



MILPITAS CITY COUNCIL AND REDEVELOPMENT AGENCY  
MEETING AGENDA  
TUESDAY, OCTOBER 4, 2011

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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**  
**CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
Pursuant to CA Government Code §54957.6 City Negotiators: Bill Marion and Tom Williams  
Employee Groups: Mid-Management/Confidential Group, Milpitas Police Officers Association  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- III. **CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session if required, pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- IV. **PLEDGE OF ALLEGIANCE**
- V. **INVOCATION** (Councilmember Gomez)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – September 20, 2011
- VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDAR** for October 2011
- VIII. **PRESENTATIONS**
  - Commend Mrs. Dawn Hartman, Russell Middle School teacher, for attaining a 100% Advanced in her 34-student 8<sup>th</sup> grade Geometry Class 2011 STAR Test Results
  - Proclaim *Help People with Intellectual Disability Days*
    - St. John's Knights of Columbus Council #5796 – October 21 - 23, 2011
    - St. Elizabeth Knights of Columbus Council #8747 – October 28 - 30, 2011
  - Proclaim *Fire Prevention Week* for the week of October 9-15, 2011
- IX. **PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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- X. **ANNOUNCEMENTS**
- XI. **ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. **APPROVAL OF AGENDA**
- XIII. **CONSENT CALENDAR** (Items with asterisk\*)

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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.

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**XIV. PUBLIC HEARING**

- 1. Hold a Public Hearing for the Appeal of the Planning Commission's Approval of a Wireless Telecommunication Facility at 777 South Main Street (Staff Contact: Cindy Hom, 586-3284)**

**XV. UNFINISHED BUSINESS**

- 2. Receive Health and Safety Report on Friendly Village Mobilehome Park (Staff Contact: Dorsey Wiseman, 586-3246)**
- 3. Receive a Report on Crime in the City of Milpitas (Staff Contact: Chief Dennis Graham, 586-2502)**
- 4. Receive a Report from Staff on Santa Clara Valley Transportation Authority (VTA) Board Representation, Discuss and Appoint a Council Representative (Staff Contact: Greg Armendariz, 586-3317)**
- 5. Receive a Report on Single-Use Carryout Bags Study and Direct Preparation of an Ordinance to Restrict Distribution of Single-use Bags (Staff Contact: Kathleen Phalen, 586-3345)**
- 6. Receive the September 2011 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 7. Receive a Progress Report from the Public Works Director on the Emergency Contract Work Order for the Variable Frequency Drives and Pump/Motor Assemblies for the Ayer Pump Station, Project No. 7102 (Staff Contact: Greg Armendariz, 586-3317)**

**XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – September 20, 2011**
- RA3. Approval of Agenda/Consent Calendar (Items with asterisk\*)**
- \*RA4. Adopt a Resolution Amending the Enforceable Obligation Payment Schedule (Staff Contact: Emma Karlen, 586-3145)**
- \*RA5. Receive a Report on the Release of the Resale Restriction Agreements for Two Affordable Housing Units (Staff Contact: Felix Reliford, 586-3071)**
- \*RA6. Adopt a Resolution Granting Final Acceptance of the Carlo Street Ramp Conversion, Project No. 8195 (Staff Contact: Steve Erickson, 586-3301)**
- RA7. Agency Adjournment**

**XVII. REPORTS OF OFFICERS AND COMMISSION**

- 8. **Report and Recommendation to Adopt a Resolution Opposing the Move of Additional Inmates to Santa Clara County's Elmwood Jail in Milpitas (Contact: Mayor Esteves, 586-3029)**
- \* 9. **Consider Mayor's Recommendations for Appointments/Re-appointments to Three Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**
- 10. **Hear Report on Compliance with the Open Government Ordinance (Contact: Councilmember Polanski, 586-3024)**
- \* 11. **Approve Recommendation of the Emergency Preparedness Commission to Amend its By-Laws Regarding Membership (Staff Contact: Sean Simonson, 586-2810)**

**XVIII. NEW BUSINESS**

- 12. **Receive a Report on the Barbara Lee Senior Center Operating Hours Survey (Staff Contact: Bonnie Greiner, 586-3227)**
- \* 13. **Approve Request to Waive Fees from the Milpitas Lions Club to Host the District Leadership Forum in 2012 (Staff Contact: Bonnie Greiner, 586-3227)**

