



## REGULAR MEETING OF THE MILPITAS CITY COUNCIL

### AGENDA

**TUESDAY, FEBRUARY 7, 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 Police Officers Association

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

**(b) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

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

American Arbitration Association Case No. 01-16-00004753

**(c) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**

Pursuant to Government Code Section 54956.9(d)(2)

City as Defendant (two matters)

**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 (Vice Mayor Grilli)**

**VI. SCHEDULE OF MEETINGS – COUNCIL CALENDAR - February 2017**

**VII. PRESENTATIONS**

- Proclaim Black History Month for February 2017
- Recognize the 2016 Science Fair Winners Milpitas students
- Present Certificate to America “Pilli” Irineo as Rose School Poet
- Commend Miss Vietnam California Christina Ly Truong

**VIII. PUBLIC FORUM**

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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.

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**IX. ANNOUNCEMENTS**

**X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

**XI. APPROVAL OF AGENDA**

**XII. CONSENT CALENDAR (Items with asterisks\*)**

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

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**XIII. APPROVE COUNCIL MEETING MINUTES - January 17, 2017**

**XIV. PUBLIC HEARINGS**

- 1. Conduct a Public Hearing and Adopt a Resolution Approving an Initial Study/ Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program and Adopt a Resolution Approving a General Plan Amendment and Conditional Use Permit for Operation of the Al-Hilaal Mosque and Community Center at 372-374 Turquoise Street; and, Introduce Ordinance No. 38.827 to Amend Title XI, Chapter 10, Section 7.02, Table XI-10-7.02- 1 of the Milpitas Municipal Code to Allow Places of Assembly to Locate Within Industrial Zones with a Conditional Use Permit and Amend Section 7.04 for Special Development and Performance Standards (Staff Contact: Bradley Misner, 408-586-3279)**
- 2. Conduct a Public Hearing and Adopt a Resolution Approving a General Plan Amendment to Decrease Minimum Density for Mixed Use Properties Less than 20,000 square feet; and, Introduce Ordinance No. 38.828 for a Zoning Change to Amend Title XI, Chapter 10, Section 6.04, Table XI-10-6.04-1 and Title XI, Chapter 10, Section 6.04, Subsection (C) of the Milpitas Municipal Code to Allow Decrease in Minimum Density Required for MXD Zoned Properties less than 20,000 square feet, pursuant to CEQA Guideline 15061(b)(3) (Staff Contact: Michael Fossati, 408-586-3274)**
- 3. Conduct a Public Hearing and Adopt a Resolution Directing Abatement Program (Staff Contact: Albert Zamora, 408-586-3371)**

**XV. UNFINISHED BUSINESS**

- \* 4. Receive the Monthly Update of the Odor Control Report (Staff Contact: Greg Chung, 408-586-3355)**
- 5. Receive Report on Minimum Wage and Introduce Ordinance No. 292 (Staff Contact: Edesa Bitbadal, 408-586-3052)**
- 6. Receive Report on the Pines Neighborhood On-Street Parking Survey (Staff Contact: Steve Chan, 408-586-3324)**
- 7. Receive Update on the Operation of the Community Access Television Channel 26 and Request Future Direction (Staff Contact: Mike Luu, 408-586-2706)**
- 8. Request to Authorize More than 4 Hours of Staff Time to Explore Issue of Charter City Status (Contact: Councilmember Phan, 408-586-3032)**

- \* 9. Receive Information on Nepotism Policy of the City of Milpitas (Staff Contacts: Chris Diaz, 408-586-3040 and Tina Murphy, 408-586-3086)**

#### **XVI. REPORTS OF OFFICERS AND COMMISSION**

- \*10. Consider Mayor's Recommendation for One Re-appointment to the Milpitas Veteran's Commission (Contact: Mayor Tran, 408-586-3029)**
- 11. Per Request of Councilmember Phan, Receive City of Milpitas Flag Policy and Hear Request Regarding Flag of Vietnam (Contact: Councilmember Phan, 408-586-3230)**
- \*12. Approve Arts Commission Recommendation for One Arts and Culture Grant Award for FY 2016-17 (Staff Contact: Rosana Cacao, 408-586-3207)**

#### **XVII. NEW BUSINESS**

- \*13. Consider Request from Milpitas Executive Lions Club to Co-Sponsor "Celebrating Differences" Event on April 23, 2017 (Staff Contact: Renee Lorentzen, 408-586-3409)**
- \*14. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**
- \*15. Approve Out of State Travel Request for Councilmember Nuñez to Go to Washington, D.C. (Contact: Councilmember Nuñez, 408-586-3023)**

#### **XVIII. ORDINANCE**

- 16. Waive Reading Beyond the Title and Adopt Urgency Ordinance No. 43.212 Amending Chapter 100 of Title V of Milpitas Municipal Code Relating to Parking Time Limits in any Parking Lots or Designated Areas Adjacent to or at a City Park and Removal of Vehicles Unlawfully Parked or Standing (Staff Contacts: Steve Chan, 408-586-3324 and Chris Diaz, 408-586-3040)**

#### **XIX. RESOLUTIONS**

- \*17. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Milpitas Sports Center Sports Fields Project No. 5104, and Granting Authorization to the City Engineer to Issue Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**
- \*18. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Bridge Improvements Project No. 4271, and Granting Authorization to City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**
- 19. Adopt a Resolution for Exception to the 180-Day Wait Period in Accordance with California Government Code Sections 7522.56 and 21224 Related to Hiring in the Milpitas Police Department (Staff Contact: Tina Murphy, 408-586-3086)**
- \*20. Adopt a Resolution Approving the Sole Source Purchase of Police Body Worn Cameras, Associated Equipment and Cloud-Based Storage Subscription and Authorize the City Manager to Execute a Master Services and Purchasing Agreement with TASER International (Staff Contacts: Chris Schroeder, 408-586-3161 and Daryl Sequeira, 408-586-2434)**

## XX. AGREEMENTS

- \*21. Approve Amendment No. 1 to the Agreement with West Yost Associates, Inc. for Staff Augmentation Service, in the Amount of \$75,000 and Extend Terms of the Agreement to April 30, 2017 (Staff Contact: Tom Williams, 408-586-3051)
- \*22. Approve Purchase of Bendix King Fire Radios for Use in Wild Land Urban Interface Fire Incident Communications by the City of Milpitas Fire Department in the Amount of \$103,000 to Khavarian Enterprises, doing business as Vision Communications (Staff Contacts: Chris Schroeder, 408-586-3161 and Brian Stelling, 408-586-2827)

