



**MILPITAS CITY COUNCIL MEETING AGENDA  
TUESDAY, MAY 5, 2009**

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**7:00 P.M.  
455 E. CALAVERAS BOULEVARD**

**SUMMARY OF CONTENTS**

- I. CALL TO ORDER by the Mayor**
- II. ROLL CALL by the City Clerk**
- III. PLEDGE OF ALLEGIANCE**
- IV. INVOCATION (Mayor Livengood)**
- V. APPROVAL OF COUNCIL MEETING MINUTES – April 21, 2009**
- VI. SCHEDULE OF MEETINGS – Council Calendar for May 2009**
- VII. PRESENTATIONS**

Proclamations:

- Building Safety Week 2009 – May 3-9, 2009
- Bike to Work Day – May 14, 2009 and Bike to Work Month – May 2009

**VIII. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with asterisk\*)**

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

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**XIII. PUBLIC HEARING**

- 1. Consider Protests Against Proposed Water and Sewer Rate Increases, and Adopt Ordinances No. 120.45 and No. 208.44, 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)**

**XIV. UNFINISHED BUSINESS**

2. **Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)**

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

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

**RA2. Approval of Minutes – April 21, 2009**

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

**RA4. Receive Progress Report on the new Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**

**RA5. Receive the Financial Status Report for the Nine Months Ended March 31, 2009 (Staff Contact: Emma Karlen, 586-3145)**

**RA6. Authorize the Agency Executive Director to Negotiate Agreements with CBS Outdoor and Milpitas Automotive Group for Three Electronic Freeway Signs, and with McCarthy Ranch and Clear Channel Outdoor for Three Electronic Freeway Signs and Return to Agency/Council for Approval of Agreements (Staff Contact: Diana Barnhart, 586-3059)**

**\*RA7. Receive Investment Portfolio Status Report for the Quarter Ended March 31, 2009 (Staff Contact: Emma Karlen, 586-3145)**

**RA8. Agency Adjournment**

**XVI. REPORTS OF MAYOR**

**3. Adopt a Resolution in Support of Senate Bill 55 Expanding Statewide Recycling Program (Contact: Mayor Livengood, 586-3051)**

**4. Adopt a Resolution Requesting Major League Baseball Act on the Issue of Territorial Rights in the County of Santa Clara (Contact: Mayor Livengood, 586-3051)**

**\* 5. Consider Mayor's Recommendations for Appointments to the Milpitas Commissions and Board (Contact: Mayor Livengood, 586-3051)**

**XVII. NEW BUSINESS**

**6. Receive Presentation on the Serra Center Redevelopment Proposal (Staff Contacts: James Lindsay, 586-3273, and Derek Farmer, 586-3287)**

**XVIII. ORDINANCES**

**\* 7. Waive the Second Reading and Adopt Ordinance No. 192.22 Approving Fifth Amendment to the Great Mall Redevelopment Plan (Staff Contact: Diana Barnhart, 586-3059)**

**\* 8. Waive the Second Reading and Adopt Ordinance No. 23.12 Repealing Title I Chapter 2, Purchasing, of the Existing Milpitas Municipal Code and Adopt Title I, Chapter 2, Sections 1 Through 12 (Staff Contact: Chris Schroeder, 586-3161)**

**\* 9. Waive the Second Reading and Adopt Ordinance No. 262.6 Amending the Open Government Ordinance (Staff Contact: Michael Ogaz, 586-3041)**

**XIX. RESOLUTIONS**

- \* 10. **Adopt a Resolution Authorizing the City Manager to Execute a Contract with Central Medical Lab for the Not-to-Exceed Annual Amount of \$21,120 for Drug and Alcohol Testing for the Police Department (Staff Contact: Chris Schroeder, 586-3161)**
- \* 11. **Adopt a Resolution Authorizing the City Manager to Execute a Contract with Tecogen for the Not-to-Exceed Annual Amount of \$15,000 for Maintenance and Repair of the Cogeneration Facilities at the Sports Center (Staff Contact: Chris Schroeder, 586-3161)**
- \* 12. **Adopt a Resolution Requesting the Allocation of Transportation Development Act (TDA) – Article 3 Funds from the Metropolitan Transportation Commission for Bicycle/Pedestrian Improvement Projects (Staff Contact: Jaime Rodriguez, 586-3335)**
- \* 13. **Adopt a Resolution Approving the Standardization of Data 911 Systems and Authorize the Purchase of Twelve Mobile Computer Matching Monitors for the Police Department (Staff Contact: Charlotte Pang, 586-2432)**

**XX. BIDS AND CONTRACTS**

- \* 14. **Approve Assistance to Firefighters Grant for the Purchase of New Firefighter Personal Protective Equipment and Clothing (Staff Contact: Geoff Maloon, 586-2830)**
- \* 15. **Approve and Authorize the City Manager to Execute a Contribution Agreement with California Department of Transportation (Caltrans) for Highway 237/I-880 Interchange Landscaping, Project No. 4170 (Staff Contact: Greg Armendariz, 586-3317)**
- \* 16. **Approve Plans and Specifications, and Authorize the Advertisement for Bid Proposals for Sewer Deficiency and Structural Correction Program- Phase 5, and Sewer System Replacement, Projects No. 6073 and No. 6111 (Staff Contact: Steve Erickson, 586-3301)**
- \* 17. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for Water System Air Relief Valve Modifications - Phase III, Project No. 7086 (Staff Contact: Steve Erickson, 586-3301)**
- \* 18. **Approve Plans and Specifications, and Authorize the Advertisement for Bid Proposals for South Milpitas Blvd. Water Line Replacement and Los Coches Street Water Valve Replacement, Project No. 7098 (Staff Contact: Kathleen Phalen, 586-3345)**

**XXI. ADJOURNMENT**

**NEXT CITY COUNCIL MEETING: BUDGET PUBLIC HEARING MAY 12, 2009**

**NEXT REGULAR MEETING: TUESDAY, MAY 19, 2009**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
e-mail: [mogaz@ci.milpitas.ca.gov](mailto:mogaz@ci.milpitas.ca.gov) / Fax: 408-586-3056 / Phone: 408-586-3040

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

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

**APPLY TO BECOME A CITY COMMISSIONER!**

Current vacancies exist for the:

*Arts Commission and Public Art Committee*

*Community Advisory Commission*

*Economic Development Commission (Retail Rep.)*

*Mobile Home Park Rental Review Board*

*Youth Advisory Commission (alternate)*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at the City Hall Information Desk.  
Contact the City Clerk's office (586-3003) for more information.

*If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 586-3001 or send an email to [mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the Council Chambers for all meetings. TDD phone number (408) 586-3013.*

## AGENDA REPORTS

TUESDAY, MAY 5, 2009

### XVII. PUBLIC HEARING

1. **Consider Protests Against Proposed Water and Sewer Rate Increases, and Adopt Ordinances No. 120.45 and No. 208.44, 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.** On February 3, 2009, the City Council heard staff recommendations for 9% water and sewer rate increases in 2009-10 and 2010-11. Council took the following actions: introduced the water and sewer rate ordinances, approved sending notice to all property owners of the proposed rate increases, and set May 5, 2009 as the date for the public hearing to consider protests against the proposed rates. The rate recommendations were based on a systematic analysis of the City's expenses and revenue needs for the next two years conducted in accordance with City fiscal policies, as described in the "2009-10 & 2010-11 Utility Rate Analysis for Water, Recycled Water, and Sewer" provided in the February 3 Council packet. In FY2009-10, the impact of the proposed rate increases to the typical single-family customer, using 2,300 cubic feet of water every two months, will be to increase the bimonthly water bill from \$58.05 to \$63.19 and increase the sewer bill from \$59.70 to \$65.08. In FY2010-11, the bimonthly water bill for this typical customer will increase to \$68.97 and the sewer bill will increase to \$70.94.

The City places all utility rate proceeds into water and sewer enterprise funds from which they can only be used to fund the direct and indirect costs of providing water and sewer services. The City's need for rate increases is largely driven by escalating wholesale cost factors beyond the City's control. Wholesale water and sewage treatment costs represent 55% of the City's total costs. Since the City last raised rates in August 2006, wholesale water costs have increased 32% and sewage treatment costs have increased nearly 100%. Wholesale costs will continue their steep rise for the next several years. The San Francisco Public Utilities Commission is increasing its wholesale rate 16% in FY2009-10, and another 17% in FY2010-11. Santa Clara Valley Water District is expected to increase its wholesale rates 6% in FY2009-10, and another 8% in FY2010-11. The San Jose/Santa Clara Water Pollution Control Plant does not set rates, but instead passes through its budgeted operations and maintenance and capital improvement costs. In FY2009-10, the total of these costs will increase 16%. All three of these outside agencies are incurring and passing through to Milpitas, their steeply increasing costs to pay for major improvement programs to replace and upgrade their aging infrastructure to ensure the reliability of their services.

The City's operations, overhead, and capital improvement costs for its water distribution and sewer collection systems are also increasing, but at more stable 3% per year. Operations costs arise from all activities to monitor, clean, maintain, and repair the water distribution and sewer collection systems and to power the pumps that move the water and sewage through their separate systems. Overhead cost is for all the indirect but necessary functions supporting the water and sewer utilities; as, for example, the services provided by the Human Resources Department. Capital improvements include projects to replace and upgrade the City's aging distribution and collection infrastructure and make improvements to increase the reliability of the systems. An important improvement program is the seismic upgrade of critical components of the water distribution "backbone" system, a primary system of pumps and large diameter pipelines that need to withstand seismic damage such that they will provide lifeline service to the public in the aftermath of a major earthquake.

As required by state law, staff sent notice of the City's intent to raise water and sewer rates, with instruction on how to submit a written protest, to all affected property owners 45 days before the scheduled public hearing date. Staff will provide the number of affected properties and the

number of written protests submitted to the City at the public hearing. If a majority of the affected property owners submitted written protests against the increase, the City can not increase water and sewer rates.

