



**MILPITAS CITY COUNCIL MEETING AGENDA
JANUARY 15, 2008**

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

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (7:00 p.m.)**
- II. PLEDGE OF ALLEGIANCE**
- III. INVOCATION (Councilmember Gomez)**
- IV. APPROVAL OF MINUTES (December 11, 2007)**
- V. SCHEDULE OF MEETINGS – Council Calendar for January 2008**
- VI. PRESENTATION**

Proclamation: “Be Sewer Smart Season”

VII. PUBLIC FORUM

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

VIII. ANNOUNCEMENTS

IX. ANNOUNCEMENT OF CONFLICT OF INTEREST

X. APPROVAL OF AGENDA

XI. CONSENT CALENDAR (*Items with Asterisks)

XII. PUBLIC HEARINGS

- 1. Consider “S” Zone Application No. SZ2007-0018, Use Permit No. UP2007-0002 and Condominium Tentative Map No. MI2007-0001: 1504-1620 South Main Street for Alexan South Main, Trammell Crow Residential Project (continue to 2/5/08) (Staff Contact: Cindy Maxwell, 586-3287)**
- 2. Appeal of Planning Commission Approval of a Conditional Use Permit/S-Zone Review for the Sikh Foundation of Milpitas (Staff Contact: Cindy Hom, 586-3284)**
- 3. Consider Weed Abatement Program for 2008 and Adopt a Resolution Directing Abatement Program (Staff Contact: Albert Zamora, 586-3371)**
- 4. Review Request for Approval of Increased Sewer Discharge Limits for Headway Technologies, Inc. 497 South Hillview Drive Fabrication Facility, and Direct Staff to Prepare an Agreement for Council Action (Staff Contact: Kathleen Phalen, 586-3345)**

5. **Introduce Ordinance No. 208.42 to Repeal and Replace Title VIII, Article 5, Chapter 2 of the Milpitas Municipal Code to Modify the Local Discharge Limits for Copper and Selenium; Eliminate Limits for Manganese, Total Toxic Organics, and Xylene; and Conform Municipal Code Requirements to Federal Pretreatment Program Standards (Staff Contact: Kathleen Phalen, 586-3345)**

XIII. UNFINISHED BUSINESS

6. **Receive Traffic Study Report and Direct Staff to Implement Traffic Safety Improvements at and along the Intersection of N. Hillview Dr. and Horcajo St-Horcajo Cr. and Approve Budget Appropriation to CIP No. 4234 – Minor Traffic Improvements (Staff Contact: Jaime Rodriguez, 586-3335)**

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. **Call to Order by the Mayor/Chair**
- RA2. **Roll Call**
- RA3. **Approval of Minutes (December 11, 2007)**
- RA4. **Approval of Agenda and Consent Calendar (Items with Asterisks*)**
- RA5. **Receive Progress Report on Library, East Parking Garage, and North Main Streetscape Projects No. 8161, No. 8162, and No. 8165; Approve Plans and Specifications for the East Parking Garage Emergency Call Box Installation, Project No. 8161 and Authorize the Advertising for Bid Proposals (Staff Contact: Steve Erickson 586-3414)**
- *RA6. **Award the Construction Contract to Calstate Construction, Inc. for the Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Andrew Brozyna, 586-3315)**
- RA7. **Adjournment**

XV. REPORTS OF OFFICERS AND COMMISSIONS

City Council

- * 7. **Consider Mayor's Recommendations for Appointment/Re-appointments to Commissions (Contact: Mayor Esteves, 586-3029)**
- * 8. **Consider Mayor's Recommendation for Re-appointment to Planning Commission (Contact: Mayor Esteves, 586-3029)**
9. **Receive Status Report on Emergency Medical Dispatch (Contact: Vice Mayor Livengood; Staff Contacts: Clare Frank, 586-2811, Tom Williams, 586-3050, and Dennis Graham, 586-2502)**
10. **Consideration of Change in the Milpitas Campaign Contribution Limit Ordinance (Contact: Councilmember Gomez, 586-3031)**
11. **Review of the Mobile Home Park Conversion Ordinance (Contact: Debbie Giordano, 586-3032)**

Bicycle Pedestrian Advisory Commission

- * 12. **Approve the Bicycle Pedestrian Advisory Commission (BPAC) 2008 Annual Work Plan (Staff Contact: Janice Spuller, 586-3291)**

Parks, Recreation and Cultural Resources Commission

- * 13. Approve Eighteen Family Child Care Assistance Fund Grant Requests (Staff Contact: Toby Librande, 586-3203)

XVI. NEW BUSINESS

- 14. Receive Report on Energy Audit of Existing City Facilities (Staff Contact: Greg Armendariz, 586-3317)
- 15. Discussion of Strategic Plan Program (Staff Contact: Tom Williams, 586-3050)
- * 16. Approve Two Youth Sports Assistance Fund Grant Requests (Staff Contact: Aaron Bueno, 586-3226)

XVII. ORDINANCE

- * 17. Waive the Second Reading and Adopt Uncodified Ordinance No. 276 Approving 2008 and 2009 Annual Rate Adjustments for Recycling and Solid Waste Services and Amending Collection Agreements with Allied Waste Services of North America LLC to Reflect These Changes (Staff Contact: Kathleen Phalen, 586-3345)

XVIII. RESOLUTIONS

- * 18. Adopt Resolution Authorizing the Submission of the Area Surrounding the Great Mall and Montague Light Rail Stations and the Future Bay Area Rapid Transit Station as a FOCUS Priority Development Area (Staff Contact: James Lindsay, 586-3273)
- * 19. Authorize the City Engineer to Execute a Balancing Contract Change Order, Approve Budget Appropriation and Adopt Resolution Granting Initial Acceptance of Milpitas Communication Enhancements – Phase 1, Project No. 4232, Norwood Construction (Staff Contact: Jaime Rodriguez, 586-3335)
- * 20. Adopt Resolution Granting Initial Acceptance for Slurry Seal Project FY 2007-08, Project No. 4242 (Staff Contact: Andrew Brozyna, 586-3315)
- * 21. Adopt Resolution Granting Final Acceptance for Sewer Deficiency and Structural Correction Program (Open Cut), Project No. 6073 (Staff Contact: Andrew Brozyna, 586-3315)
- * 22. Adopt Resolution Granting Initial Acceptance for Street Resurfacing Project 2007, Project No. 4236 (Staff Contact: Andrew Brozyna, 586-3315)

XIX. BIDS AND CONTRACTS

- * 23. Approve Amendment to Consulting Services Agreement Between the City of Milpitas and Roy Abrams, Esq. (Staff Contact: Michael Ogaz, 586-3040)
- * 24. Authorize the City Engineer to Execute Amendment No. 3 to the Agreement with Winzler and Kelly Consulting Engineers, Inc., for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)
- * 25. Authorize the City Engineer to Execute a Contract Change Order No. 4, Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)
- * 26. Approve Amendment No. 1 to the Agreement for Professional Planning Services with Metropolitan Planning Group (Staff Contact: Sheldon Ah Sing, 586-3278)

- * 27. Approve Amendment No. 2 to the Contract with Valley Oil Company (Staff Contact: Chris Schroeder, 586-3161)

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 5, 2008 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
Public Art Committee
Community Advisory Commission
Economic Development Commission (Hotel Rep)
Mobile Home Park Rental Review Board
Parks, Recreation and Cultural Resources Commission
Planning Commission
Recycling and Source Reduction Advisory Commission (Alternate)*

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.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 586-3001 or send an email to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings. TDD 408-586-3013.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

1. **Consider “S” Zone Application No. SZ2007-0018, Use Permit No. UP2007-0002 and Condominium Tentative Map No. MI2007-0001: 1504-1620 South Main Street for Alexan South Main, Trammell Crow Residential Project (continue to 2/5/08) (Staff Contact: Cindy Maxwell, 586-3287)**

Background: Staff requests this public hearing to be continued to allow staff and the applicant more time to work through issues relating to their density bonus. This item was advertised via mailed public notices for the January 9 Planning Commission meeting and January 15 City Council meeting. An updated public notice will be mailed, advertised and posted to reflect the new January 23 and February 5 public hearings for the Planning Commission and City Council, respectively. The homeowners’ association for the Pines neighborhood has been advised of the change in public hearing dates. The project involves the redevelopment of six parcels for a 397-unit condominium project on 5.9 acres located at 1502 - 1620 South Main Street, on the east side of the intersection of South Main Street and Cedar Way.

Fiscal Impact: None

Recommendation: Continue the public hearing to the February 5, 2008 City Council meeting.

2. **Appeal of Planning Commission Approval of a Conditional Use Permit/S-Zone Review for the Sikh Foundation of Milpitas (Staff Contact: Cindy Hom, 586-3284)**

Background: On November 14, 2007 the Planning Commission approved Conditional Use Permit No. UP 2007-23 to allow a 4,030 square foot religious facility consisting of a sanctuary with ancillary office space. The project site is located at 1180 Cadillac Court within an existing condominium business park complex that is zoned Industrial Park. The religious facility proposes to operate Monday through Friday between the hours of 6 PM and 8 PM and Saturday through Sunday between the hours of 11 AM and 8 PM. The Conditional Use Permit approval also included a parking reduction of four spaces. As approved, the project requires execution of joint parking agreements that provide seven parking spaces and implementation of mitigation measures that include but not limited to an emergency action plan, updated annually with the Fire Department; installation of an on-site communication system; and a manual shut off ventilation system.

On November 21, 2007, an appeal was filed with the City Clerk by Wayne Martinez of Navajo Co., one of the neighboring business owners, based on five issues that relate to land use compatibility, parking impacts, public outreach and conflict of interest. Details of the issues and staff analysis are discussed in the memo included with the agenda packet.

Recommendation: Move to uphold the Planning Commission’s decision to approve Conditional Use Permit No. UP2007-23.

3. **Consider Weed Abatement Program for 2008 and Adopt a Resolution Directing Abatement Program (Staff Contact: Albert Zamora, 586-3371)**

Background: At its meeting of December 11, 2007, the Council adopted Resolution No. 7721 declaring weeds on certain described properties to be a public nuisance, and set the public hearing for January 15, 2008 to hear any objections. A copy of the resolution was forwarded to the Santa Clara County Agricultural Commissioner. A notice for the public hearing was published and property owners were mailed a notice of the proposed abatement by the County. The purpose of the public hearing is for owners who object to the removal of the weeds to state their objections

before the weeds are removed and the costs made a lien upon the property. A list of properties to be abated is included in the Council's agenda packet along with a resolution directing the County Agricultural Commissioner to abate the weeds.

