

**September 7, 2010, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

Mayor Ives called the meeting to order at 7:02 p.m., and led the Pledge of Allegiance.

The invocation was provided by Pastor Jessica Richmond, Seventh Day Adventist Church.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for September 2010, to Stephen Major, Fire Department.

Mayor Ives presented Certificates of Recognition to the 2010 Centennial Royal Court, Tracy Chamber of Commerce 19<sup>th</sup> Annual Bean Festival Queen and Princess Pageant.

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 Council Members Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker absent.
  - A. Minutes Approval – Regular meeting minutes of July 6, 2010, and closed session minutes of August 17, 2010, were adopted
  - B. Approve Amendment 1 to the Professional Services Agreement (PSA) with Tanaka Design Group (TDG) to Provide Professional Services for Revising and Completing the Plans, Specifications, and Cost Estimates for the Parks Playground Renovation Project, Phase II - CIPs 78063, 78106, and 78118 (Formerly Playground Renovation Project, Phase I - CIP 78091 and 78097), and Authorization for the Mayor to Execute the Amendment – Resolution 2010-142 approved the amendment in an amount not to exceed \$22,500
  - C. Award a Construction Contract to G & G Builders of Livermore, California, for the Kenner Park Restroom Rehab & Path Resurfacing Project - CIP 78125, Authorize Transfer of Funds in the Amount of \$119,770 from the Playground Equipment Replacement Project - CIP 78118, to Kenner Park Restroom Rehab & Path Resurfacing Project - CIP 78125, and Authorize the Mayor to Execute the Contract – Resolution 2010-143 awarded the construction contract.
  - D. Approve Responses to the 2009/10 San Joaquin County Grand Jury Report on the Public Appointment Process (Case No. 1009) and the Information Services (Case No. 0609), and Authorize the Mayor to Sign the Responses – Resolution 2010-144 approved the response to the San Joaquin County Grand Jury Report, Case No. 1009, on the public appointment process. Resolution 2010-145 approved the response to the San Joaquin County Grand Jury report, Case No. 0609, on information services.

- E. Authorization of Contract Laboratory Services for Fiscal Year 2010 – 2011 – Resolution 2010-146 authorized the services.
  - F. Award of a Professional Services Agreement with Madill Enterprises, Inc., Doing Business as Advanced Property Services, of Sacramento, California, to Provide Janitorial Services for Various City Facilities, Authorization for the Mayor to Execute the Agreement, and Authorization for the City Manager to Execute any Extension Amendments – Resolution 2010-147 awarded the agreement.
  - G. Approval of a Resolution Authorizing the Execution of a 457 Deferred Compensation Trust Agreement with VALIC and Repealing Resolution 2009-171 – Resolution 2010-148 authorized execution of the agreement.
  - H. Authorization to Award the Purchase of Seventeen Mobile Data Computers to Hewlett-Packard Public Sector Sales through the State of California WSCA/NASPO Contract B27164-CA Competitive Bid Program Pursuant to Tracy Municipal Code Section 2.20.220 – Resolution 2010-149 authorized the purchase for a total price of \$98,600.
  - I. Adopt Resolution to Authorize the City Manager to be the Authorized Agent of the City of Tracy and to Execute any Actions Necessary for the Purpose of Obtaining Proposition 1B Funds in the Amount of \$50,000 for the Installation of Security Cameras at the Tracy Transit Station – Resolution 2010-150 authorized the City Manager to be the authorized agent.
  - J. Authorization of a Professional Services Agreement with Marcia Herrmann Design for Graphic Design and Marketing Services for the Cultural Arts Division and the Grand Theatre Center for the Arts, Authorization for the Mayor to Sign the Agreement and Authorization for the City Manager to Sign Up to Two One-Year Extensions of the Agreement – Resolution 2010-151 approved the agreement.
2. ITEMS FROM THE AUDIENCE - Tom Benigno, 2470 Angora Court, addressed Council regarding the August 3, 2010, meeting at which he voiced his desire to present a rebuttal argument to Measure D. Mr. Benigno voiced his disappointment to letters he had received from staff and the process for filing a rebuttal. Mr. Benigno asked if a copy of a CD could be placed on the City's website.
- Robert Tanner, 1371 Rusher Street, addressed Council regarding newspaper articles pertaining to DUI arrests and blood samples being taken by the Fire Department. Mr. Tanner indicated the City should have investigated the legality of the process before it was implemented.
- Brian Van Lehn, 510 Winston Court, addressed Council regarding noise issues with Leprino Foods. Mr. Van Lehn indicated Council has not directed staff to enforce the terms of Leprino's Conditional Use Permit.
3. AUTHORIZE FURLOUGHS FOR ALL NON-REPRESENTED CITY EMPLOYEES AND REVISE SECTION 5, REGARDING RETIREMENT BENEFITS, OF THE COMPENSATION AND BENEFITS PLANS FOR DEPARTMENT HEADS,

CONFIDENTIAL MANAGERS, AND THE TECHNICAL AND SUPPORT SERVICES UNIT TO PROVIDE FOR A SECOND-TIER RETIREMENT BENEFIT - Maria Olvera, Human Resources Director, presented the staff report. Ms. Olvera stated that in 2007, the Council approved Compensation and Benefits Plans for Department Heads, Confidential Managers, and the Technical and Support Services Unit. While these employee groups are non-represented, the City has a meet and inform obligation when implementing any changes to wages, hours, or working conditions of employees within these groups.

