



Meeting Minutes City Council

Rich Constantine - Mayor
Yvonne Martinez Beltran - Mayor Pro Tem
Larry Carr - Council Member
John McKay - Council Member
Rene Spring - Council Member

Wednesday, June 17, 2020 7:00 pm

Virtual Zoom Meeting
Meeting held via Zoom Webinar, Morgan Hill, CA 95037

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

CALL TO ORDER

Mayor Constantine called the meeting to order at 7:00 pm.

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Bigelow called the roll.

Attendee Name	Title	Status	Arrived
Rich Constantine	Mayor	Remote	
Yvonne Martinez Beltran	Mayor Pro Tem	Remote	
Larry Carr	Council Member	Remote	
John McKay	Council Member	Remote	
Rene Spring	Council Member	Remote	

DECLARATION OF POSTING AGENDA

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

PRESENTATIONS

Sobrato High School Valedictorian Dean Tran

What YAC Leaders have been doing during the shelter-in-place

CITY MANAGER'S REPORT

CITY COUNCIL EQUITABLE COMMUNITIES RESOLUTION

City Manager Christina Turner announced the evening's supplements and presentations.

She shared that resolution 17-033 was adopted in 2017 re-affirming the City's commitment to a diverse, supportive, inclusive community, and to protecting the constitutional rights of its residents. While each and every line item of that resolution is important, she highlighted a few sections. She reminded everyone that the vision of Sustainable Morgan Hill is to be "a socially responsible, environmentally conscious, and economically sound community that embraces inclusiveness with participation by all." The City of Morgan Hill rejects bigotry and does not tolerate discrimination, hate crimes, harassment, or assault. The City of Morgan Hill will promote safety, a sense of security, and equal protection of constitutional and human rights, leading by example through equitable treatment of all by City officials and departments.

The Cities Association has urged cities to adopt a resolution proclaiming Black Lives Matter. We are going to bring that resolution to the July 15th Council Meeting.

She announced that Friday, June 19th is Juneteenth which represents the oldest known celebration commemorating the abolishment of slavery in the United States and the emancipation of African American slaves throughout the confederate south. It is important for us to recognize inclusiveness and this keeps with the goals of the City Council and Morgan Hill. We want to recognize Juneteenth in Morgan Hill this Friday and starting next year we will look at other ways that we can commemorate this day.

She shared that the month of June is Pride Month. A while back the Council adopted a policy by which the Pride flag is flown every year during the month of June at three locations within the City. As of June 1st, those flags are flying.

She also shared that on June 9th the City hosted a town hall on police matters. On June 11th we had a town hall on the Hale Avenue Extension. On June 18th we will have the second part of our police town hall, and on June 25th we will have our representative, Mike Wasserman, with the Santa Clara County Board of Supervisors update us on County matters. We will not have a town hall on July 2nd.

She concluded by congratulating and welcoming Shane Palsgrove as our Chief of Police.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin shared that he serves as the City's representative on the Board of Directors for Plan JPA (Plan). Plan is the City's risk pool for term liability claims and also for property damage insurance. Last Thursday was their annual budget meeting. Every year they assess what they see as the largest emerging liability trends. One of the most significant areas they have seen recently is cyber liability. One change this year is that they approved the purchase of a supplemental cyber liability policy to better protect our members in the event of a cyber-attack.

He shared that we continue to see extreme weather events around the globe. Because we are in a global insurance market, this is really impacting our ability to obtain property damage insurance. Our budget for next year includes an amount that we think will be sufficient, but we had to approve this year's budget without having that insurance in place because we are still working on it.

He reported on a case that was published last month that provides some guidance to City Council. The case, Petrovich Development Company v City of Sacramento, clarifies the activities that council members can undertake when making quasi-judicial decisions. Specifically, they described what the law means; the Council Members have to remain unbiased in land use matters. Petrovich applied for a conditional use permit (CUP) to construct a gas station at a Safeway shopping center in Sacramento. There was a nearby Homeowners Association (HOA) that was opposed to the project. After the Planning Commission approved the CUP, the HOA appealed the CUP decision to the City Council. Prior to the vote by the City Council the union representing grocery store employees complained that one of the council members, Jay Schenirer, was biased because he opposed the gas station and was taking "unprecedented and aggressive steps to stop the CUP from being issued". The City Attorney reviewed what he knew the council member to have done and did not believe that it amounted to bias that would prevent the council

member from voting on the project. Council Member Schenirer lived in the neighborhood and was a member of the HOA. He had told other members of the HOA that a gas station did not fit in with the neighborhood. The court held that if the comments had ended there, it would not have been an issue and it would have been an appropriate thing for a council member to do. However, there was some evidence that the council member didn't just make casual statements but that he was actually counting votes and talking to other council members about opposing the CUP. He also provided some of his colleagues with talking points about reasons to oppose the project. There wasn't any evidence that he had spoken with the majority of his colleagues but the fact that he spoke to some colleagues about talking points against a specific project was sufficient, the court held, to constitute unlawful bias. The Council voted 7-2 to deny the project and Council Member Schenirer made the motion to deny the CUP. After reviewing the facts and determining that the actions that he took constituted bias, the court overturned the denial of the CUP and ordered the Sacramento City Council to reconsider without Council Member Schenirer's participation.

