LIVERMORE
CALIFORNIA

CITY COUNCIL

AGENDA

JULY 11, 2011

CLOSED SESSION – 6:00 PM

REGULAR MEETING – 7:00 PM

COUNCIL CHAMBERS
3575 PACIFIC AVENUE
LIVERMORE, CA 94550

CITY COUNCIL

Dr. Marshall H. Kamena, Mayor
John Marchand, Vice Mayor
Doug Horner, Councilmember
Marj Leider, Councilmember
Jeff Williams, Councilmember

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.tri-valleytv.org. City Council meetings are also streamed live on the web at www.tri-valleytv.org/live-tv29.html.

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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 the Civic Center Library, 1188 South Livermore Avenue, Livermore, and at the City Clerk's Office, 1052 South Livermore Avenue, Livermore. 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://cityoflivermore.net.

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 http://cityoflivermore.net.

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.

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AGENDA

JULY 11, 2011

CLOSED SESSION – 6:00 PM

REGULAR MEETING – 7:00 PM

COUNCIL CHAMBERS
3575 PACIFIC AVENUE
LIVERMORE, CA 94550

CLOSED SESSION

CALL TO ORDER 6:00 PM

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

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

ADJOURN TO CLOSED SESSION

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. Five cases.

   a) DeSilva Gates Construction, L.P. v. City of Livermore and Does 1-50 Alameda County Superior Court Case No. RG11583120

   b) City of Industry and City of Livermore v. City of Fillmore; MTS Consulting, LLC; Owens & Minor, Inc.; Inspired Development, LLC, Los Angeles County Superior Court Case No. BC 411865

c) City of Fillmore v. California State Board of Equalization; City of Industry and City of Livermore v. City of Fillmore and California State Board of Equalization,
Los Angeles County Superior Court Case No. BX120799

d) California State Board of Equalization Appeal
Account No. SRZ OHB 097-955387, Appeals Case ID: 468939
Taxpayer: Owens & Minor Distribution

e) California State Board of Equalization Appeal
Account No. SR Y CH 21-682885
Taxpayer: Vanstar Corporation

2. Anticipated litigation. To meet with the City Attorney pursuant to Government Code § 54956.9(b)(1) because there is significant exposure to litigation against the City based on existing facts and circumstances, and Government Code § 54956.9(b)(3)(C). The City has received written communication from a potential plaintiff threatening litigation, specifically e-mails arising from arrests for disturbing the peace and other matters, including on or about June 11, 2011.

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

REGULAR MEETING

1. CALL TO ORDER 7:00 PM

1.01 Roll Call
Councilmember Doug Horner
Councilmember Marj Leider
Councilmember Jeff Williams
Vice Mayor John Marchand
Mayor Marshall Kamena

1.02 Pledge of Allegiance

1.03 Report of Action Taken in Closed Session

2. PROCLAMATIONS AND PRESENTATIONS

2.01 Administration of Oath of Office DOCUMENT

Beautification Committee
· Amandeep Kang to a regular term ending June 1, 2015

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 pm, 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 27, 2011 City Council/Redevelopment Agency meeting.	DOCUMENT
4.02	**Adoption on second reading of an ordinance** authorizing execution of Amendment No. 2 to Development Agreement 07-004 with Cottonwood Creek Partners, LLC.	DOCUMENT
4.03	Resolution authorizing the closeout of the Other Post Employment Benefits (OPEB) trust account through CalPERS and transfer of funds to the Public Agencies Post Retirement Health Care Plan 115 Trust.	DOCUMENT
4.04	Resolution authorizing execution of an agreement with American Asphalt Repair and Resurfacing Company in the amount of $936,484.25 for construction of the 2011 Slurry Seal Project; and reappropriating $150,000 in Former Route 84 Repair Funds budgeted in Fiscal Year 2011-12 for the 2011 Street Resurfacing Project (Project No. 2011-01) to the 2011 Slurry Seal Project (Project No. 2011-04) in Fiscal Year 2011-12.	DOCUMENT
4.05	Resolution authorizing the issuance of a blanket contract for services to Basic Chemical Solutions in an amount not to exceed $170,000 for the purchase of sodium hypochlorite 12.5% for treated effluent disinfection at the Water Resources Plant, and authorizing the Public Works Director to extend the contract for services for two one-year terms.	DOCUMENT

4.06 Resolution confirming the prior resolution determining Ghilotti Construction Company is low bidder for the El Charro Specific Plan Infrastructure Project, Phase 1, City Project No. 2007-20, but authorizing City Manager to execute agreement with low bidder based upon Alameda County Superior Court Trial Decision scheduled for July 12, 2011. DOCUMENT

5. PUBLIC HEARINGS

5.01 Hearing to receive protests related to the annual weed abatement program and confirm the 2011 weed abatement assessments for collection on the Alameda County assessor tax roll. DOCUMENT

Recommendation: Staff recommends the City Council adopt a resolution overruling protests and confirming the 2011 weed abatement assessments and direct staff to forward a certified copy of the assessment report to the Alameda County Auditor.

5.02 Hearing to consider confirmation of the annual levy of assessments for the City's Landscape Maintenance Districts for Fiscal Year 2011-12 and adoption of the Engineer's Report. DOCUMENT

Recommendation: Staff recommends the City Council adopt a resolution adopting the Engineer's Report for the City landscape maintenance districts and confirming the annual levy of assessments and directing actions with respect thereto for Fiscal Year 2011-12.

6. MATTERS FOR CONSIDERATION

6.01 Discussion and direction regarding City Council appointments to Intergovernmental Agencies. DOCUMENT

6.02 Discussion and direction of the Elections Code Section 9212 Report regarding initiative to amend General Plan to add action item to advocate to keep BART on I-580; and Resolution either calling for election or adopting the initiative. DOCUMENT ATTACHMENT

Recommendation: Staff recommends the City Council adopt the Resolution accepting Elections Code Section 9212 Report Regarding the Livermore BART Initiative, and take one of the following actions:

1. Adopt a resolution approving the measure, without alteration, to amend the City's General Plan to affirm provisions regarding, and to add an action item to advocate for, a BART extension in Livermore VIA I-580; or

2. Adopt a resolution: 1) calling for, and giving notice of, the holding of a general election for the submittal of the BART Initiative to the voters of the City of Livermore and consolidating that election thereon with the General Municipal Election to be held Tuesday, November 8, 2011; 2) establishing dates for ballot arguments and rebuttals (July 22, 2011 for direct arguments and August 1, 2011 for rebuttal arguments); and 3) directing the City Attorney to prepare an impartial analysis.

Also, the City Council should determine whether to appoint a subcommittee to prepare a ballot argument and rebuttal opposing the measure.

6.03 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.

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

7.01 Council Committee Reports and Matters Initiated by City Manager, City Attorney, Staff, and Councilmembers. DOCUMENT

8. ADJOURNMENT – To a regular City Council/Redevelopment Agency meeting on July 25, 2011 at 7:00 pm, Council Chambers, 3575 Pacific Avenue, Livermore.