



**MILPITAS CITY COUNCIL, REDEVELOPMENT AGENCY,
ECONOMIC DEVELOPMENT CORPORATION, AND HOUSING AUTHORITY
MEETING AGENDA
TUESDAY, JANUARY 17, 2012**

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 SESSIONS OF CITY COUNCIL**
 - 1) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to CA Government Code §54957
Position: City Attorney Mike Ogaz
 - 2) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to CA Government Code §54957.6 City Negotiators: Bill Marion and Tom Williams
Employee Group: Mid-Management/Confidential Group
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 3) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to Government Code 54956.9(a)
Giordano v. City of Milpitas
Court Case No.111CV215832
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session if required, pursuant to CA Govt. Code §54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE**
- V. INVOCATION** (Councilmember Polanski)
- VI. APPROVAL OF COUNCIL MEETING MINUTES** – January 3 and 4, 2012
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS** for January and February 2012
- VIII. 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.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR**

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.

XIII. PUBLIC HEARING

- 1. Accept 2012 Citizens' Option for Public Safety (COPS) Grant (Staff Contact: Armando Corpuz, 586-2534)**

XIV. JOINT REDEVELOPMENT AGENCY, HOUSING AUTHORITY & CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – January 3, 2012**
- RA3. Approval of Agenda/Consent Calendar**
- *RA4. Adopt a Resolution Amending the Enforceable Obligation Payment Schedule and Authorize the City as a Successor Agency to Accept the Schedule on February 1, 2012 (Staff Contact: Emma Karlen, 586-3145)**
- *RA5. Authorize Executive Director to Transfer Certain Real Property to the City of Milpitas and Authorize City Manager to Accept the Conveyance of Certain Real Property (Staff Contact: Bronwen Lacey, 586-3043)**
- *RA6. Authorize the Executive Director to Execute Assignment Agreements Related to Affordable Housing Units to the City of Milpitas Housing Authority and other Agreements to the City of Milpitas (Staff Contact: Bronwen Lacey, 586-3043)**
- RA7. Agency/Authority Adjournment**

XV. JOINT ECONOMIC DEVELOPMENT CORPORATION AND CITY COUNCIL MEETING

- EDC1. Call to Order/Roll Call by the Mayor/Chair**
- EDC2. Approval of Agenda**
- EDC3. Authorize the Economic Development Corporation President to Award a Construction Contract for Milpitas City Hall Audio Visual System Upgrade, Project No. 9001 (Staff Contact: Steve Erickson, 586-3301)**
- EDC4. Award a Construction Contract to Preston Pipelines, Inc. for the Wrigley Ford Creek Maintenance Project No. 8162, and Approve a Budget Appropriation (Staff Contact: Fernando Bravo, 586-3328)**
- EDC5. Authorize the Economic Development Corporation President to Award a Construction Contract for the City's Police Department Evidence Room Improvements, Project No. 8182 and Approve a Budget Appropriation (Staff Contact: Steve Erickson, 586-3301)**
- EDC6. Corporation Adjournment**

XVI. REPORTS OF OFFICERS AND COMMISSIONS

- * 2. Consider Mayor's Recommendations for Appointments/Re-Appointments to Five Milpitas Commissions (Contact: Mayor Esteves, 586-3051)**

- * 3. Per Request of Councilmember Giordano, Receive Report Regarding Invocations at City Council Meetings (Staff Contact: Mike Ogaz, 586-3040)
- 4. Per Request of Councilmember Giordano, Receive Update on the Subject of Medical Marijuana Dispensaries (Contact: Councilmember Giordano, 586-3032)
- * 5. Per Request of Councilmember Gomez, Receive a Report on Costs Related to Preparing for “Black Friday” (November 24-25, 2011) and Re-coup of those Costs (Staff Contacts: Tom Williams, 586-3050 and Dennis Graham, 586-2502)
- * 6. Approve Community Advisory Commission 2012 Work Plan (Staff Contact: Felix Reliford, 586-3071)

XVII. NEW BUSINESS

- 7. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)
- * 8. Authorize the Response to the 2010-11 Santa Clara County Civil Grand Jury Report Concerning Rehiring of Pensioners (Staff Contact: Tom Williams, 586-3050)

