



# City of Morgan Hill

## Legislation Text

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## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: MARCH 2, 2016**

PREPARED BY: Andrew Crabtree, Director, Community Development  
APPROVED BY: City Manager

## **CITY-WIDE AGRICULTURAL LANDS PRESERVATION PROGRAM - IMPLEMENTATION ACTIONS**

### **RECOMMENDATION(S)**

Adopt a resolution directing staff to take the following actions in order to advance the adopted City-wide Agricultural Lands Preservation Program:

1. Rename the existing Open Space Fund to the "Agriculture and Open Space Preservation Fund;" and
2. Establish an Agricultural Lands Mitigation Bank and direct staff to work with the selected consultant to establish the same; and
3. Dedicate an initial amount of \$6 million from the City's Agriculture and Open Space Preservation Fund for Agricultural Land Conservation; and
4. Evaluate agricultural land preservation partnership opportunities within the County as detailed in the Open Space Authority's "Santa Clara Valley Greenprint" and other complementary plans, especially those in close proximity to Morgan Hill.

### **COUNCIL PRIORITIES, GOALS & STRATEGIES:**

#### **Ongoing Priorities**

Protecting the environment  
Maintaining fiscal responsibility  
Preserving public trust

#### **2016 Focus Areas**

Planning Our Community  
Enhancing Our Services

### **REPORT NARRATIVE:**

The City of Morgan Hill has a long and proud history of environmental stewardship and is committed to preserving agricultural lands. From existing hillside and open space preservation, to being a County leader in conserving our precious water resources, the Morgan Hill community has made our environment a priority for many years. As one of four jurisdictions that developed and adopted the

Santa Clara Valley Habitat Plan and one of only 20 cities and counties in the State of California to adopt agricultural mitigation policies, Morgan Hill continues to demonstrate through actions and funding that it is committed to protecting the environment.

The City has identified the preservation of agricultural lands within the City's Sphere of Influence ("SOI") as an important City objective. To advance this objective, the City Council adopted a City-wide Agricultural Lands Preservation Program (the "Program") and an Agricultural Lands Mitigation Ordinance (the "Ordinance") and prepared an Environmental Impact Report ("EIR") to address the potential environmental impacts of the Program. The City's Program and Ordinance were developed by using the Local Area Formation Commission ("LAFCO") Agricultural Mitigation Policies as a guide and are also consistent with the California Council of Land Trust model mitigation program and ordinance for local governments.

The Program, which serves as a binding City Council Policy document, establishes a policy framework for the preservation of agricultural lands. The Program identifies the purchase of permanent Agricultural Conservation Easements as a primary tool for the preservation of agricultural activity and the preservation of agricultural lands in perpetuity. The Program also indicates that the City should partner with a 3rd-party entity (a governmental agency or non-profit) to act as the "Implementing Entity" for the Program, recognizing that other entities may have greater expertise with the various steps necessary to obtain and manage Agricultural Conservation Easements.

The City is confident that its forward-thinking, citywide agricultural preservation program will result in preserving agricultural lands within its SOI because of its demonstrated history of successfully protecting the environment and the availability of City funds to ensure conservation easements can be obtained. Such funding is a unique advantage within California as stated in the "The Bay Area Agricultural Sustainability Project - A White Paper." This fact should not be taken lightly as the Morgan Hill City Council is the only organization to pledge funds for preserving Southeast Quadrant ("SEQ") agriculture.

Because the largest concentration of agricultural lands within the SOI is located in the City's SEQ, the City has also engaged in an SEQ land use planning exercise, including the adoption of General Plan and Zoning District amendments. The SEQ Land Use plan has been informed through direction from the City Council at various steps in its development. As detailed in an attachment to this report, the Council has discussed the SEQ a minimum of 30 times at its regular scheduled meetings since 2003. This is in addition to numerous Planning Commission meetings and other community meetings on this topic.

The City has established two important goals for the SEQ while working with local property owners and other stakeholders. The first is to preserve agricultural lands and the second is to establish a compatible sports-recreation-leisure ("SRL") district. Because of the degree to which the SEQ has already been granted subdivision rights, agricultural preservation will be particularly challenging, as stated in the Open Space Authority's "Santa Clara Valley Greenprint," but the City has committed to the exploration of a variety of creative approaches to achieve its goal (and that of many other organizations) of preserving agricultural activity within the SEQ.

In addition to the progress made to date, the City will be an active participant in the County's and Open Space Authority's "Sustainable Agricultural Lands Policy Framework" effort that will be commencing soon. To date, the City Council adopted a resolution supporting the effort and staff has

communicated that the City is open to refining its Program and Ordinance if new approaches and tools come as a result of the collaborative effort.

Per previous Council direction, the City is currently in the process of working to obtain the services of a consultant to act as the Implementing Entity for the Program. The consultant would be responsible for negotiating the purchase of Agricultural Conservation Easements from willing property owners using funding available as collected from the Agricultural Mitigation In-Lieu Fee or the City's Agriculture and Open Space Preservation Fund. The consultant would also be responsible for monitoring and reporting to the City (and the City would concurrently report to LAFCO) on the status of lands placed under Agricultural Conservation Easements through the Program. The consultant's role would be an interim role while the City identifies an entity to act as the Implementing Entity long-term.

At this time, staff is requesting that the City Council provide direction to undertake the following actions which will further the implementation of the Program:

- 1) Rename the existing Open Space Fund to the "Agriculture and Open Space Preservation Fund." The City Council previously (as early as 2007), determined that it would be appropriate to use the Residential Development Control System (the "RDSCS") and funds gained through the RDSCS to fund agricultural land preservation. The RDSCS currently allows developers (of projects within the City's existing City limits) to contribute money toward Open Space preservation as a means of gaining points in the RDSCS competition. The Open Space Fund has been growing at a rate of several hundred thousand dollars per year and currently has over \$6 million in the fund balance. In addition, now that the Council has approved the Ordinance, money generated from the adopted In-Lieu Fee will be held in and spent from this fund. This commitment is consistent with the original purpose of the funds when those were originally provided to the City through the RDSCS.
- 2) Work with the selected consultant to establish an Agricultural Lands Mitigation Bank (the "Mitigation Bank"). The Mitigation Bank will consist of properties upon which an Agricultural Conservation Easement has been recorded, consistent with the requirements of the Program and the Ordinance, in advance of the need for those lands to serve as mitigation. Acreage placed under an Agricultural Conservation Easement with the Mitigation Bank may be assigned (on a one time basis only) to serve as mitigation for projects as they come in. Projects receiving mitigation from the Mitigation Bank will be required to pay the In-Lieu Fee. Establishment of the Mitigation Bank furthers the City's commitment to preservation of agricultural lands, consistent with the "stay ahead" provision in the Program and the Ordinance.
- 3) Commit \$6 million in Agriculture and Open Space Preservation Funds to fund the initial effort.
- 4) In addition to the City's priority to preserve SEQ agricultural land, evaluate agricultural land preservation partnership opportunities within the County as detailed in the Open Space Authority's "Santa Clara Valley Greenprint" and other complementary plans, especially

those in close proximity to Morgan Hill. This is being recommended to address several goals, including: a) maintaining community character in multiple areas adjacent to the City, b) ensuring that the City has the appropriate number of acres in its agriculture mitigation bank, and c) fostering regional partnership opportunities to advance the common goal of agriculture preservation, among others.

Finally, the City has submitted an application to LAFCO requesting that the SRL portion of the SEQ be added to the City's Urban Service Area. A LAFCO hearing on this request is scheduled for March 11, 2016.

## **COMMUNITY ENGAGEMENT: Collaborate**

The City has conducted extensive community engagement (at a minimum, 40 meetings since 2003) in developing the Program and SEQ land use planning efforts. Recent outreach activities include presentations to the Open Space Authority Board on December 10, 2015, the San Martin neighborhood association on January 19, 2016, and the Morgan Hill Chamber of Commerce Environmental Affairs Committee on February 19, 2016, as well as ongoing meetings with County planning staff and other interested parties.

## **ALTERNATIVE ACTIONS:**

1. Do not take any action.
2. Provide additional direction.

## **PRIOR CITY COUNCIL AND COMMISSION ACTIONS:**

The Planning Commission and City Council have discussed the City's preservation of agricultural lands and related topics at over 40 meetings (see attached). Notable action dates include the following:

- On November 5, 2014, the City Council certified the project EIR and adopted the Program.
- On February 4, 2015, the City Council considered the SEQ General Plan land use diagram amendments and approved amendments to the General Plan to establish an Urban Limit Line ("ULL"), to expand the Urban Growth Boundary ("UGB") within the SEQ, and to establish a SRL use district as well as support a future high school use.
- On July 15, 2015, the City Council adopted the Ordinance to codify as requirements the mitigation policies included in the Program. The City Council also adopted the SRL Zoning District, gave direction to forward the SEQ USA Expansion request to LAFCO, and adopted a pre-zoning for the SRL properties and a private high school.

## **FISCAL AND RESOURCE IMPACT:**

The Program is considered part of the City's long-range planning work program and staff time is funded through use of the long-range planning fund, Fund 207. While the Program is intended to be fiscally self-sustaining over the long-term, it is anticipated that the City will continue to provide support for the Program and its implementation as part of the long-range planning program, including the selection process for a Consultant/Implementing Entity. Open Space funds are collected through

administration of the RDCS. The fund currently has a balance of \$6.25 million as of February 23, 2016.

**CEQA (California Environmental Quality Act):**

Project, Description of CEQA requirements

An EIR was prepared in accordance with the California Environmental Quality Act ("CEQA") to evaluate the potential environmental impacts associated with the adoption of the Program and SEQ Land Use Plan (State Clearinghouse No. 2010102010). This document, prepared in conformance with the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000, et seq.) and City of Morgan Hill rules and regulations, evaluated the impacts of the subject project and was previously certified under the requirements of CEQA last November 2014.

**LINKS/ATTACHMENTS:**

1. Prior Planning Commission and City Council Hearings
2. Resolution