



MILPITAS CITY COUNCIL AGENDA
TUESDAY, APRIL 1, 2014
455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. (BUDGET STUDY SESSION) • 7:00 P.M. (PUBLIC BUSINESS)



SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)**
- II. BUDGET STUDY SESSION 6:00 – 7:00 PM**
City Manager and Finance Director will provide an overview of the draft budget and financial plan for the upcoming Fiscal Year 2014-15, and receive comments from City Council.
- III. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- IV. INVOCATION (Councilmember Gomez)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – March 18, 2014**
- VI. SCHEDULE OF MEETINGS – COUNCIL CALENDAR – April 2014**
- VII. PRESENTATION – Proclaim “National Crime Victims’ Rights Week” April 6 – 12, 2014**
- 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 HEARINGS**
 - 1. Conduct a Public Hearing to Consider Adopting a Resolution for a General Plan Text Amendment and Introducing Ordinance No. 38.814 for Zoning Text Amendment to Create a New Planned Development Zoning District and Accompanying Language for Inclusion in the City’s General Plan and Zoning Ordinance (Staff Contact: Scott Ruhland, 408-586-3274)**

2. **Conduct a Public Hearing and Adopt an Urgency Resolution Updating the Transit Area Development Impact Fee (Staff Contact: Steve McHarris, 408-586-3273)**

XIV. UNFINISHED BUSINESS

- * 3. **Receive Updated Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

XV. REPORTS OF MAYOR AND COMMISSION

- * 4. **Consider Mayor's Recommendation for Appointments and Re-Appointments to Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Parks, Recreation, and Cultural Resources Commission:

- * 5. **Approve Parks, Recreation, and Cultural Resources Commission 2014 Work Plan (Staff Contact: Jaime Chew, 408-586-3234)**

XVI. ORDINANCE

- * 6. **Waive the Second Readings, Adopt Ordinance No. 38.813 Defining Electronic Smoking Device and Head/Smoke/Tobacco Shops and Adopt Ordinance No. 227.6 to Regulate the Use of Electronic Smoking Devices (Staff Contacts: Scott Ruhland, 408-586-3274 and Felix Reliford, 408-586-3071)**

XVII. RESOLUTIONS

- * 7. **Adopt a Resolution Accepting the State Homeland Security Grant Program Funds in the Amount of \$7,700 and Appropriate Funds into the Fire Department Operating Budget (Staff Contact: Americo Silvi, 408-586-2827)**
- * 8. **Adopt a Resolution Approving a Non-Exclusive Collection, Transportation, and Recycling Agreement with All Points Roll-Off, Inc. (Staff Contact: Jeff Moneda, 408-586-3345)**
- * 9. **Adopt a Resolution Approving the Sole Source Purchase of CINT Commander II System and VID-SA1 Tactical Video Phone from 836 Technologies in the Amount of \$24,533 to be Funded from the 2013 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Chris Schroeder, 408-586-3161)**
- * 10. **Adopt a Resolution Approving an Agreement with Invoice Cloud, Inc. for Electronic Utility Billing for Three Years Not-to-Exceed \$48,000 and Authorize the Purchasing Agent to Execute up to Three Annual Renewals Not-to-Exceed a Total of \$96,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

XVIII. BID

- * 11. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2014 and Street Resurfacing 2015, Project No. 3412, and a Budget Appropriation in the Amount of \$5,000 (Staff Contact: Steve Chan, 408-586-3324)**

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, APRIL 15, 2014 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 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 SERVE ON A CITY COMMISSION

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

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, 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

XIII. PUBLIC HEARINGS

1. **Conduct a Public Hearing to Consider Adopting a Resolution for a General Plan Text Amendment and Introducing Ordinance No. 38.814 for a Zoning Text Amendment to Create a New Planned Development Zoning District and Accompanying Language for Inclusion in the City’s General Plan and Zoning Ordinance (Staff Contact: Scott Ruhland, 408-586-3274)**

Background: Planned Development Zoning District (“Planned District”) is a common practice of zoning regulation to govern land use and development proposals in a coordinated and consistent approach. The purpose of a Planned District is to encourage and provide a method to achieve desirable development and improvement of land with variations in building siting, design and orientation, mixed land uses, varied housing or building types, and incorporation of public improvements while creating desirable design character and land use compatibility. A Planned District is essentially a custom zoning district for a parcel, or parcels of land, under common ownership based on a specific development proposal.

