



**MILPITAS CITY COUNCIL AND HOUSING AUTHORITY  
MEETING AGENDA  
TUESDAY, APRIL 3, 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 SESSION OF CITY COUNCIL**
  - 1) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

Pursuant to CA Government Code §54957.6 City Negotiator: Carmen Valdez  
Employee Groups: Milpitas Supervisors Association (MSA), Milpitas Employees Association (MEA), Mid-Management/Confidential group, Milpitas Professional and Technical Group (ProTech), Milpitas Police Officers Association (MPOA), International Association of Fire Fighters (IAFF)  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
  - 2) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

Pursuant to CA Government Code §54957.6 City Negotiator: Carmen Valdez  
Employee Groups: Milpitas Supervisors Association (MSA), Milpitas Employees Association (MEA)  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
  - 3) CONFERENCE WITH LEGAL COUNSEL**

Anticipated Litigation, per CA Government Code §54956.9, with the City as Plaintiff or Defendant
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Mayor Esteves)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – March 8 and March 20, 2012**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR for April 2012**
- VIII. 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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- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**

## **XII. CONSENT CALENDAR (Items with asterisks\*)**

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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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## **XIII. PUBLIC HEARINGS**

- 1. Hold a Public Hearing and Introduce Ordinance No. 38.803 Approving a Zoning Text Amendment to the City's Municipal Code to Streamline the Conditional Use Permit Process (Staff Contact: Sheldon Ah Sing, 586-3278)**
- 2. Hold a Public Hearing to Introduce Ordinance No. 54.25 for Update to the Animal Regulation Ordinance, and Adopt a Resolution Revising Animal Licensing Fees and Reducing in Certain Conditional Use Permit Fees (Staff Contact: Felix Reliford, 586-3071)**

## **XIV. UNFINISHED BUSINESS**

- 3. Receive Update on SunPower Corporation and Flextronics Americas, Inc. Financial Agreements with City of Milpitas (Staff Contact: Felix Reliford, 586-3071)**
- 4. Receive Budget Update Regarding Pay Leaves and Associated Costs for all City Employee Groups (Staff Contact: Tom Williams, 586-3050)**
- \* 5. Receive the March 2012 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

## **XV. REPORTS OF OFFICERS AND COMMISSION**

- \* 6. Consider Mayor's Recommendation for Re-appointments to the Economic Development Commission (Contact: Mayor Esteves, 586-3029)**
- 7. Request of Councilmember Giordano for a Report on the City's Participation in the League of California Cities (Contact: Councilmember Giordano, 586-3032)**
- 8. Receive Report of Councilmember Gomez Regarding Lobbying/Campaign Consultant Disclosure Issues (Contact: Councilmember Gomez, 586-3031)**
- \* 9. Approve the Senior Advisory Commission 2012 Work Plan (Staff Contact: Aaron Bueno, 586-3226)**

## **XVI. NEW BUSINESS**

- 10. Hear Report from the Milpitas Corporation Yard Task Force Group on How to Eliminate \$1,200,000 from the Public Works FY 2012-13 Budget (Staff Contacts: Paul Mullett, 586-2600, and Steve Smith, 586-2600)**

## **XVII. ORDINANCES**

- 11. Introduce Ordinances No. 192.25 and No. 192.26 Repealing the 6<sup>th</sup> Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project and the 13<sup>th</sup> Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1 and Findings Related Thereto, and Adopt a Successor Agency Resolution Rescinding Certain Former Redevelopment Agency Resolutions (Staff Contact: Bryan Otake, 586-3040)**

**XVIII. RESOLUTIONS**

- \* 12. **Adopt a Resolution Granting Initial Acceptance of and Authorizing a Reduction in Penal Sum of Subdivision Improvement Bond, and Approve Encroachment Permit Authorization Upon Public Right of Way for Western Pacific Housing, Inc. Paragon Condominiums, Project No. 3204 (Staff Contact: Fernando Bravo, 586-3328)**
- \* 13. **Adopt a Resolution Requesting the Allocation of Transportation Development Act (TDA), Article 3 Funds for the Street Resurfacing Project 2013, Projects No. 4255 and No. 4261 (Staff Contact: Steve Chan, 586-3324)**

**XIX. BIDS AND CONTRACTS**

- \* 14. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals, Pending Caltrans Project Approval, for Escuela Parkway Bicycle and Pedestrian Enhancement Project No. 4259 (Staff Contact: Steve Erickson, 586-3301)**
- \* 15. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals, Pending Caltrans Project Approval, for Abel Street Transit Connection, Project No. 4260 (Staff Contact: Steve Erickson, 586-3301)**
- \* 16. **Authorize the City Manager to Execute a Contract with Pyro Spectaculars for the Not-to-Exceed Amount of \$21,600 for the Annual 4<sup>th</sup> of July Fireworks Display (Staff Contact: Chris Schroeder, 586-3161)**

**XX. JOINT MILPITAS HOUSING AUTHORITY AND CITY COUNCIL MEETING**

**HA1. Call to Order/Roll Call by the Mayor/Chair**

**HA2. Approval of Agenda/Consent Calendar**

**\*HA3. Adopt a Resolution of the City, Acting as the Successor Agency of the Former Milpitas Redevelopment Agency, and the Milpitas Housing Authority Amending the Enforceable Obligation Payment Schedule (EOPS) (Staff Contact: Emma Karlen, 586-3145)**

**HA4. Authority Adjournment**

**XXI. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 17, 2012 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 after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, online, 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 (alternate)  
Public Art Committee (one general member + one Alliance for the Arts member)  
Telecommunications Commission*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at the City Clerk's office.  
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

### XIII. PUBLIC HEARINGS

**1. Hold a Public Hearing and Introduce Ordinance No. 38.803 Approving a Zoning Text Amendment to the City's Municipal Code to Streamline the Conditional Use Permit Process (Staff Contact: Sheldon Ah Sing, 586-3278)**

**Background:** On July 13, 2011, the Planning Commission established the Conditional Use Permit (CUP) Subcommittee to streamline the conditional use permit process. Streamlining the process would mean a shorter processing time, a reduction in the review and where appropriate the creation of performance standards to assure quality of life is maintained. A joint Subcommittee consisting of members of each of the Planning Commission and the Economic Development Commission met, for the purpose of streamlining the CUP process, nine times between August 2011 and February 2012.

The Conditional Use Permit Subcommittee discussed thoroughly the CUP process, which can be both costly and lengthy for certain types of uses. Its recommendations take into account staff and applicant resources, opportunities for efficient and effective ways to implement the City's General Plan through the CUP process. The recommendations represent a step forward in streamlining the process and ensuring the compatible and harmonious development of the City. The recommendation is to bring the process down for certain uses from the Planning Commission to either the Planning Commission Subcommittee or Planning staff. The development of a Minor Conditional Use Permit will achieve streamlining. The Planning Commission report summarizes the efforts and recommendations of the joint subcommittee in greater detail. On March 14, 2012, the Planning Commission meeting, the Commissioners unanimously recommended approval of the amendments. Included in the Council's agenda packet is copy of the background information regarding this agenda item.

**Fiscal Impact:** None.

**Attachments:**

- A. Ordinance No. 38.803
- B.- G. (online: sections of proposed amendments in the ordinance)
- H. Planning Commission March 14, 2012 staff report
- I. Planning Commission March 14, 2012 excerpt of unapproved meeting minutes

**Recommendations:**

- 1. Open the public hearing for comments, and move to close the public hearing.
- 2. Waive the first reading beyond the title of Ordinance No. 38.803.
- 3. Introduce Ordinance No. 38.803 approving a zoning text amendment to the City's Municipal Code to streamline the Conditional Use Permit process.

**2. Hold a Public Hearing to Introduce Ordinance No. 54.25 for Update to the Animal Regulation Ordinance, and Adopt a Resolution Revising Animal Licensing Fees and Reducing in Certain Conditional Use Permit Fees (Staff Contact: Felix Reliford, 586-3071)**

**Background:** Since 2006, the City of Milpitas has contracted its animal control services with City of San Jose. These services include field services, sheltering, medical services, monthly reporting and animal license processing for Milpitas residents. Yearly costs for these services in 2011-12 were \$235,733 and the current contract agreement expires on June 30, 2012.

In January, City staff met with City of San Jose Animal Care and Services staff to start negotiating a new three year contract agreement. At that time, staff was informed by San Jose that based on a recent audit; that City was not charging overhead costs to completely recover the

services provided to Milpitas (and cities of Cupertino, Los Gatos and Saratoga which also have contract agreements with San Jose). The overhead cost is 65%, charged to all cities, which will increase the City of Milpitas contract agreement from \$235,733 to \$348,438, which is an increase of \$112,705.

Animal control fees in Milpitas have not increased since 1995. Animal control services are paid for in part via a dog or cat licensing fee that allows dog and cat owners to use and benefit from animal control services. Milpitas and San Jose staff estimated that, based on the number of licenses issued to Milpitas residents yearly (approximately 1,300), the fees should offset the increased contract service costs for animal control services by approximately 25%. The new Milpitas dog and cat fees for animal control services are listed below. Such fees would bring Milpitas in line with the fees collected in other contracting animal licensing fee cities, as follows:

<b>LICENSE FEES WORKSHEET</b>				
<b>San Jose, Cupertino, Los Gatos, Saratoga</b>			<b>Milpitas</b>	
	<b>Dogs</b>	<b>Cats</b>	<b>Dogs</b>	<b>Cats</b>
Spayed/Neutered- 1YR	\$20	\$10	\$10	\$5
Spayed/Neutered-3 YR	\$45	\$25	Not offered	
Unspayed/Unneutered- 1 YR	\$60	\$30	\$35	\$25
Senior Exemption **	\$0		\$0	
Donation	Any amount appreciated			
Late Fee*	\$15		\$5	

**Alternatives to City of San Jose Animal Control Services**

Staff met with the cities of Fremont, Palo Alto, Morgan Hill, Silicon Valley Animal Control, and Silicon Valley Humane Society to determine if animal control services could be provided to City of Milpitas at reduced cost. Based on their limited capacity to shelter animals (over 700 Milpitas cats and dogs are sheltered yearly at San Jose Facility), the distance and response times to travel to Milpitas, the future costs that would be charged to Milpitas to construct a new facility (Palo Alto) and JPA provisions which would limit local control by the Milpitas Animal Regulation ordinance, staff recommends continuing the contractual agreement with City of San Jose.

**Fee Increase for Minor Conditional Use Permit Process**

In July 2011, the Planning Commission established a Conditional Use Permit Subcommittee to streamline process. The streamlining process would mean a shorter processing time, reduction in review and, where appropriate, creation of performance standards to assure the quality of life is maintained. A joint Subcommittee of the Planning Commission and Economic Development Commission met a total of nine times from August to February 2012.

The purpose of the Minor Conditional Use Permit process is to provide for the streamlined review of uses that may have an impact on surrounding environment and require some level of review but due to their nature, scale or location, do not require discretionary consideration by the Planning Commission. The Minor Conditional Use Permit process will also:

- Improve sufficiently by reducing the CUP review process from 3-4 months to 4-6 weeks (which is less than half the time of the normal CUP review process).
- Reduce customer costs for typical CUP from \$2,000-\$3,000 to hourly charge \$165/per hr. (with a minimum charge of \$82.50 representing a half hour).

- Still requiring the 1,000 foot radius for public notification for the public hearings.
- This process would allow use that is still discretionary review to be evaluated by the Planning Commission Subcommittee or in some cases where performance standards are met and approved by staff.

It is expected that providing performance standards will ensure that uses remain complementary and compatible with surrounding properties. For the process, it is expected that staff will create a record in the City's project tracking system and provide conditions based on the performance standards to the applicant. The applicant would acknowledge the conditions and approval would be granted because this action does require some staff time, the proposed fee would cover staff costs in administering the permit.

**Fiscal Impact:** None.

**Attachments:**

- A. Ordinance No. 54.25
- B. Proposed City Council Resolution
- C. Application for Animal Licensing
- D. Animal Services Agreement with City of San Jose (dated July 16, 2009)

**Recommendations:**

1. Open the public hearing for public comment, and move to close the public hearing.
2. Waive the first reading beyond the title of Ordinance No. 54.25.
3. Introduce Ordinance No. 54.25 amending the Animal Regulations.
4. Adopt a Resolution revising the animal license fees and reducing certain Conditional Use Permit fees.

**XIV. UNFINISHED BUSINESS**

**3. Receive Update on SunPower Corporation and Flextronics Americas, Inc. Financial Agreements with City of Milpitas (Staff Contact: Felix Reliford, 586-3071)**

**Background:** At its meeting on March 6, 2012, the City Council directed staff to provide a status report on the loans to Flextronics and SunPower Corporations. Both corporations are partnering to fabricate solar panels. SunPower contracts with Flextronics to receive shipments of specialized manufacturing equipment and to install and operate such equipment in the 40,000 sq. ft. Flextronics industrial building in Milpitas at 1177 Gibraltar Drive.

At its meeting on April 20, 2010, Milpitas Redevelopment Agency approved a \$1,500,000 loan to SunPower Corporation to assist in the development and rehabilitation of the manufacturing facility conditioned on the following:

- Creation of 80 new employment positions targeting Milpitas residents for the new positions and employment, and
- SunPower acquisition of certain equipment for the installation and use by Flextronics.

To date, no funds were disbursed by the City per the financial agreement. Staff awaited the required documentation as stated in the financial agreement, as it pertains to the number of new employees/positions hired and the evidence of acquisition of the equipment by SunPower to be used by Flextronics.

At its meeting on February 15, 2011, the Redevelopment Agency authorized negotiations and execution of an agreement for the development or rehabilitation of Manufacturing Property and Financing of Facilities or Capital Equipment with Flextronics Americas Inc. The approved loan

was in the amount of \$1,000,000. The loan or financing agreement was never finalized and executed and Flextronics has since relocated outside of the City of Milpitas.

**Recommendation:** Receive update report from staff on SunPower and Flextronics companies in Milpitas, regarding prior agreements with the City.

**4. Receive Budget Update Regarding Pay Leaves and Associated Costs for all City Employee Groups (Staff Contact: Tom Williams, 586-3050)**

**Background:** At the City Council meeting on March 8, 2012, as part of the budget discussion, the City Council requested a report on paid leaves provided to each employee group, including unrepresented employees. Reports (included in the agenda packet) show the number of days or hours of paid leaves provided annually to each employee group as well as the amount of leave cash out and overtime paid.

**Fiscal Impact:** Not applicable.

**Recommendation:** Receive budget report on employee paid leave, and take action as desired.

\* **5. Receive the March 2012 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** From February 14 through March 18, 2012, Bay Area Air Quality Management District (BAAQMD) received six odor complaints originating in Milpitas. Three 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 website received four reported complaints. Staff activities to coordinate with the City of San Jose on Water Pollution Control Plant odor mitigation efforts are described in the report (included in Council agenda packet).

**Fiscal Impact:** None.

**Recommendation:** Receive the March 2012 odor report.

**XV. REPORTS OF OFFICERS AND COMMISSION**

\* **6. Consider Mayor's Recommendation for Re-appointments to the Economic Development Commission (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves recommends the following two citizens be re-appointed to Milpitas Economic Development Commission as follows:

Re-appoint Minh Nguyen representing City residents to a term that expires in April 2015.

Re-appoint Charlene Tsao representing restaurants to a term that expires in April 2015.

**Recommendation:** Consider the recommendation from Mayor Esteves, and move to re-appoint two members to new terms on the Milpitas Economic Development Commission.

**7. Request of Councilmember Giordano for a Report on the City's Participation in the League of California Cities (Contact: Councilmember Giordano, 586-3032)**

**Background:** At the Rules Subcommittee meetings on March 12 and 26, Councilmember Giordano stated her request for a report on the City of Milpitas' participation in the League of California Cities.

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

**8. Receive Report of Councilmember Gomez Regarding Lobbying/Campaign Consultant Disclosure Issues (Contact: Councilmember Gomez, 586-3031)**

**Background:** This item has been placed on the agenda and summarized by Councilmember Gomez in response to concerns regarding recent news reports about lobbying activity.

It is important for Milpitas residents to have confidence in their government. The City should always strive to be as transparent as possible. Transparency promotes accountability and provides information about what the government is doing and how decisions get made. There is a glaring hole in Council's ability to ensure a transparent and accountable government when campaign consultants and/or lobbyists appear to circumvent the City's current disclosure ordinances. Under the guise of "educating," there appears to be work to influence legislative and administrative actions without people reporting who they are working for, which city official they are lobbying, and how much they are being paid to influence decisions. That is wrong. It is critical to understand that if one campaign consultant and/or lobbyist can take advantage of this loophole, then the opportunity exists for others to do the same.

Earlier this year, Councilmembers Polanski and Gomez, as part of the Campaign Finance Reform Task Force, made a series of recommendations for campaign reform. One of the several recommendations attempted to address this loophole by drafting a new ordinance that would require campaign consultants to register and disclose their clients and contacts with City staff and elected officials. The major premise behind the campaign consultant disclosure element was that the public and the City Council have a right to know which interests campaign consultants and lobbyists may be representing and which issues they may be trying to influence. The ordinance did not restrict the activities of campaign consultants. It merely required disclosure.

This ordinance was not ground breaking. San Francisco has an ordinance requiring disclosure of campaign consultants. San Jose has an ordinance requiring disclosure by lobbyists.

While the City Council did adopt the Campaign Consultant Ordinance, it's widely believed that one campaign consultant named Victor Ajlouny worked with others to mount a signature gathering effort to put the campaign consultant ordinance on hold and force a costly election. This strategy by the proponents was a move to force an election at the cost of vital services to preserve non-disclosure. When faced with the potential cost of an election, the City Council tabled the ordinance.

Councilmember Gomez does not believe that the City can let good government be held hostage by individuals who do not wish to disclose their clients or attempt to influence policy. He requests that the City Council consider options for addressing what he considers a loophole in the lobbyist ordinance. In considering ways to close this loophole, below is a sampling of the patterns that Mr. Gomez believes the City needs to address.

**Styrofoam Ban/Plastic Bag Ban:** at the time that the City Council was considering a ban on Plastic Bags and Styrofoam, Mr. Ajlouny had placed multiple calls to Mr. Gomez on this issue, pushing opposition. When Councilmember Gomez expressed concern that Mr. Ajlouny was crossing the lobbyist line, Mr. Ajlouny claimed he was only providing "education" on the issue and not lobbying.

**Fairfield Residential development project:** while Victor Ajlouny was not the consultant of record for the project, he made numerous calls wanting to "provide information" on the project.

Councilmember Gomez has become aware that Mr. Ajlouny has contacted City of Milpitas staff on a variety of policy issues including the moratorium on industrial land use conversions and has even called attempting to meddle in Milpitas personnel staffing issues.

Councilmember Gomez requests that the City Council ask itself if this activity is acceptable. If it is not, then the City Council needs to have a discussion and determine what remedies should be in place to fix problems like this. As mentioned earlier, it is critical to understand that if one

campaign consultant and/or lobbyist can take advantage of this loophole, then the opportunity exists for others to do the same. While the examples given involve specifics, Mr. Gomez believes it is important for the City Council to focus on high level solutions. Possible options to deal with these issues include requiring:

- Councilmembers to disclose at the beginning of meeting items if they have been lobbied and by whom.
- Staff disclosure of contact with campaign consultants/lobbyists prior to the item being heard by the City Council.
- Disclosure of instances where consultants/lobbyists attend meetings to represent Council members.

**Recommendation:** Hear report of Councilmember Gomez, and take action as desired.

- \* **9. Approve the Senior Advisory Commission 2012 Work Plan (Staff Contact: Aaron Bueno, 586-3226)**

**Background:** At the March 13, 2012 Senior Advisory Commission meeting, Commissioners approved their 2012 Work Plan. The Work Plan identifies the Commission's goals, projects and ongoing tasks for the current year.

**Fiscal Impact:** None.

**Recommendation:** Approve the Senior Advisory Commission 2012 Work Plan.

## **XVI. NEW BUSINESS**

- 10. Hear Report from the Milpitas Corporation Yard Task Force Group on How to Eliminate \$1,200,000 from the Public Works 2012-13 Budget (Staff Contacts: Paul Mullett, 586-2600, and Steve Smith, 586-2600)**

**Background:** The Corporation Yard Budget Task Force requested that to be allowed to make a presentation to the City Council that will include a proposal to significantly reduce the Public Works Budget in order to avoid massive layoffs.

**Fiscal Impact:** To be determined up to maximum \$1,200,000.

**Recommendation:** Hear report from representatives of the Milpitas Corporation Yard Task Force Group on how to cut \$1,200,000 from Public Works FY 2012-13 budget.

## **XVII. ORDINANCES**

- 11. Introduce Ordinances No. 192.25 and No. 192.26 Repealing the 6th Amendment to the Redevelopment Plan for the Great Mall Redevelopment Project and the 13th Amendment to the Redevelopment Plan for Milpitas Redevelopment Project Area No. 1 and Findings Related Thereto, and Adopt a Successor Agency Resolution Rescinding Certain Former Redevelopment Agency Resolutions (Staff Contact: Bryan Otake, 586-3040)**

**Background:** With the adoption of ABX1 26, the power to collect property tax increment money and the continued use of redevelopment agencies has been eliminated as of February 1, 2012. Thus, there is no longer a need to update and amend redevelopment projects and redevelopment plans under the Community Redevelopment Law for purposes of collecting property taxes.

The County of Santa Clara previously brought a legal challenge to the City's approval of the sixth amendment to the Redevelopment Plan for the Great Mall Redevelopment Project and the

thirteenth amendment to the Redevelopment Plan for the Milpitas Redevelopment Project Area No. 1 and related City and former Milpitas Redevelopment Agency actions and findings by resolution. With the passage of ABX1 26 and the dissolution of the Milpitas Redevelopment Agency, this dispute has largely been rendered moot. At its February 21, 2012 meeting, the City Council authorized and directed staff to take all necessary actions to settle the case of County of Santa Clara v. All Persons Interested in the Matter of the Sixth Amendment to the Great Mall Redevelopment Project, et al., San Mateo County Superior Court No. 4999976, pursuant to certain terms.

The two repeal ordinances before the Council and the Successor Agency are brought forth to effect the terms of the settlement.

**Fiscal Impact:** None.

**Recommendations:** Following a reading of the titles of the ordinances by the City Attorney,

1. Waive the first reading beyond the title and introduce Ordinance No. 192.25 repealing the 6th Amendment to the Great Mall Redevelopment Project.
2. Waive the first reading beyond the title and introduce Ordinance No. 192.26 repealing the 13th Amendment to the Redevelopment Plan for Project Area No. 1.
3. Adopt a Successor Agency Resolution repealing certain resolutions of the former Milpitas Redevelopment Agency.

## **XVIII. RESOLUTIONS**

- \* **12. Adopt a Resolution Granting Initial Acceptance of and Authorizing Reduction in Penal Sum of Subdivision Improvement Bond, and Approve Encroachment Permit Authorization Upon Public Right of Way for Western Pacific Housing, Inc. Paragon Condominiums, Project No. 3204 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** On February 6, 2007, the City entered into a Subdivision Improvement Agreement with Western Pacific Housing, Inc., subdivider, for the construction of certain public improvements to serve its residential condominiums on 1696 S. Main Street. Improvements include a landscaping and irrigation system along the frontage of the Paragon Condominium site within the City's right of way (ROW). The public improvements for Paragon Condominiums were completed by the developer, per the approved improvement plans, which are available in the City Engineer's Office. This work is now ready for initial acceptance in accordance with the improvement agreement. The developer's faithful performance bond may be reduced to \$80,000.00, which is 10% of the contract amount. The developer is also requesting encroachment permit authorization to enter and maintain the landscaping and irrigation system along the Paragon Condominiums frontage within the City's ROW along South Main Street.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a resolution granting initial acceptance of and authorizing reduction in penal sum of subdivision improvement bond for Western Pacific Housing, Inc. Paragon Condominiums, subject to a one-year warranty period and reduction of the faithful performance bond to \$80,000.00.
  2. Approve the Encroachment Permit authorization upon public right-of-way.
- \* **13. Adopt a Resolution Requesting the Allocation of Transportation Development Act (TDA), Article 3 Funds for the Street Resurfacing Project 2013, Projects No. 4255 and No. 4261 (Staff Contact: Steve Chan, 586-3324)**

**Background:** The City of Milpitas receives guaranteed grant funding from the Transportation Development Act (TDA) Article 3 fund each year for pedestrian and bicycle projects. The

guaranteed grant funding is based on population; the 2012-13 funding for Milpitas is \$45,050.

The City of Milpitas will submit a grant proposal to the Santa Clara Valley Transportation Authority (VTA) for release of this funding for the Street Resurfacing Project 2013. The project will include the installation of Americans with Disability Act-compliant (ADA) pedestrian ramps. The locations of improvements will be determined later, during the design phase.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution requesting allocation of Transportation Development Act, Article 3 Funds for Street Resurfacing Project 2013, Projects No. 4255 and No. 4261.

## **XIX. BIDS AND CONTRACTS**

- \* **14. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals, Pending Caltrans Project Approval, for Escuela Parkway Bicycle and Pedestrian Enhancement Project No. 4259 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** Staff completed plans and specifications for the Escuela Parkway Bicycle and Pedestrian Enhancement, Project No. 4259. The project provides for the widening of an existing sidewalk along the east side of Escuela Parkway between Russell Lane and Washington Drive, and the installation of a bus pullout on the west side of Escuela Parkway in front of Milpitas High School. The scope also includes installation of street trees and irrigation systems.

The Engineer's Estimate for the project is \$560,000. A copy of the title sheet of the project plans is included in the Council's agenda packet and the complete set of plans and specifications are available for review in the office of the City Engineer.

The City obtained a \$501,000 Federal Transportation Enhancement grant for this project that will be used toward the construction. The State (Caltrans) is administering the grant program, and the City must comply with all program requirements, prior to initiating the project bid advertisement process. Staff recommends approval of plans and specifications and requesting authorization for bid proposals, pending Caltrans project approval and issuance of the E-76, which grants the City authorization to advertise and construct the project.

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

**Recommendations:**

1. Approve the plans and specifications for Project No. 4259.
2. Authorize advertisement for bid proposals, pending Caltrans E-76 project approval.

- \* **15. Approve Plans and Specifications and Authorize Advertisement for Bid Proposals, Pending Caltrans Project Approval, for Abel Street Transit Connection, Project No. 4260 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** Staff completed plans and specifications for the Abel Street Transit Connection, Project No. 4260. The project provides for construction of new curb, gutter, sidewalk, a raised median island, street lights, landscape and irrigation, and pavement repairs along South Abel Street between Great Mall Parkway and West Capitol Avenue.

The Engineer's Estimate for the project is \$990,000. A copy of the title sheet of the project plans is included in the Council's agenda packet and the complete set of plans and specifications are available for review in the office of the City Engineer.

The City obtained \$788,000 Federal Transportation Enhancement grant for this project that will be used toward the construction. The State (Caltrans) is administering the grant program, and the

City must comply with all program requirements, prior to initiating the project bid advertisement process. Staff recommends approval of plans and specifications and requesting authorization for bid proposals, pending Caltrans project approval and issuance of the E-76, which grants the City authorization to advertise and construct the project.

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

**Recommendations:**

1. Approve the plans and specifications for Project No. 4260.
2. Authorize advertisement for bid proposals, pending Caltrans E-76 project approval.

- \* **16. Authorize the City Manager to Execute a Contract with Pyro Spectaculars for the Not-to-Exceed Amount of \$21,600 for the Annual 4<sup>th</sup> of July Fireworks Display (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The 4<sup>th</sup> of July is traditionally marked by a display of fireworks. There are only two fireworks vendors in the Bay Area. With offices in Oakland, Pyro Spectaculars is the only full service provider of “Pyromusical™” fireworks displays in the Bay Area. The company is also the premier provider of pyrotechnic devices and aerial fireworks displays in the world. Based on its track record of excellence, safety, custom designed set pieces and bright work; Pyro Spectaculars has been the vendor of choice for the Milpitas Fire Department and the City of Milpitas for the past fourteen years. For the above mentioned reasons, this purchase was designated as a “sole source,” as sanctioned in Milpitas Municipal Code I-2-3.09 by the City Council on April 5, 2011 and the designation is good for five years.

**Fiscal Impact:** Funds of \$21,600 for this purchase will be available due to fundraising efforts and corporate donations, including \$15,000 from Allied Waste, among other donations toward this event.

**Recommendation:** Authorize the City Manager to execute a contract with Pyro Spectaculars for the not-to-exceed amount of \$21,600 for the annual 4<sup>th</sup> of July fireworks display in the City of Milpitas.

## **XX. JOINT MILPITAS HOUSING AUTHORITY AND CITY COUNCIL MEETING**

- \***HA3. Adopt a Resolution of the City, Acting as the Successor Agency of the Former Milpitas Redevelopment Agency, and the Milpitas Housing Authority Amending the Enforceable Obligation Payment Schedule (Staff Contact: Emma Karlen, 586-3145)**

**Background:** On December 29, 2011, the California Supreme Court ruled that all redevelopment agencies in the state shall be subject to liquidation and dissolution pursuant to Assembly Bill 1X 26. On January 4, 2012, Milpitas City 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 the enforceable obligations of the former Redevelopment Agency (RDA).

On January 17, 2012, the City Council/RDA jointly adopted a resolution approving an amended Enforceable Obligation Payment Schedule (“EOPS”) and transferred the EOPS to the City and the Milpitas Housing Authority, which act as the Successor Agency to the former Milpitas Redevelopment Agency. The EOPS enabled the Redevelopment Agency to make payments on pre-existing obligations from July 2011 through December 2011. Payments subsequent to January 31, 2012 must be listed on a Recognized Obligations Payment Schedule (“ROPS”) and must be approved by the Milpitas Oversight Board every six months. In preparing the ROPS, staff noted that certain adjustments need to be made to the EOPS to ensure that the outstanding obligations listed on the EOPS and ROPS are consistent. The primary reasons for the amendment is due to the omitted listing of certain outstanding construction or consultant

contracts for some of the capital improvement projects that were funded by the Redevelopment Agency and also the closing of several outstanding contracts due to project completion.

Since there is a gap period before the approval of the ROPS by the Milpitas Oversight Board, staff recommends adoption of the amended and restated EOPS, out of an excess of caution.

**Fiscal Impact:** None.

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

**HA4. Authority Adjournment**

**XXI. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 17, 2012 AT 7:00 P.M.**