



MILPITAS CITY COUNCIL AGENDA TUESDAY, NOVEMBER 4, 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: Milpitas Employees Association (MEA), Mid-Management and Confidential (Mid-Con), 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
 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** (Mayor Esteves)
- VI. **APPROVAL OF COUNCIL MEETING MINUTES** – October 21, 2014
- VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDAR** – November 2014
- VIII. **PRESENTATION**

Recognition of Mr. Dalwinder Singh Dhoot, Chairman of North American Punjabi Association
- 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. UNFINISHED BUSINESS

- * 1. **Receive the Monthly Update of the Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

XV. REPORT OF MAYOR

- * 2. **Consider Mayor's Recommendation of Re-Appointment to the Recycling and Source Reduction Advisory Commission (Contact: Mayor Esteves, 408-586-3029)**

XVI. NEW BUSINESS

- 3. **City of Milpitas Preliminary Year End Financial Report for the Fiscal Year Ended June 30, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**
- * 4. **Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

XVII. RESOLUTIONS

- * 5. **Adopt a Resolution Granting Initial Acceptance of Certain Public Improvements and Approving a Reduction in Performance Bond for Offsite Sewer Line 11A and a Portion of Line 11B Improvements, Project No. 2709 (Staff Contact: Ahmed Aly, 408-586-3325)**
- * 6. **Adopt a Resolution Granting Initial Acceptance of Certain Public Improvements and Approving a Reduction in Performance Bond for Sewer Line 11B-2 / 11C Improvements, Project No. 2762 (Staff Contact: Ahmed Aly, 408-586-3325)**
- * 7. **Adopt a Resolution Authorizing the Purchase of Ten Police Vehicles from the National Auto Fleet Group in the Amount Not-To-Exceed \$344,957 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

XVIII. AGREEMENTS

- * 8. **Approve Agreement with Artists Joe Bologna and Patricia Vader for the Cardoza Park Public Art Project (Staff Contact: Renee Lorentzen, 408-586-3409)**
- * 9. **Authorize the Chief of Police to Execute the Agreement with the County of Santa Clara for the 2015 Avoid the 13 Grant Program (Staff Contact: Daryl Sequeira, 408-586-2434)**
- * 10. **Approve Consultant Agreement with The Shalleck Collaborative, Inc., for Community Center Auditorium AV System Design Services for an Amount Not-to-Exceed \$28,000, Project No. 3406 (Staff Contact: Steve Erickson, 408-586-3301)**
- * 11. **Approve Amendment No. 2 to the Agreement with Peelle Technologies, Inc. to Increase the Amount of Compensation of the Agreement for Document Imaging Services to the Annual Not-to-Exceed Amount of \$75,000 and Approve a Budget Appropriation (Staff Contact: Chris Schroeder, 408-586-3161)**

XIX. ADJOURNMENT

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:

Bicycle Pedestrian Advisory Commission

Recycling and Source Reduction Advisory Commission (Business and MUSD members)

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. UNFINISHED BUSINESS

- * 1. **Receive the Monthly Update of the Odor Control Report (Staff Contact: Jeff Moneda, 408-586-3345)**

Background: From September 17 through October 12, 2014, the Bay Area Air Quality Management District (BAAQMD) received thirteen odor complaints originating in Milpitas. Eight complaints identified a garbage odor, one complaint identified a sewage odor, four complaints did not identify an odor source, and no complaints identified a mixed odor source. As of the last Council update, the City's odor reporting website has received sixty-eight reported complaints.

Recommendation: Receive the odor report update.

XV. REPORT OF MAYOR

- * 2. **Consider Mayor's Recommendation of Re-Appointment to the Recycling and Source Reduction Advisory Commission (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends re-appointment of Conrad Chua to the Recycling and Source Reduction Advisory Commission as Alternate No. 2 to a term that will expire in October 2016.

Recommendation: Receive Mayor's recommendation and move to approve re-appointment to the Recycling and Source Reduction Advisory Commission.

XVI. NEW BUSINESS

- 3. **City of Milpitas Preliminary Year End Financial Report for the Fiscal Year Ended June 30, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: The preliminary year end financial report indicates that total General Fund revenue was above the adopted budget by approximately \$12.1 million. While the increase in revenues reflects general economic recovery, the FY 2013-14 revenue also includes a one-time Redevelopment Agency (RDA) settlement distribution of \$6.3 million from the County of Santa Clara due to the settlement of a lawsuit. In June 2014, the City, the Economic Development Corporation and the Successor Agency of the former RDA jointly settled the lawsuit with the County of the Santa Clara and the State of California regarding transfer of RDA assets. As a result of the settlement, the City and EDC paid the County \$41.9 million, funds which were subsequently distributed to all the taxing entities within the jurisdiction of the former RDA. The City of Milpitas is one of the taxing entities and was entitled to receive \$6.3 million as its share. However, due to the fact that some of the EDC cash was already expended to purchase land and fund capital improvement projects, in order to make up for the cash shortfall, in addition to borrowing \$5 million from the 2% Transient Occupancy Tax (TOT) fund, the General Fund has to pay \$18.5 million and the City has to assume the liability of \$6 million that is still owed to the seller of McCandless property.

Aside from the one time RDA settlement distribution of \$6.3 million, the remaining General Fund revenue exceeded the budget by about \$5.8 million. The biggest contributor for the increase came from property tax revenue, transient occupancy tax (hotel tax) and building permit fees. Property tax revenue increased by \$1.1 million over budget due to recovery of the housing market and increased assessed valuations on most properties. The City also received \$3.4 million distribution from the Redevelopment Property Tax Trust Fund (RPTTF). The amount is \$1 million more than anticipated, again due to the housing market recovery and increased assessed valuations of properties in the RDA Project Area. The \$3.4 million distribution represents the

City's share of the residual RDA property tax revenue, after satisfying the recognized debt obligations of the former RDA.

The hotel tax revenue exceeded budget by \$1.4 million, reflecting economic recovery in this region. Building permit and plan check fees were above budget by about \$1.9 million due to increased housing development activities in the Transit Area. The only major revenue that was below budget was sales tax revenue. Sales tax revenue was below budget by \$1.1 million. While restaurants and miscellaneous retail continue to show improvement in sales tax revenue, sales generated from the office equipment and electronic equipment segments declined compared to last fiscal year.

On the expenditures side, the report shows that City departments achieved savings in the General Fund operating budget of 4.7% (approximately \$3.1 million). The combination of improved revenue and budget savings resulted in a net income of \$15.6 million. However, the General Fund also paid \$18.5 million to settle the lawsuit mentioned above. Consequently, the unassigned fund balance of the General Fund decreased by \$2.9 million. The only positive outcome of the settlement is that the City acquired and retained control of the McCandless property that will be developed into a school site and park land.

Recommendation: Receive the preliminary year-end financial report for the Fiscal Year ended June 30, 2014.

* **4. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended September 30, 2014 is submitted for review and acceptance.

The Portfolio Summary Report (included in the Council's packet) provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of September 30, 2014.

As of September 30, 2014, the principal cost and market value of the City's investment portfolio was \$152,495,303 and \$152,417,238 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended September 30, 2014 was 0.63%. The comparative benchmarks for the same period were 0.25% for LAIF (Local Agency Investment Fund) and 0.41% for the 12-month average yield of the 2-year Treasury Note. The weighted average maturity of the portfolio was 521 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Market values of the securities were provided by BNY Mellon, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of BNY Mellon under the terms of a custody agreement.

Three charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None.

Recommendation: Receive the investment report for the quarter ended September 30, 2014.

XVII. RESOLUTIONS

- * 5. **Adopt a Resolution Granting Initial Acceptance of Certain Public Improvements and Approving a Reduction in Performance Bond for Offsite Sewer Line 11A and a Portion of Line 11B Improvements, Project No. 2709 (Staff Contact: Ahmed Aly, 408-586-3325)**

Background: On June 19, 2012, the City Council approved a fee credit agreement (FCA) with DR Horton for the Harmony Project (Tracts 10137, 10159) located at the intersection of McCandless and Montague Expressway. The FCA was for the construction of certain public improvements including Offsite Sewer 11A and a Portion of 11B as identified in Public Improvement Plan No. 2-1153. The public improvements included the construction of a new 27-inch sewer pipe along South Main Street from Curtis Avenue to just south of Great Mall Parkway, a jack and bore operation under the Union Pacific Railroad line, and construction of an 18-inch sewer pipe along Great Mall Parkway ending 250 feet east of the McCandless Drive intersection.

These public improvements were completed by the developer per the approved improvement plans and are now ready for initial acceptance and ownership by the City in accordance with the FCA. The developer's performance bond may be reduced to \$225,000, which is 10% of the improvement amount in accordance with the FCA and the Subdivision Improvement Agreement.

Fiscal Impact: None. All costs associated with this acquisition will be paid via various fee credits in-lieu of payment.

Recommendation: Adopt a resolution granting initial acceptance of public improvements for Sewer Line 11A and portion of 11B, Improvement Plan No. 2-1153, (Tracts 10137, 10159), Project No. 2709, subject to a one-year warranty period and reduction of the faithful performance security to \$225,000.

- * 6. **Adopt a Resolution Granting Initial Acceptance of Certain Public Improvements and Approving a Reduction in Performance Bond for Sewer Line 11B-2 / 11C Improvements, Project No. 2762 (Staff Contact: Ahmed Aly, 408-586-3325)**

Background: On March 19, 2013, the City Council approved an acquisition and reimbursement agreement (ARA) with Contour Trade Zone, LLC for the PACE Project (Tract 10138) located at the intersection of Trade Zone Blvd and Montague Expressway. The ARA was for the construction of certain public improvements identified in Public Improvement Plan No. 2-1159 for Sewer 11B-2/11C. The public improvements included the upsizing of the existing sewer pipe along Montague Expressway from the PACE project Frontage to Great Mall Parkway and continuing along Great Mall Parkway from Montague Expressway to a point 250 feet east of the McCandless Drive Intersection.

These public improvements have been completed by the developer per the approved improvement plans and are now ready for initial acceptance and ownership by the City in accordance with the ARA. The developer's performance bond may be reduced to \$220,000, which is 10% of the improvement amount in accordance with the ARA.

Fiscal Impact: None. All costs associated with this acquisition will be paid via various fee credits in-lieu of payment.

Recommendation: Adopt a resolution granting initial acceptance of public improvements for Sewer Line 11B-2 / 11C, Improvement Plan No. 2-1159, (Tract 10138), Project No. 2762, subject to a one-year warranty period and reduction of the faithful performance security to \$220,000.

- * 7. **Adopt a Resolution Authorizing the Purchase of Ten Police Vehicles from the National Auto Fleet Group in the Amount Not-To-Exceed \$344,957 through a Cooperative Procurement Contract (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: The Police Department's Fiscal Year 2014-15 budget includes purchase of ten vehicles: four 2015 Ford Sedan Police Interceptors and two Ford 2015 Ford Utility Police Interceptors, including fitting them with standard push bars. It also includes one Toyota Sienna Minivan, one Ford Taurus Sedan, and two Ford Fusion Hybrids, to replace equipment that has reached the end of its useful life. This is a cooperative purchase through the National Joint Powers Alliance (NJPA). Cooperative purchasing through NJPA is specifically authorized pursuant to Municipal Code Section I-2-3.08 "Cooperative Procurement." The Purchasing Agent reviewed all of the documentation from the National Joint Powers Alliance Request for Proposal (RFP) #102811 entitled "Passenger Cars, Light Duty, Medium Duty, and Heavy Duty Trucks with Related Accessories" and determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas. The price for the vehicles is the same as that offered in the original agreement.

Fiscal Impact: None. Sufficient funding is in the FY 2014-15 Equipment Replacement and Asset Forfeiture Funds for this purchase.

Recommendation: Adopt a resolution authorizing the purchase of ten police vehicles from the National Auto Fleet Group for the not-to-exceed amount of \$344,957 through a cooperative procurement contract in accordance with the Milpitas Municipal Code.

XVIII. AGREEMENTS

- * 8. **Approve Agreement with Artists Joe Bologna and Patricia Vader for the Cardoza Park Public Art Project (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: On June 17, 2014, the City Council approved the "Kicker Kid" public art piece for Cardoza Park public art project by Artist Team Joe Bologna and Patricia Vader. The public art piece is to be located near the park entrance, adjacent to the sport fields and public picnic areas for the enjoyment of park visitors. As approved, the total project budget will be \$20,000. The project is scheduled to be completed no later than the fall of 2015.

Fiscal Impact: None. Sufficient funds are allocated for this project in the Public Art budget.

Recommendation: Approve the agreement with artists Joe Bologna and Patricia Vader in the amount of \$20,000 for public art piece Kicker Kid at Cardoza Park.

- * 9. **Authorize the Chief of Police to Execute the Agreement with the County of Santa Clara for the 2015 Avoid the 13 Grant Program (Staff Contact: Daryl Sequeira, 408-586-2434)**

Background: The County of Santa Clara is administering the 2015 "Avoid the 13" grant program that offers grant funds from the California Office of Traffic Safety to reimburse law enforcement agencies for overtime expenditures specifically directed towards Driving Under the Influence (DUI) enforcement. Goals of the program are to apprehend drunk drivers and to reduce the number of people killed or injured in alcohol-related collisions. The City of Milpitas was approved for an \$11,500 grant to conduct DUI saturation patrols and a DUI checkpoint on an overtime basis in conjunction with the countywide Avoid the 13 program between October 1, 2014 and September 30, 2015.

Fiscal Impact: None. The overtime expenditures will be reimbursed by the grant.

Recommendations:

1. Authorize the Chief of Police to execute the agreement with the County of Santa Clara for the 2015 Avoid the 13 grant program.
2. Approve a budget appropriation in the amount of \$11,500 to the Police Department overtime budget as a result of the 2015 Avoid the 13 grant program.

- * **10. Approve Consultant Agreement with The Shalleck Collaborative, Inc., for Community Center Auditorium AV System Design Services for an Amount Not-to-Exceed \$28,000, Project No. 3406 (Staff Contact: Steve Erickson, 408-586-3301)**

Background: The replacement of the Community Center Auditorium Audio and Video (AV) System, Project No. 3406 is included in the City's approved 5-year Capital Improvement Program. The auditorium AV systems were installed many years ago, the aging equipment is problematic, no longer serviceable, and requires replacement. This project will provide for the design and installation of replacement audio equipment as the first priority, and if budget allows, replacement video equipment will also be installed.

The Shalleck Collaborative, Inc. has been selected through a competitive process to provide the design services for the replacement of the Community Center Auditorium AV equipment Project No. 3406. Staff negotiated a scope and fee for these services not to exceed \$28,000.

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

Recommendation: Approve a consultant agreement with The Shalleck Collaborative, Inc. in the not-to-exceed amount of \$28,000 and for a term from November 4, 2014 to November 4, 2016 for design services for replacement of the Community Center Auditorium AV equipment, Project No. 3406.

- * **11. Approve Amendment No. 2 to the Agreement with Peelle Technologies, Inc. to Increase the Amount of Compensation of the Agreement for Document Imaging Services to the Annual Not-to-Exceed Amount of \$75,000 and Approve a Budget Appropriation (Staff Contact: Chris Schroeder, 408-586-3161)**

Background: On February 20, 2013, Council awarded a contract for seventeen months for document imaging services related to the City's records for the Building Department. The contract was based on a Request for Proposal conducted by the City of Dublin and Peelle Technologies, Inc. was awarded the contract for the period from November 6, 2012 to July 31, 2014. The City's Purchasing Agent determined the City of Dublin's Request For Proposal process met all of the requirements in Milpitas Municipal Code Section I-2-3.07 (Piggyback Procurement) and the City Council previously approved an agreement for the purchase of imaging and scanning services related to the City's records for the total annually of \$85,000 for a term from February 20, 2013 to July 31, 2014.

The City of Dublin extended the term of its agreement with Peelle Technologies, Inc. from July 31, 2014 to July 31, 2016. The City of Milpitas extended the City of Milpitas agreement with Peelle for the same period, but reduced the annual amount of the agreement to \$50,000 based on the then current needs of the Building Inspection department.

City staff recommends amending the agreement with Peelle by increasing the annual compensation by \$25,000 per year for the period July 31, 2014 to July 31, 2016 for imaging services for the Fire Department, for the annual total of \$75,000.

Fiscal Impact: This work was unforeseen when the budget was developed for Fiscal Year 2014-15. The Fire Department currently has \$10,000 and needs an additional appropriation of \$15,000 from the Permit Automation Fund.

Recommendations:

1. Approve Amendment No. 2 to the agreement with Peelle Technologies, Inc. increasing compensation for document imaging services from July 31, 2014 to July 31, 2016 to the annual not-to-exceed amount of \$75,000.
2. Approve a budget appropriation of \$15,000 from the Permit Automation Fund.

XIX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 18, 2014**