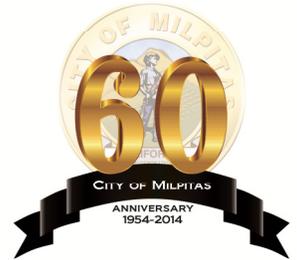




MILPITAS CITY COUNCIL AGENDA TUESDAY, DECEMBER 16, 2014

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: 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, EXISTING LITIGATION**
Pursuant to California Government Code Section 54956.9(a)
City of Milpitas v. City of San Jose, et al., California Court of Appeal, Sixth District, case no. H040664, Appeal from Santa Clara County Superior Court, case no. 1-12-CV-2330689
 3. **CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code Section 54956.9(d)(4)
City as Plaintiff
- III. **CLOSED SESSION ANNOUNCEMENT:** Report on any 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** – December 2, 2014
- VII. **SCHEDULE OF MEETINGS – COUNCIL CALENDARS** – December 2014 and January 2015
- VIII. **PRESENTATIONS**

Commendations will be presented by the Mayor:

 - Recognition of Milpitas Unified School District staff for supporting Inter-School Science Fair
 - Certificate to No on Measure E Committee
 - Recognition of Shen Yun 2015 World Tour
- 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. **Conduct a Public Hearing to Review Community Development Block Grant Policies and Appropriate Funding Priorities (Staff Contact: Felix Reliford, 408-586-3071)**
- 2. **Conduct a Public Hearing to Consider the Planning Commission Recommendation to Adopt a Resolution Denying the Major Tentative Map, Site Development Permit and Conditional Use Permit Amendments related to a Mixed Use Development by Integral Communities at 1400 McCandless Drive – District 1 (Staff Contact: Steve McHarris, 408-586-3273)**
- 3. **Conduct a Public Hearing to Consider the Planning Commission Recommendation Adopt a Resolution denying the Major Tentative Map, Site Development Permit and Conditional Use Permit for Residential/Commercial Development by Integral Communities in the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan (Staff Contact: Steve McHarris, 408-586-3273)**

XV. REPORT OF MAYOR

- 4. **Hear Report from Mayor Esteves on Appointments to Various City and Outside Committees and Commissions, and Proposed Campaign Finance Committee (Contact: Mayor Esteves, 408-586-3029)**

XVI. NEW BUSINESS

- * 5. **Receive Financial Status Report for the Three Months Ended September 30, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

XVII. ORDINANCE

- * 6. **Adopt Ordinance No. 128.12 Amending Section 2, Chapter 14, Title I of the Milpitas Municipal Code Relating to City Council Salaries (Staff Contact: Carmen Valdez, 408-586-3086)**

XVIII. RESOLUTION

- 7. **Adopt Resolution Certifying the Appointment of Felix Reliford, Retired Annuitant, to Serve as Part-Time Principal Housing Planner Necessary to Fill a Critically Needed Position Pursuant to the California Public Employees Reform Act of 2013 (Staff Contact: Steve McHarris, 408-586-3273)**

XIX. AGREEMENTS

- * 8. **Approve Amendment No. 1 to the Agreement with RMC Water and Environment to Increase Compensation in the Additional Amount of \$575,000 for Dempsey Road Water Line Replacement, Projects No. 7118, No. 7117, No. 7100, and No. 3709 and Approve a Budget Appropriation of \$575,000 (Staff Contact: Steve Erickson, 408- 586-3301)**
- * 9. **Approve Amendment No. 3 to the Agreement with Vali Cooper & Associates, Inc. To Extend the Term and Increase the Compensation in the Additional Amount of \$300,000 to Continue Support on the Silicon Valley Rapid Transit Program Berryessa BART Extension Project (Staff Contact: Steve Erickson, 408-586-3301)**

XX. 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
- Economic Development Commission (MUSD member)
- Emergency Preparedness Commission
- Planning Commission
- Recycling and Source Reduction Advisory Commission (Business and MUSD members)
- Telecommunications Commission
- Veterans 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 408-586-3001 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. Conduct a Public Hearing to Review Community Development Block Grant Policies and Appropriate Funding Priorities (Staff Contact: Felix Reliford, 408-586-3071)

Background: At the May 6, 2014 meeting, City Council directed staff to return prior to the next Community Development Block Grant (CDBG) funding cycle to review the policies and discuss appropriate funding priorities which best serve the needs of Milpitas residents. In the past, the Council reviewed CDBG funding priorities every two years and approved these priorities:

Public Services

1. Senior Services
2. Youth and Teen Services
3. Homeless Sheltering/Services
4. Child Care
5. Battered Women Sheltering/Services
6. Code Enforcement

Non-Public Services

1. Home Repair/Rehabilitation
2. Affordable Housing
3. Rental Apartment Rehabilitation
4. Historic Preservation

As required by federal Housing and Urban Development (HUD) regulations, 15% of CDBG funds must be allocated to public services, 65% to non-public services, and 20% for program administration. Over the past seven years, City Council has also adopted the following CDBG policies:

- 25% of all Public Service funds shall be allocated to City of Milpitas programs,
- Minimum funding level of \$5,000 shall be allocated for all Public and Non-Public Services, and
- \$15,000 from CDBG Program Administration for all Fair Housing Services (Project Sentinel).

During the last budget session, the City Council added an additional \$10,000 from the Milpitas Housing Authority to increase Project Sentinel funding from \$15,000 (CDBG) to \$25,000. The minimum \$5,000 CDBG allocation was recommended by the service providers, given the cost to administer the CDBG program, including administrative and reporting obligations on their CDBG goals, accomplishments, financial reporting, site monitoring visits.

Review of CDBG Application and Staff Analysis

In the past, staff has considered the following factors in reviewing CDBG applications and making recommendations to the Community Advisory Commission (CAC) which forwards its recommendations to the City Council:

- City Council two-year funding priorities;
- Total number of persons/households benefitting from the program/activity services;
- Total number and percentage of Milpitas persons/households benefitting from the program/activity services benefit;
- Funding requested and dollars spent/per Milpitas residents;
- Funding requested from the previous year(s); and
- Leveraging of CDBG funding with other funding sources;

At its previous CDBG meeting, the Council wished to review the existing policies and funding priorities stated above and requested additional information be included in the analysis for future CDBG funding priorities. Included in the Council agenda packet is a CDBG spreadsheet with additional information and analysis directed by the Council, including funding and units of performance measurement in assisting Milpitas residents. Also, City Council directed staff to

provide additional outreach to teens and youth programs. The CDBG distribution list for future CDBG applications includes outreach to these groups, organizations and agencies. The next CDBG funding cycle starts in January 2015 (submittal of CDBG applications FY 2015-16).

Fiscal Impact: None.

Attachments:

- A. CDBG Funding Analysis
- B. CDBG Child and Youth Outreach List
- C. Letters from CDBG non-profit agencies

Recommendations:

- 1. Open the public hearing to receive comments.
 - 2. Move to close the public hearing after any comments.
 - 3. Direct staff on CDBG funding priorities for the next two CDBG funding cycles.
2. **Conduct a Public Hearing to Consider the Planning Commission Recommendation to Adopt a Resolution Denying the Major Tentative Map, Site Development Permit and Conditional Use Permit Amendments related to a Mixed Use Development by Integral Communities at 1400 McCandless Drive – District 1 (Staff Contact: Steve McHarris, 408-586-3273)**

Background: The Project site is located within the Mixed Use Zoning District (MXD) (see Figure 1 - Zoning Map). The purpose of the MXD zoning district is to encourage a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. In addition, the sites are located within the McCandless/Centre Pointe sub-district of the Transit Area Specific Plan (TASP) which is envisioned to be the best location for successful retail mixed use district, building off the established retail destination of the Great Mall and the visibility along Great Mall. TASP Land Use and Zoning maps also identify the sites as Residential – Retail High Density Mixed Use.

In 2008, the applicant submitted an application for a Tentative Map and Conditional Use Permit to allow the creation of several parcels for the development of two mixed use buildings and six high density residential buildings with a total of 75,000 square feet of retail with a grocery store located on lot 1 and 1,328 dwelling units. The City Council approved the project in 2010. Then, in 2012, the same applicant submitted an application to amend the previous approval to change four of the high density residential buildings to 200 townhouses. The application included a slight increase in retail, adding approximately 6,000 square feet down McCandless. The net result was a net decrease of 226 dwelling units for the area and further concentration of density on the four front parcels.

The proposed Project includes a request to amend a previously approved City Council project in 2012 to remove three previously approved mixed use buildings totaling approximately 561 dwelling units and 33,000 square feet of retail, and replace them with 108 townhouse units over Lot 2 (55 units) and Lot 4 (53 units). The proposed units will be two and three bedrooms with three and four stories and two car garages (tandem and side by side). The proposed development would also include the creation of Market Street and associated site improvements. In addition, the proposed Project removes another previously approved mixed use building located on Lot 3, which is analyzed in a separate development application for the proposed Centre Pointe project (see separate Staff Report). Lastly, the Project includes relocation of the Urban Plaza Park from the Lot 4 side of Market to the Lot 3 side.

The Planning Commission conducted a duly noticed public hearing on Monday, November 24, 2014 and adopted a resolution recommending the City Council deny the proposed project amendments because the proposed Project is inconsistent with the City of Milpitas General Plan, the TASP and the Zoning Ordinance. The Planning Commission found the proposed Project is inconsistent with these plans in five major areas:

1. Failure to comply with the overall vision, goals, and policies of the TASP;
2. Failure to meet the minimum residential density requirements;
3. Failure to meet the minimum commercial-retail requirements;
4. Failure to meet the required location for commercial-retail space;
5. Failure to provide the required high quality architecture.

The proposed Project does not implement the key TASP vision of an attractive high density urban neighborhood with mixed use districts and high profile buildings off of Great Mall Parkway and McCandless Drive. More specifically, the Project proposes ground floor residential uses in Zones where they are not allowed. For example, the proposed townhouses are located on parcels where the TASP envisioned and required very high density mixed use, high profile buildings and high quality architecture. Further, this Project proposes to isolate commercial uses by relocating commercial uses to the very front of the development off of Great Mall Parkway, rather than establishing a mixed use neighborhood down McCandless as prescribed by the TASP. This creates a “strip mall” along Great Mall as opposed to an urban compact mixed-use neighborhood as envisioned in the TASP. Because of these inconsistencies with the General Plan, the TASP and the Zoning Ordinance, the Planning Commission recommended denial of the proposed Project.

The following is a summary of comments from the Planning Commission:

- The proposal is not consistent with the General Plan and TASP.
- Continual changes to the Project have come time and again and during that process we are continually losing the vision of the TASP.
- Concentrating stores on Great Mall does not create an environment to encourage residents out of their homes, it creates a strip mall.
- This is an opportunity site to provide something better for the community.

In summary, the proposed request would result in a total net loss on 500 dwelling units and 28,000 square feet of retail for The District area and the concentration of residential and retail along Great Mall Parkway. The proposed changes erode the vision for the area laid out in the TASP and General Plan.

Conclusion: Based on the reasons describe above and within the Planning Commission staff report, the Planning Commission recommended that the City Council deny the application request to amend District 1 to eliminate Lot 3 (mixed-use building with approximately 169 dwelling units and 27,187 of retail square footage) from District 1 Project, and replace two approximately 400,000 square foot mixed-use buildings on Lots 2 and 4 totaling 392 residential units and approximately 6,000 square feet of commercial-retail space with 108 townhouse dwelling units.

Fiscal Impact: None if denied. If approved, the project would result in a net loss of approximately \$17 million in TASP fees, \$3 million in CFD fees over 10 years (\$9 million over 30 years) and the loss of local jobs and sales tax revenue.

Attachments:

- A. Draft City Council Resolution
- B. 11-24-14 Planning Commission Staff Report
- C. 11-24-14 Planning Commission Meeting Minutes
- D. Adopted Planning Commission Resolution 14-036
- E. Site Development Plans
- F. Vesting Major Tentative Map
- G. 8/14/13 Incomplete Letter
- H. 12/11/13 Incomplete Letter
- I. 5/7/14 Incomplete Letter
- J. 9/9/14 Incomplete Letter

Recommendations:

1. Open the public hearing to receive comments.
2. Move to close the public hearing after any comments.
3. Per Planning Commission's recommendation, adopt a resolution denying the Major Tentative Map, Site Development Permit and Conditional Use Permit amendments to eliminate Lot 3 (mixed-use building with approximately 169 dwelling units and 27,187 of retail square footage) from District 1 Project, and replace two approximately 400,000 square foot mixed-use buildings on Lots 2 and 4 totaling 392 residential units and approximately 6,000 square feet of commercial-retail space with 108 townhouse dwelling units on 4.79 acres at 1400 McCandless Drive, District 1 by Integral Communities.

3. Conduct a Public Hearing to Consider the Planning Commission Recommendation Adopt a Resolution denying the Major Tentative Map, Site Development Permit and Conditional Use Permit for Residential/Commercial Development by Integral Communities in the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan (Staff Contact: Steve McHarris, 408-586-3273)

Background: The proposed Project includes entitlement requests to create three (3) neighborhoods within the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan (TASP): Neighborhoods 'A', 'B', and 'C', are comprised of 603 dwelling units and 55,431 square feet of commercial space. Neighborhood A contains one large seven story mixed use structure with 362 apartment units and all of the commercial square footage. The apartments consist of one and two bedroom units. Neighborhoods B and C contain 241 condominium/townhome units comprised of two and three bedrooms with three and four stories and two car garages (tandem and side by side) located at the ground floor. The proposed development would also include the creation of local streets and associated site improvements. The site is located within a variety of zoning districts. However, the predominant zone is the High Density Mixed Use Zoning District (MXD2) (See Figure 1 - Zoning Map). The purpose of the MXD2 zoning district is to encourage a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. In addition, the sites are located within the McCandless/Centre Pointe and Montague Corridor sub-districts of the TASP. The McCandless/Centre Pointe sub-district envisions this area to be the best location for successful retail mixed use district, building off the established retail destination of The Great Mall and the visibility along Great Mall Parkway. The Montague Corridor sub-district envisions a Grand Boulevard with lush landscaping and a row of high profile buildings. The TASP land use map also identifies the sites as Residential – Retail High Density Mixed Use, Boulevard Very High Density Mixed Use, and High Density Transit Oriented Residential (see Figure 2 – TASP Land Use Plan).

The Planning Commission conducted a duly noticed public hearing on November 24, 2014 and adopted a resolution by a 4 to 1 vote recommending the City Council deny the proposed Project. The Planning Commission found the proposed Project is inconsistent with the City of Milpitas General Plan, the TASP and the Zoning Ordinance. The proposed Project is inconsistent with these plans in the following general areas:

1. Failure to comply with the overall vision, goals, and policies of the TASP;
2. Inconsistent location of residential uses where they are unpermitted;
3. Failure to meet minimum residential density requirements;
4. Failure to locate commercial-retail space as required;
5. Failure to provide the required street network and park acreage;
6. Failure to provide the required high quality architecture.

The proposed Project does not implement the key TASP vision of an attractive high density urban neighborhood with mixed use districts and high profile buildings off of Montague Expressway. More specifically, the project proposes ground floor residential uses in zoning districts where they are not allowed. Additionally, these three to four story

condominium/townhome units are located on parcels where the TASP envisions very high density mixed use and high profile buildings. Further, similar to the “District” project, this Project proposes relocating commercial uses to the front of the development along Great Mall Parkway, rather than establishing mixed use neighborhoods as prescribed and envisioned by the TASP. The Project’s circulation system does not match the street network identified in the TASP. Lastly, the architecture of the proposed mega-structure along Great Mall Parkway is not consistent with the approved design for the District I project. Due to these inconsistencies with the General Plan, the TASP and the Zoning Ordinance, the Planning Commission recommended denial of the project.

Conclusion: Based on the analysis described above and within the Planning Commission Staff report, the Planning Commission recommended that the City Council deny the application request for 362 apartment units, approximately 55,431 square feet of commercial space in a mixed use building and approximately 241 condominium/townhouse units and associated site improvements for a project located in the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan (TASP).

Fiscal Impact: None.

Attachments:

- A. Draft City Council Resolution
- B. 11-24-14 Planning Commission Staff Report
- C. 11-24-14 Planning Commission Meeting Minutes
- D. Adopted Planning Commission Resolution 14-038
- E. Site Development Plans
- F. Major Tentative Map
- G. Incomplete Letters

Recommendations:

- 1. Open the public hearing to receive comments.
- 2. Move to close the public hearing after any comments.
- 2. Per Planning Commission’s recommendation, adopt a resolution denying the Major Tentative Map, Site Development Permit and Conditional Use Permit for 362 apartment units, approximately 55,431 square feet of commercial space in a mixed use building and approximately 241 condominium/townhouse units and associated site improvements located in the McCandless/Centre Pointe and Montague Corridor Sub-Districts of the Transit Area Specific Plan for the Centre Pointe project by Integral Communities.

XV. REPORT OF MAYOR

- 4. Hear Report from Mayor Esteves on Appointments to Various City and Outside Committees and Commissions, and Proposed Campaign Finance Committee (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves provides the City Council with his recommendations for appointments to various Commissions, Committees, County-wide organizations (e.g. VTA), etc. and will discuss creation of an ad hoc committee to make recommendations on campaign reform.

1) For City of Milpitas residents on City Commissions, the Mayor recommends:

Bicycle Pedestrian Advisory Commission:

Appoint current Alternate No. 1 Kristal Caidoy as a regular voting member to a term that will expire in August of 2017.

Move current Alternate No. 2 Samuel Usal into the seat as Alternate No. 1 to a term that will expire in August of 2016.

Newly appoint Williams Barnes as Alternate No. 2 to a term that will expire in August of 2015.

Planning Commission:

Re-appoint current Commissioner Larry Ciardella to a term that will expire in December of 2017.

Recycling and Source Reduction Advisory Commission:

Appoint current Alternate No. 1 Eddie Inamdar as a regular voting member to a term that will expire in October of 2017.

Move current Alternate No. 2 Conrad Chua into the seat as Alternate No. 1 to a term that will expire in October of 2015.

Newly appoint Manpreet Badesha as Alternate No. 2 to a term that will expire in October 2016.

Veterans Commission,

Appoint current Alternate No. 1 Allen Thomas as a regular voting member.

Move current Alternate No. 2 Andre Ramones into the seat as Alternate No. 1.

Both appointments are to terms that will expire in February of 2016.

Copies of applications for new appointments are included in the agenda packet.

2) Mayor Esteves recommends City Councilmembers to serve as liaisons to City Commissions and as appointed members to various outside agencies. A list of his recommendations is provided in the Council's agenda packet.

3) Mayor Esteves recommends the establishment of a new Campaign Finance Reform Committee consisting of seven members, including citizens and public officials. Those he recommends to serve on the new Committee are: Jose Esteves, Bill Ferguson, Rajeev Madnawat, Syed Mohsin, Althea Polanski and Rohit Sharma. One additional member may be confirmed at the City Council meeting.

Recommendations:

1. Appoint new Commissioners to the vacant seats and re-appoint members on four City of Milpitas Commissions.
2. Receive recommendation from the Mayor, and approve appointments related to City Councilmember assignments to various policy bodies and as Councilmember liaisons to City Commissions.
3. Authorize the creation of new Campaign Finance Reform Committee to discuss campaign finance reform and confirm appointment of Committee members.

XVI. NEW BUSINESS

- * **5. Receive Financial Status Report for the Three Months Ended September 30, 2014 (Staff Contact: Emma Karlen, 408-586-3145)**

Background: As of September 30, 2014, the General Fund received approximately \$8.4 million in total revenue. This amount is \$0.6 million more than the revenues received for the same period in FY 2013-14 primarily due to increased sales tax revenue, building permit fees and transient occupancy tax revenue. Sales tax revenue was up by about \$172,000 from the same period last year. However, it is too early to predict whether sales tax revenue will exceed or decrease below budget as there may be one-time revenues or corrections that may not recur in future quarters. Transient Occupancy Tax (hotel tax) increased over last year by about \$170,000. Building permit fees continue to be strong. However, about \$567,000 building revenue received to date is related to dedicated building inspection services and is primarily cost recovery for hiring temporary staff. Staff anticipated that the overall General Fund revenue will be on track with the budget.

City departments' expenditures in the first quarter were also on track with their budget. Overall expenditures were at about 24% of the operating budget. It should be noted the expenditures for several departments exceeded 25% for the first three months. However, these spending patterns are typical due to various invoices that need to be paid at the beginning of the fiscal year instead

of being able to spread out throughout the year. Examples of such expenditures include worker comp insurance premium which was paid from the Human Resources budget and software license maintenance fees which were paid from the Information Services Department budget. Non-departmental expenditures also exceeded 25% of the budget due to timing difference for reimbursements from the CalPERS California Employers' Retiree Benefit Trust Fund for retiree medical benefit payments.

Fiscal Impact: None.

Recommendation: Receive financial status report for three months ended September 30, 2014.

XVII. ORDINANCE

- * 6. **Adopt Ordinance No. 128.12 Amending Section 2, Chapter 14, Title I of the Milpitas Municipal Code Relating to City Council Salaries (Staff Contact: Carmen Valdez, 408-586-3086)**

Background: Ordinance No. 128.12 was introduced at the December 2, 2014, Council meeting and is now ready for the second reading and adoption. The Ordinance provides a 5% increase in compensation for the Mayor and City Council effective 30 days after adoption of Ordinance No. 128.12. The increases as allowed under the Government Code, would result in a compensation for the Mayor of \$1,130 (an increase of \$53.08 per month) and compensation for each Councilmember of \$904.37 (an increase of \$43.08 per month).

Fiscal Impact: The 5% salary increase is \$2,714 total per year for all five members.

Recommendations:

1. Waive the second reading of Ordinance No. 128.12.
2. Adopt Ordinance No. 128.12 amending Section 2, Chapter 14, title I of the Milpitas Municipal Code related to Mayor and City Council salary increase.

XVIII. RESOLUTION

7. **Adopt Resolution Certifying the Appointment of Felix Reliford, Retired Annuitant, to Serve as Part-Time Principal Housing Planner Necessary to Fill a Critically Needed Position Pursuant to the California Public Employees Reform Act of 2013 (Staff Contact: Steve McHarris, 408-586-3273)**

Background: Over the past 17 years, Felix Reliford, Principal Housing Planner has managed the City's Community Development Block Grant Program (CDBG) and for the last 12 years, the housing programs. In October, Mr. Reliford informed the City he would retire at the end of 2014. The City is currently recruiting a new Housing and Neighborhood Services Manager to fill this position.

Staff recommends hiring Mr. Reliford on a part-time basis to complete these unfinished projects and assist in transitioning of the City housing and CDBG programming functions to the new Housing and Neighborhood Services Manager. Given the need for continuity, meeting the federal mandated requirements for reporting on CDBG activities, completion of the housing element process and past experience in administering these programs and projects for the city, staff recommends hiring Mr. Reliford from January 1, 2015 through December 31, 2015 on a part-time basis (not to exceed 960 hours per calendar year) to complete the transition and unfinished tasks. This position can be funded from the CDBG 20% Program Administration and City's Housing Authority.

Select Housing and CDBG matters that Mr. Reliford is scheduled to work on include:

1. The next CDBG funding application cycle in January 2015
2. Preparation of the HUD annual Action Plan and CAPER Reports

3. Processing of Quarterly Reports and CDBG Site Monitoring Visits
4. Completion of the General Plan Housing Element and Amendments
5. Preparation of the HUD 5-Year Consolidated Plan
6. Administration of the City's 1,200 affordable housing units

California Public Employees Reform Act 2013

The California Public Employees Reform Act of 2013 requires a 180-day “sit-out” period before a retiree can return to work for a public agency; however, the 180-day “sit-out” period can be waived if: The employer certifies that the appointment is necessary to fill a critically needed position before 180-days has passed and the appointment has been approved by the governing body of the employer in a public meeting and not on a consent calendar.

Included in the Council's agenda packet is the required resolution to rehire the retiree, pursuant to the California Public Employees Reform Act of 2013 and the employment agreement.

Fiscal Impact: \$27,500 from the Housing Authority Fund. A funding of \$55,000 for the part-time position is partially offset by \$27,500 from CDBG 20% Program Administration.

Recommendations:

1. Adopt a resolution approving the appointment of Felix Reliford, Retired Annuitant, to serve as a part-time Principal Housing Planner to fill a critically needed position pursuant to the California Public Employees Reform Act of 2013.
2. Approve a budget appropriation in the amount of \$55,000 into the Planning and Neighborhood Services Department operating budget.

XIX. AGREEMENTS

- * **8. Approve Amendment No. 1 to the Agreement with RMC Water and Environment to Increase Compensation in the Additional Amount of \$575,000 for Dempsey Road Water Line Replacement, Projects No. 7118, No. 7117, No. 7100, and No. 3709 and Approve a Budget Appropriation of \$575,000 (Staff Contact: Steve Erickson, 408- 586-3301)**

Background: On June 17, 2014, the City entered into a consultant agreement with RMC Water and Environment in the amount of \$900,000 to prepare plans and specifications and obtain easements and regulatory permits for the installation of replacement water and storm drain lines in the Dempsey Area. Staff now recommends that RMC Water and Environment perform additional design services to design a recycled waterline along the alignment of the Dempsey area utilities project.

The additional project scope would provide a design alignment for a recycled water main from Hillview Drive and Los Coches Street to Edsel Drive and Perry Street to the south and Kennedy Drive and Simas Drive to the north. This segment of recycled water line would allow several large irrigation customers to be converted to recycled water like: Milpitas Sports Center, Cardoza Park, William Burnett Elementary School, Robert Randall Elementary School, Milpitas Unified School District Office, and I-680/SR237 interchange landscaping. These customers consume on average approximately 50,000 gallons of water per day that could be diverted to recycled water. Along with proceeding with the design of the future recycled waterline and the City is going to pursue possible water grants for the funding of the construction phase of the recycled water line.

Amendment No.1 with RMC Water and Environment is proposed for these additional services. Staff has negotiated a fee for these services not to exceed \$575,000. Approval of this agreement amendment brings the total agreement amount to \$1,475,000.

Fiscal Impact: A budget appropriation in the amount of \$575,000 from the Water Fund is required to provide these additional services.

Recommendations:

1. Approve Amendment No. 1 to the agreement with RMC Water and Environment for design services related to Projects No. 7118, No. 7117, No. 7100, and No. 3709 and increase the agreement amount by \$575,000.
 2. Approve a budget appropriation of \$575,000 from the Water Fund to the Dempsey Road Water Line Replacement Project No. 7118.
- * **9. Approve Amendment No. 3 to the Agreement with Vali Cooper & Associates, Inc. To Extend the Term and Increase the Compensation in the Additional Amount of \$300,000 to Continue Support on the Silicon Valley Rapid Transit Program Berryessa BART Extension Project (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On August 3, 2010, the City entered into a Master Agreement with the Santa Clara Valley Transportation Authority (VTA) for reimbursement of City work on the Silicon Valley Berryessa Extension (SVBX) project. The Master Agreement allows reimbursement of City consultant costs for support services.

On November 20, 2013, the City entered into a consulting services agreement with Vali Cooper & Associates, Inc. in the amount of \$19,760 to provide support services for the SVBX project through June 30, 2014. On January 21, 2014, the parties entered into Amendment No. 1 to increase the compensation by \$75,000 to continue the support services. On June 3, 2014 the parties entered into Amendment No. 2 to increase the compensation by \$158,240 and extended the term.

Staff now recommends that Vali Cooper & Associates perform additional services by continuing their support with the SVBX project through the end of next September 2015. Vali Cooper would provide the services of a senior engineer approximately one-day per week and a full-time Project Engineer. Amendment No. 3 with Vali Cooper & Associates is proposed for these additional services. Staff negotiated a fee for these services not to exceed \$300,000 for the staff augmentation services. Approval of this agreement amendment brings the total agreement amount with Vali Cooper to \$553,000.

Fiscal Impact: None. Consultant expenses and City staff labor are reimbursable under the VTA Master Agreement. Sufficient funds are available in the project budget for these services.

Recommendation: Approve Amendment No. 3 to the consulting services agreement with Vali Cooper & Associates extending the term to September 30, 2015 in the additional amount of \$300,000 for the Silicon Valley Berryessa BART Extension Project No. 4265.

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JANUARY 6, 2015**