UNAPPROVED MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Regular Meeting of Milpitas City Council**
Date:	**Tuesday, October 4, 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) 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) 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 - LITIGATION
(Pursuant to Government Code Subdivision (a) of Section 5495)
City of Milpitas v. City of San Jose, Case No. CV046013, Santa Clara County Superior Court

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

CLOSED SESSION ANNOUNCEMENT

NONE

PLEDGE

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

INVOCATION

Pastor Dan Griffiths, North Valley Christian Fellowship, offered the invocation.

MINUTES

MOTION: to approve minutes of the September 20 City Council meeting, as amended.

Motion/Second: Councilmember Giordano/ Councilmember Livengood

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

SCHEDULE OF MEETINGS

MOTION: to approve the Schedule of Meetings, as amended

Councilmember Livengood stated that the monthly Valley Transportation Authority Board meeting scheduled for October 6 at 5:30 was already held the previous week.

Vice Mayor Gomez explained that the Bicycle Commission meeting scheduled on October 10 was already held on October 3.

Motion/Second: Vice Mayor Gomez/ Councilmember Giordano

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

PRESENTATIONS

Proclamations

Fire Prevention Week October 9 – 15, 2005. Mayor Esteves read aloud the proclamation for this important week highlighting ways to enhance safety and preparation for fire prevention, to reduce and prevent injury. This year's theme is "Use Candles with Care, when you go out, Blow Out." The proclamation was accepted by Fire Chief Frank and Fire Marshall Joki.

Home from Hurricane Katrina: Chief Frank asked for the community to join her in **welcoming home Fire Captains Rick Frawley and Jeff Maxwell**. She reported that Rick did door-to-door rescue after the hurricane, going house to house paddling in search of victims, while Jeff was on an Incident Management Team, including damage assessment, coordinated multi-agency response. Both displayed tremendous dedication and worked long hours. Chief presented both firefighters.

Pacific Gas & Electric Co. Day – October 10, 2005. PG&E celebrate its 100 years of service to the Bay Area, including Santa Clara County and Milpitas. PG&E has more than 1000 employees in the County, it contributed to the county with tax revenues, to City services, and it worked side by side with City and County staff, especially during natural disasters. PG&E provided some funding for non-profit organizations in the area, and its employee groups are active. The Proclamation was presented to Teresa Alvarado, Government Affairs liaison, she thanked the Mayor and Council, and looked forward to continued good relations with the residents of the City.

CITIZENS FORUM

None

ANNOUNCEMENTS

Mayor Esteves thanked City staff for Arts Day celebration held on Saturday, October 1, and was a successful event. Congratulations also to the City of Cupertino on their 50th celebration of incorporation.

ANNOUNCEMENT OF CONFLICT OF INTEREST

None

APPROVAL OF AGENDA

City Manager Lawson requested that Item #16 be removed, per staff request.

Vice Mayor Gomez, requested Item No. 9, the marquee request, mentioned the Open Government ordinance requirements for items on the Council's agenda and requested it be delayed to the next Council meeting.

Mayor Esteves believed that the organization making the request had submitted the request on time. He asked Rotary representatives to come to the podium. Mr. Frank DeSmidt and Rotary Club President Don Peoples came up and explained the request from Milpitas Rotary Club to advertise the upcoming "Texas Hold 'Em" Tournament fundraiser on November 5. They were accepting of any rules and open government process necessary to make the request.

Councilmember Giordano supported a motion to abide by the process, and to agendize this matter at the next City Council meeting.

Councilmember Livengood asked for clarification of the policy for placing information on the marquee, and wanted the policy regarding when or why the Council grants an exception.

MOTION: to approve the agenda, as amended

Motion/Second: Vice Mayor Gomez / Councilmember Livengood

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

CONSENT CALENDAR

MOTION: to approve the Consent Calendar, as amended.

Councilmember Polanski asked for Item No. 2 to be removed from consent.

Mayor Esteves asked for Item No. 26 to be removed from consent.

Motion/Second: Councilmember Livengood/ Councilmember Polanski

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

*** 8. Request Removal of Mr. Philip Cook And Resignation of Mr. Arsenio Iloreta from the Community Advisory Commission**

Council received the staff report, and moved to remove Mr. Cook from the Commission and accepted the resignation of Mr. Iloreta from the CAC.

