed as follows:

Arts Commission/Public Art Committee

Re-appoint Tess Santos to a term that expires in October 2013.

Re-appoint Bill Foulk to a term that expires in October 2013.

Re-appoint Robin Hays to a term that expires in October 2013.

Bicycle Pedestrian Advisory Commission

Re-appoint Christine Sanchez as Alternate No. 1 to a term that expires in August 2012.

Parks, Recreation & Cultural Resources Commission

Appoint Stephanie Fong (current Alternate No. 1) as a regular member to a term that expires in June 2013.

Sister Cities Commission

Appoint Karen Serpa (current Alternate Member No. 1) as a regular member to a term that expires in September 2013.

Appoint Miriam Hardin (current Alternate Member No. 2) as Alternate Member No. 1 to a term that expires in September 2012.

Recommendation: Consider the recommendations from Mayor Livengood, and move to approve his recommended appointments/re-appointments to four Milpitas Commissions.

XIV. NEW BUSINESS

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

Background: Business Development: Several companies have relocated to the City for expansion purposes. NuvoSun, which is working to reduce the cost of thin-film solar technology, will occupy 1565 Barber Lane, the former Polycom Headquarters site. This property has been vacant for several years. Extron Inc. will occupy approximately 50,000 sq. ft. on Abbott Avenue and will expand its operations capacity.

Seminars and Classes: The Small Business Development Classes at City Hall continue to be very popular and some have "standing room only." Classes will continue into December. The Cantonese "How to Start a Business" Class was scheduled on October 13 at City Hall. The City is doing this in conjunction with the City of Cupertino and Cupertino Chamber 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.

Venture Capital Forum: Staff is working with the North Silicon Valley Alliance to host a Venture Capital Forum on Monday, November 15. Venture capitalists focusing on emerging technology will be a part of the panel. The event will be held in the Committee Conference Room at City Hall.

Great Mall: The Great Mall reports that its August 2009 vs. August 2010 sales were nearly 5% higher.

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

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

- * 4. **Consideration of the City Council Meeting Schedule in 2011 (Staff Contact: Mary Lavelle, 586-3001)**

Background: The Milpitas Mayor and City Council are requested to consider and adopt their meeting schedule for 2011. Regarding the City Council's summer time meeting dates, it has been recent tradition to cancel both of the July regular City Council meetings in Milpitas.

City staff has begun to prepare year-long calendars for next year and have inquired of the City Council as to what schedule will be followed in 2011. Staff requests that the City Council act on an affirmative meeting schedule for 2011 for its regular business meetings.

Recommendation: Move to approve the 2011 regular City Council meeting schedule, including the cancellation of the July 2011 City Council meeting dates.

- * 5. **Request to Waive Fees for the Alcoholics Anonymous of Santa Clara County 16th Annual Unity Day at the Community Center on Sunday, August 21, 2011 (Staff Contact: Rosana Cacao, 586-3207)**

Background: For over 16 years, Alcoholics Anonymous has hosted the annual Unity Day at the Milpitas Community Center. This event on Sunday, August 21, 2011, is open to all and designed to inform members of the service opportunities in Alcoholics Anonymous, to encourage their participation, and to focus attention on reaching and serving the still-suffering alcoholic. This organization, the Intergroup Central Office of Santa Clara County, Inc. is a California non-profit corporation and is fully supported by financial contributions from their members. The group's primary focus and purpose is to maintain sobriety and helping other to find sobriety.

Alcoholics Anonymous requests that City Council approve the waiver of facility rental fees for a total of \$1,281.50.

Fiscal Impact: None.

Recommendation: Approve the Alcoholics Anonymous request for a fee waiver totaling \$1,281.50 for the August 21, 2011 Annual Unity Day event at the Milpitas Community Center.

- * 6. **Request to Waive Fees for the St. John Baptist Catholic Church Annual Autumn Festival (Staff Contact: Tiffany Brown, 586-3283)**

Background: St. John the Baptist Church has requested a waiver of \$1,708 in City fees related to the review and permitting of the church's annual Autumn Festival event. The fee amount includes application preparation and review for the Planning Commission Subcommittee \$250, the electrical permit fee for \$167, and the Fire Prevention inspection and permit fee for \$1,291. The festival, consisting of rides, game booths, live performances, and food/beverages sales was held on Friday, September 24 through Sunday, September 26, 2010. The City Council has previously approved the fee waiver for this event.