XVIII. ORDINANCES

- 9. Waive the First Reading and Introduce Ordinance No. 243.5 Regarding Regulation of Campaign Contributions (Staff Contact: Mike Ogaz, 586-3041)
- * 10. Waive the Second Reading and Adopt Ordinance No. 260.1 Amending Flag Ordinance Regarding Sister City Delegations and Civic Center Locations, with Minor Changes (Staff Contact: Michael Ogaz, 586-3041)

XIX. RESOLUTION

- * 11. Adopt a Resolution Granting Initial Acceptance of and Reducing the Performance Bond for Abel Street Sidewalk Improvements, Project No. 4256 (Staff Contact: Steve Erickson, 586-3301)

XX. ADJOURNMENT

**NEXT CITY COUNCIL MEETING:
TUESDAY, FEBRUARY 7, 2012**

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 on the:

- Arts Commission/Public Art Committee (2 alternates)*
- Community Advisory Commission (2 vacancies)*
- Economic Development Commission (2 - retail, res. real estate)*
- Parks, Recreation & Cultural Resources Commission (alternate)*

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

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

AGENDA REPORTS

XIII. PUBLIC HEARING

- 1. Accept 2012 Citizens' Option for Public Safety (COPS) Grant (Staff Contact: Armando Corpuz, 586-2534)**

Background: The California State Legislature awarded \$128,048 to the City of Milpitas through the Citizen Options for Public Safety (COPS) Grant, Government Code §30061-30065. No City matching funds are required.

Government Code §30061 requires a public hearing regarding the expenditure of this grant. Government Code §30062 specifies that these funds must be used exclusively for front line law enforcement services and must supplement, not supplant, existing funding for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police for the law enforcement agency that provides police services for the city. The request shall indicate the front line law enforcement needs of the requesting entity including the personnel and equipment that are necessary to meet those needs.

The Milpitas Police Department recommends the following list of frontline municipal police services, or equivalent, to be purchased with COPS grant funds for fiscal year 2011-12.

1. Portable Radios and Radio Supplies for Officers
2. Critical Incident Response Equipment
3. Portable Solar Message Trailer
4. Surveillance Equipment
5. Tire Deflation Devices
6. LED Lights for Motorcycles
7. Evidence Storage Container
8. Video / Audio Recorders and Recording Software

Fiscal Impact: None. The COPS 2012 grant of \$128,048 will fully cover the cost for the frontline services listed above.

Recommendations:

1. Open public hearing and, after hearing public comment, then move to close the hearing.
2. Accept the 2012 Citizen Options for Public Safety Grant in the amount of \$128,048.
3. Approve the appropriation in the amount of \$128,048 into the Police Department's operating budget.

XIV. JOINT REDEVELOPMENT AGENCY, HOUSING AUTHORITY & CITY COUNCIL MEETING

- *RA4. Adopt a Resolution Amending the Enforceable Obligation Payment Schedule and Authorize the City and the Milpitas Housing Authority as Successor Agencies to Accept the Schedule on February 1, 2012 (Staff Contact: Emma Karlen, 586-3145)**

Background: On December 29, 2011, the Supreme Court of California ruled that all redevelopment agencies in California shall be subject to liquidation and dissolution pursuant to Assembly Bill 1X 26. On January 4, 2012, the Council adopted a resolution designating the City of Milpitas as the Successor Agency. The primary function of the Successor Agency is to make payments and perform other obligations due for Enforceable Obligations of the former RDA.

On August 23, 2011, the Council/Agency jointly adopted a resolution approving an Enforceable Obligation Payment Schedule ("EOPS") to enable the Redevelopment Agency to make payments on pre-existing obligations while it awaited a final decision in the California Redevelopment Association's lawsuit. The EOPS was subsequently amended on October 18, 2011 to add additional pre-existing obligations. Due to the dissolution of the RDA, some of the obligations

listed on the EOPS are no longer applicable. The obligations previously listed include the housing set-aside requirement until the end of the Plan and the “voluntary alternative redevelopment program” payments until the end of the Plan. These obligations will be deleted from the EOPS. In addition, staff made other changes to the EOPS to include potential settlement to the County due to the lawsuit and increase the amount that the City may call on the loan to the RDA for purchase of City properties in FY 2011-12.

