



**MILPITAS CITY COUNCIL
MEETING AGENDA
TUESDAY, AUGUST 16, 2011**

7:00 P.M.

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor**
- II. PLEDGE OF ALLEGIANCE**
- III. INVOCATION (Councilmember Polanski)**
- IV. APPROVAL OF COUNCIL MEETING MINUTES – August 2, 2011**
- V. SCHEDULE OF MEETINGS – Council Calendars for August and September 2011**
- VI. PRESENTATION - Recognize Milpitas Public Library “Read to Succeed” Tutoring Program Volunteers**
- VII. 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.

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

- XII. PUBLIC HEARING**
 - 1. Hold a Public Hearing and Adopt 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 with the Milpitas Automotive Group, LLC (Staff Contact: Diana Barnhart, 586-3059)**
- XIII. REPORT OF MAYOR and COUNCILMEMBER**
 - * 2. Consider Mayor’s Recommendations for Appointments/Re-appointments to Four Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**

3. **Request of Councilmember Giordano to Discuss Appointment to Library Advisory Commission and Santa Clara County Joint Powers Authority for Library Services (Contact: Councilmember Giordano, 586-3032)**

XIV. NEW BUSINESS

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

XV. ORDINANCES

5. **Waive the First Reading and Introduce an Ordinance for the Continued Existence of the Milpitas Redevelopment Agency and Authorize Related Actions (Staff Contact: Bryan Otake, 586-3040)**
- * 6. **Waive the Second Reading and Adopt 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)**

XVI. RESOLUTION

- * 7. **Adopt a Resolution Approving a Room Addition to a Hillside Home at 673 Quince Lane (Staff Contact: Cindy Hom, 586-3284)**

XVII. BIDS AND CONTRACTS

- * 8. **Approve Amendment No. 1 to the Agreement with HMM Incorporated, for Montague Expressway, Project No. 4179 (Staff Contact: Steve Erickson, 586-3301)**
- * 9. **Approve a Contract with the Metropolitan Planning Group for Abandoned Vehicle Abatement Services (Staff Contact: Gloria Anaya, 586-3075)**
- * 10. **Authorize the City Manager to Execute Amendment No. 1 to the Consultant Services Agreement with RMC Water and Environment for Support on the BART Project (GT-1063) and Various City Capital Projects (Staff Contact: Greg Armendariz, 586-3317)**
- * 11. **Authorize Execution of a Subdivision Improvement Agreement and Related Infrastructure Documents, and Approve a Final Map (Tract 10077), Project No. 2653 (Staff Contact: Fernando Bravo, 586-3328)**

XVIII. DEMAND

- * 12. **Approve Payment to Tritech for Annual Renewal of Software Support Services for the 911 Dispatch System for the Not-to-Exceed Amount of \$104,767.02 (Staff Contact: Chris Schroeder, 586-3161)**

XIX. ADJOURNMENT

**NEXT CITY COUNCIL MEETING:
TUESDAY, SEPTEMBER 6, 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 vacancy exists for the:

Emergency Preparedness Commission (large industry rep.)

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

XII. PUBLIC HEARING

- 1. Hold a Public Hearing and Adopt 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 with the Milpitas Automotive Group, LLC (Staff Contact: Diana Barnhart, 586-3059)**

Background: The concept of electronic message board freeway signs was approved by the City Council in May 2009. The first freeway sign to be approved was the onsite advertising sign located at Piercey Toyota. The applicant requests approval of a new electronic message board sign to replace the existing sign at the I-880/Montague Expressway interchange. The proposed ground lease is with Milpitas Automotive Group, LLC which would contract with CBS Outdoor, a subsidiary of CBS, to sell advertising and maintain the sign and site.

