



JOINT MEETING OF THE MILPITAS HOUSING AUTHORITY & MILPITAS CITY COUNCIL

AGENDA

TUESDAY, NOVEMBER 7, 2017

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

5:00 P.M. (CLOSED SESSION)

7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER JOINT MEETING by Mayor and ROLL CALL by City Clerk**
- II. ADJOURN TO CLOSED SESSION (5:00 PM)**
 - (a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6
City Negotiator: Tina Murphy
Employee Group: Milpitas Employees Association
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - (b) PUBLIC EMPLOYEE APPOINTMENT/HIRING**
Pursuant to California Government Code Section 54957
Title of position to be filled: City Manager
 - (c) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
Tom Williams v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235
 - (d) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
First Amendment Coalition v. City of Milpitas – Santa Clara County Superior Court Case No. 17CV310994
 - (e) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
Tom Williams v. City of Milpitas, et al. - American Arbitration Case No. 01-17-0003-5823
- 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 Phan)**
- VI. PRESENTATIONS**
 - Proclaim “America Recycles” Day on November 15, 2017
 - Commend Knights of Columbus Saint Elizabeth Council 8747 – 2017 People with Intellectual Disabilities Fundraising Drive to benefit Special Education Program at Milpitas High School

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'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.

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR

Consent Calendar items are considered to be routine and will be considered for adoption by one motion of the City Council. The City Manager will indicate any matters not eligible for consent. City Councilmembers shall either (a) state the agenda items they want placed on the Consent list, or (b) declare that they do not have any items for consent. From the dais, Council will then vote to approve all items going onto Consent Calendar and move to approve the listed items in one motion.

Any items not placed on Consent Calendar will be discussed in the order in which they appears on the agenda.

- 1. Accept Schedule of Meetings/City Council Calendar - November 2017**
- 2. Approve City Council Meeting Minutes of October 17, 18 and 26, 2017 (Staff Contact: Mary Lavelle, 408-586-3001)**

XII. UNFINISHED BUSINESS

- 3. Receive the Monthly Update of the Odor Control Report (Staff Contact: Steve Erickson, 408-586-3301)**
- 4. Receive Status Report on the General Plan Update Process and Provide Input to Staff on the Public Outreach Process and the General Plan Advisory Committee (GPAC) (Staff Contact: Jessica Garner, 408-586-3284)**
- 5. Adopt a Resolution Approving the Site Development Permit for Construction of a 1,072 square foot Carport with Rooftop Solar Photovoltaic System, Adjacent to an Existing Bungalow and Residence in the Hillside at 430 Evans Road (Staff Contact: Lillian Hua, 408-586-3073)**
- 6. Approve and Authorize the City Manager to Execute Consultant Services Agreement with RMC Water and Environment for Support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179 (Staff Contact: Steve Chan, 408-586-3324)**
- 7. Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)**
- 8. Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission, and Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)**
- 9. Receive a Report from Information Services Director Regarding Comcast Cable Store Closure at 597 E. Calaveras Boulevard (Staff Contact: Mike Luu, 408-586-2706)**

10. **Waive the First Reading and Introduce Ordinance No. 48.21 Amending Title V, Chapter 200 of the Milpitas Municipal Code Regarding Solid Waste Management (Staff Contact: Steve Erickson, 408-586-3301)**
11. **Adopt a Resolution Authorizing the Purchasing Agent to Purchase Four City Vehicles from the National Auto Fleet Group for Not-To-Exceed \$148,941.54 through a Cooperative Procurement Contract through the National Joint Powers Alliance (Staff Contacts: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)**
12. **Approve and Authorize the City Manager to Execute an Improvement Agreement for a New Self-Storage Facility at 1 Hanson Court by One Hanson, LLC (Staff Contact: Judy Chu, 408-586-3325)**

XIII. REPORTS

13. **Per Request of Mayor, Consider Approving More than 4 Hours of Staff Time to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)**
14. **Per Request of Councilmembers Nuñez and Phan, Consider Approving More than 4 Hours of Staff Time to Return to Council with Plan to Preserve Industrial Land in the City (Contacts: Councilmember Nuñez, 408-586-3023 and Councilmember Phan, 408-586-3032)**

XIV. NEW BUSINESS

15. **Receive the City of Milpitas Year-End Financial Report for the Fiscal Year Ended June 30, 2017 (Staff Contact: Will Fuentes, 408-586-3111)**
16. **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2017 (Staff Contact: Will Fuentes, 408-586-3111)**
17. **CITY COUNCIL / HOUSING AUTHORITY
Approve the \$150,000 Predevelopment Loan Documents to Resources for Community Development for Predevelopment Expenses for 355 Sango Ct and Appropriate \$150,000 from the Housing Authority Fund (Staff Contact: Tim Wong, 408-586-3286)**

XV. ORDINANCES

18. **Waive the Second Reading and Adopt Ordinance No. 289.1 Amending Chapter 2 and Chapter 4 of Title I of the Municipal Code Relating to Purchasing and Contract Authority (Staff Contact: Will Fuentes, 408-586-3111)**
19. **Adopt Two Resolutions Authorizing the City of Milpitas' Membership and Approving the Joint Powers Agreement Establishing the Silicon Valley Clean Energy Authority, Related to Formation of and Milpitas' Membership in the Silicon Valley Clean Energy Authority, and Waive the First Reading and Introduce Ordinance No. 296 Authorizing Implementation of a Community Choice Aggregation Program (Staff Contact: Edesa Bitbadal, 408-586-3052)**

XVI. RESOLUTIONS

20. **Consider Adopting a Resolution Approving a Censure Policy for the City Council (Staff Contact: Christopher Diaz, 408-586-3040)**
21. **Receive a Report Regarding the General Fund Surplus for Fiscal Year Ended June 30, 2017, Direct Staff as Appropriate, Adopt a Resolution Updating the City's Reserve**

Policies, and Approve Transfer of \$20.19 Million from the FY 2016-17 General Fund Surplus to PERS Stabilization Account for \$10.1 Million, General Government CIP Fund for \$9.59 Million and \$500,000 to the Storm Drain Fund (Staff Contact: Will Fuentes, 408-586-3111)

- 22. Adopt a Resolution Approving the Sole Source Purchase of One Pierce Velocity Fire Pumper and One Pierce 100-foot Velocity Tractor Drawn Aerial for an Amount Not to Exceed \$2,270,576 and Appropriate \$200,000 from the Equipment Fund and \$2,070,576 from the FY 2016-17 General Fund Surplus into CIP No. 3439 - Fire Apparatus Replacement Plan (Staff Contacts: Rick Frawley, 408-586-2824 and Chris Schroeder, 408-586-3161)**
- 23. Adopt a Resolution Certifying Election Results and Adding Tract No. 10435 to Community Facilities District 2005-1 (Annexation No. 18), Approve Final Map Tract No. 10435 for a 25-unit Residential Condominium Development at 260 South Main Street; Approve and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)**
- 24. Adopt a Resolution Authorizing the City Manager to Execute an Agreement for the Acceptance and Use of the 2017 Emergency Management Performance Grant Funds and Appropriate Funds in the Amount of \$17,500 to the Milpitas Fire Department Office of Emergency Services (Staff Contact: Toni Charlop, 408-586-2801)**
- 25. Adopt a Resolution Adopting All of Volume 1 and the City of Milpitas' Portion of Volume 2 of the Santa Clara County Operational Area Hazard Mitigation Plan (Staff Contact: Toni Charlop, 408-586-2801)**

XVII. AGREEMENTS

- 26. Approve and Authorize the City Manager to Execute the Public Trail Maintenance Agreement Located at 31 South Milpitas Boulevard by Orchid Homeowners Association, and Receive Two Parcels from DR Horton Bay, Inc. Associated with the Orchid Project (Staff Contact: Judy Chu, 408-586-3325)**
- 27. Approve and Authorize the City Manager to Execute an Improvement Agreement for Three New Self-Storage Buildings at 1600, 1601 Watson Court and 1080 Pecten Court by Storage Equities/PS Partners IV–Pecten CT (Staff Contact: Judy Chu, 408-586-3325)**
- 28. Approve Amendment No. 6 and Authorize the City Manager to Execute the Amendment to the Cayenta Software Support and Maintenance Service Agreement for the Financial and Utility Billing System for an Amount Not to Exceed \$24,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

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

XIX. ADJOURN JOINT MEETING

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, NOVEMBER 21, 2017

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

Current vacancies on: Arts Commission
Bicycle Pedestrian Advisory Commission
Community Advisory Commission
Economic Development Commission
Emergency Preparedness Commission
Library Commission
Parks, Recreation & Cultural Resources Commission
Recycling & Source Reduction Advisory Commission
Sister Cities Commission
Telecommunications Commission
Youth Advisory 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.

