REGULAR MEETING OF THE MILPITAS CITY COUNCIL

For assistance in the following languages, you may call:
Đối với Việt Nam, gọi 408-586-3122

Para sa Tagalog, tumawag sa 408-586-3051 Para español, llame 408-586-3232

AGENDA

TUESDAY, NOVEMBER 20, 2018
455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:30 P.M. (CLOSED SESSION)
7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

I. CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

II. ADJOURN TO CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING
Pursuant to California Government Code Section 54957.6
City Negotiator: Liz Brown, Human Resources Director
Employee Groups: International Association of Fire Fighters, Milpitas Police Officers Association, Professional and Technical Group, Mid-Management and Confidential Group and Milpitas Employees Association
Under Negotiation: Wages, Hours, Benefits, and Working Conditions

III. CLOSED SESSION ANNOUNCEMENT: Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Mayor Tran)

VI. PRESENTATION

- Certificates to recent graduates of *Citizens Emergency Response Team (CERT)* training course

VII. PUBLIC FORUM

Those in the audience are invited to address City 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 and limit spoken remarks to 3 minutes. As an item not listed on the agenda, no response is required from City staff nor Council and no action can be taken. Council may instruct the City Manager to place the item on a future meeting agenda.

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items No. 1 through No. 19)

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 City Councilmember, 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.

1.	**Accept Schedules of Meetings/City Council Calendars - November and December 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**
2.	**Approve City Council Meeting Minutes of October 16 and 23, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**
3.	**Authorize the Purchasing Agent to Dispose of Surplus Fire Pumper Engine No. 42 for $1.00 to the Palo Alto Neighbors Abroad Non-Profit Organization for Donation to the State of Oaxaca, Mexico (Staff Contacts: Chris Schroeder, 408-586-3161 and Richard Frawley, 408-586-2824)**
4.	**Accept the 2018 Bulletproof Vest Partnership Grant and Approve a Budget Amendment (Staff Contact: Daryl Sequeira, 408-586-2434)**
5.	**Authorize the Police Department to Accept a Community Foundation Grant to the Molly Ann Brown Fund Canine Unit and Approve a Budget Amendment (Staff Contact: Kevin Moscuzza, 408-586-2412)**
6.	**Receive a Report on Emergency Repair/Replacement of Uninterruptable Power Supply (UPS) Unit at the Police/Public Works Building and Authorize Staff to Pay Invoices Associated with the Repair/Replacement Work (Staff Contact: Tony Ndah, 408-586-2602 and Mike Luu, 408-586-2706)**
7.	**Receive Report on the Emergency Repair of the Roadway on California Circle, Approve the Appropriation of $113,812.44 from the Water Fund, and Authorize Staff to Pay Invoices to Joseph J. Albanese, Inc. (Staff Contact: Tony Ndah, 408-586-2602)**
8.	**Waive the Second Reading and Adopt Ordinance No. 38.831 to Rezone a 2.14-gross acre Site at 1380 and 1400 South Main Street from R4-TOD, Multi-Family Residential Very High Density Zoning District with a Transit-Oriented Development Overlay to R5-TOD Urban Residential Zoning District with a Transit-Oriented Development Overlay with CEQA Finding of Consistency with the Transit Area Specific Plan Final Program Environmental Impact Report, as Amended (Staff Contact: Michael Fossati, 408-586-3274)**
9.	**Adopt a Resolution Granting Final Acceptance of Public Improvements and Approve Release of Faithful Performance Security for Public Improvements for the Orchid Subdivision at 31 Los Coches Street by DR Horton Bay, Inc. (Staff Contact: Steve Erickson, 408-586-3301)**
10.	**Adopt a Resolution Granting Acceptance of Public Improvements and Approve Reduction of Faithful Performance Bond for Public Improvements for the District 2**

	Subdivision at 1315 – 1600 McCandless Drive by Taylor Morrison, LLC and Granting Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)
11.	**Adopt a Resolution Granting Acceptance of the Marylinn Drive Sanitary Sewer Rehabilitation, Projects No. 6115 and No. 6116, and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301**
12.	**Adopt a Resolution Appointing the Director of Financial Services to the Pooled Liability Assurance Network Joint Powers Authority Board of Directors (Staff Contact: Will Fuentes, 408-586-3111)**
13.	**Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement with D.R. Horton CA3, Inc. for Development at 1515, 1557 and 1585 Centre Pointe Drive (Staff Contact: Steve Erickson, 408-586-3301)**
14.	**Approve and Authorize the City Manager to Execute a Design Services Agreement with MIG Inc. for Carlo Park Project No. 5112 (Staff Contact: Steve Erickson, 408-586-3301)**
15.	**Authorize the City Manager to Execute a Design Services Agreement with CSG Consultants, Inc. in the Amount of $346,544 for the Design and Construction Support Services for Street Resurfacing 2019 Project No. 4291 (Staff Contact: Steve Erickson, 408-586-3301)**
16.	**Approve the Conceptual Design for McCandless Park; and Authorize the City Manager to Execute Amendment No. 2 to the Agreement with IBI Group Architecture Planning to Extend the Term and Increase Contract Amount by $69,040 for McCandless Park, Project No. 5102 (Staff Contacts: Renee Lorentzen, 408-586-3409 and Steve Erickson, 408-586-3301)**
17.	**Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement with Eastside San Ramon Partners, LLC for Development at 260 South Main Street in the MidTown (Staff Contact: Steve Erickson, 408-586-3301)**
18.	**Approve an Amendment to the Subdivision Improvement Agreement with Milpitas – District 1 Associates, LLC for The District - Lot 1 Building Development at 1315 McCandless Drive (Staff Contact: Michael Fossati, 408-586-3274)**
19.	**Direct the City Manager to Conduct a Study of Potential Locations and Regulations for Digital Off-site Advertising (Electronic Billboards) Across the City and Re-evaluate the Current Billboard Application at the Conclusion of the Study (Staff Contact: Michael Fossati, 408-586-3274)**

XII. PUBLIC HEARING

20. **Conduct a Public Hearing and Consider Introduction of Ordinance No. 38.832 for Zoning and Ordinance No. 298 for Regulation of Commercial Cannabis in the City and Provide Direction to Staff on the Application Process for a Cannabis Business Permit and Timeline for Ordinance Implementation (Staff Contact: Ashwini Kantak, 408-586-3053)**

XIII. LEADERSHIP & SUPPORT SERVICES

21. Receive a Report and Consider Introduction of Ordinance 218.4 Adding Section 3.02 to Chapter 13 of Title III of the Milpitas Municipal Code Setting the City of Milpitas Transient Occupancy Tax Rate Effective January 3, 2019 in Anticipation of the Santa Clara County Registrar of Voters Certifying Results of the November 6, 2018 Election including Adoption of Milpitas Measure R (Staff Contacts: Will Fuentes, 408-586-3111 and Daniel Degu, 408-586-3054)

XIV. REPORTS OF MAYOR & COUNCILMEMBERS – from assigned Commissions, Committees and Agencies

XV. NEXT AGENDA PREVIEW

22. Next Regular City Council meeting: December 4, 2018

XVI. ADJOURNMENT

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, DECEMBER 4, 2018

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 / Phone: 408-586-3040

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

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website. All City Council agendas and related materials can be viewed online here: www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY 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, please 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.

XI. CONSENT CALENDAR

1. **Accept Schedules of Meetings/City Council Calendar – November and December 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**

Recommendation: Receive and accept City Council calendars of meetings for November and December 2018. Note any changes or additions, if needed.

Attachments: November and December 2018 Calendars

2. **Approve City Council Meeting Minutes of October 16 and 23, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**

Recommendation: Move to approve the October 16 and 23, 2018 City Council meeting minutes.

Attachments: Draft meeting minutes October 16 and 23, 2018

3. **Authorize the Purchasing Agent to Dispose of Surplus Fire Pumper Engine No. 42 for $1.00 to the Palo Alto Neighbors Abroad Non-Profit Organization for Donation to the State of Oaxaca, Mexico (Staff Contacts: Chris Schroeder, 408-586-3161 and Richard Frawley, 408-586-2824)**

Background: City Vehicle #42, is a 1996 Fire Pumper, Model – Firefox – Type One, VIN# 1K9AF4287VN058539, CA license #041115 which has been decommissioned and retired from the Milpitas Fire Department. This vehicle served as a first line responding fire unit for 15 years. For the past seven years, the unit has served in a reserve capacity, being placed into service only when needed to maintain service levels. Typically, the City's fire pumpers are assigned to first line service for 15 years and reserve status for five years. This vehicle is 22 years old and beyond the reasonable service life for a modern municipal fire department.

Staff recommends that this vehicle for donation to the Palo Alto Neighbors Abroad non-profit organization. Palo Alto Neighbors Abroad functions in part to support communities in the state of Oaxaca, Mexico. Neighbors Abroad will arrange transport of the surplus fire pumper and deliver it to the Oaxaca State Fire Department in Calexico, California. Then, the State of Oaxaca working with the Mexicali Fire Department (Mexicali is the Mexican half of the border City of Calexico) will manage the customs and transport of the vehicle the rest of the way to the State of Oaxaca. Use of this equipment will enhance fire services in the communities of the State of Oaxaca.

