JOINT MEETING OF THE MILPITAS CITY COUNCIL AND SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING AGENDA

TUESDAY, AUGUST 2, 2016
455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. (CLOSED SESSION)
7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

I. CALL TO ORDER/ROLL CALL OF THE CITY COUNCIL and SUCCESSOR AGENCY

II. ADJOURN TO CLOSED SESSION (6:00 p.m.)

(a) PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to California Government Code Section 54957. Position: City Manager

(b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION
Pursuant to California Government Code Section 54956.9 - City as Plaintiff (2 matters)

(c) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION
Pursuant to California Government Code Section 54956.9 - City as Defendant

(d) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION
Pursuant to California Government Code Section 54956.9(d)(1)
American Arbitration Association Case No. 01-16-00004753

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

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

V. INVOCATION (Councilmember Giordano)

VI. APPROVAL OF COUNCIL MEETING MINUTES June 21, 2016

VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR August 2016

VIII. PUBLIC FORUM

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

IX. ANNOUNCEMENTS

X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

XI. APPROVAL OF AGENDA

XII. CONSENT CALENDAR (Items with asterisks*)

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

XIII. PUBLIC HEARINGS

1. Conduct a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 408-586-3371)

2. Conduct a Public Hearing to Consider Request to Host a Flag Ceremony at City Hall Outside Plaza by Pakistan American Culture Center on August 14, 2016 (Staff Contact: Mary Lavelle, 408-586-3001)

3. Conduct a Public Hearing and Adopt a Resolution Approving Site Development Permit, Use Permit, Vesting Tentative Map and an Exception to the City's Supplemental Water Use Restrictions for the Montague Mixed-use Development at 720 Montague Expressway (Staff Contact: Bradley Misner, 408-586-3273)

4. Conduct a Public Hearing, Adopt a Resolution Implementing Stage One Water Conservation Measures and Introduce Ordinance No. 240.5 Relating to the Continued Water Shortage Emergency and Supplemental Water Use Restrictions (Staff Contact: Nina Hawk, 408-586-2603)

XIV. UNFINISHED BUSINESS

5. Continue Discussion Regarding Impact Report on the Initiative Petition for a Ballot Measure Regarding Water Rates and Direct Staff (Staff Contacts: Steven Machida, 408-586-3355 and Christopher Diaz, 408-586-3040)

6. Receive Report Regarding Water Rates Economics (Staff Contact: Steven Machida, 408-586-3355)

7. Receive Update on Capital Projects in the Transit Area Specific Plan Area (Staff Contact: Steven Machida, 408-586-3355)

***8. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

XV. REPORTS OF MAYOR AND COMMISSIONS

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

***10. Approve Mayor's Recommendation of the City's Director of Financial Services to Serve as Voting Member on the Milpitas Oversight Board (Staff Contact: Mary Lavelle, 408-586-3001)**

11. Consider Mayor's Request to City Council to Discuss a Proposal to Increase Milpitas Library Hours (Contact: Mayor Esteves, 408-586-3029)

12. Consider Rescinding City Council Resolution No. 8563 Calling for a Ballot Measure on November 8, 2016 (Contact: Mayor Esteves, 408-586-3029)

***13.** **Per Recommendation of the City Council Facilities Naming Subcommittee, Approve Naming the New Recreation Center for Mr. Sal Cracolice (Staff Contact: Renee Lorentzen, 408-586-3409)**

***14.** **Consider the Bicycle Pedestrian Advisory Commission's Recommendation for Appointment to the Santa Clara Valley Transportation Authority's Bicycle and Pedestrian Advisory Committee (Staff Contact: Steve Chan, 408-586-3324)**

15. **Approve the Senior Advisory Commission 2016-17 Work Plan (Staff Contact: Renee Lorentzen, 408-586-3234)**

XVI. NEW BUSINESS

***16.** **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2016 (Staff Contact: Russell Morreale, 408-586-3111)**

***17.** **Accept the Donation of a Copy Machine from Christ Community Church for Use in the Emergency Operations Center (Staff Contact: Chris Schroeder, 408-586-3161)**

***18.** **Accept the Donation of $8,077.77 Worth of In-Kind Labor and Authorize the City Manager to Execute a Contract with Sigura Construction, Inc. for Concrete Floor Work at Fire Station No. 1 (Staff Contact: Chris Schroeder, 408-586-3161)**

***19.** **Accept and Authorize the Use of Grant Funds of $2500 from County of Santa Clara for the City of Milpitas 4th of July Event Held in 2016 (Staff Contact: Dale Flunoy, 408-586-3228)**

XVII. ORDINANCES

***20.** **Waive the Second Reading and Adopt Ordinance No. 23.14 Amending Chapter 2 of Title I of the Milpitas Municipal Code (Purchasing), Relating to Adoption of the Uniform Public Construction Cost Accounting Act (Staff Contact: Russell Morreale, 408-586-3111)**

***21.** **Waive the Second Reading and Adopt Ordinance No. 201.6 Amending Chapter 2, Section 2-4.02 (Permit Required for Removal) and Section 2-9.01(Replacement or Compensation) of Title X of the Milpitas Municipal Code, Relating to Replacement Trees and Cost Recovery (Staff Contact: Bradley Misner, 408-586-3273)**

XVIII. RESOLUTIONS

***22.** **Adopt a Resolution Authorizing the Purchase of Four City Vehicles from the National Auto Fleet Group for the Not-To-Exceed Amount of $133,345.55 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

***23.** **Adopt a Resolution Awarding a Contract to O'Grady Paving, Inc. for the Street Resurfacing 2016 Project No. 4280, and Authorize Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**

***24.** **Adopt a Resolution Annexing Real Properties Within Tract No. 10328 (Prynt) into Community Facilities District No. 2005-1 (Annexation No. 16), Approve Final Map Tract 10328 for 25 Residential Units including 5 Live-Work Units Located at 75 South Milpitas Boulevard, and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)**

***25. Adopt a Resolution Declaring Intention to Annex Real Properties Within Tract No. 10324 (Lennar Homes) into Communities Facilities District No. 2008-1 (Annexation No. 8), and to Levy and Collect Special Tax For Public Services, and to Set Time and Place for a Public Hearing (Staff Contact: Judy Chu, 408-586-3325)**

***26. Adopt a Resolution Declaring Intention to Annex Real Properties Within Tract No. 10305 (The Edge) into Communities Facilities District No. 2008-1 (Annexation No. 9), and to Levy and Collect Special Tax For Public Services, and to Set Time and Place for a Public Hearing (Staff Contact: Judy Chu, 408-586-3325)**

27. Adopt a Resolution Calling for a Ballot Measure Related to Parks and Open Space for the November 8, 2016 Election (Staff Contact: Brad Misner, 408-586-3273 and Christopher Diaz, 408-586-3040)

XIX. AGREEMENTS

***28. Approve Amendment No. 3 to the Agreement with Peelle Technologies, Inc. for Document Imaging Services Extending it for Two Years through July 31, 2018 for the Current Annual Amount of $75,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

***29. Authorize the City Manager to Execute a Three Month Agreement with Premier Recycle Company with the Option to Execute a Maximum Nine Month Extension (Staff Contact: Steven Machida, 408-586-3355)**

***30. Approve and Authorize the City Manager to Execute a Consultant Agreement with HydroScience Engineers, Inc. for On-Call Support Services for the City's Recycled Water Program Not to Exceed $50,000 (Staff Contact: Steve Machida, 408-586-3355)**

