



**MILPITAS CITY COUNCIL MEETING AGENDA
SEPTEMBER 18, 2007**

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

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**

CONFERENCE WITH LABOR NEGOTIATOR - COLLECTIVE BARGAINING
(Pursuant to CA Government Code §54957.6) City Negotiator: Carmen Valdez
Employee Group: Milpitas Supervisors Association (MSA)
Under Negotiation: Wages, Hours, Benefits, and Working Conditions

PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT/HIRING
(Pursuant to CA Government Code §54957) Position Title: City Attorney
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on actions 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 (Mayor Esteves)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES - September 4, 2007**
- VII. SCHEDULE OF MEETINGS (Council Calendar)**
- VIII. PRESENTATION**

Proclamation for *Dr. Reuben K. Chen Day*, September 18, 2007
- IX. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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

1. **Adopt Resolution and Introduce Ordinance No. 38.773 for South Main Street General Plan Amendment No. GP 2006-2, Zone Change No. ZC 2006-2, Tentative Map No. MA 2006-3, Environmental Impact Assessment No. EA2006-5, and Affordable Housing Regulatory Agreement (Staff Contact: Felix Reliford, 586-3071)**

XV. UNFINISHED BUSINESS

2. **Approve Amendment to City Council Handbook Concerning Resignation by a Commissioner, Committee Member or Board Member from Service on a City Commission, Committee or Board (Staff Contact: Richard Pio Roda, 586-3040)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (September 4, 2007)

RA4. Approval of Agenda and Consent Calendar

RA5. Economic Development Program Overview and Recommendations (Staff Contact: Diana Whitecar, 586-3059)

***RA6. Approve Certificate of Completion for Certain Residential Units within Tract No. 9699 for KB Home, Project No. 3160 (Staff Contact: Robert Wang, 586-3327)**

***RA7. Approve and Authorize the Executive Director to Execute Agreement with LSA Associates, Inc. for the North Main Street Midtown Streetscape Improvements, Project No. 8165 (Staff Contact: Andrew Brozyna, 586-3315)**

RA8. Agency Adjournment

XVII. REPORTS OF OFFICER

City Council

- * 3. Approve Mayor Esteves' Recommendations for Appointments/Re-Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**
- * 4. Approve Mayor Esteves' Recommendation for Planning Commission Appointment (Contact: Mayor Esteves, 586-3029)**
- 5. Discuss and Provide Direction to City Attorney on Mayor's Recommendation to Amend the Open Government Ordinance (Contact: Mayor Esteves, 586-3029)**

XVIII. NEW BUSINESS

- * 6. Authorize the City Manager to Execute a Memorandum of Understanding with the Milpitas Unified School District Regarding Participation in an Adult Education Program (Staff Contact: Bill Marion, 586-2701)**
- * 7. Approve FY 2007-08 Department of Conservation Grant Funding and Budget Appropriation (Staff Contact: Leslie Stobbe, 586-3352)**

XIX. ORDINANCES

8. **Waive First Reading and Introduce Ordinance No. 275 to Add Section 3.02 to Chapter 1, Title I of the Milpitas Municipal Code Pertaining to Restrictions on Use of the City Seal and Penalties for Misuse Thereof (Staff Contact: Richard Pio Roda, 586-3040)**
9. **Waive First Reading and Introduce Tree Maintenance and Protection Ordinance No. 201.5, Revising Tree Planting Regulations and Cost Recovery Procedures for Tree Topping and Illegal Tree Removal (Staff Contact: Carol Randisi, 586-2601)**
- * 10. **Adopt Ordinance No. 274 to Add Chapter 1100 to Title V of the Milpitas Municipal Code to Expand the Definition of a Public Nuisance and to Provide a Cost Recovery Mechanism for Public Nuisance Abatement (Staff Contact: Emma Karlen, 586-3145)**

XX. RESOLUTIONS

- * 11. **Approve Resolution Accepting Valley Transportation Authority Grant and Committing to Provide Local Matching Funds; Approve a New Capital Improvement Program project the South Main Street Streetscape Project - Phase I, CIP No. 4243 and Approve Budget Appropriation of \$1,200,000 (Staff Contact: Jaime Rodriguez, 586-3335)**

XXI. BIDS AND CONTRACTS

- * 12. **Approve and Authorize the City Manager to Execute Amendment No. 3 to the Agreement with Consolidated Engineering Laboratories Services for On-Call Materials Testing and Inspection Services (for various projects) and Approve Budget Appropriation of \$250,000 (Staff Contact: Andrew Brozyna, 586-3315)**
- * 13. **Approve and Authorize the City Manager to Execute an Agreement with Pacific Coast Recycling for a Debris Box (Staff Contact: Greg Armendariz, 586-3317)**
- * 14. **Award the Contract for Community Center Vinyl Flooring to West Coast Contract Flooring (Staff Contact: Chris Schroeder, 586-3161)**

XXII. ADJOURNMENT

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, 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, 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 for the:

*Arts Commission, Economic Development Commission (Hotel Rep)
 Planning Commission, Mobile Home Park Rental Review Board
 Youth Advisory Commission*

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk.

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

AGENDA REPORTS

XIV. PUBLIC HEARING

1. Adopt Resolution and Introduce Ordinance No. 38.773 for South Main Street General Plan Amendment No. GP 2006-2, Zone Change No. ZC2006-2, Tentative Map No. MA 2006-3, Environmental Impact Assessment No. EA2006-5, and Affordable Housing Regulatory Agreement (Staff Contact: Felix Reliford, 586-3071)

Background: On July 11, 2007, the Planning Commission approved the Site Plan and Architectural Review (“S” Zone Approval – SZ2006-7) and recommended that the City Council approve a General Plan Amendment (GP2006-2), Midtown Specific Plan Amendment & Zone Change (ZC2006-2), Major Tentative Map (MA2006-3) and Environmental Impact Assessment (EA2006-5) for the South Main Street Project to allow for the construction of a 126-unit podium style residential condominium development on a 2.72 acre vacant parcel at the intersection of South Main Street and South Abel Street.

The property is proposed to be re-designated from General Commercial with Transit Oriented Development Overlay to Multi-Family Very High Density (31 to 40 dwelling units per acre) with Transit Oriented Development Overlay and rezoned from General Commercial with Transit Oriented Development and “S” Zone Overlay District “C2-TOD-S” to Multi-Family Very High Density with Transit Oriented Development and “S” Zone Overlay District “R4-TOD-S.” The project includes a Planned Unit Development approval for a retail component, comprising approximately 2,800 square feet. A Mitigated Negative Declaration requires adoption by the City Council.

Affordable Housing Regulatory Agreement

The Milpitas City Council’s Affordable Housing policy has required that each residential project provide 20% affordable housing within the development. The applicant has requested to provide 15% affordability within the project. Staff recommends that the Council approval the 15% affordability in the South Main Street Project for the following reasons:

- The project incorporates a mixed-use commercial retail component, which will enhance the Midtown Specific Plan goals and objectives, and will provide long-term income tax revenue for the city.
- The developer will incorporate elements of the South Main Street Plan Study Line design features into their project, including decorative paving, street trees, and landscaping median.
- Despite being located in the Redevelopment Project Area (which generates tax-increment), in which the Redevelopment Agency has financially assisted affordable housing projects, the developer is not requesting any financial assistance from the Redevelopment Agency.
- The difference in 20% affordability (25 units) from 15% affordability (19 units) is only 6 affordable units, which does not impact the Milpitas affordable housing goals.
- The 15% affordability level still complies with State Redevelopment Law for affordability in redevelopment project areas.
- The developer proposes to provide 19 moderate-income affordable housing units.

Recommendation: open the Public Hearing and move to continue it to the City Council meeting of October 2, 2007.

