



**JOINT MEETING OF THE
MILPITAS CITY COUNCIL,
HOUSING AUTHORITY COMMISSION
AND SUCCESSOR AGENCY
AGENDA**

TUESDAY, FEBRUARY 16, 2016

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

6:00 P.M. CLOSED SESSION

Councilmember Marsha Grilli will participate by telephone conference call from The Muse New York Hotel lobby, located at 130 West 46th St., New York, NY 10036

7:00 P.M. PUBLIC BUSINESS

SUMMARY OF CONTENTS

I. CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION

Name of Case: EEOC Charge No. 846-2015-39802

(b) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION

Pursuant to California Government Code Section 54956.9(d)(1)

Odor related cases:

- 1) City of Milpitas v. City of San Jose Planning Commission; appeal of Planning Director Decision, San Jose Planning Commission, file no. PD 14-014
- 2) City of Milpitas v. City of San Jose Local Enforcement Agency; appeal of LEA Hearing Officer Decision, California Department of Resources Recycling and Recovery (no case or file #)
- 3) City of Milpitas v. City of San Jose, et al.; Petition for Writ of Mandate, Santa Clara County Superior Court, case no. 115CV279041
- 4) Peter Ng, et al., v. International Disposal Corporation of California, et al., Class Action, Santa Clara County Superior Court, case no. 112CV228591

(c) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION

Pursuant to California Government Code Section 54956.9

(d) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION

Pursuant to California Government Code Section 54956.9(d)(1)

SCS Development Company v. City of Milpitas, Santa Clara County Superior Court, Case No. 115CV283902

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 Giordano)

VI. **APPROVAL OF COUNCIL MEETING MINUTES** – February 2, 2016

VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDARS** - February and March 2106

VIII. **PRESENTATIONS**

- Present Commission on POST Executive Certificate to Milpitas Chief of Police Pangelinan
- Proclaim February as Black History Month

IX. **PUBLIC FORUM**

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

X. **ANNOUNCEMENTS**

XI. **ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

XII. **APPROVAL OF AGENDA**

XIII. **CONSENT CALENDAR (Items with asterisks*)**

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

XIV. **UNFINISHED BUSINESS**

1. **Approve Mid-Year Budget Appropriations and Changes for the FY 2015-16 Operating and Capital Improvement Program Budget (Staff Contact: Russell Morreale, 408-586-3111)**

XV. **REPORTS OF MAYOR & COMMISSIONS**

- * 2. **Consider Mayor's Recommendation for Re-appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- * 3. **Vote to Remove Two Commissioners from the Recycling and Source Reduction Advisory Commission (Staff Contact: Mary Lavelle, 408-586-3001)**
4. **Per Recommendation of the Community Advisory Commission, Designate the Jacaranda Mimosifolia Tree as the Official City Tree (Staff Contact: Tim Wong, 408-586-3286)**
5. **Receive a Presentation and Approve the Veterans Commission Work Plan for 2016 (Staff Contact: Dale Flunoy, 408-586-3228)**
- * 6. **Per Recommendation of the Parks, Recreation and Cultural Resources Commission, Approve the Youth Sport Priority and Indoor Facility Allocation Process and Indoor Youth Sport User Fee (Staff Contact: Renee Lorentzen, 408-586-3409)**

- * 7. Consider Request to Place A Ballot Measure on the June 7, 2016 Ballot Requiring Any Change to the Town Center (TC) Zone to be Approved Only by Milpitas Voters (Contacts: Mayor Esteves, 408-586-3029 and Tom Williams, 408-586-3050)

XVI. NEW BUSINESS

- 8. Receive Staff Report and Update on the Milpitas Sports Center Pool Repairs CIP Project No. 5103 (Staff Contact: Steve Erickson, 408-586-3301)
- * 9. Approve Commissioners' Annual Recognition Luncheon Event Scheduled on April 30, 2016 (Staff Contact: Dale Flunoy, 408-586-3228)
- * 10. Appropriate Funds into the Police Department's Operating Budget for Equipment Related to the 9-1-1 Communications Center Upgrade (Staff Contact: Armando Corpuz, 408-586-2534)

XVII. RESOLUTIONS

- * 11. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Community Center Auditorium Audio Visual Systems Upgrade, Project No. 3406, and Granting Authorization to the Director of Engineering/City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)
- * 12. Adopt a Resolution Granting Final Acceptance of Certain Public Improvements and Approving the Release of All Bonds for Offsite Sewer Line 11A and a Portion of Line 11B Improvements, Project No. 2709 (Staff Contact: Steven Machida, 408-586-3355)