***31. Authorize the City Manager to Execute Amendment No. 1 to the Cost Sharing Agreement with West Valley Sanitation District, Cupertino Sanitary, County Sanitation District No. 2-3 and Burbank Sanitary District in an Amount Not to Exceed $300,000 (Staff Contact: Nina Hawk, 408-586-3161)**

XX. DEMAND

***32. Receive a Report on Emergency Removal of Weeds and Authorize Payment of Invoices in the Amount of $60,000 to San Jose Conservation Corps (Staff Contact: Nina Hawk, 408-586-2603)**

XXI. SUCCESSOR AGENCY

***33. Adopt a Resolution Approving the Sale of Property and Authorizing the Executor Director of the Successor Agency to the Former Milpitas Redevelopment Agency to Execute All Escrow Documents for the Sale of Property Located at 86 N. Main Street to Harpreet and Neha Chaudhary (Staff Contact: Russell Morreale, 408-586-3111)**

XXII. ADJOURN JOINT MEETING OF THE CITY COUNCIL AND SUCCESSOR AGENCY

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, AUGUST 16, 2016

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035 e-mail: cdiaz@ci.milpitas.ca.gov / 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 Sister Cities Commission and Economic Development Commission (hotel rep.)

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

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

AGENDA REPORTS

XIII. PUBLIC HEARINGS

1. Conduct a Public Hearing and Adopt a Resolution Confirming Weed Abatement Assessments to be Entered on Tax Assessment Bills (Staff Contact: Albert Zamora, 408-586-3371)

Background: On January 5, 2016, City Council adopted Resolution No. 8518 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 County Department of Agriculture 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 County Department of Agriculture 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 ordinance provides 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."

After 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. The assessment list and the resolution confirming the weed abatement report are included in the Council's agenda packet.

Recommendations:
1. Open the public hearing for comments.
2. Move to close the public hearing, after hearing any testimony.
3. Adopt a Resolution confirming assessments for the listed properties in the City of Milpitas for weed abatement for 2016.

2. Conduct a Public Hearing to Consider Request to Host a Flag Ceremony at City Hall Outside Plaza by Pakistan American Culture Center on August 14, 2016 (Staff Contact: Mary Lavelle, 408-586-3001)

Background: The Pakistan American Culture Center of Milpitas filed two applications with the City Clerk in July: (1) to rent Milpitas City Hall outdoor plaza from 7:00 – 9:00 PM on Sunday, August 14, 2016 and (2) a request to hold a ground level flag ceremony on that date. Milpitas Municipal Code I-600-2.40 requires "all ground level ceremonies must be approved by the City Council . . . and . . . a public hearing will be held regarding each ground level ceremony application prior to its approval or denial by the City Council."

Mr. Mohammad Aboobaker from PACC submitted proper forms to the City Clerk on July 6. The group would like to hold an outdoor flag ceremony and hear speeches, outside at the back patio of City Hall, to be followed by a brief outdoor reception where approximately 40 people are anticipated to attend. An insurance certificate was due to be submitted to the City Clerk along with proper rental fees for the event.

The City Council must hold a public hearing for any comments, and then following the hearing, Council shall determine if it will approve the request. The public hearing was noticed in the local newspaper more than 10 days in advance of this meeting.

Fiscal Impact: Fees will be appropriately collected for rental cost and staff time for the event.

Recommendations:

1. Open the public hearing, and move to close it following any comments.
2. Consider request and approve a flag ceremony by the Pakistan American Culture Center at Milpitas City Hall outside plaza on Sunday, August 14, 2016 from 7:00 to 9:00 PM.

3. Conduct a Public Hearing and Adopt a Resolution Approving Site Development Permit, Use Permit, Vesting Tentative Map and an Exception to the City's Supplemental Water Use Restrictions for the Montague Mixed-use Development at 720 Montague Expressway (Staff Contact: Bradley Misner, 408-586-3273)

Background: On April 13, 2016, the Milpitas Planning Commission held a public hearing on the proposed development of a 2.35 acre project in the Transit Area Specific Plan (TASP). The project area is located along Montague Expressway, South Milpitas Boulevard and Gladding Court. The developer of the project proposes to construct 216 dwelling units with 5,630 square feet of retail space. A Conditional Use Permit is requested for density increase, tandem and compact parking spaces and minor deviations from the TASP to allow reduced size balconies. The applicant also requests an exception to the Supplemental Water Use Restriction, pursuant to VIII-6.5.00, including Sections 5.03 and 5.07, to allow a swimming pool/spa. The development includes 216 residential units and proposes to provide a pool and spa as an attractive amenity to future residents.

On April 13, 2016, the Milpitas Planning Commission voted unanimously to recommend that City Council approve the Vesting Tentative Map, Conditional Use Permit, and Site Development Permit for the requested development.

The City Council heard the item at its May 3, 2016 meeting and took no action on the project. Council recommended that the applicant return at a future meeting with design revisions. The applicant has incorporated revisions to the project design for City Council consideration. The list of design changes can be found in Attachment E.

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

Recommendations:

1) Open the public hearing for comments, and move to close the hearing following any speakers.
2) Adopt a Resolution approving the Vesting Tentative Map, Site Development Permit, Use Permit and an exception to City's Supplemental Water Use Restrictions for the Montague Mixed Use Development proposal at 720 Montague Expressway.

4. Conduct a Public Hearing, Adopt a Resolution Implementing Stage One Water Conservation Measures and Introduce Ordinance No. 240.5 Relating to the Continued Water Shortage Emergency and Supplemental Water Use Restrictions (Staff Contact: Nina Hawk, 408-586-2603)

Background: On June 16, 2015, the City Council declared the continuation of a water shortage for the year 2015 (Stage 2 of the Milpitas Water Shortage Contingency Plan), added additional conservation measures as required by state law; required the community to implement water conservation measures with a goal of reducing consumption by 30% and funded a water conservation program to support the community in reducing water use. Residents and businesses throughout the City substantially met the water use reduction goal, achieving an average reduction of over 24%.

The State Water Resources Control Board adopted a statewide water conservation approach that replaces the prior percentage reduction-based water conservation standard with a localized

"stress test" approach. This approach mandates urban water suppliers act to ensure at least a three-year supply of water for their customers under drought conditions.

The City of Milpitas was able to self-certify to the Water Resources Control Board that it had a sufficient supply of water for three years of drought conditions based on projections provided by both water wholesalers. Due to continued concerns over water supply and the extension of the emergency regulations, both of the City's water wholesalers have requested retailers to extend their declaration of a water shortage emergency and continue their water conservation programs. A survey of neighboring water retailers found water reduction goals, either adopted or in the process of being adopted, of between 10-20%, which represents a reduction from their previous goals. Based on the requests of the City's water wholesalers and the reduction goals adopted by neighboring retailers, a goal of a 15% reduction in water use for the City of Milpitas has been included in this Ordinance. This would be a reduction from the current goal of 30%.

The City is currently at Stage Two of the Water Shortage Contingency Plan (WSCP). The WSCP is included in the Urban Water Management Plan which the City Council adopted on June 7, 2016. A 15% reduction in water use would correspond to Stage One of the WSCP. Consistent with the actions taken by neighboring water retailers, the City's two water wholesalers, and the State Water Resources Control Board, the recommended Ordinance includes adjustments to the water use restrictions adopted by the City Council on June 16, 2015.