**XIX. RESOLUTIONS**

- \* 14. **Adopt a Resolution Approving an Addition to a Hillside Home Located at 1722 Pebble Beach Court (Staff Contact: Tiffany Brown, 586-3283)**
- \* 15. **Adopt a Resolution Granting Final Acceptance of the Alviso Adobe Renovation Phase III, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**
- \* 16. **Adopt a Resolution Authorizing Purchase of Cayenta Software Support and Maintenance Services for the Financial and Utility Billing System for the Not-to-Exceed Amount of \$115,385.76, and Declaring Cayenta a Sole Source Provider (Staff Contact: Chris Schroeder, 586-3161)**

**XX. BIDS AND CONTRACTS**

- \* 17. **Reject All Bids and Authorize the Re-advertisement for Bid Proposals for the Alviso Adobe Renovation Phase IV, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**
- \* 18. **Approve Non-Exclusive Collection, Transportation, and Recycling Agreements with Allied Waste Services and Green Waste Recovery, dba Ninety-Nine Dollar Debris Box (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 19. **Receive a Report from the Public Works Director on the Emergency Contract Work Order for the Replacement of Sidewalk Segment on Abel Street, Project No. 4256 (Staff Contact: Greg Armendariz, 586-3317)**
- \* 20. **Award the Bid for Six 2011 Ford Crown Victoria Police Interceptors to Hansel Ford for the Not-to-Exceed Amount of \$152,387.55 (Staff Contact: Chris Schroeder, 586-3161)**

**XXI. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING:  
TUESDAY, OCTOBER 18, 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](mailto: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](http://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  
Emergency Preparedness Commission (large industry rep.)  
Sister Cities Commission (student non-voting rep.)*

Applications are available online at [www.ci.milpitas.ca.gov](http://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](mailto: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 for the Appeal of the Planning Commission's Approval of a Wireless Telecommunication Facility at 777 South Main Street (Staff Contact: Cindy Hom, 586-3284)**

**Background:** On August 4, 2011, the Planning Commission approved a conditional use permit (UP11-0026) that allowed for the construction of a 60-foot tall wireless telecommunication tower camouflaged as an elm tree and installation of ancillary ground mounted equipment. The approval would allow the facility to accommodate four service carriers. AT&T Wireless will be the first service provider to be located on the approved structure and will install twelve (12) panel antennas (four per sector) near the top of the mono-elm tree pole. A copy of the Planning Commission staff report, meeting minutes, and project plans are included in the agenda packet for the Council's review and reference.

Two separate appeals of the Planning Commission's action were filed with the City. The first appeal was received on September 2, 2011 and filed by John Ozag (Appellant No. 1) requesting to overturn the Planning Commission decision and not allow the construction and operations of the facility due to health risk from radio frequency (RF) emission, loss of aesthetics, and precedents of other jurisdictions denying similar applications. The second appeal was received on September 6, 2011 and filed by Capital Telecom Acquisition, LLC (Appellant No. 2 and the project applicant) requesting relief from the Planning Commission's condition of approval restricting the maximum height of the tower from 80 feet to 60 feet. Appellant No. 2 claimed the decrease in height would affect the anticipated coverage for AT&T and the number of potential carriers on the wireless telecommunication facility. The reduction in height would also reduce coverage and result in additional telecommunication towers being installed in the City. Copies of both Appeal forms are included in the Council's agenda packet.

**Fiscal Impact:** None.

**Attachments:**

- A. City Council Resolutions for approval and denial
- B. Appellant No. 1, John Ozag, Appeal form
- C. Appellant No. 2, Capital Telecom, Appeal form
- D. Planning Commission Staff Report of 8/24/2011 meeting
- E. Planning Commission's Approved Minutes of 8/24/2011 meeting
- F. Radio Frequency (RF) Study
- G. Project Plans
- H. Public Comments

**Recommendations:**

1. Conduct a public hearing, and move to close the hearing following testimony.
2. Adopt a Resolution upholding the Planning Commission's action to approve the wireless telecommunication facility at 777 South Main Street, Milpitas.

### XV. UNFINISHED BUSINESS

2. **Receive Health and Safety Report on Friendly Village Mobilehome Park (Staff Contact: Dorsey Wiseman, 586-3246)**

**Background:** At the August 16 City Council meeting, a number of residents of the Friendly Village Mobilehome Park advised the City Council of their concerns with health and safety issues. Councilmember Gomez requested a report to the City Council to address the health and safety issues brought up by the Friendly Village residents and to take appropriate action with regard to the concerns expressed by the residents.

Building and Safety Department staff visited the park common area on Wednesday, August 17, and met with the Park Manager. On Monday, August 22, door hanger notices were distributed to all residents informing them of the option to either call or e-mail Building Department staff to schedule an inspection, if they desired, on either August 25 or 26.

