

July 20, 2021, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.ci.tracy.ca.us

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated in-person and remotely via WebEx during the meeting.

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

Mayor Young led the Pledge of Allegiance.

Priest Atul Batra, Sant Nirankari Mission offered the invocation.

Roll call found Council Members Arriola, Bedolla, Davis, and Mayor Young present. Mayor Pro Tem Vargas absent.

Police Chief Sekou Millington swore in new Police Officers Manjit Singh and Juan Jasper.

1. CONSENT CALENDAR – Following the removal of consent Items 1.I by Robert Tanner and 1.L by Kimberly Murdaugh, Human Resources Director motion was made by Council Member Arriola and seconded by Council Member Davis to adopt the Consent Calendar. Roll call vote found Council Members Arriola, Bedolla, Davis, and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent.
 - 1.A ADOPTION OF JULY 6, 2021 CLOSED SESSION AND REGULAR MEETING MINUTES – Minutes were adopted
 - 1.B. APPROVE NOTICE OF INTENT TO ADOPT A GROUNDWATER SUSTAINABILITY PLAN FOR THE TRACY SUBBASIN – Resolution 2021-092 approved the Notice of Intent to adopt a Groundwater Sustainability Plan.
 - 1.C APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN & ASSOCIATES, INC. OF PLEASANTON, CALIFORNIA FOR A NOT-TO-EXCEED AMOUNT OF \$299,988 TO PROVIDE PROFESSIONAL ENGINEERING DESIGN SERVICES, INCLUDING PREPARATION OF CONSTRUCTION DOCUMENTS FOR THE ADAPTIVE TRAFFIC SIGNAL SYSTEM PROJECTS ON ELEVENTH STREET (CIP 72098) AND CORRAL HOLLOW ROAD (CIP 72113) AND AUTHORIZE AN APPROPRIATION OF \$135,000 FROM GAS TAX FUND (F245) FOR THESE PROJECTS – Resolution 2021-093 approved the Professional Services Agreement with Kimley-Horn & Associates, Inc., for engineering design services for adaptive traffic signal systems projects on Eleventh Street (CIP 72098), and Corral Hollow Road (CIP 72113).
 - 1.D AUTHORIZE THE ACCEPTANCE OF \$13,977 FROM THE 2021 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR

FUNDING EQUIPMENT, TECHNOLOGY, AND OTHER MATERIAL DIRECTLY RELATED TO BASIC LAW ENFORCEMENT FUNCTIONS AND APPROVE THE APPROPRIATION TO THE POLICE DEPARTMENT BUDGET FOR FISCAL YEAR 21/22 - Resolution 2021-094 authorized the acceptance of the 2021 Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

- 1.E AUTHORIZE THE SUBMISSION OF A UNITED STATES DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES (COPS) GRANT APPLICATION FOR THE PROJECTED AMOUNT OF \$250,000 FOR THE EXPANSION OF CRISIS INTERVENTION TEAMS TO EMBED MENTAL AND BEHAVIORAL HEALTH SERVICES WITH LAW ENFORCEMENT AND AUTHORIZE THE CITY MANAGER TO ACCEPT THE GRANT IF AWARDED - Resolution 2021-095 authorized the submission of a United States Department of Justice Community Oriented Policing Services (COPS) Grant Application.
- 1.F AWARD A CONSTRUCTION CONTRACT TO TRACY GRADING AND PAVING, INC., OF TRACY, CALIFORNIA, IN THE AMOUNT OF \$1,297,510 FOR THE PAVEMENT REHABILITATION PROJECT FY 2019-2020 CIP 73176, WITH A NOT-TO-EXCEED BUDGET OF \$1,497,138, AND AUTHORIZE THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO THE CONTINGENCY AMOUNT OF \$129,752, IF NEEDED – Resolution 2021-096 awarded a Construction Contract to Tracy Grading and Paving, Inc.
- 1.G APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN & ASSOCIATES, INC. OF SACRAMENTO, CALIFORNIA FOR A NOT-TO-EXCEED AMOUNT OF \$74,730 TO PROVIDE PROFESSIONAL ENGINEERING SERVICES, FOR THE LOCAL ROADWAY SAFETY PLAN (LRSP) CIP 72119, STATE PROJECT NUMBER: LRSPL – 5192(047), AND APPROVE AN APPROPRIATION OF \$20,000 FROM GAS TAX FUND (F245) – Resolution 2021-097 approved a Professional Services Agreement with Kimley-Horn & Associates, Inc. for engineering services for Local Roadway Safety Plan (LRSP) CIP 72119.
- 1.H WAIVE SECOND READING AND ADOPT ORDINANCE 1313, AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 3.08.580 REGARDING SPECIAL SPEED ZONES OF THE TRACY MUNICIPAL CODE TO UPDATE SPEED LIMITS AS REQUIRED BY THE CALIFORNIA VEHICLE CODE – Ordinance 1313 was adopted.
- 1.J APPROVE A PROFESSIONAL SERVICES AGREEMENT, NOT-TO-EXCEED \$700,000 PER YEAR, WITH 4 LEAF, INC. OF PLEASANTON, CALIFORNIA, TO PROVIDE TEMPORARY STAFFING OF CONSTRUCTION INSPECTORS AND PLAN CHECKING ENGINEERS FOR CAPITAL IMPROVEMENT AND DEVELOPMENT PROJECTS ON AN AS-NEEDED BASIS FOR FISCAL YEARS 2021-2022 AND 2022-2023, AUTHORIZE AN OPTION TO EXTEND INSPECTION SERVICES FOR FISCAL YEARS 2023-2024 AND 2024-2025, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE EXTENSIONS AND ANY MINOR AMENDMENTS – Resolution 2021-098 approved a Professional Services Agreement with 4-Leaf, Inc. to provide temporary staffing of construction inspectors and plan checking engineers for Capital Improvement and Development projects.

1.K APPROVE LEGAL SERVICES AGREEMENTS WITH BURKE, WILLIAMS, & SORENSEN, LLP, DOWNEY BRAND LLP, THE LAW OFFICE OF DANIEL P. DOPORTO, MEYERS NAVE AND PRICE, POSTEL & PARMA, LLP TO PROVIDE SPECIAL LEGAL COUNSEL SERVICES FOR A TERM OF THREE YEARS WITH OPTION TO EXTEND FOR TWO ADDITIONAL ONE-YEAR TERMS AND AUTHORIZE THE CITY ATTORNEY TO EXECUTE THE CONTRACT EXTENSIONS – Resolution 2021-099 approved Legal Services Agreements with Burke, Williams, & Sorensen, LLP, Downey Brand LLP, The Law Office of Daniel P. Doport, Meyers Nave and Price, Postel & Parma, LLP to provide legal counsel services.

1.I WAIVE SECOND READING AND ADOPT ORDINANCE 1314, AN ORDINANCE OF THE CITY OF TRACY ADDING CHAPTER 6.26 “SHARED MOBILITY DEVICE PILOT PROGRAM” TO TITLE 6 “BUSINESSES, PROFESSIONS AND TRADES” OF THE TRACY MUNICIPAL CODE TO ESTABLISH A PILOT PERMIT PROGRAM FOR SHARED MOBILITY DEVICES

Robert Tanner pulled the item to ask whether the provider gets property owner approval before dropping off scooters, and shared concerns regarding scooters being parked near schools, and some sidewalks not being ADA compliant when scooters are parked on the sidewalk.

Ed Lovell, Transit Manager responded to questions.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Bedolla and seconded by Council Member Davis to waive the second reading of the full text and adopt **Ordinance 1314**, an ordinance of the City of Tracy adding Chapter 6.26 “Shared Mobility Device Pilot Program” to Title 6 “Businesses, Professions and Trades” of the Tracy Municipal Code to establish a Pilot Permit Program for shared mobility devices. Roll call found Council Members Arriola, Bedolla, Davis and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent.

1.L APPROVE MEMORANDA OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY POLICE OFFICERS ASSOCIATION, TRACY MID-MANAGERS BARGAINING UNIT, TRACY TECHNICAL AND SUPPORT SERVICES EMPLOYEE ASSOCIATION, AND GENERAL TEAMSTERS LOCAL NO. 439, I.B.T., AND COMPENSATION AND BENEFIT PLANS FOR THE CONFIDENTIAL EMPLOYEE UNIT AND DEPARTMENT HEADS: AUTHORIZE THE CITY MANAGER TO INCREASE APPROPRIATIONS, AND AUTHORIZE AN AMENDMENT TO THE CITY MASTER SALARY SCHEDULE

Kimberly Murdaugh, Human Resources Director pulled the item to announce a clerical error in the staff report. The 2% lump sum payment for Tracy Technical and Support Services Employee Association (TTSSEA) listed at \$1,427.00, should be \$1,470.00.

There was no public comment.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt the following Resolutions:

Resolution 2021-100 approving the Memorandum of Understanding between the City of Tracy and the Tracy Police Officers Association (TPOA), authorizing the City Manager to increase appropriations and authorizing an amendment of the City Master Salary Schedule.

