



**CITY COUNCIL AND
REDEVELOPMENT AGENCY
AGENDA**

JUNE 22, 2009

CLOSED SESSION – 6:00 P.M.

**COUNCIL CHAMBERS
3575 PACIFIC AVENUE
LIVERMORE, CA 94550**

**RECEPTION - 6:30 P.M.
HONORING CONNIE POST, POET LAUREATE**

**MULTI-SERVICE CENTER
3311 PACIFIC AVENUE
LIVERMORE, CA 94550**

REGULAR MEETING – 7:00 P.M.

**COUNCIL CHAMBERS
3575 PACIFIC AVENUE
LIVERMORE, CA 94550**

Regular City Council meetings are broadcast live on Channel 29 and videotaped for local television and for replay. For a schedule of City Council meeting replay airtimes or to access videos of previous meetings, log onto www.tv30.org.

HOW TO PARTICIPATE IN YOUR CITY COUNCIL MEETING

You can participate in the meeting in a number of ways:

Speaker Cards - If you wish to address the Council, you must complete a speaker card for each item about which you want to speak. The speaker card box is located in the Council Chambers lobby, on the table directly below the staff reports. Place your speaker card in this box behind the tab that corresponds to the agenda item number. Staff will collect the cards for each item immediately before the item is to be considered and gives the speaker cards to the Mayor. The Mayor will call speakers to the public lectern. No cards will be accepted once the presentation on that item has commenced.

Citizens Forum is an opportunity for the public to speak regarding items not listed on the agenda. Speakers are limited to a maximum of three minutes per person. The Mayor may reduce the amount of time based on the number of persons wishing to speak. You should be aware that the City Council is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the City Council may place it on a future agenda or direct staff to work with you and/or report to the City Council on the issue.

Public Hearings - The topic of the hearing is typically summarized by staff, followed by questions from the City Council and a presentation by the applicant. The Mayor will then open the hearing to the public and offer an opportunity for public comments. You may take a maximum of three minutes to make your comments.

Other Agenda Items are also open for public input including *Consent Calendar or Matters for Consideration* items. These comments are also subject to the three minute limit.

Written Materials may be submitted by the public. If you wish your materials to be sent to the City Council prior to the City Council meeting, they must be submitted to the City Clerk's Office no later than noon on the Tuesday prior to the Monday meeting. Those items will be copied and sent to the City Council with the agenda packet. Materials submitted after noon on Tuesday will be copied and given to the City Council the night of the meeting; however, it is unlikely that the City Council will be able to read the materials before the start of the meeting. Therefore, it is suggested that you give a verbal summary of your materials at the meeting.

The **City Council Agenda and Agenda Reports** are prepared by City staff and are available for public review on the Thursday evening prior to the City Council meeting in all City libraries and at the City Clerk's Office. Copies may be obtained from the Clerk's Office and in the City Council Chambers lobby prior to the meeting. The Agenda is also available on the City's website, <http://www.ci.livermore.ca.us>.

Under Government Code §54957.5, any **supplemental material** distributed to the members of the City Council/Redevelopment Agency after the posting of this agenda will be available for public review in the City Clerk's Office, 1052 South Livermore Avenue, Livermore, and on the City's web site www.ci.livermore.ca.us.

If supplemental materials are made available to the members of the City Council/Redevelopment Agency at the meeting, a copy will be available for public review at the Council Chambers, 3575 Pacific Avenue, Livermore.

Pursuant to Title II of the Americans With Disabilities Act (Codified at 42 United States Code Section 12101 and 28 Code of Federal Regulations Part 35), AND SECTION 504 OF THE REHABILITATION ACT OF 1973, the city of livermore does not discriminate on the basis of race, color, religion, national origin, ancestry, sex, disability, age or sexual orientation in the provision of any services, programs, or ACTIVITIES. to arrange an accommodation in order to participate in this public meeting, please call (925) 960-4586/4582 (voice) or (925) 960-4104 (tdd) at least 72 hours in advance of the meeting.

CLOSED SESSION

CALL TO ORDER 6:00 P.M.

Roll Call Councilmember/Agencymember Doug Horner
 Councilmember/Agencymember Marj Leider
 Councilmember/Agencymember Jeff Williams
 Vice Mayor/Vice Chairperson John Marchand
 Mayor/Chairperson Marshall Kamena

OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE COUNCIL REGARDING CLOSED SESSION ITEMS

ADJOURN TO CLOSED SESSION

City Council

1. Litigation/Conference with Legal Counsel. To meet with the City Attorney regarding existing litigation pursuant to Government Code Section 54956.9(a). Discussion in open session would prejudice the position of the City in litigation. One case. City of Livermore v. Dennis Baca, Santa Clara County Superior Court Case No. 108CV-119575.

