CITY OF MORGAN HILL

COUNCIL CHAMBERS
17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Greg Sellers, Mayor Pro Tempore	Greg Sellers, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Hedy Chang, Council Member	Hedy Chang, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

WEDNESDAY, NOVEMBER 3, 2004

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER
(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE
(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA
Per Government Code 54954.2
(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.
CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	4

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATIONS
Morgan Hill National Family Week
David Wilson

Hunger & Homelessness Awareness Week
President and CEO of Emergency Housing Consortium, Barry Del Buono

AWARDS
Morgan Hill Cycling and Trail Awareness Award
Karl Bjarke

CITY COUNCIL REPORT
Council Member Tate

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.
(See notice attached to the end of this agenda.)
PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND PRESENT IT TO THE CITY CLERK.
(See notice attached to the end of this agenda.)

PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY COUNCIL/REDEVELOPMENT AGENCY.

City Council Action

CONSENT CALENDAR:

ITEMS 1-10 The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

1. **BI-ANNUAL VACANCY RATE SURVEY** ..... 6.
Recommended Action(s): Establish the Bi-Annual Vacancy Rate for October 2004 as Recommended by the Planning Commission.

2. **ANNEXATION APPLICATION, ANX-03-01: HILL-GERA** 7
Recommended Action(s): Adopt Resolution Approving Annexation.

3. **APPROVE CONSULTANT AGREEMENT AMENDMENT WITH HARRIS & ASSOCIATES FOR 2003/2004 PAVEMENT RESURFACING PROJECT** 11
Recommended Action(s): Approve Consultant Agreement Amendment with Harris and Associates for Providing Additional Construction Inspection Services for the 2003-2004 Pavement Resurfacing Project.

4. **APPROPRIATE FUNDS FOR THE COYOTE CREEK TRAIL CONNECTION PROJECT** 12
Recommended Action(s): Appropriate $12,000 From the Current Year Un-Appropriated Street Fund (202) Balance to Cover Non-Grant Related Costs Associated with This Project.

5. **REJECTION OF BIDS FOR SANITARY SEWER ROOT TREATMENT ABATEMENT PROJECT** 13
Recommended Action(s): Reject the Bid Received on October 14, 2004 for the Sanitary Sewer Root Abatement Project.

6. **RESOLUTION AMENDING CITY'S CONFLICT OF INTEREST CODE REPORTING CATEGORIES** 14
Recommended Action(s): Adopt Resolution Amending the List of Positions Subject to the City's Conflict of Interest Code.

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

7. **AWARD OF CONTRACT FOR THE 2004-2005 SIDEWALK, CURB AND GUTTER REMOVAL AND REPLACEMENT PROJECT** 20
Recommended Action(s):
1. **Award** Contract to QLM, Inc. for the Construction of the 2004-2005 Sidewalk, Curb and Gutter Removal and Replacement Project in the Amount of $94,553; and
2. **Authorize** Expenditure of Construction Contingency Funds Not to Exceed $9,457.

8. **UPDATE ON DEVELOPMENT PROCESSING SERVICES STUDY IMPLEMENTATION** 21
Recommended Action(s):
1. **Accept** Report on the Implementation Status of Development Processing Services Study Recommendations; and
2. **Direct** Staff to Report Back on the Implementation Status in May 2005.

9. **APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF OCTOBER 20, 2004** 32

10. **APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF OCTOBER 27, 2004** 44

Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 11-12

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

11. **RELEASE OF BID FROM ABCO CONSTRUCTION AND REJECT ALL BIDS FOR THE HISTORIC LaMALFA HOUSE MOVE** 46
Recommended Action(s):
1. **Release** ABCO Construction from their August 25, 2004 Formal Bid for the LaMalfa House Move Project; and
2. **Reject** All Other Bids.

12. **AWARD PURCHASE ORDER FOR THE LaMALFA HOUSE MOVE PROJECT** 47
Recommended Action(s):
1. In Accordance with Section 3.04.150(A) of the City Municipal Code, **Determine** that the Competitive Bid Process for the LaMalfa House Relocation Project would not likely result in a Lower Price to the City from a Responsible Bidder and/or would Cause Unnecessary Expense or Delay of the Project;
2. **Approve** a Purchase Order in the Amount of $37,000 with Kelly House Movers for Relocating the LaMalfa House; and
3. **Authorize** a $6,000 Contingency Fund.

City Council Action

PUBLIC HEARINGS:

	Time Estimate		Page
13.	**5 Minutes**	**DEVELOPMENT AGREEMENT AMENDMENT, DAA-03-09: NATIVE DANCER-QUAIL MEADOWS**	48

Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Motion to Waive** the Reading in Full of Development Agreement Ordinance.
Action- **Motion to Introduce** Development Agreement Ordinance by Title Only. (Roll Call Vote)

14.	**5 Minutes**	**OUT OF URBAN SERVICE AREA REQUEST, OSR-04-01: HOLIDAY-CORBIN**	54

Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Adopt** Resolution of Approval.

15.	**5 Minutes**	**OUT OF URBAN SERVICE AREA REQUEST, OSR-04-02: MONTEREY-SUH**	58

Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Adopt** Resolution of Approval.

16.	**10 Minutes**	**ZONING AMENDMENT, ZA-04-19: TEXT AMENDMENT TO THE SUBDIVISION ORDINANCE**	62

Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- **Motion to Waive** the Reading in Full of Ordinance.
Action- **Motion to Introduce** Ordinance by Title Only. (Roll Call Vote)

Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
17.	**10 Minutes**	**LOAN TO MILLENNIUM HOUSING**	68

Recommended Action(s): Authorize the Executive Director to do Everything Necessary to Execute the Required Agreements with Millennium Housing for a $1.2 Million Loan, Including Making Modifications; Subject to Review and Approval by Agency Counsel.

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: November 3, 2004

Agenda Item # 1

Prepared By:

_____
Municipal Services Assist.

Approved By:

_____
BAHS Director

Submitted By:

_____
City Manager

BI-ANNUAL VACANCY RATE SURVEY

RECOMMENDED ACTION(S): Establish the bi-annual vacancy rate for October 2004 as recommended by the Planning Commission.

EXECUTIVE SUMMARY: According to the Morgan Hill Municipal Code, Chapter 17.36 relating to Condominium Conversions, the apartment vacancy rate shall be established in April and October of each year on the basis of a representative sampling of apartment buildings. The vacancy rate survey must be reported to both the Planning Commission and the City Council.

The most recent multi-family housing estimates from the State Department of Finance indicate a total of 1,754 multi-family units. Survey results account for over 50% of all such units; senior housing units are not included in the sampling but are included as supplemental information. Also, for general information purposes, included is a brief summary of current rent rates as compared to rent rates reported six months ago.

The survey has been completed and is attached. On October 26, 2004, the Planning Commission accepted the survey results which established the vacancy rate for October 2004 at 3.31%. This rate is significantly lower than the previous rate of 5.35% established in April 2004. It is recommended that the Council accept the Planning Commission's survey findings.

FISCAL IMPACT: No Fiscal Impact.

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: November 3, 2004

Agenda Item # 2
Prepared By:
Planning Intern
Approved By:
Planning Manager
Submitted By:
City Manager

ANNEXATION APPLICATION, ANX-03-01: HILL-GERA

RECOMMENDED ACTION(S):

1. Adopt Resolution approving Annexation.

EXECUTIVE SUMMARY:

This application is a request to annex five parcels totaling 19.5 acres into the City of Morgan Hill. The project site is located west of Hill Road, between Pear drive and the southerly boundary of the El Dorado III subdivision. The site is surrounded on two sides by the existing City Limits. Therefore, inclusion of the parcels into the City would represent a logical adjustment of the City's Boundary.

The project site is located within the City's Urban Service Boundary. Existing water and sewer lines are available within the site vicinity, and are of sufficient size to service future developments of the site. The project site is also within the established response time standard for fire service.

On May 27, 2003, the Planning Commission voted unanimously (7-0) to recommend approval of the annexation. A copy of the Planning Commission staff report, and meeting minutes are attached as background information (Refer to Attachment A).

On August 18, 2004, the City Council held a protest hearing and accepted written protests from property owners. Since no written protests were received at the hearing, the City Council chose to terminate the protest proceedings and allow the annexation to proceed. A copy of the City Council staff report and meeting minutes are attached as background information (Refer to Attachment B).

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

Attachments

1. Vicinity Map
2. Resolution
3. Planning Commission Staff Report
4. City Council Staff Report

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL MAKING DETERMINATIONS AND APPROVING THE REORGANIZATION OF TERRITORY DESIGNATED "HILL ROAD ANNEXATION NO. 2," APPROXIMATELY 19.5 ACRES LOCATED ON THE WEST SIDE OF HILL ROAD AND NORTH SIDE OF PEAR DRIVE, AND WITHDRAWAL OF SAID TERRITORY FROM THE SOUTH SANTA CLARA COUNTY FIRE PROTECTION DISTRICT. (APNS 728-08-014 & 015 AND 728-07-047, 048, 050 & 051)

WHEREAS, a written petition for the annexation of certain territory to the City of Morgan Hill and detachment of said territory from the County of Santa Clara, consisting of 19.5 acres on Hill Road (APNs 728-08-014 & 015 AND 728-07-047, 048, 050 & 051) has been filed in the office of the City Clerk of Morgan Hill; and

WHEREAS, said territory is uninhabited and all owners of land included in the proposal consent to this annexation;

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any City in Santa Clara County of unincorporated territory which is within the urban service area of the city if initiated by resolution of the legislative body and therefore the City Council of the City of Morgan Hill is now the conducting authority for said annexation; and

WHEREAS, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of land within the affected territory, the City Council may approve or disapprove the annexation without public hearing: and

WHEREAS, evidence was presented to the City Council;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL AS FOLLOWS:

SECTION 1: That the City Council is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated "HILL ROAD ANNEXATION No. 2," more particularly described in Exhibits "A and B";

SECTION 2: The territory described is hereby detached from the South Santa Clara County Fire Protection District. (APNs 728-08-014 & 015 AND 728-07-047, 048, 050 & 051)

SECTION 3: The following findings are made by the City Council of the City of Morgan Hill:

a. That said territory is uninhabited and comprises approximately 19.5 acres.

b. That the annexation is consistent with the orderly annexation of territory within the City's urban service area and is consistent with the City policy of annexing when all city services can be provided.

c. A negative declaration has been approved for parcels 728-08-014 & 015 AND 728-07-047, 048, 050 & 051.

d. That the territory is within the City's Urban Service Area as adopted by the Local Agency Formation Commission of Santa Clara County.

e. That the County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies. The City shall reimburse the County for the actual cost incurred by the County Surveyor in making this determination.

f. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services.

g. That the proposed annexation does not split lines of assessment or ownership.

h. That the proposed annexation is consistent with the City's General Plan.

i. That the territory to be annexed is contiguous to existing City limits.

j. That the City has complied with all conditions imposed by the commission for inclusion of territory in the City's urban service area.

SECTION 4: The Council finds that all property owners and registered voters have been provided written notice of this proceeding and no opposition has been received.

SECTION 5: Said annexation is hereby ordered without any further protest proceedings pursuant to Sections 56663(c) and 56663(d) of the California Government Code.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory annexed will be detached from the unincorporated portion of the County of Santa Clara.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory annexed will be taxed on the regular county assessment roll, including taxes for existing bonded indebtedness.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of November, 2004 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

❦ CERTIFICATION ❦

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on November 3, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____ **_____**
IRMA TORREZ, City Clerk

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: *November 3, 2004*

Agenda Item # 3

Prepared By:

_____
Project Manager

Approved By:

_____
Public Works Director

Submitted By:

_____
City Manager

APPROVE CONSULTANT AGREEMENT AMENDMENT WITH HARRIS & ASSOCIATES FOR 03/04 PAVEMENT RESURFACING PROJECT

RECOMMENDED ACTION: Approve consultant agreement amendment with Harris and Associates for providing additional construction inspection services for the 2003-04 Pavement Resurfacing Project.

