



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, MAY 16, 2017

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 by Mayor and ROLL CALL by City Clerk**
- II. ADJOURN TO CLOSED SESSION (6:00 p.m.)**
 - (a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6
City Negotiators: Tom Williams, Tina Murphy
Employee Groups: Milpitas Employees Association
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - (b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to Government Code Section 54956.9(d)(2) - City as Defendant
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Phan)**
- VI. SCHEDULE OF MEETINGS – COUNCIL CALENDARS - May and June 2017**
- VII. PRESENTATIONS**
 - Proclaim National Foster Care/Resources Parent Awareness Month for May 2017
 - Proclaim Older Americans Month for May 2017
 - Proclaim Public Works Week for May 21 – 27, 2017
 - Proclaim Memorial Day in Milpitas on May 29, 2017
 - Present Award of Youth Advisory Commission Scholarship
- 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. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- X. APPROVAL OF AGENDA**

XI. 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. Anyone who wishes 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.

XII. APPROVE COUNCIL MEETING MINUTES - April 26, May 2, 2017 (regular & special meetings)

XIII. PUBLIC HEARINGS

- 1. Conduct a Public Hearing Continued from May 2, 2017 to Introduce Ordinance No. 293 Restricting Expanded Polystyrene (EPS) Foam Food Ware Use and Adopt the Policy Restricting EPS Foam Food Ware Use at City Facilities and at City-Sponsored Events (Staff Contact: Leslie Stobbe, 408-586-3352)**
- 2. Conduct a Public Hearing and 1) Adopt a Resolution Approving a Specific Plan Amendment, 2) Introduce Ordinance No. 38.829 Amending Title XI, Chapter 10, Section 6.02, Subsection 2 of the Milpitas Municipal Code, and, 3) Adopt a Resolution Approving a Conditional Use Permit Allowing Religious Use in a Commercial Building at 529 South Main Street (Staff Contact: Michael Fossati, 408-586-3274)**

XIV. UNFINISHED BUSINESS

- 3. Continuation of Budget Study Session: staff presentation of City Council and City Attorney's Proposed FY 2017-18 Budgets (Staff Contact: Tom Williams, 408-586-3050)**

XV. REPORTS OF MAYOR & COUNCILMEMBER

- * 4. Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Tran, 408-586-3029)**
- 5. Per Request of Councilmember Nuñez, Request to Approve More than 4 Hours of Staff Time to Bring an Urgency Ordinance to Preserve All Existing Low Income Housing Units in the City (Contact: Councilmember Nuñez, 408-586-3023)**
- 6. Per Request of Councilmember Nuñez, Request to Approve More than 4 Hours of Staff Time to Consider Drafting a Censure Policy (Contact: Councilmember Nuñez, 408-586-3023)**

XVI. NEW BUSINESS

- 7. Receive Information Regarding the Abandonment of the Teleminor Alert System and Promote the Public Use of AlertSCC (Staff Contact: Toni Charlop, 408-586-2801)**
- 8. Approve Design Concept for the Alviso Adobe Building Interior Restoration Project (Staff Contact: Renee Lorentzen, 408-586-3409)**
- 9. Receive a Presentation from Staff Regarding Affordable Housing (Staff Contact: Brad Misner, 408-586-3373)**
- *10. Approve Request for Out of State Travel for Finance Director to Attend Government Finance Officers Association Conference in Denver, CO and for Police Captain to Attend Ceremony at FBI Academy in Virginia on June 7 (Staff Contacts: Will Fuentes, 408-586-3111 and Steve Pangelinan, 408-586-2426)**

XVII. RESOLUTIONS

- *11. Adopt a Resolution Amending the Classification Plan to Adjust City of Milpitas Part-Time Temporary Classifications to Reflect the new Milpitas Local Minimum Wage (Staff Contact: Tina Murphy, 408-586-3086)**
- *12. Adopt a Resolution to Affirm Compliance with Surplus Land Act to Satisfy the Requirement of Metropolitan Transportation Commission for Grant Funding (Staff Contact: Steve Chan, 408-586-2603)**
- *13. Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approve a Reduction of Improvement Security for the Faithful Performance for the Orchid Subdivision at 31 Los Coches Street by DR Horton Bay, Inc. (Staff Contact: Judy Chu, 408-586-3325)**
- *14. Adopt a Resolution Initiating Proceedings for the Levy and Collection of Assessment, and Ordering Preparation of the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch (Staff Contact: Judy Chu, 408-586-3325)**
- *15. Adopt a Resolution Initiating Proceedings for the Levy and Collection of Assessment, and Ordering the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 98-1 - Sinclair Horizon (Staff Contact: Judy Chu, 408-586-3325)**
- 16. Per Request of Councilmember Nuñez, Consider Adopting a Resolution in Support of Senate Bill 687 – Health Facilities Emergency Centers (Contact: Councilmember Bob Nuñez, 408-586-3023)**

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

- *17. Consider Action to Remove One Member of the Citizens Task Force on Water Rates (Staff Contact: Tom Williams, 408-586-3050)**

XIX. ADJOURNMENT

NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, JUNE 6, 2017

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: cdiaz@ci.milpitas.ca.gov / Phone: 408-586-3040

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

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

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

APPLY TO SERVE ON A CITY COMMISSION

Current Vacancies on:

Arts Commission
Community Advisory Commission
Economic Development Commission
Emergency Preparedness Commission
Sister Cities Commission
Telecommunications Commission
Youth Advisory Commission

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

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 Continued from May 2, 2017 to Introduce Ordinance No. 293 Restricting Expanded Polystyrene (EPS) Foam Food Ware Use and Adopt the Policy Restricting EPS Foam Food Ware Use at City Facilities and at City-Sponsored Events (Staff Contact: Leslie Stobbe, 408-586-3352)**

Background: EPS is a petroleum-based, lightweight plastic material commonly used in a molded foam form as take-out food service ware by retail food vendors. Styrene, a component of EPS foam, was added to the list of chemicals known by the State of California to cause cancer by the Office of Environmental Health Hazard Assessment and as identified by the National Toxicology Program in April 2016. EPS is difficult and uneconomical to handle and recycle, especially if soiled by food. It easily breaks down into smaller pieces in the environment, making it difficult to clean up, and is often mistaken for food and ingested by birds and marine wildlife.

