



MILPITAS CITY COUNCIL, REDEVELOPMENT AGENCY
AND ECONOMIC DEVELOPMENT CORPORATION
MEETING AGENDA
TUESDAY, MAY 3, 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),
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** (Mayor Esteves)
- VI. APPROVAL OF COUNCIL MEETING MINUTES** – April 19, 2011
- VII. SCHEDULE OF MEETINGS** – Council Calendar for May 2011
- VIII. PRESENTATIONS**
- Proclaim *Building and Safety Month* for May 2011
 - Proclaim *Wildfire Awareness Week* for week of May 1 – 7, 2011
- IX. PUBLIC FORUM**
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- Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.
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- 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. PUBLIC HEARINGS

- 1. Hold a Public Hearing and Adopt the Analysis of Impediments to Fair Housing Choice Report (Staff Contact: Felix Reliford, 586-3071)**
- 2. Hold a Public Hearing and Introduce Ordinance No. 38.793, a Text Amendment to Section 56 (Nonconforming Buildings and Uses) of the Milpitas Zoning Ordinance (Staff Contact: James Lindsay, 586-3273)**
- 3. Consider Protests Against Proposed Water and Sewer Rate Increases, Waive Reading beyond the Title of Ordinances and Adopt Water Ordinance No. 120.46 and Sewer Ordinance No. 208.47 to Amend Title VIII of the Milpitas Municipal Code to Establish Water and Sewer Rates for 2011-2015 (Staff Contact: Kathleen Phalen, 586-3345)**

XV. UNFINISHED BUSINESS

- * 4. Receive the April 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**
- * 5. Receive Progress Report from the Public Works Director on the Emergency Contract Work Order for the Variable Frequency Drives and Pump/Motor Assemblies for the Ayer Pump Station, Project No. 7102 (Staff Contact: Greg Armendariz, 586-3317)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – April 19, 2011**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- RA4. Receive Financial Status Report for the Nine Months Ended March 31, 2011 (Staff Contact: Emma Karlen, 586-3145)**
- *RA5. Receive the City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2011 (Staff Contact: Emma Karlen, 586-3145)**
- *RA6. Adopt a Resolution Authorizing the Purchase of Two Low-Income Units and Releasing the Resale Restriction Agreement for One Moderate-Income Affordable Housing Unit (Staff Contact: Felix Reliford, 586-3071)**
- *RA7. Authorize the Agency Executive Director to Execute a Contract Change Order with Forster & Kroeger for Median Mulch & Street Tree Maintenance for Great Mall Parkway, Project No. 2001 (Staff Contact: Steve Erickson, 586-3301)**
- *RA8. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for the North Main Street Parking Lot Resurfacing, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**
- *RA9. Approve and Authorize the Agency Director to Execute a Work Order Contract to Swenson & Associates for the Barbara Lee Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**
- RA10. Agency Adjournment**

XVII. ECONOMIC DEVELOPMENT CORPORATION AND CITY COUNCIL MEETING

EDC1. Call to Order/Roll Call by the Mayor/Chair

EDC2. Approval of Agenda/Consent Calendar

***EDC3. Approve Budget Adjustment of \$7,700 to the Economic Development Operating Budget
(Staff Contact: Diana Barnhart, 586-3059)**

EDC4. Corporation Adjournment

XVIII. REPORT OF COMMISSION

*** 6. Approve the 2011 Work Program for the Economic Development Commission (Staff
Contact: Diana Barnhart, 586-3059)**

XIX. ORDINANCE

**7. Introduce Ordinance No. 239.6 Amending Chapter 16 of Title XI of the Milpitas Municipal
Code Relating to Prohibited Copper Discharges into Storm Drainage (Staff Contact:
Kathleen Phalen, 586-3345)**

XX. RESOLUTIONS

*** 8. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for the
Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon,
Project No. 9489 (Staff Contact: Fernando Bravo, 586-3328)**

*** 9. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for the
Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch,
Project No. 9474 (Staff Contact: Fernando Bravo, 586-3328)**

*** 10. Adopt a Resolution Approving Memorandum of Understanding Agreement with Milpitas
Police Officers Association (Staff Contact: Carmen Valdez, 586-3086)**

