



**MILPITAS CITY COUNCIL MEETING AGENDA
TUESDAY, MAY 19, 2009**

**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 – May 5, 2009**
- VI. SCHEDULE OF MEETINGS – Council Calendars for May and June 2009**
- VII. PRESENTATIONS**

Proclamations:

- Better Speech and Hearing Month – May 2009
- Older Americans Month – May 2009
- National Public Works Week – May 17-23, 2009

Certificates of Appreciation:

- Presented to Volunteer Income Tax Assistance program volunteers

VIII. 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.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XI. APPROVAL OF AGENDA**
- XII. 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.

XIII. PUBLIC HEARINGS

1. Consider Changes to the Municipal Code Regarding the Conversion of Mobile Home Parks and Introduce Ordinances No. 38.790 and No. 230.1 Amending Title XI Chapter 20 and Section 64 of Chapter 10 (Staff Contact: Felix Reliford, 586-3071)
2. Consider Approval of an Entertainment Event Permit for Circus Vargas at Great Mall scheduled July 2-6, 2009 (Staff Contact: Mary Lavelle, 586-3001)

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

- RA1. Call to Order/Roll Call by the Mayor/Chair**
- RA2. Approval of Minutes – May 5, 2009**
- RA3. Approval of Agenda and Consent Calendar (Items with asterisk*)**
- *RA4. Approve an Agreement with Keyser Marston Associates for Redevelopment Project Area Feasibility Analysis (Staff Contact: Diana Barnhart, 586-3059)**
- *RA5. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the South Main Street Streetscape Improvements - Phase I, Project No. 4243 (Staff Contact: Steve Erickson, 586-3301)**
- *RA6. Approve and Authorize City Manager to Execute Amendment No. 1 to the Agreement with Harris and Associates for Additional Design Services for the Street Resurfacing Program, Projects No. 8194 and No. 7100 (Staff Contact: Jaime Rodriguez, 586-3335)**
- *RA7. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Street Slurry Seal 2009 Program, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**
- RA8. Agency Adjournment**

XV. REPORTS OF SUBCOMMITTEES

Rules Subcommittee

- * 3. Approve Recommendation to Recognize Both Manuel Pimentel and Louis Pimentel through the Street Naming of “Pimental Lane” (Staff Contact: Jaime Rodriguez, 586-3335)**

Transportation and Land Use Subcommittee

- * 4. Receive Staff Report and Approve Installation of Bike Lanes on N. Park Victoria Drive Between Calaveras Blvd. and Jacklin Road (Staff Contact: Jaime Rodriguez, 586-3335)**

XVI. NEW BUSINESS

- 5. Presentation from the Santa Clara Valley Health and Hospital Services (Contact: Vice Mayor McHugh, 586-3023)**
- * 6. Authorize the Purchasing Agent to Release Title and Custody of Surplus Water Truck #251W to the Spring Valley Volunteer Fire Department (Staff Contact: Chris Schroeder, 586-3161)**
- * 7. Approve One Youth Sports Assistance Fund Grant Request (Staff Contact: Aaron Bueno, 586-3226)**

XVII. ORDINANCE

- 8. Waive the First Reading and Introduce Ordinance No. 43.211 Adopting Section V-100-9.05, Loitering in Median Strips within a City Street into the Milpitas Municipal Code (Staff Contact: Sandy Holliday, 586-2433)**

XVIII. RESOLUTIONS

- * 9. Adopt a Resolution Supporting Senate Bill 250, the Pet Responsibility Act (Staff Contact: Bryan Otake, 586-3042)**
- * 10. Adopt a Resolution Granting Final Acceptance of Alviso Adobe Renovation, Phase 2, and Authorize the Release of the Contractor's Faithful Performance Bond, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**
- * 11. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Fernando Bravo, 586-3328)**
- * 12. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Fernando Bravo, 586-3328)**
- * 13. Adopt a Resolution Authorizing Lot Line Adjustment for Milpitas Station, LLC (Staff Contact: Fernando Bravo, 586-3328)**
- * 14. Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Pyro Spectaculars for the Not-to-Exceed Amount of \$21,000 for the Annual 4th of July Fireworks Display (Staff Contact: Chris Schroeder, 586-3161)**
- * 15. Adopt Resolution Joining with the California Senate and Voicing Support of Senate Concurrent Resolution No. 29 for Black April Memorial Week (Staff Contact: Bryan Otake, 586-3042)**