Fiscal Impact: None.

Recommendations:
1) Open the public hearing to receive comments.
2) Move to close the public hearing following any speakers.
3) Adopt a Resolution implementing Stage One Water Conservation Measures.
4) Following the City Attorney reading aloud the title of Ordinance No. 240.5, move to waive the first reading beyond the title of the Ordinance.
5) Introduce Ordinance No. 240.5 relating to the continued water shortage emergency and water use restrictions.

XIV. UNFINISHED BUSINESS

5. Continue Discussion Regarding Impact Report on the Initiative Petition for a Ballot Measure Regarding Water Rates and Direct Staff (Staff Contacts: Steven Machida, 408-586-3355 and Christopher Diaz, 408-586-3040)

Background: The City Council previously heard this item at the special meeting held on Monday, July 18, 2016. At that time, a motion was made to not take any action as required under the Elections Code with regard to the initiative measure based on legality concerns presented by the City Attorney. Per California Elections Code, the City Council is required either to adopt the proposed initiative measure as an ordinance without alteration or to submit the measure to the voters to decide the issue. The motion was made and seconded, but led to a tie vote with one councilmember absent. Because the vote was a tie, the motion failed. No other motions were made by the Council and no action was therefore taken on this issue.

As discussed by City Council on July 18, and as detailed in the impact report, the primary areas of concern are:

- Rate Structure Legality – The Initiative Measure Rates are similar to the tiered rates that were successfully challenged in the San Juan Capistrano Taxpayer Assn. Inc. v. City of San Juan Capistrano case. The case determined that the rates were not in compliance with Proposition 218.
- Revenue Shortfall – The Initiative Measure Rates are estimated to collect $4 million less each year compared to the adopted City water rates. The Initiative measure will continue to draw

down the Operating Fund, will accrue a deficit in the near term and erode the City's operating reserves below the 30% policy level.
- Impacts to Service – If water utility expenses exceed revenues, the two options are to increase revenues or decrease expenses. Appendix A of the report identifies water utility services that will be impacted if operating expenses are decreased.
- Impacts to Infrastructure – Appendix B of the report identifies water system infrastructure that is funded by the capital surcharge. Deferral or elimination of the projects to reduce expenses will likely result in long-term water system failure.
- Capital Project Deferral – Water systems are mission critical health and safety enterprises.

Every community needs a safe and reliable drinking water system. The CIP program identifies and prioritizes projects to maintain and improve water system reliability. Deferral or elimination of projects jeopardizes the implementation of key improvements that affect water quality and reliability.

The City Council should continue to discuss options on how to address the initiative measure, including the requirement under the Elections Code and any other options presented by the City Attorney. A resolution to place this measure on the ballot has been included for your review.

Recommendation: Continue to discuss the impact report analyzing the impact of the proposed water rates initiative and direct staff as appropriate.

6. Receive Report Regarding Water Rates Economics (Staff Contact: Steven Machida, 408-586-3355)

Background: The City of Milpitas owns and operates a safe drinking water distribution system in accordance with state regulations. As a result, water system revenues and expenses are tracked through the Water Enterprise Fund for operations and maintenance to ensure safe, clean and reliable water. Periodically, the City Council sets water rates to pass on wholesale water purchase prices and to ensure sufficient revenues to operate the water distribution system. The purpose of this report is to explain the factors affecting water rates, which are broadly grouped as operating and capital expenses.

Water Utility Expenses: Water system operation requires weekly water quality sampling; purchasing sufficient water supply for the community; providing adequate water flow for firefighting; monitoring and controlling pressure and flow throughout the distribution system; conducting maintenance on pumps, motors, generators, controls, valves, hydrants, pipes; State reporting; long-term planning; financial solvency; and coordinating with wholesalers. The single largest operating expense is the cost to purchase treated water.

The capital program is responsible to replace aging infrastructure; upgrade and incorporate new technology; address water system deficiencies, and expand water supply options. The City relies heavily on imported water that could suffer interruptions or reductions due to large seismic events or drought conditions. The City Council approved a program to expand local water supplies such as groundwater and recycled water. These two water supplies benefit the entire community whether each site is connected to it or not. Groundwater supply (wells) would be under City control, meets State drinking water requirements, and is available all of the time to supplement the drinking water supply. This new water supply will provide operational flexibility and provide an opportunity to reduce purchases of more expensive wholesale water. The recycled water system will be used for non-drinking purposes such as irrigation and cooling towers, freeing up precious drinking water for the entire community and helping to meet State City-wide conservation goals on drinking water. Other projects include replacing valves, hydrants, water meters with Smart Meters, installing real-time control system, and constructing a strengthened backbone.

Water Rate Calculations: In its simplest form, a unit water rate is calculated by dividing water system expenses by the water volume consumed. For example, if expenses are $100 and the volume is 25 units, then the cost per unit of water would be $4. This uniform rate is applied to each unit of water consumed whether it is the first unit or the 50th unit. The City's current fixed charges refer to a rate imposed regardless of the volume of water consumed and are typically dependent upon the water meter size. Tiered rates, the City's previous rate structure, charged a higher unit water rate as more water was consumed. Tiered rate systems were called into question by a recent court decision against the San Juan Capistrano tiered rates. In response to this court decision, the City of Milpitas adopted a uniform rate. The consequence of this rate change increased the previous lower tiered rates and decreased the higher rates. This change has caused some controversy in the community but was affirmed through the approved Proposition 218 vote.

The water rate structure in place from 2011 to December 2015 included fixed charges and tiered rates that increased as more water was consumed. Lines 1 and 2 on the table below show the cost to purchase water from the City's wholesalers. Lines 3 through 8 show the retail water rates for the past four years. All units are hundred cubic feet (hcf), which is equal to 748 gallons. As noted, the higher tiered rates were in essence subsidizing the lower tiered rates.

Historical Water Rate History

Line #	Customer Category	FY11-12	FY12-13	FY13-14	FY14-15
1	SFPUC*	$2.63	$2.93	$2.45**	$2.93
2	SCVWD*	$1.54	$1.66	$1.79	$1.94
3	Residential Tier 1	$1.77	$2.02	$2.30	$2.62
4	Residential Tier 2	$2.76	$2.98	$3.22	$3.48
5	Residential Tier 3	$3.72	$4.02	$4.34	$4.69
6	Residential Tier 4	$4.17	$4.50	$4.86	$5.29
7	Commercial, Industrial, Institutional	$4.32	$4.62	$4.94	$5.29
8	Irrigation	$4.79	$5.16	$5.29	$5.29

*These values represent the volumetric wholesale cost of water charged to the City of Milpitas. Fixed costs are not included.

**Beginning with FY 13-14, SFPUC capital costs were shifted from the wholesale volumetric cost to fixed costs.

The wholesale cost to purchase water is the single largest expense at 60% of the total expenses. It is important to note that most residential customers are located in the SFPUC service area. It is also important to note that most residential customers use 17 hcf per billing period, which is billed at Tier 1 and Tier 2 rates.

In response to the San Juan Capistrano decision against tiered rates, the City retained Bartle Wells Associates (BWA) to recommend a water rate structure in conformance with the final Proposition 218 requirements. BWA assigned 100% of wholesale water purchase costs and 25% of staffing, services, and supplies to be recouped by variable charges. Fixed charges were assigned to recoup 75% of staff, services, and supplies.

