



**JOINT MILPITAS CITY COUNCIL AND
MILPITAS HOUSING AUTHORITY
REGULAR MEETING AGENDA**

TUESDAY, JANUARY 5, 2016

455 EAST CALAVERAS BOULEVARD, MILPITAS, CA

6:00 P.M. (CLOSED SESSION)

7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor**
- II. ADJOURN TO CLOSED SESSION (6:00 p.m.)**
 - (a) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(d)1
Campbell et al. v. City of Milpitas, et al. U.S. District Court, case no. CV13-03817 BLF
 - (b) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9 - City as Plaintiff
- 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 Montano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES** December 15, 2015
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR** January 2016
- VIII. PUBLIC FORUM**

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

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with asterisks*)**

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

XIII. PUBLIC HEARING

- 1. Conduct a Public Hearing and Adopt a Resolution Directing the 2016 Weed Abatement Program (Staff Contact: Albert Zamora, 408-586-3371)**

XIV. UNFINISHED BUSINESS

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

XV. REPORT OF MAYOR

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

XVI. NEW BUSINESS

- *4. Vote to Remove Samuel Usal as Alternate No. 1 on the Bicycle Pedestrian Advisory Commission (Staff Contact: Mary Lavelle, 408-586-3001)**
- * 5. Authorize the Position of Temporary Plan Check Engineer in the Building Department (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- * 6. Accept the Partnerships to Improve Community Health Grant from the County of Santa Clara in the Amount of \$35,000 (Staff Contact: Renee Lorentzen, 408-586-3409)**
- * 7. Approve Appropriation from General Fund in the Amount of \$75,025 for a Recreation Supervisor in the Recreation Services Department (Staff Contact: Renee Lorentzen, 408-586-3409)**

XVII. AGREEMENTS

- * 8. Approve and Authorize the City Manager to Execute Amendment No. 3 to the Agreement with Harris & Associates, Inc. in the Amount of \$110,000; Extend Terms of the Agreement to April 30, 2016; and Approve a Budget Appropriation to Continue Engineering Staff Augmentation in the Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**
- * 9. Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with CSG Consultants, Inc. in the Amount of \$120,000; Extend Terms of the Agreement to April 30, 2016, and Approve a Budget Appropriation to Continue Engineering Staff Support Services for the Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**

XVIII. JOINT MEETING of the CITY COUNCIL and HOUSING AUTHORITY COMMISSION

CALL TO ORDER/ROLL CALL by the Chair

APPROVE AGENDA/CONSENT CALENDAR

- *10. Adopt a Housing Authority Resolution Authorizing the Executive Officer (City Manager) to Release the Resale Restrictions for Property Located at 700 S. Abel St. #212 (Staff Contact: Tim Wong, 408-586-3286)**

XIX. ADJOURN CITY COUNCIL AND HOUSING AUTHORITY JOINT MEETING

**NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, JANUARY 19, 2016**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

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

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

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

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

APPLY TO SERVE ON A CITY COMMISSION

Current vacancies on:
Sister Cities Commission (alternate)
Veterans Commission

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

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

AGENDA REPORTS

XIII. PUBLIC HEARING

1. Conduct a Public Hearing and Adopt a Resolution Directing the 2016 Weed Abatement Program (Staff Contact: Albert Zamora, 408-586-3371)

Background: At its meeting of December 1, 2015, the City Council adopted Resolution No. 8514 declaring weeds on certain described properties to be a public nuisance, and set a public hearing for January 5, 2016 to hear objections. A copy of the resolution was forwarded to the Santa Clara County Agricultural Commissioner. A notice for the public hearing was published in the local newspaper 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 comments, and move to close it following any speakers.
2. Adopt a resolution directing the County Agricultural Commissioner to abate the nuisance (weeds), 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.

XIV. UNFINISHED BUSINESS

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

Background: From November 9 through December 6, 2015, the Bay Area Air Quality Management District (BAAQMD) forwarded 109 complaints originating in Milpitas. 52 complaints identified a garbage odor, 5 complaints identified a sewage odor and 52 complaints did not identify an odor source. As of the last Council update, the City's odor reporting website has received 22 reported complaints.

