

November 16, 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 Rob Krenik, Calvary Chapel of Tracy.

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

Mayor Ives introduced Marilee Moon-Vanni, Secretary, California State Juvenile Officers Association, who presented the AI Trader Outstanding Service Award to Officer Chuck Baker. Mayor Ives also presented a Certificate of Commendation to Officer Baker, for being selected for the AI Trader Outstanding Service Award.

1. CONSENT CALENDAR - Following the removal of item 1-F by Mayor Pro Tem Tucker and the removal of item 1-I by Council Member Maciel, it was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Tucker to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – Closed session minutes of November 3, 2010, were approved
 - B. Award a Construction Contract to Granite Construction of Watsonville, California, for the Holly Drive North of Grant Line Road Sidewalk Improvements - CIP 73119, Appropriate \$32,000 from the Gas Tax Fund 245 and Authorize the Mayor to Execute the Contract – Resolution 2010-180 awarded a construction contract in the amount of \$55,885 to Granite Construction .
 - C. Approval of Amendment 3 to the Professional Services Agreement (PSA) with Bellecci and Associates, Inc., to Provide Professional Services for Revising and Completing the Plans, Specifications, and Cost Estimates for the Bus Stop Improvement Project, Phase II - CIP 77539 (Formerly Bus Stop Improvement Project, Phase I - CIP 77018 and 77021), and Authorization for the Mayor to Execute the Amendment – Resolution 2010-181 approved the amendment in an amount not to exceed \$78,696.
 - D. Award a Construction Contract to MCI Engineering Inc. of Stockton, California, for the South Area Well Demolition Project - CIP 75099A, Approve an Appropriation of Funds in the Amount of \$36,125 from the Water Capital (Fund 513), and Authorize the Mayor to Execute the Contract – Resolution 2010-182 awarded a construction contract in the amount of \$62,875 (Base Bid and Additive A1) for the South Area Well Demolition and approved the appropriation.

- E. Authorize Amendment Six to the Professional Services Agreement with RBF Consulting, for the Ellis Specific Plan and Annexation Project – Resolution 2010-183 authorized the amendment in the amount of \$143,878.
- G. Authorization of Professional Services Agreements with Erler & Kalinowski, Inc. for Preparation of an Urban Water Management Plan Update and an Update of the Watershed Sanitary Survey and Authorization for the City Manager and Director of Public Works to Execute the Agreements – Resolution 2010-184 authorized the agreements at a cost of \$44,000 for the Urban Water Management Plan update and \$20,000 for the Sanitary Survey update.
- H. Authorization of a Supplemental Appropriation of \$50,000 from the Wastewater Enterprise Fund for Legal Services Provided by Downey Brand – Resolution 2010-185 authorized the appropriation.
- 1-F Authorization of an Agreement Between City of Tracy and Semitropic Water Storage District and its Improvement Districts for Participation in the Stored Water Recovery Unit for the Semitropic Water Banking and Exchange Program. Approval of a Negative Declaration and Authorization for the Mayor to Execute the Agreement - Steve Bayley, Deputy Director, Public Works Department, presented the staff report. The City has established a diverse portfolio of water supplies including a contract with the US Bureau of Reclamation (Bureau) with urban reliability, two Bureau contracts with agricultural reliability (West Side Irrigation District and Banta Carbona Irrigation District assignments), groundwater, and Stanislaus River water from the South San Joaquin Irrigation District. Anticipated future supplies include Delta water rights water from the Byron Bethany Irrigation District, additional Bureau water, and recycled water.

Reliability varies with each of these supplies. Factors affecting reliability include: annual precipitation, snow pack, reservoir capacity, conveyance capacity limitations due to endangered species, and unanticipated problems such as levee failure causing saltwater intrusion into the Delta.

Storage provides a means to increase reliability by storing water in the wet years for use during the dry years. The City is pursuing aquifer storage and recovery (ASR). ASR is the process of injecting treated drinking water into groundwater aquifers under Tracy where it remains until needed. It will be at least five years before Tracy's ASR project will be fully operational.

Another form of storage is out-of-area water banking such as in Kern County. Kern County water agencies have established several large water banks. Semitropic Water Storage District (Semitropic) is a member of the Kern County Water Agency. Water storage capacity is now available for purchase in the Semitropic Water Banking Project.

The Kern County water banks utilize both water-spreading basins to recharge the groundwater basin and in-lieu recharge. In-lieu recharge is the use of surface supplies instead of pumping groundwater. The groundwater remains to be pumped at a later date. There is approximately one million acre-feet of storage capacity with approximately 700,000 acre-feet of water in storage. The next

phase of the Semitropic project is construction of additional extraction facilities, which is underway.

In 2006, the Council authorized a pilot test to store water in Semitropic. The primary purpose of the pilot test was to determine the administrative processes and costs of transporting water supplies back and forth between Tracy and Semitropic. To store Tracy's water in Semitropic, Tracy's water would remain in the Delta-Mendota Canal, proceed into the California Aqueduct and be delivered to Semitropic. When the stored water is needed in Tracy, Semitropic would pump the stored water into the California Aqueduct and a like amount of water would be made available for Tracy to pump from the Delta-Mendota Canal. Two different administrative procedures were used to return water from Semitropic to Tracy.

