



MILPITAS CITY COUNCIL, REDEVELOPMENT AGENCY
AND ECONOMIC DEVELOPMENT CORPORATION
MEETING AGENDA
TUESDAY, APRIL 5, 2011

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

SUMMARY OF CONTENTS

- I. **CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)**
- II. **ADJOURN TO CLOSED SESSION OF CITY COUNCIL**

CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING
Pursuant to CA Government Code §54957.6 City Negotiators: Carmen Valdez and Bill Marion
Employee Groups: Milpitas Supervisors Association (MSA), Milpitas Employees Association (MEA),
Mid-Management/Confidential (UPEC), Milpitas Professional and Technical Group (ProTech), Milpitas
Police Officers Association (MPOA), International Association of Fire Fighters (IAFF)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- III. **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
- IV. **PLEDGE OF ALLEGIANCE**
- V. **INVOCATION** (Councilmember Gomez)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – March 7 and 15, 2011
- VII. **SCHEDULE OF MEETINGS** – Council Calendar for April 2011
- VIII. **PRESENTATIONS**
 - Proclaim April 2011 as *Month of the Young Child* and *National Child Abuse Prevention Month*
 - Proclaim April 10-16, 2011 as *National Library Week*
- IX. **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.

- X. **ANNOUNCEMENTS**
- XI. **ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. **APPROVAL OF AGENDA**
- XIII. **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.

XIV. UNFINISHED BUSINESS

- 1. Receive the March 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**
- 2. Receive Report on Maximum Use of Rental of City Facilities for Possible Revenue Increase (Staff Contact: Bonnie Greiner, 586-3227)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – March 15, 2011**
- RA3. Approval of Agenda/Consent Calendar**
- *RA4. Approve and Authorize the Agency Executive Director to Execute an Agreement with HMM Incorporated for a Plan Line Study - Montague Expressway Widening, Project No. 4179 (Staff Contact: Steve Erickson, 586-3301)**
- RA5. Agency Adjournment**

XVI. ECONOMIC DEVELOPMENT CORPORATION MEETING

- EDC1. Call to Order/Roll Call by the Mayor/Chair**
- EDC2. Approval of Agenda/Consent Calendar**
- *EDC3. Approve a New Capital Improvement Program, and Approve a Budget Appropriation, for City Hall Audio visual Equipment Replacement and Upgrades, Project No. 9001 (Staff Contact: Steve Erickson, 586-3301)**
- *EDC4. Approve and Authorize the President to Execute an Engineering Design Services Agreement with Carlson, Barbee & Gibson, Inc., and Approve a Budget Appropriation for the Abel Street Transit Connection, Project No. 4260 (Staff Contact: Steve Erickson, 586-3301)**
- EDC5. Adjournment**

XVII. REPORTS OF MAYOR, COUNCILMEMBER AND COMMISSIONS

- 3. Receive Recommendation from Mayor Esteves to Establish a New Community Resource and Action Commission (Contact: Mayor Esteves, 586-3029)**
- 4. Consider Mayor's Recommendations for Two \$500 Donation to Support the Milpitas High School Robotics Club and the Casino Night Fundraiser for Rancho Middle School (Contact: Mayor Esteves, 586-3029)**
- * 5. Consider Mayor's Recommendations for Appointments/Re-appointments to Three Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**
- 6. Hear Report of Councilmember Gomez Requesting a Discussion Regarding Valley Transportation Authority and Placement of Facilities (Contact: Councilmember Gomez, 586-3031)**

- * 7. **Accept Milpitas Public Library Donations and Approve Spending Plans (Staff Contact: Toby Librande, 586-3077)**
- * 8. **Approve Parks, Recreation and Cultural Resources Commission 2011 Work Plan (Staff Contact: Aaron Bueno, 586-3226)**

XVIII. NEW BUSINESS

- * 9. **Receive Progress Report from the Public Works Director on the Emergency Contract Work Order for the Variable Frequency Drives /Pump Motor Assemblies for the Ayer Pump Station, Project No. 7102 (Staff Contact: Greg Armendariz, 586-3317)**
- * 10. **Approve Budget Transfers to Various Capital Improvement Projects (Staff Contacts: Greg Armendariz, 586-3317, and Jane Corpus, 586-3125)**
- * 11. **Approve Out of State Travel Cost (Staff Contact: Brian Sturdivant, 586-2811)**

XIX. ORDINANCE

- 12. **Introduce Ordinance No. 111.9 amending Chapter 102 of Title VI of the Milpitas Municipal Code regarding Provisions for Reducing City Workforce (Staff Contacts: Tom Williams, 586-3050 and Michael Ogaz, 586-3041)**

