



**MILPITAS CITY COUNCIL MEETING AGENDA
OCTOBER 16, 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 Groups: Milpitas Police Officers Association (MPOA), International Association of Firefighters (IAFF) 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 (October 2, 2007)**
- VII. SCHEDULE OF MEETINGS – Council Calendar for October and November, 2007**
- VIII. PRESENTATIONS**

Proclamations:

Accepting Cisco Donation to the City Upon Sponsoring Milpitas Day at the Oakland A's in September
World Vegetarian Month – October 2007
Change a Light, Change the World (from early October)

Special Presentation:

Formal Signing of the Time Extension for Sister City Memorandum of Understanding Agreement with Dagupan City, Philippines – Including Presentation of a Key to the City

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. Introduce Ordinance No. 38.775 to Approve First Amendment to 1997 Development Agreement Between the City of Milpitas and Peery/Arrillaga (Staff Contact: Felix Reliford, 586-3071)**
- 2. Consider Resolution to Deny General Plan Amendment No. GP 2005-11, Zone Change No. ZC2005-11, Tentative Map No. MA2005-7, Planned Unit Development No. PD2007-4 and “S” Zone No. SZ2005-13, and Consideration of Environmental Impact Report EA2005-9 for the Murphy Ranch Project (Staff Contacts: Geoff Bradley, 830-4106, and Felix Reliford, 586-3071)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Agency Minutes (October 2, 2007)**
- RA4. Approval of Agenda**
- RA5. Receive Staff Report on the Senior Center Facilities Subcommittee Recommendation to Approve Schematic Design of New Senior Center and Authorize Work to Proceed on Design Development Phase, Project No. 8176 (Staff Contacts: Bonnie Greiner, 586-3227, and Greg Armendariz, 586-3317)**
- RA6. Agency Adjournment**

XVI. REPORTS OF OFFICERS AND COMMITTEES

City Council

- * 3. Consider Mayor’s Recommendation for Re-Appointment to the Sister Cities Commission (Contact: Mayor Esteves, 586-3029)**
- * 4. Approve Recommendation from the Facilities Naming Subcommittee to Dedicate the Sports Field at Peter Gill Park as the “Michael de Jesus Softball Field,” to Dedicate the Gathering Room at the Milpitas Teen Center as the “Amritpal ‘Paul’ Sandhu Gathering Room” and to Rename Sumac Drive to SanDisk Drive (Staff Contacts: Jaime Rodriguez, 586-3335, and Bonnie Greiner, 586-3227)**

XVII. NEW BUSINESS

- * 5. Approve Facility Use Rules and Regulations Revisions (Staff Contact: Jennifer Tagalog, 586-2786)**
- 6. Discussion of Strategic Plan Program (Staff Contact: Tom Williams, 586-3050)**

XVIII. ORDINANCES

- 7. Consider Recommendation of Open Government Subcommittee to Introduce Amendments to the Open Government Ordinance No. 262 (Contacts: Armando Gomez, 586-3031, and Robert Livengood, 586-3027)**

8. **Waive First Reading and Introduce Ordinance No. 275, Adding 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 Its Misuse (Staff Contact: Michael Ogaz, 586-3040)**
- * 9. **Waive Second Reading and Adopt Ordinance No. 201.5 Tree Maintenance and Protection, Amending Chapter 2, Title X of the City of Milpitas Municipal Code (Staff Contact: Carol Randisi, 586-2601)**
- * 10. **Waive Second Reading and Adopt Ordinance No. 38.773 for the South Main Street Project Zone Change No. ZC2006-2 and Tentative Map No. MA2006-3 (Staff Contact: Bridgette Carroll, 586-3275)**

XIX. RESOLUTIONS

- * 11. **Adopt Resolution Granting Initial Acceptance of Public Improvements for Milpitas Town Center Project No. 3153 (Staff Contact: Greg Armendariz, 586-3317)**
- * 12. **Adopt Resolution Approving Policy to Allow for the Installation of Residential On-Street Parking Spaces for the Disabled (Staff Contact: Jaime Rodriguez, 586-3335)**
- * 13. **Authorize Execution of State of California Department of Transportation Master Agreement for Federally Funded Projects, and Adopt a Resolution Authorizing the City Manager to Execute Various Types of Agreements with California Department of Transportation (Staff Contact: Andrew Brozyna, 586-3315)**

XX. BIDS AND CONTRACTS

- * 14. **Approve the Use of Asset Forfeiture Funds by the Police Department to Purchase Equipment for the Special Operations Division (Staff Contact: David Rossetto, 586-2405)**
- * 15. **Award the Bids for Annual Vehicle Purchase for Seven Vehicles to Four Vendors (Staff Contact: Chris Schroeder, 586-3161)**

XXI. CLAIM AND DEMAND

- * 16. **Approve Two Payment Requests to Preston Pipelines for Emergency Repairs (Staff Contact: Chris Schroeder, 586-3161)**

XXII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETINGS
TUESDAYS, NOVEMBER 6 AND 27, 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: mogaz@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:

Arts Commission

Economic Development Commission (Hotel Rep)

Planning Commission

Mobile Home Park Rental Review Board

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 HEARINGS

1. **Introduce Ordinance No. 38.775 to Approve First Amendment to the 1997 Development Agreement Between the City of Milpitas and Peery/Arrillaga (Staff Contact: Felix Reliford, 586-3071)**

Background: On August 5, 1997 and November 4, 1997, the City Council determined that the Environmental Impact Report for the proposal to develop the Milpitas Business Park and the creation of a Development Agreement between the City and Peery/Arrillaga (property owners within the Milpitas Business Park) was adequate and consistent with the City's General Plan policies and objectives. In November 1997, the City Council adopted Ordinances 38.726 and 38.734 enacting the Development Agreement for a term not to exceed ten years, unless amended. The Agreement affects some of the parcels within the Milpitas Business Park and vests development rights, including allowing development using regulations and policies within the Zoning Ordinance and General Plan that were in effect at the time the Agreement was enacted. In return, the City was assured that infrastructure improvements and development of the project would occur in a timely fashion so that public services could be adequately funded.

Those affected parcels were subsequently developed with buildings in accordance with the Agreement, including the Cisco Technology, Inc. Milpitas campus. Cisco has expressed interest in intensifying the campus, however, and would like assurance that the City's land use regulations and policies will not change. Therefore, the company proposed an amendment to the original Development Agreement to extend the term of the agreement another ten years.

On October 10, 2007, the Planning Commission recommended to the City Council approval of the amendment to the original Development Agreement. Greater detail about the project is available in the Planning Commission staff report (included in the Council packet).

Based upon the facts summarized within the Agreement, the Planning Commission determined that the public policy benefits conferred by the First Amendment to the Development Agreement upon the City and the general public are substantial, and justify approving this First Amendment to the Development Agreement as a legislative act embodying the current and prospective exercise of the City's legislative discretion, in furtherance of the public health, safety and welfare.

Recommendations:

1. Open the Public Hearing for comments; and, move to close the Public Hearing.
 2. Waive the first reading beyond the title of Ordinance No. 38.775.
 3. Introduce Ordinance No. 38.775 adopting the First Amendment to the 1997 Development Agreement between the City of Milpitas and Peery/Arrillaga.
2. **Consider Resolution to Deny General Plan Amendment No. GP 2005-11, Zone Change No. ZC2005-11, Tentative Map No. MA2005-7, Planned Unit Development No. PD2007-4 and "S" Zone No. SZ2005-13, and Consideration of Environmental Impact Report EA2005-9 for the Murphy Ranch Project (Staff Contacts: Geoff Bradley, 730-4106, and Felix Reliford, 586-3071)**

Background: Fairfield Residential LLC is requesting to change the land use designation on 21.73 acres located along Murphy Ranch Road from Industrial Park (MP-"S") to Multi-Family Very High (R-4-"S") Density Residential to allow for the construction of a 659 unit residential development. The project will consist of 374 apartment units, 285 town homes, with approximately two acres of public accessible park area. The apartment complex and townhomes will be located on two separate parcels. The subject property is surrounded by industrial park

land uses (i.e., Cisco Systems, SanDisk, KLA Tencor, Seagate, Intersil, Phoenix Technologies and Avaya). Coyote Creek and City of San Jose land are located to the west of the property.

The Planning Commission held a public hearing on September 26th to review the request and voted 3 to 2 to recommend to the City Council denial of the applications, based on the following findings:

1. The project is in conflict with the Milpitas General Plan.
2. The proposed project would further the erosion of the City's employment base by converting industrial lands to a residential use.
3. The project would be in conflict with the Milpitas Economic Development plan that seeks to retain and support the success of existing and new businesses.
4. The project would divert necessary sewer capacity away from other areas where the City is encouraging housing growth.
5. The project would create a neighborhood isolated from community services.

Included in the Council's agenda packet are the General Plan and Economic Development Plan policies, supporting the recommendations for denial. If the Council desires to approve the entitlement applications, staff will return to the next meeting with the ordinance, resolution, and findings for approval of the project.

A Draft Environmental Impact Report (EIR) was prepared and circulated for public review from June 18, 2007 to August 2, 2007. Four comment letters were received during the review period and responses were prepared and provided in the Final Environmental Impact Report. The Planning Commission took no action on the EIR due to its recommendation for denial. If the Council desires to approve the project, the environmental impact report (EA2005-9) should be certified prior to the adoption of the General Plan, Zone Change, Planned Unit Development, Tentative Map, and "S" Zone applications at the next meeting.

Recommendations:

1. Open the Public Hearing for comments; and, move to close the Public Hearing.
2. Consider certification of Environmental Impact Report No. EA2005-9.
3. Adopt a Resolution to deny General Plan Amendment No. GP 2005-11.
4. Move to deny Tentative Map No. MA2005-7, Planned Unit Development No. PD2007-4, and "S" Zone No. SZ2005-13.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (October 2, 2007)

RA4. Approval of Agenda

RA5. Receive Staff Report on the Senior Center Facilities Subcommittee Recommendation to Approve Schematic Design of New Senior Center and Authorize Work to Proceed on Design Development Phase, Project No. 8176 (Staff Contacts: Bonnie Greiner, 586-3227, and Greg Armendariz, 586-3317)

Background: At the May 1, 2007, City Council meeting, the Agency/Council received a staff report and approved the "Option 3" proposal for the new Senior Center Capital Improvement Program (CIP) consisting of a 22,000 square foot building. The budget was increased from \$11.0 million to \$15.5 million and requested City staff to report back to the Council on the \$1.5 million portion of funding currently proposed by either value engineering of other CIP projects, and/or obtaining grants for the Senior Center.

Since May, staff has been working closely with Noll & Tam Project Architects for the exterior and interior elements of the facility. Concurrently, staff is also working on securing the additional \$1.5 million needed for construction of the project.

On Monday, September 24, the Senior Center Facilities Subcommittee received an update on the draft of the schematic design from Noll & Tam and recommends the design for review and approval by the Agency/Council.

Recommendations:

1. Receive staff report on the status of the new Senior Center Project.
2. Accept the Senior Center Facilities Subcommittee's recommendation and approve the schematic design for the New Senior Center.
3. Authorize design work to proceed to the Design Development Phase.

RA6. Agency Adjournment

XV. REPORTS OF OFFICERS AND COMMITTEES

City Council

- * **3. Consider Mayor's Recommendation for Re-Appointment to the Sister Cities Commission (Contact: Mayor Esteves, 586-3029)**

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

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

Recommendation: Vote on recommendation for one Commission re-appointment.

