



MILPITAS CITY COUNCIL AND REDEVELOPMENT AGENCY
MEETING AGENDA
TUESDAY, JUNE 7, 2011

6:30 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. **CALL TO ORDER/ROLL CALL by the Mayor (6:30 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 Negotiator: Bill Marion
Employee Group: Milpitas Employees Association (MEA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 2) **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
Pursuant to CA Government Code §54956.8
City Negotiator: Economic Development Manager Diana Barnhart
Negotiating Party: Surendra M. Patel and Ranjan S. Patel
Under Negotiation: Purchase of interest in real property
- 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** (Vice Mayor McHugh)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – May 10 and 17, 2011
- VII. **SCHEDULE OF MEETINGS** – Council Calendar for June 2011
- VIII. **PRESENTATIONS**
 - Proclaim *Parks and Recreation Month* – July 2011
 - Presentation of California Parks and Recreation Society District 4 Awards and State Award to the City of Milpitas Parks and Recreation Department
- 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. PUBLIC HEARING

- 1. Hold a Public Hearing to Consider and Adopt a Resolution Approving the 2010 Urban Water Management Plan and the Per Capita Water Use Target (Staff Contact: Kathleen Phalen, 586-3345)**

XV. UNFINISHED BUSINESS

- * 2. 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)**
- * 3. Receive the May 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – May 17, 2011

RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)

***RA4. Award Construction Contract to Ashron Construction & Restoration, Inc. for Soundwall Renovation, Project No. 8196 (Staff Contact: Steve Erickson, 586-3301)**

***RA5. Approve Plans and Specifications, Authorize Advertisement for Bid Proposals, and Authorize the Agency Executive Director to Award Construction Contract for Redevelopment Agency Area Pavement Reconstruction, Project No. 8204 (Staff Contact: Steve Erickson, 586-3301)**

***RA6. Approve Plans and Specifications, Authorize Advertisement for Bid Proposals, and Authorize the Agency Executive Director to Award Construction Contract for Wrigley Ford Creek Maintenance, Project No. 8162 (Staff Contact: Fernando Bravo, 586-3328)**

RA7. Agency Adjournment

XVII. REPORTS OF MAYOR AND COUNCIL

- * 4. Receive Response to Mayor Esteves' Request for Information Related to Employee Compensation and Benefits Update (Contact: Mayor Esteves, 586-3029)**
- * 5. Consider Mayor's Recommendation for a \$750 Donation to Support Milpitas Kiwanis Club for the Kohl's Care for Kids Event (Contact: Mayor Esteves, 586-3029)**
- * 6. Consider Mayor's Recommendation for Re-Appointment to Milpitas Commission (Contact: Mayor Esteves, 586-3029)**
- 7. Consider the Restructuring of the Kinder Kids and Animal Crackers Classes (Contact: Councilmember Polanski, 586-3024)**

XVIII. NEW BUSINESS

- 8. Receive Report from a Representative of the Santa Clara Valley Transportation Authority (VTA) on the Bay Area Rapid Transit (BART) Extension Project and Authorize City Manager to issue Comment Letter (Staff Contact: Greg Armendariz, 586-3317)**
- * 9. Approve Out of State Travel for the Fire Chief (Staff Contact: Brian Sturdivant, 586-2811)**

XIX. ORDINANCE

- * 10. Waive the Second Reading and Adopt Ordinance No. 65.141 Amending Chapter 1 of Title II of the Milpitas Municipal Code Relating to Building Code Enforcement (Staff Contact: Mike Ogaz, 586-3040)**

XX. RESOLUTIONS

- * 11. Adopt a Resolution Approving the Side Letter Agreement Between the City of Milpitas and the International Association Firefighters Local 1699 (IAFF) (Staff Contact: Carmen Valdez, 586-3086)**
- * 12. Adopt a Resolution Approving the Side Letter Agreement Between the City of Milpitas and Mid-Management and Confidential Unit (Mid-Con) (Staff Contact: Carmen Valdez, 586-3086)**
- * 13. Adopt a Resolution Approving the Memorandum of Understanding with the Milpitas Employees Association (MEA) (Staff Contact: Carmen Valdez, 586-3086)**
- * 14. Adopt a Resolution Approving the Memorandum of Understanding with the Milpitas Supervisors Association (MSA) (Staff Contact: Carmen Valdez, 586-3086)**
- * 15. Adopt a Resolution Approving the Memorandum of Understanding with the Milpitas Professional and Technical Group (ProTech) (Staff Contact: Carmen Valdez, 586-3086)**
- * 16. Adopt a Resolution to Release Unclaimed Checks (Staff Contact: Dante Ong, 586-3132)**
- * 17. Adopt a Resolution Accepting an Assistance to Firefighters Grant and Authorizing the Purchase of Four Thermal Imaging Cameras for the Fire Department (Staff Contact: Geoff Maloon, 586-2820)**
- * 18. Adopt a Resolution Adopting the Appropriations Limit for Fiscal Year 2011-12 (Staff Contact: Emma Karlen, 586-3145)**