XV. UNFINISHED BUSINESS

- * 2. **Approve Amendment to City Council Handbook Concerning Resignation by a Commissioner, Committee Member or Board Member from Service on a City Commission, Committee or Board (Staff Contact: Richard Pio Roda, 586-3040)**

Background: At the September 4, 2007 City Council meeting, Council requested an amendment to the City Council Handbook to clarify the procedure for Commissioners, Committee and board members to resign from their positions on City Commissions, Committees and boards.

California Government Code provides that an effective resignation of a member of a City board or commission creates a vacancy. To be effective, a resignation need only be in writing and filed with the City Clerk, pursuant to Code §1750(e). Upon receipt of a resignation, the City Clerk is required by law to update the roster of public officials to reflect the vacancy created by the resignation. If the resignation does not designate a date by when a commissioner will resign, then it is effective upon receipt by the City Clerk. A resignation that sets an effective date is also valid and the commissioner continues to serve until the date he or she set, as long as it does not extend beyond the commissioner's term.

The proposed amendment will not affect Planning Commissioners. Milpitas Municipal Code Title I, Chapter 500 et seq. governs Planning Commissioners' terms and the procedures for filling vacancies.

The relevant provisions for amending the City Council Handbook are set forth on pages 32-33. The handbook currently does not provide a procedure or policy determining when a resignation is effective. The draft resolution (in Council agenda packet) adds language clarifying how and when Commissioners' resignations are effective, in line with state law.

Recommendation: move to adopt the Resolution amending the City Council Handbook regarding procedure for the resignation of City Commissioners, Committee and Board members.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA5. Economic Development Program Overview and Recommendations (Staff Contact: Diana Whitecar, 586-3059)**

Background: The Economic Strategic Action Plan identified activities, programs and projects over a 6 months, 1 to 2 years, and 3rd year implementation periods. This report will summarize the last two years of the Economic Development Program and make recommendations for future action items.

Analysis

A detailed analysis of the Economic Development Program Overview is included with the Council agenda packet. A summary of the overview is provided here.

Marketing and Promotions: Marketing and promotion efforts including work on the Local Gateway Signs, the new Street Banners, Airport Advertising, Shop Local and Place Branding.

Small Business Development: Activities in this area included working closely with the Silicon Valley Small Business Development Center (SVSBDC) and Milpitas Adult Education.

City Development Policies: The EDC is working on two development policy issues: the preservation of industrial land and the parking ordinance.

Roadmap for Service Improvements: Economic Development has taken an active role in the implementation of Roadmap for Service Improvements, largely facilitating the development process for larger companies.

Redevelopment: During the last two years, Economic Development staff completed the Five Year Implementation Plan and the merger amendment for the redevelopment plans. These were comprehensive activities that allowed a better understanding of redevelopment program financial capacity over the next five years and flexibility for the promotion of businesses within the redevelopment areas.

Next Steps

Refocus Business Retention: The immediate focus of Milpitas economic development needs to take a more active role in larger scale business retention and attraction. As part of the industrial analysis, staff identified that typically nine (9) of the top 25 sales tax revenue generators are industrial area businesses. While some of these companies generate retail sales tax, most of them are likely generating a combination of sales and use tax. Working with companies to have them 'self accrue' use tax starts with establishing the relationships with the companies and make sure they understand their value in the City and simultaneously considering use tax accrual policies that will encourage companies to work with the City on this critical application.

Place Branding Implementation: If the Council approves the place brand recommendations, staff will use the image with a new Shop Local bag, marketing materials, such as brochures or future advertising, and in the design of the local gateway signs. The sign design concepts will be presented to the EDC and the City Council for approval, and the Council may approve the fabrication and installation contract.

Development Policies: Both the Industrial Land Use study and the Parking Analysis illustrate the intersection of EDC land use interests with the Planning Commission function. As the EDC serves as an advisory body to the City Council, staff recommends that the EDC present the Parking Analysis findings to the Council for Council referral to the Planning Commission for final review and action.

Freeway Sign Implementation: Economic Development staff will be the project manager for the freeway sign implementation, including facilitating design with the various business developers and providing location negotiation assistance.

Redevelopment Program: Most of the redevelopment activity for the next year will be to complete negotiations with Nueterra Real Estate Group for development of the hospital/hotel complex at Alder and Barber.

Recommendations: 1) move to accept the economic development update and direct City/ Agency staff accordingly, and 2) move to approve the proposed Place Branding recommendations.

***RA6. Approve Certificate of Completion for Certain Residential Units within Tract No. 9699 for KB Home, Project No. 3160 (Staff Contact: Robert Wang, 586-3327)**

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 attached Certificate of Completion, and therefore certificate of completion may be granted to only those housing units.

Recommendation: Authorize the Agency Executive Director to execute this Certificate of Completion, pertaining to certain residential units (described on the Certificate of Completion

document), for KB Home Terra Serena Project No. 3160, subject to approval of the City Attorney as to form.

- *RA7. Approve and Authorize the Executive Director to Execute Agreement with LSA Associates, Inc. for the North Main Street Midtown Streetscape Improvements, Project No. 8165 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: In 2004 and 2005, LSA Associates, Inc. conducted the California Environmental Quality Act (CEQA) environmental analysis of the future Milpitas Midtown area. The work within the Midtown area included analysis of the new library facility, senior housing facility, health care facility, parking structures, and streetscape improvements.

The City of Milpitas applied to the Valley Transportation Authority (VTA) for grant funding for streetscape improvements on North Main Street. As a federally funded project, the Midtown N. Main Street Streetscape Improvement Project would be subjected to environmental review under the National Environmental Policy Act (NEPA). Staff recommends that LSA Associates, Inc. provide the services required to prepare environmental documentation for the project, pursuant to NEPA. Staff negotiated a scope and fee for these services not to exceed \$39,300, considered reasonable for the work. There are sufficient funds in the project budget to cover this expense.

Recommendation: Authorize the Agency Executive Director to execute the agreement with LSA Associates, Inc., in the amount of \$39,300 for Project No. 8165, subject to approval as to form by the City Attorney.

RA8. Agency Adjournment

XVII. REPORTS OF OFFICER

City Council

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

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

Arts Commission:

Appoint Mareile-Angy Ogle to a vacancy, to a term that expires in October 2007.

Mobile Home Park Rental Review Board:

Newly appoint Beth Garcia to a term that expires in June 2009.

Youth Advisory Commission:

Re-appoint Jay Kumar to a term that expires in September 2008.

Recommendation: Move to approve the Commission appointments and re-appointments.

- * 4. Approve Mayor Esteves' Recommendation for Planning Commission Appointment (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends applicant Mr. Victor Nejal be appointed to the Milpitas Planning Commission.

Recommendation: Move to approve Victor Nejal to a seat on the Planning Commission which will expire in December 2009.

- 5. Discuss and Provide Direction to City Attorney on Mayor's Recommendation to Amend the Open Government Ordinance (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends the City's Open Government Ordinance No. 262.1 be amended to reflect the recent decision of the California State Supreme Court, regarding the publication of employees' salary information.

Recommendation: Discuss the Mayor's recommendation. Move to direct the City Attorney to prepare an ordinance to amend the Open Government ordinance.

XVIII. NEW BUSINESS

- * 6. **Authorize the City Manager to Execute a Memorandum of Understanding with the Milpitas Unified School District Regarding Participation in an Adult Education Program (Staff Contact: Bill Marion, 586-2701)**

Background: The Milpitas Unified School District (MUSD) is interested in offering an Adult Education program in television production and studio operation. This program would utilize the facilities of Milpitas Community Television (MCTV). The City would be responsible for providing the facilities, developing a curriculum, scheduling interns and recommending an instructor. MUSD would create a certification program, promote and advertise the program, provide registration and attendance, fund the instructor, provide supplies as needed and provide certificates of completion.

The benefit of this relationship to the City would allow us to televise public meetings, as requested by the Open Government Subcommittee, with no additional cost to the City. As part of the curriculum, students would be required to complete an internship that would include operating the studio facilities. The use of these adult student interns would provide for the broadcast of public meetings and other events with no additional staff costs to the City. The Telecommunications Commission has reviewed the Memorandum of Understanding and recommended approval.

Recommendation: Authorize the City Manager to execute a Memorandum of Understanding with the Milpitas Unified School District regarding participation in an Adult Education program related to the City's cable television channel and broadcasting studio.

- * 7. **Approve FY 2007-08 Department of Conservation Grant Funding and Budget Appropriation (Staff Contact: Leslie Stobbe, 586-3352)**

Background: On May 15, 2001, and October 7, 2003, the City Council adopted Resolutions No. 7094 and No. 7351, respectively, which authorized annual submittals for grant funding requests to the Department of Conservation, Division of Recycling Funds (DOC). Staff is pleased to report that the City has received a FY 2007-08 grant award of \$17,348 that may be used to support public information outreach for residential and school recycling education programs. Included in the Council packet is a Budget Appropriation Form to accept the FY 2007-08 DOC award for a total of \$17,348.

Recommendation: Approve the FY 2007-08 Department of Conservation grant funding of \$17,348, and authorize the budget appropriation.

XIX. ORDINANCES

8. **Waive First Reading and Introduce Ordinance No. 275, to Add Section 3.02 to Chapter 1, Title I of the Milpitas Municipal Code Pertaining to Restrictions on Use of the City Seal and Penalties for Misuse (Staff Contact: Richard Pio Roda, 586-3040)**

Background: The City Council adopted the official seal of the City of Milpitas on January 26, 1954 (codified in Section I-1-3.01 of the Milpitas Municipal Code). The City Seal is a common

law trademark and is City property. Unregistered trademarks such as city seals are protected from unauthorized use under the common law and state and federal unfair competition laws.

However, the City does not have an enforcement mechanism upon which it may impose monetary or criminal penalties for punishing an unauthorized use. Without an ordinance preventing unauthorized use and establishing fiscal penalties for violating the City's trademark rights, litigation in each individual circumstance of unauthorized use would be both time-consuming and expensive because the City would be required to quantify its harm in each instance and would not have an effective means to educate and prevent unauthorized use.

The proposed ordinance makes it unlawful to use the City seal, or an imitation thereof, for non-official City business, except upon approval of the City Council. Furthermore, by making the violation a misdemeanor, the proposed ordinance allows the City to assess fiscal penalties for unauthorized use of the City Seal.

Recommendation: The proposed ordinance makes unauthorized use of the City Seal, or any imitation thereof, a misdemeanor, and establishes penalties for such use. Council is requested to:

1. Move to waive the first reading beyond the title of Ordinance No. 275.
2. Introduce Ordinance No. 275, an ordinance of the City Council of the City of Milpitas to add Section 3.02 to Chapter 1, Title I of the Municipal Code restricting use of the city seal and setting penalties for misuse thereof.

9. Waive First Reading and Introduce Tree Maintenance and Protection Ordinance No. 201.5 Revising Tree Planting Regulations, and Cost Recovery Procedures for Tree Topping and Illegal Tree Removal (Staff Contact: Carol Randisi, 586-2601)

Background: On May 15, 2007, staff presented City Council with a report on the status of the street tree planting program in residential neighborhoods, including the program challenges and recommended strategies for improvement. The City Council directed staff to revise the Tree and Planting Ordinance No. 201.4, with Community Advisory Commission review, to include a requirement for one street tree per residential property with an appeal process, and to revise the penalty section to include reasonable cost recovery for tree topping and illegal removal.

In the interim, staff was directed to continue with the current tree planting program, and develop a process for annual tree planting in residential neighborhoods. Neighborhood plantings would include community meetings to provide information and education on the residential street tree planting program and tree protection, an overview of vacant planting sites in the neighborhood, schedule for tree planting in suitable planting sites, and provide residents with an appeal process.

The Tree Maintenance and Protection Ordinance No. 201.5 was presented to the Community Advisory Commission on September 5, 2007 for its review and recommendation to the City Council for approval. The ordinance specifies that residential street trees are planted in tree planting easements, and that street trees are only planted in suitable vacant planting sites, meaning that they are a reasonable distance from obstructions, such as hardscape and overhead or underground utilities. The ordinance provides for an appeal process to the Public Works Director for the planting of residential street trees.

The ordinance further clarifies creation of a public nuisance by the topping of a city street tree or other protected tree, and enforcement, through abatement or compensation, for the destruction or illegal removal of a city street tree or protected tree. An abatement procedure, recovery of costs, and assessment and lien process provides for both cost recovery and due process.

Recommendation:

1. Waive the first reading beyond the title of Ordinance No. 201.5.
2. Introduce Ordinance No. 201.5, the Tree Maintenance and Protection Ordinance, amending Chapter 2, Title X of the City of Milpitas Municipal Code.

- * 10. **Adopt Ordinance No. 274 to Add Chapter 1100 to Title V of the Milpitas Municipal Code to Expand the Definition of a Public Nuisance and to Provide a Cost Recovery Mechanism for Public Nuisance Abatement (Staff Contact: Emma Karlen, 586-3145)**

Background: At its September 4, 2007 meeting, Ordinance No. 274 was introduced and is now ready for a second reading and adoption. This ordinance expands the definition of a public nuisance to provide the City with a cost recovery mechanism for public nuisance abatement through lien or special assessment procedures.

Recommendation:

1. Waive the second reading of the ordinance.
2. Adopt Ordinance No. 274 of the City of Milpitas adding Chapter 1100 to Title V of the Milpitas Municipal Code, to expand the definition of a public nuisance and to provide a cost recovery mechanism for public nuisance abatement.

XX. RESOLUTIONS

- * 11. **Approve Resolution Accepting Valley Transportation Authority Grant and Committing to Provide Local Matching Funds; Approve a New Capital Improvement Program project, the South Main Street Streetscape Project - Phase I, CIP No. 4243, and Approve Budget Appropriation of \$1,200,000 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The City of Milpitas submitted a grant proposal in April of this year to the Santa Clara Valley Transportation Authority (VTA) in response to its call-for-projects for the Community Design for Transportation (CDT) – Release 2 Capital Grant Program. The grant application proposal for the South Main Street Streetscape Improvements Phase I project was selected for funding by the VTA, whose Board of Directors was scheduled to authorize funding distribution on August 30, 2007. This grant will provide the City of Milpitas with \$850,000 for this project.

The project includes bicycle/pedestrian-focused streetscape enhancements geared towards promoting transit use within the new residential communities currently under construction along South Main Street such as decorative sidewalks, pedestrian-scale lighting, landscaped median islands and large decorative shade trees.

A City funding match of \$350,000 is required for this project. A new CIP project in the total amount of \$1,200,000 (\$850,000 grant and \$350,000 City matching funds) is recommended in order to appropriate the grant funds and the City's share. The City matching funds are available from the Street Fund and RDA Tax Increment (50% each). VTA also requires the City to approve a resolution accepting the grant, committing to provide the City's local funding match and committing to completion of the project.

Recommendations:

1. Adopt City of Milpitas Resolution accepting the Santa Clara Valley Transportation Authority grant and committing to provide local matching funds.
2. Authorize a new Capital Improvement Program project, the South Main Street Streetscape Project - Phase I, Project No. 4243.
3. Approve a Budget Appropriation of \$1,200,000.

XXI. BIDS AND CONTRACTS

- * 12. **Approve and Authorize the City Manager to Execute Amendment No. 3 to the Agreement with Consolidated Engineering Laboratories Services for On-Call Materials Testing and Inspection Services (for various projects) and Approve Budget Appropriation of \$250,000 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: On April 18, 2006, the City Council awarded the Materials Testing and Inspection Services contract to Consolidated Engineering Laboratories (CEL) for a term of one year. Council amended the CEL contract on August 1, 2006, and again on February 6, 2007 to provide additional special inspection and testing services for a total current contract of \$550,000.

Due to the current heavy work load of Capital Improvement Projects (CIP) and private development projects in construction, additional services from CEL are required. These services are necessary since the work requires specialty equipment, laboratory instrumentation, and certified personnel to verify the contractor has constructed the work in conformance with the plans, specifications, and building codes. Estimated additional cost for special inspection and testing services for the next year is \$600,000. Approximately \$250,000 of this additional amount will be reimbursed to the City by private developers for services performed on private development projects. The other \$350,000 is budgeted and programmed in the various CIP projects (the largest project is the Main Sewer Pump Station Project). A budget appropriation to the Engineering Operating Budget of \$350,000, which will be reimbursed by private development projects, is recommended.

Staff recommends amending the CEL contract to extend the end date of the Materials Testing and Inspection Services with CEL to June 30, 2008, based on time and materials, not to exceed \$600,000.

Recommendations:

1. Approve and Authorize the City Manager to execute Amendment No. 3 to the Agreement with CEL Services, for an amount not to exceed \$600,000 for Materials Testing and Inspection Services; for a total contract amount of \$1,150,000, extending the end date for Materials Testing and Inspection Services to June 30, 2008.
2. Approve a Budget Appropriation of \$250,000.

*** 13. Approve and Authorize the City Manager to Execute an Agreement with Pacific Coast Recycling for a Debris Box (Staff Contact: Greg Armendariz, 586-3317)**

Background: In accordance with Title V, Chapter 200 of the Milpitas Municipal Code, debris box haulers are required to enter into an agreement with the City before engaging in the business of collecting and disposing of non-organic solid waste and/or construction and demolition debris produced, kept or accumulated within the city limits of Milpitas. Haulers are required to pay the City a compensatory fee equal to 12% of the total gross receipts collected or received. Staff reviewed an application from Pacific Coast Recycling to enter into a debris box hauling agreement with the City and finds it in accordance with the City's requirements.

Recommendation: Approve and authorize the City Manager to execute an agreement for a debris box with Pacific Coast Recycling, subject to approval as to form by the City Attorney.

*** 14. Award the Contract for Community Center Vinyl Flooring to West Coast Contract Flooring (Staff Contact: Chris Schroeder, 586-3161)**

Background: On August 18, Purchasing went out to bid for the purchase and installation of approximately 6,100 square feet of vinyl flooring in the Milpitas Community Center, including the removal of the old flooring. Purchasing worked with Facilities Maintenance and Recreation Services to develop the bid package including the required use of recycled content vinyl flooring. Because there is such high City and public use of the facilities, the timing of installation work had to be set up a year in advance and on a very tight turn around schedule. Bids were sent to thirteen regional and Bay Area contractors on Purchasing's bidders list. In addition, the bid was advertised in the Milpitas Post, the Mercury News, on the City website, and in the Blue Book. Only one bid was received from West Coast Contract Flooring to \$78,000.

Sufficient funding was allocated in Capital Improvement Project No. 8102 – Community Center Renovation for this purchase.

Recommendation: Award the contract for the Community Center Vinyl Flooring and authorize the City Manager to execute a contract with West Coast Contract Flooring, for the not-to-exceed amount of \$78,000 including sales tax, subject to approval as to form by the City Attorney.

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, OCTOBER 2, 2007, AT 7:00 P.M.**