UNAPPROVED MINUTES
CITY OF MILPITAS

Minutes:	Regular Meeting of Milpitas City Council
Date of Meeting:	April 19, 2005
Time of Meeting:	7:00 p.m. (Public Business)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

ROLL CALL

Mayor Esteves called to order the regular meeting of the Milpitas City Council at 7:00 p.m. Present were Mayor Esteves, Vice Mayor Gomez, and Councilmembers Livengood, Polanski and Giordano.

CLOSED SESSION

There were no Closed Sessions.

CLOSED SESSION ANNOUNCEMENTS

There were no Closed Session announcements.

PLEDGE

Members of Troop No. 92 led the Council and audience in the Pledge of Allegiance.

MINUTES

MOTION to approve the City Council minutes of March 31, 2005, and April 5, 2005, with amendments to the April 5, 2005 minutes.

M/S: Livengood/Giordano Ayes: 5

SCHEDULE

Councilmember Livengood announced that the VTA would be holding its annual workshop from 8:30 a.m. to noon on April 22 at the Hyatt in San Jose on North First Street near Highway 101.

Councilmember Giordano announced the Senior Advisory Commission meeting has moved to May 3 at 1:30 p.m.

MOTION to approve the Schedule of Meetings.

M/S: Giordano/Livengood Ayes: 5

PRESENTATIONS

Proclamations:

Mayor Esteves stated National Volunteer Week started in 1974 when President Nixon signed Executive Order #4228 and that the foundation of a humane and just society is its people's willingness to work together for the common good. He stated the Milpitas citizen volunteer force is over 1000 people and shows an unfailing commitment to volunteer their diverse talents to the City. He proclaimed April 18-24, 2005 as National Volunteer Week in the City of Milpitas and presented the proclamation to Peter Chang, Milpitas Senior Volunteer.

Mayor Esteves stated this year marks the 32nd annual celebration of International Volunteer Week and noted that California is a leader in championing volunteerism and community service. He reported the Volunteer Center of Silicon Valley sponsors the annual Human Race of Silicon Valley promoting volunteer service throughout Santa Clara, San Mateo and Southern Alameda counties. He proclaimed the month of April 2005 as National Volunteer Month in the City of Milpitas and presented the proclamation to Evan Low of the Volunteer Center of Silicon Valley.

Mayor Esteves stated that Arbor Day was first observed with the planting of more than a million trees in Nebraska and is now observed through the nation and world. He noted that trees increase property value, enhance economic vitality of business areas, and beautify the community. He proclaimed Saturday, April 23, 2005, 10:00 a.m. to 12:00 p.m. at Hall Memorial Park as the date, time and location to celebrate Arbor Day at the Earth Day event in

the City of Milpitas, and urged citizens to participate. Mayor Esteves presented the proclamation to Michael Queenan of the Milpitas Community Advisory Commission.

Commendations:

Mayor Esteves presented a commendation to the Milpitas High School Chinese Club for 2005 Lunar New Year Show on February 10. He presented the proclamation to two members of the Chinese Club.

Mayor Esteves commended the Milpitas High School Vietnamese Club for the production and performance of the Lunar 2005 Program on February 10, 2005, and the annual MHS Spring Show on March 19, 2004. Commendations went to Club Officers Kim Nguyen, President, Tanya Phan, Vice President, Tina Nguyen, Secretary, Christy Ho, Treasurer, and Crystal Vo, Publicist.

Mayor Esteves recognized the graduates of SAFE Classes 11 and 12. He stated the Strategic Actions for Emergencies, established in the Spring of 2000, is the neighborhood preparedness program in the City of Milpitas. He noted the SAFE program teaches the standard curriculum developed by the Federal Emergency Management Agency. He stated SAFE Class 11 graduated on October 30, 2004, and SAFE Class 12 graduated on March 5, 2005. Commendations were presented to:

Class 11	Class 12
Bryce Amdur	Agnes Alexander
Frank Amdur	George Alexander
Cindy Balsbaugh	Sandra Anderson
William Bass	Augusto Atienza
Arthur Ebright	Norman Azevedo
Barbara Ebright	Geoff Crews
Larry Freimuth	George Khawahie
Giap Ha	Ashley Nolan
Bill Heckman	Bill Nolan
Violet Heckman	Mary Odisho
Sean Murray	Jennifer Portley
Angela Nolan	Jane Smith
Carina Roque	Dennis Wong
Marilyn Rupp	Tom Wong
Cindy Sagli	
Ralph Shelley	
Joan Southard	

Carolyn Gonot of the VTA (Valley Transportation Authority) made a Power Point presentation on the Long-Term Transit Capital Investment Program that the Retail Board has out for public review. She stated the VTA would be meeting pm on April 22 at the Hyatt in San Jose to discuss the program and comments from the jurisdictions to date. She reviewed the purpose of the discussion, development of long-term investment strategy, long-term transit capital investment program, 2000 Measure A projects, capital investment program for ongoing transit operations, and long-term TCIP objectives.

CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks be limited to two minutes or less.

Frank DeSmidt, with the Milpitas Chamber of Commerce, invited the Council, staff and citizens to the Chamber's Trade Fair Mixer on Tuesday, April 26, starting at 5:00 p.m. at the Embassy Suites Hotel.

A gentleman (name eligible), a member of the public, expressed dismay about the decision to cancel the Ethics Panel. He requested the Council to reinstate the Panel.

ANNOUNCEMENTS

City Manager Lawson announced that James Lindsay would be leaving the City for the private sector and thanked him for his 13 years of service to the City.

Mayor Esteves encouraged residents to come forward and address the Council with any concerns and become involved in the community.

ANNOUNCEMENT OF CONFLICT OF INTEREST

Interim City Attorney Richard Pio Roda inquired if any member of the City Council had a Conflict of Interest to disclose it for the record.

City Manager Lawson reported that Councilmember Giordano requested item number 1 be continued until an advice letter is received from the FPPC. He further stated the City Attorney does not see a conflict of interest for either Mayor Esteves or Councilmember Giordano.

MOMENTS OF REFLECTION

There were no comments.

APPROVAL OF AGENDA

City Manager Lawson requested that item 1 be continued. Interim City Attorney Pio Roda noted changes in the recommendation under item 3 regarding timelines for public outreach.

Vice Mayor Gomez requested item 13 be heard before item 4.

MOTION to approve the agenda with the following changes: continue item number 1, move item number 13 before item number 4 and note changes to recommendation on item number 3.

M/S: Gomez/Giordano Ayes: 5

CONSENT CALENDAR

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar. Mayor Esteves requested that item 9 staff recommendation wording be changed from mediation bench to meditation bench.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, in accordance with the staff recommendations.

M/S. Livengood/Gomez Ayes: 5

***8. Senior Advisory Commission Bylaws**

Receive Community Advisory Commission (CAC) Report on Having Non-Denominational Invocations At City Council Meetings, (Staff Contact: Dennis Carrington, 586-3275)

***9. Veterans Memorial Ad-hoc Committee**

Approve Recommendations from the Veterans' Memorial Ad-hoc Committee on Ways to Recognize and Honor the Former Milpitas Veterans Club (Staff Contact: Mark Rogge, 586-3403)

***10. Budget Appropriation Recreation Services Accounts**

Authorize Budget Appropriation From Holding Accounts 1376 and 1377 to Recreation Services Accounts (Staff Contact: Kathleen Yurchak, 586-3209)

***11. Implementation of General Plan Housing Element Policies**

Annual Review of Implementation of General Plan Housing Element Policies (Staff Contact: Felix Reliford, 586-3071).

***12. Comment Letter On North San Jose Development Policies**

Approve Comment Letter on North San Jose Development Policies Update Draft EIR (Staff Contact: Tambri Heyden, 586-3280)

***14. Resolution Granting Acceptance Playground Equipment Upgrade**	Adopt Resolution Granting Final Acceptance: Playground Equipment Upgrade, Project No: 5077 (Staff Contact: Doug De Vries 584-3313)
***15. Resolution Granting Acceptance Cathodic Protection System Repairs**	Adopt Resolution Granting Final Acceptance: Cathodic Protection System Repairs, Project No: 7050 (Staff Contact: Doug De Vries, 586-3313)
***16 Resolution Interim Senior Center Modular Addition**	Adopt Resolution Granting Final Acceptance: Interim Senior Center Modular Addition, Project No. 8151, (Staff Contact: Mark Rogge, 586-3403)
***17. SSA Landscape Architects Sport Center Project**	Approve Agreement Amendment: SSA Landscape Architects, Inc., Milpitas Sports Center Circulation Project, Project No. 8149 (Staff Contact: Greg Armendariz, 586-3317)
***18 Debris Box Agreements with Browning-Ferris Industries**	Approve Debris Box Agreements With Browning-Ferris Industries, Coast Dumpsters, Environmental Management Systems, Green Waste Recovery Inc. D.B.A. $99 Debris Box And Recycle West (Staff Contact: Darryl Wong, 586-3345)
***19 4 LEAF Inc, Silicon Valley Intelligent Transportation Systems**	Approve Agreement Amendment: 4 LEAF Inc., Silicon Valley Intelligent Transportation System (ITS) Project No. 4219 (Staff Contact: Greg Armendariz, 586-3317)
***20. Coyote Creek Trail , Reach 1**	Authorize the City Engineer to Execute a Contract Change Order: Coyote Creek Trail, Reach 1, Project No. 4206 (Staff Contact: Mark Rogge (586-3403)
***22. Fire Hydrants and Water Meters to Groeniger & Co.**	Award Purchase of Fire Hydrants and Water Meters to Groeniger & Co (Staff Contact: Steve Smith, 586-2640)
***23. Payment Requests: Miscellaneous Vendors/Contractors**	Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161).

PUBLIC HEARINGS

1. Ordinance to Enhance Code Enforcement Program	Continued to a future Council meeting.
2. Community Development Block Grant Funding	Felix Reliford, Neighborhood Preservation Manager, and Gloria Anaya, Senior Housing and Neighborhood Preservation Specialist, presented the staff report. Ms. Anaya stated the purpose of this public hearing is to establish levels and uses for the Community Development Block Grant (CDGB) Program for fiscal year 2005-06 and to adopt the One Year Action Plan. She stated the grant for FY-2005-06 is $670,852 and there are twenty-eight applications She reported the Community Advisory Commission held a public hearing and reviewed the CDBG applications. They recommended $670,852 in total funding, including $115,627 for public services and $436,055 for non-public services. The remaining $119,170 of the grant is committed for program administration. Mr. Reliford reviewed the One-Year Action Plan.

Staff responded to questions posed by the Council regarding the Recreational Assistance Program request recommended cuts, expressing concern over the amount of proposed funding cuts to the RAP program, the request from the Filipino American Opportunity Development, and the activities of the Alum Rock Counseling Center.

Meenaksi Srinivasen, speaking on behalf of the Milpitas Parents Preschool, advocated for funding for pre-school activities and requested the Council approve the funding for the Milpitas Parents Preschool application.

Ann Marquet, Director of Project Sentinel, questioned the source of their funding and requested that part of their funding be taken out of the Redevelopment budget. She requested the Council approve the funding requested this year.

Molan Siu, a member of the public, spoke in support of the RAP program and stated the funding is small compared to the funding for other programs. She stated the program is important to the disabled and elderly community of Milpitas.

Cindy Burn, Senior Office Administrator of Senior Adult Legal Assistance, stated they provide free legal services to adults who are 60 years old and older. She reviewed the activities they provide and stated there has been an increased demand for their services.

Gina (name illegible), speaking on behalf of the Second Harvest Food Bank, gave a brief overview of the activities they provide and stated they are requesting funding for Operation Brown Bag that serves 340 households in Milpitas. She thanked the Council for their continued support.

Robert Douglas, representing Economic and Social Opportunities, thanked the Council for their continued support and requested funding for their Housing and Energy Services program. He stated they are currently meeting and exceeding their goals.

Irene (name illegible), representing Catholic Charities, thanked the Council for their continued support of the Shared Housing/Single Parents Program and the Long Term Ombudsman Program.

MOTION: Close the Public Hearing.

M/S Gomez/Giordano Ayes 5

Councilmember Polanski reported she attended the Community Advisory Commission meeting and thanked them for their efforts. She further stated there was no representative from the Milpitas Parents Preschool and the CAC had reservations about assisting with the renovation of playgrounds.

Mayor Esteves inquired if an additional $600 were granted to the Second Harvest Food Bank, what would be the source of the additional funding.

MOTION: Approve the CAC recommendations for FY2005-06 CDBG funding as submitted and adopt the One Year Action Plan, with the RAP program funding being deferred to the budget hearing.

M/S Gomez/Polanski Ayes 5

UNFINISHED BUSINESS

3.
Open Government Commission Outreach

Richard Pio Roda, Acting City Attorney, presented the staff report. He stated Section I-310-4.10 of the Milpitas Open Government Ordinance established an Open Government Commission. The term of each appointed member shall be two years unless removed by

the Council and there will be five members appointed by the City Council. He stated the City Clerk will conduct public outreach which will include interested individuals submitting a Milpitas Community Service Application. He discussed the timeline for submittals and the proposed appointment dates by the Council.

The Council posed questions regarding the process for appointing commissioners, if the process was compliant with State law, pending items for the Commission to hear, the meeting schedule, the expected workload for the commission members, the budget for the new commission outreach, and concerns for having pre-set dates for meetings.

Councilmember Polanski stated she did not vote for the Open Government Ordinance and would be voting no for this item to be consistent.

Mayor Esteves stated he felt there were more pressing issues facing the City and would be voting no on this item.

MOTION: Direct staff to conduct public outreach for individuals interested in serving on the Open Government Commission in accordance with the Council's procedures and direct staff to conduct public outreach from April 20th to May 20th and present interested persons for approval at the June 7th Council Meeting.

M/S Gomez/Giordano Noes: Esteves, Polanski

Councilmember Polanski requested that item number 6 be the next item for Council consideration. It was the consensus of the Council to hear item number 6 next.

REPORTS OF BOARDS AND COMMISSIONS

<u>Arts Commission</u>

6.
Public Arts Funding Threshold and Ordinance

Commissioner Bill Foulk, of the Milpitas Arts Commission, assisted by Kathleen Yurchak, Recreation Services Supervisor, gave the staff report. Ms. Yurchak referenced the recommendations in the memo from Vice Mayor Gomez and Councilmember Giordano. Commissioner Faulk stated the memo was reviewed extensively by the Arts Commission and requested clarification on the minimum threshold, and questioned item number 6 guidelines in the memo.

Councilmember Polanski posed questions regarding item number 6, that all guidelines are subject to the recommendation and discretion of the Public Arts Committee, and the guidelines in the memo from Vice Mayor Gomez and Councilmember Giordano regarding number 6. She stated that she preferred that item number 6 guidelines in the memo be deleted and the Arts Commission have the final discretion with the Council having final approval. She further stated she would like to see the entire Arts Commission be part of this committee and not want a large committee. She stated she supports two members from the Alliance for the Arts and two members from the public.

Vice Mayor Gomez stated he agrees with item 1 and that it be reviewed in three years, and asked for clarification under item number 6 regarding original works of art. He further stated he did not agree with the recommended members for the committee.

Mayor Esteves expressed concern over the proposed number of members from the Alliance for the Arts and advocated for more members from the Arts Commission. He proposed different scenarios for the makeup of the committee.

Councilmember Livengood stated he supported seven members from the Arts Commission and four members from the Alliance for the Arts and did not see the need to add other commissions to the board. He further stated he was in favor of eleven members.

Councilmember Giordano stated she will be supporting the $1 million threshold and supports the make up of the committee to include participation by the Alliances for the Arts and a member from the Parks, Recreation and Cultural Resources Commission.

Mayor Esteves welcomed comments from the audience. There were no comments.

MOTION: Accept the Arts Commission recommendation with the following direction/changes: Committee to have 7 members from the Arts Commission including alternates, 3 members from the Alliance for the Arts and 1 member from the public with a cultural resources background. Further, include item 1, a minimum threshold of $1 million on a CIP projects towards the eligibility for the 1.5% formula application is to be reviewed in three years, and under number 6, delete art objects which are mass produced of standard design such as playground equipment or fountains, and reproduction of original works of art.

M/S Gomez/Giordano Noes: Esteves/Polanski

Councilmember Polanski stated her only issue was with number 8 with the makeup with the committee and would have liked to have two members from the public on the committee.

Mayor Esteves stated he would have liked to have had two members from the public and two members for the Alliance for the Arts, and removed item number 6.

At this juncture, Mayor Esteves called a recess at 9:15 p.m. and reconvened at 9:26 p.m.

UNFINISHED BUSINESS

5.
Ordinance to Provide Notices of Appeal and Appeal the Animal Regulation

Tambri Heyden, Planning and Neighborhood Services Director, presented the staff report. She reported the City's Animal Regulation Ordinance provides the ability for violators to request a hearing conducted by the Animal Hearing Officer. Decisions by the Officer can be appealed to an appeal board to be established by a City Council resolution. She stated such an appeal board has never been formed and recommends that a remedy to contest an administrative officer's decision be through the court system.

Councilmember Giordano stated that residents who disagree with this citation should have an avenue to appeal rather than going to court and suggested the Council as the Appeals Board.

Councilmember Livengood stated he is in favor of having a step in between taking a matter to court. He stated the City Council should act as an Appeals Board so the citizens can address their government first.

Vice Mayor Gomez stated he is in agreement with Councilmembers Giordano and Livengood to have an appeals process to the Council before going to court.

MOTION: Continue to the May 3, 2005 Council meeting with a resolution to show the City Council as the Appeals Board and revise Ordinance 54.24.

M/S Livengood/Giordano Ayes 5

JOINT REVEVDEOPMENT AGENCY AND CITY COUNCIL MEETING

RA1.
CALL TO ORDER

Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council at 9:34 p.m.

RA2.
ROLL CALL

Present were Mayor Esteves, Vice Mayor Gomez, and Agency/Councilmembers Livengood, Polanski and Giordano

RA3.
MINUTES

MOTION to approve the Redevelopment Agency minutes of April 5, 2005, including joint meetings with the City Council, as submitted.

M/S Giordano/Livengood Ayes 5

RA4.
AGENDA

MOTION to approve the agenda and consent calendar as submitted.

M/S Polanski/Livengood Ayes: 5

RA5.
Review Draft 2005-2010 Capital Improvement Program

Greg Armendariz, City Engineer, presented the staff report. He reported the Parks and Recreation projects have been reviewed and approved by the Parks, Recreation and Cultural Resources Commission (PRCRC) and the Planning Commission for a recommendation to find the document in conformance to the General Plan. He stated a staff presentation of the draft CIP highlights will be provided at the Council meeting. Based upon Council direction, the draft CIP will be finalized and prepared. This final preliminary CIP will then be presented to Council at the May 2005 budget session.

Doug Devries, Associate Civil Engineer, gave a Power Point presentation that covered the FY-04 highlights, proposed FY05-06 funding, and new projects.

Mayor Esteves inquired about the progress against goals and actual versus plans. He further requested plans to be accomplished for next year and a comparison of what happened last year compared to this year.

Vice Mayor Gomez thanked staff for having the numbers with the projects and inquired about the Sports Center tennis courts, the West Parking Garage and the Berryessa trail projects.

Councilmember Giordano inquired about the renovation of the Adobe building and the allocation of funds.

It was the consensus of the Council to approve the Capital Improvement Program report and bring back to the budget hearing with Council comments.

***RA6.**
Award Contract Professional Auditing Services

Authorize the City Manager to execute a three-year agreement for professional auditing services with optional one-year renewals (total contract term not to exceed five fiscal years) with Maze & Associates for $72,315 in the first year.

***RA7.**
Award Contract Professional Auditing Services

Authorize the City Manager to execute a three-year agreement for professional auditing services with optional one-year renewals (total contract term not to exceed five fiscal years) with Maze & Associates for $72,315 in the first year.

RA8. ADJOURNMENT

There being no further Redevelopment Agency Business, Mayor Esteves adjourned the Redevelopment Agency meeting at 10:01 p.m.

Mayor Esteves suggested moving to item number 13 next, then to item 4 and item 7, and received Council consensus.

ORDINANCES

13.
Ordinance Rescinding Ethics Evaluation Panel

Richard Pio Roda, Interim City Attorney, presented the staff report. He reported that Ordinance No. 265, adopted and codified on August 17, 2004 as Title I, Chapter 40, "Ethics Evaluation Panel," established and created procedures for an Ethics Evaluation Panel in the City. This new ordinance would rescind Ordinance No. 265, removing Chapter 40 of Title I, "Ethics Evaluation Panel," from the Milpitas Municipal Code. The Citizen's Advisory Commission Chair (CAC) drafted a letter respectfully requesting that

the Council take no further action on the second reading to rescind the Ethics Evaluation Panel from the Milpitas Municipal code.

Councilmember Polanski read into the record the letter from the Citizens Advisory Commission (CAC) stating their opposition to rescinding the Ethics Evaluation Panel at this time and requesting that the Council take no action until the Council has reviewed the final report by Dr. Shanks and the annual ethics evaluation panel report by Dr. Riley.

Councilmember Giordano read into the record a letter from Supervisor Pete McHugh addressing comments made at the April 14 Ethics Evaluation Panel meeting. He objected to comments regarding his 1996 campaign and against Victor Ajlouny. In his letter he stated, for the record, that his 1996 campaign was not a "win at all costs" campaign and he has complete trust in Mr. Ajlouny. He expressed dismay about the false allegations made at the April 14 Ethics Evaluation Panel meeting and recommended the Council reassess the Panel's procedures.

Commissioner Craig Ranker, of the CAC, spoke in support of keeping the Ethics Evaluation Panel. He requested that the Council work with the Panel to improve the process and improve the ethics ordinance.

A gentleman (name illegible), advocated for retaining the Ethics Evaluation Panel and the need to enforce ethics for elected and appointed officials.

Aldyth Parle, a member of the Ethics Panel, stated that her support for the actions the Council has taken in the formation and support of the Code of Ethics. She stated accountability is the most difficult part to develop and receives the most criticism. She advocated to build on the accountability portion of the Code of Ethics.

The Council entered into a discussion regarding the pros and cons of the Ethics Evaluation Commission. In summary, Councilmembers expressed the following:

Councilmember Polanski stated she was at the Ethics Hearing on April 14 and Supervisor McHugh was not present. She stated that some of points made in his letter were not factual and that there will be no decision from the Ethics Panel until Thursday, April 21.

Mayor Esteves stated his opposition to removing the Ethics Evaluation Panel and he strongly supports the Code of Ethics. He advocated for improving the process and asked the public to give the Council their input. He solicited for the residents to review the mailers that were received and make their own conclusions, and expressed concern about campaign ethics.

Councilmember Giordano stated, in response to Commissioner Ranker and Mayor Esteves, that the Ethics Evaluation Panel creates a greater problem with people's reputations and that she has not received any comments from the public requesting the Panel be retained. She further stated she studied the issue and was disappointed at the tone and tenor of some of the Ethics meetings regarding unsubstantiated charges of illegal acts and the failure of the lead evaluator to keep the discussion on target. She addressed her concerns about the allegations made against Officer Emmanuele, Firefighter Mitch Kimbel, Vice Mayor Gomez, Supervisor McHugh, Karen Serpa and Victor Ajlouny, and Councilmember Livengood and herself by association. She further responded to allegations that residents are intimidated by police officers. She addressed seven facts she found to be true that has led her to the conclusion that the Council has not rushed to judgment to rescind the Ethics Panel. She stated that it is a failed program and a waste of taxpayer dollars and will be voting in favor of the second reading and the elimination of the Panel.

Councilmember Livengood stated he spoke to Aldyth Parle regarding the Ethics Panel and researched what happened at the last Ethics Evaluation Panel on April 14. He stated there seemed to be an attempt to turn the Ethics Panel into a depository for misinformation, rumors, character assassination, and unsubstantiated claims. He expressed dismay that the Ethics Panel did not attempt to stop the discussion that was not related to the complaint. He stated the Panel needs to be rescinded and that a new procedure for handling complaints be developed.

Councilmember Polanski stated that Councilmembers Livengood and Giordano were not at the Ethics Evaluation Panel on April 14 and expressed dismay about their comments regarding the testimony of the respondents. She stated the respondents and claimant had the right to present evidence they felt was important and that the process should be allowed to finish before Council opinions are rendered.

Vice Mayor Gomez stated he felt that the Panel has become a political tool and the Panel is not consistent in its decision making process. He expressed concern about the length of time to respond to allegations and many of the allegations are ambiguous. He further expressed concern about the proceedings at the April 14th Ethics Panel meeting and testimony that was not relevant to the complaint.

MOTION: Waive reading beyond the title of the ordinance and adopt the ordinance.

M/S Gomez/Giordano Noes: Polanski

MOTION: Adopt the ordinance.

M/S Giordano/Gomez Noes: Esteves, Polanski

MOTION: To continue the meeting after 11:00 p.m. and hear items number 4 and 7.

M/S Gomez/Livengood Ayes: 5

4.
Ethics Project Final Report

Tambri Heyden, Planning and Neighborhood Services Director, presented the staff report. She stated the final deliverable under the Ethics Project contact is the preparation of a final report that summarizes the first year of the project and assess its success and make recommendations for improvements. She stated the report is included in the Council's agenda materials and has been reviewed by the Ethics Steering Committee and Community Advisory Commission. She reviewed the Ethics Program 2004 activities, the seven recommendations and the three goals.

Dr. Shanks availed himself to the Council for questions and addressed a few of the points in his recommendations. He requested the Council provide the direction on where the program should go and what the Council wants to implement.

Councilmember Livengood posed questions regarding cultural recognition and the decision making pocket card.

Mayor Esteves stated the Ethics Program has brought awareness to the City and reaffirmed his desire to have the program move forward. He stated he supports the goals, ethical candidates, the lobbyist, and the moments of reflection sections.

Councilmember Polanski stated she has heard from the community that they would like the Council to embrace the ethics values. She stated she believes in the Ethics Code and the recommended activities and goals.

Councilmember Giordano commented about Dr. Shanks remarks to the Milpitas Post.

She further stated she supports recommendations 1 and 2 and read excerpts from his report that she supported. She stated that she has lost confidence and that this program has not worked. She stated she would like to explore other avenues than consultants to provide ethics training and implement the program.

Vice Mayor Gomez assured Dr. Shanks that he did feel he had any bias against the Council and addressed the comments made by Dr. Shanks to the Milpitas Post.

A gentleman (name illegible) expressed concerns about the implementation of the Code of Ethics and the need for the Council to represent the citizens' interests.

Vice Mayor Gomez pointed out that the Moments of Reflection was rescinded as part of the Open Government Ordinance and expressed dismay on how the League of Women's Voters conducted their candidate forum. He further expressed concern regarding the price of the program, and the oversight of the Open Government Commission.

Councilmember Livengood stated he had a lot of questions regarding this program and suggested the item be continued due the lateness of the hour.

MOTION: Continue this item to the May 3, 2005 Council meeting.

M/S Polanski/Gomez Ayes 5

Community Advisory Commission

7.
Report on Having Non-Denominational Invocations at Council Meetings

MOTION: Continue to the May 3, 2005 City Council meeting.

M/S Polanski/Gomez Ayes: 5

ADJOURNMENT

There being no further business, Mayor Esteves declared the meeting adjourned at 11:38 p.m.

Respectfully submitted,
Donna Biles, Deputy City Clerk