Fiscal Impact: None

Recommendations:

1. Open the Public Hearing for public comment, and move to close the Public Hearing.
 2. Adopt a resolution directing the County Agricultural Commissioner to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council, in accordance with the Milpitas Municipal Code.
4. **Review Request for Approval of Increased Sewer Discharge Limits for Headway Technologies, Inc. 497 South Hillview Drive Fabrication Facility, and Direct Staff to Prepare an Agreement for Council Action (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Headway Technologies, Inc. is an integrated circuit manufacturer headquartered in Milpitas. It is an important member of the City's high-tech community, producing 20 percent of magnetic recording heads for the worldwide hard-drive industry at its 497 South Hillview Drive facility. In 1998, the City permitted Headway to discharge up to 114,700 gallons per day of wastewater from this facility. Headway is now planning to increase production and is asking the City to permit an additional daily discharge of 36,300 gallons, for a total of 151,000 gallons per day.

Staff reviewed this request and found it to be in accordance with the City's "Policy for Granting Industrial Wastewater Discharges," approved by Council Resolution No. 6840 on January 19, 1999. The City has sufficient sewer treatment and collection system capacity to manage this additional discharge. The City's policy requires Headway to enter into an agreement with the City for water conservation and payment of fees. Upon Council's direction, staff will prepare this agreement for Council action. A copy of Headway's request, the City's Industrial Wastewater Discharge Policy, and a staff review and recommendation memorandum are included in the Council packet.

Fiscal Impact: None. Headway will agree to pay all City fees.

Recommendation: Review and Approve Increased Sewer Discharges Limits for Headway Technologies, Inc. 497 South Hillview Drive Fabrication Facility. Direct Staff to Prepare an Agreement for Council Action.

5. **Introduce Ordinance No. 208.42 to Repeal and Replace Title VIII, Article 5, Chapter 2 of the Milpitas Municipal Code to Modify the Local Discharge Limits for Copper and Selenium; Eliminate Limits for Manganese, Total Toxic Organics, and Xylene; and Conform Municipal Code Requirements to Federal Pretreatment Program Standards (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The City of Milpitas discharges its sanitary wastewater for treatment to the San Jose/Santa Clara Water Pollution Control Plant (WPCP) under an interagency agreement. This agreement requires that the City establish to enforce pretreatment discharge limits for industrial customers such that the WPCP can comply with State and Federal requirements. In 2005, the US Environmental Protection Agency notified the WPCP that local limits for seventeen standard pollutants of concern required review and potential revision.

City of San Jose Environmental Services staff completed the technical reviews, finding that existing limits for thirteen of the seventeen pollutants were appropriate and did not require revision. Staff demonstrated that limits for manganese, total toxic organics, and xylene could be eliminated. The only pollutant needing a lower discharge limit was selenium. San Jose staff also found that the complicated categorization of copper and nickel dischargers in three groups based

on strength and flow was no longer needed. Instead, they developed copper and nickel limits for “Minimal Flow” (less than 1000 gallons per day) and “Standard Flow” dischargers. Staff then determined that the copper limits for Minimal Flow could be increased. A summary of these changes is as follows:

| Proposed Changes to Pretreatment Local Discharge Limits | | |
|--|-----------------------|------------------------|
| | Current (mg/l) | Proposed (mg/l) |
| Copper (Minimal Flow) | 1.0 | 2.3 |
| Manganese | 35.0 | No Limit |
| Selenium | 2.0 | 1.0 |
| Total Toxic Organics | 2.13 | No Limit |
| Xylene | 1.5 | No Limit |

San Jose staff obtained approval from the US Environmental Protection Agency and the California Regional Water Quality Control Board for the revised limits in June 2007. They then assessed the impact of the revised limits on the permitted industries throughout the service area and conducted public outreach. Staff notified all permitted dischargers, the Silicon Valley Leadership Group, and local environmental stakeholders of the proposed local limits changes and invited all interested parties to a workshop in August 2007. Through their assessment of monitoring records, staff identified eight businesses that could be potentially impacted by the decreased selenium limit; however, none of these businesses are located in the City of Milpitas. WPCP pretreatment program staff do not believe that there are any permitted Milpitas dischargers that will need to make process changes to comply with the revised discharge limits.

The ordinance amendment also includes additional definitions, clarifications, and requirement to bring the City authority up to current Federal pretreatment program standards for reporting, recordkeeping, sampling, and permit applications. These are summarized in the attached Table 1.

The Treatment Plant Advisory Committee approved this item in November 2007 and the San Jose City Council adopted the ordinance amendment on December 4, 2007. By its interagency agreement, City of Milpitas is now required to adopt similar amendments to Title VIII, Article 5, Chapter 2 of the Milpitas Municipal Code.

San Jose staff anticipates that there will be further amendment needed in Spring 2008 to revise limits for mercury, oil and grease. This could not be combined with the current amendment due to their workload constraints.

Fiscal Impact: There is no fiscal impact from the recommended action.

Recommendations: Staff recommends that following the public hearing, Council introduce Ordinance No. 208.42 to repeal and replace Title VIII, Article 5, Chapter 2 of the Milpitas Municipal Code to modify the local discharge limits for copper and selenium; eliminate limits for manganese, total toxic organics and xylene; and conform municipal code requirements to federal pretreatment program standards.

1. Open the Public Hearing to receive comment, and move to close the Public Hearing.
2. Waive the first reading beyond the title of Ordinance No. 208.42.
3. Introduce Ordinance No. 208.42.

XV. UNFINISHED BUSINESS

- 6. Receive Traffic Study Report and Direct Staff to Implement Traffic Safety Improvements at and along the Intersection of N. Hillview Dr. and Horcajo St-Horcajo Cr. and Approve Budget Appropriation to CIP No. 4234 – Minor Traffic Improvements (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: During the November 27, 2007 City Council meeting, the Council requested staff to report on previous traffic safety improvements at the intersection of N Hillview Dr and Horcajo St-Horcajo Cr in response to a Public Forum request for the installation of a Multi-Way Stop at that intersection.