City Attorney Larkin stated that this is some guidance on why he has been saying, when the council members act in a quasi-judicial capacity, they are figuratively wearing the black robe. It is very important that council members remain unbiased and keep an open mind, and when the time comes, vote to your conscience but follow the findings that you are being tasked to find.

PUBLIC COMMENT

PUBLIC COMMENT SUPPLEMENT

The public comment opened at 7:15 pm. The following people were called to speak:

Nick Gaich

Brian Faircloth

Jim Burnham

Garfield & Sandra Freeman

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

ADOPTION OF AGENDA

MOTION:

Adopting the agenda as posted.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John McKay, Council Member
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

CONSENT CALENDAR

MOTION:

Approving consent calendar items 1, 2, 5 through 7, 9, and 11 with the recusal of Council Member Carr on item 11.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Rene Spring, Council Member
SECONDER:	Larry Carr, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

1. ACCEPT APRIL 2020 FINANCIAL AND INVESTMENT REPORT

Recommendation:

Accept and file report.

2. APPROVE THE JUNE 3, 2020 MEETING MINUTES

Recommendation:

Approve Minutes.

3. ITEM PULLED FOR DISCUSSION

4. ITEM PULLED FOR DISCUSSION

5. APPROVAL OF A GOVERNMENT CODE 65915 DENSITY BONUS AT 80 PERCENT AND FOUR CONCESSIONS FOR A 100 PERCENT AFFORDABLE HOUSING PROJECT (SR2020-005 MONTEREY-MORGAN HILL SENIOR APARTMENTS)

Recommendation:

Adopt resolution approving the request for the following, pursuant to Government Code:

1. Density bonus at 80 percent.
2. Affordable housing concessions:
 - a. Increase in floor area ratio;
 - b. Reduction in on-site parking;
 - c. Reduction in private open space; and
 - d. Increase in building height.

6. APPROVE SIDE LETTER AGREEMENTS BETWEEN THE CITY OF MORGAN HILL AND THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES LOCAL 101, DISTRICT COUNCIL 57 OF MORGAN HILL TO AMEND SECTION 9.02 UNIFORMS WITHIN THE PREVIOUS MEMORANDUM OF UNDERSTANDING DATED JULY 1, 2015 THROUGH DECEMBER 31, 2018 AND CURRENT MEMORANDUM OF UNDERSTANDING DATED DECEMBER 30, 2018 THROUGH DECEMBER 31, 2021

Recommendation:

1. Approve Side-Letter Agreement Between the City of Morgan Hill and the American Federation of State, County, and Municipal Employees Local 101, District Council 57 of Morgan Hill for the previous Memorandum of Understanding dated July 1, 2015 through December 31, 2018 amending Section 9.02 UNIFORMS; and
2. Approve Side-Letter Agreement Between the City of Morgan Hill and the American Federation of State, County, and Municipal Employees Local 101, District Council 57 of Morgan Hill for the current Memorandum of Understanding dated December 30, 2018 through December 31, 2021 amending Section 9.02 UNIFORMS.

7. ADOPT RESOLUTION AUTHORIZING GRANT APPLICATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE GRANT RELATED AGREEMENTS AND DOCUMENTS FOR A LOCAL EARLY ACTION PLANNING GRANT

Recommendation:

Adopt resolution:

1. Authorizing staff to prepare and submit a Local Early Action Planning Grants Program (LEAP) Application to the State of California, Department of Housing and Community Development for an amount not to exceed \$150,000 for the development of a proposed Housing Element Update; and
2. Authorizing the City Manager to negotiate and execute the City of Morgan Hill LEAP application, grant documents, and any amendments thereto as required by the Department of Housing and Community Development for receipt of the grant.

8. ITEM PULLED FOR DISCUSSION

9. CONSIDER CITY POSITION ON AB 2959 PROVIDING CLARITY ON CONTROL AUTHORITY OF ORGANIC WASTE MATERIALS

Recommendation:

Direct staff to submit letter in support of AB 2959 to the appropriate representatives.

10. ITEM PULLED FOR DISCUSSION

11. AUTHORIZE STAFF TO PREPARE HIGH SPEED RAIL EIR/EIS COMMENT LETTER

Recommendation:

Authorize the City Manager to submit a Comment Letter to the California High Speed Rail Authority for the San Jose to Merced Project section EIR/EIS.

ITEMS PULLED FOR DISCUSSION

3. APPROVE COMMUNITY PROMOTIONS FUNDING REQUESTS FOR FISCAL YEAR 2020-21

Recommendation:

Approve recommended Fiscal Year (FY) 2020-21 Community Promotions funding requests totaling \$25,500.

Items 3 and 4 were taken together.

The public comment opened at 7:40 pm.

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

MOTION:

Approving recommended actions with the addition of asking the organizations to submit statements of inclusivity and a commitment to a diverse, supportive, and inclusive community.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

4. APPROVE CITY SPONSORSHIP OF PHILANTHROPY NIGHT, INDIA INDEPENDENCE DAY FESTIVAL, AND FUTURE WOMEN LEADERS CONFERENCE EVENTS AT THE COMMUNITY AND CULTURAL CENTER

Recommendation:

1. Authorize the City Manager to waive facility rental fees of \$1,500 for Morgan Hill Community Foundation's November 2020 Philanthropy Night Celebration;
2. Authorize the City Manager to waive facility rental fees of \$307 for Indian Association of South Santa Clara County's August 2020 India Independence Day Festival and flag raising ceremony; and
3. Authorize the City Manager to waive facility rental fees of \$1,500 for American Association of University Women's April 2021 Future Women Leaders Conference.

Items 3 and 4 were taken together.

The public comment opened at 7:40 pm.
There being no requests to speak, the public comment closed.

MOTION:

Approving recommended actions with the addition of asking the organizations to submit statements of inclusivity and a commitment to a diverse, supportive, and inclusive community.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

8. AMEND THE IMPACT FEE FREEZE PROGRAM FOR COMMERCIAL AND INDUSTRIAL PROJECTS

Recommendation:

1. Approve the Impact Fee Freeze Program and guidelines; and
2. Authorize the City Manager to negotiate and execute Impact Fee Freeze Agreements that are under \$100,000 for new commercial and industrial projects consistent with the program criteria.

Economic Development Director Edith Ramirez and Economic Development Manager John Lang answered questions.

The public comment opened at 8:07 pm. The following people were called to speak:

Joe Baranowski

Marissa

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

MOTION:

Granting a 60-day extension to the current Fee Freeze Program for commercial and industrial projects and we bring back the proposed program at the next meeting and add an annual review of the program.

RESULT:	CONTINUED TO A FUTURE MEETING [UNANIMOUS] Next: 7/15/2020 5:30 PM
MOVER:	Larry Carr, Council Member
SECONDER:	Yvonne Martinez Beltran, Mayor Pro Tem
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

10. PROVIDE DIRECTION REGARDING 2020 CALIFORNIA LEGISLATIVE UPDATE - HOUSING, LAND USE AND BALLOT MEASURE

Recommendation:

Review League of California Cities positions if available and determine Bills of interest; provide positions or amendment suggestions.

City Manager Christina Turner and Assistant City Manager Leslie Little answered questions.

The public comment opened at 8:30 pm.

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

RESULT:	DIRECTION PROVIDED TO STAFF
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The meeting recessed at 8:31 pm.
The meeting reconvened at 8:40 pm.

PUBLIC HEARING

12. ADOPT THE FISCAL YEAR (FY) 2020-21 AND 2021-22 OPERATING BUDGET, FY 2020-21 THROUGH 2025-26 CAPITAL IMPROVEMENT BUDGET, AND FY 2020-21 APPROPRIATIONS LIMIT

Recommendation:

1. Open/Close Public Hearing.
2. Adopt resolution to:
 - a. Adopt the FY 2020-21 and 2021-22 Operating Budget;
 - b. Adopt the FY 2020-21 through 2025-26 Capital Improvement Program Budget; and
 - c. Adopt the FY 2020-21 Appropriations Limit and Appropriations Limit Adjustment Factors.

Budget Manager Monica Delgado provided a presentation and report.

The public hearing opened at 9:55 pm. The following people were called to speak:

Josephine Vo
Marissa
Veronica
Jim Burnham
Armando Benavides
Joe Baranowski
Brian Faircloth
Trevor
Mo
Jessica Jaso

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

MOTION:

Mayor Pro Tem Martinez Beltran moved to table the budget adoption to a future meeting. Motion failed for lack of a second.

RESULT:	LACK OF SECONDER
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MOTION:

Extending meeting until midnight.

RESULT:	EXTENDED [UNANIMOUS]
MOVER:	Rich Constantine, Mayor
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

MOTION:

Mayor Pro Tem Martinez Beltran moved to postpone the budget adoption to allow evaluation of police budget and where monies can be shifted. Motion failed for lack of a second.

RESULT:	LACK OF SECONDER
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MOTION:

Adopt the FY 2020-21 and 2021-22 Operating Budget and instruct the City Manager to come back with an additional ongoing \$200,000 in line item cuts at a future meeting.

SUBSTITUTE MOTION:

Mayor Pro Tem Martinez Beltran made a substitute motion to review car allowances and any other further reductions. Motion failed for lack of a second.

RESULT:	ADOPTED [4 TO 1]
MOVER:	Larry Carr, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Carr, McKay, Spring
NAYS:	Martinez Beltran

MOTION:

Adopt the FY 2020-21 through 2025-26 Capital Improvement Program Budget and bring back discussion about funding for Borello Park once the school district has made its decision about the school property.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

MOTION:

Adopt the FY 2020-21 Appropriations Limit and Appropriations Limit Adjustment Factors and to provide direction to the City Manager that the Council would like to have a workshop or community dialogue about the definition of public safety and what we mean in our value statement about enhancing public safety.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Larry Carr, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

The meeting recessed at 11:16 pm.
The meeting reconvened at 11:25 pm.

OTHER BUSINESS

13. DISCUSS POTENTIAL NEXT STEPS FOR NOVEMBER 2020 REVENUE MEASURE INITIATIVES AND OTHER FUNDING APPROACHES

Recommendation:

1. Receive report regarding potential revenue initiatives;
2. Direct staff to pursue and establish a new citywide Community Facilities District (CFD) for new residential developments;
3. Direct staff to research the feasibility of a Special Fire District for the City of Morgan Hill and any applicable requirements; and
4. Direct staff to:
 - a. Not pursue a revenue measure for November 3, 2020 ballot.
OR;
 - b. Pursue placement of one or more of the presented revenue measure(s) on the November 3, 2020 ballot, based on October 2019 polling results data.
OR;
 - c. Pursue placement of one or more of the presented revenue measure(s) on the November 3, 2020 ballot, and conduct a community polling immediately.

Assistant to the City Manager Harjot Sangha and City Manager Christina Turner provided a presentation and report.

MOTION:

Extending meeting to 1:00 am.

RESULT:	EXTENDED [UNANIMOUS]
MOVER:	Yvonne Martinez Beltran, Mayor Pro Tem
SECONDER:	Rich Constantine, Mayor
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

The public comment opened at 12:02 am. The following people were called to speak:

Armando Benavides

Brian Faircloth

Joe Baranowski

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

MOTION:

Mayor Pro Tem Martinez moved to direct staff to look into funding sources including utility tax, Community Facilities District, and Fire District, including business license fee. Motion failed for lack of a second.

RESULT:	LACK OF SECONDER
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MOTION:

Direct staff to explore all potential revenue sources including a business license fee, omitting polling.

RESULT:	DIRECTED [4 TO 1]
MOVER:	Yvonne Martinez Beltran, Mayor Pro Tem
SECONDER:	John McKay, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay
NAYS:	Spring

14. APPROVE HALE AVENUE EXTENSION PROJECT FUNDING AGREEMENT

Recommendation:

Authorize the City Manager to enter into a funding agreement with the Santa Clara Valley Transportation Authority (VTA) to fund the City's construction of the Hale Avenue Extension Project.

Public Services Director Chris Ghione provided a presentation and report.

The public comment opened at 12:48 am. The following people were called to speak:

Armando Benavides
Brian Faircloth
Joe Baranowski
Sean Voss
Rolund Lebrun

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

MOTION:

Extending meeting to 1:15 am.

RESULT:	EXTENDED [UNANIMOUS]
MOVER:	Rich Constantine, Mayor
SECONDER:	Rene Spring, Council Member
AYES:	Constantine, Martinez Beltran, Carr, McKay, Spring

MOTION:

Approving the recommended action.

RESULT:	AUTHORIZED [3 TO 2]
MOVER:	Larry Carr, Council Member
SECONDER:	John McKay, Council Member
AYES:	Constantine, Carr, McKay
NAYS:	Martinez Beltran, Spring

15. RECEIVE UPDATE REGARDING REGIONAL HOUSING NEED ALLOCATION AND HOUSING ELEMENT REFORMS

Recommendation:

Receive report.

Continued to a future meeting.

RESULT:	CONTINUED
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FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Martinez Beltran asked staff to look at racism as a public health emergency.

ADJOURNMENT

There being no further business, Mayor Constantine adjourned the meeting at 1:15 am in recognition of Juneteenth.

MINUTES PREPARED BY:

Michelle Bigelow, Deputy City Clerk