Overall, 30% of water system costs are paid by fixed charges and 70% are paid by variable charges. The water rate report prepared by BWA documents these costs. The updated wholesale costs are shown in Lines 9 and 10 in the table below. The resulting uniform water rate and capital surcharge are shown in Lines 11-13.

Milpitas Potable Water Rates Currently In Effect (cost per hcf)

Line #	Customer category	FY 15-16		FY 16-17	
		Variable	Capital surcharge	Variable	Capital surcharge
9	SFPUC	$0.375		$4.10	
10	SCVWD	$2.28		$2.69	
11	Residential	$4.75	$0	$5.13	$1.30
12	Commercial, Industrial, Institutional	$4.75	$0	$5.13	$1.30
13	Irrigation	$4.75	$0	$5.13	$1.30

The total wholesale cost of water is the largest single expense, accounting for 60% of the rate. Other expenses include salaries, administration, operations, repairs, and maintenance and capital improvements. The cost of 1 hcf of water = $6.43. The cost of 1 gallon of water = $0.0086. The table below shows the prorated cost for water system expenses per hcf and per gallon.

Water Rate Components

Functions	Prorated Cost per hcf (1 hcf = 748 gallons)	Prorated cost per gallon of water
Salaries/benefits	$1.13	$0.00099
Admin/office/billing/utilities	$0.25	$0.00110
Reporting/water quality/regulatory	$0.04	$0.00025
Supplies/small tools/uniforms	$0.02	$0.00039
Repair/maint/hydrants/meters	$0.06	$0.00019
Subtotal City operations	$1.50	
Wholesale purchase (excludes water loss)	$3.63	$0.0046
Capital Improvement Program	$1.30	$0.0005
Total	$6.43	$0.0086

Adequate water program revenue is necessary to ensure safe, clean and reliable water.

Fiscal Impact: None.

Recommendation: Receive a report from City Engineering staff on water rate economics.

7. Receive Update on Capital Projects in the Transit Area Specific Plan Area (Staff Contact: Steven Machida, 408-586-3355)

Background: The City Council requested a presentation on the Capital Improvement Projects (CIP) in the Transit Area Specific Plan. The Council specifically wanted to review the project descriptions and project delivery schedule. The schedule was prepared in two parts, segregating projects that are: (1) to be delivered by City staff and (2) projects that are development driven and will be constructed by the developers building in the TASP area. Staff will present the CIP schedule at the Council meeting.

The CIP schedule will be expanded to include all projects throughout the City in the CIP. The CIP schedule will be web-based and placed on the City's website for easy viewing.

Fiscal Impact: None.

Recommendation: Receive a report on capital projects in the Transit Area Specific Plan area.

*** 8. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**

Background: From May 11 through July 18, 2016, the Bay Area Air Quality Management District (BAAQMD) forwarded 481 complaints originating in Milpitas. 198 complaints identified a garbage odor, 19 complaints identified a sewage odor, and 264 complaints did not identify an odor source. As of the last Council update, the City's odor reporting website has received 85 reported complaints.

Recommendation: Receive the update of the Odor Control Report.

XV. REPORTS OF MAYOR AND COMMISSIONS

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

Background: Mayor Esteves recommends the following

Bicycle Pedestrian Advisory Commission
Re-appoint Alternate No. 1 Philip Tuet to another 2-year term that will expire in August of 2018.

Senior Advisory Commission
Move current Alternate No. 1 Jenny Berryhill up to a vacant voting seat to a 2-year term that will expire in December of 2017.
Move current Alternate No. 2 Willy Wong up to the Alternate No. 1 seat to a 2-year term that will expire in December of 2017.
Newly appoint Nona Tolentino as Alternate No. 2 to a 2-year term that expires in December of 2016.

Sister Cities Commission
Move up both Alternate No. 1 Barry Manogaran and Alternate No. 2 Dipak Awasthi to seats as voting Commissioners to 3-year terms that will expire in September of 2019.

Telecommunications Commission
Newly appoint Arun Bakthavatchalam to serve as Alternate No. 2 to a term of two years that will expires in January of 2018.

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

***10. Approve Mayor's Recommendation of the City's Director of Financial Services to Serve as Voting Member on the Milpitas Oversight Board (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: Mayor Esteves recommends Director of Financial Services Russell Morreale to replace Emma Karlen as one of the City of Milpitas voting members on the Milpitas Oversight Board. Former Finance Director/Assistant City Manager Emma Karlen retired in May, creating one vacancy for City of Milpitas on the Oversight Board. Ms. Althea Polanski currently serves as the other City of Milpitas voting member on the Board.

Recommendation: Per the Mayor's recommendation, appoint Director of Financial Services Russell Morreale as a City of Milpitas voting member on the Milpitas Oversight Board.

11. Consider Mayor's Request to City Council to Discuss a Proposal to Increase Milpitas Library Hours (Contact: Mayor Esteves, 408-586-3029)

Background: Mayor Esteves requests that the City Council discuss a proposal to increase Milpitas Library hours. City Council policy states that any staff work not part of an approved work program or budgeted item requiring more than four hours of staff time obtain approval of a majority of the City Council. Upon direction from a majority of the City Council, staff will commence with work effort necessary to gather information to fulfill the request to provide a proposal to increase Milpitas Library hours.

Fiscal Impact: Unknown at this time.

Recommendation: Provide staff direction to come back at the next Council meeting regarding a proposal to increase Milpitas Library hours.

12. Consider Rescinding City Council Resolution No. 8563 Calling for a Ballot Measure on November 8, 2016 (Contact: Mayor Esteves, 408-586-3029)

Background: At the request of Mayor Esteves, consider rescinding Resolution No. 8563, previously adopted by City Council on June 21, 2016, calling for a ballot measure on the November 8, 2016 election that any changes to the Town Center Zoning must be approved by Milpitas voters.

Fiscal Impact: Savings of approximately $60,000 by not placing the measure on the November 8, 2016 ballot.

Recommendation: Per request of Mayor Esteves, move to rescind the previously adopted City Council Resolution No. 8563 adopted by the City Council on June 21.

***13. Per Recommendation of the City Council Facilities Naming Subcommittee, Approve Naming the New Recreation Center for Mr. Sal Cracolice (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The City Council Facilities Naming Subcommittee was formed on October 26, 2015 to review and recommend the naming of City streets, parks and facilities to the City Council for final approval. The Subcommittee has reviewed and recommended the name for a new facility for final City Council approval. The new Bob McGuire City Park on Garden Street and Milpitas Boulevard has a new recreation center as part of its amenities. The new center will house private party rentals, private and public meeting rentals, recreation programs and classes, and City wide events.

Sal Cracolice is on the approved "Milpitas Historical Names" naming list and per the Facilities Naming Subcommittee, meets the City Streets, Parks and Facilities Naming Standard Operating Procedure Criteria, 1.C and 1.D:

c. Historical or cultural significance: the name of a historical figure can be considered if the figure had a significant and extraordinary historical influence on the area, state, national or international level;

d. The name of any person or family that has made a significant impact in the community and/or in development of the street, park, facility;

Sal Cracolice arrived in Milpitas in 1920 and promoted the growth and expansion of Milpitas for over 70 years. Among many contributions, Mr. Cracolice brought about the first Milpitas Youth Center which later would serve as a YMCA, interim Senior Center and general recreation facility. The Cracolice family was contacted and is in support of the proposed new center's naming.

Fiscal Impact: None.