XXI. BIDS AND CONTRACTS

- * 19. Authorize the City Manager to Execute an Agreement with the County of Santa Clara Authorizing the City to Provide EMS Response to 911 Calls in the City of Milpitas for the Period of July 1, 2011 through July 1, 2016 (Staff Contact: Scott Brown, 586-2824)**
- * 20. Approve a Non-Exclusive Collection, Transportation, and Recycling Agreement with Valley Recycling (Staff Contact: Kathleen Phalen, 586-3353)**
- * 21. Award Bid and Authorize the City Manager to Execute a Contract with Fricke-Parks Press, Inc. for Publishing the Milpitas Parks and Recreation Services Activity Guide in the Not-to-Exceed Amount of \$36,845.67 (Staff Contact: Chris Schroeder, 586-3161)**

- * 22. Award Construction Contract to Bay Cities Paving & Grading, Inc. for the North Abel Street Resurfacing 2011 Project No. 4255, and Approve Budget Appropriation (Staff Contact: Steve Erickson, 586-3301)
- * 23. Approve Amendment No. 2 to the Agreement with Western Pacific Signal, LLC for the Traffic Signal Controller and Advance Traffic Management System Upgrade, Project No. 4248 (Staff Contact: Steve Chan, 586-3324)
- * 24. Approve Plans and Specifications, Authorize Advertisement for Bid Proposals, and Authorize the City Manager to Award Construction Contract for Street Resurfacing 2012 - Rubberized Seal Coat, Project No. 4261 (Staff Contact: Steve Erickson, 586-3301)
- * 25. Authorize the City Manager to Execute Amendment No. 1 to the Contract with Intelligent Technologies and Service, Inc. for Fire Suppression System Testing and Inspection for the Not-to-Exceed Amount of \$13,484.02 (Staff Contact: Chris Schroeder, 586-3161)
- * 26. Authorize the City Manager to Execute Amendment No. 2 to the Contract with Jensen Landscape Services, Inc. for McCarthy Ranch Landscape Maintenance Services to Increase the Contract by \$21,026 (Staff Contact: Chris Schroeder, 586-3161)
- * 27. Authorize the City Manager to Amend the Master Services Agreement with York Insurance Group, Inc. through June 30, 2014 (Staff Contact: Carmen Valdez, 586-3086)

XXII. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, JUNE 21, 2011, AT 7:00 P.M**

NO CITY COUNCIL MEETINGS IN JULY

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)
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 HEARING

1. **Hold a Public Hearing to Consider and Adopt a Resolution Approving the 2010 Urban Water Management Plan and the Per Capita Water Use Target (Staff Contact: Kathleen Phalen 586-3345)**

Background: The State of California has interest in the efficient use of state waters because these are both limited in supply and essential for the State's economic prosperity. In 1983, the State adopted Assembly Bill 797 creating the "Urban Water Management Planning Act." This Act requires urban water suppliers serving more than 3,000 customers to prepare and adopt Urban Water Management Plans every five years that describe the service area, supply and demand, reliability, and recycling and conservation efforts. Two years ago, the State adopted Senate Bill x7-7 creating the "Water Conservation Bill of 2009." This legislation requires that urban water retailers develop water use targets to achieve 10 percent per capita water use reduction by 2015 and 20 percent reduction by 2020. The State extended the completion date of the 2010 Urban Water Management Plan to July 1, 2011 so that retailers could report their target usage in their plans.

The City's 2010 Urban Water Management Plan, included in the Council packet, documents that the City has sufficient water supply to meet anticipated demand through at least 2035. The City currently uses about 9 million gallons per day (mgd) of potable water and this is projected to increase to 17 mgd by 2035. The plan also documents that over the past fifteen years, Milpitas's per capita water use has steadily declined from a high of 198 gallons per day in 1997 to the current rate of 140 gallons per day. The drop in consumption is attributable to a number of factors including the public's increasing willingness to conserve water, local and regional water conservation policies and programs, loss of large-water use industrial customers, and regulatory changes affecting plumbing and landscaping. The City's baseline per capita average use for the ten-year period from 1995 to 2005 is 176 gallons per day and the plan's target usage is 141 gallons per day, which is a 20 percent reduction. Since the City has already attained the 20 percent reduction goal, the plan calls for the City to continue its current water conservation policies and programs as these should continue yielding increased per capita water savings as new higher-density housing is developed.

The public is encouraged to comment on both the 2010 Urban Water Management Plan and the water use target developed to meet the SBx7-7 conservation goal. On March 11, the City published notice that it planned to update its Urban Water Management Plan, and invited public comment. As of the date of this agenda, staff did not receive any comment.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing to receive comments on the 2010 Urban Water Management Plan and the water use targets.
2. Move to close the public hearing.
3. Adopt a Resolution approving the 2010 Urban Water Management Plan and per capita water use target.

XV. UNFINISHED BUSINESS

- * 2. **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, City 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 to date:

- Contractor and engineering staff have developed a staged construction plan, which maintains the pump station operational at all times;
- A high weight capacity crane was mobilized to the site, Motor and Pump assembly #3 was removed from the pump building, through an access roof hatch;
- Motor and pump assembly #3 has been shipped to an Oakland facility for rebuilding and testing;
- Pump suction barrel has been reconditioned and painted;
- Motor and pump assembly #1 was delivered to the site on May 24;
- Shop drawings have been prepared and approved by the City Engineer, and VFDs have now been ordered for manufacturing.

