

**May 2, 2023, 7:00 p.m.**

City Hall, 333 Civic Center Plaza, Tracy

Web Site: [www.cityoftracy.org](http://www.cityoftracy.org)

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

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

Pastor Tim Heinrich, from Crossroads Baptist Church offered the invocation.

Midori Lichtwardt, Acting City Manager presented the Employee of the Month award for May 2023 to Heather Holtzman, Operations and Utilities Department.

Mayor Young presented Certificates of Appointment to new Measure V Residents' Oversight Committee members Rosario Arulappan and Pio Fernando.

Mayor Young presented a proclamation for Bike to Work Month to Dotty Nygard.

Mayor Young presented a proclamation for Older Americans Month to Volunteer, Judy Deliramich.

Mayor Young presented a proclamation for Building Safety Month to City of Tracy Building Official, Christopher Morgan.

Mayor Young proclaimed May 4, 2023 as National Day of Prayer.

Mayor Young presented a proclamation for Neurofibromatosis Awareness Month to Jessica Contreras.

Mayor Young presented a proclamation for Lyme Disease Awareness Month to Samantha Heinrich and Tim Heinrich.

#### DEVIATION

6. COUNCIL ITEMS - Council Member Evans shared that on April 19, 2023 he received the first of multiple threats of bodily harm and death, ranging from murder to kidnapping. Has received tremendous outpouring of support from the community but wanted to make it clear that the threats have scared his family but stand by his Council position and will continue making principled decisions that place the members of the community first, will continue doing his work on Council and political violence and threats are absolutely unacceptable. If there is an alternating point of view bring those convincing arguments to the podium, that takes guts and hard work, sitting behind a keyboard making threats to try to change the course of a city through intimidation is cowardice and ineffective. This has been reported to the authorities who are working diligently and investigating this issue. Thanked the community for hearing his message.

1. CONSENT CALENDAR – Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.
  - 1.A Adoption of April 18, 2023, Closed Session, Special Meeting and Regular Meeting Minutes. – **Minutes were adopted.**
  - 1.B Waive the second reading and adopt an ordinance authorizing an amendment to the contract between the City Of Tracy and the California Public Employees' Retirement System Plan to provide public service credit for Peace Corps, Americorps Vista, or Americorps Services for all local miscellaneous members and all local Police members, pursuant to Government Code section 20471. - **Ordinance 1336** was adopted.
  - 1.C Adopt a resolution awarding a public contract to H.B. Restoration, Inc., in the amount of \$62,980, for the City Hall Common Area Painting 2023, with a not-to-exceed budget of \$72,427 and authorizing the City Manager to approve any change orders up to the contingency amount of \$9,447 if needed. - **Resolution 2023-070** awarded a public contract to H.B. Restoration, Inc.
  - 1.D Adopt a resolution: 1) Authorizing the acceptance of a grant award from Health Plan of San Joaquin in the amount of \$1.2 million to partially fund the construction and operation of the Tracy Interim Shelter Site (renamed Phase 3 and Phase 4 of the Temporary Emergency Housing Shelter, CIP 71112); and 2) Appropriating \$1.2 million of the total grant funds to the Mobility and Housing Department, Homeless Services Division. – **Resolution 2023-071** accepted a grant award from Health Plan of San Joaquin.
  - 1.E Adopt a resolution (1) accepting public improvements as complete in accordance with the Off-Site Improvement Agreement for California Highway Patrol Building constructed by Tracy CHP Partners, LLC, a California Limited Liability Company, (2) authorizing the City Engineer to release performance and payment bonds, and (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office. – **Resolution 2023-072** accepted the public improvements for the CHP Building by Tracy CHP Partners.
  - 1.F Adopt a resolution: (1) awarding a construction contract to B&M Building Inc., of Rancho Cordova, California, in the amount of \$158,610 for the Water Treatment Plant HVAC Replacement – Blower Building Project, CIP 75171, (2) authorize a not-to-exceed budget of \$206,193, and (3) authorize the City Manager to approve change orders up to the contingency amount of \$23,792, if needed – **Resolution 2023-073** awarded a construction contract with B&M Inc.
  - 1.G Adopt a resolution authorizing the (1) submittal of an Allocation Request for the Low Carbon Transit Operation Program, (2) execution of Certifications and Assurances, and (3) authorizing the City Manager to execute funding documents with the California Department of Transportation (Caltrans) for allocation of the

FY 2022-23 LCTOP funds for the following project: Free Student Fares, in the amount of \$75,684. – **Resolution 2023-074** authorized the submittal of an allocation request for the Low Carbon Transit Operation Program.

- 1.H Adopt a resolution: (1) awarding a construction contract to GCJ, Inc., of Stockton, California, in the amount of \$2,349,496 for the Police Multipurpose Reality Based Training Facility Project, CIP 71110, with a not-to-exceed budget of \$3,171,821 and (2) authorize the City Manager to approve change orders up to the contingency amount of \$469,900, if needed. – **Resolution 2023-075** awarded a construction contract to GCJ, Inc.
  - 1.I Adopt a resolution amending the City’s Operating and Capital Budget for the Fiscal Year ending June 30, 2023, and authorize the Budget Officer to amend the City’s position control roster for FY2022- 23. – **Resolution 2023-076** amended the City’s Operating and Capital Budget.
  - 1.J. Waive the second reading and adopt an ordinance of the City of Tracy amending Tracy Municipal Code Sections 3.04.010, 3.04.030, and 3.04.130 to increase the fine amounts for administrative citations issued for violations of Chapter 3.04, “Fireworks”. – **Ordinance 1337** was adopted.
2. ITEMS FROM THE AUDIENCE – Tim Heinrich shared that he lives in the Ellis community and that the Corral Hollow Road drive has become increasingly dangerous, requested that there should be a left turn lane, traffic backs up, is a major inconvenience and creates danger when people try and beat the oncoming traffic by attempting to make the left turn.
- Wes Huffman shared concerns that there is an area behind the Lolly Hansen Senior Center that is scheduled repair, that space is covered with weeds, requested that the City pick up the cones and take away the caution tape and that he volunteers to remove the weeds that are on the verge of blooming and damaging the community garden.
- Rosario Arulappan expressed concerns for lack of schools in some neighborhoods and requested that Council expedites the school process for the Ellis Community along with the process for the Aquatic Park and submitted a petition from Ellis Homeowners to Council Member Evans to see if any action can be taken.
- Dotty Nygard expressed concern for Council Member Evans and his family’s safety in light of the threats he has received, shared that Tracy Earth Day was successful and thanked City staff and Council Members for attending.
- Robert Tanner requested that Council reconsider building the multi-generational facility before the aquatics park, thanked Council Member Bedolla for submitting what he has done for the month in a hard copy form rather than just on social media.
- Alice English thanked Council Member Bedolla for sharing hardcopies of his activities with the public, stated she has reached out to Manteca regarding Top Golf, and announced the following: The United Sikhs cleanup will be on Linne Road between Tracy Boulevard and Corral Hollow at 9:00 a.m., on June 2 and 3 Tracy Airport is having the Aerobatics Competitions located at the Airport.

Joseph Devlin from Altamont Wellness hopes that staff can help resolve the remaining issue with the Community Benefit Agreement so that businesses can open and serve the community, and asked Council to look into it with staff and come up with a quick resolution.

### 3. REGULAR AGENDA

- 3.A Council (1) adopt a Resolution of Intention of the City Council of the City of Tracy declaring its intention to increase wastewater rates, (2) set a public hearing date for June 20, 2023, and (3) authorize staff to proceed with mailing notices to all property owners within the City, as required by Proposition 218.

Sara Cowell, Finance Director provided the staff report.

Dotty Nygard shared that waste management was raised back in November and asked if there was a long-term plan to include solar a clean energy solar source to decrease the energy costs so that it doesn't go back on the consumer, especially those that are on fixed incomes.

Robert Tanner shared that Council is not taking seniors into consideration and due to their retirement income, they barely if at all meet the income requirement for low-income assistance and there should be a program specific for seniors.

Alice English echoed the same sentiments as Mr. Tanner and expanded that to seniors in general that are not only low income but on a fixed income and that pensions do not increase but everything else does such as food, gas, and basic living expenses.

Council comments and questions followed.

**ACTION:** Motion was made by Mayor Pro Tem Davis and seconded by Council Member Evans to 1) adopt **Resolution 2023-077** a resolution of Intention of the City Council of the City of Tracy declaring its intention to increase wastewater rates, (2) set a public hearing date for June 20, 2023, and (3) authorize staff to proceed with mailing notices to all property owners within the City, as required by Proposition 218. Roll call found all in favor; passed and so ordered.

- 3.B Discuss and provide direction on the proposed 1) bylaws for Tracy's Homelessness Advisory Committee and the Finance Committee and 2) modifications to the City Council's Meeting Protocols to reflect the delegation of increased authority to these standing Committees.

Karin Schnaider, Assistant City Manager, provided the staff report.

There was no public comment.

City Council comments and questions followed.

Mayor Pro Tem Davis requested that staff find the funding to ensure that both the Homeless Advisory Committee Meeting and the Finance Committee Meeting should be recorded, Council Member Evans and Mayor Young both supported the request.

- 3.C The Planning Commission recommends that the City Council Introduce an Ordinance 1) determining that the Project is categorically exempt from the California Environment Quality Act, pursuant to CEQA guidelines Section 15061(B)(3), and 2) Approving amendments to Sections 10.08.3196(b) and (d) of the Tracy Municipal Code to expand the definition of youth center and to establish buffers between Cannabis Uses and (a) Sensitive Uses and (b) Residential Uses

Victoria Lombardo, Senior Planner, provided the staff report.

Council comments and questions followed.

Michaela Toscas from Inspire Positive LLC. expressed her concerns regarding putting additional barriers on the cannabis industry. The current proposed buffer zones would make it nearly impossible to do business in Tracy and requested Council focus on getting business open with the regulations that were written three years ago. This is affecting people and businesses that have been waiting for three years and shared that from all the cities that she has worked with, this is one of the worst cannabis regulations processes she has seen.

Dotty Nygard expressed frustration after a denial was issued after meeting all the requirements asked to start a cannabis business, has not completed the community benefit or the DOJ process, asked after this process and after this ordinance has changed how will present and future cohorts be affected or is this a strategic plan on the part of the City so that no one can operate a cannabis business and shared that cannabis is not a gateway drug, safe and legal shops are being criminalized, this can bring in millions of dollars to the community.

Robert Tanner shared that the previous Council went from four stores to 11 stores and these rule changes should have been made prior to expanding the number of permits and is against the high concentration of dispensaries Downtown. Mr. Tanner expressed that this ordinance should have been thought out when the increase from four to 11 took place but that this needs to pass, but not affect the current applicants.

Alice English shared that Council Member Bedolla and Mayor Pro Tem Davis had called for an ordinance in the previous Council. Requested that Council extend the buffer zone. Shared that previous Council refused to do a buffer or a moratorium, this would not be an issue right now. For good businesses to be attracted to Tracy, the City has to do the right thing across the board for everybody.

Alex Monceaux shared that this problem was self-created when it went from four to 11 permits and stated that of the four that were on the previous Council, only Council Member Bedolla voted against that. Mr. Monceaux stated that he is in the cannabis business, and he was against that expansion of permits and now

this ordinance needs to be reviewed and urged Council to not adopt anything at this time due to the limitations and asked that Council take some time to craft a good ordinance and stop making rash decisions.