The final EOPS must be transferred to the Successor Agency on February 1, 2012 when the former RDA ceases to exist. By adopting the proposed resolution, the City Council and the Housing Authority Commission also authorize the City and the Milpitas Housing Authority to accept the EOPS on February 1, 2012 as Successor Agencies.

Fiscal Impact: None

Recommendation: Adopt a resolution amending the Enforceable Obligation Payment Schedule and authorizing the City and Milpitas Housing Authority as Successor Agencies to accept the Schedule on February 1, 2012.

***RA5. Authorize Executive Director to Transfer Certain Real Property to the City of Milpitas and Authorize City Manager to Accept the Conveyance of Certain Real Property (Staff Contact: Bronwen Lacey, 586-3043)**

Background: AB X1 26 will dissolve all existing redevelopment agencies as of February 1, 2012, and provides that, all authority, rights, powers, duties and obligations previously vested in the former redevelopment agencies will be vested in those entities designated as “successor agencies.” On January 4, 2012, the City of Milpitas (City) adopted Resolution No. 8151 electing to become the successor agency to the Milpitas Redevelopment Agency (Agency).

Transfer of the real property assets of the Agency to the City is necessary in order to preserve the Agency assets and provide the City, as the successor agency, the ability to administer the assets of the Agency, subject to Oversight Board review, as required by law. The certain real property is listed in the agenda packet.

Fiscal Impact: None.

Recommendation: Authorize the Executive Director to transfer certain real property to the City of Milpitas and authorize the City Manager to accept the conveyance of certain real property from the Milpitas Redevelopment Agency and to take all other necessary legal actions.

***RA6. Authorize the Executive Director to Execute Assignment Agreements Related to Affordable Housing Units to the City of Milpitas Housing Authority and other Agreements to the City of Milpitas (Staff Contact: Bronwen Lacey, 586-3043)**

Background: AB X1 26 will dissolve all existing redevelopment agencies as of February 1, 2012, and provides that, all authority, rights, powers, duties and obligations previously vested in the former redevelopment agencies will be vested in those entities designated as “successor agencies.” On January 4, 2012, the City of Milpitas Housing Authority (Authority) adopted Resolution HA3, electing to become the successor housing agency to the Milpitas Redevelopment Agency (Agency) and the City of Milpitas (City) adopted Resolution 8151 electing to become the successor agency to the Milpitas Redevelopment Agency (Agency).

Transfer and assignment of agreements and other rights of the Agency related to affordable housing units to the Authority and City is necessary in order to preserve the Agency assets and provide the Authority, as the successor housing agency, and the City, as the successor agency, the ability to administer the assets of the Agency, subject to Oversight Board review, as required by law. The agreements and rights to be assigned are documents such as the Resale Restriction Agreement and Option to Purchase, Promissory Notes, Subordinate Deeds of Trust, Owner

Participation Agreements, leases and Development and Disposition Agreements. The addresses and owners of the real property affected by the transfers and assignments are listed in an attachment to the Agenda.

Fiscal Impact: None.

Recommendation: Authorize the Executive Director of the Milpitas Redevelopment Agency to assign or transfer agreements and other documents and rights to the City of Milpitas Housing Authority and to the City of Milpitas, and to take all other necessary legal actions. Authorize the Executive Director of the City of Milpitas Housing Authority and the City Manager of the City of Milpitas to accept the assignment or transfer of such rights from the Milpitas Redevelopment Agency, and to take all other necessary legal actions.

RA7. Agency/Authority Adjournment

XV. JOINT ECONOMIC DEVELOPMENT CORPORATION AND CITY COUNCIL MEETING

EDC3. Authorize the Economic Development Corporation President to Award a Construction Contract for Milpitas City Hall Audio Visual System Upgrade, Project No. 9001 (Staff Contact: Steve Erickson, 586-3301)

Background: On January 3, 2012, the Economic Development Corporation (EDC) approved the project plans and specifications, and authorized the advertisement for bid proposals for the Milpitas City Hall Audio Visual System Upgrade, Project No. 9001. In order to proceed with awarding the project and timely execution of the contract, staff recommends the Economic Development Corporation authorize the EDC President to award the construction contract to the lowest responsible bidder after bid opening if the bid is no higher than 10% above of the Engineer's estimate or less as determined at the time prior to bid opening.

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

Recommendations: Authorize the Economic Development Corporation President to award a construction contract for Milpitas City Hall Audio Visual Systems Upgrade, Project No. 9001.

EDC4. Award a Construction Contract to Preston Pipelines, Inc. for the Wrigley Ford Creek Maintenance Project No. 8162, and Approve a Budget Appropriation (Staff Contact: Fernando Bravo, 586-3328)

Background: On June 7, 2011, the City Council/Agency approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project provides for Wrigley Ford Creek improvements and maintenance work consisting of clearing of debris, sediments, vegetation and trees and pruning of trees at strategic locations to restore the storm water conveyance capacity of the channel. Work will also include creek slope and bank restoration, environmental mitigation work consisting of new planting and irrigation (for plant establishment) along the creek. A mitigated environmental impact report for this work was approved by Council on March 15, 2011. All regional agency permits have been obtained.

This project was advertised and one sealed bid proposal was received in the amount \$294,061, which was below the Engineer's estimate of \$300,000. Staff recommends that the Economic Development Corporation appropriate a total of \$400,000 to award the construction contract to Preston Pipelines, Inc. This appropriation includes funds for change order contingencies, construction inspection, project administration and to award construction contract.

Fiscal Impact: A budget appropriation of \$400,000 from Economic Development Corporation funds is required.

Recommendations:

1. Award a construction contract to Preston Pipelines, Inc. for the Wrigley Ford Creek Maintenance, Project No. 8162, in the amount of \$294,061.
2. Approve a budget appropriation of \$400,000 from EDC funds into Project No. 8162.

EDC5. Authorize the Economic Development Corporation President to Award a Construction Contract for the City's Police Department Evidence Room Improvements, Project No. 8182 and Approve a Budget Appropriation (Staff Contact: Steve Erickson, 586-3301)

Background: On December 6, 2011, the Council/Agency approved the project plans and specifications and granted conditional authorization for staff to advertise Redevelopment Agency funded projects for the City's Police Department Evidence Room Improvements, Project No. 8182.

In order to proceed with awarding the project and timely execution of the contract, staff recommends the Economic Development Corporation to authorize the EDC President to award the construction contract to the lowest responsible bidders for this project after bid opening if the bid is no higher than 10% above of the engineer's estimate, or less as determined prior to bid opening. Staff recommends a budget appropriation from the Economic Development Corporation (EDC) to substitute the \$200,000 funding from RDA fund for the Police Evidence Room Improvements, Project No. 8182.

Fiscal Impact: A budget appropriation of \$200,000 from Economic Development Corporation funds for Project No. 8182 is required.

Recommendations:

1. Authorize Economic Development Corporation President to award the construction contract for the Police Department Evidence Room Improvements, Project No. 8182.
2. Approve a budget appropriation for the Police Department Evidence Room Improvements.

EDC6. Corporation Adjournment

XVI. REPORTS OF OFFICERS AND COMMISSIONS

- * 2. **Consider Mayor's Recommendations for Appointments/Re-Appointments to Five Milpitas Commissions (Contact: Mayor Esteves, 586-3051)**

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

Community Advisory Commission

Re-appoint Samantha Beard to a term that expires in January 2016.

Appoint Janice Bobay (current Alternate No. 1) as a regular member to a term that expires in January 2016.

Appoint Jose Rosario (current Alternate No. 2) as a regular member to a term that expires in January 2015.

Appoint Shirley Meirose (current Alternate No. 3) as Alternate No. 1 to a term that expires in January 2013.

Appoint Thelma Batilo (current Alternate No. 4) as Alternate No. 2 to a term that expires in January 2013.

Emergency Preparedness Commission

Appoint Mercedes Albana (current Alternate No. 1) as a regular member to a term that expires in June 2014.

Appoint Pamela Wells (current Alternate No. 2) as a regular member to a term that expires in June 2012.

Newly appoint Charlotte Torres Ronquillo as Alternate No. 1 to a term that expires in June 2013.

