# JOINT MEETING OF THE MILPITAS CITY COUNCIL AND PUBLIC FINANCING AUTHORITY

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

## AGENDA

**TUESDAY, AUGUST 7, 2018**
**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA**
**5:30 P.M. (CLOSED SESSION)**
**7:00 P.M. (PUBLIC BUSINESS)**

### SUMMARY OF CONTENTS

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

**II. ADJOURN TO CLOSED SESSION** (5:30 PM)

**(a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6
City Negotiator: Liz Brown, Human Resources Director
Employee Group: 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

**(b) 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

**(c) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(1)
First Amendment Coalition v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235

**(d) CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Pursuant to California Government Code Section 54956.8
Property: (no APN) right-of-way land located directly north and adjacent to Barber Ct
Agency negotiator: Julie Edmonds-Mares
Negotiating parties: Outfront Allvision, LLC, Alex Belenson
Under negotiation: Price and terms of payment

**(e) CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
Pursuant to California Government Code Section 54956.8
Potential Property: Assessor's Parcel Number 086-036-012
Agency negotiator: Julie Edmonds-Mares
Under negotiation: Price and terms of payment

**(f) PUBLIC EMPLOYEE EVALUATION**
Pursuant to Government Code Section 54957
Employee Position: City Attorney

**(g) CONFERENCE WITH LABOR NEGOTIATORS**
Pursuant to Government Code Section 54957.6
Agency designated representative: Julie Edmonds-Mares, City Manager
Employee: City Attorney Contract

**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** (Councilmember Barbadillo)

**VI. PRESENTATION -** Honoring first responders with reception to follow

**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 spoken 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. 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. 16)

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 Schedule of Meetings/City Council Calendar - August 2018**

**2.** **Approve City Council Meeting Minutes for June 12, 19 and 20, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**

**3.** **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2018 (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)**

**4.** **Appoint One City Councilmember to Serve as Voting Delegate at the League of California Cities Annual Conference in Long Beach, CA (Staff Contact: Mary Lavelle, 408-586-3001)**

| | |
|---|---|
| 5. | **Approve Out of State Travel for City Manager Julie Edmonds-Mares to Attend the 104th International City/County Management Association (ICMA) Annual Conference in Baltimore, MD September 23–26, 2018 (Staff Contact: Julie Edmonds-Mares, 408-586-3050)** |
| 6. | **Approve Out of State Travel for Councilmembers Bob Nuñez and Anthony Phan Along with Deputy City Manager Steve McHarris to Attend the 2018 Study Mission: Seattle, Washington hosted by the Silicon Valley Organization October 3-5, 2018 (Staff Contact: Julie Edmonds-Mares, 408-586-3050)** |
| 7. | **<u>CITY COUNCIL AND PUBLIC FINANCING AUTHORITY</u>**<br>**Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board Authorizing Investment of Monies in the Local Agency Investment Fund and Updating Officers' Information (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)** |
| 8. | **Adopt a Resolution Approving the Annual Investment Policy (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)** |
| 9. | **Adopt a Resolution Approving Request to Host a Flag Ceremony at City Hall Outside Plaza by Pakistani American Community Center on August 14, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)** |
| 10. | **Adopt a Resolution Approving a Site Development Permit for New 4,831 square foot Two-Story Single Family Residence on a Vacant Lot on the Hillside at 517 Vista Ridge Drive and Making Findings of Exemption Under the California Environmental Quality Act (Staff Contact: Adrienne Smith, 408-586-3287)** |
| 11. | **Adopt a Resolution Requesting the Allocation of Transportation Development Act, Article 3 Funds for Americans with Disabilities Act Curb Ramp Transition Program 2019 (Staff Contact: Steve Chan, 408-586-3324)** |
| 12. | **Adopt a Resolution Awarding a Contract to Joseph J. Albanese, Inc. and Authorize Director of Engineering/City Engineer to Execute Contract Change Orders for Street Resurfacing Project 2018, Phase II, Projects No. 4284, No. 4287 and No. 4291 (Staff Contact: Steve Erickson, 408-586-3301)** |
| 13. | **Approve Amendment No. 2 to the Agreement with Alice Wright and Authorize the City Manager to Execute the Amendment for Shopping Cart Retrieval Service for Annually Not to Exceed $21,600, with Total Contract Amount Not to Exceed $108,000 (Staff Contacts: Chris Schroeder, 408-586-3161 and Tim Wong, 408-586-3286)** |
| 14. | **Approve Amendment No. 3 to the Agreement with the Law Firm Best, Best & Krieger, LLP for City Attorney Services in the Amount of $227,000 for Fiscal Year 2017-18 (Staff Contact: Will Fuentes, 408-586-3111)** |
| 15. | **Adopt a Resolution Amending the Classification Plan for the Classification of Public Information Officer Effective August 7, 2018 and Modifying the Salary Range for the Position of Public Information Officer from $135,304.00 to $189,425.60 (Staff Contacts: Ashwini Kantak, 408-586-3053; Liz Brown, 408-586-3086; and Will Fuentes, 408-586-3111)** |

16. **Move to Rescind Prior Council Action of Removal of Specific Member from Citizens Task Force on Water Rates and Accept Voluntary Resignation (Contact: Vice Mayor Grilli, 408-586-3031)**

**XII. PUBLIC HEARINGS** (The following items No. 17 - 22 scheduled for discussion)

17. **Reopen the Public Hearing and Consider Approving Community Development Block Grant Allocations for FY 2018-19 and Adopt the One-Year Annual Action Plan (Staff Contact: Tim Wong, 408-586-3286)**

18. **Conduct a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessment Report and Assessment List to be Entered on Tax Assessment Rolls (Staff Contact: Albert Zamora, 408-586-3371)**

**XIII. REPORT OF COMMISSION**

19. **Review Recommendation from the Sister Cities Commission Regarding Visit Request From the City of Dagupan, Philippines (Staff Contact: Leslie Stobbe, 408-586-3352)**

**XIV. NEW BUSINESS**

20. **Appoint One Councilmember as Representative and One Councilmember as Alternate to "UrbanPlan for Public Officials" on September 28 at Wilson Sonsini in Palo Alto, a Training Sponsored by Urban Land Institute and Silicon Valley Economic Development Alliance (Staff Contact: Steve McHarris, 408-586-3059)**

21. **Approve Conceptual Design for Creighton Park Renovation, Project No. 5109 (Staff Contact: Renee Lorentzen, 408-586-3409)**

**XV. RESOLUTIONS**

22. **Receive a Report from Fairbank, Maslin, Maullin, Metz and Associates (FM3) Regarding Public Opinion Polling of Two Potential Tax Measures; Adopt Resolutions Authorizing Placement of Transient Occupancy Tax Increase and Cannabis Use Tax Measures on the November 6, 2018 Ballot; and, Direct Staff to Initiate Process on Draft Zoning Ordinance to Regulate Cannabis Cultivation for Personal Use and to Prohibit All Commercial Cannabis Uses (Staff Contacts: Ashwini Kantak, 408-586-3053; Will Fuentes, 408-586-3111; and Renee Lorentzen, 408-586-3409)**

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

**XVII. ADJOURN JOINT MEETING**

**NEXT REGULAR CITY COUNCIL MEETING**
**TUESDAY, AUGUST 21, 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**

Vacancies exist currently on:

Bicycle Pedestrian Advisory Commission
Community Advisory Commission
Economic Development Commission
Emergency Preparedness Commission
Parks, Recreation and Cultural Resources Commission
Planning Commission
Recycling and Source Reduction Advisory Commission
Sister Cities Commission
Veterans Commission

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

*If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, 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 Schedule of Meetings/City Council Calendar for August 2018**

**Recommendation**: Receive and accept Council calendar of meetings for August 2018.

**Attachment**: August 2018 Calendar

**2. Approve City Council Meeting Minutes of June 12, 19 and 20, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**

**Recommendation**: Move to approve June 12, 19 and 20, 2018 City Council meeting minutes.

**Attachments**:
a) Draft meeting minutes June 12, 2018
b) Draft meeting minutes June 19, 2018
c) Draft meeting minutes June 20, 2018

**3. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2018 (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)**

**Background:** In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended June 30, 2018 is submitted for the Council's review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of June 30, 2018.

