



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS

Steve Tate, Mayor
Greg Sellers, Mayor Pro Tempore
Larry Carr, Council Member
Marby Lee, Council Member
Marilyn Librers, Council Member

REDEVELOPMENT AGENCY

Steve Tate, Chair
Greg Sellers, Vice-Chair
Larry Carr, Agency Member
Marby Lee, Agency Member
Marilyn Librers, Agency Member

WEDNESDAY, MAY 27, 2009

AGENDA

JOINT MEETING

CITY COUNCIL REGULAR MEETING

AND

REDEVELOPMENT AGENCY REGULAR MEETING

7:00 P.M.

CALL TO ORDER

(Mayor/Chairperson Tate)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS

Aquatics Month
Splash

RECOGNITIONS

Bicycle & Trails Advisory Committee Members
Senior Advisory Commissioners
Youth Advisory Committee Members

INTRODUCTIONS

CITY COUNCIL REPORTS

Mayor Pro Tempore Sellers

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
CITY CLERK/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 1-11 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. [GOVERNOR’S PROPOSAL TO BORROW LOCAL PROPERTY TAXES TO HELP BALANCE STATE BUDGET](#) 1
Recommended Action(s): **Oppose** Governor’s Proposal

2. [APPOINTMENT TO FILL THREE VACANCIES ON THE PLANNING COMMISSION](#) 3
Recommended Action(s): **Ratify** the Mayor’s Appointment of John Liegl, John Moniz, and Nancy Hart to Fill Three (3) Vacancies on the Planning Commission; Terms Expiring June 1, 2013.

3. [EXTEND TERMS FOR THE ARCHITECTURAL AND SITE REVIEW BOARD \(ARB\)](#)..... 29
Recommended Action(s):
 1. **Extend** Terms for the ARB Members Until Such Time that the Ordinance that Eliminates this Board is Adopted/Enacted; and
 2. **Direct** Planning Staff to Notify the ARB Members of Their Temporary Extended Terms.

4. [CITY COUNCIL SUPPORT OF THE EFFORTS IN BRINGING A MAJOR LEAGUE BASEBALL TEAM TO SAN JOSE](#) 31
Recommended Action(s):
 1. **Adopt** Resolution Supporting the Efforts of Bringing the Oakland Athletics, a Major League Baseball Team, to San Jose; and
 2. **Direct** Staff to send a copy of the Resolution to County Board of Supervisor Dave Cortese

5. [ADOPT ORDINANCE NO. 1932, NEW SERIES](#)41
Recommended Action(s): **Waive** the Reading, and **Adopt** Ordinance No. 1932, 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

6. [FINAL MAP APPROVAL HABITAT FOR HUMANITY \(TRACT 10020\)](#)..... 65
Recommended Action(s):
 1. **Approve** the final map, improvement plans, and Subdivision Improvement Agreement;
 2. **Authorize** the City Manager to sign a Subdivision Improvement Agreement on behalf of the City; and
 3. **Authorize** the recordation of the final map and the Subdivision Improvement Agreement

7. [RECREATION FACILITIES JANITORIAL AGREEMENT](#) 69
Recommended Action(s):
 1. **Approve** maintenance agreement for janitorial service for the City’s Recreation Facilities from July 1, 2009 until June 30, 2011, with Firato Service Company for \$202,556; and
 2. **Authorize** the City Manager to execute the agreement on behalf of the City

8.	<u>SKATEBOARD PARK – APPROPRIATION OF ADDITIONAL FUNDING AND APPROVAL OF CONTRACT CHANGE ORDER</u>	97
	Recommended Action(s):	
	1. Approve and transfer of \$11,500 from the Outdoor Sports Complex CIP Project 115A02 to the Skateboard Park CIP project 119001; and	
	2. Approve Contract Change Order No. 1 for upgrading perimeter fencing	
9.	<u>STATUS OF CALENDAR YEARS 2006 – 2008 GENERAL PLAN IMPLEMENTATION</u>	99
	Recommended Action(s): Accept Report and Direct Staff to Transmit the General Plan Implementation Report to the State Office of Planning & Research (OPR) and State Housing and Community Development (HCD)	
10.	<u>ACCEPT DONATION OF REAL PROPERTY FOR 101 / TENNANT INTERCHANGE PROJECT</u>	125
	Recommended Action(s): Accept donation of real property by NMSBPCSLDHB for 101 / Tennant Interchange Project and authorize the City Manager to execute Donation Agreement for the 101 / Tennant Avenue Interchange Project	
11.	<u>APRIL 2009 MONTHLY FINANCIAL AND INVESTMENT REPORT - CITY</u>	137
	Recommended Action(s): Approve and file report	

Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 12-15

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
12.	<u>LOAN MODIFICATION FOR COMMERCIAL REHABILITATION LOAN - BOOKSMART</u>	167
	Recommended Action(s): Authorize the Executive Director to do everything necessary and appropriate to execute and implement an amendment to the Agreement for the Commercial Rehabilitation Loan for Booksmart	
13.	<u>APRIL 2009 MONTHLY FINANCIAL AND INVESTMENT REPORT - RDA</u>	227
	Recommended Action(s): Accept and file report	
14.	<u>3RD QUARTER REPORT AND FY 2009/10 PROPOSALS FROM THE CHAMBER OF COMMERCE REGARDING ECONOMIC DEVELOPMENT AND TOURISM ACTIVITIES</u>	237
	Recommended Action(s):	
	1. Accept Chamber proposals for FY 09/10 for review and consideration as part of the FY 09/10 budget approval; and	
	2. Accept the report for the 3 rd Quarter of FY 08/09	
15.	<u>PROPOSAL FROM THE MORGAN HILL DOWNTOWN ASSOCIATION</u>	259
	Recommended Action(s):	
	1. Accept ; MHDA proposal for review and consideration as part of the FY 09/10 budget approval process	

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 16-20

	Page
Time Estimate	
Consent Calendar: 1 - 10 Minutes	
16. <u>APPROVAL OF THE JOINT SPECIAL AND REGULAR CITY COUNCIL AND REGULAR REDEVELOPMENT AGENCY MEETING MINUTES OF MAY 6, 2009</u>	279
17. <u>AWARD 3RD STREET / MONTEREY INTERIM PARKING LOT</u>	305
Recommended Action(s):	
1. Approve project Plans and Specifications;	
2. Award contract to Galedrige Construction, Inc. in the amount of \$124,665.88; and	
3. Authorize expenditure of construction contingency funds not to exceed \$18,700	
18. <u>SETTLEMENT AGREEMENT WITH 30 EAST THIRD STREET (VILLAFRANCA)</u>	307
Recommended Action(s): Adopt a Resolution of the Morgan Hill Redevelopment Agency approving the Settlement Agreement with the owners of 30 East Third Street (Villafranca)	
19. <u>ACCEPT ADA ACCESS RAMPS AT VARIOUS LOCATIONS PROJECT</u>	321
Recommended Action(s):	
1. Accept as complete the ADA Access Ramps at Various Locations project in the final amount of \$81,544.51; and	
2. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's Office	
20. <u>RESOLUTION OF LOCAL SUPPORT FOR THE AMERICAN RECOVERY REINVESTMENT ACT (ARRA) FOR 2009 DUNNE AVENUE RESURFACING PROJECT AND APPROPRIATE FUNDING</u> .	327
Recommended Action(s):	
1. Accept the attached Resolution authorizing staff to file an application for Federal ARRA 2009 funding for the Dunne Avenue Resurfacing Project; and	
2. Appropriate \$553,600 from current year Fund 317 (RDA) unappropriated balance to fund construction of the Dunne Avenue Resurfacing Project subject to reimbursement from ARRA funds	

City Council Action

PUBLIC HEARINGS:

	Page
Time Estimate	
21. 5 Minutes <u>LEASE AGREEMENT WITH DEBORAH AND LARRY CHIZEK DBA LE BABY SALON</u>	333
Public Hearing Opened.	
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
Council Discussion.	
Action- Open / Close Public Hearing	
Action- Approve the lease agreement between the Morgan Hill Redevelopment Agency and Deborah Lynne Chizek and Larry Vernon Chizek dba Le Baby Spa for space located at 17490 Monterey Road, Unit 7, Morgan Hill	

22. **5 Minutes** [MORGAN HILL TRAIN STATION CAFÉ Y' BON LEASE TERMINATION AND NEW LEASE WITH JOOCEE DOGS CAFE](#)357
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Approve** the lease termination agreement with Café Y a Bon, an Espresso Bar.
Action- **Open** / Close Public Hearing
Action- **Approve** the lease agreement with Christina J. Aweau and Luis M. Caragan, Jr. dba Joocee Dogs Café for the property at 17300 Depot Street, Morgan Hill
23. **15 Minutes** [CONSIDERATION OF MORATORIUM ON ISSUANCE OF MESSAGE ESTABLISHMENT PERMITS](#)395
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Adopt** an urgency interim Ordinance prohibiting the issuance of massage practitioner permits, massage establishment permits and managing employee permits or any other approvals for massage establishments in the City of Morgan Hill. (Requires a four-fifths vote)
24. **15 Minutes** [CONSIDERATION OF REVISED ALARM RESPONSE ORDINANCE](#)403
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Introduce** revised alarm response ordinance and receive direction regarding implementation
25. **15 Minutes** [BELOW MARKET RATE UNIT DEFAULT POLICY & PROCEDURES](#)419
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Approve** City/Agency policy and procedures for responding to defaults related to Below Market Rate (BMR) units
26. **5 Minutes** [ZONING AMENDMENTS TO DISBAND THE ARCHITECTURAL REVIEW BOARD](#)429
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Open** and Close Public Hearing
 Waive the First and Second Reading of Ordinance
 Introduce Ordinance

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
27.	10 Minutes	<u>RECEIVE THE CITY MANAGER'S PROPOSED FISCAL YEAR 2009/10 BUDGET & CAPITAL IMPROVEMENT PROGRAM</u>	455
		Recommended Action(s): Receive the City Manager's Proposed Fiscal Year 2009/10 Budget and Capital Improvement Program	
28.	20 Minutes	<u>WATER SUPPLY SHORTAGE RESOLUTION</u>	457
		Recommended Action(s): Approve attached Resolution Declaring a Level 1 Water Supply Shortage	
29.	15 Minutes	<u>DOWNTOWN PARKING IMPLEMENTATION STRATEGY</u>	461
		Recommended Action(s): Adopt the Parking Implementation Strategy (Strategy) and authorize staff to begin implementation as stated in the Strategy	
30.	5 Minutes	<u>AMENDMENT TO THE MORGAN HILL MUNICIPAL CODE USE OF SKATE PARK FACILITY</u>	487
		Recommended Action(s):	
		1. Waive the First and Second Reading of the Ordinance; and	
		2. Introduce the Ordinance by Title Only	
31.	10 Minutes	<u>UPDATE ON 3RD STREET UNDERGROUNDING PROJECT</u>	493
		Recommended Action(s): For Council Information	

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:

1.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to: Government Code Section 54956.8
 Property: APN 779-05-043 Address: 14465 Monterey Road
 Negotiating Parties: City Manager, City Attorney, Recreation & Community Services Director, Community Development Director
 Under Negotiation: Price and Terms of Payment

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to: Government Code Section 54956.8
 Property: APN 817-16-002, 004, 005 Address: 1630-1840 Tennant Ave.
 Negotiating Parties: City Manager, City Attorney, Recreation & Community Services Director, Community Development Director
 Under Negotiation: Price and Terms of Payment

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to: Government Code Section 54956.8
Property: APN 817-14-004, 009, 014 Tennant/Condit
Negotiating Parties: City Manager, City Attorney, Recreation & Community Services Director, Community Development Director
Under Negotiation: Price and Terms of Payment

Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: APN 726-13-041
Negotiating Parties: Executive Director, Agency Counsel, Assistant to City Manager
Under Negotiation: Price and Terms of Payment

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to: Government Code Section 54956.8
Property: 817-06-002 &3, Monterey at Watsonville Road
Negotiating Parties: Executive Director, Agency Counsel, Director of Public Works
Under Negotiation: Price and Terms of Payment

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: APN: 817-35-027, 16715 San Jose Drive
Negotiating Parties: Executive Director, Agency Counsel,
Director of Business Assistance and Housing Services
Under Negotiation: Price and Terms

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: APN: 728-47-011, 18421 Serra Avenida
Negotiating Parties: Executive Director, Agency Counsel,
Director of Business Assistance and Housing Services
Under Negotiation: Price and Terms

OPPORTUNITY FOR PUBLIC COMMENT

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.