At the same time, City of Milpitas is donating fire pumper No. 42 to Neighbors Abroad, Neighbors Abroad will purchase a surplus Wildland Type Three Fire Engine from the Palo Alto Fire Department for $5,000 and donate it for one dollar ($1.00) to the Spring Valley Volunteer Fire Department. The Spring Valley Volunteer Fire Department responds to emergency incidents in the hillside areas of Milpitas and has a strong mutual aid relationship with the Milpitas Fire Department.

The estimated value of fire engine No. 42 is approximately $5,000, therefore staff requests permission to dispose of the unit pursuant to section I-2-8.03 of the Municipal Code "Disposal of More Than Five Thousand Dollars $5,000."

Fiscal Impact: None. Fire engine No. 42 has been fully depreciated.

Recommendation: Authorize the Purchasing Agent to dispose of surplus fire pumper engine No. 42 for one dollar ($1.00) to the Palo Alto Neighbors Abroad non-profit organization for donation to the State of Oaxaca, Mexico.

Attachment: None

4. Accept the 2018 Bulletproof Vest Partnership Grant and Approve a Budget Amendment (Staff Contact: Daryl Sequeira, 408-586-2434)

Background: The US Department of Justice, Office of Justice Programs, Bureau of Justice Assistance has allocated a Bulletproof Vest Partnership (BVP) grant in the amount of $13,309.73 to the Milpitas Police Department towards the purchase of ballistic vests. The grant will reimburse the City of Milpitas fifty percent (50%) of the cost for each ballistic vest purchased by the Milpitas Police Department after October 3, 2018. The grant funds must be utilized by August 31, 2020. The Milpitas Police Department has been participating in the BVP grant program consecutively since 2008.

Fiscal Impact: The City's matching funds are already budgeted in the Police Department's annual supply account. This grant will help offset the total costs of future ballistic vest purchases during the time period.

Recommendation: Accept the 2018 Bulletproof Vest Partnership (BVP) grant and approve a budget amendment to appropriate $13,309.73 into the Police Department's operating budget.

Attachment: Memo and Budget Change Form

5. Authorize the Police Department to Accept a Community Foundation Grant to the Molly Ann Brown Fund Canine Unit and Approve a Budget Appropriation (Staff Contact: Kevin Moscuzza, 408-586-2412)

Background: The Molly Ann Brown Fund Canine Unit is a part of the Nuñez Community Foundation and the nonprofit organization donated $5,000 to the Milpitas Police Department to be used for the training of a police service dog team. All Police Department police service dogs and their handlers are required to complete a month-long training course that meets standards set by the California Commission on Peace Officer Standards and Training. The training cost of a canine team is $3,300 - $5,000 depending on the vendor. Upon completion of the training, the police service dog and handler will be deployed within the Field Services Division.

Fiscal Impact: The donation will be utilized to purchase the mandated training of a Police Department police service dog and handler.

Recommendations:
1. Accept the Molly Ann Brown Fund Canine Unit donation from the Nuñez Community Foundation in the amount of $5,000 to be used for training of a Police Department police service dog and handler.
2. Approve a budget amendment to appropriate $5,000 to the Police Department's FY 2018-19 operating budget.

Attachments:
a) Memo from Molly Ann Brown Fund 06/24/18
b) Police Department memo 10/02/2018
c) Budget Change Form

6. **Receive a Report on Emergency Repair/Replacement of Uninterruptable Power Supply (UPS) Unit at the Police/Public Works Building and Authorize Staff to Pay Invoices Associated with the Repair/Replacement Work (Staff Contact: Tony Ndah, 408-586-2602 and Mike Luu, 408-586-2706)**

Background: On September 27, 2018, a power outage occurred on North Milpitas Boulevard, which impacted the power supply to the Police Department/Public Works Building. The uninterruptible power supply (UPS) unit was able to provide power to the building, and triggered the automatic transfer switch (ATS) unit to turn on the backup generator system onsite, which was able to fully supply power to the building. Once PG&E power was restored to the area, the ATS unit returned the backup generator system to its normal state. However, the UPS unit experienced a catastrophic failure in the process that impacted the ability to switch the building back to PG&E power, resulting in a power loss to the building.

The loss of power to the building affected the City's 9-1-1 Dispatch system, Police patrol radio system, Police Dispatch and Information Services server rooms and Police/Public Works telephones. As part of the Police Department standard protocol, 9-1-1 Dispatch calls from the City were automatically transferred to Santa Clara County.

Emergency Report and Update: The Public Works Department, in collaboration with the Police Department and the Information Services Department, has been working expeditiously to implement short term and long term emergency measures for the repair/replacement of the UPS unit.

Pursuant to state public contracting law and Council Resolution No. 7779, the Director of Public Works may authorize emergency work and let emergency contracts without solicitation of competitive bids, but must provide the City Council with a report of all such work.

Information Services Department staff purchased small sized backup UPS devices for the amount of $15,631.63, and installed them on the City's Emergency 9-1-1, Computer Aided Dispatch (CAD) systems, and other directly related devices. The small UPS devices should allow for the Emergency 9-1-1 and CAD systems to remain operational in the event of a power outage, and allow time for the City's backup generator to fully power up the building.

In addition, Public Works staff contracted with Odyssey Power for the amount of $10,116.78, to diagnose and expedite the repair of the failed UPS unit. The repair consisted of replacement of three failed inductors and one 400-amp fuse on the UPS unit.

Following replacement of the inductors on the UPS unit, the contractor discovered additional components on the UPS unit that had failed and recommended a full replacement of the unit, due to the cost of the additional repairs needed on the unit. The estimated cost to replace the UPS unit is $172,121.77. As part of the replacement of the UPS, the contractor recommended the City make improvements to the room housing the UPS unit to better control the temperature in the room, which would greatly extend the useful life of the new UPS unit. The current room has exposure to the outside environment, which allows for corrosion and oxidation of battery systems, and the lack of temperature controls makes the UPS subject to extreme heat and cold temperatures, consistent with exterior conditions. The estimated cost for the improvements needed for the UPS room is $44,867.90.

The total estimated cost for the repair and replacement of the UPS unit is $242,738.08. The emergency work and associated contracts are necessary to avoid impacts to the City's emergency communications, which are relied upon by the City's Police and Fire

Departments. Staff recommends that the City Council receive this report and authorize payment of invoices associated with the repair and replacement of the UPS unit.

Fiscal Impact: Sufficient funds are available in Capital Improvement Project No. 3406 for this emergency work.

Recommendations:

1. Receive a report from the Public Works Director on the emergency repair and replacement of the uninterruptable power supply unit at the Police Department/Public Works building.
2. Authorize staff to pay invoices in the amount of $242,738.08, including a contingency amount of $24,273.81 (10%), for a total amount of $267,011.89.

Attachment: None

7. **Receive Report on the Emergency Repair of the Roadway on California Circle, Approve the Appropriation of $113,812.44 from the Water Fund, and Authorize Staff to Pay Invoices to Joseph J. Albanese, Inc. (Staff Contact: Tony Ndah, 408-586-2602)**

Background: On October 2, 2018, Public Works Department staff responded to a call regarding a water main break on California Circle. An 8-inch diameter fire service lateral was hit by a contractor doing boring work in the area. Water service to the area was shut off due to the pipeline failure and Public Works staff were able to complete repair work, and restore water service to the area within a few hours following the pipe failure. The pipe failure also caused a large volume of water to be released under the roadway and in the driveway in the vicinity of 1424 California Circle. A significant portion of the roadway base material was washed out due to the volume of water released, which severely undermined the structural integrity of the roadway, and rendered the road unsafe to vehicular traffic. As a result, staff closed a majority of the lanes on the roadway and routed vehicle traffic around area.

Emergency Report and Update: 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. The Public Works Department authorized Joseph J. Albanese, Inc. to make emergency roadway repairs to this portion of California Circle, due to the severe nature of the roadway failure and the urgent need to restore traffic flow through the area. Total cost for the repair of the roadway is $113,812.44.

Fiscal Impact: An appropriation from the Water Fund in the amount of $113,812.44 is needed because there are not sufficient funds in the Public Works Utility Maintenance Operating Budget for this emergency work.

Recommendations:

1. Receive a report from the Public Works Director on the emergency repair of the water main on California Circle.
2. Approve a budget appropriation from the Water Fund to the Public Works Utility Maintenance operating budget in the amount of $113,812.44.
3. Authorize staff to pay invoices of $113,812.44 to Joseph J. Albanese, Inc.

Attachment: None

8. **Waive the Second Reading and Adopt Ordinance No. 38.831 to Rezone a 2.14-gross acre Site at 1380 and 1400 South Main Street from R4-TOD, Multi-Family Residential Very High Density Zoning District with a Transit-Oriented Development Overlay to R5-TOD Urban Residential Zoning District with a Transit-Oriented**

Development Overlay with CEQA Finding of Consistency with the Transit Area Specific Plan Final Program Environmental Impact Report, as Amended (Staff Contact: Michael Fossati, 408-586-3274)

Background: Ordinance No. 38.381 was introduced following the waiving of the first reading beyond the title at the October 12, 2018 Council meeting. This Ordinance amends the City of Milpitas Zoning Map to rezone the properties located at 1380 South Main St. (APN 083-36-006) and 1400 South Main St. (APN 083-36-007).

Key changes to the Municipal Code are:

- Change the zoning designation of APN 083-36-006 from Multi-Family Very High Density Residential within a Transit-Oriented Development Overlay Zone (R4-TOD)to Urban Residential within a Transit-Oriented Development Overlay Zone (R5-TOD); and
- Change the zoning designation of APN 083-36-007 from Multi-Family Very High Density Residential within a Transit-Oriented Development Overlay Zone (R4-TOD) to Urban Residential within a Transit-Oriented Development Overlay Zone (R5-TOD).

The proposed rezoning will allow the development of a seven-story multi-family residential building, 85 feet in height, with up to 220 dwelling units, including up to 10 dwelling units designated for very low income residents. A site development permit for this project was approved by Council on October 12, 2018.

Fiscal Impact: None

California Environmental Quality Act: Finding of Consistency with the Transit Area Specific Plan Final Program Environmental Impact Report (SCH#2000092027), as amended.

Recommendation: Waive the second reading and adopt Ordinance No. 38.381 amending the City of Milpitas Zoning Map, as described per Milpitas Municipal Code XI-10-3.03.

Attachment: Ordinance No. 38.381

9. **Adopt a Resolution Granting Final Acceptance of Public Improvements and Approve Release of Faithful Performance Security for Public Improvements for the Orchid Subdivision at 31 Los Coches Street by DR Horton Bay, Inc. (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On May 16, 2017, the City Council adopted Resolution No. 8664 granting initial acceptance of public improvements (Public Improvement Plan No. 2-1180) for Tract No. 10192 for the Orchid Subdivision located at 31 Los Coches Street by DR Horton Bay, Inc. (Developer). The developer has completed corrective work on public improvements following completion of the one-year warranty, and the project and related improvements along Los Coches Street and Topaz Street including sidewalk, curb and gutter, curb ramps, paving, utility connections, landscaping and public multi-use trail improvements are now ready for final acceptance.

California Environmental Quality Act: Granting final acceptance of public improvements and releasing faithful performance security for public improvements are not considered projects under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

Fiscal Impact: None

Recommendation: Adopt a resolution granting final acceptance of public improvements for the Orchid Subdivision project at 31 Los Coches Street, Tract No. 10192, Public Improvement Plan No. 2-1180 and release of remaining faithful performance security.

Attachment: Resolution

10. **Adopt a Resolution Granting Acceptance of Public Improvements and Approve Reduction of Faithful Performance Bond for Public Improvements for the District 2 Subdivision at 1315 – 1600 McCandless Drive by Taylor Morrison, LLC and Granting Authorization to the City Engineer to Release the Performance Bond after the One-year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On June 18, 2013, the City Council approved the Final Map, public improvement plans and the Subdivision Improvement Agreement for Tract No. 10141, 10145, 10148 and 10149 for the District 2 Subdivision located at 1315 – 1600 McCandless Drive by Taylor Morrison, LLC.

Public improvements include reconstruction of McCandless Drive between Great Mall Parkway and Penitencia Creek, specifically installation of new curb and gutter, sidewalk, curb ramps, paving, roadway median, raised crosswalks, utility mains and laterals, traffic signal modifications, street lights, street trees, stormwater treatment facilities, multi-use trail improvements and other miscellaneous items of work.

The developer has completed all public improvements in accordance with the approved public improvement plans, and the improvements are now ready for acceptance and commencement of the 1-year warranty period. Staff recommends the City Council adopt a resolution granting acceptance of the public improvements, and approve reduction of the performance bond to $330,000, 10% of the security's original value, and grant authorization to the City Engineer to release the performance bond after the one-year warranty period without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer.

California Environmental Quality Act: Granting acceptance of public improvements and reducing faithful performance bond for public improvements are not considered projects under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

Fiscal Impact: None

Recommendations:

1. Adopt a resolution granting acceptance of public improvements for The District 2 Subdivision at 1315 – 1600 McCandless Drive, Tracts No. 10141, 10145, 10148 and 10149, Public Improvement Plan No. 2-1165 and approve a reduction in the performance bond, subject to a one-year warranty period and reduction of the faith performance bond to $330,000 which shall be in effect for the duration of the warranty period.
2. Grant authorization to the City Engineer to release the performance bond after the one-year warranty period, without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer.

Attachment: Resolution

11. **Adopt a Resolution Granting Acceptance of the Marylinn Drive Sanitary Sewer Rehabilitation, Projects No. 6115 and No. 6116, and Granting Authorization to the**

City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period (Staff Contact: Steve Erickson, 408-586-3301)

Background: The City Council awarded the Marylinn Drive Sanitary Sewer Rehabilitation, Projects No. 6115 and No. 6116 to Southwest Pipelines & Trenchless Corp. on February 6, 2018. The project rehabilitated 835 feet of sanitary sewer trunk main in Marylinn Drive by installing a cured-in-place pipe (CIPP) pipe liner. Work was successfully completed on time and within the project budget. Staff recommends that the City Council adopt a resolution granting acceptance of the project. Staff also recommends the City Council to authorize the Director of Engineering/City Engineer to issue the Notice of Final Acceptance after the one-year warranty period without further City Council action, provided that all warranty work is completed to the satisfaction of the City Engineer.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting acceptance of the Marylinn Drive Sanitary Sewer Rehabilitation, Projects No. 6115 and No. 6116, and granting authorization to the City Engineer to issue the notice of final acceptance after the one-year warranty period without further City Council action.

Attachment: Resolution

12. **Adopt a Resolution Appointing the Director of Financial Services to the Pooled Liability Assurance Network Joint Powers Authority Board of Directors (Staff Contact: Will Fuentes, 408-586-3111)**

Background: On January 16, 2018, by adoption of Resolution No. 8740, the City Council authorized the City of Milpitas to participate in the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA), a risk-sharing insurance pool with 28 member cities in the San Francisco bay area. "Members of PLAN JPA collectively share the risk of self-insured losses and purchase a broad range of risk management services including, but not limited to program administration, accounting and finance, claims administration, risk control, loss prevention, actuarial services, training and education, and legal services to support the shared risk programs." More information is available online at www.planjpa.org/about/.

Prior to PLAN JPA and for 22 years, the City was a member of the Association of Bay Area Governments Pooled Liability Assurance Network (ABAG PLAN); a similar risk-sharing pool comprised of the same members as PLAN JPA. As a result of the merger of ABAG and the Metropolitan Transportation Commission (MTC), ABAG PLAN member agencies explored more cost effective and higher quality third-party administration services than those offered by MTC. This led to a separation of all member agencies from ABAG PLAN on January 1, 2018 and the formal establishment of a new joint powers authority called PLAN JPA, administered by Bickmore Associates (an industry leader in third-party administration of risk-sharing pools), on July 1, 2018. Estimated cost savings to the City as a result of this change are $66,000 per year. All member agencies also hoped to receive better quality of service and expertise from this transition. The City has been very satisfied with the costs and services provided by PLAN JPA and expectations have been met.

At this point in time, the City also needs to take one more procedural step and appoint a Board Member and an Alternate Board Member to the PLAN JPA Board of Directors, which normally meets twice annually. Previously, the Director of Financial Services was a Board Member of the ABAG PLAN Board of Directors, with the Assistant Director of Financial Services acting as the Alternate Board Member in the event of an absence. Title I, Chapter 4, Section 2.01 of the City of Milpitas Municipal Code identifies the Director of Financial Services (Finance Director) as the City's Risk Manager. Thus, it is appropriate

that this position was a Board Member to the ABAG PLAN Board of Directors and staff recommends that this position also be a Board Member to the PLAN JPA Board of Directors. Additionally, the job specification for the City's Budget Manager position includes risk management duties and the City's newly appointed Budget Manager has risk management experience from prior public agencies. Thus, staff recommends that this position be an Alternate Board Member to the PLAN JPA Board of Directors. Such an action would allow the Assistant Director of Financial Services to concentrate on other critical service areas within her span of authority and supervision. The City is allowed one voting Board of Director and one Alternate Board Member in the absence of the Board of Director.

Fiscal Impact: None.

Recommendation: Adopt a resolution appointing the Director of Financial Services Will Fuentes as a Board Member and the Budget Manager Feliser Lee as Alternate Board Member to the Pooled Liability Assurance Network Joint Powers Authority (PLAN JPA) Board of Directors.

