



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Steve Tate, Mayor	Steve Tate, Chair
Greg Sellers, Mayor Pro Tempore	Greg Sellers, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Marby Lee, Council Member	Marby Lee, Agency Member
Marilyn Librers, Council Member	Marilyn Librers, Agency Member

WEDNESDAY, JULY 22, 2009

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

AND

REDEVELOPMENT AGENCY REGULAR MEETING

6:15 P.M.

A Special Meeting of the City Council and Redevelopment Agency is called at 6:15 p.m. for the purpose of conducting Closed Sessions and the Council Carbon Diet Club.

Steve Tate, Mayor/Chairman

7:00 P.M.

CALL TO ORDER

(Mayor/Chairperson Tate)

ROLL CALL ATTENDANCE

(Council Services/Records Coordinator McVay)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(Council Services/Records Coordinator McVay)

SILENT INVOCATION

INTRODUCTION OF NEW EMPLOYEES

Kevin Riper, Finance Director
Tina McVay, Council Services / Records Coordinator
Carlos Guerrero, Police Officer

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Council Member Lee

CITY COUNCIL COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME THE ITEM IS ADDRESSED BY THE COUNCIL AND FOR THE REDEVELOPMENT AGENCY. PLEASE COMPLETE A SPEAKER CARD AND PRESENT IT TO THE CITY CLERK/AGENCY SECRETARY.

(See notice attached to the end of this agenda.)

PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE COUNCIL SERVICES RECORDS COORDINATOR/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY COUNCIL/REDEVELOPMENT AGENCY.

City Council and Redevelopment Agency Action

ADOPTION OF AGENDA

City Council Action

CONSENT CALENDAR:

ITEMS 1 - 4 The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

1. PRELIMINARY JUNE 2009 FINANCIAL & INVESTMENT REPORTS 1
2. APPROVE CITY OF MORGAN HILL'S SANITARY SEWER MANAGEMENT PLAN AS REQUIRED BY STATE WATER RESOURCES CONTROL BOARD 31
Recommended Action(s):
 1. **Adopt** Resolution Approving Sanitary Sewer Management Plan.
3. ADOPT ORDINANCE NO. 1947, NEW SERIES AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH A PLANNED DEVELOPMENT OVERLAY AND ADOPT A PRECISE PLAN FOR A HORIZONTAL MIXED USE DEVELOPMENT ON A 1.1-ACRE SITE LOCATED AT 17770 MONTEREY ROAD IN THE CL-R ZONING DISTRICT (DA-09-01: MCLAUGHLIN-MALECH) 69
Recommended Action(s):
 1. **Waive** the Reading, and **Adopt** Ordinance 1947, New Series, and **Declare** that said title, which appears on the public agenda, shall be determined to have been read by title and further reading waived.
4. ADOPT ORDINANCE NO. 1948, NEW SERIES AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MMC-08-04: MCLAUGHLIN-MALECH (DA-09-01: MCLAUGHLIN-MALECH) 77
Recommended Action(s):
 1. **Waive** the Reading, and **Adopt** Ordinance 1948, New Series, and **Declare** that said title, which appears on the public agenda, shall be determined to have been read by title and further reading waived.

Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 5 - 6

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Time Estimate	
Consent Calendar: 1 - 10 Minutes	
5. <u>PRELIMINARY JUNE 2009 FINANCIAL & INVESTMENT REPORTS</u>	81
6. <u>HOUSING TRUST OF SANTA CLARA COUNTY FUNDING AGREEMENT</u>	91
Recommended Action(s):	
1. Authorize the Executive Director to do everything necessary to execute, including modifications subject to Agency General Counsel review and agreement with the Housing Trust of Santa Clara County (HTSCC) in an amount of \$65,000 for the 2009 Fiscal Year	

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 7 - 14

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Time Estimate	
Consent Calendar: 1 - 10 Minutes	
7. <u>APPROVAL OF THE JOINT SPECIAL AND REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 1, 2009</u>	99
8. <u>MARQUEE SIGN PROJECT</u>	123
Recommended Action(s):	
1. Accept the Community And Cultural Center sign design concept	
2. Accept the Aquatics Center sign design concept	
3. Direct staff to proceed with bid process for both agencies	
9. <u>APPROVAL OF COST SHARING AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT FOR DESIGN OF UPPER LLAGAS CREEK FLOOD PROTECTION</u>	125
Recommended Action(s):	
1. Authorize the City Manager to execute the Cost Sharing Agreement with the Santa Clara Valley Water District for the accomplishment of design documents, EIR/EIS, and Detail Design Report (DDR) related to the construction of the Upper Llagas Creek Flood Protection Project.	
10. <u>APPROVE FREEWAY AGREEMENT FOR THE TENNANT / 101 INTERCHANGE IMPROVEMENT PROJECT</u>	133
Recommended Action(s):	
1. Adopt a Resolution approving a Freeway Agreement between the City of Morgan Hill and the State of California for the Tennant Avenue and State Highway Route 101 Interchange Improvements project and authorize the City Manager to execute the agreement on behalf of the City.	

- 11. **AWARD OF PROFESSIONAL SERVICES CONTRACT TO PREPARE CIVIL DEIGN DOCUMENTS FOR THE BUTTERFIELD BOULEVARD SOUTH EXTENSION PROJECT** 141
Recommended Action(s):
 1. **Authorize** the City Manager to execute a consultant agreement with Mark Thomas &Company in the amount of \$1,122,045 for the preparation of design / construction documents for the Butterfield Boulevard South Extension project, subject to review and approval by the City Attorney..

- 12. **ACQUISITION OF APN’S 817-06-002 AND 817-06-003 (SERGI) FOR THE EXTENSION OF BUTTERFIELD BOULEVARD** 163
Recommended Action(s):
 1. **Adopt** Resolution approving the Purchase and Sale Agreement for 18.26 acres of vacant land from James P. Sergi and Karen Lenore Sergi, Trustees, executed by the property owners on July 15, 2009 for \$3,624,000 plus escrow and closing costs, and authorizing the City Manager to execute all documents and make minor modifications as necessary to consummate the transaction.

- 13. **AWARD OF 2009-10 AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) ECONOMIC STIMULUS TIER I DUNNE AVENUE STREET RESURFACING PROJECT** 187
Recommended Action(s):
 1. **None** at this time; by way of Supplemental Staff Report at the July 22, 2009 meeting, Council will receive further information and be asked to: 1) Award a construction contract for the 2009-10 Economic Stimulus Tier I Dunn Avenue Street Resurfacing Project; and 2) Authorize a 10% construction contingency.

- 14. **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE CITY AND REDEVELOPMENT AGENCY IDENTITY THEFT PREVENTION PROGRAM (ITPP)** .. 189
Recommended Action(s):
 1. **Adopt** Resolution
 2. **Adopt** Exhibit “A” implementing the City’s Identity Theft Prevention Program and Procedures related to notices of address discrepancies.

City Council Action

OTHER BUSINESS: **ITEMS 15**

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|-----|------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 15. | 10 Minutes <u>SKATE BOARD/BMX PARK SUPERVISION PLAN</u> | 205 |
| | <u>Recommended Action(s):</u> | |
| | 1. <u>Approve</u> the Supervised Skate Board/BMX Park Membership Model with \$1 Day Pass Operation Plan that is open 2,500 hours annually | |
| | 2. <u>Approve</u> a \$50,000 transfer from the Outdoor Sports Center CIP (115a02.f317.86360.000) to the Skate Park CIP (119001.f317.86360.00) | |

Redevelopment Agency Action

OTHER BUSINESS:

ITEMS 16 - 20

	Time Estimate		Page
		Consent Calendar: 1 - 10 Minutes	
16.	5 Minutes	<u>LOAN TO SOUTH COUNTY HOUSING FOR MADRONE PLAZA</u>	211
		<u>Recommended Action(s):</u>	
		1. <u>Authorize</u> the Executive Director to do everything necessary and appropriate to prepare and execute an agreement subject to Agency General Counsel review and approval with South County Housing (SCH) to provide a bridge loan of \$660,000 to be repaid from CalHOME funds when SCH receives the funding from the State of California.	
17.	5 Minutes	<u>LOAN TO URBAN HOUSING COMMUNITIES FOR THE CROSSINGS APARTMENT PROJECT</u>	215
		<u>Recommended Action(s):</u>	
		1. <u>Authorize</u> the Executive Director to do everything necessary to prepare and execute an agreement including any amendments to existing agreements, subject to Agency General Counsel review and approval with Urban Housing Communities (UHC) to provide a loan of up to \$306,000 to fund the Crossings apartment rehabilitation project.	
18.	5 Minutes	<u>LOAN TO EAH FOR THE BELLA TERRA (Formerly Known As Casa Diana) SENIOR APARTMENT PROJECT</u>	219
		<u>Recommended Action(s):</u>	
		1. <u>Authorize</u> the Executive Director to do everything necessary to prepare and execute new agreements and terminate existing agreements with EAH subject to Agency General Counsel review and approval; to: 1) provide an additional \$400,000 loan; 2) approve a sale of a portion of the site to a four-profit developer and reinvestment of the sale of proceeds into the project, and 3) allow EAH to secure new financing against the site.	
19.	5 Minutes	<u>SALE OF BMR UNITS USING A DOWN PAYMENT ASSISTANCE AND EQUITY SHARE PROGRAM</u>	221
		<u>Recommended Action(s):</u>	
		1. <u>Authorize</u> the Executive Director to do everything necessary to prepare and execute agreements and related documents, subject to Agency General Counsel review and approval, to: 1) sell BMR Units to Faithe David and Jennifer Scott, respectively for \$264,000 each, less Agency's share of closing/escrow costs; and 2) provide down payment assistance and equity share loans to both buyers based on parameters outlined in the staff report.	
20.	5 Minutes	<u>HABITAT FOR HUMANITY BRIDGE LOAN</u>	275
		<u>Recommended Action(s):</u>	
		1. <u>Adopt</u> a Resolution approving a loan Agreement with Habitat for Humanity Silicon Valley, Inc. to provide \$500,000 in financing assistance to bridge a funding gap created by State freeze of funds previously awarded for the Cory Drive Residential Project; and authorizing the Executive Director to do everything necessary to execute an agreement, including making modifications subject to Agency General Counsel review and approval.	

City Council Action

OTHER BUSINESS:

ITEMS 21-22

Page

Time Estimate

21. 25 Minutes SANTA CLARA VALLEY HABITAT CONSERVATION PLAN (HCP/NCCP); REVIEW AND COMMENT ON SEVEN KEY POLICY AREAS 319

Recommended Action(s):

1. Receive status report on the development of the plan and provide comments and direction regarding the seven key policy areas.

22. 10 Minutes DISCUSSION OF REQUIREMENTS RELATED TO ISSUANCE OF BUILDING PERMIT OF MATHEMATICS (AIM) BUILDING 323

Recommended Action(s):

1. Recommend reimbursement to applicant for the cost to have the applicant's geologist participate in the "scoping of further work" meeting of geologists expected to be held between July 20 and 22, and may recommend some additional expenditure of city community development funds to assist with further developing the geologic characterization of the site and completion of required geologic reports; and proposed amount will be presented at the City Council meetings based upon discussion with the applicant and geologists.

FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

City Council Action

CLOSED SESSION:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

1. CONFERENCE WITH LABOR NEGOTIATOR:

Authority: Government Code Section 54957.6
City Negotiators: City Manager; City Attorney; Human Resources Director
Employee Organization: Morgan Hill Police Officers Association

2. CONFERENCE WITH LABOR NEGOTIATOR:

Authority: Government Code Section 54957.6
City Negotiators: City Manager; City Attorney; Human Resources Director
Employee Organization: Employees Covered under Management Resolution #6250

3. CONFERENCE WITH LABOR NEGOTIATOR:

Legal Authority: Government Code Section 54957.6
City Negotiators: City Manager; City Attorney; Human Resources Director
Employee Organization: AFSCME Local 101

4. CONFERENCE WITH LABOR NEGOTIATOR:

Legal Authority: Government Code Section 54957.6
City Negotiators: City Manager; City Attorney; Human Resources Director
Employee Organization: Morgan Hill Community Service Officers Association

5. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b)
Number of Potential Cases: 2

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

ADJOURNMENT

NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the legislative body less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17555 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the legislative body. (Pursuant to Government Code 54957.5)

PUBLIC COMMENTS ON ITEMS NOT APPEARING ON AGENDA

Following the opening of Council/Agency business, the public may present comments on items *NOT* appearing on the agenda that are within the Council's/Agency's jurisdiction. Should your comments require Council/Agency action; your request will be placed on the next appropriate agenda. No Council/Agency discussion or action may be taken until your item appears on a future agenda. You may contact the City Clerk/Agency Secretary for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your presentation to three (3) minutes.

PUBLIC COMMENTS ON ITEMS APPEARING ON AGENDA

The Morgan Hill City Council/Redevelopment Agency welcomes comments from all individuals on any agenda item being considered by the City Council/Redevelopment Agency. Please complete a Speaker Card and present it to the City Clerk/Agency Secretary. This will assist the Council/Agency Members in hearing your comments at the appropriate time. Speaker cards are available on the table in the foyer of the Council Chambers. In accordance with Government Code 54953.3 it is not a requirement to fill out a speaker card in order to speak to the Council/Agency. However, it is very helpful to the Council/Agency if speaker cards are submitted. As your name is called by the Mayor/Chairman, please walk to the podium and speak directly into the microphone. Clearly state your name and address and then proceed to comment on the agenda item. In the interest of brevity and timeliness and to ensure the participation of all those desiring an opportunity to speak, comments presented to the City Council/Agency Commission are limited to three minutes. We appreciate your cooperation.

NOTICE

AMERICANS WITH DISABILITIES ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City. If you need special assistance to access the meeting room or to otherwise participate at this meeting, including auxiliary aids or services, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation. Please make your request at least 48 hours prior to the meeting to enable staff to implement reasonable arrangements to assure accessibility to the meeting.

If assistance is needed regarding any item appearing on the City Council/Agency Commission agenda, please contact the Office of the City Clerk/Agency Secretary at City Hall, 17555 Peak Avenue or call 779-7259 or (Hearing Impaired only - TDD 776-7381) to request accommodation.

NOTICE

Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council/Agency Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action by the City Council/Agency Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.