Recommendation: Per recommendation of the City Council Facilities Naming Subcommittee, approve naming the new Recreation Center for Mr. Sal Cracolice.

***14. Consider the Bicycle Pedestrian Advisory Commission's Recommendation for Appointment to the Santa Clara Valley Transportation Authority's Bicycle and Pedestrian Advisory Committee (Staff Contact: Steve Chan, 408-586-3324)**

Background: The Santa Clara Valley Transportation Authority (VTA) Bicycle and Pedestrian Advisory Committee (BPAC) is a 17-member committee that advises VTA's Board of Directors on planning and funding issues for bicycle and pedestrian projects in the county. As a VTA Member Agency, the City of Milpitas has one voting position on this committee. The term of Milpitas' current VTA BPAC representative, Kristal Caidoy, expired on June 30, 2016. VTA requests the City of Milpitas to select an appointee to serve as the City's representative to VTA BPAC for the upcoming two-year term that starts July 1, 2016.

Kristal Caidoy is a current Milpitas Bicycle Pedestrian Advisory Commissioner (BPAC) in good standing. At the July 7, 2016 Commission meeting, the Milpitas Commissioners unanimously voted to have Kristal Caidoy continue to represent Milpitas on VTA BPAC. Commissioner Kristal Caidoy graciously accepted the appointment.

Milpitas Bicycle Pedestrian Advisory Commission recommends the City Council appoint Kristal Caidoy as Milpitas' representative to VTA BPAC for a two-year term beginning on July 1, 2016.

Fiscal Impact: None.

Recommendation: Appoint Milpitas BPAC member Kristal Caidoy as the Milpitas representative to the Santa Clara Valley Transportation Authority's Bicycle and Pedestrian Advisory Committee for a two year term beginning on July 1, 2016.

15. Approve the Senior Advisory Commission 2016-17 Work Plan (Staff Contact: Renee Lorentzen, 408-586-3234)

Background: The Senior Advisory Commission was founded on April 20, 1993. The Commission serves as an advisory body to the City Council on matters pertaining to recreation, leisure and nutrition services for the senior citizens of Milpitas. The Commission's 2016-17 Work Plan identifies the Commission's goals, projects and ongoing tasks that Commissioners plan to accomplish for the next year.

Recommendation: Approve the Senior Advisory Commission 2016-17 Work Plan.

XVI. NEW BUSINESS

***16. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended June 30, 2016 (Staff Contact: Russell Morreale, 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 June 30, 2016 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, 2016.

As of June 30, 2016, the principal cost and market value of the City's investment portfolio was $202,571,158 and $203,213,945 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, 2016 was 0.83%. The comparative benchmarks for the same period were 0.58% for LAIF (Local Agency Investment Fund) and 0.80% for the 12-month average yield of the 2-year Treasury Note. The weighted average maturity of the portfolio was 322 days.

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.

Three 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, 2016.

***17. Accept the Donation of a Copy Machine from Christ Community Church for Use in the Emergency Operations Center (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: Christ Community Church located at 1000 S. Park Victoria Blvd. in Milpitas is downsizing its facility and can no longer maintain its OCE CM2510 copier. Many church members are Office of Emergency Services - Strategic Actions for Emergencies (OES SAFE) team members and would like to donate the copier to the City's Emergency Operations Center (EOC). The EOC is typically activated for several drills per year and, of course, in the event of an actual emergency. Therefore, it is not cost effective to lease and maintain a copier on a monthly rental. It would be more beneficial for the City and the Fire Department budget to accept a no-cost copy machine for use as needed and to dispose of the device when at the end of its usefulness. Due to low usage, maintenance costs are expected to be negligible. In accordance with the City's Standard Operating Procedure No. 26.2 Grants, Sponsorships & Donations, item 6.1 "Receipt of Sponsorships and Donations," only the City Council can accept a donation to the City.

Fiscal Impact: Minimal. The only cost would be toner and the occasional repair, funds for which are available in the Fire Department operating budget.

Recommendation: Accept the donation of an OCE CM2510 copier from Christ Community Church for use in the City's Emergency Operations Center (EOC).

***18. Accept the Donation of $8,077.77 Worth of In-Kind Labor and Authorize the City Manager to Execute a Contract with Sigura Construction, Inc. for Concrete Floor Work at Fire Station No. 1 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On May 27, 2016, the City issued Invitation for Bid (IFB) No. 2162 for Fire Station No. 1 to grind, stain and polish the concrete floor. A bid was received from Bay Area Concretes, Inc. for $14,500 but did not include the required Bid Bond, and so was disqualified. Only one other bid was received from Sigura Construction, Inc. for $17,777.77 and that exceeded the available budget, thus was rejected. Shortly thereafter, Sigura Construction, Inc. approached the City and offered to reduce its bid to $9,700 as a donation of in-kind labor to the City. Sigura Construction, Inc. believes in giving back to the community and so twice a year donates up to $10,000 in materials and/or in-kind labor to various projects. In accordance with SOP No. 26.2 Grants, Sponsorships & Donations, item 6.1 "Receipt of Sponsorships and Donations" only the City Council can accept a donation to the City.

Fiscal Impact: None. $9,700 of funding is available for the project from CIP No. 3403 - Fire Station Improvements.

Recommendation: Accept the donation of $8,077.77 worth of in-kind labor and authorize the City Manager to execute a contract with Sigura Construction, Inc. to grind, stain and polish the concrete floor at Fire Station No. 1 for $9,700.

***19. Accept and Authorize the Use of Grant Funds of $2500 from County of Santa Clara for the City of Milpitas 4th of July Event Held in 2016 (Staff Contact: Dale Flunoy, 408-586-3228)**

Background: Recreation Services applied for and was awarded a grant of $2,500 from the County of Santa Clara's 4th of July grant program to use towards this year's fireworks celebration. This program was established to fund safe and legal fireworks displays.

Fiscal Impact: A transfer of $2,500 is necessary from the holding account for Special Events to the Special Events operating account. This will not impact the General Fund budget.

Recommendation: Accept and authorize use of grant funds from the County of Santa Clara for $2,500 toward the costs of the City of Milpitas 4th of July event held in 2016.

XVII. ORDINANCES

***20. Waive the Second Reading and Adopt Ordinance No. 23.14 Amending Chapter 2 of Title I of the Milpitas Municipal Code (Purchasing), Relating to Adoption of the Uniform Public Construction Cost Accounting Act (Staff Contact: Russell Morreale, 408-586-3111)**

Background: Ordinance No. 23.14 was introduced at the June 21, 2016, City Council meeting. The Ordinance has been updated and is now ready for its second reading and adoption.

Fiscal Impact: Anticipated staff time savings and other cost savings in amounts undetermined.

Recommendation: Waive the second reading and adopt Ordinance No. 23.14 amending Chapter 2 of Title I of the Milpitas Municipal Code (Purchasing), relating to adoption of the Uniform Public Construction Cost Accounting Act.

***21. Waive the Second Reading and Adopt Ordinance No. 201.6 Amending Chapter 2, Section 2-4.02 (Permit Required for Removal) and Section 2-9.01(Replacement or Compensation) of Title X of the Milpitas Municipal Code, Relating to Replacement Trees and Cost Recovery (Staff Contact: Bradley Misner, 408-586-3273)**

Background: Ordinance No. 201.6 was introduced at the June 21, 2016 City Council meeting. The Ordinance has been updated and is now ready for its second reading and adoption. This ordinance includes regulations related to replacement of trees in the City. At the direction of the City Council on June 21, the City Attorney included language defining the replacement ratio of at least two for one trees, in the version of the ordinance presented for adoption.

Fiscal Impact: None.

Recommendation: Waive the second reading and adopt Ordinance No. 201.6 amending Chapter 2, Section 2-4.02 (Permit Required for Removal) and Section 2-9.01(Replacement or Compensation) of Title X of the Milpitas Municipal Code of Title X, Relating to Replacement Trees and Cost Recovery.

XVIII. RESOLUTIONS

***22. Adopt a Resolution Authorizing the Purchase of Four City Vehicles from the National Auto Fleet Group for the Not-To-Exceed Amount of $133,345.55 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The Police Department's Fiscal Year 2016-17 budget includes the purchase of three 2017 Ford Police Interceptors Utility vehicles, including fitting them with standard push bars, for a total per vehicle cost of $36,231.20, to replace equipment that has reached the end of its useful life. The Building Inspection Department's Fiscal Year 2016-17 budget includes the purchase of one Ford Escape Sport Utility Vehicle, at a cost of 24,651.95 to replace equipment that has reached the end of its useful life.

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) #102811 entitled "Passenger Cars, Light Duty, Medium Duty, and Heavy Duty Trucks with Related Accessories" and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas. The price for the vehicles is the same as that offered in the original agreement. Staff has used this contract in the past and it is still current.

Fiscal Impact: None. Sufficient funding is in the FY 2016-17 adopted budget within the Equipment Replacement Fund for these purchases.

Recommendation: Adopt a resolution authorizing the purchase of four city vehicles from the National Auto Fleet Group for the not-to-exceed amount of $133,345.55 through a cooperative procurement contract, per Milpitas Municipal Code Section I-2-3.08 "Cooperative Purchasing."

***23. Adopt a Resolution Awarding a Contract to O'Grady Paving, Inc. for the Street Resurfacing 2016, Project No. 4280, and Authorize Director of Engineering to Execute Contract Change Orders (Staff Contact: Steve Chan, 408-586-3324)**

Background: On June 7, 2016, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals for the Street Resurfacing Project 2016. The work on the project will include localized repair of failed asphalt concrete pavement, resurface asphalt concrete pavement, install Americans with Disabilities Act (ADA) compliant sidewalk ramps, repair damaged sidewalk, curb and gutter and reinstall pavement delineation on the following street segments:

1) McCarthy Boulevard between Barber lane and Tasman Drive
2) Tasman Drive between McCarthy Boulevard and Alder Drive.

The Engineer's Estimate for the project is $1,800,000. The project was advertised and two sealed bids proposal were received on July 19, 2016. The bid pricing ranged from $1,977,749 to $2,294,292 and the City received no bid protests. The lowest responsible bidder submitting a bid is O'Grady Paving, Inc. with a bid amount of $1,977,749. This amount is approximately 9.9%

above the Engineer's Estimate which is considered to be within a reasonable percentage deviation from the Engineer's Estimate.

As was previously approved for the successful completion of recent projects with tight completion schedules, staff is requesting the use of the same change order authority. This authority 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 $200,000, which is approximately 10% of the total contract value. The change order authority would not exceed this amount and would not require an additional appropriation.

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

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

Recommendations:

1. Adopt a resolution awarding a contract to O'Grady Paving, Inc. as the lowest responsible bidder submitting a responsive bid for the Street Resurfacing 2016 Project No. 4280, in the amount of $1,977,749.
2. Authorize Director of Engineering/City Engineer to negotiate and execute contract change orders for Street Resurfacing 2016, Project No. 4280 in an aggregate amount not to exceed a construction contingency of $200,000.

***24. Adopt a Resolution Annexing Real Properties Within Tract No. 10328 (Prynt) into Community Facilities District No. 2005-1 (Annexation No. 16), Approve Final Map Tract 10328 for 25 Residential Units including 5 Live-Work Units Located at 75 South Milpitas Boulevard, and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)**

Background: On January 6, 2015, the City Council conditionally approved a Vesting Tentative Map (the "VTM") for a 25-unit residential development project, including five live-work units at 75 South Milpitas Boulevard by Taylor Morrison, LLC (the "Developer").

The final map of Tract 10328 is subject to annexation to the Community Facilities District No. 2005-1 (the "CFD 2005-1") as required by the project condition (Attachment 1). City has on file a Certificate of Registrar of Voters from the County of Santa Clara certifying that there are no registered voters residing within the boundaries of proposed Annexation No. 16 to the CFD 2005-1.

The City Engineer has examined the final map of Tract No. 10328 (Attachment 2) and determined that it is substantially the same as the VTM pursuant to California Government Code (GC) Section 66442. The City Council shall not deny approval of a final map if it has previously approved a tentative map for the proposed subdivision, and if it finds that the final map is in substantial compliance with the previously approved tentative map pursuant to GC Section 66474.1. Therefore, once the City Engineer certifies the final map, there are no additional discretionary grounds for the City Council to disapprove the final map.

The Developer has offered dedications to the City for public use, such as public street, public utilities, emergency vehicle access, and public access, as required by the project conditions 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 Government Code Section 66477.1 and Milpitas Municipal Code (MMC) Section XI-1-5.05-2.

On June 3, 2016, the City Council Facilities Naming Subcommittee reviewed and recommended approval of the private street name as shown on the final map. This private street name is Hearst

Street without duplication. City Council shall approve all street names, per MMC Section XI-1-7.01-8.

The City Engineer has also reviewed and approved public improvement plans (No. 2-1202) pursuant to MMC XI-1-7.09-2. The Developers have executed a Subdivision Improvement Agreement (Attachment 3) 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 ($115,000 for faithful performance $115,000 for labor and materials, and $2,000 for survey monumentation) to guarantee completion of required public improvements.

The final map Tract No. 10328 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). Annexation to the CFD 2005-1 is exempt from CEQA as it does not cause any physical change to the environment.

Fiscal Impact: None.

Recommendations:

1. Adopt a resolution annexing real properties within Tract No. 10328 into Community Facility District 2005-1; and
2. Approve final map of Tract No. 10328, 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. Authorize the City Manager to execute the Subdivision Improvement Agreement.

***25. Adopt a Resolution Declaring Intention to Annex Real Properties Within Tract No. 10324 (Lennar Homes) into Communities Facilities District No. 2008-1 (Annexation No. 8) and to Levy and Collect Special Tax For Public Services, and to Set Time and Place for a Public Hearing (Staff Contact: Judy Chu, 408-586-3325)**

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

Pursuant to California Government (GC) Code Section 53339, territory may be annexed to an existing CFD if the City Council determines that public convenience and necessity require that territory be added to the existing CFD. To date, seven territories have been annexed to into the CFD 2008-1.

On May 5, 2015, the City Council conditionally approved a Vesting Tentative Map for a 489-unit residential development project at 450 Montague Expressway, located within the Transit Area Specific Plan (TASP), by Lennar Homes of California and LMC Milpitas Holdings I, LLC (the "Developers"). Project condition no. 43 requires that the Developers consent to annex their properties into CFD 2008 and pay the special taxes levied by CFD 2008 for public services (the "Annexation No. 8") with boundary shown on Attachment 2.