XX. RESOLUTIONS

- * 13. **Adopt a Resolution Establishing the Fair Market Value of an Acre of Land for the Purpose of Calculating Park In-Lieu Fees (Staff Contact: Sheldon Ah Sing, 586-3278)**
- * 14. **Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Pyro Spectaculars for the Not-to-Exceed Amount of \$21,600 for the Annual 4th of July Fireworks Display (Staff Contact: Chris Schroeder, 586-3161)**
- * 15. **Adopt a Resolution Authorizing the Purchase of Firefighter Wildland Personal Protective Equipment/Clothing Through the Use of Cooperative Procurement Contracts (Staff Contact: Chris Schroeder, 586-3161)**

XXI. BIDS AND CONTRACTS

- * 16. **Approve Budget Appropriation and Authorize the City Manager to Execute an Agreement with Harris & Associate for Escuela Parkway Pedestrian and Bicycle Enhancements, Project No. 4259 (Staff Contact: Steve Erickson, 586-3301)**
- * 17. **Authorize the City Manager to Execute Fiscal Year 2011-12 Agreements with the County of Santa Clara for Collection of AB939 Implementation Fees and Administration of the Countywide Household Hazardous Waste Collection Program (Staff Contact: Kathleen Phalen, 586-3345)**
- * 18. **Authorize the City Manager to Execute an Agreement for Professional Services with Dr. Howard Michaels to Provide Medical Director Services to the Milpitas Fire Department for the Not-to-Exceed Amount of \$45,000 (Staff Contact: Chris Schroeder, 586-3161)**

XXII. ADJOURNMENT

**NEXT CITY COUNCIL MEETING:
TUESDAY, APRIL 19, 2011, AT 7:00 P.M**

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:

*Arts Commission/Public Art Committee (alternate)
Community Advisory Commission (alternates)
Emergency Preparedness Commission (large industry rep.)
Mobile Home Park Rental Review Board*

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

XIV. UNFINISHED BUSINESS

1. Receive the March 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)

Background: From February 24 through March 30, 2011, the Bay Area Air Quality Management District (BAAQMD) received five odor complaints originating in Milpitas, four identifying garbage and one identifying sewage. The report included in the Council packet describes information staff obtained from BAAQMD concerning the working hours, the number of odor complaints BAAQMD confirmed in February 2011, and other staff activities to increase awareness of the odor control problem.

Fiscal Impact: None.

Recommendation: Receive the March 2011 odor report.

2. Receive Report on Maximum Use of Rental of City Facilities for Possible Revenue Increase (Staff Contact: Bonnie Greiner, 586-3227)

Background: At the request of the Mayor, staff reviewed the Facility Use Rules and Regulations to consider possible amendments to potentially increase revenue to the City. Facilities identified by the Mayor were: the Police Department Community Room, City Hall Lobby, Civic Center Outdoor Areas (Veterans Memorial, Community Center Amphitheater and Senior Center), and Parks/Picnic Areas. In addition, the Mayor asked staff to consider a change in current policy by allowing applications for rentals to be accepted with less than 30 days notice prior to the event date. Staff is reviewing and believes that requests made after the current 45 day or new proposed 30 days deadline can be accommodated, pending facility and staffing availability.

Four areas to consider changes include:

- 1) **Review of Leasing Policies:** At parks and facilities, the current practice is to rent these for one event per day. An alternative could be to permit a maximum number of events at a site or facility per day. Such change in policy is possible, but implementation would be challenging and depending on the nature of the events and availability of building maintenance staff. Additional time and staffing for set-up and clean up would be necessary.
- 2) **Required advance time** for making reservation for City facility: current policy requires 45 days advance reservation. This could be changed to 30 days notice in advance of an event, or even shorter amount of time, depending upon staffing and facility availability.
- 3) **Review of park rental as flat rate vs. per hour fee:** current policy is to charge rates for park rental, at a per day rate for one event. Council could consider a change to charge by the hour for park use. Currently, there is no way to enforce usage and should the hourly fee be adopted, park fees would need to be increased to cover cost for a park attendant (staff) and maintenance to clean rental area prior to and after each rental as well as to enforce rental hours.
- 4) **City Hall 4th floor rental:** The City has received a couple of requests to lease portions of City Hall's 4th floor. One request is to create a classroom in the open cubicle area and rent at least one enclosed office and the other is to rent one or two enclosed office spaces. The group wishing to use the cubicle area as a classroom is willing to incur the cost of tenant improvements and both parties are willing to lease the space from the City. Staff is currently in discussion with both parties, but has serious concerns about

access and security issues, as the 4th floor is an open floor plan with unsecured access to most of City Hall. Moreover, it is not yet clear if the party willing to install the classroom improvements would be willing to undertake the additional improvements required to secure the floor and its access to City Hall. Another cost is the users' willingness to pay for the cost of tenant improvement removal once there is no longer a demand for the space, or when the City may need to use it. Staff recommends that this item be presented to the Council Transportation and Land Use Subcommittee at its next meeting for further detailed discussion and recommendation.

