



**JOINT MEETING OF MILPITAS CITY COUNCIL,
SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY,
AND MILPITAS HOUSING AUTHORITY
AGENDA**

TUESDAY, DECEMBER 3, 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 LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6. City Negotiator: Tom Williams
Employee Groups: International Association of Fire Fighters (IAFF), Mid-management and Confidential Unit, and Professional and Technical Group (ProTech)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - 2. CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(a)
County of Santa Clara, et al., v. Milpitas Economic Development Corporation, et al., Sacramento County Superior Court case no. 34-2013-80001436, and
Successor Agency to the Milpitas Redevelopment Agency, et al. v. John Chiang, et al., Sacramento County Superior Court case no. 34-2013-80001508
 - 3. CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(a)
City of Milpitas v. City of San Jose, Santa Clara County Superior Court case no. 112CV233069
- 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 Gomez)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – November 19, 2013**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR – December 2013**
- VIII. PRESENTATIONS**
 - Recognition Proclamation to North American Punjabi Association and the 100th Anniversary of Ghadar Party
 - Recognition Plaque to Milpitas Executive Lions Club for participating in “*Adopt-a-Spot*” program
 - Certificate of Appreciation to JDS Uniphase for performing volunteer work in the community
- 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 AND CAMPAIGN CONTRIBUTIONS

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. PUBLIC HEARINGS

- 1. Conduct Public Hearing and Accept the City of Milpitas 2013 Public Health Goals Report for the Public Water System (Staff Contact: Steven Machida, 408-586-3355)**
- 2. Conduct Public Hearing and Consider General Plan Amendment No. GP-13-0004 and Zoning Amendment No. ZA-13-0005 to Revise the Allowable Residential Density Range from 1-40 Housing Units Per Gross Acre to 21-40 Housing Units Per Gross Acre in the Town Center (Staff Contact: Scott Ruhland, 408-586-3274)**
- 3. Conduct Public Hearing, Adopt Findings and Introduce Ordinance No. 287 Restricting Single-Use Carry-Out Bags (Staff Contact: Jeff Moneda, 408-586-3345)**
- 4. Conduct Public Hearing for a Review of Community Development Block Grant Funding Priorities for FY 2014-16 (Staff Contacts: Felix Reliford, 408-586-3071 and Gloria Anaya, 408-586-3075)**

XV. UNFINISHED BUSINESS

- 5. Receive an Update Report on the City of Milpitas 60th Anniversary Celebration (Staff Contacts: Renee Lorentzen and Dale Flunoy, 408-586-3210)**
- * 6. Receive November 2013 Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

XVI. REPORTS OF MAYOR AND COMMISSION

- * 7. Consider Mayor's Recommendations for Re-Appointments to the Senior Advisory Commission (Contact: Mayor Esteves, 408-586-3029)**
- 8. Report from the Milpitas Veterans Commission Regarding the 1st Annual Car Show (Contacts: Councilmember Giordano, 408-586-3032 and Carmen Valdez, 408-586-3086)**

XVII. NEW BUSINESS

- 9. Receive Report and Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements and Other Related Annual Audited Reports for Fiscal Year 2012-13 (Staff Contact: Emma Karlen, 408-586-3145)**

- * 10. **Approve Budget Transfer in the Fire Prevention Division Budget to Provide Funding For a Permanent Full-Time Fire Prevention Inspector Position (Staff Contact: Albert Zamora, 408-586-3371)**
- * 11. **Consider Request from Non-Profit Milpitas Firefighters Toy Program for \$500 Donation toward Holiday Toy Program (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 12. **Accept Report on the Sale of a Sewer Cleaner Truck and a Portable Generator as Surplus Properties (Staff Contact: Chris Schroeder, 408-586-3161)**

XVIII. ORDINANCES

- 13. **Consider Introduction of Ordinance No. 243.7 Limiting Campaign Contribution Account Transfers (Staff Contact: Michael Ogaz, 408-586-3040)**
- * 14. **Waive the Second Reading and Adopt Ordinance No. 38.810 Amending the Zoning Code to add provisions for Emergency Shelters, Single Room Occupancies, Supportive Housing, Transitional Housing and Reasonable Accommodations (Staff Contact: Felix Reliford, 408-586-3071)**
- * 15. **Waive the Second Reading and Adopt Ordinance No. 38.811 Amending the Zoning Sectional District Map, and Consider Conditions of Approval for the Trumark Waterstone Residential Development Project (Staff Contact: Cindy Hom, 408-586-3284)**

XIX. RESOLUTIONS

- * 16. **Adopt a Resolution Granting Initial Acceptance of and Reducing Performance Bond for South Main Street Median Improvements (Paragon), Project No. 3204 (Staff Contact: Ebby Sohrabi, 408-586-3335)**
- * 17. **Adopt a Resolution Granting Initial Acceptance of and Reducing the Performance Bond for 2013 Soundwall Renovation Project No. 4267 (Staff Contact: Jeff Moneda, 408-586-3345)**
- * 18. **Adopt a Resolution Granting Final Acceptance of the Fire Station No. 1 Exterior Upgrades Project No. 3403 (Staff Contact: Jeff Moneda, 408-586-3345)**
- * 19. **Adopt a Resolution Reviewing and Accepting the Annual Developer Fee Disclosure Information (Staff Contact: Emma Karlen, 586-3145)**
- * 20. **Adopt a Resolution to Approve a Site Development Permit for a New Hillside Home Located within the Calaveras Ridge Estates Planned Unit Development Area at 826 Calaveras Ridge Drive (Staff Contact: Tiffany Brown, 408-586-3283)**
- * 21. **Adopt a Resolution Authorizing the City Manager to Execute an Agreement Setting Terms Under which Milpitas Police Officers May be Authorized to Work as Reserve Officers at the Santa Clara Stadium (Staff Contact: Michael Ogaz, 408-586-3041)**
- * 22. **Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 7, 2014 to Hear Objections (Staff Contact: Albert Zamora, 408-586-3371)**
- * 23. **Adopt a Resolution Authorizing the Purchase of Wireless Voice Service, Wireless Broadband Service, Accessories and Equipment through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

XX. AGREEMENTS

- * 24. Approve Amendment to the Solid Waste Agreement and Approve Amendment to the Yard Trimmings Agreement Establishing Maximum Rate Adjustments for Solid Waste Program Services Provided by Republic Services of North America (Staff Contact: Jeff Moneda, 408-586-3345)
- * 25. Approve Agreement with Goldfarb & Lipman for Professional Services (Staff Contact: Michael Ogaz, 408-586-3040)
- * 26. Approve Amendment No. 1 to the Agreement with Frank Szeto, an Individual Doing Business As New Orient Restaurant for Senior Nutrition Services in the Amount of \$6,500 (Staff Contact: Chris Schroeder, 408-586-3161)

XXI. JOINT MEETING OF CITY OF MILPITAS, SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY, AND MILPITAS HOUSING AUTHORITY

- HA1. Call to Order/Roll Call by the Mayor/Chair
- HA2. Approval of Agenda/Consent Calendar
- * HA3. Consider Purchase and Resale of an Affordable Housing Unit Located at 1077 Luz Del Sol Loop (Staff Contact: Felix Reliford, 408-586-3071)
- HA4. Authority Adjournment

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULE COUNCIL MEETING
TUESDAY, JANUARY 7, 2014 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 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:

*Emergency Preparedness Commission
Public Art Committee (Alliance for the Arts member)
Recycling and Source Reduction Advisory Commission
Sister Cities Commission
Telecommunications Commission*

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 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

XIV. PUBLIC HEARINGS

1. **Conduct Public Hearing and Accept the City of Milpitas 2013 Public Health Goals Report for the Public Water System (Staff Contact: Steven Machida, 408-586-3355)**

Background: As required by the California Department of Public Health, staff completed the “City of Milpitas 2013 Report on Public Health Goals for the Public Water System” (copy included in the Council agenda packet). This is a compilation of the City’s drinking water quality data that exceeded a public health goal during calendar years 2010, 2011, and 2012. The City is required to hold a public hearing to receive comments on this report and to notify the State when this requirement has been completed.

Public health goals are not regulatory standards, but are numerical goals established by federal and state governments, to inform the public about potential health effects of contaminants in drinking water. As reported in the City’s annual consumer confidence reports, Milpitas has good quality municipal water that continuously attains all regulatory standards for water quality. However, testing did occasionally detect contaminants at concentrations below drinking water standards while above public health goals. From 2010 through 2012, water testing detected three positive coliform bacteria results in the municipal supply and detected samples of lead that had leached from customers’ plumbing into their home supply.

Coliform bacteria are widely prevalent in nature and are generally considered to be benign, but serve as an indicator of potential water contamination. The three positive results were obtained from 5,977 samples collected throughout the distribution system, on a weekly basis, and were not confirmed by repeat testing. This anomalous result is not indicative of a potential water quality problem.

Effective 1991, federal law requires testing water for lead and copper, every three years, from a small sample of older home and business plumbing, to assess if the municipal water chemistry should be adjusted to make it less corrosive. Soft, acidic waters more readily dissolve lead and other metals from home plumbing pipes and solder than harder, more alkaline waters. Plumbing installed after 1986 used low-lead solder, which reduces the potential to leach metals into the water. Since the lead and copper rule was first instituted by the U.S. Environmental Protection Agency, the City’s wholesale water suppliers have done much work to reduce the corrosivity of their waters. The State has concurred that the wholesalers have optimized corrosion controls and no further adjustment is advisable. However, the City continues triennial sampling to comply with federal law.

In 2010, the City accepted water samples from 37 volunteers, owning homes or businesses in Milpitas constructed before 1986, and found no samples with lead concentration above the drinking water standard of 15 parts per million. Most samples did exceed the public health goal of 0.2 parts per billion. Although the purpose of this testing is to assess the municipal water chemistry rather than to identify homes with leachable lead plumbing, all volunteers providing samples were given their results and were given information about how to reduce their potential exposure to lead and copper in home plumbing. These recommendations are not to drink or cook with hot water or with cold water which has been sitting more than six hours in home plumbing. Flushing a home tap for 15 to 30 seconds, or until the cold water temperature drops, removes standing water from home plumbing.

Fiscal Impact: None.

Attachment: 2013 City of Milpitas Public Health Goals report

Recommendations:

1. Receive any comments, and then move to close the Public Hearing.
 2. Accept the City of Milpitas 2013 Public Health Goals report and direct staff to notify the California Department of Public Health of the public hearing.
2. **Conduct Public Hearing and Consider General Plan Amendment No. GP-13-0004 and Zoning Amendment No. ZA-13-0005 to Revise the Allowable Residential Density Range from 1-40 Housing Units Per Gross Acre to 21-40 Housing Units Per Gross Acre in the Town Center (Staff Contact: Scott Ruhland, 408-586-3274)**

Background: The project includes a staff initiated General Plan and Zoning text amendments to modify the allowable residential density range in the Town Center land use designation and zoning district. The development standards for the Town Center currently allow a range of densities from one to forty (1-40) units per acre. This range allows single-family and lower density residential development which is inconsistent with the intent and purpose of the Town Center. This has been evidenced by the conversion of commercial and industrial properties to low-density single-family residential along the south side of Calaveras Boulevard. The proposed modification of allowable density will adequately address the type of residential product types envisioned for this mixed-use area. Residential product types in this higher range of density typically include multi-story condominium and apartments and stacked flats. The residential density range chosen is based on the existing density range of the High Density Transit Oriented Residential district.

The proposed amendments will not apply to existing or approved single-family homes in the Town Center. There are five single-family development projects that have been constructed, under construction or approved over several years. These developments are not subject to the amendment since they have already been entitled and/or constructed and will be allowed to exist and/or continue to be constructed per their development approvals. There is a proposed footnote to be added to the Zoning Ordinance amendment language identifying these developments and clarifying this amendment does not apply to them. Those entitled or constructed developments are referenced by their site development permit numbers. These projects consist of the following by project name and permit number: 1) Sundrop/Robson Homes, P-SD10-0009; 2) 345 Los Coches/ TriPointe Homes, P-SD12-0003; 3) Orchid/Braddock and Logan, P-SD12-0005; 4) Town Center Villas, SZ2003-13; and, 5) Beresford Village, Use Permit No. 1266.

California Environmental Quality Act: The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). An Initial Study/Negative Declaration was prepared and properly circulated for public review and comments wherein it was determined that the project will not have a significant effect on the environment because no significant impacts were identified.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Ordinance No. 38.809
- C. Initial Study and Draft Negative Declaration
- D. Planning Commission Staff Report, October 23, 2013
- E. Planning Commission Minutes, October 23, 2013

Recommendations:

1. Conduct the Public Hearing, and move to close the hearing following comments.
2. Adopt a resolution (i) adopting the Negative Declaration and finding that the proposed General Plan Amendment No. GP-13-0004 and Zoning Amendment No. ZA-13-0005 will not have a significant effect on the environment., and (ii) amending the General Plan to

adjust the allowable residential density range from 1-40 housing units per gross acre to 21-40 housing units per gross acre in the Town Center.

3. City Attorney shall read aloud the title of Ordinance No. 38.809.
4. Waive the first reading beyond the title of Ordinance No. 38.809.
5. Move to introduce Ordinance No. 38.809 amending the Milpitas Zoning Code to revise the allowable residential density range from 1-40 housing units per gross acre to 21-40 housing units per gross acre in the Town Center.

3. Conduct Public Hearing, Adopt Findings and Introduce Ordinance No. 287 Restricting Single-Use Carry-Out Bags (Staff Contact: Jeff Moneda, 408-586-3345)

Background: On April 17, 2012, the City Council directed staff to participate in an Environmental Impact Report (EIR) led by San Mateo County, which included a requirement to host scoping meetings with the community. As a study area participant, the Reusable Bag Ordinance EIR process included a 45-day public review period with the release of the Draft EIR on June 22, 2012. A copy of the EIR is available in the agenda packet. In addition, Milpitas staff conducted its scoping meeting on May 3, 2012. It was this combined effort with San Mateo County and the Cities of Campbell, Cupertino, Los Altos, Los Gatos, Milpitas and Mountain View, that resulted in a uniform model ordinance that is clear to businesses in the region. Of these cities, only Los Gatos and Milpitas have not adopted the model ordinance.

At its April 26, 2011 meeting, the Milpitas Recycling & Source Reduction Advisory Commission (RSRAC) recommended that the City develop an ordinance to restrict the use of single-use carryout bags similar to an ordinance adopted by the City of San Jose. The model ordinance from the EIR follows the City of San Jose's adopted ordinance, which bans the use of plastic bags and restricted the use of paper bags. Subsequent information from the EIR has been reported to RSRAC which affirmed its original recommendation at its January 22, 2013 meeting.

The proposed ordinance, included in the agenda packet, bans single-use carryout plastic bags. Paper bags with less than 40% post-consumer recycled material would also be prohibited. Paper bags with more than 40% post-consumer recycled material may be available for 10 cents, and then 25 cents after one year of implementation. The proposed ordinance does not ban plastic produce/ meat and pharmacy bags. Restaurants are exempt from the plastic bag ban. The proposed ordinance also exempts charitable re-use outlets and allows for free paper bags to people using the Women, Infants & Children and other government support programs.

The proposed ordinance has a recordkeeping requirement of three years and to provide requested records of single-use paper bag sales to the City free of charge. The ordinance further requires that merchants show the paper bag charge on invoices and receipts. These requirements are not intended to be cumbersome, since City staff would accept such simple recordkeeping methods as a daily count of paper bags sold and allow merchants to hand-alter invoices and receipts to show the single-use bag charge.

Restricting single-use bag distribution will help the City of Milpitas meet its stormwater permit and litter control requirements at lower costs and reduce environmentally harmful trash in storm drains and creeks. Under a plan submitted to the State, adoption of a bag ban ordinance would provide the City a trash-load reduction credit of 12 percent, or nearly a third of the 40 percent reduction the State requires by 2014.

The recommend action does not have a fiscal impact. Based on the experience of the City of San Jose, City of Milpitas staff anticipates that after the ordinance is adopted here, public outreach and coordination with stakeholders may take substantial staff resources.

California Environmental Quality Act

On October 23, 2012, the County of San Mateo certified a Program Environmental Impact Report (Program EIR) that analyzed the impacts of this single-use bag ordinance, if adopted, in

cities in both San Mateo and Santa Clara counties. The City of Milpitas participated in this EIR and was included in the project description and identified as a participating jurisdiction. The Program EIR was certified pursuant to the California Environmental Quality Act, Public Resources Code Section 21000 et. seq. (CEQA) and California Code of Regulations, Title 14, Section 15000 et. seq. Pursuant to Section 15096 of the CEQA Guidelines, the City of Milpitas acts as a responsible agency for adoption of this ordinance. City Engineering staff reviewed the Program EIR and believes it adequately addresses the environmental impact of the proposed ordinance. No mitigation measures are required to be implemented as part of the Program EIR.

Fiscal Impact: None. Outreach and enforcement will be incorporated into current operating budgets.

Attachments:

- A. Reusable bag postcard
- B. Reusable bag meeting flyer
- C. San Mateo County Ordinance
- D. Proposed City of Milpitas Ordinance No. 287
- E. Clean Water Action letter of support

Recommendations:

1. Move to close the Public Hearing, following comments.
 2. Adopt a Resolution making CEQA Findings as a Responsible Agency for adoption of an ordinance to restrict single-use bags in Milpitas.
 3. Move to waive the first reading beyond the title of Ordinance No. 287, following a reading of the title by the City Attorney.
 4. Introduce Ordinance No. 287 to restrict the use of single-use carry-out bags.
4. **Conduct Public Hearing for a Review of Community Development Block Grant Funding Priorities for FY 2014-16 (Staff Contacts: Felix Reliford, 408-586-3071 and Gloria Anaya, 408-586-3075)**

Background: City Council established the policy of reviewing the Community Development Block Grant (CDBG) funding priorities every two years. The Council previously approved two-year CDBG Funding Priorities in November 2011 for fiscal years 2012-14. At that time, Council approved the following priorities:

Public Services

1. Senior Services
2. Youth/Teen Services
3. Homeless Services/Sheltering
4. Child Care
5. Battered Women Sheltering/Services
6. Code Enforcement

Non-Public Services

1. Home Repairs/Rehabilitation
2. Affordable Housing
3. Rental/Apartment Rehabilitation
4. Historic Preservation

For the past several years, the Council also adopted the following policies as it relates to the CDBG Program:

1. 25% of all Public Services funds shall be allocated to the City of Milpitas public service programs;
2. A minimum funding level of \$5,000 shall be allocated for all Public Services Programs; and
3. \$10,000 from CDBG Program Administration for Fair Housing Services

The Primary Objectives of the CDBG Program as stated by federal regulations are: 1) decent housing, 2) a suitable living environment, and 3) economic opportunity.

Furthermore, the CDBG Program requires that any eligible activity must meet one of the three (3) national objectives:

1. Benefit low to moderate income persons
2. Aid in the prevention of slum and blight
3. Urgent need

If the Council desires to fund any future eligible CDBG activities which are not part of the existing two-year funding policies, the criteria above will have to be met. The Council also should be advised that federal regulations only allow 65% of the CDBG grant to be used for non-public services (housing activities and programs), 15% public services and the balance of 20% for program administration.

During the past fiscal year, the City received \$375,646 in CDBG funding. This represents approximately 35% reduction from four years ago (\$579,009). On November 6, 2013, the Community Advisory Commission (CAC) held a public hearing on the two-year funding priorities and recommended the Council maintain the existing priorities and policies, based on the substantial reduction in funding over the past years. That reduction limits the City's ability to take on any new programs and activities. Public notices were advertised in the local newspaper, on the City website, and mailed to all Service Providers regarding the CAC and Council meetings on funding priorities.

Project Sentinel Request Fair Housing Services

Approximately five years ago, Project Sentinel requested the Council to consider increasing funding for fair housing services. At that time, Project Sentinel informed the Council that the City was providing the lowest amount of funding for fair housing services of any city within Santa Clara County. Based on this information, Council approved an additional \$15,000 annually from the former Redevelopment Agency 20% Housing Set Aside Funds which increased the funding from \$10,000 (CDBG Funding) to \$25,000. Since the dissolution of redevelopment, funding for fair housing services has been reduced back to \$10,000.

Project Sentinel requests the Council to consider restoring the \$15,000 annually from City of Milpitas Housing Authority funds. Since the request for funding is to the Milpitas Housing Authority, staff recommends the Council direct staff to place the item on a future Housing Authority meeting agenda.

Included in the Council's agenda packet are three letters from service providers regarding the CDBG Funding Priorities FY 2014-16 (including letter from Project Sentinel on its funding request).

Fiscal Impact: None

Attachments: Letters from Service Providers

Recommendations:

1. Open the public hearing for comments, then move to close the hearing.
2. Direct staff to agendaize Project Sentinel funding request at a future Milpitas Housing Authority meeting.
3. Approve maintaining the existing CDBG two-year funding priorities and policies for FY 2014-16 as recommend by the Community Advisory Commission.

XV. UNFINISHED BUSINESS

5. **Receive an Update Report on the City of Milpitas 60th Anniversary Celebration (Staff Contacts: Renee Lorentzen and Dale Flunoy, 408-586-3210)**

Background: The City of Milpitas will celebrate its 60th Anniversary of incorporation on January 26, 2014. At the October 1, 2013 meeting, the City Council approved a plan for City staff to move forward to plan events to celebrate the 60th Anniversary.

60th Anniversary Event Plan Overview

The City of Milpitas 60th Anniversary will be celebrated throughout the calendar year 2014 kicking off with a Gala Party on Saturday, January 25, 2014, and a Family Day celebration on Sunday, January 26, 2014. Staff will incorporate the 60th Anniversary into existing events such as Memorial Day, Veterans Day, the 4th of July celebration and the Annual Tree Lighting Event. Additional events such as Tree Plantings and an Art Show will also be added.

Gala Event, Saturday, January 25, 2014

The Anniversary will “kick-off” with the Gala event held on Saturday, January 25, 2014, from 6:00 p.m. to 10:00 p.m. The event will be progressive beginning in the Barbara Lee Senior Center with entertainment from Milpitas success story and Broadway performer Courter (Daniel) Simmons, hors d’oeuvres, and no-host wine bar by Milpitas’ Big Dog Winery will be served and staged throughout the facilities. After the entertainment concludes, attendees will be asked to join City Council in front of City Hall for the unveiling of the new Minute Man statue and then proceed inside the City Hall rotunda area for dessert and a champagne toast.

Invitations were mailed to City Commissioners, local and state dignitaries, and the business community recently. Press releases and ads were placed in the local newspaper, City website and on the My Milpitas Mobile App. All the information released will provide general public information and RSVP instructions. Since the event is limited to 400 attendees, staff has worked with the City’s Information Services staff to establish a unique RSVP e-mail address for this event. This allows for accurate response with date and time stamps on received RSVPs.

Family Day, Sunday, January 26, 2014

City Commissions, various City Departments, sponsor booths and local entertainment will make up this family-fun event. Each participating group will host an interactive booth or table for participants to do a fun activity or to provide information on City services and initiatives. The Milpitas Community Concert Band, the Milpitas High School Jazz Band, Jensen School of Performing Arts, Center Stage Performing Arts, and the Milpitas High School Glee Club will supply entertainment.

Total estimated budget for all events listed is \$51,000. Promotions for the event will begin the week of December 16, 2013 and run for the entire year with ads, the City website, and on all available media and street banners. 60th Street Banners were ordered and were estimated to be installed starting December 15 on Calaveras Blvd.

Fiscal Impact: \$51,000.00

Recommendation: Receive staff update on the 60th Anniversary Gala and Family Day.

* **6. Receive November 2013 Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: From October 21 through November 14, 2013, the Bay Area Air Quality Management District (BAAQMD) received nine odor complaints originating in Milpitas. Three complaints identified a garbage-related odor, two identified a sewage-related odor and four did not identify an odor source. As of the last Council update, the City’s odor reporting website had received twenty-eight reported complaints.

Recommendation: Receive the November odor report.

XVI. REPORTS OF MAYOR AND COMMISSION

- * 7. **Consider Mayor's Recommendations for Re-Appointments to the Senior Advisory Commission (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends re-appointing current Commissioners Barbara Ebright and Mary Banick as regular SAC members to terms that will expire in December 2015.

Recommendation: Receive Mayor's recommendation and move to re-appoint Barbara Ebright and Mary Banick to the Senior Advisory Commission.

- 8. **Report from the Milpitas Veterans Commission Regarding the 1st Annual Car Show (Contacts: Councilmember Giordano, 408-586-3032 and Carmen Valdez, 408-586-3086)**

Background: On October 19, 2013 the Milpitas Veterans Commission held its 1st Annual Car Show. This event was held to raise funds for local veterans in need. The Veteran Commission would like to debrief the City Council on the event.

Recommendation: Hear report from the Milpitas Veterans Commission.

XVII. NEW BUSINESS

- 9. **Receive Report and Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements and Other Related Annual Audited Reports for Fiscal Year 2012-13 (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, Bicycle/Pedestrian Projects and the Memorandum on Internal Control and Required Communications for the fiscal year ended June 30, 2013 are presented to the City Council for its review.

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, 2013, in conformance with Generally Accepted Accounting Principles (GAAP). It is also noted in the audit opinion that due to the Redevelopment Agency dissolution, the State has ordered the return of certain assets to the Successor Agency. The City 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.

Bicycle/Pedestrian Projects Financial Statements

The Bicycle/Pedestrian Projects Financial Statements includes Bicycle/Pedestrian Projects that were developed using Transportation Development Act (TDA) grants. The auditor issued an unqualified opinion on these statements.

Memorandum on Internal Control and Required Communications

Under generally accepted auditing standards, the City's auditors are encouraged to report certain matters regarding the City's internal control structure. The City's auditors provided such a report in their Memorandum on Internal Control and Required Communications ("Management Letter") for the Year Ended June 30, 2013. This report includes management response to the auditor's recommendations on monitoring the Transportation Development Act grant time limits, compliance with Cal-Card procedures, monitoring expenditures of the Economic Development Corporation and ensuring compliance with the dissolution laws, authorizing signatures on timesheets, and periodic review of the general ledger access log. 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.

Recommendations:

1. Receive an oral report at the meeting from the City's auditor.
2. Move to accept the City's Comprehensive Annual Financial Report and other related Annual Audited Reports for the fiscal year ended June 30, 2013.

- * **10. Approve Budget Transfer in the Fire Prevention Division Budget to Provide Funding For a Permanent Full-Time Fire Prevention Inspector Position (Staff Contact: Albert Zamora, 408-586-3371)**

Background: Due to increased work load as a result of the multiple development projects that were approved by the City Council and an increased demand for fire inspection services, one (1) additional permanent full-time Fire Prevention Inspector position is needed in the Fire Prevention Division. The Fire Department's authorized position list contains two fire prevention inspector positions, one of which has been funded and the other has been unfunded since 2006. If the City Council approves the funding for this position, the projected funding need for the remaining months in FY 2013-14 would be \$115,000. There is sufficient funding in the Fire Prevention contractual services budget that can be transferred to the personnel services budget to pay for the additional Fire Prevention Inspector position. The additional Fire Prevention Inspector will further enhance customer service and inspection delivery.

Fiscal Impact: None in FY 2013-14.

Recommendation: Approve transfer of \$115,000 from the Fire Prevention contractual services budget to personnel services budget to fund one Fire Prevention Inspector position.

- * **11. Consider Request from Non-Profit Milpitas Firefighters Toy Program for \$500 Donation toward Holiday Toy Program (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" on November 20 from Milpitas Firefighters Toy Program, a 501(c)(3) non-profit organization located in Milpitas. The program seeks donations of toys and money each holiday season, and then distributes those to needy children and families throughout Milpitas. The Toy Program requested a donation from the City towards the approximately \$1,500 cost to mail out letters to its supporters and toy donors. The group requested a donation to cover the full cost for the mailing; however the maximum donation possible, per Council policy, is \$500.

Fiscal Impact: \$20,000 was approved and included in the FY 2013-14 City budget for the City Council's Unallocated Community Promotions. If the current donation request is approved, then \$15,091.95 would be the remaining balance.

Recommendation: Consider the request from Firefighters Toy Program and approve a \$500 donation toward mailing expenses for the 2013 Toy Drive.

* 12. **Accept Report on the Sale of a Sewer Cleaner Truck and a Portable Generator as Surplus Properties (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On November 12, 2013, the City sold at auction a 1990 Ram-Core Trailer Mounted 500KW generator and a 1997 Freightliner FL80 Sewer Cleaner Truck. Both units ran on diesel engines that do not meet the current California Air Resources Board (CARB) standards for particulate matter and criteria pollution emissions. Both pieces of equipment had reached the end of their useful life. The generator cannot be sold again in the State of California since it does not meet CARB emission requirements. The truck required extensive repairs in addition to the cost of retrofitting to CARB compliance, and thus it was sold at auction to Standard Equipment Company in Chicago, Illinois for \$24,800. The generator was sold to PC Industries, LLC in Afton, Wyoming for \$12,500. Total proceeds from the sale amount were \$37,300. This report is made in compliance with Milpitas Municipal Code I-2-8.03, Disposal of More Than \$5,000.

Fiscal Impact: \$37,300 will be returned to the Equipment Replacement Fund.

Recommendation: Accept this report from staff on the sale of a sewer cleaner truck and a portable generator.

XVIII. ORDINANCES

13. **Consider Introduction of Ordinance No. 243.7 Limiting Campaign Contribution Account Transfers (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: Vice Mayor Althea Polanski has asked the Council to consider a proposed amendment to the Municipal Code Chapter entitled Regulation of Campaign Contributions. The proposal is to introduce an ordinance limiting acceptance of contributions from a candidate's campaign account to another account held by that same candidate for a different office or term. The limitation would be that the recipient campaign account cannot accept a contribution in excess of the City's standard campaign contribution limit of \$250.

The purpose of the ordinance amendment is to combat corruption by distortion of the election process through the infusion of large lump deposits into a candidate's campaign bank account while competing candidates are limited to accepting \$250 contributions. Current City Ordinance bars transfers where "the transfer of funds would result in a transfer from one candidate to another," but does not bar transfer from a candidate to him or herself. This ordinance would limit the latter to \$250.

Recommendations: Consider taking the following actions:

1. City attorney to read aloud the title of Ordinance No. 243.7.
2. Waive the first reading beyond the title of Ordinance No. 243.7.
3. Move to introduce Ordinance No. 243.7 requiring reimbursement of contributions in excess of \$250 from any candidate campaign bank account to a Milpitas candidate campaign bank account held by the same individual.

* 14. **Waive the Second Reading and Adopt Ordinance No. 38.810 Amending the Zoning Code to add provisions for Emergency Shelters, Single Room Occupancies, Supportive Housing,**

Transitional Housing and Reasonable Accommodations (Staff Contact: Felix Reliford, 408-586-3071)

Background: On November 19, 2013, the City Council introduced Ordinance No. 38.810 to amend the Zoning Ordinance. The Council action included deletion of supportive housing and transitional housing from all Mixed Use Development (MXD) Zoning Districts. The text amendment will add provisions for emergency shelters, single room occupancies, supportive housing, transitional housing, and reasonable accommodations. Ordinance No. 38.810 is now ready for adoption.

Fiscal Impact: None.

Recommendation: Move to waive the second reading and adopt Ordinance No. 38.810 amending the Zoning Ordinance adding provisions for emergency shelters, single room occupancies, supportive housing, transitional housing, and reasonable accommodations.

- * 15. **Waive the Second Reading, Adopt Ordinance No. 38.811 Amending the Zoning Sectional District Map, and Consider Conditions of Approval for the Trumark Waterstone Residential Development Project (Staff Contact: Cindy Hom, 408-586-3284)**

Background: On November 19, 2013, the City Council introduced Ordinance No. 38.811 to amend the Zoning Sectional District Map for a zone change of a 10.7-acre site from Industrial Park (MP-S) to Single Family Residential minimum 2,500 square foot lots (R1-2.5) that was approved as part of the Trumark/Waterstone residential development project. Ordinance No. 38.811 is ready for second reading and adoption by the Council.

Discussions with Trumark on the Waterstone project's Conditions of Approval are not yet concluded, and staff will return to the Council in January of 2014 with any disputed conditions for Council's consideration.

Fiscal Impact: None.

Recommendation: Move to waive the second reading and adopt Ordinance No. 38.811 for Zone Change No. ZA12-0004, relative to the Trumark Waterstone residential project.

XIX. RESOLUTIONS

- * 16. **Adopt a Resolution Granting Initial Acceptance of and Reducing Performance Bond for South Main Street Median Improvements (Paragon), Project No. 3204 (Staff Contact: Ebby Sohrobi, 408-586-3335)**

Background: On November 16, 2010, the City Council approved an amendment to an Owner Participation Agreement for the Western Pacific Housing Inc. (Paragon) Condominiums that provided in part for the provision of "In Lieu Services." Under this amendment, the developer agreed to perform median landscaping improvements in lieu of selling twenty (20) residential units at the project to households whose gross income does not exceed Moderate Income (in lieu services). The median improvements are on South Main Street between Montague Expressway and just north of Cedar Way. The City Council on February 21, 2012 approved the plans for the construction of South Main Street Median Improvements consisting of demolition, new median curb, signing and striping, signs, loop detectors, median street lighting, median landscaping and irrigation, and three banner poles at a cost of approximately \$519,000. These public improvements have been completed by the developer per the approved improvement plans. Staff recommends the City Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the developer's faithful performance bond to \$51,900, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of South Main Street Improvements (Paragon) Project No. 3204, subject to a one year warranty period and reduction of the faithful performance bond to \$51,900.

- * 17. **Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for 2013 Soundwall Renovation Project No. 4267 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: The City Council awarded the 2013 Soundwall Renovation Project to Michael Dovgan, doing business as A Plus Painting on September 17, 2013. The project provided for the repair and painting of City-owned soundwalls located along the easterly side of Milpitas Boulevard, from Escuela Parkway to Tramway Drive. Repairs included: the removal of loose and fractured concrete, cleaning of exposed rebar and patching, and applying an elastomeric paint to help prevent decay. 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 \$8,172.00, which is 10% of the final contract value.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the 2013 Soundwall Renovation Project No. 4267, subject to a one-year warranty period, and reduction of the faithful performance bond to \$8,172.00.

- * 18. **Adopt a Resolution Granting Final Acceptance of the Fire Station No. 1 Exterior Upgrades Project No. 3403 (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: The Fire Station No. 1 Exterior Upgrades project was initially accepted on November 6, 2012 and the one-year warranty period has passed. A final inspection of the installed public improvements was made with the work found to be satisfactory. The project provided for patching and painting of the building exterior, metal fencing and gates, and above-ground fuel tanks.

Staff recommends the Council grant final project acceptance of the Fire Station No. 1 Exterior Upgrades, Project No. 3403, and release the contractor's bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of the Fire Station No. 1 Exterior Upgrades Project No. 3403 and releasing the contractor's bond.

- * 19. **Adopt a Resolution Reviewing and Accepting the Annual Developer Fee Disclosure Information (Staff Contact: Emma Karlen, 586-3145)**

Background: Government Code Section 66000 et seq. requires local agencies to provide an accounting of fees charged for development projects. The City has two basic accounting and reporting responsibilities under the Government Code. Section 66001(d) requires that five years after collecting a development fee subject to this code section and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. There are no funds triggering the five-year reporting requirement this year.

The second requirement is Government Code Section 66006 provides that the City shall establish separate capital improvement accounts or funds for each improvement funded by project

development fees. Any interest income earned by funds in such an account shall be deposited in such account. Each local agency is required on an annual basis, with 180 days after fiscal year end, for each separate account, to make available to the public the following information:

1. Brief description of the type of fee in the account;
2. The amount of the fee;
3. The account's beginning and ending balance;
4. The amount of fees collected and the interest earned;
5. A description of the improvements on which the funds were expended and the amount expended on each improvement including the percentage of the improvement funded with development fees;
6. An approximate date by which the construction of a public improvement will begin if the local agency determines that sufficient funds have been collected to complete financing on the incomplete improvement;
7. A description of each inter-fund transfer or loan made from the account; and
8. The amount of any refunds made pursuant to Code Section 66001.

The City utilizes Traffic Impact Fee Fund and Storm Drain Development Fund to track these development related fees. Interest income is allocated to the Traffic Impact Fee Fund and Storm Drain Development Fund based on their respective monthly cash balances. Expenditures from these funds were in the form of capital improvement projects to either renovate existing facilities or maintain the existing level of service, consistent with the General Plan due to increased demand related to the development project.

Status reports (included in the agenda packet) contain Fiscal Year 2012-13 report for the Traffic Impact Fee (Exhibit 1) and the Storm Drain Connection Fee (Exhibit 2). The reports show the amount of fees collected in fiscal year 2012-13, interest income, a brief description of the projects funded, the percentage of the projects funded by the developer fees, and the beginning and ending balance of the funds. Reports indicated that at the end of June 30, 2013, the City had approximately \$3.8 million in the Traffic Impact Fee Fund and \$514,000 in the Storm Drain Development Fee Fund. Inter-fund transfers were made to capital projects that are related to the collection of the fees. There have not been any loans made from the accounts. As of June 30, 2013, the City has not refunded any of the developers' fees.

All impact fees collected through FY 2007-08 were expended. There is no need to make any findings for unexpended development fees.

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

Recommendation: Adopt a resolution reviewing and accepting the annual developer fee disclosure information for Fiscal Year 2012-13.

- * 20. **Adopt a Resolution to Approve a Site Development Permit for a New Hillside Home Located within the Calaveras Ridge Estates Planned Unit Development Area at 826 Calaveras Ridge Drive (Staff Contact: Tiffany Brown, 408-586-3283)**

Background: In September 1981, the City approved a Planned Unit Development (PUD 23.5) for a 17 lot single family residential development known as Calaveras Ridge Estates located in the Single Family Residential Hillside Combining District. To date, all but two lots have been developed with constructed homes.

On September 24, 2013, an application was submitted pursuant to Section 57 of the Milpitas Zoning Ordinance and Section 10-45.09 of the Hillside Ordinance for a Site Development Permit to evaluate site layout, architecture, massing, and landscaping for a proposed single family home.

Project Description:

The project site is an undeveloped 1.2 acre parcel located along Calaveras Ridge Drive. The property and neighboring properties are zoned Single Family Residential - Hillside Combining District and the project site is more than 300 feet west of the hillside crest line. The applicant proposes a single story 6,000 square foot home with three-car garage, five bedrooms, office, study family room, kitchen, dining area, and living room. The home is designed to follow the natural contours of the site and minimize tree removal, as proposed on the grading plans and architectural elevations (see project plans in the Council's agenda packet).

The proposed home is consistent with the General Plan, Zoning Ordinance, and PUD 23.5 - Hillside development standards. The project is categorically exempt from under the California Environmental Quality Act pursuant to Section 15303(a) for New Construction or Conversion of Small Structures including one single-family residence.

On November 13, 2013, the Planning Commission held a public hearing and received a presentation from staff regarding the construction of the new home. The vote was unanimous recommending approval of the project to the City Council.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving Site Development Permit No. SD13-0018, subject to conditions of approval for the construction of the new 6,000 square foot hillside home located at 826 Calaveras Ridge Drive.

*** 21. Adopt a Resolution Authorizing the City Manager to Execute an Agreement Setting Terms Under which Milpitas Police Officers May be Authorized to Work as Reserve Officers at the Santa Clara Stadium (Staff Contact: Michael Ogaz, 408-586-3041)**

Background: The Santa Clara Stadium Authority is constructing a stadium in the City of Santa Clara that will be home to the San Francisco 49ers starting in 2014. Law enforcement services for the stadium are to be provided by the City of Santa Clara's Police Department.

The Santa Clara Police Department has sought additional police officers from other local agencies to supplement the forces available within its department. One of the proposed mechanisms for obtaining those additional officers would be to hire officers from other local agencies including the City of Milpitas as reserve officers of the City of Santa Clara.

While providing services for the stadium, officers from other agencies would be employees of the City of Santa Clara. City of Milpitas Police Officers could be available for this reserve assignment during their off-duty time from Milpitas, and would be paid Fifty-five Dollars per hour (\$55/hour) by the City of Santa Clara. The proposed agreement (copy in agenda packet) sets forth the terms under which the City of Milpitas, and other agencies, would allow its officers to serve as reserve officers for the City of Santa Clara at the stadium.

Main points of the agreement include the following provisions:

1. The Officer's duties to Milpitas will take priority over any reserve assignment with Santa Clara;
2. Santa Clara and the Stadium Authority will indemnify Milpitas against any civil actions; and
3. Santa Clara and the Stadium Authority will provide insurance coverage for Milpitas.

Any workers' compensation claims would be treated as provided by applicable law.

Fiscal Impact: None.

Recommendation: Adopt a resolution authorizing the City Manager to execute an agreement substantially conforming to the proposed Agreement regarding terms under which Milpitas Police Officers may serve as Reserve Officers for the City of Santa Clara at the new Santa Clara football stadium.

- * 22. **Adopt a Resolution Declaring Weeds on Certain Properties to be a Public Nuisance and Setting a Public Hearing for January 7, 2014 to Hear Objections (Staff Contact: Albert Zamora, 408-586-3371)**

Background: The County of Santa Clara Department of Agriculture and Environmental Management notified the City of Milpitas that it is commencing its Hazardous Vegetation Abatement (weed abatement) program for the forthcoming 2014 season. The County requested the City Council adopt a resolution declaring weeds to be a public nuisance and to schedule a public hearing to hear objections to the proposed destruction and/or removal of weeds. A resolution declaring weeds on specific properties to be a public nuisance is adopted by the Council each year. The City then holds a public hearing to give affected property owners an opportunity to appear before the Council to dispute the designation of their property as a public nuisance. The public hearing will be scheduled for January 7, 2014.

Recommendations:

1. Adopt a resolution declaring weeds on specific properties to be public nuisances.
2. Set the public hearing date on this matter for January 7, 2014.

- * 23. **Adopt a Resolution Authorizing the Purchase of Wireless Voice Service, Wireless Broadband Service, Accessories and Equipment through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: In May 2008, the City of Milpitas became signatory to the California Wireless Contract for telephone services through the State of California. The California Wireless Contract expired in October 2010 and any agency on the contract was rolled over to the Western States Contracting Alliance (WSCA) Cooperative Contract, which is a nationally competitive bid contract. Cooperative purchasing through WSCA is specifically authorized pursuant to Milpitas Municipal Code Section I-2-3.08 "Cooperative Procurement." The Purchasing Agent reviewed all of the documentation from the WSCA Request for Proposal (RFP) No. 1907 entitled "Wireless Voice Service, Wireless Broadband Service, Accessories and Equipment" and determined that the underlying purchase was made using competitive negotiation or bidding procedures at least as restrictive as the City of Milpitas, with pricing for these services the same as that offered in the original agreement. The WSCA contract offers products and services from four companies: AT&T, T-Mobile, Verizon, and Sprint. The WSCA contract ends October 31, 2016 and includes two one-year options to renew.

The City currently holds a limited number of wireless phones, modems and data service plans purchased through both Sprint and Verizon through the WSCA cooperative contract. The City also deployed approximately 60 wireless data access devices for public safety usage under the WSCA plan. By moving an additional 125 wireless phones currently with Sprint over to Verizon, the City will benefit from ease of management, lower costs and better service coverage.

Staff recommends the purchase of all future Wireless Voice Service, Wireless Broadband Service, Accessories and Equipment through the aforementioned WSCA contract. The annual budget for this type of purchase is \$65,000 per year.

Fiscal Impact: Cost for communications services is included in the Information Services Department budget and no additional funding is required.

Recommendation: Adopt a resolution authorizing the purchase of wireless voice service, wireless broadband service, accessories and equipment under the Western States Contracting

Alliance cooperative contract in the amount not to exceed \$65,000 for fiscal year 2013-14 and in subsequent years, subject to City Council appropriation of funds.

XX. AGREEMENTS

- * 24. **Approve Amendment to the Solid Waste Agreement and Approve Amendment to the Yard Trimmings Agreement Establishing Maximum Rate Adjustments for Solid Waste Program Services Provided by Republic Services of North America (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: Residential and commercial solid waste service in Milpitas is provided through long-term franchise agreements with Republic Services of North America (Republic). These private services include garbage collection and disposal, recycling and yard trimming programs, and street sweeping. The agreements stipulate that the maximum allowable rates charged by the private hauler are adjusted every two years to incorporate changes in inflation, as measured by the consumer price index (CPI), and extraordinary costs, stemming from regulatory requirements imposed on Republic after execution of the agreement. Republic's next rate ceiling adjustment is due January 1, 2014 and the new rate will be in effect through December 31, 2015.

