



**MILPITAS CITY COUNCIL AGENDA  
TUESDAY, AUGUST 19, 2014**

**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 the Mayor (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
  - 1. CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

Pursuant to California Government Code Section 54957.6  
City Negotiators: Tom Williams, Carmen Valdez  
Employee Groups: International Association of Fire Fighters (IAFF) Local 1699, Milpitas Employees Association (MEA), Mid-management and Confidential Unit (Mid-Con), and Professional and Technical Group (ProTech)  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
  - 2. CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**

Pursuant to California Government Code Section 54956.9(c)  
City as Plaintiff
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Government Code §54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Giordano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – August 5, 2014**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – August and September 2014**
- VIII. PRESENTATION**
  - Commending Summers & Sons Electric Inc.
- IX. 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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- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XII. APPROVAL OF AGENDA**

### **XIII. 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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### **XIV. PUBLIC HEARINGS**

- 1. Consider Introduction of Ordinance No. 38.815 to Amend Title XI, Chapter 10, Section 53, Off-Street Parking Regulations of the Milpitas Municipal Code to Clarify and Modify Certain Parking Standards and Regulations (Staff Contact: Scott Ruhland, 408-586-3274)**
- 2. Consider Introduction of Ordinance No. 38.816 to Amend the Milpitas Zoning Code to Conditionally Permit Thrift Store Uses in the Neighborhood Commercial (C1) Zoning District with Development Standards and Adopt a Resolution Approving a Goodwill Thrift Store at 311 W. Calaveras Blvd. (Staff Contact: Scott Ruhland, 408-586-3274)**

### **XV. REPORT OF MAYOR**

- \* 3. Consider Mayor's Recommendation for Re-Appointments to Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

### **XVI. NEW BUSINESS**

- \* 4. Consider Request from St. Elizabeth Catholic Church to Waive Fees for Parish Festival to be held August 24, 2014 on Church Grounds (Staff Contact: Mary Lavelle, 408-586-3001)**
- \* 5. Consider Request from St. John the Baptist Catholic Church to Waive Fees for Autumn Festival to be held September 5-7, 2014 on Church Grounds (Staff Contact: Mary Lavelle, 408-586-3001)**
- \* 6. Authorize the City Manager to Fill a Full Time Associate Civil Engineer Position, Defund a Temporary Assistant Civil Engineer Position, and Approve a Budget Appropriation in the Amount of \$20,000 (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 7. Approve Receipt of Grant from the California Department of Resources Recycling and Recovery Beverage Container Program in the Amount of \$17,992 (Staff Contact: Jeff Moneda, 408-586-3345)**
- 8. Receive a Report on the Potential International Park at South Main Street Location (Staff Contact: Tom Williams, 408-586-3050)**

### **XVII. ORDINANCES**

- 9. Consider Adoption of Urgency Ordinance No. 240.2 Adding Supplemental Water Use Restrictions in Accordance with State Law (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 10. Waive the Second Reading and Adopt Ordinance No. 288, Adding a New Section 6 to Chapter 1 of Title I of the Milpitas Municipal Code Authorizing the Installation of the National Motto "In God We Trust" in Specific Facilities (Staff Contact: Michael Ogaz, 408-586-3040)**

**XVIII. RESOLUTIONS**

- \* 11. **Adopt a Resolution to Re-Certify the City of Milpitas' 2014 Sewer System Management Plan (SSMP) (Staff Contact: Steven Machida, 408-586-3355)**
- \* 12. **Adopt a Resolution Granting Final Acceptance of Santa Clara Valley Transportation Authority (VTA) Water, Storm and Sewer Utility Relocation at Piper Drive, VTA Project No. C610 (Staff Contact: Jeff Moneda, 408-586-3345)**
- \* 13. **Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approving a Reduction in the Performance Bond for the Subdivision Improvement Security for 1102 S. Abel St. (Centria West-Apex), Tract 9773, Project No. 2583 (Staff Contact: Ahmed Aly, 408-586-3325)**

**XIX. AGREEMENT**

- \* 14. **Approve a Consultant Agreement with HMH Engineering Inc. in the Amount of \$152,100 for Montague Expressway Widening Project No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)**