Regarding the Police Community Room, since 1992, the Police Department has made this room available for use by community non-profit organizations, homeowners associations, scouting groups, and others at no cost. Currently, the room is available on a first-come, first-serve basis and no fee has ever been charged. Staff does not recommend any change to this policy during weekdays from 8:00 am to 8:00 pm since it is valuable to those groups unable to afford rental fees charged by other facilities, and provides a needed service to the community. However, on weekends, a minimal fee could be charged to offset costs of Facility Attendants who are responsible for room set-up, clean-up and opening and closing the facility.

Regarding City Hall rotunda lobby, Committee Room (first floor) and civic center outdoor areas, those facilities are currently available for rent at established hourly rates, adopted by the City Council in 2004. Fee schedule is included in the agenda packet. A major consideration for increased rentals of City Hall facilities would be the maintenance and staffing for events on weekends or evenings. Staff will need to re-evaluate the current fee structure to make cost recovery, since no City staff traditionally works during these hours.

Fiscal Impact: unknown (to be determined).

Recommendation: Receive report from staff, in response to Mayor Esteves' request. Provide direction to staff on facility rentals, as appropriate.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

***RA4. Approve and Authorize the Agency Executive Director to Execute an Agreement with HMH Incorporated for a Plan Line Study - Montague Expressway Widening, Project No. 4179 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Montague Expressway Widening Project, No. 4179, is included in the approved Capital Improvement Program and provides capacity improvements by adding a fourth travel lane in each direction. The City is implementing this project in partnership with Santa Clara County Roads & Airports (SCC Roads & Airports), who owns and maintains Montague Expressway. There are currently 2 major regional projects programmed which directly impact the portion of Montague Expressway from Great Mall Parkway to I-680. These projects are the Bay Area Rapid Transit (BART) extension and the Berryessa Creek Flood Improvements. The City, Santa Clara Valley Water District, Santa Clara County Roads and Airports, and Valley Transportation Authority wish to coordinate all these major projects. The Berryessa Creek improvements include raising the height of the existing levees by five to seven feet. A new bridge structure will need to replace a box culvert, where Berryessa Creek currently crosses Montague Expressway. This new Montague Expressway creek bridge will be required to be placed at the higher elevation, to allow for the larger Berryessa Creek flows. This will also require the reconstruction of several hundred feet of Montague Expressway on both sides of the new creek bridge. The existing intersection of Montague Expressway and Milpitas Boulevard and future Milpitas Boulevard south extension to the future BART station will also be affected by these creek improvements.

In order to initiate the coordination of all the projects, a Plan Line Study of Montague Expressway and Milpitas Boulevard, is required, to prepare preliminary engineering drawings

and engineering analysis necessary to determine all of the physical impacts from this major change in elevations for a reconstructed Montague Expressway. These will include determining impacts to adjacent properties, existing utilities, right-of-way needs and to establish a preliminary cost estimate. The Plan Line Study findings and information will become the basis for a Cooperative Cost Share agreement between VTA, SCVWD, Milpitas and Santa Clara County Roads & Airports (SCC).

At this point, the City of Milpitas is positioned to take the lead in performing the Plan Line Study, after which, based upon the Cooperative agreement, either SCVWD, SCC Road & Airports or the City will take the lead in the design and construction of the time critical improvements on Montague and Milpitas Boulevard. The Cooperative agreement is anticipated to be completed for Council consideration and approval by late this summer.

Through the City's consultant selection process, HMH Incorporated has been selected to provide the design services for this first Plan Line Study phase for Montague Expressway/ Milpitas Boulevard. Staff negotiated a scope and fee for these services not to exceed \$110,000, which is considered reasonable for the work on the first phase.

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

Recommendation: Approve and authorize the Agency Executive Director to execute an agreement with HMH Incorporated in the not-to-exceed amount of \$110,000, Project No. 4179 subject to approval as to form by the Agency Counsel.