Two regional studies quantify the problems of EPS food ware in the local environment (both included with the Council agenda packet):

1. Bay Area Stormwater Management Agencies Association (BASMAA) - San Francisco Bay Area Stormwater Trash Generation Rates, prepared by EOA, Inc. in 2014 summarizes monitoring conducted in 2010-11 of trash in storm drains to establish baseline trash generation rates. Results indicate that “EPS food ware is roughly 6% of trash (by volume) observed in storm drains.”
2. Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) - Storm Drain Trash Monitoring and Characterization Project Technical Report, prepared by EOA, Inc. 2016, summarizes the results of monitoring conducted in 2015-16 to evaluate whether reductions in EPS foam food ware and single-use carry-out bags have decreased. Results indicate that “there was a 74% decrease in the volume of EPS food service ware observed in the 53 sites in common between this Project and the BASMAA Trash Generation Rates Study (BASMAA 2014). This large decrease coincides with ordinances that have been adopted throughout most of the Santa Clara Valley.”

Milpitas’ Trash Reduction Efforts

On April 26, 2011, the Recycling & Source Reduction Advisory Commission (RSRAC) recommended the City develop an EPS ordinance as a low cost alternative to reduce environmentally harmful trash in local creeks and to meet litter reduction requirements based upon the Expanded Polystyrene Food Service Take-Out Container Study. On April 15, 2014, the City Council authorized staff to begin implementation of the Long-Term Trash Load Reduction Plan (Plan) as required by the Municipal Regional Stormwater Permit (MRP). On January 24, 2017, RSRAC recommended that the City also adopt an internal policy restricting EPS use on City property and at City-sponsored events. On April 25, 2017, the RSRAC recommended the City Council adopt an ordinance restricting the use of extended polystyrene (EPS) foam food ware take-out containers.

The MRP applies to 76 municipalities (cities, towns and counties) and flood control agencies (water districts) that discharge stormwater to San Francisco Bay. An updated MRP (Order R2-2015-0049) became effective on January 1, 2016. The MRP requires Permittees to demonstrate the following reductions in trash discharged from storm drain systems: 70% by July 2017; 80% by July 2019; and “No Visual Impact Equivalent” by July 2022. To establish a baseline for the City of Milpitas, the City developed a trash generation map that provides an

estimate of the amount of trash discharged into the stormwater conveyance system, local creeks and channels. Additionally, the City developed and submitted the Plan listing trash load reduction actions that the City will implement between 2014 and 2022 to address mandated trash load reductions. This Plan, presented to the City Council on April 15, 2014, includes but is not limited to these trash control actions:

- Installation and maintenance of full trash capture treatment devices in the City's storm drain system and channels.
- Enhanced inspections of businesses to ensure trash is managed properly and areas are litter free.
- Online outreach to residents and people working in Milpitas, including printed and electronic information of best management practices for businesses.
- Adoption of single-use carry-out bag Ordinance No. 287 effective January 1, 2016.
- Introduction of an ordinance restricting EPS foam food service ware and recommendation of City policy to restrict the use of consumer EPS products ("clamshells," plates and cups) at City facilities and events.

As a result of implementing the above actions, except the EPS ordinance, the City can reasonably expect a 70% trash reduction from stormwater in July 2017. In an effort to achieve the 80% compliance target by July 2019, staff recommends implementation of the proposed EPS ordinance and to increase the number of creek cleanups conducted by the City.

Community Outreach

To prepare the draft ordinance, a survey and meeting announcement were mailed to 376 food establishments, placed in the Chamber of Commerce's newsletter *Panorama*, and emailed to Chamber members. Results of that outreach and a summary of comments received will be presented at the public hearing. In addition, staff attended meetings with the California Restaurant Association on March 23, 2017 and with the Milpitas Chamber of Commerce Board on April 6, 2017. Further, staff has researched the viability of business cooperatives that provide reduced costs for container alternatives. This information can be provided to food establishment owners and managers as part of the outreach plan.

Proposed Actions

The proposed ordinance would prohibit all food vendors from providing EPS foam disposable food service ware to customers. This would include "take out" containers as well as the use of EPS foam disposable food ware for on-site consumption. Staff recommends the new ordinance become effective on July 1, 2018 to allow sufficient time for food establishments to deplete current inventories and for the outreach effort.

In addition, staff recommends establishing a policy that would prohibit use of EPS foam food ware at all City facilities, City-managed concessions, City-sponsored events and for any food vendors doing business with the City and by private persons at City rental facilities.

California Environmental Quality Act: The ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15307 (actions by a Regulatory Agency for protection of the natural resources) and 15308 (actions by a Regulatory Agency for Protection of the Environment) because it is intended to reduce EPS litter and thereby reduce the risk of harm to aquatic wildlife and improve water quality in the Milpitas creeks and the Southern San Francisco Bay.