XXI. BIDS AND CONTRACTS

*** 11. Authorize the City Manager to Increase the Annual Lease and Maintenance Charges with
Ricoh Americas Corporation for Printers and Copiers to the Not-to-Exceed Amount of
\$55,000 (Staff Contact: Chris Schroeder, 586-3161)**

*** 12. Approve Amendment No. 1 to the Non-Exclusive Collection, Transportation, and Recycling
Agreement with All Points Roll-Off Inc. (Staff Contact: Kathleen Phalen, 586-3345)**

XXII. ADJOURNMENT

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

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, MAY 17, 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
Community Advisory Commission (alternate)
Emergency Preparedness Commission (large industry rep.)
Mobile Home Park Rental Review Board
Veterans 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

XIV. PUBLIC HEARINGS

1. Hold a Public Hearing and Adopt the Analysis of Impediments to Fair Housing Choice Report (Staff Contact: Felix Reliford, 586-3071)

Background: The Department of Housing and Urban Development (HUD) requires that each Community Development Block Grant entitlement city prepare an Analysis of Impediments to Fair Housing Choice Report (AI) which examines the policies and practices which potentially may limit residents' ability to choose their housing in an environment free from discrimination. The previous AI Report was reviewed and approved by City Council in 2004.

In general, the AI Report was positive and complimentary of the City and its efforts to address impediments regarding housing discrimination. The primary recommendation the AI makes is to increase the distribution of fair housing information in multiple languages given the ethnic diversity throughout the City. Copies of the report were provided in the Milpitas Public Library and City Hall for public review.

Fiscal Impact: None.

Attachment: Draft Analysis of Impediments to Fair Housing Choice Report

Recommendations:

1. Hold the public hearing, and move to close following public testimony.
2. Adopt the Analysis of Impediments to Fair Housing Choice Report.

2. Hold a Public Hearing and Introduce Ordinance No. 38.793, a Text Amendment to Section 56 (Nonconforming Buildings and Uses) of the Milpitas Zoning Ordinance (Staff Contact: James Lindsay, 586-3273)

Background: This item was continued from the City Council meeting of January 18, 2011. On October 27, 2010, the Planning Commission directed staff to draft a zoning text amendment to provide flexible provisions for non-conforming uses, given the current state of the economy, resulting in long term vacancies and unique constraints that impact redevelopment and eventual conformance of these sites. Many properties and businesses in the Midtown and Transit Areas became non-conforming with adoption of the specific plans in 2002 and 2008, respectfully.

The draft ordinance was reviewed by the Commission on December 8, 2010 where Commissioners recommended that the City Council adopt it. This ordinance amends Section 56 (Nonconforming Buildings and Uses) of the Milpitas Zoning Ordinance. Proposed text changes would establish criteria and process that would allow the continuation of nonconforming uses or change of use throughout the City and for the re-establishment of nonconforming uses within the Midtown Specific Plan area for a 3-year period under certain circumstances. For detailed information regarding the project, refer to the attachments in the Council agenda packet.

Fiscal Impact: None.

Attachments:

- A. Ordinance No. 38.793
- B. Planning Commission's Staff Report from 12/8/2010 Meeting
- C. Planning Commission's Approved 12/8/2010 Meeting Minutes

Recommendations:

1. Move to close the public hearing following public testimony.
2. Waive the first reading beyond the title of Ordinance No. 38.793.

3. Introduce Ordinance No. 38.793 to amend Section 56 of the zoning code.

3. Consider Protests Against Proposed Water and Sewer Rate Increases, Waive Reading beyond the Title of Ordinances and Adopt Water Ordinance No. 120.46 and Sewer Ordinance No. 208.47 to Amend Title VIII of the Milpitas Municipal Code to Establish Water and Sewer Rates for 2011-2015 (Staff Contact: Kathleen Phalen, 586-3345)

