



**MILPITAS CITY COUNCIL MEETING AGENDA
JUNE 3, 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) California Department of Industrial Relations/Death Without Dependents Unit (re: Mabel Butler (deceased)) v. City of Milpitas, Workers Compensation Appeals Board Case #SJO 0267194
 - (2) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to CA Government Code § 54956.9) Milpitas Employees Association and Laborers International Union of North America v. City of Milpitas, Santa Clara Superior Court Case #108CV108889
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action 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 Gomez)
- VI. APPROVAL OF COUNCIL MEETING MINUTES** – May 20 and May 13, 2008
- VII. SCHEDULE OF MEETINGS** - Council Calendar for June 2008
- VIII. PRESENTATIONS**

Certificates of Commendation:
Santa Clara County Realtors Foundation annual HomeWords Essay Contest

 - Karen Lin,– First Place winner, 8th Grade student from Thomas Russell Middle School, and Deborah Carson, 8th Grade Teacher at Thomas Russell Middle School
 - Ilona Molina – Awarded Honorable Mention, 12th Grade Student at Milpitas High School, and Skyler Draeger, 12th Grade Teacher at Milpitas High School
- 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 HEARING

- 1. Consideration of Actions Related to the Transit Area Specific Plan: Approve Environmental Impact Report by Resolution, Approve the Transit Area Specific Plan and Necessary General Plan Amendments by Resolution, Introduce Ordinance No. 38.777 Relating to Zoning Ordinance and Map Changes, and Conceptually Approve the Draft Financing Plan (Staff Contact: James Lindsay, 586-3273)**

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (May 20, 2008)

RA4. Approve the Final Budget for the City of Milpitas and the Milpitas Redevelopment Agency for the Fiscal Year 2008-2009 (Staff Contact: Emma Karlen, 586-3145)

RA5. Agency Adjournment

XVI. REPORT OF COMMISSION

Citizens Emergency Preparedness Advisory Commission

- * 2. Approve Change of Name from Citizens Emergency Preparedness Advisory Commission (CEPAC) to Emergency Preparedness Commission (EPC) (Staff Contact: Sean Simonson, 586-2810)**

XVII. NEW BUSINESS

- * 3. Approve Milpitas Sports Center Corporate Membership Package (Staff Contact: Aaron Bueno, 586-3226)**

XVIII. RESOLUTIONS

- * 4. Adopt a Resolution of Intention to Levy Assessment for Fiscal Year 2008-2009, Preliminary Approval of the Annual Engineer's Report and Provide for Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Project No. 9474 (Staff Contact: Robert Wang, 586-3327)**
- * 5. Adopt a Resolution of Intention to Levy Assessment for Fiscal Year 2008-2009, Preliminary Approval of the Annual Engineer's Report and Provide for Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Project No. 9489 (Staff Contact: Robert Wang, 586-3327)**
- * 6. Adopt a Resolution Calling for the General Municipal Election on November 4, 2008 (Staff Contact: Mary Lavelle, 586-3001)**
- * 7. Adopt a Resolution Granting Final Acceptance of Ball Park Fence Field Extension, Project No. 5064 (Staff Contact: Greg Armendariz, 586-3317)**

- * 8. **Adopt a Resolution Approving Membership in the Institute for Climate Leadership Education and Information as Part of the Climate Protection Program (Staff Contact: Diana Whitecar, 586-3059)**
- * 9. **Adopt a Resolution to Release Unclaimed Checks per Standard Operating Procedure No. 26-1 (Staff Contact: Dante Ong, 586-3132)**

XIX. BIDS AND CONTRACTS

- * 10. **Authorize the City Manager to Execute an Agreement with the Wildlife Center of Silicon Valley for Animal Control Services (Staff Contact: Felix Reliford, 586-3071)**
- * 11. **Approve Consultant Agreement with RMC Water and Environment, Inc. for On-Call Water and Sewer System Hydraulic Modeling (Staff Contact: Kathleen Phalen, 586-3345)**
- * 12. **Approve Amendment No. 3 to the Consultant Agreement with RMC Water and Environment, Inc. for the Water and Sewer Master Plan Update Including Developer Impact Fee Analyses, Connection Fee Update, and Preparation of a Programmatic Environmental Impact Report (Staff Contact: Kathleen Phalen, 586-3345)**
- * 13. **Approve Cost-Share Agreement with Santa Clara Valley Water District for Lower Penitencia Creek Levee Certification, Project No. 3701 (Staff Contact: Robert Wang, 586-3327)**
- * 14. **Award the Bid and Authorize the City Manager to Execute a Contract for Street Light Pole Painting to Diaz Corporation (Staff Contact: Chris Schroeder, 586-3161)**

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 17, 2008 AT 7:00 P.M.**

**THERE WILL BE A SEVEN WEEK BREAK
AFTER THAT (NO JULY MEETINGS)**

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
Recycling and Source Reduction Advisory Commission (alternate)
Telecommunications Commission

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 HEARING

1. **Consideration of Actions Related to the Transit Area Specific Plan: Approve Environmental Impact Report by Resolution, Approve the Transit Area Specific Plan and Necessary General Plan Amendments by Resolution, Introduce Ordinance No. 38.777 Relating to Zoning Ordinance and Map Changes, and Conceptually Approve the Draft Financing Plan (Staff Contact: James Lindsay, 586-3273)**

Background: The Transit Area Specific Plan represents a three year effort to develop a vision for the transformation of an older industrial area of the City into a high density of transit-oriented district. The City started this planning effort to support the large public investment transit facilities such as light rail, the Great Mall Transit Center, and the future Bay Area Rapid Transit station. The Plan creates a blueprint for a walkable, transit-oriented area with a mix of land uses that encourage walking, biking, and transit trips.

The Transit Area Specific Plan project has the following elements:

1. **May 2008 Specific Plan (SP08-0001):** Contains the policy framework for development within the Transit Area, building standards and design guidelines, and implementation measures. The May 2008 Plan incorporates the changes referenced in the Final EIR and other corrections made to the October 2007 Draft Plan.
2. **Environmental Impact Report (EA08-0001):** Consists of (1) the Draft EIR that was circulated for public review between November 7, 2007 and December 21, 2007; and (2) the Final EIR which contains the comments received during the review period and the responses to the comments with resulting changes to the Draft Specific Plan.
3. **General Plan Amendments (GP08-0002):** Proposed changes to the General Plan to obtain consistency between the General Plan and the Specific Plan.
4. **Zoning Ordinance Text and Map Amendments (ZA08-0002).** Changes to the Zoning Ordinance text and map to start the implementation of the Specific Plan.
5. **Draft Financing Plan:** Documents the costs of the public improvements identified in the Specific Plan and mechanisms to finance those costs. Upon conceptual approval of the draft Financing Plan staff would prepare the necessary ordinances and resolutions for adoption in August to implement the plan.

Fiscal Impact: Development envisioned in the Specific Plan is expected to occur over the next 25 years and will generate the need for approximately \$212 million in new public improvements, the majority of which staff is recommending be funded through the establishment of a new Transit Area development impact fee. Further detail on the costs and proposed fee is provided in the Draft Financing Plan included in the Council's packet. The May 2006 Transit Area Fiscal Impact Analysis estimated an \$80 million negative impact to the City's general fund over the next 25 years as a result of costs to deliver municipal services in the Transit Area exceeding expected general fund revenue. Economic & Planning Systems is currently updating that analysis and the results, with recommended measures to reduce the impact, will be presented at the City Council meeting.

Recommendations: Staff recommends the City Council approve the Transit Area Specific Plan Project by taking the following actions:

1. Close the public hearing following the public hearing for testimony.
2. Adopt a Resolution certifying the Environmental Impact Report, EA08-0001.
3. Adopt a Resolution approving the General Plan Amendments and adopting the Transit Area Specific Plan.
4. Conceptually approve the draft Financing Plan.
5. Move to waive the first reading of Ordinance No. 38.777 beyond the title.

6. Introduce Ordinance No. 38.777 related to zoning ordinance and map changes.

XV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (May 6, 2008)

RA4. Approve the Final Budget for the City of Milpitas and the Milpitas Redevelopment Agency for the Fiscal Year 2008-2009 (Staff Contact: Emma Karlen, 586-3145)

Background: During the May 13, 2008 Budget Public Hearing, the City Council conceptually approved the City/Agency Proposed FY 2008-09 Annual Budget, the FY 2008-09 Capital Improvement Program (CIP) Budget and the Five Year Capital Improvement Program (2008-2013). In addition, Council requested staff to follow up on several budget items. The first item is to determine the fiscal impact to the City based on the Governor's revised May Budget Plan. The second item is to discuss with the Milpitas Unified School District regarding the cost increase for the crossing guards' salaries. The third item is to prioritize funding for Street the Resurfacing capital improvement project, CIP No. 8194.

The Governor's revised Budget Plan issued on May 14 will impact the City of Milpitas by about \$67,000 due to the following proposed cost reduction: 10% cut of the COPS/Juvenile Justice grants to state agencies, 10% reduction of payments to the Counties for booking fees and deferred reimbursement for State Mandated programs. The City annually receives approximately \$100,000 in a COPS grant. Historically, the COPS grants can only be used for one-time expenditures and cannot be used to supplant operating expenses. Consequently, a 10% cut (approximately \$10,000) will reduce certain one-time training or purchase of equipment for the Police Department but otherwise have nominal impact on daily operation and the General Fund. In reducing the booking fee payments to the counties, the counties can impose the booking fees on the cities up to 10% of their costs. Staff anticipated the cost impact to the City to be approximately \$25,000. Finally, the fiscal impact of deferred reimbursement for State mandated programs to the City in FY 2008-09 is approximately \$32,000. Since it is indicated as deferred reimbursement, staff anticipated that the City will be repaid in full in later fiscal years.

Discussion with the Milpitas Unified School District regarding the salary increase for the crossing guards is still ongoing. Staff removed the 10% salary increase provision (approximately \$29,000) for the crossing guards from the resolution but anticipats that it will be brought back to the City Council for approval in the future, should the School District agree to pay for the increase.

Regarding the funding priority for the Streets resurfacing program, a CIP Subcommittee meeting is scheduled on May 29 to review and re-prioritize funding for the project. A copy of the staff memo from the Public Works Director for the initial funding plan is in the agenda packet. Staff anticipates that the funding recommendation will be brought back to the City Council for approval in the near future.

Based on these actions, six Resolutions are submitted for Council's adoption of the Final 2008-09 Annual Budget totaling \$151,287,507. The published Final Budget Documents will be distributed to the City Council prior to the September 2, 2008 Council meeting.

Fiscal Impact: Appropriations for the FY 2008-09 Operating and CIP Budget.

Recommendations: Approve the Final Budget for the City of Milpitas and Milpitas Redevelopment Agency for the FY 2008-09 by adopting the following six resolutions:

1. Resolution of the City of Milpitas adopting the FY 2008-09 Appropriations Limit of \$65,450,866 for the City of Milpitas.

2. Joint Resolution of the Redevelopment Agency and the City of Milpitas approving the City's Final FY 2008-09 Budget of \$151,287,507, including the FY 2008-09 Capital Improvement Budget of \$26,231,000.
3. Joint Resolution of the Milpitas Redevelopment Agency and the City of Milpitas making findings following a Public Hearing for the use of Redevelopment funds.
4. Resolution of the Milpitas Redevelopment Agency authorizing payments to the City of Milpitas, pursuant to the Second Amended and Restated Public Works Agreement.
5. Resolution of the Milpitas Redevelopment Agency determining that the planning and administration expenses to be funded in FY 2008-09 by the Housing Reserve Fund are necessary for the production, improvement and/or preservation of affordable housing for the low and moderate-income households.
6. Resolution of the City of Milpitas amending Resolution No. 7003 to provide compensation for unrepresented temporary employees.