The pilot test delivered 1,000 acre-feet of the City's surplus Bureau Delta-Mendota Canal supplies to Semitropic for storage. Of the 1,000 acre-feet, 100 acre-feet was returned to Tracy in 2007, 100 acre-feet was returned in 2008, 100 acre-feet was permanently left behind in the aquifer underlying Semitropic to replace losses, and 700 acre-feet remain in storage for future use by Tracy. Upon successful completion of the pilot project staff negotiated a participation agreement with Semitropic.

The actions necessary to implement participation in the storage project are approval of the agreement with Semitropic, and environmental compliance including the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The agreement with Semitropic provides for purchase of storage capacity in Semitropic and payment by the City of the appropriate charges for putting the water into storage, annual participation fee, and later for removal of the water. The City would pay the cost to convey the water to and from Semitropic.

Staff has prepared and circulated a negative declaration in compliance with CEQA. Tracy is the lead agency. The State Clearinghouse circulated the negative declaration. The State Department of Water Resources (DWR) noted that agreements are needed to transport water through State facilities. The City will obtain agreements as needed. No comments were received from the public. As the project will utilize existing water conveyance facilities, a negative declaration is the appropriate environmental document.

Conveyance of the water through the Delta-Mendota Canal requires NEPA compliance. The US Bureau of Reclamation is the appropriate lead agency. On December 15, 2009, the Council authorized funding for the Bureau to prepare the NEPA document. The Bureau has prepared an Environmental Assessment and Finding of No Significant Impact. The review period closes on November 16, 2010. Upon approval of the Tracy/Semitropic agreement by the City and Semitropic, the Bureau must also provide an approval for the agreement to become effective. It is anticipated that Bureau approval will be obtained in 2011.

Water storage for dry years has been identified as a component of water supply in the City's Urban Water Management Plan. The City's participation is for 3,500 shares which allows 3,500 acre-feet/year of water to be returned to Tracy for up to three years for a total storage capacity of 10,500 acre-feet.

There is no fiscal impact to the General Fund. The cost to purchase adequate storage capacity for the City water supply in the water storage bank is currently \$5.1 million. The price is tied to the Consumer Price Index and the final cost will be determined at the effective date of the agreement (when Bureau approval is received). Payment is not required until the agreement is approved by the Bureau. Costs for water storage are as follows: putting water into storage is \$46 per acre-foot; annual payment for participation is \$53,000 per year; and withdrawal fees of \$46 per acre-foot plus an energy cost. Costs associated with conveying the water through the Delta-Mendota Canal and the California Aqueduct are approximately \$30 per acre-foot. The water would be purchased from the Bureau at the City's rate of \$32 per acre-foot. There are adequate funds budgeted in the Fiscal Year 2010-11 budget as Capital Improvement Project 75093.

Staff recommended that the Council authorize the Agreement between the City and Semitropic Water Storage District and its Improvement Districts for participation in the Stored Water Recovery Unit of the Semitropic Water Banking and Exchange Program, approve a Negative Declaration and direct staff to file a Notice of Determination with San Joaquin County.

Mayor Pro Tem Tucker asked if this was a storage reservoir in Kern County and how storing water helps the City. Mr. Bayley stated it was underground storage in Kern County. The stored water is primarily used in dry years.

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

It was moved by Mayor Pro Tem Tucker and seconded by Council Member Abercrombie to adopt Resolution 2010-186 authorizing an agreement between the City of Tracy and Semitropic Water Storage District and its Improvement Districts for participation in the Stored Water Recovery Unit for the Semitropic Water Banking and Exchange Program, approval of a Negative Declaration, and authorizing the Mayor to execute the Agreement. Voice vote found all in favor; passed and so ordered.

- 1-1 Authorization of a Professional Services Agreement with West Yost & Associates for Aquifer Storage and Recovery Demonstration Project and Authorization for the Mayor to Execute the Agreement – Council Member Maciel asked for clarification regarding the viability of the project. Mr. Bayley stated he didn't anticipate any significant losses. Mr. Bayley added these are for emergency uses and to deliver better quality water to customers. Mr. Bayley added there are no private wells in the area and, therefore, no access by other well users.

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

Tom Benigno, 2473 Angora Court, stated this was about putting sewer water into the aquifer. Mayor Ives indicated it was treated Sierra water, not sewer water that is proposed to be put into the aquifer.

Mayor Ives asked for information regarding drinking water analysis. Mr. Bayley indicated the City has State certified water testing facilities where some of the

testing is done, the more complicated testing is sent to contract labs. The data is submitted to the Department of Public Health, who analyzes the data, inspect City facilities, and the City comes away with top grades.

Jim Howell, 340 Hunter Trail, asked what procedures are in place to ensure contaminated water is not put into the aquifer. Mr. Bayley stated the water comes from the Goodwin Dam, and goes to the Woodward Reservoir to a water treatment plant owned by SSJID and operated by certified operators, where the water is processed. Mr. Bayley stated the water is tested every two hours. It then comes to Tracy where the distribution system is checked once a week to ensure good quality water, the same water that will be pumped into the aquifer.