*** 11. Approve Budget Transfer From Holding Account 1377, Recreation Services Account**

Recreation Services received a Sponsorship from FIRST 5 of Santa Clara County in the amount of $2,500.00, for the Arts Day Milpitas 2005 event on October 1, 2005. Sponsorship monies were awarded to assist Recreation Services with the purchase of supplies and services for the event.

At this meeting, approval to transfer the funds from Holding Account 1377-2500 into program account 100-168-4221 was requested, to cover the purchase of event supplies and services that had not been budgeted in Recreation Services operating budget for the Arts Day event.

Council approved the budget transfer from Holding Account 1377-2500 to 100-168-4221 in the amount of $2,500.

*** 12. Approve Budget Appropriation: FY 2005-06 for Dept. of Conservation Grant Funding**

On May 15, 2001, and October 7, 2003, Council adopted Resolutions No. 7094 and 7351, respectively, that authorized annual submittals for grant funding requests to the CA Department of Conservation, Division of Recycling Funds (DOC). Staff reported that the City received FY 2005-06 award of $17,663 for support of public information outreach for residential and school recycling education programs. Included in the Council packet is a Budget Appropriation Form accepting the FY 2005-06 DOC award.

Approved Budget Appropriation for unexpended FY 2004-05 grant funding of $17,663.

*** 13. Authorize City Manager to Execute an Agreement between Milpitas Alliance for Arts and Artist Laurel True**

1. Approved Contract between the City of Milpitas, Milpitas Alliance for the Arts and the artist Laurel True.
2. Approved payment in the amount of $10,000 from Account 212-100-4201 to the Milpitas Alliance for the Arts for the Starlite "Art in Your Park" Project
3. Approved the location for the "Starscape Bench" at north east section of the Park, adjacent to the Park's play structure.

16. Waive Second Reading of the Title and Adopt Ordinance No. 38.767 Amending Title XI, Chapter 10 (Planning, Zoning and Annexation) and Chapter 1 (Subdivision Ordinance) Text of the Municipal Code (P-ZT2005-2)

The Zoning Amendments Ordinance was removed from agenda; to be rescheduled at a future Council meeting.

*** 17. Adopt Resolution of Initial Acceptance: 2005 Street Resurfacing, Project 4223**	Project to resurface various streets was awarded to Interstate Grading and Paving, Inc. on April 19, 2005, and the contractor completed the project. Therefore, an initial acceptance may be granted and the contractor's faithful performance bond may be reduced to $61,483.00, which is 10% of the contract amount. Adopted Resolution No. 7555 granting initial acceptance and reducing the faithful performance bond to $61,483.00.
*** 18. Adopt Resolution in Support of Guidelines and Standards for Land Uses Near Streams and 2005-06 Implementation Program of Santa Clara Valley Water Resources Protection Collaborative**	Adopted Resolution No. 7556 in support of the Guidelines and Standards for Land Near Streams and the 2005-06 Implementation Program of the Santa Clara Valley Resources Protection Collaborative.
*** 19. Approve the Purchase of a Catch Basin / Sewer Cleaning Truck**	Approved purchase of the catch basin / sewer cleaning truck from Ricker Machinery for the not to exceed amount of $279,670.37.
*** 20. Authorize City Manager To Execute Agreement Amendment: SSA Landscape Architects, Inc., Sports Center Circulation Improvements, Project No. 8149**	Authorized the City Manager to execute the agreement amendment with SSA Landscape Architects, Inc., in the amount of $29,050, subject to approval as to form by the City Attorney.
*** 21. Award the Bid for the Ball Field Scoreboard**	Awarded bid and authorized the City Manager to execute a contract to furnish and install the Ballfield Scoreboard to Wright & Associates, as the low bidder, for the not to exceed amount of $17,100.00, subject to approval as to form by the City Attorney.
*** 22. Award the Bid for a Radar Trailer**	Awarded bid for the radar trailer to Mobile Traffic Zone, Inc. for the not to exceed amount of $13,750.69.
*** 23. Approve the Purchase of Water Meters**	Approved the purchase of 80 Badger water meters from National Meter and Automation, Inc. for $29,847.23.
*** 24. Reject Bids and Authorize Re-advertisement For Bid Proposals: Tasman Gateway Monument Ladder, Project No. 8135**	Rejected all bids, and approved the re-advertisement of the project for bid proposals.
*** 25. Authorize the City Manager to Execute Agreement: Raines, Melton and Carella Inc, Treatment Capacity Purchase, Project No. 6104**	Authorized the City Manager to execute an agreement with Raines, Melton, and Carella Inc., for an amount not to exceed $14,380 for the cost evaluation of treatment plant capacity, subject to approval as to form by the City Attorney.
*** 27. Approve Purchase of five Vehicle Speed Feedback Signs**	Approved the budget appropriation for this grant and authorized purchase of five Vehicle Speed Feedback Signs from Western Pacific Signal for $31,592.76.
*** 28. Approve the Purchase of an Automated Collision Database System with Geographical Information**	Approved the budget appropriation for this grant and authorized the purchase of an Automated Collision Database System with GIS Capabilities from Crossroads Software for $29,900.00.

