



**MILPITAS CITY COUNCIL MEETING AGENDA
MILPITAS REDEVELOPMENT AGENCY MEETING AGENDA
DECEMBER 7, 2010**

**7:00 P.M.
455 E. CALAVERAS BOULEVARD
MILPITAS, CA**

SWEARING-IN OF NEWLY ELECTED OFFICIALS

- I. CALL TO ORDER** by Mayor Livengood
- II. ROLL CALL** by the City Clerk
- III. REPORT OF ELECTION RESULTS AND CERTIFYING RESOLUTION**
 - 1. Report of Municipal Election Results of November 2, 2010 and Adopt Resolution to Certify Final Results (Staff Contact: Mary Lavelle, 586-3001)**
 - 2. Commendation to Mayor Livengood (Vice Mayor McHugh)**
- IV. SWEARING-IN OF NEW MAYOR JOSE ESTEVES**

Oath administered by Dr. George Hsieh, President of Northwestern Polytechnic University
- V. PRESENTATION OF COLORS and PLEDGE OF ALLEGIANCE** - Boy Scouts Troop No. 92
NATIONAL ANTHEM – sung by Praising Voices and Voices of Faith Choir
- VI. SWEARING-IN OF NEWLY RE-ELECTED COUNCILMEMBERS** by City Clerk

City Councilmember Armando Gomez, followed by remarks
City Councilmember Althea Polanski, followed by remarks
- VII. REMARKS FROM THE MAYOR**
- VIII. BREAK** for reception and refreshment in City Hall Lobby Rotunda

BUSINESS MEETING OF THE CITY COUNCIL

- IX. ROLL CALL** of the new City Council by the City Clerk
- X. APPROVAL OF COUNCIL MEETING MINUTES** – November 16, 2010
- XI. SCHEDULE OF MEETINGS** – Council Calendars for December 2010 and January 2011
- XII. 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.

- XIII. ANNOUNCEMENTS**
- XIV. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XV. PRESENTATION** to outgoing Mayor Livengood
- XVI. ELECTION OF VICE MAYOR**
- XVII. APPROVAL OF AGENDA**
- XVIII. 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.

- * **3. Approve the Updated Santa Clara County Cities Association Bylaws (Staff Contact: Tom Williams, 586-3051)**
- * **4. Adopt a Resolution Authorizing the Police Chief to Execute the Agreement with Office of the State Chief Information Officer for the Assembly Bill 912 Grant Program for Recruitment and Training of 9-1-1 Dispatchers, and Approve a Budget Appropriation (Staff Contact: Steve Pangelinan 586-2400)**
- * **5. Accept an Assistance to Firefighters Grant for the Purchase of New Firefighter Personal Protective Equipment/Clothing (Staff Contact: Geoff Maloon, 586-2820)**
- * **6. Authorize the City Manager to Execute a Solar Power Purchase Agreement with Borrego Solar (Staff Contact: Greg Armendariz, 586-3317)**
- * **7. Approve Amendment No. 6 to the Agreement with Dodson Psomas for the Gibraltar Reservoir and Pump Station, Project No. 7101 (Staff Contact: Jorge Bermudez, 586-3313)**
- * **8. Consider Mayor's Recommendations for Appointments to Milpitas Commissions (Contact: Mayor Esteves, 586-3051)**
- * **9. Consider Mayor's Recommendation to Appoint Councilmember McHugh to serve as the Milpitas Representative on the Treatment Plant Advisory Committee (Contact: Mayor Esteves, 586-3051)**
- * **10. Approve an Amendment to the Contract with Managed Health Network, Inc. for Employee Assistance Program Services (Staff Contact: Carmen Valdez, 586-3086)**

XIX. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – November 16, 2010**
- RA3. Approval of Agenda and Consent Calendar**

***RA4. Approve and Authorize the Agency Executive Director to Execute an Agreement with Biggs Cardosa Associates Inc. for City Building Improvements, Project No. 8182 (Staff Contact: Steve Erickson, 586-3301)**

RA5. Adjournment

XX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, JANUARY 4, 2011

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: 408-586-3030 / 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 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.

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 (alternates)

Recycling & Source Reduction Advisory Commission (alternate)

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

III. REPORT OF ELECTION RESULTS AND CERTIFYING RESOLUTION

1. Report of Municipal Election Results of November 2, 2010 and Adopt Resolution to Certify Final Results (Staff Contact: Mary Lavelle, 586-3001)

Background: A general municipal election was held in the City of Milpitas on Tuesday, November 2, 2010 for the offices of Mayor and two Members of the City Council. Final election results reveal the candidates elected by the voters of Milpitas were Jose Esteves as Mayor to a two-year term, and incumbents Armando Gomez and Althea Polanski as City Councilmembers to four-year terms. Mr. Esteves was elected from a field of four candidates, and Mr. Gomez and Ms. Polanski were elected from a field of eight candidates.

Certified election results are included on the resolution presented for adoption at this meeting. The Santa Clara County Registrar of Voters certified the results on Tuesday, November 30, exactly 28 days following the election, as required by California Elections Code. Those results are comprised of the total of precinct ballots cast, vote-by-mail ballots, and write-in votes.

The City Council is asked to confirm the Official Canvass of Returns of the November 2, 2010 Municipal Election by Resolution (included in the Council agenda packet).

Recommendations: Receive from the City Clerk an oral report of election results and turnout. Adopt a resolution confirming the official canvass of election returns and declaring the results of the General Municipal Election held on November 2, 2010.

XVIII. CONSENT CALENDAR (Items with asterisk*)

* 3. Approve the Updated Santa Clara County Cities Association Bylaws (Staff Contact: Tom Williams, 586-3051)

Background: The Santa Clara County Cities Association Bylaws Review Committee made amendments and suggested revisions to the Cities Association bylaws. These recommendations are based on initial recommendations made at the June Board meeting and feedback received thereafter. The revisions have been thoroughly reviewed by the Cities Association's counsel to ensure compliance with state and federal laws. On October 14, 2010, the Board approved the bylaws as amended and agreed to forward the revisions to member jurisdictions for approval. As a summary, the suggested amendments include: 1) language revisions, 2) correction of facts, 3) name change of the "Santa Clara County Cities Association" to the "Cities Association of Santa Clara County;" 4) updates to reflect current adopted policies and government code, e.g. the Brown Act, and, 5) addition of an ex-officio member to the Board of Directors from the SCC Board of Supervisors. Included in the agenda packet is the version of the bylaws showing the edited text.

Fiscal Impact: None.

Recommendation: Approve the updated Santa Clara County Cities Association Bylaws.

* 4. Adopt a Resolution Authorizing the Police Chief to Execute the Agreement with the Office of the State Chief Information Officer for the Assembly Bill 912 Grant Program for Recruitment and Training of 9-1-1 Dispatchers, and Approve a Budget Appropriation (Staff Contact: Steve Pangelinan 586-2400)

Background: Assembly Bill 912 requires \$2 million dollars be set aside for primary 9-1-1 Communication Centers throughout California to recruit and train additional personnel. These funds are being made available to assist 9-1-1 Communication Centers given that most wireless

9-1-1 calls originating within local jurisdictions are now being routed directly to local call centers, rather than the California Highway Patrol. These grant funds will be administered and proportionally dispersed by the Office of the State Chief Information Officer (OCIO). The OCIO confirmed that Milpitas Police Department is eligible for a one-time payment of \$18,975.33 to offset costs associated with the recruitment and training of dispatchers between January 2010 and September 2011.

Fiscal Impact: None. This one-time payment will offset some previously incurred costs as well as planned expenditures.

Recommendations:

1. Adopt a resolution authorizing the Police Chief to execute the agreement with the Office of the State Chief Information Officer (OCIO) for the Assembly Bill 912 grant for recruitment and training of 9-1-1 dispatchers.
2. Approve a budget appropriation in the amount of \$18,975.33 for Police Department contractual services and training budget from grant revenue.

* **5 Accept an Assistance to Firefighters Grant for the Purchase of New Firefighter Personal Protective Equipment/Clothing (Staff Contact: Geoff Maloon, 586-2820)**

Background: The Fire Department submitted an Assistance to Firefighters Grant application in May 2009 requesting new wild land personal protection equipment including shelters, goggles, coats, pants, gloves, boots and headlamps (complete ensemble). The grant was awarded by the Department of Homeland Security in June 2010 with slightly reduced numbers as detailed in the award documents (included in the agenda packet). The Assistance to Firefighters Grant provides funding directly to fire departments to enhance operational response capabilities and firefighter safety.

Fiscal Impact: None. The 2009 Assistance to Firefighters Grant is an 80-20 grant, with a total project cost of \$55,670, of which \$44,536 is federal dollars and \$11,134 is the local cost match. The Fiscal Year 2010-11 Fire Department operating budget has sufficient funding to cover the local match. It is important to note that this is an essential purchase of firefighter personal protective equipment. The grant funding will result in a significant cost savings for the City.

Recommendation: Accept the grant from the Department of Homeland Security and appropriate funding totaling \$44,536 to the Fire Department operating budget.

* **6. Authorize the City Manager to Execute a Solar Power Purchase Agreement with Borrego Solar (Staff Contact: Greg Armendariz, 586-3317)**

Background: On February 16, 2010, the City Council authorized execution of an agreement with the County of Santa Clara for the purpose of pursuing the purchase of solar power as a nine agency collaborative. The County has since prepared a Request for Proposals (RFP) seeking solar power purchase providers who can provide financing, design, construction, installation, operations and maintenance of solar power panels on various public facilities for all nine public agencies. In return, through a Power Purchase Agreement, the County and all the participating cities commit to purchasing electric power, generated from the solar power panel installations, at competitive fixed pricing over a 20-year period, with the most qualified providers selected.

The County RFP grouped the various facilities from all agencies into large, medium and small solar installation packages. Milpitas submitted twelve facilities as potential solar panel installation sites, included under the medium and small installation categories. Two firms - Borrego Solar and Ecoplexus respectively - were selected for these categories. Ecoplexus is analyzing the sites for solar panel installations, as well as evaluating the financial feasibility of the sites assigned to their firm. Negotiations of a Power Purchase agreement are anticipated to continue through March 2011.

Borrego Solar is further ahead in its site evaluations and financial feasibility analysis. Milpitas is currently negotiating the terms and conditions of a solar power purchase agreement with Borrego Solar. These negotiations are anticipated to be concluded by mid-December, and Borrego Solar would need to execute a contract with Milpitas prior to the end of 2010, in order to meet a California Solar Initiative grant opportunity. Staff therefore recommends that the Council authorize the City Manager to execute a Power Purchase agreement with Borrego Solar, which is financially advantageous to the City, including the following additional provisions:

- Solar Power purchase rates are initially equal to or less than PG&E electric rates and;
- Solar Power purchase rate increases are capped at 4 % annually (PG&E rates have averaged annual increases in excess of 6 %);
- Minimum solar power production is guaranteed at 80% of the design production through out the life of the panels (which assures the City that the system will be properly maintained and operated by Borrego Solar);
- City to retain the renewal energy credits (RECs);
- Buy-out provisions allow City to purchase system at fair market value
- Excess energy production – City has option to purchase additional energy if it is able to use
- Termination for cause and convenience are provided to the City;
- Assurance that Solar provider shall remove all equipment at end of term (either early termination or full term);
- Provisions for default and early termination of agreement.

The City of Milpitas facilities currently being evaluated include the following:

1. Public Works/Police building and Corporation Yard
2. New Senior Center and Community Center
3. Milpitas Sports Center
4. Milpitas Library Garage

The Solar Power Purchase agreement may include one or more of the above locations, depending on final negotiations of the terms and conditions. For example, the Public Works/Police building has some technical issues which require electrical system improvements to add a second PG&E meter. These added improvement costs may cause this site not to be financially feasible, and would not be included in the agreement.

Fiscal Impact: None. The Power Purchase Agreement will provide the City with electric energy cost savings of approximately \$250,000 over the 20-year term.

Recommendation: Authorize the City Manager to execute a Solar Power Purchase Agreement with Borrego Solar, subject to approval as to form by the City Attorney.

- * 7. **Approve Amendment No. 6 to the Agreement with Dodson Psomas for the Gibraltar Reservoir and Pump Station, Project No. 7101 (Staff Contact: Jorge Bermudez, 586-3313)**

Background: On April 3, 2007, the City Council approved a consultant agreement with Dodson Psomas to provide professional engineering and design services for the Gibraltar Reservoir and Pump Station rehabilitation project. Subsequently, Council approved five amendments to the agreement for additional design tasks including peer review of the Curtis Well pump station design, a new control room, upgraded instrumentation and chemical feed, feasibility of adding solar power, computerized Supervisory Control and Data Acquisition (SCADA) monitoring system, seismic and structural analysis of the existing station building and reservoirs, and definition of critical facilities design parameters for building and fire code compliance.

Since the reconstruction project is nearing completion, staff recommends that Dodson Psomas perform additional construction support services during the start-up and commissioning of the new electrical, instrumentation and SCADA systems for the pump station to ensure that these complex and inter-related systems function as designed. Amendment No. 6 to the agreement with Dodson Psomas is proposed for these additional services. Staff negotiated a scope and not-to-exceed fee of \$95,000 which is considered reasonable for the work. Approval of this agreement amendment brings the total agreement amount to \$1,382,943.

Fiscal Impact: None. Funds are available in the project budget for these services.

Recommendation: Approve amendment No. 6 to the agreement with Dodson Psomas for the Gibraltar Reservoir & Pump Station, Project No. 7101, in the amount of \$95,000, subject to approval as to form by the City Attorney.

* **8. Consider Mayor's Recommendations for Appointments to Four Milpitas Commissions (Contact: Mayor Esteves, 586-3051)**

Background: Mayor Esteves recommends the following residents be appointed to City of Milpitas commissions as follows:

Emergency Preparedness Commission

Newly appoint Mercedes Albana to a term that expires in June 2013.

Senior Advisory Commission

Newly appoint Estrella Gilana to a term that expires in December 2011.

Newly appoint Melba Holliday as Alternate No. 1 to term that expires in December 2011.

Newly appoint Richard Verna as Alternate No. 2 to a term that expires in December 2012.

Sister Cities Commission

Newly appoint German Galvan as Alternate No. 2 to a term that expires in September 2011.

Newly appoint Alexander Quejado as the student non-voting member to a term that expires in September 2012.

Youth Advisory Commission

Newly appoint Andie Tonnu as Alternate No. 4 to a term that expires in September 2011.

Recommendation: Consider the recommendations from Mayor Esteves and move to approve seven new appointments to four City of Milpitas Commissions.

* **9. Consider Mayor's Recommendation to Appoint Councilmember McHugh to serve as the Milpitas Representative on the Treatment Plant Advisory Committee (Contact: Mayor Esteves, 586-3051)**

Recommendation: Per recommendation of Mayor Esteves, move to appoint Councilmember Pete McHugh to serve as the City of Milpitas' representative on the Treatment Plant Advisory Committee, and direct him to attend the regular monthly meetings of the Committee held in San Jose each second Thursday at 4:30 PM.

* **10. Approve an Amendment to the Contract with Managed Health Network, Inc. for Employee Assistance Program Services (Staff Contact: Carmen Valdez, 586-3086)**

Background: Managed Health Network, Inc. (MHN) provides counseling assistance services for City employees and their families. Staff recommends approval of an amendment to the MHN contract covering the period from January 1, 2011 through December 31, 2012 with no increase in cost. The contract also authorizes two automatic one-year extensions beyond the two-year period, subject to termination by either party.

Fiscal Impact: None. There are sufficient funds allocated in the Human Resources Department budget for FY 2010-11.

Recommendation: Authorize the City Manager to execute an amendment to the contract with Managed Health Network Inc. for the employee assistance program for the period of January 1, 2011 through December 31, 2012 in an amount not to exceed \$56,761.

XIX. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

***RA4. Approve and Authorize the Agency Executive Director to Execute an Agreement with Biggs Cardosa Associates Inc., for City Building Improvements, Project No. 8182 (Staff Contact: Steve Erickson, 586-3301)**

Background: The City Building Improvements Project No. 8182 is included in the approved Capital Improvement Program. This project will provide for replacement of the nearly 30 year old Heating, Ventilation, and Air Conditioning (HVAC) equipment and controls at the Milpitas Community Center with new more energy efficient units. The work scope includes the design and construction of demolition of the existing HVAC system and installation of new HVAC units and controls, duct work modifications, minor roof repairs and related improvements to meet the new building code requirements. Through the City's consultant selection process, Biggs Cardosa Associates Inc. was selected to provide design services for the City Building Improvements – Community Center HVAC replacement. Staff negotiated a scope and fee for these services not to exceed \$40,000, which is considered reasonable for the work.

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

Recommendation: Approve and authorize the Agency Executive Director to execute an agreement with Biggs Cardosa Associates Inc. in the amount of \$40,000 for Project No. 8182.

RA5. Adjournment

XX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, JANUARY 4, 2011