



**MILPITAS CITY COUNCIL MEETING AGENDA  
FEBRUARY 5, 2008**

**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**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to California Government Code §54957

Position: City Manager

**III. CLOSED SESSION ANNOUNCEMENT:** 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 (Mayor Esteves)**

**VI. APPROVAL OF MINUTES (January 15, 2008)**

**VII. SCHEDULE OF MEETINGS – Council Calendar for February 2008**

**VIII. PRESENTATIONS**

**Commendations:**

- Milpitas *Revolution*, a U12 Boys Competitive Soccer Team, as representatives of the City of Milpitas and the Milpitas Youth Soccer Club throughout the State of California
- Milpitas *Revolution*, Coaches of the U12 Boys Competitive Soccer Team for their Contributions

**Proclamations:**

- Black History Month – February 2008
- Daniel Nam, Rotary Club's Gene Schwab Memorial "Service Above Self" Award Winner
- Honoring the Elderly Day – February 17, 2008

**Certificates of Recognition:** to 15 members of the Tinh Am Mua Dong group  
(See Agenda Reports)

**IX. PUBLIC FORUM**

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

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**X. ANNOUNCEMENTS**

**XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**

**XII. APPROVAL OF AGENDA**

**XIII. CONSENT CALENDAR (\*Items with Asterisks)**

**XIV. PUBLIC HEARINGS**

1. **Adopt Resolution Approving “S” Zone Application No. SZ2007-0018, Density Bonus No. DB2008-0001, Use Permit No. UP2007-0015 and Vesting Tentative Map No. MI2007-0002: 1504-1620 South Main Street for Alexan South Main, Trammell Crow Residential (Staff Contact: Cindy Maxwell, 586-3287)**
2. **Permit Review No. PR08-0001 - Six Months Review of the Conditional Use Permit (UA2006-2) for Jerry’s Market (Staff Contact: Cindy Hom, 586-3284)**

**XV. UNFINISHED BUSINESS**

3. **Receive Progress Report on Alviso Adobe Renovation Project and Approve and Authorize City Manager to Execute Grant Funding Agreements with the County of Santa Clara for the Alviso Adobe Restoration Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**
4. **Adopt Resolution Establishing Green Building Policies (Staff Contact: James Lindsay, 586-3273)**

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

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

**RA2. Roll Call**

**RA3. Approval of Agency Minutes (January 15, 2008)**

**RA4. Approval of Agenda**

**RA5. Receive Progress Report and Take Actions on the Library and North Main Streetscape Projects No. 8161, No. 8162, and No. 8165 (Staff Contact: Steve Erickson, 586-3414)**

**RA6. Approve FY 07-08 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects Budget (Staff Contact: Emma Karlen, 586-3145)**

**RA7. Receive Financial Status Report for the Six Months Ended December 31, 2007 (Staff Contact: Emma Karlen, 586-3145)**

**\*RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2007 (Staff contact: Emma Karlen, 586-3145)**

**\*RA9. Approve Amendment No. 1 to Agreement with Grossmann Design Group for Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Andrew Brozyna, 586-3315)**

**RA10. Agency Adjournment**

**XVII. REPORTS OF OFFICERS AND COMMITTEES**

**City Council**

- \*5. Consider Mayor’s Recommendation for Appointment to the Public Art Committee (Contact: Mayor Esteves, 586-3029)**

\*6. Consider Mayor's Recommendation for Appointment to Planning Commission (Contact: Mayor Esteves, 586-3029)

7. Report from Police Chief on Crime in 2007 (Staff Contact: Dennis Graham, 586-2502)

**Citizens Emergency Preparedness Advisory Commission**

8. Waive First Reading and Introduce Ordinance No. 65.137 Amending the Milpitas Municipal Code, Title II, by Amending Chapter 170 to Require Installation of Automatic Gas Shut-Off Devices (Staff Contact: Keyvan Irannejad, 586-3244)

**Facilities Naming Subcommittee**

\*9. Approve Recommendations to Install the Milpitas Honors Plaque Project and Approve the Naming of the Teen Space at the New Milpitas Library (Staff Contacts: Jaime Rodriguez, 586-3335)

**Parks, Recreation & Cultural Resources Commission**

\*10. Approve Parks, Recreation and Cultural Resources Commission 2008 Work Plan (Staff Contact: Carol Randisi, 586-2601)

**XVIII. NEW BUSINESS**

11. Adopt Resolution Approving Time Extension No. TE2007-23 an Eighteen Month Time Extension of Approved S-Zone (SZ2005-12) Allowing Construction of a New Single Family Hillside Residence and Associated Site Improvements Located at 1000 Piedmont Road (Staff Contact: Cindy Hom, 586-3284)

\*12. Authorize the Purchasing Agent to Dispose of Surplus Diesel Truck at Auction (Staff Contact: Chris Schroeder, 586-3161)

**XIX. ORDINANCES**

\*13. Waive the Second Reading and Adopt Ordinance No. 243.3, an Amendment to the Campaign Contributions Ordinance (Staff Contact: Michael Ogaz, 586-3040)

\*14. Waive the Second Reading and Adopt Ordinance No. 208.42 to Repeal and Replace Title VIII, Chapter 2, Article 5 of the Milpitas Municipal Code Relating to Use of Public Sewers (Staff Contact: Kathleen Phalen, 586-3345)

**XX. RESOLUTIONS**

\*15. Adopt Resolution to Implement City Manager Contract Provision (Staff Contact: Tom Williams, 586-3050)

\*16. Adopt Resolution Granting Initial Acceptance for Parc Place Condominiums, Project No. 3169 (Staff Contact: Robert Wang, 586-3327)

\*17. Adopt Resolution Approving the Affordable Housing Local Preference Policy (Staff Contact: Felix Reliford, 586-3071)

**XXI. BIDS AND CONTRACTS**

\*18. Approve Access and Utility Easement Agreement for Parc Place Condominiums, Project No. 3169 (Staff Contact: Robert Wang, 586-3327)

\*19. Approve Amendment No. 2 to the Agreement with Dodson Psomas for the Gibraltar Reservoir and Pump Station Improvements, Project No. 7101 (Staff Contact Andrew Brozyna, 586-3315)

- \*20. Approve Amendment No. 1 to the Agreement with Harris Design for the Parks Master Plan, Project No. 5083 (Staff Contact: Andrew Brozyna, 586-3315)
- \*21. Authorize the City Engineer to Execute Contract Change Order No. 5 for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)

**XXII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, FEBRUARY 19, 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](mailto: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](http://www.ci.milpitas.ca.gov), select Open Government Ordinance under News Features.*

**BECOME A CITY COMMISSIONER!**

Currently, there are openings on the following Commissions:

- Arts Commission/Public Art Committee*
- Public Art Committee*
- Citizens Emergency Preparedness Advisory Commission*
- Community Advisory Commission (Alternate)*
- Economic Development Commission (Hotel Rep)*
- Mobile Home Park Rental Review Board*
- Parks, Recreation & Cultural Resources Commission*
- Planning Commission*
- Recycling and Source Reduction Advisory Commission*
- Telecommunications Commission*

Applications available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at the City Hall Information Desk.  
Contact the City Clerk's Office (586-3003) for more information.

*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](mailto: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 phone number (408)586-3013.*

## AGENDA REPORTS

### IX. PRESENTATIONS

#### Commendations:

- Milpitas *Revolution*, a U12 Boys Competitive Soccer Team, as representatives of the City of Milpitas and the Milpitas Youth Soccer Club throughout the State of California
- Milpitas *Revolution* Coaches of the U12 Boys Competitive Soccer Team for their Contributions

#### Proclamations:

- Black History Month – February 2008
- Rotary Club’s Gene Schwab Memorial “Service Above Self” Award for 2008

Winner: Daniel Nam (Information Services Department)

#### Nominees:

Gerardo Amador	Building & Safety Department
Edward Barbosa	Public Works Department
Veronica Bejines	Planning Department
Mary Grossman	Information Services Department
Frank Jaramillo	Parks & Recreation Department
Stephen King	Fire Department
Toby Librande	Parks & Recreation Department
Mike Mariano	Building & Safety Department
Paul Mullett	Public Works Department
Italia Tiumalu	Parks & Recreation Department
Flora Tzeng	Finance Department
Valerian Catunao	Fire Department
Jaime Garcia	Fire Department
Paul Inouye	Fire Department
Frank Martorella	Fire Department
Clare Owen	Fire Department

- Honoring the Elderly Day – February 17, 2008

#### Certificates of Recognition:

- The Tinh Am Mua Dong Group
  1. Nguyen Xuan Nam, Founder
  2. Thai Quoc Hung, Coordinator
  3. Monique Elconin, Coordinator
  4. Nguyen Hong Dung
  5. Le Cam Van
  6. Angie Elconin
  7. Pham Thanh Thuy
  8. Linh Vu
  9. Dinh Thu Thao
  10. Nguyen Duong
  11. Tong Phuoc Nga
  12. Tay Ho
  13. Hoang Yen
  14. Nam Loc
  15. Cau Lac Bo Am Nhac

**XV. PUBLIC HEARINGS**

- 1. Adopt Resolution Approving “S” Zone Application No. SZ2007-0018, Density Bonus No. DB2008-0001, Use Permit No. UP2007-0015 and Vesting Tentative Map No. MI2007-0002: 1504-1620 South Main Street for Alexan South Main, Trammell Crow Residential (Staff Contact: Cindy Maxwell, 586-3287)**

**Background:** The project involves the redevelopment of six parcels on 5.9 acres located at 1504 - 1620 South Main Street, on the east side of the intersection of So. Main Street and Cedar Way.

Trammell Crow Residential requests approval to develop a 387-unit condominium project. The development would provide studio, one and two-bedroom units in three four-story buildings with attached parking garages. The Use Permit application is a request to encroach into building front and street-side setbacks. The vesting tentative map provides for public streets and three parcels.

The applicant proposes to meet affordability goals and obtain a density bonus by exchanging credit for 18 very low-income units being built in the adjacent Aspen Apartments project by providing \$1 million in financial assistance to the Aspen project. The applicant is requesting approval of a 9% density bonus for 31 additional units and, as the city’s required incentive, permitting Building One to exceed the maximum number of five stories with a 6.5 story parking garage.

The project site is within the boundaries of the Midtown Specific Plan, approved by the city in 2002. On October 24 and November 27, 2007, the Planning Commission and the City Council approved, respectively, a Mobile Home Conversion report for an existing mobile home park on the site.

A neighborhood meeting regarding the project was held in November 2007 to provide information about the proposed project, gather neighborhood comments and create a dialogue with the existing community. The applicant also met with the executive board of the neighboring Pines homeowners association to answer questions regarding the project.

On January 23, the Planning Commission adopted Resolution No. 08-0004 recommending the City Council approve this project, subject to findings and special conditions.

The Planning Commission report and associated backup documents are included in the Council’s agenda packet.

**Fiscal Impact:** None

**Recommendations:**

1. Open the public hearing for comments, and close public hearing.
2. Adopt resolution approving “S” Zone Application No. SZ20070018, Density Bonus No. DB2008-0001, Use Permit No. UP2007-0015 and Vesting Tentative Map No. MI2007-0002: 1504-1620 South Main Street for Alexan South Main, Trammell Crow Residential, subject to findings and special conditions of approval.

- 2. Permit Review No. PR08-0001 - Six Months Review of the Conditional Use Permit (UA2006-2) for Jerry’s Market (Staff Contact: Cindy Hom, 586-3284)**

**Background:** A six-month reviews is required of Jerry’s Market’s operations to review the compliance with special conditions. After a recent site visit, staff found that the operations were in compliance with the Use Permit conditions. The Department of Alcohol Beverage Control has reported no violations. Based on Police Department records, there were four service calls to Jerry’s Market. A summary of staff’s site visit and the calls for service are provided in a background memo included in the Council agenda packet.

**Fiscal Impact:** N/A

**Recommendation:** Receive staff report on Conditional Use Permit issued for Jerry's Market located at 1491 S. Main Street (APN 86-18-052), Zoned General Commercial (C2), Owner Aslam Ali.

## XV. UNFINISHED BUSINESS

### 3. Receive Progress Report on Alviso Adobe Renovation Project and Approve and Authorize City Manager to Execute Grant Funding Agreements with the County of Santa Clara for the Alviso Adobe Restoration Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)

**Background:** The Alviso Adobe Renovation Project No. 5055 is included in the approved Capital Improvement Program and will be implemented in phases based on funding availability. The first phase would be to provide structural stabilization and structural upgrades of the historic Alviso Adobe building, in order to stop further deterioration and prevent complete loss of the building due to an earthquake. This phase is recommended to move forward, independent of the other phases for this reason. The second phase would consist of design and construction of the public access, vehicular parking, and park improvements. The third and final phase would include the historic restoration of the Adobe building, allowing public access on an appointment basis (to the first floor only).

Staff applied and the City was awarded three grants from the County of Santa Clara Historical Heritage Commission in the amounts of \$59,000, \$54,000, and \$60,138 for roof repair and structural stabilization of the Alviso Adobe building. The roof repair was completed in 1998 completing the requirements for the first grant in the amount of \$59,000. The remaining funds are proposed to be used for grading drainage improvements. Currently storm water runoff from the hillside sheet flows directly toward and under the Alviso Adobe. The grading work will re-direct this storm runoff away from the structure to prevent further deterioration of the adobe block walls. Included in the Council's packet is a copy of the funding agreements for these grants.

A staff report will be provided at the council meeting, which will include additional information of the progress of this project.

**Fiscal Impact:** None, grant funds will be used for the proposed work.

**Recommendations:**

1. Receive progress report on Alviso Adobe Renovation Project, CIP No. 5055.
2. Approve and Authorize the City Manager to execute grant funding agreements with the County of Santa Clara, in the amounts of \$54,000 and \$60,138, Project No. 5055, subject to approval as to form by the City Attorney.

### 4. Adopt Resolution Establishing Green Building Policies (Staff Contact: James Lindsay, 586-3273)

**Background:** At its November 27<sup>th</sup> meeting, the City Council considered the request to adopt green building policies recommended by the Santa Clara County Cities Association Green Building Collaborative and directed staff to return with a summary of the fiscal impacts.

The recommended policies from the Collaborative are:

- 1) Recognize the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) rating system and Build It Green's GreenPoint Rated system (Residential) as the official green building standards for their jurisdictions.

- 2) As part of the planning application, require the submittal of a completed LEED or GreenPoint Rated checklist. This recommendation does not require an applicant to adopt green building practices, but requires a completed checklist for a project (data collection).
- 3) Achieve LEED Silver certification or better for all public new construction and renovation projects over 5,000 square feet.

**Fiscal Impact:** There are no fiscal impacts to the city in adopting the first two policies. If the city wanted to become members of the two organizations, it would cost \$500 per year for a LEED membership and \$100 per year for a Build It Green membership. Membership benefits include technical assistance, reduced training and certification fees. To estimate the cost impact of a LEED Silver certification on new public buildings staff consulted with the architect designing the new senior center. The architect estimated the design and construction (including certification) costs could increase the total project cost by up to 5% (\$850,000). However, there would be cost savings over time by lower energy costs. Staff is recommending that future City building projects be evaluated for the LEED Silver certification to enable the initial project budget to account for the increase in design and construction costs.

**Recommendation:** Adopt a resolution establishing the following green building policies:

- The U.S. Green Building Council's LEED rating system for non-residential buildings and Build It Green's GreenPoint Rated system for residential buildings as the official green building standards for the City of Milpitas.
- Planning applications for new buildings submitted after March 1, 2008, shall include a completed LEED or GreenPoint rated checklist for informational purposes.
- New City buildings and renovation projects over 5,000 square feet initiated after March 1, 2008, shall be evaluated for feasibility to achieve at least a LEED Silver certification.

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

**RA2. Roll Call**

**RA3. Approval of Agency Minutes (January 15, 2008)**

**RA4. Approval of Agenda**

**RA5. Receive Progress Report and Take Actions on the Library and North Main Streetscape Projects No. 8161, No. 8162, and No. 8165 (Staff Contact: Steve Erickson, 586-3414)**

**Background:** Construction continues on the new Library and Streetscape projects. Staff will provide a brief presentation on their progress.

### **Library**

S. J. Amoroso continues with construction of the library. Installation of windows, curtain walls, internal partition walls, raised flooring systems, stair systems, roofing, mechanical, electrical, and plumbing fixture work continue. The contractor continues to make progress on the milestone to enclose the structure and make it weather tight.

The signage, furniture, and graphics bid packages for the library and parking garage have been completed and are ready for approval and authorization to bid. The work includes the installation of code and informational signage and graphics, furniture and fixtures. The Engineer's Estimate for work in the garage is approximately \$297,000, and the estimate for work in the library is estimated at \$2,172,919. The package for the library office furniture, (package 4), will be purchased directly through the National Joint Powers Alliance (NJPA), which is a cooperative procurement program similar to CMAS and the Federal GSA. This is permitted under section I-2-3.08 "Cooperative Procurement" of the Purchasing Municipal Code and has been approved by the City Attorney. Purchasing through the NJPA allows us to take advantage of guaranteed competitive pricing that has been established by bid through another larger government entity.

There are sufficient funds available in the respective project budgets 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 Highway 237 off-ramp. Installation of new street lighting, traffic signal underground, landscape, irrigation, and other improvement work continues. Construction is being staged to maintain traffic and access.

Staff will provide an update at the Council meeting, a presentation on the historic fire truck (proposed in the parking garage) and Public Art (proposed in the library).

**Fiscal Impact:** None

**Recommendations:**

1. Receive Progress Report from staff on the Library and North Main Streetscape Projects No. 8161, No. 8162 and No. 8165.
2. Approve plans and specifications for the signage, furniture, and graphics bid packages and authorize the advertising for bid proposals, and purchase of bid package No. 4 through the National Joint Powers Alliance (NJPA) for Projects No. 8161 and No. 8162.

**RA6. Approve FY 07-08 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects Budget (Staff Contact: Emma Karlen, 586-3145)**

**Background:** To maintain conformity with the City's current budgeting policies that any additional appropriation to a department's budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff has included budget change forms and justification memoranda from the departments for your review and consideration. These modifications are requested due to changing conditions or needs; the amounts originally appropriated in the department or project budget were inadequate. Pursuant to the budget policy, the Finance Subcommittee has reviewed these budget modifications and recommended to the City Council for approval.

Necessary budget adjustments include the following categories:

**Additional budget appropriations for operating and capital improvement project's expenses:**

1. \$5,700 from the General Fund to Parks & Recreation Department to provide funding for two plaques and dedication ceremonies for the Michael de Jesus Sports Field at Gill Park and Paul Sandhu Gathering Room at the Teen Center.
2. \$50,000 from the Technology Equipment Replacement Fund to the Non-departmental budget to procure new mobile computer equipment for public safety vehicles. These funds will be used in conjunction with a matching grant from the Association of Bay Area Governments to replace outdated computer and communications equipment.
3. \$5,530,868 from the unallocated Redevelopment Agency 2003 Tax Allocation Bond proceeds to subsidize the KB Homes infrastructure development. The Agency board approved \$26 million for this purpose in December 2004. The initial \$20 million was deposited in an escrow account with the expenditures jointly reviewed by the County and the Agency. At this time, the \$20 million was completely disbursed for infrastructure development. This budget request is to appropriate the remaining \$5,530,868, after deduction of \$469,132 expense reimbursement to the Agency, to complete the infrastructure development along the KB Homes site.
4. \$47,000 from the remaining unallocated interest income generated from the 2000 Technology Bonds to Capital Improvement Project No. 8109 Desktop Technology to replace outdated desktop computers and networking equipment
5. \$140,000 from the automation fees collected from developers to Capital Improvement Project No. 3398 On-line Development System to primarily pay for annual maintenance

fees, staff administration and to complete the implementation of the final phases of this project. There were sufficient fees collected from developers last year and this year to pay for this budget request.

6. \$575,000 from the remaining unallocated Sewer Revenue Bond proceeds and interest income to Capital Improvement Project No. 6073 Sewer Deficiency Program to supplement the funding for the design and construction of sewer line replacement.

Budget requests that do not impact Fund Balances

7. Planning and Neighborhood Services Department is requesting that the funding for two temporary junior planners be transferred to permanent salary to provide funding to enable recruitment of a Junior Planner and an Assistant Planner. There is sufficient savings in the department's budget to pay for the personnel cost difference of \$7,570.
8. Information Services Department is requesting that Capital Improvement Project No. 3389 Public Safety Technology remain open until the end of FY 07-08 in order to utilize the remaining funds in the project for an upgrade to the E911 phone system. This project was previously scheduled to close in FY 06-07.

**Fiscal Impact:** The overall fiscal impact of these budget modifications will be \$6,348,568 net reduction to the fund balances of various funds, of which \$5,700 will come from the General Fund unreserved, undesignated fund balance. There are sufficient balances in these funds to cover the additional appropriations. A summary of the various budget transfers and appropriations is included in the agenda packet.

**Recommendation:** Approve the Fiscal Year 2007-08 mid-year budget appropriations as itemized in the budget change form (included in the Agency/Council agenda packet).

**RA7. Receive Financial Status Report for the Six Months Ended December 31, 2007 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** In FY 07-08, staff projected the General Fund revenue to be \$56 million, approximately \$5.8 million more than the previous year's budget but \$600,000 less than the actual revenue received in FY 06-07. The revenue projection for FY 07-08 was conservative. However, recent housing market declines coupled with the problem of sub-prime mortgages had a negative impact on new housing developments and consumer spending. As of December 31, 2007, the General Fund received approximately \$20.3 million in revenues, which is only 36.5% of budget. Compared to last year at this time, the City already received 40.4% of budgeted revenue. Sales tax revenue receipts declined about 15%, while building permits revenue and private jobs revenue were also lower than last year. Although the decline in sales tax revenue was partially offset by increases in property tax revenue, transient occupancy tax revenue and miscellaneous revenues, staff project that FY 07-08 General Fund revenue will be below budget by approximately \$1.2 million. The total revised revenue is estimated to be \$54.8 million for FY 2008-09.

The City Departments' expenditures continued to be on track with the budget and were similar to previous year's spending level at 48% of budget. However, the budgeted expenditures in FY 2007-08 are \$5.4 million more than last year due to salary increases, retiree medical benefits funding and increased contractual services and supplies. The City Manager has instructed all departments to be judicious with their expenditures with the goal of achieving budget savings to offset the revenue shortfall so that the City will not have to utilize the General Fund reserve this year. Staff will continue to monitor revenues and expenditures and update the City Council regularly.

**Fiscal Impact:** None.

**Recommendation:** Receive financial status report for the six months ended December 31, 2007.

**\*RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2007 (Staff contact: Emma Karlen, 586-3145)**

**Background:** In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2007 is submitted for your review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of December 31, 2007.

As of December 31, 2007, the principal cost and market value of the City's investment portfolio was \$212,800,574 and \$214,548,323 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended December 31, 2007 was 4.70%. The comparative benchmarks for the same period were 4.55% for LAIF (Local Agency Investment Fund) and 4.27% for the 12-month average yield of the 2 year Treasury Note. Excluding the long-term GNMA securities and investment of the bond proceeds, the weighted average maturity of the portfolio was 455 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

**Fiscal Impact:** Not Applicable

**Recommendation:** Receive the investment report for the quarter ended December 31, 2007.

**\*RA9. Approve Amendment No. 1 to the Agreement with Grossmann Design Group for Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** On March 6, 2007, City Council awarded a consultant agreement to Grossmann Design Group to prepare bid plans and specification for the construction of the Sports Center Large Gymnasium Improvements project. 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 construction contract for this project was awarded to Calstate Construction, Inc. by the City Council on January 15, 2008.

Staff recommends that Grossmann Design Group perform consultant services during construction of the project. Services will include submittal review, responses to requests for information (RFIs), field visits, and preparation of record drawings. An agreement amendment is proposed for these additional services. Staff negotiated a scope and fee for these services not to exceed \$28,380.00, which is considered reasonable for the work.

**Fiscal Impact:** None, there are sufficient funds in the project budget to cover this additional work.

**Recommendation:** Authorize the City Manager to execute Amendment No. 1 to the agreement with Grossmann Design Group, for the Sports Center Large Gymnasium Improvements, Project No. 8160, in the amount of \$28,380.00, subject to approval as to form by the City Attorney.

**RA10. Agency Adjournment**

**XVII. REPORTS OF OFFICERS AND COMMITTEES**

**City Council**

- \*5. Consider Mayor's Recommendation for Appointment to the Public Art Committee (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves recommends to appoint Barbara Jo Navarro (Alliance for the Arts) to the Public Art Committee to a term that expires in October 2008.

**Fiscal Impact:** None

**Recommendation:** Consider Mayor's recommendation and vote to appoint Barbara Jo Navarro to the Public Art Committee, as a representative of the Alliance for the Arts.

- \*6. Consider Mayor's Recommendation for Appointment to Planning Commission (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves recommends that Alexander Galang be appointed to fill a vacancy on the Planning Commission to a term that expires in December 2009.

**Fiscal Impact:** None

**Recommendation:** Consider Mayor's recommendation and vote to appoint Alexander Galang to the Planning Commission.

- 7. Report from Police Chief on Crime in 2007 (Staff Contact: Dennis Graham, 586-2502)**

**Background:** At the January 15<sup>th</sup>, 2008 City Council meeting, Councilmember Giordano asked that staff present a report on crime in Milpitas in 2007. The FBI Index is the national benchmark for crime statistics, and includes murders, rapes, robberies, aggravated assaults, burglaries, thefts, auto thefts, and arsons. In raw numbers, the FBI Index crimes decreased by 2% in 2007 as compared to 2006. Taking into account population growth, the crime *rate* fell by 3.9%, from 35.85 incidents per 1,000 residents in 2006, to 34.46 incidents per 1,000 residents in 2007. The violent crime rate (murders, rapes, robberies and aggravated assaults) fell to its lowest level since 1977, at only 2.69 incidents per 1,000 residents in 2007.

**Fiscal Impact:** None

**Recommendation:** Receive report on crime in the City of Milpitas from the Police Chief.

**Citizens Emergency Preparedness Advisory Commission**

- 8. Waive First Reading and Introduce Ordinance No. 65.137 Amending the Milpitas Municipal Code, Title II, by Amending Chapter 170 to Require Installation of Automatic Gas Shut-Off Devices (Staff Contact: Keyvan Irannejad, 586-3244)**

**Background:** The Citizens Emergency Preparedness Advisory Commission (CEPAC) is recommending an amendment to the existing Ordinance that requires installation of Automatic Gas Shut-off devices for new construction. The amendment would add the requirements for the installation of Automatic Gas Shut-off Devices when replacing any existing gas fuel appliance or when alteration or addition to the existing gas fuel line is made.

An approved Seismic Gas Shut-off device (motion sensitive) or an approved Excess Flow Gas Shut-off device (non-motion sensitive) shall be installed downstream of gas utility meter when providing alteration or addition to the existing gas fuel line and an approved Excess Flow Gas Shut-off device (non-motion sensitive) shall be installed at gas fuel appliance outlet when replacing any existing or installing new gas fuel appliance.

**Fiscal Impact:** None

**Recommendations:**

1. Waive first reading beyond the title of Ordinance No. 65.137.
2. Introduce Ordinance No. 65.137, amending Ordinance No. 65.135, an amendment enacted as Chapter 170, Title II of the Milpitas Municipal Code to require the installation of Excess Flow Gas Shut-Off Devices (non-motion sensitive) at gas fuel appliance outlet when replacing any existing gas fuel appliance.

**Facilities Naming Subcommittee**

- \*9. Approve Recommendations to Install the Milpitas Honors Plaque Project and Approve the Naming of the Teen Space at the New Milpitas Library (Staff Contacts: Jaime Rodriguez, 586-3335)**

**Background:** The Facilities Naming Subcommittee met on January 14, 2008 and requested that the following two items be forwarded to the City Council for consideration and approval. Draft (unapproved) minutes from the meeting are included in the agenda packet.

**Milpitas Honors Plaque Project**

Based on a request from the Knight of Columbus, staff coordinated a Request for Quotations to hire a sign plaque vendor to prepare and install plaques in the City Hall Lobby honoring past Police Officer of the Year, Fire Fighter of the Year, Citizen of the Year, and Rotary Club Gene Schwab Memorial – Milpitas Employee of the Year recipients.

The low bidder for the project was Sterling City USA from Cupertino, CA, in the amount of \$7,383.77 with an optional bid to install a “Milpitas City Council” header to the existing photos adjacent to the Committee Meeting Room, in the amount of \$1,289.63. The Facilities Naming Subcommittee recommends the installation of the Milpitas Honors Plaque Project and the optional “Milpitas City Council” header in the amount of \$8,673.40.

**Milpitas Library Teen Space Naming – “Teenopolis”**

At the request of the Facilities Naming Subcommittee during its November 14, 2007 meeting, staff from the Milpitas Library conducted a naming competition amongst local teenagers to identify a name for the teen space in the future Milpitas Library. After 173 votes, the community recommended name for the teen space in the future Milpitas Library is “Teenopolis.”

The Facilities Naming Subcommittee is recommending the approval of “Teenopolis” for the teen space.

**Fiscal Impact:** A budget appropriation of \$8,700 to the Traffic Engineering – Contractual Services budget will be required from the General Fund to implement the Milpitas Honors Plaque project.

**Recommendations:**

1. Per the recommendations from the Facilities Naming Subcommittee:
  - a. Approve the Installation of the Milpitas Honors Plaque Project, and
  - b. Approve the Naming of the Teen Space at the Future Milpitas Library as “Teenopolis.”
2. Approve a budget appropriation of \$8,700 to the Traffic Engineer Contractual Services budget from the General Fund.

**Parks, Recreation and Cultural Resources Commission**

- \*10. Approve Parks, Recreation and Cultural Resources Commission 2008 Work Plan (Staff Contact: Carol Randisi, 586-2601)**

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

**2008 Parks, Recreation and Cultural Resources Commission Work Plan**

**Short-term Goals**

Review PRCRC Budget for fiscal year 2008 – 09  
Review Capital Improvement Program Budget for fiscal year 2008 – 09  
Participate in Park Master Plan development  
Develop program for creation and installation of historical markers at city park sites

**Long-term Goals**

Review and provide recommendations for athletic field improvement projects  
Implement historical marker program at city park sites

**Ongoing Tasks**

Review development projects and environmental impact reports  
Review Park Master Plan projects and goals  
Review Youth Sport Grant Fund requests and recommend funding allocations  
Review Child Care Grant Fund requests and recommend funding allocations  
Review Facility Naming Committee proposals  
Provide monthly PRCRC liaison reports  
Review CIP status updates  
Review and provide recommendations on Park and Recreation Department user fee schedule as needed  
Review legislative updates  
Review revenue updates  
Review and provide recommendations on Park and Recreation Facility Use Policy as needed  
Participate in annual tour of parks, facilities or historic sites  
Promote recognition of volunteer groups and members of the public for outstanding service and contributions

**Fiscal Impact:** None

**Recommendation:** Approve the Parks, Recreation and Cultural Resources Commission's 2008 Work Plan.

**XVIII. NEW BUSINESS**

- 11. Adopt Resolution Approving Time Extension No. TE2007-23, an Eighteen Month Time Extension of Approved S-Zone (SZ2005-12) Allowing Construction of a New Single Family Hillside Residence and Associated Site Improvements Located at 1000 Piedmont Road (Staff Contact: Cindy Hom, 586-3284)**

**Background:** On January 9, 2008, the Planning Commission recommended approval to the City Council of a time extension request for the construction of a single-family hillside residence and related site improvements on a 1.68 acre parcel, located at 1000 Piedmont Road (APN 88-44-

099), Zoned Single Family Residential - Hillside (R1-H) for owner John Ha. The applicant is requesting a time extension because of the additional time required to obtain design approval from the State Water Agency for the utility connections that transverse over a 6-foot aqueduct that runs along Piedmont Road. A copy of the Planning Commission staff report and meeting minutes are included in the agenda packet.

**Fiscal Impact:** None

**Recommendation:** Adopt a resolution approving Time Extension No. TE2007-23 for 1000 Piedmont Road (owner John Ha), subject to the Conditions of Approval recommended by the Planning Commission.

**\*12. Authorize the Purchasing Agent to Dispose of Surplus Diesel Truck at Auction (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City owns a 1989 F350 Ford diesel shop truck, license #342367, that has reached the end of its useful life. The cost to maintain the vehicle exceeds its value and it has been removed from service. The value of the vehicle at auction is estimated to be approximately \$1,500. Staff requests authorization to dispose of the vehicle at auction pursuant to section I-2-8.03 of the Municipal Code "Disposal of more than \$1,000".

**Fiscal Impact:** Revenue from disposal of this vehicle will go back to the Equipment Replacement Fund to supplement future capital outlay purchases.

**Recommendation:** Approve the request to auction one surplus 1989 Ford F350 diesel shop truck.

## **XIX. ORDINANCES**

**\*13. Waive the Second Reading and Adopt Ordinance No. 243.3, an Amendment to the Campaign Contributions Ordinance (Staff Contact: Michael Ogaz, 586-3040)**

**Background:** At the Council meeting of January 15, 2008, the Council voted to introduce an amendment to the Campaign Contribution Ordinance (Ordinance No. 243), which would eliminate some exceptions to the campaign limits calculation. The existing ordinance (Milpitas Municipal Code I-210-3.10 section c) limits a candidate's contributions from a single source to \$350.00, but makes an exception for contributions from "his or her relatives." This amendment will limit the exception to only the candidate's spouse. Other relatives, such as children, parents and grandchildren, will be subject to the \$350.00 limit with the passage of this amendment.

**Fiscal Impact:** None

**Recommendation:** Waive the second reading and adopt Ordinance No. 243, the amendment to the Regulation of Campaign Contributions Ordinance.

**\*14. Waive the Second Reading and Adopt Ordinance No. 208.42 to Repeal and Replace Title VIII, Chapter 2, Article 5 of the Milpitas Municipal Code Relating to Use of Public Sewers (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On January 15, 2008, the City Council held a public hearing and introduced Ordinance No. 208.42. This ordinance repeals and replaces Title VIII, Chapter 2, Article 5 of the Milpitas Municipal Code to revise industrial discharge limits for copper, selenium, total phenol, manganese, total toxic organics, and xylene. There are no Milpitas businesses that will be negatively impacted by the revised discharge limits. The revisions are needed to conform the Milpitas Municipal Code requirements to federal Pretreatment Program Standards for industrial wastewater discharges. By agreement with the City of San Jose, operator of the San Jose/Santa Clara Water Pollution Control Plant, the City is required to adopt the revised discharge limits.

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

**Recommendations:**

1. Waive the second reading of Ordinance No. 208.42.
2. Adopt Ordinance No. 208.42 to Repeal and Replace Title VIII, Chapter 2, Article V of the Milpitas Municipal Code Relating to Use of Public Sewers.

**XX. RESOLUTIONS**

- \*15. Adopt Resolution to Implement City Manager Contract Provision (Staff Contact: Tom Williams, 586-3050)**

**Background:**

The purpose of this item is to consider adoption of a resolution to implement a provision of the City Manager's contract as required by the California Public Employee Retirement System (PERS). A provision of the City Manager's contract states that the employer will contribute the full employee contribution to PERS. Pursuant to PERS rules recently received by the City, employer paid contributions must be provided to a group, simply defined by PERS as more than one person. PERS further requires adoption of a resolution by the City Council identifying the employee group. As a result of staff analysis, the least cost to the City in implementing this provision and adhering to PERS requirements is to include the City Council and City Manager as a defined group.

**Fiscal Impact:** Fiscal impact associated with this action is \$4,800.

**Recommendation:** Adopt a Resolution to implement a provision of the City Manager's contract as required by the California Public Employee Retirement System (PERS).

- \*16. Adopt Resolution Granting Initial Acceptance for Parc Place Condominiums, Project No. 3169 (Staff Contact: Robert Wang, 586-3327)**

**Background:** On August 3, 2004, the City entered into a Subdivision Improvement Agreement with Western Pacific Housing, Inc., for the construction of certain public improvements to serve their residential development on Curtis Avenue. The public improvements consisting of curb and gutter, pavement, sidewalk, signage and striping, streetlights, fire hydrants, storm drain, sewer main, water main, service laterals and undergrounding existing overhead utilities have been completed by the developer. This work is, therefore, now ready for initial acceptance in accordance with the improvement agreement. The developer's faithful performance bond may be reduced to \$200,000.00, which is 10% of the contract amount.

**Fiscal Impact:** None

**Recommendation:** Adopt a resolution granting initial acceptance of Project No. 3169, subject to a one year warranty period and reduction of the faithful performance bond to \$200,000.00.

- \*17. Adopt Resolution Approving the Affordable Housing Local Preference Policy (Staff Contact: Felix Reliford, 586-3071)**

**Background:** Over the past several years, the City Council has established the policy and adopted resolutions towards the Santa Clara County Housing Trust Fund identifying how the Redevelopment Agency 20% Low-Income Housing Set-Aside funds would be allocated to benefit Milpitas residents. Specifically, the Council's previous resolutions have required that the funding must be spent/or allocated for affordable housing projects within Milpitas or assist Milpitas residents with down payment assistance.

City staff has been using the following preference as it pertains to reviewing affordable housing applications:

- 1) Applications from Milpitas Residents receive first preference;
- 2) Applications from people who work in Milpitas receive second preference,
- 3) All other applications receive third preference.

Staff is requesting that the Council formalize this policy through the adoption of the proposed resolution. However, staff recommends one amendment to the proposed local preference policy, which would prohibit those individuals who currently reside in deed restricted affordable housing units from receiving local preference. Staff concludes that it would be unfair and limit the affordable housing opportunities for those who seek affordable housing for the first time. Individuals who currently reside in existing deed restricted affordable housing units would not be excluded from the application process, their application simply would not receive the local preference of being a Milpitas resident or worker. Such applications would thus be reviewed in the third category of all others.

The Council should be advised that the proposed policy would not prohibit someone who resides in an existing deed restricted rental unit from applying for and receiving the local preference for a for-sale homeownership affordable housing unit.

Terrace Gardens and Mid-Peninsula Housing Coalition are both supportive of the policy and will submit their Regulatory Agreements to the City for necessary amendments if it is adopted. Included in the Council's agenda packet is a letter from the John Stewart Company supporting the policy.

**Fiscal Impact:** None

**Recommendation:** Adopt a resolution approving the Milpitas Affordable Housing Local Preference Policy.

## **XXI. BIDS AND CONTRACTS**

- \*18. Approve Access and Utility Easement Agreement for Parc Place Condominiums, Project No. 3169 (Staff Contact: Robert Wang, 586-3327)**

**Background:** The developer, due to space limitations at the project site, installed water system detector check vaults in parking stalls at Parc Place Drive, thus denying the City's meter readers access to the meters. To resolve this issue, electronic meters were installed together with "repeaters" for transmission of signals from the meters to the City's receiver for remote reading. The repeaters are mounted on the condominium building walls and Parc Place Home Owners Association is providing an easement to the City for access and maintenance.

**Fiscal Impact:** None

**Recommendation:** Approve Access and Utility Easement Agreement with Parc Place Home Owners Association (HOA) and authorize the City Manager to execute the same, subject to approval of the City Attorney as to form.

- \*19. Approve Agreement Amendment No. 2 with Dodson Psomas for the Gibraltar Reservoir and Pump Station Improvements, Project No. 7101 (Staff Contact Andrew Brozyna, 586-3315)**

**Background:** On April 3, 2007, the City Council approved a consultant agreement to Dodson Psomas in the amount of \$468,798 to provide professional engineering and design services required to design the improvements for this project. Amendment No. 1 for \$13,030 added Curtis Well upgrade project.

Staff now recommends that Dodson Psomas perform additional services to provide a seismic and structural analysis of the existing pump station and additional electrical evaluation, cost estimates and design. Amendment No. 2 to the agreement is proposed for these additional services and staff negotiated a scope and fee for these services not to exceed \$47,500, which is considered reasonable for the work. Approval of this amendment brings the total contract amount to \$529,328.

**Fiscal Impact:** There are sufficient funds in the project budget to cover this additional expense.

**Recommendation:** Approve Amendment No. 2 to the agreement with Dodson Psomas, Project No. 7101, in the amount of \$47,500 subject to approval as to form by the City Attorney.

**\*20. Approve Agreement Amendment No. 1 with Harris Design for the Parks Master Plan, Project No. 5083 (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** On August 7, 2007, the City Council approved a consultant agreement to Harris Design in the amount of \$159,750 to provide the required professional services to develop a parks master plan.

Staff recommends that Harris Design perform additional services to provide design and bidding services for Calle Oriente Park and presentation of a parks master plan update to the Planning Commission and City Council. An amendment to the agreement with Harris is proposed for these additional services and staff negotiated a scope and fee for these services not to exceed \$73,220, which is considered reasonable for the work.

Approval of this agreement amendment brings the total contract amount to \$232,970.

**Fiscal Impact:** There are sufficient funds in the project budget(s) to cover this additional expense.

**Recommendation:** Approve Amendment No. 1 to the agreement with Harris Design, Project No. 5083, in the amount of \$73,220, subject to approval as to form by the City Attorney.

**\*21. Authorize the City Engineer to Execute a Contract Change Order No. 5 for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The City Council awarded this project to Anderson Pacific Engineering Construction, Inc. on December 5, 2006, and construction is underway. The completed project will provide for construction of a new underground wet well with submersible pumps and inline grinders and 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, with a completion date is October 2008.

Staff recommends that additional work to furnish and install 4" floor drain in mechanical vault, furnish six self-restrained flanged coupling adapters for 20" pipe in mechanical valve vault, electrical building roof repair, furnish modifications to main control panel in control building, furnish and install sheet metal shroud for electrical service bus duct at electrical building, furnish and install Pump Pedestal modifications in wet well, furnish and install 4" wire way duct in control building to allow future expansion of equipment, and provide modifications to wet well grinder channels. The change order also includes contract time extension of 30 days.

**Fiscal Impact:** None

**Recommendation:** Authorize the City Engineer to execute Contract Change Order No. 5 with Anderson Pacific Engineering Construction, in the amount of \$30,490.30 for the Main Sewage Pump Station, Project No. 6103.

**XXII. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, FEBRUARY 19, 2008 AT 7:00 P.M.**