



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, FEBRUARY 5, 2013**

**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 LEGAL COUNSEL – ANTICIPATED LITIGATION**

Pursuant to California Government Code §54956.9(b), (c)
City of Milpitas as Plaintiff or Defendant
 - 2. 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
- 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 – January 15, 2013**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – February 2013**
- VIII. PRESENTATIONS**
 - *Proclaiming Dr. Martin Luther King, Jr. Day – January 21, 2013*
 - *Proclaiming Black History Month – February 2013*
 - *Presenting the 2013 Artist of Year Award to Patty Jensen, Jensen School for the Performing Arts, and certificates of commendation to nominees Joe Santoro and Carla Moss*
- 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. **Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements, and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2012 (Staff Contact: Emma Karlen, 408-586-3145)**
2. **Approve Recommendation for the 2013 Annual Commissioners' Recognition Event (Staff Contact: Dale Flunoy, 408-586-3228)**
3. **Continue Discussion of Policy on Reimbursement to Councilmembers for Events (Staff Contact: Michael Ogaz, 408-586-3040)**
4. **Receive Report from City Council Fire Department Budget Task Force (Contacts: Vice Mayor Polanski, Councilmember Gomez, and City Manager Tom Williams, 408-586-3050)**
- * 5. **Receive the December 2012 and January 2013 Odor Control Reports (Staff Contact: Kathleen Phalen, 408-586-3345)**

XV. REPORTS OF MAYOR

- * 6. **Consider Mayor's Recommendation for Appointment of Planning Commission Alternate (Contact: Mayor Esteves, 408-586-3029)**
- * 7. **Consider Mayor's Recommendations for Appointments and Reappointments to Six Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

XVI. NEW BUSINESS

8. **Receive Financial Status Report for the Six Months Ended December 31, 2012 (Staff Contact: Emma Karlen, 586-3145)**
- * 9. **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2012 (Staff Contact: Emma Karlen, 408-586-3145)**
- * 10. **Approve Ben Gross Tribute Event Planned for February 23, 2013 and Direct Staff to Research the Dedication of a City Park Called the Ben Gross Memorial Park (Staff Contact: Dale Flunoy, 408-586-3228)**
- * 11. **Authorize the Acceptance of a Grant for the Senior Nutrition Program (Staff Contact: Renee Lorentzen, 408-586-3409)**

XVII. RESOLUTIONS

- * 12. **Adopt a Resolution Annexing Certain Real Property into Community Facilities District No. 2005-1; Authorize the Execution of a Subdivision Improvement Agreement; Approve the Final Map (Tract # 10139), and Improvement Plans (2-1163) for 1201 South Main Street / SORA Milpitas, LLC for Project No. 2718 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

- * 13. **Adopt a Resolution Designating National Meter and Automation as the Sole Source Provider for Badger Meters and Approve the Purchase of Assorted Badger Water Meters for \$70,092.76 (Staff Contact: Chris Schroeder, 408-586-3161)**

XVIII. CONTRACTS

- * 14. **Authorize Continued Employment of a Temporary Contractual Building Inspector Position for Lyon Apartments (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- * 15. **Authorize a Temporary Building Inspector Position for Coyote Creek Condominiums (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- * 16. **Authorize the City Manager to Execute the Consultant Services Agreement with RMC Water and Environment, Inc. for Utility Engineering Support (Staff Contact: Kathleen Phalen, 408-586-3345)**
- * 17. **Authorize the City Manager to Execute Amendment No. 1 to the Contract with TerraCare Associates to Add Two Additional Parks to the City of Milpitas Parks Maintenance Services (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 18. **Authorize the City Manager to Execute Amendment No. 4 to the Contract with Universal Building Services for Additional Janitorial Services for City Buildings (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 19. **Authorize the City Manager to Execute a Contract with Composer Jason McChristian for the Milpitas Community Concert Band Original Composition and Accept a Grant for the Band (Staff Contact: Renee Lorentzen, 408-586-3409)**

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 19, 2013 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:

- Arts Commission (alternate member)*
- Public Art Committee (Alliance for the Arts member)*
- Community Advisory Commission (alternates)*
- Economic Development Commission (alternate)*
- Library Advisory Commission (alternate)*

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.