XVIII. AGREEMENTS

- * 13. Authorize the City Manager to Execute an Agreement with the California Highway Patrol for Joint Use of Weapons Firing Range (Staff Contact: Daryl Sequeira, 408-586-2434)
- * 14. Approve Amendment No. 2 to the Agreement with Triple HS, Inc. doing business as H.T. Harvey & Associates for the Wrigley-Ford and Ford Creek Maintenance Project No. 3700 (Staff Contact: Steve Erickson, 408-586-3301)

XIX. DEMAND

- * 15. Receive a Report on Emergency Repair of Fire Engine E-86 and Authorize Payment of \$11,976.26 to Burton's Fire Inc. (Staff Contact: Nina Hawk, 408-586-2603)

XX. JOINT MEETING OF THE CITY COUNCIL, HOUSING AUTHORITY COMMISSION and SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

CALL TO ORDER/ROLL CALL by the Chair

APPROVE AGENDA/CONSENT CALENDAR

- * 16. Approve the First Amendment to the Agreement with Forest Consulting LLC for Successor Agency and Housing Authority Support Services, Increasing the Agreement for a Term of One Year Not to Exceed \$120,000 (Staff Contact: Tom Williams, 408-586-3050)

XXI. ADJOURN JOINT MEETING

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 1, 2016**

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

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

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website. Phone 408-586-3040

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current Vacancies on

Parks, Recreation and Cultural Resources Commission
Recycling and Source Reduction Advisory Commission
Telecommunications Commission
Veterans Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.

AGENDA REPORTS

XIV. UNFINISHED BUSINESS

1. **Approve Mid-Year Budget Appropriations and Changes for the FY 2015-16 Operating and Capital Improvement Program Budget (Staff Contact: Russell Morreale, 408-586-3111)**

Background: The City's budget policy requires that any additional appropriations to a department, capital improvement project's budget or re-appropriation of monies from one fund to another must be approved by the City Council. These requests are summarized below and quantified in a schedule included in the agenda packet.

Requested budget adjustments deemed to be necessary at mid-year include the following changes and authorizations which fall into the categories of operations, personnel and capital projects:

Operations:

- 1) Increase budget appropriation in the amount of **\$22,800 within the General Fund Human Resources Department training budget**. This funding will cover the costs of additional training classes to be offered to City employees as coordinated by human resources in the effort to promote staff development. The City currently has 358 authorized permanent positions.
- 2) Increase appropriation in the amount of **\$100,000 within the General Fund Non-Departmental Budget** for additional contingency dollars to address unforeseen needs in the second half of the fiscal year.
- 3) Increase budget appropriation in the amount of **\$50,000 within the General Fund Public Works Department's Facilities Maintenance Contractual Services budget** to augment the ACCO (ACCO) Engineered Systems contract through FY 2015-16. ACCO performed a survey and inventory of all City facilities heating, ventilation, and air conditioning (HVAC) systems and determined that essential repairs and rehabilitation of HVAC systems are needed. This funding will allow Public Works to direct ACCO to continue important repair and maintenance of HVAC systems. Future identified system repairs will most likely require a public works bid in FY 2016-17.
- 4) Increase budget appropriation in the amount of **\$50,000 within the General Fund Public Works Department's Park Maintenance Contractual Services budget** for a one-time increase in the Park Maintenance Contractual Services line item. This is being proposed in response to community requests, staff researched the retrofit of an existing field for multiple use at an existing City park.
- 5) Increase budget appropriation in the amount of **\$100,000 within the Transit Area Specific Plan (TASP) Fund** for payments per the Fifth Amendment to the Master Agreement between the City and Santa Clara Valley Transportation Authority (SCVTA) relating to the Silicon Valley Rapid Transit Program Extension Project, approved by City Council on April 13, 2013. With this budget adjustment, the City will provide \$100,000 toward the final engineering and environmental documentation costs to serve as the required local match under the rules of the One Bay Area Government (OBAG) program. Total grant funds received are estimated at \$840,000. By way of background, the Silicon Valley Rapid Transit Program Extension Project recommended approach to Curtis Park Mitigation and Acquisition Pedestrian Bridge over the Montague Expressway.

- 6) Increase budget appropriation in the amount of **\$100,000 (Including contingency) from the Sewer Fund to the Utility Engineering Section** for a sewer rate study. The study is needed to evaluate multiple financing options for Milpitas with a focus on infrastructure improvements at the regional wastewater treatment facility. Originally, staff expected to participate in short-term and long-term financing offered by the City of San Jose. That option may not be available and staff recommends evaluating multiple financing options and their impacts on sewer rates. On a related note, **another \$15,000 in fees for financial advisory services** is being requested from the Sewer Fund to begin planning these future financing strategies.