XVI. ECONOMIC DEVELOPMENT CORPORATION MEETING

***EDC3. Approve a New Capital Improvement Program, and Approve a Budget Appropriation, for City Hall Audio visual Equipment Replacement and Upgrades, Project No. 9001 (Staff Contact: Steve Erickson, 586-3301)**

Background: This project provides for the replacement and upgrade of audio and visual equipment systems installed in City Hall in the nine conference rooms including the, 2nd floor public meeting area, audio/video control room, and the council chambers. The improvements will replace aging, inefficient and non-working equipment systems. This project will also replace outdated analog systems with digital; will repair the equipment control and diagnostic network; and will provide energy efficient equipment.

Staff requests approval of a new Capital Improvement Program (CIP), City Hall Audio Visual Equipment Replacement and Upgrades, Project No. 9001, and a budget appropriation of \$1,500,000. Pursuant to the budget policy, the Finance Subcommittee reviewed this request on March 17 and recommended approval to the Agency/Council.

Fiscal Impact: A budget appropriation in the amount of \$1,500,000 from the Economic Development Corporation funds Audio Visual Equipment Replacement & Upgrades, Project No. 9001 is required.

Recommendations:

1. Approve new CIP Project, City Hall Audio Visual Equipment Replacement & Upgrades, Project No. 9001.
2. Approve budget appropriation of \$1,500,000 from the Economic Development Corporation funds to Audio Visual Equipment Replacement and Upgrades, Project No. 9001.

***EDC4. Approve and Authorize the President to Execute an Engineering Design Services Agreement with Carlson, Barbee & Gibson, Inc., and Approve a Budget Appropriation for**

the Abel Street Transit Connection, Project No. 4260 (Staff Contact: Steve Erickson, 586-3301)

Background: The Valley Transportation Authority has awarded a Milpitas Community Design for Transportation (CDT) grant. The CDT grant amount is \$712,000, and there is a matching requirement by the City of \$405,800 and \$142,200 from a developer contribution (Lyon Milpitas). The total cost of the project is estimated at \$1,260,000.

The project provides for the installation of streetscape improvements identified in the South Main Street Plan Line Study. The improvements are located on Abel Street between Great Mall Parkway and Capitol Avenue, and include new landscaped median, sidewalks, landscaping and street lighting in accordance with the Midtown Specific Plan.

Under the Milpitas Purchasing Ordinance, engineering service contracts may be negotiated and awarded to those private firms that have the best combination of skill, specialized abilities, and knowledge. The use of Carlson, Barbee, & Gibson, Inc, (CBG) the original designer of record for the Abel Street improvements plans, would effectively leverage existing project familiarity and integrated engineering design expertise.

A contract with Carlson, Barbee, & Gibson, Inc, CBG is therefore recommended to complete the improvement plans, and to also allow the design firm to provide construction services. Construction engineering services include the review and response to contractor requests-for-information, and to respond to design revisions. Staff negotiated a scope and fee for these services not to exceed \$110,000, which is considered reasonable for the work.

A budget appropriation in the amount of \$200,000 is required at this time to allow staff to begin the design and environmental work on this project. The remainder of the City and developer appropriations will be included in the next five year Capital Improvement Program budget cycle.

Fiscal Impact: A budget appropriation of \$200,000 from the 2003 Tax Allocation Bond Fund Corporate funds into the new project for design services will be required to complete the design for this project.

Recommendations:

1. Approve and authorize the President to execute an agreement with Carlson, Barbee & Gibson, Inc., in the amount of \$110,000, Project No. 4260, subject to approval as to form by Corporate Counsel.
2. Approve a budget appropriation of \$200,000 from the 2003 Tax Allocation Bond Fund Corporation funds into the new Abel Street Transit Connection project, Project No. 4260.

EDC5. ADJOURNMENT

XVII. REPORTS OF MAYOR, COUNCILMEMBER AND COMMISSIONS

3. **Receive Recommendation from Mayor Esteves to Establish a New Community Resource and Action Commission (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves would like the City Council to create a new Commission with the following functions:

Review budget or fiscal impact of important Council agenda items by identifying relevant questions and suggestions, and other needed information and sending these items to staff and to the City Council.

Be a Watchdog/Oversight citizen group on the implementation of budget ideas from the task force, the City Council, and public as the City addresses structural deficit and attainment of a sustainable budget.

Review and provide input to the City's major and vital transactions and projects.

