**Approved as Submitted: June 1, 2005**

**CITY OF MORGAN HILL**
**JOINT SPECIAL AND REGULAR REDEVELOPMENT**
**AND SPECIAL CITY COUNCIL MEETING**
**MINUTES – MAY 25, 2005**

## CALL TO ORDER

Vice-Chairman/Mayor Pro Tempore Tate called the special meeting to order at 6:01 p.m.

## ROLL CALL ATTENDANCE

Present: Vice-Chairman/Mayor Pro Tempore Tate; Agency/Council Members Carr, Grzan
Absent: Chairperson/Mayor Kennedy
Arriving Late: Agency/Council Member Sellers (arrived at 6:50 p.m., but did not participate in Closed Session meeting)

## DECLARATION OF POSTING OF AGENDA

Deputy Agency Secretary/Deputy City Clerk Malone certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

# *Redevelopment Agency and City Council Action*

## CLOSED SESSIONS:

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

| | |
|---|---|
| Authority: | Government Code Sections 54956.9(b) & (c) |
| Number of Potential Cases: | 2 |

**2.**

**CONFERENCE WITH LABOR NEGOTIATOR**:

| | |
|---|---|
| Authority: | Government Code Section 54957.6 |
| Agency Negotiators: | City Manager; Human Resources Director |
| Employee Organization: | AFSCME Local 101<br>Morgan Hill Community Service Officers Association |

**3.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:**

| | |
|---|---|
| Authority: | Pursuant to Government Code 54956.9(a) |
| Case Name: | City of Morgan Hill v. Howard Vierra |
| Case Number: | Santa Clara County Superior Court, Case No. 1-04-CV-026723 |

## CLOSED SESSION ANNOUNCEMENT

Interim City Attorney/Agency Counsel Dan Siegel announced the discussion at the 6:00 closed session would be regarding Closed Session Item 3; and that he would not be present for that discussion, but Attorney Robert Lanzone would be serving as Counsel for the City on this matter.

## OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chairman/Mayor Pro Tempore Tate opened the Closed Session items to public comment. No comments being offered, the public comment was closed.

## ADJOURN TO CLOSED SESSION

Vice-Chairman/Mayor Pro Tempore Tate adjourned the meeting to Closed Session at 6:02 p.m.

## RECONVENE

Vice-Chairman/Mayor Pro Tempore Tate reconvened the meeting at 7:01 p.m.

## CLOSED SESSION ANNOUNCEMENT

Vice-Chairman/Mayor Pro Tempore Tate announced that direction was given to Council, but there were no reportable actions. Closed Sessions will continue after the regular meeting to discuss Items 1 and 2 listed as Closed Sessions on the agenda.

## SILENT INVOCATION

## PLEDGE OF ALLEGIANCE

Vice-Chairman/Mayor Pro Tempore Tate led the Pledge of Allegiance.

## PROCLAMATIONS

Vice-Chairman/Mayor Pro Tempore Tate declared the month of May 2005 as Stroke Awareness Month and presented a proclamation to Clara Roa, the Program Director for the Peninsula Stroke Association.

## RECOGNITIONS

Vice-Chairman/Mayor Pro Tempore Tate announced that the Government Finance Officers Association (GFOA) has presented the Distinguished Budget Presentation Award for the fiscal year 2004-2005 operating budget to the City of Morgan Hill Finance Department. He explained that this award is the highest form of recognition in governmental budgeting and represents a significant achievement by the City, and presented the plaque from the GFOA to Budget Manager Chu Thai.

Mr. Thai stated that the City of Morgan Hill has received this award for the 2nd year in a row. It is a very prestigious honor, and he commended all departments for their work on the budget document to make it such a success.

**CITY COUNCIL SUBCOMMITTEE REPORT**

None.

**OTHER REPORTS**

None.

**PUBLIC COMMENT**

Vice-Chairman/Mayor Pro Tempore Tate opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

## *Redevelopment Agency Action*

**CONSENT CALENDAR:**

***Action:*** *On a motion by Agency Member Carr and seconded by Agency Member Sellers, the Agency Board unanimously (4-0, with Kennedy absent)* ***Approved*** *Consent Calendar Item 1, as follows:*

**1. APRIL 2005 REDEVELOPMENT AGENCY FINANCE & INVESTMENT REPORT**
***Action: Accepted*** *and* ***Filed*** *Report.*

## *City Council Action*

**CONSENT CALENDAR:**

***Action:*** *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council unanimously (4-0, with Kennedy absent)* ***Approved*** *Consent Calendar Items 2-5, as follows:*

**2. APRIL 2005 CITY OF MORGAN HILL FINANCE & INVESTMENT REPORT**
***Action: Accepted*** *and* ***Filed*** *Report.*

**3. ACCEPTANCE OF THE DUNNE AVENUE/HIGHWAY 101 INTERCHANGE IMPROVEMENT PROJECT LANDSCAPING**

***Action: 1) Accepted*** *as Complete the Landscaping for the Dunne Avenue/Highway 101 Interchange Improvement Project, Including the Three-Year Landscape Maintenance Period; and 2)* ***Directed*** *the City Clerk to File the Notice of Completion with the County Recorder's Office.*

**4. TURF REPLACEMENT REBATE PROGRAM**

***Action: Authorized*** *the City Manager to Execute the Memorandum of Understanding (MOU) with the Santa Clara Valley Water District, Subject to Review and Approval by the City Attorney.*

**5. VECTOR CONTROL DISTRICT BALLOTING**

***Action: Authorized*** *the City Manager to Vote "Yes" on the Vector Control District Mail-In Ballot.*

## *Redevelopment Agency and City Council Action*

**CONSENT CALENDAR:**

***Action:*** *On a motion by Agency/Council Member Carr and seconded by Agency/Council Member Sellers, the Agency Board/City Council unanimously (4-0, with Kennedy absent)* ***Approved*** *Consent Calendar Item 6, as follows:*

**6. APPROVED MINUTES OF SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF MAY 18, 2005**

## *City Council Action*

**OTHER BUSINESS:**

**7. OUTDOOR SPORTS COMPLEX PRIVATE-PUBLIC PARTNERSHIP PROPOSAL**

Recreation and Community Services Division Manager Spier presented the staff report, and distributed and reviewed a staff comparison chart of the coliseum group proposal. (This has been scanned as a part of the agenda packet for this meeting) In response to Council questions, she stated that the city is asking for contributions from the local groups of $240,000. These groups are currently working on forming an alliance. This amount is based on conversations with the operators of the soccer fields, and the city contracting the maintenance of the fields.

Mayor Pro Tempore Tate opened the public comment.

Mr. Doug Payne of the Coliseum Recreation Group (CRG) provided a presentation to the Council on what they have been working toward in their vision of a master complex plan. (For more detailed reference, the full presentation has been scanned as part of the agenda packet for this meeting)

He stated that their surveys have clearly shown that this project is seen as a value by the community responses. They have the goal of making Morgan Hill a place for regional games, which will add to economic development of the city.

He stated that he believes that the staff report is sound, but is constrained by the parameters set by the Council. The complexity of the RFP defined the CRG response and thought process, and they have made adjustments to their business plan to bring it into alignment with the goals of the Parks and Recreation Commission and the Council. Their goal is to make the Outdoor Sports Complex (OSC) a facility with a more regional draw of clients to avoid competition with the Indoor Recreation Center (IRC) which is intended to be a facility for local residents. He believes the CRG proposal provides a complete solution that will cover both the profit and non-profit aspects of the OSC. They have made accommodations to make the facility available and affordable to Morgan Hill residents. He encouraged the Council not to lose sight of the long term goal of the master plan, by focusing too much on the short term.

Mr. Payne stated that he is committed to making Morgan Hill a sports and recreation destination in Silicon Valley. He feels they have met and exceeded expectations of what is their interpretation of the Council's vision to make Morgan Hill an emerging recreation destination in northern California; and have built a business model that will allow for future expansion in the complex and creation of a lasting legacy for the community.

He stated he is here this evening to seek the guidance of the Council about what the different groups want and how committed they are to getting there. His key questions are what are the criteria to enter into the Exclusive Right to Negotiate (ERN) phase with specification of what the dollar amounts are, and what is the ultimate goal and vision, both short term and long term. They are committed to working toward the long term vision, while making the short term happen.

Mr. Jeff Bernardini, Parks and Recreation Commissioner, reported to the Council that after a long period of discussion between the all of the local sports groups, they have reached a point where they are willing to look beyond their own particular group's interests, and work together for the best interests of the community. One of the concerns of the PRC was the potential of the OSC competing with the IRC, but they now feel that those concerns have been addressed, and the CRG proposal would not be in competition with the IRC. He has concluded that comparing the two facilities would be like trying to compare apples and oranges, since they serve two different types of athletes. The CRG is serving the high end, serious athlete, while the IRC serves the community based recreational uses.

He also addressed the formation of the Morgan Hill Youth Sports Alliance to help maintain and operate the sports field portion of the OSC facility. There are 24 youth sports groups (his list has been scanned as part of this agenda packet). They are committed to supporting the maintenance and operation of the

OSC. Their hope is that with the CRG coming in, that they will be able to support the O&M budget of the facility. In the worst case scenario, the 24 sports groups that he has contacted have stated that they are willing to pay up to $5 per hour for the use of the sports fields. This is a backup. It is not realistic to expect the CRG to pay for the O & M of the fields forever. He believes that the sports groups are going to have to chip in and help out with that cost recovery. There is a lot of support for this project going forward, and delaying at this point would not be advantageous to the community or the youth. He would like to see this keep moving forward, and to enter into the ERN phase. He feels the PRC, the sports groups, and everybody is behind this and want this to go forward, and that they have addressed all the issues, especially the money for maintenance. Everyday there is a shortage of fields in Morgan Hill, so it is imperative that this move forward as soon as possible.

