



Meeting Minutes

City Council

Steve Tate ~ Mayor

Rich Constantine ~ Mayor Pro Tem

Larry Carr ~ Council Member

Marilyn Librers ~ Council Member

Rene Spring ~ Council Member Elect

Wednesday, December 14, 2016

7:00 PM

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

SPECIAL

A Special Meeting of the City Council was called at 7:00 p.m. for the purpose of conducting City business.

CALL TO ORDER

The meeting was called to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: 3 - Council Member Carr, Mayor Pro Tem Constantine, Mayor Tate

Absent: 2 - Council Member Librers, Council Member Spring

DECLARATION OF POSTING OF AGENDA

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

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORTS

Mayor Pro Tem Constantine shared that due to the holiday season, all of the committees that he sits on, have not had meetings. He wished everyone a Merry Christmas and Happy Holidays.

CITY MANAGER'S REPORT

City Manager Steve Rymer recognized the Police Officers' Association (POA) for its efforts supporting our youth and working with the School District and ultimately serving 120 youth yesterday at the Shop with a Cop event at our local Target store. He also thanked Target and the Police Officers for supporting the community.

He provided an update on the three main downtown pedestrian safety projects. The first is the installation of new lights at 1st, 4th, and 5th streets. Construction started on that project today and we will continue to move forward to get those new crosswalk lights installed. The design for the new traffic signal that will be installed at 4th Street and Monterey Road has been finalized and will go out to bid next week and plan to bring the contract forward in early February. The final project that we are working on is the in-ground crosswalk lights at 3rd and Monterey. That project is scheduled to start in early January. More improvements to come. He reminded the community to please always observe the speed limits and watch for pedestrians.

He concluded by speaking to the evening's supplements and presentations.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin had no reports.

OTHER REPORTS

None.

PRESENTATION

[16-836](#)

YAC PRESENTATION- ASSET # 1- FAMILY SUPPORT

PUBLIC COMMENT

The public comment was opened at 7:10 p.m.

Brian Faircloth was called to speak.

Hearing no further 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 pulling items 9 and 14 from the agenda. The motion passed by the following vote:

Ayes: 3 - Carr, Constantine, Tate

Noes: 0

Absent: 2 - Libbers, Spring

- 9 [16-826](#) ADOPT ORDINANCE 2225, NEW SERIES, AN ORDINANCE OF THE CITY OF MORGAN HILL ADDING SECTION 1.16.040 (ELECTRONIC FILING OF CAMPAIGN STATEMENTS) TO CHAPTER 1.16 (ELECTIONS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL APPROVING THE USE OF ELECTRONIC FILING OF CAMPAIGN STATEMENTS

Item pulled from the agenda.

- 14 [16-812](#) RECEIVE REPORT FOR SCHOOL USE ON THE PROPERTY LOCATED ON THE EAST SIDE OF JUAN HERNANDEZ DRIVE, SOUTH OF BARRETT AVENUE (APNS 817-09-039, 040, AND 141) WITHIN THE SERVICE COMMERCIAL-PLANNED DEVELOPMENT (CS-PD) ZONING DISTRICT

Item pulled from the agenda.

OTHER BUSINESS:

- 1 [16-833](#) NOVEMBER 8, 2016 GENERAL MUNICIPAL ELECTION - CERTIFIED STATEMENT OF ELECTION RESULTS

The public comment was opened at 7:17 p.m.

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

Action: On a motion by Council Member Carr and seconded by Mayor Pro Tem Constantine, adopting resolution 16-197 reciting the facts of the general municipal election of November 8, 2016 and declaring the results of such other matters as provided by law. The motion passed by the following vote:

Ayes: 3 - Carr, Constantine, Tate

Noes: 0

Absent: 2 - Librers, Spring

OATHS OF OFFICE

Mayor-Elect Steve Tate
Council Member-Elect Larry Carr
Council Member-Elect Rene Spring
City Treasurer - Elect David Clink

ELECTED OFFICIALS ASSUME THEIR SEATS ON THE DAIS

Mayor Tate, Council Member Carr, and Council Member Spring took their seats at the dais at 7:20 p.m.

Present: 4 - Council Member Carr, Mayor Pro Tem Constantine, Mayor Tate, Council Member Spring

Absent: 1 - Council Member Librers

ADJOURN TO RECEPTION

The meeting adjourned to the reception at 7:21 p.m.

RECONVENE

The meeting was reconvened at 7:35 p.m.

WELCOMING ELECTED OFFICIALS

Mayor Tate invited the newly elected officials to speak.

Council Member Carr shared that he is honored and humbled to be selected to serve again as a council member. He shared that this is the start of his 5th term and that this is obviously his home and a place that he is committed to. He thanked his family for their support and all of the volunteers that helped him along the way. He spoke about the time that he spent working with Council Member Librers. She has made an important impact to this community, one that will not go away soon. He expects that she will stay engaged in our community and he is looking forward to that.

Council Member Spring thanked the community for their support and for challenging him. He also thanked everyone else who ran. He feels that they made him a better person and a better candidate. He shared that he is grateful to be here and serve the community.

Mayor Tate thanked everyone that helped and supported him with his campaign especially his wife.

OTHER BUSINESS CONTINUED:

- 2 [16-592](#) SELECTION OF CITY COUNCIL MAYOR PRO TEMPORE AND
AMENDMENT TO SELECTION OF MAYOR PRO TEMPORE COUNCIL
POLICY

Mayor Tate provided the report.

Action: On a motion by Mayor Pro Tem Constantine and seconded by Council Member Spring, adopting resolution 16-198 selecting Council Member Carr to serve as Mayor Pro Tempore per City Council Policy and amending Council Policy CP-99-01 to remove references to the Redevelopment Agency. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

3 [16-790](#) OPTIONS TO FILL THE CITY COUNCIL VACANCY

Deputy City Clerk Michelle Wilson provided the report.

The public comment was opened at 7:47 p.m.

Rich Bergin was called to speak.

Jon Mockabee was called to speak.

Doug Muirhead was called to speak.

Alex Kennett was called to speak.

John Horner was called to speak.

Jeff Dixon was called to speak.

Sue Koepp-Baker was called to speak.

Marby Lee was called to speak.

John Telfer was called to speak.

Armando Benevides was called to speak.

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

Action: On a motion by Council Member Spring and seconded by Mayor Tate, directing staff to move forward with a process that includes any qualified applicant submitting an application and interview process. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

CONSENT CALENDAR:**Approval of the Consent Calendar**

Action: On a motion by Mayor Pro Tem Carr and seconded by Council Member Constantine, approving consent calendar items 5, 6 & 8. The motion passed by the following vote:

- 5 [16-829](#) OCTOBER 2016 FINANCIAL AND INVESTMENT REPORT**
- 6 [16-825](#) SEVENTH SEMI-ANNUAL REPORT ON POST-ISSUANCE COMPLIANCE FOR TAX ADVANTAGED BONDS**
- 8 [16-763](#) MEMORANDUM OF UNDERSTANDING FOR 2016 EMERGENCY MANAGEMENT PERFORMANCE GRANT AND BUDGET AMENDMENT FOR A DISASTER RESPONSE TRAILER, EQUIPMENT FOR TRAILER, LAPTOPS, AND FEES FOR THE CALIFORNIA EMERGENCY SERVICES ASSOCIATION (CESA) CONFERENCE**

10 [16-838](#) APPROVE THE NOVEMBER 16, 2016 SPECIAL-REGULAR CITY COUNCIL MEETING MINUTES

Action: On a motion by Mayor Pro Tem Carr and seconded by Council Member Constantine, approving the minutes. The motion passed by the following vote:

Ayes: 3 - Carr, Constantine, Tate

Noes: 0

Absent: 1 - Librers

Abstain: 1 - Spring

11 [16-837](#) APPROVE THE DECEMBER 7, 2016 SPECIAL-REGULAR CITY COUNCIL MEETING MINUTES

Action: On a motion by Mayor Pro Tem Carr and seconded by Council Member Constantine, approving the minutes. The motion passed by the following vote:

Ayes: 3 - Carr, Constantine, Tate

Noes: 0

Absent: 1 - Librers

Abstain: 1 - Spring

4 [16-839](#) CITY COUNCIL STATEMENT OF SUPPORT AND ASSURANCE

Item pulled for discussion at the request of the public.

Mayor Tate provided the report.

The public comment was opened at 8:34 p.m.

Ann Horner was called to speak.

Cynthia Lim was called to speak.

John Horner was called to speak.

Rebecca Armendariz was called to speak of behalf of Gemma Abels.

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

Action: On a motion by Mayor Pro Tem Carr and seconded by Council Member Constantine, affirming the City Council's Statement of Support and Assurance removing the references to San Jose and that the Council will work with residents to add to this statement, to make it more powerful, and impactful for our community and in the next couple of months consider a resolution that would do the same. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

7 [16-832](#) CALIFORNIA HIGH SPEED RAIL AUTHORITY (HSR) UPDATE

Item pulled for discussion at the request of the public.

Council Member Carr shared that at the last High Speed Rail meeting he announced that he may have a conflict of interest based upon where his home is located. The FPPC has provided the opinion that Council Member Carr does have a conflict at the moment on High Speed Rail issues before the City Council so in all abundance of caution he will step down from the dais for this item so that any council actions taken on this item cannot be called into question. He is not pleased about having to do this as he has been very engaged in this discussion for eight years.

Mayor Pro Tem Carr stepped down from the dais.

City Manager Steve Rymer provided the report.

The public comment was opened at 8:57 p.m.

Swanee Edwards was called to speak.

Karen Lattin was called to speak.

Roland Lebrun was called to speak.

Shirley Higdon was called to speak.

Kathy Sullivan was called to speak.

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

No action required or taken.

Mayor Tate called a recess at 9:08 p.m.

The meeting was reconvened at 9:17 p.m.

OTHER BUSINESS CONTINUED:**12 [16-805](#) COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2016**

Mayor Pro Tem Carr resumed his seat at the dais.

Assistant City Manager Christina Turner provided the report.

The public comment was opened at 9:22 p.m.

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

Action: On a motion by Mayor Pro Tem Carr and seconded by Council Member Constantine, accepting the City's Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2016. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Libbers

13 [16-737](#) BELOW MARKET RATE (BMR) HOUSING IN-LIEU FEE
RECOMMENDATIONS

Housing Manager Rebecca Garcia and Debbie Kern with Keyser Marston and Associates provided the report.

The public comment was opened at 9:34 p.m.

Dick Oliver was called to speak.

John Telfer was called to speak.

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

Action: On a motion by Council Member Spring and seconded by Mayor Pro Tem Carr, receiving the Keyser Marston & Associates (KMA) report entitled "Draft Analysis of Morgan Hill's BMR Program," dated November 29, 2016. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

PUBLIC HEARINGS:

15 [16-595](#) ZONING AMENDMENT (ZA2016-0007: CITY OF MORGAN
HILL-MEDICAL OFFICE AND CLINICS): AN AMENDMENT TO TITLE
18, DIVISION 1, ZONING CODE TO AMEND CHAPTER 18.04
"DEFINITIONS", AMEND CHAPTER 18.20 CN NEIGHBORHOOD
COMMERCIAL DISTRICT, SECTION 18.20.020 PERMITTED USES,
AMEND CHAPTER 18.22 CG GENERAL COMMERCIAL DISTRICT,
SECTION 18.22.020 PERMITTED USES OF THE MORGAN HILL
MUNICIPAL CODE

Economic Development Coordinator John Lang provided the report.

The public hearing was opened at 10:14 p.m.

John Horner was called to speak.

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

Action: On a motion by Mayor Pro Tem Carr and seconded by Council Member Constantine, waiving the first and second reading of zoning amendment ordinance 2226. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

Action: On a motion by Mayor Pro Tem Carr and seconded by Council Member Constantine, introducing zoning amendment ordinance 2226. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

- 16 [16-808](#) DEVELOPMENT AGREEMENT, DA2016-0008: WALNUT GROVE-NEWLAND HOMES: REQUEST FOR FIVE RESIDENTIAL BUILDING ALLOTMENTS FOR FISCAL YEAR 2017/18 LOCATED AT THE EAST SIDE OF WALNUT GROVE, SOUTH OF DIANA AVENUE (APN(S) 726-07-089, -023 AND -024)

Interim Principal Planner Gina Paolini presented the report.

The public hearing was opened at 10:24 p.m.

Bill McClintock was called to speak.

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

Action: On a motion by Council Member Constantine and seconded by Mayor Pro Tem Carr, waiving the first and second reading of development agreement ordinance 2227. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

Action: On a motion by Council Member Constantine and seconded by Mayor Pro Tem Carr, introducing development agreement ordinance 2227 adding a disclosure notification to potential buyers if the site is within or adjacent to an area being considered by the High Speed Rail for construction of the California High Speed Rail project. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

- 17 [16-807](#) DEVELOPMENT AGREEMENT AMENDMENT, DAA 14-10 (AAE2016-0003): E. DUNNE - BUSK: REQUEST FOR A SIX MONTH EXTENSION TO A COMMENCEMENT OF CONSTRUCTION DATE WITHIN AN APPROVED DEVELOPMENT AGREEMENT FOR A 14-UNIT SINGLE FAMILY PROJECT LOCATED ON THE SOUTH EAST CORNER OF THE INTERSECTION OF EAST DUNNE AVENUE AND MURPHY AVENUE (APN 817-19-044)

Interim Planning Manager Terry Linder provided the report.

The public hearing was opened at 10:37 p.m.

Scott Murray was called to speak.

Greg Beckelhymer was called to speak.

David Paulsen was called to speak.

John Telfer was called to speak.

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

Action: On a motion by Council Member Constantine and seconded by Mayor Pro Tem Carr, extending the meeting to 11:30 p.m. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Librers

Action: On a motion by Mayor Pro Tem Carr and seconded by Mayor Tate, waiving the first and second reading of development agreement amendment ordinance 2228 granting a six month extension of the 7 FY 2015-16 allocations subject to the performance deadlines shown in Exhibit A of the Ordinance becoming hard deadlines that if missed, would result in the loss of all 12 project allocations. The motion passed by the following vote:

Ayes: 3 - Carr, Constantine, Tate

Noes: 1 - Spring

Absent: 1 - Libbers

Action: On a motion by Mayor Pro Tem Carr and seconded by Mayor Tate, introducing development agreement amendment ordinance 2228 as amended. The motion passed by the following vote:

Ayes: 3 - Carr, Constantine, Tate

Noes: 1 - Spring

Absent: 1 - Libbers

- 18 [16-819](#) APPEAL (AAE2016-006) OF PLANNING COMMISSION EVALUATION OF RESIDENTIAL CONTROL SYSTEM (RDCS) APPLICATION RDCS2016-0017: MURPHY-PRESIDIO-EVERGREEN: APPLICATION FOR 74 CONDOMINIUM UNITS LOCATED AT THE NORTHWEST CORNER OF SAN PEDRO AVENUE AND MURPHY AVENUE (APN 817-12-009)

Items 18 and 19 were taken together.

Interim Principal Planner Gina Paolini provided the report.

The public hearing was opened at 11:12 p.m.

Orville Power was called to speak.

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

Action: On a motion by Council Member Spring and seconded by Mayor Tate, denying both appeals; AAE2016-006 and AAE2016-005. The motion passed by the following vote:

Ayes: 3 - Carr, Tate, Spring

Noes: 1 - Constantine

Absent: 1 - Libbers

- 19 [16-816](#) APPEAL (AAE2016-005) OF PLANNING COMMISSION'S EVALUATION OF RESIDENTIAL CONTROL SYSTEM (RDCS) APPLICATION RDCS2016-0018: CONDIT-PRESIDIO-EVERGREEN: APPLICATION FOR A 182 UNIT MULTI-FAMILY RENTAL DEVELOPMENT PROJECT LOCATED AT THE NORTHEAST CORNER OF SAN PEDRO AVENUE AND CONDIT AVENUE. (APN 817-12-006)

Action: On a motion by Council Member Spring and seconded by Mayor Tate, denying both appeals; AAE2016-006 and AAE2016-005. The motion passed by the following vote:

Ayes: 3 - Carr, Tate, Spring

Noes: 1 - Constantine

Absent: 1 - Libbers

FUTURE COUNCIL INITIATED AGENDA ITEMS:

None.

CLOSED SESSION

City Attorney Donald Larkin read the closed session into the record.

OPPORTUNITY FOR PUBLIC COMMENT

The public comment was opened at 11:27 p.m.

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

Action: On a motion by Council Member Constantine and seconded by Council Member Spring, extending the meeting to 11:55 p.m. The motion passed by the following vote:

Ayes: 4 - Carr, Constantine, Tate, Spring

Noes: 0

Absent: 1 - Libbers

ADJOURN TO CLOSED SESSION

The meeting adjourned to closed session at 11:27 p.m.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to: Government Code Section 54956.9(d)(2)

Number of Cases: One (1)

RECONVENE

The meeting was reconvened at 11:55 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney Donald Larkin announced that there was no reportable action.

ADJOURNMENT

The meeting was adjourned at 11:55 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.

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. 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**