Exhibit A of the Notice of Special Tax Lien provides descriptions of public services and Exhibit B of the Notice of Special Tax Lien provides descriptions of rate, method of apportionment and manner of collection of special tax. The public facilities and services provided for the proposed Annexation No. 8 are the same as the ones for the initial CFD 2008, as well as for the previous

seven annexations. The rate, method of apportionment and manner of collection of special tax for the proposed Annexation No. 8 are the same as the ones for the initial CFD 2008, as well as for the previous seven annexations.

There is no alteration in the special tax rate to be levied within the initial CFD 2008 or within the seven previously annexed territories as a result of the proposed Annexation No. 8. The maximum tax rate in the initial CFD 2008 and in the seven previously annexed territories will not be increased as a result of the proposed Annexation No. 8.

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

California Environmental Quality Act: Annexation of real properties into the existing CFD 2008 is not a project pursuant to the CEQA section 15378(b)(4). Annexation of real properties within Tract No. 10324 into the CFD 2008 were requirements imposed through conditions of approval on the underlying development project, which was found to be consistent with the Transit Area Specific Plan Environmental Impact Report pursuant to CEQA Guideline 15168(c)(2).

Fiscal Impact: None. Annexation of real properties within Tract No. 10324 into the CFD 2008 will enable the City to levy special tax for the real properties within Tract No. 10324 to fund public services.

Recommendations:

1. Adopt a resolution declaring intention to annex real properties within Tract No. 10324 into Communities Facilities District No. 2008-1 and to levy and collect special tax for public services.
2. Set a public hearing date on September 6, 2016 at 7:00 PM in the Council Chambers.
3. Direct the City Clerk to give notice of public hearing in accordance with applicable state law.

***26. Adopt a Resolution Declaring Intention to Annex Real Properties Within Tract No. 10305 (The Edge) into Communities Facilities District No. 2008-1 (Annexation No. 9) and to Levy and Collect Special Tax For Public Services, and to Set Time and Place for a Public Hearing (Staff Contact: Judy Chu, 408-586-3325)**

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

Pursuant to California Government (GC) Code Section 53339, territory may be annexed to an existing CFD if the City Council determines that public convenience and necessity require that territory be added to the existing CFD. To date, eight territories have been annexed into the CFD 2008-1.

On June 17, 2014, the City Council conditionally approved a Vesting Tentative Map for a 381-unit residential development project at 765 Montague Expressway, located within the Transit Area Specific Plan (TASP), by SCS Development Company, a California Corporation (the "Developer"). Project condition no. 59 requires that the Developer consent to annex their properties into CFD 2008 and pay the special taxes levied by CFD 2008 for public services (the "Annexation No. 9") with boundary shown on Attachment 2.

Exhibit A of the Notice of Special Tax Lien provides descriptions of public services and Exhibit B of the Notice of Special Tax Lien provides descriptions of rate, method of apportionment and manner of collection of special tax. The public facilities and services provided for the proposed Annexation No. 8 are the same as the ones for the initial CFD 2008, as well as for the previous seven annexations. The rate, method of apportionment and manner of collection of special tax for the proposed Annexation No. 9 are the same as the ones for the initial CFD 2008, as well as for the previous seven annexations.

There is no alteration in the special tax rate to be levied within the initial CFD 2008 or within the seven previously annexed territories as a result of the proposed Annexation No. 9. The maximum tax rate in the initial CFD 2008 and in the seven previously annexed territories will not be increased as a result of the proposed Annexation No. 9.

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

California Environmental Quality Act: Annexation of real properties into the existing CFD 2008 is not a project pursuant to the CEQA section 15378(b)(4). Annexation of real properties within Tract No. 10305 into the CFD 2008 were requirements imposed through conditions of approval on the underlying development project, which was found to be consistent with the Transit Area Specific Plan Environmental Impact Report pursuant to CEQA Guideline 15168(c)(2).

Fiscal Impact: None. Annexation of real properties within Tract No. 10305 into the CFD 2008 will enable the City to levy special tax for the real properties within Tract No. 10305 to fund public services.

Recommendations:

1. Adopt a resolution declaring intention to annex real properties within Tract No. 10305 into Communities Facilities District No. 2008-1 and to levy and collect special tax for public services.
2. Set a public hearing date at 7:00 pm on September 6, 2016 in the Council Chambers.
3. Direct the City Clerk to give notice of public hearing in accordance with applicable state law.

27. Adopt a Resolution Calling for a Ballot Measure Related to Parks and Open Space for the November 8, 2016 Election (Staff Contact: Brad Misner, 408-586-3273 and Christopher Diaz, 408-586-3040)

Background: The proposed Resolution, if adopted, would place on the ballot in November the issue of whether a change in General Plan land use designation from Parks and Open Space (POS) to Commercial, Industrial or Residential, should be subject to voter approval. In particular, the proposed ballot measure, if approved, would add two new policies into the General Plan as follows:

Guiding Principles
2.a-G-12 No construction of any residential, commercial or industrial building or structure shall be allowed in any land designated on the General Plan Land Use Map as "Parks and Open Space (POS)" unless the proposed construction is first approved by a two-thirds vote of the voters of the City at a general or special municipal election.

Growth and Expansion
2.a-I-2.3 No lands designated on the General Plan Land Use Map as "Parks and Open Space" may be redesignated for any other land use unless the proposed redesignation of that land is

first approved by a two-thirds vote of the voters of the City at a general or special municipal election.

This ballot measure is proposed in an effort to protect parks and open space in the City to allow the residents greater control over space in the City that is beneficial to all City residents.

The City Attorney prepared the Resolution calling for the ballot measure to be placed on the ballot November 8, 2016 consolidated with the scheduled municipal election and other ballot measures on that same date.

Fiscal Impact: To place the measure on the ballot, the County Registrar of Voters has estimated the cost to the City to be $53,000.

Recommendation: Adopt a Resolution calling for a ballot measure asking voters to adopt an ordinance related to Parks and Open Space to be placed on the November 8, 2016 ballot.

XIX. AGREEMENTS

***28. Approve Amendment No. 3 to the Agreement with Peelle Technologies, Inc. for Document Imaging Services Extending it for Two Years through July 31, 2018 for the Current Annual Amount of $75,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On February 20, 2013, City Council awarded a seventeen month contract for document imaging services supporting the City's records in the Building Department. The contract was based upon a "Piggyback Procurement" of a bid process conducted by the City of Dublin. The City's Purchasing Agent determined that the City of Dublin's Request for Proposal (RFP) met all of the requirements of Milpitas Municipal Code Section I-2-3.07. At that time, the City Council approved an agreement for the purchase of imaging and scanning services related to the City's records for the term from February 20, 2013 to July 31, 2014. Subsequent contract extensions have been acted upon in line with extended contract terms initiated by the City of Dublin and the scope of work expanded to include the document needs of the Fire department. Currently the term of the contract extended through July 31, 2016 for a total amount of $270,416.

On June 21, 2016, the City of Dublin again extended the term of its agreement with Peelle Technologies, Inc. to July 31, 2018 with no increase in cost. As such, City staff recommends following this action and extending the term of its agreement with Peelle Technologies, Inc. for the same period. The total annual contract amount would remain at $75,000 with a cumulative award amount not-to-exceed $420,416.

Fiscal Impact: None. Department budgets include these funds within their appropriations.

Recommendation: Approve Amendment No. 3 to the agreement with Peelle Technologies, Inc. for document imaging services extending it from July 31, 2016 to July 31, 2018 at the same annual not-to-exceed amount of $75,000.