XIV. UNFINISHED BUSINESS

1. **Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements, and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2012 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: The Comprehensive Annual Financial Report (CAFR) of the City of Milpitas, Single Audit Report, Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment and the Memorandum on Internal Control and Required Communications for the fiscal year ended June 30, 2012, are submitted to the City Council.

Comprehensive Annual Financial Report (CAFR) of the City of Milpitas

The CAFR presents the operations and financial activity of all the City's various funds, including the General Fund. It includes an unqualified audit opinion from Maze & Associates, the City's external auditors that the financial statements present fairly the results of operations for the year ended June 30, 2012, in conformance with Generally Accepted Accounting Principles (GAAP). It is also noted in the audit opinion that due to the dissolution of the Redevelopment Agency, the State has ordered the return of certain assets to the Successor Agency. The City has complied with certain aspects of the State's order and transferred applicable assets to the Housing Successor, but the City contends that the remaining transactions undertaken were legally placed with the Economic Development Corporation at the time of the transfer. The City's position on these matters is not a position of settled law and there is considerable legal uncertainty regarding these matters.

Single Audit Report

The Single Audit is required by the Office of Management and Budget Circular A-133 for state and local governments and non-profit organizations that receive Federal Awards. The report did not disclose any material weaknesses or significant deficiencies on the internal control over the major federal award programs.

Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment

This report shows the auditor applied specific procedures to validate the City's Appropriations Limit calculations.

Memorandum on Internal Control and Required Communications

Under generally accepted auditing standards, the auditors are encouraged to report certain matters regarding the City's internal control structure. The City's auditors have provided such a report in their Memorandum on Internal Control and Required Communications ("Management Letter") for the Year Ended June 30, 2012. This report includes management response to the auditor's recommendations on monitoring expenditures of the Economic Development Corporation and ensuring compliance with the dissolution laws, payroll personnel pay review, Sports Center cash collections, Council approval for contracts in excess of \$20,000, establish blanket purchase orders for frequently used vendors, reviewing payroll charges to federal grant programs, and implementing automatic session locks on computers. It should be noted that the auditors do not view any of their comments as material weaknesses or significant deficiencies on the City's internal control structure.

Fiscal Impact: None. There is no fiscal impact for the recommended action.

Recommendation: Accept the City's Comprehensive Annual Financial Report (CAFR) and other related Annual Audited Reports for the fiscal year ended June 30, 2012.

2. **Approve Recommendation for the 2013 Annual Commissioners' Recognition Event (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: The City of Milpitas recognizes its Commissioners in April at the annual Commissioners' Recognition Event, which celebrates the volunteerism of City Commissioners and Committee Members and their accomplishments. Many positive comments were received from Commissioners for last year's recognition event, which was held April 17, 2012 at the City Council meeting. Commissioners were served light refreshments and presented a certificate.

Prior to last year, Commissioner Recognition Events have included a catered luncheon or brunch. At every Commissioners' Recognition Event, the Mayor and City Councilmembers have thanked Commissioners for their volunteer service and acknowledged their service with certificates and small tokens of appreciation (portfolios, business card holders, etc.). For the last four years, the gifts were foregone in lieu of making a contribution to the Milpitas Food Pantry, the Veterans Memorial Sign and the Veterans Memorial Bench. In May of 2012 at a City Council meeting, a budget of \$8,000.00 was approved from the City Council's discretionary funds. Typically, this event is paid for using those funds.

Fiscal Impact: Funds of \$8,000 are included in the City Council's budget used to fund the Commissioners' Recognition Event. The cost of the recommended 2013 Recognition would not exceed approved funds for the event, as determined by the City Council. A catered luncheon would cost approximately \$12-\$17 per person (inclusive of food, beverages, decorations and certificates). Luncheon would be held at the Milpitas Community Center, which seats 300 people and can accommodate Commissioners and their guests. Recognition at a City Council meeting would cost approximately \$5 - \$7 per person (inclusive of light appetizers, beverages and certificates).

Recommendation: Approve the 2013 Commissioners' Recognition event as a catered luncheon to be held on Saturday, April 13, 2013 at the Milpitas Community Center.

