



**MILPITAS CITY COUNCIL MEETING AGENDA
APRIL 17, 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 NEGOTIATORS - 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 Government Code §54957.1, including the vote on abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Vice Mayor Livengood)**
- VI. APPROVAL OF MINUTES (April 3, 2007)**
- VII. SCHEDULE OF MEETINGS/COUNCIL CALENDAR**
- VIII. PRESENTATIONS**

Proclamations:
Holocaust Day of Remembrance – April 15, 2007
Arbor Day – April 21, 2007

Presentation:
Association of Bay Area Government Recognition of Milpitas Risk Management Program and Grant Award
- 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 HEARINGS

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)**
2. **Approve the Community Development Block Grant Funding for FY 2007-08 and Adopt the One-Year Action Plan (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**
3. **Authorize Entertainment Permit For Butler Amusements To Hold A Carnival At Great Mall, May 10-13, 2007 (Staff Contact: Mary Lavelle, 586-3001)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (April 3, 2007)**
- RA4. Approval of Agenda and Consent Calendar**
- RA5. Review Draft 2007-2012 Capital Improvement Program (CIP) Report (Staff Contact: Greg Armendariz, 586-3317)**
- *RA6. Adopt Resolution of the Milpitas Redevelopment Agency Approving the Execution of an Owner Participation Agreement with MIL Aspen Associates, a California Limited Partnership (Staff Contact: Felix Reliford, 586-3071)**
- *RA7. Approve Amendment No. 1 to the Agreement with Brian Kangas Foulk Engineers for N. Main Street Streetscape Improvements Phase I, Project No. 8165 (Staff Contact: Steve Erickson 586-3414)**
- *RA8. Approve Partial Certificate of Completion for Certain Residential Units within Tract No. 9698 for KB Home, Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**
- RA9. Agency Adjournment**

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 4. Approve Mayor Esteves' Recommendation for Re-Appointments to the Economic Development Commission (Contact: Mayor Esteves, 586-3029)**
- * 5. Confirm Appointment to Santa Clara Valley Water Commission (Contact: Mayor Esteves, 586-3029)**
- 6. Consider Mayor's Recommendation for Donation to Volunteer Income Tax Assistance Program (Contact: Mayor Esteves, 586-3029)**

Open Government Subcommittee

7. **Authorize Training for City Staff on Provision of Public Records (Contacts: Vice Mayor Livengood, 586-3027, and Councilmember Gomez, 586-3031)**

Economic Development Commission

- * 8. **Approve Parking Task Force Membership and 2007 Work Program (Staff Contact: Joe Oliva, 586-3290)**

Parks, Recreation and Cultural Resources Commission

- * 9. **Approve Parks, Recreation and Cultural Resources Commission 2007 Work Plan (Staff Contact: Carol Randisi, 586-2601)**

XVII. NEW BUSINESS

10. **Approve Valley Transportation Authority Process for Design of Bay Area Rapid Transit Extension to Milpitas, Project No. 8164 (Staff Contact: Greg Armendariz, 586-3317)**
11. **Overview of SiliconValleyOnline.Org and SiliconValleyProspector.com, California's First Regional Commercial Data Base Search Tool and Silicon Valley's Business Portal (Staff Contact: Diana Whitecar, 586-3058)**
12. **Approve Amendments to City Council Handbook (Staff Contact: Richard Pio Roda, 586-3040)**

XVIII. ORDINANCES

13. **Introduce Ordinance No. 48.19 Amending Sections of Chapter 200 of Title V of the Milpitas Municipal Code Regarding Solid Waste (Staff Contact: Kathleen Phalen, 586-3345)**
14. **Introduce Ordinance No. 101.20 and Adopt a Resolution of Intention to Approve an Amendment to the Contract Between Board of Administration of the California Public Employees' Retirement System and the Milpitas City Council (Staff Contact: Carmen Valdez, 586-3086)**

XIX. RESOLUTIONS

- * 15. **Adopt Resolution Approving Memorandum of Understanding with the County of Santa Clara for Holiday Driving Under the Influence Campaign - Avoid the 13 (Staff Contact: Tom Borck, 586-2434)**
- * 16. **Adopt Resolution Approving "Click It or Ticket" Program Agreement with the Regents of the University of California School of Public Health, U.C. Berkeley, and the California Office of Traffic Safety (Staff Contact: Tom Borck, 586-2434)**

XXII. BIDS AND CONTRACTS

- * 17. **Approve Subdivision Improvement Agreement, Public Improvement Plans and Encroachment Permit Agreement for Aspen Family Apartments, Project No. 3199 (Staff Contact: Mehdi Khaila, 586-3328)**
- * 18. **Approve Agreement for Water Conservation Program and Possible Deferment of Water and Sewer Connection Fees and Treatment Plant Fees with Piercey Toyota, Project No. 3203 (Staff Contact Mehdi Khaila, 586-3328)**
- * 19. **Award Construction Contract to O'Grady Paving, Inc. and Approve Budget Appropriation for Street Resurfacing 2007, Project No. 4236 (Staff Contact: Andrew Brozyna, 586-3315)**

- * 20. **Authorize the City Manager to Approve Amendment No. 1 to Agreement for Consultant Services with Swinerton Management & Consulting: Main Sewage Pump Station Improvements, Project No. 6103, Hwy 237/I880 Interchange, Project No. 4170; Berryessa Pump Station Improvements, Project No. 8138; Gibraltar Reservoir & Pump Station, Project No. 7101; Venus Pump Station, Project No. 6101, and other Capital Improvement Projects as assigned (Staff Contact: Greg Armendariz, 586-3317)**
- * 21. **Authorize City Manager to Execute Agreement with Randall Funding and Development, Inc., and Grant Development Services, for On-Call Services for Various Capital Improvement Projects (Staff Contact: Andrew Brozyna, 586-3315)**
- * 22. **Authorize the City Engineer to Execute Contract Change Order No. 1 with Anderson Pacific Engineering Construction Inc., for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**
- * 23. **Authorize City Manager to Execute Contract Agreements for Professional Planning Services with Lamphier-Gregory and Metropolitan Planning Group (Staff Contact: Felix Reliford, 586-3071)**

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 1, 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

XV. PUBLIC HEARINGS

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: This item was continued from the March 20, 2007 City Council meeting and has been re-advertised as a Public Hearing.