Attachment: Resolution

13. **Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement with D.R. Horton CA3, Inc. for Development at 1515, 1557 and 1585 Centre Pointe Drive (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On November 17, 2015, the City Council approved General Plan Amendment (GP15-0002), Specific Plan Amendment (ST15-0001), Site Development Permit (SD15-0006), Use Permit (UP15-0010) and Major Tentative Maps (MT15-0006, MT15-0007, MT15-0008 and MT15-0009) to allow for the development of 241 residential condominium units located at 1515, 1557 and 1585 Centre Pointe Drive, within the Transit Area Specific Plan (TASP) area.

Project conditions of approval require the property owner to execute and record a Stormwater Management Facilities Operation and Maintenance Agreement with the City for the operation, maintenance and annual inspection of the storm water treatment facilities, prior to final building occupancy. The Agreement has been reviewed by the City Attorney as to form and by the City Engineer as to content.

California Environmental Quality Act: This project is included within the area evaluated as part of the TASP Environmental Impact Report, SCH#2006032091, which was certified by the City Council on June 3, 2008. On November 17, 2015, the City Council found that the project does not require a subsequent EIR and adopted an addendum to the TASP EIR pursuant to Section 15162 and 15164 of CEQA. Additionally, execution of the agreement is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for D.R. Horton CA3, Inc. for its new residential development at 1515, 1557 and 1585 Centre Pointe Drive.

Attachment: Stormwater Management Facilities Operation and Maintenance Agreement

14. **Approve and Authorize the City Manager to Execute a Design Services Agreement with MIG Inc. for Carlo Park Project No. 5112 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: Design and construction of the Carlo Park Project No. 5112 is in the approved 2018-2023 Capital Improvement Program. Carlo Park is proposed at the 5,200 square feet unimproved parcel located in the Milpitas Midtown district at the southwest corner of the South Main Street and Carlo Street intersection. The parcel is an ideal location for a small Midtown community park. The project will also include improvements to the city's streetscape directly north of the proposed park site along Carlo Street and the landscaping within the Caltrans' right-of-way on both sides of Carlo Street between Calaveras Boulevard and South Main Street. Total project area for improvements is approximately 37,000 square feet.

The proposed park will feature Americans with Disabilities Act (ADA) pathway, landscaping, irrigation, benches, and interpretive displays. Staff will reach out to the Santa Clara Valley Water District (SCWVD) to discuss potential partnership in water related educational program displays at Carlo Park. There will also be improvements to the existing landscaping on both sides of Carlo Street between Calaveras Boulevard and South Main Street, which is one of the gateways into Midtown. Some of the landscaping to be improved is located within the Caltrans' property that the City maintains. The total project budget approved through the 2018-2023 Capital Improvement Program is $800,000, and the estimated construction cost for this project is $565,000. The design phase will require approximately eight to ten months to complete.

To better ensure harmony of the Carlo Park and landscaping design with the Midtown Specific Plan currently being updated by the Planning Department, staff recommends using MIG Inc., which is also the design firm for the City's Midtown Specific Plan Update, to provide design services and construction support for the project. Staff negotiated the project scope of services and fee with MIG Inc. in the amount not to exceed $199,780, which is considered reasonable for the work.

Alternative: Denial of the recommendation would result in delays to the design of the Carlo Park project.

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

Recommendation: Approve and authorize the City Manager to execute a Design Services Agreement with MIG Inc. in the amount not to exceed $199,780 for the Carlo Park Project No. 5112, subject to any changes deemed legally necessary by the City Attorney.

Attachments:
a) Proposal from MIG
b) Agreement with MIG for Carlo Park design

15. **Authorize the City Manager to Execute a Design Services Agreement with CSG Consultants, Inc. in the Amount of $346,544 for Design and Construction Support Services for Street Resurfacing 2019 Project No. 4291 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The design and construction of the Street Resurfacing 2019 Project is in the approved 2018-2023 Capital Improvement Program. The project will include repair of failed asphalt concrete pavement, provide asphalt concrete pavement resurfacing, install Americans with Disabilities Act (ADA) compliant curb ramps, install traffic signal modifications, repair damaged concrete sidewalk, driveways, curb, gutter, and reinstall pavement delineation. Project limits are McCarthy Boulevard from North Ranch Road to

East Tasman Drive, Jacklin Road from North Park Victoria to North Milpitas Boulevard, and Hillview Drive from Berryessa Creek to Los Coches Avenue. Construction is anticipated to start the summer of 2019.

Services of a professional design consultant are recommended to assist City staff with design services and preparation of the construction documents. Through the City's consultant evaluation and selection process. Staff recommends CSG Consultants, Inc. to provide the professional design, drafting, bidding, and construction support services for the completion of the project. Staff negotiated a scope and fee for these services not to exceed $346,544 which is considered reasonable for the work.

Alternative: Denial of this request may result in delaying the start of project design.

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

Recommendation: Authorize the City Manager to execute a Design Services Agreement with CSG Consultants, Inc. in an amount not to exceed $346,544 for design and construction support services for the 2019 Street Resurfacing Project, CIP No. 4291.

Attachment: Agreement with CSG Consultants

16. **Approve the Conceptual Design for McCandless Park; and Authorize the City Manager to Execute Amendment No. 2 to the Agreement with IBI Group Architecture Planning to Extend the Term and Increase Contract Amount by $69,040 for McCandless Park, Project No. 5102 (Staff Contacts: Renee Lorentzen, 408-586-3409 and Steve Erickson, 408-586-3301)**

Background: The design and construction of McCandless Park, Project No. 5102, is in the approved 2018-2023 Capital Improvement Program. The park is as defined in the adopted Transit Area Specific Plan (TASP) Policy 3.49 to provide a jointly used park between the City of Milpitas and the Milpitas Unified School District (MUSD) in the McCandless/Centre Pointe subdistrict.

The Project provides for a new four acre public park directly north of the newly constructed Mabel Mattos elementary school along McCandless Drive. The park will include joint-use park areas for the city and the elementary school, sports fields, picnic areas, all-inclusive play structures, dog parks, walking trails, and restrooms. McCandless Park will also include a new pedestrian bridge over the Penitencia East Channel and a potable water well required to meet the increase in water demands due to growth in the TASP and Midtown areas.

A concept plan for McCandless Park was presented to the Parks, Recreation, and Cultural Resources Commission (PRCRC) and the City Council in 2016. Since then, it was determined that McCandless Park is a suitable location for the City's permanent potable water well. An updated conceptual plan has been created to show the pedestrian bridge and the water well pump building, electrical controls, power generation, and water treatment facilities. Furthermore, the Santa Clara County Board of Supervisors unanimously approved an all-inclusive playground matching grant for McCandless Park in the amount $779,820.00. The updated conceptual design incorporates the all-inclusive playground elements as required by the County grant. On November 5, 2018, PRCRC reviewed the updated conceptual design and recommended it for City Council approval.

Final park design is anticipated to be completed by the end of 2019 and the start of construction by spring 2020. Staff will also coordinate installation of the underground infrastructure for the potable well, which needs to be installed before the construction of McCandless Park. Park construction is expected to be completed by summer 2021. The

estimated construction cost for McCandless Park is $9 million. Additional construction funding of approximately $1 million will be required and will be requested through the 2019-2024 Capital Improvement Program budget process.

On February 21, 2017, the City entered into a design services agreement with IBI Group Architecture Planning for the project with a contract amount of $544,994 to provided project design services and assistance during the public bidding and construction phases. The inclusion of the pedestrian bridge and the potable water well within the McCandless Park added additional complexity and coordination to the Project exceeding the original scope of services of the agreement. The school-city joint-use park areas also required review and approval by the California Division of State Architect. On May 1, 2018, the City Council approved Amendment No. 1 to the Agreement to increase the total contract amount by $163,057 for the additional design services required for the pedestrian bridge and well projects.

Additional park design services are currently required for the all-inclusive playground facilities approved by the County's All-Inclusive Playground Grant. Staff negotiated the additional scope of services and fee not to exceed $69,040, which is considered reasonable for the work involved. Staff recommends that Council approve Amendment No. 2 to the Agreement to perform these additional professional design services. Approval of Amendment No. 2 to the Agreement brings the total amount of the agreement to $777,091. The term of the agreement is also extended to December 31, 2022.

Fiscal Impact: The additional $69,040 for Amendment No. 2 is available in the project budget. Additional budget appropriation for the construction will be programmed for the Project as part of the 2019-2024 Capital Improvement Program process started in November 2018.

Recommendations:

1. Approve the updated conceptual design for McCandless Park, Project No. 5102.
2. Authorize the City Manager to execute Amendment No. 2 to the Agreement with IBI Group Architecture Planning to extend the term and increase the contract amount by not to exceed $69,040 for additional design services for McCandless Park, Project No. 5102.

