UNAPPROVED MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, September 6, 2005**
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

CLOSED SESSION

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

(1) No discussion on this item
CONFERENCE WITH LABOR NEGOTIATORS – COLLECTIVE BARGAINING
(Pursuant to Government Code Section 54957.6)
City Negotiators: Ed Kreisberg, Carmen Valdez
Employee Organizations: Police Officers Association (MPOA)
Under Negotiation: Wages, Hours, Benefits, Working Conditions

(2) No discussion on this item
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
(Pursuant to Subdivision (a) of Government Code Section 54956.9)
City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court Case No. 103CV814946 consolidated with Case No. 103CV008400

(3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Government Code Subdivision (a) of Section 54956.9)
Redevelopment Agency of the City of Milpitas v. Winsor et al.
Santa Clara County Superior Court Case No. 105CV043954

(4) CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Pursuant to Government Code Section 54956.8)
Property: 110 Meadowland Dr., Milpitas, California
Agency Negotiators: City of Milpitas - Steve Mattas. Negotiating Party - Williamson/Wilson
Under negotiation: Terms and Conditions for Disposition of property

(5) CONFERENCE WITH REAL PROPERTY NEGOTIATORS
(Pursuant to Government Code Section 54956.8)
Property: Calvary Assembly of God - APN Nos. 092-37-044, 045 and 046
Agency negotiators: Greg Armendariz
Negotiating Parties: City of Milpitas and Calvary Assembly of God Church
Under Negotiation: Terms and Conditions for Acquisition of Property

The City Council reconvened in Open Session at 7:02 PM with Mayor Esteves presiding and all Councilmembers present.

CLOSED SESSION ANNOUNCEMENT

City Attorney Mattas announced that the Council voted unanimously, 5-0, to authorize a settlement agreement, in the amount of $55,000 for the relocation expenses for Milpitas Transmission, and that the business agreed to move from its current location by September 30.

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

MINUTES MOTION: to approve minutes of the August 16 City Council meeting as submitted.

Motion/Second: Councilmember Giordano / Vice Mayor Gomez

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

SCHEDULE OF MEETINGS MOTION: to approve the Schedule of Meetings

Motion/Second: Councilmember Livengood / Vice Mayor Gomez

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

PRESENTATIONS

Proclamations

Patriot Day – September 11, 2005
In Milpitas, this date will be noted in commemoration of those who lost their lives on 9/11/01. Mayor Esteves read aloud the proclamation, honoring those who perished. This year on Sunday, September 11, 2005 at 6:30 PM a ceremony for the City of Milpitas would mark this day, including the placement of 2,997 flags. Fire Captain Melvin Vaughn accepted the proclamation.

Pollution Prevention Week - September 19-25, 2005
Mayor Esteves read aloud the proclamation which highlighted efforts that Milpitas would participate in during Pollution Prevention Week this year, in order to keep our City safe and clean. The proclamation was accepted by Mr. Keith Walker, Chairman of the Recycling and Source Reduction Advisory Commission. He thanked the City's Engineering staff Darryl Wong, Marilyn Nickel, Leslie Stobbe and Elizabeth Koo for their year-round work toward meeting the waste reduction goals for the City.

Commendation
Eagle Scout Jonathan W. Chu was honored by the Mayor. He thanked Mayor Esteves and the City Council for their recognition of his achievement of the highest Scouting honor.

CITIZENS FORUM **Mark Amador and Dave Young**, spoke on behalf of the Milpitas South Little League, who were the local champions and went on to play in the regional tournament in Portland, OR. They presented a plaque and thanked the City Council for its generous support of the players.

ANNOUNCEMENTS **City Manager Lawson** introduced Mr. Tom Williams, the new Milpitas Planning and Neighborhood Services Manager. Mr. Williams began work for the City on this date.

Councilmember Polanski displayed *Western Cities* magazine and noted a Milpitas reference on page 70, with regard to planning around transit corridors.

Vice Mayor Gomez announced that he would be unable to attend two of his assigned committees, due to his work schedule, and asked his colleagues if they would prefer to represent the City on: (1) VTA Policy Advisory Committee and (2) Coyote Flood Control and Watershed Advisory Committee. Councilmember Livengood offered to do so, when his term on the Valley Transit Authority term was up.

Mayor Esteves thanked Recreation Services staff for sponsoring and organizing the popular summer music series. He hoped that it would be offered again next year. Also, he had received questions recently about the fluoridation plan for the City's water supply (by the San Francisco Water District) and requested staff to place this topic on the next Council agenda for an update.

ANNOUNCEMENT OF CONFLICT OF INTEREST	None
APPROVAL OF AGENDA	City Attorney Mattas explained on Item No. 19, staff requested that $900 be paid from the City Clerk's budget and remainder from the City Attorney's budget on the legal advertisement expense. MOTION: to approve the agenda as submitted Motion/Second: Councilmember Livengood / Vice Mayor Gomez Motion carried by a vote of: AYES: 5 NOES: 0
CONSENT CALENDAR	MOTION: to approve the Consent Calendar (no changes) Motion/Second: Vice Mayor Gomez/ Councilmember Livengood Motion carried by a vote of: AYES: 5 NOES: 0
*** 6. Appropriate Funding for Capital Improvement Plan and Accept the Valley Transit Authority Grant for the Transit Area Plan**	1. Approved new Capital Improvement Plan Project No. 8177 Transit Area Specific Plan 2. Accepted Santa Clara Valley Transit Authority Grant for Transit Area Specific Plan 3. Approved an appropriation of $150,000 for the VTA CDT grant, $722,697 from Redevelopment Agency Tax Increment Fund and a $500,000 reimbursement from developer fees to Capital Improvement Plan, Project No. 8177 Transit Area Specific Plan (including funds for the Dyett and Bhatia Phase II consultant agreement).
*** 7. Waive Reading Beyond the Title and Adopt Ordinance No. 239.4 Of Title XI Chapter 16 Sections 16-2, 16-6, And 16-16 Of The Milpitas Municipal Code - Stormwater and Urban Runoff Pollution Control**	1.Waived full reading of the ordinance. 2. Adopted Ordinance 239.4, amending Sections 16-2, 16-6, And 16-16 of Chapter 16, Title XI of The Milpitas Municipal Code - Stormwater And Urban Runoff Pollution Control.
*** 8. Award the Bid for a 10 Wheeled Dump Truck**	Awarded the bid for the Sterling LT 7500 10 Wheel Dump Truck to East Bay Ford Truck Sales, Inc. for the not to exceed amount of $86,535.23.
*** 9. Award the Bid for a Gas Powered Jackhammer**	Awarded the bid for the Cobra Combi gas powered jackhammer to Berntsen International. Inc. for the not to exceed amount of $4,459.59.
*** 10. Award the Bid for a Gas Powered Concrete Saw**	Awarded the bid for the gas powered concrete saw to Edward R. Bacon Co., Inc. for the not to exceed amount of $11,122.65.
*** 11. Award the Bid for a Paint Mixer**	Awarded the bid for the paint mixer to Fluid Management, Inc. for the not to exceed amount of $5,485.66.
*** 12. Award the Bid for Annual Vehicle Purchase**	Awarded the bid for three Crown Victorias to Frontier Ford in the amount of $80,299.06 including tax, freight and tire fees. Awarded two Taurus SL Sedans and three F-250 Pick-up Trucks to Salinas Valley Ford in the amount of $86,106.78 including tax and tire fees; and awarded the Mustang GT Premium to Hoblit Motors in the amount of $24,787.18 including tax and tire fees.
***13. Appropriate Funds and Award the Bid for Computer Monitors (Police Dept.)**	Awarded the bid for forty-four monitors to Surah, Inc. for $15,813.16 including tax and freight, and approved an additional appropriation from the State Asset Forfeiture funds in the amount of $7,050.00 (for the Police Department).
*** 14. Authorize City Manager To Execute Agreement**	Authorized the City Manager to execute an agreement amendment with HMH Engineers, in the amount of $38,000 subject to approval as to form by the City Attorney.

Amendment: HMH Engineers, South Park Victoria Drive Pavement Rehabilitation, Project No. 4225

*** 15. Approve Authorization For Contract: Ed Fairley's Quality Referee Association**

Approved authorization to enter into a contract with Ed Fairley's Quality Referee Association, in the amount not-to-exceed $15,000, subject to approval as to form by the City Attorney.