The cost for this emergency contract work was initially estimated not to exceed \$650,000, and the work is currently within this estimate. All work is planned to be completed by end of August.

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

Recommendation: Receive a 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.

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

Background: From April 23 through May 30, 2011, the Bay Area Air Quality Management District (BAAQMD) received four odor complaints originating in Milpitas. Two identified garbage-related odors, one identified a sewage related odor, and one did not identify a source. As of May 30, 2011, the City's odor reporting hotline received one complaint and the City's website did not receive any complaints. Staff activities to coordinate with the City of San Jose on Water Pollution Control Plant odor mitigation efforts are described in the report (in Council agenda packet).

Fiscal Impact: None.

Recommendation: Receive the May 2011 odor report.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

***RA4. Award Construction Contract to Ashron Construction & Restoration, Inc. for Soundwall Renovation, Project No. 8196 (Staff Contact: Steve Erickson, 586-3301)**

Background: On April 19, 2011, the Agency approved the project plans and specifications and authorized the advertisement for construction bid proposals for the Soundwall Renovation Project. This project provides for the repair and painting of City owned sound walls located along the north side of Escuela Parkway from Milpitas Blvd. to Donahe Drive. Repairs include

the removal of loose and fractured concrete, patching, and final painting with an elastomeric paint to protect the concrete finishes. The Engineer's Estimate for the project work was \$75,000.

The project was advertised and four sealed bid proposals were received on May 19, 2011. Bid proposals ranged from \$59,000 to \$95,000, and the lowest responsible base bid was submitted by Ashron Construction & Restoration, Inc. in the amount of \$59,000.

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

Recommendation: Award a construction contract to Ashron Construction & Restoration, Inc. for Soundwall Renovation, Project No. 8196, in the amount of \$59,000.

***RA5. Approve Plans and Specifications, Authorize Advertisement for Bid Proposals, and Authorize the Agency Executive Director to Award Construction Contract for Redevelopment Agency Area Pavement Reconstruction, Project No. 8204 (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff completed plans and specifications for the Redevelopment Development Area (RDA) Pavement Reconstruction Project No. 8204. The project will provide for the complete reconstruction and overlay of Sycamore Drive from McCarthy Boulevard to Barber Lane, and for the overlay of McCarthy Boulevard from Barber lane to Tasman Drive. These streets are within the City's Redevelopment Agency boundary.

The Engineer's Estimate for the project is \$3,000,000. Staff requests the Agency board to approve the project plans and specifications and to authorize the advertisement for bid proposals. A copy of the title sheet of the project plans is included in the agenda packet and the complete set of plans and specifications is available for review in the office of the City Engineer.

In order to start the construction work in a timely manner, staff recommends that the Redevelopment Agency authorize the Agency Executive Director to award the construction contract to the lowest responsible bidder, if the bid is less than or equal to the Engineer's Estimate.

Staff also recommends the use of the same change order policy approved for the successful completion of the senior center, library, parking garage, and other recently completed projects with tight completion schedules and budgets. This policy allows for the timely completion of the project, while addressing the need to respond swiftly to construction conditions in order to limit potential claims, delays, and risk to the City. The construction contingency for change orders established for this project is \$200,000, and the requested staff change order authority would not exceed this amount, and would not require additional appropriation.

Fiscal Impact: None. Sufficient funds are available in the FY 2011-12 project budgets for this work.

Recommendations:

1. Approve plans and specifications for the RDA Pavement Reconstruction, Project No. 8204.
2. Authorize advertisement for bid proposals.
3. Authorize the Agency Executive Director to award the construction contract to the lowest responsible bidder.
4. Authorize staff to execute change orders for RDA Area Pavement Reconstruction project, provided that the change orders do not exceed the established construction contingency amount for the project, and do not require additional appropriation.

***RA6. Approve Plans and Specifications, Authorize Advertisement for Bid Proposals, and Authorize the Agency Executive Director to Award Construction Contract for Wrigley Ford Creek Maintenance, Project No. 8162 (Staff Contact: Fernando Bravo, 586-3328)**

Background: This project provides for Wrigley Ford Creek maintenance work consisting of clearing of debris, sediments, vegetation and trees and pruning of trees at strategy locations, to restore the storm water conveyance capacity of the channel. Work will also include creek slope and bank restoration, environmental mitigation work consisting of new planting and irrigation (for plant establishment) along the creek. A mitigated environmental impact report for this work was approved by Council on March 15, 2011. The plans and specifications have now been completed and staff has submitted the permit applications to regulatory agencies for Wrigley Ford Creek Maintenance, Project No.8162. Staff recommends plan approval and authorization to advertise the project for bids.

The Engineer's Estimate for the project is \$300,000. 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.

In order to start the construction work in a timely manner, staff is recommending that the Agency Executive Director be authorized to award the construction contract to the lowest responsible bidder, provided the bid is no higher than 10% above the Engineer's Estimate.

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

Recommendations:

1. Approve plans and specifications for Wrigley Ford Creek maintenance Project No. 8162.
2. Authorize advertisement for bid proposals.
3. Authorize the Agency Executive Director to award construction contract to the lowest responsible bidder for an amount not to exceed \$330,000.

