



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, SEPTEMBER 23, 2009

AGENDA

JOINT MEETING

CITY COUNCIL REGULAR MEETING

AND

REDEVELOPMENT AGENCY REGULAR MEETING

7:00 P.M.

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 / RECOGNITIONS

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

Presentation of letter to D.O.G. (Dog Owners Group)

Linda Cunningham

Proclamation for El Toro Bowl Day as September 25, 2009

Nick Boden, Principal-Live Oak High School

Lloyd Webb, Assistant Principal-Sobrato High School

INTRODUCTIONS

Jerett Blaskey, Management Talent Exchange Program

Participants in the Morgan Hill Internal Exchange Program (IMTEP)

CITY COUNCIL REPORTS

Council Member Carr

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 1-11 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. Award of Contract for Community and Cultural Center Exterior Door Replacement..... 1

Recommended Action(s):

1. **Award** contract to Hough Construction Co. Inc for Exterior Door Replacement Project in the amount of \$39,750; and
2. **Authorize** expenditure of contract construction change order contingency funds not to exceed \$9,000.

2.	<u>Financial & Investment Reports August 2009</u> 3 <u>Recommended Action(s):</u> Accept and file report.	3
3.	<u>Accept Tilton Avenue/UPRR Safety Improvement Project</u> 33 <u>Recommended Action(s):</u> 1. Accept as complete the Tilton Avenue/UPRR Safety Improvement project in the final amount of \$935,260. 2. Direct the City Clerk to file the Notice of Completion with the County Recorder’s Office.	33
4.	<u>Approve Payment to Santa Clara County for Vegetation Abatement on City-Owned Property</u> 39 <u>Recommended Action(s):</u> 1. Appropriate \$67,477 from Open Space Fund 306 un-appropriated fund balance to fund Open Space Vegetation Abatement for FY 2008-09; and 2. Approve payment in the amount of \$67,477 for Vegetation Abatement for FY 2008-09.	39
5.	<u>Third Street Promenade-September 2009 Progress Report</u> 43 <u>Recommended Action(s):</u> Information only.	43
6.	<u>West Dunne Avenue Widening Status Report</u> 49 <u>Recommended Action(s):</u> Information Only.	49
7.	<u>Performance Audit of South Valley Disposal and Recycling and Potential Recycling Program Changes</u> 51 <u>Recommended Action(s)</u> 1. Receive and file the Performance Audit; and 2. Direct staff to continue implementing audit recommendations; and 3. Direct staff to convene the Recycling Advisory Committee to consider additional changes to the Recycling Program.	51
8.	<u>Morgan Hill Local Hazard Mitigation Strategy Priorities Review</u> 97 <u>Recommended Action(s) Review</u> and comment by the City Council and public of the Morgan Hill Hazard Mitigation Strategy Priorities as recommend by the Association of Bay Area Governments (ABAG).	97
9.	<u>Environmental Assessment, EA-08-17: West Dunne Avenue Widening and Improvement Project</u> 149 <u>Recommended Action(s) Approve</u> a Resolution to adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.	149

SUPPLEMENTS: INITIAL STUDY, WEST DUNNE AVENUE IMPROVEMENTS

10.	<u>Planning Processes and Tentative Schedules Related to Key Downtown, Transportation, and Housing Planning Efforts</u> 173 <u>Recommended Action(s):</u> Accept memorandum.	173
11.	<u>Acquisition of 14465 Monterey Road (APN 779-05-044) and Olive Avenue (APN 779-05-043) Mock</u> 185 <u>Recommended Action(s):</u> 1. Adopt Resolution of the Morgan Hill City Council approving the Purchase and Sale Agreement for 14465 Monterey Road and Olive Avenue from William Sing Mock and Young Kay Mock, as Trustees of the William Sing Mock and Young Kay Mock Revocable Trust, dated September 23, 2009 for \$4,450,000 plus escrow and closing costs; and 2. Authorize the City Manager to execute all documents and make minor modification as necessary to consummate this transaction; and 3. Increase the Park Development Fund (301) appropriation for Project #110097 from \$4,030,000 to \$4,450,000 plus a two percent (2%) contingency for associated expenses.	185

Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS	12-14	Page
	Time Estimate	
	Consent Calendar: 1 - 10 Minutes	
12.	<u>Authorize Executive Director to Execute a Contract with Keyser Marston Associates Inc. for Financial Consulting Services</u>	223
	<u>Recommended Action(s): Authorize</u> the Executive Director to execute a master contract with Keyser Marston Associates Inc. for financial consulting services in an amount not to exceed \$40,000.	
13.	<u>Award of Contract for Third Street Promenade Muralist</u>	235
	<u>Recommended Action(s):</u>	
	1. <u>Authorize</u> the Executive Director to enter into a contract with Morgan Bricca for the design and painting of the Third Street Promenade Mural in the amount of \$25,000; and	
	2. <u>Authorize</u> contingency funds for additional services not to exceed \$5,000.	
14.	<u>Financial & Investment Reports August 2009</u>	237
	<u>Recommended Action(s): Accept</u> and file report.	

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS	15-22	Page
	Time Estimate	
	Consent Calendar: 1 - 10 Minutes	
15.	<u>Acceptance of Depot Street Interim Public Parking Lot</u>	247
	<u>Recommended Action(s):</u>	
	1. <u>Accept</u> as complete the Depot Interim Public Parking Lot Project in the final amount of \$286,046.21; and	
	2. <u>Direct</u> the City Clerk to file the Notice of Completion with the County Recorder's office.	
16.	<u>Accept the City Wide Directional Sign Project</u>	253
	<u>Recommended Action(s):</u>	
	1. <u>Accept</u> as complete the City Wide Directional Sign Project in the final amount of \$159,191.50; and	
	2. <u>Direct</u> the City Clerk to file the Notice of Completion with the County Recorder's office.	
17.	<u>Approval of the Joint Regular City Council and Regular Redevelopment Agency Meeting Minutes of August 26, 2009</u>	257
18.	<u>Approval of the Joint Special City Council and Special Redevelopment Agency Meeting Minutes August 28, 2009</u>	275
19.	<u>Approval of the Joint Regular City Council and Regular Redevelopment Agency Meeting Minutes September 2, 2009</u>	277
20.	<u>Carryover Encumbrances from FY 2008-09 to FY 2009-10</u>	285
	<u>Recommended Action(s): Receive</u> and file.	
21.	<u>Re-Appropriation of Fiscal Year 2008-09 Projects and Programs</u>	289

Recommended Action(s): Approve the re-appropriation of FY 2008-09 project and program costs in the FY 2009-10 revised budget.

22. **Year-End Budget Amendments FY 2008-09** 293
Recommended Action(s): Increase the FY 2008-09 Budget Appropriations.

City Council Action

PUBLIC HEARINGS:

ITEMS	23-25		
	Time Estimate		Page

23. 10 Minutes **Consideration of 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**297

Open the Public Hearing
 Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
 Council Discussion.
 Action- **Motion to Waive** the first and second reading of the Ordinance.
Motion to Introduce 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.

24. 5 Minutes **An Ordinance of the City of Morgan Hill Amending Chapters 1.24.010 (Violations Deemed a Misdemeanor – Penalty) to Allow Prosecutions as Infractions to Serve the Interest of Justice**303

Open the Public Hearing
 Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
 Council Discussion.
 Action- **Motion to Waive** the first and second reading of the Ordinance.
Motion to Introduce Ordinance of the City of Morgan Hill amending Chapters 1.24.010 (Violations deemed a misdemeanor – Penalty) to allow prosecutions as infractions to serve the interest of justice.

25. 10 Minutes **General Plan Amendment and Zoning Amendment GPA-06-06/ZA-06-18: Hale – Signature Properties**309

Open the Public Hearing
 Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
 Council Discussion.
 Action- **Adopt** the Mitigated Negative declaration and Mitigation Monitoring and Reporting Program (MMRP).
Approve a Resolution to adopt a General Plan Amendment approving a change in the Land Use Designation of a 30-acre site between Hale Avenue and Monterey Road from Public Facilities to Single Family Median (APN 764-09-012).
Motion to Waive the first and second reading of the Ordinance of the City of Morgan Hill 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).
Motion to Introduce the Zoning amendment ordinance.

SUPPLEMENT : INITIAL STUDY, HALE-SIGNATURE

Redevelopment Agency Action

PUBLIC HEARINGS:

ITEM	26		
		Time Estimate	
26.	10 Minutes	<u>Music Tree/Treehouse – First Amendment to the Settlement Agreement and New Lease for 17490 Monterey Road Unit 5</u>	363
		<u>Recommended Action(s):</u>	
		Open the Public Hearing	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		1. <u>Authorize</u> the Executive Director to execute the First Amendment to Compromise, Settlement and Lease Amendment Agreement between the Morgan Hill Redevelopment Agency and Darin Dixon dba the Music Tree and Treehouse for 17470 Monterey Road and 17490 Monterey Road, Unit 1 and a new lease for 17490 Monterey Road, Unit 5; and	
		2. <u>Authorize</u> the necessary steps to implement the provisions of the agreement.	

City Council Action

OTHER BUSINESS:

ITEMS	27-29		Page
		Time Estimate	
27.	10 Minutes	<u>South County Regionalized Fire Protection and Emergency Medical Services Study Update</u>	387
		<u>Recommended Action(s):</u>	
		1. <u>Receive</u> Ad-Hoc Steering Committee Report; and	
		2. <u>Endorse</u> Regional Resources Development Phase; and	
		3. <u>Recommend</u> the formation of a Regional Policy Group tasked with deciding how to operate the system after the Regional Resources Phase is complete; and	
		4. <u>Conduct</u> a Fire/EMS City Council Workshop on January 13, 2010.	
28.	10 Minutes	<u>Five-Year Street Light LED Conversion Plan</u>	395
		<u>Recommended Action(s):</u> Receive staff report.	
29.	10 Minutes	<u>Sustainable Building Ordinance</u>	405
		<u>Recommended Action(s):</u>	
		Action- <u>Motion to Waive</u> the first and second reading of the Ordinance.	
		<u>Motion to Introduce</u> an Ordinance of the City of Morgan Hill to amend Title 15 of the Morgan Hill Municipal Code, adding Chapter 15.65, “Sustainable Building Regulations”.	

SUPPLEMENTAL: SUSTAINABLE BUILDING ORDINANCE

Redevelopment Agency Action

OTHER BUSINESS:

ITEM	30		Page
		Time Estimate	
30.	20 Minutes	<u>Release the Request for Qualified Developers for the Downtown Implementation Plan First Phase Development Project</u>	439
		<u>Recommended Action(s): Authorize</u> the Executive Director to release the Request for Qualified Developers for the Downtown Implementation Plan First Phase Development Project.	

SUPPLEMENTAL: DOWNTOWN IMPLEMENTATION PLAN

City Council and Redevelopment Agency Action

OTHER BUSINESS:

ITEM	31		Page
		Time Estimate	
31.	30 Minutes	<u>Budget Update and Options</u>	443
		<u>Recommended Action(s):</u>	
		1. <u>Revise</u> sustainable budget principles; and	
		2. <u>Consider</u> length of hiring freeze on 3.5 FTE authorized but vacant positions; and	
		3. <u>Approve</u> funding mechanism for State Budget take-away from the Redevelopment Agency.	

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:

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR:

Authority:	Government Code Section 54957.6
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)
Case Name:	<u>City of Morgan Hill v. State Water Resources Control Board, et al.</u>

Case Number: Santa Clara County Superior Court Case No. 108-CV-127858

Attendees: City Manager, City Attorney

3. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Section 54956.9(b)

Number of Potential Cases: 1

4. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

A. Authority: Government Code 54956.8

1. Property: APN 767-08-035, 35 W. Dunne Ave.
Negotiating Party/Property Owner: Hencken Living Trust
 2. Property: APN 767-08-036, 45 W. Dunne Ave.
Negotiating Party/Property Owner: Hencken Living Trust
 3. Property: APN 767-08-037, 55 W. Dunne Ave.
Negotiating Party/Property Owner: Hencken Living Trust
 4. Property: APN 767-08-038, 59 W. Dunne Ave.
Negotiating Party/Property Owner: Hencken Living Trust
 5. Property: APN 767-08-039, 65 W. Dunne Ave.
Negotiating Party/Property Owner: Jerome & Christine Tozzi
 6. Property: APN 767-08-040, 85 W. Dunne Ave.
Negotiating Party/Property Owner: Ronald & Judith Hoefling
 7. Property: APN 767-09-005, 40 W. Dunne Ave.
Negotiating Party/Property Owner: David & Jennifer Chan
 8. Property: APN 767-09-002, 120 W. Dunne Ave.
Negotiating Party/Property Owner: John & Regina Morgan
 9. Property: APN 767-09-001, 130 W. Dunne Ave.
Negotiating Party/Property Owner: John & Regina Morgan
 10. Property: APN 767-11-027, 156 W. Dunne Ave.
Negotiating Party/Property Owner: Sam Verona
 11. Property: APN 767-11-026, 160 W. Dunne Ave.
Negotiating Party/Property Owner: Robert & Anne Wilson
 12. Property: APN 767-11-024, 170 W. Dunne Ave.
Negotiating Party/Property Owner: Gayle Richter & Gayle Murphy
 13. Property: APN 767-12-009, 220 W. Dunne Ave.
Negotiating Party/Property Owner: Duane & Pama Lee Thompson
 14. Property: APN 767-12-006, 270 W. Dunne Ave.
Negotiating Party/Property Owner: Francis & Ruth Borello
 15. Property: APN 767-03-017, 17090 Peak Ave.
Negotiating Party/Property Owner: Marquis Partnership
 16. Property: APN 767-12-003, 380 W. Dunne Ave.
Negotiating Party/Property Owner: Morgan Hill Masonic Temple Assoc.
 17. Property: APN 767-03-039
Negotiating Party/Property Owner: Lieu/Ngan Tran Trust
- Negotiating Party/City: City Manager, City Attorney, Director of Public Works
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/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.