*** 16. Approve Authorization For Contract: South Bay Metro Officials Association**

Approved authorization to enter into a contract with South Bay MOA, in the amount not-to-exceed $15,000, subject to approval as to form by the City Attorney.

*** 17. Reject Bids and Authorize the Re-Advertisement for Bid Proposals: Sewer Deficiency and Structural Correction Program, Project No. 6073**

Rejected all bids and approved the re-advertisement of the project for bid proposals.

*** 18. Approve Plans And Specifications And Authorize the Advertisement for Bid Proposals: Montague Widening - Centre Pointe Sidewalk Project**

Approved plans and specifications and authorized advertising for bid proposals for Project No. 4179.

*** 19. Approve Payment Requests to Three Vendors / Contractors**

Approved Payment of the following:

1) $7,084.97 to Clean Source for a Tennant T3 Fast Technology high-performance Auto Scrubber Model 130946, including battery.
2) 2) $13,553.93 to SASE Company, Inc. for two (2) SASE SC10E 10" Scarifiers with 10" Tungsten Carbide Tipped Cutter Drums, one (1) Bull65 HEPA Dust Containment Vacuum and two (2) Reinforced 10" Hardened Steel Cutter Drums
3) $12,466.97 to the Milpitas Post for payment of the publication of the legal notice for the Sign Code Ordinance 124.27.

*** 20. Emergency Repairs to the Pump Drive at the Gibraltar Pump Station**

Authorized the City Manager to execute a contract with Peterson Power Systems in the amount of $50,081.85, subject to approval as to form by the City Attorney.

PUBLIC HEARINGS

1. Conduct Protest Hearing to Receive Protests To Changed Water, Recycled Water, And Sewer Rate Adjustments

Mayor Esteves announced that those in the audience who wished to speak on this item should fill out a blue speaker card and hand it to the City Clerk.

Principal Engineer Darryl Wong explained that the City was holding the advertised hearing this evening, per Proposition 218's regulations that require the City to receive landowners' protests to increased rates. Mr. Wong gave an overview of the adopted new rates and how they were calculated after year-long study, including a citizen's task force of ratepayers and others. The rates to be charged were essentially "pass through" expenses, meaning no income for the City was to be generated. Money must be set aside for aging utilities in the community.

The new rates for water, recycled water and sewer service were adopted by Ordinance at the August 16, 2005 City Council meeting, contingent upon tonight's hearing.

Councilmember Livengood asked about increased costs. He expressed his understanding of the need for the increase adopted, including in particular the wholesale costs and necessity of the replacement of aging facilities. The safety of the water system was very

important. $4.3 billion would be spent over the next ten years for system upgrades. He also reminded those present that it was City policy not to profit from the water, but basically to pass the cost on to the consumer of the true cost, no overhead or profit.

Mr. Wong replied to a question from Mr. Livengood regarding who had served on the Utility Rates Committee: senior citizens, a Milpitas Unified School District representative, a residential customer (who also works for a water district), and a representative from the industrial segment of the community. That committee recommended the new rates to City Council unanimously.

Councilmember Polanski inquired about the Council's Subcommittee on Utility Rates and asked who served on it? Mr. Wong replied Mr. Livengood and Mr. Esteves.

Mayor Esteves stated he did not vote for the rate increases each time there had been a vote on this subject.

Next, the Mayor opened the public hearing. The following people spoke regarding the rates:

Enid Pippin, 225 Evening Star Ct, protested the increase, due to being on limited income. She stated there were people who were hurting in this City. She complained about the quality of the water.

Glen Pippin 225 Evening Star Ct, felt the rate increase looked a little too high, excessive. They do not work for the City of Milpitas and thus could not afford the rates.

Phil Anthony, 2635 Greenrock Rd, understood the need for the increase. He felt that extra transparency about the process would be helpful. It would be nice to know he had more power to implement the rate. It would be helpful to learn know a bit more about the percentages increased. Yes, he protested the increased utility rates.

Bonnie Leung, 214 Ayer Ln, just moved from San Francisco to Milpitas. She stated lots of costs have gone up, but they all add up. She protested the new water rates.

Mary Kay, 900 Hanson Ct, was the manager of 20-unit building. Prior to the meeting, she thought all were under same rates no matter what size the units may be. She'd heard concerns from the businesses at this complex (3 buildings) for costs to be spread out, in a more equitable way. She applauded the fact that infrastructure was being upgraded, She asked for a staff referral speak to about the rate changes. (No protest heard)

Ray Maglalang, 1346 Lassen Ave, understood the rate calculations. It was a matter of priority. He asked if the City provided a good quality of life here in Milpitas, or was there a burden given to citizens. Seniors were very impacted by this increase. He asked if the City was reserving the money in the general fund for future expenses. He protested the rate increases.

Dan Manassau, 49 Sudbury Dr, used to live north of here, and today many sell out their homes to make money and move farther away. He decided to stay here in Milpitas, so he could afford his living but he still can't, as a CPA. He complained about the letter the City mailed about the rate increases.

Art Swenson, 311 Carnegie, recalled a meeting about 15 years ago, here in the City for set aside funds for these types of problems. Money didn't stay in the coffers for this project. Yes, he protested the rates.

Councilmember Polanski commented about the City's letter sent notifying the customers, and asked that Mr. Wong read aloud the notification of the hearing. Also, the implementation dates for the new rates was included in the letter.

City Attorney Mattas explained that the letter contained all that was required by Proposition 218 (a 1998 voter initiative, about tax, water, sewer rate adjustments) and state-mandated statutes about such issues on all future rates. Recent court decisions mandated that such written notification was mandatory. He reiterated that the letter was compliant with the law.

Councilmember Polanski expressed her concern for open government, more transparency and clarity in communications with citizens. There should be more effort toward that.

(1) MOTION: to close the public hearing

Motion/Second: Councilmember Giordano / Councilmember Livengood

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

Mayor Esteves stated he knew we were in hard economic times. He opted to put residents first in his consideration when voting on the rate increases recommended, and had voted against them in the past two City Council meetings.

Councilmember Livengood expressed that politicians do not like to take unpopular positions, but the need for the increased rates was demonstrated by the increasing costs including infrastructure improvements. He looked at the long term health of system (water) and did not want a drain on the resources of the City in the future, when there could be difficulties. He appreciated the citizen protests that were heard.

Councilmember Giordano thanked those residents who showed up. She had looked at the responsibilities of replacement of important elements of the City's water and sewer systems. She did not want to reflect later that she didn't do all of what was possible to maintain the City's water and sewer infrastructure.

Councilmember Polanski reminded the public that she had voted no on the increase in rates, back in August, and continued her belief that economic times were challenging for all, especially senior citizens.

At the conclusion of the Council's discussion, the City Clerk announced a total of 68 protests against the rate increases were received. 63 written protests were received prior to the meeting, and five additional oral protests were heard at this meeting. Due to an insufficient number of protests filed, the rates would take effect as prescribed by the adopted ordinances. No additional City Council vote was needed at the conclusion of the hearing.

2. Approve a Certificate of Compliance to Legalize Five Undeveloped Hillside Lots Located north of El Camino Higuera, APN 029-02-015, Applicant: Phyllis Anderson

Planner Dennis Carrington introduced the need for the action on this matter. In 1938, the site consisting of 18.52 acres was divided into five parcels and conveyed to five owners. Over time, changes occurred on the property including three new lots with homes built on them. Any parcel built on before 1972 (State Subdivision Map Act took effect then) could be subdivided into more lots, and three of these had been slightly modified.

The conditional Certificate of Compliance was requested to be granted now so that caveats can be imposed to ensure orderly development of these lots and that they are consistent with the City's Subdivision Ordinance and development standards.

Several letters were received from neighbors of the property regarding views, traffic, wildlife impacts, and possible oversized homes. City planning staff responded that with legally created parcels, all appropriate review would be necessary for any future development. An R1H zone would still apply.

Planning staff recommended that the City Council approve the Certificate of Compliance

(P-CC2005-1) for the requested five hillside parcels and to make them legal lots of record based on the findings and special conditions

Mayor Esteves opened the public hearing and heard testimony.

Mr. Dinesh Gupta spoke on behalf of the three families that were most impacted by this future construction. His family was in the middle of this. He said that research revealed that the lot was subdivided in 1938, and no public agency approval was granted nor any public review. 1966-67, three parcels were taken out and developed. Original recording was non-existent then, he claimed. He wanted the City Council to reject the application, since he believed the subdivision does not exist.

Dennis Carrington explained the Subdivision Map Act and that when this map was recorded in 1938, they were legally created lots at that time (pre-1972). It was a recorded map.

Councilmember Livengood felt Council could put a caveat on the motion, that it had to be shown to legal staff to confirm the legally created lots, etc. and review of map. City Attorney Mattas replied that Council could direct that the City not issue the certificates until the legal status was confirmed.

Mr. Jeevan Grewal, another neighbor, wished to second what was in the distributed letter. He bought his house especially for the great view it afforded his family. He was concerned about their narrow street. As a citizen, he cared about how Milpitas was growing. He respected the hills and did not want overcrowding the hills. He was opposed to subdividing.

Bradley Smith, attorney for the applicant, reiterated that the lots were legally created in 1938, the map act also recognized lots that were sold prior to 1972 and it applied to the lots here. These lots as developed did come before the County (it was prior to City of Milpitas incorporation). He stated it was important for the Council to be aware that property owners followed all the legal requirements of the time and now aimed to get them to the point where they could be sold.

MOTION: to close the public hearing

Motion/Second: Councilmember Giordano / Vice Mayor Gomez

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

MOTION: to approve the Certificate of Compliance (P-CC2005-1) for the requested five hillside parcels and make them legal lots of record based on the finance and special conditions noted in staff's report of 9-06-2005. The motion was conditioned upon review by the City Attorney for compliance, prior to the issuing of any certificates, within 30 days.

Motion/ Second: Councilmember Giordano/ Councilmember Livengood

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

3. Consideration of Extension of Urgency Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries to Become Effective Immediately

City Attorney Mattas explained that state law permits an initial moratorium for no longer than 45 days. The Council could choose to extend the medical marijuana dispensary moratorium for up to 22 months and 15 days. That timeframe would allow staff to work on an ordinance and return back to Council, with suggested regulations about this type of business.

It was noted some incidents that have occurred in neighboring Alameda County at

medical marijuana dispensaries including criminal activity. Mr. Mattas further explained that the Council could reduce the period of time for the moratorium, but it cannot extend further than state law permitted.

Because this was an urgency ordinance, it required a 4/5 vote.

MOTION: to close the public hearing

Motion/Second: Councilmember Polanski/ Councilmember Livengood

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

Councilmember Polanski mentioned an article in the *Western Cities* magazine on this topic. She announced she would vote no on this issue, staying consistent with her past votes on the moratorium.

Councilmember Livengood had been following this issue in the news. He noted that facilities were becoming more troublesome, crime follows these places, they're bad ideas, a drain on government resources, and did not like the "cute little names" associated with the marijuana dispensaries. At this time, the neighborhoods don't need them in Milpitas. He supported a continued moratorium.

Mayor Esteves expressed that he was consistent with his position on this issue. He stated that Milpitas was a family-oriented City. He could not expose people to risks, especially young people. He believed that even with appropriate resources, the City was not the right place to put this kind of place.

City Attorney Mattas read the title of Ordinance No. 270.1: An Interim Ordinance of the City Council of the City of Milpitas Making Findings and Extending a Temporary Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries to Become Effective Immediately

Motion/Second: Councilmember Livengood / Vice Mayor Gomez

MOTION: to waive reading beyond the title

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

MOTION: to adopt Ordinance No. 270.1 (a 4/5 vote required for passage)

Motion/ Second: Councilmember Livengood / Vice Mayor Gomez

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

UNFINISHED BUSINESS

4. Farmer's Market Update

Principal Administrative Analyst Cindy Maxwell reported that essentially no success had yet been found for a temporary site in Milpitas for the popular market. Mr. Dennis Silveira, manager of Pacific Coast Farmers Market Association, was present also.

Ms. Maxwell had heard from the Valley Transit Authority, which was not able to accommodate the market on any days on its property.

Mayor Esteves put forward his suggestion of potentially hosting the market in a public park. Much discussion was held around this idea, with Councilmember Livengood specifically stating a City park was not conducive to the shopping activity and that some

residents would object. His belief was that this was a private sector matter.

Mayor Esteves recognized potential negative impacts of hosting the market in public parks. The City was exhausting efforts to find a site for the Farmers Market, especially because it had become a community event. At a City park, there could be damage to the landscape, however.

Mr. Silveira encouraged the City Council to establish a working committee perhaps, to follow up with regard to this issue. Councilmember Livengood responded that no, it was a public process already.

The conclusion of the discussion yielded the Mayor's comment that the Farmer's Market manager should continue looking and researching alternate, temporary sites at commercial shopping areas in order to meet the desires of Milpitas shoppers to take advantage of the farmer's market in this City.

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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 9:01 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 August 16, 2005, including joint meeting with the City Council, as submitted.

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

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSTAIN: 1 (Polanski)

RA4.
AGENDA AND CONSENT CALENDAR

MOTION to approve the agenda and consent calendar items, as submitted.

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

Motion carried by a vote of:

AYES: 5
NOES: 0

RA5. Receive Progress Report on Library, Midtown East and West Parking Garages - Projects Numbered 8162, 8161, and 8170

Project Manager Mark Rogge reported on the library and parking projects to date, identifying scheduled activity and budget expenditures.

The conceptual schematic design was completed for the East Garage. On September 20, he would report back to the Agency/Council for the design and development phase. Mr. Rogge noted in his presentation that the project remains on target as budgeted. However, construction costs, partly due to Hurricane Katrina impacts, were likely to increase and could have a negative impact on the library and garage construction.

Previous reporting on construction costs indicated an increase was expected at approximately 6% cost rise per year. That would erode contingency funding. A 10% bid contingency budget was planned, and cost increases could be expected to rise. Library FF&E was expected to rise slightly from $3.8 to $3.9 million.

The 50% design development was displayed, with more details noted since his last report, including the landscaping. At last meeting, $25.5 million was the expected total cost, and now it was estimated at a total cost of $25.8 million.

Soon, the staff would go to the Library Advisory Commission and the Parks, Recreation

and Cultural Resources Commission for those groups' feedback on the design. Also, the Youth Advisory Commission would review the Youth section of the new Library. Also, locations for public art opportunities in the library were displayed on the conceptual plans.

Next, Mr. Rogge reported on the parking garages. The East garage work was right on target. The West garage was waiting until an agreement with Santa Clara County was reached regarding costs.

Agency/Councilmember Livengood had one comment regarding the County and city agreement (he'd reviewed the copy of Memorandum of Understanding) of the West garage. He had concerns about that document, which was not a binding document, only a working one. It was approval to start the negotiation process. He wanted this subject to be placed back onto the Council's agenda for current Councilmembers to discuss. It was silent on one issue about a piece of land. Mr. Livengood believed that all should have an opportunity to speak on it, and review its details. The MOU does not impact the East Garage at all, and it could proceed as planned.

Vice Chair Gomez inquired about the County taking this matter to its Board. Mr. Rogge was uncertain of the status, because no comments or feedback were yet received from the County (an initial meeting with the county was canceled.) Written comments were anticipated.

MOTION: to note receipt and file the staff report.

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

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

RA 8. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 9:23 PM.

REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

5. Recruitment of City Manager and Police Chief

Councilmember Polanski requested a discussion on the hiring of the City Manager only (not the Police Chief). She asked the Council what was the status of recruitment and plans for the hiring of a new City Manager, following the service of the current interim City Manager Mr. Lawson. She inquired if a consultant/head hunter was to be hired.

Mayor Esteves asked his colleagues "What's our goal here?" with regard to City Manager hiring.

Vice Mayor Gomez had asked for this matter to be on the Finance Subcommittee meeting agenda the following day. He pointed out current cost savings existed while three individuals serve in an acting/interim capacity. The Finance Subcommittee would identify the cost savings and report back to the City Council, to potentially recommend the continuation of the acting positions.

Councilmember Livengood expressed his view that the Council should look at fiscal impacts of every decision. He'd like to consider impacts of keeping the current acting staff for some time. It would be helpful to quantify those expenses before moving ahead. There were recent finance/budget difficulties and he gave credit to the present City Manager and Police Chief. He remained concerned for the General Fund at the next budget cycle.

Councilmember Polanski clarified that the request was not for an update on Police Chief recruitment, and that the Council only hires the City Manager and City Attorney. She wasn't clear that the Finance Subcommittee was meeting tomorrow on this topic. She did not want to lose sight of limited hours of the contract City Manager.

Councilmember Giordano addressed Vice Mayor Gomez, and was pleased this topic would be discussed with the Finance Subcommittee tomorrow. She thanked Mr. Lawson specifically on the Terrace Gardens Board of Directors matters, and she would like him continue as long as the City can have him serving.

Mayor Esteves wanted to consider the City's long term situation with regard to its staff leadership. He expressed that long term, the City Manager has an impact on the City. The Mayor stated he was looking after the benefit for the City and was more toward getting a permanent City Manager. His issue was the direction of the City overall.

Vice Mayor Gomez anticipated reporting back to Council at the next Council meeting.

MOTION: to note having heard the requested topic regarding the City Manager

Motion/Second: Councilmember Livengood/ Councilmember Polanski

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

NEW BUSINESS Items were adopted on the Consent Calendar.

ORDINANCES Items were adopted on the Consent Calendar.

RESOLUTIONS NONE

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.

Meeting minutes respectfully submitted by:

_____

Mary Lavelle, City Clerk

UNAPPROVED MEETING MINUTES
CITY OF MILPITAS

Meeting Minutes:	**Regular Meeting of the Redevelopment Agency** *(Including Joint Meeting with the City Council)*
Date:	**Tuesday, September 6, 2005**
Time:	**7:00 PM**
Location:	**City Hall Council Chambers, 455 E. Calaveras Blvd.**

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

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RA2.
ROLL CALL

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

RA3.
MINUTES

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

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSTAIN: 1 (Polanski)

RA4.
AGENDA AND CONSENT CALENDAR

MOTION to approve the agenda and consent calendar items, as submitted.

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

Motion carried by a vote of:

AYES: 5
NOES: 0

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Project Manager Mark Rogge reported on the library and parking projects to date, identifying scheduled activity and budget expenditures.

The conceptual schematic design was completed for the East Garage. On September 20, he would report back to the Agency/Council for the design and development phase. Mr. Rogge noted in his presentation that the project remains on target as budgeted. However, construction costs, partly due to Hurricane Katrina impacts, were likely to increase and could have a negative impact on the library and garage construction.

Previous reporting on construction costs indicated an increase was expected at approximately 6% cost rise per year. That would erode contingency funding. A 10% bid contingency budget was planned, and cost increases could be expected to rise. Library FF&E was expected to rise slightly from $3.8 to $3.9 million.

The 50% design development was displayed, with more details noted since his last report, including the landscaping. At last meeting, $25.5 million was the expected total cost, and now it was estimated at a total cost of $25.8 million.

Soon, the staff would go to the Library Advisory Commission and the Parks, Recreation and Cultural Resources Commission for those groups' feedback on the design. Also, the

Youth Advisory Commission would review the Youth section of the new Library. Also, locations for public art opportunities in the library were displayed on the conceptual plans.

Next, Mr. Rogge reported on the parking garages. The East garage work was right on target. The West garage was waiting until an agreement with Santa Clara County was reached regarding costs.

Agency/Councilmember Livengood had one comment regarding the County and city agreement (he'd reviewed the copy of Memorandum of Understanding) of the West garage. He had concerns about that document, which was not a binding document, only a working one. It was approval to start the negotiation process. He wanted this subject to be placed back onto the Council's agenda for current Councilmembers to discuss. It was silent on one issue about a piece of land. Mr. Livengood believed that all should have an opportunity to speak on it, and review its details. The MOU does not impact the East Garage at all, and it could proceed as planned.

Vice Chair Gomez inquired about the County taking this matter to its Board. Mr. Rogge was uncertain of the status, because no comments or feedback were yet received from the County (an initial meeting with the county was canceled.) Written comments were anticipated.

MOTION: *to note receipt and file the staff report.*

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

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

***RA6. Accept the FY 2005-2006 Final Budget And The 2005-2010 Final Capital Improvement Program**

Noted receipt and filed the FY 2005-2006 Final Budget and the 2005-2010 Final Capital Improvement Program, incorporating the changes approved by the City Council/Agency during the May 10, 2005 budget hearing.

***RA7. Approve Fiscal Year 2004-05 Year-End Budget Adjustments And The Closure Of Inactive Fund**

Approved the Fiscal Year 2004-05 year-end budget appropriations and transfers, as itemized in the Budget Change Form.

Approved closure of the Local Improvement District No. 14 Debt Service Fund.

RA 8. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 9:23 PM.

Respectfully submitted,

Mary Lavelle
Agency Secretary / City Clerk