**Fiscal Impact:** None.

**Recommendation:** Receive the presentation by Building staff on its review of Friendly Village Mobile Home Park.

**3. Receive a Report on Crime in the City of Milpitas (Staff Contact: Chief Dennis Graham, 586-2502)**

**Background:** At the special City Council meeting of August 23, 2011, Mayor Esteves requested a report on crime from the Chief of Police.

**Recommendation:** Receive a report regarding crime in Milpitas, at the City Council meeting, from Chief Graham.

**4. Receive a Report from Staff on Santa Clara Valley Transportation Authority (VTA) Board Representation, Discuss and Appoint a Council Representative (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** In April 2010, the VTA Board of Directors approved a new grouping of smaller cities within Santa Clara County for representation on the VTA Board. This new representation will become effective on January 1, 2012. The City of Milpitas is now grouped with the cities of Sunnyvale and Santa Clara. This group is called the Northeast group, and it will have two seats on the VTA Board with one alternate seat. Each of the other small city groups (North County, South County, and West Valley) will have only one Board seat. San Jose will continue to have five seats and the County of Santa Clara will continue to have two seats.

The City received a letter from VTA, dated August 8, 2011, addressed to the Mayor, requesting the various new city groups to select a Board representative and alternate by November 1, 2011 (a copy is included in the Council agenda packet). Ahead of the new city groups' selecting their representatives, each city within the group must select its city representative to that group, or re-affirm the current city representative from the old group to the new group.

The City of Milpitas has held a VTA board alternate position since 2005, and the City of Santa Clara has held a board alternate seat since 2009. The City of Sunnyvale currently has a VTA board seat and has held this seat for the last six years. With the current construction of the Bay Area Rapid Transit (BART) project, it is very important for the City of Milpitas to acquire a VTA Board seat in January of 2012. Staff therefore recommends the Mayor and Council to designate a representative, who should then work with representatives from cities of Sunnyvale and Santa Clara over the next few weeks to timely select the two VTA board representatives from this new Northeast group.

**Fiscal Impact:** None.

**Recommendations:**

1. Receive report from staff.
2. Move to appoint a representative from the Milpitas City Council to the new VTA Northeast group.
3. Provide direction to the new representative.

5. **Receive a Report on Single-use Carryout Bags Study and Direct Preparation of an Ordinance to Restrict Distribution of Single-use Bags (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On September 21, 2010, the City Council referred evaluation of a potential ban on single-use plastic and paper bags to the Recycling and Source Reduction Advisory Commission (RSRAC) and directed staff to seek consultant support to study the impact of a potential ban. At its April 26, 2011 meeting, RSRAC reviewed study results and recommended that the City develop an ordinance to restrict the use of single-use plastic and paper carryout bags.

A copy of the completed study is included in the Council agenda packet. It reviews the experiences of California cities that have restricted distribution of single use bags and summarizes a statistically-reliable phone survey of 293 Milpitas residents, stakeholder interviews with managers of 25 Milpitas food and retail establishments, and representatives of special interest groups. The study concluded that it is feasible for the City to restrict distribution of single-use bags, although there will be costs from, and opposition to, such action.

RSRAC reviewed the specific elements of an ordinance adopted by City of San Jose that will ban distribution of plastic bags and limit paper bags to those with at least 40 percent recycled content. This ordinance also allows merchants to charge a fee for each paper bag. RSRAC recommends that the City Council adopt an ordinance based on the San Jose ordinance that will ban distribution of all plastic bags and paper bags having less than 40% recycled contents and allow merchants to charge customers 10 cents per paper bag. San Jose's bag ban was adopted in December 2010, but will not go into effect until January 1, 2012 to allow a one-year public outreach effort. Staff recommends that Milpitas allow a similar period for outreach to merchants and the community.

On July 14, 2011, the California Supreme Court ruled in *Save the Plastic Bag Coalition v. Manhattan Beach* that the coastal city's negative declaration adequately addressed the California Environmental Quality Act requirements for its action of banning plastic bags. Although this ruling does not address the environmental documentation required for fees on paper bags and may be limited to small cities, it does provide some support for local regulations on single use bags. Therefore, in light of this ruling, staff recommends that the City Council direct staff to prepare a negative declaration and bring a draft ordinance restricting distribution of single use, point-of-purchase bags to this Council for adoption.

