



**MILPITAS CITY COUNCIL MEETING AGENDA
APRIL 15, 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 OF CITY COUNCIL**
 - (1) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to CA Government Code § 54956.9) Serio vs. City of Milpitas, et al.,
Santa Clara Superior Court Case #107CV092251
 - (2) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to CA Government Code § 54956.9) Milpitas Employees Association and Laborers
International Union of North America. Santa Clara Superior Court Case #108CV108889
- III. CLOSED SESSION ANNOUNCEMENT:** Report on actions taken in Closed Session, if required
pursuant to CA Govt. Code §54957.1, including the vote on abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Polanski)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – April 1, 2008**
- VII. SCHEDULE OF MEETINGS - Council Calendars for April and May 2008**
- VIII. PRESENTATIONS**

Proclamations:
Arbor Day – April 26, 2008
National Volunteer Month – April 2008
- IX. PUBLIC FORUM**

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

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**

XIII. CONSENT CALENDAR (Items with asterisk*)

XIV. PUBLIC HEARINGS

1. Approve the Community Development Block Grant Funding for FY 2008-09 and Adopt the One-Year Action Plan (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)
2. Request for Entertainment Event Permit for the Milpitas Rotary Club to hold a Carnival at Serra Center on May 22 – 26, 2008 (Staff Contact: Mary Lavelle, 586-3001)
3. Request for Entertainment Event Permit to Hold a Santacruzian Music Festival at The Milpitas Sports Center Playing Field on May 18, 2008 (Staff Contact: Mary Lavelle, 586-3001)

XV. UNFINISHED BUSINESS

4. Authorize the City Manager to Execute an Agreement with EarthLink Inc., for the Transfer of Assets to the City of Milpitas (Staff Contact: Bill Marion, 586-2701)

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order by the Mayor/Chair
- RA2. Roll Call
- RA3. Approval of Minutes (April 1, 2008)
- RA4. Approval of Agenda and Consent Calendar (Items with asterisk*)
- RA5. Receive Progress Report on Library, Midtown East Parking Garage, North Main Streetscape Projects, No. 8161, No. 8162, and No. 8165 and Approve Staff Recommendations on Signage, Parking and Fire Truck Exhibit (Staff Contact: Steve Erickson, 586-3414)
- RA6. Receive Report on the Preliminary FY 2008-09 General Fund Operating Budget (Staff Contact: Emma Karlen, 586-3145, and Tom Williams, 586-3050)
- RA7. Review Draft 2008-2013 Capital Improvement Program (CIP) Report (Staff Contact: Greg Armendariz, 586-3317)
- *RA8. Approve Purchase Orders for Landscape Maintenance Services with East Bay Construction Company for three City Parks, and with Shooter & Butts, Inc. for Thompson/Machado/Abel Streetscape and Three City Parks (Staff Contact: Robert Wang, 586-3327)
- RA9. Agency Adjournment

XVII. REPORTS OF OFFICER, COMMITTEE AND SUBCOMMITTEE

City Council

- * 5. Consider Mayor's Recommendation for Re-appointment to the Economic Development Commission (Contact: Mayor Esteves, 586-3029)

Public Art Committee

- * 6. **Approve Amendment to the Public Art Committee Bylaws (Staff Contact: Diana Whitecar, 586-3059)**

Transportation Subcommittee

- 7. **Receive Report by the Santa Clara Valley Transportation Authority (VTA) Regarding the VTA Board Governance Recommendations and Receive Staff Summary Report (Staff Contact: Greg Armendariz, 586-3317)**

XVIII. NEW BUSINESS

- 8. **Receive Staff Report on the Status of the Parks Master Plan, Project No. 5083 (Staff Contacts: Greg Armendariz, 586-3317, and Bonnie Greiner, 586-3227)**
- 9. **Consider Vehicle Storage Request by Piercey Toyota and Provide Direction to Staff (Staff Contact: Jaime Rodriguez, 586-3335)**
- * 10. **Authorize the Purchasing Agent to Dispose of Surplus 1993 Ford Thunderbird at Auction (Staff Contact: Chris Schroeder, 586-3161)**
- * 11. **Approve Letter for Mayor's Signature Supporting Assembly Bill No. 2437 Extending Reporting and Related Provisions of the Wholesale Regional Water System Security and Reliability Act (Staff Contact: Kathleen Phalen, 586-3345)**

XIX. ORDINANCE

- 12. **Introduce Ordinance No. 43.209 for Amendment to Section V-100-15.06 of the Milpitas Municipal Code, "Parking Time Limited on Certain Enumerated Streets" (Staff Contact: Jaime Rodriguez, 586-3335)**

