



MILPITAS CITY COUNCIL AND REDEVELOPMENT AGENCY
MEETING AGENDA
TUESDAY, APRIL 19, 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**
 - 1) **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),
International Association of Fire Fighters (IAFF)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 2) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to CA Government Code §54956.9 Taylor vs. City of Milpitas, Workers Compensation
Appeals Board, Case #ADJ912710
 - 3) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to CA Government Code §54956.9 Gallegos vs. City of Milpitas, Workers Compensation
Appeals Board, Case #SJO182922
- 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 28, 2011 and April 5, 2011
- VII. **SCHEDULE OF MEETINGS** – Council Calendars for April and May 2011
- VIII. **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.

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

XII. 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.

XIII. PUBLIC HEARING

- 1. Hold a Public Hearing and Consider Approval of the Community Development Block Grant Funding Allocations for FY 2011-12, and Adopt the One Year Action Plan (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – April 5, 2011

RA3. Approval of Agenda/Consent Calendar

RA4. Review Draft 2011-2016 Capital Improvement Program Report, and Provide Staff with Direction and Comments on the 2011-2016 CIP (Staff Contact: Greg Armendariz, 586-3317)

***RA5. Adopt a Resolution Granting Final Acceptance of South Park Victoria Street Resurfacing, Project No. 8194 (Staff Contact: Steve Chan 586-3324)**

***RA6. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Sound Wall Renovation, Escuela Parkway to Donahe Drive, Project No. 8196 (Staff Contact: Steve Erickson, 586-3301)**

RA7. Agency Adjournment

XV. REPORT OF MAYOR AND COMMISSION

*** 2. Consider Mayor's Recommendations for Appointments/Re-Appointment to Two Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**

*** 3. Approve the 2011-2012 Veteran's Commission Work Plan (Staff Contact: Carmen Valdez, 586-3086)**

XVI. NEW BUSINESS

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

5. Receive Report on Certification of Initiative Petition Ballot Measure and Take Action (Staff Contact: Mary Lavelle, 586-3001)

*** 6. Approve Submission of Comments to the California Water Resources Control Board on the Draft Sanitary Sewer System Waste Discharge Requirements (Staff Contact: Kathleen Phalen, 586-3345)**

XVII. ORDINANCE

- 7. **Continue Introduction of 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, Michael Ogaz, 586-3041)**

XVIII. BID AND CONTRACT

- * 8. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2011, and Approve Budget Appropriation, Project No. 4255 (Staff Contact: Steve Erickson, 586-3301)**

XIX. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, MAY 3, 2011, AT 7:00 P.M**

**BUDGET PUBLIC HEARING
TUESDAY, MAY 10, 2011 AT 6:00 PM**

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*
- Community Advisory Commission (alternate)*
- Emergency Preparedness Commission (large industry rep.)*
- Mobile Home Park Rental Review Board*
- Veterans Commission*

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

XIII. PUBLIC HEARING

- 1. Hold a Public Hearing and Consider Approval of the Community Development Block Grant Funding Allocations for FY 2011-12, and Adopt the One Year Action Plan (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

Background: The U.S. Department of Housing and Urban Development (HUD) provides annual grants through the Community Development Block Grant (CDBG) program to local governments to assist in providing decent housing, suitable living environments, and opportunities to expand economic opportunities for low and moderate-income persons. The purpose of this hearing is to set funding allocations for the CDBG funds provided to the City for FY 2011-12 and to adopt the One-Year Action Plan.

During the month of January, the City advertised the 30-day time period by which to submit CDBG funding applications and sent out notices to past service providers. The Community Advisory Commission (CAC) held a public hearing on March 2, 2011, to review the 20 applications received and provide funding recommendation to Council. CAC recommendations (provided in the Council's agenda packet) are based on an estimated allocation of \$638,938. As of the writing of this report, staff has not received final confirmation from HUD on the exact amount of the allocation. There is still a possibility that nationwide CDGB funding may be cut 7% to 10%. CAC recommendations follow the City Council's adopted priorities for funding allocations within each HUD category:

Public Services

1. Senior Services
2. Youth/Teen Services
3. Homeless Sheltering/Services
4. Child Care
5. Battered Women Sheltering/Services

25% of the Public Service allocation to be reserved for City of Milpitas programs.

Non-Public Services (improvements)

1. Home Repair / Rehabilitation
2. Affordable Housing
3. Rental Apartment Rehabilitation

Program Administration

\$10,000 for Project Sentinel for fair housing services should be allocated from Program Administration. An additional \$15,000 grant should come from the Redevelopment Agency's housing budget for a total contribution of \$25,000.