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

对中国人来说，请用 408-586-3263

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

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

AGENDA REPORTS

XII. UNFINISHED BUSINESS

3. **Receive the Monthly Update of the Odor Control Report (Staff Contact: Steve Erickson, 408-586-3301)**

Background: From September 8 through October 12, 2017, the Bay Area Air Quality Management District (BAAQMD) forwarded 114 complaints originating in Milpitas. 59 complaints identified a garbage odor, 4 complaints identified a sewage odor, 48 complaints did not identify an odor source and 3 identified multiple sources. As of the last Council update, the City's odor reporting website has received 10 reported complaints.

California Environmental Quality Act: The item is exempt from CEQA, as there will be no physical change to the environment.

Recommendation: Receive the monthly update of the Odor Control Report.

Attachment: None

4. **Receive Status Report on the General Plan Update Process and Provide Input to Staff on the Public Outreach Process and the General Plan Advisory Committee (GPAC) (Staff Contact: Jessica Garner, 408-586-3284)**

Background: The General Plan is a long-range planning document that defines a long-term vision for the City over the next 20 years, balancing growth, conservation and quality of life.

The state of California requires every city and county in California to adopt a General Plan. The City of Milpitas adopted its current General Plan in 1994. While the City has made various amendments to incorporate new planning documents (2002, 2008, and 2010) and to update the Housing Element (2015), the City has grown and changed significantly since the 1994 update. Additionally, new laws affecting General Plans have been passed and new social and environmental issues have emerged, making the current update of the City's General Plan a critical component of the City's continued success.

On October 6, 2015, City Council approved \$1.2 million appropriation for this project, and on April 5, 2016, Council approved a contract with DeNovo Planning Group for this same amount.

DeNovo's work on this project will include an in depth discussion on Land Use, Housing (already adopted, not a part of this work program), Circulation, Noise, Safety, Conservation and Open Space, Air Quality and Energy, Community Design, Economic and Fiscal Sustainability, Flood Management, Parks and Recreation, Water and Implementation. Several documents will be prepared and published throughout the course of the project, including an existing conditions report, issues and opportunities report, land use alternatives report, environmental impact report (EIR) and draft and final General Plan document. The process kicked off in September of 2016 and is expected to take two to two and a half years to complete.

DeNovo initiated the General Plan update with a presentation to the City Council in September, 2016, and three Community Visioning Workshops held in September, October, and November, 2016, which were intended to promote extensive public outreach and community participation, in order to ensure that the goals and values of the community are reflected. The Visioning Workshops resulted in feedback from the community on a range of topics, including but not limited to: identification of community vision, challenges, and assets; identification of potential areas of new growth and/or land use changes or

intensification; and identification of priorities related to the circulation network (congestion, enhanced bike/pedestrian connectivity, access to transit, etc.).

The next phase of the process was the formation and participation of the General Plan Advisory Committee (GPAC). The GPAC was appointed by the City Council in December of 2016 and includes 13 members of the community. The GPAC will review draft goals, policies, and actions items developed for each General Plan element, and will serve as community liaisons and project ambassadors in order to ensure that the General Plan reflects the needs and concerns of the entire community. The GPAC has convened six times since March, 2017, and will meet approximately nine more times over the course of the project.

In addition to the City Council and Planning Commission hearings and workshops that are planned to be held at strategic milestones throughout the General Plan Update process, there will also be additional community open house meetings and workshops conducted in 2018 to continue to gather public input and feedback on key issues and challenges that should be addressed in the General Plan. DeNovo published the first General Plan update newsletter in October, 2016 on the General Plan website (www.milpitas.generalplan.org/), and an online survey is also open on the website for the public to share their ideas and feedback.

Staff is seeking guidance from Council on the General Plan process to date, input concerning future outreach, and input concerning any alterations to the process that are desired.

Fiscal Impact: None. On October 6, 2015 Council approved a \$2.1 million budget and \$1.2 million appropriation for this project.

Recommendation: Receive status report on the General Plan Update process and direct staff concerning the upcoming schedule and public process.

Attachment: None

5. **Adopt a Resolution Approving the Site Development Permit for Construction of a 1,072 square foot Carport with Rooftop Solar Photovoltaic System, Adjacent to an Existing Bungalow and Residence in the Hillside at 430 Evans Road (Staff Contact: Lillian Hua, 408-586-3073)**

Background: The City received an application to construct a 1,072 square foot carport with rooftop solar photovoltaic system, adjacent to an existing bungalow and residence in the hillside. The project site is a developed 5.1 acre parcel located along Evans Road. The property is zoned as R1-H in the Hillside Combining District and the General Plan designation is Hillside Very Low Density.

The Planning Commission unanimously recommended approval of the Site Development Permit for the project on August 23, 2017. Commissioners determined the project is consistent with the policies and guiding principles identified in the General Plan, and satisfies the requirements specified in the Zoning Ordinance. The project's architectural design and site planning is aesthetically compatible with the neighboring homes. The project meets the development standards set forth by the Zoning Code and incorporates earth tone colors, complementing the surrounding color palette.

Environmental: A categorical exemption pursuant to Section 15303(e) of the California Environment Quality Act (CEQA) Guidelines – New Construction or Conversion of Small Structures, has been applied to this project. Section 15303(e) includes, but limited to, the construction of accessory structures including garages, carports, patios, swimming pools, and fences. The project's proposed new construction of a carport with a rooftop solar photovoltaic system are within a residentially zoned area.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving Site Development Permit No. SD17-0009 to construct a new carport with rooftop solar photovoltaic system on a 5.1 acre site located at 430 Evans Road.

Attachments:

- a) Resolution
- b) Planning Commission Meeting Minutes 8/23/2017
- c) Planning Commission Staff Report 8/23/2017
- d) Project Plans (separate bound document)
- e) Milpitas Fire Department Memorandum 6/12/2017

6. **Approve and Authorize the City Manager to Execute Consultant Services Agreement with RMC Water and Environment for Support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179 (Staff Contact: Steve Chan, 408-586-3324)**

Background: Santa Clara Valley Transportation Authority (VTA) continues to move forward on the construction of the BART Extension and Montague Expressway Widening projects. RMC Water and Environment had provided water and sewer utility installation and relocation design review for the City during the design stages of these projects. Water and sewer engineering support services are needed to complete the construction and project close-out phases of these projects. Since RMC Water and Environment is familiar with the project scopes, they are most suited to provide the needed water and sewer engineering services to complete these projects.

The proposed RMC Water and Environment consultant services agreement has a total not-to-exceed sum of \$10,000 and agreement term to December 31, 2018.

California Environmental Quality Act: The action 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. There are sufficient funds in the project budgets. The City's Master Agreement with VTA allows reimbursement of City consultant costs for BART extension support services.

Recommendation: Approve and authorize the City Manager to execute Consultant Services Agreement with RMC Water and Environment for support on the Bay Area Rapid Transit Project, CIP No. 4265 and Montague Expressway Widening Project, CIP No. 4179.

Attachment: Agreement with RMC

7. **Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)**

Recommendation: Review list (provided in agenda packet) and provide additional input on the draft document, prepared by City Clerk for the Council.

Attachment: List of Items requested by City Council

8. **Receive Updated Information Responding to Council Input and Consider Adopting a Resolution to Amend the By-Laws of the Milpitas Planning Commission, and Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)**

Background: Per request of the Milpitas Planning Commission in September 2016 to consider potential amendments to its rules and regulations, staff worked with Planning Commissioners to clean up existing language and draft a revised version of the by-laws. On August 1, 2017, the Planning Commission's recommendations were discussed by the Milpitas City Council. Council directed to staff to bring forward a Resolution to effectuate the proposed by-law amendments. Council is requested to adopt a resolution approving all amendments to the by-laws. Included in the agenda packet are copies of the Planning Commission By-Laws, showing all tracked changes and a final revised version.

In addition, Councilmembers have expressed an interest to discuss the 14 Council-appointed City of Milpitas Commissions, and the process for appointing residents to those bodies.

Recommendation:

- 1) If desired, adopt a resolution approving the updated By-Laws of the Milpitas Planning Commission.
- 2) Discuss City Commissions and process of appointments. Direct staff, as requested.