The design of the sign was reviewed by the Planning Commission on June 22, 2011 as Site Development Permit No. SD11-0003, and the Commission recommended approval to the City Council. The proposed sign (see attachment in the agenda packet) is 50 feet tall, which is approximately the same height of the existing sign. The two-sided electronic message board is 12 feet by 20 feet (240 square feet each side). Additional "logo" signs on the support structure are 4 feet by 4 feet and will be used by Great Mall tenants. The sign includes the name "Great Mall" to show that it is the exit for the retail center.

Lease terms include revenue to the City of 15% of the gross revenues, adjusted for advertising costs not to exceed 16.63%. The City will receive an up-front payment of \$50,000 that will be offset by first year revenues collected on a quarterly basis.

In addition to revenues, the City will have use of five percent of the message board to promote and advertise the community and community events. The proposed lease has a ten-year base term with options to extend that will carry the sign to the current scheduled end of the Great Mall Redevelopment Project Area, on November 2, 2033. However, in the event of any project area time extensions, the sign operator will have the right to extend operations to match, up to 2051.

Fiscal Impact: Estimated revenue to the City from the proposed freeway sign for Year 1 through Year 3 is \$47,300. For Year 4 until the end of the lease, annual revenue projection for each upcoming year shall be the average of the preceding three years of actual annual rent payments.

Attachments:

- A. City Council Resolution
- B. Sign Lease Agreement
- C. 06/22/2011 Planning Commission Meeting Staff Report
- D. 06/22/2011 Planning Commission Approved Meeting Minutes

Recommendations:

1. Open the public hearing and hear any public comments.
2. Move to close the public hearing.
3. Adopt a resolution approving Site Development Permit No. SD11-0003 approving the sign design and the Sign Lease Agreement with Milpitas Automotive Group, LLC.

XIII. REPORT OF MAYOR and COUNCILMEMBER

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

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

Arts Commission/Public Art Committee

Newly appoint Nicole Phan as Alternate No. 2 to a term that expires in October 2011.

Library Advisory Commission

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

Mobile Home Park Rental Review Board

Newly appoint Huy Bui to a term that expires in June 2014.

Newly appoint Demetrio Nitafan to a term that expires in June 2013.

Newly appoint Mila Garcia as the alternate member to a term that expires in June 2012.

Youth Advisory Commission:

Re-appoint Isaiah Daniels to a term that ends in September 2012.

Recommendation: Consider recommendations from Mayor Esteves, and move to approve the citizens for appointment and re-appointment to three Milpitas Commissions and one Board.

3. Request of Councilmember Giordano to Discuss Appointment to Library Advisory Commission and Santa Clara County Joint Powers Authority for Library Services (Contact: Councilmember Giordano, 586-3032)

Background: Councilmember Giordano requests discussion with her colleagues on the appropriate appointment from the Council as liaison to the Library Advisory Commission. She asked the Mayor (via e-mail) about the current appointment while she is serving on the board of the Library Joint Powers Authority. She recommends that the same Councilmember serve as liaison to both bodies simultaneously.

Recommendation: Hear report of Councilmember Giordano.

XIV. NEW BUSINESS

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

Background: Business Attraction: Over the last few months, an electronics company has been locating potential sites for its first West Coast location. The company has selected a long term vacancy in Milpitas where it intends to initiate one line of production with 50 new employees, expanding over the next twelve months. The company will announce its location and West Coast expansion with an event in late August. During this time, the Development Review Team will be assisting the company with its building permit submittals. This company will likely be a strong sales tax generator for the City.

Third World Independent Film Festival (TWIFF): GTC Films has secured Century Theatres for the TWIFF Festival on September 23, 24 and 25th, with a welcoming reception on September 22. They have over 60 films registered for the event.

Medical Electronics Firm: Staff met with a medical electronics firm looking to purchase a building in Milpitas, relocating from San Jose. This company will not be a revenue generator, but will offer high level jobs.

Chamber of Commerce: The Chamber is in the process of surveying companies as part of the contract with the City. The Chamber has announced a reformatted Trade Show, focusing on

procurement for smaller companies wishing to do business with the corporate sector. The Procurement Expo will be held during the day at the Embassy Suites on August 17.