Resolution 2021-101 approving the Memorandum of Understanding between the City of Tracy and the Tracy Mid Managers Bargaining Unit (TMMBU), authorizing the City Manager to increase appropriations and authorizing an amendment of the City Master Salary Schedule.

Resolution 2021-102 approving the Memorandum of Understanding between the City of Tracy and the Tracy Technical and Support Services Employee Association (TTSSEA), authorizing the City Manager to increase appropriations and authorizing an amendment of the City Master Salary Schedule.

Resolution 2021-103 approving the Memorandum of Understanding between the City of Tracy and the General Teamsters Local No. 439, IBT, authorizing the City Manager to increase appropriations and authorizing an amendment of the City Master Salary Schedule.

Resolution 2021-104 approving the Compensation and Benefits Plan for Confidential Employees Unit, authorizing the City Manager to increase appropriations and authorizing an amendment of the City Master Salary Schedule.

Resolution 2021-105 approving the Compensation and Benefits Plan for Department Heads, authorizing the City Manager to increase appropriations and authorizing an amendment of the City Master Salary Schedule.

Roll call found Council Members Arriola, Bedolla, Davis and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent.

2. ITEMS FROM THE AUDIENCE – Pete Moyer, Lammersville Preservation Association shared his concerns regarding traffic issues on Hansen Road. Mr. Moyer requested help and support from the City, and stated Prologis wants to work with them, and is willing to put money in the hat to bring things forward to shut the off ramp down.

Dale Schafer, Attorney stated his client submitted three applications for noncompetitive cannabis permits and all three scored differently on social equity and local preference. Mr. Schafer stated there is no pathway to get a decision about their noncompetitive permits, and requested Council consider reopening the noncompetitive, not ask for any more money, not make them competitive or compare to retail licenses.

Alex Monceaux stated 49 applied for noncompetitive cannabis licenses and none got issued, something was not done right in scoring process of noncompetitive licenses. Mr. Monceaux shared his concerns regarding not being able to ask questions regarding why they did not get a review, and requested to relook at applications.

Diana Fernandez wanted to know why their application was not scored fairly. Ms. Fernandez shared concerns regarding the established application submittal date changing hours before deadline, requested this process and a report be brought back to the next Council meeting for public discussion, and suggested Council move all 10 applications to the CUP process.

Tony Fernandez stated their scores were very high, but when it came to local preference plan their application scored a four. Mr. Fernandez added they asked questions but no responses from emails. Council has an obligation to listen to the community and bring back to Council for public discussion including allowing all 10 dispensary applications to move forward in conditional use permit process.

Arabella McCreary shared her concerns regarding the scoring process, not having the right to appeal. Ms. McCreary stated she is the only one who applied for my processing permit type, and does not get to find out what the reason that she spent all this money but does not get to operate. Ms. McCreary stated the application should be revisited under the scoring guidelines agreed to, and emails, letters and phone calls be returned.

Dan Evans thanked Supervisor Rickman for working with the County to release \$3.6 million to fund first phase of the homeless shelter, and \$60,000 to Tracy Interfaith Ministries. Mr. Evans requested getting the shelter built expeditiously, and closer to completion of the shelter bring Police Chief Millington in for community and Council discussion to work for the same expectations for clean parks in the City.

Alice English thanked Council Members Arriola and Davis and staff for working together and Supervisor Rickman for the homeless shelter and Tracy Interfaith funds. Ms. English also announced on Thursday, July 22 from 7:00 – 9:00 p.m. will be virtual community meeting about Westside Specific Plan.

Ariana Van Alstine, Cannabis Collective shared concerns regarding transparency and equity of the application and scoring process, and requested Council action be taken that all final applicants would be eligible to apply for a CUP as long as their information remains current and accurate with what was submitted in original application material, and process allows community input.

Aziz B stated he has a family member who applied, placed 5th in last phase of application and conducted a public records request to look further into organizations that moved forward, and found instead of using revenue number to calculate contribution they used net income or net sales. Suggested the City to select operators who use a top line number to calculate their community contributions, and move all finalists to CUP process so public can weigh in on who they want in our community.

Chris Berman, CEO of Manzanita spoke about the cannabis permit license process being a floored process – decision to extend application deadline at last minute, erroneous scoring, City sent out readjusted score after requirements were met, preventable rounding area ending up costing lot of money. The scoring criteria and process was done to allow well connected Tracyites to be awarded permits.

Pamela Epstein shared concerns regarding the process, transparency, lack of consistency in scoring, and is going through responsive public record documents and

finding concerns. Ms. Epstein recommended moving applicants forward with CUP process, add requirement for CUP package in one year, community input can be shared during Planning Commission meeting, and the City can look to other cities.

Shawn Wilson stated there has been compelling arguments as to why the Council should relook at the process, and Council has the obligation to look at what has transpired. Allowing all 10 to go forward with the CUP process is the wisest approach. Planning Commission will then dictate who is best and who will rise to the top.

Mayor Young asked staff for clarification regarding the comments from the public regarding the homeless shelter, and the cannabis item not being on the July 20, 2021 agenda.

Midori Lichtwardt, Assistant City Manager provided a brief update on the homeless shelter timeline.

Jenny Haruyama, City Manager clarified that staff had publicly advised Council that it is important to go through the appeal process before moving forward with the policy item. The appeal process is scheduled to be wrapped up in September and once through appeals process will bring back for Council's consideration, advised for legal and practical implications that we need to move through due process which is the appeal process. Will aim for September.

Leticia Ramirez, City Attorney responded to Mayor Young regarding being responsive to the cannabis business permit applicants.

3. REGULAR AGENDA

3.A APPROVE REVISIONS TO TRACER BUS SERVICE EFFECTIVE AUGUST 1, 2021

Ed Lovell, Transit Manager provided the staff report.

Alice English stated she was glad Sunday hours are being kept, the \$4 increase is fair, and requested keeping the \$2 fare for seniors.

City Council comments and questions followed.

Council Member Bedolla asked for Council consensus to push back on senior fee and ADA individuals to keep the fares the same until the end of the pilot program. Council Member Davis supported the request.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Davis to adopt **Resolution 2021-106** approving the Tracer Bus Service revisions effective August 1, 2021, except to continue \$2 service for Seniors and ADA passengers through the remainder of the Pilot Program and to review by Council, and also to begin taking demographic data on the age of passengers for consideration. Roll call found Council Members Arriola, Bedolla, Davis and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent.

3.B INCREASE COMPENSATION FOR ELECTED CITY TREASURER AND RESCIND RESOLUTION NO. 2019-003

Midori Lichtwardt, Assistant City Manager provided the staff report.

Robert Tanner shared his support for the City Treasurer receiving a compensation increase adding he has done one heck of a job.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Davis and seconded by Council Member Arriola to adopt **Resolution 2021-107** approving an increase to monthly salary of the City Treasurer from \$950 to \$1,075 effective August 1, 2021.

Council Member Arriola made a friendly amendment to also review the Treasurer compensation every two years. Council Member Davis accepted the friendly amendment.

Roll call found Council Members Arriola, Bedolla, Davis and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent.

3.C ADOPT A POLICY ESTABLISHING RULES AND PROCEDURES FOR ACCEPTING DONATIONS AND GIFTS FROM THE PUBLIC

Midori Lichtwardt, Assistant City Manager provided the staff report.

There was no public comment.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Davis and seconded by Council Member Arriola to adopt **Resolution 2021-108** approving a Council Policy establishing rules and procedures for accepting donations and gifts from the public as described in Attachment A to the staff report. Roll call found Council Members Arriola, Davis and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent. Council Member Bedolla absent from vote.

3.D DISCUSS AND APPROVE UPCOMING OUT-OF-STATE TRAVEL FOR CITY COUNCIL MEMBERS, INCLUDING TRAVEL TO WASHINGTON, D.C. FOR LOBBYING EFFORTS FOR THE SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG) ONE VOICE® TRIP AND TRAVEL TO WASHINGTON, D.C. FOR LOBBYING EFFORTS FOR THE CITY OF TRACY (PRE-ONE VOICE)

Adrienne Richardson, City Clerk provided the staff report.

There was no public comment.

City Council comments followed.

Council Members Arriola, Bedolla, Davis and Mayor Young all expressed interest in attending the San Joaquin Council of Governments One Voice® trip.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Davis to approve all Council attendance at the SJCOG One Voice® trip to Washington, D.C. scheduled for October 17 through October 21, 2021, and anticipated Spring 2022 SJCOG One Voice® trip and Tracy Pre-One Voice trips. Roll call found Council Members Arriola, Bedolla, Davis and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent.

4. ITEMS FROM THE AUDIENCE – Alex Monceaux stated we have heard from cannabis people that they are disheartened with the process. There are no noncompetitive in play or part of the appeal process, so ask Council to look at that before September since none of those applicants are tied into appeal process.
5. STAFF ITEMS – Jenny Haruyama, City Manager provided an update on the following actions taken by the City Manager during the COVID emergency.
 - Approve the Off-Site Improvement Agreement for Tracy Hills Phase 1A, Criseldo Mina Avenue Extension Improvements.
 - Approve MPSA with HDR Engineering, Inc. for On-Call Public Outreach Services.
 - Accept OIA for Harvest in Tracy Multifamily Development Constructed by LTMY Tracy LLC.
 - Approve OIA for Costco Wholesale Corporation’s Traffic Signal at W. Schulte Rd and Bud Lyons Way.

Ms. Haruyama announced there will be a community meeting for Westside Specific Plan also known as Gateway on Thursday, July 22, 2021, from 7:00 p.m. to 9:00 p.m., which can be attended in person or virtually, provided the City of Tracy website address and added can also find out ways to participate in a survey in respect to land use alternatives.

Ms. Haruyama announced the San Joaquin County Public Health Department came out with a recommendation for individuals that may want to wear face masks indoors. It is not a mandate, it is a recommendation following suit with Stanislaus County and several Bay Area counties.

6. COUNCIL ITEMS – Council Member Arriola provided updates from meetings and events he has attended, and spoke about joining Council Member Doug Kuehne of Lodi and Council Member Gary Singh of Manteca and as united group of cities to approach the Board of Supervisors and were approved for \$3.6 million dollars to fully fund the homeless shelter in the City of Tracy using zero general fund dollars for construction. Next subcommittee meeting is October 21, 2021 will be talking about updating the implementation plan and looking at Phase 2 and 3 of shelter property and also having a faith based organization round table to look at resources that are available in the City of Tracy. Provided update on City Schools meeting, and announced he will be heading on vacation for the next week.

Council Member Davis reminded staff to get a memo or information that can be shared with residents regarding scooters that are impeding the right of way and blocking access. Council Member Davis confirmed with the City Manager that she would like something she can share with residents to let them know the City is aware it is a problem, we may not have all the answers, but what the City's position is with trying to resolve that issue. Council Member Arriola supported the request.

Council Member Davis also asked for guidance on door to door canvassing after hours, and confirmed with the City Manager that she would like the information electronically. Council Member Arriola supported the request.

Council Member Davis congratulated Jordan Martinez and Isaac Lokers, both were Tracy students who graduated Army infantry, wished them Godspeed and thanked them for their service to our country.

Council Member Bedolla asked about any legal implications to the request from the public to review the noncompetitive applications through the appeals process.

Leticia Ramirez, City Attorney responded there may be one or two of the seven appeals that are noncompetitive. The only competitive are the retailers which are limited to four. Having a policy discussion to change the selection criteria while the City is still going through the appeal process does raise some concerns in terms of due process and practical considerations. Staff is focusing on appeals because there are strict time limits based on Tracy Municipal Code. Once the appeals process is complete there can be a full on policy discussion and Council can provide direction to staff.

Mayor Young asked if the appeal process applied to everyone.

In response to a comment from a member of the public seated in the audience who stated only applicants who made it to Phase 3 were able to appeal, Ms. Ramirez stated all applicants have the right to appeal, and at least one appeal was received from someone who did not make it to Phase 3.

Mayor Young stated we will be looking at the process after the appeals are complete and see where we go from there. Mayor Young added one of the things mentioned tonight was the finalists going on to the CUP process, which could be one of the things to look at as well as the appeal process in the future discussion. Council Member Bedolla supported the request.

Mayor Young provided an update on the meetings and events she has attended. Mayor Young referred to Item 4.2 on the July 20, 2021 South San Joaquin County Fire Authority agenda concerning status of the regional fire training center stating in 2017 were able to get federal grant for \$239,000 to purchase a prefabricated training tower to be utilized in stage one of project. However, the project budget was originally estimated to be \$450,000 and the City agreed to fund \$250,000 and Tracy Rural Fire District agreed to fund the remaining \$200,000. Further review by the City Engineer revised the estimate for installation and infrastructure to \$800,000, leaving a \$350,000 shortfall. An option was to request that Member agencies pay their prorated share of the shortfall. Mayor Young requested staff to see what they propose for Council discussion. Council Member Davis seconded the request.

Mayor Young announced the regular meeting on August 3, 2021 will be cancelled due to Council participation in National Night Out. Next regular Council meeting will be on August 17, 2021.

7. ADJOURNMENT – Time: 9:06 p.m.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Davis to adjourn. Roll call vote found Council Members Arriola, Bedolla, Davis and Mayor Young in favor; passed and so ordered. Mayor Pro Tem Vargas absent.

The above agenda was posted at the Tracy City Hall on July 15, 2021. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk