



MILPITAS CITY COUNCIL AND REDEVELOPMENT AGENCY
MEETING AGENDA
TUESDAY, AUGUST 2, 2011

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

SUMMARY OF CONTENTS

- I. **CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)**
- II. **ADJOURN TO CLOSED SESSION OF CITY COUNCIL**
 - 1) **CONFERENCE WITH LEGAL COUNSEL**
Pursuant to CA Government Code §54956.9(b)
Two cases anticipated litigation: (a) City as Defendant, and (b) City/Redevelopment Agency as Plaintiff
 - 2) **PUBLIC EMPLOYEES PERFORMANCE EVALUATIONS**
Pursuant to CA Government Code §54957
Positions: (1) City Manager Tom Williams and (2) City Attorney Mike Ogaz
- III. **CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session if required, pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- IV. **PLEDGE OF ALLEGIANCE**
- V. **INVOCATION** (Councilmember Polanski)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – June 7 and 21, 2011
- VII. **SCHEDULE OF MEETINGS** – Council Calendar for August 2011
- VIII. **PRESENTATION** Proclaim World Breastfeeding Awareness Month – August 2011
- 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 HEARINGS

- 1. Continue the Public Hearing for Adoption of a Resolution Approving Site Development Permit No. SD11-0003 for an Electronic Message Board Sign, and a Ground Lease of Property at 1700 Barber Lane to the Milpitas Automotive Group, LLC (Staff Contact: Diana Barnhart, 586-3059)**
- 2. Hold a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 586-3371)**

XV. UNFINISHED BUSINESS

- 3. Receive Progress Report on Alviso Adobe Renovation, Phase IV, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**
- 4. Receive Progress Report on Bay Area Rapid Transit (BART) Extension Project (Staff Contact: Greg Armendariz, 586-3317)**
- 5. Receive Report on Proposals for the Milpitas Preschool Age Enrichment Program, and Authorize the City Manager to Award and Execute a Contract with Elan Esprit Preschool (Staff Contact: Bonnie Greiner, 586-3227)**
- * 6. Receive the June and July 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 – June 7 and 21, 2011**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- RA4. Receive Report on State Legislative Changes and Local Impacts (Staff Contact: Emma Karlen, 586-3145)**
- *RA5. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2011 (Staff Contact: Emma Karlen, 586-3145)**
- *RA6. Adopt Two Resolutions of the City of Milpitas and the Milpitas Redevelopment Agency Approving the Annual Investment Policy (Staff Contact: Emma Karlen, 586-3145)**
- RA7. Agency Adjournment**

XVII. REPORTS OF MAYOR AND COUNCIL

- * 7. Consider Mayor's Recommendations for Appointments/Re-Appointment to Six Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**
- * 8. Receive Response to Mayor Esteves' Request for Information Related to City Council Compensation (Contact: Mayor Esteves, 586-3029)**
- 9. Receive Response to Request of Councilmember Giordano for a Neighborhood Beautification Enforcement Report (Councilmember Giordano, 586-3032)**

XVIII. NEW BUSINESS

- * 10. **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)**
- * 11. **Authorize the Purchasing Agent to Dispose of Surplus Trash Truck at Auction (Staff Contact: Chris Schroeder, 586-3161)**

XIX. ORDINANCES

- 12. **Adopt a Resolution of Intention and Introduce Ordinance No. 101.21 Amending the City's Contract with the Board of Administration, California Public Employees Retirement System (Staff Contact: Carmen Valdez, 586-3086)**
- 13. **Waive the First Reading and Introduce Ordinance No. 23.13 Amending Chapter 2 of Title I of the Milpitas Municipal Code Relating to Surplus K-9 Units (Staff Contact: Bronwen Lacey, 586-3043)**
- * 14. **Waive the Second Reading and Adopt Ordinance No. 218.3 Amending Chapter 13 of Title III of the Milpitas Municipal Code Relating to Transient Occupancy Tax Refunds (Staff Contact: Bronwen Lacey, 586-3043)**

XX. RESOLUTIONS

- * 15. **Adopt a Resolution Granting Final Acceptance of Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5085 and No. 5088 (Staff Contact: Steve Erickson, 586-3301)**
- * 16. **Adopt a Resolution Granting Final Acceptance of the Calle Oriente Park, Project No. 5087 (Staff Contact: Steve Erickson, 586-3301)**
- * 17. **Adopt a Resolution Authorizing Continued Participation in the Santa Clara County Abandoned Vehicle Abatement Service Authority (Staff Contact: Gloria Anaya, 586-3075)**
- * 18. **Adopt a Resolution Granting Initial Acceptance of and Reducing Performance Bond for the Gibraltar Reservoir and Pump Station Improvements, Project No. 7101 (Staff Contact: Kathleen Phalen, 586-3345)**
- * 19. **Adopt a Resolution Approving the Sole Source Purchase of 46 pairs of Wildland Personal Protective Pants and Jackets from Cascade Fire Equipment for the Not-to-Exceed Amount of \$20,117.18 (Staff Contact: Chris Schroeder, 586-3161)**

XXI. BIDS AND CONTRACTS

- * 20. **Approve the Subdivision Improvement Agreement with Milpitas Centria West, LCL (Lyon Communities) and Public Improvement Plans 2-1143 for Centria West, Project No. 2583 (Staff Contact: Fernando Bravo, 586-3328)**
- * 21. **Authorize the City Manager to Execute Amendment No. 1 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Program Berryessa Extension Project (Staff Contact: Greg Armendariz, 586-3317)**
- * 22. **Authorize the City Manager to Execute License with Capital Telecom for an 80-foot Cell Tower at Fire Station 1 (Staff Contact: Robert Mihovich, 586-2826)**

