



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, DECEMBER 18, 2012**

**455 EAST CALAVERAS BLVD, MILPITAS, CA
6:15 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor (6:15 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
 - 1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Pursuant to California Government Code §54956.9(b), (c)
City of Milpitas as Defendant
 - 2. CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

Pursuant to California Government Code §54957.6, City Negotiator: Carmen Valdez
Employee Groups: Milpitas Employees Association (MEA), Mid-Management/Confidential (UPEC), Milpitas Professional and Technical Group (ProTech), Milpitas Police Officers Association (MPOA), International Association of Fire Fighters (IAFF)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- III. CLOSED SESSION ANNOUNCEMENTS:** 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 (Mayor Esteves)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – December 4, 2012**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – December 2012 and January 2013**
- VIII. PRESENTATIONS**
 - Proclaim "*Fitness for Humanity and Health Challenge Program Month*" for the month of December 2012
 - *Commendation to Heald College for its contribution and support of the Milpitas Food Pantry*
- IX. 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 unagendized item, 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 agendize the item for a future meeting.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**

XIII. 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.

XIV. PUBLIC HEARINGS

1. **Hold a Public Hearing and Adopt a Resolution Approving a Site Development Permit, Tentative Map and Conditional Use Permit for the 450 Montague Residential Project (Staff Contact: Sheldon Ah Sing, 408-586-3278)**
2. **Hold a Public Hearing and Adopt Two Resolutions Updating the Transit Area Development Impact Fee (Staff Contact: Steve McHarris, 408-586-3273)**

XV. REPORTS OF MAYOR

- * 3. **Consider Mayor's Recommendations for Appointments to Two Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
4. **Hear Report from Mayor Esteves on Council-Related Bodies (Contact: Mayor Esteves, 408-586-3029)**

XVI. NEW BUSINESS

5. **Request City Council Interpretation of Reimbursement Policy for Events (Staff Contact: Tom Williams, 408-586-3050)**
- * 6. **Authorize Temporary Building Inspector Position (Staff Contact: Keyvan Irannejad, 408-586-3244)**

XVII. RESOLUTION

- * 7. **Adopt a Resolution Approving the Reclassification of an Administrative Analyst Position to a Financial Analyst Position in the Finance Department (Staff Contact: Emma Karlen, 408-586-3145)**

XVIII. BID AND CONTRACTS

- * 8. **Award the Bid for a 2013 Ford F550 Truck for Public Works Utilities to American Truck and Trailer Body, Inc. for the Not-To-Exceed Amount of \$97,805.19 (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 9. **Approve a Contract Extension with PMC for the Development of a Qualified Climate Action Plan (Staff Contact: Sheldon Ah Sing, 408-586-3278)**

XIX. DEMAND

- * 10. **Receive a Report from Public Works Director of Emergency Repair of the Daniel Court Water Main (Staff Contact: Kathleen Phalen, 408-586-3345)**

XX. ADJOURNMENT

****NO MEETING ON JANUARY 1, 2013****

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JANUARY 15, 2013 AT 7:00 P.M.**

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, boards, 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: mogaz@ci.milpitas.ca.gov / Fax: 408-586-3056 / 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 BECOME A CITY COMMISSIONER!

Current vacancies exist on the:
Public Art Committee (Alliance for the Arts member)
Bicycle Pedestrian Advisory Commission
Community Advisory Commission
Economic Development Commission (hotel representative & retail representative)
Sister Cities Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office (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 Council Chambers for all meetings.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

1. **Hold a Public Hearing and Adopt a Resolution Approving a Site Development Permit, Tentative Map and Conditional Use Permit for the 450 Montague Residential Project (Staff Contact: Sheldon Ah Sing, 408-586-3278)**

Background: This item considers the site development permit, tentative map and conditional use permit to accommodate the development of 474 dwelling units on 7.98 acres at 450 Montague Parkway in Milpitas. The project also includes improvements to the streetscape of existing adjacent roads and the construction of two access streets; the completion and dedication of an acre of public park, the completion of a portion of a public trail along Penitencia Creek East Channel and the completion of a feasibility study for a future pedestrian bridge over the Montague Expressway. The architecture represents a contemporary style and is consistent with the Transit Area Specific Plan. Other private amenities include a roof deck recreational space and three courtyards. For detailed information regarding the project, please refer to the attachments in the Council packet.