Attachments:

- a) Resolution
- b) Exhibit to Resolution (amended Planning Commission by-laws)
- c) Red-lined edition of Planning Commission By-Laws

9. Receive a Report from Information Services Director Regarding Comcast Cable Store Closure at 597 E. Calaveras Boulevard (Staff Contact: Mike Luu, 408-586-2706)

Background: As part of the franchise agreement between the City of Milpitas and Comcast approved in 2005, Comcast must provide a convenient location within the City for subscriber inquiries, bill payment and equipment transfers until such a time that these services are no longer required. On August 31, 2017, the City received a letter from Comcast notifying the City of pending closure of the cable store in Milpitas at the end of September 2017. Comcast planned to open a large new Xfinity store located at 1065 E. Brokaw Road in San Jose. Comcast will transfer operations from the current location in Milpitas to the new store. The new customer service center is located 5.5 miles from the existing customer service center. Besides going in person to the customer service center, customers can currently pay bills online, can get a pre-paid box to return equipment or simply drop off equipment at the closest UPS shipping location. Customers can also pay their bills at the nearest 7-11 or CVS retail locations.

Comcast is requesting an amendment to its franchise agreement to remove the requirement for a customer service center located within the City of Milpitas.

Fiscal Impact: None. The current franchise agreement between the city of Milpitas and Comcast will continue until 2020. Comcast will switch to a Digital Infrastructure Video and Competition Act (statewide) franchise after 2020.

Recommendations: Receive staff report from Information Services Director regarding the Comcast Cable store closure and direct staff to continue working with Comcast on an amendment to the agreement with Council's recommendation.

Attachments:

- a) City's current Franchise Agreement with Comcast Cable
- b) Cable Store Closure Letter to City

10. **Waive the First Reading and Introduce Ordinance No. 48.21 Amending Title V, Chapter 200 of the Milpitas Municipal Code Regarding Solid Waste Management (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The Milpitas Municipal Code specifies requirements related to Solid Waste Management. On December 1, 2017, operations under a franchise agreement with the City's new solid waste collector, Milpitas Sanitation Inc., will commence. The Code was revised to correlate with the new solid waste franchise agreement provisions, which become effective by the contract start date of December 1, 2017.

Fiscal Impact: None. There is no fiscal impact to the introduction and subsequent adoption of this Ordinance.

Recommendations:

1. Following a reading of the title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 48.21.
2. Introduce Ordinance No. 48.21 amending Chapter 200 of Title V of the Milpitas Municipal Code regarding solid waste management.

Attachment: Ordinance No. 48.21

11. **Adopt a Resolution Authorizing the Purchasing Agent to Purchase Four City Vehicles from the National Auto Fleet Group for Not-To-Exceed \$148,941.54 through a Cooperative Procurement Contract through the National Joint Powers Alliance (Staff Contacts: Chris Schroeder, 408-586-3161 and Henry Kwong, 408-586-2419)**

Background: To support the ongoing operational needs of the Police Department, the City needs to purchase two Police Interceptor Utility vehicles for \$36,314.47 each, one Chevrolet Tahoe for \$41,186.97, and one Ford F150 SuperCrew Cab truck for \$35,125.63, for a not-to-exceed amount of \$148,941.54. The vehicles are necessary to support the patrol and investigative services work of the Police Department. The four new vehicles will replace older vehicles that have reached the end of their useful life as police vehicles.

Staff recommends a cooperative purchase through the National Joint Powers Alliance (NJPA). Cooperative purchasing through NJPA is specifically authorized pursuant to Municipal Code Section I-2-3.08 "Cooperative Procurement." The Purchasing Agent reviewed all of the documentation from the National Joint Powers Alliance Request for Proposal (RFP) No. 120716 entitled "Vehicles, Cars, Vans, SUVs, and Light Trucks with Related Equipment, Accessories, and Services" and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas' Purchasing Division.

Fiscal Impact: Sufficient funds for the purchase are in the Equipment Fund's operating budget.

Recommendation: Adopt a resolution authorizing the Purchasing Agent to purchase four City vehicles from the National Auto Fleet Group for an amount not to exceed \$148,941.54 through a cooperative procurement contract through the National Joint Powers Alliance.

Attachments:

- a) Resolution
- b) National Auto Fleet Group quotes

12. **Approve and Authorize the City Manager to Execute an Improvement Agreement for a New Self-Storage Facility at 1 Hanson Court by One Hanson, LLC (Staff Contact: Judy Chu, 408-586-3325)**

Background: On October 28, 2015, the City of Milpitas Planning Commission conditionally approved a Site Development Permit and a Conditional Use Permit for construction of a new self-storage facility located at 1 Hanson Court west of Milpitas Boulevard and north of Abel Street by One Hanson, LLC.

The City Engineer has reviewed and approved public improvement plans (E-EN16-0183) pursuant to MMC XI-1-7.09-2. The developer has executed an Improvement Agreement as approved by the City Attorney as to form and by the City Engineer as to substance pursuant to MMC XI-1-17.01, paid all development fees and provided improvement securities (\$160,000 for faithful performance and \$160,000 for labor and materials) to guarantee completion of required public improvements.

California Environmental Quality Act: Execution of an 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: Approve and authorize the City Manager to execute an Improvement Agreement for a new self-storage facility at 1 Hanson Court by One Hanson, LLC.

Attachment: Public Improvement Agreement

XIII. REPORTS

13. **Per Request of Mayor, Consider Approving More than 4 Hours of Staff Time to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)**

Recommendation: Consider Mayor's request and if desired, approve more than four hours of staff time toward a plan for a comprehensive homeless strategy for City of Milpitas.

Attachment: None

14. **Per Request of Councilmembers Nuñez and Phan, Consider Approving More than 4 Hours of Staff Time to Return to Council with Plan to Preserve Industrial Land in the City (Contacts: Councilmember Nuñez, 408-586-3023 and Councilmember Phan, 408-586-3032)**

Recommendation: Consider request and if desired, approve more than four hours of staff time toward a plan to preserve industrial land in the City of Milpitas.

Attachment: None

XIV. NEW BUSINESS

15. **Receive the City of Milpitas Year-End Financial Report for the Fiscal Year Ended June 30, 2017 (Staff Contact: Will Fuentes, 408-586-3111)**

Background: For the Fiscal Year ended June 30, 2017, preliminary General Fund revenues exceeded expenditures by **\$21.64 million**. \$7.28 million of this surplus was due to the one-time sale of the McCandless property to the Milpitas Unified School District (MUSD). \$14.36 million was due to other revenue and expenditure items which will be explained in more detail. These are preliminary numbers subject to change as the City's annual audit is finalized (tentatively scheduled for December 2017).

As a result of the surplus, the Unassigned Fund Balance in the General Fund is \$37.33 million as of the end of the fiscal year. Milpitas has historically used General Fund Unassigned to measure its conformance to the City Council adopted 15% reserve requirement as measured against expenditures. As of the end of the fiscal year, the General Fund reserve balance equaled 47.05%; thereby exceeding requirements by 32.05 percentage points or \$25.43 million. Reserve requirement calculations are shown in Table 1.

Table 1 – General Fund Reserve Requirement

Budgeted General Fund Year-End Expenditures	\$86,841,849
15% Reserve Requirement x Expenditures	\$13,026,277
Actual Reserve	\$37,325,284
Actual Reserve as % of Expenditures	42.98%
Reserve Above Requirements (\$)	\$24,299,007
Reserve Above Requirements (%)	27.98%

After the Great Recession, significant budget cuts in 2012, and a prolonged period of slow economic growth, the presence of an operating surplus is welcome news. However, staff cautions the City Council against spending down a substantial amount of this fund balance since the next economic downturn, natural disaster, or emergency could happen at any time. And in light of rising pension, retiree healthcare, and other benefits costs, the City would be prudent to build up its reserves to ensure long-term fiscal sustainability. Use of General Fund operating surpluses and reserve policies will be discussed in more detail in a companion report to this. The following sections will detail General Fund revenues and expenditures and the remaining factors behind the operating surplus.

Revenues

As of the end of the fiscal year, General Fund revenue equaled **\$96.52 million**, which was \$8.58 million or 9.76% over the adopted budget of \$87.93 million and \$13.34 million or 16.04% over the prior fiscal year of \$83.17 million. Table 2 (in agenda packet) provides a detailed comparison of year-end revenues to budget as well as to the prior fiscal year (FY 2015-16).