**XX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, SEPTEMBER 2, 2014**

**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](mailto:mogaz@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 vacancy on:  
Community Advisory 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. **Consider Introduction of Ordinance No. 38.815 to Amend Title XI, Chapter 10, Section 53, Off-Street Parking Regulations of the Milpitas Municipal Code to Clarify and Modify Certain Parking Standards and Regulations (Staff Contact: Scott Ruhland, 408-586-3274)**

**Background:** The proposed zoning amendment includes multiple changes to the City's Zoning Code, specifically to the Off-Street Parking Regulations. A summary of each follows.

Table 53.13-1 of the Milpitas Zoning Code sets forth the parking lot standards for parking stall and drive aisle dimensions. Currently, the standard aisle width between parking spaces is 25-feet. The proposed zoning amendment would amend Table 53.13-1 to modify the standard parking lot and structure drive aisle width from 25-feet to 24-feet for commercial and industrial parking lots. The cities of Mountain View, Fremont, Sunnyvale, Alameda, Dublin, Livermore, Burlingame, Daly City, Foster City, Millbrae, Redwood City, and San Bruno standard drive aisle width is 24-feet for 90 degree parking spots. Conventional traffic engineering standards also recommend 24-feet. Hence, staff is proposing an amendment to ensure regional consistency and to better accommodate infill development.

Secondly, as mentioned above, Table 53.13-1 of the Milpitas Zoning Code sets forth the parking stall and drive aisle dimensions for all parking spaces in the City, including parking structures. However, the parking standards do not offer any relief from the standards for parking structures which are typically designed and constructed differently than standard parking lots. Due to increasing demand for infill development, the high cost of constructing parking structures, and flexible development standards in neighboring cities, the Planning Commission agreed with staff to include flexibility through a Conditional Use Permit to allow the modification of parking stall and drive aisle dimensions for parking structures.

Thirdly, the use of on-street parking for residential uses is not clearly stated in Section XI-10-53.13(A)(1) (Location of Parking) of the Zoning Code. The proposed Ordinance clarifies that on-street parking on public streets is not allowed to count towards the residential parking requirement.

Lastly, the use of on-street parking for commercial/retail uses is also not clearly stated in Section XI-10-53.13(A)(1). The purpose of this amendment is to clarify when commercial service or retail uses within the Transit Area or Midtown Specific Plan Area can count on-street parking towards fulfilling their respective parking requirements. Staff added criteria to the parking regulations that clearly indicate when this can be allowed.

#### Planning Commission Action

These proposed amendments were considered by the Planning Commission at its March 12, June 11 and July 23, 2014 public hearings. On March 12, 2014, Commissioners voted 7-0 to recommend modifying the standard commercial and industrial parking lot and parking structure drive aisle width from 25-feet to 24-feet. On June 11, 2014, Commissioners voted 7-0 to allow flexible standards for parking structures through a CUP; and, to clarify on-street public parking is not allowed to count towards residential parking requirement. On July 23, 2014, Commissioners voted 7-0 to clarify when commercial service or retail uses within one of the City's specific plan areas can count on-street parking towards fulfilling their respective parking requirements.

**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 zoning amendment have no potential to cause a significant effect on the environment. Staff has determined that amending the Zoning Ordinance to modify the standard parking lot and structure drive aisle width from 25-feet to 24-feet; to provide a means for modifying parking stall

standards for parking structures; and clarifying when on-street parking can or cannot be used towards a projects parking requirement has no potential to cause a significant effect on the environment. These are considered policy amendments and will not have a significant effect on the environment, but rather they will provide beneficial impacts by promoting and accommodating infill development.