As of June 30, 2018, the principal cost (book value) and market value of the City's investment portfolio was $293,520,837 and $290,861,753 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended June 30, 2018 was 1.72%. The comparative benchmarks for the same period were 1.85% for LAIF (Local Agency Investment Fund) and 2.09% for the 12-month average yield of the Three-year Treasury Note. The weighted average maturity of the portfolio was 481 days. 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. 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

**Recommendation:** Receive the investment report for the quarter ended June 30, 2018.

**Attachment**: Report and graphs

**4. Appoint One City Councilmember to Serve as Voting Delegate at the League of California Cities Annual Conference in Long Beach, CA (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** The League of California Cities will hold its annual conference at the Long Beach Convention Center in September. If a member city desires to participate in voting on resolutions and actions of the conference body, then the City Council must vote to appoint a voting delegate from among the City Councilmembers in attendance at the conference. Vice Mayor Grilli has registered for the conference and would like to serve as the voting delegate from the Milpitas City Council.

Other members may be appointed as Voting Delegate – Alternate, if desired.

**Recommendation:** to appoint Vice Mayor Marsha Grilli to serve as the Voting Delegate from the Milpitas City Council to the Annual Conference of the League of California Cities in Long Beach on September 12 – 14, 2018.

**Attachment**: Council Action Advised memo from League of California Cities

**5. Approve Out of State Travel for City Manager Julie Edmonds-Mares to Attend the 104th International City/County Management Association (ICMA) Annual Conference in Baltimore, MD September 23–26, 2018 (Staff Contact: Julie Edmonds-Mares, 408-586-3050)**

**Background:** The International City/County Management Association (ICMA) annual conference offers attendees an abundance of education, innovative ideas, information-sharing, and practical strategies for managing local government in today's complex environment while also providing countless opportunities for professional and personal growth and networking. This year's conference will be in Baltimore, Maryland from September 23 – 26, 2018.

Total conference registration fee is $940. Other expenses projected at this time are hotel reservation, and transportation (ground and air.)

**Fiscal Impact:** Approximately $2,600. Sufficient funds are in the City Manager's Office FY 2018-19 conference budget.

**Recommendation:** Authorize out-of-state travel for City Manager Edmonds-Mares to attend the ICMA Annual Conference in Baltimore, MD, for a total expense amount not to exceed approved FY 2018-19 Conferences/Meeting allocation of $10,000.

**Attachment**: Draft Agenda for the 104th ICMA Annual Meeting

**6.** **Approve Out of State Travel for Councilmembers Bob Nuñez and Anthony Phan Along with Deputy City Manager Steve McHarris to Attend the 2018 Study Mission: Seattle, Washington Hosted by the Silicon Valley Organization October 3-5, 2018 (Staff Contact: Julie Edmonds-Mares, 408-586-3050)**

**Background:** The Silicon Valley Organization is the largest Chamber of Commerce in Silicon Valley working to create a strong local economy, provide business connections and visibility on behalf of their membership. The SVO hosts Annual Study Mission, their signature economic development program that features 3-day conference that will provide attendees learning experience relating to public policy solutions and public-private partnerships that have defined the growth and prosperity of another major United States city and region. This year's Study Mission will be in Seattle, Washington from October 3 – 5, 2018.

Total conference registration fee is $2,500 per attendee, which includes accommodations for a two-night hotel stay, meals, ground transportation, and all programming related costs. Other expenses projected at this time are extra hotel stay (for one Councilmember and Deputy City Manager for October 2, 2018) and air transportation for two Councilmembers and Deputy City Manager.

**Fiscal Impact:** Approximately $7,000. Sufficient funds are in the City Council and City Manager's Office FY 2018-19 conference budget.

**Recommendation:** Authorize out-of-state travel for Councilmember Bob Nuñez, Councilmember Anthony Phan and Deputy City Manager McHarris to attend the 2018 Silicon Valley Organization's Study Mission: Seattle, Washington, for a total expense amount not to exceed approved FY 2018-19 City Council Conferences/Meeting allocation of $5,000 per Councilmember and City Manager Conferences/Meeting allocation of $10,000.

**Attachment**: Study Mission: Seattle description

**7.** **CITY COUNCIL AND PUBLIC FINANCING AUTHORITY**
**Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board Authorizing Investment of Monies in the Local Agency Investment Fund and Updating Officers' Information (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)**

**Background:** The City of Milpitas and the Milpitas Public Financing Authority have been participating in the State's Local Agency Investment Fund (LAIF) since 1977. LAIF periodically requests participants to update their investment resolutions. Staff reviewed the existing resolutions of the two entities and determined that these resolutions need to be updated due to administration and personnel changes, namely the hiring of new Assistant City Manager, Ashwini Kantak.

**Fiscal Impact:** None.

**Recommendation:** Adopt two resolutions of the (1) Milpitas City Council and (2) Milpitas Public Financing Authority, authorizing investment of monies in the Local Agency Investment Fund and updating officers' name, title and signatures.

**Attachments**: Two Resolutions

**8.** **Adopt a Resolution Approving the Annual Investment Policy (Staff Contacts: Will Fuentes, 408-586-3111 and Jane Corpus, 408-586-3125)**

**Background:** California state law regarding the investment of public funds requires all local agencies to develop an annual investment policy that must be considered by the legislative body of the local agency at a public meeting. The Annual Investment Policy (the Policy) for the City of Milpitas is submitted for Council review and approval. Finance staff continues to monitor the changes to the California Government Code in regards to investment parameters and allowable investments that may impact the City's Investment Policy.

No changes to the Investment Policy are recommended this year. The FY 2018-19 Policy is in compliance with the provisions of the California Government Code, Sections 16340, 16429.1-16429.4 and 53600-53686, the authority governing investments for municipal governments.

**Fiscal Impact:** None

**Recommendation:** Adopt a resolution of the City of Milpitas approving the Annual Investment Policy for FY 2018-19.

**Attachment**: Resolution and Investment Policy

**9. Adopt a Resolution Approving Request to Host a Flag Ceremony at City Hall Outside Plaza by Pakistani American Community Center on August 14, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** The Pakistani American Community Center (PACC) of Milpitas filed two applications with the City Clerk on July 11: (1) to rent Milpitas City Hall outdoor plaza from 7:00–9:00 PM on Tuesday, August 14, 2018, and, (2) a request to hold a ground level flag ceremony on that date. Currently, Milpitas Municipal Code I-600-2.30 requires:

> (3) The City Council may, by resolution, direct City staff to display Commemorative Flags as an expression of the City's official sentiments by any of the following means: (i) display in lieu of the MIA/POW flag on one of the four City Hall Display Flag Poles located at the rear of City Hall adjacent to the pond, (ii) display in lieu of the flag of the State of California on one of the three flag poles located at Cesar Chavez Plaza, or (iii) display through ground level ceremonies at any of the following locations at the Civic Center complex or the City of Milpitas Community Center:
>
> (1) City Hall Rotunda
> (2) Area adjacent to pond at City Hall
> (3) Cesar Chavez Plaza
> (4) City Council Chambers
>
> Commemorative Flags displayed at ground level ceremonies shall only be permitted on a flagstaff, flag stand or similar device which does not cause the flag height to exceed ten (10) feet. Commemorative Flags shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 continuous days.

Mr. Syed Mohsin on behalf of the PACC submitted proper forms along with the application fee. The group would like to hold an outdoor flag ceremony to celebrate the independence of Pakistan and hear speeches outdoors, at the back patio of City Hall, to be followed by a brief outdoor reception where approximately 80-100 people are anticipated to attend. An insurance certificate will be submitted to the City Clerk along with proper rental fee for the event ($15.00 application fee paid + $175 plaza rental).

The City Council is requested to adopt a resolution approving the request for the flag ceremony.

**Fiscal Impact:** Fees estimated at $190 will be appropriately collected for rental of the plaza and staff time for the event.

**Recommendation:** Adopt a resolution approving the flag ceremony to be held by the Pakistani American Community Center at Milpitas City Hall outside plaza on Tuesday, August 14, 2018 from 7:00 to 9:00 PM celebrating the date of Pakistan's independence.

