



REVISED AGENDA
Item 6.03 Recommendation has been amended.

CITY COUNCIL

AGENDA

JULY 23, 2012

CLOSED SESSION - 5:00 PM

MULTI-SERVICE CENTER
3311 PACIFIC AVENUE
LIVERMORE, CA 94550

REGULAR MEETING - 7:00 PM

COUNCIL CHAMBERS
3575 PACIFIC AVENUE
LIVERMORE, CA 94550

CITY COUNCIL

John Marchand, Mayor
Doug Horner, Vice Mayor
Stewart Gary, Councilmember
Laureen Turner, Councilmember
Bob Woerner, 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.



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 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 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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CLOSED SESSION

CALL TO ORDER

5:00 PM

Roll Call

Councilmember Stewart Gary
Councilmember Laureen Turner
Councilmember Bob Woerner
Vice Mayor Doug Horner
Mayor John Marchand

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

ADJOURN TO CLOSED SESSION

1. Pursuant to Government Code section 54957.6. To meet with the City's negotiator, Assistant City Manager Troy Brown, regarding negotiations with the International Association of Fire Fighters, Local 1974.
2. Pursuant to Government Code section 54957.6. To meet with the City's negotiator, Assistant City Manager Troy Brown and Bill Avery (of Avery Associates), regarding negotiations with the Municipal Employees' Agency for Negotiation (MEAN).
3. To meet with the City Attorney regarding anticipated litigation 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 a claim under the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation.
 - a. Written and electronic correspondence and telephone calls from Ghilotti Construction asserting construction claims for damages relative to the Isabel Interchange Project.
4. Pursuant to Government Code section 54957 regarding the six month performance review of the City Manager.

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 Stewart Gary
 - Councilmember Laureen Turner
 - Councilmember Bob Woerner
 - Vice Mayor Doug Horner
 - Mayor John Marchand
 - 1.02 Pledge of Allegiance
 - 1.03 Report of Action Taken in Closed Session
2. **PROCLAMATIONS AND PRESENTATIONS**
 - 2.01 Human Services Commission Annual Update

[DOCUMENT](#)

3. CITIZENS FORUM

- *In conformance with the Brown Act, no City Council 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 with a single action. Members of the audience wishing to provide public input must complete a speaker card.

- 4.01 Approval of Minutes – July 9, 2012 City Council meeting. [DOCUMENT](#)
- 4.02 **Adoption of an ordinance** approving the Third Amendment (DAA12-001) to Development Agreement 06-001 with Johnson-Himsl LLC (formerly Johnson-Himsl Partnership). (7-9-2012) [DOCUMENT](#)
- 4.03 **Adoption of an ordinance** approving the Zoning Map Amendment 12-001, to adjust the boundaries of the Planned Development –El Charro Specific Plan-Highway Regional Commercial District. (7-9-2012) [DOCUMENT](#)
- 4.04 Resolution authorizing purchase of earthquake and flood insurance, in the amount of \$135,000, to cover critical City facilities. [DOCUMENT](#)
- 4.05 Resolution approving settlement and authorizing the City Attorney to negotiate and execute a settlement agreement in the matter of Silva v. City of Livermore, U. S. District Court Case No. C11-05354 EDL. [DOCUMENT](#)
- 4.06 Resolution supporting proposed amendments to Tri-Valley Community Television Corporation's bylaws to reflect the withdrawal of San Ramon as a member of the Board of Directors, and supplemental appropriation of \$22,000, to cover Livermore's pro rata share of operating expenses. [DOCUMENT](#)
- 4.07 Resolution accepting for permanent maintenance and releasing of security for the Livermore Municipal Airport Hangar S-1 Fire Suppression Improvements, Project No. 2005-25. [DOCUMENT](#)