EXECUTIVE SUMMARY: On July 21, 2004 City Council approved a consultant agreement in the amount of $32,310 with Harris & Associates to provide construction inspection services for the 2003-04 Pavement Resurfacing Project. The contract for construction of this project was awarded in June of 2004. The work has progressed satisfactorily, with some work still yet to be completed.

During the course of the project, additional pavement removal and slurry work was added for E. Dunne and Vineyard Avenues. This necessitated additional inspection services.

A $9,000 not-to-exceed cost has been proposed by Harris and Associates for providing the inspection services.

Staff recommends approval of this additional work.

FISCAL IMPACT: There is sufficient funding in the project CIP budget (519096) to fund these additional services.

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: NOVEMBER 3, 2004

Agenda Item # 4

Prepared By:

_____
Associate Engineer

Approved By:

_____
Public Works Director

Submitted By:

_____
City Manager

APPROPRIATE FUNDS FOR THE COYOTE CREEK TRAIL CONNECTION PROJECT

RECOMMENDED ACTION(S):

Appropriate $12,000 from the current year un-appropriated Street Fund (202) balance to cover non-grant related costs associated with this project.

EXECUTIVE SUMMARY:

On June 23, 2004, City Council adopted a Resolution supporting grant funding for the Coyote Creek Trail Connection project through the Bay Area Air Quality Management District's (BAAQMD) 2004/2005 Transportation for Clean Air (TFCA) funding cycle. Staff submitted an application to provide a connection route for bicyclists from the existing Coyote Creek Trail to the City's downtown area. Improvements include constructing Class II or Class III bike lanes where appropriate along Cochrane Road between Sutter Boulevard and the Coyote Creek Trail entrance. The total project was estimated to cost $85,000 with the City's contribution being 15% or $12,000 to cover design and administration costs.

On October 20, 2004, the Bay Area Air Quality Management District's Board approved the City's project. Upon Councils' approval, staff will begin work on this project in order to meet the schedule requirements.

FISCAL IMPACT: The total construction cost for this project is estimated at $70,000. The total project cost is currently estimated at $85,000. Throughout the construction process, the City will receive reimbursement payments which will be returned to the Street Fund. It is estimated that the City's total non-reimbursed contribution towards this project will be $12,000, which will be funded by the current year's un-appropriated Street Fund Balance (202).

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: *November 3, 2004*

Agenda Item # 5

Prepared By:

_____
Deputy Director of PW

Approved By:

_____
Public Works Director

Submitted By:

_____
City Manager

REJECTION OF BIDS FOR SANITARY SEWER ROOT TREATMENT ABATEMENT PROJECT

RECOMMENDED ACTION(S): Reject the bid received on October 14, 2004 for the Sanitary Sewer Root Abatement Project.

EXECUTIVE SUMMARY: The portion of our Sanitary Sewer System located in the Jackson Oaks and Holiday Lake areas are particularly susceptible to root intrusion due to the sewer lines being located in private easements that traverse through residents' yards and across open space areas. Roots that invade our pipelines must be abated through chemical and mechanical means to prevent sewage spills that can occur when flow is restricted. The areas most in need of root abatement have been identified and are included in this proposed project.

On October 14, 2004 one bid for $162,850 was received for the Sanitary Sewer Root Abatement Project. The Engineer's estimate for the project was $125,000. The project specifications required the contractor to submit Performance, Labor, and Materials Bonds and to meet all provisions of the Public Contracts Code. This resulted in a higher project cost to the city than estimated.

However, Public Contract Code Section 20161.c exempts sewer maintenance work from the provisions of the Public Contract Code including the requirement to provide the above named bonds.

Staff will be re-bidding this work by obtaining formal price quotes, but not requiring Performance, Labor Materials bonds. This will also allow contractors with lower overhead to bid this work. All requirements of the City's purchasing and insurance requirement policies will be met.

FISCAL IMPACT: There is sufficient funding in the Sewer Fund to fund this project.

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: *November 3, 2004*

Agenda Item # 6

Prepared By:

Council Services & Records Manager/ City Clerk

City Attorney

Submitted By:

City Manager

RESOLUTION AMENDING CITY'S CONFLICT OF INTEREST CODE REPORTING CATEGORIES

RECOMMENDED ACTION(S):

Adopt Resolution amending the list of positions subject to the City's Conflict of Interest Code

EXECUTIVE SUMMARY:

The Political Reform Act, Government Code Section 87100 and following, requires the City to designate those positions in city government which are required to file Disclosure Statements, which detail the economic interests which could constitute conflicts of interests. The Political Reform Act further requires the City to periodically update its list as positions and/or circumstances change.

City staff has reviewed the list of positions and recommends the following update to comport with the current employee classifications:

1. Deletion of "Deputy City Attorney" classification
2. Deletion of "Environmental Programs Manager" classification (replaced with Program Administrator classification)
3. Addition of "Program Administrator" classification
4. Amend "Human Resources Manager" to read "Human Resources Director"
5. Deletion of "Human Resources Supervisor" classification
6. Amend "Recreation Manager" to read "Recreation and Community Services Manager"

FISCAL IMPACT: No budget adjustment is required.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING RESOLUTION NO. 5671 PERTAINING TO THE CITY'S CONFLICT OF INTEREST CODE BY AMENDING APPENDIX A (DESIGNATED POSITIONS) TO REFLECT CURRENT CITY POSITIONS AND DISCLOSURE CATEGORIES

WHEREAS, pursuant to Government Code 87300, Resolution No. 1827 was adopted on September 21, 1983, and subsequently amended by Resolution Nos. 4026 on January 21, 1987; 4152 on February 3, 1988; 4354 on March 7, 1990; 4445 on March 20, 1991; 4529 on December 11, 1991; and 4548 on April 1, 1992; 4660 on March 3, 1993; 4822 on September 7, 1994; 5377 on April 26, 2000; 5463 on March 28, 2001; 5472 on May 2, 2001; 5634 on February 5, 2003; and 5671 on June 4, 2003;

WHEREAS, the Political Reform Act requires every local government agency to review its Conflict of Interest Code biennially or as deemed appropriate; and,

WHEREAS, a review has been conducted and a determination has been reached that certain amendments are required to update the Code and maintain its accuracy, specifically the addition of the Senior Project Manager/Community Buildings position; and,

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF MORGAN HILL further amends Resolution No. 1827 by deleting the existing Appendix A and replacing it with a revised Appendix A, a copy of which is attached and incorporated by this reference as though fully set forth herein.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd day of November 2004 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

❦ CERTIFICATION ❦

I**, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. adopted by the City Council at a Regular Meeting held on November 3, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____ _____

IRMA TORREZ, City Clerk

APPENDIX A

Specified below is the following information:

A. Each designated position in the local agency required to fill Disclosure Statements.

B. <u>Category 1 is defined as:</u>
A designated employee must report all interests in real property having a direct or indirect relationship to, and which may foreseeably be affected by, the official duties and responsibilities of each such designated position.

C. <u>Category 2 is defined as:</u>
A designated employee in this category must report all investments having a direct or indirect relationship to, and which may foreseeably be affected by, the official duties and responsibilities of each such designated position.

D. <u>Category 3 is defined as:</u>
A designated employee in this category must report income and business entities in which he or she is a director, officer, partner, trustee, employee or holds any position of management having a direct or indirect relationship to, and which may foreseeably be affected by, the official duties and responsibilities of each such designated position.

Persons Subject To The Conflict of Interest Code	Disclosure Category
Council Services & Records Manager/City Clerk	**1,2,3**
Chief of Police	**1,2,3**
Police Lieutenant	**1,2,3**
City Attorney	**1,2,3**
~~**Deputy City Attorney**~~	~~**1,2,3**~~
City Manager	**1,2,3**
Assistant to the City Manager	**1,2,3**
Director of Business Assistance and Housing Services	**1,2,3**
Business Assistance and Housing Services Manager	**1,2,3**
Business Assistance & Housing Analyst	**1,2,3**
Housing Rehabilitation Coordinator	**1,2,3**
Senior Project Manager/Community Buildings	**1,2,3**
Director of Community Development	**1,2,3**
Chief Building Official	**1,2,3**
Building Inspectors	**1,2,3**
Code Enforcement Officer	**1,2,3**
~~**Environmental Programs Manager**~~	~~**1,2,3**~~
Facilities Maintenance Coordinator	**1,2,3**
Planning Manager	**1,2,3**
Senior Planner	**1,2,3**
Associate Planner	**1,2,3**
Finance Director	**1,2,3**
Assistant Director of Finance	**1,2,3**
Budget Manager	**1,2,3**
Director of Public Works/City Engineer	**1,2,3**
Deputy Public Works Director/Operations	**1,2,3**
Deputy Public Works Director/Engineering	**1,2,3**
Senior Engineer	**1,2,3**
Associate Engineer	**1,2,3**
Program Administrator	**1,2,3**
Human Resources ~~Manager~~ Director	**1,2,3**
~~**Human Resources Supervisor**~~	~~**1,2,3**~~
Recreation and Community Services Manager	**1,2,3**
Recreation Supervisor	**1,2,3**
Events Coordinator	**1,2,3**
Architectural and Site Review Board	**1,2,3**
Corporation Yard Commission	**1,2,3**
Library Commissioners	**1,2,3**
Parks and Recreation Commissioners	**1,2,3**
Planning Commissioners	**1,2,3**
Rent Stabilization Commissioners	**1,2,3**
Consultants*	**1,2,3**

***Consultants shall be included in the list of designated employees and shall disclose pursuant**

to Category 1, 2, and 3 subject to the following limitation:

> **The City Manager may determine in writing that a particular consultant, although a "designated position" is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.**

Exhibit 1

CONFLICT OF INTEREST CODE FOR THE CITY OF MORGAN HILL

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, Title 2, California Code of Regulations, Section 18730, which contains the terms of a standard Conflict of Interest Code which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of Title 2, California Code of Regulations Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference. These terms, along with the attached Appendix which designates officials and employees subject to the code and disclosure categories, constitute the Conflict of Interest Code of the City of Morgan Hill.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with the agency. Upon receipt of the statements of the designated employees, the members of the City Council, the City Manager, the City Attorney; the City Treasurer and the Planning Commission; City Clerk of the City of Morgan Hill shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission.

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: *November 3, 2004*

Agenda Item # 7

Prepared By:

_____
Assistant Engineer

Approved By:

_____
Public Works Director

Submitted By:

_____
City Manager

AWARD OF CONTRACT FOR 2004-2005 SIDEWALK, CURB AND GUTTER REMOVAL AND REPLACEMENT PROJECT

RECOMMENDED ACTION:

1. Award contract to QLM, Inc. for the construction of the 2004-2005 Sidewalk, Curb and Gutter Removal and Replacement Project in the amount of $94,553

2. Authorize expenditure of construction contingency funds not to exceed $9,457.

EXECUTIVE SUMMARY:

This project provides for the replacement of damaged curb/gutter and sidewalk at various locations throughout the City, as shown in the attached location maps. These damaged areas are mainly caused by uplift from City street trees.