- * **4. Approve Recommendation from the Facilities Naming Subcommittee to Dedicate the Sports Field at Peter Gill Park as the "Michael de Jesus Softball Field," to Dedicate the Gathering Room at the Milpitas Teen Center as the "Amritpal 'Paul' Sandhu Gathering Room" and to Rename Sumac Drive to SanDisk Drive (Staff Contacts: Jaime Rodriguez, 586-3335, and Bonnie Greiner, 586-3227)**

Background: The Facilities Naming Subcommittee met on September 19, 2007 and requested that several recommendations be forwarded to the City Council. Draft (unapproved) minutes from the meeting are included in the agenda packet.

Michael de Jesus Softball Field

Michael de Jesus was a talented athlete born and raised in Milpitas attending Curtner Elementary School, Thomas Russell School, and Milpitas High School. Michael's family submitted a request to honor their son by naming the sports field at Peter Gill Park "Michael de Jesus Sports Field." This park is near the family's home and is where Michael spent much of his play time while growing up in Milpitas. This request is supported by the Facilities Naming Subcommittee. A plaque and ceremony will follow if this request is approved by Council.

Amritpal "Paul" Sandhu Gathering Room at the Milpitas Teen Center

Paul Sandhu was an active community member serving several years on the Milpitas Youth Advisory Commission. The Facilities Naming Subcommittee supports the dedication of the Gathering Room at the Milpitas Teen Center by placement of a plaque in his honor. A plaque unveiling ceremony will follow if this request is approved by the Council.

SanDisk Drive

SanDisk Corp., a high tech business, relocated to the City of Milpitas in 2006 on Sumac Drive. SanDisk now occupies all of the buildings fronting Sumac Drive including their corporate headquarters. SanDisk is requesting permission to rename Sumac Drive to SanDisk Drive. This request is supported by the Facilities Naming Subcommittee.

Recommendations:

1. Approve dedication of the Sports Field at Peter Gill Park to the “Michael de Jesus Softball Field,”
2. Approve the dedication of the Gathering Room at the Milpitas Teen Center to the “Amritpal ‘Paul’ Sandhu Gathering Room,” and
3. Approve the renaming of Sumac Drive to SanDisk Drive.

XVI. NEW BUSINESS

- * 5. **Approve Facility Use Rules and Regulations Revisions (Staff Contact: Jennifer Tagalog, 586-2786)**

Background: As outlined in the Facility Use Rules and Regulations, non-profit groups have the ability to rent City Facilities at reduced rates according to the following reservation schedule:

<u>For meetings in</u>	<u>Applications Accepted</u>
January – March	December 1
April – June	March 1
July – September	June 1
October – December	September 1

For the past six months, the Senior Center has had two non-profit groups come to the Senior Center on the first date that applications are accepted for non-profit groups to rent out the Senior Center Auditorium. Both groups were requesting to rent the facility on the same dates and times. The Facility Use Rules and Regulations also indicate that all applications are processed on a first come first serve basis and does not restrict any group from reserving several dates. As a result, these rental groups have been arriving at the facility early in the morning (12:00 a.m.) before opening to ensure they are the first in line to rent out various facilities that are in demand, thus monopolizing the use of the facility. It thus leaves one of the non-profit groups without any options since other facilities are not available (i.e. Adobe, Community Center, etc.).

Staff continues to struggle with the limited amount of facility space, ensuring that groups do not monopolize any facility and recommends making modifications to the Facility Use Rules and Regulations.

Included in the Council’s packet is a copy of the Facility Use Rules and Regulations with the proposed changes to ensure more equitable facility use among non-profit groups.

Recommendations: Approve revised Facility Use Rules and Regulations, as follows:

- a) Non-profit groups (Priority III), may drop-off Facility Use Applications with requested dates and times on the following dates (December 1, March 1, June 1, and September 1) during business hours;

- b) On the following business day, designated city representative will review all non-profit rental application requests (Priority III) with requested dates and times and distribute dates equally among any groups requesting the same dates. Should there not be an equal amount of dates available, city representative will do a lottery pull for any extra date and schedule accordingly;
- c) Once the facility reservations are confirmed, the groups will be required to submit necessary applicable fees (i.e. application fee, deposit, and rental fees according to the Master Fee Schedule) within three business days. Should payment not be received within three business days, the dates will be released to any other groups requesting facility space.

6. Discussion of Strategic Plan Program (Staff Contact: Tom Williams, 586-3050)

Background: The City is in a long term era of both residential and commercial growth. This growth has subsequent dual impacts of (1) higher service demands and (2) higher anticipated revenue. As a result of this growth, the City will realize annual increases in future operating budgets as well as resident and daytime population. The opportunity exists to determine future investment in the City's operational programs and capital projects to meet current and future community needs tied to this growth.

The concept of developing a Strategic Plan is to:

- Allow for identification of needs and objectives;
- Assess and define the City's level of service standards (LOS) or the scope of core services;
- Prioritization for operational and capital programs/projects given fiscal realities.

City management staff has identified a series of objectives for commencement of a strategic plan discussion with the City Council. The strategic plan format that is recommended would include identification of objectives that are supported by a number of goals. These goals would then be supported by a series of tasks that need to be accomplished in order to achieve the goal and ultimately the stated objective.

Primary objectives generated by staff for discussion with the City Council include (1) fiscal health; (2) maintaining a high quality of life; and (3) governmental efficiency.

The City Manager will present draft objectives as a starting point for the City Council at the October 16 meeting.

Fiscal Impact: Project funded through current general fund proceeds and as such, has no fiscal impact.

Recommendation: Discuss the first phase of strategic plan development and provide direction to staff.

XVII. ORDINANCES

7. Consider Recommendation of Open Government Subcommittee to Introduce Amendments to the Open Government Ordinance No. 262 (Contacts: Armando Gomez, 586-3031, and Robert Livengood, 586-3027)

Background: At its meeting on October 3, 2007, the members of the Open Government Subcommittee voted to recommend that the City Council consider adopting the following amendments to the Open Government Ordinance:

- 1) Change the requirement for annual training in section I-310-4.40, reducing the requirement – from annual - for Commissioners and Board members to receive training when appointed, and

then again if re-appointed to subsequent terms, and for City staff to receive training when newly hired.

- 2) Add “employee names” to the list of information that must be disclosed as a public record in section I-310-3.110(a)1.
- 3) Change the 45-day response time to 10 days, following receipt of an appeal to the Open Government Commission, regarding response to a petition for determination of whether a record is deemed public, in section I-310-3.20 (e).

The City Attorney has prepared the draft amendments as Ordinance No. 262.5, a copy of which is enclosed with the Council agenda packet.

Recommendations:

1. Consider the subcommittee’s recommendation for amendments to the Open Government Ordinance.
 2. Waive the first reading beyond the title of Ordinance No. 262.5.
 3. Introduce Ordinance No. 262.5 amending the Open Government ordinance.
- 8. Waive First Reading and Introduce Ordinance No. 275, Adding 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 Its Misuse (Staff Contact: Michael Ogaz, 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 financial 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 the City would not have an effective means to educate and prevent authorized use.

The City Council City Attorney Subcommittee reviewed the Ordinance, and recommended introduction of the proposed ordinance with changes. Those changes were to protect all derivations, versions and imitations of the City’s seal under this ordinance, and to reduce the penalties that could be assessed for misuse from a misdemeanor to infractions, punishable by the following fine structure: (i) \$100 for the first offense; (ii) \$200 for a second offense within the same year; (iii) \$500 for the third offense within the same year; and (iv) \$500 each additional offense thereafter within the same year.

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

Recommendations: The proposed ordinance makes unauthorized use of the City Seal, or any imitation thereof, an infraction, and establishes penalties for such use. City 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 Second Reading and Adopt Ordinance No. 201.5 Tree Maintenance and Protection, Amending Chapter 2, Title X of the City of Milpitas Municipal Code (Staff Contact: Carol Randisi, 586-2601)**

Background: On October 2, 2007, the City Council introduced Ordinance No. 201.5 Tree Maintenance and Protection, providing for residential tree planting in suitable vacant planting sites, an appeal process for residential street tree planting, and provision for cost recovery and due process for tree topping and illegal tree removal.

Recommendations:

1. Waive the second reading of the Tree and Maintenance Protection Ordinance.
2. Adopt Ordinance No. 201.5, Tree Maintenance and Protection, Amending Chapter 2, Title X of the City of Milpitas Municipal Code.

- * 10. **Waive Second Reading and Adopt Ordinance No. 38.773 for the South Main Street Project Zone Change No. ZC2006-2 and Tentative Map No. MA2006-3 (Staff Contact: Bridgette Carroll, 586-3275)**

Background: This ordinance was introduced at the October 2, 2007 City Council meeting and is now ready for second reading and adoption. Ordinance No. 38.773 approves Zone Change No. ZC2006-02 and Tentative Map No. MA2006-3 (to permit the zone change designation from General Commercial Transit Oriented Development and “S” Zone Overlay District “C2-TOD-S”) to Multi-Family Very High Density with Transit Oriented Overlay Development and “S” Zone Overlay (“R4-TOD-S”) along with the 2.72 acre Tentative Map for the 126-unit condominium project on South Main Street.

Recommendations:

1. Waive the second reading of Ordinance No. 38.773.
2. Adopt Ordinance No. 38.773 approving Zone Change No. ZC2006-02 and Tentative Map No. MA2006-3.

XVIII. RESOLUTIONS

- * 11. **Adopt Resolution Granting Initial Acceptance of Public Improvements for Milpitas Town Center, Project No. 3153 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The improvement agreement and the public improvement plans were approved by Council on September 20, 2005. The subject public improvements (realignments of the waterline, sewer line, and storm drain; modification of a traffic signal, sidewalk and pavement) have been completed. This work is ready for initial acceptance in accordance with the improvement agreement. The developer’s faithful performance bond may be reduced to \$85,000; which is 10% of the contract amount.

Recommendation: Adopt Resolution granting initial acceptance for Milpitas Town Center, Project No. 3153, subject to a one year warranty period and reduction of the faithful performance bond to \$85,000.

- * 12. **Adopt Resolution Approving Policy to Allow for the Installation of Residential On-Street Parking Spaces for the Disabled (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The City of Milpitas has historically not accommodated the installation of on-street disabled parking spaces on residential streets. Several residents have requested the installation of on-street disabled parking spaces that may benefit from their installation. Staff developed this policy as a courtesy to residents with disabilities but the City is not legally required to provide an on-street parking space for persons with disabilities.

The following physical and regulatory factors are recommended as evaluation criteria when on-street disabled parking spaces are requested in residential neighborhoods:

- Proof of Residency
- Proof of Disability and Disability Placard
- Proof of Public Street Residence
- Proof of Garage Impact
- Proof of Driveway Impact

Staff will also consider the following in evaluating requests for on-street disabled parking spaces:

- Existing Parking Restrictions
- Parking Demand
- Vehicle Access
- Roadway Safety

Each of the above items is discussed further in the *Tech Memo – Policy for the Installation of Residential On-Street Parking Spaces for the Disabled* dated October 16, 2007 (included in the Council agenda packet). This policy was presented to one member of the Transportation Subcommittee on September 19, 2007.

Recommendation: Adopt a Resolution approving the policy that allows for the installation of residential on-street parking spaces for the disabled, based on evaluation criteria.

- * 13. **Authorize Execution of State of California Department of Transportation Master Agreement for Federally Funded Projects, and Adopt a Resolution Authorizing the City Manager to Execute Various Types of Agreements with the State of California Department of Transportation, (Staff Contact: Andrew Brozyna, 586-3315)**

Background: In 1991, the United States Congress enacted the Intermodal Surface Transportation Efficiency Act (ISTEA) to fund transportation programs. Thereafter, the State of California enacted legislation to make funds available for use on local transportation facilities in accordance with the federal program. In California, the State of California Department of Transportation takes the lead role in administering federal requirements for ISTEA funded projects and other types of federally funded transportation projects.

On May 7, 2002, Council authorized execution of the State of California Department of Transportation Master Agreement in order for the City of Milpitas to be eligible to receive federal grants for qualified transportation projects.

The California Department of Transportation has recently modified the Master Agreement to reflect new ISTEA provisions as well as continuing applicability for the Transportation Equality Act and the current Local Assistance procedures. The agreement has no force or effect until a project-specific “Program Supplement” to the agreement is submitted and executed for a specific federal aid project. However, it is important for Milpitas to have this new Master Agreement executed, to remain eligible for federal grants.

Recommendations:

1. Authorize execution of the modified State of California Department of Transportation Master Agreement.

2. Adopt a Resolution authorizing the City Manager to execute all Master Agreements, Program Supplemental Agreements, Fund Exchange Agreements, Fund Transfer Agreements, and Amendments thereto with the State of California Department of Transportation.

XIX. BIDS AND CONTRACTS

- * 14. **Approve the Use of Asset Forfeiture Funds by the Police Department to Purchase Equipment for the Special Operations Division (Staff Contact: David Rossetto, 586-2405)**

Background: The Police Department badly needs an upgrade of the existing interview room recording equipment to a modern, robust digital recording system that is easy to use and capable of producing CDs or DVDs of the interviews in a format suitable to the District Attorney’s Office. In researching available systems, several products were reviewed and demonstrated, however, only one seemed a suitable solution. VideOversight by Microception provides a redundant, server-based recording system that works with a web interface allowing Detectives to view interviews in progress from their desktop computer, mark specific points of the interview and append with comments for later reference. Additionally, the expansion capability of this system is unlimited and requires the purchase of minimal hardware for each additional room, a much more affordable option than any other product reviewed. The system cost is competitive and less than its closest competitor.

With the addition of this equipment, additional computer furniture is needed to consolidate the many systems currently located in the Investigation Bureau in order to make best use of limited space. The cost of this furniture would be approximately \$5,000 and is available from K-Log Inc.

Council had allocated \$50,000 in asset forfeiture funds in the FY 2007-2008 budget. This equipment falls within the acceptable use guidelines for asset forfeiture funds, which are available in the Police Department budget.

The Police Department would like to purchase this equipment from Microception as a Sole Source purchase as sanctioned under section I-2-3.09 of the Milpitas Municipal Code because of the economical pricing and unique features of the product as outlined above. System cost with a second year of warranty is approximately \$36,500.

Recommendation: Approve the use of Asset Forfeiture Funds to purchase the VideOversight Digital Recording System from Microception Inc. in the total amount not to exceed \$36,500, and the new computer furniture from K-Log Inc. for the total amount not to exceed \$5,000.

- * 15. **Award the Bids for Annual Vehicle Purchase for Seven Vehicles to Four Vendors (Staff Contact: Chris Schroeder, 586-3161)**

Background: The current fiscal year’s budget includes the replacement of three new patrol cars, a prisoner transport van and three vehicles for the investigation unit. All of the new vehicles are replacements for older Police vehicles that will either be reassigned as pool vehicles, or retired from the fleet and auctioned off, as they will exceed the specified mileage or years of service, in accordance with the MOU. Purchasing worked with representatives from the Police Department and Fleet Maintenance staff to develop specifications on the vehicles. Bids were sent to 10 regional and Bay Area Ford dealers on Purchasing's bidders list, as well as advertised in the local newspaper and on the City web site. Seven bids were received and are detailed in the Bid Tabulation. The four winning bids are summarized below:

	<u>S&C</u>	<u>Wondries</u>	<u>Sunnyvale</u>	<u>Frontier</u>
(3) Crown Vics				\$88,539.00
(1) F-350 Cargo Van	\$21,875.00			
(1) Explorer			\$22,325.70	

(1) Taurus			\$19,997.00	
(1) Mustang		\$22,886.00		
Warranty – Crown Vics ONLY				\$4,800.00
Tire Tax	\$8.75	\$8.75	\$17.50	\$26.25
Sales Tax	\$1,804.68	\$1,886.45	\$3,491.62	\$7,304.47
Shipping	N/C	N/C	N/C	N/C
Total	<u>\$23,688.43</u>	<u>\$24,761.20</u>	<u>\$42,322.70</u>	<u>\$100,669.72</u>
Grand Total				\$191,442.05

Salinas Valley Ford did not bid on one of the vehicles and was not the low bidder on any of the others. The most cost effective approach for the City is to award each vehicle on a line item basis to maximize savings. Sufficient funding has been allocated in the FY 2007/08 operating budgets for the purchase of the vehicles.

Recommendation: Award the bid for the three (3) Crown Victorias to Frontier Ford in the amount of \$100,669.72 including warranty, tax, and tire fees. Award the F-350 Cargo Van to S&C Ford for \$23,688.43 including tax and tire fees, award the Explorer and the Taurus to Sunnyvale Ford for \$42,322.70 including tax and tire fees, and award the Mustang to Wondries Ford for \$24,761.20 including tax and tire fees.

XX. CLAIM AND DEMAND

* 16. Approve Two Payment Requests to Preston Pipelines for Emergency Repairs (Staff Contact: Chris Schroeder, 586-3161)

Background: In accordance with the Milpitas Municipal Code §I-2-5.04, Purchasing prepared the following two emergency purchases for approval:

1. \$26,176.10 to Preston Pipelines, Inc. for emergency pipe repair. On July 14, the high-pressure transmission water main under Berryessa Creek at Ames Ave. broke due to the advanced age of the pipe and deterioration of the surrounding creek bed. The 12” Transit pipe was losing water at a rate of over 10,500 gallons per minute. Multiple businesses along the line were without water and Santa Clara County was unable to keep up with the rapid loss, threatening to shut down the City’s supply. Preston Pipelines Inc. was able to take the job immediately and mobilized heavy equipment to the scene within five hours. The pipe repair was completed and service was restored within 36 hours.

The job, including rebuilding the creek bed and restoring the protective cement cap over the pipe, was completed by July 18. The work was performed as an emergency under section I-2-5.04 of the Municipal Code “Emergency Authority of Purchasing Agent.” Funds are available from Public Works Utilities Operating Budget for these services.

2. \$12,394.85 to Preston Pipelines, Inc. for emergency pipe repairs. On September 2, the 8” water main at the intersection of Carnegie Dr. and Canton Dr. broke, shearing off the coupling and kicker block located under the sidewalk. The break left 35 homes without service, with water loss approx. 2,000 gallons per minute. Preston Pipelines Inc. was able to take the job immediately and mobilized heavy equipment to the scene within three hours. The pipe repair job, excluding relaying the sidewalk, was completed by end of the the same day. City crews replaced the damaged sidewalk later that week. The work was performed as an emergency under section I-2-5.04 of the Municipal Code “Emergency Authority of Purchasing Agent.” Funds are available from Public Works Utilities Operating Budget for these services.

Recommendation: Approve the two payment requests to Preston Pipelines for \$26,176.10 and \$12,394.85 for emergency pipe repairs.

XXI. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETINGS
TUESDAY, NOVEMBER 6 AND 27, 2007 AT 7:00 P.M.**