Lead residents in being vigilant to city's budget and operations; help inform and educate citizens on critical city issues; and help to solicit and gather citizens input and feedback

Develop user requirements for a common public link in the city's website for residents to go to comment on city issues; or a common email address for residents to use in sending comments to the City to help increase citizen participation or engagement through use of technology.

Fiscal Impact: unknown

Recommendation: Receive report of Mayor Esteves. Consider establishing the new Community Resource and Action Commission. As appropriate, direct staff to prepare By-Laws and determine membership for new Commission.

4. Consider Mayor's Recommendations for Two \$500 Donations to Support the Milpitas High School Robotics Club and the Casino Night Fundraiser for Rancho Middle School (Contact: Mayor Esteves, 586-3029)

Background: Mayor Esteves received two requests for donations from the City:

- (2) For a donation to the Rancho Milpitas Middle School PTSA in support of the fundraising event "2nd Annual Casino Night" held on Friday, April 1, 2011. The Mayor received an e-mail on March 23 requesting support of the event by the City. Mayor Esteves requests that the City Council authorize a donation in the amount of \$500. This item was not presented to the Finance Subcommittee.
- (3) For a donation to the Robotics Club at Milpitas High School. A donation in the amount of \$500 was recommended by the Finance Subcommittee on January 24, 2011.

Fiscal Impact: Donations could be made from the City Council's Unallocated Community Promotions budget. The current balance for FY 2010-11 is \$8,000. If two donations for \$500 each are authorized by City Council, the remaining balance would be \$7,000.

Recommendation: Move to approve the Mayor's request for two donations of \$500 each in support of the Milpitas High School Robotics Club and the Casino Night fundraiser for the Rancho Middle School held on April 1, 2011.

*** 5. Consider Mayor's Recommendations for Appointments/Re-appointments to Three Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following residents be appointed/re-appointed as follows:

Community Advisory Commission

Newly appoint Janice Bobay as Alternate No. 3 to a term that expires in January 2012.

Economic Development Commission

Reappoint Ricardo Ablaza to a term that expires in April 2014.

Reappoint Chandru Bhambhra as Alternate No. 1 to a term that expires in April 2013.

Parks, Recreation and Cultural Resources Commission

Newly appoint Mikaela Garcia as Alternate No. 2 to a term that expires in June 2013.

Recommendation: Consider the recommendations from Mayor Esteves, and move to approve his recommended appointments to three Milpitas Commissions.

6. Hear Report of Councilmember Gomez Requesting a Discussion Regarding Valley Transportation Authority and Placement of Facilities (Contact: Councilmember Gomez, 586-3031)

Background: Councilmember Gomez has requested to have discussion with the City Council regarding the Santa Clara Valley Transportation Authority and placement of certain facilities for the BART extension project. VTA is currently identifying sites for a High Voltage Substation and a Switching Station related to the BART project. One of the alternative sites will negatively impact existing industrial uses. Councilmember Gomez is requesting an update, discussion and action related to the Valley Transportation Authority decision to place facilities related to the BART project at or near 386 Railroad Court.

Recommendation: Hear report of Councilmember Gomez, and direct staff accordingly.

*** 7. Accept Milpitas Public Library Donations and Approve Spending Plans (Staff Contact: Toby Librande, 586-3077)**

Background: On March 21, 2011, the Library Advisory Commission reviewed two Milpitas Public Library donation forms and spending plans totaling \$3,500. The Commission is recommending the City Council accept the donations and approve the spending plans pursuant to the Financial Donations Policy & Procedures for the Milpitas Public Library adopted by the City Council on September 16, 2008. Included in the agenda packet are the Financial Donations Policy & Procedures, the two Financial Donation Forms and the two proposed spending plans.

Fiscal Impact: None.

Recommendation: Accept Milpitas Public Library donations totaling \$3,500 and approve spending plans.

*** 8. Approve Parks, Recreation and Cultural Resources Commission 2011 Work Plan (Staff Contact: Aaron Bueno, 586-3226)**

Background: At the March 7, 2011 Parks, Recreation and Cultural Resources Commission meeting, Commissioners approved their 2011 Work Plan. The Commission's 2011 Work Plan (included in the agenda packet) identifies the Commission's goals, projects and ongoing tasks.

Fiscal Impact: None.

Recommendation: Approve the Parks, Recreation and Cultural Resources Commission 2011 Work Plan.