The bid opening was held on October 12, 2004 and the bids received are as listed below. Reference check of the low bidder resulted in satisfactory comments. Staff recommends award of the contract to QLM Inc. The project shall begin in November, 2004 and be completed by December, 2004, pending weather. QLM, Inc.'s bid is approximately 15% above the engineer's estimate of $83,000.

QLM Inc.	$94,553
Link Construction, Inc.	$95,400
AJ Vasconi General Engineering	$96,900
Don Chapin Company	$109,085
Granite Construction Co.	$131,156

FISCAL IMPACT: The total contract cost for this project is $104,110 which includes a 10% contingency. Project will be funded through the 04/05 Street Maintenance Budget (Account number 202-42231-6100).

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT
MEETING DATE: November 3, 2004

Agenda Item # 8

Prepared By:

_____
Asst. to the City Mgr.

Submitted By:

_____
City Manager

UPDATE ON DEVELOPMENT PROCESSING SERVICES STUDY IMPLEMENTATION

RECOMMENDED ACTION

1. Accept report on the implementation status of Development Processing Services Study recommendations.

2. Direct staff to report back on implementation status in May 2005.

EXECUTIVE SUMMARY:

In Fall 2002, the Council received a report from MAXIMUS, Inc. with 39 recommendations for improving the City's development processing services. Since that time, staff have been working to address the recommendations made. Staff last updated the Council on the status of the recommendations on March 24, 2004, and scheduled this follow-up report at that time.

The table in Attachment A shows the current status of each of the recommendations made by MAXIMUS. Twenty-six recommendations have already been put into practice and five more are expected to be complete by April 2005. Projects to be completed by April are: final approval of an Architectural Review Board Handbook and Design Review Ordinance, development of PUD guidelines, and negotiation of blanket contracts for environmental review.

As has been true for the last 18 months, six study recommendations remain deferred due to budget constraints. With major capital investments in City operations currently on hold, it is not possible to implement the recommendations related to expanded use of the Tidemark automated permitting and project staffing software, or to integrate Geographic Information Systems (GIS) software with Tidemark. In addition, the Senior Planner vacancy continues to be filled by a temporary employee, and the creation of a full-time position of Building Maintenance Supervisor has been postponed for another year.

In accordance with the priorities set forth in the study, two recommendations will not be completed until 2005/06 or later. They are the creation of a one-stop permitting center, and the ability to issue permits online.

FISCAL IMPACT:

No budget adjustment required at this time.

Attachment A

Status Report on Implementation of Study Recommendations

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
Cross-departmental Recommendations								
1.0	Implement automated permitting & project tracking in all divisions. Provide tech support and training	1		Community Development Director/Public Works Director	No additional capital cost for CDD. $50,000 cost for PW is budgeted in current year. Minimal cost for BAHS training.	Implementing Tidemark was budgeted in Public Works. However, significant additional costs for support are likely.	Implemen-tation is complete in Planning, but deferred in PW due to budget constraints.	
1.1	Acquire capability to provide online access for issuance of simple permits, for inspection requests and to provide access to project status	2	Within 3 years. (Depends on avail-ability of reliable software)	Community Development Director/Public Works Director	IVR system in place for inspection requests by phone. Capital cost for e-permitting, incl. project status approx. $125,000. Maint. cost $6,000 per yr.	Not budgeted.	Pending. On schedule for 05/06 implemen-tation, as recommended.	Based on reports from other communities, this technology is not fully functional at this time. Staff plans to wait until FY 05/06, in order to deploy a product that has been tested and reliably used elsewhere.
1.2	Acquire capability to integrate GIS with the permitting system	2	FY 2003-04	Public Works Director	Capital cost approx. $10,000. Annual maint. cost unknown	Not budgeted.	Deferred due to budget constraints.	A GIS needs analysis has been completed.
2.0	Work toward creation of a one-stop permitting center housing all development review departments	3	FY2007-08	City Manager/ City Council	Unknown	Remodeling the library for City use is in the CIP budget for FY 03-04. However, best estimates at this time are that the earliest this could occur is in FY 05-06.	Pending construction of a new library.	The current CIP assumes that a new Library will be built on Alkire Road and that the old library will be remodeled and used by CDD and PW staff.

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
2.1	Assign Engineering representative to City Hall part-time	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Completed.	Assignment began November 11, 2002.
3.0	Obtain expedited processing for economically important projects through the Econ. Dev. Coordinating Group and division managers	1	Immediate	BAHS Director/ Community Development Director/Public Works Director	No cost	No budget impact.	Complete, and ongoing.	This procedure has been incorporated. Staff will continue to evaluate the effectiveness of our procedures for processing economically important projects.
3.1	Document schedules for expedited processing of economically important projects	1	Immediate	BAHS Director/ Division Managers	No cost	No budget impact.	Complete, and ongoing.	
Planning Division Recommendations								
4.0	Fill Senior Planner vacancy and fund half-time contract planner	1	FY 2002-03	Community Development Director	Sr. Planner $93,000 in current budget. Half-time contract planner approx. $60,000		Deferred due to budget constraints.	The Senior Planner has not been hired due to the hiring freeze. Two part-time contract planners handle day-to-day and long-range planning.

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
5.0	Upgrade performance standards and improve performance measurement for development review in Planning	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Complete and ongoing.	Performance measures for development review have been incorporated in the Planning Division's performance measures.
5.1	Begin routing applications within two work days	1	Underway	Planning Manager	No cost	No budget impact.	Complete	
5.2	Establish timelines for initial reviews and re-submittal reviews	1	Immediate	Planning Manager	No cost	No budget impact.	Complete and ongoing.	A streamlined process has been developed. Specific timelines will be included in the update of the policy and procedures manual.
5.3	Comply with recommended timelines for building plan check review	1	When staffing allows	Planning Manager	Staffing costs shown in 4.0	Budget adjustment made to continue contract planner position.	Complete and ongoing.	Staff meet the recommended timelines 95% of the time. When delays occur, they are typically no more than 1-2 days. Compliance is monitored through the Development Review Committee process.

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
5.4	Use Tidemark system to alert for deadlines and measure development review performance in Planning	1	FY 2002-03	Planning Manager	No additional cost (system is being implemented)		Complete and ongoing.	
5.5	Track re-submittals in Planning and review when more than one is required	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Complete and ongoing.	This has been added to the Division Work Plan as a performance measure.
5.6	Clarify customer service policies and notify applicants	1	Immediate	Planning Manager	No cost	No budget impact.	Complete.	Applicants routinely receive letters stating the Division's customer service policies.
5.7	Document meeting results in writing	1	Underway	Planning Manager	No cost	No budget impact.	Complete and on-going	This recommendation is already a standard practice.
6.1	Base Architectural and Site Review on definitive standards	1	Underway	City Council/ ARB/Comm. Dev. Director	ARB handbook and design review ord. underway. Added cost $4,000	Budgeted 02-03.	In process. City Council Handbook approval is expected by 1/05.	
6.2	Cite specific standards for architectural and site design requirements	1	Immediate	ARB/Planning Manager	No cost	No budget impact.	In process. City Council approval of the Handbook is expected by 1/05.	Definitive standards will be incorporated into the Architectural Review Handbook.

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
6.3	Forward non-compliant project designs without delay to ARB for disposition	1	Underway	Planning Manager	No cost	No budget impact.	Complete and ongoing	This is now a standard practice.
6.4	Reconsider use of City-initiated PUD rezoning to control design of commercial developments	2	FY 2002-03	Community Development Director	Can be included in zoning ordinance update. No added cost.	No budget impact.	In process.	City is working to establish PUD guidelines for economically important sites. Walnut Grove PUD process is underway, and may be completed by April 2005.
7.0	Consider changes to Measure P to reduce processing time and staff workloads	2	FY 2003-04	City Council/ Voters	Possible cost reduction		In process. The initiative approved by voters did not reduce processing time.	The Measure C implementation committee will consider how to reduce staff processing time.
8.1	Negotiate blanket contracts with consultants for environmental review	1	FY 2002-03	Planning Manager/City Council	No cost	No budget impact.	In process. A contract is now being developed and should be complete by 11/31/04.	

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
8.2	Phase out multiple files for a single project	1	FY 2002-03	Planning Manager	No cost	No budget impact.	Deferred due to budget constraints.	Projects are being filed under single file number; however, some projects require multiple files due to the volume of paperwork. For this recommen-dation to be implemented most fully, the Division should update Tidemark, which would incur both software and hardware expenses.
Engineering Division Recommendations								
9.1	Reduce processing time goals for initial submittals in Engineering to 6 weeks	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Complete	
9.2	Comply with recommended timelines for building plan check review	1	FY 2002-03	Public Works Director	Minimal Cost	No budget impact.	Complete and ongoing.	
9.3	Use Tidemark system to alert for deadlines and measure development review performance in Engineering	1	FY 2002-03	Public Works Director	No cost	See notes on recommendation 1.	Deferred due to budget constraints.	See notes on recommendation 1. Deploying Tidemark in PW is currently on hold.

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
9.4	Track re-submittals in Engineering and review when more than two are required	1	FY 2002-03	Public Works Director	No cost	No budget impact.	Complete	
9.5	Clarify customer service policies and notify applicants	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	
9.6	Document meeting results in writing	1	Immediate	Public Works Director	No cost	No budget impact.	Complete	
10	Develop fast-track processing procedures in Engineering for simple projects	1	FY 2002-03	Public Works Director	Minimal cost	No budget impact.	Complete.	The processing speed has increased with the placement of an engineer at City Hall. Staff have developed written procedures.
Building Division Recommendations								
11.1	Define plan check timelines for different project types in Building	1	Immediate	Chief Building Official	No cost	No budget impact.	Complete.	
11.2	Route building plans to other divisions within 2 work days	1	Immediate	Chief Building Official	No cost	No budget impact.	Complete	
11.3	Eliminate unnecessary routing of building plans to other divisions	1	FY 2002-03	Chief Building Official	No cost	No budget impact.	Complete	

No.	Recommendation	Pri-ority	Timeline to Initiate	Responsibility	Cost	Currently budgeted? If not, staff funding recommendations	Current status of this recommen-dation	Staff comments about implementing this recommendation
11.4	Do in-house plan check for all building plans with a recommended plan check goal ≤ 5 days	2	FY 2003-04	Chief Building Official	Possible cost reduction.	No budget impact.	Complete	
11.5	Track review times for all units involved in plan check process and prepare reports	1	FY 2002-03	Chief Building Official	Minimal cost	No budget impact.	Complete	
12.0	Respond to 95% of building inspection requests within 1 work day and all within 2 days	1	Ongoing	Chief Building Official	No cost	No budget impact.	Complete	
13.0	Create a full-time position for a building maintenance supervisor	2	FY 2003-04	Community Development Director	Unknown. Much of cost should be offset by savings in contract services	Could be budgeted for FY 05-06. Staff estimate that $12k in contract plan check fees would help offset the staffing increase.	Deferred for another year due to budget constraints.	Staff are studying the City's facilities maintenance structure and operations, and will consider this recommendation as part of the study.
14.0	Reclassify one existing building inspector position to a senior building inspector position	2	FY 2003-04	Community Development Director	Added cost approx. $10,000 per year	Proposed in FY 03-04 budget.	Complete	
15.0	Develop more detailed application brochures for most common types of plan checks	1	FY 2003-04	Chief Building Official	Minimal cost	No budget impact.	Complete.	

