



# REGULAR MEETING OF THE MILPITAS CITY COUNCIL

## AGENDA

**TUESDAY, SEPTEMBER 20, 2016**

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA**

**6:00 P.M. (CLOSED SESSION)**

**7:00 P.M. (PUBLIC BUSINESS)**

### SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL OF THE CITY COUNCIL**
- II. ADJOURN TO CLOSED SESSION (6:00 p.m.)**
  - (a) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**  
Pursuant to California Government Code Section 54957. Position: City Manager
  - (b) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to California Government Code Section 54956.9(d)(1)  
American Arbitration Association Case No. 01-16-00004753
- 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 Barbadillo)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES August 24 and September 6, 2016**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS September and October 2016**
- VIII. PRESENTATIONS**
  - Proclaim September 16, 2016 as Prisoner of War/Missing in Action Day
  - Proclaim September as National Hispanic Heritage Month
- IX. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

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

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

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

- 1. Conduct a Public Hearing and Adopt a Resolution Approving Site Development and Conditional Use Permits, Vesting Tentative Map and Environmental Assessment for the 1980 Tarob Court Residential Project Pursuant to CEQA Guideline 15168(c)(2) (Staff Contact: Bradley Misner, 408-586-3273)**
- 2. Conduct a Public Hearing and Adopt a Resolution Approving the Site Development and Conditional Use Permits, Tentative Tract Map and Environmental Assessment for 72 Unit Condominium Project Verona Crossing at 91 Montague Expressway Pursuant to CEQA Guideline 15168(c)(2) (Staff Contact: Michael Fossati, 408-586-3274)**
- 3. Conduct a Public Hearing and 1) Adopt the FY 2015-2016 Community Development Block Grant (CDBG) Consolidated Annual Performance Evaluation Report (CAPER), 2) Approve the Updated CDBG Citizen Participation Plan and 3) Approve the Updated Analysis of Impediments to Fair Housing Choice (Staff Contacts: Hang Huynh, 408-586-3275 and Tim Wong, 408-586-3286)**

#### **XV. UNFINISHED BUSINESS**

- \*4. Approve Funding the Increase of Milpitas Public Library Hours (Staff Contact: Russell Morreale, 408-586-3111)**
- 5. Receive Status Report from Staff on the Citywide Tree Program (Staff Contacts: Bradley Misner, 408-586-3273 and Nina Hawk, 408-586-2603)**

#### **XVI. REPORT OF MAYOR**

- \*6. Consider Mayor's Recommendations for Appointments to City of Milpitas Commission (Contact: Mayor Esteves, 408-586-3029)**

#### **XVII. NEW BUSINESS**

- \*7. Receive Report on Status of Water Supply Augmentation Projects (Staff Contact: Steven Machida, 408-586-3355)**
- 8. Receive Report and Appoint Members to the Citizens Task Force on Water Rates (Contacts: Mayor Esteves, 408-586-3029 and Tom Williams, 408-586-3050 )**
- \*9. Approve Out of State Travel for Economic Development Manager (Staff Contact: Edesa Bitbadal, 408-586-3052)**
- \*10. Consider Request from the Milpitas Rotary Club to Waive City Fees for its Annual Pumpkin Patch to be held Starting October 17, 2016 at 1331 E. Calaveras Blvd. Parking Lot (Staff Contact: Mary Lavelle, 408-586-3001)**
- \*11. Consider Request from Korean Language and Culture Foundation for a Donation of \$500 (Staff Contact: Mary Lavelle, 408-586-3001)**

## **XVIII. RESOLUTIONS**

- 12. Receive Staff Report and Adopt a Resolution to Approve and Authorize the City Manager to Execute an Agreement for Solid Waste Collection (Staff Contact: Tom Williams, 408-586-3050)**
- \*13. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Milpitas Sports Center Pool Repairs Project, CIPs No. 3408 and No. 5103, and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance after One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**
- \*14. Adopt a Resolution for the Summary Vacation of an Existing Emergency Access Easement at 901-905 Montague Expressway (Staff Contact: Steven Machida, 408-586-3355)**
- \*15. Adopt a Resolution Approving Future Annexation Boundary Area Map and Adopt a Resolution Declaring Intention to Authorize the Annexation in the Future to Communities Facilities District No. 2008-1 and Set Time and Place for Public Hearing (Staff Contact: Judy Chu, 408-586-3325)**
- \*16. Adopt a Resolution Authorizing the Chief of Police to Execute the Agreement with the California Office of Traffic Safety (OTS) for the 2017 Selective Traffic Enforcement Program (STEP) Grant (Staff Contact: Henry Kwong, 408-586-2419)**

## **XIX. AGREEMENTS & BIDS**

- \*17. Award the Bid and Authorize the City Manager to Execute a five-year contract, including four Annual Renewal Options, for a not-to-exceed five year contract of \$1,656,420, with Marina Landscape Maintenance, Inc. for Parks and Streetscape Maintenance Services and Appropriate Funds in the Amount of \$85,284 to augment the adopted budget for the year-one contract amount of \$331,284 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*18. Award the Bid and Authorize the City Manager to Execute the Contract with Mike Davis Landscaping Services for Civic Center, Library Landscape Maintenance Service with an Initial Not-to-Exceed Amount of \$96,600 (Staff Contact: Chris Schroeder, 408-586-3161)**
- \*19. Authorize the City Manager to Execute the Restated Joint Powers Agreement for the Silicon Valley Regional Interoperability Authority (Staff Contact: Steve Pangelinan, 408-586-2426)**
- \*20. Approve and Authorize the City Manager to Execute Amendment No. 5 to the Consultant Service Agreement with Vali Cooper & Associates Extending the Term to February 28, 2017 and Increasing Compensation in the Additional Amount of \$230,000 to Continue Engineering Support for the BART and Montague Widening Projects (CIPs No. 4265 and No. 4179) (Staff Contact: Steven Machida, 408-586-3355)**
- \*21. Approve and Authorize the City Manager to Execute Amendment No. 2, to the Consultant Service Agreement with Harris & Associates in the Amount of \$200,000 to Continue Engineering Staff Augmentation for Utility Engineering (Staff Contact: Steven Machida, 408-586-3355)**

## **XX. ADJOURN CITY COUNCIL MEETING**

**NEXT REGULAR CITY COUNCIL MEETING:  
TUESDAY, OCTOBER 4, 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  
e-mail: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov) / Phone: 408-586-3040

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

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

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

**APPLY TO SERVE ON A CITY COMMISSION**

Current vacancies on:

Economic Development Commission (hotel rep.)

Emergency Preparedness Commission

Sister Cities Commission

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

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

## AGENDA REPORTS

### XIV. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Adopt a Resolution Approving Site Development and Conditional Use Permits, Vesting Tentative Map and Environmental Assessment for the 1980 Tarob Court Residential Project Pursuant to CEQA Guideline 15168(c)(2) (Staff Contact: Bradley Misner, 408-586-3273)**

**Background:** On August 10, 2016 the Planning Commission held a public hearing on the proposed development of a 2.81 acre property in the Transit Area Specific Plan (TASP). The project area is located on the east side of Tarob Court, northwest of Lundy Street in the Trade Zone/Montague Sub District. The project includes the construction of 59 new townhome units and construction of a 10 foot wide public trail along Penitencia Creek within a 20 foot dedicated easement. A Conditional Use Permit is requested for tandem and compact parking spaces and minor deviations from guest parking requirements. The applicant is proposing a payment of \$622,839 to offset the parking deviations requested. The project includes 0.59 acres of private open space and landscaping as amenities for the residents.

The Planning Commission voted unanimously to recommend City Council approval of the Vesting Tentative Map, Conditional Use Permit, Site Development Permit and Environmental Assessment for the requested development. The Planning Commission also recommended a condition of approval requiring the applicant to offer each buyer the option of installation of an electric vehicle charging facility in the garage of each townhome, and to install wiring for one future electric vehicle charging station in the guest parking area of the project, should it be determined that this type of equipment is reasonably feasible in this location.