Alternative: If the Council does not adopt Ordinance No. 293 restricting the use of EPS foam disposable food service ware, the City faces non-compliance of meeting mandatory litter control requirements under its stormwater permit and to reduce environmentally harmful trash in storm drains and creeks.

Fiscal Impact: Adoption of the EPS ordinance would cost approximately \$9,500 during FY 2017-18 to conduct outreach targeted to local food establishments (\$5,500) and to conduct additional creek cleanups (\$4,000). \$9,500 is included in the proposed FY 2017-18 budget for Council's approval at a later date.

Adoption of the EPS policy would cost approximately an additional \$730 annually for the Senior Center's Lunch Program to use EPS alternatives.

Recommendations:

1. Open the public hearing to receive comments.
2. Move to close the Public Hearing, following any comments from the public.
3. Waive the first reading beyond the title of Ordinance No. 293, following a reading of the title by the City Attorney.
4. Introduce Ordinance No. 293 restricting the use of EPS foam food ware.
5. Adopt a City policy restricting EPS foam food ware use at City facilities and at City-sponsored events.

Attachments:

- a) Ordinance No. 293 for first reading
- b) Policy to Restrict Expanded Polystyrene (EPS) Foam Food Ware Use at City Facilities
- c) Food Establishment Stakeholder Survey
- d) Survey Letter to Food Establishments
- e) EPS Save the Date notice 4-12-17 meeting
- f) Long-Term Trash Load Reduction Plan & Assessment
- g) Stormwater Trash Generation Rates Final Report
- h) Storm Drain Trash Monitoring & Characterization Project Technical Report
- i) Expanded Polystyrene Food Service Take-Out Container Study
- j) EPS Study Appendices
- k) Letter Opposing ordinance - American Chemistry Council
- l) Letter Opposing ordinance – California Restaurant Association

2. **Conduct a Public Hearing and 1) Adopt a Resolution Approving a Specific Plan Amendment, 2) Introduce Ordinance No. 38.829 Amending Title XI, Chapter 10, Section 6.02, Subsection 2 of the Milpitas Municipal Code, and, 3) Adopt a Resolution Approving a Conditional Use Permit Allowing Religious Use in a Commercial Building at 529 South Main Street (Staff Contact: Michael Fossati, 408-586-3274)**

Background: Applicant Johnnie Q. Jones of Greater Love Church requests the City Council to approve zoning changes and a permit, as follows:

- A Midtown Specific Plan and Zoning Amendment to allow religious institutions to be located less than 1,000 linear feet from any other quasi-public use within an MXD zone.
- A Conditional Use Permit to allow Greater Love Church to occupy and existing 5,400 sq. ft. building located at 529 S. Main Street.

If approved, Greater Love Church would utilize approximately 3,000 sq. ft. of the building for a sanctuary and offices, and would lease the remaining space to an office use. Furthermore, the approval of the ordinance and resolutions would remove the spatial requirement for certain quasi-public uses within the MXD zoning district.

Environmental: The Specific Plan and Zoning Amendment are exempt from CEQA review pursuant to Section 15061 (B) (3) in that the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not

subject to CEQA. This Conditional Use Permit is categorically exempt from further CEQA review pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines.

Fiscal Impact: Neither the ordinance nor the resolutions will have an immediate fiscal impact.

Recommendations:

1. Open the public hearing for any comments.
2. Move to close the public hearing following any speakers.
3. Adopt a resolution approving the Specific Plan Amendment to allow religious institutions within the MXD zone to be located within 1,000 feet of another quasi-public use.
4. Following a reading of the title by the City Attorney, waive the first reading beyond the title of Ordinance No. 38.829 approving the Zoning Amendment amending Title XI, Chapter 10, Section 6.02, Subsection 2 of the Milpitas Municipal Code to remove “Churches and Other Religious Institutions” from the Spatial Requirement that requires such uses by more than 1,000 feet from one another for lots located in an “MXD” zoned designation, per CEQA Guidelines 15061(b)(3) and 15031.
5. Introduce Ordinance No. 38.829.
6. Adopt a resolution approving a Conditional Use Permit to allow Greater Love Church to occupy 529 S. Main Street.

Attachments:

- a) draft Resolution Approving Specific Plan amendment
- b) draft Resolution Approving Conditional Use Permit
- c) draft Ordinance No. 38.329
- d) Planning Commission meeting minutes – March 22, 2017
- e) Planning Commission staff report – March 22, 2017
- f) Project layout

XIV. UNFINISHED BUSINESS

3. **Continuation of Budget Study Session: Staff Presentation of City Council and City Attorney’s Proposed FY 2017-18 Budgets (Staff Contact: Tom Williams, 408-586-3050)**

Recommendation: Receive oral report from City Manager and City Attorney on proposed FY 2017-18 budgets of the City Council and City Attorney’s office (continuation from meeting of May 3, 2017).

Attachment: None

XV. REPORTS OF MAYOR & COUNCILMEMBER

- * 4. **Consider Mayor’s Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Tran, 408-586-3029)**

Background: Mayor Tran recommends the following Commission appointments:

Economic Development Commission:

Newly appoint Lynne C. Rice (marketing director at the Great Mall) as the retail representative to a term that will expire in April of 2018.

Newly appoint Peter Chang to a term on the Commission, representing residents, that will expire in April of 2019.

Park, Recreation and Cultural Resources Commission:

Move current Alternate No. 2 Aakar Shah up to the Alternate No. 1 seat to a vacancy that will expire in June 2018.

Newly appoint Voltaire Montemayor as Alternate No. 2 to a two-year term that will expire in June of 2019.

Recommendation: Receive Mayor's recommendations and approve appointments to the Economic Development Commission and the Parks, Recreation and Cultural Resources Commission.

Attachments: copies of applications of those recommended and all others on file with the City Clerk for two Commissions

5. **Per Request of Councilmember Nuñez, Request to Approve More than 4 Hours of Staff Time to Bring an Urgency Ordinance to Preserve All Existing Low Income Housing Units in the City (Contact: Councilmember Nuñez, 408-586-3023)**

Recommendation: Hear request of Councilmember Nuñez, and move to authorize more than four hours of staff time.

Attachment: None

6. **Per Request of Councilmember Nuñez, Request to Approve More than 4 Hours of Staff Time to Consider Drafting a Censure Policy (Contact: Councilmember Nuñez, 408-586-3023)**

Recommendation: Hear request of Councilmember Nuñez, and move to authorize more than four hours of staff time.

Attachment: None

XVI. NEW BUSINESS

7. **Receive Information Regarding the Abandonment of the Teleminder Alert System and Promote the Public Use of AlertSCC (Staff Contact: Toni Charlop, 408-586-2801)**

Background: The City of Milpitas previously employed the use of the Teleminder alarm system. These are audible alarms set up strategically in locations around the City. Due to technological advances enabling information to pass more easily and efficiently, Santa Clara County employed the services of AlertSCC. AlertSCC allows individuals to register their cell phone for voice and text alerts, home phones to receive voice alerts, including the use of TTY technology, and email alerts. It is set to the preference of the user. Most importantly, it is the means in which Milpitas Dispatch Communications notifies the community of concerns in their area – including shelter in place, evacuation, or areas to avoid. The Milpitas Fire, Police and Emergency Services encourage all residents to utilize this FREE emergency alert notification system.

Fiscal Impact: None

Recommendation: to receive information regarding abandonment of the Teleminder Alert System and promote the public use of AlertSCC.

Attachment: AlertSCC flyer

8. **Approve Design Concept for the Alviso Adobe Building Interior Restoration Project (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The Alviso Adobe Building Interior Restoration Project is included in the Capital Improvement Program, and is the fifth and final phase project at the Historic Alviso

Adobe Park. Previous project phases included restoration and rehabilitation of the park, existing “out buildings” (drying shed, garage, water tower), informational/educational signs, and exterior restoration of the Alviso Adobe Building. The restoration of the Adobe's interior will complete the Alviso Adobe historic site and park which is considered a valuable community and cultural resource to both the City of Milpitas and Bay Area history.

On August 18, 2016, the City Council approved an agreement with the historical preservation firm of Page & Turnbull to provide design services for the project.

This fifth and final phase of this project includes restoration of the first floor building interior to reflect and tell the story of its original Spanish-Mexican Era beginnings, the Monterey style architecture, and its transition into the early 20th century. The proposed restoration design work will:

- Provide improvements for compliance with Americans with Disabilities Act (ADA) and other necessary building code upgrades to allow public to visit the interior of the Adobe.
- Stabilize and restore existing finishes and fixtures (i.e. wallpaper, fireplaces, wainscoting, wood ceilings, period furniture)
- Create visitor experience displays for future events, tours and fieldtrips

As part of the Building Interior Restoration project's process, community input was gathered through the following meetings:

- Community Meeting #1 - August 25, 2016
- Community Meeting #2 - January 5, 2017
- Community Meeting #3 - February 6, 2017

The noticed, open community meetings were attended by two volunteer Parks, Recreation and Cultural Resources Commission Commissioners, general public and Milpitas Historical Society Members. Additionally, staff had made contact with the families that resided in the Alviso Adobe building. On February 6, 2017, the PRCRC approved the final concept design and recommended it for City Council final approval.

Upon approval, staff will continue to meet and work with the Milpitas Historical Society, past Adobe resident families and interested cultural heritage groups on the creation of the visitor experience displays.

Fiscal Impact: Funds for this project in the amount of \$2,069,892 were appropriated in the 2017-2022 Capital Improvement Program, approved by City Council on April 18, 2017.

California Environmental Quality Act: This project has an approved Mitigated Negative Declaration.

Recommendation: Approve the design concept for the Alviso Adobe Building Interior Restoration Project.

Attachment: Alviso Adobe Concept Design

9. Receive a Presentation from Staff Regarding Affordable Housing (Staff Contact: Brad Misner, 408-586-3373)

Introduction: Demand for housing throughout the Silicon Valley continues to be at an all-time high. Coupled with the lack of housing supply, rising housing costs are creating an increasing need for affordable housing at all levels. Specific to the City of Milpitas, at its March 1, 2017 Special Meeting, the City Council indicated that affordable housing is a top priority. This report summarizes the City's past and present affordable housing activities and

identifies potential options for Council’s consideration to aid in the production and retention of affordable housing units.

Background: The City’s Planning and Neighborhood Services Department Housing Division is responsible for oversight of the City’s affordable housing program. The Housing Division’s two main functions are: 1) management of the City’s affordable housing program which includes affordable ownership and rental units; and 2) administration of the City’s Community Development Block Grant (CDBG) Program. The City receives approximately \$400,000 per year from the CDBG program.

Affordable housing is generally considered housing that is affordable to, and reserved for, lower-income households for a period of time. Both the U.S. Department of Housing and Urban Development (HUD) and the State of California Department of Housing and Community (HCD) have the same income categories for “lower income” households. These “lower income” categories are generally defined as the following:

Moderate-Income:	81-120% Area Median Income
Low-Income:	51-80% Area Median Income
Very Low-Income:	31-50% Area Median Income
Extremely Low-Income:	0-30% Area Median Income

For reference, the Area Median Income for Santa Clara County is \$107,100 for a family of four.

