



MILPITAS CITY COUNCIL AGENDA TUESDAY, SEPTEMBER 16, 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. **PUBLIC EMPLOYEE PERFORMANCE EVALUATIONS**
Pursuant to CA Government Code Section 54957
Positions: City Manager and City Attorney
- 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 Gomez)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – September 2, 2014
- VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDARS** – September and October 2014
- VIII. **PRESENTATIONS**
 - Proclaim *Pollution Prevention Week* for September 14 – 20, 2014
 - Proclaim *National Preparedness Month* for September 2014
 - Proclaim *Fire Prevention Week* for October 5 – 11, 2014
- 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 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.

- X. **ANNOUNCEMENTS**
- XI. **ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- 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 to Adopt the FY 2013-14 Consolidated Annual Performance Evaluation Report on Community Development Block Grants (Staff Contact: Felix Reliford, 408-586-3071)**
- 2. Hold a Public Hearing to Consider Authorizing Staff to Submit the Draft Updated General Plan Housing Element 2015-2023 to the California Department of Housing and Community Development for Review and Certification Per State Law (Staff Contact: Felix Reliford, 408-586-3071)**

XV. UNFINISHED BUSINESS

- 3. Receive Progress Report on Street Light Improvements Project No. 4266 (Staff Contact: Steve Chan, 408-586-3324)**
- 4. Receive Update on Environmental Litigation Request for Qualifications Process (Staff Contact: Michael Ogaz, 408-586-3040)**

XVI. REPORT OF MAYOR

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

XVII. NEW BUSINESS

- 6. Review and Approve Illustrative Site Development Plan for the Proposed Montague Village Park Located in the Piper-Montague Sub-District of the Transit Area Specific Plan (Staff Contact: Scott Ruhland, 408-586-3274)**

XVIII. ORDINANCE

- * 7. Waive the Second Reading and Adopt Ordinance No. 38.817 to Amend the Milpitas Zoning Code to Extend Sunset Date from June 16, 2014 to June 16, 2016 to Allow Process for Re-Establishment of Discontinued Non-Conforming Uses Within Midtown and Transit Area Specific Plan Areas (Staff Contact: Scott Ruhland, 408-586-3274)**

XIX. RESOLUTION

- * 8. Adopt a Resolution Amending List of Designated Full Disclosure Positions for the City of Milpitas' Conflict of Interest Code (Staff Contact: Mary Lavelle, 408-586-3001)**

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, OCTOBER 7, 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 / 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

Seeking Applications for:
Community Advisory Commission
Recycling and Source Reduction Advisory Commission (Business and MUSD members)
Youth Advisory 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 in that facility.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

1. Hold a Public Hearing to Adopt the FY 2013-14 Consolidated Annual Performance Evaluation Report on Community Development Block Grants (Staff Contact: Felix Reliford, 408-586-3071)

Background: The Consolidated Annual Performance Evaluation Report (CAPER) describes the City's one-year Community Development Block Grant (CDBG) programs and activities undertaken during the past program year 2013-14. The CAPER also evaluates the City's overall progress in carrying out those priority projects that were identified in the approved Five-Year Consolidated Plan and One-Year Action Plan.

On August 16, 2012, staff received a letter from the federal Department of Housing and Urban Development (HUD) approving the Five Year Consolidated Plan (2012-2017) which identifies goals, objectives, policies and financial resources regarding CDBG funding over the next five years.

The CAPER identifies the following major accomplishments (2013-14):

- Used CDBG funds to replace 148 air condition units and an emergency generator at Terrace Gardens Senior Housing.
- Used CDBG funds to investigate 49 cases involving housing discrimination and tenant-landlord mediation.
- Provided safety improvements, energy efficiency, accessibility and mobility repairs and improvements to 25 homeowners.
- Provided monthly and weekly supplemental food stock to 1,046+ very low-income households and homeless individuals.
- Assisted 44 seniors with free legal aid services.
- Provided funding for 35 families to participate in Milpitas Family Literacy Program.
- Provided funding for shelter, hot meals, and supportive services for 28 unduplicated Milpitas adult men, women and children for 478 personal shelter days.
- Provided funds for 84 domestic violence victims and their families.
- Provided funding for recreational services, programs and activities for 50 seniors and youths.
- Funded 14 different public service agencies and housing providers, and
- Provided CDBG funds to assist over 5,212 Milpitas residents.

