



**MILPITAS CITY COUNCIL MEETING AGENDA  
MARCH 20, 2007**

---

*7:00 P.M. (PUBLIC BUSINESS)  
455 E. CALAVERAS BOULEVARD*

**SUMMARY OF CONTENTS**

- I. CALL TO ORDER/ROLL CALL (7:00 p.m.)**
- II. PLEDGE OF ALLEGIANCE**
- III. INVOCATION (Mayor Esteves)**
- IV. APPROVAL OF MINUTES (February 27 and March 6, 2007)**
- V. SCHEDULE OF MEETINGS**
- VI. PRESENTATIONS**

**Proclamations**

Black History Month – February 2007  
Milpitas Black History Living Legacy Hall of Fame

**Certificate of Commendation**

Milpitas Rotary Club

**VII. 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.

---

**VIII. ANNOUNCEMENTS**

- IX. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- X. APPROVAL OF AGENDA**
- XI. CONSENT CALENDAR (Items with Asterisks\*)**
- XII. PUBLIC HEARING**

- 1. 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)**

**XIII. UNFINISHED BUSINESS**

2. **Accept Staff Report on Carlo Street & Calaveras Boulevard Ramp Conversion and Calaveras Blvd. Plan Study Report for Calaveras Blvd. Railroad Overcrossing Replacement (Staff Contact: Jaime Rodriguez, 586-3335)**
3. **Introduce Traffic Ordinance 43.206: Amendment to Section V-100-12.15 of the Milpitas Municipal Code to read, by title, "Vehicles Exceeding a Height of Six (6) Feet Prohibited From Parking" (Staff Contact: Jaime Rodriguez, 586-3335)**
4. **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)**
- \* 5. **Approve Mayor Esteves' Recommendations for Re-Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

**XIV. JOINT REDEVELOPMENT AGENCY, PUBLIC FINANCING AUTHORITY, AND CITY COUNCIL MEETING**

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Redevelopment Agency 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)**
- \***RA6. Adopt Resolutions of the City of Milpitas, Milpitas Redevelopment Agency and Milpitas Public Financing Authority Authorizing Investment of Monies in the Local Agency Investment Fund (Staff Contact: Emma Karlen, 586-3145)**
- \***RA7. Award Construction Contract: Midtown North Main Street Streetscape Improvement Project, Phase I, Project No. 8165, to JJR Construction Inc. (Staff Contact: Steve Erickson, 586-3414)**
- \***RA8. Authorize Issuance of Purchase Order: Constructware Solutions Group License Renewal, Projects No. 8161 and No. 8162 (Staff Contact: Mark Rogge, 586-3403)**
- \***RA9. Approve an Agreement with JC Decaux for Mineta San Jose Airport Terminal A Banners for an Amount Not to Exceed \$49,000 (Staff Contact: Diana Whitecar, 586-3059)**
- \***RA10. Approve Amendment No. 1 to the Agreement with Susan Lewis for Marketing and Program Development Services (Staff Contact: Diana Whitecar, 586-3059)**
- RA11. Agency Adjournment**

**XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

- \* 6. **Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

**XVI. NEW BUSINESS**

- 7. **Receive Presentation on Source of Potential Flooding in Milpitas and an Update on the Regional Flood Protection Projects Planned For Berryessa Creek, Project No. 3317 (Staff Contact: Mehdi Khaila, 586-3328)**
- 8. **Receive Staff Report on the S. Main St. Plan Line Study and an Adopt In-Lieu Fee for Development Projects (Staff Contact: Jaime Rodriguez, 586-3335)**
- \* 9. **Approve Construction Change Order Policy (Staff Contact: Greg Armendariz, 586-3317)**

**XVII. RESOLUTION**

- \* 10. **Adopt Resolution and Approve Agreement and Submittal of the Local Agency Formation Commission (LAFCO) Request for Milpitas Water Service to 2404 Uridias Ranch Road (Staff Contact: Kathleen Phalen, 586-3345)**

**XVII. BIDS AND CONTRACTS**

- \* 11. **Authorize City Manager to Execute Letter Agreement with Cupertino Sanitary District Regarding Intent to Share Costs of a Wastewater Capacity Study (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 12. **Approve Agreement with Pacific Gas & Electric to Relocate Electrical Service Poles for the New Main Sewage Pump Station and Authorize Payment, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

**XIX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 3, 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](mailto: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](http://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](http://www.ci.milpitas.ca.gov) or outside the City Council Chambers.

Contact the City Clerk's Office (586-3003) for more information.

## AGENDA REPORTS

### **XII.PUBLIC HEARING**

- 1. 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:** The Public Hearing is continued from the March 6 City Council agenda.

#### 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- 6: 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.

### **XIII. UNFINISHED BUSINESS**

2. **Accept Staff Report on Carlo Street & 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 Supplement 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 Santa Clara Valley Transportation Authority (VTA) would be conducted in parallel to this project but focused 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.

**Recommendations:**

1. Accept Staff Report on Carlo Street & Calaveras Boulevard Ramp Conversion and Calaveras Blvd Plan Study Report for Calaveras Blvd Railroad Overcrossing Replacement.
  2. Provide Staff with any additional directions.
- 3. Introduce Traffic Ordinance 43.206: Amendment to Section V-100-12.15 of the Milpitas Municipal Code to read, by title, "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 of 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 reading beyond the title or Ordinance No. 43.206.
  2. Introduce Ordinance No. 43.206 amending Chapter 100, V (Traffic) of the Milpitas Municipal Code.
- 4. 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)**

**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-limited 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<br>Great Mall Pkwy to<br>Alvarez Common | 4 Hours         | 7 am to 6 pm |
| .7 | Thompson St.  | East Side from<br>Alvarez Common to<br>Machado St.     | 4 Hours         | 7 am to 6 pm |
| .8 | Thompson St.  | East Side from<br>Machado St. to<br>Great Mall Pkwy    | 4 Hours         | 7 am to 8 pm |
| .9 | Alvarez Ct    | East Side  | 4 Hours         | 7 am to 6 pm |

**Recommendations:**

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

- \* **5. 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.

**XIV. JOINT REDEVELOPMENT AGENCY, PUBLIC FINANCING AUTHORITY, AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor/Chair**

**RA2. Roll Call**

**RA3. Approval of Redevelopment Agency 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 Library and Garage projects. Construction activities have begun on the library. Construction continues on the garage. Staff will provide a brief presentation on the progress of these projects.

### **Library**

SJ 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 JPA for the new library.
2. Receive the progress report on the Library and Parking Garage.

**\*RA6. Adopt Resolutions of the City of Milpitas, Milpitas Redevelopment Agency and Milpitas Public Financing Authority Authorizing Investment of Monies in the Local Agency Investment Fund (Staff Contact: Emma Karlen, 586-3145)**

**Background:** The City of Milpitas, the Milpitas Redevelopment Agency and the Milpitas Public Financing Authority have been participating in the State's Local Agency Investment Fund (LAIF) since 1977. LAIF periodically requests participants to update their investment resolutions. Staff has reviewed the existing resolutions of the three entities and determined that these resolutions need to be updated due to administration and personnel changes.

**Recommendation:** Adopt Resolutions of the City Council, Redevelopment Agency and Public Financing Authority authorizing investment of monies in the Local Agency Investment Fund.

**\*RA7. Award Construction Contract: Midtown North Main Street Streetscape Improvement Project, Phase I, Project No. 8165 to JJR Construction Inc. (Staff Contact: Steve Erickson, 586-3414)**

**Background:** On December 5, 2006, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project provides new pedestrian-friendly streetscape along North Main Street to support the De Vries Place Senior Housing, new Library, and other Midtown improvements. This first phase of the project will provide new pavement lanes, wide sidewalks, median island, attractive street lighting, traffic signal infrastructure, and landscape improvements on North Main Street from Weller Lane to the Hwy. 237 off-ramp.

The Project complies with the California Environmental Quality Act (CEQA) under the North Main Street Development Environmental Impact Report. The project was designed to satisfy the mitigation measures related to this portion of the work.

The project was advertised and sealed bid proposals were opened on March 6, 2007. Four bid proposals were received ranging from \$2,137,096 to \$3,876,048. The lowest responsible bidder is JJR Construction Incorporated. This bid is 5.8% above the Engineer's estimate. Sufficient

funds are available in the project budget for this phase and for phase II, estimated at approximately \$3 million.

**Recommendation:** Award Construction Contract to JJR Construction Incorporated in the amount of \$2,137,096.

**\*RA8. 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 has negotiated the fees for these services for the fiscal year 2006/2007 in the amount not to exceed \$22,000, which is considered reasonable for the work. There are sufficient funds in the project budget(s) to cover this expense.