Below is HCD’s income breakdown of all the income categories for Santa Clara County as adjusted by household size:

County	Income Category	Number of Persons in Household							
		1	2	3	4	5	6	7	8
Santa Clara County 4-person Area Median Income \$107,100	Extremely Low	23450	26800	30150	33500	36200	38900	41550	44250
	Very Low	39100	44650	50250	55800	60300	64750	69200	73700
	Low Income	59400	67900	76400	84900	91650	98450	105250	112050
	Median Income	74950	85700	96400	107100	115650	124250	132800	141350
	Moderate Income	89950	102800	115650	128500	138800	149050	159350	169600

History of Affordable Housing in the City

The City has been active in helping to create affordable housing units and has supported the creation of 270 affordable ownership units and almost 1000 affordable rental units since 1987. A complete inventory list is included as Attachment A. The City worked with developers in providing City financial assistance to help “buy down” the affordability of the units or in other cases provided direct financial assistance for the construction of an affordable housing project. The City has used a number of funding sources but it primarily depended on its Redevelopment Agency to provide affordable housing.

Below is a brief description of some of the funding sources the City has used to provide affordable housing.

Redevelopment Agency - The single largest creator of affordable housing in the City was the City's Redevelopment Agency (RDA). By law, 20% of all tax increment generated by the RDA was set aside and dedicated to affordable housing. From 1999-2014, over \$43 million was generated for affordable housing. The funding created 274 units of affordable ownership and almost 1,000 units of affordable rental units during that period. Some of these projects include Terrace Gardens (150-unit senior affordable rental) constructed in 1987, and DeVries Senior Housing (103-unit senior affordable rental). The other affordable ownership and rental units are interspersed with the market rate units in various developments through the City's financial assistance by buying down the affordability. The term of affordability for the units are between 30-55 years. A list of all the affordable housing units funded by RDA included as Attachment B. However, with the statewide dissolution of redevelopment agencies in 2011, affordable housing production in the City and throughout the state has been greatly hampered. In fact, since the dissolution of the City's RDA in 2011, no affordable units have been produced in the City.

Community Development Block Grant - Other sources of funding include the federal Community Development Block Grant (CDBG) program. This HUD program provides grants to grantees to fund qualifying activities. The City was identified as an Entitlement Grantee in 1997 and has been receiving CDBG funds directly from HUD since that time. Initially, the City was receiving approximately \$800,000 per year in CDBG funding. However, due to other federal funding priorities, the HUD budget has been slowly reduced over the years so that the City's current level of funding is approximately \$400,000. These funds have been used for a variety of housing activities including rehabilitation of affordable housing and assisting low income homeowners stay in their homes through the City's Housing Rehabilitation Program. Typically, the CDBG funding cycle begins each January when applications are received. The Community Advisory Commission (CAC) reviews the applications at its March meeting and makes its funding recommendations to the Council. The Council makes the final approval in April/May. The City's funding recommendations are due to HUD by the end of May. However, with this year's Federal budget uncertainty, the final submittal has been extended. The Council is scheduled to review the CDBG funding recommendations in June.

Housing Choice Vouchers – Also known as Section 8, housing choice vouchers are rental subsidies. The voucher is used to “fill the gap” between affordable rental rates and the market rate rental price of the unit. Vouchers are provided by HUD which provides either project-based vouchers or tenant-based vouchers. Project-based vouchers are provided for units of a specific development while a tenant-based voucher is used by individual households choose their own housing unit and then use their voucher to pay for their rent. There are a number of households with tenant based vouchers residing throughout the City.

City Affordable Housing Resources:

While the loss of the RDA greatly impacted the City's ability to assist with the production of affordable housing, other efforts are underway to replace the loss of RDA funding. Below is a list of City affordable housing sources and efforts:

Resolution No. 8481 - In June 2015, the City Council adopted Resolution No. 8481 which required any development of 5 units or more to provide 5% of the total units to be affordable to low or very low income qualified households. The developer would also have the option of providing an in-lieu fee equivalent to 5% of the total construction costs of the project.

Consolidated Plan Update/CDBG – The Consolidated Plan (Con Plan) is the City's five year Strategic Plan for CDBG funding. The current Con Plan expires at the end of FY 2017. Since October 2016 staff has been working through the process of updating the Con Plan for the 2018-2022 period. During the update process, extensive public outreach was conducted. Public outreach included five community forums that were advertised in Spanish, Vietnamese and English languages, staff presentations of the Con Plan update to multiple Commissions

and community groups and an online survey to receive community input. Public input has revealed a clear interest in more affordable housing, public facilities and services for seniors. Typically, the Con Plan is due to HUD in mid-May. However, because of the federal budget uncertainty, that submittal requirement deadline has been extended. City Council is scheduled to review the Con Plan and recommended CDBG allocations in June.

Affordable Housing Fund – As part of the negotiations during the dissolution process of the RDA, the City was able to retain approximately \$7 million in affordable housing funds. However, because they are former RDA funds, they have strict State requirements as to how the funds can be spent. For example, the funds must be spent by 2019 and the funds can only be used for households which earn less than the Moderate Income level.

Measure A funding – In November 2016, Santa Clara County voters passed Measure A, a \$950 million affordable housing bond. \$700 million is dedicated to the extremely-low income population, \$100 million for low income and the remaining \$150 million for moderate income households. The County is still in the process of preparing funding allocation requirements. County staff anticipate that the County will present its funding strategy to the County Board of Supervisors in May. Staff will prepare an update for the Council as soon as the details of this Measure are fully known.

Housing Element – The City’s Housing Element was certified by the State in April 2015. One of the seven mandated elements of the General Plan, the Housing Element is the City’s guiding document for housing in the City. As part of the Housing Element, the state requires that the City plan for its fair share of regional growth. Known as the Regional Housing Needs Assessment (RHNA), this figure represents the number of housing units, by affordability level, that the City must plan for in its Housing Element. For this cycle (2014-2022), the City’s RHNA is 3,290 units, which are divided into four income categories.

Income Category	Projected Need	Percent of Total
VLI (0-50% AMI)	1004	30.5
Low (51-80% AMI)	570	17.3
Moderate (81-120% AMI)	565	17.2
Above Moderate (>120% AMI)	1151	35
TOTAL	3290	100

Note that the City does not need to construct these units but to provide adequate sites to accommodate the units.

The Housing Element also contains a number of housing related policies that support the following Housing Element Goals: Provide Adequate Sites, Maintain and Preserve Housing Resources, Facilitate New Housing Production, Support Housing Diversity and Affordability, Eliminate Housing Discrimination and Promote Energy Conservation.

State Density Bonus – State Density Bonus law grants a developer additional density in exchange for affordable units in the development. The law allows for a maximum 35% increase in density above the underlying zoning density for the site if the developer will provide a certain percentage of affordable units. The units must be provided in the proposed development. The law also allows for “concessions” which provide some regulatory relief from the zoning requirements.

Potential Sites

Below are some potential sites that could be used for affordable housing.

S. Main St. Properties – The City possesses two adjacent properties, located at 1432 and 1452 S. Main St. 1432 S. Main Street is owned by the City of Milpitas Housing Authority and

1452 S. Main Street is owned by the City of Milpitas. The combined acreage of the properties is approximately 2.7 acres. Currently there are businesses and one residential unit on the properties. However, the units are zoned multifamily residential. It is envisioned that the properties will be used for affordable housing development.

S. Main St. Senior Lifestyles – Located at 1600 S. Main St., the S. Main Senior Lifestyles project is a 388 unit senior living facility. In 2008, the project developer entered into a Developer and Disposition Agreement (DDA) for the Milpitas Housing Authority to transfer City owned property to the developer in exchange for the construction and reservation of 48 very low income units. The project was entitled in 2013 and Phase I of the project is currently undergoing building permit review.

Potential Future Options

While there are several affordable housing resources in place, there are some potential future options the Council could consider:

Adoption of Affordable Housing Ordinance – an Affordable Housing Ordinance is a common tool for jurisdictions to produce affordable housing. Generally, the ordinance can require some provision for affordable housing as part of the development. The actual provision of affordable housing can come in many forms. Some methods used to require affordable housing include:

- Affordable Housing Impact Fee based on the development square footage
- Providing a certain percentage of affordable units in the development
- Donation of land for future affordable housing
- Partnering with a not for profit affordable housing developer

Regarding an affordable housing impact fee, in April 2015, the City along with other Santa Clara County and Alameda County jurisdictions, began participating in the preparation of a nexus study to establish an affordable housing impact fee. The study evaluates the nexus between new housing and commercial developments and affordable housing. New commercial and market rate housing developments create higher demand for dining, retail and other service industries. Generally, service related employment occupations tend to be lower wage earners thus creating a demand for affordable housing. The nexus study provides a financial analysis to determine what level of fee could be required to help meet that affordable housing demand. This fee could potentially replace the requirements set forth in Resolution No. 8481 which is presently set at 5% of total construction costs. The final draft has been completed and will be presented to the Council in 2017.

In the potential development of an Affordable Housing Ordinance, there are certain considerations which could be weighed including:

1. Level of Affordability – At what level income category
2. Mixed income or 100% affordable developments
3. Collection of the Impact Fee or providing the units in the development

Local Land Use Incentives – More robust than the density bonus provisions, the City could offer land use incentives that would encourage the production of affordable housing. For example, relaxation of height requirements or allowing greater residential uses in mixed used areas. It is to allow for greater development in exchange for affordable units.

Analysis: The information presented is the current state of the City's affordable housing program. The recommendations were made based on existing funding requirements, program guidelines and market forces.

Fiscal Impact: With the approval of Resolution No. 8481, projects initiated after June 2015 may be paying in-lieu fees although it is uncertain of the amount. If the Affordable Housing

Impact fee is established, the City would be generating additional funds for affordable housing.

Recommendation: Receive presentation regarding affordable housing; and provide comment and feedback.

Attachments:

- a) Inventory of Affordable Housing developments in the City
- b) Redevelopment Agency-funded developments from 1999-2014

- *10. Approve Request for Out of State Travel for Finance Director to Attend Government Finance Officers Association Conference in Denver, CO and for Police Captain to Attend Ceremony at FBI Academy in Virginia on June 7 (Staff Contacts: Will Fuentes, 408-586-3111 and Steve Pangelinan, 408-586-2426)**

Background: In accordance with the City's Travel and Expense Policy (Standard Operating Procedure No. 6-1), travel by City employees on official business outside of California must be recommended by the City Manager and authorized by the City Council. Two out of state travel requests are made by City staff.

1) The Finance Director will attend the GFOA 111th Annual Conference in Denver, Colorado from May 21-24. Total travel expenses are expected to be approximately \$1,500. Sufficient funds are available in the Finance Department operating budget for this expense.

2) Police Lieutenant Kevin Moscuzza is currently attending the FBI National Academy (FBI NA) in Quantico, Virginia and is scheduled to graduate on June 7, 2017. The FBI National Academy is a 10-week executive level law enforcement training that focusses on leadership, intelligence, terrorism, and organizational management. Captain Armando Corpuz is an FBI NA alumni and would attend to represent the Milpitas Police Department. Captain Corpuz would leave the area on June 6, 2017 and return on June 7, 2017. The expense for the trip will be approximately \$850 and Milpitas Police Department's training budget has sufficient funds to cover the expense.

Recommendation: Approve two requests for out of state travel for: (1) Finance Director Will Fuentes to attend GFOA conference in Colorado, and (2) Police Captain Armando Corpuz to attend the FBI National Academy graduation in Quantico, Virginia on June 7, 2017.

Attachments: None

XVII. RESOLUTIONS

- *11. Adopt a Resolution Amending the Classification Plan to Adjust City of Milpitas Part-Time Temporary Classifications to Reflect the new Milpitas Local Minimum Wage (Staff Contact: Tina Murphy, 408-586-3086)**

Background: Amendments to the Classification Plan are periodically required to account for organizational changes and changes in job responsibilities, as well as changes in salary ranges for represented and unrepresented classifications. Part-Time Temporary job classifications are used to augment City staff and are not represented by labor agreements.

The minimum wage in California increased to \$10.50 per hour on January 1, 2017. The City of Milpitas adopted Ordinance No. 292 on February 21, 2017 to establish a city-wide minimum wage. The Classification Plan must be updated for certain Part-Time Temporary classifications as changes in the state or local minimum wage occur. The City will implement the July 2017 local minimum wage increase to \$11.00 per hour effective June 25, 2017 for

Part-Time Temporary classifications earning less than \$11.00 per hour. There are no represented classifications that earn less than \$11.00 per hour.

Fiscal Impact: The fiscal impact on the current budget was considered in the proposed funding levels for Part-Time Temporary staff. Future impacts due to the upcoming January 2018 minimum wage increases are also incorporated in the proposed Fiscal Year 2017-18 budget for temporary staffing.

Recommendation: Adopt a resolution amending the Classification Plan to adjust salary ranges for City of Milpitas Part-Time Temporary Classifications effective June 25, 2017 to reflect the Milpitas minimum wage rate.

Attachment: Resolution

***12. Adopt a Resolution to Affirm Compliance with Surplus Land Act to Satisfy the Requirement of Metropolitan Transportation Commission for Grant Funding (Staff Contact: Steve Chan, 408-586-2603)**

Background: Metropolitan Transportation Commission's (MTC) One Bay Area Grant (OBAG) Program provides federal funding to support its commitments to regional transportation priorities while advancing the Bay Area's land use and housing goals. On November 18, 2015, MTC adopted Resolution No. 4202, the Project Selection Criteria and Programming Policy for the second round of the OBAG program. Known as OBAG 2, this funding is projected to total roughly \$916 million to fund projects from 2017-2018 through 2021-2022. The program framework was revised on July 27, 2016 (subsequently on 10/26/16 and 12/21/16) to distribute additional funding and to incorporate housing-related policies to the program.

On July 27, 2016, MTC adopted several revisions to the OBAG 2 funding and policy framework set forth in Resolution 4202. The revisions include new eligibility requirements for OBAG 2 funding related to the affordable housing, including a requirement that cities and counties adopt a resolution affirming compliance with the Surplus Land Act as amended by AB 2135, effective January 1, 2015. The resolution must be adopted by the date when VTA, Congestion Management Agency for Santa Clara County, submits its OBAG 2 project recommendations to MTC by July 1, 2017. MTC will not take action to program projects for a local jurisdiction until VTA affirms that the jurisdiction has met all eligibility requirements included in OBAG 2.

The Surplus Lands Act was enacted in 1968 and contains procedures for disposition by sale or lease of surplus properties by local agencies. Surplus land is land owned by a local agency that is determined to be no longer necessary for the agency's use, except land being held by the agency for the purpose of exchange or which is exempt under the Act, such as land less than 5,000 square feet, less than the minimum legal residential lot size, or land that has no record access and is less than 10,000 square feet. Prior to AB 2135, the Act required that the City provide notice to and negotiate in good faith to sell or lease surplus property to entities that undertake affordable housing, parks, or school development. If the price or terms of a lease or sale could not be agreed upon within sixty (60) days, the City could sell the surplus land for fair market value to any interested party. AB 2135 added provisions to the Act to prioritize affordable housing development on surplus lands: It extended the good faith negotiation period to ninety (90) days; deepened affordability requirements where an affordable housing project is developed on the site; and added a requirement that if negotiations with one of the specified entities are unsuccessful then any residential development on the surplus land over ten units must make at least 15% of the units affordable.

The City is scheduled to receive \$7.0 million of OBAG 2 grant for construction of the Montague Expressway Pedestrian Overcrossing at Piper Drive (CP #2008). In order to receive funding from OBAG 2, the City must first comply with MTC's eligibility requirements. This requires submittal of a Council resolution affirming the City's compliance with the Surplus Land Act (as amended by Assembly Bill 2135), even though the City as a general law city is obligated to comply the Act.

Fiscal Impact: Failure to adopt the resolution will make the City ineligible to receive MTC OBAG 2 grants.

Recommendation: Adopt a resolution to affirm compliance with the Surplus Land Act to satisfy the requirement of the Metropolitan Transportation Commission for grant funding.

Attachment: Resolution

***13. Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approve a Reduction of Improvement Security for the Faithful Performance for the Orchid Subdivision at 31 Los Coches Street by DR Horton Bay, Inc. (Staff Contact: Judy Chu, 408-586-3325)**

Background: On January 15, 2013, the City Council approved an 80-unit single-family-home development project known as "the Orchid Subdivision" located at 31 Los Coches Street (west of Milpitas Boulevard and South of East Calaveras Boulevard) by DR Horton Bay, Inc. (Developer). On October 1, 2013, the City Council approved the final map Tract No. 10192 and the Subdivision Improvement Agreement (SIA) for the subject project to ensure that the Developer will complete all public improvements required by the project. The public improvements include but not limited to new street curb and gutter, sidewalk, curb ramps, driveway approaches, street lights, street trees, landscaping and irrigation, new utility connections along the project frontage, and public trails along Wrigley Creek.

The Developer has provided improvement securities for the faithful performance in the amount of \$370,000 for the final map. The Developer has completed all public improvements in accordance with project conditions and approved improvement plan no. 2-1180. Pursuant to the SIA, upon final completion and initial acceptance of public improvements, the improvement security for the faithful performance shall be reduced to 10% of the security's original value for a one-year maintenance guarantee period of those public improvements. Therefore, the improvement security shall be reduced to \$37,000.00.

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

Fiscal Impact: None.

Recommendation: Adopt a resolution granting initial acceptance of public improvements and approve a reduction of improvement security for the faithful performance for the Orchid Subdivision at 31 Los Coches Street by DR Horton Bay, Inc.

Attachment: Resolution

***14. Adopt a Resolution Initiating Proceedings for the Levy and Collection of Assessment, and Ordering Preparation of the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch (Staff Contact: Judy Chu, 408-586-3325)**

Background: Pursuant to California Landscaping and Lighting Act of 1972, the Landscaping and Lighting Maintenance Assessment District 95-1 was established in 1995 for the purpose of paying for the installation, construction, maintenance and/or servicing of public landscaping, irrigation systems and pedestrian lighting along Ranch Drive and portions of North McCarthy Boulevard between State Route 237 and Dixon Landing Road, as previously approved at the formation of the LLMD 95-1.

The Act requires adoption of a resolution describing any proposed new improvements or any substantial changes in existing improvements and ordering the engineer to prepare and to file a report in accordance with Section 22565, *et seq.*, of the Act.

There are no changes to existing Improvements nor are there any items being added to the list of Improvements. City has retained NBS Government Finance Group to assist in preparation of the annual Engineer's Report to determine the annual assessment for each of the parcels located within the LLMD 95-1.

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

Fiscal Impact: Levy and collection of assessment for LLMD 95-1 would provide funding resource for the City to improve and maintain public landscaping and irrigating.

Recommendation: Adopt a resolution initiating proceedings for the levy and collection of assessment and ordering preparation of the annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 95-1 (McCarthy Ranch).

Attachment: Resolution

***15. Adopt a Resolution Initiating Proceedings for the Levy and Collection of Assessment, and Ordering the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 98-1 - Sinclair Horizon (Staff Contact: Judy Chu, 408-586-3325)**

Background: Pursuant to California Landscaping and Lighting Act of 1972, the Landscaping and Lighting Maintenance Assessment District 98-1 was established in 1998 for the purpose of paying for the installation, construction, maintenance and/or servicing of public landscaping and irrigation systems along Sinclair Frontage Road, Los Coches Street and Berryessa Creek abutting the Sinclair Horizon residential subdivision, as previously approved at the formation of the LLMD 98-1.

The Act requires adoption of a resolution describing any proposed new improvements or any substantial changes in existing improvements and ordering the engineer to prepare and to file a report in accordance with Section 22565, *et seq.*, of the Act.

There are no changes to existing Improvements nor are there any items being added to the list of Improvements. City has retained NBS Government Finance Group to assist in preparation of the annual Engineer's Report to determine the annual assessment for each of the parcels located within the LLMD 98-1.

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

Fiscal Impact: Levy and collection of assessment for LLMD 98-1 would provide funding resource for the City to improve and maintain public landscaping and irrigating.

Recommendation: Adopt a resolution initiating proceedings for the levy and collection of assessment and ordering preparation of the annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 98-1 (Sinclair Horizon).

Attachment: Resolution

16. **Per Request of Councilmember Nuñez, Consider Adopting a Resolution in Support of Senate Bill 687 – Health Facilities Emergency Centers (Contact: Councilmember Bob Nuñez, 408-586-3023)**

Recommendation: Councilmember Nuñez requests the concurrence of the City Council to adopt a resolution supporting Senate Bill 687.

Attachments:

- a) Resolution
- b) Fact Sheet
- c) text of Senate Bill 687

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

- * 17. **Consider Action to Remove One Member of the Citizens Task Force on Water Rates (Staff Contact: Tom Williams, 408-586-3050)**

Background: Karina Dominguez was appointed as a Task Force Member of the Citizens Task Force on Water Rates on September 20, 2016. During the past seven meetings of the Task Force in 2016 and 2017, she was unavailable and did not attend five out of seven Task Force meetings.

The Task Force Chair had a conversation with Ms. Dominguez and it was communicated that she will be attending future meetings of the Task Force. Due to lack of attendance and perceived lack of interest to serve any longer on the Task Force, City Council is asked to remove the Task Force Member.

Recommendation: Vote to remove Task Force Member Karina Dominguez from the Citizens Task Force on Water Rates.

Attachment: Attendance report

XIX. ADJOURNMENT

NEXT REGULAR CITY COUNCIL MEETING:
TUESDAY, JUNE 6, 2017