- * 23. **Approve a Non-Exclusive Collection, Transportation, and Recycling Agreement with Lam Hauling (Staff Contact: Kathleen Phalen, 586-3345)**
- * 24. **Authorize the City Manager to Renew Agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch Services (Staff Contact: Steve Pangelinan. 586-2426)**
- * 25. **Authorize the City Manager to Execute Amendment No. 4 to the Contract with JJR Construction to Increase by \$37,500 for the Not-to-Exceed Amount of \$273,399 for On-Call Sidewalk, Curb and Gutter Repairs (Staff Contact: Chris Schroeder, 586-3161)**
- * 26. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2011 and 2012 (Ranch Drive Pavement Overlay), Projects No. 4255 and No. 4261 (Staff Contact: Steve Erickson, 586-3301)**
- * 27. **Approve Amendment No. 1 to the Agreement with Tiburon Inc. and Authorize an Extension of the Extended Services Software Support and Maintenance Agreement for the Police Records Management System for the Not-to-Exceed Amount of \$47,916 (Staff Contact: Chris Schroeder, 586-3161)**
- * 28. **Approve an Agreement with Frank Martorella for the Amount-Not-to-Exceed \$62,400 Annually for Fire Department Inspection Services (Staff Contact: Albert Zamora, 586-3371)**

XXII. DEMAND

- * 29. **Approve Payment Request to Peelle Technologies for Annual Renewal of Maintenance/ Support Services for Document Imaging Equipment and Software for the Not-to-Exceed Amount of \$23,801 (Staff Contact: Chris Schroeder, 586-3161)**

XXIII. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, AUGUST 16, 2011, AT 7:00 P.M**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's Office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, and at the Milpitas Library during normal business hours.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist for the:

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

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk.
Contact the City Clerk's office (586-3003) for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 586-3001 or send an email to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings. TDD phone number (408) 586-3013.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

1. **Continue the Public Hearing for Adoption of a Resolution Approving Site Development Permit No. SD11-0003 for an Electronic Message Board Sign, and a Ground Lease of Property at 1700 Barber Lane to the Milpitas Automotive Group, LLC (Staff Contact: Diana Barnhart, 586-3059)**

Background: Milpitas Automotive Group, LLC has requested consideration of this item to be continued to the August 16, 2011 City Council meeting.

Recommendation: Continue this public hearing to the August 16, 2011 City Council meeting.

2. **Hold a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 586-3371)**

Background: On January 4, 2011, Milpitas City Council adopted Resolution No. 8054 declaring noxious or dangerous weeds growing upon certain described property to be a public nuisance that must be abated by the removal of the weeds. If the public nuisance was not removed from the properties by the owner, the City contracted with the County Department of Agriculture and Environmental Management to remove the weeds and abate the nuisance. In accordance with Title V, Chapter 202, Weed Abatement, of the Milpitas Municipal Code, the County Department of Agriculture and Environmental Management filed with the City Clerk a report and assessment list on weeds abated within the City as nuisances. The report and notice of the public hearing was posted at City Hall pursuant to Milpitas Municipal Code section V-202-9.00.

The City's ordinance provides that the City Council "shall hear the report together with any objections of the property owner liable to be assessed and make such modifications on the proposed assessment as it deems necessary."

After adoption by the City Council, the resolution will be recorded and charges thereon become a lien on the land involved to be collected in the same manner as property taxes. A copy of the assessment list and the proposed resolution confirming the weed abatement report are included in the Council's agenda packet.

Recommendations:

1. Open the public hearing.
2. Close the public hearing, after hearing any testimony.
3. Adopt a resolution confirming assessments for weed abatement for 2011.

XV. UNFINISHED BUSINESS

3. **Receive Progress Report on Alviso Adobe Renovation, Phase IV, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project is included in the approved 5-year Capital Improvement Program and provides for the design and construction of the exterior restoration of the Alviso Adobe building including structural retrofitting. The project also includes design and construction of new park improvements. On June 21, 2011, Council approved the plans and specifications for these park improvements. The new park features will include a public restroom, pathways, lighting, picnic areas, apricot orchard, park benches, garden and other landscaping elements to replicate a historic 1920's farm setting. These improvements also include rebuilding the existing water tower and garage.

The interior building improvements to the Alviso Adobe are estimated at over \$1.0 million and are not funded at this time. However, this will not delay the grand opening of the new historic park, which is anticipated to be complete by late fall 2012.

Staff will provide a brief presentation at the Council meeting on progress to date, project budget and schedule update and other project related information.

Fiscal Impact: None. Sufficient funds are available for the Park Improvements.

Recommendation: Receive the progress report on the Alviso Adobe Renovation and provide staff with comments.

4. Receive Progress Report on Bay Area Rapid Transit (BART) Extension Project (Staff Contact: Greg Armendariz, 586-3317)

Background: There are several major activities currently underway with the BART extension project. Santa Clara Valley Transportation Authority (VTA) has issued a “design/build” request for proposals for the construction of the BART extension from Fremont through Milpitas, to San Jose. Proposals are due next month and the VTA Board is scheduled to award a contract at its November 2011 Board meeting. City staff has been involved in the review and coordination of this process. The following are some of the key items City staff is tracking and working with VTA for the BART project within the City limits of Milpitas:

1. Right of Way acquisition is primarily focused at three areas:

- Dixon Landing Road/BART grade separation
- Wrigley Creek Industrial Park
- Milpitas BART Station at Montague Expressway/Capitol Avenue.

VTA is currently under real-estate negotiations with several property owners at these locations.

2. Flood Plain mitigation – The Santa Clara Valley Water District is under way with the planning and engineering of flood improvements of Berryessa Creek, to provide 100 year flood protection to Milpitas, inclusive of the BART station. Because these flood improvements are not already in place as VTA begins the design and construction of the BART improvements, VTA will have to include flood mitigation measures so that the BART station and BART alignment construction does not adversely affect the existing flood plain.

3. Construction impacts to Milpitas businesses, residents and community at large – City staff continues to work with VTA to minimize and mitigate construction impacts over the 4 to 5 year construction period. These construction impacts include traffic congestion, construction noise, vibration, dust and other temporary adverse effects due to construction operations.

4. Modifications to City infrastructure – City staff has identified, on a global scale, all public utilities to be affected by the BART construction, and necessary mitigation to minimize the impacts to these city facilities. This effort will continue through the design period, when detailed information and analysis becomes available and more specific mitigation measures can be identified and included in the construction permits to be issued to VTA and its contractor.

A staff presentation will be provided at the Council meeting which will include more detailed information on the above items and other project related issues.

Fiscal Impact: None. All BART project related expenses, including city staff resources, are to be reimbursed by VTA.

Recommendation: Receive the progress report on BART extension project and provide staff with comments.

5. Receive Report on Proposals for the Milpitas Preschool Age Enrichment Program, and Authorize the City Manager to Award and Execute a Contract with Elan Esprit Preschool (Staff Contact: Bonnie Greiner, 586-3227)

Background: The City of Milpitas Preschool Program was eliminated during the 2011-12 budget process in May, 2011. At the June 7 City Council meeting, the Council directed staff to issue a Request For Proposals (RFP) to solicit proposals from local preschool agencies interested in providing services for a preschool age enrichment program for the City of Milpitas at the City Community Center.

At the request of former City of Milpitas Preschool participant parents and the City Council, the RFP requested that applying agency proposals provide program scope structures similar to that of the former Preschool program (Kinder Kids and Animal Crackers). In addition, the RFP includes provisions for the Preschool Age Enrichment Program to begin in September, 2011.

The City's Purchasing Agent issued the RFP invitations to 32 local preschools, utilizing the City's E-Procurement Provider Public Purchase system. Follow up phone calls were made to each of these preschools. Additionally, advertisements were included in the local newspaper and an announcement was placed on the City website. Three preschools downloaded the bid documents. Representatives from two pre-schools attended a pre-proposal conference at the preschool location at the Milpitas Community Center and one pre-school submitted a proposal.

The single proposal received was from Elan Esprit Preschool, Inc. located in Milpitas and Santa Clara. Elan Esprit Preschool, Inc. has proposed to provide the requested services of the RFP and is ready to begin the program in September. Staff is in the process of finalizing the contract negotiations with Elan Esprit Preschool and seeks Council approval authorizing the City Manager to award and execute the contract.

A staff presentation will be provided at the Council meeting which will include more detailed information on the terms and conditions of the contract and proposed services.

Fiscal Impact: To be determined from class enrollment proceeds with a 65% - 35% split, with the City receiving 35% revenue.

Recommendations:

1. Receive the report on proposals for the Milpitas Preschool Age Enrichment Program.
2. Authorize the City Manager to award and execute a contract with Elan Esprit Preschool.

*** 6. Receive the June and July 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

Background: From May 26, 2011 through July 22, 2011, the Bay Area Air Quality Management District (BAAQMD) received twenty odor complaints originating in Milpitas. Five identified garbage-related odors, eight identified a sewage-related odor and seven did not identify a source. As of the last Council update, the City's odor reporting website received four reported 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 June and July 2011 odor report.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA4. Receive Report on State Legislative Changes and Local Impacts (Staff Contact: Emma Karlen, 586-3145)

Background: On June 30, the Governor signed the State Budget Bill which contains the FY 2011-12 State Budget along with two trailer bills ABx1 26 and ABx1 27 that greatly impact redevelopment agencies. ABx1 26 (the “Dissolution Act”) immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies (“RDAs”) effective October 1, 2011. ABx1 27 (the “Voluntary Program”) allows RDAs to avoid dissolution under the Dissolution Act by opting into an alternative voluntary redevelopment program requiring specified substantial annual contributions to local school and special districts.

Staff will present the fiscal impact of the two options at the meeting.

Fiscal Impact: The impact will be discussed at the Council/Agency meeting.

Recommendation: Hear staff report and provide direction to staff.

***RA5. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 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 June 30, 2011 is submitted for the Council/Agency review and acceptance.

The Portfolio Summary Report included in the Council’s 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 June 30, 2011.

As of June 30, 2011, the principal cost and market value of the City’s investment portfolio was \$169,734,083 and \$171,125,740 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 June 30, 2011 was 1.30%. The comparative benchmarks for the same period were 0.45% for LAIF (Local Agency Investment Fund) and 0.53% 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 311 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 June 30, 2011.