RA7. Agency Adjournment

XVIII. REPORTS OF MAYOR AND COUNCIL

- * **4. Receive Response to Mayor Esteves' Request for Information Related to Employee Compensation and Benefits Update (Contact: Mayor Esteves, 586-3029)**

Background: At the City Council meeting on May 17, 2011, Mayor Esteves presented a list of 8 items that he requested information from staff to report back to him and the City Council. With this report, included in the agenda packet materials, is information on two of the items he identified: 1) annual budget projected over the next five years, and 2) percentage of employee benefits to salary before and after the 2011 employee cost reductions, and the average salary per union group before and after reductions.

Staff will report at the Council meeting on 3) pension reform plan (two tiered PERS retirement formulas) for all employee groups.

Recommendation: Receive a summary of employee compensation and benefits information from staff, in response to the Mayor's recent request.

- * **5. Consider Mayor's Recommendation for a \$750 Donation to Support Milpitas Kiwanis Club for the Kohl's Care for Kids Event (Contact: Mayor Esteves, 586-3029)**

Background: The Mayor received a request from the Milpitas Kiwanis Club for funding to support the Kohl's Care for Kids Event on August 7, 2011. Members of the Council's Finance Subcommittee recommended funding in the amount of \$750 from the City Council's community promotion budget. In the FY 2011-12 budget, \$8,000 was included in the City Council budget for unallocated community promotion. If this item is approved, the remaining balance would be \$7,250.

Fiscal Impact: None. Funds for this request are available in the FY 2011-12 City Council community promotion budget.

Recommendation: Approve the Mayor's recommendation of a \$750 donation to support the Milpitas Kiwanis Club annual Kohl's Care for Kids Event on August 7, 2011.

* **6. Consider Mayor's Recommendation for Re-Appointment to the Parks, Recreation, and Cultural Resources Commission (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends Rebecca Villalobos be re-appointed to the Parks, Recreation, and Cultural Resources Commission to a term that ends in June 2014.

Recommendation: Consider the Mayor's recommendation and move to re-appoint Rebecca Villalobos to the Parks, Recreation, and Cultural Resources Commission.

7. Consider the Restructuring of Kinder Kids and Animal Crackers Classes (Contact: Councilmember Polanski, 586-3024)

Background: Councilmember Polanski requested this item in order to discuss with her colleagues the opportunity to offer Recreation classes, by registration process, for both the Animal Crackers (ages 3-4) and Kinder Kids (ages 4-5).

Recommendation: Hear report of Councilmember Polanski. Direct staff accordingly.

XVIII. NEW BUSINESS

8. Receive Report from a Representative of the Santa Clara Valley Transportation Authority (VTA) on the Bay Area Rapid Transit (BART) Extension Project and Authorize City Manager to issue Comment Letter (Staff Contact: Greg Armendariz, 586-3317)

Background: The BART extension into Santa Clara County will begin south of the future Warm Springs station in Fremont, and proceed to ten miles along the Union Pacific Railroad corridor, through Milpitas and end in the Berryessa area of north San Jose. There are stations planned in Milpitas (at Capitol Ave. and Montague Expressway) and in San Jose (at Berryessa Road).

Significant project progress has occurred since the last BART project update was presented to the Council. An oral report will be provided at the Council meeting by VTA project representatives, which will include project milestones achieved and the project timeline, an update on right-of-way acquisition process, and key project contract requirements to mitigate many of the temporary and permanent impacts to the Milpitas community.

Fiscal Impact: None.

Recommendations:

1. Receive an oral report from VTA staff on the Bay Area Rapid Transit Extension Project.
2. Authorize the City Manager to issue a comment letter based on Council discussion.

* **9. Approve Out of State Travel for the Fire Chief (Staff Contact: Brian Sturdivant, 586-2811)**

Background: The Milpitas Fire Chief has made application and been awarded a National Fire Academy Fellowship in the prestigious Harvard Senior Executives in State and Local Government Program. The Program is slated for July 11-29, 2011 in Cambridge, MA on the campus of Harvard University. This request is to secure round trip airfare for the participation in this professional development program.

Fiscal Impact: None. Sufficient funds are available within the departmental training budget. The approximate cost will be \$900.00.

Recommendation: Approve the cost of round trip travel for the Milpitas Fire Chief to go to Harvard University in Cambridge, MA in July.

XIX. ORDINANCE

- * 10. **Waive the Second Reading and Adopt Ordinance No. 65.141 Amending Chapter 1 of Title II of the Milpitas Municipal Code Relating to Building Code Enforcement (Staff Contact: Mike Ogaz, 586-3040)**

Background: Currently, the Building Code contains no penalty provision to discourage property owners from continuing to violate the Municipal Code, with the City incurring multiple costs to obtain compliance of the same property owners on multiple occasions. The proposed amendment uses the same language in Title V, Chapter 300 of the Fire Code, which will now permit the City to recover civil penalties from property owners violating the Building Code. On May 17, 2011, the City Council introduced Ordinance 65.141 to amend the Milpitas Municipal Code to provide the City the necessary legal authority to penalize violators of the Municipal Code. No changes have been made to the Ordinance since the first reading.

Fiscal Impact: By authorizing civil penalties in Title II, Building Regulations, the City may recover penalties to cover Code enforcement costs.