Mr. Howell asked who was authorized to shut down the plant if contamination is found. Mr. Bayley stated all the operators at SSJID are authorized to shut down the plant and our plant has automatic shut downs if contamination is detected.

It was moved by Council Member Maciel and seconded by Council Member Abercrombie to adopt Resolution 2010-187 authorizing the Professional Services Agreement with West Yost & Associates for aquifer storage and recovery demonstration project and authorizing the Mayor to execute the Agreement. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE - Tom Benigno, 2473 Angora Court, addressed Council regarding the City's homeless residents. Mr. Benigno suggested homeless residents receive breakfast and asked for a resolution to provide a place for the homeless to stay. Mr. Benigno asked if Council had plans to assist the homeless in the near future.
3. THAT COUNCIL DISCUSS AND ACCEPT THIS PRELIMINARY REPORT BY THE POLICE DEPARTMENT STAFF REGARDING THE CONDITIONS OF CRIMINAL CONDUCT AND QUALITY OF LIFE ISSUES RESIDENT OR PERCEIVED IN THE CENTRAL DOWNTOWN BUSINESS DISTRICT - David Sant, Police Lieutenant, provided the staff report. Several weeks ago a group of merchants and concerned citizens penned a letter to the City Manager and Chief of Police outlining several concerns affecting the environment within the business district. Mainly, the complaints revolved around vandalism, public urination, aggressive panhandling and disruption of the quality of life in the area.

At the October 26, 2010 City Council meeting, Mr. David Helm, a local merchant, expressed concern regarding the elimination of the Downtown Dedicated Police Officer. Mr. Helm described a variety of crimes and quality of life issues that he attributed to transients and petty criminals in the area, and asked that this matter be placed on a future agenda for Council discussion.

Mr. Singh Dale, another business owner, echoed Mr. Helm's concerns stating that the redeployment of the Downtown Dedicated Police Officer was affecting his business in a negative way. He, too, requested that the matter be placed on a future agenda for Council discussion.

Police Department personnel are responding to this concern and are instituting the classic Community Oriented Policing / Problem Solving Model known under the acronym as SARA.

Scan: Review all relevant information to determine what is happening.

Analyze: Analyze all accumulated data, survey our resources and determine what “success” looks like.

Response: Develop and implement the plan.

Assess: Review what we have done, its impact and adjust further efforts accordingly.

Currently, the Police Department is gathering data to determine the Who, What, Where, When, Why and How that is effecting the downtown climate. At the same time, police patrols in cars, on foot and on bicycles are being increased. An N.R.O. (Neighborhood Resource Officer) has been assigned to coordinate any action plan implemented in this area. VIPS (Volunteers in Police Service) have been included in this effort as well as they provide non enforcement support.

The Crime Prevention Specialist will be making contact with businesses in the area to introduce and form “Business Watch” groups to educate, support and develop a more constant communication conduit with the merchants.

The City’s Crime Analyst is accumulating and analyzing the crime data over three plus years to better help assess the known (reported) criminal statistics for the area and to help identify any trends. Additional City resources such as Code Enforcement, Public Works and the City Attorney’s Office are ready to assist as necessary.

To better understand the breadth of this matter, members of the Police Department have conducted a series of meetings and contacts with business owners and patrons of the area to gain a better view of their perspective. A letter from Leon Churchill, Jr., City Manager, was hand delivered by Police Department VIPS to all businesses in the area and Police Command Staff is well into the development (Response) stage of an action plan for the downtown. It is anticipated an action plan will be completed within the next week and implemented shortly thereafter. Police Department staff will constantly assess the effectiveness of the response and adjust their activities accordingly.

Staff recommended that the Council accept this preliminary report related to activities in the Central Downtown Business District and remain receptive to further briefings as necessary.

Council Member Maciel indicated the issues in the downtown are not new and asked if the Crime Analyst was working on data. Lt. Sant stated yes. Council Member Maciel stated it sounded like the beat officers are committed to the downtown area. Lt. Sant stated old statistics were available, but the districts have changed. Lt. Sant added the Police Department is providing a broader range of police coverage, spread over a longer time period.

Council Member Abercrombie stated Council had made a decision to place an officer downtown and asked what changed to remove the officer from the downtown area. Police Chief Thiessen responded the downtown is not the only area where there are challenges or hot spots. The decision involved taking the concept of dedicated community resources to hot spots as they crop up in the City. Chief Thiessen added she conferred with staff and the decision was made to employ the philosophy where every officer in the department is involved in coming up with resolutions to chronic problems.

Council Member Abercrombie indicated he was concerned that intelligence would not be shared among multiple officers vs. a dedicated beat officer. Chief Thiessen indicated her expectation was that the six beat officers would develop and share the information.

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

Jim Howell, 340 Hunter Trail, asked when the beat officer position was eliminated, and if there were any statistics that show a drop or rise in criminal activity. Lt. Sant responded that the statistics show a marked decrease in activity for known offenses.