Redevelopment Agency – None.

Note: This Closed Session may be continued to the end of the Regular Meeting.

**RECEPTION - 6:30 P.M.
HONORING CONNIE POST
POET LAUREATE**

REGULAR MEETING

1. **CALL TO ORDER** 7:00 P.M.
- 1.01 Roll Call Councilmember/Agencymember Doug Horner
Councilmember/Agencymember Marj Leider
Councilmember/Agencymember Jeff Williams
Vice Mayor/Vice Chairperson John Marchand
Mayor/Chairperson Marshall Kamena
- 1.02 Pledge of Allegiance
- 1.03 Report of Action Taken in Closed Session
2. **PROCLAMATIONS AND PRESENTATIONS**
- 2.01 Proclamation acknowledging Connie Post's years of service as Poet Laureate. [Document](#)
- 2.02 Resolution appointing Cher Wollard as Poet Laureate to a two-year term ending June 30, 2011. [Document](#)
- 2.03 Administration of Oath of Office [Document](#)

Human Services Commission
Dexter Eric Dees to an unexpired term ending October 1, 2009 and a regular term ending October 1, 2013.
3. **CITIZENS FORUM**
 - *In conformance with the Brown Act, no City Council/Redevelopment Agency action can occur on items presented during Citizens Forum.*
 - *Please complete a speaker card. When the Mayor calls your name, walk to the lectern to address the City Council.*
 - *Speakers are limited to a maximum of three minutes per person. The Mayor may reduce the amount of time based on the number of persons wishing to speak.*
 - *Citizens Forum will conclude after 30 minutes; however, if there are additional speakers, Citizens Forum will reconvene at 9:30 p.m., or following the Public*

Hearings, whichever occurs first.

4. CONSENT CALENDAR

Consent Calendar items are considered routine and are acted upon by the City Council/Redevelopment Agency with a single action. Members of the audience wishing to provide public input must complete a speaker card.

- 4.01 Approval of Minutes – June 8, 2009 City Council/Redevelopment Agency [Draft Minutes](#) meeting.

City Council

- 4.02 Adoption on second reading of an ordinance amending Planned Development-Commercial 07-006 (General Zoning Code Text Amendment 09-391). (06-08-2009) [Staff Report](#)
- 4.03 Adoption on second reading of an ordinance approving the Amended and Restated Development Agreement (Development Agreement Amendment 09-002) with the John L. Sullivan Family Limited Partnership, regarding development of a Toyota Dealership on Northfront Road. (06-08-2009) [Staff Report](#)
- 4.04 Resolution authorizing application for federal American Recovery and Reinvestment Act of 2009 funding through the Metropolitan Transportation Commission for Major Streets Rehabilitation – Tier 2, and assuring program compliance and project completion, Project No. 2009-23. [Staff Report](#)
- 4.05 Resolution accepting for permanent maintenance and releasing of security for the Carnegie Park Improvements-Phase 1, Project No. 2006-60. [Staff Report](#)
- 4.06 Resolution authorizing the execution of an agreement with American Asphalt Repair and Resurfacing Company, Inc. in the amount of \$766,325.79 for construction of the 2009 Slurry Seal, Project No. 2009-04. [Staff Report](#)
- 4.07 Resolution authorizing 30% of the Traffic Impact Fees collected during Fiscal Year 2008-2009 be set aside for reimbursement purposes in Fiscal Year 2009-2010. [Staff Report](#)
- 4.08 Resolutions authorizing execution of an agreement with Ghilotti Construction Company in the amount of \$17,775,000 for construction of the Isabel Avenue/I-580 Interchange Improvements, Contract No. 1 (Isabel Avenue Reconstruction and Utility Relocation) and an agreement with DeSilva Gates Construction Company in the amount of \$2,373,611.10 for construction of the Isabel Avenue/I-580 Interchange Improvements, Contract No. 2 (Portola Avenue and Isabel Avenue Roadway Extensions). [Staff Report](#)
- 4.09 Resolution authorizing execution of a consulting services agreement with ENGEO Inc. in an amount not to exceed \$450,000 for Contract No. 1 (Isabel Avenue Reconstruction and Utility Relocation) and \$150,000 for Contract No. 2 (Portola Avenue and Isabel Avenue Roadway Extensions) to provide construction testing services for the Isabel Avenue/I-580 Interchange, Project No. 1992-38. [Staff Report](#)
- 4.10 Resolution authorizing execution of a consulting services agreement with ENGEO Inc. in an amount not to exceed \$500,000 for the initial term, and a total amount not to exceed \$750,000 over a three-year period, to provide on-call geotechnical [Staff Report](#)

engineering and material testing services.

- 4.11 Resolution authorizing execution of a cost-sharing agreement with [Staff Report](#) StopWaste.Org for the proposed Green Package Program (MIS09-002).
- 4.12 Resolution calling for the November 3, 2009 General Municipal Election. [Staff Report](#)
- 4.13 Resolution approving allocation of the 2009-2010 Tourism and Special Event [Staff Report](#) Grant Program in the amount of \$30,000.
- 4.14 Resolution approving the allocation of funds under the Art in Public Places Mini [Staff Report](#) Grant program to the Livermore-Amador Symphony in the amount of \$1,000.
- 4.15 Resolution authorizing execution of an amendment to the First Responder [Staff Report](#) Advanced Life Support Services Agreement with Alameda County extending the term for two years and authorizing a 3% rate increase.
- 4.16 Resolution authorizing execution of a consulting services agreement with Jordan [Staff Report](#) and Associates, Inc. in the amount of \$60,802 for federal advocacy services.

Redevelopment Agency

- 4.17 Resolution authorizing execution of a grant agreement with Livermore Downtown [Staff Report](#) Inc. in the amount of \$75,000 for operating expenses for Fiscal Year 2009-2010.

5. PUBLIC HEARINGS

City Council

- 5.01 Hearing to consider an appeal of the May 5, 2009 decision of the Planning [Staff Report](#) Commission to approve Conditional Use Permit Amendment 08-003, subject to staff recommendations. Conditional Use Permit Amendment 08-003 requested an increase in the previously permitted intensity of use for the Tenuta Winery and residence under Conditional Use Permit 00-043.

Location: 633 Kalthoff Common

Applicant: Nancy Tenuta

On-site and off-site improvements: Associated parking

Site Area: 20±-acre parcel, 2±-acre building envelope

Zoning: Planned Unit Development (PUD) 80-94

General Plan: Agriculture/Viticulture (AGVT) - Vineyard Estates Transitional Area

Historic Status: None

CEQA: A Mitigated Negative Declaration under the provisions of the California Environmental Quality Act was certified by the Planning Commission on May 5, 2009.

Application Number: Appeal 09-001

Recommendation: Staff recommends the City Council affirm the Planning Commission's decision to approve the Conditional Use Permit Amendment 08-003, and adopt a resolution denying Appeal 09-001.

- 5.02 Hearing to consider the first amendment to the Third Amended and Restated [Staff Report](#) Agreement for payment and reimbursement of fees and advancements for public improvement costs for the Livermore Auto Mall (previously called Arroyo Plaza II). The amendment temporarily suspends the interest accrual on an existing letter of credit posted in connection with the Agreement.

Location: 3100 to 3600 Las Positas Road
Applicant: Golden Bears, LLC
On-site and off-site public improvements: None
Site Area: 15± acres
Zoning: Planned Development-Commercial (PD-C) 00-199
General Plan: Community Serving General Commercial (CSGC)
Historic Status: None
CEQA: Not a project under the California Environmental Quality Act (CEQA)
Application Number: Policy Proposal Implementation 09-002

Recommendation: Staff recommends the City Council adopt the resolution.

- 5.03 Hearing to consider adoption of a Local Economic Stimulus Fee Deferral Program [Staff Report](#) to allow for deferral of specific development impact fees for City Sewer, Storm Drain, Water Connection, Traffic Impact, Affordable Housing, Downtown Revitalization, Art in Public Places, Offsite Parking In Lieu, and Downtown Specific Plan Open Space fees. Fees will be deferred generally from time of building permit until request for utility meter release. The program also authorizes a Fee Deferral Agreement and delegates signature authority for these agreements to the Community Development Director or his designee.

Recommendation: Staff recommends the City Council:

1. Introduce an ordinance amending Municipal Code Chapters:
 - Sewers, Construction and Connection (Chapter 13.28);
 - Storm Drainage Facilities (Chapter 13.44);
 - Water Connection - Rates and Charges (Chapter 13.20);
 - Traffic Impact Fees (Chapter 12.30);
 - Affordable Housing Fee (Chapter 3.26);
 - Downtown Revitalization Fee (Chapter 12.32);
 - Art in Public Places Fee (Chapter 12.51);
2. Introduce an ordinance amending the Planning and Zoning Code to add Offsite Parking in Lieu Fee (Chapter 3.20.080);
3. Adopt a resolution amending the Downtown Specific Plan Open Space Program to allow Special Fee Deferral program;
4. Adopt a resolution authorizing a Local Economic Stimulus Program Fee Deferral Program and authorizing the Community Development Director or his designee to sign deferred payment agreements and all related documents;
5. Direct staff to consult with outside agencies and request, with their concurrence, deferral of payment for outside agency fees including Zone 7 Storm Water Fee, Zone 7 Water Connection Fee, Tri-Valley Transportation Impact Fee, and Parks Facilities Fee.

- 5.04 Hearing to consider amending Chapter 12.32 of the Municipal Code regarding the [Staff Report](#) Downtown Revitalization Fee to update Fee Nexus Study.

Recommendation: Staff recommends the City Council adopt a resolution approving the Downtown Revitalization Fee Nexus Study and providing for the adjustment of the Downtown Revitalization fee; and introduce an ordinance amending Chapter 12.32 of the Municipal Code, Downtown Revitalization Fee, to update Fee Nexus Study.

Redevelopment Agency – None.

6. MATTERS FOR CONSIDERATION

City Council

- 6.01 Discussion and direction regarding City Council appointments to [Document](#) Intergovernmental Agencies.
- 6.02 Discussion and direction regarding the appointment of two Councilmembers to the [Staff Report](#) City Council Advisory Bodies Subcommittee to conduct interviews of City volunteer advisory bodies; and appointment of one Councilmember to the Livermore Area Youth Advisory Commission Subcommittee to conduct interviews of the Livermore Area Youth Advisory Commission, from July 1, 2009 through December 31, 2009.

Recommendation: Staff recommends the City Council make the appointments.

City Council/Redevelopment Agency

- 6.03 Resolution authorizing the issuance, sale, and delivery of Revenue Refunding [Staff Report](#) Bonds for the purpose of refinancing the acquisition and construction of a multifamily housing residential facility, authorizing the execution and delivery of a Trust Indenture, a Financing Agreement, a First Amendment to Regulatory Agreement, an Official Statement, and a Bond Purchase Agreement, and authorizing the execution and delivery of and approving other related documents and approving other related actions in connection therewith.

Resolution approving the issuance of Multifamily Housing Revenue Refunding Bonds by the Redevelopment Agency for the Livermore Independent Senior Apartments. (Heritage Estates)

Recommendation: Staff recommends the City Council and Redevelopment Agency adopt the resolutions for the purpose of refinancing \$19,000,000 originally issued July 18, 2005 for the development of the Livermore Independent Senior Apartments located at 800 E. Stanley Boulevard.

- 6.04 Discussion and direction regarding the unconstitutional diversion by the State of [Staff Report](#) California of local share of gas tax and redevelopment tax increment funds.

Recommendation: Staff recommends the City Council and Redevelopment Agency adopt resolutions authorizing cooperation with the League of California Cities, California Redevelopment Association, and other cities and counties in litigation challenging the constitutionality of any seizure by the State of California of the City's street maintenance and redevelopment funds; and send a letter to the State of California opposing the diversion of local gas tax funds to the State General Fund.

City Council

- 6.05 Discussion and direction regarding pending State or Federal legislation. [Document](#)

Note: Bills affecting local government operations may be discussed if they were introduced or amended after posting of the Agenda.

Redevelopment Agency – None.

7. COUNCIL COMMITTEE REPORTS AND MATTERS INITIATED BY CITY MANAGER, CITY ATTORNEY, STAFF, AND COUNCIL MEMBERS

7.01 City Manager's report regarding previously requested Matters Initiated. [Document](#)

None.

7.02 Council Committee Reports and Matters Initiated by City Manager, City Attorney, [Document](#) Staff, and Councilmembers.

8. ADJOURNMENT – To a regular City Council/Redevelopment Agency meeting on July 13, 2009 at 7:00 p.m., Council Chambers, 3575 Pacific Avenue, Livermore.

SUPPLEMENTAL MATERIALS [Document](#)