XVIII. NEW BUSINESS

*** 9. Receive Progress Report from the Public Works Director on the Emergency Contract Work Order for the Variable Frequency Drives /Pump Motor Assemblies for the Ayer Pump Station, Project No. 7102 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On March 15, 2011, the Council approved a budget appropriation for an emergency contract with Anderson Pacific, Inc. for replacement of a failed variable frequency drive (VFD) which controls one of three electric motor and pump assemblies. The work scope also includes emergency replacement of a second existing pump and motor assembly which has exhibited excessive wear, resulting in excessive vibration. Lastly, due to their age and lack of

available parts, the remaining two VFDs are also being replaced. These emergency actions were taken in order to maintain the reliability and serviceability of the Ayer pump station, and thus protecting the public health and safety of the community at large.

This progress report is provided pursuant to Resolution No. 7779 approved by the Council, authorizing the Public Works Director to order emergency contract work. The following work has been performed:

- Contractor and engineering staff have developed a construction schedule which includes a staging plan, in order to maintain the pump station operational at all times;
- A high weight capacity crane was mobilized to the site, motor and pump assembly #1 was removed from the pump building, through an access roof hatch;
- Motor and pump assembly #1 has been shipped to an Oakland facility for rebuilding and testing;
- Anticipated delivery of motor and pump assembly #1 is expected in 6 weeks;
- VFD shop drawings are being prepared by the Contractor for City engineering approval;
- VFDs are to be manufactured immediately after engineering shop drawings are finalized and approved.

The cost for this emergency contract work was initially estimated not to exceed \$650,000, and the work is currently within this budget. The emergency work was initially estimated to take 12 weeks, depending on timely delivery of the pumps, motors and VFD assemblies. A detailed schedule has now been prepared, and additional construction details have been developed which will extend this time frame. This includes additional unanticipated staging of the work, in order to maintain continuous operation of the pump station. Work is now planned to be completed by end of August.

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

Recommendation: Receive the progress report from the Public Works Director on the emergency contract work order for the variable frequency drives/pump motor assemblies for the Ayer Pump Station, Project No. 7102.

*** 10. Approve Budget Transfers to Various Capital Improvement Projects (Staff Contacts: Greg Armendariz, 586-3317 and Jane Corpus, 586-3125)**

Background: The City received \$1,093,661 in Traffic Congestion Relief Fund money from the State of California for fiscal years 2009 and 2010. These monies are required to be spent by the end of the fiscal year or they will be required to be returned to the State. The Engineering Department is recommending these grant funds reimburse the Street Fund for previously completed projects.

The following table provides a breakdown of grant funding for each project:

Fiscal Year	Project
FY2009	
\$425,913	Street Resurfacing Project 2010, CP 4250
FY2010	
\$14,748	Minor Traffic Improvements 2009, CP 4245
\$155,000	Traffic Management Enhancements 2009, CP 4248
\$75,000	Traffic Signal Modifications 2009, CP 4249
\$170,000	Abbott Avenue Street Resurfacing Project, CP 4251
\$150,000	Sidewalk Replacement 2011, CP 4254
\$103,000	Street Resurfacing Project 2011, CP 4255
Total: \$1,093,661	

Street Fund monies will be reprogrammed with the upcoming Capital Improvement Program.

Fiscal Impact: None.

Recommendation: Approve budget transfer to various Capital Improvement Projects.

* 11. **Approve Out of State Travel Cost (Staff Contact: Brian Sturdivant, 586-2811)**

Background: The Fire Chief has made application and been named a National Fire Academy Fellowship finalist in the prestigious Harvard Senior Executives in State and Local Government Program. The final interview process is held in April at the National Fire Academy in Emmitsburg, MD. This request is for the cost of round trip flight only.

Fiscal Impact: None. Sufficient funds are available in the Fire Department's training budget.

Recommendation: Approve the cost of travel for the Fire Chief to attend the National Fire Academy in Emmitsburg, MD in late April.

XIX. ORDINANCE

12. **Introduce Ordinance No. 111.9 amending Chapter 102 of Title VI of the Milpitas Municipal Code regarding Provisions for Reducing City Workforce (Staff Contacts: Tom Williams, 586-3050, and Michael Ogaz, 586-3041)**

Background: The process for balancing the City budget continues, but it is still unclear how much money the State of California will attempt to take from the City and it is further uncertain how much savings can be achieved through negotiations with the City's labor unions. Therefore, a layoff contingency is being considered as an option. After the last layoffs two years ago, it was noted that the exercise of seniority and "bumping rights" in the layoff process resulted in inefficiencies in the workforce. Highly efficient personnel were at times replaced by persons who had little or no current experience in the position that they bumped down to. If layoffs become necessary, an efficient workforce will be more important than ever in the pared-down municipal organization. This amendment is intended to create utility-based criteria for layoffs and eliminate seniority and bumping rights which at times undermine the goal of creating an efficient workforce and create disruptive ripples throughout the organization when layoffs are implemented.

