



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

| <b>COUNCIL MEMBERS</b>          | <b>REDEVELOPMENT AGENCY</b>    |
|---------------------------------|--------------------------------|
| 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, OCTOBER 7, 2009**

**AGENDA**

**SPECIAL CITY COUNCIL MEETING**

*A Special Meeting of the City Council is called at 6:30 p.m. for the Purpose of Conducting City Business.*

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**Steve Tate, Mayor**

**6:30 p.m.**

**CALL TO ORDER**

(Mayor Tate)

**ROLL CALL ATTENDANCE**

(Deputy City Clerk McVay)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(Deputy City Clerk McVay)

***City Council Action***

**CLOSED SESSION:**

**OPPORTUNITY FOR PUBLIC COMMENT**

**ADJOURN TO CLOSED SESSION**

***City Council Action***

**1. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code 54956.9(a)

- a. Case Name: California Tow & Salvage, Inc. v. City of Morgan Hill  
Case Number: Santa Clara County Superior Court Case No: 109 CV 148042  
Attendees: City Manager; City Attorney

**ADJOURN TO THE REGULAR CITY COUNCIL/REDEVELOPMENT AGENCY MEETING**

**7:00 P.M.**

**JOINT MEETING**

**REGULAR CITY COUNCIL AND**

**REDEVELOPMENT AGENCY MEETING**

**CALL TO ORDER**

(Mayor/Chair Tate)

**ROLL CALL ATTENDANCE**

(Deputy City Clerk McVay)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(Deputy City Clerk McVay)

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS**

Proclaim October 2009 as National Arts and Humanities Month  
*Emily Shem-Tov, on behalf of the Library, Cultural & Art Commission*

**RECOGNITIONS**

Presentation by Student Exchange Program – Mizuho, Japan, Sister City  
*Brian Shiroyama-Students and Chaperones*

**INTRODUCTIONS**

**CITY COUNCIL REPORTS**

Mayor Pro Tempore Greg 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 COUNCIL SERVICES RECORDS  
COORDINATOR.**

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

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

***City Council and Redevelopment Agency Action***

**ADOPTION OF AGENDA**

## City Council Action

### CONSENT CALENDAR:

**ITEMS 1-7** 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. **Adopt Ordinance No. 1950, New Series, an Ordinance of the City of Morgan Hill Amending Section 1.19.040 (Amount of Fines) and Section 6.08.030 (Violation—Penalty) of the Morgan Hill Municipal Code to Align Administrative Fines with State Law and Add Administrative Fines for Animal Regulation Violations** ..... 1  
**Recommended Action(s):** **Waive** the reading, and **Adopt** Ordinance No. 1950, New Series, and **Declare** that said title, which appears on the Agenda, shall be determined to have been read by title and further reading waived.
  
2. **Adopt Ordinance No. 1951, New Series, an Ordinance of the City of Morgan Hill Amending Section 1.24.010 (Violations deemed a misdemeanor-Penalty) of the Municipal Code of the City of Morgan Hill to Allow Prosecutions as Infractions for Less Serious Violations** ..... 7  
**Recommended Action(s):** **Waive** the reading, and **Adopt** Ordinance No. 1951, New Series, and **Declare** that said title, which appears on the Agenda, shall be determined to have been read by title and further reading waived.
  
3. **Adopt Ordinance No. 1952, New Series, an Ordinance of the City Council of the City of Morgan Hill Approving to Amend the Zoning Designation from Public Facilities to R-1 7,000, Single Family Medium Density of a 30-Acre Site Between Hale Avenue and Monterey Road (APN 764-09-012)** ..... 13  
**Recommended Action(s):** **Waive** the reading, and **Adopt** Ordinance No. 1952, New Series, and **Declare** that said title, which appears on the Agenda, shall be determined to have been read by title and further reading waived.
  
4. **Adopt Ordinance No. 1953, New Series, an Ordinance of the City Council of the City of Morgan Hill Amending Title 15 (Building and Construction) of the Morgan Hill Municipal Code to Add a New Chapter 15.65 (Sustainable Building Regulations)** ..... 19  
**Recommended Action(s):** **Waive** the reading, and **Adopt** Ordinance No. 1953, New Series, and **Declare** that said title, which appears on the Agenda, shall be determined to have been read by title and further reading waived.
  