**Fiscal Impact:** None.

**Attachments:**

- A. Ordinance No. 38.815
- B. Planning Commission Minutes of March 12, 2014, June 11, 2014 and July 23, 2014
- C. Planning Commission Reports of March 12, 2014, June 11, 2014 and July 23, 2014

**Recommendations:**

- 1. Open the public hearing to receive comments.
  - 2. Move to close the public hearing following any comments.
  - 3. Following the City Attorney's reading of the title, move to waive the first reading of Ordinance No. 38.815.
  - 4. Move to introduce Ordinance No. 38.815.
2. **Consider Introduction of Ordinance No. 38.816 to Amend the Milpitas Zoning Code to Conditionally Permit Thrift Store Uses in the Neighborhood Commercial (C1) Zoning District with Development Standards and Adopt a Resolution Approving a Goodwill Thrift Store at 311 W. Calaveras Blvd. (Staff Contact: Scott Ruhland, 408-586-3274)**

**Background:** The proposed project is a request for a Zoning Text Amendment to conditionally permit thrift stores in the Neighborhood Commercial (C1) Zoning District with performance standards; a Conditional Use Permit for a new Goodwill of Silicon Valley retail store - if the Zoning Text Amendment is adopted by the City Council, and a Site Development Permit for improvements to the existing building and parking lot of the existing shopping center.

This item was originally considered by the Planning Commission on June 11, 2014. The Planning Commission made a motion by a 7-0 vote to continue it to a future Planning Commission meeting in order for the applicant to address the following concerns:

- 1. The proposed pick-up and delivery of donated items.  
Revision: applicant has proposed a scheduled pick-up and delivery of items between the hours of 8:00 A.M. and 9:30 A.M. between 5-7 days a week.
- 2. Adequate parking for the shopping center and adjacent uses.  
Revision: Applicant hired a parking consultant to complete a parking study analysis (Attachment 4). Results of the analysis show that parking enforcement is needed on the project site and adjacent sites. The neighboring restaurant has a parking attendant during the lunch rush of 11:30 AM - 1:30 PM and a condition of approval has been added for this project to require the same.
- 3. Coordination and communication with the adjacent property owners to resolve parking compliance issues.  
Revision: Adjacent property owners met with the parking consultant and were provided a copy of the final report and recommendations and agreed to mutually work towards a solution.
- 4. Concern over adding thrift store uses to the Neighborhood Commercial (C1) Zoning District.

There are forty-five parcels and seven general locations within City boundaries zoned Neighborhood Commercial. Properties zoned Neighborhood Commercial are typically small to medium sized shopping centers containing a range of uses intended to serve the immediate neighborhood. The proposed Zoning Code Amendment would conditionally permit thrift stores in this district, subject to compliance with certain performance standards, and subject to review and approval by the Planning Commission through a Conditional Use Permit.

This project was recommended for approval by the Planning Commission on July 23, 2014 by a vote of six (6) in favor and one (1) opposed.

**Fiscal Impact:** None.

**California Environmental Quality Act (CEQA):** This project is categorically exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) because it's an existing building with a previous retail use. This project is also exempt from further environmental review pursuant to Section 15061(b)(3) in that the California Environmental Quality Act only applies to projects that have the potential for causing a significant effect on the environment.

**Attachments:**

- A. Ordinance No. 38.816
- B. Resolution
- C. Project Plans
- D. Parking Analysis
- E. June 11 and July 23 Planning Commission Minutes
- F. June 11 and July 23 Planning Commission Staff Report

**Recommendations:**

- 1. Following the City Attorney's reading of the title, move to waive the first reading beyond the title of Ordinance No. 38.816.
- 2. Move to introduce Ordinance No. 38.816.
- 3. Adopt a Resolution approving Site Development Permit No. SD14-0008 and Conditional Use Permit No. UP14-0010 for a Goodwill Thrift Store located at 311 W. Calaveras Blvd.

**XV. REPORT OF MAYOR**

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

**Background:** Mayor Esteves recommends the re-appointment of the following:

**Bicycle Pedestrian Advisory Commission**

Re-appoint Kristal Caidoy as Alternate No. 1 to a term that will expire in August 2016.

**Emergency Preparedness Commission**

Re-appoint Tim Howard as a member to a term that will expire in June 2017.

**Library Advisory Commission**

Re-appoint Margie Stephens as a member to a term that will expire in June 2016.

**Parks, Recreation and Cultural Resources Commission**

Re-appoint Naomi Matau as a member to a term that will expire in June 2017.