Personnel/Staffing Authorizations:

- 7) **Authorize a Junior Planner position (an existing classification)** in the Planning and Neighborhood Services department. **No additional funding is needed for the FY 2015-16 operating budget given salary savings** from a vacant Senior Planner position. As an entry level staffing position, the Junior Planner will support the ongoing and expected future demand for current planning, support the public counter as well as telephone response services. Making this position available at mid-year enables the department to stabilize its permanent staffing immediately and begin a quicker withdrawal of consulting services. Use of a Junior Planner as designated counter staff will improve customer service by having a professional planner available to answer code questions and make numerous determinations as to completeness and appropriateness of projects. For future reference, the total annual salary and benefits of this position is \$140,000.
- 8) **Reclassify a Recreation Assistant II position to Recreation Assistant III (an existing classification)** in the Recreation department and authorize funding. This position will handle higher level administrative duties, increased staffing responsibilities, and support high quality rental and logistical services within Recreation Services. **No additional funding is needed for the FY 2015-16 operating budget.** The total annual salary and benefits for the Recreation Assistant III position is \$88,000 as compared to \$79,550 for a Recreation Assistant II.
- 9) **Reclassify a vacant Assistant Civil Engineer Position to an Associate Civil Engineer** in the Utility Engineering Section. Both are existing positions and classifications. The position will provide much needed engineering experience to insure necessary training and continuity to meet interim peak workloads due to the increased number of programs for which the section is responsible. In addition, regulatory requirements for these programs become more stringent every year and require increasing levels of staff attention. **This position is fully funded by the Water and Sewer Funds and no additional funding is needed for the FY 2015-16 operating budget due to salary savings** from vacant positions. The total annual salary and benefits for the Associate Civil Engineer position is \$184,000 as compared to \$163,000 for an Assistant Civil Engineer.
- 10) **Reclassify two (2) Maintenance Custodian II positions to Maintenance Worker II within the Facilities Maintenance** section due to increased operations and maintenance work at City facilities. The two Maintenance Custodian II positions would be reclassified to Maintenance Worker II and allow Facilities Maintenance to improve staff resources required to address the maintenance and repair needs at City facilities. Currently, Public Works Facilities Maintenance division has one individual receiving 10% Special Assignment compensation while employed at the Maintenance Custodian II classification. The Special Assignment duties are commensurate with the work performed by Maintenance Worker II. **No Additional funding is needed for the FY 2015-16 operating budget due to savings from vacancies.** The total annual salary and benefits for the Maintenance Custodian II position, without 10% Special Assignment, is \$105,400 as compared to \$113,700 for a Maintenance Worker II.

- 11) **Increase budget appropriation in the amount of \$45,000 from the Water Fund for overtime** in the Utility Maintenance section. The request for increased funding is due to a doubling of overtime workload to address water meter repairs and after-hour water leak repairs. There was a significant backlog of existing water meter service requests that required attention in order to ensure proper registering of water usage through the City water meters. Public Works staff has worked and will continue to work to repair water meters in order to capture accurate water sales/revenue for the City. This work fluctuates and averages approximately 10 additional repairs weekly in excess of regular planned workload. As a result, this work has been completed by utility staff after hours.

Heightened community awareness of the drought and water conservation mandates has increased the need for the City to conduct additional water leak repairs throughout the City. Public Works typically responds to an approximate average of 40 leaks per year; through December of 2015, the department had already reached its annual approximation and projects that leak response will double for FY 2015-16.

Capital Improvement Program (CIP) Projects:

- 12) Staff is proposing several mid-year changes to the City's Capital Improvement Program (CIP), with a primary focus on water infrastructure. These adjustments are proposed as staff refines capital plans in line with recommended fund reserve levels and future anticipated revenue-bond financing. It is key to note that current year water revenues are projected to be lower this year given a nine-month delay in implementing FY 2015-16 water rate increases pending the completion of the comprehensive rate study. Furthermore, water conservation has caused higher wholesale prices and a drop in water sales. The proposed budget adjustments essentially involve (1) closing completed projects and returning dollars to Water Fund reserves and, (2) reallocating several top priority projects (well upgrades, seismic repairs, and automated readers) to upcoming bond financing. Beyond these adjustments, staff is currently developing the new five-year Capital Improvement Program (CIP). In doing so, the focus is placed on high-priority water supply augmentation projects. Adjustments to the various CIPs are summarized in the schedule (included in the agenda packet).

Fiscal Impact: Impacts (use of funds) to the various requests noted above is as follows: General Fund is \$222,800; TASP Fund \$100,000; General Government CIP Fund \$200,000; and Sewer Fund \$115,000. By reallocating CIP projects, the Water Fund and Gas Tax Fund will increase by \$5.4 million and \$200,000, respectively, in the early years maintaining the 30% recommended reserves levels in the Water Fund. There are sufficient fund balances in these various funds to accommodate the budget adjustment requests.

Recommendation: Approve the Fiscal Year 2015-16 mid-year budget appropriations as itemized on the budget change form (included in the City Council agenda packet).

XV. REPORTS OF MAYOR & COMMISSIONS

- * 2. **Consider Mayor's Recommendation for Re-appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following:

Community Advisory Commission: re-appoint Mike Bilbao to a new term of four years, which will expire in January of 2020.

Planning Commission: re-appoint Gurdev Dave Sandhu and Hon Lien to new terms of three years each, which will expire in December of 2018.

Veterans Commission: re-appoint Liliana Ramos to a new term of three years, which will expire in February of 2019.

Recommendation: Receive Mayor’s recommendations and approve re-appointments to City of Milpitas Commissions.

*** 3. Vote to Remove Two Commissioners from the Recycling and Source Reduction Advisory Commission (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: Madan Arora was appointed as a voting Commissioner on the Recycling and Source Reduction Advisory Commission on August 6, 2013. In the past one year and into January 2016, he attended no Commission meetings. Steve Ybarra was appointed to the RSRAC in August of 2004. He too has attended no meetings during the past year.

City Clerk sent both men letters of inquiry in January to which they did not respond. Due to lack of attendance and perceived lack of interest to serve any longer on the Commission, City Council is asked to remove the two Commissioners. Both terms will expire in October 2016 and will create two vacancies on that Commission.

Recommendation: Vote to remove Steve Ybarra and Madan Arora as voting Commissioners on the Recycling and Source Reduction Advisory Commission.

4. Per Recommendation of the Community Advisory Commission, Designate the Jacaranda Mimosifolia Tree as the Official City Tree (Staff Contact: Tim Wong, 408-586-3286)

Background: At its meeting on December 2, 2015, the Community Advisory Commission (CAC) recommended the City Council consider designating the Jacaranda Mimosifolia tree as the City’s Official Tree.

The CAC has held a number of meetings on the issue. The Jacaranda tree was recommended for its overall physical appearance. Commissioners believe that if Jacaranda trees were planted throughout the City, it would enhance the overall aesthetics, natural beauty and physical appearance of the City. That tree was one of the 100 trees planted in Cardoza and Murphy Parks (50 trees in each park) during the CAC Tree Planting Event in February 2014.

For the long term care and maintenance of the tree, the Public Works Department does have some reservations if the Jacaranda tree is to be more frequently planted throughout the City.

There are some important facts when considering the Jacaranda tree as the City tree:

- The Jacaranda tree is considered a pretty tree when in bloom between spring and fall, and dormant during late-fall and winter when its leaves have dropped.
- The Jacaranda requires moderate water use once established, and is therefore somewhat drought tolerant. However, the tree is sensitive to salinity and therefore may not be able to use reclaimed water for irrigation.
- The Jacaranda thrives in warm, temperate planting zones that include Milpitas, but the tree is vulnerable to cold and could experience damage during winter freeze warnings.
- The Jacaranda is on the City’s approved list of trees.

Below is an assessment of the Jacaranda tree by the staff of the City’s Public Works Department. The City is also in the process of updating the City’s Street Tree Master Plan. The landscape architect preparing the Master Plan has also reviewed Public Work’s assessment of the Jacaranda tree and concurs with the findings. In addition, during the March 3, 2015 City Council meeting, Rhonda Berry, Executive Director of Our City Forest, did voice her concerns about the Jacaranda tree as a City street tree because they were not capable of surviving freezing temperatures.

| | PROS | CONS |
|-----------------------|---|---|
| Appearance | Beautiful blue-lavender flowers during spring, summer, and fall | Sticky blooms require pressure washing of surfaces; Pollen is allergen/irritant; Messy seed pods; Deciduous tree- leaf litter pickup required |
| Water Use | Moderate use once established- partial drought tolerance | High during establishment; Saline-sensitive – cannot tolerate reclaimed water |
| Root System | | Extensive surface roots – tripping hazard; requires moist soil |
| Branch System | | Fast growing branches have weaker structure; require regular pruning up to 4 times per year; |
| Heat/Cold | Recommended for planting in Sunset zones 15-24 (including Milpitas) | Vulnerable to freezing temperatures/winter frost warnings |
| Diseases/Pests | Resistant to oak root fungus | Vulnerable to: Aphids; Phytophthora; Root Rot |
| Other | | Falling tree limb liability due to weaker branch structure |

Fiscal Impact: The Public Works Department utilizes the crepe myrtle as a baseline for comparing the operations and maintenance costs of all City trees. When compared to the crepe myrtle, the jacaranda tree incurs additional annual operations and maintenance cost of \$100 per tree during its establishment period. After the tree has been established, it incurs an annual cost of \$300 per mature tree when compared to the crepe myrtle. There will also be an approximate one-time cost of \$8,000 for irrigation installation per planting site, due to the jacaranda’s specialized watering needs.

Recommendation: Per recommendation from the Community Advisory Commission, move to approve designation of the Jacaranda Mimosifolia tree as the Official City Tree.

5. Receive a Presentation and Approve the Veterans Commission Work Plan for 2016 (Staff Contact: Dale Flunoy, 408-586-3228)

Background: The Milpitas City Council established the Veterans Commission on December 1, 2009 to work in an advisory capacity to the City Council on matters pertaining to Veterans in Milpitas. Since 2009, the Commission has been very active and completed many tasks in honor of veterans in Milpitas. Some accomplishments include: selection of the Veteran of the Year, hosting the annual car show to raise funds for local veterans organization, maintain a database with addresses of Milpitas veterans, participation in special events to promote awareness of services and events available for veterans.

Commissioners reviewed their 2016 Work Plan at their February 3, 2016 meeting and voted unanimously to recommend it for final City Council approval.

Fiscal Impact: None.

Recommendation: Receive a presentation from the Veterans Commission at the City Council meeting and approve the 2016 Veterans Commission Work Plan.

*** 6. Per Recommendation of the Parks, Recreation and Cultural Resources Commission, Approve the Youth Sport Priority and Indoor Facility Allocation Process and Indoor Youth Sport User Fee (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: Recreation Services has received multiple requests from Youth Sport Organizations offering indoor sports for youth. Their requests are for the use of the Milpitas Sports Center Gym. In order to further support local Youth Sports Groups and provide access to City resources, staff developed a Youth Sport Priority & Indoor Facility Allocation Process. The new process is based on the existing, City Council approved, Youth Sports Priority & Field Allocation Process.

The new Indoor Youth Sport Process outlines priority tiers, facility space allocation determination and the Indoor Youth Sports User Fee. Maintaining the existing youth sport user fees for City Fields, the Indoor Youth Sport User Fee is intended for long-term maintenance and repair costs deriving from use.

The Parks, Recreation and Cultural Resources Commission reviewed the proposed Youth Sports Priority & Indoor Facility Allocation Process and Indoor Youth Sports Group User Fee at its February 1, 2016 meeting and voted unanimously to recommend final approval by the City Council.

Fiscal Impact: None.

Recommendation: Per recommendation of the Parks, Recreation and Cultural Resources Commission, approve the Youth Sport Priority and Indoor Facility Allocation Process and Indoor Youth Sport User Fee.

- * 7. **Consider Request to Place A Ballot Measure on the June 7, 2016 Ballot Requiring Any Change to the Town Center (TC) Zone to be Approved Only by Milpitas Voters (Contacts: Mayor Esteves, 408-586-3029 and Tom Williams, 408-586-3050)**

Background: City Council policy states that any staff work not part of an approved work program or budgeted item requiring more than four hours of staff time obtain approval of a majority of the City Council. Upon approval of the City Council, staff will commence with work effort necessary to fulfill the above subject request to prepare a ballot measure requiring voter approval for any change to the Town Center Zone.

If the City Council so directs, staff will prepare the required documents for the ballot measure which includes two steps: (1) a General Plan Amendment so the current Town Center zoning is internally consistent with the City's General Plan as required by state law; and (2) preparation of the ballot question and ordinance to be submitted with a resolution calling for the Special Election to the Santa Clara County Registrar of Voters no later than eighty-eight (88) days prior (March 11, 2016) to the primary election date of June 7.

Fiscal Impact: Approximately \$83,631 for placement of the ballot measure in the Voter Sample Ballot Pamphlet and on the June 7, 2016 ballot.

Recommendation: Direct staff as desired by a majority of the City Council on preparation of a ballot measure regarding Town Center zoning.

XVI. NEW BUSINESS

8. **Receive Staff Report and Update on the Milpitas Sports Center Pool Repairs CIP Project No. 5103 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The Milpitas Sports Center Pool Repairs CIP Project No. 5103 was issued a Notice to Proceed on September 15, 2015. The contractor has completed demolition work including the removal of the wading pool, replacement of all pool piping and pool lights, water proofing of the surge pits, installation of new coping stones on the training pool, and installation

of the underground piping system for the new deck drains. The contractor is grading the site in preparation for the installation of the new pool deck. At the February 16 City Council meeting, engineering staff will provide an oral report describing the status of the project.

Recommendation: Receive a staff report and presentation updating the City Council on the status of the Milpitas Sports Center Pool Repairs and improvements.

*** 9. Approve Commissioners' Annual Recognition Luncheon Event Scheduled on April 30, 2016 (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: The City of Milpitas recognizes the volunteerism of City of Milpitas Commissioners annually, in April, at the Annual Commissioners' Recognition Event. \$8,000 was allocated in FY 2015-16 budget for this event.

Staff polled Chairs and Vice Chairs of the 14 City of Milpitas Commissions and asked what type of recognition event they would like in 2016. They were asked to choose from the following options:

- A. Themed catered lunch at Milpitas Community Center.
- B. Themed catered brunch at the Milpitas Community Center.
- C. Catered lunch, (no theme), at the Milpitas Community Center.
- D. Nothing

Staff received a total of thirteen responses with the following results:

- 1. Themed catered lunch – 7
- 2. Themed Catered Brunch – 1
- 3. Catered Lunch, no Theme – 5

Fiscal Impact: \$8,000 was budgeted in FY 2015-16 for this event.

Recommendation: Approve the 2016 Commissioners Recognition Event as a catered luncheon to be held at the Milpitas Community Center on Saturday, April 30, 2016 from 11:30 AM to 1:30 PM, at a cost not to exceed \$8,000.

*** 10. Appropriate Funds into the Police Department's Operating Budget for Equipment Related to the 9-1-1 Communications Center Upgrade (Staff Contact: Armando Corpuz, 408-586-2534)**

Background: The State 9-1-1 Office provides funding for local Public Safety Answering Points (PSAP) to upgrade 9-1-1 phone systems. This funding includes customer premise equipment (CPE), which is Communications Center hardware necessary for prompt and efficient 9-1-1 call processing.

The State 9-1-1 Office will pay vendors directly if the vendor has a California Multiple Award Schedule (CMAS) contract. If the vendor does not have a CMAS contract, the City must pay the expense and the State 9-1-1 Office will reimburse the full cost. The State 9-1-1 Office pre-approves all purchases and provides written authorization and commitment for reimbursement.

The State 9-1-1 Office approved the Milpitas Police Department to purchase of the following items:

- 1. 9-1-1 Mapping Monitors
 - a. CDW-G **\$727.35**
- 2. Replacement Handsets
 - a. ADCOM H&S **\$459.47**
- 3. Replacement Headsets
 - a. RCM and Associates **\$8,014.20**

4. 24/7 Seating Replacement
 - a. Domore Seating **\$5,824.15**

The total amount is **\$15,025.17**.

Fiscal Impact: None. The total cost will be reimbursed by the State 9-1-1 Office.

Recommendations: Approve an appropriation in the amount of \$15,025.17 into the Police Department's operating budget for the Communications Center Upgrade.

XVII. RESOLUTIONS

- * **11. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Community Center Auditorium Audio Visual Systems Upgrade, Project No. 3406, and Granting Authorization to the Director of Engineering/City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The City Council awarded the Community Center Auditorium Audio Visual Systems Upgrade Project to PCD, Inc. on April 7, 2015. The project provided for the installation of replacement audio equipment for the Community Center Auditorium.

The project was successfully completed on time and within budget. Staff recommends the City Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$16,355.87, which is 10% of the final contract value. Staff also recommends the City Council authorize the Director of Engineering/City Engineer to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the Director of Engineering/City Engineer.

Alternative: A denial of this request would result in the project not being accepted and would result in the Notice of Completion not being filed and a potential delay claim by the Contractor.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of the Community Center Auditorium Audio Visual Systems Upgrade, Project No. 3406, subject to a one year warranty period, and reduction of the faithful performance bond to \$16,355.87; and granting authorization to the Director of Engineering/ City Engineer to issue the notice of final acceptance after the one-year warranty period and to release and discharge the performance bond without further City Council action.

- * **12. Adopt a Resolution Granting Final Acceptance of Certain Public Improvements and Approving the Release of All Bonds for Offsite Sewer Line 11A and a Portion of Line 11B Improvements, Project No. 2709 (Staff Contact: Steven Machida, 408-586-3355)**

Background: On June 19, 2012, the City Council approved a fee credit agreement (FCA) with D.R. Horton for the Harmony Project (Tracts No. 10137 and No. 10159) located at the intersection of McCandless and Montague Expressway. The FCA was for the construction of certain public improvements including Offsite Sewer 11A and a Portion of 11B as identified in Public Improvement Plan No. 2-1153. The public improvements included the construction of a new 27- inch sewer pipe along South Main Street from Curtis Avenue to just south of Great Mall Parkway, a jack and bore operation under the Union Pacific Railroad line, and construction of an 18-inch sewer pipe along Great Mall Parkway ending 250 feet east of the McCandless Drive intersection.

These public improvements were completed by the developer per the approved improvement plans and initially accepted by the City, in accordance with the FCA, by Resolution No. 8417 at the November 4, 2014 City Council meeting.

The one-year maintenance period has passed and the project continues to meet all of the requirements of the City Engineer. The Cost reimbursement data including contracts, invoices and cancelled checks for the work performed to the satisfaction of the Finance Department and all fee credits have been balanced against project costs. This project has been fully completed to the satisfaction of the City Engineer and is ready for final acceptance by City and release of all bonds.

Fiscal Impact: None. All costs associated with this acquisition have been paid via various fee credits in-lieu of payment. A reconciliation of the fee credits has been accomplished to the satisfaction of the City's Finance Department.

Recommendation: Adopt a resolution granting final acceptance of public improvements for Sewer Line 11A and portion of 11B, Improvement Plan No. 2-1153, (Tracts 10137, 10159), Project No. 2709, and release all bonds to the applicant, D.R. Horton.

XVIII. AGREEMENTS

- * 13. **Authorize the City Manager to Execute an Agreement with the California Highway Patrol for Joint Use of Weapons Firing Range (Staff Contact: Daryl Sequeira, 408-586-2434)**

Background: The Milpitas Police Department (MPD) and the California Highway Patrol (CHP) have jointly used a weapons firing range within Milpitas for more than 30 years. The owner has entered into contract with the City for use of the property. The CHP and the City have entered into a separate agreement to permit shared use. The most recent three-year Agreement with the CHP is set to expire on March 31, 2016. The CHP has agreed to terms for a new three-year Agreement for a total annual cost to the CHP of \$14,400 to offset the cost of rent and maintenance fees. The term of this Agreement is from April 1, 2016 through March 31, 2019.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute an Agreement with the California Highway Patrol for joint use of Weapons Firing Range.

- * 14. **Approve Amendment No. 2 to the Agreement with Triple HS, Inc. doing business as H.T. Harvey & Associates for the Wrigley-Ford and Ford Creek Maintenance Project No. 3700 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On February 19, 2013, the City entered into a consultant agreement with H.T. Harvey & Associates in the amount of \$97,000 to provide ecological monitoring and compliance reporting for State and Federal Agency permits issued for a City project completed within Wrigley-Ford and Ford Creek in 2012. The term of the agreement is from February 19, 2013 to February 19, 2023.

This City project provided for debris, vegetation and sediment removal, and restoration of the creek channel and improve conveyance capacity. Permits were issued by the Regional Water Quality Control Board (RWQCB), U.S. Department of the Army Corps of Engineers (ACOE), and Department of Fish & Game, and require ongoing ecological monitoring, compliance reporting, and maintenance of native plant species for a ten year period within the limits of the City's project.

The mid-December 2014 storms caused considerable erosion damage to the reach of the creek within the City's project limits. The City is required to make damage repairs, and temporary

repair work was completed in October 2015 before the predicted El Nino wet season.

On February 17, 2015 the parties entered into Amendment No. 1 in the amount of \$21,055 to provide Professional Engineering Services to complete the design for the temporary repair work, and consultations with the permitting agencies, and construction support.

A more substantial long term erosion mitigation repair is required to stabilize the bank, and new updated agency Permits will be required for this next repair effort.

Staff now recommends moving forward with securing the necessary permits for the permanent repairs. The firm of H.T. Harvey & Associates was used previously for Permitting and construction support services for the original project. Staff recommends amending their agreement to provide the additional Permitting, maintenance monitoring, and construction support services required for the permanent repairs to the creek channel.

Amendment No. 2 with H.T. Harvey & Associates is proposed for these additional services. Staff has negotiated a fee for these services not to exceed \$30,000. Approval of this agreement amendment brings the total agreement amount to \$148,055.

Alternative: Denial would result in not proceeding with the repairs which are required by RWQCB and ACOE permits and leaving the City subject to potential fines.

California Environmental Quality Act: This project was approved by Mitigated Negative Declaration in 2011, and there are no circumstances arising under CEQA Guidelines 15162, 15163, or 15164 requiring any further CEQA review.

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

Recommendation: approve Amendment No. 2 to the consultant agreement with Triple HS, Inc. doing business as H.T. Harvey & Associates, Project No. 3700 to increase the agreement amount by \$30,000.

XIX. DEMAND

- * 15. Receive a Report on Emergency Repair of Fire Engine E-86 and Authorize Payment of \$11,976.26 to Burton's Fire Inc. (Staff Contact: Nina Hawk, 408-586-2603)**

Background: Pursuant to state public contracting law and Council Resolution No. 7779, the Director of Public Works must report all emergency work to the City Council. On October 26, 2015, while the Milpitas Fire Department responded to a call, the right rear axle of Fire Engine E-86 broke. Fire Engine E-86 is the front line for Fire Station 1. Public Works Fleet Maintenance inspected the damage and determined that the Engine needed to be repaired at an authorized Pierce All Wheel Steer repair shop. Fire Engine E-86 was trailered to Burton's Fire, Inc. in Modesto. The other nearest repair shop was in Sacramento but its mechanics were less experienced.

Burton's Fire disassembled the rear right and left axle components to inspect the damage and verify integrity. Fire Engine E-86 has a complex drive/steering axle system. Parts for the system are expensive and repair is labor intensive. Burton's Fire replaced broken inner axle system on the right rear side, including hydraulic filter manifold, ball shaft, cage ring and drive flange, as well as replaced one bearing on the left rear side.

Repair of Fire Engine E-86 qualifies as an emergency repair due to the critical health and safety role that fire engines perform for the City. When a fire engine is out of service, it places lives at risk by reducing the ability of the Milpitas Fire Department to respond to emergencies in a timely and effective manner.

Fiscal Impact: None.

Recommendation: Receive a report from the Director of Public Works of emergency repairs and authorize staff to pay invoice in the amount of \$11,976.26 to Burton's Fire, Inc. from the Fleet Maintenance Repair and Maintenance operating budget.

XX. JOINT MEETING OF THE CITY COUNCIL, HOUSING AUTHORITY COMMISSION AND SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

- * 16. Approve the First Amendment to the Agreement with Forest Consulting LLC for Successor Agency and Housing Authority Support Services, Increasing the Agreement for a Term of One Year Not to Exceed \$120,000 (Staff Contact: Tom Williams, 408-586-3050)**

Background: In July 2015, the City entered into an agreement for professional consulting services including land disposition strategies, feasibility analysis and community outreach for properties owned by the former Milpitas Redevelopment Agency now held by the Milpitas Successor Agency. As a result of the dissolution of redevelopment, the Milpitas Oversight Board and Santa Clara County forced the sale of four properties and attempted to "clawback" several other assets of the former Redevelopment Agency including the Milpitas Sports Center and the McCandless park and school site. Ultimately, the Milpitas Oversight Board and State Department of Finance approved a Long Range Property Management Plan required by redevelopment dissolution law, which forced the sale of four (4) assets of the former redevelopment agency. These properties include:

- 1) 540 South Abel Street - Cracolice Building
- 2) Alder Drive and Barber Lane (hotel site)
- 3) 86 North Main Street
- 4) 230 North Main Street

Forest City has assisted the former Redevelopment Agency staff, now successor agency staff, with reviewing and preparing required documents, providing liaison and outreach with the Milpitas community and outreach to Santa Clara County in the management of the land disposition and sale of the four parcels listed above, as required by state law. In addition, the Housing Authority owns two parcels on South Main Street designated for affordable housing in the state-approved Long Range Property Management Plan but not subject to a forced sale or "clawback" by the Oversight Board if the properties are built out as affordable housing. These include 1504-1620 South Main Street and 1440 South Main Street.

The City has received several unsolicited offers to purchase the land by non-profit affordable housing developers. Future sale of these properties requires preparation of a Request for Proposal and management of the land disposition process which will be part of the services by Forest Consulting LLC in the proposed amendment to the agreement.

The purpose of this amendment to continue with consulting services to the Successor Agency through completion of the Long Range Property Management plan and disposition of the remaining affordable housing assets that are not subject to the "clawback" provision. The City will continue to expeditiously move forward in good faith per the dissolution law and have the necessary outreach efforts to the community and other governmental agencies. A copy of the amendment to the agreement is included with the Council agenda packet.

Fiscal Impact: No General Fund impact. Some of the work may be charged to future Private Job accounts, although time spent on land disposition, low income housing proposals and internal feasibility is not chargeable to these accounts and will be billed to the Successor Agency and/or Housing Authority.

Recommendation: Direct staff to proceed with an amendment to the agreement with Forest Consulting LLC not to exceed \$120,000 for Redevelopment Successor Agency and Housing Authority services.

XXI. ADJOURN JOINT MEETING

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 1, 2016**