



JOINT MEETING OF THE MILPITAS CITY COUNCIL AND HOUSING AUTHORITY

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-3122

对中国人来说，请用 408-586-3263

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

AGENDA

TUESDAY, MAY 15, 2018

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

5:30 P.M. (CLOSED SESSION)

7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

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

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

(a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING

Pursuant to California Government Code Section 54957.6

City Negotiator: Tina Murphy

Employee Group: International Association of Fire Fighters

Under Negotiation: Wages, Hours, Benefits, and Working Conditions

(b) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to California Government Code Section 54956.9(d)(1)

Tom Williams v. City of Milpitas, et al. - American Arbitration Case No. 01-17-0003-5823

(c) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to California Government Code Section 54956.9(d)(1)

Tom Williams v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235

(d) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to California Government Code Section 54956.9(d)(1)

First Amendment Coalition v. City of Milpitas – Santa Clara County Superior Court Case No. 17CV310994

(e) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

County Sanitation District 2-3, West Valley Sanitation District, Burbank Sanitary District, Cupertino Sanitary District, and City of Milpitas v. City of San Jose, City of Santa Clara Santa Clara County Superior Court Case No. 18CV325480

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

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

V. INVOCATION (Mayor Tran)

VI. PRESENTATIONS

- Proclaim May 11–18, 2018 *Affordable Housing Week*
- Proclaim May 20-26, 2018 as *Public Works Week*
- Proclaim May as *Older Americans Month*
- Commend Milpitas Elementary Olympics Planning Team

VII. PUBLIC FORUM

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

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (Items No. 1 through No. 11)

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

1.	Accept Schedules of Meetings/City Council Calendars for May and June 2018
2.	Approve City Council Meeting Minutes of May 1, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)
3.	Approve Out of State Travel for Milpitas Fire Department Representatives to Attend Required Factory Trips for New Fire Apparatus per Adopted Resolutions No. 8672 and No. 8714 (Staff Contact: Galahad Zamora, 408-586-2826)
4.	Consider Approving Two Requests for a \$500 Donation Each, Received from (1) the Milpitas Historical Society Towards Its 2018 Annual Historical Tour on Saturday, June 23, 2018 and from (2) North Valley Milpitas Bobby Sox for its Girls Softball Tournament on June 22 – 24, 2018 (Staff Contact: Mary Lavelle, 408-586-3001)
5.	Waive the Second Reading and Adopt Ordinance No. 289.2 Amending Chapter 2 and Chapter 4 of Title I of the Milpitas Municipal Code Relating to Purchasing and Contract Authority (Staff Contact: Will Fuentes, 408-586-3111)
6.	Adopt Resolutions Approving the Annual Engineer's Report, and Adopt a Resolution Declaring Its Intention to Levy and Collect Assessments for Fiscal Year 2018-19 and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301)

7.	Adopt Resolutions Approving the Annual Engineer’s Report, and Adopt a Resolution Declaring Its Intention to Levy and Collect Assessment for Fiscal Year 2018-19, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301)
8.	Approve and Authorize the City Manager to Execute the First Amendment to the Agreement with Simplex Grinnell to Increase Contract Year Three Compensation by \$40,000 for Fire Alarm and Fire Suppression System Repairs and Maintenance for an Amount Not to Exceed \$75,868 (Staff Contacts: Tony Ndah, 408-586-2602 and Chris Schroeder, 408-586-3161)
9.	Approve Two Agreements with the County of Santa Clara (1) for Collection of AB939 Implementation Fees and (2) for Administration of the Countywide Household Hazardous Waste Collection Program (Staff Contact: Steve Erickson, 408-586-3301)
10.	Authorize the City Manager to Make an Additional Payment of \$7,000 to the National Academy of Athletics for Recreation Services Youth Sports Classes (Staff Contact: Lisa Ciardella, 586-3234)
11.	Authorize the City Manager to Execute Amendment No. 5 to the Master Services Agreement with York Insurance Group, Inc. through June 30, 2019 (Staff Contact: Tina Murphy, 408-586-3086)

XII. PUBLIC HEARINGS The following items No. 12 - 21 scheduled for discussion

12. **Conduct a Public Hearing and Adopt a Resolution Approving the Time Extension Permit for a Tentative Map, Site Development Amendment Permit, and Conditional Use Permit for Construction of a 250’ 4” tall, 23-story (previously approved at 279’ 6” tall, 22-stories) Mixed Use Building at 600 Barber Lane (Staff Contact: Krishna Kumar, 408-586-3276)**
13. **Conduct a Public Hearing, Waive First Reading and Introduce Ordinance No. 198.5 Regarding Bingo Game Licensing (Staff Contact: Renee Lorentzen, 408-586-3409)**

XIII. UNFINISHED BUSINESS

14. **Per Request of Councilmember Barbadillo, Receive Staff Report Concerning Planning Commission Compensation (Staff Contacts: Bradley Misner, 408-586-3273)**

XIV. REPORTS OF OFFICERS

15. **Per Request of Mayor Tran, Consider Approving More than 4 Hours of Staff Time to Respond to a Need for Traffic Calming Program (Contact: Mayor Tran, 408-586-3029)**
16. **Consider Request from Councilmember Phan for City Council to Authorize a Letter to the Santa Clara County District Attorney Urging Action to Expunge Certain Prior Misdemeanor Convictions (Contact: Councilmember Phan, 408-586-3032)**

XV. NEW BUSINESS

17. **Receive Report on “Safety Summit” Scheduled on June 2, 2018 in Partnership with the Milpitas Unified School District (Staff Contact: Renee Lorentzen, 408-586-3409)**