**Attachments:**
a) Resolution
b) Rental facility and Flag Ceremony applications + map of function layout

**10.** **Adopt a Resolution Approving a Site Development Permit for New 4,831 square foot Two-Story Single Family Residence on a Vacant Lot on the Hillside at 517 Vista Ridge Drive and Making Findings of Exemption Under the California Environmental Quality Act (Staff Contact: Adrienne Smith, 408-586-3287)**

**Background:** The City received an application to construct a 4,831 square foot, two-story single-family residence, with a 736 square foot, three-car attached garage, outdoor pool and various new landscaping ("project") on a vacant lot in the hillside. The project site is an undeveloped 1.6 acre parcel located along Vista Ridge Drive in the Spring Valley Heights subdivision. The project site is zoned as R1-H in the Hillside Combining District and the General Plan designation is Hillside Low-Density.

The Planning Commission unanimously recommended approval of the Site Development Permit for the project on July 11, 2018. 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 and the surrounding hillside and meets the development standards set forth by the Zoning Code and will not impede views of the hillside from the valley floor.

In accordance with the Milpitas Hillside Combining District Ordinance (Milpitas Municipal Code Section XI-10-45*, et seq.*), the project must receive site and architectural review approval by the City Council as well as the Commission. (*See* Milpitas Municipal Code Section XI-10-45.09 *et seq.*)

**Environmental**: A categorical exemption pursuant to Section 15303(a) of the CEQA Guidelines – New Construction or Conversion of Small Structures, has been applied to this project. Section 15303(a) includes, but is not limited to, one single-family residence in a residential zone. The project's proposed new construction of a single-family residence is within a residentially zoned area on a legal parcel.

As a separate and independent basis, the project is exempt from further CEQA review pursuant to Section 15183 of the CEQA Guidelines, which provides that projects which are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified (i.e., the EIR for the Milpitas General Plan) shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. There are no such peculiar impacts associated with this project or its site.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution approving Site Development Permit No. SD17-0006 to construct a new hillside home on a vacant 1.6 acre site located at 517 Vista Ridge Drive and make findings of exemption under the California Environmental Quality Act.

**Attachments**:
a) Resolution
b) Planning Commission Meeting Minutes 07/11/2018
c) Planning Commission Staff Report 07/11/2018
d) Project Plans

**11.** **Adopt a Resolution Requesting the Allocation of Transportation Development Act, Article 3 Funds for Americans with Disabilities Act Curb Ramp Transition Program 2019 (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** The City of Milpitas receives guaranteed funding from the Transportation Development Act (TDA) Article 3 fund each year for pedestrian and bicycle improvement projects. The guaranteed funding is based on population; the 2018-19 funding for Milpitas is $127,587.

The City of Milpitas will submit a grant proposal to the Santa Clara Valley Transportation Authority for release of this funding for the ADA Curb Ramp Transition Program 2019. The project will include the installation of Americans with Disability Act-compliant pedestrian ramps. The locations of improvements will be determined later, during the design phase. The project is categorical exempt under CEQA Article 19 Section 15301 for maintenance of existing public streets. Construction is scheduled for the Summer/Fall of 2019.

**Fiscal Impact:** The City will receive guaranteed funding of $127,587 to use towards the ADA Curb Ramp Transition Program 2019.

**Alternative**: Deny the request and forfeit receiving TDA Article 3 funds for ADA Curb Ramp Transition Program 2019.

**Recommendation:** Adopt a resolution requesting allocation of Transportation Development Act, Article 3 Funds for the ADA Curb Ramp Transition Program 2019.

**Attachment**: Resolution

**12.** **Adopt a Resolution Awarding a Contract to Joseph J. Albanese, Inc. and Authorize Director of Engineering/City Engineer to Execute Contract Change Orders for Street Resurfacing Project 2018, Phase II, Projects No. 4284, No. 4287 and No. 4291 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On June 5, 2018, City Council approved the plans and specifications and authorized the advertisement for construction bid proposals for the Street Resurfacing Project 2018, Phase II, Projects No. 4284, No. 4287 and No. 4291 (collectively referred to herein as the "Project"). The Project will include the localized repair of failed asphalt concrete pavement, resurface asphalt concrete pavement, install ADA compliant sidewalk ramps, repair damaged driveway, sidewalk, curb and gutter and reinstall pavement delineation on South Hillview Drive between Los Coches Street and Yosemite Drive, and on South Main Street between Curtis Avenue and Carlos Street.

The Engineer's Estimate for the construction work is $1,380,997.50. The Project was advertised in the local newspaper and bid opening was on July 12, 2018. Three sealed bid proposals were received. Bid pricing ranged from $1,170,858.00 to $1,479,818.80. The lowest responsible bidder submitting a responsive bid in the amount of $1,170,858 was Joseph J. Albanese, Inc. No bid protests were filed with the City in regards to this Project.

The bid package included one add alternate item for consideration of submitted pricing after bid opening which totaled $12,000.00. Add alternate item #1 is for tree removal, if deemed

necessary by the City Arborist, during installation of new sidewalk panels and repairs. Staff recommends awarding a contract to Joseph J. Albanese, Inc. for the base bid including the one add alternate item for a total contract amount of $1,182,858.

As was previously approved for the successful completion of recent projects with constricted completion schedules, staff is requesting the use of the same change order policy (copy of policy is included in the Council agenda packet). This policy allows for the timely completion of the project, while addressing the need to respond swiftly to construction conditions and approving necessary change orders in order to limit potential claims or risk to the City. The construction contingency established for this project is $330,000.00. The change order authority is not anticipated to exceed this amount and would not require an additional appropriation.

**Alternative:** Failure to adopt the resolution would result in delays to street improvements needed on S. Hillview Drive and S. Main Street and annual street maintenance program.

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

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

**Recommendations:**

1. Adopt a resolution awarding a contract including the add alternate item to Joseph J. Albanese, Inc. as the lowest responsible bidder submitting a responsive bid in the amount of $1,182,858 for the Street Resurfacing Project 2018, Phase II, Projects No. 4284, No. 4287 and No. 4291.
2. Authorize Director of Engineering/City Engineer to execute contract change orders for the street resurfacing project in an aggregate amount not to exceed the construction contingency of $330,000.

**Attachments**:
a) Resolution
b) Change Order Policy
c) Bid Results

**13. Approve Amendment No. 2 to the Agreement with Alice Wright and Authorize the City Manager to Execute the Amendment for Shopping Cart Retrieval Service for Annually Not to Exceed $21,600, with Total Contract Amount Not to Exceed $108,000 (Staff Contacts: Chris Schroeder, 408-586-3161 and Tim Wong, 408-586-3286)**

**Background:** The City's Shopping Cart Retrieval Service has been in operation for more than 20 years, administered by the City's Neighborhood Services Division. The purpose of the service is to retrieve abandoned shopping carts and return them to the appropriate business. By retrieving abandoned shopping carts, it eliminates visual blight from the City's streets and neighborhoods. The program has been retrieving approximately 450-550 abandoned shopping carts a month.

Purchasing and Code Enforcement jointly developed the specification for a Request for Proposal (RFP) for abandoned shopping cart retrieval service. RFPs are awarded to the proposer offering the most advantageous proposal after consideration of all evaluation criteria. On April 14, 2017 staff solicited proposals for this service. The RFP was advertised in the local newspaper, on the City website and on PublicPurchase.com. Two proposals were received and evaluated by staff. After consideration of all criteria, the team determined that Alice Wright presented the most advantageous proposal. The proposal is based on a fixed fee per cart of

$3.00 and an initial contract amount of $14,400.00. The contract is for one year with four additional one-year options to renew.

On June 22, 2018, staff exercised Option 1 to continue services with Ms. Wright with a consumer price index increase of 3.2% resulting in a contract year two amount of $14,860.80. Amendment No. 1 was executed to increase total compensation for all five years of the contract to $19,500. The vendor reports that the main reason for continued increase in the need for abandoned shopping cart retrieval services is the closure of a San Jose based market on the San Jose/Milpitas border. The market closure led to an increase in the number of shopping carts being taken from a nearby Milpitas-based market. In addition, the new contract removed a monthly flat fee thus payment was solely based on the number of shopping cars retrieved in the past month. Amendment No. 2 is necessary to increase funding for each contract year to $21,600.00 and a total contract not-to-exceed amount of $108,000.

**Fiscal Impact:** None. Funds are available for this agreement from the Neighborhood Preservation Services operating budget.

**Recommendation:** Approve Amendment No. 2 to the Agreement with Alice Wright and authorize the City Manager to execute the amendment for Abandoned Shopping Cart Retrieval Service for annually not to exceed $21,600 along with a total contract amount not to exceed $108,000.

**Attachment**: Amendment No. 2 to Agreement with Alice Wright

**14.** **Approve Amendment No. 3 to the Agreement with the Law Firm Best, Best & Krieger, LLP for City Attorney Services in the Amount of $227,000 for Fiscal Year 2017-18 (Staff Contact: Will Fuentes, 408-586-3111)**

**Background:** At the September 22, 2015 special City Council meeting, the Council approved the Legal Services Agreement with the law firm Best, Best & Krieger, LLP for City Attorney services. The Agreement specified a maximum amount of $550,000 plus a Consumer Price Index (CPI) for Fiscal Year 2017-18 increase, which totals $569,250. Third party reimbursable legal services are not included in the $569,250 per fiscal year compensation limit. The amendment before City Council is for an additional $227,000 for **FY 2017-2018 only** for non-reimbursable legal services that were not originally anticipated when the agreement was approved. Due to the non-routine nature of legal cases, with varying degrees of complexity, these costs cannot be accurately known in advance. The new maximum agreement compensation amount for FY 2017-18 only is $796,250.

**Fiscal Impact:** A budget appropriation of $245,000 for non-reimbursable legal services is requested; which includes $240,000 from the General Fund and $5,000 from the Water Fund. The non-reimbursable budget appropriation is higher than the agreement amendment discussed in the background since the original FY 2017-18 budget did not properly account for the necessary CPI adjustment. In addition, a budget appropriation of $236,000 is also requested for third party reimbursable legal services that will be reimbursed by developers and other third parties. Reimbursable legal services do not require an agreement amendment, but they do require an additional budget appropriation, which will again be offset by fees to developers and other third parties. The two budget adjustments equal $481,000 in total.

**Recommendation:** Approve Amendment No. 3 to the Agreement for Legal Services with Best, Best & Krieger, LLP in the amount of $227,000 for Fiscal Year 2017-18 and approve a total budget appropriation of $481,000, of which $236,000 will be reimbursed by developers/third parties, $240,000 will come from the General Fund and $5,000 will come from the Water Fund.

**Attachments**:
a) Amendment No. 3 to agreement with BB&K
b) Budget Change Form

**15.** **Adopt a Resolution Amending the Classification Plan for the Classification of Public Information Officer Effective August 7, 2018 and Modifying the Salary Range for the Position of Public Information Officer from $135,304.00 to $189,425.60 (Staff Contacts: Ashwini Kantak, 408-586-3053; Liz Brown, 408-586-3086; and Will Fuentes, 408-586-3111)**

**Background:** As the second fastest growing city in California, Milpitas is poised for unprecedented growth in the residential, commercial, and hospitality sectors over the next five years. Along with this growth, its transportation infrastructure will also undergo a transformation with the opening of a new BART station in early 2019. The Milpitas community, which is already very diverse, is expected to become more so as it welcomes new neighbors.

The City has already expressed its commitment to preserving its existing close-knit community and rich cultural diversity as it moves with innovation into the future by supporting sustainable growth and development, ensuring public safety, enhancing the environment and natural landscape, and nurturing family and community connections.

In order to fulfill this commitment and to successfully address challenges resulting from this growth, it is important for the City to frequently engage its community on a variety of policies, programs and initiatives. To ensure input from all parts of the community, in addition to the small subset of engaged residents, this engagement needs to happen via traditional outreach tools and also by leveraging current technology and social media platforms. As the City embarks on many important infrastructure projects and the implementation of critical policies such as the recently passed Affordable Housing Ordinance, it will also be very important to coordinate priorities and effective public communication across all City departments.

In recognition of this need, the City Council approved a new Public Information Officer (PIO) position in the FY 2018-19 Budget. This positon is a senior management position that will report directly to the Assistant City Manager and will be a part of the City's executive leadership team. This position will be responsible for the development, implementation and direction of the City's strategic communications plan and proactive community and employee communications on City actions, events, programs, and projects.

The PIO will, with direction from the Assistant City Manager and City Manager, serve as key spokesperson for the City and will direct and coordinate public and media relations including social media, community outreach, newsletters, and other print publications. The PIO will play a key role in crisis communications and will need to have an excellent grasp of the community and all City services so as to develop effective communication plans for emergency situations. The position will actively engage, promote, and manage press relationships to ensure coverage surrounding City programs, special events, public announcements, and other projects. The PIO will also serve as communication advisor to the City's department directors on key City programs and initiatives. The PIO will also form a Citywide communication team to coordinate and leverage individuals in all departments with collateral communication responsibilities.

In order to be successful in this position, the PIO will need to have extensive experience and a track record of successfully developing and implementing an integrated communications plan involving a diverse set of stakeholders. It is also critical for this individual to demonstrate his/her experience of staying abreast of new trends and innovations in the field of

communications, multimedia technologies, web page design, social media, and emergency communications.

On June 5, 2018, the PIO position was approved by City Council, with a base salary range of $115,000 to $161,000. The total budgeted compensation for this position is $249,000 in Fiscal Year 2018-19. Upon further analysis of the position qualifications and review of compensation for comparable positions in level of responsibility, staff is recommending adjusting the salary range. Staff reviewed compensation ranges on the cities as outlined below; these classifications vary in level of duties and responsibility. The internal comparisons are in alignment as an Assistant Director including level of independence, risk and responsibility.

| City | Position | Compensation Range |
|---|---|---|
| San Jose | Director of Communication | $12,203 to $19,045 |
| Santa Clara | Director of Communications | $13,541 to $17,523 |
| Fremont | Communications Manager | $ 8,456 to $11,416 |
| Sunnyvale | Chief Information Officer | $19,542 to $23,450 |

Based on this review and in order to be competitive and attract a candidate with the appropriate level of experience and skills, staff is recommending adjusting the salary range to $11,275.33 to $ 15,785.83 monthly or $135,304.00 to $189,425.60 annually. The additional costs of up to $28,425 in the annual salary will be covered through vacancy savings for this fiscal year and will be incorporated into the base budget for FY 2019-20.

**Fiscal Impact:** None. There will not be a fiscal impact this fiscal year as this position has been vacant for the month of July and will offset any additional funds needed to pay for this position for the remainder of the 2018-19 fiscal year.

**Recommendation**: Adopt a Resolution requesting to amend Resolution No. 1626, The Classification Plan, to revise compensation for the classification of Public Information Officer effective August 7, 2018 and to modify the salary range for the Public Information Officer position from $135,304.00 to $189,425.60.

**Attachment:** Resolution

**16.** **Move to Rescind Prior Council Action of Removal of Specific Member from Citizens Task Force on Water Rates and Accept Voluntary Resignation (Contact: Vice Mayor Grilli, 408-586-3031)**

**Background:** Karina Dominguez is a former member of the Milpitas Citizens Task Force on Water Rates. On May 9, 2017, the Task Force approved a motion to request placing on the City Council agenda an item seeking the removal of Ms. Dominguez as a member of the Task Force due to her lack of attendance at meetings. On May 16, 2017, the City Council, upon a recommendation from the Task Force, voted to remove Ms. Dominguez.

Recently, it has come to light that a miscommunication may have occurred in 2017, as Ms. Dominguez has relayed that she had submitted her resignation to the Task Force prior to the Council's removal action having been placed on the City Council agenda. In light of this, it appears that the resignation may not have been received. It also appears that Ms. Dominguez may not have been informed in advance of the action being placed on the City Council agenda, thereby not providing her an opportunity to clarify that she believed she had already resigned and eliminating the need for the City Council action.

A motion to rescind is authorized by Robert's Rules of Order and can be used to change an action previously taken or ordered. See Section 35, Robert's Rules of Order Newly Revised,

10th Edition. There is no time limit as to when the motion can be made and the motion can be made by any member, "regardless of how he [or she] voted on the original question." See Section 35, Robert's Rules of Order Newly Revised, 10th Edition, page 296.