AGENDA ITEM #__9_____
Submitted for Approval: November 3, 2004

CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – OCTOBER 20, 2004

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:30 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chairman Kennedy
Absent: Council/Agency Member Chang

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the below listed closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	4

2.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Legal Authority	Government Code 54957
Public Employee Performance Evaluation:	City Manager
Attendees:	City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:32 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:01 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor Kennedy announced that no reportable action was taken in closed session and that should City Manager/Executive Director Tewes arrive at the conclusion of the regular/special meeting agenda, the Council would reconvene to closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Ray Jimenez led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy presented Ray Jimenez and Roger Beaulieu with a proclamation, recognizing the Teachers Aid Coalition for their efforts in raising funds and donations to assist Morgan Hill Unified School District Teachers with classroom supplies.

CITY COUNCIL REPORT

Mayor Kennedy indicated that he would not be presenting a report this evening.

CITY MANAGER REPORT

Acting City Manager Ashcraft stated that he did not have a City Manager's report to present.

CITY ATTORNEY REPORT

City Attorney Leichter stated that the monthly Litigation Summary was distributed to the Council this evening and that copies of the Summary have been made available for the public.

OTHER REPORTS

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy requested that items 2 and 3 be removed from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent,* ***approved*** *Consent Calendar items 1, 4-11 as follows:*

1. APPROVE FINAL MAP FOR COYOTE ESTATES PHASE IX (TRACT 9577)
Action: ***Authorized*** *the Recordation of the Map Following Recordation of the Development Improvement Agreement.*

4. MEMBERSHIP IN INDEPENDENT CITIES LEASE FINANCE AUTHORITY (ICLFA)
Action(s): ***Adopted*** *Resolution No. 5850, Authorizing the City Manager to do Everything Necessary to Execute the Associate Membership Agreement with ICLFA.*

5. APPOINTMENT TO THE SANTA CLARA COUNTY HOUSING & COMMUNITY DEVELOPMENT CITIZEN ADVISORY COMMISSION
Actions: *1)* ***Approved*** *the Mayor's Appointment of Laura Brunton as the City Council's Citizen Representative to the Santa Clara County Housing & Community Development's Citizen Advisory Commission; and 2)* ***Directed*** *the City Clerk's Office to Notify the Santa Clara County Housing & Community Development Department of Said Appointment.*

6. APPOINT ERIC F. GOULD TO FILL A VACANCY ON THE MOBILE HOME RENT COMMISSION
Action: ***Approved*** *Mayor's Appointment of Eric F. Gould to Fill a Citizen at Large Vacancy on the Mobile Home Rent Commission, with Term Ending June 1, 2005.*

7. CONSIDER REQUEST FROM THE MORGAN HILL KIWANIS CLUB TO WAIVE/FUND SPECIAL EVENT PERMIT FEES
Actions: ***Agreed*** *to Pay the $125 Special Events Permit Fee for the Holiday Parade.*

Mayor Kennedy thanked the Kiwanis for all their hard work and for the support/events that they provide for the Friday Night Series, Holiday Parade and the decorations for the downtown. He stated that he was has happy to support this particular action.

8. ESTABLISH NEW CLASSIFICATION AND SALARY RANGE FOR NEW POSITION OF MULTI-SERVICE OFFICER (MSO)
Action: ***Adopted*** *the New Job Description and Salary Range for the Position of Multi-Service Officer (MSO) in the Police Department.*

9. ADOPT ORDINANCE NO. 1699, NEW SERIES
Actions: ***Waived*** *the Reading, and* ***Adopted*** *Ordinance No. 1699, New Series, and* ***Declared*** *That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows:* ***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-04-03: DEWITT*-LATALA FOR APPLICATION MMP-03-06: DEWITT-LATALA. (APN 773-08-012).**

10. ADOPT ORDINANCE NO. 1700, NEW SERIES

Actions: ***Waived*** *the Reading, and* ***Adopted*** *Ordinance No. 1700, New Series, and* ***Declared*** *That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows:* ***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL EXTENDING AND MODIFYING ORDINANCE NO. 1641, NEW SERIES, ALLOWING MODIFIED SETBACK DWELLINGS IN RESIDENTIAL PROJECTS DUE TO CONSTRUCTION LIABILITY INSURANCE ISSUES SURROUNDING OWNERSHIP ATTACHED HOUSING.***

11. SPECIAL CITY COUNCIL MEETING MINUTES OF OCTOBER 6, 2004

Action: ***Approved*** *the Minutes as Written.*

2. PUBLIC WORKS LANDSCAPE MAINTENANCE AGREEMENT FOR FISCAL YEAR 2004-2006

Mayor Kennedy stated that in reading the staff report, the City cancelled the previous agreement that had been made with the low bid contractor and that staff is now recommending that the City retain the services of the second low bidder. He inquired as to the reason the primary low bidder was unsuccessful.

Acting City Manger/Public Works Director Ashcraft stated that the work of the primary low bidder was not satisfactory in performing within the time schedule. Staff had spent 1-1.5 months trying to work with the landscaper to perform satisfactorily and that the level of effort did not meet the City's minimum standard. He stated that by mutual agreement, the contract was cancelled.

Actions: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent: 1)* ***Approved*** *the New Maintenance Agreement for City-Wide Landscape Services; and 2)* ***Authorized*** *the City Manager to Execute the Agreements on Behalf of the City.*

3. APPROVAL OF REIMBURSEMENT AGREEMENT WITH CHARLES WESTON & LESLIE MILES FOR MODIFYING THE CURB INLET ON DEPOT STREET AT EAST MAIN AVENUE (ST. CATHERINE'S DAY WORKER CENTER)

Mayor Kennedy noted that it is stated in the staff report that the funding source is from Measure C, capital improvement project (CIP) funds. He inquired as to the projects Measure C CIP funds can be used for.

Acting City Manager Ashcraft informed the Council that one of the many scoring criterion in Measure C allows developers to receive extra points for the donation of funds for unspecified CIP projects. He indicated that CIP projects include the construction of driveways, curb, gutter and sidewalks, street paving, water and sewer. He said that sometimes the criterion of Measure C is such that it is specific to a certain project. Sometimes, funds will be generated for storm drain projects. However, there are other funds that are generated for non designated CIP projects. He said that it is being recommended that

Measure C funds be used for the Dayworker Center project. The specific project is the reconstruction of the curb return for the Dayworker Center.

Actions: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent: 1)* ***Approved*** *an Appropriation of $6,370 from the Current Year Unappropriated Measure C - Capital Improvement Project Fund Balance for Reimbursement of Relocating and Raising the Curb Inlet on Depot Street at East Main Avenue; and 2)* ***Authorized*** *the City Manager to Execute the Reimbursement Agreement on Behalf of the City, Subject to Review and Approval by the City Attorney.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Mayor Pro Tempore/Vice-chairman Sellers, the City Council, on a 4-0 vote with Council/Agency Member Chang absent,* ***approved*** *Consent Calendar item 12 as follows:*

12. SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF OCTOBER 6, 2004
Action: ***Approved*** *the Minutes as Written.*

City Council Action

OTHER BUSINESS:

13. SAN MARTIN LOCAL DECISION-MAKING ACTIVITIES

Sylvia Hamilton explained the process undertaken by the San Martin Neighborhood Alliance (Alliance) that led to the decision to incorporate San Martin. She stated that in looking into incorporation, financing is a serious concern that needs to be reviewed carefully. The Alliance found a financial feasibility consultant that was highly respected who performed a scope of work and addressed the cost to the community. She indicated that members of the Alliance contributed $25,000 to fund the initial financial feasibility study. In July 2003, EPS, the planning consultant firm hired by the Alliance, attended a town hall meeting. She indicated that San Martin residents, Mayors for both neighboring cities and a Santa Clara County Board of Supervisor representative attended the town hall meeting. EPS presented their report, indicating that funds existed to provide the same level of services to San Martin. The Alliance commenced with a very extensive community outreach program and that they listened to questions raised by the community. The Alliance learned a great deal from the neighborhood meetings. She indicated that the following comments/concerns were raised: 1) Fear that taxes would go up with no knowledge where the money would come from (residents did not realize that there would be revenue sharing possibilities). 2) Afraid that incorporation would result in an urbanized city (citizens do not want this). 3) They would like more control over the destiny of their

community. 4) Want to maintain a residential rural atmosphere. 5) Maintain positive control growth and low density. 6) Support businesses but to be local serving to the tri community area. 7) Maintain the same level of services. 8) They do not want municipal water, sewer, street lights, sidewalk, etc. in residential areas. 9) They want a long term plan that reflects their vision and harmony that is rural residential in nature. 10) Interested in being self governing. 11) Want to be more than advisory on land use issues. 12) They want to set, regulate and implement policies. 13) They want locally elected, politically accountable town council as they would be more accessible, visible, and responsive.

Ms. Hamilton indicated that the Alliance has read through the newest revised State document regarding incorporations. The document talks about what a city must have in order to incorporate (e.g., name, distinct geographic area, a variety of land uses, positive relationships with bordering cities, community pride and spirit). She felt that San Martin satisfies the requirements for incorporation. The Alliance believes that the residents of San Martin have a right to decide whether they want to be self governing. She informed the Council that the Alliance would continue their community outreach program on a regular basis. The Alliance has dealt with the tenants of incorporation, indicating that there is ongoing work taking place with LAFCo. The Alliance has prepared the notice of intent to circulate a petition. Both of these documents are in draft form and are being reviewed by LAFCo. The Alliance has prepared a draft boundary map and has worked with the Mayors and the City Mangers of both bordering cities to determine if there were any red flags associated with the map. She indicated that everyone seemed to be happy with the map that was prepared. She stated that the Alliance has to finalize its application to LAFCo. Should LAFCo approve the documents, the next step would be for LAFCo and the Alliance to work together to hire a comprehensive fiscal analysis consultant. LAFCo will make their determination upon completion of their review of all documents from the various agencies. Should LAFCo support the documentation, incorporation would go to the vote of community residents at the next general election. She stated that the Alliance believes that incorporation is in the best interest of all south county communities. She indicated that the Alliance is requesting that the Council provide a resolution in support, requesting that LAFCo move forward with the incorporation process.

Council Member Tate indicated that he was not able to read the map provided by the Alliance. He did not know where the San Martin boundary would be relative to the Morgan Hill City Limits.

Ms. Hamilton indicated that it is proposed to have the San Martin boundary on the City's sphere of influence line for Morgan Hill. She stated that the Alliance would be happy to meet with planning staff and the City Manager to ensure that the City Limit line is adjusted in a manner that works best for all concerned. She indicated that there would still be unincorporated County areas between Morgan Hill and the proposed San Martin limit line.

Mayor Pro Tempore Sellers stated that incorporation would take taxes/revenue away from the County. He inquired whether this has been an issue with the County or whether they have been cooperative.

Ms. Hamilton responded that the County has been very helpful. She said that one of the reasons there would not be a conflict is because their revenues would be decreased equal to the services that they were providing (revenue neutrality).

Council Member Carr noted that Ms. Hamilton commented several times about the level of service and the fact that San Martin residents do not want to change their current level of service.

Ms. Hamilton indicated that the residents of San Martin are happy with being a rural community and would like to encourage agricultural and local serving businesses that would support agricultural as well as the daily uses of the community. San Martin residents are not interested in high density. She stated that in attendance this evening were other members of the San Martin Incorporation Subcommittee. She informed the Council that a simple majority vote is needed to incorporate San Martin, indicating that 25% of the registered voters need to sign the petition of incorporation in order to have it considered by LAFCo.

Mayor Kennedy opened the floor to public comment.

Paul Marshall, vice-president of the South County Airport Pilots Association (Association), stated that it is exciting to see the San Martin Neighborhood Alliance go as far as it has to create a new village and going through all the steps to organize. He indicated that approximately one-third of the 80 members who fly out of the South County Airport reside in Morgan Hill. He stated that the Association noticed yesterday in the newspaper that the San Martin group would be speaking before the Council this evening. As pilots, they are pro airports and are supporting the County in its Airport Master Plan for the next 20 years. He indicated that the next area of airport work is to install a runway extension. He stated that the Association supports the runway extension while the Alliance opposes the extension. He indicated that last year, the Alliance filed a suit seeking an injunction against the hanger project. They eventually dropped the suit but are now focusing in blocking the runway expansion. He indicated that the County has one massive airport for public use, San Jose International Airport. The County also has three very small airports that are good for single engine propelled aircrafts. He noted that the County does not have a mid sized airport for public use. When the County looks ahead 20 years, they see that this will be a problem as the San Jose airport gets full. He indicated that there are places like Hollister and Watsonville who have larger runways that can support larger planes commonly used by businesses. He stated that the County is trying to increase the runway to reach 5,000 feet. He felt that the airport would remain a small regional airport, smaller than Hollister, with less asphalt than Watsonville has in its airport. He stated that the Association would like San Martin to succeed and to have the City of Morgan Hill support the Alliance in their efforts to incorporate. However, he felt that it would be advisable for the City of Morgan Hill to protect its interest by obtaining a binding commitment from the Alliance to support the County's Airport Master Plan as a part of the City's support.

Jim MacKnight, resident of Morgan Hill and a member of the South County Airport and Pilots Association, stated that the Association supports San Martin's incorporation. However, the Association requests that there be a binding agreement in order to move forward with the Santa Clara County Airport Master Plan that will handle growth for the next 20 years in South County. He indicated that the 100 hangers being installed were previously opposed by the Alliance, noting that the additional hangers included an increase in fire protection. He requested that the Council consider these factors when it endorses incorporation. He recommended that the Council protect the City's interest in the reasonable growth of the airport.

Steve Miller deferred his time to Mr. Marshall.

Mr. Marshall indicated that the airport is good for the City of Morgan Hill for a variety of reason. He stated that the Department of Forestry was able to use the airport facility to fight a fire in the hills a few years ago. He stated that people who are involved with lifeline medical services also use the airport as a staging place to transfer individuals. It is convenient to have an airport close to home for individuals who fly. It also affords the ability for retraining. He felt that expansion of the airport is a good thing as it takes the runway from 3,000 feet to 5,000 feet. Big business jets would not be able to use this size of a runway. He said that modification to aircrafts result in them being quieter. Therefore, you do not have nearly the noise problems that you had 20-30 years ago. He felt that it was important to have the best possible attraction to bring the right economic base to the area. A small airport that can serve business needs will promote economic growth in the area. He felt that communities need to think carefully about making the community an attractive place for businesses to situate. He stated that there is a very strong history with the San Martin Neighborhood Alliance of being in conflict with the airport. He felt that the airport has provided good benefits to the community. He felt that the Council may be the individuals who can talk to the Alliance to have them think about the airport's benefits.

Mayor Kennedy said that one of the proposals in the Airport Master Plan is to allow jets with increased weight. He felt that this was a concern to the residents of San Martin, Morgan Hill and Gilroy should large heaver jets be allowed to use the airport (noise concern).

Mr. Marshall stated that the airport could implement noise limits. He said that there are three different noise levels. He said that it was his belief that the County calls for the expansion that would accommodate a midsized business jet aircraft and that the airport would not be suitable for large jets that load up to travel long distances.

Larry Fernandez indicated that his points have already been raised.

No further comments were offered.

Mayor Pro Tempore Sellers stated that in hearing comments this evening; he agreed that the future of the airport is of significant concern to Morgan Hill as it is to Gilroy and the entire region. However, he felt that it might be premature in the way discussions were developing and in what the San Martin Group is requesting of the City Council this evening. He recommended that the San Martin Airport item be one that the Council sits down and resolves with the two groups. In listening to Ms. Hamilton and the steps remaining, he felt that San Martin was in a relative early stage of working toward incorporation. He recommended that the resolution states that the Council looks forward in working with San Martin residents and mutually resolving issues such as the airport. He felt that this would be a way to reference discussions regarding the San Martin airport.

Council Member Tate stated that he appreciated the issue of the airport being raised this evening. He felt that the reason that the San Martin residents want to incorporate is to increase their input into the land use decision making process. He noted that the Council is being faced with a land use decision. He stated that this is an airport that Morgan Hill wants to have access to. He noted that the airport is located in San Martin and not in Morgan Hill. He stated his support of Mayor Pro Tempore Sellers' desire to work with the San Martin residents. However, he did not believe that the Council should force

a land use decision on a town that is just getting started because they want to make their own land use decisions.

Mayor Pro Tempore Sellers felt that there were a variety of issues that warrant further discussion such as emergency, police and fire services. He said that San Martin will be making their own decision. However, if there are items that impact both communities, this may be a way to ensure that the City has input as the airport will impact the Morgan Hill community.

Council Member Carr felt that the City needs to take a step back and that before talking about specifics such as the airport and other items; he would like to ask staff to investigate whether there would be any impacts to Morgan Hill. He felt that it was exciting that a community is coming together in order to take some charge of its future. However, as a Council Member for Morgan Hill, he has to ask City staff to take a look at the report and the actions being proposed to determine any affects to Morgan Hill. He indicated that this item would be discussed at the South County Joint Planning Advisory Committee in the near future and felt that this Committee will also want to review any impacts associated with incorporation. He stated that he would be willing to have a resolution in support of incorporation returning to the Council, but felt that it was important to have the discussion of staff's findings of any impacts to Morgan Hill in order to find ways to address the impacts as they present themselves.

Mayor Kennedy indicated that he serves on the Airport Land Use Commission which reviews land use issues surrounding airports. He stated that Nathan Bennich is his proxy on this Commission and that he has been actively working with the San Martin Neighborhood Alliance to try and resolve issues that may come up with respect to the airport. He said that the Council always tries to find a win-win solution that benefits all parties (e.g., pilots, community of San Martin, and Cities of Morgan Hill and Gilroy). He noted that the action being recommended is that the Council direct staff to draft a resolution for Council consideration. He recommended that staff look at any other issues that might be of concern to the City and bring those back as well, giving staff time to do so.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent:* ***Directed*** *that: 1) staff return with a resolution in support of San Martin Incorporation; and 2) staff to investigate any issues that may be of concern to the City of Morgan Hill (e.g., airport, public safety, refuse station).*

14. CONSIDER PROCEDURES TO RESOLVE TIE VOTE(S)

City Clerk Torrez presented the staff report, informing the Council that the City does not have in place an ordinance or a resolution that authorizes a special election to be held in order to resolve a tie vote. If the Council does not adopt an instrument to take a tie vote to a special election by November 1, 2004, the tie vote would be decided by draw.

City Attorney Leichter informed the Council that the procedure for drawing by lot is that the candidates involved in a tie would be summoned to Sacramento and that the Secretary of State conducts the lot drawing to determine the winner.

Mayor Kennedy noted that the staff report indicates that the Santa Clara County Registrar of Voters has indicated that a runoff election could cost up to $177,000.

City Clerk Torrez indicated that it is premature for the Registrar of Voters office to give the City an actual cost for a special election as it is not known if a special election could be consolidated with any other elections that may occur throughout the County. She stated that in talking with a Registrar of Voters staff member, it was indicated that in the past eight years they have not had a situation where they had to hold a runoff election to resolve a tie vote.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Council Member Tate said that another factor to consider besides the expense is the delay in seating an individual for a period of time. These factors influence his decision on this matter.

City Attorney Leichter informed the Council that the Election Code specifies that a runoff election would have to be held between 40 and 125 days after the election.

Mayor Pro Tempore Sellers said that understanding the potential cost and the exceedingly unlikely event that a tie would occur, the Council would be making a policy statement. He felt that the Council's policy statement should be that the City would conduct a runoff election in the event of a tie vote. He noted that several years ago the City had 10 individuals running for Council and that the winners ended up close in the number of votes they attained (e.g., 20%, 19%, 18%, etc.). He felt that there are specific differences between candidates and that a runoff election would give an individual a good opportunity to make a different statement. He felt that you may end up having up to 80% of the citizens who did not vote for an individual who would end up getting elected. He felt that 80% of voters should be given another opportunity to vote as you may have two candidates who would have very despaired views on items while having a majority of individuals who would want to weigh in. If he thought that there was a remote likelihood of a tie vote taking place, he might be more inclined toward the financial argument. However, it was his belief that this would be a policy statement. It would be his policy statement that the City gives voters a second chance to vote.

Mayor Kennedy stated that he agreed with Mayor Pro Tempore Sellers' comments about resolving a tie vote by holding a special runoff election as a policy statement. He felt that the importance of the decision of who is elected to the Council or Mayor seats should not be left up to a lottery but left up to the vote of the public. He said that although the cost would be high, it would be highly unlikely that a tie vote would occur.

Council Member Carr stated that he had not given thought to Mayor Pro Tempore Sellers comments but had given thought of a tie in the instance of two candidates running against each other and the City holding the same election over again. He noted that the resolution states that a runoff election would be held to resolve a tie vote. He inquired whether this was clear enough to mean that only those candidates that are tied and have the highest number of votes would be involved in a runoff election so that in the case of 10 candidates running for mayor or city council, the other eight would not be included in the special runoff election. He felt that a clarification would make a difference.

City Attorney Leichter stated that it was her belief that the resolution could stand some clarification in light of Council Member Carr's comments. The resolution can be clarified to state that the runoff election would be for an open seat.

Mayor Kennedy referred to the section of the resolution that reads "Whereas, Section 15651(b) of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to require the conduct of a special runoff election to resolve a tie vote involving those candidates that have received an equal number of votes and the highest number of votes for an elected office." He felt that this section limits a runoff election to the highest vote getting candidates.

City Attorney Leichter stated that it could be that the City would have one candidate that fills one seat and that there would be a tie vote for the second council seat. In which case, the resolution would not apply. She requested the opportunity to clarify this section. She felt that it should be the highest number of votes for an open seat. She indicated that the resolution could be amended verbally this evening.

City Clerk Torrez clarified that the Council has to take action on the resolution by November 1 in order to be able to conduct a special runoff election in the event of a tie vote. She indicated that staff could return to the Council on October 27 with an amended resolution.

Mayor Pro Tempore Sellers stated that the Council could request that staff return with an amended resolution on the October 27 Council meeting for adoption should there be concurrence.

Council Member Tate felt that a special election is costly and that it would be more fiscally responsible to save money and resolve a tie vote by lot.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Mayor Kennedy, the Council* ***directed*** *staff to return with a Resolution on October 27, 2004 that would allow the conduct of a special runoff election in the event of a tie vote, with the amendments referenced by the City Attorney.*

Council Member Carr agreed that the fiscally responsible position would be to resolve a tie vote by the flip of a coin. This was his position until Mayor Pro Tempore Sellers brought up a situation that he had not thought of. If candidates are tied with only 15% of the vote, it really is not the citizens who will decide who will serve the elected term with the flip of a coin. Therefore, he felt that the voters should be given the opportunity to resolve the tie. He acknowledged that the possibility of a tie vote would be slim.

Vote: *The motion carried as follows: AYES: Carr, Kennedy, Sellers; NOES: Tate; ABSTAIN: None; ABSENT: Chang.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Council Member Carr stated that he has been reading a lot in the newspaper, recently, about the potential of an Indian casino and/or Indian gaming. It was his understanding that the Mayor has been invited to attend a meeting. Other than what he has read in the newspaper, he indicated that he knows nothing about what is taking place. He recommended that this item be brought before the Council as he did not know whether the City of Morgan Hill should take a position and what the position should be, if any.

RECONVENE TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 7:53 p.m. in order to conduct a brief meeting with the City Manager.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 8:09 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor/Chairman Kennedy announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 8:10 p.m.

MINUTES RECORDED AND PREPARED BY:

_____

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY

AGENDA ITEM #___10_____
Submitted for Approval: November 3, 2004

CITY OF MORGAN HILL
SPECIAL CITY COUNCIL MEETING
MINUTES – OCTOBER 27, 2004

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Sellers, Tate and Mayor Kennedy
Absent: Council Member Chang

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the special meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Alex Kennett, Chamber of Commerce Board Member and outgoing Interim Executive Director, introduced recently hired Chamber of Commerce Executive Director Dan Ehrler.

Mr. Ehrler stated his appreciation for this opportunity and that he looks forward to meeting with each Council Member and city staff individually. He also looks forward in working with the City and the community toward a continuing, excellent relationship with the Chamber of Commerce.

No further comments were offered.

CONSENT CALENDAR:

City Manager Tewes informed the City Council that item 1 was placed on the consent calendar at the request of a developer who is subdividing property. It was his understanding that the developer was still talking to City staff about this item. He felt that it may be appropriate to remove this item from the consent calendar at this time and that the item be considered by the Council once the results of the discussions are known.

1. REVISION TO SUBDIVISION IMPROVEMENT AGREEMENT FOR CAPRIANO, PHASE VI (TRACT 9617)

City Manager Tewes indicated that from time to time, the Council is asked to authorize the City Manager to execute a subdivision improvement agreement. He said that a condition of the subdivision improvement agreement is that the developer provides insurance to ensure that the public improvements are installed properly and that in the event that any claims occur subsequently, the City is properly covered. In this particular instance, the Council previously authorized the City to enter into an agreement for this particular subdivision. He informed the Council that the developer has asked for the opportunity to have an alternative way in which the insurance could be provided. The developer proposes that his construction firm also be allowed to provide the insurance. He stated that it is staff's belief that this alternative would provide sufficient coverage to the City and that the agreement before the Council would authorize the City Manger to execute a subdivision agreement that would provide an alternative way in which the insurance can be provided. He clarified that the actual insurance requirements are not changing; it is just how the requirements can be met.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent,* ***Authorized*** *the City Manager to Sign the Revised Subdivision Improvement Agreement on Behalf of the City.*

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the special meeting at 10:58 p.m.

MINUTES RECORDED AND PREPARED BY:

_____

IRMA TORREZ, CITY CLERK

CITY OF MORGAN HILL
REDEVELOPMENT AGENCY

AGENCY STAFF REPORT

MEETING DATE: *November 3, 2004*

Agenda Item # 11

Prepared By:

_____
BAHS Housing Rehab Coordinator

Approved By:

_____
BAHS Director

Submitted By:

_____
Executive Director

RELEASE OF BID FROM ABCO AND REJECT ALL BIDS FOR THE HISTORIC LAMALFA HOUSE MOVE.

RECOMMENDED ACTION(S):

Release ABCO Construction from their August 25, 2004 formal bid for the LaMalfa House Move Project, and reject all other bids.

EXECUTIVE SUMMARY:

On August 25, 2004 bids were opened following the formal public bidding process for the services to move the 1906 built LaMalfa House from 1105 San Pedro Avenue to across the street to the City owned soccer complex on Condit Road. Dan Gamel of Dan Gamel RV currently owns this house and is planning an expansion of the RV complex onto the property. Dan Gamel is donating this house to the City as part of a development agreement with the City. On September 22, 2004 the contract was awarded to ABCO Construction for $30,000 with a $6,000 contingency. More than 45 days has passed since the August 25, 2004 bid opening and ABCO has not been able to obtain the necessary liability insurance. The only other bidder was Kelly House Movers at a bid of $39,000 which is $5,000 more than the staff estimate of $34,000. Staff recommends releasing the bid from ABCO because 1) they have not complied with the contract terms and 2) staff believes a lower bid can be obtained using an informal bidding process with issuance of a purchase order. Moving the home in a timely manner is critical to allowing Dan Gamel to expand his operations. Rejecting the bids will help expedite the process as well as result in cost saving to the City.

FISCAL IMPACT: None

CITY OF MORGAN HILL
REDEVELOPMENT AGENCY

AGENCY STAFF REPORT

MEETING DATE: November 3, 2004

Agenda Item # 12

Prepared By:

_____
BAHS Housing Rehab Coordinator

Approved By:

_____
BAHS Director

Submitted By:

_____
Executive Director

AWARD PURCHASE ORDER FOR THE LAMALFA HOUSE MOVE PROJECT

RECOMMENDED ACTION(S):

1. In accordance with Section 3.04.150A of the City Municipal Code, determine that the competitive bid process for relocating the LaMalfa House Move Project would not likely result in a lower price to the City from a responsible bidder and/or would cause unnecessary expense or delay of the project

2. Approve purchase order in the amount of $37,000 with Kelly House Movers for relocating the LaMalfa House and authorize a $6,000 contingency.

EXECUTIVE SUMMARY: This project includes the moving of the 1906 built LaMalfa House from 1105 San Pedro to across the street to the City owned soccer complex on Condit Road. Dan Gamel of Dan Gamel RV currently owns this house and is planning an expansion of the RV complex onto this property. Dan Gamel is donating this house to the City as part of a development agreement with the City. The house was deemed historically significant by Dr. Carter who is a historical consultant for the City. The house will be stored on the soccer field complex so that it can be renovated as office space for the future Sports Complex project.

In accordance with Municipal Code Section 3.04.150A, staff is requesting a determination from Council that competitive bids would not be likely to result in a lower price and would cause unnecessary delay in the project under the circumstances. On September 22, 04 the project was originally awarded to ABCO Construction following the formal bid process. ABCO could not complete the contract terms and in a separate action staff is recommending ABCO be released from the bid award and that the City reject the remaining bid.

Staff sent out Request for Proposals (RFP) with new specifications to two qualified house movers who have worked with the City on similar projects involving the move of historic buildings. Staff recommends approval of a purchase order for the lowest proposed fee from Kelly House Movers in the amount of $37,000, with a contingency of $6,000. The other bid was from Trost Construction for $41,000.

FISCAL IMPACT: The total contract cost for this project is $37,000 with a contingency of $6,000. This project is budgeted in the 2004-2005 BAHS (Fund 317) budget.

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: May 19, 2004

Agenda Item # 13
Prepared By:
_____
Associate Planner
Approved By:
_____
CDD Director
Submitted By:
_____
City Manager

DEVELOPMENT AGREEMENT APPLICATION, DA-03-09: NATIVE DANCER – QUAIL MEADOWS

RECOMMENDED ACTIONS:

1. Open/close Public Hearing
2. Waive the First and Second Reading of Development Agreement Ordinance
3. Introduce Development Agreement Ordinance (roll call vote)

EXECUTIVE SUMMARY: The applicant is requesting approval of a development agreement for a six-unit single-family project. The project, referred to as Quail Meadows, is located along the west side of Santa Teresa Boulevard, south of Watsonville Road. The six-lot subdivision represents the final phase of an overall 13-unit, single-family project. The project was awarded two allotments for Fiscal Year 2004-05 and four allotments for Fiscal Year 2005-06 under the Micro Measure P competition.

In accordance with established Council policy, all residential projects awarded building allotments through the Residential Development Control System (Measure P) must secure Council approval of a development agreement. The purpose of this agreement is to formalize the commitments made during the Measure P process, and to establish a development schedule and mechanism to monitor the progress of the project. Project specific commitments made during the Measure P process are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B.

The Planning Commission reviewed the applicant's request at their April 27 meeting. The Commission voted 5-0, with two Commissioners absent, to recommend approval of the development agreement with modifications to the deadlines to submit and obtain building permits for the four, Fiscal Year 2005-06 units. A copy of the April 27 staff report and draft minutes are attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MMP-03-01: NATIVE DANCER – QUAIL MEADOWS (APN 779-02-014) (DA-03-09: NATIVE DANCER – QUAIL MEADOWS)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 03-23, adopted April 22, 2003, has awarded allotments to a certain project herein after described as follows:

Project	Total Dwelling Units
MMP-03-01: Native Dancer – Quail Meadows	2 allotments for Fiscal Year 2004-05
	4 allotments for Fiscal Year 2005-06

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of November 2004, and was finally adopted at a regular meeting of said Council on the 17th Day of November 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST: **APPROVED:**

_____ _____
Irma Torrez, City Clerk **Dennis Kennedy, Mayor**

CERTIFICATE OF THE CITY CLERK

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 17th Day of November 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____ _____
IRMA TORREZ, City Clerk

EXHIBIT A

(Amendment to Exhibit B of the Development Agreement)

DEVELOPMENT SCHEDULE MMP-03-01: NATIVE DANCER – QUAIL MEADOWS
FY 2004-05 (2 *custom* units), FY 2005-06 (4 *custom* units)

I. SUBDIVISION APPLICATION
Applications Filed: August 29, 2003

II. SITE REVIEW APPLICATION
Application Filed: ***November 1*** ~~**May 31,**~~ 2004

III. FINAL MAP SUBMITTAL
Map, Improvements Agreement and Bonds: ***July 9*** ~~**May 31,**~~ 2004

IV. BUILDING PERMIT SUBMITTAL
Submit plans to Building Division for plan check:
FY 2004-05 (2 ***custom*** units) ***June 30, 2006*** ~~**August 31, 2004**~~
FY 2005-06 (4 ***custom*** units) June 30, ***2007*** ~~**2005**~~

V. BUILDING PERMITS
Obtain Building Permits:
FY 2004-05 (2 ***custom*** units) ***September 30, 2006*** ~~**October 30, 2004**~~
FY 2005-06 (4 ***custom*** units) September 30, ***2007*** ~~**2005**~~

Commence Construction:
FY 2004-05 (2 ***custom*** units) June 30, ***2007*** ~~**2005**~~
FY 2005-06 (4 ***custom*** units) June 30, ***2008*** ~~**2006**~~

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least three (3) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT B

(t) The Property Owner agrees to the following conditions for the development of the six custom lots within the project.

(i) The Final Map shall be revised as follows: (a) designate all six lots as "For Sale" custom lots, and (b) record a note indicating a building allotment must be obtained from the partially completed set-aside on any custom home constructed after the two-year extension period.

(ii) Site improvements, rough grading, and common area landscaping shall be substantially completed and a punch list generated by the City prior to final occupancy of the first unit. The punch list items shall be completed and accepted by the City within 60 days of final occupancy of the first unit or prior to final occupancy of the second unit, whichever comes first.

(iii) All future custom lot buyers shall be subject to compliance with the provisions of this development agreement.

(iv) The project developer shall not place any private agreements/contingencies on any of the "For Sale" lot (such as requiring the buyer to use the project developer to construct the home). The project developer may through CC&R's or deed restriction, establish a minimum square footage of building area for the custom lot and/or establish minimum architectural standards to ensure compatibility with the existing homes in the subdivision.

(v) Designated "For Sale" lots may be sold to other development entities, such as a general contractor specializing in custom home construction. Sales to other development entities (any one developer) shall not exceed the greater of two units or 25 percent of the designated "For Sale" lots. In addition, at least 50 percent of the designated "For Sale" lots must be sold to private individuals. <u>Note</u>: Lots not meeting the above may still be sold for development by others, however, these lots shall not quality for the two-year extension provided above. Such sales do not relieve the project development entity from all commitments and requirements as outlined above and may increase the risk of not meeting the 50 percent "under construction" for "partially-completed" status. Projects that are not at least 50 percent completed under the original building allotment are not eligible to draw from the partially completed building allotment set-aside.

(vi) A buyer/owner (private individual) who selects for his or her builder either the project developer or other developer entity under subsection (v) above, must take title to the property and pull a building permit in his or her own name (as the owner/builder).

(vii) ***The two-year extension date for custom lot development would be maintained as long as the conditions above are met. If the project developer receives an extension from the City Council for a project phase, all "For Sale" lots in the corresponding phase of the project would also be extended. If the project developer does not receive an extension for a project phase for a "For Sale" lot, the individual owner/developer of that lot may apply for a one year extension. If the "For Sale" lot owner is unable to meet the commencement of construction threshold by the end of the one year extension, the "For Sale" lot owner would still be eligible to compete in the partially completed set-aside category, provided the overall project has satisfied the requirement for "partially complete" status under current City Council policy.***

(viii) ***Construction of the six custom lots shall commence within two years of the expiration date of the project's fiscal year building allotments, as identified in the project Development Schedule. If construction fails to commence within the two-year period, a building allotment must be obtained from the partially completed set-aside.***

CITY COUNCIL STAFF REPORT

MEETING DATE: November 3, 2004

Agenda Item # 14

Prepared By:

_____
Associate Planner

Approved By:

_____
Planning Manager

Submitted By:

_____
City Manager

Out of Service Request, OSR-04-01: Holiday-Corbin

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Adopt resolution of approval forwarding the request to LAFCO.

EXECUTIVE SUMMARY:

A homeowner in Holiday Lakes Estates is requesting an Out of Urban Service Area request for a sewer connection for an existing 2100 sq. ft. home on a .42-acre parcel located at 17360 Holiday Drive. The home is outside the City Limits and Urban Service Boundary.

The home is currently being served by City water but not City sewer service. The septic system that supports the structure has failed and the County Health Department has recommended that the home be connected to a sewer system (see an attached letter from County of Santa Clara). Due to the soil type, lack of land area for a new septic system, and the topography of the property, the installation of a new septic system is not possible.

Section 18.78.080 B, of the Municipal Code reads as follows: "The City shall grant no new extensions of urban services for residences beyond its urban service area except in the event that: An owner of an existing development requests an extension due to the failure of an existing septic system or well and the city council makes a finding that denial of services to that development would have a direct adverse impact on the public health and safety."

The absence of proper sewage disposal is a public health concern. Connection to City sewer appears to be the only viable option at this time since the parcel cannot accommodate a new septic system and the existing one cannot be repaired. The extension of sewer service to this property would involve the installation of an on-site lateral. The subject property is approximately 250 feet from an existing City sewer line. The applicant proposes to install a lateral to the existing City line, under Holiday Drive. The applicant has received permission from the Holiday Estates Maintenance Association (see attached letter) to install the lateral beneath Holiday Drive. Staff recommends approval of the request since the finding of a direct adverse impact on the public health and safety can be made. The attached Council resolution will be forwarded to LAFCO for consideration.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

R:\PLANNING\WP51\BOUNDARY\Outside Service Area\2004\OSR-04-01 Holiday-Corbin\OSR0401M1C.doc

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN EXTENSION OF CITY SEWER SERVICE TO AN UNICORPORATED PROPERTY LOCATED AT 17360 HOLIDAY DRIVE. (APN 729-36-002)

WHEREAS, such request was considered by the City Council at their regular meeting of November 3, 2004, at which time the City Council approved OSR-04-01: Holiday-Corbin; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process; and

WHEREAS, the Santa Clara County Department of Environmental Health has determined that the septic system has failed. Due to the limited area available for repair, the County has recommended connecting to a sanitary sewer to resolve the eminent nuisance and unsafe condition created by the failed septic system; and

WHEREAS, the City Council finds that the present septic system cannot be replaced or repaired. In the best interest of the public health and safety and the hardship imposed on the property owner, a connection to the City sewer is recommended; and

WHEREAS, the existing residential use is consistent with the County zoning and City General plan and the use without proper sewage disposal has an adverse effect on the public's health and safety; and

WHEREAS, no other options are available for providing sewage disposal for the property; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City sewer line currently exists 250 feet from the property and a lateral from the property to the sewer line will be required to service the subject property. A connection to the existing line would be necessary and is consistent with the General Plan policies and Urban Service Extension policy and Morgan Hill Municipal Code section 18.78.080.

SECTION 2. The project is categorically exempt from CEQA under Section 15303(d).

SECTION 3. Based on a determination of the County Department of Environmental Health in a letters dated April 17, 2002, June 5, 2002, and May 13 2004 the City Council finds that the subject property cannot be provided with septic service due to parcel size, soil type, and topography of the parcel. Denial of services would have a direct adverse impact on the public health and the property owner.

SECTION 4. Prior to filing an Out of Service Area Request application with LAFCO, the City shall forward this application to South County Regional Waste Water Authority for their review and approval.

SECTION 5. The Applicant shall enter into a hold harmless agreement and waiver and release agreement with the City in a form acceptable to the City Attorney. The agreement shall, at a minimum, hold harmless and release the City from all responsibility if the check valve or the sewer system fails and damage from any future sewer backup, overflow, or other contamination results.

SECTION 6. The approved project shall be subject to the following conditions:

1. The applicant shall pay City sewer connection fees.
2. The applicant shall obtain an encroachment permit from the Public Works Department prior to construction work with the City's right-of-way or in connection with the City's utility system.
3. Abandon existing septic system per County requirements.
4. Applicant shall submit two signed copies of the approved resolution to the Planning Division prior to issuance of encroachment permit.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of November, 2004 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

❦ CERTIFICATION ❦

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on November 3, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

_____
IRMA TORREZ, City Clerk

A F F I D A V I T

I, WILLIAM CORBIN, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

_____, Applicant
William Corbin

_____, Date

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: November 3, 2004

Agenda Item # 15

Prepared By:

_____
Associate Planner

Approved By:

_____
Planning Manager

Submitted By:

_____
City Manager

Out of Service Request, OSR-04-02: Monterey-Suh

RECOMMENDED ACTION(S):

1. Open/Close Public Hearing
2. Adopt resolution of approval

EXECUTIVE SUMMARY:
The applicant is requesting an Out of Urban Service Area request for a sewer connection for an existing 1500 sq. ft. home on a 2.3-acre parcel located at 15295 Monterey Road. The home is in the City Limits but outside the Urban Service Boundary. As part of the agreement between the property owner (Suh) and the Oakwood Country School, the property owner agreed to a land swap in which the back half of the property was obtain by the Country School, while the property owner obtains property adjacent to the Monterey Road frontage. The existing house, which currently is located on the property that will be obtained by the Country School, will be moved to land owned by the property owner, closer to Monterey Road.

The relocation of the existing house will require a new septic system. According to a letter from the County Health Department, County health recommends the house be connected to sewer because the site is located in a flood zone and leachlines are not permitted in a flood zone. In addition, the septic system must be setback 50 feet from the on-site drainage swale and 100 feet from the well, thus limiting the area in which a potential system could be installed. There is a potential for seasonal high groundwater, along with sandy, fast percolating soils. Septic systems cannot be installed in sandy soils where there is high groundwater. In addition, it has been reported that plumbing inside the existing house is slow and prone to overflows due to saturated soils in the winter months. County Health concludes that the potential for failure of a new septic is high and recommends connecting to City sewer.

Section 18.78.080 B, of the Municipal Code reads as follows: "The City shall grant no new extensions of urban services for residences beyond its urban service area except in the event that: An owner of an existing development requests an extension due to the failure of an existing septic system or well and the city council makes a finding that denial of services to that development would have a direct adverse impact on the public health and safety."

The absence of proper sewage disposal is a public health concern. Connection to City sewer appears to be the only viable option at this time since the parcel cannot accommodate a new septic system. The extension of sewer service to this property would involve the installation of an on-site lateral. The existing City sewer line is adjacent to the property along Monterey Road. Staff recommends approval of the request since the finding of a direct adverse impact on the public health and safety can be made.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN EXTENSION OF CITY SEWER SERVICE TO A PROPERTY LOCATED AT 15295 MONTEREY ROAD. (APN 779-04-064)

WHEREAS, such request was considered by the City Council at their regular meeting of November 3, 2004, at which time the City Council approved OSR-04-02: Monterey-Suh; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process; and

WHEREAS, the Santa Clara County Department of Environmental Health has determined that a new septic system has a high probability of failing. Due to the limited area available to install a new septic and that leachlines cannot be installed because the property is located a flood zone, the County has recommended connecting to a sanitary sewer to avoid an eminent nuisance and unsafe condition created by a failed septic system; and

WHEREAS, the City Council finds that the present septic system cannot be replaced or repaired. In the best interest of the public health and safety and the hardship imposed on the property owner, a connection to the City sewer is recommended; and

WHEREAS, the existing residential use is consistent with the City zoning and City General plan and the use without proper sewage disposal has an adverse effect on the public's health and safety; and

WHEREAS, no other options are available for providing sewage disposal for the property; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The City sewer line currently exists adjacent to the property and a lateral from the property to the sewer line will be required to service the subject property. A connection to the existing line would be necessary and is consistent with the General Plan policies and Urban Service Extension policy and Morgan Hill Municipal Code section 18.78.080.

SECTION 2. The project is categorically exempt from CEQA under Section 15303(d).

SECTION 3. Based on a determination of the County Department of Environmental Health in a letters dated September 22, 2004 the City Council finds that the subject property cannot be provided with septic service due to parcel size, soil type, and location in the flood zone. Denial of services would have a direct adverse impact on the public health and the property owner.

SECTION 4. As a condition of approval, the City shall forward this application to South County Regional Waste Water Authority for their review and approval.

SECTION 5. The Applicant shall enter into a hold harmless agreement and waiver and release agreement with the City in a form acceptable to the City Attorney. The agreement shall, at a minimum, hold harmless and release the City from all responsibility if the check valve or the sewer system fails and damage from any future sewer backup, overflow, or other contamination results.

SECTION 6. The approved project shall be subject to the following conditions:

1. The applicant shall pay City sewer connection fees.
2. The applicant shall obtain an encroachment permit from the Public Works Department prior to construction work with the City's right-of-way or in connection with the City's utility system.
3. The applicant shall cause the construction of all public and private improvements in accordance with the latest City Standard Drawings and Specifications or prepared in a format as approved by the Director of Public Works.
4. The applicant shall cause to be undertaken the design and construction of sanitary sewer improvements including, but not limited to installation of sewer line extension on-site. Collection system shall include, but not be limited to manholes and manhole frames, covers, cleanouts, wye branches, laterals, and separate sewer taps to each lot. These are to be installed by the applicant.
5. The applicant shall obtain a plumbing permit from the Building Division
6. The applicant shall abandon the existing septic system per County requirements.
7. The applicant shall submit two signed copies of the approved resolution to the Planning Division prior to issuance of encroachment permit.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 3rd Day of November, 2004 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

❦ CERTIFICATION ❦

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on November 3, 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

_____
IRMA TORREZ, City Clerk

A F F I D A V I T

I, JEUNG SUH, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

_____, Applicant
Jeung Suh

_____, Date

CITY OF MORGAN HILL

CITY COUNCIL STAFF REPORT

MEETING DATE: November 3, 2004

Agenda Item # 16

Prepared By:

Planning Manager

Submitted By:

City Manager

ZONING AMENDMENT, ZA-04-19: TEXT AMENDMENT TO THE SUBDIVISION ORDINANCE

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY:

The subdivision of property is regulated under Title 17 of the Morgan Hill Municipal Code. Subsection 17.20.110 of this Title requires City Council review of all tentative maps approved by the Planning Commission. Recently, the Council requested that the Subdivision Ordinance be amended to no longer require City Council review of approved tentative maps.

The above provision was adopted as part of the City's Subdivision Ordinance in 1983. Since that time, there have only been three or four occasions where Councils have called up a Planning Commission approved tentative map for review. Those occasions were all instances where neighbors objected to proposed roadway extensions that were part of the subdivision map. Given these relative few instances, the Council felt that it is no longer necessary to review Planning Commission approved tentative maps. The attached Ordinance repeals Subsection 17.20.110, eliminating this requirement.

Under Section 17.20.140 of the Subdivision Ordinance, any interested person adversely affected by a decision of the Planning Commission regarding a tentative map, may file an appeal with the City Council concerning such decision. Therefore, although the tentative map review would no longer be automatic, it is still possible for the City Council to review and add, modify or delete conditions to an approved tentative map through the appeals process.

The Planning Commission reviewed this amendment at their October 12, 2004 meeting. The Commission voted 6-0 with one member absent to recommend adoption of the attached ordinance. Additional background information is provided in the attached Planning Commission memorandum and meeting minutes.

FISCAL IMPACT:

No budget adjustment required. Elimination of the City Council review requirement will reduce the time and material cost to process tentative subdivision maps.

ORDINANCE NO. _____, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING TITLE 17, CHAPTER 17.20 OF THE MORGAN HILL MUNICIPAL CODE, THE SUBDIVISION ORDINANCE, REPEALING SECTION 17.20.110, REQUIRING CITY COUNCIL REVIEW OF TENTATIVE SUBDIVISION MAPS.

WHEREAS, the subdivision of property is regulated under Title 17 of the Morgan Hill Municipal Code. Chapter 17.20 of this Title established the process, procedures and map requirements for subdivision of five or more parcels. Subsection 17.20.110 of this Chapter requires City Council review of all approved tentative maps; and,

WHEREAS, the above provision was adopted as part of the City's Subdivision Ordinance in 1983. Since that time, there have only been few occasions where councils have called up a planning commission approved tentative map for review. Given these relative few instances, the council finds that it is no longer necessary to routinely review Planning Commission approved tentative maps; and,

WHEREAS, under Section 18.20.140 of the Subdivision Ordinance, any interested person adversely affected by a decision of the Planning Commission regarding a tentative map, may file an appeal with the City Council concerning such decision; and,

WHEREAS, given the existing appeals process, the City Council, upon filing of an appeal, would be able to review and may add, modify or delete conditions to an approved tentative map; and,

WHEREAS, testimony and exhibits received at a noticed public hearing having been duly considered,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 17.20.110 of the Morgan Hill Municipal Code is repealed.

~~**Section 17.20.110 City council review.**~~

~~If a tentative map is approved or conditionally approved, the community development department shall make a written report to the city council. Within ten days, or at its next succeeding regular meeting after receipt of the report, unless the subdivider consents to a continuance, the council may review the map and the conditions imposed by the planning commission. If the council decides to review the map and conditions, it shall conduct a public hearing after giving notice pursuant to Section 17.20.080 of this chapter. In addition, notice shall be given to the subdivider and the planning commission. At that hearing the council may add, modify or delete conditions when the council determines that such changes are necessary to insure that the tentative map conforms to zoning conditions imposed upon the property, applicable city ordinances and the State Subdivision Map Act. The city council may deny the tentative map~~

~~on any of the grounds contained in Section 17.20.100 of this chapter. If the council does not act within the time limits set forth in this section, the tentative map shall be deemed to have been approved or conditionally approved as set forth in the planning commission's report. (Ord. 635 N.S. § A (part), 1983)~~

SECTION 2. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 3. Effective Date; Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 3rd Day of November 2004, and was finally adopted at a regular meeting of said Council on the 17th Day of November 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST: **APPROVED:**

_____ _____
Irma Torrez, City Clerk **Dennis Kennedy, Mayor**

CERTIFICATE OF THE CITY CLERK

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 17th Day of November 2004.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____ _____
IRMA TORREZ, City Clerk

CITY OF MORGAN HILL

MEMORANDUM

To: **PLANNING COMMISSION**

Date: October 12, 2004

From: **COMMUNITY DEVELOPMENT DEPARTMENT**

Subject: **ZONING AMENDMENT, ZA-04-19: CITY OF MORGAN HILL-TEXT AMENDMENT TO THE SUBDIVISION ORDINANCE**

REQUEST

Amendment to Title 17, Chapter 17.20 of the Morgan Hill Municipal Code, the Subdivision Ordinance, repealing Section 17.20.110, requiring City Council review of tentative subdivision maps.

RECOMMENDATION

Environmental Assessment: This application is categorically exempt under Section 15305 of the State CEQA Guidelines

Application, ZA-04-19: Adopt Resolution No. 04-92 recommending City Council approval of the Municipal Code (Subdivision Ordinance) Amendment.

Processing Deadline: April 14, 2005

BACKGROUND

The subdivision of property is regulated under Title 17 of the Morgan Hill Municipal Code. Chapter 17.20 of this Title established the process, procedures and map requirements for subdivision of five or more parcels. Subsection 17.20.110 of this Chapter requires City Council review of all approved tentative maps. Subdivisions involving four or fewer parcels, do not require City Council review. The Council requested that the Subdivision Ordinance be amended to not require City Council review of tentative maps involving five or more parcels.

CASE ANALYSIS

Under existing code provision, if a tentative map is approved or conditionally approved, the staff will make a written report to the City Council. Within ten days, or at its next succeeding regular meeting after receipt of the report, unless the subdivider consents to a continuance, the Council may review the map and the conditions imposed by the Planning Commission. If the Council decides to review the map and conditions, a noticed public hearing will be conducted. At that hearing the Council may add, modify or delete conditions when the Council determines that such changes are necessary to insure that the tentative map conforms to zoning conditions imposed upon the property, applicable city ordinances and the State Subdivision Map Act. The City Council may deny the tentative map on any of the grounds contained in Section 17.20.100 of the Subdivision Ordinance. If the Council does not act within the time limits set forth in this section, the tentative map shall be deemed to have been approved or conditionally approved as set forth in the Planning Commission's report. The staff report to the City Council will typically recommend that the Council take no action, thereby concurring with the action of the Planning Commission in approving the tentative map.

The above provision was adopted as part of the City's Subdivision Ordinance in 1983. Since that time, there have only been three or four occasions where Councils have called up a Planning Commission approved tentative map for review. Those occasions were all instances where neighbors objected to proposed roadway extensions that were part of the subdivision map. Given these relative few instances, the Council feels that it is no longer necessary to review Planning Commission approved tentative maps. Under Section 18.20.140 of the Subdivision Ordinance, any interested person adversely affected by a decision of the Planning Commission regarding a tentative map, may file an appeal with the City Council concerning such decision. Therefore, although the review would no longer be automatic, it is still possible for the City Council to review and add, modify or delete conditions to an approved tentative map through the appeals process.

RECOMMENDATION

Adopt Resolution No. 04-92 recommending City Council approval of the Municipal Code (Subdivision Ordinance) Amendment.

Attachments:

1. Resolution No. 04-92
2. Exhibit A Subdivision Ordinance Amendment

RESOLUTION NO. 04-92

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING APPROVAL OF AN AMENDMENT TO TITLE 17, CHAPTER 17.20 OF THE MORGAN HILL MUNICIPAL CODE, THE SUBDIVISION ORDINANCE, REPEALING SECTION 17.20.110, REQUIRING CITY COUNCIL REVIEW OF TENTATIVE SUBDIVISION MAPS.

WHEREAS, such request was considered by the Planning Commission at their regular meeting of October 12, 2004, at which time the Planning Commission recommended approval of application ZA-04-19; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. The proposed code amendment is consistent with the General Plan.

SECTION 2. The project is categorically exempt from CEQA under Section 15305.

SECTION 3. The Planning Commission hereby recommends approval of amending Chapter 17.20 of Title 17 (the Subdivision Ordinance) removing the requirement for City Council Review of Tentative Maps, as attached in Exhibit A.

PASSED AND ADOPTED THIS 12th DAY OF OCTOBER, 2004, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES:	**COMMISSIONERS:**	**ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON**
NOES:	**COMMISSIONERS:**	**NONE**
ABSTAIN:	**COMMISSIONERS:**	**NONE**
ABSENT:	**COMMISSIONERS:**	**ENGLES**

ATTEST: **APPROVED:**

FRANCES O. SMITH, Deputy City Clerk **CHARLES D. WESTON, Chair**

CITY OF MORGAN HILL
REDEVELOPMENT AGENCY

REDEVELOPMENT AGENCY STAFF REPORT
MEETING DATE: November 3, 2004

Agenda Item # 17

Prepared By:

BAHS Director
Submitted By:

Executive Director

LOAN TO MILLENNIUM HOUSING

RECOMMENDED ACTION(S): Authorize the Executive Director to do everything necessary to execute the required agreements with Millennium Housing for a $1.2M loan, including making modifications subject to legal counsel review.

EXECUTIVE SUMMARY:
Over the past several months, staff has been working with Millennium Housing (Millennium) and the current park owner to purchase the 166 unit Hacienda Mobile Home Park (Park). Millennium Housing is a non-profit housing corporation "…created to provide affordable housing through the acquisition and rehabilitation of mobilehome communities." Millennium owns 14 mobilehome parks in California consisting of about 3,500 units. Millennium currently has Hacienda Park under contract. Agency staff supports the purchase of Hacienda by Millennium because it eliminates uncertainty related to future rent increases and gives the park residents more say in the park's operations and management. Although a recent ballot at the Park indicated that 74% of the Park residents voted to support the purchase, Millennium has indicated that they will continue to meet with the residents to discuss the purchase. Staff will orally report to the Council at this meeting the results of Millennium's continued efforts.

On October 27, 2004, the City approved the issuance of about $12M in tax-exempt bonds by the Independent Cities Lease Finance Authority on behalf of Millennium. The repayment of the bonds is secured by the space rents which will need to be increased to support the debt service. The current average rent is about $360/mo. The new rent will be closer to $590/mo. To "spread out" the impact of the rent increase on the residents, we are recommending the Agency provide a $1.2M loan to Millennium for a rental assistance fund. This fund will be used to limit annual rent increases to $40/month per unit until the $590/month rent is reached over time.

The key loan terms are as follows:

- The loan is deferred and is due upon the full repayment of the bonds or sale of the Park. The loan rate is at 3% simple interest.
- The Agency funds can be used for bond issuance costs and the rental assistance fund. However, the initial amount of the rental assistance fund must be $1.2M. Millennium will augment this fund, as needed, to further subsidize residents in which a $40/mo. increase is deemed a hardship. New residents will not be eligible for the rent subsidy.
- Millennium will meet regularly with the residents to discuss the operations and management of the Park. Millennium will fund a repair and maintenance fund for the Park.
- 75% of the units must remain affordable to lower income households for 55 years.
- The resident association has the option to purchase the Park for a fixed price or price plus a CPI adjustment, depending on when they exercise their option.
- Millennium agrees to comply with the City's Mobile Home Rent Control Ordinance.
- To the extent feasible under law, Millennium will cause the Park to remain an age restricted community.

FISCAL IMPACT: The total project cost is about $13.2M. The BAHS housing division budget (Fund 327) has sufficient funds to cover the loan. The Agency funds are leveraging over 10 to 1 in private funds to Agency funds.