**Recycling and Source Reduction Advisory Commission**

Re-appoint Madan Arora as a member to a term that will expire in October 2016.

Telecommunications Commission

Re-appoint Sukhi Singh as a member to a term that will expire in January 2016.

**Recommendation:** Receive Mayor's recommendation and move to approve re-appointments of members to six City of Milpitas Commissions.

**XVI. NEW BUSINESS**

- \* 4. **Consider Request from St. Elizabeth Catholic Church to Waive Fees for Parish Festival to be held August 24, 2014 on Church Grounds (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** The City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" from St. Elizabeth Catholic Church on July 29. Volunteers for the Festival applied for a Special Event Permit through planning, and it will be considered separately for approval by the Planning Commission Subcommittee. At this time, the church is requesting that the City Council waive select fees charged for the church to put on its Festival. The request is within the \$1,500 maximum fee waiver allowed by City policy.

City Fees charged to the church for Festival requested to be waived:

Fire Marshal inspection permit + fees:	\$359.77
Planning Dept. minor event permit	\$250.00

**Fiscal Impact:** \$20,000 was approved and included in the FY 2014-15 City budget for City Council's Unallocated Community Promotions. If the current fee waiver is approved, then \$19,390.23 would be the remaining balance.

**Recommendation:** Consider the request from St. Elizabeth Church and move to approve a fee waiver for the Fire and Planning fees of \$609.77 for those City fees related to the Parish Festival at the Church on Sunday, August 24, 2014.

- \* 5. **Consider Request from St. John the Baptist Catholic Church to Waive Fees for Autumn Festival to be held September 5-7, 2014 on Church Grounds (Staff Contact: Mary Lavelle, 408-586-3001)**

**Background:** The City Clerk received a "Donation or Fee Waiver/Reduction Request Application Form" from St. John the Baptist Catholic Church on August 7. Volunteers for the Festival committee have applied for a Special Event Permit through planning, and it will be considered separately for approval by the Planning Commission Subcommittee. At this time, the church is requesting that the City Council waive select fees charged for St. John to put on its annual Autumn Festival. City policy allows a \$1,500 maximum fee waiver annually.

City Fees charged to the church for Autumn Festival requested to be waived:

Fire Marshal inspection permit + fees:	\$1343.77
Electrical Permit from building inspector	\$ 167.05

**Fiscal Impact:** \$20,000 was approved and included in the FY 2014-15 City budget for City Council's Unallocated Community Promotions. If the current fee waiver along with another one on this agenda is approved, then \$17,890.23 would be the remaining balance.

**Recommendation:** Consider the request from St. John Church and move to approve fee waiver for the Fire and Building inspection fees up to \$1,500 for those City fees related to Autumn Festival at the Church on the weekend of September 5-7, 2014.

- \* 6. **Authorize the City Manager to Fill a Full Time Associate Civil Engineer Position, Defund a Temporary Assistant Civil Engineer Position, and Approve a Budget Appropriation in the Amount of \$20,000 (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** There is currently an emerging increase in the work load in the Engineering Land Development Section, primarily due to an increase in in-fill development project submittals and associated construction. The complexity of these projects requires the skills of a licensed Engineer to manage the submittals and review process. A higher skilled Engineer will be better able to assist the developments to meet the timelines and deliver a good work product. The Associate Civil Engineer position is required to possess a valid California Professional Civil Engineer's license.

The division has a vacant funded temporary Assistant Engineer position. The funding for that position can be utilized to fill the full time Associate Engineer position. The difference in compensation between the two positions is approximately \$20,000. Staff therefore requests that the City Council also approve a budget appropriation of \$20,000 should the Council authorize the City Manager to fill the full time Associate Engineer position. The additional funding for the Associate Engineer will be reimbursed from private development projects.

**Fiscal Impact:** None. Funding for this position is reimbursable through the private development projects.

**Recommendation:** Authorize the City Manager to fill a full time Associate Civil Engineer position, defund a temporary Assistant Civil Engineer position, and approve a budget appropriation in the amount of \$20,000.

- \* 7. **Approve Receipt of a Grant from the California Department of Resources Recycling and Recovery Beverage Container Program in the Amount of \$17,992 (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** The City of Milpitas received \$17,992 from the California Department of Resources Recycling and Recovery (CalRecycle) Beverage Container Recycling Program. Staff applied for this funding as authorized by Council Resolutions supporting public outreach about recycling of California Redemption Value bottles and cans.

Staff recommends that Council authorize receipt of this funding onto the Fiscal Year 2014-15 operating budget. The total award will fund educational and promotional services and supplies.

**Fiscal Impact:** Funding will add to Engineering's operating budget for Fiscal Year 2014-15.

**Recommendation:** Approve the receipt of the CalRecycle grant in the amount of \$17,992.

- 8. **Receive a Report on the Potential International Park at South Main Street Location (Staff Contact: Tom Williams, 408-586-3050)**

**Background:** The City was approached by several cultural organizations representing different countries in developing an international park. Cultural organizations representing a Filipino group, the Indian community, the Korean Language & Culture Foundation, and the Vietnam Neighborhood Association of Milpitas and Berryessa. After meeting with representatives of these diverse organizations and learning more about their interest, staff identified a possible site location and is seeking further direction as to the feasibility to proceed. The identified location for further study, if directed by City Council, is on the east side of Main Street possibly improving an underutilized section of Tom Evatt Park.

If directed to move forward, staff will proceed with working in collaboration with these groups to prepare a feasibility study and preliminary plan. Funding for the feasibility study and planning effort will be reimbursed by the participating organizations.

**Fiscal Impact:** Up to \$50,000 to be reimbursed by participating organizations.

**Recommendation:** Direct staff to proceed with feasibility study and preliminary plan working together with the Parks, Recreation and Cultural Resources Commission.

## XVII. ORDINANCES

### 9. Consider Adoption of Urgency Ordinance No. 240.2 Adding Supplemental Water Use Restrictions in Accordance with State Law (Staff Contact: Jeff Moneda, 408-586-3345)

**Background:** The State of California is experiencing a severe water supply shortage. On January 17, 2014, the Governor issued a Proclamation declaring a State of Emergency due to severe drought conditions. Shortly thereafter, Santa Clara Valley Water District (SCVWD) and San Francisco Public Utilities Commission (SFPUC) requested water conservation targets of 20% and 10% respectively.

On July 15, 2014, the State Water Resources Control Board (SWRCB) adopted Resolution No. 2014-0038 to adopt an Emergency Regulation for Statewide Urban Water Conservation. The resolution requires water retailers, such as the City of Milpitas, to implement a Water Shortage Contingency Plan and submit monthly reports. Water retailers are encouraged to educate customers and increase local water supplies. The City's Water Shortage Contingency Plan is included in the 2010 Urban Water Management Plan and was adopted by the City Council on June 7, 2011.

Staff reviewed the state regulations and prepared Urgency Ordinance No. 240.2 to amend Chapter 6 of Title VIII of the Milpitas Municipal Code (Water Conservation Ordinance) to implement the following potable water use restriction to achieve a 20% water savings as required by state law:

- Eliminates use of potable water for cleaning of any hard surfaces, such as sidewalks, streets, buildings, and parking lots
- Eliminates use of potable water for construction purposes such as dust control and compaction
- Eliminates construction of new swimming pools or ponds or initial filling of any swimming pool or pond (refilling due to evaporation or repairs is acceptable)
- Eliminates hydrant flushing, except for health and safety
- Eliminates use of potable water for cleaning, filling, or maintaining levels in decorative fountains
- Eliminates use of potable irrigation of golf courses except greens and tees
- Eliminates unlimited use of potable water for irrigation and reduces irrigation to 2 days per week
- Defers installation of new landscape unless served by recycled water

This urgency ordinance requires a vote of 4/5 to pass and would become effective upon adoption. A copy of the SWRCB resolution and proposed ordinance is included in the Council packet.

**California Environmental Quality Act (CEQA):** The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment. Furthermore, the Governor suspended the California Environmental Quality Act's application to the State Water Board's adoption of emergency regulations, pursuant to Water Code Section 1058.5, promoting water conservation and water recycling.

**Fiscal Impact:** None.

**Recommendations:**

1. Following the City Attorney's reading of the title, move to waive the reading beyond the title of Ordinance No. 240.2.

2. Adopt Urgency Ordinance No. 240.2 by at least a four-fifths vote, effective immediately, for supplemental water use restrictions.

- \* 10. **Waive the Second Reading and Adopt Ordinance No. 288, Adding a New Section 6 to Chapter 1 of Title I of the Milpitas Municipal Code Authorizing the Installation of the National Motto “In God We Trust” in Specific Facilities (Staff Contact: Michael Ogaz, 408-586-3040)**

**Background:** Ordinance No. 288 was introduced at the August 5, 2014, City Council meeting. There have been no changes to the Ordinance since its introduction and it is now presented for its second reading and adoption.

**Fiscal Impact:** None, upon adopting ordinance. City Manager or designee would determine any costs for installation in various City locations.

**Recommendations:**

1. Move to waive the second reading beyond the title.
2. Adopt Ordinance No. 288, adding a new Section 6 to Chapter 1 of Title I of the Milpitas Municipal Code, regarding installation of “In God We Trust” motto.

**XVIII. RESOLUTIONS**

- \* 11 **Adopt a Resolution to Re-Certify the City of Milpitas’ 2014 Sewer System Management Plan (SSMP) (Staff Contact: Steven Machida, 408-586-3355)**

**Background:** The State Water Resources Control Board (SWRCB) Order# 2006-003 requires all entities that own and operate sanitary sewer systems and that convey untreated wastewater to a publicly-owned treatment plant to prepare a Sewer System Management Plan (SSMP). In addition, every five years, the City Council is required to re-certify the SSMP to address document updates as a result of new regulations. The City prepared and adopted the current SSMP on August 18, 2009. Staff has revised the current SSMP to reflect the changes of the new regulations and modify certain procedures that will improve our maintenance efficiency.

The SSMP is a document that addresses procedures to operate, maintain and manage wastewater collection systems. Utilization of the SSMP provides the guidelines and procedures to reduce the number and frequency of sanitary sewer overflows (SSOs) and thereby decrease the risk to human health and the environment in the community.

Significant updates to the 2014 Plan include:

1. Documenting the SWRCB and Regional Water Quality Control Board (RWQCB) requirements in the SSMP;
2. Amending the SSO categories to include the three level of spill categories from the previous two level spill categories;
3. Updating the Chain of Communication Flow Chart for emergency response; and
4. Amending the City’s Legally Responsible Officials (LRO) who are responsible to record and report SSOs to the SWRCB as required by the Board Order.

The draft 2014 version of the SSMP is available for review in the City Clerk’s office and on the city website (Council agenda packet attachment). After the City Council re-certifies the 2014 SSMP, the final document will be posted on the City’s web site for public access.

**California Environmental Quality Act (CEQA):** The 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:** None.

**Recommendations:** Adopt a resolution re-certifying the City of Milpitas' 2014 Sewer System Management Plan (SSMP).

- \* 12. **Adopt a Resolution Granting Final Acceptance of Santa Clara Valley Transportation Authority (VTA) Water, Storm, and Sewer Utility Relocation at Piper Drive, VTA Project No. C610 (Staff Contact: Jeff Moneda, 408-586-3345)**

**Background:** On September 10, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) that included provisions for VTA's construction of certain City public improvements in conjunction with the VTA's Silicon Valley Rapid Transit Program Berryessa Extension Project. This project was constructed via City Encroachment Permit E-EN11-0191, was initially accepted by City Council on March 19, 2013, and passed the one-year warranty period. A final inspection of the installed public improvements has been made by City staff and the work was found to be satisfactory. The project provided for the relocation of City Water, Storm, and Sewer Utilities at Piper Drive. Staff recommends the Council grant final project acceptance of VTA's Water, Storm, and Sewer Utility Relocation at Piper Drive, VTA Project No. C610 and release the contractor's bond.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting final acceptance of the Santa Clara Valley Transportation Authority (VTA) Water, Storm, and Sewer Utility Relocation at Piper Drive, VTA Project No. C610.

- \* 13. **Adopt a Resolution Granting Initial Acceptance of Public Improvements and Approving a Reduction in the Performance Bond for the Subdivision Improvement Security for 1102 S. Abel St. (Centria West-Apex), Tract 9773, Project No. 2583 (Staff Contact: Ahmed Aly, 408-586-3325)**

**Background:** On August 2, 2011, City Council approved the Subdivision Improvement Agreement (SIA) for the Apex Apartments Project (Tract 9773) located at 1092 S. Abel Street. The SIA is for the construction of certain public improvements identified in Public Improvement Plan 2-1143. The public improvements include underground utilities and street improvements along the South Abel Street frontage, and a public park on a half-acre City parcel at the corner of South Abel Street and Great Mall Parkway. These public improvements have been completed by the developer per the approved public improvement plans and are now ready for initial acceptance and ownership by the City in accordance with the SIA. The developer's performance bond may be reduced to \$100,000, which is 10% of the improvement amount in accordance with the SIA.

All previous mitigation measures and monitoring and reporting program adopted for the project are still applicable and no new conditions exist that invalidate the previous environmental determination or create a significant environment impact that requires further analysis under California Environmental Quality Act (CEQA).

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting initial acceptance of public improvements for Apex Apartments, Tract 9773, Project No. 2583, subject to a one-year warranty period and reduction of the faithful performance security to \$100,000.

**XIX. AGREEMENT**

- \* 14. **Approve a Consultant Agreement with HMM Engineering Inc. in the Amount of \$152,100 for Montague Expressway Widening Project No. 4179 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The Montague Expressway Widening Project No. 4179 is included in the approved Capital Improvement Program. The project provides capacity improvements on Montague Expressway by providing a total of eight through lanes on Montague from Great Mall Parkway to I-680. Bike use shoulders, improved pedestrian sidewalks, new culvert and bridge over Berryessa Creek, and widening improvements along South Milpitas Boulevard are included in the project.

The City is implementing this project in partnership with the Santa Clara County Roads & Airports, which owns and maintains Montague Expressway, the Santa Clara Valley Water District which owns Berryessa Creek, and the Valley Transportation Authority, which will perform the construction work. There are two major regional projects programmed which directly impact the portion of Montague Expressway from Great Mall Parkway to I-680. These projects are VTA/Bay Area Rapid Transit (BART) extension and the Water District's Berryessa Creek Flood Control Improvements. The City, County, Water District, and the Valley Transportation Authority wish to coordinate these major projects to save cost and to mitigate construction impacts on the community. The Berryessa Creek improvements include raising the height of the existing levees and bridge by up to seven feet. This new Montague Expressway Bridge will be required to be placed at the higher elevation to meet federal flood control requirements and to allow for 100-year storm flows in Berryessa Creek. The work along Montague and the new Berryessa Creek Bridge will require the widening and improvement of portions of South Milpitas Boulevard. The VTA will incorporate the construction of the widening and bridge improvements within its BART extension construction project.

The City of Milpitas remains in a position to continue leading the coordination and design phase for this project, which is the City's project contribution in partnership with the other agencies. Through the City's consultant selection process, HMM Inc. was selected to provide the design services for this project, and the firm has completed a Plan Line Study, the structural design for the widening work and bridge improvements. It is now desired to have the consultant provide design services for the extension of City potable and recycled water pipelines along portions of Montague Expressway; assist in preparation of permit packages; provide additional work related to preparation of final plans and specifications in coordination with the BART project; provide post design services during project bidding; and to provide record drawing services at the conclusion of construction. Staff negotiated a scope and fee for these services not to exceed \$152,100.

**Fiscal Impact:** None. Sufficient funds are available in the project budget for these services.

**Recommendation:** Approve a consultant agreement with HMM Inc. for a term from August 19, 2014 to August 19, 2015, in the amount of \$152,100 for the Montague Expressway Widening Project No. 4179.

**XX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, SEPTEMBER 2, 2014**