***29. Authorize the City Manager to Execute a Three Month Agreement with Premier Recycle Company with the Option to Execute a Maximum Nine Month Extension (Staff Contact: Steven Machida, 408-586-3355)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code and the City's solid waste franchise agreement with Republic Services, debris box companies may enter into non-exclusive agreements with the City to collect and dispose of certain non-organic solid waste and/or construction and demolition debris from Milpitas residents and businesses. There are eleven debris box haulers serving the Milpitas community.

There is a possibility that debris box service may become an exclusive franchise service in the future. If so, this service will be clearly identified in a new solid waste collection agreement, which is currently being negotiated. A current debris box hauler, Premier Recycle Company, has an agreement which will expire on August 5, 2016. Staff recommends that a new agreement with a 3-month term be issued to Premier Recycle Company (with an option for a total 9 month extension to be provided in any format, including three 3-month extensions, two 4 ½ month extensions, or any variation that does not exceed nine months at City staff's discretion) in order to allow the hauler to continue providing services during the solid waste collection agreement negotiation and award process. Agreements for the remaining haulers expire between February 4, 2017 and August 15, 2018. Once the new solid waste collection agreement is negotiated and awarded, staff will bring recommendations addressing the agreements for all of the debris box haulers.

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

Alternative: To allow the current debris box contract to expire.

Fiscal Impact: None.

Recommendation: Authorize the City Manager to execute a three-month agreement with Premier Recycle Company with the option to execute a maximum nine-month extension.

***30. Approve and Authorize the City Manager to Execute a Consultant Agreement with HydroScience Engineers, Inc. for On-Call Support Services for the City's Recycled Water Program Not to Exceed $50,000 (Staff Contact: Steve Machida, 408-586-3355)**

Background: The City operates a recycled water distribution system serving about 200 customers. Routinely, South Bay Water Recycling directs staff to perform mandatory compliance follow-up activities relating to these customer sites. HydroScience Engineers, Inc. (HSE) has been selected from a list of engineering consultants established by the City in September 2013 to provide technical guidance to address these regulatory activities. HSE staff has the necessary specialized and unique skills and are qualified to provide these services.

The work includes verification and documentation of site features, including cross connection testing between the City's potable water and recycled water systems, plan documentation, deficiency identification, and completion of compliance checklists. This work is necessary to ensure the safety of the City's drinking water system and remain in compliance with state permits.

The scope and fee for these services were negotiated for an amount not to exceed $50,000, which is considered reasonable for the services provided. A copy of the agreement is included in the Council agenda packet.

California Environmental Quality Act: This action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change to the environment.

Alternative: Additional support will not be available resulting in delays in addressing regulatory requirements.

Fiscal Impact: None. There are sufficient funds in the engineering operating budget. Some of the regulatory work may be eligible for reimbursement from South Bay Water Recycling.

Recommendation: Approve and authorize the City Manager to execute an agreement with HydroScience Engineers, Inc. for on-call support services for the City's recycled water programs not to exceed $50,000.

***31. Authorize the City Manager to Execute Amendment No. 1 to the Cost Sharing Agreement with West Valley Sanitation District, Cupertino Sanitary, County Sanitation District No. 2-3 and Burbank Sanitary District in an Amount Not to Exceed $300,000 (Staff Contact: Nina Hawk, 408-586-3161)**

Background: On August 25, 2015, the City of Milpitas formed a Common Interest Group with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3, and Burbank Sanitary District pursuant to a Common Interest, Privilege, and Confidentiality Agreement. This Common Interest Group was established to advance the interests of the parties' common interests in negotiating amendments to their respective Master Agreements for Wastewater Treatment with the Cities of San Jose and Santa Clara.

A Cost Sharing Agreement executed on March 7, 2016 divides the costs for professional services rendered to the Common Interest Group parties in their negotiations with the Cities of San Jose and Santa Clara. The Amendment No.1 is requested to be approved in concept and will only address cost sharing of services associated with the Common Interest Group.

Fiscal Impact: None. Sufficient funds are available through Capital Improvement Program fund 6118.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the agreement with West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District No. 2-3 and Burbank Sanitary District Cost Sharing Agreement for the Common Interest Group in an amount not to exceed $300,000.

XX. DEMAND

***32. Receive a Report on Emergency Removal of Weeds and Authorize Payment of Invoices in the Amount of $60,000 to San Jose Conservation Corps (Staff Contact: Nina Hawk, 408-586-2603)**

Background: Pursuant to state public contracting law and City Council Resolution No. 7779, the Director of Public Works must report all emergency work to the Council. Due to unusually extreme cycles of heat and rain during the spring and summer of 2016, the South Bay region has experienced an extraordinary amount of weed growth. Uncontrolled weed growth poses a serious health and safety hazard to the public, but especially as a fire hazard in the wild-urban interface areas, a traffic hazard for both drivers and pedestrians on major thoroughfares, and a pest control hazard along certain public rights-of-way. Based on reports from the Milpitas Fire and Police Departments and members of the public, Public Works identified more than 55 locations throughout the City in need of weed removal, 35 of which were determined to be high priority due the hazards posed. The Director determined that based on the volume of the workload, City staff and contractors would be insufficient to meet the City's need for immediate weed removal.

On July 7, 2016, the Public Works Director instructed the San Jose Conservation Corps (SJCC) to begin manual weed removal at multiple locations throughout the City in order to promptly address these hazardous conditions. The SJCC was able to immediately mobilize two work crews, with a total of 20 people, and dispatch them to the areas of the City with the highest public safety concern.

The abatement of weeds qualifies as an emergency due to the critical health and safety threat posed to public welfare, especially in regard to fire safety, traffic safety, and pest control.

Fiscal Impact: None.

Recommendation: Authorize payment of invoices in an amount not to exceed $60,000 to San Jose Conservation Corps for weed removal from the operating budgets for Streets, Trees and Landscape, and Utilities.

XXI. SUCCESSOR AGENCY

***33. Adopt a Resolution Approving the Sale of Property and Authorizing the Executor Director of the Successor Agency to the Former Milpitas Redevelopment Agency to Execute All Escrow Documents for the Sale of Property Located at 86 N. Main Street to Harpreet and Neha Chaudhary (Staff Contact: Russell Morreale, 408-586-3111)**

Background: On July 18, 2016, the City authorized the Executive Director of the Successor Agency to the former Milpitas Redevelopment Agency to execute a Purchase & Sale Agreement (PSA) with Harpreet Chaudhary and Neha Chaudhary for property located at 86 N. Main Street. This was pursuant to an action approved by the Successor Agency Oversight Board in line with the Long Range Property Management Plan ("LRPMP"). That transaction is proceeding as planned and this recommended action simply codifies the approval of the Executive Director to execute the various escrow documents that will arise in the sale process. Per the Purchase and Sale Agreement, escrow is scheduled to close on October 16, 2016.

Fiscal Impact: The City of Milpitas will receive approximately 16% of the net sales proceeds with the price of the property set at the amount of $223,000.

Recommendation: Adopt a resolution approving the sale of property and authorizing the Executor Director of the Successor Agency to the Former Milpitas Redevelopment Agency to execute all escrow documents including the purchase and sale agreement for the sale of property located at 86 N. Main Street (APN 028-24-025) to Harpreet and Neha Choudhary.

XXII. ADJOURN JOINT MEETING

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, AUGUST 16, 2016