On November 28, 2012, the Planning Commission reviewed the project where there was some discussion about signs for the project, which will be addressed at a later date. The Commission recommended to the City Council approval of the project.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Project Plans
- C. Noise Analysis
- D. Traffic Operations
- E. Toxic Air Contaminants letter
- F. Planning Commission staff report 11/28/2012
- G. Planning Commission minutes 11/28/2012

Recommendations:

1. Open public hearing for comments.
 2. Move to close the public hearing.
 3. Adopt a resolution approving a Site Development Permit, Tentative Map and Conditional Use Permit for the 450 Montague Residential Project by Lyons developer.
2. **Hold a Public Hearing and Adopt Two Resolutions Updating the Transit Area Development Impact Fee (Staff Contact: Steve McHarris, 408-586-3273)**

Background: The Transit Area Specific Plan, adopted on June 3, 2008, includes a detailed description of public facilities required to serve the Transit Area. A Transit Area Development Impact Fee (TADIF) was approved by the Council on September 2, 2008, requiring new development within the Transit Area to pay for the needed public infrastructure and improvements (e.g., per each new residential unit or per square foot basis for nonresidential uses). The Financing Plan established the need for the creation of a Transit Area Development Impact Fee as a means of assuring that new development within the Transit Area pays its proportionate share of the costs of needed public infrastructure and improvements, and establishes a fee schedule for all new development. As required every three to five years by the TADIF, a Transit Area Impact Fee Study was completed (a copy is included in the agenda packet) which updates and revises the TADIF. The Study attributes increases in the TADIF to the following:

- The regional Construction Costs index published by Engineering New Record increased by 11.6% between 2008 and 2012, resulting in a cost increase of \$26 million;

- Estimated land acquisition costs increased from \$55 to \$58 per land square foot between 2008 and 2012. which increased costs by almost \$6 million; and
- Park size, locations, and improvement costs led to an increase of almost \$11 million.

The proposed fee schedule is as follows:

- Residential – \$29,012 per unit
- Commercial – \$20.70 per square foot
- Office – \$30.00 per square foot
- Hotel – \$10,754 per room
- Other Uses – The fee amount for uses not specifically defined shall be determined by the Director of Finance. A focused nexus study may be required of the applicant to make the determination.

The proposed Fee Update is in conformance with AB 1600 (the “Mitigation Fee Act”) which governs both the establishment of new fees and the increase of an existing fee by requirement of a noticed public hearing. The development impact fees will become effective 60 days after City Council approval. Due to the development community’s timelines for project implementation, the associated infrastructure requirements necessary to support planned development, and the ability to immediately collect funding for such improvements, staff prepared an urgency measure to be adopted by resolution which will allow the fee schedule update to become effective on December 19, 2012, for a 30 day period. If approved, staff plans to return to the City Council in January 2013 for an additional 30-day extension of the urgency measure, which upon expiration, the permanent resolution would become effective.

Fiscal Impact: None. The proposed Transit Area Development Impact Fee Schedule bears a reasonable relationship to the projected impacts of new development and is necessary to mitigate these impacts.

Attachments:

- Resolution Adopting Transit Area Development Impact Fee Increase and Development Impact Fee Update – Report from EPS (Exhibit A)
- Urgency Resolution Adjusting Existing Transit Area Development Impact Fee

Recommendations:

- Open the public hearing and receive testimony.
- Move to close the public hearing following any comments.
- Adopt a Resolution revising the fee schedule for the Transit Area Development Impact Fee.
- Adopt an urgency measure by Resolution revising the fee schedule for the Transit Area Development Impact Fee (requires a 4/5 vote approval).

XV. REPORTS OF MAYOR

- * **3. Consider Mayor’s Recommendations for Appointments to Two Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following appointments:

Arts Commission/Public Art Committee:

Appoint Nicole Phan (current Alternate No. 1) as a regular voting member to a term that expires in October 2015.

Appoint Doris Roth (current Alternate No. 2) as Alternate No. 1 to a term that expires in October 2014.

Sister Cities Commission:

Appoint German Galvan (current Alternate No. 1) as regular voting member to a term that expires in September 2014.

Newly appoint Nolan Chen as Alternate No. 1 to a term that expires in September 2014.

Recommendation: Consider Mayor's recommendations and move to approve appointments to two City of Milpitas Commissions.

4. Hear Report from Mayor Esteves on Council-Related Bodies (Contact: Mayor Esteves, 408-586-3029)

Background: Mayor Esteves will provide to the City Council his recommendations for the following:

1. Appointments to various Commissions, Committees, County-wide organizations (e.g. VTA), etc.
2. To consider elimination of the five current City Council Subcommittees, which are: Rules, Finance, Economic Development, Transportation & Land Use, and Neighborhood Services & Education.
3. Receive Mayor's recommendation regarding Councilmember Giordano's inability to serve her assigned Commissions for the next six months.