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

## XXII. ADJOURNMENT

### **NEXT REGULAR CITY COUNCIL MEETING:** **TUESDAY, FEBRUARY 21, 2017**

#### **KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
e-mail: [cdiaz@ci.milpitas.ca.gov](mailto: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](http://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, 3<sup>rd</sup> 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](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

#### **APPLY TO SERVE ON A CITY COMMISSION**

Current vacancies on: Economic Development Commission  
Emergency Preparedness Commission

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://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](mailto: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

### XIV. PUBLIC HEARINGS

1. **Conduct a Public Hearing and Adopt a Resolution Approving an Initial Study/Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program and Adopt a Resolution Approving a General Plan Amendment and Conditional Use Permit for Operation of the Al-Hilaal Mosque and Community Center at 372-374 Turquoise Street; and, Introduce Ordinance No. 38.827 to Amend Title XI, Chapter 10, Section 7.02, Table XI-10-7.02- 1 of the Milpitas Municipal Code to Allow Places of Assembly to Locate Within Industrial Zones with a Conditional Use Permit and Amend Section 7.04 for Special Development and Performance Standards (Staff Contact: Bradley Misner, 408-586-3279)**

**Background:** On July 8, 2015, the Milpitas Planning Commission considered a Zoning Text Amendment application to allow places of assembly to locate within Industrial Zoned lands. At that hearing, the Commission recommended that planning staff move forward with appropriate CEQA review and return to the Planning Commission with a resolution supporting the applicant's request. Subsequently, on March 3, 2016, the applicant also submitted an application to amend the General Plan to delete the portion of Policy 2.a-l-14 prohibiting "social organizations" within industrial area (GP16-0002) and proposed a project to convert 13,125 square feet of vacant tenant space inside of an existing 31,061 square foot industrial building within the M2 ('Heavy Industrial') Zoning District into a mosque, with associated programming including classes, community workshops and seminars, local outreach, counseling, family activity nights, health and fitness classes, a media center, a bookstore, special events, and community social activities. In order to realize the project, approval of a General Plan Amendment (GP16-0002), Zoning Ordinance Text Amendment (ZA15-0003), and Conditional Use Permit (UP15-0008) is required. The Zoning Ordinance Text Amendment would authorize places of assembly within the M1, M2, and MP Zoning Districts subject to the review and approval of a Conditional Use Permit.

On December 14, 2016, the Planning Commission held a public hearing to consider evidence presented by City staff, the applicant, and other interested parties. The Planning Commission voted unanimously 7-0 to recommend that the City Council adopt an Initial Study/Mitigated Negative Declaration (MND) and Mitigation Monitoring Reporting Program (MMRP), as well as General Plan Amendment No. GP16-0002, Zoning Ordinance Amendment No. ZA15-0003, and Conditional Use Permit No. UP15-0008 to allow for the project.

On January 11, 2017, the Planning Commission held another public hearing to consider the City staff prepared resolutions which memorialized the findings reached by the Planning Commission on December 14, 2016, as well as the conditions of approval that would apply to the Project, should it be approved by the City Council. The first Resolution No. 17-002 recommended the City Council adopt the MND and MMRP and the second Resolution No. 17-003 recommended the City Council adopt a General Plan Amendment, Zoning Ordinance Text Amendment, and Conditional Use Permit to allow the Al Hilaal Mosque and Community Center to operate at 372-374 Turquoise Street.

**Environmental:** Pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), the City of Milpitas is the lead agency for the proposed Project. City staff reviewed the Project and caused an Initial Study to be prepared pursuant to State CEQA Guidelines section 15063. On the basis of the Initial Study, which concluded that the Project will not have significant impacts on the environment with implementation of mitigation, the City determined that a Mitigated Negative Declaration ("MND") should be prepared for the Project, and an MND and Mitigation Monitoring and Reporting Program ('MMRP') were prepared pursuant to CEQA and the State CEQA Guidelines. Through adoption of Resolution

No. 17-002, the Planning Commission has recommended that the City Council adopt the MND and MMRP for the Project. As documented in the MND, with the implementation of mitigation, all of the project's impacts will be mitigated to a less than significant level and no significant impacts will remain.

**Fiscal Impact:** None. A fiscal impact report was not conducted for this project.

**Attachments:**

- A. draft Council Resolution – adopt IS/MND and MMRP
- B. draft Council Resolution – approve GP amendment and CUP
- C. Ordinance No. 38.827
- D. Meeting Minutes of Planning Commission 12/14/2016
- E. Agenda Report Planning Commission 12/14/2016
- F. Agenda Report Planning Commission 01/11/2017

**Recommendations:**

1. Open the public hearing, take public comment, and close the public hearing.
  2. Adopt a resolution adopting an Initial Study and Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP).
  3. Adopt a resolution approving General Plan Amendment (16-002) and Conditional Use Permit (UP15-0008).
  4. Following reading of the title by the City Attorney, waive the first reading beyond the title of Ordinance No. 38.827 permitting the establishment of places of assembly with the approval of a Conditional Use Permit within the M1, M2, and MP Zoning Districts subject to special development standards.
  5. Introduce Ordinance No. 38.827.
2. **Conduct a Public Hearing and Adopt a Resolution Approving a General Plan Amendment to Decrease Minimum Density for Mixed Use Properties Less than 20,000 square feet; and, Introduce Ordinance No. 38.828 for a Zoning Change to Amend Title XI, Chapter 10, Section 6.04, Table XI-10-6.04-1 and Title XI, Chapter 10, Section 6.04, Subsection (C) of the Milpitas Municipal Code to Allow Decrease in Minimum Density Required for MXD Zoned Properties less than 20,000 square feet, pursuant to CEQA Guideline 15061(b)(3) (Staff Contact: Michael Fossati, 408-586-3274)**

**Background:** The City proposes a General Plan and Zoning Text Amendment to allow the following:

- A small lot exception to the minimum residential density requirements on all properties with a General Plan designation of “Mixed Use” and a Zoning Designation of “MXD.”