Dave Helm, stated the Tracy Police Department is an excellent department. However, when the beat officer was downtown there weren't as many issues and the officer dealt with them. Mr. Helm indicated the problems are not with the homeless, but with the drug addicts, alcoholics, prostitutes and crazy individuals. Mr. Helm read a letter he had received from the City Manager, and indicated he had met with the City Manager, Chief of Police, and Council Member Abercrombie. Mr. Helm indicated taking away the downtown beat officer was not OK.

Marvin Rothschild, 1632 Waverly Court, asked if a final report would be considered. Mayor Ives indicated a final report would be in order. Mr. Rothschild added he was in favor of the downtown beat officer as he has seen recent changes in the area.

Robert Tanner, 1371 Rusher Street, asked if the City Council directed that a resource officer be placed downtown, how that officer was removed without Council approval. Mayor Ives indicated it was done with Council understanding.

John Frerichs, 28 W. Tenth, stated the City has always been a kind partner with downtown business owners. Mr. Frerichs indicated the police presence in the downtown is great along with good response times. Mr. Frerichs indicated it was a luxury to have a beat officer although he understood the City had come upon tough economic times.

A downtown real estate broker indicated his wife had been robbed of her purse and that within two hours Officer Flores had captured the assailant. The broker spoke in support of Officer Flores being returned to the downtown.

Singh Dale stated a lot of people come through and use his facilities. Mr. Dale stated he could not monitor people all the time and could not call the police every time an incident occurred. Mr. Dale stated he was in support of a downtown officer because when Officer Flores was downtown, the problems were not there.

Evan Marquez, an employee of Big O Tires, stated there was a problem in the downtown area and a beat officer would help the problem. Mr. Marquez added he did not believe the police force has grown in relation to the size of the City.

The real estate broker indicated the merchants should be involved in the decisions that take place downtown.

Jan Coutrier, 1121 Michelle Avenue, on behalf of the Tracy Center Association, stated City staff and the Police Chief have met with the board and they are pleased with the efforts in the downtown area.

Melodie Potter thanked the Police Department and the City Manager for their quick response. Ms. Potter stated she had attended three meetings and trusts that the City is working on the concerns in the downtown area.

Tom Benigno, 2473 Angora Court, indicated the issues in the downtown do not take place just in the downtown, but across the City. The police have done a good job, but it is the responsibility of the property owners to secure their properties. Mr. Benigno suggested volunteers could help the police officers.

Mr. Jim Howell indicated it was clear that between July 1, 2010 and October 26, 2010, the situation in the downtown area deteriorated and was ignored.

Council Member Tolbert asked if people realized how blessed they were to be in a city of 85,000 where you can describe particular individuals who behave in an unacceptable manner. Council Member Tolbert thanked everyone for their diligence and added the City would rely on the experts and the professionals who know their jobs.

Leon Churchill, Jr., City Manager, summarized the comments received. Mr. Churchill stated the petition/letter received from the downtown merchant prompted a reaction from the City. The concerns are valid and the City is providing additional resources to address those concerns. Mr. Churchill added the beat officer was not laid off but was part of a re-structuring which is an ongoing effort. Mr. Churchill stated it comes down to whether the same face needs to be seen downtown, or whether different faces would be able to deal with the issues in the area.

Council Member Maciel stated there was no question that Officer Flores did a great job downtown and that much of his contribution was intangible. Council Member Maciel suggested the six beat officers need to address the concerns in the area, make their presence known, and meet the merchants. Council Member Maciel stated he would like to know if the police department's efforts are successful.

Mayor Pro Tem Tucker indicated what has been proposed is exactly what is needed. Mayor Pro Tem Tucker added she supported staffs' recommendation since the statistics did not bear out the need for a dedicated officer.

Mayor Ives thanked everyone for their input. Mayor Ives suggested perception is a part of it and the community needs to be shown that it is working. Mayor Ives stated Council needed to voice their desired outcome and suggested:

- Obvious pro-active policing
- Visible police presence 24/7
- Tangible diminishing crime and criminal element, and connecting socially
- Statistics and perception that the situation is improving
- Definite improvement by a date certain

Mayor Ives stated the plan has to work; that there is too much at stake.

Mayor Ives stated it was up to staff to take care of it and not up to the Council to tell staff how to do their job. Mayor Ives stated the bottom line is that it gets fixed. Council suggested bi-monthly updates on how the strategy is working.

Council accepted the report.

Mayor Ives called for a recess at 9:13 p.m. The meeting was reconvened at 9:23 p.m.

4. INTRODUCTION OF AN ORDINANCE AMENDING SECTION 3.08.580, ARTICLE 12, OF THE TRACY MUNICIPAL CODE WHICH REGULATES THE ESTABLISHMENT OF SPECIAL SPEED ZONES - Kuldeep Sharma, City Engineer, presented the staff report. Mr. Sharma stated that the use of radar equipment is one of the most effective tools for enforcing speed limits and traffic safety on City streets. To assist the Police Department in fully utilizing the equipment, it is necessary to establish speed limits in accordance with the requirements of the California Vehicle Code (CVC). To legally use radar equipment for speed enforcement, engineering and traffic surveys are needed to establish posted speeds once every five years.

Section 3.08.580, Article 12, of the Tracy Municipal Code (TMC) establishes speed zones on various streets in the City. The speed limit on streets is established on the basis of engineering and traffic surveys and the applicable traffic engineering standards. Speed limits in the vicinity of schools are posted in accordance with the requirements of the CVC and the California Manual of Uniform Traffic Control Devices. Because these surveys are good for a period of five years, the amendment to the TMC is necessary every five years to update these surveys resulting in an update of posted speeds.

An engineering and traffic survey was completed on a total of 46 segments of arterial and collector streets by the Engineering Division in October 2010. This survey is used to update the posted speeds and provide the basis for the proposed amendments to the TMC, thus resulting in continuation of special speed zones with updated speed limits.

This update to the TMC will establish radar enforceable speed limit zones for segments on arterial and collector streets including Balboa Drive, Beechnut Avenue, Beverly Place, Brookview Drive, Buthman Avenue, Central Avenue, Chester Drive, Clover Road, Corral Hollow Road, Cypress Drive, Dominique Drive, Eaton Avenue, Fourth Street, Grant Line Road, Henley Parkway, Joe Pombo Parkway, Lammers Road, Larch Avenue, Lowell Avenue, Middlefield Drive, Paradise Avenue, Pescadero Avenue, Portola Way, Richard Drive, Schulte Road, Sequoia Boulevard, Sixth Street, Tenth Street, Third Street and Valpico Road.

The speed survey shows that existing speed limits on three street segments should be changed and the posted speed on the remaining streets segments remain unchanged. The following table lists the proposed changes in speed limit on three street segments:

| Street | Segment | Previously Established | Newly Established | Change |
|-----------------|--|-------------------------------|--------------------------|---------------|
| Dominique Drive | Eastlake Circle to Elissagary Drive | 25 | 30 | 5 mph up |
| Lammers Road | Eleventh Street to City Limits south of Jaguar Run | 50 | 40 | 10 mph down |
| Lammers Road | City limits at Redbridge Drive to Schulte Road (City Limits) | 50 | 45 | 5 mph down |

The following new roadway segment is added to the ordinance for radar enforcement.

| Street | Segment | Previously Posted | Newly Established | Change |
|--------------------|-------------------------------------|--------------------------|--------------------------|---------------|
| Corral Hollow Road | 1,100' south of Linne Road to I-580 | 55 | 50 | 5 mph down |
| Corral Hollow Road | I-580 to South City Limits | 55 | 55 | - |
| Henley Parkway | Lowell Avenue to Bridle Creek Drive | 35 | 35 | - |

The following roadway segments are changed in its limits or description.

| Street | Segment | Previously Posted | Newly Established | Change |
|-------------------|--|--------------------------|--------------------------|---------------|
| Balboa Drive | Portola Way to Clover Road | 25 | 25 | - |
| Joe Pombo Parkway | Grant Line Road to Bridle Creek Drive | 35 | 35 | - |
| Portola Way | Holly Drive to Entrada Way | 25 | 25 | - |
| Tenth Street | Tracy Blvd to East Street | 25 | 25 | - |
| Tenth Street | Civic Center Drive to Mac Arthur Drive | 25 | 25 | - |

The recommendations are primarily based upon the 85th percentile speed of surveyed moving vehicles on those streets with consideration given to the existing road site conditions such as street alignment, classification, collision history, etc. These considerations allow further adjustment of the surveyed speed in accordance with the provisions of the CVC. The recommended speed limits have been adjusted for such considerations. The research indicates that posting speeds lower than the closest 85th percentile speed does not lower the speed of motorists unless the above constraints exist. In addition, Corral Hollow Road is established at a maximum speed limit of 55 mph in accordance with CVC Section 22349 (b) which sets forth maximum speed limits on a two lane undivided highway. The Police Department has reviewed the surveys and concurs with the proposed speed limits.

Enforcement of speed limits is a budgeted item and is the Police Department's responsibility. Signing and striping changes as the result of speed changes will be performed by Public Works staff. Signing and striping is also a budgeted item.

Staff recommended the Council introduce an ordinance amending Section 3.08.580, "Special Speed Zones," Article 12, of the Traffic Regulations of the Tracy Municipal Code.

Mayor Ives referred to a statement in the staff report and asked if that meant that we are posting the speed limit of what drivers are driving. Mr. Sharma indicated that was correct. Mayor Ives indicated it seems that enforcement may be necessary vs. raising

the speed limit. Mr. Sharma explained that when speed surveys are done, they are done to determine what speeds cars can safely maneuver the streets.

Mayor Ives invited members of the public to address Council.

Mr. Howell indicated there were 11 streets with average speeds higher than the posted speed but recommendations changing only four which didn't appear to be consistent. Mr. Sharma explained the speed was reduced on Lammers Road because of the change in alignment of the road. Mr. Sharma explained that Corral Hollow Road had certain considerations that allowed posted speeds lower than the survey indicated.