It is therefore proposed that the City Council consider a motion to rescind its prior action taken on May 16, 2017 in removing Ms. Dominguez from the Task Force, and allow the City Council to accept her voluntary resignation.

**Fiscal Impact:** None.

**Recommendation:** move to rescind the City Council's action on May 16, 2017, which removed Karina Dominguez as a member of Citizens Task Force on Water Rates and accept Ms. Dominguez's voluntary resignation.

**Attachment**: None

## XII. PUBLIC HEARINGS

The following items No. 17 – 22 scheduled for discussion

### 17. Reopen the Public Hearing and Consider Approving Community Development Block Grant Allocations for FY 2018-19 and Adopt the One-year Annual Action Plan (Staff Contact: Tim Wong, 408-586-3286)

**Background:** On June 19, 2018, staff requested a continuance of a noticed public hearing for the Community Development Block Grant (CDBG) funding recommendations. Prior to approving the continuance, the City Council opened the public hearing to solicit any public comments. This public hearing is a continuance of the June 19, 2018 hearing.

The U.S. Department of Housing and Urban Development (HUD) provides annual grants through the CDBG Program to local, state and entitlement cities to assist in providing decent housing, a suitable living environment and expanded economic opportunities for low- to moderate-income persons. The purpose of this public hearing is to approve the funding recommendations of the Community Advisory Commission (CAC) during its March 7 and May 16, 2018 meetings. In addition, Council is requested to adopt the One-Year Annual Action Plan which prescribes how the CDBG funds will be used for the upcoming year in conformance with the adopted Five-Year Consolidated Plan. The Council adopted the Consolidated Plan in 2017.

The City received a total of $521,182 for FY 2018-19. This is a 16% increase over last year's allocation. Pursuant to CDBG federal requirements, the total CDBG funding can set aside up to 15% for public services, 65% for capital projects and 20% towards program administration. In addition, the City has approximately $154,000 in unspent, uncommitted funds. Per HUD regulations, these funds cannot be used for additional program administration or public services. These funds were added to the capital funds so the total funds to be allocated for capital projects for FY 2018-19 is $493,084.

Therefore, the overall maximum CDBG entitlement allocation for each of these activities for FY 2018-19 will be the following:

| | |
|---|---|
| Public Services | $ 78,177 |
| Capital Projects | $493,084 |
| Program Administration | $104,236 |
| **Total:** | **$675,497** |

During the month of January 2018, the City advertised in the local newspaper, on the City's website and sent notices to current service providers and surrounding local service providers notifying them about the 30-day time period by which to submit CDBG funding applications.

Following the application period, staff reviewed each application and provided applications to Community Advisory Commissioners to review before their meeting on March 7, 2018.

In accordance with 24 CFR Section 91.15(a)(1) of the Consolidated Plan regulations, the Annual Action Plan is due to HUD by August 16, 2018. The approved Annual Action Plan must be submitted into HUD's system called Integrated Disbursement and Information Systems (IDIS) and all original CDBG applications and certifications also must be received by the San Francisco Regional Office no later than August 16, 2018. The HUD office did not approve staff request of the August 16 deadline, but acknowledged a revised date of August 13, 2018. However, if the City Council does not approve funding allocations and the draft Annual Action Plan, staff will be unable to meet the deadline and the City would automatically lose the entire FY 2018-19 CDBG funding allocation of $521,182 to which it would have been otherwise entitled. This deadline cannot be extended.

**COMMUNITY ADVISORY COMMISSION MEETINGS**

March 7 CAC Meeting

On March 7, 2018, the CAC made funding recommendations for CDBG applicants for 2018-19. The City did not receive the FY 2018-19 allocation from HUD prior to the March 7 CAC meeting. Therefore funding recommendations were based on the previous year's CDBG allocation of $449,688. Since the amount was not awarded prior to the CAC meeting, the CAC also approved a contingency plan that allowed staff to increase or decrease their recommended amounts by the percentage increase or decrease of the actual allocation. In the beginning of May, HUD released allocations amounts for 2018-19 and the City received $521,182, an increase of 16%.

The City was undersubscribed for capital application funding by approximately $152,000. Therefore, City staff kept the application submittal period open through April 27 specifically for capital applications. Submittal of public service applications was not permitted in the extended application submittal period.

In addition, the City had approximately $154,000 in unspent, uncommitted funds. These funds were unused due to various reasons from previous years. HUD changed their accounting regulations that forced entitlement cities to spend their funds based on "first in, first out" in which it required jurisdictions to spend previous years' funds first. Thus, the $154,000 was the accumulation of unspent funds from previous years. Due to HUD regulations that restricts funding and how funding is spent, the uncommitted funds were applied to capital funds during a second round for funding recommendations by CAC. HUD restricts these uncommitted fund for capital projects only and they cannot be used for administration or public services expenses. Thus, the total of funds to be allocated for capital projects for FY 2018-19 is $493,084.

May 16 CAC Meeting

The CAC had a second meeting to allocate the uncommitted Capital funds. Staff believes that compared to nearby jurisdictions, the amount the City receives in capital funds is significantly less and several organizations have indicated that the administration costs are not the best use of their resources. Thus, the City historically receives fewer applications for capital projects. Staff is exploring CDBG program changes that would encourage more organizations to apply for CDBG funding.

The City received six more capital applications during the extended submittal period. During this time, the City received its allocation from HUD in the amount of $521,182. The CAC funded three of the six applications according to the City Council priorities. The CAC final recommendations are outlined in the Annual Action Plan section below.

Funding recommendations listed in the Annual Action Plan are recommended by the CAC. The City Council is responsible for making the final allocation amounts.

The recommendations were scheduled to be heard by the Council at its June 19 meeting as a noticed public hearing. However, staff requested a continuance of the public hearing to conduct additional outreach to Milpitas non-profits prior to approving the $353,584 of the capital funds from Round 2. Staff posted the notice of funding through Milpitas Post, the City website, and sent out over 300 postcards to non-profit organizations notifying them of the funding. The application period was open from June 29 to July 20. Staff did not receive any additional applications.

**Annual Action Plan for Program Year 2018-19**

The draft Annual Action Plan describes the anticipated CDBG activities and expenditures to be undertaken for fiscal year 2018-19 and how these activities relate to meeting the goals and objectives identified in the Five-Year Consolidated Plan. The draft Annual Action Plan was advertised for public review and comments for 30 days (from May 18 to June 18, 2018) and the draft was sent to CDBG applicants for their review. The draft was extended for an additional 30 days from June 29–July 20 for public review.

The draft Annual Action Plan was also made available at the Milpitas Public Library, City Hall and online on the City's website (www.ci.milpitas.ca.gov). Any significant public comments received will be incorporated in the final Action Plan prior to the submittal to HUD. That federal agency then reviews and approves the Action Plan prior to releasing CDBG funds. The City did not receive any comments or questions related to the Annual Action Plan.

The Annual Action Plan will include the Council-approved CDBG funding recommend-dations and staff will make revisions as the result of the City Council meeting. The Annual Action Plan lists all the organizations approved for CDBG funding, the projects they will undertake and how they will meet the goals and objectives outlined in the Consolidated Plan.