**Fiscal Impact:** There is no direct fiscal impact to the City budget from the recommended action. Utility rates do provide revenue to the City's water and sewer enterprise funds.

**Recommendations:**

1. Open the public hearing to receive public comment on the proposed utility rate increases.
2. Move to close the public hearing.
3. Receive summary from the City Clerk of the number of written protests received. If the quantity of protests is less than a simple majority, Council may proceed with the following recommendations.
4. Waive the second reading beyond the title of Ordinance No. 120.45.
5. Adopt Ordinance No. 120.45 amending Chapter 1 of Title VIII of the Milpitas Municipal Code relating to water charges.
6. Waive the second reading beyond the title of Ordinance No. 208.44.
7. Adopt Ordinance No. 208.44 amending Chapter 2 of Title VIII of the Milpitas Municipal Code relating to sewer charges.

**XVIII. UNFINISHED BUSINESS**

**2. Receive the Monthly Economic Development Report (Staff Contact: Diana Barnhart, 586-3059)**

**Background:** The Council meeting this month reflects much of the staff work over the last month, with the Public Hearing on the proposed amendment to the Great Mall Redevelopment Plan and the recommendations on the electronic message board freeway signs.

**Meeting Room Space:** In response to declining hotel occupancies discussed at the Hotel Roundtable, staff is reviewing options to create meeting room space in key office vacancies. Currently, both the City of Santa Clara and City of San Jose have capacity for larger meetings and events. Typically they require users of their convention facilities to stay in hotels within their respective cities. However, as a result of the Milpitas hotel capacity and choices, it is not uncommon for the local hotels to still benefit from attendee stays, but less than if the City has its own space to market. Staff will organize another hotel meeting to determine meeting room capacity needs and how this fits into local hotel business plans, and will develop costs to move ahead if this approach is supported by the hoteliers.

**South Bay Honda:** The project is moving along with a projected opening in August/September. Car sales were strong in March as consumers purchased prior to the sales tax increase.

**Solar Company Inquiries:** The City was approached by two solar panel manufacturers regarding relocation and expansion into existing vacant or nearly vacant properties. One company indicates that it is ready to move into production and the other into pre-production fabrication. Both companies have requested financial assistance to offset tenant improvements and machinery retooling. The companies have been asked to provide additional information which will be evaluated for need prior to formal recommendations for Council/Agency action.

**KLA-Tencor Agreement:** The Sales and Use Tax Sharing Agreement was prepared and provided to KLA-Tencor earlier this month. The Development Review Team also met with KLA representatives to kick-start the tenant improvements that will need to be made to facilitate the consolidation of offices.

**Mervyn's:** Brokers for this property indicated that they were talking with a potential food market that would take the entire building, but the tenant pulled out of negotiations. Staff has conveyed a desire that another supermarket located at this site would not be desirable and would prefer to

see a mix of retailers, understanding that no one retailer is looking at properties the size of the Mervyn's site.

Use Tax Outreach: There appears to be good news on the Use Tax Outreach effort. Both companies the City worked with appear to be allocating use tax to Milpitas, increasing the revenues generated significantly – more than \$300,000 for the 4<sup>th</sup> quarter of 2008.

Lucky/Marina Foods: No movement on this project at the date of this report.

Industrial Property Owner Roundtable: The next Roundtable will be held with industrial owners and brokers to get a better understanding of the issues they are facing and to get a temperature reading on how the City is performing for them in this economic downturn.

Great Mall News: The Forever 21 expansion will occur in early June for a fall opening, but stores are being relocated now to accommodate the expansion. Agaci, a national apparel store has recently opened and Shiekh, a men's and women's shoe store has opened its new brand. Finally, KettlePop opened in a new space.

Fiscal Impact: None. There is no fiscal impact associated with this action.

Recommendation: Receive the monthly economic development report.

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

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

**RA2. Approval of Minutes – April 21, 2009**

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

**RA4. Receive Progress Report on the new Senior Center, Project No. 8176 (Staff Contact: Steve Erickson, 586-3301)**

Background: The Notice to Proceed to the contractor was issued on April 6, construction mobilization and installation of site fencing started April 13. Swenson continues with the material and product submittal phase, and will begin construction work with the abatement preceded by demolition of the interior and exterior portions of the building that are to be changed. Staff will provide additional information during a progress report at the Council meeting.

Fiscal Impact: None.

Recommendation: Receive staff report on the new Senior Center Project No. 8176.

**RA5. Receive the Financial Status Report for the Nine Months Ended March 31, 2009 (Staff Contact: Emma Karlen, 586-3145)**

Background: In FY 2008-09, staff projected the total General Fund revenue to be \$55.8 million, approximately the same amount as FY 2007-08's actual revenue. However, the recent economic downturn 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 revenue also experienced a decline of approximately 13% 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 matured securities in the City's investment portfolio is significantly lower than anticipated. The only positive news for the General Fund is that property tax and sales tax revenues are expected to be higher than originally projected.

Property tax revenue is expected to be 2% or \$330,000 above budget due to Mid-Town residential developments. Although 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 the Redevelopment law. The property tax revenue for FY2008-09 is based on the assessed valuation of the secured properties as of January 2008. Since then, the housing market declined significantly. The median home price for Milpitas decreased from \$595,000 in January 2008 to \$447,500 in January 2009, a 25% drop. The County Assessor indicated that he would proactively reassess the values of many residential properties that were bought at the peak of the housing market, even as far back as year 2000. Staff anticipates that City's property tax revenue will be severely impacted next fiscal year.

Sales tax revenue is expected to be \$797,000 above budget in spite of the dismal economy. The City began to see some of the successes of the business cooperation program and outreach efforts. Two major high-tech companies whose points of sales are not located in Milpitas began to file and credit their use tax to the City. To date, these two companies have credited about \$600,000 use tax revenue to the City. Use tax is generated from purchases of major equipment used in a Milpitas location and is considered to be one-time revenue. Another reason for the higher sales tax revenue is attributed to the type of retail businesses in Milpitas. Both the Great Mall and Walmart, which feature value shopping, tend to perform better than the more high-end stores in an economic downturn.

Based on all the revenues received to date and the trends of the major revenues, staff revised the General Fund revenue to be approximately \$1.3 million below original budget projection. The total revised revenue is estimated to be \$54.5 million.

The General Fund expenditures at the end of March were at 70% of the budget appropriations. City departments continued to monitor their spending carefully. Staff believes that with the cost savings on expenditures, the General Fund will close the 2008-09 budget year without any use of its reserve. For FY 2008-09, the Council also approved a not to exceed \$6 million loan payment from RDA to balance the General Fund budget. In the event that there are more expenditure savings, the amount of loan payment required from the Agency will be less than \$6 million.

The Redevelopment Agency's revenue is better than projected by about \$1.9 million. The tax increment revenue received to date is about 13% more than last year. However, the expenditures are also much higher than anticipated. At the time of the City/Agency's budget adoption, the Education Revenue Augmentation Fund contribution requirement was unknown. The Agency is required to contribute about \$2.43 million ERAF payment to the state by May of this year. Also, the Agency advanced about \$4.75 million to the Transit Area Mitigation Fund. The majority of the advance is to fund the purchase of additional sewer capacity to serve the Transit Area. With these revisions, staff anticipates that the Redevelopment Agency will use about \$9 million of its fund balance this year.

**Fiscal Impact:** None.

**Recommendation:** Receive financial status report for the nine months ended March 31, 2009.

**RA6. Authorize the Agency Executive Director to Negotiate Agreements with CBS Outdoor and Milpitas Automotive Group for Three Electronic Freeway Signs, and with McCarthy Ranch and Clear Channel Outdoor for Three Electronic Freeway Signs and Return to Agency/Council for Approval of Agreements (Staff Contact: Diana Barnhart, 586-3059)**

**Background:** A Request for Proposals (RFP) for a new electronic freeway sign program was issued on July 11, 2008. A total of eight (8) responses were received, ranging from one to six freeway signs, with some including directional and electronic wayfinder signs.

In September 2008, the former Facilities Naming Subcommittee selected three firms, CBS Outdoor with the Milpitas Automotive Group, McCarthy Ranch with Clear Channel and Media Management Group to submit additional responses. The Subcommittee considered the responses at its November 19, 2008 meeting, but asked for a more "apple to apples" comparison of the three responses to clarify the significant differences in the responses.

At the February Economic Development Subcommittee meeting, staff recommended that exclusive negotiations with both Milpitas Automotive Group and McCarthy Ranch be undertaken with CBS Outdoor to develop one proposal for Milpitas area freeway signs. After presentations from all three proposers, the Subcommittee asked staff to work with both Milpitas Automotive Group and McCarthy Ranch to see if a better apple to apples comparison could be prepared for Subcommittee review and analysis. Over the following month, staff met with both McCarthy Ranch and Clear Channel and Milpitas Automotive representatives to clarify their proposals to assist in the staff review. As a result, staff came to the conclusion that an apple to apples comparison was not achievable since the two proposals were so different and both parties agreed. The staff report to the Economic Development Subcommittee is included in the Council report.

At its March meeting, the Economic Development Subcommittee recommended that both McCarthy Ranch with Clear Channel and Milpitas Automotive Group with CBS Outdoor be allowed to develop and operate three freeway signs each. The McCarthy signs would be located on McCarthy property and the Milpitas Automotive Group signs would be located on the Piercey Automotive site, the City's I-880 freeway sign site and the existing freeway sign site on I-680.

Negotiation Points: If the Council/Agency accepts the Subcommittee recommendation, staff recommends that the following deal points be included in the negotiations with the two groups:

- Up front Payment
- Guaranteed Annual Payments
- Percentage Payment
- Free advertising Space for the City of Milpitas
- Other aspects of negotiation will include sign design, specific site locations, technology application, and length of contract and implementation schedule.

Staff will return to the Redevelopment Agency for final action on the completed negotiations and with agreements so that the freeway sign program can be implemented in the near future.

Additional CEQA Review: If the Council/Agency approves the recommendation, the sign developers will need to complete additional environmental review. The environmental review for the Merger Amendments in 2006 covered five freeway sign sites within the two redevelopment project areas, split between I-880 and I-680 with up to two one-sided electronic message board signs. This work did not include sign sites on McCarthy property.

Staff requested a proposal from Wagstaff and Associates for additional environmental review that would allow additional two-sided electronic freeway signs since Wagstaff and Associates completed the Merger Amendment environmental review and is familiar with the sign project. Additional environment review could be completed separately by the sign developers or jointly, but the process would be a Supplemental Environmental Impact Report to the Merger Amendment environmental review.

The additional review will provide "before and after" color simulation viewpoints of potential sign sites as well as digital simulations. The total cost for the review of all the proposed signs, including the McCarthy site signs, will be the responsibility of the approved sign developers.

**Fiscal Impact:** There is no fiscal impact associated with the recommended actions.

**Recommendation:** Authorize the Agency Executive Director to negotiate agreements with CBS Outdoor and Milpitas Automotive Group for three Electronic Freeway Signs and with McCarthy Ranch and Clear Channel Outdoor for three electronic freeway signs; and, return to Council for approval of agreements.

**\*RA7. Receive Investment Portfolio Status Report for the Quarter Ended March 31, 2009 (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 March 31, 2009 is submitted for review and acceptance.

The Portfolio Summary Report included in the agenda 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 March 31, 2009.

As of March 31, 2009, the principal cost and market value of the City's investment portfolio was \$192,491,850 and \$195,552,285 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 March 31, 2009 was 2.85%. The comparative benchmarks for the same period were 1.57% for LAIF (Local Agency Investment Fund) and 1.71% 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 408 days.

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.

The market values of the securities were provided by Interactive Data, an independent service provider of market valuation. All the securities owned by the City are held in safekeeping by a third party bank trust department, acting as agent for the City under the terms of a custody agreement.

Three charts are included with 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 March 31, 2009.

#### **RA8. Agency Adjournment**

### **XVI. REPORTS OF MAYOR**

#### **3. Adopt a Resolution in Support of Senate Bill 55 Expanding Statewide Recycling Program (Contact: Mayor Livengood, 586-3051)**

**Background:** Currently only certain types of bottles and cans are allowed in the State recycling program. Senate Bill 55, sponsored by state Sen. Ellen Corbett, would expand the program to all sizes of bottles and cans, and would expand the material type to include paper containers. The California State Association of Counties and Californians Against Waste, among other organizations, support this legislation.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution in support of Senate Bill 55.

**4. Adopt a Resolution Requesting Major League Baseball Act on the Issue of Territorial Rights in the County of Santa Clara (Contact: Mayor Livengood, 586-3051)**

**Background:** The Mayor wishes to present a resolution in support of bringing the Oakland Athletics Major League Baseball team to San Jose in Santa Clara County. A sample resolution of support is included in the Council's agenda packet.

**Fiscal Impact:** None.

**Recommendation:** Hear report from Mayor Livengood and consider adoption of Resolution Requesting Major League Baseball to act on the issue of territorial rights in Santa Clara County.

**\* 5. Consider Mayor's Recommendations for Appointments/Re-Appointments to the Milpitas Commissions/Board (Contact: Mayor Livengood, 586-3051)**

**Background:** Mayor Livengood recommends the following persons be appointed/re-appointed to five Milpitas Commissions and one Board:

**Economic Development Commission:**

Newly appoint Tom McEvoy as the hotel representative to a term that expires in April 2012.

**Emergency Preparedness Commission:**

Re-appoint Michael Berryhill to a term that expires in June 2012.

Re-appoint Arlyn Swiger to a term that expires in June 2012.

Re-appoint Stephen Strauss as Alternate No. 1 to a term that expires in June 2011.

Re-appoint Michael Caulkins as Alternate No. 2 to a term that expires in June 2011.

Newly appoint Frank DeSmidt as the Chamber of Commerce representative to a term that expires in June 2012.

Appoint Tim Howard (current Chamber rep.) as the industry representative to a term that expires in June 2011.

**Library Advisory Commission:**

Re-appoint Carmen Montano to a term that expires in June 2011.

Re-appoint Sonny Wang to a term that expires in June 2011.

Re-appoint Ha Phan as Alternate No. 1 to a term that expires in June 2011.

Re-appoint Marie Pham as Alternate No. 2 to a term that expires in June 2011.

**Mobile Home Park Rental Review Board:**

Re-appoint Beth Garcia to a term that expires in June 2012.

**Parks, Recreation and Cultural Resources Commission:**

Re-appoint Steve Munzel to a term that expires in June 2012.

Re-appoint Henry Ku to a term that expires in June 2012.

Re-appoint Frances Krommenhock to a term that expires in June 2012.

Appoint Vishnu Mathur (current Alternate No. 1) as regular member to a term that expires in June 2010.

Appoint Michael Bangsal (current Alternate No. 2) as Alternate No. 1 to a term that expires in June 2010.

Newly appoint Rebecca Villalobos as Alternate No. 2 to a term that expires in June 2009.

**Sister Cities Commission:**

Newly appoint Karen Serpa as Alternate No. 1 to a term that expires in September 2010.

Newly appoint Miriam Hardin as Alternate No. 2 to a term that expires in September 2009.

**Recommendation:** Consider Mayor Livengood's recommendations, and move to approve the appointments and re-appointments to five City Commissions and one Board.

## **XVII. NEW BUSINESS**

- 6. Receive Presentation on the Serra Center Redevelopment Proposal (Staff Contacts: James Lindsay, 586-3273 and Derek Farmer, 586-3287)**

**Background:** The City received a Preliminary Application (P-PP09-0002) to redevelop the Serra Center with new retail and office uses, a 168-room hotel, a multi-story parking garage, and 45 residential units. The applicant is soliciting feedback on its proposal from the City before submitting a formal development application. The City Council Transportation and Land Use Subcommittee received a similar presentation at its April 6 meeting and the Planning Commission presentation was scheduled on April 22. The Serra Center is presently zoned General Commercial with a Gateway Office overlay and is located within the Midtown Area. Preliminary plans and a project narrative have been included in the Council's agenda packet.

**Fiscal Impact:** None.

**Recommendation:** Receive presentation and provide any comments on the preliminary design concept for the Serra Center project.

## **XIX. ORDINANCES**

- \* **7. Waive the Second Reading and Adopt Ordinance No. 192.22 Approving Fifth Amendment to the Great Mall Redevelopment Plan (Staff Contact: Diana Barnhart, 586-3059)**

**Background:** Ordinance No. 192.22 was introduced at the April 21, 2009 joint City Council/ Redevelopment Agency meeting. The ordinance text is included in the agenda packet, and is now ready for second reading and adoption.

**Fiscal Impact:** None.

**Recommendation:** Waive the second reading and adopt Ordinance No. 192.22 amending for the fifth time the Great Mall Redevelopment Plan.

- \* **8. Waive the Second Reading and Adopt Ordinance No. 23.12 Repealing Title I Chapter 2, Purchasing, of the Existing Milpitas Municipal Code and Adopt Title I, Chapter 2, Sections 1 Through 12 (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Ordinance No. 23.12 was introduced at the April 21, 2009 City Council meeting. The ordinance text is included in the agenda packet, and is now ready for second reading and adoption.

**Fiscal Impact:** None.

**Recommendation:** Waive the second reading and adopt Ordinance No. 23.12 repealing Title I Chapter 2, Purchasing, of the existing Milpitas Municipal Code and adopt Title I, Chapter 2, Sections 1 through 12.

- \* **9. Waive the Second Reading and Adopt Ordinance No. 262.6 Amending the Open Government Ordinance (Staff Contact: Michael Ogaz, 586-3041)**

**Background:** Ordinance No. 262.6 was introduced at the April 21, 2009 City Council meeting. At the direction of Council, minor modifications were made to the Ordinance. The ordinance text is included in the agenda packet, and is now ready for second reading and adoption.

**Fiscal Impact:** None.

**Recommendation:** Waive the second reading and adopt Ordinance No. 262.6 amending the Open Government Ordinance.

## XXI. RESOLUTIONS

- \* 10. **Adopt a Resolution Authorizing the City Manager to Execute a Contract with Central Medical Lab for the Not-to-Exceed Annual Amount of \$21,120 for Drug and Alcohol Testing for the Police Department (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Central Medical Lab is the only provider of on-call lab technicians to perform blood and/or urine specimen collection for drug and alcohol testing for the law enforcement services in Santa Clara County. The service is provided as directed by the Police Department at various locations within the county, including the City of Milpitas Police Department, hospital emergency rooms, County Jail, Elmwood jail, various roadside checkpoints, and/or crime scenes. Once the samples are taken they are forwarded to the Santa Clara County Crime Lab for processing. Occasionally, Central Medical Lab technicians are subpoenaed to testify as to what occurred at the collection point. Central Medical Lab has been providing these services to the City since 1996 without a formal contract. Payment for services has been handled by invoice. Testing costs have been averaging approximately \$21,120 per year.

As a result of Central Medical Lab status as the sole provider within Santa Clara County, the purchase would be made without formally bidding the service in accordance with Municipal Code Section I-2-3.09 "Sole Source Procurement." Staff therefore recommends a three year contract with two additional one year options. This contract would formalize the relationship including the City's insurance requirements since Central Medical Lab comes on to City property as needed. Staff requests a three (3) year contract with two (2) additional one (1) year options. The total cost for the contract plus renewal is estimated to be \$105,600 for five years.

**Fiscal Impact:** None. The annual estimated expense is programmed for FY2008-09.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a contract with Central Medical Lab for the not-to-exceed amount of \$21,120 per year for drug and alcohol testing for the Police Department.

- \* 11. **Adopt a Resolution Authorizing the City Manager to Execute a Contract with Tecogen for the Not-to-Exceed Annual Amount of \$15,000 for Maintenance and Repair of the Cogeneration Facilities at the Sports Center (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Tecogen is both the manufacturer and installer of the cogeneration equipment located at the Sports Center. The equipment was originally installed in January, 1992. The cogenerator burns natural gas to turn an engine/generator. As the heat generated from the engine goes through an exchanger to heat the swimming pool, electricity is also generated. The electricity is sold back to PG&E and the City receives a credit on its electricity bills. The contract expired in 1997 although Tecogen continues to provide repair and maintenance service regularly. The average repair and maintenance cost is approximately \$15,000 a year.

Staff desires to formalize a new contract with Tecogen that includes all the current requirements of the City. Since Tecogen is the sole manufacturer, installer, and maintenance provider of the equipment, the contract would be made without formal bidding in accordance with Municipal Code Section I-2-3.09 "Sole Source Procurement." Staff requests a three (3) year contract with two (2) additional one (1) year options. The total cost for the contract plus renewal is estimated to be \$75,000 for five years.

**Fiscal Impact:** None. The annual estimated repair and maintenance cost is a programmed expenditure in FY2008-09.

**Recommendation:** Adopt a resolution authorizing the City Manager to execute a contract with Tecogen for the not-to-exceed amount of \$15,000 per year for maintenance and repair of the cogeneration facilities at the Milpitas Sports Center.

\* 12. **Adopt a Resolution Requesting the Allocation of Transportation Development Act (TDA) – Article 3 Funds from the Metropolitan Transportation Commission for Bicycle/Pedestrian Improvement Projects (Staff Contact: Jaime Rodriguez, 586-3335)**

**Background:** The City of Milpitas receives guaranteed funding from the Transportation Development Act (TDA) - Article 3 Fund Program each year for sidewalk and bicycle projects. The guaranteed funding is distributed to cities via a population-based formula by the Metropolitan Transportation Commission (MTC). Milpitas' 2009-10 fund allocation from the TDA – Article 3 Program is \$68,899.

Staff submitted a grant proposal to the Santa Clara Valley Transportation Authority (VTA), which distributes TDA – Article 3 Funds for MTC within the County for a Pedestrian/Bicycle Improvement Project. The project will include the installation of Bike Route signage and roadway markings and Americans with Disabilities Act-compliant handicap ramps. The locations of improvements will be determined later.

**Fiscal Impact:** There is no fiscal impact associated with the recommended action for this project at this time. Upon confirmation of distribution of funds from MTC in the fall, a budget appropriation will be required to fund the project.

**Recommendation:** Adopt a Resolution requesting the allocation of Transportation Development Act – Article 3 Funds from the Metropolitan Transportation Commission for Bicycle/Pedestrian Improvement Projects.

\* 13. **Adopt a Resolution Approving the Standardization of Data 911 Systems and Authorize the Purchase of Twelve Mobile Computer Matching Monitors for the Police Department (Staff Contact: Charlotte Pang, 586-2432)**

**Background:** For FY2008-09, the Association of Bay Area Governments (ABAG) will provide a matching grant of \$15,000 specifically for risk management areas within the Police Department. In 2008, similar ABAG grant funding was used to initiate the upgrade of the mobile computers in the police vehicles. This funding, along with a \$15,277.11 match from the Federal Asset Seizure fund, will be used to purchase an additional 12 matching monitors and associated equipment from Data 911 Systems, to continue to move towards completion of the upgrade of the Police mobile computers.

On March 18, 2008, Council granted a “Sole Source Procurement” pursuant to Municipal Code Section I-2-3.09 for Data 911 Systems to start the mobile computer upgrade project. These are proprietary computer systems manufactured and distributed only by Data 911 Systems, and all City Police vehicles have now been outfitted with computer systems from Data 911 Systems. Staff is requesting, pursuant to Municipal Code Section I-2-3.13, Standardization, to designate Data 911 Systems as the brand of choice for Police mobile computer hardware.

**Fiscal Impact:** \$15,000 will be awarded through ABAG and the matching \$15,000, as well as the difference of \$277.11, will be funded by the Federal Asset Seizure fund. No additional appropriation of city funds will be required.

**Recommendation:** Adopt a Resolution approving the standardization of Data 911 Systems, accepting the \$15,000 grant, and authorizing the purchase of twelve mobile computer matching monitors for the Police Department in the amount of \$30,277.11.

## XXII. BIDS AND CONTRACTS

- \* 14. **Approve Assistance to Firefighters Grant for the Purchase of New Firefighter Personal Protective Equipment and Clothing (Staff Contact: Geoff Maloon, 586-2830)**

**Background:** The Fire Department submitted an Assistance to Firefighters Grant application in April 2008 requesting 57 turnout coats, pants, boots, helmets and gloves (complete ensemble). The grant was awarded by the Department of Homeland Security in December 2008 with slightly reduced numbers as detailed in the award documents. The Assistance to Firefighters Grant provides funding directly to fire departments to enhance operational response capabilities and firefighter safety.

**Fiscal Impact:** The 2009 Assistance to Firefighters Grant is an 80/20 grant with a total project cost of \$100,840, of which \$80,672 is federal dollars and \$20,168 is the local cost match. It is important to note that this is an essential purchase of firefighter personal protective equipment and would need to be made regardless of the receipt of grant funding and therefore results in a significant cost savings for the city.

**Recommendation:** Approve the grant from the Department of Homeland Security and appropriate funding totaling \$100,840, including \$80,672 federal share and \$20,168 for the required local cost match.

- \* 15. **Approve and Authorize the City Manager to Execute a Contribution Agreement with California Department of Transportation (Caltrans) for Highway 237/I-880 Interchange Landscaping, Project No. 4170 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** This project provides the design and construction of landscaping improvements for the Highway 237/I-880 Interchange. The project is being implemented in two phases in order to coordinate the work with the I-880 High Occupancy Vehicle (HOV) lane addition project which will start construction in 2012-13.

The design of the first phase landscaping is underway with a construction start planned for fall of this year. All of the new landscaping will be irrigated with recycled water, which is readily available adjacent to the interchange.

Total project cost estimate is \$3,284,000. Caltrans will provide \$2,000,000 of this cost, through this contribution agreement, and in return, the City agrees to maintain the landscaping for the next 20 years. Santa Clara Valley Transportation Authority (VTA) previously provided the additional \$1,284,000 of project costs, through an agreement approved by the City Council on January 2, 2007.

**Fiscal Impact:** None. VTA's cost share funding (\$1,284,000) is available in the project budget and the Caltrans cost share funding (\$2,000,000) will be deposited to the City, within 45 days of execution of the recommended contribution agreement. Upon receipt of the Caltrans funding, those funds will be encumbered into the project budget.

**Recommendation:** Approve and authorize the City Manager to execute a contribution agreement with California Department of Transportation (Caltrans), for the Highway 237/I-880 Interchange landscaping Project No. 4170, subject to approval as to form by the City Attorney/ Agency Counsel.

- \* 16. **Approve Plans and Specifications, and Authorize the Advertisement for Bid Proposals for Sewer Deficiency and Structural Correction Program- Phase 5, and Sewer System Replacement, Projects No. 6073 and No. 6111 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** Plans and specifications for Project No. 6073 and No. 6111 have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides for the replacement of sewer mains to address structural deficiencies, differential settlement, and damaged sewer lines discovered with the City's video inspection program. The sewer mains in this project require frequent maintenance, due to structural deficiencies, therefore their replacement will reduce maintenance required. This phase of the project will provide for sewer line replacements at:

1. Larch Street from Maple Avenue to Chestnut Avenue
2. Chestnut Avenue from Larch Street to Health Street
3. Poppy Lane Condo area (off Calaveras Boulevard)
4. N Hillview Drive from Calaveras Boulevard to Town Center Drive access
5. 105 and 115 Coelho Street to Sunnyhills Apartment Complex off Sunnyhills Court

The Engineer's Estimate for the work is approximately \$700,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

**Fiscal Impact:** None. Funds are available in the project budgets.

**Recommendation:** Approve plans and specifications and authorize advertising project for bid proposals for Projects No. 6073 and No. 6111.

- \* 17. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for Water System Air Relief Valve Modifications - Phase III, Project No. 7086 (Staff Contact: Steve Erickson, 586-3301)**

**Background:** Plans and specifications for this project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project provides for retrofit of approximately thirty-one existing below ground water system air relief valves located City-wide to above ground level, including the installation of standard valve enclosures. These improvements are required in order to comply with Title 22, Division 4 of the California Code of Regulations and the requirements of the California Department of Public Health.

The Engineer's Estimate for the work is approximately \$100,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

**Fiscal Impact:** None. Funds are available in the project CIP budget.

**Recommendations:** Approve plans and specifications and authorize advertising project for bid proposal for Water System Air Relief Valve Modifications, Project No. 7086 Phase III.

- \* 18. **Approve Plans and Specifications, and Authorize the Advertisement for Bid Proposals for South Milpitas Blvd. Water Line Replacement and Los Coches Street Water Valve Replacement, Project No. 7098 (Staff Contact: Kathleen Phalen, 586-3345)**

**Background:** On February 3, 2009, City Council approved an amendment agreement with West Yost & Associates to complete the design for the replacement of approximately 4,800 linear feet of 16-inch diameter water main and services. Plans and specifications for Project No. 7098 have been completed in accordance with the approved five-year Capital Improvement Program (CIP). In addition to the water main replacement, the work includes 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 temporarily bridge around water breaks, until repairs are made. Replacement of fire hydrant valves on Los Coches Street will also be done.

This project was also submitted to the State for potential Federal Economic Stimulus funding. The Engineer's Estimate for the work is approximately \$2,300,000. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

**Fiscal Impact:** None.

**Recommendation:** Approve plans and specifications and authorize advertising project for bid proposals for South Milpitas Blvd. Water Line Replacement and Los Coches Street Water Value Replacement, Project No. 7098.

**XXI. ADJOURNMENT**

**NEXT CITY COUNCIL MEETING: BUDGET PUBLIC HEARING MAY 12, 2009**

**NEXT REGULAR MEETING: TUESDAY, MAY 19, 2009**