Mayor Pro Tempore Tate asked why there was a disparity between the $7 per hour figure and the $5 per hour that Mr. Bernardini had mentioned.

Mr. Bernardini responded that the $7 is the cost for the city to maintain the fields, and that private non-profit groups can do it for much less because they do not have the expenses the city does. He stated that the figures he has calculated has dropped the figure down to $0 for the youth sports groups, with $127,000 budget to maintain the soccer and sports fields.

Mr. Tate responded that there is not yet agreement on how much is required for the maintenance of the fields, and that is one key question that needs to be answered. He feels that Mr. Bernardini is using assumptions that are different from the ones used by city staff

Mr. Bernardini stated that they based their figures on actual costs to perform the various parts of the maintenance, and they came up with $127,000. They all agreed that the figure the city came up with could be reduced considerably.

Mr. Jason Sharp, one of the partners and director of sales for the Coliseum Recreation Group (CRG). He wanted to suggest that the Council direct the City Manager, staff and the PRC to closely partner with the CRG to refine the public partnership or non-profit RFP model so we can understand and make this deal go through. He stated they would also like to enter into an ERN upon completion of this model contingent upon approval by Council. He would like staff to extend the lease of the fields to CYSA for an appropriate amount of time for this to go through so they would still be able to cover some of the costs while and until they can break ground.

No further comments being offered, the public comment was closed.

Council Member Sellers stated that the Economic Development Committee has been looking at this issue and has identified that one of the strengths of our community is our youth oriented facilities. This is a model that will enhance what we have and provide opportunities that we don't currently have and cannot bring on our own. We need to look at some things as we move this forward. One of the directions Council has given to staff is to make this facility pay for itself to the degree possible, and that is an unenviable position, because then you are starting to make some significant assumptions. Instead

of starting from that point, we should start by determining where are the needs in the community, how can we best meet those needs, factoring in the synergistic and economic benefits to the community that will derive from this. There are several things that we would have liked to put into the IRC, that we couldn't because they were not feasible financially or otherwise, and some of those will exist at the Coliseum. Likewise, there will be things in the IRC that could be complementary to what is going on at the Coliseum; that could be partnered on. He would like to see this move forward in a very timely fashion because time is of the essence because we are running out of time with the soccer complex, and we should extend that lease now; and there are significant needs that are not being met. The need for fields is acute in Morgan Hill. This opportunity will help us meet that need.

Council Member Sellers continued that there are some things he would like to take a look at: 1) The ways we can more directly partner with the Coliseum model. It seems to him the development of a building that has outdoor and indoor restroom facilities makes sense; and there may be some concession opportunities as well that could be of mutual benefit. 2) Determine if there are other opportunities to develop memberships that might bring revenue to the IRC side of the ledger by enhancing the ability of the Coliseum to provide services to members. 3) Determine if there are opportunities to partner with the youth sports groups. He feels that we need to be careful as a Council to say that we are negotiating; we are not making any assumptions and we are not saying "here's the keys, how do you plan to use the car". We are saying how are we going to make this work out mutually, and if we can come up with an agreement that is mutually beneficial then we ought to move forward. There is still the possibility that we could say no if the models are fundamentally so different that they are not going to come together. The evidence so far indicates otherwise, and we need to pay close attention to the extensive review that has been done by the Parks and Recreation Commission. He thinks that we should move forward, and if they do decide to look at some of the interim steps he would like to have a 30 day timeline to work through some of the models unless staff indicates that this is virtually impossible. If they are not going to do an ERN this evening, he wants to look at doing one in 30 days so that they can keep this moving forward and show the PRC and the CRG that the Council is serious; and most importantly, show the community that they are as anxious as they are to get those fields.

Council Member Grzan stated he would like to see a reconciliation of the discrepancies in the maintenance costs. He also requested a full cost matrix on the facility if possible, showing both direct and indirect costs. If this becomes a regional destination point, would there be a possibility of an increase in other revenue sources such as hotels and restaurants; and this should be included in the matrix. He would like to know if the sports group is interested in a profit sharing formula. Also maybe we should set up a minimum amount of money that the city would like to receive from the operation. He would like to also see what would be a minimal configuration for the facility; if it was a two field complex at this time, and that is all that we could afford, what would that do for us. If staff's analysis is accurate, we have a $276,000 shortfall that we would have to recover, and what are we willing to afford. What for example could we do with a $25,000 shortfall. Obviously, with a $1.2 deficit next year and the year after, any additional hits to that would certainly affect our abilities to operate as a city. Our core services are the priority here. Recreation is valuable and important, but if we faced with the elimination of city services that support public works, public safety, or other vital services, he is not sure we can take on additional hits to our General Fund with adding additional programs. Wants to see how we can

resolve the shortfall. He is willing to extend the matter for further research to reconcile some of points that have been raised this evening, and would like to see it brought back to the Council at some point.

Council Member Carr stated that there are a couple of outstanding issues that they need to be worked out, with the discrepancies in the operation and maintenance (O&M) costs being first and foremost. We need to know where those numbers came from so we can come to agreement so that a few years down the road when that number is not maintaining the fields any longer like the current fields, we don't have all the sports groups complaining to the Council that the city is not putting enough money into the fields. There needs to be agreement on those costs, and on how to cover those costs. He expressed his concern about the competition with the IRC issue, and is pleased that the CRG has information to share on how to deal with that issue. The vision of community versus regional is an issue that the Council needs to have some discussion about. Those fields were purchased specifically because Morgan Hill kids were not getting use of those fields the way they were being operated, and we wanted to get our kids on those fields. He has been in agreement that any of the facilities that they have been building, whether the Community Center, the Aquatics Center, the IRC, requires a regional draw to make them work; and he thinks that adds to our community in a lot of different ways. We do need to have more of a discussion on that, and make sure that we maintain our original goal so that all of these teams that Jeff brought us the list of are still going to have access to the fields as they expect as we go through this process.

He also believes that there are a couple of tracks that can be worked on simultaneously, so we can move forward with Phase I of the OSC, while we are figuring out some of the details of the possibility of this partnership for the rest of this. How tough is it to get going with a couple of fields, and that should be one of the first things we should have been able to do; but it is a lot tougher than putting a lawn in your backyard. If we can figure out how to dual track some of this that we can actually get started on some of the things that the youth sports teams are really in need of and are anticipating. We will have to have that discussion about the cost recovery; and maybe we need to frame that discussion. We have always said that these facilities need to recover 100% of their costs, and that assumption is from day one of the doors being open. Perhaps we need to broaden that discussion a little bit; and change it to 100% cost recovery over a three year period, or over a specified number of years so that it is a little more realistic. And what does "cost recovery" mean? Is defined as from today's' budgetary standpoint, and that if there are new revenues that come in get applied that help us with the cost recovery instead of raising the fees on every user. He thinks there are ways of expanding the discussion on what cost recovery is, and we need to work with the sports groups and the community at large in having that discussion. These are

He stated that these are things that the Council needs information brought back for discussion. Some people may be disappointed that we are not moving as fast as they want, but we are in a much better position than other communities around us, and he thinks the situation will become even more positive as we move along and will turn out to be very fruitful for the entire community.

Mayor Pro Tempore Tate stated that he agreed with the staff's recommended action on this item. He has quite a few concerns, and one that wasn't yet addressed is the $2.5 million that they are going to have to put the project. Phase I was to cost us $2.4 million and so the council had to find another $100,000 to reach the recommended $2.5 million; but with this one another $2.5 million is being added to that, so it

is not $2.5 million, it is $2.6 million. And that leads him to talk about the ERN and what that is all about in his mind. You go to an ERN because you have the best deal you can get, and you get into the negotiation to finalize the process of how the best deal you can get will be implemented. There are lots of things in the discussion that has taken place so far that are saying we will resolve that during the ERN phase. He does not think that is the right place to resolve what your basic agreement is; and with questions that have $2.5 million worth of capital costs at the front end wide open and not really addressed, he can't see entering that ERN. He also wants to be in agreement on what the O&M costs will be, and he thinks that one of the reasons that agreement can't yet be reached is because the 24 sports groups are just beginning to come together. When they all come together and can agree on that, and the staff can get comfortable with it, hopefully it will be a lower number than what staff is now using; but we don't know that yet so we should not go forward yet.

He continued that he is not too concerned about the competition with the IRC, but that brings up the whole question of the two different philosophies. The reason he is not concerned is that the model for the coliseum is based on 70% of the people coming from the outside; whereas it is reverse for the IRC with 70% of the people being local. We need to figure out how to blend that, and how we are meeting our objective of getting those outdoor fields developed for the Morgan Hill community, which was the group the fields were targeted to serve. He would like to be more comfortable with an indoor site dedicated to regional use and an indoor site dedicated to Morgan Hill use because he does not see how that works together yet.

Mayor Pro Tempore Tate expressed that he feels a month is a little unreasonable to get to the point where all those issues can be resolved, but he certainly agrees that we want to move this forward as fast as possible.

Council Member Grzan would like to know what teams we are currently serving, and where are they going now for their facilities. Are they going outside of the community to get their needs met. Who would not be served if we do nothing; and who will be served if we move forward. He noted that the City of Gilroy is putting together a $40 million outdoor complex, and he wanted to know what impact that will have on this project. How will this affect our ability to draw our own population if they charge less than we do for the same service?

Council Member Sellers stated that he wanted to make a motion. He would like to set a target date for the third week in July to find resolution in the areas that have been identified such as the IRC and the O&M costs. He is pleased with the high level of involvement of the PRC, and would continue to encourage their active involvement in this process. One final comment on the IRC is that we are looking at some very specific users. He does not like to call it the IRC, because it is a lot more than that, and one of the things will be is a Youth Center for our young people. He feels that we can significantly enhance opportunities for our youth by partnering, and perhaps have opportunities for the kids to go to the climbing wall or get to do other things that might only be available at the coliseum. Other opportunities might be developed for the senior users as well, but he is particularly interested in the young people that will be using the youth center because he hates to think of them just sitting in a room in the afternoon because it is the only place to hang out. There needs to be a lot of things for them to do,

and if we have things across town we ought to be able to figure out how to do that. We have talked about cost recovery; we have talked about local versus regional and making sure that is primary. Also regarding maintenance costs, you are always going to get a higher estimate from the city for a variety of reasons because of the constraints the city operates under as a municipality. There is a lot more room for creativity if you are looking at it from the private sector. We have to be firm on the number. So, if those are the main areas that we ask to be brought back with the goal of being close enough to where we can feel comfortable moving forward with the ERN, he would like to see that. So that would be his motion, to incorporate those ideas and the ideas raised by his colleagues.

Mayor Pro Tempore Tate asked if his motion was to adopt staff's recommended actions with a come back of the third meeting of July.

Council Member Sellers added with the goal of trying to get to an ERN at that point because these major points have had significant resolution, though they might not be finalized.

Council Member Carr seconded the motion, and asked for clarification as to whether Council Member Sellers was directing staff to contact CYSA about extending the lease to 2006. Council Member Sellers said that it is included in his motion.

City Manager Tewes stated that the written report provided by staff goes into much more detail about why the staff believed it was appropriate to recommend what they did. Some of the factors they mentioned will still be challenges, but he asked for clarification on only one point at this time. The staff recommendation was that they not focus on one particular proposal, but look at a full range of proposals. His understanding of the motion is that they are to continue to focus on only one, with the goal to move toward an ERN with the CRG. The staff recommendation was that they are far from the point of being at that stage, and we ought to look at other options. Does the Council want them to look at other options or only work with CRG?

Council Member Sellers noted that we did an RFP process from a broad base and we only received one back, so where would those others be?

Mr. Tewes stated that there were other potential proposers who said they were not going to issue a proposal because they could not meet the conditions. If we are willing to relax some of the conditions they might be interested.

Mayor Pro Tempore Tate asked what conditions should be altered, and that maybe we should look at that.

Mr. Tewes responded that the important issue for him is in terms of the budgeting and the available resources as presented and not yet negotiated, the CRG would require the city to identify funds over and above the funds we have already identified, so we would become a capital investor in this private development. Does the Council want to say that is O.K. and we are just negotiating the amount we are investing in it, or are you prepared to say this is a private development and they ought to be treated as

any other private development? Those are the kinds of issues outlined in the staff report.

Mayor Pro Tempore Tate stated that if we say that is O.K. to go ahead and look at the capital investments, we need to figure out where that money is coming from because we don't have it.

Council Member Sellers said he raised the $2.5 million as an issue that needed to get further discussion and review. It seemed to him that there are some opportunities that have to be identified to some degree. There may be economies of scale or ways we can reduce the $2.5 million, but the costs that are the solid costs have to be identified.

Mr. Tewes stated that was his point. Is the goal to reduce the amount that we would be contributing to the private development or is "no contribution" the position that we take?

Council Member Carr stated that in making his second on the motion, he was focusing on the goals of the original RFP. We issued an RFP, and people responded based on what was in that. It may add another step, but if in the next 60 days, or however long that is, if the discussion gets to a point where we realize we need to change those in order to be able to work anything out than I think that is the discussion we need to have. Right now we would have to open it up to other opportunities and options, if we are going to change that baseline because that is really where we started. And to continue to have some consistency, we need to be able to stick with the goal of the RFP. I don't know if we can have a discussion any longer within the boundaries of what we sent out in the RFP. If we have discussed it enough, and we can't get anywhere else within the boundaries of that RFP then we need to talk about the goals of that. If we can still work within the boundaries we have set, then that is what we need to be doing for the next 30 or 60 days or whatever time period we identify tonight, and come back from that point. That may mean we add another step to this process, and it may mean that we drag this process out a little bit more; but I am not prepared tonight to change the goals of the RFP and still just focus on one option.

City Manager Tewes spoke to the Operations and Maintenance (O&M) issue. The Parks and Recreation Commission (PRC) directed the youth sports groups to return to them with an operating model in June. The discrepancy in the cost figures can easily be resolved. The question is who is willing to take the risk. If the sports group is organized and is willing to lease the facility from us and maintain it at the level that is appropriate to their usage and assume the risk, then it does not matter whose estimate is right. So that is something that is easily resolved and should be a part of this discussion.

Council Member Grzan stated that this should be part of the discussion, and if the CRG is willing to lease or run the entire facility, he would like to know if that is still a possibility.

Mayor Pro Tempore Tate re-opened the public hearing to allow Mr. van Keulen to comment on some of the council's questions both as a citizen and as a member of the PRC. The number one purpose of the CRG is to pay the maintenance and over head expenses associated with the complex. Without them, the valuable asset the city has in the grass on the fields would be lost because of lack of maintenance. This is the number one reason for the city to try to work with the CRG, because they are going to provide the

revenue to cover the O&M of that facility in its current form and then in its newly constructed form which would include the baseball fields. Secondly, it serves a different type of sports need for the community, which is the competitive sports need which is currently going to San Jose. All those related dollars are being lost to the community, so they will be bringing those dollars back to the city; so he does not see it conflicting with the IRC which serves the recreational clientele of Morgan Hill as well as the seniors and the youth.

As a member of the PRC, he stated that one of the reasons they recommended that the CRG come to the Council to engage in the ERN is because whenever the PRC tried to narrow down the terms of the deal they were told they couldn't do that because that would infringe on the City Council's ability to negotiate. If the Council wants the PRC to do work out the details, the Council needs to allow them the authority to do it so the don't have to come back in a month and to try and work out such details as paying a higher lease rate or whether they should make a capital contribution. PRC needs some direction on that issue. Regarding the cost difference between the city's O&M costs and the actual costs to maintain the entire complex, it comes down to the cost of a public entity to contract and do things being greater than it is for the private sector to do it; which is essentially what happens when the sports groups do it. If, as Mr. Tewes suggested, the youth organizations are able to undertake that risk, then the problem would be solved.

In response to Mr. Grzan's concern about competition with the Gilroy facility, Mr. van Keulen stated that people won't travel from Morgan Hill to Gilroy if there is no cost involved, because that distance proves to be overwhelming to participate in sports, and people won't do it regardless of the cost.

Mr. Payne again addressed the Council regarding the lease payment versus the infrastructure costs. In discussions with City staff, they have indicated that while they are under constraints for the lease payments they also recognize that lease payments can be increased and infrastructures can be borne by them as the developer. So they have to look at the flexibility of the lease terms over the long term. In other words, do we start out at $75,000-$100,000 as in our RFP, and we incur some infrastructure costs on site or parking improvements or fees or assessments, versus accelerated lease payments over the long term. These are some things that they have indicated to staff, and he wanted to make sure that Council is aware of that so the $2.5 million budget potential is not necessarily something that is an automatic thing to be incurred by the general fund.

Mayor Pro Tempore Tate closed the public hearing again.

Council Member Sellers again stated that he sees the PRC as having a significant role in this. He is looking to see a proposal that has gotten well vetted and thought through when it comes back to the Council; not here are some other issues that we need to resolve. So, if PRC wants to come back with what they think is best for the city, the Council will either say 1) it is great and let's do it, or 2) no we can't do it for some reason; or 3) come back with more details. He stated he is very comfortable with PRC pushing the ball down the field on this and taking the initiative to do that.

Mayor Pro Tempore Tate asked Mr. Sellers to review his motion.

Council Member Sellers restated his motion. The staff, working very closely with the Parks and Recreation, is to identify some of the key areas. 1) The $2.5 million costs that are going to be required; and either reducing those or reconfiguring those to try and figure how those might be paid for. 2) Figuring out cost recovery, and in line with Council Member Carr's suggestion, it is virtually impossible to have cost recovery in year one so that needs to be a multiple year approach. 3) That the maintenance cost issue be considered, and figure out a resolution of that issue. 4) Settle the issues with the IRC and 5) any residual issues about local versus regional. And direct the staff to return to the Council the third meeting in July.

Mayor Pro Tempore Tate noted that his motion had not addressed City Manager Tewes request that we re-open it to other alternatives as well. Is that part of the motion?

Mr. Sellers agreed, but stated that it is not going to be an either/or. He wants to keep working towards our best deal with the CRG option and see if there is anything else out there.

Council Member Carr noted that last point was why he was trying to re-direct the discussion to be around the framework of the RFP, because we only have one response to the RFP. As long as the discussion is within the boundaries, then we are having the discussion with the one proposer. If we get to the point, where there are conflicting requirements in the RFP then would be the time to open it back up again. If we change the RFP, we will have to open it up.

Council Member Sellers stated that his intent is to stay within the scope of the RFP at this point.

Mayor Pro Tempore Tate stated that this motion requires us to stay within the boundaries of the RFP, and not look at the reasons why we did not get any other bids. He would like to have the latitude to look at the reasons we did not receive more bids; and Council Member Grzan stated that he agreed.

Council Member Carr stated that, to him, it was the same discussion. If we are directing staff to go back within the boundaries of the current RFP and talk to the one responder about whether they are going to be able to meet the requirements of that RFP, we will find out if there are things that we need to open up or not. There is still room for discussion within the RFP, and if they come back in 60 days and say this is as close as we got, then we will know there are conflicts within the RFP itself, and that is when we need to open it up. This may be an additional step that will slow us down, but he is not ready to change the RFP without knowing why; and if he opens it up to talk with another operator it has to be opened to any operator that would want to come to talk to them to be consistent and fair in the process.

Mayor Pro Tempore Tate wants to give that latitude to staff to talk with other operators to find out what the problems were with the RFP.

Council Member Carr stated that they spent time to make the RFP very specific to make for less negotiation so that it was specific criteria that had to be met.

City Manager Tewes agreed and stated that the submitters were asked to give their best proposal. He is disappointed that they did not receive that from them.

Mayor Pro Tempore Tate reiterated that the motion will bind them to this negotiation for 60 days.

Council Member Sellers confirmed that was true.

Council Member Carr confirmed his second of the motion reiterated by Council Member Sellers following this further discussion.

Council Member Sellers offered an amendment to the motion that we will focus primarily on the parameters within the RFP; but in addition, we would direct staff to go back to the other applicants preliminarily and see if there are indications that there might be models out there that would be beneficial to the city. In the meantime, the rest of this can keep moving forward. If in the staff's best judgment, they determine that there is an option that should be looked, but for some small thing they did not apply they should come back and let the council know and not have to wait until the end for that to happen.

Council Member Carr stated that if it helps us move forward tonight and not be stalled, he will support this; but he feels that there is some inherent unfairness to that. We went through an RFP process, we have been engaging the PRC and the sports groups all this time, and now we are saying we are not sure we did that right; and he does not know what the problem with the process is or even if there is a problem.

Council Member Grzan stated that he does not know there is a problem with the process, but the end result is there are discrepancies and this needs to be explored. For him an ideal situation would have been one where the facility is built and maintained by the operator with no incurring maintenance cost to the city and the needs of the youth and teams in our community are served.

Council Member Sellers asked for further clarification on the Parks and Recreation Commission's thinking on the process from PRC Chairperson van Kuelen since they have looked at this issue extensively.

Mayor Pro Tempore Tate called for a 5 minute break to dismiss the students from the meeting. (8:20 p.m.)

Meeting was re-convened, and Mr. van Keulen was called back to the podium to answer Council Member Seller's question, but the public hearing was not reopened.

Mr. van Keulen stated that there is some question with regard to the terms of the RFP that has created the situation of only one responding party. One of the major concerns that the Council and the PRC were trying to address initially was the component of the O&M and the oversight of the outdoor sports complex was going to be handled by the local non-profit youth organizations. They wanted to leave

that control, involvement and participation of the community through its non-profit youth organizations in the hands of those organizations, and not remove it, so that was a criteria set forth in the RFP. That is the component that eliminated the other interested parties who wanted to completely run, operate and charge for the use of the entire facility. They were all turn key operations that essentially excluded the involvement of the youth non-profit sports organizations except for paying a fee to use the facility. This was the direction that the PRC received from the Council, and passed on as part of their RFP criteria. That is the answer to that question, and that is why there were not many responses because they do not want to participate with the youth sports organizations in a partnership format. They just want to have a turn key operation; and, in fact, the proposal that have kind of been made on the side and weren't even presented to the PRC were basically for the city to fund the entire construction of the facility and then let them come in manage it. That was, for example, the Field of Dreams proposal.

City Manager Tewes stated that was a fair indication of why some people did not submit, but he is aware of other proposals that perhaps Craig has not seen because they were never submitted. These have looked at the criteria in the RFP and said they would be willing to propose a private-commercial venture on a portion of the site, and generate income for the city and allow the outdoor sports facility to be managed by the youth sports groups, but they stated they can't achieve the kind of revenue expected. So that is why they did not propose. They saw the goal of 100% cost recovery, and said they could pay rent, could buy the property, we can pay market, but it is not going to generate the kind of income you expected, so they did not submit.

Mayor Pro Tempore Tate stated that they could have submitted a proposal similar to what was submitted by the CRG then.

Council Member Sellers stated that he is absolutely not comfortable with any proposal that does not allow us to continue to have our youth sports groups involved because that is such a fundamental part of what they were trying to do out there. He stated he would then limit his amendment to his motion to limit the staff to only talking with folks who have a cost recovery component and who are not looking at being the operators to the exclusion of the local youth sports groups. If we do that, it appears that we would limiting it down to 1, or maybe 2 preliminary discussions that may or may not have any value to them, but then we have done our due diligence on this issue. He asked Council Member Carr's indulgence to allow this further amendment to the motion.

Council Member Carr stated he is happy to continue his second on that, but he did want to talk about the time line. This is a lot broader than what he was originally seconding, and he is not sure that 60 days really does it. If the PRC is going to be more involved, we need to give them more time. If we are going to broaden this, his thought that it would be broadened after the next meeting if it was needed at that time. But if we are doing it today, then perhaps we ought to just go with the staff recommendation of a 120 days, or something closer to that.

Council Member Sellers stated that the goal would be 60 days, but if staff determines that additional time is required, they should let the council know that by the end of June. By that time they will have received the report back from the youth sports alliance, and the PRC will have had at least one meeting,

and staff will have had an opportunity to pursue some of these other issues. He would like to keep with his timeline, but he understands that it may need to be increased to 90 days. He would rather start with the goal of 60 days, and has the staff let the council know at that point if they need more time. He does not want to say 120, because then it will be 120. If we say 60, and maybe we get 90, then we can be happy with that.

Council Member Carr clarified that the motion does not contain recommendation #4, but that this will be discussed and voted on separately from the current motion; and Mr. Sellers agreed.

***Action:*** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent)* ***Directed*** *staff to work closely with the Parks and Recreation Commission to identify 1) the $2.5 million costs that are going to be required, and either reduce or reconfigure those costs to determine how they might be paid; 2) to determine what would be a reasonable time to expect cost recovery to occur; 3) to determine a resolution to the operations and maintenance cost issue and to determine a firm number for those costs; 4) to settle the issues with the Indoor Recreation Center and 5) to settle any residual issues about local versus regional usages.*

***Action:*** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent)* ***Directed*** *the City Manager and the Parks and Recreation Commission to continue to explore, within the parameters of the RFP, other proposals for the operations of the Outdoor Sports Complex; but only consider those proposals that have a cost recovery component and are not intending to be the operators to the exclusion of the local youth sports groups.*

***Action:*** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent)* ***Directed*** *staff to report back to Council within 60 days on the previous two actions. If more time is required, the staff is to return to Council by the end of June to request an extension of time.*

***Action:*** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent)* ***Declined*** *to enter into an Exclusive Right to Negotiate with any Potential Private Partners at this time.*

***Action:*** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (4-0, with Kennedy absent)* ***Directed*** *Staff to Contact California Youth Soccer Association (CYSA) to Extend their Lease Options at the Soccer Site until June 2006.*

Mayor Pro Tempore Tate called for discussion on the staff recommendation that the Council provide direction on the schematic design of Phase One of the OSC.

Council Member Carr asked Recreation and Community Services Division Manager Spier to clarify

what the staff is asking of the council on this recommendation, as it appears that it will require some money and some input from the youth sports alliance.

Ms. Spier responded that depending on what the previous motion was going to be, the staff's concern was that our Phase I does not mirror the CRG proposal, and so at some point we need to do that conceptual phase again to make sure we are still meeting all the needs of the non-profit groups. One of their criteria was that they lose only two fields, and we have an overlay from our architect but it has not been validated. So the staff has concern about at what point we bring those two proposals together.

Council Member Carr noted that he would like to be able to dual track some of these issues. We are now going to go through what could become a 120 days process to figure out if there is an operator that we want to partner with on this process, so does that mean we simply lose 120 days to the fields, or can we figure out a way to carve out this corner, and we will eventually do something different with it, so lets move forward with the rest of this place right now. We will still have the O&M question, but how can we dual track some of this so we don't hold up the youth sports groups that are looking for the fields and may not be all that interested in the building anyway.

Ms. Spier recommended that the city have an architect look at all the pieces and make sure they can fit, and right now that is the unfunded piece.

City Manager Tewes stated that the staff thinks there are creative opportunities possible. For example, as he suggested, and he thinks they would acknowledge, the CRG has not really done any architectural or civil engineering work. They have said they can fit their building within that site, but they have not identified the storm drainage basin needed to support that site. Well that could be accommodated in one of the fields, if the sports groups are willing to live with a field that would be depressed and might flood out every once in awhile. All this has not been figured out yet.

Council Member Carr stated he would like us to work on all those issues, and just assume that there will be something there. It may not be CRG, it may be that the city would sell the property off to create the fund to provide the O&M, but he would like to move forward with assuming that this corner will be carved out differently and figuring out how we actually start taking the steps to actually build the outdoor sports complex that we have been talking about for a long time.

Council Member Sellers asked if that was a motion, and stated his desire to second it if it is a motion.

Council Member Carr stated that it is a motion, and asked staff if they had a dollar figure for the architect at this time.

Mr. Tewes stated that he thinks it can be done within the appropriation the Council has made for the CIP. It is just that whatever they spend on that makes less available for the construction, but he does not think it will be very expensive.

Mayor Pro Tempore Tate called for the vote, and the motion carried.

***Action:*** *On a motion by Council Member Carr and seconded by Council Member Sellers, the City Council unanimously (4-0, with Kennedy absent)* ***Directed*** *Staff on the Schematic Design of Phase One of the Outdoor Sports Complex, to move forward with the assumption that there will be something different in that corner of the property and to obtain architectural input on that assumption; and to move forward with the steps needed to build the outdoor sports complex so that the fields will be available for use as soon as possible.*

## FUTURE COUNCIL-INITIATED AGENDA ITEMS

None.

## RECONVENE TO CLOSED SESSION

Vice-Chairman/Mayor Pro Tempore Tate announced that Item 3 has been covered, and Items 1 and 2 will be discussed. He adjourned the meeting to Closed Session at 8:47 p.m.

## RECONVENE

Vice-Chairman/Mayor Pro Tempore Tate reconvened the meeting at 9:10 p.m.

## CLOSED SESSION ANNOUNCEMENT

Mayor Pro Tempore Tate announced no reportable actions.

## ADJOURNMENT

There being no further business, Vice-Chairman/Mayor Pro Tempore Tate adjourned the meeting at 9:12 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**MOIRA MALONE, DEPUTY AGENCY SECRETARY/DEPUTY CITY CLERK**