The recommended action would formalize, by Council action, the implementation of furloughs for FY 2010-11. All employees who are Department Heads, Confidential Managers, and Technical and Support Service will reduce City costs by taking 12 unpaid furlough days, or one per month during the 2010-11 fiscal year. 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 occur during the months of November 2010 through February 2011 and will be scheduled by supervisors similar to the scheduling of vacation. Supervisors will be required to schedule such requests in a manner that ensures City offices remain open and service delivery to City residents is maintained.

In addition, staff is recommending that the Council revise Section 5, regarding retirement benefits, of the Compensation and Benefits Plans for Department Heads, Confidential Managers, and Technical and Support Services Units, to provide 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 miscellaneous unit will receive the reduced retirement benefit of 2% at 55, average of three consecutive highest years. While the City does not anticipate hiring in the near future, over time this reduced benefit level will decrease benefit costs paid by the City. Employees in the aforementioned groups have participated in furloughs since July 1, 2010, and have been notified of the reduction in retirement benefits for future new employees.

The 4.5% unpaid furlough will result in annual savings of approximately \$379,000 (all funds). The budget anticipated there would be a continuation of 3% unpaid furloughs in FY 10-11 for these groups. As such, the additional 1.5% (4.5% vs. 3%) will save \$126,000 beyond what was already anticipated in the budget.

Staff recommended that the Council authorize furloughs for all non-represented City employees and revise Section 5, regarding retirement benefits, of the Compensation and Benefits Plans for Department Heads, Confidential Managers, and the Technical and Support Services Unit, to provide for a second-tier retirement benefit.

Mayor Ives invited members of the public to address Council on the item. There was no one wishing to address Council on the item.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-152 authorizing furloughs for all non-represented City employees and revise Section 5, regarding retirement benefits, of the compensation and benefits plans for department heads, confidential managers, and the technical and support services unit to provide for a second-tier retirement benefit. Voice vote found

Council Members Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker absent. Motion carried 4:0:1.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to revise Section 5.b.2.b regarding any Police Chief hired after July 1, 2010, from 3% at 55 revised to 3% at 50. Voice vote found Council Member Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker absent. Motion carried 4:0:1.

4. APPROVE THE LETTER OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY MID-MANAGERS BARGAINING UNIT - Midori Dearborn, Human Resources Analyst, provided the staff report. Ms. Dearborn stated that in April 2007, the City Council approved the current MOU between the City and the Tracy Mid Managers Bargaining Unit. The Agreement covers a period of four years, from April 1, 2007, through March 31, 2011. Recently, representatives from the City and the TMMBU met to discuss the current economic reality facing the City. To avoid further workforce reductions and potential interruptions to City services, representatives from both sides agreed to amend the terms of the current labor contract via a Letter of Understanding.

The provisions in the Letter of Understanding ensure that employees represented by the TMMBU take 12 unpaid furlough days, one per month during FY 2010-11. Eight days will be scheduled to coincide with other non-public safety employee groups, and City offices will be closed. The other four days will occur during the months of November 2010 through February 2011, and will be scheduled by supervisors similar to the scheduling of vacation. 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 TMMBU will receive the reduced retirement benefit of 2% at 55, average of three consecutive highest years. While the City is not anticipating hiring in the near future, over time 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 TMMBU employees for the duration of FY 2010-11. Additionally, the contract expiration date will be extended three months to June 30, 2011. The extension will align the TMMBU contract expiration date with other labor contracts and provide for negotiations to begin in Spring 2011. All other provisions of the current contract remain in effect without change for the duration of the agreement.

There are no wage increases for the duration of the MOU. The unpaid furloughs are estimated to save approximately \$243,000 (all funds) in FY 2010-11 with additional savings in future years as the cost savings from the reduced retirement benefit are realized. The budget anticipated savings of approximately \$175,000 from this group (3% unpaid furlough rather than 4.5% unpaid)

Staff recommended that the Council approve the Letter of Understanding between the City and the Tracy Mid Managers Bargaining Unit and all provisions contained therein.

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

Robert Tanner, 1371 Rusher Street, addressed Council regarding the additional savings being realized. Mr. Tanner voiced disappointment in the City's inability to reduce staff through layoffs for the fiscal year.

Mr. Churchill stated alternative plans can be put together and will be part of the FY 2011-12 budget process. Mr. Churchill added if Measure E is not approved by the voters, the City would need to have a rigorous and public process to discuss the service reductions. Mr. Churchill indicated whatever decisions are made as part of the budget process can take effect July 1, 2011.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-153 approving the Letter of Understanding between the City of Tracy and the Tracy Mid-Managers Bargaining Unit. Voice vote found Council Member Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker absent. Motion carried 4:0:1.

5. ADOPT A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY FIREFIGHTERS ASSOCIATION
- Maria Olvera, Human Resources Director, presented the staff report. In June 2006, the Council approved an MOU between the City and the Tracy Firefighters Association (TFA). The Agreement covered a period of three years, effective April 1, 2006 through March 31, 2009. In April 2009, the City approved a Letter of Understanding, which extended the MOU until March 31, 2010. Representatives from the City and TFA have met and conferred in good faith and have concluded negotiations on a new, 15-month MOU. The main components of the new MOU are as follows:

- No wage increase (COLA or equity) for the duration of the Agreement.
- Employee contribution of 3% toward the PERS contribution required by City as the employer (as of July 16, 2010).
- Establishment of furlough bank with 84 hours that must be used by June 30, 2011.
- Cap on educational reimbursement consistent with other employee groups, or no more than \$2,500 per fiscal year.
- Continuation of employee contribution to health care benefits of approximately 15%.

While other non-public safety units at the City have taken a number of unpaid furlough days to assist in reducing personnel costs, public safety groups such as TFA cannot implement furloughs without either reducing service delivery to the public or increasing the City's overtime costs as firefighters are needed to backfill personnel taking unpaid furlough days since operations provide services 24 hours per day, 7 days per week. Therefore, TFA will contribute 3% towards the employer's retirement contribution to ensure a reduction in personnel costs will be realized. In exchange, the City will provide a furlough bank of 84 hours. These hours may only be utilized if scheduled in a manner similar to vacation, and only when such leave will not negatively impact service delivery or require increased overtime by other members. Any hours not taken by June 30, 2011, will be forfeited by the respective employee. Furlough hours cannot be cashed out by the employee.

The TFA also agreed to cap the educational reimbursement at \$2,500 per fiscal year, which is consistent with other employee groups. In addition, TFA members will continue

to contribute approximately 15% toward their health care benefits. To ensure service delivery, the City agreed to provide minimum staffing of three personnel for truck 91 and engines 91, 96, and 97 for the duration of the Agreement. The second tier employee retirement benefit (or 3% at 55) has already been implemented for TFA.

The TFA 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 3% contribution toward PERS will result in savings of \$230,000 in FY 2010-11. The General Fund portion of this savings is \$126,500. The remaining savings will be distributed to Tracy Rural and Mountain House. The FY 2010-11 General Fund budget did not anticipate any salary savings for the Fire Department.

Staff recommended that the Council approve the MOU between the City and the Tracy Firefighters Association and all provisions contained therein.

Mayor Ives invited members of the public to address Council on the item. There was no one wishing to address Council on the item.

Council Member Abercrombie asked how much had been saved as a result of the bargaining units working with the City to reduce the deficit. Mr. Johnson stated for FY 9-10, approximately \$900,000, and for FY10-11 approximately \$1.2 million.

Council Member Abercrombie asked if this reduction in costs had not been accomplished how many positions would have been eliminated. Mr. Churchill stated approximately 90 positions.

Council Member Abercrombie thanked the members of those units for making the necessary sacrifices.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-154 approving the Memorandum of Understanding between the City of Tracy and the Tracy Firefighters Association. Voice vote found Council Member Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker absent. Motion carried 4:0:1.

6. STAFF ITEMS - Ursula Luna-Reynosa, Economic Development Director, provided an update on Economic Development in the City including labor market information, employment, the Grow Tracy Fund, sales tax, the top 25 sales tax generators, and the Downtown.

Ms. Luna-Reynosa asked Council what they would like to see on a quarterly basis from Economic Development.

Council Member Maciel asked what was the cause for the increase in unemployment. Ms. Luna-Reynosa stated it was provided in the aggregate and was not broken down.

Mayor Ives thanked Ms. Luna-Reynosa for the presentation and stated his appreciation for the performance metrics that were available.

Mayor Ives invited members of the public to address Council on the item. There was no one wishing to address Council on the item.

7. ITEMS FROM THE AUDIENCE - Nancy Young, 2335 Cypress Drive, addressed Council stating she was encouraged by the Economic report. Ms. Young referred to contracts being awarded to companies outside of Tracy, and asked staff to make sure local companies were considered.

Vasco Soares, 2700 Hunter Trail, addressed Council regarding economic development and his frustration at the length of time it took to get approval to remodel his restaurant. Mr. Soares stated the City needed to expedite and streamline the permit approval process.

Craig Salwaechter, 4083 Payton Lane, addressed Council regarding the economic update provided under item 6. Mr. Salwaechter stated the City has been working well with other organizations on joint events.

8. COUNCIL ITEMS - Council Member Maciel asked for a status report on the Grant Line Road project and suggested informing the public about the project's progress through the Tracy Press.
9. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adjourn. Voice vote found Council Member Abercrombie, Maciel, Tolbert, and Mayor Ives in favor; Mayor Pro Tem Tucker absent. Motion carried 4:0:1. Time 8:09 p.m.

The above agenda was posted at the Tracy City Hall on September 2, 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