Staff reviewed Republic's pro forma submission of costs and customer rates for the next two years and finds the company to be in accordance with requirements of the agreement. Increases in CPI factor are offset by decreases in extraordinary costs. Due to the lack of quorum at a recently scheduled meeting, there is no formal recommendation from the City Council's Finance Subcommittee. Vice Mayor Polanski supported staff's recommendations of the rate adjustments. If amended, this would be the twentieth amendment to the franchise agreement with Republic.

Fiscal Impact: None. There will be no fiscal impact to the City from the rate adjustment as garbage collection is a private service provided by a corporate entity and the franchised service costs are those solely of the private company. Rates themselves are not imposed by the City. The City fees are unchanged.

Recommendations:

1. Approve an amendment to the Solid Waste Agreement with Republic Services N.A. establishing the January 1, 2014 through December 31, 2015 maximum rates for the solid waste program in accordance with contract requirements.
 2. Approve an amendment to the Yard Trims Agreement establishing the January 1, 2014 through December 31, 2015 maximum rates for solid waste program in accordance with contract requirements.
- * 25. **Approve Agreement with Goldfarb & Lipman for Professional Services (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: The ongoing process of winding down the former Milpitas Redevelopment Agency and its activities has been moving forward with periodic meetings of the Oversight Board. In addition, representation of the City and associated entities in the lawsuits filed by and against the County and State will require funding until those suits are completed, probably sometime in the early part of 2014. Goldfarb & Lipman has represented the City in the litigation and has provided general advice throughout the complex redevelopment wind-down process. This agreement should cover these expenses through the end of the fiscal year.

Fiscal Impact: Appropriation in the amount of \$69,000 from contingency reserve fund.

Recommendation: Approve an agreement with Goldfarb & Lipman for Professional Services in an amount not to exceed \$69,000, with appropriation of those funds and authorize the City Attorney to execute the agreement.

- * 26. **Approve Amendment No. 1 to the Agreement with Frank Szeto, an Individual Doing Business As New Orient Restaurant for Senior Nutrition Services in the Amount of \$6,500 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On July 1, 2013, the City entered into an agreement with Frank Szeto, an individual doing business as New Orient Restaurant to provide senior nutrition meals to eligible seniors over age 60, weekdays at the Barbara Lee Senior Center. The total cost for these services was \$18,744. Staff recommends an increase in the agreement amount by \$6,500. This brings the total agreement to a not-to-exceed value of \$25,244. Council is also recommended to extend the agreement from December 31, 2013 to February 28, 2014 to allow additional time for a competitive process.

Fiscal Impact: None. There are sufficient funds in the Recreation Services FY 2013-14 budget for this service.

Recommendation: Approve Amendment No. 1 to the agreement with Frank Szeto, an individual doing business as New Orient Restaurant, for Senior Nutrition Services at the Barbara Lee Senior Center in the amount of \$6,500, and extend the term of the agreement from December 31, 2013 to February 28, 2014.

XXI. JOINT MEETING OF CITY OF MILPITAS, SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY, AND MILPITAS HOUSING AUTHORITY

- *HA3. **Consider Purchase and Resale of an Affordable Housing Unit Located at 1077 Luz Del Sol Loop (Staff Contact: Felix Reliford, 408-586-3071)**

Background: On May 18, 2004, the former Milpitas Redevelopment Agency, KB Home South Bay, Inc. and County of Santa Clara entered into a Memorandum of Understanding to provide 110 affordable housing units on the Elmwood property. A total of 85 moderate-income condominium units were constructed on the east side of South Abel Street, south of the Milpitas Post Office and 25 moderate-income townhomes on the west side of South Abel Street, across from the Milpitas Post Office.

Recently, City staff received a request from townhome property owners at 1077 Luz Del Sol Loop to resell their affordable unit. Pursuant to the Resale Restriction and Option to Purchase Agreement between the former Milpitas Redevelopment Agency and the property owners (legal document that keeps the unit affordable), the Milpitas Housing Authority and property owners have 90 days to find a qualified first-time affordable housing buyer or the unit can be sold for fair market value. Staff identified a qualified Milpitas resident to purchase the unit within the 90 days' time period; however, the future buyer was recently laid off from her job. She found a new job within two weeks, while the home loan lender requires the potential owner be employed for 60 days in order to re-approve her loan. The current homeowners have previously extended the contract agreement for 30 days. They have purchased another home and cannot afford to extend the contract agreement again.

Staff is requesting authorization from the Housing Authority to purchase the unit and then to resell the unit to the future homebuyer after her 60 days of employment or to another eligible low-income buyer. Staff has spoken to the lender, which has agreed to the loan upon her 60 days of employment. The cost to purchase the townhome unit is \$407,500; all closing costs will be paid by seller. The current property was previously purchased for \$368,150. The proposed purchase price is based on the formula in the Resale Restriction Agreement, which includes the base purchase price (\$368,150) and CPI adjustment (\$39,500). After the property is re-sold, the full amount will be deposited back in the Low and Moderate Housing Fund.

The Resale Restriction and Option to Purchase Agreement was executed between the Milpitas Redevelopment Agency and the property owners. With the dissolution of the Milpitas

Redevelopment Agency, the City previously elected and the Milpitas Housing Authority agreed to take on the responsibility of performing the housing functions of the dissolved Milpitas Redevelopment Agency. If the Milpitas Housing Authority would like to move forward with the purchase and resale of the subject property, the above-described agreement should be assigned from the Successor Agency of the Milpitas Redevelopment Agency to the Milpitas Housing Authority.

Fiscal Impact: None, following the purchase and resale of the affordable housing unit. There are sufficient funds in the Housing Authority budget to purchase the affordable unit.

Recommendations:

1. Adopt a resolution of the City Council of the City of Milpitas, Successor Agency of the Milpitas Redevelopment Agency, and the Milpitas Housing Authority (i) approving the Assignment and Assumption Agreement between the Successor Agency of the Milpitas Redevelopment Agency and the Milpitas Housing Authority for the real property located at 1077 Luz Del Sol Loop, (ii) authorizing purchase of the affordable housing unit located at 1077 Luz Del Sol Loop from Milpitas Housing Authority funds in the amount not to exceed \$407,500, (iii) authorizing resale of the affordable housing unit located at 1077 Luz Del Sol Loop in the minimum amount of \$407,500 to an eligible low-income buyer, and (iv) authorize the Executive Director of the Milpitas Housing Authority to negotiate and execute all required documents to complete the purchase and resale of the affordable housing unit.
2. Approve an appropriation in the amount of \$407,500 from the Housing Authority Fund for the purchase of the property located at 1077 Luz Del Sol Loop.

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULE COUNCIL MEETING
TUESDAY, JANUARY 7, 2014 AT 7:00 P.M.**