5. **Cable Television Public Access Agreement Extension and Solicitation for Proposals** ..... 45  
**Recommended Action(s):**
  1. **Authorize** the City Manager to execute a six-month contract extension with the City’s current Public Access Provider; and
  2. **Direct** staff to issue a Request for Proposal for Public Access Television Providers.
  
6. **Third Amendment to Agreement with the Law Firm of Brownstein, Hyatt, Farber, Schreck, LLP** ..... 67  
**Recommended Action(s):**
  1. **Ratify** completed contract work and authorize continuing legal services; and
  2. **Authorize** the City Manager to execute a Third Amendment to Agreement with the Law Firm of Brownstein, Hyatt, Farber, Schreck, LLP

7. **Server Replacement Purchase from AMS.NET**..... 81  
**Recommended Action(s):**  
 1. **Authorize** the City Manager to execute an Agreement with AMS.NET in the amount of \$111,989.73 to replace aging City Hall servers with a Virtualized Server Farm and Storage Area Network (SAN).

## *Redevelopment Agency Action*

### CONSENT CALENDAR:

ITEM 8

Time Estimate Page  
 Consent Calendar: 1 - 10 Minutes

8. **Amendment to Agreements with Goularte Family Trust and Associated Concrete Company**..... 89  
**Recommended Action(s):** **Adopt** a Resolution of the Morgan Hill Redevelopment Agency approving and authorizing the Executive Director to execute:  
 1. Second Amendment to Purchase, Sale and Post-Closing Obligations Agreement with the Goularte Family Trust and Associated Concrete Company; and  
 2. First Amendment to Reimbursement Loan Agreement with Associated Concrete Company.

## *City Council and Redevelopment Agency Action*

### CONSENT CALENDAR:

ITEMS 9-13

Time Estimate Page  
 Consent Calendar: 1 - 10 Minutes

9. **Award Contract for Centennial Recreation Center-Fitness Center Expansion Project**..... 107  
**Recommended Action(s):**  
 1. **Approve** project plans and specifications; and  
 2. **Award** construction contract to Magnum Construction in the amount of \$592,620; and  
 3. **Authorize** contingency funds of \$59,262.
10. **Acceptance of Centennial Recreation Center Parking Lot Expansion Project**..... 113  
**Recommended Action(s):**  
 1. **Accept** as complete the Centennial Recreation Center Parking Lot Expansion Project at a final cost of \$182,210; and  
 2. **Direct** the City Clerk to file the Notice of Completion with the County Recorder’s Office.
11. **Award Community & Cultural Center and Aquatics Center Monument Sign Project**..... 117  
**Recommended Action(s):**  
 1. **Approve** project plans and specifications; and  
 2. **Award** contract to Fluoresco Lighting & Signs for the Community & Cultural Center and Aquatics Center Monument Sign Project in the amount of \$66,922 for project construction; and  
 3. **Authorize** expenditure of construction contingency funds not to exceed \$10,038.
12. **Authorize Change Order for Friendly Inn Renovation Project**..... 121  
**Recommended Action(s):** **Authorize** Change Order up to \$115,000 for the Friendly Inn Renovation Project.

13. **Third Amendment to David J. Powers and Associates, Inc. Contract Regarding the Morgan Hill Downtown Specific Plan Master Environmental Impact Report** ..... 125  
**Recommended Action(s): Authorize** the City Manager/Executive Director to execute the Third Amendment with David J. Powers and Associates, Inc.

## City Council Action

### PUBLIC HEARINGS:

| ITEM | 14         | Time Estimate   | Page |
|------|------------|---|------|
| 14.  | 15 Minutes | <b><u>Enhanced Vehicle Impound Program</u></b> .....  | 131  |
|      |            | <b>Recommended Action(s):</b><br>Public Hearing Opened.<br>Please Limit Your Remarks to 3 Minutes. Public Hearing Closed<br>Council Discussion.   |      |
|      |            | 1. <b>Adopt</b> a Resolution establishing an Enhanced Vehicle Impound Program; including a City impound facility, and setting fees to recover direct and indirect costs associated with the program.  |      |
|      |            | 2. <b>Authorize</b> the addition of a .30 FTE Police Records Specialist, a .5 FTE Police Cadet, and reclassify a Police Officer position to a Police Corporal position to assist in increased administrative duties associated with the Enhanced Vehicle Impound Program. |      |
|      |            | 3. <b>Award</b> tow company contracts.  |      |

[14-SUPPLEMENTAL 1](#)

[14-SUPPLEMENTAL 2](#)

[14-SUPPLEMENTAL 3](#)

## City Council Action

### OTHER BUSINESS:

| ITEMS | 15-16      | Time Estimate   | Page |
|-------|------------|---|------|
| 15.   | 5 Minutes  | <b><u>Award Police Storage Parking Lot Contract to GradeTech Inc.</u></b> .....   | 223  |
|       |            | <b>Recommended Action(s):</b>   |      |
|       |            | 1. <b>Approve</b> project plans and specifications; and   |      |
|       |            | 2. <b>Award</b> contract to GradeTech Inc. in the amount of \$127,044; and  |      |
|       |            | 3. <b>Authorize</b> expenditure of alternate Bid Item in the amount of \$3,750; and   |      |
|       |            | 4. <b>Authorize</b> expenditure of construction contingency funds not to exceed \$6,540.  |      |
| 16.   | 15 Minutes | <b><u>Contracts with Michael Brandman Associates, House Agricultural Consultants and Economic Planning Systems for an Environmental Report, Agricultural Policies Studies and General Plan Amendment for the Southeast Quadrant (SEQ)</u></b>   |      |
|       |            | <b>Recommended Action (s):</b>  |      |
|       |            | 1. <b>Accept</b> staff's recommendation regarding the Southeast Quadrant (SEQ) proposed project description, project objectives, and two Land Use Program Alternatives to be evaluated in the Environmental Impact Report (EIR); as well as for the Agricultural Policy Study and General Plan Amendment; |      |

2. **Authorize** the City Manager to execute a contract with Michael Brandman Associates, subject to City Attorney review, for preparation of the Southeast Quadrant and Agricultural Polices Environmental Impact Report; and
3. **Authorize** the City Manager to execute contracts with House Agricultural Consultants and with Economic Planning Systems, subject to City Attorney review, for preparation of the Agricultural Policies Study and General Plan Amendment, for the study purposes and parameters not-to-exceed \$120,000.

**16 - SUPPLEMENTAL 1**

**16 - SUPPLEMENTAL 2**

## ***City Council and Redevelopment Agency Action***

**OTHER BUSINESS:**

**ITEM 17**

**Time Estimate**

**Page**

17.     **10 Minutes**     **Sustainable Budget Principles**.....  
**Recommended Action(s): Approve** changes to Sustainable Budget Principles

## ***City Council Action***

**OTHER BUSINESS:**

**ITEM 18**

**Time Estimate**

18.     **5 Minutes**     **Priority-Setting of Service Levels**.....  
**Recommended Action(s):**  
1.     **Direct** staff to compile background information on service-level tradeoffs and associated General Fund budget implications; and  
2.     **Approve** process for City Council review of service-level priorities; and  
3.     **Schedule** half-day workshop to discuss priorities.

**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/Redevelopment Agency Action***

**CLOSED SESSION:**

**OPPORTUNITY FOR PUBLIC COMMENT**

**ADJOURN TO CLOSED SESSION**

## ***City Council Action***

**1. CONFERENCE WITH LABOR NEGOTIATOR:**

Authority: Government Code Section 54957.6

- a. City Negotiators City Manager; City Attorney
- Employee Organization: Morgan Hill Police Officers Association  
Employees Covered under Management Resolution #6250  
AFSCME Local 101  
Morgan Hill Community Service Officers Association

**2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code 54956.9(a)

- a. Case Name: Tichinin v. City of Morgan Hill  
Case Number: California Court of Appeal Case No. H031019  
Attendees: City Manager; City Attorney

**3. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

Authority: Government Code Section 54956.8

- a. Property: APN 817-07-007; SE Corner of Fisher Ave. and Railroad Ave., Morgan Hill  
Negotiating Parties: City Manager, City Attorney, Director of Public Works  
Property Owner: Ray-Will Investments, Inc.  
Under Negotiation: Price and terms of payment

## ***Redevelopment Agency Action***

### **CLOSED SESSION:**

**1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

- Authority: Government Code Section 54956.8  
a. Property: APN 764-16-029; 17605 Monterey Road, Morgan Hill  
Negotiating Parties: Executive Director, Agency Counsel, BAHS Director  
Property Owner: Huntington Beach Brewing Company  
Under Negotiation: Price and Terms of Payment

### **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 Council Services Records Coordinator 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 Council Services Records Coordinator. 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/Chair, 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 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 Council Services Records Coordinator 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 agenda, please contact the Council Services Records Coordinator 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 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, 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.