Newly appoint Betty Reutter as Alternate No. 2 to term that expires in June 2013.

Senior Advisory Commission

Re-appoint Karen Adams to a term that expires in December 2013.

Appoint Deborah Langley (current Alternate No. 2) as a regular member to a term that expires in December 2013.

Newly appoint Moo Jin Choi as Alternate No. 1 to a term that expires in December 2013.

Telecommunications Commission

Re-appoint Dinesh Gupta to a term that expires in January 2014.

Re-appoint Niranjana Gupta to a term that expires in January 2014.

Youth Advisory Commission

Re-appoint Brian Leon to a term that expires in September 2012.

Copies of applications for new Commissioner appointments are included in the agenda packet.

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

* **3. Per Request of Councilmember Giordano, Receive Report Regarding Invocations at City Council Meetings (Staff Contact: Mike Ogaz, 586-3040)**

Background: At the request of Councilmember Giordano, the City Attorney reviewed the City policy regarding invocations at Council meetings to determine whether the policy is consistent with current law. Research reveals a fairly new federal court case that allows use of broader language in invocations than was allowed under prior cases. The new case law could be a basis for changing the current policy regarding invocations. It has been recently found, however, that this new case is being appealed.

In December of 2004, then-City Attorney Steve Mattas issued a written opinion regarding the legal parameters for Council invocations. Based on case law current at the time, the memo concluded that to proselytize, advance or disparage a faith or belief during an invocation violated the U.S. Constitution. It went on to say that use of the term "Jesus Christ" during an invocation had been ruled by California courts to violate this law. A copy of the 2004 Meyers Nave opinion memo is included in the agenda packet. Based on the Meyers Nave opinion, the City adopted Standard Operating Procedure No. 1.2 barring "references to specific deities or tenets associated with any particular religious faith or denomination." A copy of that SOP is also included in the packet.

Current Law: In July Of 2011, the Federal District Court for the Central District of California (Southern California) held in the case of Rubin v. Lancaster that the rule against "proselytizing, advancing or disparaging a faith or belief" during an invocation was still good law, but that the mere use of the name of "Christ" or that of any other deity did not violate that rule. Basically, as long as a person is not trying to sway persons toward acceptance or rejection of a religion or belief, incidental reference to the deity or name of the religious organization does not violate the Constitution. This case is in contrast to an earlier state court decision which holds that the mention of "Jesus Christ" in an invocation inferred that the Council was advancing a religious belief and was an unconstitutional comingling of church and state.

The more recent federal court case, arguably more persuasive on federal constitutional issues than the earlier state court decision, potentially opens a door to allow the City to broaden its policy to allow mention of particular deities and religions so long as there is no attempt to convert or "sell" those religions and views to others. However, as previously noted, that federal court case was appealed and is now pending before the Ninth Circuit Court of Appeals. Awaiting an appellate decision, the case cannot be used as a basis for a change in the City invocation policy.

Potential action: By barring reference to specific deities and religions, the City of Milpitas current SOP policy is much narrower than what might be allowed under the new federal Rubin v. Lancaster case. If that case survives appeal, it could be used to support a change in policy; to allow incidental reference to specific deities and faiths during Council invocations.

Fiscal Impact: None.

Recommendation: Staff will keep the City Council apprised of the Rubin v. Lancaster case status as it winds its way through the appellate court. Until such time as it becomes a final decision, it is advised to maintain the current policy and SOP No. 1.2 in place. If Rubin becomes a final decision, Council guidance can be sought on whether to change the current policy regarding invocations.

4. Per Request of Councilmember Giordano, Receive Update on the Subject of Medical Marijuana Dispensaries (Contact: Councilmember Giordano, 586-3032)

Background: At the September 27, 2011 Transportation and Land Use Subcommittee meeting, the members discussed and agreed on moving forward to research the possibility of medical marijuana facilities in the City of Milpitas. The following items were outlined to be discussed at subsequent meetings:

- Compassion and need
- Taxation and regulation fees
- Legal Developments
- Land Use
- Regulatory issues

The Subcommittee held regular meetings on October 25, 2011 and November 29, 2011 with medical marijuana as an agenda item. At the October meeting, the Subcommittee heard public testimony and discussed legal developments in medical marijuana. The November meeting included the Milpitas Chief of Police, who discussed possible safety issues with these facilities in the City. No meeting was held in December.

