



**Meeting Minutes  
City Council**

*Steve Tate - Mayor*  
*Rich Constantine - Mayor Pro Tem*  
*Larry Carr - Council Member*  
*Caitlin Jachimowicz - Council Member*  
*Rene Spring - Council Member*

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**Wednesday, May 16, 2018 6:30 pm**

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

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**SPECIAL/REGULAR MEETING**

**(6:30 P.M. Closed Session/ 7:00 P.M. Regular Meeting)**

***A special meeting of the City Council was called at 6:30 p.m. for the purpose of conducting a closed session.***

**SPECIAL MEETING**

**6:30 P.M.**

**CALL TO ORDER**

Mayor Tate called the special meeting to order at 6:30 p.m.

**ROLL CALL ATTENDANCE**

Deputy City Clerk Michelle Bigelow called the roll.

| Attendee Name    | Title          | Status  | Arrived |
|------------------|----------------|---------|---------|
| Steve Tate       | Mayor          | Present |         |
| Rich Constantine | Mayor Pro Tem  | Late    | 6:37 PM |
| Larry Carr       | Council Member | Present |         |

|                     |                |         |  |
|---------------------|----------------|---------|--|
| Caitlin Jachimowicz | Council Member | Present |  |
| Rene Spring         | Council Member | Present |  |

## **DECLARATION OF POSTING AGENDA**

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

### **CLOSED SESSION**

### **CLOSED SESSION ANNOUNCEMENT**

City Attorney Donald Larkin announced the closed session items.

### **OPPORTUNITY FOR PUBLIC COMMENT**

The public comment was opened at 6:31 p.m.

There being no requests to speak, the public comment was closed.

### **ADJOURN TO CLOSED SESSION**

The special meeting adjourned to closed session at 6:33 p.m.

### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code section 54956.9(d)(1)  
Case Name: Morgan Hill Hotel Coalition, et al. v. City of Morgan Hill  
Case Number: California Supreme Court Case No. S243042

### **CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION**

Authority: Pursuant to Government Code section 54956.9(b)  
Number of Cases: 1  
Potential Plaintiff: Morgan Hill Hotel Coalition

### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Pursuant to Government Code section 54956.9(d)(1)  
Case Name: United States of America v. State of California  
Case Number: U.S. District Court, Easter Dist., California No. 18-264

## **REGULAR MEETING**

**7:00 P.M.**

### **RECONVENE**

The regular meeting convened at 7:03 p.m.

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

## **CITY COUNCIL REPORTS**

Council Member Carr gave an update on the Upper Llagas Flood Control Project. This project, once complete, would alleviate flooding throughout Morgan Hill. He shared that the project has been in the works for decades. It is a US Army Corps of Engineers project that is planned in two phases. Phase 1 includes construction from the north end of Gilroy up to the south end of Morgan Hill at Watsonville Road and includes Lake Silveira. Phase 2 includes from Watsonville Road up Monterrey Road to the north end of Morgan Hill. The Santa Clara Valley Water District (SCVWD) has approved the final environmental impact report and all the Phase 1 design work has been completed. All the permits, except for one, have been acquired. The US Army Corps of Engineers is working with the Fish and Wildlife Service on the last permit. They are expecting to obtain the last permit early this summer and then go out to bid for construction of the project in August. The actual construction is expected to begin in November 2018. We have learned that it is very hard to estimate dates when working with the federal regulatory agencies. The Phase 2 design work is about 90% complete and City staff is currently reviewing the construction documents for that phase. This project will require about 146 property acquisitions, not whole properties, rather sections or slivers of property along the creek. Phase 1 requires 44 property acquisitions, of which 42 have been made. The final two have reached settlements and need to close escrow. Phase 2 impacts about 102 properties, many of which would be temporary construction easements. Those agreements are almost complete. If things continue to progress as they have over the past couple of years, we expect to break ground on the project in November 2018 with the construction taking about two years.

He then provided an update on his work with the Valley Transportation Authority (VTA) regarding mobility between San Benito County and Santa Clara County, particularly the Highway 152 and 25 corridors. Those corridors have been identified as areas of significant economic interest for Santa Clara County and recently the California Transportation Commission recommended \$4.2 million from the Trade Corridors Enhancement Program, all State monies, to go to VTA specifically for these projects. This will allow the VTA to start the design of the improvements for the Highway 25/101 interchange.

He concluded by wishing his daughter Katie a happy 16th birthday.