The CAPER was advertised for public review and comments for 15 days (August 22 - September 8, 2014). Copies of the CAPER were sent to all service and housing providers that received CDBG funding and other interested parties. Copies were also made available at City Hall and the Public Library. Staff had not received any public comments at the time of this report.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing for comments, then move to close the public hearing.
 2. Adopt the FY 2013-14 Consolidated Annual Performance Evaluation Report (CAPER) on Community Development Block Grant funding.
- 2. Hold a Public Hearing to Consider Authorizing Staff to Submit the Draft Updated General Plan Housing Element 2015-2023 to the California Department of Housing and Community Development for Review and Certification Per State Law (Staff Contact: Felix Reliford, 408-586-3071)**

Background: Under state law, Section 65302(c) of the Government Code requires a Housing Element as a mandatory element of the General Plan, which needs to be updated every eight years. All local jurisdictions must have a General Plan that includes a Housing Element. State law also requires that a General Plan and its constituent elements “comprise” an integrated internally consistent and compatible statement of policies.

State housing element law mandates and requires that the following issues be addressed within the Housing Element:

- Review of prior Housing Element (2009-2014) including analysis of housing production in comparison to mandated housing goals (Regional Housing Needs Allocation-RHNA).
- An analysis of the City’s current and future housing needs.
- An inventory and analysis of housing resources.
- An analysis of governmental and non-governmental constraints to housing production.
- A housing plan setting forth goals, policies, programs and qualified objectives to address City’s housing needs.

Draft Updated Housing Element Public Review Process: On February 25 and March 11, 2014, staff conducted two community meetings on the Draft Housing Element Update to obtain public input and comments on the preparation of the document, prior to the submittal of the draft Housing Element to the Planning Commission and City Council. The community meetings were advertised in the local newspaper, on the City website and on local cable television. Also, meeting notices were mailed to 70 different organizations, agencies, groups and other interested parties.

On May 14, 2014, the Planning Commission received an update on the status of the Housing Element Process. At its meeting on September 10, 2014, the Planning Commission was scheduled to review the draft updated Housing Element. Staff provided a recommendation to the Planning Commission that it recommend approval to the Council. The City Council will be updated as to the outcome of the Commission’s vote at the September 16 Council meeting.

After City Council review, consideration of comments and approval of the Draft Updated Housing Element, the document will be forwarded to HCD for review and consideration for certification. After responding to HCD comments, and receiving final certification, the Draft Updated Housing Element will be scheduled for public hearings before the Planning Commission and City Council for final adoption along with the environmental assessment (anticipate negative declaration since no new major land uses are being proposed or any other significant impacts) and other ordinance amendments. Staff estimates the public hearings for adoption will be held in December 2014 or January 2015. State law requires the Housing Element be certified by HCD before January 31, 2015.

New Policies

The Draft Updated Housing Element includes several new policies for the City Council’s consideration:

- Support development and preservation of affordable housing and housing individuals with special needs.
- Advocate for policies and legislation at the state and federal level that increase the funding available to support the development and preservation of affordable housing.
- Implementation of policies to support SB 375 (global warming).
- Implementation of polices to support AB 162 to address potential natural disasters.
- Implementation of outreach program with San Andreas Regional Center that informs residents on housing and services available to persons with developmental disabilities.

State law prohibits treating Transitional and Supportive Housing differently than other housing in residential zoning districts. Since mixed use zoning districts allows residential, transitional

and supportive housing must be permitted by law within these zoning districts. Staff will return to the Council with zoning ordinance amendments in compliance with state law at a later date. See Housing Element Summary (in agenda packet) for other considerations.

Fiscal Impact: None.

Recommendations:

1. Open the public hearing to receive comments.
2. Move to close the public hearing following any comments.
3. Authorize staff to submit the Draft Updated General Plan Housing Element 2015-2023 to the California Department of Housing and Community Development for review and certification per state law.