Recommendation: Receive the latest update of the Odor Control Report.

XV. REPORT OF MAYOR

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

Background: Mayor Esteves recommends the following:

Senior Advisory Commission:

Re-appoint Mary Banick to a term that will expire in December of 2017.

Re-appoint Estrella Gilana to a term that will expire in December of 2017.

Sister Cities Commission:

Move Alternate No. 1 Mary Llamas up to a voting Commissioner seat to a term that will expire in September 2016.

Newly appoint Carla Bayot as Alternate No. 1 to a term that will expire in September 2016.

Veterans Commission:

Newly appoint William J. Devereux as the Alternate No. 1 to a term that will expire in February 2016.

Copies of Commission applications for those to be newly appointed are included in the agenda packet.

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

XVI. NEW BUSINESS

- * 4. Vote to Remove Samuel Usal as Alternate No. 1 on the Bicycle Pedestrian Advisory Commission (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: Samuel Usal was appointed as Alternate No. 1 on the Bicycle Pedestrian Advisory Commission on May 6, 2014. Since that time, he never attended any BPAC meetings. City Clerk sent him a letter of inquiry in December to which he did not respond. Due to lack of attendance and his perceived lack of interest to serve on the Commission, City Council is asked to remove him as a member. The term Mr. Usal was appointed to will expire in August 2016 and his removal will create a vacancy on that Commission.

Recommendation: Vote to remove Samuel Usal as Alternate No. 1 on the Bicycle Pedestrian Advisory Commission.

- * 5. Authorize the Position of Temporary Plan Check Engineer in the Building Department (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: The Building Department is requesting a needed temporary Plan Check Engineer. Use of a temporary Plan Check Engineer is necessary due to multiple development projects approved by the City that have increased demand for plan review services and due to the inability to quickly fill a vacant position in the department.

Fiscal Impact: None. A portion of plan check and building permit fees paid by the developer covers the additional staff salary and benefits.

Recommendations:

1. Approve and authorize the request for employment of one Temporary Plan Check Engineer.
2. Approve a budget appropriation for a total amount not to exceed \$75,000 into the Building and Safety Department's budget.

- * 6. Accept the Partnerships to Improve Community Health Grant from the County of Santa Clara in the Amount of \$35,000 (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The City of Milpitas applied for and was granted a Partnerships to Improve Community Health (PICH) Grant in the amount of \$35,000 from the County of Santa Clara. This grant encourages programs and collaborations to implement sustainable changes in communities where people live, learn, work, and play. Through this grant, City staff will work on healthy eating programs and education for youth and for City employees, encourage physical activity and active transit by establishing and promoting a Safe Routes to School program and increasing exposure to the City's bike routes, trails and parks. Funds from the grant will be used for staff time, materials and marketing to facilitate the grant.

Fiscal Impact: Recreation Services budget will be increased by the dollar amount of the grant. The \$35,000 will be spent in turn on the program goals identified.

Recommendation: Accept the Partnerships to Improve Community Health (PICH) grant from the County of Santa Clara in the amount of \$35,000 into the Recreation Services budget.

- * 7. **Approve Appropriation from General Fund in the Amount of \$75,025 for a Recreation Supervisor in the Recreation Services Department (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: The Recreation Services Department provides services that enrich the community through exceptional programs, events and opportunities. The department's programs and classes provide recreational, healthful, educational and social experiences for youth and teens, adults, and seniors. Staff operates and programs out of three primary recreation sites (Community, Sports and Senior Centers), three additional satellite facilities, city parks and five elementary schools for the After the Bell program. Recreation manages and provides staff for private and public facility rentals, handles park picnic rentals and youth sport field allocations. The department provides staff liaisons to five City Commissions, Milpitas Youth Sport Organizations and is in charge of the citywide Milpitas Volunteers Program and the Public Art Program. Annually, more than 15 community special events are planned, staffed and executed through the Recreation Services Department.

Currently, the Department has two Recreation Supervisors and utilizes one Program Coordinator on special assignment to supervise the day-to-day operations of the three main recreation sites (Community, Sports and Senior Centers), their respective staffs, programs and events. Given the high level of customer service, programs, events and facility usage, it is apparent that another Recreation Supervisor is necessary to improve overall workflow, management and services within the Department. The Recreation Services Manager is requesting approval to appropriate funds to fill the existing vacant Recreation Supervisor, to be located at the Community Center, within the Recreation Services Department.

Fiscal Impact: An appropriation from the City's General Fund in the amount of \$75,025 is necessary to fund the Recreation Services Supervisor position.

Recommendation: Approve the appropriation of funds from the General Fund in the amount of \$75,025 to fill one vacant unfunded Recreation Services Supervisor position.

XVII. AGREEMENTS

- * 8. **Approve and Authorize the City Manager to Execute Amendment No. 3 to the Agreement with Harris & Associates, Inc. in the Amount of \$110,000; Extend Terms of the Agreement to April 30, 2016; and Approve a Budget Appropriation to Continue Engineering Staff Augmentation in the Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**

Background: On April 7, 2015, the City entered into the agreement with Harris & Associates, Inc. in the amount of \$80,000 to provide staff augmentation in the Land Development Section to manage work load, set development project priorities and to meet development processing mandates. Staff augmentation is needed to maintain the level of service in the Division while vacant positions are being filled.

On July 1, 2015, the parties entered into Amendment No. 1 in the amount of \$20,000 to continue providing staff support to the Land Development Section. On August 4, 2015, the parties entered into Amendment No. 2 to increase the compensation by \$92,000 until hiring of the vacant permanent positions are filled.

Amendment No. 3 to the Agreement with Harris & Associates is proposed for additional services until hiring process for the Assistant City Engineer is completed. If the transition can be accomplished sooner, the consultant agreement will be terminated at an earlier date. Approval of this agreement amendment brings the total agreement amount to \$302,000.

Alternative: Denial of this request would result in delays in the review of development projects, causing potential delay claim by developers under the Permit Streamlining Act.

Fiscal Impact: A budget appropriation to the Land Development Budget in the amount of \$110,000 is necessary. Consultant expenses are reimbursable through the private development projects.

Recommendations:

1. Approve and authorize the City Manager to execute Amendment No. 3 to the agreement with Harris & Associates in the amount of \$110,000 and to extend the terms of the agreement to April 30, 2016.
2. Approve a budget appropriation in the amount of \$110,000 to the Land Development operating budget.

- * 9. **Approve and Authorize the City Manager to Execute Amendment No. 1 to the Agreement with CSG Consultants, Inc. in the Amount of \$120,000; Extend Terms of the Agreement to April 30, 2016, and Approve a Budget Appropriation to Continue Engineering Staff Support Services for the Land Development Engineering Division (Staff Contact: Steven Machida, 408-586-3355)**

Background: In August of 2015, Lennar Homes requested a dedicated plan check engineer/project manager to support its two projects (Waterstone and 450 Montague) providing continuous and uninterrupted plan check services for the duration of construction. Lennar's initial request was for no fewer than two days per week, although the actual workload has been a full time commitment by the plan check engineer at the developer's request. Lennar has now agreed to the full-time commitment and to fully fund this work. The company has exhausted the initial \$100,000 budget established by the City and CSG, therefore additional funds are needed to continue these services. Staff projects an amount of \$120,000 to take this through April 30, 2016 - the projected completion of these services to Lennar.

The present workload does not allow the Land Development Division to provide a dedicated Plan Checker from current staff to the project, and thus necessitates amending the current contract with CSG Consultants, Inc. to continue providing this service to Lennar.

Staff recommends that CSG Consultants, Inc. continue its support through April 30, 2016 at the current level of effort five days a week. Amendment No. 1 to the Agreement with CSG Consultants, Inc. is proposed for these continued services. Staff negotiated a fee not to exceed \$120,000 at the same hourly rates. Approval of Amendment No. 1 brings the total agreement amount to \$220,000.