## **CITY MANAGER'S REPORT**

City Manager Christina Turner announced the evening's supplements and presentations. She mentioned that the AMGEN Tour of California time trials took place in Morgan Hill today. She thanked the Council for having the vision to go forward with having the AMGEN race in Morgan Hill. She also gave a shout out to her teammates for their dedication and hard work which made the event a success. We have received a lot of positive feedback. She shared that the recommended budget was introduced at the last City Council meeting and announced that the Budget Workshop will be held this Friday, May 18 at 9:00 a.m. in the Council Chamber. The budget adoption is scheduled for Wednesday, June 6.

She announced that the First Annual South County Law Enforcement Recognition event will take place this Saturday, May 19 at 11:00 a.m. at the Community and Cultural Center. This event is in conjunction with our faith-based community and is open to the public.

She shared that in June we will be recognizing Pride Month. The Library will be having two events. The first will be a movie screening on Monday, June 11 at 7:00 p.m. and the second will be a speaker's panel on Tuesday, June 26 at 7:00 p.m.

## **CITY ATTORNEY'S REPORT**

City Attorney Donald Larkin announced that Council voted unanimously in the closed session to authorize

the City Attorney to sign on to an Amicus Brief authored by the County of Santa Clara in the case of United States of America vs. State of California US District Court Eastern District of California number 18-264. The Amicus Brief will focus on the need for law enforcement to remain independent of immigration enforcement to ensure good community relations and effective policing.

## **OTHER REPORTS**

None.

## **PROCLAMATIONS**

Proclaiming May 15, 2018 as National Peace Officers Memorial Day and the week of May 13-19, 2018 as National Police Week

Proclaiming the week of May 20-26, 2018 as Public Works Week

Proclaiming the Month of May as Older Americans Month

Proclaiming the Month of May as Foster Care/Resource Parent Awareness Month

## **RECOGNITIONS**

Recognizing Gladys Aichele for 20+ years of volunteering with the Senior Center

Recognizing the Library Culture and Arts Commission for the Art a la Carte Program

Recognizing Merrill Lynch Morgan Hill for Community Services

## **MERRILL LYNCH RECOGNITION PRESENTATION**

## **PRESENTATIONS**

YAC PRESENTATION - ASSET #18 YOUTH PROGRAMS

## **PUBLIC COMMENT**

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

Dave Truslow was called to speak.

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

## **HANDOUT FROM PUBLIC**

## **ADOPTION OF AGENDA**

### **MOTION:**

Adopting the amended agenda as posted.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                   |
| <b>MOVER:</b>    | Rich Constantine, Mayor Pro Tem              |
| <b>SECONDER:</b> | Larry Carr, Council Member                   |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

## **CONSENT CALENDAR**

### **MOTION:**

Approving consent calendar items 1 through 4, 6, and 9 through 12.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>                  |
| <b>MOVER:</b>    | Rene Spring, Council Member                  |
| <b>SECONDER:</b> | Rich Constantine, Mayor Pro Tem              |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

### **1. RESIGNATION OF LIBRARY, CULTURE, AND ARTS COMMISSIONER**

Recommendation:

1. Accept Maria Antunes resignation from the Library, Culture, and Arts Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending April 1, 2019, on the Library, Culture, and Arts Commission.

### **2. ACCEPT DONATION FROM COMMUNITY LAW ENFORCEMENT FOUNDATION**

Recommendation:

Accept donations of equipment and monies from the Morgan Hill Community Law Enforcement Foundation and adopt resolution to amend the City's Fiscal Year 17-18 General Fund budget accepting a donation of \$1,385 and appropriating \$1,385.

### **3. APPROVE CITY COUNCIL AND PLANNING COMMISSION EMAIL POLICY**

Recommendation:

Review and Approve the City Council and Planning Commission Email Policy.

### **4. APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR 2018**

Recommendation:

Approve Fiscal Year 2018-19 Community Promotions Funding Requests totaling \$41,800.

### **5. ITEM PULLED FOR DISCUSSION**

### **6. ACQUISITION OF THE 18428 JADE LANE BELOW MARKET RATE (BMR) HOME BY THE CITY HOUSING FUND**

Recommendation:

Adopt resolution:

1. Authorizing acquisition of the Moderate, Below Market Rate (BMR) home located at 18428 Jade Lane to re-sell to an income-eligible buyer, preserving the unit within the City's affordable housing inventory at 120% of the Area Median Income and extending the affordability covenants; and
2. Approving an amendment to the City's Fiscal Year 2017-18 budget, appropriating \$601,300 from the Housing Fund (255) for short term expenses associated with the acquisition and rehabilitation of the home located at 18428 Jade Lane.

**7. ITEM PULLED FOR DISCUSSION**

**8. ITEM PULLED FOR SEPARATE VOTE**

**9. APPROVE FIRST AMENDMENT TO AGREEMENT WITH MORGAN HILL J.E.T. ELECTRIC, INC.**

Recommendation:

Approve the First Amendment to the maintenance service agreement with Morgan Hill J.E.T. Electric, Inc. for \$85,000 for three years of service.

**10. AMEND AGREEMENT WITH ASSET PROTECTION GROUP PRIVATE SECURITY, INC.**

Recommendation:

Approve the Second Amendment to Consultant Agreement with Asset Protection Group Private Security Inc. for \$105,000 for three years of service.

**11. CONSULTANT AGREEMENT WITH NYANDA AND ASSOCIATES LLC, DBA HOUSEKEYS FOR BMR AND LOAN ADMINISTRATION**

Recommendation:

1. Approve consultant agreement for BMR and loan administration services through June 30, 2020, for \$1,050,000; and
2. Authorize the City Manager to execute and administer the contract.

**12. APPROVE THE MAY 2, 2018 MEETING MINUTES**

Recommendation:

Approve Minutes.

**ITEMS PULLED FOR DISCUSSION**

**5. REBUILDING TOGETHER REHAB PROGRAM AGREEMENT**

Recommendation:

1. Approve agreement for consultant services for Rebuilding Together of Silicon Valley to provide home repair services for \$200,000 for two years of service; and
2. Authorize the City Manager to execute and administer such agreement.

**MOTION:**

Approving the recommended action.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>                  |
| <b>MOVER:</b>    | Larry Carr, Council Member                   |
| <b>SECONDER:</b> | Rich Constantine, Mayor Pro Tem              |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

**7. AIRBNB VOLUNTARY COLLECTION AGREEMENT**

Recommendation:

Authorize the City Manager to negotiate and execute a Voluntary Collection Agreement with Airbnb Inc. for the collection of the City's Transient Occupancy Tax on behalf of Airbnb hosts who rent their residences to others using the Airbnb application and platform.

**MOTION:**

Approving the recommended action.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>APPROVED [UNANIMOUS]</b>                  |
| <b>MOVER:</b>    | Caitlin Jachimowicz, Council Member          |
| <b>SECONDER:</b> | Rene Spring, Council Member                  |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

## **ITEM PULLED FOR SEPARATE VOTE**

### **8. CALIFORNIA HIGH SPEED RAIL AUTHORITY - REIMBURSEMENT AGREEMENT AMENDMENT**

Recommendation:

Approve the amendment to the reimbursement agreement to extend the contract term to June 30, 2020.

**MOTION:**

Approving the recommended action.

|                  |                                        |
|------------------|----------------------------------------|
| <b>RESULT:</b>   | <b>APPROVED [4 TO 0]</b>               |
| <b>MOVER:</b>    | Rene Spring, Council Member            |
| <b>SECONDER:</b> | Rich Constantine, Mayor Pro Tem        |
| <b>AYES:</b>     | Tate, Constantine, Jachimowicz, Spring |
| <b>RECUSED:</b>  | Carr                                   |

## **OTHER BUSINESS**

### **13. PROVIDE DIRECTION TO STAFF REGARDING ORDINANCES TO PREVENT GUN VIOLENCE**

Recommendation:

Direct the City Attorney to draft, for Council consideration, ordinances:

1. Creating a duty to report the theft or loss of firearms
2. Requiring the safe storage of firearms when not in use
3. Prohibiting the possession of large capacity magazines
4. Requiring a permit to conduct retail firearms sales

City Attorney Donald Larkin provided the report.

The public comment was opened at 7:54 p.m. The following people were called to speak:

G. Mitchell Kirk  
Glen Murray  
Dave Truslow  
Lawrence Townsend  
Brian Wong  
Katie Khera

Trevor Bacolini

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

**MOTION:**

Directing staff to draft ordinances along the lines of the four suggested actions in the staff report including the comments that Council Members have made tonight.

The meeting went into recess at 8:46 p.m.

The meeting was reconvened at 8:55 p.m.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>DIRECTED [UNANIMOUS]</b>                  |
| <b>MOVER:</b>    | Larry Carr, Council Member                   |
| <b>SECONDER:</b> | Rich Constantine, Mayor Pro Tem              |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

## **PUBLIC HEARING**

### **14. INITIATE ANNUAL ASSESSMENT PROCESS FOR LANDSCAPE ASSESSMENT DISTRICT NUMBER 1**

Recommendation:

Adopt resolutions approving the following actions:

1. Initiate the proceedings for the levy of assessments for Fiscal Year 2018-19;
2. Provide approval of the Engineer's Annual Report and the proposed assessment levy; and
3. Declare the City Council's intention to levy the assessments in the District and to set the Public Hearing date for June 6, 2018.

Interim Deputy City Manager Chris Ghione provided the report.

The public comment was opened at 8:59 p.m.

There being no requests to speak, the public comment was closed.

**MOTION:**

Approving the recommended action.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>ADOPTED [UNANIMOUS]</b>                   |
| <b>MOVER:</b>    | Larry Carr, Council Member                   |
| <b>SECONDER:</b> | Rich Constantine, Mayor Pro Tem              |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

### **15. ZA2016-0006: A COMPREHENSIVE UPDATE OF TITLE 18 - ZONING OF THE CITY OF MORGAN HILL MUNICIPAL CODE INCLUDING AN AMENDMENT TO THE CITY'S OFFICIAL ZONING MAP CONSISTENT WITH THE MORGAN HILL 2035 GENERAL PLAN (ZONING CODE UPDATE)**

Recommendation:

1. Open/close public hearing;
2. Waive first and second reading of Zoning Code Update Ordinance; and
3. Introduce Zoning Code Update Ordinance.

Interim Principal Planner John Baty, along with Ben Noble with Placeworks, provided the report.

The public comment was opened at 9:19 p.m. The following people were called to speak:  
Paul Henry  
Rocke Garcia  
Asit Panwala  
John Horner  
There being no further requests to speak, the public comment was closed.

**MOTION:**

Waiving the first and second reading of the Zoning Code Update Ordinance.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>WAIVED [UNANIMOUS]</b>                    |
| <b>MOVER:</b>    | Rich Constantine, Mayor Pro Tem              |
| <b>SECONDER:</b> | Larry Carr, Council Member                   |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

**MOTION:**

Introducing the Zoning Code Update Ordinance with staff recommended actions.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>INTRODUCED [UNANIMOUS]</b>                |
| <b>MOVER:</b>    | Rich Constantine, Mayor Pro Tem              |
| <b>SECONDER:</b> | Larry Carr, Council Member                   |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

## **OTHER BUSINESS**

### **16. POTENTIAL NEXT STEPS ON CANNABIS REGULATIONS AND TAXATION, INCREASE TO TRANSIENT OCCUPANCY TAX, AND ESTABLISHMENT OF TOURISM BUSINESS IMPROVEMENT DISTRICT**

Recommendation:

Provide direction on potential next steps for:

1. Cannabis regulations and taxation;
2. Transient Occupancy Tax increase; and
3. Tourism Business Improvement District establishment

City Manager Christina Turner, along with Interim Deputy City Manager Chris Ghione, Police Chief David Swing, and Economic Development Director Edith Ramirez provided the report.

The public comment was opened at 9:57 p.m. The following people were called to speak:  
John Horner  
Andrew Firestone  
Asit Panwala  
Michaela Toscas  
Trevor Bacolini  
There being no further requests to speak, the public comment was closed.

**MOTION:**

Direct staff to come back with language to put a tax measure for cannabis on the November 2018 ballot including medical and recreational uses.

|                  |                                        |
|------------------|----------------------------------------|
| <b>RESULT:</b>   | <b>DIRECTED [4 TO 1]</b>               |
| <b>MOVER:</b>    | Larry Carr, Council Member             |
| <b>SECONDER:</b> | Caitlin Jachimowicz, Council Member    |
| <b>AYES:</b>     | Constantine, Carr, Jachimowicz, Spring |
| <b>NAYS:</b>     | Tate                                   |

**MOTION:**

Extending the meeting to 11:10 p.m.

|                  |                                              |
|------------------|----------------------------------------------|
| <b>RESULT:</b>   | <b>EXTENDED [UNANIMOUS]</b>                  |
| <b>MOVER:</b>    | Rich Constantine, Mayor Pro Tem              |
| <b>SECONDER:</b> | Steve Tate, Mayor                            |
| <b>AYES:</b>     | Tate, Constantine, Carr, Jachimowicz, Spring |

**MOTION:**

Directing staff to bring back language that would be a TOT measure that would in someway include the goals of the TBID.

|                  |                                        |
|------------------|----------------------------------------|
| <b>RESULT:</b>   | <b>DIRECTED [4 TO 1]</b>               |
| <b>MOVER:</b>    | Larry Carr, Council Member             |
| <b>SECONDER:</b> | Rene Spring, Council Member            |
| <b>AYES:</b>     | Constantine, Carr, Jachimowicz, Spring |
| <b>NAYS:</b>     | Tate                                   |

## **FUTURE COUNCIL INITIATED AGENDA ITEMS**

None.

## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:08 p.m.

**MINUTES PREPARED BY:**

Michelle Bigelow, Deputy City Clerk