Matthew Nathaniel, Director with Shrine Group represents one of the two companies that is awaiting its CUP approval and shared that it is difficult to make a comparison with the original zoning and the proposal presented, stated that the buffer is not unreasonable but that this has been a lengthy and costly process already and requested that this ordinance not be adopted and something be crafted for future applicants and that the current cohorts be allowed to move forward in good faith and address the background check hurdles. Mr. Nathaniel extended an invitation to Council to tour facilities and provide further education.

Council comments and questions continued.

**ACTION:** Motion was made by Mayor Young and seconded by Council Member Arriola to continue an ordinance 1) determining that the project is categorically exempt from the California Environmental Quality Act, pursuant to CEQA guidelines section 15061(b)(3), and 2) amending sections 10.08.3196(b) and (d) of the Tracy Municipal Code to expand the definition of youth center and to establish buffers between cannabis uses and (a) sensitive uses and (b) residential uses item to 6 months from first Planning Commission Meeting in May 2023, which would be on December 5, 2023. Roll call found Council Members Arriola, Bedolla and Mayor Young in favor; Council Member Evans and Mayor Pro Tem Davis opposed, passed and so ordered.

## DEVIATION

4. Items of the audience – Richard Williams shared his concerns over uncontrolled crosswalks and provided information regarding a petition that was signed on Change.org. Mr. Williams shared the loss of his father-in-law who passed away due to being struck at an uncontrolled crosswalk and shared information about illuminating smart crosswalk systems and grant funding information that was provided to the Deputy City Clerk.

Gabriella Machuca shared that cannabis is not the only business that is struggling and expressed her frustration that some businesses do not make it because the finish lines keep moving there is always a new requirement and the verbal responses do not equate to the written responses.

- 3.D Council introduce an Ordinance of the City of Tracy: 1) Amending Tracy Municipal Code Sections: (A) 6.36.012 to modify the definition of owner for commercial cannabis; (B) 6.36.040 to add clarifying language; (C) 6.36.080 to toll the expiration date of each existing commercial cannabis business permit for an additional six months; and (D) 6.36.100 to modify the cannabis business permit renewal requirements; and 2) Determining that the Project is categorically exempt from the California Environment Quality Act (CEQA), pursuant to CEQA Guidelines Section 15061(B)(3).

Victoria Lombardo, Senior Planner, provided the staff report.

Kimberly Cargile, Tracy Cannabis Collective stated it has been a long process, requested that the permits be extended for a year rather than six months and asked how long this process will take. Shared that they have already gone through the DOJ and FBI background check with the Department of Cannabis Control and how long will it take to get employees approved. They are running out of funds and will have to get product on consignment and will not get paid. Have enough funds for two months of rent, are not corporately funded, have spent over \$500,000 to date and would like to open June 1<sup>st</sup>.

Community Member expressed her frustration about the process to open their storefront, shared that they have spent over \$500,000 over 3-years and that this process has been sad, requested that Council do what they can to get this done, they are looking forward to bringing education, safe products, and good businesses to Tracy. They have complied with every City requirement and do not fall by the wayside.

Michelle Trew, Tracy Cannabis Collective thanked staff and Council for the update and suggested that tolling be extended to one year versus the six months and asked if there would be a timeline available when it comes to changing the ownership and what is left for the businesses to do.

Robert Tanner shared that he is in favor of changing from 5% to 20%, Tracy should have stayed with the State law to begin with and maybe some stores would have already been opened, is not in favor of reducing the background check requirements and it is important that the DOJ not be left out of the process in case someone from out of state applies to work in a cannabis store.

Alex Monceaux shared that the 20% is a smart change and would help move things forward. Stated that four of the permits will be expiring next month and that is a sign on how bad this process is since permits are expiring before business have even opened up and requested that Council group all the applications together and extend all the expiration dates for the same time.

Council comments and questions continued.

Midori Lichtwardt, Acting City Manager requested a recess to confer with staff at 12:01 a.m.

