



**MILPITAS CITY COUNCIL MEETING AGENDA
MARCH 6, 2007**

**6:30 P.M. (CLOSED SESSION)
7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (6:30 p.m.)**
- II. ADJOURN TO CLOSED SESSION**

CONFERENCE WITH LABOR NEGOTIATOR - COLLECTIVE BARGAINING
(Pursuant to CA Government Code §54957.6) City Negotiator: Carmen Valdez
Employee Group: Milpitas Employees Association (MEA)
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**
- V. INVOCATION (Mayor Esteves)**
- VI. APPROVAL OF MINUTES (February 20, 2007)**
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATIONS**

Proclamations:
 - Jade Ribbon Week – March 18-24, 2007
 - Certified Government Financial Manager Month – March 2007
 - Colorectal Cancer Awareness Month – March 2007
 - Science Fair Week – March 12-17, 2007
- XIX. 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.

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

XIII. CONSENT CALENDAR (Items with Asterisks*)

XIV. PUBLIC HEARINGS

1. **Adopt Negative Declaration for Environmental Impact Assessment No. EA2007-3, Adopt a Resolution to amend the General Plan Land Use Map (GP2007-5), and Introduce Ordinance No. 38.771 (Zone Change No. ZC2007-7) to Change the Zoning District for 887 through 1045 S. Park Victoria Dr. to "MXD-S" Mixed Use (Staff Contact: Cindy Maxwell, 586-3287)**
2. **Adopt Negative Declaration for Environmental Impact Assessment No. EA2007-2, Adopt a Resolution to Amend the General Plan Land Use Map (GP2007-4) to Designate 14 Sites "Public Facilities", and Introduce Ordinance No. 38.772 Amending Zoning District for 28 Sites to "I" Institutional (Staff Contact: Cindy Maxwell, 586-3287)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (February 6, 2007)

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library and East Parking Garage, Project No. 8161 and No. 8162 (Staff Contact: Mark Rogge 586-3403)

***RA6. Authorize Issuance of Purchase Order: Constructware Solutions Group License Renewal, Project No. 8161 and No. 8162 (Staff Contact: Mark Rogge, 586-3403)**

RA7. Agency Adjournment

XVI. REPORT OF OFFICERS

City Council

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

XVII. NEW BUSINESS

4. **Approve Comment Letter from City Manager for Bay Area Rapid Transit Extension to Milpitas, San Jose, and Santa Clara Draft Supplemental Environmental Impact Report, Project No. 8164 (Staff Contact: Greg Armendariz, 586-3317)**
5. **Accept Staff Report on Carlo Street and Calaveras Boulevard Ramp Conversion and Calaveras Blvd. Plan Study Report for Calaveras Blvd. Railroad Overcrossing Replacement (Staff Contact: Jaime Rodriguez, 586-3335)**

XVIII. ORDINANCES

6. **Introduce Traffic Ordinance 43.206: Amendment to Section V-100-12.15 of the Milpitas Municipal Code, "Vehicles Exceeding a Height of Six (6) Feet Prohibited From Parking" (Staff Contact: Jaime Rodriguez, 586-3335)**

7. **Introduce Traffic Ordinance 43.207: Amendment to Section V-100-15.06 of the Milpitas Municipal Code, "Parking Time Limited on Certain Enumerated Streets" (Staff Contact: Jaime Rodriguez, 586-3335)**

XIX. RESOLUTION

- * 8. **Adopt Resolution Granting Final Acceptance of the Berryessa Creek Trail, Reach 3, Project No. 5074 Federal Aid Project No. STPLE 5314 (001) (Staff Contact: Andrew Brozyna, 586-3315)**

XX. BIDS AND CONTRACTS

- * 9. **Approve the Consultant Agreement: Grossmann Design Group – Sports Center Large Gym Improvements, Project No. 8160 (Staff Contact: Andrew Brozyna, 586-3315)**
- * 10. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Sewer Deficiency & Structural Correction Program – Open Cut Phase 3, Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)**
- * 11. **Approve Amendment No. 1 to the Agreement with Consultant RMC Water and Environment, Inc., for Developers Water and Sewer Impact Fee Analysis and Connection Fee Update (Staff Contact: Kathleen Phalen, 586-3345)**
- * 12. **Award Construction Contract to Golden Bay Construction, Inc. for the Montague Expressway Eastbound Median Modification, Project No. 4179 (Staff Contact: Greg Armendariz, 586-3317)**
- * 13. **Award the Bid for On-Call Traffic Data Collection Services to Traffic Data Services (Staff Contact: Chris Schroeder, 586-3161)**
- * 14. **Authorize Purchase of Upgrade for Engineering Drafting Software from DLT Solutions (Staff Contact: Jon Stephens, 586-2719)**