Future Transportation and Land Use Subcommittee meetings would discuss land use and regulatory structure as well as a memo from the Subcommittee to the City Council for review.

Fiscal Impact: There is no financial impact with this report.

Recommendation: Receive report on the topic of medical marijuana dispensaries.

*** 5. Per Request of Councilmember Gomez, Receive a Report on Costs Related to Preparing for “Black Friday” (November 24-25, 2011) and Re-coup of those Costs (Staff Contacts: Tom Williams, 586-3050 and Dennis Graham, 586-2502)**

Background: At the December 6, 2011 Council meeting, Councilmember Gomez requested a report on the cost to the City of the “Black Friday” shopping event held at the Great Mall beginning Thanksgiving Day of 2011. The cost to the City for this event was \$26,790.

Fiscal Impact: None.

Recommendation: In the future, require a Special Event permit for Black Friday shopping days. Direct staff to return to City Council with an ordinance amending the zoning code requiring commercial businesses over 30,000 square feet to obtain a Special Events permit for “Black Friday” events.

*** 6. Approve Community Advisory Commission 2012 Work Plan (Staff Contact: Felix Reliford, 586-3071)**

Background: The Community Advisory Commission (CAC) is advisory to the City Council on matter affecting residents that are related to community improvements. Since 2000, the CAC has developed an annual work plan to focus on projects and programs that benefit the Milpitas community. Past work plan accomplishments include implementing the Neighborhood Beautification Ordinance, participating in the Streetscape Master Plan, hosting a Town Hall meeting, participating in neighborhood cleanup and neighborhood tree planting events, and the Heritage Tree Ordinance. The CAC reviewed the 2012 Work Plan during its December 2011 meeting and recommended approval to the City Council.

The following tasks and short-term projects are included in the CAC Work Plan 2012:

Annual Tasks

1. Heritage tree nominations
2. Community Development Block Grant (public hearing)
3. Arbor Day
4. National Night Out
5. Neighborhood Beautification Awards
6. Budget/Community Priorities
7. Adopt-A-Neighborhood/Graffiti
8. Town Hall Meeting (every 3 years)

Short-Term Projects

1. Tree Planting-Promote tree planting through outreach and tree protection awareness
2. Outreach Program- Conduct an outreach program to the citizens of Milpitas to obtain feedback on community issues
3. Volunteerism Program-Conduct a program to encourage Milpitas citizens to volunteer
4. Cleanup Blight Areas-Determine blighted areas in Milpitas and encourage their redevelopment or conduct a program similar to the Adopt A Highway program
5. Expand the Neighborhood Watch Program-Work with City staff to expand the Neighborhood Watch Program
6. Milpitas Cable TV/Magazine Community Outreach

Included in the Council's agenda packet is a copy of the CAC 2012 Work Plan for review and approval.

Fiscal Impact: None.

Recommendation: Approve the 2012 Community Advisory Commission Work Plan.

XVII. NEW BUSINESS

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

Background: Zollner Electronics opened for business on December 15 and celebrated with a focus on its company values and why they chose Milpitas. Officials at the company are very excited about business development opportunities in Silicon Valley and very happy to call Milpitas its West Coast headquarters.

E2O, a semiconductor manufacturer, has acquired a new headquarters location in Milpitas and is moving its operations from Santa Clara. E2O will occupy over 50,000 s.f. on Sycamore Drive.

Nanolabs completed its business relocation from San Jose before the December holidays. They are located on South McCarthy Boulevard and are also finishing out the 2nd floor of the property for another user.

Mervyn's Redevelopment: LA Fitness contacted the City with regard to permit fees. The business intends to occupy 50,000 s.f. of the site. The remaining 25,000 s.f. will be devoted to office and retail, although no other tenants have been identified.

Conditional Use Permits: Staff has noticed an increase in the requests from smaller restaurateurs seeking CUP approval for beer and wine licenses. Staff consistently hears from applicants that they are losing customers to restaurants that offer these beverages.

The Conditional Use Permit streamlining Subcommittees of both the Planning Commission and Economic Development Commission have completed their work and recommendations will be made to both Commissions in January on opportunities to streamline the process. These recommendations will be presented to the City Council in February. The City planned to host a panel at the Planners Institute in March to present the findings as well.

McCandless Property Purchase: The City closed escrow on the purchase of 10.89 acres on McCandless Drive for future park development. The property will eventually be paid for in park in lieu fees from Transit Area residential development.

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

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

* **8. Authorize the Response to the 2010-11 Santa Clara County Civil Grand Jury Report Concerning Rehiring of Pensioners (Staff Contact: Tom Williams, 586-3050)**

Background: On October 18, 2011, the City of Milpitas received the 2010-11 Santa Clara County Civil Grand Jury report on "Rehiring of Pensioners: Bad Policy, Good Business or Both?" The Grand Jury listed three findings and three recommendations in regards to pensioners, which require a response from the City of Milpitas, per section 933 (c) of the California Penal Code, for findings one and three, and recommendations one and three. Staff recommends authorizing the Mayor to send the letter of response (draft in agenda packet) in reply to the Civil Grand Jury report. The letter is due to the Grand Jury on January 18, 2012.

Fiscal Impact: None.

Recommendation: Authorize the Mayor to send the proposed response letter to the Santa Clara County Civil Grand Jury.

XVIII. ORDINANCES

9. Waive the First Reading and Introduce Ordinance No. 243.5 Regarding Regulation of Campaign Contributions (Staff Contact: Mike Ogaz, 586-3041)

Background: In the event of repeal of Ordinance No. 243.4, proposed is the adoption of an ordinance substantially different from that ordinance in that it does not regulate Campaign Consultant activity or create a voluntary expenditure limitation or impose controls on Independent Expenditure Committees, but instead reduces the campaign contribution amount to \$250 and provides for aggregation of contributions in accord with state law that governs candidates for state offices.

Recommendations:

1. Read the title of Ordinance No. 243.5.
2. Move to waive the first reading beyond the title.
3. Move to introduce Ordinance No. 243.5 regulating campaign contributions.

- * 10. **Waive the Second Reading and Adopt Ordinance No. 260.1 Amending Flag Ordinance Regarding Sister City Delegations and Civic Center Locations, with Minor Changes (Staff Contact: Michael Ogaz, 586-3041)**

Background: Per the City Council's instruction, an amendment to the current Flag Ordinance was drafted that allows the country and city flag of Sister City delegations to be flown at the Civic Center pond location while the delegation is in the City of Milpitas. The amendment also included changes to the locations where particular flags are allowed within the Civic Center. The amendment was introduced as Ordinance No. 260.1 at the January 3, 2012, City Council meeting. At Vice Mayor McHugh's suggestion, the Council also voted to make minor revisions changing the waiting period from 45 days to 30 days for seeking Council approval on a flag flying application. The revised Ordinance No. 260.1 (in agenda packet) incorporates those revisions. In addition, standard severability and effective date and posting provisions have been added. All other provisions of the Ordinance remain unchanged from its presentation at the January 3 City Council meeting.

Fiscal Impact: None.

Recommendation:

1. Move to waive the second reading of Ordinance No. 260.1.
2. Move to adopt Ordinance No. 260.1.

XIX. RESOLUTION

- * 11. **Adopt a Resolution Granting Initial Acceptance of and Reducing the Performance Bond for the Abel Street Sidewalk Improvements, Project No. 4256 (Staff Contact: Steve Erickson, 586-3301)**

Background: The City Council awarded a project to JJR Construction Inc. on October 4, 2011 for the emergency repairs to the sidewalk along Abel Street due to erosion from the adjacent Penitencia Creek. This project replaced two segments of sidewalk approximately 40 feet in length and installed a retaining wall and drainage system to stop further erosion of the sidewalk and roadway within these areas.

The project was successfully completed on time and on budget, and staff recommends the Council to adopt a resolution granting initial acceptance of the project, and authorize the reduction of the contractor's faithful performance bond to \$6,934.43, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Abel Street Sidewalk Improvements, Project No. 4256, subject to a one year warranty period and reduction of the faithful performance bond to \$6,934.43.

XX. ADJOURNMENT