Fiscal Impact: None.

Recommendation: Approve St. John the Baptist Catholic Church's request to waive City fees associated with review and permitting of its annual Autumn Festival.

XIII. RESOLUTION

- * 7. **Adopt a Resolution Granting Final Acceptance of the Water System Air Relief Valve Modifications, Project No. 7086, Phase III (Staff Contact: Steve Erickson, 586- 3301)**

Background: This project was initially accepted on October 6, 2009 and has passed the one-year warranty period. A final inspection of the installed public improvements has been made, and the work was found to be satisfactory. This project included the removal of thirty-four (34) below-ground air relief valves, and installed new above-ground valves in metal enclosures so they are above the 100-year flood level. This work was completed to comply with State Code, Title 22, Chapter 16, as mandated by the California Department of Public Health (CDPH).

Staff recommends the Council grant final project acceptance of the Water System Air Relief Valve Modifications, Project No. 7086, Phase III and release of the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of the Water System Air Relief Valve Modifications, Project No. 7086, Phase III and release of the contractor's bond.

XVI. CONTRACTS

- * 8. **Authorize the City Manager to Execute a Memorandum of Understanding with Santa Clara Valley Transportation Authority for Calera Creek Waterline Casing, and Approve a Budget Appropriation for the City's Cost Share (Staff Contact: Fernando Bravo, 586-3328)**

Background: The Santa Clara Valley Transportation Authority (VTA) is relocating utilities and the Union Pacific Freight Railroad (UPFRR) tracks for the new BART. The existing Calera pipeline crossing has a limited design life remaining. Staff evaluated a proposal to install a future 24" steel casing for a future water pipeline replacement project. This pipeline is a critical facility part of the Seismic Backbone water distribution system and critical for system reliability.

City staff and VTA have negotiated a license agreement for the proposed new Steel Casing with UPRR. This Memorandum of Understanding Agreement (MOU) has been negotiated with VTA for cost sharing and to construct the new steel casing as part of the C210 Project. Staff recommends that the City Council approve the MOU and authorize the City Manager to execute the agreement and appropriate funds to perform this work.

Fiscal Impact: There is no general fund impact for this project. The proposed funds will be appropriated from the Water Fund into the Non-departmental Fund, in an amount not to exceed \$80,000.

Recommendation: Authorize the City Manager to execute a Memorandum of Understanding with Santa Clara Valley Transportation Authority for the Calera Creek Waterline Casing; and approve a Budget Appropriation for the City's cost share.

- * 9. **Approve and Authorize the City Manager to Execute a Warranty Work Order Contract for Valley Slurry Seal, Project No. 4255 (Staff Contact: Steve Erickson, 586-3301)**

Background: The City Council awarded a pavement seal project to Valley Slurry Seal Company (VSS) on June 17, 2008 to provide a slurry seal to various streets around the City. The project was completed, initially accepted, and entered the one-year warranty period on November 18, 2008. During the warranty period, portions of the seal product began to strip

away from the pavement making the streets appear worn and not maintained. Valley Slurry Seal performed limited patch repairs to the streets last summer. However, City staff was not satisfied with the extent of the repair work and the parties disagreed over the terms and conditions of required warranty work, in part due to increased contractor costs and site conditions. Staff has been working with VSS to resolve this warranty work dispute.

VSS has now agreed to perform more extensive warranty repairs that would encompass the full width and length of the streets and to also perform needed, minor adjacent street slurry seal work. In this regard, VSS has agreed to provide a slurry seal to Evans Road from Calaveras Boulevard to Kennedy Drive as a remedy to bind the dust and loose gravel to the road surface. The County recently added a chip-seal to this section of Evans Road, and this type of treatment tends to create a nuisance if not sealed after the initial chip placement. Staff recommends the approval of a warranty work order contract for an amount not to exceed \$55,000, for the cost of the contractor's additional materials, equipment and labor. Such amount is considered to be reasonable for the work to be performed.

Fiscal Impact: The seal project was originally constructed under Project No. 8194 which has been closed. Funding for the work specified in the warranty work order contract will be funded through the current Street Resurfacing Project No. 4255, and sufficient funds are available.

Recommendation: Approve and authorize the City Engineer to execute a warranty work order contract with Valley Slurry Seal in the amount not to exceed \$55,000.

XVII. ADJOURNMENT

**NEXT REGULAR MEETING:
TUESDAY, NOVEMBER 2, 2010**