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.

2. **Approve the Community Development Block Grant Funding for FY 2007-08 and Adopt the One-Year Action Plan (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

Background: The purpose of this public hearing is to establish funding levels and uses of the Community Development Block Grant (CDBG) Program for FY 2007-08 and to adopt the One-year Action Plan, which describes the eligible programs, projects and activities to be undertaken with CDBG funds in the next fiscal year. An application workbook was previously distributed to the Council that contains a memorandum discussing the general guidelines regarding the use of CDBG funds and a copy of each eligible application received.

CDBG Program

The City's grant allocation for FY 2007-08 is \$599,777. Nineteen (19) eligible applications were received for CDBG funding. There are 16 applications requesting funding for Public Services and a total of \$89,966 is available to fund this category. Three (3) applications are competing for the

Non-Public Services funds in the amount of \$389,856. The Council should be advised that due to Department of Housing and Urban Development (HUD) budget cuts, the City of Milpitas grant is \$1,186 less than last year.

On October 4, 2006, the City Council adopted the two-year (2006-2008) CDBG funding priorities as guidelines to assist in the Community Advisory Commission (CAC) in evaluating the grant applications. Specifically, the Council adopted two major CDBG funding policies at their meeting:

- 25% of all Public Service funds must be spent on City Programs. Based on the CDBG Program allocation for public services (\$89,966), 25% of these funds are \$22,416.
- Increased the allocation from \$15,000 to \$25,000 for Fair Housing Services, with the additional \$10,000 coming from the Redevelopment Agency 20% Housing Set-Aside Funds.

At its meeting on March 4, 2007, the Community Advisory Commission held a public hearing and reviewed the CDBG applications. CAC recommends \$600,963 in total funding, including \$90,144 (\$15,000 from CDBG General Program Administration funds for Project Sentinel's Fair Housing Activities) for Public Services and \$390,627 for Non-Public Services. The remaining \$120,192 of the grant is committed for program administration.

Included in the Council's agenda packets are the March 4, 2007 CAC minutes and background information, including the funding recommendations. However, as of the March 4, 2007 CAC Public Hearing, the City had not received formal notice as to the actual allocation while City staff estimated receiving \$600,963 (the same as FY 06-07). Therefore, the CAC made recommendations based on that amount. Since then, the City received formal notification that FY 2007-08 allocation is \$599,777, which is \$1,186 less than anticipated.

Due to the Funding Reduction, the following changes occurred: the 15% cap available for Public Services was reduced from \$90,144 to \$89,966 (a \$178.00 difference), 25% of Public Services Funds to be reserved for the City's RAP reduced from \$22,536 to \$22,416 (a \$120.00 difference) and staff is suggesting that the remaining shortage of \$58.00 be reduced from The Milpitas Food Pantry, bringing the funding amount to \$7,550 from \$7,608.

Non-Public Service Funds were reduced to \$389,619 from \$390,627. Staff recommends that the \$771 shortfall be taken out of the Milpitas Housing Rehabilitation Program, bringing the total funding for this project to \$157,883. And finally, General Program Administration funds were reduced from \$120,192 to \$119,955 (a \$237.00 difference). All applicants have been notified of the City Council public hearing and were advised to be present to answer any questions of the City Council.

Action Plan

The City of Milpitas One-Year Action Plan describes the eligible programs, projects and activities to be undertaken with the funds expected to be available during the 2007-08 program year and their relationship to the priority housing, homeless, and community development needs. The Action Plan is an addition to the required Five-Year Consolidated Plan and previously approved by the Department of Housing and Urban Development for continued funding as an entitlement city.

In summary, the Action Plan identifies the federal, state and local resources that will be used to fund local programs and services, the strategic plan for implementation and the citizen participation process. As required by HUD, the Action Plan has been advertised for public view and comments for 30 days (March 12 through April 12, 2007).

Copies of the Action Plan were sent to 18 CDBG applicants. Copies were also placed at City Hall, The Community Center, and the public library. Public comments received will be

incorporated in the Action Plan and forwarded to HUD by May 15, 2007. A draft of the One-Year Action Plan is included in the Council's agenda packet.

Staff is currently drafting the Five-Year Consolidated Plan (2007-2012) which will be presented to the City Council in the fall for public review and adoption.

Recommendations:

1. Open the Public Hearing on the CDBG funding process and the Action Plan, and hear comments.
 2. Close the Public Hearing.
 3. Approve the CAC recommendations (with staffs' adjustments due to reduced funding) for FY 2007-08 CDBG funding.
 4. Adopt the One-Year Action Plan.
- 3. Authorize Entertainment Permit For Butler Amusements To Hold A Carnival At Great Mall, May 10-13, 2007 (Staff Contact: Mary Lavelle, 586-3001)**

Background: Butler Amusements Inc. submitted an application on March 27, 2007 for an Entertainment Event Permit to hold a carnival at the Great Mall in Milpitas for the dates Thursday, May 10 through Sunday, May 13, 2007. This company based in Fairfield, CA has operated carnivals throughout the west, and in particular was the operator of carnivals last year sponsored by the Rotary Club and one on its own at Great Mall last March. Hours of operation for the carnival proposed are: from 4:00 PM – 10:00 PM Monday – Thursday, from 4:00 PM to 11:00 PM on Friday, from 11:00 AM to 11:00 PM on Saturday, and 12 PM to 11:00 PM on Sunday.

The application was reviewed by the necessary City departments and the public hearing was advertised in the newspaper as required. Butler paid the \$100 application fee, and has renewed its business license with the City. Updated insurance certificates are required and will be submitted the week prior to the carnival event. Appropriate conditions were stated by several City departments, as noted in the agenda packet attachments.

Recommendation: Move to approve the Entertainment Event permit for Butler Amusements, Inc. to operate a carnival at the Great Mall for the dates of May 10 – 13, 2007.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (April 3, 2007)

RA4. Approval of Agenda and Consent Calendar

RA5. Review Draft 2007-2012 Capital Improvement Program (CIP) Report (Staff Contact: Greg Armendariz, 586-3317)

Background: The draft 2007-2012 Capital Improvement Program (CIP) document has been prepared by staff and was distributed to Council on April 5, 2007. The projects are arranged into six main categories: Community Improvements, Parks, Streets, Water, Sewer, and Storm Drain. The document includes a summary by categories, and individual proposed project descriptions. Previously funded projects are also summarized.

The Parks and Recreation projects were reviewed and approved by the Parks, Recreation and Cultural Resources Commission on March 5, 2007. The draft CIP document will also be

presented to the Planning Commission on April 11, 2007, for a recommendation to find the document in conformance with the General Plan.

A staff presentation of the draft CIP highlights will be provided at the Council meeting. Based upon Council direction, the draft CIP will be finalized and prepared. This final preliminary CIP will then be presented to Council at the May 2007 budget session.

Recommendation: Provide staff with direction and comments on the 2007-2012 Capital Improvement Program.

***RA6. Adopt Resolution of the Milpitas Redevelopment Agency Approving the Execution of an Owner Participation Agreement with MIL Aspen Associates, a California Limited Partnership (Staff Contact: Felix Reliford, 586-3071)**

Background: At its meeting on August 1, 2006, the Milpitas Redevelopment Agency authorized staff to enter into negotiations with Global Premier Development, Inc. (the general partner of MIL Aspen Apartments) to consider financial assistance for a proposed affordable housing project. On April 3, 2007, the Redevelopment Agency and City Council adopted resolutions approving a Memorandum of Understanding (MOU) establishing the preliminary terms and conditions relating to Agency financial assistance and return for long-term affordability.

The Agency authorized the provision of assistance for the development of a 101 multi-family unit project, in which 100 of the units will be affordable to very low-income households at 50% or below of the Area Median Income. The units will consist of 50 2-bedroom units and 50 3-bedroom units and one 2-bedroom manager unit. The developer, MIL Aspen Associates, has obtained an allocation of \$24 million in state and federal low income housing tax credits from the California Tax Credit Allocation Committee (CTCAC) and has obtained commitments and permanent financing from private lenders. These lenders have asked the Agency to subordinate certain provisions of the Agency documents, pursuant to subordination agreements that will provide the Agency with notice and cure rights, so that the Agency will be afforded an opportunity to protect its investment in the Project in the event of a foreclosure.

The Owner Participation Agreement (OPA) sets out in detail the responsibilities of the Agency and the developer, specifically with regards to the loan, affordability, covenants and the use of the property. The OPA and related documents, which include a note, deed of trust, option and right of first refusal agreement and regulatory agreement are now ready for Agency approval.

In summary, the OPA commits a total of \$2.3 million dollars in affordable housing funds for the development of 100 very low-income units (the project will be 100% affordable) in the form of a loan to the developer. The proceeds of Agency loan would be used to pay project impact fees (park in-lieu, traffic, off-site improvements, water and sewer). The Developer requested deferral of payment of the impact fees, and the City adopted a resolution on April 3, 2007, approving deferral of payment of such fees until closing of the permanent financing for the Project, for a period of up to a maximum of 24 months.

The developer will be required to start paying off the Agency's loan commencing in the first year in which the project generates surplus cash (excess of revenue over the operating expenses). The loan will accrue interest at a rate of 5% compounded annually. The loans will be payable in annual installments on a residual receipts basis with fifty percent (50%) of all surplus cash payable to the Agency toward principal and interest. The entire outstanding balance of the loan together with accrued interest will be due and payable on the thirtieth (30th) anniversary of the origination date. The Agency will have a right of first refusal and option to purchase the project in year 16, following expiration of the tax credit compliance period. If the developer pays off the loan in full prior to that time, the Agency's option and refusal right would expire; however, the regulatory agreement would remain effective for its full 55-year term. Sufficient Low and Moderate Income Housing Funds are available to fund the loan.

A copy of the OPA and related documents and the resolution for adoption are included in the Agency's agenda packet. The developer has accepted the terms and conditions of the OPA and related documents.

Recommendation: Adopt Agency Resolution approving the execution of an Owner Participation Agreement with MIL Aspen Associates, a California Limited Partnership, and related documents with certain findings.

- *RA7. Approve Amendment No. 1 to Agreement with Brian Kangas Foulk Engineers for N. Main Street Streetscape Improvements Phase I, Project No. 8165 (Staff Contact: Steve Erickson 586-3414)**

Background: On April 5, 2005, the City Council awarded a consultant contract to Brian Kangas Foulk (BKF) Engineers for the design of the North Main Street Streetscape Improvements. These improvements provide a new pedestrian-friendly streetscape along North Main Street to support the DeVries Place Senior Housing, new County Valley Health Center, new Library, and other Midtown improvements. This first phase of the project will provide new pavement, wide sidewalks, median island, decorative street lighting, traffic signal infrastructure, and landscape improvements on North Main Street from Weller Lane to the 237 off-ramp.

Staff recommends that BKF Engineers perform additional services to provide construction support, field surveying, and compile record drawings for the Phase I Improvements. An agreement amendment is proposed for these additional services not to exceed \$50,000, which is considered reasonable for the work. Staff negotiated a scope and fee for these services and there are sufficient funds in the project budget for this expense.

Recommendation: Approve Amendment No. 1 to the agreement with Brian Kangas Foulk Engineers for Project No. 8165 in the amount of \$50,000, subject to approval as to form by the City Attorney.

- *RA8. Approve Partial Certificate of Completion for Certain Residential Units within Tract No. 9698 for KB Home, Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: On January 18, 2005, the City of Milpitas Redevelopment Agency and KB Home South Bay, Inc., entered into a Disposition and Development Agreement (DDA) concerning the residential development, Terra Serena, north and east of the county's Elmwood Correctional Facility. The recorded grant deed, which conveyed the subject real property from the Agency to KB Home, requires that the Redevelopment Agency issue a Certificate of Completion upon the completion of the infrastructure improvements in accordance with the DDA. Certain improvements have been satisfactorily completed to serve certain residential units as shown on the Partial Certificate of Completion, and therefore occupancy may be granted to only those housing units.

Recommendation: Authorize the Agency Executive Director to execute the Partial Certificate of Completion for certain residential units for KB Home Terra Serena Project No. 3160, subject to approval of the City Attorney as to form.

RA9. Agency Adjournment

XVI. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- * 4. Approve Mayor Esteves' Recommendation for Re-Appointments to the Economic Development Commission (Contact: Mayor Esteves, 586-3029)**

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

Economic Development Commission:

Re-appoint Tomo Tuong Nguyen to a term that expires in April 2010.

Re-appoint Milpitas Unified School Board Trustee Barbara Santos to a term that expires in April 2010.

Re-Appoint Minh Nguyen as Alternate No. 1 to a term that expires in April 2009.

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

* **5. Confirm Appointment to Santa Clara Valley Water Commission (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends for the Santa Clara County Water Commission (which meets monthly on 3rd Thursdays at 9:30 a.m. in San Jose) the following:

Confirming Representative: Mayor Jose Esteves

Confirming Alternate: Vice Mayor Livengood

Newly appoint as Alternate (staff): Principal Utility Engineer Kathleen Phalen

Recommendation: approve the appointment of Kathleen Phalen as the staff alternate representing Milpitas on the Santa Clara Valley Water Commission.

6. Consider Mayor's Recommendation for Donation to Volunteer Income Tax Assistance Program (Contact: Mayor Esteves, 586-3029)

Background: Mayor Esteves received a request for a donation of \$490 to the VITA program, which provides income tax preparation assistance at the Milpitas library for elderly, the disabled, low-income and limited English speaking residents.

The organization provided a written request detailing the expenditures for which the donation is requested, including computer-related supplies. The letter of request is included with the agenda packet materials.

If approved, funding would be allocated from the City Council's unallocated Community Promotions section of the current Fiscal Year budget. Current balance is \$1,740 in that budget line item, and thus the balance would be \$1,250 if this donation is authorized.

Recommendation: Approve the recommended \$490 donation to the Volunteer Income Tax Assistance program at the Milpitas Library, with the funds from the City Council's Community Promotions budget.

Open Government Subcommittee

7. Authorize Training for City Staff on Provision of Public Records (Contacts: Vice Mayor Livengood, 586-3027 and Councilmember Gomez, 586-3031)

Background: The Council's Open Government Subcommittee discussed at its April 4 meeting the topic of compliance with the Open Government ordinance and the California Public Records Act, and discussed the need for training all public counter staff on the provision of records.

Additional discussion centered around a recently publicized report by a California organization which had surveyed select law enforcement agencies' responses to journalists' requests for public records. Information about that report is included in the agenda packet. The City Attorney advised that there were certain challenges to that survey and could identify some of the issues specific to the Police Department's records and the Public Records Act.

At the same meeting, Subcommittee members recommended public records training for City personnel who deal directly with members of the public (such as City staff at counters maintained by City departments for serving the public). Subcommittee members desired such training to help City staff - throughout the City who deal directly with the public - understand the City's records disclosure obligations under the California Public Records Act, the City's Open Government Ordinance, and other related laws, so that employees can provide prompt access to public records consistent with requirements of state and local laws.

Accordingly, it is recommended that Council direct the City Attorney's office to prepare training materials and conduct training for staff that deals with the public concerning the City's records disclosure obligations under the California Public Records Act, the City's Open Government Ordinance, and other laws. Such training should address coordination among City departments, as appropriate, to help each play an active and effective role in prompt disclosure of public records. In preparing such training materials, the City Attorney's office would utilize and expand upon existing training materials concerning the California Public Records Act and the City's Open Government Ordinance.

Recommendation: Discuss current policy of providing public records over the counter. Direct the preparation and the training of all City staff at various departments and buildings, who provide public records over the counter.

Economic Development Commission

* **8. Approve Parking Task Force Membership and 2007 Work Program (Staff Contact: Joe Oliva, 586-3290)**

Background: At the November 13, 2006 Economic Development Commission (EDC) meeting, the Commission recommended that the City Council appoint a Task Force to review and update the City's parking section of the Zoning Ordinance.

Specific issues that were discussed included:

Design criteria – application of existing parking standards do not allow design flexibility to account for irregular shaped parcels or small lots.

Use Analysis – specific uses and peak demand for those uses must be taken into account during the planning and approval process.

Townhouse and Condominium Parking – existing parking standards do not reflect higher auto ownership of residents and that impact on visitor parking.

On January 2, 2007, the City Council approved the EDC's recommendation to appoint a Parking Task Force to review the City's Parking Section of the Zoning Ordinance and make recommendations to amend the Ordinance to be more flexible and reflective of the infill challenges facing the Milpitas business community development.

Staff prepared a Draft Work Plan for the Citywide Parking Study. A subcommittee of the EDC reviewed the work plan at a meeting on March 19th and the Commission recommended approval to the City Council at its meeting on April 9th.

The Work Program will include documenting existing parking conditions for commercial, industrial, residential and religious facilities within Milpitas. This will involve windshield surveys and a review of the Parking Section of the Milpitas Zoning Ordinance. Staff will also conduct an extensive literature search of similar cities' Zoning Ordinances within the San Francisco Bay Area for benchmarking and comparison purposes. Staff will perform outreach to solicit input on parking issues and standards from local businesses and other key stakeholders. The final task will involve a comprehensive update of the Parking Section of the Zoning Ordinance. Staff estimates all tasks listed above will be completed within 7 to 10 months.

Membership of the Parking Task Force is proposed to include the following stakeholders: four Economic Development Commissioners, a City Councilmember, a Planning Commissioner, a representative from The Great Mall, the commercial broker community, a neighborhood association and representatives of a smaller shopping center and developer or home builder.

Fiscal Impact: Staff will conduct nearly all of the work, however, the City also has an existing contract with the consulting firm Fehr and Peers Associates on an “as needed” basis to assist with parking counts and other data collection needs.

Recommendation: Approve the City of Milpitas Parking Task Force membership and 2007 Work Program; and, direct staff to solicit participants for the Task Force, pending final City Council approval.

Parks, Recreation and Cultural Resources Commission

*** 9. Approve Parks, Recreation and Cultural Resources Commission 2007 Work Plan (Staff Contact: Carol Randisi, 586-2601)**

Background: Pursuant to the Parks, Recreation and Cultural Resources Commission (PRCRC) Bylaws, the PRCRC is an advisory body to the Milpitas City Council on matters regarding the operation and maintenance of parks and recreation facilities, and historic preservation activities. The PRCRC advises the City Council on the acquisition, planning, and development of new and existing parks and facilities, and the identification, preservation and enhancement of the City’s cultural heritage. The PRCRC has developed an annual Work Plan that focuses on projects and programs that support the community.

2007 Parks, Recreation and Cultural Resources Commission Work Plan

Short-term Goals

1. Obtain additional youth sports and other grants money opportunities by soliciting, local businesses and private donations to aid athletes, possibly in working through non-profit organization Friends of Recreation, if established.
2. Pursue Sandalwood Park Improvements
3. Review and participate in Park Master Plan development
4. Create a subcommittee, which will be comprised of Commissioners, Gray, Krommenhock and Serena to explore becoming a non-profit organization.

Long-term Goals

1. Add historical marker and/or history of park and name in city parks
2. Add restroom to Sandalwood Park

Ongoing Tasks

1. Review and approve Youth Sports Grant Fund requests
2. Review and approve Child Care Grant Fund requests
3. Participate in city historical and cultural site tour at June 2007 meeting
4. Provide feedback and input to the Parks and Recreation Department regarding rehabilitation activities
5. Continue with PRCRC Video Sub Committee to promote and highlight Milpitas parks
6. Explore alternate financing for park maintenance and redevelopment activities

Recommendation: Approve the Parks, Recreation and Cultural Resources Commission 2007 Work Plan.

XVII. NEW BUSINESS

10. Approve Valley Transportation Authority Process for Design of Bay Area Rapid Transit Extension to Milpitas, Project No. 8164 (Staff Contact: Greg Armendariz, 586-3317)

Background: Valley Transportation Authority (VTA) is commencing the 65% design for the BART extension to Milpitas. City staff continues to meet on a regular basis to resolve outstanding design issues. VTA has proposed the use of Technical Coordination Memorandum (TCM) to document design decisions between the VTA and the City of Milpitas. The TCM will also be used as the basis of a formal agreement when a specific or more binding agreement is warranted later. The scope of each TCM will be limited to specific localized areas or specific systems.

It is anticipated that there will be approximately eight Technical Coordination Memoranda as follows:

1. Montague Station Architectural Theme
2. Montague Station and Pedestrian Over Crossing Configuration
3. Milpitas Blvd. Extension Configuration and Signal
4. Montague Site Plan Configuration including Parking Garage
5. Berryessa Creek Crossing and Abel Street Over Crossing
6. Dixon Landing Road Crossing
7. Capitol Avenue Crossing
8. Montague Expressway Crossing

Once the Technical Coordination Memorandum is agreed upon, this will be memorialized with a Letter of Understanding (LOU) between VTA and the City. City staff will present each LOU and TCM to both the Transportation Subcommittee and the City Council for approval. It is recommended that the Council authorize the City Manager to sign the LOU and the Public Works Director/City Engineer to sign the TCM after Council's approval.

VTA Staff will provide a presentation at the Council meeting with additional information.

Recommendations:

1. Approve the VTA process for Technical Coordination Memorandum (TCM) and Letter of Understanding (LOU) for the BART Extension to Milpitas, Project No. 8164.
2. Authorize the City Manager to sign the LOU and Public Works Director/City Engineer to sign the TCM after Council's approval.

11. Overview of SiliconValleyOnline.Org and SiliconValleyProspector.com, California's First Regional Commercial Data Base Search Tool and Silicon Valley's Business Portal (Staff Contact: Diana Whitecar, 586-3058)

Background:

Over the last several years, the Silicon Valley Economic Development Alliance (SVEDA), representing Silicon Valley city economic development managers, realized the need to actively promote Silicon Valley as a place friendly to business. With the advent of the 'dot.com bomb' much of the news from Silicon Valley was negative, focusing on the challenges (traffic, housing prices) rather than the continued business opportunities the region continued to offer. The first action, working with Joint Venture Silicon Valley, was the creation of a Silicon Valley website, www.siliconvalleyonline.org. This is the first regional website to provide general information about business in Silicon Valley and create a direct link to the individual cities that make up Silicon Valley.

The next step was the creation of a regional commercial property database that would be easily accessible to site and facility locators. The International Economic Development Council (IEDC) indicates that over 80% of all initial site selection research is conducted over the Internet. Therefore, those cities and regions that do not have data and information easily accessible online are typically overlooked in site selection. Commercial database development is a critical tool to provide this initial information.

The City of Milpitas created a local online commercial database in the early 2000's as a business retention and recruitment tool. Information Services staff created and managed the property search tool and the City worked with several commercial brokers to provide updated property listings. Over the last few years, the Commercial Property Database has not been operable for periods of time and staff has found it more difficult to keep the properties updated. This is a similar issue that other cities face in the maintenance of local commercial databases.

SVEDA and Joint Venture solicited proposals for development of the regional commercial database and GIS Planning, Inc. of San Francisco was selected to develop the tool. Cities within Silicon Valley and the three counties (Santa Clara, San Mateo and Santa Cruz) agreed to split the costs to develop and operate the system, recognizing that key to its success was a successful partnership with the commercial brokerage community. Joint Venture took the lead working with the Association of Silicon Valley Brokers and the largest broker firms in the area to offer them this free service.

Next, www.siliconvalleyprospector.com was launched on March 21st and offers over 5,000 property listings. Not only are property listings available, but specific information about the sites such as photos, zoning, broker contact and amenities also available. Further, a site selector has the ability to create demographic reports and business reports for a particular site. This makes "siliconvalleyprospector.com" a valuable asset in understanding the workforce makeup of the area being searched, census data, spending patterns and other useful information used in site selection.

A city may purchase its own search tool for up to \$40,000, depending on the features desired. In addition to the set up costs, there is ongoing staff costs required to maintain the database and coordinate property downloads with the local brokers and property owners. Another option that Silicon Valley cities have used is property-listing services, such as LoopNet, to provide local listings. Typical costs are about \$5,000/year for the service and users have found that listings are often not up to date and do not include smaller properties. With The Prospector, smaller, individual owners or brokers can list their properties without a fee. The properties are dropped after 90 days, with prior notice to the listing agent. Joint Venture staff work directly with the brokerage houses to secure the property downloads and to trouble shoot any problems that occur.

The cost to Milpitas to participate in The Prospector is less than \$4,000 a year. Staff in the Information Services Department who were in charge of the local database and coordination with the local brokers are now available for other duties and tasks.

The next steps will be to market www.siliconvalleyprospector.com and measure its success over the first year. Initial reaction to the site is strong: "siliconvalleyonline.org" receives over 4,000 hits a month. Since its launch, "siliconvalleyprospector.com" has generated over 2,400 hits and 18,000 page views. The site is a finalist for an Award of Merit from the California Association for Economic Development (CALED) and is being considered for an Annual Award of Excellence from IEDC.

Recommendation: Receive the report on SiliconValleyProspector.com and direct staff accordingly.

12. Consideration of Role of Vice Mayor, in the Absence of the Mayor, as Set Forth in the City Council Handbook (Staff Contact: Richard Pio Roda, 586-3040)

Background: At the City Council meeting of April 3, 2007 Councilmember Giordano asked for clarification on the role of the Vice Mayor in the absence of the Mayor. She also requested the Council review this topic and possibly expand on what is in the handbook on Vice Mayor duties.

The relevant provisions of the City Council Handbook are on Page 3 of the Handbook. Under the section titled "Mayor," the Handbook provides in relevant part that, "The Mayor is the official head of the the City of Milpitas for all ceremonial purposes." Under a separate section titled

“Presiding Officer” the Handbook provides that, “The Mayor presides at all City Council meetings. In the absence of the Mayor, the Vice Mayor is the presiding officer.”

Finally, under the section titled “Vice Mayor (Mayor Pro Tempore),” the Handbook provides, in relevant part, that “In the absence of the Mayor, the Vice Mayor possesses the powers and performs the duties of the Mayor.”

Recommendation: Provide direction to staff on the subject of the Vice Mayor duties.

XVIII. ORDINANCES

13. **Introduce Ordinance No. 48.19 Amending Sections of Chapter 200 of Title V of the Milpitas Municipal Code Regarding Solid Waste (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Various sections of the Milpitas Municipal Code (MMC) Title V, Chapter 200, have been revised to conform to the State regulations for solid waste handling, as adopted by the California Integrated Waste Management Board, or to clarify ambiguities in the existing ordinance.

Proposed text revisions to the code, included with the Council agenda packet, include revisions addressing the following items:

1. Owner designation of an agent to be responsible for owner’s compliance with MMC requirements,
2. Removal of existing exception for trash compactors from weekly collection requirement,
3. Additional fees for collection services requiring non-standard collection equipment and/or additional labor,
4. License and permit requirements for contract collection services, and contractor performance bonds.

Recommendations:

1. Waive first reading beyond the title of the ordinance.
2. Introduce Ordinance No. 48.19, amending sections of Chapter 200, Title V, of the Milpitas Municipal Code.

14. **Introduce Ordinance No. 101.20 and Adopt a Resolution of Intention to Approve an Amendment to the Contract Between Board of Administration of the California Public Employees’ Retirement System and the Milpitas City Council (Staff Contact: Carmen Valdez, 586-3086)**

Background: As a result of contract negotiations between the City and the Milpitas International Association of Fire Firefighters Local 1699 (IAFF) finalizing the Memorandum of Understanding (MOU) for the period of July 1, 2005 through December 31, 2007, both parties agreed that the City would amend its contract with the Public Employees Retirement System (PERS) to provide Section 21547.7 - Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service. This amendment is for local Firefighter members only.

The employer contribution rate for the public safety group will increase by 0.149%, and based on projected salaries for FY 2007-08, the increased cost of this benefit is approximately \$27,000. PERS contract amendment procedures require the adoption of a Resolution of Intention to amend the contract and adoption of an amending Ordinance.

Recommendations:

1. Adopt Resolution of Intention to Approve an Amendment to the PERS contract.
2. Waive the first reading beyond the title of Ordinance No. 101.20.
3. Introduce Ordinance No. 101.20 authorizing an amendment to the contract between the City Council of the City of Milpitas and the Board of Administration of the California

XIX. RESOLUTIONS

- * 15. **Adopt Resolution Approving Memorandum of Understanding with the County of Santa Clara for Holiday Driving Under the Influence Campaign - Avoid the 13 (Staff Contact: Tom Borck, 586-2434)**

Background: The County of Santa Clara offers reimbursement funding to Santa Clara County law enforcement agencies for police overtime costs directly associated with sobriety enforcement patrols. The County approved a Memorandum of Understanding (MOU) to reimburse the Milpitas Police Department a maximum of \$1,974.44 for officer overtime incurred while staffing DUI Enforcement activities in support of the Avoid the 13 Program. The source of funding for this MOU originates with the California Office of Traffic Safety (OTS). The operational period for this MOU is October 1, 2006 through September 30, 2007.

Recommendations:

1. Adopt Resolution approving the Memorandum of Understanding with the County of Santa Clara, for reimbursement of police costs incurred related to the Holiday Driving Under the Influence campaign.
 2. Authorize the Chief of Police to execute the MOU with the County of Santa Clara, subject to approval as to form by the City Attorney.
- * 16. **Adopt Resolution Approving "Click It or Ticket" Program Agreement with the Regents of the University of California School of Public Health, U.C. Berkeley, and the California Office of Traffic Safety (Staff Contact: Tom Borck, 586-2434)**

Background: The Regents of the University of California and the California Office of Traffic Safety (OTS) "Click It Or Ticket Program" offer opportunities for cities to be reimbursed for police overtime costs directly associated with seat belt enforcement. The stated OTS goal is to increase seat belt use statewide to 93.7% by July 31, 2007. OTS approved the Police Department's application for reimbursement of overtime necessary to conduct seat belt enforcement during the three week period of May 14 through June 3, 2007. The total maximum possible overtime reimbursement is \$15,455.

Recommendations:

1. Adopt Resolution approving an agreement with the Regents of the University of California regarding the "Click It or Ticket" Program.
2. Authorize the Chief of Police to execute the agreement with the Regents of the University of California, subject to approval as to form by the City Attorney.

XXII. BIDS AND CONTRACTS

- * 17. **Approve Subdivision Improvement Agreement, Public Improvement Plans and Encroachment Permit Agreement for Aspen Family Apartments, Project No. 3199 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: This 101-unit affordable apartment project will be served by public utilities located within the proposed public streets and easements. The improvement plans are ready for approval. Copies of the Subdivision Improvement Agreement and improvement plans are included with the Council agenda packet. A complete set of the parcel map and improvement plans are available for review in the office of the City Engineer.

The Council packet also includes an encroachment permit agreement, which is a requirement of the approved Special Conditions for the installation and maintenance of an approximately 400

feet long, Private Wall Maintenance Easement (PWME) and landscaping improvements within the public right of way.

Recommendations:

1. Approve public improvement plans for Project No. 3199.
2. Authorize the City Manager to execute the secured Subdivision Improvement Agreement and Encroachment Permit Agreement for Aspen Family Apartments, subject to the approval of the City Attorney as to form.

*** 18. Approve Agreement for Water Conservation Program and Possible Deferment of Water and Sewer Connection Fees and Treatment Plant Fees with Piercey Toyota, Project No. 3203 (Staff Contact Mehdi Khaila, 586-3328)**

Background: The Planning Commission at its meeting of March 21, 2006, approved the development of Piercey Toyota auto dealership at 950 Thompson Street. The Special Conditions require Toyota to incorporate a re-circulated water system for washing vehicles to promote water conservation. With the conservation system, the anticipated average water usage is estimated by the developer to be 4,550 gallons per day. Currently, development fees paid by Toyota are based on this usage. However, the City will re-evaluate water usage on January 24, 2010 or two years from the date of occupancy, whichever occurs later. If the actual average usage is determined to be greater than anticipated, Toyota will pay the City additional water, sewer and treatment plant fees based on actual usage.

Recommendation: Authorize the City Engineer to execute an agreement with Piercey Toyota for water conservation program and for deferred payment of water and sewer connection fees and treatment plant fees, subject to the approval of the City Attorney as to form.

*** 19. Award Construction Contract to O'Grady Paving, Inc. and Approve Budget Appropriation for Street Resurfacing 2007, Project No. 4236 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: On February 20, 2007, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project consists of roadway reconstruction on Selwyn Drive, Solar Court, Beacon Drive, Bixby Drive between Edsel Drive and Wylie Drive, a 200 foot section of Carnegie Drive north of Yosemite Drive, Yosemite Drive between Park Victoria Drive and Bryce Court, Stulman Drive, La Baree Drive, Patricia Court, Falcato Drive between Edsel Drive and Wylie Drive, Highland Court, Lowland Court, and Tahoe Drive; roadway resurfacing on Santa Rita Drive between Via Baja and northern end, Via Baja, Starlite Drive between Fallen Leaf Drive and southern end, Wylie Drive between Temple Drive and Bixby Drive, Rocky Mountain Drive, and Butano Drive; and repair of base failures on Fallen Leaf Drive between Starlite Drive and Cedar Way, Falcato Drive between Lacey Drive and Wylie Drive, the intersection of McCarthy Boulevard and Ranch Drive, and Wylie Drive between Bixby Drive and Falcato Drive. The Engineer's estimate was \$900,000.

The project was advertised and sealed bid proposals were opened on March 30, 2007. Six bid proposals ranged from \$972,846.50 to \$1,253,148.75, and the lowest responsible bidder is O'Grady Paving, Inc.

The City has received a State Grant in the amount of \$475,780 from the Traffic Congestion Relief Fund, and staff recommends appropriation of these funds into this project, Street Resurfacing 2007, Project No. 4236. Sufficient funds are available in the project budget (after this grant appropriation).

Recommendations:

1. Approve a budget appropriation for \$475,780, from the Traffic Congestion Relief Fund, to award this project.
2. Award Construction Contract to O'Grady Paving, Inc. in the amount of \$972,846.50

- * 20. **Authorize the City Manager to Approve Amendment No. 1 to Agreement for Consultant Services with Swinerton Management & Consulting: Main Sewage Pump Station Improvements, Project No. 6103, Hwy 237/I880 Interchange, Project No. 4170; Berryessa Pump Station Improvements, Project No. 8138; Gibraltar Reservoir & Pump Station, Project No. 7101; Venus Pump Station, Project No. 6101, and other Capital Improvement Projects as assigned (Staff Contact: Greg Armendariz, 586-3317)**

Background: On February 7, 2006, Council approved a consultant agreement with Swinerton Management & Consulting for management, coordination and support of the following projects: design of the new library, Midtown East parking garage, and related utility and streetscape improvements, site preparation and environmental remediation, Mid-Peninsula Housing Coalition, and the County of Santa Clara will also be constructing a new senior housing facility and a County health center with parking garage on North Main across the street from the new library. All of the above projects are well underway with design and construction activities currently taking place.

Additionally, construction management and coordination services are required from Swinerton, for the New Main Sewage Pump Station, Berryessa Storm Pump Station, Gibraltar Reservoir & Pump Station, Ayer Reservoir & Pump Station, and other related infrastructure projects as assigned. These infrastructure projects are critical to the health and well being of the Milpitas Community. Specific tasks include assistance in design and construction management and coordination, plan and specification review, value engineering, cost estimating and monitoring project budgets, bidding assistance and related work.

These services would be provided on a time and materials basis not to exceed \$700,000, which is considered reasonable for the effort involved. There are sufficient funds in the current respective CIP projects to fund the services to be provided.

Recommendation: Authorize the City Manager to execute Amendment No. 1 to the agreement with Swinerton Management & Consulting in the amount of \$700,000, subject to approval as to form by the City Attorney.

- * 21. **Authorize City Manager to Execute Agreement with Randall Funding and Development, Inc., and Grant Development Services, for On-Call Services for Various Capital Improvement Projects (Staff Contact: Andrew Brozyna, 586-3315)**

Background: In accordance with the City's consultant selection process, Randall Funding and Development, Inc. has been selected to perform the on-call Grant Development Services for the City. Currently, the City does not have dedicated staff to pursue grant funding for Capital Improvement projects, and therefore requires outside consultants to perform these services. With the current budget situation and increasing capital improvement needs, it is very important to pursue all outside funding sources for eligible projects such as the Alviso Adobe project. Services from a grant development consultant would include identification of eligible grants, and grant application preparation. An agreement has been negotiated for services for an amount not to exceed \$25,000. Sufficient funds are available from various Capital Improvement Projects.

Recommendation: Authorize the City Manager to execute the agreement with Randall Funding and Development, Inc., in the amount of \$25,000, subject to approval as to form by the City Attorney.

- * 22. **Authorize the City Engineer to Execute Contract Change Order No. 1 with Anderson Pacific Engineering Construction Inc., for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City Council awarded this project to Anderson Pacific Engineering Construction, Inc. on December 5, 2006, and construction is underway. The completed project will provide for construction of a new underground wet well with submersible pumps and inline

grinders. The scope also include a new control building with electrical room, site grading, drainage improvements, lighting, concrete work, asphalt paving, electrical, mechanical, and piping. The anticipated completion date is October of 2008.

Staff recommends additional work to relocate and extend existing underground electrical service serving North McCarthy Blvd street lighting and irrigation controllers. This is needed due to the requirements of the land swap between the City of Milpitas and McCarthy Ranch. This work will be included in the Main Sewage Pump Station project. Staff has negotiated a fee not to exceed \$36,702.25 with the Contractor for this additional work, and the approval of a contract change order is requested. Sufficient funds are available in the project budget for this change order.

Recommendation: Authorize the City Engineer to execute the Contract Change Order for Anderson Pacific Engineering Construction, Inc. for Project No. 6103, in the amount of \$36,702.25.

* **23. Authorize City Manager to Execute Contract Agreements for Professional Planning Services with Lamphier-Gregory and Metropolitan Planning Group (Staff Contact: Felix Reliford, 586-3071)**

Background: At its meeting on February 6, 2007, the City Council authorized staff to send out Request for Qualifications (RFQ) for contract planning services to secure assistance in processing the Transit Area Plan, reviewing and processing development projects during the period of staff shortage to ensure no delays occur in development review, and to ensure the economic development of the City of Milpitas can proceed as quickly as possible. The City is seeking firms with experience in Transit Oriented Developments (TODs), processing and review of complex development permits, preparation of environmental documents, coordination work with staff from several departments and agencies, and experience in annexation proceedings, excellent report preparation and presentation skills, and extensive knowledge of the principals, practices and techniques of planning.

Transit Area Plan

Staff recommends the planning consultant firm of Lamphier-Gregory as the Contract Planner for the Transit Area Plan. Lamphier-Gregory has 20 years of professional planning experience with many local jurisdictions throughout the Bay Area. The firm has worked on several transit-oriented development plans, and as requested by staff, will be assigning one of the firm's Principals, Scott Gregory, as the Lead Planner for this project. Lamphier-Gregory's goal is to provide clear, concise technical information and to help communities use that information in their decision-making process.

In the past, Mr. Gregory has worked with Leslie Gould (Milpitas' Lead Consultant from the firm Dyett & Bhatia on the Transit Area Plan) on several projects during her previous position as Planning Director for the City of Oakland. Staff feels that would allow for a smooth transition and continuity in the managing of the project. This position would be a part-time Contract Planner, by agreement, for a period of one year in the amount not-to-exceed \$93,000.

Planning Division Development Applications

The City of Milpitas is experiencing an increase in the number of significant development projects at a time when experienced Planning Staff is leaving the City for other positions, retiring and going on maternity leave. Additional planning staff is needed to maintain the current and future workload in the Planning Division.

Staff is recommending the planning consultant firm of Metropolitan Planning Group, Inc. as the firm to provide two Contract Planners for 50 hours/per week to manage complex development projects over the next nine months. The Metropolitan Planning Group has the staff and experienced planners to assist the City in handling the workload in dealing with significant and complex development and environmental review, general plan and zone change amendments, urban design, preparation of staff reports and presentations, and consumer service skills to

address the City's planning needs. The contract agreement would be for a period of nine months in the amount not-to-exceed \$165,000.

Fiscal Impact: There should be no fiscal impact to the City of Milpitas based on the cost savings of several vacant positions within the Planning Division and because funds used to pay for the contract planning services would come from the Project Job accounts of the development projects being processed.

Included in the Council's agenda packet are the qualifications of both planning consultant firms and the contract agreements.

Recommendation: Authorize the City Manager to execute contract agreements with: 1) Lamphier-Gregory for a part-time Contract Planner to manage the Transit Area Plan Project in an amount not-to-exceed \$93,000, and 2) Metropolitan Planning Group, Inc. for two Contract Planners, 50 hours per week, in an amount not-to-exceed \$165,000, subject to the approval of the City Attorney as to form.

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 1, 2007, AT 7:00 P.M.**