Recommendations:

1. Waive the second reading of Ordinance No. 65.141.
2. Adopt Ordinance No. 65.141 Amending Chapter 1 of Title II of the Milpitas Municipal Code Relating to Building Code Enforcement.

XX. RESOLUTIONS

- * 11. **Adopt a Resolution Approving the Side Letter Agreement Between the City of Milpitas and the International Association Firefighters Local 1699 (IAFF) (Staff Contact: Carmen Valdez, 586-3086)**

Background: The most recent side letter agreement with IAFF will expire on June 30, 2011. City representatives and representatives from IAFF met and conferred in good faith to negotiate a new agreement. Agreement has been reached with effective dates of July 1, 2011 – December 31, 2012. A copy of the recommended side letter agreement is included in the City Council Agenda packet.

Fiscal Impact: The savings is approximately \$1.2 million for FY2011-12.

Recommendation: Adopt a Resolution between the City of Milpitas and the International Association Firefighters Local 1699 to approve the changes defined in the signed agreement.

- * 12. **Adopt a Resolution Approving the Side Letter Agreement Between the City of Milpitas and Mid-Management and Confidential Unit (Mid-Con) (Staff Contact: Carmen Valdez, 586-3086)**

City representatives and representatives from Mid-Con met and conferred in good faith to negotiate a new six-month agreement. Agreement has been reached with effective dates of July 1, 2011 – December 31, 2011. A copy of the recommended side letter agreement is included in the City Council Agenda packet.

Fiscal Impact: The savings is approximately \$150,000 for six months.

Recommendation: Adopt a Resolution between the City of Milpitas and Mid-Management and Confidential Unit to approve the changes defined in the signed agreement.

- * 13. **Adopt a Resolution Approving the Memorandum of Understanding with the Milpitas Employees Association (MEA) (Staff Contact: Carmen Valdez, 586-3086)**

Background: The most recent Memorandum of Understanding with the Milpitas Employees Association (MEA) expired on December 31, 2010. City representatives and representatives from MEA met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of January 1, 2011 to December 31, 2012. A copy is included in the Council's agenda packet.

Fiscal Impact: This will result in savings of approximately \$1.1 million for fiscal year 2011-12.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Milpitas Employee Association covering the period of January 1, 2011 through December 31, 2012.

- * 14. **Adopt a Resolution Approving the Memorandum of Understanding with the Milpitas Supervisors Association (MSA) (Staff Contact: Carmen Valdez, 586-3086)**

Background: The most recent Memorandum of Understanding with the Milpitas Supervisors Association expired on December 31, 2010. City representatives and representatives from MSA met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of January 1, 2011 to December 31, 2012. A copy is included in the Council's agenda packet.

Fiscal Impact: This will result in savings of approximately \$100,000 for fiscal year 2011-12.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Milpitas Supervisors Association covering the period of January 1, 2011 through December 31, 2012.

- * 15. **Adopt a Resolution Approving the Memorandum of Understanding with the Milpitas Professional and Technical Group (ProTech) (Staff Contact: Carmen Valdez, 586-3086)**

Background: The most recent Memorandum of Understanding with the Milpitas Professional and Technical Group (PROTECH) will expire on June 30, 2011. City representatives and representatives from ProTech met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with the effective dates of July 1, 2011 to December 31, 2012. A copy is included in the Council's agenda packet.

Fiscal Impact: This will result in savings of approximately \$1.3 million for fiscal year 2011-12.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Milpitas Professional and Technical Group covering the period of July 1, 2011 through December 31, 2012.

- * 16. **Adopt a Resolution to Release Unclaimed Checks (Staff Contact: Dante Ong, 586-3132)**

Background: According to City of Milpitas' Standard Operating Procedure No. 26-1, which conforms with California Government Code Section 50055, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by authorization of the City Council. A list of

unclaimed checks of less than \$15, which remain unclaimed for more than one year, is included in the Council's agenda packet materials.

Fiscal Impact: The recommended action will increase General Fund revenues by \$244.19.

Recommendation: Adopt a resolution to transfer a total of \$244.19 in unclaimed checks, per the list of checks generated by the City's Finance Department, to the General Fund.

* 17. **Adopt a Resolution Accepting an Assistance to Firefighters Grant and Authorizing the Purchase of Four Thermal Imaging Cameras for the Fire Department (Staff Contact: Geoff Maloon, 586-2820)**

Background: The Fire Department submitted an Assistance to Firefighters Grant application in May 2010 requesting new thermal imaging cameras. The Department of Homeland Security awarded the grant in November 2010. The Assistance to Firefighters Grant provides funding directly to fire departments to enhance operational response capabilities and firefighter safety. The Fire Department is currently using first generation thermal imaging cameras that were purchased in the mid 1990s. Newer thermal imaging cameras offer numerous advantages including pyrometers (an external thermometer giving a precise temperature), zoom, color screens, added durability, long life batteries and significantly reduced size and weight.

Thermal imaging cameras are an essential firefighting tool that have been a proven lifesaver of both firefighters and citizens. The Fire Department currently employs the use of six thermal imaging cameras (one on each front line apparatus). These cameras are used on a daily basis to find hidden fire, trapped and/or lost victims in fire and non-fire situations and to isolate fire hazards such as faulty electrical and machinery. Purchase of the cameras 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 Milpitas Municipal Code section I-2-3.08 "Cooperative Procurement."