Alternative: Denial of this request will result in delayed completion of some Land Development Engineering tasks and thus having the City not being in compliance with state mandates to process Land Development applications in a timely manner.

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

Fiscal Impact: A budget appropriation to the Land Development Operating Budget is requested. Consultant expenses are reimbursable through the Private Development Project Account.

Recommendations:

1. Approve and authorize the City Manager to execute Amendment No. 1 to the agreement with CSG Consultants, Inc. in the amount of \$120,000; and, extend the terms of the agreement to April 30, 2016.
2. Approve a budget appropriation to the Land Development operating budget in the amount of \$120,000 to continue Engineering staff support services for Land Development Engineering Division.

XVIII. HOUSING AUTHORITY

***10. Adopt a Housing Authority Resolution Authorizing the Executive Officer (City Manager) to Release the Resale Restrictions for Property Located at 700 S. Abel St. #212 (Staff Contact: Tim Wong, 408-586-3286)**

Background: The City received notification from the owners of the property located at 700 S. Abel Street #212 in Milpitas that they would like to sell their moderate-income affordable housing unit. The affordable sales price for the unit is approximately \$465,000 and the owners purchased it for \$379,000 in December 2007.

When an affordable unit is sold, the Resale Restriction Agreement provides three outcomes for the sale:

1. Another moderate income household purchases the unit. - In this case, the Luna at Terra Serena Homeowners Association is involved in litigation with the developer of the property. Because of the litigation, no banks will lend on the property. Therefore, the realtor has not been able to find any eligible buyers for the unit. There have been some all cash buyers interested but they exceed the City's moderate income household income levels.
2. The City exercises its Purchase Option. - The City may exercise its purchase option and purchase the unit to preserve the affordability. But, then the City would find itself in a similar situation as the seller, as previously described; that is, unable to find eligible buyers or willing lenders.
3. The City releases the Resale restriction, the seller sells the unit at market rate and the City and seller split the appreciation per the Resale Restriction formula. - The option enables the seller to sell the unit at market rate and split the appreciation per the Resale Restriction formula. Section 13 of the Resale Restriction Agreement states:

13.Obligation of Owner After Option Abandonment. If the Authority records a notice of abandonment of the Option, then the Property may be sold by Owner to a third party without restriction as to price; however, upon such sale, Owner shall pay to Authority an amount ("Authority's Share") equal to eighty-five percent (85%) of the difference between (a) the actual sales price net of reasonable and customary real estate commissions paid (such commissions not to exceed six percent (6%) of the actual sales price), and (b) the Adjusted Resale Price. The Authority's Share shall be paid to the Authority concurrently with close of escrow on the sale of the Property, or upon receipt by Owner of the sale price for the Property, whichever shall first occur.

As an example, the unit sells for \$593,250 on the open market. After assuming a 5% real estate commission and subtracting the 5% commission, the net sales price is \$565,000. Subtracting the Adjusted Resale Price of \$465,000, it leaves a difference of \$100,000. Therefore, the City would receive \$85,000 and the seller would receive \$15,000.

On December 15, 2015, the City Council's Land Use and Transportation Subcommittee recommended that the resale restrictions be released and allow the owners to sell their home at market rate. Loss of one moderate income unit will not significantly negatively affect the affordable housing inventory in the City. In addition, the City has exceeded its Regional Housing Needs Allocation (RHNA) by a substantial amount, therefore it would not affect the City's RHNA requirements.

Fiscal Impact: None. Sufficient funds are available in the Authority's Affordable Housing Fund if the Commission chooses to exercise its Purchase Option on the unit.

Recommendation: Adopt a resolution of the Milpitas Housing Authority Commission authorizing the Executive Officer (City Manager) to release the resale restrictions for the property at 700 S. Abel Street #212, Milpitas, CA.

XIX. ADJOURN JOINT MEETING

**NEXT REGULAR CITY COUNCIL MEETING
TUESDAY, JANUARY 19, 2016**