



**JOINT MILPITAS CITY COUNCIL AND  
MILPITAS HOUSING AUTHORITY  
REGULAR MEETING  
AGENDA**

**TUESDAY, MAY 19, 2015**

**455 EAST CALAVERAS BOULEVARD, 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**
- II. ADJOURN TO CLOSED SESSION (6:00 p.m.)**
  - CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**  
Pursuant to California Government Code Section 54956.9 - City as Defendant
  - CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to California Government Code Section 54956.9  
Campbell et al. v. City of Milpitas, et al.  
U.S. District Court, case no. CV13-03817 BLF/PSG
- III. CLOSED SESSION ANNOUNCEMENT:** 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 Grilli)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES April 28 and May 5, 2015**
- VII. SCHEDULES OF MEETINGS – COUNCIL CALENDARS May and June 2015**
- VIII. PRESENTATION**
  - Proclaim May 14-22, 2015 as Affordable Housing Week
- IX. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, 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 place the item on a future meeting agenda.

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- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR (Items with asterisks\*)**

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

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#### **XIV. PUBLIC HEARINGS**

- 1. Conduct a Public Hearing and Introduce Ordinance No. 197.13 to Amend City Departments and Ordinance No. 289 to Codify Signature and Write-off of Uncollectible Accounts Authority of the City Manager; Adopt Two Resolutions Approving the Final Budget for the City of Milpitas for Fiscal Year 2015-16, Amending the Classification Plan, Amending the Fiscal Policies and Adopting the Appropriations Limit for the City of Milpitas for Fiscal Year 2015-16 (Staff Contact: Emma Karlen, 408-586-3145)**
- 2. Conduct a Public Hearing for New Water and Sewer Utility Rates, Accept the Utility Rate Report, Introduce Water Ordinance No. 120.47 and Sewer Ordinance No. 208.50 to Amend Milpitas Municipal Code to Establish Water and Sewer Rates, Authorize Mailing of Proposition 218 Hearing Notices and Set August 4, 2015 as the Protest Hearing Date (Staff Contact: Steven Machida, 408-586-3355)**

#### **XV. REPORTS OF MAYOR and COMMISSIONS**

- \* 3. Consider Mayor's Recommendations for Appointments to the Economic Development Commission (Contact: Mayor Esteves, 408-586-3029)**
- 4. Per Request of Mayor Esteves, Discuss and Consider Options to Require Affordable Housing Units on Current and Future Development Projects Prior to Completion of a Nexus-Study (Staff Contact: Michael Ogaz, 408-586-3040)**
- 5. Per Request of Mayor Esteves, Consider Establishing an Ethics Hotline (Staff Contact: Tom Williams, 408-586-3051)**
- \* 6. Accept \$1,000 Donation from Dana and Linda Arbaugh to the Milpitas Public Library and Approve the Spending Plan from the Library Advisory Commission (Staff Contact: Tim Wong, 408-586-3286)**
- \* 7. Approve Library Advisory Commission Request for \$3,200 for Annual Essay Contest (Staff Contact: Tim Wong, 408-586-3286)**
- 8. Receive Presentation on Senior Advisory Commission's 2015-16 Work Plan (Staff Contact: Stephanie Douglas, 408-586-3226)**

#### **XVI. NEW BUSINESS**

- \* 9. Accept Santa Clara County Emergency Medical Services Agency Trust Funds for Purchase of Training Equipment for Fire Department (Staff Contact: Brian Stelling, 408-586-2822)**
- \* 10. Accept the 2015 Citizen Options for Public Safety (COPS) Grant for Police Department (Staff Contact: Daryl Sequeira, 408-586-2434)**

**XVII. ORDINANCES**

- \* 11. Waive the Second Reading and Adopt Ordinance No. 101.23 Amending the City's Contract with the Board of Administration of the California Public Employees' Retirement System (Staff Contact: Carmen Valdez, 408-586-3086)
- \* 12. Waive the Second Reading and Adopt Ordinance No. 38.821 Relating to Public Art Requirement for Private Development Projects (Staff Contact: Adam Petersen, 408-586-3274)

**XVIII. RESOLUTIONS**

- \* 13. Adopt a Resolution Awarding a Contract to DeSilva Gates Construction for the 2014 Road Rehabilitation, Projects No. 4270, No. 4264 and No. 3412, Authorize the Director of Engineering to Execute Contract Change Orders and Approve a Budget Appropriation (Staff Contact: Steve Chan, 408-586-3324)
- \* 14. Adopt a Resolution Approving the Annual Engineer's Report, Declaring Its Intention to Levy and Collect Assessments for Fiscal Year 2015-16, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)
- \* 15. Adopt a Resolution Approving the Annual Engineer's Report, Declaring Its Intention to Levy and Collect Assessment for Fiscal Year 2015-16, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301)

**XIX. AGREEMENTS**

- \* 16. Approve Amendment No. 2 to the Consulting Services Agreement with Hatch Mott MacDonald, LLC to Increase Compensation in the Additional Amount of \$108,240 to Continue Support Services for Land Development Engineering (Staff Contact: Steven Machida, 408-586-3355)
- \* 17. Approve an Agreement with HF&H Consultants, LLC for Technical Support Services for Solid Waste Rate Review for an Amount Not to Exceed \$29,910 (Staff Contact: Steven Machida, 408-586-3355)
- \* 18. Authorize the City Manager to Amend the Master Services Agreement with York Insurance Group, Inc. through June 30, 2016 for Services as the City's Workers' Compensation Third Party Administrator (Staff Contact: Carmen Valdez, 408-586-3086)
- \* 19. Approve the Seventh Amendment to the Agreement for Legal Services with Jarvis, Fay, Doport & Gibson, LLP (Staff Contact: Mike Ogaz, 408-586-3041)
- \* 20. Authorize the City Manager to Execute an Agreement with William Avery & Associates for Recruitment of a New Human Resources Director (Staff Contact: Emma Karlen, 408-586-3145)