Fiscal Impact: None. The 2010 Assistance to Firefighters Grant is an 80/20 grant with a total project cost of \$17,480.00, of which \$13,984.00 is Federal dollars and \$3,496.00 is the local cost match. In addition, the City will pay the full cost of two additional cameras (approximately \$11,000 per camera) for a total City cost not to exceed \$30,000. \$30,000 is included in the FY 2010-11 Fire Department Operating Budget.

Recommendations:

1. Adopt a resolution accepting an Assistance to Firefighters grant and authorize the purchase of four thermal imaging cameras for the Fire Department.
2. Approve a budget appropriation in the amount of \$13,984 from the grant revenue.

* 18. **Adopt a Resolution Adopting the Appropriations Limit for Fiscal Year 2011-12 (Staff Contact: Emma Karlen, 586-3145)**

Background: Article XIII B of the California State Constitution requires that any state and local governmental agencies that receive tax revenue to adopt by resolution, an Appropriations Limit (also known as "Gann Limit") for the following fiscal year. If an agency receives more tax revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters' approval. The annual Appropriations Limit shall not exceed the appropriations limit of the City for the prior year adjusted for change in the cost of living and population.

The City of Milpitas appropriations limit for Fiscal Year 2011-12 has been calculated as \$69,082,283 using the population growth of the City and the California Per Capita Personal Income change. The projected tax revenue for the City in FY 2011-12 is approximately \$43.7 million, well below the Appropriations Limit. The documentation used in determining the appropriations limit was made available to the public for a period of more than 15 days prior to City Council consideration of this resolution.

Fiscal Impact: None.

Recommendation: Adopt a resolution adopting the City of Milpitas appropriations limit for the Fiscal Year 2011-12.

XXI. BIDS AND CONTRACTS

- * **19. Authorize the City Manager to Execute an Agreement with the County of Santa Clara Authorizing the City to Provide EMS Response to 911 Calls in the City of Milpitas for the Period of July 1, 2011 through July 1, 2016 (Staff Contact: Scott Brown, 586-2824)**

Background: The current contract for providing 911 Emergency Medical (Paramedic) Response by the Fire Department will expire on July 1, 2011. The new agreement with the County of Santa Clara will authorize the Fire Department to continue First Responder Paramedic Services for the next five years. This agreement specifies the scope of services to be provided by the Milpitas Fire Department and the County, and authorizes the Fire Department to utilize paramedics to deliver those services as part of an integrated countywide EMS System.

Fiscal Impact: None. The City's paramedic program required under the contract is a programmed cost and under the 911 EMS contract, the County provides additional funding to offset the paramedic program costs.

Recommendation: Authorize the City Manager to execute an agreement with the County of Santa Clara authorizing the City to provide EMS response to 911 calls in the City of Milpitas for the period of July 1, 2011 through July 1, 2016.

- * **20. Approve a Non-Exclusive Collection, Transportation, and Recycling Agreement with Valley Recycling (Staff Contact: Kathleen Phalen, 586-3353)**

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 customers. Such collectors agree to pay the City twelve percent of their total gross revenues earned within the City as a franchise fee.

Valley Recycling has held active hauling agreements with the City since July 2005 with the most recent contract expiring in July 2011. Staff reviewed an application from Valley Recycling to enter into a new three-year agreement for collection, transport, and recycling of debris and find it in accordance with the City's requirements. Valley Recycling intends to haul general debris box waste such as construction and demolition waste. In accordance with the Milpitas Municipal Code, staff is also asking for authority to administratively review collections under the agreement and grant a maximum of two, three-year agreement extensions upon a finding of compliance with the agreement terms.

Fiscal Impact: None.

Recommendation: Approve a non-exclusive collection, transportation, and recycling debris box agreement with Valley Recycling and authorize staff to grant a maximum of two, three-year extensions to this Agreement.

- * 21. **Award Bid and Authorize the City Manager to Execute a Contract with Fricke-Parks Press, Inc. for Publishing the Milpitas Parks and Recreation Services Activity Guide in the Not-to-Exceed Amount of \$36,845.67 (Staff Contact: Chris Schroeder, 586-3161)**

Background: Purchasing staff worked with Parks & Recreation Services to develop the specification for the annual Milpitas Parks and Recreation Services Activity Guide and sent out the bid on May 2, 2011. The bid was advertised in the local newspaper, on the City's website, and on Public Purchase. Six bids were received and are summarized below.

<u>Bidder</u>	<u>Total Bid</u>
Fricke-Parks Press, Inc.	<u>\$11,242.00</u>
Folger Graphics	\$13,946.00
Casey Printing, Inc.	\$15,522.99
Pacific Standard print	\$20,202.00
Par Global Resources	\$24,631.00
JP Graphics	\$27,487.19

The Activity Guide informs residents of classes and activities offered by the City's Parks and Recreation Department. The Activity Guide is printed three times a year for a total of 19,000 copies. The contract is for three years and the annual amount of the contract is \$12,281.89, for a three-year total of \$36,845.67. Prices shown are for the base bid not including tax.

Fiscal Impact: None. Funds are available for this service from the Parks & Recreation Services operating budget, \$12,281.89 annually.