The Clerk read the title of proposed Ordinance 1155.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to waive 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 1155. Voice vote found all in favor; passed and so ordered.

5. APPROVAL OF A TRAFFIC REPORT AND ALIGNMENT OF KAVANAGH AVENUE EXTENSION WEST OF CORRAL HOLLOW ROAD - Kul Sharma, City Engineer, presented the staff report. Mr. Sharma stated that signalization of the Kavanagh Avenue and Corral Hollow Road intersection and extension of Kavanagh Avenue west of Corral Hollow Road are both approved Capital Improvement Projects (CIP) #72050 and #73097. Completion of these projects will provide safe access to the properties located west of Corral Hollow Road between Grant Line Road and I-205 when fully developed.

The properties located on the west side of Corral Hollow Road between Grant Line Road and I-205 are designated as Infill properties and are zoned commercial. The properties are located in the Community Development Agency boundaries. There are existing residential structures on some of these properties and the rest are undeveloped lots. These properties generally have smaller frontage with deep lots and residential driveways.

Completion of construction of the above projects and widening of Corral Hollow Road between Grant Line Road and I-205 (presently under design) will provide new opportunities for development of these properties. However, existing residential driveways to these properties cannot be used from Corral Hollow Road due to traffic circulation and traffic congestion management issues.

In order to facilitate development of these properties and complete the extension of Kavanagh Avenue west of Corral Hollow Road, the City initiated a traffic study through TJKM consultants from Pleasanton. The traffic report evaluated various alternatives to reduce the number of existing residential driveways. These alternatives include frontage streets, shared driveways, and reciprocal easements.

The traffic report also evaluated the overall traffic circulation beyond these properties. The report recommends construction of a north south access road from the terminus of Kavanagh Avenue extension at the western end of these properties. This road will not

only eliminate residential frontage driveways on Corral Hollow Road, but will also provide commercial access to these properties from the Kavanagh Avenue extension. Furthermore, the extension of Kavanagh Avenue and construction of the new north/south access road will eventually connect Kavanagh Avenue with Joe Pombo Parkway running east west fronting Kaiser Permanente, and ultimately connecting with Grant Line Road to improve traffic circulation in this area. This can be accomplished at the time of development of property east of Kaiser Permanente.

The traffic report also establishes the alignment of the Kavanagh Avenue extension west of Corral Hollow Road and the north south connector road. It is essential to acquire rights-of-way for this extension. Staff has met individually and has conducted several group meetings with the property owners to address their concerns. The property owners are supportive of the Kavanagh Avenue extension and the north/south connector. The properties will be subject to Infill Development Impact fees at the time of their development.

The City will acquire rights-of-way for the Kavanagh Avenue extension and the north/south connector. Construction of the Kavanagh Avenue extension will be completed by the City after acquisition of the rights-of-way in conjunction with construction of the signal at the intersection of Kavanagh Avenue and Corral Hollow Road. Construction of the north/south road will be completed if any funding is left over from these two projects or when additional funding is available.

The project is funded from Proposition 1B and Measure K transportation sales tax.

Staff recommended the Council approve the Traffic Report and alignment of the Kavanagh Avenue extension west of Corral Hollow Road.

Mayor Ives invited members of the public to address Council. 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 2010-188 approving a traffic report and alignment of Kavanagh Avenue extension west of Corral Hollow Road. Voice vote found all in favor; passed and so ordered.

6. SECOND READING AND ADOPTION OF ORDINANCE 1153 AN ORDINANCE OF THE CITY OF TRACY AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF TRACY AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO INCLUDE A SECOND TIER '2% AT 55 MODIFIED FORMULA AND THREE-YEAR FINAL COMPENSATION' BENEFIT FOR MISCELLANEOUS CLASSIFICATION PLAN EMPLOYEES HIRED AFTER DECEMBER 16, 2010 - The Clerk read the title of proposed Ordinance 1153.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to waive 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 adopt Ordinance 1153. Roll call vote found all in favor; passed and so ordered.

7. SECOND READING AND ADOPTION OF ORDINANCE 1154 AN ORDINANCE OF THE CITY OF TRACY, AMENDING THE ZONING MAP OF THE CITY OF TRACY BY RECLASSIFYING PROPERTY LOCATED ON THE SOUTH SIDE OF CARLTON WAY AND EAST AND WEST SIDES OF BESSIE AVENUE APPLICATION NUMBER R10-0002 - The Clerk read the title of proposed Ordinance 1154.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to waive 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 adopt Ordinance 1154. Roll call vote found all in favor; passed and so ordered.