**XX. ADJOURN JOINT MEETING**

**NEXT REGULAR CITY COUNCIL MEETING  
TUESDAY, JUNE 2, 2015**

**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](mailto:mogaz@ci.milpitas.ca.gov) / Phone: 408-586-3040

*The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3<sup>rd</sup> 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](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

**APPLY TO SERVE ON A CITY COMMISSION**

Current vacancies on:  
Community Advisory Commission (alternate)  
Sister Cities Commission (alternate)  
Veterans Commission

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://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](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.*

## AGENDA REPORTS

### XIV. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Introduce Ordinance No. 197.13 to Amend City Departments and Ordinance No. 289 to Codify the Signature and Write-off of Uncollectible Accounts Authority of the City Manager; Adopt Two Resolutions Approving the Final Budget for the City of Milpitas for Fiscal Year 2015-16, Amending the Classification Plan, Amending the Fiscal Policies and Adopting the Appropriations Limit for the City of Milpitas for Fiscal Year 2015-16 (Staff Contact: Emma Karlen, 408-586-3145)**

**Background:** On April 7, 2015, the City Council conducted a Budget Study Session for the FY 2015-16 Operating Budget. On May 11, 2015, the City Council reviewed the Preliminary FY 2015-16 Capital Improvement Project Budget and the FY 2015-2020 Five Year Capital Improvement Program. The FY 2015-16 Proposed Budget includes the first year's funding of the capital improvement projects, and is ready for Council's review and adoption. During the CDBG funding allocation hearing on April 21, 2015, the City Council directed staff to include funding in the FY 2015-16 budget for Fresh Lifelines for Youth ("FLY") and Catholic Charities of Santa Clara County Long Term Care Ombudsman Program at \$5,000 each. The proposed FY 2015-16 budget includes additional \$10,000 in the City Council's allocated community promotion line item for this purpose.

**Introduce Ordinances No. 197.13 and No. 289:**

The City Council is requested to introduce two ordinances for the following purposes:

- 1) Ordinance No. 197.13 reorganizes the City departments by amending the Municipal Code to separate Public Works and Engineering into two departments and assign the reporting of the Recreation Services Division to the City Manager Department.
- 2) Ordinance No. 289 codifies the City Manager's authority for contracts and uncollectible accounts write-off.

**Four Resolutions for Adoption:**

Staff also requests that the City Council adopt four resolutions for the following purposes:

- 1) Approve the final budget for the City of Milpitas and the Milpitas Housing Authority for Fiscal Year 2015-16 in the total amount of \$136,928,456 including the FY 2015-16 Capital Improvement Budget of \$22,421,960.
- 2) Amend the classification plan to reflect the reclassification of the 40 hour Fire Battalion Chief and Fire Marshal to two Deputy Chiefs and one confidential office specialist to office specialist in the City Clerk's division. The resolution will also delete a number of positions from the Authorized Position List and Classification Plan primarily for housekeeping purposes. All the positions that are proposed to be deleted have been vacant and unfunded for a long time.
- 3) Amend the Fiscal Policies to add a funding alternative for the employer's pension contributions to be based on either the annual required contribution or a percentage of salary. Both funding alternatives are provided by CalPERS on the annual valuation reports. Other minor changes to the Fiscal Policies include amending the City's credit rating to 'AAA' and deleting the reserve requirement for Recycled Water fund because the Fund has been combined with the Water fund.
- 4) Approve the appropriations limit for the City Milpitas for FY 2015-16. The Appropriations limit is calculated annually based on the change of population in the City of Milpitas or the County of Santa Clara, whichever is greater and the change in per capita income. The appropriations limit places a cap on the amount of tax revenues that the City can collect. The calculation shows that the anticipated tax revenues for FY 2015-16 are below the limit.

**Fiscal Impact:** The total budget amount including the first year's funding of the capital improvement projects for FY 2015-16 is \$136,928,456.

**Attachments:**

- A. Ordinance No. 197.13
- B. Ordinance No. 289
- C. Resolution for adoption of FY 2015-16 budget
- D. Resolution amending Classification Plan
- E. Resolution amending fiscal policies
- F. Resolution adopting Appropriation Limits