XV. UNFINISHED BUSINESS

3. Receive Progress Report on Street Light Improvements Project, Project No. 4266 (Staff Contact: Steve Chan, 408-586-3324)

Background: The City of Milpitas operates and maintains approximately 4,500 street lights. 3,000 of the city street lights are High Pressure Sodium (HPS) fixtures, and the remaining 1,500 are a mixture of metal halide, induction lighting, and decorative lighting fixtures.

As part of the Street Light Improvements Project, CIP No. 4266, a pilot program was implemented to retrofit a number of existing HPS street lights to more energy efficient Light Emitting Diode (LED) fixtures and determine the benefits associated with the LED installations.

On April 15, 2014, the City Council approved the purchase of 1,000 LED street light fixtures for a total cost of \$114,187.50. Installation of these LED fixtures was completed by Public Works staff in early September 2014, resulting in a \$30,000 savings as compared to private contractor installation. The early completion of LED retrofit by in-house staff allows the City to file for a reimbursement under PG&E LED Rebate Program, which expires in December 2014. Staff anticipates \$62,500 to be returned to the City from PG&E LED Rebate Program.

Additionally, the 1,000 new LED street light fixtures installed are expected to generate \$52,482 annual savings based on the current PG&E's LED energy usage rate schedule. The rate of return on investment for this LED pilot program is projected to be less than two years. Staff is preparing to continue the LED retrofit program under CIP No. 4266 using remaining available funds.

Fiscal Impact: Annual energy savings of \$52,482 will be realized based on the current LED installation.

Recommendation: Receive staff report on Street Light Improvements Project No. 4266.

4. Receive Update on Environmental Litigation Request for Qualifications Process (Staff Contact: Michael Ogaz, 408-586-3040)

Background: In June 2014, during closed session the City Council considered various options to address the persistent odor problems affecting Milpitas residents. The Mayor and Councilmembers have been approached periodically by the community and asked what might be done to eliminate the odor problem.

For more than one year, the City has attempted to negotiate with the landfill operator in the hopes of finding an acceptable solution, but these negotiations have not proven fruitful and were halted near the beginning of this year. In addition, while the City filed a lawsuit challenging the California Environmental Quality Act (CEQA) environmental impact report - which would allow

expansion of the landfill - that lawsuit is on appeal and there is no assurance it will result in the long-term solution sought.

Consequently, the Council chose to move forward with a Request for Qualifications (RFQ) process to initiate a nation-wide search for an environmental litigation team that might guide and represent the City in meeting its goal of eliminating the constant odors emanating from the nearby landfill and other contributing sites and of working towards the closure of the landfill.

At this point, the RFQ is ready for publication and will be available September 19, 2014. It will request that environmental law firms submit their qualifications for this undertaking to the City Attorney by October 31, 2014. Review of the submittals will result in a limited number of interviews and finalist selection. Staff hopes to provide a recommended firm to the City Council for interview in November.

Fiscal Impact: The RFQ process has no fiscal impact. The ultimate award of a contract for litigation services will be reflected in the contract amount for each fiscal year.

Recommendation: Note the proposed process for the Request for Qualifications for environmental law firms, make any recommendations for changes to the process, or otherwise provide feedback to the City Attorney.

XVI. REPORT OF MAYOR

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

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

Youth Advisory Commission:

Re-appoint Sabina King as a regular member to a term that will expire in September 2015.
Re-appoint Sahil Hansalia as a regular member to a term that will expire in September 2015.
Re-appoint Sahil Sandhu as a regular member to a term that will expire in September 2015.
Appoint Jacqueline Ajero (current Alternate No. 1) as a voting member to a term that will expire in September 2015.
Appoint Jonathan Mendoza (current Alternate No. 3) as a voting member to a term that will expire in September 2015.
Newly appoint Alan Pham as a regular member to a term that will expire in September 2015.
Newly appoint Jashandeep Chahal as Alternate No. 1 to a term that will expire in Sept. 2015.
Newly appoint Claudia Wang as Alternate No. 2 to a term that will expire in September 2015.
Newly appoint Ravit Sharma as Alternate No. 3 to a term that will expire in September 2015.
Newly appoint Christie Maly as Alternate No. 4 to a term that will expire in September 2015.

Emergency Preparedness Commission:

Re-appoint Stephen Strauss as a regular member to a term that will expire in June 2016.

Copies of Commission applications from all new recommendations and any others on file are included with the Council's agenda packet.

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

XVII. NEW BUSINESS

6. Review and Approve Illustrative Site Development Plan for the Proposed Montague Village Park Located in the Piper-Montague Sub-District of the Transit Area Specific Plan (Staff Contact: Scott Ruhland, 408-586-3274)

Background: The Piper-Montague Sub-District of the Transit Areas Specific Plan (TASP) contains the area generally bound by Montague Expressway, Piper Drive, South Milpitas Boulevard and the Gibraltar Drive industrial area (Attachment 1). This area has been master planned by three developers including Citation Homes, RGC Development and Barry Swenson Builder. This area will have approximately 2,000 housing units when development of the currently approved projects is complete.

The TASP originally programmed two smaller parks in this area at 1.6 and 1.7 acres each. However, the overall development concept submitted by the three developers includes a single 3.3 acre park located in the middle of the sub-district along the proposed Garden Street. The proposed park is surrounded by a public loop road, Merry Loop, connecting to Garden Street, which runs east-west. The proposed park is commensurate in size with the original two-park concept. The single-park concept was reviewed and endorsed by the Parks, Recreation and Cultural Resources Commission on October 6, 2008. It was also reviewed and approved by the City Council with its approval of the master tentative map for the Milpitas Station project on October 21, 2008. The Citation Homes development was reviewed and approved by the City Council on February 17, 2009.

Consistent with *TASP Policy 3.46*, the park contains passive recreational facilities, two tot lots with playground structures, picnic and BBQ areas, and opportunities for dog-walking. The park also contains four tennis courts with lights; an amphitheater with a shade structure and a community center (Attachment 2). The conceptual design of the park was reviewed and endorsed by the Parks, Recreation and Cultural Resources Commission on September 10, 2012, and again on October 7, 2013. The park will be constructed by Citation Homes and is anticipated to begin early next year with completion and acceptance by the City sometime late 2015 or early 2016.

Fiscal Impact: None.

Recommendation: Approve the park design for the proposed Montague Village Park located in the Piper-Montague Sub-District of the Transit Area Specific Plan area.

XVIII. ORDINANCE

- * 7. **Waive the Second Reading and Adopt Ordinance No. 38.817 to Amend the Milpitas Zoning Code to Extend Sunset Date from June 16, 2014 to June 16, 2016 to Allow Process for Re-Establishment of Discontinued Non-Conforming Uses Within Midtown and Transit Area Specific Plan Areas (Staff Contact: Scott Ruhland, 408-586-3274)**

Background: On September 2, 2014, the City Council introduced Ordinance No. 38.817 to allow for re-establishment of discontinued uses in the Specific Plan areas that cease operation for one year or more by extending the sunset date of said uses from June 16, 2014 to June 16, 2016.

Recommendations:

1. Waive the second reading of Ordinance No. 38.817.
2. Adopt Ordinance No. 38.817 extending the sunset date from June 16, 2014 to June 16, 2016 to allow a process for re-establishment of discontinued non-conforming uses within the Midtown and Transit Area Specific Plan areas.

XIX. RESOLUTION

- * 8. **Adopt a Resolution Amending List of Designated Full Disclosure Positions for the City of Milpitas' Conflict of Interest Code (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: California's Political Reform Act requires that the City Council review the City's Conflict of Interest Code biennially (in even-numbered years) to determine if it is up to date or if changes are necessary. The City's Conflict of Interest Code was last reviewed and amended on September 18, 2012 per adoption of Resolution No. 8197. Job classifications need to be added

and the list of positions updated appropriately for those City officials required to file FPPC Form 700. This year, one change to the list of Commissioners who file is included.

A resolution including an amended Appendix adopting the City's Conflict of Interest Code, to incorporate the changes, is included in the Council's agenda packet.

Recommendation: Adopt a resolution updating the list of employee classifications and Commissioners required to file a Statement of Economic Interests (Form 700) per the Conflict of Interest Code.

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, OCTOBER 7, 2014**