**Fiscal Impact:** None.

**Recommendations:**

1. Receive single use bag report.
2. Direct staff to prepare a draft ordinance that will:
  - a. Ban distribution of single-use, point-of-purchase plastic bags.
  - b. Ban distribution of single-use point-of-purchase paper bags with less than 40% recycled content.
  - c. Allow merchants to charge a ten cent fee for single use point of purchase paper bags.

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

**Background:** From August 31, 2011 through September 27, 2011, the Bay Area Air Quality Management District (BAAQMD) received four odor complaints originating in Milpitas. One identified a garbage-related odor, one identified a sewage-related odor and two did not identify a source. As of the last Council update, the City's odor reporting program has received seventeen reported complaints to bring the total number of complaints received since May to twenty six. Of these, one complaint was to the City's voice mail line and the remaining twenty five were to the City's odor complaint web page. 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 September 2011 odor report.

- \* 7. **Receive a Progress Report from the Public Works Director on the Emergency Contract Work Order for the Variable Frequency Drives and Pump/Motor Assemblies for the Ayer Pump Station, Project No. 7102 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** On March 15, 2011 Council approved a budget appropriation for an emergency contract with Anderson Pacific, Inc. for replacement of a failed variable frequency drive (VFD) which controls one of three electric motor and pump assemblies. The work scope also includes emergency replacement of a second existing pump and motor assembly which has exhibited excessive wear, resulting in excessive vibration. Lastly, due to their age, and lack of available parts, the remaining two VFDs are also being replaced. These emergency actions were taken in order to maintain the reliability and serviceability of the Ayer pump station, and thus protecting the public health and safety of the community at large.

This progress report is provided pursuant to Resolution No. 7779 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 & #3 from the pump building, through an access roof hatch;
- All motor and pump assemblies have now been rebuilt, tested and re-installed;
- Pump suction barrels were reconditioned and painted;
- The three new VFDs are being installed programmed and tested at the pump station.

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 was substantially completed by the end of September.

**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, CIP No. 7102.

## **XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

- \*RA4. **Adopt a Resolution Amending the Enforceable Obligation Payment Schedule (Staff Contact: Emma Karlen, 586-3145)**

**Background:** On August 23, 2011, the City Council and the Agency Board jointly adopted a resolution approving an Enforceable Obligation Payment Schedule to enable the Redevelopment Agency to make payments on pre-existing obligations while it awaits a final decision in the California Redevelopment Association's lawsuit. The California Supreme Court issued a temporary order that prohibits redevelopment agencies opting into the voluntary program or entering into any new debt or financial obligations until the Court reaches its final decision. Due to new clarification issued on the AB1X26 bill, staff recommends amending the Enforceable Obligation Payment Schedule to include additional pre-existing obligations. These obligations include estimated employee costs and administrative expenses of operating the Milpitas Redevelopment Agency until the end of the Redevelopment Plan, the housing set-aside

requirement until the end of the Plan, the “voluntary alternative redevelopment program” payments until the end of the Plan and the cost of public works construction pursuant to the Second Amended and Restated Public Works Agreement.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution amending the Enforceable Obligation Payment Schedule.

**\*RA5. Receive a Report on the Release of the Resale Restriction Agreements for Two Affordable Housing Units (Staff Contact: Felix Reliford, 586-3071)**

**Background:** The City received notification from two property owners who would like to sell their affordable housing units. The Resale Restriction Agreement provides the Redevelopment Agency with the option to purchase the affordable units or exercise its right of first refusal not to purchase the units. The Agency has previously take action to waive their option to purchase by adopting a resolution.

However, the Agency is currently unable to take such an action as it would be an affirmative relinquishment of an asset which is currently prohibited by the Supreme Court stay affecting State Redevelopment Agencies. The structure of the agreement is such that if the Agency takes no action on the option to purchase or release the unit within 90 days that the option automatically expires and the unit is released. The Agency could purchase the two affordable units pursuant the Resale Restriction Agreement as that could be considered an action to preserve an Agency asset, which is permissible under the stay. Staff recommends the Agency not purchase the two units and allow the 90 day option period to expire. The loss of two affordable housing units will not be detrimental to the Agency’s housing goals.

**Fiscal Impact:** None.

**Recommendation:** Receive the report from staff regarding two affordable housing units.

**\*RA6. Adopt a Resolution Granting Final Acceptance of the Carlo Street Ramp Conversion, Project No. 8195 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** This project was initially accepted on April 20, 2010 and has passed the one-year warranty period. A final inspection of the installed public improvements has been made, and they were found to be satisfactory. The project provided for the construction of the existing Carlo Street/State Route 237 on-ramp to an eastbound Calaveras Boulevard (SR237) off-ramp.