**Environmental:** The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is exempt from further environmental review pursuant to Section 15168(c)(2) of the CEQA Guidelines because staff determined that the project is consistent with the certified EIR for the Transit Area Specific Plan adopted on June 3, 2008 by the City Council.

**Fiscal Impact:** The project will pay all TASP fees and other assorted development fees to the City.

**Attachments:**

- A. City Council Resolution
- B. Planning Commission Meeting Minutes 8/10/2016
- C. Planning Commission Staff Report 8/10/2016
- D. Planning Commission Resolution No. 16-031 - adopted 8/10/2016
- E. Project Plans
- F. CEQA Analysis and Supplemental Memorandum

**Recommendations:**

1. Open the public hearing, take public comments and move to close the hearing.
2. Adopt a Resolution approving the Vesting Tentative Map, Site Development Permit, Use Permit and Environmental Assessment for the 1980 Tarob Court residential project.

- 2. Conduct a Public Hearing and Adopt a Resolution Approving the Site Development and Conditional Use Permits, Tentative Tract Map and Environmental Assessment for 72 Unit Condominium Project Verona Crossing at 91 Montague Expressway Pursuant to CEQA Guideline 15168(c)(2) (Staff Contact: Michael Fossati, 408-586-3274)**

**Background:** The City received an application to demolish an existing, vacant structure and develop five, four-story, detached structures, totaling approximately 154,00 square feet and containing 72 residential condominiums with a underground parking garage and associated landscaping and site improvements. The site design includes two common open space courtyard areas that would contain landscaping, outdoor seating areas and barbeques. The proposed buildings would have a maximum height of 50 feet. The residential units would contain one to three bedrooms; each residential unit would be between approximately 838 and 1,860 square feet.

The project proposes to address the Parkland Fee requirement through a combination of private recreation space and payment of a parkland fee in the amount of approximately \$913,000.

The proposed project is consistent with the policies and guiding principles identified in the General Plan, the Milpitas Midtown Specific Plan and, as modified by conditions of approval recommended by the Planning Commission, satisfies the requirements specified in the Municipal Code. The proposed project will contribute towards the City's housing stock, improve a vacant and underutilized lot as well as improve and upgrade a portion of Montague Expressway.

The Planning Commission approved the Site Development Permit, Conditional Use Permit, Tentative Tract Map, and Environmental Assessment Permit for the project on July 27, 2016, with Conditions of Approval.

**Environmental:** The City evaluated environmental issues based on the environmental checklist contained in Appendix G of the CEQA Guidelines. The responses to the checklist questions confirm that potential project impacts were considered and mitigated in the Milpitas Midtown Specific Plan Final Environmental Impact Report ("FEIR"), certified by the Milpitas City Council in March of 2002, and no new impacts are identified, and no new mitigation measures are required for the Project. Consequently, no additional CEQA review is required pursuant to §15168 of the CEQA Guidelines.

**Fiscal Impact:** The project will pay all TASP fees and other assorted development fees to the City.

**Attachments:**

- A. City Council Resolution
- B. Planning Commission Meeting Minutes 8/10/2016
- C. Planning Commission Staff Report 8/10/2016
- D. Planning Commission Resolution No. 16-028 - adopted 8/10/2016
- E. Project Plans
- F. CEQA Analysis and Supplemental Memorandum

**Recommendations:**

1. Open the public hearing, take public comment, and move to close the public hearing.
2. Adopt a Resolution approving the Site Development Permit No. SD13-034, Conditional Use Permit No. UP13-0021, Tentative Tract Map No. MT13-0008, and Environmental Assessment for the 72-residential unit condominium project Verona Crossing located at 91 Montague Expressway.
3. **Conduct a Public Hearing and 1) Adopt the FY 2015-2016 Community Development Block Grant (CDBG) Consolidated Annual Performance Evaluation Report (CAPER), 2) Approve the Updated CDBG Citizen Participation Plan and 3) Approve the Updated Analysis of Impediments to Fair Housing Choice (Staff Contacts: Hang Huynh, 408-586-3275 and Tim Wong, 408-586-3286)**

**Background:** The Consolidated Annual Performance Evaluation Report (CAPER) describes the City's one-year CDBG programs and activities undertaken in the past program year (FY 2015-16). The CAPER evaluates the City's overall progress in achieving the priority projects that were identified during the Five-Year Consolidated Plan and One-Year Action Plan. The federal Department of Housing and Urban Development (HUD) also requires entitlement cities or states where CDBG funding is provided to provide low-and moderate income households an opportunity to participate and be an active participant in the planning, implementation and assessment program and projects of the CDBG process. The Citizen Participation Plan is the City's effort to provide opportunities for participation in the CDBG process. In addition, HUD desires all persons to have access to safe and affordable housing, free from discrimination. The Analysis of Impediments to Fair Housing Choice examines the policies and practices, which potentially may limit residents' ability to choose their housing in an environment free from discrimination.

The CAPER identifies some of the major accomplishments in 2015-16:

- CDBG funds provided 37 children in the court-appointed, foster care system with long-term, steady, supportive volunteers until adulthood.
- 59 Milpitas youths and seniors benefited from CDBG funds to attend recreational program at 50% of the cost.
- A total of 14 Milpitas residents received shelter and other supportive services through 255 Personal Shelter Days (PSDs).
- 10 extremely low-income seniors benefited from emergency repairs in two homes.
- CDBG funds helped continue services for the Milpitas Food Pantry, serving 1,578 extremely-low to very low-income residents.
- Provided funds to provide supportive services for 124 domestic violence victims (women and children) with supportive & residential services.
- CDBG funds helped with increasing awareness and investigating complaints of fair housing and landlord/tenant services to about 55 residents in Milpitas.
- CDBG funds served 54 Milpitas elderly citizens with free legal services.
- Old, original paint was replaced at Terrace Gardens with CDBG funds.
- A total of 1,654 of hot meals were delivered daily to 8 low-income, elderly, Milpitas residents.
- 24 low-income homes were rehabilitated through home improvements of increasing safety, energy efficiency, accessibility and mobility.
- CDBG funded ten Americans with Disabilities Act (ADA) curb cuts in a low-income neighborhood to provide greater access on City sidewalks.
- 14 organizations were assisted with CDBG funds with over 2,400 individuals benefited from CDBG funds for FY 2015-16.

**Citizen Participation Plan Update**

The Citizen Participation Plan (CPP) is periodically updated to reflect HUD program requirement changes and to insure maximum public participation. The City last updated its CPP in 2012. Since then, HUD has made a few changes to their requirements and Staff has included them into the document. They are as follows:

- Written responses/complaints will be addressed within 15 days
- Alternative ways of public involvement to ensure public participation
- Greater outreach to persons with for Limited English Persons (LEP) by providing translators on staff to help translate and explain materials.
- Two public hearings to obtain citizens views at different time of the year before the development of the Consolidated Plan

Staff wanted to have these changes in place prior to doing public outreach to the public in preparation of the Consolidated Plan.

### **Analysis of Impediments Update**

The Department of Housing and Urban Development (HUD) requires that each Community Development Block Grant entitlement city prepare an Analysis of Impediments to Fair Housing Choice Report (AI) which examines the policies and practices which potentially may limit residents' ability to choose their housing in an environment free from discrimination. The previous AI Report was reviewed and approved by City Council in 2011. The updates are as follows:

- Update and analysis of Census data
- Identify any further barriers in fair housing choice
- Actions taken on identified barriers by the City
- Update cases and quantitative figures by Project Sentinel
- Project Sentinel's work in fair housing and tenant/landlord cases

The AI Report was reviewed by Project Sentinel and supported the City's efforts to address impediments regarding housing discrimination. The primary recommendation the AI makes is to increase the distribution of fair housing information in multiple languages given the ethnic diversity throughout the City. Copies of the report were provided in the Milpitas Public Library and City Hall for public review.

The 15 day public review period for all three documents was advertised on August 19, 2016 in the local newspaper. The 15 day review period ran from August 20-September 6, 2016. During that time, the public could review and provide comment on the CAPER, CPP or AI. Copies of the documents were sent to all service providers that received CDBG funding and other interested parties. Copies were also made available at City Hall, City's website, and the Milpitas Public Library.

