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July 26, 2017

Santa Clara County Civil Grand Jury  
Santa Clara County Superior Court  
Attention: Honorable Patricia Lucas  
191 North First Street  
San Jose, CA 95113

(ENDORSED)  
**FILED**  
JUL 31 2017

Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY  DEPUTY  
**Janice Jones**

Dear Ms. Lucas:

Thank you for your letter dated June 5, 2017, transmitting the Santa Clara County Civil Grand Jury's (SCCCGJ) final report entitled "LAFCO Denials: A High School Caught in the Middle." The following are Morgan Hill's responses to the 2016-2017 SCCCJ Final Report for findings and recommendations 4, 7, and 10 as required in the letter. The City has additionally provided comment to finding and recommendation #3 as it is also of importance to the City of Morgan Hill.

As required by California Penal Code § 933.05 (a) the City of Morgan Hill has responded to each **finding** by indicating one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

As required by California Penal Code § 933.05 (b) the City of Morgan Hill has responded to each **recommendation** with one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

**SCCCGJ Finding 4:**

*The Morgan Hill Agricultural Preservation Program requires more funding for the purchase of agricultural easements than is generated from the mitigation fees collected through new development.*

**City of Morgan Hill Response Penal Code § 933.05 (a)(1):** Agree.

Since the agricultural land adjacent to Morgan Hill is in an urban/rural interface, the cost per acre of land is much greater than other areas in the County and other regions of the State. However, to ensure the City complies with state law, the City's agricultural mitigation fees are set according to a nexus study that calculates the fees the City can legally collect at a much lower level due to the availability of much lower priced land in other areas (see attached excerpt from nexus study). To address this fact and ensure the City's commitment to agricultural preservation can be achieved, the City is committed to working with the County of Santa Clara, the Santa Clara Valley Open Space Authority, the State of California, Land Conservation non-profits, and local land owners. More specifically, the City partnered with the Santa Clara Valley Open Space Authority, Santa Clara County, and a private land owner to submit a grant application for State funds that would assist in preserving approximately 70 acres.

In addition to utilizing a combination of tools, techniques, mechanisms, and internal funding sources for agricultural preservation, the City will continue to leverage external resources – local funds, local stewardship contribution, state funds (Sustainable Agricultural Lands Conservation Program and High Speed Rail), federal funds, and private funds (corporate, foundations, and landowner donations) to realize the forward thinking goals of the City's agricultural land preservation program.

**SCCCGJ Recommendation 4:**

*The County of Santa Clara, the City of Morgan Hill, and the Local Agency Formation Commission should work together to develop a funding mechanism to cover the acquisition and on-going cost of agricultural easements in the Morgan Hill area.*

**City of Morgan Hill Action Penal Code § 933.05 (b)(1):** The recommendation has been implemented, with a summary regarding the implemented action.

As described above, the City of Morgan Hill is currently and will continue to collaborate with a variety of partners (County of Santa Clara, Open Space Authority, and others) who share, and can help support, the City's agricultural preservation goals. The City welcomes further support from LAFCO.

**SCCCGJ Finding 7:**

*The relationship between the staff of the Local Agency Formation Commission and the staff of the City of Morgan Hill appears to be strained.*

**City of Morgan Hill Response Penal Code § 933.05 (a)(1):** Agree.

Morgan Hill staff are eager to work collaboratively and proactively with LAFCO for the benefit of our region and community.

**SCCCGJ Recommendation 7:**

*The Local Agency Formation Commission and the City of Morgan Hill should take steps to improve the working relationships of the staff of the two agencies.*

**City of Morgan Hill Action Penal Code § 933.05 (b)(2):** The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

The City of Morgan Hill team prides itself on developing and maintaining excellent working relationships with all partner agencies and their staff. The City Council and staff are eager to take immediate steps to improve our working relationship with LAFCO Commissioners and staff.

**SCCCGJ Finding 10:**

*The City of Morgan Hill's update of the 2016 General Plan, which dealt separately with the Southeast Quadrant, gave the appearance of special consideration for the property owners.*

**City of Morgan Hill Response Penal Code § 933.05 (a)(1):** Agree

The City agrees the Southeast Quadrant (SEQ) was dealt with separately from the Morgan Hill 2035 General Plan (GP) Update. Because the "appearance of special consideration" is the Grand Jury's opinion, the City cannot dispute this statement and agrees.

To further explain our response, the City of Morgan Hill's previous General Plan, which was adopted in 2001, established the framework for the extensive public outreach and discussions that occurred over the course of nearly 14 years regarding the various components of Morgan Hill's Citywide Agricultural Lands Preservation Program and SEQ Land Use Plan project. The City did not give special consideration to SEQ property owners. The City had an obligation to process the five (5) General Plan Amendments, four (4) Urban Service Area Amendments, and three (3) Zoning Amendment applications that were privately initiated in 2008. Those applications and the preparation of the Draft Environmental Impact Report for the Agricultural Preservation/SEQ project in 2010, began well before the GP Update was initiated in December 2012.

Moving forward, it is the City's intent that its next GP Update will comprehensively consider and include all lands within the City's Sphere of Influence.

**SCCCGJ Recommendation 10:**

*The City of Morgan Hill should adopt a single, open, transparent process in future updates of its General Plan.*

**City of Morgan Hill Action Penal Code § 933.05 (b)(2):** The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

The next comprehensive update of the City's General Plan will likely begin 10+ years from adoption of the Morgan Hill 2035 General Plan. It is the City's intent that future General Plan updates will be open and transparent.

Thank you for also considering our additional comments for #3.

**SCCCGJ Finding 3:**

*The Local Agency Formation Commission staff deviated from the Commission's Agricultural Mitigation Policies in the staff's evaluation of the Morgan Hill 2016 Urban Service Area Amendment that includes the South County Catholic High School. The staff interpreted the policies to be mandatory rather than advisory and established its own criteria for a satisfactory agriculture mitigation program.*

**City of Morgan Hill Response:** Agree.

**SCCCGJ Recommendation 3a:**

*The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to clarify whether the policies are advisory or mandatory. The amendment process should provide the opportunity for all affected stakeholders to participate.*

**City of Morgan Hill Response:** The City agrees that LAFCO should clarify that its Agricultural Mitigation Policies were adopted in 2007 as advisory and not mandating specific requirements. Should LAFCO initiate a process to amend its Agricultural Mitigation Policies, the City of Morgan Hill would be a willing and active participant to ensure a collaborative and inclusive process is achieved. As such, the City views this as an early opportunity to develop collaborative relationships between the City and LAFCO as discussed in finding and recommendation 7.

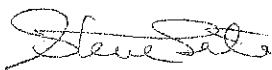
**SCCCGJ Recommendation 3b:**

*The Local Agency Formation Commission should amend its Agricultural Mitigation Policies to define a satisfactory agricultural mitigation program. The amendment process should provide the opportunity for all affected stakeholders to participate.*

**City of Morgan Hill Response:** When LAFCO adopted its Agricultural Mitigation Policies in 2007, cities were encouraged to adopt their own mitigation policies based on LAFCO's framework. It should be noted that the City of Morgan Hill developed and adopted its own Agricultural Preservation Program (first in the County) based on the LAFCO framework. Morgan Hill's Agricultural Preservation Program should be cited as a satisfactory agricultural mitigation program as pointed out in Appendix C of the Grand Jury Report. Should LAFCO initiate a process to amend its Agricultural Mitigation Policies, the City of Morgan Hill would be a willing and active participant to ensure a collaborative and inclusive process is achieved.

Please feel free to contact me or Morgan Hill City Manager, Steve Rymer, if you seek additional information or have any questions regarding this follow-up response to the SCCCJ June 5, 2017 letter.

Sincerely,



Steve Tate, Mayor

Cc: Members of the City Council  
Steve Rymer, City Manager  
Donald Larkin, City Attorney