***RA6. Adopt Two Resolutions of the City of Milpitas and the Milpitas Redevelopment Agency Approving the Annual Investment Policy (Staff Contact: Emma Karlen, 586-3145)**

Background: The investment laws require all local agencies to develop an annual investment policy that must be considered by the legislative body of the local agency at a public meeting. The Annual Investment Policy (the Policy) for the City of Milpitas is submitted for your review and approval. Finance staff continues to monitor the changes to the California Government Code in regards to investment parameters and allowable investments that may impact the City's investment policy.

Staff proposes a minor change on page 8 of the investment policy to reflect the current maximum amount that can be invested in the Local Agency Investment Fund ("LAIF"). The limit has been increased by LAIF from \$40 million per account to \$50 million per account. The Policy is in compliance with the provisions of the California Government Code, Sections 16429.1-16429.4 and 53600-53610, the authority governing investments for municipal governments.

Fiscal Impact: None.

Recommendation: Adopt two resolutions approving the Annual Investment Policy for the City of Milpitas and the Redevelopment Agency.

RA7. Agency Adjournment

XVII. REPORTS OF MAYOR, COUNCIL, AND COMMISSION

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

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

Arts Commission/Public Art Committee

Appoint Manjula Gupta (current Alternate No. 1) as a regular member to a term that expires in October 2011.

Newly appoint Robert Gill as Alternate No. 1 to a term that expires in October 2012.

Community Advisory Commission

Newly appoint Shirley Meirose as Alternate No. 4 to a term that expires in January 2012.

Emergency Preparedness Commission

Re-appoint Russ Cherry to a term that expires in June 2014

Re-appoint Tim Howard to a term that expires in June 2014.

Re-appoint Pamela Wells as Alternate No. 2 to a term that expires in June 2013.

Library Advisory Commission

Re-appoint Carmen Montano to a term that expires in June 2013.

Re-appoint Ha Phan as Alternate No. 1 to a term that expires in June 2013.

Veterans Commission

Newly appoint Eladio Aoalin as Alternate No. 2 to a term that expires in February 2013.

Youth Advisory Commission

Newly appoint Pilar M. Ferguson to a term that expires in September 2012.

Newly appoint Jose L. Ajero III to a term that expires in September 2012.

Newly appoint Randolph T. Abaya to a term that expires in September 2012.

Appointments to the Youth Advisory Commission will be effective for the first meeting in October.

Copies of Commission applications for new appointments are included in the Council agenda packets, along with additional applications from those not recommended at this time.

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

* **8. Receive Response to Mayor Esteves' Request for Information Related to City Council Compensation (Contact: Mayor Esteves, 586-3029)**

Background: At the City Council meeting of May 18, 2011, Mayor Esteves requested staff to prepare a report on the City Council salary and benefits. Included in the City Council agenda packet is a report showing 2010 actual costs and 2011 projected salary and benefit costs for the City Council.

Fiscal Impact: None.

Recommendation: Receive report requested by Mayor Esteves.

9. Receive Response to Request of Councilmember Giordano for a Neighborhood Beautification Enforcement Report (Councilmember Giordano, 586-3032)

Background: Councilmember Giordano requested a report on Neighborhood Beautification Ordinance enforcement efforts. The NBO covers a wide variety of neighborhood nuisance issues that includes outdoor storage, overgrown vegetation, appearance of structures, and vehicle. Neighborhood Services Division helps ensure compliance with the NBO and other ordinances by responding to complaints received by residents and responding to health and safety issues identified by other City field personnel. Last fiscal year, the Division responded to 742 complaints (cases) of neighborhood related municipal code violations:

FY 2010-11 Cases	Type of Violation
343	Neighborhood Beautification (NBO)
114	Animal Regulations
105	Abandoned Vehicles (private property)
73	Trash Containers
72	Graffiti
35	Zoning & Signs

Of the 343 NBO cases, 150 were related to landscape and vegetation violations, such as overgrown weeds. The Neighborhood Services Division closed 66% of all FY 2010-11 cases within 30 days.

Fiscal Impact: None.

Recommendation: Receive the staff report on neighborhood beautification enforcement.

XVIII. NEW BUSINESS

- * 10. **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 protect 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 developed a staged construction plan, which maintains the pump station operational at all times;
- A high weight capacity crane was mobilized to the site to pull the Motor and Pump assemblies #1, #2 and #3 from the pump building through an access roof hatch;
- Motor and pump assembly #1 and #2 have been rebuilt, tested and re-installed;
- Pump suction barrel has being reconditioned and painted;
- Motor and pump assembly #3 has been shipped for rebuilding and testing.
- VFDs are scheduled to be delivered to the site by the end of July, 2011.

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

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

Recommendation: Receive the progress report from the Public Works Director on the Emergency Contract Work Order for the Variable Frequency Drives/Pump Motor Assemblies for the Ayer Pump Station, CIP No. 7102.

- * 11. **Authorize the Purchasing Agent to Dispose of Surplus Trash Truck at Auction (Staff Contact: Chris Schroeder, 586-3161)**

Background: The City-owned 1998 Ford F800 Trash Truck – VIN. 1FDWF80C8WVA31327 is eligible for disposal. This vehicle has reached the end of its useful life. Since the cost to maintain the vehicle exceeds its value, it has been removed from service. The value of the vehicle at auction is estimated to be from \$5,000 to \$7,000. Staff requests authorization to dispose of the vehicle at auction pursuant to section I-2-8.03 of the Municipal Code “Disposal of more than \$5,000.”

Fiscal Impact: None. Proceeds will be returned to the equipment fund.

Recommendation: Authorize the Purchasing Agent to auction the 1998 Ford F800 Trash Truck.

