



**MILPITAS CITY COUNCIL MEETING AGENDA
FEBRUARY 3, 2009**

**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), Mid-Management and Confidential Unit (LIUNA), Milpitas Police Officers Association (MPOA), International Association of Firefighters (IAFF). 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 (Vice Mayor McHugh)**
- VII. APPROVAL OF COUNCIL MEETING MINUTES – January 20, 2009**
- VIII. SCHEDULE OF MEETINGS – Council Calendar for February 2009**
- 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*)**

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.

- XIV. PUBLIC HEARING**

1. **Introduce Ordinances No. 120.45 (Water) and No. 208.44 (Sewer) for Amendments to Title VIII of the Milpitas Municipal Code for 2009-10 and 2010-11 Water, Recycled Water and Sewer Rate Adjustments (Staff Contact: Kathleen Phalen, 586-3345)**

XV. UNFINISHED BUSINESS

2. **Receive Progress Report on Alviso Adobe Renovation, Project No. 5055, Approve Grant Agreement with County of Santa Clara, and Approve Addendum No. 1 to the Agreement with the Santa Clara County Open Space Authority (Staff Contact: Greg Armendariz, 586-3317)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order and Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – January 20, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- RA4. Approve FY2008-09 Mid-Year Budget Appropriations for Operating Budget and Capital Improvement Projects Budget (Staff Contact: Emma Karlen, 586-3145)**
- RA5. Receive Financial Status Report for the Six Months Ended December 31, 2008 (Staff Contact: Emma Karlen, 586-3145)**
- *RA6. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2008 (Staff Contact: Emma Karlen, 586-3145)**
- *RA7. Approve a Final Balancing Contract Change Order with S.J. Amoroso and Adopt a Resolution Granting Initial Acceptance of Milpitas Public Library, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**
- *RA8. Adopt a Resolution Granting Initial Acceptance for the Street Crack Seal Project FY 2008-09, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**
- RA9. Agency Adjournment**

XVII. REPORT OF COUNCIL

3. **Review and Survey City Council Salaries (Contact: Councilmember Giordano, 586-3032)**

XVIII. ORDINANCE

4. **Introduce Ordinance No. 17.16, Related to Title I, Chapter 1 (Administration) of the Milpitas Municipal Code, Correcting the Schedule of Misdemeanors (Staff Contact: Michael Ogaz, 586-3040)**

XIX. RESOLUTION

- * 5. **Authorize the City Engineer to Execute Contract Change Order No. 13 with Anderson Pacific Engineering Construction, Inc. and Adopt a Resolution Granting Initial Acceptance of the Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

XX. BIDS AND CONTRACTS

- * 6. **Approve and Authorize the City Manager to Execute an Agreement with West Yost & Associates for Consulting Services for the South Milpitas Blvd. Water Line Replacement, Project No. 7098, and Los Coches Water Valve Replacement, Project No. 7084 (Staff Contact: Kathleen Phalen, 586-3345)**
- * 7. **Award the Bid for Diesel Retrofit to Cummings West, Inc. for the Not-to-Exceed Amount of \$43,723.68 (Staff Contact: Chris Schroeder, 586-3161)**

XXI. ADJOURNMENT

**NEXT REGULAR MEETING
TUESDAY, FEBRUARY 17, 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 / 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 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)

Sister Cities Commission

Telecommunications Commission (MUSD Rep.)

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

XIV. PUBLIC HEARING

1. Introduce Ordinances No. 120.45 (Water) and No. 208.44 (Sewer) for Amendments to Title VIII of the Milpitas Municipal Code for 2009-10 and 2010-11 Water, Recycled Water and Sewer Rate Adjustments (Staff Contact: Kathleen Phalen, 586-3345)

Background. The City of Milpitas provides water, recycled water, and sewer services to its residential, commercial, industrial, and institutional customers and has not increased its rates for these services since August 2006. The City purchases wholesale water from the San Francisco Public Utilities Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD), and recycled water from the South Bay Water Recycling Program. The City has an agreement with the San Jose/Santa Clara Water Pollution Control Plant (WPCP) to treat wastewater discharges from Milpitas.

The “2009-10 and 2010-11 Utility Rate Analysis” report, included in the Council packet, shows the City’s expected revenues and expenses for water, recycled water, and sewer and the recommended rates needed to meet the City’s short and long-term goals for operation, maintenance, and capital improvement of its utility services. Staff relies on policies and assumptions described in the “Financial Utility Master Plan,” adopted by the Council in 2003, to guide the rate analysis process. Briefly, these include:

- Strive for long-term rate stability,
- Emphasize preventative maintenance to reduce long-term costs and improve service to customers,
- Plan for long-term replacement of aging infrastructure as needed to maintain system integrity,
- Maintain minimum reserve balances in the water, recycled water, and sewer funds,
- Maintain first-tier residential rates at no less than the average wholesale rate, and
- Provide incentive for appropriate use of recycled water to encourage growth of the recycled water customer base.

Water Rates: Milpitas will see significant water rate increases in FY2009-10, from SFPUC (16%) and from SCVWD (8%). Staff recommends 9% annual increases in water rates for FY2009-10 and in FY 2010-11. This will provide revenues sufficient to fund the City’s expected annual wholesale purchases, operation and maintenance of its distribution system, and capital improvement program and allow a set aside of \$1 million annually for future water infrastructure replacement for the next two years. This rate of increase does not fully attain the recommended water fund balance reserve, but does maintain a positive balance for the next two years. However, the aggregate value of the family of water funds, including the water extension fund and infrastructure fund, will remain at a value above the recommended reserve target and can be used to supplement funding of water capital expenses. The proposed water rate schedule is tabulated in Ordinance No. 120.45, which is included in the Council packet.

In FY2009-10, average single-family residential water customers in Milpitas who use 2300 cubic feet of water in a two-month billing period will see their bimonthly water bill increase from \$58.05 to \$63.19, an increase of \$2.57 per month. In FY2010-11, the bimonthly bill will increase to \$68.97, an increase of \$2.89 per month. Other water and recycled water user categories will have rate increases as shown in the Recommended 2009-10 and 2010-11 Water and Recycled Water Rates tabulated in the ordinance. Recommended recycled water rates are 80% of the potable irrigation rate and 50% of the commercial, industrial, and institutional rate to encourage use of recycled water.

The need for this rate increase is driven by cost factors largely beyond the City’s control. SFPUC is anticipated to increase its wholesale rate by 16% in FY2009-10, followed by an increase of

17% in FY 2010/11. SCVWD is anticipated to increase its wholesale rate by 8% in FY2009-10, followed by an increase of 8% in FY2010-11. SFPUC recently received approval to begin construction on its \$4.3 billion Water System Improvement Program, which will enhance its water system's reliability after a major seismic event. The City's share in the cost is approximately \$100 million. Similarly, SCVWD is planning its Infrastructure Reliability Program to improve its system's reliability after a major seismic event. The City would also share in the cost of this program, which has not been estimated yet, but will be substantial.

Other Water Fee and Service Adjustments: Staff recommends adopting a new fee structure for use of construction meters and for requests by customers for meter tests.

Construction Meters: Contractors typically borrow construction meters for temporary connection to the City's water system. The City's current practice is to charge \$25 per month. Staff recommends increasing this monthly charge to \$75 per month to cover the City's actual maintenance costs for the meter. Staff surveyed nearby cities and found that this recommended fee is in line with what others are charging.

Meter Accuracy Tests: The City's current practice is to provide one free meter accuracy test in any 12-month period. Staff recommends changing this policy to allow up to three free meter tests in any 12-month policy and then charging \$50 for each subsequent test.

Refund of Deposit for Service: Customers are required to post a \$150 deposit with the City when establishing new utility services or restoring discontinued services. Staff recommends that the City refund the deposit without interest as a credit to the customer's next utility bill(s) after a continuous twelve-month period of satisfactory payments.

Sewer Rates: Staff recommends 9% annual increases in single-family residential sewer rates for FY2009-10 and FY2010-11. The sewer rate schedule is tabulated in the proposed Ordinance No. 208.44, which is included in the Council's agenda packet. In accordance with U.S Environmental Protection Agency guidelines, non-residential customer rates would also be increased proportionately and adjusted for flow and the measured strength parameters of biochemical oxygen demand, suspended solids, and ammonia.

In FY2009-10, average single-family residential customers will see their bimonthly sewer bill increase from \$59.70 to \$65.08, an increase of \$2.69 per month. In FY2010-11, the bimonthly bill will increase to \$70.94, or another \$2.93 per month. Other sewer user categories will have rate increases as tabulated in Ordinance No. 208.44.

This rate increase, plus the use of \$3 million from the treatment plant fund, will provide revenues sufficient to fund the City's expected annual treatment expenses, operation and maintenance of its collection system, and capital improvement program for the next two years. This rate of increase will not allow a set aside of \$1 million annually in FY 2009-10 and FY 2010-11 for future sewer infrastructure replacement, nor does it attain the recommended fund balance reserve. However, the aggregate value of the family of sewer funds, including the treatment plant fund and infrastructure fund, will remain positive and at a value above the recommended reserve and can be used to supplement funding for sewer capital expenses.

Increasing costs for sewer service are also driven by factors largely beyond the City's control. As part of its Master Plan, the WPCP has conceptually estimated \$1 to \$2 billion in improvements for the upgrade of this 50-year old facility. The City's share in the cost would be approximately \$100 million over the next 30 years. Depending on the actual magnitude and schedule of the WPCP capital improvements, either the WPCP or the City may need to obtain alternate funding, such as from bonds, to level the impact of WPCP improvements on future rates.

Public Notification of Intent to Raise Rates: California State Constitution Article XIII(D), also known as "Proposition 218," requires that the City notify property owners of its intent to adopt utility rate increases and that it give property owners the opportunity to protest the increases. The

City must mail notice to every property owner receiving water and/or sewer services within the City, allow a 45-day protest period, and then conduct a public hearing to receive public comment and protests. The City may adopt new rates if less than a majority of affected property owners protests against the increase. Staff has drafted the proposed notice included in the Council packet for this purpose. This proposed notice meets the requirements of Proposition 218 in that it describes the date, time and place of the public hearing and the reason and basis for the proposed rates.

Schedule

The recommended schedule to complete the adoption of the ordinances and adjust the rates includes these milestones:

- | | |
|----------------|--|
| February 3 | Council holds public hearing of first reading of ordinances setting water, recycled water, and sewer rates. Council provides direction to mail the Proposition 218 notice. |
| March 20 | Proposition 218 notices must be mailed no later than this date to provide 45-day protest period before May 5 Council meeting. |
| May 5 | Council holds a public protest hearing. If there is not a majority protest, Council will hold a public hearing for second reading of the ordinances setting water, recycled water, and sewer rates. |
| June 4, 2009 | Effective date of the water and sewer rate ordinances. Due to the delay of bimonthly billing cycles in arrears of services, the utility bills issued on or about August 24, 2009 will be the first to be based on the proposed FY2009-10 water, recycled water and sewer rates |
| April 19, 2010 | Effective date for the proposed FY2010-11 water, recycled water and sewer rates. Utility bills issued on or about July 5, 2010 will be the first to be based on the FY2010-11 rates. |

Fiscal Impact: The rate increases would pay entirely for escalating costs for wholesale purchases, City and wholesaler capital improvement programs, and system operation and maintenance for the water, recycled water and sewer utilities. No other fund sources are available.

Attachments:

1. Ordinance No. 120.45
2. Ordinance No. 208.44
3. Public Hearing Flyer
4. Utility Rate Analysis Report

Recommendations:

1. Open the Public Hearing to receive comments.
2. Move to close the Public Hearing.
3. Waive the first reading beyond the title of Ordinance No. 120.45.
4. Introduce Ordinance No. 120.45.
5. Waive the first reading beyond the title of Ordinance No. 208.44.
6. Introduce Ordinance No. 208.44.
7. Direct staff to mail the Proposition 218 notice to all affected property owners, notifying those affected of the Protest Hearing date.
8. Set May 5, 2009 as the date of the Public Hearing to hear protests and for the second reading of the ordinances to adopt water and sewer rates.

XV. UNFINISHED BUSINESS

- 2. Receive Progress Report on Alviso Adobe Renovation, Project No. 5055, Approve Grant Agreement with County of Santa Clara, and Approve Addendum No. 1 to the Agreement**

with the Santa Clara County Open Space Authority (Staff Contact: Greg Armendariz, 586-3317)

Background: The Alviso Adobe Renovation Project No. 5055 is included in the approved Capital Improvement Program and is being implemented in phases based on funding availability. Phase 2 of the project was completed in 2008 and provided for grading and drainage improvements to protect the Adobe from further deterioration due to flooding from storm water runoff. The design of Phase 3 of the project is underway. The improvements in this phase will provide structural stabilization and reconstruction of all exterior finishes of the historic Alviso Adobe in order to stop further deterioration and prevent complete loss of the building due to an earthquake.

A staff report will be provided at the Council meeting, which will include additional information on the progress of this project.

The City of Milpitas has applied for and was awarded a grant from the County of Santa Clara Historical Heritage Commission in the amount of \$85,000 for the structural stabilization of the Alviso Adobe Building. Included in the Council's packet is a copy of the funding agreement for this grant.

Previously, the City was awarded a grant from the Open Space Authority in the amount of \$356,837 for improvements to the Alviso Adobe. It has become necessary to amend the agreement with the Open Space Authority to extend the expiration date of the grant to December 31, 2009. This extension will allow the grant to be utilized for the next phase of the project. This time extension has been approved by the Open Space Authority as an Addendum to the current agreement. Included in the Council's packet is a copy of the agreement addendum for this grant.

Fiscal Impact: None. These grant funds will be used on the Alviso Adobe Project.

Recommendations:

1. Receive progress report on Alviso Adobe Renovation Project, CIP No. 5055.
2. Approve and authorize the City Manager to execute a grant funding agreement with County of Santa Clara, in the amount of \$85,000, Project No. 5055, subject to approval as to form by the City Attorney.
3. Approve and authorize the City Manager to execute an addendum No. 1 to the Agreement with the Santa Clara County Open Space Authority, Project No. 5055, subject to approval as to form by the City Attorney.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – January 20, 2009

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

RA4. Approve FY2008-09 Mid-Year Budget Appropriations for Operating Budget and Capital Improvement Projects Budget (Staff Contact: Emma Karlen, 586-3145)

Background: To maintain conformity with the City's budgeting policies that any additional appropriation to a department's budget or re-appropriation of monies from one fund to another must be approved by the City Council, staff submits the budget change form and justification memoranda from departments for review and consideration by the City Council/Redevelopment Agency. Pursuant to the budget policy, the Finance Subcommittee has reviewed these budget adjustment requests and recommended approval to the City Council.

Necessary budget adjustments include the following:

- 1) Allocate \$250,000 of the fuel cost budget from Fleet Maintenance Division to the Utility Maintenance Division operating budget. The fuel cost will be charged to the Water Fund instead of the Equipment Replacement Fund in order to properly allocate the fuel consumption for the Gibraltar Water Pump Station to the correct fund. Historically, the fuel cost has been paid from the Fleet Maintenance budget because Fleet Maintenance purchases all the fuel for the City fleet. The overall fiscal impact is zero because of a corresponding reduction to the Fleet Maintenance budget.
- 2) Increase Facility Maintenance operating budget by \$40,000 due to the increased need for maintenance and operation of the new Library site and Parking Garage. The proposed funding source is from the 2% Transit Occupancy Tax fund.
- 3) Increase funding for Capital Improvement Project No. 7107 Water Master Plan Update by \$5,000 and increase funding for Capital Improvement Project No. 6108 Sewer Master Plan Update by \$5,000, due to additional scope of work to complete these two projects. The proposed funding sources are from the Water Fund and Sewer Fund respectively.
- 4) Appropriate \$30,000 received from the Association of Bay Area Governments (ABAG) to Capital Improvement Project No. 4246 Sidewalk Replacement 2009. The City used some of the project funding to mitigate hazardous conditions of the sidewalk which qualified for an ABAG Risk Management grant.
- 5) Appropriate \$15,551 received from ABAG to the Information Technology Fund Non-Departmental operating budget. The City used some of the Information Technology funding to purchase and install GIS systems on police vehicles which qualified for an ABAG Risk Management grant.
- 6) Appropriate \$254,164 to the Fire Department operating budget. The funding sources are from the California Office of Emergency Services and the State Urban Area Securities Initiative. These monies are to reimburse the City for mutual-aid responses to wildfires throughout the state during the historic 2008 fire season and for regional fire training.

Fiscal Impact: The total budget adjustment request is \$599,715 but the overall fiscal impact to the City's various funds is \$50,000. A majority of the funding sources will come from outside agencies. There is no fiscal impact to the General Fund unreserved, undesignated fund balance. There are sufficient balances in various funds to cover the additional appropriations.

Recommendation: Approve Fiscal Year 2008-09 mid-year budget appropriations as itemized on the budget change form, reflecting six specific appropriations.

RA5. Receive Financial Status Report for the Six Months Ended December 31, 2008 (Staff Contact: Emma Karlen, 586-3145)

Background: In FY2008-09, staff projected the total General Fund revenue to be \$55.4 million, approximately the same amount as FY2007-08's actual revenue. However, the recent economic down turn impacted the City's revenues negatively, particularly in the areas of building permit fees and charges for services as related to private development jobs. The Transient Occupancy Tax (TOT) revenue also experienced a decline of approximately 6% from last year. Interest income is below projection due to the Federal Reserve Bank lowering the short term interest rates dramatically in its attempt to stimulate the economy. Consequently, the re-investment yield for a portion of the securities in the City's investment portfolio that matured recently is significantly lower than anticipated.

The City will not know the full impact of the Christmas Holiday retail sales until March 2009, due to the lag time between the vendors filing their sales tax returns and the time required for the State Board of Equalization (SBE) to reconcile the sales tax revenue for the calendar quarter. However, the sales tax revenue received to date indicated that this revenue is on track with projection despite the dismal economy. This is primarily due to the City's business outreach and

retention efforts. Two major high-tech companies whose sales headquarters are not located in Milpitas have begun to file and credit their use tax to the City.

Property tax revenue for the City increased about 5.4% due to Mid-town residential developments. Even though all the new homes that were built and occupied are in the Redevelopment Area, the City's property tax revenue increased because of the pass through requirement of redevelopment law. However, the assessed valuation of some properties may still be subject to appeals by the property owners or reassessments by the County Assessor due to general decline of the real estate market.

Based on all the revenues received to date and the trends of the major revenues, staff revised the General Fund revenue to be approximately \$800,000 below original budget projection. The total revised revenue is estimated to be \$54.6 million.

Departments' expenditures continued to be below budget and were similar to previous year's spending level at 47.4% of budget. The City Manager has instructed all the departments to be judicious with their expenditures with the goal of achieving budget savings to offset the revenue shortfall so that the City will not have to utilize any General Fund reserves. Staff will continue monitoring revenue and expenditure trends closely and provide updates to the City Council regularly.

Fiscal Impact: Not applicable

Recommendation: Receive financial status report for the six months ended December 31, 2008.

***RA6. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2008 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended December 31, 2008 is submitted for the Council's review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of December 31, 2008.

As of December 31, 2008, the principal cost and market value of the City's investment portfolio were \$192,858,483 and \$196,826,798 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended December 31, 2008 was 3.44%. The comparative benchmarks for the same period were 2.10% for LAIF (Local Agency Investment Fund) and 1.92% for the 12-month average yield of the 2-year Treasury Note. Excluding the long-term GNMA securities and investment of the bond proceeds, the weighted average maturity of the portfolio was 390 days.

The financial markets crisis has affected the ratings of some of the corporate bonds held in the investment portfolio. The City holds \$1 million Citigroup and \$1 million Bank of America corporate bonds that mature on 8/3/2010 and 12/1/2010 respectively. The rating for Citigroup has been downgraded by S&P from "AA-" to "A." while the rating for Bank of America has been downgraded by S&P from "AA-" to "A+". Although the City's investment policy allows these bonds to be held till maturity, staff will closely monitor these two issues and may consider selling these bonds if appropriate.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Three charts are included in the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None.

Recommendation: Receive the investment report for the quarter ended December 31, 2008.

***RA7. Approve a Final Balancing Contract Change Order with S.J. Amoroso and Adopt a Resolution Granting Initial Acceptance of Milpitas Public Library, Project No. 8162 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Redevelopment Agency awarded the Milpitas Public Library, Project No. 8162, to S.J. Amoroso, Inc. on December 19, 2006. This project provided for construction of the new Milpitas Public Library at 160 North Main Street, and the budget for this project was \$39,000,000. The project has been successfully completed, and staff recommends approval of a final balancing change order with S.J. Amoroso in the amount of \$756,569. The change order is for additional work scope items that were required for the successful completion of the library and to complete minor work on a shared wall in the parking garage that will be paid for out of the parking garage project. Staff reviewed these additional items of work and determined the pricing to be reasonable.

The total cost of this project including this final change order, Fixtures, Furniture and Equipment (FF&E), and project soft costs is \$36,972,895. However, a couple of minor projects to install additional window blinds and donor boards within the library and to install fencing along the eastern property line will be funded from the library project. These projects will be publicly bid and will be brought to the Agency/Council for approval. Staff recommends that the Agency adopt a resolution granting initial acceptance and authorize the reduction of the contractor's faithful performance bond to 10% of the contract amount or \$2,948,582. The project will remain under warranty for a one-year period.

Fiscal Impact: None

Recommendations:

1. Approve a final balancing contract change order with S.J. Amoroso.
2. Adopt a resolution granting initial acceptance of the new Milpitas Library, Project No. 8162.

***RA8. Adopt a Joint Resolution Granting Initial Acceptance for the Street Crack Seal Project FY 2008-09, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The Redevelopment Agency and the City Council awarded a construction contract to Bond Blacktop, Inc. on November 4, 2008. The project allowed for the installation of "crack sealing" material on pavement cracks on the following streets to prevent water intrusion into the roadway base over the winter season:

<u>Street</u>	<u>Segment</u>
Adam Avenue	Gadsden Drive to Temple Drive
Arana Court	Temple Drive to East End of Street
Brian Court	Michael Street to West End of Street
Calle Oriente	Park Victoria Drive to East End of Street

Dennis Avenue
 Evans Road
 Fair Hill Drive
 Gadsden Avenue
 Golden Hills Drive
 Kennedy Drive
 Lynn Avenue
 Michael Court
 Michael Street
 Milpitas Boulevard
 Old Evans Road
 Prada Court
 Prada Drive
 Quail Drive
 Ramos Court
 Santos Court
 Serpa Drive
 Simas Drive
 Spring Valley Lane
 Stemel Court
 Stemel Way
 Temple Drive
 Traughber Street
 View Drive

Temple Drive to East End of Street
 N Park Victoria Dr to Calle Oriente
 Temple Drive to Spring Valley Lane
 Adams Avenue to Ellis Avenue
 Temple Drive to Spring Valley Lane
 Park Victoria Drive to Evans Road
 Adam Avenue to Kennedy Drive
 Michael Street to West End of Street
 Brian Court to Evans Road
 Beresford Court to Tramway Drive
 Kennedy Drive to Serpa Drive
 Prada Drive to East End of Street
 Kennedy Drive to Traughber Street
 Simas Drive to East End of Street
 Quail Drive to North End of Street
 Stemel Way to North End of Street
 Quail Drive to Old Evans Road
 Kennedy Drive to Stemel Way
 Golden Hills Drive to Fair Hill Drive
 Stemel Way to North End of Street
 Prada Drive to Evans Road
 Calaveras Boulevard to Kennedy Drive
 Park Victoria Drive to East End of Street
 Temple Drive to Spring Valley Lane

The crack sealing is the first step in the preventative maintenance program. Listed streets will also receive a “slurry seal” roadway treatment this coming summer along with roadway marking enhancements as the second and final step in the preventative maintenance program. The street crack seal project has been successfully completed and staff recommends adoption of resolution granting initial acceptance and reduction of the contractor’s faithful performance bond to \$6,000.

Fiscal Impact: None.

Recommendation: Adopt a Joint Resolution of the City Council and Redevelopment Agency granting initial acceptance of the Street Crack Seal Project FY2008-09, Project No. 8194.

RA9. Agency Adjournment

XVII. REPORT OF COUNCIL

3. Review and Survey City Council Salaries (Contact: Councilmember Giordano, 586-3032)

Background: Councilmember Giordano has requested City staff to conduct a salary survey of elected officials to determine if current Council compensation is reasonable.

Recommendation: Direct the City Manager to conduct a salary survey of Mayors and City Councilmembers of equivalent sized cities throughout the Bay Area.

XVIII. ORDINANCE

4. Introduce Ordinance No. 17.16 Related to Title I, Chapter 1 (Administration) of the Milpitas Municipal Code, Correcting the Schedule of Misdemeanors (Staff Contact: Michael Ogaz, 586-3040)

Background: A minor correction to the existing Schedule of Misdemeanors in the Milpitas Municipal Code Title I, Chapter 1 is necessary to correct the inconsistencies between the Schedule of Misdemeanors and the sections of Title V, Chapter 210, Animal Regulation, which

are specified as misdemeanors in the code sections. Currently, Section I-1-4.09-3 incorrectly lists sections or incorrectly names the title of the section. Therefore, this minor amendment would rectify these inconsistencies.

Fiscal Impact: None

Recommendations:

1. Waive the first reading beyond the title of Ordinance No. 17.16.
2. Introduce Ordinance No. 17.16 amending Title I, Chapter 1 (Administration) of the Milpitas Municipal Code.

XIX. RESOLUTION

- * **5. Authorize the City Engineer to Execute Contract Change Order No. 13 with Anderson Pacific Engineering Construction, Inc. and Adopt a Resolution Granting Initial Acceptance of the Main Sewage Pump Station, Project No. 6103 (Staff Contact: Greg Armendariz, 586-3317)**

Background: The City Council awarded a construction contract to Anderson Pacific Engineering Construction, Inc. on December 5, 2006 for work consisting of the complete demolition and reconstruction of the former main pump station, including construction of a new underground wet well with new submersible pumps and inline grinders; a new control building with electrical room; and site improvements including improved drainage, parking areas, perimeter fencing, landscaping and lighting. A vegetated swale (bioswale) was installed around the perimeter of the site to passively treat all storm water runoff in accordance with the new State storm water quality protection regulations. In addition, this site will use recycled water for landscaping and maintenance.

Change Order No. 13 is the final change order for this project, consisting of furnishing and installing upsized landscape irrigation control wire to allow for planned future expansion of the irrigation system. The cost of this change order is \$2,630, which is considered reasonable for the work involved and is recommended for approval.

Anderson Pacific has successfully completed construction of the Main Sewage Pump Station, located at 1425 North McCarthy Boulevard, on time and within budget, for a final construction contract cost of \$9,470,660.

The City can take pride in this new public asset which is sized to serve the City's needs for the next several decades, including the Midtown and Transit Area Specific Plans. The new facilities are reinforced to current seismic standards to withstand earthquakes, and are safe, reliable, and compliant with current regulations. Staff recommends that Council adopt a resolution granting initial acceptance of the project and authorize reduction of the contractor's faithful performance bond to 10% of the contract amount or \$947,066.

Fiscal Impact: None. Sufficient funding is available in the project contingency for this change order.

Recommendations:

1. Authorize the City Engineer to execute Contract Change Order No. 13 with Anderson Pacific Engineering Construction, in the amount of \$2,630.
2. Adopt a resolution granting initial acceptance of Project No. 6103, subject to the one year warranty period, and reduce the contractor's faithful performance bond to \$947,066.

XX. BIDS AND CONTRACTS

- * **6. Approve and Authorize the City Manager to Execute an Agreement with West Yost & Associates for Consulting Services for the South Milpitas Blvd. Water Line Replacement,**

Project No. 7098, and Los Coches Water Valve Replacement, Project No. 7084 (Staff Contact: Kathleen Phalen, 586-3345)

Background: The South Milpitas Boulevard Water Line Replacement Project and Los Coches Water Valve Replacement are included in the approved Capital Improvement Program. The water line utility improvement project was developed to replace approximately 4,800 linear feet of 16-inch diameter water main in South Milpitas Boulevard between East Calaveras Boulevard and Yosemite Drive. This section of older, steel pipe is deteriorating rapidly due to the underlining highly corrosive soils. The City Council originally approved an agreement with West Yost & Associates on October 5, 2004 for design, bidding, and construction support services for this project. The consultant had completed the design plans and specifications to a 90% level of completion when the City placed the design project on hold, until the water system seismic study was completed.

The Seismic Study has been completed and has in fact identified this same water line segment as part of the City's strategic "backbone" water system, to be strategically retrofitted and strengthened to withstand damage from earthquakes.

In order to complete the design plans for this water line, staff recommends increasing the design work scope, to include several seismic elements such as installation of flexible pipe joints, additional valves for improved isolation of water breaks, and installation of pipe risers, to provide the City with the ability to "highline" or temporary bridge around water breaks, until repairs are made. Lastly, staff recommends inclusion of the design to remove and replace eight fire hydrant valves on Los Coches St, currently programmed separately. The objective is to achieve an economy of scale, by performing similar project work located in close proximity to each other.

Sufficient funds are available in the project budgets to fund the additional design work scope. Additional funding, however, will be required to complete the construction of all these improvements. This project has been submitted to the State for potential Federal Economic Stimulus funding. To be eligible for economic stimulus funding this project will need to be "shovel ready," meaning that the design must be 100% complete. Therefore, staff recommends that the City enter into an agreement with West Yost & Associates to complete the design and provide support during bidding for the project. Staff negotiated a scope and fee for these services not to exceed \$159,521, which is considered reasonable for this work.

Fiscal Impact: None. There are sufficient funds in the project budget for the design services.

Recommendation: Approve and authorize the City Manager to execute the agreement with West Yost & Associates, in the form of the document included in the Council agenda packet, subject to approval as to form by the City Attorney.

- * 7. **Award the Bid for Diesel Retrofit to Cummings West, Inc. for the Not-to-Exceed Amount of \$43,723.68 (Staff Contact: Chris Schroeder, 586-3161)**

Background: In order to remain compliant with the Air Resources Board regulations under the California Code, the City is required to retrofit 60% of its 1988 to 2002 diesel fleet with electro mechanical particulate reduction devices by December 31, 2009. This bid is for retrofitting of three vehicles, which, along with the two vehicles retrofitted last year, will meet the compliance requirement. Bids were sent to eight regional and Bay Area emission specialty companies on Purchasing's bidders list. Following formal bid procedures, the bid was also advertised in the local newspaper and on the City website. Two bids were received from (1) Ironman Parts & Service for \$45,057.20, and (2) Cummings West for \$43,723.68.

Fiscal Impact: None. The service is a programmed expense approved in the FY2008-09 budget for Fleet Maintenance.

Recommendation: Award the bid for diesel retrofit work to the lowest responsible bidder and authorize the City Manager to execute a contract with Cummings West, Inc. for the not-to-exceed amount of \$43,723.68 including sales tax, subject to approval as to form by the City Attorney.

XXI. ADJOURNMENT

**NEXT REGULAR MEETING
TUESDAY, FEBRUARY 17, 2009**