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 20, 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 SUBCOMMITTEE

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:

Bicycle Pedestrian Advisory Commission

Community Advisory Commission

Economic Development Commission (rep. for Hotel Industry)

Mobile Home Park Rental Review Board

Planning Commission

Recycling & Source Reduction Advisory Commission (2 alternates)

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 HEARINGS

1. Adopt Negative Declaration for Environmental Impact Assessment No. EA2007-3, Adopt a Resolution to amend the General Plan Land Use Map (GP2007-5), and Introduce Ordinance No. 38.771 (Zone Change No. ZC2007-7) to Change the Zoning District for 887 through 1045 S. Park Victoria Dr. to "MXD-S" Mixed Use (Staff Contact: Cindy Maxwell, 586-3287)

Background:

Project Location

- 2.8 acres on 13 parcels located on South Park Victoria Drive – addresses 887 to 1045.



Bordering land uses:

- North Two-story church
- East S. Park Victoria Dr. and single family residential
- South Two-story office building
- West South of Mt. Shasta – One and two family homes
North of Mt. Shasta – Single family homes

APPLICATIONS SUBMITTED

1. Environmental Impact Assessment No. EA2007- 3: Negative Declaration indicating that the project will not create any significant environmental impacts.
2. General Plan Amendment No. GP2007- 5: redesignate from Multi-Family Medium Density Residential to Mixed Use
3. Zone Change No. ZC2007- 7: rezone from One and Two Family Residential "R2-S" to Mixed Use "MXD-S"

PROJECT DESCRIPTION

- Change the General Plan land use designation and zoning district for 13 parcels with duplex residences on S. Park Victoria Dr., south of Yellowstone Ave. The units are occupied and have access off S. Park Victoria Drive.

- The proposed land use change will encourage a more pedestrian friendly environment along a major arterial by expanding the existing mix of uses and activities.
- The proposal will provide a new economic growth opportunity in live-work units.

ISSUES

Land Use Compatibility

The Mixed Use zoning district is specifically designed to coexist with residential uses. The types of permitted uses are limited and are required to adhere to strict operating standards to insure that they are compatible with adjacent residential uses. For instance, retail stores, offices and commercial services cannot be larger than 10,000 square feet, open past 10 p.m., or have outdoor seating unless it is specifically approved by the Planning Commission. Adult oriented businesses, exterminators, and drive-up windows are prohibited. Small restaurants are allowed with limitations on seating and signs and operating standards related to odors and waste handling.

Other nonresidential uses may be allowed if they are approved by the Planning Commission with a Conditional Use Permit. The Planning Commission would hold a public hearing with notices of the hearing mailed in advance to all property owners and residents within 300 feet of the site. During the Planning Commission's review, special operating conditions and standards can be imposed. The Planning Commission's decision on a use permit application may be appealed to the City Council.

CONFORMANCE

General Plan

The proposed project is consistent with the following General Plan policies:

Table 5 – General Plan Conformance

<i>Policy</i>	<i>Applicability</i>
2.a-I-2 Promotes in-fill development in the incorporated city limits.	The project broadens the uses permitted in an area of the city that is already developed.
2.a-I-5 Promote a strong economy that provides economic opportunities for all Milpitas residents within existing environmental, social, fiscal and land use constraints	The project will provide an opportunity for smaller businesses and live-work units. Smaller, low-traffic generating uses, such as real estate offices, medical offices or notaries, will find this particularly attractive.
2.a-I-6 Encourages a balanced economic base.	The project will add a type of commercial venue that is unavailable elsewhere in the City.

ENVIRONMENTAL REVIEW

A Negative Declaration was prepared for this project (EA2007-3). Two potential impacts were identified as having "less than significant impact."

Potential noise from the operation of a permitted business is regulated through the City noise ordinance and operating standards contained in Zoning Ordinance XI-10-38. There are also potential parking issues for business permitted in the MXD zoning district however they will be required to meet City parking requirements. Any new construction will be subject to standard permitting requirements of the City for site and architectural review and use permits.

Recommendations:

1. Open Public Hearing for Comments; Close the Public Hearing.
2. Adopt the Negative Declaration for Environmental Impact Assessment No. EA2007-3, certifying that this project will not have a significant impact on the environment.

3. Approve the findings recommended by the Planning Commission for this project.
 4. Adopt City Council Resolution approving General Plan Amendment No. GP2007-5 redesignating 887 through 1045 S. Park Victoria to Mixed Use.
 5. Waive first reading beyond the title of Ordinance No. 38.771.
 6. Introduce Ordinance No. 38.771 (Zone Change No. ZC2007-7) rezoning 887 through 1045 S. Park Victoria Dr. to "MXD-S" Mixed Use.
2. **Adopt Negative Declaration for Environmental Impact Assessment No.EA2007-2, Adopt a Resolution to Amend the General Plan Land Use Map (GP2007-4) to Designate 14 Sites "Public Facilities" and Introduce Ordinance No. 38.772 Amending Zoning District for 28 Sites to "I" Institutional (Staff Contact: Cindy Maxwell, 586-3287)**

Background:

Land Use History

December 2006 – As recommended by the Planning Commission, the City Council (1) approved a General Plan Amendment to create an “Institutional” land use classification and “Public Facilities” designation (Resolution No. 7643) and (2) amended the Zoning Ordinance to create an “Institutional” zoning district (Ordinance No. 38.770).

APPLICATIONS

1. Environmental Impact Assessment No. EA2007- 2: Negative Declaration indicating that the project will not create any significant environmental impacts.
2. General Plan Amendment No. GP2007- 4: redesignate from various current designations to Public Facility
3. Zone Change No. ZC2007- 7: rezone from various zoning districts to “I-S” Institutional with the ‘S’ Zone combining district.

PROJECT DESCRIPTION

General Plan Amendment

- Change the General Plan land use designation to “Public Facility” for 14 sites that are owned by four different public agencies.
- The 14 sites have seven different land use designations.
- The redesignations of these sites will improve consistency and clarity in the General Plan land use map.

Zoning Ordinance Amendment

- Rezone 28 sites, owned by four different public agencies to “I-S” Institutional with the ‘S’ Zone combining district and “I-TOD-S” Institutional with the TOD overlay and ‘S’ Zone combining district (Site Nos. 2, 12, 13 and 14).
- The 28 sites are currently in nine different zoning districts.
- The rezoning will provide consistent zoning for publicly owned facilities and improve the clarity of the City’s zoning organization.

ISSUES

Land Use Compatibility

The “I” Institutional zoning district only allows uses that are in facilities owned or leased and operated or used, by a public agency.

All sites have existing public facilities except four:

- No. 2, future Milpitas library at 160 N. Main St.
- No. 12, future Santa Clara County medical center on N. Main St.
- No. 13, Milpitas S. Main St. garage, currently under construction, on Winsor St.
- No. 14, future Santa Clara County west garage on S. Main St.

Additionally, Farmers' Markets are a conditional use in the "I" Institutional zoning district. If there are any land use compatibility concerns regarding a Farmers' Market on any of the sites, the public will have an opportunity to address them during the public review process which will include a publicly noticed hearing before the Planning Commission.

Creation of Non-Conforming Uses

No nonconforming uses or structures will be created by this rezoning proposal.

CONFORMANCE

General Plan Amendment

The proposed 14 sites qualify as "Public Facility" under the Institutional designation in the General Plan:

"Institutional Designation

The Institutional classification is for parcels owned by public agencies and intended to be accessed by the public. There are 3 Institutional classifications:

1. School
2. Correctional Facility
3. Public Facility"

Zone Change

The proposed 28 sites meet the intent of the "I" Institutional zoning district: to encourage the orderly development of public service and educational uses in the community and to insure their presence as a vital part of the neighborhood balance. Additionally, no nonconforming uses or structures will be created by this rezoning proposal.

ENVIRONMENTAL REVIEW

A Negative Declaration was prepared for this project (EA2007-2). Two potential impacts were identified as having "less than significant impact." A Farmers' Market requires a Use Permit in the "I" Institutional zoning district. A Farmers' Market might create noise and traffic impacts on nearby residential areas and streets. These impacts will be analyzed and mitigated, if necessary, as part of the Use Permit review process.

Recommendations:

1. Open Public Hearing for Comments; then, Close the Public Hearing.
2. Adopt the Negative Declaration for Environmental Impact Assessment No.EA2007-2 certifying that this project will not have a significant impact on the environment.
3. Approve the findings recommended by the Planning Commission for this project.
4. Adopt City Council Resolution approving General Plan Amendment No.GP2007-4 re-designating 14 sites as "Public Facility" on the General Plan land use map.
5. Waive the first reading beyond the title of Ordinance No. 38.772.
6. Introduce Ordinance No. 38.772 (Zone Change No. ZC2007-6) rezoning 28 sites to "I-S" or "I-TOD-S" Institutional.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (February 6, 2007)

RA4. Approval of Agenda and Consent Calendar

RA5. Receive Progress Report on Library and East Parking Garage, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge 586-3403)

Background:

The Library Subcommittee met on February 28, and heard a progress report on the new Library and Parking Garage projects in MidTown. Construction activities have begun on the library while construction continues on the garage. Staff will provide a brief presentation on the progress of both projects.