The total estimated allocation for FY 2011-12 is categorized as follows:

\$ 95,840	Public Services	15%
\$415,311	Non-Public Services	65%
<u>\$127,787</u>	<u>Administration</u>	<u>20%</u>
\$638,938	FY 2011-12 Total	

One-Year Action Plan

The Action Plan describes anticipated CDBG activities and expenditures for the ensuing fiscal year and how these activities relate to meeting objectives as stated in the Five-Year Consolidated Plan. The Draft Plan was advertised for public review for 30 days (between March 18 and April 18, 2011) and sent to eighteen CDBG funded applicants and agencies. Public comments received

will be incorporated in the Action Plan and forwarded to HUD by May 15, 2011. HUD reviews and approves the Action Plan prior to releasing any CDBG funds.

Attachments:

- A. 3/2/2011 Community Advisory Commission Approved meeting minutes
- B. CAC CDBG Funding Recommendation
- C. Draft 2011-12 Action Plan

Recommendations:

- 1. Open the public hearing for public comments.
- 2. Move to close the public hearing, following testimony.
- 3. Approve the CDBG funding levels for FY 2011-12.
- 4. Approve the One-Year Action Plan.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA4. Review Draft 2011-2016 Capital Improvement Program Report, and Provide Staff with Direction and Comments on the 2011-2016 CIP (Staff Contact: Greg Armendariz, 586-3317)

Background: The draft 2011-2016 Capital Improvement Program (CIP) document has been prepared by staff and a copy is included in the Council packet. The projects are arranged into six main categories: Community Improvements, Parks, Streets, Water, Sewer, and Storm Drain. The document includes a summary by categories, and individual proposed project descriptions. Previously funded projects are also summarized.

The Parks, Recreation and Cultural Resources Commission reviewed the Parks Projects on March 7, 2011 and recommended these to City Council for approval. The Draft 2011-2016 Capital Improvement Program was reviewed by the Finance Subcommittee on March 17, 2011 and was scheduled to be presented to the Planning Commission on April 13, 2011 for a recommendation to find the document in conformance with the General Plan.

A staff presentation of the draft CIP highlights will be provided at the Council meeting. Based upon Council direction, the draft CIP will be revised and prepared as the Preliminary CIP document. The preliminary CIP will then be presented to Council at the May 10, 2011 budget hearing.

Fiscal Impact: None.

Recommendation: Review the Draft 2011-2016 Capital Improvement Program (CIP) and provide staff with direction and comments on the 2011-2016 CIP.

***RA5. Adopt a Resolution Granting Final Acceptance of South Park Victoria Street Resurfacing, Project No. 8194 (Staff Contact: Steve Chan 586-3324)**

Background: This project was initially accepted on January 5, 2010 and 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 provided pavement resurfacing and new pavement marking on South Park Victoria Drive from Big Basin Drive to Yosemite Drive.

Staff recommends the Agency grant final project acceptance of the South Park Victoria Drive Resurfacing, Project No. 8194, and release of the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution of the Redevelopment Agency and City Council granting final acceptance for South Park Victoria Street Resurfacing, Project No. 8194, and release of the contractor's bond.

***RA6. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Sound Wall Renovation, Escuela Parkway to Donahe Drive, Project No. 8196 (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff completed plans and specifications for the repair, patching, and painting of City owned sound walls, Project No.8196. The sound walls in this project are located along the north side of Escuela Parkway, from Milpitas Boulevard to Donahe Drive. Repairs include the removal of loose and fractured concrete, clean exposed rebar and patch with grout, final painting with an elastomeric paint to help prevent decay.

A copy of the title sheet from the project plans is included in the Agency's agenda packet and the complete set of plans and specifications are available for review in the office of the City Engineer. The Engineer's Estimate for the project is \$75,000.

Fiscal Impact: None. Sufficient funds are available in the project budget for this work.

Recommendations:

1. Approve the project plans and specifications for Project No. 8196.
2. Authorize advertisement for bid proposals.

RA7. Agency Adjournment

XV. REPORT OF MAYOR AND COMMISSION

*** 2. Consider Mayor's Recommendations for Appointments/Re-Appointment to Two Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following citizens be appointed/re-appointed to two Milpitas Commissions as follows:

Community Advisory Commission

Appoint Michelle Manassau (current Alternate No. 1) as a regular member to a term that expires in January 2014.

Appoint Edna R. Andres (current Alternate No. 2) as Alternate No. 1 to a term that expires in January 2013.

Appoint Janice Bobay (current Alternate No. 3) as Alternate No. 2 to a term that expires in January 2013.

Recycling and Source Reduction Advisory Commission

Re-appoint Steve Ybarra to a term that expires in October 2013.

Recommendation: Consider the Mayor's recommendations and move to approve appointments/re-appointment to two Milpitas Commissioners.

