DRAFT UNAPPROVED MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, January 17, 2006**
Time:	**6:00 PM (Closed Session)** **7:00 PM (Public Business)**
Location:	**Council Chambers, Milpitas City Hall,** **455 East Calaveras Blvd.**

ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM.

PRESENT: Mayor Esteves, Vice Mayor Gomez, Councilmembers Giordano, Livengood and Polanski

ABSENT: None

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the the following:

CONFERENCE WITH LABOR NEGOTIATORS – COLLECTIVE BARGAINING
(Pursuant to CA Government Code Section 54957.6)
City Negotiators: Ed Kreisberg, Art Hartinger, Carmen Valdez
Employee Organizations: Milpitas Police Officers Association (MPOA), International Assn. of Firefighters (IAFF), ProTech. Under Negotiation: Wages, Hours, Benefits, Working Conditions

The City Council reconvened in Open Session at 7:00 PM with Mayor Esteves presiding and all Councilmembers present.

CLOSED SESSION ANNOUNCEMENT

NONE

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance.

INVOCATION

Councilmember Giordano offered the invocation.

MINUTES

MOTION: to approve minutes of the January 3, 2006 City Council meeting, as submitted.

Motion/Second: Councilmember Polanski/Councilmember Livengood

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

MOTION: to approve the Schedule of Meetings, as submitted.

Motion/Second: Councilmember Polanski/Councilmember Giordano

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

PRESENTATIONS

Proclamations
Mayor Esteves proclaimed "**Silicon Valley Reads Month**" for the Santa Clara County Library in Milpitas for the month of February 2006. The library recommended that citizens read two books next month. Margie Stephens, Vice President of the Friends of the Milpitas Library, accepted the

proclamation and encouraged all to attend the monthly book sale held at the Library to benefit the Friends organization.

Mayor Esteves proclaimed "**Volunteer Blood Donor Month**" for the American Red Cross for the month of February 2006. Mr. Ariel Mercado of the Red Cross accepted the proclamation and announced the emergency call for type O negative and type AB negative blood. Donors could call 1-800-GIVE LIFE or find out locations where to donate by checking online at the website: www.beadonor.com.

Mayor Esteves proclaimed "**Catholic Schools Week**" for the week of Jan. 29 - February 4, 2006.

Commendations:
Mayor Esteves presented commendations to two Eagle Scouts: Milpitas brothers Eric Nguyen and Bryan Nguyen. The Mayor honored their achievement and acknowledged their parents.

Presentation:
The Santa Clara Valley Water District presented the "Escaping the Constraints Award" from the "Public Officials for Environmental Reform" (POWR) California Water Policy, a group formed in partnership with the Water Resources Protection Collaborative.

Mr. Richard Santos, District Director of the Santa Clara Valley Water District, presented this award plaque to the Mayor and City Council, recognizing water conservation efforts in Milpitas. He thanked City residents of Milpitas for their efforts toward water conservation.

CITIZENS FORUM

Kathryn Manento, 818 N. Abbott Ave, distributed a petition to the City Council regarding a current problem with raccoons in her neighborhood, the 800 block of N. Abbott Ave.

Mike Gash, of Geodact Corp. in north San Jose, had a proposal for the City of Milpitas, but he was not able to present it in a public forum, regarding a yellow pages listing online for free. The Mayor responded that the City's Information Services Director and the City Manager could respond later to this matter.

ANNOUNCEMENTS

Diana Whitecar, Economic Development manager, announced that the City would host a "Doing Business in Milpitas" workshop on Tuesday, February 28, at the Senior Center at 6:00 PM. It would be an outreach to residents who were interested in opening a business, or to grow an existing small business, including special consideration for restaurants.

Councilmember Giordano announced that the Terrace Gardens Board of Directors met the previous Thursday. The Board hired a financial consultant to review its books and the long-term viability of the non-profit corporation, did away with flood insurance (as property was not in the flood zone), and thanked Felix Reliford for encouragement for CDBG funding for its new roof.

Councilmember Polanski announced that the Community Advisory Commission was conducting community outreach, via a form that was available online. Comments were to be presented to the Commission and to the City Council later in 2006.

Mayor Esteves congratulated a new business that opened: 24 Hour Fitness on Jacklin. He also congratulated the School District for sponsoring a music festival held the previous Friday

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

City Manager Charles Lawson stated staff requested to remove Item No. RA 5 from the agenda and to move Item No. 6 to be heard prior to Public Hearings.