**Fiscal Impact:** None.

#### **Attachments:**

- A. Fiscal Year 2015-16 CAPER
- B. Citizen Participation Plan
- C. Analysis of Impediments to Fair Housing Choice

#### **Recommendations:**

1. Hold the public hearing, and move to close it following public testimony.
2. Adopt the FY 2015-16 Consolidated Annual Performance Evaluation Report (CAPER).
3. Adopt the Citizen Participation Plan.
4. Adopt the Analysis of Impediments to Fair Housing Choice Report.

## **XV. UNFINISHED BUSINESS**

- \*4. Approve Funding the Increase of Milpitas Public Library Hours (Staff Contact: Russell Morreale, 408-586-3111)**

**Background:** At the September 6, 2016 City Council meeting, the Council approved the funding of an increase in the service hours of the Milpitas Public Library from 54 hours per week to 71 hours per week, resulting in an annual cost increase of \$470,052. This represents option 2 as presented by the County Library. The Santa Clara County Library District has made this request to provide consistency for their patrons, and has asked for a commitment of funding for a two-year period.

**Fiscal Impact:** The annual amount of \$470,052 is available in Transient Occupancy Tax Fund (TOT) reserves. If this program is approved, the annual appropriation amount will require recording in the budget as a use of resources. Budget adjustment form is included in the Council agenda packet. To the extent that dollars are appropriated, they will reduce the

amount of funds available for CIPs such as street resurfacing, a project that has typically been partially funded through the TOT fund.

**Recommendation:** Approve a budget appropriation in the amount of \$470,052 from the Transient Occupancy Tax fund.

**5. Receive Status Report from Staff on the Citywide Tree Program (Staff Contacts: Bradley Misner, 408-586-3273 and Nina Hawk, 408-586-2603)**

**Background:** The City of Milpitas is very proud of its existing trees and is devoted to their preservation. The City acknowledges that trees are an extremely valuable community asset and, therefore, believes good policies and regulations are necessary to ensure preservation and expansion of the City's Urban Forest on both public and private property. For this reason, on September 6, 2016, the Mayor directed city staff to return to the September 20, 2016 Council meeting to provide Council with an updated status report concerning the Citywide Tree Program. Specifically, this status report will discuss the Citywide Tree Program related to both public and private property.

**Trees on Public Property**

The City of Milpitas maintains 165 species of trees that exceed more than 15,400 individuals. The current estimated value of the City's urban forest is approximately \$29.5 million. The Department of Public Works manages the inventory of City trees based on customer service calls and a regular maintenance schedule. The majority of regular maintenance of City trees includes pruning, pest control, limb removal and tree extractions. Currently, the Department of Public Works is not in the practice of replacing removed trees with new trees due to water restrictions mandated by the statewide drought conditions.

**Trees on Private Property**

The City of Milpitas Planning and Neighborhood Services (PNS) Department works to protect trees on private property. Routinely, PNS staff works with the Department of Public Works to respond to calls from the public concerning limbs, dead trees, and line-of-sight issues from trees on private property. Furthermore, Milpitas Municipal Code X-2-4.02 governs the removal and replacement of street trees, protected trees and, heritage plantings and requires a removal permit for trees on private property. On June 21, 2016, Council amended this section of the Municipal Code to specify that whenever a protected tree is removed with a removal permit, the removed tree shall be replaced at a ratio of 2:1. The ordinance also established the City's ability to penalize for the unlawful removal or damage of a protected tree. While this amendment helps to strengthen the replacement of trees due to damage, disease, illegal cutting or removal and from development, it also further strengthens the City's policy and commitment to tree preservation. Because of the positive environmental effects of preserving and creating additional city-wide tree canopy, staff is continuing to study ways to be pro-active and believes the creation of a new Comprehensive Tree Ordinance could result from the General Plan Update Process.

**Existing Policies**

**Jacarandas:** Recently, the City Council designated the Jacaranda Mimosifolia as the City Tree. While there are no official requirements with the City Tree designation, it is recommended that Jacaranda trees should be recognized on the city's website, considered an accent tree - not a street tree, and should be included in city gateway and entryway landscaping.

**Gateway policy:** Conceptual designs for the City's gateways and entryways are complete. Jacaranda trees are prominently displayed in each entry and gateway, consistent with the Council adoption of the official City tree. The designs are to be reviewed by the Community Advisory Commission for a final considerations before presentation to the Council.

**Fiscal Impact:** None.

**Recommendation:** Receive staff report on citywide public and private trees.

## XVI. REPORT OF MAYOR

### \*6. Consider Mayor's Recommendation for Appointments to City of Milpitas Commission (Contact: Mayor Esteves, 408-586-3029)

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

**Veterans Commission:** all terms expire in February of 2019

Appoint current Alternate No. 1 William Devereux to a currently vacant seat as a voting member to a term of three years.

Appoint current Alternate No. 2 John Schmidt as Alternate No. 1 to a term of three years.

Newly appoint Ricardo Martinez as Alternate No. 2 to a term of three years.

**Recommendation:** Receive Mayor's recommendation and approve re-appointments and one new appointment to Milpitas Veterans Commission.

## XVII. NEW BUSINESS

### \*7. Receive Report on Status of Water Supply Augmentation Projects (Staff Contact: Steven Machida, 408-586-3355)

**Background:** In response to the California water supply shortage, on August 5, 2014 the Milpitas City Council approved a consultant agreement with Water Solutions, Inc., to perform a feasibility study regarding alternative water supplies. At their May 7, 2015 meeting, the Milpitas City Council received the results of the feasibility study in these related areas: conservation, recycled water, surface water detention, groundwater wells, water rights acquisition, desalination, water storage capacity, and funding. The feasibility study noted impracticality, lack of regulatory authority, or extreme costs to pursue surface water detention, water rights acquisition, and desalination at this time. Water storage provides water system operators with flexibility; however it does not create additional supply. Storage for the recycled water system was recommended since the City system has minimal storage. The City Council authorized staff to implement next steps for water conservation, groundwater wells, and recycled water programs. The purpose of this report is to provide a status update.

**Water Conservation:** Several projects to reduce water system losses (conservation) are identified in the City's adopted 2016-2021 Five Year Capital Program. These projects include the Automated Water Meter Replacement, Supervisory Control and Data Acquisition, and Water System Seismic Improvements. These projects rely on bond financing or other external financing. Staff is unable to pursue bond financing due to the recent water rate initiative, resulting in uncertain water rate revenues. Once the water rate initiative is fully resolved, bond financing will move forward.

**Groundwater Wells:** The City's existing well, Pinewood Well, meets all State drinking water standards. However, groundwater is different from the Hetch-Hetchy surface water served in the immediate area near the well. The City introduced Pinewood Well water into the distribution system for three weeks during the previous drought in 1991 and the residents complained of taste, odor, and hardness. The City's consultant has evaluated the well station equipment and staff is reviewing recommendations for several upgrades and resulting staffing requirements.

**Curtis Well:** To date the Curtis Well consists of a well casing in the ground. The remaining improvements include a pump station building with pumps and motors, water quality treatment systems, back-up generator, and yard piping. The Curtis Well design is on hold pending decisions on water quality treatment and external financing. On July 29, 2016, staff submitted a grant application to the State Water Resources Control Board for the Curtis Well for the Groundwater Quality Funding Program.

**Recycled Water:** Use of recycled water for irrigation frees up precious potable water that can be used for drinking water. Potable water reduction helps the Milpitas community meet the State-mandated 2020 per capita water use. There are three projects moving forward at this time. The first project includes the design of a recycled water pipeline extension Segment 1. This recycled water pipeline will extend recycled water availability east of I-680 to Cardoza Park. Segment 1 must be constructed first in order to serve the rest of the recycled water pipeline segments.

The second project consists of preparing conceptual plans for approximately 9 miles of recycled water pipe extensions, environmental documents, and State/grant loan financing application for funding to complete design and construction, including construction of Segment 1 described above. The environmental documents will be circulated approximately September 16 to October 17, 2016 and the grant application is anticipated to be submitted to the State by September 30, 2016. This pipeline extension will provide recycled water for schools, parks, and hillside golf courses.

The third project consists of converting 17 acres of existing City park and trail irrigation from potable water to recycled water. The design and bidding phases are complete and a recommendation for award of construction contract is forthcoming.

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

**Alternative:** The City Council is not required to accept this report.

**Fiscal Impact:** None.

**Recommendation:** Receive report on status of Water Supply Augmentation projects.

**8. Receive Report and Appoint Members to the Citizens Task Force on Water Rates (Staff Contact: Mayor Esteves, 408-586-3029 and Tom Williams, 408-586-3050)**

**Background:** At the September 6, 2016 meeting, the Milpitas City Council decided to establish a Citizens Task Force on Water Rates. The City Council will select the members that will serve on the Task Force. The Task Force will consist of 7-11 members. Staff has prepared a general work plan with timeline (included in the Council packet) and the Task Force will develop the specific tasks.

The purpose of the Task Force is to review water rate structures, improve understanding of water program revenues and expenses, identify risk associated by not investing in capital improvements, and recommend infrastructure priorities. The Task Force will review the detailed calculations for the adopted 2015-16 and 2016-17 water rate calculations, as well as participate in the 2017-18 rate study.

Staff planned to kick-off the next water rate analysis in November, request Council to introduce a water rate ordinance in February 2017, request Council adoption of rates in May 2017, and implement new rates in July 2017. Staff recommendations for the capital improvement program are typically due at Thanksgiving. It is noted that the water rate study/

capital program milestones and the Citizen Task Force milestones are almost identical and suggest that the two efforts be combined.

**California Environmental Quality Act:** The Task Force efforts are exempt from CEQA as there will be no physical change to the environment.

**Alternative:** A Citizens Task Force on Water Rates is not required.

**Fiscal Impact:** None, unless financial experts are needed to provide information to the Citizens Task Force.

**Recommendations:**

1. Receive a report on Citizens Task Force on Water Rates.
2. Appoint members to the Citizens Task Force on Water Rates.

**\*9. Approve Out of State Travel for Economic Development Manager (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** (1) From September 24-28, 2016, the Economic Development Manager will attend the International Economic Development Council conference in Cleveland, Ohio. IEDC's Annual Conference is the largest event of its kind. During Annual Conference, sessions will cover the topics which are essential to economic development practitioners. It is anticipated that this year's conference will be one of the largest attended in history. It offers the added benefit of taking place during the year of IEDC's 90<sup>th</sup> anniversary as the premier professional membership organization for economic developers.

The 2016 Annual Conference program will highlight best practices and rising trends in economic development profession. This year's program is also informed by the inspirational story of Cleveland, and the overall story of Northern Ohio as a powerhouse economy. Sessions will discuss Cleveland's adaptation to new economic realities, its rebirth through reinvestment in institutions, infrastructure and relationships. Most importantly, how to implement their success stories and lessons learned back to our community. The total cost of the travel expenses for the Economic Development Manager is \$3,000.

(2) The Economic Development Manager will travel to the ReCon Conference International Conference of Shopping Centers (ICSC) convention from May 21-24, 2017 which is annually scheduled in Las Vegas, Nevada. ReCon is the global convention for the shopping center industry and provides networking, deal making and educational opportunities for retail real estate professionals from around the world. Over 36,000 attendees and 1,000 exhibitors are all located in one area with an excellent opportunity for deal making. This is one of the main events to meet national retailers to discuss new or existing leases in the City's centers, view the latest industry products and services, attend educational sessions or find the next deal.

With over 180,000 square feet of available commercial and retail spaces opening up in the City, it is important to attend the conference in order to recruit and attract new businesses and national brands. The total cost of the travel expenses for the Economic Development Manager is \$1,800.

**Fiscal Impact:** None. The City Manager's office has budgeted funds to pay for costs of these two travel expenses.

**Recommendation:** Approve out of state travel to Cleveland, OH in September and in Las Vegas, NV next May for the Economic Development Manager.

- \*10. Consider Request from the Milpitas Rotary Club to Waive City Fees for its Annual Pumpkin Patch to be held Starting October 17, 2016 at 1331 E. Calaveras Blvd. Parking Lot (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** The City Clerk received a “Donation or Fee Waiver/Reduction Request Application Form” from the Milpitas Rotary Club on September 1. The Rotary Club applied for a Special Event Permit through the Planning department, and has been considered separately for approval by the Planning Commission Subcommittee. At this time, the club is requesting that the City Council waive all City fees charged for its annual Pumpkin Patch.

City Fees for Pumpkin Patch are:

Special Event permit application – Planning Dept.	\$250.00
Fire Marshal’s inspection permit + fees:	\$523.77
Electrical Permit from Building official	\$199.88

**Fiscal Impact:** \$20,000 was approved and included in the FY 2016-17 City budget for City Council’s Unallocated Community Promotions. If the current fee waiver of \$973.65 is granted, then \$16,752.58 would be the remaining balance for the fiscal year.

**Recommendation:** Consider the request from Milpitas Rotary Club and move to approve fee waiver for Planning, Fire, and Building fees totaling \$973.65 related to the Pumpkin Patch held October 17-31, 2016.

- \*11. Consider Request from Korean Language and Culture Foundation for a Donation of \$500 (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** On September 9, 2016, the City Clerk received a “Donation or Fee Waiver/Reduction Request Application Form” from the Korean Language and Culture Foundation, a non-profit organization in Milpitas. This group plans to hold a celebration of Hangeul, the Korean alphabet on October 8, 2016 at Milpitas Library. The event allows participants to experience Korean culture including the Korean alphabet, Korean customs and printing system. The Foundation is seeking funds for support from the City of Milpitas.

**Fiscal Impact:** \$20,000 was approved and included in the FY 2016-17 City budget for City Council’s Unallocated Community Promotions. If the \$500 donation request is approved along with another request on the agenda, then \$16,252.58 would be the remaining balance.

**Recommendation:** Consider the request from the Korean Language and Culture Foundation and move to approve a \$500 donation to the non-profit group for its Hangeul Day celebration on October 8, 2016.

## **XVIII. RESOLUTIONS**

- 12. Receive Staff Report and Adopt a Resolution to Approve and Authorize the City Manager to Execute an Agreement for Solid Waste Collection (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** *RFP Process – Disposal and Collection*

The City’s contract for solid waste collection expires in September 2017. The City conducted a two part procurement process, separating disposal and collection contract award. In response to the City’s Request for Proposals (RFP), two companies submitted disposal proposals (Green Waste Recovery and Waste Management, Inc.) and six companies submitted solid waste collection and materials processing proposals (California Waste Solutions, Garden City Sanitation, Green Team, GreenWaste Recovery, Republic Services, and Waste Management, Inc.). The Council in March 2016 awarded Waste Management, Inc. the disposal contract.

The high level of competition for the services has been demonstrated to be a direct result of separating the proposal process and contract award for the two services.

*City Council Direction - Collection*

At the May 23, 2016 Council study session, five of the six collection proposers presented their qualifications and approach for providing services to Milpitas. At the June 21, 2016 Council meeting, staff presented technical evaluation results and proposed costs. Council directed staff to conduct negotiations with each of the four lowest cost proposers (Garden City, Green Team, GreenWaste Recovery, and Republic Services) and authorized the City Manager to discontinue negotiations with any of the proposers upon his determination that a viable contract could not be agreed-upon. The table below presents the proposed costs and evaluation ranking for each company’s base and alternate proposals at the time of the June 21, 2016 City Council meeting.

<i>Proposer</i>	<i>Evaluation Ranking</i>	<i>Proposed Compensation*</i>
GreenWaste Recovery Base	85.3	\$12,904,762
GreenWaste Recovery Alternate	83.3	\$12,904,762
Republic Services Base	82.3	\$10,146,255
Republic Services Alternate	79.0	\$10,074,442
GreenTeam Base	66.7	\$13,610,324
Garden City Alternate	64.7	\$12,543,179
Garden City Base	62.7	\$13,264,543
GreenTeam Alternate	62.0	\$13,558,427

\*These values do not include the cost of disposal or city fees.

*Determination of Viable Proposals*

The City Manager provided oversight of, and participated in the negotiations. As the negotiations with the proposers progressed, it became clear that it was not possible to negotiate viable franchise agreements with Green Team and GreenWaste Recovery. The business terms required by Green Team created an unacceptable level of risk to the City. The cost proposal, subscription level commitments, and resulting customer rates required by GreenWaste Recovery resulted in significantly higher rate impacts (a rate increase of more than 30%) than the other remaining proposers, despite several cost reduction strategies that were discussed in the negotiations.

*Recommended Contract Terms and Service Package*

Through negotiations with the two remaining proposers, the following key business and service terms were determined to reflect Council direction and to be in the best interests of the City’s ratepayers:

- **Contract Term:** 10 years if Republic selected; 15 years if Garden City selected (Garden City’s proposal provided a \$370K/year savings for a 15 vs a 10 year term vs. Republic’s proposal that offered less than \$12K/year savings)
- **Rate Adjustment Process:** No change from RFP; Annual CPI-based adjustments capped at 5% per year with detailed cost-of-service reviews for years 4 and 8, again with a 5% cap. In the event that calculated adjustments exceed the 5% cap, Contractor must present justification to City Council
- **Billing Services:**
  - Selected contractor will assume responsibility for all customer billings
  - City Hall payment drop-off will be retained for one to two years after transition; contractor will establish local payment locations after that
  - Elimination of several historic City charges (billing services, street sweeping fee, bus stop service, administrative costs, etc.)

- **Temporary Roll-off Services:** Phase out current non-exclusive system; include services in the franchise
- **Standard Service Level and Variable Rate Options:**
  - Single-Family Customers: 32, 64, and 96-gallon contractor-provided carts
  - Multi-Family Customers: 32, 64, and 96-gallon carts; 1 through 8 yard bins; compactors
  - Commercial Customers: 32, 64, and 96-gallon carts; 1 through 8 yard bins; compactors
  - Roll-off/Compactor Customers: 10, 20, 30, and 40 yard boxes; various compactors
- **New/Improved Services for Legislative/Regulatory Compliance:**
  - Residential Food Scraps Program starting immediately with new contract (SB 1383)
  - Commercial and Multi-Family Recycling (AB 341) at 25% of equivalent garbage rate
  - Commercial and Multi-Family Organics (AB 1826) at 80% of equivalent garbage rate
  - Special Event Recycling Services (AB 2176) at no charge to City or event organizer
  - Significant expansion of public education and outreach (AB 341, AB 1826)
  - Significant expansion of reporting (AB 341, AB 1826)
- **New/Improved Services for Customer Convenience:**
  - New On-Call Curbside Bulky Item/Refuse Collection (four per year at no charge)
  - Enhanced Used Motor Oil/Filter Curbside Collection & Recycling (no additional charge)
  - New Used Cooking Oil Curbside Collection & Recycling (no additional charge)
  - New On-Demand Extra Material Setouts (fee for service)
- **Solid Waste Processing:** The proposed contract reserves the City's right to implement solid waste processing at a later date at a specified cost, depending on the City's remaining regulatory demands after implementation of recycling/organics programs noted above. This processing is expensive, regardless of the selected contractor, and may not be necessary for several years.

*Public Input Supports Selected Service Package*

As reported at the June 21, 2016 Council meeting, staff conducted a comprehensive survey (attached) of services with more than 900 respondents reflecting the ethnic composition of Milpitas. The results are attached and generally support the proposed service package.

- 83% of Respondents support converting from customer-owned cans to contractor-provided carts
- 53% of respondents support add residential food scraps, if there is no rate impact
- 69% of respondents support replacing dump days with on-call pickups

The proposed service package also largely reflects the input of the Recycling and Source Reduction Advisory Commission (RSRAC).

*Comparison of Costs and Rates for Negotiated Agreements*

The following table shows the proposed Year 1 costs and estimated life-cycle cost of both agreements over a 15 year period. The figures here are estimates of future inflationary impacts on the cost of service to customers, based on the costs and cost categories proposed by each company as well as the past 15 year history of the inflationary indices used to adjust rates under the proposed agreement. Note that while a 15 year lifecycle was used for the purposes of this analysis, staff does not recommend awarding an agreement to Republic with a term longer than 10 years, for the reasons stated above.

	Lifecycle	2018
	Contract Value	Year 1
<b>Garden City</b>	\$265,619,907	\$15,059,272
<b>Republic</b>	\$248,692,315	\$13,930,402
<b>Variance</b>	\$16,927,591	\$1,128,870
	6.8%	8.1%

Note: These values include all collection and disposal costs incurred by Contractor

In general, the rates proposed by Republic represent a 7.2% REDUCTION in rates, relative to the current rates, while Garden City's proposal represents a 7.2% INCREASE in rates. The rate comparison table below illustrates several of the most common service levels in use by Milpitas customers. Several minor structural changes are being made to other rate categories, including: reducing the cost of Multi-Family and Commercial Organics service (historically more expensive than commercial garbage service); adding a small charge for Multi-Family and Commercial Recycling service (equivalent to 25% of the same service level of Garbage); and converting the current confusing roll-off rate structure with a more equitable and easy-to-understand system.

		Current	Republic		Garden City	
		\$	\$	%	\$	%
<b>Residential</b>	32-Gallon		\$ 31.46	-7.2%	\$ 36.34	7.2%
	64-Gallon	\$ 33.89	\$ 37.00	9.2%	\$ 42.73	26.1%
	96-Gallon		\$ 42.50	25.4%	\$ 49.09	44.8%
<b>Multi-Family</b>	96-Gallon	\$ 31.80	\$ 29.52	-7.2%	\$ 34.09	7.2%
	1CY 1x/wk	\$ 98.06	\$ 91.03	-7.2%	\$ 105.14	7.2%
	1CY 3x/wk	\$ 203.28	\$ 188.71	-7.2%	\$ 217.95	7.2%
	3CY 1x/wk	\$ 205.53	\$ 190.80	-7.2%	\$ 220.36	7.2%
	3CY 3x/wk	\$ 507.76	\$ 471.36	-7.2%	\$ 544.40	7.2%
	4CY 1x/wk	\$ 238.10	\$ 221.03	-7.2%	\$ 255.28	7.2%
	8CY 1x/wk	\$ 412.52	\$ 382.97	-7.2%	\$ 442.31	7.2%
<b>Commercial</b>	96-Gallon	\$ 36.80	\$ 34.16	-7.2%	\$ 39.46	7.2%
	1CY 1x/wk	\$ 111.36	\$ 103.38	-7.2%	\$ 119.40	7.2%
	1CY 3x/wk	\$ 250.13	\$ 232.20	-7.2%	\$ 268.18	7.2%
	3CY 1x/wk	\$ 237.41	\$ 220.39	-7.2%	\$ 254.54	7.2%
	3CY 3x/wk	\$ 631.92	\$ 586.62	-7.2%	\$ 677.52	7.2%
	4CY 1x/wk	\$ 277.67	\$ 257.77	-7.2%	\$ 297.71	7.2%
	8CY 1x/wk	\$ 485.99	\$ 451.15	-7.2%	\$ 521.06	7.2%
<b>MSW R/O* (Base Charge)</b>	10 Yards	\$ 512.09	\$ 389.82	-23.9%	\$ 463.49	-9.5%
	20 Yards	\$ 725.49	\$ 545.14	-24.9%	\$ 649.51	-10.5%
	30 Yards	\$ 922.69	\$ 685.43	-25.7%	\$ 818.16	-11.3%
	40 Yards	\$ 1,131.63	\$ 836.61	-26.1%	\$ 999.40	-11.7%

\* Current rate includes disposal cost. Proposed rates include service cost only, Customer will also pay for tonnage at \$42.78/ton.

Among the drivers of the cost and rate differences between the companies are their material handling costs and desired profit levels. The per ton costs for handling recycling, yard trimmings, food scraps, construction and demolition debris, and mixed waste are provided in the table below along with each company's desired profit level.

	Garden City	Republic
Recycling	\$ 60.77	\$ -
Yard Trims	\$ 62.34	\$ 59.75
Food Scraps	\$ 92.00	\$ 70.00
C&D	\$ 87.50	\$ 66.50
Mixed Matls	\$ 124.45	\$ 115.00
Profit	13.0%	10.5%

#### *Ratepayer Protections & Contract Management Tools*

The agreement, regardless of the selected contractor, provides ratepayers and the City the following protections and tools:

#### *Franchise Agreement with Garden City*

At the posting of this report, staff are still awaiting responses from Garden City on several contract language and cost issues that may impact staff's recommendation, however, the benefits of the Garden City proposal include:

1. Participation in a publicly-owned, highly transparent, facility (the SMaRT Station) for handling the materials collected in Milpitas.
2. Direct attention to the Milpitas contract by company ownership and significantly higher levels of management and supervisory oversight – likely resulting in higher service quality.
3. Working with a company who is primarily focused on diverting materials from landfill, consistent with the direction of the state legislature and CalRecycle.
4. No longer delivering any materials to Newby Island for processing.

#### *Franchise Agreement with Republic*

If City Council awards the franchise agreement to Republic Services the following general benefits exist:

1. A rate reduction of 7.2 percent compared to current solid waste rates, effective September 2017 – December 2018. Rates will not be adjusted again until January 1, 2019.
2. Commitment to increase the initial amount of diversion by a minimum of 25 percent by the 4<sup>th</sup> year of the agreement.
3. Eliminates many risks that can result from transition service with another contractor.

An award to Republic Services also provides the following benefits related to the Newby Island facility that complement and strengthen the provisions of the class action lawsuit settlement.

1. Commitment to convert from open windrow composting of organic materials to use of “aerated static piles technology” (ASP) at the Newby Island facility by December 31, 2017. Use of the ASP technology will minimize odors.
2. If the ASP process is not fully operational by December 31, 2017, Contractor shall send Milpitas’ organic material for processing at another facility, at no added cost to City and until such time as the ASP process is demonstrated to be fully operational.
3. Commitment to reduce total composting area by a minimum of one-third.
4. Commitment to reduce the total volume of organic materials composted at the Newby Island facility from current levels of about 160,000 tons per year to 100,000 tons per year.
5. Failure to satisfy the requirements of Items 2 through 5 results in:
  - a. A \$1,000/day penalty for each day of noncompliance.
  - b. Termination of the agreement at City sole discretion, with Republic payment of actual City cost or \$425,000, whichever is less, should the City need to conduct a process to select a successor contractor.

The above provisions apply to both yard trimmings and food scraps; the latter being of greater relative odor concern.

City staff remain concerned about entering in to a new long-term agreement with Republic, given the history of legal conflict between the parties. If City Council awards the franchise agreement to Republic, City staff intend to work closely with Republic during the transition to improve the relationship and will significantly increase oversight and management of the agreement and relationship. The new franchise agreement provides a number of contract management tools that the City did not previously have.

**Recommended Contractor:**

At the time of posting, staff is awaiting final contract language and pricing responses from Garden City. As such, the franchise agreement (included in the agenda packet) is the one negotiated with Republic. Staff believes the remaining issues will be concluded prior to the Council meeting and staff will present its recommendation to City Council at the meeting, based on receipt of all information.

**California Environmental Quality Act:** As stated in the memo (included in the agenda packet) “Results of Assessing Air Quality and Greenhouse Gas Emissions Impact of Solid Waste Diversion Scenarios”:

“...even when considering the emissions impact associated with the worst case scenario for the City-approved waste disposal contract (disposal project) in conjunction with the diversion project, the total emissions still fall well below the *criteria pollutant* thresholds. With respect to GHG emissions, recycling and composting provide lifecycle benefits that far outweigh the impacts from transporting and processing of both the landfilled materials and the materials diverted from landfill...the City of Milpitas’ new and proposed contractual arrangements for hauling, landfill disposal, and diversion of solid waste materials (the combined disposal and diversion projects considered herein) are exempt from CEQA per CEQA Guidelines section 15301, as the contracted activities represent the continued operation of existing public facilities that involve “negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.”

**Alternative:** The City’s current contract expires September 5, 2017. Award of an agreement is necessary to ensure continuity of service.

**Fiscal Impact:** None. Cost of solid waste collection will be included in the solid waste customer rates.

**Attachments:**

- A. Resolution
- B. Proposed Franchise Agreement with Republic Services
- C. Results of Assessing Air Quality and Greenhouse Gas Emissions Impact of Solid Waste Diversion Scenarios
- D. Solid Waste Survey

**Recommendations:**

1. Receive staff report and recommendation.
2. Adopt a Resolution to approve and authorize the City Manager to award and execute the solid waste collection franchise agreement with Republic Services, subject to final review and incorporation of non-substantive changes by the City Manager and City Attorney; OR, direct staff to return on October 6, 2016 with a franchise agreement with Garden City Sanitation.

- \*13. **Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Milpitas Sports Center Pool Repairs Project, CIPs No. 3408 and No. 5103, and**

**Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance after One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The Council awarded the Milpitas Sports Center Pool Repairs Project, CIPs No. 3048 and No. 5103, to California Commercial Pools, Inc. on August 18, 2015. The project consisted of resurfacing of the yard, meter, and training pools, installation of new Americans with Disabilities Act (ADA) entries, lighting, concrete deck, drainage systems, shade structures, and related equipment and appurtenances. The project also removed the non-operational wading pool.

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 \$143,532.19, which is 10% of the final contract value. Staff also recommends the City Council authorize the 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 City Engineer.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting initial acceptance for Milpitas Sports Center Pool Repairs Project, CIPs No. 3048 and No. 5103, subject to a one year warranty period and reduction of the faithful performance bond to \$143,532.19; and granting authorization to the 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.

**\*14. Adopt a Resolution for the Summary Vacation of an Existing Emergency Access Easement at 901-905 Montague Expressway (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** There is an existing Emergency Access Easement (EAE), as described and depicted on Exhibit A (attached to Resolution document in agenda packet) located at 901-905 Montague Expressway. The EAE is approximately 20 feet wide and 42 feet long.

The Montague Expressway Widening project, currently being constructed by the Joint Powers Authority (consisting of County of Santa Clara, Santa Clara Valley Water District, and Valley Transportation Authority) will result in a higher street grade on South Milpitas Boulevard that renders the EAE unusable by the City.

Pursuant to California Streets and Highways Code Sections 8333(a) & (c), City Council may summarily vacate a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation, or if the easement has been determined to be excess by the easement holder and there are no other public facilities located within the easement.

City's Police and Fire Departments have evaluated and determined that the existing EAE has not been used in the past five consecutive years as there are two existing access points to the property, one from South Milpitas Boulevard and one from Montague Expressway.

Additionally, City's Police and Fire Departments have also determined that the existing EAE is excess based on the two alternate access points. City's Engineering Department also finds that the existing EAE is excess and that there are no public facilities within the existing EAE.

Pursuant to California Streets and Highways Code Section 8335, from and after the date the attached Resolution of Summary Vacation including Exhibit A, is adopted by the City

Council and recorded with the County of Santa Clara Recorder's Office, the existing EAE will no longer constitute an EAE.

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

**Alternative:** City continues to retain the easement.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a resolution for the summary vacation of an existing emergency access easement at 901-905 Montague Expressway.
2. Direct the City Clerk to record a certified copy of the Resolution, including Exhibit A, attested by the City Clerk under seal, with the County of Santa Clara Recorder.

**\*15. Adopt a Resolution Approving Future Annexation Boundary Area Map and Adopt a Resolution Declaring Intention to Authorize the Annexation in the Future to Communities Facilities District No. 2008-1 and Set Time and Place for Public Hearing (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** On January 6, 2009, the City Council adopted Resolution No. 7815 enabling the establishment of City of Milpitas Community Facilities District No. 2008-1 (the "CFD 2008-1") for public services in the Transit Area Specific Plan (TASP) area. The boundary map of the initial CFD 2008-1 is on file in the office of the City Clerk. On January 15, 2009, the Notice of Special Tax Lien for the City of Milpitas CFD 2008-1 Formation (the "Notice of Special Tax Lien") was recorded, as document no. 20102888 with the County of Santa Clara Recorder's Office, to levy special tax for real properties within the initial CFD 2008-1 (Attachment 1).

Pursuant to California Government (GC) Code Section 53339.2, territory may be annexed to an existing CFD if the City Council determines that public convenience and necessity require that territory be added to the existing CFD. City may adopt a resolution of intention to provide for future annexation of the territory by identifying territory proposed for annexation in the future, with the condition that parcels within that territory may be annexed only with the unanimous approval of the owner of each parcel or parcels at the time that parcel or those parcels are annexed.

Exhibit A of the Notice of Special Tax Lien provides descriptions of public services and Exhibit B of the Notice of Special Tax Lien provides descriptions of rate, method of apportionment and manner of collection of special tax. The public services provided for future annexation areas are the same as the ones for the initial CFD 2008-1. The rate, method of apportionment and manner of collection of special tax for future annexations are the same as the ones for the initial CFD 2008-1 area.

There shall not be any alteration in the special tax rate to be levied within the initial CFD 2008-1 as a result of any future annexations. The maximum tax rate in the initial CFD 2008-1 will not be increased as a result of any future annexations.

Pursuant to GC Section 53339.3(f), the City Council shall fix a time and place for a public hearing. The public hearing date shall neither be less than 30 nor more than 60 days after City Council's adoption of the resolution of intention to annex. The City Clerk shall give the notice of the public hearing in accordance with GC Sections 53339.4, 53322 and 53322.4.

**California Environmental Quality Act:** Annexation of real properties into the existing CFD 2008-1 is not a project pursuant to the CEQA section 15378(b)(4). Annexation of real

properties within TASP were requirements imposed through conditions of approval on the underlying development project, which was found to be consistent with the TASP Environmental Impact Report pursuant to CEQA Guideline 15168(c)(2).

**Fiscal Impact:** None. Annexation of real properties within TASP will enable the City to levy special tax for the real properties within the TASP to fund public services.

**Recommendations:**

1. Adopt a resolution declaring intention to authorize the annexation in the future to Communities Facilities District No. 2008-1.
2. Set a public hearing for 7:00 pm on Tuesday, November 1, 2016 in the City Council Chambers at Milpitas City Hall.
3. Direct the City Clerk to give notice of public hearing in accordance with applicable state law.

**\*16. Adopt a Resolution Authorizing the Chief of Police to Execute the Agreement with the California Office of Traffic Safety (OTS) for the 2017 Selective Traffic Enforcement Program (STEP) Grant (Staff Contact: Henry Kwong, 408-586-2419)**

**Background:** The California Office of Traffic Safety (OTS) is administering the 2017 Selective Traffic Enforcement Program (STEP) that offers grant funds from the California Office of Traffic Safety to reimburse law enforcement agencies for overtime expenditures specifically directed towards Traffic Safety Operations.

Best practice strategies will be conducted to reduce the number of persons killed and injured in collisions involving impairment and other primary collision factors. The funded strategies may enforcement operations focusing on impaired driving, distracted driving, nighttime seat belt use motorcycle safety, and pedestrian and bicycle safety. Operations are conducted in areas with disproportionate numbers of traffic collisions. Other funded strategies may include public awareness educational programs, and training for law enforcement.

The City of Milpitas has been approved for a grant of \$100,000 to conduct DUI saturation patrols, DUI checkpoints, traffic enforcement operations, distracted driving enforcement, motorcycle safety programs, pedestrian and bicycle safety programs, public education, equipment purchases, and training on an overtime basis in conjunction with STEP between October 1, 2016 and September 30, 2017.

**Fiscal Impact:** None. The expenditures will be reimbursed by the grant.

**Recommendations:**

1. Adopt a resolution authorizing the Chief of Police to execute the agreement with the California Office of Traffic Safety (OTS) for the 2017 Selective Traffic Enforcement Program (STEP) grant.
2. Approve a budget appropriation in the amount of \$100,000 to the Police Department overtime budget as a result of the 2017 Selective Traffic Enforcement Program grant.

**XIX. AGREEMENTS & BIDS**

**\*17. Award the Bid and Authorize the City Manager to Execute a five-year contract, including four Annual Renewal Options, for a not-to-exceed five year contract of \$1,656,420, with Marina Landscape Maintenance, Inc. for Parks and Streetscape Maintenance Services and Appropriate Funds in the Amount of \$85,284 to augment the adopted budget for the year-one contract amount of \$331,284 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On July 29, 2016, staff sent out a Request for Proposal (RFP) for Parks and Streetscape Maintenance Service. This naturally resulted from the prior contract reaching its expiration date. Purchasing worked closely with Public Works to develop the specification and bid package for the RFP. The RFP was advertised in the Milpitas Post, City website, and through the Public Purchase procurement system. 34 vendors accessed the bid and three proposals were received in response to the RFP. Proposals were evaluated by a committee of three: the Public Works Director, a Public Works Manager, and a Public Works Administrative Analyst. The committee scored the proposals based on five criteria including price, technical abilities and qualifications, quality of the proposal, and references.

The recommendation for award to Marina Landscape Maintenance, Inc. is based on the offering that is considered to be of best value and the most advantageous to the City. The new contract for Parks and Streetscape Maintenance Service includes a year-one amount of \$331,284 commencing September 30, 2016. The proposed contract includes four 1-year options for renewal. Renewal years contain a compensation adjustment clause based on the Employment Cost Index (ECI) for wages and salaries for private industry workers, by occupational group and industry, not seasonally adjusted or 5%, whichever is less. After posting the Notice of Intent to Award (Pending Bid Results), there was no protest filed.

The contract scope includes expanded services related to weed abatement program requirements, repairs of aging irrigation systems, spring and fall annual planting, and the maintenance of Bob McGuire Park. Additionally, the current climate has presented increased costs for services specifically in the areas of litter, vandalism and graffiti.

Staff requests an appropriation of additional funds to enhance services beyond those in the previous contracts. This new contract is intended to address maintenance services for a new City park in the TASP area and an overall increase in landscaping, maintenance demand citywide.

**Fiscal Impact:** The Public Works Parks and Streetscape Maintenance FY 2016-17 budget includes \$246,000 to pay for the subject services. Funding sources for this contract comes from a combination of both Community Facilities District (CFD) and General sources. In line with the enhanced services per the proposed award noted above, staff is requesting \$20,000 from CFD 2008 and \$65,284 from the General Fund for an additional appropriation of \$85,284. The five-year contract, including 4 Annual Renewal Options, results in a not-to-exceed five year contract of \$1,656,420, excluding ECI compensation adjustments.

**Recommendations:**

1. Award the bid and authorize the City Manager to execute a five-year contract, including four Annual Renewal Options for a not-to-exceed five year contract of \$1,656,420, with Marina Landscape Maintenance, Inc. for Parks and Streetscape Maintenance Services and Appropriate Funds in the Amount of \$85,284 to augment the adopted budget for the year-one contract amount of \$331,284.
2. Appropriate \$20,000 from Community Facilities District (CFD) No. 2008-1 and \$65,284 from the City's General Fund in the Parks Maintenance Budget.
3. Authorize the purchasing agent to extend the term of the agreement annually for each of the four option years with annual price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.

- \*18. Award the Bid and Authorize the City Manager to Execute the Contract with Mike Davis Landscaping Services for Civic Center, Library Landscape Maintenance Service with an Initial Not-to-Exceed Amount of \$96,600 (Staff Contact: Chris Schroeder, 408-586-3161)**

**Background:** On July 15, 2016, staff sent out a Request for Proposal (RFP) for Civic Center, Library Landscape Maintenance Service. Purchasing worked closely with Public Works to develop the specification and bid package for the RFP. Services under the contract include landscape services for the Civic Center, Library, Fire Stations No. 1 through No. 4, Police/Public Works Building, and Milpitas Sports Center Building. The RFP was advertised in the Milpitas Post, City website, and through Public Purchase. Twenty-nine vendors accessed the bid and two proposals were received in response to the RFP. Proposals were evaluated by a committee of three: the Public Works Director, a Public Works Manager, and a Public Works Administrative Analyst. The committee scored the proposals based on five criteria including price, technical abilities and qualifications, quality of the proposal, and references.

The recommendation for award to Mike Davis Landscape Services is based on the offering that is considered to be the best value and most advantageous to the City. The new contract for Civic Center, Library Landscape Maintenance Service includes an initial one-year period in the amount of \$96,600 commencing September 30, 2016 through September 30, 2017. The proposed contract includes four 1-year options for renewal. Renewal years contain a compensation adjustment clause based on the Employment Cost Index (ECI) for wages and salaries for private industry workers, by occupational group and industry, not seasonally adjusted or 5%, whichever is less. Four annual renewal options total an amount not to exceed \$386,400, resulting in a total not-to-exceed five year contract of \$483,000, excluding ECI compensation adjustments. After posting the Notice of Intent to Award (Pending Bid Results), no protest was filed.

**Fiscal Impact:** None. Funds are available from the Facilities Maintenance budget for this service.

**Recommendations:**

1. Award the bid and authorize the City Manager to execute the contract with Mike Davis Landscape Services for Civic Center, Library Landscape Maintenance Service in the initial not-to-exceed amount of \$96,600.
2. Authorize the Purchasing Agent to extend the term of the agreement annually for each of the four option years with annual price increase per the terms of the agreement and without further City Council action, except for appropriation of funds.

**\*19. Authorize the City Manager to Execute the Restated Joint Powers Agreement for the Silicon Valley Regional Interoperability Authority (Staff Contact: Steve Pangelinan, 408-586-2426)**

**Background:** Since March 2010, the City of Milpitas has been a member of the Silicon Valley Interoperability Authority (SVRIA) along with all Santa Clara County municipalities, the County of Santa Clara, San Jose State University, the South Santa Clara County Fire District and the Santa Clara Valley Water District.

The purpose of the SVRIA is to enhance and coordinate regional public safety data and radio communications systems, with a focus on interoperability and strategic planning. In other words, to work together to plan and implement systems which enhance the abilities of the various public safety agencies to communicate with each other in both routine and emergency situations, and to allow for the sharing of information that would assist them in performing their duties.

On May 26, 2016, the Board of Directors of the SVRIA recommend changes to the Joint Powers Agreement to include the Santa Clara Valley Transportation Authority as a voting member of the Board of Directors. VTA previously entered into a Memorandum of Understanding with the SVRIA to become a participant in the Silicon Valley Regional Communication System (SVRCS), which would make them the third largest member, after

the City of San Jose and the County of Santa Clara. VTA agreed to share the costs of the Regional Communication System and requests two seats on the SVRIA Board of Directors.

**Fiscal Impact:** If approved, the members' costs will be reduced because the Silicon Valley Regional Communication System's fixed costs will be spread over more members. The City's cost is already budgeted within the Police Department's 2016-17 operating budget.

**Recommendation:** Authorize the City Manager to sign the Restated Joint Powers Agreement for the City of Milpitas, approving the addition of Santa Clara Valley Transportation Authority as a voting member.

- \*20. Approve and Authorize the City Manager to Execute Amendment No. 5 to the Consultant Service Agreement with Vali Cooper & Associates Extending the Term to February 28, 2017 and Increasing Compensation in the Additional Amount of \$230,000 to Continue Engineering Support for the BART and Montague Widening Projects (CIPs No. 4265 and No. 4179) (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension (SVBX) BART project. The Master Agreement allows reimbursement of City consultant costs for support services. Support services, such as record drawing documentation, testing, project closeout, and initial/final acceptance, will be needed even after BART service begins in 2017. For most of the life of the Master Agreement, the annual work plan describing reimbursement of City support was renewed annually in October. Therefore the various consultant support agreements were renewed annually in October as well. The most recent Amendment to the Master Agreement was extended for a 17 month period ending in February 2017; however it was too late to extend terms and adjust funding for all of the consultant agreements to match. The funding and agreement terms expire in October 2016. It is now necessary to begin extending the consultant agreement terms and adjust funding to coincide with the Master Agreement. Staff anticipates bringing other consultant contract extensions and augmentations to Council in October, and the next amendment to the Master Agreement to extend the work plan in November.

On November 20, 2013, the City entered into a consulting services agreement with Vali Cooper & Associates, Inc. in the amount of \$19,760 to provide support services for the SVBX project through June 30, 2014. On January 21, 2014, the parties entered into Amendment No. 1 to increase compensation by \$75,000 to continue support services. On June 3, 2014 the parties entered into Amendment No. 2 to increase compensation by \$158,240 and extended the term through June 30, 2015. On December 16, 2014, the parties entered into Amendment No. 3 increasing compensation by \$300,000 and to extend the term through September 30, 2015. On September 15, 2015, the parties entered into Amendment No. 4 to increase compensation by \$310,000 and extend the term to October 31, 2016.

Several phases of the work are in progress simultaneously, including relocation of existing utilities, installation of new utilities, track installation, roadway construction and frontage, and station construction. The primary services needed during these phases of the work include review of construction submittals pertaining to City infrastructure, representing City interests when unforeseen conditions arise, agency coordination, record drawing review, and initial acceptance of City infrastructure. Staff recommends that Vali Cooper & Associates perform additional services by continuing their support through February 28, 2017. Approval of this amendment brings the total agreement amount to \$1,093,000.

About half of the work is expected to be performed under the Master Agreement and is reimbursable by VTA. The other half of the work will be performed on the Montague Widening project, is not reimbursable by VTA, and is funded by Project No. 4179. A copy of the Amendment is included in the Council packet.

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

**Alternative:** If this request is denied, the City would not be able to review construction submittals for City infrastructure, review record drawings, or provide other support tasks.

**Fiscal Impact:** None. There are sufficient funds in Projects No. 4265 and No. 4179.

**Recommendations:** Approve and authorize the City Manager to execute Amendment No. 5 to the Consultant Service Agreement with Vali Cooper & Associates in the amount of \$230,000 and extend the term to February 28, 2017.

**\*21. Approve and Authorize the City Manager to Execute Amendment No. 2 to the Consultant Service Agreement with Harris & Associates in the Amount of \$200,000 to Continue Engineering Staff Augmentation for Utility Engineering (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** The Utility Engineering Section is working on several high priority tasks such as regulatory compliance, solid waste request for proposals, BART coordination, planning and development utility coordination, utility relocations, aging infrastructure, water supply augmentation, and the odor program. Due to this heavy workload, the City Council approved a consultant agreement with Harris & Associates on August 18, 2015 in the amount of \$240,000 to provide engineering support. The Purchasing Agent executed Amendment No. 1 on December 1, 2015 to include additional capital projects in the scope at no additional cost.

Due to ongoing vacancies in the engineering department and the heavy workload, staff recommends amending the agreement to provide continued support through June 30, 2017. Currently the primary assignment is the recycled water park/trail conversion project (supporting the water supply augmentation). Award of the construction contract is discussed elsewhere on this Council agenda and continued support is necessary. The other assignment is performing recycled water plan check services for developer projects, which is reimbursable through developer private job accounts. This support is also necessary to avoid delays in approval of developer projects. The cost for additional support is \$200,000, bringing the total not-to-exceed contract amount to \$440,000. The funding is proposed to be split with 50% from capital programs and 50% from the operating budget to provide maximum flexibility in assignments. A copy of the amendment is included in the Council packet.

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

**Alternative:** Denial of this request would result in delayed completion of some Utility Engineering tasks. Tasks include but are not limited to: implementation of the water supply augmentation program, regulatory compliance reporting for water, sewer, and urban runoff programs, developer project plan checking, implementing new water conservation requirements, and participating in and reviewing documentation for regional water, sewer, urban runoff, recycled water and solid waste programs.

**Fiscal Impact:** None. There are sufficient funds in the engineering operating budget and the capital projects.

**Recommendations:** Approve and authorize the City Manager to execute Amendment No. 2 to the Consultant Service Agreement with Harris & Associates in the amount of \$200,000.

**XX. ADJOURN CITY COUNCIL MEETING**