XIX. BIDS AND CONTRACTS

- * 16. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Tasman Extension Light Rail Median Landscaping, Phase I, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**
- * 17. Authorize the City Manager to Execute a Consulting Agreement with Parisi and Associates for the Not-to-Exceed Amount of \$115,000 for the Suggested Routes to School Program, Project No. 4247 (Staff Contact: Jaime Rodriguez, 586-3335)**

XX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, JUNE 2, 2009

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

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

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

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

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

TUESDAY, MAY 19, 2009

XIV. PUBLIC HEARINGS

1. Consider Changes to the Municipal Code Regarding the Conversion of Mobile Home Parks and Introduce Ordinances No. 38.790 and No. 230.1 Amending Title XI Chapter 20 and Section 64 of Chapter 10 (Staff Contact: Felix Reliford, 586-3071)

Background: After approving the Conversion Impact Report for the Main Street Mobile Home Park in November 2007, the Council directed staff to review the Mobile Home Park Conversion Ordinance after obtaining community input from the residents of the three remaining mobile home parks and return to Council with proposed amendments to the ordinance. The ordinance had not been amended since its original adoption in 1988.

Three existing mobile home parks have a General Plan classification of “Mobile Home Park” and a special Zoning Ordinance designation of “Mobile Home Park Overlay District.” Since 1992, the mobile home parks have been governed by rent control adopted by the City Council.

Community Meetings at Mobile Home Parks

Three community meetings were held at each of the existing mobile home parks to obtain input and comments from the residents. Several issues were raised at the community meetings, specifically:

- Appropriate and fair relocation assistance
- Increasing the distance from 20 miles to relocate mobile home coach
- Increasing the in-place value of the mobile home from 95% to 100%
- Allowing “Right of First Refusal” for any new residential development that may be built on the site
- Addressing the issue of increased costs to relocate to a new mobile home park
- Protecting the rights of the mobile home park residents

Staff believes the proposed ordinance changes address the majority of these issues. The state legislature has made various changes to state law regarding the conversion of mobile homes since 1988 and the proposed amendments track those changes.

Proposed Ordinance Amendments

New Application Process for Mobile home Park Conversion Permit - Any applicant desiring to convert a mobile home park to another use, close a mobile home park, or cease to use land as a mobile home park, will be required to submit an application to apply for a conversion permit. The conversion permit would require approval by the City Council after consideration of the Conversion Impact Report.

Requirements of Mobile Home Park Conversion Impact Report - Staff recommends the following additional information and requirements to be submitted with the Conversion Impact Report to make sure the City has enough information to justify the relocation assistance provided and to protect the rights of the mobile home park owners and tenants.

- Filing of Conversion Impact Report 30-days from receipt of written request from the applicant following the pre-applicant meetings
- Additional information requested regarding vacancy rates (average vacancy rates, lot lease and rental rates, number of evictions and reasons for evictions in the past 3 years)
- Additional information regarding status of mobile home coach to be relocated (condition and size of each affected mobile home within the park)
- Relocation Plan and Assistance establishing the reasonable costs to relocate to a comparable mobile home park
- In Place Value of the mobile homes increase from 95% to 100%

- Deletion of set monetary costs of \$1,500 Housing Allowance
- Increasing the distance to relocate from existing 20 miles to 50 miles
- Required the Mobile Home Park Property Owner to pay the difference between higher rents at new park and the rent paid at park that is closing for a period of two years for very low and low-income households and families, defined by HUD or receiving Supplemental Social Security (Milpitas mobile home parks have been governed by rent control since 1992)
- Require any additional costs to relocate handicapped or disabled persons (physical improvements and equipment)

Definitions - To comply with state law, several definitions in the existing ordinance require amendments, specifically reference to housing allowance (\$1,500 adjusted for inflation), the Mobile Home Residency Law, which governs mobile home park conversions, and the definition of applicant to establish who is eligible to apply for the Mobile Home Park Conversion Permit.

On March 30, 2009, staff provided to all three mobile home park managers, owners and tenants summaries of the proposed ordinance amendments and a comparison of the existing ordinance and the amendments. At its April 8, 2009 meeting, the Planning Commission adopted a resolution recommending approval to the City Council of the proposed amendments. Included in the Council's agenda packet is a copy of the proposed ordinance amendments, Planning Commission minutes and other background documentation.

Fiscal Impact: None.