System (GIS) Capabilities

*** 29. Approve Payment Requests to Two Vendors**

Approved the following two payments:

1. $8,700.00 to Therma, Inc. for an annual contract to perform bimonthly HVAC service and maintenance for all four (4) Fire Stations.
2. $50,000.00 to the U.S. Postal Service for the replenishment of postage meter for the City's outgoing metered mail.

PUBLIC HEARING

1 . Review and Approval of Community Development Block Grant (CDBG) Program Two-Year Funding Priorities and Policy Amendments For FY 2006-2008

Principal Housing Planner Felix Reliford reviewed Community Development Block Grant funds, stating in 1997 the City first became an eligible city for these federal funds, $700,000 funded. The City established a policy to review every two years what the funding priorities would be for spending the grant money.

October 2003 was the last time that the City Council reviewed the CDBG priorities. There were five public services priorities: senior services, youth/teens, homeless sheltering, child care, and battered women. There were three non-public sector service priorities: home repair, affordable housing, and rental apartment rehabilitation.

Staff recommended two specific changes to the prior priorities above:

1. To establish the policy of allocating annually 25% of the total amount of CDBG Public Services funds for City of Milpitas programs and services to low and moderate-income households
2. To allocate an additional $10,000 annually from the Redevelopment Agency 20% Low-Income Housing Set-Aside Funds for Project Sentinel, the City's Fair Housing Provider

The latter item was noted because Milpitas has the lowest percentage of all cities for low- income housing. Project Sentinel staff were also present to answer questions.

Recreation Services Manager Bonnie Greiner spoke about the CDBG funding toward the City's "RAP" (recreation assistance program) providing funding for low-income residents to be able to register and attend Recreation programs. Already, this fiscal year all RAP spending allocation was dispersed. She reiterated that there is a large ongoing need for "extra help" financially for City residents.

Mayor Esteves was concerned with the 25% allocation, shifting money to the City of Milpitas, and for a specific purpose. While the RAP program was highlighted, he was noted concern for other nonprofits in Milpitas.

Vice Mayor Gomez recalled that this Council maintained a concern with a decrease in overall recreation funding, and that it was too easy for City services having a decrease but in Recreation, so many residents were impacted. He knew that staff followed previous Council direction, with protection for CDBG funds spent on City programs as primary.

Mayor Esteves opened the public hearing to hear testimony (none heard).

(1) Motion: to Close the Public Hearing

Motion/Second: Councilmember Giordano / Vice Mayor Gomez

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

(2) Motion: Approve the CDBG Two-Year (2005-2007) Funding Priorities and the two policy amendments as recommended by the Citizens Advisory Commission (CAC).

Motion/Second: Vice Mayor Gomez/ Councilmember Giordano

Mayor announced his opposition due to the first 25% spending priority.

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

UNFINISHED BUSINESS

2. Odor Control Comprehensive Action Plan Update

Engineer Darryl Wong spoke before the Council on this topic.

The City of Milpitas coordinated with Bay Area Air Quality Management District and with the City of San Jose, which is the lead agency for enforcement of complaints. About seven reports for Milpitas were received in the most recent monthly report. With warm weather, complaints sometimes increase. Operators responded to callers, where appropriate.

Councilmember Polanski commented favorably on reduced number of complaints, versus the previous staff report.

~~Motion: to note receipt and file of Mr. Wong's report to the City Council.~~

Motion/ Second: Mayor Esteves / Vice Mayor Gomez

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

RA1. CALL TO ORDER

Mayor/Agency Chairman Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, *meeting jointly with the City Council*, at 7:54 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 September 20, 2005, including joint meeting with the City Council, as amended.

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

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

RA 4. Approval of Agenda and Consent Calendar

Agency/Councilmember Giordano requested removal of RA#6 from Consent.

Motion: to approve the agenda and consent calendar, as amended

Motion/Second: Agency/Councilmember Polanski / Agency/Councilmember Giordano

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

RA 5. Receive Progress Report on Library, and Approve the Schematic Plan for Midtown East Parking Garage, Project No's. 8162 and 8161

Project Manager Mark Rogge addressed the Agency on the 90% design of library and also on the status of the parking garages.

On the Library design, he highlighted windows, the modern design mixed with current structure, and in the existing building, the windows were now uncovered. The library work had proceeded ahead of schedule.

Councilmember Livengood expressed that the agency could do something with the window treatment, to improve the look so it's not so "institutional" in appearance, as

pointed out by the Mayor earlier, at a Subcommittee meeting.

Library

(1) Motion: Approve 90% Design Development phase (with Council comments noted)

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

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

East Parking Garage
Consultants were present, Chung Partners, for questions on the schematic design phase. Staff reviewed expenditures to date and displayed an overview of site plan.

Consultant Mark Chong introduced the schematic, describing this critical first step. Meetings were held with Group IV and with Milpitas Fire and Police. To date, these efforts have yielded the schematic before the Council tonight.

Mayor Esteves inquired, would cars be seen from the outside on the 4th floor of the garage? His preference was not to have cars seen from the ground. The consultant answered that concern with a description of the fencing and lighting due on the structure, including around the fourth floor, which would adequately conceal most automobiles.

Also, Mr. Rogge pointed out the green space landscaping around the first floor of the parking structure.

(2) Motion: Approve the East Garage schematic design phase

Motion/Second: Agency/Councilmember Giordano/ Agency/Councilmember Polasnki

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

RA 6. Approve New Capital Improvement Project and Budget Appropriation for Interim Senior Center Re-roofing, Project No. 8178

Agency/Councilmember Giordano had one question on the roofing project. During a recent Senior Facility Subcommittee meeting, termite work was mentioned as necessary. Was it completed, she asked staff? Mr. Rogge responded that it was in process of being completed.

Motion: (1) Approve New CIP Project No. 8178, Interim Senior Center Re-roofing. (2) De-fund previously approved funds in the amount of $25,000 from RDA Tax Increment and $30,000 of CDBG funds from Project No. 8135. (3) Approve an appropriation of $75,000 from RDA Tax Increment and $30,000 from CDBG funding into the new CIP Project No. 8178 Interim Senior Center Roofing. (4) Approve transfer of the previously approved Western Roofing Service contract, including change orders into the new CIP Project No. 8178 Interim Senior Center Re-roofing.

Motion/Second: Agency/Councilmember Giordano/ Agency/Councilmember Polasnki

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

*** RA 7. Authorize the City Manager to Execute the Agreement: Associated Right of Way Services, Inc., Abel Street Midtown Improvements (Project No. 8157)**

Authorized the City Manager to execute an Agreement Amendment with Associated Right of Way Inc. in the amount of $28,000, subject to approval as to form by the City Attorney.

(Adopted on consent)

*** RA 8. Reject Bids and Authorize the Re-Advertisement for Bid Proposals: Sports Center Underwater Pool Lighting & Swimming Pool Resurfacing, Project No. 8163**

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

(Adopted on consent)

RA 9. ADJOURNMENT

Chair/Mayor Esteves adjourned the Redevelopment Agency meeting at 8:17 PM.

REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

3. Consider Temporary Closings of Corning Ave. For Farmers' Market Operation

Mayor Esteves explained this was an issue he brought to the meeting tonight. He continued to support finding an alternate site for the Milpitas Farmer's Market, since it stopped operation at Town Center. Mayor said the City and residents still were interested in having Farmer's Market here in this city. Many alternatives already were considered and property owners contacted. At this meeting, another possibility was offered here for possible direction to staff. He suggested finding the pros/cons of closing a city street for this purpose and asked for comments from the audience and City Council.

Councilmember Livengood expressed his clear opposition to closing a city street for the Market. He was not prepared to increase City liability for a Farmer's Market, and mentioned the issue of impact on neighborhoods, parking around there, and response time for emergency vehicles reduced.

Councilmember Giordano supported staff visiting this concept. But, she had not previously considered additional issues mentioned tonight. Around the City, she had heard comments that citizens want the Farmer's Market still in Milpitas.

Mr. Don Peoples, President of Downtown Association, spoke in favor of moving the Farmer's Market to the downtown area of Milpitas. He had talked to about twenty business owners about the move, and asked that Council express support by drafting a letter or statement to distribute to property owners.

Mr. John Jay, business owner and resident of Santa Cruz County, stated there was a very successful Farmer Market in downtown Santa Cruz. It helped business owners in the downtown, and was an asset to community.

Mr. John Silveira, manager of Pacific Coast Farmer's Market, thanked speakers, and said he had not given up on finding a new location for Milpitas.

Councilmember Giordano reiterated the City Council had been instrumental in keeping this matter active and before the public. She was cognizant that the community wanted the Market and would keep helping to search for a safe location.

Mayor Esteves put forward a possible motion: to request City staff to research the option of closing one street, or to locate other potential choices to find space for Milpitas Farmer's Market. No second.

Councilmember Polanski inquired about the list of several areas that staff was asked to look at, earlier this year. It was a retail business, and Council was trying to do all it could to keep it in Milpitas. She would look for other recommendations from staff for other alternate locations.

Ms. Maxwell sent a letter on Council's behalf to Shappell, which yielded some success, since additional weeks were held at Town Center, and letters were sent to encourage location of a new site. She had sent names of individuals to the Farmer's Market

manager .

Motion: not to consider closing Corning Ave, remaining clear that closure of streets for Farmer's Market was not appropriate; that the City does want to promote the concept of the market and preparation of a letter would be helpful as the Downtown Association rep. goes around the community searching and promoting a new location for the market

Mayor Esteves stated his agreement that private property would be the best location, vs. a location on a City street.

Motion/Second: Councilmember Livengood / Vice Mayor Gomez

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

4. Approve Mayor's Appointments To City Commissions

Mayor Esteves announced his CAC recommendations, moving several of the Alternates up one position. He had to withdraw Dr. Le as a recommendation for Alternate #4 (as the applicant expressed more interest in serving on another commission).

Arts Commission

~~Re-appointed Linda Rabe to a 3-year term that expires October 2008.~~
Re-appointed Linda Hicks to a 3-year term that expires October 2008.

Re-appointed Archana Aragon as Alternate #2 to a term that expires October 2007

Community Advisory Commission

Appointed Danny Fang (formerly Alternate # 1) to a vacant 3-year unexpired term that expires January 2006.

Appointed Michael Queenan as Alternate #1 from #Alternate #2.
Appointed Nelson Villegas as Alternate #2 from Alternate #3.
Appointed Reena Choudhury as Alternate #3 from Alternate #4.

Motion: to approve the Mayor's Appointments

Motion/ Second: Councilmember Polanski/ Vice Mayor Gomez

Councilmember Livengood announced that Dr. Le had called him, and spoken with him about the Planning Commission.

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

5. Citywide Reorganization Policies and Guidelines

Vice Mayor Gomez introduced the memo from the Finance Subcommittee, by recalling that the City Manager mentioned back at budget planning time about possible reorganization efforts to streamline City government to save money. At this time, Mr. Gomez and Ms. Giordano provided their input to City Manager Lawson (referred to memo in agenda packet). The memo was intended as a working document.

Councilmember Giordano identified additional review of Public Safety matters (noted in motion below). Police Chief Nishisaka responded there could be some impact on crime prevention and drug enforcement if there were additional staff reductions. He had not fully investigated the proposed suggestion yet. Ms. Giordano wanted to broaden the analysis to include crime prevention and drug enforcement, in addition to patrol services.

Councilmember Polanski was concerned about direction being given to City Manager, with guidelines to ask him to come back to City Council.

Vice Mayor Gomez expressed the purpose of the memo was to set policy and guidelines and not to be real specific about people working where within the organization.

Councilmember Polanski preferred to hear from the City Manager directly. She inquired about Recreation Item C (on Community Based Organizations). Vice Mayor Gomez explained that if outside non-profits offered a service, then the City should not compete with that organization. Ms. Polanski would like to word this item differently and Mr. Gomez would be happy to work with her on the wording of this item.

Vice Mayor Gomez stated most of the suggestions should be brought back to Council later, with specific proposals at a future date. At this time, it was a commitment to residents and direction to City Manager.

Councilmember Livengood believed the memo made some important policy statements in the opening paragraphs. He highlighted several points, indicating that the City cannot spend money it does not have. It was OK that the memo gave advice to the City Manager in broad policy strokes and on what to do to move forward with his plan for the city. Lastly, he commended the Finance Subcommittee's work on this.

Mayor Esteves inquired of staff about current income and expenses of the city budget. He expressed support for the Finance Subcommittee memo, and maintained concern about spending. Finance Director Emma Karlen estimated $65 million in budgeted expenditures and $46 million anticipated in revenue, with some operating transfer from Redevelopment and other funds to the City, such as water and sewer (financing sources). He also inquired about human resources policy and long-term status of any acting or interim-positioned employees.

Mayor Esteves inquired about the Valley Transit Authority. He wanted clarification of Council liaison to the VTA board, and Mr. Livengood explained that next year, Milpitas will have neither a voting member nor an alternate representative.

Councilmember Polanski suggested finding ways to work with organizations so as not to duplicate any services, but to work in concert with local government. Also, on the City Attorney section, she did not want to duplicate efforts of the

Mayor Esteves asked his Finance Subcommittee colleagues about time frames for action items for implementation. Vice Mayor Gomez responded that no time frames were set. The bottom line was commitment of the City Manager.

The Mayor then asked the City Manager for any comments. Mr. Lawson reiterated the concept to possibly reorganize a bit, not necessarily a major re-organization, to reward those who are doing more, and to streamline where he could. He had read the guidelines, but had not studied them fully yet. He would potentially return to the City Council with something at later meeting.

Motion: to adopt the Finance Subcommittee's 9/26/2005 written policies and guidelines (to assist City Manager with his reorganization efforts to protect the level of service residents expect and deserve) with two specific changes:

(1) on p.4, Section b. on Public Safety: to broaden the analysis to include crime prevention and drug prevention enforcement in addition to response times; and
(2) in Recreation, p. 5, section c. Community Based Organization, to strike the last two sentences (starting with " Staff should not try to duplicate . . .")

Motion/Second: Councilmember Giordano / Councilmember Livengood

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

6. Open Government

Vice Mayor Gomez asked about this issue, with concern for when the mayor would

Subcommittee Appointments

make appointments to the new Council Subcommittee.

Mayor Esteves announced that he would agendize this topic for the next City Council meeting.

City Council took a 10-minute break at 9:12 PM and returned at 9:22 PM.

7. Consideration of Planning Commission Vacancies

Councilmember Livengood requested the City Council to take the four steps as noted in his agenda report: to conduct applicant interviews in November, anyone qualified from the community could apply including current Commissioners whose terms expire in December, outreach would be conducted, an ad would be placed in the Milpitas Post, then a vote on appointment of two new commissioners would be held following the interviews. He had recommended Commissioners be seated in December.

Furthermore, Councilmember Livengood stated that his recommendations were for this year 2005, only. He did not propose to change policy on the Planning Commission appointments into the future.

City Attorney Mattas clarified that Planning Commissioners take their seats at the first meeting in January both by tradition and per the Commission's By-Laws.

Motion: accept Councilmember Livengood's report and take the following four actions:

1. Conduct interviews of interested candidates in mid-November. Both incumbent Planning Commissioners and other Milpitas residents are invited to apply.

2. Interviews will be conducted at a special meeting in mid to late November. Following the interviews, the City Council, by a majority vote, will appoint two of the candidates.

3. Outreach into the community for applicants will include an ad in the Milpitas Post, use of the City marquee and cable Channel 15 ads. Councilmembers are encouraged, but not required, to do outreach into the community using their own resources.

4. Two successful candidates will be seated at the first January Planning Commission meeting, per the PC By-Laws (included change noted by the City Attorney).

Motion/Second: Councilmember Polanski / Vice Mayor Gomez

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

NEW BUSINESS

9. Consideration of Marquee Request from the Milpitas Rotary Club

Removed from agenda for this meeting, and moved for consideration to the next City Council meeting.

10. Status Report On Weed Abatement Efforts On Caltrans Property Located In Milpitas

Mayor Esteves requested this topic on the agenda, because he had received many comments from residents about the weeds. He thought the City could do something.

Fire Marshal Patti Joki stated her office had contact property owner Caltrans about the weeds at the freeway entrance/exit ramps, and noticed some success in their abatement.

Streets Supervisor Dennis Cuciz drove by I-680 on this date, and noted that at Calaveras Blvd. some weeds have been cleared.

Vice Mayor Gomez commented that it was necessary to stay in touch with Caltrans and continue to press for its responsibility to maintain its own land, located in Milpitas. He

felt it worthwhile for staff to continue to call and/or write to Caltrans about this matter frequently. Also, he said the last thing the City wants to do was to conduct this work on non-city property, as that was work for other agency.

Mayor Esteves inquired, what if this becomes a fire hazard? City Attorney Mattas responded that Caltrans may be liable when a fire hazard develops. Also, this could be considered a nuisance issue. Best approach, pressure on Caltrans

Motion: to note receipt and file of the staff memo from the Fire Marshall

Motion/Second: Mayor Esteves / Vice Mayor Gomez

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

ORDINANCES

14. 1st Reading and Introduction of Ordinance No. 272 Designating 3 Public Places Within Milpitas for Posting Public Notices Inviting Bids on City Public Projects, in Accordance with CA Public Contracts Code §20164

City Attorney Mattas presented the ordinance to establish three locations in the City for public contract bid notices, as defined by Public Contracts Code law.

The City Council had earlier provided direction to move forward do this. The Milpitas Post had sent a letter to the City with a different point of view on the proposed ordinance. Mr. Mattas suggested that the Council may request the legislative history on the public contract law and posted notices, for review and to advise Council of these sections of law first before proceeding with this ordinance.

Stephanie Carroll, attorney for the Milpitas Post, spoke to the Council to follow on the letter, expressing that the law the City was relying on was over 50 years ago that part of the Code was adopted. Since that time, it had been recognized that where newspapers were published was no longer considered under that segment of the law according to the legislative intent. On a practical level, the public policy point: look at goal of providing notice to get most qualified public bidder at the lowest cost. The best way to achieve that goal would be by publishing in the local paper (not posting in 3 locations and on City's website).

Mr. Mattas responded to the attorney expressing that the reality that people who bid on the contracts were not getting their bid info. from local newspapers, rather they get it from the trade publications. Also, he reminded Council that this was only for bids that fall under Public Contracts Code in particular (not for other public notices).

Gathering the legislative history to understand the intent of legislature at the time the law was adopted would be useful, and then the ordinance would need to come back for a 2nd reading and adoption following that, explained Mr. Mattas.

Councilmember Livengood did not agree that the Milpitas Post was the best place to advertise for contractors, rather the City should target ads in a correct location. He also supported the concept to not spend money when savings could be realized.

Councilmember Polanski stated first, she preferred to read the legislative history summary prior to introduction of this ordinance. Second, in reviewing ordinance, she had difficulty with the three places for posting as they are within 500 feet of each other (too close together). She felt the locations should be spread further throughout the City. On public projects, it helped when advertising bids to inform the public of the projects that the City was constructing, by reading the local paper to find out about projects

Vice Mayor Gomez asked staff, if there was anything precluding City from adding locations in the ordinance? The City Engineer replied no, and that three was a minimum. Vice Mayor Gomez inquired if there were any preferred additional locations. Staff would be pleased to look at other sites within the City. Councilmember Polanski

recommended adding the Milpitas Sports Center, and potentially also the Police Department community room.

Mayor Esteves said the legal issue was a very serious matter. He still believed that the Milpitas Post had best circulation to reach the most readers as possible, for him it was a good place to put information, and felt it was worth the good investment. He was not comfortable with the proposed ordinance. Rather, he was satisfied with current practice.

Councilmember Giordano was a member of the Finance Subcommittee, and was pleased that the City Attorney would return with legal research. Also, if another review of this topic would occur at the second reading, it was important to get that information first, prior to the ordinance being adopted.

Vice Mayor Gomez asked if he could add the Sports Center at 1325 E. Calaveras Blvd as an additional location in the ordinance. City Attorney replied yes.

(1) Motion: waive the first reading of Ordinance No. 272

City Attorney Mattas read the title "An Ordinance of the City Council of the City of Milpitas designating four sites within the City of Milpitas for the posting of public notices inviting bids on City public projects, in accordance with California Public Contract Code Section 20164."

Motion/ Second: Councilmember Livengood / Vice Mayor Gomez

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

(2) Motion: Introduce Ordinance No. 272, designating four public places for posting bid notices; and to request that staff return with the legislative history summary for the City Council to review, and then to return to City Council for the ordinance's second reading after that information was reviewed.

Motion /Second: Councilmember Livengood/ Vice Mayor Gomez

Councilmember Polanski announced she would vote no because she wanted the legislative history prior to the ordinance being introduced.

Motion carried by a vote of: AYES: 3
NOES 2 (Polanski, Esteves)

15. 1st Reading and Introduce Traffic Ordinance No. 43.201: Amendment to Traffic Code, to Change the Speed Zones Boundaries and Speed Limits on Main Street Between Railroad Court and Montague Expressway

Traffic Engineer Jaime Rodriguez, thanked the members of the Transportation Subcommittee, Vice Mayor Gomez and Mayor Esteves for bringing this issue forward.

He provided the staff analysis of N. Main St and S. Main St. at four specific segments in central Milpitas. Staff conducted a speed survey of vehicle at various points in the region at varying times of day. Speed surveys using a speed gun were done of those portions of the street. Primary finding was that speed increased as one drove from north to south, highest speed found near Montague Expressway.

New Speed Zone recommendations were presented, with 30 mph zones in two northerly zones, and 35 mph as approaching Montague, in two southerly segments of Main St. as follows:

Street	Proposed Speed Zone Segment	Proposed Speed Limit
N. Main St	Railroad Ct to Carlo St	30 MPH
S. Main St	Carlo St to Curtis Ave	30 MPH
S. Main St	Curtis Av to Abel St	35 MPH
S. Main St	Abel St to Montague Exp	35 MPH

The recommended 35 mph would be a bit slower than the current 42 mph tracked on Main just south of Great Mall Parkway, as the survey revealed.

Councilmember Livengood clarified that the dividing line was Curtis Ave, for the increased limit. He also expressed that more ways should be used to notify drivers in that area about the change (different signs and what's needed to educate).

Mayor Esteves asked the Traffic Engineer what was done presently for informing the public about speed limit changes. Staff responded that tickets were upheld in court when limits of zone need to be consistent with surveys done and with Municipal Code limits. Mayor Esteves asked if staff would place a notice in the local newspaper.

Also, Mr. Rodriguez stated that speed zones studied are conducted every seven years, as necessary by state law.

(1) Motion: waive first reading of Ordinance No. 43.201

City Attorney read the title "An Ordinance of the City of Milpitas Amending Chapter 100, Title V of the Milpitas Municipal Code Related to Traffic." It was an Amendment to the Traffic Code, to Change the Speed Zones Boundaries and Speed Limits on Main Street Between Railroad Court and Montague Expressway.

Motion/ Second: Vice Mayor Gomez/ Councilmember Giordano

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

(2) Motion: Introduce Ordinance No. 43.201

Motion /Second: Vice Mayor Gomez/ Councilmember Polanski

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

RESOLUTIONS

Items were adopted on the Consent Calendar.

BIDS AND CONTRACTS

26. Authorize the City Manager to Execute Agreement and Approve $6,000 Budget Appropriation For Study of Library Operation Alternatives: Ruth Metz Associates

Mayor Esteves requested that this item be removed from the Consent Calendar for a separate vote.

He stated that he was not originally in favor of the study, he supported the County library and maintained his concern for more money being spent from the City budget, increasing the cost of the library study.

Motion: (1) to authorize the City Manager to execute the agreement with Ruth Metz Associates in the amount of $66,000, subject to approval as to form by the City Attorney to conduct a study of alternatives for library operations, and (2) to approve an increase to the original Budget Appropriation, from $60,000 to $66,000.

Motion/Second: Councilmember Livengood/ Vice Mayor Gomez

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

CLAIMS AND DEMANDS

Items were adopted on the Consent Calendar.

ADJOURNMENT

Mayor Esteves adjourned the meeting at 10:08 PM.

Meeting minutes respectfully submitted by:

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Mary Lavelle, City Clerk