Library

S.J. Amoroso Construction has begun work on the library. Preliminary work in the historic building is underway. Shop drawings and submittals are being prepared and processed.

The Library Subcommittee is considering schedule and concepts for a modest library groundbreaking ceremony, tentatively scheduled for April or May 2007.

Staff will be negotiating a new lease agreement with the County Library Joint Powers Authority for the maintenance and operation of the library, at the new building. The lease will also detail what capital equipment the Library JPA will provide as well as what the City/ RDA will provide.

Parking Garage

Devcon Construction Inc. continues with construction of the parking garage. The second floor slab, ramp, columns, and shear walls are complete. Construction of the third floor is in progress.

Recommendations:

1. Authorize staff to negotiate a new lease agreement with the County Library Joint Powers Authority for the new library.
2. Receive the progress report from staff on the Library and Parking Garage.

***RA6. Authorize Issuance of Purchase Order: Constructware Solutions Group License Renewal, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge, 586-3403)**

Background:

Staff is seeking authorization for the issuance of a Purchase Order in the amount of \$22,000 for the annual renewal of Constructware Software Licenses. Constructware is project management software that is currently in use for the management of several of the large Midtown Projects including the library.

Staff negotiated the fees for these services for FY 2006-07 in the amount not-to-exceed \$22,000, which is considered reasonable for the work. There are sufficient funds in the project budgets to cover this expense.

Recommendation: Authorize staff to execute a purchase order with Constructware Solutions Group, in the amount not-to-exceed \$22,000, subject to approval as to form by the City Attorney.

RA7. Agency Adjournment

XVI. REPORT OF OFFICER

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

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

Community Advisory Commission:

Re-appoint Nelson Villegas to a term that expires in January 2011.

Re-appoint Heidi Pham as Alternate No. 2 to a term that expires in January 2009.

Telecommunications Commission:

Re-appoint Albert Alcorn to a term that expires in January 2009.

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

XVII. NEW BUSINESS

4. Approve Comment Letter from City Manager for Bay Area Rapid Transit Extension to Milpitas, San Jose, and Santa Clara Draft Supplemental Environmental Impact Report, Project No. 8164 (Staff Contact: Greg Armendariz, 586-3317)

Background: The Bay Area Rapid Transit (BART) extension to Milpitas – Final Environmental Impact Report (FEIR) was approved by the Valley Transportation Authority (VTA) Board of Directors in December 2004. Design of the project is currently at 35% and the VTA is working to identify funding sources to complete the project. A Value Engineering exercise was completed by the VTA in efforts to identify options to help make the project more competitive for grant funding. Value Engineering recommendations that will be pursued by the VTA in the final design of the project must be cleared through a Supplemental Environmental Impact Report (SEIR).

On January 23, 2007, the VTA had released the Draft Supplemental Environmental Impact Report (DSEIR) for public review and comment by March 16, 2007. There are eleven design changes (Design Changes 8-18) which directly impact the City of Milpitas. A brief description of each change and a summary of staff's comments are provided below.

Design Change # 8 - Dixon Landing Road Alignment

In the FEIR, BART would travel below grade in a retained cut under Dixon Landing Road. Dixon Landing Road would remain at grade. In the DSEIR, two alignment options at Dixon Landing Road are studied: BART retained cut, and BART at grade where Dixon Landing Road would be reconstructed as a new roadway underpass with BART remaining at grade, passing over Dixon Landing Road on a new at grade bridge structure.

Staff Comments: Closure of Dixon Landing Road for any length of time during the construction of the BART project is unacceptable to the City of Milpitas and inconsistent with previous direction from the Milpitas City Council. Closure of either Dixon Landing and/or Milmont Drive would result in significant impacts to the businesses and residents in the project area.

The document should clarify if the "displacement" of the indicated businesses on Milmont Drive is temporary or permanent. The Relocation Assistance Program relied on for mitigation must be described in more detail in order to support the conclusion that it will reduce the impacts on City businesses to less than significant.

Design Change # 9 - Berryessa Creek

In the FEIR, BART would pass over Berryessa Creek on a new 100-foot-long bridge with no improvements to the alignment of the creek. In the DSEIR, BART would cross over Berryessa Creek on a new multi-box culvert that requires the realignment of the creek to be completed in conjunction with a Santa Clara Valley Water District Project, and would provide protection from a 100 year flood event.

Staff Comment: The SEIR should include a discussion of the potential impacts to the structural integrity of the existing Abel St. Bridge overcrossing related to the construction of the proposed double box culvert.

Design Change #10 - Crossover Tracks between Berryessa Creek and Railroad Court

In the FEIR, the crossover tracks would be located near Railroad Court to allow for trains to switch from one set of tracks to the other in case of emergency operations. The SEIR introduces an alternative location for the BART Crossover Tracks near the Berryessa Creek Crossing.

Staff Comment: Staff has no comment on this design change.

Design Change # 11 - Electrical and Communication Facilities near Railroad Court

In the FEIR, a high voltage substation, traction power substation, switching station, and train control building would be located north of Railroad Court on the west side of the railroad right-of-way. The DSEIR addresses access to the site from Railroad Court, connections to existing PG&E high voltage line via 2 steel towers to provide power to the site.

Staff Comment: Document should analyze, in more detail, the visual impacts to the surrounding area from a 60-foot high steel tower at this location. The document does not have sufficient analysis to support its conclusion that the impact is less than significant.

Design Change # 12 - High Rail Vehicle Access South of Calaveras Blvd.

In the FEIR, a high rail vehicle access point would be located south of Calaveras Blvd. The DSEIR proposed a new access easement with a new road connecting Railroad Avenue to the BART tracks just east of the railroad right-of-way.

Staff Comment: Staff has no comment on this design change.

Design Change # 13 - Locomotive Wye (Milpitas)

In the FEIR, one option for the locomotive wye would be located north of Montague Expressway and east of the railroad right-of-way. The other option for the locomotive wye would be located in Fremont. In the DSEIR, the Fremont option is eliminated, and No Wye Option is added.

Staff Comment: Due to its potential impacts on existing and future development, Milpitas prefers the No Wye Option.

Design Change # 14 - Curtis Avenue to Trade Zone Boulevard

In the FEIR, the BART alignment would be in a long retained cut starting from south of Curtis Avenue, ending south of Trade Zone Boulevard. The retained cut long option would allow a UPRR freight track to cross the BART alignment to gain access to a new locomotive wye and an existing spur track that serves the industries east of the BART alignment. The DSEIR addresses four alignment options for South of Curtis Avenue to south of Trade Zone Boulevard; 1) Retained cut long as described in the FEIR, 2) Retained Cut Short; If the No Wye Option were chosen, BART could remain at grade to just north of Montague Expressway and then would be in a retained cut to just south of Trade Zone Boulevard, 3) Aerial Long Option; The BART alignment would be aerial starting from south of Curtis Avenue, ending south of Trade Zone Boulevard. The aerial long option would allow a UPRR freight track to cross the BART alignment to gain access to a new locomotive wye and an existing spur track that serves the industries east of the BART alignment; and 4) Aerial Short Option; If the No Wye Option were chosen, BART would remain at grade to just north of Montague Expressway. BART would be on an aerial guide way to just south of Trade Zone Boulevard.

Staff Comment: BART on an aerial guide way will result in a substantial increase in the number of residents experiencing significant adverse noise and visual impacts. The number of residents adversely affected by noise increases from 19 under the Retained Cut to 70 under the Aerial Option. The Aerial Options would also result in a significant unavoidable impact to traffic, due to the closure of Capitol Avenue for at least 9 months during construction. This increase in impacts to City residents is unacceptable. The City does not support the Aerial Option.

Design Change # 15 - Crossover tracks north of Montague Expressway

In the FEIR, the crossover tracks would be located north of Montague Expressway. In the DSEIR, the crossover tracks would be located as follows:

Retained cut long; crossover tracks would be located near the location of the existing locomotive wye as discussed in the FEIR.

Aerial long option and Retained cut short option; crossover tracks would be located approximately 1,000 feet further north.

Aerial short option; the crossover tracks would be located approximately 2,000 feet further north than that of the retained cut long option.

Staff Comment: Staff has no comment on this design change.

Design Change # 16 - Electrical Facilities north of Montague Expressway

In the FEIR, a traction power substation would be located north of Montague Expressway and east of the railroad right-of-way. The DSEIR proposes two alternate locations for the traction power substation dependent on the alignment chosen for BART between Curtis Ave. and Trade Zone Boulevard.

Retained Cut Long and Aerial Long options: The substation would be located just north of Montague Expressway as described in the FEIR.

Retained Cut Short and Aerial Short Options: The substation would be located further north, near Piper Drive cul-de-sac, on the east side of the railroad right-of-way.

Staff Comment: Staff has no comment on this design change.

Design Change # 17 - Montague Capitol Station

In the FEIR, a three to five level parking structure would be constructed at the north end of the station area. A 60 foot high radio tower would be located at the northwest corner of the parking structure either alongside or on top of the structure. A bus transit center would be located south of the parking garage and South Milpitas Boulevard extension. The station would encompass approximately 18 acres of land.

In the DSEIR, the station area would encompass up to 27 acres of land to be used for the station and associated parking needs. There are two options for parking within the station area described in the DSEIR:

1. **Parking Structure with surface parking option.** A four to eight level parking structure would be constructed on 2 acres of land at the north side of the station area with a bus transit center and kiss-n-ride facilities located south of the parking structure. Additional surface parking and/or future transit facilities would be located as needed throughout the remaining station area.
2. **Surface parking Option.** Under this option, surface parking would be located within the station area in various locations as needed.

Staff Comment: Due to the substantial increase in estimated daily boardings in the DSEIR, the parking impact for the Montague/Capitol station should be identified as potentially significant and the SEIR should specifically analyze whether the proposed park-and-ride spaces will meet demand. The DSEIR also should analyze any impacts of spillover parking. The Surface Parking Option will not meet the increased parking demand due to the increased boardings identified in the DSEIR because it uses more land to provide less parking than the structured parking option. The surface parking option is inconsistent with the lands uses outlined in the City's Transit Area Plan and the City's Preferred Station Design.

Design Change #17 results in nine new significant unavoidable impacts on main City thoroughfares. The extent of these impacts is unacceptable to the City. Further, the SEIR fails to consider all feasible mitigations to reduce these impacts to less than significant as required under CEQA. The SEIR repeatedly dismisses all mitigation by stating "no other cost-effective feasible improvements beyond 2030 without Project" are available. However, "cost-effective" is not the only standard for feasibility. The SEIR should identify all possible physical improvements and other mitigations available, and then discuss feasibility of potential mitigations as appropriate.

This design change will result in the displacement and relocation of 7 more industrial businesses as compared to the station design evaluated in the FEIR. As stated above, these increased

impacts on City businesses are unacceptable. The Relocation Assistance Program relied on for mitigation must be described in more detail in order to support the conclusion that it will reduce the impacts on City businesses to less than significant.

Design Change # 18 - Depth of retained cut south of East Penitencia Channel

In the FEIR, the depth of the retained cut from south of Penitencia channel to Trade Zone Boulevard is approximately 30 feet below grade. In the DSEIR, the retained cut would generally be less than 30 feet below grade with the shallowest portion being only 10 feet below grade.

Staff Comment: Staff does not have any comments on this change.

A draft comment letter providing further details has been prepared, and is included in the Council packets.

Recommendations:

1. Discuss the draft comment letter on the BART Extension to Milpitas, San Jose and Santa Clara DSEIR, and the recommendations of the Transportation Subcommittee.
2. Approve the attached City of Milpitas comment letter on the DSEIR.

5. Accept Staff Report on Carlo Street and Calaveras Boulevard Ramp Conversion and Calaveras Blvd. Plan Study Report for Calaveras Blvd. Railroad Overcrossing Replacement (Staff Contact: Jaime Rodriguez, 586-3335)

Background: At the December 5, 2006 City Council meeting, staff was directed to begin outreach with the California Department of Transportation (Caltrans) to further study the conversion of the Carlo St. On-Ramp to Eastbound Calaveras Blvd. to an Off-Ramp instead, in an effort to provide more direct access to the Midtown District.

Staff met with Caltrans on February 1, 2007 to discuss the feasibility of the conversion. Caltrans staff responded in favor of the conversion subject to the completion of: 1) additional traffic studies, 2) the completion of more detailed improvement plans and, 3) an amendment to the City's General Plan.

The traffic studies and more detailed improvement plans would be focused on operational impacts to existing traffic patterns and to identify significant challenges in the conversion. Should the preliminary studies identify the conversion as feasible, the City would then need to complete a Supplemental Environmental Impact Report (SEIR) to the Midtown EIR adopted by Council. The SEIR would evaluate environmental impacts and study impacts to the City's roadway network in relation to already approved and future development. Upon completion of the SEIR, an amendment to the City's General Plan would follow.

A separate study, being led by the Valley Transportation Authority (VTA), would be conducted in parallel to this project but would focus on the widening of Calaveras Blvd between Abel St. and Milpitas Blvd. and include provisions for the installation of an off-ramp from Eastbound Calaveras Blvd. to the Midtown District.

Recommendation: Move to accept staff report on Carlo Street and Calaveras Boulevard Ramp Conversion and Calaveras Blvd. Plan Study Report for Calaveras Blvd. Railroad Overcrossing Replacement, and provide direction to staff.

XVIII. ORDINANCES

6. Introduce Traffic Ordinance 43.206: an Amendment to Section V-100-12.15 of the Milpitas Municipal Code "Vehicles Exceeding a Height of Six (6) Feet Prohibited From Parking" (Staff Contact: Jaime Rodriguez, 586-3335)

Background:

Subsection V-100-12.15 of the Milpitas Municipal code restricts vehicles exceeding a height of six (6) feet from parking within one hundred (100) feet of the intersection. Staff recommends amending this section to allow the restriction to extend beyond just 100-ft an intersection as appropriate based upon an engineering study.

The revised title would read:

V-100-12.15 – Vehicles Exceeding a Height of Six (6)-Feet Prohibited from Parking.
 Applications of the restriction under the revised language can include enhancements to roadway visibility for increased safety or quality of life improvements. Locations proposed for restriction would be properly signed to inform motorists.

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 43.206.
2. Introduce Ordinance 43.206 amending Chapter 100, V (Traffic) of the Milpitas Municipal Code.

7. Introduce Traffic Ordinance 43.207: an Amendment to Section V-100-15.06 of the Milpitas Municipal Code, “Parking Time Limited on Certain Enumerated Streets” (Staff Contact: Jaime Rodriguez, 586-3335)

Background:

This ordinance amends Subsection V-100-15.06 of the Milpitas Municipal Code, Parking Time Limited on Certain Enumerated Streets, to remove, modify and add time-limit parking restrictions on City streets.

The following street sections are proposed for removal as the time-limit parking restrictions do not exist in the field:

- .3 (On the west side of South Main Street commencing at the end of the curb return north of West Curtis Avenue and extending north for a distance of 57 feet.)
- .4 (On the west side of South Park Victoria Drive commencing at the projected south curb line of Big Basin Drive and extending southerly for a distance of 90 feet.)

The following time-limit parking restriction is being modified to match existing restrictions in the field:

- .5 A five (5) minute parking zone in front of the Library Parking Lot facing the main entrance.

Time-limit parking restrictions are being added to the following street sections:

	<u>Street</u>	<u>Segment</u>	<u>Duration</u>	<u>Time</u>
.6	Thompson St.	West Side from Great Mall Pkwy to Alvarez Common	4 Hours	7 am to 6 pm
.7	Thompson St.	East Side from Alvarez Common to Machado St.	4 Hours	7 am to 6 pm
.8	Thompson St.	East Side from Machado St. to Great Mall Pkwy	4 Hours	7 am to 8 pm
.9	Alvarez Ct	Entire Section	4 Hours	7 am to 6pm

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 43.207.
2. Introduce Ordinance 43.207, amending Chapter 100, V (Traffic) of the Milpitas Municipal Code.

XIX. RESOLUTION

- * **8. Adopt Resolution Granting Final Acceptance of the Berryessa Creek Trail, Reach 3, Project No. 5074 Federal Aid Project No. STPLE 5314 (001) (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project, which was initially accepted on January 17, 2006, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include construction of a new pedestrian bridge and approaches, temporary recreational trail surfacing, site furnishings, and signage. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

Recommendation: Adopt resolution granting final acceptance and release of the bond for Project No. 5074.

XX. BIDS AND CONTRACTS

- * **9. Approve the Consultant Agreement: Grossmann Design Group – Sports Center Large Gym Improvements, Project No. 8160 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: In accordance with the City's consultant selection procedure, Grossmann Design Group has been selected to perform the design services for the Sports Center Large Gym Improvements, Project No. 8160. The scope of services shall provide for a complete set of plans and specifications that includes replacing the gymnasium floor system; installation of an air-conditioning/heating unit; replacement of lighting fixtures, bleachers, and basketball hoops; installation of safety padding; and painting of interior walls and ceilings. This work also includes a thorough investigation of the gymnasium roof system for leaks, and subsequent design recommendations. Staff has negotiated a scope and fee for these services for an amount not to exceed \$87,440, which is considered reasonable for this work. There are sufficient funds available in the project budget to cover the cost.

Recommendation: Authorize the City Manager to execute the agreements with Grossmann Design Group in an amount not-to-exceed \$87,440.00, subject to approval as to form by the City Attorney.

- * **10. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Sewer Deficiency & Structural Correction Program – Open Cut Phase 3, Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides for the replacement of sewer main pipelines, due to structural deficiencies, differential settlement, and damaged sewer lines discovered with the City's video inspection program. The sewer main pipelines in this project require frequent maintenance. This project will reduce the amount of maintenance work required. This phase of the project will provide for sewer line replacements at:

1. 750 Terra Bella Drive northerly to Valencia Drive
2. 791 Valencia Drive to 751 Valencia Drive
3. Corinthia Drive at Martil Way to 739 Corinthia Drive

The Engineer's Estimate for the work is approximately \$450,000, and funds are available in the project budget.

A copy of the project plan title sheet is included in the Council's agenda packet. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendation: Approve plans and specifications for Project No. 6073, and authorize advertising project for bid proposals.

- * 11. **Approve Amendment No. 1 to the Agreement with Consultant RMC Water and Environment, Inc., for Developers Water and Sewer Impact Fee Analysis and Connection Fee Update (Staff Contact: Kathleen Phalen, 586-3345)**

Background:

On November 8, 2006, Council approved an Agreement with RMC Water and Environment, Inc., to perform a Developers Utility Impact Fee Analysis and Connection Fee Update study at a cost of \$38,780. Staff recommends that the Agreement scope of work be amended to add two new tasks to: (1) allow the consultant to update the City's Hydra collection system and H2ONET water distribution system models with revised land uses and updated sewer and water impact fees, and (2) review the treatment plant fee rate structure to ensure the City attains adequate cost recovery. RMC developed the hydraulic models and has reviewed other fees for the City, and so is well qualified to conduct this work. Staff negotiated an amended scope of work with RMC Water and Environment at a cost of \$9,812 for these two additional tasks, bringing the total not-to-exceed amount of \$48,592.

There are sufficient funds in the Utility Engineering Operating budget to amend this agreement to complete this additional scope of work.

Recommendation: Authorize City Manager to execute Amendment No. 1 to the Agreement with RMC Water and Environment, Inc. to increase the scope of work at an additional cost of \$9,812, for Developers Water and Sewer Impact Fee Analysis and Connection Fee Update.

- * 12. **Award Construction Contract to Golden Bay Construction, Inc. for the Montague Expressway Eastbound Median Modification, Project No. 4179 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The project provides for a continuous fourth through lane along eastbound Montague Expressway between Union Pacific Rail Road and Gladding Court. It also provides for Wrigley Creek culvert improvement behind the curb for pedestrians. On August 15, 2006, the Council authorized the re-advertisement for bids in early 2007 due to poor bid results (no bids were received at the bid opening and negotiated bids were very high). The poor bid results reflected the high demand for roadwork in the construction market at the time.

The plans and specifications for the subject project have been repackaged. The Engineer's estimate is \$255,000. The project was advertised and three sealed bid proposals were opened on February 22, 2007, ranging from \$229,011.00 to 285,356.40. The lowest responsible bidder is Golden Bay Construction, Inc. in the amount of \$229,011.00.

Sufficient funds are available in the project budget to award this project.

Recommendation: Award Construction Contract to Golden Bay Construction, Inc. for Project No. 4179, in the amount of \$229,011.00.

- * 13. **Award the Bid for On-Call Traffic Data Collection Services to Traffic Data Services (Staff Contact: Chris Schroeder, 586-3161)**

Background: On January 22, staff went out to bid for on-call traffic data collection services. Bids were sent to sixteen (16) vendors on Purchasing's vendor list; as well as advertising in the Milpitas Post, and on the City website. The value of the bids is based on a typical sample job the contractor might be called on to perform during the life of the contract.

Five (5) bids were received and are summarized below:

Auto Census*	\$2,300.00
Traffic Data Services	<u>\$2,690.00</u>
Marks Traffic Data	\$2,946.00
Higgins Associates	\$3,785.40
Wiltec	\$4,375.00

*Auto Census was disqualified because they did not have the necessary equipment to provide the 7-day mechanical hose counts specified in the bid.

Sufficient funding has been allocated in the Engineering operational budget for the purchase of these services.

Recommendation: Award the bid for On-Call Traffic Data Collection Services to Traffic Data Services and authorize the City Manager to sign a contract for the not to exceed amount of \$20,000.00; subject to approval as to form by the City Attorney.

*** 14. Authorize Purchase of Upgrade for Engineering Drafting Software from DLT Solutions (Staff Contact: Jon Stephens, 586-2719)**

Background: The Engineering Department and several other city departments use the AutoCAD suite of drafting and engineering software extensively in support of design and construction projects. This software has not been upgraded in the last four years and is incompatible with newer versions now used by building and development community. The required upgrades are available on a government (GSA) contract and total \$22,611.36. Funding is available from various Engineering Capital projects for the necessary upgrade.

Recommendation: Authorize the purchase of software support from DLT Solutions in the amount of \$22,611.36.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 20, 2007, AT 7:00 P.M.**