Attachment: Amendment No. 2 to Agreement with IBI

17. **Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement with Eastside San Ramon Partners, LLC for Development at 260 South Main Street in the MidTown (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On December 6, 2016, the City Council approved a Specific Plan Amendment Permit (ST16-0001), Site Development Permit (SD16-0001), Minor Vesting Tentative Map (TP16-0001) and Environmental Assessment (EA16-0006) to allow for the development of 25 residential units with approximately 2,000 square feet of commercial area at 260 South Main Street within the Midtown Specific Plan area.

Project conditions of approval require the property owner to execute and record a Stormwater Management Facilities Operation and Maintenance Agreement with the City for the operation, maintenance and annual inspection of the storm water treatment facilities, prior to final building occupancy. The Agreement was reviewed by the City Attorney as to form and by the City Engineer as to content.

California Environmental Quality Act: This project is covered under the scope of activities analyzed under the Midtown Specific Plan Environmental Impact Report,

SCH2000092027, which was certified by City Council on March 19, 2002. On December 6, 2016, the City Council found that the project is categorically exempt from further environmental review pursuant to Section 15168(c) of CEQA. Execution of the agreement is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement with Eastside San Ramon Partners, LLC for new mixed use development at 260 South Main Street in the MidTown Specific Plan area.

Attachment: Agreement with Eastside San Ramon Partners

18. **Approve an Amendment to the Subdivision Improvement Agreement with Milpitas – District 1 Associates, LLC for The District - Lot 1 Building Development at 1315 McCandless Drive (Staff Contact: Michael Fossati, 408-586-3274)**

Background: On March 20, 2012, the City Council approved a Major Tentative Map, Site Development Permit, and Conditional Use Permit (Resolution No. 8165) to allow the construction of four mixed-use buildings on 13 acres (The District) located at 1315-1600 McCandless. The applicant informed the City that one of the four mixed-use buildings (The District – Lot 1) would include the development of a grocery store on the ground floor.

On May 5, 2015, the City Council approved the Subdivision Improvement Agreement (SIA), Final Map and Improvements Plans associated with development of the aforementioned project. The applicant, Lyon Living (Lyon), has requested an amendment to the SIA that was approved by City Council in May 2015. The requested amendment involves removing the condition requiring a written lease agreement from a grocery store.

Overview: Within Recital 2(d) of the Subdivision Improvement Agreement discussed above, there is a provision that requires the following:

1. Subdivider shall fully construct the build-out of the retail and commercial component of the Project to a "Cold Dark Shell" pursuant to the approved plans to the satisfaction of the City Engineer and Planning Director prior to the issuance of a Certificate of Occupancy for the 187th residential unit within the project.
2. No Certificate of Occupancy shall be issued for any residential unit in the Project after the 187th residential unit unless Subdivider has provide to the City evidence of a written lease agreement for the tenant improvements and operation of a grocery store located within the project.

Lyon met the first part of the agreement in that a "Cold Dark Shell" has been constructed at 1315 McCandless to allow future tenancy of a grocery store. The second requirement of securing a grocery store tenant has not been completed. This has created concern for Lyon, as they are within days of reaching the occupancy for 187 residential units within their development. To date, Lyon has been granted 166 temporary certificates of occupancy. It is estimated that as of November 20, 2018, the company will request 36 additional occupancies, totaling 202 residential units available for lease. Lyon plans to have all 371 residential units available for occupancy by the end of the year. Recognizing the grocery store requirement, it should also be noted that Lyon has been diligent toward leasing the "Cold Hard Shell" space to a grocery tenant.

Lyon has requested that the City remove the unit cap based on the requirement for a grocery store lease in exchange for quarterly progress updates on their efforts to secure a grocery store. The full details of Lyon's request are encapsulated in a letter (copy in agenda packet). The following information would be included within the quarterly updates by Lyon:

- List of prospective tenants
- Timing and frequency of past/future meetings
- Letter of Intent (LOI) progress to date
- Challenges to Lyon's marketing efforts
- Time spent marketing & consultants/brokers involved.

In summary, Lyon argues that although favorable terms have been offered to local, regional, and national grocers, they have been unsuccessful in obtaining a tenant. Per Lyon, the amount of occupied units within walking distance of the store causes concern for grocers. Furthermore, Lyon believes halting progress on occupancy may further impact efforts on obtaining a grocery tenant.

Staff can support the proposed request, as there is an understanding that the developer is taking consideration of the existing and future community in securing a lease for an appropriate grocer that can serve the needs of the residents within the City of Milpitas, while maintaining the high standards associated with The District development. Respectfully, staff requests City Council consider amending the condition to require grocery store tenancy be provided prior to issuance of certificates of occupancy of 50 percent (103 units) of the residential units associated with "The District – Lot 2" project, which is the second phase of "The District" development. Per staff's understanding, this would provide an additional 18-20 months of time for Lyon to secure such a tenant. Furthermore, staff recommends including the quarterly updates offered by Lyon, in an effort to keep the Council and the City abreast to the marking efforts associated with the project, while construction of "The District – Lot 2" occurs. The Subdivision Improvement Agreement has been amended to include staff's recommendation (included in the agenda packet). If Council agrees with the staff recommendation, it would require Lyon to agree to amend the SIA for "The District – Lot 2."

A memo from Councilmembers Nuñez and Phan regarding the occupancy restriction is included in the agenda packet and it expresses their support of assisting the developer in securing the "right grocery store" for the City. Thus, the Councilmembers support removing the occupancy restriction associated with the Subdivision Improvement Agreement.

California Environmental Quality Act: The Subdivision Improvement Agreement Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15162 (No Circumstances Necessitating Preparation of a Subsequent EIR), 15183 (Projects consistent with a Community Plan, General Plan, or Zoning) or Section 15273 (Rates, Tolls, Fares and Charges) in that the proposed action and associated amendment will not substantially affect immediate investment into public facilities infrastructure improvements within the TASP area.

Fiscal Impact: None

Recommendation: Consider the exemption in accordance with California Environmental Quality Act (CEQA), and approve an amendment to the Subdivision Improvement Agreement between the City of Milpitas and Milpitas – District 1 Associates, LLC for public improvements associated with Final Tract Map No. 10140 (The District 1, Building 1 development).

Attachments:
a) Letter from Lyon Living 11/06/18
b) Memo from Councilmembers Phan and Nuñez 11/02/18
c) Amendment to Subdivision Improvement Agreement

19. **Direct the City Manager to Conduct a Study of Potential Locations and Regulations for Digital Off-site Advertising (Electronic Billboards) Across the City and Re-evaluate the Current Billboard Application at the Conclusion of the Study (Staff Contact: Michael Fossati, 408-586-3274)**

Background: In July 2018, Outfront Allvision LLC, a joint venture between Allvision and Outfront Media, submitted a pre-application for development of an electronic off-site advertising display (billboard) to be located within City-owned right-of-way at the northern terminus of Barber Lane adjacent to Highway 237 (see map in agenda packet). Milpitas Municipal Code (MMC) Section XI-10-24.02 establishes a formal procedure for the review of permit applications for billboards and provides specific development standards for approval of new projects. Each new application requires signatures from the property owners to verify they consent to having the project on their property. Since the proposed billboard would be located on City-owned right-of-way, authorization from the City Council would be needed to allow the City Manager to sign the application. This item was scheduled for consideration by the Council on October 2, 2018, but was continued to the next meeting date on October 16, 2018. Due to time constraints, the item was continued again from the October 16, 2018 to the next available Council meeting (November 20, 2018).

Overview: Prior to the Council meeting on November 20, 2018, Councilmembers Nuñez and Phan issued a memorandum (copy in agenda packet) expressing concern about the proposed billboard application and requesting the preparation of a study of all existing and potential sites for electronic billboards across the City. The two Councilmembers suggested the need for a more comprehensive approach to electronic off-site digital advertising. The report to Council would address the following five topics:

- An inventory of eligible parcels along freeways and highways within and adjacent to the City
- Development standards
- Public benefit considerations
- Analysis of city enterprise-type billboard operations vs. lease agreements
- Potential amendment(s) to the section in the municipal code which refers to billboard displays

Recognizing that Council needs a better understanding of the costs, benefits, standards and opportunities associated with digital billboards, staff is prepared to move forward with providing an analysis that would address the topics within the memo, prior to requesting property owner authorization.

California Environmental Quality Act: Not a project. Receiving public comment and directing the City Manager to provide an analysis are administrative activities of government and would not result in direct or indirect physical changes to the environment.

Fiscal Impact: Approximately 20 hours of staff time, equating to approximately $3,144.

Recommendation: Direct the City Manager to conduct a study of potential locations and regulations for digital off-site advertising (electronic billboards) across the City and re-evaluate the current billboard application at the conclusion of the study.