Staff recommends the Redevelopment Agency grant final project acceptance of the Carlo Street Ramp Conversion, Project No. 8195, and release of the contractor’s bond.

**Fiscal Impact:** None.

**Recommendation:** Adopt a joint resolution of the Redevelopment Agency and City Council granting final acceptance of the Carlo Street Ramp Conversion, Project No. 8195, and release of the contractor’s bond.

**XVII. REPORTS OF OFFICERS AND COMMISSION**

**8. Report and Recommendation to Adopt a Resolution Opposing the Move of Additional Inmates to Santa Clara County's Elmwood Jail in Milpitas (Contact: Mayor Esteves, 586-3029)**

**Background:** The State Legislature has approved the Governor’s Corrections Realignment Statute AB 109 in an effort to address prison overcrowding. This realignment legislation will lead to the statewide diversion of certain low level sentenced felons and parole violators (non-

violent, non-serious, non-high risk sex offenders) to county jails instead of state prisons. Officials from the County have informed the City that, pursuant to this realignment legislation, 30 to 50 inmates each month that would have normally been transferred from the Elmwood Correctional Facility to state prisons, will now be retained in the local county jail starting in October 2011. This will increase Elmwood's total inmate population by 300 to 500 inmates by the end of 2012. Santa Clara County houses inmates within the Main Jail located in San Jose and Elmwood. Elmwood houses more than half of all inmates in the county.

**Fiscal Impact:** None.

**Recommendation:** Adopt a Resolution opposing the move of additional inmates to Santa Clara County's Elmwood Jail in Milpitas.

\* **9. Consider Mayor's Recommendations for Appointments/Re-appointments to Three Milpitas Commissions (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves recommends the following residents be appointed and re-appointed, as follows:

**Bicycle Pedestrian Advisory Commission**

Re-appoint Antonio Pablo, Jr. to a term that ends in August 2014.

Re-appoint Chris Lee as Alternate No. 2 to a term that expires in August 2013.

**Telecommunications Commission**

Appoint Kurt Bohan (current Alt. #1) as a regular member to a term that expires in January 2013.

Appoint Debra Lax (current Alt. #2) as Alternate No. 1 to a term that expires in January 2013.

Newly appoint Sukhi Singh as Alternate No. 2 to term that expires in January 2012.

**Youth Advisory Commission**

Newly appoint Sahil Hansalia as Alternate No. 2 to a term that expires in September 2012

Newly appoint Veronica Wang as Alternate No. 3 to a term that expires in September 2012.

Newly Appoint Arjun Goyal as Alternate No. 4 to a term that expires in September 2012.

Copies of applications for newly recommended Commissioners are included in the Council's agenda packet, along with those not recommended for appointment at this time.

**Recommendation:** Consider the recommendations from Mayor Esteves, and move to approve appointments and re-appointments to three Milpitas Commissions.

**10. Hear Report on Compliance with the Open Government Ordinance (Contact: Councilmember Polanski, 586-3024)**

**Background:** Councilmember Polanski requested to report to her colleagues on the topic of adherence to the calendar posting requirement of elected officials in the Open Government ordinance.

Included in the agenda packet are copies of the Mayor and City Councilmembers' calendars from the City website for the past five months. Also included is Milpitas Municipal Code section I-310-3.170 Calendar of Officials defining this requirement.

**Recommendation:** Hear report of Councilmember Polanski.

\* **11. Approve Recommendation of the Emergency Preparedness Commission to Amend its By-Laws Regarding Membership (Staff Contact: Sean Simonson, 586-2810)**

**Background:** The Emergency Preparedness Commission recommends that the City Council approve changes to its by-laws in order to: (1) include eight at-large Milpitas residents or Milpitas

business representatives and (2) eliminate the need for the Chair and Vice Chair to be residents. The Commission further recommends deletion of any reference to a member being from the Industrial Community. These recommended changes adjust the language in the Emergency Preparedness Commission by-laws to better depict the current and future membership of the body.

**Fiscal Impact:** None.

**Recommendation:** Approve amendments to the Emergency Preparedness Commission By-Laws, as recommended by the Emergency Preparedness Commission at its last meeting on September 15, 2011.

## **XVIII. NEW BUSINESS**

### **12. Receive a Report on the Barbara Lee Senior Center Operating Hours Survey (Staff Contact: Bonnie Greiner, 586-3227)**

**Background:** At the request of Mayor Esteves, an informational memo was prepared detailing the results from a comprehensive survey of seniors as to their interest in the increase of operating hours at the Barbara Lee Senior Center. A copy is included in the Council's agenda packet.