The biggest contributors to the year over year increase in General Fund revenues were Redevelopment Property Tax Trust Fund (RPTTF) distributions, Building Permits, Fire Permits and Inspections, and Other Revenues Sources (i.e., Sale of Property). These are all signs of an improving economy especially as it relates to housing and development activity.

When Transfers In from other funds of \$5.42 million are added to Revenues, this brings total Revenue plus Other Sources to **\$101.94 million**.

Expenditures

As of the end of the fiscal year, General Fund expenditures equaled **\$79.63 million**, which was \$7.22 million or 8.31% under the adopted budget of \$86.85 million. Table 3 (in the agenda packet) provides a detailed comparison of year-end expenditures to budget (FY 2015-16).

Each department contributed to the annual savings due to a number of factors including vacancies and fiscally prudent spending. Unspent funds revert back to the General Fund Unassigned Balance and can be used for other purposes per Council direction. Staff will recommend several potential purposes for Council to consider in a companion report to this.

When Transfers Out to other funds of \$0.67 million are added to Expenditures, this brings total Expenditures plus Other Uses to **\$80.30 million**.

Surplus

When Revenues plus Other Sources of \$101.94 million are measured against Expenditures plus Other Uses of \$80.30 million, this once again creates a surplus of **\$21.64 million**. As stated previously, use of General Fund surpluses and reserve policies will be discussed in more detail in the companion report to this.

Fiscal Impact: None.

Recommendation: Receive the year-end financial report for Fiscal Year ended June 30, 2017.

Attachments: Charts

16. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2017 (Staff Contact: Will Fuentes, 408-586-3111)

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended September 30, 2017 is submitted for the Council's review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of September 30, 2017

As of September 30, 2017, the principal cost and market value of the City's investment portfolio was \$244,375,055 and \$243,708,090 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended September 30, 2017 was 1.21%. The comparative benchmarks for the same period were 1.11 % for LAIF (Local Agency Investment Fund) and 1.44% for the 12-month average yield of the 3-year Treasury Note. The weighted average maturity of the portfolio was 497 days. This report and accompanying charts reflect the change from the 2-year Treasury benchmark to the 3-year Treasury benchmark that was approved by Council in the last revision to the City's Investment Policy in August 2017. As the City shifts towards a new weighted average maturity goal of 3 years, investment returns should increase as result of longer duration. However, this will take time to achieve and requires a dedicated and highly focused investment strategy.

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

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

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

Fiscal Impact: None

Recommendations: Receive investment report for the quarter ended September 30, 2017.

Attachment: Charts and Graphs

17. **JOINT MEETING ITEM: CITY COUNCIL / HOUSING AUTHORITY**
Approve the \$150,000 Predevelopment Loan Documents to Resources for Community Development for Predevelopment Expenses for 355 Sango Ct and Appropriate \$150,000 from the Housing Authority Fund (Staff Contact: Tim Wong, 408-586-3286)

Background: On August 1, 2017, the Milpitas Housing Authority approved a \$150,000 loan commitment for predevelopment costs for the proposed affordable housing development at 355 Sango Court. The developer, Resources for Community Development (RCD) would use the funds for certain predevelopment costs for the proposed 101 unit affordable rental development. The 101 unit development would include at least units for veterans, many which are homeless or formerly homeless. The remaining units are for low or very low income households not to exceed 60% of Area Median Income (AMI). For reference, a four-person household at 60% AMI earns approximately \$68,000 per year.

Project Site

355 Sango Court is a 1.26 acre is zoned R-4 (High Density Multifamily Residential) with a Transit Oriented District (TOD) Overlay which requires a minimum unit density of 42 residential units per acre to a maximum of 60 units per acre. In the City's Density Bonus Ordinance, RCD can receive a 35% increase over the maximum allowable density of the base zoning in exchange for the provision of affordable housing.

Since RCD is proposing a fully 100% affordable project, RCD would be eligible for the full 35% density bonus. Therefore the project could have a maximum density of 81 units per acre. This proposed project has a density of 80 units per acre.

Predevelopment Budget

The predevelopment loan will pay for the following expenditures. The predevelopment expenses include:

Environmental Review (Phase 1 and 2, NEPA)	\$ 37,250
Architecture	\$ 66,611
Engineering	\$ 21,952
City Fees	\$ 20,000
Appraisal	\$ 4,000
Land Use Attorney	\$ 187
TOTAL	<u>\$150,000</u>

A predevelopment loan poses a slightly higher risk of loss to the City since the loan is not secured against the property. To mitigate some of the risk, a Collateral Agreement has been included in the loan document package. If the project fails to move forward for some reason, the City would take ownership of any completed study or drawings that have been prepared for the project.

The overall development budget is estimated to be about \$74 million. Possible sources of financing may include Santa Clara County Measure A funds, Federal low income housing tax credits and State of California Veterans Housing and Homelessness Prevention funds.

Housing Authority Fund

The source of funding for the predevelopment loan would be from the City's Housing Authority Fund. The City's Housing Authority Fund was created from loan repayments and other sources of program income from past redevelopment agency loans. The fund balance is approximately \$8 million. Since the Milpitas Housing Authority is the "housing successor" to the City's Redevelopment Housing Agency, the State has passed new rules on how housing successors may spend their housing funds. Effective January 1, 2014, the State passed legislation that had stricter rules for expenditures. Some of the stricter requirements include:

- No expenditures for moderate income housing
- 30% must be spent on extremely low income households (ELI)
 - o ELI is defined as households earning less than 30% of Area Median Income (AMI)
- No more than 20% of the funds can be spent on housing for households earning between 60-80% of AMI.
- The funds need to be spent within 5 years of passage of the legislation.

Loan Documents

There are three documents for the Council's consideration. They are listed below with significant details of each document:

1. Predevelopment Loan Agreement –
 - a. The Loan Agreement is 24 month term with a 6 month extension. The extension can be granted at the Housing Authority's discretion.
 - b. The loan may be forgiven if the project does not move forward. The forgiveness of the loan is at the sole discretion of the Housing Authority.
2. Promissory Note
 - a. 3% simple interest
 - b. The note is due and payable in one lump sum at the earliest of:
 - i. Unpermitted transfer
 - ii. Occurrence of Default
 - iii. Expiration of term without the City providing any subsequent financing.
3. Collateral Agreement
 - a. If the project does not move forward, the City retain any product such as studies or drawings paid for by the City loan.

Environmental Review The predevelopment loan for the proposed 355 Sango Project is covered under the scope of activities approved under the Transit Area Specific Plan Environmental Impact Report ("EIR"), (SCH#2006032091), which was certified by the Milpitas City Council on June 3, 2008. Pursuant to Public Resources Code section 21166 and California Environmental Quality Act (CEQA) Guidelines Section 15168, the Project is therefore exempt from further review under CEQA.

Fiscal Impact: The predevelopment loan would be funded from the City's Housing Authority Fund. The current fund balance is approximately \$8 million.

Recommendations:

1. Approve the \$150,000 predevelopment loan documents, in substantial form.
2. Appropriate \$150,000 from the Housing Authority Fund to the Planning and Neighborhood Services operating budget.
3. Authorize the Interim Executive Director to execute the loan documents on behalf of the City's Housing Authority.

Attachments:

- a) Loan Agreement
- b) Promissory Note
- c) Collateral Agreement

XV. ORDINANCES

18. Waive the Second Reading and Adopt Ordinance No. 289.1 Amending Chapter 2 and Chapter 4 of Title I of the Municipal Code Relating to Purchasing and Contract Authority (Staff Contact: Will Fuentes, 408-586-3111)

Background: Ordinance No. 289.1 was introduced following waiving of the first reading beyond the title at the October 5, 2017 Council meeting. At the October 5 introduction, the City Council directed minor changes to the Ordinance to designate the City Manager contract authority limit as \$50,000. This is the only change from the version introduced at the October 5 Council meeting. This change has now been made and this Ordinance is ready for its second reading and adoption.

Ordinance No. 289.1 amends Chapter 2 and Chapter 4 of Title I of the Municipal Code relating to Purchasing and Contract Authority. A summary of key changes to the Municipal Code is listed.

Summary of Key Municipal Code Changes:

- Decreases level of City Manager Contract Authority from \$100,000 to \$50,000;
- Adds monthly reporting of contracts approved under City Manager Contract Authority to the City Council Finance Sub-Committee;
- Revises all applicable sections to make consistent with \$50,000 City Manager Contract Authority level; and
- Makes necessary updates to reflect current practices as it relates to eProcurement and the use of Cooperative Purchasing Agreements.