The minimum residential density requirements for “Mixed-Use” and “MXD” properties outside of a specific plan area is 21 units per acre. In other words, if a property owner or developer requested to construct a mixed-use project, the applicant would be required to construct a minimum of 21 residential units along with a commercial component. This becomes problematic for lots less than 20,000 square feet in size.

For “Mixed-Use” and “MXD” properties within a specific plan area, the property owner or developer who proposes to develop a mixed use project has the flexibility to limit the amount of residential units, as long as the project site is less than 20,000 square feet in size.

Staff recommends that all “Mixed-Use” and “MXD” properties (either within or outside a specific plan area) have the flexibility to limit the minimum number of residential units for any mixed-use project, as long as the project site is less than 20,000 square feet in size.

The Planning Commission recommended City Council approval of the General Plan and Zoning Amendment at its December 14, 2016 meeting.

**Environmental:** The General Plan Amendment and Zoning Amendment are both categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15061(b)(3) of the CEQA Guidelines as it can be seen with certainty that the proposed action will not cause any environmental impacts. The proposed action is to reduce the required density on “Mixed-Use” and “MXD” properties from the density previously approved by the City. Therefore, the proposed action will be less impactful than previously authorized.

**Fiscal Impact:** None. Neither the ordinance nor the resolution will have an immediate fiscal impact.

**Attachments:**

- A. draft Council Resolution – approve GP amendment
- B. draft Ordinance No. 38.828
- C. Meeting Minutes of Planning Commission 12/14/2016
- D. Agenda Report Planning Commission 12/14/2016

**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 General Plan Amendment to allow a decrease in densities for lots less than 20,000 square feet bearing a “Mixed-Use” General Plan designation.
- 4. Following a reading of the title by the City Attorney, waive the first reading beyond the title of Ordinance No. 38.828 to approve a zoning amendment in the municipal code to allow a decrease in densities for lots less than 20,000 square feet bearing a “MXD” zoning designation.
- 5. Move to introduce Ordinance No. 38.828.

**3. Conduct a Public Hearing and Adopt a Resolution Directing Abatement Program (Staff Contact: Albert Zamora, 408-586-3371)**

**Background:** At its meeting of January 3, 2017, the City Council adopted Resolution No. 8629 declaring weeds on certain described properties to be a public nuisance, and set a public hearing for February 7, 2017 to hear objections. A copy of the resolution was forwarded to the Santa Clara County Agricultural Commissioner. A notice to advertise the public hearing was published in the local newspaper on January 27, 2017 and property owners were mailed a notice of the proposed abatement by the County. The purpose of the public hearing is for owners who may object to the removal of the weeds to state their objections before the weeds are removed and the costs made a lien upon the property. A list of properties to be abated is included in the City Council’s agenda packet along with a resolution directing the County Agricultural Commissioner to abate the weeds.

**Fiscal Impact:** None.

**Recommendations:**

- 1. Open the public hearing for public comment, and move to close the hearing after any speakers.
- 2. Adopt a resolution directing the Santa Clara County Agricultural Commissioner to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council, in accordance with the Milpitas Municipal Code.

## XV. UNFINISHED BUSINESS

- \* 4. **Receive the Monthly Update of the Odor Control Report (Staff Contact: Greg Chung, 408-586-3355)**

**Background:** From December 9, 2016 through January 12, 2017, the Bay Area Air Quality Management District (BAAQMD) forwarded 212 complaints originating in Milpitas. 111 complaints identified a garbage odor, 9 complaints identified a sewage odor, 91 complaints did not identify an odor source, and 1 identified multiple odor sources. As of the last Council update, the City's odor reporting website has received 42 reported complaints.

**Recommendation:** Receive the monthly update of the Odor Control report.

5. **Receive Report on Minimum Wage and Introduce Ordinance No. 292 (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** Several cities in Santa Clara County, including the City of Milpitas, agreed to assist and participate in a regional minimum wage study starting in September of 2015. The Center on Wage and Employment Dynamics was hired to conduct an economic analysis for Countywide, and specifically for the City of San Jose. BW Research was also hired to survey businesses in San Jose and Santa Clara County.

During the time that the minimum wage was being studied in Santa Clara County, the state raised the minimum wage for small and large businesses in California. On January 1, 2016, state law required the minimum wage to increase to \$10.00 per hour. All City positions and contracted agencies and organizations are compliant with this minimum wage increase.

On April 4, 2016, Governor Brown signed into law Senate Bill (SB) 3. SB 3 (Leno) requires a new statewide minimum wage schedule with annual increases, effective January 1, 2017 through January 1, 2023. The schedule for those businesses with 26 or more employees and for businesses with 25 or fewer is as follows:

| Schedule of California Minimum Wage Increases |                      |                       |
|-----------------------------------------------|----------------------|-----------------------|
|                                               | 26 or More Employees | 25 or Fewer Employees |
| <b>2017</b>                                   | \$ 10.50             | \$ 10.00              |
| <b>2018</b>                                   | \$ 11.00             | \$ 10.50              |
| <b>2019</b>                                   | \$ 12.00             | \$ 11.00              |
| <b>2020</b>                                   | \$ 13.00             | \$ 12.00              |
| <b>2021</b>                                   | \$ 14.00             | \$ 13.00              |
| <b>2022</b>                                   | \$ 15.00             | \$ 14.00              |
| <b>2023</b>                                   | \$ 15.00             | \$ 15.00              |

On June 9, 2016, the Cities Association of Santa Clara County, through individual city representatives, voted to approve a Countywide minimum wage increase without any exemptions. Of 15 cities represented, 13 voted yes, City of Gilroy voted no, and City of Milpitas abstained. Since then, the minimum wage increase of \$15 by 2019 has been approved by cities of San Jose, Cupertino, Los Altos, and Palo Alto. Cities of Sunnyvale and Mountain View had already adopted a more aggressive schedule of \$15 by 2018. Six cities have voted to not adopt the Countywide minimum wage increase and stay with the state level. Those cities are Gilroy, Morgan Hill, Los Gatos, Campbell, and Los Altos Hills. Since the Cities Association meeting in June of 2016, the Countywide effort to increase the minimum wage to \$15 by 2019 has not become a uniform policy. Cities are implementing minimum wage to meet their respective community's economic and social needs.