Currently, the Barbara Lee Senior Center is open Monday through Friday from 9:00 AM to 4:00 PM. During that time, seniors are offered drop-in recreation programs, fitness room, arts and dance classes, trips, informational seminars and lunch through the County Senior Nutrition Program. The Senior Center's current evening and weekend programs, and events, include evening Bingo on the first and second Tuesdays every month from 5:00 – 8:30 PM, special events and trips throughout the year on weekends including Holiday Dances (Christmas and Valentine's Day), Bingo Marathons, and theater trips.

Senior Center staff has continuous and open dialogue with Senior Center members to verbally poll their satisfaction with the hours the Center is open and the events and programs offered at the Center. Staff has implemented class and trip suggestions in the past year from members that would be well received by the majority such as bridge classes, holiday cooking class, the Lighthouse at Pacific Grove trip and a Disney Museum trip to San Francisco.

In response to Council direction, staff distributed a formal survey to local seniors requesting their opinion on when they would like to see the Barbara Lee Senior Center open and what activities they'd like to see offered during possible extended operating hours.

The formal survey was made available to seniors from February 2011 to April 2011. Staff distributed the survey to the following locations, receiving 83 responses in return.

- Milpitas Senior, Sports and Community Centers
- Pioneer Mobile Lodge
- Friendly Village Mobile Home Park
- Milpitas Mobilodge
- Terrace Gardens senior housing apts.
- DeVries Place senior housing
- City website
- Kaiser Wellness Center

The survey was organized into three major categories: 1) Current Operating Hours feedback, 2) Evening Hours of Interest and 3) Weekend Hours of Interest.

Results reported were as follows, per each category.

#### **Current Operating Hours Results**

56% of the surveys reported being in favor of current opening weekday hours.

**Evening Hours of Interest Results**

36% of surveys reported an interest in having extended evening hours anytime from 5:00 PM – 9:00 PM.

**Weekend Hours of Interest Results**

24% of surveys reported an interest in having weekend hours on Saturdays from 10:00 AM – 4:00 PM.

Activities listed that were of interest in the survey, during the current and possible extended operating hours, were consistent with the City’s current programming: classes, local trips, dances, fitness room hours, games, etc. Staff continues to seek out seniors’ input on innovative programming and events of interest for Center members that can be offered during both regular and non-regular operating hours.

Currently, senior special events, trips and programs offered in addition to regular open hours are incorporated into the staffs’ work schedule. Should additional operating hours and programming be requested, additional staff, contractor and supply monies would be required.

**Recommendation:** In conjunction with the survey results and the continued dialogue with Senior Center members, staff recommends maintaining the current Barbara Lee Senior Center operating hours: Monday through Friday, from 9:00 AM to 4:00 PM, and open on evenings and weekends for special events and special programs such as, but not limited to, dances, bingo, special interest classes, board/card game tournaments, movies and televised sporting events.

**\* 13. Approve Request to Waive Fees from the Milpitas Lions Club to Host the District Leadership Forum in 2012 (Staff Contact: Bonnie Greiner, 586-3227)**

**Background:** Milpitas Lions Clubs plan to host the Lions District Leadership Forum at the Milpitas City Hall and Milpitas Community Center on Saturday, November 3, 2012. The Lions Club is requesting that the City Council waive 50% of the fees associated with hosting this state-wide event. The group has requested use of the City Hall Lobby Rotunda and Committee Room as well as the Community Center Auditorium, Conference Rooms 7 & 8, Classroom 1, Classroom 2 and the Dance Studio from 7:00 AM to 5:00 PM on Saturday, November 3, 2012.

Lions Club additionally requested use of the LED lighted City marquee information sign (on Calaveras in front of City Hall) to announce its event. The Lions Club will be required to provide appropriate liability insurance for this event.

**Fiscal Impact:** Loss of \$1,827.50 in rental fee revenue (50% of facility rental fees).

**FEES**

Application fee \$20

**City Hall Rental Fees:**

City Hall deposit (refundable) \$150  
City Hall Rotunda Rental Fees (10 hours @ \$37.50/hour) \$375  
City Hall Committee Conference Room Rental Fees (10 hours @ \$37.50/hour) \$375  
Staff attendant fees (10 hours @ \$50/hour) \$500

**Milpitas Community Center Rental Fees:**

Community Center deposit (refundable) \$500  
MCC Auditorium Rental Fees (10 hours @ \$80/hour) \$800

MCC Conference Room 7&8 (10 hours @ \$20/hour)	\$200
MCC Classroom 1 (10 hours @ \$14.50/hour)	\$145
MCC Classroom 2 (10 hours @ \$14.50/hour)	\$145
MCC Dance Studio (10 hours @ \$14.50/hour)	\$145
Staff attendant fees (10 hours @ \$30/hour)	\$300
<u>Use of City Marquee (4 weeks - no cost)</u>	<u>\$ 0</u>
<b>TOTAL EVENT COST</b>	<b>\$3,655</b>

**Recommendation:** Per the request of several Lions Club leaders who spoke at the September 20 City Council meeting, authorize the waiver of 50% of total rental fees for the Milpitas Executive Lions Club for rental of city facilities, reserved for the Lions Club District Leadership Forum at the Milpitas Community Center and City Hall Rotunda and Committee Room in November 2012.

**XIX. RESOLUTIONS**

**\* 14. Adopt a Resolution Approving an Addition to a Hillside Home Located at 1722 Pebble Beach Court (Staff Contact: Tiffany Brown, 586-3283)**

**Background:** The applicant proposed a 1,178 square foot addition to an existing 2,748 square foot two-story home located at 1722 Pebble Beach Court. The project meets all the development standards of the Hillside Ordinance, the Summit Pointe Planned Unit Development standards, and is consistent with the General Plan. For further details, refer to the Planning Commission staff report and meeting minutes. The Planning Commission recommended approval of Site Development Permit No. SD11-0004 on September 14, 2011.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution approving an addition to the hillside home at 1722 Pebble Beach Court, Milpitas, subject to the conditions of approval.

**\* 15. Adopt a Resolution Granting Final Acceptance of the Alviso Adobe Renovation Phase III, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** This project was initially accepted on September 7, 2010 and has passed the one-year warranty period. A final inspection of the installed public improvements has been made, and the work was found to be satisfactory. The project provided the structural stabilization and reconstruction of the exterior finishes of the Alviso Adobe, restoring it to its original 1920's appearance.

Staff recommends the Council grant final project acceptance of the Alviso Adobe Renovation Phase III, Project No. 5055, and release of the contractor's bond.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance of the Alviso Adobe Renovation Phase III, Project No. 5055 and release of the contractor's bond.

**\* 16. Adopt a Resolution Authorizing Purchase of Cayenta Software Support and Maintenance Services for the Financial and Utility Billing System for the Not-to-Exceed Amount of \$115,385.76, and Declaring Cayenta a Sole Source Provider (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In 1997, the City entered into an agreement with Cayenta to provide a financial and utility billing system for the City of Milpitas. Cayenta is the developer of the software and there is no other source for support and maintenance of this application. Staff recommends that Cayenta be designated the sole source provider for its software support and maintenance, pursuant to Municipal Code section I-2-3.09 Sole Source Procurement.

**Fiscal Impact:** None. Funds for this purchase are available from the Information Services FY 2011-12 operating budget and the Finance Department FY 2011-12 operating budget.

**Recommendation:** Adopt a resolution authorizing payment of the Cayenta software support and maintenance agreement for the financial and utility billing system for the not-to-exceed amount of \$115,385.76 and declare Cayenta a sole source provider.

## XX. BIDS AND CONTRACTS

**\* 17. Reject All Bids and Authorize the Re-advertisement for Bid Proposals for the Alviso Adobe Renovation Phase IV, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** On June 21, 2011, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for Alviso Adobe Renovation Phase IV, Site Improvements. This project phase constructs the historic public park improvements to replicate an early 1900's orchard/Mexican rancho. The park improvements include rebuilding the existing historic water tower, garage, and cutting shed, constructing a new public restroom and parking facilities, landscaping and installation of benches and picnic areas. The Engineer's Estimate for the base bid project work was \$2,400,000.

The project was advertised and six (6) sealed bid proposals were received on September 15, 2011. Bid proposals ranged from \$2,166,953 to \$2,706,900, and the lowest responsible base bid was submitted by Garden City Construction, Inc. in the amount of \$2,166,953.

However, the lowest bidder Garden City Construction, has submitted written notice requesting withdrawal of its bid, pursuant to section 5103 of the Public Contract Code due to a significant math and drafting error in determining their proposal value. In review of the second lowest bid from Gonsalves & Stronck Construction, staff determined that the bid was non-responsive due to a significant mathematical error in their unit pricing and total, and an omission of required documentation for subcontractors to be used on the project. These errors and omissions require that the bid from the second low, Gonsalves & Stronck Construction be rejected.