McCarthy Ranch Freeway Signs: The environmental review process is in its final stages. McCarthy Ranch indicates it is ready to move forward on the signs when this is complete.

Fiscal Impact: None. There is no fiscal impact associated with this action.

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

XV. ORDINANCES

5. Waive the First Reading and Introduce an Ordinance for the Continued Existence of the Milpitas Redevelopment Agency and Authorize Related Actions (Staff Contact: Bryan Otake, 586-3040)

Background: As stated in previous reports to the City Council, Governor Brown approved the state budget and two extraordinary session bills, AB1X 26 and AB1X 27, on June 30, 2011, that eliminate or severely constrain redevelopment agencies.

AB1X 26 purports to suspend the ability of all redevelopment agencies throughout the state, including the Milpitas Redevelopment Agency, from issuing debt or entering into new obligations until October 1, 2011. On that date, all redevelopment agencies would supposedly be dissolved, unless the cities or counties within their boundaries opt to enact an ordinance to participate in a so-called "Voluntary Alternative Redevelopment Program" under AB1X 27. That assembly bill allows the City of Milpitas to essentially revive the Milpitas Redevelopment Agency and lift the suspension on new redevelopment activities, so long as the City enacts an ordinance committing it to make certain annual payments to the State.

The proposed Voluntary Program ordinance presented for consideration and action by the City Council would therefore avoid the involuntary dissolution of the Milpitas Redevelopment Agency. The ordinance provides for annual payments to be made to the state, but only under protest. For FY 2011-12, the payment to the state is estimated to be \$13.9 million. In each subsequent year, the payment is estimated to be \$3.3 million.

Although AB1X 26 and AB1X 27 are currently being challenged in court by the California Redevelopment Association on grounds that the legislation violates the California Constitution and other legal guarantees, the bills purportedly have immediate and retroactive effect. Adoption of the proposed ordinance and authorization of the associated staff actions would remove the current stop on new redevelopment activities, pending resolution of the litigation.

If the City were to choose not to opt in, the Agency would cease to exist after October 1, 2011. No new redevelopment activities to fight blight and revitalize the Milpitas community would be possible.

Fiscal Impact: The FY 2011-12 payment to the state would amount to \$13.9 million. Then, subsequent yearly payments are currently calculated to amount to \$3.3 million.

Recommendations:

1. Waive the first reading beyond the title of Uncodified Ordinance No. 282 relating to the Alternative Voluntary Redevelopment Program.
2. Move to introduce Ordinance No. 282.
3. Authorize a \$13.9 million appropriation from the Agency Fund to the City General Fund solely for purposes of the FY 2011-12 AB1x 27 payment.

- * 6. **Waive the Second Reading and Adopt 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: 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.

Recommendation: Waive the second reading and adopt Ordinance No. 23.13 amending Chapter 2 of Title I of the Milpitas Municipal Code relating to surplus canine units.

XVI. RESOLUTION

- * 7. **Adopt a Resolution Approving a Room Addition to a Hillside Home at 673 Quince Lane (Staff Contact: Cindy Hom, 586-3284)**

Background: On July 27, 2011, the Planning Commission reviewed and recommended approval of Site Development Permit Amendment No. SA11-0002 for a 234 square foot room addition and exterior façade changes to an existing hillside home located at 673 Quince Lane. A more detailed description of the project is provided in the Planning Commission staff report, included in the Council's agenda packet. The project is consistent with the General Plan and is in conformance with the Zoning Ordinance.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving a room addition to a hillside home at 673 Quince Lane.