- 4.08 Resolution accepting for permanent maintenance and releasing of security for the Isabel Avenue/I-580 Interchange Improvements, Contract No. 1, Project No. 1992-3811. [DOCUMENT](#)
- 4.09 Resolution authorizing execution of an agreement and grant of easement with Pacific Gas and Electric Company for installation of Gas Transmission Line 131, located along Isabel Trail. [DOCUMENT](#)
- 4.10 Resolution initiating annexation and declaring intention to annex territory to a maintenance district, and initiating proceedings for and declaring intention to levy assessments in Fiscal Year 2013-2014 including for the maintenance and operation of additional improvements. Maintenance District No. LL-854 (Tentative Tract 7421-The Grove); Annexation No. 1 (Tract 7782 and Parcel 2 of Parcel Map 10060) and Fiscal Year 2013-2014 annual assessment; and setting the Public Hearing date for September 10, 2012. [DOCUMENT](#)
- 4.11 Resolution authorizing execution of an agreement with Valley Slurry Seal Company, in the amount of \$1,125,000, for construction of the 2012 Slurry Seal, Project No. 2012-04; and reappropriation of \$260,000 in Solid Waste and Recycling Impact Fee Funds from the 2013 Slurry Seal, Project No. 2013-04, to the 2012 Slurry Seal, Project No. 2012-04 in Fiscal Year 2012-13. [DOCUMENT](#)
- 4.12 Resolution authorizing execution of an agreement with Pavex Construction, in the amount of \$913,318, for construction of the Downtown Iron Horse Trail, Project No. 2010-40. [DOCUMENT](#)
- 4.13 Resolution authorizing execution of an agreement with Green Valley Group dba, Green Valley Landscape, in the amount of \$790,561, for construction of the El Charro Specific Plan Habitat Mitigation and Maintenance, Project No. 2007-2033. [DOCUMENT](#)
- 4.14 Resolutions summarily vacating a portion of Freisman Road; authorizing the disposition of a portion of Freisman Road; authorizing execution of a Quit Claim Deed transferring a portion of Freisman Road to Paragon Outlets Livermore Valley LLC; and approving Final Parcel Map 9393. [DOCUMENT](#)
- 4.15 Resolution initiating formation of and intention to establish Landscape Maintenance District No. LL-862 for Tract 8061; preliminarily approving the Engineer's Report; and setting the Public Hearing Date for September 10, 2012. [DOCUMENT](#)
- 4.16 Resolution authorizing execution of a loan agreement with Paragon Outlets Livermore Valley LLC on behalf of Community Facilities [DOCUMENT](#)

District (CFD) No. 2009-01 (El Charro) with respect to Improvement Area No. 1 of the CFD; approving issuance of a note, on behalf of the CFD with respect to Improvement Area No. 1, in an amount not to exceed \$14 million; and making certain related findings required by law.

- 4.17 Resolution authorizing thirty percent of the Traffic Impact Fees collected during Fiscal Year 2011-2012 be set aside for reimbursement purposes in Fiscal Year 2012-2013. [DOCUMENT](#)
- 4.18 Resolution authorizing execution of a Subdivision Improvement Agreement; approving Tract 7552 Final Map for recording; and accepting on behalf of the public all real property offered for dedication within Tract Map 7552, The Grove Phase 2. Location: North Mines Road, at the end of Sonia Street. [DOCUMENT](#)
- 4.19 Resolution authorizing execution of a Subdivision Improvement Agreement; approving Tract 8091 Final Map for recording, and accepting on behalf of the public all real property offered for dedication within Tract Map 8091, Ponderosa Vinsanto Phase 2. Location: San Vicente Drive and Caldeira Drive, south of Robertson Park Road. [DOCUMENT](#)
- 4.20 Resolution authorizing supplemental appropriation in the total amount of \$397,850 of Human Service facility fee funds, City in-lieu Housing funds, Federal Home Investment Partnership Program funds, State Homeless Prevention and Rapid Re-Housing funds, and City Social Opportunity Endowment funds for Fiscal Year 2012-2013. [DOCUMENT](#)
- 4.21 Resolution authorizing execution of a Low Income Housing Agreement with Northbrook Homes, LLC for an 11-unit subdivision, The Grove Phase 2, located approximately at North Mines and Sonia Street (Vesting Tentative Tract Map 7552). [DOCUMENT](#)
- 4.22 Resolution approving the appropriation and expenditure of two Altamont Landfill Settlement Agreement Education Advisory Board Grants in the amounts of \$2,000 to fund community screenings of waste reduction and recycling-related movies; and \$28,000 to fund an intern for the Environmental Services Division in Fiscal Year 2012-2013. [DOCUMENT](#)
- 4.23 Resolution authorizing execution of an agreement with Lynx Technologies, in an amount not to exceed \$250,000, for Geographic Information System (GIS) development and maintenance services, Project No. 1993-64. [DOCUMENT](#)

