

November 3, 2010, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was given by Pastor Brian Clark, Journey Christian Church.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for November 2010, to Andrea Cipponeri, Administrative Assistant II, Development and Engineering Services Department.

Mayor Ives presented a proclamation to John Treantos, American Legion Commander, and Vaughn Gates, VFW Commander proclaiming November 11, 2010, as Veterans Day.

Mayor Ives presented a proclamation to Melissa Mullin, Street Outreach Program Manager, Family and Youth Services of San Joaquin County, proclaiming November as Homeless Youth Awareness and Runaway Prevention Month in Tracy.

Mayor Ives and Council Member Abercrombie presented Certificates of Recognition to D.A.R.E. student graduates.

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 – Closed session minutes of October 19, 2010, were approved.
 - B. Approve the Submittal of Functional Classifications for Local Streets and Roads to the State of California, Department of Transportation to Update the California Road System (CRS) Records – Resolution 2010-175 approved submittal of the local streets and roads.
2. ITEMS FROM THE AUDIENCE - Brian Van Lehn, 540 Winston Court, addressed Council regarding readings he has conducted concerning his noise issues with Leprino Foods. Mr. Van Lehn indicated the noise readings have been over 70 decibels. Mr. Van Lehn requested that any future readings by staff be conducted at the property line.

Paul Miles, 137 Mansfield, addressed Council responding to a prepared statement given by Council at the October 19, 2010, meeting. Mr. Miles indicated the prepared statement was incorrect. Mr. Miles requested that his comments be included in the minutes of this meeting.

November 3, 2010

City of Tracy
City Council
333 Civic Center Plaza
Tracy CA 95376

I write to address the prepared statement approved by this Council in closed session and delivered by Mr. Ives on Oct 5, 2010. This statement refers to allegations I have made of criminal misconduct on the part of the Tracy Police. Misconduct that includes, but is not limited to:

- Documented falsification of facts in official police reports
- Addition of further false statements and concealment of crimes by internal investigators
- Failure of the Tracy Police to respond to formal complaints

These are criminal offenses (California Penal Code §118.1, §32, §832.7). Perjury (§118.1) is a felony.

The prepared statement issued by this Council, which indicated that my allegations of criminal misconduct on the part of the Tracy Police are unfounded, is false. Each member of this Council had knowledge, or should have had knowledge had they exerted due diligence in examining the materials provided to them on April 28, 2010, that the allegations are fully supported by the testimony of multiple witnesses and by records (or by the absence thereof) within the Tracy Police Department.

By issuing this statement, this Council has moved beyond negligently failing to investigate complaints, and has taken an overt action to conceal crimes and to help the principles in these crimes evade justice. I emphasize that these crimes are not Civil Code violations, but Penal Code violations – and that they strike at the heart of our justice system: police integrity.

California Penal Code §32 states: Every person who [...] harbors, conceals or aids a principal in [a] felony, with the intent that said principal may avoid or escape from arrest, trial, conviction or punishment, having knowledge that said principal has committed such felony [...], is an accessory to such felony.

California Penal Code § 182(a)(5) further states: If two or more persons conspire to [...] commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws [...] they shall be punishable by imprisonment [...] or by a fine...

There is no exemption to these laws for Mayors or City Council Members.

My only request of this Council has been that you initiate an independent investigation of well-documented allegations that City Staff and the Tracy Police have failed to address. Rather than do so, this Council has chosen to deceive the people of Tracy, and – by any reasonable interpretation – to violate the law. The reason for this is very simple: an independent investigation would almost certainly confirm every allegation I have made

This Council owes an explanation of your actions to the People of Tracy. Moreover, each of you needs to carefully consider whether or not you have served the people of Tracy with honesty and integrity, and indeed, whether it is possible to serve with integrity under your current leadership. My opinion is clear: each of you should resign and make room for responsible, adult governance that obeys and supports the laws of the State of California.

(Signed)
Paul Miles
Tracy, CA

(Attached)

- Prepared statement issued by Mayor Ives
- April 23, 2010 letter to City Council

3. PUBLIC HEARING TO CONSIDER A REZONING FROM MEDICAL OFFICE TO MEDIUM DENSITY CLUSTER AND GENERAL PLAN MAP AMENDMENT FROM OFFICE TO RESIDENTIAL MEDIUM OF TEN LOTS (APPROXIMATELY 2.3 ACRES) ON THE SOUTH SIDE OF CARLTON WAY AND EAST AND WEST SIDES OF BESSIE AVENUE; THE APPLICANT IS YUSU HSIUNG; APPLICATION NUMBERS R10-0002 AND GPA10-0001 - Alan Bell, Senior Planner, presented the staff report. Mr. Bell stated that the proposal was to rezone ten lots from Medical Office (MO) to Medium Density Cluster (MDC) and amend the General Plan Map from Office to Residential Medium.

All ten of the lots were developed with single-family homes under residential zoning over 25 years ago. In 1988, the City amended the MO Zone to reserve an area around the hospital for medical uses that could be mutually beneficial with the hospital. The Sutter Tracy Community Hospital is located one block south of the Subject Property.

In the years after the hospital was constructed, over 25 houses in the MO Zone area (outside of the Subject Property) were replaced by or converted to medical-related uses and parking for medical uses. However, in recent years, conversions from residential to medical uses has nearly stopped and a number of factors suggest limited to no additional demand for medical offices at the Subject Property in the foreseeable future. Consequently, the owner of one lot (1561 Bessie Avenue), located at the southwest corner of Bessie Avenue and Carlton Way, submitted an application to rezone their property from MO to MDC and amend the General Plan Map from Office to Residential Medium. City staff and the Planning Commission recommended that the Council modify the proposal to include nine adjacent lots in addition to the one at 1561 Bessie Avenue.

In addition to mailing public hearing notices to Subject Property and nearby property owners, City staff mailed a description of the proposal to owners of the Subject Property and invited comments. Modifying the MO Zone and rezoning this area to residential was also the topic of a Planning Commission workshop regarding the City-wide Zoning Code Update in 2009. No comments in opposition to the proposal have been submitted to the City.

The MO Zone permits hospitals; medical, dental, and mental health offices; physical therapy; and similar medical uses. Conditionally permitted uses in the MO Zone include pharmacies and ambulance services. In order to develop medical offices in existing

single-family home neighborhoods, assembling multiple lots is typically necessary due to off-street parking requirements of medical offices. In as much as each of the ten lots is already developed with single-family homes, the cost to purchase and assemble adjacent lots for medical office development creates a significant disincentive.

Residential uses are not a permitted use in the MO Zone. The residential uses on the Subject Property are nonconforming, meaning replacement of a house destroyed by fire may be denied by the City, purchase loans or refinancing could be more difficult, and room additions or other expansions may be denied by the City.

The result of the rezoning and General Plan amendment (and the primary motivation for the applicant's request) will be that the residential uses are no longer nonconforming uses. No improvements, changes of use, or new uses are proposed for the Subject Property with this application.

The existing residential use of the ten-lot Subject Property is consistent with the existing residential uses on the north side of Carlton Way, and zoning north of Carlton Way is MDC. Changing the zone of these ten lots back to residential, consistent with the existing land uses, will help to maintain stability of the existing residential neighborhood.

On October 13, 2010, the Planning Commission conducted a public hearing to review the project. Besides comments in support of the application from the applicant, no public input was received during the hearing. The Planning Commission recommended that the City Council approve the project and adopt the Negative Declaration.

An Initial Study/Negative Declaration has been prepared, published, and noticed in accordance with California Environmental Quality Act (CEQA) Guidelines. No environmental impacts have been identified as part of the CEQA review and no public or public agency comments have been received related to the Draft Negative Declaration.

Costs to process this application are paid by the applicant through a Cost Recovery Agreement (City Council Resolution 2010-017). This application requires no specific expenditure from the General Fund.

Staff and the Planning Commission recommended that the City Council:

1. Adopt the Negative Declaration for the project;
2. Approve the General Plan Map amendment from Office to Residential Medium;
and
3. Approve the rezoning from Medical Office to Medium Density Cluster.

Mayor Ives opened the public hearing. As there was no one wishing to address Council on the item, the public hearing was closed.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-176 adopting a Negative Declaration for General Plan Map Amendment from office to residential medium and rezoning from medical office to medium density cluster for property located on the south side of Carlton Way and the east and west sides of Bessie Avenue (Assessor's Parcel Numbers 233-072-04 through 12 and 233-075-01), applicant is Yuju Hsiung, Application Numbers GPA10-0001 and R10-0002. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-177 approving General Plan Map Amendment from office to residential medium for property located on the south side of Carlton way and the east and west sides of Bessie Avenue (Assessor's Parcel Numbers 233-072-04 through 12 and 233-075-01), applicant is Yuju Hsiung, Application Numbers GPA10-0001. Voice vote found all in favor; passed and so ordered.

The Clerk read the title of proposed Ordinance 1154.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to introduce Ordinance 1154. Voice vote found all in favor; passed and so ordered.

4. RECEIVE REPORT AND APPROVE A DESIGN CONCEPT FOR THE ELEVENTH STREET – EAST TRACY OVERHEAD, BRIDGE #29C-0126, CIP 73063, FEDERAL PROJECT NO. BHLS-5192(020) - Kuldeep Sharma, City Engineer, presented the staff report. Mr. Sharma stated that after receipt of approval from the California Department of Transportation (Caltrans) for replacement of the existing Eleventh Street-East Tracy Overhead Bridge, the Council approved a Professional Services Agreement with Drake Haglan and Associates (DHA) of Sacramento, California, on October 20, 2009, to provide engineering services to complete preliminary engineering, environmental study, and final design documentation, including construction documents for the bridge.

DHA has been working to develop various design alternatives for the replacement bridge. A total of six alternatives were studied and presented to the stakeholders. Based on the results of this coordination effort and meetings with Caltrans, Alternative 3 was the most preferred and cost effective alternative. The total cost of construction is estimated at \$36 million. Initially, Caltrans had approved grant funding of \$28 million for construction of this bridge. Caltrans has conceptually approved the new cost of the bridge and staff is pursuing formal approval of increased grant funding to cover the increased cost of construction.

The preferred alternative involves replacing the existing bridge with a new structure on the same alignment. In the future, this new structure will also facilitate extension of the new MacArthur Drive by intersecting with the proposed Eleventh Street bridge structure.

The preferred alternative provides various opportunities for architectural designs on the side abutments of the bridge. DHA has completed various renderings of the bridge abutments for the Council's review. Mr. Sharma introduced Dennis Haglan of DHA who provided a brief presentation depicting project history, various alternate proposals, cost estimates, and the project schedule.

A total of \$3,154,600 is available in CIP 73063 for preliminary engineering design and environmental documentation for this project. This funding is from a combination of State Proposition 1B and State and Federal Bridge retrofit and replacement of bridges.

Staff recommended that Council receive the report and approve design Alternative 3 for replacement of Eleventh Street East Tracy Overhead Bridge.

Council Member Abercrombie asked what the recommendations were regarding anti-graffiti. Mr. Haglan indicated an anti-graffiti treatments and texture that deter graffiti were planned for the surfaces..

Council Member Maciel asked if the detours would be at ground level. Mr. Haglan indicated there would be a temporary aerial bridge used during construction. One lane in each direction would be open during construction.

Mayor Pro Tem Tucker asked what accommodations would be made for banners or entry-way signs. Mr. Haglan indicated there is opportunity for signage on the light standards.

Mayor Ives asked for a construction timeline. Mr. Sharma stated construction would start in mid-2013 and take approximately 18 months.

Mayor Pro Tem Tucker asked if the detour would be in place for the entire 18 months. Mr. Haglan stated yes.

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

Robert Tanner, 1371 Rusher Street, asked if bike trails over the bridge were necessary or if they could they be eliminated and the drive lanes enlarged. Mr. Malik indicated the plan requires including passage for various types of access.

Mayor Pro Tem Tucker indicated she was impressed with the project which would provide a face lift for that section of town.

It was moved by Mayor Pro Tem Tucker and seconded by Council Member Tolbert to adopt Resolution 2010-178 approving a design concept for the Eleventh Street – East Tracy Overhead Bridge #29C-0126, CIP 73063, Federal Project No. BHLS-5192(020). Voice vote found all in favor; passed and so ordered.

5. APPROVE COMMUNITY NEEDS PRIORITIES AND EVALUATION CRITERIA FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATIONS AND ACCEPT THE RECOMMENDATION FROM THE PARKS AND COMMUNITY SERVICES COMMISSION TO FORM A SUB-COMMITTEE TO ASSIST WITH THE EVALUATION OF CDBG APPLICATIONS - Ursula Luna-Reynosa, Economic Development Director, provided the staff report. Community Development Block Grant (CDBG) funds are allocated to cities and counties by the U.S. Department of Housing and Urban Development (HUD) for use in projects, programs and services that demonstrate a minimum of 51% benefit to low and moderate income individuals and families.

Only 15% of the annual allocation that the City receives from HUD can be used for Public Services. The Public Services category covers programs non-profit agencies provide in Tracy. Historically, the City has received the majority of CDBG applications under the Public Services category. After reviewing the applications to ensure compliance with CDBG eligibility criteria, staff has recommended that the 15% be

equally distributed among those qualified agencies. Currently the Public Facilities category is not as competitive as the Public Services category. If Public Facilities requests become more competitive (i.e. amount requested exceeds amount available); the same criteria is recommended to be used to evaluate those applications.

Council directed that the CDBG application process be revised so that those agencies that best address the local needs of the Tracy community receive priority for funding. Staff from the Police Department, Code Enforcement division, City Manager's Office, Economic Development and Parks and Community Services Department met to discuss and define Tracy's most urgent need for services.

Following several meetings and based on an independent survey and reports from various agencies, the internal committee agreed that four areas have the greatest need for services within the community at this time. Those areas are: (1) job creation, (2) emergency food and shelter, (3) domestic violence services, and (4) senior/adult services.

The City recently solicited a firm to conduct an independent survey to determine the community's top priorities. "Improve the Local Economy" took the top spot. Job creation is an eligible use of CDBG funds; therefore, staff recommended that job creation be the highest weighted criteria for determining the allocation of CDBG dollars.

Tracy Interfaith Ministries saw an increase of 29% in the number of meals served to families in Tracy from 2008 to 2009 and during the first part of 2010 the number of meals served has increased by over 9%. McHenry House has seen a 25% increase in families in need of shelter over the past year -- every day it receives an average of sixty-seven calls from families that it cannot accommodate. Therefore, staff recommended that emergency food and shelter be the second highest weighted criteria for determining the allocation of CDBG dollars.

The Police Department has seen an increase of 9% in domestic violence calls during the past year for a total of 278 calls. The local agency that serves victims of domestic violence saw 1,300 Tracy residents last year. Over the last two years, the number of calls from Tracy residents has increased 23% and the number of women seeking counseling in Tracy has increased 30%. Support group attendance has increased more than 200% in Tracy during the last year. Staff recommended domestic violence services be the third highest weighted criteria for determining the allocation of CDBG dollars.

Parks and Community Services Department staff noted that, because of budget cuts, both City and County programs have been impacted. The participants in social service programs offered at the Senior Center nearly doubled from 2008 to 2009. A slight decline occurred during the 2009/2010 fiscal year but an increase in the number of social service participants occurred this past summer. The Senior Center anticipates even higher numbers in the future. Staff recommended senior/adult services be the fourth highest weighted criteria for determining the allocation of CDBG dollars. To encourage meaningful citizen involvement, public examination and appraisal of the CDBG evaluation process, as well as to enhance program accountability, the Parks and Community Services Commission has agreed to form a three member sub-committee (the "CDBG Sub-Committee") to work with staff to assist in the development of evaluation criteria, annually determine priority areas of need and, evaluate CDBG applications and make funding recommendations. The CDBG Sub-Committee will meet

each spring and by June 30 will revisit and discuss community needs so that the process of evaluating CDBG applications based on community needs can remain flexible and responsive to current needs that may change from time to time. The CDBG Sub-Committee's recommendation will be brought to the Council for approval each year. The Parks and Community Services Commission met on Thursday, October 7, to consider its role in this process and voted to take on these additional responsibilities.

All applicants must qualify for CDBG funding based on application requirements that meet HUD national objectives. In addition, all applicants will be asked to address questions that will explain the applicant agency's programs and how those programs specifically meet the four areas of need, show the applicant agency's ability and experience to effectively serve clients within those four areas, and demonstrate measurable outcomes of success.

The results of the ranking will help staff and the CDBG Sub-Committee evaluate CDBG applications and assign value to determine funding allocation. The CDBG Sub-Committee will develop an application and ranking sheet to evaluate fiscal year 2011/2012 CDBG applications.

Staff recommended that the City Council, adopt a resolution, to:

1. Approve the four identified priority needs of the Tracy community, in weighted order, as (1) job creation, (2) emergency food and shelter, (3) domestic violence services, and (4) senior/adult services when evaluating Community Development Block Grant (CDBG) applications; and
2. Accept the recommendation of the Parks and Community Services Commission to form a three member sub-committee to work with staff in the development of evaluation criteria, evaluation of CDBG applications, and provision of funding recommendations.

Council Member Maciel asked if all the priorities dovetail from the Parks and Community Services Department, and asked how much money is available. Ms. Luna-Reynosa stated the City receives approximately \$350,000, and 15% is available for programs for which non-profits compete. Ms. Luna Reynosa indicated the committee would review the applications.

Council Member Tolbert asked if this was an effective way of funneling funds to these groups. Council Member Tolbert indicated it might not be prudent to exclude any new program that might be presented. Ms. Luna Reynosa indicated any non-profit that fell under the criteria would be eligible to apply.

Council Member Tolbert indicated the Council should leave some flexibility for programs that will address problems with new creative ideas.

Mayor Ives asked for clarification regarding eligible programs. Ms. Luna-Reynosa explained that the job creation component came from the CDBG.

Mayor Ives asked how the sub-committee would be screened to address conflicts of interest. Ms. Luna-Reynosa explained that unpaid volunteers would not create a conflict, but a board member would not be eligible to serve on the sub-committee. Mayor Ives invited public comment

Javier Zamora, 1812 Alcott Place, indicated he would like to find out how to apply for these funds. Ms. Luna-Reynosa suggested Javier contact her directly to discuss the program.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-179 approving formation of a sub-committee of the Parks and Community Services Commission to assist with the evaluation of CDBG applications. Voice vote found all in favor; passed and so ordered.

6. ITEMS FROM THE AUDIENCE – None.
7. COUNCIL ITEMS - Council Member Maciel asked if a review of the EMS fee could be brought to Council at the next meeting. Leon Churchill, Jr., City Manager, stated the item would be included on the November 17 City Council agenda.

Daniel Sodergren, City Attorney, stated under Council rules, a single Council member can request an item be placed on an agenda.
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 October 28, 2010. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk