



**MILPITAS CITY COUNCIL MEETING AGENDA
JANUARY 16, 2007**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
CONFERENCE WITH LABOR NEGOTIATOR - COLLECTIVE BARGAINING
(Pursuant to CA Government Code §54957.6) City Negotiators: Tom Williams, Emma Karlen, and Art Hartinger
Employee Groups: International Association of Fire Fighters (IAFF), Milpitas Employees Association (MEA), Milpitas Supervisors Association (MSA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Polanski)**
- VI. APPROVAL OF MINUTES (January 2, 2007)**
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATIONS**
Proclamations:
John McDermott, Creator of the City of Milpitas Minute Man Logo
“National Blood Donor Month” for the Month of January 2007
Presentation:
Presentation of a Defibrillator to the City from Piercey Toyota
- 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 unagendized item, 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 agendize the item for a future meeting.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**

XIII. CONSENT CALENDAR (Items with Asterisks)

XIV. PUBLIC HEARING

1. **Appeal of Planning Commission Denial of Use Permit Amendment to Aslam Ali, Jerry's Market Owner (Staff Contact: Cindy Hom, 586-3284)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (January 2, 2007)

RA4. Approval of Agenda and Consent Calendar

- *RA5. Authorize Executive Director to Execute Agreement with Consolidated Engineering Laboratories, Milpitas Public Library, Project No. 8162 (Staff Contact: Mark Rogge, 586-3403)**

RA6. Agency Adjournment

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 2. **Approve Mayor Esteves' Recommendations for Appointments/Re-appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**
3. **Approve Mayor Esteves' Recommendations for Appointments to the Planning Commission (Contact: Mayor Esteves, 586-3029)**
- * 4. **Request for Refund of Fire Inspection Fee to Milpitas Rotary Club for its Pumpkin Patch (Contact: Councilmember Giordano, 586-3032)**

Bicycle Transportation Advisory Commission

- * 5. **Approve Bicycle Transportation Advisory Commission Request to Change Name to Bicycle Pedestrian Advisory Commission (Staff Contact: Jaime Rodriguez, 586-3335)**

XVII. NEW BUSINESS

6. **Receive a Report from the Valley Transportation Authority (VTA) on the Milpitas Bay Area Rapid Transit (BART) Station – Alternative Station Layout Options and Authorize the City Manager to Issue a Comment Letter (Staff Contact: Jaime Rodriguez, 586-3335)**
- * 7. **Approve Fee Waiver And In-Kind Donation Of Equipment, Supplies And Staffing From Various City Departments For The 2007 American Cancer Society's "Relay For Life" Event on June 22-23, 2007 (Staff Contact: Bonnie Greiner, 586-3227)**
- * 8. **Request for Information Services Staff Member to Attend a Communications Training and Certification Course in Seattle, WA (Staff Contact: Bill Marion, 586-2701)**

XVIII. ORDINANCE

- * 9. Waive Second Reading and Adopt Ordinance No. 262.4 Regarding Open Government (Contacts: Vice Mayor Livengood, 586-3000 and Councilmember Gomez, 586-3031)

XIX. RESOLUTION

- 10. Adopt Resolution Approving Memorandum of Understanding with the Mid-Management and Confidential Unit (Staff Contact: Carmen Valdez, 586-3086)

XX. BIDS AND CONTRACTS

- * 11. Award the Bid to CDW Computers for Toughbook Computers for the Engineering, Building and Planning Departments (Staff Contact: Chris Schroeder, 586-3161)
- * 12. Award Bid to TruGreen Land Care for McCarthy Ranch Tree Pruning (Staff Contact: Chris Schroeder, 586-3161)
- * 13. Approve Budget Appropriation and Authorize City Manager to Execute Cooperative Agreement between the City and Valley Transportation Authority for the Landscaping of Route 237/I-880 Interchange and McCarthy Blvd. Median at I-880 (Staff Contact: Greg Armendariz, 586-3317)

XXI. CLAIM AND DEMAND

- * 14. Approve Budget Appropriation Regarding Abel Right Turn Lane, Project No. 4186 (Staff Contact: Greg Armendariz, 586-3317)

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 6, 2007, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils 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 OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

- Economic Development Commission (rep. for Hotel Industry)*
- Mobile Home Park Rental Review Board*
- Parks, Recreation, and Cultural Resources Commission (alternate)*
- Planning Commission*
- Recycling and Source Reduction Advisory Commission (alternate)*

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for more information.

AGENDA REPORTS

XIV. PUBLIC HEARING

1. **Appeal of Planning Commission Denial of Use Permit Amendment to Aslam Ali, Jerry's Market Owner (Staff Contact: Cindy Hom, 586-3284)**

Background:

This item was continued from the December 19, 2006 City Council meeting at the request of the applicant. At this meeting the City Council opened the public hearing and took public testimony regarding the appeal request. Attached with the staff report is a copy of the December 19, 2006 City Council meeting minutes.

Included in the City Council minutes from the previous meeting are eleven (11) people who commented on the appeal. Council received the list of those who previously spoke at the December 19, 2006 City Council meeting. Because the public hearing was continued, the Council can only take new testimony.

APPEAL NO. AP2006-2

The applicant is requesting to appeal the Milpitas Planning Commission decision to deny Use Permit Amendment No. UA2006-2, a request to allow sales of all types of alcohol at an existing convenience store located at 1491 S. Main Street, known as Jerry's Market (APN 086-18-052), zoned General Commercial (C2). Currently, the business is allowed to sell beer and wine per the underlying permit.

On October 25, 2006, the Planning Commission denied Use Permit Amendment No UA2006-2, based on the following findings:

- The proposed sale of all types of liquor is incompatible with the surrounding single-family residential neighborhood because of the unwanted activities (i.e. public intoxication, public disturbances, loitering, etc) that could be exacerbated by the sale of all types of alcohol.
- The proposed sale of hard liquor at Jerry's Market would not be a suitable location because of the close proximity to Zanker Elementary School, Elmwood Correctional Facility, and that it would be within the path of travel for students.
- There is considerable opposition from the Starlite Pines Home Owner's Association and adjacent neighbors based on the community meetings with the Pines residents, written public comments, and a vote by the Starlite Pines Homeowner Association recommending denial of the request at its September 11, 2006 meeting.
- The sale of hard liquor would perpetuate the problems that currently exist with the sale of beer and wine such as graffiti, littering, and gathering of people who use the common areas to smoke, drink and conduct other nuisances as evidenced by the debris left behind.
- The sale of hard liquor does not provide a community benefit given the proximity to other liquor establishments within the area that can provide the same service. Additionally, the presence of other liquor establishments in the area does not imply that the City Council must approve a condition use permit for this establishment. (BreakZone Billiards vs. City of Torrence, (2000) 81 Cal.App.4th 1205.1248).

Application

The applicant appealed the Planning Commission's decision because it was not based on substantial evidence and was contrary to the legal standards for such decisions. The applicant contends that the evidence does not suggest that the incidents of concern are attributable to customers or the operations of Jerry's Market. The applicant has not been cited by the City, Milpitas Police Department, and/or the State Alcoholic Beverage Control (ABC) for violations within the last five years. Lastly, the applicant offered nine conditions that are intended to address some of the neighborhood concerns that included the following:

1. REDUCED HOURS OF OPERATION: Jerry's Market is presently allowed to operate from 6:00 a.m. to 2:00 a.m. The applicant proposed to operate from 6:00 a.m. to 11:00 p.m. every night.
2. CLOSURE OF THE BACK PARKING AREA: Close parking lot between the hours of 10:00 p.m. and 6:00 a.m.
3. ADD "GOOD NEIGHBOR" SIGNS: Add "Good Neighbor" signs in the parking lot to remind customers to avoid loud noise and music that might disturb nearby neighbors.
4. LITTER AND GRAFFITI PREVENTION: Pick up litter and abate graffiti twice each day.
5. IMPROVE VIDEO SURVEILLANCE OF PARKING AREA: Install two additional cameras (4 total) to give complete coverage of the parking area and retain video recordings for 14 days and make them available to law enforcement upon request.
6. ADD VIDEO SURVEILLANCE OF JERRY'S PARKING AREA: Install additional video surveillance of the Home Owners Association's side of the common wall provided the Association agrees that Jerry's Market will not be liable for providing such service.
7. SIGNS NOT TO LOITER AND THAT DRINKING OF ALCOHOL IS PROHIBITED: Applicant will provide improved signs reminding customers not to loiter and prohibit any drinking of alcohol on the property.
8. REPAIR OF COMMON WALL: Applicant agrees to offer to contribute a maximum of \$50,000.00 to the HOA to be used for the repair of the common wall on the property line.
9. LIMITING FLOOR AREA THAT MAY DISPLAY ALCOHOLIC BEVERAGES: The applicant agrees to limit the display of alcoholic beverages to no more than 45% of the total floor area.

Staff Analysis

As indicated in the October 25, 2006 Staff Report to the Planning Commission (attached), there were 45 incidents that related to the premise of Jerry's Market. There were a total of 22 incidents of concern that substantiate community concerns which involved public intoxications, loitering, physical assaults, and fight disturbances to name a few. The Police Department records indicate that 3 of the 22 incidents involved a customer of Jerry's Market and are noted in items 15, 26, and 35 of the Police Activity Report for Jerry's Market found in the October 25, 2006 Planning Commission Staff report attachment. However, the remaining 19 incidents in which it was undetermined if the individual involved was a customer, the individuals were observed with open bottles of beer as noted in item no. 6, 7, and 33. In another incident (item 10), a person was loitering in front of the business to conduct sale and transfer of drugs and ultimately arrested for possession of drugs. All incidents occurred during the business's operating hours.

Public comments expressed the concern that the sale of hard liquor would exacerbate the problems that currently exist. The alcohol aspect of the business invites unsavory individuals who are disruptive with noise, deposit litter near the market, or consume liquor in the common areas of Starlite Pines residential neighborhood. Staff conducted site visits that confirm the conditions of beer bottles and litter being left behind in the mini-park areas and that the condition does deter residents from the enjoyment of these recreational areas.

Recommendations:

1. Re-open the continued Public Hearing for additional testimony.
2. Close the Public Hearing.
3. Uphold the Planning Commission's decision to deny Use Permit Amendment No. UA2006-2 based on the findings.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor

RA2. Roll Call

RA3. Approval of Minutes (January 2, 2007)

RA4. Approval of Agenda and Consent Calendar

- *RA5. Authorize Executive Director to Execute Agreement with Consolidated Engineering Laboratories, Milpitas Public Library, Project No. 8162 (Staff Contact: Mark Rogge, 586-3403)**

Background:

Staff reviewed several proposals from professional testing and inspection consultants in conformance with the City's consultant selection process, and recommends that Consolidated Engineering Laboratories provide the special inspection and material testing services required for construction of the Library. Staff negotiated a scope and fee for these services not-to-exceed \$260,000, which is considered reasonable for the work. There are sufficient funds in the project Cost Plan and budget to cover this expense.

Recommendation: Authorize the Executive Director to execute the agreement with Consolidated Engineering Laboratories in the not-to-exceed amount of \$260,000, subject to approval as to form by the Agency Counsel.

RA6. Agency Adjournment

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 2. Approve Mayor Esteves' Recommendations for Appointments/Re-appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be appointed and re-appointed as noted:

Community Advisory Commission:

Re-appoint Michael Queenan to a term that expires in January 2011.

Senior Advisory Commission:

Re-appoint Bal Daquigan to a term that expires in December 2008.

Re-appoint Amanda Santos to a term that expires in December 2008.

Sister Cities Commission:

Appoint Maria Magdalena Ortega as Alternate No. 2 to a term that expires in September 2007.

Recommendation: Move to approve the Mayor's recommended Commission appointments/re-appointments.

- 3. Approve Mayor Esteves' Recommendations for Appointments to the Planning Commission (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the following Milpitas residents be appointed to the Planning Commission:

Appoint Rajeev K. Madnawat to a term that expires in December 2009.

Appoint Minh Nguyen as Alternate to a term that expires in December 2009.

Recommendation: Move to approve the Mayor's recommended Commission appointments.

- * 4. Request for Refund of Fire Inspection Fee to Milpitas Rotary Club for its Pumpkin Patch (Contact: Councilmember Giordano, 586-3032)**

Background: Councilmember Giordano received an e-mail from a member of the Milpitas Rotary Club requesting a refund of fire inspection fee (\$208) previously paid to the City for its successful Halloween Pumpkin Patch held in October 2006.

On January 3, 2007 the City Council's Finance Subcommittee considered this request and recommends that the Council grant the refund to the Club.

Recommendation: Approve a refund to the Milpitas Rotary Club in the amount of \$208.

Bicycle Transportation Advisory Commission

*** 5. Approve Bicycle Transportation Advisory Commission Request to Change Name to Bicycle Pedestrian Advisory Commission (Staff Contact: Jaime Rodriguez, 586-3335)**

Background:

The Bicycle Transportation Advisory Commission (BTAC) voted to request a name change to the Bicycle Pedestrian Advisory Commission (BPAC) at the December 11, 2006 meeting. The BPAC name better represents the activities of the committee and provides consistency with the name used by neighboring agencies with committees of the same type including the Valley Transportation Authority (VTA). The Milpitas BTAC is actively involved in pursuing pedestrian safety projects such as the development of safe walking trails and in promoting pedestrian-focused activities such as the International Walk to School Day.

In Section 1 of the BTAC Bylaws, it clearly states: "The purpose of the Milpitas Bicycle Transportation Advisory Commission (BTAC) is to serve as an advisory body to the City Council on matters having to do with modifying or expanding the City's non-motorized transportation systems." Of the four BTAC members present, the vote was unanimous for the name change.

Recommendation: Approve Bicycle Transportation Advisory Commission (BTAC) Bylaw change to Bicycle Pedestrian Advisory Commission (BPAC).

XVII. NEW BUSINESS

6. Receive a Report from the Valley Transportation Authority (VTA) on the Milpitas Bay Area Rapid Transit (BART) Station – Alternative Station Layout Options and Authorize the City Manager to Issue a Comment Letter (Staff Contact: Jaime Rodriguez, 586-3335)

Background:

To ensure that the needs of the BART project and the Milpitas Transit Area Plan were being coordinated, VTA and the City began working more closely in August 2006 to define long-term site plan options for the future Montague/Capitol BART Station at Montague Expressway & Capitol Avenue. This was done in response to input from the City Council and the Milpitas BART Community Working Group (CWG) during the scoping stage of the VTA's Supplemental Environmental Impact Report (SEIR) to ensure that the future planning of the Silicon Valley Rapid Transit (SVRT) project supports the City of Milpitas Transit Area Plan. The VTA Board of Directors approved the Final Environmental Impact Report for the BART project in December 2004.

Four long-term station area concepts have been prepared for the Montague/Capitol BART station through this effort. Two of the concepts were developed from the SVRT alignment and station location options being evaluated in the SEIR. The other two concepts are new ones that consider shifting the station location north to improve accessibility to the BART station from both sides of Montague Expressway. For all of the concepts, long-term land-use options and alternative locations for parking, a bus transit center and kiss & ride facilities have been identified and are being further evaluated. Specific objectives of this exercise are to (1) maximize Transit Oriented

Development (TOD) around the future BART station, (2) maximize efficient transit operations, and (3) contain project cost.

The four options were presented in draft form to the Milpitas Transportation Subcommittee on November 29, 2006 meeting and to the Milpitas CWG on December 12, 2006. The County of Santa Clara also participated in the development and review of the station alternatives for traffic operations impacts along Montague Expressway. VTA will present the four station concepts at the Council meeting and solicit input on the new alternatives. VTA must evaluate any new station alternatives for environmental impacts. Because VTA is completing the Draft SEIR for public review in February 2007, new station concepts would need to be studied during the preparation of a Federal Environmental Impact Statement (EIS) and a future SEIR, both of which are required for federal and state project funding. VTA is scheduled to conduct scoping meetings for the Federal EIS in Spring 2007.

Recommendations:

- 1) Receive oral report from the VTA staff on the Milpitas BART Station – Alternative Station Layout Options.
- 2) Authorize the City Manager to issue a comment letter to the VTA, based on Council discussions.

*** 7. Approve Fee Waiver And In-Kind Donation Of Equipment, Supplies And Staffing From Various City Departments For The 2007 American Cancer Society’s “Relay For Life” Event on June 22-23, 2007 (Staff Contact: Bonnie Greiner, 586-3227)**

Background: For the past seven years, the American Cancer Society with the volunteer support of numerous Milpitas community members and businesses has hosted the annual Relay for Life fundraising event at the Milpitas Sports Center.

The City of Milpitas has a long history of supporting this annual event with services, staff support and equipment on varying levels. The Relay for Life representative prepared a complete list of requested items for fee waiver or donations for the City Council to consider for approval.

Relay for Life organizers are requesting that the Council approve the waiver or donation of the following. Staff has provided estimated departmental costs associated with each requested item:

Recreation Services

- Use of Football Field - June 23 to June 24 \$1,110.00
 \$150.00 deposit
 \$960.00 rental fees (48hours @ \$20.00 per hour)
- Use of white event fencing for Kids Camp area \$ no cost
 Volunteer’s pickup, set-up and return
- Use of Mobile Stage * \$ 770.00
 \$700.00 (2 days @ 350.00per day)
 \$70.00 in part-time staff time (5 hrs @\$15.00)
 **Towing to be paid by Relay for Life/ ACS*
- Use of two EZ –Up shade structures \$ no cost
 Volunteer’s pickup, set-up and return

Total from Recreation Services \$1,880.00

Park Services

- Use of Football Public Address system
- Trash cans/ Garbage cans
- Field Prep and track dragging for event
- Water / irrigation turned off during event
- Restrooms opened and secured as needed
- Weekend Crew point of contact during the event

• Staffing (10 hours @ 40.00 per hr)	\$400.00
• Use of sand for luminaries	
• Use of two (2) John Deere tractors	\$200.00
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Total from Park Services	\$600.00
<u>Fire Department</u>	
• Fire site/ event inspection & permits Site Plan and Review	\$312.00
• Provision of First Aid by Fire Aids during event	\$ no cost
• Provide Safe House	\$50.00
• \$50.00 Towing and fuel \$ 0 Volunteer Fire Aids	
• Use of four MFD generators Picked up and delivered by volunteers	\$ no cost
• Community Fire Aides supplies, food	\$250.00
• Two (2) Emergency Medical Technicians	\$no charge
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Total from Fire Department	\$612.00
<u>Police Department</u>	
• Officers to escort funds during the evening	
• Police Command RV for on-site banking	
• Use of two (2) 10x 20 canopies	
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Total from Police Department	\$300.00
<u>Building Department:</u>	
• Temporary Electrical Permit	\$145.00
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Total from Building Department	\$145.00

Recommendation: Approve the request for fee waiver and in-kind donation of equipment, supplies and staffing totaling \$3,537 for the June 22-23, 2007 American Cancer Society's "Relay for Life" event at the Milpitas Sports Center.

- * 8. **Request for Information Services Staff Member to Attend a Communications Training and Certification Course in Seattle, WA (Staff Contact: Bill Marion, 586-2701)**

Background:

The City has been offered a complimentary training and certification course from NetMotion Wireless, the vendor of the data communications software used in the City's public safety vehicles. Usually this course costs between \$500 and \$1000 but since the City has been participating in a product development and testing program, NetMotion has offered the course to the City at no cost. The City would fund travel and lodging expenses, estimated at \$800. Funding for these expenses is available in CIP #3389 Public Safety Technology.

Recommendation: Approve out of state travel request for an Information Services Department staff member to attend a communications training and certification course.

XVIII. ORDINANCES

- * 9. **Waive Second Reading and Adopt Ordinance No. 262.4 Regarding Open Government (Contacts: Vice Mayor Livengood, 586-3000 and Councilmember Gomez, 586-3031)**

Background: The Council's Open Government Subcommittee met on December 6, 2006 and discussed Ordinance No. 262.2, which called for the subcommittee to exist only until December 31, 2006.

The Subcommittee recommended to the City Council that it continue permanently. Council members directed the City Attorney to prepare an Ordinance to extend permanently the Open Government Subcommittee. The Ordinance was introduced at the December 19, 2006 City Council meeting. The ordinance is included with the agenda packet.

Recommendation: Waive the second reading and Adopt Ordinance No. 262.4, amending provisions for the Open Government Subcommittee.

XIX. RESOLUTION

10. Adopt Resolution Approving Memorandum of Understanding with the Mid-Management and Confidential Unit (Staff Contact: Carmen Valdez, 586-3086)

Background:

The most recent Memorandum of Understanding with the Mid-Management and Confidential Unit expired on December 31, 2005. City of Milpitas representatives and representatives from the Mid-Management and Confidential Unit met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of January 1, 2006 to December 31, 2008, which is included in the Council's agenda packet.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering the period of January 1, 2006 through December 31, 2008.

XX. BIDS AND CONTRACTS

*** 11. Award the Bid to CDW Computers for Toughbook Computers for the Engineering, Building and Planning Departments (Staff Contact: Chris Schroeder, 586-3161)**

Background: On December 5, 2006, staff went out to bid for eighteen (18) Panasonic Toughbook Computers and Port replicators for the Engineering, Building and Planning Departments. The Invitation for Bid was advertised in the Milpitas Post and on the City web site, was sent to thirteen (13) vendors on Purchasing's vendor list, and nine (9) responded. The following is a recap of the bids received.

<u>Bidder</u>	<u>Total Bid</u>
CDW Government, Inc.	\$64,642.32
Tech Depot	\$66,882.71
Comp USA	\$67,457.91
Sigmanet	\$67,944.25
PC Mall	\$68,466.45
Gov.Place	\$69,140.96*
Stepford	\$69,961.73
GTSI Corp.	\$72,383.90
Advanced Digital	\$82,626.98

* Disqualified due to late arrival of the bid.

Funds are available from Capital Project No. 3398 On-line Development System for this purchase.

Recommendation: Approve the purchase of eighteen (18) Panasonic Toughbook Computers and Port Replicators from CDW Government, Inc. for the not to exceed amount of \$64,642.32 including tax and recycling fees, for use by the Milpitas Engineering, Building and Planning Departments.

- * 12. **Award Bid to TruGreen Land Care for McCarthy Ranch Tree Pruning (Staff Contact: Chris Schroeder, 586-3161)**

Background:

On November 17, 2006, staff went out to bid for pruning of seven hundred and ninety (790) Sycamore trees in the McCarthy Ranch development. The Request for Proposal was mailed to twelve (12) vendors on Purchasing's vendor list and advertised in the Milpitas Post and on the City web page. Four (4) vendors responded. The following is a recap of the bids received.

<u>Bidder</u>	<u>Total Bid</u>
TruGreen Land Care	\$ 25,796.00
Coast Landscape Management	\$ 29,230.00
Anderson Tree Care*	\$ 39,500.00
West Coast Arborists, Inc.	\$ 54,510.00

*Rejected for failure to attend mandatory pre-bid conference.

Funds are available from 95-1 Lighting and Landscape Maintenance District Assessments for this purchase.

Recommendation: Authorize the City Manager to execute an annualized contract for one (1) year with an option to renew for three (3) additional one (1) year periods for the not-to-exceed amount of \$25,796.00 with TruGreen Land Care for pruning of 790 Sycamore trees on the McCarthy Ranch Development, subject to approval as to form by the City Attorney.

- * 13. **Approve Budget Appropriation and Authorize City Manager to Execute Cooperative Agreement between the City and Valley Transportation Authority for the Landscaping of Route 237/I-880 Interchange and McCarthy Blvd. Median at I-880 (Staff Contact: Greg Armendariz, 586-3317)**

Background:

On October 18, 2005, the City Council approved a funding concept to leverage two partially funded highway and light rail landscape projects. Currently there are two major transportation projects in the City of Milpitas that are in need of landscaping work. The first project is the landscape work under the light rail viaduct (LRT) in the median of Great Mall Parkway, from Abel Street to San Jose City limits. This project is estimated at \$3,750,000 and is to be cost shared between VTA and Milpitas. The second landscape project is the 237/I-880 Interchange project and is estimated at \$3,750,000. These two projects are important because one is in the MidTown Specific Plan area and the other is a major gateway into the City of Milpitas.

Existing Funding Availability:

LRT/Great Mall Parkway Median Landscape: VTA has provided the City with \$1.5 million which is currently the only funding. The City's commitment is to fund the remaining \$2 million from the Redevelopment Agency, which will be programmed for 2009/2010.

237/I880 Interchange: This project is set up as a cooperative effort among VTA, Caltrans and the City of Milpitas.

Funding Concept:

Caltrans, VTA and City staff have discussed and agreed on a funding concept, which combines the available partial funding of the LRT median landscape project and partial funding for the 237/I880 interchange, to fully fund the 237/I880 interchange in 2007. Later, the LRT funding would be replenished in 2009 with the State Transportation Improvement Program (STIP) funding designated for 237/I880. VTA is agreeable to the use of the \$1.5 million designated to the LRT project, if the City Council is interested in prioritizing 237/I880 over LRT Landscaping.

VTA will not proceed with work past final design without an executed cooperative agreement between the City and Caltrans (a separate agreement which will provide the City with \$2 million for construction of the project and City authorization by Caltrans to maintain the completed project improvements).

The City's initial share for completion of the design is \$300,000. A budget appropriation of \$300,000 is requested from the \$1.5 million received from VTA (which is in the Street Fund).

Recommendation: Approve Budget Appropriation and authorize the City Manager to Execute a Cooperative Agreement between the City of Milpitas and the Valley Transportation Authority for landscaping of the Route 237/I-880 Interchange and the McCarthy Boulevard Median at I-880.

XXI. CLAIM AND DEMAND

- * 14. **Approve Budget Appropriation Regarding Abel Right Turn Lane, Project No. 4186 (Staff Contact: Greg Armendariz, 586-3317)**

Background:

This project is included in the approved Capital Improvement Program (CIP), and provides a right turn lane from northbound Abel Street to east bound Calaveras Boulevard. Construction of the improvements has been completed.

The project required real property acquisitions including a 3,334 square foot parcel owned by Albert J. Witt, Jr. The City obtained possession of the property on August 27, 2004 through eminent domain. On February 16, 2006 Council gave the City Attorney authority to settle the resulting lawsuit. The final judgment in condemnation has been issued by the Court. As part of the final judgment, the City must pay \$65,000 in addition to the funds deposited with the State Treasury Department for interest and tenant improvements.

Now, a budget appropriation in the amount of \$49,070, from the Street Fund, is required for this payment. Since the project is partially funded by Cisco, the City is anticipating payment from Cisco in the amount of \$49,070. When this payment is received from Cisco, it shall be returned to the Street Fund.

Recommendation: Approve a budget appropriation for \$49,070 for the Abel Right Turn Lane, Project No. 4186.

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 6, 2007, AT 7:00 P.M.**