



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, SEPTEMBER 4, 2012**

**455 EAST CALAVERAS BLVD, MILPITAS, CA
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

CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING

Pursuant to California Government Code §54957.6, City Negotiator: Carmen Valdez
Employee Groups: Milpitas Employees Association (MEA), Mid-Management/Confidential (UPEC),
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

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to California Government Code §54956.8
Property Assessor's Parcel Number 86-41-016, 86-41-017, 86-41-018, 1740-1830 McCandless Drive
Person Negotiating: Tom Williams
Under Negotiation: Real Property Disposition

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 – August 21, 2012

VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR for September 2012

VIII. PRESENTATIONS

- Commendation to India Community Center's "ArtICculators"
- Proclamation – Third World Independent Film Festival
- Proclamation – National Preparedness for the Month of September

IX. PUBLIC FORUM

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

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with asterisks*)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIV. UNFINISHED BUSINESS

- * 1. Receive the August 2012 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)

XV. REPORTS OF OFFICERS

- * 2. Consider Mayor's Recommendations for Appointments and Re-appointments to Milpitas Commissions (Contact: Mayor Esteves, 586-3029)
- 3. Request to Consider a Joint Meeting of City Council and Milpitas Unified School District Board Members (Staff Contact: Tom Williams, 586-3050)

XVI. NEW BUSINESS

- 4. Receive Annual Housing Update and Status Report from Staff (Staff Contact: Felix Reliford, 586-3071)
- * 5. Approve Budget Transfer Request to Support Fire Department CAD Integration Project (Staff Contact: Brian Sturdivant, 586-2811)
- * 6. Approve Fee Waiver and In-Kind Donation of Equipment and Staffing for Milpitas Parks and Recreation Foundation's 5th Annual "Festival of Trees" Gala Fundraiser at City Hall Rotunda on December 13, 2012 (Staff Contact: Renee Lorentzen, 586-3409)
- * 7. Approve Marquee Request for Third World Independent Film Festival (TWIFF) in Milpitas (Staff Contact: Tom Williams, 586-3051)
- * 8. Approve the Write-offs of Utility Accounts Receivable for the Fiscal Year Ended June 30, 2012 (Staff Contact: Emma Karlen, 586-3145)
- * 9. Authorize the Response to the 2011-12 Santa Clara County Grand Jury Report Regarding an Analysis of Pension and Other Post Employment Benefits (Staff Contacts: Carmen Valdez, 586-3086 and Emma Karlen, 586-3145)

XVII. CONTRACTS

- * 10. Authorize the City Manager to Execute Power Purchase Assignment Agreement from Fresh Air Energy – II, LLC to Integrys Solar, LLC (Staff Contacts: Kathleen Phalen, 586-3345 and Bryan Otake, 586-3402)
- * 11. Approve Fourth Amendment to Consultant Contract with Law Firm of Renne, Sloan, Holtzman & Sakai, LLP (Staff Contact: Michael Ogaz, 586-3040)

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 18, 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, 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 after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist on the:

*Public Art Committee (Alliance for the Arts member)
Community Advisory Commission
Economic Development Commission (hotel representative)
Parks, Recreation and Cultural Resources Commission
Youth Advisory Commission*

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall.
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 (408) 586-3001 or send an e-mail 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.

AGENDA REPORTS

XIV. UNFINISHED BUSINESS

- * 1. **Receive the August 2012 Odor Control Report (Staff Contact: Kathleen Phalen, 586-3345)**

Background: From July 23 through August 19, 2012, the Bay Area Air Quality Management District (BAAQMD) received thirty-nine odor complaints originating in Milpitas. Twenty-six complainants identified a garbage-related odor, three identified a sewage-related odor and ten did not identify an odor source. As of the last Council update, the City's odor reporting website has received forty-one reported complaints. This data is mapped and charted in attachments included in the agenda packet.

Fiscal Impact: None.

Recommendation: Receive the August 2012 odor report.

XV. REPORTS OF OFFICERS

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

Background: Mayor Esteves recommends the following residents be appointed or re-appointed to Milpitas Commissions as follows:

Sisters Cities Commission:

Re-appoint Massoud Arefi as a member to a term that expires in September 2015.

Youth Advisory Commission

Re-appoint Monica La as a member to a term that expires in September 2013.

Re-appoint Isaiah Rigmaiden-Daniels as a member to a term that expires in September 2013.

Re-appoint Randolph Abaya as a member to a term that expires in September 2013.

Re-appoint Jose Ajero III as a member to a term that expires in September 2013.

Re-appoint Pilar Ferguson as a member to a term that expires in September 2013.

Re-appoint Sahil Sandhu as a member to a term that expires in September 2013.

Appoint Cindy Wang (current Alternate No. 1) to a regular member to a term that expires in September 2013.

Newly appoint Sabina King as a regular member to a term that expires in September 2013.

Newly appoint Sabrina Leon as a regular member to a term that expires in September 2013.

Re-appoint Sahil Hansalia (current Alternate No. 2) to Alternate No. 1 to a term that expires in September 2013.

Re-appoint Veronica Wang (current Alternate No. 3) to Alternate No. 2 to a term that expires in September 2013.

Re-appoint Arjun Goyal (current Alternate No. 4) to Alternate No. 3 to a term that expires in September 2013.

Recommendation: Receive Mayor's recommendations and move to approve Milpitas Commission appointments and re-appointments.

3. Request to Consider a Joint Meeting of City Council and Milpitas Unified School District Board Members (Staff Contact: Tom Williams, 586-3050)

Background: At the August 9, 2012, meeting of the Joint Communication subcommittee comprised of two members each of the City Council and the Milpitas Unified School District Board of Trustees, it was suggested that a joint meeting of the two full elected bodies would be valuable. The City Manager was requested to bring this suggestion to the City Council at the next regular meeting.

Topics for discussion may include elementary school in Transit Area Specific Plan, joint use of facilities, and demographics projection.

Recommendation: Consider scheduling a joint meeting of the Milpitas City Council and MUSD Board, and direct staff to notice the meeting if desired.

XVI. NEW BUSINESS

4. Receive Annual Housing Update and Status Report from Staff (Staff Contact: Felix Reliford, 586-3071)

Background: During City Council review last fall of Department of Housing and Urban Development (HUD), Consolidated Annual Performance Evaluation Report (CAPER), Council directed staff to provide an annual housing update and status report.

Since the adoption of Mid-Town and Transit Area Specific Plans, a total of 3,643 new dwelling units have been approved and constructed over the past five years (2007-2012). This includes a variety of housing types from rental apartments, single-family, townhomes, and condominiums. The majority of housing developments have taken place within Transit Area Specific Plan. A total of 208 affordable housing units will be provided within the approved projects.

The City's General Plan Housing Element policy encourages 20% affordable housing in development projects to be reviewed on a project-by-project basis. Because of the dissolution of redevelopment agency, approximately 3,000 new affordable housing units will not be provided with the elimination of the 20% Low-Moderate Income Housing Fund. The State of California still mandates that affordable housing be provided to low-moderate income households.

Currently, there are applications for staff review for approximately 400 new dwelling units. A staff presentation of the approved projects will be provided at the City Council meeting.

Fiscal Impact: Unknown based on dissolution of redevelopment agency.

Recommendation: Note receipt and file.

*** 5. Approve Budget Transfer Request to Support Fire Department CAD Integration Project (Staff Contact: Brian Sturdivant, 586-2811)**

Background: The Milpitas Fire Department is in the process of integrating our public safety Computer Aided Dispatch system (CAD) with the Santa Clara County Emergency Medical Services patient record management system. This project will facilitate data collection related to EMS in the Milpitas community along with enhanced EMS quality assurance and quality improvement efforts. The payment for the cost of the initial implementation and first year maintenance is provided by the County of Santa Clara Office of Emergency Medical Services and has been received by the City.

Fiscal Impact: None. Funds have been provided by the County of Santa Clara EMS Agency to cover necessary costs.

Recommendation: Accept monies from the Santa Clara County and approve a budget appropriation for \$10,180 for the implementation costs and first year maintenance of the CAD system to the Fire Department budget for FY 2012-13.

- * 6. **Approve Fee Waiver and In-Kind Donation of Equipment and Staffing for Milpitas Parks and Recreation Foundation’s 5th Annual “Festival of Trees” Gala Fundraiser at City Hall Rotunda on December 13, 2012 (Staff Contact: Renee Lorentzen, 586-3409)**

Background: The Milpitas Parks and Recreation Foundation holds its gala fundraiser, “Festival of Trees”, annually in the month of December. Proceeds from this event support its scholarship and grant programs which benefit Milpitas residents needing assistance to participate in recreation activities. More than 200 people from the Milpitas business community as well as City and County dignitaries attended last year’s event to support the Foundation.

The Milpitas Parks and Recreation Foundation was initially formed by members of the Milpitas Parks, Recreation and Cultural Resources Commission in response to the need of an organization that would be able to benefit Milpitas residents through scholarships and grants.

The 5th Annual 2012 Festival of Trees will feature beautifully decorated holiday trees, sponsored and decorated by Milpitas’ local and surrounding businesses and service groups. This year’s Festival of Trees will be held on December 13, 2012 in the City Hall Rotunda.

Fiscal Impact: The Milpitas Parks and Recreation Foundation is requesting that City Council approve the facility fee waiver for the City Hall Rotunda and Committee Conference Room and in kind service of equipment and staff time for a total of \$1,793.75. The Milpitas Parks and Recreation Foundation will still be required to pay for insurance costs related to this event.

Costs associated for this event are in accordance with the City of Milpitas’ fee structure for non-profit 501(c)3 organizations. Fees to be waived are as follows:

Pre Event Setup – November 25, 2012

Rental fees Rotunda (7.5 hours @ \$37.50/hour)	\$281.25
Staff attendant fees (7.5 hours @ \$ 50/hour)	\$375.00

Event – December 13, 2012

Rental fees – Committee Conference Room (9 hours @ 37.50/hour)	\$337.50
Deposit Committee Conference Room	\$150.00
Rental Fees – Rotunda (4 hours @ \$37.50/hour)	\$150.00
Deposit Rotunda	\$150.00
Staff attendant fees (4 hours @ \$50/hour)	\$200.00
Deposit Rotunda	\$150.00

Use of City Marquee (4weeks)	<u>No Cost</u>
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TOTAL EVENT COST	\$1,793.75
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Recommendation: Approve the Milpitas Parks and Recreation Foundation’s request for facility rental fee waiver and in-kind donation of equipment and staffing totaling \$1,793.75 for the fifth Annual Festival of Trees Gala Fundraiser event in the Milpitas City Hall Rotunda scheduled on December 13, 2012.

- * 7. **Approve Marquee Request for Third World Independent Film Festival (TWIFF) in Milpitas (Staff Contact: Tom Williams, 586-3051)**

Background: The 2nd Annual Third World Independent Film Festival (TWIFF) will be premiering in Milpitas’ Century Theatres at the Great Mall from September 21-23, 2012.

TWIFF, supported by non-profit agencies, celebrates established and emerging filmmakers from third world countries and filmmakers from developed countries whose topics deal with issues of the third world. The festival provides a platform to introduce their films to the broadest possible audience. Some countries featured in this year's films include Cambodia, India, Argentina and South Sudan.

The following is the requested information to run September 5 – September 23, 2012.

Independent Film Festival
September 21-23
Milpitas Century Theatres
408-907-6925

Pursuant to City Council Resolution No. 7426, Facility Rules and Regulations, the marquee is to be used for City sponsored activities only and the City Council must approve all exceptions to the marquee policy.

Fiscal Impact: None

Recommendation: Approve exception to the Facility Rules and Regulations marquee policy for the use of the City marquee for the 2nd Annual Third World Independent Film Festival.

- * **8. Approve the Write-offs of Utility Accounts Receivable for the Fiscal Year Ended June 30, 2012 (Staff Contact: Emma Karlen, 586-3145)**

Background: Attached in the Council's packet is a list of utility accounts that have been outstanding for more than 12 months and remained unpaid. When the invoices were first sent to the customers, normal accounting procedures require us to record accounts receivable and revenues initially as the expectation is that the City would be able to collect the funds within a short period of time. However, when the accounts receivable have been outstanding for more than a year and after all the currently available collection methods have been exhausted, it is necessary to write off these accounts so as not to overstate the City's assets. The proposed write-offs amount of \$66,403.70 is approximately 0.25% of the amounts invoiced during the period from January 2010 through December 2010.

Fiscal Impact: Write-offs of the outstanding accounts receivable will reduce the utility fund balances by \$66,403.70.

Recommendation: Approve the write-offs of utility accounts receivable for the fiscal year ended June 30, 2012.

- * **9. Authorize the Response to the 2011-12 Santa Clara County Grand Jury Report Regarding an Analysis of Pension and Other Post Employment Benefits (Staff Contacts: Carmen Valdez, 586-3086 and Emma Karlen, 586-3145)**

Background: The 2011-12 Santa Clara County Grand Jury's Report regarding an Analysis of Pension and Other Post Employment Benefits of June 13, 2012, was issued to all agencies for comments and recommendations on the findings. The City's formal response to that report will be provided for City Council review and approval.

Fiscal Impact: None.

Recommendation: Approve response and authorize the Mayor to sign the response letter to the Santa Clara County Civil Grand Jury.

XVII. CONTRACTS

- * 10. **Authorize the City Manager to Execute a Power Purchase Assignment Agreement from Fresh Air Energy – II, LLC to Integrys Solar, LLC (Staff Contacts: Kathleen Phalen, 586-3345 and Bryan Otake, 586-3402)**

Background: On May 15, 2011, the City Council approved a Power Purchase Agreement (PPA) with Fresh Air Energy – II, LLC, commonly known as Ecoplexus Inc. The agreement allows Ecoplexus to install solar power generating systems at various City sites and sell the power to the City at a rate less than what the City would normally pay PG&E.

Ecoplexus has requested that the City allow the PPA be assigned to Integrys Solar LLC, a subsidiary of Integrys Energy Group, a Fortune 500 company publicly traded on the New York Stock Exchange. The PPA has provisions to allow the assignment of the PPA to a third party, subject to the approval of the City, which shall not be unreasonably withheld. Staff has no objections to the assignment of the PPA from Ecoplexus to Integrys Solar LLC, subject to the contractual safeguards included in the assignment agreement to ensure proper construction and operation of the solar sites.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute a power purchase assignment agreement from Fresh Air Energy – II, LLC to Integrys Solar, LLC, subject to approval as to form by the City Attorney.

- * 11. **Approve Fourth Amendment to Consultant Contract with Law Firm of Renne, Sloan, Holtzman & Sakai, LLP (Staff Contact: Michael Ogaz, 586-3040)**

Background: The City has used the Renne, Sloan law firm for consultation and representation in litigation and administrative proceedings in labor relations matters. Sufficient funds had already been approved to handle two pending administrative challenges, but an unexpected Superior Court challenge seeking a halt to the implementation of layoffs and outsourcing created the need for additional services. This amendment adding \$15,000 to the contract should provide necessary funds to cover those pending administrative challenges.

Fiscal Impact: There are sufficient funds in the budget to cover this expense.

Recommendation: Approve Amendment No. 4 to contract with law firm of Renne, Sloan, Holtzman & Sakai, LLP authorizing \$15,000 to be added to existing contract for legal services.

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, SEPTEMBER 18, 2012 AT 7:00 P.M.**