Mayor Young called meeting to order at 12:17 a.m.

Council comments and questions continued.

Motion was made by Council Member Arriola and seconded by Council Member Bedolla to introduce an ordinance of the City of Tracy to amend Tracy Municipal Code Sections: 6.36.040 to add clarifying language; and 6.36.100 to modify the Cannabis Business Permit Renewal Requirements; and to determine that the project is categorically exempt from the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15061(B)(3).

Bijal Patel, City Attorney asked for clarification that the motion is to move forward in part and not in whole and is direction going to be to have staff come back with additional requires for A and or C. It would best to keep the integrity of Chapter 6.36.

Council discussion continued.

Council Member Arriola withdrew his motion and moved to table the items to May 16 with the amendment that Section C is to extend all applicants to the date of March 2024.

**ACTION:** Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to reject ordinance as stated 1) amending Tracy Municipal Code Sections: (A) 6.36.012 to modify the definition of owner for commercial cannabis; (B) 6.36.040 to add clarifying language; (C) 6.36.080 to toll the expiration date of each existing commercial cannabis business permit for an additional six months; and (D) 6.36.100 to modify the Cannabis Business Permit Renewal Requirements; and 2) determining that the project is categorically exempt from the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15061(B)(3) and have staff return with a new ordinance replicating the language except for section C such that all applicants will be extended to March 2024. Roll call found all in favor; passed and so ordered.

5. STAFF ITEMS – Midori Lichtwardt, Acting City Manager clarified that the Council Memos were being sent to the incorrect email address, that will be corrected moving forward. Ms. Lichtwardt provided the following updates:
- Save the Date for the Tracy Chamber of Commerce’s Annual State of the City Event featuring an address from our Mayor on May 31st at The Grand Theatre at 9 a.m.
  - In celebration of Older Americans Month, the Lolly Hansen Senior Center will be hosting its annual Open House & Resource Faire tomorrow from 9-11 a.m. Seniors, caregivers, and community members are all invited to attend.
  - The City’s first block party of the season will be this Friday at 6 p.m., come celebrate Cinco de Mayo with us and the Latin Essence Band at Front Street Plaza.
  - Children 3-5 years old are invited to join Tracy PD on Monday at 3 p.m. at the Tracy Branch Library for Badges for Books story time.
  - Join us this Mother’s Day weekend with one of America’s most beloved pianists and composers, Robin Spielberg, at The Grand. Get your tickets: [AtTheGrand.org](http://AtTheGrand.org)
6. COUNCIL ITEMS CONTINUED – Council Member Bedolla shared that he provided a written report on Council Board, Committees and Commission updates.

Council Member Bedolla referred to Mr. Williams concerns regarding crosswalks safety, and requested staff look into illuminated crosswalks or work that staff can do to implement those best practices into our crosswalks. Mayor Pro Tem Davis and Council Member Arriola supported the request.

Mayor Pro Tem Davis shared information regarding the Lobbying trip to Washington D.C. to bring funds to Tracy, will also be providing the City Clerk’s office a written report regarding participation in Boards and Commissions to be posted on the website and shared in hard copy form.



Council Member Arriola expressed concern for Council Member Evans and his family regarding the threats that they have been receiving and condemned such behavior.

Council Member Arriola shared the events that he and Mayor Pro Tem Davis participated in the Lobbying trip to Washington D.C. and wished the community a Happy Cinco de Mayo and Happy Mother's Day.

Mayor Young shared that she will be resuming her monthly written report practice and shared her participation in the African American Mayors Conference in Washington D.C. and several local meetings and policy related conferences, next week will be back in D.C. for the San Joaquin One Voice. Wished the community a Happy Cinco de Mayo and Happy Mother's Day and encouraged Council Member Evans to continue to speak up and stay strong for his family.

7. ADJOURNMENT – Time: 12:52 a.m. on Wednesday, May 3, 2023.

**ACTION:** Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to adjourn. Roll call found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on April 27, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk