



**MILPITAS CITY COUNCIL MEETING AGENDA  
JANUARY 20, 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**
- 1) 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
- 2) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**  
Pursuant to CA Government Code § 54956.9, Swendell vs. City of Milpitas, WCAB #WCK – 0060891 and #OAK – 0305182, #OAK - 0308874; Upcoming Filing Date – 02/09/09
- 3) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**  
Pursuant to CA Government Code § 54956.9, Richner vs. City of Milpitas, WCAB #SJO – 0150788; Filed 06/04/92
- 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 – January 6, 2009**
- VIII. SCHEDULE OF MEETINGS – Council Calendars for January and February 2009**
- IX. PRESENTATIONS**
- Proclamations:  
Emilia Serpa's 100<sup>th</sup> Birthday – January 29, 2009  
Dr. Martin Luther King Jr. Birthday – January 19, 2009
- 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 HEARING**

- 1. Adopt a Resolution Directing Weed Abatement Program (Staff Contact: Albert Zamora, 586-3371)**

**XVI. UNFNISHED BUSINESS**

- 2. Receive Report on Front Yard Maintenance Regulations (Staff Contact: Gloria Anaya, 586-3075)**

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

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

**RA2. Approval of Minutes – January 6, 2009**

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

**\*RA4. Adopt Resolution Granting Initial Acceptance of Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Jeff Leung, 586-3326)**

**RA5. Agency Adjournment**

**XVIII. REPORTS OF OFFICERS**

**City Council**

**3. Report from Mayor Livengood Regarding a Proposed Alternative Fuel Vehicles Policy (Contact: Mayor Livengood, 586-3051)**

**4. Report from Mayor Livengood Regarding an Assignment for the Neighborhood Services and Education Subcommittee (Contact: Mayor Livengood, 586-3051)**

**\* 5. Consider Mayor’s Recommendations for Re-appointments to the Milpitas Telecommunications Commission (Contact: Mayor Livengood, 586-3051)**

**XIX. NEW BUSINESS**

**6. Receive Verbal Report from the County of Santa Clara on the Comprehensive County Expressway Planning Study and Request Authorization to Submit a Letter of Support to the County Board of Supervisors (Staff Contact: Jaime Rodriguez, 586-3335)**

**7. Receive Economic Development Monthly Update (Staff Contact: Diana Barnhart, 586-3059)**

- \* 8. **Authorize Staff to Present a Technical Paper at the American Society of Civil Engineers 2009 Lifeline Earthquake Engineering in a Multihazard Environment Conference (Staff Contact: Kathleen Phalen, 586-3345)**
- \* 9. **Authorize the Purchasing Agent to Dispose of a Surplus Ford Thunderbird at Auction (Staff Contact: Chris Schroeder, 586-3161)**

**XX. ORINANCES**

- \* 10. **Waive the Second Reading and Adopt Ordinance No. 38.786 Amending Sections 13 and 35 of the Zoning Ordinance (Staff Contact: Cindy Hom, 586-3284)**
- \* 11. **Waive the Second Reading and Adopt Ordinance No. 278 Establishing Levy for Community Facilities District No. 2008-1 (Staff Contact: Michael Ogaz, 586-3041)**

**XXI. RESOLUTIONS**

- \* 12. **Adopt a Resolution Approving the Purchase of Assorted Badger Water Meters from National Meter and Automation for \$46,295.28 (Staff Contact: Chris Schroeder, 586-3161)**
- \* 13. **Adopt a Resolution Approving the Purchase for the Not-To-Exceed Amount of \$48,000 from Peelle Technologies for Document Imaging Services (Staff Contact: Chris Schroeder, 586-3161)**
- \* 14. **Adopt a Resolution Authorizing the City Manager to Execute an Amendment to the Contract with Barry Poole to Extend and Increase Amount by \$19,000 for Tennis Classes (Staff Contact: Dale Flunoy, 586-3228)**

**XXII. CLAIM AND DEMAND**

- \* 15. **Approve Payment Request to County of Santa Clara for 2008 Municipal Election Costs (Staff Contact: Chris Schroeder, 586-3161)**

**XIII. ADJOURNMENT**

**NEXT REGULAR MEETING  
TUESDAY, FEBRUARY 3, 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 HEARING

#### 1. **Adopt a Resolution Directing Weed Abatement Program (Staff Contact: Albert Zamora, 586-3371)**

**Background:** At its meeting of December 2, 2008, the Council adopted Resolution No. 7804 declaring weeds on certain described properties to be a public nuisance, and set a public hearing for January 20, 2009 to hear objections. A copy of the resolution was forwarded to the Santa Clara County Agricultural Commissioner. A notice for the public hearing was published and property owners mailed a notice of the proposed abatement by the County. The purpose of the public hearing is for owners who object to the removal of the weeds, to state their objections before the weeds are removed, and prior to the City pursuing actions to recover these costs. A list of properties to be abated is included in the Council's agenda packet along with a resolution directing the County Agricultural Commissioner to abate the weeds.

**Fiscal Impact:** None

**Attachments:** 1. Draft Resolution, and 2. List of properties to be abated.

**Recommendations:**

1. Open the Public Hearing for public comments, and move to close the Public Hearing.
2. Adopt a resolution directing the County Agricultural Commissioner to abate the nuisance, keep an account of the cost, and embody such account in a report and assessment list to the City Council in accordance with the Milpitas Municipal Code.

### XVII. UNFINISHED BUSINESS

#### 2. **Receive Report on Front Yard Maintenance Regulations (Staff Contact: Gloria Anaya, 586-3075)**

**Background:** At its meeting of August 5, 2008, the City Council directed staff to provide a report on the City's current rules regarding maintenance of residential front yards as the first step in considering the initiation of a Residential Front Yard Beautification Program. The Neighborhood Beautification Ordinance (NBO), in Title V, Section 500 of the Milpitas Municipal Code, is the City's primary enforcement tool for issues related to maintenance of landscaping. The following is an excerpt of the applicable section of the NBO:

V-500-2.01 Unlawful Property Nuisance--Private Property

It shall be unlawful for any person owning, leasing, renting, occupying, or having charge or possession of private property in the City to maintain or to allow to be maintained such property in such manner that any of the following conditions are found to exist thereon for an unreasonable period of time (as defined in Section V-500-1.15) after a notice to abate pursuant to Section V-500-3.01 is provided, except as may be allowed by this Code:

(b) Landscaping/Vegetation.

(1) Dead, decayed, diseased or hazardous trees, weeds, shrubs or other vegetation, dangerous to public health, safety and welfare or if visible from the public right-of-way. This Section shall not be interpreted to prevent an owner/occupant from maintaining a garden on the property for the purpose of growing fruits and vegetables.

(2) Vegetation, that is overgrown and likely to harbor rats, vermin, and other similar nuisances detrimental to neighboring properties, or vegetation growing into the public right-of-way, or vegetation obstructing the view of drivers on any public street or right-of-ways or private driveways.

While this section allows the enforcement of dead vegetation visible from the public right-of-way, it does not define or require landscape maintenance. Staff has provided a sample of other city ordinances that require landscaping maintenance in residential areas in the agenda packet.

**Fiscal Impact:** None.

**Recommendation:** Receive report on Front Yard Maintenance Regulations and direct staff accordingly.

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

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

**RA2. Approval of Minutes – January 6, 2009**

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

**\*RA4. Adopt Resolution Granting Initial Acceptance of Sports Center Large Gymnasium Improvements, Project No. 8160 (Staff Contact: Jeff Leung, 586-3326)**

**Background:** The Agency awarded the Sports Center Large Gymnasium Improvements, Project No. 8160, to Calstate Construction, Inc. on January 15, 2008. This project includes replacing the gymnasium floor and support structure, installation of new bleachers, replacement of basketball backboards, painting, installation of air-conditioning and related insulation, and safety padding of gymnasium walls.

The project has been completed and staff recommends that the Agency adopt a resolution granting initial acceptance of the project and authorizing reduction of the contractor's faithful performance bond to 10% of the contract amount or \$53,970.50. The project will remain under warranty for a one-year period.

**Fiscal Impact:** None

**Recommendation:** Adopt a Redevelopment Agency resolution granting initial acceptance of the Sports Center Large Gymnasium Improvements, Project No. 8160.

**RA5. Agency Adjournment**

## **XVIII. REPORTS OF OFFICERS**

### **City Council**

**3. Report from Mayor Livengood Regarding a Proposed Alternative Fuel Vehicles Policy (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood is proposing a new Alternative Fuel Vehicles Policy and recommends that by the year 2012, all City fleet vehicles would use alternative fuels. Since there are financial and logistical issues that need to be addressed, he is requesting the City Manager to report back to the Council with a plan of action and draft policy.

**Fiscal Impact:** Potential impacts need further review by the City Manager.

**Recommendation:** Direct the City Manager to pursue an Alternative Fuel Vehicles Policy for consideration by the Council.

**4. Report from Mayor Livengood Regarding an Assignment for the Neighborhood Services and Education Subcommittee (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood is requesting that the City Council assign the Neighborhood Services and Education Subcommittee the task of oversight of the new Senior Center project. The subcommittee would provide the same level of oversight as the Library Subcommittee during construction of this project.

**Recommendation:** Assign the Neighborhood Services and Education Subcommittee the task of oversight of the new Senior Center project.

\* **5. Consider Mayor's Recommendations for Re-appointments to the Milpitas Telecommunications Commission (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood recommends the following persons be re-appointed to the Telecommunications Commission:

Re-appoint Albert Alcorn to a term that expires in January 2011.

Re-appoint William Lam to a term that expires in January 2011.

Re-appoint Satish Bansal to a term that expires in January 2011.

Re-appoint Sumeet Ahuja as Alternate No. 1 to a term that expires in January 2011.

**Recommendation:** Consider the recommendations from Mayor Livengood, and move to approve his recommended re-appointments to the Milpitas Telecommunications Commission.

**XIX. NEW BUSINESS**

**6. Receive Verbal Report from the County of Santa Clara on the Comprehensive County Expressway Planning Study and Request Authorization to Submit a Letter of Support to the County Board of Supervisors (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** In 2003, the County of Santa Clara adopted the Comprehensive County Expressway Planning Study. The Study provides a long-term plan for the improvement and maintenance of the expressways within Santa Clara County. Covered features include needed capacity and operational improvements, signal operations, high-occupancy vehicle (HOV) lanes, bicycle and pedestrian improvements, and "finishing" elements such as landscaping and sound walls. The Study also included a summary of ongoing maintenance and operational needs. It is an important document, as its contents are used in part to identify regional transportation needs.

The County now seeks the endorsement from the City of Milpitas and other local agencies for the proposed 2008 Update of the Study. The Draft 2008 Update is included in the Council agenda packet and is also available for review at the Office of the City Clerk.

The 2008 Update tackles some key issues that were not addressed in the 2003 Study. These issues include developing an expenditure plan for the highest-priority expressway projects, integrating South County's Santa Teresa-Hale Corridors' needs into the project lists, and developing a plan to more completely accommodate pedestrians on all expressways. The 2008 Update acknowledges the funding challenges for regional improvements and urges, among other things, County encouragement of city collection of traffic mitigation fees and new development conditions to support the expressway system. The City of Milpitas already has in place an existing Traffic Impact Fee (TIF) for widening improvements along Montague Expressway and also coordinates development project conditions of approval with the County to ensure that private development projects are consistent with both local and regional projects.

The expressway that most immediately affects the City is the Montague Expressway. The following Montague Expressway improvements are included in the Draft Plan Update:

- **Capacity and Operational Improvement Element:** Widen to 8 lanes from Mission College (Santa Clara) to I-680 and 6 lanes to Park Victoria, including various intersection at-

grade improvements and I-880 and I-680 interchange work. This project is partially completed and partially funded.

- **Bicycle Element:** Install bicycle detection on shoulders, left turn lanes, and cross streets as needed at all signalized intersections.
- **Pedestrian Element:** Add new sidewalks between I-880 and McCandless/Trade Zone; both sides between Trade Zone to Great mall Parkway/Capitol Avenue, north side east of Great Mall Parkway to east of Milpitas Blvd and the South side: three gaps between Capitol Avenue and Pecten Court.

When county funding becomes available for expressway projects within the City of Milpitas borders, partnerships for the use of local matching funds will need to be evaluated through the use of previously collected developer fees from the Montague Expressway TIF.

Development of the Update was completed through participation of local staff from each agency in the County including the City of Milpitas. In addition, the Update was completed with the participation of local policy makers through a Policy Advisory Board in which the City of Milpitas also participated.

**Fiscal Impact:** There is no direct fiscal impact in endorsing the Comprehensive Expressway Planning Study 2008 Update, although it does in part identify and prioritize funding for future work on regional projects.

**Recommendations:**

1. Receive verbal report from the County of Santa Clara on the 2008 Update of the Comprehensive County Expressway Planning Study.
2. Authorize the Mayor to send a letter to the County Board of Supervisors indicating the City of Milpitas' endorsement of the Draft 2008 Update.

**7. Receive Economic Development Monthly Update (Staff Contact: Diana Barnhart, 586-3059)**

**Background:** At the December 16, 2008 City Council meeting, staff was directed to pursue a Local Preference Ordinance that would include performance measurements to evaluate its effectiveness; to develop recommendations for implementation of a low interest revolving loan program using Redevelopment Agency funds for business incentives; and, to coordinate with the Mayor and Economic Development Subcommittee a schedule for targeted local corporate business outreach.

**Local Preference Ordinance:** Staff started the development of a local preference ordinance to present to the Council in March. Several cities in the Bay Area have similar policies that will be helpful as staff drafts a proposal for Council consideration.

**Business Incentives:** Staff will submit incentive options to the Economic Development Subcommittee for its review.

**Business Outreach**

1. **Hotel Roundtable:** Invitations were sent to the major hoteliers in the City for a Mayor's Roundtable in early February. A schedule for roundtable meetings will be presented to the Economic Development Subcommittee at their next meeting.
2. **Mervyn's Redevelopment:** The owners and leasing agents for the Mervyn's property are scheduled to meet with the Mayor and staff in late January to discuss redevelopment and tenanting options.
3. **Corporate Outreach:** Invitations have been extended to several high tech companies for the Mayor to meet with their Chief Executives. The initial outreach will be to those businesses that are significant fiscal and economic drivers, such as large employers and sales tax generators.

Redevelopment Activities: With the selection of a developer for the I-880 sign anticipated by the end of January, staff will move forward with the extension of time for the Great Mall Project Area. Currently the Project Area terminates in November 2010, but since it does not generate tax increment, the extension will be complete prior to the sign construction.

Marketing: In conjunction with the Chamber of Commerce's "Shop and Dine" program, the City has advertised in the Milpitas Post and San Jose Mercury News along with local restaurants and businesses. The most recent ads were in the January 8 Valley section of the Mercury News and in the January 8 issue of the Post.

Retail News:

1. Great Mall: Great Mall management reports that sales in November were **down** 1.4% as compared to Nov. 2007, but that year-to-date through November sales were **up** 2.1% over 2007. Projected 2008 vs. 2007 same store sales, those are **up** .9%. It was further noted that many of the other Mills centers are down across the board on sales and only a couple of centers are doing as well as or better than the Great Mall.
2. Shopping Centers Today, in its weekly news email, indicated that December sales were flat locally, regionally and nationally. One group, the National Retail Federation (NRF), which represents national chains, have petitioned the President-elect to incorporate as many as 30 tax-free shopping holidays into his upcoming economic stimulus legislation. The proposal calls for sales tax holidays to be held during March, July and October 2009, each lasting 10 days and including two weekends. The NRF states that by "temporarily lifting the sales tax for the three 10-day periods, it is estimated that consumers could save nearly \$20 billion, or about \$175 for the average family." One firm that tracks retail sales points out that tax moratoriums only work when consumers have spare money to spend. Using this past December as an example, one retail analyst points out that "There [were] discounts of 30 percent to 75 percent, and that hasn't stimulated retail sales to the extent that retailers would like."
3. New SanDisk Music Player: SanDisk unveiled its Sansa slotRadio player alongside its own line of compatible memory cards, all of which come with preloaded music, at the Consumer Electronics Show (CES) in Las Vegas. It will be introduced for \$99.99, and users have the option to purchase new slotRadio-compatible cards with a new mix of music for \$39.99 each. The device will be available for purchase online and at RadioShack stores in early 2009.

Business Changes: Several business have recently announced layoffs that impact local offices: LifeScan (96 employees), KLA-Tencor (157 employees), Advanced Medical Optics (AMO) (61 employees), Seagate Technologies (91 employees) and SanDisk (96 employees). AMO announced on Monday, January 12, 2009 its acquisition by Abbott Laboratories, and staff is in contact with the local office to understand the full impact. Seagate announced in the Fall of 2008 that it was closing its Milpitas location and relocating the manufacturing process overseas. The other companies continue to have strong employee levels within the Milpitas facilities.

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

Recommendation: Receive monthly Economic Development report from the Economic Development Manager.

- \* 8. **Authorize Staff to Present a Technical Paper at the American Society of Civil Engineers 2009 Lifeline Earthquake Engineering in a Multihazard Environment Conference (Staff Contact: Kathleen Phalen, 586-3345)**

Background: Staff was invited to present a technical paper at the Technical Council on Lifeline Earthquake Engineering (TCLEE) 2009 "Lifeline Earthquake Engineering in a Multihazard Conference" to be held by the American Society of Civil Engineers (ASCE) in Oakland, California on June 28 through July 1, 2009. One of the conditions of the conference sponsor is

that authors have been granted approval to present their papers from the responsible owning authorities of the featured projects, which, in this case, is the City of Milpitas.

The subject of the proposed paper is the City of Milpitas's Strategic Plan to Protect and Restore Water Utility Service in the Event of a Magnitude 7 Earthquake on the Hayward Fault. An abstract of this paper is included in the Council agenda packet. The conference committee has organized a special session for the municipal agencies located along the Hayward Fault. Staff believes this will be a valuable opportunity to share knowledge about cost-effective methods to prepare the water utility for a major earthquake.

**Fiscal Impact:** None. Costs of attending the conference are included in the Engineering Division training budget.

**Recommendations:** Authorize staff to present a technical paper at the American Society of Civil Engineers 2009 Lifeline Earthquake Engineering in a Multihazard Environment Conference.

\* **9. Authorize the Purchasing Agent to Dispose of a Surplus Ford Thunderbird at Auction (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City owns a 1993 Ford Thunderbird, VIN# 1FAPP62TXPH125772, that has reached the end of its useful life. The cost to maintain the vehicle exceeds its value and has been removed from service. The vehicle's value at auction is estimated to be approximately \$1,200. 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:** None. Proceeds from the disposal will be returned to the Equipment Replacement Fund.

**Recommendation:** Approve the request to auction the 1993 Ford Thunderbird vehicle.

**XX. ORINANCES**

\* **10. Waive the Second Reading and Adopt Ordinance No. 38.786 Amending Sections 13 and 35 of the Zoning Ordinance (Staff Contact: Cindy Hom, 586-3284)**

**Background:** On January 6, 2009, the City Council introduced Ordinance No. 38.768 to amend the Milpitas Zoning Ordinance to allow farmer's markets as conditionally permitted uses in the Industrial Park Zoning District and to include provisions in the Special Uses section of the Milpitas Zoning Ordinance to establish requirements and minimum performance standards for such farmer's markets. The Ordinance remains unchanged and is now ready for adoption.

**Fiscal Impact:** None.

**Recommendations:**

1. Waive the second reading of Ordinance No. 38.786.
2. Adopt Ordinance No. 38.786 for Zoning Amendment No. ZA08-0009.

\* **11. Waive the Second Reading and Adopt Ordinance No. 278 Establishing Levy for Community Facilities District No. 2008-1 (Staff Contact: Michael Ogaz, 586-3041)**

**Background:** In order to assure that sufficient funds are available to pay for the expansion of various municipal services required by the build-out of the Transit Area, Community Facilities District (CFD) No. 2008-1 is being formed to allow assessments to be applied to new residential development. This Ordinance is a necessary component of the CFD establishment process and allows for collection of the levy.

The Ordinance was introduced at the meeting of January 6, 2009, remains unchanged, and is now ready for adoption.

**Fiscal Impact:** None

**Recommendation:**

1. Waive the second reading and adopt Ordinance No. 278.
2. Adopt Ordinance No. 278 establishing levy pursuant to Community Facilities District.

**XXI. RESOLUTIONS**

- \* **12. Adopt a Resolution Approving the Purchase of Assorted Badger Water Meters from National Meter and Automation for \$46,295.28 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In May of 1999, the City went out to bid for water meters. Badger was the only company that was able to meet the City requirements for quality, service, and anti-tampering prevention. In May 2008, the Council approved Badger meters as the standard brand of water meter for the City of Milpitas. National Meter and Automation is the sole source distributor of Badger products in California.

The current purchase will restock the supplies that have been depleted during FY2007-08 as specified in the quote (in the agenda packet). The difference between the quotation and the amount requested is that Utility Maintenance is requesting to purchase two small portable meters for \$910 each and two electronic registers for \$295 each, instead of one each, as originally quoted. The additional small portable meter and electronic register plus sales tax brought the total to \$46,295.28.

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

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

- \* **13. Adopt a Resolution Approving the Purchase for the Not-To-Exceed Amount of \$48,000 from Peelle Technologies for Document Imaging Services (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City has used several different vendors to provide document imaging services, all with varying degrees of success. Approximately five years ago, Peelle Technologies offered to provide the same services at reduced rates based on State of California Master Service Agreement rates. The City agreed to a trial period during which Peelle's performance was shown to be superior to the competition. Since then, the City has also purchased Peelle's Kofax Ascent Capture software, and ten Fujitsu scanners to support the internal document imaging work performed by staff. On December 1, 2008, Peelle approached the City with an offer to further reduce costs by formally adopting the State of California Master Service Agreement rates. The primary savings is in the reduction of the rate for 8½" x 11" images from \$0.065 to \$0.047 per image, which applies to 90% of the City's imaging needs.

Building Inspection's operation requires a significant amount of document imaging. Staff estimated the annualized cost for this service to be approximately \$48,000.

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

**Recommendation:** Adopt a Resolution approving the purchase for the not-to-exceed amount of \$48,000 from Peelle Technologies for document imaging services.

- \* 14. **Adopt a Resolution Authorizing the City Manager to Execute an Amendment to the Contract with Barry Poole to Extend and Increase Amount by \$19,000 for Tennis Classes (Staff Contact: Dale Flunoy, 586-3228)**

**Background:** The City of Milpitas contracted with Barry Poole to provide a tennis program for the last three years on separate contracts. During this time, Mr. Poole increased the City sponsored tennis class enrollment and the amount of revenue to the Milpitas Parks and Recreation Department and the City. The current contract with Mr. Poole was executed on July 1, 2008 in the amount of \$19,000 to provide certified personnel, instruction, and supplies for the City's tennis classes and programs offered through the Milpitas Parks and Recreation Services Activity Brochure. The tennis program includes Youth Tennis lessons, Adult Tennis lessons, Junior Challengers, Super Slams, Novice Tennis, and Grand Slam Tennis levels. The current contract with Barry Poole expires on January 31, 2009. A copy of the current contract is included in the agenda packet.

The Milpitas Parks and Recreation Department has pre-planned tennis classes for which participants have already registered and paid the fees for the Spring session. In order to continue using Mr. Poole's services, the current contract needs to be amended to extend the termination date to June 30, 2009, and to increase the amount of the contract by \$19,000, for a total contract amount of \$38,000. A copy of the amendment is included in the agenda packet.

**Fiscal Impact:** None. Funds were approved by the City Council during the FY2008-09 budget hearing and are available from the Parks and Recreation Services Department operating budget for tennis contract classes in the Spring session.

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to the contract with Barry Poole extending the termination date to June 30, 2009 and for a total amount not-to-exceed \$38,000.

## XXII. CLAIM AND DEMAND

- \* 15. **Approve Payment Request to County of Santa Clara for 2008 Municipal Election Costs (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In accordance with Ordinance No. 23.10 of the Municipal Code, Purchasing has prepared one request over \$20,000 for approval: \$46,246 to the County of Santa Clara for the 2008 general election costs.

**Fiscal Impact:** None. It is a programmed expense in the Clerk's FY 2008-09 operating budget.

**Recommendation:** Approve the payment request of \$46,246 to the County of Santa Clara for the 2008 general election costs for the Municipal Election held on November 4, 2008.

## XXIII. ADJOURNMENT