Recommendation: Receive recommendations from the Mayor, and consider approval of various actions related to Councilmember assignments, to various policy bodies.

XVI. NEW BUSINESS

5. Request City Council Interpretation of Reimbursement Policy for Events (Staff Contact: Tom Williams, 408-586-3050)

Background: Current provisions within the City Council Handbook allow for reimbursement of expenses related to Mayor and City Council representation at City functions including those "honoring City employees, school district employees and other officials for their service and achievements." This policy is somewhat vague and further clarification is sought by staff in processing reimbursement requests from elected officials. Specifically, staff is seeking direction from the City Council on reimbursement requests by City Councilmembers on the following:

- Fundraiser events for public and quasi-public entities such as crab feeds, sports booster dinners, entry fees for public or quasi-public civic events such as plays, recitals and music programs.
- Participation in walk-a-thons and other such events where there is an entry fee.
- Public employee retirement dinners.
- Donations made as part of a ticket price.

Fiscal Impact: Approximate annual savings of \$5,000.

Recommendation: Receive report and direct staff in the interpretation of City Council reimbursements.

*** 6. Authorize Temporary Building Inspector Position (Staff Contact: Keyvan Irannejad, 408-586-3244)**

Background: Due to the current peak of work load, D.R. Horton is requesting a dedicated full time building inspector for construction of Harmony condominiums and townhomes project to provide continuous and uninterrupted inspection service for the duration of construction. Such service was provided earlier by the City of Milpitas to other major projects and proved to be beneficial to both sides. It allows City to provide high level of quality and customer service by considerably reducing the number of re-inspections, streamlining and maintaining construction schedule and minimizing the number of construction revisions. Present workload does not allow the Building Department to provide dedicated building inspector from current staffing to the

project and necessitate hiring a temporary inspector at the annual cost of \$140,640. The developer will pay the full cost of the inspection service, which includes salary for the dedicated building inspector and an administrative fee.

Fiscal Impact: None. The developer will pay the full cost of the inspection service.

Recommendations:

1. Approve and authorize developer’s request for employment of a Temporary Building Inspector.
2. Approve budget appropriation of \$70,320, less the administrative fee, into the Building and Safety Department’s budget for remaining six months of Fiscal Year 2012-13.

XVII. RESOLUTION

- * **7. Adopt a Resolution Approving the Reclassification of an Administrative Analyst Position to a Financial Analyst Position in the Finance Department (Staff Contact: Emma Karlen, 408-586-3145)**

Background: Reclassification of positions is periodically required to account for organizational change, new responsibilities or different skill sets required to fulfill the department functions. Due to staff turnover and upcoming retirement within the Finance department, funding is available and can be reallocated to fill a vacant, unfunded administrative analyst position. In reviewing the job specification, staff determined that the reclassification of an administrative analyst position to a financial analyst position is appropriate due to the specific financial skill sets required to perform financial analytical functions in the Finance Department. The financial analyst provides support to the Finance Director in analyzing complex budget, financial and accounting activities, performs research and writes report on technical issues handled by the Finance Department. There is no difference in the pay range between a financial analyst and administrative analyst.

Included in the agenda packet is a copy of job specifications for the Financial Analyst.

Fiscal Impact: None. Funding is available in the Finance Department’s operating budget.

Recommendation: Adopt a Resolution approving the reclassification of one administrative analyst position to a financial analyst position in the Finance Department.

XVIII. BID AND CONTRACTS

- * **8. Award the Bid for a 2013 Ford F550 Truck for Public Works Utilities to American Truck and Trailer Body, Inc. for the Not-To-Exceed Amount of \$97,805.19 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: City of Milpitas Purchasing Agent worked with Fleet Maintenance and Public Works to develop a specification for a Ford F550 cab and chassis with utility body. The Invitation for Bid was released on October 26, 2012, and seven bids were received on November 16, 2012. The bid was advertised in the local newspaper, online at Public Purchase and on the City’s website. Bids are summarized below.

| <u>Bidder</u> | <u>Price</u> |
|-------------------------------------|---------------------|
| Downtown Ford Sales | \$101,980.76 |
| Mission Valley Ford | \$ 79,403.27* |
| Town Ford Sales | \$ 99,294.59* |
| The Ford Store San Leandro | \$ 57,805.80* |
| Albany Ford | \$100,811.95 |
| American Truck & Trailer Body, Inc. | <u>\$ 97,805.19</u> |
| Frontier Ford | \$101,502.41 |

*Bids did not meet specifications.

Fiscal Impact: None. Sufficient funds are available in the Department operating budget and Equipment Replacement Fund for the purchase of this vehicle.

Recommendation: Award the bid for a 2013 Ford F550 truck cab and chassis with utility body to American Truck and Trailer Body, Inc. for the not-to-exceed amount of \$97,805.19.

* **9. Approve a Contract Extension with PMC for the Development of a Qualified Climate Action Plan (Staff Contact: Sheldon Ah Sing, 408-586-3278)**

Background: In 2006, the State legislature passed Assembly Bill 32, the Global Warming Solutions Act of 2006 (AB32). The legislation committed the state to reducing greenhouse gas emissions to a level equivalent to 1990 emissions by 2020. The legislation also requires municipalities creating new general plans to evaluate and mitigate for greenhouse gas emissions in its planning areas to a level consistent with AB32. Furthermore, Senate Bill 375 (SB375) places requirements on municipalities regarding the reduction of greenhouse gas emissions through land use patterns, enhanced transit services and the reduction of vehicle miles traveled (VMT).

In order to comply with AB32 and SB375, the Bay Area Air Quality Management District adopted new thresholds regarding development projects and greenhouse gas emissions to coincide with the environmental review of a project. The development of strategies to reduce greenhouse emissions through a formal document such as a Climate Action Plan (CAP) can streamline the planning process for projects, while demonstrating overall compliance with State law. CAPs generally contain:

- Adoption of state-accepted protocol software to model greenhouse gas emissions in the project area. The most widely accepted protocol has been prepared by the International Council for Local Environmental Initiatives (ICLEI);
- An inventory of greenhouse gas emissions from all community and municipal sources;
- A public outreach component to receive input from the community and stakeholders;
- A greenhouse gas mitigation plan composed of strategies to reduce greenhouse gas emissions to a level consistent with the requirements of AB32 and SB375 throughout the project area; and
- A monitoring program for greenhouse gas emissions into the future.

The City of Milpitas contracted with PMC to complete a qualified Climate Action Plan; however, the contract will expire in December 2012. The only remaining tasks are to draft the climate action plan, perform outreach, adopt the climate action plan and implement the plan. The City received a grant from Santa Clara Valley Transportation Authority (VTA) to offset 58% of the total project cost. Any work associated with the extension of this contract is fully reimbursable, pursuant to the grant. The balance of the contract is \$19,241.25, which is within the original \$85,000 project budget. Staff anticipates completion of the project in spring 2013.

Fiscal Impact: None. The budget is reimbursable by a VTA grant.

Recommendation: Authorize the City Manager to execute a contract extension with PMC for the development of a Climate Action Plan in an amount not to exceed \$19,241.25.

XIX. DEMAND

* **10. Receive a Report from Public Works Director of Emergency Repair of the Daniel Court Water Main (Staff Contact: Kathleen Phalen, 408-586-3345)**

Background: Per state public contracting law and City Council Resolution No. 7779, the Director of Public Works must report all emergency public works repairs to the City Council. At

about 3:00 AM on November 22, an eight-inch water main in an easement west of Daniel Court failed, causing a water outage to the neighborhood and spilling large amounts of mud onto Daniel Court and Calle Oriente Park. The utility standby crew responded and called for back up assistance. Ten additional Public Works staff worked through Thanksgiving Day holiday on the cleanup and repair. Due to the water main's deep location beneath PG&E gas lines in an unimproved easement, the utility crew needed assistance and additional equipment. Preston Pipeline provided labor and equipment at a cost of \$12,265.84 to excavate, repair the pipe, and backfill the excavation. The utility crew distributed bottled water to the impacted residents during the day. Water service was restored at 2:00 AM the following morning.

Surging water lifted the Calle Oriente basketball court surface, creating an offset from the surrounding park walkway. This offset will remain barricaded until Engineering obtains bids to contract for the needed repairs.

Fiscal Impact: None. There are sufficient funds in the operating budget for the Daniel Court water main repair.

Recommendations: Receive a report from Public Works Director of the emergency repair of the Daniel Court water main on November 22.

XX. ADJOURNMENT

****NO MEETING ON JANUARY 1, 2013****

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JANUARY 15, 2013 AT 7:00 P.M.**