



**Meeting Minutes**

**City Council**

***Steve Tate ~ Mayor***

***Rich Constantine ~ Mayor Pro Tem***

***Marilyn Librers ~ Council Member***

***Larry Carr ~ Council Member***

***Gordon Siebert ~ Council Member***

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**Wednesday, November 16, 2016**

**6:00 PM**

**Council Chamber  
17555 Peak Avenue  
Morgan Hill, CA 95037**

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**SPECIAL/REGULAR MEETING**

A Special Meeting of the City Council was called at 6:00 p.m. for the purpose of conducting a closed session.

**SPECIAL MEETING**

**6:00 PM**

**TELECONFERENCE**

Council Member Siebert participated in the special/regular meeting via teleconference as follows:

Council Member Gordon Siebert  
3817 Abbott Martin Road  
Nashville, TN 37215

Public comment from the Tennessee location shall be allowed.

**CALL TO ORDER**

*The meeting was called to order at 6:01 p.m.*

**ROLL CALL ATTENDANCE**

- Present:** 4 - Council Member Carr, Mayor Pro Tem Constantine, Council Member Siebert, Mayor Tate
- Absent:** 0
- Excused:** 1 - Council Member Librers

**DECLARATION OF POSTING OF AGENDA**

*Deputy City Clerk Michelle Wilson declared the posting of the agenda.*

**CLOSED SESSION**

*Acting City Attorney Gary Baum read the closed session into the record.*

**OPPORTUNITY FOR PUBLIC COMMENT**

*The public comment was opened at 6:02 p.m.  
Hearing no requests to speak, the public comment was closed.*

**ADJOURN TO CLOSED SESSION**

*The special meeting adjourned to closed session at 6:02 p.m.*

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

**Pursuant to:** Government Code Section 54956.8  
**Property:** APNs 773-06-016 and 773-06-015, 905 West Main Avenue  
**Negotiating Parties:**  
    **City:** Steve Rymer and Chris Ghione  
    **Property Owner(s):** Pravettoni & Hinds  
**Under Negotiation:** Price and Terms of Payment

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

**Significant exposure to litigation pursuant to:** Government Code Section 54956.9(d)(2)  
**Number of Cases:** One (1)

**RECONVENE**

*The meeting was reconvened at 7:01 p.m.*

**CLOSED SESSION ANNOUNCEMENT**

*Acting City Attorney Gary Baum announced that there was no reportable action.*

**REGULAR MEETING****7:00 PM****SILENT INVOCATION****PLEDGE OF ALLEGIANCE****CITY COUNCIL REPORTS**

*Mayor Tate shared that he will be holding a Coffee with the Mayor at Booksmart's new location on East Dunne Avenue at 10:00 a.m. on Saturday, December 10th. He will be joined by Maureen Tobin, the City's Communication and Engagement Manager. He spoke regarding his work on the Board of Silicon Valley Clean Energy Authority, which is a community choice energy group, that allows the community to purchase clean energy. In April next year, the City will be offering clean energy as the default power selection. Residents can opt-out of the program if they would like. You can also opt-up and choose to pay a little bit more than you pay PG&E and you can get 100% renewable energy.*

**CITY MANAGER'S REPORT**

*City Manager Steve Rymer recognized Elizabeth Bassett and Najib Kalai demonstrating the core value of teamwork for their work with the City's new permitting system. He shared the upcoming City Council Meeting schedule. We will have our next meeting on December 7th which will be a regular meeting and we will have a special meeting on December 14th. We will seat the new Council at the December 14th meeting. We will be cancelling the meeting on December 21st. We always cancel the first meeting in January, then the next meeting will be January 18, 2016.*

*On December 7th we will bring a report back to the City Council on the various measures that have passed in the recent election to provide an update, as well as to look at the areas that the City may have to have some policy discussions. An interesting note is that \$32 billion worth of facility bonds were passed throughout the State and \$23 billion will go to schools for construction.*

*He continued to thank the community for being a county leader in water conservation. Morgan Hill continues to be a leader not only in the region but also in the state. He reminded the community that now that we are in the winter season, the only day that we can water in Morgan Hill is Wednesday.*