Fiscal Impact: None

Recommendation: Waive the second reading and adopt Ordinance No. 289.1 amending Chapter 2 and Chapter 4 of Title I of the Municipal Code relating to Purchasing and Contract Authority.

Attachment: Ordinance No. 289.1

19. Adopt Two Resolutions Authorizing the City of Milpitas' Membership and Approving the Joint Powers Agreement Establishing the Silicon Valley Clean Energy Authority, Related to Formation of and Milpitas' Membership in the Silicon Valley Clean Energy Authority, and Waive the First Reading and Introduce Ordinance No. 296 Authorizing Implementation of a Community Choice Aggregation Program (Staff Contact: Edesa Bitbadal, 408-586-3052)

Background: On October 17, 2017, the City Council voted to proceed with the steps required to join Silicon Valley Clean Energy (SVCE). Prior to the City Council meeting on October 17, 2017, the Economic Development Commission had voted unanimously on October 9, 2017 to recommend to the City Council that the City join SVCE.

SVCE is a community-owned agency that sources carbon-free electricity at competitive costs. Procuring electricity generated from carbon-free sources allows SVCE member communities to make large-scale reductions in carbon emissions from electricity use. In addition, SVCE will advance programs for demand management, efficiency and fuel switching – to clean, carbon-free electricity in the place of fossil fuels used in transportation, buildings and infrastructure.

SVCE maintains a full-time staff and is governed by a public Board of Directors comprised of an elected official from each member community. The regular director must be an elected official from the governing body of each community. Member communities also designate a board alternate. The alternate is appointed by the respective governing body, but can be a member of the body itself, City staff or the public. The City of Milpitas will join the current SVCE member communities of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale and unincorporated Santa Clara County.

By law, the agency is funded through program revenues only, not local government budgets. All revenues are returned to the community in the form of maintaining competitive rates, promoting local clean energy projects and programs. SVCE's projected revenues for the 2017-2018 fiscal year are \$239.7 million.

SVCE currently has over 240,000 active accounts within its service area, with a total load of approximately 3,500 gigawatt-hours. SVCE began serving customers in April 2017. The participation rate is 97%. Based upon 2016 electricity usage data, Milpitas is projected to add approximately 25,000 residential and commercial accounts to SVCE, and an additional electric load of approximately 640 gigawatt-hours or 18% of SVCE's current load.

SVCE prepared a comprehensive outreach plan to inform residents, businesses, and community stakeholders in advance of the April 2017 launch, and continued outreach throughout the enrollment period, through October 2017. Nearly 90% of SVCE customer accounts are residential, however, more than 60% of the total electric load are commercial and industrial customers. Therefore, outreach to both residential and commercial customers is critical. Both SVCE and the Economic Development Division staff will work collaboratively when outreaching to residential and commercial customers. Once SVCE launches services to all Milpitas customers, Economic Development Division staff will continue to be the point of contact to residents, businesses, and SVCE representatives.

A thorough Technical Study was completed in 2015, prior to the formation and launch phases of SVCE. Based on the study's findings, all member communities recommended proceeding with the formation of SVCE. Now, as a fully operational agency, SVCE's operational results have exceeded initial projections. Financial results for SVCE have also been strong. The agency is currently maintaining an operating margin of more than 20%, which is being used to build a financial reserve fund, and provide funding for local clean electric and energy efficiency programs.

Since the agency is currently operating under a scenario that exceeds the results of the original technical feasibility study, and Milpitas represents an additional load of approximately 18%, there is no need to conduct further technical studies to evaluate whether the City of Milpitas can be successfully served by SVCE, similar to the other participating communities.

Fiscal Impact: None. The City of Milpitas will not be required to contribute toward working capital or pay an entrance fee to join Silicon Valley Clean Energy.

Recommendations:

1. Adopt a resolution requesting approval of the City of Milpitas as a Member of the Silicon Valley Clean Energy Authority by the Authority's Board of Directors.
2. Adopt a resolution approving the Joint Powers Agreement Establishing the Silicon Valley Clean Energy Authority.
3. Following a reading of the title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 296.
4. Introduce Ordinance No. 296.

5. Direct staff to return to City Council for appointment of a regular Director and alternate Director to the Authority's Board of Directors.

Attachments:

- a) Resolution – membership in SVCE
- b) Resolution – approving JPA
- c) Ordinance No. 296 for first reading and introduction

XVI. RESOLUTIONS

20. Consider Adopting a Resolution Approving a Censure Policy for the City Council (Staff Contact: Christopher Diaz, 408-586-3040)

Background: On August 1, 2017, City Council considered the proposed resolution for a censure policy; however, no vote was taken, after the motion made received no second at that meeting. Councilmember Nuñez requested for City Council to reconsider the proposed resolution for a vote at a future City Council meeting.

On October 3, 2017, City Attorney Diaz presented a report regarding censure policy. A copy of a proposed resolution for a censure policy was included within that City Council meeting's agenda packet. A motion was made directing the City Attorney to return with a revised policy which would incorporate various levels of censure, including reprimand, prior to voting towards the censure a member of the City Council. The motion passed with a vote of 4 Ayes and 1 Abstain (Mayor Tran).

Censure is defined as the "formal resolution of a legislative, administrative or other body reprimanding a person, normally one of its own members, for specified conduct." (Black's Law Dictionary.) Public censure of a City Councilmember is generally done in the form of a resolution of reproach that is adopted by the City Council and then read to the members of the public in attendance at that City Council meeting. The resolution of reproach thus becomes a public record of the City.

Notice of an intent to censure and an opportunity for the Councilmember to respond is recommended to protect the reputational interests of the Councilmember. The City Council must make supported factual findings before censuring a Councilmember. (*Braun v. City of Taft* (1984) 154 Cal. App. 3d 332, 348.) In addition, the California Attorney General has issued a written opinion concluding that complaints against elected officials may not be discussed in closed session. (61 Ops. Cal. Atty. Gen. 10 (1978).) Therefore, if the City Council wishes to censure one of its members, the City Council should adopt a resolution containing findings as to why the City Council believes a censure is appropriate for consideration in open session.

It should also be noted that the Brown Act protects a member's public criticism of policies, procedures, programs or services of the agency or acts or omissions of the legislative body. (See Gov. Code §54954.3(c).) Accordingly, a member cannot be reprimanded or censured for expressing his or her opinions regarding City policy or conduct.

In Milpitas, there are no rules or policies concerning the authority or procedures to follow when censuring members of the City Council. The policy in the proposed resolution, if adopted by Council, would provide such a procedure while meeting the legal requirements described above.

Fiscal Impact: None.

Recommendation: Adopt a resolution approving a censure policy for the Milpitas City Council.

21. **Receive a Report Regarding the General Fund Surplus for Fiscal Year Ended June 30, 2017, Direct Staff as Appropriate, Adopt a Resolution Updating the City's Reserve Policies, and Approve Transfer of \$20.19 Million from the FY 2016-17 General Fund Surplus to PERS Stabilization Account for \$10.1 Million, General Government CIP Fund for \$9.59 Million and \$500,000 to the Storm Drain Fund (Staff Contact: Will Fuentes, 408-586-3111)**

Background: As was discussed in the Year-End Financial Report, the City has a General Fund operating surplus of **\$21.64 million** for the Fiscal Year Ended June 30, 2017; resulting from annual revenues being greater than annual expenditures. \$7.28 million of this surplus is again due to the one-time sales of the McCandless property to the Milpitas Unified School District (MUSD). \$14.36 million was due to other revenue and expenditure items which were explained in detail in the Year-End Financial Report. Note that these are preliminary numbers subject to change as the City's annual audit is finalized (tentatively scheduled for December 2017).

After the Great Recession, significant budget cuts in 2012, and a prolonged period of slow economic growth, the presence of an operating surplus is welcome news. However, staff cautions the City Council against spending down a substantial amount of this fund balance since the next economic downturn, natural disaster or emergency could happen at any time. And in light of rising pension, retiree healthcare, and other benefit costs, the City would be prudent to build up its reserves to ensure long-term fiscal sustainability.