Vice Mayor Gomez requested to remove Item No. 7 from the agenda.

MOTION: to approve the agenda, including changes noted above.

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Councilmember Giordano asked to remove Item No. 5 from Consent.

Vice Mayor Gomez requested placing Item No. 12 onto the Consent Calendar.

MOTION: to approve the Consent Calendar, as amended

Motion/Second: Councilmember Livengood/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

*** 4. Odor Control Comprehensive Action Plan Update**

Noted receipt and filed the progress report from the City Engineer.

*** 9. Authorize City Manager To Proceed with Acquisition of One Million Gallons Per Day Water Pollution Control Plant Treatment Plant Capacity (Capital Improvement Project No. 6104)**

1. Approved budget appropriation of $250,000 from Sewer Treatment Plant Fees to the Sewer Treatment Capacity Project No. 6104 for the estimated costs of additional capacity.

2. Authorized the City Manager to proceed with the purchase of one million gallons per day of Water Pollution Control Plant capacity right from the West Valley Sanitation District.

*** 10. Authorize the Purchasing Agent to Dispose of Six Surplus Vehicles at Auction**

Approved the request to auction six Police Vehicles that reached the end of their useful lives: a 1997 Ford Crown Vic, license No. 045503, a 1994 Ford Explorer, license No. 002849, a 1997 Ford Crown Vic, License No.E989861, a 1991 Ford Explorer, license No. 340977, a 1991 Ford F250 Pickup Truck, license No. 1153017, and a 1991 Ford F250 Pickup Truck, license No. 341582.

*** 12. Motion to Remove Ordinance No. 272, on Public Notice Requirements for Public Works Projects, from further consideration by City Council**

Removed Ordinance No. 272, related to Public Notice Requirements for Public Works Projects, from further consideration by the City Council. (no second reading and not adopted)

*** 13. Waive Second Reading and Adopt Ordinance 239.5 Amending Title XI Chapter 16 Sections 16-10, 16-11, and 16-14 of the Milpitas Municipal Code - Stormwater And Urban Runoff Pollution Control**

Waived second reading, and adopted the Stormwater and Urban Runoff Pollution Control Ordinance No. 239.5.

*** 14. Adopt Resolution Granting Final Acceptance for the Selwyn Park Improvements**

Adopted Resolution No. 7572 granting final acceptance and release of the bond for Project No. 5078.

*** 15. Adopt Resolution Authorizing the Filing of an Application to the State of California Integrated Waste Management Board, a Senate Bill 1346 Rubberized Asphalt**

Adopted Resolution No. 7573 authorizing the filing of grant application for South Park Victoria Drive Pavement Rehabilitation, Project No. 4225.

Concrete Grant Program for the S. Park Victoria Drive Pavement Rehabilitation, Project No. 4225

*** 16. Adopt Resolution of Local Support: So. Park Victoria Dr, Pavement Rehabilitation, Project No. 4225**

Adopted Resolution No. 7574 of Local Support and authorizing the filing of a grant application for South Park Victoria Drive Pavement Rehabilitation, Project No. 4225.

*** 17. Adopt Resolution Granting Initial Acceptance of the Berryessa Creek Trail Reach 3, Project No. 5074, Federal Aid Project STPLE 5314 (001)**

Adopted Resolution No. 7575 granting initial acceptance of the project subject to the one-year warranty period and reduction of the faithful performance bond to $55,069.74.

*** 18. Adopt Resolution Establishing a Risk Management Program**

Adopted Resolution No. 7576 establishing a Risk Management Program.

PUBLIC HEARINGS

1. Adopt General Plan Amendment No. GP2005-8, and Introduce Zoning Ordinance 38.767, an Amendment to Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code (P-ZT2005-2)

Planning and Neighborhood Services Director Tom Williams provided an overview of the changes requested in the General Plan and in the Zoning Code.

The first change requested was in the definition of Gross Acre. A new definition of "Acre, Gross" would be provided in the amendment to the General Plan, changing boundary from property line to property line.

Second was a change in minimum dimension of a balcony size, currently set at 200 square feet total, with a change from 6 ft to 4.5 ft, included in the Zoning text.

Third, a change in the Density Bonus section was needed in order to be consistent with state law. At this point, the City Zoning Code will state 35 % maximum where the existing Code states 25%.

Councilmember Giordano asked questions on the density bonus calculations, on what would be allowed, as affecting other impacts on sewer or streets, etc.? Staff stated that those impacts would need attention for the City to maintain services in new developments, with the change, but those were not addressed in the current amendment. Also, she inquired about waivers and modifications of development standards: what kinds of changes? Staff would consider level of services, parking in lieu fee reduction maybe or required parking perhaps, maybe more tandem parking. Such changes could occur through the mechanism of a public hearing.

Mayor Esteves asked whether forthcoming developments would be affected by these recommended changes. Mr. Williams explained that there were no known pending ones, possibly with the exception of DeVries Place.

Mayor opened the public hearing for testimony, and none was heard.

(1) MOTION: to close the Public Hearing

Motion/Second: Councilmember Giordano/Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

(2) MOTION: to adopt the General Plan Amendment GP 2005-8

Motion/Second: Councilmember Giordano/Councilmember Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

Mr. Williams read the Ordinance title: "An Ordinance of the City Council of the City of Milpitas Amending Sections 2, 7, 8, 38, and 54 of Chapter 10, Title XI of the Milpitas Municipal Code"

(3) MOTION: Waive reading beyond the title of Ordinance No. 38.767

Motion/Second: Councilmember Giordano/Vice Mayor Gomez

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

(4) MOTION: to Introduce Ordinance No. 38.767

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

2. Review and Approval of DeVries/Dr. Smith House Renovations for Senior Housing Project at 163 North Main Street

Housing Specialist Felix Reliford introduced Mara Blitzer from the MidPeninsula Housing Coalition, the DeVries House project developer, who attended the meeting along with the project architect.

Ms. Blitzer reviewed many details on the historic home renovations. These would include the following, after recommendation by the Parks, Recreation and Cultural Resources Commission: new foundation, new roof and insulation, replace windows, new stucco, decorative features preserved on the first floor, a new configuration on the seonc floor, new electrical, plumbing, and heating, and Energy Star appliances in units.

Small alterations were displayed on proposal drawings, and staff pointed to window differences and to improvements where stairs would be removed for a ramp outdoors and a landscaped flat entry. A studio apartment would be added with an entry at back, with original hardwood floors to be revealed, and a runner over hardwood flooring on stairs from first to second floor.

A timeline for planning and construction activity was provided to the City Council. Also, Ms. Blitzer reviewed the affordability levels for seniors who would live in the units when constructed.

Council made the following findings, based on staff recommendation:

1.) The proposed renovations and modifications to the DeVries/Dr. Smith House will not detrimentally alter, destroy or affect any exterior architectural features to the structures, and
2.) The proposed construction removal, rehabilitation, alternation, remodeling, excavation or exterior alternation to the DeVries/Dr. Smith House conforms to the standards as adopted by the PRCRC and City of Milpitas and will not adversely affect the character of the historical district, and
3.) The proposed exterior construction and new improvements will not adversely affect and will be compatible with the external appearance of the existing designated improvements, buildings and structures on the site.

Mayor Esteves opened the public hearing to hear comments, none heard.

(1) MOTION: to close the public hearing

Motion/Second: Councilmember Giordano/Vice Mayor Gomez

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

Mayor Esteves asked if the building would be ADA compliant? Staff replied that on the first floor of DeVries House, it would be compliant.

Ms. Blitzer reviewed total costs of the senior housing project, at $30.4 million, with $1.6 million for the DeVries House in particular.

(2) MOTION: approve recommendations presented by the staff, to authorize proposed renovations to the DeVries/Smith House as part of the overall development of the Senior Housing Project and as recommended by the Parks, Recreation and Cultural Resources Commission.

Motion/second: Vice Mayor Gomez/ Councilmember Giordano

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

3. 2006 Citizen Options for Public Safety (COPS) Grant

Police Chief Thomas Nishisaka presented the COPS Grant. The Chief reviewed the wide range of services that the grant funds could best be spent on in Milpitas to improve police services to the citizens.

Chief Nishisaka stated that the police staff requested spending on the following programs: Senior Volunteer supplies; youth/parent outreach effort; DVD handicam for elder abuse interviews; anti-graffiti camera upgrade; undercover wire equipment; SuperMics for motorcycles; auto theft prevention equipment; portable surveillance cameras; community relations supplies; long rifle sights, slings and lights; digital image evidence system; training laptops; LCD projector; handpack radio multi-chargers; digital recorders; and traffic accident diagram system.

Councilmember Livengood supported the police Senior volunteers, who helped a great deal recently with the DUI effort around the holidays. Additionally, he asked about digital recorders and heard how those were used for voice recording of police reports. He also asked about portable surveillance cameras. Mr. Livengood believed these were valuable at the Great Mall when there has been frequent theft, where cameras in public were ok to be used without interfering with civil rights. He further commented that that privacy concerns of citizens should be paid attention to and taken into consideration.

Mayor Esteves asked for a report in future years on the accomplishments from the grant funds. He inquired about reduction of vandalism. Chief Nishisaka reported to the City Council, lastly, that a 3.3% crime rate reduction over the past year was recorded in 2005.

The Mayor opened the public hearing and no comments were heard.

(1) MOTION: to close the public hearing

Motion/Second: Vice Mayor Gomez /Councilmember Livengood

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

(2) MOTION: approve the COPS grant and authorize an appropriation in the amount of $100,000 into the police operating budget, to be spent as noted.

Motion/Second: Vice Mayor Gomez /Councilmember Livengood

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

RA1. CALL TO ORDER

Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 8:45 PM.

RA2. ROLL CALL

PRESENT: Mayor/Chair Esteves, Vice Mayor/Vice Chair Gomez and Agency/ Councilmembers Giordano, Livengood and Polanski

RA3. MINUTES

Motion: to approve the Redevelopment Agency minutes of January 3, 2006, including joint meeting with the City Council, as submitted.

Motion/ Second: Agency/Councilmember Livengood / Vice Chair/Vice Mayor Gomez

Motion carried by a vote of: AYES: 4
NOES: 0
ABSTAIN: 1 (Giordano)

RA 4. Approval of Agenda and Consent Calendar

Motion: to approve the agenda, removing Item 5 from agenda

Motion/Second: Agency/Councilmember Livengood / Vice Chair/Vice Mayor Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

RA 5. Authorize Staff to Negotiate Project Labor Agreement; New Library Parking Garage and Other Midtown Projects

Item was removed from the agenda, for consideration at a later date.

RA 6. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:46 PM.

REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

6. Receive Presentation From Valley Transportation Authority and Request for Support of the Quarter Cent Sales Tax Scenario for Supplemental 2000 Measure A Program Funding

This subject was heard earlier in the meeting, prior to the Public Hearings.

Traffic Engineer Jaime Rodriguez presented this item to the Council, and introduced representatives from the Santa Clara Valley Transportation Authority Mr. Jack Collins and Mr. James Lawson (former Milpitas elected official).

Mr. Lawson discussed current planning and activities being pursued by the VTA with regard to government affairs. He referred back to the 2000 countywide Measure A, which received more than two-thirds approval of the voters. Also, he discussed Annual Sales Tax Projections and new projections for a wide variety of transit projects, should additional Measure money materialize. Potentially, there could be significant pavement management funding for Milpitas. They were looking at expenditure plans from various revenue sources and asked the City Council for approval for the current expenditure plan. If that plan moved forward, its success would help determine if there was a need for an additional measure on the ballot this year.

Mr. Rodriguez stated that staff was asking for the recommendation to return to the Milpitas-Gilroy-Morgan Hill seat on the VTA Board (as the other two cities would do).

Councilmember Polanski inquired if the spending plan was based on having a 30-year ¼ cent sales tax, which would have to go out on a ballot measure? Staff responded yes.

Mr. Lawson empathized deeply with the City Council and said this was the best opportunity to date to really see BART built in this community. Presented was a plan that can be reviewed on an annual basis, he explained.

Councilmember Livengood mentioned that the Governor and other state officials had recently said there was money in the state budget for transportation projects and did that include BART? Mr. Lawson responded that transportation corridors of major impact around Milpitas (here near Highway 101/880) were to be included, so no, not BART per se in the new state spending plan. Mr. Jack Collins emphasized that in the current spending plan, there was money in transportation relief funding.

Mr. Livengood recommended that any funds be divided based on a population formula, strictly on the population of cities' residents. With that, approximately $12 million for Milpitas would come due for pavement management. His opinion was that the measure was important, with a concern for citizens that BART comes to this city. Milpitas represents more than 50% of the Milpitas-Gilroy-Morgan Hill city group on the VTA board, and that should be conveyed. VTA had a good year in 2005, including the hiring of a new General Manager, and the Councilmember had confidence that VTA would work around any peripheral issues.

Vice Mayor Gomez supported the expenditure plan. He asked himself: is it reflective of the will of the voters and does it benefit Milpitas? Yes and Yes, he said.

In response to Mr. Gomez, Mr. Collins described a group of citizens who are looking at bringing train service on existing tracks through the east/south bay, instead of BART.

Councilmember Giordano was not supportive of this measure. Two parcel taxes failed in recent year in Milpitas. It was a recovering economy and she believed citizens do not want additional taxation. She congratulated Mr. Lawson on his new position, and supported his efforts at VTA. At this time, however, she did not have full trust in the VTA on all these issues.

Mayor Esteves stated BART was important to Milpitas, but he cared about the funding plan and when exactly BART would come to this city. The VTA's plan was a good gesture he believed. While it was always painful to ask for financial support from citizens, it can be worth it to build for the future.

MOTION: to support the "Expenditure Plan" proposed by the Valley Transportation Authority, including sending a letter from Milpitas to the other two cities of the Milpitas-Gilroy-Morgan Hill group seat on the VTA board

Motion/Second: Vice Mayor Gomez /Councilmember Livengood

Motion carried by a vote of: AYES: 4
NOES: 1 (Giordano)

5. Approve Mayor's Recommendations for Appointments to City Commissions

Councilmember Giordano announced her support for the first two Commissions, but she did not wish to support the recommendation to the Senior Advisory Commission.

MOTION: approve the Mayor's recommendations (with no appointment to the Senior Advisory Commission) for the following Commissions:

Telecommunications Commission:

Reappointed Niranjan Gupta to a two-year term that expires January 2008.
Reappointed Aaron Ettinger to a two-year term that expires January 2008.

Reappointed Dinesh Gupta to a two-year term that expires January 2008.
Reappointed Vishnu Mathur to a two-year term that expires January 2008.

Appointed current Alternate #1 Satish Kumar Bansal as a Commissioner, filling a vacancy that expires in January 2007.

Appointed current Alternate #2 Syed Bilgrami to the Alternate #1 position, to a term that expires January 2007.

Appointed Roger Shaw to a two-year term as Alternate # 2, expiring January 2008.

Community Advisory Commission:

Reappointed Danny Fang to a four-year term that expires January 2010.
Reappointed Nestor Luna, Sr. to a four-year term that expires January 2010.
Reappointed Syed Mohsin to a four-year term that expires January 2010.

Appointed Heidi Hai T. Pham to a two-year term as Alternate # 4, expiring January 2008.

Motion/Second: Councilmember Livengood /Vice Mayor Gomez

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

7. Discussion and Action Related to Policy Regarding Speeches, Correspondence, Proclamations and Commendations

This item was removed from the agenda.

8. Telecommunications Commission - Cable Television Public Access Studio Update

Information Services Director Bill Marion along with Telecommunications Commission Chairman Albert Alcorn and Commissioner Gupta, addressed the Council.

The need for a Public Access Studio was identified during the negotiations for the cable television franchise, adopted in July 2005. There were provisions included for a new television studio, provide broadband production and editing, and serve the public and educational needs.

Since the time of the franchise renewal, an ideal studio location was found. A new studio could be built in the storage area next to the Committee Room on first floor of Milpitas City Hall. It could be converted from a storage area to a studio, with necessary equipment added, and it has many advantages over other areas considered including school district sites. Also, the new cable access studio could permit broadcast of Commission meetings from the room next door.

Comcast had provided the grant funding of $340,000. Mr. Marion said staff would establish a Capital Improvement Program for the studio and a budget transfer was required.

Mayor Esteves asked whether there would there be rules and policies established for the new channel (as there was for the Channel 15)? Commissioner Gupta explained that a Subcommittee of the full Telecommunications Commission already had started work on this and a report would come to City Council later in the spring this year. Included would be recommendations on volunteer staffing.

Councilmember Giordano was impressed with the idea of the new studio. What about a school site proposed at an earlier time? Mr. Marion relayed that needed circulation improvements at the School District site were delayed, and it would not be feasible for

parking and other issues, so no workable solution at that location was found. The Milpitas Unified School District would like to share with government channel, and the other one would be a public access channel for public programs.

Mr. Alcorn explained the School District has good equipment now, and could broadcast some of those programs on the new channel. Councilmember Polanski supported that comment as well, from her experience with the schools.

Vice Mayor Gomez inquired about ongoing maintenance costs. Mr. Marion stated that maintenance grant funds could be available once the cable studio was built. The objective through Comcast (via the grant) must support public television with capital funding - not operating costs - for equipment, in particular.

Mayor Esteves asked if the studio operation would increase utility costs and staff replied, yes, in an incremental amount.

Councilmember Livengood called the plan for the new studio a "home run," and that the City of Milpitas got everything it hoped for in a new channel. He was concerned about new signs needed for the cable television area, and requested that they match City Hall (in an understated way) and as well as ensuring security, including adequate lighting.

MOTION: approve the following four steps, recommended by the Telecommunications Commission and Information Services staff:

1.) Direct Staff to begin preliminary design of the Public Access Studio
2.) Accept a grant in the amount of $340,000 from Comcast Inc.
3.) Approve the creation of a Capital Improvement Project (CIP) to construct the Public Access Studio
4.) Approve Budget Appropriation Request to fund the CIP in the amount of $340,000

Motion/Second: Councilmember Polanski/Councilmember Livengood

Motion carried unanimously by a vote of: AYES: 5
NOES: 0

NEW BUSINESS

11. Report on Uncollected Developer Fees

Public Works Director Greg Armendariz reported this issue. In the spring of 2004, previous City officials noticed that Sewer Treatment Plant Fees (TPFs) were not collected from eight residential developers, over the period of 1999-2001. It occurred while the City transitioned to a new tracking system called "PT Win" in the Building Permits section (starting around 1999). A memo was drafted from the previous City Manager describing this situation, but it was undetermined whether that memo ever was sent to the City Council.

City Engineering staff was currently working on collection of the fees outstanding. $769,000 was the total in uncollected fees from the eight developers.

Vice Mayor Gomez asked what type of fees these were. Staff explained that "TPFs" were used for sewer system improvements. They were imposed for both residential and commercial development projects in the City.

Mr. Gomez further inquired about the timing of this report. Staff referred to a draft memo dated 2/26/2004, apparently written by previous City officials. Mr. Gomez was pleased to learn of the current collection efforts underway by the present City staff.

City Manager Charles Lawson explained that City Engineering and Planning & Neighborhood Services staff made ongoing efforts to collect these fees and one of the

developers has agreed to pay what it owes to date. Continued effort will be made to contact developers/owners of the identified projects.

Mayor Esteves inquired if there were any legal actions that should be taken to collect the necessary fees. Assistant City Attorney Pio Roda stated that certainly was one option, and any litigation discussion would have to be held in Closed Session.

Councilmember Polanski asked if the fees were ordinarily collected before any permit was issued? Staff replied yes. She inquired if at any time when fees were waived? Staff replied only for the eight developers identified were fees not collected.

Moreover, Utility Engineer Darryl Wong stated TPFs were never waived. Fees historically were collected by both the Engineering and Building Departments. Building collected for residential projects, with the Engineering Department collecting the more complex calculations for industrial/commercial projects.

Councilmember Polanski asked for additional information from the Public Works Director: when the eight developers' projects were started or completed, and an update on what was within the statute of limitations, timewise, on the collection effort.

Councilmember Polanski stated that she had received many memos and documents in her three year on the City Council. While she had kept much of it, and the previous City Manager and Assistant City Manager kept the Council up to date on issues via memos and phone calls, she did not remember this topic ever coming up in the past.

Vice Mayor Gomez summarized his view of what occurred. He asked for the Mayor to consider giving commendation to city staff who brought this issue forward to the Council, in the most recent effort. Mayor Esteves remarked that it should come from the City Manager for the employees.

Motion: to receive staff report and file, including Councilmember Polanski's request for a memo to Council addressing two subjects: (1) how fees affected the eight developers' projects noted in the February 2004 memo, as well as (2) what fees could be collected in the future with respect to any statute of limitations.

Motion/Second: Councilmember Polanski/Councilmember Livengood

Motion carried by a vote of: AYES: 5
NOES: 0

ORDINANCES Items were adopted on the Consent Calendar.

RESOLUTIONS Items were adopted on the Consent Calendar.

BIDS AND CONTRACTS Items were adopted on the Consent Calendar.

CLAIMS AND DEMANDS Items were adopted on the Consent Calendar.

ADJOURNMENT Mayor Esteves adjourned the meeting at 9:38 PM.

Minutes respectfully submitted by:

Mary Lavelle, City Clerk