

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING AND  
JOINT REGULAR CITY COUNCIL AND  
REDEVELOPMENT AGENCY MEETING  
MINUTES – OCTOBER 28, 2009**

**CALL TO ORDER**

Mayor Tate called the special meeting to order at 6:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members: Lee, Librers, Tate  
Absent: Council Members: Carr (arrived during closed session), Sellers

**DECLARATION OF POSTING OF AGENDA**

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

**PUBLIC COMMENT**

***City Council Action***

**OPPORTUNITY FOR PUBLIC COMMENT**

None.

**ADJOURN TO CLOSED SESSION**

Mayor Tate read the closed session items into the record.

**1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

- a. Authority: Government Code 54957  
Public Employee Performance Evaluation: City Attorney  
Attendees: City Council, City Attorney

**RECONVENE**

Mayor Tate reconvened to the special City Council meeting at 7:03 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Wan announced that no reportable action was taken during closed session.

**ADJOURNMENT**

There being no further business, Mayor Tate adjourned the special City Council meeting to the Regular City Council and Redevelopment Agency meeting at 7:03 p.m.

**SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **PROCLAMATIONS / RECOGNITIONS / INTRODUCTIONS**

None

## **CITY COUNCIL REPORTS**

Council Member Marilyn Librers reported that she attended the Health Foundation meeting on October 19 concerning Saint Louise Hospital Campus urgent care services in Morgan Hill and the board anticipates that it will be open in January 2010. Council Member Librers also reported that she attended the Santa Clara County Water Commission meeting and an update on AB18811, which is the elimination of overspray watering and run-off water and takes effect on January 1, 2010. Is confident that the City is already working on implementing the State's model.

Council Member Librers also reported on the City's flooding that occurred in Morgan Hill on October 13. Public Works Director Ashcraft provided statistics of the flooding, including that it rained continuously from 6:00 a.m. to 7:00 p.m. and was considered a 60 year storm, six plus inches of rain, or 32% of average rain fall, and substantial flooding at West Llagas Little Creek where many businesses and residential homes flooded late into evening. West Llagas Little Creek has been an on-going project for Morgan Hill for some time; and the board sounded supportive to resolve the flooding issues for the area.

## **CITY COUNCIL COMMITTEE REPORTS**

None to report.

## **CITY MANAGER'S REPORT**

City Manager Tewes reported that he participated in a drinking water tour of the Sacramento River and San Joaquin Delta waterway and the Delta is a source of water supply for 70% of California including all of Santa Clara County. Santa Clara County relies on imported water from the Delta. The Delta is an endangered reliable water source that is endangered by the four "S's": Smelt fish are protected under Endangered Species Act and when pumps are turned off, water supply to the County is affected; seismic activity, an earthquake would devastate the Delta by changing the fresh water supply to sea water and would take 6-18 months to restore service; subsiding levies endanger neighboring lands because water levels are not at even levels on both sides of the levies; and finally the same impacts occur with a rise sea levels. The solution is to convey water around Delta and protect the environment that reduces or eliminates threats. Morgan Hill relies on ground water, although is recharged by the purchase of Federal water which comes from Delta.

## **CITY ATTORNEY'S REPORT**

None to report.

## **OTHER REPORTS**

None to report.

## **PUBLIC COMMENT**

*None.*

## ***City Council and Redevelopment Agency Action*** **ADOPTION OF AGENDA**

Mayor/Chair Tate announced that there were no changes to the agenda.

***Action:*** *On a motion by Council/Agency Member Lee and seconded by Council/Agency Member Carr Adopting the Agenda as Posted. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Sellers).*

## ***City Council Action*** **CONSENT CALENDAR:**

***Action:*** *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Lee Approving City Council, Redevelopment Agency and City Council/Redevelopment Agency Consent Calendar Items 1, 2 and 4 through 8. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Sellers)*

1. **Approval of the Special City Council Meeting Minutes of October 21, 2009**
  2. **Adopt Ordinance No. 1954, New Series, an Ordinance of the City of Morgan Hill Adding Section 18.02.055 (Unlawful Uses) and 18.02.065 (Unpermitted Uses) to the Morgan Hill Municipal Code to Clarify that Unlawful and Unpermitted Uses are Prohibited**  
**Recommended Action(s):** **Waiving** the Reading and **Adopting** Ordinance No. 1954, 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. **2009 League of California Cities Conference Resolutions Final Report** (Pulled for Discussion)  
**Recommended Action(s):** *Informational*
  4. **Bi-Annual Vacancy Rate Survey for October 2009**  
**Recommended Action(s):** **Establishing** the Bi-Annual Vacancy Rate for October 2009 as recommended by the Planning Commission.
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5. **Community Development Block Grant (CDBG) Transfer Funds Authorization (FY 2009-10)**  
**Recommended Action(s): Authorizing** Transfer of CDBG Non Public Services Funds from Friendly Inn Renovation Project (MH05-54) to Galvan Park Soccer Field Phase III Project (MH-10-54), and **Authorizing** the City Manager to do everything necessary for the implementation of the CDBG Program Transfer of Funds.
6. **September 2009 Financial & Investment Reports**  
**Recommended Action(s): Accept** and file report.