Attachments:
a) Billboard Location map
b) 10/25/2018 Memo from 2 Councilmembers

XII. PUBLIC HEARING

20. Conduct a Public Hearing and Consider Introduction of Ordinance No. 38.832 for Zoning and Ordinance No. 298 for Regulation of Commercial Cannabis in the City and Provide Direction to Staff on the Application Process for a Cannabis Business Permit and Timeline for Ordinance Implementation (Staff Contact: Ashwini Kantak, 408-586-3053)

Background: On November 9, 2016, State Proposition 64 to legalize adult use of cannabis or marijuana was approved by the voters. On January 17, 2017, Urgency Ordinance No. 291 to place a moratorium on certain cannabis-related activities was adopted by the City Council so as to allow time for the City Council and the community to decide on if, when, and how to allow cannabis activities in Milpitas. The Urgency Ordinance placing a moratorium on cannabis in the City has been extended twice and will expire on January 17, 2019. No additional extensions may be granted, so an ordinance to replace the moratorium, either allowing or banning cannabis businesses, will need to be adopted prior to the expiration of the moratorium.

The City Council Subcommittee on Cannabis (Subcommittee) was formed and began meeting in February 2017 to review and recommend potential options for cannabis zoning, ordinances, and tax measures for City Council consideration. At the August 7, 2018 City Council meeting, staff was directed not to move forward on the Cannabis Tax Measure and to instead bring back other options in allowing cannabis establishments to the Subcommittee and subsequently to the City Council.

At the September 10, 2018 Subcommittee meeting, staff sought feedback from the Subcommittee in four areas: 1) buffer zones; 2) types and number of cannabis establishments; 3) cost recovery/fees methodology and application process; and 4) community benefit agreements with operators. The Subcommittee's recommendations were presented to and approved by the City Council on October 2, 2018. At the October 2, 2018 meeting, staff presented the updated buffer zone maps based on the Subcommittee recommendations and also recommended locating the retail establishments in commercial zones C1 and C2. Included in the agenda packet are the agenda report and meeting minutes for the October 2 City Council meeting item on this topic.

ANALYSIS: Subsequent to the October 2, 2018 Council meeting, staff continued to work with the City Attorney's office on the zoning ordinance (Ordinance No. 38.832) and the consultant firm Hinderliter, de Llamas and Associates (HdL Companies) on a draft cannabis regulatory ordinance (Ordinance No. 298) and presented information to the Subcommittee on October 26, 2018. The following outlines the discussion topics and Subcommittee direction.

Prior Subcommittee recommendations were further refined based on the October 26, 2018 Subcommittee meeting as follows:

Buffer Zones:
Apply buffer zones to state mandated sensitive uses. The Subcommittee recommended the default buffer zone of 600 feet be used for all K-12 schools and a smaller buffer zone of 200 feet be used for commercial licensed day cares and youth centers. The Subcommittee did not recommend additional buffers for residential uses and home-based daycare facilities be considered, since no cannabis businesses would be located in residential areas.

Potential Types and Number of Cannabis Establishments:
Allow four storefront and six non-storefront retail establishments and an unlimited number of testing labs in the initial phase; no other cannabis-related uses to be included. Testing labs were included based on October 26, 2018 Subcommittee discussion.

Cost Recovery Fees Methodology and Application Process:
Establish fees to recover all initial and ongoing costs; use a merit-based application process to select the retail vendors.

Community Benefit Agreements with Operators:
Continue to explore community benefit agreements, including legal considerations, and opportunities to incorporate the consideration of community benefits into the overall selection process.

Zoning Ordinance
Since receiving direction from City Council, staff had the opportunity to further analyze the zoning regulations and recommended further refinement to the zoning for commercial cannabis establishments.

The zoning recommendations are as follows:

1. **Storefront Retail**: Commercial zones C1 (Neighborhood District) and C2 (General Commercial District).
2. **Non-storefront Retail**: Commercial zones C1 and C2 as well as in industrial zones M1 (Light Industrial District), M2 (Heavy Industrial District), and MP (Industrial Park Zone). Staff believes this zoning would better align with existing uses in these respective areas.
3. **Testing Labs:** Industrial zones M1 (Light Industrial District), M2 (Heavy Industrial District), and MP (Industrial Park Zone).

These recommendations were also incorporated into the draft zoning ordinance that was considered by the Planning Commission on October 24, 2018, with any changes from the October 2 Council direction called out as optional. On October 26, 2018, the Subcommittee asked staff to include industrial zones for storefront retail, however, since that was not considered by the Planning Commission as an option this change could not be accommodated within the current timeline. Additionally, there are broader policy issues about non-industrial uses in industrial areas that would need to be considered by the full Council prior to making this change.

Planning Commission Recommendations
The Commission recommended 600 foot buffers be used for all sensitive uses and that only non-storefront retail establishments be located in industrial zones M1, M2, and MP. Commissioners recommended not allowing any storefront retail or testing laboratories. The Commission also requested Council to consider limiting non-storefront retail establishments to a maximum of four and to consider putting a cannabis use tax on the ballot in 2020.

Regulatory Ordinance
The draft regulatory Ordinance No. 298 outlines the cannabis business permit requirements and operating requirements, including security measures and site-specific requirements. The key elements were discussed with the Subcommittee and the discussion below incorporates Subcommittee direction and includes further details on the process based on subsequent discussion with the consultant and staff across the various departments.

1. **Application Process**
   The Application process will be comprised of four phases: Preliminary Application (Phase 1), Proposal (Phase 2), Interview and Selection (Phase 3), Site Certification (Phase 4). During Phase 3, staff may conduct a public hearing prior to the selection of the businesses. Based on the City Council-approved evaluation criteria, the City Manager or designee will make recommendations to the City Council for up to ten retailers and uncapped number of testing labs to receive conditional business permits. The business permits will be valid for one year. Staff is working with the consultant and the City Attorney on several aspects of the application process and will discuss the key points of the process with Council, before bringing forward a final draft for Council consideration.

2. **Evaluation Criteria**
   Applicants will be scored on the criteria outlined below. Additional information about the criteria will be included in the application process discussion.

• Qualifications of Owners	• Detailed Operations Plan
• Location	• Enhanced Product Safety
• Environmental Impact Mitigation	• Security Plan
• Local Enterprise	• Community Benefits
• Business Plan	

   Staff will bring back the evaluation criteria to the City Council for final approval prior to implementing the application process.

3. **General Operating Requirements**
   While these requirements cover several areas, staff sought specific feedback from the Subcommittee on operating hours and maximum value of goods and money that can be transported through the City. Operating hours of 10:00 am – 9:00 pm are recommended for retail establishments. These hours are more restrictive compared to the State regulations (6:00 am – 10:00 pm for retailers) but these hours align better with the Milpitas community from a safety perspective. For similar reasons, the maximum value of money and cannabis in a transport vehicle within City limits is recommended to be capped at $5,000, which is now the same as the amount proposed under the draft State regulations released on October 19, 2018.

4. **Approval Levels at Various Phases**
   The approval levels at various phases of the process were discussed with the Subcommittee and are outlined in Table 2.

Community Engagement
Based on the community outreach already done, staff has incorporated community feedback about the types of cannabis establishments in prior recommendations to the Subcommittee and Council. As part of the application and permit approval process, staff will also conduct a public hearing to ensure that the community is notified of locations being considered prior to final permit approvals or denials. Any change in an approved location will also require a public hearing.

Next Steps
Based on direction from Council at the November 20, 2018 City Council meeting, staff will bring back the draft zoning and regulatory ordinances for Council adoption on

December 4, 2018. If adopted, these ordinances will go into effect on January 3, 2019, and will replace the current moratorium ordinance on commercial cannabis. Based on Council direction and further staff work, additional refinements and clean-up of the ordinances may be required. These will be brought forward to Council prior to the start of the application process.

Some members of the Council have raised concerns regarding risk to the City if the Council does not approve the ordinances on November 20. This would mean that the City would have no cannabis regulations in place. Thus, the failure to adopt permanent cannabis ordinances prior to the expiration of the current moratorium may potentially result in commercial cannabis businesses opening in the City without any local regulations in place.

To avoid this scenario, staff would have had to move forward with a contingency plan and convene a special Planning Commission meeting ahead of the November 20 City Council decision and a special City Council meeting ten days after the Planning Commission meeting. This would have allowed adoption of an ordinance banning commercial cannabis establishments at the regularly scheduled City Council meeting on December 18, 2018 and for this replacement ordinance to be in place on January 17, 2019. However, based on prior City Council direction, staff was directed by the Subcommittee to continue working on the regulatory and zoning ordinances that would allow commercial cannabis establishments in the City and to not move forward any contingency plan for an ordinance banning commercial cannabis. The City Council as a whole also did not provide direction to staff to move forward with an ordinance banning commercial cannabis. This direction was sought at the October 2, 2018 City Council meeting.

On November 20, if the Council directs staff not to move forward with the proposed ordinances, there will likely be a gap of 30 days or more between the expiration of the current moratorium and a new replacement ordinance.