The Countywide survey conducted by BW Research did not state Milpitas businesses' perspective as it was all combined with businesses in fifteen cities. Therefore, Economic Development staff in collaboration with the Milpitas Chamber of Commerce held three meetings on May 13, May 16, and June 6, 2016 with local business owners to review the newly increased State mandated minimum wage increase, the Countywide study, and a hybrid of the state minimum wage increase with incremental increases linked to the state's CPI. Economic Development staff also mailed a survey to 1,579 businesses that have two or more employees.

| Schedule of California Minimum Wage Increases |                         |                          | Santa Clara County<br>Cities Association<br>Recommendation |
|-----------------------------------------------|-------------------------|--------------------------|------------------------------------------------------------|
|                                               | 26 or More<br>Employees | 25 or Fewer<br>Employees |                                                            |
|                                               |                         |                          | * Estimated                                                |
| 2017                                          | \$ 10.50                | \$ 10.00                 | \$ 12.00                                                   |
| 2018                                          | \$ 11.00                | \$ 10.50                 | \$ 13.50                                                   |
| 2019                                          | \$ 12.00                | \$ 11.00                 | \$ 15.00                                                   |
| 2020                                          | \$ 13.00                | \$ 12.00                 | \$ 15.33*                                                  |
| 2021                                          | \$ 14.00                | \$ 13.00                 | \$ 15.68*                                                  |
| 2022                                          | \$ 15.00                | \$ 14.00                 | \$ 16.03*                                                  |
| 2023                                          | \$ 15.00                | \$ 15.00                 | \$ 16.38*                                                  |

Economic Development staff made a presentation on preliminary findings to the City Council on June 7, 2016. Staff was directed by the City Council to continue the outreach with Milpitas businesses to yield a larger net of businesses and numbers.

Because the City has a significant number of Asian-owned and Asian-based businesses, in particular, Chinese-owned small businesses, staff translated the survey into Mandarin. In addition, staff conducted the survey by door-to-door canvassing, visiting numerous shopping centers, and conducting phone surveys. The intensive in-person outreach to businesses, numerous shopping centers, additional translation services, yielded more than twice the number of results from direct mail and three community meetings.

Based on the overall outreach to Milpitas-based businesses, 81% would not want the City to increase the minimum wage to \$15 by 2019. The survey results show that only 9% of Milpitas business owners would support the Countywide effort. The verbal and written comments for opposition of the Countywide efforts were due to financial impacts and eventual closure of small businesses, lay off of employees or reduction in employees hours, low profit margin, fierce competition with neighboring communities such as Fremont. Additional hidden costs were also a factor in opposition to the increase in minimum wage. Those cost increases include workers compensation and payroll taxes, which in total increase expenses much higher than the hourly rate analysis. However, business owners were in support of exemptions that could include number of employees. Also, employers understand that the cost of living is high for employees, but the County-wide effort was too aggressive for them.

**Analysis:** On January 17, 2017, Council received staff's presentation on outreach and analyzed the survey results. Based on the input from the working families in the City and also small business owners, the City Council unanimously voted to direct staff to draft an ordinance to increase the minimum wage to \$15 by July 1, 2019; and to form a subcommittee represented by Vice Mayor Grilli and Councilmember Phan to explore and present options and exemptions for small businesses.

On January 27 and January 31, the City Council Subcommittee met to receive a report on available options and exemptions that would benefit Milpitas businesses and workers. Staff made presentations to the subcommittee on all definitions, options and exemptions implemented throughout the State of California by cities both large and small. During those meetings, representatives from the California Restaurant Association, Milpitas Chamber of Commerce, small businesses and union representatives spoke in favor of certain exemptions or against all exemptions.

The City Council Subcommittee made recommendations to the City Council to consider a two tier system where those with 25 employees or less will raise their minimum wage to \$15 by July 1, 2020; businesses with 11 locations worldwide are excluded from tier two system of \$15 by 2020. However, franchise owners who have 25 or less employees within the City would qualify as a small business. Also, a waiver for collective bargaining will be in place with the exemption of employees in the property industry such as janitors, landscapers, groundskeepers, and security guards.

The minimum wage increase schedule will be as follows:

| (Estimates *) |               | 26 and More Employees                  | 25 or Fewer Employees                 |
|---------------|---------------|----------------------------------------|---------------------------------------|
|               |               | 6-Month Delay<br>Effective Jul 1, 2017 | 1-Year Delay<br>Effective Jan 1, 2018 |
| <b>Jan 17</b> | <b>Jun 17</b> | \$ 10.50                               | \$ 10.00                              |
| <b>Jul 17</b> | <b>Dec 17</b> | \$ 11.00                               | \$ 10.00                              |
| <b>Jan 18</b> | <b>Jun 18</b> | \$ 12.00                               | \$ 11.00                              |
| <b>Jul 18</b> | <b>Dec 18</b> | \$ 13.50                               | \$ 12.00                              |
| <b>Jan 19</b> | <b>Jun 19</b> | \$ 13.50                               | \$ 12.00                              |
| <b>Jul 19</b> | <b>Dec 19</b> | \$ 15.00                               | \$ 13.50                              |
| <b>Jan 20</b> | <b>Jun 20</b> | \$ 15.00                               | \$ 13.50                              |
| <b>Jul 20</b> | <b>Dec 20</b> | * \$ 15.35                             | \$ 15.00                              |
| <b>Jan 21</b> | <b>Jun 21</b> | * \$ 15.35                             | * \$ 15.00                            |
| <b>Jul 21</b> | <b>Dec 21</b> | * \$ 15.68                             | * \$ 15.35                            |

Ordinance No. 292 is requested to be introduced at this meeting to raise the minimum wage per City Council and Subcommittee on minimum wage's direction and recommendations.

**Fiscal Impact:** The minimum wage increase will impact the City' General Fund for Fiscal Year 2017-18 for the Recreation Department and janitorial services outside contract due to increased wages. Staff will bring budget adjustment requests separately to address these cost increases, in addition to enforcement costs, following the effective dates of the minimum wage ordinance.

**Recommendations:**

1. Receive a report from staff on outcomes of the City Council's minimum wage subcommittee.
2. Following the reading of the title by the City Attorney, move to waive the first reading beyond the title of Ordinance No. 292.
3. Introduce Ordinance No. 292.

**6. Receive Report on the Pines Neighborhood On-Street Parking Survey (Staff Contact: Steve Chan, 408-586-3324)**

**Background:** City staff received concerns from Pines residents of on-street parking congestion within Pines neighborhood beginning in early 2015 and up to as recently as

December 2016. Residents voiced that new high-density residential developments located along and near Abel Street and South Main Street are contributing to overnight on-street parking congestion within the Pines neighborhood.

All streets in the Pines neighborhood are public streets, and the general public may park their vehicles continuously on public streets up to 72 hours, as permissible per Milpitas Municipal Code. There are two high-density residential developments, Apex Apartments and Ilara Apartments, located on Abel Street near West Capitol Avenue that were completed and occupied in 2015. Interviews with Apex Apartments and Ilara Apartments management indicated their occupancy is near capacity.

City staff conducted field review of parking utilization on streets near the apartment buildings during the daytime hours in April 2015 and found there was ample on-street parking during the daytime periods. Overnight on-street parking surveys were conducted in the Pines neighborhood on October 15, 16, 17 and 18, 2015 and on December 15, 16, 17 and 18, 2016 to evaluate overnight on-street parking utilization near the apartments.

Both the October 2015 and December 2016 parking survey data showed an increase of on-street parking congestion on W. Capitol Avenue and Fallen Leaf Drive on all nights of on-street parking survey. There was no notable spread of parking congestion within the Pines from October 2015 to December 2016 on the same streets surveyed. Additionally the 2016 survey and aerial photos prior to new developments identified that there was also limited parking availability and parking congestion on streets further into the Pines neighborhood that are not within convenient walking distance to the apartment buildings, such as Green Tree Way, Lonetree Court, Greenwood Way, Pinewood Way, and Starlite Drive.

High-density residential developments located outside of the Pines likely contribute to some overnight on-street parking congestion on streets near the eastern boundary of the Pines neighborhood on W. Capitol Avenue and Fallen Leaf Drive. Although at times the parking congestion on W. Capitol Avenue and Fallen Leaf Drive near Abel Street creates inconvenience to some Pines residents, it does not necessitate implementing parking restriction, such as a permit parking program, at this time.

Staff recently became aware that the Apex Apartments may be charging tenants for on-site parking spaces separate from their living units which is not permitted per the project's conditions of approval. On January 26, 2017, City Planning staff notified Apex Apartments management in writing requesting adherence to the project's conditions of approval, which include providing required parking spaces per living unit and accommodating all parking needs on-site. Staff will reassess on-street parking availability once this parking infraction, if confirmed, is corrected.

**Fiscal Impact:** None.

**Recommendation:** Receive a report from staff on the Pines neighborhood recent on-street parking survey.

**7. Receive Update on the Operation of the Community Access Television Channel 26 and Request Future Direction (Staff Contact: Mike Luu, 408-586-2706)**

**Background:** In April of 2009, Council approved an agreement with Milpitas Community Television (MCTV) for operation of the Milpitas Public Access Channel and studio. The agreement was automatically renewed in April of 2012 for another three years. MCTV has been operating Channel 26 and the studio with funding from the City's franchise agreement with Comcast Inc. As part of the agreement, MCTV operates the studio and the City maintains and upgrades the equipment.

Staff presented Council with the recommendation for staff to go through with the Request for Proposal (RFP) process to obtain an operator for the management of the community access television channel and studio. In summary, the RFP requested these goals for the operator to meet and adhere to:

- Implement a community television solution that is financially and operational stable.
- Provide techniques for assessing community needs and new opportunities.
- Provide opportunities for openness and transparency in the operation of the station.
- Increase community support.
- Provide innovations for advancing the station in the ever-changing technology of video and television production.
- Provide educational training programs, non-profit engagement and marketing that support community access television.
- Provide greater community station effectiveness to include independent art and cultural groups, entertainment groups, sports and recreation associations.

**Recommendation:** Receive the report on the responses to the RFP and provide direction to staff for next steps.

**8. Request to Authorize More than 4 Hours of Staff Time to Explore Issue of Charter City Status (Contact: Councilmember Phan, 408-586-3032)**

**Recommendation:** City Council heard the distinction between General Law and Charter City status for California municipalities from the City Attorney on January 24, and now authorizes staff to spend more than four hours of time to study and report back on the matter of Charter City status.

**\* 9. Receive Information on Nepotism Policy of the City of Milpitas (Staff Contacts: Chris Diaz, 408-586-3040 and Tina Murphy, 408-586-3086)**

**Background:** On January 24, City Council asked for clarification regarding the City's nepotism policy. In general, the Municipal Code states that "[n]o person shall be disqualified for appointment as an employee of the City or disqualified from assignment or transfer for the sole reason that said person is a relative of another City officer or employee except in limited circumstances. Those limited circumstances would include where the person is subject to supervision, evaluation, discipline or having his/her compensation determined by a relative, where a department head is a relative of a person within that department, or where a division head is a relative of a person within that division." Generally, this language is consistent with the desire to limit situations where an employee is serving under the supervision or control of a relative as allegations of favoritism may result.

The City's Municipal Code further specifies that no relative of the City Manager or any Councilmember may serve in a City position except where either of the following two situations occur:

- The electorate shall still have the power to elect a Mayor or Councilmember, notwithstanding the fact that at the time of said election, said Mayor or Council member shall have a relative employed by the City; or
- Mayor or Council shall still have the power to appoint any Councilmember or other City officer, notwithstanding the fact that at the time of the appointment, the appointee has a relative employed by the City.

Noted is that nepotism policies generally are aimed at reducing situations where one relative has authority over another relative. It does not appear such authority would exist where a

Councilmember appoints a relative to a task force as the task force works without City Council input and control and makes an independent recommendation to the City Council.

A copy of Milpitas Municipal Code VI-101-18.00 is included in the agenda packet.

**Recommendation:** to receive information on the policy on nepotism for the City of Milpitas, in response to Council's request.

## **XVI. REPORTS OF OFFICERS AND COMMISSIONS**

### **\*10. Consider Mayor's Recommendation for One Re-appointment to the Milpitas Veteran's Commission (Contact: Mayor Tran, 408-586-3029)**

**Recommendation:** per recommendation of Mayor Tran, move to re-appoint Denny Weisgerber to Milpitas Veterans Commission to a term that will expire in February of 2019.

### **11. Per Request of Councilmember Phan, Receive City of Milpitas Flag Policy and Hear Request Regarding Flag of Vietnam (Contact: Councilmember Phan, 408-586-3230)**

**Background:** Councilmember Phan requested information on the city's policy regarding the flying of national flags. Staff provided both current Milpitas Municipal Code (from ordinance adopted in 2003) and the current application form for any organization or person requesting to fly the flag of another nation on City grounds.

Current policy mandates that any request to fly the flag of another nation on City grounds must be brought to the City Council at a public hearing for consideration and approval.

Councilmember Phan may describe his request regarding a proposal specifically regarding the flag of the nation of Vietnam.

**Recommendation:** Receive information on current City of Milpitas policy on flag flying, hear request of Councilmember Phan and direct staff, as appropriate.

### **\*12. Approve Arts Commission Recommendation for One Arts and Culture Grant Award for FY 2016-17 (Staff Contact: Rosana Cacao, 408-586-3207)**

**Background:** The Milpitas Arts and Culture Grant Program is an in-kind grant program offering support to individuals and organizations hosting cultural or artistic events in the City of Milpitas. In-kind support includes performance space, (i.e. Community Center, Senior Center) and City staff support. All grant events are held in Milpitas between the months of November – October and are open to the public at either little or no cost.

An application was received for a Milpitas Arts and Culture Grant for the 2016-17 grant cycle, from South Bay Kids, a local non-profit organization, for its "We've Got the Music" Concert, a 30<sup>th</sup> Anniversary event for the group. The Arts Commission reviewed and approved the application at its November 28, 2016 meeting. Commissioners recommended the application for City Council's final approval. Estimated value of the in-kind grant is \$500 - \$2,200.

**Fiscal Impact:** \$500 - \$2,200

**Recommendation:** Approve the Milpitas Arts and Culture Grant program application from South Bay Kids for a grant providing in-kind performance space and City staff support for its music concert.

## XVII. NEW BUSINESS

**\*13. Consider Request from Milpitas Executive Lions Club to Co-Sponsor “Celebrating Differences” Event on April 23, 2017 (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** Milpitas resident Thelma Batilo on behalf of the Milpitas Executive Lions Club, requested a co-sponsorship of the 3<sup>rd</sup> Annual “Celebrating Differences” event at the January 17, 2017 City Council meeting. The event is planned to include fun games, crafts and activities focused on empowering persons with differing abilities.

The event would be held in the Milpitas Community Center Auditorium on Sunday, April 23, 2017 from 2:00–5:00 PM. Co-sponsorship of this event would include use of the Milpitas Community Center, its amenities and required staffing (Recreation building attendants, Recreation Coordinator) including:

- Auditorium
- Dance Studio
- Conference Room 7&8

Co-sponsorship of this event would also include the use of:

- City Hall Digital Marquee
- City Social Media
- Use of City Logo on event marketing materials

**Fiscal Impact:** \$3,147.90 in facility revenue and staff administration costs.

**Recommendation:** Approve the City of Milpitas co-sponsoring the Milpitas Executive Lions Club’s “Celebrating Differences” day on April 23, 2017, for a value of \$3,147.90 including facility fees and City of Milpitas staff support.

**\*14. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**

**Background:** In compliance with the State of California Government Code and the City’s Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2016 is submitted for the Council’s review and acceptance.

The Portfolio Summary Report included in the Council’s packet provides a summary of the City’s investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City’s portfolio as of December 31, 2016.

As of December 31, 2016, the principal cost and market value of the City’s investment portfolio was \$208,723,590 and \$208,314,815 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City’s investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City’s effective rate of return for the period ended December 31, 2016 was 0.91%. The comparative benchmarks for the same period were 0.72% for LAIF (Local Agency Investment Fund) and 0.85% for the 12-month average yield of the 2-year Treasury Note. The weighted average maturity of the portfolio was 351 days.

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

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

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

**Fiscal Impact:** None

**Recommendation:** Receive the investment report for the quarter ended December 31, 2016.

**\*15. Approve Out of State Travel Request for Councilmember Nuñez to Go to Washington, D.C. (Contact: Councilmember Nuñez, 408-586-3023)**

**Background:** Based on his position as the Milpitas representative to the Board of Directors of the Santa Clara Valley Transportation Authority, Councilmember Nuñez was requested by the Silicon Valley Leadership Group to attend legislative days in Washington, D.C. on March 14-15, 2017. City policy requires Council approval for any business travel outside the state. Council is requested to authorize the upcoming travel.

**Fiscal Impact:** None. There are sufficient funds in the City Council budget to cover the costs of \$2,000 plus associated travel expenses.

**Recommendation:** authorize out of state travel by Councilmember Nuñez to go to Washington, D.C. at the request of Silicon Valley Leadership Group on March 14-15.

## **XVIII. ORDINANCE**

**16. Waive Reading Beyond the Title and Adopt Urgency Ordinance No. 43.212 Amending Chapter 100 of Title V of Milpitas Municipal Code Relating to Parking Time Limits in any Parking Lots or Designated Areas Adjacent to or at a City Park and Removal of Vehicles Unlawfully Parked or Standing (Staff Contacts: Steve Chan, 408-586-3324 and Chris Diaz, 408-586-3040)**

**Background:** The City's Bob McGuire Park is located on Garden Street in a new Transit Area residential district. The City opened Bob McGuire Park to the public on September 3, 2016. Since the park opening, staff observed vehicles are frequently stored within the park's vehicle parking lot during overnight hours. Overnight storage of vehicles within the park presents a misuse of city park facilities.

In September and October, 2016, staff conducted outreach to residents and the leasing office of the Amalfi residential development located adjacent to Bob McGuire Park by e-mail and flyers, explaining the observed misuse of park's parking lot during overnight periods. To prevent overnight parking, City Public Works placed temporary overnight parking restriction signage and temporary barriers at the park's parking lot entrances. This had little effect curbing continual overnight parking in the park. On January 23, 2017, chained posts were installed to physically restrict vehicles from entering the parking lot during overnight periods. On January 25, 2017, staff documented that vehicles drove through the chained parking lot entrances, damaging City property, and continued to park in the park's parking lot during the nighttime hours. Additionally, there was evidence that vehicles drove onto the park's

pedestrian walkways to bypass the closed parking lot entrances creating a public safety issue with vehicles driving in areas where pedestrians could be potentially injured.

For public safety and to prevent damage to City property, staff prepared Urgency Ordinance No. 43.212 to amend Chapter 100 of Title V of the Milpitas Municipal Code to place parking time limits in any parking lots or designated areas adjacent to or at a City Park, and removal of vehicles unlawfully parked or standing. This urgency ordinance requires a vote of 4/5 to pass and would become effective upon adoption. A copy of the proposed ordinance is included in the Council packet.

**Fiscal Impact:** None.

**Recommendations:**

1. Following the City Attorney's reading of the title, waive the reading beyond the title of Ordinance No. 43.212.
2. Adopt Urgency Ordinance No. 43.212 by at least a four-fifths vote, effective immediately, for parking time limited adjacent to city parks and removal of vehicles unlawfully parked or standing.

## **XIX. RESOLUTIONS**

- \*17. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Milpitas Sports Center Sports Fields Project No. 5104, and Granting Authorization to the City Engineer to Issue Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The City Council awarded the Sports Center Sports Fields Project No. 5104 to O.C. Jones & Sons Inc. on December 1, 2015. This project provided for the replacement of the main field at the Milpitas Sports Center with two synthetic multi-purpose sports fields including bleacher improvements, track, lighting, fencing, and access improvements.

The project was completed and the improvements are open for use by the public. It is recommended the City unilaterally move forward with initial acceptance of the project, including commencement of the one-year warranty period because the general contractor has been non-responsive to the City's request for submission of a final accounting and project close-out. Staff further recommends the City Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the performance bond to \$312,572.76, which is 10% of the final contract value. It is further recommended that the City Council authorize the Director of Engineering/City Engineer to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the Director of Engineering/City Engineer.

**Alternative:** Denial of this request would result in the project not being accepted and would result in the Notice of Completion not being filed and a potential delay claim by the contractor.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a resolution granting initial acceptance of the Milpitas Sports Center Sports Fields Project subject to a one year warranty period, and authorize reduction of the performance bond to \$312,572.76.

2. Grant authorization to the Director of Engineering/City Engineer to issue the notice of final acceptance of Project No. 5104, after the one-year warranty period, and to release and discharge the performance bond without further City Council action.

**\*18. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for, Bridge Improvements Project No. 4271, and Granting Authorization to City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The City Council awarded the Bridge Improvements Project No. 4271 to American Civil Constructors West Coast, LLC on August 16, 2016. The project provided for the resurfacing and repairs of ten city bridges located on North McCarthy Boulevard, North Abbott Avenue, North Abel Street, North Milpitas Boulevard, Paseo Refugio, North Hillview Drive, Los Coches Street, Yosemite Drive, Ames Avenue, and Machado Avenue.

The project was successfully completed on time and under budget and is now ready for initial acceptance and commencement of the one-year warranty period. Staff recommends the City Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the performance bond to \$80,228.00, which is 10% of the final contract value. Staff also recommends the City Council authorize the Director of Engineering/City Engineer to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the Director of Engineering/City Engineer.

**Alternative:** Denial of this request would result in the project not being accepted and would result in the Notice of Completion not being filed and potential delay claim by the contractor.

**Fiscal Impact:** None.

**Recommendations:**

1. Adopt a resolution granting initial acceptance of Bridge Improvements Project No. 4271, subject to a one year warranty period, and authorize reduction of the performance bond to \$80,228.00.
2. Grant authorization to the City Engineer to issue the notice of final acceptance of Project No. 4271 after the one-year warranty period and to release and discharge the performance bond without further City Council action.

**19. Adopt a Resolution for Exception to the 180-Day Wait Period in Accordance with California Government Code Sections 7522.56 and 21224 Related to Hiring in the Milpitas Police Department (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: The employer certifies that the appointment is necessary to fill a critically needed position before 180-days has passed and the appointment has been approved by the governing body of the employer in a public meeting and not on a consent calendar.

Communications Dispatcher Laura Sonora effectively dispatched police and fire services for the City of Milpitas for approximately 16 years before her retirement on December 30, 2016. The City of Milpitas is currently recruiting to fill her vacancy and other Communications Dispatcher positions in the Communications Center of the Milpitas Police Department.

Staff recommends hiring Ms. Sonora on a part-time basis to perform specific duties of the Communications Dispatcher position. Given the need for continuity and for highly trained professionals to answer the City of Milpitas 911 emergency calls, staff recommends hiring

Ms. Sonora from March 1, 2017 through December 31, 2017 on a part-time basis (not to exceed 960 hours per fiscal year) to assist in dispatching duties and training of new staff to maintain the workload of what regular permanent staff can accomplish. Ms. Sonora is required to serve a 60 day waiting period pursuant to CalPERS regulations.

Included in the Council's agenda packet is the required resolution to rehire a retiree pursuant to the California Public Employees Reform Act (PEPRA) of 2013, Government Code Sections 7522.56 and 21224 and the employment agreement.

**Fiscal Impact:** None. The position will be funded by salary savings by vacancies in the Milpitas Police Department Communications Center.

**Recommendation:** Adopt a resolution for exception to the 180-day wait period in accordance with the California Government Code Sections 7522.56 and 21224, and approve and authorize the City Manager to execute an employment agreement with Laura Sonora for police dispatcher services.

**\*20. Adopt a Resolution Approving the Sole Source Purchase of Police Body Worn Cameras, Associated Equipment and Cloud-Based Storage Subscription and Authorize the City Manager to Execute a Master Services and Purchasing Agreement with TASER International (Staff Contacts: Chris Schroeder, 408-586-3161 and Daryl Sequeira, 408-586-2434)**

**Background:** On May 6, 2008, Council approved the standardization of Taser International conducted electrical weapons (stun guns) and accessories as the brand of choice for the City of Milpitas Police Department, pursuant to Municipal Code Section I-2-3.13. Since March of 2007, the City of Milpitas Police Department has purchased 47 conducted electrical weapons including supplies, parts and training from Taser International.

On December 30, 2011 and June 28, 2013, the City of Milpitas Police Department purchased body worn cameras from WatchGuard. This generation of cameras have reached the end of their useful life and are no longer available or supported by the manufacturer.

Between January 15, 2015 and June 1, 2016 the Police Department conducted Testing and Evaluation of the following body worn cameras: WatchGuard Vista, VieVu LE4, Coban Echo, Reveal ES2-X2L, MobileView, and the TASER Axon Body 2 and Axon Flex 2. The TASER International body worn cameras were the preferred choice in terms of quality, ruggedness, comfort and ease of use.

Taser International is now solely offering a 5-year "Officer Safety Plan" which includes special pricing for the collective purchase of body worn cameras, TASERS, service agreement, warranty of all products, and a Digital Evidence Management System (data storage) called "Evidence.com." The District Attorney's Office is also a subscribing customer of Evidence.com, which will enable the Police Department to securely transfer digital evidence. The initial purchase, in the amount of \$109,847.23, will include all products and a 1-year subscription to Evidence.com. Years 2-5 of the contract will have an annual fee of \$83,783.70 for continual service at Evidence.com. Total cost of the Officer Safety Plan including tax and shipping is \$444,982.03 over 5 years.

The Police Department currently deploys the TASER X26 conducted electrical weapons which are equipped with separate cameras. These devices have either reached or are near to reaching the end of their useful life. Newer model TASER conducted electrical weapons with improved capabilities are included as part of the "Officer Safety Plan" package which would accompany the purchase of the TASER body worn cameras. Both the conducted electrical weapons cameras and body worn cameras use the Evidence.com cloud-based storage system.

The ability to have one vendor for both platforms will simplify solving equipment issues and help with pricing.

On May 19, 2015 and December 6, 2016 the City Council authorized the Police Department to accept Citizen Option for Public Safety Grant (COPS) funds to purchase conducted electrical weapons and wearable cameras. TASER International body worn cameras will replace obsolete and outdated body worn cameras currently in use in addition to updating/replacing TASERS and TASER cameras.

**Fiscal Impact:** None for the first year. Sufficient funds exist within the 2015 and 2016 COPS grants to cover the first year amount of \$109,847.23. \$83,783.70 will be added to the Police Department budget annually for years 2-5.

**Recommendations:**

1. Adopt a Resolution Approving the Sole Source Purchase of body worn cameras, associated equipment and cloud-based storage subscription.
2. Authorize the City Manager to execute a five-year Master Services and Purchasing Agreement with TASER International in the amount of \$444,982.03.

**XX. AGREEMENTS**

- \*21. Approve Amendment No. 1 to the Agreement with West Yost Associates, Inc. for Staff Augmentation Service, in the Amount of \$75,000 and Extend Terms of the Agreement to April 30, 2017 (Staff Contact: Tom Williams, 408-586-3051)**

**Background:** On October 3, 2016, the City entered into an agreement with West Yost Associates in the amount of \$100,000 to provide staff augmentation for the Interim City Engineering position. A recruitment process for a full time City Engineer is underway. Filling this position in the interim is important for planning, organizing, directing and overseeing the activities and operations of the Engineering Department that include the areas of Land Development, Traffic, Design & Construction for the Capital Improvement Program, Utilities, Solid Waste, Storm and Sewer, and Inspections.

Amendment No. 1 to the Agreement with West Yost Associates, in the amount of \$75,000 and to extend the terms to April 30, 2017, is proposed for additional services until the hiring process for the City Engineer is complete. Approval of this amendment brings the total agreement amount to \$175,000.

**California Environmental Quality Act:** Exempt from CEQA as there will be no physical change to the environment.

**Alternative:** Denial of this request could result in reduced level of service and added burden to Engineering section leads and possibly added burden to other Department leads.

**Fiscal Impact:** None. There are sufficient funds in the department's budget

**Recommendation:** Approve Amendment No. 1 to the Agreement with West Yost Associates, Inc. for staff augmentation services in the amount of \$75,000 and to extend the terms of the agreement to April 30, 2017.

- \*22. Approve Purchase of Bendix King Fire Radios for Use in Wild Land Urban Interface Fire Incident Communications by the City of Milpitas Fire Department in the Amount of \$103,000 to Khavarian Enterprises, doing business as Vision Communications (Staff Contacts: Chris Schroeder, 408-586-3161 and Brian Stelling, 408-586-2827)**

**Background:** The City of Milpitas Fire Department is a participant in many of the State and Federal Fire Incidents that occur throughout the year with agencies such as CalFire and the U.S. Department of Forestry. These agencies have already standardized the use of Bendix King Fire Radios statewide. The Fire Department currently has 8 Bendix King Radios and wishes to purchase 34 more. While another manufacturers' radio could communicate with State and federal agency radios, the advantage of using the same radio is instant compatibility. Bendix King Radios have a unique cloning option that allows the City Fire Department's Team to automatically download all the frequencies being used during a fire incident. This time saving feature allows instant updated programming by simply cloning the frequencies from their radios to ours.

Maintaining communications is vital during incident response and other manufacturers' radios would have to be manually programmed every time a new frequency is assigned or updated by zone. This is very time consuming and takes away time from the Fire Fighters' ability to perform their duties. Bendix King Radios are also the only radio that operate at 6 watts for greater range and clearer communications. No other manufacturers' radio has been considered as the advantages of using the same radio as State and Federal agencies is in the City's best interest.

Section I-2-3.13 **Standardization** of the Milpitas Municipal Code authorizes the City Council to approve the standardization of supplies, materials or equipment based on the determination of the Purchasing Agent that the standardization of the supplies, materials or equipment is required for purposes of matching existing supplies, materials or equipment for proper operation of a particular piece of equipment or a City program. Standardization is also essential to the health and safety of the citizens of Milpitas and City Fire Fighters due to the need for inter-changeability and interoperability of radios among City Fire Fighters with State and federal Agencies.

**Standardization** was approved by the City Council on December 6, 2016 as set forth in Resolution No. 8620. On December 23, 2016, the Purchasing Department solicited a competitive bid (IFB No. 2180) with the many Bendix King distributors to gain the lowest cost as required by Section I-2-3.13-2 of the Municipal Code. There were six proposers to the solicitation and after evaluating the responses the bid was awarded to Khavarian enterprises, dba Vision Communications. The Bid Tabulation/Notice of Intent to Award which was released on "Public Purchase" is attached.

**Fiscal Impact:** None. Funding for this purchase is already available from the Capital Improvement Program, CIP No. 3419 in FY 2016-17.

**Recommendation:** Approve the purchase of Bendix King Fire Radios for Wild Land Urban Interface Fire Incident Communications for the City of Milpitas Fire Department in the amount of \$103,000.

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

**XXI. ADJOURNMENT**