



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, NOVEMBER 6, 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**
 - 1. 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
 - 2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
Pursuant to California Government Code §54956.9(b), (c)
City of Milpitas as Plaintiff or Defendant
 - 3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
Pursuant to California Government Code §54956.9(a)
ACLU and Means v. City of Milpitas, Santa Clara County Superior Court, Case No. 112CV229072
- 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 (Councilmember Giordano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – October 16, 2012**
- VII. SCHEDULE OF MEETING – COUNCIL CALENDAR for November 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 (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.

XIII. UNFINISHED BUSINESS

- 1. Receive Progress Report from a Representative of Pacific Gas & Electric Company on the Gas Transmission Lines in Milpitas (Staff Contacts: Kathleen Phalen, 408-586-3345 and Brian Sturdivant, 408-586-2811)**
- * 2. Receive the October 2012 Odor Control Report (Staff Contact: Kathleen Phalen, 408-586-3345)**

XIV. REPORTS OF COMMISSIONS

Arts Commission

- * 3. Approve Milpitas Arts and Culture In-Kind Grants for FY 2012-13 (Staff Contact: Renee Lorentzen, 408-586-3409)**

Youth Advisory Commission

- * 4. Approve Allocation of Funds from the Unallocated Community Promotions Budget for Youth Advisory Commission T-Shirts (Staff Contact: Samu Tiumalu, 408-586-3222)**

XV. NEW BUSINESS

- * 5. Accept the 2012 Bulletproof Vest Partnership Grant and Appropriate the Funds into the Police Department's Operating Budget (Staff Contact: Henry Kwong, 408-586-2419)**
- * 6. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2012 (Staff Contact: Emma Karlen, 408-586-3145)**

XVI. ORDINANCE

- * 7. Waive the Second Reading and Adopt Ordinance No. 283 Requiring a Vote of the People Before Outsourcing Public Safety Services (Staff Contact: Bryan Otake, 408-586-3040)**

XVII. RESOLUTIONS

- * 8. Adopt a Resolution Amending the City Council Handbook to Include a Section on Training Reimbursements for City Council Members (Staff Contact: Carmen Valdez, 408-586-3086)**
- * 9. Adopt a Resolution Amending the City's Personnel Rules and Regulations (Staff Contact: Carmen Valdez, 408-586-3086)**
- * 10. Adopt a Resolution Granting Final Acceptance of Phase 6 of the Sewer Deficiency Program, Project No. 6073 (Staff Contact: Steve Erickson, 408-586-3301)**
- * 11. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Fire Station No. 1 Exterior Upgrades, Project No. 3403 (Staff Contact: Steve Erickson, 408-586-3301)**

XVIII. BID AND CONTRACTS

- * 12. Award the Bid and Authorize the City Manager to Execute a Contract with Cal-West Lighting & Signal Maintenance, Inc. for Street Light and Traffic Signal Support for the Annual Not-To-Exceed Amount of \$100,000 (Staff Contact: Chris Schroeder, 408-586-3161)
- * 13. Authorize the City Manager to Execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority to Install the Highway 237/I-880 Interchange and McCarthy Boulevard Medians Landscaping, Project No. 4170 (Staff Contact: Kathleen Phalen, 408-586-3345)
- * 14. Approve Contract for Center Stage Performing Arts and Approve Budget Appropriation of \$26,000 (Staff Contact: Renee Lorentzen, 408-586-3409)

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 20, 2012 AT 7:00 P.M.**

NOTE: This City Council meeting will be followed immediately by a meeting of the Milpitas Economic Development Corporation in the Council Chambers.

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 & retail representative)

Sister Cities Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall.

Contact the City Clerk's office (408-586-3003) 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

XIII. UNFINISHED BUSINESS

1. **Receive Progress Report from a Representative of Pacific Gas & Electric Company on the Gas Transmission Lines in Milpitas (Staff Contacts: Kathleen Phalen, 408-586-3345 and Brian Sturdivant, 408-586-2811)**

Background: PG&E staff is scheduled to present a progress report on the Pipeline Safety Enhancement Plan (PSEP.) This update will describe the results of PG&E's pipeline testing work completed in 2012 and will include information on the PG&E gas transmission lines in Milpitas and the Milpitas PG&E gas terminal.

Fiscal Impact: None.

Recommendation: Receive a progress report from PG&E.

- * 2. **Receive the October 2012 Odor Control Report (Staff Contact: Kathleen Phalen, 408-586-3345)**

Background: From September 17 through October 21, 2012, the Bay Area Air Quality Management District (BAAQMD) received twenty-eight odor complaints originating in Milpitas. Fifteen complaints identified a garbage-related odor, seven identified a sewage-related odor, and six did not identify an odor source. As of the last Council update, the City's odor reporting website received twenty-nine reported complaints.

Fiscal Impact: None.

Recommendation: Receive the October 2012 odor report.

XIV. REPORTS OF COMMISSIONS

Arts Commission

- * 3. **Approve Milpitas Arts and Culture In-Kind Grants for FY 2012-13 (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The Milpitas Arts and Culture Grant program is a competitive grant program offering in-kind support to individuals and organizations hosting cultural or artistic events in the City of Milpitas. In-kind support includes performance space (i.e. Community Center, Senior Center) and City staff support. All grant events are held in Milpitas and are open to the public for either little or no cost.

Three applicants submitted Milpitas Arts and Culture Grant Program (MACG) applications for the 2012-13 grant cycle. The Milpitas Arts Commission voted to recommend all three grant proposals for approval.

The three grant proposals recommended for approval are:

- Filipino American Association of Milpitas, Inc. (Fil-Am)
- San Khau Viet CALI
- Clara Ines Thomas

Fiscal Impact: Loss of approximately \$4,000 in facility usage and support staff fees.

Recommendation: Approve three applications for Milpitas Arts and Culture Grants for in-kind performance space and City staff support for FY 2012-13.

Youth Advisory Commission

- * 4. **Approve Allocation of Funds from the Unallocated Community Promotions Budget for Youth Advisory Commission T-Shirts (Staff Contact: Samu Tiumalu, 408-586-3222)**

Background: The Youth Advisory Commission requested purchase of t-shirts to help them create awareness of the Commission while out at community youth events. Currently, YAC has a budget of \$360. These funds have already been allocated for supplies for upcoming events (e.g. Milpitas Got Talent). Funds for the t-shirts are requested from the City Council's Unallocated Community Promotions Budget (\$8,000). To date, no monies have been used from this budget. Any expenditure from Unallocated Community Promotions Budget requires City Council approval.

Fiscal Impact: \$400 from the Unallocated Community Promotions Budget.

Recommendation: Approve the allocation of funds in the amount of \$400 from the Council's Unallocated Community Promotions Budget for Youth Advisory Commission t-shirts.

XV. NEW BUSINESS

- * 5. **Accept the 2012 Bulletproof Vest Partnership Grant and Appropriate the Funds into the Police Department's Operating Budget (Staff Contact: Henry Kwong, 408-586-2419)**

Background: The United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance has allocated a Bulletproof Vest Partnership (BVP) grant in the amount of \$9,288.93 to the Milpitas Police Department towards the purchase of ballistic vests. The grant will reimburse the City of Milpitas for fifty percent (50%) of the cost of each ballistic vest purchased by the Milpitas Police Department after April 1, 2012. The grant funds must be utilized by August 31, 2014.

Fiscal Impact: None. The City's matching funds are already budgeted in the Police Department's supplies account.

Recommendation: Accept the 2012 Bulletproof Vest Partnership (BVP) grant and approve an appropriation in the amount of \$9,288.93 into the Police Department's operating budget.

- * 6. **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2012 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended September 30, 2012, is submitted for review and Council acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of September 30, 2012.

As of September 30, 2012, the principal cost and market value of the City's investment portfolio was \$156,530,708 and \$157,334,575 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment

increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended September 30, 2012, was 0.70%. The comparative benchmarks for the same period were 0.35% for LAIF (Local Agency Investment Fund) and 0.26% for the 12-month average yield of the 2 year Treasury Note. The weighted average maturity of the portfolio was 410 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

The market values of the securities were provided by BNY Mellon, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of BNY Mellon under the terms of a custody agreement. Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None.

Recommendation: Receive the investment report for the quarter ended September 30, 2012.

XVI. ORDINANCE

- * 7. **Waive the Second Reading and Adopt Ordinance No. 283 Requiring a Vote of the People Before Outsourcing Public Safety Services (Staff Contact: Bryan Otake, 408-586-3040)**

Background: Per the City Council's direction at the City Council meeting of October 2, 2012, Ordinance No. 283 was prepared that requires any attempt to outsource Milpitas Public Safety personnel to first be brought to the voters. The Ordinance was introduced at the City Council meeting of October 16, 2012, and is now being brought forth for its second reading and adoption.

Fiscal Impact: None immediately, but there may be a potential future impact if outsourcing is considered at some point.

Recommendation: Move to waive the second reading and adopt Ordinance No. 283.

XVII. RESOLUTIONS

- * 8. **Adopt Resolution Amending the City Council Handbook to Include a Section on Training Reimbursements for City Council Members (Staff Contact: Carmen Valdez, 408-586-3086)**

Background: At the October 16, 2012 Council meeting, staff was directed to update the City Council Handbook to include language on training reimbursements for City Council members. Included in the City Council agenda packet are the proposed recommendations for approval.

Fiscal Impact: \$1,400 per elected and appointed official per year.

Recommendation: Adopt a resolution amending the City Council Handbook.

- * **9. Adopt Resolution Amending the City’s Personnel Rules and Regulations (Staff Contact: Carmen Valdez, 408-586-3086)**

Background: At the October 16, 2012 Council meeting, staff was directed to amend the current Personnel Rules & Regulations (PR&R) to delete any reference to benefits for elected and appointed officials. Included in the City Council agenda packet are the recommended changes to the PR&R document.

Fiscal Impact: \$1,400 per elected and appointed official per year.

Recommendation: Adopt a resolution amending the City’s Personnel Rules and Regulations.

- * **10. Adopt a Resolution Granting Final Acceptance of Phase 6 of the Sewer Deficiency Program, Project No. 6073 (Staff Contact: Steve Erickson, 408-586- 3301)**

Background: This project was initially accepted on September 20, 2011 and has now passed the one-year warranty period. A final inspection of the installed public improvements has been made and the work was found to be satisfactory. The project provided for the removal and replacement of sewer mains at six locations throughout the City. These mains were selected for replacement because they had reached the end of their service life and had sags or other structural failures resulting in a high frequency of maintenance.

Staff recommends that Council grant final project acceptance of Phase 6 of the Sewer Deficiency Program, Project No. 6073 and release the contractor’s bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of Phase 6 of the Sewer Deficiency Program, Project No. 6073 and release of the contractor’s bond.

- * **11. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Fire Station No. 1 Exterior Upgrades, Project No. 3403 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The Council awarded the Fire Station No. 1 Exterior Upgrades Project to Arco Painting Company on June 19, 2012. The project provided for patching and repainting of the building exterior, metal fencing and gates, and above ground fuel tanks. The project was successfully completed on time and within budget. Staff recommends that Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor’s faithful performance bond to \$9,040.00, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of Fire Station No. 1 Exterior Upgrades Project No. 3403, subject to a one year warranty period and reduction of the faithful performance bond to \$9,040.00.

XVIII. BID AND CONTRACTS

- * **12. Award the Bid and Authorize the City Manager to Execute a Contract with Cal-West Lighting & Signal Maintenance, Inc. for Street Light and Traffic Signal Support for the Annual Not-To-Exceed Amount of \$100,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: Purchasing worked with Traffic Engineering to develop a specification for Street Light and Traffic Signal Support. The Invitation For Bid was released on September 24, 2012. The award for the bid was based on the lowest total of sixteen common street light and traffic

signal maintenance jobs; including such things as light pole replacement, conduit installation, trouble shooting, and call out rates. The bid was advertised in the local newspaper, on the City website and on Public Purchase. Three bidders responded and the results are:

<u>Bidder</u>	<u>Total of 16 different types of job</u>
Cal-West Lighting & Signal Maintenance, Inc.	\$8,295
Siemens Industry, Inc.	\$18,106
Aegis ITS, Inc.	\$28,106

Fiscal Impact: None. This is a programmed expense in the Public Works operating budget.

Recommendation: Award the bid and authorize the City Manager to execute a contract with Cal-West Lighting & Signal Maintenance, Inc. for street light and traffic signal support for the annual not-to-exceed amount of \$100,000, for three years with an option for two, one-year extensions.

*** 13. Authorize the City Manager to Execute a Cooperative Agreement with the Santa Clara Valley Transportation Authority to Install the Highway 237/I-880 Interchange and McCarthy Boulevard Medians Landscaping, Project No. 4170 (Staff Contact: Kathleen Phalen, 408-586-3345)**

Background: In 2005, the City Council adopted a landscape concept plan for the Highway 237/I-880 interchange, calling for a naturalistic, free-form planting of trees. In 2007, the City entered into a cooperative agreement with the Santa Clara Valley Transportation Authority (VTA) to have VTA design and install this landscaping. The original SR 237/I-880/Tasman Avenue project would have landscaped I-880 from south of the Tasman interchange to north of the Highway 237 interchange, Highway 237 from the western City boundary to I-880, and McCarthy Boulevard from Bellow Drive on the south to Ranch Drive on the north. In 2008, VTA and Caltrans incorporated most of the original 237/I-880 and Tasman Avenue landscaping into the scope of VTA’s I-880 High Occupancy Vehicle (HOV) project, currently under construction, and funded by the State Corridor Mobility Improvement Account (CMIA) and VTA local funds. In 2009, the cooperative agreement was amended to remove the overlapping scope of work and reduce the City’s cost share from \$3,750,000 to \$3,285,000.

The \$3,285,000 cost share was contingent upon the City receiving \$2,000,000 from Caltrans in exchange for the City’s commitment to maintain landscaping in the State right-of-way. Since this arrangement with Caltrans was never finalized, the City’s cost-share was limited to \$1,285,000 and the City is not obligated to maintain the portion of the landscaping in the State right-of-way. To date, the City has paid VTA \$675,000 for the project administrative and design work, leaving \$610,000 encumbered for the landscape installation and plant establishment.

VTA has now completed the project design, specifying a mix of Deodar Cedar, Crape Myrtle, Chinese Pistache, and Ornamental Pear trees. VTA will be ready to release the construction package for permitting and bidding in 2013, with planned completion by mid-2014. To allow VTA to proceed, the City needs to enter into a new cooperative agreement because the former agreement expired in 2011. VTA drafted a new agreement (included in the Council packet) that further reduces the City’s remaining contribution to \$500,000. The cost reduction is due to further scope reduction and a reduced plant establishment period of one year in the Caltrans right of way.

Fiscal Impact: None. Sufficient funding is available in the project budget for this purpose.

Recommendation: Authorize the City Manager to execute a cooperative agreement with the Santa Clara Valley Transportation Authority to install the Highway 237/I-880 Interchange and McCarthy Boulevard medians landscaping, Project No. 4170.

* 14. **Approve Contract for Center Stage Performing Arts and Approve Budget Appropriation of \$26,000 (Staff Contact: Renee Lorentzen 408-586-3409)**

Background: At the March 20, 2012 Council meeting, the Council directed Recreation Services staff to continue to offer a children's theatre program in Milpitas through contract services. Recreation staff has been working with Center Stage Performing Arts to provide a quality children's theatre program for the 2012-13 season, which includes three productions and runs from August 2012 – July 2013. From 40 to 80 children may be cast in any single production.

Milpitas Recreation Services and Center Stage Performing Arts are currently rehearsing for the Fall Production for which participants have already registered and paid cast fees. Staff drafted, per the Theatre Program cast fees, the proposed contact for August 27, 2012 – August 10, 2013 (copy in the agenda packet).

Fiscal Impact: None. The contract cost comes from participants' registration fees.

Recommendations:

1. Authorize the City Manager to execute contract with Center Stage Performing Arts and for an amount not to exceed \$26,000.
2. Approve budget appropriation of \$26,000 into the Cultural Arts budget.

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 20, 2012 AT 7:00 P.M.**

NOTE: This City Council meeting will be followed immediately by a meeting of the Milpitas Economic Development Corporation in the Council Chambers.