



**MILPITAS CITY COUNCIL MEETING AGENDA  
JANUARY 6, 2009**

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**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)  
455 E. CALAVERAS BOULEVARD**

**SUMMARY OF CONTENTS**

- I. CALL TO ORDER by the Mayor (6:00 p.m.)**
- II. ROLL CALL by the City Clerk**
- III. ADJOURN TO CLOSED SESSION OF CITY COUNCIL**  
**CONFERENCE WITH LABOR NEGOTIATOR - COLLECTIVE BARGAINING**  
Pursuant to CA Government Code §54957.6 City Negotiator: Carmen Valdez  
Employee Groups: Milpitas Professional and Technical Group (ProTech), LIUNA (Mid Management, Confidential Unit), MPOA (Milpitas Police Officers Association), IAFF (International Association of Firefighters). Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- IV. 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
- V. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- VI. INVOCATION (Mayor Livengood)**
- VII. APPROVAL OF COUNCIL MEETING MINUTES – December 16, 2008**
- VIII. SCHEDULE OF MEETINGS – Council Calendar for January 2009**
- IX. PRESENTATIONS**  
Proclamation: National Blood Donor Month – January 2009  
Presentation: Recognition of Milpitas Citizen Police Volunteers
- X. 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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- XI. ANNOUNCEMENTS**
- XII. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XIII. APPROVAL OF AGENDA**

**XIV. CONSENT CALENDAR (Items with asterisk\*)**

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Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

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**XV. PUBLIC HEARINGS**

1. **Accept 2009 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Charlotte Pang, 586-2432)**
2. **Adopt a Resolution to Amend Planned Unit Development No. PA08-0001, Tentative Map No. TM08-0002 and Site Development Permit No. SA08-0022 for the Townhome Project located along Murphy Ranch Road at Sandisk Drive, APN 086-01-042 (Staff Contact: Judie Gilli, 586-3280)**
3. **Approve Purchase of Property from County of Santa Clara for a Public Park (Staff Contact: Diana Barnhart, 586-3059)**
4. **Introduce Ordinance No. 38.786 for Zoning Amendment No. ZA08-0009, Adopt a Resolution Approving Conditional Use Permit No. UP08-0039, and Adopt a Supplemental Negative Declaration (EA08-0007) to Allow a Farmer’s Market at the India Community Center, 525 Los Coches Street (Staff Contact: Cindy Hom, 586-3284)**

**XVI. UNFINISHED BUSINESS**

5. **Reintroduce Ordinance No. 278 and Adopt Two Resolutions to Enable the Establishment of City of Milpitas Community Facilities District No. 2008-1 for Public Services (Staff Contact: Michael Ogaz, 586-3040)**

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

- RA1. **Call to Order/Roll Call by the Mayor/Chair**
- RA2. **Approval of Minutes – December 16, 2008**
- RA3. **Approval of Agenda and Consent Calendar (Items with asterisk\*)**
- RA4. **Receive Progress Report on the New Library and North Main Streetscape Projects No. 8162 and No. 8165, and Adopt a Resolution of Granting Initial Acceptance for the New Library Project (Staff Contact: Steve Erickson, 586-3414)**
- \*RA5. **Adopt a Resolution Granting Initial Acceptance, Authorize the City Engineer to Execute a Contract Change Order with Granite Construction, and Approve Budget Appropriation for Singley Area Street Rehabilitation, Phase V, Project No. 8193 (Staff Contact: Jaime Rodriguez, 586-3335)**

- RA6. **Agency Adjournment**

**XVIII. REPORTS OF OFFICERS**

**City Council**

6. **Report from Mayor Livengood Regarding a Proposed Professional Appearance Policy (Contact: Mayor Livengood, 586-3051)**

7. **Report from Mayor Livengood Regarding a Proposed Green Building Ordinance (Contact: Mayor Livengood, 586-3051)**

**XIX. NEW BUSINESS**

8. **Approve the 2009 Commissioners' Recognition Event (Staff Contacts: Rosana Cacao, 586-3207, and Dale Flunoy, 586-3228)**

**XX. ORDINANCE**

- \* 9. **Waive Second Reading and Adopt Ordinance No. 43.210 Amending Chapter 100, V (Traffic) of the Milpitas Municipal Code (Staff Contact: Jaime Rodriguez, 586-3335)**

**XXI. RESOLUTIONS**

- \* 10. **Adopt a Resolution Awarding the Bid and Authorize the City Manager to Execute a Contract for Abandoned Shopping Cart Retrieval Service to City Wide Cart Service, Inc. (Staff Contact: Chris Schroeder, 586-3161)**
- \* 11. **Adopt a Resolution Approving the Sole Source Purchase of Almetak Storm Drain Markers in the Amount of \$23,907.77 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 12. **Adopt a Resolution Approving the "Avoid the 13" Grant Program Agreement with the County of Santa Clara and the California Office of Traffic Safety (Staff Contact: Henry Kwong, 586-2419)**
- \* 13. **Adopt a Resolution Granting Initial Acceptance for Sewer Deficiency and Structural Correction Program, Phase 4A, Project No. 6073 (Staff Contact: Jeff Leung, 586-3326)**
- \* 14. **Adopt a Resolution Approving the Sole Source Purchase of 45 Self Contained Breathing Apparatus (SCBA) from Drager Safety, Inc. and Approve a Budget Appropriation of \$180,000 to be Funded from the Federal Emergency Management Agency (FEMA) Grant (Staff Contacts: Geoffrey Maloon, 586-2820, and Chris Schroeder, 586-3161)**
- \* 15. **Adopt a Resolution Approving an Increase of Milpitas Arts and Culture Grant Program Amount per Applying Artist or Organization (Staff Contact: Renee Lorentzen, 586-3231)**

**XXII. BIDS AND CONTRACTS**

- \* 16. **Authorize the City Engineer to Execute Contract Change Order No. 12 with Anderson Pacific Engineering for the Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**
- \* 17. **Authorize City Manager to Execute an Agreement with Cupertino Sanitary District to Purchase 0.75 Million Gallons per Day (MGD) Treatment Capacity and to Execute the Fourth Amendment to Master Wastewater Agreement with Cities of San Jose and Santa Clara, and Approve a Budget Appropriation (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 18. **Approve the Purchase of Assorted Badger Water Meters from National Meter and Automation for \$46,295.28 (Staff Contact: Chris Schroeder, 586-3161)**

**XXIII. ADJOURNMENT**

**NEXT REGULAR MEETING  
TUESDAY, JANUARY 20, 2009**

**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 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: 408-586-3056 / Phone: 408-586-3040

*The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

Materials related to an item on this agenda submitted to the City Council/Redevelopment Agency after initial distribution of the agenda packet are available for public inspection at the City Clerk's Office/Information Desk at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, and at the Milpitas Library during normal business hours.

**BECOME A CITY COMMISSIONER!**

Current vacancies exist for the:

*Arts Commission (alternate)*

*Public Art Committee*

*Emergency Preparedness Commission (Industry Rep)*

*Mobile Home Park Rental Review Board*

*Planning Commission (alternate)*

*Telecommunications Commission (MUSD Rep.)*

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

### XV. PUBLIC HEARINGS

**1. Accept 2009 Citizen Options for Public Safety (COPS) Grant (Staff Contact: Charlotte Pang, 586-2432)**

**Background:** The California State Legislature awarded \$110,689 to the City of Milpitas through the Citizen Options for Public Safety (COPS) Grant, per California Government Code Sections 30061-30065. No City matching funds are required.

Code §30061 requires a public hearing regarding the expenditure of the grant. Code §30062 specifies that these funds must be used exclusively for front line law enforcement services and must supplement and not supplant existing funding for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police of the law enforcement agency that provides police services for that city. The request shall indicate the front line law enforcement needs of the requesting entity including the personnel and equipment that are necessary to meet those needs.

Milpitas Police Department recommends the following list of frontline municipal police services, or equivalent, to be purchased with the COPS grant monies for fiscal year 2009:

Digital Recording Technology  
Tasers with cameras  
Parent Project  
Community Relations Supplies  
Patrol Rifles  
Range Improvements  
Less Lethal Sage Gun  
Data Collection Device  
Technology Upgrade for Field Use  
K9 Training Bite Suit  
Records Archive Storage Unit

**Fiscal Impact:** None. The COPS 2009 grant of \$110,689 will fully cover the cost for the frontline services.

**Recommendations:**

1. Open the public hearing, and after hearing public comment, move to close the public hearing.
2. Accept 2009 Citizen Options for Public Safety Grant in the amount of \$110,689.
3. Approve appropriation in the amount of \$110,689 into Police Department's operating budget.

**2. Adopt a Resolution to Amend Planned Unit Development No. PA08-0001, Tentative Map No. TM08-0002 and Site Development Permit No. SA08-0022 for the Townhome Project Located along Murphy Ranch Road at Sandisk Drive, APN 086-01-042 (Staff Contact: Judie Gilli, 586-3280)**

**Background:** On November 6, 2007, the City Council approved a plan for a 21.73 acre parcel that included an apartment building containing 374 units, 65 townhome buildings providing 285 units, and approximately two acres of publicly accessible park area. The applicant is requesting a change to the previously approved Tentative Map, Planned Unit Development and Site Development Permit for the townhome portion of the project. The most significant change proposed is the introduction of a new motor court building type. The number of townhome units does not change with the new site plan.

On December 10, 2008, the Planning Commission held a public hearing and recommended to the City Council approval of the proposed project amendments. The Commission discussed the revised site plan, landscaping, architecture and safety measures for the proposed project. The following conditions of approval were added to ensure adequate landscaping and improved levee conditions.

1. **Landscaping:** Applicant shall revise the landscape plan to include additional foliage along the Murphy Ranch Road perimeter to the extent possible and to the satisfaction of the Director of Planning and Neighborhood Services.
2. **Levee Improvement:** To the satisfaction of the Santa Clara Water District and the City of Milpitas, the applicant shall place base rock, decomposed granite or a similar material on the top of Coyote Creek Levee in order to allow pedestrian use.
3. **Mudslide Prevention:** Developer shall work with City staff and Santa Clara Valley Water District to prevent possible Coyote Creek slope mudslides or earth movement.

**Fiscal Impact:** None

**Recommendations:**

1. Open public hearing and after hearing any testimony, move to close the public hearing.
  2. Adopt a Resolution approving a Planned Unit Development Amendment, Tentative Map Amendment and Site Development Amendment for the Townhome Project located along Murphy Ranch Road at Sandisk Drive, APN 086-01-042.
3. **Approve Purchase of Property from County of Santa Clara for a Public Park (Staff Contact: Diana Barnhart, 586-3059)**

**Background:** As part of the Centria Condominium project, the developer paid park in-lieu fees for the development of a public park abutting the housing units. The County of Santa Clara owns the remnant parcel and agreed to sell the property to the City. Both the City and County conducted appraisals and have agreed upon a purchase price of \$479,000. The City will pay the closing costs, estimated at \$5,000.

This is a remnant parcel of 0.48 acres located at the corner of Great Mall Parkway and South Abel Street (site map is included in the agenda packet). This vacant parcel will remain a separate parcel belonging to the City and the park improvements completed by the new owner, Lyons Apartments. The Planning Department will coordinate the final design of the park that will also be paid for by the developer.

The Notice of Public Hearing notice for this item was published in the local newspaper on December 25.

**Fiscal Impact:** Funds for the purchase are available in the Park In Lieu Fund, but must be appropriated for this specific purpose. Once the Council has approved the design of the park, another action will be required to appropriate funds for the construction and improvements.

**Recommendations:**

1. Open the public hearing and after public comment, move to close the public hearing.
  2. Approve the purchase of APN 086-012-010 from the County of Santa Clara for use as a public park.
  3. Approve a Budget Appropriation of \$484,000 to cover the cost of the acquisition of the property from the County and for closing costs.
4. **Introduce Ordinance No. 38.786 for Zoning Amendment No. ZA08-0009, Adopt a Resolution Approving Conditional Use Permit No. UP08-0039, and Adopt a Supplemental Negative Declaration (EA08-0007) to Allow a Farmer's Market at the India Community Center, 525 Los Coches Street (Staff Contact: Cindy Hom, 586-3284)**

**Background:** On December 10, 2008, the Planning Commission recommended approval of a request to amend the Milpitas Zoning Ordinance to allow farmers' markets as conditionally permitted uses within the Industrial Park Zoning District and to include operational provisions in the Special Uses section of the Milpitas Zoning Ordinance. The Planning Commission also recommended that the Council approve a Conditional Use Permit (with a 3-month review) and adopt the Negative Declaration for a farmers' market at the India Community Center parking lot. The Planning Commission staff report and associated documents are included in the Council's agenda packet.

*Project Description*

The India Community Center is partnering with the Pacific Coast Farmers' Market Association to have between 40 to 60 vendors in the parking lot of the India Community Center. The market will be held all year on Sundays between 7:00 a.m. to 1:00 p.m. Event parking is comprised of 256 on- and off-site parking spaces and 120 on-street parking spaces on Los Coches Street, which are within walking distance to the site.

*Proposed Zoning Text Amendment*

Ordinance No. 38.786 provides zoning text changes to Section 13 (Special Uses) and Section 35 (Industrial Park Zoning Ordinance). The proposed text changes includes adding Farmers' Markets as conditionally permitted uses in the Industrial Park Zoning District and include review requirements and minimum performance standards in the Special Uses Section.

*Environmental Assessment*

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act. An Initial Study and Subsequent or "Supplemental" Negative Declaration were prepared and circulated. The environmental assessment determined there would be no significant impacts.

**Fiscal Impact:** None.

**Recommendations:**

1. Open public hearing and after hearing any testimony, move to close the public hearing.
2. Waive the first reading beyond the title of Ordinance No. 38.786.
3. Introduce Ordinance No. 38.786.
4. Adopt a Resolution approving the Conditional Use Permit No. UP08-0039, subject to special conditions of approval and adopting the Supplemental Negative Declaration, for the Farmers Market at the India Community Center.

**XVI. UNFINISHED BUSINESS**

- 5. Reintroduce Ordinance No. 278 and Adopt Two Resolutions to Enable the Establishment of City of Milpitas Community Facilities District No. 2008-1 for Public Services (Staff Contact: Michael Ogaz, 586-3040)**

**Background:** On December 16, 2008, this matter was brought forward for adoption of a Community Facilities District at the Council meeting. As the Council will recall, the District is being formed to provide funding for certain municipal services necessitated by future development within the Transit Area Specific Plan.

As a result of minor irregularities in the adoption process, it is necessary to have the Ordinance re-introduced and two Resolutions re-adopted and the votes re-canvassed. Because the Public Hearing was opened and closed properly at the meeting of December 16, 2008, there is no need to conduct another public hearing on this matter.

**Fiscal Impact:** None

**Recommendations:** take the following actions individually:

1. Adopt a Resolution establishing Community Facilities District No. 2008-1.

2. Direct the City Clerk to canvas the results of the election and receive a report on the election results from the City Clerk.
3. Adopt a Resolution Declaring the Results of the Special Election held on January 6, 2009 for Community Facilities District No. 2008-1.
4. Direct the City Attorney to read aloud the title of Ordinance No. 278.
5. Waive the first reading of Ordinance No. 278 beyond the title.
6. Introduce Ordinance No. 278.

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

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

**RA2. Approval of Minutes – December 16, 2008**

**RA3. Approval of Agenda and Consent Calendar (Items with asterisk\*)**

**RA4. Receive Progress Report on the New Library and North Main Streetscape Projects No. 8162 and No. 8165, and Adopt a Resolution of Granting Initial Acceptance for the New Library Project (Staff Contact: Steve Erickson, 586-3414)**

**Background:** Completion of the new Library Project and construction of the Streetscape Project continues. Staff will provide a brief presentation on their progress.

**Library, Project No. 8162**

S. J. Amoroso continues with the completion of remaining punch list items and resolution of mechanical issues. A majority of the project has been successfully completed, and staff recommends an initial acceptance of the project be granted and the contractor’s faithful performance bond be reduced to \$2,860,539.20, which is 10% of the contract amount.

**N. Main Streetscape, Phase II, Project No. 8165**

North Main Street surface and traffic signal improvement work continues at the Carlo and Main Streets intersection. The work is on schedule and on budget for a spring 2009 completion.

**Fiscal Impact:** None.

**Recommendations:**

1. Receive progress report from staff on the new Library and North Main Streetscape, Projects No. 8162 and No. 8165.
2. Adopt a resolution granting initial acceptance of the new Library project, subject to the one year warranty period, and reduction of the contractor’s faithful performance bond to \$2,860,539.20.

**\*RA5. Adopt a Resolution Granting Initial Acceptance, Authorize the City Engineer to Execute a Contract Change Order with Granite Construction, and Approve Budget Appropriation for Singley Area Street Rehabilitation, Phase V, Project No. 8193 (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** The Redevelopment Agency awarded the Singley Area Street Rehabilitation Phase V to Granite Construction Company on June 17, 2008. The project provides asphalt concrete resurfacing, including installation of drainage improvements in the Singley neighborhood and surrounding areas to eliminate water ponding in the streets due to differential settlement of concrete gutters and road pavement surfaces.

Construction of these improvements is programmed for the following streets:

<u>Street</u>	<u>Segment</u>
Hamilton Avenue	Merz Court to Enriquez Court

Hamilton Avenue	Tramway Drive to Escuela Parkway
Tramway Drive	Milpitas Boulevard to Donahe Drive
Tramway Drive	Escuela Parkway to Wyoma Place
Chad Drive	Singley Drive to Aaron Park Drive
Whittier Street	Entire Segment

Staff recommends that Council adopt a resolution to grant initial acceptance of the project and authorize the reduction of the contractor's faithful performance bond to \$77,245. The project will remain under warranty for a one-year period.

A contract change order is required for additional unforeseen work due to street conditions discovered during the work, requiring additional field adjustment to improve roadway drainage and to provide a smooth pavement surface. A contract change order with Granite Construction in the amount of \$83,500, including \$50,000 budget appropriation, is therefore requested.

**Fiscal Impact:** A budget appropriation in the amount of \$50,000 from the Street Fund is required to approve this change order.

**Recommendations:**

1. Adopt a resolution granting initial acceptance of the Singley Area Street Rehabilitation, Phase V, Project No. 8193, subject to the one year warranty period and a reduction of the contractor's faithful performance bond to \$77,245.
2. Authorize the City Engineer to execute a contract change order with Granite Construction for the Singley Area Street Rehabilitation, Phase V, in the amount not to exceed \$83,500.
3. Approve a budget appropriation for \$50,000 from the street fund into CIP No. 8193.

**RA6. Agency Adjournment**

**XVIII. REPORTS OF OFFICERS**

**City Council**

**6. Report from Mayor Livengood Regarding a Proposed Professional Appearance Policy (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood is proposing a new Professional Appearance Policy to improve the professional appearance of the City of Milpitas employees, particularly those who directly interact with the public or represent the interests of the citizens of Milpitas at public meetings. A draft policy is included in the agenda packet.

**Recommendation:** Approve Professional Appearance Policy and direct the City Manager to proceed with implementation.

**7. Report from Mayor Livengood Regarding a Proposed Green Building Ordinance (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood is proposing that the City Council adopt a Green Building Ordinance before the end of 2009. He recommends that City staff work with outside stakeholders, the Planning Commission and the City Council Land Use and Transportation Subcommittee before presenting a draft ordinance to the City Council before August 1, 2009.

**Recommendation:** Direct the City Manager to proceed with a study and prepare a green building ordinance before August 1, 2009 for consideration by the Council for all new construction in the City of Milpitas.

**XIX. NEW BUSINESS**

8. **Approve the 2009 Commissioners' Recognition Event (Staff Contacts: Rosana Cacao, 586-3207, and Dale Flunoy, 586-3228)**

**Background:** The City of Milpitas recognizes its Commissioners in April at the annual Commissioners' Recognition Event. The event celebrates the volunteerism of Commissioners and Committee members along with their accomplishments. A budget of \$10,000 was approved in the FY 2008-09 City budget for this event. Three proposals for the 2009 Commissioners Recognition Event for consideration are provided.

**Option A**

A Commissioners' Celebration Brunch would be held at the Milpitas Community Center on Saturday, April 4, 2009 from 9:00 a.m. to 11:00 a.m. A sit down buffet brunch would be provided to all Commissioners and Committee members plus one guest.

**Held at the Milpitas Community Center**

Food/Drink:	\$6,500.00 (Breakfast Buffet) (based on 175 attendees)
Invitations/Certificates	\$350.00
Entertainment:	\$500.00
Misc. Supplies:	\$600.00
Linens/Deco:	\$1,000.00
Appreciation Gift:	<u>\$1,500.00</u>
	\$10,450.00

**OR**

\$3,000.00 (More elaborate gift)  
\$11,950.00 TOTAL

**Option B**

A Commissioners' Celebration Brunch would be held at Dave & Busters on Saturday, April 4, 2009 from 9:00 a.m. to 11:00 a.m. A sit down buffet brunch would be provided to all Commissioners and Committee members plus one guest.

**Held at Dave & Busters**

Food/Drink:	\$5,500.00 (Signature Buffet) (based on 175 attendees)
Certificates/Invitations:	\$350.00
Entertainment:	\$500.00
Misc. Supplies:	\$600.00
Appreciation Gift	<u>\$1,500.00</u>
	\$8,450.00

**OR**

\$3,000.00 (More elaborate gift)  
\$9,950.00 TOTAL

**Option C**

A Commissioners' Celebration Brunch would be held at the Embassy Suites Hotel on Saturday, April 4, 2009 from 9:00 a.m. to 11:00 a.m. A sit down buffet brunch would be provided to all Commissioners and Committee members plus one guest.

**Held at Embassy Suites Hotel**

Food/Drink:	\$6,825.00 (Brunch Buffet) (based on 175 attendees)
Invitations/Certificates	\$350.00
Entertainment:	\$500.00
Misc. Supplies:	\$600.00
Appreciation Gift	<u>\$1,500.00</u>
	\$9,775.00

**OR**

\$3000.00 (More elaborate gift)  
\$11,275.00 TOTAL

**Recommendation:** Approve Option B Signature Brunch with smaller gift, for the Annual Commissioners' Recognition Event, held at Dave & Busters in the Great Mall on Saturday, April 4, 2009, with a total budget of \$8,450.

## XX. ORDINANCE

- \* 9. **Waive Second Reading and Adopt Ordinance No. 43.210 Amending Chapter 100, V (Traffic) of the Milpitas Municipal Code (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** This ordinance was introduced at the December 16, 2008 City Council meeting. The ordinance would amend the following subsections of the Milpitas Municipal Code:

- Section V-100-14.01, Increase of State Speed Limit in Certain Zones
- Section V-100-14.02, Decrease State Speed Limit in Certain Zones
- Section V-100-15.05, Angled Parking on Certain Streets
- Section V-100-15.06, Parking Time Limited on Certain Streets
- Section V-100-15.12, Vehicles in Excess of Certain Gross Weight Limits Prohibited
- Section V-100-15.16, Specific Turning Movements Prohibited at Specific Places

This Municipal Code update through Traffic Ordinance No. 43.210 serves to: 1) update speed limits based on the recommendations of recently completed Engineering and Traffic Survey studies (speed surveys) that are completed every seven years to comply with California Vehicle Code requirements and are necessary to allow for radar enforcement by the police department, and 2) provide consistency with various parking and vehicle restrictions that have occurred over the past several years but were never documented within the Municipal Code.

**Fiscal Impact:** None.

**Recommendations:**

1. Waive the second reading of Ordinance No. 43.210.
2. Adopt Ordinance No. 43.210 amending Chapter 100, V (Traffic) of the Milpitas Municipal Code.

## XXI. RESOLUTIONS

- \* 10. **Adopt a Resolution Awarding the Bid and Authorize the City Manager to Execute a Contract for Abandoned Shopping Cart Retrieval Service to City Wide Cart Service, Inc. (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City's Purchasing Agent determined that formal bid procedures were not in the City's best interest to obtain shopping cart retrieval services. Purchasing worked with Neighborhood Services to jointly develop the specification for a Request for Proposal (RFP) for abandoned shopping cart retrieval. Request for Proposals (RFPs) are awarded to the proposer offering the most advantageous proposal after consideration of all evaluation criteria.

On August 26, 2008, staff solicited proposals for this service. The original vendor to whom the award was made defaulted on the insurance requirements. Therefore, on October 10, 2008, staff sent out a new solicitation for proposals, and advertised in the local newspaper and on the City website. Proposals were evaluated by a City team consisting of the Purchasing Agent, the Senior Housing and Neighborhood Preservation Specialist, a Land Development Associate Civil Engineer, a Utility Associate Engineer, and the Assistant City Attorney. After consideration of all criteria, the team determined that City Wide Cart Service, Inc. presented the most

advantageous proposal. The contract is for a one year term with two additional one-year options based on performance and incremental pricing at the City's discretion.

**Fiscal Impact:** None. \$17,700 is the contract total and funds are available for this service from the Neighborhood Preservation operating budget.

**Recommendation:** Adopt a resolution awarding the bid and authorize the City Manager to execute a contract for abandoned shopping cart retrieval service with City Wide Cart Service, Inc. for the annual not-to-exceed amount of \$17,700.00, subject to approval as to form by the City Attorney.

\* 11. **Adopt a Resolution Approving the Sole Source Purchase of Almetak Storm Drain Markers in the Amount of \$23,907.77 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The Regional Water Quality Control Board (RWQCB) requires the City to mark all catch basins with "No Dumping – Drains to Bay" to discourage the public from dumping pollutants into the storm drain collection system. The current practice is to stencil the message above the curb with pavement paint that lasts approximately one to two years. This process is labor intensive for City crews and the resultant stencil becomes objectionable in appearance as the paint deteriorates.

Instead of stenciling, staff is recommending metal markers which not only meet RWQCB requirements but also have a 30-year warranty. The markers are permanently attached to the curb using bolts and a special adhesive. Using metal markers will also reduce City maintenance costs. Staff considered plastic markers, which are applied with pavement adhesive alone, but since the plastic markers sit higher off the pavement and are not bolted down, they are more easily dislodged and need to be replaced more often than metal markers.

Almetak, Inc. manufactures metal markers four inches in diameter, blue and green in color and bear the symbol of a fish over a wave in addition to the required "No Dumping" language. Almetak is the sole manufacture of metal catch basin markers in the US. Staff requests that the purchase be authorized as a sole source procurement pursuant to Municipal Code Section I-2-3.09. To install a marker at every storm drain, the City would need to purchase 3,520 markers. Staff recommends the purchase of 3,620 markers to allow 100 markers as replacement stock for a total cost of \$23,907.77 including mounting hardware, adhesive and sales tax.

**Fiscal Impact:** None. Funds were planned for this purchase in Capital Improvement Project No. 3702, Minor Storm Drain Projects.

**Recommendation:** Adopt a Resolution approving the sole source purchase of 3,620 Almetak Storm Drain Markers in the amount not-to-exceed \$23,907.77.

\* 12. **Adopt a Resolution Approving the "Avoid the 13" Grant Program Agreement with the County of Santa Clara and the California Office of Traffic Safety (Staff Contact: Henry Kwong, 586-2419)**

**Background:** The County of Santa Clara and the California Office of Traffic Safety are administering the 2008-2012 "Avoid the 13" grant program that offers grant funds to reimburse law enforcement agencies for overtime expenditures specifically directed towards Driving Under the Influence (DUI) enforcement. The goals of the program are to apprehend drunk drivers and to reduce the number of people killed or injured in alcohol-related crashes. The City of Milpitas Police Department has been approved for a grant of \$21,659.08 to provide DUI enforcement staffing on an overtime basis in Milpitas in conjunction with countywide "Avoid the 13" holiday campaigns between October 1, 2008 and January 31, 2012.

**Fiscal Impact:** None. Overtime expenditures will be reimbursed by the grant.

**Recommendations:**

1. Adopt a resolution approving the agreement with the County of Santa Clara and the California Office of Traffic Safety.
2. Authorize the Chief of Police to execute the agreement, subject to approval as to form by the City Attorney.

**\* 13. Adopt a Resolution Granting Initial Acceptance for Sewer Deficiency and Structural Correction Program, Phase 4A, Project No. 6073 (Staff Contact: Jeff Leung, 586-3326)**

**Background:** The City Council awarded Project No. 6073 to J&M, Inc. on May 6, 2008. The work consisted of replacement of deficient sewer lines at three locations: Louise Court, Moonlight Circle, and Heath Street from Redwood Avenue to Elm Avenue.

The project has been successfully completed. Due to existing poor soil conditions, staff will conduct additional monitoring to confirm that the new sewer lines do not settle during the one-year warranty period. Staff recommends that Council grant an initial acceptance and authorize the reduction of the contractor's faithful performance bond to \$200,000.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting initial acceptance of Project No. 6073, subject to the one-year warranty period and reduction of the contractor's faithful performance bond to \$200,000.

**\* 14. Adopt a Resolution Approving the Sole Source Purchase of 45 Self Contained Breathing Apparatus (SCBA) from Drager Safety, Inc. and Approve a Budget Appropriation of \$180,000.00 to be Funded from the Federal Emergency Management Agency (FEMA) Grant (Staff Contacts: Geoffrey Maloon, 586-2820, and Chris Schroeder, 586-3161)**

**Background:** On October 21, 2008, the City Council adopted Resolution No. 7788 accepting a \$225,000 in matching funds grant from the Federal Emergency Management Agency (FEMA). The federal share amount is \$180,000 and the local cost match is \$45,000. The City Council also requested staff to explore available pricing under the federal General Services Administration (GSA). However, documentation from the manufacturer recently revealed that the specific product sought was not yet officially on the GSA product list, even though the formal application was submitted. Therefore, the desired Sole Source Breathing Apparatus (SCBA) equipment cannot be purchased through a GSA contract.

Fire Department staff conducted extensive fit and function test of SCBA equipment including products manufactured by Drager Safety, Inc. (Drager) and four other manufacturers. The Fire Department analyzed 18 different fit and function criteria and only the Drager model successfully met all of the criteria. Specifically, the Drager equipment was the only SCBA that included the cylinder quick connect/disconnect, which allows the firefighter to change cylinders in less than half the time required for changes using a traditional screw fitting/adaptor, in order that suppression personnel can return to the immediately dangerous to life or health environment. In addition, Drager equipment was the only product that offered adjustable pack sizing to accommodate the height variation in personnel and provide a proper fit to reduce firefighter injury and fatigue, allowing for more effective and efficient delivery of service.

After a good faith review of the testing by the Fire Department, the Purchasing Agent determined, pursuant to Municipal Code Section I-2-3.09 "Sole Source Procurement," that Drager was the only source for SCBA equipment that meets the Fire Department's safety standards, due to the cylinder quick connect/disconnect and adjustable pack sizing.

The manufacturer of the Drager equipment submitted a formal quote equivalent to 40% off list or 5.75% below GSA, and also included 45 extra air cylinders at no charge, valued at \$650 each, for an additional savings of \$29,250.

**Fiscal Impact:** Funds for this purchase are available from the aforementioned FEMA grant and the Fire Department operating budget.

**Recommendations**

1. Adopt a Resolution approving the sole source purchase of 45 self contained breathing apparatus (SCBA) from Drager Safety, Inc. in the amount of \$224,972.51.
2. Approve a Budget Appropriation of \$180,000 funded from the Federal Emergency Management Agency (FEMA) Grant.

**\* 15. Adopt a Resolution Approving an Increase of Milpitas Arts and Culture Grant Program Amount per Applying Artist or Organization (Staff Contact: Renee Lorentzen, 586-3231)**

**Background:** The Milpitas Arts and Culture Grant (MACG) Program currently offers grants to individual artists and organizations up to \$2,000. This grant amount has not been changed since the program began in the 1990's and is no longer sufficient to attract or fund quality cultural and artistic programs and events in the City of Milpitas. The City Council approved the creation and administration of this grant program with a total grant budget of \$20,000 with individual grants to be allotted up to \$2,000. Due to recent budget restraints, the total program budget was reduced to \$15,000.

On August 25, 2008, the Arts Commission meeting voted to recommend to the City Council to increase of the MACG amount per applying artist and/or organization to \$4,000. Through this increase, the Arts Commission hopes to improve the quality of grant events the City supports and present fewer, but higher quality, cultural and artistic programming in the City of Milpitas.

**Fiscal Impact:** None. The total grant program budget would remain at its current \$15,000.

**Recommendation:** Approve the Arts Commission's recommended increase of the Milpitas Arts and Culture Grant Program amount per applying artist and/or organization to \$4,000.

**XVII. BIDS AND CONTRACTS**

**\* 16. Authorize the City Engineer to Execute Contract Change Order No. 12 with Anderson Pacific Engineering for the Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The City Council awarded a project to construct the Main Sewage Pump Station improvements to Anderson Pacific Engineering Construction, Inc. on December 5, 2006. This project provided for a complete refurbishment of the existing Main Sewage Pump Station, including the construction of a new underground wet well with submersible pumps and inline grinders; a new control building with electrical room; and site improvements including drainage, parking areas, perimeter fencing and lighting. This project is currently on schedule and within budget. As construction progressed, additional modifications were identified as needed in order to successfully execute the project.

**Change Order No. 12:** This change order consists of the following four items:

**Item No. 1-**Disposal of spoils: This additional cost is to contain and dispose soils containing hazardous wastes encountered during excavation. The amount of this item is \$71,160.

**Item No. 2-** Main entrance pavement: credit for substituting two inches of asphalted concrete pavement overlay with slurry seal to maintain proper drainage at main entry gate. Also provide traffic striping to accommodate new gate configuration. The credit for this item is \$3,395.

**Item No. 3-** Garage roof: Cost to provide and install gutters, downspouts and wall vents to the new garage building. Material and color to match similar equipment specified for the control and

entryway buildings. Gutters and downspouts are necessary to prevent damage and erosion to surrounding surfaces. Wall vents are required to reduce condensation inside garage. The amount of this item is \$8,131.00.

**Item No. 4-** Additional labor to secure and place anchors for grit chamber, adjust access covers, and attain electrical code compliance. The amount of this item is \$1,114.

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

**Contract Time extension:** This change order adds five working days to the contract.

**Recommendation:** Authorize the City Engineer to execute Contract Change Order No. 12 for Anderson Pacific Engineering Construction, in the amount of \$77,010, for the Main Sewage Pump Station, Project No. 6103.

- \* 17. **Authorize City Manager to Execute an Agreement with Cupertino Sanitary District to Purchase 0.75 Million Gallons per Day (MGD) Treatment Capacity, and to Execute the Fourth Amendment to Master Wastewater Agreement with Cities of San Jose and Santa Clara, and Approve a Budget Appropriation (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** At the May 6, 2008 meeting, the Milpitas City Council approved the purchase of 0.75 million gallons per day (mgd) wastewater treatment capacity at the San Jose/Santa Clara Water Pollution Control Plant (WPCP). Staff has completed negotiations with Cupertino Sanitary District (CuSD) for 0.75 mgd of their available capacity and a purchase agreement with CuSD for \$4,549,161 is now ready for Council approval. The purchase includes three of the four capacity constituents: flow, suspended solids, and ammonia. CuSD does not have excess biochemical oxygen demand. The City will need to procure some additional biochemical oxygen capacity in five to ten years, and would be purchased from the WPCP.

In addition to the purchase agreement approval with CuSD, approval of an amendment to the Milpitas Master Agreement with the cities of San Jose and Santa Clara, owners of the Wastewater Treatment Plant, is requested. The proposed Master Agreement Fourth Amendment establishes the agreed upon new capacity right allocation and capital cost share at the WPCP due to the transfer of 0.75 mgd capacity from CuSD to Milpitas.

The capacity is needed for build-out of the Transit Area Specific Plan. Funding this purchase was included in the Transit Area Development Impact Fee Program. The Transit Area Impact Fee Fund does not have any funding available since no fees have been collected. Therefore, staff recommends the Redevelopment Agency Fund advance \$4,549,161 to the Transit Area Impact Fee Fund to cover the payment to CuSD.

Copies of the CuSD agreement, budget appropriation form, and Master Agreement Fourth Amendment are included in the Council agenda packet.

**Fiscal Impact:** None. There are sufficient funds in the Redevelopment Project Fund to advance this temporary loan.

**Recommendations:**

1. Authorize the City Manager to execute the Agreement Between Cupertino Sanitary District and the City of Milpitas for Redistribution of 0.75 MGD of Treatment Plant Capacity in the form or substantially the same form as attached, subject to approval as to form by the City Attorney.
2. Authorize the City Manager to approve the advance of \$4,549,161 from the Redevelopment Project Fund.
3. Authorize the City Manager to appropriate those funds for payment to Cupertino Sanitary District.

4. Authorize the City Manager to execute the Fourth Amendment to the Master Wastewater Treatment Plant Agreement with the Cities of San Jose and Santa Clara.

\* **18. Approve the Purchase of Assorted Badger Water Meters from National Meter and Automation for \$46,295.28 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** On May 16, 2008, the City Council approved Badger meters as the standard brand of water meters for the City of Milpitas. The current purchase will restock supplies depleted during FY 2007-08.

**Fiscal Impact:** None. This is a programmed expense approved in the FY2008-09 budget for Utility Maintenance.

**Recommendation:** Approve the purchase of assorted Badger water meters from National Meter and Automation for the not-to-exceed amount of \$46,295.28.

**XXIII. ADJOURNMENT**

**NEXT REGULAR MEETING  
TUESDAY, JANUARY 20, 2009**