XVII. BIDS AND CONTRACTS

- * 8. **Approve Amendment No. 1 to the Agreement with HMH Incorporated, for Montague Expressway, Project No. 4179 (Staff Contact: Steve Erickson, 586-3301)**

Background: On April 5, 2011 City Council entered into a consultant agreement with HMH Incorporated in the amount of \$110,000 to provide a roadway Plan Line Study for Montague Expressway. The City is implementing this project in partnership with Santa Clara County Roads & Airports (SCC Roads & Airports), which owns and maintains Montague Expressway. There are currently two major regional projects programmed which directly impact the portion of Montague Expressway from Great Mall Parkway to I-680. These projects are Bay Area Rapid Transit (BART) extension and the Berryessa Creek Flood Improvements. The City, Santa Clara Valley Water District (SCVWD,) and Valley Transportation Authority (VTA) wish to coordinate all these major projects.

The Berryessa Creek improvements include raising the height of the existing levees by five to seven feet, in order to provide the creek with 100 year flood capacity. A new bridge structure will replace the existing box culvert, where Berryessa Creek currently crosses Montague Expressway. This new Montague Expressway creek bridge will be required to be placed at the higher elevation, to allow for the larger Berryessa Creek flows. This will also require the reconstruction of several hundred feet of Montague Expressway on both sides of the new creek bridge. The existing intersection of Montague Expressway and Milpitas Boulevard and future Milpitas Boulevard south extension to the future BART station will also be affected by these creek improvements.

HMH is near completion with the Plan Line for the roadway, and staff recommends moving forward with design services for the bridge and roadway. It is desired that the City's widening and bridge project continue its pace and remain ahead of the BART project. This will allow the City and County to better coordinate its work around the VTA BART project. Staff is working on a cooperative agreement with SCVWD and SCC Roads & Airports, and VTA for this coordination and cost share of this effort, which will design and construct the major improvements to Montague Expressway, Milpitas Boulevard and Berryessa Creek. The final cooperative agreement will be presented to the Council for approval later this fall.

Amendment No.1 with HMH Incorporated is proposed to allow HMH to proceed with the final design of the roadway widening, new bridge, right of way engineering and property acquisition services for the project. Staff negotiated a fee for these services not to exceed \$977,578, which is considered reasonable for the work. Approval of this agreement amendment brings the total agreement amount to \$1,087,578.

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

Recommendation: Approve Amendment No. 1 to the agreement with HMH Incorporated in the amount of \$977,578, Project No. 4179, subject to approval as to form by the City Attorney.

* **9. Approve a Contract with the Metropolitan Planning Group for Abandoned Vehicle Abatement Services (Staff Contact: Gloria Anaya, 586-3075)**

Background: On June 21, 2011, the Council approved a contract with Christopher Schaller to abate abandoned vehicles on private property on behalf of the City. The contract amount was approved for a not-to-exceed amount of \$25,000 for fiscal year 2011-12. Mr. Schaller was recently re-hired by the City (in the Parks & Recreation Services Department). Staff interviewed two municipal service companies to perform the service for the remaining balance (\$23,680) and term of the contract. The Metropolitan Planning Group demonstrated the necessary professionalism and commitment to service to represent the City and has agreed to the contract terms. The majority of costs associate with abating abandoned vehicles are reimbursed through the County's Abandoned Vehicle Abatement Service Authority.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute a contract with Metropolitan Planning Group for abandoned vehicle abatement services for an amount not-to-exceed \$23,680.

* **10. Authorize the City Manager to Execute Amendment No. 1 to the Consultant Services Agreement with RMC Water and Environment for Support on the BART Project (GT-1063) and Various City Capital Projects (Staff Contact: Greg Armendariz, 586-3317)**

Background: On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension project. The Master Agreement also allows reimbursement of consultant costs for design review services. On March 1, 2011, Council approved a Consultant Services Agreement with RMC Water and Environment (RMC) to work on either the BART project directly or work on other capital improvement projects, thereby freeing staff to work on the BART project. Staff is currently reviewing plans and specifications for the expedited utility relocation work along Piper Drive. The rest of the project is currently in the bidding phase with contract award scheduled for this fall. Shortly thereafter, the City will be receiving several submittals for review and approval. It is necessary to amend the RMC agreement to provide additional funding for consultant support. As the City's water and sewer master plan consultant, RMC is well qualified to provide utility installation and relocation design review and general

project engineering support. Staff recommends increasing the agreement in the amount of \$265,000 for the additional work. This will bring the total value of the agreement to \$420,068.