Currently, the City has various unallocated reserves in each of the City's funds to protect the City in emergencies, economic uncertainties, and to finance unforeseen opportunities and/or requirements. Key reserve policies for various funds are described in detail in the attached City of Milpitas Fiscal Policies. The following reserve policies relate specifically to the General Fund and this report will focus on the General Fund. Proposed changes to policy are also detailed below. Note that while these are staff recommended changes based on professional experience and best practice, Council may choose to alter, add to, or delete any of the proposed policy changes as it deems necessary to address other concerns:

- ***Unassigned Fund Balance (Contingency Reserve)***

- o CURRENT POLICY: The City will maintain an unassigned fund balance [Contingency Reserve] of at least 15% of the annual operating expenditures in the General Fund for emergencies and unforeseen operating or capital needs.
- o PROPOSED REVISION: Government Finance Officers Association (GFOA) guidance recommends no less than two months (16.67%) of unrestricted reserves to protect against natural disasters, volatile and delayed revenues sources, unexpected significant expenditures, etc. (<http://www.gfoa.org/fund-balance-guidelines-general-fund>). Thus, staff recommends ***revising the current 15% to 16.67%*** since in the event of an emergency, reimbursement from federal and other sources could be delayed. This would increase the General Fund Contingency Reserve from \$13,026,277 to \$14,476,536; a difference of **\$1,450,259**.

- ***PERS Stabilization Reserve***

- o CURRENT POLICY: The City will maintain in the General Fund a \$5 million Public Employees Retirement (PERS) Rate Stabilization Reserve. Based on the annual valuation report provided by CalPERS, the City may

fund either the Annual Required Contribution (ARC) amount in lieu of a contribution amount derived from a percentage of salary. Any savings or additional costs resulting from the funding methodologies shall be adjusted from the PERS Rate Stabilization Reserve. This reserve may also be drawn on if the required employer contribution rates exceed previous year's contribution rates by more than 3% of payroll. In this instance, the City Council must approve utilization of this reserve at the time of the budget hearing. This reserve balance will be replenished from the unassigned fund balance after the 15% requirement of the operating expenditures has been met.

- o PROPOSED REVISION: As of the end of the Fiscal Year Ended June 30, 2017, the City had a Net Pension Liability of **\$165.18 million** for its Miscellaneous and Safety CalPERS plans. This increased from \$134.55 million at the end of Fiscal Year Ended June 30, 2016; a difference of \$30.63 million. This was mainly due to the lowering of CalPERS investment discount rate from 7.5% to 7.0%, increasing mortality assumptions, and decreasing risk tolerance. Contractually agreed to pensions are the City's biggest liabilities and thus, it is imperative that the City formulate a sound plan to address them and/or pay them down over time.

Staff recommends establishing a policy that would provide the City with flexibility to address its pension liabilities through a multi-pronged approach in the future. One approach could be to establish a Section 115 Pension Trust dedicated to pension rate stabilization. The City has a PERS Stabilization Reserve, but this is on its own books and could be used for other purposes per Council direction. Establishing a Section 115 Trust through an outside trustee ensures that monies are only used for their intended purpose and is a common practice in other public agencies. Paying extra to PERS could also be an approach and can be seen as paying extra towards a mortgage or credit card balance to reduce total interest charges. CalPERS also offers public agencies an option to shorten the amortization period by which unfunded liabilities are paid off. This is similar to refinancing a mortgage to reduce the term; thereby reducing total interest costs over the life of the loan. As it relates to CalPERS, this can be a formal "refinancing", or an informal "refinancing" where the City pays CalPERS more each year based on the preparation of its own shortened amortization schedule. Staff recommends the latter approach as it gives the City more flexibility.

Staff is currently exploring all options and partnering with a company called GovInvest to visually present unfunded pension and OPEB (Other Post Employment Benefit) liabilities and develop plans. Thus, staff will be returning to Council at a later date this fiscal year to discuss a comprehensive plan for addressing unfunded pension and OPEB liabilities. At this time though, staff recommends revising current PERS Stabilization Reserve policy to have ***add at least 50% of any annual General Fund surpluses to it after accounting for the 16.67% Contingency Reserve Policy discussed previously.*** This would equal **\$10.10 million** in FY 2017-18 and be a significant step towards addressing the City's unfunded liabilities. As of the end of the Fiscal Year Ended June 30, 2017, the City had \$8.9 million in its PERS Stabilization Reserve. Staff's proposed change, would increase it to **\$19.00 million**. Staff's 5-year projection in the FY 2017-18 adopted budget indicated that the City would start drawing down the PERS Contingency Reserve in FY 2021-22 due to rising pension rates. Staff now believes that this draw down could be sooner due to actual rate projections released by CalPERS in August 2017 and will incorporate these new figures into future

5-year projections. At this time though, it is critical that the City begin taking steps to address unfunded pension liabilities in a meaningful manner.

- ***Storm Drain Replacement Reserve***

- CURRENT POLICY: The City will maintain a Storm Drain replacement reserve to replace and repair storm drain pump stations. The City will endeavor to set-aside \$500,000 annually from the General Fund reserve for this purpose.
- PROPOSED REVISION: ***No change.*** While the City's Policy has been to have a Storm Drain Replacement Reserve set at \$500,000, there is currently nothing in the reserve. Thus, staff recommends adhering to this policy so as to have adequate funds to pay for storm repairs and setting aside **\$500,000.** Staff further recommends that these funds be transferred from the General Fund to the Storm Drain Development Fund.

- ***OPEB Reserve***

- CURRENT POLICY: The City will maintain a retiree medical benefits account established by an irrevocable trust and fund the required contribution annually.
- PROPOSED REVISION: ***No change.*** The City currently maintains a Section 115 trust with the California Employer's Retiree Benefit Trust (CERBT) program administered by CalPERS. This pays for the City's contractually agreed to retiree healthcare obligations. As of the end of the Fiscal Year Ended June 30, 2017, the City had \$39.07 million of assets with CERBT to pay its unfunded OPEB liabilities; thereby leaving an unfunded OPEB liability of **\$39.61 million.** The City establishes its contribution to CERBT in the annual budget process and is scheduled to contribute approximately \$4.0 million to CERBT in FY 2017-18.

- ***Capital Reserve for Technology Equipment***

- CURRENT POLICY: The City will maintain a capital reserve for technological equipment replacement and will endeavor to set aside an annual amount of \$300,000 in this fund.
- PROPOSED REVISION: ***No change.*** The Capital Reserve for Technology Equipment is funded by the General Fund as a result of the annual budget process. This is sufficient to meet technology capital needs and requires no further monies at this time from the General Fund.

- ***General Government Capital Improvements***

- CURRENT POLICY: The City may direct any portion of the General Fund revenues that is not required to balance the operating budget to a General Government Capital Improvement Fund to address the funding needs of capital improvement projects.
- PROPOSED REVISION: As previously discussed, the City has an operating surplus of \$21.64 million as of the end of the Fiscal Year Ended June 30, 2017. After accounting for the current and revised reserve policies above, this leaves a remaining surplus of **\$9.59 million.** And of this \$9.59 million, staff is proposing using \$2.07 million for the purchase of one (1) Fire Pumper Truck and one (1) Fire Aerial Truck. This purchase is discussed in a later staff report being considered by Council at the November 7, 2017 meeting. After accounting for this purpose, **\$7.52 million** would be available for unfunded Capital Projects. ***Staff recommends keeping the current policy for directing General Fund surpluses to the General Government Capital Improvement Fund, but adding in a caveat that this shift will only be done after all other General Fund current and revised reserve policies discussed***

previously have been met. At its discretion, Council could also choose to use this remaining balance for other purposes, but staff does not recommend doing so since deferred maintenance and capital replacement costs grow at an exponential rate. The City can either address these needs now or risk paying much more in the future due to inflation and rising costs of maintenance. The City has a \$332.88 million Capital Improvement Program over the next 5 years; \$68.37 million of which is currently unfunded. By making an additional contribution of \$7.32 million, the City will be making a significant down payment on its future. Staff though does not recommend using this money to pay for Enterprise Fund capital projects such as those in the Water Fund. Enterprise Funds are meant to operate as private businesses that cover their own operating and capital needs through customer rates. Using General Fund money to fund Enterprise Fund projects would shifting burden from the customers that directly benefit from the capital improvements to other residents and businesses in the City that may not directly benefit from these improvements. It may also result in less money available for other operating purposes and require a reduction in service levels needed for critical City functions.

In conclusion, the actions presented above meet best practices used in other local municipalities and allow the City to work toward long-term fiscal sustainability. Council may choose to adopt all these policies, modify as necessary, delete as necessary, or add other policies identified in the attached comparison to other local municipalities. At this time though, staff recommends only revising the policies discussed previously.