- 4.24 Resolution authorizing the City Attorney to execute a full settlement and release agreement with Ghilotti Construction Company and Preston Pipelines, Inc. concerning disputed potential claims associated with work to complete the Isabel Avenue/I-580 Interchange Improvements, Contract No. 1, Project No. 1992-3811. [DOCUMENT](#)

5. PUBLIC HEARINGS

- 5.01 Hearing to receive protests related to the annual weed abatement program and confirm the 2012 weed abatement assessments for collection on the county assessor tax roll. [DOCUMENT](#)

Recommendation: Staff recommends the City Council adopt a resolution overruling protests and confirming the 2012 weed abatement assessments and direct staff to forward a certified copy of the assessment report with the County Auditor.

- 5.02 Hearing to consider confirmation of the annual levy of assessments for the City's Landscape Maintenance District for Fiscal Year 2012-2013 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's Landscape Maintenance District; and confirming the annual levy of assessments and directing actions with respect thereto for Fiscal Year 2012-2013.

- 5.03 Hearing for protests and confirmation of assessments for the 2011-2012 Sidewalk Repair Program, Project No. 2012-02. [DOCUMENT](#)

Recommendation: Staff recommends the City Council adopt a resolution overruling protests and confirming the placement of assessments for unpaid sidewalk repair as of July 30, 2012, on the County tax roll.

- 5.04 Hearing to consider a request to subdivide an existing parcel and a portion of a City-owned parcel for the development of 94 detached single-family residences, including new private drives, parking stalls, common areas, landscaping, site furnishings, and a sound wall along the north side of the project site. The project involves an amendment to the Downtown Specific Plan to establish development standards for small-lot, single-family residential land use and a Development Agreement for the incorporation of a portion of City-owned land in the subdivision and developer obligation to complete off-site public improvements. A protest hearing and subsequent action on the sale of the City-owned land will be considered. [DOCUMENT](#)

- Location: North of First Street at Inman Street
- Applicant: OTV, LLC

- On-site and off-site public improvements: New sidewalk, street lights, landscaping, bus stop, and utilities along First Street; new landscaping in the First Street median; re-signalization of the First Street and Inman Street intersection; and the extension of the left-turn lane on eastbound First Street at Inman Street
- Site Area: 5.13± acres
- Zoning: Downtown Specific Plan-Transit Gateway District (DSP-TGD)
- General Plan: Downtown Area (DA)
- Historic Status: None
- CEQA: A Negative Declaration under the provisions of the California Environmental Quality Act (CEQA) will be considered.

Recommendation: The Planning Commission and staff recommend the City Council adopt the following resolutions and **introduce an ordinance:**

- a) Approve Vesting Tentative Tract Map 8114 (Subdivision 12-002);
- b) Approve Downtown Design Review 12-002, subject to conditions; and
- c) Approve Specific Plan Amendment 12-001.
- d) **Introduce an ordinance** approving Development Agreement 12-001.
- e) Approve the Purchase and Sale Agreement for the sale of the City parcel located on the north side of First Street and east of Inman Street.

5.05

Hearing to consider a proposed Phase II of the Paragon Outlets Livermore development. The proposed project will be constructed on a 14.7±-acre parcel east of the Phase I development. The proposed Phase II includes four retail buildings, totaling 192,100± square feet, on the same grid layout of Phase I, which currently is under construction. The buildings are 20 feet tall with certain architectural features, such as decorative entries, roofs, and towers, ranging from 27 to 33 feet. Architecture and colors are consistent with Phase I. As part of the proposed project, Paragon will construct the surface improvements for Paragon Outlets Drive (formerly designated as Road A), an 87-foot wide public street which has been planned along the eastern edge of the project site. The project also includes a request for an Amended and Restated Development Agreement and a Sales Tax Reimbursement Agreement. The proposed Development Agreement Amendment would vest the requested project approvals, adjust infrastructure construction and financing obligations, and make other related changes to the current Development Agreement.

[DOCUMENT](#)

- Location: Southeast quadrant of I-580 and El Charro Road

- Applicant: FCGA Architecture for Paragon Outlets Livermore Valley LLC
- On-site and off-site public improvements: The project includes roadway and pedestrian improvements, including construction of a new Paragon Outlets Drive (previously designated Road A), relocating a segment of Friesman Road; the extension of utilities, including sewer, water, and storm drains; and installation of on and off-site flood control facilities, and related improvements.
- Site Area: 14.71± acres
- Zoning: Planned Development-El Charro Specific Plan-Regional Commercial (PD-ECSP-RC)
- General Plan: Business and Commercial Park (BCP)
- Historic Status: None
- CEQA: An Environmental Impact Report (SCH# 2006052112) was previously certified for the project.

Recommendation: The Planning Commission and staff recommend the City Council:

1. Adopt resolutions to:
 - a. Approve Tentative Parcel Map 10090 (SUB12-003) to adjust property boundaries, authorizing grading and site improvements, and secure the public improvements and infrastructure necessary to support the proposed development of Paragon Outlets Phase II;
 - b. Approve Site Plan Design Review 12-018 to authorize the proposed site design, landscape, and building architecture for Paragon outlets Phase II;
 - c. Approve Conditional Use Permit 12-003 to authorize the use of approximately one acre of City-owned land, including a portion of the interim Road A, south of the Paragon outlets Phase II project for overflow parking and related access drives; and
 - d. Authorizing execution of the Sales Tax Reimbursement Agreement (Policy Proposal Implementation 12-001) with Paragon Outlets Livermore Valley II, LLC.
2. **Introduce an ordinance** authorizing execution of Development Agreement Amendment 12-002 with Paragon Outlets Livermore Valley II, LLC.

5.06 Hearing to consider a request to amend the architectural design including floor plans, and associated minor changes in alley and sound wall alignment, for 50 homes to be constructed in a previously approved subdivision.

- Location: 1000-1016 Vasco Road

[DOCUMENT](#)

- Applicant: Standard Pacific Homes
- On-site and off-site public improvements: Associated with previously approved subdivision includes extensions of utilities, including water, sewer, storm drain, electrical lines, sidewalk, and landscaping, including utility work within Central Avenue
- Site Area: 5.8± acres
- Zoning: Planned Development Residential (PD-R) 10-004
- General Plan: Transferable Development Credit (TDC) Receiver Site - Type E - Urban Medium High Residential/Urban High Residential-2 (UMH/UH-2) Baseline of 4.5 to 6 dwellings per acre (the maximum density when developers decline to use TDC option) or a maximum of 8 to 14 dwellings per acre when developers choose to exceed the baseline and comply with City's TDC Ordinance.
- CEQA: This project is Categorical Exempt under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15305, which exempts minor alterations to land use limitations in areas of average slope less than 20 percent, which do not result in changes to land use, density, or an increase in the number of parcels.

Recommendation: Staff recommends the City Council adopt a resolution approving Site Plan Design Review Modification 12-010, subject to conditions.

6. MATTERS FOR CONSIDERATION

- 6.01 Discussion and direction regarding City Council appointments to Intergovernmental Agencies. [DOCUMENT](#)
- 6.02 Discussion and direction regarding proposed ballot measure related to setting Council/Mayoral elections for even-numbered years. [DOCUMENT](#)

Recommendation: Staff recommends the City Council determine whether to place a ballot measure on the November ballot to change Council/Mayoral elections to even-numbered years and decide on the language for such a measure.

- 6.03 Discussion and direction regarding Las Positas Golf Course Operational Structure Review by the National Golf Foundation Consultants (NGF), and request to circulate Request for Proposal for integrated operation of the Las Positas Golf Course Facility under a management agreement in 2013 and a Request for Proposal for lease of restaurant. [DOCUMENT](#)

Recommendation: Staff recommends the City Council direct staff to proceed with Option #2 to release one Request for Proposals for

the Operation of the Golf Course and Golf Course Restaurant.

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

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 meeting on August 13, 2012 at 7:00 pm, Council Chambers, 3575 Pacific Avenue, Livermore.

SUPPLEMENTAL MATERIAL #1 [DOCUMENT](#)

SUPPLEMENTAL MATERIAL #2 [DOCUMENT](#)

SUPPLEMENTAL MATERIAL #3 [DOCUMENT](#)