18. **Receive Staff Report Concerning Santa Clara Valley Transportation Authority Owned Property in the City of Milpitas (Staff Contacts: Edesa Bitbadal, 408-586-3052 and Bradley Misner, 408-586-3273)**

XVI. RESOLUTIONS

19. **HOUSING AUTHORITY**
Consider Adopting a Resolution to Authorize the Housing Authority Executive Director to Prepare a Short Term Subordination Agreement of the City's \$3,000,000 Loan to a Short Term Lender, LIIF Housing Preservation Fund, LLC, for the Montevista Apartments at 1001 S. Main St. (Staff Contacts: Tim Wong 408-586-3286 and Hang Huynh, 408-586-3275)
20. **Adopt a Resolution Amending the Classification Plan to Adjust City of Milpitas Part-Time Temporary Classifications to Reflect Changes in the Milpitas Minimum Wage Ordinance No. 292 (Staff Contact: Tina Murphy, 408-586-3086)**
21. **Adopt a Resolution Authorizing an Exception to the 180-Day Wait Period, Certifying the Appointment of Elizabeth Brown to Serve as Interim Human Resources Director, Pursuant to the California Public Employees Reform Act (PEPRA) of 2013 (Staff Contact: Tina Murphy, 408-586-3086)**

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

XVIII. ADJOURN JOINT MEETING

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: cdiaz@ci.milpitas.ca.gov / Phone: 408-586-3040

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

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

APPLY TO SERVE ON A CITY COMMISSION

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

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

AGENDA REPORTS

XI. CONSENT CALENDAR

1.	Accept Schedules of Meetings/City Council Calendars for May and June 2018 <u>Recommendation:</u> Receive Council calendars of meetings for the months of May and June, 2018. Note any changes or additions, if needed. <u>Attachment:</u> May and June 2018 Calendars
2.	Approve City Council Meeting Minutes of May 1, 2018 (Staff Contact: Mary Lavelle, 408-586-3001) <u>Recommendation:</u> Move to approve the May 1 Council meeting minutes. <u>Attachments:</u> Draft meeting minutes 5/01/2018
3.	Approve Out of State Travel for Milpitas Fire Representatives to Attend Required Factory Trips for New Apparatus Approved by Resolution No. 8672 and No. 8714 (Staff Contact: Galahad Zamora, 408-586-2826) <u>Background:</u> One of the most important aspects of purchasing fire apparatus is the factory pre-construction meeting and inspections which take place during the course of construction. Three of the most common controls for quality construction include the pre-construction meeting, midpoint inspection, and final inspection at the manufacturer's facility. Pierce Manufacturing is located in Appleton, Wisconsin. Two Pierce Velocity Pumpers were approved on June 6, 2017 under Resolution 8672 and included a proposal for apparatus that included three (3) Factory Trips with three (3) MFD representatives for pre-construction, midpoint inspection, and final inspection. Factory trips to Appleton, Wisconsin occurred on the following dates with the following personnel: 1) October 9 through 12, 2017 (Pre-construction) Engineer Hendrickson and Battalion Chief Zamora, 2) Exempted, and 3) April 10 through 13, 2018 (Final) Engineer Hendrickson, Firefighter Carapinha, and Battalion Chief Zamora. These trips, while not approved by Council according to the complete letter of the City's travel policy, were approved as part of Resolution No. 8672, and actions taken by Council on May 15, 2018 are intended to correct that oversight. Costs associated with travel under line item C of the Pierce proposal amount to \$13,500. One Pierce Velocity Tractor Drawn Aerial and one Pierce Velocity Pumper were approved on November 7, 2017 under Resolution 8714 and included a proposal for apparatus that included three factory trips with three Milpitas Fire representatives for pre-construction, midpoint inspection, and final inspection for the Pierce Velocity Tractor Drawn Aerial, and one factory trip for three Fire Dept. representatives for final inspection of the Pumper. A significant cost savings to the city and the lessons learned from the first Pumper pre-construction streamlined the process for the third pumper, therefore, the pre-construction meeting and midpoint inspection are not needed. The costs associated with travel for this third pumper listed under line item C of the Pierce proposal amount to \$4,500. Factory trips for final inspection on the pumper is to be determined for Engineer Hendrickson, Firefighter Carapinha, and Battalion Chief Zamora. Factory trips to Appleton, Wisconsin for the Tiller Truck is scheduled for the following dates and personnel: 1) May 14 through 17, 2018 (Pre-construction) for Engineer Hendrickson, Captain Powers, and Battalion Chief Zamora, 2) Dates TBD (Midpoint) for Engineer Hendrickson, Captain Powers, and

	Battalion Chief Zamora, and 3) Dates TBD (Final based on Build schedule from Pierce Mfg.) with Engineer Hendrickson, Captain Powers, and Battalion Chief Zamora. Costs associated with travel for the Tiller Truck listed under line item G of the Pierce proposal amount to \$12,600. <u>Fiscal Impact:</u> None. There is no additional cost to the City as the factory trips were called out as a line item in the Proposals for Pierce Fire Apparatus per adopted Resolutions No. 8672 and No. 8714. <u>Recommendation:</u> Authorize out-of-state travel for Milpitas Fire Department representatives to attend these required factory trips for new apparatus pre-construction and inspections. <u>Attachments:</u> City of Milpitas Resolutions No. 8672 and No. 8714
4.	Consider Approving Two Requests for a \$500 Donation Each, Received from (1) the Milpitas Historical towards Its 2018 Annual Historical Tour on Saturday, June 23, 2018 and from (2) North Valley Milpitas Bobby Sox for its Girls Softball Tournament June 22 – 24, 2018 (Staff Contact: Mary Lavelle, 408-586-3001) <u>Background:</u> On May 3, 2018, the City Clerk received a Donation Request Application Form from the Milpitas Historical Society for a donation of \$500 towards its 2018 Annual Historical Tour on Saturday, June 23, 2018. The request for the donation is for funds to support the annual event of this local non-profit. The required information from the California Office of the Attorney General demonstrating the non-profit (Public Benefit Charity) status was received, as required. On May 4, 2018, the City Clerk received a Donation Request Application Form from the North Milpitas Bobby Sox softball organization asking for a donation of \$500 towards its upcoming Softball Tournament on June 22-24, 2018. Information supporting its non-profit status was received, as required. <u>Fiscal Impact:</u> \$25,800 was approved and included in the FY 2017-18 City budget for City Council’s Unallocated Community Promotions. If the two requests are approved totaling \$1,000, then \$15,036.23 will remain in that line item of the current year’s budget. <u>Recommendation:</u> Consider two requests and approve \$500 each donation to Milpitas Historical Society and North Valley Milpitas Bobby Sox. <u>Attachments:</u> a) Milpitas Historical Society Application Form + related material b) North Valley Milpitas Bobby Sox Application Form + related material
5.	Waive the Second Reading and Adopt Ordinance No. 289.2 Amending Chapter 2 and Chapter 4 of Title I of the Milpitas Municipal Code Relating to Purchasing and Contract Authority (Staff Contact: Will Fuentes, 408-586-3111) <u>Background:</u> Ordinance No. 289.2 was introduced following waiving of the first reading beyond the title at the May 1, 2018 Council meeting. This Ordinance amends Chapter 2 and Chapter 4 of Title I of the Municipal Code relating to Purchasing and Contract Authority. Key changes to the Municipal Code are: • Increased level of City Manager Contract Authority from \$50,000 to \$100,000; and • Revises all applicable sections to make consistent with \$100,000 City Manager Contract Authority level.

	All provisions relating to monthly reporting of City Manager approved contracts to the City Council's Finance Subcommittee and review and approval of all contracts by the City Attorney and Director of Financial Services remain. These provisions were added by Ordinance 289.1 on December 7, 2017 to improve transparency and internal control. <u>Fiscal Impact:</u> None <u>Recommendation:</u> Waive the second reading and adopt Ordinance No. 289.2 amending Chapter 2 and Chapter 4 of Title I of the Milpitas Municipal Code relating to Purchasing and Contract Authority. <u>Attachment:</u> Ordinance No. 289.2
6.	Adopt Resolutions Approving the Annual Engineer's Report, and Adopt a Resolution Declaring Its Intention to Levy and Collect Assessments for Fiscal Year 2018-19 and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Steve Erickson, 408-586-3301) <u>Background:</u> Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD 95-1) maintains and improves public landscaping, irrigation systems, and pedestrian lighting along portions of McCarthy Boulevard and the Ranch Drive gateway between State Route 237 and Dixon Landing Road. Before the City Council may levy the annual assessment for LLMD 95-1, the Landscaping and Lighting Act of 1972 requires Council to adopt a resolution approving the annual Engineer's Report evaluating the LLMD District's maintenance and improvement costs for fiscal year 2018-2019. On March 6, 2018, the City Council directed the City Engineer to prepare this report, which is included in the Council packet. The proposed total assessment of \$341,836.86 is not increased from the prior year. Council must also adopt a resolution that declares its intent to levy and collect an assessment and directs publishing of notice of a public hearing to be held on June 5, 2018. <u>Fiscal Impact:</u> None. <u>Recommendation:</u> Adopt two resolutions (1) approving the annual Engineer's Report for LLMD No. 95-1 for fiscal year 2018-19, and (2) declaring its intention to levy and collect assessments and providing for notice of public hearing scheduled on June 5, 2018 for LLMD No. 95-1. <u>Attachments:</u> a) Two Resolutions b) Engineer's Report
7.	Adopt Resolutions Approving the Annual Engineer's Report, and Adopt a Resolution Declaring Its Intention to Levy and Collect Assessment for Fiscal Year 2018-19, and Providing Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Steve Erickson, 408-586-3301) <u>Background:</u> Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1) maintains and improves public landscaping, irrigation systems, and a

	walking path along portions of Sinclair Frontage Road and Los Coches Creek abutting the Sinclair Horizon residential subdivision. Before the City Council may levy the annual assessment for this District, the Landscaping and Lighting Act of 1972 requires the Council to adopt a resolution approving the annual Engineer's Report evaluating the LLMD 98-1 maintenance and improvement costs. On March 6, 2018, the City Council directed the City Engineer to prepare this report, which is included in the Council packet. The proposed total assessment of \$42,010.44 is not increased from the prior year. Council must also adopt a resolution that declares its intent to levy an assessment and directs publishing of notice of a public hearing to be held on June 5, 2018. <u>Fiscal Impact:</u> None. <u>Recommendation:</u> Adopt two resolutions (1) approving the annual Engineer's Report for LLMD No. 98-1 for fiscal year 2018-19 and (2) declaring intention to levy and collect assessment for fiscal year 2018-19, and providing for notice of public hearing on June 5, 2018 for LLMD No. 98-1. <u>Attachments:</u> a) Two Resolutions b) Engineer's Report
8.	Approve and Authorize the City Manager to Execute the First Amendment to the Agreement with Simplex Grinnell to Increase Contract Year Three Compensation by \$40,000 for Fire Alarm and Fire Suppression System Repairs and Maintenance for an Amount Not to Exceed \$75,868 (Staff Contacts: Tony Ndah, 408-586-2602 and Chris Schroeder, 408-586-3161) <u>Background:</u> On August 4, 2015, Council awarded the IFB No. 2096 bid to Simplex Grinnell and authorized the City Manager to execute an agreement with Simplex Grinnell for citywide fire suppression system inspection, testing, maintenance and repair service for \$35,868 in contract year one. The first option (contract year two) was exercised with no price increase by the City on June 22, 2016 for \$35,868. The second contract option (contract year three) was exercised again with no price increase on June 12, 2017 for \$35,868. Thus far in calendar year 2018, significant repairs and maintenance needs have been discovered during the five-year National Fire Protection Agency Title 19 Inspection, Maintenance and Testing Inspections, necessitating the increase in funding by \$40,000 in contract year three, increasing the current contract year's not-to-exceed amount to \$75,868 for upkeep of the City's fire alarm and fire suppression systems at various City facilities for a new five-year total contract amount of \$219,340. <u>Fiscal Impact:</u> None. Funds are available in Facilities Maintenance Operating Budget for this amendment. <u>Recommendation:</u> Approve and authorize the City Manager to execute the first amendment to the agreement between the City of Milpitas and Simplex Grinnell to increase contract year three compensation by \$40,000 for fire alarm and fire suppression system repairs and maintenance for the not-to-exceed amount of \$75,868. <u>Attachment:</u> Amendment No. 1 to Agreement with Simplex Grinnell

9.	Approve Two Agreements with the County of Santa Clara (1) for Collection of AB939 Implementation Fees and (2) for Administration of the Countywide Household Hazardous Waste Collection Program (Staff Contact: Steve Erickson, 408-586-3301) Background: Since 1992, the Cities and Towns of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Morgan Hill, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga and Sunnyvale have annually executed agreements with the County of Santa Clara authorizing the County to collect fees and to provide waste diversion services on their behalf. The AB939 agreement allows collection of fees from July 1, 2018 through June 30, 2021 upon approval by all 15 participating cities and the County by June 30, 2018 or jeopardize continuation of the program's existence. The HHW agreement allows access to the County's long-standing program and amenities from July 1, 2018 to June 30, 2021 or require cities to create their own fully-functioning, self-operational HHW program. Neither the City of Milpitas nor its franchised hauler, Milpitas Sanitation Inc., has the capacity to operate a specialized collection program of flammable, corrosive, and/or toxic chemicals. By these agreements, the County will collect \$4.10 per ton of waste disposed at landfills within the County in Fiscal Years 2019, 2020 and 2021, a fee that has not increased since FY2009-2010. From this fee, the County will remit \$1.50 per ton to the city of waste origin for use in recycling programs. The County will use the remaining \$2.60 per ton to provide household hazardous waste (HHW) collection services to residents throughout the County. The County will remit any funds in excess of those needed for the annual HHW program to the cities of waste origin the following year. The remitted fees are approximately \$300,000 per year. The County's remitted HHW fees are included in the City's solid waste operating budget and is used for activities supporting the City's compliance with State recycling and waste diversion laws. California Environmental Quality Act: The item is exempt from CEQA as there will be no physical change to the environment. Alternative: Create a fully-functioning, self-operational HHW program. Fiscal Impact: Remitted HHW fees will provide revenue for the City's solid waste fund. Recommendation: Approve two agreements with the County of Santa Clara for (1) collection of AB939 Implementation Fees and for (2) administration of the Countywide Household Hazardous Waste Collection Program. Attachments: a) Agreement with County of Santa Clara for AB939 Implementation for FY 2019-21 b) Agreement with County of Santa Clara for Household Hazardous Waste
10.	Authorize the City Manager to Make an Additional Payment of \$7,000 to the National Academy of Athletics for Recreation Services Youth Sports Classes (Staff Contact: Lisa Ciardella, 408-586-3234) Background: The City of Milpitas entered into a contract with National Academy of Athletics on July 1, 2017 to provide instruction for sports programs such as Jr. Warriors, All Sorts of Sports, Volleyball, Baseball, and Track and Field. Payment for these services were estimated at \$50,000. Enrollment in the provided programs exceeded initial projections, thus requiring an increase payment amount for services of \$7,000, for a total amount of \$57,000. Currently the City Manager's signature authority is limited to \$50,000. Fiscal Impact: None. Funds were approved by the City Council for FY 2017-18 and are available in the Recreation and Community Services Department operating budget. The

	increased payment for services of \$7,000 will garner an additional \$9,450 in General Fund revenue. <u>Recommendation:</u> Authorize the City Manager to make an additional payment of \$7,000 to the National Academy of Athletics for Recreation Services Youth Sports classes, for a total contract amount not to exceed \$57,000. <u>Attachment:</u> None
11.	Authorize the City Manager to Execute Amendment No. 5 to the Master Services Agreement with York Insurance Group, Inc. through June 30, 2019 (Staff Contact: Tina Murphy, 408-586-3086) <u>Background:</u> The City entered into an agreement on November 1, 2005 with Southern California Risk Management Association (SCRMA), now known as York Insurance Services Group, Inc., to provide services and perform work as the City's Workers' Compensation Third Party Administrator in accordance with any applicable requirements of federal, state or local laws or rules and/or regulations. The current term of the agreement will expire on June 30, 2018. At this time staff is requesting to renew the contract with York to provide services for a one-year term beginning July 1, 2018 and concluding on June 30, 2019. The terms of the contract will include administrative fees in the amount of \$130,000 (same as prior year, 0% increase). The City has plans to conduct a Request for Proposal for Workers' Compensation carriers in the coming year to confirm York continues to be the most cost effective option. <u>Fiscal Impact:</u> None. There are sufficient funds allocated in the Human Resources departmental FY 2018-19 budget. <u>Recommendation:</u> Authorize the City Manager to execute Amendment No. 5 to the current master services agreement with York Insurance Services Group, Inc. (formerly Southern California Risk Management Association) to extend the agreement effective July 1, 2018 through June 30, 2019 in accordance with the terms and conditions stated in the amendment. <u>Attachment:</u> Amendment No. 5 to the Master Services Agreement with York Insurance

XII. PUBLIC HEARINGS The following items No. 12 – 21 scheduled for discussion

- 12. Conduct a Public Hearing and Adopt a Resolution Approving the Time Extension Permit for a Tentative Map, Site Development Amendment Permit, and Conditional Use Permit for Construction of a 250' 4" tall, 23-story (previously approved at 279' 6" tall, 22-stories) Mixed Use Building at 600 Barber Lane (Staff Contact: Krishna Kumar, 408-586-3276)**

Background: A formal application for a time extension for the Landmark Towers proposed project to be located at 600 Barber Lane was filed on April 16, 2018. The applicant had also initiated a request for a time extension of the map via email on January 23, 2018, and submitted a letter formalizing the request on March 15, 2018. The applicant is requesting a 24 month time extension for this project due to delays in project financing negotiations.

The applicant had solidified project financing with an investor in China. Due to some difficulty in transferring capital out of the country and changes in regulations for EB-5

investment policies, the applicant had to seek and secure financing from a different investment bank. A letter of explanation was also submitted by the applicant for the time extension request (copy in agenda packet).

The project was previously recommended for approval by the Planning Commission (February 24, 2016) and approved by the City Council on April 5, 2016. As approved, the project consisted of a 22-story mixed-use building including two 19-story residential towers and approximately 50,000 square feet of commercial, retail and office uses on an approximately three-acre parcel. It is the staff's assumption that this project is within the Milpitas Unified School District.

Fiscal Impact: A positive contribution to the City's General Fund for community benefits - see Letter of Explanation.

Recommendations:

1. Conduct a public hearing, take public comments, and close the public hearing.
2. Adopt a resolution approving the Time Extension Permit No. TE18-0002 for a Tentative Map (P-MT15-0003), Site Development Amendment Permit (P-SA15-0001), and Conditional Use Permit (P-UP15-0007) for the construction of a 250' 4" tall, 23-story (previously approved at 279' 6" tall, 22-story) mixed use building on an approximately three acre parcel located at 600 Barber Lane.

Attachments:

- a) draft City Council Resolution
- b) Planning Commission Staff Report 05-09-18
- c) draft Planning Commission Resolution 05-09-18
- d) Letter of Extension Request
- e) Letter of Explanation for Time Extension Request and Benefits Information

13. Conduct a Public Hearing, Waive First Reading and Introduce Ordinance No. 198.5 Regarding Bingo Game Licensing (Staff Contact: Renee Lorentzen, 408-586-3409)

Background: At the April 26, 2018, City Council Subcommittee on Non-Profits meeting, the subcommittee recommended for City Council final approval, amending the City of Milpitas' current Bingo Game Licensing Ordinance No. 198.

This new ordinance would update the City's Bingo Game regulations to adjust the bingo licensing application process and operating conditions as well as ensure compliance with California Penal Code Section 326.5. The ordinance would also increase the bingo license fee to fifty dollars (\$50) per year as provided by state law.

The updated ordinance provides the opportunity, with Council approval, for a bingo licensee to operate more than one day per week, with the proceeds used for charitable purposes. The updated ordinance does not negatively impact current bingo licensees. The ordinance will limit prizes to five hundred dollars (\$500) and remains consistent with statutes regulating bingo.

Fiscal Impact: The increased projected revenue from a new Bingo License fee is currently unknown.

Recommendations:

- 1) Conduct the public hearing, and move to close it following all speakers.
- 2) Following a reading of the title, move to waive the first reading beyond the title and introduce Ordinance No. 198.5 to amend the Milpitas Municipal Code for Bingo Game Licensing regulation.

Attachment: Ordinance No. 198.5

XIII. UNFINISHED BUSINESS

- 14. Per Request of Councilmember Barbadillo, Receive Staff Report Concerning Planning Commission Compensation (Staff Contacts: Bradley Misner, 408-586-3273)**

Background: On March 2, 2017, a recommendation was brought to City Council to consider raising the Planning Commission compensation from \$25 per meeting to \$100 per meeting. This item came to Council with a recommendation to introduce an ordinance to amend the existing Milpitas Municipal Code Section I-500-1.14 to indicate the monetary change based on a decision by the City Council at its meeting on April 25, 2016.

On April 25, 2016, the City Council voted to authorize an increase in compensation for each Commissioner attending Planning Commission meetings, from \$25 per meeting to \$100 per meeting. However, it was not until later in 2016 that it was determined that in order for this change to occur, an amendment of the Milpitas Municipal Code was also required as well as revisions to the Commission By-laws.

As Council is aware, there have been efforts by the City Council Subcommittee on Commissions to make recommendations related to the organization of City Commissions and prepare a Commissions Handbook. The Planning Commission has been included in these discussion and recommendations concerning the Planning Commission are forthcoming. Therefore, an item for full Council review and consideration of the Planning Commission's roles and responsibilities, and the compensation associated with this Commission, are due to come forward when the Council Subcommittee on Commissions presents their recommendations.

Recommendation: Accept staff report concerning Planning Commission compensation.

Attachment: April 25, 2016 City Council meeting minutes

XIV. REPORT OF OFFICERS

- 15. Per Request of Mayor Tran, Consider Approving More than 4 Hours of Staff Time to Respond to a Need for Traffic Calming Program (Contact: Mayor Tran, 408-586-3029)**

Recommendation: Hear request of Mayor Tran. If desired, move to approve more than four hours of staff time to work on a program for traffic calming in Milpitas.

- 16. Consider Request from Councilmember Phan for City Council to Authorize a Letter to the Santa Clara County District Attorney Urging Action to Expunge Certain Prior Misdemeanor Convictions (Contact: Councilmember Phan, 408-586-3032)**

Background: Councilmember Phan asks the City Council to consider his request for a letter of support to the County District Attorney from the Milpitas City Council to consider expunging the criminal misdemeanor convictions of those convicted of certain minor crimes and resentencing or redesignating certain felony convictions, which have been decriminalized under Proposition 64, the Adult Use of Marijuana Act. This is based on recent action taken by the San Francisco Board of Supervisors.

Recommendation: Consider the request from Councilmember Phan. If desired, move to approve and send the letter drafted to the Santa Clara County District Attorney.

Attachment: draft Letter

XV. NEW BUSINESS

17. Receive Report on “Safety Summit” Scheduled on June 2, 2018 in Partnership with the Milpitas Unified School District (Staff Contact: Renee Lorentzen, 408-586-3409)

Background: The City of Milpitas, in partnership with the Milpitas Unified District will be offering a “Safety Summit” on Saturday, June 2, 2018 from 8:30 PM – 1:30 PM at the Milpitas Community Center. The Safety Summit is a local effort in response to growing concerns in the community due to tragic events happening nationwide.

Following a model summit held in April 2018 by the County of Santa Clara, the Milpitas Safety Summit will bring together the community, public safety, community leaders and local officials for a dialogue on areas of safety important to Milpitas. The day’s summit will include a panel discussion with local leaders and officials, table talk safety discussions led by trained facilitators on: Schools, Community, Interfaith Community, Firearm Safety, and Support Services for students and families, and a wrap-up discussion at the conclusion.

Information and ideas garnered at this Summit may help in future actions taken by the City Council and/or Milpitas Unified School District Board of Education in regards to safety and services. “Save the Date” and information on registering for the Summit will be distributed to residents through both agency’s e-mail distribution lists, websites and social media accounts.

Recommendation: Receive staff update on the upcoming Safety Summit meeting on June 2, 2018 with the Milpitas Unified School District.

Attachment: None

18. Receive Staff Report Concerning Santa Clara Valley Transportation Authority Owned Property in the City of Milpitas (Staff Contacts: Edesa Bitbadal, 408-586-3052 and Bradley Misner, 408-586-3273)

Background: The purpose of this report is for the City Council to receive a staff report concerning Santa Clara Valley Transportation Authority (VTA) properties within the City of Milpitas and preliminary redevelopment concepts.

City staff was contacted by VTA staff to discuss the potential redevelopment of three separate properties within the City of Milpitas. VTA is evaluating their property holdings and are analyzing the City’s General Plan, Zoning, Transit Area Specific Plan, and Affordable Housing policies in order to prepare requests for proposals (RFPs) to gauge interest from development partners to potentially redevelop properties located at the corner of Great Mall Parkway and Montague Expressway (next to the Milpitas BART Station), the Transit Station along Great Mall Parkway (adjacent to the Great Mall), and the parking lot for the Light Rail Transit (LRT) near the corner of Tasman and Alder Drive. In discussions with city staff, VTA is interested in a variety of potential development options which could include residential (including affordable housing units), mixed-use developments of housing and retail, hotel uses, retail, and office. Each site would be analyzed on its own and city staff will continue working with VTA to ensure that any development scenarios are consistent with City land use policies, the City’s General Plan (including future land use plans), and would be for the betterment of the City of Milpitas. Any amendment to the General Plan or changes to the Zoning Code will require project approval from the Milpitas City Council.

Corner Parcel Next to the Milpitas BART Station

On February 1, 2018, VTA Board voted to solicit developers to develop the corner parcel next to the Milpitas BART Station with a long-term lease. The Request for Proposal (RFP) will seek proposals to design, finance, build and operate a Transit Oriented Development consistent with the Milpitas Transit Area Station Plan, pursuant to a long-term ground lease from VTA. VTA is envisioning a mid-rise to high-rise housing development with possible affordable housing to exceed the City's existing requirements. The RFP is scheduled to be released by the end of May 2018 and the goal is to recommend a qualified developer to the VTA Board for an Exclusive Negotiations Agreement at its December 6, 2018 meeting. VTA staff is currently soliciting comments from City staff on additional comments and directions which will be added to the RFP.

Parking Lot for the LRT (Alder Drive)

VTA is currently in conversation with Lodging Dynamics to develop the parking lot near the corner of Tasman and Alder Drive as a long-term lease. VTA is envisioning a hotel, which would be the third hotel in the area. Currently, Lodging Dynamics has been entitled to develop a five-story, 67 feet tall, Element Hotel which will feature 194 guest rooms. Lodging Dynamics is also in the process of developing a second hotel at the same parcel which will be an Aloft Hotel. VTA and Lodging Dynamics are both interested in developing the third hotel and it will include shared parking on VTA's LRT parking lot. VTA staff is in the process of moving forward with a sole source agreement with Lodging Dynamics, and the agreement will go before the VTA Board on June 7, 2018. VTA staff provided two options for the site: (A) Class A Office with parking structure; (B) An additional third hotel which will feature 200 guest rooms.

Transit Station along Great Mall Parkway

This parcel is a transit center used by VTA buses. Bus services at this station will be moved when the BART Station becomes operational. Since the property will become vacant, VTA staff is pursuing future development options for the site. VTA staff presented to staff three different options for the transit station Great Mall station: Option (1) Retail and a surface parking lot; Option (2A) Retail, parking garage, and two office buildings; and Option (2B) Retail, parking garage, two office buildings, and designated ride-share pick up/drop off area.

Fiscal Impact: None.

Recommendation: Accept the staff report concerning the status of Santa Clara VTA owned properties in the City of Milpitas, and potential redevelopment of land.

Attachment: Maps/visuals of the land

XVI. RESOLUTIONS

19. HOUSING AUTHORITY

Consider Adopting a Resolution to Authorize the Housing Authority Executive Director to Prepare a Short Term Subordination Agreement of the City's \$3,000,000 Loan to a Short Term Lender, LIIF Housing Preservation Fund, LLC, for the Montevista Apartments at 1001 S. Main St. (Staff Contacts: Tim Wong 408-586-3286 and Hang Huynh, 408-586-3275)

Background: Milpitas Housing Associates (MHA), a California Limited Partnership, is an entity of Bridge Housing Corporation (Bridge Housing). Bridge Housing is a non-profit housing developer and property management organization that creates high-quality, affordable housing for working families and seniors throughout the Bay Area. Its portfolio includes multi-family, senior, supportive and assisted housing, totaling over 16,000 homes. Bridge Housing has one development in Milpitas, the Montevista Apartments, which contains one-, two- and three-bedroom affordable and market rate units on the property.

Bridge Housing formed the Milpitas Housing Associates, specifically for the development of the Montevista Apartments.

In 1996, the former Milpitas Redevelopment Agency (RDA) entered into an agreement with Bridge Housing and Summerfield Homes to build 306 units on a 16-acre property. The property, located at 1001 S. Main Street, includes 76 low-income (60% of AMI) units, and 87 very-low (50% of AMI) income units for a total of 163 restricted units. The remaining 143 units are market rate apartment rental units.

The City provided a \$3,000,000, 5.45%, residual receipts loan to MHA in exchange for the affordability of 163 of the units designated for very-low and low income households for 44 years. They have made periodic payments per the agreement since June 1, 2000 as per the residual receipts formula outlined in the loan agreement. In addition, the loan has accrued compounded interest since November 22, 1996. As of June 30, 2017, the accrued interest is approximately \$1,541,073.98. The next calculation will be done on June 30, 2018.

In addition to the City's RDA loan, the Montevista Apartments received funding from several other agencies. The project was funded through the federal Low-Income Housing Tax Credit (LIHTC) Program, California Housing Finance Agency (CalHFA) provided a \$25,219,787 loan. Santa Clara County funded the project with three separate loans, a \$4,410,571 County local funds loan, a \$443,448 HOME funds loan and a \$260,520 CDBG loan.

With the dissolution of the City's RDA in 2012, the City of Milpitas Housing Authority became the successor to the RDA's housing assets.

Tax Credit Program and Proposed Buyout

The units are now in need of rehabilitation. MHA proposes to restructure its existing debt to be able to rehabilitate the units. However the first step of the process is to buyout is limited partner as part of the Low Income Housing Tax Credit program.

The LIHTC program is an indirect federal subsidy program through the Internal Revenue Service to help finance low-income, multi-family affordable rental housing construction or rehabilitation through the involvement of the private sector. The program to incentivize private developers and investors through a reduction in their federal tax liability in exchange to create more affordable housing. The private party or investors will receive a dollar-for-dollar reduction to their tax liability for their equity contribution to an affordable rental housing project. The investors are a partial owner of the project through the form of a limited partner – taking about .01-1% of the liability, and the developer or in this case, Bridge Housing, will be general partner, which is responsible for 99-99.9% of the liability. The investors receive their tax credits annually, over a 10 year period. LIHTC follows the Internal Revenue Service (IRS) compliance period of 15-years in which tax credits are subject to recapture if occupancy and rent restrictions are not observed with an overall rental affordability period of 55 years. For Montevista, the IRS requires the development to meet occupancy and rent restrictions of at least 40% of the units be occupied by households whose income is at or below 60% of AMI as determined by the California Department of Housing and Community Development.

The Internal Revenue Services (IRS) requires that all LIHTC properties, like Montevista Apartments, have an extended use period for at least 30 years of affordability. As mentioned, the affordability period for Montevista is 55 years. Though Montevista's 15-year tax compliance period has ended, they will still be in compliance with the IRS and in addition, continue their mission of affordable housing and keep all affordability in place. Now that the 15 year tax compliance period has expired and the property is no longer at risk for tax credit recapture, the limited partners or private investors may wish to end their

ownership role as the limited partners. In addition, as the general partner, Bridge Housing must restructure existing debt and reevaluate their relationship with the limited partners.

With the expiration of the tax compliance period, Bridge Housing wants to restructure the existing debt of Montevista Apartments to dissolve its partnership with their limited partners and own 100% of Montevista Apartments to maintain its mission of affordability. Given that the limited partner's financial interest may not always align with the mission of Bridge Housing, it is in the best interest to buy-out the limited partner to preserve the affordable housing. Bridge Housing has a June 2018 deadline to buy-out the limited partners and is seeking assistance from the City.

Subordination Request

Upon dissolving the partnership, Bridge Housing will need to buy-out its limited partners at an estimated cost of \$7,433,589.

City Loan Subordination

A short term Community Development Finance Institution (CDFI) loan would be used to finance the buyout until the long term, permanent financing with CalHFA is complete. The terms of the CDFI loan would restructure the lien priority temporarily. In addition to the CDFI loan, Bridge Housing would be refinancing the CalHFA loan and CalHFA would require that all other existing loans to be resubordinated to their loans. The lien priority is required as a means who will get repaid first if a property were to be foreclosed. Please note that this subordination is only proposed to be in place through January 2019. The proposed lien priority would be as follows:

Current Lien Priority	June 2018-January 2019 Lien Priority (Short Term)
1. CalHFA 1st Mortgage	1. CalHFA 1st Mortgage
2. Santa Clara County Subordination Loan	2. CDFI Loan
3. City of Milpitas Subordination Loan	3. Santa Clara County Subordination Loan
4. Santa Clara County Subordination Loan: HOME	4. City of Milpitas Subordination Loan
5. Santa Clara County Subordination Loan: CDBG	5. Santa Clara County Subordination Loan: HOME
	6. Santa Clara County Subordination Loan: CDBG

Future Loan Restructuring

In addition to "buying-out" their limited partners, Bridge Housing would also restructure all their existing debt, including the City's \$3,000,000 loan, for Montevista in order to rehabilitate the units. This would enable Bridge Housing to take on new subordinate debt from CalHFA to help finance the rehabilitation of the aging property.

The overall loan restructuring does include a request to revise the terms of the City's loan. That loan restructuring request, including a subordination to the refinanced CalHFA loan, would be brought to the Housing Authority Commission at a later date for their consideration. But the short-term subordination is the first step of the overall process.

Fiscal Impact: None.

Recommendation: Adopt a Resolution authorizing the Housing Authority's Executive Director to prepare a short term Subordination Agreement of the City's \$3,000,000 loan to

the short term lender, LIIF Housing Preservation Fund, LLC for the Montevista Apartments at 1001 S. Main St.

Attachments:

- a) Resolution
- b) Subordination Agreement

20. Adopt a Resolution Amending the Classification Plan to Adjust City of Milpitas Part-Time Temporary Classifications to Reflect Changes in the Milpitas Minimum Wage Ordinance No. 292 (Staff Contact: Tina Murphy, 408-586-3086)

Background: City of Milpitas Classification Plan is amended periodically to account for changes in job responsibilities and salary changes for represented and unrepresented classifications. The Classification Plan also includes Part-Time Temporary job classifications, which are used to augment City staff but are not represented by labor agreements.

The minimum wage in California will increase from \$12.00 per hour to \$13.50 per hour on July 1, 2018. The changes to the California Minimum Wage will necessitate annual changes to the Classification Plan to reflect the new minimum wage for certain Part-Time Temporary classifications. In February 2017, the Milpitas City Council adopted Ordinance No. 292 that provides a local minimum wage. The local minimum wage is currently higher than the state minimum wage and will increase from \$13.50 per hour to \$15.00 effective July 1, 2019.

The City will implement the July 2018 minimum wage increase for Part-Time Temporary classifications earning less than \$13.50 per hour effective June 24, 2018. No represented classifications earn less than \$13.50 per hour.

Fiscal Impact: The fiscal impact on the current budget was considered in the adopted funding levels for Part-Time Temporary staff. Potential future impacts due to the July 2018 and January 2019 minimum wage increases will be incorporated in the Fiscal Year 2018-19 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 24, 2018 to reflect the changes in the Milpitas Minimum Wage Ordinance No. 292.

Attachment: Resolution

21. Adopt a Resolution Authorizing an Exception to the 180-Day Wait Period, Certifying the Appointment of Elizabeth Brown to Serve as Interim Human Resources Director, Pursuant to the California Public Employees Reform Act (PEPRA) of 2013 (Staff Contact: Tina Murphy, 408-586-3086)

Background: The California Public Employees Reform Act of 2013 requires a 180-day “wait” period before a retiree can return to work for a public agency; however, the 180-day “wait” period can be waived if: 1) the employer certifies that the appointment is necessary to fill a critically needed position before 180-days has passed, and 2) the appointment has been approved by the governing body of the employer in a public meeting and not on a consent calendar.

Elizabeth Brown served as the Director of Human Resources for the City of Santa Clara for approximately nine years before her retirement on March 23, 2018. The City is currently recruiting to fill the upcoming Human Resources Director vacancy. Staff recommends

hiring Elizabeth Brown to serve as the Interim Human Resources Director, pending conclusion of the Human Resources Director recruitment process.

Included in the Council's agenda packet is the required resolution to rehire a PERS retiree, pursuant to the California Public Employees Reform Act (PEPRA) of 2013 and the employment agreement.

Fiscal Impact: None. Position will be funded by salary savings from the Director position vacancy.

Recommendation: Adopt a resolution authorizing an exception to the 180-day wait period certifying the appointment of Elizabeth Brown as Interim Human Resources Director pursuant to the California Public Employees Reform Act of 2013, and approve and authorize the City Manager to execute an employment agreement between Ms. Brown and the City of Milpitas.

Attachment: Resolution and Employment Agreement

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

XVIII. ADJOURN JOINT MEETING

NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, JUNE 5, 2018