Attachments:

- Ordinance No. 38.790
- Ordinance No. 230.1
- Planning Commission approved 4/8/09 minutes excerpt
- Planning Commission 4/8/09 staff report

Recommendations:

- 1) Open the public hearing and take testimony.
- 2) Move to close the public hearing.
- 3) Waive the first reading beyond the title and introduce Ordinance No. 230.1 amending Chapter 20 Conversion of Mobile Home Parks to Other Uses.
- 4) Waive the first reading beyond the title and introduce Ordinance No. 38.790 amending Chapter 10-64 of the Milpitas Zoning Ordinance establishing a Mobile Home Park Conversion Permit.

2. Consider Approval of an Entertainment Event Permit for Circus Vargas at Great Mall scheduled July 2-6, 2009 (Staff Contact: Mary Lavelle, 586-3001)

Background: Tabares Entertainment dba "Circus Vargas" submitted an application for an Entertainment Event Permit to host a circus performance at several times over the dates of Thursday, July 2 through Monday, July 6, 2009. The application was reviewed and approved by City departments and the public hearing advertised as required by the municipal code.

This is the second year in a row for the summertime circus event to be enjoyed by families in Milpitas and the surrounding area. The Great Mall has authorized the activity on its property. Recently, the Circus has applied to update its business license in the Finance Department, and a current certificate of insurance is required.

Fiscal Impact: None. \$100.00 application fee received.

Attachments: Entertainment Event Permit Application form, layout design for Circus, and signed approvals from six City departments.

Recommendations:

1. Hold the Public Hearing for comments, and move to close after receiving testimony.
2. Move to approve the Entertainment Event Permit for Tabares Entertainment dba "Circus Vargas" to be held July 2-6, 2009 at Great Mall, subject to the stated conditions required.

XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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

RA2. Approval of Minutes – May 5, 2009

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

***RA4. Approve an Agreement with Keyser Marston Associates for Redevelopment Project Area Feasibility Analysis (Staff Contact: Diana Barnhart, 586-3059)**

Background: In March 2009, the City Council directed staff to issue a Request for Proposal (RFP) for a feasibility analysis of three areas (see Map in agenda packet) in the City to determine potential for redevelopment project area formation. In addition to this work, the RFP also requested proposals to extend the life of the first two areas that formed Project Area No. 1. The RFP was distributed to planning and redevelopment consultants at the annual California Redevelopment Association (CRA) Conference in early April and sent to the CRA to post on its website. Three firms indicated interest in the RFP, but only one firm, Keyser Marston Associates (KMA), submitted a response. Of the other two firms that expressed interest, one indicated that it was not available and the other firm was currently engaged with a developer seeking financial assistance from the Milpitas Redevelopment Agency and felt it was a potential conflict of interest.

Staff compared the KMA response with those received by another Bay Area city considering redevelopment plan amendment services. The cost for the proposals in the other City is similar to that which is proposed in the KMA response for the Milpitas feasibility analysis. Staff believes that the KMA proposal is reasonable for the services provided.

Keyser Marston Associates is familiar with the City of Milpitas, as the firm prepared the Milpitas Redevelopment Agency 2006 Merger and the 2003 Project Area No. 1 expansion amendments. KMA, as requested in the RFP, proposes to complete the study area feasibility analysis for Council review in August 2009 for an amount not to exceed \$63,000. The work required for the extension of time for Project Area No. 1 is estimated at an additional \$149,500, as this effort will require findings of continued blight and other processes, such as noticing and more environmental review, that the study area feasibility analysis will not. The environmental review for the extension of time will cost \$86,299, for a total contact cost of \$298,799.

Fiscal Impact: A budget appropriation in the amount of \$298,799, from the Redevelopment Agency Fund to the RDA & Economic Development function is required. Sufficient funds are available in the Redevelopment Agency Fund.

Recommendation: Approve the agreement with Keyser Marston Associates for an amount not to exceed \$298,799 for consultant services associated with redevelopment project area feasibility analyses and time extension for Project Area No. 1.

***RA5. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the South Main Street Streetscape Improvements - Phase I, Project No. 4243 (Staff Contact: Steve Erickson, 586-3301)**

Background: A Plan Line Study for South Main Street was approved by the City Council in March 20, 2007. The recommendation is a continuation of the new Midtown Streetscape on Abel and Main Streets, to the south of the Great Mall Parkway. The work scope includes: new

landscape median islands, decorative street lighting, sidewalks and streetscape amenities on South Abel Street and South Main Street between Great Mall Parkway and Montague Expressway. The improvements are going to be installed by private development and those portions outside the limits of private development projects are being completed by this project. Specifically, Phase I work limits are So. Abel Street from Great Mall Parkway to South Main Street and on South Main Street (west side only) from South Abel Street to Cedar Way.

The City received a grant in the amount of \$850,000 from the Community Design for Transportation (CDT) Program for the completion of the recommended Phase I improvements. The Engineer’s Estimate for construction is \$1,000,000. Plans and Specifications for the Phase I work are now complete, and ready for Council approval and authorization to advertise for construction bid proposals. The advertisement will commence upon Caltrans issuance of the E-76 authorization and Caltrans Notice to Proceed.

Fiscal Impact: Additional funding may be required to complete Project No. 4243, South Main Street Streetscape Project – Phase I. The actual amount will be known when bids are opened. A budget appropriation would be included with a contract award recommendation.

Recommendation: Approve Plans and Specifications and authorize the advertisement for bid proposals for the South Main Street Streetscape improvements, Phase I, Project No. 4243, upon receipt of Caltrans E-76 authorization.

***RA6. Approve and Authorize City Manager to Execute Amendment No. 1 to the Agreement with Harris and Associates for Additional Design Services for the Street Resurfacing Program, Projects No. 8194 and No. 7100 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: On February 17, 2009, the City Council approved a consultant agreement with Harris and Associates in the amount of \$150,000 for the design of the Street Resurfacing Project Program, Project No. 8194. The program includes the design of three projects: Slurry Seal, Roadway Resurfacing, and Crack Seal.

The following additional streets are recommended for inclusion into the Slurry Seal Project to take advantage of construction within the vicinity and to minimize future impacts to residents:

<u>Street</u>	<u>Street Segment</u>
Admire Ct.	Entire
Calaveras Ridge Dr.	Entire
Camarillo Ct.	Entire
Cervantez Ct.	Entire
Guerrero Ct.	Entire
S. Milpitas Blvd.	Calaveras Blvd. to Yosemite Dr.

The newly added streets will be funded through Project No. 8194 – Street Resurfacing with the exception of S. Milpitas Blvd., which will be funded through Project No. 7100 – Water System Seismic Improvements. A new water line will be constructed on S. Milpitas Blvd this summer to both increase water capacity and provide seismic improvements. The Slurry Seal project will provide final roadway treatments after the seismic project is complete including slurry seal application and the installation of new roadway marking treatments. Including the S. Milpitas Blvd slurry seal into the Slurry Seal project will be more cost competitive due to the economy of scale of the larger project.

Staff negotiated a scope and fee for the design of these additional streets into the Slurry Seal Project for a fee not to exceed \$32,600, which is considered reasonable for the work. The cost of this amendment brings the total contract to \$182,600.

Fiscal Impact: None. There are sufficient funds in both Project No. 8194 – Street Resurfacing and Project No. 7100 – Water System Seismic Improvements for this amendment - \$32,600.

Recommendation: Approve and authorize the City Manager to execute Amendment No. 1 to the agreement with Harris and Associates for additional design services for Street Resurfacing 2009 Program, Project No. 8194 and Project No. 7100.

***RA7. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Street Slurry Seal 2009 Program, Project No. 8194 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: Plans and specifications for the Street Slurry Seal 2009 project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project will consist of placing a slurry seal roadway surfacing, and new roadway marking treatments on 32 streets.

These same streets were prepared for slurry seal treatment last fall through a pavement crack seal process, involving the cleaning and sealing with a bituminous material. This prevented further pavement deterioration by rain water intrusion over the past winter. A map and list of 32 streets is also included in the agenda packet.

The Engineer's Estimate for the work is approximately \$900,000. 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 the advertisement for bid proposals for Street Slurry Seal 2009, Project No. 8194.

RA8. Agency Adjournment

XVI. REPORTS OF SUBCOMMITTEES

Rules Subcommittee

*** 3. Approve Recommendation to Recognize Both Manuel Pimentel and Louis Pimentel through the Street Naming of "Pimentel Lane" (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: City Council approved the use of "Pimentel" as a street name in the City of Milpitas at the August 7, 2007 Council meeting based on a nomination from Joanna Pimentel-Souza in honor of her uncle Manuel Pimentel who served in the Army during World War II. "Pimentel Lane" was assigned to the Sinclair Renaissance project in September 2008 and construction of the street is pending.

Another Milpitas resident who served in the Navy during World War II is Louis R. Pimentel. Louis R. Pimentel is of Manuel Pimentel's nephew.

The family of Louis R. Pimentel contacted the City requesting that his name also be connected to and included in City-provided background information for "Pimentel Lane." The only means by which the City currently references the full name of veterans honored by City family surname street names is on the webpage: www.ci.milpitas.ca.gov/resident/transportation/veteran.asp.

The sharing of a street name between two family members of the same last name is common. Staff contacted the family of Manuel Pimentel to confirm if sharing the street name honor between the two veterans would be an issue for them and the family noted that sharing of the street name would be appropriate.

At the April 24 meeting, the Chair of the Rules Subcommittee, Vice Mayor McHugh, reviewed and recommended this item to be presented to Council for approval.

Fiscal Impact: None.

Recommendation: Approve recommendation from one member of the Rules Subcommittee to recognize both Manuel Pimentel and Louis R. Pimentel through the street naming of “Pimentel Lane” in the Sinclair Renaissance Project.

Transportation and Land Use Subcommittee

*** 4. Receive Staff Report and Approve Installation of Bike Lanes on N. Park Victoria Drive Between Calaveras Blvd. and Jacklin Road (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The implementation of bike lanes on North Park Victoria Drive (between Calaveras Boulevard and Jacklin Road) is being recommended to ensure compliance with the recommendations from the Draft Milpitas Bikeway Master Plan. Installation of bike lanes on North Park Victoria Drive is identified as a goal of the Draft Milpitas Bikeway Master Plan in efforts to provide a continuous bike lane connection from the northern City limits to the southerly City limits. North Park Victoria Drive between Jacklin Road and Calaveras Boulevard is scheduled for Slurry Seal treatment as part of the 2009 Roadway Resurfacing Program and could include the recommended bike lanes.

The proposed bike lane installation would require a lane reduction on North Park Victoria Drive from a 4-lane roadway (two lanes in each direction of travel) to a 3-lane roadway (one lane in each direction plus a two-way left turn lane). A traffic engineering study was performed to evaluate this lane reconfiguration. Traffic count data and future growth projections both indicate that North Park Victoria Drive will continue to operate at an acceptable Level of Service with the lane reduction. To further ensure that proper roadway operations are maintained, the existing 4-lane configurations are to be maintained, the signalized intersections of Calaveras Boulevard and Jacklin Road and at Kennedy Drive, separate left turn and right turn lanes will also be provided.

A community outreach meeting was held February 10 and attended by approximately ten residents. Staff issued a direct mailer to every residence along the project area on North Park Victoria Drive and Kennedy Drive and every residence within 300-ft of both of those streets. In addition, an ad was placed in the Milpitas Post the week prior to the community meeting to ensure proper community notification. This item was also shared with the Milpitas Bicycle Pedestrian Advisory Commission and the Transportation & Land Use Subcommittee on April 6.

Fiscal Impact: None.

Recommendation: Receive staff report and approve recommendation to install bike lanes on North Park Victoria Drive between Calaveras Boulevard and Jacklin Road.

XVI. NEW BUSINESS

5. Presentation from the Santa Clara Valley Health and Hospital Services (Contact: Vice Mayor McHugh, 586-3023)

Background: Vice Mayor McHugh requested a presentation for the City Council from County health staff to update Milpitas officials on the progress of the Valley Medical Center, Milpitas, currently under construction on N. Main St.

Recommendation: Hear report and presentation from the Santa Clara County staff.

*** 6. Authorize the Purchasing Agent to Release Title and Custody of Surplus Water Truck #251W to the Spring Valley Volunteer Fire Department (Staff Contact: Chris Schroeder, 586-3161)**

Background: The City of Milpitas owns a 1990 Ford L8000 Water Truck #251W, VIN 1FDYU82A3LVA32729 which has reached the end of its life. For disposal, the cost to maintain the vehicle exceeds the value and it has been removed from service. The disposal value of the vehicle is estimated to be approximately \$10,000. The City has an on-going relationship with the Spring Valley Volunteer Fire Department and has donated other fire department vehicles in the past. Staff requests authorization to dispose of the vehicle to Spring Valley Volunteer Fire Department pursuant to section I-2-8.03 of the Municipal Code “Disposal of more than \$1,000.”

Fiscal Impact: None.

Recommendation: Authorize the Purchasing Agent to release title and custody of surplus Water Truck #251W to the Spring Valley Volunteer Fire Department.

- * 7. **Approve One Youth Sports Assistance Fund Grant Request (Staff Contact: Aaron Bueno, 586-3226)**

Background: On June 17, 2008, the Milpitas City Council approved and appropriated \$8,000 for the Youth Sports Assistance Fund for the FY 2008-09 budget year. Included in the City Council packet for review and consideration is one Individual Youth Sports Assistance Fund application. It was received from gymnast Maxwell Bennett in the amount of \$500 for competition fees and travel expenses for the 2009 Men’s Junior Olympics National Gymnastics Championships in Cincinnati, Ohio on May 6-10, 2009.

Fiscal Impact: There is currently a balance of \$3,500 in FY 2008-09 Youth Sports Assistance Fund. Approval of \$500 grant will leave a balance of \$3,000 for the remainder of the fiscal year.

Recommendation: The Parks, Recreation and Cultural Resources Commission (PRCRC) and City staff reviewed the application on May 4, 2009 and recommend granting one Individual Youth Sports Assistance Fund application, in the amount of \$500 to Maxwell Bennett.

XVII. ORDINANCE

8. **Waive the First Reading and Introduce Ordinance No. 43.211 Adopting Section V-100-9.05, Loitering in Median Strips within a City Street into the Milpitas Municipal Code (Staff Contact: Sandy Holliday, 586-2433)**

Background: Transients are causing traffic safety issues and affecting the quality of life of motorists, by standing in center medians and asking for donations. There is no existing California Vehicle Code, Penal Code or Milpitas Municipal Code section that can be enforced to directly address this issue.

The proposed ordinance would prohibit persons from loitering in a median within a city street or other city-maintained thoroughfare. “Loiter” for purposes of this section shall mean to linger or remain within the median strip for any purpose, including panhandling, other than stopping to allow traffic to pass in order to cross the street. For the purposes of this section, “median strip” means a non-landscaped, paved, planted or other landscaped strip of ground dividing a street or highway into lanes according to the direction of travel. In order to allow public employees to conduct work in the median, authorized public officers or employees, or employees of a public utility will be exempt when they enter upon the street and/or median strip in the line of duty.

Although panhandling is a form of constitutionally protected speech, the proposed ordinance is a time, place and manner restriction that is narrowly tailored to meet a legitimate interest of ensuring the public safety, health, and welfare. The amendments merely restrict access to the median and allow members of the public to still loiter on the sidewalks. The ordinance is content neutral and not aimed at a certain viewpoint. The purpose of the ordinance is to protect the public from potential traffic hazards, not prohibit protected speech. Therefore, the proposed ordinance satisfies the requirements as set forth by the Courts in order to meet constitutional requirements.

The proposed ordinance was presented to the Neighborhood Services and Education Subcommittee on April 28, 2009. The Subcommittee recommended posting signs at the targeted locations. Staff identified eight medians where people continually loitered.

Fiscal Impact: None. Funds are available in Traffic Engineering's CP4245 Minor Traffic Improvements account, should the City Council approve the posting of signs. Eight signs would cost approximately \$2,500.

Recommendations:

1. Move to waive the first reading beyond the title of Ordinance No. 43.211.
2. Introduce Ordinance No. 43.211, to add Section V-100-9.05, Loitering in Median Strips within a City Street, to the Milpitas Municipal Code.
3. Following ordinance adoption, direct staff to conduct follow-up actions to determine if enforcement of the ordinance transfers the problem to other locations within the City. Direct staff to report the findings to the City Council at the November 17, 2009 meeting, and direct staff to post eight signs in locations (designated on map – included in agenda packet).

XVIII. RESOLUTIONS

- * **9. Adopt a Resolution Supporting Senate Bill 250, the Pet Responsibility Act (Staff Contact: Bryan Otake, 586-3042)**

Background: Proposed Senate Bill 250, "The Pet Responsibility Act," (D-Florez) would require dogs to be spayed or neutered unless their owner/guardian obtains an unaltered dog license when licensing their animal. The bill would also require outdoor, roaming cats to be spayed and neutered by their owner/guardian. The bill's supporters claim that SB 250 would address the problem of pet over-population in California and would also save state, and local governments millions of dollars currently being spent on sheltering and/or euthanizing homeless pets.

Fiscal Impact: None.

Recommendation: Adopt a Resolution supporting Senate Bill 250, the Pet Responsibility Act.

- * **10. Adopt a Resolution Granting Final Acceptance of Alviso Adobe Renovation, Phase 2, and Authorize the Release of the Contractor's Faithful Performance Bond, Project No. 5055 (Staff Contact: Steve Erickson, 586-3301)**

Background: Project No. 5055 was initially accepted on April 15, 2008, and has passed the one-year warranty period. A final inspection was conducted, and the completed grading and drainage improvement work was found to be satisfactory. Therefore, it is recommended the City Council grant a final acceptance of the work and authorize the release of the contractor's faithful performance bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance for Alviso Adobe Renovation, Phase 2 improvements and authorize the release of the contractor's faithful performance bond.

- * **11. Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (Staff Contact: Fernando Bravo, 586-3328)**

Background: Landscaping and Lighting Maintenance Assessment District (LLMD) No. 98-1 provides for servicing and maintaining the public landscaping along Sinclair Frontage Road, Los Coches Creek and Berryessa Creek abutting the Sinclair Horizon residential subdivision. The Landscaping and Lighting Act of 1972, requires adoption of a resolution directing the preparation

of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 16, 2009). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

Fiscal Impact: None.

Recommendation: Adopt a Resolution directing the preparation of the Annual Engineer's Report for LLMD No. 98.1.

- * 12. **Adopt a Resolution Directing Preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95-1, McCarthy Ranch (Staff Contact: Fernando Bravo, 586-3328)**

Background: Landscaping and Lighting Maintenance Assessment District (LMD) No. 95-1 provides for servicing and maintaining the public landscaping and additional lighting along North McCarthy Boulevard and the Gateway landscaping on Ranch Drive. The Landscaping and Lighting Act of 1972, requires adoption of a resolution directing the preparation of an annual engineer's report and its subsequent approval by the City Council following a public hearing (scheduled for June 16, 2009). Upon conclusion of the public hearing, the assessment for the work is added to the property tax bills for those property owners included within the boundaries of the district.

Fiscal Impact: None.

Recommendation: Adopt a Resolution directing the preparation of the Annual Engineer's Report for Landscaping and Lighting Maintenance Assessment District No. 95.1.

- * 13. **Adopt a Resolution Authorizing Lot Line Adjustment for Milpitas Station, LLC (Staff Contact: Fernando Bravo, 586-3328)**

Background: Property owner, Milpitas Station, LLC, wishes to adjust the lot lines of its three parcels located within the Transit Sub-District Area bounded by Piper Drive, South Milpitas Boulevard, and the Union Pacific Railroad tracks. No new parcels will be created. Accordingly, under state law, the City Council need only review whether or not the resulting parcels would conform to the Milpitas General Plan, zoning ordinances, and building ordinances in order to grant the lot line adjustment request. The City Council may not impose any conditions or exactions on its approval of a lot line adjustment request, except as necessary to ensure conformance with the Milpitas General Plan, zoning ordinances and building ordinances.

The City Engineering, Planning, Building and Fire Prevention staff have reviewed the lot adjustment application and recommend its approval. The proposed adjustment would conform to the General Plan's Land Use Principals and Policies 2.a-G-2 (compact urban form) and 2.a. I-2 (in-fill development) by promoting a relatively compact, yet livable urban form within the Transit Area. The proposed adjustment would also conform to General Plan Principal and Policy 2.a.1-25 in that the street layout, street sections, density and land use of the adjusted parcels would conform to the requirements of the Transit Area Specific Plan. The proposed adjustment would also be consistent with zoning and building codes, such that the adjusted parcels, in conjunction with the internal density averaging of the parcels and density averaging with adjacent properties, would facilitate development that would conform to the density requirements of the R3 and R4 zones and conform to the structural and building requirements of the California Building Code, as adopted and/or amended by the City of Milpitas.

Fiscal Impact: None.

Recommendation: Adopt a resolution authorizing the owner's requested lot line adjustment for Milpitas Station, LLC.

- * 14. **Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Pyro Spectaculars for the Not-to-Exceed Amount of \$21,000 for the Annual 4th of July Fireworks Display (Staff Contact: Chris Schroeder, 586-3161)**

Background: The 4th of July is traditionally marked by a display of fireworks. There are only two fireworks vendors in the Bay Area. With offices in Oakland, Pyro Spectaculars is the only full service provider of “PyromusicalTM” fireworks displays in the Bay Area. It is also the premier provider of pyrotechnic devices and aerial fireworks displays in the world. Based on its track record of excellence, safety, custom designed set pieces and bright work, Pyro Spectaculars has been the vendor of choice for the City of Milpitas for the past twelve years. Staff recommends that this service be awarded as a sole source procurement, as sanctioned in section I-2-3.09 of the Municipal Code.

Fiscal Impact: None. \$21,000 in funds for this purchase are available from the Recreation Services operating budget.

Recommendation: Adopt a resolution authorizing the City Manager to execute a contract with Pyro Spectaculars for the not-to-exceed amount of \$21,000 for the annual 4th of July fireworks display.

- * 15. **Adopt Resolution Joining with the California Senate and Voicing Support of Senate Concurrent Resolution No. 29 for Black April Memorial Week (Staff Contact: Bryan Otake, 586-3042)**

Background: The California Senate passed a concurrent resolution proclaiming the week of April 23 to 30, 2009 as Black April Memorial Week. The resolution declared the week as a time of remembrance for the human pain, suffering and loss caused by the Vietnam War. April 30, 2009 was the 34th anniversary of the fall of Saigon to communist forces. The resolution included in the Council packet materials would give a recognition specific to year 2009.

Fiscal Impact: None.

Recommendation: Adopt a Resolution joining with the California Senate and voicing support of Senate Concurrent Resolution No. 29 for Black April Memorial Week, April 23 – 30, 2009.

XX. BIDS AND CONTRACTS

- * 16. **Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals for the Tasman Extension Light Rail Median Landscaping, Phase I, Project No. 2001 (Staff Contact: Kathleen Phalen, 586-3345)**

Background: On September 2, 2008, City Council approved an agreement amendment with Sugimura Finney Architects to complete the plans and specifications for this project. This amendment added landscaping design for the Great Mall Parkway medians south of Montague Expressway and added the design of approximately 4,880 lineal feet of a new recycled water main along Great Mall Parkway to complete a recycle water main loop from McCandless Drive to Thompson Street. This new recycled water main will serve both to irrigate the new median landscaping and the upcoming development projects in the Transit Area Specific Plan.

For construction, the project has been separated into two phases consisting of Phase I - the recycled water main construction and Phase II- the landscape and irrigation installation, to better reflect the different types of contractors needed for these types of work. Phase I needs to be started this summer to have the recycled water ready to irrigate the new median landscaping. Phase II will follow in time to begin the landscape establishment in the fall.

The plans and specifications for Phase I have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The Engineer's Estimate for the Phase I work is approximately \$2,200,000. A copy of the project plan title sheet is included in the Council's agenda packet. 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 the advertisement for bid proposals for the Light Rail Median Landscaping, Phase I, Project No. 2001.

- * 17. **Authorize the City Manager to Execute a Consulting Agreement with Parisi and Associates for the Not-to-Exceed Amount of \$115,000 for the Suggested Routes to School Program, Project No. 4247 (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: On January 26, 2009, staff released a Request for Proposals to obtain the services of a qualified firm to develop and implement a Suggested Routes to School Program. Three proposals were received and opened on February 26, 2009. Staff interviewed all three consultants on March 18, 2009 with a panel consisting of members from the Milpitas Police Department, Milpitas Unified School District, and Milpitas Bicycle Pedestrian Advisory Commission.

The panel unanimously identified and recommended Parisi and Associates as the most qualified consultant team to complete this project. Parisi and Associates is an expert in the Safe Routes to School (SR2S) movement and have completed many SR2S programs locally and nationally including Marin County, San Jose, Pasadena, Atlanta, and Portland to name a few. Parisi and Associates will assist staff in creating a Suggested Routes to School Plan for the nine elementary and two middle schools in the Milpitas Unified School District, including walkability/bikeability audits, concept plans, and new and updated maps per school.

Staff negotiated a price not to exceed \$115,000 for completion of the project.

Fiscal Impact: None. There are sufficient funds available in the project budget, CP 4247- *Suggested Routes to School Program*, which is funded by the Caltrans Safe Routes to School Grant Funding.

Recommendation: Authorize the City Manager to execute a consulting agreement with Parisi and Associates for the not-to-exceed amount of \$115,000 for the Suggested Routes to School Program, Project No. 4247.

XX. ADJOURNMENT

NEXT REGULAR MEETING: TUESDAY, JUNE 2, 2009