The City of Milpitas currently has a Planned Unit Development (PUD) Ordinance, which is a similar but different approach for regulating development proposals. The PUD provisions do not constitute a rezoning of the property but rather issuance of a PUD permit for a development plan in substantial compliance with the property’s zoning district. Slight modifications to development standards, such as setbacks and height are common, but the intent is focused on the contextual and spatial relationships between buildings, or as the term suggests, the “units.” This approach offers limited flexibility and assurance that development will occur as planned and approved.

A Planned District approach as a rezoning action would allow greater flexibility in terms of mixed land uses, density or floor area ratio (FAR), and building types based on the location, land use and development potential of the site and surrounding properties. It also provides more assurance for a developer and the City in terms of expected development potential, public benefits, timeframe and outcomes. Development is also vested through the rezoning of the property.

Project Description

Staff is proposing a new Planned Development Zoning District for inclusion in the City’s General Plan and Zoning Ordinance. Staff recommends that a Planned Development Zoning District will be a valuable tool for zoning implementation and development regulation while allowing greater flexibility for property owner and developers with assurances to the City on timing, outcomes and benefits. A Planned Development Zoning District can prove valuable to allow larger, more complex development projects that do not meet the strict regulation of standard zoning districts, while gaining public improvements or benefits. Given the rapidly changing market and economic conditions of Silicon Valley, and the pace of development processing, this option can assist in achieving a well-designed built environment while providing owners/developers assurance that their project is vested through zoning.

Certain minimum standards and requirements for Planned Development Zoning Districts are proposed as follows:

1. Only mixed-use, commercial, and industrial properties may apply for a General Plan and Zoning amendment for a Planned Development Zoning District;
2. Only properties of a minimum 20 acres may apply;
3. The base zoning district will apply until the approved Planned Development Zoning District is effectuated by a final map, building permit, or commencement of use;

4. A significant public benefit is required;
5. Located outside of Midtown and Transit Area Specific Plan areas.

The proposed ordinance is consistent with, and achieves many goals of the General Plan. The flexibility afforded by Planned Development Zoning Districts can assist in creating a highly amenable urban environment that provides a range of land uses and improved infrastructure. Project amenities, open space and exceptional architectural design are commonplace with Planned District approval. Planned Development zoning can also help the City achieve improved community benefits and additional improvements not otherwise required by development.

California Environmental Quality Act (CEQA): This project is categorically exempt from further CEQA review under Section 15061(b)(3) of the CEQA Guidelines in that the proposed General Plan and Zoning amendments have no potential to cause a significant effect on the environment. Creating policy language and framework for a Planned Development Zoning District and related amendments for consistency has no potential to cause a significant effect on the environment. These are considered policy amendments and have no direct connection or effect on the environment and are not tied to any specific project that could have an effect on the environment. Future development projects seeking a Planned Development zone will be subject to review under CEQA.

Fiscal Impact: None.

Attachments:

- A. Resolution
- B. Ordinance No. 38.814

Recommendations:

1. Open the public hearing to receive comments.
 2. Move to close the public hearing following any comments.
 3. Adopt Resolution approving General Plan Amendment creating a new Planned Development Zoning District.
 4. Following a reading of the title of Ordinance No. 38.814 by the City Attorney, move to waive the first reading beyond the title.
 5. Introduce Ordinance No. 38.814 to create a new Planned Development Zoning District.
2. **Conduct a Public Hearing and Adopt an Urgency Resolution Updating the Transit Area Development Impact Fee (Staff Contact: Steve McHarris, 408-586-3273)**

Background: On March 4, 2014, the City Council adopted a resolution updating the Transit Area Development Impact Fee and an urgency resolution which allowed the impact fees to become effective immediately for a 30-day period. The 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. As indicated in the March 4, 2014 City Council staff report, this item allowed the City to accommodate 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. The proposed urgency measure is presented to the City Council to complete the Impact Fee Update process by extending the new fee schedule for an additional 30 days from April 4, 2014 to May 5, 2014, at which time the permanent resolution for the new fee schedule will 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:

- A. Urgency Resolution Adjusting Existing Transit Area Development Impact Fee
- B. Transit Area Development Impact Fee Increase and Development Impact Fee Update (EPS report)

Recommendations:

- 1. Open the public hearing to receive testimony.
- 2. Move to close the public hearing following any comments.
- 2. Adopt resolution by at least four-fifths vote, making findings to support an urgency measure to have the revised fee schedule for the Transit Area Development Impact Fee effective for another 30 day period in accordance with CA Government Code Section 66017.