Background: On February 15, 2011, the City Council introduced the water and sewer rate ordinances, approved sending notice to all property owners of the proposed rate increases, and set May 3, 2011 as the date for the public hearing to consider protests against the proposed rates. These ordinances establish water and sewer rates for FY 2011-12 and also establish the maximum rates that may be charged during FY 2012-13 to FY 2014-15. Beginning in FY 2012-13, customers will be given 30-day notice of the actual water and sewer rates as determined each year based on the actual costs of the services. The ordinances also allow pass-through of inflationary increases in excess of the 2 percent per year assumed in the cost projection and unanticipated wholesale water rate increases. The proposed rate schedules for water and sewer are shown in the ordinances included in the Council packet. The City Clerk will provide the number of valid property protests received by the City at the Council meeting. If this number is more than 50 percent of the 17,143 properties receiving municipal water and sewer services, the City cannot adopt the ordinances.

If the City cannot raise water and sewer rates, it will be in the unsustainable position of selling the services at less than cost. Costs are unavoidably going up due to massive investment in regional and local infrastructure. San Francisco Public Utilities Commission is now proposing to raise its wholesale water rate 47.4% in July, Santa Clara Valley Water District proposes raising its wholesale water rate 9.4%, and San Jose proposes higher treatment capital costs as it begins the first projects of its Plant Reconstruction Master Plan. As presented at the April 19 Council meeting, the City is programming improvement projects for both its water and sewer systems to replace aging infrastructure and to seismically retrofit “backbone” elements of these utilities. These investments are critically needed to ensure the water delivery and sewer collection will continue to serve the public for the next generation.

The City has conducted substantial public outreach for this proposed action. Following the rate introduction presentation at the February 15 Council meeting, on March 1, staff presented a detailed breakdown of the cost assumptions and a benchmarking analysis showing that Milpitas operating costs compare favorably to surrounding cities. The City held two community meetings on March 26 and April 21 to give the community a better understanding of how their water and sewer services work and why they will benefit by reinvesting in their regional and local infrastructure. Staff presented a forum, translated into Cantonese and Vietnamese, for Senior Center customers on April 6.

The City developed and distributed three outreach pieces. “Regional Water and Sewer Systems” describing San Francisco’s \$4.6 billion Water System Improvement Program and San Jose’s \$2.2 billion Plant Master Plan was mailed to all utility account holders in January, “Proposed Water and Sewer Rate Increases” was mailed to all property owners in March, and “Community Information Meeting” describing the water and sewer cost drivers was mailed to all single and multifamily addresses in April. The City posted rate information on the City web site and placed flyers and notices of proposed rates at public facility counters. Finally, the City responded to several requests for information from local media. A summary of the responses to questions received from the public at the community meetings, and by counter, e-mail, and telephone, is included in the Council’s agenda packet.

Fiscal Impact: There is no fiscal impact to the City budget from the recommended action to establish water and sewer rates for 2012 to 2015. Utility rates provide revenue to the City’s water and sewer enterprise funds.

Attachments:

- A. Summary Response to Public Comments
- B. Ordinance No. 120.46, Water Rate Ordinance
- C. Ordinance No. 208.47, Sewer Rate Ordinance

Recommendations:

- 1. Open the public hearing to receive public comment on the proposed utility rate increases.
- 2. Move to close the public hearing, following all speakers.
- 3. Receive summary from the City Clerk of the number of protests received. If the quantity of written protests is less than 8,572 (a simple majority), Council may proceed with the following recommendations.
- 4. Waive the second reading of Ordinance No. 120.46.
- 5. Adopt Ordinance No. 120.46 amending Chapter 1 of Title VIII of the Milpitas Municipal Code relating to water charges.
- 6. Waive the second reading of Ordinance No. 208.47.
- 7. Adopt Ordinance No. 208.47 amending Chapter 2 of the Title VIII of the Milpitas Municipal Code relating to sewer charges.

XV. UNFINISHED BUSINESS

- * **4. Receive the April 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

Background: From March 31 through April 22, 2011, the Bay Area Air Quality Management District (BAAQMD) received fourteen odor complaints originating in Milpitas. Four identified sewage-related odors, six identified garbage-related odors, and four did not identify a source. The report in the Council agenda packet includes an update on open items from the March report, including San Jose's selection of the preferred alternative for the Plant Master Plan, the response from BAAQMD about citations and penalties, and establishment of a City phone and web complaint line.

