SUMMARY OF CONTENTS

I. CALL TO ORDER by the Mayor (6:30 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 Group: 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    (Councilmember Polanski)

VII. APPROVAL OF COUNCIL MEETING MINUTES – March 3, 2009

VIII. SCHEDULE OF MEETINGS – Council Calendars for March and April 2009

IX. PRESENTATION

Proclamation: Colorectal Cancer Awareness Month – March 2009

X. 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.

XI. ANNOUNCEMENTS

XII. ANNOUNCEMENT OF CONFLICT OF INTEREST

XIII. APPROVAL OF AGENDA

XIV. 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.

XV. PUBLIC HEARINGS

1. Introduce Ordinance No. 38.785 Amending Section 53 of the Zoning Ordinance, and Adopt a Resolution Amending the Midtown and Transit Area Specific Plans Regarding Changes to the City’s Parking Regulations (Staff Contact: Sheldon Ah Sing, 586-3278)

2. Consideration of Appeal of Planning Commission Approval of a Conditional Use Permit for a Tobacco Shop located at 1307 Jacklin Road (Staff Contact: Sheldon Ah Sing, 586-3278) – Request to be Continued

XVI. UNFINISHED BUSINESS

3. Introduce Ordinance No. 196.10 Amending Section 213-3 of the Noise Ordinance, and Receive Second Quarterly Noise Report During Trial Period for Residential Solid Waste Collection 6:00 AM Start Time (Staff Contact: Kathleen Phalen, 586-3345)

XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – March 3, 2009

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

RA4. Adopt Resolutions Approving and Accepting the Report to the City Council for the Proposed Fifth Amendment to the Great Mall Redevelopment Plan, and Schedule a Joint City Council/Redevelopment Agency Public Hearing on April 21, 2009 for the Proposed Amendment (Staff Contact: Diana Barnhart, 586-3059)

RA5. Approve the Request for Proposal for the Evaluation of New Redevelopment Project Areas and Extension of Time for Existing Areas’ Plan Effectiveness and the Collection of Tax Increment, and Direct Staff to Issue the Request for Proposal (Staff Contact: Diana Barnhart, 586-3059)

*RA6. Adopt a Resolution Granting Initial Acceptance for the Corporation Yard Canopy, Project No. 8183 (Staff Contact: Steve Erickson, 586-3301)

RA7. Agency Adjournment

XVIII. REPORTS OF OFFICERS AND COMMISSION

City Council

4. Direct Staff to Address the Blighted Conditions on the East Side of South Main Street Near Montague Expressway (Contact: Mayor Livengood, 586-3051)

5. Request from Mayor Livengood Regarding Expansion of Economic Development Commission (Contact: Mayor Livengood, 586-3051)

6. Consider Mayor’s Recommendations for Appointments to the Milpitas Economic Development Commission (Contact: Mayor Livengood, 586-3051)
7. Consider Mayor’s Recommendation for Appointment to the Milpitas Planning Commission
   (Contact: Mayor Livengood, 586-3051)

Sister Cities Commission
* 8. Approve Recommendation from Sister Cities Commission to Pursue a Possible Sister City
    Relationship with Hochheim, Germany (Staff Contact: Holly Cuciz, 586-2602)

XIX. NEW BUSINESS

9. Receive City of San Jose Staff Presentation on the San Jose/Santa Clara Water Pollution
    Control Plant Master Plan (Staff Contact: Kathleen Phalen, 586-3345)

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

XX. ORDINANCE

* 11. Waive the Second Reading and Adopt Ordinance No. 38.787 Amending Sections 13 and 35 of
     the Milpitas Zoning Ordinance (Staff Contact: Sheldon AhSing, 586-3278)

XXI. RESOLUTIONS

12. Adopt a Resolution Approving Memorandum of Understanding with the Mid-Management
    and Confidential Unit (Staff Contact: Carmen Valdez, 586-3086)

13. Adopt a Resolution Approving Memorandum of Understanding with the Milpitas Police
    Officers Association (MPOA) (Staff Contact: Carmen Valdez, 586-3086)

* 14. Adopt a Resolution Approving the Sole Source Purchase of a Boom Truck from Altec
     Industries, Inc. in the Amount of $140,134.71, and Approve the Trade-In to Altec Industries,
     Inc. of the Old Boom Truck for $9,000 (Staff Contact: Chris Schroeder, 586-3161)

* 15. Adopt a Resolution Granting Final Acceptance and Release of Contractor’s Bond for the
      Street Resurfacing Project 2007, Project No. 4236 (Staff Contact: Jaime Rodriguez, 586-
      3335)

* 16. Adopt a Resolution Granting Initial Acceptance for the Venus Pump Station Improvement,
      Project No. 6101 (Staff Contact: Steve Erickson, 586-3301)

* 17. Adopt a Resolution Granting Final Acceptance of Public Improvements for Milpitas Town
      Center for Shapell Industries of Northern California, Project No. 3153 (Staff Contact:
      Fernando Bravo, 586-3328)

XXII. BIDS AND CONTRACTS

* 18. Authorize the City Manager to Negotiate a Sales and Use Tax Sharing Agreement with KLA-
      Tencor (Staff Contact: Diana Barnhart, 586-3059)

* 19. Award the Bid for On-Call Street Light and Traffic Signal Support, and Authorize the City
      Manager to Execute a Contract with Cal-West Lighting & Signal Maintenance, Inc. (Staff
      Contact: Chris Schroeder, 586-3161)

* 20. Award the Bid and Authorize the City Manager to Execute a Contract with Priority 1 for
      Emergency Vehicle Equipment Installation for the Not-to-Exceed Annual Amount of $25,000
      (Staff Contact: Chris Schroeder, 586-3161)
* 21. Award the Bid for Park Irrigation System Rehabilitation to Valley Crest Landscape Maintenance, Inc. for the Not-to-Exceed Amount of $50,271 (Staff Contact: Chris Schroeder, 586-3161)

* 22. Authorize the City Engineer to Execute a Contract Change Order for Median Mulch and Street Tree Maintenance for Great Mall Parkway, Project No. 4133 (Staff Contact: Steve Erickson, 586-3301)

* 23. Award the Bid for Vehicle Speed Feedback Signs to Republic ITS for the Not-to-Exceed Amount of $34,112.76 (Staff Contact: Chris Schroeder, 586-3161)

XXIII. ADJOURNMENT

NEXT REGULAR MEETING
TUESDAY, APRIL 7, 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 1 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.

APPLY TO BECOME A CITY COMMISSIONER!

Current vacancies exist for the:

Arts Commission (alternate) and Public Art Committee
Emergency Preparedness Commission (Industry Rep)
Mobile Home Park Rental Review Board
Parks, Recreation & Cultural Resources Commission
Sister Cities Commission (alternates)
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

XV. PUBLIC HEARINGS

1. Introduce Ordinance No. 38.785 Amending Section 53 of the Zoning Ordinance, and Adopt a Resolution Amending the Midtown and Transit Area Specific Plans Regarding Changes to the City’s Parking Regulations (Staff Contact: Sheldon Ah Sing, 586-3278)

Background: In April 2007, the Council approved the membership of the Parking Task Force and its work plan to address parking issues throughout the City. Since that time, staff and the Task Force have progressed through various tasks including research and public outreach. The conclusion of this effort is culminated in Zoning Amendment No. ZA08-010 and Specific Plan Amendment No. ST08-0003 amending the parking requirements in the Midtown and Transit Area Specific Plans. The Planning Commission reviewed the proposed amendments and recommends the City Council adopt the ordinance. Staff reports and Planning Commission minutes from January 28 and February 25 meetings are included as attachments.

The proposed changes provide reorganization of the parking ordinance for streamlined implementation, more flexibility for shared parking applications, and more consistency when applying parking requirements for restaurants, single-family/duplex projects and multi-family projects throughout the city. The proposal includes provisions for buyer awareness of the type of parking that is available for residential projects, and acknowledgement of different parking types, such as private garages and parking structures, when considering the amount of guest parking and tandem parking for multi-family projects. The proposed changes would only apply to projects submitted after the adoption date of the amendments.

Fiscal Impact: None.

Attachments:
1. Proposed Ordinance No. 38.785
2. Resolution adopting changes to Transit Area and Midtown Specific Plans
3. Planning Commission staff reports and minutes (1-28-09 and 2-25-09)
4. Parking Task Force meeting minutes (12-11-08)
5. Underline and Strikeout exhibits

Recommendations:
1. Close the public hearing, after hearing any public testimony.
2. Waive the first reading beyond the title of Ordinance No. 38.785 to amend Section 53 of the Zoning Ordinance.
3. Introduce Ordinance No. 38.785.
4. Adopt a Resolution amending the Midtown and Transit Area Specific Plans regarding changes to parking regulations.

2. Consideration of Appeal of Planning Commission Approval of a Conditional Use Permit for a Tobacco Shop located at 1307 Jacklin Road (Staff Contact: Sheldon Ah Sing, 586-3278) – Request to be Continued

Background: On January 28, 2009, the Planning Commission approved Conditional Use Permit No. UP08-0048 for a 1,080 square foot tobacco shop located at 1307 Jacklin Road. The tobacco shop proposes to operate between the hours of 9 a.m. to 8 p.m. daily and includes retail area for snacks, tobacco and tobacco related products. For additional project information and discussion from the Planning Commission meeting, read the Planning Commission staff report and meeting minutes (included in the Council agenda packet).
On February 6, 2009, Tanya Hussain appealed the project objecting to the overconcentration of tobacco shops in the area. Ms. Hussain has requested additional time to prepare the necessary public hearing material.

**Fiscal Impact:** None.

**Attachments:**
1. Planning Commission Staff Report dated January 28, 2009
2. Adopted Commission Resolution and minutes from the January 28, 2009 Planning Commission Hearing
3. Project Plans
4. Appeal form

**Recommendation:** Move to continue the Public Hearing to the City Council meeting of April 7, 2009.

XVI. **UNFINISHED BUSINESS**

3. **Introduce Ordinance No. 196.10 Amending Section 213-3 of the Noise Ordinance, and Receive Second Quarterly Noise Report During Trial Period for Residential Solid Waste Collection 6:00 AM Start Time (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On May 6, 2008, as part of its approval of minor Allied Waste franchise agreement amendments, the City Council approved by ordinance a 6-month trial extension of the residential summer 6:00 a.m. collection start time from September 2008 through February 2009. As a stipulation of this approval, Council required two quarterly reports of the number of comments or complaints received from the public about noise from solid waste collections in residential areas between 6:00 a.m. and 7:00 am. On December 16, 2008, staff provided the first quarterly report indicating that there had been no complaints to City staff or Allied in the period of September through November. Staff now reports that during the second quarter, from December 2008 through February 2009, there were again no noise complaints to City staff or Allied. Therefore, staff recommends that Council allow a permanent 6:00 a.m. start time for solid waste collections in residential neighborhoods. The early start time benefits the public because it allows the large collection vehicles to complete their operations in potentially hazardous areas, such as around schools and shopping centers, before these areas become congested with pedestrian and vehicle traffic.

The City’s noise ordinance will need to be amended to allow Allied and/or any future authorized collectors of solid waste, recyclables, and/or yard trimmings, to begin pickup operations as early as 6:00 a.m. year-round. Staff prepared the amended Ordinance No. 196.10, included in the Council packet, for this purpose.

**Fiscal Impact:** None.

**Recommendations:**
1. Waive the first reading beyond the title of Ordinance No. 196.10.
2. Move to introduce Ordinance No. 196.10 amending Section 213-3 of the Noise Ordinance.
3. Receive second quarterly noise report during the trial period for residential solid waste collection 6:00 a.m. start time.

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

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

RA2. **Approval of Minutes – March 3, 2009**
RA3. Approval of Agenda and Consent Calendar  (Items with asterisk*)

RA4. Adopt Resolutions Approving and Accepting the Report to the City Council for the Proposed Fifth Amendment to the Great Mall Redevelopment Plan, and Schedule a Joint City Council/Redevelopment Agency Public Hearing on April 21, 2009 for the Proposed Amendment (Staff Contact: Diana Barnhart, 586-3059)

Background: On June 17, 2008, the Agency authorized staff to proceed with the preparation and processing of a Fifth Amendment to the Redevelopment Plan for the Great Mall Project Area for the extension of the Plan Effectiveness Date. The proposed amendment will allow the continuation of existing freeway signs in accordance with the California Outdoor Advertising Act.

The Great Mall Redevelopment Project Area, comprised of 150 acres, was created in 1998 to facilitate the redevelopment of the vacated Ford Motor Plant. The Great Mall Project Area was amended in 2001 to add two non-contiguous parcels that would allow the continued use of freestanding highway signs for the Great Mall Shopping Center. The Great Mall Redevelopment Project Area expires in 2010, as it was extended by two years as part of the SB 1096 extensions.

Extending the life of the Great Mall Project Area will allow for a new sign to be installed, continuing the opportunity for redevelopment project area businesses to advertise along the freeway, regardless of their location in relation to the freeways. Tax increment is not collected from the Great Mall Project Area and the proposed plan amendment would not change this status.

Report to the City Council
Pursuant to California Health and Safety Code Section 33352, the Report to the City Council for the proposed Fifth Amendment to the Great Mall Redevelopment Plan, included in the Council agenda packet as Exhibit A, has been prepared and is ready for submission by the Agency to the City Council. The purpose of the Report is to project the legally required information, documentation and evidence required by the law when a proposed amendment is submitted by the Agency to the Council. This information and documentation assists the City Council in its consideration of the proposed Amendment and in making the various findings associated with the adoption of the proposed Amendment.

A Notice of Intent to adopt a Negative Declaration for the proposed Great Mall Redevelopment Plan Amendment No. 5, Project EA No. EA09-0004, was issued on February 12, 2009, mailed to the applicable agencies, posted on the same date at the Office of the Santa Clara County Clerk-Recorder and onsite as required by law. As of the writing of this report, no comments have been received.

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

Recommendations:
1. Adopt a Redevelopment Agency Resolution approving the Report to the City Council for the proposed Fifth Amendment to the Great Mall Redevelopment Plan, submitting the Report to the City Council, and scheduling a Joint City Council/Redevelopment Agency Public Hearing on the proposed Amendment for April 21, 2009.
2. Adopt City of Milpitas Resolution accepting the Report to the City Council for the proposed Fifth Amendment to the Great Mall Redevelopment Plan and calling for a Joint City Council/Public Hearing on the proposed Amendment for April 21, 2009.

RA5. Approve the Request for Proposal for the Evaluation of New Redevelopment Project Areas and Extension of Time for Existing Areas’ Plan Effectiveness and the Collection of Tax Increment, and Direct Staff to Issue the Request for Proposal (Staff Contact: Diana Barnhart, 586-3059)
Background: During the last few budget hearings, City Council members have expressed interest in exploring the creation of redevelopment project areas in older industrial areas. The Town Center Business Park (Exhibit A in the Council agenda packet) is one of the oldest industrial areas in Milpitas and has experienced increased vacancy rates and conversion of uses. In addition, many of the buildings are either functionally obsolete for current technology uses or are not being used at full economic capacity.

The other areas to be studied are the commercial and residential properties outlined on the map (included in the Council agenda packet -Exhibit B): the LIFT Zone, the commercial/retail centers on the south side of Calaveras Boulevard and along Dempsey Road, and the apartment community surrounding Selwyn Park. These areas continue to show signs of physical stress and deterioration, often reflective of minimal property owner investment.

The first step in redevelopment project area consideration is to conduct a feasibility analysis to determine if the areas or portions thereof, meet the conditions for blight as contained in California Redevelopment Law. This type of analysis is a critical portion of the Legislative Report that the City Council and Redevelopment Agency approve for adoption of a redevelopment area. Staff recommends that consultant services be used to assist in this analysis. A proposed Request for Proposal for these services is included in the Council agenda packet as Exhibit C.

In addition to consideration of new project areas, staff also recommends that an extension of plan effectiveness time for the older Project Area No.1 sub-areas be studied. Currently, the plan effectiveness and the ability to collect tax increment in the original Town Center and the two added sub-areas of Project Area No. 1 expire in 2019, 2020 and 2023 respectively. Extension would allow more extensive redevelopment programs, but will also trigger housing set aside increases. Further study will explore the pros and cons of plan effectiveness time extensions.

If the Council/Agency agrees, staff will issue the Request for Proposals (RFP) for completion of a feasibility analysis and plan effectiveness time extensions. As anticipated in the proposed RFP schedule, after responses are received and evaluated, a recommendation for a consultant contract will be presented to the Agency for further consideration.

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

Recommendation: Approve the Request for Proposals for the evaluation of new Redevelopment Project Areas and extension of time for existing area’s plan effectiveness and the collection of tax increment, and direct staff to issue the Request for Proposals.

*RA6. Adopt a Resolution Granting Initial Acceptance for the Corporation Yard Canopy, Project No. 8183 (Staff Contact: Steve Erickson, 586-3301)

Background: The City Council awarded the corporation yard canopy improvements to Balch Petroleum Contractors & Builders, Inc. on August 5, 2008. The project provided for the installation of a metal canopy to cover the vehicle fueling station, chemical fill area and vehicle wash area. In addition, improvements were made to the fueling station to comply with the enhanced vapor recovery (EVR) requirement and a security system. The project has been successfully completed. Staff recommends that the Council adopt a resolution granting initial acceptance of the project and authorize the reduction of the contractor’s faithful performance bond to $44,000.

Fiscal Impact: None.
**Recommendation:** Adopt a resolution granting initial acceptance of the Corporation Yard Canopy, Project No. 8183, and authorize the reduction of the contractor’s faithful performance bond to $44,000.

**RA7. Agency Adjournment**

**XVIII. REPORTS OF OFFICERS AND COMMISSION**

**City Council**

4. **Direct Staff to Address the Blighted Conditions on the East Side of South Main Street Near Montague Expressway (Contact: Mayor Livengood, 586-3051)**

**Background:** The former Ooh La Lodge and South Main Street Mobile Home Park properties and adjacent parcels have become an eyesore and an attractive nuisance due to the deteriorated state of the abandoned buildings and rampant graffiti. This area requires immediate attention to eliminate these blighted conditions.

**Fiscal Impact:** None

**Recommendation:** Direct staff to return to the City Council on April 7, 2009 with options to address the blighted conditions of the properties located on the east side of South Main Street near Montague Expressway.

5. **Request from Mayor Livengood Regarding Expansion of Economic Development Commission (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood is requesting the City Council take action and consider changing the bylaws of the Economic Development Commission to increase the regular membership of the commission from nine to eleven. One member would represent retail and the other would represent a Milpitas resident. This change will allow the City Council to approve appointments to the Commission which will meet the bylaws and will assist the Council with their goals relating to economic development. A memo from the Mayor is included in the Council agenda packet.

**Fiscal Impact:** None

**Recommendation:** Consider approval of recommendation to amend the Economic Development Commission Bylaws and increase the regular membership from nine to eleven, with one member representing retail and the other representing a Milpitas resident.

6. **Consider Mayor’s Recommendations for Appointments/Reappointments to the Milpitas Economic Development Commission (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood recommends the following persons be appointed/reappointed to the Economic Development Commission:

- Reappoint Robyn Cornell representing hotels to a term that expires in April 2012.
- Reappoint Donald Peoples representing business to a term that expires in April 2012.
- Reappoint Charlene Tsao representing restaurants to a term that expires in April 2012.
- Reappoint Zeya Mohsin as Alternate No. 1 to a term that expires in April 2011.
- Newly appoint Michelle Bau representing residential real estate to a term that expires in April 2012.
- Newly appoint Jeanne Serpa representing the Chamber of Commerce to a term that expires in April 2012.
- Appoint current commissioner, Minh Nguyen, to a new seat representing Milpitas residents to a term that expires in April 2012 (pending approval of EDC expansion).
Newly appoint Steve Tao representing commercial real estate to the existing term that expires in April 2011.

Applications from new applicants are included in the Council’s agenda packets.

**Recommendation:** Consider the recommendation from Mayor Livengood, and move to approve eight appointments and reappointments to the Milpitas Economic Development Commission.

7. **Consider Mayor’s Recommendation for Appointment to the Milpitas Planning Commission**  
(Contact: Mayor Livengood, 586-3051)

**Background:** Mayor Livengood recommends Mark Tiernan be appointed as the alternate member of the Milpitas Planning Commission. An application from this applicant is included in the Council’s agenda packets.

**Recommendation:** Consider the recommendation from Mayor Livengood, and move to approve Mark Tiernan as the alternate member of the Milpitas Planning Commission to a term that expires in December 2009.

**Sister Cities Commission**

* 8. **Approve Recommendation from Sister Cities Commission to Pursue a Possible Sister City Relationship with Hochheim, Germany**  
(Staff Contact: Holly Cuciz, 586-2602)

**Background:** After researching the City of Hochheim, Germany, the Sister Cities Commission is recommending that the City send a detailed letter of interest from the Mayor to pursue the possibility of establishing a sister city relationship. A Sister Cities Commissioner has had ongoing communication with Hochheim through a prominent business owner in the area who is in contact with Hochheim’s Mayor. That City has indicated its interest in discussing a sister city relationship with the City of Milpitas.

Hochheim has historically been a center of the wine trade and has a beautiful country setting on the Main River that leads to the Rhine. It is located 25 miles from the Frankfurt Main Airport. The city has a population of approximately 20,000 and is a centrally located residential area, well connected to transport for manufacturing and service industries.

**Recommendation:** Approve the recommendation from the Sister Cities Commission to pursue a possible Sister City Relationship with Hochheim, Germany.

**XIX. NEW BUSINESS**

9. **Receive City of San Jose Staff Presentation on the San Jose/Santa Clara Water Pollution Control Plant Master Plan**  
(Staff Contact: Kathleen Phalen, 586-3345)

**Background:** Staff from the City of San Jose Environmental Services Department (ESD) will present an overview of the Master Plan for the $1 billion redevelopment of the San Jose /Santa Clara Water Pollution Control Plant (WPCP). The City of Milpitas contracts with San Jose for 14.25 million gallons per day (mgd) of sewage treatment at this 167 mgd regional facility and, by contract, is obligated to pay a proportionate share of the operation and maintenance costs and capital improvement costs. The City’s share of the Master Plan improvements is roughly $100 million.

The Water Pollution Control Plant was built in 1956 and now requires substantial redesign and reconstruction to replace aging infrastructure, manage increased flows from population growth, comply with current regulations, and incorporate efficient and environmentally-sustainable technologies. The Master Plan has two primary components: (1) technology needs to address efficient treatment, and (2) land use to address efficient and appropriate beneficial uses for the 2600...
acres of WPCP lands. San Jose is exploring future land uses that include site-appropriate manufacturing, recreation, and habitat restoration.

In early 2008, ESD initiated the Plant Master Plan as a three-year process with substantial outreach to the technical, regulatory, and general community. In March 2008, ESD began offering weekend tours of the plant that proved to be highly popular with the public. To date, ESD has conducted exploratory workshops (Brainstorming, Technical and Land Use) and formed a Community Advisory Group which includes one business and two residential representatives from Milpitas. ESD plans a general community meeting for the public on May 16, 2009, tentatively to be held at the WPCP, 700 Los Esteros Road in San Jose.

In 2009, the Plant Master Plan’s schedule calls for narrowing the selection of feasible alternatives for plant redevelopment. The final Plant Master Plan, which defines the wastewater treatment technologies and sets specified land uses, is expected in 2010. A multi-year design and construction implementation period will then begin in 2011.

**Fiscal Impact:** No fiscal impact from the recommended action.

**Recommendation:** Receive presentation from City of San Jose Environmental Services Department staff outlining the Master Plan for redevelopment of the San Jose/Santa Clara Water Pollution Control Plant.

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

**Background:** Much of the last month has been spent on redevelopment activities and the proposed agreement with KLA-Tencor. Economic Development staff also attended the Northern California Retail IDEA Exchange sponsored by the International Conference of Shopping Centers (ICSC) and met with several retailers interested in Milpitas locations.

**Retail Conference:** Key to the Retail Conference was the deal making sessions and the Retail Runway. Twenty three retailers were highlighted at the runway, where each had three to five minutes to talk about their growth potential and site requirements. Those presenting were: CVS Pharmacy (which acquired Long’s Drugstores), Great Clips, BevMo, Grocery Outlet, Chipotle, Golden Corral (a buffet restaurant), Chevron, In & Out Burger, Gold’s Gym, BP/Arco, Ralph’s Grocery (doing business as Foods Co, its warehouse model), Staples, Smart & Final, 99 cent Store, Fresh & Easy (organic food store), Taco Bell, Big Lots, Original Roadhouse Grille, Panera Bread, Fantastic Sam’s, Auto Zone, Panda Express and Darden Restaurants (Olive Garden, Longhorn Steakhouse).

Many of those retailers looking to expand are already located in Milpitas. Others are looking for space, but finding the low retail vacancies in Milpitas as problematic, such as Auto Zone. Auto Zone would really like to be in Milpitas, but have not been able to find a large enough site with great visibility. Staff will be following up with many of the contacts made to see if there are appropriate locations that these retailers may not know about.

At the conference, there were only a few apparel stores looking for sites; Rue 21 and Ross Dress for Less were the most prominent. Rue 21 typically locates in smaller, medium sized markets. While the retailer is not actively looking in Milpitas, staff is following up with Rue 21 on potential locations.

**Mervyn’s Redevelopment:** While at the conference, staff met again with the brokers for Mervyn’s who are working on a couple of tenants for the site. Staff pitched strongly for a Target, but the site size and configuration does not work for the 150,000 square feet that Target needs for its current concept.
One of the speakers noted that empty big boxes, such as the vacancies created by Mervyn’s and Home Depot closings, will not be viable for retail, especially apparel, in the next 10 years. So far, with the work that Terranomics is doing with the Milpitas Mervyn’s site, and with recent inquiries for some of the vacant space at McCarthy Ranch, staff remains hopeful that Milpitas’ strong location and easy access will be more attractive to big box users.

**General Economics:** In a presentation at the retail conference, Dr. Christopher Thornberg with Beacon Economics indicated that there is reason to be optimistic in today’s “drama queen” market. He suggested that with less spending, consumers are saving more which bodes well for the long-term economy. He suggested that the 13 year bull market, driven by transactional investments with no one looking out for the long-term, needed to come to a screeching halt in order for more reasoned economic policy change to occur. While this does little for the immediate impacts to the local economy, it is another way to try and see light at the end of this dark economic tunnel.

While Dr. Thornberg noted that he did not see the housing market returning until 2012, other speakers suggested that the market was strong for local and regional developers who own their own land and companies, as they are timelier in responding to tenant changes and needs of the local retailers. Other speakers urged cities and local developers to use the downturn as an opportunity to get their retail properties “tenant ready,” similar to how many industrial owners invest to make their properties “market ready” for new tenants.

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

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

### XX. ORDINANCE

* 11. **Waive the Second Reading and Adopt Ordinance No. 38.787 Amending Sections 13 and 35 of the Milpitas Zoning Ordinance (Staff Contact: Sheldon AhSing, 586-3278)**

**Background:** On March 3, 2009, the City Council introduced Ordinance No. 38.787 approving the First Amendment to the McCarthy Development Agreement approved in 2000. The First Amendment will only affect the 65-acre Equity Office project site and will not affect other properties covered by the original agreement. The Ordinance remains unchanged and is now ready for adoption.

**Fiscal Impact:** None.

**Recommendations:**
1. Waive the second reading of Ordinance No. 38.787.
2. Adopt Ordinance No. 38.787 amending Sections 13 and 35 of the Milpitas Zoning Ordinance.

### XXI. RESOLUTIONS

12. **Adopt a Resolution Approving Memorandum of Understanding with the Mid-Management and Confidential Unit (Staff Contact: Carmen Valdez, 586-3086)**

**Background:** The most recent Memorandum of Understanding with the Mid-Management and Confidential Unit expired on December 31, 2008. City representatives and representatives from Mid-Management and Confidential Unit met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of January 1, 2009 through December 31, 2011, which is included in the City Council’s agenda packet.
**Fiscal Impact:** Total cost for the three year contract over current cost is approximately $229,000.

**Recommendation:** Adopt a Resolution approving the Memorandum of Understanding with the Mid-Management and Confidential Unit covering the period of January 1, 2009 through December 31, 2011.

13. **Adopt a Resolution Approving Memorandum of Understanding with the Milpitas Police Officers Association (MPOA) (Staff Contact: Carmen Valdez, 586-3086)**

**Background:** The most recent Memorandum of Understanding with the Milpitas Police Officers Association expired on December 31, 2008. City representatives and representatives from the Milpitas Police Officers Association met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with effective dates of January 1, 2009 to December 31, 2011, a copy of which is included in the City Council’s agenda packet.

**Fiscal Impact:** Total Cost for the three year contract over current cost is approximately $1,923,000.

**Recommendation:** Adopt a Resolution approving the Memorandum of Understanding with the Milpitas Police Officers Association covering the period of January 1, 2009 through December 31, 2011.

* 14. **Adopt a Resolution Approving the Sole Source Purchase of a Boom Truck from Altec Industries, Inc. in the Amount of $140,134.71, and Approve the Trade-In to Altec Industries, Inc. of the Old Boom Truck for $9,000 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The current boom truck used by the Public Works Trees and Landscape Division is a 1993 Ford F-700 diesel body with an Altec articulated boom. This vehicle has reached the end of its useful life. In addition, the City is required by State law to retrofit 60% of its diesel fleet that were bought between 1988 and 2002 with electro mechanical particulate reduction devices by December 31, 2009. The cost to retrofit this vehicle is over $15,000, which is more than the current trade in value of $9,000. The more cost effective option is to replace rather than retrofit the vehicle.

Staff thoroughly evaluated three brands of articulated booms including Versalift, Terex and Altec. Staff found the Altec product to be superior overall and specifically superior in the following areas:

- Lower overall maintenance and repair costs.
- Higher boom speeds on all functions, which prevents loss of momentum during multidirectional moves for greater working efficiency.
- Greater platform capacity for increased workspace and boom articulation.

In addition, the City owns three other Altec units mounted on Ford chassis. Staff is therefore requesting that the purchase be a sole source procurement pursuant to City of Milpitas Municipal Code I-2-3.09 “Sole Source Procurement.”

The replacement vehicle is available from the State of California Department of General Services under a California Multiple Award Schedule (CMAS) contract. Pursuant to the City of Milpitas Municipal Code section I-2-3.08 “Cooperative Procurement,” the Purchasing Agent is authorized to purchase through a CMAS contract without bidding. The cost of the new vehicle is $134,933 plus sales tax $11,131.98 and 2.275% CMAS surcharge of $3,069.73, minus the trade-in of $9,000 from Altec, bringing the total to $140,134.71.
**Fiscal Impact:** None. The equipment is budgeted in the FY2008-09 capital outlay budget and funds are available from the Equipment Replacement Fund.

**Recommendation:** Adopt a Resolution approving the Sole Source purchase of a boom truck from Altec Industries, Inc. in the amount of $140,134.71, and approve the trade-in to Altec Industries, Inc. of the old boom truck for $9,000.

* 15. **Adopt a Resolution Granting Final Acceptance for Street Resurfacing Project 2007, Project No. 4236 (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** The Street Resurfacing 2007, Project No. 4236, which consisted of placing asphalt concrete overlays, street reconstruction and repairs, pavement delineation, and installation of American Disabilities Act (ADA) compliant sidewalk ramps, was initially accepted on January 15, 2008. The project one-year warranty period has now expired and staff conducted a final project inspection and found the work to be satisfactory. Therefore, the Council may grant final acceptance and the contractor’s bond may be released.

**Fiscal Impact:** None.

**Recommendation:** Adopt a Resolution granting final acceptance for the Street Resurfacing Project 2007, Project No. 4236.

* 16. **Adopt a Resolution Granting Initial Acceptance for the Venus Pump Station Improvement, Project No. 6101 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** City Council awarded the rehabilitation of the Venus Sewage Pump Station to Anderson Pacific Engineering Construction, Inc. on August 5, 2008. The project provided for the sealing of the station wet well and replacement of the pumps, hatches, valves and related electrical controls. The project has been successfully completed. Staff recommends that the Council adopt a resolution granting initial acceptance and authorize the reduction of the contractor’s faithful performance bond to $33,000.

**Fiscal Impact:** None.

**Recommendation:** Adopt a Resolution granting initial acceptance for the Venus Pump Station Improvement, Project No. 6101, subject to a one year warranty period, and reduction of the contractor’s faithful bond to $33,000.

* 17. **Adopt a Resolution Granting Final Acceptance of Public Improvements for Milpitas Town Center for Shapell Industries of Northern California, Project No. 3153 (Staff Contact: Fernando Bravo, 586-3328)**

**Background:** This project provided for public improvements (realignments of the waterline, sewer line, and storm drain, modification of a traffic signal, sidewalk and pavement) to accommodate the renovated Milpitas Town Center and was initially accepted by City Council on October 16, 2007. The one-year project warranty period has passed. Staff conducted a final project inspection after the warranty work was completed and has determined the work to be satisfactory. Therefore, the Council may grant final acceptance and the contractor’s bond may be released.

**Fiscal Impact:** None

**Recommendation:** Adopt a Resolution granting final acceptance and release of the contractor’s bond for the Milpitas Town Center, Project No. 3153.
XXII. BIDS AND CONTRACTS

* 18. Authorize the City Manager to Negotiate a Sales and Use Tax Sharing Agreement with KLA-Tencor (Staff Contact: Diana Barnhart, 586-3059)

**Background:** As part of the City’s Sales and Use Tax Outreach program, KLA-Tencor (K-T) has agreed to allocate all company-wide sales to California customers and use taxes related to California locations to Milpitas, its headquarter location. K-T has been located in Milpitas since 1997 and consistently been a top sales tax generator. The proposed sharing agreement will allow Milpitas to retain 100% of the revenues currently attributed to the City and receive 50% of all sales and use taxes accrued at other K-T sites over 15 years.

Based on revenue trends since 2001 and factoring in the significant economic downshift, the proposed agreement is estimated to generate annually an additional revenue stream in the six digits. K-T agrees that after 15 years, the City will receive the entire sales and use tax revenue stream generated by the company.

If the Council approves this recommendation, the City Manager will negotiate the agreement with KLA-Tencor and return for Council approval of the final agreement.

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

**Recommendation:** Authorize the City Manager to negotiate a Sales and Use Tax Sharing Agreement with KLA-Tencor.

* 19. Award the Bid for On-Call Street Light and Traffic Signal Support, and Authorize the City Manager to Execute a Contract with Cal-West Lighting & Signal Maintenance, Inc. (Staff Contact: Chris Schroeder, 586-3161)

**Background:** On January 23, 2009, the City went out to bid for on-call traffic signal and streetlight support services. The bid package was based on the combined price of various repair and installation procedures, or “service package,” common to City operations, including the removal and installation of light poles, foundations, traffic signal poles and cabinets, and the cost per foot for boring or trenching for various sizes of conduit to connect to the poles, plus a comparison of the hourly labor rates. Based on the estimate of the bid package, staff proposes to enter into an annual contract not to exceed $100,000 per year for one year with two additional one-year options. Bids were sent to thirteen statewide vendors on the Purchasing vendor database. In addition, the bid was advertised in the local newspaper and on the City website.

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Total (Service Package – Basis for Award)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cal-West Lighting</td>
<td>$11,455</td>
</tr>
<tr>
<td>Republic ITS</td>
<td>$12,338</td>
</tr>
</tbody>
</table>

**Fiscal Impact:** None. Funds were programmed for this service in Capital Improvement Project No. 4241 Streetlight and Signal Pole Painting 2008.

**Recommendation:** Award the bid and authorize the City Manager to execute a contract for on-call Street light and traffic signal support with Cal-West Lighting & Signal Maintenance, Inc. for the not-to-exceed amount of $100,000 per year, subject to approval as to form by the City Attorney.

* 20. Award the Bid and Authorize the City Manager to Execute a Contract with Priority 1 for Emergency Vehicle Equipment Installation for the Not-to-Exceed Annual Amount of $25,000 (Staff Contact: Chris Schroeder, 586-3161)
**Background:** On February 3, 2009, the City went out to bid for emergency vehicle equipment installation. The bid was based on the combined price of two services, stripping out old equipment from vehicles leaving police service and installing new equipment in the replacement patrol vehicle, or the combined "transaction cost." Based on estimate of the services, staff proposes to enter into an annual contract not to exceed $25,000 per year for three years with two additional one-year options. Bids were sent to five local vendors on the Purchasing vendor database. In addition, the bid was advertised in a local newspaper and on the City website.

Three bids were received and are summarized below:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Total Bid (Combined Transaction Cost)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Priority 1</td>
<td>$2,050.00</td>
</tr>
<tr>
<td>Emergency Vehicle Solutions</td>
<td>$2,450.00</td>
</tr>
<tr>
<td>Day Wireless</td>
<td>$4,670.00</td>
</tr>
</tbody>
</table>

**Fiscal Impact:** None. Funds were programmed for this service in the FY2008-09 Fleet Maintenance operating budget.

**Recommendation:** Award the bid and authorize the City Manager to execute a contract with Priority 1 for emergency vehicle equipment installation for the not-to-exceed annual amount of $25,000, subject to approval as to form by the City Attorney.

* 21. **Award the Bid for Park Irrigation System Rehabilitation to Valley Crest Landscape Maintenance, Inc. for the Not-to-Exceed Amount of $50,271** (Staff Contact: Chris Schroeder, 586-3161)

**Background:** On January 12, 2009, the City went out to bid for the installation of a radio operated centralized irrigation control system for fifteen City parks. Bids were sent to twenty-four regional and Bay Area landscape and irrigation specialty companies on the Purchasing bidders list. In addition, the bid was advertised in a local newspaper, on the City website and in the Blue Book. Award of the bid was predicated on the base bid amount of the first four parks, with the remaining eleven as additive items to be awarded up to the maximum budget amount of $103,000. Seven bids were received and are summarized below:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Base</th>
<th>Additive</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>American Civil Constructors</td>
<td>50,000.00</td>
<td>177,500.00</td>
<td>228,100.00</td>
</tr>
<tr>
<td>Del Conte’s Landscaping</td>
<td>17,593.00</td>
<td>83,317.00</td>
<td>100,910.00</td>
</tr>
<tr>
<td>Key Turf Construction</td>
<td>23,315.00</td>
<td>47,950.00</td>
<td>71,265.00</td>
</tr>
<tr>
<td>Flora Terra Landscape</td>
<td>20,120.31</td>
<td>85,542.20</td>
<td>105,662.51</td>
</tr>
<tr>
<td>Valley Crest Landscape</td>
<td>9,510.00</td>
<td>40,761.00</td>
<td>50,271.00</td>
</tr>
<tr>
<td>Pacheco Brothers Gardening</td>
<td>21,175.00</td>
<td>55,265.00</td>
<td>70,200.00</td>
</tr>
<tr>
<td>East Bay Construction</td>
<td>19,800.00</td>
<td>70,200.00</td>
<td>90,000.00</td>
</tr>
</tbody>
</table>

**Fiscal Impact:** None. The purchase is a programmed expense approved in the FY2008-09 budget for Parks and Recreation Services.

**Recommendation:** Award the bid and authorize the City Manager to execute a contract for Park Irrigation System Rehabilitation with Valley Crest Landscape Maintenance, Inc. for the not-to-exceed amount of $50,271, including sales tax, subject to approval as to form by the City Attorney.

* 22. **Authorize the City Engineer to Execute a Contract Change Order for Median Mulch and Street Tree Maintenance for Great Mall Parkway, Project No. 4133** (Staff Contact: Steve Erickson, 586-3301)
**Background:** The City Council awarded this project to Forster & Kroeger, Inc. on December 19, 2006. The project provided for two year’s landscape maintenance of the median mulch and street trees along Great Mall Parkway from Interstate 880 east to the City limits. The work includes trash and weed removal, replacement of median mulch and damaged street trees as necessary.

Staff recommends that this contract be extended for an additional six months until such time as the Great Mall Median Landscaping project begins construction later this summer. Staff negotiated a Change Order with the contractor for a cost not to exceed $7,200 for this additional work, which is considered reasonable. Staff recommends the approval of this Change Order.

**Fiscal Impact:** Sufficient funds are available in the project budget for the additional costs associated with this Change Order.

**Recommendation:** Authorize the City Engineer to execute the Contract Change Order with Forster & Kroeger, Inc. in the amount not-to-exceed $7,200.

* 23. Award the Bid for Vehicle Speed Feedback Signs to Republic ITS for the Not-to-Exceed Amount of $34,112.76 (Staff Contact: Chris Schroeder, 586-3161)

**Background:** On January 26, 2009, the City of Milpitas went out to bid for vehicle speed feedback signs. These are the radar-based signs mounted on streetlight poles that give motorists their speed relative to the posted limit. Bids were sent to fourteen vendors nationwide from the Purchasing vendor database. In addition, the bid was advertised in the local newspaper and on the City website. Three bids were received, but two were disqualified for failure to meet the required specifications that the basic sign must have expandable capacity to add additional LED modules that would provide changeable message displays. The winning bidder was Republic ITS in the amount of $34,112.76.

**Fiscal Impact:** None. Funds were programmed for this purchase in Capital Improvement Project No. 4240, Clean and Safe Streets, and Project No. 4249, Traffic Signal Modifications 2009.

**Recommendation:** Award the bid for vehicle speed feedback signs to Republic ITS, for the not-to-exceed amount of $34,112.76.

XXIII. ADJOURNMENT

NEXT REGULAR MEETING
TUESDAY, APRIL 7, 2009