The table below shows the timeline in order for a replacement ordinance to be adopted prior to the expiration of the cannabis moratorium ordinance:

Table 1

Day of Week	**Date**	**Action**
Tuesday	**November 20, 2018**	Last regular City Council meeting to introduce ordinance to replace moratorium
Tuesday	**December 4, 2018**	Last regular City Council meeting for permanent ordinance to be adopted and take effect prior to expiration of cannabis moratorium ordinance (effective date January 3, 2019)
Tuesday	December 18, 2018	Last regular City Council meeting of the calendar year
Thursday	January 17, 2019	Cannabis moratorium ordinance expires

A tentative timeline for Commercial Cannabis Regulation and Implementation is outlined in Table 2. The Subcommittee directed staff to look at ways to accelerate the time for when businesses could be operational. Staff will continue to refine this timeline further, based on direction from the Council on the approval levels and permit process, and on department approval processes.

Table 2

No.	Action	Date	Approval/Lead
1.	Commercial Cannabis Ordinances adopted	12/04/2018	City Council approval needed
2.	Commercial Cannabis Ordinances becomes effective	01/04/2019	
3.	Application Process and Scoring Criteria approved	12/04/2018	City Council approval needed
4.	Ordinance Amendments, if needed	02/05/2019	City Council approval needed
5.	Approval of fees and charges	02/05/2019	City Council approval needed
6.	Applications Open	02/15/2019	Planning lead
7.	Phase 1 Applications Due	04/15/2019	Cannabis businesses
8.	Phase 1Evaluation and Follow Up	8 weeks	City team
9.	Phase 2 Evaluation and Follow Up	8 weeks	Consultant and City team
10.	Phase 3 Interviews and Evaluation	4-6 weeks	City team and Consultant
11.	Public meeting	Prior to final selection	City Manager or designee
12.	Selection of up to 10 retailers and testing labs (no cap)	September-October 2019	City Manager recommendation, Council consideration
13.	Request Additional Resources and Adjust Annual Fees if needed	TBD	City Council meeting
14.	Phase 4 - Site Certification	TBD	Planning/Building/Police
15.	Building Permit Issuance	TBD	Building
16.	Operating Plan approval	TBD	City Manager or designee
17.	Tentative start of operations	01/15/2020	

Fiscal Impact: As discussed earlier, full cost recovery is important to avoid creating a financial burden on the City's General Fund and inadvertently subsidizing the cannabis industry. Staff is working with the consultant to develop a fee to recover the costs of the application process, cannabis business permit, and the annual ongoing costs. Additionally, the use of any community benefits will be factored into the selection process. The City may also wish to revisit the issue of assessing a tax on cannabis-related activities in the future.

California Environmental Quality Act: Under the provisions of Senate Bill 94, adoption of a local ordinance to regulate commercial cannabis-related activities is exempt from environmental review under the California Environmental Quality Act (CEQA) through July 1, 2019, if the ordinance or regulation requires discretionary review and approval of permits or licenses by the local jurisdiction, where the discretionary review includes any applicable environmental review. As additional and independent bases, the ordinances are exempt from environmental review pursuant to Section 15061(b)(3) and Section 15183 of the CEQA Guidelines.

Recommendations:

1) Conduct a public hearing, and move to close the hearing following any speakers.
2) Consider the Exemption from environmental review under the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) and Section 15183 of the CEQA Guidelines and Section 25055(h) of the California Business and Professions Code.
3) Following the City Attorney reading aloud the title, waive the first reading beyond the title and move to introduce Ordinance No. 38.832 to add Milpitas Municipal Code, Title XI, Chapter 10, Section 66 entitled "Medical and Adult-Use Cannabis

Regulations" to regulate cannabis cultivation for personal use and to allow specified commercial cannabis uses subject to regulation.

4) Following the City Attorney reading aloud the title, waive the first reading beyond the title and move to introduce Ordinance No. 298 to add Milpitas Municipal Code, Title III, Chapter 10 entitled "Regulation of Commercial Cannabis Activity."
5) Provide direction to staff on the draft application process for a cannabis business permit and timeline for implementation of the proposed ordinances.

Attachments:
a) Ordinance No. 38.832 for 1st reading and introduction (zoning)
b) Ordinance No. 298 for 1st reading and introduction (regulation)
c) Staff report and meeting minutes from the 10/02/2018 City Council meeting
d) E-mail correspondence from residents

XIII. LEADERSHIP & SUPPORT SERVICES

21. Receive a Report and Consider Introduction of Ordinance 218.4 Adding Section 3.02 to Chapter 13 of Title III of the Milpitas Municipal Code Setting the City of Milpitas Transient Occupancy Tax Rate Effective January 3, 2019 in Anticipation of the Santa Clara County Registrar of Voters Certifying Results of the November 6, 2018 Election including Adoption of Milpitas Measure R (Staff Contacts: Will Fuentes, 408-586-3111 and Daniel Degu, 408-586-3054)

Background: On August 7, 2018, the City Council, adopted Resolution No. 8803 to place Measure R on the November 6, 2018 ballot. Measure R is a local measure to raise the Transient Occupancy Tax (TOT) rate from its current level of 10%, as set by Title III, Chapter 13, Section 3.00 of the Milpitas Municipal Code, to as much as 14%. Transient occupancy taxes are typically levied as a percentage of value on overnight stays (fewer than 30 nights) at hotels, motels, bed-and-breakfasts, and other lodging accommodations. Transient occupancy taxes are not levied on Milpitas property owners as property tax, but rather only those individuals and companies that may have overnight stays in Milpitas hotels, motels, bed-and-breakfasts, and other lodging accommodations. Since these individuals and companies are normally not Milpitas property owners subject to property taxes, transient occupancy taxes ensure that visitors pay their fair share of costs for use of City streets, parks, and other infrastructure as well as public safety and other City services.

The City Council adopted the ballot language for Measure R, requiring a majority vote, is stated below:

> MILPITAS TRANSIENT OCCUPANCY TAX MEASURE. To provide funding to maintain general city services, including police/fire protection, 9-1-1 emergency response, senior/library services, park maintenance, pothole repair/street paving and attracting/retaining local businesses, shall an ordinance be adopted increasing the maximum transient occupancy tax paid by hotel guests from 10% up to as much as 14%, providing approximately $5,200,000 annually until ended by voters, subject to independent, public audits, with all funds used locally?

As of November 14, 2018, with 87.00% of the ballots counted by the Santa Clara County Registrar of Voters, Measure R is passing with **67.64%** of the vote of Milpitas residents. Since Measure R is a general purpose tax, it only required a simple majority (50% + 1) support of the voters to pass. The Santa Clara County Registrar of Voters will certify final election results, including those for Mayoral and Councilmember contests, on December 6, 2018; exactly 30 days following the election, as required by California Elections Code. Assuming that no contest requires a recount, certification of election results should occur timely on this schedule. As such, staff intends to place an item on the December 18, 2018 meeting agenda asking City Council to adopt a resolution confirming the official canvass

of election returns and declaring the results of the General Municipal Election held on November 6, 2018.

Based on results as of November 14, it is highly likely that Measure R will pass, as approved by Milpitas voters. In anticipation of the likely certified passage of Measure R, staff recommends that the City Council introduce an ordinance to set the TOT rate (effective January 3, 2019) on November 20, 2018 to allow local hotels, motels, bed-and-breakfasts, and other lodging accommodations at least 30 days to adjust their reservation systems and fully implement a revised TOT rate. This will also allow the City maximum ability to benefit from any incremental revenue as a result of a TOT rate adjustment. This ordinance setting the rate will become effective should the final certification of election results by Registrar of Voters confirm the adoption of Measure R by Milpitas voters and Council adopts a resolution certifying the official canvass of election returns and declaring the results of the General Municipal Election held on November 6, 2018, including those results from Measure R. The ordinance will not become effective if the final certification of election results by the Santa Clara County Registrar of Voters show that Measure R received less than 50% + 1, simple majority support.

Analysis: At the August 7, 2018 meeting, the City Council expressed interest in performing a business impact analysis to see whether there could be any negative impacts to either local hotel occupancy rates or room rates as a result of a potential TOT rate increase should Measure R be successful. City Council was also interested in performing additional revenue forecasts for a potential TOT rate increase should Measure R be successful. Staff engaged HVS Consulting and Valuation (HVS), a division of TS Worldwide LLC, to provide this business impact analysis as well as forecast potential incremental TOT revenue should Measure R be successful. With a team of more than 300 people located in 50 offices worldwide, HVS is an expert in the lodging industry and routinely prepares market and financial feasibility studies for investors looking to develop new lodging properties. Thus, staff felt HVS was well positioned and had the proper resources and experience to provide what the City needed.

City Council will receive the ***Transient Occupancy Tax Analysis*** report prepared by HVS. HVS' analysis relied on historical market data of Milpitas for the last 20 years, historical market data of the San Francisco bay area for the last 18 years, and historical market data for five cities comparable to Milpitas that had increased their TOT tax rate in the last decade (Sunnyvale, Campbell, Fremont, Oakland, and El Segundo). Oakland is larger than Milpitas, but had many of the same characteristics as Milpitas such as close proximity to an airport and tourist attractions, a high prevalence of business travelers, and the presence of a wide variety of national brand hotels. HVS' analysis also factored in economic factors, new business developments, existing companies, and new hotel supply coming online within Milpitas over the next several years.