Recommendation: Award the bid and authorize the City Manager to execute a contract for publishing the Milpitas Parks and Recreation Services Activity Guide with Fricke-Parks Press, Inc. in the not-to-exceed amount of \$36,845.67.

- * 22. **Award Construction Contract to Bay Cities Paving & Grading, Inc. for the North Abel Street Resurfacing 2011 Project No. 4255, and Approve Budget Appropriation (Staff Contact: Steve Erickson, 586-3301)**

Background: On April 19, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for the North Abel Street Resurfacing 2011 Project No. 4255. The project provides for improvements along Abel Street from Milpitas Boulevard south beyond Weller Lane to approximately 60' north of Calaveras Boulevard (at Caltrans Right-of-way.) The work includes sidewalk, curb and gutter repairs, asphalt overlay, signage, pavement striping, and street median replacement.

The Engineer's Estimate was \$1,250,000. The project was advertised and seven (7) sealed bid proposals were received on May 20. Bid proposals ranged from \$1,021,496.24 to \$1,159,268.00, and the lowest responsible base bid was submitted by Bay Cities Paving & Grading, Inc. in the amount of \$1,021,496.24. Staff recommends award of this construction contract to Bay Cities Paving & Grading.

In order to continue receiving the Traffic Congestion Relief Funds from the State of California, the City is required to spend an additional \$500,000 this year of unrestricted funds towards street surface maintenance. Staff is recommending that \$500,000 in Transient Occupancy Tax (TOT) identified in the 2011-2016 Capital Improvement Program for CIP No. 4261, Street Resurfacing Project 2012, be appropriated to CIP No. 4255, Street Resurfacing Project 2011 at this time.

Lastly, staff is recommending Council approval to allow staff to use the same change order policy which was approved for the successful completion of the Senior Center, Library, parking garage, and other recently completed projects with tight completion schedules and budgets. This policy allows for the timely completion of the project by authorizing staff to execute contract change orders in order to respond swiftly to construction conditions in order to limit potential claims and risk to the City. The construction contingency established for this project is \$200,000, and the change order authority would not exceed this amount, and would not require an additional appropriation.

Fiscal Impact: A budget appropriation of \$500,000 from the Transient Occupancy Tax (TOT) Fund into Project No. 4255 for the construction phase is required to award this contract. A defunding of \$500,000 from the Transient Occupancy Tax (TOT) Fund will be required from CIP No. 4261.

Recommendations:

1. Award a construction contract to Bay Cities Paving & Grading, Inc. for the North Abel Street Resurfacing 2011, Project No. 4255, in the amount of \$1,021,496.24.
2. Approve a budget appropriation of \$500,000 from Transient Occupancy Tax (TOT) Fund into Project No.4255, which was originally funded in Project No. 4261.
3. Authorize staff to execute change orders for North Abel Street Resurfacing 2011, Project No.4255 provided that the change orders do not exceed the established construction contingency amount for the project, and do not require additional appropriation.

*** 23. Approve Amendment No. 2 to the Agreement with Western Pacific Signal, LLC for the Traffic Signal Controller and Advance Traffic Management System Upgrade, Project No. 4248 (Staff Contact: Steve Chan, 586-3324)**

Background: On June 15, 2010, the City entered into a consultant agreement with Western Pacific Signal, LLC in the amount of \$845,101.22 to provide Traffic Management System upgrade services, traffic signal retiming services, and programming and replacement of the City’s aging traffic signal controller inventory. Staff now recommends that Western Pacific Signal, LLC perform additional services and equipment procurements to provide additional traffic system functionality and spare equipment. Amendment No. 2 with Western Pacific Signal, LLC is proposed for these additional services. Staff negotiated a fee for these services not to exceed \$29,008.79, which is considered reasonable for the work. Approval of this agreement amendment brings the total agreement amount to \$874,110.01.

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

Recommendation: Approve Amendment No. 2 to the agreement with Western Pacific Signal, LLC, in the amount of \$29,008.79, Project No. 4248, subject to approval as to form by the City Attorney.

*** 24. Approve Plans and Specifications, Authorize Advertisement for Bid Proposals, and Authorize the City Manager to Award Construction Contract for Street Resurfacing 2012 - Rubberized Seal Coat, Project No. 4261 (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff completed plans and specifications for Project No. 4261 for the placement of a rubberized seal coat and new pavement striping on twenty four streets within the Pines Neighborhood. The seal coat provides a new pavement wearing surface and will rejuvenate the asphalt pavement providing for a longer service life. Streets included in this seal coat project are:

Fallen Leaf Drive	Starlite Drive	Camphor Court	Forest Court
Greentree Circle	Pinewood Way	Greenwood Way	Cedar Way
Cedar Court	Lonetree Court	Greentree Way	Evergreen Way
Moonlight Circle	Moonlight Way	Woodland Way	Woodland Court

Stardust Way
Polaris Court

Sunrise Way
Sun Court

Stellar Way
West Capitol

Moonbeam Way
Venus Way

The bid package includes one Add Alternate item for consideration of submitted pricing after bid opening. The Add Alternate bid item provides for the addition of volcanic black aggregates to the seal mixture which maintains the streets “new” appearance longer over the standard grey aggregates. Staff recommends approval of the plans and specifications and the authorization for project advertisement. The Engineer’s Estimate is \$1,000,000 for the base bid project, and \$100,000 for the Add Alternate bid item. 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 are available for review in the office of the City Engineer.