8. APPROVE PURCHASE AND LEASE OPTION AGREEMENTS WITH GWF SOLAR II LLC, TO DEVELOP THE 200 ACRE CITY OWNED SCHULTE ROAD PROPERTY AS A SOLAR FARM; APPROVE A GRANT AGREEMENT WITH GWF ENERGY, LLC, FOR THE ESTABLISHMENT AND SUPPORT OF AN ALTERNATIVE ENERGY CERTIFICATE PROGRAM AT SAN JOAQUIN DELTA COLLEGE AND OTHER EDUCATIONAL AND TRAINING OPPORTUNITIES THAT WOULD SUPPORT SUCH A PROGRAM; AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENTS; AND ADOPT A NEGATIVE DECLARATION - Andrew Malik, Development and Engineering Services Director, presented the staff report. The City owns 200 acres of property on Schulte Road between Hansen and Lammers Road, west of the current City limits. The 200 acres were authorized by the United States Congress to be conveyed by the General Services Administration ("GSA") to the City pursuant to special legislation enacted in 1998. The special legislation provided that 50 acres were to be conveyed to the City at fair market value for "economic development" purposes and the remaining 150 acres were to be conveyed at no cost to the City for educational and/or recreational "public benefit" purposes.

After analyzing the property for recreational purposes in 2007, the City concluded that recreational uses for the property are no longer viable and staff began developing alternative use options for the site. On October 7, 2008, Council directed staff to: 1) work with Congressman McNerney to amend the existing property conveyance legislation to allow for renewable and/or alternative energy uses; 2) explore a City project on the site that involves renewable and/or alternative energy uses; and 3) begin negotiations to sell or lease the site to GWF for a private project that involves renewable and/or alternative energy uses.

Staff has been negotiating with GWF on terms relative to selling 50 acres of the 200 acre property and leasing the remaining 150 acres as part of a solar farm project for the site. The solar farm will be integrated with the expansion of GWF's existing peaker plant.

Concurrent with the development of the purchase and lease option agreements, staff and GWF have been working with Congressional representatives on amending the special conveyance legislation to allow for renewable and/or alternative energy uses.

With support from Congressman McNerney, the special legislation amendments are expected to be considered by Congress early next year.

GWF proposes to use the 200 acre property for the construction of a clean, solar energy plant that will generate renewable electricity. The 200 acre solar energy facility is expected to generate approximately 40 Megawatts of electricity. The solar farm will be integrated with the existing GWF Tracy Combined Cycle Plant. The solar-powered plant will be environmentally friendly and will rely on the cleanest and most efficient technology available. Either solar thermal or solar photovoltaic technology will be used.

To the extent the project uses solar thermal technology, the solar energy will be collected by parabolic trough mirrors that will concentrate the solar energy to heat a fluid similar to mineral oil called the Heat Transfer Fluid (HTF). The HTF is passed through a heat exchanger to generate steam that drives a turbine in order to generate electricity. The cooled HTF is then returned to the solar field to be reheated by the solar collectors. This process allows the generation of electricity without the combustion of additional natural gas. The improvement in efficiency from the integration of the solar-powered facility with the combined cycle facility will reduce the emissions of carbon dioxide or green house gases.

If solar photovoltaic panels are used, the solar energy will be used to power the control room, maintenance facility, transmission interconnects and the water supply and treatment facility for panel washing, for the combined cycle plants.

This solar project will also help utilities meet the ambitious renewable energy goals set by the State of California - that 33% of electricity produced annually shall come from renewable sources by 2020.

The City proposes to grant to GWF: (i) an option to lease the 150 acres, with an option to purchase the 150 acres at the end of the term of the ground lease; and (ii) an option to purchase the 50 acres. Both the Purchase Option and Lease Option, collectively, will allow GWF to implement its Solar Project as defined above. The following are general terms of the two Option Agreements:

- GWF will have options to purchase 50 acres and lease 150 acres for 30 years.
- GWF will pay any costs associated with removing the use restrictions and federal reversionary rights on the 150 acre parcel ("GSA payment").
- GWF will have the option to purchase the 150 acres at the end of the lease for fair market value minus the GSA payment.
- The options to purchase and lease are for two years and may be extended for an additional year. GWF will pay the City \$100,000 for the initial option term and \$50,000 if the options are extended.
- GWF will pay the City a \$1,000,000 public benefit fee within 30 days of the start of any commercial operation of the solar project, or no later than four years from the date the options are exercised (the "outside operation date"), whichever occurs first.

- GWF will pay rent of: (a) \$20,837 per month from the date the lease is entered into until the outside operation date; and (b) after the outside operation date, the following:
 - Year 1 – 5 \$425,000 annually
 - Year 6 – 10 \$353,382 annually
 - Year 11 – 30 \$195,353 annually
- GWF will be responsible for removing the existing Antenna Farm building from the site.

The City and GWF are interested in promoting educational and training opportunities to encourage growth in the renewable and conventional energy sector. Therefore, in connection with its Combined Cycle Project, GWF Energy, LLC, has agreed to fund a \$100,000 grant for the establishment and support of an Alternative Energy Certificate Program at Delta College and other educational and training opportunities that would support such a program ("Grant Agreement"). The City would serve as the fiscal agent for disbursement of the grant funds.

To the extent that the project uses solar thermal technology, the California Energy Commission ("CEC") will be the lead agency under CEQA for the project. The CEC has a certified regulatory program under CEQA. Under its certified program, the CEC is exempt from having to prepare an environmental impact report. Its certified program, however, does require environmental analysis of the project, including an analysis of the alternatives and mitigation measures to minimize any significant adverse effect the project may have on the environment. Therefore, the Option Agreements are not subject to CEQA to the extent that the project uses solar thermal technology. (Public Resources Code, §21080(b)(6) and Cal. Code Rgs., tit.14, §15271.)

To the extent the project does not use solar thermal technology, the Option Agreements are subject to CEQA review by the City. Therefore, the City conducted an Initial Study limited to analyzing the effects upon the environment of a solar photovoltaic energy generating project, and prepared a Negative Declaration. All identified impacts could be mitigated with the application of mitigation measures, which are listed in the Initial Study.

Upon executing the Purchase and Lease Options, there will be a \$100,000 non-refundable deposit to the City. Upon exercise of the Options, the City will receive a \$1,000,000 public benefit fee and rent payments of up to \$425,000 annually. These funds will be a positive impact on the City's General Fund.

Staff recommended the Council adopt a resolution: (a) approving the negative declaration; (b) approving and authorizing the Mayor to sign the Purchase and Lease Option Agreements with GWF; and (c) approving and authorizing the Mayor to sign the Grant Agreement with GWF Energy, LLC.

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

Mr. Howell addressed Council and asked why GWF was willing to do this project. Mayor Ives outlined various reasons.

Doug Wheller of GWF, 4300 Railroad Avenue, Pittsburg, stated staff had provided a thorough explanation of what was outlined in the agreements. Mr. Wheeler thanked Council for the action taken last October and for the opportunity given to GWF. Mr. Wheller thanked staff for working with them, Congressman McNerney's office and Senator Feinstein's office. Objectives that were set out have been realized and the funds invested by the City will be recovered with additional supplemental payments. Mr. Wheller stated the City will receive approximately 60% of their return within the first 10 years, with the balance received over the last 20 years of the lease.

Mr. Tanner indicated if photovoltaic is used there would be no energy for the City's use. Mr. Malik indicated neither option would represent energy for the City.

Mr. Wheeler added a training program will be in place to allow residents of the Tracy community to pursue career objectives.

Mayor Ives asked how many jobs would be created. Mr. Wheeler responded during construction there would be about 200 additional jobs, and 30 permanent jobs associated with both sites.

Council Member Maciel asked if criteria had been established for applying for grant funding. Mr. Sodergren stated the grant committee would further refine the grant criteria.

Mayor Ives asked for clarification on whether the City was locked in with Delta or are there other colleges the City could work with. Mr. Churchill indicated and/or would be correct.

It was moved by Council Member Abercrombie and seconded by Council Member Tolbert to adopt Resolution 2010-189 approving Purchase and Lease Option Agreements with GWF Solar II LLC, to develop the 200 acre City owned Schulte Road property as a solar farm; approving a Grant Agreement with GWF Energy, LLC, for the establishment and support of an alternative energy certificate program at San Joaquin Delta College as amended (and/or) other educational and training opportunities that would support such a program; authorizing the Mayor to execute the agreements; and adopting a Negative Declaration. Voice vote found all in favor; passed and so ordered.

9. ITEMS FROM THE AUDIENCE – None.

10. COUNCIL ITEMS

A. Decide whether Emergency Medical Service Fees should be Considered at this Meeting and, if so, Take Action to Rescind or Implement the Emergency Medical Fees Contained in Resolution No. 2009-117 - It was moved by Council Member Maciel and seconded by Council Member Abercrombie to consider the EMS fee at this meeting. Voice vote found all in favor; passed and so ordered.

Mr. Churchill reiterated what was given to the Council previously.

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

Mayor Pro Tem Tucker proposed that the EMS fee be implemented only upon non-residents.

Council Member Maciel stated he was in favor of the item when it was presented, but would like to rescind the EMS fees and let Measure E run its course.

Council Member Tolbert indicated she wished she was more confident that the economy would recover. Council Member Tolbert stated originally she had supported the EMS fee because it would allow the City to charge medical providers for the service. Council Member Tolbert indicated she agreed with Mayor Pro Tem Tucker regarding collecting fees from insurance companies for services provided and for non-residents to pay for services provided by Tracy taxpayers. Council Member Tolbert stated she would like to see it re-visited and would like to see the City take in that revenue.

Mayor Ives indicated the non-resident had some voracity and would entertain options.

Mr. Churchill indicated he would appreciate additional time to bring back other options.

Mayor Ives stated no option should include fees for Tracy residents.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to rescind Resolution 2009-117. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to direct staff to bring back the lock out fee and any possible non-resident EMS fee. Voice vote found all in favor; passed and so ordered.

- B. Appointment of City Council Subcommittee to Interview Applicants for a Vacancy on the Tracy Arts Commission - Due to the resignation of Commissioner Rothschild there is a vacancy on the Tracy Arts Commission. The vacancy is being advertised and the recruitment will close on November 30, 2010. In accordance with Resolution 2004-152, a two-member subcommittee needs to be appointed to interview the applicants and make a recommendation to the full Council. Council Members Abercrombie and Maciel volunteered.

11. 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: 10:21 p.m.

The above agenda was posted at the Tracy City Hall on November 11, 2010. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk