DRAFT MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, February 7, 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 following three issues:

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

(2) **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
(Pursuant to California Government Code Section 54956.9(a))
City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV815946 Consolidated with Case No. 103CV008400

(3) **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
(Pursuant to California Government Code Section 54956.9(a))
City of Milpitas v. City of San Jose, Case No. CV046013, Santa Clara County Superior Court

The City Council reconvened in Open Session at 7:05 PM with Mayor Esteves presiding and all City Councilmembers present.

CLOSED SESSION ANNOUNCEMENT

None

PLEDGE

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

INVOCATION

Councilmember Polanski read a paragraph from Coretta Scott King's biography, in honor of her memory and asked that the meeting be adjourned in Mrs. King's memory.

MINUTES

MOTION: approve minutes of the January 17, 2006 City Council meeting, as submitted.

Motion/Second: Councilmember Giordano/Councilmember Livengood

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

SCHEDULE OF MEETINGS

City Attorney Steve Mattas reminded the City Council that Assembly Bill 1234 required two hours training on conflict of interest and ethics laws for elected officials in California. He inquired when the Council would like to conduct such training.

Councilmember Polanski stated her preference to hold a special meeting, live and that she wished to invite all Commissioners to attend, and not to hold this training at a regular meeting.

Mayor Esteves concurred with the idea of a special meeting and that staff would arrange a date when all Councilmembers were available, which the City Attorney noted.

Councilmember Giordano stated the February 9 Terrace Gardens Board meeting was canceled.

Councilmember Livengood said he would attend the February 9 Treatment Plant Advisory Committee meeting at 4:30 pm at San Jose City Hall.

MOTION: to approve the Schedule of Meetings, as amended

Motion/Second: Councilmember Polanski/Councilmember Livengood

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

PRESENTATIONS

Proclamation:
Employee Christopher Schaller, City of Milpitas Housing & Neighborhood Preservation Specialist was presented with the Rotary Club's 2006 Gene Schwab Memorial "Service Above Self" Award. Chris received a standing ovation from all persons in the Chamber.

Six employees who were nominated for the award were also noted by the Mayor for their service: Irene Felix, Marilyn Gatchalian, George Perez, Flora Tzeng, Lynette Wilson, and Kathy Ynegas.

Certificate of Commendation:
Martin McKeefery, Miniature Race Car Driver and winner at Sonoma World Finals Road Race November 2005, was presented a certificate by Mayor Esteves. Mr. McKeefery also displayed his 1934 Ford Coupe replica race car outside the City Hall, in the nearby parking lot and provided a video display of his winning race in the "Legends" world race final at Infineon Raceway in Sonoma, CA.

CITIZENS FORUM

Dennis Smith, recently bought a home and moved to Milpitas. He offered to buy a police officer a cup of coffee, and the Police Officer said "no, thanks" as the City policy says no. Mr. Smith had spoken to the City Manager, Police Chief, and the Mayor's office. He would like to be able to offer to buy a cup of coffee for a first responder, so he requested a modification to the "no free lunch" policy.

Frank DeSmidt, representing the Chamber of Commerce, announced his organization was hosting a "Crab Feed" event on March 3 and he had tickets for sale.

Russ Barstadt, President of Starlite Homeowners association, spoke in opposition to an ABC liquor license application for a company doing business as Jerry's Deli at 1491 South Main St. for a license to sell hard alcohol. Residents had problems with persons buying liquor and then consuming it in a park nearby. Customers were intimidating, broken leftovers, shards of glass left in play areas for children. Residents felt ABC should not allow further sales in the neighborhood with the risks to children. He requested City representatives to oppose the license and to help protect the neighborhood by contacting the ABC office in San Jose.

Mayor Esteves asked the City Manager to work with the speaker on the issue raised.

ANNOUNCEMENTS

Councilmember Polanski would like City staff to get the ABC liquor license information to Council via email.

Mayor Esteves offered congratulations to Chinese and Vietnamese students association at the High School for their recent lunar New Year show. He announced new businesses in Milpitas: a H&R Block branch (at Calaveras and Park Victoria) and the Larkspur Landing Hotel.

He also announced the City's flags were at half-mast as a mark of respect for recently deceased Mrs. Coretta Scott King, per the request of the President to federal, state, and local government.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

MOTION: to approve the agenda, as amended

Councilmember Giordano requested to remove Agenda Item No. 3, noting that a staff report on the uncollected sewer Treatment Plant Fees was anticipated at the next Council meeting.

Motion/Second: Vice Mayor Gomez/Councilmember Giordano

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

CONSENT CALENDAR

MOTION: to approve the Consent Calendar, as amended

Vice Mayor Gomez requested to add Item No. 8 to the consent calendar.

Motion/Second: Councilmember Polanski/Councilmember Giordano

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

*** 1. Approve Mayor Esteves' Recommendations for Appointments to City Commissions**

Telecommunications Commission
Re-appointed M. Idrees Munir to a two-year term that expires January 2008.

Recycling and Source Reduction Advisory Commission
Appointed Hong Chen to a vacancy as Alternate # 2, to a term that expires October 2006.

Senior Advisory Commission
Appointed Ed Connor to a two-year term that expires December 2007.
Appointed current Alternate #1 Barbara Ebright to a two-year term that expires December 2007.
Appointed Florentino Menor as Alternate #1, to a two-year term that expires December 2007.

Facilities Naming Subcommittee
*** 5. Approve the Proposed Caesar Chavez Event as Recommended by the Facilities Naming Subcommittee**

Approved the Caesar Chavez Event, as recommended by the Facilities Naming Subcommittee and approved funds from the City Council community promotion budget not to exceed $5,000.

Parks, Recreation, and Cultural Resources Commission
*** 6. Approve Group Youth Sports Assistance Fund Grant**

Approved one group grant request for $1,000 to the Milpitas Tidal Waves Swim Team, using all allocated Youth Sports Grant funds for the remainder of the fiscal year.

*** 7. Review And Approve the Parks, Recreation, and Cultural Resources Commission's 2006 Work Plan**

Approved the 2006 Parks, Recreation and Cultural Resources Commission Work Plan.

*** 8. Approve Submission of Comments to the Federal Communications Commission Regarding Proposed Rulemaking**	Authorized the Mayor to sign a filing with the Federal Communications Commission opposing changes in local franchising rules.
*** 9. Approve New Capital Improvement Project entitled Traffic Signal Modification at Main Street & Montague Expressway and a Budget Appropriation from Previously Collected Traffic Impact Fees**	Approved a new Capital Improvement Project entitled "Traffic Signal Modification at Main Street and Montague Expressway" along with a budget appropriation of $100,000 from previously collected Traffic Impact Fees.
*** 10. Approve New Capital Improvement Project and Budget Appropriation for ADA Pedestrian Ramps, Project No. 4233**	Approved a new Capital Improvement Project and Budget Appropriation of $47,112 for ADA (Americans with Disabilities Act) Pedestrian Ramps at Schools, Project No. 4233.
*** 13. Waive Second Reading Beyond the Title and Adopt Ordinance No. 38.767 Amending Title XI, Chapter 10 (Planning, Zoning and Annexation) of the Milpitas Municipal Code (ZT2005-2)**	Waived the second reading and adopted Ordinance No. 38.767 (ZT2005-2), entitled "An Ordinance of the City of Milpitas Amending Sections 2, 7, 8, 38, and 54 of Chapter 10, Title XI of the Milpitas Municipal Code"
*** 14. Adopt Resolution Amending City Of Milpitas Classification Plan for Position of Public Works Director**	Adopted Resolution No. 7577 amending the City of Milpitas Classification Plan to amend the salary range for the Public Works Director for the City of Milpitas to an annual salary range of $142,016 - $172,622.
*** 15. Adopt Resolution Certifying and Annexing Tract 9699 to the Community Facilities District No. 2005-1, Project 3160**	Adopted Resolution No. 7578 certifying and annexing properties to Community Facilities District No. 2005-1.
*** 16. Approve Purchase of a HP DesignJet 1055CM Printer Plotter for the Engineering/ Transportation Division**	Approved the purchase of a HP DesignJet 1055CM printer/plotter and extra memory from Surah, Inc. for the not to exceed amount of $9,916.21 including shipping and tax.
*** 17. Approve Subdivision Improvement Agreement, Final Map and Operation and Maintenance Agreement for KB Home, Tract 9699, Project No. 3160**	Approved the final map, and authorized the City Manager to execute the secured Subdivision Improvement Agreement and Operation and Maintenance Agreement, subject to the approval of the City Attorney as to form.
*** 18. Approve Budget Appropriation and Authorize Purchase of Water Meter Reading Equipment Devices**	Approved the purchase of three hand-held field-recording devices from National Meter and Automation, for $15,426. Approved an appropriation of $15,426 from the equipment replacement fund for the purchase of the hand-held devices and approved an appropriation of $24,167 from the developer contribution to CP No. 8107 Finance System, for the purchase of communication equipment.

*** 19. Approve the Purchase of Stormwater Pump Units for Berryessa Pump Station Project No. 8138**

Approved the purchase of the equipment package for the Berryessa Pump Station from Cascade Pump Company, for the not to exceed amount of $392,000 including optional accessories, shipping and tax.

*** 20. Approve Payment Requests to Three Vendors**

(1) $46,204.50 to Koffler Electrical for rebuilding the 30 horsepower Jockey pump at the McCarthy Storm Water Pump Station.
(2) $15,453.17 to Peterson Power Systems for two additional items of work, which were performed as part of the emergency overhaul of one of the diesel engines at the Gibraltar Pump Station. It was determined after start up that the radiator had past its useful life and needed to be replaced at a total cost of $13,804.13. Also, after the engine had been disassembled it was determined that the rocker assembly was badly worn and needed to be replaced at a cost of $1,649.04.
(2) $1,263.36 to Folger Graphics for tax and freight on the "Reusable News" newsletters. On January 4, 2006, staff went out to bid to print and mail 14,500 recycling informational newsletters. Council approved the purchase on January 3, 2006 for $8,520.69. However, at the time staff was not aware that the bids did not include tax and freight, in addition to the fact that there were art changes required after the first proof. Even with the changes, Folger Graphics' bid was still the lowest.

PUBLIC HEARINGS

None

REDEVELOPMENT

RA 1. 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 7:43 PM.

RA 2. ROLL CALL

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

RA 3. MEETING MINUTES

Motion: to approve the Redevelopment Agency minutes of January 17, 2006 , including joint meeting with the City Council, as submitted.

Motion/Second: Agency/Councilmember Livengood/ Agency/Councilmember Giordano

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

RA 4. Approval of Agenda and Consent Calendar

Motion: to approve the agenda and consent calendar

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

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

RA 5. Receive Progress Report on Library and East Parking Garage, Project No. 8162 and No. 8161

Mark Rogge gave an update on the new library project work to date. He reviewed energy efficiency savings in his presentation on costs. So far, project staff maintained the budget, with regular furniture and fixed cost estimates remaining the same.

Additionally, Mr. Rogge displayed newer artist renderings of the new library structure, including a unique tencel fabric roof as described. He then reviewed the status of the parking garage at the library, including a utility re-do project (awarded on the consent calendar). He discussed efforts to maintain existing businesses in the downtown region when construction starts, to maintain business access on the street. Community information would be found on the City website, and compliance with best management practices would be executed.

Councilmember Giordano had a question on the removal of photovoltaic panels: was there any aesthetic impact? Mark Rogge said a modest one, with a handsome look.

Vice Mayor Gomez asked about Best Management practices in construction: were those the same as a mitigation plan? Mr. Rogge responded by reviewing explicitly what actions would be taken toward mitigation in the downtown.

Staff gave an update on site preparation work that had been occurring on site. All asbestos was removed from buildings, and then torn down - blacksmith shop and others (branded boards were saved for display). Work continued at the school section of the site, with removal of paint, asbestos, and all hazardous material. It was due to wrap up at the end of the month. The site was due to be ready on March 7 for ground abatement work (ahead of schedule).

MOTION: note receipt of staff report by Mr. Rogge

Motion/second: Councilmember Polanski/Councilmember Livengood

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

RA 6. City of Milpitas Financial Status Report for Six Months Ended December 31, 2005

Finance Director Emma Karlen reported the City's financial status to date. She highlighted the reduced unemployment rate in the county (up from a year ago) and an increase in sales tax revenue during the last quarter.

She provided more details, such as inflation was not an anticipated problem, while the state's economy was sensitive to interest rate increases for developers and home buyers (per an ABAG report). Overall anticipated revenue was slightly higher than budgeted, with lower sales tax, due to the anticipated car dealerships that would not be ready for business until the next fiscal year.

Ms. Karlen explained a 25% increase in two one-time transactions: $1.1 million repayment of Vehicle License Fees (from 2003-04) by the state (it was repaid a bit earlier than promised) and the recent sale of the former City Manager's Milpitas home.

Expenditures were on target, at 50% this time of the year, with a small savings in department budgets, as 5% at the beginning of year. Questions remained on how to balance the budget at year's end. Likely, the City would need part of redevelopment funds to balance the General Fund.

Councilmember Livengood recalled that the Council made a policy statement that it does not want to use any more reserve funds to balance the City's budget. Constraint being shown by staff was laudable and appreciated, but it was bad that money was still tight (operating with deficit), a slow economic recovery, and the need to continue with a conservative budget. He thanked the City Manager and staff.

The Finance Director announced several budget-related meetings upcoming: on Tuesday, March 14 at 6 PM was the council budget work session; on April 18 Council review of Capital Improvement Project plan overall; May 9 was the budget hearing, with May 11 as an alternative date if more time was needed; and finally, June 6 was the scheduled date for final budget adoption.

Mayor Esteves had questions about the sale of some properties to the Agency in the amount of $6.1 million. Ms. Karlen explained that $6.1 million was the amount projected to be used to balance the City's General Fund budget, via a transfer to RDA from the City for purchase of city properties. She described the mechanism to balance the budget presently, not as a way to balance the budget forever.

Motion: note receipt of the Finance Director's report

Motion/Second: Agency/Councilmember Livengood/Agency/Councilmember Giordano

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

RA 7. Approve FY 2005-06 Mid Year Budget Modifications for Operating Budget and Capital Improvement Projects

Finance Director Emma Karlen provided a Mid-Year budget review of Capital Improvement Projects and other items for budget adjustments, totaling $1,105,068.

Mayor Esteves inquired about two items: $150,000 for fuel needed (a 25% increase, due to the high price of the commodity) and $480,000 in sewer costs. The Public Works Director explained the economy of scale for the sewer replacement project this year.

Vice Mayor Gomez inquired about an event for re-naming the Senior Center and its funding source. The Finance Director stated the City Council community promotions budget ($3,000) and another ($2000) line item were recommended by staff, to cover the proposed costs.

Councilmember Livengood was not clear on how these items were not going to impact the General Fund. Ms. Karlen explained they were designed for full cost recovery. Also, Fire Chief Frank stated that FEMA reimbursement funds were expected to be received by the end of this fiscal year.

Motion: Approve staff recommendations, as follows:

Additional budget appropriations for operating and capital improvement projects expenses:

1. $5,068 from the General Fund to Recreation Division to provide funding to the Senior Nutrition program due to increased participation and for sign language interpreters services at a Rainbow Theatre performance.
2. $300,000 from the Redevelopment Agency Project Fund to City Attorney's operating budget to pay for additional attorneys fees and other litigation costs associated with the City Hall.
3. $150,000 from Equipment Fund to Public Works Department to cover increased price of fuel.
4. $480,000 from the Sewer Fund to Capital Project no. 6073 Sewer Deficiency Program for sewer main replacements.
5. $40,000 from the Water Fund to Capital Project no. 7098 South Milpitas Water Replacement to complete the seismic design of the pipeline.
6. $60,000 from the Redevelopment Agency Project Fund to Capital Project no. 8106 Storm Water Pump Station Improvements to fund rehabilitation of the roof for Penitencia and Bellew Storm Drain Pump Stations.
7. $60,000 from the Redevelopment Agency Project Fund to Capital Project no. 8135 Buildings Improvements to update the fire alarm system in City Hall and other improvements to Fire. Stations 1, 2 and 3.
8. $10,000 from the Redevelopment Agency Project Fund to Capital Project no. 8159 Evidence Freezer to fund upgrades necessary to meet building permits requirements.

Funding requests that do not impact Fund Balances:

9. $23,709 from the General Fund to Recreation Division to pay for contractual service for Youth Basketball program. The costs for these services have been recovered through enrollment fees.
10. $67,090 to increase Fire Department overtime and training budget by $65,400 and $1,690 respectively. The funding sources for the additional appropriations are from FEMA reimbursement, overtime plan check service reimbursement and deposit holding account.

11. $78,610 from developer contributions to Capital Project no. 4186 Abel/Calaveras Right Turn Lane to fund additional right of way costs.
12. Re-open Capital Project no. 8134 Senior Center Renovation to pay the outstanding invoices totaling $190,000. The project has sufficient funding for this request.

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

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

***RA 8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended December 31, 2005**

Received the investment report from the Finance Director for the quarter ended December 31, 2005.

***RA 9. Adopt Resolution Granting Initial Acceptance: Sports Center Underwater Pool Lighting, Project No. 8163**

Adopted Resolution No. RA 248 granting initial acceptance of the project subject to the one-year warranty period and reduction of the faithful performance bond to $4,387.60.

***RA 10. Award Construction Contract: No. Main Street Utility Improvements, Project No. 8153**

1. Approved an appropriation of $900,000 to Project 8153, North Main Street Utilities, from developer reimbursements.
2. Awarded construction Contract to D'Arcy & Hardy in the amount of $3,267,704.

*** RA 11. Authorize City Manager to Execute several actions**

Executed an Agreement for Consultant Services: Swinerton Management & Consulting for N. Main St. Improvements, Project 8165; Land Acquisition and Site Prep, Project 8154, N. Main St. Environmental Impact Report Mitigations, Project 8169; Main Sewer Pump Station, Project 6103 and Other Capital Improvement Projects - in the amount of $880,000 subject to approval as to form by the City Attorney.

RA 12. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:33 PM.

REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

2. Consider the Addition of One Alternate to Serve on the Milpitas Planning Commission

Councilmember Livengood asked his colleagues to approve his request to ask the City Attorney to come back to the Council with an ordinance to permit one alternate member to serve on the Planning Commission. This was done on most other City Commissions, he felt it was a good idea, it would open more opportunity to residents and ensure a full Planning Commission for voting on all actions.

Councilmember Giordano supported the concept. She asked the City Attorney if it was allowable by law? City Attorney Mattas said yes, an alternate could be recommended. Mayor Esteves wanted a complete legal response on that question.

Mr. Mattas said the Planning Commission was a quasi-judicial body, and an alternate would need to be fully aware of any issue, available to learn all of what occurred if an item was continued from one meeting to another, and other legal issues, but the City Council had the authority to establish the membership of the Planning Commission. The alternate member would probably want to be available at all meetings and ready to step up, in the absence of another Planning Commissioner.

Mayor Esteves asked if there were any other California cities with alternates on the Planning Commission? The City Attorney replied yes and that his office would research that question and reply to the Council on it.

Councilmember Polanski had no difficulty with this change; she wanted to be sure that because the Commission was a quasi-judicial body that there was nothing outside of what was legally discussed, as a responsibility. Mr. Mattas would provide further background in a memo to the City Council.

Mayor Esteves was not comfortable with this proposal and was concerned about the legal status of the alternate. Also, an alternate member would not automatically become a voting Commissioner; so he did not recognize any real benefit.

Motion: Direct the City Attorney to return to the City Council with an ordinance amending Municipal Code Title I, Chapter 500 regarding Planning Commission membership, to add one alternate member, including term of office and duties.

The motion included the Council receiving a memo from the City Attorney, as requested by Councilmember Polanski.

Motion/Second: Councilmember Livengood/Vice Mayor Gomez

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

3. City Council Investigation of Unpaid Developer Fees

Item removed from the agenda.

4. Review and Approve the Economic Strategic Action Plan as Recommended by the Economic Development Commission

Economic Development Manager Diana Whitecar presented the Economic Strategic Action Plan, recommended by the Economic Development Commission, several of whose members were present. She highlighted and discussed the eight significant Goals of the plan, as outlined in the agenda report to Council.

She reviewed a page that itemized estimated costs of the entire plan package. She suggested the City Council may wish to prioritize and/or recommend spending of any of the items listed, and to review some of the longer term expenditures. A high priority of Economic Development Commission noted was to improve Milpitas' image (especially through signs). A strong "Shop Local" program was important to further this Goal, among other steps.

Councilmember Livengood commented on Great Mall "re-tenanting." The addition of retail stores such as Kohl's meant increased sales tax revenue. That step was beneficial for the City, but urged staff to watch development when re-tenanting into uses does not produce sales tax revenue (for example, mortgage businesses).

Staff highlighted housing related issues in the Plan, noting it was necessary in Milpitas to balance housing supply with demand (a no cost item goal); with a not to ensure the EDC was clear on the affordable housing goals of the City.

Vice Mayor Gomez asked how business retention and attraction worked. Ms. Whitecar noted her involvement doing this type of work in other governments, and cities were affected by Proposition 218 (a lengthy process working with property owners).

Councilmember Giordano inquired if there was a measurement of success on each Goal or for the program in entirety. Staff replied for each item.

Vice Mayor Gomez wanted to be careful on the topic of "nanotechnology." He thought it was "scary" to use taxpayer dollars to support private industry.

In response to Councilmember Giordano, Ms. Whitecar said the plan had stated timelines to achieve the varied goals, and that the staff would come back twice each year to Council with a progress report.

Staff pointed to the Redevelopment Agency explicitly, that identifying a very clear, longer term, specific redevelopment program in this City was necessary. Revenues were thin and the City needed to approve a 5-year RDA plan to be consistent with state law. Such a plan would give the City Council a good chance to review the increment and how to spend it.

EDC Chairman Brahmbhatt thanked staff and the Council for its support of the Plan goals. He expressed satisfaction in the progress made to date and was very pleased that the City supported the hiring of an Economic Development Manager. He discussed the EDC "Wish List" for the coming FY 2006-07, and he did not know where the money would come from to fund all those items. He discussed the Commission's desire for signs at entry ways to the City, to improve retail and promote shop locally, and to help improve areas where it was more rundown in Milpitas.

In review of the costs, staff looked at the Plan expenditures overall by Fiscal Year. Over the next two years,recommended costs could be absorbed in current budget for economic development. She provided $188,500 in 18 explicit recommendations for FY 2005-06.

Vice Mayor Gomez asked if staff would look at the issue of churches in industrial areas. Staff replied yes, in response to Mr. Gomez's concern for non-revenue generating uses in industrial areas.

Councilmember Giordano sensed a shift in philosophy on land use issues and she supported the re-tenanting issue at the Great Mall. That was a whole different approach on land use issues as well as the economy; and asked how would the shift take place.

Councilmember Polanski inquired how long the industrial land use study would take. Staff was unsure, but with tight time frames perhaps one year or only nine months.

Councilmember Giordano asked if the City need a mission statement on this plan. Ms. Whitecar did not recall that there was one and was something the EDC could discuss.

Mayor Esteves desired the City pursue the goals on the list with the most impact that would get attention and be achieved; he felt the quality of education was the most critical and he did not see any action items about schools explicitly. Staff could bring to Council the EDC's work plan and perhaps a subcommittee of the EDC could address the education topic.

Vice Mayor Gomez felt, when talking about education, the City could impress upon things it already does with the Milpitas Unified School District overall and to recognize the importance of those cooperative efforts, to assign value to those.

Chairman Brahmbhatt stated the desire of EDC to have a campus of some institution of higher learning in Milpitas. Councilmember Polanski believed that the School District was in fact looking at a partnership with Evergreen Community College.

Councilmember Livengood asked the Economic Development Manager about the webpage. Staff responded that first, one was needed for economic development and redevelopment explicitly. For example, if someone wants to open a business, while the web does provide some basic information, there was not any clear connection to demographic and business detailed information to assist potential business owners.

EDC Commissioner Don Peoples thanked the Council for hiring the Economic Development Manager; she was great in working with Commissioners and business owners in Milpitas in her short time with the City.

EDC Commissioner Ray Maglalang recalled years ago when he was on the CAC, he checked a table mat at a restaurant and asked himself why only San Jose was mentioned. This identified the image problem for him. He mentioned hotel names, and believed it

was time to create Milpitas on its own terms, get others to follow, and that the plan was a great start.

EDC Commissioner Frank DeSmidt, seconded Mr. Peoples remarks. Lots of work had been done on the Plan, and it was an important investment in the future of the City, and critical to sell the idea that Milpitas does matter in the County and in Silicon Valley.

Councilmember Livengood felt in a global sense, the Commission had done good job of laying out a "roadmap" for Council for a best case scenario in the planning; the City Manager did a good job hiring the Economic Development Manager. He was not sold on the $60,000 study in the Mid-Town Precise Plan in the first year. He suggested moving half that money to the first year and to test signage. He did not like idea of brochures (do not accomplish a whole lot). He wanted to know why the Piedmont/ Landess entry sign was on the Plan in first year.

Ms. Whitecar responded that the funding was already in the CIP for the entry signs. Councilmember Livengood believed the money could be spent on another type of sign, or better placement or bigger entry way sign elsewhere. He felt that $37,500 from Public Relations from the first year (1/2 of P.R.) should be held off before spending.

Councilmember Polanski complimented staff and the EDC, she liked the "shop local" idea and improved image concept was needed. She supported Mr. Livengood's idea of holding back half of the public relations budget and to measure its success first.

Councilmember Giordano asked how would the City measure success of the public relations effort. Staff reported one measurement would be the number of hits to the website page as well as the number of phone calls about business inquiries.

Mayor Esteves was very pleased to be moving forward and taking action on this long time arriving Plan, even though compared to other cities this was a miniscule amount to be spent on such an important issue for the City.

MOTION: Approve the proposed Economic Strategic Action Plan for the current Fiscal Year, with the following specific actions:

1. Move the Midtown Precise Plan from the current FY into the next FY (starting July 2006)
2. Allocate one half of the Public Relations program funds ($37,500) spent in this Fiscal Year 2005-06
3. Locate another site in addition to Piedmont-Landess site as a significant entry sign
4. The remainder of Economic Strategic Plan (items in the second and third fiscal years) must come before the City Council at budget time
5. All funding issues in the Plan must come before the City Council before the money was to be spent

Motion/Second: Councilmember Livengood/Councilmember Polanski

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

NEW BUSINESS

Items adopted on Consent Calendar.

ORDINANCES

11. Waive First Reading Beyond the Title and Introduce Ordinance No. 224.6, regarding Mobile Home Park Rental Review Board

City Attorney Steve Mattas discussed this issue, with regards to appointing an alternate to the Mobile Home Park Rental Review Board. The Board had the duty to appoint a mediator in certain circumstances (as a recent issue had been brought to the Board's attention).

The Board could make decisions once it achieved a quorum. A quorum could more easily be achieved when an alternate member was available to be seated in the place of a regular Board member who was unavailable for a meeting or had to recuse him/herself (as had recently occurred). The City Attorney expressed that the Mayor could make a recommendation for appointment of an alternate member, which the Council could approve, once the proposed ordinance was adopted and went into effect.

(1) MOTION: Waive the first reading of Ordinance No. 224.6, beyond the title

Mr. Mattas read the title "An Ordinance of the City Council of the City of Milpitas Amending Chapter 30, Title III of the Milpitas Municipal Code Related to Membership on the Mobile Home Park Rental Review Board."

Motion/Second: Vice Mayor Gomez/Councilmember Livengood

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

(2) MOTION: Introduce Ordinance No. 224.6

Motion/Second: Vice Mayor Gomez/Councilmember Livengood

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

12. Waive First Reading Beyond the Title and Introduce Ordinance 227.4 Amending Chapter 215 of Title V of The Milpitas Municipal Code Related to Prohibitions on Smoking to Include Public Playgrounds and Sports Facilities

Public Works Supervisor Carol Randisi presented this topic to the City Council. Staff reviewed current smoking regulations in the city's municipal code, prohibiting smoking in City vehicles and in City workplaces. The request came from the City Council to enhance those regulations, with regard to playgrounds and sports facilities including refreshment stands.

In the proposed updated ordinance, the City Manager would have the authority to enforce the regulations. Also, it was anticipated that amending existing City signs could be done at a cost of $3,000.

Councilmember Livengood inquired, at any point, does smoking in stated areas become a state violation? Staff said that was not applicable here, and that only a portion of the state labor code applied.

City Attorney Mattas further replied that the "V-215-1.60 Violations Reports to State" section on the draft ordinance, page 4, should be removed from the ordinance, as it did not apply to local enforcement of the updated section of the no-smoking policy.

(1) MOTION: Waive the first reading of Ordinance No. 227.4, beyond the title

Ms. Randisi read the title "An Ordinance of the City of Milpitas Amending Chapter 215 of Title V of the Milpitas Municipal Code Related to Prohibitions on Smoking at Entrances to City-Owned Buildings, Public Playgrounds and Sports Facilities"

Motion/Second: Vice Mayor Gomez/Councilmember Livengood

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

(2) MOTION: Introduce Ordinance No. 227.4, with the removal of "V-215-1.60 Violations Reports to State"

Motion/Second: Vice Mayor Gomez/Councilmember Livengood

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

RESOLUTIONS Resolutions were adopted on the Consent Calendar.

BIDS AND CONTRACTS Items were adopted on the Consent Calendar.

CLAIMS AND DEMANDS Item was adopted on the Consent Calendar.

ADJOURNMENT Mayor Esteves adjourned the meeting at 10:23 PM in memory of Coretta Scott King, the recently deceased widow of Rev. Dr. Martin Luther King Jr.

Meeting minutes respectfully submitted by:

_____

Mary Lavelle, City Clerk