



**MILPITAS CITY COUNCIL MEETING AGENDA  
OCTOBER 2, 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), Milpitas Police Officers Association (MPOA) 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 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 (September 18, 2007)**

**VII. SCHEDULE OF MEETINGS – Council Calendar**

Councilmember Gomez requests the City Council to consider a change in the regular meeting schedule in November and December. His recommendation is the following:

In November, move the second regular meeting to Tuesday, November 27, 2007 at 7:00 PM.

In December, move the first regular meeting to Tuesday, December 11, 2007 at 7:00 PM.

**Recommendation:** Consider request of Councilmember Gomez. Direct staff to change meeting dates, and notice the new dates accordingly, based on desire of City Council as a whole.

**VIII. PRESENTATIONS**

**Proclamations:**

- Arts Day – October 6, 2007
- 17<sup>th</sup> Annual Make a Difference Day - October 27, 2007
- Fire Prevention Week, October 7-13, 2007

**IX. PUBLIC FORUM**

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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.

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- X. ANNOUNCEMENTS
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST
- XII. APPROVAL OF AGENDA
- XIII. CONSENT CALENDAR (Items with Asterisks\*)
- XIV. PUBLIC HEARINGS
  - 1. Adopt Resolution and Introduce Ordinance No. 38.773 for the South Main Street General Plan Amendment No. GP 2006-2, Zone Change No. ZC2006-2, Tentative Map No. MA2006-3, Environmental Impact Assessment No. EA2006-5, and Affordable Housing Regulatory Agreement (Staff Contacts: Bridgette Carroll, 586-3278, and Felix Reliford, 586-3071)
  - 2. Adoption of the Community Development Block Grant (CDBG) Consolidated Annual Performance Evaluation Report- CAPER/FY 2006-2007 (Staff Contacts: Felix Reliford, 586-3071 and Gloria Anaya, 586-3075)
- XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING
  - RA1. Call to Order by the Mayor/Chair
  - RA2. Roll Call
  - RA3. Approval of Minutes (September 18, 2007)
  - RA4. Approval of Agenda and Consent Calendar (Items with Asterisks\*)
  - RA5. Receive Progress Report on Library, East Parking Garage, and Related Projects, Numbers 8161, 8162, and 8165; and Approve Contract Change Order for the North Main Street Streetscape, Project No. 8165 (Staff Contact: Steve Erickson, 586-3414)
  - \*RA6. Adopt Resolution of Initial Acceptance for the Milpitas East Parking Garage, Project No. 8161 (Staff Contact: Steve Erickson, 586-3414)
  - \*RA7. Approve Certificate of Completion for Certain Residential Units within Tract No. 9698 for KB Home, Project No. 3160 (Staff Contact: Robert Wang, 586-3327)
  - \*RA8. Adopt Resolution Granting Final Acceptance of the Storm Water Pump Station Improvement Replacement Roofs at Bellew and Penitencia, Project No. 8106, and Oak Creek Pump Station Improvements, Project No. 8140 (Staff Contact: Greg Armendariz, 586-3317)
  - RA9. Agency Adjournment
- XVI. REPORTS OF OFFICER
  - City Council
    - 3. Consider Mayor's Recommendation for \$500 Donation to Curtner Elementary School 3<sup>rd</sup> Grade Class (Contact: Mayor Esteves, 586-3029)
    - \* 4. Consider Mayor's Recommendations for Appointments/Re-Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)

**XVII. NEW BUSINESS**

- \* 5. Authorize the Milpitas Rotary Club's Request for a Fee Waiver for the Annual Pumpkin Patch (Staff Contact: Diana Whitecar, 586-3059)
- \* 6. Approve Three Youth Sports Assistance Fund Grant Requests (Staff Contact: Aaron Bueno, 586-3226)
- \* 7. Authorize the Purchasing Agent to Dispose of Three Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)
- \* 8. Authorize City Staff to Send Out Requests for Proposals for Preparation of the State-Mandated General Plan Housing Element (Staff Contact: Felix Reliford, 586-3071)

**XVIII. ORDINANCE**

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

**XIX. RESOLUTION**

- \* 10. Adopt Resolution Granting Final Acceptance of Sewer Deficiency and Structural Correction Program (Pipe Bursting/Reaming), Project No. 6073 (Staff Contact: Andrew Brozyna, 586-3315)

**XX. BIDS AND CONTRACTS**

- 11. Consideration of Appointment of City Attorney (including announcement from Closed Session), and Terms and Contract for City Attorney (Staff Contact: Steve Mattas, 586-3040)
- \* 12. Approve Purchase Order for General Legal, Redevelopment and Personnel Legal Services and Expenses Provided by Meyers Nave (Staff Contact: Steve Mattas, 586-3040)

**XXI. CLAIM AND DEMAND**

- \* 13. Approve Payment Request for Purchase of Defibrillators from Medtronic Emergency Response Systems (Staff Contact: Chris Schroeder, 586-3162)

**XXII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, OCTOBER 16, 2007 AT 7:00 P.M.**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

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

Commissions, boards, councils and other agencies of the City exist to conduct the people's business.

This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN

GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE,

CONTACT THE OPEN GOVERNMENT SUBCOMMITTEE

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

E-mail: [rpioroda@ci.milpitas.ca.gov](mailto:rpioroda@ci.milpitas.ca.gov) / Fax: 408-586-3030 / Phone: 408-586-3040

*A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), select Open Government Ordinance under News Features.*

**BECOME A CITY COMMISSIONER!**

Currently, there are openings on the following Commissions:

*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](http://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 HEARINGS

- 1. Adopt Resolution and Introduce Ordinance No. 38.773 for the South Main Street General Plan Amendment No. GP 2006-2, Zone Change No. ZC2006-2, Tentative Map No. MA2006-3, Environmental Impact Assessment No. EA2006-5, and Affordable Housing Regulatory Agreement (Staff Contacts: Bridgette Carroll, 586-3278, and Felix Reliford, 586-3071)**

**Background:** This item was continued at the City Council meeting of September 18, 2007, to allow the environmental document to be posted at the County of Santa Clara pursuant to State Planning Law and the applicant's review of the Regulatory Agreement.

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 comprised of approximately 2,800 square feet. A Mitigated Negative Declaration requires adoption by City Council.

#### **Affordable Housing Regulatory Agreement**

The City Council 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 approve the 15% affordability in the South Main Street Project for the following reasons:

- The project incorporates 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 which includes 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 from 20% affordability (25 units) to 15% affordability (19 units) is only 6 affordable units, which does not impact the Milpitas affordable housing goals.
- The 15% affordability still complies with State Redevelopment Law for affordability in redevelopment project areas.

The developer proposes to provide 19 moderate-income affordable housing units. Included in the Council's agenda packet is the Resolution and proposed Ordinance No. 38.773 for approval of the General and Zone Change Amendments, Tentative Map, Environmental Review. The Regulatory Agreement is also included in the agenda packet.

**Recommendations:**

1. Open the Public Hearing for comments; and, move to close the Public Hearing.
  2. Adopt the Initial Study and Mitigated Negative Declaration No. EA2006-5.
  3. Adopt City of Milpitas Resolution approving the General Plan and Midtown Specific Plan Amendments No. GM 2006-2.
  4. Waive the first reading beyond the title of Ordinance No. 38.773.
  5. Introduce Ordinance No. 38.773, which will approve Zone Change No. 2006-2 and Tentative Map, subject to the findings and special conditions of approval, upon adoption.
  6. Approve the Affordable Housing Regulatory Agreement for the South Main Street Project.
2. **Adoption of the Community Development Block Grant (CDBG) Consolidated Annual Performance Evaluation Report- CAPER/FY 2006-2007 (Staff Contacts: Felix Reliford, 586-3071 and Gloria Anaya, 586-3075)**

**Background:** The Consolidated Annual Performance Evaluation Report (CAPER) is a HUD mandated report that describes the City's one-year CDBG Programs and Activities undertaken during the past CDBG program year, 2006-2007. The CAPER also evaluates the City's overall progress in carrying out those priority projects that were identified in the approved Five-Year Consolidated Plan and One-Year Action Plan. In June 2007, the Council approved the Five-Year Consolidated Plan (2007-2012); staff recently received a letter from HUD approving the Action Plan (2007-2008) and Consolidated Plan. A copy of the CAPER has been included in the Council's agenda packet.

The report identifies the following major accomplishments:

- Approval of 2,383 new housing units over the past 3 years, which include 20% affordability (616 units \*) for very low, low and moderate-income households.
- Completion of Phase I and Approval of Phase II of the Transit Area Specific Plan to allow higher densities (5,000-7,000 new dwelling units) with ¼ mile of VTA's Light Rail and future Montague/ Capitol BART Transit Stations (including final staff comments on the Environmental Impact Report before public review and comments).
- Financial assistance for the re-roofing repairs and improvements to the Terrace Gardens Senior Housing Complex.
- Completion of the acquisition, rehabilitation and occupancy of one Single-Family Home to accommodate 5 extremely low-income seniors.
- Funding to assist 23 different public services agencies and housing providers; and
- Provided \$600,963 in CDBG funds to assist move than 5,000 Milpitas residents.

(\*) Note: Aspen Apartments and DeVries Place Senior Housing projects both are 100% affordable.

The CAPER has been advertised for public review and comments for 15 days (August 30-September 14, 2007). Copies of the CAPER were sent to all Service and Housing Providers that received CDBG funds from the City and other interested parties. Copies were also made available at City Hall and Public Library. Staff has received two public comments on the draft CAPER. Both comments were from Service Providers (Live Oak Adult Day Care Services and Catholic Charities Long Term Care Ombudsman), which requested revisions to the final number of clients who were served during the previous fiscal year. These revisions have been incorporated into the final document.

Included in the Council's agenda packet is the CAPER document and the letter from HUD approving the City's Action Plan (2007-2008) and the Consolidated Plan (2007-2012).

**Recommendations:**

1. Open Public Hearing for comments.
2. Close the public hearing.
3. Adopt the Consolidated Annual Performance Evaluation Report (CAPER) for FY 2006-2007.

**XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

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

**RA2. Roll Call**

**RA3. Approval of Minutes (September 18, 2007)**

**RA4. Approval of Agenda and Consent Calendar**

**RA5. Receive Progress Report on Library, East Parking Garage, and Related Projects Numbers 8161, 8162, and 8165; and Approve Contract Change Order for the North Main Street Streetscape, Project No. 8165 (Staff Contact: Steve Erickson, 586-3414)**

**Background:** The Library Subcommittee met on September 25, and heard a progress report on the Library, Garage, N. Main St. Streetscape and related projects. Construction continues on each of these redevelopment agency projects. Staff will provide a brief presentation on their progress.

**Library**

S. J. Amoroso continues with construction of the new Milpitas library. Installation of steel decks and concrete floors for the North wing and south continues.

**Parking Garage**

Construction of the parking garage, including all punch list items has been successfully completed. Staff is recommending the City Council adopt a Resolution of Initial Acceptance for the project including a reduction in the amount of the faithful performance bond (agenda item RA6).

**N. Main Streetscape – Phase I and II**

JJR Construction continues work on the first phase of the N. Main Streetscape from Weller Lane to the SR237-off ramp. Construction of the new curb and sidewalk along the roadway and temporary streetlights have been installed. The contractor is continuing with electrical and street improvements.

The second phase of the streetscape project is partially funded by a \$1.5 million federal grant administered by Caltrans. Staff is concerned the Caltrans grant process is starting to impose a delay on the planned completion of the streetscape improvements, risking the streetscape improvements fronting the new library and parking garage completion by the proposed grand opening in December 2008. A Contract Change Order is recommended to shift some of the Phase two work into the current Phase one project which is under construction. This will ensure the street improvements fronting the library and garage are completed on-time. Staff has negotiated this contract change order work scope for a not to exceed amount of \$1,130,000. No additional funding for this change order is requested as the work can be completed within the current budget.

**Recommendations:**

1. Receive Progress Report on Library, East Parking Garage, and Related Projects Numbers 8161, 8162, and 8165.

2. Approve Contract Change Order, not to exceed \$1,130,000, with JJR Construction, Inc. for N. Main St. Streetscape Project No. 8165.

**\*RA6. Adopt Resolution of Initial Acceptance for the Milpitas East Parking Garage, Project No. 8161 (Staff Contact: Steve Erickson, 586-3414)**

**Background:** This project provided for the construction of the City's Midtown East Parking Garage at 120 North Main Street, and was awarded to Devcon Construction, Inc. on August 1, 2006. The project has been successfully completed, and staff recommends an initial acceptance be granted, and the contractor's faithful performance bond be reduced to \$917,500, which is 10% of the contract amount.

**Recommendation:** Adopt Redevelopment Agency Resolution granting initial acceptance of the Milpitas East Parking Garage, Project No. 8161, and reducing the contractor's faithful performance bond to \$917,500.

**\*RA7. Approve Certificate of Completion for Certain Residential Units within Tract No. 9698 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, on S. Abel Street. 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 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.

**\*RA8. Adopt Resolution Granting Final Acceptance of the Storm Water Pump Station Improvement Replacement Roofs at Bellew and Penitencia, Project No. 8106, and Oak Creek Pump Station Improvements, Project No. 8140 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This project, which was initially accepted on September 19, 2006, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include new roofs, skylights and fan for the storm water pump stations at La Honda Dr. and Hermina St. (Penitencia Station), Technology Dr. and Murphy Ranch Dr. (Bellew Station) and Sycamore Dr. and McCarthy Blvd. (Oak Creek Station). Therefore, the Council may grant final acceptance and the contractor's bond may be released.

**Recommendation:** Adopt Redevelopment Agency resolution granting final acceptance of the storm water pump station improvement replacement roofs at Bellew and Penitencia, Project No. 8106, and Oak Creek pump station improvements, Project No. 8140, and release of the bond.

**RA9. Agency Adjournment**

**XVI. REPORTS OF OFFICER**

**City Council**

3. Consider Mayor's Recommendation for \$500 Donation to Curtner Elementary School 3<sup>rd</sup> Grade Class (Contact: Mayor Esteves, 586-3029)

**Background:** Mayor Esteves received a request for a donation from Rachel Decker, a third grade teacher at Curtner Elementary School in Milpitas.

City Council is requested to consider the Mayor's recommendation to support the class walk-a-thon event in the amount of \$500. The fundraising event by the school is intended to raise money for field trips and computer upgrades.

The request was scheduled for discussion by the Finance Subcommittee on September 29.

If approved by Council, the funding would be allocated from the Community Promotions Unallocated budget line item.

**Recommendation:** Discuss donation request. Consider motion to approve the Mayor's recommendation of a \$500 donation to Curtner Elementary School Walk-a-thon to be held on October 19.

\* **4. Consider Mayor's Recommendations for Appointments/Re-Appointments to City Commission (Contact: Mayor Esteves, 586-3029)**

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

Recycling and Source Reduction Advisory Commission:  
Re-appoint Steve Ybarra to a term that expires in October 2010.

Sister Cities Commission:  
Re-appoint Oliver Wan to a term that expires in September 2010.

Youth Advisory Commission:  
Appoint Calvin Liang to a term that expires in September 2008.  
Appoint Lan Ngo to a term that expires in September 2008.  
Appoint Ryan Ng as Alternate No. 1 to a term that expires in September 2008.  
Appoint Lovin Cortez as Alternate No. 3 to a term that expires in September 2008.  
Appoint Ryan Ha as Alternate No. 4 to a term that expires in September 2008.

**Recommendation:** Discuss and vote on recommendations for new Commission appointments and re-appointments.

**XVII. NEW BUSINESS**

\* **5. Authorize the Milpitas Rotary Club's Request for a Fee Waiver for the Annual Pumpkin Patch (Staff Contact: Diana Whitecar, 586-3059)**

**Background:**

The Rotary Club of Milpitas is hosting its 2<sup>nd</sup> annual Pumpkin Patch beginning October 19<sup>th</sup> through October 30<sup>th</sup>. The Pumpkin Patch will be located in the southwest corner of the Milpitas Unified School District Parking Lot on Calaveras Boulevard.

The Pumpkin Patch will be open on weekdays from 5 – 10 p.m. and on weekends from 9 a.m. to 10 p.m. Rotarians will be selling pumpkins, provide face painting and jump house activities for children of all ages.

The 2006 Pumpkin Patch was a very successful activity for Rotary. Profits from the Pumpkin Patch were used to fund local Rotary service programs and international service programs. Many

Rotarians are donating supplies to reduce the cost of the event, so that more funds will be available for service programs. Rotarians are also donating their time to staff the activities.

Milpitas Rotary requests that the City fees be waived for this event to assist in making the event the most successful and to allow Rotary to continue its "Service Above Self" both locally and globally.

**Recommendation:** Move to approve the requested waiver of fees (approximately \$500) for the Special Events Permit for the Milpitas Rotary Club's annual Pumpkin Patch in late October.

\* **6. Approve Three Youth Sports Assistance Fund Grant Requests (Staff Contact: Aaron Bueno, 586-3226)**

**Background:** On June 19, 2007, the Milpitas City Council approved and appropriated \$8,000 for the Youth Sports Assistance Fund for FY 2007–08 budget year. Included in the City Council packet for review and consideration are three Youth Sports Assistance Fund applications.

(1) One Group Youth Sports Assistance Fund application was received from the Milpitas Tidal Waves in the amount of \$1,000, for hip-fins, stop watches and stretch chords training equipment, along with travel costs for the 2007 Monterey Bay Swim Classic campsites and competition relays.

(2) One Group Youth Sports Assistance Fund application was received from the Milpitas Youth Soccer Club (MYSC) in the amount of \$1,000, for field lining, referee expenses and other related costs for hosting their MYSC District 2 Jamboree Tournament on October 6-7, 2007.

(3) One Group Youth Sports Assistance Fund application was received from Nastassia Hamor in the amount of \$500, for entry fees, airfare, hotel and other travel costs for the Indoor Inline Speed Skating National Championships on July 15-20, 2008 in Omaha, Nebraska.

The Parks, Recreation and Cultural Resources Commission (PRCRC) reviewed the applications on September 10, 2007 and recommended granting the Milpitas Tidal Waves \$1,000, Milpitas Youth Soccer Club \$1,000 and Nastassia Hamor \$500 with Council approval.

There is currently a **balance of \$8,000** in the 2007–08 Youth Sports Assistance Fund.

**Recommendation:** Approve the three Youth Sports Assistance Fund requests: granting \$1,000 to the Milpitas Tidal Waves, \$1,000 to the Milpitas Youth Soccer Club and \$500 to Nastassia Hamor, leaving a grant fund balance of \$5,500 for the remainder of the fiscal year.

\* **7. Authorize the Purchasing Agent to Dispose of Three Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City has three (3) vehicles:

1. 198S F700 Ford dump truck; License# 377064, with estimated value of \$5,000.
2. 476F 1997 Crown Vic; License# 045502, with estimated value of \$1,000.
3. 477Z 1997 Crown Vic; License# 045504, with estimated value of \$1,000.

All three vehicles have reached the end of their useful lives. The cost to maintain the vehicles exceeds their values and they have been removed from service. The value of the vehicles at auction is estimated to range from \$1,000 to \$5,000. Staff requests authorization to dispose of the vehicles at auction pursuant to section I-2-8.03 of the Municipal Code "Disposal of more than \$1,000."

**Recommendation:** Approve the request to auction three City vehicles (one dump truck and two passenger cars).

\* 8. **Authorize City Staff to Send Out Requests for Proposals for Preparation of the State-Mandated General Plan Housing Element (Staff Contact: Felix Reliford, 586-3071)**

**Background:** Pursuant to California Government Code §§65580-65589, each city and county are required to prepare and implement a General Plan Housing Element every five years toward obtaining the state and regional housing goals. The Housing Element contains the following major subject areas:

- The evaluation of local housing needs and analysis of constraints affecting the ability of the marketplace to meet these needs
- The identification of community housing goals, objectives and polices.
- An evaluation of the community's performance in achieving the goals established for the past five-year period.
- The description of a new five-year housing program to meet the identified housing needs and goals.
- Identifying adequate housing sites to accommodate future growth and development.

Milpitas' previous Housing Element was adopted by the City Council in October 2002 and was found by State of California, Department of Housing and Community Development (HCD) to be in conformance with the state housing element law. To assist the City in preparing the current housing element, staff prepared - and requests authorization to send out - Requests for Proposal (RFPs) to various planning consultant firms that specialize in the preparation of housing elements. The Housing Element is required to be submitted to HCD by June 30, 2009.

The release of the draft Association of Bay Area Government (ABAG) Regional Housing Needs Allocation for the City of Milpitas includes the following:

<u>Income Category</u>	<u>Percentage</u>	<u># of Units</u>
Very-Low	27.7%	689
Low	16.9%	421
Moderate	17.8%	441
Above-Moderate	37.6%	936
Total:	100.0%	2,487

On November 21, 2006, the Council approved the contract agreement for Vernazza Wolfe Associates to prepare the Housing Marketing Study as a component of the Housing Element. The housing market study will assist City Council and staff on: 1) housing market conditions, 2) land use analysis, 3) supply and demand of housing types, 4) characteristics of the Milpitas housing market, and 5) the need for executive type homes within the city. The Housing Element currently requires a marketing analysis, however, this study will assist in addressing the issues for the demand of executive homes and what the Milpitas housing market can support. Staff is currently reviewing the draft copy of the Housing Marketing Study and will present the report to the Council at a future meeting.

The current General Plan Housing Element budget is \$120,000. Sufficient funds have been budgeted in the past for this project. Once the consultant has been selected, staff will return to the City Council with approval to execute the contract agreement. At that time, the exact dollar amount for the General Plan Housing Element (in the consultant's budget) will be included.

Included in the Council's agenda packet is the Request for Proposal for the General Plan Housing Element.

**Recommendation:** Move to authorize City staff to send out the Request for Proposals for the preparation of the State Mandated General Plan Housing Element.

**XVIII. ORDINANCE**

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

**Background:**

On September 18, 2007, City Council reviewed the proposed changes to the Tree Maintenance and Protection Ordinance No. 201.5. Council requested that the ordinance be introduced at the October 2, 2007 meeting. Section X-2-8.02-1 Public Nuisance Hardscape within Planting Strips, has been removed from this ordinance. After the two year education program, this section can be reconsidered for addition to the tree ordinance.

**Recommendations:**

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

**XIX. RESOLUTION**

- \* 10. **Adopt Resolution Granting Final Acceptance of Sewer Deficiency and Structural Correction Program (Pipe Bursting/Reaming), Project No. 6073 (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** This project, which was initially accepted on September 19, 2006, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include sanitary sewer pipe bursting of existing pipe with replacement of approximately 255 feet of 8 inch HDPE pipe in a residential area. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

**Recommendation:** Adopt Resolution granting final acceptance of the Sewer Deficiency and Structural Correction Program (Pipe Bursting/Reaming), Project No. 6073, and release of the contractor's bond.

**XX. BIDS AND CONTRACTS**

11. **Consideration of Appointment of City Attorney (including announcement from Closed Session), and Terms and Contract for City Attorney (Staff Contact: Steve Mattas, 586-3040)**

**Background:** Under the City's Open Government Ordinance, consideration of contract terms related to compensation for the City Manager and City Attorney's contracts must be discussed and decided upon by the City Council in open session. This agenda item relates to the contract for the new in-house City Attorney.

**Recommendation:** It is recommended that the City Council review and consider the proposed City Attorney's contract terms and direct staff to make changes, if any.

- \* 12. **Approve Purchase Order for General Legal, Redevelopment and Personnel Legal Services and Expenses Provided by Meyers Nave (Staff Contact: Steve Mattas, 586-3040)**

**Background:** The purpose of this staff report is to request that the City Council authorize a purchase order to Meyers Nave for the legal services referenced above. It is anticipated that this purchase order will include legal services to assist in the transition of the City Attorney's Office to in-house counsel.

**Recommendation:** Move to authorize issuance of a purchase order to Meyers Nave in the amount of \$50,000.

**XXI. CLAIM AND DEMAND**

- \* 13. **Approve Payment Request for Purchase of Defibrillators from Medtronic Emergency Response Systems (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing has prepared the following request for payment over \$20,000 for approval: \$130,000 to Medtronic Emergency Response Systems for Replacement Defibrillators.

Staff requests that the equipment be purchased as a sole source procurement as authorized in section I-2-5.03-4 of the Milpitas Municipal Code. The City currently has five Lifepak 12 defibrillator monitors which need to be replaced with new equipment as they have reached the end of their useful life. The new Lifepak 12 defibrillator monitors are compatible with the Santa Clara County Emergency Management System (EMS) which is a County-wide standard. These new monitors are also compatible with all transporting services, EMS agencies and hospitals in the County.

Funds are available from the Equipment Management Fund and the Fire Department Operating Budget for this purchase.

**Recommendation:** Approve the payment of \$130,000 for the purchase of five defibrillators from Medtronic Emergency Response Systems.

**XXII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, OCTOBER 16, 2007 AT 7:00 P.M.**