3. Continue Discussion of Policy on Reimbursement to Councilmembers for Events (Staff Contact: Michael Ogaz, 408-586-3040)

Background: At the December 18, 2012 Council meeting, there was discussion concerning the appropriate scope of reimbursement to the Mayor and Council for expenditures related to civic functions. Councilmember Gomez requested the City Attorney provide additional information regarding the possibility of Councilpersons maintenance of an Office Holder or similar account that could cover this type of expenditure. This matter was considered and the City Attorney's Office issued a written opinion on it in 2007 (copy of the memo is included in the Council agenda packet). The short answer is that Office Holder accounts are not allowed for local officials of general law cities, but such expenses might be allowed from campaign accounts if related to a political, legislative or governmental purpose. The City Attorney's office contacted the FPPC to determine whether this is still consistent with the agency's regulations and FPPC staff confirmed that it is.

The current City Council Handbook provision regarding Reimbursement for City Functions only allows them for "functions which honor City employees, school district employees and other officials for their service and achievements." Vice Mayor Polanski has proposed modifications to that policy and also addresses other broader reimbursement policies. A copy of her proposal is included in the agenda packet.

Fiscal Impact: Cost of reimbursements allowed under policy.

Recommendation: Provide staff direction regarding amendments to the reimbursement provisions of the City Council Handbook.

4. Receive Report from City Council Fire Department Budget Task Force (Contacts: Vice Mayor Polanski, Councilmember Gomez, and City Manager Tom Williams, 408-586-3050)

Background: At the City Council meeting of January 15, 2013, Council ordered layoff notices to eliminate four firefighter positions as a result of economic conditions. Significant budget overruns specifically related to overtime usage is projected to be \$1.5 million over the authorized budget amount for the Fire Department. At this same meeting, Council directed an ad hoc Council Task Force to consider alternatives to the layoffs. That task force, consisting of two City Councilmembers, met twice. These publicly noticed meetings included discussions with fire union personnel and comments from two members of the public. The second meeting was held on January 29, 2013 in an effort to expedite possible solutions for Council consideration, prior to the effective date of the layoffs scheduled February 18, 2013.

Issues raised and discussed at the ad hoc task force meetings resulted in four areas for evaluation and consideration in order to prevent firefighter layoffs:

1. Consider accepting a \$1.8 million Staffing for Adequate Fire and Emergency Response (SAFER) grant. This grant is intended to pay the cost of six firefighters for two years. There are pros and cons associated with acceptance of the grant that will be discussed in detail at the City Council meeting. It should be noted that the grant proceeds are approximately \$360,000 short of the two year cost of hiring to staffing levels of 60. The IAFF claims that a staff level of 60, the issue of runaway overtime will be controlled and save the City \$1.2 million annually.
2. Cost Recovery expenditures over the budgeted amount for overtime for FY 2012-13 (IAFF Goal \$450,000) / (City use of \$600,000 of reserves).
Under this scenario, the City would shift \$600,000 from reserves and IAFF Local 1699 would be responsible for saving \$450,000 from other areas of their budget. IAFF requested time through February 1 to provide a proposal for savings.
3. Cease the Overtime Burn Rate
Eliminate the \$180,000 overtime paid per month. To achieve this, City management requested the IAFF Local 1699 agree to the mandated minimum staffing required in their current contract.
4. Schedule for Repayment of Reserves
If \$600,000 in reserves is used, the ad hoc task force requested a repayment from the Fire Department budget. Staff analyzed this objective and recommends a six-year payback to the reserves at \$100,000 per annum commencing with the FY 2013-14 budget.

Fiscal Impact: Potential \$1.2 million in savings to the General Fund.

Recommendation: Discuss alternatives and obtain agreement with IAFF local 1699 on the repayment of reserves and lifting the minimum staffing mandate. Consider acceptance of the SAFER Grant if there is no demonstrated risk to the City and the above is achieved.

- * 5. **Receive the December 2012 and January 2013 Odor Control Reports (Staff Contact: Kathleen Phalen, 408-586-3345)**

Background: From November 19, 2012 through January 21, 2013, the Bay Area Air Quality Management District (BAAQMD) received thirty-three odor complaints originating in Milpitas. Twenty-five complaints identified a garbage-related odor, two 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 has received twenty-five reported complaints.

Fiscal Impact: None.

Recommendation: Receive the December 2012 and January 2013 odor reports.

XV. REPORTS OF MAYOR

- * 6. **Consider Mayor's Recommendation for Appointment of Planning Commission Alternate (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends resident Demetress Morris to serve as the Alternate member to the Planning Commission to a term that will expire in December 2015. All Planning Commissioners are required to be registered voters and Ms. Morris' voter registration status was confirmed. A copy of her Commission application is included in the Council agenda packet, along with others not recommended for appointment at this time.

Recommendation: Receive Mayor's recommendation and move to appoint Demetress Morris as the Alternate member of Milpitas Planning Commission to a term to expire in December 2015.

- * 7. **Consider Mayor's Recommendations for Appointments and Reappointments to Seven Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

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

Community Advisory Commission:

Appoint Eva Ferguson (Alternate No. 1) as a regular member to a term to expire in January 2015.
Appoint Oscar Leon (Alternate No. 3) as a regular member to a term to expire in January 2015.
Appoint Marsha Tran (Alternate No. 4) as Alternate No. 1 to a term to expire in January 2015.
Newly appoint Ray Maglalang as Alternate No. 2 to a term to expire in January 2015.

Economic Development Commission:

Appoint Sumeet Ahuja (Alternate No. 1) as a regular member representing Retail to a term to expire in April 2015.
Newly appoint B. Michael Howard as a regular member representing Hotels to a term to expire in April 2015.

Library Advisory Commission:

Appoint Marie Pham (Alternate No. 1) as a regular member to a term to expire in June 2013.
Appoint Hellie Matteo (Alternate No. 2) as a regular member to a term to expire in June 2013.

Recycling and Source Reduction Advisory Commission:

Appoint Kashmir Gill (Alternate No. 1) as a regular member to a term to expire in October 2015.
Appoint Madan Arora (Alternate No. 2) as Alternate No. 1 to a term to expire in October 2013.
Newly appoint Eddie Inamdar as Alternate No. 2 to a term to expire in October 2014.

Telecommunications Commission:

Reappoint Albert Alcorn as a regular member to a term to expire in January 2015.
Reappoint Kurt Bohan as a regular member to a term to expire in January 2015.
Reappoint Ernesto Bautista as Alternate No. 1 to a term to expire in January 2015.

Sister Cities Commission:

Newly Appoint Peter Chang as Alternate No. 2 to a term to expire in September 2013.

Veterans Commission:

Newly appoint Ferdinand Luis, Jr. as Alternate No. 2 to a term to expire February 2016.

Copies of Commission applications are included in the agenda packet for those being newly recommended to serve on a City Commission.

Recommendations: Receive Mayor's recommendations and move to approve appointments and reappointments to seven Milpitas Commissions.

XVI. NEW BUSINESS

8. Receive Financial Status Report for the Six Months Ended December 31, 2012 (Staff Contact: Emma Karlen, 408-586-3145)

Background: As of December 31, 2012, the General Fund received approximately \$22.2 million in total revenue. This amount is \$2.18 million more than the revenues received for the same period in FY 2011-12 primarily due to increased sales tax revenue, increased building and fire permit and plan check revenue, increased reimbursement from the Great Mall for a third police officer, and increased Transient Occupancy Tax revenue (TOT). Staff anticipated most of the increases and had incorporated the revenue increase in the General Fund FY 2012-13 budget projection. Nevertheless, based on trend analysis and updated information received to date, some of the revenue categories have been revised to exceed budget while certain revenue categories have been revised to be below budget. Overall, staff expected the General Fund revenues to be about \$485,000 above budget.

Sales tax revenue is anticipated to exceed budget by about \$584,000 or 3%. The increase was due to increased sales generated from the apparel stores, office equipment, electronic equipment, restaurants, and auto sales economic segments. Transient Occupancy tax revenue (“TOT”) is expected to exceed budget by about \$496,000 or 8.9%. Building and Fire permit and plan check fees were up \$734,000 compared to the budget due to increased development activities.

Revenues that experienced shortfalls compared to the budget are property tax revenues, fines and forfeitures, and charges for services. Property tax revenue for FY 2012-13 is based on assessed valuations established as of January 2012. The recent improvement in home prices and real estate values has not been reflected in the assessed valuations in January 2012. Excluding the distribution from the Redevelopment Property Tax Trust Fund due to dissolution of the Redevelopment Agency, property tax is projected to be \$1.36 million below budget. Fines and forfeitures are revised to be \$110,000 below budget. Fines and forfeitures are typically not easy to predict and is not a major source of revenue for the City. The decrease in charges to services is related to private job revenues. Although development activities increased over last year but the private job revenues generated by consultants were over estimated by \$265,000. Since some of the private job services are provided by consultants, the utilization of consultants will also be reduced accordingly and thus saving the City’s contractual service costs.

Overall, City departments’ expenditures for the first six months were on track with the budget at about 49.7%. As of December 31, 2012, personnel costs exceeded budget by about 2.3% while non-personnel costs were under budget by about 9.8%. It should be noted the expenditures for several departments exceeded 50% for the first six months. Some of the reasons for over expenditures are related to timing of the expenditures such as insurance premium and software licenses that need to be paid at the beginning of the year and the costs will even out by the end of the fiscal year.

Fiscal Impact: None.

Recommendation: Receive the City’s financial status report for the six months ended December 31, 2012.

* 9. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 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 December 31, 2012 is submitted for Council review and 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 December 31, 2012.

As of December 31, 2012, the principal cost and market value of the City's investment portfolio was \$148,021,946 and \$148,727,872 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 December 31, 2012 was 0.66%. The comparative benchmarks for the same period were 0.33% 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 427 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 December 31, 2012.

- * **10. Approve Ben Gross Tribute Event Planned for February 23, 2013 and Direct Staff to Research the Dedication of a City Park Called the Ben Gross Memorial Park (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: At the October 2, 2012 Council meeting, Councilmembers directed the City Manager and staff to work with resident Debra Lax on a celebration to honor the former Milpitas 1960's Mayor Ben Gross for his service to the City.

An appropriate celebration to honor Mr. Gross' work in the City of Milpitas and the Sunnyhills area is scheduled with a small celebratory event on February 23, 2013 at 12:00 p.m. The event will be held in the Barbara Lee Senior Center honoring the recently deceased former Mayor with speeches, entertainment and light refreshments. This event is budgeted at \$1,500.

Fiscal Impact: \$1,500 from City Council community promotions budget.

Recommendation: Approve the planned Ben Gross tribute event in an amount not to exceed \$1,500 and direct staff to research a possible park dedication in his honor at a city park yet to be determined.

- * **11. Authorize the Acceptance of a Grant for the Senior Nutrition Program (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: Milpitas Recreation Services applied for a grant from the Walmart Foundation to obtain funds for additional meals for the Senior Nutrition Program at the Barbara Lee Senior Center. The grant was approved and awarded to Recreation Services in the amount of \$1,000 which will feed approximately 215 additional meals to seniors through June 2013.

Fiscal Impact: None. The increase in the Senior Nutrition program budget in the amount of \$1,000 will be offset by the grant revenue.

Recommendation: Accept the Walmart Foundation grant in the amount of \$1,000 and increase Recreation Division budget by \$1,000 for the Senior Nutrition Program.

XVII. RESOLUTIONS

- * 12. **Adopt a Resolution Annexing Certain Real Property into Community Facilities District No. 2005-1; Authorize the Execution of a Subdivision Improvement Agreement; Approve the Final Map (Tract # 10139), and Improvement Plans (2-1163) for 1201 South Main Street / SORA Milpitas, LLC for Project No. 2718 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: On November 1, 2011, the City Council approved the Site Development Permit, Tentative Map, and Conditional Use Permit for the Abel and Main Street Apartments, 200 units located at 1201 South Main Street. The development has on-site private utilities (potable water, sanitary sewer, storm drain, etc.). The public improvements are South Abel Street and South Main Street frontage improvements (City utility connections, portion of Sewer 11D, traffic signal, medians, curb and gutter, sidewalk, paving, landscaping, etc.).

SORA Milpitas, LLC (the owner of Tract 10139) is required to annex the subject property into the Community Facilities District 2005-1 (CFD 2005-1) as a condition of the tentative map approved by the Council on November 1, 2011. Resolution No. 7521 adopted by City Council on May 17, 2005, forming the CFD 2005-1, authorizes the City to annex properties to CFD 2005-1, which will be assessed only for eligible public services, without further public hearing or formal election upon receipt of written consent from the owners. SORA Milpitas, LLC has given consent and approval that this property be annexed to CFD 2005-1. SORA Milpitas, LLC has also agreed that such consent and approval constitutes election to annex to CFD 2005-1 and approval of the authorization for the levy of the special tax on the subject properties.

The developer has also submitted the final map and public improvement plans, and has executed the subdivision improvement agreement for the project. The public improvement plans and final map are available for review in the office of the City Engineer. Staff has reviewed the documents and finds they satisfy the City's requirements for this project.

Fiscal Impact: None.

Recommendations:

1. Adopt a resolution annexing properties known as SORA Milpitas, LLC into Community Facility District 2005-1.
 2. Approve and authorize the execution of a subdivision improvement agreement.
 3. Approve the final map (Tract 10139) and public improvement plans (2-1163).
- * 13. **Adopt a Resolution Designating National Meter and Automation as Sole Source Provider for Badger Meters and Approve the Purchase of Assorted Badger Water Meters for \$70,092.76 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On May 15, 2007, pursuant to Municipal Code section I-2-3.13, Standardization, the City Council approved Badger meters as the standard brand of water meter for the City of Milpitas and, per Municipal Code Section I-2-5.03-4, approved the National Meter and

Automation as the sole source distributor for Badger water meters. The sole source designation was good for five years and expired in May 2012. Staff requests that the sole source designation for National Meter and Automation be reinstated for another five years as there are currently no other providers for Badger meters in California. The proposed purchase will allow staff to complete customer orders and restock the supplies that have been depleted during the first half of FY 2012-13.

Fiscal Impact: None. The purchase is a programmed expense approved in the FY 2012-13 budget for Utility Maintenance.

Recommendations:

1. Adopt a resolution designating National Meter and Automation as the sole source provider for Badger water meters in the City of Milpitas.
2. Approve the purchase of assorted Badger water meters from National Meter and Automation for the not-to-exceed amount of \$70,092.76.

XVIII. CONTRACTS

*** 14. Authorize Continued Employment of a Temporary Contractual Building Inspector Position for Lyon Apartments (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: Lyon Communities developer requested to extend employment of a dedicated full time building inspector for its Lyon Milpitas Apartments project to provide continuous and uninterrupted inspection service for the remaining duration of construction. This service was provided to the developer since December 1, 2011 by the City building department, and proved to be beneficial to both sides. It allows the City to continue to provide a high level of customer service by considerably reducing the number of re-inspections, streamlining and maintaining construction schedules and minimizing the number of construction revisions. Existing workload does not allow the staff to provide a dedicated building inspector from current staff to the project and necessitates extending employment of a temporary inspector on a contractual basis at the annual cost of \$140,640. Previously, the developer paid the full cost of the inspection service for fourteen months, which included the dedicated building inspector's salary and administrative fee.

Fiscal Impact: None.

Recommendations:

1. Approve the Lyon Apartments developer's request to continue employment of a temporary dedicated building inspector.
2. Approve budget appropriation of \$70,320, less the administrative fee, into the Building and Safety Department's budget for five months until July 31, 2013.

*** 15. Authorize a Temporary Building Inspector Position for Coyote Creek Condominiums (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: Due to the current peak workload, The Resmark Companies is requesting a dedicated full time building inspector for construction of Coyote Creek condominiums and townhomes project to provide continuous and uninterrupted inspection service for the duration of construction. Such service was provided earlier by the City of Milpitas to other major projects and proved to be beneficial to both sides. It allows the City to provide high level of quality customer service by considerably reducing the number of re-inspections, streamlining and maintaining construction schedules, and minimizing the number of construction revisions. Present workload does not allow the department to provide a dedicated building inspector from our current staff to the project and necessitates hiring a temporary inspector at the annual cost of \$140,640. The developer will pay the full cost of the inspection service, which includes salary for the dedicated building inspector and administrative fee.

Fiscal Impact: None. The developer will pay the full cost of the inspection service.

Recommendation:

1. Approve and authorize Coyote Creek condominium and townhouse developer's request for the employment of a temporary building inspector.
2. Approve budget appropriation of \$46,880, less the administrative fee, into the Building and Safety Department's budget for remaining four months of Fiscal Year 2012-13.

- * **16. Authorize the City Manager to Execute the Consultant Services Agreement with RMC Water and Environment, Inc. for Utility Engineering Support (Staff Contact: Kathleen Phalen, 408-586-3345)**

Background: Due to heavy work load, the Utility Engineering section seeks approval to backfill a staff vacancy with consultant support. RMC Water and Environment, Inc. can provide a qualified utility engineer to provide these services. Staff recommends entering into an \$88,000 consultant agreement with RMC. The cost will be fully offset by staff vacancy savings.

Fiscal Impact: None. Funds are available in the Utility Engineering budget.

Recommendation: Authorize the City Manager to execute the consultant agreement with RMC Water and Environment, Inc. for utility engineering support.

- * **17. Authorize the City Manager to Execute Amendment No. 1 to the Contract with TerraCare Associates to Add Two Additional Parks to the City of Milpitas Parks Maintenance Services (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On June 6, 2012, the City entered into a contract with TerraCare Associates to provide maintenance services for twenty-eight City parks at a total annual cost of \$1,326,155.

City staff recommends expanding the maintenance services to include the newly constructed Alviso Adobe Park located at the historic Alviso Adobe, and Cerano Park that is part of the Cerano high density housing located along Murphy Ranch Road. Both parks were part of the original RFP No. 1197 "City of Milpitas Parks Maintenance Service" and are anticipated to open to the public in the spring of 2013. The annual cost for the additional maintenance services for these two new City parks is \$89,460 per quotes from TerraCare (included in the agenda packet), which is reasonable for the level of the work specified in the contract. Maintenance costs for the two new parks would be funded through the Community Facilities District (CFD 2005-1) Fund.

Fiscal Impact: None. There are sufficient funds in Community Facility District (CFD) 2005-1 budget for the maintenance services.

Recommendation: Authorize the City Manager to execute amendment No. 1 to the contract with TerraCare Associates to add two new parks to the City of Milpitas Parks Maintenance services contract for the not-to-exceed annual amount of \$89,460.

- * **18. Authorize the City Manager to Execute Amendment No. 4 to the Contract with Universal Building Services for Additional Janitorial Services for City Buildings (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On September 21, 2010, the City entered into a contract with Universal Building Services to provide janitorial services for City Hall, Sports Center, Library Parking Garage, 1st Floor Fire Administration Building, and the Police Substation and Raceway. The total annual cost for these services was \$196,889.

City staff recommends expanding the janitorial service contract to include the new Senior Center, Community Center, Jose Higuera Adobe Building, Fire Department modular buildings, Public Works buildings, and the Police Department building. The monthly cost of this expanded service is \$24,487 and covers the period from March 1, 2013 to June 30, 2013. This action is needed due

to the special assignment of several Facilities Maintenance staff to Streets Maintenance. The cost will be offset by a reduction of the costs of contract services in Streets Maintenance. The contract is intended only as a bridge until the additional services will be bid out and a new contract put in place before June 30, 2013.

Fiscal Impact: None. Sufficient funds are available in the Public Works Facilities Maintenance budget to fund the work under this amendment.

Recommendation: Approve Amendment No. 4 to the contract with Universal Building Services for additional janitorial services for the not-to-exceed amount of \$97,948, through June 30, 2013.

- * 19. **Authorize the City Manager to Execute a Contract with Composer Jason McChristian for the Milpitas Community Concert Band Original Composition and Accept a Grant for the Band (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The Milpitas Recreation Services Division and the Milpitas Community Concert Band would like to commission an original music piece to be played at the Band's 20th Anniversary Gala Concert on June 7, 2013. The Milpitas Community Concert Band Conductor approached local composer Jason McChristian to compose an original musical work for the Milpitas Community Concert Band. The piece is required to be 3½ minutes in duration and will be at a cost of \$525.

The Milpitas Recreation Services Division applied for a grant from the Milpitas Parks and Recreation Foundation, a local 501(c)3, to pay for the cost of contracting the original piece of music by Jason McChristian for the Milpitas Community Concert Band's 20th Anniversary Gala Concert. The grant also included a request for funds to replace damaged band instruments. The grant was approved and awarded to Recreation Services in the amount of \$809.

Fiscal Impact: None. The increase of Recreation Division budget in the amount of \$809.00 will be offset by the grant revenue.

Recommendations:

1. Authorize the City Manager to execute a contract with composer Jason McChristian in an amount not to exceed \$525.
2. Accept the Milpitas Parks and Recreation Foundation grant in the amount of \$809 and increase the Recreation Division budget in the amount of \$809 for the Milpitas Community Concert Band Program.

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 19, 2013 AT 7:00 P.M.**