*** 3. Approve the 2011-2012 Veteran's Commission Work Plan (Staff Contact: Carmen Valdez, 586-3086)**

Background: The Veterans Commission is advisory to the City Council on matters pertaining to Veterans in Milpitas. The Commission reviewed the proposed work plan during its meeting on April 6, 2011 and recommended approval to the City Council. Included in the agenda packet is a copy of the proposed work plan for Council review and approval.

Fiscal Impact: None.

Recommendation: Approve the 2011-2012 Veterans Commission Work Plan

XVI. NEW BUSINESS

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

Background: Staff attended the 2011 Idea Exchange sponsored by the International Conference of Shopping Centers (ICSC) in mid-March. Of the 20 retail presenters, eight were restaurants, six were personal service providers (hair, exercise, phones etc) and six were traditional retailers. Staff conducted outreach to Anna's Linens, Crown Books (which is promoting a temporary store concept) and Hobby Lobby to provide information on McCarthy Ranch vacancies.

Business outreach meetings were held with Linear Technology to assist with its expansion at the South Hillview site. Linear indicated that the company would likely be initiating tenant improvements to one of its buildings on Sycamore to facilitate increased business. One of the issues raised by Linear was the impacts of water source changes on their business operations. These changes are a result of the upgrades to the Hetch Hetchy system that are underway. As a result, the City will be providing notice to businesses of when the changes are going to occur so that Linear can plan for the impacts.

Staff met with a new company considering two sites in Milpitas for its first business location site in Silicon Valley. Other sites the company is considering are in Fremont and San Jose. City staff stressed the savings the company would incur through the City's permit process. This would be a new company, whose parent company is in Germany.

SunPower, in partnership with Flextronics, dedicated its solar manufacturing site on April 12. Staff and the Mayor attended the event that included U.S. Energy Secretary Steven Chu and Governor Jerry Brown.

On redevelopment, the state legislature has not had further action on the proposals to dissolve redevelopment agencies. Legislation was introduced to amend the affordable housing regulations and is aimed to 1) eliminate misuse of housing set aside funds and 2) require agencies that have not expended housing set aside funds to do so. Analysis of the proposed legislation indicates that it will not have a dramatic impact on the City's ability to utilize housing set aside funds.

Regarding Mervyn's site Redevelopment, the proposal to reuse the Mervyn's site for an East Indian mall is moving forward as the developer has worked out concerns over impacts on Safeway. This project remains in preliminary stages but staff anticipates that it will be moving forward through the site development permit stage in the near future.

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

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

5. Receive Report on Certification of Initiative Petition Ballot Measure and Take Action (Staff Contact: Mary Lavelle, 586-3001)

Background: On February 15, 2011, the City Clerk received a proponent's notice of intent to circulate a petition for the purpose of asking Milpitas voters to approve an ordinance to create the new Milpitas Commercial Specific Plan Area. Per request, the City Attorney prepared the ballot title and summary and the City Clerk provided it to the measure proponents, who in turn published a notice of intent in the local newspaper. A total of 6,046 signatures were gathered on

140 petition sections and submitted to the City Clerk on March 25. The City Clerk requested the professional services of the County Registrar of Voters' office to conduct signature verification, and on April 11, the Registrar certified there were 3,745 valid out of 4,159 verified. This number of valid signatures exceeds the 3,610 required (15% of total registered voters) for a ballot measure to be called by a special election.

When a special election is called, timing is of utmost consideration. Since the signature verification and certification process took place during a time when there is no anticipated election in the City of Milpitas (no local, county or state election) scheduled within 180 days, then the date for a special election must, by definition, be called between 88 days and 103 days from this meeting date. That means, if the City Council chooses to call a special election, it must be held between July 16 and 31, or specifically on Tuesday, July 19 or Tuesday, July 26.

Alternatively, before deciding on whether to hold a special election and presenting the ordinance to the voters, state law allows the City Council to order a report to be prepared on any matter related to it, such as the ordinance's fiscal impact, its effect on land use or impact on infrastructure. If the City Council orders a report to be prepared and presented to it within 30 days, then the City Council must adopt the ordinance within 10 days or order an election.

If the City Council chooses to move forward on the proposed ordinance, state law permits the City Council to adopt the ordinance without change at this meeting. Per the state Elections Code, this adoption would require only one action by the City Council and would not go through a first and second reading process. The Ordinance would go into effect 10 days after adoption.

Fiscal Impact: If City Council calls for a special election to be held over the summer, the cost estimated by the County Registrar of Voters is \$436,000.

Recommendations:

- 1) Receive Certificate of Sufficiency from the City Clerk certifying that the initiative petition has sufficient valid signatures to qualify for a special municipal election.
- 2) Take one of the following three actions:
 - (a) Adopt the Ordinance as presented by the ballot measure proponents.
 - (b) Adopt a Resolution to immediately call for a special election on Tuesday, July 26, and to request the services of the Santa Clara County Registrar of Voters to conduct the special municipal election.
 - (c) Order a report to be provided to the Council within 30 days.

* **6. Approve Submission of Comments to the California Water Resources Control Board on the Draft Sanitary Sewer System Waste Discharge Requirements (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On March 22, 2011, the State Water Resource Control Board (SWRCB) released for public comment a revised draft of its Sanitary Sewer System Waste Discharge Requirements (SSS WDR). These are the State's regulations for sewer spill prevention, response, corrective actions, and reporting. These regulations required the City to adopt a Sewer System Management Plan covering all aspects of the City's organization, staffing, funding, capital improvement program, operation and maintenance program, commercial inspection, and public outreach. The regulations also require the City to submit to the State, reports of all overflows from the City's sewer system, regardless of size or impact to the environment. These reports are available to the public and have provided data for a number of costly citizen lawsuits against Bay Area cities. Through effective infrastructure upkeep and maintenance, the City of Milpitas has been able to maintain a relatively low rate of sewer spills, averaging three per year over the last five years, or less than two per 100 miles of pipe which is considered a benchmark of a well-maintained system.

The draft letter is included in the Council packet, which comments that the existing program is working effectively to reduce spills and does not require substantial revision. The draft changes make the WDR conditions unnecessarily prescriptive, give the State increased authority to dictate the City's capital improvement and operations and maintenance programs, and increase City costs without significantly increasing environmental and public health protection. The SWRCB is accepting comments on the draft SSS WDR through noon on April 29, 2011.

Fiscal Impact: None.

Recommendation: Approve the submission of comments to the California Water Resources Control Board.

XVII. ORDINANCE

- 7. Continue Introduction of 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, Michael Ogaz, 586-3041)**

Background: At the April 5, 2011 City Council meeting, Ordinance No. 111.9 was presented for possible introduction in an effort to improve efficiency and service delivery in the City organization if layoffs are to occur. On April 5, 2011, the City Council directed changes to the proposed ordinance that included performance based criteria when considering layoffs and directed additional meet-and-confer proceedings with labor organizations regarding the proposed ordinance.

City management has offered on several occasions to meet and confer with the United Public Employees of California (UPEC) Local 792 representatives. Unfortunately, UPEC representatives have not been available to meet and confer on the proposed ordinance changes in a timely manner for the City to comply with the City's Open Government Ordinance agenda requirements. UPEC represents all of the City's non-public safety represented employees and its representative claimed the meet and confer process was inadequate at the last City Council meeting. As such, City management is recommending continuance of this item to the May 3, 2011 City Council meeting. The continuance will allow the City to maintain a schedule for adoption and an effective date prior to the end of the fiscal year while continuing to reach out to UPEC to offer additional meet and confer opportunities. Any additional delays past May 3 will not allow for ordinance implementation prior to the end of the fiscal year.

Included in the agenda packet for City Council review is a revised Ordinance No. 111.9 that includes consideration of performance measures when layoffs are to occur.

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

Recommendation: Move to continue this item to the City Council meeting of May 3, 2011.

XVIII. BID AND CONTRACT

- * **8. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2011, and Approve Budget Appropriation, Project No. 4255 (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff completed plans and specifications for the resurfacing of North Abel Street from Weller Lane to North Milpitas Boulevard, Project No. 4255. The work includes an asphalt pavement overlay, new signage and pavement striping, and improvement of the existing street median. The bid proposal will include a "Bid Add Alternate" item for the overlay of an

additional section of Abel Street (from Weller Lane to Calaveras Boulevard). Award of the Bid Add Alternate item will be based on available funding as determined after bid opening.

The Engineer's Estimate for the project is \$1,000,000. A copy of the title sheet of the project plans is included in the Council's agenda packet and the complete set of plans and specifications is available for review in the office of the City Engineer.

Staff requests the approval of a budget appropriation of \$1,000,000 from the Street Fund into Project No. 4255 for construction of this project.

Fiscal Impact: A budget appropriation of \$1,000,000 from Street Fund in to Project No. 4255 will be required to complete this project.

Recommendations:

1. Approve the plans and specifications for Project No. 4255.
2. Authorize advertisement for bid proposals.
3. Approve a budget appropriation of \$1,000,000 from the Street Fund into Project No. 4255.

XIX. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, MAY 3, 2011, AT 7:00 P.M**

**BUDGET PUBLIC HEARING
TUESDAY, MAY 10, 2011 AT 6:00 PM**