A summary of previous traffic improvements and proposed improvements in response to the Public Forum request on and along N Hillview Dr are provided in a “Tech Memo: Multi-Way STOP Analysis at N Hillview Dr & Horcajo St-Horcajo Cr” report, dated January 4, 2008. The recommendations of the report include:

- Install a Vehicle Speed Feedback Sign for southbound N Hillview Dr traffic approximately 300-FT north of the Horcajo St-Horcajo Cr intersection.
- Install a double-yellow centerline on N Hillview Dr and edge line guide strips between Horcajo St-Horcajo Cr and Jacklin Rd to better define and reduce the travel width of vehicles in the northbound direction of N Hillview Dr. This requires the removal of an existing single yellow centerline marking.
- Install an “Intersection Ahead – 100FT” warning sign midblock between Horcajo St-Horcajo Cr and La Paloma Pl facing northbound N Hillview Dr traffic.
- Outreach to residents at N Hillview Dr and Horcajo St-Horcajo Cr to install a concrete curb median islands at each intersection approach to replace the previously removed “rumble strip” devices. Preliminary outreach to residents of the four corners of the intersection yielded concerns with property damage to their vehicles if the islands were struck while backing out of their driveways; providing a rolled curb treatment to the islands may help in alleviating resident concerns.
- If community support for installation is not available, the double yellow roadway marking centerline should be extended 100-FT on the north leg of the intersection to provide a visual warning to motorists of the approaching intersection.

A Multi-Way STOP Analysis was performed in response to the Public Forum request but the installation criteria is not satisfied. In addition, a queue analysis was identified to determine what impacts the Multi-Way STOP would have at the N Hillview Dr and Jacklin Rd signalized intersection and on adjacent residential streets if the installation of a Multi-Way STOP at the intersection was installed. The queue analysis showed that the Multi-Way STOP would back-up traffic onto Jacklin Rd and Russell Ln. For these reasons and because the Multi-Way STOP installation criteria is not satisfied, a Multi-Way STOP at N Hillview Dr and Horcajo St-Horcajo Cr is not recommended.

Fiscal Impact: A budget appropriation of \$25,000 to CIP No. 4234 – Minor Traffic Improvements will be required from the Street Fund to construct the recommended median islands. A spare Vehicle Speed Feedback Sign is available through competitive bids last year.

Recommendations:

1. Receive Traffic Study Report and direct staff to implement Traffic Safety Improvements at and along the intersection of N Hillview Dr and Horcajo Street-Horcajo Court.
2. Approve Budget Appropriation to CIP No. 4234 – Minor Traffic Improvements.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (December 11, 2007)

RA4. Approval of Agenda and Consent Calendar (Items with Asterisks*)

RA5. Receive Progress Report on Library, East Parking Garage, and North Main Streetscape Projects No. 8161, No. 8162, and No. 8165; Approve Plans and Specifications for the East Parking Garage Emergency Call Box Installation, Project No. 8161 and Authorize the Advertising for Bid Proposals (Staff Contact: Steve Erickson 586-3414)

Background: Construction continues on the new Milpitas Library and Streetscape. Signage and graphic design are underway for the garage. Staff will provide a brief presentation on progress.

Library

S. J. Amoroso continues with construction of the library. Installation of windows, raised flooring systems, stair systems, roofing, mechanical, electrical, and plumbing fixture work continue. The contractor's milestone is to enclose the structure and make it weather tight this winter.

East Parking Garage

The parking garage architect, Chong Partners, continues with design of signage and graphical display packages, which will be installed with the Library project. The Emergency Call Box bid package has been completed and is ready for Council approval and authorization to bid. The work includes the installation of twelve emergency call boxes, related conduit and wiring. The Engineer's Estimate for the work is approximately \$100,000, and there are sufficient funds available in the project budget for this work. Complete plans and specifications are available for review in the office of the City Engineer.

N. Main Streetscape

JJR Construction continues work on the first phase of the N. Main Streetscape from Weller Lane to the 237-off ramp. Installation of new street lighting, signals, landscape and irrigation, and other improvements continues. Construction is being staged to maintain traffic and access.

Fiscal Impact: None

Recommendations:

1. Receive Progress Report on Library, East Parking Garage and North Main Streetscape Projects No. 8161, No. 8162, and No. 8165.
2. Approve plans and specifications for the East Parking Garage Emergency Call Box Installation, Project No. 8161, and authorize the advertising for bid proposals.

***RA6. Award the Construction Contract to Calstate Construction, Inc. for the Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project includes replacing the gymnasium floor and support structure, installation of new bleachers, replacement of basketball backboards, painting, installation of air-conditioning and related insulation, and safety padding of gymnasium walls. The Engineer's Estimate for construction cost of the Large Gymnasium Improvements is approximately \$950,000. There are sufficient funds in the project budget to cover the cost.

The project was advertised and sealed bid proposals were opened on January 8, 2008. The bid proposal consists of a base bid with an add alternate item to substitute a revocable item (Bid Item No. 13) at the discretion of the City. The add alternate item replaces telescoping bleachers with *segmented* telescoping bleachers. Segmented telescoping bleachers are considered to better suit the Sports Center Large Gymnasium needs for various events and sporting activities; however, this type of bleacher is typically more expensive. The basis of the contract award is the lowest responsive base bid received.

The base bids ranged from \$526,905.00 to \$822,839.00. The lowest responsive base bid in the amount of \$526,905.00 was submitted by Calstate Construction, Inc. The add alternate price submitted by Calstate Construction, Inc. was for \$59,500.00, which is considered a good price for the work to be performed.

Fiscal Impact: None, bid and bid alternate are within the project budget.

Recommendation: Award the construction contract and the add alternate item in lieu of the revocable item (Bid Item No. 13) for a total contract net of \$539,705.00, for the Sports Center Large Gymnasium Improvements, Project No. 8160, to the lowest responsive bidder, Calstate Construction, Inc.

RA7. Adjournment

XV. REPORTS OF OFFICERS AND COMMISSIONS

City Council

- * **7. Consider Mayor's Recommendations for Appointment/Re-Appointments to Commissions (Contact: Mayor Esteves, 586-3029)**

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

Recycling and Source Reduction Advisory Commission:

Re-appoint Patrick Yung to a term that expires in October 2010.

Appoint Marsha Binh Tran (current Alternate No. 1) as a regular member to a term that expires in October 2010.

Senior Advisory Commission:

Re-appoint Albert Wang to a term that expires in December 2009.

Re-appoint Denny Weisgerber to a term that expires in December 2009.

Re-appoint Mary Banick to a term that expires in December 2009.

Re-appoint Barbara Ebright to a term that expires in December 2009.

Re-appoint Joanne Wood to a term that expires in December 2009.

Re-appoint Ed Connor to a term that expires in December 2009.

Re-appoint Bernice Wrinkle as Alternate No. 1 to a term that expires in December 2009.

Telecommunications Commission:

Re-appoint Dinesh Gupta to a term that expires in January 2010.

Re-appoint Hai Tran as Alternate No. 2 to a term that expires in January 2010.

Fiscal Impact: None

Recommendation: Consider Mayor's recommendations for Commission appointment/re-appointments and vote on the appointments.

- * **8. Consider Mayor's Recommendation for Appointment to Planning Commission (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends that Cliff Williams be re-appointed to the Planning Commission to a term that expires in December 2010.

Fiscal Impact: None

Recommendation: Consider Mayor's recommendation for the Planning Commission re-appointment and vote to re-appoint Cliff Williams to another term.

9. **Receive Status Report on Emergency Medical Dispatch (Contact: Vice Mayor Livengood; Staff Contacts: Clare Frank, 586-2811, Tom Williams, 586-3050, and Dennis Graham, 586-2502)**

Background: At last year's budget study session, the City Council directed staff to pursue studying the feasibility of and funding for Emergency Medical Dispatch (EMD) in the City of Milpitas. In a memorandum to the City Manager, Vice Mayor Livengood requested an update on the status of staff's efforts.

As discussed in the Vice Mayor's memorandum, Milpitas is the only city in Santa Clara County that does not provide this enhanced level of emergency medical response, which has two components: (1) prioritization that ensures the most urgent injuries receive the closest ambulance, and (2) pre-arrival instructions that allow the reporting party to provide immediate aid while awaiting arrival of the firefighters/paramedics.

When staff discussed the benefits of EMD last year, the service was tied to a potential funding-stream that did not come to fruition. Staff is currently pursuing a different funding mechanism that could temporarily fund contracted EMD services for up to two years. The monies may be obtainable through the County of Santa Clara Emergency Medical Services Trust Fund. In order to secure an award for the Trust Fund monies, staff needs to commit to utilizing the funds for EMD services, and continue the remaining steps in the Trust Fund award process.

Fiscal Impact: No current impact on General Fund. In Fiscal Year 2008-2009, project is to be funded through Emergency Medical Services Trust Fund in the amount of approximately \$42,000, if the City secures the award.

Recommendation: Receive the staff report and provide direction regarding pursuit of EMS Trust-Fund award.

10. **Consideration of Change in the Milpitas Campaign Contribution Limit Ordinance (Contact: Councilmember Gomez, 586-3031)**

Background: Ordinance No. 243, including the election campaign contribution limit on Milpitas candidates for elective office, was adopted on March 5, 1996.

Councilmember Gomez requests that the ordinance be amended to apply contribution limits to candidates' relatives as they are currently excluded from the ordinance limitation (in MMC I-210-3.10 c). His view is that this is a loophole with potential for abuse that needs to be closed. He further recommends that the only exceptions to the contributions limit should be a candidate's personal funds.

Fiscal Impact: None to City budget

Recommendation: Consider the change recommended by Councilmember Gomez to campaign contribution limits ordinance. If favorable, recommend to waive the first reading beyond the title of Ordinance No. 243.3 and to introduce the ordinance amendment drafted by the City Attorney.

11. **Review of the Mobile Home Park Conversion Ordinance (Contact: Debbie Giordano, 586-3032)**

Background: In 2007, Councilmember Giordano requested that staff place the City's Mobile Home Park Conversion Ordinance on the Council agenda for discussion.

Recommendation: Provide direction to staff on the matter of the Mobile Home Park Conversion Ordinance.

Bicycle Pedestrian Advisory Commission

- * 12. **Approve the Bicycle Pedestrian Advisory Commission (BPAC) 2008 Annual Work Plan (Staff Contact: Janice Spuller, 586-3291)**

Background: The City of Milpitas Bicycle Pedestrian Advisory Commission (BPAC) is requesting approval of its 2008 Workplan, a copy of which is included in the Council packet. The purpose of the Work Plan is to establish projects and goals for the upcoming calendar year. The budget will be supplemented by funds from the Traffic Engineering - Community Promotions fund, the Clean & Safe Streets Capital Improvement Program (CIP No. 4240), and a new Safe Routes to School Grant that the City received earlier this year.

Fiscal Impact: None.

Recommendation: Approve the Bicycle Pedestrian Advisory Commission (BPAC) - 2008 Annual Work Plan.

Parks, Recreation and Cultural Resources Commission

- * 13. **Approve Eighteen Family Child Care Assistance Fund Grant Requests (Staff Contact: Toby Librande, 586-3203)**

Background: The Parks, Recreation and Cultural Resources Commission (PRCRC) reviewed eighteen Family Child Care Assistance Fund Grant Applications at its meeting on December 3, 2007. Of the eighteen applicants, two were ineligible for funding and the remaining sixteen were recommended to receive funding in the following denominations:

| | |
|-------|--|
| \$489 | Sherry Clanton, Yan Ding, Lisa Hodges, Kim Lagman, Carolyn Reed, Samiha (Suzie) Samawi, Jasmine Yousefkhachi |
| \$368 | Victoria Burns, Dinh Tai, Hong Tang |
| \$245 | Alejandra Araya, Janice Chaney, Phyllis Corriea, Francisca Diaz, Judy Ligon, Nasreen Mohammed |

The above listed sixteen applicants were eligible for full funding at the \$500 level, but the fund budget of \$6,000 prohibited fully funding any of the applicants. For additional details, please refer to the attachments in the Council agenda packet.

Fiscal Impact: Eligible applicants requested a total of \$8,000. The City Council approved \$6,000 for the Family Child Care Assistance Fund for Fiscal Year 2007-08. All of these funds are currently available for distribution. If funding is approved as recommended by the PRCRC, \$3 will remain in this budget for the remainder of the fiscal year.

Recommendation: Approve the grant funding from the Family Child Care Assistance Fund to the sixteen family child care providers as recommended by the Parks, Recreation and Cultural Resources Commission.

XVIII. NEW BUSINESS

14. **Receive Report on Energy Audit of Existing City Facilities (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City of Milpitas is currently participating in an Energy Watch program developed as a joint effort by the Association of Bay Area Governments (ABAG) and Pacific Gas & Electric. This program provides technical assistance and information services to assist cities, counties and special districts with the evaluation and implementation of energy efficient projects in public facilities and development of energy efficiency operation policies for optimum energy efficiencies. In addition to obtaining energy efficiencies and resulting cost savings in the operation of the city facilities, Milpitas is also eligible for PG&E rebates on several of these energy improvements.

Since the City's enrollment in this program in October 2006, an energy usage audit of all City facilities was made. Based on results of this energy audit, staff has been focusing its efforts on development of projects for the highest energy use facilities— Police/Public Works, City Hall, Community Center, Teen/Sports Center, and the Corp Yard.

Lighting energy costs of these facilities were found to be the highest priority. The facilities with the highest lighting energy costs on a per square foot basis are:

- Sports – Teen Center
- Police-Public Works
- Community Center
- Corp Yard

A project to retrofit the lighting fixtures at these facilities is underway and scheduled to be completed by mid-2008.

Other lower priority program projects include optimization of operations and retrofitting of the heating, ventilation and air conditioning of the systems at the above facilities. One other project of significance is a City-wide effort to provide computer power management. Staff will provide additional information in a staff report at the Council meeting.

Fiscal Impact: This program will result in significant cost savings to the City. Cost savings are currently being developed.

Recommendation: Receive staff report on Energy Audit of Existing City Facilities. Provide comments and direction to staff.

15. 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.

Fiscal Impact: Project is 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.

- * 16. **Approve Two 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 the 2007 – 2008 budget year. Included in the City Council packet for review and consideration are two Youth Sports Assistance Fund applications.

One Group Youth Sports Assistance Fund application was received from the Milpitas Little League South in the amount of \$1,000, for helmets and break-away bases needed to comply with Little League safety regulations for the 2008 Spring season.

One Group Youth Sports Assistance Fund application was received from the Milpitas Little League North in the amount of \$1,000, for helmets and break-away bases needed to comply with Little League safety regulations for the 2008 Spring season.

Fiscal Impact: There is currently a balance of \$5,500 in the 2007 – 08 Youth Sports Assistance Fund. Approval of two Youth Sports Assistance Fund Grants in the amount of \$1,000 each will leave a balance of \$3,500 for the remainder of the fiscal year.

Recommendation: The Parks, Recreation and Cultural Resources Commission (PRCRC) and staff reviewed the applications on December 3, 2007 and recommend the City Council grant two (2) Group Youth Sports Assistance Fund applications, in the amounts of \$1000 to Milpitas Little League North and \$1000 to Milpitas Little League South.

XIX. ORDINANCE

- * 17. **Waive the Second Reading and Adopt Uncodified Ordinance No. 276 Approving 2008 and 2009 Annual Rate Adjustments for Recycling and Solid Waste Services and Amending Collection Agreements with Allied Waste Services of North America LLC to Reflect These Changes (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On December 15, 2007, the City Council introduced Ordinance Number 276, which adjusts the 2008 and 2009 rates for recycling and solid waste services according to contract formula. The rate adjustments are to be implemented in two annual step increases to moderate the impact to customers. For the single-family residential customer, this results in annual increases of 7.7% on January 1, 2008 and again on January 1, 2009 (increasing the current monthly charge from \$25.97 to \$27.96 on 1/1/08 and \$30.11 on 1/1/09). The franchise agreements with Allied Waste will be amended to reflect these changed rates.

Fiscal Impact: There is no fiscal impact from the recommended action. It is cost neutral because increased service costs are balanced by the rates.

Recommendations:

1. Waive the second reading of uncodified Ordinance No. 276 approving 2008 and 2009 Annual Rate Adjustments for recycling and solid waste services.
2. Adopt uncodified Ordinance No. 276.
3. Authorize the City Manager to amend the collection agreements with Allied Waste Services of North America LLC to reflect these changes.

XX. RESOLUTIONS

- * 18. **Adopt Resolution Authorizing the Submission of the Area Surrounding the Great Mall and Montague Light Rail Stations and the Future Bay Area Rapid Transit Station as a FOCUS Priority Development Area (Staff Contact: James Lindsay, 586-3273)**

Background: The Association of Bay Area Governments and the Metropolitan Transportation Commission in coordination with the Bay Area Air Quality Management District and Bay

Conservation and Development Commission are undertaking a regional planning initiative called FOCUS. A key component of FOCUS is the recognition of Priority Development Areas (PDA), areas of infill development opportunities that are creating more housing choices in locations easily accessible to transit, jobs, shopping and services. FOCUS is working to develop a program of technical assistance, planning grants and capital funding for local governments undertaking PDA development. Substantial upgrades will be needed to the City's infrastructure to accommodate the future housing growth anticipated around the LRT stations and future BART station. Having the areas surrounding these stations (refer to Exhibit A of the draft resolution) designed as a PDA could increase our ability to receive capital grants in the future.

Fiscal Impact: None.

Recommendation: Adopt a resolution authorizing the submission of the area surrounding the Great Mall and Montague Light Rail stations and the future Bay Area Rapid Transit station as a FOCUS Priority Development Area.

- * 19. **Authorize the City Engineer to Execute a Balancing Contract Change Order, Approve Budget Appropriation and Adopt Resolution Granting Initial Acceptance of Milpitas Communication Enhancements – Phase 1, Project No. 4232, Norwood Construction (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The City Council awarded this project to Norwood Construction on May 15, 2007, and construction is completed. This is the first in a three-phase citywide communications enhancement project to improve communications and introduce redundancy in communications between City facilities.

This first phase introduced a new fiber optic link between the Department of Public Works and the Fire Station 1 along Milpitas Blvd, Abel St, and Curtis Avenue along with upgraded traffic signal communication cables for future traffic management.

This balancing contract change order is necessary to cover additional conduits and fiber optic cable needed to complete the improvements during construction, in the amount of \$20,488.30. Staff also recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$32,950.50

Fiscal Impact: There is \$4,488.30 available in the original project fund, a budget appropriation of \$16,000 is recommended from the Street Fund.

Recommendations:

1. Authorize the City Engineer to execute the Balancing Contract Change Order for Milpitas Communication Enhancements – Phase 1, Project No. 4232 in the amount of \$20,488.30.
2. Approve a budget appropriation for \$16,000 from the Street Fund to Project No. 4232.
3. Adopt a resolution granting initial acceptance for the Milpitas Communication Enhancements – Phase 1, Project No. 4232 subject to the one-year warranty period and reduction of the faithful performance bond to \$32,950.50.

- * 20. **Adopt Resolution Granting Initial Acceptance for Slurry Seal Project FY 2007-08, Project No. 4242 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project involved placement of slurry seal surfacing, localized full depth asphalt concrete repairs, and pavement delineation, and the City Council awarded the project to Valley Slurry Seal Company on August 7, 2007. The project has been successfully completed, and staff recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$27,346.78.

Fiscal Impact: None

Recommendation: Adopt a resolution granting initial acceptance for the Slurry Seal Project FY 2007-08, Project No. 4242, subject to the one-year warranty period and reduction of the faithful performance bond to \$27,346.78.

- * 21. **Adopt Resolution Granting Final Acceptance for Sewer Deficiency and Structural Correction Program (Open Cut), Project No. 6073 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project, which was initially accepted on January 2, 2007, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include replacement of 2,234 feet of sanitary sewer line at various locations. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

Fiscal Impact: none

Recommendation: Adopt resolution granting final acceptance for Sewer Deficiency and Structural Correction Program (Open Cut), Project No. 6073 and release of the contractor's performance bond.

- * 22. **Adopt Resolution Granting Initial Acceptance for Street Resurfacing Project 2007, Project No. 4236 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: This project involved placing asphalt concrete overlays, street reconstruction and repairs, pavement delineation, and installation of ADA compliant sidewalk ramps. The City Council awarded the project to O'Grady Paving, Inc. on April 17, 2007. The project has been successfully completed, and staff recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$97,284.65.

Fiscal Impact: None

Recommendation: Adopt resolution granting initial acceptance for the Street Resurfacing Project 2007, Project No. 4236, subject to the one year warranty period and reduction of the contractor O'Grady's faithful performance bond to \$97,284.65.

XXI. BIDS AND CONTRACTS

- * 23. **Approve Amendment to Consulting Services Agreement Between the City of Milpitas and Roy Abrams, Esq. (Staff Contact: Michael Ogaz, 586-3040)**

Background: In order to provide immediate assistance to the City Attorney during the period of transition from outside counsel, the City entered into a Consultant Agreement with attorney Roy Abrams within the City Manager's authority of \$20,000 on November 1, 2007.

As you will recall, two job categories for City Attorney staffing were brought forward for Council approval at the meeting of December 11, 2007. However, because it is not anticipated that this staffing will be in place until after the beginning of April, interim staffing by extension of the Abrams contract is recommended. In order to provide flexibility and assurance of adequate coverage, the contract is being extended until the end of the fiscal year. This Amendment requires Council approval.

Fiscal Impact: Requires a \$50,000 transfer from uncommitted funds within the City Attorney budget. Adequate monies are on hand to fund this contract amendment.

Recommendation: Approve Amendment to Consulting Services Agreement Between the City of Milpitas and Roy Abrams, Esq., adding \$50,000 to the contract amount and extending the agreement through June 30, 2008.

- * 24. **Authorize the City Engineer to Execute Amendment No. 3 to the Agreement with Winzler and Kelly Consulting Engineers, Inc., for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On July 5, 2005 the City Council awarded a consultant contract to Winzler and Kelly Consulting Engineers, Inc. for project design services including preparation of construction drawings and specifications, bid support services, services during construction and start-up of the pump station. The completed project will provide for construction of a new underground wet well with submersible pumps and inline sewage grinders, a new control building with electrical room, site grading, drainage improvements and lighting. The project also includes demolition of the existing sewage pump station. The construction completion date is October 31, 2008.

Staff recommends that Winzler and Kelly Consulting Engineers, Inc. perform additional services for added design and construction support services as requested by staff (see attachment A of Exhibit 1 for a list of the services) and the extension of their services during construction, from 13 months to 20 months to accommodate the construction bid schedule. The revised Consultant Agreement Term of Services will be extended to December 31, 2008. An Agreement Amendment is proposed for these additional services not to exceed \$150,000, which is considered reasonable for the work involve. The consultant Agreement will be increased from the original value of \$767,435.00 to \$915,454.00.

Fiscal Impact: None – There are sufficient funds available in the project budget contingency.

Recommendation: Approve Amendment No. 3 to the Agreement with Winzler and Kelly Consulting Engineers, Inc. consultant on the Main Sewage Pump Station, Project No. 6103, in the amount of \$150,000, subject to approval as to form by the City Attorney.

- * 25. **Authorize the City Engineer to Execute a Contract Change Order No. 4, Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City Council awarded Project No. 6103 to Anderson Pacific Engineering Construction, Inc. on December 5, 2006, and construction is underway. The completed project will provide for construction of a new underground wet well with submersible pumps and inline grinders, a new control building with electrical room, site grading, drainage improvements and lighting. The work will include concrete work, asphalt paving, electrical, mechanical, and piping. The completion date is October 2008.

Change Order No. 4 consists of the following two items of work for a total amount of \$189,816.13.

Item No. 1-Furnish and install SECUR Omega-8 security fence in lieu of the specified chain link fence around the new Main Sewage Pump Station with one separation fence within the area. This change will provide better security to this important City Facility. Gate actuators were also added and will be connected to a card reader access system and fire control key switch. The amount of this item is \$137,521.00

Item No. 2- Furnish and install additional electrical wire and conduits for security and control circuits per drawing revisions and additional security system work scope. The amount of this Item is \$52,295.13.

Fiscal Impact: None. Sufficient funds are available in the project contingency budget.

Recommendation: Authorize the City Engineer to execute the Contract Change Order for Anderson Pacific Engineering Construction, in the amount of \$189,816.13 for the Main Sewage Pump Station, Project No. 6103.

* 26. **Approve Amendment No. 1 to the Agreement for Professional Planning Services with Metropolitan Planning Group (Staff Contact: Sheldon Ah Sing, 586-3278)**

Background: In April 2007, the City entered into a contract with Metropolitan Planning Group for contract planning services during this period of staffing shortages to ensure no delays occurred in development review and economic development of the City. The original terms of the contract were for an amount not to exceed \$165,000 through January 17, 2008. Amendment No. 1 would extend the term to the end of this fiscal year and add \$50,000 to the total contract amount. The Planning Division has six vacant positions two of which are funded this fiscal year. The use of contract staff will not exceed the Division's ability to cover the costs through salary savings of the two funded positions.

Fiscal Impact: There are sufficient funds in the Planning Division operating budget to cover the additional cost and services will be reimbursed from the Project Job accounts of the development projects being processed.

Recommendation: Approve Amendment No. 1 to the Agreement for Professional Planning Services with Metropolitan Planning Group extending the term to June 30, 2008 and increasing the total contract amount to \$215,000.

* 27. **Approve Amendment No. 2 to the Contract with Valley Oil Company (Staff Contact: Chris Schroeder, 586-3161)**

Background: In February 2007, the City Council awarded a new bid to Valley Oil Company for a multi-year contract for the purchase and delivery of diesel and unleaded fuel to various locations around the City. Fuel is a volatile commodity; its price is based on the Oil Price Information Service (OPIS) Pad 4/5 Index plus a set margin for the contractor. This Amendment increases the contract amount from \$295,000 to a maximum compensation amount of \$595,000, an increase of \$300,000, which reflects the increase in wholesale fuel prices paid by the contractor, as well as projected City usage and is sufficient to cover fuel costs through the end of FY 07/08.

Fiscal Impact: There are sufficient funds in the Public Works Department budget for this fuel purchase.

Recommendation: Approve Amendment No. 2 to the Valley Oil Company Contract, subject to approval as to form by the City Attorney, and authorize an increase in the not to exceed amount to a maximum compensation of \$595,000.

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, FEBRUARY 5, 2008 AT 7:00 P.M.**