



**MILPITAS CITY COUNCIL MEETING AGENDA  
FEBRUARY 19, 2008**

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

**SUMMARY OF CONTENTS**

- I. CALL TO ORDER/ROLL CALL**
- II. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- III. INVOCATION (Mayor Esteves)**
- IV. APPROVAL OF COUNCIL MEETING MINUTES – February 5, 2008**
- V. SCHEDULE OF MEETINGS (Council Calendars for February and March 2008)**
- VI. PRESENTATIONS**

**Commendations:**

**2007 Top American Cancer Society Relay For Life Fund Raisers:**

- *Individual* - Phil Duncan: \$8,235
- *Team* - Curves (Steppin For A Cure): \$13,839

**2006 Top American Cancer Society Relay For Life Fund Raisers:**

- *Individual* - Roberta Crowther: \$6,085
- *Team* – Komag: \$10,993

**Proclamation:**

Month of February as Rotary International World Understanding and Peace, and February 23, 2008 as Rotary International World Understanding & Peace Day

**VII. 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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- VIII. ANNOUNCEMENTS**
- IX. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- X. APPROVAL OF AGENDA**
- XI. CONSENT CALENDAR (Items with Asterisks\*)**

**XII. PUBLIC HEARING**

1. Waive the First Reading and Introduce Ordinance No. 38.776 for Zoning Amendment No. ZA08-0001, Entitlement and Permit Streamlining and Public Hearing Notification Changes (Staff Contact: Sheldon Ah Sing, 586-3278)

**XIII. UNFINISHED BUSINESS**

2. Report from Police Chief on Crime in 2007 (Staff Contact: Dennis Graham, 586-2502)
3. Recommendation from Citizens Emergency Preparedness Advisory Commission to 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)
- \* 4. Approve and Direct the City Manager to Execute the Agreement with Headway Technologies, Inc., 497 South Hillview Drive Fabrication Facility, for Increased Wastewater Discharge Limits (Staff Contact: Kathleen Phalen, 586-3345)
- \* 5. Approve Parks, Recreation and Cultural Resources Commission 2008 Work Plan (Staff Contact: Carol Randisi, 586-2601)

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

- RA1. Call to Order by the Mayor/Chair
- RA2. Roll Call
- RA3. Approval of Minutes (February 5, 2008)
- RA4. Approval of Agenda
- RA5. Approve FY 07-08 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects Budget (Staff Contact: Emma Karlen, 586-3145)
- RA6. Receive Financial Status Report for the Six Months Ended December 31, 2007 (Staff Contact: Emma Karlen, 586-3145)
- RA7. Agency Adjournment

**XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

- \* 6. Consider Mayor's Recommendations for Appointments to Commissions (Contact: Mayor Esteves, 586-3029)

**Community Advisory Commission**

- \* 7. Approve Community Advisory Commission 2008 Work Plan (Staff Contact: Cindy Maxwell, 586-3287)

**Facilities Naming Subcommittee**

8. Approve Recommendation to Install New Decorative Street Name Signs to Identify Streets Named After Milpitas Veterans (Staff Contact: Jaime Rodriguez, 586-3335)

**Recycling and Source Reduction Advisory Commission**

- \* 9. Amend RSRAC Bylaws to Reduce Meeting Frequency to Two Meetings Per Year (Staff Contact: Kathleen Phalen, 586-3345)

**XVI. NEW BUSINESS**

- 10. Review of Housing Marketing Study (Staff Contact: Felix Reliford, 586-3071)
- \* 11. Approve Letter for Mayor's Signature Providing Comment on the Draft Municipal Regional Stormwater Permit to be sent to the San Francisco Region Water Quality Control Board, and Approve Letters for Mayor's Signature to be Sent to Select State Legislators Requesting Support Attaining Trash Measures in the Municipal Regional Permit (Staff Contact: Kathleen Phalen, 586-3345)
- \* 12. Approve Request to Submit Two Grant Applications to the State Department of Housing and Community Development for Funding to Construct Streetscape Improvements on Great Mall Parkway and Capitol Avenue and a New Water Storage Tank (Staff Contact: Cindy Maxwell, 586-3287)

**XVII. RESOLUTIONS**

- \* 13. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for Street Resurfacing 2008, Project No. 4242, and Adopt a Resolution to Approve a Plan for Use of the Proposition 1B Funds from the State of California (Staff Contact: Andrew Brozyna, 586-3315)
- \* 14. Adopt Resolution Granting Final Acceptance for Main Sewage Pump Station Access Improvements, Phase II, Project No. 6079 (Staff Contact Andrew Brozyna, 586-3315)
- \* 15. Adopt Resolution Granting Final Acceptance for Singley Area Street Rehabilitation Phase IV (Santa Rita Drive), and Annual Street Resurfacing 2006 (Lomer Way & Holly Way), Project No. 8181 and Project No. 4229 (Staff Contact: Andrew Brozyna, 586-3315)
- \* 16. Adopt Resolution Granting Initial Acceptance for 750 E. Calaveras Blvd., Calaveras Center, Project No. 3164 (Staff Contact: Robert Wang, 586-3327)
- \* 17. Adopt Resolution Approving the Holiday Driving Under the Influence Campaign – *Avoid the 13* in a Memorandum of Understanding with the County of Santa Clara (Staff Contact: Tom Borck, 586-2434)

**XVIII. BIDS AND CONTRACTS**

- \* 18. Approve Consultant Agreement with Alta Planning and Design to Complete the Milpitas Bikeway Master Plan Update, Project No. 4244 (Staff Contact: Jaime Rodriguez, 586-3335)
- \* 19. Authorize City Manager to Execute Consultant Agreement with Vernazza Wolfe Associates, Inc. to Prepare the General Plan Housing Element (Staff Contact: Felix Reliford, 586-3071)

**XIX. CLAIM AND DEMAND**

- \* 20. Approve Payment Request from the Santa Clara County District Attorney's Crime Lab for Crime Lab Expenditures (Staff Contact: Chris Schroeder, 586-3161)

**XX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, MARCH 4, 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, 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 for the:

*Arts Commission*

*Citizens Emergency Preparedness Advisory Commission*

*Community Advisory Commission*

*Economic Development Commission (Hotel Rep)*

*Mobile Home Park Rental Review Board*

*Planning Commission*

*Parks, Recreation and Cultural Resources Commission*

*Recycling and Source Reduction Advisory Commission*

*Telecommunications Commission*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at the City Hall Information Desk.

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

*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

### **XII. PUBLIC HEARING**

- 1. Waive the First Reading and Introduce Ordinance No. 38.776 for Zoning Amendment No. ZA08-0001, Entitlement and Permit Streamlining and Public Hearing Notification Changes (Staff Contact: Sheldon Ah Sing, 586-3278)**

**Background:** In 1980, the City Council adopted the Site and Architectural combining district, commonly referred to as the “S” Zone. The purpose of the “S” Zone is to ensure harmonious development with surrounding land uses. On September 15, 1998, the City Council adopted a Zoning Amendment to streamline the review of signs and minor projects. Many of the affected projects were required to go through a review process because they were located within the “S” Zone. The amendment created a Planning Commission Subcommittee and process for projects that are minor in scope.

The Planning Commission expressed desire to further streamline the entitlement process on December 12, 2007. On January 23, 2008, the Planning Commission heard a presentation from staff regarding possible changes to streamlining the entitlement process and concurred with staff’s findings. On February 13, 2008, staff planned to present the proposed text amendments to the Planning Commission and recommended that the Planning Commission recommends to the City Council to adopt the changes. Attachment A includes staff’s report to the Planning Commission with detailed discussion of the changes.

In addition to the streamlining changes, on August 21, 2007, the Open Government Subcommittee recommended to the City Council that public hearing notifications should be increased from a 300 foot radius to 1,000 feet for General Plan Amendments, Zoning Amendments, Conditional Use Permits and Environmental Impact Report reviews. The Subcommittee also recommended that public hearing notifications increase from 300 feet to 500 feet for Variances. In addition, the recommendation included requiring staff to conduct at least one community meeting for General Plan Amendments, Zoning Amendments and Environmental Impact Report Reviews and that the City provide a ¼ page advertisement in a local newspaper for General Plan Amendments, Zoning Amendments, Conditional Use Permits and Variances. The Council concurred with these recommendations and a draft ordinance including these changes is included in the agenda packet..

Attachment B includes the Planning Commission meeting minutes of January 23. Attachment C includes the strikeout version of the proposed ordinance changes. Attachment D includes the draft Ordinance No. 38.776.

**Fiscal Impact:** Minimal to City sponsored projects because of increased public noticing requirement.

**Recommendations:**

1. Open the Public Hearing for comments and move to close the public hearing.
2. Waive the first reading beyond the title of Ordinance No. 38.776.
3. Introduce Ordinance No. 38.776 for Zoning Amendment No. ZA08-0001, Entitlement and Permit Streamlining and Public Hearing Notification Changes.

### **XIII. UNFINISHED BUSINESS**

- 2. 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 Council Member 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 from Police Chief.

**3. Recommendation from Citizens Emergency Preparedness Advisory Commission to 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 Citizen's 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 the first reading beyond the title of Ordinance No. 65.137.
2. Introduce Ordinance No. 65.137, amending Ordinance Number 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.

**\* 4. Approve and Direct the City Manager to Execute the Agreement with Headway Technologies, Inc., 497 South Hillview Drive Fabrication Facility, for Increased Wastewater Discharge Limits (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On January 15, 2008, Council approved an industrial wastewater discharge limit increase for the Headway Technologies, Inc. fabrication facility located at 497 South Hillview Drive. This increased Headway's permitted wastewater discharge by 36,300 gallons per day, bringing the total allowable discharge from the facility to 151,000 gallons per day. Headway Technologies needs to increase its water use and discharge from this facility because it is expanding its production of integrated circuits.

Council directed staff to prepare an agreement for the additional discharge containing the conditions specified by the City's "Policy for Granting Industrial Wastewater Discharges." In addition, Council directed staff to work with Headway to come up with an agreement condition that would require that Headway maintain their billing for sales tax within the City of Milpitas as long as this increase in capacity is in place.

After the January 15 Council meeting, finance, legal, and engineering staff worked with Headway's facility operations and finance managers to define the revenue the City obtains from Headway's facility. Staff learned that it is not a sales tax on Headway products because Headway does not sell any finished products from its Milpitas facility. Headway makes components used by its out-of-country parent firm, TDK Corporation, to make final products. The revenue the City has been receiving from Headway is use tax, which the California Board of Equalization defines as a tax on the storage, use, or other consumption in California of goods purchased from retailers in transactions not subject to sales tax. It accrues to the City of Milpitas, for out-of-state purchases made by the Headway facility.

Staff has prepared the requested agreement with the condition that Headway will continue accruing use tax from its Milpitas facility for as long as the increased capacity rights are granted along with the other fees. The agreement also includes the relevant conditions of the City's industrial wastewater policy. Headway representatives state they will enter into this agreement with the City. The agreement has been approved as to form by the City Attorney and is included in the Council packet.

**Fiscal Impact:** None. Headway will pay all City required fees including the recycled water fund fee and the treatment plant fee.

**Recommendation:** Approve and direct the City Manager to execute the agreement with Headway Technologies, Inc. 497 South Hillview Drive facility for increased industrial wastewater discharge limits.

- \* 5. **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 for 2008 that focuses on projects and programs that support and enrich the community.

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

#### Short-term Goals

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

#### Long-term Goals

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

#### Ongoing Tasks

1. Review development projects and environmental impact reports
2. Review Park Master Plan projects and goals
3. Review Youth Sport Grant Fund requests and recommend funding allocations
4. Review Child Care Grant Fund requests and recommend funding allocations
5. Review Facility Naming Committee proposals
6. Provide monthly PRCRC liaison reports

7. Review CIP status updates
8. Review and provide recommendations on Park and Recreation Department user fee schedule as needed
9. Review legislative updates
10. Review revenue updates
11. Review and provide recommendations on Park and Recreation Facility Use Policy as needed
12. Participate in annual tour of parks, facilities or historic sites
13. Promote recognition of volunteer groups and members of the public for outstanding service and contributions
14. Review Alviso Adobe project progress reports

**Fiscal Impact:** None.

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

#### **XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

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

**RA2. Roll Call**

**RA3. Approval of Minutes** (February 5, 2008)

**RA4. Approval of Agenda**

**RA5. 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 included the 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, one member of 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. \$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.
5. \$47,000 from the remaining unallocated interest income generated from the 2000 Technology Bonds to Capital Improvement Project 8109 Desktop Technology to replace outdated desktop computers and networking equipment.
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.
9. \$50,152 additional appropriation to the Fire Department overtime budget to reflect overtime costs incurred for Southern California wildland fires, and BAPs temple event. All these costs were or will be reimbursed by outside agencies or organizations.

**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.

**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.

**RA6. 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 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 job 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 projects that FY 07-08 General Fund revenue would be below budget by approximately \$1.2 million. The total revised revenue is estimated to be \$54.8 million.

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 07-08 were \$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 the 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.

**RA7. Agency Adjournment**

**XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

**\* 6. Consider Mayor's Recommendations for Appointments to Commissions (Contact: Mayor Esteves, 586-3029)**

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

**Arts Commission:**

Appoint Richard Tsuei as a regular voting member to a term that expires in October 2010.

**Citizens Emergency Preparedness Advisory Commission:**

Appoint Michelle Celones (current Alternate No. 1) as a regular member to a term that expires in June 2010.

Appoint Arlyn Swiger (current Alternate No. 2) to Alternate No. 1 to a term that expires in June 2009.

**Community Advisory Commission:**

Appoint Nika Ma Chen as Alternate No. 4 to a term that expires in January 2010.

**Parks, Recreation and Cultural Resources Commission:**

Appoint Naomi Matau (current Alternate No. 1) as a regular member to a term that expires in June 2008.

Appoint Freddie Cacao (current Alternate No. 2) to Alternate No. 1 to a term that expires in June 2008.

**Telecommunications Commission:**

Appoint Roger Shaw (current Alternate No. 1) as a regular member to a term that expires in January 2010.

Appoint Hai Tran (current Alternate No. 2) as Alternate No. 1 to a term that expires in January 2009.

**Fiscal Impact:** None

**Recommendation:** Consider Mayor's recommendations for Commission appointments and vote on appointments.

**Community Advisory Commission**

**\* 7. Approve Community Advisory Commission 2008 Work Plan (Staff Contact: Cindy Maxwell, 586-3287)**

**Background:** The Community Advisory Commission is advisory to the City Council on matters affecting residents that are related to community improvement. Since 2000, the CAC has developed an annual work plan to focus on projects and programs that benefit the Milpitas community. Past work plan accomplishments include implementing the Neighborhood Beautification Ordinance, participating in the Streetscape Master Plan, hosting a town hall meeting, and participating in creek clean up, neighborhood clean up, neighborhood tree planting events, and the Heritage Tree Ordinance. The CAC reviewed the 2008 Work Plan during their January 2008 meeting. Work plan elements include:

**Annual Tasks**

1. Heritage tree nominations
2. Community Development Block Grant public hearings
3. Arbor Day, Tree City USA, Global Village and 4th of July parade
4. National Night Out
5. Town hall meeting
6. Neighborhood Beautification Awards
7. Holiday tree decoration

**Short-Term Projects**

1. Tree Planting – Promote tree planting through outreach and tree protection awareness
2. Town Hall Meeting – Conduct a Town Hall Meeting in the fall of election years
3. Outreach Program – Conduct an outreach program to the citizens of Milpitas to obtain feedback on community issues
4. Volunteerism Program – Conduct a program to encourage Milpitas citizens to volunteer
5. Cleanup of Blighted Areas – Determine blighted areas in Milpitas and encourage their redevelopment or conduct a program similar to the “Adopt A Highway” program
6. Expand the Neighborhood Watch Program – Work with City staff to expand the Neighborhood Watch Program

**Fiscal Impact:** None

**Recommendation:** Approve the 2008 Community Advisory Commission Work Plan.

**Facilities Naming Subcommittee**

8. **Approve Recommendation to Install New Decorative Street Name Signs to Identify Streets Named After Milpitas Veterans (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** The Facilities Naming Subcommittee met on January 14, 2008 and requested that the following item be forwarded to the City Council for consideration and approval.

**Milpitas Veteran Street Name Signs**

There are currently 25 streets named after U.S. Veterans in the City of Milpitas. Currently, the City uses the sticker of a U.S. Flag on street name signs to help residents identify that a street is named after a veteran. Where the stickers have faded, been removed, or the signs replaced due to vandalism or knock down, the City has not been proactively replacing the stickers.

Vice Mayor Livengood requested that staff prepare signs options to better identify streets that are named after U.S. Veterans in honor of their service and sacrifice. Several sign options were prepared and this sample was identified as the preferred Milpitas Veteran Street Name Sign:



Vice Mayor Livengood also requested that staff prepare outreach literature to help inform and educate residents regarding the new signs. A sample outreach letter to residents who live on

streets named after Veterans is attached. In addition, the City will prepare a webpage that identifies each street and include the military service branch that each veteran served.

Approximately 50 signs are required to replace the existing signs and would cost approximately \$3,500.

**Fiscal Impact:** There are sufficient funds in CIP No. 4234 – Minor Traffic Improvements to complete the project.

**Recommendation:** Approve the recommendation from the Facilities Naming Subcommittee to Install New Decorative Street Name Signs to Identify Streets Named after Milpitas Veterans.

### **Recycling and Source Reduction Advisory Commission**

#### **\* 9. Amend RSRAC Bylaws to Reduce Meeting Frequency to Two Meetings Per Year (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On January 22, 2008, the Recycling and Source Reduction Advisory Commission (RSRAC) convened a regularly scheduled quarterly meeting. At this meeting, the Commissioners discussed and approved reducing the Commission meeting frequency from quarterly to once every six months, with the next regular meeting to be held in July 2008. The Commissioners agreed that this frequency would be sufficient to meet the City's need for review and advice on recycling and source reduction activities, given the City's success in attainment of the State diversion goal and the maturity of the existing recycling programs. The Commissioners do want to retain a bylaw provision that allows for special meetings to be held as needed in addition to the regular sessions, as they felt this would allow for their timely response to any urgent issues. Commissioners recommend that the Council approve the request to amend the RSRAC bylaws.

**Fiscal Impact:** None.

**Recommendation:** Amend the Recycling and Source Reduction Advisory Commission Bylaws to reduce meeting frequency to two meetings per year to be held in January and July.

## **XVI. NEW BUSINESS**

### **10. Review of Housing Marketing Study (Staff Contact: Felix Reliford, 586-3071)**

**Background:** At its meeting on November 21, 2006, the City Council authorized the City Manager to execute a contract agreement with Vernazza Wolfe Associates, Inc to prepare a Housing Marketing Study as part of the state mandated General Plan Housing Element. The Housing Element was previously due to the State of California, Department of Housing and Community Development (HCD) on June 30, 2007. However, since that time period, the Association of Bay Area Governments (ABAG) and HCD agreed to extend the Bay Area cities and counties housing element deadline to June 30, 2009. ABAG receives funding through the State of California to prepare the Regional Housing Needs Determination (RHND), which is required by state housing element law.

Since the housing element was delayed, the Council directed staff to proceed with the Housing Marketing Study. The Housing Marketing Study addresses the following issues:

- Housing market conditions (existing and current)
- Land Analysis to support housing conditions
- Supply and demand of housing types
- Characteristics of Milpitas housing market
- Land use fiscal analysis and
- Need and demand for executive/luxury housing within the City

Marian Wolfe of Vernazza Wolfe Associates, Inc., the City's consultant on the Housing Marketing Study, will provide a presentation to the Council at the Council meeting on the executive summary of conclusions and recommendations within the report. Vernazza Wolfe and Associates, Inc. have also been selected to prepare the Milpitas General Plan Housing Element, an agreement for which is also included in this Council agenda packet (item no. 19). Data and information from the Housing Marketing Study will be incorporated into the preparation of the Housing Element.

**Fiscal Impact:** None

**Recommendation:** Receive report from staff and consultant on the Housing Marketing Study.

- \* 11. **Approve Letter for Mayor's Signature Providing Comment on the Draft Municipal Regional Stormwater Permit to be sent to the San Francisco Region Water Quality Control Board, and Approve Letters for Mayor's Signature to be Sent to Select State Legislators Requesting Support Attaining Trash Measures in the Municipal Regional Permit (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On December 4, 2007, the California Regional Water Quality Control Board, San Francisco Region (Water Board) released the Tentative Order containing NPDES Permit No. CAS612008 for public comment. This is the Municipal Regional Stormwater NPDES Permit and Waste Discharge Requirements (MRP) for 77 cities in the Bay Area, including the City of Milpitas. Comments on the draft permit are due to the Water Board by February 29, 2008. On March 11, beginning at 9:00 a.m., the Water Board will hold the first of several public hearings in the at 1515 Clay Street in Oakland. Staff will attend this hearing to provide public comment.

This MRP represents a major effort and a new process for the Water Board in that it is a single five-year permit covering all urban and suburban Bay Area municipalities. It consists of a 100-page fact sheet, 190 page permit provisions, and several hundred pages of appendices and attachments. The Water Board began the MRP effort in 2004 with a series of stakeholder meetings. It issued an Administrative Draft Permit in March 2007 to receive comments. The Board plans to adopt the Tentative Order this spring, giving the MRP a July 1, 2008 effective date. The permit provisions assigned the City tasks for municipal maintenance, new development and redevelopment, industrial and commercial sites, illicit discharges, construction inspection, public information and outreach, water quality monitoring, pesticide toxicity control, trash reduction, and investigation and pilot studies for the treatment of mercury, PCBs, copper, PBDE (flame retardant), legacy pesticides, and selenium.

The Water Board's stated objectives for this MRP are to consolidate six Bay Area permits into a single, consistent permit of regional scope. They wrote the MRP to be far more specific than previous permits by providing specific implementation and effectiveness reporting requirements. They also incorporated additional requirements for priority pollutants to allow them to begin apportioning the allowed loading of these pollutants into the bay. Finally, they intentionally stepped up watershed and bay monitoring requirements to yield sufficient data to model fate and transport of pollutants through San Francisco Bay Area watersheds and the Bay.

The City is a member of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) which employs a professional manager and consulting staff. SCVURPPP is, in turn, a member of the Bay Area Stormwater Management Agencies Association (BASMAA) which is an umbrella organization serving to coordinate the efforts of the six countywide programs. BASMAA also employs a professional manager and consulting staff. City staff, SCVURPPP, and BASMAA have all reviewed and submitted comments on the draft administrative permit. The tenor of these comments is that the permit is overly prescriptive and aggressive in its implementation schedule, making it cost inefficient. Most importantly, this permit places an unnecessary financial burden on the municipalities. SCVURPPP and BASMAA have given the Water Board staff specific recommendations on ways to streamline the permit, but these have only been incorporated into the MRP to a very limited extent.

Staff drafted new set of comments on the Tentative Order MRP for Council approval. These comments are in letter format for the Mayor's signature and are included in the Council packet. They consist of a general statement of appreciation and acknowledge of the Water Board's mission; and a description of the City of Milpitas, its vision for its future, and the financial challenge of providing consistently high quality services to its people. It states the two general concerns described above: (1) the permit is excessively prescriptive and cumbersome, and (2) the implementation schedule is overly aggressive and not financially supportable. An attachment to the letter provides specific comment on statements within the fact sheet and the permit provisions.

A related item is the request for approval of letters to be sent to select State legislators that either represent Milpitas in the State Assembly or Senate, or who wrote letters to the Water Board in support of including measurable trash reduction measures in the MRP. The response letter for Council approval and the Mayor's signature acknowledges that controlling trash in the bay is a worthy goal, but asks for help from the State to attain this goal. Letters with identical content have been prepared for Senators Ellen Corbett, Don Peralta, Joseph Simitian, and Tom Torlakson; and Assemblymembers Alberto Torrico, Loni Hancock, Noreen Evans, Sally Lieber, Ira Ruskin, Fiona Ma, Mark DeSaulnier, Mary Hayashi, Jim Beall, Joe Coto, Gene Mullin, and Sandre Swanson. A sample letter is included in the Council packet.

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

**Recommendations:**

1. Approve letter for Mayor's signature providing comments on the Draft Municipal Regional Stormwater Permit to be sent to the San Francisco Regional Water Quality Control Board; and
  2. Approve letters for Mayor's signature to be sent to selected state legislators requesting support attaining trash measures in the Municipal Regional Permit.
- \* 12. **Approve Request to Submit Two Grant Applications to the State Department of Housing and Community Development for Funding to Construct Streetscape Improvements on Great Mall Parkway and Capitol Avenue and a New Water Storage Tank (Staff Contact: Cindy Maxwell, 586-3287)**

**Background:** The State Department of Housing and Community Development (HCD) will distribute funding in accordance with Proposition 1C, the Housing and Emergency Shelter Trust Fund Act of 2006. HCD will fund proposals for infrastructure improvements necessary to facilitate new infill housing development. HCD has two funding programs available for this purpose.

Staff recommends the following projects:

1. Transit-Oriented Development (TOD) Housing Program – \$4 million total project cost for streetscape and median improvements on Great Mall Parkway and Capitol Avenue, between the southern City limit boundary and Abel Street.
2. Infill Incentive Grant Program - \$7.5 million total project cost for a 7 million gallon water storage tank needed to serve the new housing being considered in the Transit Area.

These improvements will contribute to the implementation of the Midtown Specific Plan and the proposed Transit Area Specific Plan. A 20% match of local funds is required by the two funding programs.

**Fiscal Impact:** None.

**Recommendation:** Approve the request from staff to submit two grant applications to the State Department of Housing and Community Development to fund streetscape improvements on Great Mall Parkway and Capitol Avenue, and for a new water storage tank.

## XVII. RESOLUTIONS

- \* 13. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for Street Resurfacing 2008, Project No. 4242, and Adopt a Resolution to Approve a Plan for Use of the Proposition 1B Funds from the State of California (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** Plans and specifications for the streets resurfacing project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides roadway reconstruction on Smithwood Street between Marylinn Drive and Rudyard Drive, Silvera Street, McCarthy Boulevard between State Route 237 On-Off Ramp North and Ranch Drive, Watson Court, Louise Court, Landess Avenue between Park Victoria Drive and Clear Lake Avenue, and approximately 400 lineal feet of Hammond Way north of Curtis Avenue; roadway resurfacing on California Circle between I-880 Off Ramp and Fairview Way, Pecten Court, Gadsden Drive between Calaveras Boulevard and Canton Drive, Temple Drive between Calaveras Boulevard and Burley Drive, and Dempsey Road between Yosemite Drive and Chewpon Avenue; and repair of base failures on McCarthy Boulevard between Ranch Drive and northerly city limits, and Ranch Drive.

The Engineer's Estimate for the work is approximately \$1,500,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

In addition, staff is working to secure the Proposition 1B funds from the State of California to be allocated in the Street Resurfacing 2008 Project, Project No. 4242. The amount of available funding is \$1,070,700. To receive funds, the City Council must approve a plan for use of the amount of funds available in 2007-08 as determined by the State Controller's Office.

**Fiscal Impact:** Project award will proceed upon allocation of Proposition 1B funds into the project budget.

**Recommendations:**

1. Approve plans and specifications for the Street Resurfacing 2008 Project, Project No. 4242.
2. Authorize advertising the project for bid proposals.
3. Adopt Resolution authorizing the filing of a plan with the State of California for the use of \$1,070,700 from the Proposition 1B Funds for the Street Resurfacing 2008 Project, Project No. 4242.

- \* 14. **Adopt Resolution Granting Final Acceptance for Main Sewage Pump Station Access Improvements, Phase II, Project No. 6079 (Staff Contact Andrew Brozyna, 586-3315)**

**Background:** This project, which was initially accepted on February 6, 2007, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include a new entrance to the sewage pump station, a chain link security gate, drainage improvements, landscape modifications and irrigation work, and a left turn pocket on McCarthy Blvd. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt resolution granting final acceptance and release of the bond for the Main Sewage Pump Station Access Improvements, Phase II, Project No. 6079.

- \* 15. **Adopt Resolution Granting Final Acceptance for Singley Area Street Rehabilitation Phase IV (Santa Rita Drive), and Annual Street Resurfacing 2006 (Lomer Way & Holly Way), Project No. 8181 and Project No. 4229 (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** This project, which was initially accepted on February 6, 2007, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that included replacement of existing curb and gutters, driveways, sidewalk and asphalt pavement sections, and installation of a subsurface drainage system at Santa Rita Drive. This work also included removal and replacement of asphalt pavement at Lomer Way and Holly Way. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt resolution granting final acceptance and release of the bond for Singley Area Street Rehabilitation Phase IV (Santa Rita Drive), and Annual Street Resurfacing 2006 (Lomer Way & Holly Way), Project No. 8181 and Project No. 4229.

- \* 16. **Adopt Resolution Granting Initial Acceptance for 750 E. Calaveras Blvd., Calaveras Center, Project No. 3164 (Staff Contact: Robert Wang, 586-3327)**

**Background:** On August 2, 2005, the City entered into a Permittee Dedication and Improvement Agreement with Sam and Judy Chu Yong Jung, for the construction of certain public improvements to serve their commercial development on the southeast corner of Calaveras Boulevard and Hillview Drive. The public improvements consisting of curb and gutter, pavement, sidewalk, signage and striping, streetlights, fire hydrants, water main, and service laterals have been completed by the permittee. 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 \$9,000.00, which is 10% of the contract amount.

**Fiscal Impact:** None

**Recommendation:** Adopt resolution granting initial acceptance of Project No. 3164, subject to a one year warranty period and reduction of the faithful performance bond to \$9,000.00.

- \* 17. **Adopt Resolution Approving the Holiday Driving Under the Influence Campaign – *Avoid the 13* in a Memorandum of Understanding with the County of Santa Clara (Staff Contact: Tom Borck, 586-2434)**

**Background:** The County of Santa Clara offers reimbursement funding to Santa Clara County law enforcement agencies for police overtime costs directly associated with sobriety enforcement patrols. The County approved a Memorandum of Understanding (MOU) to reimburse the Milpitas Police Department a maximum of \$3,474.44 for officer overtime incurred while staffing DUI Enforcement activities in support of the Avoid the 13 Program. The source of funding for this MOU originates with the California Office of Traffic Safety (OTS). The operational period for this MOU is October 1, 2007 through January 31, 2009.

**Fiscal Impact:** No impact – overtime salary reimbursement

**Recommendations:**

1. Adopt resolution approving the Memo of Understanding with the County of Santa Clara for the Holiday Driving Under the Influence campaign.
2. Authorize the Chief of Police to execute the Memo of Understanding with the County of Santa Clara, subject to approval as to form by the City Attorney.

## XVIII. BIDS AND CONTRACTS

- \* 18. **Approve Consultant Agreement with Alta Planning and Design to Complete the Milpitas Bikeway Master Plan Update, Project No. 4244 (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** On October 29, 2007, a Request for Proposals was issued to obtain the services of a qualified Traffic Engineering Transportation Planning firm to update the City of Milpitas Bikeway Master Plan. Three proposals, Alta Planning & Design, Kimberly Horn & Associates, and Mid-Valley Engineering, were received and opened on November 30, 2007.

Alta Planning + Design was selected as the most qualified consultant team to complete this project. Alta Planning + Design is one of the leading trail and bikeway planning firms in the United States having completed over 200 bikeway plans. Alta Planning + Design is also completing Bikeway Master Plan updates for the City of Fremont and the North San Jose Specific Plan Area. Their work on the Milpitas Bike Plan ensures consistency and connection of bike routes with City neighbors and the region.

Staff negotiated a price not to exceed \$90,000 for completion of the project which includes a 10% contingency of \$8,000 and \$2,000 for additional services if needed.

**Fiscal Impact:** There are sufficient funds available in the project budget, CIP No. 4244-*Bikeway Master Plan and System Map Update* and the Traffic Engineering – Contractual Services Fund, to cover the cost of the project. \$65,000 of the total project costs is reimbursable from a grant from the Metropolitan Transportation Commission (MTC) – Transportation Development Act (TDA) Fund.

**Recommendation:** Approve the Consultant Agreement with Alta Planning & Design to Complete the Milpitas Bikeway Master Plan Update, Project No. 4244.

- \* 19. **Authorize City Manager to Execute Consultant Agreement with Vernazza Wolfe Associates, Inc. to Prepare the General Plan Housing Element (Staff Contact: Felix Reliford, 586-3071)**

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

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

Milpitas' previous Housing Element was adopted by the City Council in October 2002 and was found by State Department of Housing and Community Development (HCD) to be in conformance with state law. The proposed Housing Element will be due by June 30, 2009.

On October 2, 2007, the Council authorized staff to send out requests for proposals to housing consulting firms to prepare the Housing Element. On January 11, 2008, staff conducted interviews and selected the consulting firm of Vernazza Wolfe Associates, Inc. The firm currently has been preparing the Housing Marketing Study and has substantial knowledge and experience in Milpitas, including the Midtown Specific and Transit Area Plans. The Housing Marketing Study has been completed and a presentation on the conclusions of the study will be presented to the Council at the meeting. Policies from the Housing Marketing Study will be further reviewed during the Housing Element updated process.

Vernazza Wolfe Associates' contract to prepare the Housing Element would not exceed \$110,935. \$40,000 from the Housing Division's operating budget will be used towards the contract amount. The remaining \$70,935 will require an appropriation from the Redevelopment Agency Housing Set-Aside Fund.

**Fiscal Impact:** An additional appropriation of \$70,935 from the Redevelopment Agency's 20% Low-Income Housing Set-Aside Funds will be needed to fund this contract.

**Recommendation:** Authorize the City Manager to execute the consultant agreement to the contract with Vernazza Wolfe Associates, Inc. to prepare the General Plan Housing Element and approve the \$70,935 appropriation from the Redevelopment Agency's Housing Set-Aside Fund.

## **XIX. CLAIM AND DEMAND**

### **\* 20. Approve Payment Request from the Santa Clara County District Attorney's Crime Lab for Crime Lab Expenditures (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing prepared the one request over \$20,000 for approval.

The City of Milpitas has a joint contract with the Santa Clara County District Attorney's Crime Lab for analysis of physical evidence. During calendar year 2007 the annual cost to operate the Major Case Unit of the Crime Laboratory was \$2,295,585 for which the City of Milpitas' share (10.7%), based on last 5 years average of cases submitted by the Milpitas Police Department, was computed to be \$244,675.

**Fiscal Impact:** Funds are available from the Police Department's operating budget for these services.

**Recommendation:** Approve the payment request of \$244,675 for crime lab expenditures to the Santa Clara County District Attorney's Crime Lab.

## **XX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, MARCH 4, 2008 AT 7:00 P.M.**