XX. RESOLUTIONS

- * 13. **Adopt Resolution Approving Speeding and Red Light Running Enforcement Service Agreement with the County of Santa Clara's Traffic Safe Communities Network (TSCN) (Staff Contact: Tom Borck, 586-2434)**
- * 14. **Adopt Resolution Granting Initial Acceptance for Alviso Adobe Restoration Project, Phase 2, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**
- * 15. **Adopt Resolution Granting Partial Initial Acceptance and Approve Delayed Item Agreement for Tract 9698 Terra Serena, Project No. 3160 (Staff Contact: Robert Wang, 586-3327)**

XXI. BIDS AND CONTRACTS

- * 16. **Authorize the City Engineer to Execute a Contract Change Order No. 7 for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**
- * 17. **Approve Amendment No. 1 to the Agreement with Gil Sanchez Architects, for Alviso Adobe Restoration, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

XXII. CLAIM AND DEMAND

- *18. **Approve Emergency Replacement of Traffic Signal and Light Rail Controls at Tasman and Alder Dr. (Staff Contact: Chris Schroeder, 586-3161)**

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 6, 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 / 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

BECOME A CITY COMMISSIONER!

Currently, there are openings for the:

Arts Commission (alternate)

Community Advisory Commission

Economic Development Commission (Hotel Rep)

Mobile Home Park Rental Review Board

Parks, Recreation and Cultural Resources Commission (alternate)

Recycling and Source Reduction Advisory Commission (alternate)

Applications are available online at www.ci.milpitas.ca.gov or at the City Hall Information Desk.

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

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

AGENDA REPORTS

XV. PUBLIC HEARINGS

1. **Approve the Community Development Block Grant Funding for FY 2008-09 and Adopt the One-Year Action Plan (Staff Contacts: Felix Reliford, 586-3071, and Gloria Anaya, 586-3075)**

Background: The purpose of this public hearing is to establish funding levels and uses of the Community Development Block Grant (CDBG) Program for FY 2008-09 and to adopt the one-year Action Plan, which describes the eligible programs, projects and activities to be undertaken with CDBG funds in the next fiscal year. An application workbook was previously distributed to the Council that contains a memorandum discussing the general guidelines regarding the use of CDBG funds and a copy of each eligible application received.

The City's grant allocation for FY 2008-09 is \$579,009 (\$20,768 decrease from the current year). There are 15 applications requesting funding for public services and a total of \$87,968.46 is available to fund this category (15% of grant \$86,851.35 plus \$1,117.11 of prior year unspent funds). Four applications request funding for non-public services funds in the amount of \$376,355.65. As provided by federal regulations, 20% or \$115,802 of the total grant will be used for General Program Administration.

On November 6, 2007, the City Council adopted the two-year (2009-11) funding priorities as guidelines to assist the Community Advisory Commission (CAC) in evaluating the grant applications. For the public services category, the following priorities were established, in order of preference:

1. Senior Services
2. Youth/Teen Services
3. Homeless Sheltering/Services
4. Child Care
5. Battered Women Sheltering/Services

For the non-public service applications, the following priorities were approved:

1. Home Repair / Rehabilitation
2. Affordable Housing
3. Rental Apartment Rehabilitation

On November 6, 2007, City Council also reaffirmed two established funding policies relating to the CDBG Program:

- 25% of all Public Service funds must be spent within the City of Milpitas. The CDBG Program allocation for public services this year is \$86,851, 25% of which would be \$21,712.
- Increase the allocation from \$15,000 to \$25,000 for Fair Housing Services. Traditionally, \$15,000 has been allocated from CDBG Program Administration; the balance of \$10,000 will come from the Redevelopment Agency 20% Low-Income Housing Set-Aside Funds.

On March 5, 2008, the Community Advisory Commission held a public hearing and reviewed the CDBG applications. The CAC recommends \$590,126.11 in total funding, including \$87,968.46 (\$15,000 from CDBG program Administration and \$10,000 from RDA for Project Sentinel Fair Housing Activities) for Public Services and \$376,355.65 for Non-Public Services. The remaining \$115,802 of the grant is committed for program administration.

Included in the Council's agenda packets are the March 5, 2008 CAC meeting minutes and funding recommendations.

Action Plan

The City of Milpitas One-Year Action Plan describes the eligible programs, projects and activities to be undertaken with the CDBG funds expected to be available during the 2008-09 program year and their relationship with the priority housing, homeless, and community development needs. The Action Plan is an addition to the required Five-Year Consolidated Plan previously approved in 2007 by the Department of Housing and Urban Development for continued funding as an Entitlement City.

In summary, the Action Plan identifies the federal, state and local resources that will be used to fund local programs and services, the strategic plan for implementation and the citizen participation process. As required by HUD, the Action Plan has been advertised for public review and comments for 30 days (March 14 through April 14, 2008).

Copies of the Action Plan were sent to eighteen CDBG funded applicants and agencies. Copies were also placed at City Hall, the Community Center, and the public library. Public comments received will be incorporated in the Action Plan and forwarded to HUD by May 15, 2008. The draft of the One-Year Action Plan is included in the Council's agenda packet.

Recommendations:

1. Open the Public Hearing on the Community Development Block Grant funding process and the Action Plan, and hear comments.
 2. Close the Public Hearing.
 3. Approve Community Advisory Commission funding recommendations.
 4. Approve the One Year Action Plan for 2008.
2. **Request for Entertainment Event Permit for the Milpitas Rotary Club to hold a Carnival at Serra Center on May 22 – 26, 2008 (Staff Contact: Mary Lavelle, 586-3001)**

Background: The Milpitas Rotary Club submitted an application for an Entertainment Event Permit to hold a carnival at Serra Center parking lot for the dates of Thursday, May 22 through Monday, May 26, 2008. Rotary Club contracted to hire Butler Amusements Inc., a company based in Fairfield, CA that has operated carnivals throughout the west, including carnivals at the Great Mall. Proposed hours of operation for the carnival are: from 3:00 PM – 11:00 PM Thursday - Friday, and from 11 00 AM to 11:00 PM on Saturday, Sunday and Monday.

The applicant requests a waiver of fees for the cost of the Fire Marshal's inspection and for the requirement for standby fire personnel on site.

The application was reviewed by all necessary City department staff. The public hearing was advertised in the Milpitas Post on April 3. Appropriate conditions were stated by several Departments, as noted in the agenda packet attachments. Current insurance certificate naming City as additional insured is required.

Fiscal Impact: \$100 application fee received. Appropriate Building and Fire Marshal inspection fees will be paid. Butler Amusements recently paid \$150 to update its business license.

Recommendation: 1. Hear any public comments during the public hearing; and, move to close the public hearing. 2. approve an Entertainment Event Permit for the Milpitas Rotary Club to hold a carnival on May 22 – 26, 2008, subject to the written conditions.

3. Request for Entertainment Event Permit to Hold a Santacruzian Music Festival at The Milpitas Sports Center Playing Field on May 18, 2008 (Staff Contact: Mary Lavelle, 586-3001)

Background: Fil-D Craft International submitted an application for an Entertainment Event Permit to hold the first-ever Santacruzian flower processional and musical festival on the grounds of the Milpitas Sports Center in May. The same group reserved and has rented the sports field facility (Outdoor Facility Use application) through the City's Recreation Services. Proposed hours of operation for the music festival will be 11:00 AM to 9:00 PM on Sunday, May 18, 2008, and set-up would begin at 7:00 a.m.

The applicant requests a waiver of the Municipal Code section that allows only one event within a 30-day period, due to the fact that there is another permit application request for the Memorial Day weekend.

The application was reviewed by City departments' staff. The public hearing was advertised in the local newspaper on April 3. Appropriate conditions were stated by the Fire Department, Planning and Recreation, as noted in the agenda packet. Insurance is required also.

Fiscal Impact: \$100 application fee was received. Appropriate Building permit and Fire Marshal inspection fees will be paid, and a Business License fee is required to be paid.

Recommendations:

1. Hear any public comments; and then, move to close the public hearing.
2. Approve the Entertainment Event Permit for Fil-D Craft to hold a Santacruzian Music Festival on May 18, 2008, at the Milpitas Sports Center playing field, subject to the written conditions.

XV. UNFINISHED BUSINESS

4. Authorize the City Manager to Execute an Agreement with EarthLink Inc., for the Transfer of Assets to the City of Milpitas (Staff Contact: Bill Marion, 586-2701)

Background: In March of this year, the Council directed staff to begin negotiations with EarthLink Inc. to draft an agreement in which the City would assume the assets of the EarthLink Milpitas WiFi (wireless) network in exchange for an early termination of its 2006 agreement. After several weeks of negotiation, a draft agreement has been prepared for Council consideration. Staff will make a presentation on the details of the agreement and an EarthLink representative will be available to answer questions. The City Attorney has reviewed and approved the agreement as to form.

Fiscal Impact: Increase in services and supplies estimated at \$12,000 per year to be offset by proceeds from the sale of surplus equipment.

Recommendations:

1. Authorize the City Manager to execute an agreement with EarthLink Inc. for the transfer of assets to the City of Milpitas.
2. Direct staff to return with a progress report on the assumption of the EarthLink wireless network and recommendations for its continued use.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (April 1, 2008)

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

RA5. Receive Progress Report on Library, Midtown East Parking Garage, North Main Streetscape Projects, No. 8161, No. 8162, and No. 8165 and Approve Staff Recommendations on Signage, Parking and Fire Truck Exhibit (Staff Contact: Steve Erickson, 586-3414)

Background: Construction continues on the Library and Streetscape projects on time and within budget. Staff will provide a brief presentation on their progress.

(FF&E) Library and Parking Garage Signage Package

The signage package for the library and parking garage was issued to the library contractor, SJ Amoroso to quote as a contract change order. Amoroso issued the bid package to eight different signage contractors for pricing. Amoroso will submit its change order pricing to the City to perform the signage work by April 11, 2008, and staff will report the results along with a recommendation to either accept or reject the submitted pricing. The engineer's estimate is \$457,000.

Fire Truck Display

On March 4, 2008, staff presented three options for the display of the historic fire truck. The initial option was to display the truck within the new parking garage surrounded by a low railing. This option was within the \$50,000 budget for the work; however, the City and the Historical Society do not favor this option due to concerns with vandalism and liability. A second option within budget included enclosing the truck within a chain link cage. While this provides the best security, staff does not recommend it due to aesthetic concerns at the library entrance within the garage. Staff presented and recommended a third option. This option is to locate the truck at the Alviso Adobe within a historic garage structure. The Alviso Adobe project is currently within the environmental and the design stage. The structures at the adobe are to be restored and the inclusion of a display for the fire truck could be included.

Council agreed to defer a decision on this item until April, and directed staff to work with the Historical Society to determine if other display options were available. The Milpitas Historical Society requested staff contact a company called Roadrunner Glass, as this company provided displays within the Great Mall and may be able to do the same within the parking garage. Staff met with representatives of Roadrunner Glass. Roadrunner guessed they could provide a display enclosure within the budget made of aluminum framing and ½" thick glass panels four-foot wide and 8-foot tall, but could not provide details or an estimate without a design. The design and engineering for such a display enclosure by a licensed architect and structural engineer is required, due to Building Code and Fire permitting. Roadrunner Glass cannot provide this design and engineering for the enclosure. Staff estimates the cost of design and engineering for the enclosure to be in the \$30,000 range in addition to the construction cost, which could be as high as \$50,000. It is anticipated this would be beyond the budget set aside for the display. Staff recommends to no longer pursue placement of the Fire Truck with the parking garage, and instead to locate it at the Alviso Adobe site.

Fiscal Impact: There are sufficient funds in the project budgets to cover these additional expenses requested.

Recommendations:

1. Receive Progress Report on Library, Midtown East Parking Garage, North Main Streetscape Project No. 8154, No. 8161, No. 8162, and No. 8165.
2. Authorize the Agency Director to execute a contract change order to SJ Amoroso to provide the signage for the library and garage.
3. Approve staff recommendation to locate the Historic Fire Truck within the Alviso Adobe, Project No. 5055.

RA6. Receive Report on the Preliminary FY 2008-09 General Fund Operating Budget (Staff Contact: Emma Karlen, 586-3145, and Tom Williams, 586-3050)

Background: Staff will provide a report on the preliminary FY 2008-09 General Fund Operating Budget at the meeting.

Fiscal Impact: None

Recommendation: Receive the report on preliminary FY 2008-09 General Fund operating budget.

RA7. Review Draft 2008-2013 Capital Improvement Program (CIP) Report (Staff Contact: Greg Armendariz, 586-3317)

Background: The draft 2008-2013 Capital Improvement Program (CIP) document has been prepared by staff and was distributed to Council on April 7, 2008. The projects are arranged into six main categories: Community Improvements, Parks, Streets, Water, Sewer, and Storm Drain. The document includes a summary by categories, and individual proposed project descriptions. Previously funded projects are also summarized.

The Parks and Recreation projects have been reviewed and approved by PRCRC on March 3, 2008. The draft CIP document will also be presented to the Planning Commission on April 23, 2008, for a recommendation to find the document in conformance with the General Plan.

A staff presentation of the draft CIP highlights will be provided at the Council meeting. Based upon Council direction, the draft CIP will be finalized and prepared. This final preliminary CIP will then be presented to Council at the May 2008 budget session.

Fiscal Impact: None

Recommendation: Provide staff with direction and comments on the 2008-2013 Capital Improvement Program.

***RA8. Approve Purchase Orders for Landscape Maintenance Services with East Bay Construction Company for three City Parks, and with Shooter & Butts, Inc. for Thompson/Machado/Abel Streetscape and Three City Parks (Staff Contact: Robert Wang, 586-3327)**

Background: KB Home South Bay has completed certain public improvements as part of its residential development on Abel Street. These improvements, which include three public parks and streetscape, are scheduled for City acceptance on April 15, 2008, at which time the maintenance responsibility will be turned over to the City. Due to the plant establishment period occurring during the winter months, when many of the new plantings were dormant, staff recommends that the City hire the original contractors to continue maintaining these improvements for three additional months, through July 15, 2008. This will facilitate enforcement of a one (1) year warranty by avoiding disputes or replacement of plant loss or proper irrigation system operation. The contractors have submitted the following quotes and staff find them to be very reasonable:

1. John McDermott Park (East Bay Construction Company) \$600 per month
2. O'Tool Elm Park (East Bay Construction Company) \$1,840 per month
3. Tom Evatt Park (East Bay Construction Company) \$2,450 per month
4. Thompson/Machado/Abel Streetscape (Shooter & Butts, Inc.) \$3,480 per month

Fiscal Impact: None. There are sufficient funds available in Public Work operating budget to cover the cost.

Recommendation: Approve purchase orders for landscape maintenance services with East Bay Construction Company for three City Parks and with Shooter & Butts, Inc. for Thompson/Machado/Abel streetscape and three City parks.

RA9. Agency Adjournment

XVII. REPORTS OF OFFICER, COMMITTEE AND SUBCOMMITTEE

City Council

- * **5. Consider Mayor's Recommendation for Re-appointment to the Economic Development Commission (Contact: Mayor Esteves, 586-3029)**

Background: Mayor Esteves recommends Dhaval Brahmhatt be re-appointed to the Economic Development Commission to a term that expires in April 2011.

Fiscal Impact: None

Recommendation: Consider Mayor's recommendation and vote to re-appoint Dhaval Brahmhatt to the Economic Development Commission.

Public Art Committee

- * **6. Approve Amendment to the Public Art Committee Bylaws (Staff Contact: Diana Whitecar, 586-3059)**

Background: The Public Art Committee (PAC) voted at its last meeting to hold monthly meetings rather than bi-monthly meetings. Over the last year, both PAC and Arts Commissioners have found the bi-monthly schedules confusing and inconsistent. Part of this had to do with the number of meetings generated by the selection process for the Library Public Art, but it has become apparent that as the Committee moves forward with the implementation of its work program, that more regular meetings are required.

Public Art Committee meetings will begin each month at 6:30 p.m. and last for at least an hour. Once adjourned, the Arts Commission's meeting will begin. Staff liaisons will coordinate the agendas for each group to identify time certain beginning for the Arts Commission meetings.

The proposed Bylaws revisions are included in the Council's agenda packet.

Fiscal Impact: There is no fiscal impact associated with this action.

Recommendation: Approve the Public Art Committee Bylaws amendment to allow monthly meetings.

Transportation Subcommittee

- 7. Receive Report by the Santa Clara Valley Transportation Authority (VTA) Regarding the VTA Board Governance Recommendations and Receive Staff Summary Report (Staff Contact: Greg Armendariz, 586-3317)**

Background: The Santa Clara Valley Transportation Authority (VTA) Ad Hoc Governance Committee shared a report at the February 7, 2008 VTA Board meeting to identify ways to increase the tenure of Board Members and increase their experience level and relevance in policy making. The VTA board consists of 12 members, who are elected officials from Santa Clara County and all cities. The "VTA Board Governance Recommendations Report" highlights four committee goals including 1) Converting to geographically contiguous areas and having representatives from each area as opposed to a particular city; 2) providing for 4-year terms rather than 2-year terms; 3) Identifying individuals prior to the rotation to ensure that individuals within each grouping have several years of experience with the VTA; and 4) Rearranging the City groupings.

VTA presented and discussed these recommendations with the City of Milpitas Transportation Subcommittee during its March 27, 2008 meeting. The subcommittee requested that this item be brought forward to the City Council for discussion, and consideration of VTA's proposal.

The report recommends two options of rearranging the City groupings which directly affects Milpitas: Option 1) reconfigure the Board to create a "North County" group with two seats consisting of the cities of Milpitas, Mountain View, Santa Clara, and Sunnyvale; and Option 2) add a new group to the Board called "North East" group with two seats consisting of the cities of Milpitas, Santa Clara, and Sunnyvale. The report does not discuss the rotation of the seats on the recommended City groupings.

VTA staff and Ad Hoc Governance Committee Chairperson Greg Sellers (Morgan Hill) will be meeting with all City agencies to discuss the proposed options. City staff also prepared a staff report (included in the agenda packet) at the request of the Transportation Subcommittee, which further outlines VTA Board representation by the City of Milpitas with the proposed changes.

VTA Board of Directors is scheduled to review and vote on the recommendations of the Ad Hoc Governance report at its May 1, 2008 meeting.

Fiscal Impact: There is no fiscal impact.

Recommendations:

1. Receive oral report from the Valley Transportation Authority staff regarding the VTA Board Governance Recommendations.
2. Receive written staff summary report.

XX. NEW BUSINESS

- 8. Receive Staff Report on the Status of the Parks Master Plan, Project No. 5083 (Staff Contacts: Greg Armendariz, 586-3317, and Bonnie Greiner, 586-3227)**

Background: On August 7, 2007 the City Council approved a consulting agreement with Harris Design to prepare a Parks Master Plan. The Master Plan will include an inventory and analysis of existing parks, needs assessment, action plan recommendations including funding strategy and maintenance recommendations.

As part of the Needs Assessment, an extensive public opinion survey was conducted which included a telephone survey. The purpose of the survey was to determine the most appropriate recreation facilities, programs and services to be provided to the residents and to maximize the use of the facilities and services currently available.

The findings of the telephone survey were both very positive and informative. Staff will provide a presentation at the Council meeting highlighting key elements of the survey findings. The final master plan will be presented to City Council by the end of this summer.

Fiscal Impact: None

Recommendation: Receive staff report on the status of the Parks Master Plan project.

- 9. Consider Vehicle Storage Request by Piercey Toyota and Provide Direction to Staff (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: Piercey Toyota is requesting assistance from the City to help identify temporary parking space locations for the storage of new vehicles, due to an overstock the dealer anticipates in late April and May. The problem stems from the current economic slowdown which has already drastically reduced the daily vehicle sales at Piercey Toyota. In fact, the sales lot is nearly

full and the dealer is scheduled to receive a shipment of approximately 200 vehicles in mid-April. Piercey Toyota site currently has 806 parking spaces on-site, 451 of which are dedicated to New Vehicle Displays and the remaining for customer, vehicle service, and employee parking.

In response to Piercey Toyota, the City may provide the temporary storage of the overstock vehicles at two City locations: Public Works side parking lot and Milpitas Sports Center (storage lot behind large gym). In addition, a storage fee of \$5,000 per month is recommended due to expenses such as lighting and actual use of City premises. Piercey Toyota should also sign a liability waiver for the storage of the vehicles should damage occur.

Fiscal Impact: None.

Recommendation: Consider Vehicle Storage Request by Piercey Toyota and provide direction to staff.

* **10. Authorize the Purchasing Agent to Dispose of Surplus 1993 Ford Thunderbird at Auction (Staff Contact: Chris Schroeder, 586-3161)**

Background: The City has a 1993 Ford Thunderbird, License #3DVA295 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 the surplus 1993 Ford Thunderbird.

* **11. Approve Letter for Mayor's Signature Supporting Assembly Bill No. 2437 Extending Reporting and Related Provisions of the Wholesale Regional Water System Security and Reliability Act (Staff Contact: Kathleen Phalen, 586-3345)**

Background: The City of Milpitas purchases approximately 65 percent of its wholesale potable water supply from the San Francisco Public Utilities Commission (SFPUC). This agency is currently rehabilitating and seismically upgrading its Hetch Hetchy delivery system in accordance with requirements of the State of California Wholesale Regional Water System Security and Reliability Act. Included in this Act is the requirement that SFPUC submit annual progress reports to the State through December 31, 2010.

Assemblymember Ira Ruskin introduced AB 2437 to extend this reporting requirement to January 1, 2015. The bill is co-authored by Assemblymembers Lieber, Beall, Coto, Hayashi, Mullin, Swanson and Torrico. The Bay Area Water Supply and Conservation Agency (BAWSCA) recommends that all of its member agencies send letters of support for this bill which, if adopted, will ensure ongoing State oversight of SFPUC's capital improvement program. A copy of BAWSCA's support letter is included in the Council packet.

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

Recommendation: Approve letter for Mayor's signature supporting Assembly Bill No. 2437 extending reporting and related provisions of the Wholesale Regional Water System Security and Reliability Act.

XIX. ORDINANCE

- 12. Introduce Ordinance No. 43.209 for Amendment to Section V-100-15.06 of the Milpitas Municipal Code, “Parking Time Limited on Certain Enumerated Streets” (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: This ordinance amends Subsection V-100-15.06 of the Milpitas Municipal Code, Parking Time Limited on Certain Enumerated Streets, to remove, modify and add time-limited parking restrictions on City streets.

Time-limit parking restrictions are proposed for modification the following street sections to better accommodate parking demands for new businesses in the area:

Street	Segment	Duration	Time
.6 Thompson St	West Side from Great Mall Pkwy to Alvarez Common	3 Hours	Any Time
.7 Thompson St	East Side from Alvarez Common to Machado St	3 Hours	Any Time

The following street sections are proposed for removal so that no parking limit restrictions apply during the day:

Street	Segment	Duration	Time
8 Thompson St	East Side from Machado St to Great Mall Pkwy	4 Hours	7 am to 8 pm

This section of Thompson St. will be replaced with No Parking restrictions from 8PM to 7AM only, to restrict parking along the frontage of the Elmwood Correction Facility during nighttime.

Fiscal Impact: There is no fiscal impact.

Recommendations:

1. Move to waive the first reading of the ordinance beyond the title.
2. Introduce Traffic Ordinance 43.209, an Amendment to Section V-100-15.06 of the Milpitas Municipal Code, Parking Time Limited on Certain Enumerated Streets.

XX. RESOLUTIONS

- * **13. Adopt Resolution Approving Speeding and Red Light Running Enforcement Service Agreement with the County of Santa Clara’s Traffic Safe Communities Network (TSCN) (Staff Contact: Tom Borck, 586-2434)**

Background: The County of Santa Clara TSCN offers reimbursement funding to Santa Clara County Law Enforcement Agencies for police overtime costs directly associated to speeding and red light running enforcement patrols. The County approved a Service Agreement to reimburse the Milpitas Police Department a maximum of \$4,166 for officer overtime incurred while staffing speeding and red light running enforcement. The source of funding for this MOU originates with the California Office of Traffic Safety (OTS). There are two operational periods for this Service Agreement: (1) April 21 through May 16, 2008 and (2) April 20 through May 15, 2009.

Fiscal Impact: No impact – salary reimbursement

Recommendations:

1. Adopt resolution approving the Service Agreement with the County of Santa Clara for speeding and red light running enforcement.
2. Authorize the Chief of Police to execute the Service Agreement with the County of Santa Clara, subject to approval as to form by the City Attorney.

*** 14. Adopt Resolution Granting Initial Acceptance for Alviso Adobe Restoration Project, Phase 2, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project provided grading and drainage improvements to the Alviso Adobe site, and the City Council approved the contract with Frank Surian & Sons, Inc. on March 18, 2008. The project has been successfully completed, and staff recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$5,974.

Fiscal Impact: None

Recommendation: Adopt resolution granting initial acceptance of the Alviso Adobe Restoration Project, Phase 2, Project No. 5055 for the one year warranty period and reduction of the faithful performance bond to \$5,974.

*** 15. Adopt Resolution Granting Partial Initial Acceptance and Approve Delayed Item Agreement for Tract 9698 Terra Serena, Project No. 3160 (Staff Contact: Robert Wang, 586-3327)**

Background: On December 6, 2005, the City entered into a Subdivision Improvement Agreement with KB Home South Bay Inc., for the construction of certain public improvements to serve its residential development on South Abel Street.

The public improvements include the following:

- 1) 30" Sanitary Sewer Relocation;
- 2) Alvarez Court, Thompson Street, Thompson Court and Machado Avenue;
- 3) Abel Street Improvement from Great Mall Parkway to Corning Avenue;
- 4) Tract 9698 on-site improvement; and
- 5) Three public parks (O'Toole Elms, Tom Evatt, and John McDermott Park).

With the exception of establishment of the Elms in O'Toole Elms Park and creek bank repair on Abel Street, these improvements have been completed and are ready for initial acceptance, subject to the usual one-year warranty period in accordance with the Subdivision Improvement Agreement. A Partial Initial Acceptance may be granted and the developer's faithful performance bond may be reduced to 10% of the original amount plus the amount of items on the Delayed Item Agreement to a total amount of \$2,228,188.

Fiscal Impact: None

Recommendations:

1. Adopt resolution granting partial initial acceptance of subdivision improvements and authorizing reduction in penal sum of subdivision improvement bond for Project No. 3160.
2. Approve Delayed Item Agreement and authorize the City Manager to execute the agreement, subject to approval as to form by the City Attorney.

XXI. BIDS AND CONTRACTS

*** 16. Authorize the City Engineer to Execute a Contract Change Order No. 7 for Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City Council awarded this project to construct the Main Sewage Pump Station, 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, inline grinders, a new control building with electrical room, site grading, drainage improvements and lighting. This project is currently on schedule and on budget with a planned completion date of November.

Change Order No. 7 Consists of the following four items:

Item No. 1

Removal of all abandoned miscellaneous metal and fasteners in the existing grit chamber. The amount of this item is: \$5,004.00.

Item No. 2

Modifications and code required upgrades to control building electrical. Electrical modifications include; attic light and dedicated circuits, revision of breakers for 208v water heater, additional conduit for EF-1 to FC-1, and additional conduit for FC-2 to DP-2. Contractor will provide testing for the VFD breakers and the thermo graphic inspection. The amount of this item is: \$8,140.00.

Item No.3

Add electrical outlets at HVAC equipment per NEC code 210.63. Furnish and install 4 GFI outlets and covers. The amount of this item is: \$1,193.00.

Item No. 4

Removal of unforeseen buried obstructions, including manholes, 18" RCP Storm drain, duct banks, conductors, steam, gas piping, minor concrete structures and concrete debris abandoned when this was a sewage treatment facility. The amount of this item is: \$24,050.00.

This added work will not require a time extension. The cost of this change order is \$38,387.00 and is considered reasonable for the work and materials involved. The project is approximately 65% complete and the change order contingency used including this change order is 56%.

Fiscal Impact: None

Recommendation: Authorize the City Engineer to execute Contract Change Order No. 7 for Anderson Pacific Engineering Construction, in the amount of \$38,387.00 on the Main Sewage Pump Station, Project No. 6103.

*** 17. Approve Amendment No. 1 to the Agreement with Gil Sanchez Architects, for Alviso Adobe Restoration, Project No. 5055 (Staff Contact: Greg Armendariz, 586-3317)**

Background: On March 18, 2008, the City Council approved a consultant agreement with Gil Sanchez Architects in the amount of \$57,686 to design a drainage system to allow rain water to drain away from the Alviso Adobe building, protection of the foundation perimeter, and restoration of water damage to Adobe block walls. This work has been recently completed. A grant paid for these expenses.

The environmental work is currently under way. Meanwhile staff recommends initiating the design phase for the building structural upgrades and restoration of the building exterior.

Staff recommends that Gil Sanchez Architects perform additional services to complete the design for structural upgrade and the restoration of the exterior of the Alviso Adobe. An amendment to the agreement with Gil Sanchez Architects is proposed for these additional services. Staff negotiated a scope and fee for these services not to exceed \$250,000, which is considered reasonable for the work. Approval of this agreement amendment brings the total contract amount to \$307,686.

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

Recommendation: Approve Amendment No. 1 to the Agreement with Gil Sanchez Architects, Project No. 5055, in the amount of \$250,000, subject to approval as to form by the City Attorney.

XXII. CLAIM AND DEMAND

*18. Approve Emergency Replacement of Traffic Signal and Light Rail Controls at Tasman and Alder Dr. (Staff Contact: Chris Schroeder, 586-3161)

Background: On 2/18/08 a hit and run driver destroyed the traffic and light rail controls at the corner of Tasman & Alder Dr. The VTA purchased these custom designed traffic/light rail control cabinets for the City in 2001 from US Traffic Corp., formerly known as IDC. Unfortunately, the company went out of business in 2005. There are a few manufacturers that could build the system but they are either out of state or in Southern California. BRG Supply (formerly known as Synchronex) is the only manufacturer located in the Bay Area that can build this system for the City. The company is familiar with the design and components having supplied the City on previous occasions. Since this is a custom design for the Light Rail system, it takes about 120 days to build and requires City's inspection and testing the system at different points during the manufacturing process. Purchasing from BRG Supply will eliminate the time and expense of traveling to Southern California or out of state for testing and repair. This purchase is made pursuant to Municipal Code Section I-2-3.10 "Emergency Authority of Purchasing Agent."

Fiscal Impact: \$38,970.00. Funds for this work are available from the Street Maintenance Operating Budget.

Recommendation: Approve the emergency replacement of traffic signal and light rail controls at Tasman & Alder Drive and authorize purchase from BRG Supply, LLC for the fabrication of the systems for the not-to-exceed amount of \$38,970.00.

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 6, 2008 AT 7:00 P.M.**