Fiscal Impact: None. Time spent by the consultant or city staff on the BART project is reimbursable under the VTA Master Agreement. Also, there is sufficient funding in the various City capital project budgets to allow the consultant to provide engineering services as required.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the agreement with RMC Water and Environment for \$265,000, for a total agreement amount not to exceed \$420,068 for engineering support associated with the BART extension, Project No. GT-1063, and various city capital projects.

* **11. Authorize Execution of a Subdivision Improvement Agreement and Related Infrastructure Documents, and Approve a Final Map (Tract 10077), Project No. 2653 (Staff Contact: Fernando Bravo, 586-3328)**

Background: On March 15, 2011, the City Council approved the Tentative Map, Site Development Permit, and Conditional Use Permit for the Los Coches Residential Project, a residential subdivision of 83 single-family detached homes, private streets, and associated public improvements located on five acres at the eastern end of Los Coches Street. Robson Homes has now submitted the final map and public improvement plans, and has executed the subdivision improvement agreement and covenant for an encroachment permit. Staff reviewed the documents and finds they satisfy the City's requirements for this project.

The public improvements include water, sewer, and storm drainage utilities and pavement, curb, gutter, sidewalk, and landscaping street improvements along Los Coches Street. Los Coches traffic control improvements include new signage and striping; a mid-block crosswalk with pedestrian flashing beacon; and vehicle speed feedback signs. The encroachment permit allows the developer to install public improvements on the public right-of-way and maintain landscaping on a triangular plot of land at the southeast corner of the project along Los Coches. On August 8, the Council's Rules subcommittee reviewed a list of suggested street names for the project and directed staff to make recommendations for inclusion on the final map. The recommended street names (as shown on Attachment 5 in the agenda packet) are drawn from names of Milpitas veterans not previously used for street names. The Stormwater Management Facilities Operation and Maintenance Agreement defines the Home Owners Association obligations to maintain the permanent stormwater treatment facilities. The public improvement plans are available for review in the City Engineer's office.

Robson Homes will petition the City to annex the Los Coches Residential Project properties into Community Facilities District No. 2005-1 (CFD 2005-1). This annexation will be brought to the City Council for approval on September 6, 2011.

Fiscal Impact: None.

Attachments:

1. Subdivision Improvement Agreement
- 2A. Covenant and Permit for Encroachment Upon Public Right of Way
- 2B. Exhibit A to the Encroachment Permit
3. Stormwater Management Facilities Operation and Maintenance Agreement
4. Los Coches Project Final Map Cover Page
5. Los Coches Project Street Names Site Plan
6. Los Coches Project Public Improvement Plans No. 2-1142 Cover Page

Recommendation: Approve and authorize the execution of a Subdivision Improvement Agreement, covenants for an Encroachment Permit, a Stormwater Management Facilities

Operation and Maintenance Agreement and approve the Final Map (Tract 10077) with street names and Public Improvement Plans No. 2-1142 for the Los Coches Residential Project.

XVIII. DEMAND

- * 12. **Approve Payment to Trittech for Annual Renewal of Software Support Services for the 911 Dispatch System for the Not-to-Exceed Amount of \$104,767.02 (Staff Contact: Chris Schroeder, 586-3161)**

Background: In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing staff prepared a payment request (greater than \$20,000) from Trittech in the amount of \$104,767.02 for annual renewal of software support for the 911 dispatch system.

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

Recommendation: Approve the payment to Trittech for annual renewal of software support services for the 911 dispatch System for the not-to-exceed amount of \$104,767.02.

XIX. ADJOURNMENT