The table below lists all the CDBG applications recommended for funding for FY 2018-19 by activity:

PUBLIC SERVICES

| Organization | Description of Activity | Amount |
|---|---|---|
| Catholic Charities of Santa Clara County | Long Term Care Ombudsman Program visits long term care facilities to investigate and resolve complaints for seniors and disabled adults. | $8,202 |
| Child Advocates of Silicon Valley | Provide court appointed youth in the foster care system with life-long mentorship and guidance. | $9,629 |
| India Community Center | Provide health awareness, education, language, health classes for seniors. | $6,181 |
| Milpitas Food Pantry | Provide emergency foods to homeless and low income individuals. | $13,748 |
| Next Door Solutions to Domestic Violence | Provide emergency need, case management for individuals experiencing or experienced domestic violence. | $9,172 |
| Senior Adults Legal Assistance | Provide legal services for low income seniors by pro bono attorneys. | $6,439 |
| Silicon Valley Independent Living Center (SVILC) | Provide persons with disabilities with support tools and resources for equal access to housing. | $6,746 |
| The Health Trust | Meals on Wheels serves homebound seniors with daily hot and healthy meals and wellness checks. | $9,605 |

| | | |
|---|---|---|
| YWCA Silicon Valley | Provide emergency need, case management for individuals experiencing or experienced domestic violence. | $8,455 |
| **TOTAL** | | **$78,177** |

CAPITAL PROJECTS

| Organization | Description of Activity | Amount |
|---|---|---|
| LifeMoves | Assist in high priority repairs to Montgomery Street Inn that serves the homeless. | $48,723 |
| Resources for Community Development | Assist in site acquisition for a 100% affordable housing project. | $299,097 |
| Terrace Gardens, Inc. –Refrigerator Replacement | Assist in replacing out of date refrigerators for a senior housing project. | $5,764 |
| Rebuilding Together Silicon Valley | Assist low-income home owners with needed repairs to secure a safe environment. | $120,000 |
| Terrace Gardens, Inc. – Walkway Bollards | Assist in replacing all dated bollards through the property with LED lights and large pole fixtures. | $14,000 |
| Terrace Gardens, Inc. – Water Boiler | Assist in replacing an old water heater. | $5,500 |
| **TOTAL** | | **$493,084** |

ADMINISTRATION

| | | |
|---|---|---|
| Project Sentinel | City's fair housing provider that provides fair housing, tenant-landlord counseling and dispute resolution services. | $10,000 |
| Program Administration | Staff time in administering the program, including all public noticing and publishing | $94,236 |
| **TOTAL** | | **$104,236** |

Additional applicants not recommended for CDBG funding were:

| Organization | Description of Activity | Reason for not funding |
|---|---|---|
| San Jose Conservation Corps | Solar Training Program | Applicant was not recommended for funding due to past performance |
| Bridge Housing | Site Acquisition | Applicant withdrew application |
| Terrace Gardens | Parking Lot Project | Other funding sources used |
| Terrace Gardens | Woodwork Project | Activity not eligible |

One service provider, Project Sentinel, is being funded outside of the Public Service allocation. HUD considers Project Sentinel and its fair housing expertise as an extension of staff as the City's fair housing and tenant/landlord consultant. The City will fund Project Sentinel $10,000 from CDBG FY 2018-19's program administration with additional $15,000 from the Housing Authority fund. This is the same arrangement as in previous years. The City Council is also financially supporting the Milpitas Food Pantry outside of CDBG fund. On March 3, 2015, the Council voted to reduce the Milpitas Food Pantry rent from $1,600 per month to $1.00 per month.

**Fiscal Impact:** $15,000 from the City's Housing Authority Fund will be allocated for Project Sentinel's services.

**Recommendations:**
1. Reopen the public hearing, then move to close the hearing, following testimony.
2. Approve Community Development Block Grant Funding for Fiscal Year 2018-2019,
3. Approve the draft Fiscal Year 2018-2019 Action Plan,
4. Authorize the City Manager, or her designee, to make changes (if any) to the approved Annual Action Plan as a result of the August 7, 2018 meeting, and
5. Authorize the City Manager to execute CDBG agreements with approved recipients.

**Attachment**: Draft FY 2018-19 Annual Action Plan for CDBG funds

**18. Conduct a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessment Report and Assessment List to be Entered on Tax Assessment Rolls (Staff Contact: Albert Zamora, 408-586-3371)**

**Background:** On January 16, 2018, the City Council adopted Resolution No. 8742 declaring noxious or dangerous weeds growing upon certain described property to be a public nuisance that must be abated by the removal of the weeds. If the public nuisance was not removed from the properties by the owner, the City contracted with the Office of Santa Clara County Agricultural and Environmental Management to remove the weeds and abate the nuisance. In accordance with Title V, Chapter 202, Weed Abatement, of the Milpitas Municipal Code, the Office of Santa Clara County Agricultural and Environmental Management filed with the City Clerk a report and assessment list on weeds abated within the City as nuisances. The report and notice of the public hearing was posted at City Hall pursuant to Milpitas Municipal Code section V-202-9.00.

The City's municipal code states that the City Council "shall hear the report together with any objections of the property owner liable to be assessed and make such modifications on the proposed assessment as it deems necessary."

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

**Recommendations:**
1. Open the public hearing for comments, and then move to close the hearing, following any testimony.
2. Adopt a resolution confirming assessments for weed abatement for 2018, for properties listed by parcel number on the list provided by Office of Santa Clara County Agricultural and Environmental Management to the Fire Marshal.

**Attachment**: Resolution and List of Parcels

## XIII. REPORT OF COMMISSION

**19. Review Recommendation from the Sister Cities Commission Regarding Visit Request From the City of Dagupan, Philippines (Staff Contact: Leslie Stobbe, 408-586-3352)**

**Background:** At its June 28 meeting, the Sister Cities Commission (SCC) discussed a request from the City of Dagupan to visit Milpitas with a delegation of 10 students and six officials in October 2018. The discussion included concerns about ongoing difficulties to secure home stays for visiting students and the time necessary to coordinate with Milpitas High School's Spirit Week, October 14-19, 2018. There is a waning interest in the Milpitas community,

particularly from families with students attending Milpitas High School (MHS), to host visiting sister city students for 10 days. In addition, there is a standing agreement with the MHS administration that it would host school attendance only during Spirit Week to coincide with time allotted for student events. The SCC reviewed a need for consistent support from the Milpitas community and heard from three residents expressing interest in preparations for the Dagupan delegation. The SCC also considered costs and staff time to coordinate past visits.

After its review, the SCC unanimously approved these two recommendations:

1) Invite a delegation of Dagupan officials to visit Milpitas in October 2018 with limited support of a student delegation; and
2) Inform Dagupan staff that arrangements for student school attendance and support to obtain homestays are to be secured through the Milpitas Unified School District and with the involvement of Milpitas community members.

Consensus from the SCC was that City staff would be needed to support the delegation of officials and that involved Milpitas community members are encouraged to work with Michael Tsai, the lead commissioner for the sister city relationship with Dagupan, to inquire about possible attendance at MHS and securing homestays.

Cost estimates prepared by staff as a proposal to support potential visit activities in October 2018 are:

Estimated Direct Costs

| **Activity** | **Estimate** |
|---|---|
| Dagupan Invite Letters (Express Delivery) | $100 |
| SFO Tour Bus to Milpitas | $600 |
| Hosted Lunches (Adults) | $900 |
| Event Option 1: Reception During Council Meeting (when visit occurs during a week with a Council meeting) | $300 |
| Event Option 2: Catered Dinner in City Park / Center | $2,500 |
| TOTAL Option 1 (includes 20 hours of staff time) | $5,044 |
| TOTAL Option 2 (includes 14 hours of staff time) | $6,300 |

**Fiscal Impact:** The City Council budget for FY 2018-19 includes $6,240 in the City Council Allocated Community Promotions line item for the Sister Cities program specifically. In addition, the Sister Cities Commission – as do all City Commissions - has a $1,000 budget available for various uses. Therefore, there are sufficient funds available in the adopted budget.

**Recommendation:** Review the recommendation from the Sister Cities Commission and direct staff on potential visit activities.

**Attachments**:

a) Letter from Dagupan Mayor
b) Letter from City of Milpitas Mayor

## XIV. NEW BUSINESS

**20. Appoint One Councilmember as Representative and One Councilmember as Alternate to "UrbanPlan for Public Officials" on September 28 at Wilson Sonsini in Palo Alto, a Training Sponsored by Urban Land Institute and Silicon Valley Economic Development Alliance (Staff Contact: Steve McHarris, 408-586-3059)**

**Background:** On September 28, 2018, Urban Land Institute (ULI) and Silicon Valley Economic Development Alliance (SVEDA) will host an all day workshop called "UrbanPlan

for Public Officials." ULI is a nonprofit research and education organization to provide leadership in the responsible use of land in creating and sustaining thriving communities worldwide. SVEDA is comprised of cities and counties focused on achieving individual and regional economic development goals while maximizing scarce resources. UrbanPlan for Public Officials is a national program of the Urban Land Institute and is designed for local decision makers who want to learn more about the forces that shape and affect the built environment and reinforces the important role they play in the real estate development process.

A similar workshop was held for the City of San Jose City Council earlier this year which provided an overview of how the development community approaches development financing and the impact of different costs, including fees and taxes, on the viability of projects. SVEDA has partnered with ULI in order to provide the same workshop for elected officials in its member agencies. City of Milpitas is a member of SVEDA which allows one representative and one alternate for each city due to the limited capacity.

Because the workshop is highly informative and has been found to be useful, City of Milpitas staff has engaged ULI in providing a separate workshop at a future date in fall of 2018 for the entire City Council and Planning Commission. This will provide an opportunity for all City of Milpitas City Councilmembers and Planning Commissioners to participate.

**Recommendation:** Appoint one Councilmember as representative and one Council member as alternate to Urban Plan for Public Officials, scheduled on Friday, September 28, 2018 at Wilson, Sonsini, Goodrich & Rosati offices located at 650 Page Mill Road, Palo Alto, a training sponsored by ULI and SVEDA.

**Attachment**: None

**21. Approve Conceptual Design for Creighton Park Renovation, Project No. 5109 (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** The project to renovate Creighton Park, Project No. 5109, is in the approved 2018-2023 Capital Improvement Program. Creighton Park is located along Olympic Drive and is approximately five acres with picnic areas, walking path, turf area, and playground equipment. The park was originally constructed in 1968 with subsequent renovations completed in 1981 and 1991.

Creighton Park is in need of renovation to replace aging infrastructure and update access and equipment for compliance with new regulations and laws affecting children's plays structures, storm water drainage, and patrons with disabilities. The proposed Project includes design and construction of renovation improvements to an existing five acre park including new picnic areas; shade structure; play equipment and surface; vehicle and pedestrian pathway; Americans with Disabilities (ADA) accessibility improvements; security lighting; restroom structure and enhancements to entry points, landscaping, drainage, and park furniture improvements.

A community workshop was held on April 25, 2018 to review proposed park concept designs and 35 community members attended. On June 25, 2018 the Parks, Recreation and Cultural Resource Commission (PRCRC) reviewed the concept design and recommended approval. The park neighborhood was invited and gave further input at the Commission meeting. The proposed concept plan incorporates feedback received from the April workshop and PRCRC meeting, and is in accordance with the project in the 2018-2023 Capital Improvement Program.

Once approved by the City Council, the project architect will start the detailed design work and proceed with completion of construction plans and specifications, anticipated to be completed by the end of 2018. Construction is estimated to start spring of 2019 and would be completed toward the end of 2019. The park will be completely closed during construction for public

safety. Preliminary construction cost is estimated at $2,200,000 and is currently budgeted in the 2018-2023 CIP.

**Fiscal Impact:** None**.** Budgeted funds are available in the project budget to complete the design.

**Recommendation:** Approve the conceptual design for Creighton Park, Project No. 5109.

**Attachment:** Conceptual Plan

## XV. RESOLUTION

**22. Receive a Report from Fairbank, Maslin, Maullin, Metz and Associates (FM3) Regarding Public Opinion Polling of Two Potential Tax Measures; Adopt Resolutions Authorizing Placement of Transient Occupancy Tax Increase and Cannabis Use Tax Measures on the November 6, 2018 Ballot; and, Direct Staff to Initiate Process on Draft Zoning Ordinance to Regulate Cannabis Cultivation for Personal Use and to Prohibit All Commercial Cannabis Uses (Staff Contacts: Ashwini Kantak, 408-586-3053; Will Fuentes, 408-586-3111; and Renee Lorentzen, 408-586-3409)**

**Background:** On May 1, 2018, Council directed staff to proceed with having Fairbank, Maslin, Maullin, Metz & Associates (FM3) conduct public opinion polling for ballot measures related to a Transient Occupancy Tax (TOT) increase, a Cannabis Use Tax, and a Business License Tax Modernization. At the June 19, 2018 Council meeting, City staff and FM3 presented polling results for all three potential November 2018 ballot measures. Council was also presented with a recommendation to enter into an agreement with Hinderliter, de Llamas & Associates (HdL Companies) to assist the City with drafting cannabis use ballot language, establishing guidelines on cannabis uses and developing appropriate cost recovery fees, a tax structure, a zoning ordinance and a regulatory ordinance.

At the June 19 meeting, Council voted to:

1. **Not** move ahead on any proposal for Business License Tax adjustment at this time,
2. Direct staff to conduct additional polling on the TOT increase with a sliding scale from 12% to 14%, and return to Council in August with ballot measure language recommendations,
3. Direct staff to conduct additional polling and return in August with ballot measure language for a Cannabis Use Tax,
4. Direct staff to return to Council with a timeline to adopt a permanent ordinance prohibiting commercial cannabis uses in the City, and
5. Provide the City Manager with authority to use her discretion in executing an agreement with Hinderliter, de Llamas & Associates (HdL Companies) for cannabis consulting services relating to ballot measure drafting and other related services as deemed necessary.

**Analysis:** Following Council action, FM3 conducted additional polling for TOT increase and Cannabis Use taxes, both online and via telephone, from July 12 through July 19, 2018. Detailed results of the polling are included with the agenda packet and were scheduled for presentation by FM3 at the Council meeting. FM3 polled 492 Milpitas residents on the following ballot language:

Transient Occupancy Tax – Option 1 (Maximum Rate up to 14%) (71 words)

**"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?"

Transient Occupancy Tax – Option 2 (Maximum Rate up to 12% in 2019 and up to 14% in 2020) (71 words)

"**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, pothole/street repair and attracting/retaining local businesses, shall an ordinance be adopted increasing the maximum transient occupancy tax paid by hotel guests from 10% to 12% in 2019 and to 14% in 2020, providing approximately $5,200,000 annually until ended by voters, subject to independent, public audits, with all funds used locally?"

Cannabis Use Tax (75 words)

**"Milpitas Cannabis Tax Measure**. To provide funding for general city services, including police, fire, streets and libraries, shall an ordinance be adopted establishing City taxes on cannabis (marijuana) businesses at maximum rates of $10 per canopy square foot for cultivation (adjustable for inflation), 10% of gross receipts for retail cannabis businesses, and 6% for all other cannabis businesses, providing approximately $1,670,000 annually until ended by voters, subject to independent audits, with all funds used locally?"

*Summary of Polling Results*

TOT Increase

63% of respondents supported a TOT Increase in general at a +/- 4.9% Margin of Error (MOE)

- 63% of respondents supported a TOT Option 1 at a +/- 6.4% MOE
- 64% of respondents supported a TOT Option 2 at a +/- 6.4% MOE

Cannabis Use Tax

65% of respondents supported a Cannabis Use Tax at a +/- 4.9% Margin of Error (MOE)

For a TOT increase, staff recommends Option 1 since there is very little differentiation in public support between the two options. Option 1 would provide the Council the flexibility to set the rate and potentially provide the City with the greatest and most immediate positive fiscal impact while still remaining competitive with other nearby jurisdictions. Option 1 for the TOT increase ballot language would allow Council the flexibility to raise the TOT rate up to 14% (or lower) subject to voter approval of the ballot measure.

Option 2 for the TOT increase ballot language would allow the Council the flexibility to raise the TOT rate up to 12% (or lower) in 2019 and up to 14% or lower in 2020. An increase to 12% would generate approximately $2.6 million in additional TOT revenue in the first year and could increase to $3.6 million by Fiscal Year 2023-24 with the planned development of six new hotels within the next five years. An increase to 14% would generate approximately $5.2 million in additional TOT revenue in the first year and could increase to $7.2 million by Fiscal Year 2023-24.

The Cannabis Use Tax ballot language would allow the Council the flexibility to tax cultivation up to $10 per canopy square foot or lower (adjustable for inflation), to tax retail cannabis businesses up to 10% or lower, and to tax all other cannabis businesses up to 6% or lower. If the ballot measure is called for by Council and passed by the voters, HdL Companies would assist the City with developing final tax rates, within the parameters of the tax ordinance, that would generate the greatest potential for cannabis tax revenue and a sustainable cannabis industry within Milpitas. Using hypothetical assumptions, staff and HdL Companies project that a Cannabis Use Tax could generate between $370,000 to $1.67 million per year depending on allowable uses and number of businesses allowed for each use. Included in the agenda packet is a fiscal analysis based on various scenarios for tax rates, uses, and number of facilities. It is important to note that although the ballot language seeks to authorize taxation

on various cannabis uses, including cultivation, Council must first approve those uses before related businesses are allowed to operate within Milpitas. Approval of the language for the ballot measure by Council and then the voters simply allows taxation on various cannabis uses should the current or future Council decide to allow those uses.

*Required Level and Timeline of Approvals for Potential Ballot Measures*
As indicated in a recent memo to Council, per California Government Code Section 53724 (b), "No tax subject to the vote requirement prescribed by Section 53723 shall be presented at an election unless the ordinance or resolution proposing such tax is approved by a **two-thirds vote of all members of the legislative body of the local government or district**." Thus, for any tax measure to be placed on the November 2018 ballot, it will require approval by at least four of the five Councilmembers. Abstentions are effectively negative votes.

Also, as indicated in another recent memo to Council, The Tax Fairness, Transparency and Accountability Act of 2018, which would have required a two-thirds voter supermajority for all taxes, retroactive to January 1, 2018, has been pulled from the November 2018 ballot. Thus, both the general purpose TOT increase and Cannabis Use Tax before Council will only require a simple majority for approval by voters in the November 2018 election.

Approval of the Cannabis Use Tax ballot measure language by Council and later by the voters does not allow any specific cannabis uses, it simply allows taxation on various cannabis uses should the current or future Council or voters decide to allow those uses.

If the City Council decides to move forward with placing a Transient Occupancy Tax (TOT) Increase and/or a Cannabis Use Tax on the November 2018 ballot, City Council must adopt the related resolutions on or before August 10, 2018 to meet the required deadline set by California Elections Code (88 days prior to the November 6, 2018 election day). Here is a timeline of actions for potential November ballot measures:

| Day of Week | Date | Action |
|---|---|---|
| **Tuesday** | **August 7, 2018** | Last regular City Council meeting to approve any November ballot measure language* |
| Tuesday | August 14, 2018 | All Arguments in Favor or Oppose to be submitted to the City Clerk (84 days prior to November 6 Ballot) |
| Tuesday | August 21, 2018 | Rebuttals to Arguments to be submitted to the City Clerk (77 days prior to November 6 Ballot); Attorney's Impartial Analysis of each ballot measure to be submitted to the City Clerk |
| Tuesday | November 6, 2018 | Election Day |
| Thursday | December 6, 2018 | Final election results certified |

*Last day to submit text to Registrar is August 10 (would require a special Council meeting)

**Fiscal Impact:** There could be positive revenue impacts should the City Council choose to place one or more tax measures on the November 2018 ballot and these measures are approved by Milpitas voters. A TOT increase could generate up to $5.2 million in additional revenue in the first year and could increase to $7.2 million by Fiscal Year 2023-24. A Cannabis Use Tax could generate between $370,000 to $1.67 million per year depending on allowable uses and number of businesses allowed for each use. There would also be costs associated with regulating the cannabis industry and these will be better defined by staff at a later date, with the assistance of HdL Companies, should cannabis uses be allowed within Milpitas. City costs for cannabis will be determined by number of uses and businesses allowed for each type and there is not enough information at the current time to make accurate cost estimates.

Both tax measures before Council are general purpose taxes and the estimated cost to place both on the November 2018 ballot is approximately $50,000; already included in the FY 2018-19 budget and payable to the Santa Clara County Registrar of Voters. If Council were to approve cannabis establishments, staff, with the assistance of HdL Companies would develop and bring forward to Council appropriate fees to fully cover the costs of permitting and enforcement.

**Policy Alternatives:** Should the Council or the voters not approve a Cannabis Use Tax in 2018, there are other revenue generating mechanisms that Council could choose to consider if a future Council allows cannabis uses or a voter approved initiative requires it before the 2020 or later elections. These mechanisms include developer agreements, voluntary community benefit fee agreements, neighborhood responsibility fees, and operations agreements. These are used by other cities such as the City of Thousand Oaks (Operations Agreement), City of Sacramento (Neighborhood Responsibility Fee), City of El Monte (Development Agreement), City of Port Hueneme (Development Agreement), and City of Irvine (Community Benefit Fee). Any use of such fees though would require a thorough analysis to ensure compliance with Proposition 218, which limits the methods by which local governments can create or increase taxes, fees and charges without taxpayer consent.

*Prohibition on Cannabis Businesses*

On January 17, 2017, the City Council adopted Urgency Ordinance No. 291 pursuant to Government Code Section 65858, establishing a forty-five (45) day moratorium prohibiting all cannabis uses to the extent allowed by law in light of the passage of Proposition 64 in the State of California. On February 21, 2017, the City Council adopted Urgency Ordinance No. 291.1 extending the moratorium prohibiting all cannabis uses for a period of 10 months and 15 days. In January 2018, the City Council adopted Urgency Ordinance No. 291.2 extending the moratorium for an additional 12-month period for the full two years authorized under tate law. The initial adoption of the Urgency Ordinance and the subsequent extensions were enacted primarily to allow the City Council Cannabis subcommittee the time needed to fully analyze and study potentially allowing cannabis uses in Milpitas.

The current urgency ordinance can only remain in place under state law until January 17, 2019 and no further extensions are available. Since future cannabis uses will likely not be determined before the moratorium expires, the City Attorney's Office has drafted the attached permanent ordinance prohibiting commercial cannabis uses in the City for Council to review. As this is a zoning ordinance, the Council cannot take action on the ordinance until the City complies with the procedures in state Planning and Zoning law, including Planning Commission review and recommendation. However, the City Council can review and discuss the ordinance and provide general direction to staff.

On the following page is a timeline for Council adoption of a permanent ordinance prohibiting commercial cannabis uses in the City.

| Day of Week | Date | Action |
|---|---|---|
| **Tuesday** | **August 7, 2018** | Initial Council discussion of permanent ordinance |
| Friday | October 12, 2018 | Last day to timely publish notice of permanent ordinance for Planning Commission consideration, assuming consideration at 10/24/18 meeting [10 day notice pursuant to Gov. Code §§ 65090, 65091] |
| **Wednesday** | **October 24, 2018** | Last day for Planning Commission to consider permanent ordinance and make recommendation to City Council |
| Friday | November 9, 2018 | Last day to publish notice of permanent ordinance for 11/20/18 City Council consideration [10 day notice pursuant to Gov. Code §§ 65856(b), 65090] |
| **Tuesday** | **November 20, 2018** | Last regular City Council meeting to introduce permanent ordinance |
| **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 |
| **Thursday** | **January 17, 2019** | Cannabis moratorium ordinance expires |

**Recommendations:**

1. Receive a report from Fairbank, Maslin, Maullin, Metz and Associates (FM3) regarding public opinion polling of two potential tax measures for the November 6, 2018 ballot.
2. Adopt a resolution authorizing placement of a Transient Occupancy Tax (TOT) Increase Measure of up to a maximum of 14% on the November 6, 2018 Ballot.
3. Adopt a resolution authorizing placement of a Cannabis Use Tax Measure on the November 6, 2018 Ballot allowing taxes on cannabis (marijuana) businesses to be set at maximum rates of $10 per canopy square foot for cultivation (adjustable for inflation), 10% of gross receipts for retail cannabis businesses, and 6% for all other cannabis businesses.
4. Direct staff to initiate process on draft zoning ordinance to regulate cannabis cultivation for personal use and to prohibit all commercial cannabis uses.

**Attachments:**

a) FM3 Polling Results
b) Cannabis Use Tax Revenue Estimates
c) 2 Draft Resolutions – Transient Occupancy Tax Ballot Measure and Exhibit to Resolution: Transient Occupancy Tax Ordinance
d) Draft Resolution – Cannabis Use Tax Ballot Measure and Exhibit to Resolution: Cannabis Use Tax Ordinance
e) Draft Ordinance – Permanent Moratorium on Cannabis Uses

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

## XVII. ADJOURN JOINT MEETING

**NEXT REGULAR CITY COUNCIL MEETING**
**TUESDAY, AUGUST 21, 2018**