Staff evaluated the remaining bids and concluded that rejecting all bids and rebidding this important project would likely lead to lower and more responsive bids in the future, thereby benefitting the public. If the City Council were to adopt the staff recommendation and reject all bids, staff will update the project specifications and contract documents and re-advertise the project for bids.

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

**Recommendations:**

- 1 Reject all bids received for Project No. 5055.
- 2 Approve the re-advertisement for bid proposals for the Alviso Adobe Renovation Phase IV project.

**\* 18. Approve Non-Exclusive Collection, Transportation, and Recycling Agreements with Allied Waste Services and Green Waste Recovery, dba Ninety-Nine Dollar Debris Box (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 (Allied), 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.

Allied Waste Services and Green Waste Recovery have held active hauling agreements with the City since July 2005 with the most recent contracts expiring in November 2011. Staff reviewed applications from both companies to enter into a new three-year agreement for collection, transportation, and recycling of debris and find these to be in accordance with the City's requirements. Both Allied and Green Waste Recovery intend 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 two Non-Exclusive Collection, Transportation, and Recycling Debris Box agreements with Allied Waste and Green Waste Recovery, and authorize staff to grant a maximum of two, three-year extensions to these agreements.

- \* 19. **Receive a Report from the Public Works Director on the Emergency Contract Work Order for the Replacement of Sidewalk Segment on Abel Street, Project No. 4256 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The City has discovered two 40-foot sections of sidewalk along Abel Street south of Curtis Avenue have become undermined, due to erosion from the adjacent Penitencia Creek. The sidewalk sections have cracked and are unstable, and have the potential of sliding into Penitencia Creek during a wet winter storm similar to those experienced this last winter. Public Works staff installed steel plates to cover the cracked and uneven concrete surface in order to keep the sidewalk open at this time. However, to maintain pedestrian safety, an emergency repair is required at these two locations. The repair work would include the reconstruction and stabilization of the base soil under the sidewalk, and restoration of the concrete sidewalk within the City's right of way. The cost for this emergency repair is estimated at \$75,000, and the emergency work is estimated to take 3 to 6 weeks to complete.

This emergency contract work was ordered pursuant to Resolution No. 7779 approved by the Council and Public Code Sections 20168 and 22050 (b)(1), authorizing the Public Works Director to order emergency contract work and to let contracts without soliciting bids

Staff is in discussions with the Santa Clara Valley Water District (District) regarding a cost-share for the permanent repair and stabilization of this reach of the sidewalk and levees to Penitencia Creek. These permanent repairs are anticipated to commence in 2012 under the District's ongoing maintenance contract. A cost share agreement between the District and the City for the permanent repairs will be brought back to the Council for approval early next year.

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

**Recommendation:** Receive a report from the Public Works Director on the emergency contract work order for the Replacement of Sidewalk Segment on Abel Street, CIP No. 4256

- \* 20. **Award the Bid for Six 2011 Ford Crown Victoria Police Interceptors to Hansel Ford for the Not-to-Exceed Amount of \$152,387.55 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Purchasing Division worked with Fleet Maintenance and Police staff to develop a specification for Ford Crown Victoria Police Interceptors to replace six vehicles that will reach the mileage threshold pursuant to the MOU. The bid was sent out on August 29, 2011 and advertised in the local newspaper, on Public Purchase and on the City's website. Ford no longer manufactures the Crown Victoria Police Interceptor model as of August 2010, so the only available vehicles are the 2011 models that dealers have in stock. No bidder was able to meet the exact specification based on their available stock. The bidder who came in the closest to our specification was Hansel Ford, the low bidder. The bid was based on unit price. Three bids were

received and are summarized. Since the vehicles are in stock, they will be ready for immediate delivery. Pricing includes sales tax, tire tax, and 100,000 mile warranty.

Bid Summary:

<u>Bidder</u>	<u>Unit Price</u>	<u>Total for 6 vehicles</u>
Hansel Ford	\$25,397.93	\$152,387.55
Towne Ford Sales	\$28,857.29	
Wondries Fleet Group	\$27,372.51	

**Fiscal Impact:** None. Sufficient funding is available from the Police Department operating budget and Equipment Replacement Fund for the purchase of these vehicles.

**Recommendation:** Award the bid for six 2011 Ford Crown Victoria Police Interceptor vehicles to Hansel Ford for the not-to-exceed amount of \$152,387.55.

**XXI. ADJOURNMENT**

**NEXT REGULAR CITY COUNCIL MEETING:  
TUESDAY, OCTOBER 18, 2011, AT 7:00 P.M**