The proposed ordinance amendment is a meet-and-confer issue with the City's employee labor union groups. The City Manager and City Attorney have addressed this issue with each of the bargaining groups in order to satisfy the meet and confer obligation.

Fiscal Impact: There is no direct fiscal impact, but there may be indirect fiscal savings by creation of greater efficiency in the organization.

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 111.9.
2. Move to introduce Ordinance No. 111.9.

XX. RESOLUTIONS

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

Background: The City has an agreement with the appraisal firm Smith & Associates to provide an annual evaluation of the average value of land within the City for use in calculating park-in-lieu fees for new residential projects. Where a fee is accepted to be paid in lieu of park

dedication, the amount of the fee is based upon the fair market value determined at the time of filing of a final subdivision map. Pursuant to the City's Subdivision Ordinance, the fair market value is determined by one of the following methods:

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

The first method is the one utilized most often in calculating fees. According to the Smith & Associates appraisal report dated March 1, 2011, average value of one acre of land in the City is currently \$2,047,320 which is \$43,560 more per acre than the \$2,003,760 average value for 2010.

Fiscal Impact: None.

Recommendation: Adopt a resolution establishing the 2011 fair market value of an acre of land to be \$2,047,320 for the purpose of calculating park in-lieu fees.

* **14. Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Pyro Spectaculars for the Not-to-Exceed Amount of \$21,600 for the Annual 4th of July Fireworks Display (Staff Contact: Chris Schroeder, 586-3161)**

Background: The 4th of July in Milpitas is traditionally marked by a display of fireworks. There are only two fireworks vendors in the Bay Area. With offices in Oakland, Pyro Spectaculars is the only full service provider of "PyromusicalTM" fireworks displays in the Bay Area and is the premier provider of pyrotechnic devices and aerial fireworks displays in the world. Based on its track record of excellence, safety, custom designed set pieces and bright work, Pyro Spectaculars has been the vendor of choice for the City of Milpitas for the past thirteen years. The Purchasing Agent is recommending that this service be awarded as a sole source procurement, as sanctioned in section I-2-3.09 of the Milpitas Municipal Code.

Fiscal Impact: None. Funds for this \$21,600 purchase are available in the Recreation Services operating budget.

Recommendation: Adopt a resolution authorizing the City Manager to execute a contract with Pyro Spectaculars for the not-to-exceed amount of \$21,600 for the annual 4th of July fireworks display in the City of Milpitas.

* **15. Adopt a Resolution Authorizing the Purchase of Firefighter Wildland Personal Protective Equipment/Clothing Through the Use of Cooperative Procurement Contracts (Staff Contact: Chris Schroeder, 586-3161)**

Background: In June 2010, the Department of Homeland Security awarded to the Milpitas Fire Department an Assistance to Firefighters Grant to provide funding directly to fire departments to enhance operational response capabilities and firefighter safety. The grant was for new Wildland Personal Protective Equipment including shelters, goggles, coats, pants, gloves, boots, helmets, headlamps and radios (complete ensemble). Milpitas City Council approved the award and matching funds on December 7, 2010.

The Fire Department is now ready to purchase the equipment. The purchase will be made cooperatively through the California Multiple Award Schedules (CMAS), the Western States Contracting Alliance (WSCA), or the federal General Services Administration (GSA) program

depending on the availability of the individual items. Cooperative purchasing from these entities is specifically authorized pursuant to Municipal Code Section I-2-3.08 "Cooperative Procurement."

Fiscal Impact: 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. FY 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 will result in a significant cost savings for the City.

Recommendation: Adopt a resolution authorizing the purchase of \$55,670 worth of firefighter wildland personal protective equipment/clothing through the use of cooperative procurement contracts.

XXI. BIDS AND CONTRACTS

- * 16. **Approve Budget Appropriation and Authorize the City Manager to Execute an Agreement with Harris & Associate, for Escuela Parkway Pedestrian and Bicycle Enhancements, Project No. 4259 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Santa Clara Valley Transportation Authority (VTA) has awarded the City of Milpitas a Community Design for Transportation (CDT) program grant for the following improvements along Escuela Parkway between Washington Drive and Russell Lane, along the east side of Escuela:

- widening the existing 4-foot sidewalk to 10-foot,
- installation of new street trees in wells with irrigation; and
- installation of a bus pullout on the west side of Escuela in front of the Milpitas High School.