**Recommendations:**

- 1. Open the public hearing to receive comments.
  - 2. Move to close the public hearing.
  - 3. Following the reading of the titles by the City Attorney, move to waive the first reading beyond the title of Ordinances No. 197.13 and Ordinance No. 289.
  - 4. Introduce Ordinances No. 197.13 and No. 289.
  - 5. Adopt a Joint Resolution of the City Council and the Housing Authority approving the final budget for the City of Milpitas for the Fiscal Year 2015-16.
  - 6. Adopt a Resolution amending the classification plan.
  - 7. Adopt a Resolution approving the Amended Fiscal Policies.
  - 8. Adopt a Resolution adopting the appropriations limit for the City of Milpitas for Fiscal Year 2015-16.
- 2. Conduct a Public Hearing for New Water and Sewer Utility Rates, Accept the Utility Rate Report, Introduce Water Ordinance No. 120.47 and Sewer Ordinance No. 208.50 to Amend Milpitas Municipal Code to Establish Water and Sewer Rates, Authorize Mailing of Proposition 218 Hearing Notices and Set August 4, 2015 as the Protest Hearing Date (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** The City of Milpitas sells potable water, recycled water, and sewer collection services to residential and business customers in the City. The City charges customers for these commodities at a rate that covers the City's cost. In 2003, the City Council adopted the first Financial Utility Master Plan (FUMP). The purpose of the FUMP was to analyze anticipated utility revenues and expenses for a 20-year period to provide utility rate recommendations to enable long-term financial rate stability. At that time, SFPUC was embarking on a \$4.6 billion Water System Improvement Program resulting in a three-fold growth of wholesale rates. The FUMP was based upon best available information at the time. The accuracy of assumptions drops significantly as years pass by. For example, unforeseen factors include the economic downturn, adoption of the Transit Area Specific Plan, drought conditions, and rebuilding of the regional wastewater treatment facility. Therefore, the City recently started an update to the FUMP, which is scheduled to be completed in several months.

In the meantime, water wholesale costs are increasing at a rapid rate due to the drought and infrastructure replacement. The City's share of costs at the regional wastewater treatment plant are doubling from FY 2014-15 to FY 2015-16, indicating the start of the 30-year rebuilding program. Existing revenues are insufficient to meet these expenses. Therefore, staff prepared a one year rate analysis, included in the Council packet, to provide sufficient revenue until the FUMP update is completed.

**Water:** About 54% of the City's cost to provide water service is the wholesale purchase price. The City holds long-term supply contracts for wholesale potable water from the San Francisco Public Utilities Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD). These contracts allow these suppliers to set wholesale prices to recover their cost of service. The remaining 46% of the City's water costs are for operation, maintenance, and capital costs related to replacement and/or expansion of the water distribution system and supply. The City owns a complex distribution network of over 200 miles of pipe, operated as seven separated pressure zones through use of pumping stations and pressure regulating valves to ensure that all areas of

the City have a constant supply of pressurized water for fire fighting, public health and sanitation.

Wholesale water prices will be finalized in May. SFPUC is currently estimating an increase up to 28% while SCVWD is estimating approximately 20%, which must be passed through to customers. The Planning Commission has recommended and the Council has directed staff to expedite construction of additional recycled water pipelines. The planned expenses include costs for a \$15 million bond issuance for water supply projects. A rate increase of 38% for most potable water customer categories is needed to generate sufficient revenue to meet these expenses. The rate for Ed Levin Park is established by contract and is set at the SFPUC wholesale rate. A year ago, South Bay Water Recycling (SBWR) adopted a resolution to implement a two year wholesale rate increase to recoup costs and equalize irrigation and industrial/dual-plumbing rates, resulting in increases of 22% and 47%, respectively. The recycled water retail rate for irrigation is recommended to be set at 80% of equivalent potable use. Since the City was entering the fourth year of the adopted four year rate plan (for FY 2014-15), the industrial/dual-plumb recycled water rates were not adjusted per the increase in cost from the wholesaler. Staff proposes to implement a two step increase for FY 2015-16 and FY 2016-17, with the second year to be set at 80% of equivalent potable use. The proposed water rate schedule is tabulated in Ordinance No. 120.47 (a copy is included in the agenda packet). This structure contains individual rates for customer sectors. In a bimonthly billing period, the typical residential customer in Milpitas uses 17 units of water. A unit is one hundred cubic feet which is equivalent to 748 gallons. The average residential bill would increase by \$19.79 for the two month billing period, from \$77.92 to \$97.71.

**Sewer:** The City’s sewer system contains over 180 miles of pipe and two pumping stations that collect and transport the sewage to the San Jose/Santa Clara Water Pollution Control Plant (WPCP) for treatment. The City of San Jose prepared a preliminary 10-year estimate of operating and capital costs necessary for the regional wastewater treatment facility. Starting with FY 2015-16, the City’s share of costs is doubling from prior years and accounts for about 72 percent of the total expenses. It is necessary to finance costs of this magnitude. San Jose is planning to use short-term commercial paper for FY 2015-16 and FY 2016-17, and issue long-term bonds in FY 2017-18. These programs require an additional reserve which will be built up over the next several years. Staff recommends participation in San Jose’s funding programs if costs are reasonable.

The City of San Jose recently completed a residential flow study that updated population per dwelling unit and per capita discharge from 1975 data. The flow study recommendation is shown in the table below.

	1975 data			2014 data		
	No. of persons	Flow per person gallons per day (gpd)	People x flow per person = gpd per household	No. of persons	Flow per person gpd	People x flow per person = gpd per household
Single family	3.37	65	219	3.54	51	181
Multi-family	2.05	60	123	2.73	51	139
Mobile homes	1.90	65	124	2.24	63	141

The result is a reallocation of costs among customer categories. Mobile home sewer rate increases at a faster rate than other customer classes. The Residential Flow Study states that water consumption data for Milpitas mobile home parks is inconsistent and is therefore disregarded. A weighted average of the San Jose and West Valley data is used for Milpitas.

This data is used to determine the Milpitas share of costs at the regional wastewater treatment facility.

Staff has investigated the mobile home park water consumption and agrees that the data is inconsistent. The water meters at the three mobile home parks are past their useful life and are scheduled to be replaced. Staff is having difficulty in collecting mobile home water consumption from neighboring agencies to use in determining a reasonable range for use in the interim until actual data is available. Mobile home usage ranges from 83 gallons per day (GPD) per household to 157 GPD per household for six Bay Area communities. In parallel, staff is evaluating a quote to perform sewer flow metering to evaluate mobile home discharge, although flow metering will be delayed until VTA-BART construction is completed on Dixon Landing. For the purpose of this single year rate analysis, staff recommends using 2.24 persons per household from the San Jose Study and 51 gallons per day per capita (gpdpc) (instead of 63 gallons per capita) to set the mobile home park sewer rate. The 51 gpdpc is equivalent to the Milpitas single and multi-family values and is more closely aligned with the lower water use per capita that is seen in Milpitas mobile home parks. The more accurate data from the new water meters and sewer flow monitoring will be incorporated into future rate analyses.

The planned expenses include participation in the commercial paper program and a contribution to build up reserves for the commercial paper and bond programs. The proposed rate increase is needed to generate sufficient revenue to meet expenses. The staff recommendation is to increase sewer rates to generate an overall increase in revenue from \$14.3M to \$17.4M. Residential customers are billed a fixed bimonthly amount per dwelling unit (du) and non-residential customers are billed on volume of water used, expressed as hundred cubic feet (hcf). This results in changes to the customer classes as follows:

	FY 2014-15	FY 2015-16
Commercial per hcf	\$3.26 - \$6.16	\$3.95 - \$7.49
Industrial per hcf	\$2.73-\$8.00	\$3.94 - \$8.34
Institutional per hcf	\$3.50 - \$4.81	\$4.23 - \$6.34
Single Family per du	\$86.93	\$90.27
Multi-Family per du	\$52.22	\$69.32
Mobile Homes per du	\$38.20	\$56.97

California State Constitution Article XIII(D), also known as “Proposition 218,” gives property owners receiving water and sewer services the right to protest water and sewer rate increases. The process is specifically for property owners and is not a ballot open to the general public. The City is required to notify property owners of its intent to adopt utility rate increases and give property owners the opportunity to protest the increases. The City must mail notification to each parcel owner receiving water and/or sewer services, allow a 45-day protest period, and then conduct a public hearing to receive public comment. The City may adopt rates if less than a majority of property owners protest against the increase. The proposed notice includes all requirements of Proposition 218: states the date, time and place of the public hearing and the reason and basis for the proposed rates. A copy of the Prop 218 Notice is included in the Council packet with the proposed ordinances.

**Schedule** The recommended schedule to complete the adoption of the ordinances and adjust the rates includes these milestones:

- May 19 City Council holds a public hearing for first reading and introduction of ordinances setting water and sewer rates.
- June 9 Proposition 218 notices must be mailed no later than this date to provide 45-day protest period before the August 4 public hearing.

August 4 Public hearing at City Council meeting. If there is not a majority protest, Council may approve the new rates through a second reading and adoption of the new water and sewer rate ordinances.

September 4 Effective date of the new water and sewer rates, adopted by ordinances.

**Alternative:** The consequences of not raising rates sufficient to cover costs are that the City would be forced to take funding from the general fund, its only source of discretionary funds, to subsidize the utility rates at a level less than cost. This transfer from the general fund would reduce the City's ability to provide other desired community services such as parks and recreation, street landscaping, and street maintenance. It would also conflict with City policy and standard government practice that the water fund be operated as self-supporting enterprise fund. The City would need to take over \$9 million from other services to offset the lost revenue.

**Fiscal Impact:** The water and sewer rate adjustments would pay for escalating costs of wholesale purchases, City and wholesaler capital improvement programs, and system operation and maintenance for the utilities. In addition, water bonds are needed to provide capital for the proposed water supply projects. Participation in a regional sewer agency short-term financing program is necessary to help pay the City's share of costs at the regional wastewater facility.

**Attachments:**

- A. Property Owner Notice of Proposed Rate Increases
- B. Utility Rate Analysis Report
- C. Ordinance No. 120.47 – water rates
- D. Ordinance No. 208.50 – sewer rates

**Recommendations:**

- 1. Open the public hearing on water and sewer rates for comments.
- 2. Move to close the public hearing following any speakers.
- 3. Accept the Utility Rate Report.
- 4. Following the City Attorney's reading of the titles of two ordinances, move to waive the first reading of Water Ordinance No. 120.47 and Sewer Ordinance No. 208.50.
- 5. Introduce Water Ordinance No. 120.47 and Sewer Ordinance No. 208.50 to amend Title VIII of the Milpitas Municipal Code to establish water and sewer rates.
- 6. Authorize mailing of Proposition 218 hearing notices.
- 7. Set Tuesday, August 4, 2015 as the public/protest hearing date.

**XV. REPORTS OF MAYOR and COMMISSIONS**

**\* 3. Consider Mayor's Recommendations for Appointments to the Economic Development Commission (Contact: Mayor Esteves, 408-586-3029)**

Mayor Esteves recommends the following on the Economic Development Commission:

Re-appoint Don Peoples as a voting member (business owner) to a term that will expire in April of 2018.

Re-appoint Warren Wettenstein (Chamber of Commerce) as a voting member to a term that will expire in April of 2018.

Newly appoint Michael Strle from the Milpitas Great Mall as the retail business representative - a regular voting member - to a term that will expire in April of 2018.

A copy of Mr. Strle's Commission application is included in the agenda packet.

**Recommendation:** Per Mayor's recommendation, appoint one new member and re-appoint two current members on the Economic Development Commission.

**4. Per Request of Mayor Esteves, Discuss and Consider Options to Require Affordable Housing Units on Current and Future Development Projects Prior to Completion of a Nexus-Study (Staff Contact: Michael Ogaz, 408-586-3040)**

**Background:** On April 28, 2015, in response to the Planning Commission's recommendation to provide additional affordable housing units in the City of Milpitas, the City Council directed staff to conduct a nexus study regarding various options to support affordable housing for City Council review and consideration. Mayor Esteves was also concerned about approving current and future projects prior to the completion of a nexus study. The Mayor requested this issue on the Council agenda for further discussion.

In researching this further with Planning staff and the approach from other cities, five available options were identified. First, the City Council may adopt an urgency interim ordinance to impose a moratorium on all residential developments until the affordable housing requirement is in place. This would halt residential approvals during the term of the moratorium. This moratorium may be imposed for a maximum period of up to two years. Second, the Council may include affordable housing as a Condition of Approval requiring developers to build affordable units or to pay an in lieu fee at time of building permit issuance in accordance with a future ordinance that may be adopted by the City Council. This condition can apply to current incomplete and future development applications. However, this option can be complicated since the Condition of Approval has to provide enough specificity and detail to allow the developer to have reasonable notice of its future obligations. Third, a developer can voluntarily enter into a development agreement with the City to provide affordable housing. Fourth, if a developer requests deviation from the City's specific plan or zoning standards, the City could work with the developer to provide affordable housing as a public benefit as part of the project. Lastly, the City can allow current and future projects to move forward under the existing policies, guidelines and ordinances; only incomplete development applications or newly submitted applications after the effective date of any future ordinance would be subject to the affordable housing requirements.

**Recommendation:** Per request of Mayor Esteves, discuss and consider proposed affordable housing policy options.

**5. Per Request of Mayor Esteves, Consider Establishing an Ethics Hotline (Staff Contact: Tom Williams, 408-586-3051)**

**Background:** At one of Santa Clara Valley Transportation Authority's Board of Directors meetings, the General Manager reported its new Ethic Hotline available to its employees, vendors, and contractors 24 hours a day. This item is to seek the Council's input on considering establishing a similar Ethics Hotline for City of Milpitas employees, vendors and contractors.

The purpose of the hotline is to have a way for City employees and those doing business with the City to anonymously report behaviors that are undesirable. The Ethics Hotline is for reporting issues that violate the City's standard of business conduct, such as fraud, waste, abuse or theft, and not for customer service-related issues. City of Milpitas staff will not manage or be involved with this system. The hotline will be administered and hosted by a third-party provider in order to maintain independence and confidentiality to the extent provided by law.

**Fiscal Impact:** Unknown at this time but the estimated cost is between \$15,000 and \$40,000 per year.

**Recommendation:** Receive report, direct City Manager (or staff) to initiate a Request for Proposals (RFP) for a third party vendor to establish an Ethics Hotline for the City of Milpitas and to report back to City Council.

- \* 6. **Accept \$1,000 Donation from Dana and Linda Arbaugh to the Milpitas Public Library and Approve the Spending Plan from the Library Advisory Commission (Staff Contact: Tim Wong, 408-586-3286)**

**Background:** In November 2014, Community Librarian Stephen Fitzgerald received a donation from Dana and Linda Arbaugh in the amount of \$1,000 to the Milpitas Public Library. Librarian Fitzgerald accepted the donation on behalf of the Library Advisory Commission (LAC) and forwarded the matter for acceptance of the donation and a proposed spending plan to the entire LAC. The donor specified that the donation be used where the library deems the need is greatest.

At its meeting on March 16, 2015, the LAC accepted the donation, approved a spending plan for adult and children's books and directed staff to forward its recommendation to the City Council. Included in the Council's agenda packet is a copy of the LAC meeting minutes and the proposed spending plan. Upon acceptance by the Council, the Arbaughs will be recognized by the LAC on the donor board at the Milpitas Public Library.

**Fiscal Impact:** None.

**Recommendation:** Accept the donation gift of \$1,000 to the Milpitas Public Library and the spending plan recommended by the Library Advisory Commission.

- \* 7. **Approve Library Advisory Commission Request for \$3,200 for Annual Essay Contest (Staff Contact: Tim Wong, 408-586-3286)**

**Background:** The Library Advisory Commission is planning an essay writing contest to be held from November 25 – December 22, 2015, in conjunction with the Milpitas Library's Human Origins Traveling Exhibit. Cross-promotion will benefit both events by attracting more submissions for the essay contest and drawing more visitors to the library to visit the exhibit. This contest is open to students enrolled in Milpitas Unified School District schools, enrolled in a private school in Milpitas, or homeschooled Milpitas residents. There will be three groups of contestants: Grades 4-6, 7-8 and 9-12. Commissioners requested \$3,200 to purchase the prizes and pay for event supplies. More information about the contest is included in the agenda packet.

**Fiscal Impact:** None. There is sufficient money in the Council's Community Promotions budget.

**Recommendation:** Appropriate \$3,200 to the Library Advisory Commission budget to purchase prizes and event supplies for the Annual Essay Contest at Milpitas Public Library.

8. **Receive Presentation on Senior Advisory Commission's 2015-16 Work Plan (Staff Contact: Stephanie Douglas, 408-586-3226)**

**Background:** The Senior Advisory Commission was established by the City Council on April 20, 1993 and serves as an active advisory group to the Council by providing meaningful recreational, social, educational and health services to the community's senior citizens. The Senior Advisory Commission also strives to be a channel of communication between staff, senior citizens and the community. Commissioners take an active part in supporting Senior Center programs through involvement and development of special events and fundraising to enhance existing programs.

On Tuesday, April 28, 2015, the Senior Advisory Commission reviewed, discussed and approved for City Council consideration of its fiscal year 2015-16 Work Plan. This Work Plan includes conducting a community-wide assessment report of senior services and concerns within Milpitas, promoting senior programs and services within Milpitas through a newly developed Resource Room at the Barbara Lee Senior Center and continuing to sponsor Senior Center events and activities such as holiday events, dances, quarterly birthday celebrations and more.

**Recommendation:** Receive a presentation and approve the Senior Advisory Commission's FY 2015-16 Work Plan.

## XVI. NEW BUSINESS

- \* 9. **Accept Santa Clara County Emergency Medical Services Agency Trust Funds for Purchase of Training Equipment for Fire Department (Staff Contact: Brian Stelling, 408-586-2822)**

**Background:** The Santa Clara Emergency Medical Service Agency has awarded funding through the EMS Trust Fund to the City of Milpitas for the purchase of training equipment to enhance patient care within the community. The items to be purchased will be training mannequins that will allow Fire Department paramedic personnel to practice advanced life saving techniques.

**Fiscal Impact:** None.

**Recommendation:** Accept \$11,000 in funds from the Santa Clara County EMS Trust Fund for purchase of Fire Department training equipment and approve a budget appropriation to the Fire Department's operating budget.

- \*10. **Accept the 2015 Citizen Options for Public Safety (COPS) Grant for Police Department (Staff Contact: Daryl Sequeira, 408-586-2434)**

**Background:** The California State Legislature awarded \$110,690 to the City of Milpitas through the Citizen Options for Public Safety (COPS) Grant as authorized by Government Code sections 30061-30063. No City matching funds are required. Government Code section 30062 specifies that these funds must be used exclusively for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police. The Milpitas Police Department recommends the following list of front line municipal police services, or equivalent, to be purchased with the 2015 COPS Grant monies for fiscal year 2015:

1. Tasers and Taser Cams
2. Dictation Services
3. Surveillance Equipment
4. Range Upgrades
5. Technology Improvements to Police Vehicles

**Fiscal Impact:** None. The 2015 Citizen Options for Public Safety (COPS) Grant of \$110,690 will fully cover the cost of the front line services listed.

**Recommendation:** Accept the 2015 Citizen Options for Public Safety (COPS) Grant in the amount of \$110,690 and approve a budget appropriation in the amount of \$110,690 to the Police Department's operating budget.

## XVII. ORDINANCES

- \* 11. **Waive the Second Reading and Adopt Ordinance No. 101.23 Amending the City's Contract with the Board of Administration of the California Public Employees' Retirement System (Staff Contact: Carmen Valdez, 408-586-3086)**

**Background:** On April 28, 2015, Ordinance No. 101.23 was introduced to amend the contract with the Public Employees Retirement System (PERS) to provide Section 20516 (Employees Sharing Additional Cost) of 3% for local fire members in the International Association of Firefighters Local Union 1699. Staff recommends the City Council waive the second reading and adopt Ordinance No. 101.23.

**Fiscal Impact:** None.

**Recommendation:** Waive the second reading and adopt Ordinance No. 101.23, amending the City's agreement with CalPERS.

- \* 12. **Waive the Second Reading and Adopt Ordinance No. 38.821 Relating to Public Art Requirement for Private Development Projects (Staff Contact: Adam Petersen, 408-586-3274)**

**Background:** On April 7, 2015, the City Council introduced Ordinance No. 38.821 to require private development projects to provide public art on site or pay an in-lieu fee. Following the meeting, the City received comment letters opposing the proposed contribution amount of 1% of a project's value. In response to these comment letters, the City Council reviewed Ordinance No. 38.821 on May 5, 2015 and then directed staff to amend the proposed ordinance to reduce the value of the art on-site or contribution to the in-lieu fund to 0.5%.

With this change incorporated into the text, Ordinance No. 38.821 is now ready for a second reading and adoption.

**Recommendation:** Waive the second reading and adopt Ordinance No. 38.821 (as revised) amending the Zoning section of Milpitas Municipal Code to include provisions relating to public art in private development projects.

## **XVIII. RESOLUTIONS**

- \* 13. **Adopt a Resolution Awarding a Contract to DeSilva Gates Construction for the 2014 Road Rehabilitation, Projects No. 4270, No. 4264 and No. 3412, Authorize the Director of Engineering to Execute Contract Change Orders and Approve a Budget Appropriation (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** On February 18, 2014, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for the 2014 Road Rehabilitation, Projects No. 4270, No. 4264 and 3412. The work will include localized repair of failed asphalt concrete pavement, resurface asphalt concrete pavement, replacement of traffic detector loops, installation of ADA compliant sidewalk ramps, repair damaged sidewalk, curb and gutter and reinstalling pavement delineation on the following street segments:

- 1) Arizona Avenue between Washington Drive and Tiny Street;
- 2) Dixon Road between Milpitas Boulevard and Arizona Avenue;
- 3) Washington Drive between Milpitas Boulevard and Escuela Parkway;
- 4) Escuela Parkway between Jacklin Road and Washington Drive;
- 5) Abel Street between Corning Avenue and Calaveras Boulevard;
- 6) Abel Street between Great Mall Parkway and 600 feet south of Capitol Avenue;
- 7) Main Street between Cedar Way and Abel Street.

The Engineer's Estimate for the work was \$2,350,000.

The project was advertised and eight sealed bid proposals were received on April 29, 2015. Bid proposals for the base bid ranged from \$1,846,846.00 to \$2,305,261.11. The lowest responsible bid was submitted by DeSilva Gates Construction in the amount of \$1,846,846.00. There was no bid protest received for this project.

The City applied for and obtained grant funding of \$1,652,000 from the Federal Surface Transportation Program (STP) Funds. This grant required local matching fund to be at least 11.47% of project cost totaling \$189,484.40. There is sufficient money in the project budgets for the required local match.

As was previously approved for the successful completion of recent projects with tight completion schedules, staff is requesting the use of the same change order policy. This policy allows for the timely completion of the project, while addressing the need to respond swiftly to construction conditions and approving necessary change orders, in order to limit potential claims or risk to the City. The construction contingency established for this project is \$300,000, which is approximately 16% of the total contract value.

**Alternative:** A denial of this request would result in not completing the pavement improvements for the streets listed above, and the federal funding for this project would be required to be relinquished to the State of California.

**California Environmental Quality Act :** The project is exempt under Section 15301 (Existing Facilities) of the CEQA Guidelines.

**Fiscal Impact:** The City received an additional \$2,000 over the estimated Federal STP grant fund of \$1,650,000. A budget appropriation is required to add the additional \$2,000 grant fund to this project. Sufficient funds are available in the project budget.

**Recommendations:**

1. Adopt a resolution awarding a contract to DeSilva Gates Construction and authorize the City Manager to execute the contract for 2014 Road Rehabilitation, Projects No. 4270, No. 4264 and No. 3412, in the total amount of \$1,846,846.00; and authorizing the Director of Engineering to negotiate and execute contract change orders for 2014 Road Rehabilitation in the cumulative amount not to exceed \$300,000.
2. Approve a budget appropriation for additional \$2,000 Federal Surfacing Transportation Program grant fund totaling in \$1,652,000 to the 2014 Road Rehabilitation.

**\* 14. Adopt a Resolution Approving the Annual Engineer's Report, Declaring Its Intention to Levy and Collect Assessments for Fiscal Year 2015-16, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD 95-1) was created in 1995 to maintain and improve public landscaping, irrigation systems, and pedestrian lighting along portions of McCarthy Boulevard and the Ranch Drive gateway between State Route 237 and Dixon Landing Road. Before Council may levy the annual assessment for LLMD 95-1, the Landscaping and Lighting Act of 1972 requires Council to approve an annual Engineer's Report evaluating the LLMD District's maintenance and improvement costs.

On May 5, 2015, the City Council directed the City Engineer to prepare this report, which is included in the Council packet. Proposed improvements included in the draft 2015-2020 Capital Improvement Program are the renovation of portions of the LLMD 95-1 lighting, landscaping, and irrigation systems. The proposed total assessment of \$290,738.36 has increased from the prior year to account for a 4.01% increase to account for inflation and funding for Capital Improvement Program projects within the district that will renew and replace aging landscape, irrigation, and lighting improvements that have reached the end of their service life. The amount of the proposed increase is under the maximum authorized range. Council must also adopt a resolution that declares its intent to levy and collect an assessment and directs publishing of notice of a public hearing to be held on June 2, 2015.

**Recommendation:** Adopt a resolution approving the annual Engineer's Report, declaring intention to levy an assessment, and providing for notice of public hearing on June 2, 2015 for LLMD No. 95-1, McCarthy Ranch.

- \* 15. **Adopt a Resolution Approving the Annual Engineer's Report, Declaring Its Intention to Levy and Collect Assessment for Fiscal Year 2015-16, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1) was created in 1998 to maintain and improve public landscaping, irrigation systems along Sinclair Frontage Road, Los Coches Creek, and Berryessa Creek abutting the Sinclair Horizon residential subdivision. Before Council may levy the annual assessment for this District, the Landscaping and Lighting Act of 1972 requires Council to approve an annual Engineer's Report evaluating the LLMD 98-1 maintenance and improvement costs.

On May 5, 2015, the City Council directed the City Engineer to prepare this report, which is included in the Council packet. The proposed total assessment of \$38,053.07 has increased 4.00% from the prior year to adjust for inflation and administration of the district. The amount of the proposed increase is under the maximum authorized range. Council must also adopt a resolution that declares its intent to levy and collect an assessment and directs publishing of notice of a public hearing to be held on June 2, 2015.

**Recommendation:** Adopt a resolution approving the annual Engineer's Report, declaring intention to levy an assessment and providing for notice of public hearing on June 2, 2015 for LLMD No. 98-1, Sinclair Horizon.

## **XIX. AGREEMENTS**

- \* 16. **Approve Amendment No. 2 to the Consulting Services Agreement with Hatch Mott MacDonald, LLC to Increase Compensation in the Additional Amount of \$108,240 to Continue Support Services for Land Development Engineering (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** On July 14, 2014, the City entered into a consulting services agreement with Hatch Mott MacDonald, LLC in the amount of \$19,850 to provide support services for the Land Development Engineering division of the Public Works Department. The term of the agreement was from July 14, 2014 to June 30, 2015. On October 7, 2014, the parties entered into Amendment No.1 to increase the compensation by \$143,110. Staff now recommends that Hatch Mott MacDonald continue their support through December 31, 2015, at their current level of effort (approximately three days per week). Amendment No. 2 with Hatch Mott MacDonald is proposed for these continued services. Staff has negotiated a fee for these services not to exceed \$108,240, at the same hourly rate thru June 30, 2015 and new hourly rates effective July 1, 2015. Approval of this agreement amendment brings the total agreement amount to \$271,200.

**Fiscal Impact:** None. Salary savings from the vacant Assistant Engineer and Principal Engineer positions will fund a majority of these staff augmentation services. The remaining Consultant Expenses are reimbursable through the private development projects. Sufficient funds are available in the budget for these services.

**Recommendation:** Approve Amendment No.2 to the agreement with Hatch Mott MacDonald in the additional amount of \$108,220 for Land Development Engineering services expiring on December 31, 2015.

- \* 17. **Approve an Agreement with HF&H Consultants, LLC for Technical Support Services for Solid Waste Rate Review for an Amount Not to Exceed \$29,910 (Staff Contact: Steven Machida, 408-586-3355)**

**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 their contract. Republic's next rate ceiling adjustment is due January 1, 2016 and the new rate will be in effect through September 5, 2017 when the contract expires.

Staff negotiated an agreement with HF&H Consultants for technical support services for assistance with the financial, regulatory, and technical support related to the 2016 and 2017 solid waste rate adjustments. The not-to-exceed amount is \$29,910.

**California Environmental Quality Act:** This action is exempt from CEQA as there will be no physical change to the environment.

**Alternative:** To keep existing rates which would place the City a) in violation of the franchise contract terms regarding biennial rate adjustments and b) in a position of potentially owing future monies based upon unchanged fees.

**Fiscal Impact:** None. Cost for technical support services is included in Engineering Dept. budget.

**Recommendation:** Approve an agreement with HF&H Consultants for technical support services for solid waste rate review for a not-to-exceed amount of \$29,910 for a term from May 19, 2015 to June 30, 2016.

- \* 18. **Authorize the City Manager to Amend the Master Services Agreement with York Insurance Group, Inc. through June 30, 2016 for Services as the City's Workers' Compensation Third Party Administrator (Staff Contact: Carmen Valdez, 408-586-3086)**

**Background:** The City entered into an agreement on November 1, 2005 with Southern California Risk Management Association (SCRMA) now known as York Insurance Services Group, Inc. to provide services and perform work as the City's Workers' Compensation Third Party Administrator in accordance with any applicable requirements of federal, state or local laws or rules and/or regulations. The current term of the agreement will expire on June 30, 2015. At this time staff is requesting to renew the contract with York to provide services for a one (1) year term beginning July 1, 2015 and concluding on June 30, 2016. The terms of the contract will also include administrative fees in the amount of \$129,000 for the year, (same as last year 0% increase).

**Fiscal Impact:** None. There are sufficient funds allocated in the Human Resources departmental FY 2015-16 budget.

**Recommendation:** Authorize the City Manager to execute an amendment to the current agreement with York Insurance Services Group, Inc. for Workers' Compensation Third Party Administrator extending the agreement effective July 1, 2015 through June 30, 2016 in accordance with the terms and conditions stated in the amendment in an amount not to exceed \$129,000.

- \* 19. **Approve Seventh Amendment to the Agreement for Legal Services with Jarvis, Fay, Doporto & Gibson, LLP (Staff Contact: Mike Ogaz, 408-586-3041)**

**Background:** The law firm Jarvis Fay has been handling the City's appeal regarding the CEQA challenge to the permit allowing expansion of the Newby Island Landfill to double the height and allowing continuing landfill activities. As there are still continuing legal services required in the

matter, including upcoming appellate oral arguments, it is necessary to add \$19,500 to the firm's contract.

**Fiscal Impact:** None. Amendment amount is within department budget for outside counsel.

**Recommendation:** Approve 7<sup>th</sup> amendment to the agreement with law firm of Jarvis, Fay, Doport & Gibson, LLP adding \$19,500 for continuing necessary legal services.

**\* 20. Authorize the City Manager to Execute an Agreement with William Avery & Associates for Recruitment of a New Human Resources Director (Staff Contact: Emma Karlen, 408-586-3145)**

**Background:** The City's current Human Resources Director will retire in June, creating the need to recruit a replacement. This position was identified by the City Manager as a key senior management hire. Recruitment effort for this position will target the most qualified candidates to meet the City's need for continued management leadership.

Staff recommends the firm of William Avery & Associates, which has a national reputation for conducting quality searches and placing exceptional candidates. With over 30 years of combined experience in executive search, management and local government, William Avery & Associates brings a high level of service to the industry. William Avery & Associates is familiar with Santa Clara County and the surrounding region and has been utilized extensively for executive recruitment and selection efforts throughout the Bay Area.

**Fiscal Impact:** The estimated maximum cost of the recruitment and selection processes for this executive position is \$23,900 (\$17,900 consultant fee and \$6,000 expenses such as advertisement, clerical time, long distance telephone conversations, and travel.)

**Recommendations:**

1. Authorize the City Manager to execute an agreement with William Avery & Associates, subject to approval as to form by the City Attorney, in an amount not to exceed \$23,900 for the administration of recruitment and selection for a Human Resources Director.
2. Request approval of a budget appropriation of \$23,900.

**XX. ADJOURNMENT**