

**August 17, 2010, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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Mayor Ives called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

The invocation was given by Pastor Jim Bush, Heartland Church.

Roll call found Council Members Abercrombie, Maciel, Tolbert, Mayor Pro Tem Tucker and Mayor Ives present.

1. CONSENT CALENDAR - It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - A. Minutes Approval – Regular meeting minutes of June 15, 2010, were adopted.
  - B. Award of Gasoline and Diesel Fuel Supply Services to Falcon Fuels, Inc. of Paramount, California – Resolution 2010-133 awarded the services.
  - C. To Find that it is in the Best Interest of the City of Tracy to Dispense with the Formal Bidding Process Pursuant to Tracy Municipal Code Section 2.20.180(B)(4) and Authorize the Purchase of Sensus Water Meters and Related Parts and Equipment from Golden State Flow Measurement – Resolution 2010-134 approved dispensing with the formal bidding process and authorized purchase of the related parts and equipment.
  - D. Approve Amendment 1 to the Professional Services Agreement with Odyssey Design Group, Inc., of Stockton, California, For a Not to Exceed Amount of \$90,000 to Provide Professional Support Services Assisting in the Review and Plan Checking of Landscaping and Irrigation for New Development and Capital Improvement Projects and Authorize the Mayor to Execute the Amendment – Resolution 2010-135 approved the amendment.
  - E. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the Tracy Chamber of Commerce “2010 Dry Bean Festival” on September 11 and 12, 2010 – Resolution 2010-136 approved the permit.
  - F. Approving an Amendment to the San Joaquin Council of Governments (SJCOG) Joint Powers Agreement (JPA) in Order to Replace the San Joaquin County Auditor-Controller and Treasurer with the SJCOG Chief Financial Officer – Resolution 2010-137 approved the amendment.
  - G. Approve Declaration of the City’s Official Intent to Reimburse Itself for Certain Expenditures from Proceeds of Indebtedness – Resolution 2010-138 approved the declaration.

2. ITEMS FROM THE AUDIENCE - Brian Van Lehn, 540 Winston Court, addressed Council regarding noise issues at Leprino Foods.
3. ADOPT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND GENERAL TEAMSTERS LOCAL NO. 439, IBT - Leon Churchill, City Manager, provided introductory comments before the staff report was presented by Maria Olvera, Director of Human Resources.

Ms. Olvera stated that the Memorandum of Understanding between the City and Teamsters Bargaining Unit expired on June 30, 2010. Representatives from the City and the Bargaining Unit have met and conferred in good faith to negotiate a new Memorandum of Understanding.

The new MOU accomplishes several objectives. First, it ensures that affected employees represented by Teamsters Local No. 439 reduce City costs by taking 12 unpaid furlough days, one per month, during Fiscal Year (FY) 2010-11. Eight of these days will be scheduled to coincide with all other non-public safety employee groups, and City offices will be closed. The other four days will be scheduled from November 2010 through February 2011. Employees will request the day off per month they wish to take as an unpaid furlough day. Supervisors will schedule such requests in a manner that ensures City offices remain open and service delivery to residents is maintained.

The new agreement also provides for a second tier in employee retirement benefits. As soon as can be implemented through the California Public Employees Retirement System (CalPERS), new employee hires in the Teamsters unit will receive the reduced retirement benefit of 2% at 55, average of three consecutive highest years. This reduced benefit level will decrease benefit costs paid by the City. In addition, the new agreement does not provide any Cost of Living Adjustments (COLAs) or other increases in salary for affected employees.

In exchange for these concessions, the City agreed not to lay off additional Teamster employees for the duration of FY 2010-11. The City already eliminated a total of 23.5 positions represented by Teamsters in July 2010. The City also agreed that no additional outsourcing would take place during the current fiscal year and agreed to increase its healthcare contribution by no more than \$75 per month per employee.

The Unit has ratified the new agreement and will sign the document once the Council adopts the Memorandum of Understanding. There are no wage increases for the duration of the MOU. The new MOU is estimated to save over \$432,000 in FY 2010-11.

Staff recommended that City Council adopt the Memorandum of Understanding between the City of Tracy and General Teamsters Local No. 439, IBT.

Mayor Pro Tem Tucker asked how the savings were calculated. Ms. Olvera responded the savings represented 4.5% or \$567,000 for the 12 furlough days. Mayor Pro Tem Tucker asked how many Teamsters were in the unit. Ms. Olvera stated 150. Mayor Pro Tem Tucker asked how if the increase in health care costs was known at this time. Ms. Olvera stated not at this time, but is estimated between 5.2% and 12%. Ms. Olvera stated the \$75 negotiated amount is the maximum.

Mayor Ives asked if the elimination of the 23 positions has been quantified. Zane Johnston, Finance and Administrative Services Director stated it represented approximately \$2 million in annual savings.

Mayor Ives invited members of the public to address Council on the item.

Robert Tanner, 1371 Rusher Street, addressed Council regarding future potential savings and asked if the \$400,000 was already included in the budget. Mr. Johnston responded it was assumed that the Teamsters would follow history and budgeted as if that would carryover. Mr. Johnston added the result is that the Teamsters will participate in a 4.5% furlough which will result in some slight budget savings to the current adopted budget.

Ed Speckman, Teamster Representative, assured the Council that the Teamsters are committed and are looking at everything carefully to realize efficiencies. Mr. Speckman thanked staff for the respect given at the bargaining table.

Jim Freeman, 705 Mt. Rushmore Avenue, addressed Council regarding being locked in to the proposed MOU. Mr. Freeman also discussed the benefits package being offered Teamsters and suggested Council postpones approval of the MOU.

George Riddle addressed Council regarding the proposed MOU. Mr. Riddle stated the benefits were excessive and suggested the Council not lock themselves into being unable to layoff employees.

Mary Park, 1630 Eastlake Circle, inquired how additional health benefits could be offered to the Teamsters if the City could not meet its current budget.

Mayor Pro Tem Tucker asked if the \$432,000 was part of the \$4.8 million deficit. Mr. Johnston provided a brief explanation on how the budget is derived.

Council Member Tolbert asked if there was a precedent for having a two-tiered retirement system. Ms. Olvera stated the Police Officers Association has already agreed to a second tier, the Teamsters have now agreed, and the City would be approaching all other units.

Council Member Maciel stated this has been an effective bargaining effort, and as taxpayers, it is important for the bargaining units to understand their concerns. Council Member Maciel added it was a fair process and an acceptable agreement. Council Member Maciel indicated it was important to understand that furloughs and not taking pay raises are short-term measures to reduce budget deficits.

Mayor Pro Tem Tucker indicated she still struggled with the health insurance benefits in the MOU.

Council Member Tolbert indicated thanked members of the community for speaking out and encouraged residents to continue scrutinizing employee wages and benefits.

Council Member Abercrombie stated the Teamsters made concessions last year and asked what was the total amount of those concessions. Mr. Johnston indicated approximately \$500,000.

Mayor Ives indicated he had asked the bargaining units to work with the City and asked the residents to do so as well.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-139 approving the Memorandum of Understanding between the City of Tracy and General Teamsters Local No. 439, IBT. Voice vote found all in favor; passed and so ordered.

Mayor Pro Tem Tucker asked if other MOU's would be coming forward to Council. Ms. Olivera stated yes.

4. ACCEPT THE ATTACHED GRAND PARTNERSHIP REPORT AND AFFIRM ITS FINDINGS THROUGH A RESOLUTION IN PREPARATION FOR A NEW MEMORANDUM OF UNDERSTANDING (MOU) AND LEASE AGREEMENT WITH A NON-PROFIT ARTS ORGANIZATION TO BE NAMED - Leon Churchill, Jr., City Manager, presented the staff report. Mr. Churchill stated the Grand Theatre is a successful, emerging cultural institution which provides vital year-round programming to a diverse spectrum of the community. In the first two years of operation (Fiscal Year (FY) 2008 and FY 2009), the Grand's total audience rose from approximately 35,000 to 43,000 through attendance at the theatre (paid and free), gallery visitation, class enrollments, and other activities. In the first two years, paid attendance in the theatre rose from approximately 14,000 to 16,000. Classes are approaching their goals for cost recovery, a substantial volunteer and docent program has been created, and the new gallery store presents the work of regional artists while generating new revenues. It is a remarkable, out-of-the-gate accomplishment for a multi-faceted organization. However, other fiscal challenges arise from ongoing structural issues in the state's budget, which are not caused entirely by the recession and are likely to continue after the economy has resumed a growth pattern. In the Grand's first three years, both the budget and staff have been cut substantially. City spending fell from approximately \$1.3 million in FY 2007-2008 to \$0.9 million in FY 2009-2010, and to \$0.7 million in FY 2010-2011 based on the recently approved City budget.

Also, like the Grand, the Arts Leadership Alliance (ALA) faces new challenges. During the first years of operation problems in the collaborative effort with the City hampered ALA's efforts to assist in the full spectrum of ways envisioned by Board members. Fundraising activities have fallen off, and board membership and participation have declined. Motivated by a desire to rekindle the organization's energy and effectiveness, to maintain donors' trust, and to prepare for a renewed fundraising effort, a nucleus of board leadership has begun rebuilding.

Financial and organizational challenges have compelled all stakeholders to re-think their relationship with the Grand Theatre. These stakeholders include the Tracy Arts Commission, resident organizations of the Grand Theatre, along with ALA and various City of Tracy leaders. The general findings include:

1. There is a shared sense of pride and satisfaction with the Grand as a community asset and as a facility. Virtually all interviewees expressed the opinion that by creating the Grand, the City and ALA had generated a significant and multi-faceted advance for the community.

2. There is a history of disagreement over the Grand among the ALA, City staff and Council, with varying perspectives on the causes. However, nearly all interviewees are focused on improving the Grand's situation, and are willing to put aside past disagreements for the sake of future success. Many also view conflict over the Grand as counter-productive and inimical to the spirit and positive image of the Grand.
3. The City budget crisis has resulted in substantial staff and programming cutbacks at the Grand, prompting reevaluation of the operating model. Moreover, ongoing changes in the City's fiscal outlook suggest the need for permanent changes in governance and operations of the Grand.
4. The Grand is an emerging cultural institution and some of its challenges would exist even if the budget were not under pressure. These issues are more related to lifecycle than the economy, such as building an audience and increasing community presence.
5. There is a consensus on the overall vision, or the definition of success, for the Grand. The vision is a cultural facility that is valued, visible, utilized and enjoyed by a diverse spectrum of the community, and that contributes to fulfilling a variety of community needs, from education to economic revitalization. In addition, because the Grand serves important artistic and community needs, there is a shared opinion that closing is not an option. The goal is to craft a sustainable path for the institution in fulfilling its mission of community service.
6. There is also a consensus on the Grand's challenges: increasing community awareness and use, providing sufficient and renewable financial support, and replacing contention with effective governance.
7. Specific needs identified for the Grand include: increased fundraising, better community visibility and relations, better marketing, a membership program, volunteer management, and cooperative governance and management.

In summary, the Great Recession and the subsequent fiscal stress on the City has stimulated creativity and renewed commitment to making the Grand Theatre successful within our new reality.

Staff made 19 recommendations:

1. **Commit to collaboration:** The essential ingredient of improving the collaborative effort is a shared commitment to work towards fulfilling the mission of the Grand on the part of Board members (new and continuing), City Council and staff, resident organizations, and all other stakeholders. (January 1, 2011)
2. **Change the name of the Non-Profit:** Change the ALA name to signal a new beginning and approach to the collaborative efforts. Possibilities for the new name include: the Grand Partnership, Grand Foundation, and Grand Alliance. It was determined to be very important that the name of the governing body actually denote its mission and the facility it seeks to benefit. (January 1, 2011) Create a new Board of Directors by expanding the ALA board, including:

3. **Expand and diversify representation on Board of Directors:** The joint effort should improve its capacity by expanding its current membership from 13 to approximately 20 seats.
4. **Be a self-electing Board and offer initial representation to identified stakeholders.**
5. **Share governance and management between the City and the Non-Profit:** Where the City retains operational responsibilities and the Board of Directors assumes traditional Board responsibilities of governance, general direction, and volunteer support.
6. **Base fundraising on programming plans:** Fundraising is best done in relation to specific program goals, such as presentations, events and education.
7. **Set realistic fundraising goals:** To be determined as part of the governing body's strategic plan.
8. **Create advisory channels for the community:** The Non-Profit should create regular ways for the community to advise the Grand.
9. **Move the Non-Profit's office to the Grand:** Relocating the Non-Profit's administrative office to the Grand will promote greater communication and efficiency, and make a public demonstration of the commitment to the Non-Profit.

The City expended \$9,000 for its share of the collaboration with ALA. The report required \$18,000 in funding that was equally shared by ALA and the City of Tracy.

The following recommendations are in order if the City Council concurs with the findings and conclusions found in The Grand Partnership Report.

1. The City should replace the current MOU with the ALA with one in alignment with the report's findings.
2. The City should craft a lease agreement with the ALA that establishes an office at no cost to the new Non-Profit.
3. The City should review its current operational plan and prepare revisions to reflect the recommendations in this report.

Council Member Maciel asked if the board or commission members could be as many as 30. Mr. Churchill stated based on direction provided, no more than 30.

Council Member Maciel asked what that board or commission would be made up of. Mr. Churchill stated possibly resident companies, the Arts Commission, and hopefully it would grow from there.

Mayor Pro Tem Tucker suggested a board of that size would have difficulty getting anything done. Mr. Churchill indicated that may be true, but initial flexibility is proposed.

Mayor Pro Tem Tucker asked what was meant by volunteers. Mr. Churchill stated they would direct the volunteers.

Mayor Ives asked for clarification regarding the initiation of the board and their responsibilities. Mayor Ives suggested the board may need help. Mr. Churchill stated the leverage the City has is in the MOU. Mr. Churchill stated there would be a delegation or provision in the contract so the contract could be amended or terminated.

Mayor Ives invited members of the public to address Council on the item.

Mike Souza, President of the Board of Directors of the Arts Leadership Alliance, addressed Council regarding the upcoming MOU and the Board. Mr. Souza stated there was a need for a more inclusive board and getting others involved. Mr. Souza added he was excited to work with the City in moving the Grand Theatre forward.

Council Member Maciel asked how many members made up the board of the Boys and Girls Club. Mr. Souza stated approximately 20-30.

Mercedes Silveira, Vice Chairperson, Tracy Arts Commission, stated she works closely with arts in the community and looks forward to working with the City in its cultural arts endeavors.

Council Member Tolbert indicated she saw this as a new beginning for a relationship that will grab the enthusiasm of those who appreciate the arts. Council Member Tolbert added a lot of honest open discussion has taken place between the ALA, the groups, and the Arts Commission.

It was moved by Council Member Abercrombie and seconded by Council Member Tolbert to adopt Resolution 2010-140 accepting the Grand Partnership Report and affirming the report's findings in preparation for a new Memorandum of Understanding and Lease Agreement with a non-profit arts organization to be named. Voice vote found all in favor; passed and so ordered.

5. SECOND READING AND ADOPTION OF ORDINANCE 1151 AN ORDINANCE OF THE CITY OF TRACY IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

The Clerk read the title of Proposed Ordinance 1151.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to waive reading of the text. Voice vote found Council Members Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker opposed. Motion carried 4:1.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to Adopt Ordinance 1151. Roll call vote found Council Members Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker opposed. Motion carried 4:1.

6. ITEMS FROM THE AUDIENCE - Craig Salwaechter, 4083 Payton Lane, complimented staff and Council on their efforts. Mr. Salwaechter indicated he has heard concerns in the community about transparency regarding promotion of the sales tax measure.

Larry Gamino addressed Council regarding the proposed sales tax.

7. COUNCIL ITEMS - Council Member Abercrombie invited everyone to attend the Healthy Positive Alternative Fair at Dr. Power's Park on Saturday, August 21, 2010, from 9:00 a.m. until 2:00 p.m. The fair will advertise how to stay healthy and promote different activities for children.

Mayor Pro Tem Tucker complimented staff on the City's Centennial celebration, specifically the "Taste of Tracy." Mayor Pro Tem Tucker stated it was a great event.

8. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adjourn. Voice vote found all in favor; passed and so ordered. Time: 8:17 p.m.

The above agenda was posted at the Tracy City Hall on August 12, 2010. The above are summary minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST

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City Clerk