XIX. ORDINANCES

12. Adopt a Resolution of Intention and Introduce Ordinance No. 101.21 Amending the City's Contract with the Board of Administration, California Public Employees Retirement System (Staff Contact: Carmen Valdez, 586-3086)

Background: The statewide Public Employees Retirement System (PERS) has historically offered retirement benefits that participating agencies can implement as local circumstances warrant. City Council, management staff and the affected employee unions met and conferred to amend the City's contract with the Public Employees Retirement System (PERS) to provide the 2% at 60 formula and three year final compensation for local miscellaneous members who retire from the City.

For FY 2011-12 through FY 2012-13, the employer contribution rate will be 16.348% of the reportable earnings for local miscellaneous members entering membership as a new hire with the City of Milpitas in the miscellaneous classification, after the effective date of this amendment to the contract. The local miscellaneous member contribution rate affected by this amendment will be 7% of reportable earnings, as of the effective date of the amendment to the contract.

PERS contract amendment procedures require adoption of a Resolution of Intent to amend the contract and adoption of an amending ordinance.

Fiscal Impact: There is no immediate fiscal impact at this time. Savings will be achieved with all new hires.

Recommendations:

1. Adopt the Resolution of Intention to approve a contract amendment with the Public Employees Retirement System (PERS) to include Section 20475 (Different Level of Benefits), Section 21353 (2% at 60 Full formula) and Section 20037 (Three-Year Final Compensation) for local miscellaneous members who are entering membership as a new hire with the City of Milpitas after the effective date of this amendment to the contract.
2. Following a reading of the ordinance title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 101.21.
3. Introduce Ordinance No 101.21, authorizing an amendment to the contract between the City Council of the City of Milpitas and the Board of Administration of the California Public Employees Retirement System.

13. Waive the First Reading and Introduce Ordinance No. 23.13 Amending Chapter 2 of Title I of the Milpitas Municipal Code Relating to Surplus K-9 Units (Staff Contact: Bronwen Lacey, 586-3043)

Background: In January of 2010, the City Attorney's Office brought for Council consideration various Municipal Code clean-up changes that required nothing more than deletion of antiquated or unused sections of the Code. The City Attorney's Office then stated that it would bring back proposed Code changes that required more than simple deletions. Such changes are included for Council approval in what is proposed to be an annual effort at updating the Municipal Code.

Currently, the Milpitas Municipal Code does not address what happens to Police Department K-9 unit dogs after the dog reaches its useful lifespan and is retired. The dog would be a liability if it was adopted by a member of the public and the only other option would be to destroy the dog. Ordinance No. 23.13 amends the Purchasing Ordinance to allow the K-9 unit dog to be turned over to its handler as the dog has no value.

Fiscal Impact: None.

Recommendations:

1. Following a reading of the ordinance title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 23.13 relating to surplus K-9 units.

2. Introduce Ordinance No. 23.13.

- * **14. Waive the Second Reading and Adopt Ordinance No. 218.3 Amending Chapter 13 of Title III of the Milpitas Municipal Code Relating to Transient Occupancy Tax Refunds (Staff Contact: Bronwen Lacey, 586-3043)**

Background: Currently, the Transient Occupancy Tax in the Milpitas Municipal Code does not specify whether taxpayers must pay the tax before suing the City for a refund. This amendment would require taxpayers to pay the tax before challenging the City's charges in court. In addition, taxpayers seeking a refund must follow the administrative procedures before filing suit pursuant to this amendment. These changes are consistent with state and federal law that require the taxpayer to pay a tax and then seek a refund.

Fiscal Impact: None.

Recommendations:

1. Waive the second reading of Ordinance No. 218.3 amending Chapter 13 of Title III of the Milpitas Municipal Code relating to transient occupancy tax refunds.
2. Adopt Ordinance No. 218.3.

XX. RESOLUTIONS

- * **15. Adopt a Resolution Granting Final Acceptance of Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5085 and No. 5088 (Staff Contact: Steve Erickson, 586-3301)**

Background: This project was initially accepted on August 3, 2010 and has passed the one-year warranty period. The project completed the first phase of the renovation plan for Cardoza Park. Work included the installation of new play structures, rubberized play surface, landscaping, irrigation improvements, lighting, shade structures and benches. New electrical equipment cabinets were also installed at Cardoza, Hall, and Creighton Parks as part of this project. A final inspection of the installed public improvements has been made, and the work was found to be satisfactory. Staff now recommends the Council grant final project acceptance and release of the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a Resolution granting final acceptance of the Cardoza Park Playground Renovation and Electrical Cabinet Upgrade, Projects No. 5085 and No. 5088, and release of the contractor's bond.

- * **16. Adopt a Resolution Granting Final Acceptance of the Calle Oriente Park, Project No. 5087 (Staff Contact: Steve Erickson, 586-3301)**

Background: This project was initially accepted on June 1, 2010 and has passed the one-year warranty period. The project provided a complete renovation of the park, including the installation of new play structures, walks, basketball court, drinking fountain, lighting, picnic area, shade structure, and landscaping and irrigation improvements.

A final inspection of the installed public improvements has been made, and the work was found to be satisfactory. Staff now recommends the Council grant final project acceptance of the Calle Oriente Project No. 5087, and release of the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a Resolution granting final acceptance of the Calle Oriente Park, Project No. 5087 and release of the contractor's bond.

* 17. **Adopt a Resolution Authorizing Continued Participation in the Santa Clara County Abandoned Vehicle Abatement Service Authority (Staff Contact: Gloria Anaya, 586-3075)**

Background: A portion of vehicle registration fees are used to partially reimburse local governments for costs associated with abating abandoned vehicles. In Santa Clara County, these funds are distributed through the Santa Clara County Abandoned Vehicle Abatement Services Authority (AVASA) of which the City of Milpitas has been a member agency since its inception nineteen years ago. The City receives approximately \$50,000 annually for reimbursement of costs related to abandoned vehicle abatement on private property and public roads. Over the last 10 years, the City has abated over 9,000 vehicles and received \$572,770 through AVASA.

The California Vehicle Code provides for the establishment and continuation of the service authority in ten year increments. Each 10-year extension requires an affirming resolution by a majority of cities representing the majority of the population and a two-thirds vote from the County Board of Supervisors.

Fiscal Impact: None.

Recommendation: Adopt a Resolution authorizing continued participation in the Santa Clara County Abandoned Vehicle Abatement Service Authority.

* 18. **Adopt a Resolution Granting Initial Acceptance of and Reducing Performance Bond for the Gibraltar Reservoir and Pump Station Improvements, Project No. 7101 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: City contractor, Gantry Constructors, Inc., has completed rehabilitation of the Gibraltar reservoirs and pump station and the project is ready for Council's initial acceptance. This project represents a major investment into the rehabilitation and seismic upgrade of a key component of City's potable water delivery system. This station was originally constructed in 1993 at the intersection of the San Francisco Public Utilities Commission Bay Division pipelines and the Santa Clara Valley Water District transmission line. It receives wholesale water from these suppliers, stores it in two, five-million-gallon reservoirs, and pumps it into the citywide distribution system to serve two-thirds of the City. The rehabilitated station will reliably serve the City for the next two decades or longer.

Project improvements include constructing a new control building and chemical feed building, installing a new emergency generator and diesel fuel tank, replacing existing diesel pump engines with electric motors, replacing the pump variable frequency drives, replacing pumps and valves, installing a 24-inch booster pump suction pipeline, seismically upgrading reservoir inlet piping, and upgrading the electrical system and instrumentation. New and rebuilt structures, equipment, and equipment anchorages were upgraded to current seismic standards.

Staff recommends that Council grant initial acceptance of the work, and reduce the contractor's faithful performance bond to \$640,336, or 10% of the final contract value, for the duration of the one-year warranty period.

Fiscal Impact: None.

Recommendation: Adopt a Resolution granting initial acceptance of the Gibraltar Reservoir and Pump Station Improvements, Project No.7101, subject to a one-year warranty period, and reducing the faithful performance bond to \$640,336.

- * 19. **Adopt a Resolution Approving the Sole Source Purchase of 46 pairs of Wildland Personal Protective Pants and Jackets from Cascade Fire Equipment for the Not-to-Exceed Amount of \$20,117.18 (Staff Contact: Chris Schroeder, 586-3161)**

Background: In June 2010 the Department of Homeland Security awarded an Assistance to Firefighters Grant to the Milpitas Fire Department to provide funding directly to fire departments to enhance operational response capabilities and firefighter safety. The grant was for new Wildland Personal Protective Equipment including shelters, goggles, coats, pants, gloves, boots, helmets, headlamps and radios (complete ensemble). Council approved the award and matching funds on December 7, 2010. Pursuant to Municipal Code Section I-2-3.08 “Cooperative Procurement”, the City was able to purchase all of the equipment through the Federal General Services Administration (GSA) Advantage Program, except the pants and jackets.

Wildland clothing from a variety of manufacturers and material types were considered, demonstrated and wear tested by the Fire Department including nomex, cotton, and nomex/cotton blends. While these materials have been the industry standard for many years, the higher weight and thickness of these materials leads to increased firefighter stress and fatigue. Advances in fabric technology such as PBI Tri-Guard recently developed by Difco Performance Fabrics Inc. and sold exclusively through Cascade Fire Equipment under the brand name Strike Team Gear is lighter, cooler, more breathable, with superior tear and puncture resistance. PBI Tri-Guard also offers the highest safety margin and thermal protection for its weight.

After a review of the testing results, the Purchasing Agent determined, pursuant to Municipal Code section I-2-3.09 “Sole Source Procurement,” that Cascade Fire Equipment was the only source for Strike Team Gear manufactured from PBI Tri-Guard, and the only wildland clothing that met the Fire Department’s safety standards, due to its lighter weight, cooler, greater breathability, and superior tear and puncture resistance.

Cascade Fire Equipment submitted a quote with very favorable pricing equivalent to 25% off listed price.

Fiscal Impact: None. Funds for this purchase are available from the aforementioned Department of Homeland Security grant and the Fire Department operating budget.

Recommendation: Adopt a Resolution approving the sole source purchase of 46 pairs of Wildland Personal Protective Pants and Jackets from Cascade Fire Equipment for the not-to-exceed amount of \$20,117.18.

XXI. BIDS AND CONTRACTS

- * 20. **Approve the Subdivision Improvement Agreement with Milpitas Centria West, LCL (Lyon Communities) and Public Improvement Plans 2-1143 for Centria West, Project No. 2583 (Staff Contact: Fernando Bravo, 586-3328)**

Background: On April 21, 2009, the City Council approved entering into a subdivision improvement agreement with Lyon Communities to complete the public improvements for the Centria West Condominium project. These include underground utilities and street improvements along the South Abel Street frontage, and a public park on a half-acre City parcel at the corner of South Abel Street and Great Mall Parkway. When Lyon prepares a park concept plan, staff will bring it to Council for approval, before proceeding with final design.

Lyon has completed Public Improvement Plans 2-1143 for the Abel Street work and staff has reviewed these and recommends their approval. The full set of improvement plans is available for review at the City Engineer’s Office. There have been some changes in Lyon’s obligations for public improvements, largely due to the City’s receipt of grant funding for streetscape improvements along South Abel Street. Since the City will be completing a portion of Lyon’s

streetscape work with this grant, Lyon will compensate the City for the value of its obligation relief. For this reason, a new subdivision agreement is needed.

Fiscal Impact: None.

Recommendation: Approve the Subdivision Improvement Agreement with Milpitas Centria West LLC and Public Improvement Plans 2-1143 for Centria West, Tract 9773, Project No. 2583.

- * 21. **Authorize the City Manager to Execute Amendment No. 1 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) Relating to the Silicon Valley Rapid Transit Program Berryessa Extension Project (Staff Contact: Greg Armendariz, 586-3317)**

Background: The extension of the Bay Area Rapid Transit (BART) system into Santa Clara County is being implemented by VTA's Silicon Valley Rapid Transit Program. The first stage is a two-station (Milpitas and Berryessa) extension of approximately ten miles from BART's planned Warm Springs station in Alameda County to VTA's planned Berryessa Station in the City of San Jose. This initial segment has been identified as the Silicon Valley Berryessa Extension (SVBX) Project.

On September 10, 2010, the City and VTA executed a Master Agreement, which creates a cooperative frame work for the design and construction of the BART line extension through Milpitas. Furthermore, this agreement allows for reimbursement of expenses for a variety of coordination efforts, including but not limited to: design approval and inspection for City facilities, encroachment permit oversight, easements, and construction issues. The project is now in the bidding phase and the scope of work needs to be expanded to reflect the next phases of work. In addition, many of the utility relocations are now better defined and the description is updated. A copy of Amendment 1 can be found in the Council agenda packet.

Fiscal Impact: The Master Agreement provides VTA to establish a deposit account with the City to fund the City's work reviewing and coordinating project plans. VTA made an initial deposit amount of \$700,000, which is expected to be sufficient to cover the review and coordination costs through the end of September 2011. This Amendment provides for an additional deposit of \$790,000 for reimbursement of the City's project efforts through June 30, 2012.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the Master Agreement with the Santa Clara Valley Transportation Authority (VTA) relating to the Silicon Valley Rapid Transit Program Berryessa Extension Project, subject to approval as to form by the City Attorney.

- * 22. **Authorize the City Manager to Execute License with Capital Telecom for an 80-foot Cell Tower at Fire Station 1 (Staff Contact: Robert Mihovich, 586-2826)**

Background: Capital Telecom, a private telecommunication company, is proposing to lease a portion of the grounds of Fire Station 1 to place a cell tower in order to broaden its scope of transmission in the area for 15 years with three five-year automatic renewal terms. The tower is being proposed to be placed on the northeast corner of the lot on the Main Street side. The tower is 80 feet tall and will have locations at 45, 55 and 65 foot for future antennas. The type of tower is a Monopine which from a distance looks like a mature pine tree.

The execution of this lease is exempt from CEQA as a license of an existing public facility. 14 CCR 15301. CEQA application will also be determined when Capital Telecom obtains a conditional use permit from the Planning Commission.

Fiscal Impact: This project will provide a base monthly rent of at \$1,000.00 for the City. This monthly amount will increase by \$500.00 for each additional carrier that uses the facility. The rent has an annual escalation of 3.5 %. If Capital does not obtain a second carrier after 12 months the base rent will increase to \$1250.00 and if there is not a second carrier on the facility after 24 months the base rent will increase to \$1500.00.

Recommendations:

1. Authorize City Manager to execute license with Capital Telecom for an 80-foot cell tower at Fire Station 1.
2. City Council finds that the grant of the license is for an existing public facility and is exempt from CEQA pursuant to CEQA Guideline 15301.

* **23. Approve a Non-Exclusive Collection, Transportation, and Recycling Agreement with Lam Hauling (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 customers. Such collectors agree to pay the City 12% of their total gross revenues earned within the City.

Staff reviewed an application from Lam Hauling to enter into an agreement for collection, transport, and recycling of debris and find it in accordance with the City's requirements. Lam Hauling 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 Lam Hauling and authorize staff to grant a maximum of two, three-year extensions to this Agreement.

* **24. Authorize the City Manager to Renew Agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch Services (Staff Contact: Steve Pangelinan. 586-2426)**

Background: Emergency Medical Dispatch (EMD) is a specialized dispatching service by which trained and certified dispatchers provide pre-arrival medical instructions via the telephone to on-scene medical/ trauma patients and/ or anyone tending to their care. Santa Clara County has provided EMD services for the Milpitas 9-1-1 Communications Center on a contractual basis since 2008. The first two years of the contract were paid by the County EMS Agency Fines and Penalties Trust Fund. The City will be obligated to pay for EMD costs for the term of the renewed contract, through 2015. The cost for EMD services is based on percentage of usage and has been approximately \$42,000 annually.

Fiscal Impact: None. Contract costs have been included within the Police Department's FY 2010-11 and FY 2011-12 budgets.

Recommendation: Authorize the City Manager to renew the agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch services.

* **25. Authorize the City Manager to Execute Amendment No. 4 to the Contract with JJR Construction to Increase by \$37,500 for the Not-to-Exceed Amount of \$273,399 for On-Call Sidewalk, Curb and Gutter Repairs (Staff Contact: Chris Schroeder, 586-3161)**

Background: On August 16, 2005, the City awarded a competitively bid contract to JJR Construction for on-call repairs to sidewalk, curb and gutters city wide for the not-to-exceed amount of \$185,000 per year. On March 15, 2011 the City increased the amount of the contract for one year only by \$50,899 to install curb ramps in compliance with Americans with Disability Act at various city locations and perform additional sidewalk and driveway repairs along Windsor Street. Recently the City obtained an ABAG PLAN grant totaling \$37,500 to eliminate trip and fall hazards. The grant monies will be used to repair broken and lifting sidewalks within the City. Staff recommends increasing the contract in the amount of \$37,500 for the additional work. This will bring the total value of the contract to \$273,399.

Fiscal Impact: Additional contract amount will be reimbursed by an ABAG PLAN grant.

Recommendation: Authorize the City Manager to execute Amendment No. 4 with JJR Construction to increase the amount of the contract by \$37,500 to the not-to-exceed total amount of \$273,399 for on-call sidewalk curb and gutter repairs.

***26. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2011 and 2012 (Ranch Drive Pavement Overlay), Projects No. 4255 and No. 4261 (Staff Contact: Steve Erickson, 586-3301)**

Background: Staff completed plans and specifications for the Ranch Drive Overlay Projects No. 4255 and No. 4261. The project provides for pavement repairs and asphalt pavement overlay of all of Ranch Drive at McCarthy Boulevard. Repairs within the Ranch Drive/McCarthy Boulevard intersections and to a portion of South Main Street north of Great Mall Parkway are also proposed as part of this project, if bid pricing is within the project budget.

An Add Alternative bid item is included in the project for asphalt pavement repairs at the parking lot and training structure at Fire Station No. 1 located on South Main Street. The Engineer's Estimate for this Add Alternate item is \$70,000, and this item would be recommended for award after staff reviews submitted bid pricing and confirms if the work could be completed with the available project funds.

The Engineer's Estimate for the work is \$1,400,000, including the Add Alternate. 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.

Fiscal Impact: Sufficient funds are available in the project budgets for the street paving projects (No. 4255 and No. 4261), and a budget appropriation will be required at time of contract award, for the Fire Station Parking Lot pavement work (Add Alternate).

Recommendations:

1. Approve plans and specifications for the Street Resurfacing 2011 and 2012 (Ranch Drive Pavement Overlay), Project No. 4255 and Project No. 4261.
2. Authorize advertisement for bid proposals.

*** 27. Approve Amendment No. 1 to the Agreement with Tiburon Inc. and Authorize an Extension of the Extended Services Software Support and Maintenance Agreement for the Police Records Management System for the Not-to-Exceed Amount of \$47,916 (Staff Contact: Chris Schroeder, 586-3161)**

Background: In December 1996, the City entered into an agreement with Tiburon, Inc. to provide a Police Records Management System (RMS). Since Tiburon Inc. is the developer of the software, there is no other source for support and maintenance of this application. Conversion to another records management system is not financially feasible at this time. Renewal of the maintenance agreement is therefore necessary to keep the Police records system operating. On

January 4, 2011, Council approved the staff recommendation that Tiburon, Inc. be designated a sole source pursuant to Municipal Code Section I-2-3.09 Sole Source Procurement, such designation is valid for five years.

Fiscal Impact: None. The cost of the maintenance agreement in the current fiscal year is \$47,916 which has been budgeted in the Information Services Department operating budget.

Recommendation: Approve Amendment No. 1 to the Agreement with Tiburon Inc. and authorize an extension of the Extended Services Software Support and Maintenance Agreement for the Police Records Management System for the not-to-exceed amount of \$47,916.

- * **28. Approve an Agreement with Frank Martorella for the Amount-Not-to-Exceed \$62,400 Annually for Fire Department Inspection Services (Staff Contact: Albert Zamora, 586-3371)**

Background: With the adoption of the current budget, one of two fire prevention inspector positions is vacant. The workload volume in terms of state-mandated annual and construction inspections within the Fire Prevention Division is beyond the capacity of the current fire prevention inspector. As such, contractual services are necessary to support the additional workload and were used last fiscal year to fill in for the empty position. This proposed contract will fill in this gap and allow the City to meet its inspection obligations.

Fiscal Impact: None. Sufficient funding through Fire Permit Fees exists within the Fire Department budget.

Recommendation: Approve the agreement for fire inspection services for a total amount-not-to-exceed \$62,400 annually.

XXII. DEMAND

- * **29. Approve Payment Request to Peelle Technologies for Annual Renewal of Maintenance/Support Services for Document Imaging Equipment and Software for the Not-to-Exceed Amount of \$23,801 (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing staff prepared one payment request over \$20,000 for approval from Peelle Technologies in the amount of \$23,801 for annual renewal of maintenance/support services for document imaging equipment and software.

Fiscal Impact: None. Funds are available from the Information Services operating budget for Fiscal Year 2011-12 for this service.

Recommendation: Approve payment to Peelle Technologies for the annual renewal of maintenance/support services for document imaging equipment and software for the not-to-exceed amount of \$23,801.

XXIII. ADJOURNMENT

**NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, AUGUST 16, 2011, AT 7:00 P.M**