### *Redevelopment Agency Action*

#### **CONSENT CALENDAR:**

7. **September 2009 Financial & Investment Reports**  
**Recommended Action(s): Accept** and file report.

### *City Council and Redevelopment Agency Action*

#### **CONSENT CALENDAR:**

8. **Approval of Joint Regular City Council and Redevelopment Agency Meeting Minutes of October 21, 2009**

### *City Council Consent Calendar Item Pulled for Discussion*

3. **2009 League of California Cities Conference Resolutions Final Report**  
**Recommended Action(s): Informational**

Council Member Librers requested a correction to the date on page 1 of the Staff Report from Saturday, September 18 to Friday, September 18.

**Action:** *On a motion by Council/Agency Member Librers and seconded by Council/Agency Member Carr **Approving** City Council Consent Calendar Item No. 3. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Sellers)*

### *Redevelopment Agency Action*

#### **OTHER BUSINESS:**

9. **Design Concept Approval for Third Street Promenade Mural**  
**Recommended Action(s): Approve** design concept for the Third Street Promenade Mural.

Business and Housing Services Director Toy presented the staff report.

In response to Council Member Lee concerning the color scheme shown in the report, Business and Housing Services Director Toy stated the color presented is essentially the color intended for use.

In response to Council Member Librers concerning the panel height, Business and Housing Services Director Toy stated the panels would be six feet in height.

In response to Mayor Tate concerning the graffiti coating during the painting process, Business and Housing Services Director Toy stated that the panels will be coated after the panels are complete and will evaluate protection of the panels during the painting process.

In response to Council Member Carr concerning length of time the murals will be used, Business and Housing Services Director Toy stated that the mural would remain for 3-5 years and will be relocated and reused once the property is developed.

Mayor Tate opened the public comment opportunity, hearing no requests to speak the public comment opportunity was closed.

**Action:** *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Lee **Approving** the design concept for the Third Street Promenade Mural. The motion passed by the following vote: Ayes: 4; Noes: 0; Absent: 1 (Sellers).*

**FUTURE COUNCIL AGENCY-INITIATED AGENDA ITEMS:**

None to report.

Mayor Tate adjourned the Joint Regular City Council and Redevelopment Agency meeting to the Closed Session meeting at 7:19 p.m.

***City Council Action***

**CLOSED SESSION:**

**OPPORTUNITY FOR PUBLIC COMMENT**

None.

**ADJOURN TO CLOSED SESSION**

City Attorney Wan read the closed session items into the record.

**1. CONFERENCE WITH LABOR NEGOTIATOR:**

Authority:	Government Code Section 54957.6
City Negotiators:	City Manager, City Attorney, Assistant to the City Manager
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 REAL PROPERTY NEGOTIATOR**

Authority: Government Code Section 54956.8  
Property: APN 817-08-009, 515 Fisher Avenue, Morgan Hill, California  
Negotiating Parties: City Manager, City Attorney, Director of Public Works  
Property Owner: Mei Kiu Ling  
Under Negotiation: Price and Terms of Payment

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

Authority: Pursuant to Government Code 54956.9(a)  
Case Name: Tichinin v. City of Morgan Hill  
Case Number: California Court of Appeal Case No. H031019  
Attendees: City Manager, City Attorney

***Redevelopment Agency Action***

**1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

Authority: Government Code Section 54956.8  
Property: APN 726-14-001; 95 East Third Street, Morgan Hill, California  
Negotiating Parties: Executive Director, Assistant to City Manager, Agency Counsel  
Property Owner: Llagas Valley Investments, LLC  
Under Negotiation: Price and Terms of Payment

**RECONVENE**

Mayor/Chair Tate reconvened the meeting at 8:07 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney Wan announced that the City Council by a unanimous vote of the members present approved to petition the California Supreme Court for a review of the 6<sup>th</sup> District Court appeal decision in re: Tichinin vs. City of Morgan Hill. The decision for appeal is based on public policy concerns in protecting the rights of legislative bodies to express its findings and opinions. The plaintiff alleges that Morgan Hill violated his rights by passing a resolution condemning his actions in conducting undercover surveillance of a City employee. Mayor Tate reported that no reportable action was taken on the remainder of the closed session items.

**ADJOURNMENT**

There being no further business, Mayor/Chair Tate adjourned the meeting at 8:12 p.m.

**MINUTES PREPARED BY:**

  
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**TINA MCVAY**  
**COUNCIL SERVICES RECORDS COORDINATOR**