Fiscal Impact: None.

Recommendation: Receive the April 2011 odor report.

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

Background: On March 15, 2011, 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 adopted 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;
- Pump suction barrel has being reconditioned and painted.
- Anticipated delivery of motor and pump assembly #1 is expected by the end of May;
- VFD shop drawings were delivered by the Contractor for City engineering approval;
- VFD's 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. A detailed schedule has been developed to allow for the continuous operation of the pump station while specific units are replaced. Work is now planned to be completed by the end of August

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

Recommendation: Receive the Public Works Director's progress report on the emergency contract work order for the Variable Frequency Drives/Pump Motor Assemblies for the Ayer Pump Station, Project No. 7102.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA4. Receive Financial Status Report for the Nine Months Ended March 31, 2011 (Staff Contact: Emma Karlen, 586-3145)

Background: In FY 2010-11, staff projected the total General Fund revenue to be \$48.8 million, approximately the same amount as the FY 2009-10's actual revenue. However, based on the revenues received to date, new information and trend analysis, staff revised the General Fund revenue to be approximately \$2.5 million above budget projection. The total revised revenue is estimated to be \$51.3 million. The primary reasons for the increase include \$700,000 inter-governmental revenue received from Valley Transportation Authority (VTA) for reimbursement of staff costs for the Bay Area Rapid Transit extension project as well as an unanticipated Triple Flip sales tax revenue adjustment of \$900,000 from the State Board of Equalization ("SBOE").

Staff analysis shows that revised property tax revenue will be \$16.2 million, approximately \$1 million below budget, due to lower assessed valuation and pending property tax appeals that are still being resolved by the County Assessor's office.

Sales tax revenue has been revised to \$16.9 million, approximately \$1.58 million above budget. The increase is due to the \$900,000 Triple Flip sales tax revenue adjustment from the SBOE as well as increased sales tax revenue generated from the auto sales and retail economic segments.

Transient occupancy tax revenue ("TOT") is projected to be \$608,000 above budget and is \$448,000 or 17% above last year's revenue. The increase may indicate that local business activities are beginning to pick up, especially in the high tech industry. Although the increase in TOT revenue is encouraging news, the revised TOT revenue of \$4.67 million is still significantly below FY 2007-08's TOT revenue of \$5.75 million and is far short of the \$8 million TOT revenue received in FY 2000-01.

Permit and inspection fees generated by the Building and Fire Departments have been revised to \$2.54 million and \$928,000 respectively, and are projected to be \$664,000 and \$208,000 above budget. The primary reason for the increase is due to fees received from the Cerrano residential project, consisting of 374 apartment units.

Customer service charges continue to decline and have been revised to be approximately \$276,000 below budget due to lack of large scale private developments that reimburse the services of planning and engineering.

General Fund expenditures at the end of March were at 71.7% of the budget appropriations, with projected cost savings of about \$2 million for the year.

Based on the combination of unanticipated revenues and expenditure savings, staff projected that the use of \$2 million General Fund reserve will not be needed. However, the use of loan repayment from the Redevelopment Agency will still be required to close out the FY 2010-11 budget. The amount needed will probably be less than the \$5.4 million budgeted and will be determined before the end of the fiscal year.

The Redevelopment Agency's tax increment revenue is lower than projected by about \$605,000, again due to assessment appeals in the Project Area which may take two or three years to resolve. The budget includes a \$2.4 million ERAF payment to the state.

Both water service charges and sewer service charges are on target with the projected lower budget revenue, and no revision is necessary.

Fiscal Impact: None.

Recommendation: Receive financial status report for the nine months ended March 31, 2011.

***RA5. Receive the City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2011 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended March 31, 2011 is submitted for Council's review and acceptance.

The Portfolio Summary Report (included in the Council's agenda packet) provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of March 31, 2011.

As of March 31, 2011, the principal cost and market value of the City's investment portfolio was \$157,258,939 and \$158,424,506 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended March 31, 2011 was 1.47%. The comparative benchmarks for the same period were 0.50% for LAIF (Local Agency Investment Fund) and 0.60% for the 12-month average yield of the 2 year Treasury Note. Excluding the investment of the bond proceeds, the weighted average maturity of the portfolio was 350 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

The market values of the securities were provided by Union Bank, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of the Union Bank under the terms of a custody agreement.

Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None.

Recommendation: Receive the investment report for the quarter ended March 31, 2011.

***RA6. Adopt a Resolution Authorizing the Purchase of Two Low-Income Units and Releasing the Resale Restriction Agreement for One Moderate-Income Affordable Housing Unit (Staff Contact: Felix Reliford, 586-3071)**

Background: The City received notification from three property owners who would like to sell their low and moderate-income affordable housing units. The Resale Restriction Agreement provides the Redevelopment Agency with the option to purchase the affordable units or exercise its right of first refusal not to purchase the units. Staff recommends the Agency release the restriction on the moderate-income unit and to purchase the two low-income units. Staff has been successful in finding qualified buyers for low-income units and the loss of one moderate income unit will not significantly negatively affect the affordable housing inventory in the redevelopment project area. The draft resolution also authorizes the Agency Executive Director to transfer title of the two purchased units from the Agency to the City and the City Manager to accept the transfer which is consistent with similar transfers done by the Agency in February.

Fiscal Impact: None. Sufficient funds are available in the Agency's Housing Set-Aside Funds.

Recommendation: Adopt a Resolution authorizing the purchase of two low-income units and releasing the Resale Restriction Agreement for one moderate-income unit identified in the resolution.

***RA7. Authorize the Agency Executive Director to Execute a Contract Change Order with Forster & Kroeger for Median Mulch & Street Tree Maintenance for Great Mall Parkway, Project No. 2001 (Staff Contact: Steve Erickson, 586-3301)**

Background: This project was awarded to Forster & Kroeger, Inc. on December 19, 2006. The project provided for a two year-base agreement with extension options by contract amendment or change order to extend maintenance of the mulch within the median, and the street trees along Great Mall Parkway from Interstate 880 east to the City limits. Work includes trash pick-up, weed removal, the replenishment of mulch and pruning and replacement of street trees as necessary.

Staff recommends this contract for maintenance responsibilities be extended for an additional six months until such time as the Great Mall Median Landscaping project begins. Construction of the landscape project is anticipated to start in late 2011. Staff has negotiated a change order with the contractor for an amount not to exceed \$3,000 for this additional work, which is considered reasonable. Staff recommends the approval of this change order.

Fiscal Impact: None. Sufficient funds are available in the project budget for the additional costs associated with this change order.

Recommendation: Authorize the Agency Executive Director to execute a contract change order with Forster & Kroeger, Inc. in the amount not to exceed \$3,000 for maintenance on the Great Mall Parkway, Project No. 2001.

***RA8. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for the North Main Street Parking Lot Resurfacing, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff completed plans and specifications for the repair and resurfacing of the City's Parking Lot at North Main Street under the Calaveras Boulevard Overpass, Project No. 8162. This is a City owned parking lot that benefits visitors to the City's Midtown including the new County Health Center and the Milpitas Public Library. The project provides for repairs to failed pavement, asphalt overlay, and new painted stripping.

The Engineer's Estimate for the project is \$100,000. A copy of the title sheet of the project plans is included in the Council/Agency's agenda packet, and the complete set of plans and specifications are available for review in the office of the City Engineer.

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

Recommendations: Approve Plans and Specifications for Project No.8162 for N. Main St. parking lot resurfacing and authorize advertisement for bid proposals.

***RA9. Approve and Authorize the Agency Director to Execute a Work Order Contract to Swenson & Associates for the Barbara Lee Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Redevelopment Agency and City Council awarded a contract to Swenson & Associates for the construction of the new Barbara Lee Senior Center on March 3, 2009. The project was completed and opened to the public in August 2010, and was initially accepted by the Agency and Council and entered a one year warranty period on November 16, 2010.

Since the Center opened last August, staff noted the classrooms and game rooms (six total) are experiencing an increasing amount of noticeable wall damage from chairs, tables, and equipment being forced against them. The damaged walls detract from the newness and well maintained appearance of the building, and the continued repair of the damaged walls is costly. Chair rails and wall protection were installed in the hallways and storage closets where heavy use and wear and tear was anticipated. Staff recommends similar wall protection within the classrooms and game rooms to reduce wall damage and maintenance costs.

The City has the option to have such chair rails and wall protection installed and the walls painted and patched under the warranty and service provisions of the Senior Center contract. The cost to exercise this option and have such work done will not exceed \$16,500.00, and is considered reasonable for the amount of repair and chair rail requested. Exercise of the additional work warranty rights is recommended in order to use the original General and Subcontractors, who are familiar with the project and specifications, and in order to match materials and workmanship of the items already installed elsewhere in the Senior Center. Furthermore, use of such option work will ensure that overall facilities and equipment warranties are not voided due to the use of contractors not involved in the original facilities and utilities installation.

Fiscal Impact: None. There are sufficient funds available for this work.

Recommendation: Approve and authorize the Agency Director to execute a work order contract with Swenson & Associates for an amount not to exceed \$16,500.00.

RA10. Agency Adjournment

XVII. ECONOMIC DEVELOPMENT CORPORATION AND CITY COUNCIL MEETING

***EDC3. Approve Budget Adjustment of \$7,700 to the Economic Development Operating Budget (Staff Contact: Diana Barnhart, 586-3059)**

Background: On February 15, 2011, the City Council approved the purchase of 1432–1440 South Main Street for long-term economic development purposes. Costs incurred for due diligence were \$7,700 including a Phase I Environmental Site Assessment and \$5,800 for the fair market appraisal. These costs were beyond what was budgeted in the Economic Development operating budget for FY 2010-11.

Fiscal Impact: A budget adjustment of \$7,700 from the Economic Development Corporation Fund balance to cover the costs associated with the purchase of the property is needed.

Recommendation: Approve a budget adjustment of \$7,700 to cover the cost of due diligence for the purchase of 1432-1440 South Main Street.

EDC4. Corporation Adjournment

XVIII. REPORT OF COMMISSION

- * **6. Approve the 2011 Work Program for the Economic Development Commission (Staff Contact: Diana Barnhart, 586-3059)**

Background: Pursuant to the Economic Development Commission (EDC) Bylaws, the Economic Development Commission serves as an advisory body to the City Council on business issues and to develop and implement a comprehensive economic development program for the City of Milpitas.

Earlier this year, the Commission identified three sub-areas to focus on each aspect of the Work Plan: Business Retention and Workforce Development; Business Attraction/Marketing and Promotion; and, Development Review Assistance. Commissioners identified preferences, met at the subcommittee level to discuss priorities or issues and bring recommendations to the full Commission for action.

At the May 3, 2011 EDC meeting, Commissioners reviewed a draft 2011 Work Plan which included goals for ongoing programs and long term goals they would like to accomplish. Included in the Council's packet is the Commission's proposed 2011 Work Plan for Council review and consideration.

Fiscal Impact: None.

Recommendation: Approve the 2011 Economic Development Commission Work Plan.

XIX. ORDINANCE

- 7. Introduce Ordinance No. 239.6 Amending Chapter 16 of Title XI of the Milpitas Municipal Code Relating to Prohibited Copper Discharges into Storm Drainage (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Provision C.13.b of the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (Permit No. CAS612008) requires the City to certify that by June 30, 2011, it has legal authority to prohibit copper-contaminated discharges to the storm drain system from the installation, cleaning, treating, and washing of copper architectural features, including copper roofs, and from the wastewaters from pools, spas, and fountains. Ordinance No. 239.6 amends the Milpitas Municipal Code to provide the City the necessary legal authority to prohibit these discharges.

Fiscal Impact: None.

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 239.6.
2. Introduce Ordinance No.239.6.

XX. RESOLUTIONS

- * **8. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Project No. 9489 (Staff Contact: Fernando Bravo, 586-3328)**

Background: Landscaping and Lighting Maintenance Assessment District (LLMD) No. 98-1 provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. The Landscaping and Lighting Act of 1972 requires adoption of a resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 21, 2011). Upon conclusion of the public hearing, the assessment for the work will be added to the property tax bills for those property owners included within the boundaries of the district.

Fiscal Impact: None.

Recommendation: Adopt a resolution directing the preparation of the Annual Engineer's Report for LLMD No. 98-1 Sinclair Horizon.

- * **9. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Project No. 9474 (Staff Contact: Fernando Bravo, 586-3328)**

Background: Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD 95-1) provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway landscaping on Ranch Drive.

The Landscaping and Lighting Act of 1972 requires adoption of a resolution, the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 21, 2011). Upon conclusion of the public hearing, the assessment for the work will be added to the property tax bills for those property owners included within the boundaries of the district.

Fiscal Impact: None.

Recommendation: Adopt a resolution directing the preparation of the Annual Engineer's Report for LLMD No. 95-1 McCarthy Ranch.

- * **10. Adopt a Resolution Approving Memorandum of Understanding Agreement with Milpitas Police Officers Association (Staff Contact: Carmen Valdez, 586-3086)**

Background: The most recent Memorandum of Understanding with the Milpitas Police Officers' Association (MPOA) will expire on December 31, 2011. City representatives and representatives from MPOA met and conferred in good faith to negotiate a new one year contract. Agreement has been reached to amend the current Memorandum of Understanding with the effective dates of January 1, 2012 to December 31, 2012. The City is in compliance with the Open Government Ordinance as the recommended changes have been posted for public review for 10 days starting on April 22, 2011. A copy of the recommended agreement is included in the City Council agenda packet.

Fiscal Impact: Savings for FY 2011-12 is approximately \$1.18 million for the General Fund.

Recommendation: Adopt a resolution approving the Memorandum of Understanding Agreement between the City of Milpitas and Milpitas Police Officers Association (MPOA) to reflect the changes defined in the document and to extend the MOU through December 31, 2012.

XXI. BIDS AND CONTRACTS

- * 11. **Authorize the City Manager to Increase the Annual Lease and Maintenance Charges with Ricoh Americas Corporation for Printers and Copiers to the Not-to-Exceed Amount of \$55,000 (Staff Contact: Chris Schroeder, 586-3161)**

Background: On February 15, 2011, by Resolution No. 8065, the City extended the base term of the Ricoh agreement for copiers and printers from October 16, 2007 to June 30, 2011 with an option for three more years through a piggyback agreement with the City of San Jose. There have been no substantial changes to the underlying contract and the findings in Resolution No. 8065, are still valid. The average annual cost of the program including machine rental and maintenance is approximately \$40,000 per year for fourteen copiers and one printer, depending on the number of copies made.

The Police Records Division's lease for two Canon Copiers will expire on June 11, 2011 and the Division plans to replace the two copiers with two new Ricoh machines. Staff recommends increasing the annual lease and maintenance charges with Ricoh to \$55,000 in order to cover the two new machines. This represents an annual savings of \$6,480 per year over the old Canon equipment.

Fiscal Impact: None. This is a programmed cost in the budget of each department.

Recommendation: Authorize the City Manager to increase the annual lease and maintenance charges with Ricoh Americas Corporation for printers and copiers to the not-to-exceed amount of \$55,000.

- * 12. **Approve Amendment No. 1 to the Non-Exclusive Collection, Transportation, and Recycling Agreement with All Points Roll-Off Inc. (Staff Contact: Kathleen Phalen, 586-3345)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code and the City's solid waste franchise agreement with Allied Waste Services, solid waste collectors may enter into non-exclusive agreements with the City to collect and dispose of certain non-organic solid waste and/or construction and demolition debris from Milpitas businesses that are not covered by the Allied Waste Services Commercial Recycling Program.

On May 20, 2008, the City entered into a non-exclusive agreement with All Points Roll-Off, Inc. whose three year term ends on May 19, 2011. Under mutual written consent of the collector and City, the term of this agreement may be extended for a maximum of two, three year extensions upon finding compliance with the agreement terms. This is the first of two possible contract extensions.

Fiscal Impact: None.

Recommendation: Approve Amendment No. 1 to the Non-Exclusive Collection, Transportation, and Recycling of Debris Agreement with All Points Roll-Off, Inc.

XXII. ADJOURNMENT