RA5. Agency Adjournment

XVI. REPORT OF COMMISSION

Citizens Emergency Preparedness Advisory Commission

- * 2. **Approve Change of Name from Citizens Emergency Preparedness Advisory Commission (CEPAC) to Emergency Preparedness Commission (EPC) (Staff Contact: Sean Simonson, 586-2810)**

Background: The Citizens' Emergency Preparedness Advisory Commission (CEPAC) voted to request a name change to Emergency Preparedness Commission (EPC) at the May 15, 2008 meeting. The EPC name better represents the activities of the committee and provides a simpler understanding of the goals of this Commission.

Fiscal Impact: None

Recommendation: Approve change of name from the Citizens' Emergency Preparedness Advisory Commission (CEPAC) to the Emergency Preparedness Commission (EPC).

XVIII. NEW BUSINESS

- * 3. **Approve Milpitas Sports Center Corporate Membership Package (Staff Contact: Aaron Bueno, 586-3226)**

Background: In response to a number of requests from Milpitas businesses, the Milpitas Sports Center proposes to offer a Milpitas Corporate Fitness Package: "Working in Wellness."

By providing "Working in Wellness" packages, the Milpitas Sports Center will make available to the corporate community, convenient, affordable, quality and beneficial fitness programs and facilities for companies and their employees. Corporate trends show that companies whose employees are provided fitness programs have increased employee acuity, higher job satisfaction, a reduction of sick time and less "on the job" injuries.

Included in the agenda packet for your information are the Wellness Package options. Listed are Package options priced to serve both small and large companies as well as accommodate non-resident corporations. Companies that enroll in "Working in Wellness" will enjoy the amenities listed here and a special corporate bonus.

Amenities

- 33-piece Fitness Room
- 2 Aerobic Studios
- Large Gym Programming
- 2 lap swimming pools

More than 25 fitness and water exercise classes
Locker room and shower access

Corporate Bonus

Employees will receive one free session of Adult Swim Lessons with Milpitas Parks & Recreation Services.

All participating businesses will sign onto a business contract with the City, drafted by the City Attorney's Office. The "Working in Wellness" Corporate Package will be evaluated after the first year for any needed adjustments or addition of package options.

Fiscal Impact: An increase in revenue is projected with an increase of Sports Center membership visits and addition of corporate annual fees.

Recommendation: Approve the Working in Wellness Corporate Package effective July 2008.

XXI. RESOLUTIONS

- * 4. **Adopt a Resolution of Intention to Levy Assessment for Fiscal Year 2008-2009, Preliminary Approval of the Annual Engineer's Report and Provide for Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch, Project No. 9474 (Staff Contact: Robert Wang, 586-3327)**

Background: Landscaping and Lighting Maintenance Assessment District (LMD) No. 95-1, provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and Ranch Drive Gateway Improvements. On May 20, 2008, the City Council directed the City Engineer to prepare an annual engineer's report for LMD No. 95-1. It is now necessary for the Council to preliminarily approve the Annual Report and set the date of June 17, 2008 for a public hearing. Upon conclusion of the public hearing on June 17, 2008, and subsequent City Council approval of the Annual Engineer's Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

Fiscal Impact: None.

Recommendation: Adopt a Resolution preliminarily approving the Annual Engineer's Report for LMD 95-1 and providing for the notice of public hearing.

- * 5. **Adopt a Resolution of Intention to Levy Assessment for Fiscal Year 2008-2009, Preliminary Approval of the Annual Engineer's Report and Provide for Notice of Public Hearing for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon, Project No. 9489 (Staff Contact: Robert Wang, 586-3327)**

Background: Landscaping and Lighting Maintenance Assessment District (LMD) No. 98-1, provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches and Berryessa Creeks abutting the Sinclair Horizon residential subdivision. On May 20, 2008, the City Council directed the City Engineer to prepare an annual engineer's report for LMD 98-1. It is now necessary for the Council to preliminarily approve the Annual Report and set the date of June 17, 2008, for a public hearing. Upon conclusion of the public hearing on June 17, 2008, and subsequent City Council approval of the Annual Engineer's Report, the assessment for the work will be added to the tax bills for those property owners included within the boundaries of the District.

Fiscal Impact: None.

Recommendation: Adopt a Resolution preliminarily approving the Annual Engineer's Report for LMD 98-1 and providing for the notice of public hearing.

- * 6. **Adopt a Resolution Calling for the General Municipal Election on November 4, 2008 (Staff Contact: Mary Lavelle, 586-3001)**

Background: Milpitas Municipal Code Title I, Chapter 200 Section 1.00 provides for the municipal election to be held on the same day as the statewide General Election. The statewide General Election (Presidential Election) is scheduled on November 4. A Resolution was drafted calling for the municipal election on Tuesday, November 4, 2008, for the purpose of electing one Mayor and two members of the City Council. The resolution also requests consolidation of the Milpitas Municipal Election with the statewide General Election and requests provision of services from the Santa Clara County Registrar of Voters.

In June 2006, the City Council adopted Resolution No. 7597 relating to Candidates' Statements of Qualification printed in the sample ballot for Municipal Elections. This resolution sets forth the total number of words permitted in a Candidate's Statement (200) and that the candidate is responsible for the cost of printing and mailing the statement as well as the translation into minority languages. Noted is that Federal Voting Rights Act requirements as applied to Santa Clara County mandate that election materials be made available in four minority languages - Chinese, Spanish, Tagalog and Vietnamese - in addition to English, since 2002.

Fiscal Impact: The County of Santa Clara will invoice the City after the election for all costs related to the municipal election. Funds are budgeted in the City Clerk's FY 2008-09 budget for the election.

Recommendation: Adopt a resolution calling a General Municipal Election on November 4, 2008, and requesting consolidation with the statewide election.

- * 7. **Adopt a Resolution Granting Final Acceptance of Ball Park Fence Field Extension, Project No. 5064 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project, which was initially accepted on June 5, 2007, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include installation of foul line fence extensions and backstops to meet ABAG (Association of Bay Area Governments) height recommendations at the Milpitas Sports Center Fields. This Project also included spectator protection facilities at the Dixon Landing Park Little League Fields. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

Fiscal Impact: None

Recommendation: Adopt a resolution granting final acceptance for the Ball Park Fence Field Extension, Project No. 5064, and release of the contractor's bond.

- * 8. **Adopt a Resolution Approving Membership in the Institute for Climate Leadership Education and Information as Part of the Climate Protection Program (Staff Contact: Diana Whitecar, 586-3059)**

Background: On December 11, 2007, the City Council approved participation in the Climate Protection Program, collaboration between Joint Venture Silicon Valley Network (JVSVN), the Institute for Climate Leadership Education and Information (ICLEI) and Sustainable Silicon Valley (SSV). This collaboration, the Joint Venture Climate Protection Task Force, allows cities to begin to address greenhouse emissions.

Membership in ICLEI requires a resolution be adopted supporting the individual cities commitment to greenhouse gas reductions and is consistent with the goals previously approved in December 2007. A staff committee will be collecting data over the summer to complete the

carbon emissions survey, and it is anticipated that the total time expended will not exceed 40 – 50 hours. Results of the survey will be reported to the City Council

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

Recommendation: Adopt a resolution authorizing membership in the Institute for Climate Leadership Education and Information (ICLEI) as part of the Climate Protection Program.

- * 9. **Adopt a Resolution to Release Unclaimed Checks per Standard Operating Procedure No. 26-1 (Staff Contact: Dante Ong, 586-3132)**

Background: According to the City of Milpitas' Standard Operating Procedure 26-1, which conforms with California Government Code Section No. 50055, unclaimed checks of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by the City Council. In the agenda packet is a list of unclaimed checks of less than \$15, that have remained unclaimed for more than one year.

Fiscal Impact:

Recommendation: Adopt a resolution to transfer a total of \$109.09 in unclaimed checks per the prepared list to the General Fund in accordance with Standard Operating Procedure 26-1.

XXII. BIDS AND CONTRACTS

- * 10. **Authorize the City Manager to Execute an Agreement with the Wildlife Center of Silicon Valley for Animal Control Services (Staff Contact: Felix Reliford, 586-3071)**

Background: Since the establishment of the previous Cost Sharing Agreement in October 1993, cities within Santa Clara County have received animal wildlife services free of charge from the Wildlife Center of Silicon Valley (WCSV). Wild animals were dropped off at the Humane Society and held until the Wildlife Center staff transports them to their center for care and treatment. The animals are then released back into the wild.

Because of the lack of funding, the Wildlife Center of Silicon Valley Board of Directors decided in 1999 to eliminate free services to those cities that chose not to pay for them. Contracts from cities represent only 17% of WCSV budget; the balance is obtained from grants, memberships and fundraising venues.

Each City bears its proportionate share of the cost of the rehabilitation services. The Wildlife Center received over 187 animals from Milpitas residents in the past year, and the total cost of these services is \$6,400. This represents a 1% increase from the previous fiscal year (\$6,336) and the first increase in the past five years.

Fiscal Impact: The contract agreement for animal wildlife services is \$6,400, which is included in the FY2008-09 Planning and Neighborhood Services budget.

Recommendation: Authorize the City Manager to execute a contract agreement with Wildlife Center of Silicon Valley to provide animal wildlife services in Milpitas in the amount not-to-exceed \$6,400, subject to approval as to form by the City Attorney.

- * 11. **Approve Consultant Agreement with RMC Water and Environment, Inc. for On-Call Water and Sewer System Hydraulic Modeling (Staff Contact: Kathleen Phalen, 586-3345)**

Background: RMC Water and Environment prepared the City's Water and Sewer Master Plans in 2002 and 2004, respectively, and is currently completing updates to these plans. As part of this work, RMC developed computer hydraulic models of the City's water distribution and sewer collection systems to assess the capacity of the existing infrastructure and to plan for needed

infrastructure upsizing. The City has had RMC do additional computer modeling on an as-needed basis to check for localized impacts to infrastructure from proposed developments of density higher than that anticipated by the master plans. When the City receives a planning application requesting a zoning change to higher density development, staff compares the modeled project needs with existing water and sewer system capacities to determine if utility improvements and/or impact fees are required.

This proposed Agreement provides a standard framework for future on-call hydraulic water and sewer system modeling. The Consultant will provide a scope of services and budget for each project and will proceed only upon authorization from City staff. The scope of work also includes hydraulic model training for City staff to enable staff to conduct this modeling work in the future. RMC is well qualified to perform this work as the firm developed the water and sewer models and recently updated the models for the Transit Area Specific Plan analysis and Master Plan Updates. A not-to-exceed budget of \$100,000 has been established to provide for modeling of several projects and staff training.

Fiscal Impact: None. Sufficient funding for this purpose is budgeted in the Draft FY2008-13 Capital Improvement Program Annual Report (Water System Hydraulic Modeling, page 100 and Sewer System Hydraulic Modeling, page 120) for FY 2008-09.

Recommendation: Approve the Consultant Agreement with RMC Water and Environment for on-call hydraulic modeling services not to exceed \$100,000, with approval effective July 1, 2008 and contingent upon the City's adoption of the FY2008-13 Capital Improvement Program.

- * 12. **Approve Amendment No. 3 to the Consultant Agreement with RMC Water and Environment, Inc. for the Water and Sewer Master Plan Update Including Developer Impact Fee Analyses, Connection Fee Update, and Preparation of a Programmatic Environmental Impact Report (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On November 8, 2006, Council approved a consultant agreement with RMC Water and Environment, Inc. (RMC) to perform a Developers Utility Impact Fee Analysis and Connection Fee Update study. Council amended the Agreement on March 6, 2007 to revise the land use designations in the City's water and sewer distribution system models, update water and sewer impact fees, and review the treatment plant fee rate structures for adequate cost recovery. Council further amended the Agreement on June 5, 2007 to integrate the earlier findings to update the City's Water and Sewer Master Plan flow and capacity projections, thereby improving the cost-effectiveness of the City's infrastructure and capacity planning.

Staff is now recommending that the Council approve a third amendment to the agreement for additional water and sewer flow and impact analyses, incorporation of additional text into the Master Plan updates, and preparation of a programmatic environmental impact report for the master plans. The flow analysis includes refinement of the large user and discharger evaluation. Impact analyses include updating the infrastructure deficiency list, defining future capital improvement program projects, and fee recommendations. Other additional work includes integrating recycled water projects resulting from the Transit Area Specific Plan into the Master Plan, and expanding the updated text to minimize the need to cross-reference to the existing Master Plans. The environmental impact report is needed to allow the City to adopt the master plans, thereby making them standard reference documents for future planning efforts. An optional task includes evaluating the sensitivity of the infrastructure deficiency list to the "Reasonable Worst Case" housing density assumptions.

The cost of amendment No. 3 is \$214,900. The largest component of this cost is the new environmental impact report task at \$128,550. Approving this amendment increases the total not-to-exceed value of the Agreement to \$394,962. RMC wrote the City's Water and Sewer Master Plans, developed the City's hydraulic models, and has reviewed other water and sewer fees for the City, and so is well qualified to conduct this work. The proposed amendment is included in the Council packet.

Fiscal Impact: None. Sufficient funding for this purpose is budgeted in the Draft 2008-13 Capital Improvement Program Annual Report (CIP No. 7107 Water Master Plan 2009, page 98 and CIP No. 6108 Sewer Master Plan 2009, page 118).

Recommendation: Approve Amendment No. 3 to the Consultant Agreement with RMC Water and Environment, Inc. for the Water and Sewer Master Plan Updates including developer impact fee analyses, connection fee update, and preparation of a programmatic environmental impact report. Approval is effective July 1, 2008 and is contingent upon the City's adoption of the FY2008-13 Capital Improvement Program.

* 13. **Approve Cost-Share Agreement with Santa Clara Valley Water District for Lower Penitencia Creek Levee Certification, Project No. 3701 (Staff Contact: Robert Wang, 586-3327)**

Background: The Federal Emergency Management Agency (FEMA) is in the process of converting the Flood Insurance Rate Map (FIRM) from paper to a digital GIS-based format. As part of this map modernization program, and Katrina Hurricane levee failures, FEMA has implemented a policy to re-confirm that all levees mapped as protective for insurance purposes continue to meet current FEMA 100-year flood protection standards.

On June 19, 2007, the City of Milpitas and Santa Clara Valley Water District entered into an agreement to jointly compile and submit the necessary documentation to FEMA to certify approximately 0.7 mile of Lower Penitencia Creek levee (within Milpitas City limits.).

The Water District has negotiated a contract with Schaaf & Wheeler for a total amount of \$313,700. The City of Milpitas and Santa Clara Valley Water District will each pay half of the project cost for the certification of the levee. The City's cost share is \$156,850.

Fiscal Impact: None. Funds are available in the FY2008-09 CIP budget, Project No. 3701.

Recommendation: Authorize the City Manager to sign a Cost-Share Agreement with Santa Clara Valley Water District for Lower Penitencia Creek levee certification, CIP Project No. 3701, subject to approval as to form by the City Attorney.

* 14. **Award the Bid and Authorize the City Manager to Execute a Contract for Street Light Pole Painting to Diaz Corporation (Staff Contact: Chris Schroeder, 586-3161)**

Background: Purchasing and Traffic Engineering developed the specification and bid package for street light pole painting. Bid packages were sent to eleven (11) painting contractors on Purchasing's bidders list. In addition, the bid was advertised in the local newspaper, on the City website, and in the Blue Book. Seven (7) bids were received and are summarized below.

<u>Bidder</u>	<u>Total Bid</u>
Diaz Corporation	\$37,696
Affordable Painting Service, Inc.	\$52,067
Metro Structural Painting	\$66,880
Varsity Painting	\$72,960
Everlast Painting	\$80,000
Golden California Painting, Inc.	\$107,637
Georgiou Painting Co.	\$131,632

Fiscal Impact: \$ 37,696.00. Funds are available for this purchase from Capital Improvement Project No. 4241-7-4237, Streetlight & Traffic Signal Pole Painting.

Recommendation: Award the bid to Diaz Corporation and authorize the City Manager to execute a contract for street light pole painting for the not-to-exceed amount of \$37,696.00, subject to approval as to form by the City Attorney.

XXIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JUNE 17, 2008 AT 7:00 P.M.**

**THERE WILL BE A SEVEN WEEK BREAK
AFTER THAT (NO JULY MEETINGS)**