These school route improvements will enhance the safety for pedestrians, bicyclists and motorists. The total cost of the project is estimated at \$710,000, with a maximum grant reimbursement of \$501,000 for constructions costs, and City's cost share of \$209,000. A budget appropriation in the amount of \$85,000 is required at this time to allow staff to begin the design and environmental work on this project. In the upcoming Capital Improvement Program budget cycle, the remainder of the funds for construction will be programmed and recommended for Council approval.

Through the City's consultant selection process, Harris & Associates has been selected to provide the required engineering design services and to create the federal environmental clearance documents for the project. Staff negotiated a scope and fee for these services not to exceed \$60,000, which is considered reasonable for the work.

Fiscal Impact: A budget appropriation of \$85,000 from the Street Fund into the project will be required to start and complete the design for this project.

Recommendations:

1. Approve a budget appropriation of \$85,000 from the Street Fund into the Escuela Parkway Pedestrian and Bicycle Enhancements, Project No.4259.
 2. Approve and Authorize the City Manager to execute an agreement with Harris & Associates, in the amount of \$60,000, Project No. 4259, subject to approval as to form by the City Attorney.
- * 17. **Authorize the City Manager to Execute Fiscal Year 2011-12 Agreements with the County of Santa Clara for Collection of AB939 Implementation Fees and Administration of the**

Countywide Household Hazardous Waste Collection Program (Staff Contact: Kathleen Phalen, 586-3345)

Background: Since 1992, the cities of Santa Clara County have annually executed agreements with the County of Santa Clara authorizing the County to collect fees and to provide waste diversion services on behalf of the cities. By these agreements, the County will collect \$4.10 per ton of waste disposed at landfills within the County in FY 2011-12, a fee that has not increased since FY 2009-10. From this fee, the County will remit \$1.50 per ton to the city of waste origin for use in recycling programs. The County will use the remaining \$2.60 per ton to provide household hazardous waste collection services to residents throughout the County. The County will remit any funds in excess of those needed for the annual household hazardous waste program to the cities of waste origin the following year.

For FY 2011-12, the County projects that countywide landfill disposal will be 1,139,790 tons. The \$4.10 per ton tipping fee will generate \$4,673,139, of which \$1,709,685 will be remitted to the cities for their recycling programs and \$2,963,454 will be available for the countywide household hazardous waste collection program. The City of Milpitas is expected to generate 50,393 tons of waste or 4.2% of the total, and so expects to receive \$75,590 for its recycling programs. Based on past experience, staff anticipates that the County will also remit about \$25,000 of unused household hazardous waste fees to the City this year. This funding is programmed into the City's FY2011-12 solid waste operating budget and can only be used for activities supporting the City's compliance with State recycling and waste diversion laws.

Fiscal Impact: The recommended action will provide revenue for the City's solid waste fund.

Recommendation: Authorize the City Manager to execute FY 2011-12 agreements with the County of Santa Clara for collection of AB 939 implementation fees and administration of the Countywide Household Hazardous Waste Collection Program.

- * 18. **Authorize the City Manager to Execute an Agreement for Professional Services with Dr. Howard Michaels to Provide Medical Director Services to the Milpitas Fire Department for the Not-to-Exceed Amount of \$45,000 (Staff Contact: Chris Schroeder, 586-3161)**

Background: As a provider of first responder Advanced Life Support (Paramedic) Services, the Milpitas Fire Department is required (by Santa Clara County EMS Agency) to maintain a Medical Director (Physician) to provide medical oversight for documentation, quality assurance and improvement, public access defibrillation, controlled drugs administration, medical device purchases, dispatch center, and infectious disease control policy and consultation. Dr. Howard Michaels M.D. was instrumental in assisting Santa Clara County in the development of this program. He has extensive knowledge and experience in adapting the program to the specific needs of the City of Milpitas. Dr. Michaels has provided this service for the Milpitas Fire Department Paramedic Program without any increase in fees since 1994. The contract is for \$1,500 per month for 30 months.

Fiscal Impact: None. Funds for this service are available in the Fire Department operating budget.

Recommendation: Authorize the City Manager to execute an agreement for Professional Services with Dr. Howard E. Michaels, M. D. to provide Medical Director Services to the Milpitas Fire Department for the not-to-exceed amount of \$45,000.

XXII. ADJOURNMENT

NEXT CITY COUNCIL MEETING:

TUESDAY, APRIL 19, 2011, AT 7:00 P.M