Even with the recommended actions taken above, the City would still have a remaining unassigned fund balance of **\$2.66 million** that was built up in prior years. This could be used for other purposes per future Council direction. Staff though recommends keeping it untouched to allow for future flexibility and unforeseen circumstances.

Fiscal Impact: As of the end of the Fiscal Year Ended June 30, 2017, the City had an operating surplus of \$21.64 million. Staff recommends:

- ***Contingency Reserve:*** Increase to 16.67%; thereby adding **\$1.45 million**.
- ***PERS Stabilization Reserve:*** 50% of surplus after Contingency Reserve requirements; thereby adding **\$10.10 million**.
- ***Storm Drain Replacement Reserve:*** Following current policy and setting aside required **\$500,000**.
- ***General Government Capital Improvements:*** Utilizing remaining surplus and shifting **\$9.59 million**; of which \$2.07 million is already earmarked for Fire Apparatus purchases.

The total of these proposed actions equals the General Fund operating surplus of **\$21.64 million** in the Fiscal Year ended June 30, 2017.

Recommendations:

1. Receive a report regarding the General Fund Surplus for Fiscal Year Ended June 30, 2017
2. Direct staff, as appropriate.
3. Adopt a resolution updating the City's Reserve Policies.
4. Approve transfer of \$20.19 million from the FY 2016-17 General Fund Surplus to the PERS Stabilization account for \$10.1 million, General Government CIP for \$9.59 million and to the Storm Drain Fund for \$500,000.

Attachments:

- a) Resolution

- b) Exhibit A: Fiscal Policies
- c) General Fund Reserve Policies Comparison
- d) Budget Change Form

22. Adopt a Resolution Approving the Sole Source Purchase of One Pierce Velocity Fire Pumper and One Pierce 100-foot Velocity Tractor Drawn Aerial for an Amount Not to Exceed \$2,270,576 and Appropriate \$200,000 from the Equipment Fund and \$2,070,576 from the FY 2016-17 General Fund Surplus into CIP No. 3439 - Fire Apparatus Replacement Plan (Staff Contacts: Rick Frawley, 408-586-2824 and Chris Schroeder, 408-586-3161)

Background: City Council adopted the Transit Area Specific Plan and the Midtown Specific Plan, both of which call for higher density housing with narrower streets and tighter turning dimensions. The Milpitas Fire Department has been replacing old equipment as needed with apparatus designed to operate in higher density areas with wheelbases designed for tighter turning radii in order to respond to calls from the new higher density developments citywide as well as older areas of the city, such as southeast Milpitas from Yosemite between South Park Victoria and Piedmont Rd. through the Piedmont corridor to Landis Avenue which also contain narrow streets and tight turning dimensions.

The Fire Department conducted a twelve month investigation, reviewing 16 different pumper engine models from the top six major fire engine manufacturers including E-ONE, KME, Pierce Manufacturing, Inc., Rosenbauer America, Smeal Fire Apparatus, and Sutphen. Pierce Manufacturing, Inc. is the only manufacturer that provides the Oshkosh TAK-4® front end and Oshkosh TAK-4 T3® rear end All-Wheel-Steer Tight Turning Technology. All-Wheel-Steer Tight Turning Technology with rear mechanical steering is a patented mechanical over hydraulic system with no electronics for fewer breakdowns and reduced maintenance requirements. The system provides power to two steering gears simultaneously to improve steering performance through smaller radius and diameter turns, improves lane-to-lane turning, increases maneuverability and safety and increases tire life by reducing tire scrub.

After a good faith review conducted by the Fire Department, the Purchasing Agent determined, pursuant to Municipal Code section I-2-3.09 “Sole Source Procurement,” that Pierce Manufacturing, Inc. was the only source for fire engines with Oshkosh TAK-4® front end and Oshkosh TAK-4 T3® rear end All-Wheel-Steer Tight Turning Technology that meets the Fire Department’s specifications. Golden State Fire Apparatus, Inc. is the sole source distributor of Pierce fire engines in northern California.

The Fire Department currently operates five Pierce fire apparatus in its fleet. Additionally, two Pierce Velocity pumpers are on order with Pierce Manufacturing Inc. and are expected to be delivered to the City by fall 2018. The all-Pierce fleet offers the benefit of uniformity of training for the engineers and maintenance staff, and provides economy of scale for parts and service costs as well as familiarity with the apparatus.

The base price for the Pierce Velocity Pumper is \$720,710.68 taking into consideration a pre-payment discount of \$30,450.54 if full payment is made at the time the order is placed. The base price for the Pierce 100-foot Velocity Tractor Drawn Aerial is \$1,489,865.26 taking into consideration a pre-payment discount of \$60,633.14 if full payment is made at the time the order is placed. The total purchase price of the two fire apparatus is \$2,270,576 which includes a \$60,000.00 contingency for any possible change orders.

Fiscal Impact: There is \$200,000 available from the Equipment Fund and \$2,070,576 will come from FY 2016-17 the General Fund surplus.

Recommendations:

1. Adopt a resolution approving the sole source purchase of one Velocity fire pumper and one 100-foot Velocity tractor drawn aerial from Pierce Manufacturing Inc. for a total not-to-exceed amount of \$2,270,576.
2. Appropriate \$200,000 from the Equipment Fund and \$2,070,576 from the FY 2016-17 General Fund surplus to the CIP No. 3439 Fire Apparatus Replacement Plan.

Attachments:

- a) Resolution
- b) Quotes
- c) Sole Source letter dated April 21, 2017 from Pierce Manufacturing, Inc.
- d) Budget Change Form

23. Adopt a Resolution Certifying Election Results and Adding Tract No. 10435 to Community Facilities District 2005-1 (Annexation No. 18), Approve Final Map Tract No. 10435 for a 25-unit Residential Condominium Development at 260 South Main Street; Approve and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)

Background: On December 6, 2016, the City Council conditionally approved a Vesting Tentative Map (VTM) to allow for 25-unit residential condominium development at 260 South Main Street (the “Project”) between West Calaveras Boulevard and Curtis Avenue, within the Midtown Specific Plan (MSP) area.

The final map Tract No. 10435 is subject to annexation to the Community Facilities District No. 2005-1 as required by the project conditions. City has on file a Certificate of Registrar of Voters from the County of Santa Clara certifying that there is no registered voters residing within the boundaries of proposed Annexation No. 18 to the CFD 2005-1. On October 30, 2017, property owners unanimously agreed to Annexation No. 18.

The City Engineer has examined the final map Tract No. 10435 and determined that the final map Tract No. 10435 is substantially the same as the VTM pursuant to California Government Code (GC) Section 66442.

The Developer has offered dedications to the City for public use, such as public service utilities and emergency vehicle access, as required by the project condition and as depicted on the final map. City Council shall accept, accept subject to improvements, or reject any offer of dedication at the time of final map approval pursuant to GC Section 66477.1 and Milpitas Municipal Code (MMC) Section XI-1-5.05-2. In approving the final map Tract No. 10435, the City Council will also be accepting the offers of dedication as stated and depicted on the final map upon completion and acceptance of improvements.

On October 25, 2017, the City’s Facilities and Streets Naming Subcommittee reviewed and recommended approval of the street names as shown on the final map. Those private street names are Red Berry Lane, Tiger Lily Street, and Sunflower Lane, respectively, without duplication. Council shall approve all street names pursuant to MMC Section XI-1-7.01-8.

The City Engineer has also reviewed and approved public improvement plans (E-PI17-0002) pursuant to MMC XI-1-7.09-2. The Developer has executed a Subdivision Improvement Agreement as approved by the City Attorney as to form and by the City Engineer as to substance pursuant to MMC XI-1-17.01 and provided improvement securities (\$160,000 for faithful performance and \$160,000 for labor and materials) to guarantee completion of required public improvements.

The final map for Tract No. 10435 conforms to all of the requirements of the State of California Subdivision Map Act, and Milpitas Municipal Code Title XI, Chapter 1 *Subdivisions*.

California Environmental Quality Act: Approval of final subdivision map is a ministerial action exempt from CEQA, pursuant to CEQA Guidelines Section 15268(b)(3). Approval of the Subdivision Improvement Agreement implements the Project for which CEQA review has already been completed through the City Council's adoption of Resolution No. 8509 adopting an addendum to the previously certified Transit Area Specific Plan Environmental Impact Report.

Fiscal Impact: Adding Tract No. 10435 to the CFD No. 2005-1 would allow the City to levy special taxes to properties within Tract No. 10435, in order to fund for certain public services within TASP.