Based on data analytics alone, which studied supply, demand, and pricing data for the five comparable markets listed above, a TOT rate increase did not affect lodging demand or pricing to any measurable degree and there appears to be no negative correlation supported by historical data in these markets or elsewhere. Nevertheless, in interviews with local hotel sales managers, HVS did discover that when TOT rate increases occur, hotels may lower their room rates by a like percentage for groups such as family reunions, sports teams, and bus tours since these groups are often more sensitive to overall costs, which include taxes, when choosing lodging accommodations. This segment comprises 14% of the Milpitas lodging market. Whereas for commercial (business) travelers, which comprise 61% of the Milpitas market, brand loyalty (particularly frequent-traveler programs), as well as location and convenience with respect to businesses and amenities, influence lodging choices in this segment.

Proximity to their business destination is their primary consideration when selecting a hotel; saving travel time is more important than saving money on TOT. These consumers are also often on an expense account, which lessens their sensitivity to TOT rates. And for leisure travelers, which comprise 25% of the Milpitas market, only a small percentage take into consideration the TOT rate when booking their overnight accommodations as a result of the small differential between tax rates from city to city around the San Francisco Bay, and the various OTA (online travel agency) booking channels, which price rooms based on demand levels and lessen the transparency of tax rates. Hotels would likely not lower their room rates or see a measurable and significant decrease in demand from commercial or leisure travelers when a TOT rate increase occurs. These statements are based on and supported by HVS' research and experience.

While there appears to be very limited negative correlation between a TOT rate increase and lodging demand or pricing, HVS did take into account the price sensitivity of the group segment (14% of the Milpitas market) when performing its analysis and forecast of potential incremental TOT revenue should Measure R be successful. This is shown as an increasing, but limited, % Point Discount factor for occupancy and room rate depending on whether the TOT rate increased to 11%, 12%, 13%, of 14% (the maximum allowable under Measure R). HVS also factored in a likely, but not guaranteed, mild recession in 2020 and 2021 with a recovery beginning in 2022. This recession is assumed to be much milder than the Great Recession starting in 2008.

Staff previously factored in a similar recession into its five-year forecast provided within the Fiscal Year (FY) 2018-19 Adopted Operating Budget, but staff recommends instead using the HVS forecast due to the large volume of data used, availability of analytical resources at HVS' disposal, and industry knowledge and expertise. Note that while a recession is built into the HVS forecast and leading economists all agree that the economy is due for a limited correction based on the normal business cycle, there is no clear consensus amongst leading economists as to the timing of that correction. Staff recommends taking a conservative approach and factoring in a possible recession so that resources which may never materialize are not committed for long-term expenses.

TOT revenue is estimated at $12.69 million in the City's FY 2018-19 Adopted Operating Budget. Over an 11-year period from calendar year 2019 to 2029, HVS estimates the following total incremental revenue at the 11%, 12%, 13%, and 14% TOT rate levels. These estimates include a possible, but not guaranteed recession as well as four new hotels and one expanded hotel that are either approved and not yet started or approved and under construction. Two new hotels that are in the early stages of development are not included in the estimates since they have not gone through the full approval process and are as of yet uncertain. If built as planned, the TOT revenue from these two new hotels will increase the estimates below, but could also decrease citywide occupancy rates slightly due to increased supply:

Table 1 – Estimated Incremental TOT Revenue (with Assumed Recession)

TOT Rate	Incremental Revenue (Calendar Year 2019 – 2029)
11%	$17,337,934
12%	$34,531,444
13%	$51,581,559
14%	$68,489,301

When the possible recession is removed from the analysis, HVS estimates the following incremental revenue at the 11%, 12%, 13%, and 14% TOT rate levels:

Table 2 – Estimated Incremental TOT Revenue (with No Recession)

TOT Rate	Incremental Revenue (Calendar Year 2019-2029)
11%	$20,248,612
12%	$40,331,187
13%	$60,248,886
14%	$80,002,862

Based on HVS' analysis and the very limited negative correlation between a TOT rate increase and lodging demand or pricing, **staff recommends that Council set the TOT rate within Milpitas at 14%, effective January 1, 2019**. Such a rate will also maximize TOT revenue from new hotels due to open in Milpitas over the next several years and help to mitigate the impacts of any future potential recessions. On a fiscal year basis, this is projected to provide the City with the following incremental revenue from FY 2018-19 to FY 2028-29 and again incorporates four new hotels and one expanded hotel that are either approved and not yet started or approved and under construction. For reference, the City's current Five-Year Forecast period ranges from FY 2019-20 to FY 2023-24. And as stated previously, TOT revenue is estimated at $12.69 million in the City's FY 2018-19 Adopted Operating Budget.

Both a recessionary scenario and a non-recessionary scenario are shown below:

Table 3 – Estimated Incremental TOT Revenue by Fiscal Year (at 14% rate)

	Fiscal Year	Recessionary Scenario	Non-Recessionary Scenario
City's Five-Year Forecast Period	FY 2018-19 (half year)	$2,880,553	$2,880,553
	FY 2019-20	$5,796,779	$6,020,348
	FY 2020-21	$5,370,513	$6,479,191
	FY 2021-22	$5,137,090	$6,836,595
	FY 2022-23	$5,645,086	$7,129,082
	FY 2023-24	$6,099,620	$7,355,789
	FY 2024-25	$6,406,774	$7,523,994
	FY 2025-26	$6,648,386	$7,677,671
	FY 2026-27	$6,829,595	$7,833,985
	FY 2027-28	$6,971,181	$7,992,962
	FY 2028-29	$7,112,131	$8,154,627

Policy Alternatives: Should the Council wish to phase in a TOT rate increase, staff would propose a TOT rate of 12% effective January 3, 2019 and a TOT rate of 14% effective January 1, 2020. While staff does not recommend this phased in approach due to the very limited negative correlation between a TOT rate increase and lodging demand or pricing and significantly decreased incremental TOT revenue to Milpitas in FY 2018-19 and FY 2019-20, Table 4 below provides revenue estimates for Council consideration:

Table 4 – Estimated Incremental TOT Revenue by Fiscal Year (12% eff. 1/3/19 & 14% eff. 1/1/20)

	Fiscal Year	Recessionary Scenario	Non-Recessionary Scenario
City's Five-Year Forecast Period	FY 2018-19 (half year)	$1,442,085	$1,442,085
	FY 2019-20	$4,358,311	$4,581,880
	FY 2020-21	$5,370,513	$6,479,191
	FY 2021-22	$5,137,090	$6,836,595
	FY 2022-23	$5,645,086	$7,129,082
	FY 2023-24	$6,099,620	$7,355,789
	FY 2024-25	$6,406,774	$7,523,994
	FY 2025-26	$6,648,386	$7,677,671
	FY 2026-27	$6,829,595	$7,833,985
	FY 2027-28	$6,971,181	$7,992,962
	FY 2028-29	$7,112,131	$8,154,627

Such a phased in approach to a TOT rate increase could result in $1.44 million less in annual incremental TOT revenue, in both FY 2018-19 and FY 2019-20; $2.88 million total over two fiscal years.

Next Steps

1. Staff notifies Milpitas hotels, motels, bed-and-breakfasts, and other lodging accommodations of potential TOT rate increase effective January 1, 2019.
2. December 4, 2018 City Council meeting:
    - Second reading and adoption of Uncodified Ordinance 218.4 of the City Council of the City of Milpitas setting the Transient Occupancy Tax Rate within the City of Milpitas effective January 3, 2019, in anticipation of the Santa Clara County Registrar of Voters certifying results of the November 6, 2018 election.
3. December 18, 2018 City Council meeting:
    - City Council to adopt a resolution certifying the official canvass of election returns and declaring the results of the General Municipal Election held on November 6, 2018, including Measure R.
4. Full implementation of potential TOT rate increase by Milpitas hotels, motels, bed-and-breakfasts, and other lodging accommodations by the effective date of January 3, 2019.

Fiscal Impact: If the Milpitas TOT rate is raised to 14% starting January 3, 2019, the City can expect between $5.14 million and $8.15 million per year through FY 2028-29, with $2.88 million expected for half of FY 2018-19.

Recommendations:

1) Receive a report from City staff and consultant.
2) City Attorney shall read aloud the title of Ordinance No. 218.4.
3) Waive the first reading beyond the title and introduce Uncodified Ordinance No. 218 setting the Transient Occupancy Tax Rate within the City of Milpitas effective January 3, 2019 in anticipation of the Santa Clara County Registrar of Voters certifying results of the November 6, 2018 election including adoption of Milpitas Measure R.

Attachments:

a) Ordinance No. 218.4
b) Transient Occupancy Tax Analysis

XIV. REPORTS OF MAYOR & COUNCILMEMBERS – from assigned Commissions, Committees and Agencies

XV. NEXT AGENDA PREVIEW

22. Next Regular Council meeting: December 4, 2018

XVI. ADJOURNMENT

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, DECEMBER 4, 2018