**Recommendation:** Authorize staff to execute a purchase order with Constructware Solutions Group, related to Projects No. 8161 and No. 8162 in the amount not to exceed \$22,000.00, subject to approval as to form by the City Attorney.

**\*RA9. Approve an Agreement with JC Decaux for Mineta San Jose Airport Terminal A Banners for an Amount Not to Exceed \$49,000 (Staff Contact: Diana Whitecar, 586-3059)**

**Background:** In February 2006, the City Council approved the Economic Strategy Action Plan, including a recommendation to promote Milpitas through airport signage. As a result, two signs were fabricated for installation at Mineta San Jose International Airport, one in each Terminal.

On January 8, 2007, the Mayor and Economic Development Commission “christened” the Terminal A sign (see attached), a “Pod” sign located in the ramp connecting American Airlines gates to the main part of the terminal and located outside the American Admiral’s Club. The sign has been visible to over 500,000 arriving passengers since its installation and will remain in place until March 26th.

In late March, the Terminal C ‘diorama’ sign (see attached) will be installed in the Terminal C claim area. It will remain installed for a period of three months and, based on 2006 travel, will be visible to 300,000 arriving passengers.

Total cost for the two signs, including design, fabrication and installation, is approximately \$37,000. Milpitas will be advertised for a total of six months—each sign for a three month period. Verbal response to the signs has been positive, but the City has not received increased business inquiries during the time of the Terminal A “Pod” sign installation.

Recently, the Airport installed fabric banners in the main part of Terminal A (see attached map). These banners are currently advertising airport services, but are available for a six-month period beginning July through December 2007. The new Milpitas “lifestyle” banners fit this location and, if installed, will be visible to over 3,000,000 arriving and departing passengers during the six month period as both Southwest and American Airlines passengers pass through this area. In addition to this banner site, JCDecaux offers to install, at no additional charge, the existing “Welcome to Milpitas” signs when another advertiser does not take a sign space during the same six month period.

The Economic Development Commission will consider this proposal from JCDecaux at their meeting on March 12th to install the Milpitas “lifestyle” banners for the stated period for an amount not to exceed \$49,000. If the City Council approves this request, staff will execute an agreement with the sign company for installation in early July 2007.

**Recommendation:** Approve a contract with JCDeaux for an amount not to exceed \$49,000 for installation of banners at Mineta San Jose International Airport Terminal A.

**\*RA10. Approve Amendment No. 1 to the Agreement with Susan Lewis for Marketing and Program Development Services (Staff Contact: Diana Whitecar, 586-3059)**

**Background:** Susan Lewis is currently under contract to provide marketing and promotional assistance for implementation of the Economic Strategy Action Plan. Working with the Economic Development Manager and the Economic Development Commission, Lewis is responsible for the Airport Signage and Branding programs. She works closely with the Commission's Image Subcommittee in the location analysis for the three minor entryway signs and facilities. Most of the business counseling sessions are held in Milpitas. Lewis also conducted research and made recommendations to strengthen the Economic Development portion of the City's website.

Collaborating with the ED Manager and Commission, Lewis identified potential participants for the Branding Stakeholder Committee and prepared the participant invitations signed by the Mayor and EDC Chair. She has talked with each one, provided written material for their consideration, and developed the work program for the Committee. The first meeting of the Branding Stakeholder Committee is on March 21st.

If the Agency approves the amendment to the Agreement, Lewis will lead the Branding Program so that recommendations can be made to the Agency/Council in August, based on the Committee's efforts. In addition to this, she will prepare an Information Package for small business and will assist with other promotional and marketing efforts, continue her efforts on website changes, and facilitate additional airport signage that the Agency/Council is considering tonight.

Fiscal Impacts: The original \$15,000 contract with Lewis is funded with Economic Development operating funds. Staff recommends the amendment of an additional \$15,000 for a total contract not to exceed \$30,000. Funds for the Amendment are available in the FY 06-07 Economic Development Operating fund.

**Recommendation:** Approve Amendment No. 1 for \$15,000 to the agreement with Susan Lewis for continued marketing services, for a total contract amount not to exceed \$30,000.

**RA11. Agency Adjournment**

**XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

**\* 6. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves recommends the following Milpitas residents be appointed:

**Parks, Recreation and Cultural Resources Commission:**

Appoint Tim Chang (current Alternate No. 2) as Alternate No.1 to a term that expires in June 2008.

Appoint Naomi Matautia as Alternate No. 2 to a term that expires in June 2007.

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

**XVI. NEW BUSINESS**

**7. Receive Presentation on Source of Potential Flooding in Milpitas and an Update on the Regional Flood Protection Projects Planned For Berryessa Creek, Project No. 3317 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** The purpose of the presentation is to update the City Council on the source of potential flooding in Milpitas and construction of regional flood protection projects by Santa Clara Valley Water District and Army Corp of Engineers relating to Berryessa Creek projects.

**Recommendation:** Receive presentation and provide comments to Santa Clara Valley Water District on Berryessa flood protection projects.

**8. Receive Staff Report on the S. Main St. Plan Line Study and an Adopt In-Lieu Fee for Development Projects (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** The Midtown Specific Plan, adopted by Council in March 2002 identifies both S. Abel Street and S. Main Street as key corridors to the City's Midtown Area with projects aimed at promoting redevelopment. Between Great Mall Parkway and Montague Expressway, several residential development projects have already been either approved for construction or are nearing the end of the planning process.

To help facilitate consistency and conformance with the Midtown Specific Plan, Council authorized the development of a Plan Line Study to help guide the construction of improvements within the public right-of-way. The Plan Line Study is now complete and includes the following elements:

- Median Island Configuration Plan
- Street Cross Section Profiles
- Streetscape Planting Plan
- Lighting Plan
- Pedestrian & Transit Connectivity
- Funding Plan

The Plan was developed through an extensive community outreach that involved three community meetings, one of which was targeted solely to the development community to help identify and develop the appropriate median island openings to provide both residential and emergency vehicle access points. Implementation of the plan involves both public and private participation. Adoption of the plan by Council identifies:

- Frontage improvements that private development would implement as part of their standard off-site improvement requirements.
- An In-Lieu Fee that development, whose primary access is not contingent on median island improvements, could pay into for completion of improvements by either the City or another developer at a future time. Staff will present a resolution at a later date.
- Commitments for the City to identify funding to build the improvements in areas which have no feasible development activity.

**Recommendations:**

1. Receive Final Report on the S. Main Street Plan Line Study.
2. Approve in concept the Recommended In-Lieu Fee for Development Projects whose primary access is not contingent on the construction of median island improvements.

**\* 9. Approve Construction Change Order Policy (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This matter was considered by the Council on September 19, 2000, and a pilot program was approved by Council.

Staff had requested administrative authority for approval of construction change orders up to \$25,000 or 10% of the construction award amount, whichever is smaller. The Council directed staff to implement the proposal as a pilot program. In addition, there was discussion about the possibility of different limits for different types of projects. In December 2006, Council approved a separate procedure for the Library, Parking Garage and Main Street projects.

This pilot program has been in practice since then, and staff conservatively estimates that at least \$50,000 per year is saved with the revised change order procedure. During the time period of this pilot program, staff demonstrated the ability to control change order costs, despite the very challenging construction market, which made it more important to avoid contractor delay costs associated with changed field conditions. In addition, the pilot program placed the City more in line with practices in other cities.

Consideration of this matter is important for the following reasons:

- To minimize potential contractor delay costs on a large number of projects, which are under construction.
- To allow project staff to respond in a timely manner to ensure potential health and safety issues are prevented.
- To provide staff members with more time to monitor and concentrate on the larger issues on major Capital Improvement Projects (CIP) and regional projects and on the many development projects underway.

The Council approved a pilot program for change orders is as follows: in regard to cumulative change orders, staff proposes that the administrative authority be limited to 15% of the project cost or \$100,000, whichever is smaller. The policy would then be as follows:

| <u>Construction<br/>Award Amount</u> | <u>Individual Administrative<br/>Change Order Authority</u> | <u>Cumulative<br/>Change Order Authority</u>      |
|--------------------------------------|---|---|
| Under \$50,000                       | \$5,000   | \$7,500   |
| Over \$50,000                        | 10% of Award or \$25,000<br>whichever is smaller            | 15% of Award or \$100,000<br>whichever is smaller |

**Recommendation:** Approve the Change Order Policy based on the Pilot Change Order Policy previously approved by the City Council in 2000.

**XVII. RESOLUTION**

**\* 10. Adopt Resolution and Approve Agreement and Submittal of the Local Agency Formation Commission (LAFCO) Request for Milpitas Water Service to 2404 Uridias Ranch Road (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** The single-family residence at 2404 Uridias Ranch Road is served by a well whose capacity has diminished, resulting in an inadequate supply to meet the health and safety needs of the home. The County Health Department has declared that the well production is not sufficient to supply a normal household, and the water quality does not meet drinking water standards, which is a public health concern. As a result, the homeowners, Phil Dahm and Ruth Haynes, have requested a permanent connection to the City of Milpitas water system.

Staff has determined that all the above criteria apply and that the water supply will not affect the ability of the Milpitas distribution system to meet customer demand.

According to Ordinance No. 38.742, the following four criteria must be met before Council may approve a permanent water supply:

1. An urgent public health or safety concern exists.

2. An independent certified professional engineer determines that City supply is the only economically justifiable solution to the public health and safety concern.
3. The legal parcel had a vested right to develop prior to November 3, 1998.
4. The applicant is responsible for the cost to provide service.

The Utility Rate Subcommittee received background information about the request. The Committee requested that staff research the construction date of the Dahm's well and surrounding wells, that may be drawing from the same local aquifer, to determine if increased groundwater extraction could be the cause of the Dahm's supply problem. Staff found that the Santa Clara Valley Water District does not have a record of the Dahm's well installation or any data on groundwater extraction in this area. The Dahm's believe their house was constructed in 1989 so it is likely the construction date of their well. The District does not have records for 23 other wells in the foothill area, 14 of which were installed after 1989.

Since this parcel is located outside the City limits, Local Agency Formation Commission (LAFCO) approval is needed before the City can provide water to the parcel. LAFCO requires submittal of the following:

Demonstration that a health and safety concern exists.  
Council resolution requesting LAFCO administrative approval for service.  
Agreement terms between the City and the property owners.

Staff recommends approval of a water supply agreement with the property owners, and authorization to submit a resolution requesting LAFCO administrative approval to supply water to 2404 Uridias Ranch Road.

**Recommendations:**

1. Approve the water supply agreement with Phil Dahm and Ruth Haynes, subject to approval as to form by the City Attorney.
2. Approve resolution and authorize request to the Local Formation commission for administrative approval of water service for 2404 Uridias Ranch Road.

**XVII. BIDS AND CONTRACTS**

- \* **11. Authorize City Manager to Execute Letter Agreement with Cupertino Sanitary District Regarding Intent to Share Costs of a Wastewater Capacity Study (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** The City of Milpitas has determined that additional wastewater capacity is needed to accommodate growth forecasted in the General Plan Amendments. The City and the Cupertino Sanitary District (CuSD) are sharing the cost of a technical study to determine whether CuSD has excess wastewater capacity that it could sell to the City. CuSD has retained RMC Water and Environment to perform this study.

The first phase of the work is a review of the general plans for the CuSD service area to determine CuSD's projected sewer capacity needs. The cost of this phase is \$33,460. The City's share of \$16,730 was approved by staff. The preliminary results of the first phase study show that CuSD has some excess capacity for three of the four components (flow, suspended solids, and ammonia). Staff will evaluate the City's need for purchase of the fourth component, biochemical oxygen demand (BOD), separately.

The second phase of the work is to determine the fair market price of the excess capacity. The cost of this work is \$16,568. The City's share is \$8,284. The total cost for both phases of the proposed work performed by RMC Environment and Water is \$50,028. The City share is \$25,014. CuSD has requested that the City also share the cost of the attorney fees for agreement review. Funds are available from the Sewer Fund. The Finance Subcommittee heard this item on March 7, 2007, and recommended its placement on Council's March 20, 2007 agenda.

The attached letter agreement is prepared to acknowledge agreement for cost-share of the total amount of work.

**Recommendation:** Authorize the City Manager to execute the Letter Agreement, subject to approval by the City Attorney.

- \* 12. **Approve Agreement with Pacific Gas & Electric to Relocate Electrical Service Poles for the New Main Sewage Pump Station and Authorize Payment, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** An agreement with PG&E and an associated fee are required for PG&E to remove electrical service poles located on the Main Sewage Pump Station property and future McCarthy Ranch property, to fulfill a land swap agreement between The City and McCarthy Ranch. The fee to PG&E for this work is not to exceed \$31,649.46 for the engineering and removal. There are sufficient funds in the project budget for this purpose.

**Recommendation:** Approve the agreement with PG&E and authorize payment of \$31,649.46 fee to PG&E.

## **XIX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, APRIL 3, 2007, AT 7:00 P.M.**