XIV. UNFINISHED BUSINESS

*** 3. Receive Updated Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: From February 10 through March 6, 2014, the Bay Area Air Quality Management District (BAAQMD) received four odor complaints originating in Milpitas. Two complaints identified a garbage-related odor, one complaint identified a sewage-related odor and one complaint did not identify an odor source. As of the last Council update, the City's odor reporting website has received twenty-six reported complaints.

California Environmental Quality Act (CEQA): This item is exempt from CEQA as there will be no physical change to the environment.

Fiscal Impact: None.

Recommendation: Receive the odor report update.

XV. REPORTS OF MAYOR AND COMMITTEE

*** 4. Consider Mayor's Recommendation for Appointments and Re-Appointments to Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following re-appointments and appointments:

Community Advisory Commission:

Appoint Van Lan Truong as a regular member (currently Alternate No. 1) to a term that will expire in January 2016.

Appoint Jacqueline Holland as Alternate No. 1 (currently Alternate No. 2) to a term that will expire in January 2015.

Appoint Dau Do as Alternate No. 2 (currently Alternate No. 3) to a term that will expire in January 2015.

Newly appoint Ashish Kathapurkar as Alternate No. 3 to a term that will expire in January 2016.

Newly appoint Ashok K. Sharma as Alternate No. 4 to a term that will expire in January 2016.

Copies of new Commission applications are included in the agenda packet.

Economic Development Commission:

Re-appoint Ricky Ablaza as a regular member to the Economic Development Commission to a term that will expire in April 2017.

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

Parks, Recreation, and Cultural Resources Commission:

- * 5. **Approve Parks, Recreation, and Cultural Resources Commission 2014 Work Plan (Staff Contact: Jaime Chew, 408-586-3234)**

Background: At the February 3, 2014, Parks, Recreation, and Cultural Resources Commission meeting, Commissioners approved their 2014 Work Plan. The Commission's 2014 Work Plan identifies the Commission's goals, projects, and ongoing tasks.

Fiscal Impact: None.

Recommendation: Approve the Parks, Recreation, and Cultural Resources Commission 2014 Work Plan.

XVI. ORDINANCE

- * 6. **Waive the Second Readings, Adopt Ordinance No. 38.813 Defining Electronic Smoking Device and Head/Smoke/Tobacco Shops and Adopt Ordinance No. 227.6 to Regulate the Use of Electronic Smoking Devices (Staff Contacts: Scott Ruhland, 408-586-3274 and Felix Reliford, 408-586-3071)**

Background: On March 18, 2014, the City Council introduced Ordinance No. 38.813 to amend the Zoning Code to create definitions for "Tobacco/Head/Smoke Shop," "Electronic Smoking Device," and to amend Zoning Ordinance sections for consistency with the new terminology and definitions. The Council also introduced Ordinance No. 227.6 amending the Smoking Ordinance as codified in Chapter 215 of Title V of the Milpitas Municipal Code to regulate the use of electronic smoking devices. Ordinance No. 38.813 and Ordinance No. 227.6 are both ready for second readings and adoption.

Fiscal Impact: None.

Recommendations:

1. Waive the second readings of Ordinance No. 38.813 and Ordinance No. 227.6.
2. Adopt Ordinance No. 38.813 for Zoning Definition amendments and Ordinance No. 227.6 to regulate the use of electronic smoking devices.

XVII. RESOLUTIONS

- * 7. **Adopt a Resolution Accepting the State Homeland Security Grant Program Funds in the Amount of \$7,700 and Appropriate Funds into the Fire Department Operating Budget (Staff Contact: Americo Silvi, 408-586-2827)**

Background: On October 25, 2013, the California Emergency Management Agency, as part of the State Homeland Security Grant Program (SHSGP), awarded Santa Clara County a 2013 Homeland Security Grant in the amount of \$1,760,533. Funds are distributed from the State level, to the Santa Clara County Office of Emergency Services as a clearinghouse, and finally distributed down to the local jurisdictions. These funds will be utilized to deliver tactical and strategic Fire Ground Training to Milpitas Firefighters through an on-line and in-house mechanism called Blue Card. The amount requested and awarded to Milpitas is \$7,700.

Fiscal Impact: None. Training expenditures will be reimbursed by the grant and no matching funds are required.

Recommendation: Adopt a resolution approving and accepting the State Homeland Security Grant Program funds in the amount of \$7,700 and appropriate funds into to the Fire Department operating budget.

* **8. Adopt a Resolution Approving a Non-Exclusive Collection, Transportation, and Recycling Agreement with All Points Roll-Off, Inc. (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code and the City's solid waste franchise agreement with Republic Services, solid waste collectors may enter into non-exclusive agreements with the City to collect and dispose of certain non-organic solid waste and/or construction and demolition debris from Milpitas residents and businesses that are not covered by the Republic Services exclusive franchise agreement.

In 2008, the City entered into a non-exclusive agreement with All Points Roll-Off for a three-year term. In 2011, both parties agreed to an amendment which incorporated contract language to make it uniform with other hauling agreements and executed the option for a three-year extension. That agreement will expire on May 2, 2014, and staff proposes to enter into a new non-exclusive agreement with All Points Roll-Off.

The proposed agreement grants a new three-year term commencing on April 1, 2014 and updates existing contract language. Staff also requests authority to administratively review collections under the agreement and grant a maximum of two, three-year agreement extensions without further Council action.

California Environmental Quality Act (CEQA): This project is categorically exempt per Section 15330, minor action to prevent release of hazardous substances.

Fiscal Impact: None

Recommendation: Adopt a resolution approving a Non-Exclusive Collection, Transportation, and Recycling Agreement with All Points Roll-Off, Inc. for a three-year term commencing on April 1, 2014, and authorize the City Manager or designee to extend the agreement for a maximum of two, three-year extensions.

* **9. Adopt a Resolution Approving the Sole Source Purchase of CINT Commander II System and VID-SA1 Tactical Video Phone from 836 Technologies in the Amount of \$24,533 to be Funded from the 2013 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On March 5, 2013, the State of California awarded \$107,684 to the City of Milpitas through the Citizen Options for Public Safety (COPS) Grant, authorized by Government Code Sections 30061-30063. No City matching funds are required. Government Code Section 30062 specifies that these funds must be used exclusively for front line law enforcement services. Milpitas Police Department recommended the following list of front line municipal police services, or equivalent, to be purchased with the 2013 COPS Grant monies:

1. Collision Investigation Equipment
2. Crime Analysis Software
3. Firearms and Accessories
4. Critical Incident Response Equipment
5. Surveillance Equipment
6. Police Canine and Training

In accordance with item #5 "Critical Incident Response Equipment," the Milpitas Police Department Crisis Negotiations Team (CNT) and the Special Weapons and Tactics (SWAT) Team seek to purchase the CINT Commander II negotiations recording and control system and Tactical Video Phone from 836 Technologies. The CINT Commander II is a crisis/hostage negotiation management system for military and law enforcement use. The system functions with landline, cell phone, and tactical phones to help establish communication between police personnel and others involved in crisis events. The system offers a secure, tamper-proof way of

logging and saving audio and text files with date/time stamping. The VID-SA1 Tactical Video Phone is similar to a "throw phone" system for military and law enforcement use and was designed specifically to operate in conjunction with CINT Commander II system. The phone has specially designed monitoring features and includes a negotiators console and an 8 channel DVR.

After a good faith review of the available sources provided by the Police Department, the Purchasing Agent determined, pursuant to Municipal Code section I-2-3.09 "Sole Source Procurement," that 836 Technologies was the only source for the CINT Commander II System and Tactical Video Phone. The Purchasing Agent did not find other comparable products with the same features.

Fiscal Impact: None. Funds for this purchase are available from the 2013 Citizen Options for Public Safety (COPS) grant.

Recommendations: Adopt a resolution approving the sole source purchase of the CINT Commander II System and integrated VID-SA1 Tactical Video Phone from 836 Technologies for \$24,533 to be funded from the 2013 Citizen Options for Public Safety (COPS) grant.

- * 10. **Adopt a Resolution Approving an Agreement with Invoice Cloud, Inc. for Electronic Utility Billing for Three Years Not-to-Exceed \$48,000 and Authorize the Purchasing Agent to Execute up to Three Annual Renewals Not-to-Exceed a Total of \$96,000 (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The City's current agreement with DataProse for E-bill Presentment and E-payment will expire in June 30, 2014. The annual cost for this agreement is \$15,000 based on 28,000 transactions per year. A Request for Proposal (RFP) No. 2064 was issued on February 3, 2014 through Public Purchase. On February 21, 2014, a total of five proposers responded to the RFP. A committee of three, including the Finance Manager, a Senior Accountant, and the Information Services Director scored the proposals based on seven criteria. Interviews and demonstrations were conducted with all five proposers.

Based on a review of the proposers' company backgrounds, technical abilities, and references, experience, customer service and price, Invoice Cloud, Inc. was ranked the highest. Invoice Cloud, Inc. has an advanced technical advantage among responsive proposers and real time interface for bill payments to the City's Utility Billing System. Therefore, the recommendation for award is based on the offering considered to be the most advantageous to the City.

The cost of service for the same number of transactions with Invoice Cloud, Inc. will be a savings of \$3,000, per year over the previous company. However, an increase of 30% of online transactions is anticipated due to the improvement in technology. The cost of Invoice Cloud's service will be \$16,000 per year with no annual increase. The new contract for E-bill Presentment and E-payment is for three years from July 1, 2014 to June 31, 2017, with three one-year options for renewal.

Fiscal Impact: None. Funding for these services is available from the Water and Sewer Funds.

Recommendation: Adopt a resolution:

1. Approving an agreement with Invoice Cloud, Inc. for E-bill Presentment and E-Payment of utility bills for three years and in an amount not-to-exceed \$48,000, and
2. Authorizing the Purchasing Agent to negotiate and execute up to three annual renewal options in an amount not to exceed \$16,000 each year without further City Council action, except for appropriation of funds.

XVIII. BID

- * 11. **Approve Plans and Specifications and Authorize Advertisement for Bid Proposals for Street Resurfacing 2014 and Street Resurfacing 2015, Project No. 3412, and a Budget Appropriation in the Amount of \$5,000 (Staff Contact: Steve Chan, 408-586-3324)**

Background: Staff completed plans and specifications for the Street Resurfacing 2014 and the Street Resurfacing 2015, Project No. 3412. The work includes localized repair of failed asphalt concrete pavement, removal and replacement of asphalt concrete, cape seal, slurry seal, installation of Americans with Disabilities Act-compliant sidewalk ramps, and striping work on 107 streets. A map showing these 107 streets is included in the agenda packet. Construction is scheduled for the summer of 2014.

The Engineer's Estimate for the project is \$2,800,000. A copy of the title sheet of the project plans is included in the Council's agenda packet and the complete set of plans and specifications is available for review in the office of the City Engineer.

The City received an additional \$5,000 Transportation Development Act (TDA) grant from the Metropolitan Transportation Commission (MTC) for FY 2012-13 for a total of \$45,050 for the Street Resurfacing Project 2014.

California Environmental Quality Act (CEQA): The project is categorically exempt under Section 15301 (Maintenance of existing public streets) of the California Environmental Quality Act.

Fiscal Impact: None. Increase in MTC grant will increase total project budget by \$5,000.

Recommendations:

1. Approve the plans and specifications for Street Resurfacing 2014 and Street Resurfacing 2015, Project No. 3412.
2. Authorize advertisement for bid proposals for the project.
3. Approve a budget appropriation in the amount of \$5,000 from Transportation Development Act grant to the Street Resurfacing Project.

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, APRIL 15, 2014 AT 7:00 P.M.**