The rubberized seal coat is a durable pavement treatment, but it requires a specific and narrow ambient temperature range for its successful application. The best months for installation of this product in Northern California are July through August to take advantage of the warmest part of the summer season. In order to have construction start by early July 2011, staff requests the City Council authorize the City Manager to award the construction contract to the lowest responsible bidder, if the bid is less than or equal to the Engineer’s Estimate.

Staff recommends use of the same change order policy that was approved for the successful completion of the senior center, library, parking garage, and other recently completed projects with tight completion schedules and budgets. This policy allows for the timely completion of the project, while addressing the need to respond swiftly to construction conditions in order to limit potential claims, delays, and risk to the City. The construction contingency for change orders established for this project is \$110,000, and the requested staff change order authority would not exceed this amount, and would not require additional appropriation.

Fiscal Impact: None. Sufficient funds are available in the FY 2011-12 project budget for this work.

Recommendations:

1. Approve the plans and specifications for Project No. 4261.
2. Authorize advertisement for Bid Proposals.
3. Authorize the City Manager to award the construction contract to the lowest responsible bidder.
4. Authorize staff to execute change orders for the Street Resurfacing 2012 - Rubberized Seal Coat project, provided that the change orders do not exceed the established construction contingency amount for the project, and do not require additional appropriation.

- * 25. **Authorize the City Manager to Execute Amendment No. 1 to the Contract with Intelligent Technologies and Service, Inc. for Fire Suppression System Testing and Inspection for the Not-to-Exceed Amount of \$13,484.02 (Staff Contact: Chris Schroeder, 586-3161)**

Background: On January 5, 2010 Council awarded a contract for one year, with four one-year options, for testing and inspection of fire suppression systems located at the Police Building, Public Works/Corp. Yard, Community Center, and the Sports Center to Intelligent Technologies and Service, Inc. The Facilities Maintenance staff now recommends amending the contract to include on-call repairs not included in the original agreement.

Staff recommends increasing the annual amount of the remaining four option years from \$5,456.00 per year by \$2,544.00 each year for a total of \$8,000 per year. Staff also suggests including a one-time increase of \$3,308.02 for replacement of four Duct Detectors at the Sports Center. This would increase the total value of the contract from not-to-exceed \$27,280.00 to not-to-exceed \$40,764.02

Fiscal Impact: None. This is a programmed expense in the Facilities Maintenance operating budget.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the contract with Intelligent Technologies and Service, Inc. for fire suppression system testing and inspection for the not-to-exceed amount of \$13,484.02.

- * 26. **Authorize the City Manager to Execute Amendment No. 2 to the Contract with Jensen Landscape Services, Inc. for McCarthy Ranch Landscape Maintenance Services to Increase the Contract by \$21,026 (Staff Contact: Chris Schroeder, 586-3161)**

Background: On August 30, 2010, Jensen Landscape Service, Inc. was awarded a three year contract with the City to provide landscape maintenance service in the McCarthy Ranch Landscape and Lighting Maintenance District No. 95-1. This amendment expands the scope of the contract to cover tree pruning on the east side of North McCarthy Blvd. for \$11,026 and incidental irrigation repairs for \$10,000 that were not contemplated in the original agreement. The total amount of the contract for fiscal year 2011-12 will be increased to \$83,905.

Fiscal Impact: None. This is a programmed expense approved in the FY 2011-12 budget for the McCarthy Ranch Landscape Maintenance District No. 95-1.

Recommendation: Approve Amendment No. 2 to the contract with Jensen Landscape Services, Inc. to increase the McCarthy Ranch landscape maintenance services contract amount in fiscal year 2011-12 by \$21,026 for an annual amount of \$83,905.

- * 27. **Authorize the City Manager to Amend the Master Services Agreement with York Insurance Group, Inc. through June 30, 2014 (Staff Contact: Carmen Valdez, 586-3086)**

Background: The City entered into an agreement on November 1, 2005 with Southern California Risk Management Association (SCRMA) now known as York Insurance Services Group, Inc. to provide services and perform work as the City's Workers' Compensation Third Party Administrator in accordance with any applicable requirements of federal, state or local laws or rules and/or regulations. The current term of the agreement will expire on June 30, 2011. At this time, staff requests renewing the contract with York to provide services for a three-year term beginning July 1, 2011 and concluding on June 30, 2014.

Terms of the contract will also include administrative fees in the amount of \$132,744 for the first year (same as last year – a 0% increase), \$128,762 for the second year (approximately a 3% decrease from year 1), and \$129,900 for the third year of the agreement (approximately a 0.9% increase from year 2).

Fiscal Impact: None. For the first year, there are sufficient funds allocated in the Human Resources departmental FY 2011-12 budget. For the additional two years, Human Resources will allocate funding in future budgets.

Recommendation: Authorize the City Manager to execute an amendment to the current contract with York Insurance Services Group, Inc. to extend the agreement effective July 1, 2011 through June 30, 2014 in accordance with the terms and conditions stated in the amendment.

XXII. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, JUNE 21, 2011, AT 7:00 P.M**