*He recommended that item 13 be considered before item 12. He concluded by speaking to the evening's supplements and presentations.*

**CITY ATTORNEY’S REPORT**

*Acting City Attorney Gary Baum introduced himself.*

**OTHER REPORTS**

*Council Member Carr noted that the Valley Transportation Authority (VTA) is going through a strategic planning process. The public can access information via the VTA website. He added that paratransit services are changing in our County. There is a new service provider. If you have any paratransit needs you can contact the VTA help line.*

**PRESENTATIONS**

[16-769](#) YAC PRESENTATION - ASSET # 41  
POSITIVE CULTURAL IDENTITY

**PUBLIC COMMENT**

*The public comment was opened at 7:21 p.m.  
Hearing no requests to speak, the public comment was closed.*

**ADOPTION OF AGENDA**

**Action: On a motion by Mayor Pro Tem Constantine and seconded by Council Member Carr, adopting the agenda moving item 13 before item 12. The motion passed by the following vote:**

**Ayes:** 4 - Carr, Constantine, Siebert, Tate

**Noes:** 0

**Absent:** 0

**Excused:** 1 - Librers

**CONSENT CALENDAR:**

**Approval of the Consent Calendar**

**Action: On a motion by Mayor Pro Tem Constantine and seconded by Council Member Carr, approving Consent Calendar items 1 through 6, 8 and 9. The motion passed by the following vote:**

**Ayes:** 4 - Carr, Constantine, Siebert, Tate

**Noes:** 0

**Absent:** 0

**Excused:** 1 - Librers

- 1 [16-750](#) AUTHORIZE THE PURCHASE OF FIVE MECHANICAL CHEST COMPRESSION DEVICES FROM PHYSIO CONTROL
- 2 [16-749](#) APPROVE AN IMPROVEMENT AGREEMENT WITH ORCHARDS MORGAN HILL, L.P. FOR BELLE NOCI, BELLE SALICI, AND BELLE ALLORI DEVELOPMENTS

- 3 [16-757](#) AWARD OF CO2 SERVICE AGREEMENT
- 4 [16-748](#) CONTRACT AMENDMENT FOR ON-CALL EMERGENCY SPILL RESPONSE CLEANUP SERVICES
- 5 [16-695](#) SIXTH AMENDMENT TO WEED ABATEMENT AGREEMENT WITH SANTA CLARA COUNTY
- 6 [16-747](#) AMEND CONFLICT OF INTEREST CODE REPORTING CATEGORIES
- 8 [16-756](#) ADOPT ORDINANCE 2224, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING SECTION 5.12.240 (PRIZE LIMITATIONS) OF CHAPTER 5.12 (BINGO GAMES) OF TITLE 5 (BUSINESS LICENSES GENERALLY) OF THE MORGAN HILL MUNICIPAL CODE TO INCREASE THE SINGLE GAME LIMIT FOR BINGO GAMES WITHIN THE CITY
- 9 [16-758](#) APPROVE THE NOVEMBER 2, 2016 SPECIAL-REGULAR CITY COUNCIL MEETING MINUTES
- 7 [16-711](#) AB 1600 DEVELOPMENT IMPACT FEE REPORT FOR FISCAL YEAR 2015-16

*Item pulled from the consent calendar at the request of the Council.*

*Finance Director Dat Nguyen and Public Works Director Karl Bjarke presented the report.*

**Action: On a motion by Council Member Carr and seconded by Mayor Pro Tem Constantine, adopting resolution 16-183 making findings for unexpended development impact fees and accepting the annual development impact fee report. The motion passed by the following vote:**

**Ayes:** 4 - Carr, Constantine, Siebert, Tate

**Noes:** 0

**Absent:** 0

**Excused:** 1 - Librers

**OTHER BUSINESS:**

10 [16-755](#) SEPTEMBER 2016 FINANCIAL AND INVESTMENT REPORT

*Finance Director Dat Nguyen presented the report.*

*The public comment was opened at 7:37 p.m.*

*Hearing no requests to speak, the public comment was closed*

**Action: On a motion by Council Member Carr and seconded by Mayor Pro Tem Constantine, accepting and filing the report. The motion passed by the following vote:**

**Ayes:** 4 - Carr, Constantine, Siebert, Tate

**Noes:** 0

**Absent:** 0

**Excused:** 1 - Librers

11 [16-759](#) REVIEW OF QUESTIONS AND ISSUES FOR HIGH SPEED RAIL PROJECT SCOPING LETTER

*Economic Development Director Edith Ramirez presented the report.*

*Acting City Attorney Gary Baum spoke regarding the potential conflicts of interest for Council Members that may live or own property near the potential alignments of the High Speed Rail. He has provided the opinion in addition to the opinion of the FPPC, that the Council Members do not have a conflict of interest because the Council Members interest is the same as the public's interest generally.*

*The public comment was opened at 7:55 p.m.*

*Arthur Kilinski was called to speak.*

*Sam Diaz was called to speak.*

*Hesham Eassa was called to speak.*

*The meeting was recessed at 8:04 p.m.*

*The meeting was reconvened at 8:10 p.m.*

*Roland Lebrun was called to speak.*

*Joseph Carrillo was called to speak.*

*Yvonne Martinez was called to speak.*

*Dan Ernest was called to speak.*

*Dolores Ramirez was called to speak.*

*Brian Sullivan was called to speak.*

*Kathy Sullivan was called to speak.*

*John McKay was called to speak.*

*Swanee Edwards was called to speak.*

*Linda Cambareri was called to speak.*

*Connie Ludewig was called to speak.*

*Marc Gallardo was called to speak.*

*Hearing no further requests to speak, the public comment was closed.*

*No action taken.*

- 13 [16-752](#) PRELIMINARY PLAN REVIEW PPR16-02:  
BUTTERFIELD-MWEST-PRELIMINARY REVIEW FOR PROPOSED INDUSTRIAL DEVELOPMENT OF APPROXIMATELY 39 ACRES IN THE MORGAN HILL BUSINESS PARK LOCATED ON THE WEST SIDE OF BUTTERFIELD BOULEVARD BETWEEN JARVIS DRIVE AND DIGITAL DRIVE (DIVCOWEST SVI, OWNERS)

*Item 13 was heard before item 12 per the Council direction.*

*Interim Principal Planner Gina Paolini presented the report. Anna Du Solier and Anthony Cataldo provided a presentation on behalf of the applicant.*

*The public comment was opened at 9:12 p.m.  
Hearing no requests to speak, the public comment was closed.*

*The public comment was re-opened at 9:34 p.m.  
Kerry Williams was called to speak.  
Hearing no further requests to speak, the public comment was closed.*

*No action taken.*

- 12 [16-719](#) AGREEMENT TO NEGOTIATE EXCLUSIVELY WITH BROOKFIELD RESIDENTIAL PROPERTIES, INC. FOR THE DEVELOPMENT OF A PORTION OF DEPOT STREET AND THE COMMUNITY AND CULTURAL CENTER SITE

*Economic Development Director Edith Ramirez presented the report.*

*The public comment was opened at 10:00 p.m.  
Bob Benevento was called to speak.  
Eric Wallace was called to speak.  
Nancy Reynolds was called to speak.  
Hearing no further requests to speak, the public comment was closed.*

*The meeting was recessed at 10:07 p.m.  
The meeting was reconvened at 10:14 p.m.*

**Action: On a motion by Council Member Carr and seconded by Mayor Pro Tem Constantine, authorizing the City Manager to enter into an agreement with Brookfield Residential providing the Exclusive Right to Negotiate for the sale, exchange, or lease of the Community and Cultural Center parking lot area and the section of Depot Street between Dunne Avenue and 5th Street, to facilitate the realignment of Depot Street, construction of new Housing, and the construction of replacement public parking. The motion passed by the following vote:**

- Ayes:** 4 - Carr, Constantine, Siebert, Tate
- Noes:** 0
- Absent:** 0
- Excused:** 1 - Librers

14 [16-738](#) SOUTH COUNTY HOUSING (SCH): ASSIGNMENT OF MADRONE CALHOME LOANS AS CREDITED FOR CERTAIN EDEN HOUSING/CREST AVENUE HOUSING LLC, OUTSTANDING HOUSING LOAN PAYMENTS

*Housing Manager Rebecca Garcia presented the report.*

*The public comment was opened at 10:17 p.m.*

*Hearing no requests to speak, the public comment was closed.*

**Action:** On a motion by Mayor Pro Tem Constantine and seconded by Council Member Carr, adopting resolution 16-184 directing and authorizing the City Manager to take all necessary actions, including the execution of an agreement and related legal documents, to accept the assignment of 11 CalHome Madrone mortgage loans as payment for a residual receipts liability of \$295,404 owed by Crest Avenue Housing LLC (formerly owned by South County Housing) to the City. The motion passed by the following

vote:

**Ayes:** 4 - Carr, Constantine, Siebert, Tate

**Noes:** 0

**Absent:** 0

**Excused:** 1 - Librers

15 [16-739](#) HOUSING AUTHORITY LOAN FORGIVENESS, SAN PEDRO GARDENS SELF-HELP HOMES

*Housing Manager Rebecca Garcia presented the report.*

*The public comment was opened at 10:24 p.m.*

*Hearing no requests to speak, the public comment was closed.*

**Action:** On a motion by Mayor Pro Tem Constantine and seconded by Council Member Carr, adopting resolution 16-185 directing and authorizing the City Manager to take all actions necessary, including the execution of agreements and documents, to implement the following; Accepting the assignment of seven

San Pedro homeowner's self help notes, principal value \$167,740.00 plus compounded interest \$1,481,227.66 from the Housing Authority of the County of Santa Clara as consideration for forgiveness of an outstanding loan of \$425,000 plus \$72,894 interest, Upon the City's receipt of the assignment of the seven San Pedro notes, authorize the City Manager to accept the deeds of trust, restructure and execute the notes to mirror the City's formula for its existing San Pedro loans in which 10% of principal and interest is forgiven in years 21-30, and subject to full ground release (removing any ground lease from any of the ownership units). The motion passed by the following vote:

**Ayes:** 4 - Carr, Constantine, Siebert, Tate

**Noes:** 0

**Absent:** 0

**Excused:** 1 - Librers



**FUTURE COUNCIL INITIATED AGENDA ITEMS:**

*Council Member Constantine requested that staff bring forward an ordinance that makes receiving a Certificate of Occupancy contingent on making sure that all construction workers are paid according to state law.*

*Council Member Carr asked for discussion regarding how the City wants to move forward with development within the County.*

**ADJOURNMENT**

*The meeting was adjourned at 10:29 p.m.*

**MINUTES PREPARED BY:**

*Michelle Wilson, Deputy City Clerk*

## NOTICE

*Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)*

## PUBLIC COMMENT

*Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers, and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so by during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.*

*Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.*

*Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.*

*City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. 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 at, or prior to the Public Hearing on these matters.*

*The time within which judicial review must be sought of the action by the City Council, 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.*

*For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov).*

## AMERICANS WITH DISABILITIES ACT (ADA)

*In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email [michelle.wilson@morganhill.ca.gov](mailto:michelle.wilson@morganhill.ca.gov). Requests must be made as early as possible and at least two-full business days before the start of the meeting.*

## City Council's Priorities, Goals, and Strategies

### 2016

#### 2016 Commitment

*The City Council is committed to engaging the community and being responsible stewards of public resources.*

#### Ongoing Priorities

*The City Council is committed to providing high quality and sustainable services for the entire Morgan Hill community. Fundamental to the City Council's success are the ongoing priorities of:*

- **Enhancing public safety**
- **Protecting the environment**
- **Maintaining fiscal responsibility**
- **Supporting youth**
- **Fostering a positive organizational culture**
- **Preserving and cultivating public trust**

#### 2016 Focus Areas

*In addition to the City Council's priorities, five specific focus areas were recognized by the Council that will require significant resources in 2016.*

- **Planning Our Community**
- **Developing Our Community**
- **Enhancing Our Services**
- **Improving Our Communication**
- **Participating In Regional Initiatives**