Recommendations:

1. Adopt a resolution certifying election results and adding Tract No. 10435 to Community Facilities District 2005-1 (Annexation No. 18); and
2. Approve Final Map Tract No. 10435, including approval of street names and acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements; and
3. Approve and authorize the City Manager to execute the Subdivision Improvement Agreement.

Attachments:

- a) Resolution
- b) Final Map –Tract No. 10435
- c) Subdivision Improvement Agreement

24. Adopt a Resolution Authorizing the City Manager to Execute an Agreement Between the County of Santa Clara and the City of Milpitas Granting Program Funds for the 2017 Emergency Management Performance Grant Funds and Appropriate Funds in the Amount of \$17,500 to the Milpitas Fire Department Office of Emergency Services (Staff Contact: Toni Charlop, 408-586-2801)

Background: Santa Clara County has received EPMG funding from State Office of Emergency Services. Annually the Santa Clara County Operational Area Signatories vote to decide how the funding should be spent. The Milpitas Office of Emergency Services has been awarded \$17,500 to be spent as follows:

1. Host Disaster Recovery Workshop for County Emergency Managers/staff: \$11,000
2. California Emergency Services Association Annual Training & Conference: \$1,300
3. International Association for Emergency Managers Training & Conference: \$1,600
4. California Specialized Training Institute Courses: \$3,600

Fiscal Impact: The EMPG grant will cover the cost of annual training for the City's Emergency Services Coordinator, and the cost to host training for Milpitas Finance Dept. staff and Countywide Emergency Staff with regard to disaster recovery.

Recommendations:

1. Adopt a resolution authorizing the City Manager or his designee to execute an agreement for the acceptance and use of the 2017 Emergency Management Performance Grant (EMPG) in the amount of \$17,500.
2. Approve a budget appropriation in the amount of \$17,500 to the Fire Department's Emergency Services operating budget.

Attachments:

- a) Resolution and Agreement with County of Santa Clara
- b) Budget Change Form

25. **Adopt a Resolution Adopting All of Volume 1 and the City of Milpitas' Portion of Volume 2 of the Santa Clara County Operational Area Hazard Mitigation Plan (Staff Contact: Toni Charlop, 408-586-2801)**

Background: In July of 2016, the Milpitas Office of Emergency Services (OES) joined a coalition of Santa Clara County cities and special districts to embark on a planning process to prepare for, and lessen, the impacts of specified natural hazards. The culmination of this work resulted in an update of the Santa Clara County Operational Area Hazard Mitigation Plan.

Due to federal mandates (Disaster Mitigation Act of 2000, Public Law 106-390), this multi-jurisdictional partnership was formed to pool resources and create a uniform hazard mitigation strategy that can be consistently applied to the defined planning area and used to ensure eligibility for specified grant funding success. The result of the organizational effort will be a Federal Emergency Management Agency (FEMA) and California Office of Emergency Services (CalOES) approved multi-jurisdictional, multi-hazard mitigation plan. The plan has been aligned with the goals, objectives and priorities of the state's multi-hazard mitigation plan.

Fiscal Impact: None

Recommendation: Adopt a resolution adopting all of Volume 1 and the City of Milpitas' portion of Volume 2 of the Santa Clara County Operational Area Hazard Mitigation Plan.

Attachments:

- a) Resolution
- b) Volume 1 of County's Hazard Mitigation Plan
- c) Volume 2 of County's Hazard Mitigation Plan

XVII. AGREEMENTS

26. **Approve and Authorize the City Manager to Execute the Public Trail Maintenance Agreement Located at 31 South Milpitas Boulevard by Orchid Homeowners Association, and Receive Two Parcels from DR Horton Bay, Inc. Associated with the Orchid Project (Staff Contact: Judy Chu, 408-586-3325)**

Background: On January 15, 2013, the City Council conditionally approved a Vesting Tentative Map, a Site Development Permit and a Conditional Use Permit for 80 single-family homes at 31 South Milpitas Boulevard between East Calaveras Boulevard and Los Coches Street by DR Horton Bay, Inc.

On October 1, 2013, the City Council approved a final map Tract No. 10192 and public improvement plans for the Orchid Project. As part of the approved final map Tract No. 10192, Parcel I and Parcel J (the "Two Parcels") are to be conveyed by separate instrument to the City of Milpitas subsequent to the filing of the final map. Project condition no. 7 requires the Developer to construct public trails and the Home Owner's Associated (HOA) to maintain the public trails on the Two Parcels.

On March 7, 2017, the City Council granted initial acceptance of public improvements after Developer's completion of public improvements which include public trail improvements on the Two Parcels. The Orchid HOA has executed a Public Trail Maintenance Agreement for perpetual maintenance of public trail improvements. Therefore, the Two Parcels are ready to be conveyed to the City with the Grant Deed.

California Environmental Quality Act: Neither execution of the Agreement nor conveyance of land is considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

Fiscal Impact: None.

Recommendation: Approve and authorize the City Manager to execute the Public Improvement Maintenance Agreement for a public trail located at 31 South Milpitas Boulevard by Orchid Homeowners Association, and receive two parcels from DR Horton Bay, Inc. associated with the Orchid development project.

Attachments:

- a) Public Trail Maintenance Agreement
- b) Final Map Tract No. 10192
- c) Grant Deed

27. Approve and Authorize the City Manager to Execute an Improvement Agreement for Three New Self-Storage Buildings at 1600, 1601 Watson Court and 1080 Pecten Court by Storage Equities/PS Partners IV–Pecten CT (Staff Contact: Judy Chu, 408-586-3325)

Background: On March 25, 2015, the City Planning Commission conditionally approved a Site Development Permit and a Conditional Use Permit for construction of three new self-storage buildings located at 1600, 1601 Watson Court and 1080 Pecten Court, between South Milpitas Boulevard and Interstate Highway 680, by Storage Equities/PS Partners IV – Pecten CT (the “Developer”).

The City Engineer has reviewed and approved public improvement plans (2-1203). Pursuant to Milpitas Municipal Code Title X, Chapter 1, Section 10, Developer shall execute an agreement with the City at the time of the permit issuance to install those public improvements. The Developer has executed an Improvement Agreement as approved by the City Attorney as to form and by the City Engineer as to substance, paid all development fees and provided improvement securities (\$333,000.00 for faithful performance and \$333,000.00 for labor and materials) to guarantee completion of required public improvements.

California Environmental Quality Act: Execution of an 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. Developer would pay a premium to the surety company for City required improvement securities. Should the Developer fail to complete the required public improvements, City may call upon the surety company and receive the bond amount to complete the required public improvements.

Recommendation: Approve and authorize the City Manager to execute an improvement agreement for three new self-storage buildings at 1600, 1601 Watson Court and 1080 Pecten Court by Storage Equities/PS Partners IV – Pecten CT.

Attachment: Improvement Agreement

28. Approve Amendment No. 6 to the Agreement with Cayenta and Authorize City Manager to Execute it for Cayenta Software Support and Maintenance Service for the Financial and Utility Billing System for an Amount Not to Exceed \$24,000 (Staff Contact: Chris Schroeder, 408-586-3161)

Background: In 2015, the City of Milpitas entered into an agreement with Cayenta to implement a wireless Beacon Meter Reading Interface for the City of Milpitas, which is the basis of the City’s utility billing system. Cayenta is the developer of the software, and there is no other source for support and maintenance of this application.

The City desires to amend the agreement by \$24,000 to fund changes to Cayenta utility billing system to remove garbage billing functionality. Garbage billing will be taken over by Milpitas Sanitation and thus removed from the City's billing system.

Additional funding is also requested to make continued improvements to the City's system and allow for additional operational efficiencies as these improvements are discovered and implemented for a new combined maximum compensation amount of \$139,784.

Fiscal Impact: None. Funds for this purchase are available the Finance Department Fiscal Year 2017-18 operating budget.

Recommendation: Approve Amendment No. 6 to the agreement with Cayenta, subject to any minor revision deemed necessary by the City Attorney, and authorize the City Manager to execute the amendment to the Cayenta Software Support and Maintenance Service Agreement for the financial and utility billing system for the not-to-exceed amount of \$24,000 and a total agreement not-to-exceed amount of \$139,784.

Attachments:

- a) Amendment No. 6 to the Agreement with Cayenta
- b) Exhibit G – Cayenta quote

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

XIX. ADJOURN JOINT MEETING

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, NOVEMBER 21, 2017