



# MILPITAS CITY COUNCIL MEETING AGENDA

**TUESDAY, AUGUST 4, 2015**

**455 EAST CALAVERAS BLVD, MILPITAS, CA**

**6:00 P.M. CLOSED SESSION**  
**7:00 P.M. PUBLIC BUSINESS**

*Note: Councilmember Garry Barbadillo will participate by telephone conference at his remote location: Radisson Hotel Hartford, 50 Morgan St., Hartford, CT 06120 (860) 549-2400*

## SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)**
- II. CLOSED SESSION**
  - 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
  - CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**  
Pursuant to California Government Code Section 54956.9 - City as Defendant
- 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 (Vice Mayor Montano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – June 16, July 1 and 3, 2015 meetings**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR - August 2015**
- VIII. 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 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 place the item on a future meeting agenda.

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- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XI. APPROVAL OF AGENDA**
- XII. 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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### **XIII. PUBLIC HEARINGS**

- 1. Hold Public Hearing to Consider Request to Host a Flag Ceremony at City Hall Outside Plaza by the Pakistan American Culture Center on August 14, 2015 (Staff Contact: Mary Lavelle, 408-586-3001)**
- 2. Hold a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 408-586-3371)**
- 3. Hold a Public Hearing and Adopt a Resolution Approving a Site Development Permit Amendment Allowing Various Site and Building Modifications, Lot Line Adjustment and Reconfiguration of Open Space Easement to Existing Hillside Home at 1000 Country Club Drive Under Construction (Staff Contact: Cindy Hom, 408-586-3284)**
- 4. Hold a Public Hearing to Consider Protests Against Proposed Sewer Rate Increases, Waive the Second Reading and Adopt Ordinance No. 208.50 for Amendments to Title VIII of the Milpitas Municipal Code to Establish Sewer Rates (Staff Contact: Steven Machida, 408-586-3355)**
- 5. Receive Staff Briefing on New Water Rate Study and Move to Continue Scheduled Public Hearing and Adoption of Proposed Ordinance to Establish Water Rates (Staff Contact: Steven Machida, 408-586-3355)**

### **XIV. UNFINISHED BUSINESS**

- 6. Receive Quarterly Economic Development Report (Staff Contact: Edesa Bitbadal, 408-586-3052)**
- 7. Accept Report on Status of Ballot Measures T and Z, Relating to Urban Growth Boundaries and Urban Service Areas and Provide Direction to Staff (Staff Contacts: Tom Williams, 408-586-3050 and Bill Ekern, 408-586-3273)**
- \* 8. Receive the Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

### **XV. REPORTS OF OFFICERS AND COMMISSIONS**

- \* 9. Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- \*10. Consider Recommendation to Appoint Mayor Esteves to Serve as Milpitas Representative to the Board of Bay Area Water Supply and Conservation Agency (Staff Contact: Mayor Esteves, 408-586-3029)**
- 11. Hear Report of Vice Mayor Carmen Montano on a Proposal Seeking Amendment to Current Janitorial Contract (Contact: Vice Mayor Montano, 408-586-3023)**
- \*12. Per Recommendation of Telecommunications Commission, Approve Donation of Recycled Personal Computers to Milpitas Residents (seniors and students) (Staff Contact: Mike Luu, 408-586-2706)**

- \*13. **Approve Amendments to the By-laws of the Economic Development Commission (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**XVI. NEW BUSINESS**

- \*14. **Consider Request from St. Elizabeth Catholic Church to Waive Fees for its Parish Festival on August 16, 2015 Held on Church Grounds (Staff Contact: Mary Lavelle, 408-586-3001)**
- \*15. **Remove Alternate Member of the Economic Development Commission Due to Lack of Meeting Attendance (Staff Contact: Mary Lavelle, 408-586-3001)**
- \*16. **Approve Re-opening Capital Improvement Program (CIP) Projects No. 5096, Pinewood Park Picnic Renovation and Project No. 7109, Water System Replacement (Staff Contact: Steve Erickson, 408-586-3301)**
- \*17. **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2015 (Staff Contact: Emma Karlen, 408-586-3145)**
- \*18. **Review and Adopt Citywide Strategic Plan Vision, Mission and Values (Staff Contact: Tom Williams, 408-586-3050)**

**XVII. RESOLUTIONS**

- \*19. **Adopt a Resolution Supporting Temporary Street Closure on Technology Drive, S. McCarthy Boulevard, and Tasman Drive for the American Heart and Stroke Walk (Cindy Hom, 408-586-3284)**
- \*20. **Adopt a Resolution Approving the Sole Source Purchase of Asphaltic Material and Authorizing City Staff to Execute Agreements with Granite Construction Company and Reed and Graham Inc. for a Combined Not-To-Exceed Annual Amount of \$80,000 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*21. **Adopt a Resolution Approving an Agreement Between the City of Milpitas and the Santa Clara Valley Transportation Authority for the Funding of Sole Source Purchase of Paratech, Inc. Urban Search and Rescue Trailer and Equipment from L.N. Curtis & Sons for \$165,359.81 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*22. **Adopt a Resolution Awarding a Contract to George Bianchi Construction Inc. for 2014 Soundwall Renovation Project No. 4267 and Authorize the Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)**

**XVIII. AGREEMENTS & BIDS**

- \*23. **Award the Bid to J.J.R. Construction and Authorize the City Manager to Execute a Contract for On-Call Sidewalk Repair, Curbs & Gutters for the Annual Amount Not-to-Exceed \$326,250 and Authorize the Purchasing Agent to Exercise up to Four Annual Renewal Options (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*24. **Award the Bid to Battalion One Fire Protection and Authorize the City Manager to Execute a Contract for Citywide Fire Extinguisher Maintenance and Repair Service Annually Not-to-Exceed \$23,008 and Authorize the Purchasing Agent to Exercise up to Four Annual Renewals (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*25. **Award the Bid to Simplex Grinnell and Authorize the City Manager to Execute a Contract for Citywide Fire Alarm and Fire Suppression System Inspection, Testing, Maintenance and Repair Service for the Annual Not-to-Exceed Amount of \$35,868 and Authorize the**

**Purchasing Agent to Exercise up to Four Annual Renewal Options (Staff Contact: Chris Schroeder, 408-586-3161)**

- \*26. Approve Amendment No. 1 to the Agreement with JP Graphics Increasing the Value for City Printing Services Annually by \$65,000 for a Total Annual Amount Not-To-Exceed \$135,000 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*27. Authorize the City Manager to Renew the Agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch Services (Staff Contact: Armando Corpuz, 408-586- 2534)**
- \*28. Approve Amendment No. 6 to the Agreement with ACCO Engineered Systems, Inc. for Emergency Repairs to City Hall Heat, Ventilation and Air Conditioning (HVAC) System for an Amount Not-To-Exceed \$113,768.01 (Staff Contact: Nina Hawk, 408-586-2603)**
- \*29. Approve and Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Harris & Associates, Inc. for Support Services for Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**
- \*30. Approve Amendment No. 1 to the Agreement with Law Firm of Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contacts: Tom Williams, 408-586-3050 and Gary Baum, 408-586-3040)**

**XIX. ADJOURNMENT**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
City Attorney office 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 BECOME A CITY COMMISSIONER!**

Current vacancies exist on the:

*Arts Commission*

*Community Advisory Commission (3 vacancies)*

*Economic Development Commission (residential real estate rep.)*

*Sister Cities Commission*

*Veterans Commission (2 vacancies)*

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 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 Council Chambers.*

## AGENDA REPORTS

### **XIII. PUBLIC HEARINGS**

- 1. Hold Public Hearing to Consider Request to Host a Flag Ceremony at City Hall Outside Plaza by the Pakistan American Culture Center on August 14, 2015 (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** The Pakistan American Culture Center of Milpitas filed two applications with the City Clerk in July: (1) to rent Milpitas City Hall outdoor plaza from 7:00–9:00 PM on Friday, August 14, 2015 and (2) a request to hold a ground level flag ceremony on that date. Milpitas Municipal Code I-600-2.40 requires “all ground level ceremonies must be approved by the City Council . . . and . . . a public hearing will be held regarding each ground level ceremony application prior to its approval or denial by the City Council.”

Mr. Mohammad Aboobaker from PACC submitted proper forms along with application fees. The group would like to hold an outdoor flag ceremony and hear speeches, outside at the back patio of City Hall, to be followed by a brief outdoor reception where approximately 75 people are anticipated to attend. An insurance certificate was submitted to the City Clerk along with proper rental fees for the event.

The City Council must hold a public hearing for any comments, and then following the hearing, Council shall determine if it will approve the request. The public hearing was noticed more than 10 days in advance of this meeting.

**Fiscal Impact:** None. Appropriate facility rental fees and staff costs were collected.

**Recommendations:**

1. Hold a public hearing, and move to close it following comments.
  2. Consider request and approve a flag ceremony by the Pakistan American Culture Center at Milpitas City Hall outside plaza on Friday, August 14, 2015 from 7:00 to 9:00 PM.
- 2. Hold a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 408-586-3371)**

**Background:** On January 6, 2015, the Milpitas City Council adopted Resolution No. 8433 declaring noxious or dangerous weeds growing upon certain described property to be a public nuisance that must be abated by the removal of the weeds. If the public nuisance was not removed from the properties by the owner, the City contracted with the County Department of Agriculture and Environmental Management to remove the weeds and abate the nuisance. In accordance with Title V, Chapter 202, Weed Abatement, of the Milpitas Municipal Code, the County Department of Agriculture and Environmental Management filed with the City Clerk a report and assessment list on weeds abated within the City as nuisances. The report and notice of the public hearing was posted at City Hall and published in the local newspaper, pursuant to Milpitas Municipal Code section V-202-9.00.

City code requires that the City Council “shall hear the report together with any objections of the property owner liable to be assessed and make such modifications on the proposed assessment as it deems necessary.”

After adoption by the City Council, the resolution will be recorded and charges thereon become a lien on the land involved to be collected in the same manner as property taxes. A copy of the assessment list and the resolution confirming the weed abatement report are included in the Council’s agenda packet.

**Recommendations:**

1. Hold the public hearing, and move to close the hearing following any testimony.
  2. Adopt a Resolution confirming assessments for weed abatement for 2015.
3. **Hold a Public Hearing and Adopt a Resolution Approving a Site Development Permit Amendment Allowing Various Site and Building Modifications, Lot Line Adjustment and Reconfiguration of Open Space Easement to Existing Hillside Home at 1000 Country Club Drive Under Construction (Staff Contact: Cindy Hom, 408-586-3284)**

**Background:** In November 2003, the City Council approved a Planned Unit Development Permit (PD2002-2) and Environmental Impact Assessment (EA2002-10) for the removal and replacement of an existing one-story house with a new 12,571 square feet split level house which includes one-story and two-story portions. The Planned Unit Development granted several deviations from Hillside Ordinance development standards that included the home to be constructed within the crestline zone of protection (an area defined as 100' below and 300' above of the perceived crestline which prohibits any structures, grading and non-native plant material or an visual intrusion), combining the total square footage of the main residence and second family unit, reduced rear setback, and exempted unconditioned space (garage, covered pool and unconditioned basement) from the square footage calculations. Subsequent approvals included a one-time 18 months' extension of the permit in May 2004. The applicant began construction in 2005 but the home remains uncompleted. However, there are active building permits that have been extended to complete the construction of the home at 1000 Country Club Drive.

The current project being considered is a Site Development Permit Amendment for minor site and building modifications to the house. The purpose of the Amendment is to bring the home into compliance with the updated building codes, improve the driveway condition, and provide a more contemporary site and architectural design. The project plans (Attachment B) illustrate these modifications. The project includes a lot line adjustment and reconfiguration of an open space easement. The lot line adjustment would reconfigure the open space easement to encumber 60 percent of the lot as open space. This proposal complies with the provision for open space easements for the hillside zone. Pursuant to Milpitas Municipal Code XI-10-45-.08-2, reconfiguration of the open space easement may be granted, at a public hearing by the City Council, provided that the net acreage is not decreased. In this instance, the area of the open space easement will actually increase leading to greater preservation of open space.

The Planning Commission conducted a public hearing on June 24, 2015 and adopted a resolution recommending that the City Council approve the Site Development Permit Amendment for the minor site and building modifications to an existing hillside home, lot line adjustment and reconfiguration of the an open space easement. June 24, 2015 Planning Commission staff report (Attachment C) and meeting minutes (Attachment D) are included in Council's agenda packet.

**Fiscal Impact:** None.

**Attachments**

- A. Draft City Council Resolution
- B. Project Plans (large bound document)
- C. June 24, 2015 Planning Commission staff report
- D. Adopted Planning Commission Resolution
- E. June 24, 2015 Planning Commission Meeting Minutes

**Recommendations:**

1. Following any comments, move to close the public hearing.
2. Adopt a Resolution approving Site Development Permit Amendment No. SA14-0002 to allow for various site and building modifications, lot line adjustment and reconfiguration of an existing open space easement to an existing hillside home at 1000 Country Club Drive, based on findings and subject to conditions of approval.

**4. Hold a Public Hearing to Consider Protests Against Proposed Sewer Rate Increases, Waive the Second Reading and Adopt Ordinance No. 208.50 for Amendments to Title VIII of the Milpitas Municipal Code to Establish Sewer Rates (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** On May 19, 2015, the City Council accepted staff recommendations for sewer rate increases; introduced the sewer rate ordinance; approved notification to all property owners for the proposed rate increases; and set August 4, 2015 as the date for the public hearing on the proposed rates and ordinance adoption. The rate recommendations are based on the City’s expected expenses and revenue needs in accordance with City fiscal policies.

The City provides sewer collection and treatment services to residential and business customers at a rate that covers the City’s costs. Wastewater treatment costs are increasing, doubling from FY 2014-15 to FY 2015-16 due to the start of the 30-year rebuilding program at the San Jose/ Santa Clara Water Pollution Control Plant (WPCP). Existing revenues are insufficient to meet projected service expenses. Therefore, staff prepared a one year rate analysis (copy in the Council packet) to provide sufficient revenue to cover increased costs. Under the proposed sewer rate increase, the average single family sewer bill would increase by \$3.34 (from \$86.93 to \$90.27).

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. The City has started an update to the FUMP for the next 20 years, which is scheduled to be completed in the months ahead.

San Jose/Santa Clara Water Pollution Control Plant (WPCP) treatment costs are about 60 % of the City’s total wastewater service expenses. The City holds a long term contract that includes increasing treatment prices to recover the cost of service. The capital replacement costs necessary for the rehabilitation of the 60 year old regional wastewater treatment facility will increase significantly, doubling from the previous year. The remaining 40% of the City’s wastewater service cost is for operation, maintenance, and capital costs related to wastewater collection and pumping. The City’s sewer system contains over 180 miles of pipe and two pumping stations that collect and transport the sewage to the WPCP.

The City of San Jose has prepared a preliminary 10-year estimate of operating and considerable capital costs. Starting with FY 2015-16, 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 financing options require the City to increase its contribution to the WPCP’s reserve which will be built up over the next several years. Staff recommends participation in WPCP’s funding programs if costs are reasonable.

The City of San Jose recently completed a Residential Flow Study in 2014 that updated population per dwelling unit and per capita discharge from 1975 data. The flow study recommendation is shown in the table below.

City of Milpitas						
	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 between all customer categories. Rates for most commercial and industrial customers decrease and the mobile home sewer rate increases at a faster rate than the single family or multi-family customers. According to the Residential Flow Study, 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 WPCP.

Staff investigated the inconsistent mobile home park water consumption and agrees that the data should be disregarded. The water meters at the three mobile home parks are past their useful life and are scheduled to be replaced. 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.

	2015 Rate Basis		
	No. of persons	Flow per person gpd	People x flow per person = gpd per household
Single family	3.54	51	181
Multi-family	2.73	51	139
Mobile homes	2.24	51	141

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 \$14.3 million to \$17.4 million. The sewer rate schedule is tabulated in Ordinance No. 208.50, which is included in the Council packet.

Residential customers are billed a fixed bi-monthly 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:

City of Milpitas		
	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



term funding, and bonds to provide capital for the City's share of costs at the regional wastewater facility.

**Attachments:**

- A. Sewer Ordinance for adoption
- B. Notice to ratepayers
- C. Utility Rate Analysis

**Recommendations:**

- 1. Open the public hearing on sewer rates to hear comments on proposed utility rate increases.
  - 2. Move to close the public hearing following all speakers.
  - 3. Receive summary from the City Clerk of the number of written protests received. If the quantity of protests is less than a simple majority, Council may proceed with the next recommendation.
  - 4. Waive the second reading and adopt Ordinance No. 208.50 amending Title VIII of the Milpitas Municipal Code to establish sewer rates.
5. **Receive Staff Briefing on New Water Rate Study and Move to Continue Scheduled Public Hearing for Adoption of Proposed Ordinance to Establish Water Rates (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** On May 19, 2015, the City Council accepted staff recommendations for utility rate increases; introduced the water rate ordinance; approved notification to all property owners for the proposed rate increase; and set August 4, 2015 as the date for the public hearing on the proposed water rate and ordinance adoption. On July 22, 2015, a ruling by the State of California Supreme Court affects how cities administer water rates in California. Therefore, the City will implement a rate study to assure water rates meet this new ruling. Staff will brief the Mayor and Council at the City Council meeting.

As a result of the Appeals court ruling in April that found the City of San Juan Capistrano's tiered water rates unconstitutional under Proposition 218, Attorney General Kamala Harris appealed to the Supreme Court in June to "depublish" the ruling since it hampered efforts by cities to conserve water to deal with the ongoing drought in California. On Wednesday, July 22, the California Supreme Court issued a brief order rejecting the Attorney General's request, supporting the ruling by the Appeals court in April.

The City of Milpitas is working with Bartle Wells to provide a new water rate study that will comply with this new ruling on water rates under Proposition 218, which is expected in the next few months. Bartle Wells is already working on an update to the Financial Utility Master Plan (FUMP), last adopted in 2003. The purpose of the FUMP is to analyze anticipated utility revenues and expenses for a 20-year period to provide utility rate recommendations enabling long term financial rate stability. The update to the FUMP will address the next 20 years and is scheduled to be completed in the months ahead.

**Alternative:** Because of the California Supreme Court decision on July 22, there is no alternative that would be in compliance with Proposition 218.

**Fiscal Impact:** The City sells water and recycled water services to residential and business customers at a rate that covers the City's costs. Until a new rate is adopted, the City will lose revenue to cover increased expenses for water services. City Engineering staff is working with the contractor to expedite the new rate study. There is sufficient funding in CIP Projects No. 7111 and No. 7123 for the new rate study.

**Recommendations:**

- 1. Move to continue the public hearing on water rates to a date uncertain.
- 2. Receive staff briefing on a new Water Rate Study.

#### XIV. UNFINISHED BUSINESS

6. **Receive Quarterly Economic Development Report (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** The goal of the Economic Development quarterly report is to update and inform the City Council and the public of the Economic Development Division's activities and the Economic Development Workplan's progress.

**Recommendation:** Receive and accept the Quarterly Economic Development quarterly report from the Economic Development Manager.

7. **Accept Report on Status of Ballot Measures T and Z, Relating to Urban Growth Boundaries and Urban Service Areas and Provide Direction to Staff (Staff Contacts: Tom Williams, 408-586-3050 and Bill Ekern, 408-586-3273)**

**Background:** In 1998, the City Council placed a measure on the November ballot, known as Measure Z, that when passed adopted an ordinance amending the General Plan Land Use Plan to create an Urban Growth Boundary that is effective for twenty years. This action limited the development with the City of Milpitas to the valley floor and the base of the foothills by prohibiting city services, such as police, fire, sewer, and water to new land use developments in the hillside area. In 2004, the City Council placed a measure on the November ballot, known as Measure T, which required any amendment to the Hillside Ordinance be approved by the voters of the City of Milpitas. Measure T, as with Measure Z, has a termination date of December 31, 2018.

Based on the language in the ordinances and ballot pamphlet, staff believes that new sunset dates can only be set by returning to the voters, rather than the Council simply amending the adopted ordinances.

The City Council at its meeting on May 19, 2015 directed staff to return with an analysis of these ordinances to enable Council discussion addressing the sunset of these two land use ordinances. This topic was scheduled on June 16, 2015 Council agenda, but was not heard on that date and carried forward to the next meeting date.

**Fiscal Impact:** Should the City Council determine that placing these questions before the voters in an election, there would be the costs of the election.

**Recommendation:** Review information provided and provide direction to staff regarding steps to either extend the requirements of these ordinances or to allow the ordinances to sunset.

- \* 8. **Receive the Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** From May 11, 2015 through July 12, 2015, the Bay Area Air Quality Management District (BAAQMD) forwarded 264 complaints originating in Milpitas. 123 complaints identified a garbage odor, nine complaints identified a sewage odor, 130 complaints did not identify an odor source, and two identifying multiple odor sources. As of the last Council update, the City's odor reporting website has received 60 reported complaints.

**Recommendation:** Receive the update of the odor control report.

#### XV. REPORTS OF OFFICERS AND COMMISSIONS

- \* 9. **Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

**Background:** Mayor Esteves recommends the following:

**Community Advisory Commission:**

Appoint current Alternate No. 1 Mike Bilbao as voting member to a term that will expire in January of 2016.

Appoint current Alternate No. 3 Michael Lee as Alternate No. 1 to a term that will expire January of 2017.

Newly appoint Evan Bell as the Alternate No. 3 to a term that will expire in January of 2016.

**Parks, Recreation and Cultural Resources Commission:**

Re-appoint Samu Tiumalu as Alternate No. 2 to a term that will expire in June of 2017.

**Sister Cities Commission:**

Re-appoint Nolan Chen as a voting member to a term that will expire in September of 2017.

**Recommendation:** Receive Mayor's recommendations and approve appointments to three City of Milpitas Commissions.

- \*10. **Consider Recommendation to Appoint Mayor Esteves to Serve as Milpitas Representative to the Board of Bay Area Water Supply and Conservation Agency (Staff Contact: Mayor Esteves, 408-586-3029)**

**Background:** Recently, the previous representative serving as the City's appointed member on the Board of Directors for the regional body, Bay Area Water Supply and Conservation Agency (BAWSCA) and also the Bay Area Regional Water System Financing Authority (RFA), has resigned. Mayor Esteves would like to serve now on the BAWSCA Board and the RFA.

BAWSCA and its RFA meet approximately bi-monthly, or as scheduled. Meetings are often held at 7:00 PM on a Thursday evening, at a facility on the peninsula, frequently in Foster City or San Mateo. Also, service on the BAWSCA board includes a stipend of \$100 per meeting attended.

**Recommendation:** Receive the Mayor's recommendation and move to appoint Mayor Esteves to serve as the Milpitas representative to the Board of Directors of both BAWSCA and its financing entity, the RFA, to a term that will expire in April of 2017.

11. **Hear Report of Vice Mayor Carmen Montano on a Proposal Seeking Amendment to Current Janitorial Contract (Contact: Vice Mayor Montano, 408-586-3023)**

**Background:** Receive a report and request from the Vice Mayor on her desire to address the issue of the rate of pay and an hourly rate increase for contracted janitors through Varsity Services, the current contractor for the City of Milpitas.

**Recommendation:** Hear report from Vice Mayor and provide appropriate direction to staff.

- \*12. **Per Recommendation of Telecommunications Commission, Approve Donation of Recycled Personal Computers to Milpitas Residents (seniors and students) (Staff Contact: Mike Luu, 408-586-2706)**

**Background:** After 12 years of service, Microsoft stopped providing security updates and technical support for the Windows XP Operating System on April 8, 2014. In response, the Information Services Department has been upgrading/replacing desktop computers ("PC") and laptops running Windows XP with PCs and laptops running Windows 7 or higher. As a result, the City has collected PCs and laptops that are more than five years old and would normally be

recycled. The Milpitas Telecommunications Commission recommended that these computers be donated to low income Milpitas seniors or students to help bridge the gap across the digital divide.

With the recommendation from the Telecommunications Commission, the City Information Services started an inventory of PCs and laptops. These are ready-to-use and can be donated to Milpitas seniors and students free of charge.

These PCs/Laptops are:

- Wiped clean to protect City Data
- Loaded with Zorin 9 OS to comply with Microsoft Licensing Agreement
- Ready-to-use
- Donated “as is”

The Zorin OS Operating System was installed because the system:

- Has no risk of getting viruses
- Is fast-running and light on resources
- Is an user-friendly desktop
- Is stable as it is based on the robust Linux operating system
- Contains all the software the user will ever need out of the box
- it is an Open Source software licensed by the GNU GPL.

**Fiscal Impact:** None.

**Recommendation:** Approve the Telecommunications Commission’s recommendation to allow donation of recycled Personal Computers and laptop computers.

**\*13. Approve Amendments to the By-laws of the Economic Development Commission (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** The Economic Development Commission was established by the Milpitas City Council on February 19, 2003. The Commission has been comprised of one representative from each of the following organizations and areas:

Chamber of Commerce, Milpitas Unified School District, Technology, Restaurant, Residential Real Estate, Commercial Real Estate, and Hotel/ Accommodations. The Commission also has two representatives from each of the following organizations and areas: Retail Business and Resident.

Since the inception of the EDC, there has been one By-Law amendment adopted by the City Council. The By-law amendment on March of 2009 added two new Commissioners by adding a residential real estate representative, and one additional resident to the Commission.

The City Council’s 2009 changes were not fully reflected in the EDC By-laws as there were discrepancies in the language of the By-laws and changes made by the Council. Also, in 2011 the City Council requested the Economic Development and the Sister Cities Commission work together to forge stronger ties. These two changes and additional changes prompted staff and the EDC to form a By-Laws subcommittee to amend the By-laws. In preparation of the By-law changes, staff reviewed By-laws for five cities in four different counties to develop changes.

The EDC By-law Subcommittee was formed by the EDC on March 9, 2015. On April 9, and June 8, 2015, the Subcommittee met to review and make changes to the current By-laws. Subsequently, the EDC reviewed the proposed changes and approved them unanimously on June 8, 2015.

The major change to the By-laws is to add a new section numbered Section 2 called “Charge.” This section provides guidelines for the role and responsibility of the EDC. The new language states the Economic Development Commission is charged to:

1. Promote and cultivate retention and expansion of businesses as well as attraction of new businesses.
2. Ensure City-wide economic development sustainability and a viable financial base for the City.
3. Maintain a successful business climate.
4. Maintain a diverse job base and workforce development.
5. Cultivate relationships with business organizations and City commissions in order to gain economic development opportunities for the City.

Section 3 of the By-laws is the membership section that defines the structure of the Commission. The changes proposed are to add “Commercial” to the Residential Real Estate category. This gives flexibility in recruiting Commercial Brokers who work closely with Industrial users, businesses, and commercial land owners. “Commercial Business” was added to the Retail Business category to allow for flexibility in recruiting business owners.

Section 7 of the By-laws described the meeting guidelines. Changes proposed in this section are:

- 1) Start the monthly meetings at 4:00 pm rather than the currently established time of 6:00 pm. This is the single most important tool to recruit and retain business representatives. For those who work and/or own businesses in Milpitas, this allows them flexibility in managing their business while participating and volunteering their time with the City.
- 2) Special meetings of Economic Development Commission may be called by a majority of the members, Chair, or City Council. This was changed to add the “Chair through staff” and also add “staff” can call special meetings, if needed.
- 3) Current language of the By-laws requires the Commission to follow the latest edition of Roberts Rules of Order. Rules of parliamentary procedure were added to give options to the EDC.

Section 8 of the By-laws addresses quorums. The quorum for an eleven member commission should be six not five. This language was changed to six to reflect the changes made to the EDC by the City Council in 2009.

These changes will assist the development of the City’s goals in economic development while conducting efficient and effective meetings.

**Recommendation:** Approve amendments to the By-Laws of the Economic Development Commission based on the recommendations by the Commissioners.

## **XVI. NEW BUSINESS**

- \*14. Consider Request from St. Elizabeth Catholic Church to Waive Fees for its Parish Festival on August 16, 2015 Held on Church Grounds (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** The City Clerk received a “Donation or Fee Waiver/Reduction Request Application Form” from St. Elizabeth Catholic Church on July 16. Volunteers for the Festival applied for a Special Event Permit through planning, which will be considered separately for approval by the Planning Commission Subcommittee. At this time, the church has requested that the City Council waive select fees charged by the City for the church to put on its Festival.

City Fees charged for the Festival requested to be waived:  
Special Event Permit (Planning Dept)                      \$250.00

Temporary Fire Assembly permit (Fire Dept): \$523.77  
Electrical Permit fee (Building Dept.) \$657.00

**Fiscal Impact:** \$20,000 was approved and included in the FY 2015-16 City budget for City Council's Unallocated Community Promotions. If the current donation request is approved, then \$18,569.23 would be the remaining balance.

**Recommendation:** Consider the request from St. Elizabeth Catholic Church and move to waive fees totaling \$1,430.77 related to the Parish Festival held at church on Sunday, August 16, 2015.

**\*15. Remove Alternate Member of the Economic Development Commission Due to Lack of Meeting Attendance (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** Economic Development Commission Alternate member Mark Wong has not been attending monthly Commission meetings for the past year. The last date he attended an EDC meeting was more than one year ago, on March 14, 2014. Upon being notified of his lack of attendance, the City Clerk sent e-mails to him in January and April, and then a letter of inquiry via US postal mail on June 10, 2015, to which Mr. Wong did not respond.

Commission By-Laws state: "The term of office for the Economic Development Commission members will be three years, or until reappointed or a successor is appointed. The term of office for alternates is two years or until reappointed or a successor is appointed. Members and alternates are expected to attend all meetings. When any member or alternate has three or more unexcused absences in a 12-month period, the Commission shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Economic Development Commission may be removed from office by a majority vote of the City Council at a regularly scheduled Council meeting."

**Recommendation:** Due to unexcused absences, lack of attendance more than one year and per Commission by-laws, vote to remove Mark Wong as EDC Alternate No. 2, thus creating a new vacancy for a term that will expire in April 2016.

**\*16. Approve Re-opening Capital Improvement Program Projects No. 5096, Pinewood Park Picnic Renovation and Project No. 7109, Water System Replacement (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** During the Capital Improvement Program (CIP) budgeting process, staff reviews all active capital improvement projects and recommends their closure prior to the end of the fiscal year. Last spring, a total of nine projects were programmed to be closed at the end of this last fiscal year, June 30, 2015. However, two of these Capital Improvement Program projects are still active and it is recommended they remain open this fiscal year.

Construction of Project No. 5096, Pinewood Park Picnic Renovation is complete. However, the project work is in the one-year warranty and maintenance period and invoices are processed for the contractor's monthly maintenance. Construction of the cathodic protection improvements for Project No. 7109 Water System Replacement is also complete. However, the contractor is finalizing project documentation and completing recommended standard drawings for use by the City on future water system improvements projects.

**Fiscal Impact:** None. There are sufficient funds in the respective project budgets.

**Alternative:** Denial of this request would result in the early closure of these projects and not completing the remaining project items of work.

**Recommendation:** Approve re-opening Capital Improvement Project No. 5096 Pinewood Park Picnic Renovation and Project No. 7109 Water System Replacement.

**\*17. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2015 (Staff Contact: Emma Karlen, 408-586-3145)**

**Background:** In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended June 30, 2015 is submitted for the Council's review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of June 30, 2015.

As of June 30, 2015, the principal cost and market value of the City's investment portfolio was \$182,337,137 and \$182,525,010 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended June 30, 2015 was 0.70%. The comparative benchmarks for the same period were 0.30% for LAIF (Local Agency Investment Fund) and 0.56% for the 12-month average yield of the 2-year Treasury Note. The weighted average maturity of the portfolio was 507 days.

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

The market values of the securities were provided by BNY Mellon, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of BNY Mellon under the terms of a custody agreement.

Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

**Fiscal Impact:** None.

**Recommendation:** Receive the investment report for the quarter ended June 30, 2015.

**\*18. Review and Adopt Citywide Strategic Plan Vision, Mission and Values (Staff Contact: Tom Williams, 408-586-3050)**

**Background:** An extensive effort has been underway to prepare the City's first comprehensive strategic plan. General information, specific ideas about future needs of the City and direction as to the needs of employees, citizens and businesses has been obtained through an outreach program inclusive of a wide and diverse cross section of the community and city staff.

This has been an extensive effort. Working with the consultant team, the City engaged over 300 community members to elicit their views and hear their visions for the future of the City. Simultaneously, the city engaged over 125 employees in discussion groups to hear their thoughts regarding the strengths, challenges, and opportunities for the organization. These discussion

groups were facilitated by members of the Employee Engagement Team, a group of 18 employees who have worked closely with the Executive Management Team throughout the process to help shape the Strategic Plan. Additionally, two prior City-wide meetings were held, one to launch the strategic planning process, and the other to gain input and ideas on an early draft of the Plan. Recently, a third City-wide meeting was held to share the foundation of the first City-wide strategic plan.

The cornerstone of the plan now consists of a final draft of the staff and community vision, organizational mission, a set of five organizational values. City staff has signed the document pledging their support and concurrence with Vision, Mission and Values of the plan.

Staff is excited to share the Strategic Plan with the City Council and gain concurrence. Employees believe the Vision, Mission and Values represent a turning point for the City organization, an opportunity to move past the economic decline and painful cuts that were endured toward a more positive and brighter future. As the City Council will see, the Plan helps define where the City is going as an organization, the values that are important and the goals to be accomplished.

The City staff fully recognizes that there is more that needs to be done to live up to the lofty aspirations set for the employee workforce in the Strategic Plan. But staff is prepared to take on that challenge. Following are the agreed upon Vision statement, Mission statement and Organizational Values. Seeking concurrence with the City Council is desired.

**Community Vision:** Milpitas will preserve its close-knit community and rich cultural diversity as it moves with innovation into the future by supporting sustainable growth and development, ensuring public safety, enhancing the environment and natural landscape, and nurturing family and community connections.

**Organizational Mission:** The City of Milpitas is committed to accomplishing the community's vision by providing fiscally sound, superior services.

**Organizational Values:**

**Superior Customer Service** – Develop the knowledge and skills, and secure the resources and tools to provide superior services to the community. Be innovative and open to change. Seek out efficiencies and streamlining efforts. Stay current and adopt best practices.

**Open Communication** – Listen openly and speak candidly when interacting with others. Promote two-way communication at all levels of the organization, between management and staff, across departments, and with the community. Ensure that employees are informed and have access to important information.

**Integrity and Accountability** – Be honest, ethical, and transparent when dealing with others. Take responsibility and be accountable for your actions. Establish expectations and adhere to standards of conduct for yourself and others.

**Trust and Respect** – Treat everyone fairly. Foster mutual respect at all levels of the organization. Embrace diverse views and experiences.

**Recognition and Celebration** – Acknowledge contributions. Celebrate accomplishments. Make Milpitas an enjoyable and fun place to work. Show support and care for all employees.

**Strategic Goals:**

**Goal 1: Superior Customer Service**

The City of Milpitas will maintain and continuously improve on providing superior service to our customers.

**Goal 2: Public Safety**

The City of Milpitas will maintain and enhance community trust and well-being by ensuring the protection and safety of residents, families, and all members of the community.

**Goal 3: Growth and Economic Development**

The City of Milpitas will develop plans and implement projects that will balance the needs of commercial, residential, and businesses in order to increase the City's economic base.

**Goal 4: Community Connections**

The City of Milpitas will build and maintain a strong connection with the community, creating greater collaboration, mutual trust and appreciation between the City and the people we serve.

**Goal 5: Regional Partnerships**

The City of Milpitas will build upon the strengths and sustain effective positive partnerships with citizens, local, State and regional organizations to enhance the quality of life in our community, and provide valuable services and solutions.

**Goal 6: Environment and Natural Resources**

The City of Milpitas will demonstrate environmental leadership through shared knowledge, green initiatives, environmental conservation, sustainable development, and compliance with health and environmental regulations.

**Goal 7: Fiscal Responsibility**

The City of Milpitas will operate in a fiscally responsible and sustainable manner for now and for future generations.

**Fiscal Impact:** None. Funding for these services was approved and included in the City budget from the City Manager’s Department.

**Recommendations:**

1. Hear and receive update from the City Manager on the strategic planning effort for the City and provide comments.
2. Move to approve the City of Milpitas Vision, Mission and Values as submitted.

**XVII. RESOLUTIONS**

- \*19. Adopt a Resolution Supporting Temporary Street Closure on Technology Drive, S. McCarthy Boulevard, and Tasman Drive for the American Heart and Stroke Walk (Cindy Hom, 408-586-3284)**

**Background:** The American Heart Association is requesting permission to temporarily close portions of three streets for the purpose of holding a non-competitive 5K (3.1 mile) fun walk and festival on Saturday, October 17, 2015 between the hours of 8:30 a.m. and 12:30 p.m. The proposed event anticipates attendance of approximately 4,000 people and requires street closures for public safety.

The proposed route for the event is on the following public streets: Technology Drive between Murphy Ranch Road and South McCarthy Boulevard; Tasman Drive between the east and west side of the Coyote Creek Trail, and McCarthy Boulevard between Technology Drive and State Route 237 Off-Ramp. Roads will be closed half an hour prior to the start of the event for set up and an hour and a half after the event ends for tear down of the street closures. The special event will also include a Miracle Mile walk proposed on the public sidewalks around the perimeter of the SanDisk Campus along Technology Drive, South McCarthy Boulevard, SanDisk Drive, and Murphy Ranch Road.

The purpose of the event is to raise funds for the American Heart Association's research, education and advocacy efforts. The event also includes a festival area with booths for sponsors, vendors, activities, and food tents located within the KLA Tencor parking lot located at 1 Technology Drive.

If the City Council authorizes the street closures, the applicant shall be responsible for the implementation of the Traffic Control Plan and associated City services. Conditions will be placed on the special event permit to ensure public traffic and pedestrian safety.

**Event Parking:** The applicant will use approximately 1,900 on-site parking spaces on the KLA Campus, as well as 300 off-site parking spaces on the neighboring SanDisk campus.

**Event Security:** The applicant will use KLA Tencor's private security company for event security. Staff is requiring the applicant to provide two to four security officers at each event area, including the off-site parking areas, in order to maintain crowd control and to assist in directing pedestrian traffic.

**Analysis:** The applicant anticipates approximately 4,000 attendees, and plans minimize potential parking issues by providing sufficient off-street parking. Residents in the area may be impacted due to the temporary street closures and re-routing of traffic. However, these impacts would be limited to Saturday for a six hour period. The applicant held a community meeting with the residents of Cerano Apartments and Coyote Creek Villas on July 23, 2015 to present the event and traffic management plan.

**Fiscal Impact:** None.

**Recommendation:** Adopt a Resolution supporting temporary partial street closure on Technology Drive, South McCarthy Boulevard, and Tasman Drive on Saturday, October 17, 2015 from 8:00 a.m. to 2:00 p.m. for the American Heart and Stroke Walk in Milpitas.

**\*20. Adopt a Resolution Approving the Sole Source Purchase of Asphaltic Material and Authorizing City Staff to Execute Agreements with Granite Construction Company and Reed and Graham Inc. for a Combined Not-To-Exceed Annual Amount of \$80,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** Public Works Street Maintenance staff performs patch and repair work on City roads and related work sites. Annual cost of the asphaltic materials for these services is estimated to be approximately \$80,000. Staff recommends that Granite Construction Company be established as the primary supplier, and Reed and Graham Inc. be the secondary supplier due to their proximity to the Public Works Corporation Yard. Granite Construction is located seven miles from and Reed and Graham is located thirteen miles from the Public Works yard respectively. These two suppliers are the only locations within a feasible distance to provide the asphaltic material, which must be delivered hot, to be picked up by the Street Maintenance crews to perform the work.

After seeking informal quotes and reviewing all available regional suppliers, the Purchasing Agent and the Director of Public Works determined that these firms are the only two sources for asphaltic materials within a workable distance for the Street Maintenance crews to pick up the material. Formal advertisements of bids would not change or increase the number of the limited suppliers of "hot asphalt" materials suitable for street patch and repair work. Staff negotiated a fixed price multi-year contract with the two firms. The terms of the contracts are three years, with optional two one-year renewals. The prices include a quarterly price adjustment based on the Liquid Asphaltic Rack Price. The total estimated value for the five years of the contract is \$400,000.

**Fiscal Impact:** None. Funds for this purchase are available from the Street Maintenance FY 2015-16 operating budget.

**Recommendation:** Adopt a resolution approving the sole source purchase of asphaltic material from Granite Construction Company and from Reed and Graham Inc. for a not to exceed combined annual amount of \$80,000, and authorize staff to execute the agreements.

**\*21. Adopt a Resolution Approving an Agreement Between the City of Milpitas and the Santa Clara Valley Transportation Authority for the Funding of Sole Source Purchase of Paratech, Inc. Urban Search and Rescue Trailer and Equipment from L.N. Curtis & Sons for \$165,359.81 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** The Milpitas BART station is currently under construction and is projected to be completed in late 2016 and operational in late 2017. As such, the Milpitas Fire Department is currently preparing for enhanced emergency response operations within the area of the Milpitas BART station and tracks. After reviewing the potential impacts of both the construction phase and the operations phase of the BART system, the need for an increased technical rescue capacity has been identified as an area that will require additional resources from the Milpitas Fire Department due to the unique challenges within the BART guide way and station.

The Milpitas Fire Department has identified the Urban Search & Rescue Trailer by Paratech, Inc. as the appropriate comprehensive rescue trailer equipped to perform lifting and stabilization in significant technical incidents. The inventory includes airbags, stabilization shores, and equipment for the cutting of metal rail cars.

The sole vendor for Paratech, Inc. products and support, including the Paratech Urban Search & Rescue Trailer, in California is LN Curtis & Sons, a fire equipment supplier. LN Curtis & Sons is also the only authorized trade-in and warranty repair work center in the Bay Area region for Paratech Inc. products.

The Paratech, Inc. Urban Search & Rescue Trailer and equipment is compatible with existing Milpitas FD rescue equipment as well as rescue equipment that is currently part of the fire agency mutual aid system in Santa Clara County. Paratech, Inc. shore and struts are part of the Santa Clara County Fire technical rescue cache. It is essential for interoperability that all mutual aid equipment matches Santa Clara County Fire Standards. Section I-2-3.09 of the Milpitas Municipal Code authorizes the City Council to award contracts without competition when the Purchasing Agent determines that there is only one source for the required supply or service.

**Fiscal Impact:** None. The funding for the purchase of the rescue trailer will be reimbursed by the Santa Clara Valley Transportation Authority.

**Recommendations:**

1. Approve the agreement with the Santa Clara Valley Transportation Authority for the funding of a sole source purchase of a specialized urban search and rescue trailer from L.N. Curtis & Sons for a total cost of \$165,359.81.
2. Approve a budget appropriation of \$165,359.81 into the Fire Department budget.

**\*22. Adopt a Resolution Awarding a Contract to George Bianchi Construction Inc. for 2014 Soundwall Renovation Project No. 4267 and Authorize the Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On April 21, 2015, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for 2014 Soundwall Renovation, Project No. 4267. The project provides for renovation and repair of City owned precast concrete soundwalls along Jacklin Road and adjacent to Del Rio Court and Tularcitos Creek. The Engineer's Estimate for the project was \$415,000.

The project was advertised and three sealed bids proposal were received on July 21, 2015. The bid pricing ranged from \$385,030 to \$449,800, and no protest was filed. One of the three bids submitted was determined to be nonresponsive. Printex Concrete Products, who submitted the lowest bid, did not possess the required Class B license from the Contractors State License Board as required by the Notice Inviting Bids. Therefore, the lowest responsible bid was submitted by George Bianchi Construction Inc. in the amount of \$406,299.50.

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 (copy of policy is included in the Council agenda packet). 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 \$40,000; approximately 10% of the total contract value, and the change order authority would not exceed this amount and would not require an additional appropriation.

**Alternative:** Denial of this request would result in the installation and repairs to the soundwalls not being completed.

**California Environmental Quality Act :** This project is categorically exempt under Section 15301 of CEQA guidelines for maintenance of existing facilities.

**Fiscal Impact:** None. Sufficient funds are available in the project budget.

**Recommendation:** Adopt a resolution:

1. Awarding a contract to George Bianchi Construction Inc. and authorize the City Manager to execute the contract for the 2014 Soundwall Renovation Project No. 4267 in the amount of \$406,299.50.
2. Authorize the City's Director of Engineering to execute contract change orders for 2014 Soundwall Renovation Project No. 4267 in the cumulate amount not to exceed \$40,000.

## **XVIII. AGREEMENTS & BIDS**

- \*23. Award the Bid to J.J.R. Construction and Authorize the City Manager to Execute a Contract for On-Call Sidewalk Repair, Curbs & Gutters for the Annual Amount Not-to-Exceed \$326,250 and Authorize the Purchasing Agent to Exercise up to Four Annual Renewal Options (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** The City's Purchasing Agent worked with Public Works to develop specifications for the Invitation to Bid (IFB) soliciting citywide On-Call Sidewalk Repair, Curbs & Gutters. On May 22, 2015, the invitation was advertised in the local newspaper, on the City website and through the *Public Purchase* electronic procurement website. On June 12, 2015, one bidder responded – JJR Construction for \$336,250.

The award amount is predicated on unit prices per square foot of installed concrete based on eleven different Standard City Engineering Street Drawings. The initial term of the contract to be awarded is one year from August 5, 2015 to August 4, 2016, with four one-year renewal options. The Option to Extend for renewal years includes a compensation adjustment clause stating that price increases shall not exceed the Producer Price Index or 3%, whichever is less, and would be exercised by the Purchasing Agent, subject to appropriation of funds and without further Council approval. J.J.R. Construction is a California corporation. The contract is for five years with a total contract value of \$1,681,250. After posting the Notice of Intent to Award (Pending Bid Results), there was no protest filed.

**Fiscal Impact:** None. Funding for this purchase is available from the Public Works Department's operating budget and Street Resurfacing Project CIP No. 4280.

**Recommendations:**

1. Award the bid to J.J.R. Construction and authorize the City Manager to execute the contract for on-call sidewalk repair, curbs & gutters for the annual not-to-exceed amount \$336,250.
2. Authorize the Purchasing Agent to exercise up to four annual renewal options, subject to appropriation of funds and without further City Council approval.

- \*24. Award the Bid to Battalion One Fire Protection and Authorize the City Manager to Execute a Contract for Citywide Fire Extinguisher Maintenance and Repair Service Annually Not-to-Exceed \$23,008 and Authorize the Purchasing Agent to Exercise up to Four Annual Renewals (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** The City's Purchasing Agent worked with Public Works to develop specifications for the Invitation to Bid (IFB) soliciting citywide Fire Extinguisher Maintenance and Repair. On May 22, 2015, the invitation was advertised in the local newspaper, on the City website and through the *Public Purchase* electronic procurement website. On June 12, 2015, three bidders responded with a summary here:

<b>Bidder</b>	<b>Annual Amount</b>
Battalion One Fire Protection	<b>\$21,008.00</b>
Fire Pro Specialists, Inc.	\$23,075.70
Fireguard Extinguisher Service	\$36,812.21

The initial term of the contract to be awarded is one year from August 5, 2015 to August 4, 2016, with four one-year renewal options. The option to extend for renewal years includes a compensation adjustment clause stating that price increases shall not exceed the Producer Price Index or 5%, whichever is less, and would be exercised by the Purchasing Agent, subject to appropriation of funds and without further Council approval. Battalion One Fire Protection is a California corporation. After posting the Notice of Intent to Award (pending bid results), there was no protest filed.

The award amount is the minimum amount required for the maintenance and repair service but does not allow for any additional services that may arise during the term of the agreement. Staff therefore recommends that \$2,000 be added as a contingency for such work annually, for an annual contract amount of \$23,008. This is a five year contract with a total contract value of \$115,040.

**Fiscal Impact:** None. Funding for this purchase is available from the Public Works Departments' operating budget.

**Recommendations:**

1. Award the bid to Battalion One Fire Protection for citywide fire extinguisher maintenance and repair service for the annual not-to-exceed amount \$23,008.00, and authorize the City Manager to execute the contract with Battalion One.
2. Authorize the Purchasing Agent to exercise up to four annual renewal options, subject to appropriation of funds and without further City Council approval.

- \*25. Award the Bid to Simplex Grinnell and Authorize the City Manager to Execute a Contract for Citywide Fire Alarm and Fire Suppression System Inspection, Testing, Maintenance and Repair Service for the Annual Not-to-Exceed Amount of \$35,868 and Authorize the Purchasing Agent to Exercise up to Four Annual Renewal Options (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** The City’s Purchasing Agent worked with Public Works to develop specifications for the Invitation to Bid (IFB) soliciting citywide Fire Alarm and Fire Suppression System Inspection, Testing, Maintenance and Repair Service. On June 12, 2015, the invitation was advertised in the local newspaper, on the City website and through the *Public Purchase* electronic procurement website. On July 6, 2015, five bidders responded with summary here:

<b>Bidder</b>	<b>Annual Amount</b>
Simplex Grinnell	<b>\$28,868.00</b>
Cosco Fire Protection	\$40,405.00
RFI Communications & Security Systems	\$51,210.00
Intelligent Technologies, Inc.	\$51,212.00
Battlion One Fire protection	\$55,438.00

The initial term of the contract to be awarded is one year from August 5, 2015 to August 4, 2016, with four one-year renewal options. The Option to Extend for renewal years includes a compensation adjustment clause stating that price increases shall not exceed the Employment Cost Index or 5%, whichever is less, and would be exercised by the Purchasing Agent, subject to appropriation of funds and without further Council approval. After posting the Notice of Intent to Award (Pending Bid Results), there was no protest filed.

The award amount is the minimum amount required for the maintenance and repair service but does not allow for any additional services that may arise during the term of the agreement. Staff therefore recommends that \$7,000.00 be added as a contingency for such work annually, for a total annual contract amount of \$35,868.00. Simplex Grinnell is a Delaware corporation registered in the State of California. The contract is for five years with a total contract value of \$179,340.00.

**Fiscal Impact:** None. Funding for this purchase is available from the Public Works Department’s operating budget.

**Recommendations:**

1. Award the bid to Simplex Grinnell for citywide fire alarm and fire suppression system inspection, testing, maintenance and repair service for the annual not-to-exceed amount \$35,868.00, and authorize the City Manager to execute the contract.
2. Authorize the Purchasing Agent to exercise up to four annual renewal options, subject to appropriation of funds and without further City Council approval.

- \*26. Approve Amendment No. 1 to the Agreement with JP Graphics Increasing the Value for City Printing Services Annually by \$65,000 for a Total Annual Amount Not-To-Exceed \$135,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On October 24, 2014, City of Milpitas staff released a Request For Proposal (RFP) soliciting printing services for all city departments. Three proposals were received and evaluated across a wide selection of print specifications and specific RFP criteria. The City of Milpitas is not obligated to accept the lowest priced proposal, but rather to accept the proposal which offers an award in the best interests of the City of Milpitas after all factors have been evaluated. The proposal from JP Graphics was determined to be the best value for the City. The previous contract for printing services (which had also been awarded to JP Graphics) averaged just under \$70,000 per year.

The initial term of the contract is one year from February 1, 2015 to January 31, 2016, with four one-year renewal options. The Option to Extend for renewal years includes a compensation adjustment clause stating that price increases shall not exceed the Consumer Price Index or 3%, whichever is less, and would be exercised by the Purchasing Agent, subject to appropriation of funds and without further Council approval. JP Graphics is a California corporation.

The City is growing and the demand for citywide printing services is also growing. Based on expenditures to date, the estimated increase in contract value to meet the City's needs through the first year of the contract has risen to \$135,000. This represents an annual increase of \$65,000 and a new total five year contract amount of \$675,000.

**Fiscal Impact:** None: This is a programmed expense in the FY 2014-15 and FY 2015-16 operating budgets for the various departments.

**Recommendations:**

1. Approve Amendment No. 1 to the Agreement with JP Graphics increasing the contract value for citywide printing services annually by \$65,000 for a total not-to-exceed \$135,000.
2. Authorize the Purchasing Agent to exercise up to four annual renewal options, subject to appropriation of funds and without further City Council approval.

**\*27. Authorize the City Manager to Renew the Agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch Services (Staff Contact: Armando Corpuz, 408-586-2534)**

**Background:** Emergency Medical Dispatching (EMD) is a specialized dispatching service. EMD dispatchers receive specialized training and adhere to the quality assurance and accreditation standards set by the International Academies of Emergency Dispatch. EMD services provide patients with pre-arrival medical instructions and life saving measures via the telephone to on-scene medical/trauma patients and/or anyone tending to the patients' medical needs. Since 2008, the City of Milpitas has contracted with Santa Clara County for EMD services. This contract will expire on June 30, 2020. The cost for EMD services is based on a percentage of usage and, annually, the City of Milpitas' costs have been approximately \$43,000.00.

**Fiscal Impact:** None. Contract costs are included in the Police Department's approved FY 2015-16 budget and the Police Department will budget for this expense throughout the terms of the contract.

**Recommendation:** Authorize the City Manager to renew the agreement between the County of Santa Clara and the City of Milpitas for Emergency Medical Dispatch services.

**\*28. Approve Amendment No. 6 to the Agreement with ACCO Engineered Systems, Inc. for Emergency Repairs to City Hall Heat, Ventilation and Air Conditioning (HVAC) System for an Amount Not-To-Exceed \$113,768.01 (Staff Contact: Nina Hawk, 408-586-2603)**

**Background:** Per state public contracting law and Council Resolution No. 7779, the Director of Public Works must report all emergency public works repairs to the City Council. On June 3, 2015, the Heat Ventilation and Air Conditioning (HVAC) system at City Hall experienced a coil leak on one of the two chillers. This resulted in a HVAC System malfunction and ambient temperatures within City Hall rose. On June 25, 2015 a second coil leak occurred on the same chiller of the City Hall HVAC system. In an effort to keep temperatures at a safe level, and prevent further damage to the HVAC system, the City proceeded to expedite repairs on both June 3, 2015 and June 25, 2015. Due to the unique nature of the work and urgency, existing City staff could not repair these two coils. The Director of Public Works authorized ACCO Engineering Systems to make emergency repairs for these two coil leaks. During the second coil leak repair, an existing 50 horsepower variable frequency drive motor was failing causing further temperature fluctuations. The variable frequency drive and was replaced on June 30, 2015.

The three repairs in June 2015 with ACCO Engineering Systems totaled \$31,864.29.

First Coil Leak- June 3, 2015	\$11,957.00
Second Coil Leak – June 25, 2015	\$12,799.40
Failed Variable Frequency Drive - June 30, 2015	\$ 7,107.89

During the coil leak repairs, the following were identified: the two leaking coils for one chiller needed complete replacement, and a deteriorating supply fan. Without a coil and fan replacement, the HVAC system will continue to fail, cause further damage to the City Hall HVAC system result in significant ambient temperature fluctuations within City Hall.

Estimated total cost for these repairs is:

Coil Replacement	\$63,103.47
Supply Fan Replacement	\$18,800.25

Since the City's HVAC system is a custom built system, the coil requires pre-fabrication significant lead time to procure. Due to the pre-fabrication timeline of 6-8 weeks, the City authorized ACCO Engineering Systems to proceed with pre-fabricating the coil for replacement. Once the coil is fabricated, work to replace the fan, motor and coil will be scheduled immediately and on a weekend to minimize the impact to City Hall. Additionally, this work will require the coordination and use of a crane to properly replace the two coils and fan located on the roof of City Hall.

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

**Fiscal Impact:** None. There are sufficient funds in the Public Works Facilities Maintenance budget to pay the coil leak repairs and variable frequency drive replacement of \$31,864.29. There are sufficient funds in the City's Capital Improvement Project No. 3406 to pay for the coil and supply fan replacement of \$81,903.72. Amendment No. 6 with ACCO Engineered Systems, Inc. will be funded from the City's Public Works Facilities Maintenance budget and the City's Capital Improvement Project No. 3406 for a total not-to-exceed amount of \$113,768.01.

**Recommendation:** Approve Amendment No. 6 to the agreement with ACCO Engineered Systems, Inc. for emergency repairs to the City Hall HVAC system for the not-to-exceed amount of \$113,768.01.

**\*29. Approve and Authorize the City Manager to Execute Amendment No. 2 to the Agreement with Harris & Associates, Inc. for Support Services for Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** On April 7, 2015, the City entered into an Agreement with Harris & Associates, Inc., in the amount of \$80,000, to provide support to the Land Development Section, due to current peak work load, development project priorities with new submittals of land development projects, and in order to meet project schedules of current projects and anticipated projects, due various vacant permanent position within the section. On July 1, 2015, the parties amended their agreement, in the amount of \$20,000 to continue providing staffing support to the Land Development Section.

Amendment No. 2 to the Agreement with Harris & Associates is proposed for additional services until hiring process of Principal and Associates Engineers is completed. Harris & Associates services are related to private development projects and are fully reimbursed from developer funds.

Staff estimated, based on work load, a negotiated scope and fee for these services not to exceed \$92,000 which is considered reasonable for the work. Approval of this agreement brings the total agreement amount of \$192,000. Included in the Council's packet is a copy of the proposed amendment to the agreement.

**Alternative:** Denial of this request would result in delays in the review of development projects causing potential delay claim by developers under the Permit Streamlining Act.

**Fiscal Impact:** None. Salary savings from the two vacant Associate Civil Engineer and Principal Engineer positions will fund the majority of these staff argumentation services. The remaining consultant expenses are reimbursable through the private development projects. Sufficient funds are available in the budget for these services.

**Recommendation:** Approve and authorize the City Manager to execute Amendment No. 2 to the Agreement with Harris & Associates in the amount of \$92,000.

- \*30. **Approve Amendment No. 1 to the Agreement with Law Firm of Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contacts: Tom Williams, 408-586-3050 and Gary Baum, 408-586-3040)**

**Background:** Since 2011, the City has been engaged in litigation opposing the expansion of the Newby Island landfill. A law suit based on environmental objections is currently pending before the local appellate court. However, at City Council's direction, the City Attorney's office conducted a nationwide search to find an attorney firm to advise on any other potential means by which to eliminate the offensive odors plaguing the community. Burke, Williams & Sorensen was selected to advise and represent the City regarding the odor problem.

The recommended amendment is the first one to the current agreement to continue with necessary legal and associated representation related to the odor nuisance issues involving the Newby Island Landfill. The amendment document and the scope of services (as Exhibit) are included in the Council agenda packet.

**Fiscal Impact:** None. There are sufficient funds in the City's contingency reserve for the additional and amended services. The budget to fund the first amendment to the current agreement is a not-to-exceed amount of \$120,000.

**Recommendation:** Approve Amendment No. 1 to the current Agreement with the law firm of Burke, Williams & Sorensen for legal services regarding elimination of odors.

## **XIX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, AUGUST 18, 2015 AT 7:00 P.M.**